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THE AGUR OF RABBI YA'AKOV LANDAU:  
AN ANNOTATED TRANSLATION AND COMMENTARY OF A  
MEDIEVAL JEWISH LAW CODE

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Thesis submitted in partial fulfillment of the requirements  
for Ordination

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Referee, Professor Mark Washofsky

This thesis is dedicated to my parents, Jules Goldberg  
and Rosalind Goldberg who have given me all of  
their love and support throughout the years.

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## DIGEST

The medieval Jewish communities of Germany (Ashkenaz) developed a rich halachic culture. The yeshivot were filled with many students and from the yeshivot came rabbis skilled in deciphering the halacha and leading their communities. Up the 15th century the Tur was the most authoritative halachic work.

But several tragedies, during the 14th and 15th centuries, such as the Black Plague, the ensuing pogroms, and religious wars, devastated the Ashkenazic communities and left them bereft of scholarly rabbis to lead them. Those rabbis who were left were usually appointed because of political posturing towards the gentile rulers. They promised that they would help keep the Jews in line and make sure that they paid their taxes. Unfortunately, those rabbis who desired to be true to their calling had an inadequate education in deciding halacha because most of the yeshivot in Germany had closed.

Ya'akov Landau was born in Germany but migrated to Italy with his father to avoid the persecution that was taking place. His father, Yehuda Landau, who had run a large yeshiva in Germany, was his principle teacher. Landau found work as a proofreader at the Hebrew printing press in Naples. The only reason that Ya'akov Landau is remembered is because he is the author of Ha-Agur. Landau wrote it to help those rabbis who had neither law codes, or other rabbis to turn to, so that they could decide the halacha. Ha-Agur contains

those laws that are found in "Orach Hayyim" of the Tur. Landau culled the entire range of halachic sources from the Talmud, to the Tur, to the latest rulings by Ya'akov Moellin, who was considered the greatest sage of that generation.

There are two significant facts about Ha-Agur that make it noteworthy: 1) it was only the second Hebrew book to be published on a printing press during the lifetime of its author. 2) It was the first book to receive rabbinical "Haskamot" or official rabbinic approval for use. We know that Yosef Caro and Moshe Isserles knew of Ha-Agur for they both quote it in their works Bait Yosef and Darchei Moshe respectively.

In this thesis I have translated a portion of Ha-Agur, from "Hilchot Rosh Hodesh" through "Hilchot Yom Ha-Kippur" into English. I have also added the sources from which Landau discusses and decides halacha. For this I am indebted to Moshe Herschler, the editor of the critical edition of Ha-Agur. As well, I have included notes which help to explain what is happening in each discussion so that it more easily understood. At the end of my translation I have added a glossary of Hebrew terms and a bibliography. At the beginning of this thesis I have written an introduction where I place Ha-Agur into its historical context as an halachic work and I attempt to analyze Landau's goals and methods at deciding the halacha. After my introduction I have translated Ya'akov Landau's introduction to his work, Ha-Agur.

## INTRODUCTION AND ANALYSIS OF THE AGUR

The geographic entity of Germany, also known as Ashkenaz, was home to a significant number of Jewish communities throughout the Medieval period of history. These communities brought forth a rich halachic culture replete with many scholarly rabbis ("poskim") and their halachic works. Up to the 15th century the most significant of these works was the Arba'ah Turim or the Tur.<sup>1</sup> Its author, Rabbi Ya'akov Ba'al Ha-Turim, classified all of Jewish law by topics. He omitted those laws which could only be observed in Eretz Yisrael or with a rebuilt Temple. Up to the time of the printing of the Shulchan Aruch, The Tur was the basic text used for learning about different opinions concerning matters of halacha and for deciding halacha. The Tur is just one example of how preeminent the early Middle Ages were with regards to halacha.

But this strong showing on the intellectual front of Jewish life was paired with disastrous events on the larger communal front. A long list of the trials and tribulations of the Ashkenazic Jews can be drawn. Only the most significant shall be briefly noted here. In 1348 the deadly Black Plague spread throughout Europe. In its wake hundreds of thousands of people died. Rumors that the plague was started by the Jews who had poisoned wells began to spread in

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<sup>1</sup>The Tur was written in Spain but it was considered authoritative by Ashkenazic Jews.

Germany. The panicky masses began to exact revenge on Jews ignoring the fact that they also were suffering death at the hands of the Black Plague. Even though Pope Clement VI and Emperor Charles IV tried to prevent the pogroms, almost half of Germany's Jewish population was decimated by the plague and rampage.

A "legal" method which German municipalities used to get rid of their Jews was expulsion. In France such actions failed because the kings during that time had established a strong central authority and vetoed attempts at expulsion. But in Germany not such central authority existed. Therefore Jews were at the mercy of local councils. The Black Plague gave them ample reason to attempt such measures. The Jews were expelled as "enemies of God" and a danger to public welfare.<sup>2</sup> Those expelled moved either farther to the East, towards Poland and Russia, or south into Italy.

Other trouble came to the Jews as they stood as bystanders to the struggles of the Church as it attempted to keep itself in control of the spiritual, as well as economic life of Europe. In 1420 a war between the followers of John Huss and the Church broke out in Bohemia. The Jews of the land were caught in the middle. Huss was captured and executed. Again a vicious rumor broke out that implicated the Jews as being the cause of his defeat. Many poor Jews

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<sup>2</sup>Solomon Grayzel, A History of the Jews (Philadelphia: The Jewish Publication Society, 1969), page 393.

were expelled from towns throughout Bohemia and Austria. Wealthy Jews were killed and their fortunes plundered. For a century after this event no Jew was to be found in the city of Vienna, once the home of several prominent rabbis.

These catastrophes and others resulted in the end of Jewish communal life in Ashkenaz. As well, Jewish scholarship all but ceased. No more codes were written and no new commentaries on the existing codes came into being. There was a dearth of rabbinical leadership because the academies were closed. Rabbis for those few surviving communities were not chosen because of the knowledge of halacha. Rather, they were chosen because they promised the gentile rulers that they would help to keep the Jews in line. Rabbi Meir ben Baruch of Vienna (died: 1408) was concerned about this situation and sought to correct it. He established the regulation that Jewish communities should not accept a rabbi unless he had a written document, signed by a known rabbinic authority, which testified that this rabbi was well qualified, both in terms of knowledge of halacha and spiritually, to be the rabbi of that community. In all the situation of Ashkenazic Jewry was bleak to say the least.

In the 15th century lived Ya'akov Landau. He came from solid rabbinic stock. His father, Yehuda Landau was a pupil of Ya'akov Moellin, the greatest sage of that generation. As well, Yehuda Landau was a relative of the noted posek Ya'akov

Weil. Yehuda ran a large yeshiva in Germany and was known as a posek.

As for his son Ya'akov Landau, we know few specific details about his life. We do not know when he was born and can only guess that he died in 1487, five years before the expulsion from Spain. It is certain, though, that he was born and grew up in Germany. His father was his primary teacher. The Landaus were not immune to the persecution which came to the Jews of Germany. The family migrated to Italy along with many of Germany's refugee Jews. The exact date of their arrival in Italy is also not known. In 1460, in the town of Pavia, Ya'akov met Yosef Colon,<sup>3</sup> the noted Italian posek. Colon was to be a later source for many of Landau's rulings. It was in Pavia that Landau wrote his first halachic work, Sefer Chazon, which was a book of halachic riddles. Landau later went to Naples where he became a proofreader in the new Hebrew printing press that had recently opened in the city. His first year there he proofread a new edition of the Book of Psalms which contained the commentary of David Kimchi.<sup>4</sup> We know of no other books that Landau proofread.

The reason that Ya'akov Landau's name is known is because of the second book which he wrote, Ha-Agur, which is

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<sup>3</sup>Yosef Colon. (Maharik) Halachist. Born: Chamberg, France, 1410. Died: Pavia, Italy, 1480.

<sup>4</sup>David Kimchi. Bible commentator and Hebrew grammarian. Known as Redak. Born: Narbonne, France, 1160. Died: Narbonne, France, 1235.

the subject of this thesis. This book was written in 1480 in Naples and printed for the first time in 1487 on the press where he worked. This is the first significant fact about Ha-Agur: it was only the second Hebrew book to be published during its author's lifetime.<sup>5</sup> Ha-Agur contains halachic decisions and material culled from the entire range of halachic sources from the Talmud, to the Tur, to the latest decisions of Ya'akov Moellin. Landau did not do anything of note after the first publication of Ha-Agur, as he died soon after its appearance in 1487.

Ha-Agur was the significant work by which Landau is remembered. It is, in general, a summary of Ashkenazic halachic scholarship which had come into being up to his own day. It concerns the areas of "Orach Hayyim", and "Yoreh Deah" of the Tur, on which Landau primarily bases his work. In the introduction to Ha-Agur, (which follows), Landau presents three aims or goals of his code: to gather in one source all the necessary material for deciding the halacha, without presenting the accompanying arguments for or against a certain view; actually to decide the halacha in certain matters; and to present the latest rulings by such poskim as Ya'akov Weil, Ya'akov Moellin, and his father-to bring the halacha up to date. Landau did all this in his book because he knew that there was a dearth of competent halachic

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<sup>5</sup>David W. Amram, The Makers of Hebrew Books in Italy (London: The Holland Press, 1963), page 66.

authorities in his time to whom one could turn to in situations which required a legal decision. Ha-Agur would allow lay people and rabbis to learn about the relevant laws and continue their way of life. As noted earlier, Landau primarily based himself on the Tur, in organization and in making decisions. In most cases his final rulings agreed with those of the Tur. But Landau brought together many other sources to flesh out his decision-making process and to present opposing views. Such works as the Mordechai, Sefer Mitzvot Katan, Shibbolei Ha-Lekket, and various teshuvot of the geonim are present in his arguments. It is noted that Landau also interwove quotations from the Zohar into his process of making decisions. At the time that he wrote Ha-Agur, this was a new process. As such he did not do this very often, and in the sections which are translated in this work no kabbalistic theory is present. A second significant fact about Ha-Agur is that it was the first Hebrew book to receive "Haskamot", or official approval from other rabbis. Messer Leon, who may have met Landau, wrote regarding Ha-Agur:

"Behold, I have seen that which our distinguished master and teacher, Ya'akov Landau, has wrought, who has compiled a valuable book called Agur wherein he has gathered and collected the laws of the daily service and of the festivals, and all that is forbidden and allowed, and all matters thereunto appertaining. And it is a work that giveth goodly words concerning customs and important decisions. Therefore have I set my hand to these drippings of the honeycomb,



these words of pleasantness."<sup>6</sup>

Throughout the centuries, several editions of Ha-Agur have appeared. Several of the editions vary with one another because of corrections which have been made by succeeding editors. I did have to go back once to an earlier edition of Ha-Agur to check it and make a correction of the critical text. The critical text, on which I have based my translation was published in 1960, in Jerusalem, by M. Herschler. This translation and commentary is the first work done on Ha-Agur in English.

In order to fulfill the three aims of his book, Landau set up his halachic discussions in the following order: The first part contains a plethora of opinions on the subject matter that is under discussion; Rav Alfasi, Mishnah Torah, Mordechai, Or Zarua, the Tur, and other major works. These codes were the main sources of halacha during Landau's time. In many cases Landau quotes these works word for word. In the second part of his discussion Landau attempts to set the halacha and bring about agreement between those authorities who are in disagreement over the law. In the third part of his discussions Landau brings in the decisions of the latest poskim, Moellin, Weil, and his father. "It is the nature of his book to make his aims congruent, and to reconcile them together."<sup>7</sup>

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<sup>6</sup>Amram, pp. 66-68.

<sup>7</sup>Moshe Herschler, ed., Ha-Agur Ha-Shalem (Jerusalem: Boys Town Jerusalem Press, 1960), p.11.

The best way to present Landau's method is to use one of his halachic discussions as an example. This is the outline of paragraph 808 from "Hilchot Pesachim": First, a halacha is stated, "One should say Ha-Motzi over the whole matzah, break it, but not eat it until one has said the blessing regarding the commandment to eat matzah over the previously broken piece of matzah (That piece that was broken at "Yachatz")." The Agur gives the reason for this halacha: it is because there are those who say both blessings over the broken piece of matzah, which is not correct. Then the Agur tells us of those who attempt to fulfill both opinions at one time by holding both a whole piece of matzah with the broken piece of matzah and saying both blessings together over both of them. Then Landau tells us that these words are taken straight from the Tur, "Language of the Tur." Landau then brings in other authorities who had their own customs, most of which varied with one another. These authorities range from Rabbi Yom Tov to the Talmud. The issue that is of concern is how many matzot should be on the seder table, two or three? Two matzot are needed as "Lechem Mishneh", the two loaves required for a festival. But should one break one of these matzot or add a third matzah to be broken? The Agur then states another halacha: Three matzot are used. One is broken and half is put away for the afikoman. Ha-Motzi is said over one of the whole pieces and the blessing regarding the commandment over the broken piece that remains. But then

the Agur presents the custom of Rabbi Yitzchak who would "take the whole piece and the smaller piece of matzah in his hand and say both Ha-Motzi and the blessing regarding the commandment to eat matzah over both of them, and break both of them together." Thus we have a custom, of a great sage yet, that is at variance with the halacha that the Agur has quoted. But we learn that his was only a personal custom: "But he did not wish to teach this publicly and change the custom (of the people)." Other sages such as Rav Alfasi, Rambam, Rabbi Menachem of Joigny and Rabbi Yom Tov are cited from the Mordechai as saying that two matzot are enough. But then Landau presents us those who say that three matzot are needed and their arguments and customs. The Tosafot, Rav Amram, and the Rosh are among this group. As well they agree that the custom is according to Rashi who says, "one places the smaller piece of matzah on the whole piece, which serves for the two loaves required on a festival, and breaks the whole piece (for) Ha-Motzi, because Ha-Motzi is a regular blessing; thus one says it over the whole piece of matzah." And the Talmud is brought out as support for this custom. But the still other customs are presented and other rabbis and sources quoted. It seems that the Agur has a real problem on his hands if he somehow wants to decide which is the proper halacha. In the end he turns to one of the latest sages, his father, for the answer. Usually whatever comes at the end of a discussion is considered the proper custom or

halacha even if Landau does not explicitly say so. The custom of Landau's father was to take three matzot (the smaller piece in between the whole pieces) and say Ha-Motzi over all three pieces so that he could symbolize that the two whole pieces were the "Lechem Mishneh" and the broken piece was the "bread of poverty". Then he removed one whole piece and recited the blessing regarding the commandment to eat matzah over one whole piece and the broken piece of matzah. He then broke from both of them and ate. In this way Landau's father "satisfied all opinions and rulings." As well this is the custom which is followed today. From this we can see that Landau is somewhat successful in meeting his goals. He does state the halacha, gives those opinions and customs that are at variance with one another, and adds those rulings of the latest poskim to the halacha. But, the path to fulfilling these goals is not as clear cut as Landau implies in his introduction as can be seen from this paragraph. In other paragraphs the Agur only quotes one authority, in several cases only the latest authority is quoted and all the earlier opinions are not even mentioned. So Landau uses several means to arrive at his end.

One area of halacha in which the Agur seems to tow the line is regarding custom as deciding the halacha. During the 15th century custom became a dominant factor in deciding the

halacha.<sup>2</sup> In cases where there are disputes among halachic scholars, custom decides the halacha. And where there is no set halacha for a certain matter or where the custom stands at variance with the halacha, custom wins out. In many cases the Agur cites customs which override the halacha. This is allowed when there is proof for the evidence of the custom. There are three requirements for such proof: (1) It must be widespread over the entire country, or in the whole area of a particular locale, or amidst all of the people to whom the decision is being addressed. (2) The custom must be frequently applied. (3) The custom must be clear. There are differences between general customs and local customs. Landau shows us both types in his halachic discussions. A general custom is created by the public as a whole and applies to the public as a whole. Whereas a local custom is created by people in a certain place and it is only valid in that place. I would say that the Agur usually allows both local and general customs to hold sway over established halacha. In this way he follows in the footsteps of earlier sages.

The Agur was an important link between the poskim and halacha of the 15th century and the Shulchan Aruch. Its significance is seen in the fact that both Yosef Caro and Moshe Isserles, the author and contributor to the Shulchan

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<sup>2</sup>See: Yedidya Alter Dinarl, Hachmei Ashkenaz B'Shill'hei Y'mei Ha-Beinayim (Jerusalem: Bialik Institute, 1984), chapter 5. and "The Rabbis in the 15th Century and Their Halacha-Works," Diss. Hebrew University 1968, page 9, English digest.

Aruch make mention of Landau's book in their earlier works: Beit Yosef and Darchei Moshe. As well, Isserles cites the Agur in his glosses to the Shulchan Aruch. It is possible that the appearance of the Agur is what caused Caro to write the Shulchan Aruch for he felt that the halachic needs of the Jewish people could not be met with a small manual such as the Agur which only cited decisions but left out the argument. As well it did not cover the entire spectrum of Jewish Law, which was of concern to Caro.\*

But while Caro criticized its shortcomings, the rabbinic "Haskamot" which Landau received for the book are proof that it was a book that the circumstances of the time required. I doubt if Landau felt that the Agur would be the final chapter in the development of halacha. Rather, he felt that such a manual was needed to carry Jews through a difficult period when there were not enough learned rabbis to make the important, halachic decisions which daily confronted people. For this reason the Agur, although it is now a relatively unknown work, is a vital link in the chain of halacha.

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\*Isadore Twersky, "The Shulchan Aruch: Enduring Code of Jewish Law," in Understanding Jewish Theology, ed. Jacob Neusner (New York: Ktav Publishing House, Inc., 1973), pp. 135-141.

## INTRODUCTION

The words of Agur ben Yaka to the important student, the honorable Morenu Rabbi Ezra ben David Obadiah the physician, the memory of the righteous is for a blessing, from the house of L'On of the city of Trikarko.

(You have) the strong desire to cleave with the sages all day to plow, to expound, and to spread your wings, to stand in the shadow of wisdom, so that you should be likened by your deeds and your opinions and your ideas to those who are perfect of their works, they shall not go around in crooked paths. When I saw your intentions were good, your ready character to receive the learned wisdom, your even disposition and honesty, for you shall burrow the hidden passageways to find straight paths. You shall remove stones from the paved roads that go to the city, the settlement of evil schemes. You seek me out daily to show you the entrance of city, to awaken your ideals, to enlighten your eyes, to arrive at your desired goal along the best prepared way, to remove obstacles lest your foot would strike a stone. While clutching the saddlebags of my opinion, I said to my heart, why do you sleep? Rise up to call to your God! Perhaps God shall answer us so that Israel shall not forget Torah for the many doubts, opinions, arguments, and difficult legal discussions which renew themselves every day. (Where are they?) Between the high mountains, and giants. These are the great sages found in every generation. I girded my

loins for the spirit of my heart has compelled me and the love of Him. I said (that) I shall run to speak (of) mitzvah, whatever it shall be.

And this was the first reason which awakened to the need (to write this book) when I saw the important student, whom was mentioned, who sent his hands on the fruit of the tree of the knowledge of good and evil. They are the positive mitzvot which are explained in the Talmud. He also placed in his containers certain of the profound sciences such as the knowledge of nature and what is behind it and all the needed introductions for them. But the time which is precious does not suffice for him to comprehend these things, for our life on earth is like a shadow. Of the many hardships that are found in exile, paper is too narrow to stretch out (write) all the sorrows (on it). I said that I shall rise up and I shall gird my loins, and I shall place a bracelet on his hands and a gold chain over his neck in negotiations. And I shall write the majority of the Oral Torah in matters upon which fall doubt and disagreements among the sages with all the opinions which are found in volumes which are considered important by the sages of this generation. I have not taken notice of other books, for they are quantitatively and qualitatively null and void. Also, I shall write of the many new laws (which are in) doubt, about which the rabbis of our generation ruled which these doubts are not found in explicit decisions. Certainly towards Ba'al



Ha-Turim I have set my steps and after that I was pulled by the bands of love,<sup>1</sup> for he gathered many opinions that were before him, more than all the (other) poskim. And I shall walk in his order and in his wording and all that he wrote which was not contested I shall not write. I shall skip it for it is not my intention to repeat what the others wrote. Certainly (on) each explanation about which there was disagreement I shall place my words and I shall distribute my words for the discourse of the three sections.

The first section: In it I shall write all of the opinions and all of the words of the opposing sages against each other which are found in volumes which are in our hands. The major ones: Rav Alfasi, Mishnah Torah, Mordechai, Sefer Mitzvot Gadol, Amudei Golah, Or Zarua, Ha-Turim, Shibbolei Ha-Lekket, the Rashba, and Ha-Rokeach. Also, I shall not write all of the innovations which are found with these poskim about which there is no disagreement among them, except sometimes when it is truly a great innovation.

In the second section I shall write concerning every discourse the decision and the halacha as ruled by the great sages of Ashkenaz and France, and whom one should follow in practice, for if it was not so, my labor would be without purposeful reason.

And in the third section I shall write and I shall bring with every rule all of the doubts which are found in teshuvot

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<sup>1</sup>See. Hosea 11:4.

which were written and were established as new interpretations from the recent time which were not found in the works of the afore-mentioned poskim in particular from the teshuvot of the great sage of our generation who taught Torah to all of this community: Morenu HaRav Rabbi Ya'akov Moellin, may the memory of the righteous be for a blessing. Also from the rest of the great teachers.

And from this activity three important benefits will result. The first is that one will find (in it) every variant opinion in every matter, brought together without having to search and investigate, even if they do not have any other books besides this one. And when one supplies himself with this book and another volume, whatever it shall be, he will surely find rest for himself and shall not need to search for an opinion of another posek.

And the second use is that when a perplexed individual does not know which way to turn, right or left, due to the many divergent views, he shall find in this volume the correct one to follow. His direction shall not be to and fro, but rather the straight road.

And the third use is that one shall find many rules and decisions which one shall not find in other volumes for they were not able to write all of the possible doubts which may fall in the Oral Torah due to its profound depth, for it is wider than the earth and broader than the sea. And I shall give the reader a rule: in a place where I did not write the

name of the book in the language which I wrote, it is the language of the Turim. Another rule: if sometimes during the discourses I do not write according to which authority is the practice, and if one finds in that discourse the opinion of Rabbenu Asher, the father of Rabbenu Ya'akov Ba'al Ha-Turim, you should know that the Ashkenazim follow in the main the opinion of Rabbenu Asher, and therefore sometimes I rely upon this principle and I did not write in every place according to whom is the halacha.

And I, Ya'akov Baruch ben Morenu Harav Rabbi Yehuda Landau Ashkenazi, have girded my loins and I shall call in the name of God to lead me on the straight path, to make known to me the (correct) interpretation. Thus I call the name of this book of beautiful words Agur ben Yaka, for three reasons: the first, (I call it Agur) because I am afraid ("Agur")<sup>2</sup> of Divine anger, for my knowledge rests upon no firm foundation. And I am not complete in any way. The second reason is that in it I shall collect and gather ("E'egur") all of the different opinions which are possible to gather according to need and according to understanding and I have relied upon the solid foundation like solid spectacles. And this is because I am ben Yaka, the son of the one who gathered the Torah and retold<sup>3</sup> (taught) and showered it upon many thousands of students. As he is known and celebrated by

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<sup>2</sup>Note the word play on Agur which occurs three times: Agur-I am afraid, E'egur-I shall gather, and Agurah-I shall live.

<sup>3</sup>L'haki, (to retell) hence "ben Yaka".

all the inhabitants of Ashkenaz and France as to this day remains in me a needle's-eye worth of his splendor. And from it I shall learn to determine the halacha in most of the words of Rabboteinu, may their memories be for a blessing. And the third reason is that I wish to live ("Agurah") and dwell there in the tents of Shem (Belt Midrash). There they shall sit in chairs of judgement, and there they declare the righteousness of God. And God knows, and let Israel know, that my intention is for the sake of heaven, in order that disagreement would not increase in Israel. And every person whose heart moves him to draw near to the labor, the labor of heaven, let him look with the clear lens, toward the dark as well as the light, and loosen the chains of his doubt. Let his wheel-springs flow to water the plants of his garden which he planted with his right hand. How goodly are your tents O Ya'akov! Happy are you, that you have merited to enter under the wings of the Shechinah to be a treasured people among all the nations. And you, Israel, are drawn to your creator with bands of love, to serve your creator with all your heart, with all your soul, and with all your might; and all your deeds shall be intended for the sake of heaven. And even while engaged publicly in your daily occupation, set snares in your upper chambers your God, and when you awaken from your sleep it shall be suitable for you to draw near to the need with your thoughts and with your deeds. "And you shall speak of them": [Yoma 19b] of words of Torah and not idle

conversation. And even meditation in the vanities of the world is forbidden for [Yoma 29a] "the contemplation of sin is worse than the sin." Rather, one should contemplate the fear of God all day. And I shall begin my work with the words of the daily prayers according to the order of Ba'al Ha-Turim. But first I shall speak on what is the foundation and the principle of prayer: the study of Torah, in the way that David began: "...the teaching of the Lord is his delight, and he studies (recites) that teaching day and night."<sup>4</sup> For it is above all Divine service and above the Tefillah, which is called the prayer of the heart, for those who strongly desire Torah and those for whom Torah is their occupation. And that which our Rabbis, may their memories be for a blessing said in the first chapter of Berachot [10b]: "Rabbi Mani said, 'greater is the one who reads the Shema at its time than one who engages in the Torah.'", did not the Tosafot explain that he does not mean to say that the one who engages in Torah at the hour of the recitation of the Shema needs to stop because even for prayer one needs to stop as it is said in the first chapter of Shabbat [10a], "For example, we stop whether for the recitation of the Shema or for the Tefillah." And it explains, "For example we.." for whom our Torah is not our occupation are not, but Rabbi Shimon bar Yochai and his followers stopped. Rather, he means to say, "Great is the one who recites the Shema in its time more than

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<sup>4</sup>Psalms 1:2.

the one who engages in Torah which is not during the time of the recitation of the Shema." And the reason is that when one recites the Shema, one fulfills the commandment of Torah study, as well, when he recites it and thereby fulfills a positive mitzvah. But, for those who resemble Rabbi Shimon, certainly the study of Torah is greater than prayer. And therefore, I shall begin with the one who rises to serve God before the Tefilah by studying Torah. How should one behave regarding the blessings before one studies and after one has studied, when he prays in the synagogue, if one goes back and recites a blessing? And afterwards I shall write of the rule; (does) meditating on the words of Torah without moving the mouth obligate one to recite a blessing? For this matter is not explained well by the poskim, rather it is left ambiguous.

### HILCHOT ROSH HODESH

575. Regarding Tziduk Ha-Din,<sup>1</sup> is it required to say it on Rosh Hodesh, Hanukah, and Purim: They (the sages) differed about it. The sages of Worms say it going on the way (i.e. while walking to the grave with the coffin). And the sages of Mainz do not say it except in the case of a great man. And thus Rabbi Meshullam bar Rabbi Moshe<sup>2</sup> wrote in a responsum, "Certainly they eulogize a great man on Rosh Hodesh and on the intermediate days of a festival and they say over him Tziduk Ha-Din." And R. Yitzchak ibn Giat<sup>3</sup> wrote, "The custom of the sages of old was that one did not say Tziduk Ha-Din for the dead on Rosh Hodesh, Hanukah, and Purim because Tziduk Ha-Din for a common person is no greater than that for Moshe Rabbenu who died on Shabbat Hol Ha-Moed. Rosh Hodesh and Hanukah which fall on Shabbat are days of joy as it is written, 'And on your joyous occasions,'"<sup>4</sup> And Rashi's students wrote in his name that they say Tziduk

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<sup>1</sup>Tziduk Ha-Din. See glossary.

<sup>2</sup>Rabbi Meshullam bar Rabbi Moshe. Lived in Germany. Died in 1095.

<sup>3</sup>R. Yitzchak ibn Giat. Died 1089 in Spain.

<sup>4</sup>Numbers 10:10. The entire verse reads: "And on your joyous occasions-your fixed festivals and new moon days."

Ha-Din even during Hol Ha-Moed.<sup>5</sup> Language of the Tur.<sup>6</sup> And in a responsum of the Geonim<sup>7</sup> (it is written), "If all respond as one then Tziduk Ha-Din is permitted, but only before the dead. After the burial of the dead they do not say it." Shibbolei Ha-Lekket.<sup>8</sup> Rabbenu Hananel<sup>9</sup> wrote, "One who is observing a Ta'anit Halom<sup>10</sup> on Rosh Hodesh must fast (in atonement) for that fast, just like (he must do) for Shabbat

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<sup>5</sup>According to Rashi's students Tziduk Ha-Din is not a eulogy, which is prohibited on Rosh Hodesh or a festival. Thus its recitation would not profane the sanctity of the day. Rather it accepts and gives thanks for God's judgement. But the Kaddish is not said on Rosh Hodesh because it is contained within Tziduk HaDin. Machzor Vitry. paragraph 276. page 244.

<sup>6</sup>When we read "Language of the Tur" it means that the previous statements come word for word from the Tur which is Landau's main source. B.T. Moed Katan 28b. The mishnah allows women to wail and clap their hands at a funeral, even on Rosh Hodesh, Hanukah, or Purim. The gemara to this mishnah allows for Tziduk Ha-Din to be recited in memory of a scholar and it can only be said in the presence of the deceased. Tur, Orach Hayyim, paragraph 420. Ritz Glat, Hilchot Avel, page 59. Torat Ha-Adam, "Sha'ar Ha-hotza'ah". Abudraham, Hilchot Birkat Ha-Mazon L'Avel. Ha-Pardes, paragraph 290. If Tziduk Ha-Din is recited as one by all in attendance then it is permitted for it resembles wailing that is permitted in Moed Katan 28b.

<sup>7</sup>Geonim. See glossary.

<sup>8</sup>Shibbolei Ha-Lekket, paragraph 183. Sha'arei Teshuvah, paragraph 219. Tur, Yoreh Deah, paragraph 401. These sources continue with the question of whether Tziduk HaDin can be said on Rosh Hodesh, Hanukah, and Purim. They all conclude that if Tziduk HaDin is said together it is permitted on these days. They quote Moed Katan 28b as proof for their conclusion.

<sup>9</sup>Rabbenu Hananel. Born: end of 10th century. Died: Kairouan, Egypt, 1055. He wrote a commentary on the Talmud.

<sup>10</sup>Ta'anit Halom. See glossary.



(i.e., if he fasts on Shabbat)"<sup>11</sup> Mordechal, Chapter one, Shabbat.<sup>12</sup>

576. In Ashkenaz they are accustomed to say the portion, "And on your new moons..."<sup>13</sup> at the Shabbat morning service after the portion "Tamid..."<sup>14</sup> But in Spain they are not accustomed to say it.<sup>15</sup>

577. If one does not make mention of Rosh Hodesh<sup>16</sup> until he

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<sup>11</sup>B.T. Ta'anit 12b. If one has a bad dream he must fast because of it. This fast must be observed even if it takes place on a Shabbat. But then one must observe an additional fast in atonement for fasting on Shabbat. Rabbenu Hananel prescribes that same observance in the case where one must fast on Rosh Hodesh.

<sup>12</sup>Mordechal, chapter one of Shabbat, paragraph 231. Quotes Ravya who wrote in the name of Rabbenu Klonymous, in a dissenting position, that one need not fast for having a bad dream anymore, "for we are not experts at interpreting dreams. Therefore it is forbidden. The Agur leaves out this dissenting opinion from his discussion of the subject. It is possible then, that the Agur renders halchaic rulings by way of omission, by not citing dissenting opinions which he knew about.

<sup>13</sup>Numbers 28:11-15.

<sup>14</sup>Numbers 28:3-10.

<sup>15</sup>Tur, Orach Hayyim, paragraph 421. And on the subject paragraph 48. The Tamid portion of the Musaf service speaks of the sacrifices offered every day and the additional sacrifice offered on Shabbat. This is followed by a description of the sacrifices to be offered on Rosh Hodesh. In the Tur it is written that Ba'al HaMinhag stated in a responsum that it was not proper to make mention of the Musaf offering for Shabbat or Rosh Hodesh together with the Tamid offering. But there is no problem in making mention of the Musaf offerings at some other time, for Musaf can be said at any time during the day. Yosef Caro states in Bet Yosef, a commentary on the Tur, that what seems to be meant is that it is permissible to mention the additional sacrifices after the morning service, but before the Shabbat Musaf service.

<sup>16</sup>In "Ya'ale V'yavo". This is usually added to the Amidah during an intermediate day of a festival or on Rosh Hodesh where mention is made of the day.

begins "Modim",<sup>17</sup> if he is saying "Sim Shalom"<sup>18</sup> he returns to the beginning (of the Amidah) and we conclude that he always returns (to the beginning of the Amidah) unless he has not yet moved his feet. And also if he usually says supplications after his prayer then he returns to "Retzei".<sup>19</sup> But if he moved his feet, although he usually says supplications after his prayer, or if he does not usually say supplications after his prayer, even if he did not move his feet he returns to the beginning (of the Amidah).<sup>20</sup> And Rav Amram<sup>21</sup> says that it depends upon moving his feet. He wrote that if one has not moved even though he does not usually say supplications he returns to the Avodah prayer.<sup>22</sup> If he moved his feet even though he usually says supplications he returns to the beginning (of the Amidah). And my master, my father,<sup>23</sup> did not write thus.<sup>24</sup>

578. It is taught (in a baraita), "If one errs and does not make mention of Rosh Hodesh in the morning service we do not

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<sup>17</sup>Prayer of Thanksgiving. 18th benediction on weekdays and 6th benediction on Shabbat and holidays.

<sup>18</sup>Prayer for peace. 19th benediction on weekdays. 7th benediction on Shabbat and holidays.

<sup>19</sup>For the acceptance of prayer. 16th benediction on weekdays. 6th benediction on Shabbat and holidays.

<sup>20</sup>B.T. Shabbat 24a and Berachot 29b.

<sup>21</sup>Rav Amram. Gaon of the academy at Sura from 853-871 CE.

<sup>22</sup>Avodah prayer. 17th benediction on weekdays. 5th benediction on Shabbat and holidays.

<sup>23</sup>This is the Rosh, Rabbi Asher ben Yechiel.

<sup>24</sup>Tur, Orach Hayyim, paragraph 422. Seder Rav Amram Gaon, volume 1, pages 32-34. Rav Amram makes an exception in the case of not mentioning Rosh Hodesh when it is evening. He says that since it is evening and no Beit Din has actually met to consecrate the new moon, if a person fails to mention it during the Amida, he does not go back to the beginning.

make him repeat it because the Musaf Tefillah is before him (still to be said)." And Rabbi Yochanan said, "In public it is different."<sup>25</sup> Rav Alfas<sup>26</sup> explains because it is burdensome on the public, they (the rabbis) were lenient, relying on the Musaf Tefillah which he (the Shallach Tzibbor) says after this (the morning service). And Rabbenu Tam<sup>27</sup> explains, "In public it is different," even an individual doesn't need to repeat since he will hear (it) from the Shallach Tzibbor." But the language doesn't mean this.<sup>28</sup>

579. Rabbi Yitzchak<sup>29</sup> wrote, "Whoever forgets and doesn't recite "Ya'ale V'yavo" at Mincha (the afternoon service) should not recite two Ma'ariv prayers (the evening service) on Motzei Rosh Hodesh. The reason is that it is now improper to mention Rosh Hodesh. Why should he pray (twice) at the evening service when he has already prayed the Amidah at Mincha? But this does not resemble that which they (the

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<sup>25</sup>B.T. Berachot 30b.

<sup>26</sup>R. Yitzchak bar Ya'akov Alfasl. Also known as the Rif. Talmud Commentator from Spain. Born: 1013. Died: 1103.

<sup>27</sup>Rabbenu Tam. Rabbi Ya'akov ben Meir. Born: 1100. Died 1171. A grandson of Rashi, Rabbenu Tam was a leading sage and tosafist of his generation. Textual emanation from the critical text. Should read: And Rashi explained. This reading is found in the Tur, Orach Hayyim, paragraph 422. As well this statement can be found in Rashi's commentary to Berachot 30b. Because the individual will be able to hear the Amida again during the Musaf service, he does not need to repeat the morning Amida should he fail to make mention of Rosh Hodesh in "Ya'ale V'yavo".

<sup>28</sup>Tur, Orach Hayyim, paragraph 422. This means that Rav Alfas's explanation is preferred.

<sup>29</sup>Rabbi Yitzchak. Commonly known as Rabbi Yitzchak HaZaken. Died: 1190. He was one of the greatest of the Ba'alei Tosafot.

rabbis) said, 'If one errs and doesn't pray Mincha on Shabbat he prays the weekday Amidah twice on Motzei Shabbat.'<sup>30</sup> That is a different case for also on Shabbat it was proper to say the Mincha Amidah, except (in this case) it was omitted because of the burden of Shabbat.<sup>31</sup> Therefore when one did not pray at Mincha he fulfills the mitzvah of saying the Amidah when he prays at Motzei Shabbat as they also belong to Shabbat.<sup>32</sup> But the sages of Provence wrote that since he did not fulfill his obligation in the prayer he said, (at Mincha on Rosh Hodesh) it is as though he did not pray (at all) and needs to pray the evening service twice even though he does not mention Rosh Hodesh.<sup>33</sup> But The Rosh<sup>34</sup> wrote that this matter (is not) decided. And therefore Rabbi Yonah<sup>35</sup> used to say that one should fulfill the doubt and pray it (the 2nd evening prayer) as a voluntary prayer and one does not need

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<sup>30</sup>B.T. Berachot 26b. Should one forget to pray the Mincha Amida on Shabbat he must make it up by praying two weekday Amidot on Motzei Shabbat.

<sup>31</sup>He was too busy to pray Mincha.

<sup>32</sup>It would actually be correct to say a full Amida of 18 benedictions even on Shabbat. But the burden of Shabbat, meaning the length of the service with Torah, Haftara, and Musaf Amida caused the Shabbat Amida to be shortened to seven benedictions; the first three and the last three remained the same and a special insert was added in between to acknowledge the holiness of Shabbat.

<sup>33</sup>His Mincha prayer does not count because Rosh Hodesh was not mentioned. He needs to make it up by saying two Amidot during the evening service even though Rosh Hodesh is not mentioned at all because it has passed.

<sup>34</sup>R. Asher ben Yechiel. Born: 1250. Died: 1327. Authored Halachic code which follows the Talmud in subject matter and order.

<sup>35</sup>Rabbi Yonah Hehasid Gerondi-bar Avraham. Died: 1264. Wrote commentaries on the Bible, Mishnah, Talmud, and the Rif.

to say something different in it, for since one has prayed it out of doubt, you do not have any greater "Innovation" than this. The language of the Tur.<sup>36</sup>

580. I found in the name of Rabbenu Simcha, may his memory be for a blessing,<sup>37</sup> who used to say that whenever they say that "If one did not say it he need not go back over it," for example, "Ya'ale V'yavo," during the Tefillah on the evening of Rosh Hodesh,<sup>38</sup> or for example, "Anainu" and "Al Ha-Nissim",<sup>39</sup> as it is stated in the Tosefta of Berachot.<sup>40</sup> This applies not only if he has finished reciting his tefillah, but even if he remembers (it) in the midst of his tefillah and he does not go back. And even if he did not

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<sup>36</sup>Tur, Orach Hayyim, paragraph 422. Tosafot of the Rosh and Rabbi Yonah on Berachot 26b. The Rosh writes in his original that the matter is decided, unlike we read in the Agur. Rabbi Yonah has an innovation. He asks the question of whether the evening prayer is even required. Yonah feels that it is not. Ordinarily, a voluntary prayer or extra Amidah is permitted only if one "innovates" something into it. Therefore, one does not need to make up a voluntary prayer.

<sup>37</sup>Rabbenu Simcha ben Shmuel of Speyer. Lived from the second half of the 12th century to the beginning of the 13th century.

<sup>38</sup>B.T. Berachot 30b. "If a man forgot to mention the New Moon in the evening Tefillah he is not made to repeat it because he can say it in the morning prayer; If he forgot it in the morning prayer he is not made to repeat it because he can say it in the Musaf prayer. If he forgot it in the Musaf he is not made to repeat it because he can say it in the Mincha."

<sup>39</sup>"Anainu"-addition to the 16th benediction of the Amidah. It is said by the congregation on fast days.

"Al Ha-Nissim"-addition to the 18th benediction. It is said on Hanukah and Purim.

<sup>40</sup>Tosefta Berachot chapter 3:10. On Hannukah and Purim if one forgets the special inserts they do not make him go back and repeat the Amidah.

begin with the next blessing, but concluded the Avodah and did not say "Ya'ale V'yavo", or concluded "Hoda'ah",<sup>41</sup> and did not yet begin "Sim Shalom", and did not say "Al Ha-Nissim", he does not go back (and repeat it). Because if we do not make him go back over it, it seems reasonable that to do so would be considered an unnecessary benediction. Shibbolei Ha-Lekket.<sup>42</sup>

581. And we read Hallel<sup>43</sup> on Rosh Hodesh. There are a number of disputes over this. Some say that an individual does not say it at all on Rosh Hodesh, but in public we say it and the blessings before and after it. And others say that there is no difference between being in public or being alone and in both situations we say it without the blessings. Language of the Tur.<sup>44</sup> Likewise Rabbi Yeshayah<sup>45</sup> wrote that individual does not say a blessing. And for those whose custom it is for the individual to say a blessing I do not know how they support (this custom), and thus Rashi wrote.

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<sup>41</sup>"Hoda'ah". The blessing for thanksgiving.

<sup>42</sup>Shibbolei Ha-Lekket, paragraph 171.

<sup>43</sup>Hallel. See glossary.

<sup>44</sup>Tur, Orach Hayyim, paragraph 422. B.T. Berachot 14a. Tosafot of Rosh and Rabbi Yonah on Berachot 14a. The gemara says that an individual recites Hallel on Rosh Hodesh but he does not recite the complete Hallel. Rosh says that the Hebrew for individual is semantic for when the public recites the Hallel together with one voice. On days when God redeemed Israel with miracles, Hallel is recited and the public comes together as an individual. And individual person need not say Hallel, but if he starts it he must finish it. Rosh quotes the Rif who said that the recitation of Hallel is a custom which does not require a blessing before or after it.

<sup>45</sup>Rabbi Yeshayah of Trani Hazaken. Also known as Tosafot Rid. Born: c. 1180. Died: 1260.

Shibbolei Ha-Lekket.<sup>46</sup> And Rabbenu Tam wrote that it makes no difference: public or the individual. Both make a blessing over it (Hallel). And on this (matter) the Rosh agreed. Language of the Tur.<sup>47</sup>

582. "He heard that they omitted, He said, 'Learn from this that they had a custom from their ancestors.'"<sup>48</sup> There are those who deduce from this that we do not say a blessing over Hallel on Rosh Hodesh, even in public, because we do not say a blessing over a custom. And Rabbenu Tam wrote that over a custom of the rabbis we say a blessing, while over a custom of the prophets we do not say a blessing.<sup>49</sup> Evidence for this is the second day of Yom Tov which is only a (rabbinically ordained) custom, but blessings are nevertheless said.<sup>50</sup> Likewise he ruled that women say a blessing when performing a positive, time-bound commandment

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<sup>46</sup>Shibbolei Ha-Lekket, paragraph 174. Re'eh Ha'Orah, part 2, paragraph 59. Machzor Vitry, page 192. Tosafot on Berachot 14a beginning with the word "days". All these sources are in agreement that saying Hallel on Rosh Hodesh is a custom and does not require a blessing before or after it.

<sup>47</sup>Tur, Orach Hayyim, paragraph 422. Rabbenu Tam and the Rosh disagree with the position that the recitation of Hallel is a custom and does not require a blessing. They say that one must say a blessing when reciting Hallel. Since these are the last sages quoted, it can be speculated that Landau agrees with their decision and supports it as Halacha.

<sup>48</sup>B.T. Ta'anit 28b. The Agur's version of the Talmud has "sh'ma" (he heard) instead of "ha'za" (he saw) as we have.

<sup>49</sup>In Tosafot on Berachot 14a, Sukkah 44b beginning with the word "Here.", Ta'anit 28b beginning with the word "He said", and Arakin 10a beginning with the word "18". Sefer Ha-Yashar, paragraph 441.

<sup>50</sup>B.T. Bezah 4b. The custom of the rabbis was that on the second day of Yom Tov blessings for the day and the blessing for the Hallel were recited.

(even though they do the act on the basis of custom because they are not commanded to observe positive, time-bound commandments).<sup>51</sup> Mordechal, first chapter of Shabbat.<sup>52</sup> But Rav Alfas wrote, "It is taught (in a baraita), an individual does not begin (Hallel), but if he began he finishes. Thus he says it without a blessing."<sup>53</sup>

583. Days where the individual recites the whole Hallel.<sup>54</sup> The Halachot Gedolot explains that "yahid" refers to any gathering which constitutes less than the entire people of Israel (The Pesach offering is an example of such a gathering).<sup>55</sup> And thus in the sense of the passage in the second chapter of Eruvin.<sup>56</sup>

584. "To complete (the Hallel)." There are those who interpret this to mean "to recite",<sup>57</sup> like "The vatikim

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<sup>51</sup>On this subject: Tosafot to B.T. Eruvin 96a beginning with the word "Perhaps" and Kiddushin 31a beginning with the word "Does not". Those who observe mitzvot, although they are not commanded to do so are greater than those who observe because they are commanded. This example of women is given as an example to show precedent for saying a blessing over a custom.

<sup>52</sup>Mordechal, first chapter of Shabbat, paragraph 285-6. The notion that it is possible to say a blessing over a custom is reiterated.

<sup>53</sup>Rif, paragraph 318. B.T. Berachot 14a.

<sup>54</sup>B.T. Ta'anit 28b, Shabbat 24a, Arakin 10a. There are 18 days where the whole Hallel is recited:

- 8 days of Sukkot
- 8 days of Hanukah
- 1st day of Pesach
- 1st day of Shavuot.

Outside of Israel there are 21 days when the whole Hallel is recited because of the observance of the second day of Yom Tov for Sukkot, Pesach, and Shavuot.

<sup>55</sup>Halachot Gedolot, Hilchot Lulav, 35a.

<sup>56</sup>Should read: In Arakin 10a.

<sup>57</sup>On the subject Mordechal on Shabbat, paragraph 285-286.



(elders) would recite (gom'rim) (tefillah) at sunrise."<sup>58</sup> And Ravya<sup>59</sup> ruled that one who says the blessing on Rosh Hodesh, "Baruch ata Adonai.....l'g'mor et Ha-Hallel." is not mistaken because "l'g'mor" can have two meanings: "to read the whole thing" or "to finish".<sup>60</sup> But Rabbenu Meir<sup>61</sup> was accustomed on the 21 days that the individual recited the whole Hallel to bless "To read" and not "to recite", lest he would skip one letter in the reading of the Hallel, and they practice thus in Ashkenaz.<sup>62</sup>

585. "An individual does not begin." Ravya explained that the individual reads Hallel alone where it is not possible (to find a minyan) but it is a mitzvah (he ought) to seek out a minyan where they will respond after him the openings of the chapters.<sup>63</sup> Mordechal, the second chapter of Shabbat. And thus I, the author, saw my teachers act.<sup>64</sup>

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<sup>58</sup>B.T. Berachot 9b. This is an example of "L'g'mor" meaning "to recite".

<sup>59</sup>Ravya. Rabbi Eliezer ben Yoel Halevi. Born: c. 1140. Died: c. 1225.

<sup>60</sup>Ravya, volume 2, paragraph 879. And they are the source for the words of Mordechal. On the subject Tur, Orach Hayyim, paragraph 488.

<sup>61</sup>R. Meir HaKohen of Rothenburg. Born: 1215. Died: 1293.

<sup>62</sup>Mordechal. *ibid.* Rabbenu Meir used the different blessing for if one said "to recite the whole Hallel" and skipped even one letter accidentally, it would mean that the blessing was made in vain.

<sup>63</sup>Ravya, volume 2, paragraph 879. One should try to find a minyan to say Hallel for these psalms of praise ought to be offered by many. He uses Proverbs 14:28 as a proof-text. It reads, "A numerous people is the glory of a king.."

<sup>64</sup>Darchei Moshe, paragraph 422, number 3. One should find at least two other people to answer him during the recitation of "Hodu La'Adonai." It notes that this point of Halacha is to be found in the Agur.

586. Shochar Tov wrote,<sup>65</sup> "We don't say Hallel except (in a group of) three. And the reason is, to whom does one say "Hodu?" Surely to two others." Thus it says in Hagadat Tiliim,<sup>66</sup> "And there are those who wonder about this-what is the difference?"<sup>67</sup>

587. We do not make mention of Rosh Hodesh in (the blessing for) the Haftara<sup>68</sup> on Shabbat.<sup>69</sup> But HaRav Yonah wrote that one needs to make mention of Rosh Hodesh and to say, "this day of rest and this day of the new moon," But, that they do not say "Rosh Hodesh" in the concluding phrase. But this is not the custom. Language of the Tur.<sup>70</sup> There is a responsum in Mordechal<sup>71</sup> that they do not make mention of Shabbat in "Ya'ale V'yavo" on Rosh Hodesh which falls on Shabbat. And thus it says in responsa of the geonim<sup>72</sup> and thus it is the custom of the two academies (in Babylonia). And on Rosh

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<sup>65</sup>In Midrash Tiliim, Mizmor 113, number 3. This is Midrash Tehillim. Shibbolei Ha-Lekket, paragraph 174.

<sup>66</sup>This is also Midrash Tehillim.

<sup>67</sup>What difference does it make if you do not read the Hallel to two others? You're only reciting Psalms.

<sup>68</sup>Haftara. See glossary.

<sup>69</sup>B.T. Shabbat 24a. There is no mention of the new moon during the blessing over the Haftara on Shabbat for were it not for Shabbat there would not be any Haftara recited.

<sup>70</sup>Tur, Orach Hayyim, paragraph 425. This passage says that there is mention made of Rosh Hodesh in the blessing over the haftara.

<sup>71</sup>Mordechal, chapter 2 of Shabbat, paragraph 281.

<sup>72</sup>Teshuvot Geonim, Harkaby edition, paragraph 6. Seder Rav Amram Gaon, volume 2, page 66b. Machzor Vitry, 105. These sources conclude that there is no mention made of Shabbat in "Ya'ale V'yavo" on Shabbat which coincides with Rosh Hodesh or Hol Ha-Moed. In Machzor Vitry it says that we do not mention Shabbat in "Ya'ale V'yavo" because "Ya'ale V'Yavo" is only inserted when Rosh Hodesh, Yom Tov, or Hol Ha-Moed occurs.

Hodesh which falls on Shabbat they take out two Torah scrolls and read the complete weekly portion and the Maftir (from the second scroll) for Rosh Hodesh.<sup>73</sup> And likewise on Shabbat Hanukah and likewise on the Four Parshiyot.<sup>74</sup> However Rabbi Yeshayah wrote that we read six aliyot in the portion for Shabbat and the seventh in (the portion for) Rosh Hodesh and likewise on Shabbat Hannukah.<sup>75</sup> And likewise on the Four Parshiyot. Shibbolei Ha-Lekket.<sup>76</sup> But in Ashkenaz and France they do not do thus. But at Musaf there is the mention of Shabbat without Rosh Hodesh;<sup>77</sup> therefore one mentions Shabbat in the Musaf of Rosh Hodesh (which falls on Shabbat). And thus they ruled that on Hannukah they recite "Al Ha-Nissim at Musaf on Shabbat or on Rosh Hodesh which falls during Hannukah. And thus on Yom Tov which falls on Shabbat, (during the blessing over) the Haftara on Shabbat one makes mention of Yom Tov, for this reason: on this day he is responsible for four tefillot.<sup>78</sup>

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<sup>73</sup>Numbers 28:9-15.

<sup>74</sup>Four Parshiyot. Shabbat Shekalim. Weekly portion and Exodus 30:11-16.  
 Shabbat Zachor. Weekly portion and Deuteronomy 25:17-19.  
 Shabbat Parah. Weekly portion and Numbers 19:1-22.  
 Shabbat Ha-Hodesh. Weekly portion and Exodus 12:1-20.

<sup>75</sup>On Shabbat Hanukah we read the weekly portion and Numbers 7:1-11.

<sup>76</sup>Shibbolei Ha-Lekket, paragraph 179.

<sup>77</sup>When it is Shabbat only.

<sup>78</sup>Mordechai, paragraph 283. Ravva, volume 2, paragraph 843.

588. Rabbenu Yoel<sup>79</sup> also ruled that in the Maftir (blessing over the Haftara) at Mincha on Yom Kippur which falls on Shabbat, one makes mention of Shabbat and says, "for Torah," because the day requires two Haftarot. From this it seems to say that on Yom Kippur the Maftir at Mincha also says the final blessing, that is, "for Torah and for prayer." Mordechal, chapter two of Shabbat.<sup>80</sup>

589. "A worker of truth whose deed is truth."<sup>81</sup> The explanation of this is the Holy One blessed be He, whose deed is truth, righteously reduced the moon. And there are those who read, "A worker of truth whose deed is truth," and learn regarding the hosts of heaven that their deeds are truth and they do not teach their order.<sup>82</sup>

590. There are those who say: One concludes (the blessing over the new moon) "who sanctifies the months." And there are those who say, "Who renews the months." Language of the

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<sup>79</sup>Rabbenu Yoel. Rabbi Yoel Bar Yitzchak Ha-Levi. Died: 1200. The father of Ravya.

<sup>80</sup>Mordechal, second chapter of Shabbat, paragraph 282. Ravya, volume 2, paragraph 876. In the Orthodox and Conservative High Holiday prayerbooks the blessing after the reading of the Haftara, during the morning service of Yom Kippur, includes the final paragraph "For Torah..." There are special inserts if Yom Kippur falls on Shabbat. In the Afternoon service the final paragraph is omitted whether or not Yom Kippur falls on Shabbat. In the Reform prayerbook the whole blessing is recited, according to Reform tradition, with the last paragraph during the morning and afternoon service. Should Yom Kippur fall on Shabbat there are special inserts to acknowledge Shabbat.

<sup>81</sup>B.T. Sanhedrin 42a. This is part of the blessing for the New Moon. It is recited at the onset of Rosh Hodesh.

<sup>82</sup>Tur, Orach Hayyim, paragraph 426. Rambam in the Mishnah Torah, Hilchot Berachot, chapter 10, halacha 16. Tosafot to B.T. Sanhedrin 42a.

Tur.<sup>83</sup> And thus we are accustomed to say "...who renews the months".<sup>84</sup>

591. There are those who say<sup>85</sup> that one does not sanctify the (new) month except at night. And it is interpreted as, "A lamp at noon, what is its purpose?"<sup>86</sup> And in Massechet Sofrim (it says): "They do not santify the month excpet on Motzei Shabbat when one is in a good mood and (wearing) nice clothes."<sup>87</sup> Shibbolei Ha-Lekket.<sup>88</sup>

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<sup>83</sup>Tur, Orach Hayyim, paragraph 426. Shemot Rabbah, chapter 15. B.T. Sofrim, chapter 19, rule 9. In Sofrim it says that one ends the benediction, "Who sanctifies Israel and the New Moon." The reason for this was that at this time the new moon and beginning of the new month was still determined by observation of the moon by direct sight. When this practice ad to be ended the months became automatically sanctified and ths the ending was changed to "...renews the months."

<sup>84</sup>The custom today in Orthodox, Conservative, and Reform prayerbooks is to say, "...who renews the months."

<sup>85</sup>Shibbolei Ha-Lekket, paragraph 167. On the subject: Abudraham, Berachot, sha'ar 8.

<sup>86</sup>B.T. Hullin 60b.

<sup>87</sup>Sofrim, chapter 20, rule 1. The text states "sancifies the moon."

<sup>88</sup>Shibbolei Ha-Lekket, paragraph 167. Belt Yosef, paragraph 426, s.v. "it is taught". Belt Yosef notes that the halacha regarding reciting the "Birkat L'vanah" at night is written in the Agur.

## HILCHOT YOM TOV

592. There are things that are stricter on Yom Tov than on Shabbat, for example, according to Rav Alfasi,<sup>1</sup> the prohibition of Mukzeh.<sup>2</sup> Even though we hold like Rabbi Shimon (regarding the observance of mukzeh on Shabbat), on Yom Tov he (the Rif) ruled like Rabbi Yehuda because it (Yom Tov) is generally more lenient and they were strict about it in order that one would not make light of the day. And thus wrote the Sh'eil'ot.<sup>3</sup> And the Rambam ruled likewise.<sup>4</sup> But Halachot Gedolot, Rashi, Rabbenu Tam, and Rabbi Yitzchak ruled like Rabbi Shimon regarding (the prohibition of mukzeh)

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<sup>1</sup>Rif, end of Beza, paragraph 929. B.T. Beza 2a. B.T. Shabbat 19b. The ruling by the Rif is that we hold like Rabbi Shimon regarding the prohibition of mukzeh on Shabbat. The texts from the Talmud state that Rabbi Shimon does not accept the prohibition of mukzeh. On Yom Tov, the Rif ruled, we follow Rabbi Yehuda, who accepted the prohibition of mukzeh. The reason for this is that Yom Tov is a less stringent day than Shabbat and the prohibition of mukzeh ought to be strictly observed on Yom Tov so that people would not take the day lightly.

<sup>2</sup>Mukzeh. See glossary.

<sup>3</sup>Sh'eil'ot, Bemidbar, parashah 128, editor: Mirsky, note 8. Sh'eil'ot is a book of halachic sermons by Rav Ahal Gaon (8th century). The Tur says that the Sh'eil'ot agrees with the Rif, although the part that it quotes actually disagrees with him. Mirsky attempts to explain this in his notes by saying that the Tur must have had a different text of Sh'eil'ot from which it derived its halacha.

<sup>4</sup>Rambam. Rabbi Moshe ben Maimon (Maimonides). Halachist, commentator, and philosopher. Born: Cordova, Spain, 1135. Died: Cairo, Egypt, 1204. Author of the Mishnah Torah. Mishnah Torah, Hilchot Yom Tov, chapter 1, halacha 17. According to Rambam, the reason why the sages prohibit the handling of something which is considered mukzeh is because the halacha regards the violation of a festival more leniently than it does a violation of Shabbat. Thus there is greater danger that one may regard a festival more lightly than Shabbat.

on both Shabbat and Yom Tov like Rabbi Shimon.<sup>5</sup> But Rabbenu Tam made a distinction, saying that the halacha follows Rabbi Shimon only with regard to mukzeh. With regard to "nolad"<sup>6</sup> the halacha is according to Rabbi Yehuda. And thus Rabbenu Hananel also ruled like Rabbi Shimon, even on Yom Tov. But regarding "mukzeh ma'hamat issur" (mukzeh due to "issur", i.e., utensils which cannot be used without violating a prohibition) and regarding "nolad" he ruled like Rabbi Yehuda on Yom Tov. Language of the Tur.<sup>7</sup> But the Sh'ell'tot ruled in parashat "Shalach L'cha",<sup>8</sup> on Shabbat and Yom Tov, like Rabbi Shimon. And thus ruled Halachot Gedolot, Rashbat,<sup>9</sup> and Rabbi Eliezer ben Yoel HaLevi. Mordechal.<sup>10</sup> But for me, the author, the choice is difficult because Ba'al HaTurim<sup>11</sup> wrote in the name of the Sh'ell'tot that the halacha is according

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<sup>5</sup>Halachot Gedolot, Hilchot Yom Tov. Rashi on Betzah 33a, s.v. "And the halacha". Rosh on Betzah, chapter 5, paragraph 14. These sources rule like Rabbi Shimon, regarding the prohibition of mukzeh on Shabbat and Yom Tov, that there is no prohibition at all.

<sup>6</sup>Nolad. See glossary.

<sup>7</sup>Tur, Orach Hayyim, paragraph 495. Rosh on Betzah, chapter 5, paragraph 14.

<sup>8</sup>Sh'ell'tot, Bemidbar, parashah 128. Here it is possible to note a discrepancy between what the Tur quoted earlier and the Mordechal's text.

<sup>9</sup>Rashbat. R. Shmuel bar Natronai. German sage. Born: c. 1100-1110. Died: c. 1175.

<sup>10</sup>Mordechal, on Betzah, paragraph 642. Ravva, paragraph 714. Ravva says that Rabbi Shimon admitted that some types of mukzeh ought to be observed. These are: "Mukzeh ma'hamat hisaron cis (an object is mukzeh because its use might entail financial loss if it were to be damaged)" and "mukzeh ma'hamat issur (an object is mukzeh because its use entails violating a prohibition of some kind)".

<sup>11</sup>Ba'al HaTurim. Rabbi Ya'akov Ba'al HaTurim. The third son of the Rosh. The author of the Tur. Born: Cologne, Germany, c. 1275. Died: Toledo, Spain, 1343.

to Rabbi Shimon,<sup>12</sup> and I need to look into the matter. However, regarding the mukzeh which is (also) a nolad, Sefer Ha-Mitzvot<sup>13</sup> rules that it is forbidden, and thus with a "mukzeh ma'hamat issur" created by one's own physical act, for example, a light that is lit on Shabbat.<sup>14</sup> If so, one is forbidden to move the light that one lit on Shabbat. But there are those who want to allow it because it resembles a "chamber pot."<sup>15</sup> But this is not correct, etc. And one does not lose by following the strict ruling. However Rabbi Shimon agrees (with Rabbi Yehuda) regarding (the prohibition of) "mukzeh ma'hamat m'chubar" (a thing [here a fruit or vegetable] which is mukzeh because it is attached to the ground).<sup>16</sup> And (he ruled) likewise in connection with dried

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<sup>12</sup>The editor of the Agur notes that Rabbenu Landau notes that the Tur and the Mordechai differ in their texts of Sh'eil'ot. Landau is unable to decide which text is correct for he has no reliable text from which to decide between his two predecessors. See also: Hagahot Maimuniyot, Hilchot Yom Tov, chapter 1, halacha 17 which corroborates the editor's explanation of Landau's problem.

<sup>13</sup>Sefer Ha-Mitzvot Ha-Katan, page 303, paragraph 282.

<sup>14</sup>B.T. Shabbat 157a. A lamp lit on Shabbat is mukzeh on account of an interdict, meaning that the lamp was used on that Shabbat for lighting, and one cannot light a lamp on Shabbat itself.

<sup>15</sup>B.T. Shabbat 47a. A chamber pot which contains ashes and garbage may be carried away on Shabbat.

<sup>16</sup>B.T. Beza 24b. If a gentile brings a gift to a Jew on a festival, if it of the type that comes from the ground; i.e. vegetables, fruit, etc., it is forbidden for it was possibly gathered on Yom Tov.



figs and raisins,<sup>17</sup> and "mukzeh ha'harat hisaron cis"<sup>18</sup> (that mukzeh applies in these cases). And likewise with the mukzeh of stones.<sup>19</sup> And Sefer Ha-Mitzvot wrote that Rabbi Shimon agrees (with Rabbi Yehuda) concerning animals which have died. Mordechai, first chapter of Betzah.<sup>20</sup>

593. It has been said: "A chick that is hatched on Yom Tov, Rav said it is forbidden (to be eaten on Yom Tov) but Shmuel, some say, Rabbi Yochanan, says it is permitted."<sup>21</sup> Ba'al

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<sup>17</sup>B.T. 45b. Figs and grapes which are spread out on a roof to dry are not yet considered food and are thus mukzeh. Even Rabbi Shimon accepts mukzeh in this case.

<sup>18</sup>B.T. Shabbat 157a. Rabbi Shimon accepts mukzeh in the case of a utensil whose use might cause it to be damaged and thus the owner would incur monetary loss.

<sup>19</sup>B.T. Shabbat 141b. Although carrying a stone by itself is considered violating the prohibition of mukzeh, if one is carrying a child as well it is not a violation.

<sup>20</sup>Mordechai, first chapter of Betzah, paragraph 642. Sefer Mitzvot Ha-Katan, page 303, paragraph 282. The Mordechai has a problem with many sages following Rabbi Shimon with regards to not accepting the prohibition of mukzeh on Shabbat and Yom Tov. The Mordechai has pointed out instances where Rabbi Shimon and Yehuda agree as to the prohibition of mukzeh so that it shall seem that they are not that far apart.

<sup>21</sup>B.T. Betzah 6a. An egg laid on Yom Tov is considered mukzeh (See Betzah 2a for the ruling of Beit Hillel) for since it was not in existence prior to Yom Tov it is considered nolad. Hence it cannot be considered to be muchan (prepared) before Yom Tov. The egg of a hen designated for laying eggs is mukzeh because the hen is mukzeh. But the egg of a hen designated for slaughter is not considered mukzeh on Yom Tov because slaughtering is permitted and the egg is considered part of the hen. There is a difference between the eggs of a hen and a calf which is born on Yom Tov (See Betzah 6b). A calf born on Yom Tov is permitted for food on Yom Tov but, the eggs laid on Yom Tov are not permitted for food on Yom Tov because the calf's mother makes the calf muchan because its owner may have intended to kill it on Yom Tov, making the mother muchan, thus making the calf inside of her muchan. But the owner could not surmise that there were eggs inside the hen which were ready to hatch. So, in the case of the hen, the eggs are not muchan, hence they are mukzeh.

Ha-Meor<sup>22</sup> wrote that since Rav Kahana and Rav Asi reason as Shmuel, we hold the lenient position. But Ba'al Ha-Divrot<sup>23</sup> ruled like Rav because mukzeh is from the Torah and one should follow the strict ruling. Ba'al Halachot Gedolot<sup>24</sup> and Rav Yeshayah rule likewise. Shibbolei Ha-Lekket.<sup>25</sup>

594. I found in the name of HaRav Eliezer of Verona<sup>26</sup> that one does not recite the Kiddush on the second night of Yom Tov in the Diaspora. But it is customary to say the blessing on both days. And thus a majority of the geonim ruled (this way) and likewise HaRav Avigdor.<sup>27</sup> And thus (it was written) in teshuvot of the geonim. Shibbolei Ha-Lekket.<sup>28</sup>

595. One who slaughters a beast on Yom Tov; may he move the flesh if it is found to be unfit? According to Rav Alfas,

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<sup>22</sup>Ba'al Ha-Meor. R. Zerachayah bar Yitzchak HaLevi (Raza). Lived in Provence. Died: 1186.

<sup>23</sup>Ba'al Ha-Divrot. R. Yitzchak bar R. Abba Mari. Author of Ha-Ittur. Lived in Provence. Died: 1193.

<sup>24</sup>The identity of this person has been the subject of much scholarly debate. Most scholars identify him as Simeon Kayyara who lived in the first half of the ninth century in Babylonia.

<sup>25</sup>Shibbolei Ha-Lekket, paragraph 248. Halachot Gedolot, Hilchot Yom Tov. Ha-Ittur, page 139a. When a law originates in the Torah one ought to be strict in following it.

<sup>26</sup>Italian sage. Lived in the early part of the 13th century.

<sup>27</sup>Rav Avigdor bar Eliyahu HaKohen. Lived in Italy and Austria. Born: c. 1200. Died: c. 1275.

<sup>28</sup>Shibbolei Ha-Lekket, paragraph 237. Otzar Ha-Geonim, on Betzah, paragraph 5. Saying Kiddush on the second day of Yom Tov was considered a custom that had come down through the ages. Shibbolei Ha-Lekket and the geonim ruled that the custom ought to be followed. The geonim say that the recitation of the Kiddush on the second day of Yom Tov was ordained by the rabbis because of doubt as to which day was the actual Yom Tov. When the calendar was set this custom was still observed because two days of Yom Tov were still observed in the diaspora.

who ruled concerning mukzeh on Yom Tov like Rabbi Yehuda, it is forbidden. But according to Rabbenu Tam, who ruled like Rabbi Shimon, it is permitted. And in the matter of selling it to gentiles, it seems to be permitted in the same way that it is permitted to sell it to a Jew, provided that he would not take it away (that same day) and that no sum would be mentioned. And if he (the seller) does not trust him, let him take a pledge from him. For if we do not allow this, he will not slaughter and thus refrain from (experiencing) the Joy of Yom Tov.<sup>29</sup>

596. "One does not slaughter pasture animal or water them<sup>30</sup> for the purpose of slaughtering," since it is customary to water a beast before slaughtering (it) in order to separate the meat from the hide. But other watering is permitted. Pasture animals are those which graze outside the boundaries (of settlements) and do not come to spend the night within the boundaries. This is only according to Rabbi Yehuda. But, for one who rules like Rabbi Shimon regarding mukzeh, even on Yom Tov, it is permissible (to water a pasture animal) if it is brought within the boundary (and) is not for need. But Ba'al Ha-Ittur wrote<sup>31</sup> that even for Rabbi Shimon

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<sup>29</sup>Tur, Orach Hayyim, paragraph 497. The full text states that the meat must be checked before it is stretched for salting. Another part of the text which the Agur does not cite says that one collects the hides as gifts in front of the door of the building where the hides are tanned.

<sup>30</sup>B.T. Betzah 40a. Rashi on B.T. Shabbat 45b. They are mukzeh.

<sup>31</sup>This is the same person as Ba'al Ha-Divrot. See note 23.

It is forbidden because, according to one version of the gemara (it said) that Rabbi Shimon admitted that they (pasture animals) are like drying figs and grapes, and thus we follow the strict opinion.<sup>32</sup> But Halachot Gedolot wrote<sup>33</sup> that mukzeh is rabbinic ordinance, in which case there are two versions (such as Rabbi Shimon's views) and we take the lenient position, that Rabbi Shimon permits it, and the Rosh agreed with this.<sup>34</sup>

597. It is permitted to slaughter a calf that is born on Yom Tov if its mother is to be eaten, but if she is kept for breeding purposes it is forbidden according to Rabbi Yehuda.<sup>35</sup> By "permitted" we mean only if we know that the calf was fully developed in the womb.<sup>36</sup> And if not it is forbidden until the evening of the eighth day.<sup>37</sup> And for example, "that it planted its hooves upon the ground." This

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<sup>32</sup>Ha-Ittur, volume 2, Hilchot Yom Tov, argument 3. Drying figs and grapes are one of the categories of mukzeh that Rabbi Shimon accepts.

<sup>33</sup>Halachot Gedolot, Hilchot Yom Tov. If a halacha is a rabbinic ordinance then it is possible that there may be two different opinions. If that is the case it is usual for the lenient position to be followed.

<sup>34</sup>Tur, Orach Hayyim, paragraph 498. Rosh on Betzah, chapter 5, paragraph 14.

<sup>35</sup>B.T. Betzah 6a.

<sup>36</sup>B.T. Shabbat 136a. Literally, "When its months of bearing were complete."

<sup>37</sup>Rif on Shabbat, chapter 19, paragraph 498 and on Betzah, paragraph 851. Ravya, paragraph 721. Even Ha-Ezer, page 76b. If the calf was not found to be viable it could not be eaten during the festival for it was not yet in a state of preparedness for the festival. One had to wait until it was eight days old to eat it, i.e. after the festival ended.

is unlike lesions of internal organs.<sup>38</sup> And if it is born on Shabbat, Rabbenu Ephraim<sup>39</sup> wrote that it is forbidden (to slaughter it) on the following Yom Tov because of preparation. But Ba'al Ha-Ittur wrote that it is permitted. And thus wrote the Rosh that one does not connect preparation with the birth of the calf.<sup>40</sup>

598. The Rambam wrote that one who slaughters a beast on Yom Tov is permitted to shear the wool from the neck to make a place for the knife (to cut the throat). But he does not remove the wool from its place. The twisted wool will remain there with the rest of the wool on the neck. But with a bird, one does not pull out the feathers. But the Ramban

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<sup>38</sup>B.T. Hullin 51b. Belt Yosef, paragraph 498. If the calf attempts to stand soon after its birth it is evident that no injury has occurred during birth and the calf is considered to be muchan. But Belt Yosef says that even if it does not attempt to stand it is permitted to slaughter the calf on a festival day for it was fully formed in the womb.

<sup>39</sup>Rabbenu Ephraim of Kila Hamad, Algeria. Disciple of the Rif. Died: c. 1075.

<sup>40</sup>Tur, Orach Hayyim, paragraph 498. Ha-Ittur, page 139a. Rosh on Betzah, chapter 5, paragraph 14. Ha-Ittur says that a calf which is born on Yom Tov can be used to feed dogs. If this is so then the calf is ready to feed human beings as well. The Rosh does not accept the prohibition of mukzeh, thus he is not going to assign the prohibition of mukzeh on a calf with its emphasis on the preparation in the womb.

permits the pulling out of the feathers.<sup>41</sup> And Rabbi Yitzchak rules according to the words of the Rambam, but he added that one should be strict regarding the shearing of wool; to forbid it unless one does not intend to shear it. But if one intends to shear it, it is forbidden. And the Rosh agreed with this. From the language of the Tur.<sup>42</sup>

599. I found (ascribed) to the geonim, may their memories be for a blessing, that it is forbidden to pluck the feathers when one wants to slaughter (a bird). And all are accustomed that this is forbidden, and likewise ruled the Ram.<sup>43</sup> But Rabbi Yeshayah permitted it for we hold like Rabbi Shimon that work which is not for its usually intended purpose is permitted. Shibbolei Ha-Lekket.<sup>44</sup>

600. It is taught there (in a mishna) that one who slaughters a beast or an animal on Yom Tov, Beit Shammai says (that) one digs dirt with a shovel and covers (the blood).

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<sup>41</sup>B.T. Bechorot 24b. Mishnah Torah, Hilchot Yom Tov, chapter 3, halacha 3. Rosh on Betzah, chapter 3. Words of the Ramban on Bechorot, chapter 3. The person who slaughters must only cut away enough wool to make a place for the knife so that it does not appear as if he is actually shearing the animal which is prohibited on Yom Tov. The Rosh warns that the act must not be done with the intention of violating Yom Tov. The Rambam writes that one does not pluck the feathers of a bird because this is a regular weekday activity which can be done before the onset of Yom Tov and the bird can be saved and prepared for a festival meal. Ramban permits the plucking of feathers because he viewed it as part of the meal preparation.

<sup>42</sup>Tur, Orach Hayyim, paragraph 498.

<sup>43</sup>Ram. Rabbi Eliezer of Metz. Tosafist, author of Sefer Yere'im. Born: Metz, France, c. 1115. Died: c. 1198.

<sup>44</sup>Shibbolei Ha-Lekket, paragraph 253. Sefer Yere'im, page 270, paragraph 274.

Beit Hillel says that one does not slaughter unless he has dirt prepared (already dug up).<sup>45</sup> Ba'al Ha-Divrot wrote,<sup>46</sup> "Thus they taught that we read in Tractate Eduyot,<sup>47</sup> 'Beit Shammai is lenient and Beit Hillel is strict and the halacha is according to Beit Hillel.'" "And he who takes down shutters on Yom Tov, Beit Shammai forbids it and Beit Hillel permits it." They say,<sup>48</sup> "The authorities should be reversed." And Rabbenu Hananel said,<sup>49</sup> "and all the commentators set the halacha according to Beit Hillel as a strict measure regarding slaughtering and a lenient practice regarding shutters." And Rav Alfasi wrote thus,<sup>50</sup> "The great sages ruled and I agree with them." But Rabbenu Tam explained,<sup>51</sup> "The authorities should be reversed in the mishnah regarding slaughtering." And likewise Ba'al Ha-Me'or (ruled). Shibbolei Ha-Lekket.<sup>52</sup>

601. According to Rabbenu Tam, it is permitted to slaughter an animal or fowl a priori on Yom Tov, if one has a shovel stuck in the ground and loose dirt so that he does not need

<sup>45</sup>B.T. Betzah 2a.

<sup>46</sup>Ha-Ittur, Hilchot Yom Tov, argument 3.

<sup>47</sup>B.T. Eduyot, chapter 4, mishnah 2. "But they agree that if he did slaughter he should dig with a shovel and cover up (the blood) and that ashes of a stove count as muchan (prepared dirt)."

<sup>48</sup>B.T. Betzah 9b and 11b.

<sup>49</sup>Rabbenu Hananel on Betzah 7b (end) and 10a.

<sup>50</sup>Rif on Betzah 9b and 11b. Me'or on Betzah 9b and 11b.

<sup>51</sup>Tosafot to Betzah 9b, s.v. "He said". Sefer Ha-Yashar, paragraph 314. Rabbenu Tam feels that the schools ought to be switched on the question of slaughtering animals on Yom Tov so that Beit Hillel will hold the lenient position on both questions.

<sup>52</sup>Shibbolei Ha-Lekket, paragraph 252.

to dig or pound (dirt). And all the more so if he prepared dirt from the day before. But according to Rav Alfas, one may not slaughter a priori unless he has dirt ready from the day before. Language of the Tur.<sup>53</sup>

602. But they agree that if one has already slaughtered he should dig with a shovel stuck in the dirt. All the more so, so he can cover (the blood) with dirt that is not prepared if he has no prepared dirt. Rabbenu Tam ruled like Rabbi Yochanan. And Beit Hillel permitted one to dig with a shovel a priori. But Sefer Ha-Terumah<sup>54</sup> and Ravva did not decide the halacha thus. Mordechai, first chapter of Betzah.<sup>55</sup>

603. If one slaughtered cattle and game and their blood became mixed together, if one can cover it with one shovelful of dirt, he does not need to add (more dirt) on account of

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<sup>53</sup>Tur, Orach Hayyim, paragraph 498. B.T. Betzah 8a and tosafot, s.v. "does not need". Digging dirt on Yom Tov is permitted as long as the intention is only to cover the blood and not to use the hole from which the dirt was taken. If this is done then it is a case of using something, i.e. the dirt, for a purpose other than its usual one; refilling the hole. This is allowed for if one could not dig the dirt then he could not slaughter an animal or fowl and he would be unable to enjoy a festival meal in honor of Yom Tov.

<sup>54</sup>Sefer Ha-Terumah. Written by Rabbi Baruch ben Yitzchak.

It contains decisions on positive and negative commandments.

<sup>55</sup>Mordechai, first chapter of Betzah, paragraph 652. Ravva, paragraph 726. Sefer Mitzvot Gadol, negative commandments, paragraph 75. This source is cited by the editor in place of Sefer Ha-Terumah. Ravva ruled like Beit Hillel that one only digs if there is dirt available which has been prepared from the day before. But, if one slaughtered without asking if it was permitted, he could dig and cover the blood, even if he had no prepared dirt. Rabbenu Tam and Rabbi Yochanan said that the schools of Shammal and Hillel ought to be reversed so it will appear as if Beit Hillel gives the lenient ruling and not the strict one.



the cattle's blood which he covered. But if not (if it cannot be covered with only one shovelful of dirt) he does not cover it. But even with one shovelful it is forbidden.<sup>55</sup> And the Rambam wrote,<sup>56</sup> "If one has prepared dirt (from the day before) or has ashes from a stove he covers it with one shovelful."<sup>57</sup>

604. One may not salt the fat and one may not turn it about; although he spread it out on pegs, even though it was slaughtered on Yom Tov.<sup>58</sup> And if one wanted to salt the meat, in an open space, on the pegs; because his hand cannot touch it, there are those who permit it because there is no proof that he does it for the fat, for it is possible to suppose that he does it for the meat. But there are those who forbid it for it is only permitted to salt the hide with enough salt for roasting. And thus it appears reasonable.

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<sup>55</sup>B.T. Betzah 8b. If the blood of two animals becomes mixed, Rabbi Zeira says that it is forbidden to cover it with dirt. R. Yose b. Yasniah says that this is only in the case when it cannot be covered by only one shovelful of dirt.

<sup>56</sup>Mishnah Torah, Hilchot Yom Tov, chapter 3, halacha 2.

<sup>57</sup>Tur, Orach Hayyim, paragraph 498.

<sup>58</sup>B.T. Betzah 11a. One may not salt meat on a festival or turn it in order to prevent it from spoiling.

Language of the Tur.<sup>39</sup> They agree that one may salt (meat) for roasting. "R. Ada b. Ahabah made use of an artifice and salted piece after piece."<sup>40</sup> There are great sages who said that we do not permit a prohibition through legal fictions, except for scholars (who may do it) since they are not inclined to breach the fence (violate the festival outright). Mordechai.<sup>41</sup>

605. Rabbenu Tam ruled it is permitted to move fresh meat whether it is salted or unsalted. But it is forbidden to move unsalted fish. It is permitted to move herring since it is eaten because of its saltiness like salted meat.

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<sup>39</sup>Tur, Orach hayyim, paragraph 499. Ran and Rashba on Betzah 11a. Salting or dressing meat for eating is permitted, but dressing the hide so that it can be used for some other purpose is forbidden. The Rambam says that it is permissible to salt the hide if there are chunks of meat on it that shall be roasted. It applies because only a small amount of salt is needed for roasting. (Mishnah Torah, Hilchot Yom Tov, chapter 3, halachot 4-5) The Tur is weighing the possibility of using a legal fiction to get around the prohibition of not being able to salt the hide. If it is done on pegs it is possible, for one cannot be sure if the person is actually salting the hide or the meat.

<sup>40</sup>B.T. Betzah 11a-b. After salting a piece of meat on one day, he took another, under the pretense that it was preferable. He kept on doing this until all the meat was salted. This is a type of legal fiction to get around the prohibition.

<sup>41</sup>Mordechai on Betzah, paragraph 656. Only scholars are allowed to make use of a legal fiction for there is no doubt as to their piety and that this would not lead them to violate other mitzvot as well.

Shibbolei Ha-Lekket.<sup>42</sup>

606. There are those who pound (pepper and spices) on Yom Tov as Rashi, Rabbenu Hananel, and Sh'eil'tot (say). But in Sefer Ha-Mitzvot it explains that it is concerned with Shabbat, but on Yom Tov it is pounded in its usual way. Rabbi Yitzchak explained likewise in the first chapter of Betzah. However, by a change (in the method of pounding) it is permitted even on Shabbat; like (with) a wooden pestle or even a stone pestle. Mordechai, chapter 20 on Shabbat.<sup>43</sup>

607. A pestle which is a wide leaf and heavy is a tool. Although it is forbidden to do its (normal) labor, (the pounding of grain)-it is permitted to move it for its own need or to cut meat with it. And after one has cut meat with

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<sup>42</sup>B.T. Shabbat 128a. Shibbolei Ha-Lekket, paragraph 88. The question appears under the halacha for Shabbat, but the answers given, especially in the Talmud, have ramifications for Yom Tov. Unsalted meat could be considered mukzeh for it was not yet fit for consumption. Those who accept the prohibition of mukzeh forbid its being handled on Yom Tov. Those who reject the prohibition of mukzeh allow it to be handled on Yom Tov. Rabbenu Tam rules like Rabbi Shimon regarding mukzeh and thus allowed meat to be handled on Yom Tov.

<sup>43</sup>B.T. Shabbat 141a. Rabbenu Hananel on Shabbat 141a. Mordechai, chapter 20 of Shabbat, paragraph 432. Sh'eil'tot, Emor, parashah 124. Tosafot on Betzah 14a, s.v. "house". Machzor Vitry, page 290, paragraph 91. Sefer Mitzvot Katan, paragraph 194. Rabbenu Hananel says that crushing is fine but pounding is forbidden unless it is done in a manner which is different than the usual manner. Rashi and Sh'eil'tot agree with this point. Tosafot on Betzah says that on Yom Tov crushing can be done as on regular weekdays. Mordechai adds that if pepper is needed for boiling it is forbidden to pound it unless there is a variation in the method of pounding such as by using something to pound it which is normally used for something else. By using this legal fiction it is permitted to pound pepper and spices on Yom Tov.

it, it is forbidden to move it.<sup>44</sup> This applies only from the sun to the shade (it is forbidden to move it for only this reason), but for its own need (protection) and for the need of its place, it is permitted (to move it). But according to Rabbenu Yitzchak, even for its own need, and for the need of its place, it is also forbidden to move it. And the Rosh agreed with this.<sup>45</sup> It is forbidden to chop wood, even with the narrow side of an axe, and likewise with a club on Yom Tov,<sup>46</sup> and not with a saw.<sup>47</sup> And Sefer Ha-Mitzvot forbids it also with a "chopper" because we are not familiar with the nature and definition of a chopper. It is not permitted (to chop wood) except with a knife. And with larger pieces of firewood which are suitable for use without being split, one should not split them at all, because it is possible to light them without splitting (them); but to break them by hand. According to Rashi's explanation, it seems that he permits it. But from the language of the Rosh, it would appear that it is forbidden even to break it (firewood) by hand. And it

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<sup>44</sup>B.T. Betzah 11a. Rosh on Betzah, chapter 5, paragraph 15. Tosafot on the portion, s.v. "not". Beit Shammai says that one cannot cut meat with a pestle while Beit Hillel permits this. A pestle is used for pounding grain which is forbidden on a festival. Cutting meat with it is permitted. This is another example of using the legal fiction of using something for a use other than its usual one. This is permitted on Yom Tov.

<sup>45</sup>Tur, Orach Hayyim, paragraph 499.

<sup>46</sup>Editor's note: And it says in the handwritten manuscript and the first printing, "with a sickle".

<sup>47</sup>B.T. Betzah 31b.

is good to be strict.<sup>68</sup>

608. One does not blow up (a fire) with a bellows (on Yom Tov) because it resembles the work of an artisan. Rather, (one blows up a fire) with a (reed) tube.<sup>69</sup> And the Rosh wrote, "with the householder's small bellows it is allowed." However, we should not permit this since we do not find a permit (in the Talmud), except for (the use of) a reed. Thus all bellows are forbidden. Language of the Tur.<sup>70</sup>

609. "In the name of Papoos ben Yehuda and in the name of Rabbi Yehuda ben Bathyra they (the rabbis) taught, one may sift it (flour, a second time on a festival)."<sup>71</sup> And Rabbi Ellezer bar Yoel HaLevi wrote that it is permitted to sift (flour a second time on Yom Tov) after one sifted (the flour) on Erev Yom Tov. But Halachot Gedolot and Rabbenu Hananel wrote that one needs to change (the procedure for sifting flour) a bit, and their words mean (by implication) that even by means of a variation (in the sifting procedure) it is

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<sup>68</sup>Tur, Orach Hayyim, paragraph 501. Sefer Mitzvot Katan, paragraph 194. Sefer Mitzvot Katan allows for the chopping of wood with a "chopper", but only if one uses its short end, thus creating a variation in the chopping procedure. This contradicts the texts of the Tur and of the Agur which quotes the Tur. In the notes to the text of Sefer Mitzvot Katan it says that we do not know what is referred to in the Talmud, so it is forbidden to use a chopper.

<sup>69</sup>B.T. Betzah 34a.

<sup>70</sup>Tur, Orach Hayyim, paragraph 502. Rosh wrote that a small bellows is allowed because it does not resemble the work of an artisan. But Ba'al Ha-Turim rejects this because he did not find any kind of exception in the Talmud except for a reed tube.

<sup>71</sup>B.T. Betzah 29b. This is from a gemara on a question of using a measure on Yom Tov.

forbidden. And thus is the meaning in Sh'eil'tot.  
Mordechai, chapter three of Betzah.<sup>72</sup>

610. Rabbenu (Yeshayah) wrote in the name of Rabbenu Shimshon Kayyara, may his memory be for a blessing,<sup>73</sup> that when it was said that one may scald the head and the feet,<sup>74</sup> this applies only to the head and feet but not to the whole kid, since one may flay the hide. But Ba'al Ha-Divrot wrote that scalding is not thus restricted. And Rav Cohen Tzedek<sup>75</sup> permits (one to flay the hide of) the whole kid. From Shibbolei Ha-Lekket.<sup>76</sup>

611. Rashi explained all of these which we have said, for

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<sup>72</sup>Mordechai, chapter three of Betzah, paragraph 687. Ravya, page 473, paragraph 771. Or Zarua, volume 2, paragraph 358. Sh'eil'tot, Beshallah, parashah 50. Flour, even if sifted on Erev Yom Tov, cannot be sifted a second time during a festival day unless something like a pebble or a wood chip is found to have fallen into it. But, if one varies the sifting procedure, such as using an inverted sieve, or by sifting onto a table instead of a bowl, it is possible to sift the flour a second time, for any reason. But there are those who object and say that one does not sift flour for a second time for any reason on Yom Tov.

<sup>73</sup>In Shibbolei Ha-Lekket he is Simeon Kayyara, the supposed author of Halachot Gedolot.

<sup>74</sup>B.T. Betzah 34a. and Tosafot, s.v. "one may scald". One may scald the head and the feet in order to remove the hair. But one cannot shear an animal or smear it with lime, potters clay, or earth. These are other methods which can be used to remove hair, but one cannot use them on Yom Tov.

<sup>75</sup>Rav Cohen Tzedek bar Ivromai. Gaon of the academy in Sura 838-848 C.E.

<sup>76</sup>Shibbolei Ha-Lekket, paragraph 255. Ha-Ittur, Hilchot Yom Tov, page 141d.

example, Rav Yuda,<sup>77</sup> who permits building a fireheap from above downwards, but not from beneath upwards. And likewise a bed. And likewise other things-(with regards to) all of this-it is not according to halacha for we hold like Rabbi Shimon who said that one who does not intend (to set these things up in a way which violates the festival) it is permitted (to do so). But Rabbi Yitzchak explained that it is indeed considered intentional, since he intends what he is doing.<sup>78</sup>

612. Spices or pepper may be crushed in their usual way.<sup>79</sup> According to Rav Alfasi (it is permitted) even with a stone pestle, except for salt which requires a small procedural change. However, it is forbidden to grind pepper in small millstones. And the Rambam ruled likewise. But in the opinion of the Tosafot, spices and peppers need to be (ground in a way that is different than the usual way) if one knows on Erev Yom Tov which dish one wishes to cook. But if one does not know, it is permitted (to grind in the usual

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<sup>77</sup>In the Talmud it is Rav Yehuda. B.T. Betzah 32b and Tosafot, s.v. "from below". B.T. Shabbat 138a and Tosafot, s.v. "chair". When building a fire for cooking on Yom Tov one cannot lay one log on top of two others for this resembles the building of a tent from the ground up. One must use an inverted procedure which calls for a person to hold up a log and place two others beneath it.

<sup>78</sup>Tur, Orach Hayyim, paragraph 502.

<sup>79</sup>B.T. Betzah 14a and Tosafot, s.v. "Beit Hillel". This is the rule according to Beit Hillel.

manner).<sup>80</sup>

613. It is permitted for a cow to be milked into a pot that contains food.<sup>81</sup> According to Rav Alfasi, even though it is forbidden to suckle from the cow on Yom Tov unless one would suffer were he not to suck; nevertheless it is permitted to put milk into the pot. But if there is no food in it, it is forbidden. And Rabbenu Hananel forbids it even when there is food in it. Language of the Tur.<sup>82</sup>

614. It is permitted to sharpen a dull knife on Yom Tov with a wooden sharpener or by drawing it across another knife. And they teach publicly to do this. But, even though it is permitted to use a stone sharpener to sharpen (a knife), they do not (publicly) teach to do this. But, to remove its grease, even with a stone sharpener, they teach (publicly) to

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<sup>80</sup>Tur, Orach Hayyim, paragraph 504. Rif on Betzah, paragraph 868. Mishnah Torah, Hilchot Yom Tov, chapter 3, halacha 12. The question is whether spices, pepper, and salt may be pounded for use on a festival. If so, can they be prepared in their usual manner or is a variation in the pounding procedure needed? Beit Hillel says that spices can be pounded in their usual way. But salt needs to be pounded with a pestle that is different than the one normally used. Rav Alfasi and Rambam also make a distinction between spices and salt. (I believe that they group pepper with spices) Spices may be pounded in their usual way on Yom Tov because they may lose their flavor if prepared on the previous day. But salt would not lose its flavor if crushed the day before the festival. Thus if it is crushed on a festival a small variation may be introduced into the procedure.

<sup>81</sup>B.T. Shabbat 145a. Rif and Rabbenu Hananel on the portion. The milk will not be drunk separately but it is meant to be mixed with the food; thus the food shall remain as foodstuff and the milk shall become part of the foodstuff.

<sup>82</sup>Tur, Orach Hayyim, paragraph 505.



do this.<sup>83</sup> One does not sharpen a knife except by drawing it over another knife. Rav Huna said this applies only (in the case of) a stone sharpener, but a wooden sharpener is permitted. And Ba'al Ha-Divrot wrote that this is the halacha.<sup>84</sup> But Ba'al Ha-Me'or wrote that according to Rav Yehuda it is permitted even with a stone sharpener. But Rav Alfasi did not want to publicize the matter because they decided that this is a case of "halacha, but they do not teach this (publicly)." And therefore he ruled, regarding a dull knife, that it is permitted to sharpen it. But this applies only on the edge of a millstone or on the edge of a basket, but not with a regular sharpener.<sup>85</sup> And Rashi explains the Talmud's phrase, "This permit applies only to a knife which cuts with difficulty," (Rashi) for if you do not say this, then you have a case of extraordinary labor, which is forbidden (on Yom Tov).<sup>86</sup> And in teshuvot of the geonim<sup>87</sup>

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<sup>83</sup>B.T. Betzah 28a. Rif and Me'or on the portion. Drawing the knife over another knife is permitted because the method is different from normal practice. Some poskim who permit acts, such as using a stone sharpener on Yom Tov, do not teach them publicly so that people will not come to treat the festivals lightly. See the story of R. Yosef and Rabba on Betzah 28a and of Abbaye and Mar. But, this rule applies only if a knife can still cut, even with difficulty, so that a great deal of sharpening will not be required. If the knife has a small nick it can be sharpened as well. Rif adds that one can sharpen a knife on the edge of a millstone or on the edge of a basket. He derives this decision from the stories on Betzah 28a.

<sup>84</sup>Ha-Ittur, Hilchot Yom Tov, page 141b.

<sup>85</sup>B.T. Betzah 28a-b.

<sup>86</sup>If the knife does not cut at all, even with difficulty, then sharpening it requires a great amount of labor.

<sup>87</sup>Tanya Rabbati, paragraph 58.

I found that it is permitted to sharpen the knife, even to sharpen it with a stone sharpener.<sup>88</sup> And likewise, Rabbenu Yeshayah (said) that if it is dull on Yom Tov, it is permitted to sharpen it with a stone sharpener as Rabbi Yehuda said. But I found, in the name of Rabbenu Ephraim, that if a knife is dull or a roasting spit is bent on Erev Yom Tov, all (the sages) say that it is forbidden (to use it). If it is dull on Erev Yom Tov and there is hardship, there is a disagreement between Rabbi Yehuda and the rabbis. Shibbolei Ha-Lekket.<sup>89</sup> And if it is dull on Erev Yom Tov it is forbidden (to sharpen it). But Maharam wrote,<sup>90</sup> (it is permitted) even with a wooden sharpener (it is) "halacha but they do not teach this (publicly)," while on a stone sharpener one does not sharpen at all. But the Rosh wrote according to the first opinion.<sup>91</sup>

615. If it was not nicked from Erev Yom Tov, rather it was dull,<sup>92</sup> (i.e., it is on its way to becoming defective and it does not cut nicely), if one can cut with it, with

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<sup>88</sup>In the critical edition the word used is "ha-dahah" which means "to rinse". But this does not make sense here. Upon comparison with the 1834 Sudzikov edition of the Agur (page 48) I found there that the word used is "L'cha'd'dah" which means "to sharpen it." This makes sense here so I have corrected the text in my translation. It would seem that this is some type of printing error.

<sup>89</sup>Shibbolei Ha-Lekket, paragraph 251.

<sup>90</sup>In the Tur: Rambam. See Mishnah Torah, Hilchot Yom Tov, chapter 4, halacha 9.

<sup>91</sup>Tur, Orach Hayyim, paragraph 509. Rosh on Betzah 28a-b. Rosh accepts the lenient position of the Talmud that one can move a bent spit on Yom Tov and one can sharpen a dull knife with a stone sharpener.

<sup>92</sup>B.T. Betzah 28b and Rif on this portion.

difficulty; one can sharpen it on Yom Tov. And Rav Alfas explained (this permit as dealing with sharpening it on) a basket, but not with a sharpening stone. But Ba'al Ha-Ittur wrote, "Even with a sharpening stone."<sup>33</sup> And so it appears reasonable. But if one cannot cut with it, even with difficulty, it is forbidden to sharpen it for it would be as if he was fixing an object.<sup>34</sup>

616. Rav Alfas wrote, in the name of a gaon, that it is permitted to wash one's whole body on Yom Tov with water that is heated on Erev Yom Tov.<sup>35</sup> But according to Rabbi Yitzchak it is forbidden, and the Rosh agreed with this. Language of the Turim.<sup>36</sup> And likewise Rashba<sup>37</sup> (ruled) that it was customary to forbid (washing the entire body) and he did not want to permit it. Teshuvot Ha-Rashba.<sup>38</sup> I found, according to a gaon, that it is permitted to wash one's entire body on

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<sup>33</sup>Ha-Ittur, Hilchot Yom Tov, page 141b.

<sup>34</sup>Tur, Orach Hayyim, paragraph 509.

<sup>35</sup>See Tur, Orach Hayyim, paragraph 326. On Shabbat this is forbidden as a rabbinic decree so that one will not come to heat water on Shabbat.

<sup>36</sup>B.T. Betzah 21b and Tosafot, s.v. "no". Rif and Rosh on this portion. Tur, Orach Hayyim, paragraph 511. The Talmud and Tosafot disagree with the Rif. They say that one can only wash his feet, not his entire body. Rosh agrees with the Rif and says that one can wash his entire body with water that was heated on Erev Yom Tov. The reason being that this is only a rabbinic decree and not a mitzvah from the Torah.

<sup>37</sup>Rashba. R. Shlomo ibn Aderet. Born: Barcelona, Spain, 1235. Died: Barcelona, Spain, 1310.

<sup>38</sup>Teshuvot Ha-Rashba, volume 4, paragraph 10. Beit Yosef, paragraph 511, s.v. "to wash". Rashba says that the decree of which Rosh and Rif speak only concerns heating water for washing from Erev Shabbat, but not from Erev Yom Tov. Rather, it speaks of heating water on Yom Tov itself. But, he says that he knows of no one who washes his entire body on Yom Tov with water heated from Erev Yom Tov.

Yom Tov with water that was heated from Erev Yom Tov. And likewise, I found evidence from Rashi's explanations. But, Ba'al Ha-Yere'im wrote that it is forbidden to wash the entire body with hot water for the reason that it is not equal for each individual (it cannot be enjoyed by all but is limited to certain individuals). And the correct ruling is that one does not forbid it unless the (water) is heated on Yom Tov. From Shibbolei Ha-Lekket.<sup>99</sup>

617. These are the laws regarding mukzeh. Something which comes into being by itself, or if made by the hand of a gentile who brought it for himself or for another gentile: (regarding this) there are two laws. If there is concern that it is forbidden from the Torah; for example, it is (mukzeh) because it was connected to the ground; or for example, fruit, which has some types which are connected (to the ground); or fish about which the concern is that they may have been caught today (on Yom Tov). If one does not know for certain that it was caught yesterday then certainly on the first day of Yom Tov it is mukzeh, even in a doubtful case, as we see in Betzah.<sup>100</sup> But on the second day (of Yom Tov) it is permitted immediately and one need not wait the

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<sup>99</sup>Shibbolei Ha-Lekket. paragraph 243.

<sup>100</sup>B.T. Betzah 24b. One may not take a fish from a trap which was set on Erev Yom Tov because one cannot be sure if the fish was actually trapped before the onset of the festival. If it was trapped before the festival it is considered prepared (muchan). If it was not caught before the festival it is considered mukzeh. If there is any doubt as to the time that it was trapped it is considered mukzeh.

customary period of "as long as it takes to prepare it" (i.e., so that one would not seem to derive benefit from work performed on Yom Tov). But if there is no concern of its being mukzeh because it is connected (to the ground), only that they are outside the Shabbat or Yom Tov boundaries, then even on the first day it is permitted immediately. And up to now we have spoken of a case where a gentile brings them for himself. But, concerning a thing that is made, or done for a Jew, there are two other rulings: If there is a concern that it is forbidden from the Torah, for example, if it is connected or he trapped it, then also on the second day it is forbidden for as long as it would take to prepare it from Motzel Yom Tov. For if we permit this on the second day, the Jew might say to a non-Jew on the day: Go bring them to me on Yom Tov, for behold, he brought them for himself. And even for another Jew, for whom the gentile did not perform this labor, they are still forbidden to him. But, concerning that which there is no fear of a prohibition from the Torah, for example, hunting, and something that is (mukzeh because it is) connected, but rather that it is only forbidden outside the boundaries. In any case, if a gentile brought them for the need of a Jew, certainly it is forbidden for that same Jew to whom it was brought for as long as it takes to prepare it on Motzel Yom Tov. And the same law applies, that they are forbidden to every member of the household when it is brought for the head of the household. But for another Jew

for whom it was not brought, the sages permitted it for him even on the first day of Yom Tov immediately. But Rabbi Yehuda of Paris<sup>101</sup> used to say that with all types of food it is forbidden (to eat them on Yom Tov), even when it is made for a gentile. It is a prohibition lest the Jew will make (food) for himself and perform labor. Mordechai, chapter three of Eruvin.<sup>102</sup>

618. The Rambam wrote, "If a gentile comes (on his own volition to the house of a Jew on Yom Tov) one is permitted to serve (him) food which has already been prepared." But, this seems incorrect, for even though he has already prepared it, one may make more for him if he (the gentile) is important and worthy. Therefore, one must say to him that, "If what we have already prepared for ourselves suffices for you, come and eat."<sup>103</sup>

619. If soldiers command men of the city to bake for them, it is forbidden to bake for them even if they do not care if a Jew will eat from which he has baked (for the soldiers).<sup>104</sup>

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<sup>101</sup>Teacher and Tosafist. Born: Paris, France, 1166. Died: Paris, France, 1224.

<sup>102</sup>Mordechai, chapter 3 of Eruvin. Gifts of food that are brought to a Jew by a gentile on Yom Tov are forbidden to be eaten because they may have been gathered, caught, or cooked on Yom Tov.

<sup>103</sup>B.T. Betzah 21b. Mishnah Torah, Hilchot Yom Tov, chapter 1, halacha 13. Tur, Orach Hayyim, paragraph 512. The Tur quotes Rambam who says that if one prepares food for himself and some of it is left over it may be given to gentiles and animals. But one may not begin to cook again for the sake of visitors.

<sup>104</sup>B.T. Betzah 21b.

But Halachot Gedolot<sup>105</sup> permits it if they do not care that a Jew eats from it. And thus the Rambam (writes),<sup>106</sup> "Soldiers who give their flour to a Jew to bake for them, if they do not care that the Jew eats from it, it is permitted for them (to bake for the soldiers)." But it is not so according to the reading of our gemara.<sup>107</sup>

620. Avi HaEzri<sup>108</sup> wrote that it is permitted to cook for the need of one's dog. But the Rosh disagrees (with this).<sup>109</sup>

621. In the land of Israel it is forbidden to separate challah from dough which is kneaded on Erev Yom Tov. But in the diaspora we hold that one may eat (first) until the remains from it (the loaf) are little more than (the amount needed for) the challah.<sup>110</sup> Thus Rabbenu Hananel ruled that

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<sup>105</sup>Halachot Gedolot, Hilchot Yom Tov.

<sup>106</sup>Mishnah Torah, Hilchot Yom Tov, chapter 1, halacha 14.

Rambam actually writes: "If the soldiers do not mind if he gives one of the loaves of bread to a Jewish child, the bread may be baked on the festival, for each of the loaves is fit to be given to a Jewish child."

<sup>107</sup>Tur, Orach Hayyim, paragraph 512. One may not bake on account of a gentile. This halacha is from the gemara on Betzah 21b.

<sup>108</sup>Avi HaEzri. This is Ravva.

<sup>109</sup>B.T. Netzah 23b. Rosh on Betzah 23b. Ravva, paragraph 765. Tur, Orach Hayyim, paragraph 612. One can cook for a dog for we are responsible for their food. But we are not responsible for a gentile's food.

<sup>110</sup>B.T. Betzah 9a and Tosafot, s.v. "rolled". The separation of the challah is for the terumah or the offering for the priests. In the land of Israel, where there are (were) priests, one cannot separate the challah on the festival. Outside of the land of Israel one can eat and later separate the challah portion. Tosafot says though that if one rolls dough on a festival day, one can separate the challah from the dough on Yom Tov.

one can separate it (before). But Rav Alfasi and Rashi ruled that one cannot separate (it).<sup>111</sup> And Rabbenu Hayyim<sup>112</sup> wrote the name of Rashi that even one who eats and leaves over the challah is within the category of terumot<sup>113</sup> and tithes on Yom Tov. Because there is a dispute among the sages, it is better that he not separate, but rather eat and leave (remnants).<sup>114</sup>

622. Maharam of Rothenburg permitted the baker, on Yom Tov, to immerse a broom in water which one uses to sweep an oven, even though this extinguishes the sparks in the oven.<sup>115</sup> And according to Rashi one is permitted to tamp ash down and cover it with a cohesive substance on the oven. But Rabbi Yitzchak forbids (it) unless water is used which is prepared from the day before. And Rabbenu Tam explained that it is also forbidden to tamp down ashes. And Rabbenu Tam further

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<sup>111</sup>Rabbenu Hananel on Betzah 9a. Rif on Betzah, paragraph 857. Rif rules that the halacha is according to Shmuel's father who ruled that even if one prepared dough on the eve of a festival its challah may not be separated from it on a festival day. The reason for this is that one does not bring a terumah offering or tithe offering on a festival day. See: Betzah 37a.

<sup>112</sup>Rabbenu Hayyim HaCohen. Tosafist. Paris, France, c. 1170.

<sup>113</sup>Terumah. See glossary.

<sup>114</sup>Tur, Orach Hayyim, paragraph 506.

<sup>115</sup>B.T. Betzah 34a. Tur, Orach Hayyim, paragraph 507. Teshuvot, Pesakim u'Minhagim. Volume 1, Ed. Rabbi I. Z. Cahana. Mossad HaRav Kook, Jerusalem. 1957. Responsa 478. Certain things may not be done to a new oven or utensils. They may not be smeared with oil or polished or cooled with water in order to harden them. But it is possible to do this if it is for the purpose of baking. Maharam specifically says that one may wet a broom and sweep out an oven, to cool it, so bread can be baked and not be burned. It may also be swept out, even if the oven is not heated. This may allow for one to clean out an oven.



explained (that) it is permitted to place dust on the oven in order that it will keep in the heat, but it is forbidden to place dust in it.<sup>116</sup>

623. Ravva wrote<sup>117</sup> that a dish which was made with an egg that may have been laid on Yom Tov is forbidden. And Maharam wrote<sup>118</sup>: "It (the egg) is a forbidden object which will become permitted, and anything (forbidden) which will be permitted even though (forbidden) by a Rabbinical enactment is not neutralized even when the permitted food overwhelms it by a ration of 1000:1. However, this only applies when the forbidden substance maintains its essential nature. (i.e., this does not apply to an egg, which is broken). Its taste, however, is nullified by a ratio of 60:1."<sup>119</sup>

624. A chick which is hatched on Yom Tov, there are those who permit (it to be eaten). But the geonim forbid (this)

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<sup>116</sup>B.T. Betzah 32b and Tosafot, s.v. "ashes". Tur, Orach Hayyim, paragraph 507. B.T. Shabbat 18b. If it is impossible to bake in an oven unless it is swept out, then this is permitted. One is allowed to use ashes to line the oven so that heat will not escape. Ashes may be mixed with water because kneading is not required.

<sup>117</sup>Ravva, paragraph 715. Mordechai on Betzah, paragraph 640. Something cooked with an egg that is forbidden because it is mukzeh becomes forbidden itself. But after Yom Tov the egg will become permitted and hence the dish will be permitted for consumption.

<sup>118</sup>Teshuvot Maharam, page 80, paragraph 100.

<sup>119</sup>Tur, Orach Hayyim, paragraph 513.

and thus Rav Alfasi forbids (the chick to be eaten).<sup>120</sup>

625. The Rosh wrote in a teshuvah<sup>121</sup> that it is permitted to kindle the light of the synagogue on the evening of the first day on Yom Tov for the second night or even on the second evening of Yom Tov. This is not considered "preparing something on Yom Tov for use on a weekday," since immediately with its lighting there is a mitzvah at that time, for at every moment, even during the (first) day there is a commandment regarding the kindling of lights in the synagogue. Language of the Tur. But Rashba forbids (the kindling of a light in the synagogue) after Mincha until the evening prayer.<sup>122</sup>

626. It is permitted to remove carbon coal that is on top of a lamp when it is burning, even with a utensil, though it falls to the ground and goes out. And the Rambam forbid using a utensil, but it is not the opinion of the Rosh.

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<sup>120</sup>B.T. Betzah 6a. Rif on Betzah, paragraph 851. Rosh on Betzah, chapter 1, paragraph 6. Tur, Orach Hayyim, paragraph 513. Some say that it is permitted to eat the chick that is hatched on Yom Tov. By its act of hatching it allows itself to be slaughtered, a permissible act on Yom Tov. Hence it is not mukzeh. But Rav Alfasi, and the geonim do not permit this because they regard the chick as mukzeh.

<sup>121</sup>B.T. Betzah 22a and Tosafot, s.v. "does not". Rosh on Betzah, chapter 2, paragraph 18. Tur, Orach Hayyim, paragraph 514.

<sup>122</sup>Teshuvot of the Rashba, volume 3, paragraph 277. Beit Yosef, paragraph 514, s.v. "wrote". Rashba forbids the lighting after Mincha since it is not customary to light candles for that amount of time between the afternoon and evening services. One lights them for the sake of the next day and this is forbidden on Yom Tov. The Agor adds the Rashba to the text of the Tur. Rashba is a Spanish halachic authority and not an Ashkenazic authority which seems to be an unusual step for him.

Language of the Tur.<sup>123</sup>

627. "One who takes oil from a lamp is culpable because of (the possibility) of the extinguishing (of the lamp from which the oil was taken)."<sup>124</sup> And the reason is that when one takes oil one reduces the light of the lamp. But this rule is only applicable with oil, but if there are pieces of fat and one removes one piece from the lamp, or (if there is) a wax wick and one cut it, since this is only indirect extinguishing (of the light) there is no prohibition. Likewise, if one takes a fire-brand from the fireplace for night time illumination, it does not resemble "being supplied from the lamp." However, everyone is in the habit of being

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<sup>123</sup>B.T. Betzah 32b. Rosh on the portion. Tosafot on Betzah 22a, s.v. "snuffing the wick". Mishnah Torah, Hilchot Yom Tov, chapter 4, halacha 7. Tur, Orach Hayyim, paragraph 514. The Rosh permits one to relight a flame that has gone out because it fell to the ground. Rambam forbids this if one uses some type of utensil to relight the wick. But if one soaks the wick in oil and places it between two lamps, splits the wick into two parts and places each part of the wick in a lamp so that it will become lit, it is permitted. This is allowed because it is considered lighting by indirect action by the person and a utensil is not used.

<sup>124</sup>B.T. Betzah 22a. It is possible that the light will go out sooner and this action caused the light to go out. Extinguishing a light on Yom Tov is forbidden.

strict (regarding this rule) and this is correct.  
Mordechal.<sup>125</sup>

628. "I only ask when a loss of money (alone) is involved: What is the law?"<sup>126</sup> There are those of our great sages who said here (that on) Shabbat it is forbidden to extinguish (a lamp) because of a monetary loss, and likewise in the chapter "Kol Kit'vay"<sup>127</sup> it is the same according to Rabbi Yehuda that one is liable for labor that is not needed (i.e., one may not extinguish a fire to save something). But we hold like Rabbi Shimon who permits it, except for extinguishing (a light) to make charcoal. Therefore, it is allowed even on Shabbat because of monetary loss. It is like one who manipulates an abscess on Shabbat<sup>128</sup> which is allowed according to Rabbi Shimon because of the pain. But is not this matter of the pacified abscess causing pain to the body? And thus Rabbenu Yoel<sup>129</sup> argued to forbid (extinguishing a

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<sup>125</sup>Mordcechal on Betzah, paragraph 683. Rosh on Betzah, chapter 2, paragraph 17. The underlying principle that is dealt with here is whether some type of labor which is not necessary for a person's well-being is allowed on Yom Tov. Mordechal holds like Rabbi Shimon who permitted such labor including the extinguishing of a lamp. The only exception is the extinguishing of a lamp or a fire to make coals. The Rosh offers a dissenting view. One may not do anything such as removing such as removing oil from a wick or removing the wick from the oil even if it is to light another lamp, for one could be liable for extinguishing the light which is prohibited on Yom Tov.

<sup>126</sup>B.T. Betzah 22a.

<sup>127</sup>B.T. Shabbat 117b.

<sup>128</sup>B.T. Shabbat 107b. This is allowed if one is trying to draw something out of the abscess.

<sup>129</sup>R. Yoel bar Yitzchak HaLevi. Father of Ravya. Died: c. 1200.

light)).<sup>130</sup> Mordechai, chapter 2 of Betzah.<sup>131</sup>

629. Rabbenu Hananel and Ravya ruled the halacha like Rabbi Shimon against Rabbi Yose that causing the extinguishing (of a light) is permitted.<sup>132</sup> However, coming in contact (with a fire) to extinguish a fire is forbidden as is explained at the end of chapter "Kirah".<sup>133</sup> And HaRav Klonymos in the name of HaRav Yom Tov<sup>134</sup> permitted one to take a knife, utensil or another thing and place it on the wax candle on a place other than where it burns, since this is only indirect extinguishing. But Rabbenu Yechiel<sup>135</sup> said that even on Yom Tov we do not allow one to cause the extinguishing (of a light) in principle, except in a case of physical damage

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<sup>130</sup>Ravya, volume 2, page 460, paragraph 757. Opening an abscess because of pain is not the same thing as extinguishing a light for Rabbenu Yoel for that is done for the benefit of the body while extinguishing a light is not. Thus he rules to forbid extinguishing a light.

<sup>131</sup>Mordechai, chapter 2 of Betzah, paragraph 693.

<sup>132</sup>B.T. Shabbat 120b. Ravya, volume 1, paragraph 254. Or Zarua volume 2, paragraph 28. Rabbi Yose rules that one may not do anything to prevent a fire from spreading if the act will eventually extinguish the fire. Ravya says that one may build a barrier even if it may inadvertently extinguish the fire. But direct extinguishing is forbidden, Or Zarua says that one may not put water in vessels that are used as a barrier for if they burst, the water may extinguish the fire.

<sup>133</sup>B.T. Shabbat 43b. Vessels may be placed under a lamp to catch wax if they are placed there before Shabbat. They may also be placed over a lamp so that beams will not catch fire. But it seems that vessels cannot come into direct contact with the lamp.

<sup>134</sup>R. Klonymos ben Yitzchak HaZaken. He was the founder of Klonymos family which was influential in German Jewry during the 12th and 13th centuries.

R. Yom Tov ben Avraham Ishbili (Ritva). Spanish talmudist. Born: c. 1250. Died: 1330.

<sup>135</sup>R. Yechiel of Paris. Tosafist. Born: Meaux, France, c. 1190. Died: Israel, c. 1268.

only. Mordechai, chapter 16, of Shabbat.<sup>136</sup>

630. Ba'al Ha-Divrot wrote<sup>137</sup> that the rabbis of France are strict regarding the remnants of a wick, remnants of fire, and remnants of oil.<sup>138</sup> And Rabbi Yitzchak bar Moshe<sup>139</sup> responded regarding the words of the Terumah, and wrote that the reason that Rav forbid remnants of a wick from Shabbat to Yom Tov was not because of preparation, as Ba'al Ha-Terumot says,<sup>140</sup> rather Rav's reason is because of "one holy period". Likewise HaRav Ellezer bar Shmuel of Vienna wrote that it is forbidden to light remnants of a wick, or remnants of fire that were lit on Erev Shabbat, or lit on Shabbat and extinguished on Shabbat because it resembles preparation, and

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<sup>136</sup>Mordechai, chapter 16 of Shabbat, paragraph 399. Rif on Shabbat, aragraph 453. Rif says that the halacha is not according to Rabbi Yose. One may cover the fire or place a barrier around it. If it goes out, it goes out.

<sup>137</sup>Ha-Ittur, Hilchot Yom Tov, page 138a. Or Zarua, volume 1, paragraph 756, volume, 2, paragraphs 38 and 139. Rosh on Betzah, chapter 1, paragraph 1. Bait Yosef, paragraph 501. Or Zarua rules that the remnants of wax, fire, or oil from lights it for Shabbat are permitted for use on Yom Tov. Rosh ruled that we do not follow the prohibition of Rav for in the Yerushalmi it says that it is not forbidden because of preparation. Rather, it would be forbidden if Shabbat and Yom Tov were considered one continuous period of holiness. But they are two separate and distinct periods of holiness.

<sup>138</sup>Yerushalmi, Betzah chapter 1, halacha 1, and Eruvin chapter 3, halacha 1. From Betzah: "The leftover of a wick, fire or oil which went out on Shabbat, what is the law as to kindling them on a festival day? Both Rav and R. Chanina say tht it is forbidden to do so for they believ that the two days form one protracted period of holiness. R. Yochanan says that it is permitted.

<sup>139</sup>Author of Or Zarua. Born, Bohemia. c. 1180. Died: Vienna, Austria, c. 1250.

<sup>140</sup>Sefer Ha-Terumah, paragraph 257. Sefer Ha-Terumah prohibits lighting remnants of wax for the reason that they were not muchan (prepared) for Yom Tov.

likewise with remnants of fire. Shibbolei Ha-Lekket.<sup>141</sup> And further, it seems to me that it is forbidden to move (it) as (in the case of) an egg (which is laid on Yom Tov). And Rashbat and Sefer Ha-Terumah wrote similarly in the laws of Shabbat. But Rabbi Yitzchak explained that our Talmud (the Bavli) does not regard this as preparation. And regarding this it seems that they all decided to refrain from lighting (remnants) on Shabbat which followed a festival or on a festival which followed Shabbat. Mordechai, first chapter of Betzah.<sup>142</sup> And I, the author, saw my father, my teacher, may his memory be for a blessing, arrange the wick from Erev Yom Tov and Shabbat for the sake of three days when the first day of Yom Tov fell on Sunday. And he always lit new wicks. And thus the truly observant sages of Ashkenaz behaved.

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<sup>141</sup>Shibbolei Ha-Lekket, paragraph 247.

<sup>142</sup>Mordechai, first chapter of Betzah, paragraph 644. A wick, fire, or oil are not automatically prepared for use on a festival. There is some preparation for lighting that must take place. Thus, if it was lit for Shabbat and extinguished, it may not be relit on Yom Tov for it is mukzeh.

631. The Rashba forbids a light burning for no reason on Yom Tov.<sup>143</sup>

632. There was an occurrence in Cologne that they baked [Pashtida] from the beginning of Yom Tov for the next day. And they (the rabbis) permitted the citizens of Cologne to eat it after the fact, like Rabbi Yehuda said,<sup>144</sup> "The one who cooks on Shabbat unknowingly may eat (it) on Motzei Shabbat whether it is for him or for others." They reasoned: if this is permitted on Shabbat, which is strict, then all the more so on Yom Tov which is lenient. But Rabbenu Yoel forbade this, because (Rabbi Yehuda) permits it only on Shabbat because it is a serious thing and people would not come to take it lightly as they said in the first chapter of

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<sup>143</sup>Hidushel Ha-Rashba Al Massechet Betzah, on Betzah 22b, page 49. Sh'ellot and Teshuvot of the Rashba, volume 3, paragraph 277. Tosafot on Betzah 22b, s.v. "no". Rosh on Betzah, chapter 2, paragraph 22. Tur, Orach Hayyim, paragraph 514. Yerushalmi, Betzah, chapter 5, halacha 2. The Yerushalmi permits kindling a light for no reason. Tosafot quotes the Yerushalmi decision. It explains that work which is not required for one's well-being is permitted. This is one reason why some rabbis permitted the kindling of a light for no reason. The Rosh points to the dispute in the Yerushalmi and quotes a sage who said that one does not permit or forbid one to kindle a light for no reason. This, according to the Rosh, shows that there is no conclusive answer to this question. The Tur says that there is one exception to the prohibition as stated by Rashba. That is in the case where a light is to be placed in a synagogue for there it is thought to serve a purpose. As well, Rashba determined that a light may be kindled only in a synagogue, but not in the home where it will serve no useful purpose. The Agur follows the Rashba's decision. Rashba also understands the decision in the Yerushalmi to mean that a light for no reason is forbidden in a city. If it is needed for some type of work, probably food preparation, it is permitted, but if it is not needed, it is forbidden.

<sup>144</sup>B.T. Ketubot 34a.



Betzah.<sup>145</sup> And thus HaRav Avigdor HaCohen said that he saw a case which occurred before him with a cook who prepared (kreplach) on Yom Tov for the next day. He commanded him to throw it away and he even forbade him from giving it to his female servant. Mordechal, chapter two of Betzah.<sup>146</sup>

633. If Yom Tov falls after Shabbat, bread which was baked on Shabbat is forbidden on Yom Tov because of the preparation. And Mahari Moellin<sup>147</sup> agreed with the words spoken by Ya'akov Weil.<sup>148</sup>

634. (In a case where) a gentile brought a gift (of food) to a Jew on Yom Tov, it is of a type that is "mukzeh m'hamat m'chubar" (mukzeh because it was attached to the ground) or "mukzeh m'hamat tzeldah" (mukzeh because it lacked capture before Yom Tov) it is forbidden to eat it on that day, (or)

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<sup>145</sup>B.T. Betzah 2b. Whereas, regarding the less stringent Yom Tov, people may indeed take it less seriously.

<sup>146</sup>Mordechal, chapter 2 of Betzah, paragraph 675.

<sup>147</sup>R. Ya'akov bar Moshe Moellin HaLevi. He was the foremost talmudist of his generation in Ashkenaz. Born: Mainz, Germany, 1365. Died: Worms, France, 1427.

<sup>148</sup>Ya'akov Weil. Disciple of Maharil. Died: 1455.

Sh'ellot and Teshuvot of Mahari Weil: Judgements and Law. Letter 1. The editor of this volume points to a decision by Weil on whether or not eggs which were brought by a gentile to a Jew and said that they were laid before the onset of Yom Tov could be bought and eaten by the Jew. He concludes that mainly because of quality it is better not to purchase the eggs. This answer may mask the real reason, which is that one cannot believe the gentile. This is possibly the same case with bread. Bread baked on that day is fresher than is day old bread.

even to move it. Language of the Tur.<sup>149</sup> And likewise, Rav Alfasi forbids one to move it. And likewise Ba'al Ha-Divrot. Shibbolei Ha-Lekket.<sup>150</sup> However, even if it is brought on the second day (of Yom Tov) one needs to wait until Motzei Yom Tov plus as much time as it took for it to be caught or gathered. But on the second day of Rosh Hashanah or on Yom Tov which comes after Shabbat or before it, one needs to wait until Motzei Shabbat or Motzei Yom Tov plus the time that it took to catch it or gather it. "Plus the time that it took to make it" means the time for plucking or for the capture only. And there is no need to wait the time needed until it was brought here. (Anything which is forbidden and includes the extra prohibition) "plus the time that it took to prepare it" is forbidden to all, even to one for whose benefit they were not brought; even if there is doubt as to whether it was harvested on that day (the festival day) or not, it is forbidden. But if one knows that they were not plucked or gathered on that day, they are permitted immediately if they were found within the (Shabbat or Yom Tov) boundary. But, according to Rabbenu Tam, even on the second day of Yom Tov,

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<sup>149</sup>B.T. Betzah 24b. Rosh and Rif on the portion. Tur, Orach Hayyim, paragraph 515. Food gifts of these types are forbidden because of the possibility that they were gathered or caught on the festival day. They are also forbidden past the end of Yom Tov for the same amount of time that it took to gather or catch them so that one may not derive pleasure from work performed on Yom Tov. The Rif also forbids the handling of such food gifts.

<sup>150</sup>Shibbolei Ha-Lekket, paragraph 247. Ha-Ittur, Hilchot Yom Tov, page 143d.

in the diaspora, it is forbidden (to eat the gift) until Motzei Yom Tov plus the time that it took to gather or capture it and to bring this type of product from the nearest place which is found in the vicinity of the city. But this refers only to the one for whose benefit it is brought (it is forbidden). But for others it is permitted immediately at night (Motzei Tom Tov). And even the one for whose benefit it is brought-if a gentile plucked it for his own need and then brought it to him-it is permitted for him immediately at night. And likewise, things caught on their own, (i.e., things which trap themselves, which no gentile actively caught), or fruit which fell on its own are forbidden to him during the day and permitted to him immediately at night.<sup>151</sup> And they are accustomed in Ashkenaz to follow Rashi who permits it (fruit) when it falls on its own (without picking). But my teacher, my father, may his

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<sup>151</sup>B.T. Betzah 24b and Eruvin 39b-40a and Tosafot. Tur, Orach Hayyim, paragraph 515. Something which is meant for a certain person that is brought to him on Yom Tov cannot be eaten by him, but can be eaten by someone else who is present when it is delivered. Tosafot agrees with this decision from the Talmud and explains that the 2 days of Yom Tov in the diaspora are considered 2 separate entities. The first day is holy but the second day is not; or the first day is not holy but the second day is. In the situation described in the Agur, the first day is holy and the second day is not. So a gift of food which is brought by a gentile may be eaten on the second day of the festival as early as the evening of the first day, provided that there was time after the end of the first day for the chicken to be plucked or the produce to be gathered.

memory be for a blessing, was strict for himself.<sup>152</sup> Turim.<sup>153</sup> And if Yom Tov falls on Thursday or Friday and it (something) is brought on the first day of Yom Tov, Ba'al Ha-Ittur wrote that it is forbidden until Motzei Shabbat plus the time that it took to capture or gather it.<sup>154</sup> And it is likewise written in Halachot Gedolot.<sup>155</sup> And HaRav Yechiel of Paris permitted it on the evening of Shabbat, plus the time that it took to prepare it. And the Rosh agreed with this. And something<sup>156</sup> which is not "mukzeh m'hamat m'chubar" or "mukzeh m'hamat tzaidah", if it comes from within the (Shabbat) border, it is permitted for eating; but if it comes from outside the (Shabbat) border, it is

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<sup>152</sup>Beit Yosef, end of paragraph 515, s.v. "and even he". Beit Yosef clarifies when things would be permitted or forbidden. If there is any doubt as to whether something is mukzeh, it is forbidden on Yom Tov. Something that is brought on the first day of Yom Tov is permitted to be eaten on the second day of Yom Tov. But on the second day of Rosh Hashanah or a Yom Tov which precedes or follows Shabbat, it is forbidden, even on the second day of Yom Tov. It becomes permitted on Motzei Shabbat or Motzei Yom Tov (after the second day). Beit Yosef mentions the Agur's comment, "But my teacher, my father..." and wonders why the leniency regarding fruit is based upon Rashi for earlier sages permitted it. He believed that Landau's father was strict because he followed a ruling that was at variance with Rashi's ruling.

<sup>153</sup>Editor's note: It seems that this language refers to that which follows.

<sup>154</sup>Ha-Ittur, Hilchot Yom Tov, page 143d. Rosh on Betzah, chapter 3, paragraph 2. Tosafot on Betzah 24b, s.v. "and for the evening". Ha-Ittur says that this is a precaution lest one may say, "bring it on the second day of Yom Tov," and thus he may violate Shabbat or because something prepared on Shabbat would be eaten on Yom Tov, should Yom Tov fall after Shabbat. Rosh says that something brought on a Yom Tov which precedes Shabbat is permitted on Shabbat.

<sup>155</sup>Halachot Gedolot, Hilchot Yom Tov, pages 367-68. Hildesheimer edition.

<sup>156</sup>B.T. Betzah 24b.

forbidden for eating to whom it was brought. But it is permitted to move it and it is permitted for food for others. And the one for whom it was brought must wait until the evening plus the time it took to prepare it, according to Rav Alfasi. And Ba'al Ha-Terumah wrote likewise. But according to Rabbenu Yitzchak bar Rabbi Shmuel, it is not necessary (to wait). And the Rosh agreed with this. Language of the Tur.<sup>157</sup> And if there is doubt as to whether it came from outside the (Shabbat) border or not, Rashi permits it. But according to the words of the geonim, it is forbidden.<sup>158</sup> But Rashba wrote that even according to the words of the geonim, it is not forbidden, except with regards to a gentile who does not dwell with him neighborhood where there is concern, lest he brought it from outside the (Shabbat) border; Language of the Tur.<sup>159</sup>

635. Rashba, in his teshuvot, number 23,<sup>160</sup> permitted doves which were brought to a Jew from dovecotes that are in the city, for those to whom they were not intended.

636. Rashba was asked if the members of the household may be called "others" (for the purpose of receiving gifts). And he

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<sup>157</sup>Tur, Orach Hayyim, paragraph 515. Rif and Rosh on Betzah 24b.

<sup>158</sup>B.T. Shabbat 151a. Geonim, cited in Rashba.

<sup>159</sup>Tur, Orach Hayyim, paragraph 515. Sh'ellot and Teshuvot of the Rashba, volume 3, paragraph 277.

<sup>160</sup>Sh'ellot and Teshuvot of the Rashba, volume 4, paragraph 47. Doves are permitted by the Rashba because they do not need to be captured. Thus, they are not in the same category as fruits or other animals which might be brought as gifts on Yom Tov.

replied that it is forbidden, since they are supported by him. This should also be prohibited lest he might say to him (the family member) "go and bring it", thus I heard. A teshuvah of Rashba, paragraph 298.<sup>141</sup>

637. Rabbenu Yeshayah wrote that he permits one to extinguish a burning log in order that the house or a pot will not become smoky. And he permits one to extinguish fire because of monetary loss.<sup>142</sup> But Rav Alfasi wrote<sup>143</sup> that it is forbidden to extinguish a burning log, whether to save it (for future use), or to keep the house from becoming smoky; (in) all (cases it) is forbidden.<sup>144</sup> And the law seems to follow Rabbi Yeshayah, for it states in the Yerushalmi,<sup>145</sup> "One cannot extinguish a burning log." But if

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<sup>141</sup>Sh'eilot and Teshuvot of the Rashba, volume 7, paragraph 298. Rashba's reason for forbidding the calling of children "others" is that he head of the household is responsible for their welfare and for providing food for them. If, on Yom Tov, a gift is brought, and they would eat from it, it is as if he was saving or even making money by getting food for them for free.

<sup>142</sup>B.T. Betzah 22a. Tosafot Rid on Betzah 22a. Rid says that for all needs it is permitted to extinguish a light on Yom Tov, even if it is not with regards to food preparation.

<sup>143</sup>Rif on Betzah 22a, paragraph 884. Rif rejects this as the halacha follows Rabbi Yehuda's ruling.

<sup>144</sup>Shibbolei Ha-Lekket, paragraph 260. Shibbolei Ha-Lekket follows the Rif's ruling.

<sup>145</sup>Yerushalmi, Betzah, chapter 4, halacha 4. "They do not extinguish a log in order to save it. But if it is so as not to allow the house to fill up with smoke, or so that it will not burn what is cooking in the pot, it is permitted to do so. Said R. Chaninah, 'That applies when there is no open air. But if there is open air, one throws the log out into the air and that suffices.'"

It is (done) so that the house of a pot will not become smoky, it is permitted. Shibbolei Ha-Lekket.<sup>166</sup>

638. "It is permitted to send a gift on Yom Tov whether it is a portion of edible food for eating, etc."<sup>167</sup> And Rav Alfasi permits (this), even with grain. But the Ravad<sup>168</sup> forbids it. Likewise, the Rambam (forbids it).<sup>169</sup> Rabbi Hiyya and Rabbi Shimon would weigh a portion (of meat) opposite a portion (of meat) on Yom Tov.<sup>170</sup> Rav Alfasi wrote that we do not hold according to them, rather, (we hold) as the rabbis who said, "We do not look upon the scales at all (on Yom Tov)." And thus wrote Ba'al Ha-Divrot. But Rabbenu

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<sup>166</sup>Editor's note: Shibbolei Ha-Lekket noted here is for the next paragraph. This seems to be the language of Rabbenu (Landau).

<sup>167</sup>B.T. Betzah 14b. Rif and Rosh on the portion. Beit Shammai permits gifts of food to be given to a neighbor only if they are ready to be eaten. Beit Hillel permits game, cattle, and poultry to be sent whether they are alive or already slaughtered. As well, Beit Hillel permits one to send wine, oil, flour, and pulse. But it is forbidden to send grain. But R. Shimon permits one to send grain.

<sup>168</sup>R. Avraham ben David of Posquieres. Talmudist and Halachist. Born: Narbonne, Provence, 1120. Died: Posquieres, Provence, 1197.

<sup>169</sup>Tur, Orach Hayyim, paragraph 516. Mishnah Torah, Hilchot Yom Tov, chapter 5, halachot 6-7. "One may send a gift only if it is ready for immediate use. One may send things which may be used on the festival day itself like oil, wine, or flour. But if it cannot be used on a weekday without doing something to it that cannot be done on a festival, then it cannot be sent as a gift on a festival day. Thus, one cannot send grain on a festival day because it cannot be ground on a festival."

<sup>170</sup>B.T. Betzah 28a. They would measure a portion against another portion when they would divide meat between them. They would use the two pans of a scale. This was not the normal practice, thus they held that it was permitted on a festival.

Yeshayah decided the halacha like Rabbi Shimon, and thus ruled another gaon. Shibbolei Ha-Lekket.<sup>171</sup>

639. It is understood from the words of Halachot Gedolot that when there is no concern about something being mukzeh because it is connected to the ground, it is permitted to take it, even from a gentile who is known to him. Apparently it means thus. But Ravan<sup>172</sup> wrote that it is forbidden. And there are teshuvot which permit (this). And there are those who forbid (this) lest the gentile bring great amounts for him, since they are close acquaintances. Mordechai, chapter three of Betzah.<sup>173</sup>

640. R. Shimon b. Elazar says, "As long as one does not mention the sale price."<sup>174</sup> The "sale price" is explained by

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<sup>171</sup>Shibbolei Ha-Lekket, paragraph 254. Rif on Betzah 28a. Ha-Ittur, Hilchot Yom Tov, page 141a. Teshuvot of the Geonim of Mizrach u'Ma'arav, ed. Miller, Berlin 1880. paragraph 80. The Rif ruled like the rabbis, saying that one should not weigh things on a scale at all on Yom Tov. Shibbolei Ha-Lekket records that Rabbenu Yeshayah and an unnamed gaon ruled like Rabbi Hiyya and Shimon that one can weigh meat against meat on Yom Tov. This could mean, that if one weighs something on a scale in an unusual manner, it is permitted. The unnamed gaon was Rav Yosef Gaon. He ruled that one may weigh meat against meat, for if one could not do this he would not have fresh meat to make a festive Yom Tov meal.

<sup>172</sup>R. Eliezer bar Natan. Tosafist and Halachist. Born: Mainz, Germany, 1090. Died: Germany, 1170.

<sup>173</sup>Mordechai, chapter 3 of Betzah, paragraph 688. Halachot Gedolot, Hilchot Yom Tov. Even Ha-Ezer, on Eruvin, page 155c. ed. Ehrenreich. Mordechai says that one is permitted to weigh the produce of a gentile who is known to him, but not to take it as the Agur writes. Ravan and Mordechai make the distinction between a Jew and a gentile in this case. They say that one may only take from a Jew and not from a gentile because of the fear that the produce will be "mukzeh m'hamat m'chubar".

<sup>174</sup>B.T. Betzah 29b.



Rashi as a dinar<sup>175</sup> or two. But the correct explanation is that of Rabbenu Hananel and Halachot Gedolot; for example, "the one would say to him, 'Give me ten nuts.' while he already had given him thirty. And afterwards (he says), 'I owe you for forty nuts.'" And Rabbi Shimon says, as long as one does not mention the sale price to him so that he will not say to him, "Give me nuts (worth) six coins and already you gave me thus and I owe you a total of twelve coins." But the sum from it is permitted. And there are those who are careful not to mention even the sum, for it resembles bargaining and selling. Tosafot, chapter three of Betzah.<sup>176</sup> 641. Ravva wrote<sup>177</sup> that it is a worthy custom to measure on Erev Pesach that which one needs for the second evening of Pesach when they bake matzot. Even though we follow Rav in matters of ritual law,<sup>178</sup> in this case the halacha for actual

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<sup>175</sup>Dinar. See glossary.

<sup>176</sup>Tosafot on Betzah 29b, s.v. "does not". Rabbenu Hananel on Betzah 29b. Halachot Gedolot, Hilchot Yom Tov. One should not go to a shopkeeper and say, "Give me 10 nuts and since I already owe you for 30 nuts, I shall now owe you for 40 nuts." He should just take what he needs and settle the account the next day.

<sup>177</sup>Ravva, volume 2, paragraph 771.

<sup>178</sup>B.T. Bechorot 49b and Niddah 24b. Rav does not rule on this specific subject. Rather, these sources cite a rule which says that in ritual matter the halacha is in agreement with Rav whether it leads to increased stringency or increased leniency.

practice is according to Shmuel.<sup>179</sup> And Ravan ruled like Rav. Mordechai, chapter three of Betzah.<sup>180</sup>

642. Language of Avi Ha-Ezri.<sup>181</sup> Sefer Or Zarua writes of a case where a gentile came to take a pledge from a Jew on Yom Tov and it was already redeemed on Erev Yom Tov. And I, the author, forbid this because it is forbidden to move "Shatnez"<sup>182</sup> on Yom Tov since it is not acceptable to wear it because it is a mixing of wool and linen. And my masters argued with me, but, my teacher, Rabbenu Simcha, answered me, "These sweet words are pleasant to me." It is permitted to send (something) to a gentile by means of (another) gentile on Yom Tov if he will certainly send it to him, but not by means of a Jew. We forbid one to return a pledge on Shabbat and Yom Tov for this resembles buying and selling (when there is no urgency), we permit sending them to a violent gentile (who might threaten us) by way of another gentile. And it is

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<sup>179</sup>B.T. Betzah 29a-b and Tosafot, s.v. "Shmuel". In another gemara Shmuel taught that it was permitted to sift flour on a festival to make challah. The school of Shmuel taught that it was forbidden. The Talmud reconciles this apparent disagreement by saying that "Shmuel's response is to inform us of the halacha for actual practice." That is, that although in theory it is permitted one should not decide this way.

<sup>180</sup>Mordechai, chapter three of Betzah, paragraph 686. Even Ha-Ezer, page 78a. Hagahot Maimuniyot, Hilchot Yom Tov, chapter 4, note 300. Beit Yosef, paragraph 506.

<sup>181</sup>Editor's note: These words are inserted in the wrong place. They are from the end of the last paragraph cited in Mordechai. It has no connection to Or Zarua.

<sup>182</sup>Shatnez. See glossary.

not forbidden to move "shatnez" because it is considered a vessel. Mordechai, first chapter of Betzah.<sup>183</sup>

643. It is written in Sefer Ha-Mitzvot that there are those who want to forbid cooking, from the beginning, with a new pot, on Yom Tov. Rather, one must place it on the fire on Yom Tov. And there is a distinction between our pots and a stove. Indeed Ravva wrote that even to smooth a new pot with fire, but without water is forbidden. Mordechai, chapter four of Betzah.<sup>184</sup>

644. A key with which one closes a food cupboard for fear of leaving the food in the house, one can take it out with him. And Rabbenu Shmuel wrote that this means only that one may take it (out) in his hand, but not in the regular way with straps (of leather). But there does not appear to be a distinction (between these methods of carrying).<sup>185</sup>

645. Seals that are on vessels, for example, a chest, a box, or a store closet that is covered, and tied up with a rope; it is permitted for someone to cut it with a knife or twist

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<sup>183</sup>B.T. Betzah 14b. Or Zarua, volume 2, paragraph 358. Mordechai, first chapter of Betzah, paragraph 666-7. The Talmud permits one to send something which contains "kalayim".

<sup>184</sup>B.T. Betzah 34a. Mordechai, chapter four of Betzah, paragraph 694. Sefer Mitzvot Ha-Katan, paragraph 194. Ravva, paragraph 785 and note 7. One may not do anything to a pot in order to "harden it" on Yom Tov. It would seem that this prohibition against using new pots or ovens is because of the fear that they may break and force one to do something to strengthen them on Yom Tov which is forbidden.

<sup>185</sup>Tur, Orach Hayyim, paragraph 518. Yerushalmi, Betzah, chapter 1, halacha 7. Sefer Mitzvot Ha-Katan, paragraph 194.

it (so it breaks).<sup>186</sup> But the Rosh wrote that this applies only, for example, to a connection of rope and similar things. But it is forbidden to crack and break a wooden lock or a metal lock for the prohibitions against any type of work resembling building or destroying apply also to an implement. And in Sefer Mitzvot Ha-Katan<sup>187</sup> it is written: "Regarding the breaking of locks of vessels, there was a dispute. Rabbi Eliezer of Metz permits it and Rabbi Shimon forbids it. But by means of a gentile it is permitted." Language of the Tur.<sup>188</sup> Shmuel said, "Knots that are in the earth, etc."<sup>189</sup> And Ravya wrote that the halacha is according to Shmuel who said that the prohibitions against building or destroying (on Shabbat and Yom Tov) do not apply to implements.<sup>190</sup> And for this reason it is permitted to cut and unravel the ties of a spit to which they tied a lamb. And sometimes they tighten it with a wire, and it is probable that even on Shabbat it is permitted. My teacher, Rabbi Mordechai,<sup>191</sup> saw, in the house of the Maharam, that they were accustomed to cut the ties

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<sup>186</sup>B.T. Betzah 31b. Rosh on the portion. There seems to be a contradiction between what the Agur records and what is written in the Talmud.

<sup>187</sup>Sefer Mitzvot Ha-Katan, paragraph 282.

<sup>188</sup>Tur, Orach Hayyim, paragraph 519. Sefer Yere'lm, page 280, paragraph 274.

<sup>189</sup>B.T. Betzah 31b and Shabbat 146a and Tosafot. "Knots that are in the earth, it is permitted to loosen them, but one may not unravel or cut (the rope): of utensils one may loosen, unravel, or cut whether on Shabbat or Yom Tov."

<sup>190</sup>B.T. Betzah 122a.

<sup>191</sup>R. Mordechai bar Hillel. Author of Sefer Mordechai. Born: Germany, c. 1240. Died: Nuremberg, Germany, 1298.

that were on the spit in his presence.<sup>192</sup> And thus ruled Rabbi Shneur bar Yehuda. It is permitted to cut the ties that bind a kid or fowl which has been roasted from the spit. From Shibbolei Ha-Lekket.<sup>193</sup>

646. Rabban Gamliel says that it is permitted to sweep (the floor) on Yom Tov between the couches (used as a dining table),<sup>194</sup> in a place where they ate because of the crumbs. But, in the rest of the house it is forbidden. But, on Shabbat, even between the couches, it is forbidden. But the sages disputed him and forbade doing it at all, and the halacha is according to their words. However Rabbenu Hananel and Rif ruled that even on Shabbat it is permitted to sweep everywhere because it is permitted to sprinkle (water). But, the Tosafot forbid sweeping and the Rosh agreed with this.<sup>195</sup>

647. It is permitted to cover fruit or pitchers of wine or bricks because of a leak (in the roof) so that drops of rain will not fall (on them). According to Rashi, only on Yom Tov (is this permitted). But, according to Rabbenu Yitzchak (it is permitted) even on Shabbat.<sup>196</sup>

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<sup>192</sup>Mordechai, chapter four of Betzah, paragraph 691. Ravva, volume 2, paragraph 775.

<sup>193</sup>Shibbolei Ha-Lekket, paragraph 87.

<sup>194</sup>B.T. Betzah 22b.

<sup>195</sup>Tur, Orach Hayyim, paragraph 520. Rabbenu Hananel on Shabbat 96b. Tosafot on Shabbat 95a, s.v. "nowadays". Rabbenu Hananel qualifies his allowance by saying that it can be done if by mistake, when one had no intention of violating Shabbat. Tosafot states that it is forbidden to move dirt from its place. Thus it disagrees with Rabbi Shimon.

<sup>196</sup>B.T. Betzah 35b. Tur, Orach Hayyim, paragraph 521. The Talmud says: "pitchers of oil".

648. There are no (court) decisions on Yom Tov.<sup>197</sup> According to Rashi it is forbidden in every case and likewise wrote the Rosh. "And no betrothal," according to Rabbenu Tam," refers only to one who has a wife and children." But according to Rashi, in all instances (it is forbidden); and the Rosh agreed with this.<sup>198</sup> And likewise in the Yerushalmi<sup>199</sup> it indicates that it is forbidden in every instance on Shabbat.

649. The Rashba permits one to dedicate (something) for sacred use which the community decreed, even on Shabbat, although it was not for the need of Shabbat; because it is

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<sup>197</sup>B.T. Betzah 36b. Rosh and Rif on the portion. Not being able to convene a Beit Din means that certain things cannot take place on Yom Tov: Betrothal, halitzah, or yibum. The Talmud places the convening of a Beit Din or decisions under the category of optional activities which are forbidden on Shabbat ad Yom Tov. Rosh says that these things may lead one to write, (a forbidden act on Shabbat and Yom Tov) or engage in the negotiation of a price.

<sup>198</sup>Rosh on Betzah 36b. Tosafot on Betzah 36b, s.v. "surely". Tur, Orach Hayyim, paragraph 524. The Agur leaves out the phrase in the Tur which states that Rabbenu Tam permits a decision to be rendered in some instances. This can occur when there is no greater authority to go to. The Tosafot agrees here because it interprets literally and strictly the categories of the prohibitions listed in the mishnah on Betzah 36b. Because rendering a decision is optional, one may do so if there is no greater authority for one to turn to. Rashi would consider rendering judgements to be a mitzvah which is in the third category called "religious mitzvot" and hence it would be prohibited in all cases. In the case of marriage, the Talmud asks the question of why is it not permitted if it is the fulfillment of a religious obligation? It answers: "It treats of one who (already) has a wife and children." Thus it means that it is a Levirate marriage is forbidden. Tosafot says that all marriages are forbidden for the "Kinyan" or acquisition ceremony cannot take place on Shabbat or Yom Tov.

<sup>199</sup>Yerushalmi, Ketubot, chapter 1, halacha 1.

the time of assembly, and a community does not gather together except on Shabbat. From Teshuvot of the Rashba.<sup>200</sup>

650. Regarding loans on Yom Tov, Rava and Rav Yosef disagreed. Rava said, "It can be claimed." And Rav Yosef said, "It cannot be claimed (in a court of law)."<sup>201</sup> And Rav Alfasi ruled like Rava and the Tosafot thought likewise.<sup>202</sup>

651. Only gentiles may busy themselves with a dead person who is ready for burial on the first day of Yom Tov,<sup>203</sup> even if he dies on that day and will not decay until tomorrow. But Rashi explained that it is not permitted to do this unless he has been laying about for a long time, for example, if he died on Shabbat and Yom Tov comes after it, and thus

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<sup>200</sup>Teshuvot of the Rashba, volume 4, paragraph 296. Beit Yosef, paragraph 341. Rashba permits something to be dedicated for sacred use on Yom Tov and even on Shabbat based upon reasons he gives for allowing a vow to be taken by a girl or woman on Shabbat. If the community only comes together during Yom Tov or Shabbat, it may be done then because a community gathering is needed for the vow or dedication to be administered. But whereas Rashba does not allow a father or husband to annul the vow of a daughter or wife, Beit Yosef does allow this even if it is not for the need of Shabbat.

<sup>201</sup>B.T. Shabbat 148b and Tosafot, s.v. "Rava". Tur, Orach Hayyim, paragraph 525. The halacha follows Rava, for if loans were not recoverable then shopkeepers would not supply people at all and they would be unable to fully enjoy the festival.

<sup>202</sup>Tur, Orach Hayyim, paragraph 525. Rif and Rosh on Shabbat 148b.

<sup>203</sup>B.T. Betzah 6a and Rashi, s.v. "rather". Jews may busy themselves with a corpse on a festival day only if it has been laying about for some time, has begun to decompose, and smells bad.

wrote Halachot Gedolot.<sup>204</sup> And the Rosh agreed with the first opinion. And HaRav Yoel HaLevi wrote<sup>205</sup> that a Jew can carry him, for carrying something out is permitted when it is necessary (for Yom Tov) and it is also permitted when it is not necessary.<sup>206</sup> And the Rosh wrote likewise. But the Ramban forbld it,<sup>207</sup> and it seems to me that the vault which is built over the grave cannot be built on Yom Tov, for why would one profane Yom Tov when it is not necessary? Rather, let them cover the grave with planks and dirt until after the festival. And it is good to limit the performance of those acts which are prohibited by the Torah as far as possible. And thus in Ashkenaz we are accustomed that the gentiles make the casket and the shrouds, and even the grave, and all other acts by the Torah. But to move the dead and to bring him out, this is done by a Jew. And Rabbenu Tam was strict that nowadays this would not be done by a Jew (on the first day of Yom Tov), and likewise wrote Rabbenu Hananel. But Rav Alfasi did not write thus. And the Rosh agreed with this. And

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<sup>204</sup>Halachot Gedolot, Hilchot Yom Tov, page 367. Rosh on Betzah 6a, chapter 1, paragraph 5. The health of the people on the community takes precedence over a negative commandment. Thus, if a body has been laying about for some time and poses a health threat to the community, Jews themselves may act to bury it on the first day of Yom Tov. This would usually occur when Yom Tov follows Shabbat during which burials are forbidden. Rosh agrees with the first decision of the Talmud which says that Jews do not bury their dead on the first day of Yom Tov.

<sup>205</sup>Ravya, volume 2, paragraph 718.

<sup>206</sup>B.T. Betzah 12a.

<sup>207</sup>Ramban on Shabbat 139b and in Torat Ha-Adam, "Inyan Ha-Hotza'ah", page 54. Ramban forbids any involvement in the burial process by a Jew even on the second day of a festival.



Rabbi Yitzchak wrote that they would not do this thing in open view. Language of the Tur.<sup>208</sup> Rabbenu Tam wrote that if one dies on the first day of Yom Tov or on the second day of Yom Tov, Jews and gentiles should not busy themselves with him (in making funeral preparations). However, when one dies on Erev Yom Tov, he will be buried on the first day (of Yom Tov) by gentiles. Or, if he dies on the first day of Yom Tov he is buried by gentiles on the second day of Yom Tov, but not at all by a Jew in a locality where there are gentiles. It is also forbidden for a Jew to make a casket for him and shrouds; rather, all (of these) are to be made by gentiles. But a Jew can put them on (the dead person) and place him in the grave, even on the first day of Yom Tov. Thus explained Ravan. And thus explained Rav Shimon bar Natronai. And thus was the custom of the sages of Israel. Mordechai, chapter twenty of Shabbat.<sup>209</sup>

652. One places a loaf of bread or a baby on a dead person and moves him. HaRav Avigdor Cohen explained that a loaf of

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<sup>208</sup>Tur, Orach Hayyim, paragraph 526. Rabbenu Hananel and Rif on Betzah 12a. Tosafot on Betzah 12a, s.v. "nowadays". Rosh on Betzah, chapter 1, paragraph 5. Ramban only permits necessary carrying on Yom Tov. The carrying of a body to a grave resembles the carrying of stones which is considered unnecessary, hence it is forbidden. Rif says that Yom Tov boundaries need to be set up, but not smaller boundaries for permitting the carrying of objects in a courtyard. Tosafot says that even though we are not afraid that today the gentiles will not make us work on Yom Tov, should they see us carrying out a dead person on the festival day, we should wait until after Yom Tov to do so.

<sup>209</sup>Mordechai, chapter twenty of Shabbat, paragraph 426. "And this is the custom is from Rabbenu (Ya'akov Landau). It is not contained in this portion of Mordechai."

bread or a baby is needed for the dead only if he is naked. But, a dead person who is clothed is moved "because of" his clothes (i.e., while it is forbidden to move a dead person it is permitted to move clothes. So the dead person is moved on account of the permitted things, his clothes). And Ravya wrote, "If they are concerned that it will be difficult to move him (later because of rigor mortis), and it will not be possible to uncover (him) and he is disgraced, they place a loaf of bread or a baby over the dead person until they uncover him." And he cited evidence. And there was a case before HaRav Eliezer of Mainz, and he permitted them to bring the dead from the boat so as not to humiliate the dead, and to bring him, by means of gentiles, to the cemetery on Shabbat because of its honor. But Rabbi Baruch disputed this point.<sup>210</sup>

653. There is also a case in which a rabbi ruled that it is permitted to tell a gentile to go outside the Shabbat boundary after the relatives of the dead so that they will come to his burial. But Maharam said that he erred but that he is only very ill. And he says "that they will send after his relatives" thus certainly it is allowed and Rabbenu

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<sup>210</sup>This paragraph is almost identical to paragraph 457 from Hilchot Shabbat found earlier in the Agur. Ravya, paragraph 75. Mordechai, chapter 3 of Shabbat, paragraphs 312 and 314. A loaf of bread or a child is placed on the corpse to protect from the sunlight as it is moved.

Simcha permitted (this) even on Shabbat lest he become confused. Mordechai, chapter three of Shabbat.<sup>211</sup>

654. It is written in Halachot Gedolot that it is permitted to escort the dead on the first day of Yom Tov within the Yom Tov boundary and on the second day of Yom Tov, even outside the boundary. But the Ramban<sup>212</sup> was doubtful if it is permitted to return home or if we should say that he has only 2,000 cubits from his place (with which to move). And if these 2,000 cubits are within the boundary he may return to his place.<sup>213</sup>

655. There was a case where an infant died on the second day of Yom Tov and they said because it was not certain whether it had gestated the full nine months, should one profane the second day of Yom Tov on account of him? And HaRav Ya'akov ben HaRav Yitzchak says, "Because a majority of women are prgnant and give birth to viable infants, the rule in his case is the same as that for other dead." Language of the Tur.<sup>214</sup>

656. "He may cut it and smell it. This applies to soft spice wood but not to hard spice wood."<sup>215</sup> From this there is a difficulty, for the opinion which says we do not make a blessing over the spices on Yom Tov which falls on Motzei

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<sup>211</sup>Mordechai, chapter 3 of Shabbat, paragraph 314.

<sup>212</sup>Torat Ha-Adam, Inyan Ha-Hotza'ah.

<sup>213</sup>Tur, Orach Hayyim, paragraph 526. It is not found in Halachot Gedolot.

<sup>214</sup>Tur, Orach Hayyim, paragraph 526. The case mentioned regards a baby who died at the age of 30 days.

<sup>215</sup>B.T. Betzah 33b.

Shabbat lest one cut the spices from something which is mukzeh because it is attached to the ground. After all, it is permitted here to (cut for the purpose of) smelling. And Rabbenu Gershom and Rabbenu Meshullam ruled that one can make a blessing over the myrtle on Motzei Shabbat which falls on Yom Tov and thus was the custom on Mainz.<sup>216</sup> When it is said that the order (of the Havdalah blessings) is wine, Kiddush, light, Havdalah,<sup>217</sup> and season,<sup>218</sup> while spices are not mentioned; this is because there is no "light" without "spices" (so spices are included). And Rashi and Rav Amram said, wine, Kiddush, light, Havdalah, and season without myrtle.<sup>219</sup> And R. Yitzchak explained that the reason is because of the delight of Yom Tov and its key for returning the soul which was lost (so spices are unnecessary). Mordechai, chapter four of Betzah.<sup>220</sup> And the custom is that we do not recite the blessing over the spices.

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<sup>216</sup>Even Ha-Ezer, page 78b. Ravya, volume 2, paragraph 782. Mordechai on Betzah, paragraph 693. B.T. Betzah 33b and Tosafot, s.v. "because". Shibbolei Ha-Lekket, paragraph 218. Or Zarua, volume 2, paragraph 92. Myrtle is considered an appropriate substitute for spices on Motzei Shabbat which falls on Yom Tov.

<sup>217</sup>Havdalah. See glossary.

<sup>218</sup>B.T. Pesachim 102b. The sages argue about the correct order of the Havdalah blessings on Motzei Shabbat which falls on Yom Tov.

<sup>219</sup>Editor's note: This is written in Ravya, but in Mordechai only Rashi is mentioned.

<sup>220</sup>Mordechai, chapter four of Betzah, paragraph 693. Today's custom is the same: We do not recite the blessing over the spices if Motzei Shabbat falls on Yom Tov.

657. (Regarding) "Eruvel Tavshilin", <sup>221</sup> Rabbenu Tam explained that one needs to make it with bread and with a cooked dish: Bread, to bake (other things) on its account, and a cooked dish, to cook (other things) on its account. Likewise wrote Halachot Gedolot. But Rabbi Yeshayah wrote that a cooked dish alone is enough. And Rabbi Yitzchak HaZaken ruled like Rabbenu Tam. Thus we are accustomed (to act) according to the language in Shibbolei Ha-Lekket.<sup>222</sup> And I, the author, say that we are accustomed in Ashkenaz and France to make both of them, bread and a cooked dish.

658. "This only refers to.." one cooked dish, but not bread. Halachot Gedolot rules that we need both cooked food and bread. And thus ruled Rabbenu Tam. And Rabbenu Shimshon of Falaise,<sup>223</sup> Riva,<sup>224</sup> and Rabbi Yitzchak bar Yehuda explained that when Abbaye said that "they only required one dish, but not bread," these words apply for cooking, but baking requires bread as well. Mordechai, chapter two of Betzah.<sup>225</sup>

659. The people are accustomed to say (that one who has set up an "Eruv Tavshilin" may) bake, cook, keep food warm,

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<sup>221</sup>Eruv Tavshilin. See glossary.

<sup>222</sup>B.T. 17b and Tosafot, s.v. "said". Sefer Ha-Yashar, paragraph 320. Halachot Gedolot, Hilchot Yom Tov. Tur, Orach Hayyim, paragraph 527. Shibbolei Ha-Lekket, paragraph 246. The lenient position of Beit Hillel is that only one "Eruv Tavshilin" is needed. Yet, the Agur takes the position of Shibbolei Ha-Lekket that two "Eruvel Tavshilin" are needed.

<sup>223</sup>Rabbenu Shimshon of Falaise. Tosafot. Died: c. 1140.

<sup>224</sup>R. Yitzchak bar Asher HaLevi. Lived in Speyer. Died: c. 1130.

<sup>225</sup>Mordechai, chapter two of Betzah, paragraph 672.

store warm water and kindle a lamp (for one who has not set up an "Eruv Tavshilin"). And thus it seems to be the case later in the chapter.<sup>226</sup> And there are those who (say) that the "Eruv" permits the kindling of a light. However, in the Yerushalmi it mentions only "baking" and "cooking". Thus is the proper reading of the Yerushalmi.<sup>227</sup> For an "Eruv Tavshilin" (one takes) bread in the amount of an egg and a cooked dish in the amount of an olive and says, "Blessed are You, Lord our God, Ruler of the Universe, who has sanctified us with His commandments, and commanded us concerning the mitzvah of establishing the Eruv." One then makes a stipulation and says, "With this, it is allowed for us to bake and cook on one day of Yom Tov for the next, and on Yom Tov for Shabbat. If one relies who relies on this "Eruv" until the last Motzei Yom Tov, should the "Eruv" be eaten or lost, he must make another "Eruv" on the last day of Yom Tov." End of quotation from the Yerushalmi. And now we learn from the language of the Yerushalmi that the first Yom Tov of Sukkot also works for the last festival days,<sup>228</sup>

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<sup>226</sup>B.T. Betzah 22a and Tosafot, s.v. "and we light". One may do these things for someone who has not set up his "Eruv Tavshilin". Tosafot says that from this we learn that one must make mention of a blessing for the Eruv. Then it is permitted to cook, bake, and light candles. But one must be sure to mention in the blessing all that he intends to do, such as kindling a light or else he can not do this.

<sup>227</sup>Editor's note: It is not found in the Yerushalmi. See Ravva, page 449, note 12 where it mentions wherer the correct source can be found.

<sup>228</sup>An "Eruv" made for the first day of Sukkot is valid for Sh'mini Atzeret and Simchat Torah.

provided he says explicitly, "until the end of the final Yom Tov." And as for what the Yerushalmi says: "Bread the size of an egg," this disputes our gemara,<sup>229</sup> which holds that as "olive's bulk" is the proper measure; and does not distinguish between the cooked dish. And as for the statement of the Yerushalmi: "On Yom Tov for the next day," Ravva explained,<sup>230</sup> for example, that if Yom Tov fell on Erev Shabbat then one must say "From Yom Tov to Shabbat." Mordechai, chapter two of Betzah.<sup>231</sup> And Rabbi Yitzchak bar Yehuda replied that bread without a cooked dish is not enough but a cooked dish without bread is enough. But my teacher was accustomed to make bread and a cooked dish (for the "Eruv Tavshilin"). And thus it is in Halachot Gedolot and likewise wrote Rabbenu Tam. (But) Rabbi Yeshayah required on a cooked dish, but bread alone is not of use, except for bread. And he cited evidence from the Yerushalmi. Likewise, Ba'al Ha-Divrot (wrote)<sup>232</sup> that a cooked dish is enough, even for baking bread, and thus it is (recorded) in the Tosefta.<sup>233</sup> And thus wrote Rav Alfasi. HaRav Zarachayah Ba'al Ha-Meor

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<sup>229</sup>B.T. Betzah 16b. There is a minimum standard of food which is used to create an "Eruv".

<sup>230</sup>Ravva, volume 2, page 451, paragraph 748.

<sup>231</sup>Mordechai, chapter two of Betzah, paragraph 672. Hagahot Maimuniyot, Hilchot Yom Tov, chapter 6, halacha 2.

<sup>232</sup>Ha-Ittur, Hilchot Yom Tov, page 147a. Ba'al Ha-Divrot records a tosefta where the rabbis say that one Eruv Tavshilin is enough, even for baking bread.

<sup>233</sup>Tosefta to Betzah 2a. When Yom Tov falls on Erev Shabbat, "They prepare an Eruv with a loaf of bread for the Sabbath."

wrote; concerning the mishnah,<sup>234</sup> "Beit Shammai says, two cooked dishes and Beit Hillel says one cooked dish, whether roasted, whether kept warm, whether (put) in a pot and boiled; it is in general a cooked meal." But regarding baking, everyone agrees that baking (on Yom Tov) can only take place "over" a baked good (i.e., you need bread in the "Eruv Tavshilin" to permit baking on Yom Tov for Shabbat). And everyone brings proof for his reasoning, but they have complicated these things greatly. And the correct thing, in my eyes, and the proper mitzvah is to make the "Eruv (Tavshilin)" with bread and a cooked dish, and thus we are accustomed. But, still I say that a cooked dish alone is enough. Shibbolei Ha-Lekket.<sup>235</sup>

660. Ba'al Ha-Divrot wrote, "It follows that whosoever does not set up an 'Eruv Tavshilin' may bake and cook for one who has set it up, because one's agent is the same as oneself." But I and others dispute him for they (the sages) clearly said,<sup>236</sup> "He who does not set up an 'Eruv Tavshilin',

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<sup>234</sup>B.T. Betzah 15b. One may cook on the eve of a festival for Shabbat. This dish is regarded as the basis upon which the right to cook on a festival for Shabbat depends ("Eruv Tavshilin"). For this purpose Beit Shammai says that two dishes are required while Beit Hillel says that only one dish is required.

<sup>235</sup>Shibbolei Ha-Lekket, paragraph 246. Rif and Ha-Meor on chapter two of Betzah.

<sup>236</sup>B.T. Betzah 17a.



behold, he will not cook and will not bake and will not store away food for him or for others." Shibbolei Ha-Lekket.<sup>237</sup>

661. The great sage of the generation, Moreinu HaRav Rabbi Ya'akov Molleln was asked, what is the custom with regards to a small portion of the Ashkenazic communities which create "Eruvel Hatzelrot"<sup>238</sup> with bread and hang suitable bread as a type of matzah in the synagogue and place it there all year. How can this fulfill their obligation (since) It is not in a place of eating or in a place of lodging. And he replied that a majority of the great sages protested regarding this (practice). And in the end he found a teshuvah of the Maharam who explained the custom, but the aforementioned Rav does not know the reason.

662. Rav Alfasi and Rabbi Yitzchak ruled that a man's wife can transfer an "eruv" to others. But the Rosh wrote that she cannot do this. And likewise (wrote) Ba'al Ha-Ittur.<sup>239</sup>

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<sup>237</sup>Shibbolei Ha-Lekket, paragraph 246. Ha-Ittur, Hilchot Yom Tov, page 148b. Tur, Orach Hayyim, paragraph 527. The discrepancy is spoken of in the Tur which seems to decide that it is allowed to eat a meal which was cooked unintentionally for that day, but not one cooked for the next day.

<sup>238</sup>Eruv Hatzeirot. See glossary.

<sup>239</sup>Tur, Orach Hayyim, paragraph 527. Rif on Betzah, paragraph 878. Ha-Ittur, Hilchot Yom Tov, page 147c. Rosh on Betzah, chapter 2, paragraph 6. Can women serve as the medium of transfer of ownership of an "Eruv Tavshilin"? Rif and Rambam say yes. Rosh and Ba'al Ha-Ittur say no. Rif agrees with the mishnah of Shabbat 79b which permits this. Rosh bases his objection on Nedarim 88b which says that the hand of a woman is like the hand of her husband. This means that a wife has no independent rights and thus is not allowed to transfer an "Eruv Tavshilin".

663. Eventhough one sets up an "eruv", he cannot cook on the first day (of Yom Tov) for Shabbat. Likewise wrote the Rosh and Ha-Ittur. Language of the Tur.<sup>240</sup> And thus wrote Ba'al Ha-Divrot and thus (wrote) the Rashba in his teshuvot, paragraph 199.<sup>241</sup>

664. The Rambam wrote,<sup>242</sup> "...only when the Beit Din sanctified (the new moon) by means of eyewitness (observation) and Jews in the diaspora observe two days of the festivals because of doubt (as to the actual sighting of the new moon, hence the beginning of the month). But nowadays the children of Israel rely on calendar time and we do not observe (festivals) for two days because of doubt, rather because, "They sent word from there (Palestine): Give heed to the customs of your ancestors which have come down to you even though the experts have fixed the times."<sup>243</sup> Therefore, we do not set up an "eruv" now, whether an "Eruv Tavshilin", or an "Eruv for courtyards", or in partnership

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<sup>240</sup>Tur, Orach Hayyim, paragraph 527. Rosh on Betzah chapter 2, paragraph 1. Ha-Ittur, Hilchot Yom Tov, page 147c. One is not to set up an "Eruv Tavshilin" on Yom Tov which falls on Erev Shabbat. Even if one does set up it up, he cannot cook on the first day of Yom Tov for Shabbat. This is done so that people will not take the festival lightly.

<sup>241</sup>Teshuvot of the Rashba, volume 1, paragraph 685. The second day of the festival which falls on Erev Shabbat is like a regular day. How can one prepare on Yom Tov for Shabbat should the ordinary day stop?

<sup>242</sup>Nishnah Torah, Hilchot Yom Tov, chapter 6, halacha 14.

<sup>243</sup>B.T. Betzah 4b.

with an alley on conditions. But the Rosh did not write thus.<sup>244</sup>

665. Harav Yeshayah wrote that it is forbidden to fast on Motzel Shavuot, even in this time for this is "Issru Chag".<sup>245</sup> The Torah said they made an "Issru Chag".<sup>246</sup> And the Yerushalmi calls "Issru Chag", "Barei d'mo'ada", (i.e., sons of the festival). And it is forbidden to say Tziduk Ha-Din unless (it is) said privately. From Shibbolei Ha-Lekket.<sup>247</sup>

666. There are those who say that one needs to make three meals on Yom Tov, and the Rambam writes likewise. But the Rosh did not write thus.<sup>248</sup>

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<sup>244</sup>Tur, Orach Hayyim paragraph 528. Beit Yosef, paragraph 528. Beit Yosef reports that there is a disagreement over whether or not "eruv" can or cannot be set up on the first day of festivals. Rambam says no, but Ravad says yes and that the Rambam is mistaken. Ran and Rashba say yes and that Rambam's prohibition is not actually his. As well, they say that it is possible to set up and "Eruv Tavshilin" for a neighbor on the first day of a festival.

<sup>245</sup>Issru Chag. See glossary.

<sup>246</sup>B.T. Sukkah 42b.

<sup>247</sup>Shibbolei Ha-Lekket, paragraph 262. Tosafot to Rosh Hashanah 19b. Beit Yosef, paragraph 494.

<sup>248</sup>Tur, Orach Hayyim, paragraph 529. It is possible that Rambam was not accustomed to this. See: Mishnah Torah, Hilchot Shabbat, chapter 30, halacha 9. It does not specify that three festival meals were to be prepared. It only says that the meals for Shabbat were to have two loaves and wine and likewise the festival meals.

### HILCHOT HOL HA-MOED

667. Rabbenu Tam says: "All the verses which prohibit work during Hol Ha-Moed<sup>1</sup> are merely used as supports for Rabbinical enactments." If it (the prohibition) were Toraitic, then the sages would not have distinguished between matters involving monetary loss and those which do not. And HaRav Eliezer of Mainz wrote, in Sefer Ha-Yere'im, that Hol Ha-Moed is a Toraitic prohibition. Mordechai, first chapter of Moed Katan.<sup>2</sup>

668. In my master's explanations on Moed Katan I found that Hol Ha-Moed is a Toraitic prohibition. But there are some

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<sup>1</sup>Hol Ha-Moed. See glossary.

<sup>2</sup>Tosafot to B.T. Hagigah 18a, s.v. "its intermediate day". Rosh on Moed Katan, chapter 1, paragraph 1. Sefer Yere'im, paragraphs 304, 417, and 418. Mordechai, first chapter of Moed Katan, paragraph 835. Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 690. We find in the gemara of Hagigah 18a arguments both for allowing and forbidding labor during Hol Ha-Moed. Both arguments use scriptural prooftexts. One argument says that it is up to the sages to decide how the prohibition applies, for the prohibition against work does not apply uniformly during all of Hol Ha-Moed. Tosafot tells us of how those who wished to prohibit find support in scripture. Hol Ha-Moed was called the "Holy Convocation" because sacrifices for the festival could be offered during the intermediate days. Thus it was though that work should be forbidden so that one would not consider these intermediate days as merely regular work days.

who bring proof from the Yerushalmi that it is a rabbinic ordinance.<sup>3</sup> Shibbolei Ha-Lekket.<sup>4</sup>

669. One who arrives from abroad before the festival, if he solely went to travel (and not for any vital purpose), he may not shave during the festival, because this is not a case of coercion. But Ravad explained that even if he merely went for the purpose of travelling (he is permitted to shave). When they said, "one may not shave," they meant only while traveling from Eretz Yisrael to a foreign land. But, if the travelling is done entirely within Eretz Yisrael or within a foreign land, even while going to travel he may shave.<sup>5</sup> What of shaving the upper lip from here to here (from one corner of the mouth to the other)? If it causes inconvenience (not to shave) he shaves and if not, he does not shave. And the

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<sup>3</sup>Yerushalmi, Moed Katan, chapter 2, halacha 1. "As to the intermediate days of a festival, since it is permitted to work, sages have permitted only labor in connection with what would perish on the condition that it is not burdensome labor." It seems that the Yerushalmi feels that the prohibition against work comes from scripture, but the exceptions are rabbinical. The proof that the Agur speaks of is, if the exceptions are rabbinical then the prohibition itself must be rabbinical for the rabbis could not override a prohibition which was from the Torah.

<sup>4</sup>Shibbolei Ha-Lekket, paragraph 221.

<sup>5</sup>B.T. Moed Katan 14a. Ravad, cited by the Rosh on Moed Katan, chapter 3, paragraph 1. Tur, Orach Hayyim, paragraph 531. Some possible reasons for the prohibitions regarding shaving during Hol Ha-Moed are that one who traveled may not have had the permission of the rabbis to travel so close to the festival. Thus one may have risked not arriving home in time for the festival. But for some voyages it is permitted to shave during Hol Ha-Moed because of the reason that the voyage was undertaken. If one went for business reasons or "to earn his bread" then the prohibition does not apply because the traveler needed to go.

Ravad wrote that even what is on the upper lip he shall not shave unless he is caused inconvenience. But the Rosh disagrees.<sup>6</sup>

670. It is permitted to trim nails. There is no distinction between fingernails and toenails.<sup>7</sup> Rabbi Yitzchak, the Or Zarua, explained, "This means only that (one may trim nails) with a knife, but not with scissors." And HaRav Baruch went farther and forbid (cutting nails) with a knife. And Rav Alfasi permitted it even with scissors and the Rosh wrote likewise. Language of the Tur.<sup>8</sup> And likewise, my teacher, may he be exalted, and also HaRav Avraham bar Yosef, from the family of the children of Sirkin. And Rabbenu Yeshayah forbid it with a nail cutter. And Ba'al Ha-Terumot forbid a woman to cut her nails at the time of her immersion, for it was sufficient to pick out the dirt. And she who wishes to be stringent will cut her nails with her teeth or in an unusual manner, or the gentile maidservant will cut (them) for her, and it is proper to do so. And thus I found in the

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<sup>6</sup>B.T. Moed Katan 18a. Rosh on Moed Katan, chapter 3, paragraph 20. Torat Ha-Adam, "Inyan Tisporet". Tur Orach Hayyim, paragraph 531. The Rosh permits shaving the upper lip whether or not there is inconvenience. He seems to agree with the lenient ruling in the Talmud.

<sup>7</sup>B.T. Moed Katan 17b. The fingernails could be cut because they were visible. But R. Anan b. Tahlfia said that there was no distinction between the two and that neither ought to be cut.

<sup>8</sup>Tur, Orach Hayyim, paragraph 532. Rif on Moed Katan, paragraph 997. Rosh on Moed Katan, chapter 3, paragraph 19. Rif allows one to trim their nails during Hol Ha-Moed and during the 30 day mourning period. This follows the lenient view of Shmuel and R. Yose in Moed Katan 17b-18a.

name of Riva, and HaRav Zarachayah Ba'al Ha-Meor wrote likewise who did not hold like those who permitted (the cutting of nails) with a nail cutter during moed. Shibbolei Ha-Lekket.<sup>9</sup>

671. It is permitted to wash towels which people use to dry themselves outside the bath-house, childrens' clothes, and all linen clothing during moed.<sup>10</sup> But the Rosh wrote that they are not accustomed to this and thus he did not permit it.<sup>11</sup>

672. "He who has but one tunic, even if it is not (made of) linen, is permitted to wash it."<sup>12</sup> But Sefer Mitzvot Ha-Katan forbids (it) "unless his belt testifies for him (that he has only one tunic)." And HaRav Peretz<sup>13</sup> went further and forbid (washing) all our tunics which do not have a belt to testify for him. And, all the more so, for whomever has but one tablecloth or one bedsheet, he does not

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<sup>9</sup>B.T. Moed Katan 18a and Tosafot, s.v. "with a nailcutter". Sefer Ha-Terumah, paragraph 104. Shibbolei Ha-Lekket, paragraph 231. Tosafot explains that a nailcutter implies an instrument that is specifically made for that purpose. With such an instrument it is forbidden to cut nails. The decision from Sefer Ha-Terumah deals with a woman who is in her period of niddah. If it does not occur during Hol Ha-Moed she may pick out the dirt from under her nails only. If it occurs during Hol Ha-Moed a female servant may cut her nails for her so that she may be presentable for the festival.

<sup>10</sup>B.T. Moed Katan 18a. Yerushalmi, Moed Katan, chapter 3, halacha 2. The Yerushalmi allows childrens' clothing to be washed, for children are likened to those who only have one garment to wear.

<sup>11</sup>Rosh on Moed Katan, chapter 3, paragraph 21. Tur, Orach Hayyim, paragraph 534.

<sup>12</sup>B.T. Moed Katan 18a.

<sup>13</sup>This is probably R. Peretz bar Eliyahu of Corbell also known as the Raf. Died: 1295.

wash them for there is no proof (that those are the only ones in his possession). Language of the Tur.<sup>14</sup>

673. Rav Yitzchak bar Ya'akov sent (this responsum): "All flax garments are forbidden for laundering during Moed."<sup>15</sup>

And Rav Alfasi ruled that it is the halacha and thus decided another gaon. And another (second) gaon ruled that it is forbidden to wash them. Shibbolei Ha-Lekket.<sup>16</sup> Rabbenu

Yitzchak bar Asher<sup>17</sup> wrote, "From this it is understood that a person is forbidden to fix his shoes if they are torn during moed, for they only permitted repair to pilgrims during Temple days. This is from a teshuvah of Rashba."<sup>18</sup>

674. One should be careful not to command a skilled gentile craftsman to repair one's clothes or shoes during Moed. Although there is an excuse to say that if he would not

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<sup>14</sup>Tur, Orach Hayyim, paragraph 534. Sefer Mitzvot Ha-Katan, paragraph 195. A belt proves the plight of the individual who has only one tunic, for when he washes it he fastens it to his belt so that he will not expose himself while washing it. If he had more than one tunic he would change first. Thus one cannot wash anything, during Hol Ha-Moed, which does not have a belt, such as a tablecloth or a bedsheet for there is no way to verify that it is the only one that the person owns.

<sup>15</sup>B.T. Moed Katan 18a. Flax or linen garments may be washed during Hol Ha-Moed in contrast to clothing made of wool which requires more skill and effort in the cleaning process.

<sup>16</sup>Shibbolei Ha-Lekket, paragraph 228. Ritz Giat, volume 2, page 25, in the name of Rav Natronai and Rav Palatal.

<sup>17</sup>Also known as Riva. Born: Second half of the 11th century. Died: c. 1130.

<sup>18</sup>Sh'ellot and Teshuvot of the Rashba, volume 7, paragraph 294. Shibbolei Ha-Lekket, paragraph 227. One may buy new shoes during Hol Ha-Moed but one may not repair shoes. One may not even ask a gentile to repair the shoes. Such labor is considered servile labor which is forbidden during Hol Ha-Moed.



repair them they would be torn and spoiled and hence it would be a case of financial loss, according to the explanation of Rabbenu Hananel, in any case one should not be lenient. As for "monetary loss", Rabbenu Tam explained<sup>19</sup> that in that manner this not called a "monetary loss" but rather, a loss because of much damage or spoilage. And Ravan, Rabbenu Yoel, and his son Ravya ruled to permit (having one's shoes repaired) when they became torn during Moed. But Riva had doubt in the matter.<sup>20</sup>

675. (It is forbidden) to comb horses (during Hol Ha-Moed).<sup>21</sup> Rashi explained (this as meaning) scraping and

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<sup>19</sup>Tosafot on Moed Katan 10b, s.v. "concerning". The gemara says that when there is a monetary loss with regards to making a business deal during Hol Ha-Moed it is possible to make the deal. Rabbenu Tam says that if the deal involves something that may be spoiled or damaged if the deal were not to be completed during Hol Ha-Moed, it is permitted to complete the deal. The Agur would seem to stretch this allowance to cover the repair of clothing and shoes which were damaged and could be damaged further if they were not repaired during Hol Ha-Moed.

<sup>20</sup>Mordechai, first chapter of Moed Katan, paragraph 844. Ravya, volume 2, paragraph 821. Teshuvot of the Maharam, paragraph 226. Hagahot Maimuniyot, Hilchot Yom Tov, chapter 8, halacha 5. The Mishnah Torah allows one to catch mice which are spoiling trees in a field. Later poskim brought this as evidence that it was permitted to repair broken shoes during Hol Ha-Moed. Ravya wrote that shoes which were broken during Hol Ha-Moed or before this period because of an unavoidable accident and not as a result of labor may be repaired even if the damage was minimal. Riva had doubt in this case because R. Yose b. Rabbi Yehuda (Pesachim 55b) said in response to a mishnah which ruled that only tailors, hairdressers, and washermen may labor on Erev Pesach until midday, that shoemakers are included because pilgrims, who traveled to Jerusalem for the festivals, repaired their shoes during Hol Ha-Moed. (see Deuteronomy 16:16) Riva interprets this literally and rules that only pilgrims should repair their shoes during Hol Ha-Moed, but not anyone else.

<sup>21</sup>B.T. Moed Katan 12b and Rashi, s.v. "to comb horses".

currying (with an iron comb). But there is a difficulty regarding this, for this is permitted in chapter two of Betzah.<sup>22</sup> Therefore, it seems that what is prohibited is what we call the "streigel" (i.e., a curry-comb), which is certainly forbidden on Yom Tov for it is inevitable that it would cause the removal of hairs. Mordechal, first chapter of Moed Katan.<sup>23</sup>

676. According to Rav Alfas, who holds that labor during Hol Ha-Moed (is forbidden) is a Toraitic prohibition, it is forbidden to return a hen to her eggs if she was not sitting on them three days (prior) or even if she was sitting on them three days and there are three says where she escaped and returned to it.<sup>24</sup>

677. It is permitted to coat (a jug) with pitch during Hol Ha-Moed whether it is a large jug or a small vessel that is for drinking. But there are those who forbld (doing) this to small vessels, but permit (doing this) to large vessels. And the Rosh wrote, without any explanation, to permit this and he made no distinction. Language of the Tur.<sup>25</sup>

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<sup>22</sup>Chapter two of Betzah. This note is missing from the critical text.

<sup>23</sup>Mordechal, first chapter of Moed Katan, paragraph 845.

<sup>24</sup>B.T. Pesachim 55b. Tur, Orach Hayyim, paragraph 536. A hen is only returned to her eggs within three days of leaving them. But if she is brooding three days before she leaves (i.e., getting on and off) she may be put back on her eggs to keep the financial loss from the eggs spoiling to a minimum. Rabbenu Tam has a differing position. He says that even three aster her leaving her eggs we return her to them.

<sup>25</sup>B.T. Moed Katan 12a. Tur, Orach Hayyim, paragraph 538. Rosh on Moed Katan, chapter 2.

678. Business is analagous to a "matter of financial loss" and is permitted (during Hol Ha-Moed).<sup>26</sup> Rabbenu Tam (wrote), concerning business transactions of which opportunity occurs during Moed and does not occur after Moed-even so, it is forbidden. And Riva wrote likewise. Mordechal, first chapter of Moed Katan.<sup>27</sup> But Sefer Yere'im prmits it. And likewise Shibbolei Ha-Lekket.<sup>28</sup> And the custom is that we do not protest against those who do it. But, may a blessing come to the one who is stringent.<sup>29</sup>

679. How do we know that it is permitted to buy wine during the Moed which is not needed for the Moed? If the reason is because it will rise in price after the moed and now one can buy it cheap, this is not a case of "financial loss", but an opportunity that has not yet occurred-which is forbidden. Therefore, Rabbenu Tam does not permit this. And the Rashba<sup>30</sup> kept silent from saying whether it was forbidden or it was permitted, on the grounds that it was better that they (the community) would sin unintentionally rather than

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<sup>26</sup>B.T. Moed Katan 10b and Tosafot, s.v. "concerning". Rabbenu Tam defines what is a risk of financial loss. If something must be sold or it will spoil or be damaged, then business may be done in order to avoid financial loss.

<sup>27</sup>Mordechal, first chapter of Moed Katan, paragraph 846.

<sup>28</sup>Shibbolei Ha-Lekket, paragraph 222. Sefer Yere'im, paragraph 304.

<sup>29</sup>Darchei Moshe, paragraph 539. "And the Agur wrote that the custom is that one does not wear out by hand what is made. And we are accustomed to permit it. But the stringent one will have a blessing come upon him."

<sup>30</sup>In Mordechal it reads, "Rashbam".

intentionally. But the truly observant should be careful.  
Mordechai, second chapter of Moed Katan.<sup>31</sup>

680. Rabbenu Shlomo ben Ha-Yatom<sup>32</sup> wrote in his commentary<sup>33</sup> regarding wine production during Hol Ha-Moed, regarding whether one needs to drink of it during Moed: "The people are accustomed to being lenient. But I do not know from where there is (textual) evidence to permit it. Certainly if it is a matter of financial loss, for example, if a man has an orchard or something similar, it is permitted. And even if you will say that it is permitted to buy (wine), in any case it should be done secretly. But in a place where there is no worry of financial loss one should not be lenient." But my master does not say that it is either forbidden or permitted.  
Shibbolei Ha-Lekket.<sup>34</sup> Rabbenu Gershom, may his name be for a blessing, explained that if one would have loss if he did not engage in this commerce (i.e., sell what he had made for a profit) then he may make (new wine). And Rabbi Natan wrote in a responsum: "Whoever has merchandise in his possession, it is permitted for him to deal privately in his house during

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<sup>31</sup>Mordechai, second chapter of Moed Katan, paragraph 853.

<sup>32</sup>Rabbenu Shlomo ben Ha-Yatom. Italian sage who lived in Apulia during the late 11th and early 12th centuries. He was a contemporary of the Rid.

<sup>33</sup>Commentary to Moed Katan. Also known as Commentary on Maskim. Editor Tz'vi Peretz Ha-Yot. Berlin, 1967.

<sup>34</sup>Shibbolei Ha-Lekket, paragraph 221. A person would not need to drink the wine that is made because he already bought or made a sufficient amount before the festival. In a case where financial loss is certain if the grapes of the vineyard are not made in wine during Hol Ha-Moed, it is permitted to make wine. But no evidence is found by the sages to support one who buys more wine during Hol Ha-Moed.

Hol Ha-Moed. Even on Shabbat it is a minor prohibition, therefore, it is permitted to do this secretly (during Hol Ha-Moed). And likewise wrote Ba'al Ha-Yere'im: "Only in the marketplace where there is hardship (is it forbidden), but in one's house it seems that it is permitted." Shibbolei Ha-Lekket.<sup>35</sup>

681. I found, in the name of Rabbi Yitzchak bar Yehuda, it is permitted to rivet the iron of a horseshoe, or to fix it for the need (of the horse) by means of a gentile craftsman. But one commentator explains that it should be forbidden.<sup>36</sup>

682. On the subject of (making) a loan to gentiles, with interest (during Hol Ha-Moed), there are those who say that it resembles business, and Rabbenu Tam permits it. And most people are accustomed to permit it. And it is not in my

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<sup>35</sup>Shibbolei Ha-Lekket, paragraph 221. Sefer Ha-Yere'im, paragraph 304. If there is a case where something will be more expensive after the festival, it is permitted to buy it during Hol Ha-Moed, for it is likened to a case where financial loss is possible.

<sup>36</sup>B.T. Moed Katan 10b and Tosafot, s.v. "to trim". Rosh on Moed Katan, chapter 1, paragraph 20. Shibbolei Ha-Lekket, paragraph 223. Ha-Pardes, paragraph 152. Ravya, volume 2, paragraph 821. Mordechai on Moed Katan, paragraph 845. Machzor Vitry, paragraph 85. Tur, Orach Hayyim, paragraph 536. The permission in the Talmud is to trim the hooves of a mule which turns a mill during Hol Ha-Moed. Tosafot extended this permission to include fixing a horseshoe. It explains that there were no horseshoes during the days of the Talmudic sages, thus they could not conceive that this should be allowed. From the Tosefta which Rosh cites it would seem that fixing a horseshoe could be considered a type of healing that is not to be withheld from a domesticated animal during Hol Ha-Moed. Shibbolei Ha-Lekket cites this as a case of possible financial loss. If the horse needs new shoes, is in pain, and there is the threat of its going lame, thus causing its owner to buy another horse; it is permitted to fix its shoes.

power to forbid (it), but the stringent (person) will have a blessing come to him. And I am accustomed to say to lenders with regards to (lending with) interest during Hol Ha-Moed, that they should take the first week's interest from gentiles immediately and spend it for the need of Moed and the Joy of Yom Tov. But the Maharam wrote that it is permitted to loan only to one's friends, if he will lend to them free of the first week's (interest). And the Rosh permitted (lending) to one's acquaintances, even if he would take the first week's interest from them. And this is the wording of his teshuvah: "In Ashkenaz one who fears the word of God refrains from lending to gentiles with interest during Hol Ha-Moed. But I permitted my own household to lend to gentiles who ordinarily come to borrow at my house, for if my household will not lend to them, then they shall go to another place and borrow. And they shall be used to going to them (other lenders) and there shall be a financial loss." End of quotation.<sup>37</sup>

683. It is permitted to build a small bench or a trough of stones (mattress box) during Hol Ha-Moed for the need of

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<sup>37</sup>Tur, Orach Hayyim, paragraph 539. Sh'eillot and Teshuvot of the Rosh, kelal 23, perat 10. Maharam, quoted in Tashbatz, paragraph 166. Tosafot to Moed Katan 10b, s.v. "any business transaction is forbidden". Mordechai on Moed Katan, paragraph 847. Rabbenu Tam permits loans with interest to be made to gentiles during Hol Ha-Moed, for he says that it is not like a business transaction where a profit is to be made. But the Maharam says that it is like a business transaction, and thus forbids the making of loans during Hol Ha-Moed. But if there will be a financial loss if the loan is not made, he permits it.

Moed.<sup>38</sup> And HaRav Peretz wrote that there are those who define "Atz'tavah" as a structure that they make from stones or mud. But, this is incorrect, since this is a true act of building (which is forbidden during Hol Ha-Moed), rather it seems to me that "Atz'tavah" is a trough, (i.e.), like a type of bench which one saws and to which we join legs. And the Rosh wrote, without explaining what "Atz'tavah" is, to permit it; even if it involves building.<sup>39</sup>

684. It is forbidden to write tefillin or mezuzot<sup>40</sup> during Hol Ha-Moed, for others, for a fee. But for oneself, or for others for free, or even for a fee in order that he will be able to have a greater profit to spend for the joy of Yom Tov, it is permitted;<sup>41</sup> even if he has something to eat (without making the extra money). For if he does not have anything to eat, any and all labor is also permitted. But this applies only to tefillin and mezuzot because it is a mitzvah, for even during Hol Ha-Moed one needs to put on tefillin and say a blessing over them. And thus the Rosh was accustomed (to allow this), but it is forbidden to write other books.<sup>42</sup>

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<sup>38</sup>B.T. Moed Katan 10b. A stone trough is also considered as a low seat on which one may lounge.

<sup>39</sup>Tur, Orach Hayyim, paragraph 540. Annotation in Sefer Mitzvot Ha-Katan, paragraph 195.

<sup>40</sup>Tefillin and mezuzah. See glossary.

<sup>41</sup>B.T. Moed Katan 18b. One may write parchment for tefillin or mezuzot as a favor to others.

<sup>42</sup>Tur, Orach Hayyim, paragraph 545. Should one need to labor during Hol Ha-Moed in order to gain money to support himself and his family by writing parchment for tefillin and mezuzot, it is permitted.

685. There are those who forbid a person to send a letter of good tidings to his friend, and there are those who define "Iggeret Reshut" as government documents.<sup>43</sup> But Halachot Gedolot writes, "The rabbis define 'Iggeret shel Reshut' as a non-obligatory, but not as a summons to court (i.e., a government document)." And the Rosh wrote according to the first opinion. Language of the Tur.<sup>44</sup> Regarding "Iggeret shel Reshut", there are some who define this as a wish of good tidings, for since one does not write one's needs, there is no trouble involved. And likewise in the Yerushalmi.<sup>45</sup> And likewise Rav Alfasi and Rabbenu Hananel. And in (several) teshuvot I found<sup>46</sup> (that) when one wants to write to a place where caravans go only two times during the year, it is permitted to write. But, when one does not have any (pressing) need or when there is no war, writing is

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<sup>43</sup>B.T. Moed Katan 18b.

<sup>44</sup>Tur, Orach Hayyim, paragraph 545. Tosafot on Moed Katan 18b, s.v. "letters". Halachot Gedolot, Hilchot Moed. Rosh on Moed Katan, chapter 3, paragraph 22. Tosafot defines "private letters" as does the Yerushalmi as "letters of good tidings". But there are those who define them as government documents.

<sup>45</sup>Yerushalmi, Moed Katan, chapter 3, halacha 3. Official decrees: this refers to a greeting.

<sup>46</sup>Halachot Pesukot, paragraph 156. Sha'arei Teshuvah, paragraph 217. Teshuvot Geonim Kadmonim, chapter 41, paragraph 1. Teshuvot Geonim: Editor Harkabi, paragraph 368. Rav Natronai, in Sha'arei Teshuvah, gives an example of a letter of good tidings; where the head of a diaspora community wrote to the governor and received permission to travel to Eretz Yisrael to study. In Teshuvot Geonim it is defined as official documents. Similar to these letters, which a person sends to another person are those in which he writes about some type of business negotiations, or just to send greetings.



forbidden. But, even Rabbenu Mordechai, may his memory be for a blessing, permitted it.<sup>47</sup> And Rabbenu Avigdor wrote, regarding letters, "If one writes about engaging in business which is not sold, or other commercial matters, even if one writes in an unusual way, (such as) in a circle, it is still forbidden." And thus the students of Rabbenu Baruch bar Asher in the Tosefta to Moed Katan.<sup>48</sup> And thus I saw in writing, that HaRav Tuvia asked HaRav Shlomo of Speyer, may his memory be for a blessing. Shibbolei Ha-Lekket.<sup>49</sup>

686. There are those who permit one to write (a letter during Hol Ha-Moed) by hand, by means of a variation; in a circle or by twisting (curving). But Riva forbade it. And thus wrote the Mordechai.<sup>50</sup> Because it is forbidden to correct (even) one letter (of a Torah scroll), all the more so, (it is forbidden) for one actually to write. And even

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<sup>47</sup>In Shibbolei Ha-Lekket: Rabbenu Yitzchak bar Mordechai.

<sup>48</sup>In Shibbolei Ha-Lekket: Students of Rabbenu Yitzchak bar Asher, may his memory be for a blessing, in Tosafot to Moed Katan.

<sup>49</sup>Shibbolei Ha-Lekket, paragraph 225. Beit Yosef, paragraph 545. One who is in a place where the government meets only two times a year may write to them during Hol Ha-Moed. But, this is possible only if he has some type of need or wants to inquire about something, or request some type of action from the government at that time. Beit Yosef states that on this issue all the major poskim agree that one can write a letter of good tidings or even one concerning business matters during Hol Ha-Moed. But Beit Yosef notes that the Agur seems to dispute this and feels that in the case of business letter it is forbidden.

<sup>50</sup>Mordechai on Moed Katan, paragraph 859. It is forbidden to make even a small corrective mark in a Torah scroll. Therefore all writing is forbidden during Hol Ha-Moed. Mordechai seems to forbid writing even by means of a variation because of the possibility of making a mistake and the need to correct it.

that which one writes in reverse, (i.e.), from the other side, it appears while the first side does not appear, he forbade (this). He only permitted writing with defective letters and the yod which one makes with one mark. And there are those who make it like a small circle. And the Rosh wrote teshuvot regarding questions about Hol Ha-Moed and permitted me to make a copy, for (it was a matter) of financial loss.<sup>51</sup>

687. Relatives of a person who has died tear (their clothing), even on the day on which they hear about the death, if they heard it within thirty days, and they supply food to the mourner. However, they do not supply food to the mourner except upon upright couches, for no mourning rites are observed during Hol Ha-Moed where one is required to overturn couches and feed mourners (who sit) upon them. But Sefer Mitzvot Ha-Katan wrote that they (those who hear the news of a death) do not tear (their clothing) and do not feed (the mourners) during Hol Ha-Moed. But the Rosh wrote according to the first opinion.<sup>52</sup>

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<sup>51</sup>Tur, Orach Hayyim, paragraph 545. Ha-Pardes, paragraph 304. Sh'ellot and Teshuvot of the Rashba, volume 3, paragraph 273. Rashba deals with the question of whether a periodic financial report may be written up during Hol Ha-Moed. He rules that it cannot, for it does not seem to him that an account report has anything to do with immediate financial loss.

<sup>52</sup>B.T. Moed Katan 24b. Tur, Orach Hayyim, paragraph 547. Sefer Mitzvot Ha-Katan, paragraph 195. During Hol Ha-Moed one is not permitted to chant or lament for the dead. (likewise on Rosh Hodesh) During Hol Ha-Moed mourning rites are suspended until after the festival.

688. One does not dig a tomb-niche for a grave during Hol Ha-Moed.<sup>53</sup> And the Ravad explained, "Even to bury (someone) in them during Hol Ha-Moed, but if it was long, one may shorten it or lengthen it, or widen it." But Rashi explained, "One does not dig a tomb-niche or graves (during Hol Ha-Moed) to bury (someone) in them after the festival. But, (if you would) bury someone in the during Hol Ha-Moed, one may dig them." And the Rosh agreed with this.<sup>54</sup>

689. Halachot Gedolot wrote, "He who dies on one of the days of a festival or during Hol Ha-Moed, except for the last day, it is customary not to observe mourning rites for the deceased during the festival, until the entire festival has passed. However, the last day (of the festival) is counted (as a day of mourning) even though no mourning rites are observed on it, and (the mourners then) complete six days (of mourning). But, if one died on the last day (of a festival), mourning rites are observed for him." And Rav Alfasi wrote likewise. But, Rabbenu Tam wrote that even if one died on the last day of a festival, one does not observe mourning rites for him because mourning rites are not observed during

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<sup>53</sup>B.T. Moed Katan 8b. New tomb-niches may not be dug into the wall of a cave during Hol Ha-Moed, but existing ones may be refashioned.

<sup>54</sup>Tur, Orach Hayyim, paragraph 547. Ravad, cited by the Rosh on Moed Katan, chapter 1, paragraph 13. Torat Ha-Adam, "Sha'ar Ha-K'vurah". Yerushalmi, Moed Katan, chapter 1, halacha 6. Ravad points out that while one may not dig a tomb-niche during Hol Ha-Moed, one may dig a grave for the immediate need of the body. He derives this from the Yerushalmi.

Moed, except for (the rites of) aninut.<sup>==</sup> For if one died during Hol Ha-Moed, all the things forbidden to an "Onen" are indeed forbidden. And if one died on Yom Tov, if one does not want to bury him on that day, he needs not to do things considered part of aninut.<sup>==</sup>

690. If the first day or the sixth day of one's shiva period

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<sup>==</sup>Aninut. See glossary.

<sup>==</sup>Tur, Orach Hayyim, paragraph 548. Halachot Gedolot, Hilchot Moed. Rif on Moed Katan, paragraph 1,198. Rosh on Moed Katan, chapter 3, paragraph 3. Tosafot on Moed Katan 24b, s.v. "words of". The rules for calculating the days of shiva (the first seven days of mourning) and the "sheloshim" (the next 30 days of mourning) are somewhat involved. The shiva period begins immediately after the burial of the deceased. It ends on the morning of the seventh day, immediately following morning services. Jewish tradition considers a fraction of a day as a complete day. Thus, even though the first day of shiva begins after the burial, which could take place just before sunset, it is considered as a complete day of mourning. Likewise, the seventh day is considered a full day of mourning, even though the shiva period ends after the morning service. Regarding the counting of the sheloshim period, the following rules apply: The counting starts from the day of burial; partial days are considered as full days, and the sheloshim ends after the morning service on the 30th day. Regarding how Shabbat and festival affect the shiva and sheloshim periods: Shabbat does not end the shiva period. Festivals cancel shiva because joy is mandatory during the festival. Even if shiva began only one hour before the start of a festival, it is considered as the equivalent of seven days of shiva. But, if a death occurred during the festival, shiva and sheloshim begin after the conclusion of the festival. If the shiva period ended on the morning before the festival began, then the entire sheloshim period is cancelled. If the festival interrupts the shiva period, not only is the shiva ended, but the festival days are counted towards the completion of the sheloshim period. Individual festival have special counting methods for the completion of the sheloshim period. (See The Jewish Way in Death and Mourning, by Maurice Lamm. Jonathan David Publishers, New York. pp. 93-95.)

falls<sup>57</sup> on "Erev Ha-Regel", it is permitted to wash (clothes) and to get a haircut (in honor of the festival). But, it is forbidden to bathe until the evening, and it is also forbidden to wear (the clean clothes) that one has washed until the evening. But Riva explained, just as it is forbidden to wear (what one has washed), thus is it forbidden to wash (clothes) during the entire day (before the festival). However, both of them (washing and wearing) are permitted close to the onset of darkness, and one does not need to wait until the evening. But the Rosh wrote according to the first opinion. But for one's father or mother (should they be the deceased person), it is normally forbidden to get a haircut (during the sheloshim period) until one's friends have rebuked him (that his hair needs to be cut).<sup>58</sup> Thus, even when the festival coincides with it (the sheloshim period) it does not cancel it. Sefer Mitzvot Ha-Katan wrote,<sup>59</sup> "Only when the festival occurs within the sheloshim period, but if the sheloshim has passed, and the festival starts, or even it the last day of the sheloshim period

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<sup>57</sup>B.T. Moed Katan 19b. In the Talmud we learn that one who buries his dead is allowed to bathe and wear clean clothes for three days in honor of the festival. In the gemara the rabbis have pinpointed the time when a mourner may again bathe as being first evening of the festival.

<sup>58</sup>B.T. Moed Katan 22b. Rosh on Moed Katan, chapter 3, paragraph 3.

<sup>59</sup>Sefer Mitzvot Ha-Katan, paragraph 97 in the chapter "Festival Rules". The festival cuts off the 30 day period whether it occurs in the middle of the sheloshim or on the final day of the sheloshim.

occurs on 'Erev Ha-Regel', one stops (the mourning rites), and it is permitted to shave."<sup>60</sup>

691. "If one hears near tidings on Shabbat."<sup>61</sup> Sefer Mitzvot Ha-Katan wrote that Shabbat counts for him as the first day (of the shiva period) and on the next day he rends his clothes, and the next Friday is his seventh day of mourning. But, HaRav Yechiel wrote that Shabbat does not count as the beginning (of the shiva period). Rather, one begins to count from Sunday and Shabbat would be the seventh day, and mourning rites, in private, are done for a fraction of the day. Language of the Tur.<sup>62</sup>

692. Regarding Tziduk Ha-Din, Rabbi Yitzchak wrote that it appeared to him to be suitable to say it for the deceased at the graveside, even on Yom Tov. For Tziduk Ha-Din is not like a eulogy which would not be suitable to say on Yom Tov. And, all the more so on Rosh Hashanah because it is the day of judgement. And for the deceased who is buried during Hol Ha-Moed, I saw in Machzor Vitry that my ancestor, HaRav

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<sup>60</sup>Tur, Orach Hayyim paragraph 548.

<sup>61</sup>B.T. Moed Katan 20b. Near tidings is news of a death which is heard within 30 days of a death. Distant tidings is news of a death which is heard after 30 days has passed. If one hears near tidings on Erev Shabbat, but he does not begin to mourn until Motzel Shabbat, the news becomes distant tidings. One then mourns for only one day. One does not need to rend his clothes except in the case of mourning for a mother or father.

<sup>62</sup>B.T. Moed Katan 20b. Sefer Mitzvot Ha-Katan, paragraph 97. Tosafot to Moed Katan 17b, s.v. "when it occurs". Sefer Mitzvot Ha-Katan takes a stringent position and rules that the seven days of the shiva period must be observed, even should near tidings become distant tidings after Shabbat. Shabbat may count as the first day of mourning.

Simcha, who was a student of Rashi's, wrote: "One time it happened that there were people there (at a funeral during Hol Ha-Moed) who protested regarding the matter of saying Tziduk Ha-Din (during Hol Ha-Moed). And Rashi stood on his feet and recited Tziduk Ha-Din and 'Kaddish Shalem'. Thus wrote Yitzchak bar Shmuel." Mordechai, first chapter of Moed Katan.<sup>43</sup>

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<sup>43</sup>Mordechai, first chapter on Moed Katan, paragraph 838. Machzor Vitry, pages 275-76. Ha-Pardes, paragraph 290.

## HILCHOT HAMETZ U'MATZAH

693. Rabbi Yonah wrote that if one began to study while it was still daytime on the 13th of the month (of Nisan), he does not need to stop (studying). But, it seems to me that if the reason is so that he will not become involved during his studies and forget to check (for leaven in his household), then there is no distinction; even if he began to study, he ceases.<sup>1</sup>

694. Ba'al Ha-Ittur wrote,<sup>2</sup> "There are those who say 'Shehechianu'<sup>3</sup> when they recite the blessing regarding the searching for hametz because 'from time to time it comes' (it is a seasonal mitzvah). And there are those who do not recite the blessing (Shehechianu) because the search for leaven does not have a set time. It follows, then, that it is optional and everyone who desires may recite the blessing."<sup>4</sup> And the Rosh wrote that one does not need to recite the blessing because the checking (for hametz) is for the need of the festival and we rely on the "Shehechianu" which is said during the festival (at the first seder over

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<sup>1</sup>B.T. Pesachim 4a. Tur, Orach Hayyim, paragraph 431. One must not begin studying during the evening period of the 13th of Nisan which breaks into the 14th of Nisan, for he may be so engaged in his studies that he will forget to search for leaven. The Tur advises that even if one has a set time for study during the day, he ought to search for leaven before he begins to study.

<sup>2</sup>Ha-Ittur, Hilchot Bi'ur Hametz, page 120c.

<sup>3</sup>Shehechianu. See glossary.

<sup>4</sup>In Ha-Ittur: And it follows that it is optional, and the custom is for us to recite the blessing.



the first cup of wine). Language of the Tur.<sup>5</sup> [(And regarding the recitation) of the "Shehechiyanu" over the searching for leaven, it is not the custom to say it.]<sup>6</sup> And Ba'al Ha-Divrot wrote that there are those who recite the blessing and there are those who do not recite the blessing because a time is not appointed for it. And our custom is to recite the blessing. Shibbolei Ha-Lekket.<sup>7</sup> But, everyone is accustomed not to say [Shehechiyanu].<sup>8</sup>

695. Rashi wrote, "With the first loaf (of bread) that one removes, one says the blessing regarding the removal of hametz." But in (various) teshuvot I found that when one says the blessing regarding the removal of hametz, he does not need to be concerned if he has not found anything (any leaven). But the correct (custom) is according to the words

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<sup>5</sup>Tur, Orach Hayyim, paragraph 432. Rosh on Pesachim, chapter 1, paragraph 10. The Shehechiyanu is not the blessing which is recited when one searches for leaven. It follows the blessing which ends, "...who has commanded us concerning the removal of leaven." The argument against saying the Shehechiyanu is that we only say this blessing for a festival or an occasion which has a set time and which occurs on its own. Searching for leaven is an act which is only done because of the coming of Pesach, thus it need not be said.

<sup>6</sup>The sentence in brackets is found only in an early manuscript of the Agur and is left out of later copies because it is repeated at the end of this paragraph.

<sup>7</sup>Shibbolei Ha-Lekket, paragraph 206.

<sup>8</sup>The Agur decides the dispute by means of what is the common German practice.

of Rashi. Shibbolei Ha-Lekket.<sup>9</sup> But everyone is accustomed to recite the blessing immediately (at the start of the search, whether he has found any hametz or not).

696. The Rosh wrote, "There are those who say that the searcher must not speak until he has finished the entire search. And there are those who add that if one speaks about general things that are not connected with the search (for hametz) he needs to say the blessing a second time." But all this does not seem correct to me; rather, one should be careful not to speak between the saying of the blessing and the beginning of the search. But, one who begins the conversation, does not constitute an interruption (and one does not have to say the blessing a second time). And it is good to be careful that one will not tarry with idle conversation. Language of the Tur.<sup>10</sup> And in teshuvot of the geonim (it says), that if one stops the search he needs to recite the blessing a second time. And thus said Adonainu,

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<sup>9</sup>Shibbolei Ha-Lekket, paragraph 206. Machzor Vitry, page 254. Ha-Pardes, paragraph 122. Sh'eilot and Teshuvot of the Geonim: Sha'arei Teshuvah, paragraph 87. One does not need to worry, for the one who comes after him will also need to say the blessing. Ha-Pardes says that should one bless before starting the search, one does not need to say the blessing again after finding hametz. One should bless at the start but not not speak again until the search is concluded. If one speaks before the search is concluded, he must go back and recite the blessing again.

<sup>10</sup>Tur, Orach Hayyim, paragraph 432. Rosh on Pesachim, chapter 1, paragraph 10. One ought not to speak after saying the blessing until the search for leaven is complete, so that one may better concentrate on the search and think of all the places where hametz may be found.

Ha-Gaon.<sup>11</sup> Mordechal, first chapter of Pesachim.<sup>12</sup> And thus wrote Rav Sa'adiah Gaon. And Rav Hai Gaon wrote that it is an inheritance for us from our ancestors that one should not engage in conversation until he has finished (the search for hametz), and whomever does not do thus has not fulfilled his obligation. This is the popular practice. And Ba'al Ha-Divrot wrote: "Some liken this to tefillin,<sup>13</sup> that if one makes conversation between the two tefillot, he recites the blessing again." But it follows that this does not resemble tefillin, for there are two (separate) mitzvot, but here, it is one (mitzvah) [yet, one should be stringent].<sup>14</sup> And thus I found according to another commentator that immediately after one begins his search for hametz, he has fulfilled the blessing and may engage in conversation according to his will. And, if after he has said the blessing, before he began to search, he engages in a conversation on the subject of the search, he does not need to say the blessing again. From Shibbolei Ha-Lekket.<sup>15</sup> But everyone is accustomed not

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<sup>11</sup>Sha'arei Teshuvah, paragraph 97. This is said in the name of Rav Hai Gaon.

<sup>12</sup>Mordechal, first chapter of Pesachim, paragraph 536.

<sup>13</sup>B.T. Menachot 36a. "Abaye and Rabba both said, 'It means, if he did not speak (between one tefillah and another) he must recite only one blessing, but if he did speak he must recite the two blessings.'"

<sup>14</sup>Editor's note: Thus it is written in the original manuscript and in Ha-Ittur and Shibbolei Ha-Lekket. But it is not printed in the rest of the manuscripts for it is repeated at the end of the paragraph.

<sup>15</sup>Shibbolei Ha-Lekket, paragraph 206. And example of an acceptable conversation is "Please give me a light."

to have a conversation regarding idle matters, but if one has a discussion he does not say the blessing again.

697. "High places where the hand cannot reach and low places less than three handbreadths high, one does not need to check (for hametz in those places)."<sup>16</sup> And the Yerushalmi<sup>17</sup> considers "high places" those places higher than ten handbreadths. But this does not seem correct, for a person's normal reach is higher than ten handbreadths, as Rashi explains.<sup>18</sup>

698. HaRav Peretz wrote, "With the nullification (of leaven which is said) at night, one should say, 'All (leaven) which is in my household which I did not see and which I did not remove.' And in the nullification (of leaven which is said) during the day he adds, '...that which I saw and that which I did not see, and that which I removed and that which I did not remove.'"<sup>19</sup>

699. One who sets off on a sea voyage or goes out with a caravan and does not intend to return, if he departs within thirty days before Pesach, he is obligated to destroy

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<sup>16</sup>B.T. Pesachim 5a.

<sup>17</sup>Yerushalmi, Pesachim, chapter 1, halacha 1.

<sup>18</sup>Tur, Orach Hayyim paragraph 433.

<sup>19</sup>Tur, Orach Hayyim, paragraph 434. Rif and Rosh on the beginning of Pesachim. Yerushalmi, Pesachim, chapter 2, halacha 2. Rashi on Pesachim 4a, s.v. "liable". After searching for leaven the formula called the nullification of leaven is recited. The search is to be done in the evening. The next morning when the leaven is burned the nullification is recited again with the addition.

leaven.<sup>20</sup> And on the subject of the blessing (that he should say), Ba'al Ha-Ittur wrote that the custom is if one knows that he has leaven (in his house) he should say the blessing, but if not he does not say the blessing. But it seems that even if he knows that he has (leaven in his house) he does not need to say the blessing, because nullification is, in essence, a mental procedure. Language of the Tur.<sup>21</sup> Sefer Or Zarua wrote<sup>22</sup> that whomever does not nullify (leaven) before the start of the sixth hour (on the 14th of Nisan) cannot nullify (leaven) any longer, for it was already forbidden for enjoyment and is no longer in his possession (i.e., he has no authority (ownership) over it).

700. If a mouse enters (a room) with a piece (of bread) in its mouth and a mouse leaves (a room) with a piece (of bread) in its mouth; or if a white mouse enters (a room) with a piece (of bread) in its mouth and a black mouse leaves (a room) with a piece (of bread) in its mouth; or if a mouse enters (a room) with a piece (of bread) in its mouth and a weasel leaves (a room) with a piece (of bread) in its mouth, or if the weasel leaves (a room) with both the mouse and the piece (of bread) in its mouth, the Talmud asks, in all of

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<sup>20</sup>B.T. Pesachim 6a. Tur, Orach Hayyim, paragraph 436. One needs to establish in his mind if he will return. If he shall not return within thirty days he does not need to remove leaven, but only to nullify it in his heart.

<sup>21</sup>Tur, Orach Hayyim, paragraph 436. Ha-Ittur, Hllchot Bi'ur Hametz, page 120a.

<sup>22</sup>Or Zarua, volume 2, paragraph 244.

(these situations),<sup>23</sup> if one needs to check (for leaven) or not. And of the many opinions regarding this, the most stringent ones<sup>24</sup> say that in all of the (the various situations), if one did not nullify (leaven) he needs to go back and check, because then it is a case of doubt over a Toraltic law. And if he did nullify (the leaven) it is a case of doubt over a rabbinic law and he does not need to check. It is also asked:<sup>25</sup> "A loaf (of bread) which is up near the rafters and one needs [a ladder] to bring it down, or a loaf (of bread) in a hole that one needs a ladder to bring it up; and if it is in the mouth of a snake and one needs a snake charmer to withdraw it," these questions are not answered. And also with these (situations) there are many opinions, and those judgements are like the judgements which hold that if one did not nullify (the leaven) one must search, but if he did nullify (the leaven) then he does not need to search. But the Ravad wrote that these questions are not a priori questions, whether one needs to remove it or not. Certainly one needs to, for if it is not so it would be like hiding leaven in holes. Rather, the case is that one has checked and nullified (leaven) and later, when Pesach has begun he finds leaven: the question is whether he needs to remove (the leaven) or not. But his words do not seem correct, for this does not resemble hiding, since he nullified it and it is not

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<sup>23</sup>B.T. Pesachim 10b.

<sup>24</sup>In the Tur: make clear.

<sup>25</sup>B.T. Pesachim 10b.

his. And, likewise wrote the Rambam regarding the loaf (of bread) that is in a hole: it is enough to nullify it. The Ravad wrote that he erred, but it seems that he did not err.<sup>26</sup>

701. If a gentile deposits his leaven with a Jew, if he is responsible for it, it does not matter if it is in his house or anywhere in his holdings, he is obligated to remove it.<sup>27</sup>

But Halachot Gedolot wrote that only if one is responsible for theft or loss (is he required to remove the hametz). And the Rambam wrote, "Even if he is an unpaid guardian and he is not responsible except for his negligence, even then he is obligated to remove it." And the Rosh agreed with this.<sup>28</sup>

702. When a Jew leaves his leaven with another Jew or with a gentile and the guardian accepts responsibility for it--there is a gaon who wrote that because he accepted responsibility for it, the depositor does not transgress regarding it (should the guardian not remove it when searching for leaven). But, HaRav Yonah explains that the depositor does

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<sup>26</sup>Tur, Orach Hayyim paragraph 438. Mishnah Torah, Hilchot Hametz, chapter 2, halacha 14.

<sup>27</sup>B.T. Pesachim 5b. Rosh on Pesachim 5b, chapter 1, paragraph 4. Because of the Biblical prohibition of not having any leaven in the household during Pesach, A Jew is permitted to remove the leaven that he may be holding for a gentile, but only if he is responsible for it. If not, he need not remove it, for it is not like his own property.

<sup>28</sup>Halachot Gedolot, Hilchot Hametz. Mishnah Torah, Hilchot Hametz, chapter 4, halacha 3. If a Jew accepts the responsibility for the bread then it becomes like his own property and he must remove it. If he takes no responsibility for it he may hold on to it. As well, he is allowed to eat it after Pesach.

transgress regarding it should he not remove it. And the Rosh agreed with this.<sup>29</sup>

703. If a gentile lent (money) to a Jew on his leaven (as collateral), and he took it as a pledge to possess it, and the Jew said to him, "From now it shall be yours if I do not repay you at the time that I have set for you." And should the time arrive and he did not repay him, he (the gentile) takes it for himself retroactively,<sup>30</sup> and it would be considered the gentile's leaven. But if one of these things was lacking (from the transaction), for example, if he did not take it (in pledge), or if he did not say, "From now", or if he repaid him in time, it is forbidden (for him to use the leaven). But when one of these three conditions exists, even if the time does not arrive, which the gentile set, until after Pesach it is permitted (for him to use the leaven). But HaRav Rabbi Ephraim wrote: "Only if the time arrives before Pesach (the Jew can use the leaven)." And thus wrote the Rambam, but the Ravad criticizes him; if the time arrives before Pesach but he has not repaid him, even if he did not say to him "From now", it is permitted (for him to use the leaven). And the Rosh agreed with this.<sup>31</sup>

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<sup>29</sup>Tur, Orach Hayyim, paragraph 438. Rambam and Rashba on Pesachim 5b.

<sup>30</sup>Even if Pesach occurs between the two dates the hametz is the gentile's property.

<sup>31</sup>B.T. Pesachim 30b-31a. Rosh on Pesachim, chapter 2, paragraph 10. Mishnah Torah, Hilchot Hametz, chapter 4, halacha 5. Tur, Orach Hayyim, paragraph 441.



704. Language (a quote) of my teacher, my father, Morenu HaRav Rabbi Yehuda Landau,<sup>32</sup> may his memory be for a blessing: "The Mordechal wrote, in chapter "Kol Sha'ah" (chapter two of Pesachim), in the name of Ravva,<sup>33</sup> that it is permitted for a Jew to lease his domestic beast to a gentile during Pesach for the purpose of carrying leaven from place to place. And in "Orach Hayyim"<sup>34</sup> (evidence) is brought from the Tosefta<sup>35</sup> which clearly permits this." But I found written in the Tosafot, HaRav Rabbi Moshe found in Teshuvot Ha-Geonim that they forbid (it) for it resembles the matter

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<sup>32</sup>Rabbi Yehuda Landau. Father of Ya'akov Landau, our author. He was born in Ashkenaz but settled in Italy. Died: 1464.

<sup>33</sup>Mordechal, on Pesachim, chapter 2, paragraph 549. Ravva, volume 2, paragraph 449.

<sup>34</sup>Tur, Orach Hayyim, paragraph 450. Belt Yosef, paragraph 450, s.v. "The Agur wrote". Belt Yosef says that while the Tur brings a tosefta as evidence to allow a Jew to lease his animal to a gentile during Pesach for the purpose of carrying leaven, others bring evidence from other sources, most notably the geonim and the Yerushalmi which do not allow this.

<sup>35</sup>Tosefta to Pesachim, chapter 2:14. It is permitted if, "...he found leaven on the way, if it is of sizable quantity, but if not, it is forbidden.

of "Yein Nesech"<sup>36</sup> and they are equivalent. Evidence is also brought from the Yerushalmi to forbid this.<sup>37</sup> And likewise, the Yerushalmi forbids one to rent his house (to a gentile) who shall place leaven in it during Pesach.<sup>38</sup> And it is plain that this means during Pesach or on Erev Pesach, for it is not reasonable (halachically) to forbid one to rent his house to a gentile thirty days prior to Pesach even if he knows that the gentile would bring leaven into the house during Pesach. And also during Pesach it does not seem (correct) to forbid (this) except when one (the gentile) explains that he rents it explicitly in order to bring leaven into it, for this resembles the leasing of an animal (to a gentile for the purpose of transporting leaven). But, renting it (the house), to dwell in it, even though he shall

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<sup>36</sup>B.T. Avodah Zarah 62a. Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 177. "Yein Nesech" is wine which is produced for use in pagan libations. It is forbidden for a Jew to drink it or to make such wine. Avodah Zarah prohibits a Jew from gaining a salary should he help a gentile prepare "Yein Nesech". R. Yochanan says that this is actually a penalty which the sages imposed upon donkey drivers in connection with "Yen Nesech". It was to show that although one could earn a wage from "Yen Nesech", one ought not to help in its preparation. The carrying of leaven during Pesach by an animal owned by a Jew, but leased to a gentile, is likened to the case of a Jew gaining a wage from the making of "Yein Nesech". It is meant to teach that it ought not be done. Rashba brings up a corollary which relates to this case. He rules that one should not rent out his house to a gentile whom he knows will bring leaven into the house during Pesach. Likewise, do not lease your animal for the purpose of carrying leaven.

<sup>37</sup>Yerushalmi, Pesachim, chapter 2, halacha 2. A special tax is imposed upon a Jew who leases his animal to a gentile for the purpose of carrying leaven. This proves that it ought not be done.

<sup>38</sup>Yerushalmi, Pesachim, chapter 2, halacha 2.

certainly bring bring leaven into it, this is not forbidden because of this (the bringing of leaven into the house)." End of quotation.

705. My teacher, my father, may his memory be for a blessing, was asked about wheat which was spread by the owner under the roof and water dripped through the roof and flowed onto the grain, onto part of it until there was so much water on it that it became moist enough to moisten other objects. And he replied that Rabbi Eliezer of Metz and Riva were stringent and they said, in connection with wheat, if there is (on the wheat), plenty (an abundance) of water, even if the grains are not split open, it is forbidden.<sup>39</sup> For with wheat there is no need for it to be broken on account that it is hardened so that it does not burst. Anyway, we rely upon the permit which Ravva wrote, and which Ha-Mordechai Ha-Aruch quotes,<sup>40</sup> who permits the eating from part of it before Pesach or selling (it) to gentiles bit by bit. And the remainder is permitted because of a double doubt: a) lest water did not drip upon it, and b) it did not split open. But with regard to the lowermost portion of the wheat which is closest to the floor of the attic, certainly the water dripped there until it reached the width of a finger or half a finger. One throws (it away). But with the remainder, it is permitted to keep it in the house, but not to eat from it

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<sup>39</sup>Wheat which has been saturated with water is liable to become leavened.

<sup>40</sup>Ravva, volume 2, page 4, paragraph 412.

during Pesach, for the purpose of "let it not be seen",<sup>41</sup> the suspect grains are nullified by the majority; but in connection with eating, which is forbidden if any amount is hametz, we are not lenient.<sup>42</sup> End of quotation.<sup>43</sup>

706. Anything which is not pure hametz, but is made with a mixture of hametz, for example: Babylonian kutach,<sup>44</sup> Median beer,<sup>45</sup> Idumean vinegar,<sup>46</sup> and (those things which) resemble them. Or leaven without a mixture but which is not pure leaven, and this is what the sages called a leaven substance unfit for food-such as "dyers' broth",<sup>47</sup> and (those things

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<sup>41</sup>See Exodus 13:7 and 12:19. The Hebrew word "bal" applies to those Biblical texts where the word "lo" appears.

<sup>42</sup>Most of the grains did not soak to the point of fermentation. The prohibition applies only to the commandment "it shall not be seen"-i.e., you can keep it at home but you cannot eat it, since the majority principle does not apply to eating.

<sup>43</sup>Beit Yosef and the Bach, paragraph 467, s.v. "Halachot Gedolot wrote".

<sup>44</sup>A dipping sauce made of sour milk, moldy bread crumbs, and salt. See B.T. Pesachim 42a.

<sup>45</sup>Rashi on Pesachim 42b, s.v. "Median beer". Median beer was noted because it was made from barley. In Talmudic times beer was usually made from dates.

<sup>46</sup>Idumean vinegar was made from wine fermented with barley.

<sup>47</sup>To make dyers' broth bran was mixed with water to form a broth which was used to make certain red dyes. See B.T. Pesachim 42b.

which) resemble them.<sup>48</sup> According to Rabbi Ellezer these are prohibitions (from scripture), but they do not involve divine punishment.<sup>49</sup> And according to his words it is forbidden to keep them during Pesach. Even though we hold<sup>50</sup> like Rabbi Shimon who says that no penalty (is levied) with pure hametz that was mixed with other things, these words apply only when it is mixed after Pesach, but where the prohibition already exists from before, it is a more serious situation. And

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<sup>48</sup>There are different categories of hametz and varying degrees of stringency regarding them:

1. Pure hametz which is not mixed with other substances.
2. Pure hametz which is mixed with other substances.

There are 2 categories of such hametz:

- a) If there is hametz in the mixture equal to the amount of an olive's bulk, it is forbidden to eat more than the volume of 3 eggs from it. (See Mishnah Torah, Hilchot Hametz, chapter 1, halacha 6.)
- b) If there is less than an olive's bulk of hametz in the mixture, Rabbi Ellezer and the sages disagree about whether one can eat it. Rabbi Ellezer holds that it is included in the Toraitic commandment not to eat hametz, but the sages hold that it is merely a rabbinic prohibition.
3. Hametz Noshkeh (literally hardened hametz), hametz which is fully leavened and hametz which is not fit to be eaten. If, however, the hametz is fully leavened and for to be eaten and then became unfit, it is considered "complete hametz". Some of the Tannaim hold the hametz noshkeh is prohibited by scripture as a negative commandment, while others argue that such things are not included in the prohibition (B.T. Pesachim 43a). Some authorities (Tosafot, Ran, and the Tur) take the position that that it is a rabbinic prohibition, but some later poskim hold that unfinished hametz is not matzah and thus it is prohibited by scripture by implication from the positive commandment to eat matzah for seven days. According to this view, any kind of grain product may not be eaten unless it can be put into the category of matzah.

<sup>49</sup>B.T. Pesachim 42a and 43b.

<sup>50</sup>B.T. Pesachim 28b.

according to the rabbis it is not even a negative commandment, it is simply a prohibition (one cannot eat it, but it is not real hametz either so one does not have to remove it) and according to their words it is permitted to keep it. Rambam ruled<sup>51</sup> like Rabbi Eliezer who concluded that a mixture of hametz transgresses the prohibition about having hametz in one's possession like liquor, brine, and all similar things. But, something which is a mixture of hametz but is not suitable for food, it is permitted to keep it during Pesach, and thus wrote Ritz Glat.<sup>52</sup> But Ba'al Ha-Ittur wrote,<sup>53</sup> that a mixture of hametz is (covered under) the negative commandment. But, this only refers to those that are in natural form and which one does not use for labor, but if one used them for labor such as plaster or eye-salve, one is not required to remove them. And thus is the opinion of Rav Natronai who replied,<sup>54</sup> regarding the question about one who makes wine from raisins and soaks them in water, and sometimes two of three grains of wheat are found in them; is it permitted to drink it (the wine) if it

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<sup>51</sup>Mishnah Torah, Hilchot Hametz, chapter 1, halacha 6. Rambam rules that anyone who eats or drinks something made with a mixture of hametz is liable for flogging but not death.

<sup>52</sup>Ritz Glat, volume 2, page 81.

<sup>53</sup>Ha-Ittur, Hilchot Bi'ur Hametz, page 127a. Mixtures with leaven must be removed during Pesach even if they are not edible and not used for some type of labor.

<sup>54</sup>Ritz Glat, volume 2, pages 84 and 94. Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 485. Rashba forbids one to add even the smallest amount of leaven to any mixture, either food or something to be used in some type of labor during Pesach.

is made before Pesach? And he replied to them, "Certainly it is forbidden to drink it during Pesach, but as to whether (one should) remove it (from the house) if it is known that it was pressed from the grain (with the) leaven within it; the juice of the raisins needs to be removed. But, if it is not known, one does not need to remove it." And I wonder why they forbid it if it was mixed before Pesach, for behold, it was already nullified with sixty (it contains one part leaven to sixty parts of the rest of the mixture).<sup>55</sup> And Rav Alfasi ruled like the sages that a mixture of hametz and "hametz noshkeh" are not Biblical prohibitions, rather they are rabbinical prohibitions. And according to this it is permitted to mix it intentionally before Pesach and to let it remain (in one's possession) until after Pesach. And the Rosh agreed with this. Language of the Tur.<sup>56</sup>

707. Mahari Moellin wrote that it is proper for someone who uses wells about which he is not careful during the rest of the year, and particularly wells which belong to gentiles, to be concerned lest there is leaven in the well during Pesach. (If this is so) one must filter the water through clean material each time that one draws water. End of quotation. And he further commands (one) to place new spouts on all the barrels.<sup>57</sup>

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<sup>55</sup>A mixture of hametz made before Pesach is permitted if it meets the rule that the hametz is nullified with a ratio of 60:1. But such a mixture made during Pesach is forbidden.

<sup>56</sup>Tur, Orach Hayyim, paragraph 442.

<sup>57</sup>Sefer Maharil, Hilchot Pesach, chapter 3, halacha 1.

708. There was a circumstance where a person curdled cheeses with vinegar of alcohol. Ravan forbld keeping it during Pesach because since the the milk is curdled, it is considered forbidden in its natural form.<sup>58</sup>

709. Leaven which has become moldy before the time of its prohibition,<sup>59</sup> or if it was burned in a fire and it was burned until it was not fit for a dog,<sup>60</sup> or they used it for sitting<sup>61</sup> or coated it with clay, it is nullified and it is permitted to keep it during Pesach. And there are those who say that it is even permitted for food.<sup>62</sup> But HaRav Yltzchak of Barcelona<sup>63</sup> wrote that it is forbidden as food but permitted for financial gain. And the Rosh agreed with this.<sup>64</sup>

710. (With regard to) dough in the cracks of a kneading trough, if there is as much as an olive's bulk in one place, one is bound to remove (it). But if it is less than this,

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<sup>58</sup>Mordechal, on Avodah Zarah, paragraph 827. Tur, Orach Hayyim, paragraph 442.

<sup>59</sup>B.T. Pesachim 45b. Leaven which has become moldy before Pesach is forbidden for use because it may crumble and some crumbs may get into dough being used for matzah. This may cause the dough to become leavened.

<sup>60</sup>B.T. Pesachim 21b. Burning is the only acceptable way of getting rid of leaven according to Rabbi Yehuda. "Fit as food for a dog" is a standard for defining "food".

<sup>61</sup>B.T. Pesachim 45b.

<sup>62</sup>Ran on Pesachim 21b.

<sup>63</sup>Talmudist and halachist. Born: Barcelona, Spain, 1043. Died: Denia, Spain.

<sup>64</sup>Rosh on Pesachim, chapter 2, paragraph 1. Tur, Orach Hayyim, paragraph 442. It is permitted for one's benefit for one need not burn the leaven before its time as Rabba said, "If he charred it (in the fire) before its time, benefit is permitted, even after its time."



one nullifies it through the smallness of its quantity.<sup>45</sup> But there are two different versions (of the baraita on 45a). The first, "If it is in the amount of an olive's bulk, one is obliged to remove it," means only if it is in a place where one does not put dough in the cracks (of the kneading trough). But in a place where one does put dough in the cracks (of a kneading trough), even if it is in the amount of an olive's bulk, one is not obliged to remove it. And the second version (says): "Even if it is less than the amount of an olive's bulk, in a place where one does not put dough in the cracks (of a kneading trough), one is obliged to remove it." And Rav Alfas ruled stringently like the second version. But Rabbenu Hananel ruled like Abbaye who reconciles the two teachings. The final result is that, according to Abbaye, as Rashi explains, in the bottom of a kneading trough, even (if it is in the amount) of an olive's bulk, one does not need to remove it. But, on the upper rim, even if there is less than an olive's bulk, one needs to remove it. And in its corners, if there is the amount of an olive's bulk, in one place, one must remove it. But less than the bulk of an olive, one does not need to remove it. And according to Rabbi Yitzchak there is no distinction between whether it (the leaven) is in the bottom (of the kneading trough) or in another place. But the Rosh wrote, "I did not go to great length to explain the difference between

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<sup>45</sup>B.T. Pesachim 45a and Rashi, s.v. "here".

a place where kneading occurs and a place where one puts dough in the cracks of a kneading trough; because Israel is a holy people and they remove all leaven, even that which is stuck to the walls of the house." And Ravya wrote,<sup>66</sup> "All of this is concerned with a kneading trough which one does not use for kneading (dough) during Pesach. But if one uses it for kneading (matzah) during Pesach, one needs to remove it (the dough) and remove impurities from it." But HaRav Yechiel of Paris wrote, concerning kneading troughs which are used all year long, it is not enough to wash them with hot water and dig out the leaven from within it, for it is not possible to dig it out so that an olive's bulk shall not remain in it. The vessel combines all the leaven in the trough (to at least this amount).<sup>67</sup>

711. Hametz is forbidden from the Torah from the sixth hour (noon) onwards during the day of the 14th of Nisan, and one is corporally punished for possessing it at that time.<sup>68</sup> Although Ba'al Ha-Ittur wrote that it is only a rabbinic prohibition, Rambam wrote that one is corporally punished

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<sup>66</sup>Ravya, volume 2, paragraph 490.

<sup>67</sup>Hagahot Maimoniyot, Hilchot Hametz, chapter 2. Mordechal on Pesachim, paragraph 597. If pieces of leaven remain one must give the trough to a gentile as a gift until after Pesach, or cover it with dust to render it unusable.

<sup>68</sup>B.T. Pesachim 28b. From Deuteronomy 16:3: "You shall not eat leavened bread with it." is Rabbi Yehuda's proof-text for no eating leaven after the noon hour on Erev Pesach.

(the same punishment for violating a Toraitic prohibition) from noon onwards. And the Rosh agreed with this.<sup>69</sup>

712. It is good to prepare (eat only) fruit (and not bread or matzah) for "Seudah Sh'lishit"<sup>70</sup> on a Shabbat which falls on Erev Pesach. But Rabbenu Tam was used to preparing it (Seudah Sh'lishit) with "matzah ashirah" (egg matzah) which was kneaded with fruit juice. And Rashi also instructed (his followers) to remove all (leaven) before Shabbat. Language of the Tur.<sup>71</sup>

713. Rabbi Yehuda said, "There is no removal of leaven except by burning."<sup>72</sup> Rashi ruled like him. But the geonim wrote and ruled like the sages (on 21a) who said, "One may crumble and scatter (the leaven) in the wind, or throw it into the sea. But one does not cast it off whole." And thus

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<sup>69</sup>B.T. Pesachim 28b. Tur, Orach Hayyim, paragraph 443. Ha-Ittur, Hilchot Hametz, page 124b. Mishnah Torah, Hilchot Hametz, chapter 1, halacha 8. Rosh on Pesachim, chapter 2, paragraph 2. Rambam writes that the traditional meaning of Deuteronomy 16:3 is, "You shall not eat leavened bread from the time when the Paschal lamb may be slaughtered." This time is from noon onwards on Erev Pesach. Rosh agrees that leaven should not be eaten after the noon hour, but the prohibition is of rabbinic origin.

<sup>70</sup>Seudah Sh'lishit. See glossary.

<sup>71</sup>B.T. Pesachim 13a and Tosafot on Pesachim 99b, s.v. "one does not eat". Rosh on Pesachim 99b, chapter 10, paragraph 1. Tur, Orach Hayyim, paragraph 444. Pesachim 13a says that should Erev Pesach fall on Shabbat, all leaven must be removed before Shabbat. In 99b we learn that on Erev Pesach one should not eat from close to Mincha until nightfall. If one cannot serve matzah on Erev Pesach, thus can there be a Seudah Sh'lishit? Rabbenu Tam served "rich matzah" and Rosh said that this may be eaten during the afternoon.

<sup>72</sup>B.T. Pesachim 12b and 21a.

ruled the Rambam, Ba'al Ha-Ittur, and HaRav Yonah.<sup>73</sup> But even Rabbi Yehuda did not speak about burning except when it was not at the hour of removal, which is the sixth hour (noon). At that time and onwards, removal is only done by burning. But Rabbenu Tam explained (it) the other way around, "At the hour of its removal" is the sixth hour and at that time removal (is done) in any manner, but from then onwards (removal is done) only by burning. And according to this, even according to Rabbi Yehuda, one does not need to burn it (the leaven) since a majority of the people remove (their leaven) before the end of the noon hour.<sup>74</sup>

714. The Rosh wrote<sup>75</sup> that even according to Rashi's explanation, the removal (of leaven may be done) in any way during the fifth hour (11 A.M.) because hametz is permitted (at that time) for one's benefit. But it does not appear so from his (Rashi's) explanation.<sup>76</sup> But at its burning, (which takes place) during its hour of removal, according to

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<sup>73</sup>Ha-Ittur, Hilchot Hametz, page 120d. Mishnah Torah, Hilchot Hametz, chapter 3, halacha 11. In the Tur it does not mention Rabbenu Yonah, but his name is found in the Rosh on Pesachim, chapter 2, paragraph 3.

<sup>74</sup>Tur, Orach Hayyim, paragraph 445. B.T. Pesachim 12b and Tosafot, s.v. "when". Rabbi Yehuda's halacha on the burning of leaven was used only if its removal was done before the noon hour. If it was done after the noon hour, any form of disposal was allowed so that one would not waste time collecting fuel for burning and possible sin by having leaven in his possession after the time limit.

<sup>75</sup>Rosh on Pesachim, chapter 2, paragraph 3. Rashi on Pesachim 12b.

<sup>76</sup>Tur, Orach Hayyim, paragraph 445. "For Rashi explains that according to Rabbi Yehuda one may leave with a caravan. When this is done, the removal of leaven is done by burning."

everyone, it is forbidden to derive benefit (from the hametz). Therefore, it is forbidden, and it is good to make a fire only for that purpose. But, as to whether it is permitted to derive benefit from the ashes after the burning (is completed), this depends upon the argument between Rabbi Yehuda and the rabbis. According to Rabbi Yehuda, hametz is removed only by burning, and it is permitted, for we hold:<sup>77</sup> "The ashes of things that are burned are permitted." But according to the rabbis, if things meant to be buried are burned, their ashes are forbidden. And if one cooks a meal on them (over the hot ashes) or bakes bread on them, according to Rabbi Yehuda, who says that (use of) their ashes is permitted, the dish or the bread is not forbidden (permitted), unless the bread was baked and the dish (was cooked) before the leaven (which was burned) totally turned to ash or the coals are glowing.<sup>78</sup> But, if they (the coals) are extinguished, it is permitted (to bake or cook on them). But, according to the rabbis, (using) the ashes is forbidden

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<sup>77</sup>B.T. Terumah 34a. The argument is whether the ashes of things that are meant for burial can be used if they are burned instead of buried. The gemara seems to think that they are not permitted for use, even if they are ritually clean after burning. Ashes of consecrated objects are not allowed to be used after burning.

<sup>78</sup>B.T. Pesachim 26b. It is regarded as deriving benefit from the ashes of the leaven if the coals are still burning.

in every circumstance. And HaRav Moshe ben Maimon wrote<sup>79</sup>-without making distinctions-"If one baked bread or cooked dish on the ashes, the dish is forbidden (to be eaten)." (Thus) he follows the opinion of the sages.

715. A majority of the commentators agreed that, regarding hametz during Pesach, a mixture is forbidden whether with its own kind or not with its own kind (even) in the smallest amount,<sup>80</sup> except for Sh'eil'tot which ruled (that only) if it gives taste (is it forbidden). And thus wrote HaRav Yeshayah in Sefer Ha-Machriyah, and likewise Rabbenu Zerachayah in Sefer Ha-Meor. And, thus a manuscript of Mar Rabbi Yosef<sup>81</sup> was found and testified about his teacher, Rav Alfasi, who changed his mind from what he had written at the end of Massechet Avodah Zarah, where he ruled like Rav and Shmuel. And thus our opinion inclines (like) the opinion of the sages of France and the sages of Narbonne. But, we do not rule concerning hametz during Pesach this way because the

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<sup>79</sup>Mishnah Torah, Hilchot Hametz, chapter 3, halacha 11. Whether or not coals may be used depends on when the leaven which formed the ashes was burned. If one burned the leaven before the noon hour, one may derive benefit from the coals during Pesach. But, if the leaven was burned after the noon hour, the coals may not be used for heating an oven or for cooking because the benefit may come directly from the leaven. If one did cook something on the coals, no benefit may be derived from the prepared dish.

<sup>80</sup>B.T. Pesachim 30a. Even when there is the smallest possible quantity of leaven involved, the mixture is forbidden.

<sup>81</sup>R. Yosef ibn Migash. Known as Ri Migash. Talmudist. Born: Seville, Spain, 1077. Died: Lucena, Spain, 1141.

custom is to forbid it.<sup>82</sup> And I found in the name of HaRav Rabbi Avigdor Cohen that, as for the statement in the chapter (of the Talmud entitled) "Kol Sha'ah" (Pesachim 30a), "Rabba said, 'The halacha is, leaven in its time, whether with its own kind or not with its own kind is forbidden in any amount, like Rav.'" This "in any amount, like Rav" is not from the gemara which Rav Ashi arranged; rather it is from the commentary of the geonim which they added because they thought thus.<sup>83</sup> But, even though Rabbenu Tam permitted (such a mixture of leaven), he did not want to make it a practice, so as to deviate from the words of geonim. And further, since the prohibition had spread throughout the Jewish community, he only came to explain the true (theoretical) halacha. Shibbolei Ha-Lekket.<sup>84</sup> But, the Ravad wrote that with the smallest amount of leaven it is forbidden only as food, but one may derive benefit from it. But Rav Alfasi ruled that even for benefit it is forbidden. And the Rosh agreed with this.<sup>85</sup> And until this day we are accustomed to

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<sup>82</sup>Custom works for stringency here, against the leniency of the technical halacha.

<sup>83</sup>Shibbolei Ha-Lekket, which is quoted here, gives an example of how "Scientific" Talmudic criticism (source differentiation) is accepted by the rabbis and that it can have real halachic implications.

<sup>84</sup>Shibbolei Ha-Lekket, paragraph 217. Sh'eil'ot, "Tzav", parashah 80. Sefer Ha-Yashar, paragraphs 382 and 622. Rashi on Pesachim 30a, s.v. "Rabba said". Rif on Pesachim, chapter 2, paragraph 715, and on Avodah Zarah, chapter 5, paragraph 1,303.

<sup>85</sup>Tur, Orach Hayyim, paragraph 447.

forbid (even) the smallest amount of hametz, even for benefit.

716. Regarding the salting of meat which is done before Pesach, if one is not careful with its salting he nullifies it. And our master forbid if and the stringent will have a blessing come upon them.<sup>66</sup>

717. Ritz Glat wrote that the great rabbis said, "Milk which gentiles have produced before Pesach and cheese which was sliced before Pesach and was guarded against infiltration by hametz is permitted (to be used during Pesach). But, if not, it is forbidden." And the Rosh permitted it in a teshuvah. And the Rosh wrote further that it is forbidden to eat salted fish which have been kept, soaked in water during Pesach. But, dried fish, in a place where one is accustomed to eat, one may eat (the fish), but in a place where one is not accustomed to eat, one does not eat. End of quotation.

Ha-Turim.<sup>67</sup>

718. But, fish, which is called herring, or meat sliced during the winter, (if) one did not check the salt for hametz, it is permitted to eat (these) during Pesach for this

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<sup>66</sup>Tur, Orach Hayyim paragraph 447. Machzor Vitry, page 262, paragraph 24. Machzor Vitry defines the meat as dried meat. If one is careful when salting the meat it may be eaten during Pesach. The halacha of Rashba on Pesachim 30a applies here. Rashi permits dried meat and dried cheese which were salted before Pesach, and even according to the one who says "in the smallest amount", these words apply in his eyes. But if it was mixed before Pesach it is forbidden unless the leaven is only one part in sixty.

<sup>67</sup>Tur, Orach Hayyim, paragraph 447. Sh'eilot and Teshuvot of the Rosh, paragraph 24.



reason. And thus it is found in the name of Rav Platoi Gaon.<sup>88</sup> But, permitted fat which is cut up before Pesach is forbidden for use, for frying during Pesach because of the utensil ([a pot] which may have hametz in it). Because they sliced the fat within it and (the pot) which they cooked in absorbed the hametz. And at times there remained extra fat in the (frying) pan and they returned it to the pot.<sup>89</sup>

719. And the law regarding barrels: when one places dough in vats, it is sometimes permitted to drink (the) wine during Pesach in spite of the taste<sup>90</sup> of hametz in the wine because it (the leaven) has already been nullified before Pesach, and during Pesach leaven does not give (a) taste to the wine because it has already become hard. Within two months of Pesach, if one puts dough in the bottom (of a wine vat), it is forbidden to drink the wine from that vat during Pesach because the dough is not yet hard and it can give (a) taste to the wine during Pesach. Mordechal, chapter two of Pesachim.<sup>91</sup>

720. Harav Yechiel wrote: "Salt which one placed on a pestle where one uses hametz can be used to salt (food) for the need of Pesach. For thus Rabbi Yitzchak,<sup>92</sup> even permitted salt

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<sup>88</sup>Rav Platoi Gaon. Rav Platoi bar Abbaye. Gaon of the Pumbedita academy from 842 to 857.

<sup>89</sup>Mordechal on Pesachim, chapter 2, paragraph 555.

<sup>90</sup>Editor's note: In the original manuscript it reads: "whether the taste".

<sup>91</sup>Mordechal, chapter two of Pesachim, paragraph 555. Rav Platoi Gaon in Machzor Vitry, pages 261-62. Wine that is prepared with hametz is forbidden to be drunk during Pesach.

<sup>92</sup>In the Tur: Rabbenu Tam.

which a Jew forgot (and left) in the pots of a gentile to be used to salt meat." And thus it is (written) in Sefer Ha-Terumah. Mordechai, chapter two (of Pesachim).<sup>93</sup>

721. And olives that one presses during the rest of the year and is not careful with them (regarding the infiltration of hametz), according to the opinion of Ba'al Ha-Terumah, who forbids radish and onions which were chopped with a knife, are forbidden. Thus, apparently, from the teshuvot of the Rosh. However, HaRav Rabbi Meir of Rothenburg wrote, regarding the ruling in Sefer Ha-Terumah, "My opinion inclines to permit (this), even though I rule (theoretically), as does Sefer Ha-Terumah, it does not seem proper to protest against those who permit it." End of quotation.<sup>94</sup>

722. And if hametz is mixed with dry matzah, in a one-to-one ratio, Rashi wrote that one should throw out one, and the

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<sup>93</sup>Mordechai, chapter two of Pesachim, paragraph 557. Sefer Ha-Terumah, paragraph 55. Sefer Ha-Terumah write of a Jew who makes cheese in a gentile's mold. It is permitted to eat it because the salt did not discharge the taste of the hametz which it may have absorbed. Thus, it is pure. Also, it is customary to put salt in a dish or in a pot of meat and then to put the same salt in a milk dish. The reason is that the salt does not discharge any flavor which it may have absorbed.

<sup>94</sup>Tur, Orach Hayyim, paragraph 447.

rest is permitted for financial benefit. But the Rosh even permitted it (the matzah) for food.<sup>75</sup>

723. And if it (hametz) imparts a disgusting flavor during Pesach, according to the Judgements of Rashbam,<sup>76</sup> it is forbidden. And likewise, HaRav Rabbi Eliezer of Metz. And the Maharam wrote: "I forbid it for myself since it (the law) came out of the mouth of Rashbam." But he permitted it for others because Rabbenu Hananel and Rabbi Yitzchak permit it. Even so, I am accustomed to say to those who pose the question, on their own initiative, that there is a dispute between the great sages and many abstain from eating it. End of quotation. But Rashi ruled to permit it. And the Rosh

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<sup>75</sup>B.T. Avodah Zarah 74a. Rashi and Rosh on the portion. Tur, Orach Hayyim, paragraph 447. The mishnah and the gemara come from a discussion about the mixing of thing which belongs to a Jew with thing that belongs to a gentile. The same principle applies in this case where a mixture contains leaven during Pesach. The smallest quantity renders the whole mixture forbidden. But Rashi says, in his commentary, that for financial benefit such a mixture is permitted. Rosh goes even farther and permits it (dry matzah which has had leaven sifted onto it) as food.

<sup>76</sup>Rabbi Shmuel ben Meir. Talmudist. Born: Lorraine, France, c. 1060. Died: Ramerupt, France, c. 1130.

agreed with this. Language of the Tur.<sup>77</sup> And thus is the custom.<sup>78</sup>

724. There was an instance where one grain (of wheat) was found in matzah during Pesach and Rabbi Yitzchak forbid all of the matzah that was made with that dough. The reason is, that we do not say that it is enough (just) to remove the place (where the grain was found on the matzah), or to scrape (the matzah), because the hametz penetrates (the matzah), and has already spread through all of the dough. But Rabbenu Shimshon of Sens permitted it (the dough to be used). However, he did not want to create a practice based upon his opinion. And HaRav Rabbi Yechiel of Paris permitted all of

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<sup>77</sup>B.T. Avodah Zarah 66a and Tosafot, s.v. "by implication". Rosh on Avodah Zarah, chapter 5, paragraph 6. Rashi on Pesachim 30a, s.v. "Rav said". Tur, Orach Hayyim, paragraph 447. Rashbam, Tamim De'im, paragraph 149. Sefer Or Zarua, volume 4, paragraph 262. Mordechal on Pesachim, paragraph 567. Hagahot Maimuniyot, Hilchot Hametz, chapter 1, halacha 6. Tashbatz, paragraph 94. Tosafot prohibits grapes to be used if "yein nesech" falls upon them and imparts a flavor. They rely on Rav, from Pesachim 30a, who prohibits a mixture even with the smallest amount of leaven. Rashi notes that Rav forbids all use of leaven which is kept over during Pesach. This includes pots in which leaven is cooked, for the pot may absorb the taste of the leaven and then impart a flavor. The pots must be broken for they cannot be used after Pesach. Rashi says though, the halacha does not follow Rav. Leaven held over Pesach may be used afterward. As in the Agur, Hagahot Maimuniyot notes that there is much disagreement over this issue and that a binding halacha is not reached.

<sup>78</sup>Darchei Moshe, paragraph 447, note 15. "In the Agur, which is authoritative in Ashkenaz, it is accustomed to permit leaven saved over Pesach for use after Pesach though it may impart a flavor. There are various opinions though. Mahari wrote that where it is forbidden there is no argument as to whether even the smallest amount (of hametz) makes the food forbidden. It does."

the matzot by means of scraping or removing the place (of contact) in its depth. And in a teshuvah, Rabbi Menachan Ha-Machiri<sup>99</sup> forbade that matzah, but not the others; and my opinion is similar. And this was neither<sup>100</sup> according to the words of Rabbi Yitzchak, nor according to the words of Rabbi Shimshon. And Rabbenu Yechiel of Paris explained that one forbids all of it and the other permits all of it. Mordechai.<sup>101</sup> And after Pesach, whether (it was mixed) with its own kind or not with its own kind, it is nullified with a ratio of 60:1. But, even if it remained in its natural form and was<sup>102</sup> mixed after Pesach, it is nullified (in a ratio of 60:1). However, (this applies) only if it was mixed by mistake, but if it was mixed on purpose, it does not (apply). But, HaRav Yonah wrote that (it is permitted) even if it was mixed on purpose. But it did not appear so to the Rosh. And he wrote further, "If one nullified it by mistake before Pesach, or even during Pesach, for example, if one did not know it was hametz, it is permitted. And if one nullified

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<sup>99</sup>Menachem Ha-Machiri. R. Menachen ben Machir. Halachist. Lived in Germany during the late 11th and early 12th centuries.

<sup>100</sup>Editor's note: In the Venice manuscript the word "neither" is missing.

<sup>101</sup>Mordechai on Pesachim, paragraph 556. If the matzah is flattened and sliced, not all of it is forbidden, for the leaven could not penetrate all of it. In a place where this process has taken place it is sufficient to wash the area.

<sup>102</sup>Editor's note: Thus it is written in the first two editions of the Agur, but in the 6th edition it says "which was" and in the Tur it says "was" written with two yods.

it<sup>102</sup> on purpose with the intent of having it remain until after Pesach, it is forbidden. Yeast, because it is a preservative, is forbidden even if (it is) nullified by accident, because it is put into a mixture for taste and is not nullified." But I do not understand the contents of his words. For if it is a thing which one transgresses because of its mixture, what difference does it make if it is nullified? He has already transgressed (the prohibition) and should be fined. But, if it is something that is not prohibited as a mixture, even if he mixes it in order to keep it, it is permitted. Rather, the principle is that anything which one does not transgress on grounds of "mixture" one can mix a priori to keep it. And something that he transgresses due to "mixture", even if it is mixed from something before Pesach, needs to be removed. And if he does not remove it, it is forbidden.<sup>104</sup>

725. Hametz which belongs to a gentile, which Pesach has passed over (which has been in the gentile's possession during Pesach), is permitted for food. And thus wrote Rav Alfas. And thus it says in the Sh'eil'ot, and thus ruled the geonim. But, Ba'al Ha-Ittur wrote that it is forbidden for food and he (wrote) at length on the subject; and at the

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<sup>102</sup>Editor's note: In the first two editions it is mistakenly printed "of his".

<sup>104</sup>Tur, Orach Hayyim, paragraph 447. Rosh on Pesachim, chapter 2, paragraph 5.

end of his words (he wrote), "It is proper to be stringent."<sup>105</sup>

726. Leaven which is found in a Jew's house after Pesach is forbidden in the Yerushalmi,<sup>106</sup> even though it was nullified, for there is concern lest he employ a legal fiction, saying that he nullified it when he did not nullify it. And Ba'al Ha-Ittur forbid it as food but permitted it for one's (financial) benefit. But there is no proper reason to make a distinction between "food" and "benefit".<sup>107</sup>

727. If a Jew owns a shop and the merchandise in it is his, and the workers who labor in it are gentiles, leaven which is found there after Pesach is permitted, even for food, for we presume it belongs to the gentile workers. But, if the store and the merchandise are owned by a gentile and the workers are Jews, it (the leaven) is forbidden because we presume that it belongs to the Jewish workers.<sup>108</sup> Thus is

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<sup>105</sup>B.T. Pesachim 28a. Rif on Pesachim, paragraph 714. Sh'ell'tot, "Tzav", parashah 74. Halachot Gedolot, Hilchot Pesach, page 59. Ha-Ittur, Hilchot Bi'ur Hametz, page 126b-c. Tur, Orach Hayyim, paragraph 448. The Talmud permits the use of leaven held by a gentile over Pesach, but it does not explicitly state that it may be used for food. The Tur continues that it is important for a Jew to be stringent nowadays as a Jew may receive hametz as a gift from a gentile from the afternoon (of Erev Pesach) onwards which could become leavened. This leaven is forbidden for use by Jews after Pesach. Therefore, it is important to "build a fence" (be stringent).

<sup>106</sup>Yerushalmi, Pesachim, chapter 2, halacha 2.

<sup>107</sup>Tur, Orach Hayyim, paragraph 448.

<sup>108</sup>B.T. Pesachim 31b. Both cases, in the Talmud, assume that the leaven is part of the merchandise and did not belong to any of the workers. It seems that the allowance or prohibition of the leaven are reversed in the gemara from what is stated here.

the reading of Rabbenu Hananel. But, Rav Hai read it the opposite way; that we make the distinction bases upon who is the owner of the store. And thus is Rashi's conclusion.<sup>109</sup>

728. They asked Rashi the question: If a Jew and a gentile jointly own an oven, may one (the Jew) say, to the gentile, "You take it (the oven) during Pesach and I (shall) take it afterwards."? And he (Rashi) replied that he should make the stipulation before Pesach and take the income from that week.<sup>110</sup> And HaRav Shimshon bar Avraham wrote of an instance which occurred where a Jew had an oven and a gentile baked (with) leaven in it during Pesach. This baker, the Jew's servant, brought the Jew loaves (of bread) after Pesach from the income earned by the oven. And he forbade him to receive them. Hametz is certainly forbidden, and it is forbidden to receive coins as payment (for the using the oven during Pesach). However, if he received the coins it is permitted for him to derive benefit from them.<sup>111</sup>

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<sup>109</sup>Tur, Orach Hayyim, paragraph 449. Rav Hai says that whether the leaven is permitted or not depends upon who owns the store. If he is Jewish then the leaven is permitted. If he is gentile then the leaven is forbidden. This would change the reading of the halacha as it is stated here and make it consonant with the Talmud.

<sup>110</sup>Tur, Orach Hayyim, paragraph 450. Machzor Vitry, page 263, paragraph 31. Ha-Pardes, paragraph 131.

<sup>111</sup>Tur, Orach Hayyim, paragraph 450. One may not receive the coins because he cannot derive financial benefit from leaven baked during Pesach. This also applies to leaven which was made by a gentile.



### HILCHOT HAG'ALAH<sup>1</sup>

729. If one placed an earthen vessel into a kiln and it became cleansed.<sup>2</sup> Ravya wrote,<sup>3</sup> "There are those who say<sup>4</sup> that this does not have an effect, it does not succeed for one may be concerned that it (the vessel) will break." And thus wrote the elders of the Ravan.<sup>5</sup> But, they are mistaken. We do not say that "one may be concerned that the pot will break", therefore, we might not rely on him to put the vessel in an oven it; rather, when one needs to place coals upon it (is this concern warranted). But when one takes it to a kiln so it may be purified inside and outside but it will not split open (therefore, we do not worry about that). And thus wrote Sh'eil'tot.<sup>6</sup> And the Rosh wrote that one puts (an earthen vessel) only in a kiln but not in our ovens.<sup>7</sup>

730. There is no distinction between a wooden vessel or a stone vessel or metal vessels. They all have the same ruling—they can be permitted (to be used during Pesach after having undergone) purification. And HaRav Yitzchak of

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<sup>1</sup>Hag'alah. See glossary.

<sup>2</sup>B.T. Pesachim 30b and B.T. Zevachim 95b. "The Torah testifies concerning an earthen vessel that it (the absorbed matter) never passes out from its sides." Hence once an earthen vessel is forbidden it remains forbidden from then on. Zevachim rules that an earthen vessel should be broken if a sin offering is boiled in it for a flavor is absorbed.

<sup>3</sup>Ravya, volume 2, paragraph 464.

<sup>4</sup>Editors note: In the original manuscript these words are not present.

<sup>5</sup>Even Ha-Ezer, page 72g and paragraph 315.

<sup>6</sup>Sh'eil'tot, "Matot", parashah 156, page, 98. Earthen vessels are only purified in a kiln.

<sup>7</sup>Tur, Orach Hayyim, paragraph 451. Rosh on Pesachim, chapter 2, paragraph 9.

Simpon<sup>9</sup> wrote that for untrimmed stone vessels and stone vessels, it is sufficient to rinse them with cold water. But in a teshuvah of Rav Nahilai, (it says that) stone vessels and untrimmed stone vessels which are used with boiling water, cannot be purified by hag'alah for they resemble earthen vessels and one needs to heat them in an oven until they are turned white hot by the fire. But Rav Alfasi makes all (vessels) equal (with regards to purification) and thus (this) is the correct view. Language of the Tur.<sup>9</sup>

731. We conclude that the purification does not have an effect on a container of se'or. And Rabbenu Shemariah thus. And there is no difference between the kneading basins of Mehuza<sup>10</sup> to the kneading basins of everyone else. Mordechai.<sup>11</sup>

732. Regarding wooden and stone mortars which one uses all during the year for pounding (grain) and sometimes pounds bread crumbs with fat and pepper, both Rashi and Rabbenu Tam wrote that it is ineffective by means of purification

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<sup>9</sup>R. Yitzchak of Simpon<sup>9</sup>. R. Yitzchak ben Malachi Tzedek. Mishnah commentator. Born: Simpon<sup>9</sup>, Italy, c. 1110. Died: Salerno, Italy, c. 1170.

<sup>9</sup>Tur, Orach Hayyim, paragraph 451. Ravva, Volume 2, page 82, paragraph 464. Or Zarua, volume 4, paragraph 296-297. Shibbolei Ha-Lekket, paragraph 207. Rabbi Yitzchak of Simpon<sup>9</sup> says that stone vessels and earthen vessels are not impure as the Torah says and not as the scribes say.

<sup>10</sup>Mehuza was a Jewish town on the Tigris river, in Babylon, where Raba had his academy. On Pesachim 5b we read that Rabba instructed the townspeople of Mehuza to get rid of the leaven that belonged to troops who were stationed in their houses.

<sup>11</sup>Mordechai on Pesachim, chapter 2, paragraph 565. B.T. Pesachim 30b.

(Hag'alah does not work). And thus small millstones for pepper are likened to containers of leaven and containers of haroset. But Rabbi Yitzchak permitted all of them by means of purification and likewise HaRav Yehuda of Paris and HaRav Yom Tov, and thus did the Rosh agree.<sup>12</sup> And this is what the Rosh says in a teshuvah: "Rabbi Yitzchak wondered why Rabbenu Tam forbade a vessel containing se'or even if it underwent purification; rather, everything that undergoes Hag'alah is permitted." And thus wrote Avi Ha-Ezri and Ba'al Ha-Ittur and HaRav Yonah<sup>13</sup> and thus it is the custom. Provided that there are smooth and there are no notches in them (the mortars and the millstones). . Language of the Turim.<sup>14</sup>

733. Ba'al Ha-Divrot wrote,<sup>15</sup> "The mortars and wedges which (are used) for rolling (dough), and stone vessels and untrimmed stone vessels, their law is like that of metal (vessels): They can discharge (food particles when heated) and they do not resemble an earthen vessel. And thus is the

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<sup>12</sup>Tur, Orach Hayyim, paragraph 451. Rosh on Pesachim, chapter 2, paragraph 9. Or Zarua, volume 4, paragraph 296. Mortars or millstones are explained as being vessels which hold relishes made with oil, pepper, and possibly flour. The flavor of these is absorbed by the stone. Vessels and utensils which are used with cold leaven may be used to make matzah for Pesach without undergoing Hag'alah. Se'or is "strong leaven" which can impart a flavor. But the halacha follows the Rosh who says that even a stone vessel which contains cold se'or does not need to undergo purification.

<sup>13</sup>In the Tur: Ba'al Ha-Aruch and Ritz Glat.

<sup>14</sup>Tur, Orach Hayyim, paragraph 451.

<sup>15</sup>Ha-Ittur, Hilchot Bi'ur Hametz, page 123a.

halacha." But from Rabbi Yehuda<sup>16</sup> I heard that there is no need for (these type of vessels) to undergo Hag'alah. And he brought evidence from the Tosefta.<sup>17</sup> And thus I found according to the geonim, may their memories be for a blessing. But in Halachot Gedolot, and likewise in the name of Rabbi Yitzchak (we learn that) one needs to perform Hag'alah (on these vessels). And HaRav Yeshayah wrote, "It does not seem to me that Hag'alah is sufficient." And at the end of his words: "The opinions of Halachot Gedolot and Rabbi Yitzchak are to be rejected." There is no reason to compare these vessels to metal vessels. Rather, they are like stone or earthen vessels and are forbidden entirely. And it is correct to forbid them entirely like earthen vessels as does Rav Shalom Gaon<sup>18</sup> and like Rabbi Yitzchak from Siponto. End of quotation. Shibbolei Ha-Lekket.<sup>19</sup> But HaRav Yitzchak taught that we may make use of a tightly covered pot which is made of stone during Pesach and there is no need (to purify them with boiling water), rather, rinsing (is sufficient). And thus the poet established this in the hymnal. And thus

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<sup>16</sup>In Ha-Ittur and Shibbolei Ha-Lekket it is written, "Rabbi Yitzchak".

<sup>17</sup>Tosefta to Zevachim, chapter 1, halacha 12. "The handful [of meal offering] and the incense offering and the meal offering of priests and the meal offering of the anointed priest and the meal offering offered with the drink offerings, which one sanctified in a utensil and set on fire, whether by hand or with a utensil, these are valid."

<sup>18</sup>Rav Shalom Gaon. This is either Sar Shalom ben Boaz who was gaon at the academy in Sura from 848 to 853, or Shalom ben Mishaël who was the gan at Sura from 904 to 911.

<sup>19</sup>Shibbolei Ha-Lekket, paragraph 207.

Rabbenu Shlomo also wrote (this) in Sefer Ha-Pardes. But other geonim wrote, that even by means of Hag'alah it is not possible (to cleanse a stone vessel for Pesach). And thus wrote HaRav Shimshon bar Yonah in his Siddur. But Rabbi (Shimshon) says there is no need for Hag'alah.<sup>20</sup>

734. I found in the words of the geonim: "For Pesach one performs Hag'alah with boiling water for a deep metal pan or a regular sized metal pan." And Rabbi Yehuda said to me that this was the custom of his father Rabbi Yitzchak. From Shibbolei Ha-Lekket.<sup>21</sup>

735. Or Zarua ruled that there is no need for Hag'alah for vessels (made) of bone for it does not absorb (flavor). And thus explained HaRav Yechiel of Paris. And I made it a practice to do this. However, I am troubled by this, since the apparent meaning of the passage in "K'lei Mid'yan".<sup>22</sup> Mordechai.<sup>23</sup>

736. The Rashba wrote in his teshuvot that glass vessels do

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<sup>20</sup>Shibbolei Ha-Lekket, paragraph 207. Sha'arei Teshuvah, paragraph 283. Machzor Vitry, page 256.

<sup>21</sup>Shibbolei Ha-Lekket, paragraph 207.

<sup>22</sup>The situation regarding "K'lei Mid'yan" or Midianite vessels takes place in Numbers 31:19-24. After defeating the Midianites Moses declares that all the booty, including wooden objects are to be cleansed. Eleazer, the priest, told the troops that all things which can withstand being passed through fire must be purified by fire. Those which cannot withstand fire must be cleansed by water. HaRav Yechiel feels that bone comes under the category of those things that can be purified by fire.

<sup>23</sup>Mordechai on Pesachim, paragraph 582. Or Zarua, volume 2, page 58b. Leaven will not leave a flavor in a vessel made of bone.

not absorb (flavor) for they are smooth. End of quotation.<sup>24</sup> But I, the author, saw that the sages of Ashkenaz and France were accustomed not to make use of them (glass vessels) during Pesach for they considered them to be like earthen vessels.

737. Rabbi Yechiel of Paris believed that glass cups that people drink from during the rest of the year are forbidden to be used for drinking during Pesach and even by means of rinsing (liquids in the cups). For even though one always uses them while they are cold, in any event warm bread crumbs, soaked in wine, (are placed in them) and this is considered to be "preventative", and "preserving" is the same as "cooking." But Ravva wrote that glass vessels are sealed. That is, they are smooth and do not absorb (flavor) as we say concerning the heart [See Pesachim 74b (near the top)]. Mordechai.<sup>25</sup>

738. After one has purified vessels in a kettle one fills the large kettle with water and purifies it as one does with the first (kettle) and rinses it with cold (water). And thus wrote Rav Hai Gaon.<sup>26</sup> But Rashi wrote<sup>27</sup> that one does not need to purify the kettle used for Hag'alah as long as one

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<sup>24</sup>Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 233.

<sup>25</sup>Mordechai on Pesachim, paragraph 574. Ravva, volume 2, paragraph 431, page 19.

<sup>26</sup>Sha'arei Teshuvah, paragraph 280. Ritz Glat, volume 2, pages 88-89. Or Zarua, volume 4, paragraph 299. Ha-Ittur, Hilchot Bi'ur Hametz, page 123a. Sefer Ha-Terumah, paragraph 55.

<sup>27</sup>Machzor Vitry, page 256. Ha-Orah, page 90 and page 185.

throws out the water that is in it while it is boiling before it cools down so that it may not become cool and absorb (flavor). And then one immediately rinses it with cold (water). And Rabbenu Tam wrote that one only purifies in a pot which is not used on that day (for something else) for one does not purify except with permitted water. But Ba'al Ha-Ittur wrote that Morenu, Rabbenu, may his memory be for a blessing, said that it is permitted to purify, even in a pot which is used on that day for boiling a mixture of hametz, since it falls in the category of a secondary level of imparting flavor before the time of its prohibition, because the flavor of the hametz has entered the dishes and from the dishes it has entered the water. However, one needs to be careful not to purify on Erev Pesach after the fourth hour (10 A.M. on the "sunclock") if the vessels are not to be used on that day.<sup>28</sup> And HaRav Yeshayah wrote that there are those who say that one needs to purify the kettle before (one uses it to perform Hag'alah on other vessels) and there are those who say that after one purifies vessels in the kettle one needs to purify it. And there are those who permit this because it has absorbed the taste of the leaven. But it is too much trouble for me to write (all) their words. I think it correct that even though the kettle is forbidden it is

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<sup>28</sup>B.T. Hullin 108b. B.T. Avodah Zarah 76a. Stirring a piece of leaven or stirring water in the pot after the dishes have been cleansed can make the flavor of the leaven be absorbed by the pot. Therefore it would seem that one only lets the water boil but does not stir it.

permitted to purify vessels in it and if the kettle was purified before (the purification of the vessels took place) one does not need to purify it a second time. And we are accustomed to purifying plates and spoons in a "first vessel." But we do not follow the words of Ba'al Ha-Divrot. And thus taught my teacher, may his soul ascend to heaven.<sup>27</sup>

739. Rashi ruled<sup>28</sup> that one may purify all knives whether they are large or small in boiling water. But Rabbenu Tam wrote<sup>29</sup> that the large knives need to be purified by fire, as it is said in the Yerushalmi.<sup>30</sup> And thus Rabbenu Yeshayah. Shibbolei Ha-Lekket.<sup>31</sup>

740. As for the mishnah at the end of (Massechet) Avodah Zarah<sup>32</sup> that "the knife may be polished and it is purified (clean)," Rashi explained that "polish" means to polish the

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<sup>27</sup>B.T. Pesachim 30b. A "first vessel" is the vessel in which the water was boiled. A "second vessel" is the vessel into which the water, while still boiling, is poured from the "first vessel".

<sup>28</sup>B.T. Pesachim 30b. Rashi on the portion, s.v. "The halacha is". Ha-Pardes, paragraph 124. Machzor Vitry, page 255. Ha-Orah, page 91. One does not need to place knives in a fire except for metal or iron ones. But the handles must be purified in boiling water.

<sup>29</sup>Tosafot on Pesachim 30b, s.v. "The halacha is". B.T. Avodah Zarah 76b and Tosafot, s.v. "said". B.T. Hullin 8a, and Tosafot, s.v. "White hot". Sefer Ha-Terumah, paragraph 70. Rabbenu Tam specifies that long knives used for cutting meat, which implies that it touches hot food, must be purified by fire. Knives which belong to gentiles or which have been borrowed and used by gentiles must be purified by fire.

<sup>30</sup>Yerushalmi, Avodah Zarah, chapter 5, halacha 15. Tosefta to Avodah Zarah, chapter 8:2. The Yerushalmi agrees with Rabbenu Tam that large knives must be heated so that "sparks fly from the knife."

<sup>31</sup>Shibbolei Ha-Lekket, paragraph 207.

<sup>32</sup>B.T. Avodah Zarah 76b.



knife with a smith's stone. And there are those who explain "polish" as rubbing woolen clothes which are not smooth. But it does not seem to me to be thus, but rather as Rashi explained. Shibbolei Ha-Lekket.<sup>35</sup>

741. Ravya wrote, "I saw it was written in the teshuvot of the geonim that when one purifies (vessels) one needs to keep (them immersed) until it (the flavor of leaven) shall depart completely (from the vessels)." And the Alfasi wrote like this. But we are used to removing them quickly. Mordechai.<sup>36</sup>

742. "The author" said that I shall (i.e., I intend to) write the order of purification in abridged form according to the custom of the sages of Ashkenaz. Firstly, before one purifies vessels, one cleans them well inside and outside so they will be free from rust (or a dirt covering).<sup>37</sup> And one should make a thorough investigation to see if there are droplets (of water) in the vessel which are sticking to it from an earlier time when one made use of it. One does not purify this vessel until the droplets are removed. And if there is a vessel which has small holes in it and within them

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<sup>35</sup>Shibbolei Ha-Lekket, paragraph 207.

<sup>36</sup>Mordechai, chapter 2 of Pesachim, paragraph 579. Rif, chapter 2 of Pesachim, paragraph 718.

<sup>37</sup>Darchei Moshe, paragraph 451, note 3. Darchei Moshe quotes the Agur in laying out its notion of the halacha. Maharil adds that should it be impossible to clean the rust or dirt then the vessel is not permitted for use. But if the rust or dirt is only on the outside or on the outer rim of the vessel it may be purified without removing the rust or dirt.

there is rust which is not possible to remove, one does not purify the vessel. And we are accustomed to purify before Erev Pesach and to immerse (vessels) in a large kettle which has been well cleaned (and free of) dirt on the inside. And there is no need to purify it (the kettle) at the beginning unless one purifies after the time that hametz is forbidden (to be held in possession). And one should wait until the water is boiling and is (capable) of causing blisters (i.e., is scalding hot). And afterwards one begins to purify. And one should begin in this order: firstly, one should purify vessels which have been used mostly with cold (food), for example plates, metal cups, and things that resemble them. And afterwards vessels which one uses for hot food as a "second vessel", for example dishes, spoons, and things that resemble them. And after this one should purify (those) vessels which one makes use of in the first vessel, for example, pots, kettles, boilers, and those things that resemble them. One should be careful not to let the water stop boiling. And if it stops, one must wait until (it begins boiling again and is hot enough) to cause blisters to form (if one is scalded with it).<sup>38</sup> When one immerses the vessel with tongs, one should loosen the tongs so that the water can surround the whole vessel.<sup>39</sup> When one withdraws the purified vessel from the boiling water one should pour

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<sup>38</sup>Darchei Moshe, paragraph 452, note 3.

<sup>39</sup>Darchei Moshe, paragraph 452, note 6.

cold water over the inside and outside of the vessel. And afterwards if one has large vessels which will not fit in the kettle, one heats a brick or a stone in a fire until it becomes very hot and puts the stone on the vessel or tongs and holds it above the vessel and pours water from the kettle over it, and one places the stone on the vessel until the water has passed over the vessel. And this is considered to be like purification.<sup>40</sup> And thus we are accustomed to make fit in this manner all large wooden vessels, tables and those things which resemble them. And afterwards one takes a (burning) ember from the fire and immerses it in the large kettle which has boiling water in it until the water rises up to the top of the kettle and afterwards one pours out the water and it (the kettle) has also been purified. There are rules for suitable vessels to purify and how to purify them and I shall write them in abridged form. With knives: handles are purified in earth; their blades in fire. And the truly observant of Ashkenaz are stringent (regarding this). But the halacha is: both the one and the other (the handle and the blade need only be put) into boiling water, in a "first vessel", but one needs to clean the sharpened end

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<sup>40</sup>Darchei Moshe, paragraph 452, note 5. Mahariv wrote, this is not peeling or scraping as if one scraped a table. Maharil wrote, tables and those things like them, it is enough for water to be poured onto them from vessels which one only uses for pouring. But one should be careful about pouring from the first vessel for it is water from the kettle which is used for Hag'alah. The table must be dry before pouring the water so that there will not be any moisture on it which would prevent the water from boiling.

well from hametz which is in its kinks and its slits. We are accustomed to purifying bronze or iron mortars. But if one is concerned (does not want that) they will become ruined, I, the author, saw my teacher, my father-in-law, Morenu HaRav Avraham Zachshan, may his memory be for a blessing,<sup>41</sup> who was accustomed to putting coals in it and to move the mortar about with a thread tied about the outside (of the coals) and to keep the coals in the mortar until the thread around the outside of the coals had burned and it was sufficient for him.<sup>42</sup> But with stone mortars I saw that people scrape the mortar on the inside with iron and free it from everything and afterwards one purifies it and it is sufficient. And we do likewise to all stone vessels which we call [la'vid'zeh] and it is sufficient for them (to be purified in such a manner). Kneading basins made of wood on which one puts se'or at the time of kneading, we are not accustomed to making them fit, and it is the custom to clean them well and to give them to a gentile until after Pesach. Until here is the language of the author.

743. Rav Alfas wrote, "One leaves a vessel in a kettle, until it discharges (its flavor)." And Ravya wrote, "How does one estimate the time of the discharging (of flavor during purification)? Perhaps if he keeps it in them (the

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<sup>41</sup>HaRav Avraham Zachshan. Father-in-law of R, Ya'akov Landau. (See Sefer Shem Ha-Gedolim. ed. Yitzchak (Isaac) ben Ya'akov.)

<sup>42</sup>Darchei Moshe, paragraph 451, note 9.

kettle) it shall absorb the flavor (again). Therefore, one who fears heaven, who wants to purify many vessels together should let them sit for a period of twenty-four hours after their (last) use. For then, since their flavor is bad, they do not become forbidden. One must, however, purify (vessels) during the permitted time which is before the fifth hour (11 A.M.) for after their prohibited time, the fact that their flavor is bad does not permit them (the vessels)." And the Rosh wrote that before this forbidden time one can purify (vessels) even if those vessels have been used on that day, and even if there is not 60 times the amount of water (in ratio to the hametz) to nullify it.<sup>43</sup>

744. Rashbam wrote that one needs to purify the kettle before one begins the process of Hag'alah in it with other vessels. And thus explained Rashi. And Riva instructed likewise. And thus it is in the teshuvot of the geonim. But the Rosh wrote that the rule for the kettle is like the rule for the rest of the vessels, that if it has not been used on that day or even if it is to be used on that day, and it is

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<sup>43</sup>Tur, Orach Hayyim, paragraph 452. Rif on Pesachim, chapter 2, paragraph 718. Ravva, volume 2, paragraph 464, page 82. Vessels which are to be used that day and are purified may be done first for there is concern that they may absorb flavor of leaven if they are immersed in the kettle later on.

before the sixth hour (the noon hour), one does not need to purify it before (purifying the other vessels).<sup>44</sup>

745. Rice, millet, and species which are not of the five types of grain are permitted to be used in cooking (during Pesach), likewise with all types of lentils. But some forbid this because various types of grain are mixed in them. It is not the custom to observe this stringency.<sup>45</sup> But I, the author, saw (that) the pious ones of Ashkenaz and all the sages were careful not to eat any types of beans during Pesach.

746. HaRav Rabbi Yitzchak of Corbell wrote in Sefer Mitzvot Ha-Katan: "I wish to support the custom and to forbid all beans during Pesach. It is not because they can become leavened, rather because that beans are made (cooked) in a pot and grain is also made in a pot, like porridge. Thus, if we permit beans perhaps one will become confused (and substitute a prohibited mixture for a permitted one). And it is also proper to forbid mustard because it is a type of grain and it is even proper to forbid placing it in boiling water for perhaps it will become confused and place

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<sup>44</sup>Tur, Orach Hayyim, paragraph 452. Rosh on Pesachim, chapter 2, paragraph 9. Rashbam in Mordechai on Pesachim, paragraph 583. Riva in Or Zarua, volume 4, paragraph 299. Rashi in Machzor Vitry, page 255. Ha-Orah, page 90. Ha-Pardes, paragraph 124. Sha'arei Teshuvah, paragraph 280.

<sup>45</sup>Tur, Orach Hayyim, paragraph 453. B.T. Pesachim 35a. A person may fulfill the obligation of eating unleavened bread on the first night of Pesach with wheat, barley, spelt, rye, and oats. Rice and millet are forbidden for they do not come to a state of leaven, rather they "decay".

it in cold water." End of quotation from Sefer Mitzvot Ha-Katan.<sup>46</sup> And Rabbenu Baruch and HaRav Shmuel of Evreux<sup>47</sup> did not eat beans during Pesach. But HaRav Rabbi Yechiel of Paris was accustomed to eat white beans during Pesach. Mordechai.<sup>48</sup>

747. Sefer Mitzvot Ha-Katan wrote that it is forbidden to eat honey during Pesach because it is usual to mix it with flour. And even honey which comes from the honey-comb (is forbidden) because one should make no differentiation. And for that reason it seems (correct) to forbid figs because it is usual to mix them with fine flour when one is preparing them. Mordechai.<sup>49</sup>

748. HaRav Peretz wrote,<sup>50</sup> "There are those who are accustomed to sift the grains which mice have eaten. And there are those who say that there is no need (to do this) because it is like fruit juice which does not cause leavening." But, he wrote that it does not resemble fruit juice<sup>51</sup> because saliva causes leavening as it is taught in a mishnah,<sup>52</sup> "A man may not chew leaven, etc.," and one should not be lenient. But to me it seems that one need not be concerned about this at all for by means of a little amount

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<sup>46</sup>Sefer Mitzvot Ha-Katan, paragraph 223.

<sup>47</sup>HaRav Shmuel of Evreux. R. Shmuel bar Shnuer of Evreux. Lived during the 1st half of the 13th century.

<sup>48</sup>Mordechai, chapter 2 of Pesachim, paragraph 588.

<sup>49</sup>Mordechai, on Pesachim, paragraph 591. Sefer Mitzvot Ha-Katan, paragraph 223.

<sup>50</sup>Sefer Mitzvot Ha-Katan, paragraph 219.

<sup>51</sup>B.T. Pesachim 35b.

<sup>52</sup>B.T. Pesachim 39b.

of saliva the hard grain does not become leavened. And further, even if there are bite marks in it, anywhere from one to a thousand, it is nullified for that it is not ground in order to nullify it. Turim.<sup>53</sup>

749. Rav Alfasi wrote that one needs to guard wheat with which one will fulfill the mitzvah of eating matzah from the time of harvest, so that water does not get into it. But the Rosh wrote that this is only necessary from the time of grinding. And this is his language: "We are accustomed in Ashkenaz and France to guard it at the time of grinding, because then it comes close to water for they place it in a water mill. And thus wrote the Sh'eil'ot."<sup>54</sup>

750. In a teshuvah according to the geonim: one may buy flour from the marketplace in a case of urgency to fulfill the mitzvah (of making matzah with it) for we do not presume it to be forbidden (hametz). But the recommended course of action is to purchase "guarded" flour. Language of the Tur.<sup>55</sup>

751. There are those who wish to argue from the Yerushalmi<sup>56</sup> that one needs to grind the wheat one or two days before kneading it. And if one ground it on Erev Pesach it

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<sup>53</sup>Tur, Orach Hayyim, paragraph 453.

<sup>54</sup>Tur, Orach Hayyim, paragraph 453. Rif on Pesachim, paragraph 736. Rosh on chapter 2 of Pesachim, paragraph 26. Sh'eil'ot, "Tzav", parashah 75.

<sup>55</sup>Tur, Orach Hayyim, paragraph 453. Sha'arei Teshuvah, paragraph 293.

<sup>56</sup>Yerushalmi, Pesachim, chapter 3, halacha 1. The kneading of dough for matzah must be done before the sixth (noon) hour of Erev Pesach.



would be forbidden to knead matzah with it during the day, because at the time of grinding the flour is heated and water is heated and the dough liable to become leavened. Thus it is quite close to a state of prohibition. Shibbolei Ha-Lekket.<sup>57</sup>

752. In the Yerushalmi, chapter "Ellu Ovrin,"<sup>58</sup> (it reads), "Bar Pappa went to the mill, etc." And the meaning here is that the Amoraim would go themselves to the millhouse. Mordechal.<sup>59</sup>

753. The great sage of the generation, Morenu HaRav Ya'akov Moellin, wrote that we are accustomed to whet the millstone because for the time before we grind grain with it to turn it into fine flour, so as to (get rid) of any hametz (which may be on the millstone).<sup>60</sup>

754. "One makes thick matzah."<sup>61</sup> Rashi explains this as made entirely of bran flour. But the Rambam forbid such

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<sup>57</sup>Shibbolei Ha-Lekket, paragraph 210. Belt Yosef, paragraph 453, s.v. "The Agur writes".

<sup>58</sup>Yerushalmi, Pesachim, chapter 3, halacha 1.

<sup>59</sup>Mordechal, on Pesachim, paragraph 601. In Mordechal it is Rav Haninah ben Pazzai.

<sup>60</sup>Sh'ellot and Teshuvot of Maharil, paragraph 58, pp. 68-69. Belt Yosef, paragraph 453, s.v. "Agur wrote". Belt Yosef found a caveat in the tradition of the Ashkenazim: they kept the first flour ground after sharpening the millstone until after Pesach was over. Maharil also said that even though the millstone is sharpened to remove any previous hametz which may have been stuck to it, the first batch of flour ground with it must be kept until after Pesach has ended.

<sup>61</sup>B.T. Pesachim 37a. Rashi and Rif on the portion. The Aramaic means "thick bread".

matzah. And thus is the opinion of Rav Alfas.<sup>42</sup>

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<sup>42</sup>Tur, Orach Hayyim, paragraph 454. Mishnah Torah, Hilchot Hametz, chapter 6, halacha 5. "One cannot fulfill the duty with unleavened bread made of coarse or fine bran, but if it is made with flour which retains its original fine or coarse bran, it may be used to fulfill the duty. Similarly, if unleavened bread is made from exceptionally pure fine flour, it is permissible and may be used to fulfill one's duty on Pesach and it cannot be objected that such bread is not really 'bread of affliction'".

## HILCHOT LISHAT MATZAH

755. The dough of a gentile which is known not to have any leaven in it, which does not have dough whose surface is cracked (because of leavening), and which is not faded, it is permitted for food, provided that one shall eat at least the amount of an olive's bulk of matzah afterwards.<sup>1</sup> But there are those who forbid it to be eaten, except if the gentile kneads (the dough) before him (the Jew). But the Rosh does not agree. Turim.<sup>2</sup>

756. One does not make dough except with water which has remained overnight.<sup>3</sup> According to Rashi,<sup>4</sup> this does not mean "remained overnight" (in a literal sense), but, rather, water which was drawn 12 hours previously. But according to HaRav Eliezer,<sup>5</sup> one needs (to be careful) that the water is drawn at nightfall, because during the night the wells heat

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<sup>1</sup>B.T. Pesachim 40a. Rosh on Pesachim, chapter 2, paragraph 26. Rosh says that one need not watch the gentile make the dough, but only need check the dough at the time of eating. It may not be faded because of fermentation or leavening.

<sup>2</sup>Tur, Orach Hayyim, paragraph 454. Rashi on Pesachim 40a and Hullin 90a. Machzor Vitry, page 257, paragraph 13. Ha-Orah, page 188. Sha'arei Teshuvah, paragraph 291. Rashi is one who does not permit one to eat dough prepared by a gentile if it has not been kneaded before his eyes. As well, Rav Cohen Tzedek forbids this in Sha'arei Teshuvah.

<sup>3</sup>B.T. Pesachim 42a. This is water which one has kept overnight. The water must be drawn in the early evening before it is to be used. For during the month of Nisan the water in the wells is warmed during the night and warm water speeds up the leavening process.

<sup>4</sup>Rashi on Pesachim 42a, s.v. "our". Machzor Vitry, page 258, paragraph 14. Ha-Orah, page 187, paragraph 28. Water which is taken from the wells will cool down during the evening.

<sup>5</sup>Sefer Yere'im Ha-Shalem, page 22, paragraph 52. One should draw water at sunset.

up. Water drawn at night with the setting of the sun is permitted (for use with kneading dough) immediately. But the Rosh wrote<sup>6</sup> that this is the common custom: one draws water at twilight. But from Rashi's language,<sup>7</sup> it seems that with regard to water which has not remained over for 12 hours, one is not strict unless it comes from wells or springs. But with rivers one does not worry about how long since the water has been drawn. In any case one should not be lenient and one does should not knead dough with river water, unless it has been drawn and remained out of the river. And thus it seems from the language of Halachot Gedolot<sup>8</sup> that there is no differentiation, whether one kneaded dough with tepid water and even water which has not been drawn, it is forbidden. And thus wrote Halachot Gedolot, and thus HaRav Ritz Glat. But according to Rashi, only with water of hot springs (one does not knead dough). But with water that has remained over, after the fact, it is permitted. And, even a priori it is allowed to knead (dough) with it if one does not have any other water. And the Rosh agreed with this. Language of the Tur.<sup>9</sup>

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<sup>6</sup>Rosh on Pesachim, chapter 2, paragraph 30.

<sup>7</sup>Rashi in a teshuvah. Ravya, volume 2, paragraph 485. Machzor Vitry, page 258, paragraph 14. Ha-Orah, page 187, paragraph 28. Shibbolei Ha-Lekket, paragraph 211.

<sup>8</sup>Halachot Gedolot, Hilchot Pesach, page 29b.

<sup>9</sup>Tur, Orach Hayyim, paragraph 455. B.T. Pesachim 42a. Rosh on Pesachim, chapter 2, paragraph 31. Halachot Gedolot, Hilchot Pesach, page 57a. Ritz Glat, volume 2, page 92.

757. Rashi wrote, "The sages were concerned for several cities which only had spring water. And they said that those who live in those cities should keep the water all night in order that it should become cold by the next day." And Ravva wrote<sup>10</sup> that it is a proper custom of our sage to draw water after sunset. But according to the words of HaRav Eliezer of Metz,<sup>11</sup> there is no remedy; rather, the water must remain connected to a source during the night, for at night<sup>12</sup> the wells heat up. And Ravva wrote, according to this reasoning, "It is forbidden to draw water after nightfall." And I found a teshuvah of Rabbi Yitzchak<sup>13</sup> where he wrote, "If all the water was emptied out for the dead, it is not in my power to permit water that has not remained over in times of need. But in an actual case, I said that one should not pour out the water for the dead on the (first) evening of Pesach, for (the first) night of Pesach is a night of protection (against evil spirits). And likewise, on the rest of the nights of Pesach "The Lord protects the simple."<sup>14</sup> And God forbid that

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<sup>10</sup>Ravva, volume 2, paragraph 485.

<sup>11</sup>Sefer Yereim, page 22, paragraph 52. Rosh on Pesachim, chapter 2, paragraph 30. Tur, Orach Hayyim, paragraph 457. Rosh allows one to draw water right at the start of the evening, but not afterwards. He does not explicitly identify this time as sunset though.

<sup>12</sup>B.T. Pesachim 94b. "The sages of Israel maintain: The sun travels beneath the sky by day and above the sky at night; while the sages of the nations of the world maintain: It travels beneath the sky by day and below the earth by night. Said Rabbi: And their view is preferable to ours, for the wells are cold by day but warm at night."

<sup>13</sup>Editor's Note: I did not find this teshuvah.

<sup>14</sup>Psalms 116:6.

a mishap should occur due to our performance of a commandment. Thus did HaRav Yehuda Hasid instruct that one does not pour out the water at this time for this (reason). Mordechai.<sup>15</sup>

758. Rabba lectured: "A woman may not knead in the sun nor with water heated by the sun) nor with water collected (from the cauldron)."<sup>16</sup> Rabbi Yitzchak explained, "Water which is during that very day". But Rashi explained, "Water drawn from the large bronze cauldron which is suspended over the fire." And thus explained Ba'al Ha-Divrot,<sup>17</sup> "And it is not heated over fire for if it is thus it is like hot water, rather in the bronze heater which is heated immediately." Shibbolei Ha-Lekket.<sup>18</sup>

759. The dough is forbidden if a person transgressed the halacha and kneaded it with warm water.<sup>19</sup> Ravva explained:<sup>20</sup> "This applies only if (it is done) on purpose, but (if it is done) accidentally it is allowed." But Rashi forbade it even accidentally and forbade it (the matzah) for food because of the fear of leavening. For this is worse than scraping the dough<sup>21</sup> of gentiles. But Ritz Glat and Ba'al Ha-Ittur

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<sup>15</sup>Mordechai on Pesachim, chapter 2, paragraph 593.

<sup>16</sup>B.T. Pesachim 42a. A cauldron is usually kept warm and the warm water taken from it could speed up the leavening process.

<sup>17</sup>Ha-Ittur, Hilchot Matzah, page 129c.

<sup>18</sup>Shibbolei Ha-Lekket, paragraph 211.

<sup>19</sup>B.T. Pesachim 42a. Rashi on the portion, s.v. "where it is". It is forbidden to use warm water to make matzah dough.

<sup>20</sup>Ravva, volume 2, paragraph 479.

<sup>21</sup>B.T. Pesachim 40a.

wrote:<sup>22</sup> "This applies only for "guarded matzah", but it is permitted for food. And thus wrote Ba'al Ha-Divrot.<sup>23</sup> But the Rosh agreed with Rashi's explanation and forbade it (matzah made with warm water), even (when kneaded) accidentally and even for food. Language of the Tur.<sup>24</sup>

760. Thus Rabba said, "On a cloudy day the sun is felt all over, and even in a place on which the sun does not fall it is forbidden to knead (dough).<sup>25</sup> He explains that this refers to a place which is out of doors. But Ba'al Ha-Divrot wrote, "This is not (the explanation)." And Rabbi Yitzchak ruled that this is the halacha and that we rely upon it (in practice). Shibbolei Ha-Lekket.<sup>26</sup>

761. HaRav Meshullam wrote in the name of Rabbi Eliezer HaGadol that one should be careful when baking matzah not to place it in a vessel which contains flour. For, if the flour sticks to the matzah and afterwards one rinses the matzah, the flour which is on the matzah will cause it to become leavened. This is greatly forbidden. Until here is the language of the Mordechal.<sup>27</sup>

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<sup>22</sup>Ha-Ittur, Hilchot Matzah, page 129d. Ritz Glat, page 92.

<sup>23</sup>Editor's note: This is superfluous and it is not in the Tur.

<sup>24</sup>Tur, Orach Hayyim, paragraph 455. Rosh on Pesachim, chapter 2, paragraph 31.

<sup>25</sup>B.T. Yoma 28b. The Talmud attributes this to R. Papa and not Rabba. Even on a cloudy day the heat of the sun can be felt, thus one should not knead dough outside where the heat may affect the dough.

<sup>26</sup>Shibbolei Ha-Lekket, paragraph 211. Rif on Pesachim. Ha-Ittur, Hilchot Matzah, page 129d. Rabbi Yitzchak is noted as the Alfasi in Shibbolei Ha-Lekket.

<sup>27</sup>Mordechal, chapter 2 of Pesachim, paragraph 596.

762. Many are accustomed not to put salt in matzah during Pesach and thus we are accustomed in Ashkenaz, but there is no reason for this prohibition. However, because of (the teaching) "Do not forsake your mother's teaching.",<sup>28</sup> we do not change (this). But there are those who say that on the first night of Pesach one does not put salt on matzah for it is then (considered) "Matzah Ashirah",<sup>29</sup> but this is also not so.<sup>30</sup> In Sefer Rokeach,<sup>31</sup> in the name of the Tosafot, (it says) that one does not put pepper on matzah because it is sharp (it's taste) and it causes leavening. But the Mordechai wrote,<sup>32</sup> that one does not place salt on matzah. And in the teshuvot of the geonim of Alsace-Lorraine it is written that anyone who eats salted matzah during Pesach it is as if he has eaten hametz. But this is not according to Rashbat who permitted the salting of matzah from the first day (of Pesach) onwards. And thus Rashba, in his teshuvot,<sup>33</sup> permitted (this). Rabbi Yitzchak also permitted one to put spices on matzah from the first day (of Pesach)

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<sup>28</sup>Proverbs 1:8 and 6:20.

<sup>29</sup>Matzah Ashirah. See glossary.

<sup>30</sup>Tur, Orach Hayyim, paragraph 455. B.T. Pesachim 39a. Rosh on Pesachim, chapter 2, paragraph 31. Matzah ashirah is matzah which is kneaded with wine, oil, and honey. Salt does not make matzah considered as matzah ashirah.

<sup>31</sup>Sefer Ha-Rokeach, paragraph 273.

<sup>32</sup>Mordechai on Pesachim, chapter 2, paragraph 594.

<sup>33</sup>Sh'eilot and Teshuvot of the Rashba, Volume 1, paragraph 224. Putting salt on matzah does not cause leavening or any similar type of effect as if one put warm water on matzah.



onwards. And thus the Rambam permitted this. Mordechai.<sup>34</sup>  
But it is not the Ashkenazic custom to put salt on matzah during Pesach.

763. "(For we learn, Rabbi Eliezer said) If he removes (loaves from the oven and places (them) in a basket, (the basket combines them in respect to hallah)."<sup>35</sup> And it is the same (that is is permissible to place them) on a board which has a high rim (so that) all the matzot (will fit inside it). And the Ram (R. Eliezer of Metz) ruled in Sefer Yere'im that

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<sup>34</sup>Mordechai, chapter 2 of Pesachim, paragraph 594. Mishnah Torah, Hilchot Hametz, chapter 5, halacha 20. "It is permitted to add such spices as sesame, cumin, etc. to the dough. Likewise it is permitted to knead dough with cold water, oil, honey, and milk. But on the first day of Pesach it is only permitted to use water so that the matzah will certainly be "bread of affliction". For only on the first day of Pesach must the matzah be a reminder of the "bread of affliction".

<sup>35</sup>B.T. Pesachim 48b. Mishnah Hallah, chapter 2, mishnah 4. The Torah commands in Numbers 15:18-21 that a portion of every batch of dough which a Jewish woman prepares is to be separated for the priests. This portion is called the challah. This challah portion which is holy like the terumah may only be eaten by a priest and must consist of a volume equal to 43.2 eggs. When one bakes on Pesach one should immediately separate the challah and bake it so that it will not have time to leaven. Then the baked challah is given to a priest. If the dough is contaminated it cannot be eaten. This poses a problem for the dough then, cannot be baked on Yom Tov for only things that are to be eaten on Yom Tov may be cooked or baked. It is not allowed to set the challah aside until evening and burn it for the dough will become leavened. Rabbi Eliezer gives this solution: The dough is baked and then the challah is separated. Once the dough is baked there is no danger of its becoming leavened so later the challah can be separated and burned. Our portion of the gemara says that once the baking has been done, it is allowed to place all the loaves into a single basket and then take one of the loaves as the challah for all of the baked loaves. The baking of that loaf is not regarded as baking something which will not be eaten on Yom Tov for when it was baked it could have possibly been meant for food.

when Rabbi Eliezer says that the basket combines (the challot) to be strict, this applies only to obligate dough which is not equivalent to the measure of challah. But if it does equal that measure the basket does not exempt the other loaves. And Sefer Ha-Mitzvot,<sup>36</sup> and Ravya disagree and think that even for leniency (it is said) it (the basket) combines. Mordechal, chapter 3.<sup>37</sup> Mori and Rabbi, my father, Morenu, HaRav, Rabbi Yehuda Landau (wrote) in a teshuvah: "On the subject of the challah on the evening of Pesach, certainly it was the custom of these older rabbis of our generation to rule like Rabbi Eliezer in chapter "Ellu Ovrin." And thus Rabbenu Ya'akov bar Yakar<sup>38</sup> and Rashi were accustomed (to rule like this). And thus it was (likewise) the opinion of the Rambam. And I do not distinguish between challah of the diaspora and the challah of the land of Israel. And Rabbi Yitzchak who differentiated, does so for himself, alone. And Maharam (R. Meir of Rothenburg) also wrote that this

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<sup>36</sup>Editor's note: It should say Sefer Ha-Terumah.

<sup>37</sup>Mordechal, chapter 3 of Pesachim, paragraph 599. Ravya, volume 1, paragraph 166, volume 2, paragraph 492. Sefer Yere'im, paragraph 148.

<sup>38</sup>Rabbi Ya'akov bar Yakar. Talmudist. Died: Worms, France, 1064.

custom is good and it is proper as a means of avoiding all doubtful cases.<sup>39</sup>

764. Rabba said, "A kav of 'm'log'na' (is the standard measure) for Pesach."<sup>40</sup> HaRav Yehuda bar Yitzchak wrote,<sup>41</sup> "(this applies only) to the rishonim who had small ovens, when there was fear that large amounts of dough would become leavened. But our ovens are large and it is preferable to knead larger amounts of dough so that one would always be engaged with the dough in order that it will not become leavened. But his colleagues disagreed with him. And HaRav Yonah wrote, "Where one kneads more than this measure, the French sages forbid it. But I am inclined to permit it. However, according to the opinion of the geonim, who wrote that a priori one does not leave the dough (alone) even for one moment without being engaged with it (kneading it), a

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<sup>39</sup>Rashi on Pesachim 48b, s.v. "said". Ha-Orah, page 31. Teshuvot of the Maharam, paragraphs 278, 279, 422. What may one do with the dough which is to set aside for a priest, but there is no priest? Rashi says that one may make them into small cakes and burn the cakes. Maharam notes that it is usual for one to first eat from a loaf of bread and leave enough at the end for the challah to be given to the priest. During Pesach one makes the dough into cakes which are put into a basket and thus combined as though they are now one whole loaf. One of the cakes is then removed as the challah.

<sup>40</sup>B.T. Pesachim 48a. One must not knead more dough than this standard amount on Pesach.

<sup>41</sup>Hagahot Maimuniyot, Hilchot Hametz, chapter 5, halacha 10, writes thus. But in the Tur and Mordechai, it is written Rabbi Yitzchak bar R. Yehuda. And likewise in Ravva, paragraph 492 and in Shibbolei Ha-Lekket, paragraph 212. As well it is written thus later on in paragraph 765 of this text.

priori, one does not knead more than this measure. And the Rosh agreed with this. Language of the Tur.<sup>42</sup>

765. In Rashi's halachot of Pesach<sup>43</sup> it is written that one does not knead two measures (of dough) at once during Pesach in order that the dough shall not become leavened. But in the name of Rabbi Yitzchak bar Yehuda I found that one is not concerned (about the measure of the dough) when baking in large ovens. And in his household two measures or more would be kneaded together. But in any case one should not be lenient because the sages (set) this measure. And thus ruled a majority of the geonim and thus ruled Rav Cohen Tzedek. And in the words of the geonim, I found (that) "Rabbi" permitted one to knead and to shape (dough) with a wooden [rolling pin] in order to quickly finish his labor. And this applies to their oven whose openings were on top and which were small. But with our ovens it is better to knead a lot of (dough) together for if we were to knead it (the dough) bit by bit, the first (batch of dough) could become leavened before one would knead and shape the last of the dough. Shibbolei Ha-Lekket.<sup>44</sup> But I, the author, have seen that the

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<sup>42</sup>Tur, Orach Hayyim, paragraph 456. Rosh, chapter 3 of Pesachim. In a smaller oven large amount of dough would take longer to bake. This would increase the risk of leavening.

<sup>43</sup>Ha-Pardes, paragraph 130. Ha-Orah, volume 2, page 187, paragraph 29. Machzor Vitry, page 258.

<sup>44</sup>Shibbolei Ha-Lekket, paragraph 212.

pious ones of Ashkenaz are accustomed to knead only the measure of challah, even in big ovens.<sup>45</sup>

766. There are some<sup>46</sup> who wrote that even for the baked challah one may call it challah and bake it even in a place where there is no priest to whom it is fitting to donate it. For he said "since" and the halacha follows Rabba who said "since".<sup>47</sup> But it is better not to call it challah even if there is a priest in the city so that he shall not become embroiled in a dispute. Language of the Tur.<sup>48</sup>

767. Rashi wrote in his halachot of Pesach,<sup>49</sup> "One who wishes to separate the challah from the dough recites the blessing 'Who has commanded us concerning the separation of the terumah.'" But one does not say "challah" for the meaning of "challah" is cakes. But "You shall set it aside

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<sup>45</sup>Belt Yosef, paragraph 456, s.v. "The Agur wrote". Darchei Moshe, note 3, paragraph 456. Darchei Moshe says that the Ashkenazim are careful not to put too much dough in the oven at the beginning of baking. But if it is discovered after the fact that too much dough is in the oven, even if this was done on purpose, the dough is permitted.

<sup>46</sup>In the Tur: There are those of the geonim.

<sup>47</sup>B.T. Pesachim 46b. "Since" means that anything a person declares sacred such as challah to be given to a priest is like a vow which has been made. Thus one may be absolved of declaring the challah as sacred just like in the case of a vow. Rabba allow this to happen against the argument of R. Hisda. And the halacha follows Rabba.

<sup>48</sup>Tur, Orach Hayyim, paragraph 457. The challah designated for a priest may be revoked if the priest cannot come to see the portion or if there is no priest in the city.

<sup>49</sup>Ha-Orah, page 190, paragraph 39. Ha-Pardes, paragraph 131. Machzor Vitry, page 264. Ravya, volume 2, paragraph 492, note 11. The text of the blessing is as follows: "Who has sanctified us with his commandments and commanded us to separate the Terumah."

as a heave-offering"<sup>50</sup> is written-thus, it is called "terumah". And one burns it and does not feed it to an impure priest. And afterwards, if there is a priest there, one separates an amount appropriate as a gift for him without a blessing for behold the dough is freed (by the blessing over) the first terumah (which was burned). Shibbolei Ha-Lekket.<sup>51</sup> In the name of HaRav Ya'akov, it is written, "How does one separate challah on Yom Tov?" One separates a small cake and bakes it with the rest of the cakes, and after he bakes them he joins the cake and the terumah together in a basket. And they seem as if they are joined together for the vessel (the basket) joins them to the challah. And one recites the blessing over them and hides them away until Hol HaMoed in its baked form and burns them during Hol HaMoed. And thus wrote HaRav Shmuel of Falaise.<sup>52</sup> But, it is not called (challah) before it is baked because from the time that it is called challah it is forbidden to bake it for one does not burn holy food on Yom Tov.<sup>53</sup> But Rabbi Yitzchak bar Rabbi Shmuel wrote,<sup>54</sup> "This only applies to the challah of

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<sup>50</sup>Numbers 15:19.

<sup>51</sup>Shibbolei Ha-Lekket, paragraph 212.

<sup>52</sup>HaRav Shmuel of Falaise. Rabbi Shmuel bar Shlomo of Falaise. A French tosafist who lived during the 13th century.

<sup>53</sup>B.T. Shabbat 23b. Terumah or sacred food may not be burnt on Yom Tov even if it unfit for food.

<sup>54</sup>Or Zarua, volume 1, paragraph 226. Hagahot Maimuniyot, on Hilchot Yom Tov, chapter 3, halachot 8 and 9. The law regarding the giving of challah to priests in the diaspora is a rabbinic injunction, therefore it is possible to give it to a priest who is a minor and still impure because of a nocturnal emission as a leniency.

Eretz Yisrael, which is forbidden from the Torah, but (regarding) the challah of the diaspora it is permitted to call it (challah) first if there is a priest who is a minor who has never (become impure though) a nocturnal emission." And in Halachot Gedolot, in the name of Rav Cohen Tzedek,<sup>55</sup> it is written that if there is no minor priest it is permitted for an (adult) priest who is impure because of a nocturnal emission by means of mixing a small bit of the challah into a larger portion (of dough) like the terumah of the diaspora. And the challah is also permitted if the priest has undergone T'vilah (ritual immersion to purify him from his nocturnal emission). And for this reason, one is not permitted to bake it, for perhaps (the priest) needs the sun to set (to become pure) and he will not be able to eat it until the evening which is no longer Yom Tov. Thus, one would bake that which is not for the need of Yom Tov (and this is forbidden). And thus wrote Rav Yitzchak Alfas, may his memory be for a blessing,<sup>56</sup> that one may call the challah

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<sup>55</sup>Halachot Gedolot, Hilchot Pesach, page 29b. Tosafot to Pesachim 46a, s.v. "until". B.T. Bechorot 27a. Challah may be designated as such before it is baked according to Rav Cohen Tzedek and the Tosafot, if it is seen by a priest before it is baked. Even a minor priest may see it and it may be called challah. Terumah in the diaspora is only forbidden to those who are unclean with regards to eating it, but not by touching it, for although a young priest may still be impure, and he may make the terumah impure by touching it, there is no problem for we are not obligated to preserve the terumah in a state of purity.

<sup>56</sup>Rif on Pesachim, chapter 3, paragraph 746. Sefer Ha-Terumah, paragraph 84. The young priest may eat the challah, for Rif bases this allowance upon Bechorot 27a which says that one may eat challah unless he is impure.

of the diaspora (by this term) and bake it immediately at first and a minor priest may eat it. But if there is no minor priest we do as Rabbi Eliezer (ruled) and do not call it challah until it is baked. And when Yom Tov has passed we burn it. And thus is the halacha. Shibbolei Ha-Lekket.<sup>57</sup> And Ba'al Ha-Terumot<sup>58</sup> wrote: "One kneads many matzot, if they are small and do not add up to the amount needed for the challah and puts them in a box as Rabbi Eliezer said, and the vessel combines them for the purposes of challah. And they need as well, to be touching each other in the vessel before the separation (of the challah). And when one joins the bread after baking, when it has been kneaded in less than the measure for challah and one joins it with the vessel in order to separate the challah- regarding this HaRav Avigdor wrote that the bread should not extend above the upper rim of the vessel for if it does it is not considered to be joined." But HaRav Rabbi Meir wrote, "This applies only after the fact; (i.e.), it is good to join it (the matzah) in a vessel as one does during the rest of the days of the year. But, a priori, no, for Scripture says: "As the first yield of your baking.",<sup>59</sup> while it is still dough. But during Pesach and on all festivals where one calls it "challah", it is forbidden to move it and also to burn it for one does not

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<sup>57</sup>Shibbolei Ha-Lekket, paragraph 212.

<sup>58</sup>Sefer Ha-Terumot, paragraph 81.

<sup>59</sup>Numbers 11:20.



burn holy food on Yom Tov. Since it is not possible in any other way, it is permitted. Shibbolei Ha-Lekket.<sup>40</sup>

768. One should not start working with dough for matzah on the fourteenth (of Nisan) except after the sixth hour (noon). There is a case mentioned in the responsa, where one (person) who baked matzah before the fourth hour (10 A.M.) and had already removed his hametz, but our rabbis forbid the matzah which had been kneaded for Pesach because it is compared to the paschal offering and it is only offered from the sixth hour (noon) onwards. Thus, likewise with matzah (is it kneaded from noon onwards).<sup>41</sup> And thus wrote Rashi that it is forbidden from the Torah, matzot are compared to the Paschal offering. But in teshuvot of the geonim, I found that after the fact it is acceptable (should matzot be kneaded before noon but it is by accident or found out later, the matzot are permitted). And in the name of Rav Mattitiya it is written that one may bake all (the matzah) from Erev Shabbat because of the trouble of Yom Tov. Shibbolei

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<sup>40</sup>Shibbolei Ha-Lekket, paragraph 212. Belt Yosef, paragraph 457, s.v. "If one brings from."

<sup>41</sup>Language of the Tur, Orach Hayyim, paragraph 458. Matzah is compared in the Torah to the Paschal offering. Just as the Paschal offering is brought only from noon onwards, so too with matzah. According to Belt Yosef (paragraph 458), other Ashkenazic authorities modify this comparison—it applies only to the eating of matzah.

Ha-Lekket.<sup>42</sup> But Rabbenu Shmuel HaCohen permitted this, although a priori. One should be careful because "How precious is a precept in its (proper) time."<sup>43</sup> And Ravya<sup>44</sup> brought proof from the Tosefta,<sup>45</sup> that the mitzvah is fulfilled with old matzah, provided that it was made expressly for Pesach. But it appears that the Yerushalmi<sup>46</sup> disagreed with the Tosefta and forbade it (old matzah) even if it was made expressly for Pesach. And because the Yerushalmi forbade (it) it is suitable to be strict (in this matter) and not to make matzah before noon. But in times of difficulty when one does not find (dough) to bake on the evening of Pesach because there is gentile festival, it is acceptable to rely upon the Tosefta to permit this. And in any case one should make three matzot on the evening of Pesach because "how precious is a precept in its (proper) time." And thus wrote Rav Mattitiya, may his memory be for a blessing. And HaRav Yehuda HaCohen<sup>47</sup> replied that it

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<sup>42</sup>Shibbolei Ha-Lekket, paragraph 213. Sha'arei Teshuvah, paragraphs 93 and 294. Geonei Mizrach u'Ma'arav, paragraph 113. Ma'aseh Ha-Geonim, page 16. Ha-Orah, page 188, paragraph 32. Machzor Vitry, page 261, paragraph 22. Ha-Pardes, paragraph 129. Should the 14th of Nisan fall on Shabbat one may knead the dough on Erev Shabbat for the Yom Tov. Rashi permits this even though it means that one may make the matzah before all the leaven is removed from the household.

<sup>43</sup>B.T. Pesachim 68b. It is good to perform a mitzvah as soon as it can be done, even if it can be postponed.

<sup>44</sup>Ravya, volume 2, paragraph 452.

<sup>45</sup>Tosefta to Pesachim, chapter 2, halacha 9.

<sup>46</sup>Yerushalmi, Pesachim, chapter 2, halacha 4.

<sup>47</sup>R. Yehuda HaCohen. Halachist. Lived in Mainz, Germany, c. 1050.

is good to make the matzot on the second evening (of Pesach) because "how precious is a precept in its (proper) time." And Rav Hai Gaon wrote that it was the custom of our forefathers to remove hametz from Erev Shabbat (and) to bake matzah for eating. And our forefathers "built a fence" so that one would not come close to sin. But on Motzei Shabbat we bake matzah like the ordinance (states), but we can only follow the custom of our forefathers to bake from Erev Shabbat to avoid the difficulty of baking matzah on Yom Tov. End of quotation. And the Rosh used to bake matzot from Erev Shabbat. But I saw in Barcelona that the stringently observant would bake all that they needed during the festival before the festival for if the matzot became mixed with even the smallest amount of hametz it shall be nullified before it becomes prohibited. Language of the Tur.<sup>40</sup> And in the name of Rav Mattitiya (it says) that one should bake on Motzei Shabbat. But in the name of Rav Hai Gaon I found that he wrote, "We can only follow the custom of our forefathers to bake from Erev Shabbat to avoid the difficulty of baking matzah on Yom Tov. And thus wrote Ba'al Ha-Divrot, may his memory be for a blessing. And thus wrote the Ram. And likewise (wrote) HaRav Meir, may his memory be for a blessing. And thus wrote my teacher, may his memory go up

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<sup>40</sup>Tur, Orach Hayyim, paragraph 458.

for a blessing. From Shibbolei Ha-Lekket.<sup>69</sup> Rabbenu Shimshon of Sens forbade one to bake the matzot on Friday when Erev Pesach fell on Shabbat. And thus it appears from the words of Rav Yehudai Gaon. And thus I found in the name of Rabbenu Tam that it is forbidden lest they say that Pesach is when Shabbat has past. But there is evidence to permit (making the matzot on Erev Shabbat) also from the Yerushalmi. Mordechai.<sup>70</sup> And I, the author, heard from my teacher, may father, may his memory be for a blessing, that it is said in the name of Morenu HaRav Rabbi Ya'akov Moellin that he was accustomed to start baking matzot on Erev Pesach after the noon hour, but not before. And thus my father, may his memory be for a blessing, followed after him. But when Erev Pesach fell on Shabbat he was accustomed to bake all (the matzot) from Erev Shabbat, even the three guarded matzot. But, most people are accustomed to bake all (the matzot) even before Erev Pesach.

769. A deaf person, a fool, or a minor cannot knead the dough for the matzah. And thus it is (written) in the Sh'ell'tot, "If a gentile woman kneads the dough; or a deaf person, fool, or minor, who are not capable of guarding (the dough from hametz) even though a mentally competent Jew bakes it and guards it from the time of baking, one does not

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<sup>69</sup>Shibbolei Ha-Lekket, paragraph 213. Sefer Yere'im, page 334, paragraph 301. Sefer Or Zarua, volume 2, paragraph 256. Rokeach, paragraph 281.

<sup>70</sup>Mordechai, on Pesachim, paragraph 543.

fulfill his obligation (with this matzah). And thus wrote Rav Cohen Tzedek. But Rav Hai Gaon wrote that matzah which is baked by gentiles in front of a Jew, who watches over it properly, is permitted for food. But the truly observant and pious are strict regarding themselves and follow the geonim who rule stringently and (they) knead (the dough) themselves and they bake it (themselves). Language of the Tur.<sup>71</sup> And Halachot Gedolot wrote (that) a slave or maidservant who has not been immersed (i.e., has not been made a member of the Jew's household) is forbidden from kneading (dough for) matzah on the first day (of Pesach), but is allowed (to do so) on the rest of the days (of Pesach). And here we follow Rav Cohen Tzedek, may his memory be for a blessing, and thus it is said in the teshuvot of the geonim. Shibbolei Ha-Lekket.<sup>72</sup>

770. Rav Alfasi wrote, they did not forbid Syrian cakes shaped in figures except for those who were not experts in shaping (the cakes) and who might let them wait too long (before baking, resulting in the danger of their becoming leavened). Even if they have a mold which allows them to make them faster (it is forbidden). And thus wrote the

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<sup>71</sup>Tur, Orach Hayyim, paragraph 460. Halachot Gedolot, Hilchot Pesachim, page 29a. Sh'eil'ot, "Tzav", parashah 76.

<sup>72</sup>Shibbolei Ha-Lekket, paragraph 211.

Rambam. But the Rosh was inclined to forbid even bakers (from making Syrian cakes).<sup>73</sup>

771. The great (sage) of the generation, Morenu, HaRav Ya'akov Moellin<sup>74</sup> ruled that when Erev Pesach fell on Shabbat all firstborn (sons) would fast on the Thursday before it. But my teacher, my father, may his memory be for a blessing, was not accustomed to this, rather he did not fast at all since it (the fast) was delayed, let it be cancelled (because of Shabbat) for it was nothing but a custom.

772. Rabbenu Tam wrote, "Matzah which is baked with hametz in an oven is permitted for we do not find (in the sources) that its flavor forbids the whole loaf." But there are those who forbid it if they touch each other for they resemble a hot loaf and an open cask.<sup>75</sup> But (according) to the opinion of the Rosh, who permits even matzah which has grain found in

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<sup>73</sup>Tur, Orach Hayyim, paragraph 470. B.T. Pesachim 37a. Rosh and Rif on the portion. Mishnah Torah, Hilchot Hametz, chapter 5, halacha 15. People who are experts at baking will take a long time to bake the cakes for they shall want to get the shapes exactly right. People who are not experts will not be particular and not take such a long time. If one takes a long time to make the cakes, it is possible that they shall become leavened. This is why The Rosh forbid bakers from making the cakes.

<sup>74</sup>Sh'ellot and Teshuvot of Maharil, paragraph 110. Beit Yosef, paragraph 470, s.v. "and he wrote".

<sup>75</sup>B.T. Avodah Zarah 66b. These are forbidden for the smell of the wine of an open cask affects the loaf.

it, this also appears to be permitted. Language of the Tur.<sup>76</sup>

773. The great sage of the generation, Morenu HaRav Ya'akov Moellin, may his memory be for a blessing, was asked<sup>77</sup> if delays in baking the dough are combined to the point at which they equal the time required to walk a "mile or not? And he replied that there is no interval. And he brought proof from "drop by drop"<sup>78</sup> even all day it is not possible for it to become leavened. This does not necessarily mean "for all of (one) day," but not even for two or three days. But why should the intervals not be combined? End of quotation.

774. Fruit juice does not cause leavening.<sup>79</sup> Many other opinions exist regarding this. According to Rashi one is not liable for "Karet",<sup>80</sup> but it is considered hard leaven and even with fruit juice alone it is forbidden to knead. But according to Rav Alfasi, it is permitted to knead dough even with fruit juice mixed with water from the first night (of Pesach) and onwards. But there are those who forbid one to

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<sup>76</sup>Tur, Orach Hayyim, paragraph 461. Ha-Rokeach, paragraph 292. Mordechai on Pesachim, paragraph 570. Rabbenu Tam permitted a loaf with a smell for he outlined that the smells from an oven which can enter a loaf but the smell of leaven cannot. Thus it will not affect the taste of the loaf.

<sup>77</sup>Sefer Maharil, Hilchot Ha-Matzot, page 11.

<sup>78</sup>B.T. Pesachim 39b.

<sup>79</sup>B.T. Pesachim 35b. Rashi on Pesachim 36a, s.v. "one does not knead". Rashi holds like R. Gamliel that matzah dough should not be kneaded with wine, oil, or honey because it may make it leaven quickly. If this is done the dough must be burnt immediately. However the sages hold that the dough can be baked if it is done quickly.

<sup>80</sup>Karet. See glossary.

knead (the dough) with fruit juice (mixed) with water even from the first night onwards. But one who forms the dough with them (fruit juice mixed with water) at the time of rolling (the dough), they permit (one to do thus) from the first night and onwards. But on the first night and the second night (of Pesach) one does not fulfill (the mitzvah of eating matzah) with them (matzot kneaded with fruit juice mixed with water) for it is (regarded as) "Matzah Ashirah".<sup>81</sup> 775. And with egg yolks-Rashi was uncertain if they caused leavening (if they were mixed with dough).<sup>82</sup> And Rabbenu Tam permitted (their use). And the Rosh agreed with this. And fruit juice mixed with water produces hard leaven for which one is not liable (for punishment) by "Karet" even if it sped up the leavening process more from the rest of the dough, therefore one does not knead (dough) with them. But if one kneaded dough with them, Halachot Gedolot ruled that it (the dough) is burned immediately. But Ritz Glat ruled like the sages who said that it (the dough) is baked immediately.<sup>83</sup> And the Rosh agreed with this.<sup>84</sup> And all beverages (except

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<sup>81</sup>Tur, Orach Hayyim, paragraph 462. Rif on Pesachim, chapter 2, paragraph 726. The water which is mixed with the fruit juice cannot be lukewarm for that will speed up the leavening process. Rif explains that one does not mix such things as oil, milk, or even fruit juice with the dough of matzah to be eaten on the first or second nights of Pesach for it becomes expensive matzah. This is according to R. Hisda in the Talmud. In the end it appears that the Agur accepts this position.

<sup>82</sup>Ha-Orah, page 81. Tosafot on Pesachim 35b, s.v. "and water".

<sup>83</sup>Halachot Gedolot, page 29b. Ritz Glat, volume 2, page 93.

<sup>84</sup>Rosh on Pesachim, chapter 2, paragraph 13.



water) are considered like "fruit juice", therefore if a grain is found in the honey, wine or vinegar, it is permitted, provided that one does not mix it with water. Language of the Tur.<sup>85</sup>

776. There are those sages who say that it is forbidden to mix dough with fruit juice even during the rest of the days (of Pesach). And there are other sages who say that it is permitted. From Shibbolei Ha-Lekket.<sup>86</sup>

777. In Rashi's halachot on Pesach, they asked him if it was permitted to knead dough with eggs during Pesach; (i.e., does this cause the dough to ferment)? And Rashi did not say that it was forbidden or that it was permitted. But they were accustomed to forbid it in all the Rhine cities. Shibbolei Ha-Lekket.<sup>87</sup>

778. I found (a ruling) that if a salt plant is found in flour, the salt causes leavening. For the salt is offspring of the sea and is not at all (like) fruit juice. But, it does not appear so to me, for a vattika is permitted with

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<sup>85</sup>Tur, Orach Hayyim, paragraph 462.

<sup>86</sup>Shibbolei Ha-Lekket, paragraph 214. Some sages feel that one may only fulfill the obligation of eating matzah with simple, round cakes of matzah. Resh Lakish holds this view in the Talmud. Rashi permitted the shaping of dough with fruit juice as did Rabbenu Tam and his followers.

<sup>87</sup>Shibbolei Ha-Lekket, paragraph 214. Ha-Pardes, paragraph 129. Ha-Orah, page 189. Machzor Vitry, page 268, paragraph 43. The custom not to knead with eggs comes from Machzor Vitry where uncertainty is expressed about whether the eggs would cause leavening. Since there is doubt it would seem wise to forbid it.

oil and salt.<sup>==</sup> Therefore, salt is like fruit juice.

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<sup>==</sup>B.T. Pesachim 39b. Tur, Orach Hayyim, paragraph 462. Vattika is a certain type of pastry made of flour. Oil does not cause leavening so oil and salt can be used in making it. But with water and salt it is forbidden. This is according to the Talmud, but the Agur, from the Tur, is more stringent and does not allow such things to be made with oil and salt.

## HILCHOT HAMETZ

779. Ba'al Ha-Ittur wrote (that) the Babylonian Rabbi<sup>1</sup> states that it is permitted to knead bran or flour for chickens and to feed them immediately, or it could sit as long as it did not sit for the amount of time that it takes one to walk a mile. And during the time that the chickens are turning and sifting it it cannot become hametz. But we do not rely upon this for it is possible that we will let it sit for the period of time that it takes one to walk a mile.<sup>2</sup>

780. The Rosh wrote, concerning the permit to sift flour on which water has fallen: "It is a great leniency to do this during Pesach, for hametz, even in a small amount forbids a mixture. For perhaps hametz will be mixed with the flour, even in a small amount, in a sieve. And I saw the sages rule in practice, that one should hold the entire damp part (of the mixture) in his hand, in a sack, and thus it is preferable." Until here is the language of the Tur.<sup>3</sup>

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<sup>1</sup>When Ha-Ittur cites the "Babylonian Rabbi"; it is possible that he means the Rambam. Certainly, in this case, the Rambam holds the same position as does the "Babylonian Rabbi". See: Mishnah Torah, Hilchot Hametz, chapter 5, halacha 18.

<sup>2</sup>Tur, Orach Hayyim, paragraph 465. Ha-Ittur, Hilchot Matzah, page 129b. B.T. Pesachim 39b. Bran maybe kneaded with water in order to feed poultry at once, or it may be set in front of them and let stand. But one must watch and take the food away before the period of time that it takes someone to walk a mile elapses. This is to prevent the bran of flour from becoming leavened.

<sup>3</sup>Tur, Orach Hayyim, paragraph 466. Rosh on Pesachim, chapter 2, paragraph 26.

781. Nowadays, since the rabbis of the academies have declared that we are not experts in the area of boiling flour to make a special paste,<sup>4</sup> it is forbidden in all circumstances. And one does not knead bran in order to feed to birds at all during Pesach. But the Rambam permitted one to knead bran or flour for chickens and they could eat it immediately if one would stand over them (to see to it) that it would not sit for more than the period of time that it took one to walk a mile. Shibbolei Ha-Lekket.<sup>5</sup>

782. Wheat and barley which are split are forbidden (to be used to make matzah), if they have not split they are permitted. "Mar Ukba said: 'As for the mishnah which says: if they are split they are forbidden, this does not mean they are truly split; rather, if they are in such a condition that if they are placed on the mouth of a wine cask they would split of themselves.'" Some texts read: "On a pipe" (rather than on a wine cask). But Shmuel said that they are not forbidden unless they are actually split open.<sup>6</sup> And Rav Alfasi wrote that there are poskim (who rule) like Shmuel, that only if they are actually split open (they are

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<sup>4</sup>Tur, Orach Hayyim, paragraph 461. Rif on Pesachim, chapter 2, paragraph 736. Rosh on Pesachim, chapter 2, paragraph 20. Mishnah Torah, Hilchot Hametz, chapter 5, halacha 17. The geonim permitted one to make a paste from flour only in special circumstances when it was to be used by doctors to help the sick. According to the Rambam the prevailing custom was not to scald bran even though it was permitted for there was a fear that the "water might not boil it thoroughly".

<sup>5</sup>Shibbolei Ha-Lekket, paragraph 215. Mishnah Torah, Hilchot Hametz, chapter 5, halacha 18.

<sup>6</sup>B.T. Pesachim 40a.

forbidden), and there are poskim (who rule) more stringently like Mar Ukba.<sup>7</sup>

783. If a grain of wheat is found on dough or in baked matzah, the Rosh wrote that it is permitted (for food) even if the grain is split. But I saw that a few of the great sages would forbid the matzah (in which the grain was found). And there were others who would forbid all the matzot. But it seems to me that even if you can say that the grain was leavened, why would the whole piece of matzah be forbidden? For thus did they say,<sup>8</sup> "Hametz, even in the smallest amount (nullifies the mixture)." That is by cooking, whereby the leaven spreads through the whole pot; but if an olive's bulk of fat fell on one cake, it's obvious that the fat's prohibition does not penetrate the whole cake. For baking is not like cooking for its flavor is not spread throughout the whole cake. Rather, all that is forbidden is the amount needed for peeling or lifting (the grain from the matzah; i.e., you can remove the grain from the matzah and not have to discard the rest). And all the more so (for) one grain which has no strength to spread through the whole cake. And thus wrote HaRav Rabbi Eliezer of Metz that if a grain is found on (a piece of) salted meat or broiled (meat) or on hot matzah (freshly baked), one slices (off) the part where it spread (only), according to

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<sup>7</sup>Tur, Orach Hayyim, paragraph 467. Rif on Pesachim, chapter 2, paragraph 735.

<sup>8</sup>B.T. Pesachim 30a.

his estimate, and it is sufficient. And if it is the eighth day of Pesach, which is Yom Tov, it is permitted to wait until after Pesach because it is doubtful whether this day is in fact Yom Tov. Language of the Tur.<sup>9</sup> But Sefer Ha-Mitzvot wrote that broiled (meat) is also forbidden for the reason of "leaven in the smallest amount" because the taste of the grain goes throughout the fowl when it is turned on the spit at the time of broiling. And thus Sefer Rokeach forbids broiled (fowl) for financial benefit when hametz is found on it, but if a grain is found on salted meat it is forbidden only until one has removed the grain. And thus wrote HaRav Rabbi Shmuel of Falaise in the name of his teacher who received it (the ruling) from Ritzba.<sup>10</sup> Mordechai.<sup>11</sup> There was a case in which a split grain of wheat was found in a vessel (filled) with water and they cooked a dish with the water and it was permitted. For they did not say that the water was forbidden and that the dish was forbidden. And thus Ravya permitted grains which fell into a well.<sup>12</sup> And it seems to me that the reason is that the grains do not give a flavor in cold water and even pure hametz which falls into a

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<sup>9</sup>Tur, Orach Hayyim, paragraph 467. Sefer Yere'im, paragraph 52. Ravya, volume 2, paragraph 462.

<sup>10</sup>Ritzba. Rabbi Yitzchak ben Avraham. Tosafist. Died: c. 1210 in Dampierre, France.

<sup>11</sup>Mordechai, on Pesachim, paragraph 556. Sefer Rokeach, paragraphs 288-289. Mordechai notes that Rabbenu Shimshon allowed the matzah to be eaten if the grain was scraped off of it.

<sup>12</sup>Ravya, volume 2, paragraph 418. Mordechai, on Pesachim, paragraph 568. Tur, Orach Hayyim, paragraph 467. Ravya found allowance for this from the Talmud, Terumot 40b.

well is permitted from this same reason. And he wrote further,<sup>13</sup> "A grain that is found on on a salted chicken, if one has salted other chickens with it, that one on which the grain is found is forbidden for the grain has become softened and hametz, even in the smallest amount, (is forbidden) during Pesach. But the rest (of the chickens) are permitted. And the same is true if one broils chickens on a spit and a grain is found on one of them, that one is forbidden but the rest are permitted." But the Rosh wrote,<sup>14</sup> "It does not seem correct to forbid the entire salted chicken on which the grain was found. Rather, as Rabbi Ellezer of Metz wrote that one removes the part where it spread. But, when a grain is found on a broiled chicken, he is correct that the whole chicken is forbidden because the turning of the spit causes the flavor to be spread to the whole chicken." And if such a case (or question) were to come before me, I would forbid all the chickens that are on the spit because the touch each other by means of the turning and (the taste) spreads from one to the other. And just as in the rest (of the cases regarding the passing of flavor of hametz) they (foods) are forbidden if one can pass on flavor to them all, all are forbidden (in this case). It is the rule (regarding)

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<sup>13</sup>Sefer Rokeach, paragraph 287. Only the part of the chicken on which the grain is found is considered forbidden as food. The rest of the fowl is permitted. If several chickens are being roasted together on a spit, the one on which the grain is found is forbidden but the others are permitted for food if the forbidden chicken has not touched them.

<sup>14</sup>Rosh on Pesachim, chapter 2, paragraph 25.

hametz that it (is forbidden) even in the smallest possible amount.<sup>15</sup> Rashi also ruled that when broiling (a chicken) the whole chicken is forbidden.<sup>16</sup> And thus I found (this) in one teshuvah. But I found commentaries (that say), this only applies to roasting or boiling, (it is forbidden) but by means of salting, if a fowl or meat is salted and a grain of wheat is found on it, it is enough only to scrape it so that one scrapes a little of the meat from the place where the grain was found. I found a case where my teacher permitted a chicken that was plucked in hot water<sup>17</sup> during Pesach and the skin was still with it and grain was found on it, he permitted (the chicken as food) from the reason that the skin and the bird's crop<sup>18</sup> separates the grain from the meat. And I found further, in a well in which one finds bread during Pesach, it is forbidden to drink from the well water. Shibbolei Ha-Lekket.<sup>19</sup> There are those who permit a grain of wheat which is found on the skin of a chicken for it is considered as though it was consumed and is not classified as food. And there are those who say that we do not learn prohibitions from (the rules of ritual) impurity, and the Rosh agreed with this. Rashbam, Rabbenu Yitzchak of Prague, Rabbenu Yehuda of Paris, and Rabbenu Yechiel of Paris hold

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<sup>15</sup>Tur, Orach Hayyim, paragraph 467. Rosh, chapter 2 on Pesachim, paragraph 25.

<sup>16</sup>Machzor Vitry, page 269, paragraph 44. Ha-Orach, page 190, paragraph 18. Ha-Pardes, paragraph 139.

<sup>17</sup>In Shibbolei Ha-Lekket: In hametz. This is an error.

<sup>18</sup>Should read: the skin of the fowl.

<sup>19</sup>Shibbolei Ha-Lekket, paragraph 217.



that something which gives a disgusting flavor during Pesach is permitted. And thus (wrote) HaRav Yitzchak Or Zarua. But HaRav Ellezer of Metz said<sup>20</sup> that something which gives a disgusting flavor is forbidden. And thus (ruled) Riva. But in Ashkenaz (people) are accustomed to permit it.

784. There was an occurrence where a hametz kettle was purified, and the water (used in the purification) which contained leaven was poured out and entered a well. The rabbis forbade the water for drinking during Pesach for leaven during Pesach prohibits, even in the smallest amount. But Ravva ruled that it was permitted according to the one who said,<sup>21</sup> something that gives a flavor that renders something unfit during Pesach is permitted. But Rabbi Yitzchak Or Zarua wrote, "A loaf of bread which fell into a well and is not capable of giving a flavor to the water of the well, in this (instance) it is uncertain if the well water is permitted or forbidden (for drinking). For perhaps we should be more stringent than with grain because the loaf is already leavened. But, in any manner, in such a case we rely upon the Sh'eil'tot of Rav Achai who permitted leaven during Pesach in a mixture of 60 to 1. Mordechai.<sup>22</sup>

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<sup>20</sup>In the original manuscript it reads "R. Yechiel" erroneously.

<sup>21</sup>B.T. Pesachim 30a.

<sup>22</sup>Mordechai, on Pesachim, paragraph 568. Sefer Rokeach, paragraph 286. Ravva, volume 2, paragraph 419. Sh'eil'tot, "Tzav", parashah 80. Sefer Rokeach adds that should leaven fall into a well accidentally it is forbidden to draw water from the well during Pesach.

785. If one began a job from the day before Erev Pesach (the 13th of Nisan), and it is for the need of the festival, one may finish it on Erev Pesach (the 14th of Nisan).<sup>23</sup> And HaRav Rabbi Yonah explained, "Even after the noon hour (one may continue to work)." But the Rosh wrote, "Only until the noon hour (may one work, but not past it). But if it (the work) is not for the need of the festival, even if one started the day before (Erev Pesach) he cannot finish it on Erev Pesach."<sup>24</sup>

786. Tailors, hairdressers, and washermen may work (on Erev Pesach) until noon (midday), even in a place where it is customary not to work (on Erev Pesach).<sup>25</sup> But the Rambam wrote that even that these three (professionals) should not start (to work on something new on Erev Pesach) except in a place where they are accustomed to work (on Erev Pesach). But with other professions, of which we say, if one began (a job) from the day before (Erev Pesach) he may work to finish it until midday (on Erev Pesach), this applies only in a place where they are accustomed to working (on Erev Pesach). And the Rosh wrote according to the first opinion. Language of the Tur.<sup>26</sup>

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<sup>23</sup>B.T. Pesachim 55a. Any work started before the 14th of Nisan which is for the festival may be completed on the 14th which is Erev Pesach.

<sup>24</sup>Tur, Orach Hayyim, paragraph 468. The prohibition or allowance of work on the Erev of Shabbat or a festival is left up to the prevailing custom of the local community.

<sup>25</sup>B.T. Pesachim 55a.

<sup>26</sup>Tur, Orach Hayyim, paragraph 468. Mishnah Torah, Hilchot Yom Tov, chapter 8, halacha 19.

787. First born (sons) are accustomed to fast (on Erev Pesach). But HaRav Rabbi Yechiel allowed one to eat (various) types of desserts. Mordechai, chapter "Irvei Pesachim".<sup>27</sup>

788. If one began to eat on Erev Pesach before the tenth hour (4 p.m.) and his meal continued until the evening,<sup>28</sup> Rashbam ruled that even though that on Shabbat one spreads out a tablecloth (over the table to hide it as if no meal had yet taken place) and recites the Kiddush. On Pesach one needs to interrupt his meal by lifting up the table (and removing it from the room). But there are those who say that this is not necessary and one only needs to spread a tablecloth (over the table) and say the kiddush over a cup (of wine) but one does not say "Who creates the fruit of the vine" over it. And one says Ha-Motzi and finishes his meal. But there are those who say that one does not even need to say Ha-Motzi. But Rav Alfasi wrote that one needs to say Ha-Motzi. And thus wrote Halachot Gedolot, and the Rosh agreed with this. Language of the Tur.<sup>29</sup>

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<sup>27</sup>Editor's note: This citation is not found in Mordechai on the 10th chapter of Pesachim "Irvei Pesachim".

<sup>28</sup>B.T. Pesachim 100a. Rosh and Rif on this portion.

<sup>29</sup>Tur, Orach Hayyim, paragraph 471. Halachot Gedolot, page 13b. How does one interrupt the meal in order to sanctify the festival? In the Talmud R. Yehuda says that the table must be removed. R. Yose says no interruption is needed. R. Yehuda said that a tablecloth may be spread over the table so it seems that it was not there and one should say kiddush to sanctify the day. Rav Alfasi adds that the "motzei" should be recited. Halachot Gedolot and Rosh agree and thus is the halacha. But it seems that one does not need to remove the table but only spread a tablecloth over it.

### HILCHOT LEIL PESACH

789. "On the eve of Pesach (close to Mincha) one must not eat until nightfall."<sup>1</sup> And if you say, why does the text say here "from nightfall", more so than on Shabbat or Yom Tov? And HaRav Rabbi Ya'akov of Corbell explained that it says "until nightfall", even though on all Shabbatot and other festivals one adds from the non-holy time to the holy time.<sup>2</sup> On Pesach (however) one cannot eat until nightfall. This does not seem correct. Rather, the words "from nightfall" are not to be taken literally; they are simply a turn of phrase. And Rabbenu Yoel agreed with HaRav Yitzchak of Orleans that matzah is compared with Pesach (the paschal offering)-it is not eaten until the evening. Mordechai, on chapter "Irvei Pesachim".<sup>3</sup>

990. The great sage of the generation, Mahari Moellin wrote,<sup>4</sup> "If one of the three matzot which one made and guarded are broken or is lost, it is proper to bake another because of the scriptural proof-text that is based on the 3 "tenth-parts" of flour (cf. Numbers 29:20). And further,

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<sup>1</sup>B.T. Pesachim 99b. The literal translation is "on the eve of Pesachim." The Tosafot suggests that this can mean either on that eve when the paschal lamb was sacrificed or on the eve of the first and second days of Pesach.

<sup>2</sup>B.T. Berachot 28b. When the time has come for the afternoon service it is forbidden for a man to eat anything until he has recited the afternoon tefilah.

<sup>3</sup>Mordechai in Tosafot from "Irvei Pesachim" pg. 34g, Vilna edition. This is the reason why Pesach, unlike Shabbat, cannot start until after sundown.

<sup>4</sup>Sh'eilot and Teshuvot of Maharil, paragraph 58. Beit Yosef, paragraph 475, s.v. "The Agur wrote".

there are times when one cannot properly guard the rest of the matzot. In any case, if one (of the matzot) is broken, I argued before my teacher, that one should take, in its place, the second (matzah) because, in any case one breaks one matzah. This is true even if the third was broken because one should not bake another since the mitzvah will be fulfilled by the first two matzot.

791. Avi HaEzri wrote<sup>5</sup> that at this time one does not need to recline (at the table during the seder). Nevertheless the people are accustomed to recline. And when one reclines he does not lean on his back or on his front or on his right (side). Rather he reclines on his left side.<sup>6</sup> And Rashbam explained that this is because one needs to eat with his right hand. And therefore one who is left handed reclines on his right side (and eats with his left hand). But Rashi explained the reason (for reclining on the left side), "Lest (the food) goes down the wrong way (and endangers him)." Therefore there is no distinction between right-handers and left-handers. But a woman does not need to recline.<sup>7</sup> And Rashbam explained that the reason is because she had a

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<sup>5</sup>Tur, Orach Hayyim, paragraph 572. Ravya, volume 2, page 154, paragraph 525. Hagahot Maimoniyot, Hilchot Hametz, chapter 7, halacha 8. The Tur, continues and says that an important woman must recline, a son sitting with his father must recline, and a student sitting before his teacher must recline. If one must recline but eats and drinks without reclining he has not fulfilled his obligation. A married woman does not need to recline for her husband has authority over her.

<sup>6</sup>B.T. Pesachim 108a. Rashi and Rashbam on the portion.

<sup>7</sup>Ibid.

husband (who has authority over her). And according to this explanation, a widow or a divorcee must recline. But Halachot Gedolot wrote<sup>9</sup> (that) it is not proper for a woman to recline; according to this explanation no woman needs to recline.

792. In the Yerushalmi<sup>7</sup> (we read that) it is a mitzvah to search for red wine (to drink at the seder). But it seems to me<sup>10</sup> that if white (wine) is better than red wine it comes before (the red wine). Regarding "Yayin M'vushal" (boiled wine)<sup>11</sup> Rav Hai Gaon wrote that one does not fulfill his obligation with it and thus wrote Halachot Gedolot and thus Maharil agreed. But in the Yerushalmi<sup>12</sup> (it says) that one may fulfill his obligation with ("Yayin) M'vushal" and spiced wine. Thus ruled Mordechai.

793. Only their wine (the wine of the talmudic sages), which was strong, did one need to mix it. But our wine is not so strong. Thus it is fine to drink it as it is. Mordechai.<sup>13</sup>

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<sup>9</sup>This citation is not found in Halachot Gedolot. See: Seder Rav Amram Gaon, volume 2, page 104b.

<sup>7</sup>Yerushalmi, Pesachim, chapter 10, halacha 1, and Shekalim, chapter 3, halacha 2.

<sup>10</sup>Tur, Orach Hayyim, paragraph 472.

<sup>11</sup>Yayin m'vushal. See glossary. B.T. Bava Bathra 97a.

<sup>12</sup>Yerushalmi, Pesachim, chapter 10, halacha 1 and Shekalim, chapter 3, halacha 2.

<sup>13</sup>Mordechai, Tosafot to "Irvei Pesachim", page 37d, Vilna Edition. The ways of making wine were different in the time of Mordechai than in the time of the sages. Therefore the talmudic concern is moot.

794. The great sage, Maharil, wrote<sup>14</sup> that when a man has strong wine on the evening of Pesach for the four cups (of wine), if it is that man's custom to mix (his wine) he shall mix (the wine) on the evening of Pesach. But if not (if it is not his custom) he should not mix it. End of quotation.

795. After one drinks the first cup (of wine) if he wishes to drink several more cups, it is permitted.<sup>15</sup> But Avl HaEzri wrote,<sup>16</sup> (one may) only (do this) if he fixes his intention<sup>17</sup> that he does not need to say the blessing a second time so it would not be as if he is adding to the (required) cups. And thus wrote Maharam (in response) to a question<sup>18</sup> if one may recite a blessing over new wine (a new container of wine), "...who is good and beneficent." on the evening of Pesach. And he replied that one may recite a blessing for it does not seem to be adding to the cups of wine unless one blesses "who created the fruit of the vine" as one blesses over the four cups. But there are those who follow the view that we must recite the blessing "who created the fruit of the vine" over every cup (which is drunk), thus

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<sup>14</sup>Sh'eilot and Teshuvot of the Maharil, paragraph 142.

<sup>15</sup>B.T. Pesachim 117b. One may drink in between the 1st, 2nd, and 3rd cups of wine.

<sup>16</sup>Ravya, volume 2, page 155, paragraph 525. Ravya says one should only drink in between the required cups of wine if he knows not to say a blessing over each cup so that it will not seem as if he is adding to the required cups of wine to be drunk.

<sup>17</sup>(I.e.), he should explicitly remind himself that these additional cups are included under the first blessing.

<sup>18</sup>Tashbatz, paragraph 99. Maharam says that one may say a variation of the Kiddush when he opens a new container of wine.

it follows for them that if one says a blessing it appears as if he is adding to the four cups. But according to the opinion of the Rosh, that one does not need to say "who created the fruit of the vine" over every cup, there is no difference as to whether he drinks more cups or not, for if we think he is adding to the required number of cups, even if he says no blessing (he should not drink more wine). Language of the Tur.<sup>19</sup>

796. The great sage of the generation, Maharil, wrote<sup>20</sup> that it is a mitzvah to prepare two dishes, an egg and a shank bone or meat (for the seder table). And thus testified Ba'al Ha-Agudah<sup>21</sup> and his reason is explained,<sup>22</sup> "Why an egg? For God sought us out and redeemed us." End of quotation. Orchot Hayyim wrote,<sup>23</sup> "God came to redeem and stretched out His arm from heaven."<sup>24</sup>

797. There are those who say that when Pesach falls on Motzei Shabbat that one prepares only one dish, for the remembrance of the paschal offering, but not the second which corresponds to the Haglgah<sup>25</sup> because since the Haglgah

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<sup>19</sup>Tur, Orach Hayyim, paragraph 473.

<sup>20</sup>Sh'ellot and Teshuvot of the Maharil, paragraph 58.

<sup>21</sup>Agudah, Pesachim, chapter 10, paragraph 97.

<sup>22</sup>Menucha, chapter 8, "M'hametz" halacha 1.

<sup>23</sup>Orchot Hayyim, Hilchot Leil Pesach, paragraph 13.

<sup>24</sup>The Aramaic for egg is "Bel'ah" (Bet, Ayin, Yod, Aleph) and the Aramaic for "to seek" is "B'ah" (Bet, Ayin, Aleph). The similarity allows for a word play to be used in the Midrash where the egg is an important food for it is close to the word "to seek" which God did and redeemed Israel. Arm and shankbone are both called "Z'ro'ah". The shankbone thus is a symbol of God's redeeming arm.

<sup>25</sup>Haglgah. See glossary.



did not then come along with the Pesach offering, because it did not supercede (the laws of) Shabbat. But HaRav Rabbi Peretz wrote that there is no need to be concerned with this since today it (the Hagligah) is a mere remembrance, and on the contrary it one who is stringent regarding this it would appear to be offering actual sacrifices. And thus wrote Ba'al Ha-Ittur.<sup>26</sup> And likewise (wrote the) Mordechai.<sup>27</sup>

798. The great sage of the generation, Maharil, may his memory be for a blessing, wrote,<sup>28</sup> "When one begins the recitation of "This is the bread of poverty", one lifts up the (seder) plate and holds the matzah in his hand. With the lifting up (of the seder plate) he removes it (the matzah) from the table until he reaches "We were slaves to Pharaoh", in accordance with the words of Sefer Mitzvot Ha-Katan: we say ('Onin) words over it.<sup>29</sup> And thus one uncovers it a bit during the time of the story (of the exodus) for if it would be covered it would seem like it was not there (on the table). As we find with the covering (of the challah) on

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<sup>26</sup>Tur, Orach Hayyim, paragraph 473. Ha-Ittur, Hilchot matzah, page 133c. Tosafot to Pesachim 114b, s.v. "one". Also see B.T. Pesachim 69b.

<sup>27</sup>Mordechai, chapter "Seder shel Pesach" page 38a. Vilna edition.

<sup>28</sup>Sefer Maharil, Hilchot Ha-Hagadah, page 15a. B.T. Pesachim 116b. Sefer Mitzvot Ha-Katan, paragraph 144. Matzah should only be on the table in an uncovered state when its time has come for eating or explanation.

<sup>29</sup>B.T. 36a. "It is written 'anil' (poverty, but we read 'oni' (grief). For Shmuel said: 'Bread of 'oni (means) bread over which words may be recited ('onin). These words are the reading of the haggadah which is read in connection with the eating of matzah on Pesach.

Shabbat for the reason that the challah should not see its embarrassment (i.e., covering "removes" the bread).. Thus when one takes the (wine) cup in his hand when he reaches "Therefore" it is proper to cover (the matzah) from this reason, that the matzah will not see its embarrassment. And thus is the custom of the pious ones." End of quotation.

799. Maharam wrote that at this time one does not need to wash (his hands) before eating something that he dips in a liquid. Therefore, he does not say the blessing over the washing of the hands for the first dipping (at the seder). But, Ba'al Ha-Ittur wrote<sup>30</sup> that this does not seem proper. And thus in a teshuvah of the geonim (it says) that one must recite the blessing. And thus wrote HaRav Rabbi Shemaya in the name of Rashi. And the one who wants to be free of doubt should place himself in a state of obligation to wash his hands in another way, for example by washing and wiping his feet.<sup>31</sup> And thus wrote Shibbolei Ha-Lekket.<sup>32</sup>

800. Rav Amram wrote that herbs are dipped in haroset, and likewise wrote the Ramban, may his memory be for a blessing.<sup>33</sup> But Rabbenu Tam explained that one dips in vinegar and not in haroset, and thus was the Rosh accustomed. Language of the

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<sup>30</sup>Textual emendation. Should read: And thus wrote Ba'al Ha-Turim.

<sup>31</sup>Tur, Orach Hayyim, paragraph 473. Ha-Ittur, page 134b. Tosafot to Pesachim 115a, s.v. "One who washes". Machzor Vitry, page 273, paragraph 56.

<sup>32</sup>Shibbolei Ha-Lekket. Paragraph 218.

<sup>33</sup>Should read: Rambam. Mishnah Torah, Hilchot Hametz, chapter 8, halacha 2.

Tur.<sup>34</sup> And thus explained the great sage of the generation, Maharil,<sup>35</sup> in the name of all his teachers. But Ba'al Ha-Agudah<sup>36</sup> was accustomed to take a little haroset and vinegar (together) when he dipped the first time. But I, the author, saw that the Ashkenazic sages were not accustomed to dip in haroset the first time (that they dipped).<sup>37</sup>

801. Maharil, may his memory be for a blessing, instructed<sup>38</sup> that one should search for karpas, which is called "Afla" in the foreign tongue, to dip the first time, because it is not regarded as maror.<sup>39</sup> And there is proof brought by Rokeach:<sup>40</sup> "karpas"="Samech" (60) and the word "perech; (i.e.), the Egyptians enslaved 600,000 Israelites by means of backbreaking labor. But, as for parsley in the Ashkenazic language, this may be endive, which is a type of bitter herb. And after one fills his stomach with bitter herbs (when) he dips for the first time, can he recite the blessing regarding

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<sup>34</sup>Tur, Orach Hayyim, paragraph 473. Seder Rav Amram Gaon, volume 2, page 107a. B.T. Pesachim 114a and Tosafot, s.v. "one who dips". Rosh on Pesachim, chapter 10, paragraph 25. Tosafot says specifically that one dips in water or vinegar as Rabbenu Tam was accustomed.

<sup>35</sup>Sh'eilot and Teshuvot of Maharil, paragraph 58. Maharil wrote that although Rabbenu Tam was accustomed to dip in vinegar, it was not prohibited from dipping in haroset. The custom today is to dip herbs into salt water.

<sup>36</sup>Agudah, Pesachim, chapter 10, paragraph 97.

<sup>37</sup>Darchei Moshe, paragraph 473, note 15. Ba'al Ha-Agudah would dip in both vinegar and haroset so as to fulfill both opinions.

<sup>38</sup>Sefer Maharil, Hilchot Ha-Haggadah, page 14a.

<sup>39</sup>If you eat a bitter herb at the time that you should eat karpas, you may prematurely fulfill your maror obligation; thus, it would be forbidden to say "Blessed are You....who commands us regarding the eating of maror."

<sup>40</sup>Should read: in taking.

the eating of the bitter herbs?<sup>41</sup> But when one does not have parsley he should take leeks which are called "purei" in the foreign language. End of quotation.

802. According to Rabbi Yitzchak one should say a blessing after dipping first the herbs, (saying) "...who creates many lives". But according to Rashbam one does not need to say a blessing afterwards. And the Rosh agreed with this. Language of the Tur.<sup>42</sup>

803. Maharil ruled, whoever does not have lettuce should take maror for it is bitter. But Ba'al Sefer Agudah wrote that one should take marrubium, which is called in the foreign language "raufno". (One should take) the stem or the leaves but not the roots.<sup>43</sup>

804. Maharil, may his memory be for a blessing, wrote, concerning the sandwich that one makes in memory of the Temple; like Hillel (did), one dips the lettuce in haroset and eats it with haroset. But with eating the bitter herb one should dip the lettuce in haroset but remove the lettuce

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<sup>41</sup>B.T. Pesachim 115a. When one eats bitter herbs he should first say, "Who creates the fruit of the ground" and then "Who has commanded us regarding the eating of bitter herbs." This is the halacha according to R. Hirsda.

<sup>42</sup>Tur, Orach Hayyim, paragraph 473. Beit Yosef, paragraph 473, s.v. "Agur wrote". Rosh on Pesachim, chapter 10, paragraph 26.

<sup>43</sup>Sh'eiltot and Teshuvot of the Maharil, paragraph 58. Sefer Maharil, page 16a. Agudah, Pesachim, chapter 10, paragraph 97. Beit Yosef, paragraph 473.

from the haroset so that one does not annul its taste. And thus ruled the Rosh and the great sages of Evreux.<sup>44</sup>

805. On the subject of the blessing over the "Hallel" on the evening of Pesach there is an argument amongst the rabbis. Ritzba said a blessing over it two times: once before eating and once after eating. And thus Rabbi Meir of Rothenburg was accustomed. And thus wrote Rav Hal and Rav Amram. But Ritz Glat and Ravva wrote that one does not say a blessing over it at all because one divides it into two (parts); before and after the meal, and if (this is) so, how can one say a blessing when it is divided in the middle? And thus was Rosh accustomed. And thus it seems fit to do in every matter where there is doubt concerning a blessing, since blessings do not hinder the performance of a mitzvah. Language of the Tur.<sup>45</sup> And it is the custom that one does not recite a blessing over the "Hallel" at the beginning. And the reason is explained in teshuvot of the geonim;<sup>46</sup> it is divided it

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<sup>44</sup>Sh'ellot and Teshuvot of the Maharil, paragraph 58. B.T. Pesachim 115b. Rosh on Pesachim, chapter 10, paragraph 26. Beit Yosef, paragraph 475.

<sup>45</sup>Tur, Orach Hayyim, paragraph 473. Tosafot to Berachot 14a, s.v. "days". Ritz Glat, volume 2, page 100. Ravva, volume 1, paragraph 168, and volume 2, page 168, paragraph 525. On a day when one says the whole Hallel he may interrupt between one section and another, but not in the middle of one section. On days when one recites only half-Hallel, one may interrupt in the middle of a section. The failure to say a blessing over a mitzvah does not render the mitzvah invalid; therefore, where there is doubt, one should not recite the blessing, but should perform the mitzvah.

<sup>46</sup>Sha'arei Teshuvah, paragraph 102. Or Zarua, volume 1, paragraph 43. Tashbatz, paragraph 98. Hagahot Maimuniyot, Hilchot Hametz, chapter 8, halacha 5. The second part of the divided Hallel comes after the fourth cup of wine.

into two (parts). But in Massechet Soferim, chapter 19,<sup>47</sup> we learn that they used to recite "Hallel" in the synagogue after the evening service and at that time they said the blessing over it. And thus wrote Rav Tzemach Gaon. But in the name of HaRav Avigdor Cohen I found that it was said of R. Yitzchak ben Avraham that he used to recite two blessings: "...to recite the Hallel" before the meal and "...to finish the Hallel" over the fourth cup (of wine). And he brought proof (to support) his words from the Yerushalmi, the first chapter of Berachot, Shibbolei Ha-Lekket.<sup>48</sup>

806. Rav Alfasi wrote, "When one drinks the second cup (of wine) one recites "who creates the fruit of the vine" over it." And thus wrote Rav Amram, Rambam, and Ravya. But this does not appear correct to the Rosh, who holds that one only recites "who creates the fruit of the vine" over the first cup which is for Kiddush and the third cup which is for the Birkat Ha-Mazon.<sup>49</sup> And one does not recite the blessing over the fourth cup (of wine). Language of the Tur.<sup>50</sup> And thus wrote Ba'al Ha-Divrot. This was also the opinion of Rav Cohen Tzedek, Rav Yosef bar Rav Amram Gaon I, and thus it appears correct. Shibbolei Ha-Lekket.<sup>51</sup> But Rav Hai Gaon and Rav Sherira Gaon wrote that one needs to recite the

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<sup>47</sup>B.T. Soferim, chapter 19, halacha 9.

<sup>48</sup>Shibbolei Ha-Lekket, paragraph 218. Yerushalmi, Berachot, chapter 1, halacha 8.

<sup>49</sup>Birkat Ha-Mazon. See glossary.

<sup>50</sup>Tur, Orach Hayyim, paragraph 474. Seder Rav Amram Gaon, volume 2, page 106b. B.T. Pesachim 117b.

<sup>51</sup>Shibbolei Ha-Lekket, paragraph 218.

blessing over each (cup of wine). After the second and after the fourth cups (of wine) one does not need to recite the concluding blessing.<sup>52</sup> And thus wrote Rav Cohen Tzedek. 807. And on the subject of the concluding blessing, Rav Alfasi wrote [that one needs to recite the blessing after the second and after the fourth cups (of wine). But Avi Ha-Ezri wrote] that one needs to recite the blessing after the first, third and fourth cups (of wine). But Rav Nehalal<sup>53</sup> wrote, "The cup for Kiddush and before Birkat Ha-Mazon (i.e., the first two cups), because one has a cup (of wine with which) to say the Birkat Ha-Mazon one does not need to say the blessing 'for the vine...' after them. But one blesses both final cups." But Rav Sherira Gaon and Rav Hai wrote that one does not need to recite the blessing over every cup, and one needs to say the concluding blessing only over the last cup. And thus wrote HaRav Rabbi Yehuda HaHasid. Language of the Tur.<sup>54</sup> But Rav Alfasi wrote, "There are those say that one only blesses 'for the vine..' at the end. And there are those who say that one recites the blessing over the cups that are before the meal and after the two cups that come after the meal. And the latter is the better one, and thus

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<sup>52</sup>Tur, Orach Hayyim, paragraph 474.

<sup>53</sup>In the Tur: Rabbenu Hananel.

<sup>54</sup>Tur, Orach Hayyim, paragraph 474. There is reads: Rabbenu Yonah. Rif on Pesachim, chapter 10, paragraph 785. Ravva, volume 2, page 155, paragraph 585. Rosh on Pesachim, chapter 10, paragraph 24. Ma'aseh Ha-Geonim, page 16. Sh'eilot and Teshuvot of the Maharil, paragraph 58. The Rosh agrees with Ravva and wrote that one only needs to say the blessing over the 1st and 3rd cups of wine.

it is reasonable to practice accordingly." But Rashi explained in his halachot on Pesach<sup>55</sup> that one needs to recite the blessing "for the vine..." after every cup (of wine), and thus wrote Rabbenu Yeshayah. But according to the words of Rabbenu Shmuel and the rest of the commentators, (one recites) "for the vine..." over every cup except for the second one. Shibbolei Ha-Lekket.<sup>56</sup>

808. One should say Ha-Motzi over the whole matzah, break it, but not eat it until he has said the blessing regarding the commandment to eat matzah over the previously broken matzah (which was broken at "Yachatz"). This is because there are those who say both Ha-Motzi and the blessing regarding the commandment to eat matzah over the broken matzah. Thus, one who wishes to fulfill both (opinions) holds both of them (the whole piece and the smaller piece) in his hand and says Ha-Motzi and the blessing regarding the commandment to eat matzah together. And afterwards one breaks from both of them together. Language of the Tur.<sup>57</sup> And HaRav Rabbi Yom Tov used to say that one also says Ha-Motzi over the smaller piece of matzah. The whole pieces of matzah are only present as a symbol of the two loaves required for a festival. But it does not seem so. For one thing, is Pesach inferior to other festival days

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<sup>55</sup>Ha-Orach, page 100, paragraph 89. HaPardes, paragraph 137. Machzor Vitry, pages 276 and 285.

<sup>56</sup>Shibbolei Ha-Lekket, paragraph 218.

<sup>57</sup>Tur, Orach Hayyim, paragraph 475.



where one recites Ha-Motzi over the whole piece? Ha-Motzi was not established for poor bread as was explained earlier.<sup>58</sup> And further, in Massechet Berachot<sup>59</sup> they (the rabbis) said that, "All agree that on Pesach one places the smaller piece of matzah in the whole piece of matzah", which means that the whole piece is the principal one and one recites Ha-Motzi over it. Therefore it appears that this is the order: One makes three matzot and breaks one and puts aside half of it (for the afikoman). And one says Ha-Motzi over the whole piece and the blessing regarding the commandment to eat matzah over the smaller piece. And thus is everyone accustomed, but one does not say Ha-Motzi and the blessing regarding the commandment to eat matzah over the smaller piece and the whole piece together because one does not perform mitzvot in bundles.<sup>60</sup> But to me it appears that the issue of "bundles" does not apply here because one says Ha-Motzi as a blessing over something to be enjoyed. And

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<sup>58</sup>B.T. Pesachim 116a. "Bread of 'oni': 'Ani (poverty) is written for just as a beggar generally has a piece so here too, a piece is taken." The blessing over the matzah must be said over a piece, not over a whole matzah to emphasize Israel's poverty in Egypt. Thus, three matzot are required; two because it is a festival and a third which is broken so that the blessing may be said over a piece.

<sup>59</sup>B.T. Berachot 39b.

<sup>60</sup>B.T. Berachot 49a. B.T. Pesachim 122b. Each blessing requires special attention.

there is proof from the blessing over wine and the Kiddush.<sup>41</sup> And thus it was the custom of Rabbi Yitzchak to take the whole piece and the smaller piece of matzah in his hand and to say both Ha-Motzi and the blessing regarding the commandment to eat matzah over the whole piece and the smaller piece and break both of them together. But he did not wish to teach this publicly and change the custom (of the people). Rambam, HaRav Rabbi Menachem of Joigny,<sup>42</sup> and HaRav Rabbi Yom Tov wrote that two matzot are enough. Mordechai, on chapter "Irvei Pesachim".<sup>43</sup> And Rav Alfasi wrote that one needs only two matzot and (breaks) one piece into two (pieces) and says Ha-Motzi and the blessing regarding the commandment to eat matzah over half of it, and the second half is (kept) for the afikoman, and the second piece of matzah (whole piece) is for the sandwich. And thus wrote the

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<sup>41</sup>Kiddush. See glossary. The Kiddush and the blessing over the wine are two separate blessings that are recited over the same cup of wine. Thus this is proof that it is possible to say Ha-Motzi and the blessing regarding the commandment to eat matzah over both the large piece of matzah and the small piece of matzah together.

<sup>42</sup>R. Menachem of Joigny. Tosafist. Joigny, France, c. 1180.

<sup>43</sup>Mordechai, "Seder shel Pesach", page 38a, Vilna edition. Mishnah Torah, Hilchot Hametz, chapter 8, halacha 6. Tosafot to Berachot 39b, s.v. "Al", and Pesachim 116a, s.v. "what". The benediction is not recited over 2 whole loaves as on other festivals because the Torah speaks of matzah as the bread of affliction or poverty. And just as a poor man would have broken pieces of a loaf so does every one say the benedictions over a broken piece of matzah. Rabbi Yitzchak's custom is to break both the whole matzah and the smaller piece of matzah for both have a purpose but he says the blessing over both of them together.

geonim<sup>44</sup> in Chiluf Minhagim<sup>45</sup> that the sages of Babylon wrote that when Pesach fell on Shabbat one placed the small piece of matzah between two whole pieces of matzah, but when Pesach fell on a weekday one brought a whole piece and a smaller piece and said the two blessings over them. But the sages of the land of Israel (wrote) that whether Pesach fell on Shabbat or a weekday one placed the smaller piece on the whole piece and recited the two blessings over them. The Ba'al Halachot Gedolot made the same distinction and wrote,<sup>46</sup> "When Pesach falls on Shabbat one breaks two of them (two whole pieces) and a smaller piece." But the Tosafot wrote<sup>47</sup> that one needs to make three matzot as they explained, and thus wrote Rav Amram and the Rosh agreed with this. Language of the Tur.<sup>48</sup> Rashi explained that one places the smaller piece of matzah on the whole piece, which serves for the two loaves required on a festival, and breaks the whole piece (for) Ha-Motzi, because Ha-Motzi is a regular blessing; thus

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<sup>44</sup>Rif on Pesachim, chapter 10, paragraph 789. Sha'arei Teshuvah, paragraphs 222 and 287. Teshuvot of the Geonim from the Geniza, page 185. Ritz Glat, volume 2, page 103.

<sup>45</sup>Cited in Even Ha-Ezer, Hilchot Pesachim, page 74g. Ravva, volume 2, page 160, paragraph 525.

<sup>46</sup>Halachot Gedolot, Hilchot Pesach, page 29d.

<sup>47</sup>Tosafot to Pesachim 116a, s.v. "what".

<sup>48</sup>Tur, Orach Hayyim, paragraph 475. Seder Rav Amram Gaon, volume 2, pages 107b and 112a.

one says it over the whole piece of matzah.<sup>69</sup> And thus Rabbenu Gershom and Rabbenu Shmuel, may his memory be for a blessing, both explained: "One breaks it but does not eat it until one has broken from the smaller piece which is under it and recites the blessing regarding the commandment to eat matzah and (then) one eats both of them together".<sup>70</sup> And this is the language of Ha-Divrot:<sup>71</sup> "This seems reasonable, because Rabba said everyone agrees on Pesach that one places the smaller piece of matzah on the whole piece and breaks it. Thus, one places the smaller piece in between the two whole pieces, and our custom is to have two whole loaves on Yom Tov and it is the Babylonian custom, etc." The custom is to recite Ha-Motzi over the whole piece and the blessing regarding the commandment to eat matzah over the smaller piece. But it seems reasonable to recite both Ha-Motzi and the blessing regarding the commandment to eat matzah over both of them and to break one of them as they (the rabbis)

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<sup>69</sup>See B.T. Pesachim 114a. "Beit Hillel maintain: He recites a blessing over the wine and over the day, because the wine enables the Kiddush to be recited. Another reason: the blessing for wine is constant, while the blessing for the day is not constant; that which is constant comes first." Without wine or bread, Kiddush (the sanctification of the day) cannot be recited. Bread (in this case matzah) is the same as wine in this respect. The blessing for wine, is considered regular. for whenever one drinks wine (or eats bread) he says a blessing over it. Thus the blessing over the wine (or bread) precedes the Kiddush for it is only said because of a festival.

<sup>70</sup>Shibbolei Ha-Lekket, page 100, paragraph 218. Rashi on Berachot 39a.

<sup>71</sup>Ha-Ittur, Hilchot Matzah, page 134d.

said:<sup>72</sup> "We saw that Rav Kahane took two and broke one, etc." But Rabbenu Hananel<sup>73</sup> and Rabbi Yeshayah explained that that one recites Ha-Motzi over the smaller piece and the blessing regarding the commandment to eat matzah over the whole piece. And we are accustomed to do thus. But Ba'al Ha-Meor wrote that one recites Ha-Motzi and the blessing regarding the commandment to eat matzah over the smaller piece of matzah and thus did the poet establish in his "krovah".<sup>74</sup> But since we are accustomed to make three matzot which are watched (for the seder) we wish to perform a mitzvah over each one. (Therefore) over the first one we say Ha-Motzi. Over the second one we recite the blessing regarding the commandment to eat matzah. And from the third one we make the sandwich with lettuce and haroset for the memory of the paschal offering. Shibbolei Ha-Lekket.<sup>75</sup> And I, the author, shall write of the custom of my teacher, may father, may his memory be for a blessing, who used to take three matzot, that is to say that the smaller piece was in between (the two whole pieces) and recite Ha-Motzi over all three of them in order to symbolize the two loaves required for a festival with the two whole pieces, as well to fulfill what<sup>76</sup> is the way of the "poor bread" with the smaller piece. And afterwards he

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<sup>72</sup>B.T. Berachot 39b.

<sup>73</sup>Rabbenu Hananel on Berachot 39b and Pesachim 116b. Machzor Vitry, page 279.

<sup>74</sup>A piyyut which accompanies the Yotzer prayer on Shabbat Ha-Gadol and begins: "Merciful Father".

<sup>75</sup>Shibbolei Ha-Lekket, paragraph 218.

<sup>76</sup>B.T. Pesachim 116b.

removed the third piece and held the first piece and the second, which was the smaller piece and recited the blessing regarding the commandment to eat matzah over both of them together and broke from both of them together a piece the size of an olive from each one. And this satisfied all opinions and rulings.<sup>77</sup>

809. Rav Amram wrote that one recites Ha-Motzi and dips (the matzah) in haroset and eats it. And thus did the Rambam explain. But I don not know why one dips (matzah) in haroset.<sup>78</sup> And thus did Ba'al Ha-Ittur raise a difficulty against their words.<sup>79</sup>

810. Ravva wrote that one does not dip the sandwich in haroset. But Rabbenu Shemaya wrote in the name of Rashi that one must dip. And thus wrote the Rosh.<sup>80</sup>

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<sup>77</sup>The Agur lists all the various decisions regarding over which piece of matzah which blessing is said and how many pieces of matzah are required. He then recounts his father's tradition which satisfied all rulings and opinions and the Agur accepts this as the halacha. Three matzot are required. There are 2 whole pieces because festivals require 2 loaves and a third which is broken to recount the poverty of our people in Egypt. The Motzi is said over all three pieces of matzah. Then the middle piece is broken and the blessing regarding the commandment to eat matzah is said over it. This is our custom today.

<sup>78</sup>Tur, Orach Hayyim, paragraph 475. Seder Rav Amram Gaon, volume two, page 107a. Mishnah Torah, Hilchot Hametz, chapter 8, halacha 6.

<sup>79</sup>Ha-Ittur, page 134g. Ha-Ittur knows of no tradition where the matzah is dipped in haroset after reciting Ha-Motzi.

<sup>80</sup>Tur, Orach Hayyim, paragraph 475. Ravva, volume 2, page 166, paragraph 525. Machzor Vitry, page 282. Ha-Orach, page 103. Rashi writes that one dips the matzah in the haroset as part of the Hillel sandwich but not on its own.

811. My brother, (Ya'akov b. Asher (Ba'al Ha-Turim) is speaking here) HaRav Rabbi Yechiel, wrote;<sup>81</sup> "I am uncertain whether one needs to recline when eating the sandwich. But Ba'al Ha-Meor<sup>82</sup> wrote that one must recline. And he wrote further that one who wishes to fulfill the mitzvah in the best way should not speak until he has made the sandwich like Hillel so that blessing for the matzah and the maror will be fulfilled with the Hillel sandwich. Since, whenever the halacha is not decided between two viewpoints, we opt for strictness and adopt both positions. But on the subject of the blessing, one needs to do the mitzvah in such a way that it fulfills both viewpoints. And one must be careful (not to engage in) regular conversation. But regarding "take and bless" there is no interruption.<sup>83</sup> Ba'al Halachot Gedolot wrote that the mitzvot require intention. And thus (wrote) the Rosh.<sup>84</sup>

812. Ravva wrote, "I saw people who eat roasted meat<sup>85</sup> on the evening of Pesach and there is no discrepancy with what is said in the Yerushalmi. And it is a proper custom in a place where they are not accustomed to eat roasted (meat);

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<sup>81</sup>Tur, Orach Hayyim, paragraph 475.

<sup>82</sup>In the Tur: Ba'al Ha-Manhig.

<sup>83</sup>B.T. Berachot 40a. Before the one who has broken from the smaller piece of matzah blesses it he passes around the piece that he has broken off and says "take (from it) and bless."

<sup>84</sup>Rosh on Rosh Hashanah, chapter 3, paragraph 11. Halachot Gedolot, Hilchot Rosh Hashanah, page 38g.

<sup>85</sup>Should read: meat and fowl which is roasted.

and Ashkenaz (is) a place where they are not accustomed to this."<sup>86</sup>

813. There are those who say, (regarding) the Afikoman which is eaten after the meal, that one needs to make it into a sandwich with maror and dip it in haroset and eat a olive's bulk of matzah after it. But the Rosh wrote that one only needs to eat an olive's bulk of matzah after the Afikoman.<sup>87</sup>

814. But if one forgot and did not eat the Afikoman until (after) he had washed his hands for the Birkat Ha-Mazon, or said "Give to us and we shall bless" (my friends let us bless), even if one already blessed and remembers before he recited "Who creates the fruit of the vine" (over the third cup of wine), Ravva wrote<sup>88</sup> that one should wash his hands, recite Ha-Motzi, and eat it (the Afikoman). But if one did not remember until after one has recited "Who creates the fruit of the vine" one should not eat the Afikoman, for one needs to recite "Who creates the fruit of the vine" over another cup (of wine) after reciting Birkat Ha-Mazon a second time and this would increase the cups (over the allowed limit of four). And Halachot Gedolot wrote that we

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<sup>86</sup>Tur, Orach Hayyim, paragraph 476. Ravva, volume 2, paragraph 498. Yerushalmi, Pesachim, chapter 4, halacha 4. B.T. Pesachim 53a. One should not eat roasted meat because it will seem like one is saying, "this meat shall be for Pesach." And it will look like one is sanctifying the animal and then eating a sacred sacrifice after the destruction of the Temple.

<sup>87</sup>Tur, Orach Hayyim, paragraph 477. B.T. Pesachim 119b. Rashbam and Rosh on the portion. Nothing may be eaten after the last piece of matzah is eaten.

<sup>88</sup>Ravva, Volume 2, page 168, paragraph 525.



can rely on our matzot (that they are free of hametz) because all of them are guarded from the time of kneading. But Ba'al Ha-Ittur wrote<sup>89</sup> that one does not need to do it again since one fulfills his obligation with (matzah in the amount) of as olive which he ate before (the meal), even though he ate something after it. And the Rosh agreed with the first opinion. But HaRav Rabbi Peretz wrote, "Even though one said "Give to us and we shall bless" one may eat without reciting a blessing. Even though in general, the Zimun is regarded as removal (of food and as such, no food may be consumed from the moment one begins to recite Birkat Ha-Mazon), it is different here for the Afikoman is a mitzvah that the All-Merciful One imposed, and we rely on God's tray.<sup>90</sup> But this did not seem so to the Rosh.<sup>91</sup>

815. And it is a mitzvah to seek out (at least three people) so that we can say a Zimun, for thus it says in Midrash Tilleim that Hallel needs three people for its recitation so that one of them says "O give thanks" to the other two. But we are not accustomed (to do) thus for it is sufficient for (a man to recite grace) with his wife and children who have reached

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<sup>89</sup>Ha-Ittur, Hilchot Matzah, page 135a.

<sup>90</sup>See B.T. Berachot 42a. We are not finished eating a meal until the host (in the case of the situation in the Talmud the Exilarch) is finished. Therefore, even if we have begun to recite Birkat Ha-Mazon, we are still allowed to eat the Afikoman, since the removal of food does not occur until we have performed this mitzvah.

<sup>91</sup>Tur, Orach Hayyim, paragraph 477. Rosh on Pesachim, chapter 10, paragraph 35.

the age of education.<sup>72</sup> And I, the author, saw the sages of Ashkenaz who would search about to get a hold of three (people) for the meals on the (first) two nights (of Pesach) who were (at least) thirteen years of age.

816. And when the Hagadah needs for three people to be present because it says in Midrash Shochar Tov that one says to the others "O gives thanks" etc. But HaRav Rabbi Avigdor Cohen replied that one does not rely on Shochar Tov where it is not possible (to get three people together). Shibbolei Ha-Lekket.<sup>73</sup>

817. On the subject of the Benediction of Song<sup>74</sup> there is disagreement (amongst the rabbis). With the Benediction of Song, Rav Yehuda says (starts), "Praise Thee..." and concludes, "The King who is praised with songs of praise." But Rabbi Yochanan says, "The breath of every living thing..". And Rav Alfasi wrote that the custom is according to Rav Yehuda. But Rashbam wrote that because it is not said that the halcha is according to one or to the other, (rather we do) like the both of them and conclude with "The King who is praised with songs of praise." But HaRav Hayyim Cohen did not end (the benediction) "Praise Thee" with "Blessed are You, O God, the King who is praised with songs of praise."

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<sup>72</sup>Tur, Orach Hayyim, paragraph 478. Midrash Tillim, page 113c, paragraph 47.

<sup>73</sup>Shibbolei Ha-Lekket, page 93, paragraph 218.

<sup>74</sup>B.T. Pesachim 118a. Rashbam and Tosafot on the portion, s.v. "And Rabbi Yehuda". The Benediction of Song follows the end of the Hallel. There are several versions quoted in the Talmud.

Rather he would say up to "From time immemorial and forever, You are God." And he would say the "great Hallel" (Psalm 136), "Every living breath..", and conclude with "Blessed are You, O God, who is praised..." for why should he close a benediction twice? And thus was the Rosh accustomed.<sup>75</sup>

818. A fifth cup is not mentioned according to Rashbam's explanation and we do not do it. Therefore, (he) explains, that one says the "great Hallel" over the fourth cup (of wine).<sup>76</sup> And thus it appears from the words of Rav Hai, may his memory be for a blessing. But Rav Sa'adiah wrote that it is a fine custom to make a fifth cup, but we are not accustomed to do thus whatsoever. But everyone is accustomed to make it as an optional act. And Rabbi Yosef Tuv Elem<sup>77</sup> wrote that if one desires to drink he makes a fifth cup. Therefore Rav Shalom Gaon wrote, "A fifth cup is optional, if one wants to drink it say "Praise Thee" over it." And thus agreed Rav Cohen Tzedek and Rav Moshe. And thus wrote Rav Amram. And whoever wants to make it should not conclude after the Hallel but should say the great Hallel, "Every living breath..", and end. And thus wrote Ritz Giat.<sup>78</sup>

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<sup>75</sup>Tur, Orach Hayyim, paragraph 480. Rif on Pesachim, chapter 10, paragraph 794. Rosh on Pesachim, chapter 10, paragraph 32. Mordechai, end of Pesachim.

<sup>76</sup>B.T. Pesachim 117b. Rashbam and Tosafot on the portion, s.v. "fourth".

<sup>77</sup>Yosef Tuv Elem I. Commentator, Halachist, Liturgist. Died: France, c.1040.

<sup>78</sup>Tur, Orach Hayyim, paragraph 481. Rif on Pesachim, chapter 10, paragraph 794. Sha'arei Teshuvah, paragraph 286. Seder Rav Amram Gaon, volume 2, page 113a. Ritz Giat, volume 2, page 99.

819. The Rosh wrote, "It would appear from the words of Rabbenu Yosef Tuv Elem that it is forbidden to drink (anything) after the four cups (of wine of the Pesach Seder)." And thus wrote Rav Alfasi, "After one has eaten all the fine foods and fruits, one eats an olive's bulk of matzah which was guarded, at the end and does not taste anything from then on except for the cup (which was used for) Birkat Ha-Mazon, and the cup for the Hallel. If one is thirsty he does not have permission to drink wine; only water. And thus wrote all of the geonim. Language of the Tur.<sup>99</sup> But the Mordechai agreed to even allow wine (to be drunk). But HaRav Shmuel of Evreux was strict regarding himself and did not even drink water. Mordechai. And Rabbenu Shmuel wrote that one should not drink wine. But my teacher wrote that even wine is permitted and thus it is in the Yerushalmi. And thus wrote Ba'al Ha-Divrot. And I found in the teshuvot of the geonim that all the scholars of the yeshiva are accustomed likewise. The zealous individuals in Israel were accustomed on the second night (of Pesach) to do everything as it is done on the first night in remembrance of the Paschal sacrifice. But whoever wants to eat and drink on the second night after finishing Hallel may do so. But this means that he separates himself from the community of zealous

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<sup>99</sup>Tur, Orach Hayyim, paragraph 481. Rosh on Pesachim, chapter 10, paragraph 33. Rif on Pesachim, chapter 10, paragraph 795. Halachot Gedolot, Hilchot Pesach, page 60b. Ritz Glat, volume 2, page 101.

ones and trespasses against the words of the sages who said that one should never separate himself from the community. Shibbolei Ha-Lekket.<sup>100</sup>

820. Rav Alfas wrote, "Whomever has only an olive's bulk of guarded matzah eats unguarded matzah first. He recites Ha-Motzi over it and afterwards, over the olive's bulk of guarded matzah he recites the blessing regarding the commandment to eat matzah. And (then) one makes the sandwich of matzah and maror and eats it without a blessing." And the Rosh wondered about this because according to (Alfasi's) opinion, if one eats the guarded (matzah) and (then) the unguarded (matzah) after, this would nullify the taste of the (guarded) matzah which was in his mouth. It is more reasonable to forget the sandwich, for it is only in remembrance of the Temple, rather than to nullify the taste of the matzah. And thus wrote HaRav Yonah that one should eat an olive's bulk of matzah last (i.e., for Afikoman) and recite the blessing regarding the commandment to eat matzah over it. And one should not eat anything after it. But the Rosh wrote that one should eat an olive's bulk of matzah first and recite Ha-Motzi and the blessing regarding the commandment to eat matzah over it. And one should not worry whether he eats unguarded matzah later.<sup>101</sup>

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<sup>100</sup>Shibbolei Ha-lekhet, paragraph 218. Ha-Ittur, Hilchot Matzah, page 136b.

<sup>101</sup>Tur, Orach Hayyim, paragraph 482. Rif on Pesachim, chapter 10, paragraph 796. Rosh on Pesachim, chapter 10, paragraph 36.

821. Rav Alfas wrote, "He who does not have wine on the night of Pesach makes Kiddush over bread (matzah)." How does one do this? It is easy to (say) Ha-Motzi and break the cake and place one's hands upon it until one has finished (saying) Kiddush. Then one recites the blessing regarding the commandment to eat matzah and he eats it. Then he goes back and eats the rest of the herbs and removes (the table). And one says, "Why is this night different..." until "...who redeems Israel." Then one recites the blessing over the bitter herbs and goes back and makes the sandwich of matzah and bitter herbs without a blessing. But Ritz Glat says that one does not recite a blessing at the time of Kiddush except for Ha-Motzi, then he says the Kiddush and eats.<sup>102</sup> And when one eats matzah, one eats maror immediately (with it), for one does not pause between the eating of matzah and the eating of maror." Were I not fearful (of disputing these sages), I would say that he should dip the herbs without (saying) Kiddush and afterwards read the Hagadah and the Hallel until (he reaches) "...into a fountain of water." Then he makes Kiddush and recites Ha-Motzi. But Rav Yosef bar Rav Hai wrote, "He who does not have wine makes Kiddush over a loaf of bread on Shabbat and festivals, except on the

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<sup>102</sup>One should start reading the Hagadah from the four questions "Why is this night different..." and go through "...who redeems Israel." Then one should say the Kiddush over the second cup of wine followed by Ha-Motzi, the blessing regarding the commandment to eat matzah, the blessings over the bitter herbs and then the making of the Hillel sandwich.

evenings of Pesach, for they said that they do not (allow) one (to drink) less than four cups (of wine one the evening of Pesach)."<sup>103</sup>

822. Ba'al Ha-Ittur wrote,<sup>104</sup> "Whoever makes Kiddush and reads the Haggadah for others on the evening of Pesach,<sup>105</sup> it seems reasonable that he is not able to recite "creator of the fruits of the earth" for them over other herbs because he does not taste them. This is permitted only with Ha-Motzi over the matzah. And one should do like Rav Hisda<sup>106</sup> who recited over lettuce, the blessing, "creator of the fruit of the earth" and the blessing regarding the commandment to eat bitter herbs, and ate. And when he arrived at the bitter herbs, he ate without (reciting) a blessing." But this does not seem appropriate to the Rosh, because it (the karpas) is a rabbinic ordinance done in order to catch the attention of the children. It is thus like the blessing of the matzah. And one can fulfill the requirement for others even though one does not taste it. As for what Rav Alfasi said,<sup>107</sup>: "They (the others) should say Birkat Ha-Mazon," behold, it is an ordinance for those who know (how to recite) Birkat HaMazon. But if they do not know (how to recite Birkat HaMazon), Rav Amram wrote that there is no way that he can fulfill their

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<sup>103</sup>Tur, Orach Hayyim, paragraph 483. Rif on Pesachim, chapter 10, paragraph 797.

<sup>104</sup>Ha-Ittur, Hilchot Matzah, page 136a.

<sup>105</sup>And who has not yet fulfilled the Pesach mitzvot for himself, and wishes to do so later at his own seder.

<sup>106</sup>B.T. Pesachim 115a.

<sup>107</sup>Rif on Pesachim, chapter 10, paragraph 797.

requirement, for if he recites Birkat Ha-Mazon for them, then he cannot drink in his own house (after the recitation) of Birkat Ha-Mazon. And thus wrote Rav Cohen Tzedek that if they do not know (how to recite) Birkat Ha-Mazon it is forbidden to make Kiddush unless it is in one house (the same house where the seder was held). But if one makes Kiddush in two houses (another house the second time) he utters God's name in vain. And it is impossible to say that even though one recites Ha-Motzi one may still eat an olive's bulk of matzah in another house and say Birkat Ha-Mazon, for if one wants to eat twice during the night is he allowed to do this, provided that he eats an olive's bulk of matzah at the end? (No). And the Rosh wrote, "Even if they do not know Birkat Ha-Mazon, there is a way for them to fulfill their obligation, by reciting it word by word as with a child<sup>100</sup> to whom the Hallel is dictated and he repeats after him what is said; therefore, the name of God is not uttered in vain (i.e., the reciter is not guilty of this transgression). And thus wrote Ritz Glat. And it is also possible to say Birkat Ha-Mazon (for) one can recite the blessing to fulfill their obligation for just as the blessing over matzah fulfills their obligation, since it is a mitzvah, here too with Birkat Ha-Mazon for they (the sages) ordained four cups and (they) ordained one of them (to be drunk) over

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<sup>100</sup>B.T. Sukkah 38a. Should a slave, minor, or a woman recite Hallel, the man must repeat what they say word for word. But "a curse be on him" for he has not learned it himself.



Birkat Ha-Mazon. It is thus obligatory (a Pesach mitzvah), just as I wrote regarding the dipping of the herbs. Language of the Tur.<sup>109</sup>

823. One who makes Kiddush in another house does not taste (wine or food) before or after. And thus wrote Halachot Gedolot. And thus it was found in the words of the geonim, may their memories be for a blessing. But I found, according to Ba'al Ha-Divrot, who wrote, "It seems reasonable that even though one has recited Birkat Ha-Mazon in his house, he eats together with them at another time and recites Birkat Ha-Mazon. For it seems reasonable; surely if he wants to eat again, he may do so, provided that he eats an olive's bulk of matzah afterwards." And his words are strong and right to the learned. From Shibbolei Ha-Lekket.<sup>110</sup>

824. Ba'al Ha-Manhig wrote<sup>111</sup> regarding the "seder" of Rabbenu Nissim that when Pesach falls on Shabbat, one does not say the M'ein Sheva<sup>112</sup> which was instituted for those who came late to the synagogue (and missed the Amidah) so that they would not be harmed by evil spirits (as they traveled home that night). But nowadays one does not need (this) for

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<sup>109</sup>Tur, Orach Hayyim, paragraph 484. Ritz Glat, volume 2, page 105.

<sup>110</sup>Shibbolei Ha-Lekket, paragraph 218. Halachot Gedolot, page 60b. Ha-Ittur, Hilchot Matzah, page 137a.

<sup>111</sup>In the original manuscript it reads: The order of the day.

<sup>112</sup>M'ein Sheva. See glossary.

"It is a night of vigil."<sup>113</sup>

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<sup>113</sup>B.T. Shabbat 24b. Tur, Orach Hayyim, paragraph 487. Machzor Vitry, page 280. (Exodus 12:24) "That was for the Lord a night of vigil to bring them out of the land of Egypt; that same night is the Lord's one of vigil for all the children of Israel throughout the ages." Jews will be guarded against injury on all Pesachim. Thus, there is no worry if one must travel home alone at night.

### HILCHOT S'FIRAT HA-OMER

825. On the second night (of Pesach) one begins to count the Omer while standing.<sup>1</sup> And one recites a blessing at the beginning regarding the counting the Omer, (saying) "Today is the first day." until one reaches seven days and then one should say "Today is the seventh day, which is one week." And on the eighth day one should say "Today is the eighth day which is one week and one day", until one reaches fourteen days and says "Today is the fourteenth day, which is two weeks" and so on. And Ravya wrote,<sup>2</sup> "There are some rabbis who say that there is no need to count the days, until one arrives at the week, for example "Today is the first day" until one reaches the seventh day, then one says "Today is the seventh day which is one week." But from here on there is no need to count the days of the week which have passed until (end of the) week comes; rather, one says on the eighth day "Today is one week and one day", and there is

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<sup>1</sup>Ha-Omer. See glossary. B.T. Menachot 65b-66a. Rif and Rosh on the end of Pesachim. The question that the Talmud asks is when does the counting of the Omer begin? The Biblical verse that this mitzvah is derived from is Leviticus 23:15-16, "And from the day on which you bring the sheaf of elevation offering-the day after the Sabbath- you shall count off seven weeks. They must be complete." The rabbis asked what is meant by the Sabbath? Is it the Sabbath which occurs during Pesach or is it the first day of Pesach which is like a Sabbath? The Rabbis answer that the "Sabbath of creation" could not be intended for this numbering, for then the counting would be in the hands of "all men." This means that the counting must start on the second day of Pesach so that the Beit Din could instruct one as to the procedure for counting.

<sup>2</sup>Ravya, volume 2, paragraph 526. Or Zarua, volume 1, paragraph 329. Sefer Yere'im, paragraph 261.

no need to say "Today is the eighth day." for one already counted the the days from the week which has passed. And thus one should say on the ninth day until one reaches fourteen days, "Today is the fourteenth day, which is two weeks." And on the fifteenth day one says, "Today is two weeks and one day", and so on." But there are those who say<sup>3</sup> that one does not need to make mention of the week except at the end of the week, for example, on the seventh day one would say, "Today is the seventh day, which is one week." But on the eighth day one only says, "Today is the eighth day", until one reaches the fourteenth day and so on.<sup>4</sup> But, the principle is as I have written, and thus are all accustomed to always mention the days and the weeks.<sup>5</sup>

826. Halachot Gedolot wrote that if one forgot to say the blessing during the whole night, he should count (the Omer) during the day. But this does not appear (correct) to Rabbi Yitzchak. And the Rosh wrote that one should count (during the day) without reciting the blessing.<sup>6</sup> And Halachot Gedolot wrote further that if one forgot to recite

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<sup>3</sup>Ravya, volume 2, paragraph 526. Ran, end of his commentary on Pesachim.

<sup>4</sup>Tur, Orach Hayyim, paragraph 489.

<sup>5</sup>All this is the language of Rabbenu Landau. But, the Tur writes almost the same words and arrives at the same conclusion.

<sup>6</sup>Halachot Gedolot, Hilchot Atzeret, page 30d and Hilchot Menachot, page 137c. But many of the Rishonim disagreed with the opinion of Halachot Gedolot. Tosafot to Megillah 20b, s.v. "all" and Menachot 66a, s.v. "remembrance". Ritz Glat, volume 2, page 109. Rosh, end of Pesachim. Rabbenu Tam disagrees with Halchot Gedolot, but if one must count the Omer during the day a blessing is not offered.

the blessing he should recite the blessing on one of the following days except for the first night for if he forgot and did not recite the blessing on it, the he should not bless further. But Rav Hai explained, "Whether on the first night or whether on any of the other nights did one forget to bless, he should recite the blessing on the rest of the nights." And thus wrote Rabbi Yitzchak. Language of the Tur.<sup>7</sup> Already they asked Rabbenu Ya'akov bar Yakar: he who forgot and did not recite the blessing on the night, should he say the blessing during the day? And he replied, "One receives the reward for counting but, he does not receive the reward for counting in its proper time." But the it is not known if he told them to recite the blessing the next day and to count or to count without a blessing. And Ravva explained that this only applies to one who forgot and did not recite the blessing at night; he should not bless during the day for it is a null blessing. But he counts the next day without reciting the blessing. Were it not difficult in my eyes to disagree with Halachot Gedolot, I would say to recite the blessing during the day. End of quotation of Mordechal.<sup>8</sup>

827. Rav Hai Gaon wrote in a responsum that one does not mention "Holy Convocation" during Hol HaMoed but on Yom Tov one mentions it during Musaf but not in the Avodah ("Ya'aleh V'Yavo"). There are those who are strict and also say "Holy

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<sup>7</sup>Tur, Orach Hayyim, paragraph 489.

<sup>8</sup>Mordechal, chapter 2 of Megillah, paragraph 803. Ravva, volume 2, paragraph 526.

Convocation" during Musaf, but this is not correct. But I do not know what difference there is between "Ya'aleh V'yavo", which is in the "Avodah", and Musaf. And in Ashkenaz they do not say "Holy Convocation" during Yotzer or Musaf, whether on Yom Tov or on Hol Ha-Moed. And thus it seems reasonable, for why should one make mention of "Holy Convocation" more than "forbidden labor" and the rest of its halachot?"

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<sup>2</sup>Tur, Orach Hayyim, paragraph 489. Rav Hai quoted in Teshuvot Ha-Geonim Assaf, page, 140, paragraph 126. 1941.

### HILCHOT TISHA B'AV V'TA'ANIT

828. Rabbenu Klonymos, of Rome,<sup>1</sup> wrote in a responsum to Rabbi Ya'akov ben Yakar: "A man must refrain from bathing from Rosh Hodesh Av through Tisha B'Av, as it is said, "And I will end all her rejoicing: Her festivals, new moons, and Sabbaths—all her festive seasons." Shibbolei Ha-Lekket.<sup>2</sup>

829. "And our (Babylonian) laundrywork is like their (Palestinian) plain washing, (in respect of this prohibition)."<sup>3</sup> There are those who say that our laundrywork is not like plain washing, but this does not appear (to be) so. Our rabbis are accustomed to forbid washing during the week in which Tisha B'Av falls. Rashbat ruled that the same is the rule for new clothes; that is forbidden to wear (them) or to repair (them) or to store them.<sup>4</sup> In the Yerushalmi<sup>5</sup> it reads, "Women who are accustomed not to weave from the time that the month of Av begins, that is a valid

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<sup>1</sup>R. Klonymos of Rome. Talmudist and Halachist. Born, Rome, Italy. Died: Worms, Germany, 1096.

<sup>2</sup>Shibbolei Ha-Lekket. paragraph 264. One may wash on the day of Rosh Hodesh Av but not after it until Tisha B'Av has passed. The Biblical citation is from Hosea 2:13.

<sup>3</sup>B.T. Ta'anit 29b. Plain washing of clothes which will be stored away after Tisha B'Av is permitted in Babylonia between Rosh Hodesh Av and Tisha B'Av. The conflict is whether clothes can be washed before Tisha B'Av if they are to worn or stored. If they are to be worn, yes, but if stored, no. This sentence of the Talmud is a refutation against the prohibition against washing clothes which will be stored, before Tisha B'Av.

<sup>4</sup>Mordechai on Ta'anit, paragraph 633. Ravya, volume 2, page 650, paragraph 881. Tur, Orach Hayyim, paragraph 551.

<sup>5</sup>Yerushalmi, Pesachim, chapter 4, halacha 1, and Ta'anit, chapter 1, halacha 6. The issue is: what does the word "Mashti" mean here?

custom." But there are those who read it "...who are accustomed to refrain from drinking wine." But Rabbenu Nissim, may his memory be for a blessing,<sup>4</sup> does not read "wine", and he explained "mashti" as "in the warp (sh'ti) or in the woof."<sup>7</sup> And because weaving is forbidden, all the more, is the repair of clothing forbidden, and it is fit to be strict (about this), even from Rosh Hodesh. Mordechai.<sup>8</sup>

830. From all the evidence that I have brought, it seems that it is permitted to eat fowl at the concluding meal (just before the onset of Tisha B'Av). Thus ruled Rashba.<sup>9</sup> But Sefer Ha-Mitzvot HaKatan wrote that since, with most of the meat we normally eat, two days have passed, therefore it appears that it is forbidden (to eat meat) at the concluding meal.<sup>10</sup> Ravya and Rashbat ruled that it is permitted to eat fowl at the concluding meal. And there is evidence (for this) from the first chapter of Hagigah<sup>11</sup> where it says, "Fowl is excluded (from the prohibition) for there

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<sup>4</sup>Ravya, volume 2, page 651, paragraph 881. Or Zarua, volume 2, paragraph 414. Hagahot Maimoniyot, Hilchot Ta'anit, chapter 5, halacha 6.

<sup>7</sup>Leviticus 13:48. Warp are threads set up in a loom. Woof are the threads which are passed about the warp threads during the weaving process.

<sup>8</sup>Mordechai on Ta'anit, paragraph 633.

<sup>9</sup>This halacha is not found in any of the rulings of Rashba. It is possible to say "Rashbat ruled" for this is found in the Tur and in Ravya.

<sup>10</sup>Tur, Orach Hayyim, paragraph 552. Sefer Mitzvot Ha-Katan, paragraph 96. Tosafot to Ta'anit 30a, s.v. "But even though". Tosafot allows salted meat at any time, probably so that it shall not spoil.

<sup>11</sup>B.T. Hagigah 8b. Birds have no fat which can be burned on the alter.



is no (festive) joy in them." But it seems to me that it is our custom to forbid (eating) even salted meat, fermented wine, and fowl from Rosh Hodesh (Av). Mordechai.<sup>12</sup>

831. "And it is forbidden to eat (a meal) with two courses."<sup>13</sup> Rav Hai Gaon wrote, "For example rice, millet, and lentils which are of two species." And the Ritz Giat wrote, "'Two courses' means 'honor'." Thus, the sages forbid even one species of grain and herbs, let alone two species. And thus wrote the Ramban. But they are accustomed in France to place several species in one pot and because it is cooked together it is called one course. But in Ashkenaz we are strict. But it seems that even according to the words of those who are strict, that something which is (cooked) in a certain way throughout the (rest of) the year, like beans which are mixed with onions or eggs is allowed. The Rosh wrote, "There are those who say that this only applies to two 'courses' of the kind which cannot be eaten fresh (raw). But milk, cheese, salted fish, and dried (fish) are not called a "course". But the Ravad wrote that even a course of cheese

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<sup>12</sup>Mordechai on Ta'anit, paragraph 639. Ravya, volume 2, page 666, paragraph 888. In the original manuscript this whole paragraph is found at the end of paragraph 831. It seems that even foodstuffs which were never used for sacrificial purposes are forbidden, by custom, from Rosh Hodesh Av.

<sup>13</sup>B.T. Ta'anit 26b and 30a.

is called a "course" and thus it seems reasonable.<sup>14</sup> Ravya wrote,<sup>15</sup> "It is better to be strict because it is not written in the Talmud what constitutes two courses." And Sefer Ha-Mitzvot wrote,<sup>16</sup> "Riva used to forbid (one) to eat cooked apples after another course at the concluding meal. (This is derived) from what is said in the Yerushlami, in (tractate) Nedarim,<sup>17</sup> that cooked apples suffice for "Eruv Tavshilin" (i.e., it is a course). Mordechai.<sup>18</sup>

832. When Tisha B'Av falls on Sunday<sup>19</sup> or is postponed (from Shabbat to Sunday), Rav Sar Shalom Gaon wrote, "It is permitted to eat meat and to drink wine at the concluding meal though we are not accustomed to this." And thus did Ravya explain that there are those who are accustomed not to eat meat at the concluding meal which is on Shabbat. But it seems to me (that) because it (Tisha B'Av and the concluding meal) is like mourning, it is forbidden to observe these customs on Shabbat. And the Rosh was accustomed to eat

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<sup>14</sup>Tur, Orach Hayyim, paragraph 552. Rosh on Ta'anit, chapter 3, paragraph 34. Tosafot on Ta'anit 30a, s.v. "evening". Torat Ha-Adam, "Inyan Aveilut". The prohibition seems to apply only to foods that are not edible when they are raw. Thus fish and meat would be forbidden if cooked. The Rosh ruled all foods to be cooked, even those which are edible when they are raw such as apples and peanuts, so that the last meal before the fast would not resemble a luxurious meal.

<sup>15</sup>Ravya, volume 2, page 662, paragraph 888.

<sup>16</sup>Sefer Mitzvot Ha-Katan, paragraph 86.

<sup>17</sup>Yerushalmi, Nedarim, chapter 6, halacha 1.

<sup>18</sup>Mordechai, on Ta'anit, paragraph 634.

<sup>19</sup>B.T. Ta'anit 29b and B.T. Eruvin 40b. One must stop eating his concluding meal during the day even though Erev Tisha B'Av is on Shabbat.

meat and to drink wine on Shabbat at the concluding meal. Language of the Tur.<sup>20</sup>

833. The great (sage), Rabbenu Yitzchak bar Yehuda and Rabbenu Meshullam, may his memory be for a blessing, did not say a Zimun at the concluding meal on Shabbat which was the evening of Tisha B'Av, rather each one sat separately and recited the blessing (over the food) by himself. And Rabbi Yakar, may his memory be for a blessing, wrote that he saw a custom on Ashkenaz that on a Shabbat which was Tisha B'Av or Erev Tisha B'Av, at the concluding meal no one ate meat at all, rather fruit and eggs. And they sat at the table for the honor of Shabbat. But on the rest of the days of the week the strictly pious did not even eat eggs, rather, only stale bread and warm water, and they sat between the stove and (hot) tiles. Shibbolei Ha-Lekket.<sup>21</sup>

834. The Rambam wrote,<sup>22</sup> "One who began to eat the concluding meal from the sixth hour (noon) and onwards is forbidden from washing and anointing himself as on Tisha B'Av (itself). But the prohibition of wearing shoes and the rest of the observances are not observed until nightfall."

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<sup>20</sup>Tur, Orach Hayyim, paragraph 552. Ravva, volume 2, page 667. Ma'aseh Ha-Geonim, page 36. Ha-Pardes, paragraph 155. Sefer Rokeach, paragraph 212. The rites of mourning are similar to the rites of observance of a fast day. Thus during neither does one eat meat. As well, both are suspended during Shabbat.

<sup>21</sup>Shibbolei Ha-Lekket, paragraph 266. While meat would not be eaten on Shabbat which was Erev Tisha B'Av, fruit or eggs would be eaten out of honor for Shabbat.

<sup>22</sup>Should Read: Ramban. Torat Ha-Adam, "Inyan Aveilut".

But the Rosh wrote that this thing bewilders him; that it is permitted to eat and to drink but (at the same time) it is forbidden to annoint oneself and to wash.<sup>23</sup>

835. The Ravad wrote, "Once one has finished the concluding meal, the fast has begun and it is forbidden to eat, and even washing is forbidden." But the Tosafot explained that even after one has finished (the concluding meal) one can go back and eat. And thus wrote Rav Alfasi, in the name of a gaon, on the subject of public fasts: "One stops eating while it is still daylight, yet even so, he may return and eat until the sun goes down. And these words apply only if one has not accepted the fast, but when one accepts the fast it is forbidden to eat or to drink."<sup>24</sup> And thus ruled Shibbolei Ha-Lekket.<sup>25</sup> But the Ramban wrote that That "acceptance" applies only on Yom Kippur when one needs to add to the fast a bit of daylight (from the 9th of Tishrei), but on the rest of the fast days, even on Tisha B'Av, the prohibition begins at dusk. If one stops (eating) and then changes his mind, it is obvious that he may eat again. But it appears that one does not differentiate, for certainly "acceptance" initiates

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<sup>23</sup>Tur, Orach Hayyim, paragraph 553. The reason that one may not wash is because it is forbidden to wash during the period of mourning and even though it is not yet Tisha B'Av, if this is done it will seem that is being one for Tisha B'Av. But such a thing is not allowed for it is a fast day.

<sup>24</sup>Tur, Orach Hayyim, paragraph 553. Rosh on Ta'anit, chapter 3, paragraph 34.

<sup>25</sup>Shibbolei Ha-Lekket, paragraph 265.

the prohibitions on all fasts for one needs to stop (eating) while it is still day. Language of the Tur.<sup>26</sup>

836. In Teshuvot of the geonim (it is written), "He who takes a vow upon himself to fast Monday and Thursday all year and it happens that Tisha B'Av occurs on Tuesday, what should he do? Let him eat once (on Monday), near the setting of the sun. For we hold like those who teach,<sup>27</sup> one fasts for (several) hours." Shibbolei a-Lekket.<sup>28</sup>

837. When Tisha B'Av falls on Sunday, we are accustomed to say, "Your righteousness is eternal"<sup>29</sup> during the Shabbat afternoon service. This seems strange to me, but we should not doubt their ruling because all are stringent.<sup>30</sup> But in Mainz they do not say "Your righteousness is eternal" during the afternoon service. And when they come to the synagogue, the one who wants to be stringent would enter barefoot into the synagogue, but some of the rabbis, out of the honor for the Shabbat would enter with their shoes (on their feet).

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<sup>26</sup>Tur, Orach Hayyim, paragraph 553.

<sup>27</sup>B.T. Ta'anit 11b. Each fast must be undertaken, (i.e.,) the vow must be made on the preceding day. In a case where one fast runs into another, as is the case here, one need not say the special "Aneini" prayer during the morning service because the second fast, here the fast of Tisha B'Av, was not formally undertaken and is not considered a fast at all and can be broken at will. This is Rashi's explanation.

<sup>28</sup>Shibbolei Ha-Lekket, paragraph 265. Beit Yosef, paragraph 552, s.v. "Ramban wrote". One who has vowed to fast on the second and fifth days of each week, and if Tisha B'Av falls on the third day of the week, one may make a special prayer and eat the concluding meal and then fast on Tisha B'Av.

<sup>29</sup>Psalms 78:38, 86:5, 119:142.

<sup>30</sup>In Shibbolei Ha-Lekket: All of it is a desirable thing. And thus is it written in Ha-Rokeach, paragraph 311.

But the Shaliach Tzibbor must always begin (to go down before the ark) barefoot before the "Bar'chu", lest his prayer be interrupted. And the sages of Rome were accustomed to eat meat and to drink wine at the concluding meal. But I, Yakar, found in the explanation of Halachot Gedolot that one is obliged to stop the Shabbat meal at the eighteenth hour (midnight)<sup>31</sup> and onwards so that one would not eat meat or drink wine. But HaRav Avigdor Cohen wrote that it is permitted to eat meat and drink wine.<sup>32</sup>

838. And he wrote further, "(On) the evening of Tisha B'Av which falls on Shabbat, it is permitted to have sexual intercourse, for it is a case of "old" mourning." (i.e., from long ago-and the prohibitions are accordingly less stringent) But in the name of HaRav Yitzchak bar Moshe of Vienna, I found that sexual intercourse is forbidden. And thus wrote my teacher, may his memory go up for a blessing. Shibbolei Ha-Lekket.<sup>33</sup>

839. If Tisha B'Av falls on Sunday one recites (in havdalah) the blessing over the light but not over the spices which give pleasure. But on Sunday night one then recites "Ha-Mavdil" over wine.<sup>34</sup> And when a Brit Milah or wedding falls on Tisha B'Av or on Yom Kippur, the tenth of Tevet, or

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<sup>31</sup>In Shibbolei Ha-Lekket and Ma'aseh Ha-Geonim it is written: From the sixth hour (noon).

<sup>32</sup>Shibbolei Ha-Lekket, paragraph 266. Ma'aseh Ha-Geonim, pages 35-36, paragraph 49.

<sup>33</sup>Shibbolei Ha-Lekket, paragraph 266.

<sup>34</sup>Mordechai on Ta'anit, paragraph 638, and on Pesachim, page 37c, Vilna edition.

the seventeenth of Tammuz one gives wine to a child and he drinks, for there is no fear that perhaps<sup>35</sup> he shall come to be accustomed (to drinking wine on this day) because it is not a regular thing that Tisha B'Av always falls on Shabbat.<sup>36</sup> But, it is better to explain that essence of the fast comes for a set day, and we should forbid (the wine) for perhaps he will come to be accustomed. Mordechai, chapter "Irvei Pesachim".<sup>37</sup>

840. In Ashkenaz they are accustomed to say after the end of (their) prayer, "Approach, O nations, and listen.." <sup>38</sup> in Isaiah. But R. Meir of Rothenburg wrote, "I do not know from where they are accustomed that they read several verses of condolence from Jeremiah, and they also read the portion 'Approach, O nations..' for it is (a message) of condolence." And he wrote that there are those who are strictly observant who refrain from reading it and skip all of the verses of condolence.<sup>39</sup> But I, the author, saw that the sages of Ashkenaz, among them my father, Mahari Landau, read "Approach, O nations.." after the morning service.

841. Rambam wrote,<sup>40</sup> "Some of the people are accustomed not to read the portion (of the daily service) regarding sacrifices or 'Which are the places..' of Mishnah Zevachim and

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<sup>35</sup>B.T. Eruvin 40b.

<sup>36</sup>Mordechai on Eruvin, paragraph 493.

<sup>37</sup>Mordechai on Pesachim, page 37c, Vilna edition.

<sup>38</sup>Isaiah 34:1.

<sup>39</sup>Tur, Orach Hayyim, paragraph 554.

<sup>40</sup>Should read: Ramban. Torat Ha-Adam, "Inyan Aveilut", page 134.

the Thirteen Hermenutic Principles of Rabbi Yishmael in the synagogue because it is forbidden to read from the Torah (privately on Tisha B'Av). But it does not appear that this prohibition applies to the daily liturgy, for behold we recite the Shema and the blessings before and after it, and we read from the Torah and the prophets (publicly). And the portion, "Which are the places.." was written to correspond to the daily sacrifices; thus one says it as always and he need not be concerned."<sup>41</sup>

842. If one has pus in his eyes and he normally washes, he may wash and wipe (his face) and he need not fear for this is like dirt and excrement, which one may wash as usual and not fear.<sup>42</sup> And thus wrote HaRav Yonah Giat. The Yerushalmi (writes),<sup>43</sup> "One may wash his hands and wipe his eyes (with them). But this is not according to the Rambam, who wrote that on Tisha B'Av and Yom Kippur one does not wash his hands or recite the blessing regarding the washing of the hands; but he does say the blessing "Who removes sleep from the eyelids." Language of the Tur.<sup>44</sup>

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<sup>41</sup>Tur, Orach Hayyim, paragraph 554.

<sup>42</sup>B.T. Yoma 77b. One can wash without fear of transgressing the prohibition against washing on Yom Kippur. Thus the same would hold true for Tisha B'Av.

<sup>43</sup>Yerushalmi, Ta'anit, chapter 1, halacha 6.

<sup>44</sup>Tur, Orach Hayyim, paragraph 552. Mishnah Torah, Hilchot Tefilah, chapter 7, halacha 8.



843. We read in the last chapter of Yoma,<sup>45</sup> "Rabbi Yehoshua ben Levi had a bandage (or a wrap) on Erev Yom HaKippur and likewise on Erev Tisha B'Av, etc." Ravya wrote, "But for an dirt it is permitted to wash even on Yom Kippur and Tisha B'Av. And the wrap that Rabbi Yehoshua had was for wiping his eyes for the enjoyment of its cooling effect. But one needs to study the first chapter of Berachot." Mordechai.<sup>46</sup>

844. Rabbi Yitzchak Or Zarua wrote, "Should Tisha B'Av fall on Shabbat and is delayed to the next day (Sunday); in any case observance (of Tisha B'Av) done in private should be done, sexual intercourse is prohibited." But Maharam disputed this. But he wrote, "However it is proper to be stringent and to fear the words of my teacher (the Or Zarua) for even if he is lenient and I stringent, it would be incumbent upon me to do according to his words; all the more so when he is strict and I lenient." But the Rosh agreed to permit (sexual intercourse) and thus led the common practice. And thus wrote the Rambam.<sup>47</sup> And I, the author, heard that it is the custom of the Rhine communities that the attendant announces in the synagogue on Shabbat that prohibitions done in private must be observed. And thus did my teacher,

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<sup>45</sup>B.T. Yoma 78a. He would soak the wrap in water on Erev Tisha B'Av, and during the next day, he would wipe his eyes with it.

<sup>46</sup>Mordechai, on Ta'anit, paragraph 639. Ravya, volume 2, page 627, paragraph 864. It is even permitted for the mourner to wipe of filth during the mourning period.

<sup>47</sup>Tur, Orach Hayyim, paragraph 552. Should read: Thus wrote Ramban.

my father, Mahari Landau, may his memory be for a blessing, rule.

845. The Rosh wrote, "It seems reasonable that one is obligated (to wear) tefillin<sup>48</sup> on Tisha B'Av, for Tisha B'Av is no more stringent than other days of mourning." And thus wrote the Ramban. But Maharam wrote, "It appears (to me) that on Tisha B'Av one does not wear tefillin as on the first day of the mourning period." And the Rosh wrote, "It is possible that he found (with difficulty) a reason for the Ashkenazi custom, but (the common practice) appears as I have written."<sup>49</sup>

846. Maharam wrote further that the early rabbis of Ashkenaz were accustomed not to wear tzitzit on Tisha B'Av and attributed to it the scriptural proof,<sup>50</sup> "Has carried out the decree.." It is written in the Midrash on Lamentations,<sup>51</sup> that the interpretation of this (word) "Bitza", is "he rent his purple cloak." But there are those who do not wish to change the custom and do not want to be without tzitzit.

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<sup>48</sup>Tefillin. See glossary.

<sup>49</sup>Tur, Orach Hayyim, paragraph 555. Torat Ha-Adam, "Inyan Aveilut", page 134. Rosh on Ta'anit, chapter 4, paragraph 37. One does not wear tefillin on the first day of mourning for there is no day that is more bitter than that. Likewise is Tisha B'Av such a day of mourning.

<sup>50</sup>Lamentations 2:17. "The Lord has done what he purposed, Has carried out the decree that He ordained long ago. He has torn down without pity. He has let the foe rejoice over you, has exalted the might of your enemies."

<sup>51</sup>Lamentations Rabba, chapter 2, paragraph 21, page 183. Midrash Rabba, Soncino Press, London, 1983. As well, the next interpretation is possible that God made a compromise for He did not exact the full penalty for the sins of the people.

They wear a tallit katan underneath their clothing.<sup>52</sup> And thus wrote Rav Shin'na Gaon that one is obligated to recite the Tefillah. And thus it is actual practice in the two yeshivot (in Babylonia) and thus I found in the teshuvot of Rav Hai Gaon and Rivash<sup>53</sup> wrote in a responsum. And Rashi wrote that one wears tzitzit at the morning service and that his teacher would wear (tzitzit) as did the great sages of his generation as well. And thus in the words of the geonim and thus I saw (this) in Speyer. Shibbolei Ha-Lekket.<sup>54</sup> But it is the Ashkenazi custom not to wear a tallit at the morning service and not to put on tefillin until the afternoon service. But the yehidim<sup>55</sup> wear a tallit katan underneath their clothing but do not say a blessing (when putting it on).

847. Mahari Moellin wrote,<sup>56</sup> "(One may) study on Tisha B'Av by means of meditation, (for) a majority of our rabbis have ruled that meditation does not resemble speaking (which is the normal method of studying). On the subject of the recitation of the Shema and Birkat Ha-Mazon, even the one who

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<sup>52</sup>Tur, Orach Hayyim, paragraph 555. Rosh on Ta'anit, chapter 4, paragraph 37.

<sup>53</sup>Rivash. Rabbi Yitzchak ben Sheshet Perfet. Spanish halachic authority. Born: Barcelona, Spain, 1326. Died: Algiers, 1408.

<sup>54</sup>Shibbolei Ha-Lekket. paragraph 270.

<sup>55</sup>Yehidim. See glossary.

<sup>56</sup>Sh'eilot and Teshuvot of the Maharil. paragraph 201. Beit Yosef, paragraph 554.

thinks,<sup>57</sup> that one does not need to make his own ears hear (the words would insist), in any case that one needs to move his lips; but meditation does not at all suffice.<sup>58</sup> However, it appears to me that here on Tisha B'Av the reason is that one is forbidden to study because of joy, as it is written,<sup>59</sup> "The precepts of the Lord are right rejoicing the heart." If so, the essence of joy is found in meditation, for if one studies but does not understand what joy is there in that? And it resembles that which our sages, may their memories be for a blessing, said,<sup>60</sup> "The students of the sages are forbidden to linger in a dirty place for it is not possible for them not to meditate on the Torah."<sup>61</sup> And it appears thus to me to forbid it.

848. Ba'al Ha-Divrot wrote that one should recite the blessing, "who takes care of all my needs." even though it is forbidden to wear shoes. Since it is suitable to wear

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<sup>57</sup>B.T. Berachot 15a. One who recites the Shema in such a way so that his ears cannot hear the words has fulfilled his obligation.

<sup>58</sup>The study of Torah is forbidden on Tisha B'Av. Moellin suggests that this applies only to spoken study and that meditation does not count as study, as we learn from the "Shema" and Birkat Ha-Mazon.

<sup>59</sup>Midrash Tehillim, chapter 19, paragraph 9. B.T. Ta'anit 30a. Midrash Tehillim says that this only refers to feasts with certain regulations concerning the building of sukkot and lulavim. The Talmud tells us that the study of something new is allowed for the time spent at the beginning to comprehend the new material is greater than the pleasure derived from it.

<sup>60</sup>B.T. Berachot 24a and B.T. Megillah 28a. There are many situations where one should not recite the Shema for proper devotion cannot be attained.

<sup>61</sup>It appears from this that meditation does count as Torah study and is therefore forbidden on Tisha B'Av.

shoes because of the danger of scorpions, one says the blessing. There are those geonim who say that one does not recite the blessing of the Torah (in Birchot Ha-Shachar) for one is forbidden to study words of the Torah. Shibbolei Ha-Lekket.<sup>42</sup>

849. One does not say, the song at the sea, "God saved,"<sup>43</sup> because it is said, "For if you will not give heed..."<sup>44</sup> Shibbolei Ha-Lekket.<sup>45</sup> Anyway it is the custom to say it.

850. Halachot Gedolot wrote that one must make havdalah on Motzel Shabbat on which Tisha B'Av falls. But one does not make havdalah over the cup (of wine) and does not recite the blessing over the flame. And the Ramban wrote that one does not make havdalah at all. But the Rosh agreed with Halachot Gedolot and thus wrote Rav Natronai.<sup>46</sup> And it is the custom of the Ashkenazic sages that before the hazzan

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<sup>42</sup>Shibbolei Ha-Lekket, paragraph 269.

<sup>43</sup>The song at the sea is recited during the morning service in "Pesukel D'zimrah".

<sup>44</sup>"For if you still not give heed, my inmost self must weep, because of your arrogance; my eye must stream and flow with copious tears, because the flock of the Lord is taken captive." (Jeremiah 13:17) The song at the sea is a happy poem about how God redeemed Israel. It would be unseemly to recite it on Tish B'Av which is a fast day which commemorates tragedy in Jewish life.

<sup>45</sup>Shibbolei Ha-Lekket, paragraph 269. Machzor Vitry, page 226. This is not said in a house of mourning thus it is likewise not said on Tisha B'Av. But it seems that it is the custom to say it anyway.

<sup>46</sup>Tur, Orach Hayyim, paragraph 556. Halachot Gedolot, Hilchot Kiddush V'Havdalah, page 13d. Torat Ha-Adam, "Inyan Aveilut", page 136. Rosah on Ta'anit, chapter 4, paragraph 40. Rav Natronai in Machzor Vitry, page 228, paragraph 267.

begins (to chant from the book of) Lamentations he recites the blessing, "Who creates the lights of fire." and looks at his fingernails. But one does not make havdalah (i.e., recite the blessing "Ha-Mavdil") until Motzei Tisha B'Av.

851. The Rosh wrote, "All of my days I have wondered why one says "Comfort"<sup>67</sup> only at the afternoon service, because it is said,<sup>68</sup> 'On Tisha B'Av the individual needs to mention the essence of the incident.' This apparently refers to all the services (of the day), as with the evening, morning, and afternoon (services) of Hanukah, Rosh Hodesh, and Purim." And HaRav Yehuda of Barcelona wrote, that we mention the essence of the event<sup>69</sup> during the evening, morning, and afternoon (services). But the matter depends upon the (local) custom.<sup>70</sup> And the Ashkenazic custom is that one only says it during the afternoon service.

852. There are geonim who wrote that one does not say, "May the favor of the Lord, our God, be upon us..<sup>71</sup> And one also does not say the "Kedusha De-Sidra".<sup>72</sup> And Rav Tzemach Gaon wrote that one does not say, "May the favor of the Lord, our God, be upon us.." But one (does) say, "He shall come as

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<sup>67</sup>On Tisha B'Av, which commemorates the destruction of both Temples, the prayer for the rebuilding of Jerusalem concludes with this insertion. It depicts Jerusalem as a lonely mother and ends with God's promise to return Israel to her.

<sup>68</sup>Yerushalmi, Ta'anit, chapter 2, halacha 2.

<sup>69</sup>"Comfort" on Tisha B'Av and "Al Ha-Nissim" on Chanukah and Purim.

<sup>70</sup>Tur, Orach Hayyim, paragraph 557. Rlf on the end of Ta'anit. Machzor Vitry, page 229.

<sup>71</sup>Psalms 90:17.

<sup>72</sup>Kedusha De-Sidra. See glossary.

redeemer to Zion." in the "Kedusha De-Sidra. But one does not say, "And this shall be my covenant with them..."<sup>73</sup> (in the Kedusha De-Sidra). And Rabbenu Nissim wrote, "One does not say, 'May the favor...'" But it is the custom to say "And this shall be my covenant with them.." at the morning and evening (service).<sup>74</sup>

853. Rav Amram wrote, "If Tisha B'Av falls on Monday or Thursday, one says (before the Torah reading), "The Lord! Slow to anger..."<sup>75</sup> But one does not say, "And He is merciful, forgiving sins."<sup>76</sup> And in Spain one does not say, "The Lord! Slow to anger."<sup>77</sup> And the Ashkenazic custom is to begin on Tisha B'Av (by reciting), "But you are the Holy One, enthroned, the Praise of Israel."<sup>78</sup> but one does not say, "May the favor...". And during the morning service, after the end of the lamentations, the hazzan begins (with the "Kedusha De-Sidra") "And he shall come as redeemer to Zion." but skips, "And this shall be my covenant with them."<sup>79</sup>

854. (When) a circumcision occurs on Tisha B'Av, one circumcises the baby after the conclusion of the

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<sup>73</sup>Isalah 59:21.

<sup>74</sup>Tur, Orach Hayyim, paragraph 559. Ritz Glat, volume 2, page 22. Seder Rav Amram Gaon, volume 2, page 130b. Ma'aseh Ha-Geonim, page 36. Machzor Vitry, page 229. Ha-Pardes, paragraph 159.

<sup>75</sup>Numbers 14:18.

<sup>76</sup>Psalms 78:38.

<sup>77</sup>Tur, Orach Hayyim, paragraph 559. Seder Rav Amram Gaon, volume 2, page 264.

<sup>78</sup>Psalms 22:4.

<sup>79</sup>This is from the language of Rabbenu Ya'akov Landau.

lamentations. But there are those who wait until the afternoon and thus are they accustomed in Mainz. And there are those who say that one does not recite the blessing ("...who remembers the covenant") over the cup (of wine). Rather one should recite the blessing without the cup. But it is the opinion of the Tosafot that one should recite the blessing over the cup and give some to the child to drink; and we do not fear that perhaps he (the baby) shall become accustomed (to drinking wine on Tisha B'Av) because it (circumcision on Tisha B'Av) is not a set event (an event which occurs frequently enough to become a habit). But when Tisha B'Av falls on Motzei Shabbat one does not say Havdalah and give (wine) to a child because there is a fear that perhaps the child shall become accustomed (to drinking wine on Tisha B'Av) for this is rightly considered a set event, because of the regular intervals (when Tisha B'Av) falls on Shabbat, once every 3 or 4 years.<sup>80</sup>

855. It is a widespread custom that we say, "He shall come as a redeemer to Zion." like all other days, on Tisha B'Av which occurs on Motzei Shabbat, and thus is the custom in Mainz. But one does not say, "And this is my covenant..." neither during the day nor at night. And thus it is found in the books which recount the customs of Speyer. But Rabbenu Elikayim disagrees regarding this and says that

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<sup>80</sup>Tur, Orach Hayyim, paragraph 559. B.T. Eruvin 40b and Tosafot.



one needs to say, "He shall come as a redeemer to Zion". And thus is it our custom to say, "He shall come as a redeemer to Zion". And thus instructed HaRav Rabbi Shlomo bar Shimshon. Shibbolei Ha-Lekket.<sup>81</sup>

856. In Sefer Ha-Terumah<sup>82</sup> Rabbenu Baruch of Mainz<sup>83</sup> wrote in the name of Rabbi Eliezer of Metz, "I saw the customs which are not correct in my eyes. And I say, "...new ones who came lately, who stirred not your fathers' thoughts."<sup>84</sup> "Your father's" are our early rabbis, from whose waters we drink. And I shall mention a few of them: when Tisha B'Av falls on Shabbat, one does not eat meat or drink wine at the concluding meal for they are accustomed to act as if they are mourning. But the sages (of the Talmud) taught,<sup>85</sup> "One eats meat and drinks wine and places it upon his table, etc." And I saw further that they forbid one to wear tzitzit on Tisha B'Av. And they annul the rapid performance of commandments,<sup>86</sup> for they do not perform circumcision until they have said the lamentations, half of (the book of) Jeremiah, Job, and until it was close to the noon hour.<sup>87</sup>

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<sup>81</sup>Shibbolei Ha-Lekket, paragraph 267.

<sup>82</sup>In the Mordechai: Sefer Ha-Hochmah.

<sup>83</sup>R. Baruch bar Yitzchak of Mainz. Author of Sefer Ha-Terumah. Born: Worms, Germany, c. 1170. Died: Israel, c. 1240.

<sup>84</sup>Deuteronomy 32:17.

<sup>85</sup>B.T. Ta'anit 30a.

<sup>86</sup>See the Tur, Yoreh Deah, paragraph 262. The entire day is fit for performing circumcision so that one does not need to rush to perform this mitzvah.

<sup>87</sup>Mordechai, on Ta'anit, paragraph 637.

857. On Tisah B'Av it is permitted (for one) to put on tefillin. However, Maharam did not put on tefillin or tzitzit, but only the tzitzit which are on the tallit katan until the evening when one puts on tefillin and puts on tzitzit (which are part of the tallit). Mordechal.<sup>88</sup>

858. It is Ravya's custom<sup>89</sup> that one says the whole Kaddish including the phrase "Titkabel"<sup>90</sup> before (one reads the book of) Lamentations. But Sefer Ha-Rokeach (wrote) that one says Half-Kaddish, and if a circumcision occurs on Tisha B'Av one circumcises (the infant) after the lamentations. But there are those who are accustomed to circumcise (the infant) in the afternoon because earlier than that the mourning occurs, and one must perform the circumcision with joy as it is written, "I rejoice over your great promise as one who obtains great spoil."<sup>91</sup> And thus our elder rabbis testified (that this is the custom) in Mainz. And the participants in the circumcision (the father, the sandek, and the mohel dress) in festive clothes and not necessarily in white (clothes). And after (the reading of the book of) Lamentations they do not say, "He shall come as redeemer to Zion" rather one begins (to recite) "And you are holy." But in Seder Rav Amram it is written that one also says, "He shall come as redeemer to Zion" with certain omissions like

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<sup>88</sup>See paragraph 846.

<sup>89</sup>Ravya, volume 2, page 673, paragraph 890. But it seems that Rabbenu gets this custom from the Mordechal.

<sup>90</sup>Kaddish Titkabel. See glossary.

<sup>91</sup>Psalms 119:162.

the next day. And during the morning service, after the end of the prayer one says Kaddish without "Titkabel" (the mourners Kaddish). But there are those who are accustomed to say "Titkabel". And Rabbi Yitzchak Ha-Levi was accustomed not to say Aleinu during the service. But this does not seem (correct) to me. Mordechai.<sup>72</sup>

859. One does not say "Titkabel" at the morning service after "He shall come as redeemer to Zion." But there are rabbis who are accustomed to say it. And in the customs of Mainz I found that they say it at the morning service.<sup>73</sup>

860. Rabbenu Yosef Tuv Elem wrote the acrostic, "Shedesh". It corresponds to, "I greatly rejoice in the Lord.",<sup>74</sup> "Seek the Lord while He can be found.",<sup>75</sup> and "Return O Israel."<sup>76</sup> And thus explained Rabbenu Tam. And thus is the order in the Pesikta. The explanation is that "Return.." (is read) on the Shabbat between Yom Kippur and Sukkot when one speaks of the request for rain before the festival (when the judgement on rain is decreed), and one reads the Haftara of Joel, "And the Lord roars aloud at the head of his army."<sup>77</sup> And it is good for a man to cry out (to God) before the judgement (on rain)

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<sup>72</sup>Mordechai, on Ta'anit, paragraph 635. Sefer Ha-Rokeach, paragraph 311.

<sup>73</sup>Ravya, volume 2, page 676, paragraph 890. Ha-Pardes, paragraph 159. Mordechai, on Ta'anit, paragraph 636. Shibbolei Ha-Lekket, paragraph 267.

<sup>74</sup>Isalah 61:10-63:9. Haftarah for parashat Nitzavim.

<sup>75</sup>Isalah 55:6-56:8. Haftarah for parashat Vayelech.

<sup>76</sup>Hosea 14:2-10, Micah 7:18-20, Joel 2:15-27. Haftarah for Shabbat Shuvah, te Shabbat between Rosh Hashanah and Yom Kippur.

<sup>77</sup>Joel 2:11.

is decreed.<sup>98</sup> And "Seek the Lord.." is read between Rosh Hashanah and Yom Kippur as they said, "Seek, etc.-These are the ten days between Rosh Hashanah and Yom Kippur.<sup>99</sup> And they also read it on the Fast of Gedaliah.<sup>100</sup> And when parshiot Nitzavim and Vayelech are separated, they also read it on Shabbat. Mordechal.<sup>101</sup>

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<sup>98</sup>B.T. Rosh Hashanah 16a. The Agur paraphrases the Talmud here. The actual Amoraic statement reads, "For R. Isaac said: Supplication is good for a man whether before the doom is pronounced or after it is pronounced." This is in connection to reciting the daily prayer for the sick. It is of use even though judgement about the fate of the ill person has already been decreed.

<sup>99</sup>B.T. Rosh Hashanah 18a.

<sup>100</sup>Fast of Gedaliah. This public fast takes place on the third of the month of Tishrei. It commemorates the assassination of Gedaliah ben Ahikam, a governor of Judah appointed by the Babylonians after the destruction of the first Temple.

<sup>101</sup>Mordechal, on Megillah, paragraph 831. Tosafot on Megillah 31b, s.v. "Rosh Hashanah".

## HILCHOT TA'ANIT

861. For those who read the Haftara "Return O Israel" before Yom Kippur and "I will greatly rejoice" before that, it is sufficient that they read "Seek the Lord" at the Fast of Gedaliah. But if a Shabbat occurs between Sukkot and Yom Kippur they read the Haftara "David addressed the words of the song to the Lord."<sup>1</sup> And they do thus in Mainz. But there are those places where they read "I shall greatly rejoice" as the Haftara. Mordechai.<sup>2</sup>

862. The Ramban wrote,<sup>3</sup> "We do not build stuccoed buildings, which are considered as royal edifices. Rather one plasters it with lime or with cement and one leaves a square cubit (unplastered)." But this does not coincide with the gemara, which implies if one leaves a square cubit unplastered, it is permitted (to use) any type of plaster.<sup>4</sup>

863. "They (the sages) forbid crowns for bridegrooms."<sup>5</sup> They forbid (crowns on account that they were) for bridegrooms, only because of the extra measure of joy (involved with a wedding). But for any other man it is permitted. And Rav said: "They taught thus (to decree

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<sup>1</sup>II Samuel 22:1-51. This is the Haftara for parashat Ha'azinu.

<sup>2</sup>Mordechai on Megillah, paragraph 831.

<sup>3</sup>Should read: Rambam. Mishnah Torah, Hilchot Ta'anit, chapter 5, halacha 12. B.T. Bava Batra 60b. This is the custom only now that the Temple has been destroyed.

<sup>4</sup>Tur, Orach Hayyim, paragraph 560. B.T. Bava Batra 60a. Certain mixtures such as cement and straw were permitted for use as plaster.

<sup>5</sup>B.T. Sotah 49a. To be worn at wedding ceremonies.

against the use of a crown) only of one made of salt and brimstone, but if made of myrtle and roses it is permitted." And Shmuel said: "Also one made of myrtle and roses is forbidden, but if made of reed or rushes it is permitted."<sup>6</sup> And the Rambam ruled like Shmuel, but I do not know why, for we hold like Rav (regarding) ritual matters. But the Tosafot explain that this does not (mean) a crown for the head, rather, it is like a skullcap that one makes for the groom to wear (while sitting).<sup>7</sup>

864. "They (the sages) forbid all types of song whether with musical instruments or by voice."<sup>8</sup> And Rashi explained, for example, to sing in a tavern ([i.e., drinking songs] is prohibited). And the Tosafot explained that (this applies) even without drink. But (this applies) only to one who is accustomed to (doing) thus. But from the language of Rashbam it seems that instrumental music is prohibited entirely, but a song with the voice is only forbidden if one has wine while singing. But he clarifies in a teshuvah that even with voice (alone) it is forbidden to (sing) even if one does not have a drink.<sup>9</sup>

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<sup>6</sup>B.T. Sotah 49b. Rashi describes a crown of salt and brimstone as being a crown cut out of a block of salt on which figures were traced with brimstone.

<sup>7</sup>Tur, Orach Hayyim, paragraph 560. Mishnah Torah, Hilchot Ta'anit, chapter 5, halacha 15. Tosafot to Gittin 7a, s.v. "crown".

<sup>8</sup>B.T. Sotah 48a and B.T. Gittin 7a.

<sup>9</sup>Tur, Orach Hayyim, paragraph 560. Mishnah Torah, Hilchot Ta'anit, chapter 5, halacha 14. Sh'ellot and Teshuvot of Rambam, "Hilchot Preiman", chapter 6, paragraph 370. Tosafot to Gittin 7a, s.v. "song".

865. Concerning the rule that one may fast for hours,<sup>10</sup> one prays "Answer us O Lord", and one needs to<sup>11</sup> accept (the fast) the day before, before sunset. In what case can this be found? For example, one can accept from the day before to fast the next day until the middle of the day. When the next day arrived he reconsidered and completed (the fast), or one accepted yesterday to fast from the middle of the next day and onwards, and the next day he reconsidered and did not eat also during the first half of the day. But if he accepted to fast until the middle of the day but afterwards ate, or if he ate until the middle of the day and accepted a fast from then onwards, it is not called a fast (so that he may) pray "Answer us O Lord". However it is called a fast in that he needs to fulfill his vow (and not eat). But this did not seem correct to the Rosh.<sup>12</sup>

866. If one accepted many fasts at the afternoon service [and] they [were not] joined one after the other, it is doubtful to me if this is a valid acceptance of any one of them or not.<sup>13</sup>

867. The Rambam wrote that one says "Answer us O Lord" at the afternoon service and this (constitutes) the acceptance

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<sup>10</sup>B.T. Ta'anit 11b.

<sup>11</sup>In the Tur: express clearly.

<sup>12</sup>Tur, Orach Hayyim, paragraph 562. Rosh on Ta'anit, chapter 1, paragraph 14.

<sup>13</sup>Tur, Orach Hayyim, paragraph 562. It reads: It is doubtful to the Rosh. Rosh on Ta'anit, chapter 1, paragraph 11. Rosh defines "not joined" as meaning that they are on two consecutive days but in the evening between them one eats and drinks. Rosh says that one must accept each fast separately.

of a fast and one decides in his heart to fast the next day. And thus wrote Ba'al Halachot Gedolot. But it does not seem correct. Rav Alfasi ruled like Shmuel who said that one accepts (a fast) at the time of the afternoon service. But the Ravad ruled like Rav who said that when the time for the afternoon service arrives one should say, I shall declare a fast for tomorrow. And because there is a dispute amongst the rabbis it is good if one does not interrupt the prayers. But Rabbenu Tam says that even if one accepts it (the fast) with a whisper it is effective for it resembles a vow.<sup>14</sup>

868. The Rashba wrote in his teshuvot<sup>15</sup> (that) he agreed with the Ravad that one may borrow his fast and repay it (on another day).<sup>16</sup> It is even concerned with one who takes a vow this day.

869. (It is written) in the teshuvot of the geonim, "Even one who accepts the fast after the afternoon service, while it is still day, even (if he accepts) with a whisper (and not out loud) it allows him to pray 'Hear us O Lord'". And according to Rabbenu Tam (one may do this) even after it

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<sup>14</sup>Tur, Orach Hayyim, paragraph 563. B.T. Ta'anit 12a. Rif on the portion. Mishnah Torah, Hilchot Ta'anit, chapter 1, halacha 10. Ravad on the Rosh, Ta'anit, chapter 1, paragraph 13. Rabbenu Tam in the Tosafot to Avodah Zarah 34a, s.v. "One fasts".

<sup>15</sup>Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 246.

<sup>16</sup>B.T. Ta'anit 12b. Borrowing a fast means that if one began a fast but had to break it to fulfill a mitzvah or in honor of an important person he may make it up by fasting on some other day. See: Mishnah Torah, Hilchot Nedarim, chapter 4, halacha 16.



becomes dark. But Rav Hai and other geonim wrote that one needs to accept (the fast) from the day before. And it can be proven (that) if there are public officials and they decreed a fast, even though it was not announced to the entire public while it was still day, it shall be a fast. Shibbolei Ha-Lekket.<sup>17</sup>

870. "One eats and drinks until dawn."<sup>18</sup> Ravad wrote that (this) only (applies if) he had not finished his meal, (i.e.), if he is already (sitting) and eating. But if he had finished his meal or even if he had not finished but had fallen asleep during his meal, he cannot eat further. But Rav Alfasi ruled that even (if) one had finished eating (his meal) as long as he does not sleep (before dawn) he may eat. And even if one falls asleep in the middle of his meal it is permitted (to eat) until he shall finish (eating) and then falls asleep. And (this applies) only to set sleep but if he naps, he is permitted. And the Rosh agreed with this. Language of the Tur.<sup>19</sup>

871. (According to) the language of the geonim, we are not accustomed to say "Hear us O Lord" at the evening or even morning service, lest by unavoidable circumstance, illness, or by mistake, one may ingest food and thus be found (to be) a liar (for having said "On this fast day hear us O Lord").

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<sup>17</sup>Shibbolei Ha-Lekket, paragraph 275. Otzer Ha-Geonim, on Ta'anit, page 16.

<sup>18</sup>B.T. Ta'anit 12a.

<sup>19</sup>Tur, Orach Hayyim, paragraph 564. Rif and Rosh on Ta'anit 12a.

But Rabbenu Tam wrote that we need not worry about coercion or error, so that one may say "Hear us O Lord" at the morning and evening service. It is because one "borrows" his fast on condition that he repays it;<sup>20</sup> thus he is not called a liar. And in the name of Rabbenu Nissim (it is said) that one needs to say "Hear us O Lord" at the morning, afternoon, and evening service. And thus is it written in the Yerushalmi. Shibbolei Ha-Lekket.<sup>21</sup>

872. And if one remembers to say "Hear us O Lord" (after the proper time but) before he moves his feet (at the conclusion of the AMidah) he says it without the ending. But there are those who say that because one has already ended (saying) the eighteen benedictions one can say it with the ending. And there is not issue here of "no man can establish a blessing on his own."<sup>22</sup> But this does not seem appropriate. But there are geonim who say that one only says "Hear us O Lord" at the afternoon service, for perhaps one will be overcome by fainting caused by hunger. And thus they are accustomed in Ashkenaz. But in Spain, they say it at the morning,

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<sup>20</sup>B.T. Ta'anit 12b.

<sup>21</sup>Shibbolei Ha-Lekket, paragraph 277. B.T. Ta'anit 13b. Yerushalmi, Ta'anit, chapter 2, halacha 2. Rashi and tosafot on Shabbat 24a, s.v. "fasts". Rosh on Ta'anit, chapter 1, paragraph 17. Or Zarua, volume 2, paragraph 403. The prayer recited on the fast day other than Tisha B'Av is recited between "Hear our voice", the 14th benediction of the Amidah and "Be pleased, Lord our God", the 15th benediction. See The Daily Prayerbook, edited by Philip Birnbaum. Hebrew Publishing Co., New York. 1949.

<sup>22</sup>B.T. Ta'anit 13b. The individual may insert a 19th benediction, "Hear us O Lord" when he undertakes a fast.

afternoon, and evening services. And thus was the Rosh accustomed.<sup>23</sup> Rav Natan wrote that the individual who is fasting is not accustomed to recite the thirteen attributes (at the morning service). But I do not know what concern there is in the matter for it is only like reading Torah. And it is not called "davar she'bi'kedusha" that one does not say without a minyan, (i.e.), the Kaddish, Barchu, and the Kedusha.<sup>24</sup> And I, the author, have dealt with this earlier in Hilchot Tefillah.<sup>25</sup>

873. Ravya wrote<sup>26</sup> that he heard from his father, Rabbenu Yoel, that there were those who wondered on what did the Rishonim base themselves that the Shaliach Tzibbor says "Hear us O Lord" between "The Redeemer" and "The One who heals" (in the Tefillah) when praying concerning a tragedy or so that trouble would not befall them. And thus why do they read (in the Torah), "But Moses implored", since theirs was a private, not a public fast? For they even seemed like the people of Nineveh<sup>27</sup> on the subject of asking for rain; only on Monday, Thursday, and the second day after Pesach. And after the festival (Sukkot) they were accustomed to fast on these days throughout the Diaspora, so that it is not an individual fast.

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<sup>23</sup>Tur, Orach Hayyim, paragraph 565.

<sup>24</sup>Tur, Orach Hayyim, paragraph 565.

<sup>25</sup>See Agur, Hilchot Tefila, paragraph 179.

<sup>26</sup>Ravya, volume 2, paragraph 863. Rosh on Ta'anit, chapter 1, paragraph 20.

<sup>27</sup>B.T. Ta'anit 14b. The people of Ninevah were like individuals and added "Hear us O Lord" in the Amidah.

[But the Ravad wrote that they are a fast for the individual,]<sup>28</sup> and thus the Shaliach Tzibbor does not say "Hear us O Lord" on them between "the redeemer" and "the One who heals"; and one does not read on them "And Moses implored". But the Rosh wrote (that) in Ashkenaz they make it set and everyone fasts on them and they rely on the precedent of Job.<sup>29</sup> And it seems to me that, granted they are like individuals on the subject of praying for rain which is the reason that is explained in the Yerushalmi<sup>30</sup> that one does not change the form of the blessings of the eighteen benedictions, they are customs of the prophets and one may not change (them).<sup>31</sup>

874. But a community which accepts a fast for themselves, they are certainly a public, and may establish blessing on their own (for themselves). However it appears to me that they need ten (men) who will be fasting. And this is (even) according to Rabbenu Hananel who wrote that if there are six or seven (men in a minyan) who did not hear the Kedusha or the Barchu, they can say the Kaddish and the Barchu even

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<sup>28</sup>The editor added this from the Tur.

<sup>29</sup>Job 1:5. "When a round of feast days was over, Job would send word to them to sanctify themselves, and, rising early in the morning, he would make burnt offerings, one for each of them; for Job thought; 'Perhaps my children have sinned and blasphemed God in their thoughts.' This is what Job used to do."

<sup>30</sup>Yerushalmi, Berachot, chapter 5, halacha 2. The inhabitants of Nineveh were instructed to pray for rain but not to change the structure of the Amidah.

<sup>31</sup>Tur, Orach Hayyim, paragraph 566.

though that the rest heard. Here, he agrees that ten (men) are needed.<sup>32</sup>

875. There are places where they are accustomed to say penitential prayers after the Eighteen Benedictions on a fast day. And Rav Amram wrote that one may say penitential prayers during "Forgive us". And thus said Rav Natronai. And thus wrote Rav Sar Shalom Gaon. Language of the Tur.<sup>33</sup>

876. Rashba wrote in his teshuvot (that if) ten (men) accept a fast but a few of them are not in the synagogue, the Shaliach Tzibbor cannot say "Hear us O Lord" in the fourth prayer in itself for they are like individuals until they are all there. End of quotation.<sup>34</sup>

877. One who is observing a fast may taste food (to see) if it needs salt or spices. But how much (may he taste)? (According) to Rav Ammi and Rav Assi one may taste up to a "revi'it".<sup>35</sup> Rashi explained that a "revi'it" is (equal to) a "log". And Rabbenu Yehuda bar Rabbi Natan explained that a "revi'it" is (equal to the volume of) an egg. Mordechal.<sup>36</sup>

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<sup>32</sup>Tur, Orach Hayyim, paragraph 566.

<sup>33</sup>Tur, Orach Hayyim, paragraph 566. Seder Rav Amram Gaon, volume 2, page 132b. Ravya, volume 2, page 682, paragraph 891. Ritz Giat, volume 1, page 23. Or Zarua, volume 2, paragraph 416.

<sup>34</sup>Sh'eilot and Teshuvot of the Rashba, volume 1, paragraph 81.

<sup>35</sup>B.T. Berachot 14a. One may taste food only to see if it was cooked properly, but not for one's own benefit or enjoyment. A revi'it is equal to the volume of one and a half eggs.

<sup>36</sup>Not found in Mordechal. See: Shibbolei Ha-Lekket, paragraph 279. Belt Yosef, paragraph 567, s.v. "one who has undertaken".

878. Rav Natan wrote, "A Shaliach Tzibbor who is not fasting may not recite "Hear us O Lord". But I do not know why, for he does not say "On the fast day",<sup>37</sup> rather, "on this fast day" and it is fast day for others. Thus if it is impossible to find another hazzan who is fasting who can recite it, he (the hazzan who is not fasting) may recite it.<sup>38</sup>

879. There are those who say that we read the (Torah) portion for the day (i.e., from the dally sedra) at the morning service and at the afternoon service (we read) "But Moses implored the Lord his God"<sup>39</sup> on every fast which occurs on the second or fifth day of the week. Or they read two sections from the portion of the day and a third from "But Moses implored". But Rav Amram wrote that on fast days mentioned in scripture only "But Moses implored" is read except on Tisha B'Av. And Rav Sar Shalom Gaon wrote that on a public fast day or any fast that is decreed because of (the need for) rain, or for any necessary matter, (they read) "But Moses implored" at the morning and afternoon services, whether it is on the second or fifth days of the week or whether it is on any of the other days of the week. Language of the Tur.<sup>40</sup>

880. On these three fasts, (i.e.), the 17th of Tammuz, the fast of Gedallah, and the 10th of Tevet we read "But

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<sup>37</sup>In the Tur: my fast.

<sup>38</sup>Tur, Orach Hayyim, paragraph 566.

<sup>39</sup>Exodus 32:11. This is from parashat Ki Tisa.

<sup>40</sup>Tur, Orach Hayyim, paragraph 566. Seder Rav Amram Gaon, volume 2, page 133b.

Moses implored" at the morning and "evening" (=mincha) services. These three fasts are greater than other fasts. On other fasts we pray during the afternoon like any other day, and we do not read from the Torah and we do not say "He shall come as redeemer to Zion". There are places where they are accustomed on the 17th of Tammuz to read the portion "But Moses implored" as one whole chapter without skipping (any part) at all, because at that time occurred the making of the (golden) calf and the breaking of the tablets. Thus it is like the essence of the event (which caused the fast). Therefore they are accustomed not to skip during the reading of "But Moses implored". And my teacher, may his memory go up for a blessing, wrote that we do not read in the Torah during the afternoon service on Erev Shabbat which happens to be one of these four fast days. Shibbolei Ha-Lekket.<sup>41</sup>

881. Rabbenu Klonymos wrote that at this time we do not observe, on Shabbat, a fast for dreams for we are not experts at interpreting dreams in order to know which are good and which are bad, and we do not fast when in doubt. And thus wrote Ravya.<sup>42</sup> But everyone is accustomed to fast because of dreams, even on Shabbat because this is a "delight" (for the one who had a bad dream). And there is proof from Rabbi Akiba who was found to be crying by his students on Shabbat. They said to him, "You taught us, Rabbenu, 'You shall call

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<sup>41</sup>Shibbolei Ha-Lekket, paragraph 263.

<sup>42</sup>Ravya, volume 2, page 621, paragraph 860. Tur, Orach Hayyim, paragraph 860. Or Zarua, volume 2, paragraph 107.

Shabbat a delight.'" He said to them "This is my delight."  
And earlier in Hilchot Shabbat I brought this event (forward)  
from Sefer Shibbolei Ha-Lekket.<sup>43</sup>

882. They say that the one who fasts on Shabbat says "Hear us O Lord" in the fourth blessing by itself. But it appears (to me) that it is better to include it in "O God, keep my tongue from evil" without an ending as I explained earlier at the end of Berachot.<sup>44</sup>

883. "One who goes from a place where they are not fasting to a place where they are fasting (should) fast with them."<sup>45</sup> Riva explained, "It is so even when he intends to return (from where he came and not be part of that second community). However, because he did not accept a fast upon himself, if he goes outside the city's boundaries he may eat." But there are those who say that even inside the city it is permitted to eat (provided that he does not do so) in their presence.<sup>46</sup>

884. I found in the name of Rabbi Shmuel bar David, "The one who is observing a dream fast on Shabbat or on Yom Tov, says, 'My God, at the time that the Temple was standing', after his

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<sup>43</sup>This is the language of Ya'akov Landau. See paragraph 402 in Hilchot Shabbat.

<sup>44</sup>Tur, Orach Hayyim, paragraph 568.

<sup>45</sup>B.T. Ta'anit 10b.

<sup>46</sup>Tur, Orach Hayyim, paragraph 574. Riva, in Ravva, volume 2, page 601, paragraph 852. Mordechai, on Ta'anit, paragraph 621.



prayer. But he does not say 'Hear us O Lord'". And thus he received from his teachers. Shibbolei Ha-Lekket.<sup>47</sup>

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<sup>47</sup>Shibbolei Ha-Lekket, paragraph 278. Darchei Moshe, paragraph 568, note 4.

## HILCHOT ROSH HASHANAH

895. They raised the question, what was the conclusion (i.e., halacha)? Rav Yosef said "The Holy God", and "The King who loves righteousness and Judgement" (during the ten days). Rabba said, "The Holy King" and "The King of Judgement" (from Rosh Hashanah through Yom Kippur).<sup>1</sup> They dispute concerning after the fact (if one goes through the Amidah and does not say the different texts and does not remember until he after he is finished); therefore, one needs to go back (and repeat the Amidah). But Rabbi Eliezer bar Yoel HaLevi, may his memory be for a blessing, says that the disagreement is only a priori (one goes back), but after the fact one does not go back (and repeat the Amidah). And thus wrote the Ravad.<sup>2</sup> And thus wrote HaRav Rabbi Yeshayah HaRishon. And thus wrote Ba'al Ha-Meor, may his memory be for a blessing. Thus Shibbolei Ha-Lekket brought (this evidence).<sup>3</sup> But Rav Alfasi and Rambam wrote that one returns (and repeats the Amidah). And the Rosh agreed with this.<sup>4</sup>

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<sup>1</sup>B.T. Berachot 12b. "The holy God" and "King, who loves righteousness and Judgement" are said throughout the year in the 3rd and 4th benedictions of the Amidah, except from Rosh Hashanah through Yom Kippur. During that period one says "The holy King" and "The King of Judgement".

<sup>2</sup>Tur, Orach Hayyim, paragraph 582. Ravva, volume 1, paragraph 40.

<sup>3</sup>Shibbolei Ha-Lekket, paragraph 305. Piskei Rid, on Berachot 12b.

<sup>4</sup>Tur, Orach Hayyim, paragraph 582. Rif and Rosh on Berachot 12b. Mishnah Torah, Hilchot Tefillah, chapter 10, halacha 13. If one finishes the entire Amidah before he realizes that he made these errors, he must return to the beginning and recite the entire Amidah over again.

886. Morenu HaRam used to say "Remember us for life" with a sh'va and not with a patach, (saying) "L'chaim"<sup>5</sup> so that it will not be heard as "Lo Chaim" (Remember us not for life) like in Nedarim<sup>6</sup> "L'hullin" like "Lo hullin". And he begins (in the Avot by saying) "Remember us for life". And in the "Hoda'ah" he says, "And inscribe us for a good life" because the one who requests (from God) needs to request a bit (at first) and then a lot.<sup>7</sup> There are places where they do not say "Our Father, Our King" on Shabbat. But it is our custom to say it. Shibbolei Ha-Lekket.<sup>8</sup>

887. There are those of the geonim who said that one does not say "And inscribe us for a good life", because we hold<sup>9</sup> that a man should not ask for his needs in the first three or last three benedictions (of the Amidah). And thus wrote Ba'al Ha-Ittur. And he wrote, "Accordingly, the rabbis do not permit (one) even to say 'Remember' in 'Magen' and 'Remember your mercy' in the 'Hoda'ah'. But 'In the book of life' is said in 'Sim Shalom' because they have concluded the eighteen benedictions like a penitential prayer (which one may recite at the end of the Tefillah). But Rav Hai Gaon

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<sup>5</sup>Sh'va is the silent vowel in Hebrew. Patach has the sound of "ah". Using one or the other can change the meaning of a word as is described in the paragraph.

<sup>6</sup>B.T. Nedarim 11a. The positive is inferred from the negative. In this case HaRam did not want to infer the positive from the positive.

<sup>7</sup>Tur, Orach Hayyim, paragraph 582. Maharam in Tashbatz, paragraph 119.

<sup>8</sup>Shibbolei Ha-Lekket, paragraph 305.

<sup>9</sup>B.T. Berachot 34a.

wrote that it is to be said, because the needs of the many are a different case. And likewise it is found in Massechet Soferim.<sup>10</sup>

888. One does not say "Remember us", and "Inscribe us" except on the two days of Rosh Hashanah, and even this was permitted with difficulty (i.e., the rabbis had difficulty justifying it).<sup>11</sup> But (we) are already accustomed to say (them) the entire ten days of repentance. On the contrary, I have always wondered, why are (we) also not accustomed to say "Lord our God, cause all your works to stand in awe before you" during the entire ten days of repentance? And I have heard that there are places where they are accustomed to say it.<sup>12</sup>

889. Rabbi Yitzchak wrote that if one does not say "Remember us", "Who is like you", and "Inscribe us for life" that we make him go back (as in the case of one who fails to say) "The holy King". And if one is doubtful if he has said (these inserts) or not, he should return (and repeat). But the Rosh wrote, "I wonder why we make one go back because there is no mention in the Talmud regarding them. (And) there is disagreement over 'The holy King' and 'The King of righteousness'; and the Talmud ruled that one does not

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<sup>10</sup>Tur, Orach Hayyim, paragraph 582. B.T. Soferim, chapter 19, halacha 6. Ha-Ittur, Hilchot Shofar, Seder Berachot, page 103b. Hidushel Ha-Geonim, paragraph 112. Sha'arei Teshuva, page 151. Otzer Ha-Geonim on Berachot, page 81.

<sup>11</sup>B.T. Soferim, chapter 19, halacha 6.

<sup>12</sup>B.T. Soferim, *ibid*.

fulfill (his obligation should he forget these passages). But (regarding) "Remember us", and "Who is like you", if it is a geonic ordinance to say it, from where do we derive that one makes him go back? This is not a case of changing the form of the prayers as ordained by the sages because it is not mentioned in the Talmud." And thus wrote the Rambam in the name of the geonim that one does not make the individual or the Shaliach Tzibbor go back (should he make a mistake).<sup>13</sup> 890. One does not say, "You have given us, O Lord our God, in love, seasons for joy, festivals and times for gladness" on Rosh Hashanah or on Yom Kippur. But Rav Sar Shalom Gaon wrote, we say in the two yeshivot (in Babylonia) on Rosh Hashanah and Yom Kippur both in the Tefillah and the Kiddush "Seasons for joy, festivals and times for gladness (and) this day of remembrance". And thus (was this done) in the yeshiva of Rav Paltai Gaon. And thus wrote Rav Shmuel bar Hofni (that it was) the custom in the two yeshivot to say it. But Rav Hai wrote that it was not the custom to say "Season for joy, etc"; but the custom spread (throughout the Jewish world. And they are accustomed in Spain to say on Yom Tov "This so and so festival is a holy convocation" and on Rosh Hashanah "This holy convocation and on this day of sounding the great shofar, this remembrance." But in Ashkenaz they

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<sup>13</sup>Tur, Orach Hayyim, paragraph 582.

are not accustomed to say this. And thus it seems reasonable.<sup>14</sup>

891. HaRav Rabbi Yitzchak HaLevi of Worms<sup>15</sup> was not accustomed to say "Bestow upon us". For it is only connected with the three pilgrimage festivals (Sukkot, Pesach, and Shavuot). And thus wrote Rav Sha'al'tiel.<sup>16</sup> But Rabbi Yitzchak bar Yehuda of Mainz<sup>17</sup> was accustomed to say it on Rosh Hashanah and on Yom Kippur in the name of Rabbi Eliezer HaGadol.<sup>18</sup> And thus Rabbenu Meshullam asked the Rosh Yeshiva of Jerusalem,<sup>19</sup> and he replied that one (may) say it. And thus wrote Rav Yehuda, head of the academy. But in Ashkenaz and France they do not say it. But in the rest of the lands they (are accustomed) to say it.

892. The Rambam wrote, all shofars are unfit except for

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<sup>14</sup>Tur, Orach Hayyim, paragraph 582. Rosh on Rosh Hashanah, chapter 4, paragraph 14. Ma'asei Ha-Geonim, page 37. Ha-Pardes, paragraph 166. Hidushei Ha-Geonim, paragraph 99.

<sup>15</sup>R. Yitzchak HaLevi of Worms. Died: Worms, 1070. Talmudist and head of the academy in Worms.

<sup>16</sup>Tur, Orach Hayyim, paragraph 582. Sefer Even Ha-Ezer, page 69d. Ravya, volume 2, page 230, paragraph 537. Machzor Vitry, page 360. Ha-Pardes, paragraph 168. Rosh on Rosh Hashanah, chapter 4, paragraph 14.

<sup>17</sup>R. Yitzchak bar Yehuda. Died: Mainz 1064. Headed the Talmudic academy in Mainz.

<sup>18</sup>R. Eliezer HaGadol. Born: Worms. Died: Mainz c.1055.

<sup>19</sup>Shibbolei Ha-Lekket, paragraph 286. See paragraph 912, further on.

those made from a ram's horn. And everyone disagreed with him. Language of the Tur.<sup>20</sup>

893. Rabbi Zeira said to his attendant: "Put your mind to it and blow (the shofar) for me." This implies that, in his opinion, the shofar blower needs to put his mind to it.<sup>21</sup> That is to say, even though that the one who hears (the sound) intends to fulfill his obligation, he does not fulfill his obligation until the one who will blow the shofar (consciously) intends to (help) him fulfill his obligation (by sounding the shofar). And Rav Alfasi ruled that the halacha is according to Rabbi Zeira. And thus ruled Rabbenu Yeshayah that the halacha is according to Rabbi Zeira. So we see (that) that a mitzvah requires devotion. And thus ruled Ba'al Ha-Yere'im. But Ba'al Ha-Meor ruled against Rabbi Zeira and like Rabba that one does not need intent to fulfill one's obligation. And Ba'al Ha-Divrot wrote that the halacha followed Rabba that a mitzvah does not require intention. Shibbolei Ha-Lekket.<sup>22</sup>

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<sup>20</sup>Tur, Orach Hayyim, paragraph 586. Mishnah Torah, Hilchot Shofar, chapter 1, halacha 1. B.T. Rosh Hashanah 26a. Rambam adds that the horn must be curved. The mishnah in Rosh Hashanah says that all types of shofars may be used except for one made from a cow's horn. This seems to contradict Rambam and the Agur.

<sup>21</sup>B.T. Rosh Hashanah 28b-29a. Rif on Rosh Hashanah, paragraph 947. Sefer Yere'im, page 254a. Ha-Ittur, Hilchot Shofar, page 99b. The shofar blower must perform his task consciously or the benefit of those who shall hear the sound of the shofar.

<sup>22</sup>Shibbolei Ha-Lekket. paragraph 297.

894. If (a hole in a shofar) is stopped up with its own material (and) if it does not impede the sound and if a greater part of the original (shofar) is left, it is fit (to be blown),<sup>23</sup> even though it impeded (the sound) before it was stopped. But if it (the stopping) impedes (the sound), it is not fit even if a greater part of the original is left. Thus it is the opinion of the geonim. And thus wrote the Rambam.<sup>24</sup> But according to the opinion of Rabbi Yitzchak, if it is stopped up with its own material, and a greater part of the original is left, even though it impedes the sound so that it does not sound like it did before, it is fit. (If) it is stopped up with a material that is not its own, and it impedes the sound so that it does not sound like it did before, it is unfit even if the greater part of it remains. Likewise, if it sounds like it did before the blocking it is unfit because its sound was changed from how it sounded before when it was whole. But if it does not impede the sound, it is fit even though it is stopped up with material that is not its own, because the majority of the original remains. And as long as it is not stopped up, even though its sound has been changed, it is fit, for all sounds of the shofar are fit. And the Rosh agreed with this. Language of the Tur.<sup>25</sup> (A shofar) is cracked and stopped up, if it

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<sup>23</sup>B.T. Rosh Hashanah 27b.

<sup>24</sup>Mishnah Torah, Hilchot Shofar, chapter 1, halacha 7.

<sup>25</sup>Tur, Orach Hayyim, paragraph 586. Tosafot to Rosh Hashanah 27b, s.v. "hole".



impedes the sound it is unfit. The final result of our discussion and the practical halacha is that a shofar which is cracked and is stopped up with its own material and its sound returns like it was before it cracked, there is no argument that it is (not) fit, even (if) the crack impeded the sound before it was blocked up, but, if after it was stopped up and impedes the sound, it is unfit. And if it is not stopped up at all it is fit even if the sound is impeded for all sounds of the shofar are fit. Thus explained Rabbi Yitzchak. However, this requires further study since it may be that the halacha is according to Rabbi Natan who says that (if the shofar is stopped up with its own material), even if it impedes the sound, it is fit. Mordechai.<sup>26</sup>

895. The Rambam wrote<sup>27</sup> that a block (mixture containing) glue is not considered (a block) of its own material unless it was heated in fire until it is melted and the two pieces are joined together. But the Rosh wrote that a block (mixture containing) glue is considered to be of its own material and not regarded as "not of its own material" unless when one blocks the crack with a piece of another (shofar). But when one joins it with glue it returns to how it was (before it was cracked).<sup>28</sup>

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<sup>26</sup>Mordechai, on Rosh Hashanah, paragraph 713.

<sup>27</sup>Should read: Ramban.

<sup>28</sup>Tur, Orach Hayyim, paragraph 586. B.T. Rosh Hashanah 27b. Ramban, cited by the Rosh, Rosh Hashanah, chapter 3, paragraph 2.

896. One does not take the shofar outside the boundaries (of the town) and one does not climb a tree to get it. And one does not ride on a beast or swim in the water to bring it (the shofar to a place in order to blow it).<sup>29</sup> But HaRav Yonah wrote that only a Jew is forbidden to do this, but it is permitted to say to a gentile that he should do this, because it is not forbidden except by the rabbis (because it is not in harmony with the spirit of the day). And to say to a gentile to perform a prohibited act is also a rabbinic prohibition. And it is permitted to violate a "fence" around a rabbinic prohibition in order to do a mitzvah. But the Tosafot did not write thus in Massechet Shabbat.<sup>30</sup>

897. Rav Alfasi used to sound the shofar in his Beit Din on Shabbat and relied upon the Mishnah<sup>31</sup>: "After the destruction of the Temple, Rabbi Yochanan ben Zaccai ordained that it should be blown every place where there was a Beit Din of three (judges)." But they were not accustomed (to do this) anywhere, for all the commentators explained (that) a Beit Din of twenty-three (men was needed) which constituted a small Sanhedrin.<sup>32</sup> Ba'al Ha-Ittur wrote that after one fulfilled his obligation by sounding the shofar, he may sound it for women and children before they shall sound it in the

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<sup>29</sup>B.T. Rosh Hashanah 32b.

<sup>30</sup>Tur, Orach Hayyim, paragraph 586. Bait Yosef, paragraph 586. Tosafot on Shabbat 121a.

<sup>31</sup>B.T. Rosh Hashanah 29b.

<sup>32</sup>Tur, Orach Hayyim, paragraph 588. Rosh on Rosh Hashanah, chapter 4, paragraph 1.

synagogue in order that he may fulfill the mitzvah for sounding it himself. And Ravya wrote that even after one fulfills (his obligation) one can take out the shofar and sound it for them (women and children) even carrying it through the public thoroughfare. And the Rosh agreed with this. Language of the Tur.<sup>33</sup>

898. The Alfasi and all the geonim ruled that it is forbidden to talk from the beginning of the (recitation) of the blessing (regarding the blowing of the shofar) until the end of the sounding all the sounds (of the shofar during the Shofar service which takes place after the Haftara). However, Ravya wrote that on the subject of the sounding (of the shofar) it is allowed to talk for it resembles (saying) "Take, the benediction has been said. Take, the benediction has been said."<sup>34</sup> And the same is true here-he may, even in principle, say all such things. And thus wrote Rabbenu Yoel. But he wrote further that he saw an occurrence that one (person) blessed and sounded some of the sounds (during the shofar service) and sent the shofar to another who concluded sounding the shofar without (reciting) the blessing. Mordechai.<sup>35</sup>

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<sup>33</sup>Tur, Orach Hayyim, paragraph 589. Rosh on Rosh Hashanah, chapter 4, paragraph 7. Ravya, volume 2, page 211, paragraph 534.

<sup>34</sup>B.T. Berachot 40a. If the benediction has been said on behalf of all, the action (talking or eating) may take place.

<sup>35</sup>Mordechai on Rosh Hashanah, chapter 4, paragraph 721. Rif on Rosh Hashanah, paragraph 558. Ravya, volume 2, paragraph 535.

899. One who blows (the shofar) in order to make musical sounds and does intend to blow in order to fulfill the mitzvah does not fulfill his obligation (of blowing the shofar) for we hold that (the fulfillment of) mitzvot requires intent.<sup>36</sup> And thus ruled Halachot Gedolot. But HaRav Yonah ruled as Rabba, that mitzvot do not require intent. And thus ruled Rabbenu Hananel. But Rav Sh'rira Gaon ruled from the academy (in Babylonia) that the halacha is according to Rabba and a priori (mitzvot) require intent but after the fact one fulfills his obligation (even without intent). And the Rosh ruled that mitzvot require intent. Language of the Turim.<sup>37</sup>

900. Rav Alfasi wrote that it is the custom to sound, while standing, (during the Musaf Amidah) Tashrat (T'kiyah, Shevarim, T'ruah, T'kiyah) one time, Tashat (T'kiyah, Shevarim, T'kiyah) one time, and Tarat (T'kiyah, T'ruah, T'kiyah) one time. And thus this is the custom everywhere and in the two academies (in Babylonia). End of quotation.<sup>38</sup> And thus I found in the Rambam.<sup>39</sup> And thus wrote Ba'al Ha-Divrot.<sup>40</sup> But, Rabbenu Tam was accustomed to sound

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<sup>36</sup>B.T. Rosh Hashanah 33b. One who blows the shofar merely to practice making the sounds does not fulfill the obligation of blowing the shofar.

<sup>37</sup>Tur, Orach Hayyim, paragraph 589. See paragraph 893 of the Agur. Rav Sh'rira in Ha-Ittur, Hilchot Shofar, page 99b.

<sup>38</sup>Rabbenu Hanael on Rosh Hashanah 33b and 34a. Rif on Rosh Hashanah, paragraph 957.

<sup>39</sup>Mishnah Torah, Hilchot Shofar, chapter 3, halacha 3. Rambam gives a detailed ordering for the sounding of the shofar.

<sup>40</sup>Ha-Ittur, Seder T'kiyat, page 100c-d.

Tashrat for Malchu'yot, Zichronot, and Shofarot. And Rabbenu Yeshayah wrote that it was appropriate that one should make (blow) Tashrat, Tashat, and Tarat for Malchu'yot and thus for all of them. And one fulfilled his obligation during the Shofar Service connected with the Torah reading. And thus explained Rabbenu Hananel. But, from the words of rabboteinu (i.e., the Talmudic sages), may their memories be for a blessing, it appears that Rabbi Abbahu's edict applies in essence to the Shofar Service that occurs during Musaf. And thus I found (this) according to Rabbenu Gershom, may his memory be for a blessing. And thus I found commentators (who say) that the essential Shofar service is the one during Musaf. Therefore, it is proper to sound Tashrat, Tashat, and Tarat for Malchu'yot and the rest. Shibbolei Ha-Lekket.<sup>41</sup>

901. The sages taught, "One (person) passes in front of the ark on Rosh Hashanah, and the second one causes the sounding (of the shofar)."<sup>42</sup> But they did not say "he sounds". Learn from this that the one who actually sounds the shofar must be someone other than the chazzan. But it seems reasonable that if there is no one else who accomplishes at sounding the

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<sup>41</sup>Shibbolei Ha-Lekket, paragraph 301. Rabbenu Tam in Tosafot, s.v. "the length". Rabbenu Hananel on Rosh Hashanah 33b-34a. Or Zarua, volume 2, paragraph 269. Rashi on Rosh Hashanah 16b.

<sup>42</sup>B.T. Rosh Hashanah 32b. "One who passes" refers to the reader of the service. "The second one" refers to the reader of the Musaf service. The second reader may not actually blow the shofar, rather he may "cause it to be blown". This means that he recites the blessing and calls out the sounds while another person blows the shofar.

shofar he (the chazzan) may do so. And he should not be concerned that perhaps (as a result of this distraction) he shall make a mistake during the service. Shibbolei Ha-Lekket.<sup>43</sup>

902. One needs to lengthen the sounds of Tashrat more than (the sounds of) Tashat, and Tashat more than (the sounds of) Tarat. And Ba'al Ha-Ittur wrote that it seems reasonable that Shevarim (consists) of three small (short) staccato sounds or three "sobs" like the length of three shevarim. But there is no break between them and there is no dispute regarding the length except that one (says) that one makes short sounds like a groan (or cough) and this one (says) that one makes the sounds without a break which sounds like a howl so that all are equal. And thus wrote the Rambam. According to this one does not need to lengthen the sounds of Tashat more than Tarat. And the first opinion is that of the Tosafot. And thus wrote the Rosh. Language of the Tur.<sup>44</sup>

903. One needs to be careful (when sounding) the Shevarim not to lengthen each one in itself like (the length of) three groans, for if this happens it will be like (sound like) a T'kiyah. Three groans are like three coughs. The T'ruah therefore, is nine coughs and thus it is the length of the T'kiyah. And according to this one should not fear if one

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<sup>43</sup>Shibbolei Ha-Lekket, paragraph 295.

<sup>44</sup>Tur, Orach Hayyim, paragraph 590. Mishnah Torah, Hilchot Shofar, chapter 3, halacha 3. Ha-Ittur, Hilchot Seder T'kiyot, age 100c-d. The number of blasts per sequence must number 30.

lengthens the Shevarim a little bit. But one needs to extend the T'kiyah of Kashrak (T'kiyah, Shevarim, T'ruah, T'kiyah) like the length of three Shevarim or nine coughs. And whoever does not extend the sounds to this length but extends the Shevarim a little bit has not fulfilled the mitzvah, according to either opinion. Shibbolei Ha-Lekket.<sup>45</sup>

904. Rabbenu Tam wrote<sup>46</sup> that one must make (the) three sounds (in the Shevarim) with one breath for they are in place of T'ruah. But (when one sounds) three (sounds of the) Shevarim and a T'ruah (=Shevarim-T'ruah) of Tashrat, one does not need to do it in one breath. For people do not cough or groan with one breath. And thus a majority of the commentators wrote that they considered (there to be) thirty sounds in (each) sounding. But Ritz Glat wrote that one needs to make them with one breath. And he wrote that there are only twenty-seven sounds. And thus wrote the Rosh.<sup>47</sup> And I, the author, have seen that some are accustomed to sound the T'kiyah and the Shevarim with one breath according to the opinion of the Rosh. And on many occasions, when I have sounded (the shofar) I have made (the sounds) with one breath.<sup>48</sup>

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<sup>45</sup>Should read: Mordechai on Rosh Hashanah, paragraph 720.

<sup>46</sup>Rabbenu Tam in a teshuvah found in Ravya, volume 2, paragraph 542. Machzor Vitry, page 386. Sefer Mitzvot Gadol, positive commandments, paragraph 42. Ramban on the end of Rosh Hashanah.

<sup>47</sup>Tur, Orach hayyim, paragraph 590. Ritz Glat, volume 1, page 26.

<sup>48</sup>Darchei Moshe, paragraph 590, note 3.

905. If one sounds Tashrat with one breath, it appears that he has not fulfilled (his obligation) for there is no beginning (to the sounds in the middle and the end of the sequence) and there is no end (to the sounds at the beginning and in the middle of the sequence). However the Yerushalmi does not indicate this.<sup>49</sup>

906. If one lengthens the last T'kiyah of (the sequence) Tashrat so that its length is that of two T'kiyot in order that it will (also serve as the) first T'kiyah of (the sequence) Tashat, it says in the Yerushalmi<sup>50</sup> that it (the blast) does not count for him at all. But our gemara (from the Babylonian Talmud) argues that it counts as one blast for him, but not as two blasts.<sup>51</sup>

907. There was an incident where one erred (in making) the Shevarim sounds of the third Tashrat, made two sounds, and began to sound a T'kiyah. A small portion of the

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<sup>49</sup>Tur, Orach Hayyim, paragraph 590. Yerushalmi, Rosh Hashanah, chapter 4, halacha 10. If one sounded all the blasts with one breath it would not seem that one was sounding separate blasts in a series but, rather one long blast. This does not fulfill the mitzvah of sounding the shofar.

<sup>50</sup>Yerushalmi, Rosh Hashanah, chapter 4, halacha 10. Each individual T'kiyah sound must have its own beginning and ending. In this case the last T'kiyah of the first sequence of sounds is joined with the first T'kiyah of the second sequence of sounds. Thus the first T'kiyah has no ending of its own and the second T'kiyah has no beginning of its own. Therefore the Yerushalmi goes on to say that not even one blast is "reckoned to him" because it is not a valid blast.

<sup>51</sup>Tur, Orach Hayyim, paragraph 590. B.T. Rosh Hashanah 33b. Rosh on Rosh Hashanah, chapter 4, paragraph 10. The Talmud allows the blast which is equal to two T'kiyot to count as one blast unlike the Yerushalmi which does not allow the blast to count at all, even as one blast.



congregation made him go back to the beginning to sound Tashrat three times. But, Rabbenu Yoel and his son-in-law, Ravan disagreed with them. Mordechai.<sup>52</sup> And according to HaRav Rabbi Eliezer bar Natan, one needs to begin the third T'kiyah over but the first two Tashrat(s) are not to be disregarded. And the Rosh wrote (that even) the first T'kiyah of the third Tashrat before the Shevarim is not disregarded; he merely goes back and sounds the Shevarim and the T'ruah. But the Ramban wrote that one loses the first T'kiyah because the T'ruah which stopped in the middle. If he sounded Tashrat, Tashat, or Tarat appropriately but made a mistake on the last one, there are those who say that he needs to go back over all the [sounds] from the beginning three times. But the Ramban wrote that one does not need to go back (over all the sounds) only over the last one on which one erred.<sup>53</sup>

908. From (the words of) Rav Alfasi it appears, and thus explained Ravya, that only with the blessings (Amidah) of Rosh Hashanah and Yom Kippur (can the chazzan) fulfill the obligations even of those who can recite the prayers (by himself). But regarding the prayers during the rest of the year we do not hold according to this view. (Rather) every

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<sup>52</sup>Mordechai on Rosh Hashanah, paragraph 720. Ravya, volume 1, paragraph 171. In Mordechai the dispute is between Ravan and Rabbenu Elikayim. Ravan agrees with the congregation's actions while Rabbenu Elikayim (and Rabbenu Yoel in Ravya) do not approve.

<sup>53</sup>Tur, Orach Hayyim, paragraph 590. Ramban on Rosh Hashanah 34a. Rosh on Rosh Hashanah, chapter 4, paragraph 11.

individual must fulfill his obligation by reciting them if he is able to do so. Mordechai.<sup>54</sup> They concluded that the halacha is according to Rabban Gamliel<sup>55</sup> who said that the chazzan may fulfill the obligation of even those are able (to recite the Amidah) on Rosh Hashanah and Yom Kippur. But Ba'al Ha-Ittur wrote that the chazzan does not exempt the one who is able (to recite the Amidah) even if he is in the synagogue. Language of the Tur.<sup>56</sup>

909. I found in the name of Rav Sa'adiah and Rav Amram Gaon that it is the custom in the two academies (in Babylonia), after the Musaf prayer, to sound one, long, T'ruah in order to confuse Satan. But Rav Hai, may his memory be for a blessing, wrote, "We do not do this, and we have not heard from our forefathers that they were accustomed to this. Rather, each individual engaged himself (in blowing his own shofar) as he wished." Shibbolei Ha-Lekket.<sup>57</sup>

910. The sages taught: "One does not prevent children from sounding (the shofar) and one helps them until they have

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<sup>54</sup>Mordechai on Rosh Hashanah, paragraph 721. B.T. Rosh Hashanah 35a. Rif on the portion. Ravva, volume 1, paragraph 546. The blessings mentioned are those of the Amidah. Even if one is able to recite them he may just listen to the chazzan recite them on Rosh Hashanah because of the three long inserts: the Malchu'yot, Zichronot, and Shofarot.

<sup>55</sup>B.T. Rosh Hashanah 35a.

<sup>56</sup>Tur, Orach Hayyim, paragraph 591. Ha-Ittur, Hilchot Shofar, page 99c.

<sup>57</sup>Shibbolei Ha-Lekket, paragraph 302. Ritz Glat, volume 1, page 42. B.T. Rosh Hashanah 30a. The Talmud states that individuals brought their own shofars to the synagogue and blew them for themselves after the chazzan blew the shofar.

learned."<sup>38</sup> Ba'al Ha-Divrot wrote,<sup>39</sup> "This applies to a child who has reached an appropriate age to learn (how to blow the shofar)." But Ritz Glat wrote the opposite, that if (the child) has reached the appropriate age to learn (how to blow the shofar) one prevents (him from doing so) lest he take it outside and carry it through the public thoroughfare; the younger child is not prevented from blowing the shofar. And thus I found according to Rabbi Yitzchak, may his memory be for a blessing.<sup>40</sup> Ritz Glat wrote that women (may) recite the blessing over the shofar. And thus wrote Ba'al Ha-Meor. And Ba'al Ha-Divrot wrote that women (may) sound (the shofar) for themselves only but others do not do so for them. And thus wrote Ba'al Ha-Yere'im. But Rabbenu Yeshayah wrote, "Only without a blessing is it allowed for women to sound (the shofar) for themselves. But if they (recited the blessing) it is revealed that they believe they are obligated under this mitzvah. And there are two (reasons) to forbid (this). One (is) that they (the women) transgress "You shall not diminish from this". And further, it is an invalid blessing." Shibbolei Ha-Lekket.<sup>41</sup>

911. Ritz Glat wrote that they were accustomed, in the the two academies and throughout Babylonia, that the public only

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<sup>38</sup>B.T. Rosh Hashanah 33a.

<sup>39</sup>Ha-Ittur, Hilchot Shofar, page 99d.

<sup>40</sup>Ritz Glat, Volume 1, page 38. Tosafot to Rosh Hashanah 33a, s.v. "It has been learned".

<sup>41</sup>Shibbolei Ha-Lekket. paragraph 295. Ritz Glat, volume 1, page 38. Ha-Ittur, Hilchot Shofar, page 99d.

recites seven blessings (in the Musaf Amidah) on Rosh Hashanah. But the chazzan recites nine (blessings). And according to many teshuvot of Rav Natronai and Rav Amram the public has always recited only seven blessings on Rosh Hashanah. And he said, "But we have received a tradition from the great sages, the master teachers, and pious ones who likewise received it from the great sages who preceded them, like Rav Shmuel HaLevi who received it from the master of teaching and the elders of the generation: it is the actual halacha to recite nine blessings (in the Musaf Amidah of Rosh Hashanah)." But the Ramban had difficulty in finding support for the words of the geonim, saying that thus was the custom with the majority of Jews until Ritz Giat came along and caused some of the Western communities to readopt our custom. Thus, with difficulty, he justified the first custom. But it did not appear (thus) to the Rosh. And he wrote to the contrary, "Whosoever recites (only) seven (benedictions) has (recited) null and void prayers because they are lacking (other) benedictions. And the custom of our ancestors is Torah and there is no need to change (it)." And everyone behaves accordingly.<sup>42</sup>

912. Rabbenu Tam wrote that one needs to make mention of the additional sacrifices in every Musaf service and that one does not fulfill his obligation by saying (only) "As it is

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<sup>42</sup>Tur, Orach Hayyim, paragraph 591. Ritz Giat, volume 1, page 29. Rosh on Rosh Hashanah 32a, chapter 4, paragraph 2.

written in your Torah by your servant Moshe." But, one does not need to mention the Rosh Hodesh offering at all on Rosh Hashanah for it is enough for him that he says besides "The offering of the (new) month and its meal offering" for in this is included every Rosh Hodesh Musaf (burnt) offering. But in order to also make mention of the ram which is the sin offering one says, "And two rams to make atonement and two regular offerings according to their laws."<sup>43</sup> But the rest of the commentators do not explain thus. Rather, they explain (that) one fulfills his obligation (regarding) the Musaf by saying, "As it is written in your Torah," just as one fulfills (his obligation regarding) Malchu'yot, Zichronot, and Shofarot. And thus they are accustomed in Spain that one does not recite the verses (about) sacrifices except on Shabbat and Rosh Hodesh when they are accustomed to say them and will not err. But, on the other festivals, when they are not accustomed to saying them, and are liable to err, they do not mention them. And Ba'al Ha-Ittur wrote, "since one has said, 'The Day of Remembrance', he does not need to say 'Rosh Hodesh', for it is included (in) the Day of Remembrance." But Rav Amram wrote that one says only "The offering of the month and its meal offering and two regular offerings according to their law." But the great (sages) of Mainz were accustomed not to mention Rosh Hodesh at all; even

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<sup>43</sup>Rashi and Tosafot on Rosh Hashanah 35a. Rosh on Rosh Hashanah, chapter 4, paragraph 14.

"Aside from the offering of the month and its meal offering" is not said. And thus Ha-Aruch explained (that) on a festival during which Rosh Hodesh occurs, one does not say "And your new months," during the Tefillah nor during the Musaf, and not during the morning when one reads the verses about the sacrifices for there are places where they read, during the morning of Rosh Hodesh (the verses about the sacrifices), and after that they read the portion about the daily offering. And thus wrote some of the geonim that one does not say "And on your new months" at the morning service on Rosh Hashanah so that one does not show scorn for the festivals, for if they would say it on the second day (of Rosh Hashanah) thus they would be saying that the second day is the principal (one) like the rest of the months of the year. But Riva wrote that it should be said on the second day, and the Rosh was accustomed (to recite) the verses about the sacrifices like Rabbenu Tam. Language of the Turim.<sup>44</sup> And HaRav Avraham bar Yitzchak wrote, "Those who are accustomed not to mention Rosh Hodesh (do not do so) because of the Yerushalmi implies (this custom)."<sup>45</sup> But the gaon, Rabbi Yitzchak Ha-Levi, wrote, "There are those pious ones who explicitly mention the verses of each Musaf of the day.

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<sup>44</sup>Tur, Orach Hayyim, paragraph 591. Ha-Ittur, Hilchot Shofar, page 104c. Seder Rav Amram Gaon quoted in Ravya, page 230, paragraph 537. Even Ha-Ezer, page 69c.

<sup>45</sup>In the critical edition there is a footnote here but the reference is missing in the editor's commentary.

And all the geonim of Alsace-Lorraine<sup>66</sup> teach that one says "And on your new months." And these words were sent before Rashl,<sup>67</sup> and he decided according to the opinion of the one who says that one needs to mention of every musaf but one should not be strict lest they say that Elul is a pregnant month (has 31 days).<sup>68</sup> However, Rabbenu Hananel<sup>69</sup> brought evidence from the Yerushalmi that one does not say it. But, I saw many commentators who explain that when the Yerushalmi says, "One does not mention Rosh Hodesh" this means, for example, "And who has given us, Lord our God, in love, this Day of Remembrance and this Rosh Hodesh." And thus one also does not need to end (with), "Who sanctifies Israel, this Day of Remembrance, and the new months", not only during the Musaf service, but at all the services: evening, morning, Musaf, and afternoon. But one does need to recite the verse of the additional offering of Rosh Hodesh. And Ba'al Ha-Divrot was accustomed to say, "And a ram to make atonement and the offering of the month and its meal offering and two regular offerings according to their teaching." Shibbolei Ha-Lekket.<sup>70</sup> Rabbi Yitzchak bar Yehuda was accustomed to say "Bestow upon us" on Rosh Hashanah and Yom Kippur on the

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<sup>66</sup>Machzor Vitry, pages 357-58.

<sup>67</sup>Machzor Vitry, ibid.

<sup>68</sup>The first day of Rosh Hodesh is usually the 31st day of the previous month. This is not the case with the 1st day of Rosh Hashanah, which is always the 1st of Tishri.

<sup>69</sup>Rabbenu Hananel on Eruvin 40a.

<sup>70</sup>Shibbolei Ha-Lekket, paragraph 290. Ha-Ittur, Hilchot Shofar, page 104c.

authority of Rabbi Eliezer HaGadol. And Rabbi Meshullam also asked the head of the academy in Jerusalem and he replied that it should be said because one cannot say "the blessing of your seasons." But in a teshuvah, Rav Sar Shalom Gaon wrote, "On Yom Kippur, they say, at both academies, both in the Tefilah and in the Kiddush, 'Seasons for joy, festivals and times for gladness.'" Mordechai.<sup>71</sup> But in all the Ashkenazic countries they are not accustomed to say it.

913. Regarding "Bestow upon us", during Rosh Hashanah and Yom Kippur, a majority (of the rabbis) say it. And Rabbi Yitzchak bar Yehuda, in the name of his master, Rabbi Eliezer, may his memory be for a blessing, said it all his life. Rashbam inquired of the distinguished scholars of Jerusalem, and they replied that one says "Bestow upon us" and they bring evidence from the Yerushalmi, Massechet Berachot, chapter "Ha-Roeh". But the gaon, Rabbi Yitzchak Ha-Lavan,<sup>72</sup> abolished it in Worms. The widespread custom is to say it on Rosh Hashanah but not on Yom Kippur. Shibbolei Ha-Lekket.<sup>73</sup>

914. Rabbi Hiyya said that Rav said, "Because one said 'In your Torah it is written,' one does not need to say any more."<sup>74</sup> This rule is the same for the individual and for

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<sup>71</sup>Mordechai on Rosh Hashanah, paragraph 722. See paragraph 891 of the Agur and the notes there.

<sup>72</sup>R. Yitzchak Ha-lavan. Lived: c. 1180 in Prague, Bohemia. Talmudist, disciple of Rabbenu Tam.

<sup>73</sup>Shibbolei Ha-Lekket, paragraph 286. Yerushalmi, Berachot, chapter 9, halacha 3.

<sup>74</sup>B.T. Rosh Hashanah 35a.



the congregation.<sup>75</sup> And Rabbi Yitzchak Alfasi wrote that this applies even to those who read verses of Malchu'yot, Zichronot, and Shofarot. And thus it is found according to a certain gaon. And Rabbi Shlomo explained Rav's statement as dealing with the Musaf verses-i.e., that one who says "And in your Torah it is written" does not need to say more verses (dealing with the sacrifices) in the Musaf (service). But our rabbis explain Rav's statement as dealing with the Malchu'yot, Zichronot, and Shofarot verses. But it does not seem correct to me; rather, it refers to the Musaf verses and not Malchu'yot, Zichronot, and Shofarot, because we have learned (in a mishna),<sup>76</sup> There should not be recited any less than ten verses of Malchu'yot. Shibbolei Ha-Lekket.<sup>77</sup>

915. In Massechat Soferim (it is written)<sup>78</sup> If Rosh Hashanah falls on Shabbat they say "In remembrance of the sound (of the shofar) it is a holy convocation". Shibbolei Ha-Lekket.<sup>79</sup>

916. They say "It is our duty to praise" (the Aleinu). But Rav Amram wrote that an individual does not say it in a place where there is a chazzan. But they were already accustomed to say it. And thus wrote Rav Moshe Gaon, "An individual who

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<sup>75</sup>Even Ha-Ezer, page 80c. Ravya, volume 1, paragraph 536.

<sup>76</sup>B.T. Rosh Hashanah 32a.

<sup>77</sup>Shibbolei Ha-Lekket, paragraph 290. Rif on Rosh Hashanah, paragraph 952. Rashi and Tosafot on Rosh Hashanah 35a, s.v. "It you were to say".

<sup>78</sup>B.T. Soferim, chapter 19, halacha 8. The shofar is not blown on Shabbat.

<sup>79</sup>Shibbolei Ha-Lekket, paragraph 286.

prays in a whisper on Rosh Hashanah, if he concludes "It is our duty to praise" let him say (it), if not let him say "Meloch Ochilah". But it seems from (their words) that the individual does not say it for it is a "reshut"<sup>80</sup> of the chazzan.<sup>81</sup>

917. In Toledo they are accustomed to say "Ya'aleh V'Yavo" during (the verses of) Zichronot and this is a good custom. But in Ashkenaz they are not accustomed (to do this).<sup>82</sup>

918. It is written in Ha-Aruch<sup>83</sup> that one sounds (the shofar) during the Musaf Amidah as they sounded (it) in the Torah service. And Rabbenu Tam was accustomed to sound Tashrat for Malchu'yot, Zichronot, and Shofarot. But Rav Alfasi wrote, Tashrat, Tashat, and Tarat, according to the order of the blessings, one time so as not to trouble the congregation. And thus was everyone accustomed and (likewise) the two academies (in Babylonia). Language of the Turim.<sup>84</sup>

919. Sefer Yere'im wrote, "One recites the blessing: 'Al T'klyat Shofar.'" But Rav Amram wrote, "If one recited 'Lit'ko'ah' he has erred." And they were accustomed to

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<sup>80</sup>Reshut. See glossary.

<sup>81</sup>Tur, Orach Hayyim, paragraph 591. Seder Rav Amram Gaon, volume 2, page 151a.

<sup>82</sup>Tur, Orach Hayyim, paragraph 591. Seder Rav Amram Gaon, volume 2, page 147b.

<sup>83</sup>Ha-Aruch, under the heading "Erev".

<sup>84</sup>Tur, Orach Hayyim, paragraph 592. Tosafot on Rosh Hashanah, s.v. "Length". Machzor Vitry, page 335. Sefer Mitzvot Gadol, positive commandments, paragraph 42. Rosh on Rosh Hashanah, chapter 4, paragraph 10.

recite the blessing "Lishmo'ah". Mordechai.<sup>65</sup> And this is the general custom. Rav Amram wrote, "After the service they sound a great T'ruah without a T'kiyah in order to confuse Satan." But Rav Hai Gaon wrote, "This is not the reason for doing this, rather it is understood from the gemara<sup>66</sup> that individuals were accustomed to sound (their shofars) after the service. And if they do not do this it is not an indispensable matter for they have already fulfilled their obligation (by hearing the shofar sounded during the service).<sup>67</sup>

920. One does not fast at all on Rosh Hashanah. And thus replied Rav Nachshon Gaon (in a teshuvah). And thus (wrote) Rashi, may his memory be for a blessing, in his commentary on parashat "Emor". From the words of Torah, from the words of kabbalah, and from a baraita of the Yerushalmi, and from the Talmud, and many (others) which are (listed) at length in the Mordechai.<sup>68</sup> And Rav Natronai wrote that on the first day of Rosh Hashanah it is impossible to observe a fast because (the first day) is Toraitic in origin. But, on the second day (of Rosh Hashanah) and on Shabbat there is no difficulty (in observing a fast) because these ten days are different from the rest of the days of the year. Therefore, our rabbis were

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<sup>65</sup>This is not found in Mordechai. See: Shibbolei Ha-Lekket. Sefer Yere'im, paragraph 419. Seder Rav Amram Gaon, page 148b.

<sup>66</sup>B.T. Rosh Hashanah 30a.

<sup>67</sup>Tur, Orach Hayyim, paragraph 496. Seder Rav Amram Gaon, page 154a. Ritz Glat, volume 1, page 42.

<sup>68</sup>Mordechai on Rosh Hashanah, paragraph 708.

accustomed to observe fasts on them whether it was on a regular weekday or on Shabbat. But the Rosh wrote, and his words are puzzling, that he forbids one to fast on the first day of Rosh Hashanah, yet he permitted fasting on Shabbat. And we see that it is proper that one does not fast and likewise on the Shabbat of repentance we do not see (feel) that one should fast on it. And thus wrote Ritz Glat that one should not fast. And thus it appears from the midrash that I brought earlier, "For what great nation" until "and eats and rejoices on Rosh Hashanah." And thus it is written explicitly in the Yerushalmi, "They sound (the shofar) but do not fast".<sup>89</sup> But in the teshuvot of the geonim it is written<sup>90</sup> that it is acceptable to fast on the two days of Rosh Hashanah and they rely on the aggada in the pesikta of Sukkah<sup>91</sup> that there are books where it is written that the great sages of the generation came and fasted on Rosh Hashanah. And I found it written that there are places where it is accepted (practice) that all who are accustomed to fast on Rosh Hashanah and change their regular practice

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<sup>89</sup>Tur, Orach Hayyim, paragraph 597. Rosh on the end of chapter 4 of Rosh Hashanah. Yerushalmi, Rosh Hashanah, chapter 1, halacha 3. "Rav Simeon said: For what great nation...", and Ta'anit, chapter 3, halacha 3. "Thus in Rosh Hashanah (it says) 'Sound (the shofar)' and not 'Fast'". Ritz Glat, volume 1, page 44. Ravya, page 207, paragraph 529 and paragraph 874. Or Zarua, volume 2, paragraph 257.

<sup>90</sup>Hemda Genuza, paragraph 129.

<sup>91</sup>Midrash Tanhuma, parashat Emor, paragraph 22. The proof text of this midrash is Psalms 27:6 "Now is my head high over my enemies roundabout; I sacrifice in His tent with shouts of joy, singing and chanting a hymn to the Lord."

and do not fast will not complete their year.<sup>92</sup> And it was a custom of the people of Speyer that they would not fast but to be ready before the day. And in the name of Rav Yehudai Gaon (it is stated) that one is forbidden to fast on the two days of Rosh Hashanah. And thus agreed Rav Sa'adiah Gaon and thus Rav Hai Gaon. Shibbolei Ha-Lekket.<sup>93</sup> In the teshuvot of the geonim it is found that it is acceptable to fast on Rosh Hashanah. Mordechai.<sup>94</sup> And everyone is accustomed not to fast at all. But I, the author, saw in Sefer Agudah<sup>95</sup> that it is accepted that whoever fasts one time on Rosh Hashanah for a fast because of a dream must fast (on Rosh Hashanah) all of his days. And if not he is in danger after he sees it (the dream) one time for it is a bad sign.

921. And on the subject of (reciting) the Shehechiyanu on the second evening of Rosh Hashanah during the Kiddush and during the day at (the blowing of) the shofar, Rashi wrote in a teshuvah,<sup>96</sup> "Our rabbis say that one does not say Shehechiyanu except on the first evening (of Rosh Hashanah) for it is one holy period and it (both days) is like one long extended day."<sup>97</sup> But I say that one needs to say Shehechiyanu and thus they are accustomed in our places and in every place

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<sup>92</sup>Belt Yosef, paragraph 597, s.v. "Kol Bo wrote".

<sup>93</sup>Shibbolei Ha-Lekket, paragraph 284. Ma'asei Ha-Geonim, page 39. Ha-Pardes, paragraph 170.

<sup>94</sup>This is not found in the Mordechai.

<sup>95</sup>Sefer Agudah, Rosh Hashanah, chapter 4, paragraph 21.

<sup>96</sup>Machzor Vitry, page 356. Ha-Pardes, paragraph 66. Rosh on Rosh Hashanah, chapter 4, paragraph 14 and on Eruvin, chapter 3, paragraph 10. Tashbatz, paragraph 114.

<sup>97</sup>B.T. Betzah 5b.

where I have been. And there is no differentiation between the second day of Rosh Hashanah and the rest of the festivals (as they are observed) in the diaspora except on the subject of an egg and (using something which was) attached (to the ground, (i.e.)), that which is produced on the first day is forbidden on the second day) is the halacha." And thus wrote Rashbam in the name of his grandfather, Rashi. And thus was the opinion of Ba'al Ha-Ittur. And the geonim wrote that one says the Shehechlyanu on the second day (of Rosh Hashanah) during the Kiddush<sup>20</sup> but not during (the blowing of the) shofar. The Rosh wrote, "It is good if a man takes (some) new fruit and places it before him and recites the Shehechlyanu and so it would be in his mind (that he was saying it) also over the fruit so as to erase any doubt. And thus was Maharam accustomed. And it appears that if the first day (of Rosh Hashanah) falls on Shabbat that one must say Shehechlyanu on the second day regarding (the blowing of the) shofar since one cannot blow it on the first day. Language of the Tur.<sup>21</sup> And thus explained Ba'al Shibbolei Ha-Lekket. But in teshuvot of the geonim (it says) that one must say Shehechlyanu on the second night of Yom Tov (Rosh Hashanah) during the Kiddush and during (the blowing of) the

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<sup>20</sup>Should read: and not during the Kiddush.

<sup>21</sup>Tur, Orach Hayyim, paragraph 600. Or Zarua, volume 2, Hilchot Eruvin, page 38c. Ha-Ittur, end of Hilchot Shofar. Rosh on Rosh Hashanah, chapter 4, paragraph 14. Sefer Rokeach, paragraph 204. Sh'eilot and Teshuvot of Maharam, Bava Batra, paragraph 54. Tashbatz, volume 3, paragraph 114.

shofar. And thus replied HaRav Meshullam bar Klonymos (in a teshuvah) and thus wrote Ba'al Ha-Divrot. But HaRav Rabbi Avigdor Cohen did not recite (Shehechyanu) except on the first day (of Rosh Hashanah) and HaRav Rabbi Yitzchak bar Yehuda the Frenchman (did likewise). And thus it is found according to (some) geonim, may their memories be for a blessing. Shibbolei Ha-Lekket.<sup>100</sup> And I, the author, am writing (of) the custom of the pious ones in Ashkenaz who say Shehechyanu on the second evening (of Rosh Hashanah) during the Kiddush and try very hard to obtain new fruit or new wine and look at it while reciting Shehechyanu. Although (if this is not possible) they recite the Shehechyanu (anyway).<sup>101</sup> But during (the blowing of the) shofar on the second day they do not recite the Shehechyanu unless the first day of Yom Tov (Rosh Hashanah) falls on Shabbat, then one recites the Shehechyanu with a whisper.<sup>102</sup>

922. They are accustomed in Spain to say many penitential prayers and supplications on the Shabbat of repentance. But I wonder about this custom for behold one does not<sup>103</sup> sound (the shofar) on Shabbat. And in Ashkenaz they are not accustomed (to do) thus.<sup>104</sup>

923. (It is written in) the Yerushalmi, "Rav Hiyya ordered Rav, 'If you can eat during all the days of the year in a

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<sup>100</sup>Shibbolei Ha-Lekket, paragraph 285.

<sup>101</sup>Belt Yosef, paragraph 597, s.v. "The Agur wrote".

<sup>102</sup>Belt Yosef, ibid, s.v. "And it seems to me".

<sup>103</sup>B.T. Ta'anit 11a.

<sup>104</sup>Tur, Orach Hayyim, paragraph 602.

state of purity, eat (in that state). But if not (then at least) eat in that state seven days of the year."<sup>105</sup> And Ravya wrote,<sup>106</sup> "These seven days (of which Rav Hiyya spoke) are the seven days between Rosh Hashanah and Yom Kippur. And one (can) specify these seven days because on Rosh Hashanah one does not need to be careful about eating in a state of purity for it is obvious that one eats in a state of purity for it is one's obligation to purify himself for a festival. And only the seven regular days of the week remain about one needs to be careful (about eating in a purified state)."<sup>107</sup> Therefore they are accustomed in Ashkenaz that even whoever is not careful about (eating) the bread of gentiles during the year shall be careful (about refraining from eating the bread of gentiles) during the ten days of repentance.<sup>108</sup>

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<sup>105</sup>Yerushalmi, Shabbat, chapter 1, halacha 5.

<sup>106</sup>Ravya, page 208, paragraph 529.

<sup>107</sup>There are 10 days in total from the first day of Rosh Hashanah to the end of Yom Kippur. Our text has explained that it is taken for granted that one shall be in a purified state for the two days of Rosh Hashanah. This leaves 8 days. It also takes it for granted, by not mentioning it, that one shall not eat on Yom Kippur, thus eliminating one day and leaving us with our total of 7 days about which one must be careful.

<sup>108</sup>Tur, Orach Hayyim, paragraph 603. Or Zarua, volume 2, paragraph 257.



## HILCHOT YOM HA-KIPPURIM

924. Everyone is accustomed to perform ritual immersion (on) Erev Yom Ha-Kippurim. And Rav Amram said, "A man performs ritual immersion during the seventh hour (1 P.M.) and (then) prays the afternoon service." And Rav Sa'adiah Gaon says that as he is going to immerse (himself), one recites the blessing regarding ritual immersion. But the Rosh wrote, "His words do not seem (correct) regarding this for we have not found in the whole of the Talmud a hint of this immersion. And it is not an institution (i.e., takanah) of the prophets or a custom of the prophets, and it is no weightier than (the shaking of) the willow, about which (the sages) said,<sup>1</sup> 'And he took it and shook it over and over again without reciting any benediction for he was of the opinion that it was merely a custom of the prophets.'" Language of the Turim.<sup>2</sup> But HaRav Rabbi Simcha wrote, "Everyone who immerses (himself) on Erev Rosh Hashanah and Yom Kippur for the sake of repentance recites the blessing regarding ritual immersion before he has entered the river or sea for all repentants are obliged to perform ritual immersion. Shibbolei Ha-Lekket.<sup>3</sup> But everyone is accustomed

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<sup>1</sup>B.T. Sukkah 44b. Only a rite which originated in the Torah or rabbinic rite requires one to recite a benediction as one performs it.

<sup>2</sup>Tur, Orach Hayyim, paragraph 606. Seder Rav Amram Gaon, Seder Yom Ha-Kippurim, page 169b. Sha'arei Teshuvah, paragraph 202. Ritz Glat, volume 1, page 59.

<sup>3</sup>Shibbolei Ha-Lekket, paragraph 310.

not to recite the blessing regarding immersion according to the opinion of the Rosh.

925. Where it is customary to light (lamps) on the eves of Yom Kippur, one may light (them)."<sup>4</sup> Regarding the lighting of a lamp on Shabbat, one recites the blessing, but over the light for Yom Kippur one does not recite a blessing. Mordechai, chapter four of Pesachim.<sup>5</sup> There are those who bring evidence (that one) slaughters the expiatory offering and throws it upon the roof. But there is no such evidence. Mordechai.<sup>6</sup>

926. In Ashkenaz they are accustomed to say "For the sins" in the order of the alphabet. And one specifies the sins. And thus wrote Rav Amram. And thus (wrote) Ramban<sup>7</sup> and HaRav Yonah that one needs to specify each sin. But in Spain they are not accustomed to say it. And thus it appears that one

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<sup>4</sup>B.T. Pesachim 53b. "...where it is not customary to light (them) one may not light (them). But (in all places) we light (lamps) in synagogues, houses of study, dark alleys, and for the sick." Although the lights of Shabbat must be lit and lights for the festivals must be lit, Yom Kippur is an exception. The reason for this is that if a husband and wife could see each other, they might have the desire to engage in sexual intercourse which is forbidden on Yom Kippur. (See Mishnah Yoma 8:1) But it is a mitzvah to light lamps in honor of the festival where there is a need for light.

<sup>5</sup>Mordechai, chapter 4 of Pesachim, paragraph 609. Because the Talmud uses the word "accustomed to" or "used to" Mordechai understands that it is not a mitzvah. Therefore, a blessing which includes the words, "...who has sanctified us with his mitzvot and commanded us..." is not required.

<sup>6</sup>Mordechai on Yoma, paragraph 723.

<sup>7</sup>Should read: Rambam. Mishnah Torah, Hilchot Teshuvah, chapter 2, halacha 3.

does not specify each sin (for) it is Rabbi Akiva who says<sup>9</sup> that one does not need to specify each sin, and the halacha is according to his words. Language of the Tur.<sup>9</sup>

927. There are those who are accustomed on the evening of Yom Kippur to recite a blessing regarding the mitzvah of the release of vows, but it is an error. Shibbolei Ha-Lekket.<sup>10</sup> Rabbi Yitzchak explained (in a passage in) chapter two of Shabbat,<sup>11</sup> in connection with the lighting of a lamp on Shabbat, "A light on Yom Kippur is required if it occurs on Shabbat (and) one must recite a blessing over it. But if (Yom Kippur) occurs on an ordinary weekday one does not need to recite a blessing." But Sefer Ha-Mitzvot wrote, "(If) Yom Kippur falls on Shabbat one lights (a light) without a blessing since it is not for the purpose of eating." Mordechai.<sup>12</sup>

928. For the sins which one has confessed on the previous Yom Kippur,<sup>13</sup> and he has not repeated them, HaRav Yonah wrote<sup>14</sup> that one does not need to make a confession regarding them unless one stole or robbed and made a confession regarding them during the year which has passed. And in place of, "I have robbed, I have stolen," one says, "I have

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<sup>9</sup>B.T. Yoma 86b.

<sup>9</sup>Tur, Orach Hayyim, paragraph 607. Seder Rav Amram Gaon, page 170b.

<sup>10</sup>Shibbolei Ha-Lekket, paragraph 317.

<sup>11</sup>B.T. Shabbat 25b.

<sup>12</sup>See Mordechai on Yoma, paragraph 294.

<sup>13</sup>B.T. Yoma 86b. Yerushalmi, Yoma, chapter 8, halacha 9.

<sup>14</sup>In the Tur: Ritz Giat.

walked in loathsome ways", which is a general (non-specific) formulation. But the Rosh wrote that one can make a confession regarding them even if he has not repeated them.<sup>15</sup> 929. In the concluding clause of the confessional, Rav Amram wrote, "One who says: 'Blessed are You, O Lord, [O God] the forgiving one who God forgives,' is in error." But according to Rashi one may recite a concluding benediction, and all the Ashkenazi prayerbooks contain a concluding phrase. But in Spain they do not (recite a) concluding phrase, and it is better that one does not conclude because there is disagreement amongst the sages.<sup>16</sup>

930. And on the subject of the recitation by the Shallach Tzibbor of the confessional at the afternoon service, Ravya wrote,<sup>17</sup> that we do not make him (the chazzan) go back (and repeat the confessional) because we cannot say it in the middle of the Tefillah like in the rest of the (Yom Kippur) prayers. And thus was the opinion of Ritz Glat. And thus are they accustomed in Ashkenaz. And Rav Hai wrote, it is not a custom that the chazzan should make a confession during the afternoon service.<sup>18</sup>

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<sup>15</sup>Tur, Orach Hayyim, paragraph 607.

<sup>16</sup>Tur, Orach Hayyim, paragraph 607. B.T. Yoma 87b and Rashi on the portion. Seder Rav Amram Gaon, volume 2, page 179b. Ritz Glat, volume 1, page 59.

<sup>17</sup>Ravya, page 185, paragraph 528.

<sup>18</sup>Tur, Orach Hayyim, paragraph 607. Rosh Ha-Golah in the Rosh on Yoma, chapter 8, paragraph 25. Ritz Glat, volume 1, page 59. Machzor Vitry, page 375.

931. And he wrote in another teshuvah that the early sages said that it is fine that the chazzan does not say the confessional with "Forgive us"<sup>19</sup> for we have not heard in Babylonia that the chazzan says (this phrase) a confessional on Erev Yom Kippur. But Rav Amram wrote that the chazzan must say the confessional during the afternoon service in order to help the one who is not able to recite it on his own fulfill his obligation. And thus are they accustomed in Spain.<sup>20</sup>

932. And on the subject of storing hot food on Yom Kippur, Rav Amram wrote,<sup>21</sup> that one should not store (warm food) because one does not (normally) store warm food except for the honor of Shabbat. But (regarding) this (food), one eats it on a regular weekday (which happens to be) on Motzei Yom Kippur, and one does not store warm food for the honor of a weekday. And thus wrote Ravan.<sup>22</sup> And already, the people of Spain<sup>23</sup> have distinguished themselves by enacting an agreement (decree) that one should not store warm food. But

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<sup>19</sup>The sixth blessing of the Amidah.

<sup>20</sup>Tur, Orach Hayyim, paragraph 607. Ritz Glat, volume 1, page 59. Teshuvot Ha-Geonim Asaf, volume 2, page 87.

<sup>21</sup>Seder Rav Amram Gaon, volume 2, page 180a.

<sup>22</sup>Even Ha-Ezer, page 75a. Mordechai on Yoma, paragraph 725. Or Zarua, volume 2, paragraph 9. Ravya, volume 2, page 187, paragraph 528. Such food could be stored but only if it is to be used for health purposes, and not for eating on Motzei Yom Kippur.

<sup>23</sup>Ravya, volume 2, page 187, paragraph 528. Machzor Vitry, page 374.

Natronai Gaon wrote<sup>24</sup> (that) one (may) store warm food on Erev Yom Ha-Kippurim for the need of Motzei Yom Ha-Kippurim. Why should one not wait until Motzei Yom Ha-Kippurim to take care of all his needs? But there is no prohibition regarding this matter and no one has protested against those who do it. And Rav Sh'rira Gaon wrote that it is correct (permissible) that one stores food from one weekday to the next. I also do not know what possible prohibition there is in this matter that all the geonim needed to speak about it. And on the contrary, it seems better that one should store warm food in order that one will find his meal ready (for him) on Motzei Yom Ha-Kippurim. For (the sages) permit<sup>25</sup> and even greater thing: to clean vegetables from the time of the afternoon service and onwards during the day of Yom Kippur itself in order to speed up (the preparation of) his meal (on Motzei Yom Kippur); thus, all the more so (is) the storing of warm food permitted.<sup>26</sup> Ravva wrote<sup>27</sup> that regarding something which is not fit to be eaten, there is no prohibition (against) eating it on Yom Kippur.

933. All liquids join together (to form) a (single) measure

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<sup>24</sup>Ravva, volume 2, page 187, paragraph 528. Machzor Vitry, page 374. Geonei Mizrach u'Ma'arav, paragraph 63. Rosh on Yoma, chapter 8, paragraph 26.

<sup>25</sup>B.T. Shabbat 114b. This may be done so that as soon as it is Motzei Yom Kippur one may eat his meal. Likewise warm water may be stored for the same reason.

<sup>26</sup>Tur, Orach Hayyim, paragraph 609.

<sup>27</sup>Ravva, volume 2, page 187, paragraph 528. Mordechai on Yoma.

and that measure is (equal to) a quarter of a "log".<sup>29</sup> But the Ravad wrote, "The measure of the drink is (equal to) the measure of eating (time it takes to eat) a certain amount of bread, the measure for eating."<sup>29</sup>

934. Ba'al Ha-Ittur wrote, "There are those who say that one does not recite the blessing for the washing of the hands on Yom Kippur, '...who has provided me my every need'<sup>30</sup> because it is forbidden to wear shoes and to wash (on Yom Kippur)." But it seems reasonable that since one has the option of wearing shoes (on Yom Kippur) because of the danger of scorpions, one may recite these blessings as one recites the blessings for the other things. Language of the Tur.<sup>31</sup>

935. HaRav Elikum wrote, "My righteous teacher said to me that when he rose from his bed in the morning (on Yom Kippur) and he considered himself to be in a soiled state, he could wash his hands. And it was also permitted to wash his eyes. And thus wrote Ba'al Ha-Divrot. But it is forbidden (to wash) his face. Shibbolei Ha-Lekket.<sup>32</sup>

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<sup>29</sup>Tosefta to Yoma, chapter 5, halacha 13. This is the amount of time that it takes to drink a quarter of a "log" of liquid, not the actual amount of liquid drunk.

<sup>29</sup>Tur, Orach Hayyim, paragraph 612. One who is drinking brine may drink up to the volume of 4 eggs.

<sup>30</sup>In the Tur, and Ha-Ittur: "And all that He has done..."

<sup>31</sup>Tur, Orach Hayyim, paragraph 613. Ha-Ittur, Hilchot Ha-Kippurim, page 106c. Rosh on Yoma, chapter 8, paragraph 3. Ha-Ittur only notes that there are those who say that one should not say these blessings. The Rosh says that Ba'al Ha-Ittur is of the opinion that it is permitted.

<sup>32</sup>Shibbolei Ha-Lekket, paragraph 319. Ha-Ittur, Hilchot Yom Kippur, page 106c.

936. "Rav Huna said: At the age of eight or nine years one trains them (children) by (fasting for several) hours. At the age of ten and eleven they must fast until the end of the day, by rabbinic ordinance. At the age of twelve they must fast until the end of the day by Biblical law, (all this) referring to girls. Rav Nachman said: at the age of nine and ten one trains them by (fasting for) hours. At the age of eleven and twelve they must fast until the end of the day by rabbinic ordinance. At the age of thirteen they must fast until the end of the day by Biblical law. And one master (Rav Huna) said one thing and another master (Rav Nachman) said another thing but there is no disagreement. But Rav Yochanan said: There is no rabbinic ordinance about the obligation of children to fast until the end of the day. But, at the ages of ten and eleven one trains them by (fasting for) hours, at the age of twelve they must fast until the end of the day by Biblical law."<sup>33</sup> But HaRav Yeshayah ruled that the halacha is not according to Rabbi Yochanan because he was refuted (in the Talmud). And thus wrote Ba'al Ha-Divrot. And we do according to Rav Nachman for boys and as Rav Huna for girls. But Rabbi Yitzchak Glat ruled like Rabbi Yochanan. From Shibbolei Ha-Lekket.<sup>34</sup>

937. "The king and the bride may wash their faces, but the

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<sup>33</sup>B.T. Yoma 82a.

<sup>34</sup>Shibbolei Ha-Lekket, paragraph 312. Ha-Ittur, Hilchot Yom Kippur, page 107c. Ritz Glat, volume 1, page 55.



sages forbid this."<sup>35</sup> "And she is called a bride for thirty days (after her wedding)."<sup>36</sup> Ritz Giat ruled like the sages (who forbid this). And Rav Alfasi ruled like Rabbi Eliezer (who permitted this) and the Rosh agreed with this.<sup>37</sup>

938. And on the subject of the immersion of one who has had a nocturnal emission,<sup>38</sup> HaRav Rabbi Yehuda of Barcelona wrote that he immerses himself as in his usual way, and thus wrote Halachot Gedolot. But the Rambam wrote, because we hold that the one who has a nocturnal emission does not need to undergo ritual immersion for prayer, or for Torah study, even during the rest of the days of the year, we lean towards the strict (ruling) that he does not wash, unless he washes himself only in that one place. And thus explained

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<sup>35</sup>B.T. Yoma 73b. A bride may wash her face on Yom Kippur if it falls within 30 days of her wedding. It is the reasoning of Rav Eliezer, but the other sages forbid it. Rav on 78b says that the halacha follows Rav Eliezer.

<sup>36</sup>B.T. Yoma 78b.

<sup>37</sup>Tur, Orach Hayyim, paragraph 613. Rosh and Rif on Yoma 78b.

<sup>38</sup>B.T. Yoma 88a. If it happens on Yom Kippur one should immerse himself in the evening and "rub himself off properly."

Rabbenu Tam.<sup>39</sup> And thus ruled Ba'al Ha-Divrot.<sup>40</sup> Halachot Gedolot writes that all others obligated to perform ritual immersion do so in their usual manner on Yom Kippur. And Rabbenu Tam wrote, concerning the baraita,<sup>41</sup> "All those obliged to immerse themselves may do so in their usual manner," this is stated only according to the one who says that ritual immersion in its own time is a mitzvah. But we hold that it is not a mitzvah. Therefore one may wait until the next day to perform ritual immersion.<sup>42</sup>

939. Halachot Gedolot wrote, whoever needs to go and to study with the congregation but is afraid to go without shoes because of the fear of scorpions, can wrap something on his feet and go. But this does not seem correct, since for concern over the bite of a scorpion it is permitted even to

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<sup>39</sup>Tur, Orach Hayyim, paragraph 613. Halachot Gedolot, Hilchot Yom Ha-Kippurim, page 31a. Mishnah Torah, Hilchot Sh'vi'at Assur, chapter 3, halacha 3. Rosh on the end of Yoma. Tosafot on Yoma 8a, s.v. "all agree". Rabbenu Tam says that one does not immerse himself because immersion is not a mitzvah which has to be performed at its proper time. Rambam states several rules pertaining to the one who has a nocturnal emission:

1. "If the fluid is still moist, it should be wiped off with a towel."
2. "If it has dried or become soiled, he should wash only the soiled parts of his body and then proceed to pray."
3. "He may not wash his whole body or undergo a ritual immersion, because ritual immersion nowadays does not render a person ritually clean...while bathing nowadays, after a nocturnal emission, before prayer is merely a custom and a custom cannot abrogate a prohibition; it can only forbid what is otherwise permitted."

<sup>40</sup>Ha-Ittur, Hilchot Yom Kippur, page 106c.

<sup>41</sup>B.T. Yoma 88a.

<sup>42</sup>Tur, Orach Hayyim, paragraph 613.

wear actual shoes. And thus also for the need of a mitzvah (it is permitted to wear shoes).<sup>43</sup>

940. Some say, "Because it says,<sup>44</sup> 'A sick person is fed in accordance with the instructions of experts,' learn from this that (it is) an individual who is knowledgeable and known to be skilled. And other doctors who are not skilled, such sages follow the opinion of the (one) expert." But this does not appear so to the Ramban. Rather, because all of them are doctors by profession, one's word does not take the place of another's (word). But in any case they listen to the words of the one who is an eminent expert if he says that (the sick person) needs (to eat). But from the words of the Rambam it would seem that we follow both the majority opinion and medical expertise. But, it does not seem (thus), rather as I explained.<sup>45</sup>

941. The text of "Kol Nidre" (is) "from Yom Kippur that has passed until this Yom Kippur." And thus agreed Rabbenu Yeshayah.<sup>46</sup> But Rabbenu Tam raised a difficulty: "How can vows already taken be released?" And he was accustomed to say "From this Yom Kippur until the next Yom Kippur." And thus he is accustomed to say, "...that I have vowed and

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<sup>43</sup>Tur, Orach Hayyim, paragraph 614. Halachot Gedolot, page 31a.

<sup>44</sup>B.T. Yoma 82a. Experts here refers to physicians.

<sup>45</sup>Tur, Orach Hayyim, paragraph 618. Ramban in Torat Ha-Adam. Mishnah Torah, Hilchot Sh'vitat Ha-Assur, chapter 2, halacha 8. In any case, if the sick person asks for food on Yom Kippur he is to be fed even if a doctor says that it is not necessary.

<sup>46</sup>Shibbolei Ha-Lekket, paragraph 317.

sworn." But the Rosh wrote, "However, it appears that the custom of the early sages (was) that any version of 'Kol Nidre' argues about the renunciation of vows which were made during the past year. And they release them in order to save one from punishment. Language of the Tur.<sup>47</sup>

942. There are those of the geonim<sup>48</sup> who said that all of these things apply only to vows, but not to oaths. And it is not possible for one to release a vow without a declaration before a court at first or without one expert judge or three lay judges. And (they said) further that the halacha is according to Rav Pappa who said that one needs to specify each vow.<sup>49</sup>

943. And Rabbenu Tam wrote further, "Only oaths taken by the individual and not administered by others." And thus is the rule concerning community vows. A teshuvah of the Rashba.<sup>50</sup> But a majority of the geonim protested against the saying of "Kol Nidre" for there is no benefit to it, but only evil, aside from the version of Rav Hai Gaon. And thus it is

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<sup>47</sup>Tur, Orach Hayyim, paragraph 619. B,T, Nedarim 23b. Tosafot and Ran on this portion. Sefer Ha-Yashar, paragraph 144. Rosh on Yoma, chapter 8, paragraph 28. Nedarim 23b: "And he who desires that some of his vows made during the year shall be valid, let him stand, at the beginning of the year and declare, 'Every vow which I may make in the future shall be valid.'" According to Ran this may have given rise to the custom of saying "Kol Nidre" at the evening service of Yom Kippur. But "Kol Nidre", as a part of the service, is later than the Talmud.

<sup>48</sup>Mishnah Torah, Hilchot Nedarim, chapter 2, halacha 6.

<sup>49</sup>Nothing in this language was found in any of the sources.

<sup>50</sup>Sh'ellot and Teshuvot of the Rashba, volume 1, paragraph 695.

written in his Siddur, "All vows, and anathemas from the fast of atonement which has passed until the day of this fast of atonement. And whether one has transgressed of his own volition or under duress we request mercy from the merciful God that He shall have compassion upon us." Shibbolei Ha-Lekket.<sup>51</sup> But the Ashkenazic custom is to say it ("Kol Nidre") according to (the words of) Rabbenu Tam.

944. Ba'al Ha-Ittur wrote,<sup>52</sup> "At the morning service one confesses three times and thus during the Musaf service and during the afternoon service. But during the Neilah service one only confesses one time." And they (add up to) ten confessionals which correspond to the ten times that the high priest mentions the ineffable Name of God on Yom Kippur.<sup>53</sup> But during the evening (service) one does not confess. But there are those places where they only recite one confessional during each service. But the public confesses one time [behold eight], two times during the evening: once during the afternoon service, and once during the evening service. And we learn (in a baraita): "How does one confess? He says, 'I have transgressed and I have sinned.'"<sup>54</sup> And Rav Sa'adiah ruled like the R. Meir (the Tanna) and thus

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<sup>51</sup>Shibbolei Ha-Lekket, paragraph 317.

<sup>52</sup>Ha-Ittur, Hilkhot Yom Kippur, page 108b. B.T. Yoma 87b. Tur, Orach Hayyim, paragraph 620. Ha-Ittur mentions the number of confessions. The Talmud only says that one recites the confessional during the morning, musaf, and afternoon services.

<sup>53</sup>B.T. Yoma 39b. Sha'arei Teshuvah, paragraph 194.

<sup>54</sup>B.T. Yoma 36b.

explained Ritz Glat. But Ba'al Ha-Ittur and Rav Alfasi ruled like the sages; and thus explained Halachot Gedolot, and Rav Paltai and Rabbenu Hananel. And thus the custom is according to the sages.<sup>55</sup>

945. There are some texts, regarding the second (reading) of the confessional, (which read) "I pray in the name."<sup>56</sup> And it is written in the Yerushalmi,<sup>57</sup> "Rabbi Haggai said, 'During the first (recitation of the confessional) he used to say 'I pray HaShem,' and during the second (recitation of the confessional) he used to say, 'I pray in the name.''" And thus in "Seder Atah Kananta"<sup>58</sup> it is written during the second (recitation), "I pray in the name." And Ravya wrote,<sup>59</sup> "Because of the explanation of Rabbi Haggai that during the first (recitation of the confessional) one used to say "I pray HaShem" and during the second (recitation) "I pray in the name," thus we do. Rav Hai wrote,<sup>60</sup> "The high priest did not say "I pray HaShem" in this language, rather (he used to say) the forty-two letter divine name. And this

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<sup>55</sup>Tur, Orach Hayyim, paragraph 620. Rif on Yoma, paragraph 983. Ritz Glat, volume 1, pages 62-63. Ha-Ittur, page 108a. Geonei Mizrach u'Ma'arav, paragraph 144. Halachot Gedolot, page 61b. Or Zarua, volume 2, page 64d. Ravya, volume 2, page 195, paragraph 530.

<sup>56</sup>B.T. Yoma 35b, 41b, 66a.

<sup>57</sup>Yerushalmi, Yoma, chapter 3, halacha 7.

<sup>58</sup>Ravya, page 192, paragraph 529, see note 14. "Atah Kananta" is a piyyut which is read during the Musaf service on Yom Kippur as part of the Seder Avodah (of the High Priest). There are several different versions of this piyyut. The Ashkenazic nusach is "Amitz Koach".

<sup>59</sup>Ravya, page 196, paragraph 530.

<sup>60</sup>Ritz Glat, volume 1, page 62. Sh'eilot and Teshuvot of the Rivash, paragraph 219.

is still found in the academy in Babylonia and it is known to the sages. And also when he used to say, "You shall be clean before the Lord,"<sup>41</sup> he would say the ineffable name. But the Rosh wrote,<sup>42</sup> "But his words do not appear (to be correct) to me." Rav Sa'adiah Gaon wrote that it is suitable to say, "You shall be clean before the Lord," as one says, "I pray HaShem." And Ritz Giat wrote, "If one says, 'You shall be clean before the Lord, 'there is no harm in it for we are reading a verse. And we do not pronounce the Divine Name according to its letters. And thus wrote Ravya. Language of the Tur.<sup>43</sup>

946. They are accustomed in the city of Cologne to say, "You understand," at the evening, morning, and afternoon services. But in Mainz they only say it at the evening service. And likewise they do not say "Our Father, Our King" during the Musaf service. And I found in teshuvot of the geonim and in the customs of the academies (that) one says "The Lord passed before him..<sup>44</sup> seven times at the morning service, seven times at the Musaf service, six times at the afternoon service, and three times at the Nelloh service. And Ravya had a tradition (that) during the morning service one says

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<sup>41</sup>Leviticus 16:30.

<sup>42</sup>Rosh on Yoma, chapter 8, paragraph 19.

<sup>43</sup>Tur, Orach Hayyim, paragraph 621. Ritz Giat, volume 1, page 63. Ravya, page 196, paragraph 530.

<sup>44</sup>Exodus 34:6.

"And he passed" thirteen times corresponding to the thirteen attributes (of God). Mordechai.<sup>65</sup>

947. Rav Amram wrote, "One does not say penitential prayers or prayers for mercy during the afternoon service. But after the end of his prayer, one says, 'Our Father, our King.'" But Rav Natronai wrote, "One who wants to say penitential prayers during the afternoon service, may do so because it is a day of forgiveness." And at every service it is fitting to say (penitential prayers). And thus is the custom in the two academies, and thus it is the custom now to say penitential prayers at each of the four services. And if (Yom Kippur) falls on Shabbat one says, "Your righteousness".<sup>66</sup>

948. Rav Amram wrote that one does not raise his hands (for the priestly benediction) during the afternoon service, but Halachot Gedolot wrote that during it (the afternoon service) one does raise his hands. Language of the Tur.<sup>67</sup> And thus wrote Rabbenu Gershom that it reads in the gemara,<sup>68</sup> "Rabbi Meir holds the view that the reason why on ordinary

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<sup>65</sup>Mordechai on Yoma, paragraph 727. Ravya, volume 2, page 194, paragraph 530. Or Zarua, volume 2, paragraph 281. Rosh on Yoma, chapter 8, paragraph 10.

<sup>66</sup>Tur, Orach Hayyim, paragraph 622. Seder Rav Amram Gaon, volume 2, page 177a-b. The Agur only mentions "Your righteousness" as the word of the penitential prayer spoken of. After consulting the Even-Shoshan Concordance I feel that this is probably from one of the following verses from Psalms: 36:7, 40:11, 119:142.

<sup>67</sup>Tur, Orach Hayyim, paragraph 622. Seder Rav Amram Gaon, volume 1, page 179b. This raising of the hands refers to those who raise their hands to bless the congregation during the priestly benediction during the Amidah.

<sup>68</sup>B.T. Ta'anit 26b, and Sotah 39b. A priest who is intoxicated may not officiate in the Temple.



days the priests do not 'lift up their hands' at mincha is because of the likelihood of intoxication." But it does not read "at the Mincha (service) on fast days." And Rabbi Yitzchak Alfasi, Rav Hai, and Ba'al Ha-Divrot read (understand it) thus. Shibbolei Ha-Lekket.<sup>69</sup>

949. Rav Amram wrote, "One says, 'Seal us for life' in place of 'Remember us for life' during the Neilah service." But we are not accustomed (to say) thus. And one does not also say "In your mercy seal your creations for life" during "Mi Chamocha" (during the "G'vurot" prayer at the Neilah service).<sup>70</sup> In any case everyone is accustomed to say "and seal us in the book of life" during the neilah service. And at the end of the "Hoda'ah," "And seal (us) for a good life," and also in the "Birkat Shalom," "May we be remembered and sealed before you...".

950. When one arrives at "You know the secrets of the world" during the Neila service, one says "You give a hand to those who transgress, etc." until "For you are forgiving." Seder Rav Amram says, "One does not say a concluding phrase as he does not say a concluding phrase in the rest of the services. But it appears that even those who rule that one does not say a concluding phrase during the rest of the

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<sup>69</sup>Shibbolei Ha-Lekket, paragraph 320. Ha-Ittur, Hilchot Yom Kippur, page 108b. Teshuvot Geonei Mizrach u'Ma'arav, paragraph 46. Rosh on Ta'anit, chapter 4. Ravya, volume 2, page 637, paragraph 877.

<sup>70</sup>Tur, Orach Hayyim, paragraph 623. Seder Rav Amram Gaon, volume 2, page 178a. Machzor Vitry, page 394.

services agree that, in any case, during the Neilah service one concludes with 'Blessed...'. And thus wrote HaRav Zerachayah HaLevi. In any case, because there is an argument, it is good that one does not say a concluding phrase. Language of the Turim.<sup>71</sup>

951. In the Mordechai it says,<sup>72</sup> "There are those who do not say 'Our Father, our King' during the Neilah service. But in Ashkenaz, when there is some extra time (before the end of the day) they say (it)." Yehuda of Paris and thus explained Maharam. And he explained that the enactment of the rule of Neila (was) to pray it during the day.<sup>73</sup> But thus explained HaRav (that) the people pray it during the evening. But certainly our rabbis enacted this only because the elders waited until the evening and thought that this is the proper time to say it.<sup>74</sup> And one blows one T'kiyah as a remembrance of the Jubilee. But in a teshuvah of Rav Paltai Gaon (it says) one blows T'kiyah, Shevarim, T'ruah, and T'kiyah on the shofar. And thus is the custom in the two academies. Mordechai.<sup>75</sup> But the Ashkenazic custom is to blow on one

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<sup>71</sup>Tur, Orach Hayyim, paragraph 623. Seder Rav Amram Gaon, volume 2, page 178b. B.T. Yoma 87b.

<sup>72</sup>Mordechai, end of Yoma, paragraph 727.

<sup>73</sup>B.T. Yoma 87b. Yerushalmi, Berachot, chapter 4, halacha 11, and Ta'anit, chapter 4, halacha 1.

<sup>74</sup>Mordechai on Yoma, paragraph 727. Rosh on Yoma, chapter 8, paragraph 20. Hagahot Maimuniyot, Hilchot Tefillah, chapter 3, halacha 5.

<sup>75</sup>Mordechai on Yoma, paragraph 727. Ravya, volume 2, page 198, paragraph 530. Sha'arei Teshuvah, paragraph 66. Ritz Glat, volume 1, page 65. Machzor Vitry, pages 381 and 395.

T'kiyah, but in France and in Italy (the custom is to blow)  
"Kashrak".<sup>76</sup>

952. When a circumcision occurs on Yom Kippur, Rabbi Ya'akov bar Shimshon replied (in a teshuvah) that one does not say the circumcision blessing over the cup (of wine) for perhaps, "We might get used to it" (drinking wine on Yom Kippur for ritual purposes).<sup>77</sup> But this applies only on Yom Kippur which carries the penalty of "Karet", and not on the rest of the fast days. But Rabbenu Tam disagreed regarding (the matter), and did not question that they did not do it without a cup, for it was not more preferable than (saying) the Birkat Ha-Mazon, for which we usually require a cup, which is also done without a cup, but they also did it with a cup.<sup>78</sup>

953. After one has finished the Musaf service, one begins (the afternoon service) with "Ashrei" ("Happy is the one") in order to make a break between the Musaf service and the afternoon service. And thus wrote Seder Rav Amram, but we are accustomed to open with "Ashrei" after one has finished

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<sup>76</sup>Darchel Moshe, paragraph 624, note 1. Mordechai and Hagahot Maimuniyot on the end of Hilchot Yom Kippur write that one only sounds one T'kiyah. The Agur writes that this is the Ashkenazic custom and that one sounds the shofar immediately after the Kaddish which one recites at the end of the neilah service. But others say that one blows the shofar before the Kaddish immediately after one says "The Lord is our God" for some say the Shechinah rides up to heaven on the sound of the shofar blasts. "And I heard that this is the Ashkenazic custom."

<sup>77</sup>B.T. Eruvin 40b and Tosafot on this portion. Tosafot on Shabbat 139a, s.v. "they do not". See paragraph 559 of the Agur. The circumcision must take place on the 8th day even if it falls on Yom Kippur.

<sup>78</sup>Mordechai on Yoma, paragraph 727.

the afternoon service. And thus I received (this) as a tradition. And thus is the custom. Mordechal.<sup>79</sup>

954. At the (reading of the) Haftara during the afternoon service, one concludes (the blessing after the reading) also with (the paragraph starting with the words) "For the Torah" and concludes (the paragraph) with (the words) "Who sanctifies Israel and Yom Ha-Kippurim". And if it (Yom Kippur) falls on Shabbat one also makes mention of Shabbat in the (blessing after the reading of the) Haftara of the morning service, and at the afternoon service with "Yom Ha-Kippurim" in the concluding phrase. And thus wrote Rav Amram, Ravya, and Rashbat. And thus it was also the custom of Rabbenu Yoel.<sup>80</sup> But in Ashkenaz we do not conclude with (the paragraph starting with) "For the Torah".

955. (Regarding) the custom of vowing charity on behalf of the dead on Yom Ha-Kippurim, there are those who bring evidence from the portion about the calf which had its neck

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<sup>79</sup>Mordechal on Yoma, paragraph 727. Seder Rav Amram Gaon, Volume 1, page 177b. Ravya, page 197. Or Zarua, volume 2, paragraph 281.

<sup>80</sup>Mordechal on Yoma, paragraph 727. Seder Rav Amram Gaon, volume 1, page 177b. Ravya, page 197.

broken,<sup>81</sup> that it taught,<sup>82</sup> "It atones for your people Israel, these are the living. Whom You have redeemed, these are the dead." This teaches that the dead need atonement. Mordechai.<sup>83</sup>

956. "Rabba lectured: Pregnant women and suckling women must fast on Yom Kippur. But a woman recovering after childbirth is forbidden to fast until after 30 days (have passed after she has given birth).<sup>84</sup> And thus is the halacha. But Ba'al Ha-Divrot<sup>85</sup> wrote, "But (the law concerning) a woman recovering after childbirth is not stated in the gemara, and if you cite the baraita,<sup>86</sup> 'And a woman, after childbirth, may put on sandals,' this simply means that a woman who is recovering from childbirth, within thirty days may put on shoes because of the cold, but regarding the eating of food, she is forbidden." For if this was not so, he should have taught this in connection with eating. And it seems reasonable that her rule, is like (that for) the

<sup>81</sup>Deuteronomy 21:1-9.

<sup>82</sup>Sifrei on the end of parashat "Shoftim", Piska 210. Midrash Tanhuma, beginning of parashat "Ha'azinu. This regards when one is found dead and the killer is not known. The nearest town to the site provides a cow (helper) to be sacrificed to make expiation on behalf of the town. The priests say the following: "Our hands have not shed the blood, neither have our eyes seen it. Forgive, O Lord, your people Israel whom you have redeemed and suffer not innocent blood to remain in the midst of your people Israel." The offering of the cow atones for the living.

<sup>83</sup>Mordechai on Yoma, paragraph 727. Sefer Rokeach, paragraph 217.

<sup>84</sup>B.T. Pesachim 54b. Sh'eil'ot, "Ha-B'rachah", parashah 147. Rav Ahal states that a woman recovering from childbirth does not fast until 30 days after she has given birth.

<sup>85</sup>Ha-Ittur, Hilchot Yom Kippur, page 105b.

<sup>86</sup>B.T. Yoma 73b. A convalescing woman, who is still in delicate health, and to whom the cold is dangerous, may wear shoes on Yom Kippur.

pregnant woman: If she needs (food) one feeds her until she becomes better. Shibbolei Ha-Lekket.<sup>87</sup>

957. The pious ones and the truly observant in Ashkenaz are accustomed to observe two days of Yom Kippur and they pray all of the liturgy of Yom Kippur (twice). But the Rosh protested against their practice. And there are those who say, "Whoever observes two days of Yom Kippur one time may never return (and observe only one day) because he has accepted it upon himself. Behold that which he has accepted upon himself carries the penalty of "Karet". But the Rosh permitted one to ask to be relieved of this obligation.<sup>88</sup>

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<sup>87</sup>Shibbolei Ha-Lekket, paragraph 312. Rosh on Yoma, chapter 8, paragraph 10. Rosh says that a woman recovering from childbirth does not fast until 30 days after she has given birth.

<sup>88</sup>Tur, Orach Hayyim, paragraph 624.

## GLOSSARY

- Afikoman.** One half of the matzah which is broken at the beginning of the Pesach Seder. It is kept until after the meal and eaten as the "dessert". It represents the paschal offering which was the last thing eaten at the Seder.
- Aninut.** The period between a person's death and burial. A family relative of the deceased (mother, father, child, or spouse) is called an Onan and is free from the fulfillment of most mitzvot so he/she can be concerned with funeral preparations.
- Birkat Ha-Mazon.** The grace after the meal.
- Dinar.** A silver or gold coin.
- Eruv Hatzeirot.** The merging of courtyards. It is forbidden to carry from one's private domain to that of another on Shabbat or festivals. Likewise, a communal courtyard, stairway, or hall is likened to a separate domain and it is forbidden to carry objects in these areas. Eruv Hatzeirot is a procedure to remove this prohibition. It allows one to consider all houses which open onto a communal area as being owned by one person. This procedure is done by collecting a loaf of bread or matzah from each of the families and placing them outside the building. Then the whole building is considered as one single dwelling and one may carry objects throughout it.
- Eruv Tavshilin.** (Lit. mixture of dishes) A dish prepared on the eve of a festival which immediately precedes Shabbat. This dish enables the preparer to cook food during the festival for Shabbat.
- Geonim.** The formal title of the heads of the academies of Sura and Pumbedita in Babylonia.
- Haftarah.** Sections of the Prophetic writings which are read after the Torah reading on Shabbats and Festival days.
- Hag'alah.** The cleansing of an impure vessel for use during Pesach by means of boiling water.
- Hagigah.** The festival offering given by visitors to the Temple during the pilgrimage festivals.
- Hallel.** (Lit. Praise) Psalms 113-118. These psalms are recited as "Hallel" during the morning service on festivals and Rosh Hodesh.

- Havdalah.** (Lit. separation) The service, or more specifically, the blessing, usually said over wine, with which one concludes Shabbat and festivals.
- Issru Chag.** The day following the last day of the three pilgrimage festivals of Sukkot, Pesach, and Shavuot. These days are considered to be like a "Small Yom Tov". As on Yom Tov, one should not fast on these days.
- Kaddish Titkabel.** Also called the Full Kaddish. This version of the Kaddish contains the prayer "Titkabel", expressing our hope that God shall accept our prayer. It is usually recited just before "Aleinu".
- Karet.** (Lit. cutting off) Divine punishment for certain sins which have no specified human penalty.
- Kedusha D'Sidra.** Part of the weekday morning service. It comes after the Torah reading, where "A redeemer shall come to Zion" is read.
- Kiddush.** (Lit. sanctification) The blessing, usually said over wine to begin Shabbat or a festival.
- Matzah Ashirah.** Matzah that is made with wine, oil, or eggs. It gives the matzah a special flavor. It is not to be used during the Seder for matzah is considered the "bread of poverty" and should not have any special taste.
- M'ein Sheva.** "The seven faceted blessing" or the "essence of the Tefillah". An abridged formulation of the Amidah. It was composed to be recited at the evening service for Shabbat and a festival so that people would stay in the synagogue a bit longer and wait for those who came late to finish their prayers, so that they could walk home together for protection.
- Mezuzah.** (Lit. doorpost) A small case containing certain passages from scripture which is affixed to the doorpost.
- Mukzeh.** (Lit. set aside) This refers to certain objects whose use on Shabbat or festivals is unanticipated and thus forbidden. There are several categories of mukzeh.
- Nolad.** (Lit. it is born) An object which makes its first appearance (is born) or is available for the first time on Shabbat or on any festival. Thus it is forbidden to be handled on these days.



Omer. The sheaf offering of barley which was offered on the 16th of Nisan before which new cereals of that year were forbidden for use. (See Leviticus 23:10).

Reshut. A liturgical poem in which the Shaliach Tzibbor asks permission (reshut) to say prayers on behalf of the congregation.

Seudah Sh'llshit. (Lit. the third meal) From 16:25 the sages derived the rule that one must eat three meals on Shabbat. This meal takes place on Shabbat afternoon before the conclusion of Shabbat.

Shatnez. Cloth which is made from a combination of wool and linen. It is a Toraitic prohibition to make wear shatnez.

Shehech'yanu. A prayer of thanksgiving recited at joyous event or at times when one experiences something new.

Ta'anit Halom. A fast which is undertaken by a person who has had a bad dream.

Tallit Katan. Small tallit, with tzitzit attached at its four corners. It is worn by traditional Jewish men under their shirts.

Tefillin. Phylacteries. Small boxes which contain certain scriptural passages which one wears on the forehead and arm during the morning service.

Terumah. The "heave-offering" given from the produce of the annual harvests, from certain sacrifices, and the money collected at the Temple.

Tziduk Ha-Din. Acceptance of divine judgement. When the deceased is brought to the cemetery this collection of scriptural verses is recited. They profess the acceptance of the divine judgement.

Vattika. A type of pastry.

Yayin Mevushal. Boiled or cooked wine. This process allows the wine to be handled by anyone (Jew or gentile) after it has been cooked.

Yehidim. (Lit. individuals) Select people devoted to living a pious life. According to Rambam these are the rabbis.

Zimun. (Lit. to summon) An introduction to Birkat Ha-Mazon which consists of responses in answer to the call of the leader when three men have joined together for a meal.

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