

# SHE'AILOS U'TESHUVOS

*by Rabbi Doniel Neustadt*

**QUESTION:** Should people who continue to rely on the lenient opinion of those poskim who permit drinking "company milk<sup>(1)</sup>" (chalav stam) throughout the year<sup>(2)</sup> be encouraged to drink only chalav Yisrael during Aseres yemei teshuvah - just as they are careful to eat only pas Yisrael at this time of year?

**DISCUSSION:** While this issue is not explicitly addressed by the poskim,<sup>(3)</sup> we may assume that it is appropriate to be stringent about chalav Yisrael during Aseres yemei teshuvah. This is because the poskim suggest a number of reasons, all inter-related, as to why everyone should be careful to eat only pas yisrael during Aseres yemei teshuvah, and the parallel between pas Yisrael and chalav Yisrael is obvious:

- \* So that we conduct ourselves with an extra measure of purity during these Days of Repentance.<sup>(4)</sup>
- \* To serve as a reminder of the unique status of these days.<sup>(5)</sup>
- \* To beseech Hashem not to judge us stringently, just as we have adopted a practice which is not strictly required of us.<sup>(6)</sup> Those who are lenient in regard to chalav stam rely on a controversial ruling of some poskim who in the past - when chalav yisrael was not readily available - reluctantly permitted the consumption of "company milk". Clearly, then, for all of the reasons cited above, it is appropriate not to rely on this leniency during Aseres yemei teshuvah. <sup>(7)</sup>

**QUESTION:** On Erev Yom Kippur, may one eat, wear leather shoes or wash his face and hands after reciting the Birkas ha-Mazon of seudah ha-mafsekes?

**DISCUSSION:** Although, technically, Yom Kippur does not begin until sundown, it has become customary that the restrictions of Yom Kippur are in force once Birkas ha-Mazon of seudah ha-mafsekes is recited. Some poskim mention this custom only concerning eating and drinking,<sup>(8)</sup> while others include the restriction against washing and anointing too.<sup>(9)</sup> [A minority view includes the restriction against wearing leather shoes as well,<sup>(10)</sup> but this has not become the accepted custom.<sup>(11)</sup>] In order to avoid this issue, one should stipulate - either verbally or mentally - that he does not wish to assume any of the Yom Kippur restrictions until he either verbally "accepts" Yom Kippur, or until he recites Tefilah Zakah before Kol Nidrei, which contains the formal "acceptance" of the holy day of Yom Kippur and its restrictions.<sup>(12)</sup> But, b'diavad, one who failed to make such a stipulation may rely on the poskim who rule that the restrictions of Yom Kippur do not begin until one actually "accepts" Yom Kippur upon himself, or at sundown.

**QUESTION:** If one washes for bread on Motzaei Yom Kippur after reciting Havdalah, does he first recite Al ha-gefen v'al peri ha-gefen over the wine or grape juice?

**DISCUSSION:** Yes, he does. Concerning this halachah, Havdalah is unlike Kiddush: When one recites Kiddush right before the meal, the Birkas ha-Mazon over the meal covers the wine as well, since Kiddush is considered as part of the meal<sup>(13)</sup> even though the wine was drunk before ha-motzi was recited. But when it comes to Havdalah, the majority of the Rishonim do not consider it as part of the meal, and require, therefore, that Al ha-gefen be recited prior to washing. B'diavad, however, if one forgot to recite Al ha-gefen and only remembered about it after washing, he should not recite Al ha-gefen and rely instead on the opinions who hold that Birkas ha-Mazon covers Havdalah wine as well.<sup>(14)</sup> Other points to remember about the Motzaei Yom Kippur meal:

- \* After drinking the wine or grape juice for Havdalah, no She'hakol or Borei nefashos is recited over any other beverage which is either on the table or which one is planning on drinking at this sitting.<sup>(15)</sup>
- \* The bread or cake that will be eaten at this meal should not be on the table during Havdalah. If it is already there, it should be covered.<sup>(16)</sup>
- \* If additional wine is drunk during this meal, Borei peri ha-gafen should not be repeated.<sup>(17)</sup>

**QUESTION:** On Yom Tov, may one use a match to transfer a flame from one place to another?

**DISCUSSION:** The general rule is that on Yom Tov it is prohibited to create a new fire,<sup>(18)</sup> but it is permitted to transfer an existing fire from one place to the next. The application of this principle is as follows:

- \* It is forbidden to strike a match to create a new fire.<sup>(19)</sup>
- \* It is permitted to place a match on a red-hot electric coil in order to ignite the match. This is considered transferring an existing fire from place to place, for a red-hot coil is halachically equivalent to fire.<sup>(20)</sup>
- \* It is forbidden to place a match near or on a hot electric coil in order to ignite the match. This is considered creating a new fire,<sup>(21)</sup> since the hot coil is merely a heat source and not actually "fire", as a red-hot coil would be.
- \* It is questionable whether or not it is permitted to ignite a match by placing it near a red hot coil [or by touching it to a hot light bulb]. Some poskim permit it since an existing fire [the red hot coil or the "fire" in the bulb] is merely being transferred; nothing new is being created.<sup>(22)</sup> Others, however, hold that transferring a fire is permitted only when the fire itself is being transferred, but not when one is transferring the heat which emanates from that fire.<sup>(23)</sup>

**QUESTION:** When reciting Havdalah over wine [or grape juice] in the succah, does one recite Leishev ba-Succah?

**DISCUSSION:** The general rule is that Leishev ba-Succah is recited only before a kevius seudah, a sit down meal, consisting of at least a k'beitzah [approx. 2 fl. oz.] of either bread or cake. Sitting in the succah merely to drink wine [or grape juice], even if the drinking takes place with an entire group and for a long period of time, is not considered a kevius seudah and a blessing is not recited.(24) Some poskim rule, therefore, that Leishev ba-Succah is not recited over wine when it is drunk for Havdalah.(25) Other poskim, however, make a distinction between drinking wine just for enjoyment and drinking wine in performance of an important mitzvah such as Havdalah. In their opinion, the blessing of Leishev ba- Succah is recited when wine is drunk for Havdalah, since the mitzvah of Havdalah elevates the drinking and gives it the dignity of a kevius.(26) Although either opinion may be followed as there is no prevalent custom, those who want to avoid a potentially questionable situation make sure to eat some bread or cake immediately after Havdalah which allows them to recite Leishev ba-Succah according to all opinions.(27)

**QUESTION:** Is there an halachic objection to using a succah with a metal frame?

**DISCUSSION:** Yes. Although it is permissible to use a metal frame to support the walls of a succah,(28) placing schach directly on the metal frame is problematic because we follow the opinion of some Rishonim who maintain that any object which directly supports the schach must also be made from materials which are kosher for schach.(29) Since kosher schach cannot be made from metal, l'chatchilah one may not place schach directly on top of a metal-frame succah. B'dieved, however, in a case where only a metal-frame succah is available, it is permitted to use this type of succah.(30)

**QUESTION:** May one use a metal-frame succah l'chatchilah if wood strips are placed over the metal frame and the schach is placed on the wood?

**DISCUSSION:** Some poskim permit using a metal-frame succah if the schach does not lie directly on the metal, since the schach is no longer touching the metal and being supported by it, but rather by the wood which is directly under it.(31) But other poskim are hesitant about this leniency, since the schach is really being supported by the metal frame, and the wood serves merely as a barrier between the frame and the schach. According to these poskim, the only way to use a metal-frame succah is to use the wood strips in a way that they become the main support for the schach. For example, by placing heavier wooden strips diagonally across the top of the frame and putting the schach on top of the diagonal strips, the wooden strips become the support for the schach rather than the metal frames.(32)

#### FOOTNOTES:

1 Although Shulchan Aruch rules that for milk to be kosher, the milking must be supervised by a Jew, some have argued that in the United States [and other developed countries] where government authorities closely monitor the dairy industry and strictly enforce the law against mixing other milk with cow's milk, government regulation should be tantamount to supervision. According to this

argument, the fear of being caught by government inspectors who are empowered to levy substantial fines serves as a sufficient deterrent and may be considered as if a Jew is "supervising" the milking. Based on this argument, several poskim allowed drinking "company milk" (chalav stam), i.e., milk produced by large companies, without supervision.

2 See The Monthly Halachah Discussion, pgs. 145-150, for a complete overview and analysis of this subject.

3 Obviously, the earlier poskim could not have dealt with this QUESTION, since chalav akum is forbidden according to all views all year round. It is only with the fairly recent introduction of chalav stam, which is permitted by some poskim during the year, that this question arises.

4 In Talmudic times, everyone was careful not to allow their food to become impure (chullin b'taharah) during aseres yemei teshuvah; Tur quoting the Yerushalmi (Shabbos 3:3).

5 Levush O.C. 603.

6 Chayei Adam 14:1; Kitzur Shulchan Aruch 130:2.

7 See Sha'ar ha-Tziyun 609:1 and Igros Moshe O.C. 3:12 who write that during Aseres yemei teshuvah we should be stringent when it comes to all questionable issues.

8 Mishnah Berurah 608:12.

9 Leket Yosher, pg. 137; Mikraei Kodesh, Yomim Noraim, 65.

10 See Bach 608:1.

11 See Sha'ar ha-Tziyun 553:3 who rules (regarding Tishah b'Av) that an automatic onset of the restriction against wearing leather shoes cannot possibly begin as long as one is still wearing leather shoes.

12 Mishnah Berurah 608:12. Interestingly, Harav S.Z. Auerbach questioned the custom of reciting Tefilah Zakah before Kol Nidrei, since Kol Nidrei should be recited before Yom Kippur begins; Halichos Shelomo 2:4-2.

13 Based on the rule that Ain kiddush ela bimkom seudah.

14 Mishnah Berurah 174:15 and 299:29.

15 O.C. 174:2 and Mishnah Berurah 3.

16 O.C. 299:9 and Mishnah Berurah 31.

17 Mishnah Berurah 299:26.

18 Because of the prohibition of molid - creating a new entity. For this reason it is forbidden to turn on an electric light or appliance on Yom Tov.

- 19 Mishnah Berurah 502:4. Under extenuating circumstances, it is permitted to ask a non-Jew to do so; Shevet ha-Levi 8:121.
- 20 Chazon Ish (quoted in Imrei Yosher, Nashim 70 and in Orchos Rabeinu, vol. 2, pg. 104); Igros Moshe Y.D. 2:75.
- 21 Mishnah Berurah 502:4; see Az Nidberu 7:61.
- 22 Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 13:3 and note 13) Yabia Omer 2:27.
- 23 Harav Y.Y. Kanievsky (quoted in Orchos Rabeinu, vol. 2, pg. 104); Harav Y.S. Elyashiv (quoted in Hilchos ha-Moadim 8, note 10); Tzitz Eliezer 7:27- 5.
- 24 Mishnah Berurah 639:13.
- 25 Shevet ha-Levi 6:42.
- 26 Chazon Ish (quoted in Rivevos Efrayim 1:428) and Luach Eretz Yisrael.
- 27 Harav Y. Y. Kanievsky (Orchos Rabeinu, vol. 2, pg. 228); Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 58:22), who recommends reciting the Leishev ba-Succah before Borei peri ha-gefen; see Minchas Shelomo 2:58-35 and Ma'adanei Shelomo, pg. 70.
- 28 Care must be taken, however, that the canvass or other material be firmly attached to the frame so that the walls are sturdy enough not to flap around in normal weather.
- 29 In addition to this opinion, there is another opinion which maintains that even an object which does not directly support the schach, but supports the support of the Schach, must also be made from material which could be kosher Schach. Although Chazon Ish (O.C. 143:3) rules in accordance with this view, Shulchan Aruch O.C. 629:8 and the majority of the poskim do not accept this stringency, and the accepted custom is to be lenient; see Chelkas Yaakov 3:127, Minchas Shelomo 2:55 and Moadim u'Zmanim 1:82.
- 30 Mishnah Berurah 629:22; 630:58. See also Chazon Ish 143:3 and Minchas Yitzchak 4:45.
- 31 Based on Bikurei Yaakov 629:9; see Mikroei Kodesh, Succos 1:21.
- 32 Harav S.Z. Auerbach (Minchas Shelomo 2:55). See Mikroei Kodesh, ibid.

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