

# **Dish Soap, Detergents and the Demands of the Individual: The Laws of Pesach**

## **Confront Personal Preference**

### **Shabbat Hagadol Derasha 5783**

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*As usual, I thank my dear friend and partner in crime, Rabbi Ben Skydell, with whom I have been preparing Shabbat Shuvah and Shabbat HaGadol derashot for a decade now. His insight, generosity and sense of humor always yield new facets to any subject we cover together. I am especially grateful that he was able to work together even during a time when they were celebrating the Bar Mitzvah of his son Zacky a few weeks ago. I wish Ben and his wife Shani many years of nachas from him and the rest of their family.*

The psychologist Abraham Maslow was the oldest of seven children, first generation Americans born to poor immigrant parents from Kyiv who settled in an ethnically diverse, working class Brooklyn neighborhood. As a child, he was constantly hounded by anti-Semitic gangs outside the home, and inside the home, he was routinely at odds with his parents, especially his mother, for whom he developed an intense antipathy. He later wrote about her:

*What I had reacted to was not only her physical appearance, but also her values and world view, her stinginess, her total selfishness, her lack of love for anyone else in the*

world—even her own husband and children—her narcissism, her Negro prejudice, her exploitation of everyone, her assumption that anyone was wrong who disagreed with her, her lack of friends, her sloppiness and dirtiness...

It was the instability he experienced in his childhood that led him, as an adult, to develop a prepotent hierarchy of human needs, where each need builds on the fulfillment of the previous one. The most basic of these are physiological needs like food, water, warmth and rest, then needs like safety and security, and then psychological needs. All these were formulated with a view toward answering one basic, yet complicated question: what makes a person happy?

I'm no expert in happiness, but tonight, I'd like to give one possible and unexpected answer to this question. Surprisingly, our discussion will center on the laws of Pesach, especially in your toiletries cabinet.

### **Batla Da'ato**

The Talmud, in Masechet Berachot, records a debate about whether one should recite the *Birkat HaMazon* after partaking of wine.

#### Talmud Bavli Masechet Berachot 35b-

ומי סעיד פלל?! והכתיב: "ויין ישמח לבב אנוש ולקחם לבב אנוש יסעד וגו'" — נהמא הוא דסעיד חמרא לא סעיד! אלא, חמרא אית ביה תרתין: סעיד ומשמח. נהמא מסעד סעיד, שמוחי לא משמח. אי הכי נבריה עליה שלש ברכות! לא קבעי

אינשי סעודתיהו עלויה. אמר ליה רב נחמן בר יצחק לרבא: אי קבע עלויה סעודתיה מאי? אמר ליה: לכשיבא אליהו ויאמר אי הוי קביעותא. השתא מיהא בטלה דעתו אצל כל אדם.

*Again, the Gemara asks: Does wine satisfy at all? Isn't it written: "Wine gladdens the heart of man, making the face brighter than oil, and bread fills man's heart" (Psalms 104:15); bread is that which satisfies, wine does not satisfy. Rather, this verse is not a proof; wine has two advantages, it satisfies and gladdens. Bread, however, satisfies but does not gladden. Since wine possesses all of these virtues, the Gemara asks: If so, let us recite the three blessings of Grace after Meals over it after drinking, just as we do after eating bread. The Gemara answers: People do not base their meals on wine. Rav Nahman bar Yitzhak said to Rava: If one based his meal on it, what is the ruling? Must he recite the Grace after Meals as he does after bread? He replied: When Elijah comes and says whether or not it can serve as the basis for a meal, this will be resolved. Nevertheless, now, until then, his intention is rendered irrelevant by the opinions of all other men and he is not required to recite the complete Grace after Meals.*

While bread fills you up, it's wine that doesn't let you down- drinking, as the verse tells us, makes you feel good. Logic dictates that it is what makes the meal enjoyable that should require *Birkat Hamazon*, yet we know it does not. Why not? The Talmud explains that people don't make wine the cornerstone of their meals. In response, Rav Nachman Bar Yitzchak asked Rava whether the halacha changes for a person who *does* base their meal on wine. Rava responded that such a person's practices are so outside the norm as to be irrelevant. The predilections and preferences of individuals, especially when they run counter to communal or psychological norms, don't matter in deciding halachah.

## Achshevei

There is, however, a countervailing source. The Talmud in Masechet Shabbat records a discussion about the laws of *sechitah*, defined as the prohibited *melacha* of wringing or squeezing on Shabbos. In general, *sechitah* is prohibited in clothing, and in fruits or vegetables in which the liquid is commonly and easily squeezed out- like lemons, oranges, grapes and the like. The Talmud discussed what happens in the case of a fruit that can theoretically be squeezed to extract its juice, but where it isn't commonly done.

### Talmud Bavli Masechet Shabbat 144b-

שָׁל בֵּית מְנַשְׁיָא בַר מְנַחֵם הָיוּ סוֹחֲטִין בְּרֵמוּנִים. אָמַר רַב נַחֲמָן: הֲלֹכָה כְּשֶׁל בֵּית מְנַשְׁיָא בַר מְנַחֵם. אָמַר לִיה רַבָּא לְרַב נַחֲמָן: מְנַשְׁיָא בֶּן מְנַחֵם תָּנָא הוּא?! וְכִי תִימָא הֲלֹכָה כִּי הָאִי תָנָא דְסַבְר לֵה כְּשֶׁל מְנַשְׁיָא בֶּן מְנַחֵם, וּמְשׁוּם דְסַבְר כְּמְנַשְׁיָא בֶּן מְנַחֵם הֲלֹכָה כְּמוֹתוֹ? מְנַשְׁיָא בֶּן מְנַחֵם הָי רֹבְאָ דְעֵלְמָא? אִין, דְתַנּוּ: הַמְקַיִים קוֹצִים בְּפֶרֶם, רַבִּי אֱלִיעֶזֶר אָמַר: קֹדֶשׁ, וְחֻקִּים אֹמְרִים: אִינּוּ מְקַדְּשׁ אֱלָא דְבַר שְׁכֻמוֹהוּ מְקַיִימִין. וְאָמַר רַבִּי חֲנִינָא: מָאִי טַעְמָא דְרַבִּי אֱלִיעֶזֶר — שָׁפּוֹן בְּעַרְבָּיָא מְקַיִימִין קוֹצֵי שְׁדוֹת לְגַמְלִיהֶם. מִיָּדֵי אִירְיָא? דְעַרְבָּיָא אֲתֵרָא, הֲכָא — בְּטֵלָה דְעֵתוֹ אֲצֵל כָּל אָדָם! אֱלָא הִינּוּ טַעְמָא, כְּדַרְב חֲסֵדָא. דְאָמַר רַב חֲסֵדָא: תְּרַדִּין שְׁסַחֲטוֹ וּנְתַנּוּ בְּמַקְוֵה — פּוֹסְלִין אֶת הַמַּקְוֵה בְּשִׁינּוּי מְרָאָה. וְהָא לֹא בְּנֵי סַחֲיָטָה נִינְהוּ? אֱלָא מָאִי אֵית לָהּ לְמִימַר — כִּינּוּ דְאֲחֻשְׁבִּינְהוּ, הוּוּ לֵהוּ מְשַׁקָּה, הֲכָא נְמִי: כִּינּוּ דְאֲחֻשְׁבִּינְהוּ, הוּוּ לֵהוּ מְשַׁקָּה.

*It was taught in the baraita cited above that people from the house of Menashya bar*

*Menaḥem would squeeze pomegranates on weekdays. This indicates that it is typical for people to squeeze pomegranates, and therefore it is prohibited to do so on Shabbat.*

*Rav Naḥman said: The halakha is in accordance with the practice of the people from the house of Menashya bar Menaḥem. In other words, squeezing pomegranates is considered typical, and therefore it is prohibited on Shabbat. Rava said to Rav*

*Naḥman: Is Menashya ben Menaḥem a tanna that you say the halakha is in*

*accordance with his opinion? And if you say that Rav Naḥman meant that the halakha*

is in accordance with this tanna, who held in accordance with the practice of the people from the house of Menashya ben Menaḥem, there is still room to ask: Does it make sense that because he held in accordance with the practice of the people from the house of Menashya ben Menaḥem, the halakha is in accordance with his opinion? Does Menashya ben Menaḥem constitute the majority of the world? Since most people do not squeeze pomegranates, the practice of the people from the house of Menashya ben Menaḥem should be irrelevant relative to the typical practice of others. Rav Naḥman answered: Yes, in cases of this kind, halakhic rulings are based even on practices that are not universal, as we learned in a mishna that addresses the prohibition of diverse kinds, particularly forbidden food crops in a vineyard. With regard to one who maintains thorns in a vineyard, Rabbi Eliezer says: He rendered the crops a forbidden mixture of food crops in a vineyard. And the Rabbis say: Only a crop that people typically maintain renders a vineyard forbidden. And Rabbi Ḥanina said: What is the reason for the opinion of Rabbi Eliezer? Because in Arabia they maintain the thorns of the fields to feed them to their camels. There, thorns are treated as a bona fide crop. According to this opinion, since thorns are maintained in one place, they are considered to be significant everywhere. The same reasoning applies to the issue of juicing pomegranates. The Gemara rejects this answer: Is this comparable? Arabia is a place, and a custom practiced in an entire country is significant. Here, with regard to the practice of the house of Menashya bar Menaḥem, who was an individual, his opinion is rendered irrelevant by the opinions of all other men. Rather,

*this is the reason for Rav Naḥman's statement: It is in accordance with the opinion of Rav Ḥisda, as Rav Ḥisda said: In the case of beets that one squeezed and then placed their juice in a ritual bath, the juice invalidates the ritual bath if it causes a change of appearance. Any liquid that causes the water of a ritual bath to change color invalidates the ritual bath. Rav Ḥisda elaborated: Aren't beets typically not designated for squeezing? Rather, what have you to say? Since he ascribed significance to it, it is considered a liquid. Here, too, with regard to pomegranates, since he ascribed significance to it, it is considered a liquid. Even if one person ascribes significance to a liquid, it assumes for him the status of a liquid and is prohibited on Shabbat.*

The Talmud describes the unique practice of the family of Menashya Bar Menachem, whose custom it was to squeeze pomegranates. Is the fact that they do it, and extract juice in this way, considered squeezing or do we invoke the concept we had mentioned earlier of *בטלה דעתו אצל כל אדם* - that abnormal behavior, even if it is someone's personal preference, is halachically irrelevant, so it would not be considered *sechitah*? The Talmud concludes with the principle known as *achshevei* - that the fact that you do something makes it significant, even if no one else does it. In essence, the practices and perspectives of an individual *are* significant in deciding halachic matters.

In his commentary on this passage, Rav Yom Tov ben Avraham Ashvili, the Ritva, asserts that in principle, squeezing pomegranates would not be considered

*sechitah*, because most people don't do that. However, because there was a family that did, we can no longer say that no one does it, and have to assume he is doing so for the purpose of extracting the juice as the house of Menashya did.

### Commentary of Ritva to Talmud Bavli Masechet Shabbat 144b

אבל הכא בטלה דעתו אצל כל אדם...אלא דשורת הדין היה שלא לחוש שמא יסחוט לכך כיון שאין דרך בני אדם לעשות כן, אבל כיון [ד] של בית מנחם בן מנשיא נוהגים לסחוט חיישינן כן בהאי נמי דילמא סחיט להו לשם משקה, דלגבי הא ראוי הוא לחוש לכך ואע"ג דשל בית מנחם מיעוטא...

*But here, his preferences are insignificant compared to prevalent practice...according to the strict law one would not need to be concerned about squeezing pomegranates, as it is not the practice of most people to do so. However, since the house of Menashya bar Menahem do squeeze pomegranates for their juice, we must be concerned lest we are squeezing them for their juices as well, even though the house of Menashya was a minority...*

We now have two competing sources- one that accords primacy to societal psychological or behavioral norms, and one that privileges personal preference and predilection. This tension plays out, in particular, in the laws of Pesach.

### **Achshevei in Practice**

The Talmud in Masechet Pesachim raises the issue that is the foundation for this halachic discussion: What is the status, on Pesach, of Chametz that has been rendered inedible before Pesach?

### Talmud Bavli Masechet Pesachim 21b-

דאמר רבא: תרכו קודם זמנו — מותר בהנאה אפילו לאחר זמנו.

*As Rava said: If one charred leavened bread before its time, it is permitted to derive benefit from it even after its time, since it no longer has the legal status of leavened bread.*

The word “charred” seems to be doing a great deal of heavy lifting here, but its definition is somewhat vague. Is it a little burnt, like a slightly overdone toast, or completely inedible?

#### Commentary of Tosafot to Talmud Bavli Masechet Pesachim 21b-

חרכו קודם זמנו מותר בהנאה אף לאחר זמנו - וכגון שנפסל מלאכול לכלב דבענין אחר לא הוי שרי דומיא דפת שע"פשה בפ"ק (דף טו:):

*It was cinged before its time of biur hametz - he is allowed to derive benefit even after the time - For example, that is disqualified from being eaten by a dog, that in any other manner - this would not be allowed (to derive benefit). This is similar to the case of bread that became spoiled cited in the first chapter of Pesachim (15B).*

The Baalei HaTosafos say that the Chametz must be completely inedible, even for a dog- and that, for it to be usable on Pesach, it become entirely repulsive, completely inedible and unappealing before the time on Erev Pesach at which Chametz is prohibited.

There is a debate among the Rishonim that centers on the meaning of two words in this passage- מותר בהנאה. Is that meant to be taken literally, or more broadly? Does it only prohibit owning them and deriving benefit from them, or does “benefit” include eating them as well? My teacher, Rabbi Ozer Glickman z”l, whose fifth yahrtzeit we recently observed, loved these kinds of debates in the Rishonim, and



often used to explain differences of opinion as centering on the definition of just a few words.

Rav Asher ben Yechiel quotes those who suggest that “benefit” even includes eating this kind of Chametz, an opinion he rejects. While eating charred, disgusting bread runs counter to normal behavior- i.e. *batla da’ato*, wherein his own preference is nullified in the face of behavioral norms- the fact that he is eating it shows that it isn’t repulsive to *him*. Therefore, it would be permissible to derive financial benefit from this Chametz, assuming that it had become inedible before the time at which eating Chametz is prohibited, but it would be prohibited to eat it.

...ומותר בהנאתו פשיטא לא צריכא שחרכו קודם זמנו וכדרבא דאמר רבא חרכו קודם זמנו מותר בהנאתו אף לאחר זמנו. וכגון שנפסל מלאכול לכלב דומיא דפת שעפיפשה. יש שרוצים לומר לאו דוקא הנאה דהוא הדין נמי אכילה דעפרא בעלמא הוא. ולא מסתבר דאע"פ דבטלה דעת האוכל אצל כל אדם מ"מ כיון דאיהו קאכיל ליה אסור.

...”*One is allowed to benefit.*” This seems obvious. However, it is necessary in a case where the leaven was burned before its time of prohibition, in accordance with the view of Rava, who said that if the Chametz had been destroyed before its time of prohibition, it would still be permitted to derive benefit from it even after the time it became prohibited. For example, if it was no longer fit to be eaten even by a dog, like bread that became moldy.

There are those who wish to permit eating such products, and not just deriving benefit from them, because this is akin to mere dust. This opinion is illogical. Even if one were

to say that it is not considered food because most people would not eat such an item, here, since he is eating it, it is clear that it is prohibited for him [because he considers it food].

Rabbeinu Nissim ben Reuven, also known as The Ran, takes a different approach in his commentary on the writings of Rav Yitzchak Alfasi (The Ri"ף) and disagrees with the conclusion of the Rosh.

#### Commentary of Rabbeinu Nissim to Dapei HaRif Masechet Pesachim 5b-

חרכו קודם זמנו מותר בהנאתו אחר זמנו...ודאמרי' מותר בהנאתו בדין הוא דאפילו באכילה נמי שרי כיון שיצא מתורת פת קודם שיחול בו איסור חמץ אלא לפי שאין דרך אכילה בלחם חרוך נקט לישנא דמותר בהנאתו דאפי' אכיל ליה לאו אכילה היא אלא דמיתהני מיניה...

*Those who say that it is permitted to derive benefit from this product, should also maintain that it is permitted to consume it as well, since it lost its status as bread before the hour bread became prohibited. However, since no one eats burnt bread, the language chosen focused on permissibility of benefit rather than consumption, because even if someone were to eat this, it would not be considered eating- only that a person is deriving benefit from it.*

He says it is entirely permitted to eat this kind of Chametz also, because it is no longer considered Chametz. Why, then, does the Talmud only speak about *hana'ah*, benefit, and not *achilah*, or eating? Because people don't usually eat this kind of Chametz and even if they did, it would not be considered eating, halachically.

In other words, according to the Ran, your personal preference in eating this Chametz is not significant when it runs counter to behavioral norms, while the Rosh feels that it is of significance.

The view of the Ran is codified in the Shulchan Aruch as well. Chametz that has become inedible, whether it is beyond repulsive or completely burnt, is permitted to be kept on Pesach.

Shulchan Aruch Orach Chaim 442:9

חמץ שנתעפש קודם זמן איסורו ונפסל מאכילת הכלב או ששרפו באש (קודם זמנו) (ר"ן) ונחרך עד שאינו ראוי לכלב או שייחדו לשיבה וטח אותו בטיט מותר לקיימו בפסח:

*Hametz that became spoiled before the time it would be forbidden (to derive benefit) and it became disqualified from dog consumption, or it was burned before its time, and it was singed until it would not be appropriate for dog consumption, or it was dedicated for sitting upon and it was plastered with tar, one is allowed to keep it on Pesach.*

The Mishnah Berurah seems to favor the view of the Rosh- that if you find it appealing and want to ingest it, that makes it *achshevei*, significant enough for your needs to render it prohibited from eating, though it would still be permitted to derive benefit from it.

(ג) מותר לקיימו בפסח - וה"ה דמותר בהנאה אבל באכילה אסור מדרבנן עד אחר הפסח ואע"ג דאכילה שאינה ראויה היא דהא נפסל לכל מ"מ כיון שהוא רוצה לאכול אסור דהא אחשביה...)

(43) *It is permitted to maintain the Chametz in one's possession during Pesach.*

*Correspondingly, it is permitted to benefit from the Chametz. On the other hand, to eat Chametz is forbidden by Rabbinical law, until after Pesach. Although this would be abnormal eating, since such Chametz is not fit for any creature to eat, it is nevertheless forbidden, because when one wishes to eat it he makes it of consequence as food...*

The Shulchan Aruch applies this same principle to mixtures of Chametz- meaning, an item that is inedible, but that contains Chametz ingredients.

#### Shulchan Aruch Orach Chaim 442:4

דבר שנתערב בו חמץ ואינו מאכל אדם כלל או שאינו מאכל כל אדם כגון התריא"קה וכיוצא בו אף על פי שמותר לקיימו אסור לאכלו עד אחר הפסח ואע"פ שאין בו מן החמץ אלא כל שהוא ה"ז אסור לאכלו...

*If an article with which Chametz mixed is not human food at all or it is not food that all people would eat, such as theriaca and the like, then although it is permitted to maintain it on one's possession during Pesach, it is forbidden for one to eat it until after Pesach. Even if the mixture contains no more than a slight amount of Chametz it is nevertheless forbidden to eat it...*

If it is inedible, why is it of concern to us whether a person might eat it- or whether a person could eat it? The Mishnah Berurah offers the same explanation as above.

#### Commentary of Mishneh Berurah to Shulchan Aruch Orach Chaim 442

(כא) אע"פ שמותר לקיימו אסור לאכלו - ואף שאינו ראוי לאכילה מ"מ כיון דהוא אכלו אחשביה:

(21) *Although it is permitted to maintain it, it is forbidden to eat it. Although the mixture is not suitable to be eaten, which is why one may retain it, it is nevertheless forbidden to eat it, since by eating it one makes it of consequence.*

In other words, your preferences *do* have halachic significance.

### **Istenis**

There is another concept in halacha that seeks to make allowances for personal preference in the face of communal halachic norms.

A few weeks ago, I had the privilege of participating in the 20th annual RIETS Yarchei Kallah. As I told you in my Rabbi's Resources email, it was a convocation of some 100 Rabbis from around the world- our scholar in residence the previous Shabbat, Rabbi Balla from Leipzig, was among them- gathered together to study Torah together and learn from one another. It was a terrific opportunity to see some old friends, and to make some new ones as well. If there was one drawback to this conference, it was that it took place in a hotel whose distance from its heyday can be measured in decades. Grungy rooms, leaky ceilings, the threat of black mold and Legionnaire's Disease- as they say in Yiddish, *alleh maylis*. I asked a colleague of mine whether he was staying in this hotel, and he said "No way! I'm an *istenis*. I can't

stay in a place like this!” He was using the talmud’s term for someone with a weak constitution or sensitive disposition. I know people who cannot stay even in the most luxurious, impeccably clean hotels without covering themselves in several layers of clothing. Experiences that would normally be the height of *olam hazeh* enjoyment are excruciating for them, because for them, a hotel room is nothing but teeming cesspool of the bacteria and filth of other people. People like this are *really* what the Talmud means when it uses this term; I thought that the way my friend used it, he meant something similar to what we might call a *feinschmecker*, or a snob. But then I saw my room, and I think his terminology was spot on. In fact, I might also be an *istenis*!

The source of this term is a passage in the Talmud in Masechet Berachot, that talks about ways in which Rabban Gamliel was halachically unique. Normally, it is forbidden to bathe during one’s period of mourning for an immediate relative, a practice Rabban Gamliet avoided.

#### Mishnah Masechet Berachot Chapter 2 Mishnah 6

רַחֵץ לַיְלָה הָרִאשׁוֹן שְׁמֵתָהּ אִשְׁתּוֹ. אָמְרוּ לוֹ תַלְמִידָיו, לֹא לְמִדְתּוֹ, רַבְּנֵנוּ, שְׂאֵבֶל אָסוּר לְרַחֵץ. אָמַר לָהֶם, אֵינִי כִשְׂאֵר כָּל אָדָם, אֶסְטָנִים אֲנִי:

*The mishna relates another episode portraying unusual conduct by Rabban Gamliel.*

*He bathed on the first night after his wife died. His students said to him: Have you not taught us, our teacher, that a mourner is prohibited to bathe? He answered them: I am*

*not like other people, I am delicate [istenis]. For me, not bathing causes actual physical distress, and even a mourner need not suffer physical distress as part of his mourning.*

Rabban Gamliel had a sensitive and delicate constitution, and for him to refrain from bathing would have been injurious, so an exception was made for him. As Rashi explained it,

#### Commentary of Rashi to Talmud Bavli Masechet Berachot 16b

רחץ לילה הראשון שמתה אשתו – ונקברה בו ביום ואע"פ שאבל אסור ברחיצה הוא רחץ כדאמר טעמא אסטניס אני והוא אדם מעונג ומפונק:

*And she was buried on the same day; even though a mourner is prohibited from washing, he did so anyway because he was of delicate constitution, sought pleasure and/or was accustomed to being pampered.*

Taken at face value, this seems to advocate for a subjective halachic system based entirely on personal preference. You don't feel comfortable observing the laws of mourning? Don't worry about it, you are an *istenis*. You eat the kind of food no one else normally does? Don't worry about it; your preferences are what matter. Is there room, in such a system, for some kind of notion of normative behavior, the kind presumed by Rabban Gamliel's students? This question is amplified when you consider that being an *istenis* is not generally an exemption from proper observance of *mitzvot*. If your skin is sensitive, you are still obligated in donning

tefillin; if you dislike getting wet, you are still obligated in going to the mikvah. For this reason, the Baalei HaTosafos offer a caveat. Being an *istenis* cannot represent a complete exemption from an important law of mourning; it does, however, call us to define what the scope of the prohibition actually is. According to Tosafos, there is no prohibition to clean oneself during mourning- only to take a pleasurable and luxurious bath.

### Commentary of Tosafot to Talmud Bavli Masechet Berachot 16b

אסטניס אני - ואיכא צער אם לא היה רוחץ דאינו אסור לרחוץ בימי אבלו אלא משום תענוג וגם לחוף ראשו אי אית ליה ערבוביא ברישיה שרי אפי' תוך שבעה וכן התיר רבינו שמואל ליולדת אבלה לרחוץ תוך שבעה ולרחוץ נמי בתשעה באב...

*I am delicate-and he would experience physical discomfort if he didn't wash, because it is not prohibited to wash during mourning unless it is in a pleasurable way. It is also permitted to wash one's hair if it is tangled, even during Shiva. Rabbeinu Shmuel permitted a post-partum mother in mourning to bathe during shiva, and also on Tisha B'Av...*

The concepts of *achshevei*, *batla da'ato* and *istenis* together paint a nuanced picture. It is impossible to have a halachic system that is completely subjective, where different rules apply to different people entirely based on their own personal preferences and circumstances and there are no objective rules. On the other hand, it is impossible to have a halachic system that completely ignores the needs of individuals. What the Baalei HaTosfos are suggesting is that there is a basic system,



there are basic rules- but we have to define carefully to which categories of people they apply.

Rav Moshe Feinstein adopts a related approach in addressing the issue of chametz in medicine and toiletries on Pesach, and dish soap and other care products derived from non-kosher sources. In a responsum to Rabbi Bernard Levy, the founder of the OK Kosher Supervision Agency, he acknowledges the concept of *achshevei*- that using dish soap derived from non-kosher sources may render it significant- but limits its applicability in the extreme. He says it doesn't apply to anything you use to wash dishes, because washing dishes and eating off of them are mutually exclusive activities.

שו"ת אגרות משה יורה דעה חלק ב סימן ל  
בבורית שעושין מאלקאהאל שבא מחלב שפגום מאכילת כלב אם מותר לנקות כלים בו כ"ג שבט תשכ"ו. מע"כ ידידי  
הנכבד הרה"ג ר' דובער ליווי שליט"א.  
הנה בדבר בורית מאלקאהאל שעושין מחלב, ואופן עשיית האלקאהאל הוא שמתחלה מבשלים החלב עם מיני עסיד,  
ומה שראוי לאכילת אדם מסלקים משם, ואת החלק שאינו ראוי לאכילה מבשלים אותו בחתיכות מתכות וגעז עד  
שנעשה מזה אלקאהאל שהוא סם המות להרבה בע"ה, אם מותר להשתמש בבורית זה לנקות כלים.  
הנה אם אמת הדבר איני רואה בזה שם איסור, דרך לאכול דבר איסור שנפסל מלאכול לכלב אוסר הרא"ש בפסחים  
דף כ"א מהטעם דכיון דאיהו קאכיל ליה אסור, והוא מטעם אחשביה [כדאיתא במג"א סימן תמ"ב ס"ק ט"ו מתה"ד סימן  
קכ"ט, דמה"ט מתיר לכתוב בחוהמ"פ בדיו שמבושל בשכר שעורים דאף אם ישכח ויתן לתוך פיו הרי יהיה זה בלא  
כוונה לאכילה דליכא אחשביה, וכן הוא שם בבאורי הגר"א, ובנו"ב תנינא חיו"ד סימן נ"ז מתיר מה"ט הבאדאש שנעשה  
מלאג של הבורית ששם הוא חלב שנפסל מאכילת כלב ליתנו לעיסה לחמץ משום שכיוון שאינו אוכלו כמו שהוא אלא  
שנותנו להעיסה לתקנו ליכא סברת אחשביה] וא"כ כ"ש שליכא אחשביה לאוכל בזה שמנקה הכלים דאדרבה כשהוא  
אוכל אינו ראוי לנקות הכלים [ולכן לע"ד אין לאסור לנקות בבורית שנעשה מאלקאהאל זה את הכלים. ואפילו לעשות  
לכתחלה האלקאהאל לצורך בורית מזה אין לאסור, דלא שייך בזה איסור בטול איסורין, דלעשות איסור שיפגם אין  
בזה איסור בטול איסורין, וראיה מהט"ז יו"ד סימן פ"ו ס"ק י"ד דנותן טעם על מה שכתב האו"ה דאין נוהגין להתיר  
אפרוח שנולד מביצת נבלה וטרפה שתמוה מאד והד"מ כתב שאינו יודע טעמו, שהוא משום דיש לחוש שמא ישנה

בביתו כדי להניחה תחת תרנגולת לעשות אפרוח שיש לחוש לתקלה שמא בתוך כך יאכלנה, ואם היה אסור לפגום איסור להתירו הרי יהיה אסור להניחה תחת תרנגולת כדי שיצא אפרוח אחר שתסרח שזה עושה ההיתר, וכ"ש לפגום כדי לעשות האלקאהאל לעשות בורית לנקות כלים שאין בזה איסור מצד מבטל איסור. ידו, משה פיינשטיין ]

*With regard to a detergent made from alcohol that is derived from fat that is no longer edible by a dog...*

*With regard to the matter of detergent made from alcohol derived from fat, in which the manner the alcohol is manufactured is that the fat is cooked with some kinds of acid and anything fit for human consumption is removed and that which is not fit for consumption is cooked with pieces of metal and gas until the alcohol made from it is poisonous to many animals. Can this be used to clean dishes?*

*Truthfully, I see no prohibition in this, because the Rosh only prohibits eating something prohibited that is too repulsive for a dog to eat, because of the fact that this person is eating it after all. This is because his choice makes it significant...if so, certainly in this case, where there is no significance accorded to this food which cleans dishes, because when it is food, it cannot clean dishes. [Therefore, in my humble opinion, there is no prohibition against cleaning with this detergent that is made from this alcohol. There is not even a prohibition against making this kind of alcohol for the purpose of this detergent, because there is no issue with nullifying prohibited items.]*

With regard to medicine on Pesach, he addresses the issue in a response to his illustrious student Rav Ephraim Greenblatt of Memphis:

שו"ת אגרות משה אורח חיים חלק ב סימן צב

ברפואה שאולי יש חשש חמוץ לרפאות ניתוח... מע"כ ידידי אהובי הרה"ג מוהר"ר אפרים גרינבלאט שליט"א.

ובדבר הרפואה שאתה צריך ליקח גם בפסח ואתה חושש אולי יש שם איזה חשש חמוץ הנה מכיון שהוא לרפאות הניתוח שעשו באבר פנימי פשוט שצריך ליקח אף אם היה ודאי חמוץ ובעצם אף בלא סכנה אין חשש דכבר נבטל קודם הפסח משם אוכל, ואחשביה לא שייך בדבר שלוקח לרפואה דאף דברים מרים ומאוסים נוטלין לרפואה. ולכן אין לך מה לחשוש ותקח הרפואה כפי שאמר לך הרופא והשי"ת יתן שיהיה זה לרפואה.

Rav Moshe Feinstein, Igrot Moshe Orach Chaim II:92

*With regard to medical treatments, in which the cure for an operation might lead to Chametz...*

*With regard to medicine one needs to take on Pesach as well, and there is a concern that it might contain some Chametz in it, since it is designed to cure an internal organ, it is clear that one must take the medicine- and one would be required to do so even if it contained actual Chametz. In truth, even when there is no immediate concern for one's health, there is no problem, because the Chametz was already nullified before Pesach as it is not considered food. Furthermore, the notion that something is accorded significance because it is needed or desired does not apply to medicine, because medicine may be bitter and repulsive. Therefore, there is nothing to*

worry about- you should take the medicine as your doctor prescribed, and God should grant that this will be curative.

He acknowledged the rule of *acheshevei*, but says that it never was meant to apply to medicine, thus limiting and redefining the scope of the exception. *Achshevei* does exist; if I enjoy and want to eat moldy bread on Pesach, I should still not do that, per Rav Moshe. Short of that, there is virtually no application of this principle- not in your kitchen, not in your medicine cabinet. Any questions about medicine on Pesach- like cough syrup etc.- stem from the flavor, not from the composition of the medicine itself.

### **Application**

The relationship between your personal view and practice on the one hand, and communal and psychological norms on the other, has deep ramifications for the laws of Pesach. Yes, we care about your personal needs and opinions- that has halachic ramifications as far as ownership on Pesach of certain kinds of products that may contain Chametz. At the same time, there is a concept of *batla da'ato*- that there is a baseline normative behavior and practice that applies to everyone. This is not just relevant for the laws of Pesach- it is an important principle about Jewish practice in general. It is essential to establish a baseline system of practice that applies to everyone, and that lives in the real world, that everyone buys into and is a part of. How is establishing such a system done?

In the fourth Chapter of Yesodei Hatorah 4:13, the Rambam answers that the best way to establish a uniform system that people adhere to is to codify it. Remember that the Rambam's enterprise- of distilling every discussion in the Talmud to its halachic conclusion- was quite controversial in its day.

וְעִנִּי אַרְבָּעָה פְּרָקִים אֱלוֹ שִׁבְחֵי מִצְוֹת הָאֵלוֹ הֵם שְׁחֲכָמִים הָרָאשׁוֹנִים קוֹרְאִין אוֹתוֹ פְּרֻדָּס כְּמוֹ שְׁאָמְרוּ אַרְבָּעָה נִכְנָסוּ  
לְפְרֻדָּס. וְאֵף עַל פִּי שְׁגָדוּלֵי יִשְׂרָאֵל הָיוּ וְחֲכָמִים גְּדוֹלִים הָיוּ לֹא כָלָם הָיָה בָּהֶן כַּחַ לַיְדַע וְלַהֲשִׁיג כָּל הַדְּבָרִים עַל בְּרִינָו.  
וְאֵנִי אוֹמֵר שְׂאִין רְאוּי לְטִיֵּל בְּפְרֻדָּס אֲלֵא מִי שְׁנִתְמַלֵּא כְּרִסוֹ לְחָם וּבִשָּׂר. וְלָחֵם וּבִשָּׂר הוּא לַיְדַע הָאֲסוּר וְהַמְּתָר וְכִיּוֹצֵא  
בָּהֶם מִשְׁאָר הַמִּצְוֹת. וְאֵף עַל פִּי שְׁדָבָרִים אֱלוֹ דְבָר קָטָן קָרְאוּ אוֹתָן חֲכָמִים שְׁהָרִי אָמְרוּ חֲכָמִים דְּבָר גְּדוֹל מַעֲשֵׂה מְרַכְּבָה  
וְדָבָר קָטָן הַנִּיּוֹת דְּאֵפִי וְרָבָא. אֵף עַל פִּי כֹן רְאוּיִין הוּוּ לְהַקְדִּימָו.

שְׁהוּ מִיִּשְׁבִּין דְּעֵתוֹ שֶׁל אָדָם תְּחִלָּה. וְעוֹד שְׁהֵם הַטּוֹכָה הַגְּדוֹלָה שְׁהַשְׁפִּיעַ הַקְּדוּשׁ בְּרוּךְ הוּא לְיִשׁוּב הָעוֹלָם הַזֶּה כְּדֵי לְנַחֵל  
חַיֵּי הָעוֹלָם הַבָּא. וְאֶפְשָׁר שִׁדְעָם הַכֹּל קָטָן וְגְדוֹל אִישׁ וְאִשָּׁה בְּעַל לֵב רָחֵב וּבְעַל לֵב קָצָר:

*The matters discussed in these four chapters concerning these five mitzvot are what the Sages of the early generations termed the Pardes, as they related: "Four entered the Pardes...." Even though they were great men of Israel and great Sages, not all of them had the potential to know and comprehend all these matters in their totality.*

*I maintain that it is not proper for a person to stroll in the Pardes unless he has filled his belly with bread and meat. "Bread and meat" refer to the knowledge of what is permitted and what is forbidden, and similar matters concerning other mitzvot. Even though the Sages referred to these as "a small matter" - for our Sages said: "A great*

*matter,' this refers to Ma'aseh Merkavah. 'A small matter,' this refers to the debates of Abbaye and Ravva" - nevertheless, it is fitting for them to be given precedence, because they settle a person's mind.*

*Also, they are the great good which the Holy One, blessed be He, has granted, [to allow for] stable [living] within this world and the acquisition of the life of the world to come. They can be known in their totality by the great and the small, man or woman, whether [granted] expansive knowledge or limited knowledge.*

The Rambam wrote that he committed Jewish law to writing because it is essential to be well versed in basic Jewish practice before one embarks on more esoteric Jewish expressions. He calls it “bread and meat”- as opposed to other areas of study, which are like dessert. Basic Jewish law offers a standardized curriculum that applies to everyone equally, which “settles a person’s mind”- broadly speaking, the rules of how to be a Jew are the same for everyone.

The Rambam continues that observance of these laws are a great kindness that God did for us, because they bring us to the world to come. In considering what humans require to experience happiness, Abraham Maslow identified several basic psychological needs that must be met after physiological needs are fulfilled. One of these is *mastery*- becoming excellent at something. We know how frustrating it can be when you know you aren’t good at something, or how motivating that can be toward achieving excellence. It feels wonderful to master something, and when that

“something” is Jewish practice, that feeling of joy has religious significance, too. But mastery can only be attained through repetition- what Malcolm Gladwell termed the 10,000 hour rule- and consistency and uniformity; doing the same thing daily, so that it becomes almost second nature- especially when everyone around you is doing it, too. That is what the Rambam describes as the ultimate purpose of codifying these laws into a basic and universal halachic system: To make Jewish law easily accessible to everyone, *so that everyone would excel at it*, regardless of their level of knowledge and ability, and so that it is a source of joy for those who engage in it.

A similar goal was articulated by Rav Yosef Caro, when he wrote his magnum opus, the Shulchan Aruch. Previously, he had written a supercommentary on Rabbi Yaakov ben Asher’s work The Tur, of which The Shulchan Aruch was an abridged version. The idea was to make Jewish law and Jewish observance accessible to the masses in such a way that anyone could review the entire body of Jewish law monthly. Indeed, the very accessibility of the work was what led it to be decried by 17th century Sephardic authority Rav Yom Tov Tzahalon as a book “for children and ignoramuses.” Considering how many commentaries have been published on the Shulchan Aruch, Rav Tzahalon’s assessment has proven laughably wrong, and Rav Karo’s goal of monthly review seems ambitious, but the proliferation of commentaries cannot obscure its original intention- to create mastery.

With this in mind, I often wonder whether we are properly educating our children, and ourselves, in the realm of halachic observance. Several times over the past few years, I've had the privilege of helping AYA students who are competing in the Moot Beit Din competition. The participants are presented with a fact pattern and a set of sources, and based on the sources they are given, and any others they can marshal, they are tasked with making a case to a Beit Din about what the ruling should be. One time, it was the question of responsibility for damage caused by a self-driving car, and another time it was about what Jewish law has to say about restricting competition when small businesses are harmed. As I was working with the young men on the team, a nagging question developed in the back of my mind: is this project their only exposure to the study of halachah? I was pretty sure I knew the answer. I then thought to myself that maybe the experience at AYA is not representative of the broader Modern Orthodox educational experience for a variety of reasons, so I asked educators in different cities. One of them, an educator at a prominent Modern Orthodox school in the New York area, told me how frustrating it was that primary halachic engagement of his students in Jewish law was in the form of survey courses on contemporary medical ethics questions like abortion, brain death and the like. Of course, these laws are important, fascinating, controversial and *socially* relevant- but that's it. It is to be hoped that the students who took these courses will never encounter questions about brain death and abortion in their own personal lives. If, God forbid, they ever do, they won't deal



with it on their own; Rabbinic guidance would be required. What was missing from their halachic curriculum was areas they *will* encounter, that *are* directly relevant to them: the laws of Shabbos, of Tefillah, of Berachot- in essence, the laws of their day to day lives. One of the young men I worked with confided in me that he had never seen a page of Shulchan Aruch in his life, despite having prepared several sources from it for his presentation. When we fail to educate about practical halacha, when we fail to create a life in which Jewish practice is uniform and ubiquitous, we are creating another generation of incompetent, ignorant and, above all, frustrated Jews- a reality that breeds resentment, cynicism and laxity. How can you find any joy in a system you are supposed to subscribe to, and follow, but don't know the first thing about and don't understand the beauty of?

As many of you know, I have a deep and abiding love for classical music- not just as background music while I work, but as something that I appreciate and understand. But not everyone feels the same way; many find classical music to be like a foreign language they don't understand, or noise they find annoying. Perhaps they associate it with snobbery and elitism. Recently, I've become a huge fan of the classical music critic Dave Hurwitz, who has recorded over 2000 videos on his YouTube channel reviewing recordings and performances, and explaining what classical music is about. His operating premise is that classical music is not for the elite; he is an anti-elitist. Good music is good music, and anyone can appreciate it if they understand what to listen for and what makes it great. He uses many different

pieces and recordings to illustrate and educate, because once people do understand, they will find themselves appreciating and being moved by pieces they haven't even heard before; the vocabulary and the skills become part of their lives. Dave Hurwitz is right. I grew up in a home that loved classical music, and I took violin lessons, so I was educated in it, and practiced it. I love classical music because the knowledge and mastery of it is part of who I am. What Dave Hurwitz is doing for classical music is what we should be doing with halachah and Jewish practice. If we were to educate toward understanding and mastery of the uniform and consistent system of halachah from a young age, so that it is part of our lives, we would be creating knowledgeable Jews, and opening the door for another generation to an avenue of happiness, joy and fulfillment. That is also why we need to worry less about which rulings from which Rabbis are more stringent and which ones are more lenient. Our goal should be to focus on living a halachic life through mastering baseline, uniform practice- not on ways to make observance minimally inconvenient for our lives.

But if Halachah is codified, if Halacha is uniform, if Halacha is consistent- how will it take into account the times when personal preference, or individual needs, should be accorded primacy? How will we know when communal norms should be the motivating concern? What is the point of mastery in a system whose overarching concern is *batla da'ato*, where our personal needs and concerns don't

mean much? Where is the room for *achshevei*, for what we deem important? This was the subject of a conversation between Rabbi Dr. Dovid Bashevkin and Professor Moshe Koppel, featured in the most recent edition of OU's Jewish Action magazine. Professor Koppel has become a lightning rod of controversy lately, as he is the architect of the judicial reform that is at the center of the protests and counter protests, the rhetoric and the grandstanding that are happening in Israel right now. Before he was known for this, though, he was known as a professor in Bar Ilan who specialized in artificial language. In this interview, Rabbi Bashevkin asked Professor Koppel about the role of AI in deciding halachic questions. Professor Koppel pointed out that, for simple questions where the answers are available to those who wish to do research themselves and are fairly straightforward, AI is a resource that could aggregate and distill responses.

*Professor Koppel: ... it's clear that in a few years, we'll be able to ask the kind of straightforward she'eilot about which there are no heated arguments among rabbanim. You'll put in a question such as, "Can I pour the hot water into the cold water on Shabbat?" and it'll provide a good answer. But the fact of the matter is that such she'eilot were never what rabbanim were for. What you really need rabbanim for are the second kind of questions, where the rav needs to see the person in front of him and understand the situation...A she'eilah could involve serious concerns such as one's health, or even be a life-and-death issue. Less serious she'eilot also require a posek who could understand the bigger picture; sometimes it could just be a matter of "it*

would be very expensive for me to have to do this.” At times, marital conflict might be a factor. For example, a spouse has become less frum or more frum than the other spouse and the couple needs to resolve the issues between them. It’s a matter of shalom bayit. They need to know that maybe they could use a particular kula [halachic leniency] in order to save their marriage. You would not want ChatGPT answering that question.

I think that there is a point Professor Koppel is missing. Remember that the issues raised concerning AI and ChatGPT are, among others, that it will replace human beings- not just Rabbis. To some degree, these were the same objections raised when the Mishneh Torah and the Shulchan Aruch were codified. History has shown that the arguments against these works, and against what they sought to do, have not stood the test of time. I’m not worried about AI putting me out of business; we’ve already established that I can write better sermons than ChatGPT does, and as much as there needs to be a basic codified rule, Professor Koppel is right- there need to be wise people who know how to apply those rules. But what if a readily accessible program leads to more people engaging in and mastering Jewish practice, and more mastery? Maybe that is a development to be welcomed. While the nature of the vehicle for answering halachic questions may change, or be enhanced, *the people who ask the questions, and who live with the answers, won’t.* That’s the beauty of a halachic life. Yes, Halachic questions do arise, but even if the faces and communities change, these basic principles and laws remain the same

from one generation to the next. Asking halachic questions is really important, but ideally, these questions should be filling in a gap and should build on a broad knowledge base, not supplying basic knowledge.

Rav Yehuda Amital, the revered founding Rosh Yeshiva of Yeshivat Har Etzion, or The Gush, used to say that when he was a child in Hungary, he almost never heard anyone talk about Halachah. The people he grew up with and around were not less observant; they were meticulous in their performance of *mitzvot* and halachic observance, and there surely was a Rabbi to render halachic decisions, as Rav Amital regularly did himself. But the way the Hungarian Jews of his youth practiced Halachah was instinctive and pervasive; The rhythms of halachic life were repetitive, and the basic rules were transparent and known to everyone. There was no need to *talk about it*, because people just did it. There was another word for it- *Yiddishkeit*- Jewish practice that was organic, that was a part of who they were. That's ultimately the message of the dish soaps, the deodorants and Pesach questions. That our lives are invested in holiness enough that these mundane things take on a religious significance in our lives, that we understand viscerally that the Jewish law we live by has something to say about them and that there are rules about it that we should all know regardless of our personal views and circumstances, that adherence to these rules should be an instinctive part of our lives and that we want to become as good at it as possible.

It is the custom in this season to wish one another a Chag Kasher veSameach. As we do so, may we internalize what these two words mean. May our holiday be filled with the knowledge needed to make it kosher, and may our mastery itself, and the lives we live as a result of the knowledge we have, be a source of joy.