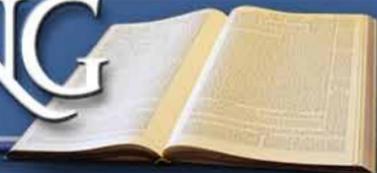


# HALACHICALLY SPEAKING



Volume 13 Issue 12

{ TOPIC }

## Summer Halachos Part 7



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# HALACHICALLY SPEAKING

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► Halachically Speaking is a monthly publication compiled by Rabbi Moishe Dovid Lebovits, a former *chaver kollel* of *Yeshiva Torah Vodaath* and a *musmach* of *Harav Yisroel Belsky zt"l*. Rabbi Lebovits currently works as the Rabbinical Administrator for the KOF-K Kosher Supervision.

► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of *Harav Yisroel Belsky, zt"l* on current issues.

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# Summer Halachos

## Part 7

Last Summer we began our discussion relating to Summer Halachos. Over the next few issues we will conclude our discussion on this very relevant topic.

### Position of One's Bed

The Gemara<sup>1</sup> says that a bed should be placed from north to south. One who does so will have male children, and his wife will not miscarry. The head should be to the north and feet to the south.<sup>2</sup> Others say that there is no difference.<sup>3</sup>

This is quoted in halachah as well.<sup>4</sup>

### Reason

The reason for this rule is that the *Shechinah* is to the east or west. When one is together with his wife, he should not face in the direction of the *Shechinah*,<sup>5</sup> as this is a disgrace.<sup>6</sup> Logically, this would only be an issue when one is with his wife,<sup>7</sup> and there is no issue with a single person. However, the Rambam<sup>8</sup> does not make any distinction, and the *Shulchan*

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1. *Brachos* 5b.

2. *Rashi Maseches Brachos* 5b "tzafon."

3. *Levush* 3:6, *Elyah Rabbah* 4, *Magen Avraham* 7, *Mishnah Berurah* 11.

4. *Rosh Maseches Brachos* 1:7, *Levush* 3:6, *Shulchan Aruch* 3:7, *Shulchan Aruch Harav* 3:9. The *Taz* 5 says not doing this halachah is not an *issur*. See *Pri Megadim* M.Z. 3:4, 6. Refer to *Chessed Lalafim* 3:7, *Ben Ish Chai Vayeira* 2:25, *Aruch Hashulchan* 13.

5. *Rashi Maseches Brachos* 5b "tzafun."

6. *Tosafos Maseches Brachos* 5b "kol," *Levush* 3:6.

7. *Tosafos* *ibid.*, *Hagaos Ashri Maseches Brachos* 1:7:2, *Shulchan Aruch* 3:6, 240:17, *Levush* 3:6, *Elyah Rabbah* 5, *Chachmas Adam* 128:18.

8. *Hilchos Beis Habechirah* 7:9. See *Beis Yosef* 3 which says the reason why people are not concerned with the *Rambam* is because it is located in *Hilchos Beis Habechirah* and people don't learn those *halachos*.

איזן לל להקצי"ה בעולמו אלזי יז אמות של הלכה בלביד... (ברכות ח')

כל השנה הלכות בכל יום מובטח להשתדל עולם הפא... (מדנה עב)

*Aruch*<sup>9</sup> says it is proper to be concerned about this even when one is not with his wife.<sup>10</sup>

The *Zohar* rules that the bed should be positioned from east to west. This is quoted by other *poskim* as well.<sup>11</sup>

Since the *Zohar* and the *Gemara* disagree, one may do as he wishes.<sup>12</sup>

Many homes do not allow the luxury of choosing positions, especially in the small quarters of a bungalow. Therefore, one may rely on those opinions that permit beds in the east-west position.<sup>13</sup> One should place his head toward the east and feet toward the west.<sup>14</sup>

Even according to the opinion that one should place the bed north to south it is only an issue to sleep that way, but sitting on the bed is permitted even in the east-west position.<sup>15</sup>

## Drying Hands after Funeral

The custom is to wash one's hands<sup>16</sup> after leaving a funeral<sup>17</sup> or a cemetery. No utensil is required,<sup>18</sup> but the

9. 3:7.

10. *Shulchan Aruch Harav* 3:9. Refer to *Birur Halachah* 3. See *Mishnah Berurah* 12 which says this is not an issue if one is not with his wife and is clothed.

11. *Bach* 3:3, *Taz* 4, *She'eilas Yaavetz* 1:47, *Shev Yaakov* 3, *Mishnah Berurah* 11, *Aruch Hashulchan* 13, *Kaf Hachaim* 16, *Me'asef L'chol Hamachanos* 3:18. See *Nemukei Orach Chaim* 3:6. Refer to *Vayeishev Hayom* 1:1.

12. *Shiurei Knesses Hagedolah* 3:4, *Elyah Rabbah* 4, *Aruch Hashulchan* 13, *Me'asef L'chol Hamachanos* 3:18, *Halachah Berurah* 3:9, *Peulas Tzaddik* 3:47, *Yehoshua Moshe* 3:20, *Olos Yitzchak* 1:2, *Ohr L'tzion* 2:1:1, *Yalkut Yosef* 3:25, *Ein Yitzchak* pages 169-171, *M'Beis Yisrael* 24, *V'aleihu Lo Yibol* 1:page 51 quoting the opinion of Harav Shlomo Zalman Auerbach *zt"l*.

13. *Shulchan Aruch Harav* 3:10, *Natei Gavriel Niddah* 1:30:11, *Mishnas Yosef* 6:8.

14. *Shulchan Aruch Harav* *ibid*.

15. *Me'asef L'chol Hamachanos* 3:19.

16. *Shulchan Aruch O.C.* 4:18.

17. *Mishnah Berurah* 4:43.

18. One should do so three times (*Mishnah Berurah* 4:39). See *Halachah Berurah* 4:pages 99-100.

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practice is to use one. One may dry his hands after washing,<sup>19</sup> although the custom is not to,<sup>20</sup> in order not to forget about the deceased.<sup>21</sup> In addition, the custom is not to take the utensil from the hand of the previous washer.<sup>22</sup>

In the cold of winter he may dry his hands,<sup>23</sup> but not in the summer.<sup>24</sup>

If one stood four *amos* away from the deceased or did not enter the cemetery, there is no need to wash. It is preferable not to walk into a home until one washes his hands.<sup>25</sup> However, some permit entry into a public building like a shul or yeshivah before washing hands.<sup>26</sup>

## Sweat and Washing Hands

People sweat profusely in the hot summer.

If one touches parts of his body which are usually covered, he has to wash his hands<sup>27</sup> (when he wishes to learn, *daven*<sup>28</sup> or make *brachos*)<sup>29</sup> since it is common to

19. Gilyon Maharsha Y.D. 376:4.

20. Beis Lechem Yehudah Y.D. 376:4.

21. Ben Ish Chai Toldos 1:16, Pesach Hadvir 4:10.

22. Kaf Hachaim O.C. 4:79, Me'asef L'chol Hamachanos 4:116. The custom of Harav Shlomo Zalman Auerbach zt"l was not to be concerned with this (*Madanei Shlomo* page 272:3).

23. Ben Ish Chai ibid., *Madanei Shlomo* ibid.

24. Me'asef L'chol Hamachanos 116.

25. Rama Y.D. 376:4, Mishnah Berurah 4:43, Yosef O.C. 4:59, Bikur Cholim and Aveilus 10:26. Harav Shlomo Zalman Auerbach zt"l entered a shul before washing his hands (*Madanei Shlomo* ibid.). This is only a *chumrah* (opinion of Harav Ovadiah Yosef zt"l, quoted in *Halachah Berurah* 4:footnote 167).

26. Opinion of Harav Moshe Feinstein zt"l quoted in *Laws of Daily Living* page 34:footnote 34.

27. It is best to wash hands with a utensil and three times if possible (*Ohr L'tzion* 2:1:15).

28. *Shulchan Aruch* O.C. 92:6, see *Mishnah Berurah* 4:50 which mentions if one is in middle of *Pesukei D'zimrah* or *Krias Shema* and touches such areas he should wash his hands but if he is in middle of *Shemonei Esrei* he can wipe his hands on the wall, etc. Refer to *Me'asef L'chol Hamachanos* 129.

29. Refer to *Taz* O.C. 4:14, *Mishnah Berurah* 51, *Shulchan Aruch* 164:2.

sweat<sup>30</sup> there.<sup>31</sup> He does not have to wash his hands after wiping sweat from areas that are usually uncovered, since the air cools off the sweat.<sup>32</sup> It is preferable not to touch a garment that one knows is very sweaty, such as a hat.<sup>33</sup>

If one is wearing a baseball cap while playing ball and touches the sweat under the cap, he should be careful to wash his hands before making a *brachah* on water at the game.<sup>34</sup>

### **Tzitzis**

If one wears his *tzitzis* on top of his t-shirt so that they do not get sweaty while playing ball, he may tie the ends of the *tzitzis* together so that they do not fly in different directions.<sup>35</sup>

### **When to Remove the Tefillin**

One should not remove his *tefillin* before hearing three *Kaddishes* and four *kedushos*. The four *kedushos* are 1. *Barchu* 2. *safa berurah* 3. the *kedushah* recited at *chazaras hashatz* 4. the *kedushah* of *U'va l'tzion*. The three *Kaddishes* are: 1. the half *Kaddish* at *Barchu* 2. the half *Kaddish* after *Shemoneh Esrei* 3. the *Kaddish* after *U'va l'tzion*.<sup>36</sup> Accordingly, one should not remove his *tefillin* until after the *Kaddish* of *Ashrei U'va l'tzion*.<sup>37</sup> Some base the reason on the writings

30. It is important to point out that sweat in areas others than the face is dangerous (*Shulchan Aruch Y.D.* 116:4).

31. *Shulchan Aruch O.C.* 4:21, *Mishnah Berurah* 46. See *Mishnah Berurah O.C.* 164:9.

32. *Kaf Hachaim O.C.* 4:98.

33. *Biur Halachah* 164 "sh'yeish." The *Halichos Shlomo Tefillah* 20:17 says the sweat under a yarmulke is not considered a closed area and there is no need to wash one's hands.

34. *Piskei Teshuvas* 4:30, see *Me'asef L'chol Hamachanos* 4:134.

35. See *Shevet Hakehasi* 2:9:1.

36. Based on the *Magen Avraham* 25:28, *Machatzis Hashekel*, see *Pri Megadim Eishel Avraham* 28, *Aruch Hashulchan* 28. Refer to *Rama* 13. Some say it means four *kedushos* and four *Kaddishes* (refer to *Pri Megadim Eishel Avraham* 28).

37. *Beis Yosef* 25, *Shulchan Aruch* 25:13, *Levush* 13, *Magen Avraham* 28, *Be'er Heitiv* 20, *Kitzur Shulchan Aruch* 10:19, *Aruch Hashulchan* 28. If one does not have a clean body he should take his

כל השונה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב)

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of Kabbalah.<sup>38</sup> Many *poskim* say that it is proper to wear the *tefillin* until after *Aleinu* if a Kaddish will be recited then.<sup>39</sup> Others say that one may remove his *tefillin* after reciting *Al kein nekaveh lecha* in *Aleinu*.<sup>40</sup>

In the hot summer when the *tefillin* can be ruined from sweat, one can remove them after *Ashrei U'va l'tzion* and not wait until after *Aleinu*.<sup>41</sup> Today, most shuls are air conditioned, so one should keep his *tefillin* on until after *Aleinu*.<sup>42</sup>

### Walking to Shul with Tallis and Tefillin

The halachah says that one should walk to shul while wearing his *tallis gadol*<sup>43</sup> and his *tefillin*.<sup>44</sup> If there are non-Jews on the way, he should put them on in the courtyard before entering the shul.<sup>45</sup> Similarly, if he knows that he will pass filthy places on the way to shul, then he should put them on in the courtyard of the shul.<sup>46</sup> Others mention

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*tefillin* off when he feels he is not going to be clean (*Magen Avraham* 27, *Mishnah Berurah* 35, *Kaf Hachaim* 87, *Me'asef L'chol Hamachanos* 25:122).

38. *Rama* 25:13, *Shulchan Aruch Harav* 37.

39. *Elyah Rabbah* 25:24, *Likutei Maharich* 1:page 39 (new), *Kaf Hachaim* 88, *Me'asef L'chol Hamachanos* 25:132, *Mishnah Berurah* 56, *Orchos Rabbeinu* 1:page 25:56, *Rivevos Ephraim* 2:26, see *Teshuvos V'hanhagos* 1:45. Refer to *Ketzos Hashulchan* 8:55 which says the Arizal said *Aleinu* at the end of the *tefillah*; therefore, he took it off at the end of *davening* (see *Me'asef L'chol Hamachanos* 25:126). Refer to *Torah Lishmah* 148.

40. *Magen Avraham* 28, *Shulchan Aruch Harav* 37, *Chessed L'alafim* 25:13, *Ben Ish Chai Chayei Sarah* 1:10, *Kaf Hachaim* 87, see 28:9, *Mishnah Berurah* 35. Some say one should learn before removing one's *tefillin* (*Machzik Brachah* 25:17, *Chessed L'alafim* 25:13, *Kaf Hachaim Palagi* 10:43).

41. *Yufei Lelev O.C.* 2:25:5 (*kuntres achron*), *Me'asef L'chol Hamachanos* 122.

42. *Orchos Chaim Spinka* 25:2, *Minhagei Hashulchan* page 28:32.

43. See *Biur Halachah* 25 "mi."

44. *Shulchan Aruch O.C.* 25:2, *Rama*, *Mishnah Berurah* 8 (says this is a big *inyan*). This is brought in the *Ben Ish Chai Vayeira* 1:5. Refer to *Kovetz Beis Aharon V'Yisrael* 57:pages 45-50.

45. *Magen Avraham* 5, *Pri Megadim Eishel Avraham* 5, *Mishnah Berurah* 8. See *Ben Ish Chai* *ibid.* which says one may put the *tallis* and *tefillin* in a way which the non-Jews do not see it. However, see *Yalkut Yosef Hashkamas Haboker* 1:15 which says if one can't do it then there is no need.

46. *Magen Avraham* 43:11, *Mishnah Berurah* 25: 8, 10, 43:20. This does not have to be the courtyard

אין על להדפי"ה בעולמו אלא יי אמות של הלכה בלבד... (ברכות ח)

כל השנה הלכות בכל יום מובטח להשתדל בן עולם הפא... (מדה עב)

that our streets are filled with people who are not dressed properly, and it is not proper to wear *tefillin* in the streets.<sup>47</sup> Some say that if the weather conditions are not favorable (hot, cold, or raining), there is no need to wear them in the street.<sup>48</sup> Others say that we are not on the level of the Arizal to wear them in the street.<sup>49</sup>

The *Aruch Hashulchan*<sup>50</sup> says that the custom is to put on the *tallis* and *tefillin* in shul.

In fact the custom of some *gedolim* was to walk to shul<sup>51</sup> (and back) wearing the *tallis gadol* and *tefillin*.<sup>52</sup>

It is reported that Harav Moshe Feinstein *zt"l* held that if one does not wear the *tallis* and *tefillin* in the street, there is no need to put them on in the area before the shul. Rather, he can put them on in the shul itself.<sup>53</sup>

Bungalow colonies and camps are generally exclusively Jewish and are clean. Therefore, one should wear his *tallis* and *tefillin* to shul, but the custom seems to be lenient.

On Shabbos, there is no *inyan* to wear the *tallis* to shul, since the concept is the *tallis* with *tefillin*.<sup>54</sup>

## Covering Head with Tallis

A *shatz* should always keep his head covered when

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but any area before entering the shul itself (*Ashrei Ha'ish O.C.* 1:page 35:5).

47. *Minhag Yisrael Torah* 25:1.

48. *Birurei Chaim* 2:page 247:footnote 5.

49. Quoted in *Birurei Chaim* *ibid*:6 as being the opinion of the Klausenberger Rebbe *zt"l*.

50. 25:2.

51. *Hanhagos and Pesakim from Harav Yosef Chaim Sonnenfeld zt"l, Tefillas Shacharis* 3.

52. *Ibid.*, see *Sha'arei Teshuvah* 28:2 which questions this practice. Refer to *Likutei Maharich* 1:page 20b (old), *Beis Baruch* 13:18, *Doleh U'mashkeh* page 32.

53. Harav Schachter *shlit"a*.

54. *Kaf Hachaim* 25:20. See *Me'asef L'chol Hamachanos* 25:25 which says many went to shul with a *tallis*.

davening even if it is hot.<sup>55</sup> Some are lenient if it is hot, but he should keep his head covered during *Krias Shema*, *Shemoneh Esrei*, *Krias HaTorah*, and *chazaras hashatz*.<sup>56</sup>

## Tefillin Falling

Camps have limited space, and *tefillin* are often piled up on a shelf. This sometimes leads to an unfortunate situation where *tefillin* fall on the floor.

Many *poskim* mention that one should fast the entire day if his *tefillin*<sup>57</sup> fell<sup>58</sup> on the floor.<sup>59</sup> If one fears that fasting will interfere with his learning, some suggest that he learn more than usual instead of fasting.<sup>60</sup> If others saw it fall there is no need to fast.<sup>61</sup> Fasting is only required if the *tefillin* fell without the bag (and not in the *tefillin* boxes).<sup>62</sup> Some give

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55. *Mishneh Halachos* 15:8.

56. *Olas Yitzchak* 2:12:2.

57. Whether one has to fast one fast or two fasts if both *tefillin* fell, see *Vayishma Moshe* (*Teshuvos*) 5.

58. If they fell on Shabbos one is allowed to pick them up and it is not *muktzah* (*Biyur Halachah* 31 "assur," *Shemiras Shabbos K'hilchasah* 20:14, *Shabbos L'shem* 14:10, see *Mishnah Berurah* 31:5).

59. *Magen Avraham* 44:5, *Pri Megadim Eishel Avraham* 5, *Chaim Shaul* 1:12, *Mishnah Berurah* 40:3, *Vayishma Moshe* 1:page 30. There is no difference if it was *tefillin shel yad* or *shel rosh* or *Rabbeinu Tam* (*Piskei Teshuvos* 40:footnote 3, *Shevet Hakehasi* 4:25). The fasting should be done on the day it falls if one did not eat or drink yet (*Ben Ish Chai Chayei Sarah* 1:18, *Mishneh Halachos* 5:15, *Lev Avraham* 4).

60. *Yalkut Yosef* 44:page 694, *Vayishma Moshe* *ibid*.

61. *Kaf Hachaim* 40:8, *Yabia Omer* O.C. 2:28:3, *Yalkut Yosef* 44:3, *Be'er Moshe* 3:9:4, 4:86:9, *Igros Moshe* 3:3, *Gam Ani Odeicha* – *Teshuvos* 22, *Tzitz Eliezer* 5:1:3.

62. *Magen Avraham* 44:5, *Pri Megadim Eishel Avraham* 5, *Mishnah Berurah* 40:3, *Aruch Hashulchan* 44:3, *Rivevos Ephraim* 1:30:5. If the *tefillin* which fell were *pasul* one would not fast according to some *poskim* (*Rivevos Ephraim* 1:30:5, *Pe'as Sadcha* 2:13:1). If the *tefillin* with the bag fell on the carpet one should give *tzedakah* (*Gam Ani Odeicha* – *Shas* page 93:53). If *tefillin* fell on a marble countertop, etc., one would not have to fast but one should learn *hilchos tefillin* and be more careful in the future (*Halichos Shlomo Moadim* 2:13:footnote 48). See *Osher Chanan* 1:5, *Aprakasis D'anya Y.D.* 3:194. Falling on the steps in front of an *aron kodesh* is like the floor (*Da'as Torah* 1:page 88). If one fell while wearing *tefillin* see *Pe'as Sadcha* 2:13.

איז ער אריין אין די ארון קודש וואס ער האט געוואלט זיין דארט? (ברכות ח)

*tzedakah* in this scenario.<sup>63</sup> If a young child under thirteen dropped the *tefillin*, neither he nor the father need to fast.<sup>64</sup>

In any case, due to the weakness of our generation many do not fast and instead give *tzedakah*,<sup>65</sup> do *teshuvah*, etc.<sup>66</sup>

## Sewer Back-Up

Large cities rarely experience sewer back-ups. However, this unpleasant event does happen in bungalow colonies, and there are issues regarding saying *brachos* and learning. These *halachos* are very detailed, and we will only discuss how they relate to this specific point.

The *pasuk* states, *Your camp should be holy*.<sup>67</sup> Based on this, one is not allowed to recite<sup>68</sup> words of Torah, *Krias Shema*, *davening*, or make *brachos*<sup>69</sup> in the presence of filth such as excrement, urine, garbage, etc.<sup>70</sup>

If the excrement is behind him he may not recite *devarim sheb'kedushah* until he distances himself four *amos* from the cessation of the smell.<sup>71</sup> If it is on the side, it is considered behind him.<sup>72</sup> One should try to turn his body so the excrement is behind him.<sup>73</sup>

If the excrement is in front of him, then he has to distance

63. *Da'as Torah* 1:page 88.

64. *Vayishma Moshe* 1:page 31. See *Yeladim K'halachah* page 28:42.

65. *Ashrei Ha'ish* O.C. 1:page 42:6.

66. Refer to *Yufei Lelev* 2:571:8, *Ben Ish Chai Chayei Sarah* 1:18, *Da'as Torah* 1:page 88, *Piskei Teshuvos* 40:2, *V'ein Lamo Michshol* 7:page 377, *Avnei Yushfei* 2:1, *Toras Hayeshivah* 2:9, *Tuvcha Yabiu* 2:page 324, *Rivevos Ephraim* 6:14, *Az Nidberu* 8:20:2, *Yabia Omer* Y.D. 1:14 (end), O.C. 2:28, *Pe'as Sadcha* 2:13, *Mishnah Halachos* 5:15, *Shevet Hakehasi* 3:34.

67. *Devarim* 23:15.

68. Thinking Torah is permitted, such as listening to a recording, etc.

69. *Biur Halachah* introduction to O.C. 79:1.

70. *Maseches Brachos* 25a-b.

71. *Shulchan Aruch* O.C. 79:1. See *Aruch Hashulchan* 4.

72. *Shulchan Aruch* *ibid*. See *Aruch Hashulchan* 1.

73. *Mishnah Berurah* O.C. 79:5.

כל השווה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב.)



himself from the excrement until it is no longer visible.<sup>74</sup> There is a dispute between the Rosh and Rashba if it is sufficient to enter a different room.<sup>75</sup> The Rashba prohibits this as well, but the Rosh permits *devarim sheb'kedushah* as long as one does not smell the odor. We follow both opinions;<sup>76</sup> therefore, if the excrement is in one room, one may not say *devarim sheb'kedushah* even if it is more than four *amos* away. If the excrement is visible, one may not say *devarim sheb'kedushah* even if it is in a different room (but thinking is allowed).

Based on the above, people must distance themselves from a sewer back-up until there is no odor. Entering a building would not help if one can smell the sewage.<sup>77</sup>

## Garbage

People like to sit outside and learn. In many bungalow colonies, the bungalows are close to each other and each one may have their own garbage can outside.

If a smell is emitted from the garbage can one must make sure not to learn there,<sup>78</sup> and must distance himself four *amos* from where the smell stops. In regard to our garbage cans, the odor generally emanates from the bottom of the can and is considered out of vision; therefore, one does not have to move four *amos* from where the smell stops.<sup>79</sup> Others argue that the garbage can is considered a separate location. Furthermore, the garbage is usually placed in a plastic bag.

74. *Shulchan Aruch* *ibid.* See *Biur Halachah* O.C. 79:1 "malei".

75. Refer to *Biur Halachah* introduction to O.C. 79:2.

76. *Biur Halachah* O.C. 79:2 "aval".

77. Harav Yisroel Belsky *zt"l*. See *Avnei Yushfei* 5:13:9.

78. *Shulchan Aruch* O.C. 79:8. See *Biur Halachah* introduction to O.C. 79:10, *Ohr L'tzion* 2:7:18, *V'zos Habrachah* page 151.

79. *The Laws of Daily Living* 1:page 108. Refer to *Halichos Shlomo Tefillah* 2:1. In regard to garbage trucks see *ibid*:page 108-109:footnote 68.

אינן על להקדיף ה בעמלמו אלאי די אמותו של הלכה בלביד... (ברכות ח)



This limits the smell, and even a soiled diaper is mixed with many other items like paper. This prevents any issues of saying *devarim sheb'kedushah*.<sup>80</sup>

## Counting a Child towards a *Minyan*

During the year, the question of whether a child can be counted towards a *minyan* is usually irrelevant. However, it does arise in the country when only a few men come up to the bungalow during the week.

The opinion of the *Shulchan Aruch*<sup>81</sup> is clear that some opinions permit a child to be counted towards a *minyan* if he is above six and understands the concept of *davening*.<sup>82</sup> However, one should not rely on this.<sup>83</sup> The Rama<sup>84</sup> adds that even holding a *Chumash* in his hand<sup>85</sup> does not work, but the custom is to allow it in a pressing situation.<sup>86</sup> If it is a pressing situation, some are lenient even without the *Chumash*,<sup>87</sup> as the *Chumash* mentioned by the Rama is written on *klaf*, not the printed ones we have today.<sup>88</sup> Some suggest placing a *sefer Torah* on the table and having the

80. *B'tzel Hachachmah* 6:26, *Ishei Yisrael* 53:38. See *Nekius V'kavod B'tefillah* pages 162-165, *Ashrei Ha'ish* O.C. 1:page 87:16.

81. O.C. 55:4. See *Rambam Hilchos Tefillah* 8:4.

82. It is questionable if he may be counted towards a *minyan* for *leining* (see *Magen Avraham* 4, *Igros Moshe* O.C. 2:18, *Shevet Halevi* 1:115).

83. *Biur Halachah* "v'lo," *Ohr L'tzion* 2:5:4.

84. O.C. 55:4.

85. *Mishnah Berurah* 55:23. See *Mipeninei Harav* pages 28-29 which says maybe it is better for the child to take a siddur rather than a *Chumash* so at least he can *daven*.

86. Refer to *Igros Moshe* O.C. 2:18 which says this means the people in the shul would have to go to another shul to *daven* with a *minyan*. See *B'tzel Hachachmah* 4:33. This is done in some communities, see *Shraga Hameir* 7:76, *Shemesh U'magen* 4:17, *Mipeninei Harav* page 28.

87. *Magen Avraham* 55:5, *Shulchan Aruch Harav* 5, *Mishnah Berurah* 24. However, this is not good for the Kaddish after *Aleinu*, only for *Barchu* and Kaddish (*Magen Avraham* *ibid.*). See *Yabia Omer* O.C. 4:49:10.

88. *Bach* 55, *Pri Megadim Eishel Avraham* 5, *Machatzis Hashekel*.

כל השווה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (גדה עב)

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child hold onto the *atzei chaim*.<sup>89</sup> Even according to the lenient opinion only one child would be able to be counted, not two.<sup>90</sup> Others say that one may use a printed *Chumash*.<sup>91</sup>

Some are stringent in any case until the child is bar mitzvah.<sup>92</sup>

In any case, the *shatz* should not *daven* the quiet *Shemoneh Esrei* but should only say *chazaras hashatz*.<sup>93</sup>

## **Krias Shema**

There is a dispute between the Magen Avraham and the Gra until when one is allowed to say *Krias Shema* in the morning. The proper time ends at the third hour of the day. The Magen Avraham<sup>94</sup> holds that we calculate from *alos hashachar* (dawn), and the Gra<sup>95</sup> calculates from sunrise.<sup>96</sup> The custom in most places<sup>97</sup> and in yeshivos throughout Lita followed the opinion of the Gra.<sup>98</sup> Any *luach* lists this time.

89. *Igros Moshe O.C.* 2:18. See *Mishneh Halachos* 4:8 which questions this ruling.

90. *Magen Avraham* 55:5, *Mishnah Berurah* 24, *B'tzel Hachachmah* 4:33.

91. *Chelkas Yaakov O.C.* 28, *Dodeh Hasadeh* 60.

92. *Elyah Rabbah* 55:5, *Chayei Adam* 30:1, *Mishnah Berurah* 24, *Aruch Hashulchan* 10, *Kaf Hachaim* 42, *Orchos Chaim* (Spinka) 8, *Pekudas Elazar* 5, *Maharsham* 3:162, *Pnei Meivin* 24, *Mishkenos Yaakov* 69, *Halichos Shlomo Tefillah* 5:9, *Sha'arei Halachah U'minrag* 1:page 138. Refer to *Yabia Omer O.C.* 4:9, *Mishneh Halachos* 4:8, *Miyum Hahalachah* 1:22, *B'tzel Hachachmah* 4:33, 39:2.

93. *Igros Moshe* *ibid.* See *Birchos Habayis* 42:7.

94. *O.C.* 58:1.

95. *O.C.* 58.

96. There is a discussion if *Emes V'yatziv* has to be said within the *zman* as well (refer to *Halichos Yisrael* 1:pages 161-168 in depth).

97. *Aruch Hashulchan O.C.* 58:14. See *Teshuvos V'hanhagos* 1:56. For others who hold like the Gra see *Maharshag* 1:66, *Chazon Ish O.C.* 13:3, *Orchos Rabbeinu* 1:page 52:164. Harav Yaakov Kamenetsky zt"l said this was the custom in Slabodka (*Halichos Yisrael* 1:34:page 186).

98. *Igros Moshe O.C.* 1:24, *Gevuras Eliyahu* 1:13:4. See *Igros Moshe O.C.* 1:24. Only certain individuals were stringent like the Magen Avraham (*Igros Moshe* *ibid.*). For those who held like the Magen Avraham see *Teshuvah Mahavah* 1:25, *Rav Poalim* 2:2, *Chaim Shaul* 2:38:70, *Kitzur Shulchan Aruch* 17:1, *Kaf Hachaim* 58:4, *Yesodo Yeshurin* 1:pages 263-264, *Teshuvos V'hanhagos* 1:56, *Orchos Rabbeinu* 1:page 53:165, *Halichos Yisrael* 1:page 182, *Halichos Shlomo Tefillah* page 91, *Mishnas Rav Aharon* 1:2, *Yisrael V'hazmanim* 1:7:3:4. One should train his children in this mitzvah as well (*Vayishma Moshe* 1:page 40, *Ashrei Ha'ish O.C.* 1:page 76:18). Some mention if

איזן לל להקצי"ה בעולמו אלז"י אמות של הלכה בלביד... (ברכות ח)

כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (גדה עב)

The *Mishnah Berurah*<sup>99</sup> mentions that ideally one should not wait until the end of the *zman*.<sup>100</sup> All three *parshiyos* of *Krias Shema* should be recited before the *zman*.<sup>101</sup>

The time for *Krias Shema* is earlier in the summer, since the day starts early and the clock changes for daylight savings. One should be careful about this during the summer.<sup>102</sup> If the time of *Krias Shema* is approaching and it is not yet the time to *daven* with the *tzibbur*, one should say *Krias Shema* without the *brachos*.<sup>103</sup> Many mention to say the *brachos* as well.<sup>104</sup> This is particularly true in camp, where camp time is pulled back an hour, so the time to recite *Krias Shema* is an hour earlier than the time printed on the calendar.

### Hearing *Chazaras Hashatz*, etc.

In the summer people often open the window for fresh air or they learn outside. If one hears *chazaras hashatz* from a nearby shul, he does not have to stop his learning to respond.<sup>105</sup>

### *V'sein Tal U'mattar* in Different Parts of the World

Most of the climates have the dry season in the summer

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the time of the Magen Avraham will pass and one does not have *tefillin* on, it is permitted (*Ashrei Ha'ish O.C.* 1:page 73:4).

99. 58:3-4. There is no difference in the end of the time between the winter and summer (*Sha'arei Teshuvah* 1, *Mishnah Berurah* 5, *Aruch Hashulchan* 11-13).

100. There is no reason for one to be woken if one does not know if he always makes sure to say *Krias Shema* by the *zman* of the Magen Avraham (*Teshuvos V'hanhagos* 2:50).

101. Harav Yisroel Belsky *zt"l*. See *Mishnah Berurah* 58:5.

102. *Kitzur Shulchan Aruch* 17:1, *Mishnah Berurah* 58:5, *Shulchan Aruch Hamekutzar* 15:1. If one is in a shul where *Krias Shema* is said after the correct time he does not have to say the first *parshah* along with them (*Ohr L'tzion* 2:45:8).

103. However, he may not do so without saying *Birchos HaTorah* first (opinion of Harav Moshe Feinstein *zt"l* quoted in *Halichos Yisrael* 1:page 171).

104. *Aruch Hashulchan O.C.* 58:14. See *Binyan Olam* 4.

105. *Mishneh Halachos* 10:185. The same is true for a *sofer* who is writing a *sefer Torah*, etc. (*ibid.*).

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and the rainy season in the winter. Therefore, they say *v'sein tal u'mattar* during the winter. Some countries in the southern hemisphere, however, have the opposite climate. When should these countries say *v'sein tal u'mattar*?<sup>106</sup>

Some *poskim* say that most of the world has the rainy season at the same time, so we ask for rain even if many places do not need it then. Similarly, this would apply to other countries in different parts of the world as well. Therefore, they would say *v'sein tal u'mattar* in *Bareich aleinu*.<sup>107</sup> Others say that all year round they should say *morid hatal* in *Bareich aleinu* and *v'sein tal u'mattar* in *Shomei'a tefillah*.<sup>108</sup>

Others say that during their dry season they should not mention rain, but in their winter they should ask for it in *Bareich aleinu*.<sup>109</sup>

Some say that from Pesach to Sukkos they should not mention or ask for rain like the entire world. If they need rain they should ask for it in *Shomei'a tefillah*.<sup>110</sup>

The overwhelming custom is like the first opinion.

### **Davened Ma'ariv Early**

If one did not say *v'sein brachah* when he *davened* Ma'ariv before night (in the summer when it gets dark late) and now needs to repeat the *Shemoneh Esrei*, he should wait until it is dark to do so.<sup>111</sup>

106. Refer to *Yesodo Yeshurin* 1:pages 307-308.

107. As expressed in *Aruch Hashulchan* 117:6, *Minchas Yitzchak* 6:171, *B'tzel Hachachmah* 6:85 (regarding Australia), *Halachah Berurah* 117:12, *Har Tzvi* 1:56, *Tzitz Eliezer* 14:93:1, *Emek Hateshuvah* 4:3.

108. *Minchas Yitzchak* 6:171, *Yisrael V'hazmanim* 1:11, *She'arim Metzuyanim B'halachah* 19:3, *Dvar Yehoshua* 1:14. See *Ohr L'tzion* 2:7:30. Refer to *Eishel Avraham* 117.

109. *Shevet Halevi* 1:21, 3:91:21.

110. See *Teshuvos V'hanhagos* 3:42, *Toras Chaim* 3:7, *Beis Avi* 4:23, *M'Beis Levi* 11:pages 123-137.

111. *Mishneh Halachos* 13:14.

## Unprepared *Ba'al Korei*

It is common in bungalow colonies that the *ba'al korei* is not properly prepared. One should not look in a *Chumash* to read the *trup* and then look into the *sefer Torah*.<sup>112</sup> The *gabbai* can inform him when he reaches the end of a *pasuk*.<sup>113</sup> In addition, he can whisper the correct *leining* to him. The reader must make sure to read each word from within the *sefer Torah*. It is important that someone prepares properly.<sup>114</sup>

## Shul Being the Highest Building

It is rare to have an opportunity to build a brand-new structure for a shul in the city. However, when summer homes are being built in a development, there is a chance to plan for the building of the shul.

The Gemara<sup>115</sup> says that any city in which the roofs are higher than the shul's will eventually be destroyed. This is limited to homes, but not other structures.<sup>116</sup> This halachah is quoted in *Shulchan Aruch* as well.<sup>117</sup> The *Sefer Chassidim*<sup>118</sup> attributes that there is a danger involved with this.

The reason is that it is not proper that the roof of one's home be higher than the roof of a shul.<sup>119</sup>

Many *poskim* discuss why we see that many communities

112. *Igros Moshe* O.C. 3:19. See *Mishneh Halachos* 7:19, 11:242. Refer to *Mishneh Halachos* 11:242 on whether a *ba'al korei* can use a plastic cover which has the correct *trup* for the words and place it over the words of the *sefer Torah*.

113. *Igros Moshe* ibid.

114. Harav Yisroel Belsky *zt"l*.

115. *Maseches Shabbos* 11a.

116. Ibid.

117. O.C. 150:2. This is mentioned in the *Rosh Maseches Shabbos* 1:23 and *Rambam* in *Hilchos Tefillah* 11:2 as well as others (*Chayei Adam* 17:16).

118. In the will, #19.

119. *Aruch Hashulchan* 150:4, see 150:5. Refer to *Otzros Yosef* 7:8:pages 48-49 on the idea behind this halachah if this is an obligation on the public to see the shul as the largest building or on the individual to make sure his home is not taller than the shul.

כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (תדה עב)

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are not strict in this regard.<sup>120</sup> In any case, even though there are reasons to be lenient, some are stringent about this if at all possible.<sup>121</sup>

The Ra'avad<sup>122</sup> (and others<sup>123</sup>) holds that the restriction applies to roofs that are actually used.<sup>124</sup> Even though the city will not be destroyed if the roofs are not being used, one should not make the roofs of the homes higher.<sup>125</sup>

The Meiri<sup>126</sup> holds that there is no objection if large buildings are needed for living space.<sup>127</sup> As such, we see huge apartment buildings many stories high, which are much taller than any shul roof.<sup>128</sup>

The Beis Yosef<sup>129</sup> notes that in his times the government forbade shuls with a tall roof.<sup>130</sup> Today this is not an issue since the building department issues variances.<sup>131</sup>

The Bach<sup>132</sup> says that this rule does not apply when we are among non-Jews, as a majestic structure for a shul will cause jealousy. Accordingly, in an all-Jewish area such as a summer

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120. *Mishnah Berurah* 150:5, *Tzedakah U'mishpat* 11:footnote 12, *Halachah Berurah* 150:10, *Otzros Yosef* 7:8. See *Mor U'ketziah* 150 which discusses a situation where houses are built on a mountain and the shul is built there as well. Also see *Kaf Hachaim* 22, *Ohr L'tzion* 2:10:1.

121. *Sha'arei Teshuvah* 150:3, *Mishnah Berurah* 150:5.

122. On the *Rambam* in *Hilchos Tefillah* 11:2:3, see *Rosh Maseches Shabbos* 1:23, *Meiri Maseches Shabbos* 11a.

123. *Shulchan Aruch O.C.* 150:2, *Aruch Hashulchan* 4.

124. See *Rosh* on *Maseches Shabbos* 1:23 which mentions one should make sure even in this case that most of the roof is not higher than the shul. Refer to *Biur Halachah* "birnyuos."

125. *Ritva Maseches Shabbos* 11a.

126. *Maseches Shabbos* 11a.

127. This is also mentioned in the *Machzik Brachah* 150:2. The *Yabia Omer O.C.* 6:26:3 says the Meiri is correct. Refer to *Kaf Hachaim* 21.

128. Refer to *Yehoshuas Moshe* 1-2:page 153:2.

129. *O.C.* 154. See *Rama O.C.* 154:2.

130. *Magen Avraham* 150:2, *Be'er Heitiv* 3, *Chayei Adam* 17:16, *Kaf Hachaim* 18.

131. Refer to *Otzros Yosef* 7:8 on how this is relevant to homes in Eretz Yisrael.

132. 150.

איזן על להקפיד הבעולמו אלאי דאמות של הלכה בלבד... (ברכות ח')



כל השומה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב)

home development, the shul should be higher than the other homes.<sup>133</sup>

The Magen Avraham<sup>134</sup> says that since the non-Jewish homes have high roofs there is no point in building the Jewish homes with lower roofs.<sup>135</sup>

The Sfas Emes<sup>136</sup> discusses a case of a city which has many shuls. Perhaps as long as one shul's roof is higher than the roofs of the homes, it would suffice.

The *Aruch Hashulchan*<sup>137</sup> mentions that this does not pertain to a *beis midrash*. Although learning takes place in our shuls, they are built primarily for *davening*, and would not be considered a *beis midrash*.<sup>138</sup>

Some mention that this is only a concern if one is building a new shul, but if it was built already, there is no issue.<sup>139</sup>

Others contend that the issue applied in earlier days when the beauty of a building was judged by its height. Today, many buildings are considered attractive by virtue of their beautiful exterior; therefore, the fact that the shul is not the highest in the city is not an issue if it is built nicely.<sup>140</sup>

133. *Otzros Yosef* 7:8; page 49. However, the custom is to be lenient even in this situation (ibid. page 50), but one should be stringent if possible.

134. 150:2.

135. *Chayei Adam* 17:16, *Mishnah Berurah* 5.

136. *Maseches Shabbos* 11a.

137. 150:6. See *Kaf Hachaim* 20.

138. *Mishnas Yosef Beis Haknesses* 1.

139. *Piskei Teshuvos* 150:7:2. See *Minchas Elazar* about placing something on top of a shul to make sure it is the highest building, such as a flag.

140. *Orach Ne'eman* 151.

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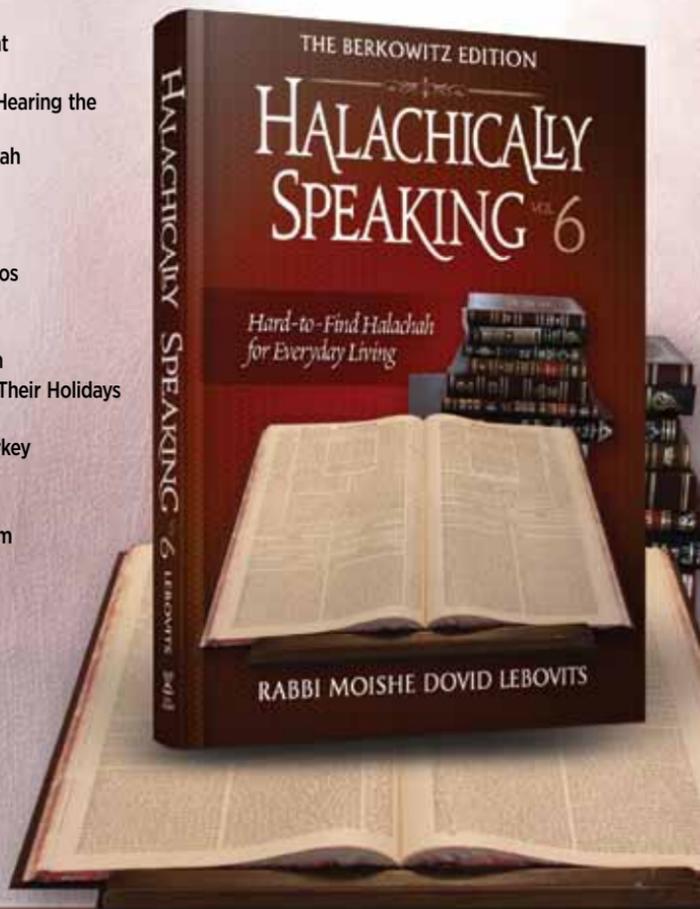
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## CHAPTERS:

- Treating Mitzvah Objects with the Proper Respect
- Connecting Geulah to Tefillah
- The Recitation of Tachanun
- Halachos of Fish (in Orach Chaim)
- Kimcha D'Pischa
- Gebrochts and Other Customs on Pesach
- Maror at the Pesach Seder
- Stealing the Afikoman
- Pesach Sheni
- Staying Up on Shavuos Night
- Eating Dairy on Shavuos
- Eating and Drinking before Hearing the Shofar
- Olives, Olive Oil and Chanukah
- Mentioning Haman's Name
- Purim Costumes
- Drinking on Purim
- Bishul Akum - Select Halachos
- Keeping a Kosher Kitchen
- Avoiding Danger
- Utensils That Require Tevilah
- Business with Non-Jews on Their Holidays
- Happy Birthday
- Thanksgiving and Eating Turkey
- Using Secular Dates
- Hair Dyeing for Men
- Conflicts with Kibud Av V'eim
- The Mitzvah of Bikur Cholim
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