

Halacha Discussion

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A discussion of Halachic topics. For final rulings, consult your Rav.

Shavuos ~ שבועות



5768 ~ Birchos ha-Shachar and Dairy Meals

The widespread custom of staying awake the first night of Shavuos to study Torah presents some halachic problems; what to do about four of the morning blessings in *Birchos ha-Shachar*, which cannot be recited unless one slept during the night. The other sixteen blessings may be recited as usual¹ but the following four blessings present a problem:

Al netillas yadayim – The *Rishonim* offer two basic reasons for the Talmudic law² of washing our hands in the morning and then reciting the proper blessing:

- 1) The *Rosh* tells us that washing is necessary because a person's hands move around in his sleep and will inevitably touch some unclean part of the body.
- 2) The *Rashba* says that since each one of us becomes a *biryah chadashah* – a “new person” each morning, we must sanctify ourselves anew in preparation to serve Hashem. This sanctification is similar to that of a *kohen* who washes his hands before performing the *avodah* in the *Beis ha-Mikdash*.

In addition to these two reasons, there is still another reason for washing one's hands in the morning because of *ruach ra'ah*, the spirit of impurity that rests on one's body at night and does not leave the hands until water is poured over them three times.³ Indeed, touching various limbs or organs of the body is prohibited before hand washing, due to the danger that is caused by the spirit of impurity.⁴ This third reason alone however, is insufficient to warrant a blessing,⁵ since a blessing is never recited on an act that is performed in order to ward off danger.⁶

Does one who remains awake all night long need to wash his hands in the morning? If we follow the *Rosh's* reason, then washing is not necessary, for as

long as one remains awake he knows that his hands remained clean. If we follow the *Rashba's* reason however, washing may be required, since in the morning one becomes a “new person” whether he slept or not.⁷ In addition, it is debatable if the spirit of impurity that rests on the hands is caused by the night-time hours, regardless of whether or not one slept or if it rests upon the hands only during sleep.⁸

Since this issue remains unresolved, the *Rama* suggests a compromise: washing is indeed required, as the *Rashba* holds but a blessing is not recited, in deference to the view of the *Rosh*. Not all the *poskim* agree with the *Rama's* compromise. In their view, the blessing should be recited.⁹ Since we again face a difference of opinion, it is recommended that one of the following options be exercised:

- Immediately after *alos amud ha-Shachar* one should relieve himself and then wash his hands, followed by *Al netillas yadayim* and *Asher yatzar*. In this case, all *poskim* agree that washing is required and a blessing is recited.¹⁰ This is the preferred option.

7 The rationale for this is:

- a) *Lo pelug*, which means that once the Sages ordained that washing the hands is necessary because one is considered a “new person”, they did not differentiate between an individual who slept and one who did not (*Beis Yosef* quoted by *Mishnah Berurah* 4:28);
- b) The blessing was established to reflect *chidush ha-olam*, which means that since the “world” as a whole is renewed each morning, it is incumbent upon the individual to sanctify himself and prepare to serve Hashem each morning; whether he, personally, was “renewed” is immaterial (*Beur Halachah* quoting the *Rashba*).

8 *Mishnah Berurah* 4:28.

9 Ruling of *Aruch ha-Shulchan* 4:12.

10 *Mishnah Berurah* 4:30 and *Beur Halachah* 494:1. This should be done immediately after *alos amud ha-Shachar* in order to remove the spirit of impurity; *O. C.* 4:14.

1 *Rama O. C.* 46:8.

2 *Berachos* 15a and 60b.

3 The source for the “spirit of impurity” is the *Talmud* (*Shabbos* 108b; *Yoma* 77b) and the *Zohar*, quoted by the *Beis Yosef O. C.* 4.

4 *O. C.* 4:3.

5 *Mishnah Berurah* 4:8.

6 *Aruch ha-Shulchan* 4:4 based on *Rambam, Hilchos Berachos* 6:2.

- One should listen with intent to be *yotzei* as another person, who did sleep, recites the blessing.

Birchos ha-Torah – The *poskim* debate whether one who remains awake the entire night¹¹ is required to recite *Birchos ha-Torah* the next morning. Some authorities do not require it since they hold that the previous day's blessings are still valid. In their view, unless a major interruption such as a night's sleep occurs, yesterday's blessings remain in effect. Others hold that *Birchos ha-Torah* must be said each morning regardless of whether or not one slept, similar to all other *Birchos ha-Shachar* which are said in the morning, whether one slept or not. According to the *Mishnah Berurah*¹² this issue remains unresolved and the following options are recommended:

- One should listen with intent to be *yotzei* as another person, who did sleep, recites the blessing. This should be followed by each person reciting *yevorechecha* and *eilu devarim*, so that the blessings are followed immediately by some Torah learning.
- While reciting the second blessing before *Kerias Shema – Ahavah Rabbah* – one should have the intention to be *yotzei Birchos ha-Torah* as well. In this case, he must learn some Torah immediately after *Shemoneh Esrei*.

There are two other options available:

- The *poskim* agree that if one slept (at least half an hour) during the day of *erev Shavuos*, he may recite *Birchos ha-Torah* on Shavuos morning even though he did not sleep at all during the night.¹³
- While reciting *Birchos ha-Torah* on *erev Shavuos*, one may clearly stipulate that his blessings should be in effect only until the next morning. In this case, he may recite the blessings on Shavuos morning although he did not sleep.¹⁴

11 Even one who falls asleep during his learning (while leaning on a shtender or a table etc.) does not say *Birchos ha-Torah* upon awakening; *Kaf ha-Chayim* 47:27.

12 47:28. Many other *poskim*, though, rule that *Birchos ha-Torah* may be said even by one who did not sleep at all; see *Birkei Yosef* 46:12; *Shulchan Aruch Horav* 47:7; *Aruch ha-Shulchan* 47:23; *Kaf ha-Chayim* 47:26.

13 R' Akiva Eiger quoted by *Mishnah Berurah* 47:28. Horav C. Kanievsky, however, reports that the Chazon Ish did not agree with this ruling (*Ishei Yisroel Hilchos Tefillah*, pg. 719).

14 *Keren L'Dovid* 59 and *Luach Eretz Yisroel* quoting the *Aderes* (quoted in *Piskei Teshuvos O. C.* 494:6).

If one did not avail himself of any of these options and *Birchos ha-Torah* was not recited, one may recite them upon awakening from his sleep on Shavuos morning (after *davening*).

Elokai neshamah and ha-Ma'avir sheinah – Here too there are differences of opinion among the *poskim* as to whether one who remains awake throughout the night should recite these blessings. The *Mishnah Berurah*¹⁵ rules that it is best to hear these blessings from another person who slept. If no such person is available, many *poskim* rule that these blessings may be recited even by one who did not sleep.¹⁶

In actual practice, what should we do?

As stated earlier, all *poskim* agree that the other sixteen morning blessings may be recited by one who did not sleep at all during the night. Nevertheless, it has become customary in some *shuls* that one who slept recites all twenty morning blessings for the benefit of all those who did not sleep. Two details must be clarified concerning this practice:

- Sometimes it is difficult to clearly hear every word of the blessing being recited. (Missing one word can sometimes invalidate the blessing.) If that happens, it is important to remember that sixteen of the twenty blessings may be recited by each individual whether he slept or not, as outlined above.
- The sixteen blessings, which may be recited by each individual, should not be heard from another person unless a *minyan* is present. This is since some *poskim* hold that the obligation of *Birchos ha-Shachar* is discharged only by hearing them from another person in the presence of a *minyan*.¹⁷



Dairy Meals on Shavuos

Question: Within the same meal, may one eat cheese or other dairy food and then eat meat immediately thereafter?

15 46:24. this is also the ruling of *Chayei Adam* 8:9 and *Kitzur Shulchan Aruch* 7:5.

16 *Shulchan Aruch Horav* 46:7; *Kaf ha-Chayim* 46:49; *Aruch ha-Shulchan* 46:13; *Misgeres ha-Shulchan* 2:2.

17 *Mishnah Berurah* 6:14. In addition, see *Kisvei Horav Henkin* 2:7, who maintains that since many of the blessings are written in the first person, they must be recited by each individual; listening to them being recited by another person is not adequate.

Discussion: According to the basic halachah it is permitted to eat meat or chicken immediately after eating cheese or any other dairy food, even during the same meal; there is no requirement to recite *Birkas ha-mazon* or a *berachah acharonah* between the dairy and the meat. The only separation required is to clean and rinse the mouth and teeth, wash the hands and clean the table (or change the tablecloth) to make sure that no dairy residue or crumbs remain. While there are scrupulous individuals who wait at least an hour¹⁸ between eating dairy and meat in addition to reciting *Birkas ha-mazon* or a *berachah acharonah* between them and their custom is based on the *Zohar* and quoted by several *poskim*¹⁹ it is not required by the halachah.²⁰

Question: Does the same halachah apply to hard cheese as well?

Discussion: When “hard” cheese is eaten, the halachah is different. *Shulchan Aruch* quotes an opinion that requires one to wait a full six hours between eating hard cheese and meat. This view maintains that the taste and oily residue of hard cheese lingers in the mouth long after the cheese has been consumed, just as the taste and residue of meat lingers long after consumption.²¹ In addition, other *poskim* hold that hard cheese can get stuck between the teeth just as pieces of meat do.²² While other *poskim* do not consider either of these issues to be a problem with hard cheese and permit eating meat immediately after eating hard cheese. Rama and the later *poskim*²³ recommend that one be stringent and wait six hours between consuming hard²⁴ cheese and meat or poultry.

Question: How do we define “hard” cheese concerning this halachah?

Discussion: Exactly how to define “hard” cheese is another controversial subject. All *poskim* agree that cheese which has been cured for at least six months before being packaged and refrigerated is considered hard cheese.²⁵ While many of the hard cheeses sold in the United States are not aged for six months, there are several brands of cheese that advertise that they have been cured for ten months or longer and those are surely considered hard cheeses. Parmesan cheese, for instance, is aged for at least a year if not longer. The *poskim* are also in agreement that cheeses that are not aged six months but are cured long enough to become wormy²⁶ are considered “hard” cheese.²⁷

There are, however, some *poskim* who maintain that all hard cheeses, including all kinds of American (yellow) cheese, etc. are considered hard cheese and one who eats them should wait six hours before eating meat.²⁸ While some individuals follow this opinion, the widespread custom follows the more lenient view.²⁹ It is appropriate though, to wait at least one hour between eating any hard cheese and meat.³⁰

Question: May bread be baked with dairy (or meat) ingredients?

Discussion: Bread is a food which is commonly eaten together with either dairy or meat foods. To guard against the possibility of inadvertently eating meat bread with dairy foods or the reverse our Sages prohibited baking bread with either meat or dairy ingredients even when one clearly intends to eat the meat bread with meat only or the dairy bread with dairy only. This prohibition is so severe that even *b'diavad*

18 Some wait an half an hour; see *Peri Hadar* on *Peri Megadim*, Y. D. 89:16.

19 See *Minchas Yaakov* 76:5 and *Beitur ha-Gra*, Y. D. 89:2. See *Darchei Teshuvah* 89:14 who rules like these *poskim*. See also *Igros Moshe*, O. C. 1:160.

20 *Mishnah Berurah* 494:16; *Aruch ha-Shulchan*, Y. D. 89:9.

21 *Taz*, Y. D. 89:4.

22 *Peri Chadash*, Y. D. 89:2.

23 *Chochmas Adam* 40:13; *Aruch ha-Shulchan*, Y. D. 89: and *Mishnah Berurah* 494:16 and *Sha'ar ha-Tziyun* 15. Sephardim, however, do not follow this stringency; see *Yabia Omer*, Y. D. 6:7.

24 If the hard cheese is softened through boiling or cooking, it is no longer considered hard cheese; *Darchei Teshuvah* 89:43. But if it is merely fried or baked (as in pizza), it is still considered hard cheese; Rav Y. S. Elyashiv (*Sefer ha-Kashrus*, pg. 280; *Me'or ha-Shabbos*, vol. 3, pg. 426).

25 *Shach*, Y. D. 89:15.

26 These “worms” are kosher and are permitted to be eaten as long as they remain within the cheese; see Rama, Y. D. 84:16.

27 *Taz*, Y. D. 89:4; *Chochmas Adam* 40:13.

28 Rav Y. Y. Weiss, quoted in *Teshuvos V'hanhagos*, Y. D. 1:388; Rav S. Z. Auerbach, quoted in *Me'or ha-Shabbos*, vol. 3, pg. 427; Rav Y.S. Elyashiv, quoted in *Sefer ha-Kashrus*, pg. 280; *Shevet ha-Levi* 2:35.

29 *Ma'aseh Ish* 5, pg. 22, quoting Chazon Ish; *Kitzur Shulchan Aruch* (Feiffer), pg. 138, quoting Rav A. Kotler; *Yagel Yaakov*, pg. 148, quoting Rav M. Feinstein; Debreciner Rav in *Pischei Halachah*, pg. 108; *Mi-Beis Levi* 6; Rav C. Kanievsky, quoted in *Nezer ha-Chayim*, pg. 213; *Mesorah*, vol. 20, pg. 91, ruling by Rav Y. Belsky.

30 Rav Y. E. Henkin, written ruling published in *Yagel Yaakov*, pg. 148.

bread which was baked with dairy or meat ingredients may not be eaten at all. Consequently, an oven being used to bake bread or challah must be cleaned out from any meat or dairy residue or spillage, since whenever bread is baked; it must be baked completely parve.³¹

There are however, some exceptions to this rabbinic edict. Under the following circumstances it is permitted to bake bread with either meat or dairy ingredients, thus allowing the bread baked with meat ingredients to be eaten with meat foods and bread baked with dairy ingredients to be eaten with dairy foods:

- If the meat or dairy ingredients are clearly distinguishable in the finished product.³²
- If the word “dairy” or “meat” is imprinted onto the bread³³ before it is baked.³⁴
- If the bread has an odd or unique style which distinguishes it from other breads and reminds the baker and anyone who may eat it that it was baked with either meat or dairy ingredients.³⁵
- If only a small amount of bread is baked. A small amount is defined by the *poskim* as one day’s worth.³⁶ A large family may bake a one-day supply of bread for each member of the family.³⁷
- If the meat or dairy ingredients amount to less than one-sixtieth of the ingredients of the bread.³⁸

Question: Does the prohibition against baking dairy or meat bread apply to cakes or other baked goods as well?

Discussion: This prohibition applies only to baking bread, since bread is commonly eaten with other foods. Cakes, desserts or other food items not usually eaten with another food are not subject to this prohibition. Thus it is permitted to bake a cake, etc. containing dairy or meat ingredients even without the provisions mentioned above.³⁹

31 See *Y. D.* 97:1.

32 *Peri Megadim* 97:1; *Aruch ha-Shulchan* 97:5.

33 *Chochmas Adam* 50:3 quoting *Sha’arei Dura*.

34 *Chavas Da’as* 97:3.

35 *Y.D.* 97:1, as explained by *Chavas Da’as* 3.

36 *Rama* 97:1 according to the explanation of the *Peri Megadim* 97:1.

37 *Aruch ha-Shulchan* 97:4.

38 *Chochmas Adam* 50:4; *Peri Megadim* 97:1.

According to some *poskim*, if this was done, the bread may even be eaten with the “opposite” kind of food; see *Badei ha-Shulchan* 97:6.

39 *Chochmas Adam* 50:3; *Aruch ha-Shulchan* 97:7.

Some contemporary *poskim* maintain, however, that because our eating habits have changed somewhat nowadays, it is no longer permitted to bake cakes with *meaty* ingredients. Nowadays, it is common to eat cake or cookies along with dairy beverages (milk or coffee or tea with milk, etc.). Thus cakes or cookies may no longer be baked with meaty ingredients unless one or more of the provisions listed above are adhered to. In keeping with this view, it would also be prohibited to bake uncovered parve cake, etc. in a meat oven which was not cleaned and in which meat residue or spillage is visible on the oven walls or racks.⁴⁰

Question: Does one need to wait six hours after tasting *but not swallowing* meat or chicken soup before eating dairy?

Discussion: It depends on what, exactly, took place:

Tasting: Merely tasting and not swallowing or chewing solid or liquid meaty foods does not render one “meaty”.⁴¹ As long as one cleans *and* rinses his mouth he may eat dairy food immediately.⁴² “Cleaning” the mouth is accomplished by eating a bulky parve food and chewing it thoroughly. “Rinsing” the mouth means washing out the mouth with water or taking a drink of water or any other beverage.⁴³

Chewing: One who chewed meat or chicken but did not swallow any should clean and rinse his mouth and teeth, and wait at least one hour before eating dairy.⁴⁴

Swallowing: One who swallowed, even without chewing, any solid or liquid meaty food, should wait six hours before partaking of dairy foods.⁴⁵

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40 *Badei ha-Shulchan* 97:2; *Pischei Halachah*, pg. 26, note 91.

41 *Darchei Teshuvah* 89:22, quoting Rav Shlomo Kluger.

42 *Badei ha-Shulchan* 89:16.

43 *Y. D.* 89:2. Brushing the teeth well is the equivalent of both rinsing and cleaning; Debreciner Rav, *Pischei Halachah*, pg. 112.

44 Rav Akiva Eiger, *Y. D.* 89:1; *Yad Yehudah* 89:1; *Darchei Teshuvah* 89:22; *Badei ha-Shulchan* 89:38. Other *poskim* are more stringent and require a six-hour wait in this case; see *Pischei Teshuvah*, *Y. D.* 89:1, quoting *Peri Megadim* 89:1.

45 *Badei ha-Shulchan* 89:17, based on *Igros Moshe*, *Y. D.* 2:26.