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## TO FORM A MORE PERFECT UNION

Adapted from the writings of Dayan Yitzhak Grossman

Our previous article set forth the basic halachic framework for labor unions: Members of a profession are permitted to regulate their profession for their own economic benefit, but since this may be to the detriment of the public, if there is an "important person" in the city (i.e., someone appointed to oversee public affairs), he must be consulted. R' Moshe Feinstein assumes (and R' Shlomo Zalman Auerbach entertains the possibility) that in modern society, there are no such "important people," and so unions are free to act on their own. In this article, we consider additional halachic perspectives on unions.

### R' AVRAHAM YITZCHAK KOOK

R' Avraham Yitzchak Kook is reported to have had a very positive view of labor unions, maintaining that they fulfill the values of *tzedek*, *yosher*, and *tikkun olam*. He adds that they have the right to sue employers and workers who operate outside the framework of orga-

nized labor, since such arrangements will typically involve inferior (from labor's perspective) terms in areas such as wages and hours, and this is likely to have a detrimental effect on the conditions of labor in general. Such claims are to be decided based on *da'as* Torah applied to the particular situation.<sup>1</sup>

### R' BEN-ZION MEIR HAI UZIEL

R' Ben-Zion Meir Hai Uziel, in a 5698 (1938) responsum, explains that the "important person" is one "saturated with the spirit of Torah and justice" who can be "absolutely objective" in weighing the claims of workers against those of employers. He asserts that the requirement of an individual "important person" is merely *lahalacha*, but *lema'aseh*, in the current labor economy, an individual "important person" is incapable of filling the requisite role. Instead, an "important bais din," comprising both

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<sup>1</sup> Cited in R' Yehuda Zoldan, *Hisagdus Miktzo'is Vehachrazas Shevisah*. Rav Zoldan's article is a comprehensive discussion of this entire topic.

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### PARSHAS BEMIDBAR

#### DEAR DAIRY

Excerpted and adapted from a shiur by  
 Rav Yosef Jacobovits

The Rama (O.C. 494:3) writes that it is customary in many places to eat dairy foods as well as meat foods on the first day of Shavuos. He explains that eating meat after dairy in the same meal requires that the bread on the table be replaced with a new loaf, which symbolizes the *shte halechem*, the *korban* of two loaves brought on Shavuos in the *Bais Hamikdash*.

The Mishnah Berurah (15) adds that it is customary to bake the challah for the dairy meal with butter. This is puzzling, because according to the Shulchan Aruch (Y.D. 97:1), it is forbidden to bake dairy bread. The answer is that the Shulchan Aruch (ibid.) permits baking dairy bread where it is either a small quantity or of an unusual appearance. The Mishnah Berurah must mean that one should bake small challos or make them look different from standard challos.

When eating dairy and meat at the same meal, the Mishnah Berurah (16) writes that one need not recite *birkas hamazon* in between. Rather, he should clean his mouth out by eating and drinking some-

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Q&A from the  
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### Swing State

**Q** I hung a swing from a tree in my backyard by screwing a two-by-four to the tree and connecting the swing to the beam. May the swing be used on Shabbos?

**A** It is forbidden to make use of a tree on Shabbos (e.g., by climbing on it or placing an item on it), which is known as *mish tameish b'ilan*. Chazal were concerned that one who uses a tree may unintentionally pull off a fruit or branch from the tree, violating the *issur d'Oraisa* of *kotzeir* (harvesting). The prohibi-

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those knowledgeable in Torah law and men of science, knowledgeable in economics and social conditions, should be established to enact labor legislation, and dedicated judges should be appointed to resolve labor disputes on the basis of this legislation.<sup>2</sup>

### THE TZITZ ELIEZER

In 5705 (1945), R' Eliezer Yehuda Waldenberg was asked about the legitimacy of employees striking in order to compel an employer to abide by generally accepted norms such as an eight-hour workday. Rav Waldenberg responds with a comprehensive survey of the Gemara and *Rishonim* discussed in our previous article (along with many others), in the course of which he concludes that labor organizations do have the right to regulate their professions, but only with the participation of the municipal "important person."<sup>3</sup> R' Eliezer Melamed understands Rav Waldenberg to disagree with R' Moshe and require rabbinic endorsement as a condition for a labor strike even in contemporary times.<sup>4</sup> (He also understands R' Shlomo Zalman and R' Chaim David Halevi to apparently hold this way as well, but as we noted in the previous article, R' Shlomo Zalman explicitly acknowledges the possibility that "in those places where the municipal rabbis and Torah scholars do not involve themselves in the affairs of workers and the wages of labor, it is as though there is no *chever ir* there.")

### STRIKEBREAKERS

Contemporary halachic authorities discuss whether a striking union has the right to prevent strikebreaking.

R' Moshe rules that a union may decide to

strike by majority rule and bar even an unwilling minority from working. With regard to non-union workers, he inclines toward the view that while on the one hand, a union's authority does not extend to workers who are not members of the union, on the other hand, such non-union workers are nevertheless prohibited from taking the jobs of the strikers under the rules of improper competition.<sup>5</sup> Elsewhere, however, he rules that the use of force against strikebreakers is prohibited, and even the endorsement of the "important person" is insufficient to justify this.<sup>6</sup> R' Yehuda Zoldan considers this obvious, although it does not seem entirely self-evident to this author, because insofar as we assume that organized labor has the halachic right to impose its will upon unwilling workers, it would seem that even the use of force to enforce this right could be justified under the principle that "a man may take justice into his own hands (*avid inish dina lenafshei*)."<sup>7</sup>

R' Shlomo Zalman rules that a majority of workers (with the endorsement of the "important person") who decide to strike have the right to forcibly prevent other workers, even those from other cities, from taking their jobs. Similarly, Rav Waldenberg rules that workers or their organization have the authority to prevent other workers from taking the jobs of striking workers. (Neither directly addresses the question of the authority of a union over non-union workers.)

The Chazon Ish, on the other hand, rules that striking workers have no right to block others from taking their jobs, and he declares that *bais din* is obligated to prevent such an injustice if it has the power to do so,<sup>8</sup> but he is discussing individual workers doing so on

2 Shu"t Mishpetei Uziel *cheilek 3 / krach 4 C.M. siman 42 she'eilah 6.*

3 Shu"t Tzitz Eliezer *cheilek 2 siman 23.*

4 *Hilchos Talmud Torah Shiur Misparg 8: Shevisas Poalim Umelamdin.*

5 Shu"t Igros Moshe C.M. *cheilek 1 siman 59 s.v. Velachein.*

6 *Ibid. siman 58 s.v. Aval vadai.*

7 Bava Kama 27b.

8 Chazon Ish at the very end of Bava Kama.

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thing *pareve* to avoid potential *basar b'chalav*.

Some are stricter and divide their meat and dairy foods into separate *se'udos*, based on the Zohar. They also wait an hour between

the meals, as the Zohar says one must wait "*sha'ah achas*" between dairy and meat.

The exception to this rule is hard cheese (as noted by the Mishnah Berurah himself), after which most wait six hours (see Rama Y.D. 89:2). However, some *poskim* feel that halachic hard cheese does not exist today (R' Aharon

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tion also includes using an item attached to a tree (e.g., climbing a ladder leaning on the tree), known as *tze-dadim* (sides). On the other hand, one may use an object attached to another object attached to a tree (e.g., placing an item inside a basket hanging on a hook attached to the tree). This is known as *tzidei tzedadim* (sides of sides) and is not called using the tree.

Consequently, it is forbidden to tie a swing directly to the tree and then use it on Shabbos. But you tied the swing to the two-by-four, which is attached to the tree, so it would be considered *tzidei tzedadim*. However, if the tree moves when someone rides on the swing, it is considered using the tree and forbidden.

Connecting two trees with a zipline has become popular. It would seem at first glance that riding such a zipline would be permitted on Shabbos as *tzidei tzedadim* if the ends were connected to the trees with intervening wooden beams, the way you installed the swing.

But this may not be the case. *Chazal* also prohibited using animals on Shabbos, due to the concern that one might tear a branch off a tree to strike an animal. The Mishnah Berurah (305:67) prohibits having animals pull a wagon with a board attached to it to carry a load; because the wagon/board combination is one *keili*, this is not *tzidei tzedadim*. Our case would appear similar, but the specifics of each case matter.

their own initiative, and not a decision taken by organized labor.<sup>9</sup>

9 Cf. R' Yehoshua Pfeffer, *Shevisas Ovdim Bir'i Halachah*.



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Kotler, R' Shmuel Kamenetsky). Others hold that parmesan cheese and the like do qualify as hard cheese (R' Moshe Heinemann).

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