

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, and Jewish Life through the Prism of Halacha

VOLUME 5781 · ISSUE LVII · PARSHAS BEHAR-BECHUKOSAI



A GUILDED AGE: THE STATE OF THE UNION IN HALACHA

Adapted from the writings of Dayan Yitzhak Grossman

In the denouement of a high-profile, high-stakes battle, Amazon warehouse workers in Bessemer, Alabama recently voted against joining the Retail Warehouse and Department Store Union by a margin of more than 2 to 1, siding with the company and rejecting the union's efforts to organize them.¹ Amazon has successfully staved off attempts to unionize at its U.S. warehouses for more than two decades. In this article, we explore the basic halacha governing labor organization and unions.

RESIDENTS OF A CITY AND MEMBERS OF A PROFESSION

The Talmud declares that residents of a city are allowed to regulate the prices of goods as well as workers' wages. It subsequently seems to

extend this prerogative to the members of a particular profession, granting them the right to bind each other in restrictive agreements intended to improve their overall economic position, such as limiting the days on which particular members may work.² The Rosh infers from this that

All professionals may stipulate (agreements) among themselves, and they are called "residents of the city" with respect to work.³

The Talmud qualifies, however, that this right of professional organization is conditioned on the absence of an "important person" in the city. Where such a figure is present, any stipulation must be made "in his presence,"⁴ with

(continued on page 2)

¹ Jay Greene and Gerrit De Vynck. Workers at Amazon warehouse in Alabama reject unionization, a major win for the e-commerce giant. The Washington Post. Apr. 9, 2021. <https://www.washingtonpost.com/technology/2021/04/09/amazon-union-vote-bessemer/>.

² Bava Basra 8b-9a.

³ Piskei HaRosh ibid. perek 1 siman 33. Cf. Shach C.M. siman 231 s.k. 4.

⁴ Rashi ibid.

A PUBLICATION OF THE
BAIS HAVAAD HALACHA CENTER
 105 River Ave. #301, Lakewood NJ 08701
 1.888.485.VAAD (8223)
www.baishavaad.org
info@baishavaad.org
 Lakewood • Midwest • Brooklyn • South Florida

THIS WEEK'S JOURNAL IS DEDICATED AS
 A ZECHUS FOR A REFUAH SHELEIMA FOR
 ALL CHOLEI YISROEL

Dedicated by Mr. and Mrs. Shmuel Caro



PARSHAS BEHAR-BECHUKOSAI

ON A DILEMMA OF THE HORNS

Excerpted and adapted from a shiur by Rav Moshe Yitzchok Weg

...On the Day of Atonement, you shall sound the shofar throughout your land.

Vayikra 25:9

In this *pasuk*, the Torah commands us to blow the shofar on Yom Kippur of the *yovel* year. According to the Mishnah (Rosh Hashanah 26b), shofar during *yovel* is like shofar on Rosh Hashanah regarding the *tekiah* and the *brachos*. Rashi explains that "*tekiah*" means that the shofar must be *pashut* (straight, not curved)¹ and "*brachos*" means that one recites nine *brachos* in Musaf as on Rosh Hashanah.

Rashi says the reason the shofar on Rosh Hashanah must be *pashut* is because the shofar represents *tefilah*, and as the Gemara explains, we want to approach Hashem in a straight manner. But the purpose of the *yovel* shofar, as Rashi himself notes, is to proclaim that servants are free and fields return to their origi-

(continued on page 2)

¹ This opinion is not accepted as halacha. The halacha follows the view that shofaros should be curved.

Q&A from the
BAIS HAVAAD HALACHA HOTLINE
 1.888.485.VAAD(8223)
ask@baishavaad.org

Flameout

Q We leave our Shabbos night soup on the stovetop, where a gust of wind from the window blew out the flame. May I ask a gentile to reignite the stove?

A Asking a gentile to light the flame violates the Rabbinic prohibition of *amirah l'akum*. As a general rule, it is prohibited to instruct a gentile to perform a *melacha d'Oraisa*, even for the purpose of a mitzvah. Therefore, even if we consider the preparation of necessary Shabbos *se'udah* food a mitzvah, one

(continued on page 2)

(continued from page 1)

his participation and acquiescence.⁵ The Ri Migash explains that the requirement of the “important person” is due to the fact that an agreement between members of a profession is detrimental to the public, because it will result in higher prices for consumers.⁶

What is the definition of “important person”? The Ri Migash understands it to mean “an important person who has been appointed over the public”;⁷ Rambam interprets it as “a distinguished sage (responsible for) correcting conduct within the city and improving the ways of its inhabitants”;⁸ and the Rosh limits it to someone like the *Amora Rava*, “who was the head and leader of the city.”⁹ The Shulchan Aruch codifies the Ri Migash’s language.¹⁰

For such an arrangement by the members of a profession to be binding, it must be entered into by “all” the members,¹¹ but R’ Moshe Feinstein considers it obvious that “all” is not literal, and a majority is sufficient.¹²

MODERN LABOR UNIONS

R’ Moshe Feinstein considers this Talmudic discussion to constitute a halachic basis for allowing modern labor unions, provided they comprise most of the workers in a particular region. He argues that in light of the aforementioned explanations of the *Rishonim* that an “important person” is one

who is appointed to oversee municipal affairs, American cities today do not have such persons, so labor unions are entitled to formulate rules on their own, and this is certainly so insofar as the government grants them that right.¹³

Similarly, R’ Shlomo Zalman Auerbach initially assumes that modern labor unions do not have the power to establish rules for their industries without the endorsement of the *chever ir* (municipal rabbinic leadership),¹⁴ but he subsequently suggests 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.”¹⁵

Some contemporary authorities have argued that considering the complexity of modern economics, the task of determining appropriate wage levels is beyond the capability of one person, so an organization such as the Israeli Consumer Protection Agency, a nonprofit, government-funded watchdog, serves the function of “important person” in Eretz Yisrael. Further, if the local “important person” fails to appropriately control prices, vigilante action by individuals (such as organizing a boycott of a company that is overcharging consumers), justifiable under the principle that “a man may take justice into his own hands (*avid inish dina lenafshei*),”¹⁶ may be the only appropriate response.¹⁷

5 Rambam *Hilchos Mechirah* 14:11.

6 Cited in Chidushei HaHaHHHH4Ran *ibid*.

7 *Ibid*. (and cf. Ran on the Rif, 6b in Rif pagination).

8 Rambam *ibid*.

9 Rosh *ibid*.

10 Shulchan Aruch C.M. 231:28.

11 Ramban *ibid*., cited by Maggid Mishneh *ibid* 14:10; Chidushei HaRan and Ran on the Rif *ibid*.; codified by Rama *ibid*.

12 Shu”t Igros Moshe C.M. *cheilek 1 siman 59 s.v. Hinei haRosh*.

13 Igros Moshe *ibid. simanim 58-59*.

14 Shu”t Minchas Shlomo *kama (krach 2) siman 87 anaf 2*.

15 *Ibid. anaf 4*.

16 Bava Kama 27b.

17 R’ Chaim Jachter, *Halachic Perspectives on the Great Cottage Cheese Boycott* (citing R’ Yehuda Zoldan).

(continued from page 1)

may not tell a gentile to do it. You also can’t direct a gentile in the manner of *remez shelo bederech tzivui*—hinting without mentioning the forbidden activity—as many *poskim* disallow this in the case of a *melacha d’Oraisa* in the home of a Jew. (See *Sefer Amira Lenachri*, end of ch. 37). Additionally, even if it were permitted, deriving benefit from *melacha* done on behalf of a Jew is forbidden, so you couldn’t eat the food.



DAYAN YEHOASHUA GRUNWALD

One may not wrap towels around the pot, as that would constitute *hatmanah* (insulating), which is prohibited *mid’Rabanan* on Shabbos. If the oven was turned off just before Shabbos and remains hot, you may insert the soup pot into the oven.

You must contend with another problem as well: Your stove is emitting flammable gas into your home, and that poses a hazard, so you should tell a gentile to shut off the gas. Even if the dial will pass through “ignite” on the way to “off,” that’s not a problem of *amirah l’akum* because it is a *shvus dishvus*, as the ignition in this case is a *melacha she’ein tzricha legufah*, and for the purpose of safety it is certainly permitted. Additionally, the ignition is only a *psik reisha*—an undesired but inevitable consequence of a permitted act—which one is allowed to have a gentile do. If there is no gentile available, one may ask a child to turn it off with a *shinui* (variation), such as turning it with a spoon rather than the hand, as that would also be a *shvus dishvus*. If a child isn’t available either, an adult should do it.

(continued from page 1)



nal owners, so why would that shofar need to be straight?

Perhaps the answer is that although a shofar must be straight because of the *tefilah* element, straightness is therefore a defining

characteristic of a shofar, making one that lacks it invalid even for *yovel*.

According to Rashi, it seems that the comparison between Rosh Hashanah and *yovel* applies only to fundamental aspects of shofar, but other elements of the mitzvah related strictly to *tefilah* or *zikaron* would not be required for *yovel*. In contrast, the Rambam

writes that the shofar blowing of *yovel* must be the same as that of Rosh Hashanah in all respects.

Scan here to receive the weekly email version of the Halacha Journal or sign up at www.baishavaad.org/subscribe

Elevate your Inbox.



Business Halacha Services



Bais Din and Dispute Resolution



Zichron Gershon Kollel for Dayanus



Medical Halacha Center



Kehilla and Bais Din Primacy Initiatives



Halachic Awareness & Education