

**Class 13 – Minhag Madness**  
**Rabbi Moshe Davis**

**Class Outline**

- **Review**
- **The Importance of Minhag**
- **Three Types of Minhag**
- **Development of Minhag**

**I. Review**

Though subject to debate, the predominant attitude amongst the Rishonim was that Judaism contains dogma, beliefs which every Jew must maintain. The scope and magnitude of this dogma was widely debated, and particularly Rambam's formulation has stood the test of time. While some Rishonim, such as Rambam, viewed Jewish philosophy to be as important as Jewish practice, nonetheless the rigors of codification to which Jewish practice was subject did not make its way to Jewish philosophy. Consequently the scope of modern day 'hashkafa' is much broader than its 'halacha' counterpart.

**II. The Importance of Minhag**

**Babylonian Talmud, Pesachim 50a**

In a place where the custom is to do work on Erev Pesach until midday, people may do it... Someone who goes from a place where they do [work on Erev Pesach] to a place where they do not, we place upon him the strict rulings of the place he came from and the strict rulings of the place he comes to. But let a person not act differently, [than the group] because of [fear of] controversy.

**Rabbi Nissim Ben Reuven (Ran) [Spain 1320-1376]**

**Pesachim 50b**

Thus we learn that every custom... which exists in a city, which is not a minhag founded on error but rather [a practice] that people undertook to be strict upon themselves, in order to "make a fence around the Torah," or concerning something which is under contention by the Sages of Israel and they [the townspeople] instituted a custom to follow the opinion of those who are more strict, all the people of the city are required under law [to follow] it.

**Rambam [Spain 1135-Egypt 1204]**

**Mishneh Torah, Mamrim 1:2**

Whoever goes against any one [of the regulations of the rabbis] is transgressing a negative commandment, inasmuch as it says [in the Torah]: "[...You must follow] according to all that they

[the rabbis] teach you." These include the amendments, decrees, and customs that they teach to the multitudes, in order to strengthen their minds and improve the world.

### **Tosaphot, Menachot 20b**

The custom of our fathers is equivalent to Torah.

### **Rabbi Michael Broyde**

#### **Letter written to RCA discussion list, 2009**

... *minhag yisrael din hu*," is a reference to those cases where *minhag* serves as tool for resolving halachic disputes in the Talmud or the Rishonim... But, when *minhag* serves to encourage or discourage conduct without any textual halachic foundation (such as having 12 windows in a *shul*) it is a different kind of *minhag* and it has to serve a role independent of, and after, the halachic calculus.

## **III. Three Types of Minhag**

### **1. Minhag grounded in Halacha (often developed as the resolution to a halachik debate)**

#### **Rabbi Achai Gaon [Babylonia 8<sup>th</sup> Century]**

##### **She'iltot, Tzav ch. 90**

One does not fulfill the mitzvah of eating matzah except with matzav which has been kept from leavening for the sake of matzav from when water falls on it.

#### **Rif [Morocco 1013 - Spain 1103]**

##### **Pesachim 40a**

People should guard their Passover flour from the time of reaping, as it is written, 'And guard the matzot' (Exodus 12:17).

#### **Shulchan Aruch, O.C 453:4**

It is proper to keep the wheat from which the matzah used for the mitzvah of eating matzah is made, so that no water falls on it from the time of reaping, or at least from the time of grinding, and in times of scarcity (*she'at ha-dechak*) it is permitted to buy [flour] from the market.

### **2. Minhag without any formal halachik basis, but based on Jewish values**

#### **Shulchan Aruch O.C. 551:9**

It is customary not to eat meat or drink wine during this week [= the week during which Tisha Be-Av falls]... Some add [the days] from Rosh Chodesh [Av], and some add [still more], from 17 Tammuz."

#### **Shulchan Aruch O.C. 2:6**

..It is prohibited to walk 4 amot with a bare head.

### 3. Minhag not based on formal halachik basis or clear Jewish values

**Rabbi Jacob Saphir**

**Even Sappir [Germany 1874]**

When I was engaged with them in matters concerning divorce, I saw their practice and folly, how they fear the writ of divorce. They even are afraid of the smell of the writ of divorce, and they flee from it as from a contagious disease. They will not allow a divorce ceremony to be conducted in a house inhabited by people, lest an evil spirit from this adhere to them. They also close the windows that face the venue of the divorce ceremony, so that the sounds and smell of the writ of divorce shall not enter. The clothing of the divorced man and woman are as impure to them as those of who are stricken by the plague; accordingly, as soon as the act of divorce is concluded, they hurry to the water, to immerse in a ritual bath... The garments that they remove before [entering] the water shall not be worn by them again, and they are declared free to the poor. When they emerge from the water, they don other garments, from foot to head. Consequently, they wear inferior clothing at the time of the divorce ceremony.

### IV. Development of Minhag

**Rabbi Chaim Williamowsky**

**Jewish Custom and its Importance**

...We must examine the source and reason of each custom, and determine if the practice is homegrown, and originates in the soul of the [Jewish] people, or whether it is a foundling, that we have adopted from another people.

For example, the practice of covering the bride's face – for bashfulness and modesty – is, as is known, not unique to we Jews, but is rather to be found among most peoples; this is the veil of brides. The custom of breaking a glass cup during the wedding ceremony is mentioned in all the medieval [Jewish] minhagim books, based on what is taught (Berachot 31a) that Mar the son of Ravina broke a precious cup at a marriage feast for his son, as sis R. Ashi; and Tosaphot wrote: "The practice of breaking a glass cup at weddings [is derived] from this." According to one opinion, this breaking signifies the groom's presumptive ownership [i.e. of his wife], for it was the law in Germany to ratify a legal ruling by the breaking of a staff. In the famous painting *Marriage of the Virgin* by Raphael, we see how one of the guests standing to the right of the groom breaks a staff over his knee. The Bulgarians smash vessels after the bride is found to be a virgin. It is the custom of those in the Caucasus and Byelorussia to smash vessels on joyous occasions.