

SURVEY OF RECENT HALAKHIC PERIODICAL LITERATURE

Sale of Arms

Frequent press reports concerning the role of the State of Israel as a purveyor of arms to various countries have given rise to many inquiries concerning whether or not such transactions are in violation of Jewish law. It has also been noted that the 1981 assassination attempt upon President Reagan involved the use of a handgun purchased from a Jewish pawnbroker in Dallas, Texas. The propriety of such activity, whether by an individual or by a state, is certainly a matter of halakhic concern.

Rambam, *Hilkhot Rotseah* 12:12; paraphrasing *Avodah Zarah* 15b, declares: "It is forbidden to sell heathens weapons of war. Nor is it permitted to sharpen their spears, or to sell them knives, manacles, iron chains, bears, lions or any object which can cause harm to the public; but it is permitted to sell them shields which are solely for defense." A similar restriction is recorded by Rambam, *Hilkhot Rotseah* 12:4, with regard to sale of weapons to Jewish bandits. The underlying principle which gives rise to this prohibition is clearly enunciated. In selling arms to such individuals "one strengthens the hands of an evil-doer and causes him to transgress" and "anyone who causes one who is blind with regard to a matter to stumble... or one who strengthens the hand of a

person who is blind and does not see the path of truth because of the desire of his heart violates a negative precept as it is stated, 'you shall not put a stumbling block before the blind.' "

The latter precept, recorded in Leviticus 19:14, was understood by the Sages as an admonition designed to protect not only the physically blind but the intellectually and morally blind as well. A Jew is forbidden to take advantage of another person's lack of awareness in a way which results in physical, pecuniary or moral harm to that person. The prohibition is binding whether or not such advice or action is motivated by a desire for personal gain. Thus the prohibition encompasses three principal types of activity: (1) misleading the blind or infirm and causing physical harm; (2) offering misinformation or poor advice to the unformed; and (3) preying upon or pandering to the predilections of the morally blind. In prohibiting the placing of a stumbling block before the blind, Halakhah makes no distinction between Jew and gentile; all such actions are prohibited regardless of who is victimized thereby. The sale of weapons to persons who will misuse them clearly falls into the third category, and, accordingly, such activity was specifically banned by the Gemara. Rambam's use of the phrase "or any object which can cause harm to the

public” may indicate that sale of such items may be encompassed within the first category as well.

There is one exception to the general prohibition concerning sale of weapons to non-Jews. The Gemara, *Avodah Zarah* 16a, explicitly permits sale of weapons “to the Persians who protect us.” *Hilkhoh Avodah Zarah* 9:8 explains that it is permitted to sell armaments to “the servants of the king and his soldiers because they wage war against the enemies of the state in order to preserve it; hence they protect us since we dwell among them.” Similarly, in *Hilkhoh Rotseah* 12:13, Rambam declares that it is permitted to sell arms to “the army of the populace of the state because they protect Israel.” This provision is also recorded in *Shulhan Arukh, Yoreh De’ah* 151:6. This exemption from the general prohibition is thus predicated upon the general consideration of self-defense. Actions which are otherwise prohibited are permitted if necessary to preserve life. A suitably equipped army, militia and police force is necessary to preserve law and order and to protect against the enemy. Hence sale of weapons to forces charged with protecting the public is permitted as a legitimate form of self-defense.

It would logically follow that sale of arms is permitted not only to the armed forces and police of one’s own country but also to other nations actively engaged in protecting the security of a Jewish state or of a Jewish populace. Hence sale of arms to nations allied with Israel by means of a formal or informal security pact would be justified. Absent such agreement, arms sales would be forbidden unless absolutely necessary by virtue of other considerations in order to protect life, e.g., as part of a barter arrangement designed to secure materiel necessary for self-defense. Accordingly, the halakhic propriety of the

arrangements surrounding each sale of arms by the State of Israel would have to be examined in light of the above factors and considerations. Rabbi Chaim David Halevi, the Sephardic Chief Rabbi of Tel Aviv, *Aseh Lekha Rav*, I no. 19, opines (perhaps overconfidently) “. . .there is no doubt that [the State of Israel engages in such sales] on the basis of security considerations and takes into account the benefit which will arise to us therefrom.”

Cholent

Cooking is enumerated among the thirty-nine activities specifically forbidden on the Sabbath. The prohibition against cooking precludes not only placing uncooked food over a fire but also replacing partially cooked food on the stove. Rema, *Orah Hayyim* 253:2 and *Shulhan Arukh, Orah Hayyim* 318:4, rule that food which has not been *thoroughly* cooked may not be replaced on the stove even though the food is already readily edible. Use of a *blech* or metal covering which is placed over the flame serves only to eliminate the rabbinic ban which prohibits returning even already thoroughly cooked food to the stove and allowing incompletely cooked food to remain on the stove during the Sabbath. Although no act of cooking is involved, these practices are forbidden by rabbinic decree lest one be prompted to “stir the embers” in order to increase the intensity of the heat. This rabbinic prohibition is suspended when the flame is covered on the principle that covering the flame manifests absence of concern for maximization of heat. However, use of such metal covering in no way mitigates the biblical prohibition attendant upon replacing food which is less than thoroughly cooked upon a stove. *Shulhan Arukh, Orah Hayyim* 254:4, rules that, when return of a pot to

the stove is forbidden, the replacement of a lid upon a pot on the stove is forbidden as well. Placing a lid on a pot serves to contain the heat which, in turn, causes the cooking process to proceed more rapidly. Hence placing or replacing a lid upon a pot constitutes an act of cooking.

Since cooking on the Sabbath is forbidden, it has long been the practice among Jews to prepare a stew-like dish, known as *cholent*, containing various ingredients which is placed upon the stove on Friday and allowed to remain overnight on a low flame. The food is then removed in time for the midday meal on the Sabbath. Ingredients vary in accordance with ethnic and culinary preferences. Popular varieties of *cholent* contain meat, potatoes, beans and barley in various combinations and proportions. Among Oriental Jews it is customary to use rice as the staple ingredient. During the medieval period this culinary dish was known as *hamin* or "hot food." It is now usually referred to by western Jews as "*cholent*" which some linguists maintain is derived from the French *chaud*, meaning "hot," or *chaleur* meaning "heat." It has been conjectured that the term may be a contraction of the French words *chaud* and *lent*, meaning slow, to form a word connoting "slow heat." A less likely suggestion is that the term *cholent* originated as a contraction of the German or Yiddish words *shul ende*, meaning "end of synagogue services," the hour at which the Sabbath-day meal is customarily eaten. Although the meaning of the term may be obscure, the practice of eating *cholent* is ubiquitous and, for many, is closely associated with enjoyment of the Sabbath day. For that reason recent discussions of a halakhic problem posed in the preparation of this dish have aroused wide interest.

In Israel, due to the almost prohibitive cost of beef, it is common to use fowl in the preparation of the *cholent*. The long and slow cooking

process has the effect of making the relatively soft chicken bones quite edible and tasty. Of late, there has been some debate among rabbinic scholars in Israel with regard to whether or not it is permissible to remove some of the *cholent* prepared in this manner on Friday evening and thereafter replace the pot on the stove or, for that matter, whether the lid of the pot may be raised and replaced. This question is addressed by Rabbi Moses Feinstein in the most recent volume of his responsa collection, *Iggerot Mosheh, Orah Hayyim*, IV, no. 76. A conflicting view is expressed by Rabbi Shlomoh Zalman Auerbach in the Heshvan 5742 issue of *Moriah* and by Rabbi Abraham Isaac Hoffman in the Shevat-Adar 5742 issue of *Ha-Pardes*.

Rabbi Feinstein rules that the prohibition against cooking does not extend to bones since bones are not deemed to be a foodstuff. He maintains that there exists no prohibition against cooking bones even by a person intent upon consuming them subsequent to cooking because whether or not an item is deemed a foodstuff is determined by general practice rather than by subjective inclination. A contrary view was earlier expressed by R. Joshua Neuwirth in the second edition of his highly regarded compendium of Sabbath laws, *Shmirat Shabbat ke-Hilkhatah* (Jerusalem, 5739) 1:18, in the name of Rabbi Shlomoh Zalman Auerbach.

In his contribution to *Moriah* Rabbi Auerbach explains the basis of his negative ruling. Rabbi Auerbach reports that, contrary to the assumption of Rabbi Feinstein, both meat and bones are commonly consumed by persons eating this type of *cholent*. Hence, concludes Rabbi Auerbach, even though bones are not included in the prohibition against partaking of carrion or of milk and meat which have been cooked together, nevertheless in a locale in which bones are customarily eaten they must be deemed a foodstuff which may

not be cooked on the Sabbath. In a subsequent responsum addressed to Rabbi Auerbach, *Iggerot Mosheh, Orah Hayyim*, IV, no. 77, Rabbi Feinstein expresses incredulity at the report that it is common practice in Israel to eat the chicken bones found in the *cholent*. Nevertheless, he readily concedes both that the halakhah as formulated by Rabbi Auerbach is correct under the circumstances described by the latter and that Rabbi Auerbach is more familiar than he with the eating habits of Israelis.

In point of fact, a similar problem may well exist in other countries as well. Rabbi Feinstein notes that the entire question of replacing a *cholent* pot on Friday evening did not arise in earlier times. In Europe, until recent times, it was customary to place the *cholent*, not upon the stove, but within an oven which was subsequently sealed in order to preserve the heat. The *cholent* was therefore not removed on Friday evening in order to eat some portion of that dish in the course of the evening meal both because of the inconvenience involved and because the loss of escaped heat would interfere with proper cooking of the *cholent*. Thus the practice of removing a portion of the *cholent* on Friday evening is of fairly recent origin. It is entirely likely that the *cholent* may not yet be fully cooked at the time of its removal on Friday evening, particularly if it has been placed on the stove late in the day on Friday. Under such circumstances, it is not permitted to return the *cholent* to the stove.

Rabbi Hoffman argues that this practice is forbidden under virtually all circumstances. He notes that, even when the other ingredients are otherwise fully cooked, the flavor of the meat is enhanced by continued cooking in the juices of the bones throughout the night. Hence, argues Rabbi Hoffman, return of the pot to the stove so long as taste continues to improve through further

cooking is encompassed within the biblical prohibition as indicated by *Mishnah Berurah* 318:91. Accordingly, Rabbi Hoffman advises that the *cholent* not be removed from the stove prior to the noon meal on *Shabbat*.

*Recitation of Ve-Ten Tal U-Matar
By Travellers*

The ninth blessing of the Eighteen Benedictions is a general prayer for agricultural bounty. The Men of the Great Assembly who composed the benediction ordained that a supplication on behalf of rain, viz., “*ve-ten tal u-matar livrakhah* and bestow dew and rain for a blessing” be incorporated in the blessing throughout the rainy season. The dates marking the beginning and the close of the rainy season during which period the prayer must be recited were carefully defined. The Gemara, *Ta’anit* 10a, declares that recitation of *ve-ten tal u-matar* should begin on the sixtieth day of the autumn season, i.e., the season which commences on the day of the autumn equinox. Recitation of *ve-ten tal u-matar* continues throughout the winter months until the Passover holiday.

Although the Jewish calendar is lunisolar, the date established for commencement of this prayer is one of the few aspects of the Jewish calendrical system which is entirely solar in nature. Nevertheless, the determination of the date of the autumn equinox for liturgical purposes is not in strict conformity with the actual solar event. The Gemara, *Eruvin* 56a, records a statement of the Amora, Samuel, to the effect that the duration of each of the four seasons of the year is precisely 91 days and 7½ hours in length. This calculation yields a solar year of exactly 365 days and 6 hours. An identical calculation forms the basis of the Julian calendar which contains 365 days with an additional day added in February every fourth year in order to account for the additional six hours of each solar year in excess of the

365 days of the common year. However, in point of fact, the solar year is only 365 days, 5 hours, 48 minutes and 46 seconds in length. Thus the Julian year, as well as the solar year as calculated by Samuel, is longer than the astronomical solar year by 11 minutes and 14 seconds. This error amounts to approximately one full day in every 128 years. The discrepancy between the length of the Julian year and the true solar year led to a modification of the calendar and the adoption of the Gregorian calendar which omits the extra day of the leap year in all centenary years except in those which are multiples of 400. R. Chaim Joseph David Azulai, *Birkei Yosef, Shiyurei Berakhah, Orach Hayyim* 229:1, remarks that Samuel was well aware of this discrepancy (and indeed for purposes of adding intercalated months in leap years the Jewish calendrical system utilizes a more sophisticated calculation) but nevertheless the Sages adopted a simple and readily understandable system of calculating the equinox so that the general populace would have no difficulty in determining the date on which to commence recitation of *ve-ten tal u-matar*. Indeed, since calculation of the seasons for purposes of recitation of *ve-ten tal u-matar* is based upon a 365-day year with provision for an intercalated day every four years, the date for commencement of the recitation of this prayer is readily determined by utilization of the civil calendar, throughout any given century. The dates in the civil calendar for commencement of *ve-ten tal u-matar* remain constant. During the twentieth century, the autumn equinox, as defined for this purpose by Jewish law, always occurs on October 7 in common years; hence recitation of *ve-ten tal u-matar* begins sixty days later on the eve of December 5th. Every fourth year, in the autumn preceding a leap year, the equinox occurs one day later on October 8th and accordingly, in leap years, recitation of

ve-ten tal u-matar commences on the eve of December 6th.

The designated period during which *ve-ten tal u-matar* is recited corresponds to the rainy season in Babylonia—the geographic area which was the home of the major portion of the Jewish people at the time that the Men of the Great Assembly ordained this prayer as well as of the later talmudic period. The ordinance governing recitation of this supplication provides that Jews throughout the diaspora conform to the practice established in Babylonia without regard to local climatic conditions.

However, in establishing this ordinance, special provision was made for inhabitants of the Land of Israel on the assumption that the Land of Israel requires a longer period of precipitation “because its elevation is greatest of all lands.” The Sages ordained that the inhabitants of Israel begin the recitation of *ve-ten tal u-matar* on a somewhat earlier date, viz., the seventh day of Heshvan.

Nowadays, when tourism and travel between Israel and other countries is common, a question which arises with increasing frequency concerns the manner in which travellers should conduct themselves with regard to the recitation of *ve-ten tal u-matar* between the dates of 7 Heshvan and December 5. Should residents of the diaspora who find themselves in Israel join in recitation of the supplication together with the inhabitants of *Erets Yisra'el* or should they follow the practice of their own countries of residence and omit this petition? Conversely, should residents of *Erets Yisra'el* who travel to other countries during this period continue to recite the prayer for rain or should they follow the practice of the locale in which they find themselves?

Ba'er Heitev, Orach Hayyim 117:4, cites three conflicting views with regard to the second of these questions. *Maharikash* and *Halakhot Ketanot* are

of the opinion that a resident of *Erets Yisra'el* should recite the supplication even when travelling in the diaspora, but only if the traveller himself has need of rain during that period. Need for rain is defined as pertaining under either of two conditions: (1) the traveller will himself return to *Erets Yisra'el* during the course of the rainy season; or (2) his wife and children have remained in *Erets Yisra'el*. The latter stipulation is, of course, based upon the consideration that the needs of one's family are tantamount to personal needs. This is also the view of *Teshuvot Radbaz*, V, no. 2,055. R. Yechezkel Abraham Silber, *Birur Halakhah* 117, qualifies this ruling by stating that an emigrant from *Erets Yisra'el* who has established permanent residence elsewhere should not recite the supplication even though his wife and children remain in *Erets Yisra'el*. These authorities are silent with regard to the first question, viz., the manner in which a resident of the diaspora should conduct himself in *Erets Yisra'el*. Other authorities, including R. Joshua Molko and *Teshuvot Dvar Shmu'el*, no. 323, disagree and rule that an Israeli traveller should follow the practice of the locale in which he finds himself. These authorities similarly maintain that a tourist in Israel should follow the local practice. *Pri Hadash* rules that a resident of *Erets Yisra'el* should recite *ve-ten tal u-matar* even in the diaspora but only if he intends to return to *Erets Yisra'el* "within the year"; if, however, the individual intends to return only "after a year or two years" he should not recite this supplication even though he may have a wife and children who remain in *Erets Yisra'el*. *Birur Halakhah* expresses doubt with regard to how the period of "a year" stipulated by *Pri Hadash* is to be calculated. He queries whether the traveller follows the practice of *Erets Yisra'el* only if he intends to return to his home prior to *Rosh Hashanah* prior to the following 7 Heshvan, or prior to the subsequent December 5th.

The nature of the controversy between those espousing each of the first two positions is not difficult to explain. R. Joshua Molko and *Teshuvot Dvar Shmu'el* maintain that recitation of *ve-ten tal u-matar* is governed by the same general rule which governs many other areas of ritual practice, viz., one is required to follow the practices of the locale in which one finds oneself. *Maharikash* and *Halakhot Ketanot*, on the other hand, maintain that prayer (i.e., the Eighteen Benedictions) is ordained to reflect an individual's personal needs and concerns. Hence, according to *Maharikash* and *Halakhot Ketanot*, a traveller must disregard local practice and recite the benediction in accordance with his own needs. *Pri Hadash* may well be understood as being in basic agreement with *Maharikash* and *Halakhot Ketanot* in accepting the principle that recitation of *ve-ten tal u-matar* is contingent upon personal need; the sole disagreement being the definition of need. Unlike *Maharikash* and *Halakhot Ketanot*, *Pri Hadash* maintains that the traveller is in need of rain not only if he plans to return to *Erets Yisra'el* within the period of the rainy season but also if he returns any time within the year. *Birur Halakhah* interprets *Pri Hadash* in this manner but, as noted earlier, expresses doubt with regard to how the term "year" is to be defined, whether as the calendar year beginning with *Rosh Hashanah* or as a cycle of four seasons closing with the beginning of the next rainy season on either 7 Heshvan or December 5. Precipitation during the rainy season serves to satisfy agricultural needs throughout the growing season which culminates approximately at the time of *Rosh Hashanah* and serves to fill other needs for water until rain falls again at the beginning of the next year's rainy season.

However, the terminology employed by *Pri Hadash* lends itself to another possible interpretation. *Pri*

Hadash counterposes the term “a year” and the term “two or three years.” *Pri Hadash* may well have used the term “a year” in the sense of twelve months calculated from the time the traveller has left *Erets Yisra’el*. Many authorities including *Arukh ha-Shulhan*, *Orah Hayyim* 496:5, maintain precisely that distinction with regard to observance of the second day of Yom Tov. Those authorities maintain that a visitor acquires the status of a permanent resident if the anticipated duration of the trip is twelve months or longer even though the visitor may have every intention of eventually returning to his home. Understood in this manner, *Pri Hadash*’s view constitutes a third position maintaining that the recitation of *ve-ten tal u-matar* depends entirely upon one’s residence rather than upon personal need. Determination of residence, for *Pri Hadash*, depends upon whether the anticipated absence is a period of twelve months or longer.

This controversy persists among later authorities who continue to differ with regard to resolution of the conflict. *Pri Megadim*, *Mishbetsot Zahav* 117:1, rules in accordance with the opinion of *Pri Hadash* while *Birkei Yosef*, *Orah Hayyim* 117:5, rules in accordance with the position of R. Joshua Molko and *Dvar Shmu’el*.

Mishnah Berurah 11:5 points out that, although these authorities differ with regard to the theoretical basis of their positions, in terms of the practice to be followed there is no controversy between them. *Pri Hadash* rules that residents of *Erets Yisra’el* intending to return to the Holy Land must recite *ve-ten tal u-matar* during their stay in the diaspora (either because they remain in need of rain, or because they must follow the practice of their place of domicile). R. Joshua Molko rules that they must follow local practice. However, points out *Mishnah Berurah*, the general rule is that one adopts local practice only if one intends to remain in

the locale for some period of time. A transient intending to return to his place of origin retains his original practices. Accordingly, opines *Mishnah Berurah*, the statements of R. Joshua Molko and other authorities requiring the traveller to adopt local practices must be understood as referring only to persons “who do not intend to return.” *Pri Hadash* explicitly concedes that one remaining in a new residence for an extended period of time must follow the local practice (either on the grounds that his personal needs have become identical to those of other indigenous residents or because he is deemed to have acquired a new domicile). *Mishnah Berurah* advances this conclusion somewhat tentatively and states that one would have to peruse the responsa of *Dvar Shmu’el* and *Yad Aharon* in order to reach a definitive conclusion. Those works were apparently unavailable to *Mishnah Berurah*. In point of fact those authorities rule explicitly that local practice should be followed even by a traveller who intends to return to his former abode. *Birur Halakhah* rules in accordance with this view, contrary to the position of *Mishnah Berurah*.

R. Moses Feinstein, *Iggerot Mosheh*, *Orah Hayyim*, II, no. 102, also rules in accordance with the view of R. Joshua Molko and *Teshuvot Dvar Shmu’el* but for a different reason. *Teshuvot ha-Rosh*, *klal* 4, no. 10, and *Maharya*, cited by *Bet Yosef*, *Orah Hayyim* 117, point out that in “our places” rainfall is required early in the fall. Hence, logically, we should commence recitation of the prayer for rain on 7 Heshvan, as is the practice in *Erets Yisra’el*, rather than on the later date ordained for Babylonia. We do not do so simply because, absent a formal rabbinic ordinance to commence the supplication on the earlier date, such practice never became firmly established and hence it became accepted custom not to recite the supplication at the earlier date. Nevertheless, the cogency

of this consideration is reflected in Halakhah. The general rule is that if *ve-ten tal u-matar* is recited other than in the rainy season the Eighteen Benedictions must be repeated a second time without that supplication. However, Rema, *Orah Hayyim* 117:2, rules that, in lands where early rainfall is beneficial, if through error one recites *ve-ten tal u-matar* at an earlier date, the Eighteen Benedictions need not be repeated. On the basis of these considerations *Iggerot Mosheh* argues that travellers from Israel should commence recitation of *ve-ten tal u-matar* on the earlier date. Since, in our lands, early rainfall is beneficial, insertion of this supplication does not serve to invalidate the Eighteen Benedictions. Moreover, since in earlier times travel was a relatively rare phenomenon, there is no established custom with regard to travellers which would augur against reciting this prayer. Accordingly, concludes *Iggerot Mosheh*, according to all authorities a visitor from Israel may commence recitation of *ve-ten tal u-matar* on 7 Heshvan and, indeed, he should do so in order to fulfill his obligation according to the opinion which requires recitation at the earlier date. The controversy between *Pri Hadash* and the other authorities, declares *Iggerot Mosheh*, is limited to lands such as Babylonia which do not require rain until a later date. *Iggerot Mosheh* rules that in such places the opinion of *Pri Hadash* and *Pri Megadim* should be followed. *Iggerot Mosheh* maintains that the view of *Mishnah Beruah* is also in accordance with that of *Pri Hadash*.

Iggerot Mosheh does not address the question of the proper practice to be followed by tourists or temporary residents in Israel. Although not discussed explicitly by many of the aforementioned authorities, this question would also appear to be the subject of controversy between them. Since *Iggerot Mosheh* rules in accordance with

the basic position of *Pri Hadash*, it would then follow, it may be argued, that, in his opinion tourists and temporary residents should retain the practice of the diaspora. *Pri Megadim*, who follows the position of *Pri Hadash*, does state that the rule requiring travellers to retain the practice of their place of residence applies also to visitors to *Erets Yisra'el*. However, R. Betzalel Stern, *Be-Tsel he-Hokhmah*, I, no. 62, reaches a different conclusion. *Pri Hadash* limits his discussion to the question of the practice to be followed by a resident of *Erets Yisra'el* who finds himself in the diaspora, but does not mention the converse. Rabbi Stern argues that *Pri Hadash* does not reject temporary personal need as a controlling factor requiring recitation of this supplication. Rather, it may be argued, *Pri Hadash* posits the need shared with inhabitants of one's place of residence (or the general rule governing ritual practices) as an additional factor necessitating recitation of *ve-ten tal u-matar*. Thus, in effect, the determining factors are disjunctive: either immediate personal need or needs shared with inhabitants of one's place of residence (or the formal requirement to follow the ritual practices of one's place of residence). An Israeli visiting the diaspora recites *ve-ten tal u-matar* because of the latter consideration, while a tourist in Israel is required to recite the supplication, argues Rabbi Stern, because of the first consideration.

Rabbi Stern does not fail to recognize that a tourist in Israel planning only a brief visit does not derive any direct benefit from the local autumn rainfall and hence, unless he remains long enough to enjoy that year's produce, has no personal need for the rain. Rabbi Stern counters this contention by citing *Berakhot* 59a and arguing that abundant rainfall causes the price of produce to fall immediately in anticipation of a bountiful crop during the coming season. Hence, even a person

in Israel on a brief visit has “need” for autumn rain since it will immediately who intends to return home prior to the result in lower food prices. Moreover, argues Rabbi Stern, in the event that rains are delayed in *Erets Yisra’el*, *Shulhan Arukh*, *Orah Hayyim* 575:1-4 rules that days of fasting and prayer are proclaimed. Tourists and visitors are also duty-bound to join in prayer and fasting to prevent local misfortune. Therefore, argues Rabbi Stern, even visitors have a need for rain in order to preclude such inconvenience. A similar ruling requiring visitors to *Erets Yisra’el* to commence recitation of *ve-ten tal u-matar* on 7 Heshvan is recorded in earlier works including *Shulhan ha-Tahor*, *Torat Hayyim*, as well as by *Halakhot Ketanot*, I, no. 74. The latter authority, it will be remembered, espouses the opposite view with regard to residents of *Erets Yisra’el* who visit the diaspora. *Halakhot Ketanot* clearly maintains that either immediate personal need or the need of the place of residence to which one will return is sufficient to require the recitation of this supplication. *Birur Halakhah* also analyzes the position of *Pri Hadash* and *Radbaz* in a like manner, but, unlike Rabbi Stern, *Birur Halakhah* expresses some reservation in the case of a tourist

close of the rainy season and who, therefore, will not benefit directly from produce nurtured by the rain. Unlike *Iggerot Mosheh*, *Birur Halakhah* finds that the majority of rabbinic decisors affirm the view of R. Joshua Molko. According to those authorities, each person recites the prayer in accordance with the practice of the locale in which he finds himself. According to this view, individual need is not at all a determining factor. Contrary to the opinion expressed by *Iggerot Mosheh*, Rabbi Yechiel Abraham Silber, as well as his father, R. Benjamin Silber, *Bet Barukh*, II, *klal* 24, sec. 64, maintain that this is the position of *Mishnah Berurah* as well.¹

Although he adopts the view that a traveller must conform to local practice *Birkei Yosef* 117:6 concedes that a different rule should be followed by a resident of Israel who begins his trip after 7 Heshvan. *Birkei Yosef* declares that since the traveller has already begun to recite *ve-ten tal u-matar* he should not interrupt his continued recitation of this supplication in order to conform to local practice. To do so would appear to render his earlier recitation “foolish.” This view is also espoused by *Bet Barukh*, II, *klal* 24, sec. 63.

NOTES

1. It is probably the case that neither *Iggerot Mosheh*'s nor *Birur Halakhah*'s interpretation of *Mishnah Berurah*'s position is accurate. *Mishnah Berurah* first cites the opinion of *Pri Hadash* and *Pri Megadim* to the effect that travellers should follow the practice of their place of domicile and immediately thereafter proceeds to cite the conflicting view. *Mishnah Berurah* concludes by formulating the hypothesis that the latter authorities mandate conformity with local practices only if the visitor does not intend to return to *Erets Yisra’el* and notes that the texts of the *Teshuvot Dvar Shmu’el* and *Yad Aharon* should be examined. Quite evidently *Mishnah Berurah* found no reason to choose between these conflicting positions because of his assumption that, in practice, no disagreement actually exists, although *Mishnah Berurah* did advance his hypothesis in a tentative manner, pending an examination of texts apparently not available to him. Thus *Mishnah Berurah* did not attempt to decide between what are, in fact, conflicting views.

It has been suggested that any halakhic difficulty in reaching a definitive determination can be avoided by including *ve-ten tal u-matar* in the fifteenth benediction, “*shome’a tefillah*,” rather than in its proper position within the ninth benediction. *Halakhah* provides that, when inadvertently omitted in its proper place, the phrase *ve-ten tal u-matar*

may be included in the blessing *shome'a tefillah* which constitutes a general supplication beseeching God to hearken to our prayers. Prayers for personal needs of any nature may be included in *shome'a tefillah*. Hence, even though *ve-ten tal u-matar* should not be added to the ninth benediction other than in accordance with the rabbinic edict, it may be added to *shome'a tefillah* since personal supplications may be incorporated in that benediction. *Birur Halakhah* dismisses this suggestion as an unnecessary expedient since he rules firmly in accordance with the position of R. Joshua Molko. Nevertheless, in light of the many authorities who rule in accordance with *Pri Hadash*, this advice certainly commends itself to any person who desires to fulfill the obligation in accordance with the views of all authorities.