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Customs

The fourth chapter of *Pesachim* contains a series of *Mishnayot* that deal with a number of localised customs that existed in different communities. This leads to the question of what is the status of customs in *Halacha*.

The first problem that is encountered when trying to deal with this question is understanding the terminology. In the language of *Chazal* the term *minhag* is used for a practice that has been adopted in all communities around the world and consequently has the status comparable to any other law from the *Torah*. There are also customs that are based on local traditions (such as the cases in our *Mishnayot*) and others that depend on localised preferences that have minimal *Halachic* ramifications, such as what vegetable is used for *karpas* on Pesach. There is a need to determine the significance of the customs that appears in the *Mishnah*.

The classic example of a custom that has become accepted by all Jews is saying *Hallel* on *Rosh Chodesh*. The *Gemara* in *Ta'anit* (28b) states that it is not permitted to say a full *Hallel* for the new month and it appears in certain parts of the Jewish world that the prevailing custom was that no *Hallel* was said at all. However since then it has become universally accepted that a "half" *Hallel* is said for the new month. The dispute in the *Shulchan Aruch* is with regards to whether or not one should recite a blessing. Should someone today decide that it is not necessary to say *Hallel* at all it would seem that he would transgress a rabbinical obligation.

More significantly the *Sha'ar Tzion* (422:13) mentions that when women take the *lulav* they should make a *bracha* even though they are not obligated in performing the *mitzvah*. This is despite the fact that their taking the *lulav* has not been universally accepted, thus demonstrating the power of customs that contain enough *halachic* significance to avoid the problems of an unnecessary blessing.

These issues however only demonstrate the binding strength of the positive precept. The opposite side is seen with second day of *Yom Tov* which has been accepted

universally. The *Shulchan Aruch* states that it is as binding as the first day of *Yom Tov*, although it does have some differences in the punishments due to its having a non-biblical status.

From the above sources we may be able to infer that the customs spoken of in *Pesachim* are as binding in *halacha* as any other statement of *Chazal*. In fact this is the case as brought down in both the *Shulchan Aruch* and the *Rambam* that the customs mentioned are absolutely binding, even though they are purely local in their status. Someone's custom would not move with him if he relocates, rather the custom would be focused on the location of the community.

The ways that these customs relate to *halacha* is brought in the *Rambam* in his introduction to the *Yad Chazakah* where he states that originally customs were centrally controlled and were therefore universal, but since the decentralisation of *halacha*, customs have become far more localised, until the time when the authority can once again become centralised under the *Sanhedrin*. Based on this the localised customs of today are just as binding as the global customs of the *Gemara*. The *Rambam* takes this idea one step further in the first chapter of *Hilchat Mamrim* where he states that anyone who ignores one of the customs ignores the positive commandment of אשר ירוך על פי התורה. Even though there are many authorities that dispute making rabbinic customs into a biblical commandment, the binding nature of the traditions on the local communities is still accepted.

Daniel Shfarber in his book *Minhagei Yisrael* quotes from *Otzar Ge'onim* that the very fact that the customs have become standard in a number of communities proves their significance in a *halachic* sense, and makes them binding upon us. Although some traditions do not stretch back to the time of *Moshe* at *Har Sinai*, the authorities consider them significant. Nonetheless the nature of customs has changed from being location-based to the family-traditions regardless of their current location.

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Revision Questions

פסחים ד' – ה' ח'

- Some places have the custom of not eating meat on the night of *Pesach* prepared in which manner? (ד': די)
- During which festival is lighting candles dependant on local custom? (ד': די)
- Even though whether or not people work on *tisha b'av* is dependant on local custom, which people do not work, regardless of their location? (ד': די)
- From when does *Beit Shammai* prohibit work on *erev Pesach*? (ד': די)
- What is *R' Meir*'s opinion regarding the previous question? (ד': די)
- Which three professions do the *Chachamim* permit to work till *chatzot* on *erev Pesach* regardless of local custom? (ד': די)
- In what manner can one clean an animals waste from its pen on *erev Pesach*? During *chol ha'moed*? (ד': די)
- Can one take his utensils to be mended on *erev Pesach* if they are not required for the festival? (ד': די)
- What were the three customs of the people of *Yericho* that the *Chachamim* objected to? (ד': די)
- What were the three customs of the people of *Yericho* that the *Chachamim* accepted? (ד': די)
- What were the three things *Chizkiya HaMelech* did that the *Chachamim* objected to? (ד': די)
- What were the three things *Chizkiya HaMelech* did that the *Chachamim* accepted? (ד': די)
- During the year when was the afternoon *tamid* offering slaughtered and offered? (ד': די)
- On *erev Pesach* when was the afternoon *tamid* offering slaughtered and offered? (ד': די)
- Regarding the previous question, when was the *tamid* offered even earlier? (ד': די)
- What are the four processes that must be performed for the purpose of the *korban Pesach*, otherwise it would invalidate the *korban*? (ד': די)
- Is the *korban Pesach* valid if it was slaughter (in mind) for the sake of the people that had a share in the *korban* as well as other who did not have a share? (ד': די)
- Is the *korban Pesach* valid if it was slaughtered before noon? (ד': די)
- Is the *korban Pesach* valid if it was slaughtered before the *korban tamid*? (ד': די)
- What does the *Mishnah* mean when it say that if someone slaughters the *korban Pesach* "on *chametz*" they have transgressed an negative prohibition? (ד': די)
- Does the ruling described in the previous question apply to any other sacrifices? (ד': די)
- Into how many groups was the nation divided when they came to offered their *korban Pesach*? (ד': די)
- Where was the sprinkling of the blood from the *korban Pesach* performed on the *mizbeach*? (ד': די)
- What were the *levi'im* doing while the sacrifices were being offered? (ד': די)
- What did the *kohanim* do differently, with regards the process of offering of the *korban Pesach*, when *erev Pesach* fell on *Shabbat*? (ד': די)

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
15 th January ט"ו טבת	16 th January ט"ז טבת	17 th January י"ז טבת	18 th January י"ח טבת	19 th January י"ט טבת	20 th January כ' טבת	21 st January כ"א טבת
Pesachim 5:9-10	Pesachim 6:1-2	Pesachim 6:3-4	Pesachim 6:5-6	Pesachim 7:1-2	Pesachim 7:3-4	Pesachim 7:5-6

