**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**THE LAWS OF THE BERAKHOT**

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***Shiur* #56: *Zimun* (5)**

**Can a Non-Observant Jew Join a *Zimun*?**

The first *mishna* of the seventh chapter of *Massekhet* *Berakhot* (45a) enumerates those who may be included in a *zimun* and those who may not be included. Those mentioned include one who ate prohibited food, a servant, a non-Jew, women, children, and slaves. This week we will discuss the whether one who eats a prohibited food may join others to form a *zimun*.

The Talmud also discusses whether an “*am ha-aretz*” may join others to form a *zimun*. We will relate to this as well and question whether nowadays one may join with a non-religious Jew to form a *zimun*.

**One Who Eats Prohibited Food**

The *mishna* (*Berakhot* 45a) teaches:

One who has eaten *tevel* (food that was not tithed), or *ma’aser rishon* from which *teruma* has not been removed, or *ma’aser sheni* or sanctified food that has not been redeemed … may not be counted.

Apparently, one who eats prohibited foods may not join with others to form a *zimun*.

 The *Rishonim* debate the reason for this law. The Rambam (*Hilkhot* *Berakhot* 1:19; see also Rashba, *Berakhot* 45a) explains:

When a person eats a forbidden food – whether consciously or inadvertently – he should not recite a blessing beforehand or afterward. What is implied? If one eats *tevel*, even food that is classified as *tevel* by Rabbinical decree, the first tithe from which *teruma* was not separated, or the second tithe or sanctified foods that were not redeemed in the proper manner, one should not recite a blessing. Needless to say, this applies if one ate meat from an animal that was not ritually slaughtered or was *treifa* or if one drank wine used as a libation for idol worship.

The Rambam maintains that the *mishna* refers to a broader, universal principle: one does not say a *berakha* before or after eating prohibited foods, and therefore one certainly does not say the *zimun*. The Ra’avad (ibid.; see also Rosh 7:2) disagrees, explaining that after eating non-kosher food, one must still say the appropriate blessing. However, since one who eats non-kosher food lacks “*kevi’ut,*” he cannot join others to participate in the *zimun*.

 Interestingly, the Ra’ah (*Berakhot* 45a) notes that the Rambam most likely derived this principle from the Talmud (*Bava Kama* 94a), which states that if one steals wheat, grinds it, and then separates *challa*, he should not say a blessings, as “he is not saying a blessing, but rather being blasphemous.” He adds that eating prohibited foods does not provide *hana’ah* (benefit), but rather *tza’ar* (discomfort), and therefore a blessing is not recited.

The Beit Yosef (196) cites the view of the Ramah, brought by Rabbeinu Yerucham, who rules that even one who eats a prohibited food due to health concerns does not say a blessing. However, the Beit Yosef assumes that the Rambam maintains that one who is permitted to eat prohibited foods due to health concerns should say the appropriate blessings. Interestingly, the Ra’ah suggests that only one who eats foods that are prohibited *mi-derabanan, be*-*heter* (i.e. with permission), should say the appropriate blessing. This *may* point to a fundamental distinction between food which are Biblically prohibited (*issur cheftza*) and those which and Rabinically prohibited (*issur gavra*).

The Shulchan Arukh (196:1-2) rules:

One who eats something which is prohibited, even it is only prohibited *mi-derabanan*, is not included in the *zimun*, and he should not say a blessing before or after [eating]. If he eats a prohibited food due to [health] danger, he says the blessing.

The Taz (1) adds that one who inadvertently ate non-kosher food should say a *berakha acharona*, although he may not join others to form a *zimun*.

Although all agree that if one ate a prohibited food he may not join with others to form a *zimun*, the *Rishonim* discuss whether three people who cannot eat the same food can join together for a *zimun*. The Talmud (*Arakhin* 4a) teaches:

All may be joined for a *zimun*, even *Kohanim*, *Levi’im*, and *Yisra’elim*. Is that not self-evident? No, it is necessary for the case where the *Kohanim* eat of *teruma* or of consecrated foods, whilst the non-priest eats of profane foods. I might have assumed that since the commoner, even though he desired to eat with the *Kohen* [of the latter's food], he could not do so, therefore he could not be joined to him [for the *zimun*] either, so we are informed that granted that the non-priest may not eat together with the priest, the priest could surely eat together with the non-priest.

The *gemara* explains that when a *Kohen* eats with a *Yisrael*, although the *Yisrael* cannot share the *Kohen’s* food (*teruma*), since the *Kohen* can eat the *Yisrael’s* food, they may join for a *zimun*. The *Rishonim* (see, for example, Tosafot, 45a s.v. *akhal*) rules that if one who is careful not to eat bread baked by a non-Jew (*pat* *akum*) eats with someone who is not stringent, they may join together to join a *zimun*, as the they may both eat from the *pat Yisrael*. However, if none of the people can eat from the food of the other – for example, if they took a vow not to eat of each other’s food – they cannot join together to form a *zimun*.

The Mishna Berura (9) adds that if two of the people are eating meat and one is eating dairy, since the one eating dairy may simply rinse his mouth and then eat meat, they are considered to be eating together and may form a *zimun*. He adds that according to the custom to wait after eating hard cheese before eating meat, if two eat meat and the third eat hard cheese, they may not form a *zimun*. If, however, they began their meal by eating *pareve* bread, they may join together for the *zimun*.

***Am Ha-Aretz* and the Contemporary “*Chiloni*”**

The Talmud (*Berakhot* 47) teaches that one does not invite an “*am ha-aretz*” to be part of the *zimun*. The phrase *am ha-aretz* generally refers to Jews during the late Second Temple period through the Mishnaic era who were either uneducated and/or not scrupulous regarding the performance of certain *mitzvot*. The Talmud relates that not only were there halakhic ramifications which stemmed from the different levels of knowledge and observance, at times, there were even ill feelings and animosity (*Pesachim* 49b) between the groups.

Regarding joining a *zimun*, the Talmud teaches that one should not invite an *am ha-aretz* to join a *zimun*. The *gemara* also attempts to define an *am ha-aretz*:

It has been taught: An *am ha-aretz* is not reckoned in for *zimun*… Who is an *am ha-aretz*? Anyone who does not eat non-sacred food in ritual cleanness. So said R. Meir. The Rabbis, however, say: Anyone who does not tithe his produce in the proper way. Our Rabbis taught: Who is an *am ha-aretz*? Anyone who does not recite the *Shema* evening and morning. This is the view of R. Eliezer. R. Yehoshua says: Anyone who does not put on *tefillin*. Ben Azzai says: Anyone who has not a fringe (*tzitzit*) on his garment. R. Nathan says: Anyone who has not a *mezuza* on his door. R. Natan b. Yosef says: Anyone who has sons and does not bring them up to the study of the Torah. Others say: Even if one has learned Scripture and Mishna, if he has not served Torah scholars, he is an *am ha-aretz*. R. Huna said: The *halakha* is in accordance with the “Others.”

Furthermore, the *gemara* relates:

Rami b. Chama refused to count to *zimun* R. Menashiah b. Tachalifa, who could repeat Sifra, Sifre, and *halakha*. When Rami b. Chama died, Raba said: Rami b. Chama died only because he would not count R. Menashiah b. Tahalifa for *zimun*. But has it not been taught: Others say that even if one has learned Scripture and Mishnah but has not served Torah scholars, he is an *am ha-aretz*? R. Menashiah b. Tahalifa was different because he used to minister to the Rabbis, and it was Rami b. Chama who did not make proper inquiries about him.

 Why is the *am ha-aretz* excluded from the *zimun*? The Me’iri (*Berakhot* 47b) explains that he is not included in a *zimun* “since this person does not behave appropriately and in a manner in which it is fitting for a Torah scholar to join him, and to sit permanently at his meal.” However the *am ha-aretz* is still obligated to join a *zimun*. Therefore, when sitting with similar people, they are obligated to form a *zimun*.

 Interestingly, the *Rishonim* relate that after the days of the Talmud, this stringency was not observed. Thus, early authorities such as R. Hai Gaon (see Rashba, *Berkahot* 47b) and Rabbeinu Chananel (see Tosafot R. Yehuda 47b) testify that it is common for Torah scholars and the *am ha-aretz* to join together for a *zimun*. Some (R. Shemaya, cited by Tosafot R. Yehuda) even suggest that those who allow a child to join a *zimun* would certainly allow an *am ha-aretz* to participate.

 The *Rishonim*, based upon a passage in *Chagiga* (22a), offer two reasons why this stringency is no longer observed. Some (see Tosafot, *Berakhot* 47b, s.v. *amar*) suggest that we fear that if we separate from the *ame ha-aretz*, ultimately they will separate from the Jewish People, which is not the intended result. Alternatively, the Ri (Tosafot, *Chagiga* 22a, s.v. *ke-man*) explains that it is not proper to hold oneself as a “*talmid chakham*” and to separate from the *am ha-aretz*. In other words, the *Rishonim* differ as to whether we fear that the *am ha-aretz* or the scholar will separate from the rest of the community; both would be unfortunate and undesirable consequences of this stringency.

The Shulchan Arukh (199:3) rules that “nowadays, we join with a complete *am ha-aretz* in forming a *zimun*.”

Despite this lenient ruling of the Shulchan Arukh, the Magen Avraham (199:2) writes that “one who is a *rasha* in public, and transgresses many prohibitions, and so much more so one who has rejected Judasim (*mumar*), is not included in a *zimun*, as this person is no better than the *am ha-aretz* in the time of the Talmud.” The Mishna Berura (199:2) cites this view, and in the Be’ur Halakha (s.v. *am*) he notes that the laws of *zimun* are apparently stricter than the laws pertaining to reciting *devarim she-bikedusha* in a *minyan*. Regarding *devarim she-bikedusha*, only one who has actually be excommunicated (see Shulchan Arukh 55:11-12) cannot be counted towards a *minyan*; regarding *zimun*, “the obligation comes about because [three people] join together to eat and therefore afterwards they must come together to say *Birkat Ha-Mazon*. and regarding this the Magen Avraham said that if he is a *rasha* and violates the Torah publically it is certainly inappropriate to join with him for a *zimun*.”

Interestingly, he suggests that this stringency may only apply to a *zimun* of three, while the standards of a *zimun* of ten may be similar to those of *devarim she-bikedusa*, as described by the Shulchan Arukh elsewhere (ibid.). (See Tosafot R. Yehuda and R. Ha-Rosh, who imply that the Talmud refers to a *zimun* of ten as well).

The *Acharonim* discuss whether nowadays an individual who does not observe Torah and *mitzvot* may join with others to form a *zimun*. Some *Acharonim* (see, for example, Sefer Sha’arei Berakhah 5:17) maintain that all those who publically violate Torah prohibitions, such as violating the Shabbat and eating non-kosher food, may not join together to form a *zimun*. Alternatively, R. Shlomo Zalman Auerbach (cited in *Sefer Ve-Zot Ha-Berakha*, p. 132; see also *Sefer Piskei Teshuvot* 199:2) asserts that nowadays, most Jews are considered to be “children taken captive among the non-Jews” (*tinok she-nishba*) regarding the *mitzvot*, and therefore one may include them in a *zimun*. Furthermore, even if they do not answer to the *zimun*, we only require that one, in addition to the *mezamen*, must answer to the *zimun*. When there is a *zimun* of ten, only six need to actively answer.

Next week, we will conclude our discussion of *zimun*.