



# CHICAGO RABBINICAL CURRENTS

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ניסן תשפ"ה



## ZABLA PANELS AND COURTS

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### 1. ZABLA Arbitration Panels - the Ideal and the Real<sup>1</sup>

Much has been written about the potential benefits and pitfalls of convening an ad hoc "ZABLA" panel whereby each litigant chooses one *dayan* (Jewish law judge), known as a *borer* (rabbinic arbitrator) and the two *borerim* in turn select a third *dayan*, typically referred to as the *shalish* (literally, "third"), to round out the rabbinic panel.<sup>2</sup> In the time of the Talmud, a ZABLA was considered an effective mechanism for dispute resolution since each party would be confident with at least one of the judges on the panel, thus ensuring an acceptable decision.<sup>3</sup>

In one sense, a ZABLA is not so different from a standard model of arbitration routinely employed by the American Arbitration Association, whereby parties agree that each party will select a preferred arbitrator (either from a pool of arbitrators of a particular arbitral organization or otherwise), and then have the two selected arbitrators choose a third impartial arbitrator to round out the panel.<sup>4</sup>

However, as pointed out by Jewish law commentators throughout the generations, including the Rosh<sup>5</sup> and the Pischei Teshuva,<sup>6</sup> ZABLAs have unfortunately become subject to various abuses and violations of Jewish law, including (a) the selection of *borerim* who essentially serve as zealous advocates on behalf of the party who selected them – as opposed to impartial jurists – in violation of the Jewish law mandate to judge a case impartially;<sup>7</sup> (b) ex-parte conversations between one of the litigants and the arbitrator whom he or she selected, in violation of the Jewish law mandate for a judge not to hear the claims of one side without the other side

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1. A previous version of this article appeared in *Jewishprudence* (December 2020). ZABLA is an ad hoc Beth Din in which each litigant chooses one of the three dayanim who will sit on the case. 2. See, e.g., R. Shlomo Weissmann, "What to Do When You and Your Adversary Can't Agree On a Beth Din," *Jewishprudence* (January 2020); R. Itamar Rosensweig, "Published Procedural Letter: ZABLA Panels," *Jewishprudence* (February 2020). 3. See *Choshen Mishpat*, 13:1 (R. Yosef Karo, 1488-1575). 4. See American Arbitration Association, Streamlined Three-Arbitrator Panel Option, published in 2017, which seeks to reduce costs by restricting the participation of three arbitrators to the final adjudication of the case, as opposed to the procedural motions earlier in the case, which may be handled by a single arbitrator. 5. *Rosh, Sanhedrin* 3:2 (Rabbeinu Asher ben Yechiel, 1250-1327) (raising the first concern discussed in the text). 6. *CM* 13:3 (R. Tzvi Hirsh Eisenstadt, 1815-1868) (raising all three concerns discussed in the text). 7. See also *Tur CM* 13 (Rabbi Jacob ben Asher, 1269-1343), who also raises this issue in the name of his father (the Rosh), and then cites the Ramah (R. Meir Abulafia, 1170-1244) as expressing a dissenting view which he repudiates; however, the Beis Yosef (R. Yosef Karo) writes that the Ramah could also be read in a fashion which is consistent with the view of the Rosh.



by Rabbi David Cohen

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In Part 1 of this article, (Currents Volume II Issue 2) we discussed the steps necessary to ensure that Pesach matzah does not contain any chametz. Here, in Part 2, we will outline what it takes to render the matzah "shemurah" and therefore suitable for use at the Pesach Seder.

### Part 2 – Lishmah

The second aspect of creating matzah is ensuring that it is made "*lishmah*" so that it is suitable for use at the Seder. [If it is not made *lishmah* it is perfectly suitable for use during the rest of Pesach, but some desire matzah made *lishmah* for the entire Pesach based on the belief that one fulfills a *mitzvah* anytime they eat such matzah on Pesach].

### How and what

The term *lishmah* means that when the matzah is watched (to be sure it does not become *chametz*), this is done with the understanding that this matzah might be eaten at the Seder (as a fulfillment of the *mitzvah* to eat matzah at that time). There is a difference of opinion in the *Rishonim* whether this watching *lishmah* must begin at the harvest (the first opportunity for the kernels to become *chametz*), the milling (since waterpower was commonly used), or the kneading (when the flour will become *chametz* if special care is not taken to prevent it). *Shulchan Aruch* rules that it is best to use matzah which was *lishmah* from the harvest/*ketzirah*, but if not, one may rely on the more lenient opinions. In practice, hand-made matzah is *shemurah* (watched to be *lishmah*) from the time of harvest, while machine made matzah is typically only *shemurah* from the time of kneading.

In terms of the *lishmah* requirement, some say that all that is required is that someone watch the flour *lishmah*, while others say that the person doing the work must have the right intentions. Some follow the strict opinion for all parts of the process. However, most follow the ruling of

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present;<sup>8</sup> and (c) payments rendered “on the side” by the litigant to the arbitrator whom he or she has selected, which violate the prohibition of accepting a bribe to adjudicate a case.<sup>9</sup> It is a common complaint of contemporary authorities that many ZABLA panels today are conducted in a fashion that unfortunately implicate the concerns raised by these earlier commentators.

Nonetheless, ZABLA is not an inherently pernicious dispute resolution device. If done correctly, it can result in what the Talmud describes as “*din emes l’amito*” – the most just and judicious decision.<sup>10</sup> The Rosh notes that, notwithstanding the requirement of impartiality, it is perfectly legitimate for a *borer* to ensure that any possible Jewish law arguments that may support the side who selected him be fully explored and considered.<sup>11</sup> So long as the *borer* maintains the objectivity to decide against that side even after exploring all such arguments, the process is sound.

In addition, when parties are unable to agree upon a particular Beth Din institution or panel either in a pre-dispute arbitration clause in a contract or when adjudicating the case (if there is no pre-dispute arbitration clause), the ZABLA mechanism provides a default option for such parties to submit their dispute for resolution under Beth Din auspices, pursuant to Jewish law. Indeed, Jewish law authorities note that if there is no officially accepted Beth Din institution in a particular city, either party to a dispute has the right to insist upon convening a ZABLA panel that is conducted according to the pertinent precepts of Jewish law.<sup>12</sup>

## 2. Ensuring a Proper ZABLA Process

Nowadays, the best way to ensure a legitimate ZABLA panel – if this is the desire of the parties – is to submit a dispute to the adjudication of a respected Beth Din, and to stipulate that each party will have the right to select one of the recognized *dayanim* on the roster of that Beth Din, and that the two *dayanim* will then sit with

a third recognized *dayan* from that Beth Din. Alternatively, if the parties cannot agree upon a Beth Din to oversee the process, and each party prefers a different Beth Din, the parties can arrange for each Beth Din of their choosing to appoint a *borer*, and for the two *borerim* to select the third *dayan* (the *shalish*), who will also be from a respected Beth Din.

In either of these configurations (namely, a ZABLA confined to recognized *dayanim* of a particular Beth Din, or two trusted *Batei Din* choosing the *borerim* from their own roster of *dayanim*), the chosen *borerim* can presumably be trusted to comply with the usual laws applicable to those who sit as a *dayan* for that Beth Din, including the requirement to be impartial, untainted and not have a conflict of interest. Nevertheless, the best way to avoid the vagaries of contemporary ZABLA proceedings, which typically do not operate under the aegis of an established Beth Din, is for the parties to agree upon a mutually respected Beth Din to adjudicate their dispute in an impartial and objective fashion without invoking the ZABLA process altogether.

It should also be noted that although ZABLA does require the impartiality of all three arbitrators, a *borer* is not disqualified by virtue of being an “*ohev*,” a casual friend of the party who has selected him, unlike in a regular Beth Din proceeding. While an “*ohev gamur*,” a really good friend, would be disqualified, as would a person with a genuine conflict of interest, a *borer* could be a person who has a generally favorable sense of the person who has selected him.<sup>13</sup> Nonetheless, as noted by the Rosh,<sup>14</sup> it would be improper for a *borer* to act as a zealous advocate on behalf of one side. It is for this reason that certain *Batei Din*, including the Chicago Rabbinical Council, will not require one side to participate in a ZABLA proceeding when the other side has chosen someone who typically serves as a *to’en* (a rabbinic advocate), since it can be presumed that the *borer* will serve as an advocate rather than as a neutral arbitrator.<sup>15</sup>

## 3. Drafting an Effective ZABLA Provision – Avoiding the Pal vs. Pal Problem

A sample ZABLA provision in a contract reads as follows:

“Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration by a Beth Din (rabbinical arbitration panel), consisting of a first *dayan* (arbitrator) appointed by the claimant, a second *dayan* appointed by the respondent, and a third *dayan* appointed by the first two *dayanim* (arbitrators) selected by the parties, and judgment upon the award rendered by such Beth Din panel may be entered in any secular court having jurisdiction thereof. Within two (2) weeks after the initial notice has been sent by claimant appointing the first *dayan*, the respondent shall submit the name of the second *dayan*, and these two *dayanim* shall select the third *dayan* within thirty (30) days thereafter. The parties shall present their case before these three *dayanim*, constituting the Beth Din panel, within fifteen (15) days after the appointment of the Beth Din panel, and the Beth Din panel shall render a decision on the dispute within thirty (30) days after the hearing. Any selection of *dayanim* pursuant to this provision shall be in writing with notice to the other party and to the relevant arbitrators who have been selected at the time of any such notice, and shall include a citation of this provision. Unless otherwise agreed in writing by the parties, the internal rules and procedures of such Beth Din panel, which shall be consistent with the procedural requirements of the [State] arbitration statutes, shall be determined by the third *dayan*. In no event shall any dispute between the parties arising out of or relating to this contract be subject to any dispute resolution procedure except as explicitly set forth in this section, including, without limitation, the filing of any action, complaint or proceeding in any federal, state or local court.”

This standard language, although very

8. See *Choshen Mishpat* 17:5. Although the *Aruch Hashulchan* (CM 13:4) (R. Yechiel Michel Epstein, 1829-1908), citing this practice, suggests that nowadays when ex-parte communications have become commonplace in ZABLA proceedings, there may be an implied waiver by both parties to permit them, such a waiver is certainly not effective when one of the parties does not agree to it. In any event, a format in contravention of strict Jewish law is clearly not ideal. See Rav Mordechai Willig, *Beis Yitzchok* 5764, 17-21. 9. See *Pischei Teshuva*, supra note 6, and the extensive discussion in Rav Willig’s article, supra note 8, in which he notes that paying a *borer* for hours devoted to ex parte consultation would be particularly problematic. 10. *Sanhedrin* 23a. 11. Rosh, supra note 5. 12. See, e.g., *Pischei Teshuva* CM 2:2, *Igros Moshe*, CM 2:3 (R. Moshe Feinstein, 1895-1986). Alternatively, if each party prefers a different Beth Din in the city, the two rabbinical courts can convene together a joint tribunal, which works as an alternative form of a ZABLA panel. See *Nesivos Hamishpat (Biorim)* CM 14:3 [I am grateful to Rabbi Yosef Chaim Perlman for providing this reference] and Section 2, infra. 13. Rema (R. Moshe Isserles, 1530-1572), CM 7:7. 14. Rosh, supra note 5. 15. See also *Pischei Teshuva*, supra note 6, who also quotes his ancestor the Panim Meiros as recommending that communities establish a rule against having even a casual friend (*ohev*) as a *borer* based on similar considerations. 16. See *Avitzur vs. Avitzur*, 58 N.Y.2d 108 (1983); *Friedman vs. Friedman*, 2006 NY Slip Op 08087 [34 AD3d 418] (App. Div. 2d Dept. 2006). 17. See NY CPLR §7504

extensive, may not always be sufficient to ensure enforceability of the provision. One of the challenges of convening a ZABLA panel is that the two *borerim* cannot always agree on the identity of the *shalish*, the third *dayan*. In addition, one of the sides may stall on the selection of a *borer*. When the parties have already entered into an agreement, such as the one described above, in which they have agreed to a ZABLA type process, the question arises as to the degree to which a court will become involved in ensuring the enforcement of the arbitration provision.

Typically, when the parties have selected a clearly defined Beth Din, such as the Chicago Rabbinical Council, to adjudicate their dispute, a court will in fact order arbitration before that Beth Din.<sup>16</sup> However, in the case of a ZABLA, convening the panel of *dayanim* depends upon the selection of specific individuals. With respect to a secular arbitration panel, a court will fill in the missing arbitrator when the parties are unable or unwilling to do so.<sup>17</sup> But in the context of a rabbinical tribunal, it is obviously very problematic for a court to fill in a vacancy since a Beth Din must be convened according to the requirements of Jewish law, and not secular court practices.

In order to avoid the pitfall of a secular court interfering with the choice of *dayanim* in a ZABLA panel when the matter cannot otherwise be resolved by the two *borerim* selected by the parties, it would seem prudent for the parties to insert the following clause in a ZABLA contractual provision, filling in the blanks as appropriate:

“In the event that one party fails to choose a *dayan* within the specified time, the parties agree that [the Beth Din of \_\_\_ or Rabbi \_\_\_] shall be empowered to appoint the *dayan* on behalf of such party. Similarly, if the two *dayanim* are notable to select a third *dayan* within the time specified herein, [the Beth Din of \_\_\_ or Rabbi \_\_\_] shall be empowered to select the third *dayan* in order to ensure the adjudication of the

dispute pursuant to this provision.”

This clause has the advantage of being subject to enforceability by the courts as well as being consistent with the dictates of Jewish law because it ensures that all members of the ZABLA panel shall be selected in accordance with a halakhic process overseen by proper rabbinical authorities.

#### 4. Other ZABLA Issues

Even when a Beth Din institution is tasked with convening a ZABLA, there are various areas of dispute from the perspective of Jewish law regarding the proper rules of doing so. One point of contention is whether the litigants themselves need to consent to the choice of the *shalish*, or whether the choice of this third *dayan* is solely at the discretion of the two *borerim* selected by the litigants.

According to the letter of Jewish law, the *shalish* can be selected by the two *borerim* even without consent of both sides.<sup>18</sup> Although many have the custom to elicit the consent of the parties with respect to the *shalish*<sup>19</sup> this cannot be insisted upon later on in the proceeding when such a practice was not made a prerequisite to the selection of the ZABLA panel in the arbitration agreement.<sup>20</sup>

This lack of party prerogative over the choice of the *shalish* can become relevant when the Beth Din needs to determine whether a ZABLA has been properly convened as a matter of Jewish law. For example, consider a case where the parties sign an arbitration agreement which specifies that any dispute will be submitted to a ZABLA. However, the parties also insert language in the arbitration clause that specifies that the case will revert to the jurisdiction of a certain Beth Din if the ZABLA cannot be successfully convened. Subsequently, the parties choose two *borerim*, and the two *borerim* agree upon a *shalish*, but then one of the original two *borerim* withdraws and is replaced by a substitute *borer*, who does not object to the

previous selection of the *shalish*. The party who selected the initial *borer* now argues that a valid ZABLA panel was not formed, since the new *borer* did not participate in the choice of the original *shalish*, whom that party did not endorse. It would seem that in such a case the proper halakhic ruling to be followed by a Beth Din is that since the two initial *borerim* had agreed upon the appointment of the *shalish*, and the substitute *borer* also indicated satisfaction with their original choice, the ZABLA panel was validly convened and thus has jurisdiction to adjudicate the case.

#### 5. Conclusion

Based on all of the concerns described herein, parties entering into a dispute resolution clause in a contract or arbitration agreement which stipulates for a ZABLA proceeding in the event of a dispute, should bear in mind the following considerations: (a) it is best to stipulate that the ZABLA be under the auspices and direction of a respected Beth Din (or group of respected *Batei Din*),<sup>21</sup> in order to prevent potential violations of Jewish law regarding the impartiality and integrity of the ZABLA; (b) in the event of an impasse, there should be a designation of a specific Beth Din or rabbinic authority to fill any vacancy, especially since the standard arbitration rule that a court normally fills any arbitration vacancy is not appropriate for the convening of a Beth Din tribunal; and (c) despite the potential benefits of a properly convened ZABLA, the parties would be well advised to consider submission to a regular Beth Din process before a respected and established institutional Beth Din in order to avoid the vagaries of the ZABLA process from the perspective of Jewish law as well as to ensure the smooth enforceability of the arbitration agreement under secular law.

“Court appointment of arbitrator”) which states: “If the arbitration agreement does not provide for a method of appointment of an arbitrator, or if the agreed method fails or for any reason is not followed, or if an arbitrator fails to act and his successor has not been appointed, the court, on application of a party, shall appoint an arbitrator.” 18. See *Choshen Mishpat*, 13:1. 19. See R. Avrohom Derbarmdikar, *Seder Hadin* 3:2. 20. *Seder Hadin*, supra note 32, at 3:30. 21. See, e.g., Rabbi J. David Bleich, “The Beth Din – an Institution Whose Time Has Returned”, *Contemporary Halakhic Problems*, Vol. IV, at pages 15-16, arguing for the establishment of a centralized national Beth Din which would include “establishing a fairly large roster of *dayanim* and permitting litigants to use a limited form of the ZABLA system, i.e. the system under which each litigant chooses one member of the tribunal. Litigants might be permitted to designate the members of the Beth Din that would hear their case but would be limited in being able to select a panel of *dayanim* only from among the designated list of members of the national Beth Din.” In a footnote, the author attributes the idea of putting together such a roster of *dayanim* to Rav Yaakov Kamenetsky (1891-1986), who had suggested it to Rabbi Bleich in the context of convening a ZABLA Beth Din for antenuptial agreements in order “to avoid the procrastination that unfortunately develops” in selecting members of a ZABLA.

## NISSAN / APRIL

### IMPORTANT DATES & TIMES FOR THE CHICAGO AREA 2025

#### THURSDAY | APRIL 10 | יב ניסן

Taanis Bechorim  
Bedikas chametz in the evening

#### FRIDAY | APRIL 11 | יג ניסן

Burn Chometz by 11:33 am\*  
Candle Lighting 7:10 pm

#### SHABBOS | APRIL 12 | יד ניסן

Finish eating chometz by 10:15 am  
Destroy chometz by 11:33 am

#### MOTZEI SHABBOS | APRIL 12 | טו ניסן

Candle Lighting – not before 8:19 pm  
Finish Afikoman by 12:50 am

#### SUNDAY NIGHT | APRIL 13 | טז ניסן

Candle Lighting – not before 8:20 pm  
Finish Afikoman by 12:52 am

\*As a community service, the following

organizations will hold public BIUR

CHAMETZ on Friday, April 11, 2025:

The Agudah will be from 8 AM to 11:30

AM at the Lincolnwood Town Center

– Lower Level, southeast parking lot.

(Enter from McCormick via Town Center

Drive.), and F.R.E.E. of Chicago – The

Bellows Center will be from 8 AM to 11

AM in their parking lot at 2935 W. Devon

Ave. in Chicago.

## MILK AND DAIRY PRODUCTS FOR PESACH 2025

The cRc certifies many milk brands for Pesach. The Kosher for Pesach status is indicated by the code P-25 appearing alongside the “best by” or expiration date. **Exceptions are noted in bold below.** For the following milk products, the cRc logo does not need to appear on the product; it is certified Kosher for Pesach as long as the correct brand, plant number, and P-25 are present.

**All products from plant 17-087 will bear a "P" without the year "25".**

**All products from plant 29-132 will bear a "KP" without the year "25".**

Best Choice (17-087, 17-284)	Kemp's (27-168)
County Market (17-087, 17-284)	Kemp's Select (55-1500)
Dairy Pure (55-1500)	Lucerne (55-1500)
Essential Everyday (17-284)	Piggly Wiggly (55-1500)
Farmer's Pride (55-1500)	Prairie Farms (17-087, 17-284, 29-132, 47-125)
Festival (55-1500)	Roundy's Select (55-1500)
Good and Gather (17-087, 17-284, 55-1500)	Schnuck's (17-087, 17-284, 29-132)
Great Value (17-087, 55-1500)	Shoppers Value (17-087)
Hy Vee (17-087)	That's Smart (17-087)
Jewel (55-1500)	Trader Joe's (55-1500)

### CHEESE & SOUR CREAM

The following products are only certified for Pesach when bearing the cRc logo and the words Kosher for Pesach/Passover on the product.

#### Cheese

Oneg Cheese  
Schtark Cheese

#### Sour Cream

Daisy Brand (48-0957) – 16 oz **regular only**

### HALF & HALF

The following products, listed by brand name and plant number, are only certified for Pesach when bearing the cRc logo and the P-25 code.

Kemp's Select (55-1500)  
Prairie Farms (17-284)  
Trader Joe's (55-1500)

[VISIT CRCPESACH.ORG](https://www.crcpesach.org)

to access the digital version of

**The Pesach Guide** as well as updated Pesach information including the **cRc Pesach Fair**.





# MATZAH

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*Mishnah Berurah* that when creating *lishmah* during harvest and milling one can rely on the lenient opinion, but when doing so for the kneading stage (and beyond) the person working with the dough is the one who must do so *lishmah*.

It is best that the people “creating” the *lishmah* not just think about that idea but actually verbalize their intention by saying that the work they are doing is *l’shem matzos mitzvah* (with intent that these *matzos* be suitable for *Seder* use). The minimum is that this pronouncement be made at the beginning of the workday (or at the beginning of each shift) but some bakeries are careful that the workers say this each time they start a new round of baking (i.e., every 18 minutes).

We noted previously that *lishmah* must surely begin by the time water is added to the flour (i.e., kneading). *Magen Avraham* says that this includes kneading/*lishah*, *arichah* (defined below), and baking/*afiyah*, since all those steps are necessary to create bread/matzah. However, he is unsure whether the *reddling* (putting holes in the dough) requires *lishmah* since bread/matzah can technically be made without holes. *Mishnah Berurah* says that *l’chatchilah* one should be *machmir* on this point, and the common practice is to do so.

The literal translation of “*arichah*” is arranging or setting up. Let us look at the 4 steps which occur between when water is added to the flour and the *reddling* occurs, to see what he is referring to.

The 4 steps are: [1] primary kneading to create a ball of dough; [2] secondary kneading, which ends with the dough in the shape of a log; [3] cutting the dough into pieces, each of which will eventually become one matzah; and [4] rolling the pieces of dough to flatten them into the shape and thinness of a matzah. Steps 1 and 2 are included in “kneading/*lishah*”, and seemingly Steps 3 and 4 are the “*arichah*”, the means of preparing/arranging the kneaded dough to be ready for [*reddling* and] baking.

Thus, the simple understanding is that all 4 of these steps must be done *lishmah*. However, some have argued that it is theoretically possible to bake each of the dough-pieces (created in Step 3) without rolling them out and, therefore, Step 4 is not included in “*arichah*” and does not have to be *lishmah*. [Note that even if this is correct, Step 4 cannot possibly be less significant than *reddling*, where common practice is to assume it must be *lishmah*]. In the coming paragraphs we will see that this novel suggestion has significant practical applications for those who accept it.

## Who

The person creating *lishmah* – either by watching (for harvest or milling) or performing the work (for kneading and beyond) – must be an adult Jew, whether male or female. Non-Jews do not care about the *mitzvah* of matzah; as a result, they cannot create *lishmah* since we assume they will not truly have the proper intent. What about a Jewish person who is not *shomer mitzvos*? Some say that since he is Jewish and is cognizant of the *mitzvos* (or at

least of this *mitzvah*), he can create *lishmah* even if he personally is not observant. Others argue that since this Jew doesn’t show care for *mitzvos* in his personal life, he is not trusted to have the proper intent (similar to a non-Jew, as noted above).

In general, hand matzah bakeries will only hire workers who are Jewish and *shomer mitzvos*. Some take this more seriously (only “*Heimische*” people whom they know well) and others are less careful (and might just ask for a letter of reference), but overall this is something that they pay attention to. Of course, this only applies to the tasks which require *lishmah*, and not to those jobs which just assist these workers. For example, the people who knead the dough and the *reddlers* will be *Shomrei mitzvos*, but that is not a requirement for the ones who put paper onto the poles which hold the dough going into the oven.

However, the exact place to draw the line between those jobs that require *Shomrei mitzvos* and those that do not, exposes a significant difference between different bakeries. Specifically, the question is whether the people rolling the dough (Step 3 above) must be qualified to create *lishmah*. As noted above, some follow the novel approach that rolling the dough does not require *lishmah* and will therefore hire people with the most minimal verification that they are even Jewish (let alone *Shomrei mitzvos*).<sup>1</sup> For example, they might be satisfied with just asking them, “are you Jewish?” to decide if they can work at the bakery.<sup>2</sup> In contrast, other bakeries follow the simple understanding that rolling of the dough must be done *lishmah* and also take the position that the person doing that job must not only be Jewish but also *shomer mitzvos*. They would, therefore, be as careful in hiring the people rolling the dough as they are for those who

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knead the dough, put it into the oven, etc.

Those who choose to follow the [simple yet] strict position on this matter should inquire about the standards at a given matzah bakery before choosing which *matzos* to use at the *Seder*.

## Devices

As much as people claim that matzah production hasn't changed in centuries, the truth is that there have been many improvements over the years. For example, stainless steel equipment is much easier to clean than wood so most bakeries have switched to that, and [the second] kneading is commonly performed with a heavy metal pin attached with a hinge to the wall, which is very efficient but surely didn't exist 100 years ago. These changes, when introduced, typically made the process more efficient and/or helped in the prevention of the dough becoming *chametz*, and they were welcomed by just about everyone.

As part of the industrial revolution, people came up with machines that offered to significantly change the way matzah was made. This dramatically lowered the price of matzah and provided improvements in preventing *chimutz*. However, this caused considerable controversy because it raised questions of whether *matzos* made on the machine would be considered *lishmah*. If a *shomer Shabbos* Jew operated the machine with *lishmah* intentions, is that enough for the matzah to be suitable for use at the *Seder*? The details of that question are beyond the scope of this work but stand as the main difference between handmade and machine-made *matzos*. Thus, although many Jews in the United States eat machine-made matzah at the *Seder*, most of the more religious Jews will only use handmade matzah so that they can be sure they have fulfilled the *mitzvah* using matzah which is *lishmah*.

But in recent decades some new devices have been introduced which lie somewhere between handmade matzah and machine-made matzah. Some examples of this are foot-powered kneading devices, hydraulics that lift the (heavy) kneading bar off the dough, double hand-cranked rollers that the dough passes through, and belts to remove matzah from the oven after it is baked. In each of these cases, the critical process – kneading or baking – is not automated and must be performed by a person's actions, but at the same time there is a "machine" involved. While there are those (particularly those from *Chassidic* backgrounds) who oppose these devices, many others approve of their use and will consider matzah made with them to be *shemurah/lishmah*.

1. Some rely on this only in conjunction with the principle of *gadol omed al gabav* (which is potentially effective even for a non-Jew), but, in a different context, *Mishnah Berurah* says that this principle requires continual stressing of the *lishmah* by the *shomer Shabbos*, which not every bakery chooses to do.

2. Decades ago, these roles were filled by older women from Russia, at a time when there was strong reason to believe that the only ones who left that country were Jewish (although, they were likely not *Shomrei mitzvos*). However, today, there is less reason to rely on this assumption.



**Chicago Rabbinical Currents** is a monthly community newsletter of the Chicago Rabbinical Council (cRc), featuring articles by the staff of the cRc Beth Din and of cRc Kosher.

We value proactive community engagement, education and partnership, and Chicago Rabbinical Currents articles address aspects of practical halacha that are applicable to all.

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