



Questions

- (1) Is it ethical for a commercial kashrut organization to receive tax benefits as a charitable organization?
- (2) May a commercial kashrut organization decline to certify food at an event for non-kashrut reasons, like halachically problematic entertainment?
- (3) May a commercial kashrut organization certify products which don't require kosher supervision?

1. Timothy Lytton, Motti Talias, *Shaking Up Israel's Kosher Certification System*, Fall '14

<https://jewishreviewofbooks.com/articles/1163/shaking-up-israels-kosher-certification-system/>

After graduating from Brandeis in the mid-1970s, Ilana Raskin moved to Jerusalem and got a master's degree in counseling. When she grew bored with social work, she began taking belly-dancing lessons from a friend in Tel Aviv and developed a successful second career dancing at parties, weddings, and bar mitzvahs. Then, suddenly, in 1988, her business took a downturn. When Raskin asked restaurant and banquet hall owners what had changed, they explained that Jerusalem's religious council disapproved of belly dancing and had threatened to revoke their kosher certification... In 1990, a year after the Raskin decision, controversy erupted over mixed dancing during evening cruises on the Hudson River on a ship called the "Glatt Yacht." A rabbi from the private agency certifying the ship's food insisted, "When we certify an establishment as kosher, it must meet all of the regulations of Jewish law, including the entertainment." Mixed dancing was not permissible. "The Rabbi should be in the kitchen," an outraged passenger who was asked to stop dancing told The New York Times. When the ship owner refused to prohibit dancing, the agency withdrew its certification...

Part I: Dismissing Misinformation

2. <http://www.thekosherquestion.com/#!/the-kq/581169268>

Should the Kosher-Certification Industry operate under a benevolent "income-free" basis as religious organizations often do, rather than tax-exempt revenue driven businesses? Wouldn't it be morally righteous for the various religious agencies to provide charitable kosher-certification of products for those who demand it? Instead, this certification industry operates with an enormous revenue stream, all tax-free because of its religious organization status. The issue here is that most consumers are not members in the congregation that is extracting income from such certification, and usually receive no benefit from the programs they fund.. They are not given transparent disclosure to the amount of income derived, nor where it goes. They cannot pressure the organizations to be clear on financial reporting with the threat of "leaving the congregation". Not having this leverage to disclose financials goes against the original arguments in our congress that permitted religious organizations to operate tax-free without reporting their numbers.

3. Government of Canada, *Advancement of Religion*

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/registering-charitable-qualified-donee-status/applying-charitable-registration/charitable-purposes/advancement-religion.html>

There must be an element of theistic worship, which means the worship of a deity or deities in the spiritual sense. To advance religion in the charitable sense means to preach and advance the spiritual teachings of a religious faith, and to maintain the doctrines and spiritual observances on which those teachings are based...

4. CRA Charity Listing: Kashruth Council of Canada

The charity promotes the observance of Orthodox Judaism by ensuring the availability and identification of kosher products through its supervision and certification of food service production.

5. Transparency at the CRA <http://bit.ly/CORlisting>

6. <https://www.adl.org/resources/backgrounders/the-kosher-tax-hoax-anti-semitic-recipe-for-hate>

A May 18, 1975 *New York Times* article reported that the cost to General Foods' "Bird's Eye" Unit, for example, is 6.5 millionths (.0000065) of a cent per item.

Part II: May a Kashrut Organization take payment for its mitzvah?

7. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch, Yoreh Deah 336:2

הרופא, אסור ליטול שכר החכמה והלימוד, אבל שכר הטורה והבטלה, מותר.

A doctor may not take payment for conveying knowledge and teaching, but he may take payment for strain and time lost [from other remunerative pursuits].

8. More on this subject

<https://www.yutorah.org/lectures/lecture.cfm/835117/>

9. Rabbi Dr. Avraham Sofer Abraham (21st century Israel), Nishmat Avraham Yoreh Deah 336:11: end

והעיר לי מו"ר הגרי"י נויבירט שליט"א: ומה יהיה אדם שיש לו נאמנות רק לגבי רופא מסויים, ואם כי יש רופאים בחינם, אבל רוצים דוקא זה שלוקח כסף? האם כופין אותו לרפאות בחנם?

Rabbi Yehoshua Neuwirth pointed out to me: What will be when a man trusts only a certain doctor, although other doctors would treat for free, and he only wants the doctor who takes a fee? Will we force that doctor to treat for free?

Part III: What is a Kashrut Organizational role in the community?

10. Rabbi Moshe Isserles (16th century Poland), Shulchan Aruch, Yoreh Deah 334:6

ויש רשות לבית דין להחמיר עליו שלא ימולו בניו, ושלא יקבר אם ימות (בנימין זאב סי' רפ"ט וכ"כ הב"י בשם הרמב"ן סי' רמ"ד), ולגרש את בניו מבית הספר ואשתו מבית הכנסת, עד שיקבל עליו הדין (נ"י פרק הגזול).

A court has the right to be severe upon a [recalcitrant] person, that none shall circumcise his sons, he shall not be buried if he should die, and to expel his children from school and his wife from the synagogue, until he accepts the verdict.

11. Rabbi Moshe Isserles (16th century Poland), Shulchan Aruch, Even haEzer 154:21

יכולין ליגזור על כל ישראל שלא לעשות לו שום טובה או לישא וליתן עמו (שערי דורא בשם ר"ת ובמהרי"ק), או למול בניו או לקברו, עד שיגרש... They may decree upon all Jews not to do any favours for [a man who refuses to divorce his wife as ordered by a court], or to engage in commerce with him, or to circumcise his sons or to bury him, until he divorces...

12. Talmud, Gittin 5b

בר הדיא בעי לאתויי גיטא אתא לקמיה דרבי אחי דהוה ממונה אגיטי א"ל צריך אתה לעמוד על כל אות ואות אתא לקמיה דרבי אמי ור' אסי אמרי ליה לא צריכת וכי תימא אעביד לחומרא נמצא אתה מוציא לעז על גיטין הראשונים

Bar Hedyā wanted to be approved to deliver gittin. He came to Rabbi Achi, the official responsible for gittin, who told him, "You must be present when every letter is written." He then came to Rabbi Ami and Rabbi Asi, who told him, "You need not do so. And saying 'I will practice stringently' would slander earlier gittin!"

13. Talmud, Ketuvot 85b-86a

קריבתייה דרב נחמן זבינתה לכתובתה בטובת הנאה, איגרשה ושכיבה. אתו קא תבעי לה לברתה, אמר להו רב נחמן, "ליכא דליסבא לה עצה? תיזיל ותיחלה לכתובתה דאמה לגבי אבוה, ותירתה מיניה." שמעה, אזלה אחילתה. אמר רב נחמן, "עשינו עצמינו כעורכי הדיינין!" מעיקרא מאי סבר ולבסוף מאי סבר? מעיקרא סבר "ומבשרך לא תתעלם (ישעי' נח:ז)", ולבסוף סבר אדם חשוב שאני.

Rav Nachman's relative sold an option on her *ketubah* claim. She was divorced, and then she died. They came to claim the *ketubah* from her daughter. Rav Nachman said to the sages, "Will no one counsel her? Let her go forgive her mother's *ketubah* claim to her father, and then inherit it from him!" She heard, and went and forgave it. Rav Nachman then said, "We have made ourselves as those who arrange the judges!" What did he think beforehand, and afterward what did he think? At first he thought, "Do not ignore your flesh." In the end he thought that a person of status is different.

14. Rabbi Shlomo Yitzchaki (Rashi, 11th century France), Commentary to Ketuvot 86a

אדם חשוב שאני - לפי שלמדין הימנו ויש שיעשו אף שלא לקרובים.

"A person of status is different" – Because they learn from him, and some will do this even for non-relatives.

15. Talmud, Moed Katan 17a

אמר רב הונא באושא התקינו אב בית דין שסרה אין מנדין אותו אלא אומר לו הכבד ושב בביתך חזר וסרה מנדין אותו מפני חילול ד'. Rav Huna said: In Usha they enacted that if a Chief Justice goes bad, we do not ex-communicate him. We tell him, "Be honoured and remain at home." If he repeats the act, we ex-communicate him because of desecration of Gd's Name.

The Ethics of Commercial Kashrut Supervision

Rabbi Tsvi Heber – theber@cor.ca

Questions

- (1) Years ago, commercial kashrus agencies certified businesses which were open on Shabbos, now many refuse to do so. What has changed?
- (2) Should a certifier implement a lowest common denominator or elevated standard or multiple standards?
- (3) Should a commercial kashrus certifier refuse to have certain vegetables at their events because infestation is high?

1. Frank Bruni, *A Kosher Quibble*, The New York Times Diner's Journal, February 14, 2008
<https://dinersjournal.blogs.nytimes.com/2008/02/14/a-kosher-quibble/>

The writer, Fred Bernstein, said: "I was surprised that you described the Second Avenue Deli as kosher. Because it is open on the Sabbath, almost no observant Jew would consider it kosher." "Believe it or not," Fred added, "I had this very conversation last Thursday with Steven Spielberg, Sacha Baron Cohen and Leah Adler — Steven's mother — at her kosher dairy restaurant in L.A." In a subsequent e-mail, Fred specified that "Sacha Baron Cohen and Leah Adler (both of whom keep kosher) said that a restaurant that's open on the Sabbath isn't kosher."

2. *Kovetz Teshuvos*, Volume 3, *Siman 3*

דבר השאלה באחד שיש לו מסעדה למאכלי דגים בעיר מינכן והמסעדה פתוחה גם בשבתות וימים טובים. יהודי הנ"ל לא נכנס כלל בהמסעדה בשבת ויו"ט והכנת האוכל ומכירתם למבקרי המסעדה הכל נעשה על ידי גוי בין בחול בין בשבת והגוי מקבל אחוזים בכל חודש מכל הרווחים. בין כל היהודים במינכן ידוע כי בעל המסעדה הוא יהודי האם אי למיעבד הכי או לא?

In Munich (1963) a question arose regarding a Jewish-owned fish restaurant which was open on *Shabbos* and *Yom Tov*. The Jewish owner did not enter the establishment on Shabbos and Yom Tov. All cooking and sales were performed by a non-Jew who received a percentage of the monthly profit. The Jews of Munich knew that the restaurant was owned by Jew. Is this permissible?

ובמקרה דגן הכל יודעים ומכירים את היהודי בתור בעל המסעדה ואין להתיר בכהאי גוונא

In our case since everyone knows that the Jew is the owner of the restaurant, it is not permitted.

3. Rabbi Eliezer Melamed, The difference between standard and *mehadrin Kashrut*, *Arutz Sheva*, Nov. 2019
<http://www.israelnationalnews.com/Articles/Article.aspx/24708>

And yet, the difference between standard and *mehadrin kashrut* is clearly expressed first and foremost in the level of supervision: standard *kashrut* suffices with occasional supervision suitable in accordance with the rules of halakha, while in *mehadrin kashrut*, supervision is closer and stricter, thereby reducing mishaps that are liable to occur.

4. *Shulchan Aruch*, *Yoreh Deah Siman 118*, Sif 1

המניח נכרי בביתו ובו דברים שאם הוחלפו יש בהם אפילו איסור תורה אם הוא יוצא ונכנס או אפילו שהה זמן רב ולא הודיעו שדעתו לשהות מותר ולא חיישינן שמא החליף אפילו אם הוא נהנה בחליפין. והוא שלא סגר הבית עליו לפי שהוא מתיירא בכל שעה לאמר עתה יבא ויראנו. אבל אם הודיעו שדעתו לשהות אסור. ואם אינו נהנה בחליפין מותר בכל ענין דלא חיישינן שמא החליף להכשילו כיון שאין לו בדבר הנאה.

One who leaves a non-Jew alone in his house, and inside there are things that could be switched, and they would be then forbidden by the Torah, if he goes out and re-enters or even if he waited a long time and did not inform him that he intends to wait, it is permitted, and we do not worry that perhaps he switched it, even if he will benefit from switching the product, and this is provided that he does not lock his house up. Because he is afraid, the entire time, saying, "Now he will return and he will see me." But if he informed that he intended to wait, it is forbidden. But if he will not benefit from the switch, it is permitted in any case, for we are not concerned that perhaps he will switch them and cause the owner to stumble, since he gains no benefit from this matter.

5. Shulchan Aruch, Yoreh Deah, Siman 115, sif 1

היה לו דבר טמא בעדרו והישראל יושב מבחוץ והגוי חולב לצורך ישראל וכו' אם יכול לראותו כשהוא עומד מותר שירא שמא יעמוד ויראהו

If he had a non-kosher animal in his flock and the Jew was sitting outside and the non-Jew was milking the (kosher animal) for the sake of the Jew, if the Jew is able to see the him milking the cow when he stands up then it is permitted since he is afraid that he will stand up and see him (milking a non-kosher animal).

6. Turei Zahav, Yoreh Deah, Siman 115, sif katan 3

נראה דכל שכן דמהני כשהוא יוצא ונכנס דהא אפילו גבי שהיטת כותי מהני כשישראל יוצא ונכנס

Certainly an “out and in” style of supervision would be effective since it is an effective method of supervision even for a *kuti's shechita*.

7. Igrot Moshe, Yoreh Deah, Volume 3, Siman 8

וגם בענין יוצא ונכנס אף במקום שסגי בזה רבו המכשולות שמקילים בזה הרבה עד שכניסתם הוא לפעמים רחוקות שכבר יודעין הבעלים והפועלים בערך ולא מירתתי כלל

And even in regard to “out and in” supervision, even when it (halachically) helps, there are many problems as they are very lenient in this regard, to the extent that they enter only once in a while and the owners and workers already know approximately (when he will arrive) and they are not afraid at all.

8. Tosfot, Chullin (3b) “Bodek Sakin”

וי"ל דישראל מומר לא מירתת דאין סבר שיבדקו הסכין אחריו לפי שהוא מחזיק עצמו לישראל לכל דבריו

It can be suggested that a מומר is not afraid because he believes they would not check his knife because he considers himself Jewish for every purpose.

9. Ram”a, Yoreh Deah, Siman 39 Sif 2

מי שקרע בטן הבהמה וקודם שתבדק הריאה בא כלב או עכו"ם ונטלה והלך לו הרי זו מותרת

If the animal’s stomach was torn and prior to having a chance to check the lungs a dog or a non-Jew came and took it and left, the animal is permitted.

10. Rashb”a, Chullin (9a) “v’raya l’hatir”

ומה שחששו להן חכמים ומנהג אבות קדושים קדמונים יותר לבדיקת הריאה יותר משאר י"ח טריפות, יש מפרש שסירכות הריאה דבר מצוי ולמיעוט מצוי חששו ולמיעוט שאינו מצוי לא חששו. וכתב רבינו הרב ז"ל שאין טעם זה מספיק וכו' ועוד טעם אחר בדבר שהוא קרוב ומזומן לראותו כגון הריאה שאם יש בה סירכא מיד תראה בעינים בפתיחת הבהמה ואינו בודק נראה כמעלים עין מן האיסור וכו' ע"ש.

And that which has been the practice of wise men and our forefathers to check lungs more than any of the other eighteen *treifot*, some say, is because lesions in the lungs are a common problem whereas other *treifot* are uncommon. And our Rebbe wrote that this reason does not suffice. Another reason is that (a lesion) is easily checked such that if you do not check for it, it would appear as if you are hiding your eyes from the prohibition.