

Hakhmei Lev

THE TORAH JOURNAL OF
BETH AVRAHAM YOSEPH OF TORONTO CONGREGATION

VOLUME 3 • TISHREI 5783

Editors

Ezer Diena

Esther Huberman

Dr. Gerard Klein

Rabbi Shmuel Lesher

Rabbi Ken Stollon

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Hakhmei Lev

The Torah Journal of Beth Avraham Yoseph
of Toronto Congregation

Volume 3 · Tishrei 5783

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Esther Huberman

Dr. Gerard Klein

Rabbi Shmuel Leshner

Rabbi Ken Stollon

Publisher

Rabbi N. Daniel Korobkin

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info@danielsafran.com

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עטרת זקנים בני בנים

*“Ateret Zekanim Bnai Banim –
The crown of the elders are their grandchildren”*

This volume of our journal is dedicated
in honour of our wonderful children and
amazing grandchildren

Sharona & Nachman Rosenberg

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Carrie & Morrie Klians

This volume of our journal
is also dedicated in memory of

Lil (Libby) Klians ז"ל

ליבה בת אליקזנדר ז"ל

Mother, Grandmother and Great-Grandmother

and

Nadine Klians ז"ל

נחמה בת שמואל ז"ל

Sister, Aunt and Great-Aunt

On the observance of their first yahrzeits

May their neshamas have an aliyah

And in memory of our beloved parents

Sammy Klians שמואל בן דניאל

Norman Holtzman נתן נטע בן בצלאל

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By Carrie & Morrie Klians

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Publisher's Foreword

OUR THIRD VOLUME of stimulating Torah essays also sees the addition of two new editors. In addition to our already excellent editors, Rabbi Shmuel Leshner, Rabbi Ken Stollon, and Dr. Gerard Klein, we're delighted to welcome Esther Huberman and Ezer Diena, who hit the ground running and have done a truly great job at helping each of our contributions to this journal flow more smoothly. Thank you to all our editors for a job well done.

We extend our deep thanks to Morrie and Carrie Klians, who have dedicated this journal to their children and grandchildren, as well as to the beloved memory of Morrie's mother and sister, both of whom passed over this past year. In reading Carrie and Morrie's dedication, I was touched by this passing of the torch from one generation to the next. Many of us are the sandwich generation, still raising children but also taking care of aging parents. Others have already seen their children leave home and are reaping the *nachas* fruits of their adult children's accomplishments while at the same time going through the painful transitions from life to death of the older members of our families.

As the new year 5783 rolls around, it's a time to look both backwards and forwards. We look back at the previous generations with great admiration, appreciation and gratitude. We look forward to our children and grandchildren with great anticipation as we see all the potential of lives yet to be lived and accomplishments yet to be realized.

We can also marvel at all the differences in living daily life that have taken place in just one short generation. In either our own or our parents' lifetimes, there were no answering machines, cell phones, personal computers or Internet. When you tried to call someone, if they weren't home, that was that. If you wanted to know what the latest news was, you had to wait until the evening news on TV or the newspaper delivery the next morning.

Sivan Rahav Meir, a media celebrity in Israel today, recently wrote a column citing a prayer composed by Shmuel Emanuel, a Holocaust survivor and one of the founders of Kibbutz Sha'alvim. Back in 1978, he wrote the following prayer that he would recite to himself regularly:

G-d! Give me the wisdom not to be enslaved to the mass media.

Give me the tranquility to continue to work and be active when the lives of all those around me are disrupted by the radio and the television.

Grant me the discipline to be updated once or twice a day and not every passing minute.

Give me the courage to overcome a perverse curiosity that confuses and distracts me.

Give me the wisdom to understand that I will not be missing anything and will lose nothing if I hear the news later on.

Give me the common sense not to waste my time thinking about and guessing what will come next when, within days or hours, I will see my suppositions had no merit.

Grant me the humility to recognize that nothing will change in Your world, and nothing in the course of history will be altered, if Shmuel Emanuel does not follow every move of some politician.

Make a portion of Your Torah a part of me so that I do not waste my time reading articles and hearing analysis based on guesses and futile evaluations that pop up all of a sudden and are just as quickly proven wrong.

If this prayer was apt before the advent of computers and smartphones, how much more applicable is it today. As much as I get excited over new technology, I also worry about the negative fallout to ourselves and our children. With the immediacy of the news cycle, we have lost patience and have difficulty focusing for more than a short moment on any one particular idea.

For our children, it's even more concerning. Young brains can become overstimulated and overly bombarded by new media, which can impede creativity and invention. There is no substitute to reading, both for ourselves and our children.

One of our goals in producing *Hakhmei Lev* is to raise the level of dialogue and thought for our readership. Especially over this High Holiday season, I hope you'll take some time to peruse the very thoughtful and inspiring essays and *divrei Torah* composed by your contemporaries. If anything in these pages provokes thought, maybe you'll even be motivated to be a contributor to one of our future editions of this journal. Our authors have "put themselves out there" for your reading pleasure. Please thank them when you see them out and about.

With the new year comes new changes and transitions. My blessing to us all is that we face these transitions – both the happy and the sad – with a goodly constitution and fortitude of spirit. May the *smachot* of 5783 far outweigh the misfortunes. From house to house, we wish you a *kesivah v'chasimah tovah*.

Rabbi N. Daniel Korobkin

Summer 5782

Editors' Foreword

WITH THE PUBLICATION of the third issue, our journal has attained what is referred to in Talmudic parlance as a *hazakah* (an established reality). It is a source of pride and inspiration that with this *hazakah*, *be'ezras Hashem*, our *Hakhmei Lev* journal is here to stay. But it is more than that. The Hebrew root of the word *hazakah* is *hazak* or strength. This third volume has also provided much *hizzuk* – spiritual strength and inspiration. The articles, *divrei Torah* and thoughtful reflections contained in the pages of all three issues of our journal are a testament to our community's spiritual abilities.

As we approach the Yamim Noraim and the days of judgment in search of inspiration and *hizzuk*, it is our hope that the *Hakhmei Lev* journal will provide just that. Contributors, editors, and authors will be heartened from the journal by seeing the fruits of their labor. Readers, and hopefully future contributors, can derive inspiration from the Torah of our dedicated, knowledgeable and bright community.

But perhaps most importantly, our journal reminds us of the strength we have together as a community. As we come together for the High Holidays, we need to look no further than our own shul and community to be uplifted. *Ashreinu mah tov helkeinu* – how fortunate we are to be part of such a wonderful, diverse and special *kehillah*. May we continue to share wisdom, light and words of Torah together for many years to come.

Wishing you and your family a *Shanah Tovah*!

The Editors

A Word About the Cover

THE COVER OF this volume features *Jews Praying in the Synagogue on Yom Kippur*, a renowned oil painting by the Jewish Galician artist Maurice (Maurycy) Gottlieb painted in 1878, one year before the artist's early demise at age 23.

Looking at this painting, one feels the solemn and communal atmosphere of Yom Kippur as well as its spirit of self-reflection making *Jews Praying in the Synagogue on Yom Kippur* a fitting cover for the Yamim Noraim issue of our journal. Of interest are the artist's three self-portraits found within the painting. In the first, he is in the lower left as a very young boy. He is slightly older in the second instance, found on the far right. And finally, most importantly, he is the key figure resting his head on his hand in contemplation.

Before his early passing, Gottlieb was a prolific painter who often revisited his themes of Jewish life and religion. Many of his works, including this one, are on permanent display at the Tel Aviv Museum of Art.

A Note To The Reader

The views expressed in this journal are those of the contributors alone. They do not necessarily represent the views of the Editors or the rabbinic leadership of the BAYT.

Yamim Noraim

Kapparah: Does G-d Grant Atonement or Does Man?

RABBI SHMUEL LESHER

THERE IS A Jewish practice that is as odd as it is ubiquitous. Jews all around the world, on the eve of Yom Kippur, the holiest day of the year, ask each other for forgiveness. At first blush, this certainly makes sense. We are warned in the Mishnah in *Yoma* (85b)¹ that whereas Yom Kippur has the power to atone for sins between man and G-d, it is ineffective for interpersonal sins. Therefore, it is certainly logical that on the eve of Yom Kippur, before entering a day dedicated to repentance and to asking G-d to forgive us, first we must do right by the people we have wronged.

However, there is a glaring problem with this. Why do we wait until the eve of Yom Kippur? If you wronged someone, wouldn't it make more sense to ask that person for forgiveness as soon as possible? Lest you say that this is a case of meeting the "final deadline," the *Shulhan Arukh* appears to codify this practice of procrastination. The title of the chapter in which the *Shulhan Arukh* lists the custom to ask others for forgiveness is "To Appease Your Fellow on *Erev Yom Kippur*."² In order to answer this question, a closer examination of the the mitzvah of *teshuvah* (repentance), specifically for *aveiros bein adam la-haveiro* (sinning against one's fellow), is necessary.

True Holiness: Divine and Human

Judaism has always placed emphasis on both *mitzvos bein adam la-makom*, commandments between man and G-d, and *mitzvos bein adam la-haveiro*, commandments between man and

1. *Yoma*, Perek 8, Mishnah 9.

2. *Shulhan Arukh*, *Orah Hayim* 606.

SHMUEL LESHER is the Assistant Rabbi of the BAYT and an editor of the *Hakhmei Lev* journal. He is currently pursuing a Master's Degree in Mental Health Counseling at the Ferkauf School of Psychology.

his fellow. The above Mishnah in Yoma actually seems to place significant emphasis upon the human realm – even *over* the divine. The Mishnah states that for *aveiros bein adam la-haveiro*, *teshuvah* in the divine realm simply is not enough. Based on this, R. Daniel Z. Feldman notes the power Judaism places into human hands. G-d delegates, so-to-speak, His ability to grant atonement and places it into the hands of a human being.³ Accordingly, if the individual who was wronged does not want to forgive the person who wronged him, that is within his rights.

In fact, Rabbeinu Asher Ben Yehiel (1250–1327), known as the Rosh, emphasizes the importance of the interpersonal *mitzvos* over *mitzvos* in the divine realm. The first Mishnah in Peah, which we read every morning towards the beginning of our morning prayers, states:

These are the things whose fruits we eat in this world but whose full reward awaits us in the World to Come: Honoring parents; acts of kindness; arriving early at the house of study morning and evening; hospitality to strangers; visiting the sick; helping the needy bride; attending to the dead; devotion in prayer; and bringing peace between people – but the study of Torah is equal to them all.⁴

The Rosh explains that the *mitzvos* for which one enjoys the fruits in this world while the principal remains in the world to come are *mitzvos* between man and his fellow: “For the Holy One, blessed be He, has greater desire for those *mitzvos* by which one also pleases other people than for the *mitzvos* between man and his Maker.”⁵

Unfortunately, as a community, we have not always lived up to this standard. In fact, common laxity in the ethical and business spheres was already recognized in the Talmud.⁶ The frequent negligence in *mitzvos bein adam la-haveiro* relative to strict observance of *bein adam la-Makom* has historically been bemoaned by many Torah leaders throughout the generations.⁷

Perhaps one of the reasons for this negligence is the difficulty and complexity that is involved in rectifying *aveiros bein adam la-haveiro*. Whereas there are some heinous sins for which our Sages warn us we cannot be forgiven, generally, as long as one can properly repent, Hashem, in His kindness forgives us.

However, it can be more complicated in the interpersonal realm.

3. R. Daniel Z. Feldman, *The Right and the Good* (Aronson, 1999), 140.

4. Translation adapted from Rabbi Jonathan Sacks, *The Koren Siddur* (Koren, 2009), 10.

5. Rosh, Peah 1:1. Translation adapted from Rabbi Binyamin Zimmerman, “*Bein Adam Le-Chavero*: Ethics of Interpersonal Conduct (Shiur #1),” *Israel Koschitzky Virtual Beit Midrash* (January 17, 2016).

6. See *Bava Basra* 165a where Rav states that “most [are guilty of] theft.”

7. I have personally heard this critique from Rabbi Hershel Schachter on a number of occasions. It is well-known that R. Yisrael Salanter believed the improvement of the moral character of the Jewish community, especially in the interpersonal realm, to be vital. See Rabbi Hillel Goldberg, *Israel Salanter: Text, Structure, Idea* (Ktav, 1981), 78–79 and Shaul Stampfer, *Lithuanian Yeshivas of the Nineteenth Century*, trans. Lindsey Taylor-Guthartz (Littman Library of Jewish Civilization, 2014), 261–264. For more on this topic see R. Anthony Knopf, “Why Many Jews Prioritize Mitzvot Bein Adam LeMakom Over Bein Adam LeChavero,” *TorahMusings.com* (July 4, 2017).

In his thorough analysis of *lashon hara* (evil speech) in contemporary society, Rabbi Daniel Z. Feldman relates an old Jewish folk-tale of a man who came to his rabbi to seek advice on how he can repent for the offense of speaking *lashon hara*:

The rabbi advised him that it is indeed possible, albeit complicated. He instructed him to take a pillow – the old-fashioned kind, with feathers inside – and to cut a hole in it and then walk around his town, allowing the feathers to escape from the pillow. Having done that, he returned to the rabbi and asked him for the next instruction. The second step was significantly harder than the first: “now pick up all the feathers.”⁸

It is extremely difficult to repair relationships once they have been damaged. *Lashon hara* is particularly challenging to rectify, as the story above highlights. Picking up all of the feathers blowing in the winds is nearly impossible. Unfortunately, the same can be true for the sullied reputations or rumors that have spread as a result of things we have said about others.

Difficulties notwithstanding, in this article I will attempt to chart a path towards repentance for those who have wronged others. I will argue that although it may be complex, G-d in His kindness, only expects of us what is humanly possible. And although the best policy for healing and repairing relationships that have suffered is prevention, that is not always an option. We must forge a path towards forgiveness no matter how difficult. In the words of our Sages, “One who comes to be purified is given assistance [by divine sources]” (*Menahot* 29b).

As noted above, the Mishnah in Yoma clearly highlights the imperative to seek forgiveness from someone we have harmed. In fact, Rabbi Hayim Yosef David Azulai (1724–1806), known as the Hida, cites an interpretation of this Mishnah that is quite frightening. According to this opinion, one who does not repent from sinning against one’s fellow cannot achieve atonement on Yom Kippur at all – even for sins between oneself and G-d.⁹ Although the Hida rejects this view, the fact that there is such an opinion reminds us of the paramount importance of doing our utmost to seek forgiveness from those we have wronged.

To be sure, the imperative for granting forgiveness is strongly encouraged by our Sages. The Mishnah in *Bava Kamma* (92a) states:

From where is it derived that if the victim does not forgive him that he is [considered] cruel? As it is stated: “And Abraham prayed to G-d; and G-d healed Avimelech, and his wife, and his maidservants; and they bore children” (*Bereishis* 20:17).¹⁰

Clearly, we are meant to forgive others, especially before Yom Kippur. We are also expected to seek out forgiveness from those whom we have wronged. However, notwithstanding

8. Rabbi Daniel Z. Feldman, *False Facts and True Rumors: Lashon HaRa in Contemporary Culture* (Maggid, 2016), 231.

9. *Birkei Yosef* 606:1.

10. *Bava Kama*, Perek 8, Mishnah 7. Translation adapted from the William Davidson digital edition of the Koren Noé Talmud, with commentary by Rabbi Adin Even-Israel Steinsaltz.

the importance of achieving peace through seeking and granting forgiveness, it may not be so simple.

In Search of Forgiveness: The Debate Between Rabbi Yisrael Salanter and the Hafetz Hayim

There is a noteworthy case in which seeking forgiveness from someone who was wronged can be viewed as a halakhic impossibility. This case relates to a debate attributed to Rabbi Yisrael Salanter (1809–1883), the founder of the *Mussar* movement, and Rabbi Yisrael Meir (Ha-Cohen) Kagan (1838–1933), known as the Hafetz Hayim.

In his biography of the Hafetz Hayim, Rabbi Moshe Meir Yashar, records that R. Kagan sent an early manuscript of his work on *lashon hara* (later titled *Sefer Hafetz Hayim*) to R. Salanter, apparently seeking his approval.¹¹ After reviewing the work, R. Salanter objected to one ruling in the manuscript. If a person slandered someone without the victim's knowledge, the Hafetz Hayim rules that the offender must seek forgiveness from the victim. Additionally, as is the general rule, one is required to specify the details of the offense.¹²

However, in R. Salanter's view, this was wrong. According to R. Salanter, one cannot achieve atonement at the expense of another person. Because the victim does not know he was defamed, by seeking forgiveness and revealing the wrongdoing, the offender can only bring the other person pain. R. Salanter's position is that one has no right to attempt to receive divine atonement by causing anguish to another person.¹³

When challenged by R. Salanter's argument, it is reported that the Hafetz Hayim responded that he based his ruling on that of Rabbi Yonah of Gerona (1200–1263), known as Rabbeinu Yonah, in his work *Sha'arei Teshuvah*.¹⁴ We do not know how R. Salanter responded, but it appears that he was unmoved even by this earlier and authoritative source.¹⁵

11. *He-Hafetz Hayim: Hayav U-Pa'alo*, Vol. 1 (Tel Aviv, 1961), 85.

12. *Sefer Hafetz Hayim*, part 1, Klal 4:12.

13. This story, in somewhat different forms, is also recorded in Rabbi Eliyahu Lopian, *Lev Eliyahu, Hokhmah U'Mussar*, 140; Rabbi Aharon Soloveichik, *Parah Mateh Aharon, Madda*, 186–189; Rabbi Hillel Goldberg, *The Fire Within* (ArtScroll Mesorah, 1987), 51–52. Also see R. Daniel Z. Feldman, *The Right and the Good*, 149–152.

Interestingly, Rabbi Dov Katz, in his authoritative work on the *Mussar* movement, *Tenuas Ha-Mussar* (5 volumes, Tel Aviv, 1955–1963) makes no mention of the debate between R. Kagan and R. Salanter. In fact, in the 4th volume on page 36, R. Katz writes that R. Salanter did, in fact, give R. Kagan an approbation for his *Sefer Hafetz Hayim* to encourage him. However, because R. Salanter's practice was not to give approbations to any books, he asked that it not be publicized. The glaring omission of the debate between R. Salanter and R. Kagan from *Tenuas Ha-Mussar* raises questions about the veracity of this story. Regarding the approbation, Yehuda Geberer, a researcher of Jewish history, believes it is doubtful that R. Salanter ever gave R. Kagan an approbation. R. Salanter was already living in Western Europe by 1873 when *Sefer Hafetz Hayim* was first published and only returned to Lithuania, where R. Kagan lived, for visits (personal email correspondence, November 23–25, 2020).

14. *Sha'arei Teshuvah*, *Sha'ar* 3:207.

15. R. Hillel Goldberg records that almost a century later, the question was put to Rabbi Aaron Kotler, the founding Lakewood Rosh Yeshiva, "Who was right, Reb Yisrael or the Chafetz Chaim?" R. Kotler thought a moment, then replied, "Reb Yisrael, *tanna hu u-palig*" – Reb Yisrael is like a Talmudic sage whose scholarship was so impeccable and whose personal stature so close to earlier generations, that he had the right to disagree with

Interestingly, it is possible that even R. Kagan may have had a change of heart about this ruling. R. Daniel Z. Feldman notes that in his other work, a commentary on the *Shulhan Arukh*, known as the *Mishnah Berurah*, published after *Sefer Hafetz Hayim*,¹⁶ R. Kagan appears to favor R. Salanter's approach. In the laws of asking forgiveness prior to Yom Kippur, in the *Mishnah Berurah*, R. Kagan appears to approvingly cite the view of the *Magen Avraham*.¹⁷ According to the *Magen Avraham*, if a request for forgiveness will cause embarrassment to the victim, the offender should not specify his wrongdoings.¹⁸ This appears to be at odds with his position in the *Hafetz Hayim*. Thus, notwithstanding their debate about the ruling in *Sefer Hafetz Hayim*, in the *Mishnah Berurah*, R. Kagan appears to favor the view of R. Salanter.¹⁹

According to R. Salanter, in this particular situation, what should the repentant person wishing to achieve atonement do? One way of interpreting R. Salanter's position in this case is that there is no way for this person to atone for their sin. R. Daniel Z. Feldman argues that "[According to R. Salanter] the need for reconciliation and forgiveness for damages inflicted is still present."²⁰ However, since for R. Salanter it is unthinkable to ask forgiveness from the victim in this situation because that would create more pain and heartache, this individual has no recourse and cannot achieve atonement.

However, there is a different approach. Rabbi Eliyahu Eliezer Dessler is cited as saying in the name of R. Yisrael Salanter (his great-grandfather) that in this situation, it is best for the person to ask the victim for forgiveness on Erev Yom Kippur when everyone else is asking forgiveness from each other. In this way, they avoid raising any suspicions from the person and they do not hurt them by delineating the details of their offense.²¹ Rabbi Moshe Sternbuch suggests that this can answer our original question. Why do we as a community wait until Erev Yom Kippur to ask forgiveness from others? Perhaps because this gives many people the ability to ask others whom they have wronged for forgiveness but do not want to divulge what they did. Therefore, Erev Yom Kippur was designated as a time when everyone asks each other for forgiveness.²²

In support of this later approach, Rabbi Mordechai Willig points to the *tefillas zakah* prayer composed by Rabbi Avraham Danzig (1748–1820), known as the Hayei Adam. It has become customary in many communities to recite *tefillas zakah* on Erev Yom Kippur right before *kol*

a sage of the earlier generation [referring to the Rabbeinu Yonah's position which supported that of the *Hafetz Hayim*]. See R. Goldberg, *The Fire Within*, p. 52.

16. R. Yisrael Meir (Ha-Cohen) Kagan, *Mishnah Berurah* (6 volumes, 1884–1907).

17. *Mishnah Berurah*, *Orah Hayim* 606:3.

18. *Magen Avraham*, *Orah Hayim* 606:1.

19. *Orah Hayim* 606:3. Rabbi Binyamin Yehoshua Zilber in his *Responsa Az Nidberu* Vol. 7, 66 argues based on his analysis of R. Kagan's ruling in the *Mishnah Berurah* that in reality there is no debate between R. Kagan and R. Salanter.

20. R. Feldman, *False Facts and True Rumors*, 239.

21. R. Binyamin Yehoshua Zilber in his *Responsa Az Nidberu* Vol. 7, no. 66 and Rabbi Moshe Sternbuch, *Responsa Teshuvos VeHanhagos*, Vol. 5, no. 397.

22. R. Moshe Sternbuch, *Moadim U'Zmanim*, Vol. 1, no. 54.

nidrei. In this prayer, we recite a general formula of forgiveness in order to forgive anyone who has wronged us:

והנני מוחל במחילה גמורה לכל מי שחטא נגדי... ולכל חטאת האדם אשר בין אדם לחברו... ולא יענש שום אדם בסבתי. וכשם שאני מוחל לכל אדם, כן תתן את חני בעיני כל אדם שימחלו לי במחילה גמורה.

I hereby forgive completely and absolutely, anyone who may have sinned against me... and for all the sins that one person committed against another... let no man be punished for my sake. And just as I forgive every other person, so make me gracious in the eyes of every other, so that they forgive me completely and absolutely.²³

Clearly, according to R. Danzig, even without knowing the details of what was done to us by others, we can still forgive them as well as hope for people whom we have harmed to see us in a good light and forgive us as well.²⁴ This perspective fits well with the lenient understanding of R. Salanter's position argued for above. Accordingly, although one may not reveal the specifics of one's misdeeds to those whom one has wronged if that will cause pain, one still may ask for a generic forgiveness from them.

Not In the Place of G-d: Rabbi Asher Weiss' Approach of "G-d-Centred" Atonement

In a public lecture in Bet Shemesh, Israeli Rabbi Asher Weiss raised some vexing halakhic problems that could arise when seeking someone's forgiveness in addition to the case above.²⁵ What if the person who was wronged is no longer living and there was no forgiveness granted? The Gemara (Yoma 87a) instructs the person seeking forgiveness to go to the person's grave along with 10 people to ask forgiveness. But, making matters more complicated, what if the person who wronged his fellow passed away before asking for forgiveness? Our Sages do not have a recommendation for this individual. Is he stuck with his sin, or can the person who was wronged grant his forgiveness? R. Weiss expressed surprise that the *Minhas Hinnukh* writes that even if the victim forgives this person wholeheartedly, the perpetrator is still stuck with his or her sin because, "one cannot achieve atonement after death."²⁶

R. Weiss cited another case in which someone would be barred from atonement. R. Weiss related that it is said in the name of Rabbi Avraham Yeshayahu Karelitz, the Hazon Ish, that if A hurt B and then asks sincerely for forgiveness, and B begrudgingly grants forgiveness to A, but in his heart he did not forgive him, B does not receive atonement. The rationale for this, attributed to the Hazon Ish, is that forgiveness is always something that must come from the heart. If it lacks this element, it is not a valid forgiveness.

23. Translation adapted from Rabbi Jonathan Sacks, *The Koren Yom Kippur Mahzor* (Koren, 2006), 54–56.

24. Rabbi Mordechai Willig, Question and Answer session and Shiur on *Hilkhos Yom Kippur* (September 17, 2018).

25. Rabbi Asher Weiss, "Teshuva Bein Adam L'Chaverio," *YUTorah.org* (Oct 2, 2019).

26. *Minhas Hinnukh*, Parshas Nasso, Mitzvah 364.

In a similar vein, R. Weiss noted more situations in which seeking forgiveness is seen by some *poskim* as impossible. If someone wronged a minor or someone mentally impaired, R. Weiss related that it is said in the name of R. Yosef Shalom Elyashiv (1910–2012) that one cannot receive atonement for harming a minor. The reason given is that based on a Gemara in *Bava Metzia* (21a), a minor is halakhically unable to grant forgiveness. Similarly, R. Weiss stated that he saw another ruling in the name of R. Elyashiv that if one harms someone who later becomes mentally impaired, this precludes the individual from being able to grant forgiveness.

In his work *Minhas Asher*, R. Weiss develops a thesis which he utilized in this lecture to argue for the ability to achieve forgiveness and atonement in all of these cases and disagrees with the above rulings. In the case of an unaware victim of slander, R. Weiss writes:

That which our Sages say that one does not atone for sins between man and his fellow until he appeases his friend (*Yoma* 85b) is not because it is within the individual's power to grant or prevent atonement. For is he in the place of G-d?! [Furthermore] do we not see that once a person asks forgiveness another three times and he is not forgiven, he need not seek forgiveness any further and he [nonetheless] achieves atonement?²⁷ Rather, [the act of asking for forgiveness] is part of the process of repentance. If one harmed another person, it is appropriate that they should seek reconciliation. Therefore, it is logical that if asking forgiveness will cause more pain, one is not obligated to do so. And since reconciliation is not essential [in this process of repentance], this person can achieve atonement [even without reconciliation].²⁸

Unlike R. Feldman, who argued that this halakhah underscores that forgiveness can be placed in the hands of human beings,²⁹ in R. Weiss' view, only G-d can be the true source of atonement. Therefore, based on this thesis, he argues that in all of the above cases, if it is impossible for the individual to seek forgiveness, whether because it would be offensive to the victim, or because the victim is no longer living or if the individual harmed a minor, R. Weiss argues that in all of these cases atonement can still be achieved. If R. Feldman's stance to *kapparah* is a "human-centred" position, we can term R. Weiss' approach a "G-d-centred" approach to *kapparah*.

In the most extreme reading of R. Weiss, one may not even need to ask forgiveness from the person one has harmed. The Mishnah in *Yoma* emphasizes the hypocrisy of asking G-d to forgive one's sins when one may have never asked for forgiveness from those whom one has wronged. However, fundamentally, asking for forgiveness is not essential to the *teshuvah* process. Therefore, when it would cause the other person pain, it is best not to ask the victim for forgiveness. Even if we do not assume this reading of R. Weiss' position, it is clear that he believes that if one takes the necessary steps that are within one's ability, for example,

27. A reference to *Shulhan Arukh, Orach Hayim* 606:1.

28. R. Asher Weiss, *Minhas Asher, VaYikra, Parshas Kedoshim*, 41:5, p. 269. Translation is my own.

29. R. Feldman, *The Right and the Good*, 140.

asking for a general forgiveness on Erev Yom Kippur from someone one has wronged, that individual has done all he can. R. Weiss notes the language used in the Mishnah:

Yom Kippur atones for transgressions between a person and G-d, [however] for transgressions between a person and another, Yom Kippur does not atone until he appeases the other person.

The Mishnah says, “*ad sheyiratzeh es haveiro* – until *he* appeases his friend.” The Mishnah does not say, “until *his friend* is appeased.” Meaning, Yom Kippur will not atone for sins as long as a person does not do whatever is within his or her ability to do right by those whom her or she has wronged. However, once that effort has been made, Yom Kippur, as well the *teshuvah* process between man and G-d, can grant atonement.³⁰

Beat Them To It: Rabbi Mordechai Willig’s Position

In his treatment of this issue, Rabbi Mordechai Willig concurred with R. Weiss’ approach.³¹ R. Willig added that whenever anyone asks him for forgiveness, he always “beats them to it.” He makes a point of forgiving them immediately – even before they have a chance to tell him what they did. R. Willig noted that if one takes the position of Hafetz Hayim, it would appear that in order for there to be a valid reconciliation, the offended party would need to know how he was wronged and only then grant forgiveness. Therefore, unlike the approach of the Hafetz Hayim, in practice, R. Willig rules like the position of R. Weiss’s and R. Dessler’s version of R. Salanter’s ruling.³² According to my research, this appears to be the view of most contemporary *poskim*.³³

R. Willig marshaled multiple rulings of the *Shulhan Arukh* in support of his position. First, like R. Weiss, R. Willig pointed to the practice of asking a maximum of three times for forgiveness.³⁴ According to R. Willig, this halakhah shows that forgiveness in some cases is not fundamental as long as a concerted effort towards reconciliation was made. Second, the *Shulhan Arukh* instructs going to the grave of someone from whom we need to ask forgiveness.³⁵ Clearly, the person cannot forgive anymore, and yet one is instructed to make a trip to the grave. Again, we see that a person is required to do as much as he can to

30. R. Weiss, “*Teshuva Bein Adam L’Chaveiro*.” Interestingly, R. Weiss felt that since the views expressed in the names of the Hazon Ish and R. Elyashiv were unduly stringent in light of his approach to *kapparah*, he shared that in his opinion, “When there are very unreasonable things quoted in the name of *gedolim*, I prefer to say just don’t believe the quote because I want to hold up my utmost admiration for those *gedolim*. If I feel accepting what is quoted in their name would diminish my admiration for them, then I prefer not to say I do not believe what is quoted in their name. And since I don’t believe it anyways, I prefer not saying who quotes [them].”

31. Rabbi Mordechai Willig, “Question and Answer session.”

32. *Ibid*.

33. In addition to those I cite here who are sympathetic to R. Salanter’s position, see R. Shlomo Zalman Auerbach, *Halikhos Shlomoh* ch. 3, no. 6, p. 45. For more on this topic see R. Feldman, *False Facts and True Rumors*, 234–242.

34. *Shulhan Arukh, Orah Hayim* 606:1.

35. *Shulhan Arukh, Orah Hayim* 606:2.

seek reconciliation. Perhaps one goes to the gravesite to demonstrate the sincerity of one's yearning for forgiveness. However, fundamentally, the atonement must come from G-d.

It appears from R. Weiss, R. Willig and the consensus of *poskim* that although *mitzvos bein adam li-haveiro* are of prime importance, *teshuvah* is a process between man and G-d. It is inappropriate for an individual to ask forgiveness from G-d when he has wronged another person. However, when he has done all that he can, and asking forgiveness is not possible, Hashem will grant him *kapparah* and forgiveness. Whether that is because asking forgiveness would only make things worse, or that the person who was wronged cannot halakhically grant forgiveness, Hashem will atone for this sin. In the words of our Sages, "The Torah was not given to angels" (*Yoma* 30a).

In sum, according to the strict reading of R. Salanter's position, argued for by R. Daniel Feldman, there are scenarios in which a person can be barred from *kapparah*. This was also the view of some *Aharonim* (*Minhas Hinnukh* and R. Elyashiv). Perhaps this view can be termed the "human-centred" approach to *kapparah*. In the realm of *bein adam la-haveiro*, it is not G-d who atones for man's sins, it is man who atones through the granting of his forgiveness. Therefore, if, for some reason, human forgiveness is not attainable, *kapparah* also remains unattainable. However, R. Asher Weiss argues for a "G-d-centred" approach to *kapparah*. In the most ambitious reading of his position, R. Weiss argues that when it will cause pain to the person, one need not ask for forgiveness. This is because for R. Weiss, ultimately, it is always G-d who grants *kapparah*, even in the realm of *bein adam la-haveiro*. We find somewhat of a middle ground in the position of R. Mordechai Willig and other *poskim* who advocate for asking for a generic forgiveness that allows for the person to forgive without causing pain to the person he is asking forgiveness from.

Yom Kippur is a gift. By giving us this day of *teshuvah*, Hashem gives us an opportunity every year for us to restore life and vitality to our relationship with Him. We are also called upon to rectify our relationships with others. But, as we have seen, this is not always so simple. Human beings are complicated and life can be complex. As long as we put in effort, do *teshuvah* and do as much as we can to sensitively ask forgiveness from others, Hashem will grant us a full *kapparah*. With Hashem's help, may we all merit to achieve a true and genuine atonement this year!

Finding a Balanced Self-Image

RABBI ELIEZER BREITOWITZ

I

THE WEEKLY PORTIONS of *Re'eh*, *Shoftim*, *Ki Setze* and *Ki Savo* – all read in the weeks before Rosh Hashana – comprise a review of mitzvos that had already been given at Har Sinai. The final two mitzvos in this section are *Mikra Bikkurim* (expressing gratitude to Hashem for the gift of Eretz Yisrael when presenting its First Fruits to the Kohen) and *Vidui Ma'aser* (affirming compliance with the requirements for the proper distribution and use of the various tithes).

Following these concluding mitzvos, the Torah (*Devarim* 26:16) continues:

This day, the L-rd, your G-d, commands you to fulfill these statutes and ordinances, and you will observe and fulfill them with all your heart and with all your soul.

Ramban explains: Only after Moshe completed the entire presentation of all these mitzvos collectively could the Jews be commanded to observe and perform the laws.

At first glance this is difficult to understand. We could certainly imagine that each mitzvah would become operative at the precise moment that it was transmitted to the Jewish people. Why should the obligation have been delayed until Moshe culminated his discourse with a presentation of all the mitzvos together?

II

Mitzvos “obligate” us in two different ways. First: The mitzvah is a specific command to perform a particular act or to desist from performing a particular act. This “letter of the law” defines our precise responsibility. Second: The mitzvah communicates a value or ideal to be implemented in areas not necessarily covered by the “letter of the law.” Often, we

discover these ideals through reflection on the *Ta'amei Hamitzvos*, the underlying rationale of the Torah's legislation. For lack of a better term, these values could be called the "spirit of the law."

To illustrate: One of the most perplexing sections in the Torah is the law of the *Ben Sorer U'Moreh* (*Devarim* 21:18–21) – the rebellious son who is put to death for gluttony and disobedience. The Talmud (*Sanhedrin* 71a) tells us that this law never was and never will be practiced, as the myriad conditions for its practical implementation cannot be met. Nevertheless, the Torah still taught this law so that we should study and interpret its text, and be enriched thereby. In other words, although the "letter of the law" has no realistic application, its spirit – lessons about the relationship of parents and children, the evils of excessive indulgence in the pleasures of this world, and the slippery downward slope confronting the hedonist – remain invaluable.

III

It would appear that there are fundamental differences between these two types of "obligation."

The explicit command of the Torah ("letter of the law") is non-negotiable. Barring a potentially life-threatening situation, compliance is required and assumed. However, the values extracted from those explicit commands ("spirit of the law") may be ultimate goals to be pursued in the long run, yet may allow for some "wiggle room" in the short run. Sometimes, the circumstances of a person's life make the embrace of religious ideals difficult and unfeasible. When it comes to an explicit Torah command, a solution must be found to enable the person to fulfill their obligation; but when it comes to the implementation of an ideal – albeit one rooted in Torah – there may be a strong case made for temporary postponement.

There is an additional dissimilarity between the "letter" and the "spirit" of the law. A specific mitzvah is relatively clear as to the demands made by the letter of its law, and can be observed independently of any knowledge of other mitzvos. Generally, it is not necessary to master the entire Torah in order to ascertain our obligations in a specific area of observance. The laws of Shabbos, Kashrus, Tefillah, Tzedakah, *Taharas HaMishpacha* and *Shemiras Halashon* can each be studied and mastered without comprehensive knowledge of the others. When it comes to the underlying ideals however, a complete picture emerges only from a dialectic of seemingly contradictory perspectives.

For example, let us raise a philosophical question about man's place in the world. Is a human being meant to be passive and accepting, realizing that ultimately he is living in Hashem's world, and that Hashem is, so to speak, calling the shots? Or, is man meant to be active and not accepting, striving to rectify the world into which he was placed?

The mitzvah of Shabbos, especially its requirement that we desist from constructive activity, points to the former. The mitzvah of Bris Milah and its requirement that we repair what nature has left undone, on the other hand, points to the latter. Where is the truth? It must be somewhere in between in order to arrive at the proper balance of these two ideas.

(Perhaps it is worth recalling the famous observation that Bris Milah is observed on the eighth day to guarantee that the child experiences a Shabbos first.)¹

IV

Returning to the cryptic comment of the Ramban that the Jewish people could not be commanded to observe the laws until their presentation was complete, we can offer the following suggestion: Because the command to observe the laws entails not only following their letter but also living in accordance with their spirit, this could only be required of the Jewish people after they had all the laws in their possession. Only then could they have had access to the true ideals that underlie the entire Torah, which is only understood after a panoramic, holistic view of all the mitzvos taken in their totality.

As it happens, the final two mitzvos of *Mikra Bikkurim* and *Vidui Ma'aser* provide a further illustration of this concept, as a careful analysis shows that these two commandments are apparently founded on opposite assumptions.

Mikra Bikkurim is an opportunity to express gratitude to Hashem for His kindness in granting us the magnificent gift of Eretz Yisrael. We also know that a sense of entitlement is the very antithesis of gratitude; why should I feel grateful if the benefit is well-deserved and accordingly coming to me?!

Vidui Ma'aser, however, is a declaration of competence and achievement. As the verses (*Devarim* 26:13–14) state:

Then you shall say before the Hashem, your L-rd, "I have removed the holy portion from the house, and I have also given it to the Levi, the stranger, the orphan, and the widow, according to all Your commandment that You commanded me; *I have not transgressed Your commandments, nor have I forgotten*. I did not eat any of it while in my mourning, nor did I consume any of it while unclean; neither did I use any of it for the dead. I obeyed Hashem, my L-rd; *I did according to all that You commanded me.*"

Surprisingly, the declaration ends with a prayer (26:15):

Look down from Your holy dwelling, from the heavens, and bless Your people Israel, and the ground which You have given to us, as You swore to our forefathers a land flowing with milk and honey.

Here, Rashi cites the rabbinic interpretation that, in fact, having performed the laws of the tithes properly, we are entitled to Hashem's blessings:

We have fulfilled what You have decreed upon us. Now You do what is incumbent upon You to do.

1. See *Taz*, *Yoreh Deah* 265:13.

Again what is the truth? Is man fundamentally undeserving of Hashem's bounty or is he truly entitled? The answer lies in finding the perfect balance of these two ideas. This balance can only be achieved after taking both of these mitzvos into account, affirming the need for a collective inventory of mitzvos in order to arrive at that equilibrium. As one of the great Ba'alei Mussar put it, "It is a tragedy when a person fails to recognize his faults; it is even a greater tragedy when a person fails to recognize his virtues."

V

As we approach the Days of Judgement and engage in introspection and *teshuvah*, it is critically important that we find and maintain this balance. If we see ourselves as incompetent failures and as undeserving of Hashem's inscription for a Shanah Tovah, our sense of hopelessness and despair will be self-fulfilling. If, on the other hand, we only recognize our achievements and successes, we will not take advantage of the immense potential for self-improvement that these holy days provide. The correct balance gives us both the needed sense of urgency for *teshuvah* as well as the confidence that – with effort – we can successfully achieve our goals.

Understanding Teshuvah: Obligation or Gift?

RABBI DR. LAZER FRIEDMAN

Introduction

THE CENTRAL MOTIF of the Yamim Noraim is the concept of *teshuvah*. Throughout the generations, the ushering in of the month of Elul brings with it the emotional and spiritual duty of every Jew to engage in the process of *teshuvah*. How do we understand *teshuvah*? Is *teshuvah* just another mitzvah in the Torah or is *teshuvah* an opportunity to engage in self-reflection with the hope of self-improvement? The purpose of this article is to analyze various aspects of *teshuvah* in the hope that a deeper understanding of the concept of *teshuvah* will lead to an appreciation of the special opportunity it affords.

Is There a Mitzvah to Do Teshuvah?

The Rambam and Ramban debate whether there is a mitzvah to do *teshuvah*. Whilst they agree that *teshuvah* is a lofty activity, the focus of the disagreement is whether *teshuvah* is one of the 613 mitzvot in the Torah. The source for this debate is how to understand the following passage in נצבים¹:

(ב) ושבתי עד יקוק אלקיך ושמעת בקליו ככל אשר אנכי מצוך היום וּבִנִּיךָ בְּכָל לִבְבְּךָ וּבְכָל נַפְשְׁךָ:
(ג) ושב יקוק אלקיך את שבותך ורחמך ושב וקבצך מכל העמים אשר הפיצך יקוק אלקיך שמה: (ח)

1. Devarim 30, translation from Chabad.org.

LAZER FRIEDMAN is a pediatrician at Mackenzie Health. At BAYT, he served twice as co-chair for the Assistant Rabbi committee, and was on the senior Rabbi search committee. He received Semikha from Rav Baruch Lichtenstein, Sgan Rosh Kollel of the Kollel Ohr Yosef. Lazer gives a Minchas Chinuch shiur at the Hashkama Minyan.

ואתה תשוב ושמעת בקול יקוק ועשית את כל מצותיו אשר אנכי מצוך היום: (יא) כי המצוה הזאת אשר אנכי מצוך היום לא נפלאה הוא ממך ולא רחקה הוא:

2) And you will return to the L-rd, your G-d, with all your heart and with all your soul, and you will listen to His voice according to all that I am commanding you this day you and your children. 3) Then, the L-rd, your G-d, will bring back your exiles, and He will have mercy upon you. He will once again gather you from all the nations, where the L-rd, your G-d, had dispersed you. 8) And you will return and listen to the voice of the L-rd, and fulfill all His commandments, which I command you this day. 11) For this commandment which I command you this day, is not concealed from you, nor is it far away.

The Ramban² opines that *teshuvah* is one of the 613 mitzvot. The Ramban suggests that the *teshuvah* “this mitzvah” is referring to the mitzvah of *teshuvah* as the context of the entire passage deals with the return of the Jews to Hashem.

The Rambam, on the other hand, does not enumerate *teshuvah* as one of the 613 mitzvot in his *Sefer Hamitzvos*. In his *Yad Hachazaka* he writes:

כל מצות שבתורה בין עשה בין לא תעשה אם עבר אדם על אחת מהן בין בזדון בין בשגגה כשיעשה תשובה וישוב מחטאו חייב להתודות לפני הקל ברוך הוא שנאמר איש או אשה כי יעשו וגו' והתודו את חטאתם אשר עשו זה וידוי דברים, וידוי זה מצות עשה.

If a person transgresses any of the mitzvot of the Torah, whether a positive command or a negative command – whether willingly or inadvertently – when he repents, and returns from his sin, he must confess before G-d, blessed be He as it states: “If a man or a woman commit any of the sins of man... they must confess the sin that they committed.” This refers to a verbal confession. This confession is a positive command.³

According to the Rambam, when *teshuvah* is performed, it is achieved through the ritual process of וידוי or confession. The Rambam understands that וידוי is a mitzvah, and this, indeed, is what he counts as a מצוה עשה in his ספר המצות.⁴ On the other hand, *teshuvah* itself is not a mitzvah, but part of a larger process which is incorporated in the action of וידוי.

According to those ראשונים who ascribe *teshuvah* to be a mitzvah, what type of mitzvah is it? Is *teshuvah* a מצוה קיומית (a conditional mitzvah performed only if specific criteria are met), or is it a מצוה חיובית (a mitzvah which must be performed)? Examples of a מצוה קיומית include מעקה (making a fence on a rooftop), גט (writing a bill of divorce) and ציצית (wearing tzitzit). These mitzvot share the common feature that there is no obligation to perform them. Let us take the example of the mitzvah of מעקה. One fulfills the mitzvah of מעקה when one builds a fence around a roof, but there is no obligation to purchase a home that has a roof

2. דברים ל:יא.

3. הלכות תשובה א:א.

4. ספר המצוות ע"ג.

requiring the building of a מעקה. The mitzvah of מעקה is fulfilled only if a person has an open rooftop, and subsequently builds an appropriate מעקה.

The מנחת חינוך⁵ suggests that the Rambam understood that *teshuvah* is a מצוה קיומית but not one of the 613 mitzvot. According to the מנחת חינוך, had the Rambam felt that *teshuvah* is a mitzvah, he would have used the phrase שיעשה תשובה (here is a mitzvah to do *teshuvah*) rather than the language “כשיעשה תשובה” (when a person does *teshuvah*) which implies an optional activity. The מנחת חינוך concludes that one who does not do *teshuvah* has not transgressed any commandment. He simply did not perform an optional mitzvah.

Rav Y.B. Soloveitchik⁶ disagrees with the מנחת חינוך and marshals the support of a teaching passed on to him from his father Rav Moshe Soloveitchik and his grandfather, Rav Chaim Soloveitchik. He feels that the Rambam indeed understands *teshuvah* as a mitzvah since the Torah makes several references to *teshuvah* as a mitzvah.⁷ Moreover, he argues that the Rambam himself explicitly writes that the נביאים commanded Israel to do *teshuvah* as a precondition of redemption.⁸

R. Soloveitchik explains that for the Rambam there are two aspects of a mitzvah. There is a מעשה מצוה – the action of a mitzvah and a קיום מצוה – the fulfillment of a mitzvah. For many mitzvot, the מעשה מצוה and the קיום מצוה occur simultaneously. For example, when it comes to the mitzvah of לולב, the מעשה מצוה is accomplished by shaking the לולב and the קיום מצוה which is the fulfillment of the mitzvah occurs at the same time. On the other hand, there are mitzvot in which the מעשה מצוה is separated in time from the קיום מצוה. An example of this would be mourning, אבלות. Although a mourner performs many rituals of אבלות, such as not wearing leather shoes, or restrictions in bathing, the fulfillment of the mitzvah of אבלות only occurs when the mourner experiences a moment of self-reflection and internalizes the loss. The performance of the rituals that we refer to as the מעשה מצוה do not effect a קיום מצוה until such a time that the mourner internalizes the loss and feels it in their heart.

In a similar way, *teshuvah* occurs in two phases. The מעשה מצוה is the performance of the וידוי. Once the physical steps of וידוי have been fulfilled, a person internalizes the message of תשובה and accomplishes the קיום מצוה. According to R. Soloveichik, the Rambam understands that תשובה is an עבודה שבלב (service of the heart), and like תפילה, it requires a פעולה (an act) which is the וידוי, in order to accomplish the complete fulfillment of the mitzvah or the קיום מצוה.

How Does *Teshuvah* Work?

We must pause and ponder the mechanics of *teshuvah*. At its fundamental level, we need to explore how the process of *teshuvah* creates a complete disappearance of a transgression

5. מצוה שס"ד.

6. על התשובה, עמ' 41-37.

7. דברים ל:א-ג.

8. תלמוד תורה ז:ה.

leaving the individual with a clean slate. This is a difficult concept to grasp since ultimately a transgression was committed. If the transgression in question is the sin of murder, the act of *teshuvah* does not bring the person back from the dead. How then do we understand the concept of *teshuvah*? What actually happened to the misdeed? The question is further complicated in trying to understand the following Gemara:

אמר ריש לקיש: גדולה תשובה, שזדונות נעשות לו כשגגות, שנאמר (הושע יד) שובה ישראל עד ה' אלקיך כי כשלת בעונך. הא עון מזיד הוא, וקא קרי ליה מכשול. איני? והאמר ריש לקיש: גדולה תשובה שזדונות נעשות לו כזכויות, שנאמר (יחזקאל לג) ובשוב רשע מרשעתו ועשה משפט וצדקה עליהם (חיה) מסורת הש"ס: [הוא] יחיה! – לא קשיא; כאן – מאהבה, כאן – מיראה.

Resh Lakish said: Great is repentance, for because of it premeditated sins are accounted as errors, as it is said: "Return, O Israel, unto the L-rd, thy G-d," for thou hast stumbled in thy iniquity. 'Iniquity' is premeditated, and yet he calls it 'stumbling' But that is not so! For Resh Lakish said that repentance is so great that premeditated sins are accounted as though they were merits, as it is said: "And when the wicked turneth from his wickedness, and doeth that which is lawful and right, he shall live thereby"! That is no contradiction: One refers to a case [of repentance] derived from love, the other to one due to fear.⁹

From the Gemara, we see that not only do the sins vanish, but they are actually transformed into merits. Our question remains – how is it possible for a negative act to simply disappear from existence?

Rabbi Moshe Chaim Luzzato explains that by the strict application of the laws of nature there should be no repair for a sin committed. After all, how does *teshuvah* repair the fact that a transgression occurred? He explains that *teshuvah* is a gift from G-d, an act of חסד, whereby G-d declares that through *teshuvah* the act of the sin is uprooted in its entirety.

ושהתשובה תנתן לחוטאים בחסד גמור שתחשב עקירת הרצון כעקירת המעשה וכו', שהעון סר ממש מהמציאות ונעקר במה שעכשיו מצטער ומתנחם על מה שהיה למפרע, וזה חסד ודאי שאינה משורת הדין.

And that *teshuvah* is given to sinners through total kindness and that the uprooting of the will to sin is equivalent to uprooting the action of the sin itself... that the sin is actually removed from existence and uprooted on account of the fact that he (the sinner) is pained and bothered by that which he has done, and this is a kindness that is outside the scope of justness.¹⁰

9. יומא פו.

10. מסילת ישרים פרק ד.

This is Hashem's *מדת הרחמים* (attribute of mercy) that He gave mankind – a process that utterly expunges the deleterious act and leaves behind a clean slate. The act no longer exists and it is as if it never took place.

Rav Elchanan Wasserman¹¹ was troubled by the idea that *teshuvah* is a gift from G-d. What compelled R. Moshe Chaim Luzzato to introduce the concept that *teshuvah* is a *חסד* from G-d when the Gemara¹² clearly teaches us that the outcome of repentance is nothing more than a natural consequence of a person's actions? Seemingly, there is no special gift. It is quid pro quo for the actions done.

ר"ש בן יוחי אומר: אפילו צדיק גמור כל ימיו ומרד באחרונה – איבד את הראשונות, שנאמר: (יחזקאל לג) צדקת הצדיק לא תצילנו ביום פשעו; ואפילו רשע גמור כל ימיו ועשה תשובה באחרונה – אין מזכירים לו שוב רשעו, שנאמר: (יחזקאל לג) ורשעת הרשע לא יכשל בה ביום שובו מרשעו. וניהוי כמחצה עונות ומחצה זכיות! אמר ריש לקיש: בתוהא על הראשונות.

R. Simeon b. Yohai said: Even if he is perfectly righteous all his life but rebels at the end, he destroys his former [good deeds], for it is said: The righteousness of the righteous shall not deliver him in the day of his transgression. And even if one is completely wicked all his life but repents at the end, he is not reproached with his wickedness, for it is said, and as for the wickedness of the wicked, he shall not fall thereby in the day that he turneth from his wickedness. Yet let it be regarded as half transgressions and half meritorious deeds! — Said Resh Lakish: It means that he regretted his former deeds.

We see in this Gemara that a righteous person, by experiencing remorse over the good he accomplished in life, has the power and ability to negate his meritorious acts. If so, R. Elchanan Wasserman argues that by extension, remorse for a transgression should also negate the negative act. It seems to be simply how G-d runs His world. Remorse has the power to negate either positive or negative acts. If so, why does R. Moshe Chaim Luzzato feel that *teshuvah* is a *חסד* from Hashem?

R. Elchanan Wasserman posed this question to his Rebbe the Chafetz Chaim, who suggested that when people do *teshuvah*, they do so out of fear of punishment. People are not motivated by the need to remove the sinful action; rather they fear punishment and therefore do *teshuvah*. It is as if the person wishes to avoid the punishment for the action they committed, but there is no concern about the transgression itself. Therefore, the power of *teshuvah* is indeed a gift from Hashem, since the *teshuvah* accomplishes the avoidance of the punishment and it also removes the action of the transgression.

R. Elchanan Wasserman rejected this approach since it assumes that people only do *teshuvah* out of fear known as *תשובה מיראה*. However, if one does *teshuvah* out of love known as *תשובה מאהבה*, then that individual is motivated by love and not the fear of punishment, so his actions should by right cause the uprooting of the sin in its entirety, thus eliminating

11. קובץ מאמרים, מאמר על תשובה.

12. קידושין דף מ עמוד ב.

the need to have a חסד from Hashem. If so, Rav Elchanan Wasserman asks we are left with our original question – what חסד is there in *teshuvah*?

R. Elchanan Wasserman offered his own interpretation based on another work of R. Moshe Chaim Luzzatto.¹³ He suggests there are two aspects that occur in the performance of a mitzvah or a transgression. Firstly, a person creates a relationship with G-d. Secondly, the act of the mitzvah itself has spiritual merits. Conversely, the opposite occurs when one performs a transgression. There is an erosion of the relationship with G-d, and secondly, the act of transgression creates spiritual demerits.

R. Elchanan Wasserman explains that in the absence of the gift of *teshuvah*, remorse simply attempts to repair the relationship between man and G-d. Man transgressed the will of G-d, and by being remorseful, Man attempts to rectify the relationship with G-d. Nothing however can be done about the consequences of the actions that were done. A transgression took place and the spiritual demerits have not been removed. The gift of *teshuvah* however has the power to remove the spiritual demerits. In addition to repairing the relationship between Man and G-d, the negative spiritual demerits are voided. The reverse also holds true. The mere performance of a ritual or mitzvah performed by Man loses its significance and value when performed in the absence of a relationship with G-d.

With this insight of R. Elchanan Wasserman, we can now understand the comment of ר"ש בן יוחי in the previously quoted Gemara. A person who expresses remorse for the mitzvot he has performed during his lifetime indeed loses the merits of all the acts he performed in his lifetime. Why? The answer is that remorse over the meritorious acts that were performed, severs the relationship between the person and G-d and as a result, the merits of the performed mitzvot disappear since they do not carry any special merit in the absence of a relationship with G-d. Conversely, when there is remorse for a transgression, *teshuvah* repairs the relationship with G-d, but the negative spiritual demerits would persist were it not for the חסד of G-d. It is the special gift of *teshuvah* which G-d has given us, which has the power to eradicate even the spiritual demerits of the transgression.

May we use the gift of *teshuvah* we have been granted to further develop and nurture our relationship with הקב"ה during this most auspicious time.

The Teshuvah of Yishmael

RABBI MORDECHAI TORCZYNER

AND AVRAHAM SAID to Hashem: “If only Yishmael would live before You!” (*Bereishit* 17:18).

Only on Rosh Hashanah’s second day do we read of Avraham and Yitzchak’s superhuman sacrifice at the *Akeidah*. For the first twenty-four hours of the Day of Judgment, our biblical source for edification and inspiration is that story’s prequel: Hashem’s merciful response to Sarah, the birth of Yitzchak, and the epilogic eviction of her dissolute, violent stepson, Yishmael.

Certainly, we choose this latter Torah reading because an instance of the Creator of the Universe recalling Sarah’s merit on Rosh Hashanah suits the day on which we seek to move Hashem from the throne of justice to the throne of mercy.¹ But why do we append Yishmael’s story on a day when we identify Hashem as our parent? At best the account is irrelevant; at worst, it tells a tale which denies paternal love, as a sinner is evicted from his father’s home!

One could argue that this is precisely the Rosh Hashanah point – Yishmael is denied the mercy of “father figures” Hashem and Avraham, but *we* are descendants of Avraham, protected by a covenant.² However, the story of Yishmael’s eviction might also provide a more positive message: This event is understood by some as the turning point in a life previously characterized by unbridled sin.³ Beginning immediately after Yishmael’s eviction from the home of Avraham and Sarah, our sages see signs that the villain took his exile to heart and committed himself to a path of repentance.

1. See *Rosh Hashanah* 10b–11a and *Vayikra Rabbah* 29:3.

2. Indeed, the same theme exists in Yom Kippur’s rites. The scapegoat, which is interpreted in *Bereishit Rabbah* 65:15 to represent Esav, dies in the wilderness; we, on the other hand, receive forgiveness in the *Beit Hamikdash*.

3. *Bereishit* 16:12; *Bereishit Rabbah* 56:11.

MORDECHAI TORCZYNER is the Rosh Beit Midrash (dean) of Beit Midrash Zichron Dov, a Kollel and community resource which unites Jews of all affiliations and all levels of background knowledge in Torah study. More than 3000 of Rabbi Torczyner’s classes and articles are archived on www.yutorah.org. The Torczyner family have been BAYT members since arriving in Canada in 2009. He can be reached at torczyner@torontotorah.com.

Yishmael's Path of *Teshuvah*

The Torah offers us the first sign of Yishmael's repentance as he lies beneath a bush, dehydrated and, apparently, near death:

And Hashem heard the voice of the youth, and a messenger of Hashem called to Hagar from the heavens and said, "What troubles you, Hagar? Fear not; Hashem has heard the voice of the youth, as he is there" (*Bereishit* 21:17).

The sages were troubled by the last few words of Hashem's emissary; what is the meaning of, "as he is there"? Rabbi Yitzchak explained:

A person is judged only based on his deeds of that moment, as it is written, "Hashem has heard the voice of the youth, as he is there" (*Rosh Hashanah* 16b).

Another *midrash* amplifies R. Yitzchak's account:⁴

The angels leapt to argue against his survival, saying, "Master of the Universe! You would provide a well for this man who is going to murder Your children with thirst?"

Hashem replied: "What is he now – righteous or wicked?"

They said: "Righteous."

He told them: "I only judge a man based upon his moment. Rise, and take the youth...."

This passage is remarkable not only as a lesson in Divine justice and omniscience, but also as a lesson regarding Yishmael himself. Just that morning, the teen had been evicted for idolatry, murder and sexual immorality⁵ – and now he was righteous, deserving of Divine intervention? This is the first sign that the post-exile Yishmael executes an about-face, righting his wrongs.

Further evidence of repentance comes from the Torah's mention of two anonymous "youths" who accompanied Avraham and Yitzchak to the *Akeidah* (*Bereishit* 22:3). A *midrash* unmasks these youths for us:⁶

Rabbi Eivo said: The Torah teaches you proper conduct, that one should not travel with fewer than two escorts, lest he ultimately become his servant's servant. Two people conducted themselves properly, Avraham and Shaul. Regarding Avraham it says, 'And he woke early in the morning and took his two youths with him' – Who were they? Yishmael and Eliezer. Regarding Shaul...

4. *Bereishit Rabbah* 53:14.

5. *Bereishit Rabbah* 56:11.

6. *Vayikra Rabbah* 26:7; Rashi to *Bereishit* 22:3 cites this as well. See also *Kohelet Rabbah* 9. Ritva to *Kiddushin* 68b is unique in rejecting this *Midrashic* explanation, on the grounds that Yishmael is normally identified as Avraham's *ben*, rather than his *na'ar*.

How did Yishmael end up in this picture, accompanying his father and half-brother – and in the role of a servant no less – to the *Akeidah*? According to the traditional chronology, he had been evicted some thirty-five years prior! Perhaps this may be taken as further evidence that Yishmael repented upon his eviction, and ultimately returned to his father's home.

Finally, the *Gemara* saw evidence of Yishmael's *teshuvah* in the biblical account of Avraham's burial. After noting that the Torah uses specific language to describe the passing of the righteous, and that the Torah employs this language regarding Yishmael's death (*Bereishit* 25:17), Rava explained:

Yishmael repented during his father's lifetime, as it is written, "And Yitzchak and Yishmael, his sons, buried him." [Placing Yitzchak first indicates that Yishmael showed respect to his righteous younger brother.]

But perhaps the Torah simply listed them based upon their wisdom [and, in fact, Yishmael showed no such respect to Yitzchak]? If that were true, then [at Yitzchak's burial] why did the Torah say, "And Esav and Yaakov, his sons, buried him?" Why did it not list them based upon their wisdom?

Rather, from the fact that the text put Yitzchak first, Yishmael must have placed him first. We learn from here that he repented during his father's lifetime (*Bava Batra* 16b).

This combination of sources – Hashem's declaration that Yishmael was righteous, Yishmael's pre-*Akeidah* return and his display of respect for Yitzchak at Avraham's funeral – presents a tantalizing idea: Yishmael learned from his eviction. Perhaps, what seemed like a hard-hearted case of justice was actually an example of successful tough love.⁷

Or Perhaps Yishmael Did Not Repent?

Admittedly, some sources indicate that Yishmael did not repent.

In the context of a discussion about a list of historical figures who were excluded from *olam haba*, the Talmud states:

A father cannot assign merit to his son, for it is written, "None can rescue from My hand." Avraham cannot rescue Yishmael and Yitzchak cannot rescue Esav (*Sanhedrin* 104a).

In itself, this *Talmudic* passage need not be taken as evidence that Yishmael lived out his life in wickedness. Nonetheless, a *Tosafist*, Rabbeinu Elchanan,⁸ understood it in this way.

Rashi also saw evidence of Yishmael's lifelong delinquency in the following *Talmudic* passage:

Why were the years of Yishmael's life enumerated in the Torah? In order to calculate the years of Yaakov (*Megillah* 17a).

7. I am indebted to Rabbi Meir Lipschitz for pointing out that *Kli Yakar* (*Bereishit* 25:1) identified the repentance of Hagar, and inter alia her son Yishmael, in the story of her re-marriage to Avraham.

8. *Tosafot Yeshanim*, Yoma 38b, *ma'aseh b'Doeg*.

Rashi there explained that the *Gemara* was asking, “Why would we count the years of the wicked?”⁹

Rabbi Moshe Sofer, too, took as given that Yishmael did not repent. As part of a legal discussion¹⁰ regarding exempting a woman from performing *yibbum* if her husband was a *mumar*, Rabbi Sofer identified Yishmael as a *mumar* and an exile from the family of Avraham.

Does Yishmael’s *Teshuvah* Matter for Me?

Yishmael’s religious fate has implications for our own lives in two limited practical areas and in a third, more broad area of philosophy.

Yishmael’s possible repentance affects the question of excluding sinful heirs from one’s estate. The Sages weighed in against altering the biblical order of inheritance,¹¹ but then how did Avraham assign all of his property to Yitzchak?¹² Some suggest that Avraham’s action was justified by Yishmael’s wickedness,¹³ indicating that a modern parent could do likewise. If Yishmael actually repented, though, then this rationale for re-distributing one’s estate disappears.¹⁴

Another application is in the matter of using a name which also belonged to a wicked biblical figure. Based upon Shlomo HaMelech’s statement, “The name of the wicked should rot” (*Mishlei* 10:7), the Sages taught¹⁵ that we are not to use the names of wicked people, and that people who bear such names may even meet dire ends. How, then, did a great *tanna* go by the name of Yishmael? Some suggest¹⁶ that this supports the view that Yishmael repented, and that the names of other biblical sinners ought not be used. However, within the view that Yishmael did not repent, Rabbi Yishmael’s use of his name may imply that names which are commonplace,¹⁷ or which preceded Shlomo HaMelech,¹⁸ may be used despite their wicked former bearers.

The broadest application of Yishmael’s *teshuvah*, though, is in the realm of our own growth and repentance. This adolescent was on a path of such corruption that the Creator who is identified by thirteen unique attributes of mercy ordered him evicted from his home to wander in the wilderness. The next stop in Yishmael’s life was Egypt, where he married

9. Indeed, Rabbi Aryeh Leib Gunsberg (*Turei Even*) expressed shock at Rashi’s comment, asking, “How could Rashi have vilified this righteous man who repented? Just the opposite – We say, in many sources, that fully righteous people cannot stand in the place reserved for those who practice repentance!” He provided an alternative explanation of the *Talmudic* question in question.

10. Chatam Sofer *Even HaEzer* 4:88.

11. See *Ketuvot* 53a and *Bava Batra* 133b.

12. See *Bereishit* 25:5 and *Sanhedrin* 91a.

13. *Machaneh Yehudah* to *Choshen Mishpat* 256:3.

14. See *Yabia Omer* 8:Choshen Mishpat 9 and *Mishneh Halakhot* 6:294 for other justifications of Avraham’s actions.

15. *Yoma* 38b, and see *Tosafot Megilah* 10b *Rabbah*, *Mabit* I 276 and *Yosif Ometz* 11.

16. *Tosafot Yeshanim* to *Yoma* 38b.

17. *Yosif Ometz* 11.

18. *Yehudah Yaaleh* 1: *Orach Chaim* 99.

an Egyptian woman (*Bereishit* 21:21). How, then, did Yishmael, cast out of his own Eden and rejected by his family, find the wherewithal to repent?

Yishmael's repentance may have been stimulated by his father, Avraham, who pleaded with Hashem on behalf of Yishmael's future righteousness,¹⁹ and who is described in a *midrash*²⁰ as seeking Yishmael's repentance in later years. However, we may also suggest that Yishmael is a human being who learned from his punishment and managed to correct his path and find his way to Hashem. In this sense, Yishmael is a potent model for Rosh Hashanah.

Many of us have difficulty relating to Yitzchak, who went willingly to be bound and slaughtered,²¹ who needs not the privilege of repentance for he is a perfect offering.²² Yitzchak's death sentence was handed down in response to no sin of his own, and so he is a distant role model. Yishmael, on the other hand, evicted from his father's home with Divine approval, may resonate with the child of Avraham who arrives at Rosh Hashanah on the heels of a monthlong personal audit that has turned up more red ink than black.

The heart of our Torah reading on the first day of Rosh Hashanah is still the story of Sarah, but on the Day of Judgment, let us be edified and inspired by its epilogue, the exile of a young man into a harsh world, and his ultimate return.

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19. See *Bereishit* 17:18 and Ramban to *Bereishit* 17:3.

20. *Yalkut Shimoni* Vayera 95.

21. *Midrash, Bereishit Rabbah* 56:3.

22. Ramban, *HaEmunah V'HaBitachon* 15.

Halakhah

Do I Really Have to Eat This?

Eating Simanim That Don't Agree With Us

EZER DIENA

DURING THE NIGHT meals on Rosh Hashanah, many of us have the custom to eat specific foods, known as the *simanim*,¹ such as apples, carrots or fish. For some, the following question may arise: what should be done if one strongly dislikes (or is even repulsed) by eating one of the *simanim*? This article provides three possible halakhic responses to this question, ranging from an obligation to nevertheless consume the *siman*, to a prohibition from tasting the disliked *siman*.

Background

The Talmud (*Keritot* 5b–6a) cites a *beraita* that states that a king must be anointed next to a spring of water, as it is a positive sign for his reign to continue. Based on this statement, the Talmud concludes that positive signs (*simanim*) are effective. The Talmud then quotes Abaye, who lists a number of foods² that an individual should eat on Rosh Hashanah so as to have a positive effect on the following year, due to the meaning of their name(s) or other properties.³ This custom progressed to include various other items in the times of the Geonim, including sheep's head and fatty/sweet foods. The Geonim⁴ not only relied on

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1. This literally translates to “signs,” and will be discussed below.
 2. *Kara*, *rubya*, *karti*, *silka* and *tamri*, the identities of which will not be discussed here.
 3. Such as when they grow during the year, how they taste and how many seeds they contain; some of this will be discussed in later footnotes in greater detail.
 4. See responsum cited in *Or Zaru'a Hilkhos Rosh Hashanah* 257, versions of which can also be found in *Teshuvot Hage'onim* (Lyck) #8 in the name of R. Hai Gaon and in *Teshuvot Rav Natrona'i* (Brody) *Orah Hayim* #179 in the name of R. Natrona'i Gaon.

EZER DIENA teaches Math, Science and Judaics at Bnei Akiva Schools of Toronto. After studying at Yeshivas Toras Moshe for two years, Ezer received his B.Sc. in Chemistry and B.Ed. from York University. He then joined Beit Midrash Zichron Dov of Toronto, where he studied for two years while serving as Rabbinic Assistant at BAYT and teaching in the Toronto and Thornhill communities. He welcomes any comments or feedback at ediena@torontotorah.com.

Abayei's precedent but argued that this was the motivation for Nehemiah's instruction to "eat fatty foods and drink sweet drinks" (*Nehemiah* 8:10), as they would help ensure that the following year would be sweet and fatty.⁵ Over the generations, there were many modifications and additions to the original list, including, notably, dipping the apple in honey. In addition, a number of authorities even recommended that people create new signs depending on the meaning of the food's name in their local language.⁶ A number of these customs were codified in major halakhic works, such as *Tur*, *Shulhan Arukh*, *Mappah/Rema*, *Mishnah Berurah* and *Arukh Hashulhan* in *Orah Hayim* 583. Our custom is to also recite a special prayer while eating these foods so that positive things should happen to us, and negative things should befall our enemies.

With this background in mind, if someone does not like one of these *simanim*, what should they do?

Me'iri's Changes – The Basis for a Lenient Ruling

Rabbi Menachem Me'iri describes this custom in two places⁷ and emphasizes two important details that differ from the standard presentation of the custom. Firstly, rather than one being required to *eat* these foods, he cites the textual variant (found in our versions of *Horayot* 12a, and some versions of *Keritot* 6a) that one is only required to *see* these foods on Rosh Hashanah. If accepted, this obviously serves as a major leniency in which one would not be required to consume the *simanim* at all. Me'iri goes further to offer a rational explanation of the mechanism of these *simanim* leading to a positive outcome. Me'iri feels that if the benefits of the *simanim* were only mystical in nature, performing this ritual would be a violation of the prohibition against sorcery.⁸ He argues that there is no mystical element to seeing these foods; rather, the *simanim* are supposed to remind us to act properly and therefore aid us in our *teshuvah* process. When we speak of destroying our enemies, Me'iri argues that this refers to our own bad *middot* and thoughts, which cause sins, but not to other nations who prosecute us.⁹ Therefore, there is significant room to argue that even without eating these foods, their *teshuvah* "mission" is still accomplished and that someone who does not wish to eat them, need not do so.

Similarly, the Shelah Hakadosh¹⁰ states that the whole idea of choosing these food items is to inspire us to pray, which would also mitigate the requirement to eat them.

5. Nitei Gavriel, *Rosh Hashanah*, Chapter 29, Footnote 1 cites *Sefer Segulot Yisrael* (Reish, 3) who brings another possible biblical source for this custom from *Shemu'el A* Chapter 14.

6. See, e.g., *Mishnah Berurah Orah Hayim* 583:1.

7. *Beit Habehirah* to *Horayot* 12a, *Hibur Hateshuvah*, *Meishiv Nefesh* 2:2.

8. Also known as *nihush*, see *Vayikra* 19:26. For more discussion of this and related prohibitions, see Rambam, *Yad Hahazakah*, *Hilkhot Avodah Zarah*, Chapter 11 and *Shulhan Arukh*, *Yoreh Deah* 179 with commentaries.

9. He even recommends verbalizing this by saying *yistalku avonoteinu* and *yitamu chatoteinu*, which ask G-d to remove our sins, as opposed to our custom of asking him to remove our enemies.

10. *Rosh Hashanah*, *Ner Mitzvah* 21, cited by a variety of *aharonim*.

This approach is adopted by a wide variety of halakhic authorities, so there is certainly room to argue that one who dislikes one of the *simanim* or other foods eaten on Rosh Hashanah, does not need to eat them.

The Original Custom – The Basis for a Stringent Ruling

Despite Me'iri's compelling approach, there is definitely room to disagree. Firstly, not only does our text of the Talmud in *Keritot* explicitly say “to eat,” but many authorities had the same text in *Horayot* as well. As a result, these authorities, which include the *Tur* and *Shulhan Arukh*, rule that one should eat these foods, not just see them. While they do use language to indicate that this is only a custom and/or good practice,¹¹ nevertheless, we know that even *minhagim* must be taken very seriously,¹² especially those with strong biblical and talmudic roots, as detailed in the “Background” section above.

Secondly, in regards to Me'iri and Shelah's interpretations, that the main purpose of the *simanim* is to inspire us in some manner, it must be acknowledged that these interpretations are novel and a break from tradition. In the Geonic responsa cited earlier, the Geonim argue that there are two types of sorcery – “bad” sorcery, which is ostensibly the sorcery prohibited by the Torah, and “good” sorcery. As they write regarding our custom of eating *simanim*:

...זוה הניחוש טוב הוא ורובו מיסוד המקרא והגדות...

This sorcery is good, and most of it has a basis in the Tanach and Talmud.

Thus, many did view this custom as a mystical obligation to consume certain foods, and only eating those foods could have the required mystical effect!

Thirdly, while definitely not equivalent in the nature of their obligation, there is a similar case in which we see how far we must push ourselves in order to fulfill a mitzvah in the best possible manner, even if there might have been alternatives that were halakhically acceptable. Regarding the obligation to drink wine on Seder night, the *Shulhan Arukh*¹³ writes that one who does not drink wine because it harms them or because they hate it, must push themselves to nevertheless drink it on Seder night. Although *Mishnah Berurah*¹⁴ writes that in such a case, the individual may instead discharge their obligation by using other drinks (such as raisin wine or *hamar medinah*), the simple reading of the *Shulhan Arukh* indicates otherwise. This is especially apparent since Rashba,¹⁵ which *Shulhan Arukh* cites as his source, offers an alternative, that one may drink wine which is *mevushal* (cooked), and presumably less harmful, but *Shulhan Arukh* does not relay this option. If so, we see that there is value in keeping a stringency for food-related mitzvot, even if the person strongly dislikes that food.

11. E.g., “a person should be *ragil* to eat these foods on Rosh Hashanah.”

12. See Rabbi Simi Grossman's treatment of *minhag* in *Minhagim: A Brief History and Overview*, in *Hakhmei Lev Volume 1*, pages 105–109 (accessible at <https://images.shulcloud.com/148/uploads/Hak1-4-halakha-grosman.pdf>).

13. *Orah Hayim* 472:10.

14. *Orah Hayim* 472:37 citing *aharonim*.

15. Responsa 1:238.

Finally, after citing some of the leniencies that relate to the *simanim*, *Kaf Hahayim*¹⁶ writes that one may be lenient and rely on the opinion that seeing the *simanim* is enough in cases a) where one is unable to eat, b) does not have the food, or c) is concerned that they are infested with bugs (and eating them would thus be prohibited), but does not offer the case where one dislikes the *simanim*. It is possible that *Kaf Hahayim* would agree that seeing is enough in a case where one dislikes the food, but the fact that he brought only these other cases suggests that he feels it best to eat the *simanim* even if one dislikes them.

Stringent in the Other Direction – Reasons to Prohibit Eating

Another well-known custom over Rosh Hashanah is to avoid certain foods that taste bitter or sour,¹⁷ so as not to negatively affect our year in that manner. Although this custom is not as widespread, nevertheless, one could argue that eating something which sickens or disgusts a person is not a good sign for the year to come.¹⁸ Additionally, one person's good omen may be another person's bad omen; for example, some sources specifically instruct one to avoid eating any parts of an animal's brain¹⁹ and to avoid fish at all costs over Rosh Hashanah,²⁰ while others seem to specifically prefer eating them on Rosh Hashanah.²¹

Possibly the most compelling reason not to eat *simanim* that one strongly dislike has nothing to do with Rosh Hashanah, but rather with the following Torah violation: The Torah instructs us in two places²² not to be *meshaketz* or disgust ourselves with non-Kosher foods. However, this prohibition also applies to consuming kosher foods which disgust a person. For example, the Talmud (*Makkot* 16b) writes that one who drinks from a horn used for blood-letting violates this commandment, and *Shabbat* 90b argues that eating a live grasshopper (even if it is kosher and otherwise permitted) also violates this prohibition. The authorities debate whether this is a biblical or rabbinic violation.²³ However, there are two main views on which (otherwise kosher) foods are actually prohibited. Rambam²⁴ codifies

16. *Orah Hayim* 583:6.

17. See, e.g., *Mishnah Berurah*, *Orah Hayim* 583:5.

18. *Taz*, *Orah Hayim* 583:1 cites *Agudah*, who asks how it is possible to prohibit these foods if some of the Talmud's foods have a negative name, such as *karti*, which we simply say refers to destruction of our enemies; why can't we just say that any negative foods that we eat should have the desired effect on our enemies? He answers that there were other reasons why the Talmud chose those foods. However, it seems from here that in the event that one does consume a bitter or sour food, there is no loss in declaring that "the year of our enemies should be sour." Alternatively, in the spirit of the view of Me'iri above, one could declare that "the plans of our yetzer hara should spoil" or that "aveirot should be bitter to us."

19. *Nitei Gavriel*, *Rosh Hashanah* Chapter 19, Footnote 31 cites a number of authorities who warn not to eat brain (or heart or liver) for kabbalistic reasons.

20. See, for example, *Mahazik Berakhah*, *Orah Hayim* 583:3, who writes that *Rashbatz* says not to eat it, and that support can be adduced from *Tikkunei Zohar*.

21. Many have the custom to eat the head of different animals, with no limitations given, and there is a specific custom to eat fish (mentioned in many places, including *Mishnah Berurah*, *Orah Hayim* 583:5).

22. *Vaykira* 11:43 and 20:25.

23. Some authorities will be detailed below.

24. *Yad Hazakah*, *Hilkhot Ma'akhalot Assurot* 17:29–30.

this as a law prohibiting an individual from consuming something that is classified by *others* (“most people”) as disgusting. Me’iri,²⁵ on the other hand, argues that the prohibition is for an *individual* to make *themselves* feel disgusting, and that the cases in the Talmud are only examples where most people would probably be disgusted by the food.

While the language of the *Shulhan Arukh*²⁶ is less clear, many *aharonim* conclude that in a case where an individual is repulsed by a food, they may not consume it.²⁷ Additionally, according to the authorities who consider this a biblical concern,²⁸ any case of doubt is to be treated stringently. Also, *Hagahot Hagra*²⁹ cites a passage from *Avot Derabbi Natan* (26:5) which adds additional concern:

He used to say: One who eats foods which do not agree with his body [footnote 42: That is, he eats food that is repulsive to him] commits three transgressions: He has demeaned himself, he has degraded the foods and he has recited a blessing improperly.³⁰

Based on this passage, it would be inappropriate to eat *simanim* that one is repulsed by. However, if one decided to rely on the other sources and eat them nevertheless, one should at the very least make an effort to recite the blessing over another food, so as to avoid the third concern listed in *Avot Derabbi Natan*.

While a qualified halakhic authority may see it fit to offer different rulings depending on the circumstances (for example, due to the nature of the person involved and how much they dislike the particular *siman*) it has been demonstrated that there are sources to back up whatever conclusion is reached. Similar to drinking on Purim, the answer might not be “one size fits all”; a stringency in one direction is a leniency in the other. But as the Rema writes,³¹ citing a mishnah in *Menahot*,³² whether one chooses one path or the other, so long as they have the right intentions, G-d accepts their action. How much more appropriate is this sentiment on a day when we recall how Hashem knows our innermost thoughts and judges us for them!

In conclusion – this year, no matter if you choose to skip that fish head or plug your nose and take a bite, make that decision knowing that what you are doing is ultimately for G-d’s honour. May He reward you with a judgement that reflects your devotion to Him.

25. *Beit Habehirah* to *Makkot* 16b.

26. *Yoreh Deah* 116:6. He significantly modifies Rambam’s language.

27. See, e.g., *Peri Megadim Yoreh Deah Mishbetzot Zahav* 84:2 and *Siftey Da’at* 84:3, who writes that this is universally agreed upon.

28. These include *Ramah* (cited by *Ritva*, *Makkot* 16b), *Sefer Yere’im* (Mitzvah 73), *Semak* (Mitzvah 80) and a very minority opinion within Rambam. See also *Arukh Laner* to *Makkot* 16b, who connects this disagreement to the question of whether one may feed a minor a rabbinic prohibition, in which case this list would be significantly longer. The language of *Avot Derabbi Natan* cited below by Gra may also indicate a biblical prohibition.

29. *Yoreh Deah* 116:19.

30. ArtScroll translation.

31. *Orah Hayim* 695:2; see also *Shulhan Arukh*, *Orah Hayim* 231:1.

32. 13:11; found in the *Talmud* on 110a.

Yitgadal or Yitgadel: At the Crossroads of Convention, Grammar and Mysticism

Part I

DR. DAVID MOSHE FISCHMAN

Introduction

ANY BAYT MEMBER who has been present during a service where our Rav, Rabbi Daniel Korobkin, *shlit"á*, has served as the *hazzan*, could not fail to notice that he pronounces the first two words of the Kaddish as “*yisgadel veyiskadesh*,” with the vowel *tzeirei* under the words’ respective letters *dalet*. This pronunciation is inconsistent with the text of all Siddurim in current use at the BAYT, namely, the various ArtScroll, Koren and RCA publications. It is also inconsistent with the overwhelming proportion of printed editions of the Siddur used in Eretz Yisrael and throughout the Diaspora of all *nushaot* (versions), both those newly edited as well as centuries old editions. The standard *nusah* (version) of the first two words of Kaddish are pronounced, “*yisgadal veyiskadash*,” or “*yitgadal veyitkadash*,” with the vowel *patah*.

What is the origin of the variant used by our *Mara DeAtra* and many others? What is its significance? I am aware of three excellent treatments of this subject in Hebrew. One is an article by Hayim Cohen, published in the journal *Masorot*, by the Academy for the Hebrew Language in 5754.¹ The second is an article by Yaakov Hoffman, published in the journal *Bet*

1. חיים א' כהן, יתגדל ויתקדש (עיון בצמיחתה של מסורת הגייה חדשה). מסורה, מחקרים במסורות הלשון ובלשונות היהודים; בעריכת משה בר-אשר, כרך ח', עמ' 59-69. ירושלים ה'תשנ"ד.

DAVID FISCHMAN has been a member of the BAYT since moving to Thornhill ten years ago. He is a clinical and forensic psychologist and has provided assessment services to Family Court, has worked for Correctional Services treating high risk offenders and has worked for the Canadian Forces providing treatment, consultation and oversight for training and reintegration of detainees. He currently works for the RCMP and in private practice.

Yitzhak, by the Student Organization of Yeshiva University in 5767.² A third article by Rabbi Daniel (Dan) Rabinowitz may be found on the website of Michlelet Herzog of Gush Etzion.³ While these articles argue for the reading with the *patah*, they are also enlightening with regard to the background of the *tzeirei* reading. My original motivation for writing this article was to make the research found in those articles accessible in English, with my own main contribution being the manner of presentation and organization of the material. Yet, as I worked on the first draft of this article, I came to realize that there was much more to the question of this one vowel than the concern about correct pronunciation and meaning. Preparing this study became somewhat like travelling down a road, where the road itself may be tedious much like the dry grammatical and bibliographic analysis that lies at the core of the study. But as a traveller may take pleasure in observing landscapes and local colour of towns along the way, my attention was drawn to tangents that reveal how Torah scholars made use of source material that was available to them as well as the social and historical forces that coincided with the debate about the correct reading of Kaddish. I hope that likewise, at least some of the material in this article will draw the attention of readers.

The aim of this article is not to advocate for either of the two readings of יתגדל ויתקדש, although fair disclosure requires me to admit that I am partial to the version in our printed Siddurim. Nevertheless, no matter what an individual may conclude after delving into material presented here and elsewhere, attention should be paid to a caution offered by the *Mishkenot Ya'akov*.^{4,5} *The Mishkenot Ya'akov* comments on a trend among *Benei Torah* of

2. יעקב הופמן. יתגדל ויתקדש. בית יצחק, קובץ חידושי תורה. הסתדרות תלמידי ישיבת רבנו יצחק אלחנן, ישיבה אוניברסיטה. חוברת ל"ט, עמ' 438-442. ניו יורק, תשס"ו.

3. הרב דניאל (דן) רבינוביץ'. בעיית השינויים בסידור: על שינוי ניקוד בתפילת הקדיש. Downloaded from daat.ac.il/he-il/tfila/iyun on 2022-06-22. Apparently this paper was also published as a chapter of a volume entitled Minhagei Yisrael or אור ישראל, but no details are given on the reference. I was later made aware of an English translation of Rabbi Rabinowitz's article, "The Perils of Ignoring Precedent: Alterations in the Kaddish Prayer," which is available at <https://seforimblog.com/2007/01/perils-of-ignoring-preceden>.

4. In this paper, for identifying rabbis, I will frequently follow the custom of calling rabbis by the titles of their well known works. For purposes of identification, it is also important to be aware that especially in Eastern Europe, often rabbis were called by endearing forms of their Yiddish names (e.g., Reb Yosheh Ber, for Rabbi Yosef Dov Soloveitchik). Surnames were not used consistently, some people carrying more than one surname and sometimes surnames were not passed from fathers to sons. At times the name of a parent, either a mother or a father, was used in the place of a surname, especially in blended families (e.g., as in Yitzhok Bashevis = Batsheva's; Shlomo Idel's = Yehuda's). Sometimes the name of a hometown was used in the place of a surname (e.g., Reb Yisroel Salanter for Rabbi Yisroel Lipkin). For rabbis, the name of the town used was the location in which they served during the peak years of their careers (e.g., Reb Nachman Bretzlover. Uman was never used as an identifying title for R. Nachman until the emergence of neo-Hasidism in the 1990's). Sometimes the person's lineage was used in the place of a surname, though not passed from father to son (e.g., Cohen or Levi or their equivalents, unlike today where they are bona fide surnames). This paper will make use of all of these conventions. In addition, Yiddish place names will be used most frequently, since the Yiddish names of towns and villages were the ones used when a place name functioned as a surname. Fortunately, Wikipedia articles about European towns, cities and villages that had Jewish communities before the Holocaust list their Yiddish names as well their names in languages of other nationalities that either populated the areas or had political control over them.

5. Rabbi Ya'akov Brukhin Schick of Karlin (1780-1844). After studying under Rabbi Hayim of Volozhin (see note 51), the *Mishkenot Ya'akov* went on to run a successful business. At some point he faced a significant setback,

his day to depart from the prevalent customs regarding the places in Kaddish where the congregation responds to the hazzan in order to harmonize practices with the opinions of the *Bet Yosef*,⁶ Rabbi Yosef Gikatilia⁷ and the Gaon of Vilna:⁸

וע"פ דבריו ז"ל נתפשט זה קרוב בין רבים מבעלי תורה לשנות מנהג הקדום ע"פ הרי"ג והב"י לענות עד יתברך ונהגו לענות עד עלמייא. וקצת כבד הדבר בעיני לשנות מנהגים שהנהיגו גאוני עולם מפורסמים ולא ידעתי אם היה דעת רבינו הגאון לקבוע הלכה ולשנות המנהג. וידוע כמה גדול כחו של הגאון ז"ל ועומק חכמתו ז"ל אבל גם גדולי הקדמונים התנאים והאמוראים לא הי דעתם נוחה לשנות מנהגים קבועים לרבים.⁹

[A]nd in accordance with his words the custom has spread among those who possess Torah learning to change the ancient custom in accordance with R. Yosef Gikatilia and the *Bet Yosef* of responding "amen" until "yitbarakh" while the existing practice is to respond until "almaya." And it is a bit problematic in my eyes¹⁰ to change the customs that were established by renowned sages of all time.¹¹ And I do not know if the intention of the Gaon¹² was to determine the halakhah and change the custom. And it is known how great the authority and the depth of the knowledge of the Gaon z"l was, but even the greatest of the early Tanaim and Amoraim¹³ were not comfortable changing widely established customs.

after which he entered the rabbinate and became one of the leading halakhic scholars of Belarus. The late Israeli Prime Minister Yitzhak Rabin is a descendant of the *Mishkenot Ya'akov*.

6. Rabbi Yosef Karo (1475–1558). Born in Spain but fled the Inquisition with his family, taking up residence in many places until finally settling in Tzefat, Eretz Yisrael. The *Bet Yosef* is a commentary on the *Tur* (on the *Tur*, see note 21 below). He also is the author of the *Shulhan Arukh*, the work known in English as The Code of Jewish Law, and because of its centrality, R. Yosef Karo is known simply as "The Mehaber," "The Author." R. Yosef Karo also belonged to the circle of Tzefat Kabbalists and is the author of the kabbalistic work, *Magid Mesharim*.
7. Lived in Spain, exact dates of birth and death are uncertain, but apparently born around 1248 and died 1325. Author of many kabbalistic books, but best known for his work, *Sha'arei Orah*. Many of his customs are quoted by the *Shulhan Arukh* and are commonly practiced. Examples are omitting the pause between the words 'almaya and yitbarakh in Kaddish, waiting until the week after *Rosh Hodesh* to say *Kiddush Levanah* and taking the *tefillin shel rosh* out of its pouch only after the *shel yad* has been laid.
8. Rabbi Eliyahu ben Shlomo Zalman (1727–1797), otherwise known by the acronym, the GR"A, standing for the *Gaon Rabbi Eliyahu*. The word, *gaon*, in biblical Hebrew means "pride," came to mean the equivalent of "His Excellence" as a title for the heads of Babylonian yeshivot who also functioned as leaders of Jewry from about 500 to about 1000. Since the middle ages, it has been used as an honorific rather than an official title and has come to mean "genius" in ordinary modern Hebrew usage. The GR"A did not hold any official communal office or title, but is commonly singled out for this honorific for his stature as a scholar of singular intellectual gifts who emerges only once in many centuries. He is well-known as the spiritual inspiration of Lithuanian Jewish learning and for his opposition to Hasidism. The GR"A is the genealogical and intellectual ancestor of the prominent Soloveitchik family.

9. משכנות יעקב ס"י ע"ו.

10. The awkward Hebrew usage in the expression קצת כבד הדבר, seems to be a literal relexification of Yiddish, טיפא, קצת כבד both can mean heavy or difficult, but כבד is not commonly used to mean difficult in the sense of "problematic," as שווער is used in Yiddish.
11. The correct idiomatic translation of גאוני עולם is "sages of all time," not "sages of the world," as the reference here is to the great sages who early on initiated the practices. עולם as in: זכור ימות עולם בינו שנות דור ודור, Deuteronomy 32:7.
12. The reference is to the Gaon of Vilna.
13. Tanaim: rabbis of the Mishnah, from approximately the beginning of the Common Era to around 200 C.E. This period was followed by the period of the Amoraim, rabbis of the Talmud, for the next three hundred years.

Accordingly, this paper should be viewed as an exploratory study. Any questions of applied halakhah, especially those relating to congregational practices such as which variant of Kaddish to recite, should be directed to the local *Mara DeAtra*.

The *Mishnah Berurah* and Its Sources

It seems that individuals who pronounce the first two words of the Kaddish, “*yitgadel veyitkadesh*,” most commonly do so following the opinion of the *Mishnah Berurah*.¹⁴ This commentary by the *Hafetz Hayim*¹⁵ on *Orah Hayim*,¹⁶ has become over the last fifty years a sort of halakhic manual in the Ashkenazi yeshiva world.¹⁷ This is true to the extent that many yeshiva students, contrary to the sensitivity expressed by the *Mishkenot Ya'akov* above, change customs and practices that they learned in their homes and synagogues to harmonize with the *Mishnah Berurah*. The pronunciation of the first two words of the Kaddish is one such practice. Another common motivation for adopting this reading is to identify with their yeshiva community where the pronunciation is common and often attributed the custom to the Gaon of Vilna.

Based upon the impression that the *Mishnah Berurah* is the most likely basis for most who adopt the reading, “*yitgadel veyitkadesh*,” we may begin our discussion with an examination of the *Mishnah Berurah*. Let us propose that if a scholar of the stature of the *Hafetz Hayim*, stated a ruling regarding the proper pronunciation of a single word or phrase in a prayer, we can presume that it is because he was aware that variants exist. In this case this is a presumption that is difficult to avoid, since, as already mentioned, the particular position of the *Mishnah Berurah* runs counter to the overwhelmingly prevalent reading.¹⁸ The *Mishnah Berurah* offers the rationale for his position:

14. סי' נ"ו, סעי' א', ס"ק ב.

15. Rabbi Yisrael Meir ben Aryeh Zeev Hachohen (1838?–1933). Most commonly known by the name of his book *Hafetz Hayim*, which he originally published anonymously. The surname often found next to his name, Kagan, was not actually used by him but by his sons. The surname that he used for signing official documents was Poupko. The name Kagan is often mispronounced and should be enunciated as “KAY-gen,” which is the way the name Cohen was pronounced by Russians and Belarussians. In the speech of region, there was no vocalized “h” sound. In local Jewish accent, the name was pronounced “KAY-en,” the vowel *holem* taking a long “a” sound and the “h” sound tending to be dropped completely when speaking Yiddish or Hebrew. In the speech of gentile Russians and Belarussians the “h” sound in foreign words and names is replaced with “g,” hence Kagan for Kayen (=Cohen); the philosopher Hegel is known as Gegel. The *Hafetz Hayim* was known by both Jews and gentiles not only for his scholarship, but his piety and compassion for others. He took no salary for serving in the rabbinate or running the yeshiva he founded in Radin, but supported his family through a grocery store run part time by his wife and later through the sale of his books.
16. The first of the four volumes of the *Shulhan Arukh*, dealing with laws of daily ritual behaviour, Shabbat, and holidays.
17. On the manualization of halakhic practice, see the classic article by Hayim Soloveitchik, *Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy*, Tradition, Summer 1994 Issue 28.4. <https://traditiononline.org/rupture-and-reconstruction-the-transformation-of-contemporary-orthodoxy>.
18. During the course of Torah study, one often hears assertions regarding a majority opinion. In most cases, what is actually meant is the majority of published texts that form the canon of that particular learning circle and/or oral opinions circulated within their own communities. It is rare to find Torah literature reviews that might be considered comprehensive surveys, such as in the responsa or lectures of such figures as Hakhmei

נוסח הקדיש יתגדל ויתקדש שהוסד ע"פ המקרא והתגדלתי והתקדשתי (ביחזקאל ל"ח) לענין מלחמת גוג ומגוג דאז יתגדל שמו...ויאמר הדלית דיתגדל ויתקדש בצירי כי הוא עברי ולא תרגום...¹⁹

The wording of the Kaddish, "yitgadel veyitkadesh" [Let Him become great and let Him become sanctified], which based upon the words of the Scripture, 'I will become great and I will become sanctified' (in Ezekiel 38) referring to the war of Gog and Magog, as that is when His name will become great...and one should say the *dalet* of ויתקדש with a *tzeirei*, since it is Hebrew and not Targum...²⁰

The *Mishnah Berurah* here makes three main points: (1) the first two words of the Kaddish are meant to echo the words of Ezekiel 38:27; therefore (2) these words are to be recited in Hebrew; and (3) the correct pronunciation of these words is with *tzeirei dalet*. In this paper we will examine these assertions as a whole. We will check their sources and discover that the assertions of the *Mishnah Berurah* are not firmly rooted in a consensus of authorities that preceded him. The reader is cautioned that this paper is only a preparatory reading for the next one, as a number of questions will remain unanswered in this instalment of the study due to space considerations.

Despite reservations noted here regarding the sources of the *Mishnah Berurah*, it should be emphasized that the *Mishnah Berurah* is unequivocal. He does not say, *yesh omerim*, or *nohagim*, ("some say," or "it is customary") or use similar language. What is the basis for this *pesak* (ruling)? The reference given by the *Mishnah Berurah* for tracing the phrase ויתגדל ויתקדש to Ezekiel is the *Tur*.^{21,22} Regarding the instruction to pronounce the words with *dalet tzeirei* as they are Hebrew, the *Mishnah Berurah* cites the *Peri Megadim* (*PaMa"G*),²³ an authority upon

'Ovadia Yosef or Rabbi Herschel Schachter. Moreover the works of these figures cannot be used in the manner of literature reviews of peer reviewed scientific journals, where one expects every significant finding to find its way to publication. In the Torah world, there may be many authorities who have addressed a certain topic but have not published. In addition, methodologically, many times the aforementioned scholars do not adopt their views based on one-*posek*-one-vote among their predecessors. In the case of the Kaddish, the vocalization of the opening words with *patah* is so prevalent that no disclaimer is needed. A sample survey of early examples has been presented in Rabinowitz in footnotes 4–11 of his essay. David De Sola Pool in his dissertation implicitly agrees, but comments that in "many" manuscripts, the praise-words are vocalized with a pausal *kamatz*, without citing references (De Sola Pool, David. *The Kaddish*. W. Drugulin: Leipzig. 1909. Retrieved from www.archive.org/details/kaddishk00poolrich, 2022–5–10). Rabinowitz, in contrast, mentions "a single exception" as showing a pausal *kamatz*.

19. משנה ברורה סי' נ"ו, ס"א, ס"ק ב.

20. I.e., Aramaic.

21. The *Tur*, properly called the *Arba'ah Turim* ("The Four Columns," after its four volumes), was written by Rabbi Ya'akov ben Asher (1270–1340), who spent the bulk of his career in Spain. The work is significant as a milestone in codifying the laws quoted in the Talmud, laying down the format later used by R. Yosef Karo in his *Shulhan Arukh* (see note 6 above). The *Tur* gathered and contrasted the opinions quoted in the Talmud mainly as interpreted by three of his predecessors: Rabbi Yitzhak Al-Fasi (1013–1103), Maimonides (1135–1204) and his own father, Rabenu Asher (1250?–1357).

22. *טור סי' נ"ו ס"א*.

23. Rabbi Yosef Teomim (1727–1792). Active in Poland and Germany. Known for promoting straightforward approach to learning, in contrast to the method of *pilpul*, which aimed at pushing the sagacity of the student to its limits, but which he felt often was sterile.

which the *Hafetz Hayim* relies extensively in his work. The *Peri Megadim* is a supercommentary to the classic commentaries of the *Shulhan Arukh Orah Hayim/Yoreh Deah*, the *Turei Zahav (Ta"Z)*,²⁴ the *Sifte Cohen (Sha"KH)*²⁵ and the *Magen Avraham*.²⁶ The relevant passage is in a section of the *Peri Megadim* called the *Mishbetzot Zahav*, the division of the work dealing with the *Ta"Z*:

ואמירת הקדיש יתגדל ויתקדש על שם הפסוק ביחזקאל (ל"ח, כ"ג) והתגדלתי והתקדשתי וארמית
ב' טעמים עי' ב"י הביאם הט"ז וכ' עוד הב"י בשם הזהר תרומה ותוכן כונה כי מכריזים שהכל
ילכו לצד כי המלך ה' צבקות יבוא וצריך להכריז בלשונם כי לה"ק הוא קדוש וטהור וארמית יש בו
אחיזה לסט"א ומכריזים בלשונה.... וראיתי בסידור מהרב המדקדק מהר"ר הענא ז"ל.... גם שם
יתגדל ויקדש ע' בצירי כי הוא עברי ע"ש וי"ל הד' בצירי ובארמית בפתח.²⁷

Those who are proficient in Hebrew will notice that the *Peri Megadim* reads like brief personal notes and is almost telegraphic sounding. The lack of punctuation marks that is common in rabbinic texts makes the passage even more obscure. In the following translation, I will attempt to reproduce the style of the passage as it appears in Hebrew, but I will add some punctuation to ease the reading of this difficult passage. A literal reading remains confusing, and therefore I attempt to unpack its meaning in the footnotes:

And the recitation of the Kaddish ויתקדש יתגדל is a reference to the verse in Ezekiel (38:23) *vehitgadilti vehitkadishti*, and Aramaic,²⁸ two reasons,²⁹ see *Bet Yosef*, the *Ta"Z* quoted them. And the *Bet Yosef* in addition wrote in the name of the *Zohar*, *Terumah*, the essential meaning of which is that we proclaim that all should move aside because the King Y-H-V-H of Hosts is coming.³⁰ And the proclamation must be in their language

24. Rabbi David HaLevi Segal (1586–1667). Born in Ludmir, Ukraine, and active in various locations throughout the region, he temporarily relocated to Moravia in the wake of the Chmielnicki pogroms of 1648. He returned to Ukraine when order was restored. His commentary, the *Turei Zahav*, is fundamental to the study of *Shulhan Arukh*.

25. Rabbi Shabbeta'i ben Meir HaCohen (1621–1662). Active in major Jewish centres of learning, such as: Vilna, Krakow, Lublin and Prague. His commentary on the *Shulhan Arukh*, was known as *Sifte Cohen (Sha"KH)*. The *Sha"KH* and the *Ta"Z*, with whom the *Sha"KH* often disagrees, are considered two mainstays of advanced halakhah study. His polemics with the *Ta"Z* are elaborated upon in his work, *Nekudot HaKesef*. Like the *Ta"Z*, he was affected by the Chmielnicki pogroms and chronicled that tragic chapter in his work, *Megillat Efah*.

26. Rabbi Avraham 'Abele' HaLevi of Gumbin (1637–1682). The *Magen Avraham* is a central commentary on the *Shulhan Arukh Orah Hayim* and in many respects is regarded as a major guide to *Ashkenazi* custom.

27. פמ"ג הלי ברכות השחר סי' נ"ו.

28. The meaning of this clause is unclear. Does he mean that the words, *yitgadal veyitkadash* as well as the rest of the first paragraph of Kaddish are Aramaic, or does he mean that *only* the rest of Kaddish is Aramaic as he seems to assert in the conclusion of the paragraph?

29. This seems to mean that there are two possible reasons for Kaddish being in Aramaic. The *PaMa"G* does not explicitly state what those two reasons are. One reason that appears in *Gemara* and later commentaries is that Aramaic is the language that is not understood by angels. As we will see later, there are interpretations of this theme that vary significantly from one another. Another opinion dismisses this idea and states that the reason is that the prayer was recited in the presence of Jews who only spoke Aramaic and because of its extraordinary holiness it was important for it to be understood by them (*Talmud Bavli, Shabbat 12, Sotah 33*).

30. This phrase seems to compare the *a Hazan* reciting the Kaddish in Aramaic, the vernacular, instead of Hebrew, the holy tongue, to the leader of a king's entourage announcing to make way for the arrival of the king and his contingent in the vernacular of the common folk instead of in the language of elites. In medieval times

because the Holy Tongue is sacred and pure and “Other Side”³¹ clings to Aramaic so we make the proclamation in its language...³² And I have seen in the Siddur of the rabbi and grammarian Morenu Harav Rabenu Henna z”l...³³ there too that the ‘ayin is with a *tzeirei* since it is Hebrew, see *ibid*, meaning, the *dalet* should be said with a *tzeirei*,³⁴ and in Aramaic with a *patah*.

The notation-like structure and lack of punctuation of the passage make it difficult to say for certain what the *PaMa”G* means by first quoting the opinion of R. Zalman Henna and then adding the phrase “and in Aramaic with *patah*.” Does he mean to offer a halakhic decision to follow the *RaZa”H*, or does he conclude that the halakhah is to read the words in Aramaic like the rest of Kaddish? Or is he offering both opinions as valid? It is difficult to say. Contrary to the impression that may be made by a superficial reading, neither the *Ta”Z* nor the *Bet Yosef* infer from the allusion to the verse in Ezekiel that the opening words of the Kaddish should be in Hebrew. The apparent understanding is that these words are an Aramaic paraphrase of the words *vehitgadilti vehtkadishti* that appear in Ezekiel 38:27, and the prayer expresses a longing for the prophecy to come true during the lifetimes of those listening to its recitation. The only authority cited by the *Peri Megadim* who explicitly supports a Hebrew reading of the first two words of Kaddish, vocalized with *dalet tzeirei*, is R. Zalman Henna, of whom there will be more discussion in the second instalment of this study. Nevertheless, the *Mishnah Berurah* clearly understood the *Peri Megadim* as supporting a Hebrew reading of the words *יתגדל ויתקדש*, as he cites the *Peri Megadim* as his source.

and in Eastern Europe as late as the 20th century, the nobility often spoke languages other than those of the peoples who they ruled.

31. The “Other Side,” the *Sitra Ahara*, in *Kabalah* the obverse of the *Sitra DeHemnuta*, the *Side of Faith*; the former representing the forces of impurity and latter the forces of purity.
32. Here, the *PaMa”G* seems to be using the same parable to elucidate the reason for reciting the Kaddish in the impure language of the Other Side, a language which is not understood by angels. It is important, says the *PaMa”G*, for the impure forces of the world to understand the Hazan’s proclamation of the coming of the King of Kings, much as the peasantry must understand an announcement that their earthly king is about to arrive. While the *PaMa”G* does not elaborate, the *Zohar* goes at great lengths to explain why it is important for the Hazan to make himself understood to the *Sitra Ahara*. Notwithstanding, as has been pointed out to me by Rabbi Kenneth Stollon, this view of Aramaic would make it rather puzzling that much of rabbinic literature, including the *Zohar*, is written in a language viewed as unseemly. Most of the usual reasons given do not address the question of holy literature recorded in a language considered theologically unclean. An approach that can be found in *Zohar* and other kabbalistic literature has been published by Yehudah Libes in his article, *עברית וארמית, כלשונות חוזר*, which can be downloaded from www4.huji.ac.il/http/editor/ea858ba7a48fbb8a77a80358ebd7af/baea810071/zohar/ivrit.doc. Aramaic and Hebrew, corresponding to evil and good, are seen as opposite sides of a single reality. Within this understanding, writing esoteric works in Aramaic serves a similar purpose as reciting the Kaddish in Aramaic.
33. Also known as Shlomo Zalman ben Yehudah Leib Katz Hannau or the *RaZa”H* (1646–1787). A professional Hazan and autodidact, composer of many works on grammar and who was active in various towns in Germany and in Amsterdam. A detailed discussion will be presented regarding the figure of the *RaZa”H* and his influence will be forthcoming.
34. The Hebrew root verb is called a *פעל* and consists of three letters. Each of the tree letters of a Hebrew root is referred to by mapping it upon the word, *פעל*, so that the first letter of the root is called the *הפעל* פ, the second is called the *הפעל* ע and the third is called the *הפעל* ל. Hence, for the roots *גדל* and *קדש*, the *הפעל* ע is the second letter of the root or *ד* and it is pronounced with a *tzeirei*.

The Sources of the *Peri Megadim*

Perhaps a closer look at the sources of the *Peri Megadim* may offer an additional insight. We have already noted that the early source offered by the PaMa"Ga, the *Bet Yosef*, does not infer from the allusion to Ezekiel that the words, *יתגדל ויתקדש*, should be in Hebrew. Did he consider this even to be a possibility? From the work of R. Dan Rabinowitz cited above, one might come away with the impression that the *dalet tzeirei* reading has its origins with the RaZa"H. For some reason, he makes no mention of early sources of such a reading.³⁵ However, the RaZa"H cites as his source a work called *Sefer HaPardes*.³⁶ This book is part of a cycle of works originating from the school of Rashi, which includes also *Mahazor Vitri*, *Siddur Rashi*, another redaction for the *Pardes* entitled *Likutei Pardes* and other collections.³⁷ The *Bet Yosef* quotes the *Pardes*, but not in reference to the initial words of Kaddish being in Hebrew.

Bet Yosef also quotes another book entitled *Shibolei HaLeket*.³⁸ The *Shibolei HaLeket* explicitly states that the words *יתגדל ויתקדש* are two of ten Hebrew words of praise in the Kaddish to be recited in Hebrew, and that the Kaddish starts in Hebrew and continues in Aramaic.³⁹ Since the *Bet Yosef* had these works available to him, we are compelled to infer that he was

35. One may suppose that Rabinowitz considers the RaZa"H as the starting point of the dispute presuming that the practice was out of use for the four centuries that elapsed between the activities of Rashi's successors and the RaZa"H. Alternatively, he may have felt that the early texts from the school of Rashi are of questionable authenticity, as is pointedly stated by R. Ya'akov Emden in *Luah Eresh*, his critique of the RaZa"H. Academic scholarship also notes that the texts of Rashi's school that are available to us show extensive tampering. Still, one would have expected the question to have been addressed, however briefly, in his paper. This subject will be taken up for further discussion in the next instalment of this study.

36. In the edition downloaded from hebrewbooks.org, the Budapest edition of 1882 edited by Ehrenreich, mention is made of reciting the words in Hebrew, though no mention is made of the vowel, *tzeirei*. In other works from the school of Rashi, such as *Mahazor Vitri* and *Siddur Rashi*, the vowel is named explicitly.

37. Some bibliographical remarks on these books are in order. The *Sefer HaPardes* is widely quoted among early medieval and early modern Talmudic and halakhic literature as authored by either Rashi or his scribe, Rabbi Shema'iah. Apparently, printed copies of this book were not available from about the time that printing began until the 19th century. The *Likutei Pardes* is the book that is most often available to and quoted by early modern scholars. As the name implies, it consists of selections from the *Pardes*, but also quotes later scholars from the school of Rashi. *Siddur Rashi* is not a *Siddur* in the sense of prayer book, but a halakhic guide and commentary that covers prayers as well as other subjects. It is also quoted by early commentaries, though not as frequently as the *Pardes*, thus although the names of its compiler or compilers is unknown, it is an early work. The book consists of passages indicating Rashi as their source, as passages indicating statements attributed to Rashi by his students, or students' own statements. Similarly, the *Mahazor Vitri* is not actually a *Mahazor*, but a detailed book of halakhah, explanations, and interpretations pertaining to the daily and yearly cycles of Jewish practices. It is attributed to Simhah of Vitri, and it is already widely quoted by the earliest successors of Rashi.

Study of these works pose several challenges. Few manuscripts exist and the ones that are available appear to include errors, editing, and unattributed additions. The result is that a student needs to consider whether the text that is available to him or her is identical to the text used by early scholars in which it is quoted. Secondly, the student needs to consider whether the passage that is being studied is actually traceable to the school from which the book hails, even if it is likely not the words of the book's reputed author. Last but not least, one needs to make sense out of a text that is often corrupted.

38. The author of *Shibolei HaLeket* is presumed to be Zedekiah ben Avraham HaRofei, from a family of scholars known as the "Anavim" ("The Humble"), active in Italy in the 13th century. The contents include traditions of France and Germany of the 12th and 13th centuries which are also known to us through the *Ba'ale HaTosafot*.

39. שבלי הלקט מהד' באבער סי' ה.

aware of the tradition that the opening words of Kaddish are in Hebrew. Yet despite the fact that R. Yosef Karo uses material from the texts recording this tradition, and despite the fact that he accepts the first words of Kaddish to be an allusion to the verse in Ezekiel, he omits mention of the practice of saying these words in Hebrew entirely from his commentary on the *Tur* and from his *Shulhan Arukh*. Apparently, he regarded some material from the school of Rashi as valuable, but did not consider the tradition of treating the opening words as Hebrew as normative.

The *Peri Megadim* also refers to a passage of the *Zohar*. This passage from *Zohar Parashat Terumah* concerns itself almost entirely with the reason that Kaddish is in Aramaic while other prayers are in Hebrew. The parable presented by the *Peri Megadim* as illustrating the gist of the *Zohar*, namely of the King's proclamation in the language of his subjects, actually only has a superficial relationship to the actual narrative in the *Zohar* and seems to be the didactic creation of the *Peri Megadim* himself. The *Zohar* uses as its starting point the notion that angels do not understand Aramaic. It then presents us with a drama to explain why it is necessary in this particular prayer to bypass the angels, who are normally portrayed as the carriers of the words of prayer from the material world to the throne of G-d. The *Zohar* presents a narrative that implies a complex relationship between cosmic forces of good and evil, where good is held captive by and in need of redemption. Aramaic is associated with the *Sitra Ahara*, the "other side," or the forces of impurity. Only by praising G-d in Aramaic, can the barriers set up by the *Sitra Ahara* be penetrated in order to redeem the good. This is a stage portrayed as essential in maintaining a human partnership with the angels. More will be said about this narrative soon, which contrasts to another narrative that is known through various passages in the *Talmud Bavli*.⁴⁰ This narrative speaks about the Kaddish arousing the jealousy of angels. Significantly, the *Zohar* makes no reference to the first words of Kaddish being Hebrew. Indeed, within the narrative that it presents, the angels are eventually engaged, but opening the prayer in Hebrew would defeat the purpose, which is to speak to the *Sitra Ahara* in its own language.

An interesting and relevant observation can be made by comparing the narrative of the *Zohar* to that of the *Mahazor Vitri*. The *Mahazor Vitri* presents a mystical narrative that is different from the one in the *Zohar*. In the narrative of the *Zohar*, the use of Aramaic causes confusion among the angels, but the purpose of using Aramaic is not to conceal what is being said from the angels. The confusion of the angels is a secondary consequence of the necessity of using a language the angels do not understand. The Aramaic language is a medium only available to human beings, and it is the only means of necessary communication with the *Sitra Ahara*. Aramaic is the language used to confront evil directly and redeem that which has fallen. Ultimately, humans need to engage in this activity in order to raise themselves to the superior level of holiness that angels already occupy. In contrast, the *Mahazor Vitri* speaks of concealing the meaning of the third word of the Kaddish onwards

40. סוטה לג, שבת יב עמ' ב.

from the angels, as those words evoke in G-d's mind the exile of the Jews and destruction of the Temple, and are accompanied, so to speak, by Divine sadness:

וכששומע הקב"ה שישראל מערימים להזכיר לפניו אותה שבועה שנשבע על עמלק לאבד את זכרו... ומתפללים לגדל י"ה בו"ה... מיד אומר אוי לבנים וכו'... וכששומעים ורואים מלאכי השרת זה העצב... מזדזעים כי אינם יודעים על מה אותו העצבון בא לפי שאינן מכירין בלשון ארמית. ולכן מתחילין יתגדל ויתקדש בלשון עברית על שם הפסוק והתגדילתי והתקדשתי ותיבה שלישית נקראת בלשון ארמית שמה רבה... ואילו היו מבינים יהו המלאכים מבלבלים אותו.⁴¹

And when the Holy One Blessed Be He hears that Israel is deviously mentioning before Him that same oath that He swore to destroy the memory of Amalek...⁴² and they pray to exalt Y-H with V-H,⁴³ he immediately says, "Woe to my children, etc."⁴⁴ And when the ministering angels see and hear this sadness, they tremble because they do not know what causes this sadness because they do not understand the Aramaic language. For this reason we begin "yitgadel veyitkadesh" in the Hebrew language after the verse *vehitgadilti vehitkadishti* (I will become great and sanctified), and the third word is read in the Aramaic language "Shemeih Rabba" (His Great Name)...⁴⁵ and if they understood it, they would scramble it.

The *Vitri* points to elements in the Kaddish that could provoke jealousy of the angels if they understood it, as it has redemptive powers which angels believe should not be available to human beings. The recitation of the Kaddish in Aramaic is a sort of artifice to prevent the angels from realizing the source of the Divine discomfort and conceals from them the greatness of prayers available to the people of Israel. If they understood, they would interfere with the recitation of the Kaddish. Space constraints and the risk of straying too far from the main topic of this study prevent a full comparison of the mystical narratives involving the angels and Kaddish. Such treatment may, G-d willing, be the subject of a future study. For now, we should return to the relevant observation referred to in the previous paragraph.

We have suggested earlier that the *Bet Yosef*, who was no doubt aware of the texts calling for a Hebrew reading of the first two words of the Kaddish but omitted this ruling. Likewise, the author of the passage in the *Zohar* that we are about to quote writes as if he were acquainted with the *Mahazor Vitri*, yet omitted any mention of the first words of Kaddish

41. מחזור ויטרי, מהד' גולדשמידט, ה' שחרית, סי' מ"ח, ד"ה אמן יהא שמה רבא מברך.

42. Amalek signifies the unredeemed world exemplified by the state of exile. See the following note, as well.

43. In the state of exile, it is forbidden to invoke G-d's name as it is written. At most we may pronounce his name using the letters *yod* and *hei*. We pray for the end of days when His name can once again be united with the letters *vav* and *hei*, and be pronounced as it is written.

44. *Talmud Bavli Berakhot* 3: "and when Israel enters synagogues and houses of study and calls out, 'May his great Name be blessed,' the Holy One Blessed Be He nods his head and says, 'Content is the King in whose house he is thus praised! What troubles the Father who has banished His children, and woe unto the children who have been banished from the table of their Father!'"

45. I.e., during our exile we refer to G-d's name indirectly in Aramaic rather than enunciating it directly as it is written. However, even if we referred to G-d's name indirectly in Hebrew, it would be disturbing to the angels.

being in Hebrew. This impression is based upon the *Zohar*'s explanation for the use of Aramaic and its impact upon the relationship between Israel and the angels:

בזמן דמטאן ישראל לקדושה דסדרא האי גוונא דגניז נפיק בגין דהאי איהו קדושתא דא דמקדשי ישראל יתיר על מלאכי עלאי דאינון חברים בהדייהו... דהא מסיימי ישראל בגין דלא ישגחון מלאכים עלאין... ויקטרגו עלייהון... בקדושה דא בעינן לאסתמרא ולאגנזא לה ביננא בגין דנתקדש... יתיר מאינון קדושן דאמרי בהדן מלאכי עלאי... ועל דא אנן אמרין קדושה דא בלשון הקדש ושבקין לן ברחימו למיעל תרעין דלעילא... ואי תימא רמאותא היא. לאו הכי. אלא מלאכי עלאי אינון קדישין יתיר מינן ואינון נטלי קדושה יתיר ואלמלא דאנן נטלין ומשכין אלן קדושאן אלין לא ניכול למיהוי חברים בהדייהו ויקרא דקב"ה לא ישתלם עילא ותתא בזמנא חדא. קדושה די בסופא איהי תרגום כמא דאוקימנא.⁴⁶

At the moment that Israel reaches *Kedushah DeSidra*⁴⁷ that aspect that is concealed emerges because that particular *Kedushah* that Israel proclaims is superior to that [of] the celestial angels with whom they are companions... Israel concludes [with this *Kedushah*] so that the celestial angels will not watch them and accuse them...⁴⁸ and with this *Kedushah* we need to be careful and conceal it among ourselves because its sanctity...exceeds that of the *Kedushot* that the celestial angels recite with us,⁴⁹ for this reason we recite the latter *Kedushah* in the Holy Tongue, and they lovingly allow us to enter the gates above...[A]nd if you will say this is deception, that is not so, rather the angels are holier than us and they carry additional sanctity, and if we would not acquire and draw to us these sanctities/*Kedushot* we would not be able to be their companions and the glory of the Holy One Blessed Be He would not be whole, above and below simultaneously. The concluding *Kedushah* is Aramaic as we have established.

This defensive statement regarding the absence of deception appears gratuitous, as there is no suggestion or implication of artifice in the narrative of the *Zohar*. The *Zohar* portrays the recitation of Kaddish in Aramaic and at the conclusion of prayers or sermons, as aspects of practicing humility in reciting the Kaddish. We must conceal our use of a prayer that is more sacred than the one recited by the angels, as the angels would mistakenly consider its recitation by flesh-and-blood to be an act of arrogance, when it is actually a necessary ritual to maintain a cosmic partnership with the angels. The issue is not ire or jealousy of angels, but the risk of criticism on the part of the angels due to a misunderstanding. This risk, however, is a by-product of a secondary purpose for reciting the Kaddish in Aramaic.

46. זוהר תרומה ד"ה גוונא אחרא.

47. A form of *Kaddish DeRabbanan* that was said during Talmudic times in Aramaic after *derashot*. This was called *Kedushah DeSidra*, with the words *Kaddish* and *Kedushah* being used interchangeably. It was called *Kedushah DeSidra* because it was recited at the conclusion of a lecture on the *sidra*, the portion of the week. The term was expanded to designate the *Kedushah* recited at the conclusion of *Shaharit*, that is the *Kedushah* in *Uva LeTzion*. This *Kedushah* is recited in Hebrew in partnership with the angels, however the verses are reiterated in the more elaborate form of the *Targum* in Aramaic.

48. I.e., of arrogance for saying a very sacred prayer while still living in this lower mundane world.

49. I.e., the *Kedushot* of *Yotzer Or* and *Amidah*.

The primary function is a continuation of the confrontation with the *Sitra Ahara*, which itself is part of the process of raising ourselves to the superior sanctity of the angels and preserving our collegiality with them. This is a goal that is necessary as a pre-requisite to acknowledging G-d's presence both in the material and the spiritual worlds.

It is the *Mahazor Vitri* that explicitly labels the use of Aramaic as a devious act in the aforementioned passage. It does not seem far-fetched to suggest that the *Zohar* is responding to the narrative that was familiar through the widely distributed *Mahazor Vitri*. There is a certain kinder and gentler spin in the *Zohar*'s account of the concealment of the Kaddish from the angels. In both narratives the drama will end with reconciliation between Israel and the angels – *oseh shalom bimromav* – but the tone is different.

Returning to our original point, if we are correct, the author of this passage of the *Zohar*, like the *Bet Yosef*, was familiar with the narrative of the *Mahazor Vitri* and therefore no doubt aware of the tradition of reciting the initial words of Kaddish in Hebrew. However, this view was not incorporated into the *Zohar* narrative.

In the final analysis, if the *Peri Megadim* held that the first two words of Kaddish are Hebrew, it is puzzling why he would quote authorities that at best ignore this tradition. Nevertheless, as pointed out by R. Dan Rabinowitz, the *PaMa"G* in his multiple lengthy introductory letters to his commentary, takes great pains to encourage the study of vocabulary and grammar, even to the point of keeping reference books available during the learning of Gemara. Among the books that he recommends, he apparently naively includes that of a Maskil of questionable reputation, Itzik Satanov, who supported a Hebrew reading of these words, and of course, Zalman Henna for whom he expresses particular esteem and to whose name he attaches superlatives that contemporary writers only use next to the names of *talmidei hakhamim*. On reflection, we should recall comments in a footnote made earlier in this study regarding the possibility of rendering a decision based upon a majority of opinions, or even the inclination to render a final decision based upon preponderances of available opinions. The *Peri Megadim* appears to demonstrate this point by having based his final opinion by bringing together the reasoning that was most convincing to him. This reasoning seems to have been if the words *יגדל ויחקדש* were allusions to a biblical passage, then its stands to reason that they should be in Hebrew, and in grammatically correct biblical Hebrew.

The Gaon of Vilna – *Ma'aseh Rav*

Conspicuously missing from source texts offered by the *Mishnah Berurah* is a little book by a student of the Gaon of Vilna, attributed to Rabbi Yisakhar Ber ben Tanhum, who was actually the editor, but was actually penned by another student, Rabbi Sa'adia ben Noson Noteh, entitled *Ma'aseh Rav*. The book is an itemized list of practices of the Gaon, and records him as having read the initial words of Kaddish with a *tzeirei*, attributing this opinion to Rashi as recorded in *Likutei Pardes*.⁵⁰ The accuracy of *Ma'aseh Rav* has been a matter of discussion

50. מעשה רב, נ"ד.

in Lithuanian yeshivot. One reason for reservations is based on the endorsement by Rabbi Hayim of Volozhin⁵¹ printed in most editions. R. Hayim states that the book is an accurate account of those of which he is aware, but he is not familiar with all of those recorded. R. Hayim in his letter points out two matters of pronunciation in *tefilah* which he said he heard the Gaon articulate differently from the way it is recorded in *Ma'aseh Rav*. This rejoinder is guarded though, as he also states that he cannot say whether others has misheard the Gaon or whether the Gaon changed his opinion at some point. Another point of discussion is one raised by the *Mishkenot Yaakov* above. In reference to students adopting the customs of the Gaon that diverge from accepted practices, he comments that he did not know whether the Gaon meant his opinions and customs as halakhic decisions or whether they were his private customs. Such instances where halakhic scholars adopt private stringencies or practices that differ from established community norms are not uncommon. When halakhic authorities hold views that differ from established practices, they typically take a number of considerations into account before attempting to institute changes. These include anticipating the reaction of the community and the possibility that the change may impugn the reputation of the rabbi's predecessors. Another strong argument for treating *Ma'aseh Rav* with caution is that many of its listed practices do not correspond to the Gaon's commentary on the *Shulhan Arukh*.⁵² The pronunciation of the first two words of Kaddish in Hebrew is one of those practices not mentioned in the *Shulhan Arukh* commentary.

R. Dan Rabinowitz includes in his discussion the inevitable subject of the custom of the Rav, Rabbi Yosef Dov Soloveitchik, as he was known to his students in Yeshiva University and his community in Boston.⁵³ The Rav pronounced the first two words of Kaddish with *tzeirei dalet*. R. Rabinowitz in a footnote states that it is possible to conclude from statements of the Rav that he based this practice on family custom rather than *Ma'aseh Rav*. I find this statement rather puzzling. Does he mean that the Rav's practices date back no more than three or four generations at the most, and are not traceable back five generations to the Gaon? While the Rav was often heard attributing practices to his father R. Moshe,⁵⁴ or

51. Hayim ben Yitzhak of Volozhin (1749–1821). Also known by the patronym Itzkovitz. Student and son-in-law of the Gaon of Vilna, and founder of the Yeshiva of Volozhin, recognized as the forerunner and model of what is known today as the Lithuanian stream of yeshivot.

52. Rabinowitz refers to a discussion of this question covering several pages appearing in *אוצר ספרי הגר"א* by Yeshayahu Vinograd. I have not yet been able to access this set, and therefore my observations in this paragraph should be taken as provisional.

53. R. Yosef Dov Soloveitchik (1903–1993), also known as Joseph B. Soloveitchik, R. Yoshe Ber, or the GRI"D (HaGaon Rav Yosef Dov). Not to be confused with his great grandfather for whom he is named. Born in Prizhan, today in Belarus, received traditional Jewish education as well as private tutoring by his father R. Moshe and grandfather R. Hayim. Received secular education in gymnasias (similar to Ontario's collegiate institutes) and university education in Warsaw and Berlin. Emigrated to the U.S. in 1932. As a Rosh Yeshiva (senior Talmud lecturer) he was of the East European Brisker stream of his family, emphasising the conceptual approach, and was unique within his family and the yeshiva world in the breadth and depth of his secular learning and, like his father, identified with the religious Zionist Mizrahi movement.

54. R. Moshe Soloveitchik (1879–1931). Born in Volozhin, Belarus, served as rabbi of various towns in the region, as Rosh Yeshiva in Slobodka, later in the Tachkemoni yeshiva in Warsaw, and finally emigrated to the U.S. in 1929 to serve as Rosh Yeshiva at Yeshiva University.

grandfather, R. Hayim Brisker,⁵⁵ as implied by R. Rabinowitz, one might consider that the Rav actually observed the rare practice recorded in *Ma'aseh Rav* of omitting the word *veyithalal* so that there might be seven words of praise in the passage beginning with *yitbarakh*. The Rav's faithful adherence to the prescriptions in *Ma'aseh Rav* may or may not be indicative of the provenance of this particular practice. Was the Rav following *Ma'aseh Rav*, was he following a tradition originating some generation later than the Gaon himself, or is there an unbroken – but not unanimous – family tradition dating back to the Gaon? Rabbi Yitzchok Lichtenstein⁵⁶ was kind enough to share with me that Reb Dovid of the Brisker Yeshiva in Jerusalem⁵⁷ had said the first words of Kaddish with *patah dalet*. R. Yitzchok asked Reb Dovid about this practice and the latter answered that he only knew what his own father, Reb Velvele,⁵⁸ did. R. Yitzchok added that there might also be versions of the *Ma'aseh Rav* with alternative readings. I have heard this said elsewhere as well. However, in all of the editions available on hebrewbooks.org, the reading is the same.⁵⁹ At this point of my queries, I can say for certain that recitation of Kaddish as prescribed by *Ma'aseh Rav* is not a universal practice in the Soloveitchik family. Perhaps querying other Soloveitchik relatives or close associates might shed more light on this question.⁶⁰

Another Hebrew Passage of Kaddish

Until now, the focus of our discussion has been upon the first two words of Kaddish. Yet, as almost all authorities point out, the passage starting from *yitbarakh* and ending in *veyithalal*,

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55. R. Hayim Soloveitchik (1853–1918). Known as Reb Hayim, Reb Hayim Brisker, or the Brisker Rov (Brisk = the town of Brest-Litovsk). Also co-Rosh Yeshiva in the Yeshiva of Volozhin until its closing over conflicts with the Russian authorities over curriculum. Originator of the conceptual Brisker method of Talmudic learning. Most widely cited works are his analyses of difficult passages of Maimonides' *Mishneh Torah*, his Talmudic interpretations that are mostly transmitted orally (although published notes by his students are also in print). He was strongly opposed to Zionism, which he saw as an ideology attempting to replace Torah observance with nationalism.
56. Born 1962 in New York, studied under his grandfather, R. Yosef Dov Soloveitchik and under R. Meshullam Dovid Soloveitchik. He served as Rav and Rosh Yeshiva in various venues and is currently a Rosh Yeshiva in Torah Vodaas in Brooklyn.
57. R. Meshullam Dovid Soloveitchik (1921?–2021). Born in Brisk, was recognized as a child prodigy and by the age of 12 was sent to a yeshiva for advanced study. Escaped from the Holocaust to Palestine in 1941 and established a branch of the Brisker yeshiva during the 1970's. At the time of his death, he was considered the last surviving remnant and carrier of the collective memories of the Lithuanian yeshiva community. Succumbed to complications of the COVID-19 virus.
58. R. Yitzchok Zeev Soloveitchik (1886–1959). One of the personalities who became known as the “Brisker Rov.” Son of R. Hayim of Brisk, when the family moved to Brisk he became known as a prodigy and eventually organized an informal learning circle that functioned as a yeshiva. In 1941, his wife and four of his 11 children were murdered by the Nazis. Afterwards, he and his surviving children fled to Palestine. In Jerusalem he did not hold a formal position, but within the Haredi community he was a staunch opponent of any participation in Zionist politics both before and after statehood.
59. These editions include: Warsaw 1857 and 1858, Vilna 1888, Vilna Horodna 1888, Zolkva (Zolkiew) date uncertain, and Jerusalem 1896.
60. It has been pointed out to me that errors are present in the biographical notes of this section. Responsibility for these errors lies solely with myself. With G-d's help, corrections will be provided in a future edition of this journal.

is in Hebrew. Why interrupt the flow of an Aramaic prayer with a Hebrew passage? A similar question is raised by the *Bet Yosef* and other commentaries regarding a custom among Sefardim of the time to recite parts of the Kaddish in Hebrew. The *RaSHB"A*,⁶¹ who explicitly asserts that the entire Kaddish was instituted in Aramaic from the first words onwards,⁶² follows his usual opinion concerning the language and wording of prayer: For most prayers, Hebrew is the preferable language; for Kaddish, Aramaic is the preferable language. But the language and even the wording used in prayer, says the *RaSHB"A*, is secondary, as long as the recitation captures the theme that was instituted by the Sages.⁶³ Other commentators consider the language used, the exact wording used, even the spelling of the words and number of words to have significance. Yet, many commentators who address the question of the use of Hebrew in the second paragraph of Kaddish, omit any discussion of the language of the first two words.⁶⁴

A similar question may be raised regarding the concluding passage of Kaddish, *oseh shalom*. The alternation between Aramaic and Hebrew in the Kaddish is a subject for discussion in both *Mahazor Vitri* and the *Zohar*, in the context of the impact that the Kaddish has on the angels. This discussion has been alluded to in this paper, but is beyond its scope. G-d willing, the mystical focus of the Kaddish will be the subject of a future instalment.

A Question of Consistency

This point raises an additional question. R. Dan Rabinowitz, as well as others, make much of the inconsistency in Siddurim and in the practices of those who adopt the custom of the *Mishnah Berurah*/*Ma'aseh Rav*. The inclination of the *RaZa"H* was, whenever possible, to imitate the Hebrew of the biblical text. Yet, it is rare to find Siddurim or hear worshipers pronouncing any of the words in the Hebrew passage starting with *yitbarakh* that would rhyme with *yitgadel veytkadesh* in biblical Hebrew as such.⁶⁵ Indeed, *Ma'aseh Rav*, the *Mishnah Berurah*, the *Pardes*, *Likutei Pardes*, *Vitri* and *Siddur Rashi*, make no mention of using the vowel *tzeirei* in the paragraph which, according to consensus, is Hebrew. Nor are the words *יתגדל* and *יתקדש* appearing elsewhere in the Siddur vocalized according to biblical Hebrew. The same can be said of other words from the same word family that appear elsewhere in the

61. Rabbi Shlomoh ben Avraham ibn Aderet (1235–1310), Spain. A central figure in the Sefardic circle of medieval commentators whose works are part of the core of advanced Talmud study in contemporary yeshivot. He was one of the eight figures named by R. Yosef Karo as an authority used in compiling his *Shulhan Arukh*. Among his important works are his running commentary on the Talmud Bavli and his responsa, both quoted in this passage. *RaSHB"A* presented a complex attitude towards philosophy, on the one hand admiring Maimonides' philosophical work, the *Guide for the Perplexed*, and on the other hand criticizing philosophy in his responsa and opposing its study in his communal activity.

62. שו"ת רשב"א ח"ה סי' נ"ד.

63. חידושי הרשב"א ברכות י"א ד"ה אחת ארוכה.

64. The notable exception being the *Shibolei HaLeket*, discussed earlier.

65. In grammatical terms, we are speaking of a word family in biblical Hebrew where the middle letter of the three-letter root, the *'ayin hapo'al*, is vocalized with a *tzeirei* in the third person reflexive, *guf shelishi hitpa'el*. Roots belonging to this family are: הלל, עלה, נשא, פאר, שבח, ברכ, קדש, גדל.

Siddur. Similarly, the Rav did not modify the vowels of *yitbarakh*, etc. (I have not been able to ascertain how he pronounced words from this family that appear elsewhere in the Siddur). The implication seems to be that the words should remain as they appear in manuscripts and early printings, except for the first two words of Kaddish, which are to be vocalized with *dalet tzeirei*. In a future instalment, we will discuss the possibility that the reading prevalent in Siddurim could be the correct biblical pronunciation.

Summary and Prospective

To summarize our discussion until now, the *Mishnah Berurah* asserts that the correct pronunciation of the first words of the Kaddish is “*yitgadel veytkadesh*,” and is Hebrew. This is contrary to the almost unanimous paper trail of manuscripts and standard practices throughout Jewish communities to pronounce these words in Aramaic. The *Mishnah Berurah* apparently bases himself upon the *Peri Megadim*. Despite the unclear wording and sentence structure of the *Peri Megadim*, it appears that his final determination is based upon the work of the grammarian, Zalman Henna. Source checking of the earlier authorities mentioned by the *Peri Megadim* reveals that most of them discuss the reasons for the Kaddish being recited in Aramaic, but make no mention of the first two words being in Hebrew. This is the case despite the fact that these sources mention the allusion of these two words to the verse in Ezekiel 37, and are demonstrably aware of even earlier works that state, that these words should be in Hebrew. This omission of the sources of the *Peri Megadim* becomes more glaring considering that they do discuss the fact that the passage from *yitbarakh* through *veyithalal* is in Hebrew. Finally, we considered the practice of the Gaon of Vilna as recorded in *Ma'aseh Rav*. We have noted reasons that caution is required when considering the record of *Ma'aseh Rav* concerning Kaddish, as its prescribed reading is not paralleled in the Gaon's commentary on the *Shulhan Arukh*. While the Rav, R. Yosef Dov Soloveitchik, a descendent of the Gaon, followed the prescriptions in *Ma'aseh Rav* for reciting the Kaddish in their entirety, most who use the pronunciation “*yitgadel veytkadesh*” only digress from the printed Siddur with respect to the pronunciation of these words. As well, this deviation is not universally practiced by members of the Soloveitchik family. Thus, assessing the accuracy of *Ma'aseh Rav* using family legacy as evidence is tentative, pending further bibliographic study and tapping the memory of other members of the Soloveitchik family or individuals who were close to the household.

While demonstrating that it would be incorrect to conclude that there is a wide consensus among *Rishonim* (medieval authorities) or early *Aharonim* (early modern authorities) regarding the notion that the first two words of Kaddish are in Hebrew, it seems fair to trace the position of the *Mishnah Berurah* through the *Peri Megadim* to R. Zalman Henna. Further examination of the figure of the *RaZa”H* and his activities will be crucial to our understanding, as he emerged during the turbulent times of the early Haskalah when all of Jewish life came under scrutiny. He was also active during a time when attempts were made in the territories that later became Poland and Germany to standardize *Nusah Ashkenaz*. In the next instalment of

this study, we will examine the conflicts between the *RaZa"iH* and established authorities, the most well known of them being with Rabbi Ya'akov ben Tzvi Emden, the Ya'AVeTZ. We will also examine R. Emden's critiques of *RaZa"iH*'s work for the merits and weaknesses of these critiques. This effort will also give us the opportunity to discuss the early sources from the school of Rashi used by R. Zalman Hannau and the Vilna Gaon, but dismissed by R. Emden. We will also examine the possibilities suggested by modern scholarship. Taken together, we will then be able to address more clearly the questions that we raised at the beginning of this paper concerning the assertions of the *Mishnah Berurah*.

In memory of my dear parents

שלמה בן שמואל משה
אהבה ליבא בת דוד הכהן

Netilat Yadayim and Birkat Cohanim: *The Levi's Perspective*

PETER SOMERS

I AM WRITING this after having enjoyed Shavuot and *Parshat Nasso* when we were able to listen or to read a number of *drashas* and *divrei Torah* on the subject of *Birkat Cohanim*. (The mitzvah itself appears in *Parshat Nasso*.) In *Chutz La'Aretz*, we participated in the mitzvah for the last time during Mussaf on the second day of Shavuot and won't participate again until Rosh Hashanah in September.

This article covers the topic of washing the Cohens' hands and then extends the discussion to the general topic of *Netilat Yadayim*. I was privileged to learn *Mishnah Berurah* on this topic with Rabbi Bitterman a few years ago. We took two years (once per week) to cover most of the material. Much of the background material for this article was derived from a series of Shiurim given by Rav David Brofsky under the title of "*The Laws of Berakhot*" from the Yeshivat Har Etzion-Israel Koschitzky Virtual Beit Midrash (VBM).

Birkat Cohanim

The custom is that the Cohen has to prepare himself before ascending to the front of the shul to give the blessing. A major part of this preparation is that his hands must be washed. This is where my fellow Levi'im and I step up to the plate. The justification for the Levi washing the Cohen's hands is "G-d conferred upon the holy tribe of Levi the privilege of serving and assisting the Cohen while he is 'in his line of duty.'" Therefore, the honour of washing the Cohen's hands falls to the Levi.

The problem with this justification is that a brief review of the Chumash shows that the

PETER SOMERS is a semi-retired Computer Consultant and has just passed his 46th anniversary of arrival in Canada from the UK, where he received a "traditional" UK Jewish upbringing. He has been a member of the BAYT since 1987 and has grown as a *Ba'al Tshuvah* for 46 years learning in *shiurim* and with *chavrutot* including the BAYT's *Semichat Chaver* Program; 25 years with an *Amud Yomi* shiur 6 days a week; and has just finished 28 years of learning *Shemot* with eight *meforshim* once a week with a *chaver*. They have now started *Bereishis*.

Levi had four distinct duties which fell away to three once the *Beis Ha-mikdosh* was built. These duties were:

- a. Carrying the material and the *keilim* for the portable *Mishkan* in the desert;
- b. Guarding some of the gates of the Temple;
- c. Providing musical accompaniment including singing during the sacrificial service; and
- d. Acting as teachers when they were dispersed throughout Israel to the special cities where Levi'im lived.

In the Temple, the Cohen had to wash his own hands *and feet* using a special vessel built for this purpose – the *Kiyor*. However, there is no mention anywhere that the Levi'im had anything to do with this part of the service.

Why Does the Cohen Need to Wash?

The Gemara in *Sota* (39a) discusses the requirement for the Cohen to wash his hands before pronouncing the blessing and the rishonim discuss whether this is a separate mitzvah or just that he must ensure that his hands were washed. There are opinions that state that if he washed before Shacharis, then this is sufficient. There is also a discussion about whether he needs to make a *bracha*.

Yet the Levi'im do not appear in this discussion. So where did this come from?

In the *Beit Yosef* (*Orach Chaim* 128), Rav Yosef Karo states:

I have heard that this was the practice in Spain, and that the Levi'im would pour out the water on their [the Cohens'] hands, and I did not know the origin of this... until I found it in the holy *Zohar* (*Parshat Nasso* 126b).

He later codifies this practice in the *Shulchan Aruch* (*Orach Chaim* 128:6). He adds that the Levi should wash his own hands before pouring water on the Cohen's hands. The Rema adds that the custom is for Levi'im to rely upon their washing before Shacharit and *not* to wash before pouring water on the Cohen's hands.

So the custom continues today. The halakhah is that if there is no Levi present then a *bechor* (first born – if natural – of the father, who is also a *peter rechem* – the first born of a mother's womb) takes up the honour, and if there is no *bechor* present, then the Cohen washes his own hands. The washing procedure is that the Levi pours a continuous stream of water from a “washing cup” on to both the Cohen's hands up to his wrists – one Cohen after another. No *bracha* is recited. If there are more Levi'im than Cohanim, then multiple Levi'im will hold part of the cup or even the arm of the first Levi there in order to participate in the process. There appears to be no mitzvah involved for the Levi, and so he can “sit it out” if he wishes. Afterwards, the Levi then becomes an ordinary member of the congregation and “receives” the blessing just like everyone else. The washing must take place as close to the actual *Birkat Kohanim* as possible, which is why the Gabbai will bang on the *bimah* after *Kedushah* and call out “Cohanim.”

I have been to shuls where the whole process takes place at the front of the shul in full sight of the congregation with bowls and towels all laid out. And I have been to shuls where the Cohanim and Levi'im have to "run" to the washroom in order to perform this function.

Netilat Yadayim

Washing the hands of the Cohen before *Birkat Cohanim* brings to mind a fundamental question about washing and cleansing in general as they pertain to ritual conduct: Why do we wash hands before becoming involved in "holy" matters – even extending this to include washing before eating bread? The Torah gives us procedures for "cleansing" a person after becoming *tamei* (unclean). For instance, the *parah adumah* preparation ceremony and cleansing process is prescribed for those who have come into contact with the ultimate source of *tumah* – a dead body. We have procedures for a *nidah*, for someone with *tzora'as* (the biblical disease mis-translated as leprosy), and other detailed halakhos about different types of "holiness" – including sacrifices and gifts to the Cohen – as well as the precautions that must be taken to avoid *tumah*, and the steps that must be taken if we (or the Cohen) encounter *tumah*.

The following will provide an overview of the matter as well as some interesting ideas on the topic of washing hands in general. (Note: the halakhos of *Netilat Yadayim* before bread take up chapters 168 to 176 in the *Mishnah Berurah*, so I have no intention of going through those extensive details here, although there is a brief overview in the following paragraphs.)

First, it is important to note that there are many different ways people perform the mitzvah of *Netilat Yadayim*, depending on custom, with as many as 12 different instances in which we wash hands today. There are also many different methods that people use to perform this mitzvah: Is it one, two, or three pours? Do you alternate hands? Can you use a faucet directly?

There are as many as 12 different times that we wash hands today:

1. Upon rising from sleep (*Negel Vasser* – Nail Water)
2. After the excretion of bodily wastes
3. After the paring of nails
4. After the removal of shoes
5. After the combing of hair or touching parts of the body normally covered
6. After leaving the cemetery or participating in a funeral
7. After sexual intercourse
8. Before prayer and the recital of the Shema
9. Before eating bread
10. Before reciting grace
11. Before eating parsley (or some other vegetable) at the Pesach Seder
12. The Levi'im who wash the hands of the Cohanim before *Birkat Kohanim*

The custom of washing hands before eating bread has quite ancient origins. In Temple times, when Cohanim received *terumah*, they had to be very strict about *taharah* and *tumah*.

The laws of *tumah* and *taharah* are hierarchical depending on the object being considered. According to the Torah law (*mi-de'oraita*), there are different levels of *tumah*. One who touches a dead body (*meit*), often called *avi avot ha-tumah* becomes an *av ha-tumah*. In addition there are other *tumot* which are themselves considered to be *avot ha-tumah*, such as a *nevelah*, a *sheretz*, semen, a menstruating woman, etc. Something which comes into contact with an *av ha-tumah* is considered a *rishon le-tumah* (first degree). Although a person who touches a *rishon le-tumah* is not *tamei*, a *rishon le-tumah* causes foods and vessels to become a *sheni le-tumah* (second degree). However, foods and certain vessels can themselves become *sheni le-tumah* upon contact with the *rishon le-tumah*. When we consider “holy” foods like *terumah*, hands that have not been closely watched can become *shelishi le-tumah* (third degree), and when we consider sacrificial meat, the principle of *revi'i le-tumah* (fourth degree) can come into play.

The Talmud (*Shabbat* 15a) tells us that Shlomo HaMelech decreed that hands that have not been supervised are deemed to be *shelishi le-tumah* and must be washed before touching *kodshim* such as *terumah*. We are particularly concerned about hands as they are “*askaniyot*” – always active – and could have touched something impure or a part of the body normally hidden. Beit Shamai and Beit Hillel therefore instituted that one must wash hands before eating *terumah*. The Rabbis later decreed that in order to accustom Cohanim to washing before eating *terumah*, everyone must wash their hands before eating any bread.

The *Shulchan Aruch* covers numerous details about the procedure. It basically says that the hands must be cleansed either by immersing in a mikvah, a natural stream, river, lake, or the sea, or by pouring water over the hands from a vessel. If immersing the hands, then both hands would be plunged into the mikvah (if that is the source of water) and then dried. The bracha would be “*al shetifat yadayim*” or “*al tevilat yadayim*.”

The term “*netilat yadayim*” does not mean “washing hands” but rather “raising the hands.” Whereas we normally make a bracha before doing the mitzvah, in this case we make the bracha in the middle of performing the actions, namely, when we raise our hands before drying them.

An elementary question that everyone should have is why is there a special two-handled cup for this mitzvah and why do we need to raise our hands? The answer is that we start off with two *tamei* hands. We fill the cup with the left hand and wash the right hand with this water. As the water is poured over the hand, the clean water becomes contaminated from contact with the *tamei* hand and contaminates further water in that pouring. This is why we need to pour water from the cup held by the left hand at least twice over the right hand. The right hand is now *tahor*. But if we use a single handle cup, then the clean right hand would immediately become *tamei* upon contact with the handle just used by the *tamei* left hand. So we use a cup with two handles to allow the second washing to be done by the clean right hand over the *tamei* left hand. Again, two pourings are required. Note that the hands have to start out clean of all dirt which is why some people have the custom of pouring three times – the first time is to clean the hands of dirt.

We need to raise the hands in order to prevent the water from running back down the hands and re-contaminating the just-washed hands. We need to dry the hands because touching bread with wet hands reintroduces *tumah*. This is the reason why we have a “*sofek-washing*” at the Seder table before eating a vegetable that is dipped in a liquid. The dry vegetable (or fruit, for that matter) is *tahor* and can be eaten without washing your hands, but once it is wet, then it becomes susceptible to *tumah* and you can’t eat it without washing. The *sofek* comes in with whether you make a bracha or not.

The procedure in the morning, after the washroom and upon leaving a cemetery is different. Here we pour water from a vessel three times: First one pour on one hand then the other, then the first again, then the second again and so on.

There is a Kabbalistic reason pertaining to getting up in the morning: When a man is asleep, the holy soul departs from his body, and an unclean spirit descends upon him. When rising from sleep, the unclean spirit departs from his entire body, except from his fingers, and does not depart until one spills water upon them three times alternately.

The chapters in *Mishna Berurah* that cover *Netilat Yadayim* are comprehensive. There are lengthy discussions about various problems and situations:

- Do you take a ring off, or can you leave it on?
- If you have a bandage on your hand, do you have to remove it?
- What if you don’t have any water? Can you still eat bread or is there a compromise solution available?
- If you don’t have any water while on a journey, do you have to take extraordinary measures in order to find water?
- Are there any limitations in the type or source of water to be used?
- Can you use any other liquid?
- What sort of vessel is required?
- Can you wash multiple people’s hands simultaneously?
- Can you use a faucet or a fountain without a cup?
- Would a minor child, or even a trained monkey pouring water over your hands, be kosher?

I’ve only been able to scratch the surface of these fascinating mitzvot that are common practice to today’s observant Jews. I hope I have been able to whet your appetites so that you can continue on your own exploring the details of this topic.

Mahshavah

The Complicated Metaphor of Human Relationships, and the Essential Difference Between Mussar and Hassidut

RABBI N. DANIEL KOROBKIN

*This essay is dedicated to my beloved children and their spouses.
May G-d bless them and grant them the wisdom to be excellent parents.*

OUR VERY RICH tradition penetrates into and informs every facet of the human experience. One such facet is how we view relationships with our loved ones. Torah literature informs how we can best utilize the love that we have for people, such as our spouses and children, for religious purposes.

The book of Hosea relates the story of G-d commanding the prophet to marry a licentious woman and to have children with her. In the Talmudic elaboration of the story,¹ G-d then instructs Hosea to divorce his sinful wife and banish their children from his home. Hosea is overcome with emotion and simply cannot carry out the task because of his great love for his wife and children. G-d's lesson to the prophet is that although the Jewish people have sinned against their Divine "husband," G-d will nonetheless always love them and can never utterly reject them.

Multiple examples of the love between a man and a woman can be cited from Tanakh as metaphors for the loving relationship between G-d and Israel. The Book of *Shir HaShirim* (Song of Songs) is the most explicit and longest running example of this. The entire book is written in the form of a love poem recited by a man and woman who are madly in love

1. TB Pesachim 87b, *Midrash Aggadah* (Buber) *Vayikra* 16.

with each other. Another example is in the Book of Jeremiah (2:2), which records G-d's appreciation of his young "bride's" faithfulness in that Israel followed G-d dutifully through the desert for forty years.

Similarly, Maimonides,² cited also in the medieval Mussar work, *Orhot Tzadikim*,³ states that one should strive to reach a level of love for G-d in the same way that a man falls head over heels for a woman:

What is proper love for G-d? One should be so strongly in love with Him to the point where he feels lovesick, just like someone who cannot think of anything else except for the woman with whom he is madly in love...This is the theme of *Shir Hashirim*.

The relationship between G-d and the individual is also depicted as a relationship between a parent and a child. Moshe is told to refer to Bnei Israel as G-d's "firstborn son" when demanding their release from Egypt (Ex. 4:22). The Jewish people are also identified as G-d's children when given the commandments to not inflict harm to our bodies (Deut. 14:1). On Rosh Hashanah, we read the moving Haftarah from Jeremiah (31:19) about how Ephraim – a reference to at least a segment of the Jewish people – is G-d's beloved son, for whom G-d's insides pine.

Clearly, our relationship with G-d is allegorized by human relationships in so many texts of both the Written and Oral Torah. The logical implication is that G-d deliberately created human relationships as a means of helping Man achieve the same kind of loving relationship with G-d. In this sense, all of reality is a metaphor and tool given to the human heart and mind to achieve our life goals. G-d wishes for us to love Him, and therefore gives us human beings to love, so that we might know what love is, and then channel those same feelings for our Creator.

This point seems fairly obvious and should not require extensive demonstration. What is not as obvious, however, is that in this process of channeling our love toward the Divine, what should our end goals be? If, indeed, the function of loving relationships is to serve as a vehicle to get us to love G-d, what does the ultimate *tzadik* (righteous individual) look like? Is he a person who continues loving his spouse and children even after having achieved ultimate *d'veyikut* (emotional/spiritual attachment) to G-d? Or, can it be suggested that once the *tzadik* has appreciated the function of the metaphor as a means to loving G-d, he may dispense with that metaphor once he or she has achieved that love? In other words, is it a virtue or a sin to jettison one's human relationships once one has achieved ultimate love with G-d?

2. *Hilkhot Teshuvah* 10:3.

3. *Sha'ar HaAhavah*.

Emotional Detachment as a Virtue

This may sound at first glance like an absurd question. How can I be expected to simply dissolve my feelings for my spouse and children just because I have attained the proper love for G-d? Yet, one could argue that if the whole function of these relationships is for the purpose of attaining Divine love, then my love for other human beings is a distraction and diversion from my love for G-d. Indeed, Rabbi Yoseph Albo of the 15th century suggested this very idea:

It is impossible for one person to love two things or two people with an absolutely perfect love. For if a person loves two different people, the love for each can never reach its pinnacle since one's love will perforce be divided between the two. The only way that there can be a perfect unification between the lover and the person who is loved is by there being only one loved individual. This is why the Torah precedes the statement of, "You shall love the L-rd your G-d" with the words "G-d is One." Because G-d is indivisible, it is possible for your love for Him to be absolute since it need not be divided and distributed to more than one party.⁴

Just as having more than one spouse might dilute my love for any one particular person, perhaps it would be appropriate to detach myself from my other loved ones in order to focus exclusively on my one, true love, the *Ribono shel Olam* (Master of the Universe)!

Such an approach can be found among our great rabbis, dating back to the Talmudic period and continuing over the centuries. One such example is the depiction of the initial encounter between Jacob and Joseph after all the years of Joseph's captivity, when Jacob thought that Joseph had died. The Torah states that at this encounter, "Joseph fell upon his father's neck and cried greatly on his father's neck" (Gen. 46:29). Rashi cites from the *Midrash* that only Joseph cried, but Jacob did not, because he was reciting the Shema. At face value, this is strange. Why, after all these years of separation from his beloved son, would Jacob deliberately block out this emotional moment by reciting the Shema instead of indulging his reunion with his cherished Joseph? The Maharal⁵ explains that Jacob was acting in the ways of the righteous, blocking out personal desires and emotions in order to focus their praise and affection toward G-d.

The commentaries offer a similar insight into the difficulty of *Akeidat Yitzhak* (the Binding of Isaac). In discussing the kind of love that we are called upon to have for G-d, Rabbi Shlomo ibn Aderet (Rashb"a, 1235–1310) writes:

While the Evil Inclination seduces man to follow his heart's desires, we have been commanded to desire only G-d's service and love and to reject all other affections... This was the way of Abraham our Patriarch. He was granted a son in his old age after

4. *Sefer Ha'Ikarim* 3:35.

5. *Gur Aryeh* commentary ad loc. See also *Sfat Emet, Likutim* (Ohr Etzion edition) on *Parashat Vayigash*, pp. 179–180.

having been denied children for years. Abraham reached the pinnacle of humanity and his main focus was on performing kindness. Yet, out of his love for G-d, he was forced to make himself cruel and slaughter his only son with his own hand. He forsook and forgot this intense love for his only son, and sought instead that his love for G-d would overpower and overshadow all other desires and passions. This is why Abraham was called G-d's ultimate "beloved."⁶

So successful was Abraham in uprooting his love for his son Isaac, wrote R. Aryeh Leib Heller⁷ in the introduction to his *Shev Shemateta*,⁸ that although the Torah calls Isaac "your only son, the son that you love" at the beginning of the *Akeidah* story (Gen. 22:2), by the end of the story, Isaac is simply called "your only son" (ibid. 22:16) and not "the son that you love." This is because by the end of the trial, Abraham had eliminated his love for Isaac.

Passages from the Talmud advance the idea of parents distancing themselves emotionally and even withdrawing support from their children. One such citation is based on the verse in *Shir HaShirim* (5:11), "My beloved's curls are... black like a raven."

Rava said: This refers to someone who makes himself as cruel to his children and other family members as a raven [a bird which neglects its offspring]. Once Rav Adda bar Matna was leaving for the yeshiva. His wife said to him, "What shall I do for your children [i.e., with what shall I feed them]?" He responded, "There's no shortage of soft reeds in the swamp [that can be converted into food]!" (TB Eruvin 22a).

Another example is the Mishnah in 'Eduyot (5:7), which speaks of the sage Akavya b. Mahalalel. As Akavya was on his deathbed, his son requested of him, "Father, advocate on my behalf to your colleagues." Akavya responded, "I will not!" His son asked if he felt there was something wrong with him. "Absolutely not," replied Akavya. "Your deeds alone will either endear you or distance you." Akavya was leaving his son a legacy that advocates for letting each person stand on his own merit, and not relying on fatherly love to help one advance in life.

The Mussar Movement

Rabbi Yisrael Lipkin Salanter was the father of the 19th century "Mussar Movement," an educational and cultural movement that developed in Lithuania, which emphasized moral conduct and discipline in the area of character development. The work *Ohr Yisrael* presents the key ideas of Mussar based on Rav Salanter's teachings, and was authored by Rav Yisrael's

6. Shu"t Rashb"a 5:55. See also R. Bahaye's commentary to Deut. 6:5, s.v., "*V'havta*."

7. Rabbi Aryeh Leib Heller was a brilliant Galician rabbi of the latter half of the 18th century. His "pilpulistic" Talmudic insights are widely referenced in yeshivot today. His works include: *Shev Shemateta*, which he wrote in his youth, *Ketzot HaHoshen* and *Avnei Miluim*.

8. *Shev Shemateta*, Introduction, s.v. *B'ikarim* (3:35). See also Rabbi Naftali Selengut's *Sha'ar Elhanan Kovetz Ma'am-arim*, vol. 2, p. 978. See in particular footnote 19, which provides many of the sources cited in this essay.

key disciple, Rabbi Yitzhak Blazer, also known as Rav Itzile Peterburger. At the back of *Ohr Yisrael* there is an addendum entitled *Netivot Ohr*, also authored by Rav Blazer. In it, Rabbi Blazer detailed some of R. Yisrael's conduct and how he implemented his Mussar teachings in his personal life. Shockingly, R. Blazer detailed how R. Yisrael consciously detached himself emotionally from his children:

His conduct with his children and other descendants was truly amazing. There is a natural love between a man and his descendants, which has "caused many corpses to be felled" (Prov. 7:26). Such a love blinds the eyes of the perceptive and perverts their ways. Love is the bribery that causes corrupt judgment to emerge. Our great master of blessed memory [R. Salanter] suppressed his nature to the point where for him, there was no difference between his children and strangers, whether it regarded physical or spiritual matters. The only distinction he made for his children was that which he was halakhically obligated to dispense as their father. This is well known. One of his sons was a respected businessman. He almost never inquired about his business affairs and how he was faring in life. The only inquiry the Rav had when his son would visit him was if he set aside times to study Torah. Another of the Rav's sons was absent from his father for several years. When he finally did come to see his father, the Rav was not emotional at all. He offered a simple "Hello" as if he had just seen him recently. Whenever one of the Rav's family members was in dire straits, the Rav made no effort to intercede on their behalf, just as he made no such efforts for himself.⁹

A number of R. Yisrael's students understood that their teacher believed that the natural love that a father has for his child was necessarily embedded within parents in order to nurture a defenseless baby and child. Without that instinctive love, the child would be left to his own defenses and would perish. Since this love was only implanted within a parent for the preservation of the child, it is not inherently desirable to extend this love beyond the child's sustenance, and indeed, as R. Blazer wrote, such love can lead to evil. It is a sign of weakness of character to succumb to one's irrational emotional impulses. Therefore, one needs to make a conscious effort to suppress and even eliminate this love.

This attitude was adopted by other rabbis throughout rabbinic history. Rabbi Alexander Ziskind was an 18th century Mussarist and pietist, and authored the ethical treatise, *Yesod V'Shoreh Ha'Avodah*. He wrote an extensive *tzava'ah*, or ethical will, to his children. In one section he wrote:

Beloved children, I hereby testify about myself that although I have many children, and even though I wasn't successful in raising them all properly, I nevertheless [succeeded in] never having kissed any of my children, nor did I carry them in my arms, nor did I

9. *Netivot Ohr*, published in the back of *Ohr Yisrael* (Vilna, 1900 edition), p. 118.

engage in idle conversation with them. I behaved thusly in accord with the Mishnah¹⁰ which exhorts against idle conversation with children.... Therefore, my beloved children, I implore you to be careful about this matter and not engage in idle conversation with children.¹¹

Rabbi Hayim of Volozhin was the premier student of Rabbi Eliyahu of Vilna, the Vilna Gaon (18th cent.). In R. Hayim's introduction to the Vilna Gaon's kabbalistic work, *Sifra Ditzniuta*, he writes:

The Vilna Gaon's asceticism from all worldly affairs was truly wondrous. He never inquired about the welfare of his children, nor did he ever write a letter to stay in touch with them, nor did he ever even read the letters sent to him by his children.¹²

What emerges from these and multiple other sources is that there is a view within Jewish thought and ethics, namely the Mussar approach, which maintains that in order for a person to reach the pinnacle of piety and righteousness, he or she must divorce themselves emotionally from other loves in their life in order to devote themselves exclusively to the love of G-d, their one, true love.

It should be noted, however, that not all rabbis who were part of the Mussar movement subscribed to this austere kind of emotional detachment. Additionally, this kind of stoicism may have been, at least in part, a product of a time and place that is quite foreign to us in the 21st century. The social milieus of Rav Yisrael's and others' times likely contributed to their child rearing philosophy. Many pre-20th century cultures throughout Europe promoted the "stiff upper lip" mentality as a part of the virtue of asceticism. However, that these rabbis found support for this attitude in Torah sources, and that they were lauded by their colleagues and students for this approach, is what we find noteworthy, since the Torah's values are not dependent upon the cultural mores of any time or place.

The Opposite Approach

But there is another approach. Rabbi Avraham Mordechai Alter (1865–1948), the third Rebbe of the Gerrer dynasty and also known as the Imrei Emet, lived through the most tumultuous times for Jews in the modern era. Two of his sons perished during his lifetime. One son was murdered in Treblinka during the Shoah. The other, Rav Yitzhak, passed away some years earlier, on Friday evening, October 26, 1934. That following day, the Imrei Emet delivered a *d'var Torah* for *Parshat Vayera*, the Torah portion for that Shabbat, which contains the story of the *Akeidah*:

10. *Pirkei Avot* 3:10: "Rabbi Dosa b. Hyrcanus said: Late sleep of the morning, afternoon wine, conversation with children, and sitting in synagogues with ignoramuses removes a person from the world" [emphasis added].

11. *Yesod V'Shoreish Ha'Avodah*, Ethical Will to My Children, ch. 43.

12. "*Hakdamat MVHR'H Volozhin*," printed at the opening of *Sifra Ditzniuta*, s.v., *V'godel perishuto*.

“Take now your son, your only one, the one which you love, Yitzhak...” (Gen. 22:2). My grandfather¹³ said that the true test was that Abraham was not meant to abandon his love for his son. Rather, he was to take that love and place it on the altar together with the burnt offering sacrifice. Although the Talmud does state, “The Torah can only be fulfilled within someone who makes himself cruel to his children like a raven” (TB Eruvin 22a), here the whole test was for Abraham to slaughter his son while still loving him. This made the test that much greater.¹⁴

The Imrei Emet proceeded to cite from the *Midrash*¹⁵ that while Abraham was reaching for the knife, his eyes flowed with tears out of the natural compassion that a father has for a son. The great test was for Abraham to be able to contain mixed emotions; to have both a joyous heart to fulfill G-d's will, while at the same time cry bitter tears over the impending loss of his beloved Isaac. Furthermore, another *Midrash*¹⁶ states that Isaac cried out to Abraham the word “Father!” twice (based on the verbiage in Gen. 22:7). This was to intensify Abraham's compassion for his son. The Imrei Emet explained that the *Midrash* is not suggesting that Isaac was trying to prevent his father from slaughtering him, but rather was enhancing his father's mitzvah, in that the more compassion Abraham had for his son while slaughtering him, the greater his devotion to G-d would be, which would only increase Abraham's reward.

We thus see a completely different approach to how one should behave when faced with a calling to serve G-d while at the same time experiencing a natural emotional state that runs contrary to that devotion. Instead of suppressing that emotion, as advocated by the Rashb”a and later by R. Yisrael Salanter, one is instead meant to be fully conscious and indulgent in one's emotional state. The challenge of our service during those moments is not that we become stoical, but rather that we devote ourselves to that mitzvah performance despite our emotional turmoil, thus demonstrating our great love for G-d. Even though one is emotionally distraught, he or she is demonstrating that their love for G-d takes priority over their own emotional needs.

From this perspective, a father should use the love he has for his child as a vehicle for demonstrating his love for G-d. It would seem that the Imrei Emet had a very strong emotional bond with his son Yitzhak who tragically died in his lifetime. Instead of suppressing his feelings for his son, he used the emotional depth of love and the tremendous loss he felt over this son's passing as a means to demonstrating his love for G-d.

This seems to also have been the approach of Rabbi Yehiel Heller (1814–1861), a noted Russian rabbi in the first half of the 19th century, and a descendant of Rabbi Yom-Tov

13. This is a reference to Rabbi Yitzchak Meir Alter, the first Rebbe of the Gerrer dynasty, also known as the Hiddushei HaRim. This idea of his is also cited in slightly different form by the Hiddushei Harim's son, Rabbi Yehuda Aryeh Leib Alter, in his *Sfat Emet* Torah commentary to *Parshat Vayera*, 5652, s.v., *B'Parshat Ha'Akeidah*.

14. *Imrei Emet* 5695. The sole paragraph for this *parsha* is introduced by the words: “Upon the entry of the Sabbath, the author's son, Rabbi Yitzhak, z”l, passed away.”

15. *Bereishit Rabbah* 56:8.

16. *Ibid.*, 56:4.

Lipmann Heller. In one of his responsa, he bares his soul about a particularly tormenting Shavuot holiday:

On the first day of Shavuot, 5614 (1854), my wife, Pesya (may her soul be bound with the eternal bond of life), suddenly passed away. She was the most modest and virtuous of all women, and was known for her modest acts of charity. She left me and my precious children in a state of great dread and agony. I was in doubt as to whether or not it was permitted for us to cry on the Yom Tov, as our hearts were in great turmoil over the overwhelming loss that had completely broken us. [At the same time, we are commanded to rejoice over the Yom Tov, and our crying was therefore contrary to this mandate.]... I relied on those halakhic decisors who rule that if someone draws pleasure from crying, they are permitted to cry on Yom Tov, since this is in keeping with the theme of enjoying the holiday.¹⁷ [Since crying for myself and my children was cathartic, we did allow ourselves to cry for at least a small portion of the day.] But after the burial, I resolved that I would devote at least a portion of the day to rejoicing on the Yom Tov, and to accept G-d's judgment with love.¹⁸

Once again, we see a rabbi who acknowledged his human emotions and tried to reconcile them with the joy-filled holiday at hand. Instead of suppressing his great love for his dearly departed wife and his profound sadness over her loss, he used his tears as a means of “enjoying” the holiday by having a “good cry.” He also was able, at least for a portion of the day, to proclaim his love for G-d despite the great loss that he was currently experiencing. R. Heller viewed his great loss, just as in the case of the *Akeidah*, as part of his calling to devote himself lovingly to his Maker.

Mussar vs. Hassidut

We might suggest that these two approaches – the approach of R. Yisrael Salanter, founder of the modern Mussar Movement, and the approach of the Imrei Emet, a great Hassidic leader – are paradigmatic differences between Mussar and Hassidut: *Mussar calls upon the individual to rise above one's humanity in order to properly serve G-d. Hassidut calls upon the individual to utilize their humanity as a way of intensifying their devotion to G-d.*

Within this paradigm, the Mussarist draws his inspiration from the Talmudic passage that calls us to be “black like a raven” towards our loved ones. He envisions the *Akeidah* story as one where Abraham walked as a stone-cold stoic, without any expression on his face, up to Mount Moriah in order to slaughter his son. The Hassid draws his inspiration from

17. This is a reference to the ruling of Rabbi Moshe Isserlis in his gloss on the *Shulhan Arukh*, *Orach Hayim* 288:2, which discusses the laws that forbid fasting and other acts of deprivation which run contrary to the mitzvah of *Oneg Shabbat*, having pleasurable activities over Shabbat. In this context, Rav Isserlis states: “If a person derives pleasure from crying, in that this will help him remove the pain from his heart, it is permitted for him to cry on Shabbat.”

18. *Shu"t Amudei Ohr* 76.

the metaphors of *Shir HaShirim* and other scriptures which utilize human relationships as a vehicle for relating to G-d. He envisions Abraham at the *Akeidah* as a father walking with his son, crying bitter tears over losing his son in one moment, then smiling joyously at the prospect of being able to serve G-d amidst his pain, only to revert back to tears the next moment.

Normally, religious ideology does not affect how we perform mitzvot. We must, however, inevitably conclude that even if the form of our mitzvah performance does not change based on our religious ideology, the emotions and thoughts invested in our religious service must invariably depend upon whether we wish to be a Mussarist or a Hassid. If we choose the Mussar path, our goal should be that of the stoic, who puts aside his own emotional needs and feelings and devotes oneself to the mitzvah at hand. If we choose the Hassidic path, our goal is to be fully immersed in our current emotional state, no matter how remote that state may be from the one for which the mitzvah at hand calls. Our attitude should be: "See G-d, how much I love You. I'm willing to do this mitzvah for You despite my own personal pain and suffering."

A Test Case: Kissing Children in the Synagogue

There is, however, at least one example of where the halakhic practice itself might be affected. What if we could find a halakhah whose whole objective is the elimination of emotion so that we might channel our love exclusively for G-d? Such a halakhah does seem to exist in the *Shulhan Arukh*, our codex for halakhic practice. In the Laws of Prayer, Rabbi Moshe Isserlis, in his gloss to the *Shulhan Arukh*, cites a responsum from Rabbi Benjamin ben Mattathias of Greece, who lived in the first half of the 16th century.¹⁹ The Ram" a first discusses the necessity to mentally prepare oneself for prayer. One such preparation, after having meditated upon G-d's greatness, is to "remove all human pleasures from his heart."²⁰ He then writes:

It is forbidden for a person to kiss his small children in the synagogue, so that one may affix in their heart that there is no other love like the love for the Omnipresent.

For many (myself included), this is a troubling halakhah. While we can certainly appreciate the idea of demonstrating exclusive love for G-d in our holy places, would we not desire to make our children feel wanted and special in shul as a means of incentivizing them to

19. The responsum can be found in Shu"t Binyamin Ze'ev, ch. 163. In it, R. Benjamin cites as his source for the prohibition of kissing children in shul *Sefer HaAgudah* (by the early 14th century German decisor, Rabbi Alexander Zuslin HaKohen), who in turn was citing from *Sefer Kol Bo* (by 13–14th century French decisor, Rabbi Aharon HaKohen of Narbonne). The difficulty with this responsum is that no mention of kissing children in synagogue appears in either *Sefer HaAgudah* or *Sefer Kol Bo* as they appear in our current editions. Nonetheless, this ban does appear in *Sefer Hassidim* (by 12th century German pietist Rabbi Yehuda HaHassid of Speyer), Margaliyot Edition, ch. 255. I deal with this complication in an online lecture from 2016, which can be viewed here: <https://youtu.be/xn7hkBPZSWs>.

20. *Shulhan Arukh*, *Orah Hayim* 98:1.

continue attending synagogue? We give them candy and provide them with fun activities. Would it not also make sense to shower them with hugs and kisses so that they will want to come back to shul?

The Mussarist has no such issues. Plainly and simply, a father, mother²¹ or grandparent must simply suppress their emotions in a place where the only love that is meant to be displayed is the love for G-d. The Hassid, however, has difficulty reconciling this halakhah with his calling to be fully mindful of his emotional state and to channel those emotions towards a love for G-d.

It may very well be that for this reason we find a number of modern (i.e., 20th century and later) halakhic decisors creating numerous exceptions for this ban on kissing children and other loved ones in shul. For example, Rabbi Ben-Zion Abba Shaul, a 20th-century Sefardic *posek* and *rosh yeshiva* of Yeshivat Porat Yoseph, noted that many Sefardim have a custom of kissing the cheek or hand of the person who has received an *aliyah* to the Torah. He suggested that this is permitted, as it is not a sign of affection, but rather a sign of respect.²² In a similar vein, Rabbi Shimon Finkelstein, a rabbi and halakhic decisor in Europe and the United States in the early part of the 20th century, concluded that the only prohibition of kissing loved ones in the synagogue is for small children; grown children and other loved ones are not included in the prohibition.²³ R. Finkelstein felt that there is a mitzvah of “*V’ahavta l’re’akha kamokha*,” – “Love your neighbor as yourself,” that demands that we show love for our fellow Jew no matter where we find ourselves. The only reason why we are not meant to kiss small children in the synagogue is because such a love is an irrational love that is not predicated on the merits of the child, but is rather instinctive.²⁴

Rabbi Yisrael Pesach Feinhandler, a halakhic decisor and author of the last few decades, ruled that this ban on kissing only applies in the synagogue, so that if a father and child find themselves praying in a mourner’s house, the father is permitted to kiss the child.²⁵ He further ruled that the prohibition is only against kissing, but that hugging is permitted.²⁶ Rabbi Yoseph Leiberman, *rosh yeshiva* of Kollel Shomrei HaHomot, ruled that if one is trying to calm down a crying child, it is permitted to kiss them for that purpose.²⁷ He also

21. Although it would seem that both mothers and fathers are precluded from kissing their children in shul, there is some debate as to whether this halakhah applies only to the main sanctuary in the men’s section, or whether the women’s section is also included in this prohibition of kissing children. See R. Tzvi Ryzman’s *Ratz Katzvi Inyanei Nashim b’Halakhah*, vol. 1, 3:8 (p. 38). See also R. Yaakov Aharon Skotziles’ *Ohel Yaakov*, vol. 1, *Orah Hayim*, h. 4 (p. 168).

22. See *Shu”t Ohr L’Zion*, vol. 2, *he’arot* ch. 45, *Hilkhot Tefillah*.

23. *Beit Yitzhak*, *Ma’amar* 5. This is contrary to the ruling of Rabbi Avraham Yitzhak HaKohen Kook, who believed that the prohibition applied to all people. See *Shu”t Orah Mishpat*, *Orah Hayim*, ch. 22.

24. This is in keeping with the Mussarist attitude that the love for children is irrational, and was artificially instilled within parents to ensure that small children would not perish due to an inability to care for themselves. Indeed, Rabbi Finkelstein studied under Rabbi Yitzhak Blazer (Reb Itzile Peterburger) cited above, in his Kollel Perushim.

25. See R. Yaakov Aharon Skotziles’ *Ohel Yaakov – Aveilut*, p. 122.

26. See *Gam Ani Odekha*, *Responsa of Rav Feinhandler*, ch. 45 (p. 106).

27. See Rabbi Lieberman’s *Shu”t Mishnat Yoseph* 6:31, par. 9 (p. 66).

advocated giving encouraging caresses to one's children in order to incentivize them to pray nicely in the synagogue.

Rabbi Moshe Feinstein was known to have kissed his young grandchildren in his Beit Midrash in Mesivtha Tifereth Jerusalem. When asked why this was permitted, Rav Moshe is quoted by two different sources with two different explanations. In one source, Rav Moshe is quoted as saying that the prohibition of kissing children only applies during the actual prayer service, but before or after the prayers it is permitted to kiss children in the synagogue or Beit Midrash. He adduced this from the fact that this halakhah is cited in the section of the *Shulhan Arukh* that deals with prayer, and not the section that deals with the sanctity of the synagogue.²⁸ In another source, Rav Moshe was addressing a specific situation in which cousins were visiting from out of town with their small children. Rav Moshe kissed the children, and when asked why this was permitted he responded: "When dealing with small children, if I wouldn't kiss them, they might feel bad. One could justify alleviating their bad feelings in a case like this, where one is a *talmid hakham* in his own Beit Midrash."²⁹

Rabbi Yitzhak Zilberstein, a prominent halakhic decisor in Bnei Brak, cites the story of a scholarly father who was learning with his young son in the synagogue. When the father discovered that his son asked a question on a Tosafot commentary that was the same question asked by Rabbi Akiva Eiger, he arose and gave his son kisses on his head. When asked what the justification for this was, the father responded that he wasn't kissing his son out of fatherly love, but rather as a way of rewarding the child with affection so that the child would feel gratified in his Torah study. R. Zilberstein concludes that if this is one's sole motivation, then it is permitted to kiss one's children even in the synagogue.³⁰

From all the above, especially when noting Rav Moshe Feinstein's leniency on this matter, it seems that many of our contemporary *poskim*, noting that we live in a much more emotionally effusive age than prior generations, are prepared to provide limited dispensations in this particular area of halakhah. Taken in the aggregate, it is almost as if this halakhah has fallen out of favor and the halakhic decisors struggle to mitigate it as much as possible. It is altogether possible that in our age, as in so many other areas of religious observance, the Hassidic path has become more popular. Using one's humanity in the service of G-d seems much more appealing, especially in an age where our children are hungry for authenticity and genuine affection from their teachers and parents.

Of course, it needs to be pointed out that neither extreme is healthy. Withholding affection from one's children for the sake of disciplining oneself to only love G-d may result in terrible repercussions for the child. If a child discovers that his father or mother withheld

28. See R. Michel Zalman Shurkin's *Meged Givot Olam*, vol. 1, p. 92.

29. *Mesorat Moshe* is a collection of testimonies about Rav Moshe's behavior and *psak*, written by his family. See *Mesorat Moshe* vol. 1, page 46, par. 102.

30. See *V'Ha'arev Na*, vol. 1, pp. 142–143.

emotional support from them because of the parents' religious ideals, then this certainly could cause the child to resent those very same religious commitments.³¹

At the same time, taking the purely Hassidic approach of allowing one's emotions to run unbridled in one's service of G-d, when taken to the extreme, could also have tragic repercussions. Imagine the parent who never scolds or disciplines his or her child, because they are so overcome by love for their child that all transgressions are immediately forgiven. *Love without discipline is as harmful to the child as discipline without love.*

The Akeidah Story as a Petition on Rosh Hashanah

On Rosh Hashanah, we read about *Akeidat Yitzhak*, and ask G-d to have compassion upon us in the merit of Abraham's ultimate act of devotion. The liturgical text of the *Mussaf* for Rosh Hashanah, as it appears in the Mahzor, states:

Our G-d and G-d of our fathers: remember us favorably before You and be mindful of us for deliverance and compassion from the eternal high heavens. Remember on our behalf, G-d, our G-d, the covenant, the kindness and the oath which You swore to our father Abraham on Mount Moriah, and let there appear before You the binding with which our father Abraham bound his son Isaac upon the altar, and how he conquered his compassion to do Your will with a whole heart. So may Your compassion conquer Your anger against us...

We are asking G-d to overcome His anger against us and act compassionately. We ask that this be in exchange for Abraham overcoming his compassion for his son and instead acting cruelly with him. This seems like an inapt *quid pro quo* request. How does changing from cruelty to kindness, which we are asking of G-d, compare to changing from kindness to cruelty, which was done by Abraham? The Mussarist sees no problem with this connection. Certain emotions need to be suppressed in order to realize justice and righteousness. Just as it was correct for Abraham to suppress his natural tendency toward kindness, we ask G-d in kind to suppress His natural tendency toward punishing the sinner, and instead to spare us.

But the Hassid should have more difficulty with this. What are we really asking of G-d? If Abraham was a combination of both sadness and happiness at the time of the *Akeidah*, what are we asking G-d to feel? Do we want Him to be angry with us and at the same time, still be compassionate despite His anger? Perhaps this is the very thing for which we are asking. Parents will, at times, be upset with their children for misbehaving, but they will still have compassion and give them a second chance. Maybe, from the Hassidic perspective, we are asking G-d to be like that parent. We recognize that through our sins, we have angered You, G-d, but we request that just as Abraham was able to act contrary to his emotions, that

31. It is well documented that some leaders of the Mussar movement had children who broke from traditional Judaism. One cannot help but surmise that the approach of stoicism and reserving one's love for G-d alone may have been at least one of the contributing factors in some of these children leaving the world of their parents.

You do the same, and spare us despite Your justified anger. We are not asking G-d to stop being angry – which, after all, is not reasonable if we believe that G-d is just and overlooks nothing. Rather, we are asking Him to act compassionately despite His very real “emotional state” of anger, just as Abraham did at the *Akeidah*.

This approach finds support in an interesting *Midrash* about Abraham and his eldest son, Ishmael. The *Midrash* cites a verse from Psalms (103:13): “Just as a father has compassion for his children, so has G-d been compassionate to those who revere Him.” The *Midrash*³² notes that even after Abraham sent his son Ishmael away at Sarah’s behest, Abraham nevertheless made it his habit to visit Ishmael on occasion. The *Midrash* concludes that Ishmael was touched by his father’s kindness, a kindness which is consistent with the Psalms’ depiction of a father’s natural compassion for his children. In his commentary to the *Midrash*, Rabbi David Luria notes that the verse in Psalms is specifically utilized to note a father’s compassion for a son such as Ishmael, who was of flawed character, evidenced by Sarah’s demand to send him away from Abraham’s home. Even problematic children, even those who sometimes anger and disappoint, still deserve love and compassion from their parents. It is on that basis that we ask G-d to be compassionate with us. We are no different from Ishmael, the son who fell short of his father’s expectations, but who was still loved by his father.

Postscript

My attitudes toward parenting have evolved over my nearly four decades as a parent. I believe that I was more influenced by the Mussar school when I was a younger parent. I realize that at least some of my children would have benefited from the Hassidic approach of a more emotionally effusive father, who did not “turn off” for the sake of disciplining them and being a strong figure of authority. As I have gravitated more toward Hassidism in general, and as my life experiences have softened my parenting techniques, I can only offer to younger parents the advice gained by trial and error and the wisdom of aged experience: On the one hand, don’t spoil your children. On the other hand, *be a Hassid*.

32. *Pirke D'Rebbe Eliezer* 30.

Fear and Awe in Maimonides' Thought¹

DR. ALEXANDER GREEN

FEAR IS A crucial part of religious life. But how do we understand fear? And is it something we can or should control and overcome? Maimonides articulates the position that the Torah advocates two distinct approaches to fear: (i) cultivating an ethics of moral and intellectual courage, overcoming fear by bravely advancing the pursuit of knowledge of G-d and using that knowledge to improve the world, and (ii) fostering an ethics of awe, by recognizing the human limitations on comprehending the highest levels of nature, leading to acts of loving-kindness and compassion towards all.

The foundation of these two positions is laid out by Maimonides at the beginning of the *Mishneh Torah* in the *Book of Knowledge, Laws of the Foundations of the Torah*, 2:2:

And what is the way of loving Him and fearing Him? When a man reflects upon His wondrous great works and creatures and perceives from them His inestimable and infinite wisdom, he at once loves, praises, glorifies, and yearns greatly to know the Great Name—as David said: *My soul thirsteth for G-d, for the living G-d* [Ps. 42:3]. And when he meditates on these things themselves, he at once recoils (*nirta'*) in a start, and will fear (*ve-yira'*) and tremble (*ve-yifhad*) and know that he is a small (*qetanah*), lowly (*shfalah*),

1. This article is an abridged version of my article "Fear and Awe in the Thought of Maimonides," *The Boenhoffer Legacy: An International Journal* 7, no. 1-2 (2019), pp. 41-57. See that article for an extended discussion, along with my earlier article, Alexander Green, "Maimonides on Courage," *Jewish Studies Quarterly*, 22/2 (2015): 162-183.

ALEXANDER GREEN is a Visiting Associate Professor at SUNY, University at Buffalo in the Department of Jewish Thought where he serves as Buffalo Community Jewish Educator. His research is on medieval and early modern Jewish philosophy, ethics and the history of biblical interpretation. He is the author of two books: *The Virtue Ethics of Levi Gersonides* (Palgrave, 2016) and *Power and Progress: Joseph Ibn Kaspi and the Meaning of History* (SUNY Press, 2019). He is also co-editing *Jewish Virtue Ethics* with Geoffrey Claussen and Alan Mittleman which is forthcoming with SUNY Press.

dark (*a'felah*) creature standing with slight insignificant understanding (*da'at qalah me'utah*) before [Him who is] perfect in understanding.²

Maimonides then continues to expand upon this theme in *Laws of the Foundations of the Torah*, 4:12:

When a man reflects on these things and acknowledges all the created things, from angel and sphere [to] man and the like, and sees the wisdom of the Holy one (blessed be He) in all the formed and created things, he increases the love for G-d. His soul thirsts, his flesh longs to love G-d (blessed be He). He will fear (*ve-yira'*) and tremble (*ve-yifhad*) on account of his lowliness (*me-shifluto*), wretchedness (*ve-daluto*), and insignificance (*ve-kaluto*) when he compares himself to one of the great holy bodies. All the more [when he compares himself with] one of the pure forms that are separate from matter and have never at all been combined with matter. It will dawn upon him that he is like a vessel full of shame and disgrace, worthless and defective.³

As outlined by Maimonides, the love of G-d is the courageous quest to comprehend the teleological structure of nature, such that everything is purposefully ordered. Hence, the more one is aware of the *telos* (moral purpose), the more one feels closer to G-d. The fear of G-d, however, is the humble realization that the conclusions reached are limited and perhaps incorrect due to the physical nature of the human condition in contrast to G-d. The courageous quest for knowledge leads down the path to create a more just society, while the impulse to recoil in awe reached from one's limited comprehension leads to acts of love and compassion based on the shared position of human weakness. The human being needs both self-assurance and self-criticism. These two emotions are complementary.

The Psychological Origin of Fear

Maimonides follows Aristotle in presenting fear as an extreme that is situated far from the mean of the moral virtue of courage.⁴ In fact, an extreme such as fear is considered by Maimonides to be a deficiency, or a symptom of a sick soul. Yet in his religious writings, Maimonides does not diagnose the specific reason why individuals fall prey to these extremes. He does however diagnose the psychological basis of fear as a mental and physical debility in his late medical work, *On The Regimen of Health*.⁵ There he explains that fear originates

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2. Maimonides, *Mishneh Torah: The Code of Maimonides*, ed. Yohai Makbili (Israel: Or Vishua, 2009), 35 (*Laws of the Foundations of the Torah*, 2:2). English translation from Ralph Lerner, *Maimonides' Empire of Light: Popular Enlightenment in an Age of Belief* (Chicago: University of Chicago Press, 2000), 144.
 3. Maimonides, *Mishneh Torah*, 39 (*Laws of the Foundations of the Torah*, 4:12). English translation from Ralph Lerner, *Maimonides' Empire of Light*, 152.
 4. Maimonides, 'Eight Chapters', in *Ethical Writings of Maimonides*, edited by Raymond L Weiss and CE Butterworth (New York: New York University Press, 1975), 67.
 5. Maimonides, *On the Regimen of Health: A New Parallel Arabic-English Translation*, edited and translated by Gerrit Bos (Leiden: Brill, 2019), 108–110 (3.16).

from two sources: either the inability to escape the trauma of past loss, such as the death of a loved one or the loss of wealth; or the dread of a potential misfortune that could occur to one in the future. Maimonides sees fear as originating in a false deterministic view of nature, and thus, he counsels the fearful individual to oppose this type of thinking by taking the opposite approach – being hopeful for the future:

Everything that someone anticipates belongs to the category of something possible that may happen or may not happen. And just as someone may be sad and distressed lest something he dreads might occur, in the same way one should dilate one's soul with lasting expectation and hope that perhaps the opposite of what he anticipates might occur, since both what he anticipates and its opposite are possible.⁶

Maimonides' practical lesson is that there is no benefit in living a life of distress due to being paralyzed by fear. The future is filled with multiple possibilities and it is as likely that a good and positive outcome will occur to you in the future as the negative outcome that you dread. As a result, Maimonides advocates that it is more productive in life to be hopeful and work towards one's goals, than to be paralyzed by fear of a deleterious outcome that is no more likely than the beneficial one.

Problematic Fear I: Fear of Divine Punishment

The fear of divine punishment as the motivation behind religious practice is difficult to gauge in Maimonides' writings, as at times it seems to be an approach that is endorsed by Maimonides, and at other times, condemned. In Maimonides' earlier *Book of Commandments*, he seems to look favorably upon this position, listing the fear of G-d as the fourth positive commandment and explaining that it is one that requires awareness of divine punishment. He writes that we should "not be at ease and self-confident, but to expect His punishment at all times."⁷ Yet in Maimonides' later *Mishneh Torah*, he expresses a negative view of this earlier position. In the first book, the *Laws of the Foundations of the Torah*, Maimonides presents love and fear as equal, so that fear essentially means awe. However, in the final book, the *Laws of Repentance*, he presents love as superior to fear, since here he suggests that fear motivates people to act for the sake of reward and punishment.⁸ He identifies this approach in the *Laws of Repentance* with that of those who do not know better because of ignorance; for such

6. Maimonides, *On the Regimen of Health*, 110.

7. Maimonides, *The Commandments (Sefer ha-Mitzvot)*, translated by Charles B Chavel (London: The Soncino Press, 1976), 5.

8. Maimonides, *Mishneh Torah*, 35, 39 (*Laws of the Foundations of the Torah*, 2:2, 4:12) and 88 (*Laws of Repentance*, 10:1–2). This contradiction has been noted in David Hartman, *Maimonides: Torah and Philosophic Quest* (Philadelphia: Jewish Publication Society, 1976), 265 n61; Howard Kreisel, *Maimonides' Political Thought: Studies in Ethics, Law and the Human Ideal* (Albany: State University of New York Press, 1999), 258–259. Cf. Joseph Kafih's comments in his edition of the *Mishneh Torah* on Maimonides, *Sefer Mishneh Torah*, ed. Joseph Kafih, volume I, on *Foundations*, 2:2 and *Repentance*, 10:2 (Jerusalem: Machon Mishnat ha-Rambam, 1984) and Eliyahu Nagar, "Fear of G-d in Maimonides' Teaching (A Reexamination)," in *Da'at*, 39 (1997), 89–99.

people, the commandments are merely a means to their own success, with the implication that one who follows them because of reward or punishment does not really care about G-d, but is using G-d to benefit oneself. However, Maimonides does admit that this form of worship has a pedagogical advantage: it trains people in the right method to worship G-d, even if it is for the wrong reason—that is, until they have acquired the appropriate knowledge, when they would act for the right reason.⁹ He writes:

When instructing the young, women or the illiterate generally, we teach them to serve G-d out of fear or for the sake of reward till their knowledge increases and they have attained a large measure of wisdom. Then we reveal to them this secret, little by little, and train them by easy stages till they have grasped and comprehended it, and serve G-d out of love.¹⁰

Indeed, utilizing the fear of punishment for educational purposes is described by Maimonides as being akin to parenting: you reward and punish children for good and bad behavior with the hope that as they grow older and mature they will come to see the value of such behavior as good; they will no longer need the threat of reward and punishment and will eventually understand the reason why the action is valuable in itself. While it is not clear that everyone graduates from this childhood stage, it is the ideal toward which to strive. Thus, the fear to which Maimonides refers as an ideal equivalent to love in the *Laws of the Foundations of the Torah*, (to be discussed further below), is not the same as the fear of punishment that ends the *Laws of Repentance* as the latter is the basic form of fear, while the former is a mode of fear that functions on a more advanced and higher level.

Problematic Fear II: Fear of Physical Death and Idolatry

Another type of fear that needs explication in Maimonides' writings is the fear of physical death in a dangerous and potentially life-threatening situation. This is the fear that prevented the Israelites from directly entering Canaan, and which, according to Maimonides, required them to wander in the desert for forty years. The prolonged period in the desert was needed in order to build up their physical courage, which would then prepare them to engage the nations of the land in war. Hence, Maimonides highlights the biblical statement "G-d did not lead them by way of the land of the Philistines, although it was nearer; for G-d said, 'The people may have a change of heart when they see war, and return to Egypt.'" (Exodus 13:17–18). He interprets this verse twice in his *Guide of the Perplexed*, both at III 24 and III 32, where he writes:

And it is known that but for their misery and weariness in the desert, they would not have been able to conquer the land and to fight... For prosperity (*rafāhiya*) does away

9. Maimonides, *Mishneh Torah*, 85 (*Laws of Repentance*, 10:1).

10. Maimonides, *Mishneh Torah*, 85 (*Laws of Repentance* 10:5). English translation with slight modifications from Maimonides, *Mishneh Torah: The Book of Knowledge*, trans. Moses Hyamson (New York: Feldheim, 1974), 93a.

with courage (*al-shajāh*), whereas a hard life and fatigue necessarily produce courage (*al-shajāh*).¹¹

For just as it is not in the nature of man that, after having been brought up in slavish service occupied with clay, bricks, and similar things, he should all of a sudden wash off from his hands the dirt deriving from them and proceed immediately to fight against the *children of Anak*... The deity used a gracious ruse in causing them to wander perplexedly in the desert until their souls became courageous (*tashja'tu*)—it being well known that life in the desert and lack of comforts for the body necessarily develop courage (*al-shajāh*) whereas the opposite circumstances necessarily develop cowardice (*al-jubn*)—and until, moreover, people were born who were not accustomed to humiliation and servitude....¹²

Maimonides offers two seemingly contradictory explanations for the fearfulness and cowardice resulting from the Israelites' enslavement in Egypt. In the first passage, he attributes it to the culture of prosperity in Egypt, implying that its prevailing ethos was one of comfort and ease, rather than toughness and hard work. In the second passage, he points to the fact that as slaves, the Israelites were compelled by their taskmasters to become meek and submissive. While the explanations in III 24 and III 32 may appear to contradict each other at first glance, presenting the Israelites as both affected by the laxity of their enslaved status as well as by the cruelty of their oppressors, his point here seems to be that as slaves the Hebrews did menial unthinking labor, such that the slave leads an easy and facile but unchallenging life in that all decisions are made by others.

The connection between the two and its outcome as physical fear can perhaps be further explained by examining the political implications of the prevailing idolatry in Egypt at the time. If one looks at how Maimonides views idolatry, it seems that he understands it as a theological representation of materialism. From this perspective, all that exists is the physical world of matter, so that the main goal of life is to increase one's worldly gain.¹³ Happiness is therefore found in the amount of worldly goods obtained such as money, food, pleasure, honor, etc. The problem with such a worldview is that physical desires are unlimited and insatiable. The more one has, the more one desires, such that one is never satisfied with what one has.¹⁴ This human weakness leads shrewd manipulators to create false religions and "idols" for the weak-minded whose "gods" falsely promise to fulfill all their physical desires. These false prophets then oppress and control the masses for their own personal gain. As Maimonides writes, "These practices are all false and deceptive, and employed by the ancient idolaters to deceive the peoples of various countries and to derive benefit from

11. Moses Maimonides, *The Guide of the Perplexed*, translated by Shlomo Pines (Chicago: University of Chicago Press, 1963), 500 (III 24).

12. Maimonides, *Guide*, 528 (III 32).

13. Leo Strauss notes this in describing "corporealism as the hidden premise of idolatry" (Leo Strauss, 'How to Begin to Study *The Guide of the Perplexed*', in *Guide*, xlii).

14. Maimonides, *Guide*, 445 (III 12).

them (*kedei she-yinnahu 'ahareihem*).¹⁵ Egypt is an example of such a culture, whose material prosperity depended on the enslavement of others, and where the majority of people are weak and afraid, other than those in the upper echelons of society. Maimonides describes this type of exploitation in his discussion of the phrase “excruciating labor” (*farekh*), the term used to denote the tormenting work that the Egyptians imposed on the Israelites (Exodus 1:13). In the *Laws of Slavery*, he interprets this to mean labor that has no limit and is essentially unnecessary, as it imposes useless tasks onto people to turn them into tools so as to control them.¹⁶

According to Maimonides, the only way for the Israelites to overcome this fear of physical death and develop courage against life threatening obstacles was to learn how to live in the harsh conditions of the desert. In Maimonides’ thought, the desert represents a setting with the least amount of physical comfort, one which would naturally create courageous habits due to its difficult environment.¹⁷ As the leader of the Israelites, Moses needed to transform a nation of slaves into a nation with a strong military will that could conquer a land and build a state. His knowledge of both G-d and nature gave him the ability to trick the Israelites into wandering in the desert for forty years, for the purpose of creating a state of misery and lack of comfort which, combined with freedom, was essential for training them to be courageous in battle.¹⁸ This means overcoming the fear of physical death, since this must be achieved before entering the land of Israel where the Israelites will encounter war and risk their lives in battle to defend themselves against potential enemies.

Solution I: Fear as Incrementalism

Fear also plays a vital role in the way in which prophecy is attained as a necessary restraint on moving too quickly to obtain the proper prophetic knowledge, thus leading to failure. Maimonides considers Moses to be unique and incomparable to both earlier and later biblical prophets, listing four differences between Moses’ prophecy and that of other prophets.¹⁹ The third difference to which he makes reference is that all other prophets experienced fear when receiving prophecy, such that they were “filled with fear (*yere'in*), consternation (*ve-nivhalin*) and became physically weak (*u-mitmogegin*).” He contrasts this with Moses

15. Maimonides, *Mishneh Torah*, 76 (*Laws of Idolatry* 11:16). English translation with slight modifications from *Mishneh Torah* (Hyamson), 80a.

16. Maimonides, *Mishneh Torah*, 1083 (*Laws of Slaves* 1:6).

17. Maimonides, *Mishneh Torah*, 52 (*Laws of Character Traits*, 6:1). Maimonides conceives of the desert in this way also in his ‘Letter to Yemen’, where he counsels those who cannot get away by emigration from an evil regime which persecutes Jews, also to escape to the desert. See Maimonides, ‘Letter to Yemen’, in *Maimonides Reader*, edited by Isadore Twersky (Springfield: Library of Jewish Studies, 1972), 448.

18. Maimonides, *Guide*, 500 (III 24) and 528 (III 32). See Shlomo Pines, ‘Ibn Khaldun and Maimonides: A Comparison between Two Texts’, in *Studia Islamica*, 32 (1970), 170. This idea was first proposed by Abraham Ibn Ezra in his commentary on Exodus 3:17. Maimonides elaborated and developed this idea further.

19. Maimonides, *Commentary on the Mishna*, volume IV, 212–214; *Mishneh Torah*, 42 (*Laws of the Foundations of the Torah*, 7:6); and *Guide*, 367–368 (II 35) and 378–380 (II 39).

whose prophecy he says was without terror and dread, as if he were speaking to a friend.²⁰ The common fear among other prophets reflects the influence of the imagination, while the lack of fear in Moses' prophecy refers to the rational character of his prophecy without influence of the imagination, "because of the strength of his union with the [Agent] intelligence."²¹ This differs from the fear that Moses experiences after hearing G-d's message at the burning bush, where it says "And Moses hid his face, for he was afraid (*yare*) to look at G-d" (Exodus 3:6). As Maimonides clarifies in *Guide* I 5, the fear described at the burning bush is a reflection of Moses' patience and moderation in taking the incremental steps to master the prerequisites before attempting to apprehend G-d. According to this definition of fear:

He should not make categoric affirmations in favor of the first opinion that occurs to him, and should not, from the outset, strain and impel his thoughts toward the apprehension of the deity; he should rather feel awe (*yastahiyyu*) and hold back until he gradually elevates himself.²²

Moses is afraid of moving too quickly and thus not taking the right steps to achieve the results. This is similar to the kind of incremental learning recommended by Maimonides in the Dedicatory Letter of the *Guide*, where he says that the proper order of study for his pupil Joseph is to first master the basic sciences before approaching the weightier topic of metaphysics, or discerning the science of G-d. As he makes clear in the *Guide*, Maimonides is concerned that if a student longs for the answers too much then he will move too quickly and not follow the right order and method to achieve his goal.²³

In the same vein, Maimonides posits that Moses' fearful encounter with G-d through the burning bush at Exodus 3 represents the beginning of his philosophic quest to know G-d, one that is cautious and methodical. He traces the evolution of this quest back to when an angel appeared to Moses in Exodus 3:2, "And the angel of the L-rd appeared to him," with the angel, in this context, referring to a prophetic vision through the imaginative faculty.²⁴ For Maimonides, a vision can be explained as a manifestation of the imaginative faculty reaching its highest perfection. As he puts it: a vision "signifies that the imaginative faculty achieves so great a perfection of action that it sees the thing as if it were outside, and that the thing whose origin is due to it appears to have come to it by the way of external sensation."²⁵ As such, the image of the burning bush is a creation in Moses' imagination derived from the

20. Maimonides, *Mishneh Torah*, 42 (*Laws of the Foundations of the Torah*, 7:6). English translation in Maimonides, *Mishneh Torah* (Hyamson), 43a. For an earlier version of this statement, see *Mishna 'Im Perush Mosheh ben Maimon* [Commentary on the Mishna] (Jerusalem: Mossad ha-Rav Kook, 1963–1967), volume IV, 214.

21. Maimonides, *Commentary on the Mishna*, volume IV, 214. English translation of Menachem Kellner in Kellner, *Dogma in Medieval Jewish Thought: From Maimonides to Abravanel* (Oxford: Littman Library of Jewish Civilization, 2004), 14.

22. Warren Zev Harvey, 'Maimonides on Human Perfection, Awe and Politics', in *The Thought of Moses Maimonides*, edited by Ira Robinson, Lawrence Kaplan, and Julien Bauer (Lewiston, NY: Edwin Mellen, 1990), 6.

23. Maimonides, *Guide*, 3–4 (Dedicatory Letter).

24. Maimonides, *Guide*, 264–265 (II 6) and 576 (III 45).

25. Maimonides, *Guide*, 370 (II 36).

Active Intellect, but one that leads him to knowledge of G-d. Through his gradual training, he progresses with the proper fear as incrementalism from his initial prophecy through the imaginative faculty to his later perfectly rational prophecy whereby he “speaks mouth to mouth” with G-d and “beholds the likeness of the L-rd” (Numbers 12:8).²⁶

Solution II: Moral and Political Courage

Maimonides states that a key quality of prophecy is overcoming the fear to speak out and act in the public sphere with the moral and political courage to challenge the conventional opinions held by political authorities, often telling them directly that they are in the wrong. According to Maimonides, this type of courage is rooted in the natural force of spiritedness or boldness (*iqdām*), especially prevalent in prophets. Indeed, he compares this instinctive spiritedness or boldness to the natural impulse of repulsion or self-defense.²⁷ He notes that in its raw form, it can be manifested in extremes of fear or rashness as he illustrates by the analogy of how different people respond to confronting an animal: “You may find among people some who will advance upon a lion, while others flee from a mouse.” In Maimonides’ view, the channeling of the natural force of spiritedness or boldness to overcome fear properly arises as a result of the perfection of the intellect, such that “when the intellect overflows toward them, these two faculties become very greatly strengthened.” Moreover, the prophet has the reasoning power of divination, which is a rational process of quick thinking about when, where and on whom to act regarding “warnings concerning great future events.” The certainty the prophet possesses in his message along with his rhetorical ability to convince the audience through the imaginative faculty, gives him the strength to overcome his fear and courageously confront a powerful leader with his vital message.

The biblical way of expressing this phenomenon of overcoming fear in the moral and political realm is for Maimonides the phrase “spirit of G-d” (*ruah elokim*), referring to the first and second degrees of prophecy in *Guide* II 45. One apparent difficulty with associating *ruah elokim* with courage is that Maimonides makes no explicit mention of *iqdām* in that chapter. However, as noted by Abrabanel in his *Commentary on the Guide*, Maimonides hints that these first two grades of prophecy are in fact forms of courage; this can be seen in his use of similar language that directly alludes to other references he makes to virtue, even though he does not specifically mention *iqdām*.²⁸ But while both are rooted in spiritedness, in II 38 Maimonides appears to be talking about the natural impulse that controls courage, while in II 45 it is the same impulse controlled by reason and channeled toward a noble purpose, thus

26. Alvin J. Reines, ‘Maimonides’ Concept of Mosaic Prophecy’, in *Hebrew Union College Annual*, 40/41 (1969–1970), 336 and Howard Kreisel, *Judaism as Philosophy: Studies in Maimonides and the Medieval Jewish Philosophers of Provence* (Brighton: Academic Studies Press, 2015), 324–325.

27. Maimonides, *Guide*, 376–378 (II 38). See: Raymond Weiss, *Maimonides’ Ethics: The Encounter of Philosophic and Religious Morality* (Chicago: University of Chicago Press, 1991), 163–164.

28. Alvin Reines, *Maimonides and Abrabanel on Prophecy* (Cincinnati: Hebrew Union College Press, 1970), 186–187. My interpretation draws upon Abrabanel’s connection between *Guide* II 38 and II 45, though does not take his argument fully in the direction he does.

truly making it a virtue. These two lower degrees of prophecy, in which the actor has *ruah elokim* attributed to his actions, represent two modes of moral courage: courage to act for the truth in society (first degree) and courage to speak the truth in society (second degree). The first type of courage is exemplified in the actions of biblical judges and kings and the second type of courage is exemplified in the authorship of biblical wisdom literature.²⁹ It is this supreme moral and political courage of the prophet, both in words and deeds, which Maimonides suggests is needed to uphold truth in society and to check the interest of the king and other powerful leaders of that society. Thus, the prophets do not fear the king, the royal authorities or the masses, since they are motivated by the “spirit of G-d,” which is the faculty of courage. The spirit of G-d is an alternative to fear, enabling one to overcome fear.

Solution III: Fear as Awe

According to Maimonides, fear becomes infused with awe when man becomes aware of the limitations of human knowledge and the fundamentally weak physical condition of humanity. In fact, Maimonides views this as an essential lesson of the story of the binding of Isaac (Gen. 22). The story ends with the words of the angel stating, “for now I know that you fear (*yere*) G-d, since you have not withheld your son, your favored one, from me” (Gen. 22:12). In fact, Maimonides regards this story as “the highest of the degrees of the prophets... after the perfection of the rational faculties” while simultaneously demonstrating the limits of love and fear of G-d, “up to what limit they must reach.”³⁰ Maimonides suggests that this story not only has a deep philosophic meaning but also that it occurred in a prophetic vision, thus making it a parable whose meaning must be pondered and discerned.³¹ In other words, the events concerning the binding of Isaac, according to this interpretation, were not historical, but took place in a prophetic vision.

Furthermore, Maimonides seems to intentionally link the story of the binding of Isaac in Genesis 22 with the story of the Garden of Eden in Genesis 2–3 through the character of Samael, the wicked angel that is equivalent to the character Satan, who confronts both Eve (through the Serpent) and Abraham in various *midrashim*.³² Thus, Maimonides appears to be suggesting that one should interpret the story of the binding of Isaac allegorically in the same way he interpreted the tale of the Garden of Eden in *Guide* I 2. If, in the Garden of Eden, Adam, Eve and the Serpent represent form, matter and the imagination, then one can similarly read Abraham, Isaac and the *midrashic* addition of Samael to respectively represent

29. Maimonides, *Guide*, 396–398 (II 45).

30. Maimonides, *Guide*, 402 (II 45) and 500 (III 24).

31. Maimonides, *Guide*, 386 (II 41) and 501–502 (III 24). See: Abraham Nuriel, “Maimonides on parables not explicitly identified as such,” in *Da’at* 25 (1990): 88–89.

32. Maimonides, *Guide*, 356 (II 30). Samael appears in *Genesis Rabbah* 5:4 with regards to the binding of Isaac and *Pirke de-Rabbi Eliezer* 13 with regards to the Garden of Eden. For an overview of Maimonides’ intertextual citations in *Guide* III 24, see: James Diamond, *Maimonides and the Hermeneutics of Concealment* (Albany: State University of New York Press, 2002), 131–150.

form, matter and the imagination.³³ As such, the two stories impart a similar message, but in different ways: the Garden of Eden represents the impossibility of being a pure intellect without the imagination and physical desires, while the binding of Isaac represents the attempt of the human intellect to transcend the body and the imagination, but reaches the conclusion that this is not possible or desirable. Hence, G-d's command for Abraham to sacrifice Isaac to Him can be interpreted as the allegorical expression of Abraham's attempt to intellectually know G-d such that he would liberate himself from his corporeal existence (metaphorically 'kill') in order to focus on pure intellectual conjunction.

Moreover, the way that the story ends—with Abraham not killing Isaac, followed by the message about the fear of G-d—is highly significant for Maimonides. According to his reading, when the angel stopped Abraham from killing Isaac, this is a metaphor for Abraham reaching a specific level of knowledge: the realization that he cannot have apodictic demonstrative knowledge of G-d and thus must live and act through his corporeal existence, symbolized by his son Isaac. Furthermore, the fear of G-d that the angel reveals to Abraham is his recognition of intellectual humility. Maimonides makes this very point about the fear of G-d following from the intellectual knowledge and love of G-d in *Guide* III 52:

Know that when perfect men understand this, they achieve such humility, such awe and fear of G-d, such reverence and shame before Him, may He be exalted—and this in ways that pertain to true reality, not to imagination—that their secret conduct with their wives and in latrines is like their public conduct with other people.³⁴

The humility that arises from the fear of G-d is the recognition of a common human fragility and smallness in the larger expanse of existence. For Maimonides, this inspires the great rabbis to act with humility and modesty, as is evident in the Talmudic examples he cites, such as, "It is prohibited for a person to walk even four cubits with an upright posture" implying arrogance.³⁵ In fact, Abraham's discovery of humility and awe through the Akedah story leads him to become the exemplar of kindness and compassion for all people. Maimonides writes that the descendants of Abraham are merciful to all, that charity is an identifying mark among them, and that Abraham instituted the ways of loving-kindness by selflessly welcoming guests to his home.³⁶ Although Abraham came to the rational knowledge of G-d, which enabled him to teach others and help them increase their wisdom, he also realized the limitations of metaphysical knowledge. This led him to the conclusion that human

33. Maimonides, *Guide*, 24–26 (I 2). The nature of Satan is explored further at *Guide*, 488–490 (III 22). See: Warren Zev Harvey, "Three Theories of the Imagination in 12th Century Jewish Philosophy", in *Intellect and Imagination in Medieval Philosophy*, volume 1, edited by Maria Candida Pacheco and Jose F. Meirinhos (Turnhout: Brepols, 2006), 300–301.

34. Maimonides, *Guide*, 629 (III 52).

35. BT *Kiddushin* 31a.

36. Maimonides, *Mishneh Torah*, 1092 (*Laws of Slaves*, 9:8), 562 (*Laws of Gifts to the Poor*, 10:1), and 1232 (*Laws of Mourning*, 14:2).

beings are also weak and fragile creatures requiring mercy and compassion in order to improve their human condition.

Conclusion

As we have seen, Maimonides incorporates multiple definitions and types of fear in his writings, some positive and others negative. Drawing on his reading of biblical stories, he shows that living with fear of divine punishment by an authoritarian G-d or living in fear of physical death in an oppressive idolatrous culture are both forms of weakness that attempt to minimize human initiative and striving. Instead of submitting to fear, Maimonides advocates for both an ideal of courage and an ideal of awe. The proper knowledge of G-d must be acquired by avoiding the extremes of fear and rashness, not advancing too quickly, but with the courage to know more. This leads to morally and politically courageous actions to fight against injustices and improve society. However, the limitations of how much knowledge can be achieved with certainty leads to awe. It incorporates the recognition that human beings are generally weak, and this knowledge serves as a stimulus for people to act with compassion towards each other. As a result, one may say that Maimonides points to how to achieve a proper balance of courage and awe, by bringing out the best of both, thereby showing how it might be possible to live a life that is both heroic and humble.

Psalm 90: Moshe Rabbeinu's Personal Message of Carpe Diem

CHAIM OLIVER

Introduction

DAVID HAMELECH SAW his Book of Psalms as a transformative legacy for all generations. It was not just sacred literature for prayer but Torah text to be studied in-depth, as were the complex and weighty tractates of Talmud on laws of purity and impurity.¹ Why the selection of those tractates specifically? King David wanted his Psalms to have the same purifying effect on the human soul as the laws of ritual purity.²

This essay will discuss how to make the most of each יום (*yom*, day), using classical references with a focus on Breslov sources. The word *yom* occurs five times in Psalm 90, the first Psalm of Book Four. Psalm 90 appears in the Sabbath service, reflecting its holiness, and is also the seventh Psalm of the *Tikkun HaKlali*, a powerful rectification revealed by the holy Rebbe Nachman of Breslov. A selection of ten Psalms, *Tikkun HaKlali* was recommended by Rebbe Nachman for recital as a general spiritual remedy to bring about inner purity, joy, and many other benefits. These Psalms are 16, 32, 41, 42, 59, 77, 90, 105, 137, and 150.

Moshe Rabbeinu

The Talmud enumerates ten authors other than King David. “David wrote the book of Psalms by means of ten elders of previous generations, assembling a collection that included

1. *Midrash Shocher Tov*, Psalm 1:1.

2. Rabbi Mordechai Gifter.

CHAIM OLIVER is the author of *Calling Out to Hashem* (with *Tikkun HaKlali*), published by the Breslov Research Institute. His work can also be found online at breslov.org/author/chaimo and on Instagram at [@tikkunhaklali](https://www.instagram.com/tikkunhaklali). For many years, he has taught weekly classes on Breslov teachings at the Beth Avraham Yoseph of Toronto Congregation and other synagogues. Professionally, Chaim is the managing partner of What If What Next, a full-service content marketing agency. He can be reached at holiver@whatifwhatnext.com.

compositions of others along with his own. He included psalms authored by Adam the first man, by Melchizedek king of Salem, and by Abraham, and by Moses, and by Heman, and by Jeduthun, and by Asaph and by the three sons of Korah” (*Bava Basra* 14b).

Moshe Rabbeinu wrote Psalms 90–100 in his youth, reflecting on the suffering of his people in Egypt.³ The *midrash*⁴ tells us that the Jews, suffering under the harsh yoke of slavery, possessed the manuscript of Moshe Rabbeinu’s Psalms and found solace and hope for deliverance in his words.⁵

These Psalms are not a direct communion with G-d through His greatest of prophets but were Moshe Rabbeinu’s own words.⁶ Through the Psalms, we can hear the voice and personality of Moshe. He speaks honestly and with great emotion about the existential challenge man faces.

Moshe Rabbeinu and David Hamelech

Tradition tells us King David possessed an ancient manuscript containing the Psalms composed by Moshe Rabbeinu and incorporated them, along with the contributions of a number of other significant individuals (Assaf, the sons of Korach, etc.), into his holy work.⁷

Moshe Rabbeinu and King David are closely connected in our tradition. The *Midrash*⁸ stressed the tie of the Chumash to *Sefer Tehillim* (Psalms) and Hashem’s mission for each man. In his final blessing to the Jewish people, Moshe Rabbeinu emphasized the great *simchah* of national salvation by following Hashem and His laws with *emunah*. In the first word of *Sefer Tehillim*, King David stresses the reality of a *simchah*-rich life of “forward” movement for the person who accepts the Divine Law, transmitted by Moshe Rabbeinu.

Further, “Rav says, ‘The world was created only for David’s sake, by his merit.’ And Shmuel says, ‘The merit of Moses created it.’ And Rabbi Yohanan says, ‘The merit of the Messiah created it.’” (*Sanhedrin* 98b).

Definitions

Yom (day)

The word *yom* means day, and also refers to the light defined as Day.

G-d said, “Let there be light,” and there was light. G-d saw that the light was good, and G-d separated the light from the darkness. G-d called the light Day and called the darkness Night. And there was evening and there was morning, the first *day* (Genesis 1:3–5).

3. Comment of Rabbi Matisyahu Strashun on *Bava Basra* 14a.

4. *Shemos Rabbah* 5:22.

5. Rabbi Yaakov Kamenetzky.

6. Ibn Ezra.

7. Radak.

8. *Midrash Yalkut*, Psalms 1:1.

Day and light are the same. The route to finding the light of Hashem requires daily effort. The word *yom*/day appears in five verses in Psalm 90:

4. "For in Your sight a thousand years are like yesterday that has passed, like a watch of the night."
9. "For all our days have passed because of Your fury; we have consumed our years like a [fleeting] thought."
10. "The days of our years—among them are seventy years, and if with strength, eighty years—their proudest success is but toil and pain, for it passes quickly and we fly away."
12. "So teach us to count our days; then we shall gain a heart of wisdom."
15. "Cause us to rejoice according to the days that You afflicted us, the years that we saw evil."

These verses are direct and understandable.

In this Psalm, Moshe Rabbeinu laments the shortness of man's life, our inadequate time for proper redemption and divine support. Hope is offered. Live each day to its fullest. Seek G-d, study His Torah, pray with vigour, and perform many good deeds.

Rashi comments: "Like a single day of the Holy One, blessed is He" (v. 4). "His fury quickly turns away" (v. 90). "The sins of our youth impact our longevity. Our grandeur and prestige amount to nothing at the end of our lives, which end quickly, and we are gone" (v. 10). "Moshe Rabbeinu prays that man's lifetime be extended, as in days of old, to give us adequate time to return to the correct path" (v. 12). Rashi concludes with the *brachah*, "Gladden us with the era of *Mashiach* in compensation for the days of our exile" (v. 15).

Rabbi Samson Raphael Hirsch adds this succinct commentary: "We short-lived men, whose vision encompasses only the brief span through which we live and which we can survey, cannot grasp the significance of time" (v. 4). "All our aims and plans remain unfulfilled, like a thought unspoken" (v. 9). "Days amount into years and lifetimes; longevity is viewed with pride but in reality is nothing but idle travail for undesirable treasure" (v. 10). "Teach us to count our days, seeking the genuine reasons for our existence daily. Happiness lies in the blissful certainty of loyalty to G-d and faithful pursuit of His commandments twenty-four hours by sixty minutes by sixty seconds—the sum of each day" (v. 12). "Hashem trains us with trouble and travail to teach us how utterly dependent we are daily and through the sum of our lives" (v. 15).

Carpe Diem

Carpe diem first appears in the Odes, lyric poems composed by the Roman poet Horace in 23 BCE. *Carpe* means to pluck, harvest, or reap, and so *carpe diem* means to pluck the day, an agricultural term referencing the harvesting of grapes. Horace uses the metaphor of picking flowers or grapes to suggest living for today because life is short and future plans may not come to fruition. In Latin, the phrase is rich with imagery. It gives the idea of picking fruit

because it is ripe; if not, it will be spoiled tomorrow. And so the ancient meaning of *carpe diem* was to live in the moment's fullness and pluck the day, as there was no guarantee of tomorrow.

Being hedonistic, the Romans understood *carpe diem* as “party today because who knows what the future will bring?” However, the Torah value is markedly different. Starting with Moshe Rabbeinu and continuing through all the teachings in the Torah, the tzaddikim teach and inspire us to pluck the day by doing many mitzvot, studying Torah, and engaging in many acts of kindness.

Seize the day. It is all you have to serve Hashem to the best of your abilities. Don't worry excessively about the future because Hashem is only good, promising to provide what you need and never sending you what you cannot handle. Follow this version of *carpe diem*. You will earn your heavenly reward day by day and take part in the eventual redemption of the Jewish Nation and the world.

Mitzrayim (Egypt), like Rome, was a place of hedonism as well. So, we see a profound message being expressed in Psalm 90 by Moshe Rabbeinu.

Selected Sources for Use of the Word “Yom”

The word *yom*/day is ubiquitous in our holy literature. Various sources, especially from Breslov texts, provide understanding and reflection.

Chumash

“And G-d called the light day, and the darkness He called night. And it was evening, and it was morning, the day of the One” (Genesis 1:5).

“And G-d completed on [i.e., precisely upon the advent of] the seventh day His work that He had done, and He rested on the seventh day, from all the work that He had done” (Genesis 2:2).

“And you shall explain to your child on that day, it is because of what G-d did for me when I went free from Egypt” (Exodus 13:8).

“Remember the Sabbath day and keep it holy” (Exodus: 20:8).

Moses, the *kohanim*, and the *levi'im* spoke to all Israel, saying, “Be attentive and hear, O Israel: This *day* you have become a people of Hashem, your G-d. You shall listen to the voice of Hashem, your G-d, and you shall perform all His commandments and statutes, which I command you today” (Deuteronomy 27:9–10).

Zohar

How important it is for a person to study laboriously the Torah day and night (*Zohar* 1:4b:5).

Abraham did not come closer through one day or at one time, but his good deeds brought him closer every day as he moved from one level to another (*Zohar* 1:129a:6).

So for this purpose, man should occupy himself in the study of the Torah day and night, and not deviate from it. As it is written, “You shall meditate day and night” (*Zohar* 1:11a:4).

Day and night they never ceased praising their Creator through studying the Torah and singing the Psalms of King David, peace be upon him, which gladden the heart (*Shaarei Kedushah*, Introduction 2).

Mussar

I see a need for a man to be meticulous and weigh his ways each and every day like the great merchants, who continuously evaluate all of their business matters in order that they not degenerate (*Mesillat Yesharim* 3:12).

Abraham and David would occupy themselves all day with Torah and in glorifying and praising the Holy One, Blessed be He, with songs and praises, raising their voices in joy (*Orchot Tzadikim* 9:68).

And Abraham was old, advanced in days. The emphasis on the word *bayamim*, which at first glance seems superfluous, teaches us that a person must be concerned every single day of his life to do good and not sin. When he thinks in this vein only, every single day of his life will assume meaning. His reverence for G-d will result in his being granted more years. The years of the wicked become shortened; this means that even if they live chronologically speaking for many years, the total of their life is short, seeing it was not filled with worthwhile activities. When Abraham is described as “aging,” this means that he had made every one of his days count (*Shnei Luchot HaBrit*, *Torah Shebikh-tav*, *Chayei Sarah*, *Derekh Chaim*).

Likutey Moharan

Likutey Moharan is the most important collection of Torah teachings of the outstanding Chassidic luminary, Rebbe Nachman of Breslov (1772–1810). It contains all his major Torah discourses, given over the last eight years of his life, together with many shorter lessons, transcribed and edited by his closest student, Reb Noson. Rebbe Nachman himself described *Likutey Moharan* as a work “for the great and small alike.” A work throwing light on the deepest concepts of the Torah and kabbalah, revealed and mystical, *Likutey Moharan* guides the contemporary spiritual seeker around the confusions and deceptions of the modern world to faith, truth, and devotion in his spiritual path.

For the day of: This alludes to peace in the home. As written (Genesis 1:5), “And the L-rd named the light day.” And light denotes peace in the home. As our sages taught

(Talmud, *Sabbath* 23b), “The Sabbath lights take precedence over the *kiddush* of the day because peace in the home comes first” (*Likutey Moharan* 14:10).

As a person gets older each *day*, he must strive to gain additional light of holiness and *da’at* (intuitive knowledge and awareness of G-d). Elderly Torah sages—the older they get, the more settled their mind becomes (*Kinnim* 3:6).

With each passing *day*, we have to increase our holiness and *da’at*; as it is written, “As the L-rd called the light ‘*day*.’” (Genesis 1:5). Radiating holiness defeats the Serpent’s Brow (i.e., evil) of secularism (*Likutey Moharan, Part II* 4:5).

Inherent in the Torah—the attributes/*days*—is G-d’s love. “I have loved you with an everlasting love” (Jeremiah 31:2) (*Likutey Moharan* 33:4).

“Daily G-d commands his loving-kindness.” (Psalms 42:9) Every *day*, with all His Divine attributes, G-d extends his love for Israel. This love is actual (*Likutey Moharan* 33:5).

The aspect of always being mindful of the Word to Come—i.e., affixing one’s thoughts on the World to Come—applies in the general and the particular. In the general case, this is how a G-d-fearing person ought to act: Right when he gets up in the morning, before beginning anything at all, he should immediately remind himself of the World to Come. Afterward, he should do this in particular. Each *day* has in it thought, word, and deed. The Holy One, blessed be He, contracts His G-dliness ad infinitum to the centre point of the corporeal world. He arranges for one’s thoughts, words, and deeds according to the particular *day*, person, and place. He clothes him in his thoughts, words, and deeds, with which He brings him closer to serving Him. Therefore, a person has to work to understand the particular hints that are clothed in the thought, word, and deed of this *day* that the Holy One has arranged for him, whether in physical labour or business activity (*Likutey Moharan* 54:2).

It is right to set aside for oneself some time in the *day* for feeling remorse and speaking one’s piece in the presence of the Blessed One, as is brought in our works. But the entire [rest] of the *day* one needs to be happy. For contrition more easily leads to depression than erring through joy, G-d forbid, leads to some sort of frivolity, G-d forbid (*Likutei Moharan, Part II* 24:2:2).

Rebbe Nachman interprets *Pirkei Avot* 2:15: “Rabbi Tarfon said, ‘The *day* is short. The work is great. The workers are lazy. The wages are high. And the Master is insistent.’”

The *day* is short: The span of life is brief. Rebbe Nachman once observed, “Every *day* has its own blessing” (*Tzaddik* 561). The work is great: The mastery of Torah is a vast undertaking. The workers are lazy: People are inclined to waste their time on vain pleasures and empty pursuits. The wages are high: A great reward is assured to those who study Torah. As it is written, “Wisdom is better than pearls and all things desirable

are incomparable to it” (Proverbs 8:11). And the master is insistent: G-d continually urges us to delve into Torah every *day*.

Rebbe Nachman once observed, “How can we meet the heavy quota of the work if the work is great each and every *day*? The answer is to focus only on *today*, as elsewhere in the Book of Psalms (95:7) advises: ‘*Today*, if you hear His voice.’” This is a fundamental rule in the service of G-d. Focus only on the present day and hour.

Regarding our livelihood and personal needs, we should not worry too much from one *day* to the next. Similarly, regarding Divine service, we should concentrate on this *day* and this moment. At first, the service may seem like a heavy burden, and we may wonder how we can bear such a load. But when we consider that we only have one *day* to deal with, we will find it much more manageable.

We should not procrastinate from one *day* to the next, saying, “I’ll start tomorrow. Tomorrow I’ll pray more attentively and with the right enthusiasm.” For our world consists solely of the present *day* and moment: Tomorrow is a different world entirely. This is the meaning of “*Today*, if you hear His voice” (*Likutey Moharan Part I* 272).

The Writings of Reb Noson of Breslov

Note: Reb Noson of Breslov (January 22, 1780–December 20, 1844), born Nathan Sternhartz, was the chief disciple and scribe of Rebbe Nachman of Breslov, founder of the Breslov Chassidic movement. Reb Noson is credited with preserving, promoting, and expanding the Breslov movement after the Rebbe’s death. Rebbe Nachman himself said, “Were it not for Reb Noson, not a page of my writings would have remained.”

Reb Noson wrote extensively, completing many books of his own expounding upon the teachings of Rebbe Nachman. These include:

- *Alim LiTerufah (Leaves of Healing)*: Collected letters.⁹
- *Chayey Moharan (Tzaddik)*: Biographical material on Rebbe Nachman, with accounts of how the Rebbe’s lessons were revealed, his dreams and visions, and conversations and anecdotes.
- *Kitzur Likutey Moharan (Abridged Likutey Moharan)*: This work follows the original lesson outline of *Likutey Moharan* while focusing on the practical advice contained in each lesson. Reb Noson began this compilation at Rebbe Nachman’s specific request in 1805 and published it for the first time in 1811, after the Rebbe’s death.
- *Likutey Etzot (Advice)*: An alphabetically organized list of practical advice gleaned from the lessons of *Likutey Moharan*.
- *Likutey Halakhot (Collected Laws)*: Reb Noson’s magnum opus, following the order of topics in the *Shulchan Arukh*, gives explanations of Jewish law and practices in the light of Breslov teachings.

9. See below for more on this work.

- *Likutey Tefillot (Collected Prayers)*: A collection of original prayers based on the lessons in Rebbe Nachman's *Likutey Moharan*.
- *Shemot Hatzaddikim (Names of Tzaddikim)*: A list of most of the tzaddikim found in the Tanakh, Talmud, Midrash, and Zohar, including the Geonim, Rishonim, and Acharonim up until Reb Noson's day.
- *Shivchey V'Sichot HaRan (Rebbe Nachman's Wisdom)*: An account of the Rebbe's pilgrimage to the Holy Land in 1798–1799, plus a collection of anecdotes and teachings.
- *Yemey Moharnat (The Days of MoHaRNat [an acronym for Moreinu HaRav Natan, Our Teacher, Rabbi Noson])*: Reb Noson's autobiography.

From *Likutey Halakhot*¹⁰

A person should strengthen himself like a lion to rise in the morning... so that it is he who awakens the *shachar* (dawn). [Gloss: "I set HaShem before me always," (Psalms 16:8): This is a major principle in fulfillment of the Torah.] (*Shulchan Arukh, Orach Chaim* 1:1) This discourse is based on the lesson *Vayaseiv Elokim* (LM I, 62), in which Rebbe Nachman discusses how to strengthen one's *emunah* in HaShem. Study the Rebbe's words there.

From *Alim LiTerufah*

Reb Noson's letters, especially those to his son, friends and family, compiled in his *Alim LiTerufah: The Collected Letters of Reb Noson of Breslov*, are an inspiring treasury, showing how Rebbe Nachman's closest disciple put the Rebbe's teachings of joy and fortitude into practice day after day, even in the most testing times. The mind and energy of Rebbe Nachman's advice pulsate in every letter. The work also provides fascinating insights into Reb Noson's life and activities in the years when he was building the Breslover movement virtually single-handedly in the face of overwhelming obstacles. Many of the letters, written to his son, underscore the notion of serving Hashem each *day*. A sampling follows:

Collected Letters of Reb Noson

Please, my son. Look carefully at what your purpose is. Strengthen yourself in G-d's Torah and apply yourself diligently to your studies. Set a time every *day* to seclude yourself in *hitbodedut* (secluded prayer and meditation). Express yourself before Him. Beg Him and plead with Him to bring you to truly serve Him. Study Rebbe Nachman's books until you know them by heart and remember what I've taught you in my house. Nothing but the Torah, prayers, and good deeds that you managed to grab each *day* will remain with you.

"If we accustom ourselves to thank and praise G-d for this every *day*, we will open our hearts and mouths and express ourselves fluently before G-d, literally like a child begging for forgiveness before his father."

10. *Orach Chaim, Laws of Morning Conduct*, 3:1.

“My son, encourage yourself every *day* with great loving-kindness and appreciate the miracles that G-d showers upon every single one of us every *day*.”

“You must set aside an hour every *day* for *hitbodedut*. Cry bitterly; be heartbroken over your distance from Hashem. For the rest of the *day*, you must fortify yourself with simplicity, straightforwardness, and *simchah*.”

Note that being broken-hearted is not being depressed, G-d forbid. The message is to be present with your weaknesses and set your mind to do better.

Hitbodedut figures prominently in Breslov teachings. For a complete description of this practice, visit [Breslov.org](https://breslov.org).¹¹

Conclusion

You must view yourself as if you had just been born that day; it should be as if you have nothing in the world but that day alone. Do not trouble yourself thinking about the past and future. Even if you do engage in business, do what you need to do today and don't worry about the future too much. The main thing is to live today, for who knows what tomorrow will bring.

Rebbe Nachman's and Reb Noson's approach to earning a living was grounded in an honest daily effort, living modestly. The pursuit of wealth, for wealth's sake, was seen as highly negative, comparable to gluttony and sexual impropriety.

“Our sages tell us that we have to be very careful about *minchah*, the afternoon prayer (Talmud, *Berakhot* 6b). *Minchah* corresponds to the time when the light begins to wane. As the *day* begins to ebb, we tend to feel that we've squandered yet another golden opportunity to serve. But the truth is we must never, ever ever feel that. Never despair, never give up! Each new *day* is a new point in creation, a fresh start. We have to remember that life will always regenerate. Darkness is inevitable, but light will always follow. One could find solace in the fact that although night is coming, *day* will soon return.”

“Day and night, they never ceased praising their Creator through studying the Torah and singing the Psalms of King David, peace be upon him, which gladden the heart” (*Shaarei Kedushah*, Introduction 2).

Kitzur Likutey Moharan Part I 56:16 teaches that Moses is the “embodiment of knowledge” through whose agency the Jews were redeemed from Egypt. We are reminded that the exalted tzaddik, like Moses our teacher, can rectify our prayer, reveal the glimmering light of the Patriarchs' merit and gain the requisite insight to perceive our future.

Psalm 90 enables us to perceive the power and passion of Moshe Rabbeinu's prayers, and, perhaps, in some small way, empower our own devotions, please G-d.

11. <https://breslov.org/hitbodedut-jewish-meditation-how-to>.

The Verse in the Torah That Says It All

DR. SAMUEL SILVERBERG

I WAS FIRST introduced to an obscure *midrash* at a bar mitzvah many years ago. During the celebratory meal, the Rabbi chose this *midrash* to urge the young man to maintain his daily devotion to G-d. I consider the *midrash* obscure because it does not appear anywhere in the standard *midrashic* literature. It is mentioned in the introduction to the monumental *midrashic* work *Ein Yaakov*¹ by its author Rabbi Jacob Ibn Habbib (1460–1516), but he does not cite the source of the *midrash*. The *midrash* portrays a contest of sorts in which three Rabbis attempt to identify the one passage in the Torah that sums it all up:

Ben Zoma says: We have found a more inclusive verse and it is *Shma Yisrael*.

Ben Nanas says: We have found a more inclusive verse and it is, “Love your neighbour as yourself.”

Ben Pazi says: We have found a more inclusive verse and it is, “The first lamb you shall sacrifice in the morning and the second lamb you shall sacrifice in the evening.”

The *midrash* concludes with the decision of Rabbi Ploni, who appears to have been serving as a kind of judge and referee:

Rabbi Ploni stood up and said: The halakhah is in accordance with Ben Pazi.

Three sweeping statements about the essence of Judaism are followed by a dramatic flourish – Rabbi Ploni rises from his seat to declare Ben Pazi the victor in this rabbinic debate.

At first glance his verdict is certainly puzzling. Can the majestic expanse of the Torah be reduced to a daily sacrifice that continued repetitiously for more than one thousand years

1. The *Ein Yaakov* is a compilation of *aggadic* literature from the Babylonian and Jerusalem Talmuds.

SAMUEL SILVERBERG has practiced as a physician in Toronto for more than 50 years, and is a long-time member of the BAYT synagogue. He has had the privilege of attending Torah classes and lectures at the synagogue for more than thirty years. His early teachers have included many great Rabbis, including Rabbi A.A. Price and Rabbi Gedaliah Felder.

during the lifetime of the Temples? Certainly the passion and devotion of *Shma Yisrael*, recited by righteous martyrs throughout the centuries, must exceed the grandeur of a routine daily sacrifice.

The Rabbi at the bar mitzvah proceeded to make the point that the essence of Judaism may very well be constancy, in our daily prayers, in our conformity to standards of behaviour, and in our pursuit of Torah knowledge on a daily basis. I believe that he was correct in this matter. I have had friends whose devotion to the Jewish people was greater than my own, but who were unable to live an Orthodox lifestyle because they could not assume the demands of regular daily observance.

This *midrash* has a certain fascinating attraction to rabbinic speakers, and I have heard it repeated in sermons many times since that first encounter. Eventually it struck me that it was not Ben Pazi's passage that was the most enigmatic of the three opinions, but rather the choice of Ben Nanas.

Can the Torah truly fit within the confines of "love your neighbour like yourself"?² In particular, the passage lacks a reference to G-d. Is Ben Nanas advocating a kind of secular humanism that finds G-d dispensable and requires instead only a high level of moral observance towards one's fellow man?

(Shimon) Ben Nanas was a *tanna* who was a contemporary of Rabbi Akiva and Rabbi Yishmael, and a frequent contributor to the text of the *Mishnah*. In a *mishnah* in *Bava Batra* (10:8) Rabbi Yishmael identifies Ben Nanas as the foremost expert in monetary law of his era. Accordingly, we might learn something about the philosophy of this Torah sage by examining his rulings in monetary law.

The opening *mishnah* of *Bava Metzia* (2a) famously concerns a dispute between two litigants over the possession of a garment. The *Mishnah* describes the litigants entering court, each gripping firmly onto the same cloak, and each claiming to be the rightful owner of the entire cloak. The *Mishnah* rules that, in the absence of corroborating evidence, each litigant must swear that he owns "no less than half" the cloak, and each then acquires half the value of the cloak. The *Gemara* proceeds to analyze the details of the case including the need for the disputants to swear an oath. It is obvious that one of the litigants must be lying, as the cloak cannot belong entirely to both litigants, and therefore one of the oaths will be sworn falsely. Why would a Jewish court demand an oath from both litigants if such a requirement will unavoidably lead to the desecration of G-d's name through an oath sworn falsely?

The *Gemara* (3a) delves into this problem, and concludes that the Rabbis decreed these oaths to deter an unscrupulous individual from grabbing someone else's property and declaring himself the owner. Presumably the prospect of angering G-d by swearing a false oath would convince a thief to admit his wrongdoing. The *Gemara* questions this presumption elsewhere (*Bava Metzia* 6a), when discussing the deterrence effect of imposing rabbinic oaths. When a court has good reason to suspect that one of the litigants is a brazen thief

2. Rabbi Akiva refers to this commandment as a great principle of the Torah (*Sifra Kedoshim* 2), and Hillel uses a variation of this commandment to teach a convert the Torah while "standing on one foot" (*Talmud Shabbat* 31a).

and devoid of conscience, can that same individual be expected to cringe in fear at the prospect of swearing a false oath? The *Gemara* concludes that even a prospective thief would shudder at the thought of swearing falsely to G-d, and would admit his wrongdoing to avoid such an eventuality. As clarified by *Tosofot* (*Gittin* 51b),³ the entire world trembled when G-d proclaimed the prohibition of saying G-d's name in vain, and therefore even the wicked are reluctant to swear a false oath.

Ben Nanas, as quoted in the *Gemara Bava Metzia* (2b), sees things differently. In a monetary dispute, when the court is certain that one of the litigants is a thief, Ben Nanas advocates splitting the money without requiring oaths from the disputants. Apparently Ben Nanas has no faith in the conscience of a thief to admit his wrongdoing rather than face the wrath of G-d through swearing a false oath. If he can stick it to his fellow human being, then he won't think twice before sticking it to G-d (as it were).

In my opinion, the ruling of Ben Nanas in this monetary dispute in *Bava Metzia* is a reflection of the religious philosophy he expresses in the *midrash* quoted above. In the world of Ben Nanas, "love thy neighbour as yourself," rather than excluding G-d, provides the only avenue to approach and love G-d. In his view, G-d is inaccessible without establishing a caring and moral relationship with one's fellow Jew. One cannot achieve a moral conscience towards G-d in the absence of a moral conscience towards mankind. There is no credibility to a lifestyle that pretends to fear G-d while practicing iniquity towards one's neighbour.

In fact, the passage quoted by Ben Nanas advances the matter even further. If one seeks closeness to G-d, it will require more than refraining from iniquity to one's fellow Jew; it will require proactive love of one's neighbour.

In the worldview of Ben Nanas, one cannot achieve ואהבת את ה' אלוהיך, without first achieving ואהבת לרעך כמוך.

3. In the paragraph headed ובכולי בעי דלודי ליה.

Torah Li-Shmah

When Desperate Times Call For Desperate Measures: King Shaul and the Witch of En-Dor

ASHER BREATROSS

Introduction

ONE OF THE strangest and most mysterious episodes in *Tanach* is the story of King Shaul on the last night of his life, visiting a female witch who was a practicing *baalas ov*, otherwise known as a necromancer.¹ It is strange because Shaul waged a relentless campaign against the practitioners of these practices and yet he resorted to necromancy himself at the end of his life. It is mysterious because Shaul obtained a prophecy from a prophet (Shmuel) who was no longer in this world.

I will review the commentaries on this episode and will conclude with highlights from an article that provides a halakhic rationalization for what Shaul did.²

Insights from the Commentaries

The *pasuk* tells us that when Shaul saw the Philistine encampment he was afraid and his heart trembled greatly. This was the first time that the language of fear was used in connection with Shaul and it was a sign that Shaul lost the courageous spirit that had rested

1 The episode can be found in Sefer *Shmuel Aleph* 28:3–25.

2 The rationalization is from a journal published in the 1990s by the Orthodox Union entitled “Jewish Thought.” The journal was published in conjunction with Yeshivat Ohr Yerushalym. The first issue, from Elul 5750, had an article by Rabbi Moshe Sosevsky, one of the editors of the publication, entitled “In Defense of Sha’ul.”

ASHER BREATROSS, a native of Ottawa, is a graduate of Yeshiva College and Osgoode Hall Law School. A retired lawyer and Gabbai at the BAYT, he currently summarizes criminal cases for a legal publisher. Asher is married to Annette and together they have much nachas from their children and grandchildren. Asher loves to learn and to write *divrei Torah* on a variety of topics.

on him since the beginning of his monarchy. It was also a sign that Shaul sensed that his monarchy was coming to its end.³

Shaul tried to find out from Hashem what was in store for him. However, despite trying several alternatives he did not receive an answer.⁴

Shaul then decided to go to a woman who was an expert in necromancy. He was looking for a woman because females were known to be experts in these matters.⁵ He went at night, either because the necromancers only worked at night, or, because of Shaul's campaign to wipe them out, the remaining practitioners of this sorcery were compelled to work only at night (i.e., under the cover of night).⁶

When Shaul met with the woman and made his request she feared it was a trap, because of Shaul's campaign against this practice. Shaul had to reassure her and swear to her that she would not be harmed.⁷

Shaul used Hashem's name when he spoke to the woman because he wanted to "*kasher*" the practice of necromancy by bringing up Shmuel and learning Hashem's plans for him.

When the woman brought up Shmuel, Shaul asked her what he looked like. The reason was that in necromancy the person who brought up the deceased could only see the deceased person but could not hear what they were saying. The one who asked the necromancer to bring up a particular deceased person could not see them but could only hear what they had to say. One who was present and had no need for these services could neither see the deceased nor hear what was going on.⁸

We see at the end of the story that, even though the necromancer dealt with matters of impurity, she was ultimately elevated as evidenced by the fact that she followed the practice of Avraham Avinu by preparing and serving a lavish meal to Shaul and the two men who accompanied him, just as Avraham had done for his three guests.⁹

The Malbim¹⁰ raises the question, also asked by earlier commentators, how this woman, through her sorcery, was able to rule over the soul of Shmuel HaNavi and to bring him back from the dead? He quotes the opinion of Rav Shmuel Ben Chofni, that necromancy was a fraud, and the view of the Ralbag that it was an exercise of the power of imagination and illusion. These explanations do not address the *pasukim* that imply there was some substance to this practice, in that Shaul was told what would happen to him the next day and who would rule after him.

3. See *Daat Mikra* ("DM") on 28:5.

4. DM on 28:6 comments that Shaul did not understand that the fact that he got no answer meant that the answer he was going to get was not good.

5. DM on 28:7 quotes *Pirkei Avot* 2:7 that the more women, the more sorcery.

6. See DM 28:8.

7. DM notes, at 28:9, that the woman referred to Shaul in a disdainful manner, because he prevented her from engaging in her business.

8. See DM 28:14, quoting *Vayikra Rabba* 26:7.

9. See DM, Conclusion to Chapter 28 (p. 288).

10. 28:12.

The Malbim¹¹ then quotes Rav Hai Gaon and Rav Saadia Gaon that the woman did not actually bring Shmuel back to life. Rather, Hashem created this scenario in order to reveal to Shaul what was in store for him and his household. This begs the question as to why Shaul was not answered by the legitimate means he chose to get an answer before he resorted to witchcraft. The Malbim mentions a few theories but rejects them. He says that we do not have to resort to these weak explanations. Chazal were familiar with necromancy, as it was practiced in their days, and, according to them, it did indeed have the power to raise souls from their graves. They knew that if the person requesting the deceased was a commoner the deceased would arise feet first and if he was a king the deceased would arise head first.¹²

The Malbim ponders the issue as to how sorcery would have power over the soul of a prophet. He explains that when a person dies, the *neshama* goes back to Hashem. However, there is a component of the soul that remains with the body for twelve months. That is the part of the soul that the necromancer has power over and that was what the woman was able to bring up.

Rationalization for Shaul's Conduct

R. Sosevsky in his article in defense of Shaul¹³ raises the question as to what Shaul was supposed to do when his efforts to procure an answer by legitimate means were rebuffed.¹⁴ Since the proper means were closed off to him and the Jewish people were in grave danger, it might have been permissible for Shaul to seek out other less acceptable sources of information.

In dealing with the prohibition in the Torah against various forms of divination and witchcraft, R. Sosevsky quotes the *pasukim* in *Devarim* 18:9–15 and then he quotes two statements of Rashi at 18:13–14 which imply that if proper means are available for consultation then divination in its various forms is forbidden. Shaul, apparently, came to the opposite conclusion: if all holy and pure means are no longer accessible, then divination is no longer forbidden. Shaul only went to the necromancer because he perceived that he had no choice.¹⁵

R. Sosevsky then makes reference to the words of the Netziv, Rabbi Naftali Tzvi Yehuda Berlin, who, in his commentary on Chumash, entitled *Ha'amek Davar*, offers justification for Shaul's conduct:

According to our explanation of “you shall be wholehearted” – to continuously trust wholeheartedly [in G-d], what sort of wholehearted trust is it to inquire even of the prophet concerning future events? However, it must be understood that even though in an individual's conduct in his private life one should be wholehearted with G-d and not inquire concerning future events – as said by Bil'am, “for there is no divination in Ya'akov,” (*Bamidbar*

11. Ibid.

12. Which was how Shmuel appeared and this enabled the woman to figure out Shaul's identity.

13. See footnote 2 above.

14. R. Sosevsky suggests that Shaul did not get an answer because of his previous bad conduct, in his massacre of Nov, the city of kohanim, and in disobeying Shmuel twice (see *perek* 13 and 15).

15. R. Sosevsky refers us to the *Midrash* and the *Ba'al HaTurim* on *Vayikra* 20:26 where the same lesson is implied.

23:23) – nevertheless, in time of war, when there is no clear counsel, and life is endangered, it is proper to inquire [in order] to know. And this is the reason of the righteous King Shaul inquiring through necromancy. For the Torah explicitly said, “...as for you, G-d your L-rd has not given you such. A prophet from your midst... “G-d your L-rd will set up for you.” This implies that, in the absence of a prophet or *ephod* [the *Urim VeThummim*], Shaul is mandated to inquire through necromancy. And the fact that he was punished for this, as it is written, “Shaul died in the transgression that he committed against G-d, for not keeping the word of G-d,” and also asking counsel of a necromancer and inquiring of her (*Divrei HaYamim I* 10:13), is because he caused this [situation, in which G-d did not respond to any legitimate inquiries]. For he should have repented and beseeched G-d to answer him through holy means. But certainly he was mandated to know what to do.¹⁶

R. Sosevsky outlines several problems with the approach of the Netziv. However, he notes that Shaul chose necromancy out of the various forms of divination available because it gave him an exclusive audience with his mentor, Shmuel. The word of Hashem that could be gained from access to Shmuel, Hashem’s trusted prophet, at so critical a time for Klal Yisrael, might possibly warrant such an inquiry. It is perhaps only in such an exceptional circumstance that the *Ha’amek Davar* would seem to legitimize divination halakhically.

R. Sosevsky concluded that whatever way you want to regard Shaul, he remained to the very end “G-d’s anointed,”¹⁷ essentially righteous and fully committed to the ideals and values of the Torah.¹⁸

*This Dvar Torah is L’Zeicher Nishmas my mother Chaya Devorah Bas Reb
Mordechai Yosaif, whose Yartzheit is on the 12th day of Sivan and my father
Yosaif Ben R’Asher whose Yartzheit is on the 24th day of Tammuz.*

16. *Ha’amek Davar*, *Devarim* 18:14. The translation is that of R. Sosevsky.

17. See *Shmuel Bait* 1:14.

18. One can ask how this can be reconciled with Shaul massacring the inhabitants of Nov. That is a topic that is beyond the scope of this article.

The Two Stories of the Tower of Bavel

JOEY FOX

Bereshit Chapter 11

1. It was that the entire earth was a single language and a common purpose.
2. It was when they travelled from the east and found a valley in the land of Shinar and settled there.
3. One man said to his companion, “Come, let us make bricks and thoroughly burn them” and the brick served them as stone and the clay served them as mortar.
4. They said “Come, let us build a city and a tower and its top in the heavens and we will make a name for ourselves, lest we be scattered upon the entire face of the earth.”
5. Hashem descended to see the city and the tower which the sons of man had built.
6. Hashem said, “Behold, they are a single nation and there is a single language for everyone and this is what they have begun to do, and now nothing they are plotting to do can be prevented from them.”
7. “Come, let us descend and mix up their language there so one man cannot understand the language of his companion.”
8. Hashem scattered them from there upon the entire face of the earth and they stopped building the city.
9. Therefore, the name was called Bavel because there, Hashem mixed up (*balal*) the language of the entire earth and from there, Hashem scattered them upon the entire face of the earth.

JOEY FOX'S parents and grandparents were founding members of the BAYT. He's a TanenbaumCHAT graduate, has two degrees in engineering physics, is an IDF veteran and currently works as a mechanical engineer for the Toronto District School Board. He recently moved back to Thornhill with his family and has spent years translating the works of Rav Mordechai Breuer in his spare time.

A. The Two Stories of the Dispersion

The story of the Tower of Babel is not a single story of the division of humanity, but two intertwined stories: one of the division of languages of humanity and one of the territorial dispersion of humanity.¹ When reading the story of the fateful city and tower that was to be built in Babel, the text has five significant difficulties. In ascending order based on irreconcilability, they are:

1. Two reasons are given for building the city and the tower: “we will make a name for ourselves” and “lest we be scattered upon the entire face of the earth” (4). It appears that ultimately, they did not want to be scattered and the only way this could be accomplished would be by making a name for themselves.² However, there is no logical connection between those two consequences. In fact, these two reasons are diametric opposites that would not be given by the same group of people. “We will make a name for ourselves” is an arrogant pursuit of grandeur. It indicates a group of people who, objectively, have sufficient means, however that is not enough for them, so they turn their focus to fame and legacy. The converse is true for the second reason. “Lest we be scattered upon the entire face of the earth,” indicates a group of people who need to remain together with a fear that if they fail in this mission, they will lose everything they have. These two reasons indicate two different groups of people with two different motivations.
2. In verse 5, Hashem descends to see the city and tower that the sons of man had built. He makes a statement about the current situation in verse 6 and announces His decree in verse 7, beginning with: “Let us descend.” There is no indication between verse 5 and 7 that Hashem returned to heaven, so it is difficult to understand how Hashem would need to say, “Let us descend” once He had already descended.
3. It would have been more logical for the beginning of verse 8 to discuss the mixing up of languages and not the territorial scattering of humanity. After Hashem makes a decree in verse 7: “let us descend and mix up their language...” The text should have stated that “Hashem mixed up their language and they stopped building the city” and not “Hashem scattered them... and they stopped building the city.”

Due to this discrepancy, verse 8 is apparently written backwards. How the events should have unfolded is Hashem would mix up their language and this would cause

1. This analysis is based on the 9th chapter of Rabbi Mordechai Breuer's *Pirkei Bereshit* (Tevunot, 1998). Many of these concepts come from there as well as the division of the verses into two stories. Much of the analysis is my own. For an introduction to R.Breuer's methodology, see my article “How Did the Sea Split?” *Hakhmei Lev*, Vol. 2 (BAYT, 2022), 65–74.

2. This depends on what the word “pen” (Hebrew) or “lest” refers to. This word links an action with the justification for the action. The justification is “lest we be scattered” and that is the ultimate purpose for the construction of the city and the tower. However, the action is ambiguous. The verse can be interpreted to mean they built the city and tower for the two reasons: making a name for themselves and not being scattered. The alternative reading is that they needed to make a name for themselves to prevent themselves from being scattered. The way they chose to make a name for themselves was to build a city and a tower.

them to stop building the city. Since the city and tower were the means by which they remained cohesive, once the construction stopped, they would be scattered upon the entire face of the earth. However, we find the opposite – first they are scattered and then they stop building the city. It is self-evident that a group of people scattered across the entire face of the earth cannot build a city. This problem creates an unintelligible flow in the text.

4. Verse 5 indicates that “Hashem descended to see the city and the tower which the sons of man had built.” The simple reading of this verse is that the sons of man had completed building the tower and were no longer in the middle of construction. Conversely, the text states in verse 8 that they “stopped building the city” indicating it was still being built. Furthermore, verse 4 can be interpreted that they first wanted to build the city and afterwards the tower. When the text in verse 8 states that they “stopped building the city” and does not mention the tower, perhaps this is because they had yet to begin construction of the tower. Regardless, the final state of the city and tower is in complete contradiction between verses 5 and 8.
5. The most significant discrepancy in this story is what R. Breuer refers to as “the blatant contradiction which pierces your eyes” at the beginning of the section.³ This is what is stated:

It was that the entire earth was a single language and a common purpose. (1)

It was when they travelled from the east and found a valley in the land of Shinar and settled there. (2)

The two opening verses both begin with the word “*vayehi*” (translated as ‘it was’) indicating the beginning of the story. Each of these verses describes a completely different world. In *Bereshit* chapter 10, which precedes this story, the Torah had described how all the nations had spread out “after its language, in their lands, to their nations” (10:31). Similar statements are said about all three of Noah’s children and the final message is that the whole world was no longer a small group of people living in the same place. In the first verse, humanity is referred to as “the entire earth” for the obvious reason that they had already spread across the entire earth. Ultimately, humanity is scattered upon “the entire earth” (9). Just as “the entire earth” in verse 9 does not refer to a small group of people in one place, so too in verse 1 “the entire earth” does not refer to a small group of people in one place. The purpose of the first verse is to tell us that even though humanity had spread out and dispersed based on language, land, family and nations, they still maintained a common language and unity. Conversely, in verse 2, humanity is described as a small group of people located in one place.

3. *Pirkei Bereshit* 1, pg. 207.

Verse 9 indicates the two consequences faced by the builders of the city and the tower: “Hashem mixed up the language of the entire earth” and “Hashem scattered them upon the entire face of the earth.” It is obvious that the final result of verse 1 is the mixing up of language. Initially, the entire earth was a single language and ultimately, “Hashem mixed up the language of the entire earth.” The same applies for the second verse. Initially, it was a group of people who “travelled from the east and found a valley in the land of Shinar and settled there” and ultimately, “Hashem scattered them upon the entire face of the earth.”

The Torah is telling two stories: one of the division of languages of humanity, and one of the territorial dispersion of humanity. In one story, humanity has filled the entire earth and uses a single language and then Hashem mixes up the language of the entire earth. In the other story, humanity is a single group of people and then Hashem scatters them across the entire face of the earth. R. Breuer argues that by recognizing that the Torah is describing two stories of the dispersion of humanity, they can be isolated from each other and what occurred in Babel can properly be discerned. By dividing the story into two, all the aforementioned contradictions can be resolved.

B. Dividing the Verses to Resolve the Contradictions

It has been established that verse 1 begins the division of language of humanity and verse 2 begins the territorial dispersion. The third discrepancy noted above is the difficulty with verse 8, namely, that it is written backwards. This can be easily resolved by assuming that the two parts of the verse apply to the two different stories. The first part of the verse “Hashem scattered them from there upon the entire face of the earth” is the punishment in the story of the territorial dispersion. Therefore, “they stopped building the city” occurred in the story of the division of languages. In that story, Hashem mixed up their language before they were able to complete construction.

The fourth discrepancy discussed above is that in verse 5 humanity had completed the construction of both the city and the tower while they had not completed it in verse 8. Since it has been established that in the story of the division of languages that they stopped building the city midway, they must have completed the construction in the story of the territorial dispersion.

The second discrepancy discussed above is that Hashem had descended twice, but this can also be easily resolved as being part of two different stories. In the story of the territorial dispersion, “Hashem descended to see the city and the tower which the sons of man had built” (5). In the story of the division of languages, as part of the decree Hashem begins by saying “Come, let us descend and mix up their language...” (7).

The first discrepancy discussed above is the two separate reasons for building the city and the tower mentioned in verse 4. It is obvious that in the story of the territorial dispersion, the goal of humanity was “lest we be scattered upon the entire face of the earth.” Therefore, in the story of the division of languages, the goal of humanity was to “make a name for ourselves.”

Verses 3 and 4 begin with a statement of “*hava* (come, let us).” Since Hashem responds to humanity with the word “*hava*” (7) in the story of the division of languages, these verses are also connected to the division of languages. Verse 6 is also clearly related to the story of the division of languages as it references a single language: “Hashem said, ‘Behold, they are a single nation and there is a single language....’”

Even though the statement of “*hava*” in verse 4 appears to be solely connected to the division of languages, it is now obvious that in both stories they desired to build a city and a tower. Verse 5 which is connected to the territorial dispersion indicates that they completed building the city and the tower. The end of verse 8 which is connected to the division of languages indicates that they stopped building the city. Therefore, in both of these stories they tried to build a city and a tower and the beginning of verse 4 is connected to both of the stories.

A remaining difficulty is the necessity of the two separate statements by the people in verses 3 and 4. It could all have been said in a single statement. This can be resolved by suggesting that the first statement was only stated in the story of the division of languages, while the second statement was stated in both stories. Accordingly, the Torah needed to state “they said” a second time since this statement applies to the story of the territorial dispersion.

Based on this analysis, the two stories can be resolved as follows:

The Stories Combined as They Appear in the Torah

(Division of Languages in bold, Territorial Dispersion normal, Common text in italics)

1. **It was that the entire earth was a single language and a common purpose.**
2. It was when they travelled from the east and found a valley in the land of Shinar and settled there.
3. **One man said to his companion, “Come, let us make bricks and thoroughly burn them” and the brick served them as stone and the clay served them as mortar.**
4. *They said “Come, let us build a city and a tower and its top in the heavens and we will make a name for ourselves,* lest we be scattered upon the entire face of the earth.”
5. Hashem descended to see the city and the tower which the sons of man had built.
6. **Hashem said, “Behold, they are a single nation and there is a single language for everyone and this is what they have begun to do, and now nothing they are plotting to do can be prevented from them.”**
7. **“Come, let us descend and mix up their language there so one man cannot understand the language of his companion.”**
8. Hashem scattered them from there upon the entire face of the earth **and they stopped building the city.**
9. *Therefore, the name was called Babel because there, Hashem mixed up (balal) the language of the entire earth and* from there, Hashem scattered them upon the entire face of the earth.

Story of Division of Languages

1. It was that the entire earth was a single language and a common purpose.
3. One man said to his companion, “Come, let us make bricks and thoroughly burn them” and the brick served them as stone and the clay served them as mortar.
4. They said “Come, let us build a city and a tower and its top in the heavens and we will make a name for ourselves.”
6. Hashem said, “Behold, they are a single nation and there is a single language for everyone and this is what they have begun to do, and now nothing they are plotting to do can be prevented from them.”
7. “Come, let us descend and mix up their language there so one man cannot understand the language of his companion.”
8. They stopped building the city.
9. Therefore, the name was called Babel because there, Hashem mixed up (*balal*) the language of the entire earth.

Story of Territorial Dispersion

2. It was when they travelled from the east and found a valley in the land of Shinar and settled there.
4. They said “Come, let us build a city and a tower and its top in the heavens lest we be scattered upon the entire face of the earth.”
5. Hashem descended to see the city and the tower which the sons of man had built.
8. Hashem scattered them from there upon the entire face of the earth.
9. Therefore, the name was called...because from there, Hashem scattered them upon the entire face of the earth.

C. Technological Innovations and Malicious Plots

Verses 3 and 6 require further clarification as the text is unclear. The meaning of verse 3 is as follows: at that time, in order to be able to build a city and a tower, stone and mortar were required. However, this was not an option for this project since in the place that was to be called Babel, the required stone and mortar did not exist. Consequently, they made bricks through a technological innovation which allowed them to overcome a physical limitation. Through the use of fire “the brick served them as stone and the clay served them as mortar” and this would allow them to build the city and the tower and its top in the heavens.

Verse 6 consists of a statement from Hashem about two things the builders are doing: *hahilam laasot* (begun to do) and *yazmu laasot* (plotting to do). To understand this verse, both *hahilam laasot* and *yazmu laasot*, as well as the word *yibatzer* (translated as prevented), need to be explained. In the division of languages story, two verses later, the people “stopped building the city.” Therefore, “*hahilam laasot*,” (“what they have begun to do”), is apparently

a reference to beginning the construction of the city. Rabbi Samson Raphael Hirsch explains that the word *yibatzet* refers to the fortification of a wall.⁴ Ibn Ezra notes it is used elsewhere in the context of cities: “*arim betzurot*,” fortified cities (*Devarim* 3:5).⁵ In the context of this story, it is a reference to verse 3 which implies their technological innovation has allowed them to create a fortified city and complete their project. Therefore, *yazmu laasot* can refer to one of two things: either the completing construction of the city and the tower or the making a name for themselves. As we will discuss later, the city and the tower were the means to making a name for themselves. The same root word is used for making a name for themselves (*naaseh lanu shem*) and plotting to do (*laasot*). Therefore, it is logical that *yazmu laasot* – what they are plotting to do – refers to the ultimate goal of making a name for themselves. Therefore, the meaning of the verse is as follows: “Hashem said: ‘they are a single nation and a single language and they have begun construction of the city. Now they have the technical capability of completing it and making a name for themselves.’”

D. Structure of the Two Stories

Now that both stories have been identified, the structure of the two stories can be analyzed. Both stories can be divided into two parts. The first part of each story is told from the human perspective. The first verse describes the state of humanity followed by a statement of their intentions. In both stories the people state “Come, let us build a city...” However, in the story of the division of languages, this is preceded by a statement to replace the stone with brick and mortar with clay. It would have been more logical for that statement to follow the statement of building a city. The reason for this is that the goal of the people was to make a name for themselves and the technological innovation to replace stone with brick and mortar with clay was an essential part of that quest. Once this was done, this innovation needed to be used in an eternal monument so their name endures. This is why the city and tower in the heavens must be created.

In contrast to this, the story of territorial dispersion contains no statement about technological innovation. The reason is that in the story of the territorial dispersion, the goal was not to create a city and a tower, but to remain together and the city and the tower were just a means to that end. Conversely, in the story of the division of languages, the goal was to make a name for themselves by building a city and a tower. The methods by which they built the structure were part of the goal and not just a means to the end.

After the people make the claim that they want to build a city and a tower, the text never indicates that they began construction, however, it is obvious that this must have occurred since it is indicated in both stories that they either finished building the city and tower or that they stopped building the city.

4. Hirsch, *Commentary on Humash*, Bereishit 11:6.

5. Ibn Ezra, *Commentary on the Torah*, Bereishit 11:6.

The second half of the story takes place from the perspective of Hashem. In the story of the division of languages, Hashem's actions parallel the actions of the people. The people state their intention of building a city and a tower and in parallel, Hashem states His intentions of mixing up their language to prevent them from building the city and tower. The text simply concludes that they stopped building the city.

In the story of the territorial dispersion, the second half of the story from Hashem's perspective is much different. Hashem allows them to complete the city and only descends to see it after it is completed. There are no statements by Hashem in this story, only Him descending and then scattering the people. The reasons for this and the concluding verse will be discussed later on.

E. Purpose of the Construction, Sins and Punishments

In both the stories, the people want to build a city and a tower, but the reasons for the building are different which implies that the purposes for those structures are completely different. In the division of languages, the goal was to "make a name for ourselves." Any person or group of people who are aspiring for fame would attempt to build a tower with its top in the heavens. Even today, many of the largest towers have absolutely no practical necessity, but are only structures built to "make a name for ourselves." However, a tower which symbolizes the engineering prowess of humanity cannot be built in a desolate area with no one to worship its magnificence. Consequently, in order to be able to provide the tower with the grandeur it deserves, they also embarked on building a city to house inhabitants around the tower "to work it and to protect it." Therefore, one can argue that in the story of the division of languages, their main objective was building the tower with its top in the heavens, but a city was required to allow the tower to be given the stature it deserves.

In the story of the territorial dispersion, the people primarily want to remain together and to achieve this goal, they require a place to build a community. A nomadic group can be easily scattered and separated, but a group living in a city founded together can remain a cohesive unit. However, houses are not a guaranteed way to make a community remain together. While they primarily needed a place to live, the people required a spiritual centre. The purpose was not just to allow them to remain as a group of people, but to unify their children and their children's children destined to live in the city using this tower as their unifying symbol. Therefore, in the story of the territorial dispersion, the primary goal was to build a city where they could live, but a tower was required to unify their hearts and elevate the city from a collection of buildings into an eternal community.

By understanding the construction projects and their objectives, the sins associated with the two stories are more clearly discernible. The sins are precisely the reasons given to the building of the city and the tower: "we will make a name for ourselves" and "lest we be scattered upon the entire face of the earth" (4). In the story of the division of languages, humanity saw their unity as a source of arrogance and pride. As R. Breuer points out, Yeshayahu prophesied about the king of Babel in chapters 13 and 14. Yeshayahu's prophecy

indicates that the king of Babel at his time was a spiritual descendant of the generation of the dispersion. Yeshayahu's prophecy provides the prophet's analysis of the motivation behind the builders of the tower:

I will ascend to Heaven, above the stars of G-d I shall exalt my throne.

I will sit on top of the mountain of meeting, at the far ends of the north.

I will ascend above the heights of the clouds. I will be like the Most High (*Yeshayahu* 14:13-14).

The builders of the tower were attempting to make a name for themselves by building a tower with its top in the heavens. By doing this, they were trying to "ascend to Heaven," exalt their throne above the stars of G-d and "be like the Most High." Hashem had kept the world unified. The natural progression for humanity is to settle in different places, connect with the land, develop a language and culture and become a nation. It was not a natural progression for humanity to remain a "single language and a common purpose" even though they had already filled the entire earth. Humanity was only allowed to remain in that state through the compassion and love of Hashem to humanity. But humanity took that unified state and used it to try to replace Hashem. This was the sin which was intolerable and required the construction of the city to be stopped. In order to stop this, all Hashem had to do was "mix up their language" and "they stopped building the city." The world had remained a single language through miraculous means, so all Hashem had to do was remove that miraculous state and the project ceased.

In the story of the territorial dispersion, the sin was that they wanted to remain in one place and not "be scattered upon the entire face of the earth." Hashem had previously blessed humanity: "Be fruitful and multiply and fill the land" (*Bereishit* 1:28). Attempting to build a city to live in as a community has no inherent sin. But creating it as a spiritual centre by having a tower with its top in the heavens with the goal of never spreading out and filling the land goes directly against Hashem's blessing to humanity. Humanity was created to fill the land and when they refused to do so, Hashem forced it upon them against their will. This is why Hashem "scattered them from there upon the entire face of the earth."

The method by which Hashem meted out punishments in the two stories is different. In the story of the division of languages, the text never states directly that "Hashem mixed up their language." It only states that He made a decree: "Hashem said...Come, let us descend and mix up their language" and implies that through the pronouncement, the decree was enacted. The method of punishment for the sin was measure for measure. Since it was the language that enabled the sin, Hashem used language to punish humanity for their sin. Conversely, in the territorial dispersion, there is no pronouncement but only a description of the punishment being meted out: "Hashem scattered them...." Since language was not the basis of the sin, language was not used for punishment, but only actions.

One final aspect of the story is the state of the construction when the punishment was carried out. In the story of the division of languages, the construction was the sin. Through

building the city and the tower they would be making a name for themselves. Consequently, Hashem prevented them from being able to accomplish their goal and “they stopped building the city.” In the story of the territorial dispersion, their goal was to remain together. The construction of the city and the tower was the means by which they could reach their goal and not the goal itself. Consequently, Hashem allowed them to complete the building of the city and the tower and only after they were completed, “Hashem descended to see the city and the tower which the sons of man had built.” At that point Hashem “scattered them from there upon the entire face of the earth.” By doing this, He also prevented them from being able to accomplish their goal while allowing them to complete the means which they hoped that goal could be achieved.

E. Summary of the Two Stories

In the story of the division of languages, Hashem initially allowed the world to remain in a miraculous state. Despite humanity having already spread out to their lands, nations, families and languages, the entire earth still used a single language and had a common purpose. They used their advanced capabilities due to their common language and unity to replace stone with brick and mortar with clay. Their pursuit with these advances was to build a city and tower with its top in the heavens to make a name for themselves. They wanted to exalt their throne above the stars of G-d and to be like the Most High. Hashem through his compassion previously allowed them to remain “a single nation and a single language for everyone” but did not tolerate how humanity had abused this gift to plot against Him. Consequently, He made a pronouncement that He would mix up their language and enacted this punishment through the pronouncement. This was measure for measure as their single language enabled them to build the tower and Hashem used language to take that away from them. Humanity never achieved its goal since they wanted to make a name for themselves by building “a city and a tower and its top in the heavens” and Hashem prevented this from occurring and “they stopped building the city.” The place was called Babel because “there, Hashem mixed up (*balal*) the language of the entire earth.”

In the story of the territorial dispersion, humanity consisted of a group of people who travelled from the east and settled in a valley in the land of Shinar. This group of people were unified, not through any supernatural means, but simply because it is natural for a group of people who live together to have a common language and purpose. Their existence had a blessing of unity attached to it, but they also wanted to build a city so that they would never scatter. They built a city to live in and a tower to unify them and their descendants. However, this was in direct violation of Hashem’s command to fill the earth. After the construction was completed, Hashem descended to see the city and tower that humanity had built. While they had succeeded in building the city and the tower, Hashem did not allow them to succeed in their goal which was to remain together. Hashem then scattered them across the entire face of the earth.

As R. Breuer notes, there is still an issue with the name of the city in the story of the territorial dispersion. In the story of the division of languages, Hashem mixed up (*balal*) their language, so the appropriate name was Bavel. However, in the story of the territorial dispersion, Hashem scattered them (*hephitzam*), which is not etymologically related to the name Bavel. To answer what the name of the city should be, it is important to know the reason for this story being in the Torah. Humanity was at one point unified, but the story of the Tower of Bavel is the story of the exile of humanity. Israel was also exiled from her land and the Temple destroyed, but “it shall come to pass at the end of days that the mountain of the house of Hashem shall be established at the top of the mountains” (*Yeshayahu* 2:2). The same will happen with humanity in general. In *Tzeephaniah*’s prophecy, he discusses the day that Hashem will say “I will rise up forever” (3:8). On that day, humanity will return from the exile of the dispersion:

For then I will change the nations to a clear language,
That all will call in the name of Hashem, to serve Him as a single unit.
From the other side of the rivers of *Kush*, *Atarai* bat *Putzai* will bring my offering
(*Tzeephaniah* 3:9–10).

This prophecy is the reparation for the damage done by the builders of the city and the tower. Hashem mixed up their languages, but on that day, “I will change the nations to a clear language.” Hashem brought disunity to humanity, but on that day they will “serve Him as a single unit.” Hashem scattered humanity, but on that day, there will be an ingathering of humanity to bring an offering. The word *Putzai* can be understood here to be the name of a location and is related to the word *hephitzam* – Hashem’s scattering humanity upon the entire face of the earth. *Putzai* appears to be the appropriate name for the city from which humanity was scattered. Therefore, in the story of the territorial dispersion when read independent of the story of the division of languages, the final verse would say:

Therefore, the name was called *Putzai* because from there, Hashem scattered them (*hephitzam*) upon the entire face of the earth.

F. The Combined Stories

R. Breuer, in his *Shitat ha-Behinot* explains that the Torah was written by Hashem and the two “aspects” or “pictures” (as he refers to these stories) reflect different manifestations of how Hashem interacts with humanity. While understanding the individual stories of the Torah is essential to understand Hashem’s relationship with us, there is only one G-d and the Torah is meant to be read as a single story. Therefore, the two stories were combined in a manner to tell a single story. In order to resolve the contradictions mentioned earlier, some of the verses need to be reinterpreted against their literal meaning, but the two underlying stories can provide a guide on how this can be done.

To begin, verse 1 needs to be read figuratively where humanity is called “the entire earth” even though they are just a group of people who travelled together. “The entire earth” should be read as “humanity who would ultimately fill the entire earth” or “the entire earth” which is currently only one group of people. This group of people that travelled together decided to build a city and tower (3–4). There were two reasons to build the city and the tower: a positive reason to make a name for themselves and a negative reason to prevent themselves from being scattered.

After humanity states its desire to build the city and the tower, Hashem descends to see the city and tower (5). Even though the simple reading of the text states that the structures have been completed, it must be read figuratively that “built” means “were building.” When Hashem descends, He focuses on two things. First, He focused on the purpose of the structure – to keep themselves from scattering across the face of the earth. Hashem did not desire for this to be fulfilled and decided that He wanted to scatter them, but before this could be carried out, He focused on how humanity could build this structure at all – through their shared, single language and common purpose (6). Therefore, Hashem decreed that He would mix up their language (7). As part of this decree, He stated “Come, let us descend” even though He had already descended. This must also be understood figuratively and that Hashem is not referring to what He intends to do, but instead is referring to the state that He will be in when their language gets mixed up.

After this decree, they were scattered across the face of the earth and then stopped building the city (8). This verse, along with the preceding verse, need to be read as a *perat uklal* – a detailed statement followed by a summarizing general statement. The general statement (*klal*) is that they stopped building the city. Hashem mixing up their language and then scattering them is the detailed statement (*perat*) of how it occurred.

The story concludes with a summarizing verse. The primary punishment is the mixing up of languages. The dispersion appears to be a consequence of the mixing up of languages and not the primary punishment, which is why the name of the city, Babel, is related to the fact that their languages were mixed up.

G. The Generation of Dispersion and Am Yisrael

The story of Babel is the only story in the Torah that deals with humanity in general and not individuals or the nation of Yisrael.⁶ After this story, Hashem no longer has a direct relationship with all of humanity, but instead chooses an individual who will found a “kingdom of priests and a holy nation.” The story of Babel explains why all of humanity was no longer worthy of the direct relationship to the Creator of the world. If it was one group of people that were unified, they refused to fill the entire earth as Hashem desired. Even if they had filled the entire earth and Hashem would allow them to keep their unity,

6. A possible exception is “The sons of G-d and the daughters of man” (Bereshit 6:1–4), but they were wiped out in the flood and do not represent modern humanity.

they were incapable of recognizing Hashem's name and instead chose to make a name for themselves. The only state all of humanity was capable of maintaining was scattered, disunified and disconnected from Hashem.

But the story of the Tower of Babel holds within it the secret to our survival. The goals of humanity were thwarted. What they were planning to do was prevented and they were dispersed and no longer unified. However, this was not the case with Am Yisrael. We too sinned and were scattered upon the entire face of the earth. Nevertheless, despite being scattered to the four corners of the earth, we remained a single nation and a single language with a common purpose. The "tower" that we built was not in a valley, but in the place which Hashem chose to place His name there. It did not have its top in the heavens, but instead Hashem descended from the heavens and spoke to us from between the *keruvim*. We completed the construction and nothing can be prevented from us. It is the eternal remembrance of our city and our tower that has kept us "a single language and a common purpose." This is what will lead to the rebuilding of our city and our tower speedily within our days.

An Exemplary Murder

KARYN GOLDBERGER

1.0 Introduction

A **NOTED MODERN** biblical scholar, Calum Carmichael has a unique approach to understanding the laws of Deuteronomy. His claim is that each law is a direct reference to an event in the narrative of the Bible.¹ The interweaving of narrative and law, Carmichael avers, is common throughout the Bible.² He postulates, therefore, that these Deuteronomic laws have been expounded in order to prevent future transgressions of a similar nature to those that transpired within the narrative. He further explains that the laws are derived from “real-life situations with their complex web of social, religious, political and economic elements.”³

In this light, I would like to propose a pairing between a law that was given in Deuteronomy and the corresponding paradigmatic narrative from which I believe it is drawn. The law under scrutiny is that of *Egla Arufa* (the Axed Heifer) and is to be found in Deuteronomy 21:1–9.⁴

The law of *Egla Arufa* is one of the most unique and interesting laws within the book of Deuteronomy. This law is enacted upon finding a dead body in a field. The murderer of this person has subsequently fled the scene and is unknown. The Elders and Judges measure from the site of the body to the nearest village to determine which settlement is theoretically “responsible” for the murder. The Elders of that city then bring an unworked heifer to

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1. This essay is extracted from a larger work which examines Carmichael’s hypothesis more fully. If you wish to receive a copy, please contact me and I will be happy to forward it to you. (kaydeegold@gmail.com).
 2. Carmichael, 1982:520; Carmichael, 1996:99–102. (Note: Full bibliography available upon request at kaydeegold@gmail.com).
 3. Carmichael, 1985:13.
 4. See Addendum 5.1 for full text.

KARYN GOLDBERGER, a former teacher at Netivot HaTorah, made Aliyah with her family in 2005. Karyn enjoys learning Torah, giving shiurim, and spending time with her grandchildren. She recently returned to school to complete a Masters in Tanach at Bar-Ilan University. When travelling, she tries to give a shiur in whatever locale she finds herself.

an unworked riverbed and kill it. They wash their hands and declare in front of the Priests that they are not responsible for the death. The Priests then ask G-d for forgiveness on behalf of the people.⁵

In contrast to Carmichael's assertion that the story of the murder of Amasa by Yoav⁶ is the fitting archetype upon which to base the law and accompanying ceremony of *Egla Arufa*, I propose a different exemplar – that of the murder of Hevel by Kayin.⁷ It is my thesis that this model has both quantitatively greater backing and qualitatively superior support than does Carmichael's. We will examine this linkage along two planes: the first, an intertextual examination of word parallelism, and the second, considerations concerning context, including elements of content, plot and theme relationships.

2.0 Intertextual Linkage

A common approach to finding linkages between texts is through the discovery of words or phrases that are common between them. I would like to emphasize at this point, that, as is the nature with all intertextuality, initially we should not look at the occurrences of such linkage to be absolute proof of the connection between the texts, but only as suggestive guides, indicating that we must look deeper to see if there are also content and contextual parallels. With that in mind, from the very first sentence of the *Egla* text in Deuteronomy, we already see allusions to the Kayin and Hevel story.

כִּי יִמָּצֵא חָלָל בְּאֶדְמָה אֲשֶׁר ה' אֱלֹהֶיךָ
נָתַן לְךָ לְרִשְׁתָּהּ נָפֶל בְּשָׂדֶה לֹא נֹדֵעַ
מִי הִכָּהוּ.

If one is found slain in the land which Hashem your G-d
gives you to possess it, lying in the field, and it isn't known
who has struck him.⁸

Before we delve into these potential connections, let us pause for a moment and ask ourselves: As a reader, where could the verse have stopped in order to give us sufficient information to proceed? Since the second verse tells us what will happen next – the Elders will go out and measure to the nearby towns, all that would be necessary to know is the first four words: “a slain body has been found on the ground (*ki yimatzei chahal ba'adamah*).” Then, the Elders measure. So what does the rest of the sentence come to tell us? It is my contention that each further extraneous element (and even some words within the initial phrase) alludes in some way to the Kayin and Hevel story. We will examine each in turn.⁹

Analyzing these terms on different levels, first we will survey those that serve simply to highlight a link without having any inherent contextual relationship. These words are

5. TB *Sotah* 46a. (The words spoken in verse 7 follow upon an activity by the Elders in verse 6. Therefore it is logical to assume that they spoke the words contained therein. However, it is unclear who spoke the words in verse 8. Therefore, the Gemara comes to explain that it was the Priests.)

6. 2 Samuel 20:8–13.

7. Genesis 4:1–16.

8. Deuteronomy 21:1; all translations based on alhatorah.org edition.

9. See Addendum 5.2 for a chart consolidating these intertextual connections.

yimatzei, *nofel* and *hikahu*. Afterwards we will consider the remainder of the terms, which constitute more of a contextual connection within the two stories.

2.1 Linkage Through Word Choice

2.1.1 Fell – *Nofel*

In the *Egla* narrative, the body had “fallen” in a field. And, in the Kayin story, his face “fell” when his sacrifice was not accepted. In each, the text could have chosen different words to convey the meaning it intended to achieve. Alternatively, it could have left out the word or idea altogether. Therefore, having each included must convey significance. In the *Egla* text, the body could just have been found in a field. We do not need to know that it had “fallen.” In the Kayin text, was it not enough to know that he was angry? Is there any necessary additional information conveyed by knowing that his face had “fallen”? However, the text does add these redundant concepts. Why? It can be posited that the unnecessary reiteration of these ideas using our key-word is suggestive of the interconnectedness of the two texts.¹⁰

2.1.2 Hit – *Hikah*

The above logic also applies to the word “hit (*hikah*).” It is not known who “hit” the body (and killed it) in the *Egla* scenario. In the Kayin story, G-d places a sign upon Kayin, lest someone “hit” him (and subsequently kill him). Although the contextual meaning is not parallel – one usage referring to the murdered and one to the murderer, there is a certain parallelism in the use of this word as a precursor to death.

2.1.3 Find – *Yimatzei*

This word exhibits a similar pattern to *hikah*. In the *Egla* scenario, the idea of “found” refers to the corpse, the murdered, and in the Kayin story, it refers to the murderer, Kayin, and his fear that those who “find” him will murder him. So in that context there is a resemblance. For the murderer of the person in the field, his crime may have been a spontaneous crime of opportunity.¹¹ And so too was Kayin’s fear that anyone wanting to kill him would do so as a crime of opportunity, by perchance “finding” him vulnerable, as per the nuance of the word. Whether this is so or not, as with the previous two words, we note the common use of the word when another could have been chosen in each case. Thus, their mutual use in both texts could indicate an affiliation, even if not linked explicitly with respect to context.

Considering only these three examples, the case for the connection between the texts may be suggestive, but would not be compelling. Therefore, we need to look further, to those words common to both texts that are linked in more significant ways.

10. Of course there may be other exegetical reasons for each word choice as well.

11. Abarbanel on Deuteronomy 21:1. There he conjectures that the reasoning for the odd manner of slaughter of the calf – from behind, as the term “*arufa*” indicates – is an allusion to the manner in which the murdered was killed – not in a face to face battle, but he was attacked (by surprise) from behind.

2.2 Linkage Through Emphasis

2.2.1 Ground – *Adamah*

It is evident that one would consider the word *adamah* a *leitwort*¹² within the Kayin story as it appears numerous times. First, Kayin was a worker of the ground. Then, after the murder, his brother's blood called out from the ground, and finally, Kayin's punishment will involve the earth on two levels: the ground will not readily yield its goodness to him and he will be a wanderer upon it. The numerous usages of this word serve to emphasize its importance within the story.

But what of the use of *adamah* in the *Egla* story? Here, the word ground/*adamah* is used in connection with the rest of the phrase that follows it: “in the land which Hashem your G-d gives you to possess it (*ba'adamah asher Hashem Elokecha noten lecha lerishtah*).” It is notable that the choice of word there is ground (*adamah*) and not land (*eretz*).¹³ In this case it is remarkable because variations upon this entire phrase occur in 12 of the prior 16 chapters.¹⁴ The fascinating thing is that each and every one of the phrases within those prior chapters contains the same three elements: “G-d will give it” (*asher Hashem Elokecha noten lach*), “to be inherited” (*lerishtah*), and the concept of “land.”¹⁵ It is peculiar, however, that in *all* of those previous chapters the word referring to land is “*eretz*” and in our *Egla* text, it is “*adama*.” Astute readers would certainly be asking themselves, “Why the sudden change in terminology?” Boyarin's work on intertextuality may shed some light on this issue. He cites Riffaterre's idea that the “ungrammaticality” of a word in one location can be utilized to connect it to another text where that word's use is grammatically correct. Boyarin expands upon this concept to include the idea that the use of a less usual form of a word within its context would lead the reader to a second text where it is used “correctly.”¹⁶ Thereby, in either case, the second text acts as an unlocking key to understanding the first problematic text. Therefore, this word, *adama*, serves as an “ungrammatical” word according to Boyarin's expansion and highlights the connection to our second text, where it is used “correctly” – in the story of Kayin. Thus, a strong link is formed between the two narratives.

12. Martin Buber, in his seminal work, *Darko Shel Mikra*, (Jerusalem 5724), p. 284, describes a *leitwort* as: A word or linguistic root, which recurs within a text, a series of texts or a set of texts in an extremely meaningful manner, so that when one investigates these repetitions, the meaning of the texts is explained or becomes clear to the reader, or at least it is revealed to a much higher degree. For a full explanation of the convention, see the following essay by Rabbi Dr. Yonatan Grossman: https://torah.etzion.org.il/en/leitwort-part-i#_ftnref1.

13. The translations into English do not convey the unique identity of each word fully, as, in English, these words are often used as synonyms. Whereas in Hebrew, although the words have the same denotation, the word land/*eretz* often might have the connotation of a land area or country. By contrast, the word, ground/*adamah* would often connote the physical dirt or earth.

14. Deuteronomy 4:5, 5:7, 6:1, 7:1, 8:1, 9:4, 10:11, 11:8, 12:1, 16:20, 17:14, 19:1.

15. Interestingly it occurs just once in each chapter. If we could borrow a concept from a different discipline, we might call this phenomenon a “subliminal message.”

16. Boyarin, 1990:30.

2.3 Linkage Through Context

2.3.1 Field – *Sadeh*

Having considered the *act* of the murders, we now turn to the *location* of the murders. The *chahal* fell in a field and Hevel was killed in a field. This is a particularly compelling resemblance, as, for each, the naming of the location is simply a bonus, non-essential piece of information. There are many ways the author could have chosen to indicate that the dead person in the *Egla* scenario had not been found in a city. However, this particular terminology was chosen. Similarly, and maybe even more strikingly, the Genesis text chose to let us know where Hevel was murdered. In reality, does it matter at all where this occurred?! The essential point is that he was killed by his brother. The location is immaterial. Hence, this intertextual connection is the strongest hint yet that the passages are correlated, for there occurs an identical word in both instances, and within the passages, this word serves the same contextual purpose.

2.4 Linkage Through Similarity Of Outcome

2.4.1 Known – *Noda*

What is known and what is not known? In Deuteronomy the identity of the killer is not known, *lo noda*, but yet the killer of Hevel is known – Kayin. Instead, in this latter story, it is Kayin who speaks *about* knowing. Specifically, he did not know something – *lo yadati*. At face value, the link between this pair of words within the two texts seems tenuous. However, if we dig deeper, the affinity is quite profound. In order to fully comprehend the connection, we will need to explore the Kayin narrative in depth.

In unravelling Kayin's response to his sin, it is edifying to compare his discussion with G-d to that of his father's reaction to his own prior sin. Examining the chart in Addendum 5.3 in order to see the points of similarity and difference will prove instructive,¹⁷ ultimately illustrating the similarity of outcome between the "*Egla*" murderer and that of Hevel.

To begin our examination of these comparable scenarios it is notable that in each of the introductory queries G-d asks for the location of an individual, utilizing the same terminology: *ayeka* and *ei*. Respectively, seeking Adam and Hevel. In Adam's response, he seems unaware that G-d is omniscient. Adam began explaining to the Creator why he did not answer Him. G-d then guides Adam to a recognition of His omniscience by subtly accusing him of the wrong action G-d knows he took in eating the fruit of the forbidden tree. But even then Adam deflects responsibility and blames the woman. He receives the decree of his punishment and has no response. Looked at from a certain angle, Adam seems childish in his naïveté.

By contrast, upon examination of Kayin's initial response when queried about Hevel's whereabouts, one may legitimately claim that his approach is one of maturity and the

17. Moreover, I'd like to suggest that the parallel construction of both interactions *invites* us to compare and contrast these two sets of discussions with the Divine.

taking of responsibility.¹⁸ G-d asks him to identify the location of his brother. Let us look carefully at the words of Kayin's response to G-d: "I do not know. Am I my brother's keeper? (*lo yadati, hashomer achi anochi?*)"¹⁹ Having just had the experience of G-d intuiting his mood after his sacrifice was rejected, and likely having had his parents recount their experience of the eating of the fruit, whereupon it became evident that G-d is omniscient, Kayin would know that lying to G-d would be counterproductive. Therefore it simply could not be that he is telling G-d that he is unaware of the body that is so clearly lying right at his feet.²⁰ As noted, his words are often translated as: "I do not know; am I my brother's keeper?" We have long extrapolated a continuation of the first phrase to be "**I do not (present tense) know where my brother is.**" Thus, it would be a direct answer to G-d's question. However, given the conditions just outlined, I find it a little incredible that that would be his response. Therefore, I would like to propose a different continuation to the first phrase: **I did not know**²¹ (past tense) **that hitting him would cause him to die.**²² Kayin was essentially dissembling – somewhat like a small child who swung the baseball bat and broke the vase. Breaking out in tears, she declares pre-emptively that she did not know that hitting it would cause it to shatter into pieces. And indeed, she may never have had experience with things that were hit subsequently breaking apart.

Similarly, recall that this is the first murder; Kayin was not aware of the outcome of his actions, as he had never observed human death before. Sure, he wanted to hurt his brother, but that it would lead to the end of Hevel's life – how was Kayin to know that? It is plausible, then, that his response is other than what is commonly accepted. Moreover, as the full weight of his actions begins to sink in, he becomes despondent, enquiring of G-d as to whether he was duty-bound to be the guardian of his brother.²³ He appeals to G-d's mercy. In his statement, he implies: Had I known, I certainly would not have done it!²⁴ A further implication within this statement might be: "Look G-d, you told my parents that if they ate from the tree they would die. You did not tell me what the consequences of my actions

18. Supporting the difference in their personalities, we see that the word common to each response, *anochi*, refers to very different areas of concern for each. For Adam it relates to his personal nakedness, a very base concern. (Note too that, in his response, Eve was not included in his fear and subsequent hiding.) For Kayin, it relates to the relationship of guardianship he was supposed to have with his brother – a broader perspective than his own individual concerns.

19. Genesis 4:9.

20. Note that in the Adam story, he and Eve heard G-d walking about in the garden. They had time to cover themselves and hide. By contrast, after the murder of Hevel, the very next words of the text recount that G-d speaks to Kayin. He had nowhere to go nor any time to hide – nor time to "hide the body."

21. More consistent with the Hebrew, *lo yadati*.

22. I first heard this idea from Rav Ronen Neuwirth a"h.

23. Another possible reading (heard from Rav Neuwirth): In saying, "Am I my brother's guardian?" Kayin was essentially saying: "Wait a moment, G-d. Who should be the guardian of Hevel? Not me! You! If he did not deserve to die, is it not *You* who should have protected him from death?!"

24. An apt comparison of the difference between Adam's response and Kayin's might be between Shaul's and David's. Whereas Shaul prevaricates and shifts blame when confronted by Samuel with his sin of not completely wiping out Amalek (1 Samuel 15:13–25), David immediately confesses to Natan that he is guilty of the sin(s) regarding Batsheva (2 Samuel 12:13).

here would be, even when you had that little chat with me about sin crouching at my door. So you really cannot hold me accountable for intentional murder, with its concomitant punishment of death. Jewish law says you need to be warned and have two witnesses.²⁵ Neither of these conditions were met in this case. The most I think you can accuse me of, G-d, is being an unintentional murderer.” Thus, this understanding of the text would show Kayin in a different light than what is commonly understood. In essence, he is pleading “guilty with an explanation.”

Moreover, another anomaly can be seen within the text. If indeed Kayin had just committed the first premeditated murder, we would expect G-d to have punished Kayin with death – the fitting consequence. Yet He does not. Why not? I assert that it has everything to do with Kayin’s response. In contrast to the usual reading, where the observer sees Kayin as hugely insolent, we postulated instead that he, in fact, was very humble, admitting his sin right away. The classical interpretation, however, is that both his responses indicated arrogance. He told an all-knowing G-d that he did not know the location of Hevel’s body, when it was evidently lying there right in front of him. Moreover, conventional wisdom says that he even added a brazen rhetorical question: “Am I my brother’s guardian?!” If this were to be the correct interpretation, then G-d would ostensibly have been much more upset. His anger would have flared and He would have punished Kayin swiftly and harshly. Both for the death itself, and for Kayin’s insolence. However, that was not the case. In fact, upon examination, Kayin seems to have received quite a light punishment, all considered. It can be postulated, then, that the tone of Kayin’s response is other than what is commonly accepted.

As with Adam, after his original response, G-d then goes on to relate the sin and its consequences. Interestingly, in each situation, there is a reference to a location from which (*min*) some action has/is taking place. With Adam, G-d queries him as to whether he has taken *from* the tree and eaten.²⁶ And for Kayin, Hevel’s blood is crying out *from* the ground.²⁷ But note the difference. In Adam’s case there is additional information that is absent in the case of Kayin: “*asher tziviticha levilti achol mimenu* (about which I commanded you, ‘You shall not eat of it.’).” “I expressly told you, Adam, not to eat from the tree, but you did!” For Kayin, there is no such statement. As such, credence can be given to the argument that Kayin’s appeal held sway with G-d. Since, as noted previously, G-d had not forewarned him about the consequences of his actions, as G-d had done for Adam. Moreover, since Kayin took responsibility, G-d had the leeway to not punish him as would otherwise be required. Instead, the subtext of G-d’s words to Kayin might be: “Wait a second, Kayin. I appreciate that you are taking responsibility. However, you still did this. You made the choice to do wrong. Don’t turn it back on me. I can take your appeal into consideration, but your brother’s blood is still crying out to me from the ground. Actions have consequences, Kayin.” At that point, in contrast to Adam, who chooses to blame Eve, Kayin remains silent. He knows he has no

25. Deuteronomy 19:15; *TB Sanhedrin* 41a.

26. Genesis 3:17.

27. Genesis 4:10.

excuse. He listens to the punishment. Quietly, without deflection, but with maturity. He has already pleaded “guilty with an explanation” and now awaits sentencing.

Moreover, by the decree of exile and not death, G-d seems to have accepted Kayin’s appeal. More specifically, He accepts the appeal to change Kayin’s status from an intentional murderer requiring a punishment of death, to that of an unintentional murderer.

Next, despite the fact that we know they are in conversation, the text chooses to reiterate information we already know – that Kayin is speaking to G-d. The name of G-d utilized is the form that represents G-d’s mercy.²⁸ The implication is that Kayin himself is acknowledging his subjugation to the Almighty. The subsequent appeal he proceeds to make is coming from a place of humility. He, in essence, is throwing himself on the mercy of the court.

And thus, Kayin expresses remorse once more, stating, “*My sin is too great to bear.*” He accepts that he has sinned. He does not hide from it; he does not try to blame others, as his father did. Rather, he is now asking for a mitigation of the decreed punishment. He seems to be saying: “So G-d, by not killing me immediately, you have acknowledged that I am not liable for intentional murder, but rather, only for unintentional murder. In this sense, I am like the one who has to flee from the blood redeemer (*go’el hadam*).²⁹ Thus, my sentence of being a wanderer is fitting. However, G-d, I have a problem. There are no cities of refuge, as there would be for another unintentional murderer. In those cities I would be safe from the fear of being killed. What am I to do? I have been sentenced to wander about, but I will always be afraid that someone will kill me for my sin. And since you have acknowledged I am not deserving of death, please help prevent that.” And so G-d does, by placing a sign upon him so he should not be killed.

So now, returning to the linkage in question, between the idea that it is not known who killed the corpse (*chalal*) and the words Kayin states that he “did not know,” we can see an interesting connection. Yes. There is a difference, in that it is known who killed Hevel but it is not known who killed the *chalal*. However, there is a similarity in the result from each murder. In both cases the murderer is condemned to wander the earth, never really knowing when they will be killed or brought to justice for their crime.³⁰ Therefore, in Kayin’s claiming that “he did not know,” he transformed his resultant situation to one that is nearly indistinguishable from the actual murderer of the corpse in the field, who is “not known.”

28. Rashi on Exodus 34:6.

29. Interestingly, Carmichael also makes the connection between the *Egla* law in Deuteronomy 21 and the law of the *go’el hadam* in Deuteronomy 19 with regard to the role of the Elders (Carmichael, 1974:136).

30. In a further (and almost uncanny) textual linkage, Zevit, (1976:380) notes that the term *teva’er hadam hanaki* (Deuteronomy 21:9) stated in relation to the *Egla* law, occurs only one other time in the Torah. *Uvi’arta dam hanaki* (Deuteronomy 19:13) is said in reference to the Elders returning the intentional murderer to the blood redeemer after he seeks assylum in a city of refuge. Recall that Kayin is an intentional murderer, but he happened to have received a reduced sentence due to a “technicality.”

3.0 Contextual Linkage

Already, after having looked at only the first verse of the *Egla* scenario, we have uncovered some substantial intertextual associations between that situation and the narrative of Hevel's death. Thus, we have begun to uncover a credible linkage between law and narrative. But the affinity between the *Egla* ceremony and the Kayin story runs even deeper. There are a number of contextual linkages that can be unearthed.

3.1 The Unworked Riverbed

As the execution of the *Egla* law proceeds, the Elders and the Judges go forth and measure from the corpse to the adjacent cities to determine which is the closest in proximity. They then take a young calf. But not any young calf – the procedure requires a calf that “has not been worked (*asher lo ubad bah*) nor has it borne a yoke (*asher lo mashekhah be'ol*).” And what are they to do with this young calf? They are to bring it to a riverbed “that has never been worked (*asher lo ye'aved bo*), nor has it been sown (*velo yizare'a*).” Right away one notices the root common to both verses: *ayin-bet-daled*, *avad*. Additionally, each condition is described in two ways. We must, once again, utilize the principle that was at work previously: Does a second description increase the understanding of what is being described? Consider the description of the calf. Of the two portions of the verse: *asher lo ubad bah* and *asher lo mashekhah be'ol*, the more precise description is that it has not pulled a yoke. The first and more general one about being “worked,” seems superfluous. Similarly, regarding the riverbed, from the two portions of the verse: *asher lo ye'aved bo* and *velo yizare'a*, the fact that it has never been sown is the more specific. Once again, the first and more general statement seems superfluous. And, interestingly, in both these extraneous phrases we find that common root of “work” (*avad*). So therefore, we need to ask: In the seemingly unnecessary use of this root, is the text alerting us to us to pay attention to its terminology? Do we need to look elsewhere for its embedded meaning? Indeed we do. And we find it leads us once again to a connection with the Kayin story. Right from the outset, the text portrays Kayin as a worker of the land.³¹ But the more intriguing connection is that, when cursed, G-d states that when Kayin will work (again, *avad*) the land, it will not yield its produce to him.³² Essentially then, Kayin will attempt to make it productive, but, in the end, it will just look like that riverbed. Unworked. Unsown. And desolate. Even though Kayin may have used his heifer to pull a plow through the land, it will seem as if the cow never bore that yoke and the land was never touched. Thus, even the imagery of the *Egla* ceremony places us within the framework of Kayin and his punishment. The people involved in the *Egla* rite could well imagine, when standing upon that wild and unworked riverbed, that such was the landscape upon which Kayin lived out his years.

31. Genesis 4:2.

32. Genesis 4:12.

3.2 The Major Players: Judges, Priests and Elders

Turning now to another element that is critical to the *Egla* ceremony, we will examine the issue of the main characters within the ceremony itself: The Judges and their role, the Priests and their function and the Elders and their declaration. Despite none of these characters showing up in the Kayin story, (recall that the world was severely underpopulated at that juncture), for two of the three groups, their description, their words or their actions serve to connect the *Egla* text to that of Kayin. Understanding how some of these elements interweave will bolster the case for their association.

3.2.1 The Judges

The Judges' role is simply one of an impartial mediator between the cities. As noted by Willis, the Judges of the land are brought from afar to ensure accurate measurement and to determine the city nearest to the corpse.³³ He further mentions that once their task is complete, they recede from the stage. Thus, we see that they are mentioned once in Deuteronomy 21:2 and then disappear from view. Their involvement does not relate to the Kayin story, but for the sake of thoroughness, their function is noted here.³⁴

3.2.2 The Priests

The Priests, on the other hand, are major players in the drama. And interestingly, in contrast to the Elders whose function is assumed to be known and hence, not outlined by the text, the Priests receive a lavish description by way of introduction:

וְנָגְשׁוּ הַכֹּהֲנִים בְּנֵי לֵוִי כִּי בָם בָּחַר ה' אֱלֹהֶיךָ לְשִׁרְתּוֹ וּלְבָרֶךְ בְּשֵׁם ה' וְעַל פִּיהֶם יִהְיֶה כָּל דִּבְרֵי נִגְעַ.

The priests, the sons of Levi, shall come near; for Hashem your G-d has chosen them to serve him, and to bless in the name of Hashem, and according to their word shall every controversy and every assault be.³⁵

Would it not be known to the people that the Priests are sons of Levi? That they are chosen to serve? To bless in the name of G-d? And that every disagreement and assault is subject to their ruling?³⁶ This is a lot of supplementary information. So, once again, if present, we must address its function within the narrative.

If we analyse carefully the import of this verse, we could summarize it in one word. These people are “chosen.” They have been selected by G-d to stand above the rest of the nation as arbiters of the law and in ritual holiness. But, throughout the rest of the Bible, when

33. Willis, 2001:150–151. Their impartiality is a necessary factor in their role, as a city would not wish to have this dubious honour of being the nearest city, as it confers both an expense (the heifer) and a stigma.

34. Carmichael claims that the triad of Judges, Priests and Elders serve similar functions in ensuring that the law is carried out in both this *Egla* case and that of the *go'el hadam*, thus lending support to the concept of Kayin as an unintentional murderer as noted in Section 2.4.1 (Carmichael, C., 1974:137).

35. Deuteronomy 21:5.

36. JPS, 1985:306, TDOT, 1998:209 (on the word נגע as assault, and not blemish).

mentioning other tasks they are to perform, the text in those cases does not usually give such an elaborate description.³⁷ Why is it necessary here? It could certainly have been omitted.

I submit that, in allowing the ceremony to proceed, knowing this fact, the Elders, and by extension, the people, are atoning for the sin of Kayin. Whereas Kayin could not suffer his brother to be chosen above him, here the people are readily, even graciously accepting G-d's decision to elevate one group over the other. They are not exhibiting jealousy, as Kayin did. And hence, in their acceptance, they are collectively doing penance for the sin of the first murder.

3.2.3 The Elders

3.2.3.1 An Unanswered Question

And what of the Elders? They logically perform the function of the representatives of the city closest to the body, and hence the community held accountable.³⁸ They speak for the people who may have been responsible for the murder through the shirking of their duties to graciously host and accompany guests of their town.³⁹ Furthermore, in their declaration, the Elders state that their hands did not spill this blood, and their eyes did not see (anything untoward): “*ve’anu ve’ameru yadeinu lo shafchu at hadam hazeh ve’eineinu lo ra’u.*”⁴⁰

But if one looks carefully at this verse, there is something very curious. As expected, one finds the verb indicating that they spoke or they declared – *ve’ameru*. However, the text includes an additional and seemingly inessential verb – *ve’anu*. They answered. Who exactly were they answering? And what was the question? The text does not indicate that the Priests had made any inquiries of them.

But, upon reflection, there was an unanswered question. Or even maybe what could be considered a formal accusation. So many years back, Hashem asks Kayin:

וַיֹּאמֶר מָה עָשִׂיתָ קוֹל דְּמֵי אָחִיךָ
צֹעֲקִים אֵלַי מִן הָאֲדָמָה.

What have you done? Hark, your brother's blood cries out
to Me from the ground!⁴¹

Recall that Kayin had not responded to this question, but waited in silence for the punishment to be meted out. How fitting, then, is the response of the Elders to that same question, “What have you done?” Their answer, “Our hands have not spilled this blood and our eyes

37. Zevit (1976, 382) notes that the terminology used here is rare (*Hakohanim benei Levi*), occurring in only one other place in the Torah (Deuteronomy 31:9). This, in contrast to the more common terminology of *Hakohanim Haleviyim*. He does not hypothesize a reason for this difference. I suggest that the use of the word for “sons,” not present in the common rendering, but present here is directing us to the first two sons – the one who murdered the other.

38. Zevit 1976:381; see also Amram, 1900:39–40.

39. *TB Sotah* 45b.

40. Deuteronomy 21:7.

41. Genesis 4:10.

did not see,” is a direct denial of that accusation.⁴² We have not done this. But we are taking responsibility to the extent that we can – by performing this ceremony.

3.2.3.2 Hands

Also, with respect to the Elders, we find another element corresponding to the Kayin story: an emphasis on the hands. The hands of the Elders that need to be washed before the declaration, and their hands that “did not spill the blood.” This, in contrast to the Kayin text, where we see the following verse immediately after the unanswered question posed by G-d to Kayin:

וְעַתָּה אָרוּר אַתָּה מִן הָאֲדָמָה אֲשֶׁר
פָּצְתָהּ אֶת פִּיהָ לִקְחוֹת אֶת דְּמֵי אָחִיךָ
מִיָּדְךָ.

Therefore, you shall be more cursed than the ground which opened its mouth to receive your brother's blood **from your hand**.⁴³

Once again, the text surreptitiously inserts a word that is unnecessary and hence, glossed over. Obviously, that word in question being the final word, “from your hands.” The sentence would have remained intelligible without it. The main point is that the blood of Hevel is “calling out” from the ground. This incidental insertion about the earth receiving the blood “from your hands” serves as yet another conceptual and word linkage between the story of Kayin and what I will now dub the “ceremony of *tikkun*/rectification.” The hands that, so long ago, *did* spill the blood, are now being atoned for by the hands that did not.

3.3 The Blood/Land Connection

Another important factor to address when assessing these two interrelated texts is the theory that there is a relationship of the land to any blood that is spilled upon it. A murder sets off what can only be described as a “visceral” reaction by the earth in response to its receiving of the blood. It then reacts by not “performing” as required by its nature.⁴⁴ In Ancient Near Eastern cultures, there was a prevalent belief that the “unrequited shedding of blood yields physical, mental or environmental distress in the region of the killing.”⁴⁵ In the Kayin story, we see that, in its unwillingness to yield its produce to him, the land is responding to this slight against it. Thus, G-d’s sanctioning of Kayin is meted out through the principle of *lex talionis* (*middah keneged middah*), whereby the “punishment fits the crime.” Yaakobs, citing chiasitic structure within the text, shows how Kayin sinned against the earth by spilling “his brother’s blood” upon it, and through not yielding its goodness to

42. Zevit (1976:386), here, brings Roifer’s idea that an exculpatory oath would have been best suited to this situation. Zevit observes that this was the norm in situations where guilt was suspected but there was not sufficient evidence to move forward. Noting that such an oath was not performed in this instance, Zevit posits that these words instead, constitute a declaration of denial in response to a formal accusation.

43. Genesis 4:11.

44. A further example: the famine in David’s time due to the murder of the Givonites by Saul (2 Sam.)

45. Willis, 2001:148.

Kayin for said sin, he is punished.⁴⁶ And so too, verses 8 and 9 in Chapter 21 of Deuteronomy are similarly concerned with innocent blood being spilled upon the land. Various scholars, among them Roifer, have claimed that the spilling of this blood creates an impurity in the land, which it is compelled to act upon.⁴⁷ He claims that, in prescribing this ceremony, the Torah is maintaining that such a rite will be a way of “appeasing” the earth so she will not react as she is programmed to in this circumstance. Alternately, other scholars, among them Patai, contend that the earth can do nothing other than react. But the question of where that reaction will be is of the essence. Patai claims that by “re-enacting” the murder, the corollary sin of the original event (that occurred in a field) is being “transferred” to the new location in the riverbed.⁴⁸ As such, the ceremony functions to “protect” the verdant field from the earth’s wrath, since now the peripheral riverbed will be sanctioned instead.⁴⁹ Regardless of which reasoning is correct, it is clear to see that within both the Kayin text and the *Egla* text, there is a conscious pairing of blood guilt with the response of the earth.

3.4 Reenactment as Expiation

In contrast to those who argue that the *Egla* ceremony is a procedure whereby the taint of blood is removed from the land, there are those who contend that the *Egla* ritual is that of a “substitution” ceremony.⁵⁰ In one configuration, it exists to symbolically execute justice upon the absent murderer, using the substitute heifer as his stand-in.⁵¹ This idea corresponds to the concept that, in general, sacrifices can be considered a substitution for the person who committed the sin.⁵² Milgrom addresses this concept, when explicating the verse:

כי נפש הבשר בדם הוא ואני נתתי
לכם על המזבח לכפר על נפשתיכם כי
הדם הוא בנפש יכפר.

For the life of the flesh is in the blood, and I have assigned it
to you for making expiation for your lives upon the altar; **it
is the blood, as life, that effects expiation.**⁵³

He notes that the *nefesh*/soul of the creature is to be found in its blood (in this instance, the dead human) and therefore, for expiation (*kapparah*) to occur, blood must be shed.⁵⁴ Although referring to sacrifices within the noted article, the same principle can be applied to the *Egla*

46. Yaakobs, 5766:143.

47. Roifer, 1961:135.

48. Patai, 1939:67–68.

49. Note that the text regarding the riverbed is formulated in the future tense: “*asher lo ye’aved bo velo yizare’a*.” In future, the earth will “respond” in its natural way – by not giving forth its bounty. Hence, it will become a useless riverbed, even if it is not so currently.

50. Hooke, S., 1952:3. Although Hooke’s assertion within the article (pp. 10–11) regarding *Egla* is similar to the idea from the previous section about preventing a negative outcome (here, claimed to be a ghost), and therefore does not support the hypothesis I make within this section, his fascinating article considers the phenomenon of “substitution” within the Bible, and hence, is cited here.

51. ICC, 1978:241–242; CBC, 1973:138–139.

52. Geller, 1992:111.

53. Leviticus 17:1.

54. Milgrom, 1971:149–150.

ritual (although it is not technically a sacrifice, as it is not offered in the Temple). Consider the similar wording found in the words spoken at the riverbed:

כפר לעמך ישראל אשר פדית ה' ואל
תתן דם נקי בקרב עמך ישראל ונכפר
להם הדם.

Forgive, Hashem, your people Israel, whom you have redeemed, and don't allow innocent blood in the midst of your people Israel." **The blood shall be forgiven them.**⁵⁵

If this ceremony is indeed a re-enactment, logic dictates that we would not be “finding” the murderer at the scene of the crime, but in a different location altogether. And this riverbed seems to fit the requirements, as ostensibly, it would have some water with which the Elders can wash their hands upon completion of their task.⁵⁶ However, in truth, any location could have sufficed. Nonetheless, as noted previously, this particular venue seems to evoke the landscape of Kayin’s wanderings.

And, if we are saying that the ceremony is a symbolic reenactment which in some way expiates the sin, then within this ceremony the Elders may also be making reparations for that original murder itself – that of Hevel. This contention is similar to the idea that the people in the desert were not held to full account for the sin of the Golden Calf at that time, but the punishment for it was meted out in small measure with the other punishments throughout the ages.⁵⁷ So too, the original murder was too great a sin (whose perpetrator was let off “on a technicality”), that it needs to be atoned for and remembered in subsequent events.⁵⁸ And thus, this unsolved murder is a fitting circumstance to implement that goal.

4.0 Conclusion

In conclusion, Calum Carmichael postulates the intriguing hypothesis that each law outlined in the book of Deuteronomy originates from a specific narrative within the body of the Bible. To that end, we have examined the connections between the law of the Axed Heifer and the story of Kayin and the murder of his brother, Hevel. We have found that a comprehensive and compatible association can be made between this law and that narrative. Not only are the connections plentiful, but the contextual relationships are significant. From intertextual word linkages to compositional themes, there are numerous points of affinity and identity. Thus, although the law of the *Egla Arufa* would certainly be categorized as a *chok* – a law for which there is no reason that is understandable to humankind – when paired with the narrative of Kayin’s murder of his brother, one can extract a number of profound insights which subsequently serve to deepen our understanding and appreciation for the interconnectedness and beauty of the Torah.

55. Deuteronomy 21:8.

56. And, furthermore, it would not destroy the crops of the original crime scene/field when the villagers gathered to witness the ceremony – that hardly would seem fair to the poor farmer, with a further loss of crops and income.

57. Rashi on Exodus 32:34.

58. Kayin himself seems to understand just how great a sin he has committed, in his statement: “*gadol avoni mineso*.”

5.0 Addenda

5.1 Text of *Egla Arufa* (Deuteronomy 21:1-9)

(א) כִּי יִמָּצָא חָלָל בְּאֶדְמָה אֲשֶׁר ה' אֱלֹהֵינוּ נָתַן לָנוּ לְרִשְׁתָּהּ נֶפֶל בְּשָׂדֶה לֹא נֹדֵעַ מִי הִכָּהוּ.	(1) If one is found slain in the land which Hashem your G-d gives you to possess it, lying in the field, and it isn't known who has struck him,
(ב) וַיָּצֵאוּ זִקְנֵיהָ וְשֹׁפְטֶיהָ וּמִדְּדוּ אֶל הָעָרִים אֲשֶׁר סְבִיבַת הַחָלָל.	(2) then your elders and your judges shall come forth, and they shall measure to the cities which are around him who is slain,
(ג) וְהָיָה הָעִיר הַקְּרִבָּה אֶל הַחָלָל וְלִקְחוּ זִקְנֵי הָעִיר הַהוּא עֵגְלַת בָּקָר אֲשֶׁר לֹא עָבַד בָּהּ אֲשֶׁר לֹא מְשָׁכָה בְּעֵל.	(3) and it shall be, that the city which is nearest to the slain man, even the elders of that city shall take a heifer of the herd, which hasn't been worked with, and which has not drawn in the yoke,
(ד) וְהוֹרְדוּ זִקְנֵי הָעִיר הַהוּא אֶת הָעֵגְלָה אֶל נַחַל אֵיתָנוּ אֲשֶׁר לֹא יַעֲבֹד בּוֹ וְלֹא יִזְרַע וְעָרְפוּ שָׁם אֶת הָעֵגְלָה בְּנַחַל.	(4) and the elders of that city shall bring down the heifer to a valley with running water, which is neither plowed nor sown, and they shall break the heifer's neck there in the valley.
(ה) וַנִּגְשׁוּ הַכֹּהֲנִים בְּנֵי לֵוִי כִּי בָם בָּחַר ה' אֱלֹהֵינוּ לְשִׁרְתּוֹ וּלְבָרֶכְהָ בְּשֵׁם ה' וְעַל פִּיָּהֶם יִהְיֶה כָּל רִיב וְכָל נִגְעָה.	(5) The priests, the sons of Levi, shall come near; for Hashem your G-d has chosen them to serve him, and to bless in the name of Hashem, and according to their word shall every controversy and every assault be.
(ו) וְכָל זִקְנֵי הָעִיר הַהוּא הַקְּרִבִּים אֶל הַחָלָל יִרְחֲצוּ אֶת יְדֵיהֶם עַל הָעֵגְלָה הָעָרוּפָה בְּנַחַל.	(6) All the elders of that city, who are nearest to the slain man, shall wash their hands over the heifer whose neck was broken in the valley.
(ז) וַעֲנוּ וַאֲמָרוּ יִדְּינוּ לֹא [שְׁפָכוּ] (שִׁפְכָה) אֶת הַדָּם הַזֶּה וְעֵינֵינוּ לֹא רָאוּ.	(7) And they shall answer and say, "Our hands have not shed this blood, and our eyes have not seen it."
(ח) כִּפֹּר לַעֲמֶה יִשְׂרָאֵל אֲשֶׁר פָּדִיתָהּ וְאַל תִּתּוּ דָּם נָקִי בְּקִרְבְּ עַמֶּךָ יִשְׂרָאֵל וְנִכְפַּר לָהֶם הַדָּם.	(8) "Forgive, Hashem, your people Israel, whom you have redeemed, and don't allow innocent blood in the midst of your people Israel." The blood shall be forgiven them.
(ט) וְאַתָּה תִּבְעֵר הַדָּם הַנָּקִי מִקִּרְבְּךָ כִּי תַעֲשֶׂה הַיָּשָׁר בְּעֵינֵי ה'.	(9) So you shall put away the innocent blood from your midst when you shall do that which is right in the eyes of Hashem.

5.2 Intertextual Linkages Between the Kayin Narrative and the First Verse of the *Egla Arufa* Law

WORD (IN EGLA)	VERSE (GENESIS)	TEXT IN GENESIS 4
נָפַל	5	וְאֶל־קַיִן וְאֶל־מִנְחָתוֹ לֹא שָׁעָה וַיַּחַר לְקַיִן מְאֹד וַיִּפֹּל פָּנָיו:
	6	וַיֹּאמֶר ה' אֶל־קַיִן לָמָּה חָרָה לָךְ וְלָמָּה נָפַלוּ פָנֶיךָ:
הִכָּהוּ	15	וַיֹּאמֶר לוֹ ה' לָכֵן כָּל־הֲרֹג קַיִן שְׁבַע־עֲתִים יִקָּם וַיֵּשֶׁם ה' לְקַיִן אוֹת לְבִלְתִּי הַכּוֹת־אֹתוֹ כָּל־מִצְאָו:
יִמְצָא	14	הוּא גִרְשֵׁת אֹתִי הַיּוֹם מֵעַל פְּנֵי הָאֲדָמָה וּמִפְּנֵי אֶסְתֵּר וְהִיִּיתִי נֹעַ וְנָדָב בְּאַרְצָךְ וְהִיא כָל־מִצְאֵי יִהְיֶה־גִנִּי:
	15	וַיֹּאמֶר לוֹ ה' לָכֵן כָּל־הֲרֹג קַיִן שְׁבַע־עֲתִים יִקָּם וַיֵּשֶׁם ה' לְקַיִן אוֹת לְבִלְתִּי הַכּוֹת־אֹתוֹ כָּל־מִצְאָו:
בְּאֲדָמָה	2	וַתִּסָּף לָלֶדֶת אֶת־אָחִיו אֶת־הֶבֶל וַיְהִי־הֶבֶל רֹעֵה צֹאן וְקַיִן הָיָה עֹבֵד אֲדָמָה:
	3	וַיְהִי מִקֵּץ יָמִים וַיָּבֵא קַיִן מִפְּרִי הָאֲדָמָה מִנְחָה לַה':
	10	וַיֹּאמֶר מָה עָשִׂיתָ קוֹל דְּמֵי אָחִיךָ צֹעֲקִים אֵלַי מִן־הָאֲדָמָה:
	11	וַעֲתָה אָרוּר אַתָּה מִן־הָאֲדָמָה אֲשֶׁר פָּצְתָה אֶת־פִּיהָ לִקְחוֹת אֶת־דְּמֵי אָחִיךָ מִיָּדְךָ:
	12	כִּי תַעֲבֹד אֶת־הָאֲדָמָה לֹא־תֹסֵף תִּתֵּן־כֹּחָהּ לָךְ נֹעַ וְנָדָב תִּהְיֶה בְּאַרְצָךְ:
	14	הוּא גִרְשֵׁת אֹתִי הַיּוֹם מֵעַל פְּנֵי הָאֲדָמָה וּמִפְּנֵי אֶסְתֵּר וְהִיִּיתִי נֹעַ וְנָדָב בְּאַרְצָךְ וְהִיא כָל־מִצְאֵי יִהְיֶה־גִנִּי:
בְּשָׂדֶה	8	וַיֹּאמֶר קַיִן אֶל־הֶבֶל אָחִיו וַיְהִי בִּהְיוֹתָם בְּשָׂדֶה וַיִּקָּם קַיִן אֶל־הֶבֶל אָחִיו וַיַּהַרְגֵהוּ:
נֹדַעַ	9	וַיֹּאמֶר ה' אֶל־קַיִן אֵי הֶבֶל אָחִיךָ וַיֹּאמֶר לֹא יָדַעְתִּי הֲשֹׁמֵר אָחִי אָנֹכִי:

5.3 Comparison of Adam's and Kayin's Discussions with G-d after Their Respective Sins

ADAM (GENESIS 3:9–12; 17–19)	KAYIN (GENESIS 4:9–12)	SPEAKER
וַיִּקְרָא ה' אֶם-אֵלֶּהָאָדָם וַיֹּאמֶר לוֹ אַיֶּכָּה:	וַיֹּאמֶר ה' אֶל-קַיִן אֵי הֶבֶל אָחִיךָ:	Introductory query: G-d
וַיֹּאמֶר אֶת-קִלְקֶלֶךָ שָׂמַעְתִּי בִגְוֹן וְאִירָא כִּי-עִירִם אָנֹכִי וְאַחֲבָא:	וַיֹּאמֶר לֹא יָדַעְתִּי הֲשֹׁמֵר אָחִי אָנֹכִי:	Initial response: Human
וַיֹּאמֶר מִי הִגִּיד לָךְ כִּי עִירִם אַתָּה הִמּוֹ-הָעֵץ אֲשֶׁר צִוִּיתִיךָ לִבְלֹתִי אָכַל-מִמֶּנּוּ אָכַלְתָּ:	וַיֹּאמֶר מַה עָשִׂיתָ קוֹל דְּמֵי אָחִיךָ צֹעֲקִים אֵלַי מִן-הָאֲדָמָה:	Accusation: G-d
וַיֹּאמֶר הָאָדָם הָאִשָּׁה אֲשֶׁר נָתַתָּה עִמָּדִי הוּא נָתַנָּה-לִּי מִן-הָעֵץ וְאָכַל:	No response	Deflection: Human
וַיֹּאדָם אָמַר כִּי-שָׁמַעְתָּ לְקוֹל אִשְׁתֶּךָ וְתֹאכַל מִן-הָעֵץ אֲשֶׁר צִוִּיתִיךָ לֵאמֹר לֹא תֹאכַל מִמֶּנּוּ אֲרוּרָה הָאֲדָמָה בְּעִבּוּרָךְ בְּעִצְבוֹן תֹּאכְלֶנָּה כָּל יְמֵי חַיֶּיךָ וְקוֹץ וְדַרְדַּר תַּצְמִיחַ לָךְ וְאָכַלְתָּ אֶת-עֵשֶׂב הַשָּׂדֶה: בְּזַעַת אִפְיָךְ תֹּאכַל לֶחֶם עַד שׁוֹבָךְ אֶל-הָאֲדָמָה כִּי מִמֶּנָּה לָקַחְתָּ כִּי-עָפָר אַתָּה וְאֶל-עָפָר תָּשׁוּב:	וַעֲתָה אָרוּר אַתָּה מִן-הָאֲדָמָה אֲשֶׁר פָּצְתָה אֶת-פִּיהָ לְקַחַת אֶת-דְּמֵי אָחִיךָ מִיָּדְךָ: כִּי תַעֲבֹד אֶת-הָאֲדָמָה לֹא-תֹסֵף תִּתֶּן-כֹּחָהּ לָךְ נָע וְנָד תִּהְיֶה בְּאֶרֶץ:	Punishment meted out by G-d
No response	וַיֹּאמֶר קַיִן אֶל-ה' גָּדוֹל עֲוֹנִי מִנְשָׂא: הֵן גִּרְשִׁית אֹתִי הַיּוֹם מֵעַל פְּנֵי הָאֲדָמָה וּמִפְּנֵי אֶסְתֵּר וְהִיטִי נָע וְנָד בְּאֶרֶץ וְהִיא כָּל-מִצְאֵי יֵהָרֵגְנִי:	Appeal: Human

Akeida, Hineni and the Silent Protest

CEMACH GREEN

And it came to pass after these things, that G-d tested Avraham, and He said to him, 'Avraham,' and he said, 'Here I am.'"

And He said, 'Please take your son, your only one, whom you love, Yitzchak, and go away to the land of Moriah and bring him up there for a burnt offering on one of the mountains, of which I will tell you.' (*Bereshis* 22:1).

EVERY ROSH HASHANA we read the story of the *Akeida*, and one can't help wonder where was the Avraham that we read about in the story of Sodom, our hero, challenging Hashem as follows:

And Avraham approached and said, "Will You even destroy the righteous with the wicked?

Perhaps there are fifty righteous men in the midst of the city; will You even destroy and not forgive the place for the sake of the fifty righteous men who are in its midst?" (*Bereshis* 18:23).

Why couldn't Avraham by the *Akeida* in a similar vein, challenge Hashem with a simple retort of "Will you destroy my innocent son when I can bring a lamb for the offering instead?"

Furthermore, where was the dramatic ultimatum we saw used by Moshe Rabbeinu so effectively by the Golden Calf:

Now, if You will forgive their sin [well and good]; but if not, erase me from your book which You have written (*Shemos* 32:32).

Why couldn't Avraham borrow a page from Moshe's playbook and challenge Hashem by

CEMMIE GREEN LL.B. was a partner and Head of Acquisitions at Bayfield Realty Advisors from 2008 until 2021. He is currently retired.

saying: “If you force me to go ahead with this *Akeida* remove me from the *Bris Bein Habesarim* (The Abrahamic covenant)?” Just as Hashem relented when Moshe served up his ultimatum by the Golden Calf, perhaps it also may have worked with Avraham by the *Akeida*.

Yet, in the case of the *Akeida*, Avraham’s response recorded in the Torah is simply silence. Hashem calls out to Avraham, and Avraham responds “Here I am.” Hashem then instructs him to bring his son as an offering, and no response comes from Avraham; just silence – complete surrender. The single word that remains with the reader is “*Hineni*,” (here I am) – which signifies complete acceptance and obedience. No protest is recorded, not a Sodom protest nor a Moshe Rabbeinu protest, just silence. Just as the reader is begging for Avraham to say something, to respond to Hashem and not remain silent, comes along Rashi who brings a fascinating dialogue between Hashem and Avraham from *Bereshis Rabba* (55:7):

G-d says to Avraham, “take your son” — Avraham said to G-d, “I have two sons.” G-d answered him, “Your only son.” Avraham said, “This one is the only son of his mother and the other is the only son of his mother.” G-d then said, “the one whom you love.” Avraham replied, “I love both of them.” Whereupon G-d said “Yitzchak.”

I suggest that here, buried in the dialogue between Hashem and Avraham, we find Avraham’s protest. Rashi (*Bereshis* 22:2) selects this particular *Midrash* out of many other *Midrashim* he could have chosen to put in his commentary for one simple reason – it redeems Avraham. This dialogue with Hashem gives Avraham a platform for a protest, it humanizes Avraham, it shows an emotional side of Avraham, and it makes Avraham relatable to the reader; in short, the dialogue portrays a father in pain. In contrast to the cold, courageous Avraham of “*Hineni*” in the early morning, the Avraham in this *Midrash* shows pain and reacts how any loving father would react.

According to this *Midrash*, if Avraham remained silent, the text would have simply read “Take your son and bring him up as an offering.” It is only through a dialogue between Avraham and Hashem, and Avraham’s prodding of Hashem that the wording expanded to include your only son *whom you love* (emphasis added). This may seem trivial, having only added a few words, but to Avraham this was critical.

Let’s dig deeper into this short dialogue between Hashem and Avraham:

G-d says to Avraham, “take your son” — Avraham said to G-d, “I have two sons.” “G-d answered him, “Your only son.” Avraham said, “This one is the only son of his mother and the other is the only son of his mother.” G-d then said, “the one whom you love.” Avraham replied, “I love both of them.” Whereupon G-d said “Yitzchak.”¹

Surely, Avraham knew which son Hashem was referring to; of course, he knew it was Yitzchak, as much of *Bereshis* revolves around the Avraham–Yitzchak relationship. So why

1. *Bereshis Rabba* 55:7.

the drama, why the interplay, what did Avraham gain by playing coy and pretending he did not know which son Hashem was referring to when instructing him about the *Akeida*?

I suggest that the purpose of this dialogue was all about the need for Avraham to have a cathartic release. This is what I call the “silent protest.”

It's as if Avraham is daring Hashem, saying to Hashem, fine, I will go along with the *Akeida*, but I need you to say the words “the son that I love.” I need you to validate the life-transforming grief that I will never recover from – I need you to say the words “the son that I love,” to put it out there front and centre, and to make it clear what you are taking away from me. Avraham is hurting and is delaying the inevitable by having this heart-wrenching dialogue with Hashem, speaking of the love a father has for his son.

This is not a one-word “*hineni*”; this “silent protest” is demanding that Hashem at the very least acknowledge what he is asking of Avraham – to take away the son “that he loves.”

True, it is a short dialogue, but how profound and elegant a dialogue! It is showing another side of Avraham, the side of an ordinary father having to part with his son that he loves.

Dr. Kenneth Condrell, a clinical psychologist who specialized in children and family issues wrote the following in 2006:

There is a word that captures how talking helps—catharsis. Talking leads to a catharsis, which means a feeling of relief. The charged feelings within us become less charged. Nothing has changed that caused the suffering in our lives, but talking has drained off some of the pain and this brings relief.

Years ago, a woman in her late 40s arrived in my office. She related that after a prolonged illness with cancer, her 21-year-old son died. I could see the despair and grief she was feeling. With tears in her eyes, she told me she could not talk to her husband or her daughter because they couldn't bear to think about their loss. “I need to talk to someone,” she said. “I need to tell someone about my son, how I cared for him during his illness and how he died.” I agreed to listen.

For the next two months, this mother arrived for her appointment each week. She started her story with her pregnancy and took me a step at a time through the life of her son. I listened. My eyes were focused on her and her feelings became my feelings. At times I smiled with her and at times my eyes, like her eyes, were filled with tears.

She ended her story by telling me how she spread her son's ashes over the garden which she loved so much. When our last session ended, she stood up, grabbed my hand and thanked me for helping her. She was so appreciative. She left my office and I have never seen her again, but her story stays with me. Talking helped her.²

For Avraham, talking to Hashem about his love for Yitzchak led to a cathartic experience, giving Avraham a sense of relief. Avraham could not talk to his wife Sarah, nor his son

2. Powerful Self-Talk, Change Your Self-Talk, Change Your Life, Kenneth N. Condrell, 2016.

Yitzchak about the *Akeida*; he only had Hashem to speak to. Simply put, talking helped him. That is why although Avraham knew Hashem was referring to Yitzchak, he needed to talk, which is why he forced the dialogue with Hashem. He wasn't being coy, he was hurting and needed to talk to someone.

Rashi fills in the emotional gap. Instead of only having Avraham, the leader of our people saying one word in the morning "*hineni*" – Rashi beautifully fills in the gap – a broken Avraham pleading with Hashem to acknowledge the love he has for his son and what Hashem is taking away from him.

Conclusion

Avraham wears two hats in the *Akeida* story. On the one hand, he is Avraham *Avinu*, our father, our Patriarch, the leader of our people, the founder of our religion and the courageous warrior. This is the Avraham of "*hineni*," shining brightly in the morning sun, ready and able to take on any task demanded of him. Upon a simple reading of the text, there are no questions asked by Avraham, his simple utterance of "*hineni*" (here I am) represents complete submission to Hashem.

However, Rashi, selecting a *Midrash* for his commentary fills in the emotional gap in the text and introduces us to another side of Avraham – a vulnerable Avraham of the night. This Avraham is simply the father of Yitzchak; who at this moment is not thinking of the destiny of the Jewish people, but rather merely thinking of his son Yitzchak and how much he loves him. Like every other father who loves his son, Avraham is hurting once he is told he must part from his son. This hurt manifests itself in a simple dialogue with Hashem. A dialogue whereby Avraham demands of Hashem to acknowledge the love he has for his son Yitzchak. Avraham had no one else to speak to. All he had was Hashem, and he would not carry on until he had a conversation with Hashem.

This is the silent protest of Avraham; although submitting to G-d, he demands of Hashem to legitimize his pain, by expressly stating and acknowledging that He is taking away the son *that he loves*. Avraham needed this cathartic dialogue to emerge whole out of the *Akeida* experience. Yes, this short dialogue between Hashem and Avraham may have only delayed the *Akeida* mission a mere minute or two, but at the end of the day, Avraham pushed Hashem to say what he needed to hear, that his love for Yitzchak was unbreakable. This was his "silent protest."

Why Do the Princes Get a Holiday?

RABBI CHAIM METZGER

WHY DOES PARSHAT Naso end with so many repetitive *korbanot* of the *Nesiim*, the princes and leaders of each tribe? Couldn't the Torah have simply listed one and then said "et cetera"?

Ramban¹ answers this by explaining that each and every *Nasi* may have brought the same *korban* but each had a different intent which made each individually valuable.

But I'd like to take a step back and look at the big picture. Why were the *Nesiim* offering these *korbanot* in the first place?

The beginning of the section of the *Nesiim* takes place on *Yom Hakamat HaMishkan*,² on the day of the completion of the *Mishkan*. Rashi³ explains that this was *Rosh Chodesh Nissan* of the second year of the Jews in the *Midbar*, the Wilderness.

The initial *korban* of the *Nesiim* wasn't silver utensils or any animals or other sacrifices, rather it was a sum total of six covered wagons being pulled by twelve oxen.⁴ And because of this initial offering, which then gets distributed to the *Leviim*, they each get their own dedicated day, and the nation has a twelve-day holiday.

But what is so special about a couple of wagons? Why a holiday? Are we, like we do in Canada, simply searching for an excuse for a statutory holiday in the spring?

To fully appreciate this, we need to zoom out and look at *Sefer Shemot*, *Vayikra* and *Bamidbar*. *Sefer Shemot*⁵ closes with the construction of the *Mishkan* which completes on *Rosh Chodesh Nissan* of the second year.

1. Ramban *Bamidbar* 7:3 quoting *Midrash Bamidbar Rabbah* 13:16.

2. *Bamidbar* 7:1.

3. *Ibid* s.v. *Kalot Moshe lihakim*.

4. *Bamidbar* 7:3.

5. *Shemot* 40:17.

CHAIM METZGER was Rabbinic Assistant at BAYT from 2020 to 2022, and an Avreich of Beit Midrash Zichron Dov. He and his family now live in Alon Shvut, Israel. Rabbi Metzger is on the faculty of two gap year programs for young women in Israel, Machon Maayan and Midreshet Amit.

The only calendar day in *Vayikra* is *Yom HaShmini*, the eighth day of the inauguration of the *Mishkan* which according to Rashi⁶ takes place on *Rosh Chodesh Nissan* as well. *Parshat Shmini* is perhaps most well known for the deaths of Nadav and Avihu, Aharon's eldest sons.

So what exactly happened on that fateful *Rosh Chodesh Nissan*? What do we take away from the three different perspectives on this day?

After months of hard work, *Bnei Yisrael* finally completed building the *Mishkan*, mending their relationship with G-d after *Chet HaEgel*, the sin of the Golden Calf.⁷ Aharon, the *Kohen Gadol*, performs the inaugural service in the *Mishkan*. After placing the *korbanot* on the *Mizbeach* and fulfilling every detail that G-d commanded him to do on behalf of *Bnei Yisrael*, Aharon blesses *Bnei Yisrael* with *Birkat Kohanim*. Afterward both Moshe and Aharon bless the people and G-d's Glory is revealed to *Bnei Yisrael* (*Vayikra* 9:23). Then a fire comes from G-d, consuming the sacrifices that were on the altar, and all of the nation saw this and rejoiced, and fell on their faces bowing down to G-d, knowing that all of their efforts have paid off and G-d has accepted their repentance.

At this precise moment of jubilation, Nadav and Avihu brought the *Aish Zarah*, foreign fire. Rashbam⁸ explains that the same fire that consumed the *korbanot* came out of the *Kodesh HaKodashim* and burned Nadav and Avihu to death on its way. So, when the people rise after bowing to G-d they are greeted by the terrible sight of seeing two of the *Kohanim* dead in the *Mishkan*. The celebration is ruined. All of the energy put in to achieve atonement from G-d must not have been enough.

Everyone thought that G-d truly is vengeful, and will never forgive them. There is no way to step even a hair out of line or suggest anything for fear of death.

In step the *Nesiim*. While the entire nation is reeling and afraid, they take the opportunity to suggest changing the framework of the *Mishkan*, to make the *Leviim's* transportation work easier. Everyone is waiting with bated breath expecting them too to be burned alive. Instead, G-d tells Moshe to accept the wagons, and distribute them to the *Leviim* to aid in the transportation of the *Mishkan*.

The *Nesiim* are taking personal initiative, and by doing so, completely change the narrative. No longer is the *Mishkan* a source of death where we cannot add anything nor contribute to G-d in serving Him.

Now, we can add. We can be leaders. We just need to do it the right way.

Each *Nasi* gets his own unique day because each and every one of them was pivotal in changing the path of Jewish history. Each came representing not his own personal interests, but his entire tribe. They all came together as a group to serve G-d.

6. Rashi *Vayikra* 9:1 s.v. *Vayihi*.

7. Rashi *Shemot* 38:21 writes that the cloud resting on the *Mishkan* showed that G-d had forgiven the people for the sin of the Golden Calf.

8. Rashbam *Vayikra* 9:23–24.

The wagons in and of themselves would not have been worthy of a holiday, certainly not twelve days. But shifting the course of how to serve G-d for the entire nation for the better, towards a brighter optimistic future, is most certainly a cause for celebration.

The *Nesiim* teach us that, if done right, everyone can add to the service of G-d.

Acting within the Jewish framework, volunteering your time, energy and resources is always welcome and can be personally beneficial as well.

Each of us can gain inspiration from the *Nesiim*. All it takes is to think of one event or activity that can be improved and take ownership of it. It can be a program we enjoy at the BAYT or one that we one day hope to experience. It can even be a tune you enjoy. Think about it, capture it, and discuss it over kiddush today! And we can each take personal initiative, improve our own fates, and enhance our *Chagim*.

Contemporary Issues

A Plaintive Cry (A Plaintiff Cry)

ANONYMOUS

IT IS DIFFICULT to fully describe the undetectable darkness and the imperceptible walls which constitute the prison into which I have been thrust. Searching for light, I grasp for an opening. Futility is a concept which I have come to know and understand well. Despair is always a moment away. Oh – do I dare conceive of a time when I am not entangled in these chains of nullity? Can I envision a life that is fully my own once again?

בְּמַחְשָׁכִים הוֹשִׁיבֵנִי כְּמֵתִי עוֹלָם. גָּדֵר
בְּעֵדִי וְלֹא אֶצְאָה הַכְּבִיד נִחְשָׁתִי.

He has made me dwell in darkness, Like those long
dead. He has walled me in and I cannot break out; He has
weighed me down with chains.¹

So I beg you to unlock these shackles. I plead for you to topple the walls and to dispel my darkness. For a Torah that is meant to bring light to the world would certainly not condone such a miscarriage of what is just and right.

כִּי נֵר מִצְוָה וְתוֹרָה אֹר.

For a commandment is a lamp, and Torah is light.²

Therefore, I adjure you to tell me which two worthy witnesses you have examined in such a thorough manner that I have been sentenced to this fate? Or was there even one?

As I thought! It is through no process of justice or by no fault of my own that I am now sentenced to endure these circumstances. Thus, as you find no iniquity in me, then surely, it is incumbent upon you to set me free.

1. *Eichah* 3:6–7. Please note that the translation is that of the Jewish Publication Society (from Sefaria), but I have taken the liberty of altering it for clarification where I felt it necessary.

2. *Mishlei* 6:23.

לֹא יָקוּם עַד אֶחָד בְּאִישׁ לִכְל עוֹן וּלְכָל חֲטָאת בְּכָל חֲטָא אֲשֶׁר יַחֲטִיא עַל פִּי שְׁנֵי עֲדִים אוֹ עַל פִּי שְׁלֹשָׁה עֲדִים יָקוּם דָּבָר.

A single witness may not validate against a person any guilt or blame for any offense that may be committed; a case can be valid only on the testimony of two witnesses or more.³

Even a creditor for something as petty as a few coins is required to release the hold on his money after a period of seven years. But my release is not forthcoming. Seven or seventeen. The years roll on and the merger that was effected on the day of my *chuppah* consigns me to a life constrained by my “creditor.” Moreover, in the case of a loan, one is commanded not to press the beneficiary for repayment. But I am pressed and oppressed. My creditor stands before me daily demanding that I bend to his will. Paying a fictitious “debt” with the one commodity that is most precious – time. But please do not misunderstand. The kindness shown to the recipient of the monetary release is certainly to be lauded. But am I no less worthy than a person in debt? His newfound bounty will provide opportunity for a brighter, more dignified future. But what of my future? Of my dignity? Am I not to be afforded a life of respectability?

מִקֵּץ שִׁבְעֵי שָׁנִים תַּעֲשֶׂה שְׁמִטָּה. וְזֶה דְּבַר הַשְּׁמִטָּה שְׁמוּט כָּל בֶּעַל מַשֶּׁה יָדוּ אֲשֶׁר יִשֶּׂה בְּרֵעֵהוּ לֹא יִגֹּשׁ אֶת רֵעֵהוּ וְאֶת אֲחִיו כִּי קִנְיָא שְׁמִטָּה לֵה'.

Every seventh year you shall practice remission of debts. This shall be the nature of the remission: every creditor shall remit the due that he claims from his fellow; he shall not press his fellow or kinsman, for the remission proclaimed is of Hashem.⁴

And if you will say that coins are not people, then I submit that even one who has sold himself as a slave is granted freedom after seven years. It is a fate I would not wish upon anyone – to feel the need to subjugate oneself in that manner. His dire and impoverished life circumstances likely led to such an unfortunate decision – yet it was an arrangement freely made. A choice made without compulsion or coercion by others. Yet where is my choice? Is compulsion and coercion due to me? On what grounds? It is preposterous to consider a union of marriage as on par with a servant–master relationship. However, in its outcome, as I can attest, it can be much more onerous. For, after a time, the servant’s freedom and dignity are re-constituted. Whereas, simply stated: mine have been trampled.

כִּי יִמְכַר לָהּ אֲחִיהַּ הָעִבְרִי אוֹ הָעִבְרִיָּה וְעָבְדָהּ שֵׁשׁ שָׁנִים וּבִשְׁנַת הַשְּׁבִיעִת תִּשְׁלַחֲנוּ חֲפָשִׁי מֵעִמָּךְ.

If a fellow Hebrew, man or woman, is sold to you, he shall serve you six years, and in the seventh year you shall set him free.⁵

3. *Devarim* 19:15.

4. *Devarim* 15:1–2.

5. *Devarim* 15:12. In actuality, the rendering of this law here, in *Devarim*, refers to one who is sold by the courts, due to the need to repay the victim of his thievery, whereas the parallel law regarding one who sells himself due to poverty is stated in *Vayikra* 25:39. I chose to use this version of the wording here, as it is contiguous with the verses immediately succeeding these that deal with compensation. Although there is an opinion that

And to compound the affront regarding this comparison, there is one further element that must be noted. Whereas the financial burden on me in my battle to attain freedom has been immense, it is incumbent upon the master in the parallel scenario, to bestow gifts lavishly upon his servant at the time of his emancipation. And rightly so. I am not, of course, advocating the proffering of gifts at the time of divorce. But, concomitantly, neither should there be a hefty penalty paid to secure independence. Gifts and emancipation for one and debt and subjugation for the other. Can these both be the product of an ethical system? Would a beneficent G-d allow this travesty of justice to be perpetrated in His name?

וְכִי תִשְׁלַחְנוּ חֶפְשִׁי מֵעִמִּי לֹא תִשְׁלַחְנוּ
רִיקָם. הָעֲנִיִּק תַעֲנִיִּק לוֹ מִצֹּאֲנֶךָ
וּמִגִּרְנֶךָ וּמִיִּקְבֶּךָ אֲשֶׁר בֵּרַכְךָ ה' אֱלֹהֶיךָ
תָּתֵן לוֹ.

When you set him free, do not let him go empty-handed:
Furnish him out of the flock, threshing floor, and vat, with
which Hashem your G-d has blessed you.⁶

And what of that other maiden – the one captured on the battlefield? How does she fare – despite being, in essence, the spoils of an enemy encampment? Surely *she* would be consigned to a fate worse than mine! Should her husband find her lacking, she would most certainly be disregarded and potentially abused as she is cast aside. Without even a ketubah, her husband would have no compunction about treating her with disdain. But, it seems I am sorely mistaken. He is admonished not to sell her nor make any profit from her. Because she was oppressed. And veritably so. Although her initial status was that of an enemy captive, the Torah acknowledges the dignity accorded her as a human being. And so, the text utilizes an interesting turn of phrase: *veshilachtah lenafshah*. What unique terminology! She is sent. To her soul. She exhibits agency. She is free to go as her soul wishes. Moreover, if he does not favour her, he is forbidden to enslave her. *Lo titamer bah*. Although a captive – essentially, taken as a slave – she is afforded that level of respect. Yet, I, as a legitimate wife, who was married under a *chuppah* – *kedat Moshe Veyisrael* – must languish in my facade-less prison, at the mercy of the one who stood with me under that canopy. He, who, with reasoned consideration, had deemed me worthy to become his life partner, has now cast me aside with less esteem than would be afforded a hastily-captured maiden. Why are there no compassionate dictates outlining my treatment in these circumstances? Am I not at least as worthy as she?

וְהָיָה אִם לֹא חָפְצָתָּ בָּהּ וְשִׁלַּחְתָּהּ
לְנִפְשָׁהּ וּמָכַר לֹא תִמְכְּרֶנָּה בְּכֶסֶף לֹא
תִתְעַמֵּר בָּהּ תַּחַת אֲשֶׁר עָנִיתָהּ.

Then, should you no longer want her, you must release her
outright. You must not sell her for money: since you had
your will of her, you must not enslave her.⁷

differentiates between these two regarding their treatment, Rabbi Elazar (in *TB Kiddushin* 14b) considers their terms of enslavement to be indistinguishable.

6. *Devarim* 15:13-14.

7. *Devarim* 21:14.

And then there is the law of the millstones. When these tools are required for someone to earn their livelihood, it is forbidden to take them as a pledge.

לֹא יִחַבֵּל רְחִים וְרֹכֵב כִּי נֶפֶשׁ הוּא חֵבֶל.

A hand mill or an upper millstone shall not be taken in pawn, for that would be taking someone's life in pawn.⁸

It is impossible to ignore the wording of this law, for it has many resonances with the situation of a chained woman. Once again, we find the word *nefesh*, as we did with the captive maiden. But here it is used to mean livelihood – that which sustains the soul. This pledge, this *chovel*,⁹ might bind one as a rope or cord (*chevel*) would, and restrict one from eking out a living. Therefore one is forbidden to take this millstone as a pledge.¹⁰ And the word for millstone – *reichayim*. That is an interesting word choice. There are many trades and within those trades – many tools. Yet, the Torah, to illustrate this law, chose this trade and this tool – one with a word so similar to the life essence of the woman – her *rechem* – her womb. For a simple worker, his millstone is not to be bound, as though by cord, and restricted from use. But is a womb? Could one say that the soul of a miller who grinds grain is more associated with his millstone than a woman's soul is intimately linked to her womb? Is each not required by the one who possesses it in order that they may live a full and productive life? Then why must my womb be bound – preventing me from fulfilling one of my life's purposes – that of bringing additional Jewish children into this world? As the miller sustains his family, might I not be accorded the right to sustain and build my family? And, in doing so, build the Jewish nation as well.

And finally, we need to consider the law forbidding kidnapping:

כִּי יִמָּצָא אִישׁ גִּיב גֶּבֶשׁ נֶפֶשׁ מֵאֶחָיו מִבְּנֵי
יִשְׂרָאֵל וְהִתְעַמֵּר בּוֹ וּמָכְרוֹ וּמָת הַגֶּבֶשׁ
הַהוּא וּבִעֲרָתָהּ הָרַע מִקִּרְבּוֹ.

If a man is found to have kidnapped a fellow Israelite, enslaving him or selling him, that kidnapper shall die; thus you will sweep out evil from your midst.¹¹

Although it cannot be claimed that I have been kidnapped and sold into slavery in order to work for a foreign master, there is an element of truth in the idea that there is one who has stolen my soul (*gonev nefesh*), and enslaved it (*vehit'amer bo*). Terminologies about

8. Devarim 24:6.

9. Within the lexicon of the Torah, there are a variety of wordings that may be chosen to indicate a pledge. (ערבון – Bereishit 38:18) – פקדון – Vayikra 5:23) But in this particular instance, the text illustrates the concept with the word חבל. A word that also means “rope” or “cord.” This is especially noteworthy, because, towards the end of this very same perek of Devarim there is another word used to indicate a pledge. עבוס: In the entire Tanakh, the word עבוס is used only in this perek. And it is used four times in succession (pesukim 10–13). Why would the text not have used this word for our millstone law as well? It would seem that the use of חבל here is a deliberate choice.

10. But this fundamentally contradicts the nature of a pledge as being an item taken as a security. This pledge, by contrast, must never be fully exacted. It would appear, then, that according to the Torah, the legal rights of the creditor are superseded by those of the beneficiary, who is entitled to a life of purpose and dignity. See also Shemot 22:25 and Devarim 24:17.

11. Devarim 24:7.

valued souls that we have heard before. Those souls which one is forbidden to enslave. As the maiden captured in war, and as the kidnapped person here – is not my soul also to be valued? Why am I to be bullied and “enslaved,” when it is a crime for one to do so in the prior two circumstances?

But you or others may assert that my claim is fraudulent. For you see me walking freely in the streets. Playing with my children in the parks. And generally going where I wish to go. But do you not see? Can you not understand? It is specifically this dichotomy which makes it so difficult for you to recognize and comprehend my plight. I look free, but in fact I am caged. I appear unfettered, when, in reality, my soul has been stolen. I have been kidnapped and sold into an incessant limbo. Imagine for a moment that there would be an actual kidnapping in our community. Within moments, we would come together to search and pray and, if necessary, give money for a ransom. And that is our strength as a nation and I applaud it.

וְמִי כְעַמֶּךָ כִּי־שְׂרָאֵל גּוֹי אֶחָד בְּבָרָךְ.

And who is like your people Israel, a unique nation on earth?¹²

In that case, the kidnapper is unknown and his ways are deception. But, my kidnapper is known; his misconduct evident to all. I only ask that he be held to account – an account which will be considered “paid in full” upon my release.

And so, despite my seemingly inextricable predicament, I steadfastly maintain that our righteous Torah is a living, breathing source of life to all who cling to it. All its paths are peace and its ways are pleasantness. As the preceding examples convey, it seeks in all circumstances, even the most dire, to uphold these ideals and maintain the principle of *kavod haberiyot* – ensconcing dignity for all.

עֵץ חַיִּים הִיא לַמַּחֲזִיקִים בָּהּ וְתִמְכֶּיָּהּ
מֵאֲשֶׁר. דְּרָכֶיהָ דִּרְכֵי נֹעַם וְכָל נְתִיבוֹתֶיהָ
שְׁלוֹם.

She is a tree of life to those who grasp her, And whoever holds on to her is happy. Her ways are pleasant ways, And all her paths, peaceful.¹³

Therefore, I believe with a complete faith that the initial intention of this law is not manifest in its current method of implementation. Is it possible we mismanaged and misapplied this law as it wended its way throughout the generations? And since *lo bashamayim hi*,¹⁴ it is therefore incumbent upon us to find a creative, yet halakhic way to rectify it.

And with this then, let me rest my case. On a number of occasions throughout Tanach, Moshe Rabbeinu successfully appeals to G-d, entreating Him to renounce His harsh decree against the Jewish people.¹⁵ Each time, Moshe does so by reasoning that the other nations

12. Divrei Hayamim I 17:21.

13. Mishlei 3:18–17.

14. Devarim 30:12; TB Bava Metzia 59b.

15. Shemot 32:11–12 and Bamidbar 14:13–19.

will think poorly of G-d should He not do so. Without mincing words, this crisis of the chained woman has persisted beyond any reasonable time frame. Solutions have been found for far less weighty matters (e.g., *prozbol*, *heter mechirah*). This harsh decree cannot stand. The nations (and those within our nation) should not look upon Hashem's beautiful and profound Torah as an antiquated and archaic relic of the past. *Eit la'asot Lahashem*.¹⁶ I look forward to a time in the very near future when a creative, enforceable and enduring solution will be found so that no additional women will suffer the indignity of being chained for even a single day.

כִּי הוּא חֲכָמְתְּכֶם וּבִינְתְּכֶם לְעֵינֵי
הָעַמִּים אֲשֶׁר יִשְׁמְעוּ אֶת כָּל הַחֻקִּים
הָאֵלֶּה וְאָמְרוּ רַק עַם חָכָם וְנָבוֹן הִגִּיד
הַגְּדוֹל הַזֶּה.

[F]or that will be proof of your wisdom and discernment to other peoples, who on hearing of all these laws will say, "Surely, that great nation is a wise and discerning people."¹⁷

Although not an agunah myself, I chose to write in the voice of an agunah for stylistic impact. Subsequent to completion of the essay, it was sent to a number of agunot (who do not reside in the BAYT community) who responded that its content resonated with their situation.

Furthermore, I would like to acknowledge the strides being taken towards a resolution of this issue through the mechanism of the halakhic prenuptial agreement. Both the Rabbinical Council of America in North America and a number of organizations within Israel including Tzohar and Ora (www.getora.org/prenup) are advocating for its widespread use. Although this is a valuable tool, logic dictates that those sensitive to the matter and willing to sign the document prior to the wedding are precisely those for whom it would not be necessary to utilize it. It would seem then, that, as the predicament of agunot still persists, there is more work to be done, either through universal implementation of this innovation or through other creative, yet halakhic solutions.

16. TB Temurah 14b; see Rashi.

17. Devarim 4:6.

Mapping the Development of Leadership in Chumash

MOLLY MORRIS

THROUGHOUT TANACH, WE see G-d choosing specific kinds of leaders for different missions. They may not be perfect people, and Tanach doesn't shy away from showing us their flaws, but they are perfect leaders for their time and circumstances. Not only were our biblical leaders' personalities as varied as their missions, the emotional, psychological, and even physical make-up of their followership was also markedly different throughout history.

Current leadership theory describes a model known as Situational Leadership,¹ in which leaders adapt their approach based on their followers' readiness for engaging in a variety of tasks. It requires a leader's astute awareness of the level of capability, both tangible and emotional, of their followers. It seems intuitive that leaders and teachers need to be responsive to learner and follower styles, but all too often we see people falling through the cracks because their needs, skills and objectives are not responded to or recognized. The results can range from correctable consequences, like companies not meeting their sales targets, to catastrophic consequences, such as students failing school or the marginalization of special populations. Situational Leadership allows a leader to match his/her management method to his/her followers' level of development in order to move followers towards success and up the ladder of their own leadership abilities.

There is a partner model to Situational Leadership known as Situational Self Leadership. On this side of the coin, say Blanchard et al., leaders who understand their own strengths and weaknesses are empowered to take control of their own development, and they know how to ask for and get the support they need. Situational self-leaders are more engaged

1. Blanchard, K. H., Zigarmi, D., & Nelson, R. B. (1993). Situational Leadership® After 25 Years: A Retrospective. *Journal of Leadership Studies*, 1(1), 21–36.

MOLLY MORRIS developed a special interest in biblical leadership while undertaking a Masters degree in Leadership and Community Engagement in 2018. She is a regular contributing author to the 929 English program and an active member of the BAYT. You can read more of Molly's writing at mollymorris.ca.

and committed to their work, demonstrate increased innovation and hold themselves accountable for achieving the desired goals (or not).

This examination of the development of leadership in *Chumash* considers G-d's divine choices of leaders in the context of the level of readiness of the people, the pressing needs of the time, and how the characteristics of each leader are leveraged to move the world forward according to G-d's plan.

Before there were any leaders or followers in this world, there were just Adam and Chava. They were partners in *Gan Eden* with no one depending on them and, notwithstanding G-d Himself, no one to be accountable to. And so, when they were caught eating from the forbidden tree, neither of them accepted any level of responsibility. When questioned by G-d, Adam says "The woman You put at my side – she gave me the fruit of the tree, and I ate" (*Bereishit* 3:1). Not only does Adam not hold himself accountable, but he also goes so far as to blame both G-d and Chava. Chava in turn blames the serpent for its deception. G-d, of course, holds them all accountable since they are unable to take responsibility for themselves. The serpent is reduced to crawling on its belly, and Adam and Chava are expelled from *Gan Eden* to begin a new world filled with labour. In this new world their family grows, but personal accountability is still a work in progress: Cain kills his brother Hevel and when confronted by G-d, answers "Am I my brother's keeper?" (*Bereishit* 4:9).

It took ten generations from creation before we saw the first flickers of leadership. In that time humankind expanded in number but devolved in behaviour, and G-d responded with a planned reboot of the world. The Torah tells us that Noah was a righteous man and "walked with G-d" (*Bereishit* 6:9). Whether Noah was righteous in his own right or just in comparison to everyone else, Rashi understands the phrase "walked with G-d" as an indication that Noah required G-d's support in his leadership journey, perhaps in a more direct way than other biblical leaders did. Rashi contrasts this to the slightly different phrase, "The L-rd, before Whom I walked" (*Bereishit* 24:40), which describes a degree of self-leadership that Avraham had in his own righteousness.

G-d's plan for Noah involved developing Noah's leadership for a particular purpose – to draw him closer to G-d and to lead his own family through the flood. Noah followed G-d's instructions for building the *teivah* over the course of several decades. G-d could have just given Noah the *teivah*, but we learn that the show of labour was meant to provide an opportunity for the population to repent of their evil ways and maybe avert the impending world-destroying flood. However, Hashem never instructed Noah to overtly lead the people to repentance. Noah's job was merely to serve as a tacit role model and beacon of warning. The lessons of *teshuvah* gained from this exercise could only have been meant for the benefit of Noah and his family, for the rest of humanity was already too far gone to internalize them. Noah was chosen to be a micro-leader, impacting his immediate circle. He was not expected to, pardon the pun, turn the ship around for the rest of the world.

Fast forward another ten generations to Avraham. Long before his monotheism was fully developed and his relationship with G-d cemented, Avraham was a man who didn't need to

be told to build an ark or be a role model. He was a natural self-leader who questioned the status quo and sought better paths. But it wasn't Avraham's nature to stop at doing what was right for him; he was driven to influence others. With respect to his familial business – his father was an idol merchant – Avraham could have just walked away to forge his own path. But instead, he made quite a show of rebellion against his father in destroying the idols and publicly challenging his father's beliefs (*Midrash Bereishit Rabbah* 38). Avraham sensed a higher truth and purpose for himself, even before G-d gave him his mission, and he was destined to inspire others and be the bedrock of the Jewish people.

Avraham continued his role modeling, teaching those around him about *chesed* and *hachnasat orchim*, and his sense of responsibility for others extended beyond his immediate community, as we see in his epic negotiation with G-d to save the people of Sodom. Avraham argued for their salvation. But, like Noah and his generation, there was an absence of any attempt by Avraham to engage the population in *teshuvah*. Although that subset of humanity was not ready for change, Avraham's impact introduced monotheism to the world.

It was with Avraham's grandson, Yaakov, that we first see a glimpse of leadership skills building and developing over time. Through the whole episode of Yaakov ostensibly tricking his father for the blessings, Yaakov is portrayed as somewhat of a follower: doing what his mother told him, being dressed in goat skins by his mother, meekly appearing before his father and finally taking off for safety to his uncle's home. We understand from that chapter that Esav was the predominantly physically strong brother, while Yaakov held the spiritual foreground. But twenty years later, Yaakov had grown into the leadership role that was required for that generation. Yaakov now had the strength and confidence to set off on his own, leave Lavan's house, attempt reconciliation with Esav and wrestle an angel. Now he is Yisrael, having become the physical and spiritual leader he was destined to be.

Perhaps the propensity for leadership is inborn in some, but most leaders, like Yaakov, develop that leadership potential over time and through hard work. Yaakov's full leadership capabilities culminate at the end of his life, with his individualized blessings to his sons, each of whom has distinct qualities and skills of his own, but who together will lead a nation to their inheritance in the land of Israel.

Yaakov fathered the children who would become our tribal leaders – all significant leaders in their own right. But Yosef took leadership to yet another level. While his grandfather, Avraham, pleaded with G-d to save one community, Yosef applied strategic planning to save Mitzrayim and all the nations who lived there from starvation. While Pharaoh's necromancers limited their responses to Pharaoh's dreams to interpretation only, Yosef's response included a plan to store food during the seven years of plenty as a reserve for the seven years of famine to follow.

Integral to Yosef's leadership within the halls of power before interpreting Pharaoh's dream and proposing a plan for weathering this crisis, Yosef made it clear he was not offering a personal opinion but was relaying G-d's prophecy. Whether that disclaimer was for Pharaoh's benefit or intended to set the stage for the population to understand from

whence their salvation was truly coming is not clear, but the message was paramount for the needs at that moment and for the future of the Jewish nation-in-waiting.

Ten generations after Avraham led by example, Moshe Rabbeinu was chosen by G-d to be the foremost leader of *B'nai Yisrael*, leading the people from slavery to freedom to nationhood. Moshe, the reluctant leader, brings the role-modeling, personal growth, self-accountability, responsibility and strategic planning of his forefathers together and adds new elements of leadership that are necessary for his followership.

We know very little about Moshe's life before G-d chooses him. A *Midrash* tells us that, while raised in Pharaoh's palace, Moshe suffered an accident with hot coals that resulted in the speech impediment that would be responsible for his later lack of self-confidence. As a youth, we are told of three formative events that give us insight into Moshe's character. On witnessing an Egyptian abusing a Jew, Moshe took action (*Shemot* 2:11–12); the next day, when he saw two Jews fighting, he also interceded (*Shemot* 2:13); and once more when he witnessed an injustice between two Midianites, Moshe again intervened (*Shemot* 2:16–17). Moshe's innate inclination to pursue justice and enact solutions rather than stand as an idle observer, regardless of where the balance of power rested, was precisely the leadership needed at that precipice of Jewish history.

Moshe modeled his faith in G-d with his very first trip back to Pharaoh, despite his personal reservations. He grew more confident as events unfolded with successive plagues and increasing hardship, and he organized his followers for a quick and efficient exodus according to G-d's plan. With the immediate crisis behind them, Moshe immediately began to lead *B'nai Yisrael* in a way that was brand new – by listening to the counsel of others and building leadership from within the burgeoning nation. When his father-in-law Yitro suggested that Moshe could not continue bearing sole responsibility for the nation, Moshe heeded the advice and appointed a hierarchy of leadership: heads of tens, fifties, hundreds, and thousands (*Shemot* 18:25). Given that those roles were given exclusively to males, it meant that one in every eight adult males was appointed to a leadership position, transforming a nation of slaves into a nation of leaders.

Moshe's final act of leadership was that of succession planning. True leadership is measured not just by the accomplishments of one leader, but by the groundwork a leader lays for others to build upon. Moshe understood that he was only a part of the story, and he prepared Yehoshua, who had the particular strengths that *B'nai Yisrael* would need to conquer the land of Israel, to take the mantle of leadership. And perhaps even more importantly, he prepared the nation to move forward without him. "I am now one hundred and twenty years old, I can no longer be active," Moshe told them. "G-d will cross over before you," and "Yehoshua will cross before you" (*Devarim* 31:2–3). Moshe gave the nation strength in knowing the coming succession was G-d's plan and comforted them with the knowledge that G-d would remain with them and with their new leader.

Of course, there were many more leaders interspersed among those chronicled here. Our foremothers, Sarah, Rivkah, Rachel and Leah all brought the Jewish people forward

through shrewd decision-making, selflessness and faithful loyalty to bring to fruition the realization of G-d's promise for nationhood. They worked in less public spheres than their partners, but with equal national ramifications. Miriam's gumption in insisting that *B'nai Yisrael* go on conceiving children, even in the face of Pharaoh's decree of death to all infant males, ensured the continuity of the Jewish people and the very birth of Moshe. Nachshon ben Aminadav's risk-taking when caught between the Egyptian army and the *Yam Suf* was a template for faith in G-d.

Although this examination of leadership is constrained to *Chumash*, leadership continued to evolve, according to the needs of the people, time and circumstances, through the eras of judges, prophets and kings, but that is a whole other essay. Even beyond *Tanach*, leadership has continued to evolve, as our sages of the past and rabbinic leadership of today grapple with questions and issues our biblical leadership couldn't have fathomed. It is precisely the models of Situational Leadership and Situational Self-Leadership, with G-d providing the right leaders in each generation, that has brought us through millennia of struggle and triumph and will lead us to the era of Moshiach.

Does a Heter Iska Increase the Risk of Litigation?

CHARLES B. WAGNER, LL.B

Editors' Note:

In the original blog on Mr. Wagner's website (www.wagnersidlofsky.com) he has followed the common practice of referring to specific cases with their citations. Given the editors' sensitivity with regard to naming parties and the potential embarrassment that may result from their information being made further public, their names have been deleted and have been substituted with initials.

WOULD AN ONTARIO court enforce a *Heter Iska*? When a religious Jew lends another Jew money they often enter into an agreement called a *Heter Iska*. Faced with the biblical prohibition against charging interest on loans¹ and the reality that lenders are more likely to lend people money when interest can be charged, the Rabbis created a halakhic² mechanism

1. See Exodus 22: 24; Leviticus 25:36–38; Deuteronomy 23:20.

2. Halakhah is a Hebrew term. As defined by the Encyclopedia of the Columbia University Press, in Judaism, all laws and ordinances evolved since biblical times to regulate worship and the daily practices in Judaism, the body of law regulating all aspects of life, including religious ritual, familial and personal status, civil relations, criminal law and relations with non-Jews. Halakhah is the term used to designate both a particular ordinance and the law in the abstract. The adjective halakhic means “of a legal nature.” The plural, halakhoth, designates a collection of laws. It usually refers to the Oral Law as codified in the *Mishnah* and, in particular, to those statements of law that appear in categorical form without immediate regard for scriptural derivation. The most authoritative codifications of these laws are the *Mishneh Torah* of Maimonides and the *Shulhan Arukh* (The Set Table) by Joseph Karo. Halakhah was the important unifying force in world Jewry until modern times, when its authority was challenged by religious reform and secular conceptions of a Jewish nation. Contemporary problems in halakhah revolve around its application to technological change, especially in relation to medical issues and Sabbath observance. Halakhah is contrasted with aggadah (plural *aggadoth*),

CHARLES B. WAGNER is designated as a Certified Specialist in Estates and Trusts Law by the Law Society of Upper Canada and a Trust and Estate Practitioner by STEP Canada. He is a partner at Wagner Sidlofsky LLP, which is a boutique law firm located in Toronto focusing on commercial and estate litigation.

to allow a lender to profit from the loan and not charge interest. This halakhic document is called the *Heter Iska*.

The *Heter Iska* characterizes the lender as an investor who provides capital for a business venture. The *Heter Iska* provides that the investor transfers half of the money as an interest-free loan, which is to be repaid even in the case of total loss. The other half of the money is the investor's share of the business venture, which entitles the investor to receive profit that, not coincidentally, is equivalent to the interest a lender would charge. Thus, at the end, the investor's money would be returned, and any profits (or losses) would be shared.³ This halakhic mechanism serves to ensure that Jews will not have a financial disincentive to loan one another money.

So I pose the question – is there a litigation risk to a lender who signs a *Heter Iska*? When the parties sign both a standard loan agreement and a *Heter Iska* would an Ontario court see the exchange of money as a loan or an investment? I posed this question to several law professors, rabbis and lawyers. Many thought that the judge would recognize that the *Heter Iska* is only a religious document not meant for review or enforcement by a secular court. Many felt that a secular judge would recognize the *Heter Iska* as a legal fiction created to permit Orthodox Jews to participate in a modern economy and therefore not enforce the terms of a *Heter Iska*. That view is supported by a number of cases in the United States.⁴ For example, in one case, the Appellate Division of the New York Supreme Court ruled that the *Heter Iska* was not relevant and only a “phantom” issue because it was only meant to permit a technical compliance with religious law. Let's see how one Ontario judge answered this question in *BW v. H*.⁵

BW (the plaintiff), and H (the defendants) were religious Jews. BW made three loans to H with the last one evidenced by a signed agreement consolidating all three loans. At the outset the parties signed a *Heter Iska* agreement as well. H stopped repayments and BW brought a lawsuit in the Ontario Superior Court of Justice. So certain was BW of her case that she brought a motion for summary judgment which allows a judge to grant judgment

the literary, aesthetic elements in the Oral Law and in the Talmud, and *Midrash* generally, which elaborates scriptural meaning through legends, tales, parables, and allegories. Both the halakhic and aggadic elements have been extracted and made the subject of commentary.

3. For more on this topic see www.businesshalakha.com/articles/heter-iska-101-ip.es.
4. In the original blog on my website I referred to specific cases with their citations. Given the editors' sensitivity to naming parties and the potential embarrassment with their information being made further available I have deleted listing the cases. For those doing legal research requiring reference to those specific cases I refer the reader to an article written by Kenneth H. Ryesky entitled “Secular Courts' Treatment of the *Heter Iska*” which can be found online at www.jlaw.com/Articles/heter4.html.
5. In my blog I referred to the specific case naming the parties in question and provided the citation for the case. Anyone interested in accessing that information can obtain it from the blog found at www.wagnersidlofsky.com/does-a-heter-iska-increase-the-risk-of-litigation or the issue in the Business Law Reports found at <https://products.thomsonreuters.ca/lrdpdfs/busn9021072081.pdf>.

Again, given the editors' sensitivity to naming parties and the potential embarrassment with their information being made further available I have omitted the names of the parties in this article.

right away because there was no genuine issue requiring a trial.⁶

The defendants argued that this was not a proper case for summary judgment. They said that there were material facts in dispute which required a full hearing at trial. H's lawyers made several arguments in order to persuade the judge that a full trial was required and summary judgment should not be awarded. For the purposes of this discussion I would like to focus on the *Heter Iska* defence. H argued the payments they received from BW were not really loans, but were investments under the "*Heter Iska*" agreement. Since there was no profit on the investments, they argued that no money was ever owing to BW. Justice Low of the Ontario Superior Court rejected this argument – but not for the reason you might think.

The judge stated that for the purposes of the summary judgment motion there was no need to rule on the validity of the *Heter Iska* agreement. Yet, in an interesting turn, Justice Low held that even if the *Heter Iska* was the governing agreement, H had to reimburse BW because the defendants did not account for profits and losses in accordance with the *Heter Iska*. By the terms of the *Heter Iska*, H's failure to account meant that the "yield" is deemed to have been earned. This preserved BW's interest entitlement. As to H's argument that there were no profits, Justice Low found that by the terms of the *Heter Iska*, if there were no profits in any week, B was entitled to call for immediate repayment of the "funds" (the principal) and any unpaid "yield" (interest) owing. Finally, Justice Low found that H never demonstrated failure to achieve the "yield" by swearing to it during the public reading of the Torah in an Orthodox Synagogue and in compliance with the conditions set forth in the *Heter Iska*.

Granted, Justice Low's examination of whether H complied with the terms of the *Heter Iska* might have had little to do with the ultimate enforceability of a halakhic agreement. It might have had more to do with the fact that the test for summary judgment is whether or not there is a genuine issue for trial. To decide whether the *Heter Iska* was the governing agreement Justice Low would have had to determine if BW and H may have genuinely believed that their *Heter Iska* was not a legal fiction. Arguably, the parties may have agreed that BW would be a silent partner providing capital for a business venture, and H would actively run the business. As in every business venture, at the end BW would share any profits or losses. To make that determination would have been difficult for Justice Low because her relatively short review of the motion material at a summary judgment cannot compare to what happens at trial. By establishing that H had to reimburse BW even if the *Heter Iska* was the governing agreement, Justice Low established that there was no genuine issue requiring a trial and she was able to grant summary judgment.

So to answer our question, an Ontario judge may very well consider if a *Heter Iska* is an enforceable contract. Had H accounted for profits and losses in accordance with the *Heter Iska* and demonstrated failure to achieve the "yield" by swearing to it during the public reading of the Torah in an Orthodox Synagogue, Justice Low may very well have dismissed the summary judgment motion and ordered a full trial. That might have been necessary

6. See *Combined Air Mechanical Services Inc. v Flesch* 2011 ONCA 764 which reviews the law of summary judgments in Ontario.

because the validity of the *Heter Iska* would be a live issue and in a summary judgment motion, the limited amount of evidence before the court does not provide for the full evaluation of the evidence necessary to determine the case. While BW may have won, when the matter finally got to trial, the legal costs may have made it a Pyrrhic victory.

This short overview of the law should not be taken as legal advice. In the event that the reader plans to use a *Heter Iska* or enter into a loan agreement, they would be well advised to retain a competent lawyer to work with his or her rabbinic authority to assess, from both a legal and halakhic perspective, how best to reduce legal exposure.

