

# Hakhmei Lev

THE TORAH JOURNAL OF  
BETH AVRAHAM YOSEPH OF TORONTO CONGREGATION

VOLUME 2 • NISAN 5782





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## Editors

Dr. Gerard Klein  
Rabbi Shmuel Leshner  
Rabbi Ken Stollon





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This edition of our Journal is  
dedicated in honour of

**DR. PETER SALMON ז"ל**

**זאב ישראל בן אברהם ז"ל**

by his loving family:

Roslyn Salmon

Estera Salmon

Joshua M. Salmon

Yossi and Rebecca Salmon & Family

Menachem and Lindsay Salmon

& Family



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# Dedication

*Ben Zoma said: 'I have found a verse that contains the whole [of the Torah]: "Listen O Israel, Hashem is our G-d, Hashem is One" (Deut 6:4).' Ben Nanus said: 'I have found a verse that contains the whole [of the Torah]: "You will love your neighbour as yourself" (Lev. 19:18).' Shimon Ben Pazi said: 'I have found a verse that contains the whole [of the Torah]: "**You will sacrifice a lamb in the morning and another at dusk**" (Exod. 29:39, Num. 28:4).' And Rabbi Ploni stood up and said, '**The halachah is in accordance with Ben Pazi**'*

**THE CITATION ABOVE** is from the introduction to the *Ein Yaakov*, a 16<sup>th</sup>-century compilation of Aggadic material from the Talmud, written by Rabbi Yaakov Ben Chaviv. According to Rabbi Ploni, the preferred verse that encapsulates all of the fundamentals of Torah is the mundane requirement of the twice-daily *Korban Tamid*.

The selection of this verse to represent the entirety of Torah seems puzzling when compared to the other verses which highlight fundamentals of our faith and character. *Shema Yisroel* exemplifies man's relationship with G-d. It is the prayer we traditionally say on our deathbed. *Veohavta Lereyacha Kamocha* epitomizes love being the focal ingredient in *Ben Adam Lechaveiro*, man's relationship with his fellow. Why is the requirement to bring the *Korban Tamid* in the morning and in the afternoon paramount?

Perhaps to understand this preference, we must first understand the target demographic of Rabbi Chaviv's *Sefer*. The *Ein Yaakov's* macro-educational format resonated especially well with *Baal HaBaatim*, the "Learner/Earner" prototype. When composing the introduction to his work, Rabbi Chaviv understood how to connect with his audience. He therefore begins his *Sefer* with the recipe for a Massive Action Plan; *Yiddishkeit* is the passion. One must Decide, Commit and Succeed to create a sustainable and consistent energy to feed the passion.

For one to successfully complete the physical process of the *Korban Tamid* twice a day, every day, every year, it takes tremendous drive and ability to prioritize Hashem within the confines of daily living. While the other *pesukim* are pillars of Judaism that provide intense doses of spirituality, conquering the daily grind with Hashem as the focal point was the path for this group.

This was a mantra that our father and his many dedicated study partners (which were maintained through thick and thin) shared as they gradually acquired greater Torah knowledge. Before commencing the learning sessions, our father would always conduct a casual mental health check-in and business update to ensure that they were growing in all facets.

Our father had a tremendous ability to extract the most out of each day. As such, this is a fitting piece to start this wonderful journal, which our family dedicates in honour of our husband, father, and Apu. He was a person who prioritized serious and rigorous *Talmud Torah* while simultaneously excelling in his familial and communal responsibilities.

## *Dedication*

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Our father's vast *Seforim* collection provided him with much joy, which he would frequently show to visitors and guests. While some cherished collections are kept in pristine condition, many of our father's *Seforim* were bound, taped, marked and heavily used. When our father showed his *Seforim* to visitors, we believe it was ultimately the extensive use and internalization of the *Seforim* that he was truly displaying. With our father's compassion, together with his unique and unassuming fashion, people would leave the "*Seforim* Tour" inspired and slightly more dedicated to Torah study. Without our father ever actually uttering these words, visitors would internalize the message being conveyed - "You could do it too, just commit yourself." We hope this journal follows in this path and makes our father proud.

**Josh, Yossi, and Menachem Salmon, on Behalf of the Salmon Family**

# Publisher's Foreword

**EXILE. THE WORD** has so much meaning for our people. It represents a thousands-year history of suffering and persecution and is deeply embedded within our collective consciousness. But what does the word mean to us today, who live in *hutz la'aretz*, but who live relatively comfortable lives?

Being in Exile is the existential state of feeling disenfranchised and outside of where I belong. It can happen to anyone, anywhere. Even a person who is surrounded by their loved ones and their community can feel a sense of Exile. All of us experience Exile at different points in our lives.

The Zohar tells us that when the Jews were in Egypt, Exile manifested itself in silence. The Jews were so distanced from their sense of humanity and self, that they couldn't even find their voice with which to verbalize their pain and their desire for liberation. Their redeemer, Moshe, possessed a speech impediment, because this represented the speech impediment that all of Israel possessed, in that they lacked the proper vocabulary to articulate their feelings and hopes for the future. When Hashem redeemed Israel, He not only emancipated their bodies, but also their thoughts and their speech.

The Arizal said that this is the deeper reason for why the upcoming holiday is called Pesah, in that this word is a hybrid of two words: *Peh* and *Sah*, which literally mean, "the mouth speaks." Our liberation enabled us to find our voice and regain our humanity. This is the reason why so much of this holiday's celebration involves speech; the entire Haggadah is designed to increase our communication so that we reinforce this sense of liberation. As the Haggadah states: "It is a mitzvah to discuss the Exodus. And the more one increases their discussion of the Exodus, the more they are worthy of praise."

*Redemption*. It is the term that denotes an end to Exile. An integral part of this redemption is the ability to freely communicate after a period of having been stifled and silenced.

For so many, these last two years have been a period of Exile, when, due to anxieties and pressures, we could not find our voice. Redemption begins by reclaiming our voices. We began the *Hakhmei Lev* journal during the pandemic, in the hope of keeping our community bound together by the printed word even when we couldn't physically gather. Now that we are, *barukh Hashem*, physically regathering, our journal represents the redemptive quality of communication, of sharing Torah ideas freely among ourselves, and expressing our spiritual stirrings on the printed page.

Pesah is the holiday of communication. Please enjoy our second issue of *Hakhmei Lev* in that spirit. Once again, we thank the exceptional members of the BAYT who have written beautiful essays on all different aspects of Torah. We trust you will be able to enhance your Yom Tov with their words at your table. A special thank you to our talented and dedicated editors, Rabbi Shmuel Leshner, Dr. Gerard Klein, and Rabbi Ken Stollon, as well as their team

of proofreaders, Ezer Diena and Howard English. They have all done a masterful job. Thank you also to Daniel Safran who continues to amaze us with his graphical skills.

We are honored to dedicate this journal in memory of Peter Salmon, z"l. Peter had an exceptional power of communication. Not through the quantity of his words, nor through the loudness of his voice, but rather through his carefully-chosen vocabulary of love and warmth to all who knew him. Even when the rest of his body ceased working, his mouth expressed the stirrings of his beautiful *neshamah* and inspired us all. We miss him dearly, but his memory lives on in his wonderful family. To Ros, Josh, Yossi, and Menachem, to all your amazing spouses and children, we thank you for representing Peter's greatness in our community. Through you, and through the Torah in our journal, may his *neshamah* have an *aliyah*.

**Rabbi N. Daniel Korobkin**

# Editors' Foreword

**OUR SAGES TELL** us, “*Kneh Lecha Chaver,*” Acquire yourself a friend (Avot 1:6).

Rabbeinu Yonah comments on this Mishnah in the following way: There are three advantages to having a good *Chaver*: (1) learning Torah with a *Chaver* is more effective than learning alone, as it says “I have learnt much from my Rabbis but even more from my friends”; (2) *Chaverim* are important moral compasses for each other in terms of mitzvah observance and ethical conduct, helping each other not to veer from the true, Torah path; and (3) a *Chaver* can give advice and support for daily and business life.

Many of us in this synagogue — and far, far beyond — were privileged to call Dr. Peter Salmon a close and treasured friend. He encompassed many of the characteristics described by Rabbeinu Yonah. He was a teacher, a friend and a mentor.

After the tragedy that befell him, the Peter in the wheelchair was still, in essence, the same Peter as before, an upright and dignified individual who knew the meaning of true humility. For him, *Seforim* were not ornaments for his library but rather old friends, well-used, full of his notes. He was someone who had finished *Shas* and was a *Mishna-Yomit* devotee. He continued learning with his many *chavrusahs* even after his accident. His scope of Torah lore was breathtaking.

Everyone loved him, not just his dear wife Roslyn and his family, but also friends, medical and nursing staff, younger dentists who he mentored, patients, employees and his many students, who cherish his lessons to this day.

And what are these lessons that a new generation holds so dear? Lessons that those who came to Peter for advice, both before and after his accident, will remember for a lifetime. These lessons can perhaps be summarized in the following words that were close to his heart: *Al tistakel b'kankan ela bema she'yesh bo* - Do not look at the barrel but what is in it (Avot 4:27).

Peter would interpret this as meaning: Do not judge a person until you understand his situation and the context of his behaviour. This philosophy on life is why people came to Peter to chat, to discuss and to ask for his advice - because of his practical outlook, because of his sensitivity to the real problems people face and because he did not judge them.

Peter gave another interpretation of this saying after his accident when he became paralyzed; when his breathing was so affected that it was difficult for him to speak. In this state, he interpreted *Al tistakel b'kankan ela bema she'yesh bo* in a different way. As he said when a *sefer torah* was dedicated in his honour by our shul:

*When people look at me sometimes and do not know what to say, I tell them: 'Al tistakel b'kankan ela bema she'yesh bo - Do not look at the barrel, but look at the inside.' And when they come and feel the flame that burns inside the yid, it will ignite the flame in someone else.*

How many people have received *chizuk* from this individual, who would say of himself; "I am just a *pashut yid*." But he was so much more than that.

Rabbi Yisrael Meir Lau, the former Chief Rabbi of Israel, recognized this right away. When he was encouraged to visit Peter on his way to a meeting here in Toronto with the *Vaad HaRabbonim*, Rabbi Lau thought it would be a quick visit to a *choleh*, a sick person. But the visit lasted far longer than he expected as he stayed later and later to appreciate Peter's vast knowledge of previous *Rabbonim* and *tzaddikim*, as well as Rabbi Lau's own family history in the Holocaust. Even years later, Rabbi Lau was so taken by Peter that he always kept him in his prayers.

So, what made Peter such a special and memorable person?

The answer is clear. The weaker Peter's voice became, the stronger the flame of *Yiddishkeit* burned inside him – and sometimes silence can be stronger than the spoken word. Peter's response to the calamity that befell him was silence. In short, he never complained about the challenges *Hakadosh Baruch Hu* sent him. "*Baruch Hashem*" was his response to enquiries about his health and welfare.

Since this journal is devoted to *Pesach*, let us remember the Peter who said: "You've never really experienced Yom Tov until your *Machzor* is wet with tears and your *Haggadah* is stained with wine."

**Dr. Gerard Klein, on behalf of the Editors**

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## 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.

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**Pesah**



# Yachatz: The Great Divide

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RABBI BARUCH TAUB

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## Preface

**SEDER MEMORIES RUN** deep for everyone. But perhaps the most prominent memory is the moment of *Yachatz*, the breaking of the middle matzah into two halves at the beginning of the Seder. All eyes are on *Zeidy*, or on Father, or on whoever may be running the Seder, following him as he performs the ritual of *Kadesh*, *Urchatz*, *Karpas*, and finally *Yachatz*, when he breaks the center matzah into two halves, placing one of the halves between the two other matzot. And then all eyes, those of the children and of the “former children” at the table, follow the hiding of the bigger half of matzah like detectives.<sup>1</sup> To be honest, it is one of my fondest childhood Seder memories, and I am sure it is a vivid memory for many of you as well. But what is it really all about, and why do we ceremoniously break the matzah at the beginning of the Seder? Interestingly enough, Rambam does not include *Yachatz* in his Haggadah.<sup>2</sup> So why do we actually carry out this ceremony? Why do we hide the second half of the matzah?

Some are of the opinion that this an extension of the theme of *k'dei she-yishalu ha-tinokot*, in order to increase the curiosity of the children attending the Seder and encourage them to ask us about this diversion from our normal practice. Beit Yosef, in his commentary on the Tur, mentions this as one of the three reasons for this practice.<sup>3</sup> Let us think about this answer. Just imagine the child asking his father why he broke the matzah and father answers “in order to bring you to ask me about it.” Does not this response just add insult to injury?

There is, however, a novel educational tool that is embedded in this directive of the Rabbis. The idea behind *k'dei she-yishalu ha-tinokot*, of stimulating questions, is that it develops and encourages intellectual curiosity among children and among adults. This is the beginning of the process of education.

I wish to explore the basis of the practice of breaking the middle matzah and argue for an approach which goes beyond just the encouragement of questions both at the halachic

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1. All of us were once children. On Seder night, the goal is to awaken our inner child again.
  2. See *Mishneh Torah*, end of *Hilchot Chametz U-matzah*.
  3. Beit Yosef, *Orach Chayim* 473.

**BARUCH TAUB** is the Rabbi Emeritus of the BAYT. He lives in Netanya, Israel.

level as well as at the hashkafic level. Indeed, if we break the matzah just “so the kids should ask,” it seems quite strange that we begin the entire Seder with a somewhat arbitrary act. The prominent placement of *Yachatz* implies that there is more to this act than just stimulating questions. I will argue that there is much more to *Yachatz* than what meets the eye. The broken matzah, which we hide, holds the promise of a hidden dimension. In fact, the act of breaking the matzah reveals a centerpiece of Jewish life and the Torah at large. It also has a particular meaning for us, in these uncertain and challenging times in Jewish history.

## Part 1: Yachatz: The Halachic Discussion

Let us begin with citing from the classical halachic literature regarding the practice of *Yachatz*.

The Rabbis of the Talmud write the following in *Berachot* (39b):

*Rav Pappa said: Everyone agrees that while fulfilling the mitzvah of eating matzah on Passover, one places the piece inside the whole and breaks it. What is the reason? With regard to matzah, the phrase ‘bread of affliction’ (Devarim 16:3) is written, and the poor typically eat their bread in pieces. Therefore, with respect to eating matzah on Passover evening, the broken matzah is also significant.*<sup>4</sup>

There is an additional source in the Talmud that makes reference to *Yachatz* in *Pesachim* (115a) as well:

*Shmuel said that the phrase: ‘The bread of affliction [lechem oni]’ (Devarim 16:3) means bread over which one answers [onim] matters, i.e., one recites the Haggadah over matzah. That was also taught in a baraita: Lechem oni is bread over which one answers many matters. Alternatively, in that verse, the word ‘oni’ is actually written without a vav, [resulting in a word] which means a poor person. Just as it is the manner of a poor person to eat a piece of bread for lack of a whole loaf, so too, here, he should use a piece of matzah.*

The Shulchan Aruch writes the following about *Yachatz*:

*He should then take the middle matzah and break it into two halves, giving one half to one of the assembled to guard it for use as the afikoman and it is placed under the tablecloth, and the second half should be placed between the two whole matzot. He should then lift up the Seder plate (ke’ara) with the matzot and say the passage ‘ha lachma anya’ until the ‘ma nishtanah.’<sup>5</sup>*

Mishnah Berurah adds a crucial piece of information regarding the practice of *Yachatz*. He states that, “It is preferable that the piece that is saved (for the *afikoman*) be the bigger half of the two.”<sup>6</sup>

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4. The Schottenstein Edition (*Brachot* 39b:2) translates the first sentence as follows: “One places the broken piece of matzah inside (i.e. under) the whole matzah...”

5. *Shulchan Aruch, Orach Chayim* 473:6.

6. *Mishnah Berurah* 473:58.

## The Questions

Given the above-cited sources, several questions arise:

1. Why would the Rabbis choose a seemingly technical act, of breaking the matzah, to be included as a fundamental part of the Seder?
2. There seems to be a tension between two contradictory ideas and emotions in relation to matzah. Matzah seems, on the one hand, to symbolize poverty and affliction (a poor person eats broken pieces). On the other hand, it is the bread upon which we speak of the redemption, the related concepts of freedom (*cheirut*), and reclining royalty or kicking back (*haseiba*).
3. Why do we hide the broken half?
4. Why is the middle matzah used for this practice?

It should be pointed out that Rambam's approach to this practice is entirely different from that of most *Rishonim*. According to Rambam, we have only two matzot at the Seder.<sup>7</sup> The majority of *Rishonim*, as codified in *Shulchan Aruch*, are of the opinion that we use three matzot and we practice *Yachatz* as described above, at the beginning of the Seder. We therefore will attempt to solve these questions with the assistance of several commentaries.

## The Answers

The first Rebbe of Lubavitch, Rabbi Schneur Zalman of Liadi (also known as the Baal HaTanya), authored a halachic work that is highly regarded by all Torah scholars, Hassidim and non-Hassidim alike. This work is entitled *Shulchan Aruch Ha-Rav*. The *Shulchan Aruch Ha-Rav* actually merges the two aspects of the broken piece of matzah into one halachic principle. The matzah that should be used during the reading of the Haggadah must be a halachically-defined matzah. Meaning, a matzah that is eaten by the poor and is present when the *sippur yetziat mitzrayim* (the recounting of the Exodus from Egypt) is recited. The broken matzah represents this. In this way, *Shulchan Aruch Ha-Rav* combines the two aspects of matzah cited in the Talmud into one definition.<sup>8</sup>

Yet another different and innovative approach to the significance of breaking the matzah at the beginning of the Seder was posited by Rabbi Shlomo Zalman Auerbach and recorded by his students:

*Breaking of the matzah — to fulfill the mitzvah of eating a piece of matzah — immediately after the Kiddush is also, it seems, to show that we are already involved in the process of eating matzah. Since the recitation of the Haggadah is also a component of the process of eating matzah, then there is no actual gap (hefsek) between the Kiddush and the meal.<sup>9</sup>*

In order to fully comprehend R. Shlomo Zalman's novel idea we must first note a basic

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7. *Mishneh Torah, Hilchot Chametz U-matzah* 8:6.

8. *Shulchan Aruch Ha-Rav* 473:36.

9. *Halichot Shlomo, Moadim* 9:29(56).

halachah with regard to Kiddush in general which applies all year round. A fundamental condition which validates the act of Kiddush is that it must be recited in the presence of a meal. This general rule is termed *Kiddush bi-makom seudah*.<sup>10</sup> On Seder night there is a long break between Kiddush at the beginning of the Seder until we actually start eating the meal. How then do we fulfill the requirement of *Kiddush bi-makom seudah* on the Seder night? To address this, R. Shlomo Zalman suggests that the breaking of the matzah at *Yachatz*, immediately after Kiddush, bridges the gap between the Kiddush and the subsequent meal. This is because, by preparing the matzah for the *Hamotzi* blessing which will be said on the broken matzah at the beginning of the meal, we are doing something related to the meal immediately after Kiddush. Therefore, this single act of breaking the matzah connects the Kiddush to the meal to be eaten later on during the night. According to this explanation, the expression “breaking bread together” aptly describes the Seder.

Rabbi Naftali Tzvi Yehuda Berlin, also known as the Netziv of Volozhin, was bothered by an additional halachic concern regarding the broken matzah. As we are all aware, we are particular to use two whole loaves of bread as *lechem mishneh* on Shabbat. How can we then deliberately break a matzah into two pieces, in order to use the broken piece for the blessing to be said later on during the Seder?<sup>11</sup>

The Netziv resolves this concern by introducing the idea that “whole” is a relative term that is defined by the point when the matzah is received. We can comprehend this idea by observing the baking process at a matzah bakery. In the first step, one man thoroughly kneads a large piece of dough. The kneader then starts tearing off small pieces of dough, distributing them to the assembled workers, who turn each small piece into a single matzah. When we receive the single matzah we view it as a “whole” matzah, despite the fact that in actuality it is a small piece torn from a large dough at the factory. Similarly, since there is a lengthy time period separating the breaking and receiving of the matzah, by the time the blessing over the broken matzah comes along, following this great divide, we should view it as a “whole” matzah.<sup>12</sup>

## Rambam’s Approach

All of the above relates to the position adopted by the vast majority of the *Rishonim* and *Poskim*. However, Rambam takes a unique approach to *Yachatz*. Rambam, in his halachic work *Yad Ha-chazakah*, provides us with a detailed list of the order of the Seder night:

*Afterwards, he recites the blessing, al netilat yadayim, and washes his hands a second time, for he diverted his attention [from his hands] during the time he was reciting the Haggadah. He*

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10. Parenthetically, this general rule poses a problem when we make Kiddush in shul on Shabbat morning. People should make sure they eat a minimal amount of *mezonot* (a pastry for example), in order to fulfill the requirement of a *seudah* (meal). It should be noted that those who follow the Vilna Gaon will repeat Kiddush once again upon sitting down to the main meal at home. See *Maaseh Rav*, 122.

11. *Teshuvot Meishiv Davar* 1:21.

12. *Ibid.*

*takes two cakes [r'kikim, of matzah], divides [vi-cholek] one of them, places the broken half inside the whole [cake] and recites the blessing, Hamotzi lechem min ha'aretz. Why does he not recite a blessing on two whole loaves, as on other festivals? Because [Devarim 16:3] states 'the bread of poverty.' Just as a poor person is accustomed to eating a prusa [broken loaf], so too a prusa should be used [as a 'whole' loaf for lechem mishneh].<sup>13</sup>*

According to Rambam, *Yachatz* is not a dramatic act carried out at the beginning of the Seder. The “drama” of *Yachatz* at the beginning of the Seder seems to be substituted for by a simple breaking of the matzah before *Hamotzi* in order to create a different kind of *lechem mishneh* with two whole loaves of a different kind, the “whole matzah” being simply a *prusa* [a broken piece].

It is noteworthy that Rambam initially says that one should use only two matzot (and not three) at the Seder. Consequently, after breaking the matzah, Rambam cannot write that we place the broken half between the two whole matzot, as there is only one whole matzah left. Rambam therefore writes that one should place the broken matzah “into” the whole matzah. Some understand this to mean that one should place the broken piece “under” the whole matzah. Others understand this to mean that the matzot used by Rambam were soft and flexible, similar to those used by many Sephardim until today. This matzah is reminiscent of a pita that has a “pocket” for falafel. In this manner, one can literally place the broken piece “into” the whole matzah.

There is an additional halachah which Rambam relates regarding the end of the Seder night:

*Afterwards, one continues the meal, eating whatever one desires to eat and drinking whatever one desires to drink. At its conclusion, one eats from the Paschal sacrifice, even [as small a portion as] a kezayit, and does not taste anything afterwards. At present, one eats a kezayit matzah and does not taste anything afterwards, so that after the completion of the meal, the taste of the meat of the Paschal sacrifice or the matzah will [remain] in one's mouth, for eating them is the [essence of the] mitzvah.<sup>14</sup>*

A careful reading of Rambam clearly shows that he describes the breaking of the matzah for the *afikoman* as an act done immediately before it is eaten, at the end of the Seder. There is no drama mentioned here of children hiding the broken piece to be used for the *afikoman*, but rather a simple act of breaking the matzah immediately before it is eaten.

Rabbi Avraham Gershon Zaks, a grandson of the Chafetz Chayim, explains both citations of Rambam in the following manner: It seems clear that both acts of breaking the matzah, according to Rambam, are to be carried out right before they are to be eaten. The first act of breaking is to be carried out before the eating it after *Maggid*, and the second act of breaking is right before the eating of the *afikoman*.<sup>15</sup>

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13. *Mishneh Torah, Hilchot Chametz U-matzah* 8:6.

14. *Ibid.* 8:9.

15. *Hagadat Hagershuni*.

I believe that Rambam is of the opinion that the act of breaking the matzah is a function related to the act of *eating* the matzah. The other Rishonim are of the opinion that the act of breaking the matzah has significance of its own. This is demonstrated by the fact that breaking the matzah is done at the beginning of the Seder, a very long time before the act of eating it. According to these *Rishonim*, it may be safely said that the breaking of the matzah is a function of the Seder. Whereas, according to Rambam, the breaking of the matzah is a function of the eating of the matzah.

Rambam's opinion is clarified and explained quite differently by Rabbi Yosef Dov Soloveitchik.<sup>16</sup> R. Soloveitchik disagrees with the approach of *Shulchan Aruch Ha-Rav* mentioned above. R. Soloveitchik is of the opinion that the two aspects of matzah, a poor person's bread and "bread that words (*Maggid*) are spoken over," cannot be merged into one concept. To the contrary, these are two separate concepts of matzah that are expressed at two different times during the Seder night.

One aspect of matzah is *lechem oni* (the poor person's bread). Matzah is the bread of the poor because a poor person eats scraps. This aspect is totally related to the act of eating. For this reason, Rambam attaches the breaking of the matzah that symbolizes the poor person's bread, to the act of eating. The matzah is not broken at the beginning of the Seder, but rather right before the act of eating matzah after *Maggid*, and before the eating of the *afikoman* at the end of the meal. So, it is quite literally "a poor person's bread" because it is eating the broken scrapes of matzah.

The second aspect of matzah is the bread over which the story of the triumph and the Exodus is told. This aspect of matzah is not the poor person's bread; it is rather a whole and complete matzah. This is the matzah that is used from the beginning of the Seder through *Maggid* until the meal itself. This is precisely why Rambam does not instruct us to break the matzah at the beginning of the Seder.

## Snatching The Matzah

There is a practice on Seder night of "snatching the matzah." Although at first glance, the snatching of the matzah seems unrelated to *Yachatz*, R. Soloveitchik draws a connection between them. The custom of "matzah snatching" is codified by Rambam.<sup>17</sup> I will present here the standard translation of the passage. However, subsequently I will present an alternative reading of this passage, as it appears in R. Soloveitchik's explanation.

Here is the standard translation of the passage:

*He should make changes on this night so that the children will see and will [be motivated to] ask...What changes should be made?...Matzot should be snatched from each other and the like.*<sup>18</sup>

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16. *Sefer Hararei Kedem* 2:79.

17. *Mishneh Torah, Hilchot Chametz U-matzah* 7:3.

18. *Ibid.*

This translation is based on the common usage of the word *chotfin* in Hebrew, which is a verb meaning “snatch.” Meiri, actually explains that our minhag today, of encouraging the children to snatch the *afikoman* from the one conducting the Seder and to hide it, is based on this passage of Rambam.<sup>19</sup> Meiri clearly understands the term *chotfin* as “snatching.” Ravaad, in his commentary on Rambam, understands the term *chotfin* to mean to do something with “alacrity” or “speed.”<sup>20</sup> According to this usage of the term, the *minhag* (custom) was to pass the matzah from one to another quickly.

R. Soloveitchik adds that this practice inevitably would cause the matzah to break into pieces, hence a “*Yachatz* moment” according to Rambam as well. The reason behind this practice is to ensure that the children are awake and alert during the Seder, allowing them to question and inquire about the different aspects of the Seder. For R. Soloveitchik, Rambam is, in fact, introducing a view of a dramatic *Yachatz*. It is included at the very beginning of the Seder as a function of the concept “in order that the children should ask.” However, since this *Yachatz* is not universal, and is done only if there are children present, it is not an official *siman* (stage) of the Seder.

I wish to add two related observations of my own, in relation to the idea presented by R. Soloveitchik. First, Seder night is a concretization of many philosophical and historical ideas, which are handed down through our *mesorah* (tradition), from generation to generation. For example, we eat bitter herbs because it was bitter in Egypt. The idea of handing the matzah from one to another, from parents to children, is an act symbolizing this passing down of the *mesorah* to the next generation. This is in line with the words of the Haggadah, “*cheiyav adam lir’ot et atzmo k’ilu hu yatza mi-mitzrayim* – each and every one of us must feel that he himself had left Egypt.” The physical act of passing around the matzah enhances this feeling.

Second, according to the other *Rishonim*, only the one conducting the Seder is involved in this form of transmission, because only he “snatches” the matzah. However, according to Rambam, everyone at the Seder “snatches the matzah because everyone is involved in the transmission of our *mesorah* through the “*Yachatz* act.”

### How Can We “Pass Over” the Top Matzah?

There is a general rule known as “*ein ma’avirin al ha-mitzvot*.” This rule teaches us that if one has an opportunity to perform a mitzvah you may not “skip over” this opportunity and perform a different mitzvah. An example of the implementation of this rule is related to the current coronavirus situation. Let us imagine a doctor who enters a hospital ward treating corona patients and spots a relative lying on the tenth bed inside the room. May the doctor run to treat his relative before the other patients? Rabbi Moshe Feinstein rules that doing so would be in violation of *ein ma’avirin al hamitzvot*.<sup>21</sup> In his view, the doctor must deal with the first patient he encounters upon entering the ward.

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19. Meiri, *Beit HaBechirah*, *Pesachim* 109.

20. Commentary on Rambam, *Hilchot Chametz U-matzah* 7:3.

21. *Iggrot Moshe*, *Choshen Mishpat* 2:73(2).

Why then, do we “skip over” the top matzah and perform *Yachatz* on the middle matzah? Truth be told, there is a disagreement among the *Rishonim* regarding this practice. Rokei’ah and Smag rule that one should use the top matzah for *Yachatz*.<sup>22</sup> We, however, follow the opinion of Rosh and Mordechai who rule that one should use the middle matzah for *Yachatz*, in line with the ruling of Shulchan Aruch.<sup>23</sup>

But what is the rationale behind this ruling of Rosh, Mordechai and Shulchan Aruch?

Although Bach<sup>24</sup> attempts to explain the position of Mordechai, the latter does not need any assistance, as he addressed this question himself:

*The middle matzah is broken, and half is kept for the afikoman. We cannot say the top one is broken because of the concept “you do not pass over a mitzvah” because there is no mitzvah performed in breaking the matzah in two.*<sup>25</sup>

Mordechai is actually telling us that *Yachatz* is not a violation of “passing over a mitzvah” because *Yachatz* is, in fact, *not a mitzvah!* *Yachatz* is rather a re-enactment.

In summation, it is clear from a halachic perspective that *Yachatz* is fundamental to the Seder. It is not an arbitrary or prosaic preparatory act before the Seder begins. Nor is it merely to encourage the children to ask questions. According to the Baal HaTanya, the act of breaking the matzah in two allows for the combination of the two aspects of matzah: poor man’s bread and the bread over which we recite the Haggadah. For R. Shlomo Zalman, by breaking the matzah we join Kiddush with our meal. According to Rambam, as explained by R. Soloveitchik, *Yachatz* highlights the matzah as the poor man’s bread and is actually done immediately before we eat the matzah.

We have discussed why *Yachatz* is crucial for the Seder from a halachic vantage point. However, I would like to argue that *Yachatz* is perhaps the most important act that we perform at the Seder because of what it represents about us, about G-d, and about our history. In the past, I have often cited the statement made by Rebbe Menachem Mendel of Kotzk that there is nothing more complete, nothing more whole, than a broken heart. More than this brokenness, which the matzah represents, the matzah which is broken into two parts represents the historic Jewish experience.

## **Part 2: Yachatz: The Great Divide: The Centerpiece of Jewish life**

### **Three Yachatz Moments**

We find many “Yachatz moments” throughout Jewish life. *Yachatz* moments are essential for Yiddishkeit.

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22. See Beit Yosef, *Orach Chayim* 473 s.v. *yayikach*.

23. Shulchan Aruch, *Orach Chayim* 473:1.

24. Bach 473:11.

25. Mordechai, *Hagaot* 38.

In addition to the actual *Yachatz* consisting of breaking the matzah at the beginning of the Seder, we find another *Yachatz* moment during the Seder in the form of breaking up the Hallel said during the Haggadah into two parts. Similarly, every Brit Milah is a *Yachatz* moment in which we perform a physical separation in order to enter into a covenant with G-d.

Here are three major *Yachatz* moments in Jewish History.

The first *Yachatz* moment occurred at the very beginning of the world, at the time of Creation:

*G-d saw that the light was good, and G-d separated between the light and the darkness...So G-d made the firmament, and separated between the waters that were beneath the firmament and the waters which were above the firmament. And it was so... And G-d made the two great luminaries... And G-d set them in the firmament...to dominate by day and by night, and to separate between the light and the darkness. And G-d saw that it was good.*<sup>26</sup>

At the very beginning of Creation, G-d carried out several *Yachatz* moments by dividing light from darkness, as well as dividing the water under the sky from the water above the sky. Later in this chapter, G-d divided the animal species into several types and separated them from the crawling insects. Incidentally, the recent coronavirus, according to one theory, is said to have emanated from a combination of the DNA of a bat and the DNA of another animal. Perhaps G-d's "dividing" moments during Creation were crucial to the world's survival. If these "divides" were not implemented, it appears as though Creation itself would not have been accomplished.

The Creation of Man was a dividing moment as well. Man was "divided" from the rest of Creation because he was created "*b'tzelem Elokim*, in the image of G-d." But what does "in the image of G-d" mean? If someone from Mars would suddenly appear on earth, and we would hand him a Chumash with the first parsha of Bereishit, he would learn two things about G-d. Firstly, that G-d creates and secondly, that He divides. Throughout Bereishit G-d is creating and dividing constantly. Consequently, Man, who was created in G-d's image, must be, like G-d, constantly involved in creating and dividing. In fact, Man is in his most godly moments and is at his best, when he performs *Yachatz*, i.e., when he utilizes the ability to divide and make distinctions in his life.

The second *Yachatz* moment in history is the *Brit bein habetarim* (the covenant of the pieces) between G-d and Avraham Avinu. This covenant consisted of Avraham preparing a sacrifice by breaking it precisely into two halves:

*And He said to him, "Take for Me three heifers and three goats and three rams, and a turtle dove and a young bird." And he took for Him all these, and he divided them in the middle, and he placed each part opposite its mate, but he did not divide the birds.*<sup>27</sup>

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26. Bereishit 1:4, 7, 16-18.

27. Bereishit 15:9-10.

G-d then puts Avraham Avinu to sleep and reveals to him the covenant between Himself and the Jewish people. This breaking “Yachatz moment” of the sacrifice was the preamble to the next crucial four hundred years that shaped Jewish history. It is from this point in history that Yitzchak wandered without any permanent home, Yaakov suffered, and later the Jewish people were exiled to Egypt. This *Yachatz* moment eventually led to the nation entering Eretz Yisrael and receiving it as our homeland.

The third *Yachatz* moment is the covenant which served as the preamble to Matan Torah at Sinai.

*And Moshe wrote all the words of the L-rd, and he arose early in the morning and built an altar at the foot of the mountain and twelve monuments for the twelve tribes of Israel. And he sent the youth and they offered up burnt offerings, and they slaughtered peace offerings to the L-rd, bulls. And Moshe took half the blood and put it into the basins, and half the blood he cast onto the altar. And he took the Book of the Covenant and read it within the hearing of the people, and they said, “All that the Lord spoke we will do and we will hear.”<sup>28</sup>*

An additional preamble to the receiving of the Torah was another “breaking” moment in the form of “splitting” the Sea of Reeds (*yam suf*).<sup>29</sup> In fact, the *Baalei Ha-Tosafot* explain the practice of *Yachatz* at the Seder as a reenactment of this “breaking” or “splitting” event.<sup>30</sup> Once again, we find that the preparatory act of the giving of the Torah at Sinai was a “*Yachatz* moment.”

Rashi writes that the division of the blood described in these verses was carried out by an angel.<sup>31</sup> Rabbi Yitzchak Hutner explains the necessity of performing the division only by an angel. When forming a covenantal relationship between Man and G-d there is a need for Divine intervention in order to precisely divide the blood in half.<sup>32</sup>

### Why is a *Yachatz* Moment Necessary?

Each of these watershed moments in Jewish history share a common thread – a splitting or dividing moment. In the Creation narrative, the covenant formed with Avraham Avinu, and the revelation at Sinai, the drama is introduced with a “*Yachatz* moment.” Indeed, Man is called on to imitate G-d by utilizing his creative abilities to both create and divide. By creating divisions and distinctions within his life, Man brings the divine into his life.

Taking R. Hutner’s idea further, it appears that when establishing covenantal relationships, as well as when living divinely, there is a need for dividing or splitting. Why do we need a “breaking” moment in order to establish a stronger relationship with G-d? Why actually “break” in order to become closer? How does separation bring about togetherness? This counter-intuitive idea is reinforced by a Tannaic Midrash.

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28. Shemot 24:4–7.

29. Shemot 14:21.

30. *Daat Z'keinim* Shemot 12:2.

31. Rashi Shemot 24:6.

32. Rabbi Yitzchak Hutner, *Pachad Yitzchak, Shavuot*, no. 41 (Gur Aryeh, 1983).

The following dialogue, one of many, is reported in the name of Rabbi Yosi ben Halafta, one of the Mishnah's most prominent sages, in a conversation with an unnamed matron, a Roman woman of rank:

*Rabbi Yehudah bar Simon began: "G-d returns the solitary ones homeward" (Tehillim 58:7). A Roman Matron asked Rabbi Yosi ben Halafta, "In how many days did G-d create the world?" He said, "In six, as it is said, 'Since six days G-d made...' (Shemot 20:11)." "And since then," she asked, "what has G-d been doing?" "G-d sits [on the Heavenly Throne] and makes matches: the daughter of this one to that one, the wife [i.e. widow] of this one to that one, the money of this one to that one," responded R. Yosi. She said, "And for merely this you believe in Him! Even I can do that. I have many slaves, both male and female. In no time at all, I can match them for marriage." R. Yosi responded, "Though this may be an easy thing for you to do, for G-d it is as difficult as splitting the Sea of Reeds." What did the Matron do? She went and matched her slaves, giving this man to that woman, this woman to that man, and so on. Some time after, the couples argued, this woman saying, 'I do not want this man' while another protested, 'I do not want that woman.' She admitted to R. Yosi, 'There is no god like your G-d. It is true; your Torah is indeed beautiful and praiseworthy.'*<sup>33</sup>

R. Yosi's response, that for G-d matchmaking is "as difficult as splitting the Sea of Reeds," requires explanation. Why would making a match, a shidduch, be compared to an act of splitting? It would seem that the metaphor would make more sense if he had said, "A shidduch is as difficult as grafting two disparate fruits on a tree."

The answer is that forging a covenantal relationship whether personal or national requires a *Yachat* moment. In order to become close to G-d we must separate ourselves from ungodly ideas. We must make a *Yachat* in order to become close to G-d. Similarly, when a *chatan* and *kallah* wish to create a relationship, they are creating something that is set apart from anyone else. It goes without saying that they must have a relationship with the rest of the world. But their relationship, one with each other, must be one that is separate from the rest of the world. It is for this precise reason that the blessings said at *Sheva Brachot* deal with involvement in the world, in order to stress that this aspect is important as well. However, they must create their own unique relationship independent of their obligation to society outside their marriage.

This concept is true as well with regard to our unique relationship with G-d. Although the Jewish people are separate from the world in this regard, we must engage with the rest of the world. In fact, we have a responsibility to the rest of the world. We are distinct, but we are "of" this world, but not above it!

There is yet another *Yachat* moment in Jewish History that must be mentioned. This is the moment when we broke the above-mentioned covenant between G-d and the Jewish people that had been forged at the foot of Mount Sinai. The Jewish people created the golden

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33. *Bereishit Rabbah* 68:4.

calf. How does Moshe respond to this crisis? When Moshe sees the relationship between G-d and the Jewish people in danger, what does he do to restore this relationship? Moshe breaks the *luchot* (tablets) at the precise location of the original covenant, at the foot of the mountain, *tachat ha-har*:

*It happened as he drew near the camp and saw the calf and the dances, that Moshe's anger flared up. He threw down the Tablets from his hands and shattered them at the foot of the mountain.*<sup>34</sup>

This was a premeditated, calculated act on the part of Moshe. What Moshe did was to shock the Jewish people in order to get their attention. He managed to cause the Jewish people to recalibrate their lives, through a “Yachatz moment.”

The Midrash comments:

*To enter into the covenant with the L-rd your G-d even through His oath, Three covenants did the Holy One make with Israel: one when they came out of Egypt, one when they stood before Mount Sinai, and one here [under the mountain]. But why did he make a covenant with them here? Because they had revoked the one that he had made with them on Sinai, when they said [of the Golden Calf] ‘This is your G-d, O Israel.’<sup>35,36</sup>*

If we follow the dialogue between Moshe and G-d following this episode we will realize that every time Moshe asked something from G-d and G-d agreed to his request, Moshe followed up by asking for something else. The final result is the following verse:

*And He said: Behold! I will form a covenant; in the presence of all your people, I will make distinctions [nifla'ot] such as have not been created upon all the earth and among all the nations, and all the people in whose midst you are shall see the work of the L-rd, how awe inspiring it is that which I will perform with you (Shemot 34:10).*

This verse reveals to us that G-d did, in fact, restore the original covenant. The covenant which was originally formed through a *Yachatz* moment at Sinai, was re-instituted by another *Yachatz* moment (of breaking the *luchot*) as well! A careful reading of this verse reveals the term *nifla'ot*, which is generally understood to mean “miracles,” is defined differently by Rashi. He explains that in this context the term means that G-d will make “distinctions.” G-d will make more *Yachatz* between you and the rest of the world.<sup>37</sup>

Seforno stresses the significance of this renewed covenant. The covenant now means that wherever we go in Exile, G-d will be with us. The Jews went to Spain and G-d's presence was with us; so too in Turkey, in Auschwitz and finally back to Eretz Yisrael, G-d is with us:

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34. Shemot 32:19.

35. Shemot 32:4.

36. *Midrash Tanchuma Devarim* 29:11.

37. Rashi, Shemot 34:10. The Hebrew phrase “*nifla'ot a'aseh*” is an expression related to the word *v-nifleinu*, meaning “and we shall be distinguished” [and separated from all the nations]. See *Shemot* 33:16.

*Behold! I will form a covenant to be in your midst” (Shemot 34:10). When the Jewish people were exiled to Babylonia the presence of the L-rd was “exiled” together with them, i.e. accompanied them. When they were exiled to Eylam the same was true. Even when they were exiled to Edom (by the Romans) this remained true.<sup>38</sup>*

When Moshe carried out this *Yachatz* moment by breaking the *luchot*, G-d’s reaction was as follows, as cited by Rashi on the final verse of the entire Chumash:

*Never again has there arisen in Israel a prophet like Moshe... as evidenced by...all the strong hand and awesome power that Moshe performed before the eyes of all Israel.<sup>39</sup>*

Rashi explains the phrase “before the eyes of all Israel”:

*This refers to the fact that his heart inspired him to shatter the Tablets before their eyes, as it is said, (Devarim 9:17) “And I broke them before your eyes” (Sifrei, Devarim 357:45), and the opinion of the Holy One, blessed be He, regarding this action agreed with his opinion, as it is stated that G-d said of the Tablets (Shemot 34:1) *asher shibarta*, meaning “which you have broken,” [implying] “May your strength be fitting (*asher/yasher* as in *yasher koach*, an expression of thanks and congratulation) because you have broken them” (Yevamot 62a; Shabbat 87a).<sup>40</sup>*

G-d was telling Moshe, you understood what had to be done in this situation. You understood that you must carry out a *Yachatz* moment in order to get the attention of the Jewish people.

## Hiding the Bigger Piece

Returning to the original questions:

Why would the Rabbis choose a seemingly technical act, of breaking the matzah, as a fundamental part of the Seder? Why do we hide the broken half? Why is the middle matzah used for this practice?

Clearly the breaking of the matzah is not a technical or preparatory act. It is an essential message throughout all of Jewish history. On the night we retell the Exodus from Egypt and the story of our people, recalling our “*Yachatz* moments” in which we, as a people, formed a covenantal bond with G-d. The idea behind hiding the bigger piece of the broken matzah is simple. The focus of a covenant is not what was achieved in the time that has elapsed in the relationship, represented by the smaller piece. Rather the emphasis is the renewed relationship moving forward, the larger piece. There are endless possibilities to implement this renewed relationship with G-d.

## Our Current *Yachatz* Moment

Not only are “*Yachatz* moments” essential in our history and for our relationship with our spouses, and with G-d, we are currently living in a “*Yachatz* moment,” a broken moment. We are currently struggling to balance the two aspects of matzah: the *lechem oni*, the poor,

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38. Seforno Shemot 34:10.

39. Shemot 34:10–12.

40. Rashi Devarim 34:12.

the sadness, and the anxiety. While at the same time, we experience the “bread over which the story of the triumph and the Exodus is told,” with praise and thanks to G-d for the goodness that He gives us. However, this is not new to the Jewish people. A respected Canadian academic named John Kenneth Galbraith once said that, “The mark of a true philosopher is one who can grasp two polar opposite philosophical ideas at once, defend them both, and live at peace with both ideas.” Actually, Galbraith was saying, in modern terms, something that the Chazon Ish stated a half-century earlier.

Rambam writes that one of the conditions of prophecy is *simchah* (happiness).<sup>41</sup> It is said in the name of the Chazon Ish that even the Lamentations of *Megillat Eicha* were written by Yirmiyahu HaNavi through prophecy in a state of *simcha*.<sup>42</sup> This means, said the Chazon Ish, that a Jew can hold onto two opposing emotions at once, and survive. This is how we have survived and this is how we will survive our current situation as well. We have two contradicting ideas running through our lives right now. However, we must understand that the *Yachatz* moment that we are living through is a preamble to better times. To borrow a popular contemporary phrase, the *Yachatz* moment is the “AHA!” moment in the Jewish experience.

At the end of the Seder, we declare “*L’shanah haba’ah bi-Yerushalyim* – Next year in Jerusalem.” The most profound national *Yachatz* moment was the *Yachatz* of the Temple, the destruction of the Temple. But we pray that we will merit to see the restored Beit Hamikdash very soon. Our learning and our mitzvot, our *simchat ha-chaim*, and our accepting and embracing G-d will bring that about.

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41. *Mishneh Torah, Yesodei Ha-Torah* 7:4.

42. I confirmed this citation of the Chazon Ish with Rabbi Meir Greineman, the Rosh Yeshiva of the Kollel Chazon Ish in Bnei Brak. He added that the Chazon Ish said that Yermiyahu composed *Eicha* with the *nusach* (tune) of *Megillas Esther*.

# Pour Out Your Wrath Or Your Love?

## *Establishing the Authentic Text And Message of the Haggadah<sup>1</sup>*

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RABBI SHMUEL LESHER

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שפוך חמתך על הגוים אשר לא ידעוך ועל הממלכות אשר בשמך לא קראו. כי אכל את יעקב ואת נוהו השמו. שפוך עליהם זעמך וחרון אפך ישיגם. תרדוף באף ותשמידם מתחת שמי ה'.

*Pour out Your wrath upon the nations that did not know You and upon the kingdoms that did not call upon Your Name. Since they have consumed Ya'akov and laid waste his habitation (Tehillim 79:6-7). Pour out Your fury upon them and the fierceness of Your anger shall reach them (Tehillim 69:25). Pursue them with anger and eradicate them from under the skies of the Lord (Eikha 3:66).<sup>2</sup>*

**SHEFOKH HAMASKHA**, the passage in the Haggadah in which we ask G-d to pour out His wrath upon the nations of the world, is a combination of four Biblical verses.<sup>3</sup> It stands out as one of the most provocative texts within our liturgy. Its seemingly vengeful nature could not be more out of sync with the joyous and celebratory mood of Seder night. Moreover, the prayer itself is perplexing. As the Talmud (*Berakhos* 10a) concludes, it is preferable to pray for the repentance of sinners, rather than to ask G-d to mete out punishment upon the sinners themselves. However, in *Shefokh Hamaskha*, we explicitly ask G-d, in no uncertain terms, to express His wrath and fury by eradicating our enemies.

Aside from the moral question, for some, the very act of requesting the destruction of our enemies may be uncomfortable. Generally, given our current social context, many may feel uneasy expressing anger or the desire for vengeance. In a society in which we generally do

- 
1. My thanks to Rabbi Ron Yitzchak Eisenman who was the inspiration for this title.
  2. *Haggadah Shel Pesah*.
  3. Although most contemporary Haggados only include four Biblical verses in *Shefokh Hamaskha*, Rabbi Menachem Kasher notes that there are versions that have up to 17 verses all about the non-Jews being destroyed. See R. Menachem Kasher, *Haggadah Sheleimah*, (Machon Torah Shleimah, 1956), 177-180.

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not feel threatened by anti-semitism, how are we to understand the message of this prayer and its prominent placement within the Haggadah?

### The Origins of *Shefokh Hamaskha*

As the history of *Shefokh Hamaskha* demonstrates, there are parts of the Haggadah that have evolved over time. The inclusion of *Shefokh Hamaskha* in the text of the Haggadah is well documented by the early 15<sup>th</sup> century. The following illustrated Haggados from the 15<sup>th</sup> and 16<sup>th</sup> centuries all include *Shefokh Hamaskha*:



*Shefokh Hamaskha*  
Haggadah from Darmstadt, Germany  
(1420). Israel b. Meir of Heidelberg



*Shefokh Hamaskha*  
Haggadah from Mantua, Italy  
(1550)



*Shefokh Hamaskha*  
Haggadah from Prague (1556)

In addition to these 15<sup>th</sup> and 16<sup>th</sup> century Haggados that include *Shefokh Hamaskha*, the image of a donkey in the later two is also noteworthy. Some have claimed that there is no basis for a connection between *Shefokh Hamaskha* and Eliyahu coming to the *seder*. However, as Eliezer Brodt has noted, these Haggados show this is not the case.<sup>4</sup> In fact, I will discuss below the connection between *Shefokh Hamaskha* and the redemption. Perhaps this may explain the relevance of a donkey. There is a tradition that Eliyahu Ha-Navi will be riding on a donkey when he delivers the news that the redemption has arrived.

However, *Shefokh Hamaskha* does not appear in the Haggadah of Rambam (1138–1204) or in the Haggadah of Rabbi Saadia Gaon (882–942). This omission has led many scholars to assume that *Shefokh Hamaskha*, was added to the original text of the Haggadah at some point in history.

The Rama attributes the practice of reciting *Shefokh Hamakha* at the Seder to the Ran, dating its inclusion back to the 14<sup>th</sup> century.<sup>5</sup> But it appears that *Shefokh Hamaskha* actually goes back even further. Historically, the earliest undisputed source which includes *Shefokh Hamaskha* as part of the Haggadah is the *Mahzor Vitry*.<sup>6</sup> The *Mahzor Vitry* was written in the 12<sup>th</sup> century by Rabbi Simha of Vitri, a student of Rashi.

## Pour Out Your Wrath Or Pour Out Your Love?

*Shefokh Hamaskha*'s provocative tone caused some to search for an alternative text. My first encounter with an alternative to *Shefokh Hamaskha* was in the Rabbi Jonathan Sacks Haggadah. In this Haggadah, R. Sacks writes:

*In one manuscript from Worms, 1521, there is a unique addition to the Haggadah, alongside Pour Out Your Wrath. It is a prayer of thanks for the righteous gentiles throughout history, who, rather than persecuting Jews, befriended them and protected them in times of danger:*

*Pour out your love on the nations who know You.  
And on kingdoms who call Your name.*

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4. Eliezer Brodt, "The Cup for the Visitor: What lies behind the Kos Shel Eliyahu," *Seforim Blog* (March 18, 2013).
  5. See his gloss to the *Shulhan Arukh, Orach Hayim* no. 480 as well as his *Darkei Moshe*, *Ibid*. The Ran's statement appears in his commentary on the Rif, *Pesachim* 19a.
  6. *Mahzor Vitry, Hilchos Pesah*, no. 97. See Daniel Goldschmidt (ed.), *Haggadah Shel Pesach*, (Bialik, 1969), 62–64. Israel Yuval claims that all signs indicate that it was compiled in Europe, apparently by Franco-Ashkenazic Jews. See his *Two Nations In Your Womb: Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, translated by Barbara Harshav and Jonathan Chipman (University of California Press, 2006), 123.

Although it does appear in the *Seder Rav Amram Gaon*, a work from the late 9<sup>th</sup> century, scholars have noted that since many additions and textual changes were introduced into this work, it is difficult to discern its original text. Most surprising is the claim of R. Menachem Kasher. He suggests that according to R. Yehudah Sir Lion, one of the *Baalei HaTosafos* and teacher of the *S'mag*, *Shefokh Hamaskha* dates back all the way to the days of the Talmud Yerushalmi. See his *Haggadah Sheleima*, 177n1.

However, this claim is not convincing. The Yerushalmi in *Pesachim* (10:1) does record an opinion that says the four cups of wine parallel four cups of peril that the nations of the world will drink when redemption comes. But although the *S'mag* does quote his teacher, Rabbi Yehuda Sir Lion, who says this is a reference to *Shefokh Hamaskha*, the Yerushalmi does not explicitly make any mention of *Shefokh Hamaskha*.

For the good which they do for the seed of Jacob.  
And they shield Your people Israel from their enemies.  
May they merit to see the good of Your chosen  
And to rejoice in the joy of Your nation.<sup>7</sup>

I discovered after further research that this addition, sometimes referred to as *Shefokh Ahavaskha*, was published by the bibliographer Naftali Ben-Menahem in 1963.<sup>8</sup> It was supposedly discovered by Rabbi Hayyim Bloch (1881–1970) in a Haggadah from the estate of Rabbi Shimshon Wertheimer (1658–1724). R. Bloch claimed that this Haggadah was edited in Worms in 1521 by Rabbi Yehudah ben R. Yekusiel, the grandson of Rashi. R. Bloch attributes its disappearance from circulation to the Holocaust.<sup>9</sup> However, a number of scholars believe that this prayer was most likely not composed in Worms in 1521, but rather by R. Bloch himself.<sup>10</sup>

Notwithstanding its questionable origins, in recent years, some contemporary Haggados not only have included it as an addition but actually replaced “Pour Out Your Wrath” with “Pour Out Your Love.”<sup>11</sup>

To the mind of this author, this does not resolve the issue. Besides the issue of excising a text that has been included in the Haggadah since the 12<sup>th</sup> century, *Shefokh Hamaskha* is a collection of Biblical verses. Clearly, no matter how uncomfortable someone may be with them, removing these verses from the Biblical canon is completely unacceptable. What good does it do to remove these verses from the Haggadah when these same verses remain part of the Biblical canon? Even if one wants to make the unlikely claim that “Pour out Your Love” is in fact authentic and was authored in Worms in 1521, it is more likely a form of self-censorship to avoid anti-Semitism than an appreciation of righteous gentiles. In any event, “Pour out Your love,” does not solve the issue of the jarring and vengeful sentiment of *Shefokh Hamaskha*.

## The Opening of the Door

Another feature of *Shefokh Hamaskha* is the practice of opening the door to recite it. The Rama writes that this practice is to recall the protective nature of the night of the Seder, referred to as “*Leil Shemurim*.” According to the Rama, the act of opening the door displays our faith

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7. *The Rabbi Jonathan Sacks Haggada*, (Maggid, 2003), 120.

8. Naftali Ben-Menahem, *Mahanayim*, 80 (Tel Aviv, 1963), 95.

9. R. Hayyim Bloch, *Heikhel Li-Divrei Hazal U-Pisgimeihem*, (Pardes and Shoulson Press, 1948), 592. See Alan Brill, “Pour Out Thy Love Upon The Nations And Miriam At The Seder,” *Kavvanah* (March 23, 2010). R. Bloch writes that R. Yehuda ben R. Yekusiel was a *nekhed* (grandson) of Rashi. However, this is impossible. Rashi died in 1105 and could not have had a grandson alive in 1521 to edit this Haggadah. Perhaps R. Bloch meant R. Yehuda ben R. Yekusiel was a descendant of Rashi. Or perhaps even more likely, this error is yet further evidence of the fabrication of *Shefokh Ahavaskha*.

10. Brill, *Ibid.* and Marc Shapiro, “More On Chaim Bloch,” *Seforim Blog* (April 22, 2010). As Shapiro notes, this is not the only controversial work that scholars believe R. Bloch fabricated. However, assuming it was not composed in Worms in 1521, R. Bloch’s motivation for forging a new rendition of *Shefokh Hamaskha* remains unclear.

11. Brill, *Ibid.*

in G-d's protection. He adds that it is in the merit of this act of faith that the Messiah will come. Then, at this point, Hashem will pour out His anger upon our enemies.<sup>12</sup>

Other commentators also see *Shefokh Hamaskha* as a reference to the future redemption. The Vilna Gaon notes that we interrupt the recitation of Hallel at the Seder by eating the meal. This is because the first half of Hallel is particular to the Egyptian redemption while the second half of Hallel, beginning with "Lo Lanu" is about the future universal redemption of the entire world. *Shefokh Hamaskha*, which asks G-d to destroy our enemies, is recited after *Birkas Ha-Mazon* because "the glory of the righteous cannot rise up until the sinners are consumed."<sup>13</sup> Similarly, Rabbi Eliezer Waldenberg also interprets *Shefokh Hamaskha* as the introduction to the second part of Hallel, in which we hope for the final redemption when evil will be destroyed and Hashem's justice will reign.<sup>14</sup>

According to the Vilna Gaon and R. Waldenberg, the recitation of *Shefokh Hamaskha* is completely consistent with the themes of the Seder. At the Seder, as we celebrate our freedom from slavery, we thank G-d for redeeming us from Egypt. This celebration focuses on the particular redemption of the Jewish people. However, there is also a larger and more universal redemption that we give voice to at the Seder when we hope and pray for the ultimate redemption and the messianic era. Reciting *Shefokh Hamaskha* at the Seder is part of our hope for the future redemption. By definition, part of the fulfillment of the ultimate redemption is the retribution and punishment of those who are deserving of it. In the end of days we pray that all will become clear and that the righteous will be rewarded and the wicked punished.

## A Historical View of *Shefokh Hamaskha*

Rabbi Menachem Kasher provides a historical perspective to the practice of opening the door before saying *Shefokh Hamaskha*.<sup>15</sup> R. Kasher argues that at times of anti-Semitic persecution, the Jewish people opened their doors at the Seder to literally look outside to see if there were any spies waiting by the door to report them to the government for saying negative things about non-Jews.<sup>16</sup> In fact, the *Ohr Zaruah* cites Rabbi Nissim Gaon (990–1062) who says in the name of his father that the practice was to leave the doors open the entire night of the Seder.<sup>17</sup> Rabbi Daniel Sperber argues that only later, because they feared their anti-Semitic Christian neighbors outside, Jews began to limit the practice of opening the door to the recitation of *Shefokh Hamaskha*.<sup>18</sup>

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12. Rama on the *Shulhan Arukh, Orach Hayim*, 480:1.

13. *Haggadah Shel Pesach, Peninei Ha-Gaon Mi-Vilna*, (Bnei Brak, 2008), 214.

14. *Tzitz Eliezer* 18:28.

15. *Haggadah Shleimah*, 180.

16. *Ibid.*

17. *Ohr Zaruah*, Vol. 2, no. 234. For more on this see R. Daniel Sperber, *Minhagei Yisrael*, Vol. 6 (Mossad Harav Kook, 1998), 129.

18. R. Daniel Sperber, *Minhagei Yisrael*, Vol. 3 (Mossad Harav Kook, 1995), 82.

R. Sperber cites historian Cecil Roth who documents the practice on Easter for a number of European Christian communities to throw stones at their Jewish neighbors' homes. In fact, when Easter fell on the same day as Pesah, Jews would refer to it as "Yimei HaHesger" (Days of Enclosure) – a reference to the isolation period a *metzora* (a leper) must undergo, used to describe a time when the Jews had to hide in their homes for fear of being pelted with rocks.<sup>19</sup> Accordingly, R. Sperber suggests that the practice of opening the door at the Seder was moved to accompany the recitation of *Shefokh Hamaskha* intentionally. We are asking G-d to pour out punishment on those who "poured out" or threw stones on us during this time period.

A different historical explanation for *Shefokh Hamaskha* and the opening of the door was offered in the name of Rabbi Yosef Salant. The Gemara (*Pesahim* 85b–86a) says that in the time of the Temple, even though people were not allowed to eat the Pesah sacrifice on their roofs, they would go onto their roofs to sing Hallel. In his *Haggadah Isamach Av*, Rabbi Eli Baruch Shulman quotes the *Devar Shmuel*, who says that his grandfather, R. Yosef Salant, used this practice to explain our practice of opening our doors when we recite *Shefokh Hamaskha*.<sup>20</sup> Because the Pesah sacrifice had to be eaten by a specifically designated group in a specific place, the practice was that people would close the doors to their homes to ensure that everyone ate the Pesah in its correct place. Once they finished eating, they would then open their doors to go up to their roofs to sing Hallel. Therefore, in commemoration of this ancient practice of singing Hallel on the rooftops, we too open our doors.<sup>21</sup>

## Why The Wrath and Why Their Destruction?

What still remains unanswered is the moral question. Why do we pray for our enemy's annihilation? As we noted, doesn't the Talmud prefer the repentance of sinners to their destruction?

Rabbi Moshe Yaakov Weingarten, in his *Ha-Seder Ha-Arukh*, cites an explanation of Rabbi Tzadok Rabinowitz of Lublin in order to answer why we do not pray for our enemies to repent.<sup>22</sup> R. Tzadok explains that when it comes to those who commit evil towards G-d, we

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19. Apparently the rationale for this cruel behavior was that the Jews are purported to have thrown stones at Jesus on Palm Sunday as he was parading through Jerusalem the week before his crucifixion. See R. Sperber, *Minhagei Yisrael*, 6, 129–133. I am indebted to Rabbi Daniel Korobkin for these sources.

Similarly, Rabbi Shlomo Riskin suggests that because of its proximity to Easter, during the Passover season, claims of blood libels that accused Jews of killing gentile babies and using their blood to prepare matzah and the wine for the Seder were often made. This made it necessary to open the door and look out into the street, lest a dead baby had been placed near the home to provide a mob with pretext to ravage and kill. R. Riskin claims that it was not at all rare to see Jewish families driven from their homes and Jewish populations from their villages in the middle of Seder night to escape certain injury and even death. See R. Shlomo Riskin, *The Passover Haggadah* (Ktav, 1983), 128–129.

20. R. Shmuel Baruch Eliezrov, *Devar Shmuel*, *Pesahim* 86a.

21. R. Eli Baruch Shulman, *Haggadah Yisamah Av* (Rabbi Isaac Elchanan Theological Seminary, 2017), 116–117. I am indebted to Rabbi Gil Student for this source. See R. Gil Student, "Seder on the Rooftops," *Torah Musings* (March 27, 2017).

22. R. Moshe Yaakov Weingarten, *Ha-Seder Ha-Arukh*, Vol. 2, *Siddur Leil Pesah Bi-Agaddah* (Jerusalem, 1992), 249n20.

pray for them to repent. However, when it comes to those who kill other people and are evil to human beings, we don't pray for them to mend their ways. According to R. Tzadok, in a form of *middah ki-neged middah* — a proportional response — we don't seek out good for those who have actively harmed us.<sup>23</sup>

## Limiting the Scope of *Shefokh Hamaskha*

In order to address its vengeful message, some commentators have limited the scope of those to whom *Shefokh Hamaskha* refers. Perhaps the most radical defense of *Shefokh Hamaskha* was offered by Rabbi Eliezer Ashkenazi (1512–1582):

*These verses [are referring to] those who deny the fact of the Exodus with all of its signs and miracles. [However], it is very clear that all non-Jews amongst whom the Jews are scattered, are aware of the Exodus, are convinced of its occurrence and understand its meaning. Therefore, we are saying specifically that G-d should not pour out His wrath upon those who do know His name...Only [pour out Your wrath upon] those who serve idols and who deny the creation of the world. Those who destroyed the Temple were idol-worshippers...But the Christians and Muslims of today do know G-d and recognize the fact of the Exodus. Heaven-forbid that our religion would require us to curse them.*<sup>24</sup>

R. Ashkenazi's view was influential well beyond his day. Almost 300 hundred years later, Rabbi Dr. Marcus Lehmann (1831–1890), the well-respected German rabbi and author, includes a lengthy translated excerpt of R. Ashkenazi's passage in his commentary on the Haggadah.<sup>25</sup>

Along similar lines, Rabbi Eleazer Fleckeles (1754–1826), a student of Rabbi Yehezkel Landau (1713–1793, also known as the *Nodeh Bi-Yehuda*), clarifies who the subject is of *Shefokh Hamaskha*. In the introduction to his halakhic responsa, *Teshuvah Mi-Ahavah*, R. Fleckeles argues that passages within the Talmud and other works that discriminate against gentiles refer only to ancient pagans and not to contemporary non-Jews. An example of one such passage is *Shefokh Hamaskha*.<sup>26</sup> According to R. Ashkenazi and R. Fleckeles, in *Shefokh Hamaskha*, the Psalmist specifically singles out the non-Jews who “do not know Your name.” This implies

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23. R. Tzadok Rabinowitz, *Tzidkas HaTzadik*, no. 71.

24. R. Eliezer Ashkenazi, *Maaseh Hashem*, Vol. 2 (Warsaw, 1871), 36–37.

25. *Lehmann's Passover Hagadah* (J. Lehmann, 1969), 272–274. The original can be found in Marcus Lehmann, *Hagadah shel Pessach mit Erläuterungen von Dr. M. Lehmann* (Frankfurt-am-Main, 1918), 162–164. I am indebted to Rabbi Dr. Moshe Y. Miller for this source. See his “*Rabbi Samson Raphael Hirsch and Nineteenth Century German Orthodoxy on Judaism's Attitude Towards Non-Jews*,” Doctoral Dissertation (Yeshiva University, 2014), 167–169. Miller notes that in the Hebrew edition of the Lehmann Haggadah, the R. Ashkenazi's citation was removed without any editorial explanation. See *Haggadah Shel Pesach Im Peirush Meir Nativ* (Bnei Brak, 1967), 252–253. Miller suggests that the editors of this edition seem to have felt either that R. Ashkenazi's words have no significance to contemporary world of Haredi Jews in Israel, or perhaps that they were written apologetically.

26. R. Eleazer Fleckeles, *Teshuva Mi-Ahava*, 3 volumes (Prague, 1809–1821), introduction titled *Kesus Enayim*. For more on R. Fleckeles and this work see my forthcoming, “From The Pages Of Tradition: Rabbi Eleazer Fleckeles: An Early Rabbinic Humanist,” *Tradition* 54:2 (Spring 2022), 133–149.

that non-Jews, who do in fact know G-d's name, do not deserve any form of punishment or wrath.

In support of this distinction, Rabbi Hanan Balk, my father-in-law, notes that it is none other than Pharaoh himself who says that he does not know G-d. As is recorded in the Torah, Pharaoh says, "Who is this G-d that I should listen to Him and let Israel go? I do not know G-d, nor will I let Israel go" (Shemos 5:1).<sup>27</sup>

It should be noted that whatever explanation resonates most, we must recognize that before we question the morality of *Shefokh Hamaskha* in our current social context, we need to remember that the world today is very different from the world of yesteryear. To be sure, anti-Semitism is still very real today. However, in the past, Jews often suffered from violent pogroms and attacks on a regular basis. The fact that there were those who "devoured Yaakov" was not an abstract concept, or a shocking aberration of the norm, it was their everyday reality. In that context, it is completely natural and understandable to associate redemption with the defeat of our enemies.

In fact, given the Jewish people's history of persecution, R. Jonathan Sacks notes the level of restraint displayed in the Haggadah:

*For centuries, Jews suffered a series of devastating blows – massacres, pogroms, forced conversions, inquisitions, confinement to ghettos, punitive taxation, and expulsions, culminating, in the very heart of "enlightened" Europe, in the Holocaust. Yet these verses [...] are almost the only trace left by this experience on the Haggadah, the night we recall our past.*<sup>28</sup>

Rabbi Norman Lamm offers an astute psychological insight into how we as Jews have historically endured persecution, and yet did not allow hatred or vengefulness to poison us:

*Those who give verbal expression to their enmity are usually the least likely to act upon it. Those who acknowledge, as we do every Wednesday morning [in the Psalm of the day], that G-d is a Kel Nekamos ("G-d of vengeance") (Psalms 94:1), are least likely to appoint themselves the official executioners on His behalf. To have to keep your righteous resentment pent up within, without release, is like not being able to perspire. It keeps the poison inside your system and destroys it. When the steam of indignation at the humiliations and indignities we have had to endure over the centuries builds up pressure within us, we give it release – in this case, by reciting the Shefokh Hamaskha. Then both we and the world are all better for it.*<sup>29</sup>

Giving voice to the pain we have suffered as a people over the centuries has great therapeutic value. On Seder night, when we tell the story of our People and our collective memory, we must make mention of our suffering because that is part of the Jewish story. By telling the uglier side of the story, within the context of hope and redemption, we are able to process

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27. Subsequently I found that the *Arizal*, as recorded by his student Rabbi Hayyim Vital, makes this point in *Peri Eitz Hayyim, Shaar Hag Hamatzos*, 7:55.

28. *The Koren Haggada, with commentary by Rabbi Lord Jonathan Sacks* (Koren, 2017), 133.

29. R. Norman Lamm, *The Royal Table*, (Ktav, 2010), 106–107.

the injustices we have suffered, while at the same time avoid carrying resentment and anger over our past with us.

In conclusion, the meaning of *Shefokh Hamaskha* is multidimensional. Some limit its subject to those who actively target Jews. Some interpret it not as a call to arms, but as a prayer for the fulfillment of the redemption; a prayer for divine justice. While others see it as a therapeutic exercise to assuage our people's suffering. After exploring and researching this topic, I read *Shefokh Hamaskha* in a new light. I hope and pray for a time when evil will be destroyed and when all Jews and non-Jews will live in peace and know G-d's name. May it come speedily in our days.

# Karpas, Yoseph and the Final Redemption

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DANNY BERGER

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## Relationship Between Karpas and Yoseph<sup>1</sup>

**ON PESACH SEDER** night we perform *karpas* immediately after Kiddush in an effort to tweak the children's curiosity about the Seder being different from our standard Shabbos and Yom Tov meals. The intention is to trigger the children to ask questions allowing us to fulfill the mitzvah of *sippur yetzias mitzrayim* – the biblical obligation to relate the story of the Jewish nation's exodus from Egypt. The question to ask is why specifically *karpas* to achieve this objective?

Rabeinu Ma'noach in his commentary on the Rambam tells us:

*The karpas segment of the Pesach Seder is a zecher (remembrance) to the k'sones ha'passim (fine woolen coat) that Yaakov Avinu made for Yoseph which eventually lead to the decent of our forefathers to Egypt.*<sup>2</sup>

There seems to be a relationship between the word *karpas* and the phrase *k'sones passim*. The Talmud<sup>3</sup> tells us *karpas* is a compound of the words “*kar*” and “*pas*” commonly translated as “cushions of fine wool.” Additionally, Rashi in Parshas Vayeshev<sup>4</sup> actually links the phrase *k'sones passim* with the word *karpas* through the words “*karpas u'techeles*” as stated in Megillas Esther<sup>5</sup> and translated as “white cotton and blue wool.”

Given the etymological connection between the word *karpas* and the phrase *k'sones passim* what emerges is a linkage between the story surrounding Yoseph's coat and the story of

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1. Inspired by Daf Ha'Yomi shiurim given by Rabbi Sruly Bornstein.

2. Sefer Ha'Menuchah on Mishneh Torah, Hilchos Chometz U'Matzah 8:2.

3. Megillah 12a.

4. Bereishis 37:3.

5. Megilas Esther 1:6 (incidentally, this is the only place in Tanach where the word *karpas* appears).

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the Egyptian exile. The Talmud offers a lesson from Chazal which solidifies this connection very clearly:

*A person should never treat one son differently than his other sons. For on account of two selaim's weight of fine wool that Yaakov gave to Yoseph in excess of what he gave to his other sons, in making him the special coat, his brothers became jealous of him and the matter evolved until Yoseph was sold by his brothers and our forefathers descended to Egypt.*<sup>6</sup>

So we see *karpas* is linked to this special coat on a couple of levels and we are told that the story of Yaakov favouring Yoseph through the special coat is what ultimately lead to our forefathers decent to Egypt. The coat caused jealousy and the brothers throwing Yoseph into a pit. After being sold several times, ending up in Egypt and after numerous turns of events, Yoseph becomes second “in” command of Egypt which was the great superpower of its time. According to the very familiar and lengthy Torah narrative, eventually all of Yaakov Avinu's children end up in Egypt, leading to their bitter enslavement under the evil Pharaoh. This long sequence of events began with the *k'sones passim* – Yoseph's infamous coat. It is for this reason that we start Seder night specifically with the *karpas* ceremony in order to commemorate the event that precipitated the entire story of the Egyptian exile.<sup>7</sup>

This raises a further question. If Yoseph's special coat was the source of much pain and suffering for our forefathers, why do we reference it to start our seder? It seems to shift our focus away from the brutal Egyptian enemy and towards the enslavement being somewhat our own fault in the first place. Why invoke that memory and connection to the seder story at this time?

To deepen the question further while at the same time leading us to a possible answer, consider the following special *Yehi Ratzon* prayer that many recite at the conclusion of *birkas kohanim* on Yom Tov. It is a beautiful prayer in which we seek Hashem's blessing for *parnassah*, favour and kindness. Curiously however, Yoseph's *k'sones passim* is mentioned in this special plea:

*And may You bestow upon me and upon all the souls of my household, our food and our sustenance – generously and not sparsely, honestly and not in forbidden fashion, pleurably and not in pain – from beneath your generous hand, just as You gave a portion of bread to eat and clothing to wear to our father Yaakov who is called a wholesome man. And may You grant that we find love, favour, kindness and mercy in Your eyes and in the eyes of all who behold us; and that my words in Your service be heard just as You granted Yoseph, Your righteous one – at the time that*

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6. Shabbos 10b.

7. The “dipping” of the *karpas* is also symbolic of the brothers dipping Yoseph's coat into the blood. According to The Mordechai (Mordecai ben Hillel HaCohen, Germany, 13<sup>th</sup> Century) on Pesachim 114a *karpas* was dipped into vinegar or wine. Given both are red this could be symbolic of the blood in which the brothers dipped Yoseph's coat to make it appear he was killed. The Rambam in *Hilchos Chometz U'Matzah* 8:2 codifies that *karpas* is to be dipped in *charoses* which contained red wine and presumably also symbolic to the blood as well. In our times, the more prevalent custom is to dip *karpas* in salt water symbolizing Bnei Yisrael's tears from the excruciating pain and suffering.

*his father garbed him in a fine woolen tunic – that he find favour, kindness and mercy in Your eyes and in the eyes of all who beheld him...*<sup>8</sup>

Many ask what we are meant to accomplish by mentioning this event given the tragedy of the Yoseph story. Why invoke the memory of the brother's jealousy that caused tremendous pain and suffering to Yaakov and Yoseph and ultimately led to many years of Jewish suffering and torturous servitude in Egypt? Why should we mention our own failure at a time when we are asking G-d to mercifully provide for our wellbeing?

Perhaps this episode is meant to talk directly to us and offer some sense of meaning to both one's personal life and to our Jewish national experience in general.

For reasons beyond our ability to comprehend, life in this world was not designed to be easy and straightforward. Life is often filled with obstacles and challenges that bring sadness, pain and suffering. Imbedded within this prayer asking G-d for lives filled with blessing and salvation, we do so with the understanding that we may not receive what we ask for, or not necessarily at the precise time we expect it. G-d often operates mysteriously and in ways that are hidden from our human comprehension. Perhaps the Yoseph story is invoked in this prayer after Birkas Kohanim in order for us to set realistic expectations and avoid disappointment in life by reminding ourselves that G-d has His master plan for individuals and for the nation. While we are not privy to His plan, we must believe all is ultimately for the good even if we cannot see the larger picture in the moment.

We see this clearly from the Yoseph story. The *k'sones passim* and Yoseph represented the beginning of many troubles leading to tremendous pain and suffering. However, it played out in real time exactly the way it needed to according to G-d's plan. As the Yoseph story was taking place with all its subplots, twists and turns, the redemption story was also unfolding at the same time. We are told G-d ultimately redeemed His people from Egypt ahead of the schedule he foretold to Avraham Avinu but only after He intensified the suffering.

After arriving on the scene to lobby Pharaoh on behalf of the Jewish people, Moshe Rabeinu questions G-d on the purpose of his involvement after seeing the servitude not improving but actually deteriorating. While G-d reduced the original Egyptian Exile timeline from 400 to 210 years,<sup>9</sup> He was able to be true to His original word by spreading the same misery and suffering over a shorter period. For unknown reasons, the remaining painful experiences had to play themselves out, albeit over a shortened timeline in order for G-d to bring our redemption to fruition.

## The Egyptian and Final Redemption

We are told that the current exile and the coming final redemption are direct parallels to the Egyptian exile and subsequent redemption more than three millennia ago.<sup>10</sup> Many

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8. *ArtScroll Siddur* translation.

9. Rashi to Shemos 12:40.

10. We know the final redemption will mimic the Egyptian redemption from G-d's response to the prophet Michah: "As in the days when you left Egypt I will show it wonders" (Michah 7:15).

view this linkage to be apparent and relevant in recent history when in the 19<sup>th</sup> century our people began a formal return to Eretz Yisrael for the first time in almost 2,000 years. The time leading up to the establishment of Medinat Yisrael in 1948 was one filled with much pain and suffering that continues until today. Perhaps all the pain and suffering endured in the current exile is also a hidden requirement for us to reach the End of Days and the coming of Mashiach. For reasons unbeknownst to us, every pogrom, gas chamber, death march and terrorist act against Jews was precisely what G-d ordained in order for our final redemption to play itself out. While excruciatingly painful and for reasons we cannot begin to comprehend, this seems to be mimicking the Yoseph story and is ultimately part of G-d's master plan to bring us closer to the time and place our nation longs for.

## **Yoseph's Exceptional Character**

Given this notion of the Egyptian exile and redemption being a prototype for our current exile and coming Redemption, perhaps there is an additional lesson to extract from the Yoseph story to help us expedite the Final Redemption.

Upon the death of Yaakov Avinu, the brothers become fearful that Yoseph would take revenge on them after holding back all this time only out of respect for their father. The brothers fabricate a story that Yaakov made a request on his deathbed to instruct Yoseph to forgive the brothers and not take revenge after his death.

On this fictitious instruction, the Torah tells us "Yoseph wept when they spoke to him"<sup>11</sup> and proceeds to reassure the brothers they are forgiven. What was Yoseph feeling at that moment, an expression of relief upon finally reconciling with his brothers? I would like to suggest that his tears were something different.

Firstly, it must be recognized that the brothers never actually apologized to Yoseph in any direct or usual fashion for their hateful actions. The only expression of regret was after Yoseph recognizes them, accuses them of being spies and requests they bring their younger brother to prove their story is true. It is at that time that the Torah tells us the brothers talked amongst themselves, not knowing Yoseph's true identity and that he understood their language. They said: "we are indeed being punished on account of our brother because we looked on at his heartfelt anguish as he pleaded with us, yet we did not listen; that is why this distress has come upon us."<sup>12</sup> Even this statement itself does not contain the declaration "we were wrong and should not have done it." Rather, it was self-centered and an expression of a possible reason why they were suffering at this moment. Not only did they fabricate the instruction from Yaakov, but according to Rashi they sent this message to Yoseph through an emissary, not dealing with their misdeeds in an upfront and direct fashion.<sup>13</sup>

I would like to suggest that Yoseph's cry is one of extreme sadness, frustration and even anger over the complete inability of his brothers to directly express remorse and apologize.

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11. Bereishis 50:17.

12. Ibid. 42:21.

13. See Rashi to Bereishis 50:16.

Furthermore, Yoseph must have realized that this instruction from his father was fictitious since he had spent much time with Yaakov in those final days and this instruction was never mentioned to him directly.

However, let us now consider Yoseph's reaction to the brothers' continued stubbornness, their inability to apologize properly and apparent egotistical conduct. Yoseph clearly would have been justified to lash out at them in rebuke but, surprisingly, he does not. He could have said "why have you not apologized properly all this time, why do you continue to fabricate lies over this painful episode, why do you still not trust me after all I have said and done for you?" Rather, Yoseph courageously took the moral high-road which required very strong personal character<sup>14</sup> to achieve a final reconciliation of this tense episode. Instead of escalating matters further at this late stage in their lives, consider what Yoseph tells them.

Yoseph immediately says clearly and categorically "Do not fear" and repeats it a second time later in his response.<sup>15</sup> This alone could be deemed sufficient to move forward. However, recognizing that his brothers might still be filled with feelings of disbelief, Yoseph provides proof that his forgiveness is genuine and not merely words. Apart from saying "do not fear" twice, he tells them "Although you intended me harm, G-d intended your misdeeds for good in order to save our entire family from famine!"<sup>16</sup> Not only does Yoseph hold back from using justifiable words of rebuke, he goes above and beyond by helping the brothers help themselves, giving them the rationale to believe him. Not only does Yoseph tell them to no longer be fearful, he shares with them how he justifies the forgiveness in his own mind and should therefore be believed.

Yoseph proceeds to take this even one more step further to assure them this state of forgiveness is not temporary but will apply to future generations. He says "So now, fear not – I will sustain you and your children."<sup>17</sup> As if to say, this sentiment will never change and my forgiveness is everlasting. Ironically, Yoseph spends more time and energy forgiving the brothers than the brothers spend apologizing. Thereafter, we are told, "thus he comforted them and spoke to their heart" and in turn finally buries their animosity forever. So at a time when Yoseph would have been justified to express very different feelings, he, instead, consciously takes a different path to unilaterally diffuse tension and create everlasting unity between himself and his siblings.

Incidentally, we are immediately offered a description of Yoseph's final days – a very rare description that is not found when talking about the great ones we learn about in Bereishis. We are told Yoseph saw grandchildren and great-grandchildren were "raised on Yoseph's knee."<sup>18</sup> We are not told the same about the brothers. This concluding statement contains

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14. The Talmud (Rosh Hashanah 17a) refers conceptually to this conduct as one who is "*ma'avir ul midosov*" literally translated as "one who leaves his measures" – meaning one who purposely does not respond to his attacker in a way justified and deserved. As Rashi describes it, "he tolerantly drops the entire matter and goes on his way."

15. Bereishis 50:19-20.

16. Ibid 50:20.

17. Ibid 50:21.

18. Ibid 50:23.

imagery of Yoseph's inner peace, tranquility and a *nuchus ruach* as he lives out his final years. This teaches us that taking his type of interpersonal approach not only diffuses tension but provides us with an inner happiness. Perhaps due to his tremendous strength of character, Yoseph goes down in history as "Yoseph Ha'tzadik" – a title not bestowed upon anyone else. By example, Yoseph displays what is required of us in this world namely to tap deep inner strength and be in constant pursuit to improve one's individual G-d-given characteristics.

## **Conclusion**

So perhaps through *karpas*, its linkage to the *k'sones passim* and to Yoseph's exceptional character, this is precisely what we use to set the framework for the story of redemption we tell over on Seder night.

In addition, we must be reminded that due to baseless hatred amongst our people, G-d allowed the second Bais Hamikdash to be destroyed. It should therefore be obvious that in order to arrive at our ultimate Redemption, we must strive to correct this negative characteristic on both a personal and a national level. The concluding confrontation between Yoseph and his brothers highlight an attribute of Yoseph that should be most inspiring to us in our times. The Torah is not merely a storybook and we must learn from the great characters we read about in Scripture to internalize and integrate their traits and life experience within our own lives. This idea is described eloquently by Rabbi Jonathan Sacks: "the Torah portrays the patriarchs and matriarchs in all their human complexity so that we can identify with them and take strength from their stories rather than seeing them as impossibly remote from all we know and are."<sup>19</sup>

There is hardly a better way to remove baseless hatred than to aspire to be like Yoseph and strive towards programming ourselves to ignore differences and aspire to tolerance. This must be achieved even when perhaps we feel justified to act otherwise. If we are to be worthy of Moshiach's coming, we must strive to mimic Yoseph's exceptional character in an effort to rid ourselves of hatred towards our fellow Jew.

By allowing *karpas* to trigger the Yoseph story, may we benefit from a deeper understanding of our current exile and what action is required to bring the redemption closer. May we enjoy a meaningful Pesach Seder and merit the final redemption.

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19. Rabbi Jonathan Sacks, *Genesis: The Book of Beginnings* (Jerusalem: Maggid Books, 2009), 229–233.

# What's With the Wise Son Saying "You"?

## *An Analysis and Historical Background*

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RABBI MARTIN J. BERMAN

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**AFTER THE "FOUR QUESTIONS"** the most well-known part of the Passover Haggadah is the account of the "Four Sons." I want to examine this passage that we recite at our Seder tables.

The wicked son, what does he say? "What does this service mean **to you** (לכם *lakhem*)?" (Ex. 12:24) By the words "**to you**" he implies that this service is only for you – not for him. By excluding himself from the community, he denies G-d. So, blunt his teeth: "This is done on account of what Hashem did for me when I came out of Egypt" (Ex. 13:8). 'For me, not for him'; had he been there, he would not have been redeemed.

These words of the wicked son in the Haggadah are well known. Now without question the Passover seder is one of the most widespread Jewish home observances whether it is a traditional seder or merely a family gathering. It is the shared experience around the dinner table that sets it apart from other gatherings provides its defining place in Jewish life. A family comes together to celebrate and to share. That is why the wicked son is so harshly reproached "By excluding himself from the community, he denies G-d." It's your story, your ritual, your remembrance. I have nothing to do with it. All because of one Hebrew word *lakhem* – **to you!**

But wait a minute. Doesn't the wise son say **you** – "has commanded **you** (אתכם *etkhem*)?" Just picture the interchange around the Seder table. Esau says to his father Isaac: That's not fair! I get in trouble for saying **you** but when Jacob says the same thing he doesn't get sent to his room!"

Alright, what gives? What was the author of this passage thinking when he wrote this? The answer, I believe, is that he didn't write **you**. No, he wrote **us!** That is why I believe it is so important to understand how this passage got to our Haggadahs that we have today. So, let's review the Four Sons.

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## The Text of the Four Sons

A wise son, what does he say? “What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded you (אתכם *etkhem*)?” (Dt. 6:20) Explain to him the laws of the Pesach: that “no dessert may be eaten after the Passover sacrifice.”

The wicked son, what does he say? “What does this service mean **to you** (לכם *lakhem*)?” (Ex. 12:24) By the words “**to you**” he implies that this service is only for you – not for him. By excluding himself from the community, he denies G-d. So, blunt his teeth: “This is done on account of what the Hashem did for me when I came out of Egypt” (Ex. 13:8). For me, not for him; had he been there, he would not have been redeemed.

The simple son asks: “What is this all about?” Tell him, “With a strong hand Hashem brought us out of Egypt from the house of slavery” (Ex. 13:14).

As for the son who is unable to ask a question, you must open up the subject to him, as it is written: “You shall tell your son on that day: This is on account of what Hashem did for me when I came out of Egypt” (Ex. 13:8).<sup>1</sup>

Let’s make clear, the author of this passage emphasizes that the wicked child by using the pronoun **to you** (לכם *lakhem*), he has excluded himself from the seder. He doesn’t care about it personally; he has no interest in the meaning of the Passover seder and so he is due a severe rebuke.

Yet, the rebuke seems somewhat problematic because the wise child also says **you** (אתכם *etkhem*)” which has the same basic meaning, not us but you. This issue did not escape the notice of the myriad of commentaries on the Haggadah. Menahem Kasher in his magnificent “Haggadah Sheleimah”<sup>2</sup> surveys a number of approaches.

1. Some seize upon the words “Hashem our G-d” which shows he is not excluding himself.
2. Others suggest that he was born after the Exodus and so he is addressing those who went through that experience – I wasn’t there so please explain this to me.
3. Another approach is that אתכם *etkhem* can also mean עםכם *imkhem* – with you so that he joins in with the mitzvah.
4. The passage in the Torah is written without vowels and the Hebrew אתכם *etkhem* could be read as אותיכם *otekhem* – “What means *otekhem*? Me and you” (Sotah 34a).

Other answers suggest that the details of the wise son’s questions distinguish him from the Rasha. Yet others suggest that the Wise son in the Torah is truly asking a question: *ki yishalkha* – when he asks you; while the Wicked son is not really asking a question but making a statement: *ki yomru* – when he says.

I find all these answers as wanting. They don’t truly explain the fact that the questions of both the wise son and the wicked son employ the pronoun “you” – *etkhem* – *lakhem*. If we

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1. Haggadah Shel Pesach.

2. Pages 16–17.

delve into the history of the passage, I believe we can see that there is a straightforward answer – an overzealous correction! When we look at the sources for what we have in the Haggadah today we can see what happened and gain a better insight to the process of how the Haggadah came to be and the overzealous correction.

## Sources of the Four Sons

### The Torah

This story is built upon four passages in the Torah: Exodus 12:24–28; Exodus, 13:6–8, Exodus 13:11–15 and Deuteronomy 6:20–25. Let’s line up the Torah passages with the four sons.

DEUTERONOMY 6:20–25	HAGGADAH
<p>When, in time to come, your children ask you, “What mean the decrees, laws, and rules that Hashem our G-d has enjoined upon you?” you shall say <b>to your</b> children, “We were slaves to Pharaoh in Egypt and the Hashem freed us from Egypt with a mighty hand. Hashem wrought before our eyes marvelous and destructive signs and portents in Egypt, against Pharaoh and all his household; and us He freed from there, that He might take us and give us the land that He had promised on oath to our fathers. Then Hashem commanded us to observe all these laws, to revere Hashem our G-d, for our lasting good and for our survival, as is now the case. It will be therefore to our merit before Hashem our G-d to observe faithfully this whole Instruction, as He has commanded us.””</p>	<p>A wise son, what does he say? “What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded you ( <b>אתכם etkhem</b> )?” (Dt. 6:20) Explain to him the laws of the Pesach: that “no dessert may be eaten after the Passover sacrifice.”</p>
EXODUS 12:24–28	
<p>“You shall observe this as an institution for all time, for you and for your descendants. And when you enter the land that the Hashem will give you, as He promised, you shall observe this rite. And when your children say <b>to you</b>, ‘What do you mean by this rite?’ You shall say, ‘It is the Passover sacrifice to Hashem, because He passed over the houses of the Israelites in Egypt when He smote the Egyptians but saved our houses.’”</p>	<p>The wicked son, what does he say? “What does this service mean <b>to you</b> ( <b>לכם lakhem</b> )?” (Ex. 12:24) By the words “<b>to you</b>” he implies that this service is only for you – not for him. By excluding himself from the community, he denies G-d. So, blunt his teeth: “This is done on account of what the Hashem did for me when I came out of Egypt.”(Ex. 13:8) <i>For me, not for him</i>; had he been there, he would not have been redeemed.</p>

<p><b>EXODUS 13:11 – 15</b></p> <p>“And when Hashem has brought you into the land of the Canaanites, as He swore <b>to you</b> and <b>to your</b> fathers, and has given it <b>to you</b>, you shall set apart for the Hashem every first issue of the womb: every male firstling that your cattle drop shall be the Hashem’s. But every firstling ass you shall redeem with a sheep; if you do not redeem it, you must break its neck. And you must redeem every first-born male among your children. And when, in time to come, your son asks you, saying, ‘What does this mean?’ you shall say to him, ‘It was with a mighty hand that Hashem brought us out from Egypt, the house of bondage. When Pharaoh stubbornly refused to let us go, Hashem slew every first-born in the land of Egypt, the first-born of both man and beast. Therefore, I sacrifice to Hashem every first male issue of the womb but redeem every first-born among my sons.</p>	<p>The simple son asks: “What is this all about?” Tell him, “With a strong hand Hashem brought us out of Egypt from the house of slavery.”(Ex. 13:14)</p>
<p><b>EXODUS 13:6–8</b></p> <p>“Seven days you shall eat unleavened bread, and on the seventh day there shall be a festival of Hashem. Throughout the seven days unleavened bread shall be eaten; no leavened bread shall be found with you, and no leaven shall be found in all your territory. And you shall explain <b>to your</b> son on that day, ‘It is because of what Hashem did for me when I went free from Egypt.’</p>	<p>As for the son who is unable to ask a question, you must open up the subject to him, as it is written: “You shall tell your son on that day: This is on account of what Hashem did for me when I came out of Egypt.” (Ex. 13:8)</p>

There are a number of anomalies. The wise son’s question is from Deuteronomy 6:20 and the answer is not a biblical passage at all. The wicked son’s question is from Exodus 12:26 but the answer is from Exodus 13:8. The simple son’s question and answer are found in Exodus 13:14 – but while it too refers to the exodus the major point is not about the Pass-over ritual but the redemption of the firstborn animals and firstborn sons. Finally, as to the unasked question of the one who doesn’t ask any questions, you are instructed to tell him the information found in Exodus 13:8 which is the same answer given to the wicked son only without the editorial addition – “*For me, not for him*; had he been there, he would not have been redeemed.”

Clearly the author of the Four Sons in the Haggadah did not feel bound to follow the wording found in the Torah. He mixes and matches to create contrasts between the various participants at the seder table.

### Rabbinic Sources

The Haggadah is not the only source for this passage. It appears in the Mekhilta of Rabbi Yishmael and in the Talmud Yerushalmi.

In the Mekhilta<sup>3</sup> we find that the Wise son's question is almost identical to the Haggadah "A wise son, what does he say? "What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded **you** (אתכם *etkhem*)?" but instead of *etkhem you* – we find **us** (אתנו *otanu*). The remainder of the passage has no significant differences from our Haggadah.

Now in the Talmud Yerushalmi (Pesachim 10:4) there are a number of textual differences. First, the Yerushalmi cites Rabbi Hiya as the author of the passage. Each of the four sons is referred to in their questions as ben – ben Hakham, ben Rasha, ben Tipaish (not Tam טם – simple but טיפש – foolish) and ben *sheino yodei-ah lishol*.

The wise son also uses "commanded **us** – *otanu*" in his question. The response to his question is "It was with a mighty hand that Hashem brought us out from Egypt, the house of bondage" (Ex. 12:27), which is the answer found in the Torah to the question of Exodus 12:26 which is the source of the ben Rasha, the wicked son's question.

The wicked son's question is expanded "What does this service mean **to you**" – all this bothersome ritual that you burden us with each and every year? "Had that man been in Egypt he would never have been worthy of redemption."<sup>4</sup>

The Tipaish's (not ben Tipaish) question is identical to that in the Haggadah, but the answer is significantly different. You too (*af atah*) teach him the laws of the Passover "we do not add after the Pesah offering "*afikoman*."<sup>5</sup> That one who was in this *havurah*, group for the sacrifice, should enter into another group.

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3. מכילתא דרבי ישמעאל בא – מסכתא דפסחא פרשה י"ח

4. The expression that man *oto ha'ish* according to some is sometimes used as a euphemism for Jesus. A subject for another day.

5. This is clearly the Yerushalmi's understanding of the expression אין מפטירין אחר הפסח אפיקומן.

STANDARD HAGGADAH	TALMUD YERUSHALMI (VILNA) TRACTATE PESACHIM CHAPTER 10
<p>The Torah speaks of four sons; a wise one, a wicked one, a simple one, and who is not able to ask a question.</p>	<p>Rabbi Hiyya taught: The Torah taught in regard to four sons – the wise son, the wicked son, the foolish son, the son who knows not how to ask.</p>
<p>A wise son, what does he say? “What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded you (אתכם <i>etkhem</i>)?” (Dt. 6:20) Explain to him the laws of the Pesach: that “no dessert may be eaten after the Passover sacrifice.”</p>	<p>A wise son, what does he say? “What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded us?” Tell him, “With a strong hand the Lord brought us out of Egypt from the house of slavery.”</p>
<p>The wicked son, what does he say? “What does this service mean <b>to you</b> (לכם <i>lakhem</i>)?” (Ex. 12:24). By the words “<b>to you</b>” he implies that this service is only for you – not for him. By excluding himself from the community, he denies G-d. So, blunt his teeth: “This is done on account of what the Hashem did for me when I came out of Egypt” (Ex. 13:8). <i>For me, not for him</i>; had he been there, he would not have been redeemed.</p>	<p>A wicked son, what does he say? “What does this service mean <b>to you?</b>” What is this bother for us every year? Since he excludes himself from the general you too say to him: “It is for this that the Lord did for me” for me he did it for that man He did not do it. If that man were in Egypt he would never have been worthy of being redeemed from there.</p>
<p>The simple son asks: “What is this all about?” Tell him, “With a strong hand Hashem brought us out of Egypt from the house of slavery” (Ex. 13:14).</p>	<p>What does a fool say? What is this? You teach him the laws of the Pesach. That one does not add after the Pesah <i>afikoman</i>, i.e. that one should not leave this group and join another group.</p>
<p>As for the son who is unable to ask a question, you must open up the subject to him, as it is written: “You shall tell your son on that day: This is on account of what Hashem did for me when I came out of Egypt” (Ex. 13:8).</p>	<p>A son who does not know to ask you must open up the subject to him. Rabbi Yose said the Mishna said this: If the son does not have knowledge the father teaches him.</p>

## It's Not New Information

These discrepancies were long noted. Rabbi Moshe ben R. Avraham Matt (b. Poland 1551), a student of the Maharshal wrote: "It is written in a number of books: which Hashem our G-d has commanded **us**." *It is an error for the language of Scripture is which Hashem our G-d commanded you.*"<sup>6</sup>

We see from his remarks that there were Haggadot in his day that followed the wording of the Mekhilta and the Yerushalmi, but he asserts these Haggadot were misprints. He does not allude to the variants in the early sources and assumes that the quote of the passage Torah is an error.

R. Nahum Ash (1858–1936) wrote a commentary on Maimonides' Mishne Torah. He cites the Rambam's version of the Haggadah which has the text "*Which Hashem our G-d has commanded **us**.*" At first glance his words are problematic because in scripture Deuteronomy 6:20 it is written "**you**." But our master's words derive from the Yerushalmi Pesachim (10:4) and the Mekhilta at the end of Parashat Bo where the text is like the words of our master."<sup>7</sup>

There are two significant points here. The first is that, at least some versions of Rambam's Haggadah, used the word "**us**" in the wise son's question. Even more significant, after finding a source for this variant text, Rambam is not bothered by the fact that it does not match the Torah.

When we look at the evidence it seems to me that the original version has the wise son using the word "**us**." That sets up the clear contrast with the wicked son without resorting to explanations that ignore the obvious thrust of criticism of the wicked son – "for you and not for him." At some point the difference between the texts in the Haggadah using "**us**" in the wise son's question raised questions since the text in the Torah is "**you**." Simple response – assume that the version found in the Haggadah was a misquote, and therefore, simply fix the quoted "**us**" by substituting "**you**" and the problem is solved. There is no discrepancy between the wording of the question in the Torah and the wording found in the Haggadah.

## What to Do?

Most contemporary Haggadot take no notice of this change in the language of the Wise Son's question. Other than ignoring this I have seen several ways of dealing with it. The Haggadah published by Ktav Publishing, which was widely used by Hebrew schools in the U.S., did not change the Hebrew text but translated the Wise Son's question using "**us**." There is no mention of this discrepancy. To my surprise I found the same phenomenon in a Haggadah with Rabbi Shlomo Riskin's commentary. In recent additions of Haggadot published by the Conservative Movement the Hebrew text for the question of the wise son was that used by the Mekhilta and the Yerushalmi: "What is the meaning of the testimonies, statutes, and laws which Hashem our G-d has commanded **us**?" The distinction between the question of

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6. מטה משה עמוד העבודה ליל הסדר סימן תרל"ז

7. ציוני מהר"ן הלכות חמץ ומצה פרק ו' הלכה י"ב

the wise son, who says “**us**” and the wicked son who says “**you**,” but it no longer matches the Torah’s wording nor most Haggadot.

I believe that the ideal way to treat this would be to use the language of the traditional Haggadot but note the original text.

As we see the author of the passage did not feel bound by the wording of the Torah in constructing his description of approaches to the Seder night. He mixes and matches verses, rearranging the questions and answers and even supplies his own wording. Later generations saw this text and assumed an error had crept in because that is not what the Torah says. So, the passage of the Four Sons was *corrected*. However, that correction weakened the author’s clear statement. It opened the door for creative interpretive acrobatics but misses the author’s simple proposition – the wise Jew joins with the community. His questions are meant not to challenge but to better understand the seder ritual and what it means to be part of the Jewish People.

What we see here in the history of an important passage in the Haggadah should be a lesson for us. Be careful when correcting the words of others. What you see as an error, may indeed be correct.

# Egypt Demystified

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ARCHIE CRANDELL

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## Introduction

**EVERY PASSOVER WE** recount the Exodus from Egypt during our Passover Seder. We eat matzot, bitter herbs and charoset to remind us of our ancestors' bitter servitude in Egypt and the fact that G-d brought us out of Egypt during the Exodus to become a free nation. But what do we really know about Egypt beyond the slavery that B'nai Yisrael suffered and the plagues that affected the Egyptians? This paper presents the archaeological, cultural and historical context behind events in the Torah so that we can better understand Egypt and how Egyptian culture influenced the patriarchs' interaction with the ancient Egyptians.

## Why Were Both Jacob and Joseph Mummified?

The ancient Egyptians were obsessed with the afterlife.<sup>1</sup> They did everything in their power during their mortal lifetime to ensure a smooth transition to the eternal afterlife. They were especially motivated by the fact that their average lifespan was only 30 to 45 years.<sup>2</sup> The pharaohs built great pyramids and tombs to house their mummified bodies along with their possessions as well as food for their use in the afterlife. They covered the inside surfaces of their tombs with religious spells written in hieroglyphs and artwork showing their worthy deeds so that they would be judged favourably by their gods and would be granted passage to the afterlife. They also erected obelisks and large mortuary temples near their tombs for the priests to enact rituals for them and help them transition to the afterlife. They even built sphinxes to guard the pyramids so that nothing would interfere with their afterlife.<sup>3</sup> Most of the archaeological finds we have today are as a result of these endeavours.

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1. Egyptian Afterlife: [https://en.wikipedia.org/wiki/Ancient\\_Egyptian\\_afterlife\\_beliefs](https://en.wikipedia.org/wiki/Ancient_Egyptian_afterlife_beliefs).

2. Average Lifespan in Egypt: [www.newcrosshealthcare.com/insights/health-news/healthcare-through-time-part-1-ancient-egypt](http://www.newcrosshealthcare.com/insights/health-news/healthcare-through-time-part-1-ancient-egypt).

3. Egyptian Funerary: [https://en.wikipedia.org/wiki/Ancient\\_Egyptian\\_funerary\\_practices](https://en.wikipedia.org/wiki/Ancient_Egyptian_funerary_practices).

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The wealthy had an advantage over the poor in that they had the resources to build, to varying degrees, elaborate burial sites and engage in these rituals. Most ordinary ancient Egyptians could not afford to be so 'mahmir.' The relatives of the poor wrapped the deceased's body in a simple cloth and buried it in the desert with some everyday objects and food.

Genesis 50:2 and 50:26 tell us that both Jacob and Joseph were mummified in Egypt. Why were they not buried like ordinary Egyptians without intervention and their bones later exhumed for transport during the Exodus? At that time, it was a great honour to be mummified, but mummification came at great cost, and so, only the pharaohs and the wealthy could afford to be mummified. It may be that the Torah tells us of the mummification of Jacob and Joseph to show us the honour accorded to them by the Egyptian pharaoh, a status only reserved for the highest of Egyptian society.

## **How Were Egyptians and Foreigners Treated in Egypt?**

The social norms in ancient Egypt were very different than those we are accustomed to today and this should reflect our understanding of how the patriarchs interacted with the Egyptians.

The population of ancient Egypt was divided into social classes. There were about seven classes which can be listed in decreasing social status: pharaoh, government officials and priests, soldiers, scribes, merchants, craftsmen, peasants and slaves at the bottom.<sup>4</sup> Ancient Egypt's class system was mostly rigid in that different classes would not socialize or eat together, however, people in the lower or middle classes could sometimes improve their status through marriage or success in their positions.<sup>5</sup>

According to the Egyptian worldview, Egypt was the centre of the world and stood for order, whereas foreigners stood for chaos. Pharaoh's job was to keep order in Egypt by keeping Egyptian society in their classes and keeping their gods happy. Pharaoh was the intermediary between the mortal world and the heavenly world.<sup>6</sup> When Pharaoh had his dream (Gen. 41:1), he felt that the gods were giving him a prophecy of how to run his kingdom in the form of a dream. This may be why Pharaoh accepted and acted on Joseph's interpretation of his dream (Gen. 41:37) without any resistance.

In Egypt, crops were very predictable and there were hardly ever any famines, let alone seven consecutive years of famine, since the Nile floods predictably each year irrigating the farmland. Since Pharaoh felt his dream was a prophecy, he disregarded the natural order of the Nile to follow the words of his gods. (See below for more details about the Nile.)

Anyone not Egyptian living in Egypt was regarded as a barbarian. Foreigners could be physically manhandled and were not allowed to enter Egyptian temples. Foreign prisoners

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4. Social classes: [www.ancient-egypt-online.com/ancient-egypt-social-structure.html](http://www.ancient-egypt-online.com/ancient-egypt-social-structure.html).

5. Egyptian Society: [www.juntadeandalucia.es/averroes/centros-tic/41701109/helvia/sitio/upload/II\\_EGYPTIAN\\_SOCIETY.pdf](http://www.juntadeandalucia.es/averroes/centros-tic/41701109/helvia/sitio/upload/II_EGYPTIAN_SOCIETY.pdf).

6. Sakkie Cornelius Scripatura, *Ancient Egypt and the Other* 104 (2020), 322–340.

captured in wars became slaves. Sometimes foreigners could be accepted into Egyptian society if they adopted Egyptian customs and married Egyptian women.

Knowing how the Egyptians treated foreigners and the class system, we have some clarification about what happened between Joseph and Potiphar's wife when she tried to seduce him. In Genesis 39:7 Potiphar's wife commanded him to "sleep with me." This was not a request. It is the master's wife commanding a slave to do her bidding. Joseph was in no position to refuse her 'request.' He did the only thing that he could do by saying "How then can I do this great wickedness and sin against G-d?" (Gen. 39:9). What he was in effect saying in the language of Egypt is 'How will the Egyptian gods look upon us if we do this sin and how will we be able to transition into the afterlife if we commit the sin of adultery against your husband, my master?' Committing adultery was a sin in Egypt as can be confirmed by archaeological evidence.<sup>7</sup>

Of course, the rules that applied between Egyptians probably did not apply to slaves or foreigners. When Potiphar's wife recounted the story, she reminded her husband that Joseph was a "Hebrew slave" (Gen. 39:17) or, in the language of Egypt, a foreign barbarian. Potiphar could have executed Joseph for his crime, but instead he decided to hold onto his investment in this slave, so he moved him from being a slave running his home (Gen. 39:6) to a slave running the prison (Gen. 39:21) which Potiphar was in charge of. The verses mention numerous times that Potiphar was Captain of the Guard and that Joseph was placed in the prison belonging to the "house of the Captain of the Guard" (Gen. 40:3, 41:10). This prison may have been a higher class prison since Pharaoh's servants would also end up there so that Joseph could interpret their dreams as part of G-d's plan.

After Joseph was removed from prison (Gen. 41:14) and interpreted Pharaoh's dream successfully, Pharaoh took a number of steps to raise Joseph's social level. (Gen. 41:40). He gave him his signet ring, clothed him in fine linen garments, put a gold chain around his neck, and gave him an Egyptian name. Joseph was made to ride in the second chariot after Pharaoh and they called out before him "bow down." Thus, he was placed over all the land of Egypt. Pharaoh's final step was to give Joseph an Egyptian wife, Asenath, the daughter of Poti-Phera the priest of On (Gen. 41:42-45). Marrying the daughter of a priest raised his social level to the highest possible level just below a pharaoh.

During Joseph's lifetime B'nai Yisrael were relatively safe due to Joseph's protection as second to Pharaoh. But once he died (Gen. 50:26), that protection was gone and B'nai Yisrael were just foreigners to be used as slaves. This is obvious when one looks at the proximity of the verses. Joseph's death was recorded in the last verse of Genesis and the declaration that "a new king arose who did not know Joseph" (Ex. 1:8) occurred only eight verses later. These eight intermediary verses list the generations that went down to Egypt and how B'nai Yisrael multiplied but give no other information. So, in effect these verses can be considered sequential.

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7. Ethical Practices in Egypt: <https://en.wikipedia.org/wiki/Maat>.

Another part of G-d's plan was to raise Moses' social level from a slave at birth, to someone who could easily access Pharaoh during the plagues. This was accomplished when Pharaoh's daughter found him in the Nile and raised him in the royal palace (Ex. 2:10). By doing so, she conferred upon him a social level that permitted him to re-enter the palace and approach Pharaoh as he did during the plagues. A slave could never have gotten past the palace guards to see Pharaoh.

## **Why Were Shepherds an Abomination for the Egyptians?**

It states in Genesis 46:34 that "we were permitted to dwell in the land of Goshen; for every shepherd is an abomination unto the Egyptians." Why were B'nai Yisrael an abomination unto the Egyptians? The Egyptians were farmers, growing a vast acreage of wheat and barley in the Nile Delta. In contrast, B'nai Yisrael were shepherds, with large flocks of sheep and there is nothing that sheep like better for a meal than fresh young wheat.<sup>8</sup> This is not a happy prospect for a farmer who worked hard to grow his crop. Placing B'nai Yisrael in Goshen solved this problem. Goshen, being on the east side of the Nile Delta,<sup>9</sup> was most likely separated from the Egyptian crops by irrigation canals on the Nile Delta. This separation allowed crops and sheep to coexist peacefully.

This practical dislike for shepherds is also seen in Egypt's religious beliefs since wool, a product of sheep farming, was considered unclean and not permitted to touch the skin of an Egyptian, and was not allowed in any of their temples.<sup>10</sup> Shepherds like B'nai Yisrael would have worn wool garments made from the wool of their sheep. Maybe this is why Joseph, at the end of this encounter with his brothers, gave each of them a change of clothing (Gen. 45:22). He may have given them Egyptian-friendly linen garments to replace their wool garments which were an abomination to the Egyptians. Wearing their new linen garments would have made them more acceptable to the Egyptians.

Now we can also understand Genesis 43:32 why Joseph, his brothers and the Egyptians all ate separately and the "Hebrews were an abomination to the Egyptians." There are a number of social norms coming into play here: Joseph, although a foreigner, was at the highest social level being next to Pharaoh (Gen. 41:43). The Egyptians were at a lower social level. The brothers, who were shepherds as well as foreigners and did not accept any Egyptian customs, were below the lowest level. The only way to satisfy their class rules and their dislike for foreigners and shepherds was to keep all these groups separate during the meal.

## **Why Did the Patriarchs Always End Up in Egypt During a Famine?**

The climatic conditions required for agriculture are very different in Israel and Egypt. Israel is very dependent on rain and because of this we say prayers for rain and dew on Sukkot

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8. Farming: [www.quora.com/Why-did-the-Egyptians-view-shepherds-as-detestable-and-why-did-they-refuse-to-eat-with-the-Hebrews](http://www.quora.com/Why-did-the-Egyptians-view-shepherds-as-detestable-and-why-did-they-refuse-to-eat-with-the-Hebrews).

9. Goshen: [https://en.wikipedia.org/wiki/Land\\_of\\_Goshen](https://en.wikipedia.org/wiki/Land_of_Goshen).

10. Clothing: [https://historylink101.com/n/egypt\\_1/a-clothing.htm](https://historylink101.com/n/egypt_1/a-clothing.htm).

and Pesach and throughout the year. Most of the yearly rainfall in Israel falls in the winter; summers are mostly rainless. In ancient times, absent irrigation, if there was not enough rain there were no crops and the result was famine.<sup>11</sup>

In contrast to Israel, Egypt is a desert which relies on the world's longest river, the Nile River,<sup>12</sup> and the world's largest river delta, the Nile Delta,<sup>13</sup> for its existence. Ancient Egyptians prayed to the god of the Nile for the yearly flooding<sup>14</sup> to provide Egypt with fertile silt and water for irrigation of their crops along its length and on the Nile Delta. The flooding of the Nile is the result of the yearly monsoons 6,650 km. away on the Ethiopian Highlands. The Nile starts to rise in June, reaches its peak in October and falls again until the next June. Near Cairo the Nile could typically rise 7.5 m.<sup>15</sup> Because of the yearly flooding of the Nile, the Nile Delta was able to grow lush crops on its 20,000 sq. km. of arable farmland.

As a result, Egypt usually had food when there may have been famine in the surrounding areas. This is why Avram and Sarai went down to Egypt (Gen. 12:10) and Jacob sent his sons down to Egypt to find food during the famines (Gen. 42:1). There was always food in Egypt because of the predictability of the Nile which was not dependent on local rainfall.

## **Did B'nai Yisrael Build the Pyramids?**

Josephus in his book *Antiquities of the Jews* (Book II 9:1) states that B'nai Yisrael built the pyramids. The pyramids that are most likely being referred to are the Great Pyramids in Giza<sup>16</sup> which are located about 5 km southwest of modern Cairo. The Torah, on the other hand, does not talk about building pyramids but, clearly says in Exodus 1:11 that B'nai Yisrael built the storage cities of Pithom and Ramesses. (See below for more details about these cities.) Could B'nai Yisrael also have built the pyramids in addition to Pithom and Ramesses?

The Torah in Exodus 1:14 and Exodus 5:7 says that B'nai Yisrael made mortar and bricks and that the Egyptian taskmaster would no longer provide the straw for making the bricks. However, the Great Pyramids were made of quarried limestone covered in marble,<sup>17</sup> not mud bricks made by B'nai Yisrael. Mud bricks were used for everyday construction, not for pyramids, tombs and mortuary temples that were built to last an eternity.

Also, the Great Pyramids at Giza were built during the Old Kingdom about 2,700–2,200 BCE by peasants who were conscripted during the flooding of the Nile when they could not farm while their land was flooded.<sup>18</sup> The Exodus from Egypt occurred between 1446 and 1290 BCE<sup>19</sup> during the new kingdom. This is over 1000 years after the Great Pyramids were

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11. Climate Israel: [https://en.wikipedia.org/wiki/Geography\\_of\\_Israel](https://en.wikipedia.org/wiki/Geography_of_Israel).

12. Nile: <https://en.wikipedia.org/wiki/Nile>.

13. Nile Delta: [https://en.wikipedia.org/wiki/Nile\\_Delta](https://en.wikipedia.org/wiki/Nile_Delta).

14. Flooding of the Nile: [https://en.wikipedia.org/wiki/Flooding\\_of\\_the\\_Nile](https://en.wikipedia.org/wiki/Flooding_of_the_Nile).

15. Ibid.

16. Giza Pyramid Complex: [https://en.wikipedia.org/wiki/Giza\\_pyramid\\_complex](https://en.wikipedia.org/wiki/Giza_pyramid_complex).

17. Ibid.

18. Slavery In Egypt: [https://en.wikipedia.org/wiki/Slavery\\_in\\_ancient\\_Egypt](https://en.wikipedia.org/wiki/Slavery_in_ancient_Egypt).

19. Date of Exodus: <https://biblemesh.com/blog/the-date-of-the-exodus>.

built. There were other smaller pyramids built after the Old Kingdom but the last one built was still hundreds of years before B'nai Yisrael arrived in Egypt.<sup>20</sup> B'nai Yisrael, therefore, could not have built the pyramids. Additionally, in Genesis 12:10 we are told that Avram and Sarai went down to Egypt because there was a famine in the land of Israel. The year of their arrival would be about 2080 BCE which is about 400 years after the Great Pyramids were built. (Avram was born about 2150 BCE<sup>21</sup> and he was at least 75 years old (Gen. 12:4) when he arrived in Egypt.) Thus, the pyramids at Giza were already built when Avram and Sarai arrived in Egypt.

## **What Happened to Pithom and Ramesses?**

From archaeological evidence and ancient documentation, the land of Goshen is located on the eastern side of the Nile Delta.<sup>22</sup> Both Pithom<sup>23</sup> and Ramesses<sup>24</sup> did exist in Goshen since there are references in the Torah and ancient Greek and Roman literature.<sup>25</sup> However, the exact location of these large cities remains somewhat elusive. Evidence provided states that Ramesses must have contained many temples, palaces, government offices and other administrative buildings, as well as state granaries, storage buildings, markets, and squares for troops to assemble.<sup>26</sup> There is less information about Pithom but it was also a large city. All these many structures were composed of an infinite number of mud bricks manufactured by B'nai Yisrael in the slime pits of Egyptian slavery.

Where are these cities today? The mud bricks used in the construction of these cities were repurposed by subsequent pharaohs when these cities fell out of use.<sup>27</sup> It is much easier to repurpose materials than to manufacture them from scratch. Even today mud bricks from archaeological sites are scavenged for their organic materials and then employed as agricultural fertilizer.<sup>28</sup> There were also stone obelisks and statues in Pithom and Ramesses which had their city of origin engraved on them. They were also scavenged and dispersed to other locations making it difficult to know their original location.

Although the cities of Pithom and Ramesses have not survived the millennia, knowing that they were large cities, built from an infinite number of mud bricks manufactured by our ancestors should help us to understand the hard labour that they endured in Egypt.

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20. Egyptian Pyramids: [https://en.wikipedia.org/wiki/Egyptian\\_pyramids](https://en.wikipedia.org/wiki/Egyptian_pyramids).

21. Birth of Abraham: <https://en.wikipedia.org/wiki/Abraham>.

22. Goshen: [https://en.wikipedia.org/wiki/Land\\_of\\_Goshen](https://en.wikipedia.org/wiki/Land_of_Goshen).

23. Pithom: <https://en.wikipedia.org/wiki/Pithom>.

24. Pi-Ramesses: <https://en.wikipedia.org/wiki/Pi-Ramesses>.

25. Pithom and Raamses: Their Location and Significance, E. P. Uphill, *Journal of Near Eastern Studies*, Volume 28, April, 1969.

26. *Ibid.*

27. *Ibid.*

28. Fertilizer: <https://en.wikipedia.org/wiki/Sebakh>.

## **Who Was the Pharaoh of The Exodus?**

It is not possible to determine who the pharaoh of the Exodus actually was since the pharaoh's personal name is not given in the Torah and there is no archaeological evidence of who he was.<sup>29</sup> Because of this lack of information, historians dispute the date of the Exodus which occurred somewhere between 1446 and 1290 BCE.<sup>30</sup>

Wikipedia lists as many as twelve possible pharaohs.<sup>31</sup> None of them can definitively be proven to be the pharaoh of the Exodus. But the most widely accepted possibility is Ramesses II (1279–1213 BC).<sup>32</sup> He was one of the most long-standing rulers (66 years) at the height of Egyptian power and the name Rameses is mentioned five times in the Torah (Gen. 47:11, Ex. 1:11 and 12:37, Nu. 33:3 and 33:5). As such, he is the leading contender for Pharaoh of the Exodus.

## **Conclusions**

Hopefully, you have enjoyed this little 'sojourn' into ancient Egyptian culture, history and archaeology. I also hope that you gained a bit more insight into how ancient Egyptian society functioned and how our patriarchs interacted with it as detailed in the Torah. I would like to leave the reader with one question to think about. Now that we know, the Great Pyramids at Giza, were built before Avram's lifetime, is it possible the Patriarchs saw the Great Pyramids when they went down to Egypt?

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29. Exodus: <https://www.biblicalarchaeology.org/daily/biblical-topics/exodus/exodus-fact-or-fiction/>.

30. Date of Exodus: <https://biblemesh.com/blog/the-date-of-the-exodus/>.

31. Pharaohs in the Bible: [https://en.wikipedia.org/wiki/Pharaohs\\_in\\_the\\_Bible](https://en.wikipedia.org/wiki/Pharaohs_in_the_Bible).

32. Ramesses II: [https://en.wikipedia.org/wiki/Ramesses\\_II](https://en.wikipedia.org/wiki/Ramesses_II).

# How Did the Sea Split?

## *The Two Stories of the Splitting of the Red Sea*

### *Based on Rabbi Mordechai Breuer's*

### *Aspect Methodology*

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JOEY FOX

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### Dealing with Contradictions

**EVERY MORNING**, in our daily prayers, we express that dealing with contradictions is inherent to studying Torah: “two verses that contradict each other [remain in contradiction] until a third verse is used to and reconciles them.”<sup>1</sup> This is known as the last of the 13 midrashic principles of Rabbi Yishmael. In his 13<sup>th</sup> principle, R. Yishmael outlines a midrashic method for resolving contradictions between two *pesukim* – a third *pasuk* is used as a guide as to which *pasuk* should be interpreted literally and which should be interpreted figuratively. This existence of this midrashic principle proves what is blatantly obvious – that two contradictory verses cannot both be interpreted literally. When contradictions arise, we are forced into a midrashic or figurative interpretation.<sup>2</sup>

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1. *Sifra, Breita Di-rabi Yishmael.*

2. A few examples of contradictions: Man and woman created together (Bereshit 1:27) then separately (Ibid. 2:7, 22). Two of each animal were on the ark (Ibid. 6:19–20) and seven pairs of pure animals (Ibid. 7:1). Binyamin was born in Canaan (Ibid. 35:18–19) and in Padan Aram (Ibid. 35:24–26). Yosef was sold to Potifar by the Medanim (Ibid. 37:36) and the Yishmaelim (Ibid. 39:1). The plague of blood started when Moshe hit the river with his staff (Shemot 7:17–18) and when Aaron raised his staff (Ibid. 7:19–20). The commandment of Shabbat begins with Zachor (Shemot 20:8) and Shamor (Devarim 5:12). The korban Pesach eaten roasted (Shemot 12:9) and cooked (Devarim 16:7). The Omer is counted for 7 weeks/49 days and 50 days (Vayikra 23:15–16). The spies were sent by Hashem (Bamidbar 13:1–2) and the nation (Devarim 1:22).

This is a small sample and all these issues were dealt with by the *mefarshim*, but they had to resort to *drash* and could not deal with them based on the *pshat*.

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At the same time, Jewish tradition teaches that “*Ein mikra yotzeh midey peshuto* – the text should be understood based on its plain meaning” (Shabbat 63a).<sup>3</sup> However, when contradictions arise, the plain meaning of the verse cannot be resolved without resorting to *drash*. Is there any way that the text can be understood based on its plain meaning in these cases?

Throughout our history, there have been various interpretations offered that recognize that the Torah is combining two separate contradictory accounts. The first example is the concept that the two stories of creation are resulting from *middat ha-din* and *middat ha-rahamim* – Hashem’s attribute of justice and attribute of mercy. Two separate *middot* (attributes) of Hashem lead to two different accounts of creation, but nevertheless both find expression in a single Torah. Rabbi Joseph B. Soloveitchik’s “The Lonely Man of Faith” is a discussion of the theological implications of these two different accounts.<sup>4</sup> Another example is Hazal’s statement of “*Zakhor veshamor bedibur ehad*,”<sup>5</sup> which also references the fact that two contradictory statements are found together in our Torah. The famous phrase from the Talmud: “*Elu ve’elu divrei Elokim hayyim*” (*Eruvin* 13b, *Gittin* 6b) provides a theological framework within which we can recognize that contradictions are inevitable when a single G-d interacts with humanity in different ways. However, until Rabbi Mordechai Breuer developed his *shitat ha-behinot* (aspect methodology) to analyze the Torah, contradictions were dealt with by the *mefarshim* on a case-by-case basis using figurative interpretations. They were never addressed through a consistent methodology, and were often not completely loyal to the *pshat*.

## **An Introduction to Rabbi Mordechai Breuer and *Shitat Ha-behinot***

Rabbi Mordechai Breuer (1921–2007) was born in Germany and was the great-grandson of Rabbi Samson Raphael Hirsch. He made aliyah to Eretz Yisrael in 1934 and studied at Jerusalem’s Chorev School, Yeshivat Kol Torah and Yeshivat Chevron. He then spent his career teaching at Yeshivat Hadarom, Michlalah Yerushalaim and Yeshivat Har Etzion.

R. Breuer has made three major contributions to the Torah world. His first major contribution was standardizing the text of the Tanakh. For this work, he won the Israel Prize in 1999. His authoritative Tanakh is the one currently used by the Mossad Harav Kook Publishing house. His next major contribution was definitively determining the system for the *taamei ha-mikra* – biblical cantillation. Before his work, the general principles were known, but an exact determination of the system by which they were implemented was fully established by him in his book *Taamei Ha-mikra*.<sup>6</sup>

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3. See for example Rashbam, Bereshit 37:1 s.v. *Eleh Toldot Yaakov*.

4. See Reuven Ziegler, *Majesty and Humility: The Thought of Joseph B. Soloveitchik* (Urim, 2012), 121–123.

5. *Mekhilta, Masekhta Devachodesh Yitro*, Chapter 7.

6. R. Mordechai Breuer, *Taamei Ha-Mikra*, (Chorev, 1990).

His third major contribution was his development of *shitat ha-behinot* – aspect methodology.<sup>7</sup> While teaching at Yeshivat Hadarom, he began investigating the claims of Bible critics whose analysis of the Torah is based on the documentary hypothesis. Although the hypothesis has been modified over the years, the basic academic claim has remained – that the Torah is comprised of separate documents compiled by a redactor. This hypothesis can explain the duplications, contradictions and language changes throughout the Torah.<sup>8</sup> It is also used by the academic world to attribute authorship of the Torah to different groups of people at different times with different political motivations. This directly goes against our belief that the Torah is divine. R. Breuer's insight was that secular Bible critics were correctly identifying contradictions and inconsistent narratives, but these are not separate documents compiled by a human. R. Breuer developed a systematic approach which explains that these are actually representations of different ways Hashem manifests in this world. Hashem was the author of these narratives and Hashem combined them into the Torah. This method became known as *shitat ha-behinot* – aspect methodology.<sup>9</sup>

## R. Breuer's Works On *Shitat Ha-Behinot*

R. Breuer laid out the application of his theories in two main books: *Pirkei Moadot* (1986) and *Pirkei Bereshit* (1999). His articles about *shitat ha-behinot* including responsa and debate about this method were collected and published in *Shitat Ha-behinot Shel Harav Mordechai Breuer* (2005). Other articles he published using *shitat ha-bechinot* were collected and published posthumously in *Pirkei Mikraot* (2009). All of his works are in Hebrew. Very little is accessible to the English-speaking world. I have personally endeavored to translate his works and make them available.

As previously discussed, there is widespread acceptance that there are two separate accounts of the creation of man, as R. Soloveitchik puts it – Adam I and Adam II. R. Breuer argued that “cracking open this tiny window actually opens the floodgates to biblical criticism of the entire Torah.”<sup>10</sup> If we accept that Adam I was created with *middat ha-din* (attribute of justice) and Adam II was created with *middat ha-rahamim* (attribute of mercy),

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7. For a detailed introduction to the documentary hypothesis and *shitat ha-behinot*, see Rabbi Amnon Bazak, *To This Very Day*. (Maggid, 2020), chapter 3. A free version can be found online here: <https://etzion.org.il/en/series/fundamental-issues-study-tanakh-lessons-9-16>.

8. Here are a few examples of alternating words: In the story of the banishment of Hagar in Bereshit chapter 16, she is referred to as a *shifcha* (maidservant). In the story of the banishment of Hagar and Yishmael in Bereshit chapter 21, she is referred to as an *amah* (maidservant). When Moshe is told at the burning bush to throw down his staff, it turns into a *nachash* (Shemot 7:9). When Aharon throws down the staff before Pharaoh, it turns into a *tanin* (Ibid. 7:15). Throughout the stories of the flood and the splitting of the sea, dry land is referred to as *harava* (Bereshit 7:22, Shemot 14:21) or *yabasha* (Bereshit 8:14, Shemot 14:22).

9. Despite the name of his theory, R. Breuer rarely uses the term *behinot* to describe the different aspects or manifestations of Hashem. For most of his analysis, he uses the word *hanhagot* which I translate as manifestations. At the beginning of *Pirkei Bereshit*, R. Breuer uses the terminology from Hazal of *middot* to describe the different narratives in *Sefer Bereishit*. I will use *middot* here to refer to the two different stories as it is a more familiar concept to people who have not previously studied Rav Breuer's work.

10. *Shitat Ha-behinot Shel Harav Mordechai Breuer*, 188–189.

then ten generations later we should expect to find Noach I with *middat ha-din* and Noach II with *middat ha-rahamim*, followed by Avraham I and Avraham II, Yitzchak I and Yitzchak II and so on. This then continues throughout the entire Torah.<sup>11</sup>

Building on this approach, R. Breuer argues that many stories in the Torah are composite stories – two intertwined stories resulting from the different *middot* of Hashem told as one story.<sup>12</sup> The differing details of these two stories lead to inconsistencies and contradictions in the pshat. Therefore, to properly understand the larger narrative, first the individual stories need to be separated out and understood individually. Only then can the two stories be recombined and understood in that context.<sup>13</sup> Some examples of these composite sections are The Flood,<sup>14</sup> The Tower of Bavel,<sup>15</sup> Brit Bein Ha-betarim,<sup>16</sup> The Sale of Yosef,<sup>17</sup> The Plagues of Blood, Frogs, Hail and Locusts,<sup>18</sup> The Splitting of the Red Sea,<sup>19</sup> and The Sin of the Spies.<sup>20</sup> Below, I will use R. Breuer's method to explain the three *pesukim* describing the sea splitting and returning based on R. Breuer's analysis in the 12<sup>th</sup> chapter of his work *Pirkei Moadot*.

## Pre-existing Notions for How the Sea Split

The splitting of the sea is one of the most significant events in our people's history, probably second only to *Maamad Har Sinai* – the revelation at Sinai. Bnei Yisrael, the Jewish people, a group of newly freed slaves, are trapped between the sea and the mighty Egyptian army. Moshe extended his hand over the sea and it formed two walls of water. Bnei Yisrael went into the sea and the Egyptians gave pursuit. Bnei Yisrael left the sea and the water crashed down upon the Egyptians. This is the image depicted in the movies *The Ten Commandments* (1956) and *The Prince of Egypt* (1998).

However, a different image occurs elsewhere. Rabbi Jonathan Sacks was fond of discussing the natural means of how the sea split.<sup>21</sup> He would often cite an academic study explaining

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11. Ibid.

12. This is sometimes referred to as a diachronic reading of the text.

13. Many Orthodox Jews in the academic world still reject this analysis. See Joshua Berman's *Inconsistency in the Torah* (Oxford University Press, 2017) and his *Ani Maamin* (Maggid, 2020). See also Umberto Cassuto *The Documentary Hypothesis* (Shalem Press, 2006). However, despite this rejection, both Berman and Cassuto offer alternative original theories explaining how the Torah can be comprised of multiple sources. Their theories are more limited in scope than *shitat ha-behinot* or the documentary hypothesis.

14. *Pirkei Bereshit*, Ch. 8. See also Yonatan Grossman, *Creation: The Story of Beginnings* (Maggid, 2019), 240–241. Grossman uses *shitat ha-behinot* to explain the difficulties with the flood narrative. Alternatively, Joshua Berman in *Ani Maamin*, Ch. 5 and *Inconsistency in the Torah*, Ch. 13 provides many arguments against a diachronic reading of the flood story.

15. Ibid. Ch. 9.

16. Ibid. Ch. 14.

17. Ibid. Ch. 35.

18. *Pirkei Moadot*, Ch. 11.

19. Ibid. Ch. 12.

20. Ibid. Ch. 19. If you are interested in translations of these chapters, please email me at [joeyfox85@gmail.com](mailto:joeyfox85@gmail.com).

21. For example see <https://youtu.be/roFdPHdhgKQ?t=926>.

how sustained 100 km/h winds could cause a significant drop in water levels.<sup>22</sup> An Israeli hydrologist named Moshe Dayan (a different person than the former general and minister of defence) published a study describing the extreme differences between high tide and low tide found in the Red Sea and how this could cause the waters to recede.<sup>23</sup> A similar effect can be found today at the Bay of Fundy Hopewell Rocks in New Brunswick where it fills and then drains of water between high tide and low tide. It is this image that is depicted in the more modern movie *Exodus: Gods and Kings* (2014). Bnei Yisrael are trapped at the sea. As the night passes, the sea drains and the seabed becomes exposed due to a combination of wind, tides and currents. Bnei Yisrael cross into the sea and when the Egyptians pursue, the sea in the form of a massive tidal wave comes crashing back upon them.

The image of a natural means by which the sea recedes and then returns is a very different event than the sea splitting and forming into two walls of water. Which of these images are substantiated by the text?

## The Text of the Sea Splitting in the Torah

With a basic understanding of *shitat ha-behinot* and identification of different images for the splitting of the sea, we can proceed to examine the text in the Torah. While a proper understanding of this story would require a study of the entire section beginning with *Parshat Beshalah* until *shirat hayam* (the song at the sea), that is beyond the scope of the analysis here.<sup>24</sup> We will just focus on the *pasuk* describing how the sea splits and the two *pesukim* describing how it returns in *Shemot* Ch. 14. It begins with Hashem giving Moshe a command in *pasuk* 16:

...וַיִּטְּ אֶת־יָדוֹ עַל־הַיָּם וַיִּבְקַעַהּוּ...

...Extend your hand upon the sea and split it...

Later, in *pasuk* 21, the Torah describes the sea splitting:

וַיִּט מֹשֶׁה אֶת־יָדוֹ עַל־הַיָּם וַיּוֹלֶךְ ה' אֶת־הַיָּם בְּרוּחַ קְדִים עֲזָה כָּל־הַלַּיְלָה וַיִּשָּׂם אֶת־הַיָּם לַחֲרָבָה וַיִּבְקַעוּ הַיָּמִים.

*Moshe extended his hand upon the sea, and Hashem moved the sea with a powerful east wind all night and made the sea dry land, and the waters split.*

There are multiple difficulties with this *pasuk*. The first difficulty is that the description in the Torah is different than what Hashem told Moshe. From what Hashem told Moshe, it appears that once Moshe would stretch his hand over the waters, he would be splitting the

22. Carl Drews and Weiqing Han, "Dynamics of Wind Setdown at Suez and the Eastern Nile Delta," PLOS ONE 5(8): (2010), e12481. <https://doi.org/10.1371/journal.pone.0012481>.

23. Moshe Dayan, "The Dividing of the Red Sea According to Natural Sciences," [Hebrew] *Beit Mikra* 73 (1978), 162-176.

24. See *Pirkei Moadot*, "The Splitting of the Red Sea" [Hebrew] Chapter 12 for the full analysis. Email me at joeyh fox85@gmail.com for my English translation of this chapter. For a briefer analysis in English of how this entire section divides into two stories, see Rav Yehuda Rock's analysis here: [www.etzion.org.il/en/tanakh/torah/sefer-shemot/parashat-beshalach/splitting-red-sea](http://www.etzion.org.il/en/tanakh/torah/sefer-shemot/parashat-beshalach/splitting-red-sea).

sea directly. Instead, between Moshe raising his hand and the sea splitting, Hashem brings an eastern wind all night long and makes the sea a dry land.

This then creates a glaring contradiction which does not allow for this *pasuk* to be read as describing a single account: the plain understanding of “moved the sea” and “made the sea a dry land” is that the entire sea was moved, became dry land and the seabed was exposed. It would be impossible for the waters to split since there was no remaining water there.<sup>25</sup> It would also be difficult to imagine how “moved the sea” and “made the sea a dry land” could be referring to a tiny strip of dry land between two walls of water. It is also difficult to understand how a wind blowing all night long would create the walls of water to form slowly overnight.

All these difficulties are easily resolved if we assume that the Torah is not describing a single splitting of the sea with logical inconsistencies and chronological difficulties, but rather two separate ways in which the sea split. Therefore, we can use *shitat ha-behinot* to describe the two methods of the water parting as described in this *pasuk*:

וַיִּט מֹשֶׁה אֶת־יָדוֹ עַל־הַיָּם וַיִּבָּקְעוּ הַמַּיִם.

*Moshe extended his hand upon the sea and the waters split.*

וַיּוֹלֶף ה' אֶת־הַיָּם בְּרוּחַ קְדִים עֶזְרָה כָּל־הַלַּיְלָה וַיִּשָּׂם אֶת־הַיָּם לְחִרְבָּה.

*Hashem moved the sea with a powerful east wind all night and made the sea dry land.*

By viewing this as two separate accounts we can now explain what happened. R. Breuer argues that Moshe extending his hand upon the sea and it splitting occurs through *middat ha-din* whereas Hashem bringing the eastern wind all night long occurs through *middat ha-rahamim*.<sup>26</sup> With *middat ha-din*, Moshe's actions and the result are directly related to Hashem's command and occur exactly as we would expect – an overt miracle occurs, the sea splits into two and Bnei Yisrael go into the sea and “the water was a wall for them on their right and on their left” (14:22). With *middat ha-rahamim*, a hidden miracle occurs, seemingly by natural means and Hashem brings a wind all night long and pushes the water aside making the sea a dry land.

## The Text of the Sea Returning

If the Torah described how the sea parted in two ways, we can assume from the outset that it would also describe the sea returning in two ways. Here is how the Torah describes the returning of the sea (*pesukim* 27–28):

25. A typical example of how Rashi deals with these issues is found in this *pasuk*: “**The waters split** – All the waters in the world.” Mesiah Ilmim and Sifte Ha-hamim explain that Rashi sees the two phrases ‘made the sea a dry land’ and ‘the waters split’ as a redundancy, so he believes ‘made the sea a dry land’ is referring to the water of the sea splitting and reinterprets ‘the waters split’ as referring to other waters in the world. Because of the difficulties in this *pasuk*, Rashi interprets both phrases figuratively and against their plain meaning.

26. *Pirkei Moadot*, 248.

וַיִּט מֹשֶׁה אֶת־יָדוֹ עַל־הַיָּם וַיָּשָׁב הַיָּם לְפָנֹת בְּקֹר לְאֵיתָנוּ וּמִצְרַיִם נָסִים לְקִרְאָתוֹ וַיִּנְעַר ה' אֶת־  
מִצְרַיִם בְּתוֹךְ הַיָּם.

*Moshe extended his hand upon the sea and the sea returned before morning to its original vigor and Egypt fled towards it and Hashem shook up the Egyptians in the sea.*

וַיָּשָׁבוּ הַמַּיִם וַיִּכְסּוּ אֶת־הָרֶכֶב וְאֶת־הַפָּרָשִׁים לְכָל חֵיל פְּרִעָה הַבָּאִים אַחֲרֵיהֶם בַּיָּם לֹא־נִשְׁאַר בָּהֶם  
עַד־אַחַד.

*The waters returned and covered the chariots and the horsemen and all of Pharaoh's soldiers that were coming after them in the sea. Not one of them remained.*

*Pesukim 27 and 28 seem to be copies of each other as they both describe the “sea” or the “waters” returning and what happened to the Egyptians as a consequence. Upon closer inspection, many difficulties arise which are similar to the difficulties found with the sea splitting. If we initially assume that there is only one account described, the word “eitano” is very difficult to understand. It is universally translated as returning to its previous strength or vigor. This means that when the sea split, it was in a state of being weakened and through the process of the sea returning, it is now no longer weakened. However, it is difficult to imagine a stronger image of the sea than it splitting and forming two giant walls of water ready to come crashing down on those who dare to enter. It seems it would have been more appropriate for the Torah to describe the sea as returning to its previously weakened state – *vayashov hayam lechulsho*.*

*Pasuk 27 also describes the sea as returning “before morning.” If the sea had returned as a direct result of Moshe extending his hand, then the Torah would have stated that Moshe extended his hand before morning and then the sea returned to its original vigor. By the Torah attributing the timing of the return to the sea, it appears the sea returned at its natural time and had nothing to do with Moshe extending his hand. If this story was supposed to be read chronologically, *pasuk 28* would make no sense as it would be impossible for the water to return and cover the Egyptians after the sea had already returned and shook up the Egyptians.*

*There are multiple inconsistencies in the terminology used in the the *pesukim* as well. *Pasuk 27* describes the sea returning and *pasuk 28* describes the waters returning. Why would there be a difference between the sea and the waters? There is also an inconsistency in the Torah's description of the Egyptians as *Mitzrayim* or *heil Paroah* – Pharaoh's soldiers. Throughout the story, the Torah also alternates between describing the dry land as *yabasha* or *harava*. All these inconsistencies require explanation.*

*Again, all of these difficulties can be easily resolved similar to how we resolved the difficulties associated with the description of the sea splitting above. The Torah here is describing two different ways of the sea returning corresponding to the two different ways of the sea splitting. Combining the *pesukim* of the sea splitting and returning and then arranging them based on *middat ha-din* and *middat ha-rahamim*, this is what we find:*

	MIDDAT HA-DIN	MIDDAT HA-RAHAMIM
<b>SEA SPLITTING</b>	<p>וַיִּט מֹשֶׁה אֶת־יָדוֹ עַל־הַיָּם וַיִּבְקָעוּ הַיָּם          Moshe extended his hand upon the sea and the waters split.</p>	<p>וַיּוֹלֶה ה' אֶת־הַיָּם בְּרוּחַ קְדָיִם עֶזְרָה כָּל־          הַלַּיְלָה וַיִּשָּׂם אֶת־הַיָּם לְחֶרֶב          Hashem moved the sea with a powerful east wind all night and made the sea dry land</p>
<b>SEA RETURNING</b>	<p>וַיִּט מֹשֶׁה אֶת־יָדוֹ עַל־הַיָּם          וַיִּשְׁבוּ הַיָּמִים וַיִּכְסּוּ אֶת־הָרֶכֶב וְאֶת־          הַפָּרָשִׁים לְכָל חֵיַל פְּרִיעָה הַבָּאִים          אַחֲרֵיהֶם בַּיּוֹם לֹא־נִשְׁאַר בָּהֶם עַד־אֶחָד          Moshe extended his hand upon the sea. The waters returned and covered the chariots and the horseman and all of Pharaoh's soldiers that were coming after them in the sea. Not one of them remained.</p>	<p>וַיִּשְׁבּ הַיָּם לְפָנוֹת בֹּקֶר לְאִיתָנוּ וּמִצְרַיִם          נָסוּם לְקִרְאָתוֹ וַיִּנְעַר ה' אֶת־מִצְרַיִם          בְּתוֹךְ הַיָּם          The sea returned before morning to its original vigor and Egypt fled towards it and Hashem shook up the Egyptians in the sea.</p>

These *pesukim* neatly divide into two complete and separate descriptions without internal contradictions, duplications or changes in terminology. The aforementioned difficulties in the text only arise because they are combined into one single description.

The parallels between the sea splitting and returning utilizing the two different *middot* of Hashem now become clear. From the perspective of Hashem's *middat ha-din*, Moshe extends his hand twice. First the waters split and then the waters return. From the perspective of *middat ha-rahamim*, first a wind blows all night and makes the sea a dry land and then in the morning the sea returns to its original vigor. The word *eitano* is now easily understood as it references how the sea was weakened when it was made a dry land and then returned to its original strength. From the perspective of Hashem's *middat ha-din*, the events occur immediately after Moshe extends his hand. However, from the perspective of *middat ha-rahamim*, the wind blows all night long and the sea returns before morning. We ultimately find that both previous images we had of how the Red Sea split have a basis in the text.<sup>27</sup>

R. Breuer argues that *middat ha-din* describes how this event occurred in a miraculous manner where walls of water formed on their right and left and *Middat ha-rahamim* describes how this event occurred in a seemingly natural manner, with the sea drying out and then returning.<sup>28</sup> Therefore, within the perspective of *middat ha-rahamim* the drying out of the sea and the drowning of the Egyptians is directly attributed to Hashem. When the splitting of the sea occurred in a miraculous manner, the Torah ascribes the actions directly to Moshe,

27. Even with Hollywood, *Elu veelu divrei Elokim hayyim!*

28. A complete derivation of this concept is beyond the scope of this work. For a full explanation, see *Pirkei Moadot* pg. 194–196.

but there is no doubt that Hashem is the true source. Conversely, in *middat ha-rahamim*, the drying out of the sea appears natural, so the Torah emphasizes that this was all done by Hashem, even though it could have happened naturally. The returning of the sea occurred in a completely natural manner since Hashem did not need to return the sea Himself, only to stop the eastern wind. Therefore, the Torah emphasizes that the next event – the Egyptians being shook up – is directly attributed to Hashem.

Based on this, the difference between the “waters returned” and the “sea returned” is now apparent. Within *middat ha-din*, the entire sea did not move and much of it might have remained in its natural state. Only adjacent to the strip of dry land within the sea, “the water was a wall for them on their right and on their left” (22) and not the entire sea. Therefore, the Torah describes the return to the natural state as “the waters returned” – the waters adjacent to the dry land that became a wall. Conversely, within *middat ha-rahamim*, the entire sea moved as one when it was made a dry land and it returned as one. Therefore, the Torah describes this as “the sea returned.”

Both through *middat ha-din* and *middat ha-rahamim*, through the miraculous and through the natural, Hashem defeated the Egyptians at the Red Sea and saved Bnei Yisrael from the hand of Egypt.

## Combining the Two Texts into One Story

When trying to determine what actually happened in the text of the Torah as it is before us, we must be careful. Without the correct approach, we risk falling into the trap of the Sadducees and Karaites which Rabbinic Judaism has fought against for millennia. Reading the text according to the *pshat* is part of our tradition. However, it is fundamentally against the basic tenets of Judaism that the *pshat* is the only ultimate truth. Just like “eye for an eye” is not the ultimate truth, the truth comes through *drash*. Although Hashem manifests in this world through both His *middat ha-din* and *middat ha-rahamim*, there is only one G-d. Reflective of this Oneness the fact that both of these two *middot* are intertwined into one narrative in the Torah. Utilizing two underlying stories within the narrative of the splitting and returning of the sea, we can now determine what occurred as described in the Torah.

It is important to note the consistent structure between both the sea splitting and returning. In both accounts, it begins with Moshe extending his hand over the sea. The Torah then describes the natural process by which the sea dries out or returns. It concludes with the direct continuation of Moshe extending his hand over the sea – the waters splitting or returning. Consequently, the natural event of the sea drying and returning interrupts the events of Moshe extending his hand and the waters reacting as a result.

When the sea split, initially Hashem gave Moshe a command with *middat ha-din* to extend his hand over the sea. With *middat ha-din*, Moshe extended his hand over the sea and this began the process of the sea becoming a dry land through *middat ha-rahamim* by a wind blowing all night long. The dry land needs to be understood figuratively as a state of not having the sea fully covered. The entire *pasuk* can be read as a *perat u-klal* – a detailed statement

followed by a general summary: the waters parted – and how did this occur? First Moshe extended his hand upon the sea and then Hashem brought an eastern wind all night long to turn it into a dry land.

A similar method is used to describe how the sea returned. First Moshe extended his hand over the sea with *middat ha-din* and the sea returned with *middat ha-rahamim* before morning and Hashem shook up the Egyptians. The duplication of the description of the Egyptians drowning in *pesukim* 27 and 28 can also be read as a *perat u-klal*. The waters returned and covered the Egyptians (28) – how did this occur? First Moshe extended his hand over the sea, the sea returned to its original vigor before morning and Hashem shook up the Egyptians in the sea (27).

Through the use of *shitat ha-behinot* we have shown how Hashem saved Bnei Yisrael from the Egyptians through both *middat ha-din* and *middat ha-rahamim* and how both of these are recorded in the Torah together.

תקותי, שהדברים הכתובים כאן מתקרבים לאמיתה של תורה; תפילתי - שהם יתקבלו על דעת  
אוהבי תורה ולומדיה.

*My hope is that what is written here is close to the truth of the Torah. My prayer is that it will  
be accepted by those who love Torah and learn it.*<sup>29</sup>

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29. Mordechai Breuer, Introduction to Pirkei Moadot.

# True Liberation

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RABBI DANIEL LECOUNT

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החדש הזה לכם ראש חדשים ראשון הוא לכם לחדשי השנה.

*This month shall mark for you the beginning of the months; it shall be the first of the months of the year for you.<sup>1</sup>*

**THE FIRST MITZVAH** we were commanded by G-d as a people, even before the Exodus from Egypt, was to set our own calendar.

We do not begin to calculate this calendar from the creation of the world. We begin after the Exodus from Egypt. We begin the year's calendar not on the first of Tishrei, Rosh Hashanah, but on the first of Nissan, which can be called the "Rosh Hashanah for the redemption of the nation."

This leaves us with the following question: What makes this mitzvah unique among all others? Why is this the first mitzvah that the Jewish people were commanded? What does the Torah want us to learn from this?

To answer this question, we must introduce a concept highlighted by Rabbi Avraham Yitzchak Kook. In R. Kook's words:

ההבדל שבין העבד ובן החורין, איננו רק הבדל מעמדי, מה שבמקרה זה הוא משועבד לאחר, וזה הוא בלתי משועבד. אנו יכולים למצוא עבד משכיל שרוחו הוא מלא חירות, ולהפך, בן חורין שרוחו היא רוח של עבד.

*The difference between a slave and a free man is not only one of class, which in this case is [one person being] enslaved to another [person] who is not enslaved. [Because in reality], we can find a slave who is enlightened whose spirit is full of freedom, and vice versa, [we can find] a free man whose soul is the soul of a slave.<sup>2</sup>*

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1. Shemot 12:2.

2. Rav Avraham Yitzchak Kook, *Maamarei Ha-Rayah*, p. 158.

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According to R. Kook, there can be two types of slavery: The first and most common kind of slavery is “physical slavery.” This is when a person is not allowed to live, go, or work where they want. They are treated as an object and not as a human being.

However, there is an additional form of slavery – “spiritual slavery.” This is a situation in which a person is *spiritually* held captive, either voluntarily or unconsciously by another, whose freedom of choice has been taken away. The “master” of this situation may be social norms, habits, or fear of free-thinking.

The conventional definition of slavery is “the deprivation of liberty of one individual by another.” In the past, the division between free lords and deprived slaves was manifested primarily on a social level, in which a superior stratum of citizens were dominant over other people in lower classes of society.

Within this model, the freeman is someone who belongs to this “ruling class” and the slave belongs to the lower class of enslaved people. R. Kook pointed out, such a definition, which is fundamentally social or political, is imprecise. It is possible to find someone who is *physically* a slave but whose spirit is full of freedom, and vice versa. One can find a “free man” whose spirit is that of a slave. According to the conventional definition of slavery and freedom, being a member of the “free camp” does not guarantee freedom.

The more accurate determination of freedom takes place on the spiritual plane. “Inner-spiritual” freedom is infinitely more important than “outer freedom.” Spiritual freedom means being loyal to oneself. People who act out of social pressures or imitation are essentially living in the “spirit of slaves.” Freedom is not only measured by external conditions but also by the degree one is able to be loyal or true to oneself. A person who conforms to society’s expectations of them is not entirely free to be themselves. Instead of the individual determining their own choices and identity, the social image or expectation of them determines their identity and behavior patterns. This is not a free person. An individual who does things that are impressed upon them from external forces that are not natural to them isn’t free.

This explains why we, the Jewish people, were commanded to sanctify the month as the first mitzvah following the Exodus from Egypt. It is well known that the Jewish people were enslaved in Egypt for 210 years. This slavery included both their bodies and their spirits. What can be done to free someone who has been bound for centuries in spiritual and physical bonds? To this, the Torah responds: “חדש הזה לכם ראש חדשים ראשון הוא לכם לחדשי השנה – This month shall mark for you the beginning of the months; it shall be the first of the months of the year for you.”

In light of R. Kook’s definition of slavery and freedom discussed above, a slave and a free man differ in a profound and unique way in regard to time. Slaves do not have any time of their own, and they cannot control their time. This is why a slave is exempt from time-bound commandment – “*mitzvot aseh shi-hazman grama.*” A free man is one who controls his own time.

A closer examination of these differences reveals that a slave is considered a slave even in his free time (or idle time), and possibly even when he is released. Whereas, a free man is considered free even when he is physically controlled by another.

There is a commandment in Parashat Bo:

ועבדת את העבודה הזאת בחודש הזה.

*You shall do this work in this month.*<sup>3</sup>

What is this work about? What makes it special? We can answer by saying that in the preceding chapter, the Torah explained what the Passover sacrifice entailed without describing it. When Israel entered the Promised Land, the above verse describes the work they had to do for the Passover sacrifice. I believe another message the Torah is trying to convey here is that it does not specify what the work is because it wants us to learn that true freedom is freedom from enslaving physical work. However, that freedom leads to another kind of work. It is this work that leads to true liberty.

Freedom comes with responsibility. Righteousness comes with obligations. While slaves are exempt from responsibility, freemen are responsible for their families, their communities, and the world as a whole.

Keeping the commandments teaches us self-control, the control of passions, or at least the choice to follow this path. Therefore, the Passover sacrifice that expresses this “work” is a symbol of freedom. But there is a condition: the Passover sacrifice can only be celebrated by a person who has been circumcised, because a foreigner does not belong to the Jewish people and cannot perform “this work.”

זאת חקת הפסח כל בן נכר לא יאכל בו

*This is the law of the Passover offering: No foreigner shall eat of it.*<sup>4</sup>

Jews observing Passover are supposed to return to this concept of freedom every year and renew within themselves an inner-spiritual freedom cleansed of all the external pressures from without. This is true freedom. Liberation from the yoke of Egypt and inner mental slavery from the masters (Egypt). According to this explanation, freedom is expressed in the first stage of Israeli nationalism, namely the birth of the State of Israel, and in the second stage, is doing the work of הזאת את העבודה הזאת.

Ramban states:

וטעם החדש הזה לכם ראש חדשים, שימנו אותו ישראל חדש הראשון, וממנו ימנו כל החדשים וכו' כדי שיהיה זה זיכרון בנס הגדול, כי בכל עת שנזכיר החדשים יהיה הנס נזכר.

*The rationale for the commandment to sanctify the months of the year is in order for the Jewish people to count the first month. And from this month, we count the entire year's months, etc. So*

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3. Shemot 13:5.

4. Shemot 12:43.

*that we [establish] a remembrance of the great miracle [of the Exodus from Egypt]. For whenever we remember the month, we also remember the miracle [of the Exodus].<sup>5</sup>*

According to Ramban, we must remember the miracle of the Exodus, at every step of our lives. Perhaps this is because, as we explained, we will always remember that work is always in front of us, and at the core of this work is freedom. A freedom which only comes from the inner-spiritual freedom to be ourselves.

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5. Ramban on Shemot 12:2.

# Listen to the Younger Generation!

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RABBI MORDECHAI TORCZYNER

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**IN INTRODUCING THE** mitzvah of discussing the Exodus on Pesach night, the Haggadah reports Rabbi Elazar ben Azaryah's reaction when he was unable to convince others to speak of the Exodus every night of the year. "Behold, I am like seventy years old!" he declared, "and I could not convince the Sages, until [Shimon] Ben Zoma provided exegetical support for this ruling."

Why was R. Elazar ben Azaryah's age relevant? And why did he say he was "like" seventy years old? We may suggest three approaches.

## Approach 1: G-d Showed That I Deserve Respect

The Babylonian Talmud<sup>1</sup> records the most familiar explanation. At one point, Rabban Gamliel was demoted from his position at the head of the study hall, and the Sages sought to appoint a teenaged R. Elazar ben Azaryah in his place. R. Elazar ben Azaryah's wife protested to him that he lacked the white hair which would mark him as an established scholar, worthy of respect. A miracle occurred and he grew eighteen rows of white hair, which made him appear "like seventy," and deserving of respect.

That miracle took place many years before R. Elazar ben Azaryah commented on his inability to convince the Sages. Nonetheless, R. Elazar ben Azaryah recalled the Divine intervention and exclaimed: G-d performed a miracle to demonstrate that I deserve respect, and yet the Sages did not listen to me!

## Approach 2: G-d Helped Me Reach Old Age

The Jerusalem Talmud<sup>2</sup> also contends that R. Elazar ben Azaryah received a G-d-given blessing, but not of premature aging. Rather, the miracle was that he survived to *genuine*

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1. Brachot 27b-28a.

2. Jerusalem Talmud Brachot 1:6.

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old age, despite the fact that people in leadership positions often die prematurely from the stress of their roles.

The Jerusalem Talmud does not explain why R. Elazar ben Azaryah said he was “like” seventy. Rabbi Elazar Azikri, in his 16<sup>th</sup> century *Chareidim* commentary to the Jerusalem Talmud, suggests simply that when this event happened R. Elazar ben Azaryah was nearing seventy, but not quite there.

In this version of events, R. Elazar ben Azaryah remarked that his decades of experience, coupled with the Divine support that had enabled him to live that long, should have given him greater credibility with the Sages.

### Approach 3: Why Didn't I Think of That?

Rambam presents an entirely different picture of our story. Whereas both Talmuds claim that R. Elazar ben Azaryah expressed frustration with the recalcitrant Sages, Rambam explains that R. Elazar ben Azaryah expressed frustration with *himself*.<sup>3</sup>

Rambam writes of R. Elazar ben Azaryah: “When he was young, he would study and learn and read prodigiously, day and night, to the point that his strength was drained, and he aged prematurely and he appeared like a man of seventy years. He aged willingly, as recorded in the Talmud.”<sup>4</sup>

R. Elazar ben Azaryah's work ethic was indeed legendary, as Rambam described it. The Talmud records that R. Elazar ben Azaryah believed that approaching Torah with weak commitment would be a sign of disrespect for Torah. He declared that a student who pretends to amass great learning, but who actually fails to devote serious time and develops only a superficial understanding, will not live long.<sup>5</sup>

Like R. Elazar ben Azaryah, Shimon ben Zoma excelled in Torah study in his youth.<sup>6</sup> The Talmud presents Ben Zoma as a paradigm of scholarship<sup>7</sup> and exegetic skill,<sup>8</sup> and he journeyed into the mystical studies of *Pardes* with Rabbi Akiva.<sup>9</sup>

Rambam explains that at the time of the discussion regarding speaking of the Exodus every night, R. Elazar ben Azaryah was already a senior authority, while Ben Zoma was still a young man.<sup>10</sup> This was the source of R. Elazar ben Azaryah's shock: he was amazed not by popular rejection of his point of view, but by the way Ben Zoma exceeded him in arguing for that point of view. He declared, “I worked and joined myself with scholars [to the extent

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3. Commentary to Mishnah Brachot 1.

4. Ibid.

5. Avodah Zarah 19b.

6. Sanhedrin 17b, Horiyot 2b, and see Rabbi Ovadia of Bartenura to Avot 4:1.

7. Brachot 57b, Kiddushin 49b.

8. Sotah 49a.

9. Chagigah 14b.

10. R. Elazar ben Azaryah was not the only elder sage to interact with Ben Zoma. R. Akiva was also significantly senior to Ben Zoma when they entered Pardes, as Rabbi Akiva was at least 52, and Ben Zoma was a young man. See Rabbi Ovadia of Bartenura in his commentary to Avot 4:1.

that I aged prematurely and appeared like I was seventy years old], and yet I never merited to know the scriptural hint to the obligation to read this portion at night – until [this young student] Ben Zoma taught it!”<sup>11</sup>

## **Our Seder**

This passage belongs in our Haggadah for its technical exploration of the year-round mitzvah of retelling our departure from Egypt, but Rambam’s view adds a dimension to our own *Seder* experience. As Rambam tells it, R. Elazar ben Azaryah and Shimon ben Zoma present two different models of *Seder* participant, the former a lifelong denizen of the study hall who exhausted himself in study from the earliest age, the latter a youthful prodigy who developed an idea which had long eluded his elder. We need both types of participants at our *Seder*, the experienced and the fresh-eyed, the better to learn from each other and to develop a stronger appreciation of the greatness of our Exodus.

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11. Rashi to Brachot 12b seems to indicate that Ben Zoma taught his lesson on the day R. Elazar ben Azaryah replaced Rabban Gamliel. This is difficult to square with the Babylonian Talmud’s version of R. Elazar ben Azaryah’s aging, which states that he was a young man when he replaced Rabban Gamliel. Ben Zoma, far junior, could not have been a member of the beit midrash at that time.



# Halakhah



# We All Want Mashiah, So Why Does Nusah Ashkenaz Omit “V’Yatzmah” in Kaddish?

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RABBI N. DANIEL KOROBKIN

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**DURING THIS YEAR** of reciting Kaddish for my father, z”l, I often find myself reciting the words of this venerated prayer by rote. But when I am able to catch myself, I recall that the words of Kaddish really have nothing to do with mourning over the dead. Rather, Kaddish is a blessing and a prayer that Hashem’s name be increased and sanctified throughout the world. The recitation of Kaddish provides merit to our departed loved ones, in that whenever a child or other close relative sanctifies Hashem, this elevates the soul of the departed.<sup>1</sup>

Reciting Kaddish also reminds one that there are varying traditions and *nusha’ot* (textual versions) of Kaddish, especially when one is a guest at a shul where the *nusah* is different from one’s own. One of the most glaring differences in custom is in the second line of Kaddish, in which we pray for the aforementioned increase and sanctification of Hashem’s name “בְּעֲלֵמָא דְּיָ בְּרָא כְּרַעוּתָהּ וְיִמְלִיךָ מְלְכוּתָהּ” – “In the world which He created according to His will, and may He reign over His kingdom.” In many communities, including Edot Mizrah, Nusah Sefard, and Nusah Ar”i, this is followed by the words: “וְיִצְמַח פְּרֻקְנָהּ וְיִקְרַב מְשִׁיחָהּ” – “May His redemption sprout forth, and His Messiah come near.” These words seem quite logical, because Kaddish is a prayer for a time when G-d’s name will be prominent throughout the world. Indeed, our tradition repeatedly underscores how this will occur in the Messianic Age. Yet strangely enough, this line, a prayer for the advent of the Messiah, is completely missing from the Nusah Ashkenaz Kaddish, the version of prayer that we use at our shul, the BAYT.

Once, some time in the middle of the 20<sup>th</sup> century, a gentleman led the davening in the shul of Rabbi Avraham Yeshaya Karelitz, also known as the Hazon Ish. During Kaddish, he recited the “v’yatzmah” line, invoking the hope for the Messiah. A certain Jew from Pinsk became incensed that this man was changing the accepted nusah in the presence of the

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1. See Mishnah Berurah 132:10.

Hazon Ish. He zealously complained to the great rabbi, “This man is saying ‘v’yatzmah’!” The Hazon Ish responded pleasantly and softly, “So? Don’t we also wish to see the Redemption?”<sup>2</sup>

Rabbi David Assaf was a prominent rabbi and posek in Haifa in the early 20<sup>th</sup> century. In 1967, his son, Rabbi Yehuda Assaf, published his recently deceased father’s manuscript, “HaKaddish,” which discusses many aspects of this prayer. The author was also puzzled by the omission of “v’yatzmah”:

*Nusah Ashkenaz omits the line of “v’yatzmah.” This is troublesome; are not our Nusah Ashkenaz brethren also desirous of the Redemption?! Why do they not add, “May His redemption sprout forth, and His Messiah come near”? It may be that this is based on the Talmudic dictum, “May the spirit of those who calculate the coming of the Messiah be blasted!” (Sanhedrin 97b). The Talmud states this because those who predict the Messianic Age bring hindrance to the people of Israel [because when these prognostications end up not coming to be, people become disheartened and lose faith in our tradition].<sup>3</sup>*

R. Assaf’s theory is that any kind of explicit mention or emphasis in our prayers about the coming of the Messiah will create Messianic strivings. These prayers, in turn, will inevitably bring disappointment and a loss of faith to certain adherents who, after praying for the Messiah for years and not having their prayers answered, will abandon their faith.

I’m certainly sympathetic to the argument that those who predict and calculate the date of the Messiah’s arrival do a disservice to our people. Jewish history has in its wake a litany of false Messiahs and the tragic fallout from those episodes. But is just uttering a simple wish for the Messiah to come too much? Will this one line cause people to lose faith? We pray daily in the Amidah for “et tzemah David ‘avdekha” – “the sprouting forth of David your servant.” This is clearly a reference to the Messiah. Furthermore, we pray daily in the “U’Va L’Tziyon” prayer:

*May it be Your will, Hashem, our G-d and G-d of our ancestors, that we observe your statutes in this world, and merit, live, see, and inherit the goodness and blessing of the Messianic Age and the life of the World to Come.*

No one seems to protest against these prayers, despite these prayers’ fervent plea for us to witness the coming of the Messiah. There must be some other reason, in addition to R. Assaf’s stated concern, for the omission of “v’yatzmah” in Ashkenazic circles.

## A History of Debate and Discrepancy

Before we attempt another explanation, it is worth noting that the issue over whether or not to recite this line in Kaddish became something of a contentious and touchstone issue

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2. This story appears in the booklet, *Minhagei Vatikin*, p. 18. It is included in later versions of the Bar Ilan Judaica library.

3. R. David Assaf, *Sefer HaKaddish* (Haifa: HaMakhon L’Heker Kitvei HaRambam, 5768), 110.

in earlier generations between Hassidim and Mitnagdim (opponents of the Hassidic movement). Rabbi Yosef Shaul Nathanson, the 19<sup>th</sup> century author of the responsa *Sho'el U'Meshiv*, records a story of a father who was a “significant mitnaged” but who had a son who was a Yarislover Hassid. The father adamantly insisted in his will that under no circumstances could his son recite Kaddish for him if he was going to insert the “v'yatzmah” into his Kaddish.<sup>4</sup> R. Nathanson quotes an earlier 18<sup>th</sup>-19<sup>th</sup> century rabbi, Rabbi Yaakov Ornstein, known by his legalistic work, the *Yeshuot Yaakov*, who had to regularly contend with these kinds of disputes between the Hassidim and Mitnagdim of his community.

These internecine squabbles between different groups of Jews seem to be quite anachronistic and petty for our times. Our objective is not to defend the honor of the Nusah Ashkenaz Mitnagdim over the Nusah Sefard Hassidim. It is rather *lishmah* (for the genuine objective), to find a reasonable explanation for the omission of a prayer for the coming of the Messiah, and hopefully in the process, to find greater meaning in the recitation of Kaddish.

The question of whether or not to include “v'yatzmah” has deep historical roots, beginning in the period of the Gaonim. Rav Amram Gaon's siddur (9<sup>th</sup> century) leaves it out, whereas Rav Saadia Gaon's siddur (early 10<sup>th</sup> century) has only the added two words of “v'yatzmah *purkanei*” without the extra words, “*vikarev meshihei*.” The French medieval works, *Mahzor Vitri* (11<sup>th</sup> century) and *Sefer Ha-minhagot* of Rabbi Asher of Lunel (early 13<sup>th</sup> century) leave it out, whereas the prayer commentaries of Rambam (12<sup>th</sup> century) and Rabbi David Abudirham (14<sup>th</sup> century) include it. I have yet to find a cogent argument among the medievalists defending either the inclusion or omission of this line.

## Tosafot vs. Mahzor Vitri

Let us examine a dispute among the medievalists regarding the wording and meaning of a different line of Kaddish. The Talmud (TB Berakhot 3a) expresses the great comfort that Hashem receives upon hearing “*Yehei Shmeh Rabbah*,” the climactic line of Kaddish that is recited by the congregation. But the Talmud cites a slightly different version of that line from what appears in our Siddurim: “*יְהִי שְׁמֵיהּ הַגָּדוֹל מְבֹרָךְ*” – “May His great name be blessed,” instead of our standard version of “*יְהִי שְׁמֵהּ רַבָּא מְבֹרָךְ*,” which translates to the same meaning, but uses the Aramaic word “*rabba*” instead of the Hebrew “*ha-gadol*.”

The Tosafot commentary notes the different *nusha'ot*, attributing our *nusah* of “*Yehei Shmeh Rabbah*” to Mahzor Vitri,<sup>5</sup> the Siddur commentary written by Rabbi Simhah of Vitri, a student of Rashi.<sup>6</sup> Tosafot assert that there is significant difference between Mahzor Vitri's *nusah* and the Talmud's, in that they translate into two very different messages. According to Mahzor Vitri's version, the four words of this phrase are actually two separate prayers:

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4. *Shu"t Shoel U'Meshiv*, Vol. 3, 1:259.

5. Ad loc., s.v., “Vonin.”

6. Mahzor Vitri, ch. 89.

1. “*Yehei Shemeh Rabba*” is a prayer for the eradication of Amalek, the embodiment of anti-Semitic persecution. After the first Amalekite war against the Jews, shortly after the Exodus, the Torah utilizes a two-letter name of G-d, “ה-י,” in describing the perennial struggle with Amalek from generation to generation (Exodus 17:16). Rashi, in the name of the Midrash, explains that G-d’s name cannot assume its complete four-letter format until Amalek is eradicated. Our statement of “*Yehei Shemeh Rabbah*” (“May His name become great”) is therefore a prayer that G-d’s name should be restored to its full four-letter spelling upon the eradication of Amalek, which will ostensibly coincide with the coming of the Messiah.<sup>7</sup>
2. “*Mevorah [l’olam]*” is a separate petition, that G-d’s name should further be blessed in the World to Come, which is the period that we will enter during and after the Messianic Age.

Tosafot use the Talmudic citation, which includes the entire phrase of “*Yehei Shemei Rabbah Mevorah*,” to disprove Mahzor Vitri’s reading. According to the Talmud’s version, it is impossible to uncouple this phrase into two separate prayers.<sup>8</sup> Tosafot thus read the phrase as one prayer: “May G-d’s great name be blessed.”

What is the underlying dispute? Is there significant difference between the two opinions? Both versions seem to be arguing for a glorious utopian future for the Jewish people, when G-d’s name will be complete and blessed again. So what motivates Tosafot to challenge Mahzor Vitri’s reading? Let’s look at the remainder of Tosafots’ commentary for some more clues. After detailing the difference between Mahzor Vitri and Tosafot on the phrase “*Yehei Shmeh Rabbah*,” the second half of Tosafots’ commentary is devoted to another dispute regarding Kaddish. Why is the Kaddish written in Aramaic and not in Hebrew? In the words of Tosafot, the answer given by “the world,” is that, according to the Talmud, angels do not understand Aramaic.<sup>9</sup> Noting the great impact this holy prayer has, the Sages did not want the angels to become jealous of the Jewish people who have such a powerful prayer of praise at their disposal. The Sages therefore composed the prayer in a language that the angels would not be able to detect.

Here, too, Tosafot disagree with the explanation of “the world” and suggest that the real reason why Kaddish is in Aramaic is because it was instituted for recital after large gatherings of Jews would hear a Torah sermon. Since many of the gathered were not literate in Hebrew, the Sages sought to institute a prayer that would appeal even to the uneducated (the “*amei ha’aratzot*”). Therefore they chose Aramaic, the spoken language at the time in the Middle East which could be understood by the masses.

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7. Rashi Exodus 17:16.

8. Tosafot use a grammatical argument. The Talmud’s version of the phrase, “היא שְׁמִיהָ הַגָּדוֹל מְבוֹרָךְ,” places the letter “heh,” used as “the” to demarcate a definite article, in front of the word, “gadol.” It therefore cannot translate as “May His name be great,” but rather, “May His great name...” forcing us to lead into the next word, “mevorakh,” as a necessary completion of the solitary prayer.

9. This answer also appears in a slightly different language in Mahzor Vitri, Ch. 87. For the deeper meaning of this bizarre statement, see *Ma’adanai Yom Tov* commentary on *Rosh, Berakhot*, 2:2, s.v. *ella lashon zeh meguneh beineihem*, in which he quotes Maimonides as saying that Arabic and Aramaic are distortions of Hebrew.

We now see two points of contention in which Tosafot oppose the conventional wisdom about Kaddish: (1) “*Yehei Shmeh Rabbah Mevorah*” is really one prayer and not two (contra Mahzor Vitri); and (2) the real reason for Kaddish being in Aramaic is not because of the angels’ jealousy, but rather out of a concession to the illiterate masses. Is there any connection between these two points brought by Tosafot? I believe these two ideas are deliberately linked.

## The Interchange Between Jacob and his Sons

The Torah describes the patriarch Jacob on his deathbed: “Jacob summoned his sons. He said, ‘Gather, and I will tell you what will befall you at the end of days’” (Genesis 49:1). Yet, the ensuing verses are merely blessings that Jacob bestowed to his children, instead of the revelation of future events as he had originally told them. The Talmudic tradition, as detailed in TB *Pesahim* 56a and cited by Rashi, is that Jacob had originally planned to prophetically share a glimpse of the Messianic future with his sons. But once they entered his room, the Divine Presence departed from him, and he lost the ability to contain his prior vision. This made Jacob consider that perhaps one or more of his sons was unworthy of hearing prophetic words. Once his sons detected his lack of confidence in them, they all cried out, “Shema Yisrael!” “Hear O Israel: Just as there is only one G-d in your heart, so is there only one G-d in ours.” Upon hearing this, Jacob responded with the second sentence from the Shema prayer, “בָּרוּךְ שֵׁם כְּבוֹד מְלְכוּתוֹ לְעוֹלָם וָעֶד” – “Blessed be the name of the glory of His kingdom forever.”<sup>10</sup>

From this Talmudic narrative, it appears that Jacob believed that there was some benefit to his sons learning about the unfolding of Jewish history. By losing his prophetic train of thought when his sons entered, he feared that perhaps his sons were unworthy of the information. But in reality, having that information would have been counterproductive to the Divine plan. Part and parcel of the suffering of Exile, which expiates and purifies the Jewish people, is that the “why” of our suffering is shrouded in mystery. G-d Himself did not want Jacob to reveal this information, as it would have defeated the purpose of Exile in the first place.<sup>11</sup>

The sons’ proclamation of the Shema convinced Jacob that they were all righteous. There was nothing inherently wrong with them that impeded him from relating the Messianic future to them. It was rather G-d’s desire that this information not be shared with future generations.

Why, then, did Jacob respond with the words, “*Barukh Shem,*” etc. – “Blessed be the name of the glory of His kingdom forever”? His statement expressed his acceptance of the fact that we cannot reveal everything about G-d at present, because of the occlusions and mysteries of our current dark exile. Nonetheless, G-d was consistently the same in His glory for all time, i.e., “לְעוֹלָם וָעֶד” – “*l’olam va’ed.*” That knowledge that G-d’s glory is immutable restores faith to one living even in the darkest of exilic moments.

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10. Rashi, Genesis 49:1.

11. This idea is mentioned briefly by Rabbi Aryeh Leib Alter in his *Sfat Emet*. See *Sfat Emet, Parshat Vayechi*, 5631, s.v., *Nikhtav b’kitzur*.

The sons' recitation of the "Shema" was an affirmation of their steadfast belief in G-d, despite the fact that this world is shrouded in darkness and it is difficult to find Him. Jacob's response was a validation of their affirmation, and a hope to see G-d's glory manifest even during times of darkness.

## Shema, Kaddish, and an Exilic Affirmation of Faith

But what does this have to do with the Kaddish? If we look at the comment of Targum Yerushalmi (attributed to the Mishnaic sage, Yonatan ben Uziel) on the passage under discussion above in Genesis (49:1), we will discover something fascinating. After providing the Aramaic translation for the sons' declaration of, "Hear O Israel, Hashem is our G-d, Hashem is one," the Targum then records Jacob's response, which is the Aramaic translation of "Blessed be the name of the glory of His kingdom forever." The Targum translates that as, "יְהֵא שְׁמֵיהּ רַבָּא מְבָרַךְ לְעַלְמֵי עַלְמֵי" – "*Yehei shemeh rabba mevarakh l'olmei olmin*"!

These words are almost identical to the refrain contained in Kaddish recited by the congregation in response to the leader's initial words. If Jacob's response of "*Barukh Shem*" is synonymous with "*Yehei shemeh rabba*," then perhaps the first part of Kaddish can be read differently. Instead of a prayer, it is a faith affirmation of the same kind as the declaration of "*Shema Yisrael*." That is, despite the obscurity of this world, and despite the fact that it is hard to achieve Divine Inspiration and see the Divine plan for the future, it is nevertheless still possible to perceive G-d's kingship in this world, *in this pre-Messianic world* of darkness and obfuscation.

With this idea in mind, we can unpack the opening words of Kaddish and read them as follows:

- "יִתְגַּדַּל וְיִתְקַדַּשׁ שְׁמֵהּ רַבָּא" – "May the great name of G-d be increased and sanctified"
- "בְּעֵלְמָא דִּי-בְרָא כְּרַעוּתָהּ" – "In this world [right now, the world which is shrouded in mystery and where He can't be fully revealed,] which He created according to His will."
- "וְיִתְמַלֵּי מַלְכוּתָהּ בְּחַיֵּינוּ וּבְיוֹמֵינוּ וּבְחַיֵּי דְכָל-בֵּית יִשְׂרָאֵל" – "[Despite the obscurity of this world, we nevertheless affirm that it is still possible for] His rule to become evident in your lifetimes and in the lives of all the house of Israel [just as it is evident in the eyes of the current speaker who is making this faith affirmation]."
- "בְּעֵגְלָא וּבְזִמְן קָרִיב וְאָמְרוּ אָמֵן" – "[So may you affirm,] speedily and in the near future, and say, Amen."

If the opening of Kaddish is read in this way, it really has nothing to do with a prayer to witness G-d's glory in the Messianic Age. It is rather an affirmation that finding G-d in the "here and now" is possible. Acknowledging that finding G-d in the present is quite difficult and not attainable for everyone, the leader then calls upon the congregation to make an affirmation of G-d's greatness, if not right now, then some time very soon ("*ba'agala uvizman kariv*"), even *before* the Messiah comes. Accordingly, reciting the line of "*V'yatzmah*," a prayer

for the Messianic Age, would be completely out of place at this point. This reading would explain the Ashkenazic custom of omitting “*V’yatzmah*.”

I believe that this is the way Mahzor Vitri reads the opening of Kaddish. It is based on the exchange between Jacob and his sons, which was depicted by the author’s teacher, Rashi, in keeping with the Talmudic narrative. The leader is calling upon the rest of the congregation to affirm G-d in the here and now. The response of the congregation is to recite a blessing that is similar to Jacob’s blessing of “*Barukh Shem*.” Jacob accepted that there are certain things that no matter how enlightened an individual is in the present, they will still be unable to access prophetic knowledge about the Divine plan which spans all of human history. But, instead of losing hope, Jacob could still look forward to the time, “*Yolam va’ed*,” in the far-flung future, when knowledge of the Divine would be manifest and robust. Thus, Mahzor Vitri reads the statement of “*Yehei Shmeh Rabbah*” as a congregational prayer to witness the emergence of the four-letter name of G-d, as we get closer to the Messianic Age, once Amalek is eradicated. It is secondarily a prayer to witness the fullness of Hashem’s glory in the World to Come.

Perhaps this is the appropriate response to the leader’s opening declaration. Representing the spiritual resolve of Jacob’s sons, he calls upon the congregation to affirm G-d’s greatness even in this current world of opaqueness. The congregation accepts the challenge, but knowing that not everyone can rise to that occasion, offers its prayer that even for those who fall short of that expectation to find G-d’s greatness in the here and now, that they discover G-d in the future, when He will be much easier to find.

## Optimism vs. Pessimism over the Human Condition

Tosafot have a completely different reading of Kaddish, as do all others who include the phrase of “*v’yatzmah*” in the opening paragraph. Perhaps this is because Tosafot are a bit more pessimistic about the human condition, and do not feel that it would be realistic to expect people who are reciting Kaddish to publicly affirm G-d’s glory in the here and now. In their view, it is even more unrealistic to call upon the rest of the congregation to do the same. Instead, Tosafot understand that Kaddish is an affirmation of the fact that at some point in the future, Hashem will become manifest. “*יְהִי גָדֹל וְיִתְקַדַּשׁ שְׁמֵהּ רַבָּא*” is thus a prayer that the enlargement and sanctification of G-d, that is to take place in the Messianic Age, should take place as soon as possible. Therefore, it is quite appropriate to add the words, “*וַיֵּצֵא מִן הַקֶּבֶר וַיִּקְרַב מְשִׁיחָהּ*,” a prayer for the Messiah to come speedily, so that the enlargement of Hashem’s name will come to fruition.

If the leader’s prayer is for the coming of the Messiah, then what is the role of the responding congregation? Perhaps the answer is that they affirm the same wish, that G-d’s name be enlarged as soon as possible with the speedy advent of the Messiah. This is expressed by stating, “*יְהֵא שְׁמֵיהּ הַגְּדוֹל מְבוֹרָךְ*” – “May that name which is to become great [when Messiah comes] be blessed.” By “blessed” we mean that the “great name of Hashem” come into being quickly.

Now that we have outlined the different interpretations of the opening of Kaddish proposed by Tosafot and Mahzor Vitri, let us now turn to the second half of Tosafot which deals with the choice of wording of the Kaddish prayer in Aramaic instead of Hebrew. As mentioned above, Mahzor Vitri sees Kaddish as a grand attempt of the human being to find G-d even in this world of confusion and darkness. This reading suggests that the authors of Kaddish have confidence and optimism about the human condition. Just as Jacob's sons were able to affirm "Shema Yisrael" spontaneously, so is every Jew capable of doing the same. This reading speaks to the tremendous power within the heart of every Jew, and is liable to arouse celestial jealousy. The angels are depicted throughout rabbinic literature as expressing their contempt for man. Kaddish shatters the angels' harsh criticism of mankind. This is the view of Mahzor Vitri, who reads Kaddish as an optimistic depiction of the human being.

It appears that Tosafot do not have the same confidence in the human condition. Man does not have a realistic chance of having a truly meaningful affirmation of faith in this world shrouded in perplexity. The most we can do is pray for a time in the future when Hashem will become truly manifest to us all. Tosafots' realism about the type of people who will be reciting and responding to Kaddish gives rise to the conclusion that the reason why Kaddish is in Aramaic is *not* because of angelic jealousy, but rather because the illiterate and uneducated masses who will be hearing Kaddish have a right to know what it's about. They, too, should understand the importance of praying for the Messiah, so that they can participate in that endeavor.

## Conclusion

We have seen that the difference in *nusah* of Kaddish regarding reciting the line of "v'yatzmah" has a long and often turbulent history. At first glance, there doesn't seem to be any reason to omit this line, praying for the Messianic age, from Kaddish. However, by referring to the Midrash about the interchange between Jacob and his sons before Jacob's death, we have demonstrated that the first part of Kaddish may not at all be a prayer to witness the Messianic Age. In fact, According to Mahzor Vitri and other medieval sources who omit "v'yatzmah," it may be an affirmation of the Jew's faith in the here and now, before the Messianic Age has arrived. As such, the recital of "v'yatzmah" would be completely misplaced.

Yes, we all want Mashiah, even us Ashkenazim. But whether or not the opening of Kaddish is the place to express that great national desire and aspiration, is at the core of whether to include or omit "v'yatzmah."

It is related that once, in the synagogue of Rabbi Yaakov Ornstein (the *Yeshuot Yaakov* quoted above), a major *mahloket* (dispute) broke out over whether or not to recite "v'yatzmah." R. Ornstein turned heavenward and prayed, "Master of the Universe! Let the Messiah come speedily. At least then, everyone will agree that we can omit 'v'yatzmah!'"<sup>12</sup> Amen, may we see it soon.

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12. The story as presented in its "idealized" form, appears in the work, *Rishpei Torah* by Yehoshua Pinchas Spiegel (Israel, 5747), 394. For another account that included physical violence, see *Nitzotzot Geulah* by Avraham Meir Huberman (Israel, 1949), 34.

# Haircutting History: Understanding the Evolution of Omer Customs

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EZER DIENA

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## Introduction<sup>1</sup>

Shulchan Aruch<sup>2</sup> (16<sup>th</sup> Century Israel) rules that from Pesach until the 33<sup>rd</sup> day of the Omer, there is a widespread custom to avoid holding a wedding or taking a haircut. Yet, Shulchan Aruch's presentation of this custom differs quite significantly from earlier records of this custom. For example, a copy of a responsum from the Ge'onim on this matter<sup>3</sup> only mentions that there is a custom to refrain from holding weddings from Pesach to Shavuot.<sup>4</sup> Even Tur<sup>5</sup> (14<sup>th</sup> Century Spain), which Shulchan Aruch is based on, writes:

*There is a custom in all places not to marry between Pesach and Shavuot, and the reason is to not excessively rejoice, for at that time, the students of Rabbi Akiva died...There are those places that have the custom not to have haircuts, and there are those who [permit haircutting] from the 33<sup>rd</sup> day of the Omer and onwards, as they say that then they ceased dying...*

Our custom, in line with the ruling of Shulchan Aruch, incorporates two major changes from the widespread custom recorded by the Ge'onim and many of the Rishonim:

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1. Many of the sources discussed in this article are analyzed at great length in Simcha Emanuel, *Minhagei Aveilut Bimei Sefirat Ha'omer* (Hebrew) Netu'im, Volume 20, pages 101–141. Some others are discussed in Mitchell First, *The Mysterious Origin of Lag Ba'omer*, Hakirah, Volume 40, pages 205–217. These works will be cited throughout by referencing the author's surname without any further identification.
  2. Orach Chaim 493:1–2.
  3. Teshuvot Hage'onim, Sha'arei Teshuva 278. No specific attribution is given in this collection of responsa; however, Rabbeinu Yerucham (Toldot Adam Vechavah, Netiv 22, Volume 2) attributes this ruling to Rav Hai Ga'on. For further discussion of this detail, see Emanuel, footnote 10.
  4. The wording in these early sources is *Atzeret*, another name for Shavuot.
  5. Orach Chaim 493.

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1. There is an additional custom not to have a haircut during this time.
2. These mourning customs cease on the 33<sup>rd</sup> day of the Omer.

Additionally, a further custom is mentioned by Shulchan Aruch,<sup>6</sup> Tur<sup>7</sup> and attributed to Rav Hai Ga'on<sup>8</sup> (11<sup>th</sup> Century Iraq), that after sunset, people would refrain from performing certain labours. Yet, this is not a common practice nowadays.

This article attempts to present and organize the various suggestions that have been made to explain why these customs are practiced during this time of year, the development of the changes to the customs in the 12<sup>th</sup>–14<sup>th</sup> Centuries and hopefully offer new suggestions to fill the gaps in some of the previous theories of these Omer customs.

## Approach 1: Mourning Rabbi Akiva's Students

According to the Ge'onic sources that discuss these customs, the clear and unequivocal rationale given is that during this exact time period, a plague erupted among the students of Rabbi Akiva (Talmud Bavli, Yevamot 62b). As a custom of mourning, we refrain from marriages during this time of year. Additionally, the additional custom of some<sup>9</sup> refraining from work at night was due to either gathering to bury the dead at that time,<sup>10</sup> or that they spent the evening hours involved in various activities that were necessary to allow for burial.<sup>11</sup>

This explanation easily allows for further stringencies and mourning practices, such as not having a haircut during this time, or even other more stringent practices.

There are three major views that can be found among both halachists and scholars as to what is being mourned:

### 1a: Ancient Plague

An overwhelming number of authorities explain that we are mourning for a plague of *askera* (commonly translated as diphtheria) that ravaged many<sup>12</sup> of Rabbi Akiva's (or, in one version,<sup>13</sup> Hillel and Shammai's) students. This is the simplest read of the Talmud, and is generally assumed to be the accepted reason for our practices.

Yet, a number of questions remain. Why was the burial at nighttime? Why did communities, many hundreds of years later, take on additional mourning practices? Why didn't the

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6. Orach Chaim 493:4.

7. Orach Chaim 493; he writes that he "found this written."

8. See Rabbeinu Yerucham, Toldot Adam Vechavah, Netiv 5, Volume 4.

9. Many authorities, such as Tur, mention women specifically as having this custom; see below for sources and some elaboration.

10. See Tur, Orach Chaim 493.

11. Such as sewing garments for the dead; see Knesset Hagedolah, Hagahot Hatur, Orach Chaim 493:3.

12. There are various texts that offer different numbers of students (see, e.g., Midrash Tanchuma, Parshat Chayei Sarah, 15:6, which reads "300 students"), but the numbers used are clearly intended as exaggerations; see Rabbi Tzvi Hirsch Chajes, Mevo Hatalmud, Chapter 30.

13. See Sefer Arugat Habosem (ed. Urbach), Volume 1, Page 75, s.v. raiti katuv.

Talmud write explicitly that these customs were taken on? Finally, why was there a shift of the conclusion of these customs to Lag Ba'omer rather than Shavuot?

### Ib: Bar Kochba Revolt Deaths

Others<sup>14</sup> suggest that we are in fact mourning for those killed in the Bar Kochba Revolt, based on an assumption that the Talmud intended to reference the deaths from the revolt in a coded manner.<sup>15</sup> This suggestion solves a number of the issues with the earlier view. For example, it may have been prohibited to bury these soldiers during the daytime, so they needed to spend the night burying them, which led to the custom not to work at night. The Talmud didn't write about these customs directly, since it didn't want to anger the Romans or other authorities. Finally, some scholars<sup>16</sup> argued that the date of Lag Ba'omer was a date of celebration for a military victory on that day.<sup>17</sup> Yet, based on the actual historical development of this custom, in which Lag Ba'omer only starts being celebrated in the late 12<sup>th</sup> Century, this explanation is hard to accept, since battles against the Romans would have happened at least a few hundred years earlier.

### Ic: Contemporary Tragedies Which Mirror the Past

A third group of authorities explains that while these practices began as mourning for those who perished in the past, they were modified to reflect the mourning over those who were lost at the time of the crusades.<sup>18</sup> This approach accommodates either of the above two explanations (1a or 1b) as to the source of the original mourning, but has the advantage of being able to easily explain the significant changes to these customs in the 12<sup>th</sup> and 13<sup>th</sup> Centuries. Stringencies, such as refraining from hair cuts (and nail cutting or purchasing new clothes)<sup>19</sup> were simply an outgrowth of the current mood, which was incorporated in the mourning of the Omer period (at which time much Jewish persecution was taking place). This view is taken explicitly by the writer of a manuscript entitled *Sefer Ha'asufot* (13<sup>th</sup> Century):

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14. Various scholars have advanced this theory; for a partial list, see Rabbi Professor David Golinkin, *Why is it Customary to Mourn Between Pesach and Shavuot?*, *Responsa in a Moment: Volume 1, Issue No. 8, April 2007*. For a notable example, please see my article in *The Benjamin and Rose Berger Yom Haatzmaut To Go 5779*, page 11.
  15. See *Iggeret Rav Sherirah Ga'on*, 1:9, who refers to this episode as a "*shemad*" against the students of Rabbi Akiva.
  16. See a short list in Rabbi Evan Hoffman, *Thoughts on Lag Ba'omer*, <https://anshesholomnewrochelle.org/sermons/the-origins-of-lag-Ba'omer>.
  17. Interestingly, there are some later sources that claim that there is a tradition that Rabbi Shimon bar Yochai left the cave (in which he hid from the Romans) on this day; it would work nicely with this approach.
  18. This view was famously advanced to Rabbi Dr. Daniel Sperber, *Minhagei Aveilut Bitkufat Sefirat Haomer* (Hebrew), *Minhagei Yisrael*, Volume 1, Chapter 13, who brings ample support from many earlier sources. See Rabbi Professor Golinkin's article (cited above in footnote 14) as well regarding how this pertains to the position of the modern-day Conservative Movement. See also Emanuel, page 114.
  19. See *Sefer Minhag Tov*, #61 (Weiss Edition, page 231).

*It further seems to me, that which we do not hold weddings between Pesach and Shavuot is due to the pain of the decrees and the destruction of the communities in this kingdom.<sup>20</sup>*

Lag Ba'omer, then, might have been the date of a 12<sup>th</sup> Century miracle. Indeed, this has been raised by recent scholars<sup>21</sup> in explaining a passage in Sefer Minhag Tov (13<sup>th</sup> Century Italy):<sup>22</sup>

*But on the day of Lag Ba'omer it is permitted to practice all of these [aforementioned prohibited activities], due to the miracle that took place.*

There are those who even theorize that the custom to begin the mourning practices later, at Rosh Chodesh (a custom brought by Rema<sup>23</sup> as an Ashkenazic practice and ultimately practiced by many nowadays), is best understood as an outgrowth of the Jewish persecution in the 11<sup>th</sup> and 12<sup>th</sup> centuries during that time, yet others reject this.<sup>24</sup>

Almost all mainstream halachic authorities follow the initial view that we still commemorate and mourn the loss of Rabbi Akiva's students in an actual plague. Returning to our original questions; why was there a prohibition on cutting hair added 1000 years after the events that are being mourned, and how did the date of Lag Ba'omer gain significance? While there has been very little discussion concerning the addition of the prohibition on haircutting, there has been very significant discussion about the innovation of Lag Ba'omer. There are two main explanations of Lag Ba'omer found in early halachic literature.

The first explanation is found in a few early sources,<sup>25</sup> and is attributed to an anonymous Tosafist. This Tosafist explains that 16<sup>26</sup> of the 49 days of the Omer period are celebratory days (on which we recite Mussaf), which leaves over 33 days of mourning. According to this Tosafist, the cessation of the mourning customs on or after the 33<sup>rd</sup> **day** is an error based on a misunderstanding of the calculation of 33 **total days** of mourning.<sup>27</sup> Indeed, these authorities write strongly against those who "observed" Lag Ba'omer as an end date for the mourning customs.

Others defend the cessation of mourning customs on Lag Ba'omer. Although the Talmud states that the plague killed Rabbi Akiva's students from Pesach to Shavuot, there was

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20. For more on this manuscript and printed versions of the work, see First, footnote 42 and Emanuel, footnotes 46 and 47.

21. See First, footnote 40.

22. #61.

23. Orach Chaim 493:3; see Shulchan Aruch there, who decries this custom as an error.

24. See First, footnote 38.

25. See, e.g., Orach Chaim, Hilchot Kiddushin #21; Derashot Rabbi Yehoshua Ibn Shuiv, Yom Rishon Shel Pesach.

26. Different authorities provide different calculations; the critical factor is that Shabbat and Pesach will overlap at least once, and Rosh Chodesh and Shabbat may overlap as well.

27. This view of Tosfot is modified over the course of the next few hundred years, to the point that Mahari"l (15<sup>th</sup> Century Germany; Dinei Hayamim Shebein Pesach Leshavuot #7) alleges that the students of Rabbi Akiva only died on days on which Tachanun was recited, and that we celebrate Lag Ba'omer to remember that. It is also reasonable to assume that this type of calculation is very relevant to the custom of beginning the mourning practices after Rosh Chodesh Iyar. See Be'ur Halachah to Orach Chaim 493:3.

either another text of the Talmud,<sup>28</sup> or a midrash,<sup>29</sup> or a tradition<sup>30</sup> that the deaths actually stopped on the 33<sup>rd</sup> day of the Omer. For example, Sefer Hamanhig<sup>31</sup> (12<sup>th</sup> Century France), justifies the custom to permit weddings after Lag Ba'omer in France and Provence. He claims that Rabbi Zerachiah Halevi, the Ba'al Hama'or, found an old Spanish<sup>32</sup> manuscript of the Talmud that read that the students only died until "*peros Atzeret*."<sup>33</sup> This phrase, according to Sefer Hamanhig and others,<sup>34</sup> should be interpreted as 15 days prior to Shavuot, which would mean that from the morning of the 34<sup>th</sup> day (not the 33<sup>rd</sup>) of the Omer, the restrictions cease. This view, that restrictions actually stop on the 34<sup>th</sup> day, is accepted and codified by Shulchan Aruch.<sup>35</sup>

Some modern scholars are unhappy with this resolution, since it doesn't explain the cessation of mourning on the 33<sup>rd</sup> day of the Omer, but rather on the 34<sup>th</sup> day of the Omer, which was not the practice in France (or any other) community.<sup>36</sup> However, they ignore the various resolutions offered by halachic authorities to resolve this issue.<sup>37</sup> (It should also be noted that other suggestions have been made as to how to understand the term "*peros Atzeret*,"<sup>38</sup> but the interpretation of the Sefer Hamanhig is most accepted by halachic authorities.)

Many Spanish and French/Provençal authorities accepted this change in the text of the Talmud (after all, the Spanish manuscript was found by a leading Provençal scholar), but it was much less accepted by their German and Italian counterparts.<sup>39</sup> Many of them likely considered this text ("*peros Atzeret*") to be a legitimate variant reading of the Talmud, but

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28. See below.

29. See, e.g., Derashot Rabbi Yehoshua Ibn Shu'ib, Yom Rishon Shel Pesach.

30. See Me'iri to Yevamot 62b, although exactly what Me'iri intended has been the subject of much debate; see Emanuel, pages 122–123, and footnote 37 in this article.

31. Hilchot Eirusin Venisu'in (Rafa'el Edition, page 538).

32. Chid"ra (Responsa Tuv Ayin #18) cites various sources from the Rishonim that Spanish manuscripts of the Talmud were considered more authoritative.

33. Note that while this claim is made by many reliable authorities, we have no evidence for it from the works of the Ba'al Hama'or himself.

34. Based on its usage in Talmud Bavli Bechorot 57b–58a.

35. Orach Chaim 493:2.

36. See, for example, the somewhat cynical tone of Rabbi Evan Hoffman, Thoughts on Lag Ba'omer: "This is an astounding example of halakhic development. Lag Ba'omer, a late holiday of uncertain origins, was changed to Lad 34) ט"ב) Ba'omer so that a speculative theory about the holiday's origins might suffer from fewer mathematical shortcomings." (<https://anshesholomnewrochelle.org/sermons/the-origins-of-lag-Ba'omer>).

37. Two examples follow:

Rabbi Yissachar Tamar (Ale'ei Tamar to Mo'ed Katan 3:8) writes that the Talmud in Bechorot 58a explains this phrase to mean "not less than 15 days prior to Shavuot," and that this passage may have meant 15, 16, 17 or more days prior to Shavuot. He cites Me'iri to Yevamot 62b, who explains that there is a tradition that the deaths stopped on the 33<sup>rd</sup> day of the Omer, and explains that Me'iri also had the text of "*peros*" in his version of the Talmud, and the tradition was that "*peros*" refers to the 33<sup>rd</sup> day of the Omer.

Maharikash (Erech Lechem, Orach Chaim 493:2) argues that "*peros Atzeret*" is halfway from the start of Iyar to Shavuot, which would fall out on Lag Ba'omer; see there for further elaboration.

38. See First, 207–209.

39. Those who change the "no weddings" custom to end at Lag Ba'omer include (in no particular order): Sefer Hamanhig, Me'iri, Abudarham, Rabbi Ibn Shu'ib, Kaftor Vaferach, Kolbo, Rav Avraham Min Hahar, Rashbatz. For the Italian and German authorities that also mention Lag Ba'omer, see below.

would not have been willing to change the well-established custom of not marrying until Shavuot. However, a new custom was emerging – many had ceased cutting their hair during this same time period. Therefore, while these authorities were not willing to compromise in regards to the old custom of not holding weddings, in regards to the new stringency of hair cutting, almost all of them allowed for Lag Ba’omer to serve as the end date, based on the alternative text. This view, which differentiates the two customs of haircutting versus marrying, can be found explicitly in 13<sup>th</sup> and 14<sup>th</sup> Century works such as *Shibbolei Haleket*<sup>40</sup> and *Tur*,<sup>41</sup> and was likely also the view of the influential German Rabbi Meir of Rothenburg.<sup>42</sup> Over the next few hundred years, the customs of Lag Ba’omer and avoiding haircuts spread widely, until there was virtually no difference across all of Europe.

## Approach 2: Unlucky Time of Year

Sefer *Shibbolei Haleket* (13<sup>th</sup> Century Italy) writes:

*There are those places who have the custom not to have haircuts after Pesach until the 33<sup>rd</sup> day of the Omer, and there are also those who do not marry between Pesach and Shavuot because the days are disposed [towards catastrophe], as a plague fell among Rabbi Akiva’s students.*<sup>43</sup>

According to *Shibbolei Haleket* and others,<sup>44</sup> we avoid weddings not out of mourning, but because this is an unlucky time. Additionally, nighttime activities, especially those outside the house, might have been something that people avoided out concern that something dangerous would happen.<sup>45</sup>

The significance of Lag Ba’omer could be explained with the argument that once Rabbi Akiva’s students stopped dying (in accordance with the “*peros Atzeret*” reading), the days were no longer inauspicious.<sup>46</sup> However, the additional prohibition to refrain from haircutting

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40. #235.

41. Orach Chaim 493.

42. There are two sources affiliated with his school that this topic comes up. Firstly, in the *Tosfot* to *Yevamot* 62b ascribed to him (and actually written by a student; see Emanuel, footnote 69), it says: “And they all died from Pesach until Atzeret – it is found in a midrash [that they died] until Lag Ba’omer. Therefore, the population refrain from holding weddings until after Shavuot.” Emanuel (pages 119–120) is bothered by this source, which seems contradictory, and he suggests that there was a scribal error here. Yet, the intention of this writer was likely to say that it is only a midrash which supports that the students ceased dying on Lag Ba’omer, and based on the strict reading of the Talmud, the appropriate custom is to refrain all the way until Shavuot. This can be supported from another source referenced, yet not cited, by Emanuel (see footnote 50), namely, the work *Minhagim Debei Maharam*. In the section entitled *Techinah*, although the author(s) mention that while *Tachanun* was not recited on the 33rd day of the Omer, they also write that most communities refrained from marrying until after Shavuot, and only a minority will hold weddings after Lag Ba’omer.

43. 235.

44. Such as *Sefer Ma’aseh Hage’onim*; see Emanuel, footnote 33 for a list.

45. See *Talmud Bavli*, *Pesachim* 112b about venturing out on certain nights. This detail may also bring the reader’s mind to “*Nittel Nacht*”; however, it will not be explored further in this article.

46. Similarly, it is possible that a later starting date for the restrictions would be viable, if we consider Nissan to be a very positive time. See *Ma’aseh Hage’onim* cited in Emanuel, page 110, and his discussion there.

seems quite strange – why would people avoid cutting their hair during this time of year just because it is unlucky?

An answer may be found in another strange practice that is mentioned by those who subscribe to this view. Orchot Chaim<sup>47</sup> (14<sup>th</sup> Century France/Spain) writes:

*There are some who refrain from bloodletting and [other] health treatments, since these days are disposed towards disaster, but “he who trusts in Hashem will be surrounded by kindness.”<sup>48</sup>*

Thus, it seems that around the 13<sup>th</sup> Century or slightly earlier, some laypeople began to avoid bloodletting, but Orchot Chaim is not clear whether this extended until Lag Ba’omer or Shavuot. It seems that since this was initiated by the masses, they actually only felt that this applied until Lag Ba’omer, which may have been a more “popular” date.<sup>49</sup> Indeed, Sefer Ha’asufot writes:

*There is a practice in this kingdom not to hold weddings between Pesach and Shavuot, and not to bloodlet until Lag Ba’omer, because the days are disposed [towards catastrophe].<sup>50</sup>*

This works well with Ra’avyah (12<sup>th</sup> Century Germany),<sup>51</sup> who, in listing times that people avoid bloodletting, mentions the period between Pesach and Lag Ba’omer, among other minor (and recent) customs. It may also be that since this was a practice of the masses to begin with, they did not want to go such a long time between bloodletting.

It is extremely well-known that barbers (known as barber-surgeons) were in charge of bloodletting and other medical procedures during the Middle Ages.<sup>52</sup> Therefore, as the masses began to avoid bloodletting because of how nervous they were about this practice, they also stopped getting haircuts during the same time period. This explains why sources prohibiting haircutting only come after earlier sources which record that people stopped bloodletting. It also explains why Lag Ba’omer was used almost universally for the end date for both bloodletting and haircutting. (This connection can hopefully serve as a basis for further research into the history of the Omer customs).<sup>53</sup>

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47. Hilchot Kiddushin #21.

48. Tehillim 32:10, which is being used here by Orchot Chaim to argue that people should not be afraid to bloodlet during this time of year.

49. Orchot Chaim spent significant time in the previous paragraph denigrating the custom of observing Lag Ba’omer (see above, where he calls it an error). It therefore makes more sense that the masses would err in this manner as opposed to great halachic authorities of the time.

50. See footnote 20.

51. Shabbat #276; see Emanuel, footnotes 41 and 42.

52. See, e.g., Roderick McGrew, Encyclopedia of Medical History (McGraw-Hill), pages 30–31. For a connection of bloodletting and haircutting in regards to the Omer, see Leket Yosher, page 97.

53. Those well-read in Jewish laws of bloodletting are likely aware that there is another practice to avoid bloodletting prior to Shavuot (see Shabbat 129b). This, as well as many other details, may assist scholars in forming new theories about the development of the actual date of Lag Ba’omer.

### Approach 3: Time of Judgement and Fear

Rabbeinu Yerucham<sup>54</sup> (14<sup>th</sup> Century France/Spain) offered another interpretation of this custom. In discussing why there is no blessing of *shehecheyanu* over the mitzvah of counting the Omer, he explains that this time is a time of judgement, and concludes:

*And [the Korban Omer] is equivalent to the offering of a sotah (a suspected adulteress) from barley [se'orim in Hebrew], which is the same tone as "G-d's tempest" [sa'arat Hashem in Hebrew], and therefore, we do not wed, and we grow our facial hair. [This reason is given] despite the [other reason] that there were 12,000 pairs of Rabbi Akiva's students that died...*

Similarly, Rabbi David Abudarham<sup>55</sup> (14<sup>th</sup> Century Spain) writes that because we are judged during Omer (see Rosh Hashanah 16a), it is a time of sorrow. According to these sources we avoid weddings because it is not a happy time (akin to mourning). The avoidance of haircutting may be for the same reason, or it may be a sign of nervousness, akin to the midrash that many people, in advance of their judgement, wear dark clothing and grow out their hair.<sup>56</sup>

In regards to not working at nights, a similar comparison to the case of a *sotah* (a suspected adulteress) is made by Rabbi Binyamin, the brother of the Shibbolei Haleket.<sup>57</sup> Building off those authorities who write that the prohibition on working at night is strictly for women,<sup>58</sup> Rabbi Binyamin suggests that women wanted to avoid any suspicion of adultery and show that they were G-d-fearing, so they remained at home with their husbands during this time of year.

The understanding that the Omer days are a time of judgement of sorrow has very significant kabbalistic aspects to it, in that it is a time where G-d's attribute of judgement is heightened. Rabbi Avraham Saba (15<sup>th</sup> Century Spain)<sup>59</sup> explains that kabbalistically, the 33<sup>rd</sup> day of the Omer is when G-d's attribute of judgement subsides, and that would justify ceasing these kabbalistic practices at that time.<sup>60</sup>

Perhaps an additional explanation can be suggested for the date of Lag Ba'omer according to this approach. Emanuel<sup>61</sup> noted various 13<sup>th</sup> Century Germanic sources that spoke about completing the fasts of Bahab (the practice of many communities to fast and recite *selichot* on Monday-Thursday-Monday at the start of Iyar) prior to the date of Lag Ba'omer. Yet, Emanuel fails to account for the fact that it is actually mathematically impossible for

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54. Rabbeinu Yerucham, Toldot Adam Vechavah, Netiv 5, Volume 4.

55. Tefillot Hapesach.

56. See Tur, Orach Chaim 581.

57. #235.

58. See footnote 9.

59. Tzeror Hamor to Vayikra 23:15; see also Kaf Hachaim, Orach Chaim 493:5 for further sources pertaining to the kabbalistic discussion of Lag Ba'omer.

60. Additionally, the interest of the general populations in kabbalistic matters was significantly growing at that point in history, as opposed to during Ge'onic times; this may serve to explain the changes in behaviour during the times of the Rishonim.

61. Page 134 and footnote 131.

the fasts of Bahab to extend past Lag Ba'omer – the last possible date for a Bahab fast is the 32<sup>nd</sup> day of the Omer!<sup>62</sup> Also, he fails to explain why it is primarily German authorities that comment on this, and not their counterparts elsewhere.

To solve these problems, it is sufficient to note that while in other locales, the fasts of Bahab in Iyar were given various different reasons,<sup>63</sup> in 13<sup>th</sup> Century Germany, the leading Rabbis, Mordechai<sup>64</sup> and Ra'avayah,<sup>65</sup> explained that these fasts were for agricultural success. Thus, once the Bahab fasts were completed (in the latest possible scenario, by the 32<sup>nd</sup> day of the Omer), other practices that were related to worrying about the upcoming yield could be suspended, since the fasts had been completed!<sup>66</sup> There would be no need to be concerned about the yield once the prayers and fasting for it had been completed, no later than the 32<sup>nd</sup> day of the Omer, which is why the 33<sup>rd</sup> day of the Omer was a day on which those practices could be suspended.

#### Approach 4: Other Mourning

Shibbolei Haleket cites his brother, Rabbi Binyamin (13<sup>th</sup> Century Italy), who explained these customs as mourning for all those who sinned during their lifetime,<sup>67</sup> rather than for Rabbi Akiva's students. In support, he cited Rabbi Yochanan ben Nuri,<sup>68</sup> who took the position (based on Yeshayah 66:23) that the judgement of evildoers in *Gehennom* is from Pesach to Shavuot. Although we appear to rule<sup>69</sup> in accordance with the opposing view cited there, that their judgement takes place in the twelve months following their passing, nevertheless, it is possible that this view also has halachic validity.<sup>70</sup>

Somewhat similarly, Rabbi Evan Hoffman<sup>71</sup> points out that the Ba'al Hama'or (12<sup>th</sup> Century Spain/France)<sup>72</sup> rules that we only count the Omer as a Rabbinic remembrance for the Biblical counting. Ba'al Hama'or elaborates that this is a sad time, since he considers this time period to be one of mourning for the Temple (as opposed to for people).

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62. Even if the first of Iyar falls out on Shabbat, which means that the blessing for those fasting Bahab may only take place on Shabbat, the 8th of Iyar, the fasts will still be completed on the 17th of Iyar, the 32<sup>nd</sup> day of the Omer!

63. For a selection, see Tur, Beit Yosef and other commentaries to Orach Chaim 492.

64. Ta'anit, Remez #629.

65. Hilchot Ta'anit #863.

66. It is surprising that we do not see more explicit evidence of this in German writings (neither Rabbeinu Yerucham, nor Abudarham were German); see Emanuel, pages 114–115, who notes the general paucity of German sources that discuss the Omer restrictions.

67. The technical term used by the Mishnah is "*resha'im*"; however, in practice, we assume that we ourselves might have this status for any sins we may have done.

68. Mishnah Eduyot 2:10, Seder Olam Rabbah Chapter 3.

69. See, e.g., Shulchan Aruch, Yoreh Deah 240:9 and 376:4, which discuss practices one can perform on behalf of a deceased parent during this timeframe.

70. See Chok Ya'akov, Orach Chaim 493:3.

71. Thoughts on Sefirah, <https://anshesholomnewrochelle.org/sermons/thoughts-on-sefirah>.

72. To Rif, Pesachim 28a.

While the additional haircutting stringency makes sense since it is a form of mourning, it is very hard to justify any reason whatsoever for ceasing mourning at Lag Ba'omer. Both the destruction of the temple, and those who have passed away continue to be mourned until Shavuot. There also seems to be no reason to avoid work during the nights of the Omer, and indeed, Rabbi Binyamin himself suggested another rationale for that practice.<sup>73</sup>

## Approach 5: Chol Hamo'ed

Sukkot contains a first day of celebration on which all creative labour is prohibited, followed by six days of Chol Hamo'ed (commonly referred to as "intermediate days," on which there are certain leniencies regarding performing labours prohibited on Yom Tov), and then another full holiday on the 8<sup>th</sup> day where there is a total ban on creative labour. Ramban (13<sup>th</sup> Century Spain)<sup>74</sup> notes that the same pattern is present from Pesach to Shavuot, just with weeks replacing days. There is one week of Pesach, followed by an additional six weeks of the Omer, followed by Shavuot, which is referred to using the term "Atzeret" (akin to Shemini Atzeret). Talmud Bavli (Mo'ed Katan 8b-9a) writes that it is prohibited to marry on Chol Hamo'ed, since one may not mix two joyous occasions. Thus, it is possible that another source for not holding weddings during this time is that it is somewhat joyous, akin to Chol Hamo'ed, and therefore, one may not hold weddings.

To explain another custom, Rabbi Yaakov Emden<sup>75</sup> writes that this comparison is the reason why some had the custom to avoid prohibited labours during the nights of the Omer. It was not feasible to prohibit all labour for everyone the entire period of the Omer, so the partial prohibition took place for the nights only.

Additionally, haircutting is another practice that is prohibited on Chol Hamo'ed, so that an individual will not enter the initial holiday unshaven.<sup>76</sup> This rationale does not hold true for the full period from Pesach to Shavuot, which might be why shaving was permitted at an earlier date (i.e., Lag Ba'omer) or right before Shavuot.

In summary, there are a number of positions taken by the Rishonim as to why there may be certain restrictions during the Omer period. However, not every approach can justify each of the restrictions and their full development. In many cases, they may have to be combined, or rely on other explanations that don't fall into any category at all.

The beauty of studying Jewish customs and their development not only allows us to experience "*eilu ve'eilu divrei Elokim Chaim*," "these and these are the words of the Living G-d," but also to gain a deeper appreciation and connection to our past as we practice many of these customs today.

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73. See above.

74. Vayikra 23:36.

75. Mor Uketzi'ah, Orach Chaim 493.

76. See specific exceptions in Mishnah Mo'ed Katan 3:1 and the associated passages in the Talmudim.

# Brain Stem Death: Rabbi Dr. Moshe Dovid Tendler's Greatest Impact on Medical Halakhah: *Did Rav Moshe Feinstein Agree with Him?*

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RABBI DR. LAZER FRIEDMAN

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**AS A SENIOR** at Yeshiva University in 1983, I had the privilege of being in Rabbi Dr. Moshe Dovid Tendler's shiur in the morning and in his advanced biology courses in the afternoon. He was a master teacher who stressed a text-based analysis of Gemara during his shiur. In his afternoon biology class, he would pull out the latest edition of the New England Journal of Medicine from his suit pocket, and scrutinize the latest medical advances with the class. But beyond the texts he utilized, he regaled us with anecdotes he had with his "Shver" (Yiddish for father-in-law), Rabbi Moshe Feinstein (Rav Moshe). In life, one does not always appreciate the opportunities they are afforded, and often, one reflects in retrospect on changes they would have made if the grandeur of the moment was known. Whilst I am definitely culpable on that count, I did know and appreciate that I was a student of one of our generations' ideal role models of Torah Umadda.

A cursory review of the folios of *Igrot Moshe*<sup>1</sup> speaks to the enormous impact R. Tendler had on medical halakhah. The numerous responsum penned by Rav Moshe in response to questions of medical halakhah posed by R. Tendler has become the foundation of the field of contemporary medical halakhah.

Notwithstanding all the areas of halakhah R. Tendler dealt with, the issue of brain stem death was without doubt, the most controversial and influential issue he dealt with in his lifetime. R. Tendler championed the concept of brain stem death, a position which pitted

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1. Responsa of Rabbi Moshe Feinstein (1895–1986).

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him against many contemporary *Gedolim*, as well as his own colleagues from within Yeshiva University.<sup>2</sup> His approach led to the acceptance of respiratory death by the Rabbanut in Israel in 1986.<sup>3</sup> This decision allowed the development of heart and lung transplant programs in Israeli hospitals. His position was also accepted by the Halachic Organ Donor Society (HODS) and many Rabbis have attested to this opinion on the HODS website.<sup>4</sup>

This article will review the basis of R. Tendler's revolutionary halakhic decision to accept brain stem death as the definition of halakhic death, and will explore the evidence as to whether Rav Moshe agreed with his novel idea.

## Background

In 1968, a monumental paper was published which eventually became known as the "Harvard criteria."<sup>5</sup> This became the standard definition for irreversible coma or brain death. A bedside neurological examination could be performed to ascertain brain stem reflexes, and patients who met the Harvard criteria, would be considered clinically dead despite persistent cardiac activity. This revolutionized clinical medicine, and provided the impetus for research and development of organ transplantation such as heart and lung transplants which require a live donor. The immediate question faced by the *Poskim* was: does halakhah accept the Harvard criteria as the definition of death?

## Physiological Decapitation

R. Tendler introduced the concept of "physiological decapitation" a term he coined to support the concept that the Harvard criteria was indeed consistent with halakhah.<sup>6</sup> R. Tendler cited the Mishnah (*Oholot* 1:6) to establish that a decapitated animal is halakhically considered dead even if there is movement of the body:

אדם אינו מטמא עד שתצא נפשו ואפ"י מגוייד ואפ"י גוסס זוקק ליבום ופוטר מן היבום מאכיל בתרומה ופוסל בתרומה וכן בהמה וחיה אינן מטמאין עד שתצא נפשם הותזו ראשיהם אף על פי שמפרכסים טמאין כגון זנב של לטאה שהיא מפרכסת.

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2. This article will not attempt to review the various opinions regarding the definition and debate regarding the timing and definition of death. The discussion will be limited to an analysis of the opinions of R. Tendler and Rav Moshe. Rabbi Dr. Avraham Steinberg has done significant work on this topic. For more on the time of death and related topics see his *Encyclopedia of Jewish Medical Ethics* (Feldheim, 2003), 3 volumes, *Respiratory-Brain Death* (Meharvim, 2012) and *Encyclopedia Hilkhaitit Refuit*, Vol. 6 (Schlesinger Institute for Medico-Halakhic Research, 1998), 816–885. Also see Rabbi Dr. David Shabtai, *Defining the Moment* (Shoshon, 2012) and Rabbi J. David Bleich, "Of Cerebral, Respiratory, and Cardiac Death," *Tradition*, Vol. 24 (3), 44–66.
  3. *Tehumin*, Vol 7, (5746), 187.
  4. <https://hods.org>.
  5. "A Definition of Irreversible Coma: Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death," *J.A.M.A.* 205 (6) (American Medical Association, 1968), 337–40.
  6. R. Dr. Moshe Dovid Tendler, "Cessation of Brain Function: Ethical Implications in Terminal Care and Organ Transplants," *Annals of the New York Academy of Sciences*, Vol. 315 (1) (Wiley-Blackwell, 1978), 394–497.

*Humans do not impart impurity until the soul expires. Even if he was chopped up, even if he was in the throes of death, he obligates levirate marriage and he exempts a levirate marriage. He permits the eating of Terumah, and he disqualifies Terumah. Likewise, a domestic animal and a wild beast do not impart impurity until their souls expire. If their heads were cut off, even if they were still convulsing, they are impure, like the tail of a lizard which convulses.*

The Gemara (Hullin 21a) expounds on this:

תנן התם הותזו ראשיהן אע"פ שמפרכסין טמאים כזנב הלטאה שמפרכסת. מאי הותזו ר"ל אמר הותזו ממש.

*We learned in a mishna there (Oholot 1:6) with regard to creeping animals whose carcasses are ritually impure: If their heads were removed, even if they are convulsing, they are impure like the tail of a lizard that was severed that convulses even though it is not alive.*

The Gemara, interpreting the Mishna in *Oholot*, explains that if an animal has been decapitated the animal is considered dead with respect to the laws of impurity. Therefore, any movement of the body is not recognized as a sign of life. Based on this, R. Tendler argued an individual with brain stem death is the equivalent of physiological decapitation and would have the status of being halakhically dead.

## **Did Rav Moshe Agree With R. Tendler's Position on Brain Stem Death?**

R. Tendler asserted that Rav Moshe agreed with his position that complete and permanent absence of any brain stem related vital bodily function is recognized as death. Moreover, R. Tendler pointed to the fact that Rav Moshe agreed to his concept of physiological decapitation.

Rav Moshe authored five different *teshuvot* in his *Igros Moshe*, in addition to other written works, that are germane to the discussion of brain stem death, and organ transplantation. These will be reviewed here in chronological order.

The first cardiac transplant was performed by Dr. Christian Barnard in 1967, and although it was recognized as the first successful transplant, it led to the death of the recipient within 18 days. The second transplant recipient lived for 1.5 years. Rav Moshe, in a *teshuva* written in 1968, addressed the new development of human cardiac transplantation. Notwithstanding the fact that the second recipient was alive six months post-surgery, Rav Moshe issued his famous *psak* (ruling) that cardiac transplantation is "double murder":

כי שתילת הלב שהתחילו הרופאים לעשות בזמן האחרון הוא רציחת שתי נפשות ממש.

*Heart donations, which the physicians have recently started performing, is murder of two souls.*<sup>7</sup>

Rav Moshe felt the donor heart was taken from a live person and the surgeons were culpable

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7. Igrot Moshe Yoreh Deah 2:174.

for murder. Moreover, the recipient of the heart was engaging in a futile surgery which would certainly lead to their death. Hence the term “double murder.”

It is important to note that at the time of the original cardiac transplant surgery, the Harvard criteria had not yet been published, and there were no defined guidelines to establish when an organ donor should be considered clinically dead. Similarly, cardiac transplantation technology was at a nascent stage of development. Specifically, the management of immunosuppression for the transplant recipient (required to prevent the rejection of the transplanted organ), was in its infancy. Over time, improved surgical outcomes would ultimately alter the halakhic decision making process.

In a subsequent *teshuva* written in 1970, Rav Moshe addressed a question regarding a patient in a Persistent Vegetative State (PVS). Although PVS patients have absent cortical activity, there is preservation of spontaneous respiration. Rav Moshe summarily rejected the concept of brain death, as it does not appear in any Rabbinic literature. He ruled that a person with spontaneous respiration, notwithstanding the absence of cortical activity is considered fully alive and the absence of brain function is not a criterion of clinical death:

אבל האמת ודאי שלא זה שפסק המוח לפעול הוא מיתה דכל זמן שהוא נושם הוא חי, רק זה שפסק המוח לפעול פעולתו הוא דבר שיביא למיתה שיפסוק לנשום.

*But in truth, it is certain that one whose brain has ceased to function is considered dead, for so long as he is breathing, he is considered alive. However, one whose brain is no longer functioning [and] performing its tasks, will lead to death as it will interrupt breathing.<sup>8</sup>*

It is critical to differentiate between brain death which Rav Moshe absolutely prohibited, and brain stem death. In this *teshuva*, Rav Moshe discussed a patient with PVS, who was brain dead by virtue of the absence of cortical activity, however was not brain stem dead. This *teshuva* cannot be brought as proof that Rav Moshe objected to the concept of brain stem death.

Further in the *teshuva*, Rav Moshe wrote that respiration is not an indicator of life, but rather it is brain and cardiac activity that define life:

אבל ברור ופשוט שאין החוטם האבר שהוא נותן החיות בהאדם, וגם אינו מאברים שהנשמה תלויה בו כלל, אלא דהמוח והלב הם אלו הנותנים חיות להאדם.

*It is clear and simple, that the nose is not the organ that gives life to a person, and it is also not one of the organs that respiration is dependent upon, rather it is the brain and heart that give life to a person.*

Rav Moshe concluded this *teshuva* by ruling that the removal of an organ from an individual who lacks spontaneous respiration is tantamount to murder:

עכ"פ לדינא כיון שאיכא מציאות שיהיה חי אף בלא נשימה איזה ימים וכ"ש שאיכא מציאות

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8. Igrot Moshe Yoreh Deah 2: 146.

לזמן קצר ואם באותו זמן שניטל ממנו הלב חי עדיין והספיקו להכניס לתוכו לב אחר שנמשך מזה חיותו איזה חדשים ודאי יש לו דיני אדם חי [...] אבל פשוט וברור שאסור לעשות כמו שהתחילו איזה רופאים דהוא רציחה ממש כדכתבתי ונתפרסם בעולם.

*As a matter of law, because there is a reality that he will live even without breathing for a few days and certainly when there is a reality for a short time [that he will live], if at that time the heart was taken from him [while] he is still alive, and there is enough time to put another heart into him which would prolong his life by several months, he certainly has the status of a live person [...] But it is simple and clear that it is forbidden to do [this] as some physicians have begun to do, for this is literally murder, as I wrote and made public to the world.*

In summary, Rav Moshe's position is that brain death (not brain stem death) is unacceptable as a criterion for death. He also states respiration, in and of itself, is not an indicator of life, as it must be driven by brain and cardiac activity which define life. He also reaffirms his objection to cardiac transplantation.

Although this *teshuva* is frequently cited as evidence of Rav Moshe's objection to brain stem death, it must be emphasized that this *teshuva* never addressed the issue of brain stem death, or physiologic decapitation. This *teshuva* addressed a patient with PVS, who according to all opinions is not brain stem dead, and therefore not clinically dead.

In May 1976, Rav Moshe sent a letter to H. Miller, the chairman of the New York State Assembly's Committee on Health, concerning the determination of death. Rav Moshe stated:

*The sole criterion of death is the total cessation of spontaneous respiration. In a patient presenting the clinical picture of death, i.e. no signs of life such as movements or response to stimuli, the total cessation of independent respiration is an absolute proof that death has occurred. This interruption of spontaneous breathing must be for a sufficient length of time for resuscitation to be impossible (approximately 15 minutes).<sup>9</sup>*

The content of this letter clearly supports the position of accepting the absence of spontaneous respiration as clinical death, and is a paraphrasing of his *teshuva* written in 1976.<sup>10</sup> In this *teshuva* Rav Moshe responded to a question submitted by R. Tendler, and addressed the specific question of the establishment of the time of death:

אבל כשפסקה מלעבוד שנחסר העקסינזען / החמצן / שהיה שם לא יחזירו לפיו עוד הפעם עד עבור זמן קצר כרבע שעה, שאם אינו חי כבר יפסיק מלנשום וידעו שהוא מת, ואם יחיה היינו שיראו שהוא נושם גם בלא המכונה אך בקושי ובהפסקים יחזירו המכונה עוד הפעם לפיו מיד וכה יעשו הרבה פעמים עד שיוטב מצבו או שיראו שאינו נושם בעצמו כלל שהוא מת.

*But when the ventilator stops working due to the lack of oxygen that was there, they should not resume ventilation for a short period of time, like 15 minutes. Thus If he is not alive, he would*

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9. Dr. Fred Rosner and Rabbi Dr. Moshe Dovid Tendler, "Definition of Death in Judaism" *The Journal of Halacha and Contemporary Society*, Vol. XVII, (Rabbi Jacob Joseph School, 1989), 23.

10. Igrot Moshe Yoreh Deah 3:132.

*stop breathing and it would be clear that he is dead. However, if he lives, and we see him breathe, albeit with difficulty and pauses, then they must immediately resume ventilation. Such should the practice be [even if it is required to do] many times until his condition improves or they see that he is not breathing at all independently himself as he is dead.*<sup>11</sup>

Specifically dealing with an individual in a coma and on a ventilator, Rav Moshe forbids the discontinuation of the ventilator. However if the oxygen canister requires replacement, Rav Moshe ruled that it could be withheld for a period of 15 minutes to determine if the patient regains the spontaneous ability to breathe. According to Rav Moshe, the absence of the resumption of spontaneous breathing determines clinical death, and the ventilator need not be reconnected.

Rav Moshe then addressed the use of radionuclide perfusion scans to determine circulatory activity in the brain:

וכיון שאתה אומר שעתה איכא נסיון שרופאים גדולים יכולין לברר ע"י זריקת איזו לחלוחית בהגוף ע"י הגידים לידע שנפסק הקשר שיש להמוח עם כל הגוף שאם לא יבא זה להמוח הוא ברור שאין להמוח שום שייכות להגוף וגם שכבר נרקב המוח לגמרי **והוי כהותז הראש בכח**, שא"כ יש לנו להחמיר באלו שאף שאינו מרגיש כבר בכלום אף לא ע"י דקירת מחט ואף שאינו נושם כלל בלא המכונה שלא יחליטו שהוא מת עד שיעשו בדיקה זו שאם יראו שיש קשר להמוח עם הגוף אף שאינו נושם יתנו המכונה בפיו אף זמן גדול, ורק כשיראו ע"י הבדיקה שאין קשר להמוח עם הגוף יחליטו ע"י זה שאינו נושם למת.

*Since you are saying that now there is a test that physician specialists can use to determine through the use of injected materials to determine if there is a disconnection between the brain and the body, such that if the brain is not perfused with the injected material, then it is certain that there is no longer any connection between the brain and the body, and the brain has already been completely destroyed, and it is as if there was physical decapitation. Accordingly, we must rule stringently for individuals who, although they no longer feel anything even by a stabbing needle and are not breathing at all without the [use of a] machine (ventilator), we cannot definitively establish death until this test is done. For if one is to determine the presence of a connection between the brain and the body, even though he is not breathing, the ventilation must continue in his mouth even for a long period of time. If however, through this test, they determine that there is no longer any connection between the brain and the body, then we can confirm that the absence of his breathing is because he is dead.*<sup>12</sup>

In this *teshuva*, Rav Moshe clearly ruled that the absence of spontaneous respiration is the criterion for clinical death. Moreover, this *teshuva* seems to indicate the most support for R. Tendler's concept of physiologic decapitation. He addressed the use of perfusion scans which in the absence of brain circulation becomes the equivalent of physiological decapitation.

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11. Ibid.

12. Ibid.

If one is to marshal this *teshuva* as support for brain stem death and physiologic decapitation, it should be noted that Rav Moshe argued for two crucial conditions that must be fulfilled in order to establish the halakhic status of death. Firstly, the absence of blood flow to the brain is viewed as a disruption of brain and body and thus similar to a decapitated individual. Secondly, Rav Moshe also stated that the brain needs to be “*Nirkav li-gamrei*” (completely destroyed).

The first condition is met in a brain stem dead patient as there is no longer any circulatory connection between brain and body. The second condition of “total brain destruction” has recently come under close scrutiny for brain stem dead patients. Recent studies have pointed to the fact that temperature control in brain stem dead patients is maintained suggesting an active role of the hypothalamus.<sup>13</sup> This is a compelling argument for those reluctant to accept physiological decapitation and brain stem death as equivalent to clinical death. In defense of R. Tendler, R. Dr. Steinberg notes that the hypothalamus is a gland and not part of the brain. He therefore suggests that the second condition of Rav Moshe requiring “total brain destruction” is still met in a brain stem dead patient.<sup>14</sup>

R. Dr. Steinberg and the Rabbanut in Israel use this very *teshuva* in support of the acceptance of the respiratory definition of clinical death. R. Dr. Steinberg, and the Rabbanut do not use the definition of brain stem death and prefer the term cessation of spontaneous respiration. Rav Moshe, in the first part of the *teshuva*, clearly stated that the absence of spontaneous respiration is the criterion for death. This is the basis for R. Dr. Steinberg referring to this as the respiratory criteria for death.<sup>15</sup> He further argues that respiration is a *sign* of life, and the determinant of breathing comes from the brain, and not the heart. The brain itself is therefore not part of the criteria for death.

In 1978, Rav Moshe revisited the issue of cardiac transplantation, and reaffirmed his staunch opposition to cardiac transplantation.<sup>16</sup> Having received the updated medical literature at that time from R. Tendler, about the poor prognosis of transplant recipients, Rav Moshe maintained his opposition to performing cardiac transplantation and felt that physicians who performed such procedures were liable for murder.

This *teshuva* does not contradict his earlier *teshuva* defining death by absent spontaneous respirations. The 1976 *teshuva* was defining the moment of death, while the 1978 *teshuva* forbade organ transplantation. This may reflect Rav Moshe’s concern for the high-risk procedure and the guarded prognosis of surgical outcomes at the time of his writing.

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13. Eelco F.M. Wijdicks and Eric A. Pfeifer, “Neuropathology of Brain Death in the Modern Transplant Era,” *Neurology*, Vol. 70 (15) (American Academy of Neurology, 2008), 1234–1237.

14. “Halachic issues in the Determination of Death and in Organ transplantation,” (2012), 93–94n247.

15. R. Dr. Abraham Steinberg, “Keviat Regah Ha-Mavet Vi-Hashtalet Lev,” in Dr. Mordechai Halpern (ed.), *Sefer Assia*, Vol. 7 (Schlesinger Institute for Medico-Halakhic Research, 1993), 209–230.

16. Igrot Moshe Hoshen Mishpat 2:72.

In 1980, R. Tendler and Dr. Fred Rosner co-authored a manual of practical medical halakhah.<sup>17</sup> In the introduction, the authors write:

*Because of the far-reaching significance of many of these halakhic decisions, they were submitted to Rav Moshe Feinstein for review. The language and analysis however are those of the authors, who bear sole responsibility for the accuracy of the contents.*

In this manual, the halakhic moment of death is defined as:

*Total cessation of all brain function as determined by the Harvard criteria and radio-isotope confirmation that the brainstem is not being perfused is absolute evidence that death has occurred.*

Although not penned by Rav Moshe himself, this publication carries his approval and supports the notion that Rav Moshe considered brain stem death, and physiological decapitation (as proven by perfusion scan), as clinical death.

The final piece of literature Rav Moshe wrote on the topic of the halakhic status of death was a letter he penned to Dr. Bondi dated November 25, 1984. This letter became known as the “Bondi Letter” and was published as a *teshuva* posthumously in 1986.

למעשה, כפי ששמעתי מחתני הרב הגאון מוהר"ר משה דוד טענדלער שליט"א, הערכאות קיבלו רק את הגדרת המוות שהיא גם צודקת לדינא, הגדרה שקוראים לה הרופאים "הארבערד קריטיריא" (התנאים לקביעת ההפסקה המוחלטת והסופית של פעולת המוח, שנקראת מיתת המוח, שהתקבלו בהארבערד), שנחשב ממש כ"נחתך ראשו" ר"ל של החולה, שכאשר מתקיימים תנאי הארבערד המוח כבר ממש מתעכל ר"ל. והנה אף שהלב עדיין יכול לדחוף לכמה ימים, מ"מ כל זמן שאין להחולה כח נשימה עצמאית נחשב כמת.

*Practically, as I heard from my son-in-law Rabbi Moshe David Tendler, the courts accepted only the definition of death, which is consistent with the halakhah, a definition that doctors call "Harvard Criteria" (the conditions for determining the complete and final cessation of brain function, called brain death, that were accepted at Harvard), which is literally considered decapitation of the patient, that when Harvard criteria are met, the brain is already really destroyed. And behold [accordingly] even though the heart can still beat for several days, nevertheless as long as the patient does not have the ability of independent breathing, he is considered dead.<sup>18</sup>*

In this *teshuva*, Rav Moshe stated that he was provided updated medical information by his grandson Rabbi Mordechai Tendler as well as his son-in-law, Rabbi Moshe Dovid Tendler. He tells Dr. Bondi that the New York State law which uses Harvard criteria is consistent with Halachah and the brain-dead individual is considered as having been decapitated. Therefore, even if the heart continues to beat, so long as there is no spontaneous respiratory effort, the individual is considered to be clinically dead. Rav Moshe concluded by referring the

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17. R. Dr. Moshe Dovid Tendler and Dr. Fred Rosner, *Practical Medical Halacha* (Raphael Society of the American Orthodox Jewish Scientists, 1980).

18. Igrot Moshe Yoreh Deah 4:54.

reader to his previous *teshuva* from 1976.<sup>19</sup> This implies that he was reiterating his support for brain stem death and physiological decapitation.

This is the clearest and most supportive written record in support of the argument that Rav Moshe accepted the Harvard criteria for brainstem death and accepted its equivalence as physiologic decapitation.

## **Conclusion**

R. Tandler was a giant in medical halakhah. Through insight and knowledge, he combed through Talmudic sources and developed the theory of physiologic decapitation as an equivalent of brainstem death. His contributions directly led to the facilitation of organ transplantation in Israel. He championed organ transplantation throughout his life despite the fierce opposition he faced. He rested on the assurance that he had the approval of his father-in-law, Rav Moshe, the leading contemporary *Posek* in North America. The written works of Rav Moshe have been closely scrutinized over the past five decades to ascertain if he supported the concept of brain stem death and physiological decapitation. Based on a review of the available written works, it appears that R. Tandler indeed had the support of Rav Moshe on the issue of physiologic decapitation and brainstem death.

There remains a fierce debate amongst the *Poskim* in defining the moment of death in halakhah. Despite the tomes that have been written on this topic, the halakhah has not reached a definitive conclusion or consensus. The debate on the definition of death has not been resolved, and remains one of the greatest challenges in the field of medical halakhah. On the issue of defining the moment of death, we are left with a “*Teiku*,” a Talmudic acronym for a stalemate – “תשבי יתרץ קושיות ובעיות,” “*Tishbi Yetaretz Kushyos V’ibayos*,” and we await the coming of Elijah to resolve the difficult queries.

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19. See footnote 11 above.

# On the Distribution of Molad Times in the (Very) Large Cycle

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DANIEL LEVENSTEIN

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## Introduction

Quite often we find events associated with the Jewish calendar are a little different from what we normally expect. For instance, one might wonder how often do we have a year where *Mattot* and *Masei* are separated. How often is the *haftarah* for *Parshat Mikketz* actually read (as Shabbat *Parshat Mikketz* usually falls on *Chanukah* and therefore typically has a special *haftarah*)?<sup>1</sup> How often do we have *Erev Pesach* on Shabbat?

The following are two approaches that can be used to find the answers to these questions:

1. **Brute Force Method:** Write a computer program that generates the entire theoretical 689,472-year cycle of the Jewish calendar,<sup>2</sup> count the number of occurrences of the event in question and divide that result by the number of years in the cycle.
2. **Molad-Interval Approach:** These types of events generally depend on the time of the *Tishrei Molad* (New Moon; see description below) and therefore correspond to a specific interval in the week. If we assume all *Molad* times are equally likely, then the probability of an event should be given by the size of the relevant interval divided by the number of *Molad* times in a week. We might then scale the result by  $\frac{7}{19}$  or  $\frac{12}{19}$ , depending on whether or not the event occurs in a leap year to reflect the fact that 7 out of 19 years are leap years.

For example, *Mattot Masei* is split, outside of Israel, during leap years where the first day of *Rosh Hashanah* falls on a Thursday. Using method 1 above, the number of occurrences generated via computer is 72,576. Therefore, the probability of this event is  $72,576/689,472 = 10.53\%$ . On the other hand, using method 2 above, for the first day of RH to fall on a Thursday, the

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1. On a couple of occasions I've heard people say that Shabbat *Parshat Mikketz* always overlaps with *Chanukah*.
  2. The 689,472-year cycle, along with other concepts mentioned in the Introduction, will be explained in more detail below.

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*Molad* needs to be between Tuesday 18 hours, 0 *chalakim* and Thursday 17 hours and 1,079 *chalakim*. This interval has 51,840 *chalakim*. Since there are 181,440 *chalakim* in a week, the required “probability” using this approach is  $\frac{51,840}{181,440} \times (\frac{7}{19}) = 10.53\%$ . We are scaling by  $\frac{7}{19}$  because this event only happens during leap years.

Although both methods, in this example, yield exactly the same result, it would seem the second approach should not always work, as not all Tishrei *Molad* times are equally likely. Some *Molad* times occur 4 times throughout the cycle of the Jewish calendar and others only 3 times. However, this article will show that, nevertheless, using the second approach will give results that are so close to the true answer, that for all intents and purposes we can use it as if it is correct. This is a particularly encouraging result because there are books and articles that have discussed in great detail the likelihood of different Jewish calendar events and they sometimes use method 2.

In addition, this article will briefly discuss how the Jewish calendar works in order to give readers who aren't otherwise familiar with its mechanics, enough background to be able to follow the gist of the article. I've also included some references to the Rambam's *Hilkhot Kiddush HaChodesh* (HKH) which describes in detail, among other things, the workings of the fixed calendar. The references are given as (HKH cx, py) which indicates Chapter x and Paragraph y of *Hilkhot Kiddush HaChodesh*.<sup>3</sup>

## Important Concepts

Before describing the two approaches, some background information regarding the Jewish calendar may be helpful. This section describes the main concepts that are needed to understand the mechanics of the calendar. Readers already familiar with its mechanics can skip to the “The Large Cycle” section without any loss of continuity (although they may want to glance at the “Year Type” section to see the convention that is being used to denote the various year types).

- **Molad (New Moon)** – this is based on when the moon sun and Earth are in conjunction (form a straight line), with the moon being in between the Earth and the sun. Since, from

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3. There are many other classical sources that deal with the Jewish calendar. A survey of these sources is beyond the scope of this article. I would point the interested reader to *Sefer Ha'Ibbur* by Ibn Ezra. In particular, there is a series of Bar-Ilan seminars that deal specifically with the Jewish Calendar that have been saved to YouTube. One of the seminars highlights several of the calculations performed by the Ibn Ezra. The explanations given by Dr. Eran Raviv are outstanding and highly recommended (go to YouTube and within YouTube, search for “*peshet ezra bar ilan*” and it should be near the top of the hits). Another classic work is *Sefer Ha'Ibrnot* (or *Evronot*) which also deals with calendar calculations (it can be found on [hebrewbooks.org](http://hebrewbooks.org)). There are *sugyot* in the *Gemara* as well that deal with calendar type calculations (see RH 25a where Rabban Gamliel gives the length of the lunar month which is the backbone of the fixed calendar (although the length was not given in the context of the fixed calendar)). There is also an interesting *sugya* in *Arachin* 8b-10a where Rashi mentions the shift in the Tishrei *Molad* time from one year to the next (for non-leap years) as being 4 days, 8 hours and 876 *chalakim* and Tosafot on 9a gives the shift for a leap year as 5 days 21 hours and 589 *chalakim*. Both of these calculations are key components of the current fixed calendar. The *sugya* itself is beyond the scope of the paper but is only mentioned in the context of performing calculations related to the calendar. There are other interesting related *sugyot* but the point here is just to point out several references in the classical works.

the Earth's perspective, the sun is behind the moon, the moon is not visible from Earth at this time. For the purpose of this article, we are concerned only with the *Molad* of the month of Tishrei. Therefore, all references to *Molad* times, unless stated otherwise, are Tishrei *Molad* times. Also, for the purpose of the fixed calendar, the *Molad* actually refers to the mean conjunction (i.e., it is based on the average duration between conjunctions) and assumes the interval between mean conjunctions is 29 days, 12 hours and 793 *chalakim*.<sup>4</sup> The *Molad* time is expressed in terms of: day of the week, whole hours that have elapsed from the beginning of the day and the number of *chalakim* and will be denoted *xd/yh/zch*. Example: *Molad* time 5d/20h/701ch means the *Molad* occurred on Thursday (day 5), 20 hours<sup>5</sup> and 701 *chalakim*.

- **Chalakim** (singular *chelek*) – the smallest unit of time used in the determination of the calendar. There are 1,080 *chalakim* in an hour.
- **19-year cycle** – The leap years are determined based on a 19-year cycle as follows: years 3, 6, 8, 11, 14, 17 and 19 are leap years with an extra month (Adar II). For reference, the year 5782 corresponds to year 6 of the 19-year cycle (HKH c6, pp.10–11).
- **Year Type** (*Keviut*) – the year type is determined based on three variables: (i) the day of the week that RH falls, (ii) leap year or non-leap year and (iii) if Cheshvan and Kislev have 29 or 30 days each. Once we know the year type, the characteristics of the year are known: i.e., the *parsha/haftarah* distribution, the days of the week on which the holidays fall etc. (note: year type is independent of the secular calendar)
- **Large Cycle** – The sequence of year types will eventually repeat (see Note 11 below). This cycle is referred to as the Large Cycle in this article. Note: Machzor Hagadol is the classical term for the 28-year cycle (i.e., the one associated with *Birkat Hakhamah*). The term “Large Cycle” is being borrowed for the purpose of this article to refer to a different much longer cycle. The period of the Large Cycle is 689,472 years (proof provided in the article).
- **Postponements** (*Dekhiyot*) – As described in the next section, there are circumstances under which *Rosh Hashanah* is postponed and is observed 1 or 2 days following the day on which the *Molad* occurs.

## The Jewish Calendar in a Nutshell

There are essentially four steps to building a Jewish calendar:

1. Establish whether or not the current year is a leap year:
  - This is based on a 19-year cycle where the years 3, 6, 8, 11, 14, 17 and 19 are leap years (HKH c6, pp.10–11)
2. For a given year, establish when the first day of *Rosh Hashanah* occurs:<sup>6</sup>

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4. This means each month, the position of the *Molad* in the week shifts by 1 day, 12 hours and 793 *chalakim* (HKH c6, p5).  
5. To clarify, this is not the 20<sup>th</sup> hour but rather 20 hours have elapsed from the start of the day.  
6. A starting point is helpful. The *Molad* in year 1 occurred on Monday, 5 hours and 204 *chalakim* (HKH c6, p8). Every month, the *Molad* shifts by 1 day, 12 hours and 793 *chalakim*. From this, one can easily determine the

- This is determined based on the *Molad*. Ideally, *Rosh Hashanah* (RH) would be observed on the day of the *Molad*, but in practice it is postponed under the following conditions (note the day is assumed to start at 6:00 pm; noon is therefore at 18 hours and 0 *chalakim*):
  - *Molad Zakein*: If the *Molad* falls on, or after, noon time (i.e., 18 hours), then RH is postponed at least until the following day (HKH c7, p2).
  - GaT'RaD (G = *Gimel* = Tuesday, T = *Tet* = 9, RaD = *Reish Dalet* = 204): If, in a non-leap year, the *Molad* falls on Tuesday, on or after 9 hours and 204 *chalakim*, then RH is postponed two days (HKH c7, p4).
  - B'TU'TaKPaT (B = *Bet* = Monday, TU = *Tet Vav* = 15, TaKPaT = *Tav Kuf Pei Tet* = 589): If, in the year following a leap year, the *Molad* falls on Monday, on or after 15 hours and 589 *chalakim*, then RH is postponed one day (HKH c7, p5).<sup>7</sup>
  - Lo ADU Rosh (A = *Aleph* = Sunday, D = *Dalet* = Wednesday, U = *Vav* = Friday): RH cannot fall on Sunday, Wednesday or Friday. In those cases where it would otherwise fall on one of these days, RH is postponed until the next day (HKH c7, p1).<sup>8</sup>
- 3. Establish the first day of *Rosh Hashanah* next year:
  - I.e., project forward either 12 or 13 months (for a leap year) to determine the time of the *Molad* of the next year, and, based on the principles above, determine the day of the week of RH.
- 4. Adjust the months of Cheshvan and/or Kislev accordingly. In a normal year, Cheshvan has 29 days and Kislev has 30 days. However, one day could be added to Cheshvan or one day could be subtracted from Kislev in order to ensure the first day of RH in the following year falls on the correct day of the week (HKH c8, p6-P10). Thanks to the GaT'RaD and B'TU'TaKPaT postponements, we never need to adjust Cheshvan and Kislev by more than  $\pm 1$  day.<sup>9</sup>

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*Molad* for any month. Since we are concerned with Tishrei *Molads*, we can also use the annual shift: in a non-leap year, the *Molad* shifts by 4 days, 8 hours and 876 *chalakim* (HKH c6, p5); in a leap year the shift is 5 days, 21 hours and 589 *chalakim* (HKH c6, p5).

7. It is interesting to note that there was a dispute in the time of Rav Saadia Ga'on regarding the exact cut offs (the two opinions differed by 642 *chalakim*), and, as a result the date on which *Pesach* fell in 922 C.E. was in dispute. Note that the date of the previous RH (in 921 C.E.) was not in dispute as the difference affected the cut-off for the GaT'RaD postponement in 922 C.E. which in turn impacted the number of days in Kislev/Cheshvan (as per step 4.) and ultimately the day on which *Pesach* fell was different under the two systems by two days (see: <https://hebrewcalendar.tripod.com/benmeir.html>).
8. The Rambam states that this postponement is due to astronomical considerations (see HKH c7, p7). Raavad however disagrees and references reasons that are provided in *Massechet* RH (i.e., so that Yom Kippur doesn't fall on a Friday or Sunday) and he also mentions so that *Yom Ha'aravah* (*Hoshanah Rabbah*) doesn't fall on Shabbat.
9. The idea is that we want non-leap years to have either 353, 354 or 355 days and leap years to have 383, 384 or 385 days. Suppose during a non-leap year the *Molad* fell in the GaT'RaD range, then the *Molad* in the following year would fall on or after 18 hours of the Seventh day (Shabbat). This would cause *Molad Zakein* and Lo ADU Rosh, in the following year, to kick in and results in RH of the following year being on a Monday (recall, RH is not allowed to fall on Sunday). Absent GaT'RaD, RH of the current year would be on a Tuesday while RH of the following is on Monday. This would result in a year with 356 days, which would violate our objective of limiting the length of a non-leap year to 353, 354 or 355 days. Similarly for B'TU'TaKPaT, if the *Molad* of the current year is in the B'TU'TaKPaT range and if the previous year is a leap year, then the *Molad* of the previous year would fall on or after 18 hours of the Third day (Tuesday). This would mean that RH of the previous

Note that all other months have a fixed number of days. The months generally alternate between 30 and 29 days starting with 30 days in Tishrei (see HKH c8, p5). The exception to this is where we need to subtract or add one day, in which case the adjustment months are Cheshvan and Kislev (as described above). Furthermore, in a leap year, the first Adar has 30 days and the second Adar has 29 days (which strictly speaking doesn't follow the alternating pattern just described).

Example:

We will apply the four steps above to the year 5781:

1. The year 5781 is the fifth year of the 19-year cycle and so it is not a leap year.
2. The Tishrei *Molad* for year 5781 was at Thursday, 20 hours and 701 *chalakim*. Since the *Molad* occurred after 18 hours, there was a 1-day postponement. This would have resulted with RH falling on a Friday. However, since the first day of RH cannot fall on Friday, there was an additional 1-day postponement and RH was deferred until Saturday.
3. The Tishrei *Molad* 12 months later for 5782 was at Tuesday, 5 hours and 497 *chalakim*. None of the above postponements kick in, therefore RH for 5782 falls on a Tuesday.
4. In a normal year where Cheshvan and Kislev have 29 and 30 days respectively, the length of the year is 354 days (assuming it's not a leap-year). This would imply that the day on which the subsequent RH falls, absent any adjustment, would be 4 days later in the week (since 354 divided by 7 gives a remainder of 4). However, we've established that RH on 5782 is only 3 days later in the week (Tuesday in 5782 vs Saturday in 5781). In order to hit our target RH day in 5782, we reduce the number of days in Kislev in 5781 from 30 to 29. As a result, the number of days in year 5781 is 353, and, with RH of 5781 on a Saturday, RH of 5782 is then 3 days later in the week on a Tuesday.

## Year Types

The above gives rise to the notion of "year type." A year type is based on the day that RH falls, the number of days in Cheshvan and Kislev, and if a year is a leap year or not. Traditionally, the year type is formulated using three variables:  $xBz$  where  $x$  corresponds to the day of the week that RH falls,  $B$  indicates if the year is **R**egular (Cheshvan has 29 days and Kislev has 30 days), **D**efective (Cheshvan has 29 days and Kislev has 29 days) or **P**erfect (Cheshvan and Kislev both have 30 days) and  $z$  corresponds to the day of the week that Passover fall. For the purpose of this article, we will use an equivalent formulation,  $AxB$ , where  $A$  represents whether or not the year is a leap year ( $A = a$  for non-leap years and  $A = b$  for leap years),

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year is postponed to Thursday as *Molad Zakein* and Lo ADU Rosh would kick in. Absent B'TU'TakPaT, RH of the previous year is Thursday and RH of the current year would be Monday. Given that the previous year was a leap year, this would imply that the previous year had only 382 days (as the remainder of 382 divided by 7 is 4 and Monday falls 4 days after Thursday (with wrap around). Hence B'TU'TakPaT delays the current date of RH by one day, resulting in the previous year (which was a leap year) having 383 days which is within the acceptable range for leap years.

$x$  is the day of the week RH falls and B is defined as noted above (i.e., denotes if a year is Regular, Perfect or Defective).<sup>10</sup>

Since there are four days of the week on which RH can fall, three combinations for the number of days in Cheshvan/Kislev and two choices for leap year (i.e., either is or isn't a leap year), one might expect there to be  $4 \times 3 \times 2 = 24$  year types. However, certain combinations are not possible so in total we have 14 year types.

## The Large Cycle

Most of us are already familiar with the fact that the Jewish calendar operates on a 19-year cycle for the purpose of determining leap years. However, there is another less known cycle that relates to the occurrence of year types. Suppose we label each of the year types 1, 2, 3... 14. We can then form a sequence based on the occurrence of year types. This sequence will eventually repeat itself after a number of years.<sup>11</sup> We will refer to this cycle as the "Large Cycle."<sup>12</sup> The period of the of the Large Cycle can be determined as follows:

There are 181,440 *chalakim* in a week (i.e.,  $1,080 \text{ ch} \times 24 \text{ h} \times 7 \text{ d} = 181,440$ ). For the cycle to restart, we must have the same RH *Molad* time occur in the same year of the 19-year cycle. Now, from the beginning of one 19-year cycle to the next, the time of the *Molad* shifts by 69,715 *chalakim*.<sup>13</sup>

The least common multiple of 181,440 and 69,715 is equal to 2,529,817,920.<sup>14</sup> This means there will be  $2,529,817,920 / 69,715 = 36,288$ , 19-year cycles until the Large Cycle begins again. Therefore, in total, the Large Cycle has a period of  $36,288 \times 19 = 689,472$  years.<sup>15</sup>

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10. Example:  $a7D$  denotes a non-leap year where RH falls on a Saturday and the year is deficient (Kislev has only 29 days).
  11. This assumes the Jewish calendar as we have it today, will continue to be in use ad-infinitum. Although that assumption is clearly not realistic, it is interesting to note the frequency of events if we take that assumption as a given and then compare the results to the widely used "Molad-Interval Approach." The "Molad-Interval Approach" implicitly assumes an infinite, repeating calendar as well but makes some additional simplifying assumptions.
  12. Recall, this term is being used in this article to refer to the cycle of year types. This is not to be confused with the classical term "*Machzor Hagadol*" which refers to a 28-year cycle and is connected to Shmuel's calendar which assumes that a year has 365.25 days.
  13. Since there are 235 months in a 19-year cycle ( $12 \times 19 + 7 = 235$ ), and since the *Molad* shifts in the week by 1 day, 12 hours and 793 *chalakim* each month, the shift of the *Molad* from the beginning of given 19-year cycle to the beginning of the next 19-year cycle is:  $235 \times 1 \text{ days} + 235 \times 12 \text{ hours} + 235 \times 793 \text{ chalakim} = (7 \times 33 + 4) \text{ days} + (7 \times 24 \times 16 + 5 \times 24 + 12) \text{ hours} + (7 \times 24 \times 1080 + 4915) \text{ chalakim}$ . This corresponds to a shift of 4 days + (5 days + 12 hours) + 4915 *chalakim* after we divide out the number of days in the week (i.e., we can ignore the terms that start with "7×"). This in turn equals a shift of 2 days (a shift of  $4 + 5 = 9$  days corresponds to a shift of 2 days when we divide out the number of days in a week), 12 hours and 4915 *chalakim*. Converting to *chalakim* yields:  $2 \times 24 \times 1080 + 12 \times 1080 + 4915 = 69,715 \text{ chalakim}$ . This can also be expressed as 2 days, 16 hours and 595 *chalakim* (as  $4,915 \text{ ch} = 4 \times 1080 \text{ ch} (= 4 \text{ hours}) + 595 \text{ ch}$ ) (See HKH c6, p13).
  14. The least common multiple can be derived as the product of the two numbers divided by their greatest common factor, which, in this case, is 5.
  15. Proof from: *Halachic Times for Home and Travel*, Leo Levi, Jerusalem, Rubin Mass, 2000 (due to COVID, I didn't take the book out of the U of T Library. The proof isn't verbatim from the book but I believe this was the approach which I saw about 13 years ago. He also has another book written many years earlier on a similar topic; it may have been that book that I looked at.)

## Probabilities<sup>16</sup>

Quite often one hears statistics regarding the various year types. Some interesting examples are the frequency of occurrence of the following:

- *Erev Pesach* falling on Shabbat
- Shabbat *Parshat Mikketz* does not occur during *Chanukah*
- *Mattot Masei* are split

A more obscure statistic would be the likelihood of the B'TU'TakPat postponement occurring. Recall that this postponement kicks in when, the year following a leap year, the Tishrei *Molad* falls on or after Monday, 15 hours and 589 *chalakim* but before 18 hours. We will focus on this event as it explicitly relates to the time of the Tishrei *Molad*.

One conceivable way to calculate the required “probability” would be to take the number of *chalakim* in the interval above and to divide it by the total number of *chalakim* in the week. We will refer to this approach, of taking the size of the interval and dividing by the number of *chalakim* in a week, for lack of a better term, as the “*Molad-Interval Approach*.” Using this method, if  $N$  denotes the number of *chalakim* in the interval, then the probability of occurrence is:

$$N/181,440$$

The above would be multiplied by  $\frac{7}{19}$  or  $\frac{12}{19}$  if the event is tied to a leap year or non-leap year respectively (since 7 out of every 19 years is a leap year and 12 out of 19 years is not a leap year).

Since there are 1,080 *chalakim* in an hour, and because  $1,080 - 589 = 491$ , the size of the required interval for B'TU'TaK'PaT is 2 hours and 491 *chalakim* which corresponds to  $2(1,080) + 491 = 2,651$  *chalakim*. We should also multiply the result by  $\frac{7}{19}$  to account for the fact that this event (B'TU'TaK'PaT) only happens in years following a leap year (which is  $\frac{7}{19}$  of all years). Furthermore, we divide by the 181,440 *chalakim* that are in a week. This leads to a probability of:

$$(7/19)(2,651)/181,440 = 0.5383\%$$

Since there are 689,472 years in the Large Cycle of the Jewish calendar, this implies that the number of occurrences of B'TU'TakPat in the Large Cycle should be the above result multiplied by 689,472:

$$689,472(\frac{7}{19})2,651/181,440 = 3,711.40$$

Something is off. The result, if calculated correctly, should yield an integer since the number of occurrences should be a whole number.

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16. One might object to the use of the word probability since it implies that we are dealing with random events whereas the Hebrew calendar is completely deterministic. However, one could argue that what is meant by “probability” in this article is the following: picking a year at random, what is the probability that the randomly chosen year has certain characteristics. If one is not convinced by the above, then replace the word “probability” with “frequency” or an equivalent term everywhere in this paper.

The other approach to finding these types of probabilities is to use a computer program to generate all years of the 689,472-year cycle and to count the number of times the event occurs. Using such an approach, it is observed that the true number of occurrences of B'TU'TaKPaT is in fact 3,712.<sup>17</sup> Therefore, using this approach, the required probability is:

$$3,712/689,472 = 0.5384\%$$

Note that this is the “Brute Force Method” mentioned in the Introduction. Clearly the two approaches give answers that are very close. The issue, though, is why are we getting answers that are very close yet not identical.

Now, the *Molad-Interval Approach* above assumed:<sup>18</sup>

1. All *Molad* times are equally likely to occur
2. The distribution of leap years is such that we can simply scale by  $\frac{7}{19}$ , i.e., in any interval,  $\frac{7}{19}$  of the years will be leap years

The fact is that not all *Molad* times are equally likely. In fact, some *Molad* times occur 4 times in the Large Cycle, while others only occur 3 times. If that's the case, our probability calculation shouldn't work at all since it implicitly assumes that all *Molad* times are equally likely to occur. Is it just a coincidence that we're off by a very small amount (0.60/689,472)?

As it turns out, the *Molad-Interval Approach* will generally give results that are for all intents and purposes correct for these types of problems. The error will, for probabilities associated with single interval of Tishrei *Molad* times, not be greater than 1/689,472.<sup>19</sup> The reason for this has to do with the way *Molad* time occurrences are distributed.

## Distribution of Molad Time Occurrences in the Large Cycle

The following is the central Assertion of this paper and will explain why the *Molad-Interval* gives very accurate, but not perfect, results.

Assertion: For any 5-*chelek* interval of the week (i.e., an interval of 5 consecutive *chalakim*), the 5 *chalakim* will, in total, appear as Tishrei *Molad* times, 19 times in the Large Cycle with each year of the 19-year cycle being represented exactly once.

To show what this Assertion is saying, we will test it for an arbitrary 5-*chelek* interval from Thursday, 20 hours and 701 *chalakim* to Thursday 7 hours and 705 *chalakim* (inclusive),<sup>20</sup> i.e., we will generate the number of times each of these 5 Tishrei *Molad* times occur in the Large Cycle<sup>21</sup> and note the years (e.g., 5781, 196486, etc.) and the years in the 19-year cycle in which they occur. The results are as follows:

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17. I wrote a program (more specifically, a “script”) in the Python computing language which generates the entire cycle and had it count the number of B'TU'TaKPaT occurrences.

18. These are the simplifying assumptions that are referred to in note 11.

19. The maximum difference between the two approaches will be discussed in more detail towards the end of this essay.

20. This interval wasn't completely arbitrary. I chose an interval that had the *Molad* for RH 5781 included.

21. The results were obtained in Python using the pandas library.

**Table 1: From 5d/20h/701ch to 5d/20h/705ch**

MOLAD	YEAR	TYPE	YEAR IN CYCLE
5d/20h/0701Ch	5781	a7D	5
5d/20h/0701Ch	196486	a7D	7
5d/20h/0701Ch	387191	a7D	9
5d/20h/0701Ch	504548	b7D	3
5d/20h/0702Ch	143821	a7D	10
5d/20h/0702Ch	334526	a7D	12
5d/20h/0702Ch	451883	b7D	6
5d/20h/0702Ch	642588	b7D	8
5d/20h/0703Ch	91156	a7D	13
5d/20h/0703Ch	281861	a7D	15
5d/20h/0703Ch	589923	b7D	11
5d/20h/0704Ch	38491	a7D	16
5d/20h/0704Ch	229196	a7D	18
5d/20h/0704Ch	419901	a7D	1
5d/20h/0704Ch	537258	b7D	14
5d/20h/0705Ch	176531	a7D	2
5d/20h/0705Ch	367236	a7D	4
5d/20h/0705Ch	484593	b7D	17
5d/20h/0705Ch	675298	b7D	19

The table above shows the number of occurrences of each Tishrei *Molad* time (each entry in the “*Molad*” column gives the day/hours/*chalakim* of the *Molad*), the year in which it occurs, the year type associated with that year ( $a$  = non-leap year,  $b$  = leap year, RH is on the 7<sup>th</sup> day,  $D$  = deficient (Kislev has 29 days), and the year in the 19-year cycle in which it occurs.

Looking at the table, we see that four of the *Molad* times in the interval occur 4 times<sup>22</sup> in the Large Cycle and one of the *Molad* times occurs only 3 times (5d/20h/703ch). In total, the 5 *Molad* times occur 19 times as the Tishrei *Molad*. Furthermore, each of the years in the 19-year cycle is represented exactly one time in the 5-*chelek* interval.

Our Assertion states that these findings will be true for any 5-*chelek* interval of the week. We will now justify this Assertion.

## Grouping the Molad Times

We proceed by showing how we can group the *Molad* times of the week into 5 groups, and, how we can associate with each group, specific years of the 19-year cycle (recall: *Molad* time(s) always refer to Tishrei *Molad* times in this article unless stated otherwise).

We can partition the *Molad* times of the week into 5 groups by considering *MoladTime* mod 5.<sup>23</sup> For example, all *Molad* times associated with *MoladTime* mod 5 = 1 belong to the same group (which we will call Group 1), as do *MoladTime* mod 5 = 2 (Group 2), *MoladTime* mod 5 = 3 (Group 3), etc.

The following table shows the Tishrei *Molad* times for all years of four consecutive 19-year cycles. In each row, the final *chalakim* digit alternates between  $x$  and  $x+5$  (with carrying) and this pattern can be extended ad-infinitum (for example, the final digit in the first row alternates between 4 and 9 forever).<sup>24</sup> As a result, each row, which represents a year of the 19-year cycle, can be mapped to a *MoladTime*(Mod5)<sup>25</sup> group.<sup>26</sup> We indicate in the last column *MoladTime*(mod)5 for the *Molad* Times in the row (where the *MoladTime* is expressed in *chalakim* and MT is short for *MoladTime*).

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22. For example, *Molad* time 5d/20h/701ch will show up as the Tishrei *Molad* in years 5781, 196486, 387191, and 504548, and these years occur in years 5, 7, 9 and 3 of the 19-year cycle respectively as indicated above.

23. Mod is a math function that gives the remainder of its arguments such that the expression  $a \bmod b = r$  means the remainder that results from dividing  $a$  by  $b$  is  $r$ . For example:  $25 \bmod 5 = 0$ ,  $26 \bmod 5 = 1$ ,  $27 \bmod 5 = 2$  i.e., the remainder of 27 divided by 5 is 2.

24. See Raviv, E (2020) *The Table of Sixty-One Headings as a Tool for Finding the Intervals between the Recurrence of Paired Year Codes in the Jewish Calendar*. Open Journal of Applied Sciences, 10, 169–190. doi: 10.4236/ojapps.2020.104014 (section 3.3).

25. A *Molad* time that ends with a 4 or 9, for example, has a remainder of 4 when divided by 5, hence such *Molad* times belong to the  $MT \bmod 5 = 4$  group. The same idea applies to the other mod5 groups (we could arrive at the same grouping by considering the last digit of the *Molad* times: Group 1 would be those times that end with a 1 or 6, Group 2 would end with a 2 or 7, etc.).

26. This is the direct result of the fact that the shift in the *Molad* time from one 19-year cycle to the next is 2 days 16 hours and 595 *chalakim* (i.e., the shift from one cycle to the next is a multiple of 5), and the number of *chalakim* in a week is also a multiple of 5. See Note 13 above.

Table 2

YEAR OF CYCLE	CYCLE 305		CYCLE 306		CYCLE 307		CYCLE 308		MTMOD5
	YEAR	TISHREI/MOLAD TIME							
1	5777	7d\20h\724ch	5796	3d\13h\239ch	5815	6d\5h\834ch	5834	1d\22h\349ch	4
2	5778	5d\5h\52och	5797	7d\22h\35ch	5816	3d\14h\63och	5835	6d\7h\145ch	0
3	5779	2d\14h\316ch	5798	5d\6h\911ch	5817	7d\23h\426ch	5836	3d\15h\1021ch	1
4	5780	1d\11h\905ch	5799	4d\4h\42och	5818	6d\20h\1015ch	5837	2d\13h\53och	0
5	5781	5d\20h\701ch	5800	1d\13h\216ch	5819	4d\5h\811ch	5838	6d\22h\326ch	1
6	5782	3d\5h\497ch	5801	5d\22h\12ch	5820	1d\14h\607ch	5839	4d\7h\122ch	2
7	5783	2d\3h\6ch	5802	4d\19h\601ch	5821	7d\12h\116ch	5840	3d\4h\711ch	1
8	5784	6d\11h\882ch	5803	2d\4h\397ch	5822	4d\20h\992ch	5841	7d\13h\507ch	2
9	5785	5d\9h\391ch	5804	1d\11h\986ch	5823	3d\18h\501ch	5842	6d\11h\16ch	1
10	5786	2d\18h\187ch	5805	5d\10h\782ch	5824	1d\3h\297ch	5843	3d\19h\892ch	2
11	5787	7d\2h\1063ch	5806	2d\19h\578ch	5825	5d\12h\93ch	5844	1d\4h\688ch	3
12	5788	6d\0h\572ch	5807	1d\17h\87ch	5826	4d\9h\682ch	5845	7d\2h\197ch	2
13	5789	3d\9h\368ch	5808	6d\1h\963ch	5827	1d\18h\478ch	5846	4d\10h\1073ch	3
14	5790	7d\18h\164ch	5809	3d\10h\759ch	5828	6d\3h\274ch	5847	1d\19h\869ch	4
15	5791	6d\15h\753ch	5810	2d\8h\268ch	5829	5d\0h\863ch	5848	7d\17h\378ch	3
16	5792	4d\0h\549ch	5811	6d\17h\64ch	5830	2d\9h\659ch	5849	5d\2h\174ch	4
17	5793	1d\9h\345ch	5812	4d\1h\940ch	5831	6d\18h\455ch	5850	2d\10h\105och	0
18	5794	7d\6h\934ch	5813	2d\23h\449ch	5832	5d\15h\1044ch	5851	1d\8h\559ch	4
19	5795	4d\15h\730ch	5814	7d\8h\245ch	5833	3d\0h\840ch	5852	5d\17h\355ch	0

Now we can observe for each year of the 19-year cycle, the  $MT(\text{mod}5)$  group with which it is associated based on the  $MT(\text{mod}5)$  column in the above Table. We can thereby deduce the possible years of the 19-year cycle in which the *Molad* times for each group can occur (remember, we can imagine the above table extended ad-infinity to the right and all years of the Large Cycle are accounted for). The *Molad* times corresponding to  $MT(\text{Mod}5) = 1$ , for example, by inspecting the above table, appear in years 3, 5, 7, or 9 of the 19-year cycle. We can do the same for the other  $MT(\text{mod}5)$  groups. The table below summarizes the groupings and their respective (possible) years in the 19-year cycle:

**Table 3**

GROUPS	TISHREI MOLAD TIME MOD5	POSSIBLE YEARS IN 19YR CYCLE
Group 1	MoladTime mod5 =1	3,5,7,9
Group 2	MoladTime mod5 =2	6,8,10,12
Group 3	MoladTime mod5 =3	11,13,15
Group 4	MoladTime mod5 =4	14,16,18,1
Group 5	MoladTime mod5 =0	17,19,2,4

Essentially, we have partitioned the *Molad* times of the week into 5 groups by considering  $MoladTime(\text{mod}5)$  and we have deduced the possible years in the 19-year cycle in which they could occur. What this means is that if a *Molad* time belongs to Group 4, for example, then it can only occur in years 1, 14, 16, or 18 of the 19-year cycle. Similarly for the other groups, they can only occur in the years of the 19-year cycle as per the table above. This finding will be key to proving the Assertion.

Observation:

*A given Tishrei Molad time can (and does) show up more than once in the Large (689,472-year) Cycle but it cannot show up more than once, within the Large Cycle, in the same year of the 19-year cycle. For example, if a Molad time appears in year 2 of the 19-year cycle, it can only do so once in the Large Cycle. For if the same Molad time were to appear a second time, within the Large Cycle, in the same year of the 19-year cycle (in this example, year 2), the Large Cycle would restart and its period would be less than 689,472, which we know isn't true.<sup>27</sup>*

27. Alternatively, for any Tishrei *Molad* Time, and for a given year in the 19-year cycle, we can show that it will take 689,472 years for the same *Molad* Time to appear in the same year of the 19-year cycle using the exact same argument that appears in the "Large Cycle" section above and thereby conclude that within a given 689,472-year cycle, that the given *Molad* time cannot appear twice in the same year of the 19-year cycle.

We can now show that a 5-*chelek* interval cannot have more than 19 *Molad* occurrences in the Large Cycle. We know that 19 occurrences are possible, as we saw the 5-*chelek* interval example earlier in the paper (Table 1), but that the *Molad* times could only appear in the years of the 19-year cycle as per Table 3; e.g., the *Molad* time in Group 1 would have to appear in the cycle years noted above and the same for those in groups 2, 3, 4 and 5 (i.e., the same would apply to the other groups – and in a 5-*chelek* interval of consecutive *chalakim*, we have exactly one *chelek* from each Group). If we try to squeeze in one more occurrence, we would either have a given *Molad* time appear in the same year of the 19-year cycle twice or a given *Molad* time would need to appear in a year of the 19-year cycle of one of the other groups. Both of these are impossible: the first, would imply the period of the Large Cycle is less than 689,472 and contradict our Observation above and the second would be inconsistent with Table 3.

Examples of these impossible situations are included in the table below. The last column is impossible because the Group 2 *chelek* appears in year 15 of the 19-year cycle (contrary to Table 3) and the penultimate column is impossible because we have the *chelek* from Group 1 showing up twice in year 9 of the 19-year cycle (contrary to our Observation). These examples are illustrative only but the same issues would apply whenever there are more than 19 occurrences associated with a 5-*chelek* interval.

**Table 4**

CHELEK (IN A 5-CHELEK INTERVAL, THERE IS ONE CHELEK FROM EACH GROUP)	YEAR IN CYCLE (19 OCCURRENCES AS PER TABLE 3)	E.G.: 20 OCCURRENCES – NOT POSSIBLE (CONTRADICTS OBSERVATION)	E.G.: 20 OCCURRENCES – NOT POSSIBLE (CONTRADICTS TABLE 3)
Group 1	3, 5, 7, 9	3, 5, 7, 9, <b>9</b>	3, 5, 7, 9
Group 2	6, 8, 10, 12	6, 8, 10, 12	6, 8, 10, 12, <b>15</b>
Group 3	11, 13, 15	11, 13, 15	11, 13, 15
Group 4	14, 16, 18, 1	14, 16, 18, 1	14, 16, 18, 1
Group 5	17, 19, 2, 4	17, 19, 2, 4	17, 19, 2, 4

The upshot of this is that the 5 *Molad* times in a 5-*chelek* interval cannot appear, in total, more than 19 times in the Large Cycle.<sup>28</sup>

Can the 5 *Molad* times in a 5-*chelek* interval, in total, appear less than 19 times in total in the 689,472 year cycle? This could only happen if some other 5-*chelek* interval made up the

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28. It may be helpful for the reader to look at Table 1 above and try to imagine what would happen if we tried to have any one of those *Molad* times occur an additional time (so that we would have 20 occurrences associated with that 5-*chelek* interval). If we're looking at the Group 1 *Molad* time, it would either need to appear again in one of years 3, 5, 7 or 9 of the 19-year cycle or it would have to appear in one of the other years of the 19-year cycle (which are associated with a different Group). As explained above, both of these options are impossible.

difference and had more than 19 occurrences.<sup>29</sup> However, we have already seen that this is not possible. So in the end, it must be the case that any 5-*chelek* interval corresponds to 19 occurrences in the Large Cycle with each year of the 19 year cycle represented once.<sup>30</sup>

This is great news for those who use the *Molad-Interval* method, as it implies that this method will work perfectly for any interval that's a multiple of 5 *chalakim*.

To show this, suppose we have an interval whose number of *chalakim*,  $N$ , is a multiple of 5. The total number of occurrences of the  $N$  *Molad* times in the Large Cycle will be given by:

$$N/5 \times 19,$$

as each 5-*chelek* sub-interval (and there are  $N/5$  such sub-intervals) has exactly 19 occurrences associated with it (as shown above).

The probability associated with the interval will be:

$$(N/5 \times 19) / 689472 = N / (689,472 \times 5/19)$$

But  $689,472 \times 5/19 = 181,440$ , which is exactly the number of *chalakim* in a week.

Therefore the probability of occurrence is:

$$N / 181,440,$$

which exactly corresponds to the “*Molad-Interval Approach*” described above!

Hence the “*Molad-Interval Approach*” works perfectly for intervals that are a multiple of 5. Furthermore, we saw that when looking at the *Molad* occurrences associated with a 5-*chelek* interval, each year of the 19-year cycle appears exactly once. This means that in any 5-*chelek* interval,  $7/19$  of the occurrences will be leap years and  $12/19$  will be ordinary years. Therefore, if we're interested in an event that is associated with leap years, we can simply scale by  $7/19$  (or  $12/19$  for non-leap years).

For intervals that aren't a multiple of 5, we can split the interval into two parts: the largest sub-interval which is a multiple of 5 and the remainder. The *Molad-Interval Approach* works perfectly for the portion of the interval that is a multiple of 5. It is only in connection with the remainder piece that an error in the calculation is introduced.

Returning to our B'TU'TakPaT example, the size of the interval is 2,651 *chalakim* which can be expressed as  $2650 + 1$ .

Since 2,650 is a multiple of 5, we know the *Molad-Interval Approach* will yield an exact result and the number of *Molad* occurrences associated with that interval is given by:

$$2,650 / 181,440 \left(7/19\right) \times 689,472 = 3,710$$

The last *chelek* in the interval, corresponding to 2d/17h/1079ch occurs in the following years:

29. If each 5-*chelek* interval corresponds to exactly 19 occurrences, then we have accounted for all 689,472 years of the Large Cycle. This follows from the fact that  $181,440/5 = 36,288$  is the number of such 5-*chelek* intervals and multiplying by 19 yields exactly 689,472. Hence, if a 5-*chelek* interval has less than 19 occurrences, some other 5-*chelek* interval would need to correspond to more than 19 occurrences.

30. We didn't explicitly consider the case where we have 19 occurrences but not all years of the 19-year cycle are represented. It is trivial, based on the above, that this case is impossible as it would imply that some other year of the 19-year cycle appears twice, and given the constraints of Table 3 and the Observation, this is not possible.

**Table 5**

MOLAD	YEAR	TYPE	YEAR IN CYCLE
2d/17h/1079Ch	48825	b2P	14
2d/17h/1079Ch	239530	a2P	16
2d/17h/1079Ch	430235	a3R	18
2d/17h/1079Ch	620940	a3R	1

We are only interested in years that follow a leap year (as per the rules for B'TU'TaKPaT). Years 17 and 19 of the 19-year leap year cycle are both leap years. Accordingly, the last two entries in the table above follow leap years. Therefore, in total, the true number of occurrences of B'TU'TaKPaT is 3712 (3,710 determined above plus two more occurrences of the time corresponding to the last *chelek* in the interval). If we apply the *Molad-Interval Approach* to the last *chelek*, we get  $1/181,440 \times \frac{7}{19} \times 689,472 = 1.4$  occurrences (as opposed to the true number of 2).

Hence the error of 0.6 ( $2 - 1.4 = 0.6$ ) which we noted at the beginning of this paper is the result of this last *chelek*. However, if we are only interested in the frequency of occurrence, then the exact approach yields  $3712/689,472$  vs the *Molad-Interval Approach* of:

$$\begin{aligned}
 & (7/19)(2,651)/181,440 \\
 = & (\frac{7}{19})(\frac{19}{5})2,651/(\frac{19}{5} \times 181,440), \text{ multiplying the numerator and denominator by } \frac{19}{5} \\
 & = (\frac{7}{5})(2,651)/689,472 \\
 & = 1.4(2,651)/689,472 \\
 & = 3,711.4/689,272
 \end{aligned}$$

which differs from the true answer by only  $0.6/689,472$ .<sup>31</sup> The B'TU'TakPat postponement is a relatively infrequent event, occurring in approximately 0.54% of all years. The relative size of the error introduced by the probability method is considerably less for most events of interest that happen with much greater frequency.

## Other “Probabilities”

The table below compares the number of occurrences of each year type as calculated by

31. The approximate answer is 0.5383% vs the more precise answer of 0.5384% (rounded to 4 digits).

the *Molad-Interval Approach*<sup>32</sup> (Formula) and the Exact method<sup>33</sup>). The probability shown is rounded to two decimals, and, as such, would be the same for either method.

**Table 6**

YEAR TYPE	FORMULA	EXACT	“PROBABILITY”
a2D	39,369.60	39,369.00	5.71%
a2P	81,335.00	81,335.00	11.80%
a3R	43,081.00	43,081.00	6.25%
a5P	22,838.40	22,839.00	3.31%
a5R	124,416.00	124,416.00	18.05%
a7D	29,853.60	29,853.00	4.33%
a7P	94,562.40	94,563.00	13.72%
b2D	39,999.40	40,000.00	5.80%
b2P	32,576.60	32,576.00	4.72%
b3R	36,288.00	36,288.00	5.26%
b5D	26,677.00	26,677.00	3.87%
b5P	45,899.00	45,899.00	6.66%
b7D	39,999.40	40,000.00	5.80%
b7P	32,576.60	32,576.00	4.72%
<b>TOTALS</b>	<b>689,472.00</b>	<b>689,472.00</b>	<b>100.00%</b>

*a* = non-leap year, *b* = leap year: *x*, the middle number, is the day of the week, *D* = deficient year (Kislev has 29 days), *P* = perfect year (Cheshvan has 30 days), *R* = regular year (Kislev has 30 days and Cheshvan has 29 days))

The results of the two methods are remarkably close!

At the beginning of the article we mentioned a few interesting Jewish calendar events. These probabilities can be obtained from the table as follows:

- *Erev Pesach* on Shabbat – This happens when RH of the following year is on a Tuesday. Therefore, that event has the same probability as the sum of the a3R and b3R year types above<sup>34</sup> and is equal to 11.51%.

32. See the Appendix for a table that shows how the results were obtained for the *Molad-Interval* approach.

33. The results were generated in Python using the pandas library.

34. In this case it's easier to look at the year type of the following year. Note that the number of days between *Pesach* and the following RH is always the same which makes it easier to look at the following year to determine the probability.

- *Mikketz* not on *Chanukah* – This corresponds to year types a7D and b7D above ie when RH is on a Saturday and Cheshvan has 29 days (note a7R or b7R are both impossible combinations, so only in the D type years does Cheshvan have 29 days if RH is on a Saturday) and its probability is equal to 10.13%.
- *Mattot Masei* split (outside of Israel) – This corresponds to year types b5D and b5P above i.e., a leap year with RH on Thursday (note: b5R is an impossible combination) and its probability is equal to 10.53%.

Earlier in the paper, we mentioned that the maximum difference between the two approaches for events associated with a single interval is less than  $1/689,472$ . Deriving a universal upper bound for the maximum difference, though, is beyond the scope of this paper. However, by inspecting Table 6, it would appear that events that are the union of two or more of the 14 year types (the events noted above, for example, each correspond to the union of two year types), would have a maximum difference of  $2.4/689,472 = 0.000348\%$ .

## Acknowledgement and Other Sources of Interest

The motivation for my investigation into the occurrence of Tishrei *Molads* was the result of a conversation I had around 13 years ago with Ari Brodsky, who wrote the excellent article *How is this year different from all other years?*<sup>35</sup> In the article he mentions the frequency of the B"TU"TaKPaT postponement. I asked if he generated all possible years in the Large Cycle and he said he used what is described in this article as the *Molad-Interval Approach*. I set up a spread sheet that could be used to determine how often Tishrei *Molad* times repeat. I noticed some interesting patterns (i.e., they repeat in certain years of the 19-year cycle, they occur 3 or 4 times in the Large Cycle, and the number of years that tend to elapse between occurrences) but didn't quite have all the pieces that I needed. I sent what I had to Ari and his response included something to the effect: "...consider *MoladTime mod5*," after which the rest of the pieces fell into place (unfortunately, I no longer have the email exchange... or the spreadsheet). He also referred me to a couple of interesting websites: Remy Landau's Hebrew Calendar Science and Myths,<sup>36</sup> which also noted the frequency with which *Molad* times occur in the Large Cycle and a connection to the 19-year cycle, and Dr Irv Bromberg's The Hebrew Calendar.<sup>37,38</sup>

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35. *How is this year different from all other years?*: <http://individual.utoronto.ca/aribrodsky/5765.html>.

36. Hebrew Calendar Science and Myths: <https://hebrewcalendar.tripod.com>.

37. The Hebrew Calendar: <http://individual.utoronto.ca/kalendis/hebrew>.

38. Since our conversations/emails on the topic some 13+ years ago, there have been several papers that have dealt with the Large Cycle and probabilities (which I hadn't seen when I first wrote this paper). Of note, there is one author who also pointed out that the *Molad-Interval Approach* (as it is referred to in this paper) isn't precisely equivalent to the more exact method of generating the Large Cycle. That author concludes that every 10-*chelek* interval corresponds to 38 occurrences in the Large Cycle (see [www.ajdler.com/jjajdler/fichiers/Reactionravis\\_JR.pdf](http://www.ajdler.com/jjajdler/fichiers/Reactionravis_JR.pdf) paragraph 4) whereas the central assertion in this paper, that every 5-*chelek* interval corresponds to 19 occurrences, is slightly stronger. To confirm my assertion, I ran a Python script which cycled through every 5-*chelek* sub-interval of the 181,440-*chelek* week and indeed confirmed that each 5-*chelek* interval indeed corresponds to 19 occurrences in the Large Cycle with each year of the 19-year cycle appearing once.

Before submitting the article, I did a quick search on the internet and found, of course, a Wikipedia article. I also found a wiki book on the topic (Mathematics of the Jewish Calendar). The author of that book notes the connection between *Molad* occurrences and the remainder of the *Molad* time when divided by 5 (i.e., basically equivalent to the groupings discussed in this article); this book and the other references mentioned above contain many other interesting facts which go well beyond what was discussed in this paper.

## Postscript

An early draft of this essay was sent to Ari Brodsky. Ari provided many valuable comments which have been incorporated into the essay and additional sources of reference. Needless to say, any remaining errors are mine and not his.

## Appendix

The following table is used to calculate the number of occurrences of the various year types using the *Molad*-Interval approach. Note that in some cases the same interval appears more than once to reflect the fact that the year type may depend on whether the current non-leap year follows a leap year (in which case B'TU'TaKPaT will kick in if the *Molad* is in the B'TU'TakPaT interval) or if the current non-leap year is followed by a non-leap year (in which case GaTRaD will kick in, if the following year *Molad* is in the GaTRaD interval). As a result, some of the Year Types appear more than once in the table below, and the No. of Occurrences would need to be added together to tie to Table 6 above (e.g., a2P shows up twice so the total No. of Occurrences calculated using this approach is  $78,684.0 + 2,651.0 = 81,335.0$  which ties to Table 6 above). The corresponding range of *Molad* times in the next year is also shown as it is needed in order to determine the day on which RH falls in the following year. The first 11 rows are non-leap years and the last 7 rows are leap years.

$$A = \text{No. of Occurrences} = 689,472(B)(C/19)/181,440$$

### Notes:

1. In 5 of the 12 non-leap years B'TU'TakPat doesn't kick in, therefore leap-year factor is 5 (this interval is in the B'TU'TakPat range).
2. In 7 of the 12 non-leap years B'TU'TakPat kicks in, therefore leap-year factor is 7.
3. In 7 of the 12 non-leap years, GaTRaD doesn't kick-in in the following year (i.e., the following year is a leap year)
4. In 5 of the 12 non-leap years, GaTRaD kicks-in in the following year (i.e., the following year isn't a leap year and its interval is in the GaTRaD range)
5. Next Year is always B'TU'TakPat (since current year is leap year and the next year is in B'TU'TakPaT range)
6. Next Year is always GaTRaD when in the GaTRaD range (since the year following a leap year is never a leap year)

## Halakhah

NOTES	A = NO. OF OCCURRENCES	B = NO. OF CHALAKIM IN RANGE	C = LEAP YEAR SCALING FACTOR	RH THIS YEAR	RH NEXT YEAR	YEAR TYPE	CURRENT YEAR RANGE						NEXT YEAR RANGE					
							DAY	HRS	CH	DAY	HRS	CH	DAY	HRS	CH	DAY	HRS	CH
	39,369.6	16,404	12	2	5	a2D	7	1	0	1	9	203	5	2	876	5	17	1079
	78,684.0	32,785	12	2	7	a2P	1	2	204	2	15	588	5	18	0	7	0	384
1	2,651.0	2,651	5	2	7	a2P	2	2	589	2	17	1079	7	0	385	7	2	875
2	3,711.4	2,651	7	3	7	a3R	2	2	589	2	17	1079	7	0	385	7	2	875
	39,369.6	16,404	12	3	7	a3R	2	3	0	3	9	203	7	2	876	7	17	1079
	124,416.0	51,840	12	5	2	a5R	3	5	204	5	9	203	7	18	0	2	17	1079
	22,838.4	9,516	12	5	3	a5P	5	5	204	5	17	1079	2	18	0	3	2	875
	16,531.2	6,888	12	7	3	a7D	5	6	0	6	0	407	3	2	876	3	9	203
3	13,322.4	9,516	7	7	3	a7D	6	6	408	6	9	203	3	9	204	3	17	1079
4	9,516.0	9,516	5	7	5	a7P	6	6	408	6	9	203	3	9	204	3	17	1079
	85,046.4	35,436	12	7	5	a7P	6	7	204	7	17	1079	3	18	0	5	2	875
	39,999.4	28,571	7	2	7	b2D	7	1	0	1	20	490	6	15	589	7	17	1079
	32,576.6	23,269	7	2	2	b2P	1	2	491	2	17	1079	7	18	0	1	15	588
	36,288.0	25,920	7	3	2	b3R	2	3	0	3	17	1079	1	15	589	2	15	588
5	26,677.0	19,055	7	5	3	b5D	3	4	0	4	11	694	2	15	589	3	9	203
6	45,899.0	32,785	7	5	5	b5P	4	5	695	5	17	1079	3	9	204	4	15	588
	39,999.4	28,571	7	7	5	b7D	5	6	0	6	20	490	4	15	589	5	17	1079
	32,576.6	23,269	7	7	7	b7P	6	7	491	7	17	1079	5	18	0	6	15	588

# Mishloach Manot and the Canaanite Slave

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DR. SAMUEL SILVERBERG

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**IT STANDS TO** reason that many of you have spent sleepless nights pondering the following question: Is there an obligation on Purim to send a gift of *mishloach manot* to a Canaanite slave? This essay is meant to put an end to your insomnia by answering that question.

First and foremost, this essay requires a definition of a Canaanite slave. A Jew was halachically forbidden to own a non-Jewish slave unless he or she voluntarily<sup>1</sup> agreed to undergo a process of “conversion” to the status of a Canaanite slave. The process required circumcision and immersion in a mikvah for the purpose of slavery.<sup>2</sup> He was then obligated to observe all the negative commandments in the Torah,<sup>3</sup> including those of Shabbat, *kashrut* and prayer,<sup>4</sup> and was therefore privileged to experience the same day of rest as his Jewish owner. You might bump into him davening in *shul* (although without a *talis* or *tefillin*), eating in a kosher restaurant, or taking his new suit to a *shatnez* laboratory for testing. Jewish law protected the Canaanite slave from physical abuse including murder,<sup>5</sup> and the Canaanite slave could claim his freedom if his Jewish master tried to remove him from the Land of Israel<sup>6</sup> or sell him to a non-Jew.<sup>7</sup> Although the letter of the law allowed the Jewish slave owner to inflict severe working conditions on his slave, the *Shulchan Aruch* strongly recommends that the owner treat his slave respectfully and provide him with physical sustenance

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1. Yoreh Deah 267:3–5.
  2. If a convert declared during his immersion that he was immersing to convert to Judaism, he would become a Jewish convert rather than a Canaanite slave (Yoreh Deah 267:9).
  3. Chagigah 4a.
  4. Rambam, the Laws of Prayer, 1:2.
  5. Yoreh Deah 267:27, see also Rashi on Shemot 21:20.
  6. Yoreh Deah 267:82.
  7. Ibid 80.

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and a humane work load.<sup>8</sup> It is clear that “slavery” in the Jewish world was very different from slavery in the non-Jewish world, and certainly different from the concept of slavery in North America that was finally abolished in the nineteenth century. I will nevertheless continue to use the term “slave” to refer to the Canaanite slave. The *Gemara* documents that the rabbis of that era owned slaves, but the institution disappeared from the Jewish community coincident with the Jewish exile more than 1500 years ago.<sup>9</sup>

Despite the strong adherence to Torah law by the Canaanite slave, there was a major social gap between the Jewish community and the community of Canaanite slaves. The Canaanite slave was subject to a less rigid standard of marriage than an ordinary Jew or Jewess. Rabbi Meir in *Gittin* (13a) testifies that a Canaanite slave was satisfied with the lower standard, which created concern among the rabbis that social mingling would negatively influence the moral standards of the Jewish community.

In summary, the Canaanite slave could be labeled “half-Jewish,” and in fact automatically became a fully converted Jew when freed by his owner. However, the rabbis were eager to limit close social interaction between the Jewish and Canaanite slave communities.

The strong but strained relationship between master and slave prompted the *Pri Megadim*,<sup>10</sup> to assert that a Canaanite slave is included in the obligation of sending gifts (*mishloach manot*) to one’s “friends” on Purim (*Eshel Avraham*, 695–11). His reasoning was simple. The *Megillah* frames the Purim obligation as “משלוח מנות איש לרעהו” – the sending of gifts from one man to “his friend.” In the *Gemara Baba Kammah* (68a), the Rabbis refer to the Canaanite slave inclusively, as our “brother in the performance of mitzvot” – what greater friend can a Jew have?

The *Beit Yitzchak*<sup>11</sup> takes the opposite viewpoint, that a Canaanite slave is not subject to the gift-giving of Purim<sup>12</sup> for the social reasons mentioned above. He suggests that gift giving on Purim was instituted to implant the characteristics of unity and love within the Nation of Israel. The concept of “love your friend” would therefore not apply to a Canaanite slave, who has the liberty to function at a lower standard of marital morality.

Rabbi A.A. Price<sup>13</sup> zt”l takes issue with the reasoning of Rabbi Yitzchak Shmelkes zt”l, posing the following question: is there any evidence that disunity existed among the Jewish people in the Purim era that would necessitate a decree to repair divisions within Jewish society?

Rabbi Price offers his own rationale for the mitzvah of sending gifts to friends on Purim, starting with an examination of trust within the Jewish community on religious matters.

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8. Ibid 17.

9. A Canaanite slave was declared free if his master removed him from Israel.

10. Rabbi Joseph ben Meir zt”l (1727–1792), a super commentator on the *Shulchan Aruch*.

11. Rabbi Yitzchak Shmelkes zt”l (1828–1905).

12. *Beit Yitzchak*, Yoreh De’ah 144–4.

13. Rabbi A.A. Price zt”l (1900–1994) established the first public yeshiva in Toronto in the 1930s. He is the author of eleven *sefarim*, most recently his fourth volume of commentary on the *Smag*, from which this essay was adapted. The author had the privilege of studying with Rabbi Price in the 1960s. This essay was adapted from the *Mishnat Avraham*, Rabbi Price’s recently published 4<sup>th</sup> volume of commentary on the *Smag*, page 172.

The Torah judicial system is based on the pillar of the credibility of two witnesses testifying to the same event. Except for some unusual circumstances, one witness is discouraged from testifying in court because his sole testimony has no legal weight. However, in the matter of prohibitions, we digress from that rule and rely almost entirely on the credibility of one witness. A *mashgiach* in a restaurant or butcher shop is the sole determinant of the authenticity of the *kashrut* in that establishment. Sitting down to eat a meal in a neighbour's home requires reliance on the assurance of the host that the food is kosher. Rashi in *Yevamot* (88a) provides a practical source for this reliance on one witness in matters of *kashrut*: if not for that allowance, how could one eat in one's own home, let alone in the home of others? Sitting down to the dinner table at home requires trust in the testimony of a spouse or parent that the food is kosher. Rashi is arguing that the social fabric of the Jewish community depends on the reliance on one witness for *kashrut*, and anything else would be an anathema to a practical Torah way of life. Rashi actually turns the question around: the question is not how can we rely on one witness in these matters, but how can we not do so?<sup>14</sup>

*Kashrut* was a major factor in the story of Purim. As related in the *Gemara Megillah* (12a), the Jewish people were placed in mortal danger at the hands of Haman because they participated in the feast of Achashverosh. Their attendance was universal and there was not a hint of *kashrut* in the food served. Now imagine that the head of the COR, your *shul* Rabbi, your *shul* Assistant Rabbi, your spouse and the gentleman who sits six feet away from you at *minyan* every morning were all seen participating in a non-kosher celebratory feast. You would be unable to trust anyone in matters of *kashrut*, not the *mashgiach* in a butcher shop nor your neighbour for a Shabbat meal. Rabbi Price contends that this state of affairs led to a complete disintegration of the system of community *kashrut* in Shushan, leading up to the wicked decree of Haman and Achashverosh.

Rabbi Price therefore reasons that the purpose of Esther's call for three days of prayer and fasting was to mobilise the Jewish people to repent and beg forgiveness for the sin that caused the whole mess in the first place – the violation of the laws of *kashrut*. And so it was, that after the Jewish people sincerely repented from their *kashrut* violation, Haman and his family were destroyed and the Jewish community once more achieved individual reliability in the matter of *kashrut*. Rabbi Price concludes that Esther and Mordechai decreed that a measure of meat should be included in *mishloach manot* on Purim (*Megillah* 7a) as a proclamation of a renewed trust in community *kashrut*.

On the basis of the above analysis, Rabbi Price zt"l provides his own solution to the question of the *Pri Megadim* and *Beit Yitzchak*. The *Shulchan Aruch*<sup>15</sup> rules that a Cananite slave has the same reliability as any other Jew to serve as a *shochet*, which means that he has credibility as a single witness for *kashrut*. Given his inclusion as a trustworthy observer in the *kashrut*

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14. For a more detailed discussion of this issue, please refer to the original article in *Mishnat Avraham* cited above.

15. Yoreh De'ah 1-1.

domain, there is no question that the Canaanite slave should be a full participant in the mitzvah of gift giving on Purim.

Aside from imposing a burden on the sisterhood to lengthen its *mishloach manot* list, the above discussion of the social status of the Canaanite slave raises a question in the wider sphere. Should inclusion in Jewish society be based on social mores or the common obligation to perform mitzvot?

# Is Law a Good Profession for the Orthodox Jew?

## Part 2

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CHARLES WAGNER, LL.B

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*Part one can be found in Hakhmei Lev, Volume 1, Tishrei 5782, 127-141.*

### The Orthodox Jewish Lawyer's Dilemma

**FOR MOST LITIGATORS** the client's choice to proceed to a regular court is the end of the discussion. The *Rules of Professional Conduct* do not require lawyers to educate clients about their obligations as Orthodox Jews to comply with Jewish law. For Orthodox Jewish lawyers it raises a moral quandary: Is there a *halachic* obligation for the Orthodox Jewish lawyer to turn down this type of file? Explains Professor Steven H. Resnicoff,<sup>1</sup> if an attorney represents a client who sues in civil court:

*The client may be deemed to be in the process of his transgression from the beginning of the trial to its end, or to the collection of the money. There would be a great risk that the lawyer would wrongfully provide verbal encouragement to his client during this time.<sup>2</sup> He further explains, "The Torah commands that, "in front of the blind (lifnei iver), do not place a stumbling block." Among other things, the lifnei iver doctrine proscribes enabling people to violate Jewish law.*

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1. Steven Resnicoff is both a Rabbi and a Professor of Law. He is the Co-director of Center for Jewish Law and Judaic Studies at De Paul University College of Law.
  2. We refer the reader to Steven H. Resnicoff, "The Attorney-Client Relationship: A Jewish Law Perspective," 14 Notre Dame J.L. Ethics & Pub. Policy 349 (2000).

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There are very few instances when a lawyer may not turn down a retainer.<sup>3</sup> Rule 3.01 of the *Rules of Professional Conduct* of the Law Society of Ontario provides:

*The lawyer has a general right to decline a particular representation (except when assigned as counsel by a tribunal), but it is a right to be exercised prudently, particularly if the probable result would be to make it difficult for a person to obtain legal advice or representation.*

For the lawyer who feels torn between his/her personal religious beliefs and the obligation to his client there is a conflict. The commentary of the *Rules of Professional Conduct* defines a conflict of interest as arising “when there is a substantial risk that a lawyer’s loyalty to or representation of a client would be materially and adversely affected by the lawyer’s own interest.” If the client decides to litigate in civil court and the lawyer’s fulfillment of that task is compromised by the lawyer’s religious belief then that lawyer needs to consider whether to take on the file.

No matter what the faith of the lawyer or the religion of the client any lawyer has a fiduciary duty to provide the client with proper and full advice. This includes informing clients on how to best advance their case through the litigation process. If that advice is contrary to *Halachah* and the lawyer feels conflicted, then he or she should not take on the retainer.

## **Circumstances Where The Court Will Intervene To Set Aside A Decision Of A Rabbinical Court**

When advising a client on the legal advantages and/or disadvantages of litigating before a *Beis Din* it behooves the litigator to review the case law on how the courts view those decisions and their vulnerability to judicial review. Frequently, arbitration agreements signed by the parties appearing before the *Beis Din* will have a provision denying the parties the right to appeal the decision to a civil court. However, it is important to note that the inclusion of such a provision does not necessarily preclude a civil court from commencing a judicial review of the *Beis Din* decision.

### **(i) Appeal of an Arbitration Decision**

In anticipation of the fact that many parties who agree to arbitration do so to avoid litigating in a civil court, section 3 of the *Arbitration Act* allows parties to vary or exclude most of the provisions of the *Arbitration Act* with limited exceptions.<sup>4</sup> While the agreement to forego

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3. See paragraph 61 of *Hall v. Bennet Estate* 2003 CarswellOnt 1730 wherein the context of accepting a retainer to make a will the Ontario Court of Appeal states, “I find it important to note, if only for guidance in future cases that, in my view, it is at least questionable whether Frederick, regardless of his opinion on Bennett’s capacity, could be found to be under any legal obligation to accept the retainer to prepare Bennett’s will. If, for example, the facts had been otherwise and Frederick had been of the view that Bennett was able to make a will but nonetheless declined the retainer, the exigent circumstances would undoubtedly give rise to a serious question of professional conduct and, depending on all the circumstances, could form the basis of disciplinary proceedings...”

4. *Arbitration Act*, 1991, SO 1991, c 17 at s. 3.

a right to appeal can limit a civil court's ability to interfere in an arbitration decision, the agreement of the parties to a "final and binding decision" in the arbitration does not absolutely preclude a civil court from ruling on an arbitration decision.

For example, section 45 of the *Arbitration Act* allows a party to appeal the decision of an arbitrator if the arbitration agreement does not deal with appeals on questions of law. The court shall grant an appeal on a question of law if the following two criteria are satisfied: first, the importance to the parties of the matters at stake in the arbitration justifies an appeal and second, determination of the question of law at issue will significantly affect the rights of the parties. Section 45 of the *Arbitration Act* also allows a party to appeal an arbitration agreement on questions of fact or mixed fact and law, if the arbitration agreement provides for an appeal on this basis.<sup>5</sup> Where a court finds that a right of appeal is permitted for an arbitration decision, the court can provide a party with the following remedies: the court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal with the court's opinion on the question of law, in the case of an appeal on a question of law, and give directions about the conduct of the arbitration.<sup>6</sup> It is important to consider section 45 of the *Arbitration Act* when reviewing the terms of an arbitration agreement before a *Beis Din*.

In the appeal of an arbitration decision, a court is entitled to regard the arbitrator's decision with a certain amount of deference. The appropriate degree of deference with which a court will consider an arbitration decision is called the standard of review. When considering the circumstances in which an appeal of an arbitration decision should be permitted, the Superior Court of Justice has held that "a court should not interfere with the arbitrator's award unless it is satisfied that the arbitrator acted on the basis of a wrong principle, disregarded material evidence or misapprehended the evidence."<sup>7</sup> O.J. No. 3299 at para. 5.]

## (ii) Judicial Review

The strongest mechanism for challenging an arbitration decision is through judicial review of a procedural issue that arose either at the time that the arbitration agreement was executed or during the arbitration as outlined in section 46 of the *Arbitration Act*. Significantly, section 46 is one of the few provisions of the Act that the parties cannot contract out of in their arbitration agreement.<sup>8</sup> Section 46(1) provides that a court may set aside an arbitration award on any of the following grounds:

a. A party entered into the arbitration agreement while under a legal incapacity

A court will not enforce an arbitration agreement where one of the parties was legally incapable at the time of execution. A party would be considered incapable if they were a

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5. Ibid., at s.45(3).

6. Ibid., s. 4(5).

7. Robinson v. Robinson, 2000.

8. Arbitration Act, 1991, SO 1991, c 17 at s. 3.

minor or impaired by a disability or cognitive disease that rendered the party incapable of making legally binding decisions.<sup>9</sup>

b. The arbitration agreement is invalid or has ceased to exist

An arbitration agreement may be invalidated if the time frame set out in the agreement has passed or if a particular procedural guarantee provided for in the agreement was not satisfied by the *Beis Din*. In addition, academics have suggested that this section could be used to set aside arbitration awards that are unconscionable or void for public policy.<sup>10</sup>

The following sections address challenges to an arbitration decision based on the procedural compliance of the *Beis Din* to the terms outlined in the arbitration agreement:

c. The award deals with a dispute that the arbitration agreement does not cover or contains a decision on a matter that is beyond the scope of the agreement

d. The composition of the arbitral tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with that matter, was not in accordance with this Act

The arbitration agreement can establish limits for the issues before the *Beis Din* and specify the composition of the *Beis Din* determining the agreed upon issues. If a *Beis Din* decision includes the determination of issues outside the parameters established in the arbitration agreement, it can be challenged for exceeding the terms that the parties agreed to. However, lawyers representing parties in negotiations of the an arbitration agreement should note that a civil court will be prevented from intervening on this basis where a party has agreed to resolve a dispute or matter, waived the right to object to its inclusion or agreed that the *Beis Din* has the power to decide what disputes have been referred to it.<sup>11</sup>

A decision of the *Beis Din* is also open to interference from a civil court if it can be shown that the procedural guarantee that ensures that the manner in which the arbitration is conducted is consistent with the intent of the parties (as expressed in the arbitration agreement).

e. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law

An arbitration agreement can be set aside where it is outside of the jurisdiction of Ontario law. For example, an arbitration agreement for the determination of an issue before a *Beis Din* that purports to bind a third party would not be enforceable on this basis.<sup>12</sup>

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9. Natasha Bakht, "Family Arbitration Using Sharia Law: Examining Ontario's Arbitration Act and its Impact on Women," *Muslim World Journal of Human Rights* (2004) 1(1) at p. 14.

10. *Ibid*, at p. 15.

11. Arbitration Act, 1991, SO 1991, c 17 at s. 46(3).

12. Natasha Bakht, "Family Arbitration Using Sharia Law: Examining Ontario's Arbitration Act and its Impact on Women," *Muslim World Journal of Human Rights* (2004) 1(1) at p. 15.

The following sections would allow a civil court to intervene in the decision of a *Beis Din* where the arbitration procedure was unfair to one of the parties or otherwise in violation of the *Arbitration Act*:

- f. The applicant was not treated equally and fairly, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator
- g. The procedures followed in the arbitration did not comply with this Act
- h. An arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias
- i. The award was obtained by fraud

The case law suggests that parties challenging a decision of the *Beis Din* will often do so by alleging that the arbitration was unfair or that they were pressured into submitting to arbitration by the threat of receiving a *siruv*.<sup>13</sup>

### (iii) Recent Case Where an Arbitration Decision Was Challenged in Civil Court: *Popack v. Lipszyc*

In a recent case from the Ontario Court of Appeal, an award granted by a Jewish court in New York to a Canadian businessman was upheld despite a proven breach of the arbitration agreement between the parties.<sup>14</sup>

The parties were Moshe Lipszyc (“Lipszyc”) and his former business partner, Joseph Popack (“Popack”). In 2000, Lipszyc and Popack embarked on a partnership to acquire commercial properties. Popack is from New York and Lipszyc is from Ontario. As part of their business partnership, Lipszyc and Popack acquired two shopping centers. Over time the relationship between the parties deteriorated.

In late 2005, the parties agreed to have Rabbi Schwei and Rabbi Bagomilski of the Crown Heights *Beis Din* arbitrate the dispute between them and assist them in winding up their business relationship. In January 2006, Rabbis Schwei and Bagomilski made an order that to resolve the conflict between Lipszyc and Popack, one of the parties should sell his interest to the other (the “January 2006 Order”). Following the January 2006 Order, the parties entered into an agreement dated April 11, 2006, whereby Lipszyc agreed to sell his interest to Popack.

Subsequently, Popack discovered what he believed to be misrepresentations and fraud by Lipszyc. He raised his concerns with the Crown Heights *Beis Din* on July 25, 2006. Rabbi Schwei responded by directing the parties to transfer their matter to another rabbinical court, the *Beis Din of Mechon L'Hoyroa* (the “Rabbinical Court”), which held eight weeks of hearings on the matter in August 2013.

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13. See Appendix II for an overview of recent cases.

14. *Popack v. Lipszyc*, 2016 ONCA 135 (CanLII).

The Arbitration Agreement between the parties gave the Rabbinical Court wide decision-making and procedural flexibility. The terms of the Arbitration Agreement included the following:

- i. that the arbitrators “may make their award based on Din Torah, compromise, settlement, or any other way they wish to reach a decision”;
- ii. that “no transcript of the proceeding need be made” unless the arbitrators decided to arrange for one (which did not occur);
- iii. that the Rabbinical Court could “follow any procedure as they decide”;
- iv. that the parties waived “formal notice of the time and place of the arbitration proceeding”;
- v. that the Rabbinical Court had “the right to hear testimony and evidence without the presence of a party if the party doesn’t attend a scheduled hearing”;
- vi. that the Rabbinical Court did not need to explain to anyone the reasons for their decision;
- vii. that the decision of the Rabbinical Court was not open for appeal either in any religious court or any civil court; and,
- viii. that in certain circumstances the arbitrators had jurisdiction regarding disputes after the award including motions due to “judicial error, new evidence, etc., ... to the extent permitted by law.”<sup>15</sup>

During the hearings, Lipszyc’s representative suggested the panel should hear from Rabbi Schwei. Popack did not object. Neither the parties nor the Rabbinical Court discussed further the possibility of Rabbi Schwei giving evidence.

On July 8, 2013, the Rabbinical Court met with Rabbi Schwei. There was no record of the meeting. Neither Popack nor Lipszyc received notice of the meeting between the Rabbinical Court and Rabbi Schwei. Ultimately, the Rabbinical Court made an award of \$400,000.00 in favour of Lipszyc. In response to the decision of the Rabbinical Court, Popack turned to Ontario Superior Court to set aside the award on the grounds that the panel had breached the agreed procedure by meeting secretly with Rabbi Schwei.

In the trial decision, Justice Matheson agreed with Popack that the Rabbinical Court had committed a “significant” breach of the arbitration agreement by failing to give proper notice of the meeting with Rabbi Schwei.<sup>16</sup> Nevertheless, Justice Matheson upheld the award on the basis that the parties had agreed to defer to the Rabbinical Court’s discretion to set its own process, Rabbi Schwei was a neutral party and the fact that Popack had not objected to the Rabbinical Court meeting with Rabbi Schwei when Lipszyc initially raised the possibility.

The Court of Appeal found that it owed strong deference to Justice Matheson’s conclusions absent any glaring error and ultimately upheld the trial decision. The Court of Appeal also took into consideration Popack’s conduct, as Popack had made no formal complaint at the time about the Rabbinical Court’s meeting and did not exercise his right to a hearing to raise his concerns. Instead, Popack told the panel, without telling Lipszyc, that he would

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15. *Ibid* at para. 13.

16. *Ibid* at para. 73.

only want a hearing if the panel decided Rabbi Schwei's evidence was important. In this way, the Court held that Popack positioned himself so that he could decide to raise the issue formally and on notice to Mr. Lipszyc only if he was not satisfied with the award by the rabbinical court. For these reasons the Court of Appeal held as follows:

*His [Popack's] conduct strongly suggests a tactical decision whereby Mr. Popack was content to allow the panel to finish its adjudication and make its award despite the improper ex parte meeting with Rabbi Schwei.<sup>17</sup>*

In these circumstances, the Court held that setting aside the panel's decision would "eviscerate" the idea that arbitral decisions are generally final. The Court also awarded Lipszyc \$25,000.00 in costs.

One important lesson from this case is the risk of giving a *Beis Din* unfettered discretion with respect to the procedure that the rabbinical court will follow. To mitigate this risk, it is critical for the participants to craft a written agreement that sets out how the procedure that the *Beis Din* will follow. This case also highlights the need for proper record keeping. In this case, the parties had agreed that no record of the proceedings would be kept. This choice complicated matter for Popack after he decided to appeal the rabbinical court's decision, as he lacked any record of evidence for many of the problems with the procedure that he hoped to substantiate on appeal.

## Conclusion

An Orthodox Jewish client who by virtue of his/her fidelity to *Halachah* feels bound to deal with the *Beis Din* poses a difficulty for the litigator. On the one hand it is necessary to deal with the real economic and social threat to the client for failure to adjudicate their dispute before a Jewish court. On the other hand your client's adversary may not feel bound by the same rules and your client's economic interest may be at risk. Even if the other party wants to appear before the *Beis Din* your client may fare better before a civil court than he/she may fare before the *Beis Din*. The answer is to know your client, familiarize yourself with his/her needs and understand the *halachic* process. The lawyer must therefore ask:

1. Does Jewish law require this type of litigation to be before a Jewish Court?
2. Does Jewish law permit an interim step before the civil court in order to protect your client's interest?
3. Is there a way, within the *Halachic* framework, to secure the most advantageous forum for the client?

Understanding how your clients can conduct themselves within the *Halachic* framework will avoid the sanctions of their community and can still allow them to have their case adjudicated in a forum that best protects their interests.

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17. Ibid at para. 39.

## Appendix I: The Roots Of The Halachic Tradition

### (a) The Basis for Religious Jewish Law

The development of Orthodox Jewish law is explained by Maimonides (also known as Rambam)<sup>18</sup> in the introduction to his seminal text, the *Mishneh Torah*.<sup>19</sup> The *Mishneh Torah* is a code of Jewish religious law (*Halachah*) that contains a compilation of the entire Oral Law from the time of Moses until the completion of the Talmud.<sup>20</sup> In the *Mishneh Torah*, Maimonides explains that the written Jewish religious law (the five books of Moses) was given to Moses at Mount Sinai along with an oral tradition explaining the laws contained therein. According to Maimonides:

*“The Torah” refers to the written law and “the mitzvah,” to its explanation. [G-d] commanded us to fulfill “the Torah” according to [the instructions of] “the mitzvah.” “The mitzvah” is called the Oral Law.*<sup>21</sup>

While each of the Israelite tribes was given a Torah scroll (also referred to as “the mitzvah”), the explanation of the Torah was passed from the elders to Joshua who taught the Oral Law to the Jewish people.<sup>22</sup> Maimonides bases this tradition on the tractate of *Pirkei Avot*<sup>23</sup> which provides that Moses received the Torah from Sinai and gave it over to Joshua. Joshua gave it over to the Elders, the Elders to the Prophets, and the Prophets gave it over to the Men of the Great Assembly. The oral tradition was passed down through generations of rabbis and Jewish courts until it reached Rabbi Yehuda<sup>24</sup> who Maimonides describes as Rabbenu Hakadosh (“our saintly teacher”). Rabbenu Hakadosh composed the Mishnah and put it down in writing. He collected all of the intergenerational teachings, laws, and commentaries

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18. Maimonides was a preeminent medieval Sephardic Jewish philosopher and became one of the most prolific and influential Torah scholars of the Middle Ages.

19. Within a century of Maimonides' death, the *Mishneh Torah* was universally accepted as a major halachic work (*Mishneh Torah*, translation by Rabbi Eliyahu Touger, (New York: Moznaim Publishing Corporation, 1989) (*Mishneh Torah*) at 7.

20. *Ibid.*, p. 7. In his introduction to his English translation of the *Mishneh Torah* Rabbi Eliyahu Touger explains, in part, “...with its publication, the *Mishneh Torah* touched off a major controversy in the Rabbinic world. Some of the philosophic points included with *Sefer Mada* (“the Book of Knowledge”) found opposition among the Rabbis. In addition, the Rambam's style of stating a law without quoting his sources was hard to accept by many. In some communities, the books were even burned. Within a little more than a century after the Rambam's death, however, the *Mishneh Torah* had been universally accepted as a major halachic work. Subsequent codifications of Torah law – e.g., the *Tur* and the *Shulchan Aruch* – refer to it extensively...” The *Mishneh Torah* is available online: [www.chabad.org/library/article\\_cdo/aid/5634/jewish/Mishneh-Torah-Hebrew.htm](http://www.chabad.org/library/article_cdo/aid/5634/jewish/Mishneh-Torah-Hebrew.htm) and with Rabbi Touger's translation online: [www.chabad.org/library/article\\_cdo/aid/901656/jewish/Introduction-to-Mishneh-Torah.htm](http://www.chabad.org/library/article_cdo/aid/901656/jewish/Introduction-to-Mishneh-Torah.htm).

21. *Ibid.*, p.12.

22. *Ibid.*, p. 13.

23. The *Mishneh Torah* contains 63 tractates dealing Jewish law. One of the tractates addresses Jewish ethics. This tractate is called *Avot*—literally translated as “Fathers.”

24. Rabbi Yehudah HaNasi was also referred to as “Rebbi” or teacher. For a brief biography of him we refer the reader to the Jewish Virtual Library, online: [www.jewishvirtuallibrary.org/jsourc/biography/hanasi.html](http://www.jewishvirtuallibrary.org/jsourc/biography/hanasi.html).

so that the Oral Law would not be forgotten by the Jewish people. Maimonides explained that this was a necessary break from tradition to curb the influence of the Roman Empire. With the Jewish Temple destroyed and its institutions decimated Rabbi Yehudah's efforts stand out as a singular monumental landmark in preserving the Jewish faith, its history and Jewish law. The rabbis during the time of the Mishnah are referred to as *Tannaim*. Those that followed and created the Talmud are referred to as *Amorim*. Explains Maimonides:

*From the entire [body of knowledge stemming from] the...Talmud can be derived the forbidden and the permitted, the impure and the pure, the liable and those who are free of liability, the invalid and the valid as was received [in tradition], one person from another, [in a chain extending back] to Moses at Mount Sinai...It also includes marvelous judgments and laws which were not received from Moses, but rather were derived by the courts of the [later] generations based on the principles of Biblical exegesis. The elders of those generations made these decisions and concluded that this was the law. Maimonides goes on to explain that after the time the Talmud was completed Jewish communities set up courts in every country inhabited by Jews...These courts issued decrees, enacted ordinances, and established customs for the people of that country - or those of several countries. These practices, however, were not accepted throughout the Jewish people, because of the distance between [their different] settlements and the disruption of communication [between them]...The [Talmudic] Sages who established ordinances and decrees, put customs into practice, arrived at legal decisions, and taught [the people] concerning certain judgments represented the totality of the Sages of Israel or, at least, the majority of them. They received the tradition regarding the fundamental aspects of the Torah in its entirety, generation after generation, [in a chain beginning with] Moses, our teacher. All the Sages who arose after the conclusion of the Talmud ...taught the approach of the Talmud, revealing its hidden secrets and explaining its points, since [the Talmud's] manner of expression is very deep...The inhabitants of each city would ask many questions of each Gaon who lived in their age, to explain the difficult matters that existed in the Talmud. They would reply to them according to their wisdom.*

In *A Handbook of Jewish Thought*, Rabbi Aryeh Kaplan provides an understanding of the evolution of Jewish religious law.<sup>25</sup> Rabbi Kaplan explains that in 1038 CE the rabbis of those times (referred to as *Genoim*) established great centres of learning called academies. These were located in the cities of Sura and Pumbetha in Babylonia. They were founded in the times of the Talmud and were accepted as preeminent authorities of Jewish law.

With the closing of these academies there was a gap. There no longer existed a universally recognized Jewish legal authority to determine issues of legal importance for the religious Jewish communities. In response, certain Jewish rabbis broke with tradition much the same way as did Rabbi Yehudah haNasi when he wrote the Mishnah by preparing codes of Jewish law based on the Talmud and the decisions of the *Genoim*. The *halachic* codes of Jewish law by Rabbi Yitzchak **Lafasim**, Rabbi Asher ben Yechiel and Maimonides were

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25. Rabbi Aryeh Kaplan, *Handbook of Jewish Thought*, Volume II at chapter 12, (New York: Moznaim Publishing Corporation, 1979).

the result.<sup>26</sup> These rabbis lived from 1038–1328 CE and are known as the *Rishonim* or first codifiers. In 1525 CE, based on these previous works, Rabbi Yosef Caro wrote the *Shulchan Arukh* which was the most widely accepted code of Jewish law. The question arises: why did these rabbis break with tradition?

### (b) The Decision of Rabbi Yitzcak Lafasim, Rabbi Asher ben Yechiel and Maimonides to Break With Tradition

The rationale for Rabbi Yitzcak Lafasim, Rabbi Asher ben Yeshiel and Maimonides' decision to break with tradition is explained by Maimonides as follows:

*At this time, we have been beset by additional difficulties, everyone feels [financial] pressure, the wisdom of our Sages has become lost, and the comprehension of our men of understanding has become hidden. Therefore, those explanations, laws, and replies which the Geonim composed and considered to be fully explained material have become difficult to grasp in our age, and only a select few comprehend these matters in the proper way. Needless to say, [there is confusion] with regard to the Talmud...for they require a breadth of knowledge, a spirit of wisdom, and much time, for appreciating the proper path regarding what is permitted and forbidden, and the other laws of the Torah." It is for that reason that Maimonides composed the Mishneh Torah which he saw as a summary..." In clear and concise terms, so that the entire Oral Law could be organized in each person's mouth without questions or objections.<sup>27</sup>*

The rabbis that followed the Rishonim are called Acharonim. These rabbis were later codifiers who for the most part did not part from the decision of the Rishonim.

So how are religious decisions made today?

There are many great religious Jewish legal authorities in the 20<sup>th</sup> and 21<sup>st</sup> centuries who are asked questions and issue a ruling referred to as a "psak." For example, *The Responsa* by Rabbi Moshe Feinstein, Rabbi Soleveichik, Rav Kanievsky, Rav Shlomo Zalman Auerback, Rav Ovadia Yoseph are often published. Local rabbis often rely on these publications to respond to their congregants' questions. So with that background, let's discuss what religious Jewish law says about litigating in civil court.

## Appendix II: Examples Of Cases Where Orthodox Jews Have Decided To Litigate In Civil Courts

### (a) Perceived Bias

In *Berg v. Schochet*, Rabbi Berg initiated a lawsuit in civil court claiming that Rabbi Schochet defamed him.<sup>28</sup> Rabbi Schochet commenced a motion seeking to stay the claim on the grounds that the dispute should be adjudicated through a religious court as they were both

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26. *Ibid.*, at p. 121.

27. *Mishneh Torah* at p. 30–31.

28. *Berg v. Schochet*, 1995 CarswellOnt 4655, (1995) O.J. No. 2983, 58 A.C.W.S. (3d) 26, 6 W.D.C.P. (2d) 436.

orthodox Jews. For the purposes of this paper, the authors are only addressing the reasons given by Rabbi Berg for not going through the *Beis Din* process. The court explained Rabbi Berg's reasoning as follows:

*To this Rabbi Berg replies that the faith he and Rabbi Schochet share, does not require this dispute to be heard by an ecclesiastical tribunal, and, further, that it would be impossible for him to have a fair hearing before any such tribunal, because of the wide-spread bias against him among Orthodox Rabbis. In fact, the association to which I have referred, and which is properly called the "Vaad Harabonim of Toronto" has issued a summons to the plaintiff to which he has refused to respond.<sup>29</sup>*

For the purposes of this article and trying to understand why Orthodox Jews sometimes litigate in civil court it's impossible to read Rabbi Berg's mind and determine if the reasons he provided to the court were *bona fide*. Clearly, as set out in this article Orthodox Jewish doctrine generally requires Jews not to resort to the civil court system to adjudicate their disputes. If he perceived bias in the local *Beis Din* why then did he not exercise the right of a *toveah* to go to an alternate *Beis Din* or offer the option of *zabla*? It may be that Rabbi Berg felt that any *Beis Din* would be unfair because the Orthodox community as a whole shared Rabbi Schochet's view of Rabbi Berg's conduct. For example, the Canadian Jewish News of March 18, 1993 wrote an expose about Rabbi Berg and the Kabbalah Centre. He was accused of defrauding victims of money and promising cures for cancer if they paid him money and scanned Aramaic texts. It may be true that most of the community would have been predisposed against Rabbi Berg. For the litigator who represents a client like Rabbi Schochet it is important to understand the adverse party's motivation. If these parties had gone before a *Beis Din* and Rabbi Berg could have proved bias this would have been automatic grounds for judicial review of the decision pursuant to section 46 of the *Arbitration Act*.

### (b) Perception of Coercion

In one divorce case,<sup>30</sup> the wife commenced civil divorce proceedings. The couple were two Orthodox Jews and agreed to appear before Toronto's *Beis Din*. The wife obtained her "*get*"<sup>31</sup> which is a Jewish divorce. As part of their appearance before the Jewish court the parties entered into an arbitration agreement. Between 2006 and 2009, the *Beis Din* decided issues relating to property, custody and access.

Notwithstanding the agreement not to appeal the *Beis Din* awards the husband went to civil court and applied for divorce and custody, etc. This case deals with a number of interesting questions relating to the enforceability of arbitration decisions, family law and retrospective application of statutes.<sup>32</sup> But, for our purposes let's focus on two questions.

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29. *Ibid.*, at paras. 4 and 5.

30. 2010 ONSC 1389, 2010 CarswellOnt 3367.

31. The Jewish Virtual Library explains that a *Get* is "the Hebrew word for divorce document. Since a Jewish marriage is entered into by the issuance of a legal contract between husband and wife, it can be terminated only by the issuance of a legal writ nullifying the original contract..."

32. See footnote 34.

First – why would the Orthodox Jewish husband resort to the civil court process as opposed to the *Beis Din* in accordance with his *Halachic* obligation? As well, why did he seek to set aside the *Beis Din* decision?

We might presume that the reasons he chose to proceed to civil court are rooted in the following complaints listed by Justice Gilmore and outlined in the husband's allegations about why he felt the *Beis Din* treated him unfairly:

- a. the husband was not permitted to have legal representation;
- b. the husband was not permitted to call witnesses;
- c. the husband was not permitted to appeal the decisions made by the rabbinical court; and
- d. the rabbinical court lacked basic and necessary elements of the judicial process and the basic concepts of fairness.

Before presuming that these were the real reasons for the husband's attempts to set aside the *Beis Din* decision and proceed to civil court it is important to note that Justice Gilmore did not find his evidence credible. We must make room for the possibility that there were others reasons motivating the appeal.

If we presume that as an Orthodox Jew the husband was familiar with the *Beis Din* and its operations why did he agree to submit to its jurisdiction in the first place? Justice Gilmore explained that the husband alleged that he was coerced into signing the arbitration agreement by the threat of a communal excommunication with financial and social consequences. According to the husband, his resistance to deal with the *Beis Din* resulted in the termination of his job as a teacher in The Toronto *Chider*, a Jewish school central to his religious community. As a convert to Judaism, the husband also claimed that his "Jewishness" was attacked by the wife within the *Beis Din* process. If taken at face value, the coercive nature of the *Beis Din* explains why the husband submitted to its jurisdiction. Leaving aside that the wife's narrative was quite different and that the judge seemed not to accept the husband's evidence, the husband's allegations do not make sense. The difficulty with taking the husband's position at face value is that the threat of community sanction was no less prevalent when he sought to set the *Beis Din* decision aside.

It is not inconceivable that the allegations made by the husband were tailored to fall within the four corners of section 6 of the *Arbitration Act*, which permits the court to intervene to assist with the conduct of arbitrations, to ensure that arbitrations are conducted in accordance with arbitration agreements, to prevent unequal or unfair treatment of parties to arbitration agreements and to enforce awards. Even if the allegations made by the husband were untrue, reviewing them is a useful exercise because, arguably, they were culled from complaints made by others with the process.

(c) To determine whether an informal decision of a governing religious body is binding and can be relied upon by the parties

In *2004357 Ontario Ltd. v. Kashruth Council of Canada*,<sup>33</sup> an individual applicant brought an application to enforce what he believed was an arbitration award made by the *Rabbinical Vaad HaKashruth* concerning the kosher certification granted to his company, 2004357 Ontario Inc. This case demonstrates the confusion that can arise from informal determinations by a religious governing body. It is also illustrative of a scenario in which a party may be required to use civil court to determine whether a decision from a religious governing body constitutes an enforceable arbitration award that can be relied upon by the party.

In 1999, the parties executed a kosher certification agreement which certified 2004357 Ontario Inc. as a kosher restaurant subject to a listed set of conditions. On November 17, 2005, two representatives of the Kashruth Council of Canada (the “Kashruth Council”) inspected the premises and determined that there may have been a serious breach of the laws of kashrut. Consequentially, the representatives instructed the owner of 2004357 Ontario Inc. to close the restaurant and reported their concerns to the Kashruth Council.<sup>34</sup> On November 22, 2005, the Kashruth Council determined that the 2004357 Ontario Inc.’s kosher certification was cancelled, and that 2004357 Ontario Inc. would be required to reapply for certification. A week later, the Kashruth Council sent 2004357 Ontario Inc. a document outlining the requirements that would need to be met for the recertification of the restaurant (the “Decision”). At the hearing of the application, the applicant argued that the Decision constituted an arbitration award that entitled 2004357 Ontario Inc. to a kosher certification as long as certain conditions were satisfied.<sup>35</sup> The Court disagreed with the applicant and held that the Decision did not constitute an enforceable arbitration award as the *Rabbinical Vaad HaKashruth* had yet to convene the tribunal for the purposes of determining the dispute. Justice Perell, in his endorsement, does not indicate that the applicant wished to act outside the parameters of *halachah* by choosing the civil court system over the religious court system. He did, however, say the following about the applicant’s efforts to characterize an all-party meeting as an arbitration,

*Despite the impressive intellectual gymnastics of Mr. Gafny’s counsel during argument, it cannot be said that the meeting on November 18, 2005, was an arbitration. Neither in its formalities before, at, or after the meeting nor in its substance was the meeting an arbitration. Based on the objective criteria established by the case law, the meeting was not arbitration.*

From what the endorsement indicates, one might conclude that the applicant just made a mistake in believing that there was already an arbitration that took place and that he was acting appropriately by trying to enforce that decision in civil court. Any alternative

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33. *2004357 Ontario Ltd. v. Kashruth Council of Canada*, 2006 CarswellOnt 3551.

34. *Ibid.*, at para. 22.

35. *Ibid.*, at para. 39.

conclusion would be speculative seeing as there is no stated reason as to why the applicant would attempt to avoid the *Beis Din* process.

#### (d) To Secure the Right to Documentary and Oral Discovery From an Opposing Party

In *Gerstel v. Kelman*,<sup>36</sup> the individual defendant to an action brought an application seeking to dismiss or stay an action in favour of arbitration before a *Beis Din*. This case demonstrates that a party may elect to pursue an action in civil court to receive certain procedural benefits available to litigants like examinations for discovery or documentary discovery from an opposing party. Conversely, it also highlights that a party who does not want to litigate in civil court may be required to attend civil court to enforce an arbitration agreement requiring the resolution of the dispute at a *Beis Din*.

The parties to the application were Harold Gerstel (“Gerstel”) and Joel Kelman (“Kelman”). In December 2010, the parties entered into an agreement whereby Grestel would refer prospective mortgage customers to Kelman in exchange for a commission on any mortgages that Kelman was able to secure from the customers. In February 2014, Grestel commenced an action against Kelman for failing to pay the commission as previously agreed. Subsequently, Gerstel received a *hazmana* from the *Vaad Harabonim Beis Din*. The *hazmana* contained a covering letter from Rabbi Vale dated February 26, 2014, which stated:

*Enclosed please find a hazmanah with respect to an action being initiated against you by Mr. Joel Kelman, in the Beis Din of the Vaad Harabonim of Toronto. The plaintiff is seeking an order from the Beis Din directing you to withdraw the action you filed against him in the Superior Court of Justice of Ontario (Claim No. CV-14-498869) since it is being brought contrary to Halachah (Torah Law) and to have your claim against him heard in a Beis Din.*

Following the *hazmana*, Grestel obtained a ruling from another prominent *Beis Din* allowing him to appear before a different *Beis Din* for the purposes of resolving the dispute and agreed to appear before the *Kollel Beis Din* as opposed to the *Vaad Harabonim Beis Din*. This decision followed assurances from Gerstel’s Rabbi, Rabbi Miller, that the *Kollel Beis Din* would be able to adequately handle the dispute. Grestel was also concerned that if he did not submit to a *Beis Dein* arbitration, the *Vaad Harabonim Beis Din* would issue a *siruv* against him which would have serious implications on his standing within the Jewish Orthodox community.<sup>37</sup> While Grestel agreed to arbitration before the *Kollel Beis Din* in principle, he still wanted assurances that Kelman would be required to release all of the documents related to the mortgages in question. In late March 2014, Grestel and Kelman agreed to the terms of an arbitration agreement before the *Kollel Beis Din*. Pursuant to the arbitration agreement, the parties agreed:

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36. *Gerstel v. Kelman*, 2015 CarswellOnt 5346, 2015 ONSC 978, 253 A.C.W.S. (3d) 272, 40 B.L.R. (5th) 314.

37. *Ibid* at paras. 9-13.

- to accept the decisions of the *Beis Din* as conclusive;
- to abide by the decisions and instructions of the *Beis Din*;
- the ruling will be made according to the *Beis Din*'s interpretation of *Halachah* (Torah Law); and
- to be bound by the decision of the two<sup>38</sup>

At Grestel's request, the following provision was handwritten into the arbitration agreement: "in the event that one side does not follow a ruling of the *Beis Din* the other side can go to court, including the opening of the books, according to *Beis Din*'s wishes."<sup>39</sup>

On March 28, 2014, the *Kollel Beis Din* issued a procedural order requiring Grestel to stay his action in favour of the *Beis Din* arbitration. Once the action was stayed, Kelman was required to make his books available to an independent bookkeeper.<sup>40</sup> Grestel refused to stay his action until he received Kelman's documents. In response, Kelman started an application for determination of whether the action should be stayed in light of the ongoing arbitration. During the application, Grestel argued that the arbitration agreement should not be enforced as it was signed under duress and frustrated by Kelman's refusal to produce the requisite documents required to adjudicate the case. Ultimately, the Court did not find that Grestel had signed under duress and was not persuaded that the arbitration agreement was frustrated by Kelman's actions. Instead, the Court held that pursuant to section 7 of the *Arbitration Act* it was required to stay the action in favour of the arbitration agreed to by the parties.<sup>41</sup>

### (e) To Determine the Enforceability of a Religious Contract (*Heter Iska*)

In *625882 Ontario Ltd. v. Hacoheh*,<sup>42</sup> the plaintiffs brought a motion for summary judgment on a debt owed by the defendants in relation to three consolidated loans that were in default. The defendants raised various defenses, including the argument that the parties had entered a *Heter Iska* which purported to vary the terms of the loan to support the position that there was no interest payable.

Between 2001 and 2005, the plaintiffs made nine loans to the defendants. By 2005, all but one of the loans were consolidated into three loans each bearing 13% interest.<sup>43</sup> The defendants started but did not finish repaying the loans. In October 2009, the plaintiffs commenced an action to recover the remaining amounts. The defendants claimed that the parties had entered into a *Heter Iska* which had the effect of characterizing the loans as investments without yield or interest payable to the plaintiffs. The Court rejected this position on the basis that the defendants had previously admitted that the amounts received were a loan,

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38. *Ibid* at para. 16.

39. *Ibid* at para. 17.

40. *Ibid* at para. 19.

41. Section 7(1) of the *Arbitration Act* states: "if a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on motion of another party to the arbitration agreement, stay the proceeding.

42. *625882 Ontario Ltd. v. Hacoheh*, 2011 CarswellOnt 9242, 2011 ONSC 5303, 206 A.C.W.S. (3d) 726, 90 B.L.R. (4th) 224.

43. *Ibid* at para. 2.

the terms of the *Heter Iska* did not support a finding that no interest was payable and the defendants had not acted in compliance with the *Heter Iska* in failing to establish that the loan did not have a “yield” or interest.<sup>44</sup> Although the role of the court in determining the significance of a religious document was not outlined in the case, it is clear that the plaintiffs benefited from a civil interpretation of the *Heter Iska* in pursuing a remedy against the defendants for defaulting on the outstanding amounts owed.

#### (f) To Determine Whether an Arbitration Agreement Is Enforceable

In *Finkelstein v. Bisk*,<sup>45</sup> the plaintiff agreed to invest his life savings of \$60,000 with the defendants. Pursuant to the agreement, the defendants would receive 40% of any increase of the investment. If there was no increase, the defendants would receive nothing for their services. The agreement referred broadly to the applicability of “Jewish law” but it did not contain an arbitration clause conferring jurisdiction to the *Beis Din*. After the agreement was executed, the plaintiff’s investment was subsequently lost. This case demonstrates to the litigator that just because your prospective client professes to be an Orthodox Jew it does not mean that he or she will feel obliged to proceed to have their dispute adjudicated before a *Beis Din*.

After the defendants failed to honour the agreement, the plaintiff sought out a member of his local *Beis Din* to request his assistance in obtaining the return of his investment. Consequentially, a *hazmanot* was issued against one of the defendants. The plaintiff subsequently commenced proceedings in the Superior Court of Justice for fraudulent misrepresentation and asked that the *Beis Din* not proceed with determining the dispute. The Court was asked to determine whether there was an agreement to arbitrate the dispute before a *Beis Din* and, consequentially, if the action should be stayed as there was another proceeding between the same parties in respect of the same subject matter that was the appropriate forum for determining the dispute.

The Court found that the plaintiff never intended to bind himself to arbitration before the *Beis Din*. Although the *Arbitration Act* grants arbitral tribunals the power to rule on the jurisdiction of religious tribunals, including the power to rule on objections with respect to the existence or validity of the arbitration agreement, the court noted that this provision is only permissive.<sup>46</sup> The Court also held that the case at bar was not one “where the scope or applicability of an arbitration clause [was] an issue or where the special expertise of the tribunal will assist in determining its jurisdiction.”<sup>47</sup> It added that the strong policy reasons

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44. Ibid at paras 30 to 34. The terms of the *Heter Iska* stated that a failure to achieve a yield on the investment must be established in the following way: “The Manager agrees to claim failure to achieve yield only if the exact amount of the profit is sworn upon by the Manager during the public reading of the Torah in an Orthodox Synagogue so designated by the Investor, in the presence of the Rabbi, the Congregation and the Rabbinical Court.”

45. *Finkelstein v. Bisk*, 2004 CarswellOnt 1129, (2004) O.J. No. 1176, (2004) O.T.C. 265.

46. Here the court was referring to section 17(1) of the *Arbitration Act*.

47. Ibid., at para. 14.

that are usually cited to ensure that parties who agree to arbitrate disputes cannot ignore that process and access the court do not apply where there was no intention to arbitration.”<sup>48</sup>

The defendant argued that the agreement did not require the parties to arbitrate before a *Beis Din* because “it is so obvious to observant Jews that it does not need to be said expressly and because there is a custom that one tries to avoid putting negative possibilities into writing.”<sup>49</sup> In effect, the defendant argued that arbitration before a *Beis Din* is an implied term to contracts between Orthodox Jews.<sup>50</sup> To support this position, the defendant marshalled the following facts: the agreement broadly referred to the applicability of Jewish law, the parties had discussed the *Beis Din* at the time that the contract was signed, the plaintiff had prior experience with the *Beis Din* and had consulted with a rabbi from the *Beis Din* before starting his action in Superior Court. On the other hand, a rabbi working with the *Beis Din* testified that he was not aware of any alleged custom to avoid including “negative possibilities” in written contracts. Nonetheless, the court found that there was no intention to arbitrate by the plaintiff. The Court’s rejection of the defendant’s argument that arbitration before a *Beis Din* is an implied term in contracts between observant Jews. This also has far-reaching implications for observant communities. In particular, *Finkelstein v. Bisk* suggests that care should be taken to draft contracts that explicitly grant jurisdiction to religious tribunals where the parties intend for the *Beis Din* to govern any future disputes.

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48. *Ibid.*, at para. 15.

49. *Ibid.*, at para. 19.

50. *Ibid.*, at para. 13.



# **Mahshavah**



# Maimonides and Nahmanides: Medieval Sociologists? *Revisiting the Debate over Qorbanot*

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JONATHAN L. MILEVSKY

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**MAIMONIDES AND NAHMANIDES'** debate over the reasons for the commandments is a complex and far-ranging subject, spanning literally the entire Torah. Any substantive characterization of either side of the argument would have to come from a thorough familiarity with the *Guide for the Perplexed*, *Sefer Hamitzvot*, Nahmanides' comments thereon, Nahmanides commentary on the Torah, and to a lesser extent Maimonides' commentary on the Mishnah and his *Mishneh Torah*. There are nevertheless scholars, who are well versed in these sources, and who have given us some insight, in broad strokes, about what defines the view of the two medieval figures. For David Novak, Maimonides' reasons for the commandments are to be understood teleologically, that is, in light of their purpose, or their rational conditions.<sup>1</sup> According to Josef Stern, Nahmanides' reasons of the commandments are informed by tradition and cannot be fully appreciated through reason.<sup>2</sup>

I want to challenge those conceptions by showing that, when it comes to the offerings, Maimonides and Nahmanides' views are shaped, at least in part, by what we would call a sociological approach; and I will do so by showing that two modern sociologists study sacrifices in the same way. Indeed, through Maimonides' cultural methodology and Nahmanides' textual approach, they arrive at respective notions that are eerily similar to the ones offered by William Robertson Smith and Marcel Mauss as well as Henri Hubert. I will therefore argue that grounding Nahmanides' understanding of the commandments in the tradition,

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1. David Novak, *Natural Law in Judaism* (Cambridge: Cambridge University Press, 1998), 95ff.

2. Josef Stern, *Problems and Parables of Law: Maimonides and Nahmanides on Reasons for the Commandments* (Albany: SUNY Press, 1998), 79.

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and Maimonides' reasons for the commandments in their discernable purpose, does not adequately explain a sizeable portion of the commandments.

We begin with Novak. Although Maimonides sees the commandments as understandable by reference to their ultimate purpose, Novak notes that the details of the commandments are not necessarily comprehensible by reference to their reasons. The reason for this is to avoid what he calls "totalizing rationalism."<sup>3</sup> Whether Novak means that there is some deeper reason for those details which G-d hides from view or that those details exist to throw us off the trail, so to speak, is unclear. What does emerge nevertheless is that, for Novak, even if the commandments are knowable by reference to G-d's purposes for them, their details cannot be reduced to those reasons. But that assumption is undermined if Maimonides has some other source of explaining them. This point raises the possibility that while the form of the commandments is explained by G-d's purposes, the content can be elucidated in other ways.

A similar point can be made about Stern's treatment of Nahmanides. According to Stern, Nahmanides subscribes to the view that humans cannot arrive at the understanding of the commandments because of a limitation in human comprehension. They can only develop a greater understanding of them by recourse to the tradition, meaning mystical teachings.<sup>4</sup> It follows that there should be no insight offered from a textual analysis of the sacrifices, for that information would be developed through reason. We now turn to Maimonides and Nahmanides' treatments of sacrifices to see if Novak and Stern's descriptions hold up.

## Summary of Maimonides and Nahmanides' View

We begin with Maimonides' explanation for sacrifices, found in his *Guide to the Perplexed*. There, he anticipates a question of his reader relating to how commandments can only bring about a desired change and not serve as an end unto themselves. In his response to this question, Maimonides suggests that sacrifice was a widespread idolatrous tendency and that the commandment to bring offerings was a way to restrain and eventually excise this urge.<sup>5</sup> Thus, in its commanded form, the sacrifices were restricted with respect to the place where they can be brought and the people who can bring them. There is very little doubt that Maimonides' explanation is a teleological one. He shows that the Torah tolerates idolatrous practices with the specific goal of removing Israel's dependence on them. Nevertheless, this purpose does not quite explain the intricacies of the commandments; and that idea seems to be consistent with Novak's explanation, since the details of the commandments are not supposed to be understandable by reference to their purpose.

What it does not account for, however, is why Maimonides goes to great lengths to explain the details. It also does not explain why Maimonides feels the need to state that he bases his

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3. David Novak, *Natural Law in Judaism*, 97.

4. Stern, *Problems and Parables of Law*, 79.

5. Maimonides, *Guide to the Perplexed* 3:32.

view on an extensive study of idolatrous practices.<sup>6</sup> Moreover, towards the end of his third section of his Guide, Maimonides writes that if we were to understand the original practices of idol worshippers, we would have far greater insight into the commandments, and he names the sacrifices in particular.<sup>7</sup> Thus, it does not appear to be the case that Maimonides' conception of the commandments is shaped solely by their purposes.

A more plausible explanation for Maimonides' position is that he draws on other cultures to illuminate the details of the offerings. This suggestion can be substantiated by reference to the work of a modern sociologist whose approach towards sacrifices, and his conception of it, is remarkably similar to that of Maimonides. In his *Religion of the Semites*, which is drawn on a series of lectures, 19<sup>th</sup> century scholar William Robertson Smith is explicit that the method in his text is to look for broad trends in surrounding cultures:

*Let it be understood from the outset that we have not the materials for anything like a complete comparative history of Semitic religions, and that nothing of the sort will be attempted in these lectures. But a careful study and comparison of the various sources is sufficient to furnish a tolerably accurate view of a series of general features which recur with striking uniformity in all parts of the Semitic field.*<sup>8</sup>

Smith's method can also be seen from his statement on festivals:

*The identity of religious occasions and festal seasons may indeed be taken as the determining characteristic of the type of ancient religion generally; when men meet their god they feast and are glad together and whenever they feast and are glad they desire that the god should be of the party. ... The basis of this confidence lies of course in the view that the gods are part and parcel of the same natural community with their worshippers.*<sup>9</sup>

Here again, Smith arrives at his view by reference to "general features." In the same way, Maimonides approaches the study of sacrifices through the lens of their cultural settings. This methodology explains why Maimonides finds it necessary to profess his familiarity with ancient rites or to emphasize the importance of those practices for the understanding of the commandments. Further evidence for this claim comes from Maimonides' conception of sacrifice and its similarity to that of Smith. According to Smith, ancient sacrifices are a form of communion. This interpretation emerges from his description of *zevah*:

*On the contrary, the central significance of the rite lies in the act of communion between god and man, when the worshipper is admitted to eat of the same holy flesh of which a part is laid upon the altar as 'the food of the deity.'*<sup>10</sup>

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6. For an example, see *ibid*, 3:29, 32.

7. *Ibid*, 3:49.

8. William Robertson Smith, *The Religion of the Semites: The Fundamental Institutions* (New York: Schocken, 1972), 15.

9. *Ibid.*, 255.

10. *Ibid.*, 240.

Ironically, it is Smith that identifies Maimonides' view with communion. Although he considers Maimonides too late to be significant, he cites the latter's view that blood is the "nourishment of the gods."<sup>11</sup> But there are other ways in which Maimonides' view bears a resemblance to the communion view. One way this can be seen is in his discussion of the obscure laws related to sacrifices. In his *Mishneh Torah*, Maimonides states that, although one may not find the reason for the sacrifices, one should not take it lightly, for it is in the category of *hok*. Maimonides then gives examples of some of those *hukim* but the only sacrifice he mentions is the scapegoat.<sup>12</sup> The fact that he does not mention any other sacrifices seems to mean that the scapegoat is the archetypal sacrifice. Given that that particular sacrifice appears to be surrendered to G-d, as it were, it stands to reason that sacrifices as a whole are perceived by Maimonides in this way. More evidence for the communion view can be seen in Maimonides' explanation for the need to spill the blood on the altar. He writes that it stems from the practice of eating blood in order to commune with jinn.<sup>13</sup> This is clearly consistent with the communion view.

In addition, the fact that it is specifically within the context of his discourse on pagan practices that Maimonides adds that the sacrifices must be brought from the finest items – a point he repeats several times<sup>14</sup> – is also more understandable if Maimonides subscribes to a communion view. That is to say, given the view of sacrifice as something of which G-d partakes, it makes sense that what is offered needs to be of the finest sort. What emerges from this analysis is that, at least when it comes to the offerings, Maimonides' teleology only explains the form of the commandments; it does not account for their content.

Having identified a similarity between Maimonides' approach towards, and understanding of, sacrifices to those of Smith, let us now assess Nahmanides' view in the context of Hubert and Mauss's critique of Smith's position. We begin with Nahmanides' view of sacrifices. Nahmanides writes in his commentary on Genesis that sacrifices have an impact on the "tree of life."<sup>15</sup> Then, on Genesis 7:6, Nahmanides refers to a possible "mystery of sacrifice"<sup>16</sup> and a "great secret."<sup>17</sup> We get some insight into what he means in his comments on Genesis 12:17. There, he writes that the gates of heaven are where sacrifices and prayers ascend to heaven.<sup>18</sup> Later in the same text, he states that it is possible to direct the sacrifice to one attribute.<sup>19</sup> All of this indicates that sacrifices have a theurgic component, that is, that they somehow have an effect on G-d.

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11. Ibid., 234.

12. Maimonides, *Mishneh Torah: Hilkhoh Me'ilah* 8:8.

13. Maimonides, *Guide to the Perplexed* 3:46.

14. Ibid.

15. Nahmanides, *Commentary on the Torah*, vol.1, ed. Chaim D. Chavel (Jerusalem: Mossad Ha-rav Kook, 1975), 86.

16. Ibid., 171.

17. Ibid., 88.

18. Ibid., 350.

19. Ibid., 542.

The same position also emerges from Nahmanides' sharp critique of Maimonides' view. As Stern shows, Nahmanides puts forth three different arguments. The first relates to the reason scripture itself provides for sacrifices, such as a "pleasing odor," which Maimonides is said to ignore; the second relates to the inadequacy of Maimonides' view to explain narratives pertaining to sacrifice in the Bible; the third is the unlikelihood of sacrifice serving as a cure for Sabianism.<sup>20</sup> It is a verse from Jeremiah that Nahmanides uses to make this argument that is most pertinent to our purposes. The part of the chapter from which Nahmanides draws relates to the mistaken view that the damage inflicted by Israel can be easily repaired. According to Nahmanides, the message that Jeremiah is communicating is that the covenant can only be repaired through sacrifice. Thus, Nahmanides is making an important point about sacrifices – that they are the only way that G-d is mollified – but he does so by drawing on the text rather than by reference to the tradition.

In addition to this theurgic component, sacrifices have an additional component: they allow one who offers them to be substituted by the animal. While it is commonly believed that Nahmanides takes this concept from Ibn Ezra, a closer look reveals that Nahmanides's position cannot be fully identified with it. Ibn Ezra writes that "in giving every part at its time, the part, which has a share in the World to Come, will escape, which is why it says *le-khaper*, meaning to give an atonement."<sup>21</sup> What this means is that there is a substitute for each limb of the human being. However, Nahmanides' view of G-d allows for the animal to be a complete substitute for the human being:

*Were it not for the loving kindness of the Creator, who took from him a substitute and a ransom, namely, this offering, so that its blood should be in the place of his blood, its life in place of his life, and that the chief limbs of the offering should be in the place of the chief parts of his body.*<sup>22</sup>

This point should not be confused with the direct impact that the sacrifice has on G-d's attributes, since this merciful act is something that G-d does in return. Nevertheless, this view in no way negates the other explanation of sacrifices. As we will see, both components work together; which is why this combination of explanatory features cannot be appreciated when seen solely as a function of Nahmanides' mystical perspective. That is to say the psychological component of sacrifice is not captured by Nahmanides' emphasis on tradition. As I will show, by reference to an alternate theory of sacrifice, one which eschews broad generalizations in favour of textual analysis, we can discover the method which Nahmanides uses to arrive at his view.

In their book, *Sacrifice: Its Nature and Functions*, Henri Hubert and Marcel Mauss state that Smith simply collected the data "in accordance with the analogical connections that he believes he saw between them."<sup>23</sup> In other words, Smith falsely assumed that what he

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20. Stern, *Problems and Parables of Law*, 140.

21. Ibn Ezra to Leviticus 1:1. Translation mine.

22. Nahmanides, *Commentary on the Torah*, vol. 2, 21.

23. Henri Hubert and Marcel Mauss, *Sacrifice: Its Nature and Functions* (Chicago: University of Chicago Press, 1964), 7.

found in Semitic rituals can be paired with what he found in several other cultures and used to explain the development of the process. In contrast to this approach, Hubert and Mauss localize their study to the Bible and Sanskrit texts. In other words, they arrive at their conception of sacrifice through textual analysis.

It is my contention that similar approaches can be located in Nahmanides' treatment of the offerings. The clearest evidence for this claim are the words Nahmanides uses when he takes up the same issue in his *Torat Hashem Temimah* sermon: "Whoever has eyes, and he will see the Scripture, will admit that the matter of sacrifices is very wonderful."<sup>24</sup> This claim is further supported from Nahmanides treatments of the sacrifices of Cain, Noah, and Balaam. In each case the immediate context is used to prove the significance of sacrifices.

Further support for this claim can be seen from Nahmanides' resulting conception of sacrifice, which is similar to that of Hubert and Mauss. In contrast to Smith, they suggest that the unifying feature of all sacrifice is as follows:

*This procedure consists in establishing a means of communication between the sacred and the profane worlds through the mediation of a victim, that is, of a thing that in the course of the ceremony is destroyed.*<sup>25</sup>

Elsewhere, Hubert and Mauss call this a "contractual element" which every sacrifice must include, inasmuch as in every sacrifice, "the two parties present exchange their services and each gets his due."<sup>26</sup> According to Hubert and Mauss, "the purpose of the whole rite is to increase the religiosity of the sacrificer." They add that, "To this end he had to be associated as closely as possible with the victim, because it is thanks to the strength that the act of consecration has built up in the victim that he acquires this desired characteristic."<sup>27</sup>

It can be shown that Nahmanides' position bears a strong similarity to this view. Just as Hubert and Mauss see a divine and sacred element in sacrifices, Nahmanides sees a multi-layered benefit in the *qorbanot*. Specifically, the sacrifices have an effect on the G-dhead but also have an impact on the person bringing the offering. The theological component can be seen most clearly from a statement based on the *Sifri*, which associates the offerings with the name of *yud heh*. These are understood to be a reference to G-d's name, and Nahmanides learns from this teaching that the offerings have a bearing on the eternal name.

At the same time, as we have seen, Nahmanides speaks of an impact on the human beings that bring offerings. Not unlike what Hubert and Mauss would call "religiosity," then, the person is transformed through the sacrifice even as the divine attributes are affected at the same time. Indeed, these two aspects work simultaneously, as can be seen in Nahmanides' comments on Balam's sacrifices. Discussing Balam's goal in bringing sacrifices, Nahmanides

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24. Nahmanides, "Torat Hashem Temimah," in *Kitvei Ramban*, vol. 2 (Jerusalem: Mossad Ha-rav Kook, 1963), 164.

25. Hubert and Mauss, *Sacrifice*, 97.

26. *Ibid.*, 100.

27. *Ibid.*, 52.

states that the goal was not to remove evil beliefs from Balam's thoughts.<sup>28</sup> A close reading of this comment indicates that Nahmanides is speaking about Balam himself. What he means is that, together with the impact that the sacrifices have, there is a transformative element to which Balaam was immune. Here we see the divine and human components of sacrifices working together, and more importantly, that Nahmanides arrives at the latter component through textual analysis.

It is fair to suggest that if the only source for Nahmanides' view on this matter is the mystical tradition, particularly if he frames his view as a response to Maimonides' rationalism, we fail to understand or appreciate the psychological component of sacrifice, and we miss the textual method he employs in order to arrive at it.

## **Conclusion**

Using modern theories of sacrifice, I showed that Maimonides and Nahmanides' approaches towards the study of the *qorbanot* cannot be fully appreciated by reference to Maimonides' teleology and Nahmanides mystical tradition. That is to say, for Maimonides, the goal of framing the commandments in the context of G-d's ultimate purpose for them, and for Nahmanides, of resisting any explanations that reduce the commandments to reason, does not account for how either figure arrives at their concept of sacrifices, nor does it offer sufficient insight into the complexity of those views. It also raises the possibility that, particularly in the case of Maimonides, it may be fruitful to study his reasons for the commandments with an eye towards other disciplines.

*This article is based on a presentation I delivered at the  
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28. Nahmanides, *Commentary on the Torah*, vol. 2, 294.

# Psalm 59: A Song of Holy Boldness

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CHAIM OLIVER

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## Introduction

**DAVID 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 (*Midrash Shocheh Tov*, Psalm 1:1). Why the selection of those tractates specifically? David wanted his Psalms to have the same purifying effect on the human soul as the laws of ritual purity (Rabbi Mordechai Gifter).

This essay will discuss the enigmatic word *עז* (*oz*) that is found in four verses of Psalm 59 and in many other places in Torah. Various sources, especially from Breslov texts, will provide understanding and reflection.

In Psalm 59, David, the just warrior, captures his situation in confronting the sons, grandsons and warriors of Saul (Radak on Verse 3). We similarly live in a world filled with turmoil, threat, and violence. In this Psalm, David teaches us to confront *azei panim* (brazen antagonistic people), as he did with *azei d'kedushah*, holy boldness expressed in prayer, faith, and pragmatism.

## Definitions

By way of a broader understanding of the word *עזת* (*azei*), the *shoresh* (root word) *עז* (*oz*) is an adjective meaning strong, powerful, mighty, intense, fierce, fervent, formidable, keen, profound, sharp, slashing, smacking, smart, and splitting.

There are fifteen places in Rabbeinu Nachman's *Likutey Moharan* (several are presented below), as well as many other places in traditional Torah texts, where the word is discussed both in the context of strength, power, boldness, and zeal, and in reference to two opposites — holy boldness and bold brazenness, *עזת דקדושה* and *עזת פנים* (*azut panim* and *azei d'kedushah*).

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## Psalm 59

The word *ry* (*oz*) is found in different forms in verses 4, 10, 17 and 18 of Psalm 59.

*59:4 For see, they lie in wait for me; brazen (azim) men plot against me for no offense of mine, for no transgression, O Lord.*

We hear the voice of David beseeching Hashem to protect his person and his home from *azei panim* — violent, brazen, (presumably) military-trained men — the sons, grandchildren and soldiers of Saul. These are angry, impatient men with a dubious past, men who meet their death violently (*Yevamos* 79a on II Samuel Chapter 21).

*59:10 O my strength (uzo), I wait for You, for G-d is my haven.*

The “strength” in this verse maybe interpreted as Saul’s power, which David honoured as an obligation under Jewish law because of Saul’s status as king. David, a man of strength capable of violence, understands his true strength lies in his ability to pray to Hashem with concentration and zeal. G-d is his true strength. This verse speaks to the power of *emunah* and fidelity to Torah law that exemplified David’s life and is a model for us. That power will lead to the Mashiach.

On verse 10, Radak and Rashi say the *uzo* (strength/power) refers to Saul. Hirsch sees in the verse the rule that influenced all of David’s actions toward Saul: “As long as all the royal might and power remain in the hands of Saul, I shall refrain from any action against him. I will wait for you, Hashem, to take the initiative.” Ibn Ezra interprets *uzo* as a reference to Hashem, of Whom we can say power is His alone. David says, “For you alone I do wait.”

*59:17 But I will sing of Your strength (uzecha) and extol each morning Your faithfulness, for You have been my haven, a refuge in time of trouble.*

David sings of G-d’s goodness and help in the difficulties he faces through his life. He renews himself each morning with this.

*59:18 My strength (uzi), to You I sing hymns, for G-d is my haven, my faithful G-d.*

G-d gives *chizuk* (encouragement) for all.

In these four verses, taken together, we read words of David’s strength of character, devotion to *halakhah* (Jewish law), and unfailing *emunah*. His example offers encouragement to all of us.

## In Chumash

The teaching of properly applied *ry*, strength, also appears across traditional texts.

In the Chumash, we see:

*The Lord is my strength (azi) and might; He has become my deliverance. This is my G-d and I will enshrine Him; the G-d of my father, and I will exalt Him (Shemot 15:2).*

## In Other Psalms

*I rely on G-d, my deliverance and glory, my rock of strength (uzi); in G-d is my refuge (Psalm 62:8).*

*The Lord is my strength (azi) and might; He has become my deliverance (Psalm 118:14).*

*The Lord is my strength (uzi) and my shield; my heart trusts in Him. I was strengthened and my heart exulted, so I will glorify Him with my song (Psalm 28:7).*

## In the Mishnah

*Judah ben Tema said, "Be strong (az) as a leopard, and swift as an eagle, and fleet as a gazelle, and brave as a lion to do the will of your Father Who is in heaven." (Pirkei Avos 5:20)*

## In the Gemara

*When Rabbi Yehuda HaNasi prayed, he said after his prayer, "May it be Your will, O Lord, my G-d, that You will deliver me today from impudent people (azei panim) and insolence (azei panim)." (Tractate Shabbat 30b)*

## In the Liturgy

*For we are not so brazen-faced (azay panim) (Viddui prayer).*

*Behold the G-d who gives me triumph! I am confident, unafraid, for G-d, the Lord, is my strength (azi) and might and He has been my deliverance. (Havdalah prayer recited at the end of Shabbat; Isaiah 12:2)*

## In Likutey Moharan

Likutey Moharan offers a number of commentaries.

### Likutey Moharan 147

*Whoever is brazen-faced, certainly, the feet of his ancestors did not stand at Mount Sinai (Nedarim 20a). We find, therefore, that the brazen-faced have no share in Torah.*

Here we see a strong condemnation of the person using personal strength in negative brazen arrogant ways – the personality type of the *az panim*. The following piece from Likutey Moharan contrasts the two opposites — holy boldness and bold brazenness, *עוז ודקדושה* and *עזי פְּנִים* (*azut d'kedushah* and *azei panim*). Using one's personal strength to draw to closer to G-d or the opposite.

### Likutey Moharan 22:4

*On azei d'kedushah, holy boldness, driving to connect to tzaddikim through the ages and defeating*

the influence of brazen leadership: But it is impossible to come to these shepherds, who are the embodiment of holiness, except through boldness. As our Sages teach (Avot 5:20), “Be bold as a leopard,” as is written (Shemot 15:13), “Boldly You led [them] to Your holy shrine.” In other words, by means of boldness one enters into holiness.

This is because there are shepherds from the Other Side who are also the prominent leaders of the generation. They force people to submit to their control. Primarily, their rule stems from brazenness – *azut panim*, for “brazenness is kingship without a crown” (Sanhedrin 105a). With their brazenness, they are like dogs, as in (Isaiah 56:11), “The dogs are brazen, [they never have enough]; they are shepherds [who cannot understand].”

And similarly (Sotah 49b), “The face of the generation is as the face of the dog.”

Therefore, it is impossible to be saved from them, from their authority, except through boldness — standing up against their brazenness. And then, “Boldly You led [them] to Your holy shrine” — entering holiness.

And all sounds, whether of crying out or of sighing; whether the sound of the shofar or the sound of the song — they all are the concept of boldness, as in (Psalms 68:34), “Behold, He puts into His voice a bold sound.”

### *Likutey Moharan 30:8*

There is a holy boldness, without which it is impossible to receive the Torah. As our Sages said, “The bashful person does not learn” (Avot 2:5). They also taught, “Why was the Torah given to Israel? Because they are bold” (Beitzah 25b). And, “Be bold as a leopard” (Avot 5:20). And this is the reason the Torah is called “bold,” as is written (Psalms 29:11), “G-d gives boldness to His people.” For it is impossible to approach the Torah without holy boldness.

### *Likutey Moharan 271*

A person must possess holy boldness, as is explained in many places and as it is written, “Be bold as a leopard” (Avot 5:20), and as brought previously. And even concerning the rabbi himself, one must possess boldness — one must speak to him boldly about everything that one needs to, without embarrassment. One individual is closer [to the rabbi than another] only because he has greater boldness and thus speaks to him more.

Nevertheless, one depends on the other. For this, that he has the boldness to speak, is due to his devotions, that he does much and serves G-d a great deal. On account of this, he has the boldness to speak with the rabbi. And on account of his speaking with him, he is brought to do and serve much as a result of his becoming particularly inspired by having spoken to him a great deal. Thus, it is that one depends on the other.

## Reb Noson of Breslov, a Supreme Example of *Azut D’Kedushah*

We find a supreme example of *azei d’kedushah* in the life of Reb Noson, the prime disciple of Rabbi Nachman of Breslov. His struggles with brazen antagonistic people over many years is beautifully described in his biography, *Through Fire and Water: The Life of Reb Noson of Breslov*.<sup>1</sup> It’s a fantastic book that sheds light on the mind of Reb Noson.

Reb Noson endured so much persecution, issues with *shalom bayit*, and illnesses. Yet, he never veered from his path because he had an incredible sense of mission, which he single-mindedly pursued until his dying day. His mission: saving Yiddishkeit, saving us from secularism, materialism, pseudoscience, sadness, and depression, all of which are inter-related. He sought to protect us from the great atheism that he and Rabbeinu saw coming.

To quote from Reb Noson’s *sefer* directly, “Please fill me with holy boldness and determination, and let me use sacred sounds and voices to strengthen my connection to you. Let me be bold as a leopard in serving you to learn your Torah and deepen my fear of heaven. Enable my soul to have pity on my body and draw close and illuminate my body with the light of her constant spiritual insights and perceptions” (*Likutey Tefilot*, Prayer 22).

## The Truth Within the Truth

The *emet* of the *emet*, the truth within the truth, is that we need great doctors to inspire us to have a super-strong vision for our own life so that we don’t sleep it away. King David in Psalm 59 paints the picture. “You want to be spiritually strong? Do you want to put your enemies in their place and preserve your *neshamah* in an upside-down world? Follow halakhah simply and live with emunah.”

Rabbeinu Nachman continued this teaching of David and defined a path for his Chassidim and those interested in his teachings. He taught us to pray and to learn Torah with simple sincerity. Reb Noson transcribed, curated, and published Rabbeinu Nachman’s teachings.

## Practical *Azei D’Kedushah*: Using Conscious Breathing To Pray With Strength

Conscious Breathing is a fantastic skill that athletes and warriors use to connect to the present moment and reduce stress. Practising consistently will enhance the power of your prayer, your saying of *Tehillim*, and your *hitbodedut* (personal prayer).

Conscious Breathing (also known as Mindful Breathing) reduces muscle tension and diminishes neurological activity. You gain the ability to connect your breathing to the present moment and the simple words of the text. Concentrating on your breathing before you *daven* will flush your mind of extraneous thought and refocus you on the task at hand — conscious connection with your Creator.

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1. Written by Chaim Kramer, edited by Avraham Greenbaum, and published by Breslov Research Institute.

## The Method

Take ten deep breaths by taking three to four seconds to inhale and five to six seconds to exhale. Longer exhalation triggers the relaxation effect. If you need to activate yourself, do the opposite. When you exhale quickly, you increase your activity level. For those reasons, breathing is an excellent way to find your sweet spot on your activation scale. Inhale through the nose and exhale through the mouth (or the nose, if you prefer). It's important to inhale through the nose, as its filtration system purifies the air before it reaches the lungs. While inhaling, expand the chest first, then the abdomen. When exhaling, deflate the core first, then the chest.

## **Exercise: Practise Conscious Breathing Before Saying Psalm 59**

In Psalm 59, David faces a significant threat to his well-being. Yet, he digs deep to retain his composure and principles. Try Conscious Breathing, flushing external thoughts from your mind before carefully singing the words using a simple *niggun*. Bring the great emunah of David Hamelech into your life.

## **A Final Word: Be the Bold Leopard, Exuberant in Azei D'Kedushah, Holy Boldness**

In summary, in our Psalm and elsewhere, we are given inspiration and instruction on how to achieve *azei d'kedushah*, holy boldness. With patience, significant spiritual growth is attainable (*Likutey Moharan* I, 155). What is meant by patience? Take a deep breath, letting all the obstacles and distractions pass over you, not getting upset, not flinching, and not losing heart in any way. Take strength from G-d, knowing His love is inexhaustible and His kindness unending.

# The Timefulness of Torah

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DANIEL ORNER

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**EVER SINCE I** was a young boy, I was taught that the Torah is timeless. Miraculously, a document written over three thousand years ago remains pertinent and inspiring. And certainly, in my formative years, I often appreciated the different parts of the Torah that showed an incisive ability to apply to current times.

As an adult, I delved deeper into the Torah, in particular the Mishnah and Gemara. Slowly, like bubbles floating to the surface of a bottle, I began getting queasy feelings when I came across certain statements in the Talmud. Does it seem right to deny women testimony rights just because we have a Biblical source for it? Are we really okay with treating someone who happens to be deaf and mute as mentally incompetent? Is it totally reasonable to *buy* a fellow human being as a slave?

The overall philosophy of Judaism, while undergoing constant stretching and twisting over the years as part of our tradition of argument and discovery, remains strong and true. But is every single word of the Torah equally meaningful at every period of time?

I believe that the emphasis on the Torah's "timelessness" actually does it a *disservice* as a growing, evolving source of wisdom. Removing historical context from its pages beckons us to judge it, for all time, as if it were written today. Not only is this unfair, it is patently untrue. There *are* parts of the Torah, Mishnah, Midrash, and later writings that were written as polemics or reactions against practices and ideologies that threatened everything we were meant to be as a people and as a religion.

On the other hand, there are features of the Torah which may have seemed downright harmful or suffocating in olden times which can only be fully appreciated in the modern world – a particularly enlightening example of which I will explore in a later section.

Perhaps it is better to think of particular aspects of the Torah as *timeful*, as opposed to *timeless*. This may give us greater appreciation of its study and more confidence in its status as the basis of our belief system.

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## Laws That Make Us Feel Iffy

Here are a few, completely out-of-context quotes from the Torah. As someone reading these words in the twenty-first century, how do these make you feel?

*Now therefore kill every male among the little ones, and kill every woman that hath known man by lying with him. But all the women children, that have not known man by lying with him, keep alive for yourselves. (Bamidbar 31:17-18)*

*And if a man sells his daughter to be a female slave, she shall not go out as the male slaves do. (Shemos 21:7)*

*Rav Hama bar Gurya says that Rav says: From where do we know that it is permitted (to keep) the lost item of a gentile? As it says: "With every lost thing of your brother's." To your brother you return a lost item, but you do not return it to a gentile. (Baba Kama 113b)*

*What is the reason? The school of Eliyahu taught: Since women are light-headed. (Kiddushin 80b)*

*Rabbi Yochanan said: "They made bloodletting in the Land of Israel like healing that is continuous." (Kesubos 52b)*

So far, we've seen a command to kill children and capture virgin women, an acknowledgement of the right to sell one's daughter as a slave to another man, an official difference in victim status between a Jew and a non-Jew, an offhand insult to women's intelligence, and an enthusiastic approval of an archaic and harmful medical treatment.

One might react to these excerpts in a number of ways:

- **Doubling down:** "If the Torah says it, then it must be important. We probably *should* be selling daughters as slaves, and let's bring back bloodletting."
- **Rejection:** "If the Torah says things like this, it must not be as holy as we thought. The whole thing is probably a scam."
- **Curiosity:** "Let's dig through the commentaries until we find an explanation that makes it feel less icky."

I would like to propose another reaction: *Recognizing that some parts of the Torah are more important, for different reasons, at one time in history than in another.* This cognitive strategy can help us accept the Torah as authentic and life-affirming, while understanding that particular details may be less central during some times than others. I call this way of thinking: *timefulness.*

## Idol Worship

In the Chumash, a number of *mitzvos* are given specifically as a bulwark against the practice of idolatry. Laws against idol worship are prolific, and, especially in *Sefer Devarim*, the Jews are castigated over and over to be especially careful to avoid anything resembling *avodah zarah*.

In today's day and age, idolatry is hardly the urgent temptation it was in the past. These long passages now seem hard to connect to. In fact, our Sages themselves acknowledge this. In *Gemara* (Sanhedrin 64a), the Rabbis symbolically “capture” the temptation to serve idols and imprison it permanently, as a way of indicating that this is no longer a primary preoccupation of the Jews:

*The form of a fiery lion cub came forth from the chamber of the Holy of Holies. The prophet said to the Jewish people: This is the inclination for idol worship. When they caught hold of it one of its hairs fell out, and it was heard for four hundred parsei. They said: “What should we do? Perhaps Heaven will have mercy upon it!” The prophet said to them: “Throw it into a container made of lead and cover it with lead, since it absorbs sound.”*

This story is remarkable in a number of ways, but the most important is this: *The Rabbis are saying that the Torah accomplished its goal.* Idol worship and polytheism were effectively wiped out in what would become the Middle Eastern and Western world. All of the dozens of imprecations, curses and prohibitions *worked.* *We were done with idolatry.*

So what does that imply for the anti-idolatry *mitzvos* in the Torah? Are they still relevant or not?

## The Rambam and the Sacrifices

We can make a strong connection between this question and the position of the Rambam. In the *Moreh Nevuchim*,<sup>1</sup> the Rambam argues that the *korbanos*, the sacrifices that the children of Israel were commanded to perform, were given as a way to wean them off of the idol worship of the times. Trying to convince a nation to adopt monotheism without allowing them the trappings of “old-time religion” would have been going too fast, too quickly.

Interestingly, the Rambam himself in the *Mishneh Torah*<sup>2</sup> avers that in Messianic times, the sacrifices will come back and be in full force. It seems that while the original purpose of the *korbanos* is no longer relevant, the commandment itself would still be binding.

The thrust of his idea seems to be that we keep the *korbanos* as a practical *mitzvah*, and study and discuss its laws, because there are still useful and meaningful lessons we can learn from them (such as the significance of *personal* sacrifice). *Korbanos* are no longer critical to our Jewish identity; however, we can tease meaningful aspects from them without subscribing to the centrality of animal sacrifice as a tenet of Judaism.

## Jewish Philosophical Battles Throughout Time

The historical milieu of our Sages aren't limited to ancient history. Many of our great thinkers had their writings coloured intensely by other groups and philosophies of their day. Rabbi Yehuda Halevi, in the *Kuzari*, presents proof of Judaism's triumphs over Islam

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1. *Moreh Nevuchim*, 3:32.

2. *Hilchos Melachim*, 11:1.

and Christianity. Rabbi Samson R. Hirsch spent much of his time opposing Reform Judaism,<sup>3</sup> and Rabbi Moshe Feinstein similarly discussed and discredited Conservative Judaism.<sup>4</sup> Other Sages have inveighed against various philosophical approaches from the medieval to the modern era.

Many of these philosophies have fallen out of favour – in some cases, the supposed opponent of the work is almost impossible to ascertain. Many more remain compelling. However, it is still important to be able to look at these works and understand what they were trying to accomplish. Rather than treating the entire corpus of the Torah as a single unanimous dogma, infusing these works with timefulness yields a much more bountiful crop. It gives us insight as to when and how to apply these arguments in our own lives.

## The Gemara and Technology

*It is okay that the Gemara was written a long time ago for people who lived then.*

Anyone who has read older fiction – like the Sherlock Holmes stories, for example – will find it difficult to understand exactly what a “bodkin” or “vesta” might be, since times and technology have changed so dramatically from the time the work in question was written.

Our Sages were holy men and intellectual giants, but they were not future-seers or scientists (indeed, modern science and scientific thinking was a far way from being invented at the time). They discussed issues using the medical and agricultural science of the time they lived.

This does *not* mean any of the following:

- The Gemara is no longer relevant.
- The Rabbis are outdated fools.
- We cannot learn anything from our Gemara.
- We are being disrespectful to our Sages by claiming that (for example) their medical expertise was less advanced than our own.
- *Halakhos* based on faulty science are no longer valid.

There are some specific cases, identified by more modern authorities, where science’s onward march has made changes to certain *halakhos*. But overall, the Gemara, and the laws we learn from it, are still relevant and untarnished, as long as we don’t try to learn science from it.

## Cans and Musts

Timefulness is not just important to tell us why certain things were prohibited or ordained. The Torah is described as being written with “black fire on white fire.”<sup>5</sup> Both kinds of fire are

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3. E.g. *The Nineteen Letters*, 19.

4. E.g. *Igros Moshe*, 2:17.

5. Tanchuma, Bereishis 1.

important – the spaces behind the words can teach us lessons just as the words themselves can. Timefulness can help us understand this “white fire.”

Let’s take the issue of having slaves as an example. Reading these chapters is profoundly uncomfortable, because we live in a country which, for the most part, has abolished slavery. Why is the Torah discussing slavery so matter-of-factly and in such depth when we know how evil the practice is?

Timefulness can help explain this. The Torah actually does not tell us *anything* that we *can* do with slaves. In general, the Torah isn’t all that fussed about *can*. It is concerned with *must* and *must not* – the *mitzvos* and *aveiros*. In fact, the Torah spends all its time telling us things we *must not* do with slaves – slavery must be time-limited; slaves must be recompensed for their time when their indenture is up; slaves must not be treated badly or humiliated.

The Torah was providing *limitations* around slavery, because banning it entirely was simply not something that society was ready for at that time. It’s worth considering just how recently slavery was still legal and indeed expected. In Canada, slavery only became illegal in 1793, and in the United States, it lasted until 1865.

So rather than reading the Torah as condoning slavery, we should be reading it as the Torah taking an existing practice in society and putting boundaries around behaviour it considered less than savoury.<sup>6</sup> This is in fact a constant theme in Torah – adding limits to things which otherwise might be harmful, either physically or spiritually. Another example is the restrictions it provides around monarchy, such as forbidding the king from having too many wives or horses.

This is yet another tool in our timefulness toolbox – understanding that not everything the Torah tacitly allows is something it condones. To play on a Talmudic phrase, not every *lav* implies a *hein*.

## Yesterday, Today and Tomorrow

However, in my mind, the most powerful benefit unlocked by this mode of thought is the idea that, since the Torah is timeless, some of its most important wisdom *only becomes relevant in the modern era, and in fact could not have been appreciated in the past.*

By far the most obvious example of this to me is the law forbidding lighting fires on Shabbos. Before radiators and artificial bulbs, fires were the only way to keep warm and provide light. In colder climates, you had exactly two options: ask a non-Jew before Shabbos to stoke the fire, or stay cold and dark all day.

This seems like an unimaginable hardship. The reasoning for it – because it is considered work *vis-à-vis* the *Beis Hamikdash* – seems far weaker than the resulting prohibition. A command not to do work – which, to the naive eye, doesn’t really seem like work at all – results in taking away a basic necessity. An essential precept of Rabbinical thought is that

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6. See Rabbi Jonathan Sacks, *Covenant and Conversation, Numbers*, 367.

“the Torah was not given to ministering angels”<sup>7</sup> – there are some restrictions that were overridden because keeping them would have resulted in disproportionate harm to the very human Jews who follow them. It seems reasonable that this idea should veto the “no fire” edict.

But that’s not what happened. We kept our halakhah going, essentially treating it as a *chok*, or a mitzvah decreed by G-d which we are not permitted to question or change.<sup>8</sup>

And then electricity was born.

Electric lights and eventually central heating meant that the hardships of the fire prohibition began to diminish. But I believe we didn’t see the true purpose behind this commandment until the rise of television, and certainly the Internet.

In the modern era, the constant “on-ness” of life leaves one with little chance to recharge and rebuild. And our *melakha*, our jobs, have in great numbers moved from physical labour to knowledge work: sitting at a computer and typing, or calling people on the phone. The old laws to stop work and rest on Shabbos would simply have no effect on us if the laws of Shabbos didn’t include electricity.

A. J. Heschel called Shabbos “not a date but an atmosphere.”<sup>9</sup> What kind of atmosphere does a Shabbos have when everyone is on a screen? How could you claim to take a day off work when you’re checking e-mails and instant messaging throughout the day? How could the beauty and spirituality of Shabbos descend on your house when the mental noise of technology never ends? A Shabbos table where everyone’s attention is pinned to their personal device, a Shabbos davening punctuated by the rings of those who forgot to set their phones to vibrate? A Shabbos afternoon drowning in anxious doom scrolling of social media and dopamine-delivering video games?

Rabbi Jonathan Sacks argues, “Shabbat is our refuge from what has become, in the late capitalist economies, a consumer culture.”<sup>10</sup> This refuge would be under siege if using modern technology was fully permitted.

We have turned a *chok* into a *mishpat* – a law that we can now internalize. A rule that seemed to do nothing but frustrate has become one that forces us to let G-d fill our houses one day out of seven, and refresh our minds and souls from the frenetic pace of life.<sup>11</sup>

## Redirecting Our Attention

Unfortunately, our toolbox still isn’t complete. What about the laws, built into our halakhic system, that discriminate against women or non-Jews? What about the awful situation of

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7. Me’ilah 14b.

8. A *chok* is not simply a “mitzvah that doesn’t make sense,” as can be evidenced from the fact that the Jewish holidays in *Vayikra* 23, despite having very well-understood reasons, are classified as *chukim*. However, it does imply a fixed legislation without space to protest or innovate. See also *Bereishis* 47:20.

9. Abraham Joshua Heschel, *The Sabbath*, p. 19.

10. *Covenant and Conversation*, Exodus, p. 261.

11. I would argue that the rationale and rulings of the *Poskim* that resulted in electricity being classified as fire were part of the *hashgacha* that caused this to occur.

*agunos* in our communities? How do we square these statements with the love and care that the Torah demands for those around us?

We cannot and must not excise parts of the Torah for our pleasure. However, it is entirely within our power to *decide which parts of the Torah we want to treat as moral lessons*.<sup>12</sup> By corollary, we can also decide that parts of the Torah which were normative in the past should no longer inform our ethical worldview.

This is the final tool in our timefulness toolbox. We've been able to turn a *chok* into a *mishpat*. It is also our right, in some cases, to turn *mishpatim* into *chukim*: to be able to look at a mitzvah which does not fit our ethical standard and treat it as a "decree from G-d" – to be followed even if it does not form a key tenet of our Jewish identity.

There are powerful ethical lessons and personal truths we can glean from different aspects of the Torah. It is our right and responsibility to choose which of those lessons should we should treat as *timeful* – where we can keep them alive as part of our heritage, acknowledge their past importance, and still minimize their ethical impact in today's world – and which should be at the forefront of our minds, and infuse our beings with the messages they teach us.

Are we the Jews-who-must-destroy-Amalek? Or the Jews-who-must-visit-the-sick? There are "seventy facets to the Torah,"<sup>13</sup> and any full Jewish identity must involve many of them. But it is our choice which we shine the spotlight on, and which are relegated to second-tier status.

## Conclusion

The Torah is huge, expansive and full of variety. Many *mitzvos* resonate with us positively, and enhance our love for Judaism. Others can provide uneasiness, sadness and fear, and cause cognitive dissonance with how we live our lives today. Only by treating the Torah as *timeful* – appreciating the historical context of when each part of it was given and expanded – can we truly treasure it in a full, satisfying and productive way.

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12. Note that I speak about emphasis, not importance. We can't know which mitzvos are more or less important. But we can decide which of them we most want to take lessons from and internalize.

13. *Bamidbar Rabbah*, 13:15.

# The Meaning and Significance of the Leviathan

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RABBI KEN STOLLON

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## Introduction

**THE LEVIATHAN**, a creature of immense, supernatural proportions, which the Klein Dictionary identifies as either a “serpent, dragon, or whale” is mentioned more than occasionally in our holy texts and liturgy. Sometimes the Leviathan appears on its own, and sometimes together, often in battle, with other creatures such as the Behemoth (a magnificently large ox, also referred to as the Shor HaBor) or the Ziz (a magnificently large bird). In the *Akdamut*, for example, which we read on *Shavuot*, there is mention of “the contest of the Leviathan and the Behemoth of the tall mountain,” referring to an *Aggadic* tradition that these two large beasts (the Behemoth is as tall as a mountain) will battle it out together at the End of Days, an epic confrontation which, according to tradition, will end with the death of both beasts, the flesh of which will then be served up as food for the Righteous.

I was able to trace virtually all references to the Leviathan in Scripture and in the *Meforshim*.<sup>1</sup> What emerges is something of an enigma. More questions than answers. Is the Leviathan a force for good in the world, or a force for evil? Why is the Leviathan associated so often with the End of Days? I would like to explore these questions, and ultimately come to a conclusion about the nature of the beast and why it is so important in our tradition.

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1. An exhaustive search of all sources was made possible by sefaria.com. I would also point those readers who may be interested to Herman Melville's Introduction to *Moby Dick*, in which he lists pages and pages of references to whales and to the Leviathan gleaned from both religious and secular texts, from fiction, non-fiction and poetry. The idea of the Great White Whale as symbol is of course central to *Moby Dick*; short of reading the entire novel (highly recommended), I might point you to the chapter entitled “The Whiteness of the Whale.”

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## Good or Evil?

### The Case for Leviathan as a Force for Good

In determining whether the Leviathan is a force for good or a force for evil, let us first make the case for good. The first appearance of the Leviathan in the Torah is in *Bereishit* 1:21:

*G-d created the great sea monsters, and all the living creatures of every kind that creep, which the waters brought forth in swarms, and all the winged birds of every kind. And G-d saw that this was good.*

Rashi explains that the “great sea monsters” (in Hebrew: “*taninim*”) are:

*...the large fishes of the sea, and, according to the statement in the Aggadah, it means here the Leviathan and its consort which He created, male and female.*

The Ramban concurs with Rashi:

*And our Rabbis said that the great sea monsters are the Leviathan and his spouse ...*

As does the Radak:

*Still others believe that all the large sea monsters are known by the collective name of “Leviathan.”*

In determining whether these *taninim*, which all the *Meforshim* identify as Leviathan, are good or evil, the simple reading of the text (*pshat*) is that “G-d saw that this was good.”

Rabbeinu Behaya, commenting on this same *pasuk*, takes the argument for good a step further:

*The word לוייתן, “Leviathan,” means “connection.” It is a combination of the two words לויית חן, The intellect is perceived as joining the soul.*

According to Rabbeinu Behaya, the Leviathan combines two important aspects of G-d’s creation which we normally consider fundamentally good: the soul and the intellect. As Rabbeinu Behaya points out, the word “Leviathan” contains the word “*levaya*,” which we typically translate as “funeral”; however, the word “*lavaya*” actually means “accompanying or escorting,” and refers to the lining up of friends and family into rows at a funeral to accompany/escort the deceased and the mourners. These ideas of *accompaniment* and *chesed* are seemingly part and parcel of the essence of the Leviathan, and can be traced back to the etymology of the word itself.

The Leviathan makes several appearances in *Tehillim*. In Psalm 148, which we recite every day at *Shacharit*, we find the following: “Praise the LORD, O you who are on earth, all sea monsters and ocean depths...” (verse 7). Once again, we see that “sea monsters” (in Hebrew: “*taninim*”) is a synonym for the Leviathan, and we note that the Leviathan, in this psalm, is praising G-d, giving thanks to Him for His lovingkindness which endures throughout the

cosmos (i.e., even into the depths of the ocean). Psalm 104, *Borchi Nafshi*, which we say as part of our *tefilla* on *Rosh Chodesh*, states: “There go the ships, and Leviathan that you formed to sport with” (verse 26). Here, in this psalm, the Leviathan is mentioned by name; the more generic term “*taninim*” is not used. And here the creature is characterized as a kind of pet or plaything for G-d, for Him to “sport with.” What better argument can we make for the goodness of the Leviathan? How can we in any way disparage G-d’s pet?

The *Gemara*, in *Bava Batra* 75a recounts two powerful *mesorot* involving the Leviathan, which, yet again, seem to link the mighty sea creature to goodness and holiness:

*Rabba says that Rabbi Yohanan says: In the future, the Holy One, Blessed be He, will make a feast for the righteous from the flesh of the Leviathan, as it is stated: “The chaverim will make a feast ...”*

*And Rabba says that Rabbi Yohanan says: In the future, the Holy One, Blessed be He, will prepare a sukkah for the righteous from the skin of the Leviathan, as it is stated: “Can you fill his skin with barbed irons [besukkot]” (Job 40:31). If one is deserving of being called righteous, an entire sukkah is prepared for him from the skin of the Leviathan; if one is not deserving of this honor, a covering is prepared for his head, as it is stated: “Or his head with fish-spears” (Job 40:31).*

The first *mesorah* that the *Gemara* cites is that the Leviathan (along with the *Shor HaBor*) will be served up as food for the righteous in the End of Days.<sup>2</sup> As the *Kedushat Levi* (*Kedushat Levi*, Numbers, Beha’alotcha 5) explains:

*Our sages promised us that in the future, G-d Himself will invite the tzaddikim to a meal where both Leviathan and the Shor HaBor will be served. As a beverage, there will be wine saved for the occasion from Gan Eden.*

According to tradition, at the time of creation, the Leviathan was originally created both male and female, but it soon became evident that given the chance to multiply, the species would wreak havoc on the world by consuming all its resources. G-d therefore killed the female Leviathan and salted it away for the aforementioned feast. There is an opinion that the more freshly killed male Leviathan will also be available for the Banquet, but Jews apparently prefer salted fish to fresh fish (cf. *Bava Batra* 74b), so the female Leviathan meat will be more in demand. This *Aggadah* has been interpreted allegorically by the *Akeidah*

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2. As both the meat of the Leviathan and the meat of the *Shor HaBor* will be served at the Banquet for the Righteous, the *Gemara* in *Chullin* 67b discusses whether these are indeed kosher animals. The *Gemara* quotes from *Sefer Iyov*: “His armor is his pride” (Job 41:7) and “sharpest potsherds are under him” (Job 41:22) to prove that the Leviathan is a kosher fish, with scales (“armor”) and fins (“sharpest potsherds”). The *Midrash Tanchuma* (*Shimini* 7:1) also confirms that even though the *Shor HaBor* will be killed with a blow from the Leviathan’s tail, the Sages rule that it is nonetheless a “kosher slaughter.” And on a final somewhat humorous note, Rabbi J. David Bleich in *Contemporary Halakhic Problems*, Vol. VI, Chapter 8, quips: “[there is] a tradition to the effect that both the Leviathan and the *Shor Habor* will be featured at this banquet. A folk witticism has it that the Leviathan will be available to those who will request fish since even then they will be unwilling to rely upon the *kashrut* of the meat.”

Yitzchak (51:1:7) to mean that what will be served to the *tzaddikim* are: Torah (well-aged wine) and *Mitzvoth* (the salted meat of the female Leviathan).

The second *mesorah* mentioned in the *Gemara* has to do with the skin of the Leviathan, which is clearly associated with a *mitzvah* (i.e., making a *sukkah*), and, again, with a reward for the Righteous in the End of Days. Surely if the Leviathan were not a holy creature, it would not qualify for such a use. Tangentially, the *Shnei Luchot HaBrit* (*Torah Sh'Bikhtav, Toldot, Torah Ohr* 114) cites a *Midrash* which states that the skins used to make the *ketonot ohr* for Adam and Eve, to cover their nakedness, were taken from the original female Leviathan; again, a use of the skin for a holy purpose (i.e., *tzniut*).

There a custom when we leave the *sukkah* for the last time on the last day of *Sukkot* to recite the following prayer:

*May it be Your will, Hashem, our G-d and the G-d of our forefathers, that just as I have fulfilled [the mitzvah] and dwelled in the sukkah, so may I merit in the coming year to dwell in the sukkah of the skin of Leviathan. (Artscroll siddur, page 725)*

Indeed, the Rema cites this as a widespread custom. (cf. *Shulchan Aruch, Orach Chaim, siman* 667).

I believe I have provided a number of compelling arguments in favour of the thesis that the Leviathan is very much a symbol of goodness and holiness. As one might imagine, this idea is corroborated in numerous Chassidic and mystical sources. I will suffice to mention two. The *sefer Shaar HaEmunah V'Yesod HaChassidut* by Rav Gershon Chanoch Henoah of Radzin, states (7:2): “Leviathan represents the highest levels of *Hokhmah* – Wisdom, which are concealed in the upper waters.” And the *Likutei Moharan*, which is attributed to Rav Nachman of Bratslav, proclaims: “Leviathan alludes to *Malkhut*” (Part II, 7:10:10). *Hokhmah* and *Malkhut*, both emanations of the *Sefirot*, are, from a Kabbalistic perspective, all good!

## The Case for Leviathan as a Force for Evil

Let's now present the opposing argument: that the Leviathan is a force for evil in this world. We begin by going back to the *Gemara* that we cited earlier, a little bit higher up on the same page, *Bava Batra* 75a:

*When Rav Dimi came from Eretz Yisrael to Babylonia, he said that Rabbi Yohanan said: When the Leviathan is hungry, he produces breath from his mouth and thereby boils all of the waters in the depths .... And if the Leviathan placed its head in the Garden of Eden, no creature could withstand his foul smell, as it is stated: “He makes the sea like a seething mixture ...”*

We have in this *Gemara* an idea that the Leviathan is evil in spite of itself. Large and powerful as it is, it is by nature destructive. Therefore, its breath boils the water and its foul smell is unbearable to other creatures. These may be unintentional vices, but they are destructive nonetheless.

The Leviathan figures prominently in two books in *Tanach*: indirectly in *Sefer Yonah* and directly in *Sefer Iyov*. Even though “a big fish” (i.e., the one that swallows Yonah) is of course a

central character in the story in *Sefer Yonah*, this “big fish” – which has its own set of *Aggadic* traditions attached to it – is not the Leviathan.<sup>3</sup> The Leviathan does not actually appear in *Sefer Yonah*, but the *Yalkut Shimoni* (*Nach* 550:2) relates the following curious *Midrash*:

*The fish [that swallowed Yonah] said to Yonah, “Don’t you know that my day has come to be fed into the mouth of the Leviathan?” The fish brought him to the Leviathan, and Yonah shouted to him, “Leviathan!” The Leviathan saw Yonah and fled from him a distance of two days’ journey. Then Yonah said to the fish, “I saved you from the mouth of the Leviathan, now show me everything which in the seas and the depths.”*

The Leviathan is presented in this *Midrash* as a frightening beast, a bully if you will, that instills fear and trembling in the “big fish” that has swallowed Yonah. Yonah’s ability to save the big fish by scaring away the bigger fish ultimately inspires a debt of gratitude which Yonah requests payment on.

In *Sefer Iyov*, which the *Gemara* that we cited earlier quotes, the Leviathan is portrayed as wild and untameable. Only G-d has the power and strength to tame it. As such, G-d challenges Iyov, saying (Job 40:25): “Can you draw out the Leviathan by a fishhook? Can you press down his tongue with a rope?” Whereas the *Gemara* argued that these verses are an allusion to the *sukkah* that will be made from the beast’s skin, the Malbim has a very different reading of these verses. For him, they demonstrate that both the Leviathan (and the Behemoth) are not only wild and untameable, but actually have sinister intentions. Here is a condensation of the Malbim’s commentary on Job 40:15–25:

*Continuing the charade, G-d asks Iyov how he intends to deal with the two most powerful and imperious beasts He created, the Behemoth, that consumes all vegetation, leaving nothing behind for the other land beasts, and the Leviathan, which preys on all the other sea creatures .... Beyond discipline or training, the Leviathan is the embodiment of ferocious and ungovernable violence, and it knows it, and does not care.*

For the Malbim, the Leviathan and Behemoth are archetypes of beings that exploit their power over others for their own purposes. And, in his interpretation, this evil is done consciously and intentionally.

We can now understand the prophecy of punishment in Isaiah 27:1:

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3. There is a popular misconception that the big fish (*dag gadol*) that swallowed Yonah was indeed the Leviathan, but this is not supported by the *pshat*. The fish in *Sefer Yonah* is never referred to as *Tanin* or *Livyatan*, the terms that, as we have seen, are most commonly used to refer to the Leviathan, but only as a *Dag Gadol*. As well, none of the major *meforshim* mention that this *dag gadol* is the Leviathan. The *ArtScroll Book of Yonah*, which draws on the Vilna Gaon’s *Aderes Eliyahu*, interprets Yonah’s time in the belly of the fish as a metaphor for the soul’s journey into *Gehinnon*, which facilitates Yonah’s repentance, and “re-birth” when, in an act resembling child-birth, the fish spits him out onto dry land. His time inside the belly of the fish serves as a purification process for Yonah, where he can properly repent for the sin of trying to evade his prophetic mission. Here we see a big fish – even if it’s not the actual Leviathan – acting as a catalyst for repentance and purification, which would certainly support the argument that big fish (like the Leviathan) were created as forces for good in the world!

*In that day, the Lord will punish - with His great, cruel, mighty sword - Leviathan the Elusive (or Stretching) Serpent and Leviathan the Twisting (or Crooked) Serpent. He will slay the Dragon of the Sea.*

Here the Leviathan is clearly described in negative terms, and is deserving of punishment. It also appears that there may be two versions of the Leviathan ... the Twisting or Crooked version and the Elusive or Stretching version. Based on their descriptors, neither version seems to be too appealing. Our previous conception of the Leviathan as a good and holy creature seems to have been shattered. But it gets worse.

The Ibn Ezra on this *pasuk* in Isaiah states:

*Some are of the opinion that the Leviathan, the stretching serpent, and the Leviathan, the crooked serpent, are both land animals, and are used figuratively for the kings of the land: Assyria or Babylon.*

In other words, the two variations of the Leviathan are symbolic of two evil empires (Assyria and Babylon), both of which historically wreaked havoc on the Jewish people. Moreover, the *Midrash Tanchuma* on *Parshat Va'era* 3:2, compares the Leviathan to Egypt, yet another evil empire which inflicted harm upon the Jews, arguing that both Pharaoh and the Leviathan possess the qualities of a snake.

The *Akeidat Yitzchak* (60:1:3), commenting on *Bava Batra* 74, sums up the case for the Leviathan as a force for evil, as the embodiment of materialism and animalistic desire:

*If the most powerful union of body and spirit in this universe, Leviathan, would be allowed to roam completely unfettered, it could destroy the entire civilisation, G-d forbid. [Similarly] if human intelligence were to be used exclusively to advance Man's materialistic aspirations [and animalistic desires], the results could be disastrous.*

Therefore, it is fitting that this evil creature be punished, as we have already seen in Isaiah 27:1. This is reinforced in Psalm 74:14, where we note that G-d "crushed the heads of the Leviathan." All this violence emanating from G-d and directed at the giant sea creature must be an indicator that it is evil and sinful! Perhaps even the skinning of the Leviathan at the End of Days which, we previously argued, seemed to be a proof of the Leviathan's inherent goodness and holiness (in that his skin was being used for a *mitzvah*) needs to be revisited, since there too the end is violent (i.e., the Leviathan is skinned).

## **A Possible Conclusion**

So is the Leviathan good or evil? Perhaps it's not so simple. Perhaps the message is that things in our world are not so clear cut. Good and evil can co-exist in the same creature.

Or perhaps it's not an issue of good versus evil at all. It could be that we missed the point, the most obvious point, that the message of the Leviathan is related not to its moral character but to its size. The Leviathan is big! Big beyond our comprehension. Beyond our imagination. Beyond our ken. It is so large that it extends outside the limits of our perception

and apprehension; we literally cannot take it all in at once, it is beyond the scope of our peripheral vision. The *Gemara* (*Bava Batra* 74b) describes the reaction of Rabbi Yehoshua to seeing the eyes of the Leviathan, peeking out over the surface of the water:

*The Sages taught: There was an incident involving Rabbi Eliezer and Rabbi Yehoshua, who were traveling on a ship, and Rabbi Eliezer was sleeping and Rabbi Yehoshua was awake. Rabbi Yehoshua trembled, and Rabbi Eliezer awoke. Rabbi Eliezer said to him: What is this, Yehoshua; for what reason did you tremble? Rabbi Yehoshua said to him: I saw a great light in the sea. Rabbi Eliezer said to him: Perhaps you saw the eyes of the Leviathan, as it is written: "And his eyes are like the eyelids of the morning" (Job 41:10).*

If witnessing the eyes – just the eyes – of the beast provokes this type of reaction, one can only imagine the type of reaction one might have from seeing the entire body, if indeed it is even possible. With awe and wonderment and terror, we might exclaim: how is it possible? how is it possible?

And so we find ourselves repeatedly asking the same question, with the same feeling of terror and awe, in the context of our lives and our history. How is it possible ... the Holocaust? How is it possible ... *tzaddik v'rah lo* (i.e., that bad things happen to good people)? How is it possible ... *rasha v'tov lo* (i.e., that good things happen to bad people)? How is it possible ... the suffering and death of innocent children? And so on, and so on. Questions that don't have an answer. Questions so big that we can't fathom them. Many Rabbis, including the Rambam,<sup>4</sup> have struggled with these questions. I would like to suggest that the symbol for these big, unfathomable questions is the Leviathan. And, just as the Leviathan, as we have argued, embodies both evil and good, it is a symbol not only for the large, disturbing questions but also for the large delightful questions, such as: how is it possible ... the creation of the world in all its glorious detail and splendor? and how is it possible ... the birth of a perfectly formed human being? and so on. Like the magnificent sea creature, these questions are beyond our comprehension, beyond our imagination, so large that they simply boggle the mind.

But G-d promises us that all of these questions will indeed be answered, that everything will become crystal clear and illuminated to us at the End of Days, in the time of the *Moshiach*, as we read in *Tehillim* 36:10, "in Your light we will see light." As the *Nevi'im* write:

*For the earth will be filled with the knowledge of G-d, as the waters cover the sea. (Isaiah 11:9)*

*For the earth will be filled with the knowledge of G-d's glory, as the waters cover the sea. (Habakkuk 2:14).*

This "knowledge," promised to us at the End of Days, is the knowledge that we seek, the "knowledge of G-d's glory," the vast knowledge, vast like "the sea," of things that are currently unknown and unknowable to us. In the time of the *Moshiach*, we will, *kav'yachol*, see the world through G-d's eyes; He will give us the requisite knowledge and awareness to make

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4. See Rambam on *Mishnah Sanhedrin* 10:1:1.

sense of these large and difficult questions, which in our current state are impenetrable to reason. And how will G-d effect this? How will he open our eyes? Fittingly, by feeding us the flesh of the Leviathan at the Banquet of the Righteous.<sup>5</sup> The great sea creature, which, as I have argued, is the living embodiment of our big, unfathomable questions, will be cut up into small, digestible servings for us to ingest and digest. In other words, metaphorically, the big questions in life will be broken down and made comprehensible to us. We will literally get under the skin of these questions; when we sit in the sukkah made out of the skin of the Leviathan, we will come to know the Leviathan outside-in and inside-out; we will, in a sense, be fully immersed in the Leviathan. So, too, will we, in the End of Days, basking in the glow of Divine knowledge, be fully enlightened to all the mysteries of the universe, and merit a brand new understanding of all the large questions, the painful and perplexing questions, in our lives.

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5. Reinforcing my idea that the meat of the Leviathan will be our conduit to understanding “G-d’s glory” is Rabbeinu Behaya’s long commentary on *Bereishit* 1:21, in which he posits that the Banquet of the End of Days will provide both material and spiritual pleasure. As he writes: “We know that spiritual forces are awakened and strengthened through the intake of physical food. The idea behind this feast therefore is that ... it would be extremely satisfying from a gastronomic point of view, [and] the spiritual benefits derived from it would be commensurate.”





# **Torah Li-Shmah**



# Lot's Daughters

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ASHER BREATROSS

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**IN A CHUMASH** *shiur* that my *Rebbi*, Rabbi Hershel Schachter, gave in 1976<sup>1</sup> he commented upon the delusional behavior that Lot's two unmarried daughters<sup>2</sup> exhibited upon their escape from Sedom. Their delusion stemmed from the fact that they believed that the world was destroyed, that they and their father were the sole survivors of this cataclysm, and that it was up to them to continue the human race.

Implied in this belief was that Avraham *Avinu* did not survive. This was a delusional belief for its further implication was that they honestly felt, due to the fact that they were worthy of surviving, that they were more righteous than Avraham *Avinu*.

As indicated by his behavior, it is unlikely that Lot shared his daughters' belief, perhaps because he did not share the same level of awareness. On that first night in the cave with his daughters, he simply wanted to get drunk and forget his problems. All he seemingly wanted to do was escape, albeit temporarily, from the miserable situation he found himself in, having lost his wealth, his wife and his two married daughters. Also, he apparently did not hold his two single daughters, who were with him in the cave, in high regard since he had been ready to sacrifice them to the inhabitants of Sedom who had gathered outside his home, outraged by the hospitality that Lot had shown to the two angels.

Rashi comments<sup>3</sup> that after the first night with his older daughter, Lot understood very well what had transpired. Nevertheless, on the second night he did not refrain from again consuming alcohol even though he knew what the result might be. Rashi then quotes the *Midrash Rabba* and the *Tanchuma* that Lot had a strong desire for forbidden relations, which resulted in him committing incest.

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1. Heard in *Chumash Shiur on Parshat Vayeira* delivered on November 11, 1976.
  2. Rashi on 19:14 says that Lot had two unmarried daughters and two married daughters. See footnote 3 where Rabbi Korobkin, in a *shiur* on Lot's daughters, mentions another daughter who was put to death before Sedom was destroyed for feeding a poor man.
  3. See Rashi on 19:33 starting with the words "and she lay with her father." The comment of Rashi is found at the portion of Rashi that starts with the words "and of her getting up."

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The *Chatam Sofer* writes<sup>4</sup> that one should not think that the punishment of Sedom was too stringent, for this story about Lot and his daughters is an indicator of the low level of morality of the inhabitants of Sedom. The *Chatam Sofer* notes that Lot and his daughters were considered *tzaddikim* by Sedom standards; their incestuous relations in the cave therefore even further emphasizes how low the level of morality must have been in Sedom.

On the other hand, it is possible that Lot's daughters felt they were the only survivors after the destruction of Sedom not because they felt that they were superior to Avraham *Avinu*, but because did not even know that Avraham *Avinu* existed!

In support of this theory, the Abarbanel asks<sup>5</sup> why, when Lot escaped from Sedom, did he not flee to Avraham *Avinu's* home, instead of to a cave? Lot was aware that twenty-four years earlier Avraham risked his life to free him from the four kings who had captured him. After he was rescued, Lot chose to remain in Sedom; he preferred the wealth of Sedom to the spirituality of Avraham. He preferred a more materialistic life to a more elevated life with his uncle.

The rulers of Sedom were presumably aware of Avraham and his character traits, which were antithetical to their society and culture. When Lot moved to Sedom, he was very likely welcomed by its inhabitants because he was rich. However, because of his exposure to Avraham *Avinu* and the values of *hachnassat orchim*, he would have been told that he would have to rid himself of certain practices that he had previously learned from his uncle if he wanted to fit in and succeed in Sedom society. Lot would also be watched by the leadership of Sedom very closely to make sure that he did not have any lapses.

Indeed, Lot succeeded in fitting in and was accepted into Sedom society for, according to *Midrash*,<sup>6</sup> he was appointed to be a judge over judges on the day that the angels arrived.

Living in the environment of Sedom for as long as he did obviously had a negative effect on Lot's *neshamah* and on his value system. After the destruction of Sedom, Lot may have been ashamed or embarrassed to return to Avraham; having put Avraham and Avraham's values out of his life, he may not have wanted to show his uncle the state of depravity that he had descended to.

Lot's wife, too, would have discouraged any connection between her family and Avraham *Avinu* for she was worse than her husband, and disassociating herself from Avraham would also, she knew, improve her social standing in Sedom. Rashi<sup>7</sup> quotes the *Midrash Rabba* that Lot's wife got upset when Lot asked her for a bit of salt for their guests. Her response was to criticize her husband's desire to put into practice the custom of hosting guests. Her ultimate punishment – being turned into a pillar of salt – was therefore quite fitting, *midda k'neged midda*; since she held back from sharing a bit of salt, she was transformed into salt!

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4. Quoted in *Itturei Torah*, volume one, compiled by Avraham Yitzchak Greenberg, Yavne Publishing House, Tel-Aviv, 1972, page 151.

5. See Abarbanel on *Bereishit* 19, page 251, left column, eight lines from bottom.

6. See Rashi on 19:1, starting with the words “and Lot was sitting at the gate of Sedom.” The *Midrash* is found in *Bereishit Rabba* 50:3.

7. See Rashi on 19:26, starting with the words “and she became a pillar of salt.”

The daughters, presumably, also wanted to fit into the Sedom society. As such, they either did not care to know that they were related to Avraham, or perhaps their parents thought it judicious to keep this information from them.

Yet, there is another way to analyze this matter. It is based on the assumption that the daughters were in fact righteous women who had good intentions and who innocently erred.

The operative words for their behavior come from the statement of the older daughter to the younger. She explained<sup>8</sup> to her sister that their father was old and there was no one else around who had the capacity to have relations with them. Since they thought they were on a mission from *Hashem* to save humanity they would just have to manage with the only male who they believed had survived and who could impregnate them, namely their father.

The theory that the daughters were modest women is found in the commentary of *Rabbeinu Bachya*.<sup>9</sup> The daughters believed, according to *Rabbeinu Bachya*, that they acted for the sake of heaven. They saw what happened to their mother and they felt that they had to do something drastic as the survival of the human race was at stake.

Because the daughters had lofty motives the word “*znus*” is not found in this section. On the contrary, the older daughter merited that Rus was descended from her, and the younger daughter merited that one of her descendants was Naama, who was the mother of King Rechavam of Yehuda.

Rabbi Moshe Feinstein zt”l brings a source to show how highly regarded the daughters were.<sup>10</sup> He relates that in 1922, in the community of Luban, Russia, where he served as *Rav*, one of the *baalei batim* suffered from an unusual illness. This man became ill because he questioned the well-known tradition that the *Moshiach* will be descended from the daughters of Lot. He felt that they should have been embarrassed by their immoral behavior which had resulted in the births of Moav and Ammon. While suffering through his illness, Lot’s daughters appeared to this man in a dream; they communicated to him in the dream that they could have claimed that the *Shechinah* impregnated them, as another religion claimed about their object of worship, but they did not. They named their children as they did to teach that when a woman becomes pregnant the father is always a person of flesh and blood. Thus, they merited that the true *Moshiach* would come from them. The daughters also told the man that he committed a serious sin and he would be punished just as the spies who spoke *lashon hara* about *Eretz Yisroel* were. And that in fact this is what happened to him.

In conclusion, the story of Lot’s daughters is not a simple story of arrogance, lust and incest. Rather, there is more to this story than meets the eye, and it reflects the complexity of the participants in this story.

*This Dvar Torah is in memory of my Bobie Leah Bas R’ Meir Dov HaKohein,  
whose Yartzheit falls on the 22<sup>nd</sup> day of Kislev.*

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8. See the wording of the *Pasuk* at 19:31.

9. See *Rabbeinu Bachya* on 19:30.

10. This story is found in the introduction to the eighth volume of R. Feinstein’s responsa *Igros Moshe*. This story is quoted by R. Korobkin in a source sheet from a Ladies’ *Chumash shiur* delivered on October 31, 2017. This *Shiur* can be viewed at [https://youtu.be/k\\_Dk7dPXrt0](https://youtu.be/k_Dk7dPXrt0).

# The Princely Prerogative

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KARYN GOLDBERGER

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**IF I WERE** to casually ask you, “So, why was Moshe required to flee Egypt?” No doubt, you would respond, “Because he killed the Egyptian.” I would like to suggest that that fact is a part of the story. However, it is not the whole story.<sup>1</sup>

In order to understand Moshe’s actions and their ultimate consequences, we need to return to earlier portions of the narrative. Comparable to the saga of a modern superhero, where the author often provides us with the backstory – the “origin story,” if you will – the Torah has given us clues to decipher the elements that contributed to the greatness of our superhero, Moshe. Moreover, these qualities of character will enable us to fully comprehend what truly transpired during the incident with the Egyptian taskmaster.

## Part One: Moshe’s “Backstory”

Soon after Moshe’s birth, we hear of his mother preparing a basket in which to place him and set him adrift on the Nile. It was her hope that he would be miraculously spared from Paro’s evil decree to drown the Jewish male babies in the river.<sup>2</sup> And, as it turned out, this was G-d’s plan as well; Moshe was to be saved by none other than the daughter of the perpetrator of this nefarious plan.

Now let us paint a picture: this saviour was the very beautiful, very well-taken-care-of daughter of Paro. She had servants to do her bidding. If she had some *shmutz* in her “bath-tub,” she would not demean herself by attending to it. And yet, that was essentially what happened. In her bathing area along the Nile, there appeared a basket. Not a pretty basket filled with fruit, mind you. But a dirty, malodorous basket covered in pitch and tar.<sup>3</sup> We can only imagine that a “regular” princess would have exited the scene until the mess was cleared away. Or, at the very least, she would have ignored it had it been far enough in the

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1. This essay will examine Moshe’s early life: Exodus 2:1-15.

2. *HaKtav VeHaKabala* on Exodus 2:3.

3. Exodus 2:3.

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distance. But not our princess! She was fully engaged with her surroundings; she noticed everything. Moreover, upon seeing the anomaly, she expended an effort to access the floating basket.<sup>4</sup> Despite her lofty station, she was definitely not a dispassionate bystander.

Subsequently, as the text indicates, she opened the basket, finding cradled within it, a baby boy.

וַתִּפְתַּח וַתִּרְאֶהוּ אֶת הַיֶּלֶד וְהִנֵּה נֶעַר בֶּכֶה וַתַּחֲמַל עָלָיו וַתֹּאמֶר מִי־לִדֵי הָעִבְרִים זֶה.

*When she opened it, she saw that it was a child, a boy crying. She took pity on it and said, "This must be a Hebrew child."<sup>5</sup>*

But within this verse, we notice something incongruous. At first the child is termed a “yeled” – a child. But a brief two words later, he is called a “na’ar” – a youth.<sup>6</sup> Interesting. Why did the text not use the term yeled/child again? Did the occupant of the basket grow from a child to a youth in the blink of an eye? Of course not! So what is the text trying to tell us with these two words so closely adjacent?

To assist in our understanding of the term “na’ar” let us consider a passage later in Exodus.

וַדַּבֵּר ה' אֶל-מֹשֶׁה פָּנִים אֶל-פָּנִים כַּאֲשֶׁר יְדַבֵּר אִישׁ אֶל-רֵעֵהוּ וְשָׁב אֶל-הַמַּחֲנֶה וּמִשְׁרְתּוֹ יְהוֹשֻׁעַ בֶּן-נוּן נֶעַר לֹא יִמִּישׁ מִתּוֹךְ הָאֹהֶל.

*Hashem would speak to Moses face to face, as one man speaks to another. And he would then return to the camp; but his attendant, Joshua son of Nun, a youth, would not stir out of the Tent.<sup>7</sup>*

Ramban comments on this verse that Joshua is termed a *na’ar*, despite clearly being a full-fledged, adult male. He theorizes that in all instances where there is a master and a servant, the Hebrew language calls the servant a “na’ar,” as servants must possess youthful vigour.<sup>8</sup>

Nevertheless, this is not completely satisfying, as the sentence itself already has the terminology of “וּמִשְׁרְתּוֹ” – his servant. So, in this case, what does “na’ar” come to add? I would like to propose an expansion of the idea of “na’ar” as “servant” to the broader idea of “protégé.” A servant/master relationship is one where the subordinate party does the bidding of the superior. However, there is no concomitant intention that this servitude is meant to develop the character of the “na’ar,” as it would in the context of a protégé and a mentor. Moreover, this latter type of tutelage serves as an effective apprenticeship, in order that the protégé will eventually assume the role of his current mentor – as leader.

4. Rashi on Exodus 2:5. She either sent her maidservant or extended her own (elongated) arm. Either action indicates agency and involvement with her surroundings.

5. Exodus 2:6.

6. Throughout this essay I cite (unedited) the JPS (Jewish Publication Society, 1985) translation found in *Sefaria*. However, where I find the translation less precise than I consider accurate, I reserve the right to bring an alternate translation.

7. Exodus 33:11.

8. Ramban on Exodus 33:11.

In addition to the pairing of Joshua and Moshe as protégé and mentor, another clear indication of this phenomenon is the case of the prophet, Samuel, and Eli, his mentor. Throughout the first few chapters of Samuel I, as he grows, Samuel is constantly referred to as a *na'ar*/youth. Notably, however, as Samuel is brought to Eli, the text utilizes the term *na'ar* not only as a noun, but seemingly as a verb as well.

וַתְּעַלְהוּ עִמָּהּ כְּאִשֶּׁר גָּמְלָתוּ בְּפָרִים שְׁלֹשָׁה וְאֵיפָה אַחַת קֶמַח וְנֹבֵל יֵין וּתְבִאָהּוּ בֵּית ה' שְׁלוֹ  
וְהִנְעֵר נְעֵר.

*When she had weaned him, she took him up with her, along with three bulls, one ephah of flour, and a jar of wine. And (meaning of Hebrew uncertain) though the boy was still very young, she brought him to the House of the LORD at Shiloh.<sup>9</sup>*

We note here that even the JPS translation is stymied by the terminology of הנער נער. The youth “youthed” might be considered a more precise translation. But what would that mean exactly? I would suggest that a parallel terminology might be that “the protégé behaved as a protégé” does – he served *and* he learned.<sup>10</sup>

This reading is buttressed by Radak, who alludes to a purpose beyond a simple servant-boy, when he explains that the “youth” was brought to Eli “to sit and learn before him and to be educated in Torah and *Mitzvot*.”<sup>11</sup> Although it is not explicit here that Samuel will inherit Eli’s position as high priest, it becomes clear later in the story.<sup>12</sup>

And so, extrapolating to our narrative, this terminology intimates that Moshe, as a “*na'ar*,” would be the protégé of his new mother, Bat Paro.<sup>13</sup> Rabbi Yosei the son of Rabbi Hanina notes that Bat Paro, as she opened the basket, saw the Divine Presence was with the baby.<sup>14</sup> Thus, although at the outset she notes a mere physical child, with her attendant divine vision, she may have quickly realized that she is to be the mentor to this “*na'ar*.” And therefore, it would be critical for us to know exactly what she will be teaching him and what kind of role model she will be. And that is why the Torah is so explicit in describing her actions in finding him, as, through those actions, we learn of her qualities and her values.

We have already observed that she is not a dispassionate bystander, but is fully engaged in her surroundings.<sup>15</sup> And so, after she opens the basket, she sees the baby crying and has pity on him. But she then exclaims: He is a child of the Hebrews. We are not told how she

9. I Samuel 1:24.

10. If one now returns to the prior verse regarding Joshua and one reads the term “נער” as a verb, the cadence of the verses seem to flow more smoothly: *And he would then return to the camp; and his attendant, Joshua son of Nun served (him) as his protégé; he would not stir out of the Tent.*

11. Radak on I Samuel 1:25.

12. Ralbag on I Samuel 3:21 explains that Samuel showed himself to be a trustworthy prophet, such that he prophesied even during the lifetime of Eli (and consequently, assumed Eli’s role after his death).

13. Abarbanel (on I Samuel 1:24) brings a further parallel between the two “*Na'arim*” – the nursing of Samuel in this verse and the nursing of Moshe in Exodus 2:8.

14. *TB Sotah* 12b.

15. A harbinger of Moshe’s future engagement with his surroundings, in that he noticed the burning bush. Note that bushes likely burned all the time in the desert, but he was engaged enough to notice that it was not consumed.

came to this conclusion. Did she notice a Hebrew swaddling cloth? Was he unwrapped and his brit was in evidence?<sup>16</sup> Or, did she just surmise that he was a Hebrew because no Egyptian would have a need to do this?<sup>17</sup> Whichever way one chooses to source her declaration, because of it, there can be no doubt that she knew he was ethnically from the Hebrew slaves. And the fact that she was the daughter of the one who had enacted this decree against the Hebrew male children should have mitigated her pity.

So let us anticipate what her next move *should* have been. If she were a good and obedient daughter, right then and there she would have sunk the basket, thus causing the baby to drown!<sup>18</sup> But, not only does she not do that, she has Miriam, the handy bystander, fetch a Hebrew nursemaid, who, as we are told, just happens to be Moshe's birth mother.<sup>19</sup> We see from this, that, in addition to being a keen observer of her surroundings, she is also a defier – one with a definite sense of morality, in her choosing to save the life of the baby.

But that is not all. As she is speaking to the nursemaid, she tells her something astonishing: she will pay her wages. It is one of those details that is often overlooked in the drama of the moment, but there it is! She, Bat Paro, could command the slave woman to do her bidding in any manner, yet she voluntarily offers to pay her a wage. We must conclude, then, that the text chooses to include this detail in order to outline another quality of the princess: Her belief in social justice and her high moral character (and of course – that she continues to be a defier!)

Resuming the story, Moshe is nursed by his natural mother and he grew – ויגדל. The implication of that word would be that he passed through a certain stage of development. At this point he is brought to the daughter of Paro. And once again, we may have not attended to this detail and thus under-estimated the enormity of that statement in the Torah. This child – whom it was evident to all was not of royal lineage – was brought to the palace.<sup>20</sup> It would be logical to conclude that the daughter of Paro did so in blatant disregard of her father's wishes. Moreover, the verse notes that she compounds the wound: She names him. And she did not choose to name him any of the Egyptian “royal” names which were common at that time. (The “William” or “George” of that era.) If she had done so, he could have blended

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16. According to Rabbi Yosei, son of Rabbi Hanina (*TB Sotah* 12b) (See also: Ibn Ezra ad loc. And Rashbam, ad loc.).

17. Ramban on Exodus 2:6.

18. *TB Sotah* 12b. The *Gemara* notes that, at this juncture, her handmaidens adjure her to fulfil the king's command. (And are summarily struck dead by the angel Gabriel.) *Aderet Eliyahu* supports her blamelessness in not following her father's edict in the following way: Paro's decree was to throw the boys into the river. And therefore, her declaration when naming him that she “drew him from the waters,” was, in fact, to show that she had NOT defied her father's edict, as Moshe had already been thrown into the river. Hence her father's decree had been fulfilled and she need not have thrown him in a second time.

19. Exodus 2:8.

20. *Chibbah Yeteirah* on Torah on Exodus 2:10. He states that Bat Paro did not hide Moshe's origins from those in the palace. Moreover, he connects this fact with Moshe's subsequent self-knowledge and his consequent desire to go out to his brothers. Additionally, as a point of interest, he asserts that Moshe grew up surrounded by compassionate women and violent men, and notes that it is this blend of qualities which enabled him to become the saviour of the Jewish people. (In this way, this commentator supports my claim that Bat Paro's character had a significant impact on Moshe.)

anonymously into palace life. Instead, she chose a name that would constantly represent his Hebrew origins.<sup>21</sup> Both of these facts (bringing him openly to the palace, and naming him in such a way) serve to show, once again, that she is a “Royal” defier.

Within the verse under discussion, the text also notes that, “*He was to her a son.*”<sup>22</sup> We might have understood this intuitively. However, because the text notes it explicitly, it gives us pause, and we must deem this statement’s inclusion as significant. If we consider Jewish tradition, a son is not, of necessity, a biological reality, but it is also a concept. We are told: בנימ אתם לה' אלוקיכם.<sup>23</sup> *You are children to Hashem, your G-d.* A child is one who walks in the ways of his “parents” and is guided by them – whether that child contains their genetic DNA or not.<sup>24</sup> Moreover, this terminology connotes that she was a very involved mother who took a direct and active interest in his upbringing. His care was not outsourced, as it was during the nursing stage of his development. In fact, we might have expected a tutor to be found for this time period. But, as the text shows no indication of this, we may deduce that Moshe was under the direct tutelage of his mother, Bat Paro.

Returning now to our prior thesis, we find that the textual inclusion of the details regarding Bat Paro’s actions with respect to Moshe, combined with the assertion that he was a “son” to her, strongly alludes to the idea that Moshe internalized these values. We observe that she is acutely aware of her surroundings. She is an initiator and not a bystander. She has a sense of social justice and moral clarity. But most importantly, she is a defier; she will stand up for the principles in which she believes despite her status. With these qualities of character in mind, we can now examine the incident with the Egyptian, and Moshe’s motivations behind his actions. And, in doing so, we will determine the true cause of his flight from Egypt.

## Part Two: Moshe’s Flight From Egypt

It is a common assumption that Moshe fled from Paro in response to his killing of the Egyptian. However, might the story be more complex than this simple reading? If it were as stated, then we should consider the following verses from the text sufficient for that purpose:

(11) וַיְהִי בַיָּמִים הָהֵם וַיִּגְדַּל מֹשֶׁה וַיֵּצֵא אֶל אָחִיו וַיֵּרָא בְּסִבְלַתָּם וַיֵּרָא אִישׁ מִצְרַיִם מִכָּה אִישׁ עִבְרִי  
מֵאָחִיו.

(12) וַיִּפֹּן כֹּה וְכֹה וַיֵּרָא כִּי אֵין אִישׁ וַיֵּן אֶת הַמִּצְרַיִם וַיִּטְמְנֵהוּ בַחֹל...

(15) וַיִּשְׁמַע פְּרַעֲוֹ אֶת הַדְּבָר הַזֶּה וַיִּבְקֹשׁ לַהֲרֹג אֶת מֹשֶׁה וַיִּבְרַח מֹשֶׁה מִפְּנֵי פְרַעֲוֹ וַיֵּשֶׁב בְּאֶרֶץ  
מִדְיָן וַיֵּשֶׁב עַל הַבְּאֵר.

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21. Chizkuni on Exodus 2:10.

22. Exodus 2:10 Note also that, as we compare Samuel to Moshe, we find another point of connection: Similar to Bat Paro’s adoption of Moshe, when Samuel’s adoptive father, Eli, calls out to him, he says, “Samuel, my son.” (I Samuel 3:16).

23. Deuteronomy 14:1 (See also Exodus 4:22; Isaiah 1:2; Jeremiah 3:14).

24. Bereishit 18:19: לַמַּעַן אֲשֶׁר יִצְוֶה אֶת-בְּנָיו וְאֶת-בֵּיתוֹ אַחֲרָיו, וְשָׁמְרוּ דְרָגְתִּי, לַעֲשׂוֹת צְדָקָה וּמִשְׁפָּט

(11) *Some time after that, when Moses had grown up, he went out to his kinsfolk and witnessed their labors. He saw an Egyptian beating a Hebrew, one of his kinsmen.*

(12) *He turned this way and that and, seeing no one about, he struck down the Egyptian and hid him in the sand...*

(15) *When Pharaoh learned of the matter, he sought to kill Moses; but Moses fled from Pharaoh. He arrived in the land of Midian, and sat down beside a well.<sup>25</sup>*

However, the ellipsis within the text above indicates the omission of the second scene in this narrative – the encounter between Moshe and the two quarrelling Jews.

(13) וַיֵּצֵא בַיּוֹם הַשֵּׁנִי וְהַיּוֹם הַשֵּׁנִי אֲנָשִׁים עִבְרָיִם נֹצְיִים.

(14) וַיֹּאמֶר לְרָשָׁע לָמָּה תִכֶּה רֵעִי. וַיֹּאמֶר מִי שָׂמָךְ לְאִישׁ שׁוֹר וְשֹׁפֵט עָלֵינוּ הַלְהַרְגֵנִי אַתָּה אָמַר כַּאֲשֶׁר הָרַגְתָּ אֶת הַמִּצְרִי וַיִּירָא מֹשֶׁה וַיֹּאמֶר אֲכֹן נוֹדַע הַדָּבָר.

(13) *When he went out the next day, he found two Hebrews fighting; so he said to the offender, “Why do you strike your fellow?”*

(14) *He retorted, “Who made you chief and ruler over us? Do you mean to kill me as you killed the Egyptian?” Moses was frightened, and thought: Then the matter is known!<sup>26</sup>*

But why is this brief episode necessary? What does it come to add? On the surface one might postulate that it is necessary to show that Moshe’s crime of hitting the Egyptian was known. However, it is evident that this scene was, in fact, not necessary, as in verse 15 we read that Pharo, “learned of the matter and sought to kill Moshe.” In other words, the text makes sense even if we were to leave out this incident. *Unless*, of course, this vignette is critical to the true reason Moshe had to flee.

We must therefore delve into the complete text to extricate the truth from its depths. And, as we do so, we begin by attending to the introductory phrase, “It was in those days.”<sup>27</sup> This terminology indicates that this entire episode is integrally connected in some manner to that which previously transpired. Specifically, that which was most recently mentioned is the key to understanding what is about to happen.<sup>28</sup> In this case, that event was Bat Pharo’s naming of Moshe so as to highlight her son’s origins as one who was pulled from the river.<sup>29</sup> We are urged to consider that it was that act of bestowing upon him a name of such meaning and significance, which awoke in Moshe the realization that he was a Hebrew, and thereby spurred him to go out and to learn of the fate of his brethren. This, of course, led to the cascading actions which resulted in the necessity for him to flee Egypt.

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25. Exodus 2:11-12,15.

26. Exodus 2:13-14.

27. Note the change from the cited translation to align with Malbim’s comment below.

28. Ramban on Exodus 2:23.

29. Malbim on Exodus 2:10.

However, I do not think this is the only explanation. In my estimation, the Torah is telling us so much more. Consider that the text could easily have omitted all the details we focused on about the character of Bat Paro. The reader did not really need to know how involved she was in finding the basket nor that she had a desire to pay her servant. Of what relevance could those things really be, *if not* for helping us to understand the character of Moshe – inasmuch as he became “her son”? Thus, I would like to conjecture that the “those days,” to which the text refers, is not the one specific naming incident, but rather, his entire upbringing by Bat Paro. In this manner, the text is not just linking the two proximal elements (the “going out” and the naming) but is also linking the distal elements (Bat Paro’s raising of Moshe as a “son” who possesses her values, and the incident of the killing of the Egyptian.)

Before proceeding with the narrative, it is necessary to pause momentarily to consider that Moshe’s life until that time was a life of privilege within the palace.<sup>30</sup> He “stood before kings.”<sup>31</sup> He would have been educated in all aspects of palace life and attained a princely demeanour. Moreover, it would not be befitting a tender young prince to be exposed in any manner to the devastating scenes of slavery beyond the palace gates. At this point in his life, then, we could surmise that Moshe felt truly Egyptian, despite bearing his name, which integrally connects him to those slaves beyond the gates.

With this understanding, we see from the text that he “grew” – ויגדל and he “went out” – ויצא. If we consider the first term, we note that this word had been utilized previously in verse 10. The repetition signals the reader to ask the question: Why the double language? And the logical conclusion is that, in each case, Moshe went through a period of maturity appropriate to bring him to the next stage: from infant to child, and then from child to a more mature young man.<sup>32</sup>

However, another interpretation of “he grew” would be that he grew in responsibility and hence, this terminology indicates that a new status was conferred upon him within the palace.<sup>33</sup> And it is with this understanding that we can approach the term, “he went out.” It is important to note, also, that by virtue of the context, it is clear that he “went out” from the palace. So therefore, were he promoted in stature he might have chosen to venture forth in his new capacity. Moreover, reading on, we see that he went out “to his brothers.” As noted, the simple reading would be: to see his fellow Hebrews. And, as we have seen, our defier-princess, when naming her son, Moshe, ensured that he would be cognizant of his relatives-by-birth, the Hebrew slaves, even had he not had any interaction with them until this moment.<sup>34</sup> His life in the palace had precluded their meeting, but now, with his new status, he could not be held back. They must have been quite a curiosity for him.

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30. Malbim on Exodus 2:10.

31. Sforino on Exodus 2:7; Ramban on Exodus 2:11.

32. Ramban on Exodus 2:11.

33. Rashi on Exodus 2:11 quotes Rabbi Judah the son of Eloai (from *Tanchuma Yashan* 2.2:17). See also Esther 3:1.

34. Malbim on Exodus 2:10.

Despite this widely accepted claim, Ibn Ezra asserts that the first reference to “his brethren” was not referring to the Hebrews, but rather, to the Egyptians. This resonates logically, since, if Moshe had recently been promoted as a Prince of Egypt, that would be where his allegiance would currently lie.<sup>35</sup> In other words, although not the simple meaning of the text, since the wording is ambiguous, we are able to entertain the possibility that the first mention of “his brothers” may indeed refer to his Egyptian fellows.

Whereas this assertion may seem plausible, after leaving the palace, he “sees their suffering.” It seems unequivocal that the text is now referring to the suffering of the Hebrews.

It is noteworthy though, with respect to Moshe seeing their suffering, there is a rare grammatical construct in these words. Usually, the verb “to see” is paired with the preposition “את,” and here we find instead, its pairing with the letter “ב” before the object that he sees – their suffering. Ramban notes that this indicates that he did not simply see it, but he examined it deeply.<sup>36</sup> I would like to intensify that understanding by hypothesizing about what motivated him to look deeper. In my estimation the use of the letter “bet” here, as a grammatical construct, indicates that what he saw was so altogether novel and surprising to him, that he was mesmerized into looking more closely and investigating it more thoroughly. To support this contention, a similar formulation can be found when Dinah, the daughter of Jacob “goes out” to see the daughters of the city of Shechem.<sup>37</sup>

וַתֵּצֵא דִינָה בַת לֵאָה אֲשֶׁר יָלְדָה לְיַעֲקֹב לְרֵאוֹת בְּבָנוֹת הָאָרֶץ.

*Now Dinah, the daughter whom Leah had borne to Jacob, went out to visit the daughters of the land.*

Her sheltered life up until that point would certainly have caused her to look with mesmerizing awe at what she saw, and thus would have motivated her to investigate their lifestyle more deeply.<sup>38</sup> And so, Dinah and Moshe (like his mother) were people who engaged fully with their surroundings. In a sense, each had been sheltered and when they came upon new knowledge, it needed to be fully investigated.<sup>39</sup>

So now, as we continue with our analysis of the story, we need to explore a number of possible options that might have occurred within the story line. When Moshe went out to see his brethren, either he could have gone out secretly – incognito, as it were, or as a public figure – as a full prince, with a full entourage in tow. On the face of it, it might seem that he went out in secret, since, as he saw the Egyptian hitting the slave, he looked this

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35. Ibn Ezra on Exodus 2:11. (Note that the cantillation marks *do not* indicate that this would be the natural understanding of the verse, as the flow of the verse would continue, (as the cited translation does), until after he sees their suffering. And his “Egyptian brothers” were certainly not the ones who were suffering.)

36. Ramban on Exodus 2:11.

37. Genesis 34:1.

38. *HaKtav VeHaKalah* on Genesis 34:1.

39. And, in furtherance of the corollary, it can be noted that this delving further subsequently led them each down a dangerous path. The distinction, of course, being that Dena was taken advantage of by those who made poor moral choices, whereas Moshe, when confronted with a moral choice, acted with propriety, consequently placing himself in danger.

way and that and saw no one, and then hid the body in the sand after killing him. In other words, in this understanding of the narrative the scene plays itself out in some back alley. However, there is one flaw with this scenario: If Moshe were incognito, then the quarrelling Hebrews would not have known it was him, for even the slave whom Moshe saved would not have been able to identify him.

Therefore, I postulate that it could only be that Moshe went out publicly, in his princely robes. And if so, he would not need to furtively look about before killing the Egyptian, as no one would think twice if he did so; it was his princely prerogative. Therefore, we must ask: what does the text intend when it tells us that he looked this way and that and saw no man? For, if a royal entourage is in the vicinity, then certainly there are *many* people around. Moreover, if he killed the Egyptian, it is conceivable that the Jewish slaves would immediately lift him upon their shoulders and celebrate him as their saviour. So how do we account for the antagonism towards Moshe we see displayed by the two quarrelling Jews? We must therefore seek a unifying theory of what transpired in order to dispel these potential discrepancies.

Probing the text further we find that verse 11 may hold the key. In it, there is no mention of Moshe disguising himself as he goes out to see his brethren, as we might expect the text to tell us if he had done so. Combining this with the fact that the text *does* tell us later that the two slaves know about the killing the next day, seems to indicate that he actually did go out in regal attire. It is important to note at this juncture that he did not anticipate that he was going to be doing any killing; he simply wanted to observe. So why not wear his royal apparel?

Reflecting upon this verse, another observation one might make is the double mention of אחיו – “his brothers.” If we accept the postulate that the first “brothers” of the verse were his Egyptian brothers, from the context of the verse, after seeing their suffering, the “brother” being hit by the taskmaster was most definitely one of his Hebrew brethren. Although this seems confusing, I would contend that the text used the same word (without clarification) purposefully. As we, the readers are confused, so too was Moshe. He was uncertain as to where his allegiance should lie. Who were his “real” brothers?

Of note, also, is that he was a youth.<sup>40</sup> Early adulthood is a time of upheaval for most young people. But we can conjecture that it would be especially so for a person torn between his two heritages. The angst he must have felt as this battle raged within him would have been enormous. And it would have come to a head at the moment when he saw the taskmaster hitting the slave. The evidence for this theory can be seen in the next verse, where it describes him as looking this way and that. This wording may be a way for the text to inform us that he was weighing his options and attempting to make a decision.<sup>41</sup>

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40. Moshe was between the ages of 12 and 20 at the time of these events (Ramban on Exodus 2:23).

41. Consider the scene in *Fiddler on the Roof*, when Tevye is debating whether to let his eldest daughter marry the tailor: On the one hand, she loves him ...but on the other hand, he is a poor tailor ...but on the other hand, look at the way she looks at him ...but on the other hand...

Moreover, evidence for this internal conflict can also be found in the next phrase: he saw there was “no man.” The simple meaning would indicate that no physical person was present. But, as indicated previously, this was not very likely, both because he was a prince, and because people did seem to know about the event afterwards.

To resolve this conundrum, we may note that sometimes in the text, the word איש refers to an important person.<sup>42</sup> And that would make sense in this scenario. Moshe was a prince; there likely would not have been anyone higher in rank than him in the immediate vicinity. Maybe there were many Jews around, which would explain how the two quarrelling slaves knew of his deed the next day. But, by definition, none of these slaves could be categorized as איש. Furthermore, even the Egyptian taskmaster’s rank would not rise to the level of that designation. Moshe was therefore not fearful and did kill him. And, as noted previously: it was his princely prerogative to do so. This reasoning might be sound. However, we still have the problem of why he felt he needed to run away on the second day – after the incident with the two slaves. If he were immune from culpability based on his sovereign status, then it should not matter to Paro whether the news was told to him on that very day or a day or two later.

To assist in answering this problem, I propose a different explanation for the word איש. If we look elsewhere in the Torah where this word is used, it can give us clues to its meaning here.

For example, as Yosef goes to find his brothers, and fails, he comes across a man, an איש.

וַיִּמְצָאֵהוּ אִישׁ וְהָיָה תַעֲהָבָה בְּשׂוּדָה וַיִּשְׁאַלְהוּ הָאִישׁ יְלֵאמֹר מַה־תְּבַקֵּשׁ.

*A man came upon him wandering in the fields. The man asked him, “What are you looking for?”*<sup>43</sup>

On this verse, Ramban explains that Hashem arranged a guide for Yosef.<sup>44</sup> That anonymous “man,” was actually tasked with showing him the way to find his brothers. An additional support for this concept of איש was Moshe himself. Later in his life, when he had not come down from receiving the ten commandments at the appointed time, the nation cried out to Aaron:

קוּם עֲשֵׂה־לָנוּ אֱלֹהִים אֲשֶׁר יֵלְכוּ לִפְנֵינוּ כִּי־זָה מֹשֶׁה הָאִישׁ אֲשֶׁר הֶעֱלָנוּ מֵאֶרֶץ מִצְרַיִם לֹא יָדַעְנוּ מַה־הָיָה לוֹ.

*Come, make us a god who shall go before us, for that man Moses, who brought us from the land of Egypt — we do not know what has happened to him.*<sup>45</sup>

42. Gur Aryeh on Exodus 2:13 and Numbers 13:3. Furthermore, he notes here that the two striving Hebrews that Moshe encounters are Datan and Aviram, evil men who would report Moshe’s deed to Paro. (See also Rashi on Exodus 2:13 and *Shemot Rabbah* 1:29.)

43. Genesis 37:15.

44. Ramban on Genesis 37:15.

45. Exodus 32:1.

Ramban is consistent and explains this instance of the word in the same way as he did for the story of Yosef: The term שׂרָא means a guide.<sup>46</sup>

So we see that a very good case could be made for saying that the conflicted Moshe was looking for someone to guide him, but could find no one. Like his mother, he makes his own decision, based on the principles of justice that he has learned from her: he kills the Egyptian.

Here, then, we arrive at the crux of the matter. We would expect Moshe to flee after killing the Egyptian! But he doesn't. We have attributed his lack of flight at this juncture in the story to his royal status. However, would his "immunity" not also extend to the second day's events? We must now figure out why he would feel secure enough to remain after this first incident, but feel a need to flee after his interaction with the two slaves.

Thus, we return to the concept of the princely prerogative. We can envision that the king would want his prince to assert his dominance. In this scenario, what is one dead taskmaster to a king? He likely had thousands! So even *if* Moshe would come home and tell his "father" that he killed someone – even a taskmaster – his father (or, in this case, grandfather), the king, would likely applaud the decisive action.

But what evidence was there that he actually did return home to the palace? For that we will have to recall one of the techniques we came across earlier. Remember when the text repeated "he grew" twice in close succession and we noted that one way of explaining this repetition was that it meant two periods of growth?

Similarly, here we consider the term "vayeitze" – he went out. Occurring twice within such close textual proximity, we can only extrapolate that it is an indicator of a repeating situation.<sup>47</sup> He went out. Again. Furthermore, to solidify our theory, the text, in this subsequent instance, states that he went out "on the second day." He spent a full day in the place to which he had returned. And he went out again on the second day from the same place he went out from on the first day – from the palace.

In other words, he went home after he killed the Egyptian. Should I say that again? He went *home*! And the only way he could do that is by invoking his princely prerogative. His father, the king, did not want to kill him after his deed, but might actually have been proud of him – or at the very least, would have forgiven him. This prince was showing initiative. Exercising his power. Maybe he would need some guidance, the king might have thought. But it is something we can work with when grooming the offspring for royal service.

And so it was only on "day two," after the incident with the two Hebrews, that the king sought to kill Moshe. Why?

We see that, once again, as he had with the taskmaster, following in Bat Paro's footsteps, Moshe chose to engage rather than stand idly by. He sought justice, as she did. And, in that a quarrel between two slaves is not within the purview of a prince, he defies the status quo, and acts in both instances without regard to consequences.

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46. Ramban on Exodus 32:1.

47. Exodus 2:11 and Exodus 2:13.

During this second incident, he questions the one Hebrew slave. In response, the slave asks Moshe if he will kill him too. Such a reply would only make logical sense if Moshe were standing before him still attired in his princely garments, and still manifesting his “right” as a prince to execute justice in whatever manner he deemed acceptable. Had Moshe been a fugitive running from Paro, the Hebrew would not ask such a question. More likely, he would have shown gratitude for Moshe’s prior action, and maybe even tried to help his “brother” escape. However, the Hebrew before him did not know of Moshe’s inner turmoil. And therefore would assume Moshe to be as he appeared – a royal prince of Egypt.

Regarding Moshe’s thinking, Sferno explains that Moshe never intended to physically intervene in the conflict between the slaves. Because they were his brothers, his only intention was to chastise them verbally.<sup>48</sup> Alternately, almost ironically, according to his princely prerogative “carte blanche,” had he actually killed the slave, (ostensibly on the pretext that he was annoying him with his remark) then he would have been able to return to the palace and all would be well; not one of Paro’s regal eyebrows would be raised. But Moshe’s innate morality would not allow for this unethical sovereign overreach.

And so, it is at this exact dramatic moment that the text recounts for us that Moshe was afraid. Not the previous day, when he killed the taskmaster. Not when he went back to the palace, slept, woke up and left again. Only now. Why?

I would submit that it was the terminology of the question asked of him by the Hebrew that sparked fear in Moshe: Would you kill me *as you did the Egyptian*? Unknowingly this formulation, comparing the actual killing of the Egyptian with the potential killing of the Hebrew, was the prompt that triggered within Moshe an understanding of where his true allegiance lay. He would *not* kill the slave, his brother – the *Hebrew* – as he had the taskmaster – the *Egyptian*. Concurrently, he understood that Paro would see the discrepancy in his actions. Paro would discern that Moshe was willing to kill an Egyptian of higher status. But not a lowly slave who had addressed the ruler with impudence. And in so doing, this slave was rightly deserving of punishment as an example to others as to how to respect the monarchy. The differential response by Moshe to the two situations would send up red flags for Paro, and accordingly, Moshe would be deemed a traitor.

Despite the assertion that it is only the juxtaposition of the two scenarios and Moshe’s selective election to execute imperial justice in one and not the other that will draw the attention of Paro, an astute reader will have a rebuttal to this claim, arguing that the very next phrase shows that Moshe was afraid, when he remarks, “for now the thing is known.” The simple reading, as we postulated at the outset of this essay is that “the thing” that was known was the killing of the Egyptian. However, if so, then why did the text not explicitly tell us that Paro knew about *the killing of the Egyptian*? Why this ambiguous language?

But what if we could see how the phrase “נודע הדבר” – “the thing was known” – is applied uniquely to certain similar situations in *Tanach*? Would we then be convinced that it was

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48. Sferno on Exodus 2:13.

not the murder of the Egyptian that caused Paro's anger, but rather his realization that Moshe was a traitor? For, in other similar cases in *Tanach* where this terminology is used it is referencing a traitorous conspiracy.<sup>49</sup>

Our first textual support for this theory occurs in I Samuel, chapter 20, where we find the story of Jonathan, son of Saul, who, out of love for David, conspires against his father to save David's life. He and David had pre-arranged a sign involving Jonathan's attendant, who was to retrieve the arrows Jonathan had shot in a certain manner. The text confirms:

וַיִּנְדַּע לֹא־יָדַע מֵאוֹמָה אִךְ יְהוֹנָתָן וְדָוִד יָדְעוּ אֶת־הַדָּבָר.

*The boy suspected nothing; only Jonathan and David knew the arrangement.*<sup>50</sup>

This is certainly conspiratorial language. And it utilizes the same phraseology in the Hebrew text as we see in the text with respect to Moshe: they “knew of the thing.”<sup>51</sup>

A second example of this terminology can be seen in the story of Esther. As Mordechai sat at the palace gate, he overheard the traitorous plot by Bigtan and Teresh to take the king's life. And, as you might have surmised, the wording there is already familiar to us:

וַיִּנְדַּע הַדָּבָר לְמַרְדֳּכַי וַיַּגִּד לְאַסְתֵּר הַמַּלְכָּה וְתֹאמֶר אֶסְתֵּר לְמַלְכָּה בְּשֵׁם מַרְדֳּכָי.

*Mordecai learned of it and told it to Queen Esther, and Esther reported it to the king in Mordecai's name.*<sup>52</sup>

The text does not say that he overheard them, or any form of that word. Rather, the text uses the same two key words in the *Book of Esther* as it does in our story.<sup>53</sup>

With this understanding of the terminology “the thing was known” as being a reference to a traitorous act, we can now see how the second scene of Moshe with the two quarrelling Hebrews is integral to Moshe's fear and his subsequent understanding of his need to flee. He understands that it is only now, when Paro sees the contrast between these two cases the king will realize that, in Moshe's weighing of the options, he has NOT chosen to be a Prince of Egypt, but has, instead, cast his lot with the lowly Hebrew slaves. In other words, Paro will deem Moshe to be a traitor, and traitors cannot be countenanced; they must be put to death. This would not necessarily be so if a prince of Egypt had killed one inconsequential taskmaster.

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49. Moreover, as noted at the outset of this section, if it were only the murder of the Egyptian that necessitated Moshe's flight, we would not need to hear about the second incident between the Hebrews at all.

50. I Samuel 20:35.

51. “Arrangement” is an interpretation of the word “*davar*.”

52. Esther 2:22.

53. Once again, the English translation is imprecise. It should read, “The thing was known to Mordechai.”

## **Conclusion**

Moshe's handling of the two situations which are the impetus for his flight from Egypt can only be understood through the lens of his upbringing. The details that were given in the Torah about Bat Paro and her actions serve to give the reader insight into her character. It becomes evident that these traits she then inculcates in "her son," Moshe. Through this knowledge, we have a better understanding of why Moshe, a keen observer of his surroundings, attended to both of these seemingly trivial events. We understand that his sense of justice would dictate that he become involved, and ultimately kill the Egyptian. And furthermore, we grasp why he would seek to counsel the two sparring Hebrews. We can recognize that Moshe's inherent sense of right and wrong will take precedence over any royal status he may have and compel him to defy the king.

With this understanding as a background, we return to our central question. We find, therefore, that it was not Moshe's killing of the Egyptian that caused him to flee from Egypt. Using the notion of a "princely prerogative," we were able to explain the inconsistencies within the text. Through this lens we understand that the second story of the two quarrelling Hebrews was as essential as that of the first, the killing of the taskmaster, in the reasoning behind Moshe's flight from Egypt. For it was only the contrast between them that would cause Paro to recognize that Moshe was a traitor who needed to be eliminated. And it was Moshe's realization of this fact, as he stood before the two quarrelling Hebrews, that caused fear to arise within him, necessitating his pre-emptive flight from the wrath of Paro.

# Korach Was His Son: Intergenerational Inherent Value

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ARIELLA MARKUS

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**IN PARSHAT VAYEITZEI**, Yaakov dreams of angels ascending and descending a ladder.

The Torah describes Yaakov arriving at this location in a peculiar way – “*vayifga bamakom*” (*Bereishit* 28:11). The word “*vayifga*” is commonly translated as “he encountered the place.” In the rest of the Torah, however, the word “*vayifga*” certainly does not mean “to encounter”; it actually comes from a three-letter root word (פ.ג.ע) which means “injury”!

So why is it translated in this way, in this particular *parsha*? And how does this relate to Pesach?

In order to find the answer, we need to look at what comes next in the narrative. When Yaakov awakens from his dream, he is shocked to find out that he has been sleeping on holy ground. He exclaims, “אֶכְרַךְ יְיָ ה' בְּמָקוֹם הַזֶּה וְאֵנֹכִי לֹא יָדַעְתִּי!” “Behold, Hashem is in this place, and I didn’t know!”

The word “Behold” – a common translation of the Hebrew word “*Akhen*” – could have been left out of the *pasuk* entirely; the individual words and the overall meaning would have remained intact. So, knowing that the Torah does not ever waste words, we have to wonder: why is this word included?

The word “*Akhen*” serves as a reference. It points us in the direction of the only other time in the Torah that this word is used – when Moshe is about to run away from Egypt. Moshe, who kills an Egyptian man while defending a Jewish slave, realizes that his actions are no longer a secret. He says “Behold, the matter is known!”

It is possible to say that Moshe was simply expressing concern at the fact that people had discovered what he had done. It is also possible to say that Yaakov was expressing surprise upon learning that Hashem had designated this particular location as a place of concentrated holiness. However, that does not change the fact that Hashem is in every place, and Hashem is aware of everything – even events of which no human beings are aware. Neither of these facts should require a shocked “Behold!” as a preface – especially coming from *tzadikim*

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such as Yaakov and Moshe. There must be something else that can be learned here, and to do so we must return to Yaakov's story.

"*Makom*" doesn't just mean "place" – it is also a way to refer to Hashem. "*Vayifga BaMakom*"! Going back to the literal translation of וַיִּפְּגַע – does Hashem have the capacity to get hurt? I would posit that Hashem can be hurt when we forget that Hashem is in every place – and inside of every person. The following three scenarios can serve as a guide for finding the G-dliness that is inside of each person:

1. When the Torah discusses the "wayward and rebellious son," it includes so many descriptions and caveats that no child could ever fit the description and receive the requisite punishment. This sends the message that no one is unreachable, and no child is unworthy of compassion.
2. In *Divrei HaYamim*, genealogical lists abound. It is significant to note that Korach was named and claimed as a member of the tribe of Kehat. Despite his attempt to instigate a rebellion, he is still counted as a member of Levi's family – the same family to which Moshe belongs, and the same family of which Yaakov is an ancestor.
3. When *Bnei Yisrael* crossed the *Yam Suf* and rejoiced in their new-found freedom, Hashem did not allow the angels to celebrate. The Egyptians were drowning, and they, too, were Hashem's creations. This relates to the custom of removing drops of wine from our cup during the Seder. We want to express that our happiness cannot be complete as long as other people are suffering – even if those people are our enemies.

Every person has inherent value, and matters to Hashem on an individual and collective level. It is our responsibility to incorporate this paradigm into our own lives, this Pesach and beyond.

# Yosef's Plan

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RABBI CHAIM METZGER

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*"The best laid schemes o' mice an' men / oft gone awry."*<sup>1</sup>

*"Man plans and G-d laughs."*<sup>2</sup>

**YOSEF IS THE** man with a plan. He develops an ingenious fiscal policy that saves Egypt from the seven years of famine, and ensures its smooth application. He handles the Egyptians' panic and provides for them during the famine and even secures enough seeds to allow the continuation of agriculture successfully afterwards. He solidifies the people's loyalty to Pharaoh, and introduces reasonable taxes that everyone agrees to.<sup>3</sup> Yosef, *Tzafnat Paneach*, the vizier over Egypt, seems to have it all figured out.

Until his brothers arrive.

Memories of a different life come flooding back. His hateful brothers throwing him into a pit. Being sold into slavery. The long journey by caravan down to Egypt. Being framed by his master's wife. Sitting and rotting in jail for years. Suddenly, he sees his youthful dream of having his brothers bow down to him fulfilled, but somehow he feels empty.

It's been 20 years, but Yosef can't simply let it go. He designs a method to measure his brothers' worthiness, to decide whether to kill them or save them.<sup>4</sup> He accuses them of being spies in order to test them, to see if they are now men of their words, if they are worthy of his forgiveness. To see if they are better men now than the unfeeling slavers he once knew, who sat down to eat while he was trapped in a pit.

When he hears or sees his brothers making amends – he cries, overcome with emotion.<sup>5</sup> He wonders to himself, is it really worth it to put my brothers through all of this?<sup>6</sup>

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1. Robert Burns, "To a Mouse."

2. "*Mann Tracht, Und Gott Lacht*" is an old Yiddish saying.

3. *Bereishit* 47:13-26.

4. Abarbanel on *Bereishit* 42:7.

5. See *Bereishit*.

6. This is my own conjecture.

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After he releases them from jail and Reuven states that this is all because they abandoned Yosef, Yosef turns away to cry.<sup>7</sup>

When Binyamin arrives, Yosef almost breaks down crying, escapes to a side room to wash his face so no one will notice. Then he gathers himself and regains his composure, *vaYitapak*.<sup>8</sup>

But when Yehuda defends Binyamin and offers his life instead, Yosef can no longer control his emotions, *viLo yachol Yosef leHitapek*. He can no longer maintain the ruse. He reveals himself to his brothers. "I am Yosef, is my father still alive?" What follows is a deeply moving and emotional reunion with some obvious complications due to their messy past.<sup>9</sup>

Some elements don't quite fit: why did Yosef insist that all of the Egyptians leave the room beforehand?<sup>10</sup> While it may be that Yosef simply wanted some privacy, I believe there may be another reason. Even when Yosef kicks the Egyptians out, they figuratively all stand with their ears to the door and find out everything anyway.<sup>11</sup> So why did Yosef kick them out to begin with? Why did Yosef try to distance himself from his brothers? Why did Yosef put a translator between himself and his brothers?<sup>12</sup>

What would Yosef have done if he had been able to hold himself back? What actually was Yosef's initial plan?

My key to unlocking Yosef's plan is the following hypothesis: Yosef initially never intended to reveal himself to his brothers. Yosef planned on concealing his identity forever, ultimately erasing himself from Jewish history and *Bnei Yisrael* for the greater good of *Bnei Yisrael*, all the while protecting his family from the shadows. Yosef would sacrifice himself – losing his family, his name in history, and opportunity to return to *Eretz Yisrael*, almost a form of martyrdom.

Continuing with the theory, at first his plan was to determine if his family deserved redemption. As he saw the brothers prove themselves time after time, he wanted to protect his family from behind the scenes and cut himself out of *Bnei Yisrael*. Yosef planned to martyr himself in Egypt for the betterment of the collective. Yosef was fully prepared to simply fade into history as *Tzafnat Paneach*. Why? Because he knew full well that once Pharaoh knew that the brothers were related to Yosef, his supremely capable vizier and chief finance minister, Pharaoh would never let the brothers leave. It would have become difficult, if not impossible, for Yosef's family to leave Egypt. This may be seen in the Talmud's description of Pharaoh's reluctance to even allow Yosef to leave Egypt temporarily, for his father's burial.<sup>13</sup> Pharaoh would try to conscript them as generals or have them serve as ministers or in other positions of power. Pharaoh may have even heard rumors of Shimon and Levi's trickery and slaughter of Shechem, only further whetting his appetite for brilliant generals.

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7. *Bereishit* 42:24.

8. *Ibid*, 43:29-31.

9. *Ibid*, 45:1-3.

10. *Ibid*, 45:1.

11. *Ibid*, 45:2.

12. *Ibid*, 42:23.

13. *Sotah* 36b.

Ultimately Yosef's grand plan failed because Yosef lost control of his emotions. He was unable to retain the facade of being the cruel and ruthless prime minister, incapable of holding back his emotions for the sake of his plan. As a consequence, Egypt finds out that Yaakov and his sons are Yosef's family.

But Yosef has a backup plan! The new backup plan is to protect and separate *Bnei Yisrael* so they can easily return to *Eretz Yisrael*. Cognizant of the psyche of Egypt and Pharaoh, Yosef gives very explicit directions to his brothers about how to present themselves before Pharaoh in *Vayigash*,<sup>14</sup> to emphasize their limitation of only being shepherds, a detestable profession in the eyes of the Egyptians, and emphasizing that they want to live separately in Goshen. Indeed, Yosef knows that Pharaoh will desperately attempt to recruit the brothers into the army, and therefore selects only the five weakest of the brothers to appear before Pharaoh.<sup>15</sup> With these stratagems, the Jews might just be separate enough to eventually slip away and leave after Yosef's death. Yosef knew that the Egyptians had a deep-seated hatred for the Jewish people and considered even the act of sharing a meal with them an abomination.<sup>16</sup>

However, Yosef's backup plan also fails! Yaakov and *Bnei Yisrael* become so integrated into Egypt that Yaakov gets the full embalming burial rights that are typically reserved for royalty and is mourned by all of Egypt for thirty days.<sup>17</sup> Rashi says that the Egyptians went up for Yaakov's burial to honor Yaakov, but others say it was to make sure that *Bnei Yisrael* didn't run away to *Eretz Yisrael*.<sup>18</sup>

This leads to *Bnei Yisrael* being stuck in Egypt, all because Yosef's carefully laid plans fell apart. While one may say Yosef failed, by losing control of his feelings Yosef saved himself and his children from being cut off and lost from *Bnei Yisrael*. Yosef's plan was brilliant, and might have saved *Bnei Yisrael* from slavery. In the end, though, *Bnei Yisrael* could not continue on without him, and Yosef could not continue without them. *Bnei Yisrael's* time in Egypt may have been bitter, but through Yosef's testing of his brothers he ultimately not only found redemption for them, he found redemption for himself.

## Epilogue

After Yaakov *Avinu* passes away and is buried, the brothers are certain that Yosef will harbor resentment against them for all that they have done to him.<sup>19</sup> Then Yosef's brothers lie to him, saying that Yaakov asked Yosef to forgive them before he died.<sup>20</sup> They are so afraid they fall down, begging on their knees to be taken as slaves.<sup>21</sup> Yosef cries as they speak

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14. *Bereishit* 46:31-34.

15. *Ibid*, and see Rashi there.

16. For other reasons see Toronto Torah *Vayigash* 5781.

17. *Bereishit* 50:3.

18. Rabbi Yehuda Ben Eliezer, a 14<sup>th</sup> century *Tosafist* on *Bereshit* 50:14.

19. *Bereishit* 50:15.

20. *Ibid*, 50:16-17.

21. *Ibid*, 50:18.

to him,<sup>22</sup> perhaps realizing just how sorry and fearful they were and how far apart from him his brothers still felt. Yosef calms them, tells them they have nothing to fear, for he is not G-d.<sup>23</sup> “You may have conspired and acted wickedly, but G-d transformed your misdeed into something good and used it to allow for a great and plentiful nation to be saved.<sup>24</sup> Now there is no need to be afraid because I will support you and your children.” Yosef comforts them and speaks to their hearts.<sup>25 26</sup>

Yosef can properly look back and see the Hand of G-d guiding all of the events that led up to this final moment and appreciate that everything is from G-d. Yosef the mastermind, vizier extraordinaire, knows how to plan but most of all he knows that G-d’s plan guides us to where we are meant to be.

## **Summary**

The only way to save *Bnei Yisrael* from being stuck in Egypt is for Yosef to remain in Egypt, secretly protecting them until the day he dies, martyring himself, with no one the wiser. This selfless plan never comes to fruition because Yosef’s emotions force him back onto the path of being a Jewish leader, and we merit to have him and his descendants as part of *Bnei Yisrael*. Ultimately, Yosef realizes everything works out the way it is supposed to with G-d’s help and providence.

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22. Ibid, 50:17.

23. Ibid, 50:19.

24. Ibid, 50:20.

25. Ibid, 50:21.

26. For more on how Yosef did this, listen to Toronto Torah’s Podcast *Vayechi* 5782.

# Purim's Hidden Agenda

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RABBI A.Z. THAU

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**SOMETIMES WHEN WE** approach Purim, we feel we have no new thoughts or insights to distinguish this year's Purim from any of our Purims of previous years. I would like to offer a new perspective to Purim that will hopefully enhance our experience for years to come. There is a concept known as *nistar*, being hidden, which is very apropos when discussing Purim and the Megillah. Usually, we think of the link between *nistar* and Purim in the context of costumes, which disguise or hide our identities, and the absence of Hashem's name in the Megillah. However, I would like to offer a different approach to the concept of *nistar* as it relates to why we don't recite Hallel on Purim.

While discussing when Hallel should be recited, the Gemara in both Megillah (14a) and Arakhin (10b) asks why we do not recite Hallel on Purim despite the fact that Purim is a commemoration of the Jews being saved throughout the Persian Empire. In both places, the Gemara offers three answers. The first answer, recorded anonymously in Megillah and sourced to Rabbi Yitzchak in Arakhin, posits that such salvations merit the recitation of Hallel only if they occur within the confines of Israel, whereas Purim primarily happened in Shushan. Rav Nahman Bar Yitzchak challenges this position by noting that we recite Hallel on Pesach even though the miracle occurred in Egypt. The Gemara defends Rabbi Yitzchak's position by stating that the rules of where miracles merit Hallel changed after the land of Israel was sanctified during the conquest that began forty years after *Yetziat Mitzrayim*. Rav Nahman<sup>1</sup> gives a second answer, explaining that the reading of the Megillah is a fulfillment of the recitation of Hallel. In his words, "*Kriyata Zu Halila* - [the Megillah's] reading is its [Purim's] praise."<sup>2</sup> Rava gives a third answer, explaining that the salvation of

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1. Usually, when the Gemara cites Rav Nahman without any qualifiers, it is Rav Nahman Bar Yaakov. However, it is unclear if in this instance it is Rav Nahman Bar Yaakov or Rav Nahman Bar Yitzchak (who challenged the position of Rabbi Yitzchak). Rava, who gives the third answer, is a Talmid of Rav Nahman Bar Yaakov and the teacher of Rav Nahman Bar Yitzchak.

2. The Gemara is playing off of the linguistic similarity between halila and Hallel.

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Purim was incomplete and therefore does not necessitate the recitation of Hallel, as the narrative did not finish with the Jews acquiring sovereignty and being subjects solely to Hashem but as subjects of the Persian Empire.

Rabbi Yosef Zvi Rimon offers a different explanation.<sup>3</sup> He suggests that in reality, Hallel is not appropriate for Purim. The recitation of Hallel is intended for open and revealed miracles (*nigleh*). Therefore, reciting Hallel on Purim, which is about G-d's hidden involvement in the world (*nistar*), is not the right response. On the other hand, when it comes to Hanukah, Hallel would be completely appropriate. Hanukah is described in *Al Hanisim* as “*V' Kavu shemonat Yimei Hanukah eilu Lehodot U-Lehallel L'shimkha Ha-gadol.*” Moreover, the Rambam refers to the days of Hanukah as “*yimei simkha vi-hallel*” and days that are “*Lehodot U-lehallel,*” days that are meant for praising Hashem through prayer and thanks.

## The Theme of *Nistar* in the Megillah

Through reading and studying the Megillah, one will discover the hidden miracles that took place. This is precisely the correct goal of Purim. This fits nicely with Rav Nahman's approach that reciting Hallel and reading the Megillah are fundamentally similar. Both are ways in which we acknowledge Hashem's involvement in the world and thank Him for intervening to save the Jewish people. Both Hallel, where we express our thanks and love to Hashem in a very overt way and the Megillah where we read about the hidden miracles and where we search for Hashem in the story are forms of *halila*, praise to Hashem, however they differ only in what type of miracle they address. Overt miracles such as the splitting of the sea and the ten plagues are impossible to miss Hashem's direct hand in those stories. The entire Holiday of Pesach is describing the open miracles to the extent where the Haggadah tries to count the number of miracles that occurred even just by the Kriyat Yam Suf. Hanukkah as well as described in *Al Hanisim* lists just how unlikely it was for the Maccabees to overcome their Seleucid Greek oppressors. Hashem handed the many into the hand of the few and the mighty into the hands of the weak. For miracles that are overt and revealed such as these, we can not simply say thank you in a roundabout fashion, we must declare it and even sing it out loud! But for Purim, where it is unclear where Hashem's presence was, what specific miracle occurred, then we need a different response. We need something more subtle like reading the Megillah.

When codifying the halakhah, the Shulhan Arukh states that Hallel is not recited on Purim, without giving any explanation.<sup>4</sup> The Magen Avraham,<sup>5</sup> Arukh Ha-Shulhan,<sup>6</sup> and Mishnah Berurah<sup>7</sup> provide Rava's explanation that we don't recite Hallel because unfortunately, we

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3. R. Yosef Zvi Rimon, *Halachah Mi-M'korah* (Koren, 2016), 191.

4. *Ohr Ha-Hayim* 693:3. However, In his work, *Beit Yosef*, he quotes both Rav Nahman's and Rava's opinions.

5. 693:2.

6. *Ohr Ha-Hayim* 693:4.

7. *Mishna Berurah* 693:7.

were still *ovdei Ahashveirosh* (servants of Ahashveirosh), and not fully *ovdei Hashem*. Therefore, reciting Hallel would not be the proper response.

## The View of Meiri

Several years ago, I wanted to search into the practicality of saying Hallel according to Meiri's view.

דבר ידוע הוא שאין אומרי' הלל בפורים אבל טעם מניעתו נחלקו עליו בגמ' והוא שאחד מהם אמר שקריאתה זו היא הלולא ונראה לי לטעם זה שאם היה במקום שאין לו מגלה שקורא את ההלל שהרי לא נמנעה קריאתו אלא מפני שקריאת המגלה במקומו.

*It is known that we do not say Hallel on Purim, however the reason for not saying it is debated in the Gemara. One of the reasons given is that the recital of the Megillah is as if you had said Hallel [and] reading the Megillah is in place of reciting Hallel. According to me, according to this reason that if one were to be in a place that did not have a Megillah he would say Hallel, because we only do not recite Hallel because the Megillah is read in its stead (therefore if there would be no Megillah one would say Hallel).<sup>8</sup>*

If one didn't have a Megillah with them on Purim or if one was unable to hear the Megillah, should one say Hallel like the Meiri suggested? For example, a soldier on guard duty who won't finish their shift until it is no longer possible to hear the Megillah that night or that day? What about during Covid where often people find themselves in quarantine and potentially even in an unfamiliar country, and no one is around to come and read the Megillah for you. Perhaps some could be traveling and their car breaks down and won't make it back in time for Megillah reading. What should they do? Should they say Hallel? Or to Hallel or not to Hallel, that is the question. If they should, would one say a brakha or not? While living in Yerushalayim, I had the privilege of asking several prominent Rabbis, on different occasions, this very question. Rabbi Avigdor Nebenzahl, Rabbi Asher Weiss, and Rabbi Yosef Zvi Rimon all concurred that one without the means to hear the Megillah would, in fact, recite Hallel without a brakha. The reasoning being, if the conclusion of the Gemara is that we follow Rav Nahman's answer that *kriyata zu halila*, then if there is no Megillah to be heard and or read then the natural replacement is the very Hallel which is usually replaced by the Megillah! However, it said without the *brakhah*, because Hazal (our Sages) are very careful regarding saying a *brakhah livatala* (a wasteful blessing). Because there is doubt if Rav Nahman's explanation is the main answer from that section, it is better to be cautious and avoid making an extra blessing in this case.

After addressing the technical and halakhic side of the story, we are still left with several fundamental questions regarding the esoteric side of this story. After all is said and done, what is the nature of Purim and the theme of *Megillat Esther*? If the Megillah is instead of Hallel, then we need to understand what is so special and unique about it? To enable us

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8. Meiri, *Beit Ha-Behirah*, *Megillah* 14a.

to tackle this question then we need to preempt it with another question; Is the story of Purim a cause for unrestrained celebration or is it a cautionary tale which should command our sober attention? The answer is both. The Rav, Rabbi Joseph B. Soloveitchik, sensitive to dialectics that often emerges within halakhah, expounds on the inherent duality of *Megillat Esther* and the holiday of Purim in general. In discussing the requirement of reading the Megillah twice, once on the evening of Purim and then again, the following morning, the Gemara (*Megillah* 4a) cites two prooftexts:

ואמר רבי יהושע בן לוי: חייב אדם לקרות את המגילה בלילה ולשנותה ביום, שנאמר "דאלקי אקרא יומם ולא תענה ולילה ולא דמיה לי."

איתמר נמי, אמר רבי חלבו אמר עולא ביראה: חייב אדם לקרות את המגילה בלילה ולשנותה ביום, שנאמר "הלמען יזמרך כבוד ולא ידם ה' אלקי לעולם אודך."

*Rabbi Yehoshua ben Levi cites the verse from Psalms, "O my G-d, I call by day but You answer not, and at night and there is no surcease for me" (Tehillim 22:3)[...]*

*While Rabbi Helbo in the name of Ulla brings a different verse from Psalms, "So that my glory may sing praise to You, and not be silent; O Lord my G-d, I will give thanks to you forever" (Tehillim 30:13).*

The Rav notes that these two *pesukim* seem to be contradictory. One verse cited in the Gemara sees the obligation of reading the Megillah on Purim as rooted in a verse depicting total despair while the other verse cited for the same obligation reflects rejoicing. How can it be that two diametrically opposite *pesukim* are both being used as the source for why we read the Megillah at night and during the day? The Rav explains that in reality they each express a different facet of *Megillat Esther*. Our Sages tell us that before entering Ahashveirosh's inner chamber, Esther, in a moment of despair, recited the Psalm that Rabbi Yehoshua ben Levi quotes in the above Gemara, entreating the Almighty when all hope was lost." However, this emotion of despair is diametrically opposed by the verse cited by Rabbi Helbo, which expresses jubilation, praise and thanks to Hashem. The Rav further notes that the Gemara's axiom of *keriata zu halilu* that the reading of the Megillah is equivalent with the recitation of Hallel, is consistent with Rabbi Helbo's view. The Rav explains that both verses are accurate characterizations of *Megillat Esther*. The Megillah is both a *tze'aka*, a cry of distress arising from insecurity and fear, while also being a *shira*, a song of joy that marks Purim as no less an occasion for celebration than the other festivals on which Hallel is recited.<sup>9</sup>

By Hallel we saw the answer given by Rava that we were still *ovdei Ahashveirosh* and we were not yet fully and solely *ovdei Hashem*. Hallel which where we say "*Hallelu avdei Hashem*" would then not be completely truthful. The duality of the day, as one being somber and at the same time one for rejoicing requires us to have self-introspection. An *oved Hashem* is one who is asking themselves what is that Hashem wants from and they are also looking to see Hashem in their daily lives. There are times when we relate to Hashem through both of

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9. Simon Posner, Eliyahu Krakowski, and Moshe Genack (ed.), *Megillat Esther Mesorat HaRav* (Orthodox Union/Koren), 2017. For a full excerpt see [www.jewishpress.com/indepth/front-page/the-rav-on-purim-and-the-megillah/2018/02/21](http://www.jewishpress.com/indepth/front-page/the-rav-on-purim-and-the-megillah/2018/02/21).

these emotions, happiness and sadness. The *oved Hashem's* job is to try and see the balance of how and when to use each.

There is another duality that exists within Purim. It appears that Purim is compared to Yom Kippur. At first glance, one would be hard pressed to find another two days in the Jewish calendar that are seemingly more unrelated than Purim, a day of joy and feasting, and Yom Kippur, a day of awe and fasting. However, the Zohar explains that inherently there is a deep connection between these two days. This is reflected in the name that the Torah uses for Yom Kippur, *Yom Kippurim*, which can be read *Yom ki-Purim*, “a day like Purim.”<sup>10</sup>

R. Soloveitchik explains that the Zohar is pointing to a common theme shared by both the sacred Yom Kippur and the exuberant Purim. Both holidays revolve around the key theme of a lottery. The *pur* (lottery) that stands as the central motif of Purim is Haman's lottery. Haman believed that ultimately he control the fate of the Jewish people. Haman drew a lottery to decide the date of the Jewish people's extermination. In contrast, Yom Kippur's lottery is found in its central ritual, the *avodah*, the service in the Temple. There, the lottery determines the fate of two identical sacrificial goats, one to be sacrificed on the altar while the other to be “ingloriously” cast off a cliff in the desert. These two days, Purim and Yom Kippur, which are very different in tone, express the same theme. What may seem careless, accidental, a mere lottery, can be transformed into *Kedushah*, holiness, with the realization that Hashem is behind the scenes directing all that occurs. It is not random, accidental, or arbitrary, rather it is Hashem who is pulling the strings.

There is another similarity between Yom Kippur and Purim. Both are days of *matan Torah*, the giving of the Torah. On Yom Kippur, the second tablets of the Ten Commandments were brought down by Moshe from Mount Sinai. Purim also has an attribute of a day of *matan Torah*. The Megillah (9:27) states:

קימו וקבל וקבלו היהודים עליהם ועל זרעם ועל כל הנלוים עליהם ולא יעבור להיות עשים  
את שני הימים האלה ככתבם וכזמנם בכל שנה ושנה.

*They established and accepted, for themselves and for their children.*

Rava (Shabbat 88a) interprets this as a reacceptance of the Torah akin to that of Mount Sinai:

אמר רבא: אף על פי כן הדור קבלוה בימי אחשוורוש. דכתיב "קימו וקבלו היהודים", קיימו  
מה שקיבלו כבר.

*Rava said: Even so, they again accepted it willingly in the time of Ahashveirosh's, as it is written: "The Jews ordained, and took upon them, and upon their seed, and upon all such as joined themselves unto them" (Esther 9:27), and he taught: The Jews ordained what they had already taken upon themselves through coercion at Sinai.*

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10. Tikunei Zohar, Tikun 21.

After establishing the Jewish people's reaffirmation of keeping the Torah, we see the parallel drawn between the two *matan Torahs*. These events were not just one that impacted that specific generation, such as that of the desert or of Mordechai and Esther but even to this very day and for all time. This might be why *Megillat Esther* and the Torah are linked together. As Rambam writes, even though other *sefarim* of the prophetic works will cease to exist in the times of *Mashiah*, *Megillat Esther*, just like the Torah will never cease to exist. In the words of Rambam:

*All Prophetic Books and the Sacred Writings will cease during the messianic era except the Book of Esther. It will continue to exist just as the Five Books of the Torah and the laws of the Oral Torah that will never cease...The days of Purim will not be abolished, as it is written: "These days of Purim shall never be repealed among the Jews, and the memory of them shall never cease from their descendants" (Esther 9:28).*<sup>11</sup>

According to Rambam, the Megillah is unique among the Books of the Prophets and Sacred Writings, and will not be nullified when *Mashiah* comes, but, just like the Five Books of Moses, will continue to exist forever.

The question that remains is, what is so unique and special about *Megillat Esther* that it alone shall remain when all other *Sefarim* from *Neviim* and *Ketubim* shall not? I believe the answer lies within our initial premise, that if we were truly *ovdei Hashem* then we could have said Hallel on Purim. The goal of the Megillah is for us to reaffirm our connection to Hashem and declare him as the true king "*Hamelekh!*" In the beginning of the Megillah we failed to do just that, and the entire point is us looking back contemplating our actions. Being aware of our mistakes which might lead us to being sad and more humble but then to jubilation as we see Hashem's hand revealed as he yet again spares, saves, and redeems us.

There is another comment of the Gemara which highlights yet another duality of Purim. The Gemara (*Megillah* 19a) comments that *Megillat Esther* is referred to as both a letter (*iggeret*) and a book (*sefer*). R. Soloveitchik explains that a *sefer* is written on parchment and is designed to last, representing permanence. An "*iggeret*" is intended only to transmit a communication and symbolizes fleetingness. *Megillat Esther*, shares both of these qualities. It is an *iggeret*, a record of no lasting importance. Yet, *Megillat Esther* is also a *sefer*, a profound book that expresses the fundamental principles of our *emunah* (faith), a *sefer* that testifies to our belief in Divine Providence, even in the depth of despair when all hope seems lost.<sup>12</sup>

Now we can begin to understand the "hidden agenda" of Purim, its significance, and why Purim and the Megillah will never be forgotten or abolished. *Megillat Esther* is a *sefer* which describes our *emunah* in Hashem, which we will never lose (our *emunah*), it is also compared to a *sefer Torah* which is for all eternity. The Torah and now *Megillat Esther* are inherently bound together even in the times of *Mashiah*. The *oved Hashem* needs to be tapped into this

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11. Rambam, *Mishneh Torah*, *Hilkhot Megillah* 2:18.

12. *Megillat Esther Mesorat HaRav*.

connection and realize that Hashem is there for us in both the here and now as well as in the unforeseen future. The Megillah symbolizes this with its duality and our job is to see and have *emunah* in Hashem that he is always there with us and for us even when we cannot see him. Furthermore, we can comprehend the messages derived from the different answers as to why we don't say Hallel on Purim. We need to uncover Hashem's presence and make it *nigleh* and not *nistar*. We need to say thank you to Hashem and have *hakarat hatov* for all the everyday miracles Hashem does for us. By being *ovdei Hashem*, we are able to truly express our profound gratitude to Him, both through extreme happiness and immense sadness. When we are constantly *ovdei Hashem*, we will find that we see Hashem in everything and at all times. Through being *ovdei Hashem*, we finally will have brought to light what Hashem wants from us. Hashem wants us to return to his Torah, mitzvot, and Land.<sup>13</sup>

The *iggeret* and *sefer* that we call *Megillat Esther* is the perfect example and reminder of these aspects of our relationship with Hashem. That is why the hidden agenda of the *sefer* is for us to be *ovdei Hashem*, people who can reveal the unrevealed. People who can see the present, past and future Hand and actions of Hashem.

May we merit to uncover and reveal Hashem's *ratzon* in this world, return fully to Hashem, and to be *ovdei Hashem* and not *ovdei Ahashveirosh!*

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13. Perhaps this is what the Gemara (Shabbat 88a) means when it says, "Kimu v'kiblu mah shekiblu kvar."

# The Superpower of Jewish Prayer

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LAYA WITTY

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**THE DAILY AMIDAH**, also known as the *Shemonah Esrei*, is the essential prayer of our liturgy. Every day, three times a day, we stand before the Almighty and address Him with this *tefillah*. It is formulated with an opening section of three *berakhot*, which focus on praise of G-d. There is a parallel ending section, which is made up of three *berakhot* of gratitude. The middle section is the section in which we make our requests of G-d, the time when each of us can focus on our own needs and ask for them directly from G-d. This pattern of praise, request, acknowledgement, is described by Rabbi Jonathan Sacks (zt”l) as a the “fractal paradigm” on Jewish prayer.<sup>1</sup>

On weekdays, this middle section is comprised of thirteen *berakhot* of requests. As we know them today, the thirteen middle *berakhot* are prayers for:

- Insight
- Repentance
- Forgiveness
- Redemption
- Health and Healing
- Prosperity
- Ingathering of the Exiles
- Justice
- Against Slanderers
- The Righteous
- Rebuilding Jerusalem
- The Kingdom of David
- Response to Prayer<sup>2</sup>

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1. Rabbi Lord Jonathan Sacks, *The Koren Siddur* (Koren, 2009), xxvi-xxvii.

2. Translation adapted from *The Koren Siddur*.

**LAYA WITTY** has been a member and active volunteer at BAYT for almost 20 years. Laya has served the shul as Sisterhood President, Board member, Executive committee member, and in many other capacities. She and her husband, Rabbi Avraham Aryaih Witty, have raised their seven children in the BAYT. Laya is also a lawyer, practicing with the firm of WEL Partners Estate Litigation.

Each *berakhah* constitutes a separate and distinct request, but the section of requests is, for many purposes, treated as one section, or even as one *berakhah*.<sup>3</sup> There is a discussion in the Gemara (*Berakhot* 34a) relating to the middle *berakhot* as regards the possibility of correcting a mistake in the recitation of the *Amidah*:

ורב אסי אמר: אמצעיות אין להן סדר.

*And Rav Asi disputes one aspect of Rav Huna's opinion, as he said: The middle blessings have no set order. If one erred in any of them he may insert it at whatever point he becomes aware of his error.*

מתיב רב ששת: מהיכן הוא חוזר – מתחלת הברכה שטעה זה. תיובתא דרב הונא.

*Rav Sheshet raised an objection based on a baraita: From where does he commence repetition of the Amidah prayer? He commences from the beginning of the blessing in which the former had erred. If so, this is a conclusive refutation of Rav Huna's opinion, as Rav Huna said that if one erred in one of the middle blessings, he returns to the beginning of the middle blessings, not to the beginning of that particular blessing.*

אמר לך רב הונא: אמצעיות כולו חדא ברכתא נינהו.

*Rav Huna could have said to you: The middle blessings are all considered one blessing; commencing from the beginning of the blessing means returning to the beginning of the middle blessings.*

אמר רב יהודה: לעולם אל ישאל אדם צרכיו לא בשלש ראשונות, ולא בשלש אחרונות, אלא באמצעיות. דאמר רבי חנינא: ראשונות – דומה לעבד שמסדר שבח לפני רבו. אמצעיות – דומה לעבד שמבקש פרס מרבו. אחרונות – דומה לעבד שקבל פרס מרבו, ונפטר והולך לו.

*Rav Yehuda said: There is an additional distinction between the various sections of the Amidah prayer: One must never request his own needs in the first three or in the last three blessings; rather, he should do so in the middle blessings. As Rabbi Hanina said: During the first three blessings, he is like a servant who arranges praise before his master; during the middle blessings, he is like a servant who requests a reward from his master; during the final three blessings, one is like a servant who already received a reward from his master and is taking his leave and departing.*

In contrast to this, there is a discussion in *Megillah* (17b) about the order of the *berakhot* of the *Amidah*, that prohibits reciting the *berakhot* out of their established order. The discussion continues to elaborate on the progression from one *berakhah* to the next:

תפלה מנא לך? דתניא: שמעון הפקולי הסדיר שמונה עשרה ברכות לפני רבן גמליאל על הסדר ביבנה. אמר רבי יוחנן, ואמרי לה במתניתא תנא: מאה ועשרים זקנים, ובהם כמה נביאים, תיקנו שמונה עשרה ברכות על הסדר.

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3. Translation adapted from The William Davidson Talmud (Sefaria.org).

The *baraita* cited previously taught that the *halakhah* against reciting a text out of order applies to the *Amidah* prayer as well. The *Gemara* asks: From where do we derive this? As it is taught in a *baraita*: Shimon HaPakuli arranged the eighteen blessings of the *Amidah* prayer before Rabban Gamliel in their fixed order in Yavne, which indicates that there is a specific order to these blessings that must not be changed. Rabbi Yohanan said, and some say that it was taught in a *baraita*: A hundred and twenty Elders, i.e., the Men of the Great Assembly, and among them several prophets, established the eighteen blessings of the *Amidah* in their fixed order, which also shows that the order of these blessings may not be changed.

At first reading, these *berakhot* seem to be a fairly comprehensive list of a person's needs. They also seem to follow a logical order, each building on the one before. However, on a closer reading, there are some connections that require a shift in perspective, and that may provide further insight into the special nature of Jewish prayer.

The first point of disconnection is the change from personal needs to national ones. We begin intensely personally, in our own heads and hearts. We pray for insight to know that everything comes from G-d, and that it is to Him that we direct our prayers and requests. We ask for repentance and forgiveness, in order to stand in His Presence and make our requests of Him. We need Redemption from personal and immediate threats, whatever they are at that moment. We pray for Health and Healing, for ourselves and for others. We also pray for Prosperity, for the ability to live without the crushing burdens of poverty. At this point, the individual's needs have been addressed. One could think that after these requests, we are ready to conclude the *Amidah*.

However, the next *berakhah* is for the Ingathering of the Exiles. "Sound the great Shofar of our freedom, hoist the banner to gather our exiles..." Then we ask for our independence, for Jewish self-rule. We ask for an end to those who have cooperated with our oppressors, for G-d to reward the righteous, for the rebuilding of Jerusalem and the restoration of the Davidic monarchy. How are these prayers part of this section of individual requests?

One answer to this issue is that each individual prays not only for himself or herself, but for the needs of the community. All of the *berakhot* of the *Amidah* are phrased in the plural, and are intended, not merely for ourselves, but for our community, for the Jewish Nation, and for the world. In this context, it is possible to see the series of requests in the *Amidah* as a "Jewish Hierarchy of Needs." Both as an individual, and as a community, we need insight to understand that we have sinned. We ask for the blessing of repentance in order to be forgiven. We need pardon, absolution and forgiveness to be able to ask for our needs. Whatever the immediate threats are, physical, political or our own personal experience of oppression, it is only when the immediate threat is removed that we can plan and focus on long-term issues and goals. We need health, strength and sustenance to move forward and continue our existence.

In light of this, the second section of requests connects easily to the first section. The *berakhah* of "Bareikh aleinu," which is our request for prosperity and sustenance, includes,

during the rainy season in Israel, a specific request for rain. This *berakhah* is said with this addition all over the world, even in countries of the southern hemisphere, where the winter rainy season falls at the opposite time of the year. This request is not only phrased in the plural, in the way that a Jew always includes the entire community in his or her prayer.<sup>4</sup> This is now a national matter. Because no matter where in the world a Jew is physically located, this *berakhah* is a connection to the Land of Israel.<sup>5</sup>

Having noted that connection, the next *berakhah*, for the Ingathering of the Exiles, follows very logically. Once we have established that we are all connected to the land and to each other, the realization of that connection is a logical next request. Once we are together in our land, national self-determination is of paramount importance, that we rule ourselves without the interference of foreign powers. When we return to Israel, it will be our greatest national goal to rebuild Jerusalem to its former glory, and to re-establish the Kingdom of David. Finally, in the *berakhah* of *Ritzei*, we ask that our prayers be heard, and that the *avodah*, the service of G-d in the *Beit Hamikdash*, return.

Another perspective on these *berakhot* may be found in the discussions in Tanakh of the dedication of the *Beit Hamidash*. The story is told twice, the first is in *Melachim I*, Ch. 8. The second is in *Divrei Hayamin II*, Ch. 6. The two are very similar, and both contain a prayer or proclamation of King Shlomo regarding the *Beit Hamikdash* as the centre of Jewish prayer forever. In both accounts, Shlomo declares that the *Beit Hamikdash* will always be a direct conduit to G-d. Even if we would be exiled, and unable to pray at the *Beit Hamikdash*, if Jewish people direct their prayers towards their land, towards Jerusalem, and towards the *Beit Hamikdash*, G-d will hear us and answer us. After the dedication of the *Beit Hamikdash*, G-d spoke to Shlomo and confirmed that He had chosen and sanctified the *Beit Hamikdash*, and His eyes and His heart will always be towards the *Beit Hamikdash* and towards the prayers that are directed there.

This would serve then as an explanation for why so much of our personal prayer is devoted to restoring us to the Land of Israel, to Jewish self-rule, to rebuilding the *Beit Hamikdash* and restoring the Davidic monarchy and the *Beit Hamikdash*. The declaration was made by King Shlomo, that even in exile, if we repent with sincerity and direct our prayers to the *Beit Hamikdash*, G-d will hear us and answer us. Naturally, we would want to emphasize this commitment at every opportunity, and in every *Amidah*.

An additional answer approaches this connection on a more self-reflective level. Praying the section of the *Amidah* that is supposed to be devoted to “personal prayer,” yet phrased in the plural, can also bring a very important perspective to these requests. We can understand why these requests are made by the community as a whole, perhaps even as part of public prayer services, but why are they prescribed as part of this intensely individual moment?

A similar change of focus can be found in Tehillim 102, which calls itself, “A prayer of the poor man, when he is enveloped in misery.” For twelve *pesukim*, this Psalm describes

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4. See *Berakhot* 29b-30a.

5. See *Beurei Ha-tefillah Institute*, Vol 3, No. 50.

utter dejection, abandonment and the petitioner nearly expiring. In *pasuk* 13 the psalmist declares: “But You, O L-rd are enthroned forever and Your Name is for all generations.” He then makes a demand: “You will have mercy on Zion, it is the time to be gracious to her, the appointed time has come.” This individual may be enshrouded in his personal misery, but his prayer and plea is not for himself, but for G-d to redeem his people and bring them to Jerusalem. This “poor man” who describes himself as “withered like grass” speaks to G-d and demands, not personal rescue, but national redemption.

This is a paradigm for every generation. We each face our own set of challenges. No matter how worn out and dried up, overwhelmed and wrung out, abandoned and isolated, we feel ourselves to be, we are a part of this great nation, and we have a responsibility to advocate for the Jewish people. No matter how insignificant we may think we are, we each come before G-d as individuals – but also as representatives of His nation. We plead before Him, not only for our own daily needs, but for the redemption that He has promised to us for every generation. Every Jew has the right, and the responsibility, to ask for the redemption of our nation and the return of our *Beit Hamikdash*. This transition, from the personal to the national, emphasizes the dignity of a Jew. It takes a downtrodden wretch of humanity, spurned and repulsed by every nation, and tells him to stand, every day, before the King of Kings, and remind Him that we await His redemption. This is the superpower of Jewish prayer.

# Our Era Through The Lens of the Netivot Shalom

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RABBI DR. MOSHE J. YERES

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**SEFER NETIVOT SHALOM**, written by the late Slonimer Rebbe Rabbi Shalom Noach Berezovsky zt”l, continues its increasing influence on our generation, being studied by both religious and non-religious Jews, The *sefer* is written in clear, modern, fluent Hebrew and presents insights of chassidic and kabbalistic concepts in language and terminologies that are accessible to modern society and speak to our age. While the two communities of Slonimer Chassidim in Israel (Jerusalem and Bnei Brak) likely number less than five thousand families, the impact of the theology of *Sefer Netivot Shalom* has become widespread.

The survival and revival of Slonim Chassidut is due to the unique circumstances of R. Beresovsky’s living in Palestine during World War II. While a small community of Slonimer Chassidim had been sent in 1873 by the first Slonimer Rebbe, R. Avraham Weinberg (author of *Sefer Yesod Havodah*) to settle in Tiberias, the vast majority of Slonimer Chassidim were killed in Europe during the *Shoah*. R. Beresovsky, who prior to the war, had been entrusted with recording his Rebbe’s *sichot* and *divrei Torah*, was in Mandatory Palestine during the war. There he led a Chabad-affiliated yeshiva, eventually learning about the decimation of the Slonimer Chassidim in Europe.

He worked relentlessly to reestablish Slonimer Chassidut during and after the war. Setting up a Slonimer Yeshiva in Jerusalem and publishing various Slonimer Chassidut books from original manuscripts and lost documents, he single-handedly reestablished the Slonim Chassidic tradition and community with the few remaining survivors. Having lived through that difficult period in Palestine while his brethren died in Nazi Europe, he was given a unique vision and perspective about his era and the significance of the moment. He maintained a special feeling about the opportunity given by the State of Israel and the returning of many Jews to the traditions of Judaism. At the same time, he understood the

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challenges of his (and our) era in terms of Jewish assimilation and the need for reaching out to those not committed to Jewish tradition.

One good example of this theological idea is presented below. The *Netivot Shalom* is known primarily for its five-volume set on *weekly Torah portions* and its two-volume set on Jewish (and chassidic) values and major Jewish holidays. Volume one of the two-volume set opens with a six-section piece entitled *Pirke Mavo* on *Netivot Da'at*, best translated as Paths of Awareness. In these introductory chapters, the author sketches many of the ways (paths) by which one can develop an awareness of the Almighty in our lives. This, he considers, to be the main purpose and goal of our existence in this world. At the end of the sixth and final section, *Netivot Shalom* transitions to discuss the significance of his (our) era. Our translation follows:

### ***Netivot Shalom* Volume 1; *Netivot Da'at/Pirkei Mavo* - Section 6, Sub-Section 7**

It is very important that we should maintain clarity of awareness also regarding the general nature of our era, to know and understand its specific unique issues, as it states in Deut. 32:7 "Consider the years of many generations." As we wrote earlier in the name of the AR"l z"l, each day from the creation of the world is different and not similar to another. This is because every day has its own unique purposes and goals.

In light of this we have an obligation upon ourselves for significant internal and deep reflection about our generation, our era and our destiny. The purpose and responsibilities in the world in this amazing time period began with the utterly terrible *churban*, the likes of which the Jewish people have never experienced before, where Divine anger impacted every corner of the Jewish world, and through which we have already undergone all of the birth pangs of the Messiah in awesome and horrifying ways. However, we (the survivors) strengthened ourselves and did not give up hope completely. This is along the lines of R. Moshe Chaim Luzzato (*RamChal* in his book *Kelach Pitchei Hokhmah*) who explains that that just as after a period of drought, much rain of blessing and bounty falls on the earth, so too after the period of difficult *hester* (hiddenness of Hashem), we receive extra kindness and *rachamim* (from Him). This is even though we cannot understand how it would have been possible for us to rise up again after our existence had been so decimated.

Indeed, only one generation later, *baruch Hashem* we see those rains of blessing in the halls of Torah and the yeshivot and chassidic centres in such an astounding way that we could never have predicted before. The Almighty raised up a generation of knowledge and awareness that is dedicated to His Torah and service in ways to which there is no comparison in the last generations. The worlds of Torah and chassidut have grown and developed in a most supernal fashion. And the most important was the arrival of a new *Shevet Levi* (Levites) in Israel, along the lines of what the Rambam wrote at the end of Laws of Shmittah (chapter 13; 12-13):

*Why did the Levites not receive a portion in the inheritance of Eretz Yisrael in the spoils of war like their brethren? Because they were set aside to serve G-d and minister unto Him and to instruct people at large in His just paths and righteous judgments... Therefore they were set apart from the ways of the world... Instead, they are G-d's legion, as [Deut 33:11] states: "G-d has blessed His legion"... And not only the tribe of Levi, but any one of the inhabitants of the world whose spirit generously motivates him, and he understands with his wisdom to set himself aside and stand before G-d to serve Him and minister to Him and to know G-d... he is sanctified as holy of holies. G-d will be His portion and heritage forever... (Rabbi Eliyahu Touger translation).*

In our time thousands of *avreichim* and their families have sanctified themselves for the study of Torah and serving *Hashem* and this is something that is not comparable to anything seen in earlier generations.

Together with this has arisen a new world, which has never been seen before – the world of *ba'alei teshuva*. Thousands of our brothers and sisters in Israel have become *ba'alei teshuva* and have returned to their source (of faith) in an amazing way, long after they had sunk to low spiritual levels. Some of these people had been completely encompassed by their secular and physical existences, some had sunk to low levels, and now they have become focused on Torah and the service of *Hashem*. We stand amazed and stunned to watch this new and holy phenomenon, which You (*Hashem*) have shown through Your power. And perhaps they represent the first drops of G-d's promise that there will come a time when the world will be full of the awareness and knowledge of *Hashem*. If we will be worthy, these drops of G-d's awareness will increase until we merit to experience it in its complete fullness.

All of this requires much from us; even if we do not yet know exactly how and how much, but the soul in every individual and the clarity of the Divine light in the midst of every Jew will teach us that it is up to us, living in this great generation, to rise up to our true destiny and purpose in this world. We must be sure we do not despise the King's (G-d's) gift to us but rather treasure what has been given to us.

On the other hand, how difficult is the spiritual level of the Jewish people, those who are not from among the religious faithful. Yet this is actually what the Talmud (Sanhedrin 95a) says: (Mashiach) Ben David will only arrive in a generation that is either fully good or fully evil. And it is asked how is it possible to have a generation that is completely only evil, that will bring the final redemption? It is, however in line with what the holy books refer to, that the outcome of the sin of eating the *eitz hada'at* (tree of knowledge in the Garden of Eden) was the confusion of good and evil coexisting and working together. The rectification of Mashiach ben David will be the ability to separate and define each separately from the other. And this is the intention here – that the generation when Mashiach is to come will be one in which the mixture of good and evil are able to be separated. It will be a generation in which people are either completely good and (serving *Hashem*) or completely evil (away from *Hashem*) without the mixture of good and evil together. All this will depend on the trait of

awareness (*da'at*) of Hashem, as the Rabbis have stated – “without *da'at* there is not separation (*havdalah*).” And it is this vision that we are beginning to see in our own generation.

This generation calls us to greatness as R Moshe of Kobrin wrote on the verse Genesis 29:7 “Behold, the day is yet long. It is not time for the livestock to be gathered in.” The great and mighty day of Hashem is approaching; this is not the time to gather up the physical possessions we have acquired of this world, but rather to focus on the special spiritual gifts that are being offered to us.





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