



ניצחון  
NITZACHON

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Adas Torah Journal of Torah Ideas

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**Nitzachon**

*Adas Torah Journal of Torah Ideas*

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## Editors' Preface

*Sisu v'simchu b'simchas hatorah.* It is with great pride that we present you with our *kehilla's* seventh volume of *Nitzachon*, in which our members share their Torah ideas on the second half of *Chamisha Chumshei Torah*. Like our many previous volumes, this Volume 4:2 demonstrates so many of our members' passion for *Talmud Torah*, their diversity of Torah interests, and their genuine interest in starting thought-provoking Torah discussions with their friends and the entire Los Angeles community.

**Michael Kleinman**

**Yaakov Siegel**

**Yaakov Rich**



Dedicated in memory of my mother  
Frieda Schwarcz, Freda Genesha bas  
Nosson Nota a"h, who was my guiding  
light and strongest influence in my life.

She was a daughter of the great Rabbi Nosson Nota Dublinsky who attended the Navaradok Yeshiva and learnt on the Lower East Side of Manhattan with the great *gedolim* of the last generation including Rabbi E. Henkin *zt"l* and Rabbi Moshe Feinstein *zt"l*. Her love and dedication to Torah and *chesed* were unparalleled.

May her memory serve as a blessing to all.

*O' has the year has flown.  
Your radiant countenance and endearing smile still eternally shine  
ever so brightly.  
Although your presence has waned your influence has gained and  
been sustained  
spreading her wings throughout the luminous sky.  
We have no regrets and will never forget your deeds and acts of  
generosity.  
Your words of encouragement and uplifting spirit still serve as a  
guiding light to us all.*



*David R. Schwarcz*

Dedicated in Loving Memory of

**Jacob Siegel**

יעקב בן צבי הלוי

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**The Nitzachon Team**



*Yossi and Bella Essas*

לעילוי נשמת משה בן צבי





In honor of the *Nitzachon* editors  
**Yaakov Rich, Rabbi Jackie Siegel,  
and Dr. Michael Kleinman**

for all that they do for  
הרבצת תורה in the community.



*Naomi and Adam Rich*



# ראש וראשון



Rabbi Dovid Revah

Rabbi Shlomo Goldberg  
Guest Contributor



*Parshas Ki Savo*  
**Still Brand New**

**RABBI DOVID REVAH**



**T**he pasuk in *Parshas Ki Savo* says

היום הזה ה' אלקיך מצוך לעשות את החקים האלה ואת המשפטים (דברים כו:טז)  
*This day, Hashem commands you to perform the chukim and mishpatim.*

Rashi quotes the *Tanchuma*, which asks the obvious question: Moshe was speaking to *Bnei Yisrael* at the end of his life. The *mitzvos* were not given at that time, but rather forty years earlier at Har Sinai. How could Moshe say *hayom hazeh* - **this day** the *mitzvos* were given?

The *Tanchuma* answers

בכל יום יהיו בעיניך חדשים, כאילו בו ביום נצטוית עליהם.

*On each day, they should be new in your eyes, as if you were commanded the mitzvos that very day.*

This mandate is a central challenge to the life of a Torah Jew. We tend to perform *mitzvos* that occur infrequently with excitement. But many *mitzvos* are mandated weekly or daily; some, like *tefilla* or *brachos*, are required, at least *m'derabbanan*, several times a day. The frequency of these *mitzvos* is meant to enable us to have a constant awareness and connection to Hashem. However, the very frequency sometimes has the opposite effect. We lose the excitement when performing the *mitzva* and it is done only out of habit and by rote. Perhaps many of us remember the first time we wore *tefillin* when becoming bar mitzva and the feeling that it evoked. But how long did that last? Do we still remotely feel that way today? The *pasuk* is challenging us – although we have performed the *mitzvos* countless times, we need to make sure that they do not become stale.

An illustration of the challenge of keeping our *shemiras hamitzvos* vibrant can be

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and *Mara D'Asra* of Adas Torah since 2005.

seen in the difference in the fulfillment of *birkas kohanim* in *chutz la'aretz* and in *Eretz Yisrael*. According to the *gemara*, *birkas kohanim* should be said every day at *shacharis*, and on Shabbos, Yom Tov and Rosh Chodesh again at *musaf*. This is the practice in *Eretz Yisrael*, but in *chutz la'aretz* (at least for Ashkenazim), *birkas kohanim* is only said at *musaf* of Yom Tov. In explaining this *minhag*, the Rama says that during the week people are running to work and may be looking at the clock instead of concentrating on the *bracha*. Even on Shabbos, when there is no work, people lack the tranquility necessary to properly appreciate the *bracha*. Only on Yom Tov, when the feeling of *simcha* permeates the day, are we in the correct frame of mind for the *bracha*. But even then, the *bracha* is only said at *musaf*, when *davening* is almost over and you are about to start a festive meal. Only then is everyone ready to perform the mitzva with the *simcha* that it deserves.

In *chutz la'aretz* we limit the performance of the mitzva to thirteen times a year, instead of more than four hundred times. Because of the relative rarity, this mitzva becomes very memorable. Parents bring their children, and many children have vivid memories of standing under their father's or grandfather's *tallis*. Many women who would not otherwise come to shul try to attend for *birkas kohanim*. We offer special *tefillos* and the *kohanim* sing a poignant tune. The experience in *Eretz Yisrael* is different. For many people, *birkas kohanim* blends into *chazaras hashatz*, and is not performed with the same intensity.

Although ideally we should recite *birkas kohanim* every day,<sup>1</sup> the *minhag* has developed to favor quality over quantity and to only perform it when it will have a stronger impact. It is interesting to speculate what would occur if we applied the same principle to other *mitzvos*. Imagine if we only wore *tallis* and *tefillin* during the Aseres Yemei Teshuva.<sup>2</sup> For a few weeks before, we would have a campaign encouraging everyone to have their *tefillin* checked, whereas now many people have not had their *tefillin* checked since their bar mitzva. There would be *shiurim* to ensure that everyone knows the proper way to wear their *tefillin*, and a stress on having the proper *kavana*.

1 The *Beis Yosef* and others strongly criticized this practice. The *Aruch Hashulchan* writes that the Vilna Gaon and Rav Chaim Volozhin wanted to reestablish *birkas kohanim* every day, but ultimately were hesitant to change the *minhag*.

2 Of course, there would need to be a *halachic* justification to allow us to limit the mitzva. For *birkas kohanim* we rely on the opinion that so long as the *kohanim* are not called upon, they are not required to give the blessing. For *tallis* there would be an easy justification because as long as we do not wear a four cornered garment, there is no mitzva of *tzitzis*. *Tefillin* would be more difficult because there may be a mitzva to wear *tefillin* once a day. But the *Biur Halacha* (*Siman 36 s.v. mitzvasan*) cites opinions that the mitzva is to constantly wear *tefillin*, which we do not do anyway.

People would commit to refrain from speaking *devarim beteilim* while wearing *tefillin*. There is no doubt that the mitzva would have a stronger impact, but it would come at the cost of performing the mitzva daily. We choose to do the mitzva of *tefillin* in the way it was intended, every day, and strive to make it as meaningful as we can.

Why do we single out *birkas kohanim* and limit its performance to when it can be done in the optimal way? Why treat it differently than *tallis*, *tefillin* and *tefilla*,<sup>3</sup> which we do every day, choosing quantity over potential quality?

Perhaps the answer lies in a comment of the *Sefas Emes*. In *Parshas Beha'alozecha*, after Moshe was commanded to light the *menora* in the *Bais Hamikdash*, the *pasuk* says “*v'yaas kein Aharon.*”

Rashi quotes the *midrash*, “*I'hagid shvacho shel Aharon shelo shina.*” It is not necessary for the Torah to write that Aharon fulfilled his mitzva, but rather the Torah is teaching us that he did it without deviating.

The *Sefas Emes* asks that just as it is unnecessary to say that Aharon did the mitzva, it's also unnecessary to say that he did not change the mitzva. He answers that we can imagine that the first time Aharon came to light the *menora*, he did it with great excitement. But Aharon lit the *menora* for 39 years, perhaps twice a day.<sup>4</sup> How did it look the five-hundredth time that he lit it? The five-thousandth time? The *pasuk* is teaching us that Aharon had the same joy and enthusiasm in year thirty-nine as he had in year one. Before Aharon would walk into the *Mishkan* he would think about what he was about to do and how privileged he was to serve Hashem and the significance and meaning of the mitzva. The *midrash* is teaching that there was no difference in intensity in Aharon's performance of the mitzva from the first time on.

With this idea, the *Sefas Emes* explains the *midrash* quoted by Rashi:

למה נסמכה פרשת המנורה לפרשת הנשיאים, לפי שכשראה אהרן חנוכת הנשיאים  
חלשה אז דעתו שלא היה עמהם בחנוכה, לא הוא ולא שבטו, אמר לו הקב"ה שלך  
גדולה משלהם שאתה מדליק ומטיב את הנרות.

*Why is the parsha of the menora next to the parsha of the nesi'im? Because when Aharon saw the inauguration [offerings] of the nesi'im he became distressed that neither he nor his shevet had participated with them in the inauguration. Hashem told him “your portion is greater than theirs, for you will be lighting and preparing the candles [of the menora].”*

3 The *gemara* brings many stories of *amoraim* who did not *daven* when they were not able to concentrate properly.

4 The Rambam's opinion is that the *menora* was lit both in the evening and in the morning.

The Ramban questions how lighting the *menora* is a consolation for not participating in the dedication ceremony. The *menora* was one of the daily *mitzvos* in the *Mishkan*, but what does that have to do with the *Chanukas Hamishkan*?

Rav Chaim Vysokier, the *rosh yeshiva* of Bais Hatalmud, visited *Eretz Yisrael* once in his life. Of course, at the first opportunity, he visited the *Kosel*. At the end of his trip, his *talmid* asked him if he would like to visit the *Kosel* once again before his departure, and surprisingly, he said no. He then explained that going to the *Kosel* was a spiritual high point in his life. He wanted to remain with that memory and to carry his deeply felt emotions back home with him, and he was afraid that if he would go again, his second visit would not be the same as the first. The *Chasid Yavetz* (*Avos* 1:4) writes a similar idea. The *pasuk* in *Yechezkel* says that when someone visits the *Beis Hamikdash*, they should exit from a different gate than the one through which they entered. The *Chasid Yavetz* explains that since they already passed the first gate on the way in, they will not have the same awe and appreciation when they see it again on the way out.

Imagine someone living in the *midbar* visiting the *Mishkan*. Of course, he is excited, but he has already been there hundreds of times. Then he sees Aharon. He sees the enthusiasm, love and excitement and suddenly the *Mishkan* becomes something new. *Bekol yom yihiyu b'einecha chadashim*, it is as if it was built today.

This, explains the *Sefas Emes*, is what Hashem told Aharon. “The *nesi'im* dedicated the *Mishkan*, but how long will their dedication last? I want you to dedicate the *Mishkan* as well, but not as a one-time event, but rather every day, for the next thirty-nine years. Your job is to keep the *avoda* vibrant and exciting, both for you and for *Klal Yisrael*. Your lighting the *menora* is not just another *mitzva* but must serve as a *Chanukas Habayis*, as if the *Mishkan* was built today.

Perhaps this is why *birkas kohanim* was chosen to be done only in its ultimate state. Aharon was the role model to show us how to keep *mitzvos* with energy and vitality. Aharon put so much effort to ensure that his *mitzvos* were done fully, actualizing the directive of “as if you were commanded today.” In his merit, we want to ensure that his descendants’ performance emulate his example. There are two *mitzvos* which the *kohanim* perform today - *pidyon haben* and *birkas kohanim*. *Pidyon haben* is always done with excitement. If our *birkas kohanim* would become lackluster if it was done every day, it is worth limiting its performance.<sup>5</sup>

<sup>5</sup> In addition, the Rambam says that the *bracha* does not come from the *kohanim*, but rather from Hashem. The *Akeidas Yitzchak* explains that the role of the *kohen* in the *bracha* was one of an educator. His job was to make us aware that all *bracha* comes from Hashem. Since he is acting similar to Aharon, as the role model and educator, we keep the performance of the *mitzva* at Aharon’s high level.



The *pasuk* says

ושמרו בני ישראל את השבת לעשות את השבת (שמות לא:טז)

*And Bnei Yisrael guarded the Shabbos, to make the Shabbos. (Shemos 31:16)*

The *Ohr Hachaim* explains that since Shabbos comes every week, we have to invest effort to make our Shabbos meaningful. This is true of every mitzva. With proper thought and preparation, we can come closer to fulfilling our mandate of “*bekol yom yihiyu b’eineicha chadashim.*”



*Parshas Balak*

# A Nation That Can Dwell Alone

RABBI SHLOMO GOLDBERG



**T**he Jewish cemetery in Warsaw is itself a city: a forest filled with 250,000 graves that represent those who passed away over the past 250 years. In fact, Jews lived in Poland for 1,000 years; the souls buried there now represent all of Jewish life in Warsaw. While there were once a hundred shuls for Gerrer *Chassidim* alone in that city, there are now about 450 identifiable Jews, a shul without a regular *minyan*, and no Jewish schools. In the cemetery, at least, since *Chazal* tell us that an element of the soul remains by the grave, the faint presence of a vibrant millennium of Jewish life pulses softly among the trees and one can feel a connection to the once-flourishing community. Similarly, in the area of the Warsaw Ghetto where only a fragment of the old walls remain, or at the shul, which is beautiful but desolate, the *kedusha* of these places is a result of the people who lived and learned there.

## **What is left?**

If those people have gone on to a better world or moved to a different country, why would one want to visit the relics, as I did a few years ago? The desolation and loneliness of the eastern European Jewish enclaves is demonstrated at the *Chafetz Chaim's* yeshiva in Radin, which now is a discothèque, the Mir Yeshiva, now a post office, the Kelm Yeshiva, now a shopping center, and the Ponovezh Yeshiva, which today is a bakery. Mir, home to 6,000 Jews before the war, now has only 250 residents and no Jews; to the best of my knowledge, two Jews live in Ger (Gora Kalwaria); the old cemeteries in Vilna and Brisk are soccer stadiums.

In Telshe, Lithuania, I visited the broken-down ruin of the *beis medrash* that once housed some of the greatest teachers of Torah and *mussar* and hundreds of their students. Although the decaying building is rarely remembered or visited, its meaning was rekindled in the hearts of several of my travel partners during their years of study

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in Telshe Yeshiva in Cleveland. As they spoke of what this building meant and we *davened mincha*, I was enveloped by feelings of *kedusha*, longing, sorrow, desire to fulfill my potential, and *deveikus* to Hashem who had created this place and then taken it away. I found myself sobbing like a baby, because I realized that when compared to the giants of Torah who had lived there, and compared to my own unfulfilled spiritual capacity, I am like a baby. But, just like a baby is loved, nurtured, and cared for by its parents so it will grow and develop, I too am the recipient of Hashem's guidance.

I later heard that Rav Yitzchak Hutner had gone through a similar transition of feelings, which he expressed in the following way: The *gemara* states that according to one opinion, "*Ein osim nefashos l'tzaddikim* — we do not make *nefashos* (grave markers) upon the graves of *tzaddikim*." Rav Hutner said that he could not understand how *Chazal* could describe a cold piece of hewn stone as a *nefesh*, which literally means a soul. How could a rock be a soul? His question remained unanswered until he visited the grave of the Maharal of Prague. (Rav Hutner, through his many teachings based on the writings of the Maharal, was the person most responsible for the rediscovery of the Maharal's teachings in recent decades.) When he put his hand on the gravestone of the Maharal and felt the *kedusha* that flows from such a place, he then understood how a *matzeva*, a gravestone, can be termed a *nefesh*, a living soul. Visiting the graves of the *Chafetz Chaim*, the *Granat*, Rav Yerucham Levovitz, the *Rema*, the *Maginei Shlomo*, the *Bach*, the *Gra*, Rav Chaim Ozer, the ashes of the *Ger Tzedek*, the *Chiddushei HaRim*, the *Sefas Emes*, the *D'var Avraham* and Rav Yitzchak Elchanan Spektor, *zichronam livracha*; the mass graves in Telshe, Kovna, Slobodka, Mir, and Kelm; the home of Rav Avraham Grodzensky *hy"d* from where he and Rav Elchanan Wasserman *hy"d* were taken to their deaths after discussing the mitzva of *kiddush Hashem*; and the concentration camps of Maidanek and Auschwitz, I felt as if I had placed my hand upon the *matzeva* of Torah life in Eastern Europe and felt the soul that still emanates from this holy ground.

### **Bilaam's Curse**

In *Parshas Balak*, Bilaam traveled to a mountain near the encampment of the Jewish People with the intention to curse them. However, when he looked down at them and opened his mouth, he spoke words of blessing. *Chazal* teach that from the *brachos* Bilaam said, we can figure out the original curses he had planned to give. Bilaam lifted up his staff and said, "From the top of the rocks I see them, and from the hills I behold them; behold it is a people that shall dwell alone and shall not be reckoned among the nations." *Midrash Rabba* explains that if one wants to destroy a tree, the

task is more easily accomplished by severing the tree from its roots with a few slices than by cutting off all the leaves and branches one by one. Therefore, Bilaam tried to find defects in the “tops of the rocks” and “the hills” — our roots — which *Chazal* understand to refer to our forefathers and matriarchs, the *Avos* and *Imahos*. However, when he found out how strong and firm these roots were, he realized that his efforts to sever *Klal Yisrael* from its foundation would only be in vain.

Rashi paraphrases the *midrash* in the following way: Bilaam said, “When I look at their ancestors, at the beginning of their roots, I see them firmly established and strong like these rocks and hills, through their *Avos* and *Imahos*.” *Sifsei Chachamim* explains that the word “rocks” refers to the *Avos* and “hills” to the *Imahos*. I suggest that we can then understand the two terms used by Rashi, “firmly established” and “strong,” to also refer to them — “firmly established” meaning our fathers, and “strong” meaning our mothers. It is the duty of fathers to establish a firm foundation for their children by bringing into the home Torah learning as solid as stone. Mothers strengthen their children by establishing the home as a hill, standing above the folly and fray of the world below.

Based on these foundations and hills of the *Avos* and *Imahos* and continuing via the efforts of Jewish fathers and mothers throughout the generations, *Klal Yisrael* merits, as Rashi explains, to thereby be a nation that has the strength to dwell alone. This internal strength, stability, and commitment, explains the Ibn Ezra, keeps the Jewish nation from assimilating into the other nations that would overcome it. Therefore, our sins are not reckoned like the other nations, as Rashi explains, who are punished to the point of total destruction. Although we suffer for our mistakes, our deep roots and firm foundation ensure our ultimate survival.<sup>1</sup>

### **Eternal Transcendence**

I will share two stories, two out of six million, that speak to the eternal strength and transcendence of the Jewish People. Rav Leib Osofsky *hy”d* was the last rav of Slobodka. Before the Jews were taken away to the ghetto and eventually to their deaths in a mass grave, the Lithuanians stormed the city in a vicious pogrom. Rav Oshry, in his book *The Annihilation of Lithuanian Jewry*, describes how the pogromists found Rav Osofsky learning in his home. They ordered him to place his head down upon his *gemara* and then slowly and brutally beheaded him. Later, Rav Oshry, who had hidden, went back to Rav Osofsky’s home, found his head, and brought it to a Jewish

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<sup>1</sup> As the *Ba’al HaTurim* points out, the numerical value of the Hebrew words “dwell alone” equals that of “in the days of *Mashiach*.”

burial. In the midst of unspeakable horror, Rav Oshry thought of *chessed shel emes*, the final and ultimate kindness one Jew can do for another.

At the end of his *drasha* on the mitzva of giving one's life *al kiddush Hashem*, Rav Elchanan Wasserman exhorted all those present to purify their thoughts, so that their sacrifice would be completely acceptable to Hashem. In this way, their deaths would provide atonement for the Jews of America, who would now be charged with continuing the legacy of Torah learning on their shores.

### **Our Duty**

We are those Jews for whom Rav Elchanan and many others paved the way in life and in death. Somehow, we have been charged with filling the void they left. The Vilna Gaon, in his commentary to *Mishlei*, explains that the “*Eishes Chayil*” is a metaphor for a Torah scholar, and the numerical value of “*chayil*” is forty-eight. Therefore, Shlomo HaMelech's question, “*Eishes chayil mi yimtza*” becomes, “Who can find a single *talmid chacham* who encompasses the forty-eight *middos* with which Torah is acquired?” (see *Avos* 6:6). The answer is found at the end of the chapter: In truth, no single person can embody all those qualities. But “*rabbo banos asu chayil* — many daughters can achieve *chayil*.” All of us together — with each individual doing a little more, a little better, with a little more intensity, and with a little more kindness — can try to bridge the gap, the irreparable hole that no one of us can fill alone.

Our trip ended in *Yerushalayim*, with a visit to the Mirrer Rosh Yeshiva, Rav Nosson Tzvi Finkel, *zt”l*. We asked him what we should teach our students about the Holocaust. His answer was brief and to the point. “Teach them,” he said, “about the Torah that existed before the war, and the Torah that was lost after the war, and that it is their duty to try to replace it.” One of the group then asked if there was any other point to add. Using all his strength and both his hands to hold onto his chair through the tremors of Parkinson's disease, the Rosh Yeshiva smiled and said, “If we teach them that the only thing that a Jew really has in life is Torah, then they will know that there is nothing more to add.”

Because our fathers were firm as stone and our mothers tall as hills, we are a people that can dwell alone, remain loyal to our Torah, and never disappear among the nations. They are our foundation; let us not shame them but begin, little by little, to do our part in rebuilding.

# שפתי ישנים



Rabbi Dr. Solomon Michael Neches *zt"l*





## RABBI DR. SOLOMON MICHAEL NECHES ZT"l

Rabbi Neches was born in 1891 and grew up in Jerusalem. The Neches family had resided in the Holy Land for several generations, and traced their family tree back to the Vilna Gaon. He studied Torah at the illustrious Yeshivas Etz Chaim in Jerusalem where he eventually received *semicha*, and was also granted *semicha* by Rav Kook in Yafo at the age of eighteen. Soon afterwards, he left Eretz Yisrael, travelling for several months before arriving in New York in 1910.



In 1912, Rabbi Neches was appointed to a rabbinic position in Pittsburgh, where he married Tillie Goodstein, and remained for five years until he was brought to serve as rabbi of the Orthodox community in Columbus, Ohio for another three years. It was in 1921 that Rabbi Neches moved to Los Angeles to become the new rabbi of the Olive Street Synagogue, Beth Israel. In 1925, the Breed Street Shul hired Rabbi Neches as the first official rabbi of their congregation.

When Rabbi Neches arrived in Los Angeles, he was concerned by the laxity he saw in the observance of *kashrus*. He worked tirelessly with other local rabbis over the course of many years to improve the standards of *kashrus* observance and certification in the city. Additionally, he pushed for the community to join the Union of Orthodox Jewish Congregations of America and to establish its own local Orthodox Rabbinate, which he himself initially headed.

The Jewish community of Boyle Heights grew dramatically during Rabbi Neches' first years there. Sensing the desperate need for serious Jewish education in the community, he opened up a *Talmud Torah* for the growing community with a serious curriculum in *halacha* and Jewish texts.

Rabbi Neches dreamed of opening an institute of higher Jewish learning on the West Coast, one modeled on Hildesheimer's in Berlin and Breuer's in Frankfurt. He envisioned "a place where the true interpretation of Judaism flowing from its original source, the Torah and tradition, should be made available to the youths of western Jewry." In 1933, he founded the Western Jewish Institute on the west side of LA, which began as a center for classes on Torah topics and various Jewish subjects combined with a community shul and Jewish library.

The warmth of Rabbi Neches' personality and his ever-present sense of humor and wit allowed him to attract many members to the institute's classes and its shul. Many became his close friends and supporters, and membership swelled in those

early years.

When Rabbi Neches became ill in 1952, he stepped down from his position as dean of the Western Jewish Institute (which soon afterward was renamed “Shaarei Tefila”). He passed away in 1954.

Rabbi Neches was a master *darshan*. He loved clever ideas, sayings, and parables. At the age of twenty-four, as a rabbi in Pittsburgh, he published his first book of *derashos*, “*Shemen Turak*,” applying Torah ideas to contemporary issues of society and philosophy. His mind was attracted to *aggada*, *midrash*, and especially to *Pirkei Avos*, which became his greatest scholarly interest for most of his life. He published works on *Pirkei Avos* collected from the writings of various authors, including R’ Yehuda *HeChasid*, the *Dubno Maggid*, and R’ Isaac Baer Levinsohn. Eventually, he compiled his own work, “*Mavo L’Maseches Avos*,” part of which was published at the end of his life.

Rabbi Neches was also quite a prolific author, publishing numerous other books and monographs, notably including a commentary on *Tehillim*, “*Shemen Rosh*,” and a compilation of *divrei Torah* on the weekly *parshiyos*, “*Toraso shel Shem*.” He also spent much effort studying Jewish judicial ethics, publishing several articles on the topic and obtaining a Doctorate in Hebrew Law from the Pacific Coast University with a thesis on the topic. Toward the end of his life, he compiled an encyclopedia of concepts and objects that symbolize the Torah throughout rabbinic literature, which remains today in manuscript.

During his lifetime, Rabbi Neches was among the most well-known rabbis in Los Angeles, and the Orthodox community here is still indebted to his contributions.

# You Were Shown So That You Should Know

RABBI DR. SOLOMON M. NECHES ZT"l



השמע עם קול אלקים מדבר מתוך האש כאשר שמעת אתה ויחי. או הנסה אלקים לבוא לקחת לו גוי מקרב גוי במסת באתת ובמופתים ובמלחמה וביד חזקה ובזרוע נטויה ובמוראים גדלים ככל אשר עשה לכם יהוה אלקיכם במצרים לעיניך. אתה הראת לדעת כי יהוה הוא האלהים אין עוד מלבדו. (דברים ד:לג-לה)

*Have ever a people heard the voice of God speaking out of the midst of the fire, as you have heard, and lived? Or has God attempted to go and take Him a nation from the midst of another nation, by trials, by signs, and by wonders, and by war, and by a mighty Hand, and by an outstretched Arm, and by great terrors, like all that Hashem your God did for you in Egypt before your eyes? You were shown, so that you should know that Hashem, He is God; there is none else beside Him. (Devarim 4:33-35)*

## Questions

1. The *pasuk* says “Have a people ever heard...” which refers to *Matan Torah*, when the people heard the Voice of God on *Har Sinai*, and then following that it says, “Or has God attempted...” which refers to *Yetzias Mitzrayim*. Why does it precede *Yetzias Mitzrayim* with *Matan Torah*, the reverse of the chronological order?
2. We must determine what the intention of the words “*hashama*,” “have heard,” and “*hanisa*,” “has attempted” [or, more literally, “has tried” or “has tested”].

We know that behind both *Yetzias Mitzrayim* and *Matan Torah* there was one main purpose: to make known God’s existence (*metzius*) and His uniqueness (*achdus*). This is what God meant when He said to Moshe, “When you take the people from Egypt, they will serve God on this very mountain.” (*Shemos* 3:12) And

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so too at *Matan Torah*, He said to the Jews, “I am Hashem your God Who took you out from Egypt” (20:2) - meaning: I took you out from Egypt so that you should know that “I am Hashem your God.”

When a person knows something and understands it, it will in general be through one of two ways, either the pure understanding of the intellect [i.e. the theory itself], or experience and experiment. The former is of a higher level, and more thorough, but not everyone is able to attain it except those of superior mind. The latter way is lesser in quality, but anybody can reach it; even if they don't fully understand the reason, the root cause of something, they can know that such a thing does indeed exist from their experience or from their experiments.

Now, this knowledge, that of God's existence and His uniqueness, that the Jewish People gained during *Yetzias Mitzrayim* and *Matan Torah*, was gained through both of these two methods, what they understood thoroughly with their intellects, and also what was made known to them through their experience and what they saw with their own eyes. During *Yetzias Mitzrayim*, when the nation was at a low level (the Egyptians were idol-worshippers and the Jews too were idol-worshippers), this knowledge of God was known to them through what they witnessed with their own eyes rather than what they understood intellectually. “And Israel saw the Great Hand...” and only then “they believed in God...” (*Shemos* 14:30-31). *Chazal* said, “The lowest in the time of Moshe saw what Yechezkel the great prophet did not see” (*Devarim Rabba* 7:5).<sup>1</sup> Only through what they saw, through their experience, did they know

1 This statement of the *midrash* that “the lowest in the time of Moshe saw what Yechezkel the great prophet did not see” is difficult to accept at face value. I would like to explain the *midrash* as follows: A wise person will recognize the greatness and talent of someone who creates something based on the beauty of the thing he created, and based on the order and structure and regularity of it, as well as on the ability he gives it to sustain that structure and order. King David wrote, “For I see Your heavens, the work of Your Hands, the moon and stars that You installed.” (*Tehillim* 8:4) So too he wrote, “The heavens declare God's honor, the work of His Hands are told by the sky.” (19:2) This refers to seeing and beholding God's creations, the beauty of the earth's expanse, the heavens and earth and all the constellations, the order and structure with which God endowed them, and the continuity of that order and structure, which “each day tells of it; each night speaks its knowledge” (19:3). He placed for them a law that they do not transgress; they never change their purpose. When one beholds all of this, he understands the greatness and the power of the Creator who made all of it, he can internalize the status of God's honor, he can fear God and His eternal might.

However, the foolish one of lowly stature is not impressed by that in which order and regularity continuously reign, but rather by that which is unordered and unstructured. He gives honor firstly to that which has the power of destruction, which breaks the structure around it, which upturns the order of nature. Many of the ancient beliefs and idolatries were based on the observation of the disorder and structurelessness inherent in them. Many worshipped fire, for example, or wind or lightning or thunder or water, because these things can come and disrupt the order that is expected. This is what Abaye meant when he said “How lowly is this person for whom the order of Creation was changed” (See *Shabbos* 53b)

that Hashem is their God and that He is in their midst. But at *Matan Torah*, the Jews ascended to a higher level, understanding this idea intellectually and thoroughly, the idea of God and His uniqueness, for the first two of the *Aseres HaDibros*, dealing with these ideas, were heard *mi-pi hagevura* - from God Himself. (See *Makos* 24a)

When Moshe speaks to the people about this knowledge that they obtained, and he says to them “You were shown, so that you should know that Hashem, He is God; there is none else beside Him”, he first explains to them how they came to obtain this knowledge. Firstly, that this knowledge was attained intellectually at *Matan Torah*; “Have ever a people heard the voice of God ...,” referring to *Matan Torah*, when they thoroughly understood that which they saw and heard (“to hear” in *lashon hakodesh* is to understand). And also, that this knowledge of God and His power was made known to them through experience; “or has God attempted (*hanisa*) to go and take Him a nation ...,” referring to *Yetzias Mitzrayim*, but it was only through experience (*nisayon*) that they gained this knowledge.

The knowledge of God’s existence that was internalized intellectually and through true understanding is the fundamental way and of superior value, and so Moshe mentions it first. Since his topic is this knowledge of God and recognition of Him, surely he should mention first *Matan Torah*, when “all the people saw (i.e. understood) the sounds [of God]”. (*Shemos* 20:14)

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This is what is intended by this *midrash*: “The lowest in the time of Moshe saw what Yechezkel the great prophet did not see.” This is not to undermine the status of Yechezkel and to exalt the status of the lowly of Moshe’s time. Rather, the point is merely to tell it as it was, that the lowly of Moshe’s time, given their lowliness, only recognized God through His power, His great Hand and His outstretched Arm; in other words, through His ability to change the nature of the creation. Yechezkel, on the other hand, saw the Godly presence on Nehar Kvar by observing nature in all its beauty and splendor, its structure and order. And in this way, the status of this prophet and his honor are great indeed.



# America Awakened!

AN ADDRESS BY DR. S.M. NECHES ZT" L



**O**n this, the first day of the civil year 1942, the whole nation, in accordance with the proclamation of President Franklin Delano Roosevelt, is devoting itself to a “day of prayer, of asking for forgiveness for our shortcomings of the past, of consecration to the task of the president, of asking God’s help in the days to come.”

Throughout the land, men, women and children of all faiths and of all denominations are lifting their voices and hearts in prayer to the Almighty for the welfare of our country, and for victory in the titanic contest against the enemies of humanity and God. It is a national day of prayer for Divine guidance in the colossal struggle of a free people to preserve from utter destruction the great cause of Democracy and Liberty, the foundations of true civilization.

And so today, we see transferred to a national spiritual phenomenon what we, as Jews, have been accustomed to for centuries. Church and Synagogue alike are joined in the spiritual manifestations of the Jewish Rosh Hashana. We devote our New Year’s Day to prayer and devotion, to reflection, to inward search and self-examination of our spiritual values and possessions. Today, the first day of the Civil Year, 1942, we join with our fellow American citizens in the same self-examination of our spiritual values and possessions as a nation.

It is sound psychology – it is even good common sense – whenever misfortune befalls us, that we examine our own thoughts and deeds, to see wherein we have failed to think correctly, or to act justly and wisely; to discover whether we have committed acts of malfeasance, misfeasance or non-feasance. Only after such a spiritual probe can we set our own house in order. For, as the rabbis say: “Is the Holy One, blessed be He, to be suspected of passing an unjust judgement?” (*Berachos* 5b)

If that is true of the individual, it is also true of the aggregate of individuals, the nation. If it is possible for an individual to commit acts of folly, it is equally true that a

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nation can. Thus, on this day of prayer, let us turn the searchlight of our contemplation inward upon ourselves as a nation. Let us see wherein we have been unworthy of our spiritual heritage. And in the words of our President, let us pray for forgiveness for those shortcomings of the past and for our sins of international responsibility.

While the major part of the world was blanketed with darkness, hunger and suffering, we have been living on the nectar of the earth, in peace and prosperity. We have hardened our souls with the easy self-excuse that what was happening elsewhere was none of our business. We are definitely not “our brother’s keeper.”

If Hitler desired to throw the German Jews into concentration camps, confiscate their property and massacre them, that was Germany’s concern, not ours. If he went a step further and destroyed labor unions, the freedom of the press, and made all of Germany a slave camp, that was Germany’s internal affair and none of ours! When the spirit of Esau began to thrust its bloody sword into the Heavens, we sought to hide our eyes from consequence, face the world ‘realistically’, and offer gifts of appeasement by permitting the sacrifice and the enslavement of the common people of Manchuria, Ethiopia, Austria, Checko-Slovakia and many more.

We had forgotten the words of Solomon who said, “As a troubled fountain and a corrupted spring, so is a righteous man who giveth way before the wicked.” (*Mishlei* 25:26). We had forgotten the prophetic warning of Isaac when he blessed Esau, saying “And it shall come to pass when thou shalt break loose, that thou shalt shake his (Jacob’s) yoke from off thy neck.” (*Bereishis* 27:40).

We played the role of Jacob in his struggle with the vicious and war-like Esau. He feared Esau, knowing well his utter lack of conscience and humanity. “I fear him lest he come and smite me, the mother with the children.” (*Bereishis* 32:12). Paralleling and even exceeding the Biblical character in conscienceless murder is the present day Hitler, who also says “the mother with the children,” sacrificing the innocent ruthlessly, and deifying lust and brutality.

Then said Jacob, “I will appease him with the present that goeth before me, and afterward I will see his face; peradventure he will accept me.” (*Bereishis* 32:21). And so we, too, appeased the modern replica of Esau by doing business as usual with our avowed enemies up until the very day the Japanese struck at Pearl Harbor in their cowardly sneak attack.

We have sinned also as a nation in permitting the concepts of the mind to overstep the reach of the human heart. We have devoted the remarkable achievements of the inventive spirit to create weapons of destruction. Mankind has achieved mastery over the forces of nature through an intellect bestowed upon him by the Creator.



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Man knows no limitations of time or place. He ascends to the heavens and descends below the ocean's bed. Through the ether his voice travels from one world's end to another. All of these tremendous accomplishments might well have swerved toward the building of a better world, but instead Man's vision has become distorted in his obeisance to the spirit of Esau, and his achievements are directed toward crushing civilization rather than sustaining it.

Solomon was right when he said: "For into an evil devising soul, wisdom enters not, neither doth she dwell in a body enslaved by sin." (Wisdom of Solomon 1, 4).

For almost two centuries has America enjoyed an enviable freedom. We have a sound government, and peace and harmony prevail among our millions of inhabitants of various creeds and color. Thanks to the far-sighted wisdom of the fathers of our country, who founded this nation on the principles of the true prophets of the world, we have been able to maintain the democratic pattern of life. But we have neglected our duties and responsibilities to the world at large by encrusting ourselves with an isolationist shell. We merely shrugged our shoulders as we watched a monster raise his hands against God and humanity. We said it was none of our concern.

Again we sinned because we shut our ears to the words of wisdom. We refused to heed the words of President Roosevelt, among others, who warned us of the dire consequences of our heedlessness. In our smug complacency we denounced those warnings against the Spirit of Aggression. We still insisted that it was none of our affair as to what happened among the quarrelsome nations in Europe and Asia. We were even a bit ashamed of President Roosevelt's courageous branding of Italy's entrance into the war as a "stab in the back of helpless France." We shut our eyes, our ears, and above all our hearts, and gave way to evil spiritually and physically.

Then came the unprovoked attack on Pearl Harbor. This dastardly act of the Japanese may well be described in the words of Jeremiah: "Therefore thus saith the Lord of Hosts... their tongue is a sharpened arrow, it speaketh deceit; one speaketh peaceably to his neighbor with his mouth, but in his heart he layeth wait for him... shall I not punish them for these things, saith the Lord: shall not My soul be avenged on such a nation as this?" (9:6-7).

Pearl Harbor was not an independent move on the part of Japan. It was part and parcel of Hitler's plan in his war against everything that is honest, decent and just in civilization. That which started with the frothing ravings of a beer hall orator in Munich against the Jews of Germany is now crystallized as a definite threat against the foundations of our American way of life. At last our eyes have been opened, our ears have been pierced, our hearts have been startled to the realization that we have

everything to lose – because we have in the past refused to see, refused to hear and refused to feel.

Today America realizes that the Statue of Liberty is not merely a mass of molten metal shaped into an indefinite something called Liberty. It is a symbol of our destiny to hold that torch of liberty aloft, not only for ourselves, but triumphantly for all the world. By entering into this war, America is not only destined to make democracy safe for the world, but to make the world safe for democracy.

Referring again to our parallel of Esau and Jacob, Rashi tells us that Jacob was determined to apply these three means that might have saved him from an impending disastrous fate. He would cry to God for help, appease Esau with gifts, and hold himself in readiness for war, should war come. Two of these principles of salvation have proven their worth – Prayer and Preparation. But the third, Appeasement, has proven itself the best weapon in the hand of the enemy.

The cruel, hairy hand of Esau must be manacled forever, and the voice of Jacob prevail. Only by the supreme efforts outlined in the President's proclamation, designating this a Day of Prayer, can this objective be obtained. We must ask for forgiveness for our misconduct in the past. We must pray to the Almighty, upon whom we depend, for guidance. As the Psalmist says, "Through God shall we do valiantly; for He it is that will tread down our adversaries." (70:14) And finally we must prepare ourselves for the future. We must be ready to offer up our possessions and our lives in the great struggle for the preservation of our country and the salvation of mankind.

Let us then, today, in common with our fellow American citizens, pray to God, for prayer brings about the realization that we are all common children of one Father. What better method of bringing about spiritual unity in the nation than praying to our common Father? And instead of bearing gifts to the enemy as Jacob appeased Esau, let us bring all our gifts to sacrifice offerings to our own government. Let us bring the gift of our possessions, our minds, our spirits, our very lives to an all-out support of our administration and our armed forces battling in the cause of humanity against the bloody hands of Esau!

Fortified with the deep-rooted conviction that victory will be with us, we pray for the success of our country, saying "The Lord of Hosts is with us." Amen.

# Vayikra



Evan Silver

Eli Snyder



*Parshas Shemini***Reasons for *Kashrus***

EVAN SILVER



One of the fundamental *mitzvos* that affects our daily life is *kashrus*. In some ways, it is one of the most restrictive *mitzvos*, preventing us from eating various foods and living like everyone else - we can't just grab a hot dog at a game or go out to eat with coworkers. One of the most common questions to ascertain whether someone is Orthodox is to ask them if they keep kosher and are *shomer Shabbos*. Although *kashrus* is ultimately a *chok* (a mitzva without an apparent reason) and we would always be required to keep it, there are numerous reasons presented for this mitzva and positive aspects it has on our daily lives.

The importance of *kashrus* can be learned from its laws, both rabbinic and Biblical. The first and most commonly known component of *kashrus* is not to mix milk and meat, which the Torah repeats three times (*Shemos* 23:19, *Shemos* 34:26 and *Devarim* 14:21) "Do not cook a kid in its mother's milk," from which we famously learn the prohibitions of cooking milk and meat together and eating and deriving benefit from milk and meat that were cooked together. (*Chulin* 115b) The *Sefer Hachinuch* (Mitzva 92) writes that from the fact that making the mixture itself, and not just eating the mixture, is forbidden, the reasons behind the mitzva must have similarities to *shaatnez*. In both of these *mitzvos*, which forbid certain mixtures, the creation of a new hybrid substance diminishes the angel that presides over the original substance. The *Sefer Hachinuch* also quotes a second reason from the Rambam that mixing milk and meat was a form of idol worship.

Another major component of *kashrus* is the prohibition against eating animals that lack kosher signs:

דברו אל בני ישראל לאמר זאת החיה אשר תאכלו מכל הבהמה אשר על הארץ. כל מפרסת פרסה ושסעת שסע פרסת מעלת גרה בבהמה אתה תאכלו. (ויקרא יא:ב-ג)

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*Speak to Bnei Yisrael to say, this is the animal you may eat, from among all the animals on the earth. Any that has split hooves and chews its cud among the animals you may eat. (Vayikra 11:2-3)*

At the end of the prohibitions, the Torah gives an explanation for these commandments:

כי אני ה' המעלה אתכם מארץ מצרים להיות לכם לאלהים והייתם קדשים כי קדוש אני.  
*For I am the Lord Who has brought you up from the land of Egypt to be your God. Thus, you shall be holy, because I am holy. (11:45)*

When the Torah mentions some of the laws of *kashrus* later in *Kedoshim* it gives a similar reason:

והייתם לי קדשים כי קדוש אני ה' ואבדל אתכם מן העמים להיות לי.  
*And you shall be holy to Me, for I, the Lord, am holy, and I have distinguished you from the peoples, to be Mine. (20:26)*

Using the simplest meaning, the explanation is that since we are to be a holy nation, we can't eat certain foods. Another explanation is that since we are a holy nation, we have to behave differently than other nations, and this is done through separating what we eat (*Shadal, Vayikra 11:1*). Similarly Rabbeinu Bechaya says (20:26) that we separate ourselves from other nations through what we eat and drink.

For most of the prohibited foods, *Sefer Hachinuch* (Mitzva 73) refers to the commandment against eating a *treifa*.<sup>1</sup> There he states that, essentially, certain foods cause harm to our body and we therefore shouldn't eat them. This harm could be spiritual and is most likely beyond our comprehension, and the specific reasons are intentionally unknown so no one can think they don't apply. The comparison would be a doctor telling a patient not to eat certain food or to take certain medication. The patient may not understand how these items interact with their body, but nevertheless follow these instructions, trusting that there is something the doctor understands that is beyond their comprehension. Further, by the prohibition of eating insects (Mitzva 159), the *Sefer Hachinuch* states that the forbidden foods are beyond physical, and the prohibition relates to how the soul and body tie together, which is something beyond our understanding. He equates it back to the Red Heifer, which is often defined as the quintessential *chok*.

Further complicating the laws of *kashrus*, creating a barrier in where we eat

<sup>1</sup> This is defined as an animal with an injury that will cause it to die within a year (*Chulin 57b*)

and what we let in our homes, is that pots and pans can become non-kosher. This commandment is found when *Bnei Yisrael* are commanded to *kasher* the utensils of Midyan (*Bamidbar* 31:21 – 23). Somehow whatever is damaging or forbidden about non-kosher food will penetrate into the pots and needs to be cleansed. Without this commandment one could easily bring their own food and cook it anywhere.

In addition to the Biblical components of *kashrus*, *Chazal* issued their own decrees that make up the laws of *kashrus*. The *mishna* in *Avoda Zara* (35b) lists items of a non-Jew<sup>2</sup> that are forbidden, among them bread, the *issur* of *pas akum*.<sup>3</sup> The *gemara* (*ibid*) goes on to explain that this prohibition exists to prevent intermarriage. The other item mentioned in the *mishna* is the prohibition of eating food cooked by a non-Jew, the *issur* of *bishul akum*. Rashi gives two reasons for this *issur*. The first is similar to bread, to prevent socializing which could lead to intermarriage, and the second reason is that if one is accustomed to eating at the table of a non-Jew they might come to eat non-kosher (*ibid* 35b, 38a). The *mishna* (*ibid* 29b) also lists wine of idol worshipers as forbidden. The *gemara* seems to give two different reasons for this prohibition. One is that it might have been use for idol worship, and the second is to prevent intermarriage. What's unique about the prohibition of wine is that there is an additional prohibition of benefitting from the wine, not just drinking it. *Tosafos* (*ibid*) explain that the wine is prohibited for consumption to prevent intermarriage, but once it's prohibited there is an additional prohibition of benefit because of the possibility of idolatry.

If all the food is kosher and there are no rabbinic issues it would be permissible to dine with a non-Jew. This make sense, as there would be clear barriers, such as eating different food, or the fact that everyone ate at a kosher restaurant. However, *Chazal* realized that when beer<sup>4</sup> is involved more barriers might be needed. The

2 The Talmud uses the term “idolaters,” but for reasons beyond the scope of this article the *halacha* applies to all non-Jews

3 Bread from a bakery is in a separate category of *pas palter*. *Chazal* were more *meikel* in this area as one isn't eating with the baker and is not intimate. Food sold now that isn't *pas Yisrael* is in this category of *pas palter* and is not *pas akum*, which is never allowed. There are numerous *rishonim* who allow one to be *meikel* and eat *pas palter* but one should follow their own *rav*. The *Mishna Berura* lists two times where one should be *machmir* and only eat *pas Yisrael*, one is Shabbos (*Mishna Brura* 242:6) and the other is *Aseres Yemei Teshuva* (*Mishna Brura* 603:1)

4 There's many different opinions as to what's included in the prohibition of 'beer.' The *Shulchan Aruch* (*Yoreh Deah* 114:1) applies 'beer' to all alcoholic beverages. The Rama (*ibid*) says this doesn't apply to alcohol from grain (which is most of our liquor) and honey. The *Biur HaGra* says this leniency only applies to honey based alcohol and not grains. The *Shach* also holds the like the *Mechaber*. The *Kitzur Shulchan Aruch* (38:12) first excludes beer made from grain and honey. In a place where people are lax about drinking wine with non-Jews, a *baal nefesh* should be *machmir* with beer and other drinks including coffee. He then concludes that there are

*gemara* (*Avoda Zara* 31b) forbids drinking beer with non-Jews even if everything is kosher. The *Shulchan Aruch* (*Yoreh Deah* 114:1) forbids drinking all types of alcohol with non-Jews in a formal setting because of intermarriage.<sup>5</sup>

There seems to be a difference between bread and wine, each with their own *chumra* (stringency) and *kula* (leniency). Since bread is a staple and usually baked by the woman of the house, the bread of a non-Jew is also forbidden to eat, even in one's own home. Beer, which isn't a staple and is made in larger quantities, is only forbidden to drink in the non-Jew's home, but not outside his home. However, if the bread is *pas Yisrael* it seems to be permitted to be eaten with non-Jews except in certain circumstances, like a non-Jewish wedding (*Shulchan Aruch Yoreh Deah* 152). With beer, where the precaution stems from the bond that can be created by drinking it together, as opposed to giving it to someone, there are fewer *kulas* to drink in a non-Jewish setting.

Clearly *Chazal* saw a correlation between dining with non-Jews and assimilation which could ultimately lead to intermarriage. Their assessment of eating with non-Jews and assimilation have unfortunately been proven correct. Eating together, or "breaking bread," is one of the ultimate forms of bonding and socializing. Someone my father worked with told him that they could be so much closer if it weren't for *kashrus* preventing them from dining together. However, that is precisely one of the benefits of *kashrus*; it forces this separation. Rav Shlomo Zalman Aurbach *zt"l* has been quoted numerous times stressing the correlation between *bishul Akum* and intermarriage and the importance in being *machmir* in this regard. He understood that *Chazal* realized how this could safeguard Judaism from the dangers of intermarriage, and for that reason felt it was not an area where one should be *meikel*.

There's an idea that "*kol d'tikun rabbanan k'ein deoraisa tikun.*" *Chazal* wouldn't institute a decree that didn't have a basis in the Torah. While *Chazal* don't appear to give a reason for the Biblical components of *kashrus*, they do give reasons for the rabbinic components. Just as these rabbinic decrees help prevent intermarriage, so do the Biblical components of *kashrus*. Some of the original reasons suggested for *kashrus* were to separate *Bnei Yisrael* from other nations, and these dietary restrictions force the separation in a very literal way. According to the *Chinuch*, intermarriage is detrimental not only for the individual, but for *Klal Yisrael* as a whole.

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those who allow on occasion but not as a regular practice. As there is a wide range of opinions, each situation needs to be assessed separately as to when it may be ok to rely on the more *meikel* opinions.

<sup>5</sup> When these situations come up it's best to speak to a *rav*. For a more thorough *halachic* analysis on what to do in many of these situation, read "*Making it Work*" by Ari Wasserman



Intermarriage is currently a huge problem facing the Jewish People. According to the latest Pew study, intermarriage in America is at 58%.<sup>6</sup> This only reinforces the need to be *machmir* on all the laws of *kashrus*. *Chazal* knew being *machmir* on these *halachos* would prevent intermarriage, and it has proven true. Whereas the intermarriage rate amongst non-Orthodox is 71%, 98% of Orthodox Jews marry Jewish people. While there are numerous factors that contribute to the resilience of Orthodoxy, one cannot overlook the huge role that *kashrus* plays.

In Shabbos we find there are times when things might be technically *mutar* but are not in the spirit of Shabbos. The same can hold true for *kashrus*. We can plan to ensure that we get our special kosher meals and still be able to dine with non-Jews at their house or a restaurant, but in doing so we might be undermining one of the benefits, and the beauty, of *kashrus*. There are times when we may have to dine together for business or *darchei shalom*, in which case there might be *heterim*, but this should not be taken lightly or be seen as the ideal situation. In a time when intermarriage and assimilation are a huge problem facing our nation, we should be more careful to follow the lessons of the Torah and *Chazal* and be careful with what and how we eat.

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<sup>6</sup> <http://www.jpost.com/Jewish-World/Jewish-Features/Can-intermarriage-achieve-what-anti-Semitism-couldnt-346909>



*Parshas Shemini*

# Fire and Wine: The Continuing Story of Nadav and Avihu

ELI SNYDER



**A**lthough the Torah only commits three *pesukim* towards the story of Nadav and Avihu (*Vayikra* 10:1-3), the wealth of insight that can be gleaned from the pair's unfortunate journey into the *Mishkan* goes on for miles. The first question is of course, what motivated the sons of Aharon HaKohen, heirs apparent to the priesthood and scholars in their own right, to bring a "strange" fire into the *Mishkan* for an unwelcome incense offering? Similarly, what was the exact *aveira* to have earned them their unprecedented death by heavenly fire? The *gemara* and commentators offer many an insight into what caused this tragedy and exploring the matter can give us a good deal of clarity as to how we should motivate our religious actions on a daily, weekly, and yearly basis.

Rashi quotes two reasons for why Nadav and Avihu deserved punishment, that they ruled before their teacher, Moshe Rabbeinu, and decided it would be a good idea to perform an unsolicited priestly service. The *gemara* in *Sanhedrin* 52a goes even further, that the two would follow Moshe and Aharon around and say to each other how they couldn't wait for these two elders to die so they can assume their leadership roles. Could it possibly be that Aharon's sons, whom the *Zohar* states were on a very elevated level, could wish death upon the greatest leaders in Jewish history? Pair this with Rashi's second answer for their death – that Nadav and Avihu were inebriated when the event transpired, hence the juxtaposition of this story to the subsequent Torah commandment that *kohanim* must be sober while performing their priestly duties. Were Nadav and Avihu simply power-hungry alcoholics? Something deeper must have been taking place.

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Rabbi Lawrence Kelemen explains that the brothers' actions were rooted in *ahavas Hashem*, profound and intense love for the Almighty. While *ahavas Hashem* is of course integral to the Jewish experience and for motivation for religious service, it must not be completely unbridled and uncontained. *Ahavas Hashem* must be tempered with *yiras Hashem*, commonly translated as fear of God. These two elements are embodied in the Jewish year in two extremely potent holidays, Purim and Yom Kippur. As mentioned in previous articles, Purim has the potential to reach much higher spiritual heights than Yom Kippur, but it is only through Yom Kippur that the heights on Purim can be properly achieved. The tallest skyscrapers can only scrape skies with the most solid of foundations. In the cycle of the year, Yom Kippur comes before Purim because Purim cannot be appropriately experienced without it. The *ahava* only works when contextualized with the *yirah*.

Yom Kippur is a day of absolute clarity. We associate it with *teshuva* since that is the natural expression of having Hashem in clear sight. We automatically regret and resolve not to repeat our *aveiros* because they are simply obstacles that prevent us from experiencing God in the clearest way possible. The term “יראה” is rooted in the word “ראה,” seeing. The awe of Yom Kippur is a byproduct of the clarity, and it is this awe that Nadav and Avihu were lacking. Three *parshiyos* after the Nadav and Avihu event in *Shemini*, we have *Acharei Mos*, which introduces the *avoda* for Yom Kippur. Why is it important to introduce the priestly service of Yom Kippur with the seemingly incongruous association with the death of Nadav and Avihu if not to highlight an element lacking in the brother's fatal “offering” in the *Mishkan*? There are many commentaries that place the event of Aharon's sons' deaths in the *Kodesh Hakedoshim*, a place that is only entered by the *Kohen Gadol* on Yom Kippur, again highlighting how far off the mark Nadav and Avihu were.

Purim, in contrast to Yom Kippur, provides a very different sort of clarity, one that comes through the wine we are commanded to imbibe. On Yom Kippur, everything is clear-cut, black and white (hence the *minhag* to dress in white), and it is of course forbidden to drink wine since Yom Kippur is not the time to be interfering with that clarity. Meanwhile, the *gemara* tells us to drink on Purim to the point that we can't even tell the difference between Mordechai and Haman. This is because on Purim we realize that everything is from Hashem, good and bad, there is no black and white, it's all ultimately good. What this can perhaps be likened to is the study of quantum physics. Before delving into this high-level of scientific understanding, one must first learn Newtonian physics (every action has an opposite and equal reaction, an object at rest will remain at rest unless acted on by an outside force etc.) and Yom

Kippur in a sense is just that. Right and wrong, good and bad, yes and no. You cannot study quantum physics without Newtonian, but at the same time, quantum physics illustrate all the times the scientific tenets we believe to be absolute truths do not apply at all. You need to learn the rules on Yom Kippur so that on Purim you can understand how they are broken. Nadav and Avihu skipped straight to quantum physics.

While Purim and Yom Kippur both teach valuable lessons for the correct religious mentality, their potency is too intense to experience on a regular basis. Imagine having Yom Kippur or Purim more than one day a year; needless to say, it would be quite overwhelming. What is necessary is a day that contains the teachings of both holidays but in a more palatable and sustainable form to inform our mindset through the year. That day, of course, is Shabbos. Shabbos is replete with *mitzvos* and *minhagim* that teach both *ahavas* and *yiras Hashem*. By refraining from creative action, we are testifying to Hashem's creation of the Universe, a concept that when internalized will generate a strong sense of awe. In addition to the *yirah*-based restrictions on Shabbos, there are also many elements connected to *ahava* – e.g. *kiddush*, having three *seudos* and the overall concept of *oneg Shabbos*. Shabbos is an amalgam of Purim and Yom Kippur celebrated weekly instead of annually to perpetually ensure we do not fall into the mistakes of Aharon's sons.

The *pesukim* that follow Nadav and Avihu's death, as previously mentioned, warn *kohanim* not to drink while performing the priestly service. They need to “*L'havdil bein kodesh u'bein chol*,” to differentiate between holy and profane. This is quite reminiscent to the *bracha* we say in *havdalla* every week, “...*Hamavdil bein kodesh l'chol, bein ohr l'choshech, bein Yisrael l'amim, bein yom hashvii l'sheishes yimei maase*.” The difference between Shabbos and the rest of the week is the same as the difference between proper service in the *Mishkan* and service that horribly backfires. Deepening the parallel, it might initially appear curious that the creative work that is prohibited on Shabbos is defined by the thirty-nine types of creative work used to build the *Mishkan*. However, if the “actions” that Hashem performed to create the Universe are in parallel to the actions used in building the Tabernacle, what can be inferred is that the *Mishkan* is in fact a microcosm of the entire Creation. If the apex, the final pinnacle of Creation, is Shabbos, then the parallel pinnacle of the *Mishkan's* creation is the *avoda* performed within. I was always slightly perplexed by the fact that the daily *korbanos* in the *Mishkan* and *Beis Hamikdash* took place even on Shabbos when those regularly prohibited activities such as slaughtering and cooking were forbidden, but this perspective actually sheds much light. It's not that the *avoda* in

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the *Beis Hamikdash* overrides Shabbos; the *avoda* in the *Beis Hamikdash* is Shabbos.

Despite positive intentions, Nadav and Avihu wanted to practice Judaism their own way, a way that diverged from how Judaism should objectively be practiced. They could not wait to take over from Aharon and Moshe since they wanted to perform their “*avoda*” freely and guide the rest of *Bnei Yisrael* in the same direction. The two brought their strange fire, their own brand of *yirah*, into the *Mishkan* and quid pro quo, were killed by the heavenly fire that correctly expressed the Will of Hashem. Fire, when correctly wielded, illuminates the darkness and allows us to see clearly and differentiate properly. When we bring in Shabbos, we do so with the fire of the Shabbos candles, *yirah*, paired harmoniously with the wine of *kiddush*, *ahava*. So too when we exit, we have the fire and wine of *havdalla*. The same way Yom Kippur and Purim are once-a-year events that trickle into our weekly Shabbos performance, so too Shabbos is a weekly event that must infiltrate our mindset during the other six days of the week. By doing so we can escape the error of Nadav and Avihu and one day see *yom shekulo Shabbos umenucha*.

# Bamidbar



Rabbi Pinchas Gelb

Adiv Pachter

Rabbi Zvi Schindel

Menachem Striks

Mendy Millman

Rabbi David Mahler

David R. Schwarcz

Rabbi Yisroel Gordon

Stephen Kirschenbaum

Ezra Marton





*Parshas Beha'alo-secha*  
*u-Temunas Hashem Yabit*

RABBI PINCHAS GELB



**M**y son Eitan asked an interesting question. The verse at the end of *Parshas Beha'alo-secha* states about Moshe Rabbenu (*Bamidbar* 12:8):

פה אל פה אדבר בו ומראה ולא בחידת ותמנת ה' יביט.

*Mouth to mouth do I speak to him, in a clear vision and not in riddles, and upon the image of Hashem he will gaze [yabit].*

Commenting on the verse in the *Bris Bein HaBesarim* which states (*Bereishis* 15:5): “*Habeit na hashamayma u-sfor hakochavim im tuchal lispor osam*,” “Gaze, please, toward the heavens and count the stars if you are able to count them,” Rashi says that, as a general matter, the term “*habata*” means to gaze downward toward something. So what does it mean that the verse in *Beha'alo-secha* selects the word “*yabit*” as the form of the verb “to gaze” with reference to seeing the “image of Hashem,” when nothing is higher than Hashem?

This is a good question based on Rashi’s comment to *Bereishis* 15:5. One answer could be as follows.

**The “*Temunas Hashem*” That Moshe Rabbeinu Saw**

The *gemara* in *Berachos* (7a) quotes the opinion of Rabi Yonasan that Moshe Rabbenu was rewarded for not gazing directly at the *sneh* by later being able to see “the image of Hashem.” When Moshe first saw the *sneh* and heard the call of Hashem, the verse states (*Shemos* 3:6): “Moshe hid his face, for he was afraid to gaze [*mei-habit*] upon God.” The *gemara* explains that Moshe’s reward for this is specified at the end of *Parshas Beha'alo-secha* which states (*Bamidbar* 12:8): “Mouth to mouth do I speak to him, in a clear vision and not in riddles, and upon the image of Hashem he will gaze [*yabit*].” Thus, the *gemara* juxtaposes the use of the word “*habata*” in these verses to conclude

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that the statement “upon the image of Hashem he will gaze” was Moshe’s reward for having averted his gaze when he encountered the presence of Hashem at the *sneh*.<sup>1</sup>

The Rambam, in *Moreh Nevuchim* 1:5, explains this *gemara* to mean that Moshe Rabbenu was rewarded for not jumping to quick conclusions about Hashem. As the Rambam states, when investigating difficult matters such as knowledge of Hashem, a person “should not make categorical affirmations in favor of the first opinion that occurs to him and should not, from the outset, strain and impel his thoughts toward the apprehension of God; he should rather feel awe and refrain and hold back until he gradually elevates himself.” The Rambam continues:

*It is in this sense that it is said (Shemos 3:6): “Moses hid his face, for he was afraid to gaze [mei-habit] upon God,” this being an additional meaning of the verse over and above its external meaning that indicates that he hid his face because of his being afraid to look upon the light manifesting itself – and not that God, who is greatly exalted above every deficiency, can be apprehended by the eyes. Moses, peace be on him, was commended for this; and God, may He be exalted, let overflow upon him so much of His bounty and goodness that it became necessary to say of him (Bamidbar 12:8): “And upon the image of Hashem he will gaze [yabit].” The Sages, may their memory be blessed, have stated (Ber. 7a) that this is a reward for his having at first hidden his face so as not look upon God.*

Thus, the Rambam emphasizes that, when the *gemara* states that Moshe’s reward for not directly looking at the *sneh* was his later ability to see the image of Hashem, it means that, while one cannot quickly or easily formulate an understanding of Hashem, over time and with sustained reflection, Moshe Rabbenu reached an inner cognizance of Hashem. This is what the verse means when it says “*u-temunas Hashem yabit*,” “and upon the image of Hashem he will gaze.”

In the *Shemoneh Perakim*, the Rambam further explains that, although Moshe’s understanding of Hashem was necessarily imperfect, he was able to inscribe in his mind a firm and fixed vision of Hashem. At the end of the seventh chapter of the *Shemoneh Perakim*, the Rambam says that Moshe’s understanding of Hashem to the extent of “*re’iyas panim*” would be like someone who sees the face of a friend directly. Seeing the “face” would mean that the attributes of Hashem would be completely remembered and exactly delineated:

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<sup>1</sup> Interestingly, among his final statements toward the end of his life, as part of the *bracha* to *Shevet Yosef*, Moshe Rabbenu refers to Hashem—not as the “*motzi Mitzrayim*” and not as the “*nosen ha-Torah*”—but, rather, as the “*shochni sneh*” (Deut. 33:16). His first encounter with Hashem always resonated with him and never abated.

אז בנפשו חקוקה צורתו עד שלא יתערב לו עם זולתו אפילו בשעה שאינו רואה אותו  
*Then the image of his friend is inscribed and perfectly delineated in his soul  
 even when he cannot see him.*

But there is another level of recognition that is tantamount to seeing this friend from the back, “*k’sheyirah achorav.*” Then, there is cognizance of the friend’s features and attributes, but in a manner that can be somewhat uncertain and not precisely differentiated, “*pa’amim yaspik alav veyisarev lo im zulaso.*”

The Rambam says the same applies with regard to one’s inner understanding of Hashem. The aspiration, although unachievable, is to know the attributes of Hashem—which are *sui generis*—in a manner that is completely differentiated from everything else, without recourse to metaphor or analogy. This is:

ידיעת השם יתברך מאמתת מציאותו מה שלא ישתתף במציאות ההיא זולתו מן  
 הנמצאות עד שימצא בנפשו מציאותו חזקה ונבדלת על מה שמצא בנפשו ממצאות  
 שאר הנמצאות.

*Knowledge of Hashem that is firmly inscribed in a person’s consciousness  
 and also completely differentiated from everything else that he knows and  
 of which he is aware.*

This perfect knowledge of the Infinite is impossible to arrive at, and even Moshe Rabbenu could not ascertain this direct knowledge. But Moshe reached a level just beneath this perfect awareness. According to the Rambam, this is the implication of the verse in *Parshas Ki Sisa* when Hashem tells Moshe that he cannot see His face but that he could see His back:

והוא אשר כנה ואמר (שמות לג, כג): “וראית את אחרי.”  
*This is what the verse euphemistically states (Shemos 33:23): “and you  
 will see My back.”<sup>2</sup>*

The notion described by the *gemara* in *Berachos* 7(a), according to the Rambam, is that a person can aspire toward a state in which he or she has developed a fixed inner awareness of Hashem that is completely differentiated from anything else in the world. Through deliberation, this understanding can be developed.<sup>3</sup> And while

2 Rashi on *Bamidbar* 12:8, citing the statement in *Sifrei* 103, likewise identifies the “image of Hashem” referenced at the end of *Parshas Beha’alosecha* with the statement in *Parshas Ki Sisa* “*ve-ra’isa es achorai.*” Rashi, there, explains this to mean that Hashem showed Moshe the “*tefillin* knot” that is placed behind the head.

3 The *Malbim* expresses this in his comment to *Yeshayahu* 30:10. He states that “*im yetzayer benafsho temuna dimyonis oh tziur sichli*, if a person draws an inner image,” and, thereupon, “*ba el mechze Elokim tamid*, he can always arrive at a vision of God.” Nevertheless, it is a “*gvul b’inyanim habilti mugbalim*”; it is the paradoxical process whereby one attempts to “delineate that which cannot actually be delineated.”

unreachable to a complete degree, Moshe Rabbenu achieved it to an appreciable extent. (See also *Hil. Yesodei HaTorah* 1:10 and 7:6.)

In this sense, the term “*habata*” references, not only gazing down physically upon something, but also gazing within—peering at the impressed substance of one’s own memory and the accurate formulations of objective reality that are contained within the possession of one’s own mind. The Rambam expresses this formulation in *Moreh Nevuchim* 1:4 with regard to the Torah’s various words for “sight” which, according to the Rambam, can convey physical looking as well as mental cognizance. And the *Malbim*, in his comment to *Bamidbar* 12:8, specifically defines the word “*habata*” (as opposed to the word “*re’iya*”) to mean inner sight:

כבר בארתי (בפ' יתרו בפסוק לא תעשה לך פסל וכל תמונה) שתמונה היא צורה השוקעת, ובא על הצורה השוקעת בנפש הנביא בעת החזון שאינה צורה בולטת ממשיית רק צורה שוקעת בכח דמיונו ועז"א ותמונה לנגד עיני ויש הבדל בין ראייה להבטה, שהראייה מציין ראות העין, ועז"א כי לא ראייתם כל תמונה, וההבטה מציין עיון השכל.

*I have previously explained (in Parshas Yisro on the verse “do not make for yourself a pesel or any temuna”) that a temuna is an engraved image, and it happens upon the engraved image in the soul of the prophet during a time of vision that is not a three-dimensional image but rather is an engraved image in the capacity of the mind; and regarding this it is stated “and a picture before my eyes.” And there is a difference between [the terms] re’iya and habata because re’iya means physical sight, and regarding this it is stated “that you shall not see any picture,” and habata means investigation of the mind.*

So when Rashi in *Bereishis* states that the connotation of the word “*habata*” is to look downward, and we asked how could one look downward on Hashem, the answer becomes clear when we recognize that “*habata*” in this case means looking inward. Moshe’s understanding of Hashem was contained within his inner life. Indeed, this phrase in the verse does not state that Moshe was looking at Hashem—rather, even when he was not in an active state of prophesy, Moshe would constantly look at the “*temunas Hashem*,” the sustained impression of Hashem, that he remembered and had internalized within the contours of his consciousness. The verse’s use of the term “*habata*” with regard to this “*temunas Hashem*” is very precise because the “image of Hashem” that the verse states Moshe would see was coherently impressed upon and remembered within his inner life.

### Humility as the Indispensable Quality

Yet, this raises another question which is how the language of “*habata*” can apply even to an inner understanding of Hashem to the extent that the verse states about Moshe that “upon the image of Hashem he will gaze.” The prophets were able to ascertain, albeit indirectly, something accurate—with inner definition and resolution—about Hashem. But the question arises what distinctive inner quality enables the human mind to internalize and sustain with coherence any true image about Hashem. The answer to this might be found in the Torah’s description of Moshe a few verses earlier:

והאיש משה ענו מאד מכל האדם אשר על פני האדמה.

*Now the man Moshe was exceedingly humble, more than any person on the face of the earth. (Bamidbar 12:3)*

The image of Hashem in the consciousness of an arrogant person is not of the Living God because, as soon as a person feels as if he or she “possesses” this image, it ceases to be an honest reflection of the Divine. The coherent image of Hashem can subsist within an individual’s consciousness only if the person stands in relation to this image with aspiration and outer directedness, with no sense of self-congratulation or self-focus. Humility is the indispensable quality of religious consciousness. A person can comprehend and maintain an authentic vision of Hashem only if he or she is exceedingly humble.

The *Sefer Yerei'im* (232) quotes Rav Yehudai Gaon who concludes that there is an affirmative obligation to cultivate humility, and he cites the verse praising Moshe Rabbenu’s humility as his source. The *Semag*, who also references this verse, famously records at the end of negative precept number 64 that, after completing his work, he had a dream during which he realized that he has to include the prohibition against haughtiness in his count of the 613 *mitzvos*. Significantly, he bases this prohibition against haughtiness on the precepts in *Devarim* 8:11-14 to be diligent not to forget Hashem.<sup>4</sup>

Moshe Rabbenu was uniquely able to develop and maintain an honest image of Hashem in his consciousness because he did so without any self-aggrandizement whatsoever. Accordingly, the verse uses the term “*habata*” to attest to the fact that Moshe could maintain a true image of Hashem—the vital and vibrant “*temunas Hashem*”—within the context of his inner life, but also directly connects this with the accompanying verse which states that Moshe was exceedingly humble. Moshe’s

<sup>4</sup> See Rav Mayer Twersky, “The Heresy of Hubris” (TorahWeb.org, 2004).

ability to cultivate and maintain a correct inner image of Hashem was contingent upon his inner sense of humility.

This connection between *Bamidbar* 12:3 (regarding Moshe's humility) and *Bamidbar* 12:8 (regarding Moshe's ability to see the image of Hashem), and Rashi's statement that the verse "*u-temunas Hashem yabit*" references the knot of tefillin that Hashem had shown Moshe, is beautifully alluded to in *Anim Zemiros*:

קשר תפלין הראה לענו ותמונת ה' לנגד עיניו.

*The knot of [His] tefillin He showed to the humble one, and the image of Hashem was right before his eyes.*

### **Image of Shivisi Hashem Lenegdi Samid**

The capacity to formulate a coherent inner image about Hashem is not only a high aspiration but also a daily obligation. Moreover, it is not only incumbent upon the prophets but, through diligent reflection and careful learning, it is a duty of all observant Jews.

The Rema writes among his opening statements on the Shulchan Aruch:

שויתי ה' לנגדי תמיד הוא כלל גדול בתורה ובמעלות הצדיקים אשר הולכים לפני האלקים.

*'I place Hashem before me always' (Tehillim 16:8) is a main principle in the Torah, and [it is] among the remarkable traits of the righteous ones who walk before Hashem.*

The *Mishna Berura* specifies how this is applied:

דהיינו שיצייר בנפשו תמיד איך שהוא עומד לפני הש"י כי הקב"ה מלא כל הארץ כבודו.

*This means that he should constantly inscribe in his consciousness how he stands before Hashem Yisborach, because Hashem's glory fills the entire world.*

The Rema continues that the way a person conducts himself or herself at home is different than while standing before a king or a respected dignitary. This typically is understood to mean that a person's actions are different in the presence of a great individual. But the truth of the matter is that a person's entire consciousness is elevated during such times, and, when a person maintains awareness of constantly standing before Hashem, then the individual not only guards his or her actions but also elevates his or her mind.

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Indeed, the awareness of standing before Hashem, and fixing this awareness within individual consciousness, is the integrating theme of religious daily life. As Rav Yitzchak Twersky *zt"l* says in his conclusion to his article about the Code of Jewish Law:

*As a personal postscript, or “concluding unscientific postscript,” I would like to suggest that, if the Psalmist’s awareness of “I have set God before me continually” (Tehillim 16:8)—the motto of the Shulhan ‘Aruk—is one of the standards of saintliness, then all “Shulhan ‘Aruk Jews,” all who abide by its regulations while penetrating to its essence and its real motive powers, should be men who strive for saintliness. But strive they must, zealously, imaginatively, and with unrelenting commitment.<sup>5</sup>*

As a result, a central characteristic of religious pursuit is to care far more about the impressions cultivated within one’s own mind, and the Divine mind, than about an impression that one makes upon the minds of others. Inscribing the inner image of standing before Hashem is a hallmark of religious consciousness and a central aspiration of daily religious life. Even though to a lesser degree, the same way Moshe Rabbenu was able to cultivate and maintain a genuine image of Hashem within his consciousness and to see it (*yabit*), each individual has to endeavor to achieve awareness of “I have set Hashem before me continually.”

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<sup>5</sup> Rav Yitzchak Twersky, “The Shulhan ‘Aruk: Enduring Code of Jewish Law,” *Judaism* XVI (1967), 141-158.





*Parshas Beha'alo-secha*

# Recognizing the Oneness of Hashem

ADIV PACHTER



**P***arshas Beha'alo-secha* has the episode of the *misonenim*, the complainers, when the people began to question how they were going to be able to survive in the desert. The Torah tells us:

ויהי העם כמתאננים רע באזני ה' וישמע ה' ויחר אפו ותבער במ אש ה' ותאכל בקצה המחנה. ויצעק העם אל משה ויתפלל משה אל ה' ותשקע האש. ויקרא שם המקום ההוא תבערה כי בערה במ אש ה'. (במדבר יא:א-ג)

*Hashem heard the complaints of the people and this angered Him. A fire of Hashem burned against them and it consumed the edge of the camp. The people cried out to who in turn prayed to Hashem. The fire subsequently died down. He named that place Tavera because the fire of Hashem had burned against them. (Bamidbar 11:1-3)*

The *Sefas Emes* of Braazan asks, why was the place not called after the *yeshua*, salvation, that took place; namely after the fact that the fire died down after Moshe prayed to Hashem?

רבות רעות צדיק ומכולם יצילנו ה' (תהילים לד:כ)

*Many evils befall the righteous, but the Lord saves him from them all. (Tehillim 34:20)*

The *Bnei Yissaschar* explains that all of the events and occurrences in the world stem from Hashem, both the good and the bad. The name of Hashem has a numerical value of 26. When people begin to lose sight in the oneness of Hashem, this is the root, the beginning, of evil.

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When the concept of *rabos*, numerous, takes root in people's mind, they lose sight of Hashem's Oneness, and this is the source of *ra'os*, evil. However, the *tzadik* has the ability and the wisdom to be able to gather all the pieces and reinstate Oneness into the world through recognition that everything, both bad and good, is from Hashem. When the *tzadik* does this, it brings *hatzala*, salvation into the world.

Interestingly, when there is this realization that even the evil comes from Hashem, i.e. when we infuse the "א"—which is the Oneness of Hashem, into the רעות, it equals the numerical value of עזרה (help), 677.

In this instance *Klal Yisrael* experienced hardship—it was “bad in the eyes of Hashem” that they complained and consequently a fire of Hashem burned against them. They prayed to their leader, the *tzadik* of the generation who was able to bring a salvation through his connection with Hashem and realization that Hashem is in control of everything. Once Moshe helped infuse the *Alufo shel Olam*, the “א,” into the רעות, the nation merited the help of Hashem and the fire subsided.

תבערה equals the numerical value of 677, the same value as עזרה. By naming the place where this incident occurred תבערה, the Torah is teaching us that the main source of salvation comes when we internalize the message of תבערה—that is, when we came to the realization that everything is from Hashem. When we infuse even the “seemingly bad” occurrences of our life with Hashem, we merit salvation.

This is the way we need to live our lives generally. Equally important is how we learn Torah. The *mishnayos* in *Avos* quote the teaching of many *rabbanim*. Several of the teachings begin by saying “*Hu haya omer*,” normally understood as ‘He used to say.’ However, another explanation is quoted in the name of Rabbi Aharon of Kaidanov that *Hu haya*; first, he became; i.e. first he internalized the lesson that he was about to teach, and only then would he proceed to *omer*, to say.

This is a goal and mission that should be worked on throughout life. In this pursuit we must also realize that perfection is impossible. This holds true for ourselves and for those around us. In the second *perek* of *Avos*, Hillel teaches us not to separate ourselves from the *tzibur*. The commentaries note that צבור stands for *tzadikim*, *beinonim* and *reshaim*. The Jewish people consists of all types of people. We are all on different levels but the common denominator between us is that we are Hashem's children. He is our One Father and with this realization and internalization of His lessons, may we merit the Final *Geula*!

*Parshas Naso*

# Temperance, if only Temporarily: The Message of *Nezirus* Today

RABBI ZVI SCHINDEL



Perplexing and unparalleled, the philosophical underpinnings of the nazirite vows traverse divergent paths. *Parshas Naso* introduces the reader to protocols one must adopt if pronouncing a vow of *nezirus*. We encounter three<sup>1</sup> unique rules related to the *nazir*: he<sup>2</sup> must abstain from wine and grape products (*Bamidbar* 6:3-4); he may not cut his hair (6:5); and he may not come into contact with any corpse (6:6-7).<sup>3</sup> The twenty-one *pesukim* in the *parsha* dedicated to sculpting our impression of *nezirus*, its nature and purpose, are [ostensibly] devoid of any ideological narrative, and entirely concentrated on legal procedure. Who is this *nazir*?

On one hand, the *nazir* is referenced by the *pasuk* as wearing “the crown of God on his head,” (“*ki nezer Elokav al rosho*,” 6:7), and is called “holy” (“*Kol yemei nizro kadosh hu LaHashem*,” 6:8). Contrariwise, among the consortium of sacrifices brought by the *nazir* upon completion of his *nezirus* term is the *korban chatas*, the sin offering (6:11). Is the *nazir* praiseworthy or pitiable? Are his ascetic vows commendable, or a cautionary tale? The mercurial nature of the *nazir* and the ambiguities surrounding his treatment spawned commentaries proclaiming the *nazir* a sinner, a saint, or a composite of the two.

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1 Of the 613 *mitzvos* counted by the Rambam and the *Sefer HaChinuch*, respectively, ten relate to the *nazir*, two *mitzvos aseï* and eight *mitzvos lo sa'aseï*.

2 Throughout the article I will refer to the *nazir* utilizing the masculine designations ‘he,’ ‘his,’ or ‘him,’ though a *nazir* may be a man or a woman—“*Ish o' Isha*.” *Bamidbar* 6:2.

3 Notably, while the *nazir*'s prohibition of corpse defilement is absolute, a *kohen* is allowed to be *metamei* for his *shiva kerovim* (*Vayikra* 21:1-3).

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## Rashi and Ramban

Highlighting the Torah's juxtaposition of *parshiyos Sota*<sup>4</sup> (which discusses a married woman accused of adultery) and *Nazir*, Rashi (s.v. "Ki Yafli") quotes the *gemara* in *Sota* 2a:

למה נסמכה פרשת נזיר לפרשת סוטה לומר לך שכל הרואה סוטה בקלקולה יזיר  
עצמו מן היין.

*Why are the sections of the nazir and the sota juxtaposed? To teach you that anyone who sees a sota in her disgrace will vow to separate from wine [as imposed upon the nazir], which leads to adultery.*

According to Rashi, the root cause of the *sota's* lapse in judgment, her 'ruach shtus' ("...ki tiste ishto," 5:12), is intoxication from wine. The *nazir* witnesses her public degradation, which acts as the necessary catalyst for change.<sup>5</sup>

Rashi paints a portrait of a person fatigued by multiple attempts to recalibrate their life. The spectator witnesses the harsh, visceral shame imposed upon the *isha sota*<sup>6</sup> and recognizes the desperate measures needed for this desperate time. In swoops the Torah and offers the unique restrictions of the *nazir*, meant to delete the corrupted data in its entirety. Wine acts as the point of departure, uncovering a systemic flaw that conflates values and prioritizes carnal impulses, fleeting moments of pleasure, over lasting and meaningful *avodas Hashem*.

According to Rashi's straightforward reading of the narrative, the archetype of the *nazir* is one whose life has come undone, spun out of control. He or she was forced to adopt an extreme and [under normal circumstances] ill-advised course of treatment. To prohibit the permitted, particularly in such demonstrative fashion, is sinful and distasteful to one's spiritual health. One can live with chronic irritants of low intensity without it derailing one's *halachic* routine. One can experience minor tremors of doubt and concern that leave the bedrock of faith unstirred. The acceptance

4 Enumerated in *perek* 5 of *Sefer Bamidbar*.

5 See Rashi, s.v. "Neder Nazir" and "L'Hazir LaHashem," (6:2) where Rashi asserts the etymological root of the word 'nezira' means 'to separate.' Rashi indicates the *Nazir's* primary removal from normative behavior is based on the prohibition of wine. The *issur yayin* is also, perhaps not incidentally, mentioned first among the three. For more proofs of wine as the impetus for *kabbalas nezirus* see Rav Aharon Lichtenstein's "He Will Separate Himself from Wine..." found on vbm-torah.org, originally delivered at *Seudat Shlishit, Parshas Nasso, 5757*.

6 For example, "u'fara es rosh ha-isha," and he [the *kohen*] uncovers her hair (5:18). There are numerous other symbols and messages embedded within the *sota* process which allude to its animalistic and surreptitious mode of transgression, meant to convey shame and recoil (i.e. the absence of "levona" and "shemen" in the special *korban mincha* ['kenaos'], and the presence of "se'orim," *ma'achal beheima*, instead of *kemach chitim, ma'achal adam*, 5:15).

of *nezirus*, in Rashi's estimation, is indicative of a downward spiral requiring drastic reparative measures. That the Torah grants allowances of avowed self-restraint is a *chidush*, a novelty, and highly irregular.

Up until now the *nazir* was aware of the issue. He had had "thoughts of great value, worthy cogitations" which never materialized into a regimented course of action meant to combat the problem. Eventually he realizes "the eye sees not itself/ But by reflection, by some other things."<sup>7</sup> Ultimately, it matters not whether the fall was precipitous or gradual. *Kabbalas nezirus* necessarily implies iniquity, and necessitates an exit strategy requiring *kappara*, atonement, in the form of a *korban chatas*. The 'sin' was the acceptance itself, which sheds light on past wrongdoings. The Torah sanctions the institution of *nezirus* while concomitantly—and conscientiously—objecting.

Consequently, it should come as no surprise that Rashi<sup>8</sup> explains the "*chet*" of the *nazir* by employing the view of Rabbi Elazar HaKappar:

אמר שמואל כל היושב בתענית נקרא חוטא סבר כי האי תנא דתניא ר' אלעזר הקפר  
ברבי אומר מה תלמוד לומר (במדבר ו, יא) וכפר עליו מאשר חטא על הנפש וכי  
באיזה נפש חטא זה אלא שציער עצמו מן היין והלא דברים קל וחומר ומה זה שלא  
ציער עצמו אלא מן היין נקרא חוטא המצער עצמו מכל דבר ודבר על אחת כמה  
וכמה ר' אלעזר אומר נקרא קדוש שנאמר (במדבר ו, ה) קדוש יהיה גדל פרע שער  
ראשו ומה זה שלא ציער עצמו אלא מדבר אחד נקרא קדוש המצער עצמו מכל דבר  
על אחת כמה וכמה. (תענית יא.)

*Shmuel said: Whoever imposes fasts upon himself is a sinner. He held in accordance with the following statement: Rabbi Elazar HaKappar in the name of Rebbe asks: Why does the Torah state (Bamidbar, 6:11), "And the Kohen will atone for him [the nazir], for he sinned against his nefesh?" Against what 'soul' has the nazir sinned? Rather, he brought suffering to himself by separating from wine. However, Rabbi Elazar [disagrees]: The nazir is called 'holy,' as it says (6:5), "He is considered holy, and he should allow his hair to grow wild." If one causes himself suffering through one thing (namely, wine) is considered 'holy,' how much more so one who separates himself from all physical pleasures! (Taanis 11a)*

<sup>7</sup> *Julius Caesar*, Act I, Scene II

<sup>8</sup> s.v. "*Me-asher chatah al ha-nefesh*," (6: 11). In truth, Rashi initially quotes the opinion of Shimon Ha-Tzadik (found in *Nedarim* 9b-10a) who limits the 'sinning' component to a *nazir* who contracts corpse defilement mid-term, causing a protraction of his *nezirus* and extending his extreme asceticism unnecessarily. See also the lengthy supercommentary of the *Sifsei Chachamim* (ad loc.) who harmonizes the seemingly inconsistent position of Rashi.

Rashi's understanding of the *mechayev* for *hakravas korban chatas* is decidedly the accepted approach among classical authorities. Difficult to discern, however, is whether his position is uniquely crafted for *nezirus* locally, or consistent with a negative posture regarding *nedarim*, vows, in general. An array of primary sources trend toward the latter approach, grouping *nezirus* and *nedarim* together (or subsuming *nezirus* within the world of *nedarim*) in warning against potentials hazards.<sup>9</sup>

At variance with Rashi is Ramban in his *Perush al HaTorah* (6:14). In line with the opinion of Rabbi Elazar in the aforementioned *gemara* in *Ta'anis* 11a, the Ramban waxes poetic describing the transcendent and aspirational experience of *nezirus*. To explain the *korban chatas* among the panoply of *korbanos* the Ramban writes:

וטעם החטאת שיקריב הנזיר ביום מלאת ימי נזרו, לא נתפרש. ועל דרך הפשט כי האיש הזה חוטא נפשו במלאת הנזירות, כי הוא עתה נזור מקדושתו ועבודת השם, וראוי היה לו שיזיר לעולם ויעמוד כל ימיו נזיר וקדוש לאלוהיו... והנה הוא צריך כפרה בשובו להיטמא בתאוות העולם.

*The reason for the sin offering brought by the nazir upon completion of his vows is not stated in the text. The straightforward explanation appears to be that this man is actually committing a transgression by concluding his vows, for until now he has been separated in his holiness and in his avodas Hashem. It would be proper for him to remain a nazir forever and live all his days in sanctity for his God... he therefore requires atonement for his return to impurity through material desires.*

According to the Ramban, the 'crown' worn by the *nazir* symbolizes the triumph of the spiritual over the temporal-physical. *Perishus*, the separation from routine physical necessities, or, in the extreme form, from society as a whole, is a legitimate and laudable goal. The Ramban strongly advocates for the institution of *nezirus*, almost exclaiming 'halevay we should all accept the nazirite vows indefinitely!' Not only in principle is *nezirus* an ascendant step toward greater *kedusha*, but also in practice. The passive termination of a supernal and heightened relationship with the *Ribbono Shel Olam* is *kappara*-worthy, commissioning a *chiyuv korban chatas*. The discontinuance

9 For more unfavorable portraits of vows see *Koheles* 5:4—"tov asher lo tidor mi-she-tidor ve-lo teshalem;" the *gemara* in *Nedarim* 22a quotes a *beraisa* drawing a comparison between a *neder* and offering a *korban* on a *bama*: "Rabbi Nassan says: He who vows is regarded as if he built a *bama*, and he who keeps it is regarded as if he offered a sacrifice on it." The Ran (ad loc.) explains in both scenarios the person is attempting to expand the mitzva beyond the parameters set forth in the Torah; and, most notably, the *Yerushalmi* (*Nedarim* 9:6): "lo dayecha b'mah sha-amra Torah, ela she-ata osser alecha devarim acheirim"—Are the laws of the Torah insufficient? Must you impose upon yourself additional obligations?

of *nezirus*, and subsequent reintegration to normative behavior patterns, demands a *korban chatas*.<sup>10</sup>

### **Shitas HaRambam**

The Rambam is famous for championing and promoting moderation in almost all endeavors. Modeling his position after the Aristotelian golden mean, the Rambam believes each person should seek balance between two extremes, one of excess and the other of deficiency. This operating assumption should govern one's thoughts and deeds, both in observance of *mitzvos* and interpersonal relationships. In his *Shemone Perakim*<sup>11</sup> (ch. 4) the Rambam advises that an "*adam tiv'i*" should always strive to walk the middle path ("*b'derech ha-emptzai*") in his eating and drinking habits; marital relations; when choosing a land to settle; what clothes to wear, et al.

Again in *Hilchos Deos* (1:3-4) the Rambam writes:

שתי קצוות הרחוקות זו מזו שבכל דעה ודעה אינן דרך טובה ואין ראוי לו לאדם  
ללכת בהן ולא ללמדן לעצמו.... הדרך הישרה היא ... הדעה שהיא רחוקה משתי  
הקצוות ריחוק שוה

*The two extremes of each trait, which are at a distance from one another,  
do not reflect a proper path. It is not fitting that a man should behave in  
accordance with these extremes or teach them to himself... the straight  
path... this refers to the trait that is equidistant from either of the extremes...*

The Rambam continues to preach the middle path for nearly all areas of life, encompassing nearly all *middos*. Man should be disciplined in his daily routine, emotional bearing, self-image, dietary habits, health regimen, sleep pattern, and many more.

What of the radical incumbencies of the *nazir*? In both the *Shemone Perakim* and *Hilchos Deos* (3:1) the Rambam's exemplum of an injudicious lifestyle is *nezirus*.

10 Rabbeinu B'chaye (ad loc.) is troubled by the Ramban's assertion that his explanation is "*al derech ha-pshat*." Rabbeinu B'chaye points out that we never find a *chiyuv korban chatas* for a '*davar ha'asid*,' for a future sin (the *nazir*'s return to normal life after the *korban*). He concludes the Ramban must be referring to some mystical, kabbalistic element we don't fully comprehend.

We should separately note the Ramban, in a number of glowing passages in his *Perush Al HaTorah*, passionately endorses the acceptance of additional [permitted] measures and avenues to infuse one's life with greater *kedusha*. Most famous, of course, is his commentary on the *tzivui* of "*Kedoshim Tihiyu*" in *Vayikra* 19:2 ("*kadesh es aztmecha b'mutar lach*."), where the Ramban provides many examples of furthering one's *kedusha*, including the acceptance of *nezirus*.

11 The Rambam, in his early years, published a *Perush HaMishnayos* elucidating the *Shisha Sidrei Mishna*. The *Shemone Perakim*, or eight chapters, is his introduction to *Maseches Pirke Avos*.

Extreme abstinence and radical asceticism are natural enemies of moderation. Without leaving room for prevarication the Rambam states “*Ha-mehalech b’derech zu nikra choteh*,”—one who follows this path is called a sinner. This accords well with the Rambam’s general stance to avoid optional vows of abstinence. Expectedly and understandably, the Rambam seems exceedingly hesitant to endorse *nezirus*.

A spattering of other statements in the Rambam produces a more complicated orientation. At the end of *Hilchos Nedarim* (13:23-24) the Rambam writes:

מי שנדר נדרים כדי לכונן דעותיו ולתקן מעשיו הרי זה זריז ומשובח כיצד כגון מי שהיה זולל ואסר עליו הבשר שנה או שתים או מי שהיה שוגג ביין ואסר היין על עצמו זמן מרובה או אסר השכרות לעולם וכן מי שהיה רודף שלמונים ונבהל להון ואסר על עצמו המתנות או הניית אנשי מדינה זו וכן מי שהיה מתגאה ביופיו ונדר בנזיר וכיוצא בנדרים אלו כולן דרך עבודה לשם הם ובנדרים אלו וכיוצא בהן אמרו חכמים נדרים סייג לפרישות. ואף על פי שהן עבודה (לשם) לא ירבה אדם בנדרים איסור ולא ירגיל עצמו בהם אלא יפרוש מדברים שראוי לפרוש מהן בלא נדר.

*One who takes vows in order to stabilize his conduct and correct his ways—this is proper and praiseworthy. For instance, a gluttonous eater who banned himself from meat for a year or two, or an alcoholic who banned wine for a long time or drunkenness forever, or a corrupt individual who banned taking anything from anyone, or a vain individual who became a nazir, or any such case, is to be considered serving God. Regarding these and similar vows, our Sages said: “Vows are a fence around abstinence.” But although they are considered the service [of God], a person should not indulge in, nor accustom himself to, vows that add prohibitions. He should rather abstain without a vow from those things that it is worthwhile to abstain.*

The tone of these *halachos* projects a more nuanced approach toward *nezirus*. To electively adopt a life of abstinence, reinforced by serious prohibitions and consequences, is spiritually irresponsible and distasteful. The Rambam shares two distinct concerns: first, the ascetic lifestyle isn’t the ‘*derech yeshara*,’ the ‘*derech ha-emptzai*’ the Rambam earlier affirmed is essential to proper *avodas Hashem*. Secondly, casually creating *issurim chamurim* is bad *halachic* practice. The Rambam clearly opens a scenario [albeit, rare] where a person, in pursuit of spiritual readjustment (the unique *kedusha/perisha* of the *nazir*), and requiring additional reinforcement (the vows) would be encouraged to temporarily adopt a term of *nezirus*.

Similarly, the Rambam concludes *Hilchos Nezirus* (10:14) by distinguishing



between “*nezirus reshaim*,” where one flippantly vows abstinence, and the “*derech kedusha*,” where one’s *nedarim* are “*na’eh u’meshubach*,” delightful and praiseworthy.

Furthermore, in his philosophical work, the *Moreh Nevuchim* (3:8), the Rambam acknowledges that to reach the highest levels of *chochma* (“knowledge of God, the formation of ideas, mastery of desire and passion, etc...”) one may be required to live an acutely austere life of self-abnegation, limiting one’s transient body to the bare essentials.<sup>12</sup>

If forced to consider the Rambam’s position in absolute terms, most would err on the side of caution and frame *shitas HaRambam* within the position of Rabbi Elazar HaKappar (quoted by the Rambam in a number of locations). But it appears the Rambam’s philosophical attitude is more fluid than Rashi or the Ramban, with the *nazir* serving as a viable, or even meritorious, option for anyone who:

(1) Perforce needs to curb their indulgences, and requires *nezirus* as a corrective measure for a turbulent, spiritually untenable lifestyle. Ideally, this term of self-denial will be a limited period (“*stam nezirus shloshim yom*”).

(2) Pines to reach a higher plateau in *ruchniyus* and *yedias HaTorah*. This road is scarcely travelled, limited to exceptional individuals of *halachic* grandeur.

This person is not classified as an “*Adam Tiv’i*,” mentioned in the *Shemone Perakim*. He is propelled by an intense and pure desire to form a proximate relationship with his Creator. In theory, this *nezirus* is unlimited.<sup>13</sup>

In explanation of *shitas HaRambam* we may offer, analogously, the well-circulated story of Rav Itzele Petersburger’s visit to Volozhin. Rav Itzele, one of the *talmidim muvhakim* of Rav Yisrael Salanter, once delivered a *mussar shmuess* in the yeshiva comparing the study of *mussar* to medicine, whereupon Rav Chaim Soloveitchik remarked, “So *mussar* is for someone who is sick, but we in Volozhin aren’t ill!”

Rav Chaim Brisker would concede to establishing a *seder mussar* in a yeshiva

12. See also *Moreh Nevuchim* (3:38; 3:54). We are reminded of the Rambam’s inspiring and oft-quoted comments in *Hilchos Talmud Torah* (3:12) among other descriptions of acquiring *chochma* and *kedusha*, reminiscent of the declaration in *Pirke Avos* 6:4, “*kach hi darka shel Torah: pas b’melach tochal...*”

The Rambam also advocates for temporary and restrictive extremism to, on occasion, readjust one’s inclinations with the goal of equilibrating (*Hilchos Deos* 1:4,5; 2:2).

13. Shimshon HaGibbor, for example, had the potential and proclivity for a life of sustained *kedusha* and *chochma*, but fell prey to his lust and impulsivity. Theoretically, Shimshon could serve as a proof for adopting the opinion of Rashi, Ramban, or the Rambam, depending on how one parses the details.

Parentetically, the formal acceptance of *nezirus Shimshon* (discussed in the *gemara* in *Nazir* 4a-5a) may be defined by different parameters than our particular discussion at hand. This applies to other manifestations of *nezirus* as well—*nazir olam*; *nazir l’olam*.

lacking requisite *yiras Shamayim* and *ahavas HaTorah*. He would write the prescription himself! But in Rav Chaim's assessment, Volozhin needed no such remedy. In his estimation, incorporating *sifrei mussar* into the Volozhin curriculum was imprudent, and amounted to a form of *bittul Torah*.<sup>14</sup> Alternatively, Rav Chaim Brisker could argue *mussar* leads to a heightened refinement in one's *avodas Hashem*, unsuitable for the average person. It may be the preferred method for *gedolim* like Rav Yisrael Salanter, the Alter of Slabodka, or Rav Itzele Peterburger, but an ill-advised course for the rank and file.

### Methods, Not Miracles

Rav Avraham Yitzchak HaKohen Kook observed 'just as there are rules to poetry, there is poetry to the rules.' Beneath the *dikdukei halacha* one can sense a rhythmic pattern, an overarching coherence of thought and ideation. The ambition to reach higher in *ruchniyus* and *kedusha*, the longing for a stronger adhesion to the *Ribbono Shel Olam* (*dveikus B'Hashem*), is universally accepted by religionists as the natural state of man. According to the Rambam, the straightest line is the shortest distance between man and God. For most of the world, *kabbalas nezirus* will cause a radical deviation from the charted course. The '*derech ha-emtzai*' is the preferred and most natural path to lead a life of Torah and *mitzvos*. The *nazir* travels a circuitous route with the middle path serving as his point of origin and final destination. In isolation, this appears absurd. *Nezirus* is an acknowledgment of man's imperfection, occasionally needing readjustment and re-centering.

In principle, the Ramban could agree with the Rambam's general methodology. But once one has experienced the intensity of *nezirus*, the closeness and exuberance felt, how could one withdraw so hastily? While Rashi focused on the sinful choices that led to the *nazir's* abstinence, the Ramban invoked Rabbi Elazar's comparison of the *nazir* to the *navi*, the prophet.<sup>15</sup> Both enjoy an alternative, and heightened, connection with Hashem. Transcendence, the Ramban argues, is also natural to man's existential relationship with God. What appears to be "the spontaneous overflow of powerful feelings," disorderly and misguided, in truth "takes its origin from emotion

14 In today's yeshiva climate it's almost unheard of to find a yeshiva which discourages learning *sifrei mussar*, though to varying degrees. I recall a story my grandfather, Reb Zishe Wirtheimer *shlit"l*, told me a few years ago. His father, HaRav Bencion *z"l*, was a *Rosh Kollel* for the Radomsker Rebbe in Krakow before the *Shoah*. The Rebbe was receiving pressure to introduce a *sefer mussar* into his many *kollelim* around Poland. The Rebbe asked Rav Bencion his opinion. Rav Bencion thought for a moment and responded 'If we need *mussar*, we have *Sefer Devarim*,' whereupon the Radomsker Rebbe remarked, 'Yes, we have *Sefer Devarim*. And Rashi and *Tosafos*!'

15 Based on the *pasuk* from *Amos* 2:11.

recollected in tranquility,” having reached and breathed the lofty, clear heights of purity and sanctity.<sup>16</sup> *Nezirus* represents the convergence of powerful emotions and profound intellection (“*haysa alav Ruach Hashem*”).

The *Sefer HaChinuch* paints *nezirus* with brushstrokes of opportunity for greater *avodas Hashem*.<sup>17</sup> He offers an instructive insight gleaned from the elusive status of *tumas nazir*. The *gemara* in *Nazir* 47a-49b analyzes cases where a *nazir* is walking with someone else who is forbidden to be *metamei b'tumas hames* (different statuses among the *kohen-gadol*, *mashuach milchama*, *hedyot*, etc. ...), and they happen upon a *mes mitzva*. Walking alone, each is obligated to bury the dead body. When walking with one another, however, other considerations present issues of priorities. The lesser sanctified of the two, logically, would demand he defile himself to bury this Jewish body. Is the *kedusha* of the *nazir* greater because he must offer *korbanos* with his *tuma*? Or is the *kohen's kedusha* greater because it is natural and eternal (*kedushaso kedushas olam*). On the other hand, the *nazir* may not defile himself for anyone, whereas the *kohen hedyot* may for his *shiva kerovim*?

The *Sefer HaChinuch* analyzes the *gemara's* persuasive argumentation by spotlighting another valuable lesson from *nezirus*: the value of temporary *kedusha* and its reverberations throughout one's life. He writes (no. 376):

האדם אחר הזירו לשם פעם אחת תקוה יש בו לקדש עצמו ולהוסיף יום יום בטובו,  
ומן השמים מסכימין על ידו, ... ואחר שהזיר אפילו יום אחד יסתיע וישלים כל ימיו  
בטהרה.

*After a person has separated himself to Hashem [for even] one time, he has hope and anticipation to continue to sanctify himself and grow each day. And Heaven will help and encourage him... and now that he has experienced Nezirus even for one day he will be helped to complete his days in purity.*

Most of us will experience [recurring] momentary lapses in our *kavana b'tefilla*, *hasmada b'Torah*, *shemiras halashon*, etc. ... But recall the pursuit of *d'veikus b'Hashem*, the absolute joy and ecstatic pride after a productive day of learning a new *daf*, a new *sugya*, a *chiddush*; or the accomplishment felt when one's thoughts and *tefillos* are completely in tune with one another; staving off temptation to join a spiritually noxious conversation. These are the stuff that *bnei Torah* are made of... even for one

<sup>16</sup> Taken from William Wordsworth's famed definition of poetry in his Preface to *Lyrical Ballads* (2nd ed., 1801).

<sup>17</sup> Specifically *mitzvos* 374 and 376

day. The intensified jolt of *kedusha* experienced temporarily by the *nazir* imprints upon each subsequent day of his life. He is a more sanctified person, even if those days feel distant and past. Each mitzva performed, *pasuk* recited, *daf* learned, helps us achieve *shleimus b'Avodas Hashem*.

Gazing backward, one may faintly notice the distant peak once scaled; recollect the dizzying heights of *kedusha* once summited. Perhaps that feeling even beckons on occasion, supplying inspiration to pack-up and begin climbing once again.

*Parshas Naso*

# Lessons from the *Nazir*: The Secret to World Peace<sup>1</sup>

MENACHEM STRIKS



In the beginning of *Parshas Naso*, the Torah discusses three seemingly unrelated topics. First, the Torah delineates the consequences of stealing and swearing falsely. The *parsha* then discusses the subject of the *sota*, the woman suspected of adultery. Finally, following the *parsha* of the *sota* is a discussion of the rules and restrictions that apply to the *nazir*, one who vows to abstain from certain behaviors.

### **The Recipe for Achieving World Peace**

The Ralbag (*Bamidbar* 5:12) explains the mysterious juxtaposition and sequence of these seemingly unrelated segments. The Torah's ultimate goal, the Ralbag teaches, is to achieve a peaceful society, one in which all of mankind coexists in harmony and tranquility. The first topic, stealing from one's fellow man and swearing falsely, is an ill of society as a whole. If the goal of a peaceful civilization is to be achieved, this is an issue that must be resolved. However, the Ralbag continues, before the goal of world peace can be realized, there must first be harmony in the building blocks of society; the home and family. This is the reason why the Torah followed the discussion of theft with that of the *sota*, the wife who is suspected of infidelity. Before we can succeed in dwelling peacefully with our neighbors, we must first perfect the relationships in our own homes.

Yet even this objective of domestic harmony is dependent upon an even more basic form of peace. Before one can have tranquility in his own home, he must first become at peace with himself. Thus, the Torah concluded the sequence with a discussion of the *nazir*. The Ralbag explains that the *nazir*, through abstaining from

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<sup>1</sup> Adapted from a *shmuess* by Rav Henschel Leibowitz zt"l; Rosh Yeshiva, Yeshivas Chofetz Chaim.

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the pleasures of wine and other intoxicating beverages, is able to achieve true peace within himself. In contrast, one who chooses not to restrain himself from indulging in physical pleasures can never truly be at peace with himself; he therefore cannot reach a state of tranquility within his home and ultimately cannot dwell harmoniously in society.

While the Ralbag's insightful analysis is certainly useful, the final step he uses to reach his conclusion seems puzzling. He asserts that one who does not hesitate to indulge his physical desires can never be fully at peace with himself, but shouldn't that person be the definition of inner peace and tranquility? After all, he does not have to engage in the constant internal struggles of one who attempts to refrain from physical indulgence. Why does the Ralbag characterize the self-indulgent individual as one who is in conflict with himself and who can never truly be at peace, and one who deprives himself of certain behaviors as able to achieve inner tranquility?

### **True Happiness and the Hedonic Treadmill**

As we are all aware, man was not created to be a purely physical creature; he is a miraculous blend of the physical and spiritual. Just as the soul cannot survive if one's body is deprived of nourishment, so too the physical body cannot be successful if the soul is deprived of its essential sustenance. When one neglects his spiritual purpose and focuses solely on satisfying his physical desires, he will find himself in a state of inner turmoil. This internal conflict, which is fueled by our innate yearning for spirituality and true fulfillment, cannot ever be satisfied through any sort of physical indulgence.

The concept that achieving greater levels of physical satisfaction does not lead to ultimate happiness is one that is also well recognized in modern psychology. The "hedonic treadmill theory," first coined in 1971,<sup>2</sup> refers to the tendency of humans to quickly return to a baseline level of happiness despite major positive (or negative) life changes. In a 1978 study,<sup>3</sup> researchers found that lottery winners initially experience an emotional high, but soon report the same levels of happiness they previously held. Similarly, paraplegics reported below average levels of happiness for about two months following their accident, but eventually returned to their baseline happiness levels.

2 Brickman; Campbell (1971). "Hedonic relativism and planning the good society." *New York: Academic Press*. pp. 287–302. in M. H. Apley, ed., *Adaptation Level Theory: A Symposium*, New York: Academic Press

3 Brickman, Philip; Coates, Dan; Janoff-Bulman, Ronnie (1978). "Lottery winners and accident victims: Is happiness relative?" *Journal of Personality and Social Psychology*. 36 (8): 917–927.

Despite the empirical evidence that major positive physical changes in one's life (such as winning the lottery) barely move the needle when it comes to achieving ultimate happiness, examples abound of people searching for ever-increasing levels of physical indulgence. All around us, we see countless people driven by their quest for fame, power, or material wealth. If none of these ambitions will lead to true happiness, what is the mysterious force that drives them to such great lengths to achieve these goals?

### Yearning for Greatness

The Ralbag's insight can explain this basic conflict. Our *neshama* cannot survive if it is deprived of spirituality, and attempting to fill this void only serves to exacerbate the internal conflict within. As the *Mesilas Yesharim* (2:11) explains,

ולא עוד אלא שאם תכלית בריאת האדם היה לצורך העולם הזה, לא היה צריך מפני זה שתנופח בו נשמה כל כך חשובה ועליונה שתהיה גדולה יותר מן המלאכים עצמם, כל שכן שהיא אינה מוצאה שום נחת רוח בכל עינוגי זה העולם. והוא מה שלמדונו זכרונם לברכה במדרש קהלת, זו לשונם (קהלת רבה ו): וגם הנפש לא תמלא, משל למה הדבר דומה, לעירוני שנשא בת מלך, אם יביא לה כל מה שבעולם, אינם חשובים לה כלום, שהיא בת מלך. כך הנפש, אילו הבאת לה כל מעדני עולם, אינם כלום לה, למה שהיא מן העליונים.

*If the purpose of the creation of man was only for this world, he would not need to be endowed with a soul that is so precious and lofty, it is greater than the angels themselves. Surely the neshama finds no fulfillment in all of the pleasures of this world. And this is what our Sages teach us in the midrash (Koheles Rabba) "And the soul is not satisfied" (Koheles 6:7), this is similar to a peasant that marries a princess; no matter what he brings her, it is worthless to her because she is a princess. So too the neshama, if you bring it all the pleasures of this world, they are worthless to it. Why? Because it is from the heavenly realm.*

Our constant yearning for greatness is an expression of our *neshama's* search for spiritual greatness. While we may mistake this urge as a desire for more physical objectives, we ultimately find that no measure of physical or material pleasure is enough to satisfy our *neshama*. As the *Orchos Tzadikim* (*Sha'ar Yiras Shomayim*) explains,

גם יש ראייה גדולה שהנשמה באה מלמעלה: כי אנו רואים שכל אדם אין לו די במה שיש לו, אלא לעולם מבקש מעלה יתירה ממעלתו. עם יש לו אלף חומד אלפים,

אם הוא שר במדינה זו מבקש להיות מושל במדינה אחרת; ואין לך מלך או שר שאין מבקש מעלה יתירה ממעלתו. וזאת באה מחמת שאין הנשמה מתדבקת לאלו הטובות, אבל היא מתאווה לעולם למעלות יותר גדולות, כי היא עליונה על כל הברואים.

*There is another convincing proof that man's soul comes from above. We see that no one is satisfied with what he has, but rather constantly seeks a higher level than his own. If he has a thousand, he wants two thousand; if he is the ruler of one country, he wants to rule another. There is no king or nobleman that does not aspire to greater heights than he has attained. This is because the soul does not cling to these good things, but always desires greater heights, because it is loftier than all other creations.*

In other words, it is this misdirected diversion of the *neshama's* thirst for spirituality that drives our never-ending quest for wealth, power and prestige. Only by minimizing our physical indulgences and feeding our spiritual yearning can we achieve the feeling of fulfillment we so desire.

The *S'forno* (*Tehilim* 49:11-12) alludes to this concept as well. He explains that man's desire to erect buildings and structures bearing his name is rooted in his need to have enduring meaning in life. We all want our name to last forever and to have eternal significance. This yearning for eternal greatness is because our *neshama* is eternal, and thus naturally gravitates to actions that may have eternal significance. This is yet another example of man's misguided interpretation of our yearning for spiritual greatness into a search for prestige, which is ultimately meaningless.

The implications of this idea are significant. Followed to its logical conclusion, it appears that every aspect of human progress—our advances in technology, science, politics and finance—are all ultimately fueled by one source, the ceaseless desire of our *neshama* for spiritual growth. Our efforts to achieve prominence in business, education or government are in fact attempts to feed our desire for eternal greatness. However, only through satisfying our *neshama* can we achieve true fulfillment. This transformative power to achieve greatness lies within each of us. We must take care not to squander or misdirect our awesome potential.

### **Applying the Concept of the *Nazir***

By taking the Ralbag's lesson to heart, we can achieve feelings of true tranquility and inner peace. Although the *halachos* of *nezirus* are not in effect today, we can all find ways to apply the underlying concept to our daily lives. If we take time to focus on our spiritual well-being and limit our search for physical gratification, we will find that we



can achieve a true sense of fulfillment. While it may seem counterintuitive that the only way to resolve our internal conflict is by limiting our physical urges, the Ralbag is explaining that it is the only way to truly attain inner peace.

As *frum* Jews, we are always trying to find ways to create harmony both in our homes and in society at large. A good place to begin is within our own selves, by satisfying our spiritual yearnings and limiting our physical indulgence. By channeling our innate desire for greatness to the achievement of spiritual perfection, we can truly be at peace with ourselves, create harmony in our home, and contribute to a more peaceful society.



*Parshas Shelach*

# The Chet Hameraglim: An Understanding of *Lashon Hara* and Where it Comes From

MENDY MILLMAN



**W**e know that when approaching the *sugyos* in the Torah of either our leaders sinning individually or *Klal Yisrael* sinning collectively, there is much more depth than what meets the eye. While the entire Torah, both the events and the *mitzvos*, possesses infinite depth, it seems that it is absolutely critical to recognize this when we come to approach the events in the Torah. When it comes to the *mitzvos*, even if we perform them without understanding the reasons behind them, we have still done that which Hashem has commanded us to do. However, a surface understanding of various events in the Torah and specifically the sins that were committed can lead one to *c"v* arrive at an improper perspective. One can be liable to think that Moshe Rabbeinu got “frustrated” at the rock for not bringing forth water, thus hitting it, or that Dovid Hamelech was an adulterer with Batsheva, or to say that Yitzchak and Rivka lacked “healthy” communication skills in their approach to raising their children. These examples are just a few of the profound mistakes that can occur by not approaching the Torah’s accounts with the traditions of Chazal. We are obligated to learn the Torah’s events with the same level of depth as when one learns the *halachos* of meat and milk, if we wish to understand them for ourselves. With this preface, let us try to address the tremendously profound sin of the *Meraqlim* according to our *mesora*, with the hope of eventually understanding the exact nature and root of this sin according to the best of our ability.

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To appreciate the profundity of the *chet*, let us preface with both the context and the *chet* itself. *Klal Yisrael* as that point were very lofty. They had just become a nation, seen Hashem's power, and accepted the Torah at *Har Sinai*. They were now onto their next step of fulfilling their purpose in Creation, to enter *Eretz Yisrael*. For a reason which is difficult to understand, they requested that spies be sent to strategize how to conquer Canaan. Hashem allowed for this, but He very clearly expressed to Moshe His disapproval of this plan by saying, "*Shelach lecha*," send for yourself, not for Me. As each *Shevet* was to receive their own portion in the land, they all sent representatives. Because *Klal Yisrael's* qualification for an ideal soldier is not just physical strength but also one's level in *avodas Hashem*, the "best" soldiers to send were the leaders of every *Shevet*, they were "*Nesim*." These *Meraglim* were on a tremendously high level by virtue of the fact that they were leaders of *Klal Yisrael* in a generation of complete revelation of Hashem. Ultimately they are referred to as *reshaim*, as the first Rashi in *Parshas Shelach* states, however at the time of their sending they were very special, righteous, and respected men. Although their mission was inherently purposeless as their "discoveries" would not change Hashem's Will that we enter *Eretz Yisrael*, they were still given an official mission. The *pesukim* in *Bamidbar* 13:17-20 tell us that they were to analyze two factors, the land's potential for sustaining *Klal Yisrael* and its ability to be conquered. This mission produced a catastrophic result, with ten of the *Meraglim* reporting that the land is too "fortified" and that *Eretz Yisrael* is not habitable for regular people (that are not giants) as it is a land that is "*ocheles yoshveha*," eats its inhabitants. As Rashi in *Bamidbar* 13:32 explains, wherever they traveled they saw funerals occurring on a constant basis, and, as the Ramban explains, they relayed that *Eretz Yisrael* is prone to sickness and is not habitable for regular people. They "discovered" that it is not "strategic militarily" to attempt an invasion. The outcome of this report was that instead of us entering *Eretz Yisrael* and bringing the world to its perfection, we are still in *Galus* today, over 3000 years later. This is a brief summary of *Klal Yisrael's chet* and its context.

At first glance, one would think that the *chet* of the *Meraglim* was primarily in their lack of *emuna*. Considering the miraculous events they had just experienced, along with living with Hashem's constant presence, it would seem that they should have trusted Hashem to be able to settle *Klal Yisrael* in *Eretz Yisrael*. Maybe in their minds they held that they were doing the right thing by saving *Klal Yisrael* from a bad decision, but we could say that their underlying lack of *emuna* caused them to have a skewed conscious perspective. Yet, *Chazal* describe their *chet* as *lashon hara*, evil speech. As the *mishna* in *Arachin* 15a says, "The decree for *Klal Yisrael* to die in the

desert was finalized and sealed because of the sin of *lashon hara*.” Along these lines, the *gemara* on that *daf* quotes a *beraisa* that says,

*Says Rebbi Elazar ben Parta, come and see how powerfully strong the sin of lashon hara is from the Meraglim; if making a bad name on sticks and stones (the inanimate land of Israel in this context) gets such a punishment, all the more so one who speaks negatively about his fellow Jew.*

This seems difficult to understand. The *Meraglim*'s purpose was to report what they perceived. Classical *lashon hara* is forbidden because one has no right to relate what one sees or hears; here, however, this was their job. They were given very clear guidelines in *pesukim* 17-20 which were referenced earlier, and they related their perceptions according to their mission. There was no obligation to return with a positive report, as long as they did not lie. They relayed that the *Canaanim* possessed tremendous military power and that its people were unexplainably dying wherever they went. A lack of *emuna* for sure, but why call this *lashon hara*?

Another difficulty is that, like all areas of *halacha*, *lashon hara* has very clear rules and parameters. There are instances where it is sometimes permitted and even an obligation to speak negatively about another. The prohibition of *lashon hara* is primarily based on the *pasuk* in *Vayikra* 19:16 that says, “You shall not be a gossip-monger among your people.” One *halacha* that we learn from here is that this prohibition does not apply to someone that is not considered as being “among your people”, such as a non-Jew or *apikores*. It would seem obvious that speaking *lashon hara* about *Eretz Yisrael* would not fit into this guideline in any way. An inanimate object (or animal) is not able to be a *halachic* victim because it isn't considered to fill this characteristic of being “among your people.” This should exclude the possibility of the *Meraglim* having violated *lashon hara* on *Eretz Yisrael*. Maybe the *Meraglim* lacked *ahavas Eretz Yisrael* or as already mentioned lacked *emuna*, but *Chazal* say that the *Meraglim* were punished because of their *lashon hara* about *Eretz Yisrael*. This is another difficulty along the same lines of the previous question.

Let us ask a few more questions on this *parsha* of the *Meraglim*. The *pasuk* in *Bamidbar* 14:37 says that the *Meraglim* died “in a plague before Hashem.” Rashi describes the plague as being “the death that was fitting for them, measure for measure; they sinned with their tongue; therefore their tongues extended down to their navel, and worms left from their tongues and entered their stomachs.” Rashi does explain how the tongue part of the punishment was a manifestation of *midda keneged midda* but does not address the other two aspects of their death: the navel

and the worms. Understandably, every detail of their death was *midda keneged midda*. For our purposes we will try to understand how the worms, which ultimately killed them, were a manifestation of this *midda* of Hashem in His system of punishment.

Lastly, there is a *gemara* in *Maseches Arachin* 16a which requires understanding. We know that the *Kohen Gadol* wore eight special garments in the *Beis Hamikdash*. The *gemara* brings a *drasha* from Rebbi Annani ben Sasson: “The *parshiyos* of the garments and sacrifices are next to each other in the Torah to teach that just like the *korbanos* achieve atonement (for *Klal Yisrael*) so do these eight garments achieve atonement.” The *gemara* proceeds to list the various garments and what they atone for, and explains that the *me’il*, the outer coat, atones for *lashon hara*: “Says HKB”H, a garment that generates sound shall come and atone for a sin with sound.” Rashi explains that this refers to the “*paamonim*,” the bells which were attached to the bottom of the *me’il*. They rang as the *Kohen Gadol* would walk, and this would achieve atonement on the *chet* of *lashon hara*. In general, the concept of something atoning for something else is based on the idea that there is a direct connection between the two. Somehow, the atoner “fixes” the sin by addressing the issue underlying the sin. Obviously there is more of a connection between the *paamonim* and *lashon hara* aside from sound. In order to ask a more precise question as to what their connection is, let us quote the Ramban in *Shemos* 28:5 that explains the function of the *paamonim*:

*The bells serve no purpose as an article of clothing and this is not even the way of royalty to have such an accessory on their clothes. Rather, Hashem commanded this, so that [the Kohen Gadol's] sound would be heard upon entering the Kodesh as if he is asking permission before entering, [to prevent being like] one who enters a king's chamber suddenly [who] deserves death according to royal laws like we find by Achashverosh... [and also the bells serve the same function when leaving Hashem's presence] to ask permission upon leaving.<sup>1</sup>*

From the Ramban we see that the sound of the bells serves the function of “asking permission” from Hashem as a way of following a royal protocol of honoring a king. How does the sound of the *paamonim*, which serve the function of asking permission from Hashem upon entering and exiting, rectify the sin of *lashon hara*? What is the connection between these two seeming unrelated sounds?

In summation, we would like to address how the *Chet Hameraglim* is categorized as *lashon hara* by *Chazal*, to understand the details of the *Meraglim's* death, and to

<sup>1</sup> The Ramban quotes another reason for the *paamonim* which we are not addressing.

understand how the *paamonim* of the *me'il* rectify the sin of *lashon hara*.

To preface our eventual approach, let us initially discuss the makeup and purpose of the *sefer* “*Orchos Tzadikim*.” It is considered one of the classical *mussar seforim* in our *mesora*, very likely to have been written in the times of the *rishonim* or early *achronim*. It addresses the fundamental concept of “*tikkun hamiddos*,” refining one’s character. The *sefer* is structured with separate “gates,” or chapters, for each individual *midda*, addressing both the ones to attain and avoid. As we can imagine, there are almost no chapters dealing with specific *mitzvos* or *aveiros*. For example, the prohibitions against forbidden foods or clothing with *shatnez* are not given their own chapters. This seems to be because they are not inherently rooted in a *midda*. Even murder *c”v* can be motivated by many different *middos*, (jealousy, hatred, anger, or fear to name a few,) but murder is not an act that is inherently rooted in one *midda*. In other words, we can say that *middos* and *mitzvos* are generally two independent yet related categories.<sup>2</sup>

However, the *Orchos Tzadikim* does have a chapter devoted to *lashon hara*. It seems clear from the fact the he includes this one *mitzva* into his *sefer* that he is identifying *lashon hara* to be not only primarily based in *middos* in general, but also in one specific *midda*. It seems that we could almost generate a new term, “the *midda* of *lashon hara*.” Let us delve into this *sugya* of *lashon hara* using the approach of the *Orchos Tzadikim*, in hopes of coming out with a clear understanding of the *midda* of *lashon hara*.

Says the *Orchos Tzadikim*,

*Be very careful from lashon hara because with this you embarrass yourself, for whoever disqualifies [others] is disqualified... and it is his nature to disqualify others with his disqualification. This is because the problem that he has is lodged in his heart all day [and] because it is in his heart, he speaks about it. How is this? If one always praises women (immodestly) and talks about their beauty, it is obvious that he is overly obsessed with women... and so too with Torah, one who loves Torah will constantly talk about it.*

We see a fundamental insight into human nature, that whatever is at the forefront of one’s consciousness, however it got there, will eventually be exposed through one’s

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<sup>2</sup> Although *middos* may not be classified on a technical level as one of the 613 *mitzvos*, we are just as obligated to work on them, as this is Hashem’s will. There is a discussion as to why they are not part of the “classical” *mitzvos*, which is tangential for us.

speech. In other words, speech is a window into the heart. Finding a specific fault in another and then relating it stems from the fact that one is consciously aware of that particular fault because he has it. Much like a shopaholic's first thought when walking by a mall is about the various stores inside and what is on sale, whereas a successful commercial real estate developer walking by that same mall may immediately start thinking about its property value and potential for growth. These differing reactions occur, even though they have both seen the same physical place, because their hearts, or "awareness radars," are different. This also applies to the man that always talks about immodest things, or the one who always talks about Torah. These things are important to him, and are thus in his heart. Once they are in his heart, he notices and subsequently talks about them. This is the *yesod* (fundamental concept) that the *Orchos Tzadikim* has so far established.

The *Orchos Tzadikim* applies his *yesod* in the context of one who is steeped in the sin of *lashon hara*. Says the *Orchos Tzadikim*:

*"A baal lashon hara (lit. master of lashon hara) looks for people's faults, like flies that always dwell in dirty places. If a man has a boil (dirty with scabs or blood) the flies will leave the rest of the (healthy/clean) body and rest on the boil. So too the baal lashon hara leaves behind all good in the world, and speaks about the bad. There was once a man who was walking with a wise man in a field. When they saw a carcass, that man said, 'how absolutely disgusting does this dead animal smell.' The wise man responded, 'How white are its teeth!' The wise man then chastised the other man for expressing the fault and not the praise."*

It seems that the *Orchos Tzadikim* is giving another example of how subjective perspectives are based on what is in one's heart, eventually flowing out of one's mouth. Unlike one who always thinks about women, Torah, shopping, or real estate, the *baal lashon hara* always thinks about any fault that he can notice. He has a *midda* to always search for negativity. He is truly comparable to a fly or worm by always dwelling among waste and dirt. We can define the *Orchos Tzadikim's yesod* to be that the root of the sin of *lashon hara* stems from a *midda* of *lashon hara*. This *midda* turns one's heart into a "radar" of sorts, programmed to only detect flaws. This, in turn, causes one's mouth to be the conveyor of these perspectives, because, as established earlier, it is human nature to verbalize what is in one's heart.

With this *yesod*, which identifies the underlying roots of the sin of *lashon hara*, we can begin to address our questions from above. We asked how *Chazal* can refer



to the *Meraglim's* actions as being *lashon hara* when in reality they not only had the full right to relay their report but were also discussing an inanimate “victim.” Perhaps *Chazal* are not referring to the technical sin of *lashon hara*, but rather to the *midda* which pervaded their perspective and report. For example, they reported that people were dying everywhere. *Chazal* tell us that this was Hashem’s way of protecting their secrecy as spies, because the *Canaanim* were overly occupied with burial and mourning. The abundance of funerals was a tremendous *chesed* from Hashem, yet the *Meraglim* were not able to appreciate it. They had this *midda* deep in their hearts, where they could only see the negative aspect of the situation. They could not see the “white teeth” of the carcass. Along these lines, they expressed the tremendous military might of the *Canaanim* and how the land was settled and fortified. They failed to appreciate that this was in itself a sign as to how amazing and productive the land is, as it was able to sustain such a strong people. They also failed to recognize that Hashem was giving *Klal Yisrael* a prepared land with developed fields, vineyards, houses, and roads. Hashem made sure that the *Canaanim* would develop *Eretz Yisrael* to have a very advanced infrastructure so that *Klal Yisrael* could enter a “set table.” This was an astounding *chesed* from Hashem to not give *Eretz Yisrael* in a state of infancy. The “fortifications” were the sign of this specific *chesed* from Hashem, not a “military obstacle.” They should have made the obvious conclusion that the same orchestrator of this *chesed* would also defeat the *Canaanim* in order to actually deliver it. The *Meraglim* couldn’t see this because they were like flies, gravitating towards negativity.

We can now understand the aspect of the worms coming out of the *Meraglim's* tongues in their unique death. It is true that with their tongues they spoke, yet the root of this speech was the “worms” in their heart, always searching for flaws like the flies in the *Orchos Tzadikim's* categorization of *lashon hara*. Thus, worms that crawl amongst dirt and even feed on carcasses were a perfectly appropriate and fitting death. In addition, the worms came out of the tongue, because the *midda* was the underlying cause for the speech. The tongue merely followed the heart, the root of the sin. This seems to be the connection of the worms in their death.

Lastly we wanted to understand how the *Kohen Gadol's paamonim* atoned for *lashon hara*. In truth, if a king invites one to his inner chamber, there is no need to ask permission upon entering, as the king has already told you to come. Along those lines, if a king asks you to come to his chambers for one specific job, when the job is done, although you must leave the king’s presence respectfully, you don’t have to ask permission to leave. You only were invited in the first place for one thing! Why did

the *Kohen Gadol* need *paamonim* at all? He was told by Hashem Himself to enter to do various *avodos*, and now he needs to ask permission to enter? When he finishes his *avoda*, he needs to ask to leave? It seems that the *paamonim* are an expression of a profound *kavod* and *chashivus* for Hashem. We are asking His permission even though He told us to come. A loyal butler, after being summoned by his master, will still softly knock before finally entering, as if to say, “is now the perfect time to come serve you?” Only one who possess a deep inherent respect for someone could relate to them in such a way. This is the antithesis of the *midda* of *lashon hara*, the inability to respect anything. Nothing has any redeeming qualities in the world of the *baal lashon hara*. It is the absolute opposite of the *paamonim*. Thus the *paamonim* atone for the root of *lashon hara*.

May we all merit to continue working on ourselves in all areas, but specifically to recognize each other’s redeeming qualities. With this we should be *zoche* to implant *ahavas chinam* in our hearts, and then finally settle *Eretz Yisrael* fully and properly, resulting in *Klal Yisrael* and a *Kohen Gadol* serving Hashem as our King.

*Parshas Shelach*  
**Mission Driven**

**RABBI DAVID MAHLER**



**A**t the heart of any company is its mission. A business's mission defines what it stands for – its purpose and the reason for its existence. The mission declares the difference a company seeks to make in the world. A strong mission is visionary, ambitious, and sometimes even audacious.

Ever since Moshe Rabbeinu's first encounter with Hashem at the burning bush, Hashem made it known to him that the salvation of the Jewish people would include entry into *Artzeinu Hakedosha* (*Shemos* 3:7-8). In that promise, Moshe was told that the land of Israel is a good and spacious land, flowing with milk and honey. It was clear that *knisa la'Aretz* was an integral part of Hashem's message, one in which Moshe Rabbeinu would play the leading (human) role. One might even argue that the entire *Geula* was dependent on *Bnei Yisrael's* entry into Israel. *Knisa la'Aretz* was *Bnei Yisrael's* mission – a mission that fell upon its CEO – Moshe Rabbeinu.

We see countless times throughout Moshe's life that he is loyal to this mission – that of leading his people to Israel as they act with fidelity to the Torah's *mitzvos*. Moshe's leadership is tested often and each time he cannot be deterred – each time he challenges himself to achieve the goal set out by his company's boss, Hashem.

We will explore three examples of Moshe's mission-driven leadership.

*Parshas Shelach* deals predominantly with the tragic episode of the *meraglim* (*Bamidbar, perakim* 13 and 14). Interestingly, *perek* 15 presents a group of different *mitzvos*. The *mefarshim* propose various explanations as to the significance of the *meraglim's* location and context. Amidst this group of laws is a brief narrative, concerning the *Mekoshesh Etzim* (*pesukim* 32-26).

The Torah tells the story of a man who was found desecrating Shabbos in the desert. A group of people finds him and bring him to Moshe to be killed. They know

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the man must be killed but are unsure as to which form of death the man should receive (Rashi, 34). The man is placed in a holding cell until Hashem informs Moshe that the man must be stoned. He is then taken out of the camp and is stoned to death.

At first glance, the story seems quite simple. A person desecrates Shabbos, the Jews inquire as to the appropriate sentence and the verdict is carried out in the way Hashem commands. However, upon closer reflection, there are a few strange facts that must be addressed.

1. Who is the perpetrator and why does the Torah not identify him? In other Torah stories, the sinners' names are given.

2. Why does the Torah tell us that *Bnei Yisrael* were “*bamidbar*”? Where else could they be? They've been in the desert for more than a year at this point?

3. In all the years of *Bnei Yisrael's midbar* experience, there must have been others who sinned. Why is this particular story singled out?

4. What exactly is the man's sin? We know he desecrated Shabbos but the word “*mekoshesh*” is a bit nebulous and the *gemara* (*Shabbos* 96b) presents three possibilities as to its meaning.

5. Why does the story appear precisely here, amongst a list of laws, immediately following the debacle of the spies?

On a more grand level, what is the Torah's purpose in recounting this entire episode? Why does the Torah take the trouble to describe the entire process of bringing the man to justice, the uncertainty of his sentence, his placement in holding, and Hashem's response and decree?

One explanation is that the Torah is not concerned about the particulars of the sin or even who the man was. The important point is that the *Bnei Yisrael* were in the desert, they would be for the foreseeable future, and that a group of men “caught” one of their own breaking one of Hashem's treasured laws. The story of the *Mekoshesh Etzim* is not really about the *Mekoshesh* at all. It is about *Bnei Yisrael* and those who caught him, brought him to Moshe and carried out his sentence.

Rav Hirsch explains that the people, after being told they would spend the next thirty nine years endlessly wandering the desert were in a static sense – *bamidbar*. They were not moving out of the desert. They were there, and there would they remain. At times like this, one might expect the nation to despair, give up and not follow Hashem's laws. Why care about *teruma*, *mezuzah*, *shofar*, *tzitzis* or even Shabbos if the ultimate goal of *knisa la'Aretz* will not be achieved?

But Moshe Rabbeinu was different. No setback could divert his attention from having his nation keep its commitment to *shmiras hamitzvos*. The people were

no doubt down, frustrated and angry – perhaps ready to throw in the towel – but Moshe would not allow that. The *midrash* (*Sifrei, Bamidbar* 113) states that Moshe, intuiting that people might feel less of a fidelity to *shmiras hamitzvos* after having heard that the majority of them would never set foot on the shores of the Holy Land, appointed watchmen and police to catch, but more importantly, to prevent Jews from transgressing *mitzvos*. The *Mekoshesh Etzim* was not found by chance. There was an attempt on the part of Moshe and the nation to prevent sin.

This is the first of three examples to be presented where we see that Moshe has a clear mission to accomplish. Through thick and thin, he aims to preserve the sanctified union of *Am Yisrael* and Hashem through the observance of *mitzvos*, ultimately to be performed in *Eretz Yisrael*.

Near the end of the *midbar* experience, in the fortieth year, Miriam, Moshe's sister, dies. Miriam's death takes place in Kadesh (*Bamidbar*, 20:1-2). The first thirteen *pesukim* take place in Kadesh. Miriam's death is followed by the disappearance of the *Be'er*, resulting in a lack of water, ultimately resulting in Moshe's sin at the rock and Hashem's punishment forbidding Moshe from entering into *Eretz Yisrael*.

Immediately following Moshe being told he will not be able to lead the nation into Israel, Moshe sends emissaries to the king of Edom, requesting permission to walk through his land. The people needed to walk northward through Edom's land, the quickest route to *Eretz Yisrael*. The king of Edom refuses, forcing the nation to travel around Edom, east and then north, eventually crossing through the Emori kings Sichon and Og on the east bank of the Jordan, and entering Israel by crossing the river east to west.

What is peculiar is that this story is introduced with one seemingly superfluous fact. We are taught that Moshe sent emissaries "from Kadesh" to the king of Edom. Why does the Torah repeat the fact that *Bnei Yisrael* were in Kadesh? They hadn't moved since Miriam died there and they hadn't moved since Moshe sinned there. We know they were in Kadesh. The Torah doesn't need to mention that fact. Why is it necessary?

The *midrash* (*Bamidbar Rabba* 19:16) comments that the repetition of the word Kadesh and the juxtaposition of the stories reflect the great character of Moshe. The *midrash* explains that often times, when a person feels slighted by a business partner or colleague, he usually doesn't want to have anything to do with that person. He is done with him. They break up for good. This was not the case with Moshe. Though he was punished on account of *Bnei Yisrael*, and they angered him, Moshe Rabbeinu did not rid himself of the responsibility to march them on to *Eretz Yisrael*.

When most people would have quit and given up, he stuck it out, and kept going.

Moshe stood before Pharaoh at 80 years old. He put his life on the line, gave every waking second to *Klal Yisrael*, defended them after *Chet HaEgel*, came to their rescue countless other times, and at the age of 120, was not allowed entry into Israel. Could he have been faulted for quitting, for saying “I’m done?”

According to the *midrash*, the Torah tells us that Moshe sent messengers from Kadesh to drive home the point that Moshe was in the same Kadesh where his dreams were shattered and his greatest prize taken from him, but nevertheless, he would march on and deliver his nation to their rightful land. The locality, Kadesh, is repeated here to emphasize Moshe’s adherence to his mission of bringing the people to the land, in spite of the fact that he had been explicitly excluded from it.

Our final example will focus on Moshe Rabbeinu’s individual desire to enter Israel – unrelated to his position as the leader of *Klal Yisrael*. Sensing an opportunity after he had conquered the mighty armies of Sichon and Og to annul the decree that he never enter *Eretz Yisrael*, Moshe prayed for the right to cross the Yarden and enter the land. Here, he does not request to remain the nation’s leader but rather simply, to enter the Holy Land. The *gemara* in *Sota* 15a asks why Moshe desired to enter Israel so badly. Was it to eat of its fruits or to be satisfied from its good? The *gemara* answers that Moshe wanted to enter Israel so that he could have the opportunity to perform many of the *mitzvos* that can only be fulfilled in the land.

Moshe’s desire to enter *Eretz Yisrael* was so strong that *Chazal* (*Devarim Rabba*, *parsha* 11:10) claim he prayed 515 (*gematria* of *v’eschanan*) different *t’fillos* – all with the same request – to allow him to enter *Eretz Yisrael*.

Surprisingly, Hashem’s response to Moshe is once again an emphatic no – even telling him to stop asking for entry, “*Ki lo ta’avor es haYarden hazeh.*”

Moshe never forgot this, even taking it to his grave. To illustrate this point, the *gemara* in *Pesachim* 119b<sup>1</sup> writes that in the future, Hashem will make a large *seuda* for all the *tzadikim*. The *gemara* wonders who will be given the *kavod* of leading *bentching* at its conclusion. Dovid HaMelech will ultimately be the one to lead, but not before many others are asked beforehand. They all feel unworthy because of some *p’gam*. For example, Avraham declines because he helped to raise Yishmael, and Yaakov declines because he had been married to two sisters. When Moshe Rabbeinu is asked, he articulates his fault in an unusual way. He says he cannot be given this honor because he was not *zoche* to enter *Eretz Yisrael*, neither during his lifetime nor

<sup>1</sup> Thank you to R’ Zvi Schindel for pointing out this source to me.

after his death. One clearly sees from here Moshe's pain in never entering the Land – even after his death. He was so devoted and driven, yet entry was denied for him.

Immediately after having the door shut, Moshe is back in his familiar location – teaching Torah to *Bnei Yisrael*. After having his dreams shattered, he is forced to teach two complementary *mitzvos*, the prohibitions to neither add nor detract from the Torah's commandments (*Devarim* 4:2). What is the significance of these two commandments specifically being taught at this juncture? One explanation is that these *mitzvos* speak to the Divinity of all the laws and the perfect nature of Hashem's word. One could easily argue that to add to the Torah is to beautify it, to improve upon it. But Moshe is telling us that perfection cannot be improved upon. Perfection can also deny your requests – even those most personally essential. Moshe's teaching these laws to *Bnei Yisrael* after he was denied the one thing he wanted more than anything else, even regretting it after his passing, is the most powerful lesson of all. Hashem knows best and in the end we must accept His *din* and march on.

Moshe was our greatest teacher and most pristine *dugma*. Perhaps his greatest legacy is that he was married to a mission that he never swayed from – through the greatest ecstasy and worst disappointments.





*Parshas Korach*  
Challenging Leadership  
vs. Family Feud

DAVID R. SCHWARCZ



In the last edition's article "*The Battle of Brothers: Sibling Rivalry vs. Symbiosis – What Wins Out?*" we explored four examples of sibling and family rivalries, primarily in *Bereishis*. This article details an exploration of Korach's challenge to Moshe's leadership arising out of a family rivalry. In contemporary parlance, Korach's proverbial rallying cry is "The Personal is Political."

Korach's misguided argument that he should have been Divinely chosen to be leader of the tribe of Levi is employed as a ruse to challenge his older cousins Moshe's and Aharon's leadership of *Klal Yisrael*.

**Kayin and Hevel Redux**

In *Parshas Korach* there is the second encounter of Kayin and Hevel by way of Korach's rebellion in the desert after the sin of the spies. Based on the Arizal (*Likutei Torah Zohar*), Korach was the reincarnated soul of Kayin and Moshe was the reincarnated soul of Hevel. Korach challenged Moshe's leadership after being passed over by his cousin Moshe for the appointment of head of the tribe of Levi. Similar to Kayin and Hevel, Korach maintained that he was equal to Moshe in stature, wealth, knowledge and followers. Korach denied the validity of Moshe's appointment as the leader of Israel. Similar to the Kayin and Hevel story, Moshe responded to Korach's contention by challenging him to bring a competing *ketores* sacrifice in firepans. Moshe declared that whoever's offering God responds to shall be a sign that he is truly appointed leader.

Instead of accepting Moshe's leadership, Korach became emboldened by Moshe's challenge and blindly faced the dire consequences of a failed *ketores* offering

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which is death. This time around, Korach, like Kayin, sought God's approval for the purposes of securing his own personal honor and in the process vainly attempted to eliminate his challenger Moshe, like Kayin tried to eliminate his challenger Hevel.

In this iteration, unlike Hevel, Moshe vanquished his challenger Korach, who like Kayin, sought God's approval for his own personal gain. In the story of Korach, God intervenes and causes the earth to swallow up Korach and his two hundred and fifty followers. Unlike Kayin, Korach is consumed by the earth and not afforded the opportunity to repent, while Kayin's life was spared for his brother's murder and given a second chance to serve God in an altruistic way. Korach's children, on the other hand, take heed to their father's fatal actions by repenting and becoming model leaders of the Jewish People.

### **Midrash Tanchuma's Approach: A Family Argument**

*Why did Korach create a dispute? His uncle, Eltzafan the son of Uzziel was appointed as chieftain over the tribe of Levi . Korach said, 'My father is one of four boys "And the sons of Kehas: Amram, Yitzhar, Chevron and Uzziel."(Shemos 6:18) Amram the firstborn, has his son Aaron as the priest and Moshe as the national leader. Who should take the role of chieftain? Obviously the second son, and I am Yitzhar's son! I should have become chieftain and now Moshe has appointed the son of Uzziel the youngest over me! I am going to oppose Moshe and overturn the appointment. (Tanchuma)*

First let us focus on the textual foundation for this *midrash*. It is quite obvious: "Korach, the son of Yitzhar, the son of Kehas, the son of Levi, took ..." (16:1) Why mention the long genealogy? This *midrash* perceives Korach as bearing a grudge based on ancestry. Here, the *midrash* does not make an attempt to cloak Korach's rebellion in any ideological stance. We have a simple case of family rivalry, power politics, and jealousy, with Korach resenting the advance of his cousin. He is jealous and it is his self-centered ambition that fuels the rebellion.

### **Timing**

It is interesting to think about what series of events precipitated this rebellion. What caused the feeling in the camp to be such that the leadership of Moshe and Aaron was questioned? Ramban suggests that the rebellion happened in the wake of the decree that Israel wander in the desert for forty years. After this event, the national morale plunged to an all-time low. The people were bitter and despondent. This was not the

first hiccup in the journey to the Promised Land, and the emotional climate provided fertile ground for cultivating feelings of discontent amongst the people. Korach simply took advantage of these emotions and developed the themes of Moshe's failed leadership, embellishing it and making it into a full-scale mutiny.

But the Ibn Ezra sees the issue differently. Ibn Ezra contends that the elevation of the tribe of Levi was the main cause of the rebellion. The people saw Moshe granting special rights and privileges to his own tribe, to serve in the Temple and be eligible to receive tithes from the rest of the nation. Who set up this hierarchy? Who decided that the Leviim should be more prestigious? Moshe. Now, this argument is somewhat problematic, based on the fact that Korach was a Levite, but the Ibn Ezra explains that this was Korach's genius. He had the ability to unite multiple groups with completely different agendas under a single banner: "All the people are holy!"

The Ibn Ezra explains that the appointment of the Leviim to High Service and the subsequent "reshuffle" opened a Pandora's box of complaints. The firstborn Israelites (Korach was a firstborn) were upset that they had been "demoted" from the Temple service. Reuvenites (Reuven is the firstborn tribe of Yaakov) like Dasan and Aviram were agitated over the fact that the Leviim had been chosen over their tribe to serve in the temple. The Leviim were offended that only Aaron's sons had received the call to the priesthood whereas the Leviim were mere assistants. Korach took all the malcontents and united them in a call for democratic appointments in the community.

### **Korach's Rebellion – Ideological Egalitarianism or Personal Jealousy?**

Was the rebellion fueled by ideological egalitarianism or personal jealousy? Was it a genuine lack of confidence in Moshe, with accusations regarding his personal integrity, or were the Israelites simply looking for a scapegoat after the decree to wander for forty years? In addition, who is stirring up the trouble? Is it Dasan and Aviram, the two hundred and fifty chieftains, or Korach himself? It would seem that each group here has a clashing agenda, and yet they are working together in harmony. However, diverse arguments associated with Korach suggest that his mutiny, rather than being a unified movement, was a coalition of several factions with very different agendas. Korach the Levi and relative of Moshe is joined by "Dasan and Aviram, the sons of Eliav, and Onn ... all Reuvenites ... and two hundred and fifty chieftains of the Israelite community." (16:12) It would seem that most of these people are motivated, to a significant degree, by personal self-interest. Maybe it is for this reason that the *mishna* in *Avos* (5:17) states: "Every controversy which is pursued in a Heavenly

cause is destined to be perpetuated, and that which is not pursued in a Heavenly cause will not be perpetuated. What is a controversy for the sake of Heaven? This is the controversy of Hillel and Shamai. And what is that controversy that is not pursued in a Heavenly cause? This is the argument of Korach and his clan.”

This argument is not directed towards Heaven. It looks towards earth. It is not really about ideals at all. The ideals are just a foil for the real ambition, the personal vendetta, the desire for fame and power. Korach's group had no unified agenda other than toppling Moshe. It is for this reason that their issues “will not be perpetuated.” A moral or ideological truth lasts forever, but misplaced personal ambition at the expense of others will always be consumed, just like Korach.

### **Challenging the Metaphysical Structure of “*Mashpia* and *Mekabel*”**

Citing the *Tiferes Shlomo*, the *Nesivos Shalom* provides a novel approach to Korach's rebellion based on the metaphysical structure of “*Mashpia* and *Mekabel*.” This theory posits that the world's primary metaphysical structure is designed as one entity giving and impacting another entity. The Torah, like nature, is founded on the principle of “influencer and recipient.”

God created the world by forming man and the world's natural order. God was the *Mashpia* and man and nature were the *Mekabel*. Likewise, the Torah is structured based on the same metaphysical structure of *Mashpia* and *Mekabel* where the teacher guides, influences, and educates the student. Similarly our appointed leaders like Moshe guide and teach *Klal Yisrael*.

Here, Korach challenged the very nature of the teacher/student model. Korach argued that all people are equal and the world is a pure meritocracy. Korach's rallying cry was “One leader cannot consolidate all the power under his domain for the entire nation is holy!”

Moshe did not respond to Korach's challenge because Korach's argument undermines the very structure of *Klal Yisrael*. Korach's success would have led to anarchy. Accordingly, God caused an earthquake that swallowed Korach and his two hundred and fifty followers. Subsequently, God instructed Moshe to place twelve staves, one for each leader of the twelve tribes, in the *Mishkan*. Suddenly the staff of Aharon blossomed almonds, demonstrating that Aharon was Divinely appointed.

Just like Kayin challenged Hevel for being chosen as the *Mashpia*, the medium for the Divine inspiration, Korach challenged Moshe and Aharon's appointment as the *Mashpia* and resented the fact that he had to submit to their authority both in the religious and secular realm.

## Conclusion

*Klal Yisrael* faces a crisis of leadership. Many of our leaders have passed away and our new generation of leaders are confronted with a multitude of challenges to their right to act as a Torah authority. Korach would have a field day with many of today's issues. Could Moshe withstand today's challenges to his leadership?

Unfortunately we do not have Moshe and Aharon to challenge the present day Korachs or the benefit of a Divine 'truth serum test.' *Parshas Korach* provides the guide to meeting and confronting these challenges. It all starts on the grass roots level. Our most important relationship is our parents and teachers. Parents and teachers are the model for the "*Mashpia* and *Mekabel*" relationship. The child receives the nurturing, guidance, and love from their parents and teachers. In turn the child matures to become a viable *Mashpia* – and "influencer."

Today, social media, not parents and teachers, are the strongest influences overwhelming our youth. This form of *Mashpia* is exploitive and misguided. The stars and their lifestyles use their fame to commercially exploit billions of consumers. The slogan goes "follow me on Facebook and Instagram!" instead of following our spiritual leaders to guide us in accomplishing our life goals. If we connect to the right spiritual leaders and truly develop as students and adherents to Torah then we can confidently assume the role as a "light unto the nations."



*Parshas Chukas*

# Humility on the Rocks: Mining the Mystery of Moshe's Mistake

RABBI YISROEL GORDON



*Hashem spoke to Moshe saying, "Take the staff and gather the congregation – you and Aaron your brother – and speak to the rock in front of their eyes. It will give its waters. You will bring out water for them from the rock and you will give the congregation and their animals to drink."*

*Moshe took the staff from before Hashem as He had commanded him. Moshe and Aaron then gathered the congregation in front of the rock and said to them, "Listen now, rebellious ones! Will we bring out water for you from this rock?!"<sup>1</sup> Moshe raised his hand and hit the rock twice with his staff. Abundant water came out and the congregation and their animals drank.*

*Hashem said to Moshe and to Aaron, "Since you did not trust Me to sanctify Me before the eyes of the Jewish People, you will therefore not bring this congregation into the land which I have given them."  
Bamidbar 20:7-12*

**T**he Sin at the Rock is an enigma. What did they do wrong? And why was the punishment so harsh? The more carefully we read the *pesukim*, the less clear the sin becomes. We typically quote Rashi's explanation that Moshe erred by hitting the rock instead of speaking to it, but by no means is this the consensus among

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<sup>1</sup> "Commentators say that there are statements posed as questions that are meant in the affirmative" (Ramban). Interestingly, three of the four examples cited by the Ramban are statements made not by man, but by Hashem. One is a famous verse, "Did you eat from the tree which I commanded you not to eat?" (*Bereishis* 3:11). The question is clearly rhetorical; the same could be said for Moshe's question at the rock.

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the commentaries.<sup>2</sup> In fact, there is no consensus. The *Ohr HaChaim* counts no less than ten different opinions among the *rishonim*.

In his lengthy treatment of the episode, the Ramban rejects the offerings of his predecessors and ultimately insists that the sin requires a Kabbalistic explanation. However, there is a straightforward reading of the text the Ramban does recommend, that of the great Rabbeinu Chananel (henceforth, “the Rach”):

*The most reasonable of the interpretations that have been offered on this issue, one which satisfies the questioner, are the words of the Rach. He writes that the sin was saying “Will we bring out water for you from this rock.” It would have been more appropriate for them to say “Will Hashem bring out water for you,” as they said [on a different occasion], “when Hashem gives you meat in the evening to eat...” (Shemos 16:8). So it was with all the miracles, [Moshe and Aaron always] made it known that Hashem was doing wondrous things for the people. [Now that they failed to do so,] the nation might think that Moshe and Aaron used their own wisdom to bring out water from this rock. This is the meaning of [Hashem’s statement years later], “You failed to sanctify Me” (Devarim 32:51)...*

*[According to the Rach,] it is understandable that [Hashem] used the expression ma’altem bi (Devarim 32:51) in reference to this [sin], for utilizing the sacred for personal benefit is called me’ila... (Ramban to Bamidbar 20:8)*

In short, the sin was the usage of the word “we.” This allowed for the misconception that Moshe and Aaron were using their own magical powers to extract water from a rock. This was a *me’ila* of sorts, a “theft” of the sacred, for they usurped Hashem’s miracle for their own benefit. Of course, this was not Moshe’s or Aaron’s intent, but nonetheless, the Rach feels that this was the impression given by their choice of words.

Compare the Rach’s interpretation with that of the Ibn Ezra, as explained by the Ramban:

*“Will we bring out water from this rock for you?” They said to them, “Listen... is there any way in the world we could get water out of this rock?! Recognize that it is from Hashem. He is the one who took you out of Egypt and brought you to this place. He will provide for you here.”*

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2 The Ramban asks several questions on Rashi. 1. Hashem told Moshe to take the staff; that implies he should use it. 2. Why does the Torah (*Devarim* 32:51) call this a sin of *me’ila*? 3. Moshe and Aaron spoke to the nation in the presence of the rock; that should satisfy Hashem’s directive to speak “to” the rock. We could add another question: Why was Aaron punished?



According to the Ibn Ezra, Moshe is proclaiming his inability to make miracles on his own. In truth, the Rach may well agree with the Ibn Ezra; the Rach's issue is not with Moshe's actual intent, but with the ambiguity of his words. Nonetheless, even that is challenged by the *Ohr HaChaim*:

*Was it not known that Moshe was the agent of Hashem? Everything he did was done with Hashem's power! ... Moreover, in Parshas Bo we find the following, "Moshe called all the Jews and said to them, "Take or buy for yourselves a sheep..."' (Shemos 12:21). He did not say it in Hashem's name, for certainly it was a known fact that he was the agent of Hashem.*

In other words, how could anyone in their right mind think Moshe was saying he will perform a miracle on his own, without Hashem? Underscoring the *Ohr HaChaim's* point, a more direct challenge to the Rach can be found in the *Shema*:

*And it will be, if you listen to My mitzvos which I am commanding you today, to love Hashem your God and to serve Him with all your heart and all your soul, then I will give the rain of your land in its time, the hard rain and the soft rain, and you will gather your grain, your wine, and your oil... (Devarim 11:13-14)*

Here we have Moshe committing the very same sin! Instead of saying that Hashem will provide rain and water, Moshe says "I will give the rain!" Since we do not find that Moshe was punished for this "infraction," we must infer that there was no problem here at all; it was understood by everyone that Moshe was just quoting Hashem. Why then does the Rach consider it a sin at the rock?

### **A Higher Reality**

In order to appreciate the wisdom of the Rach, we must first study a polar opposite approach. According to Rabbi Chaim Volozhiner, Moshe's use of the first-person in the *Shema* was not a sin of *me'ila*, but the very highest expression of humility before God.

*[Moshe] continually grew in this [awareness of Divine Omnipresence]<sup>3</sup> until he successfully achieved it before he died to the highest degree possible for a living human being. As we find in Devarim, in the parsha of v'haya*

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<sup>3</sup> This is the concept of "*ein od milevado*," i.e., nothing exists other than the perfect unity of Hashem, and the universe is but a mirage masking the presence of God. Despite its truth, Rabbi Chaim Volozhiner goes to great lengths to underscore the dangers of this concept and the threat it poses to Torah and *Halacha* (cf. *Nefesh HaChaim* 3:1-8). In short, this perspective is indeed the perspective of Hashem, but it is not for man to dwell on it (unless your name is Moshe). Humans are obligated to stay focused on their own legitimate perspective, namely, that the created universe is real.

im shamo, where [Moshe] initially says, "... to love Hashem your God" but then immediately afterwards, in the very next verse, he speaks in the first-person, "and I will give the rain of your land." He is the giver and the actor, for, from his perspective, he has utterly ceased to exist and it is only the Shechina which speaks. This is why he said, "I will give." As Chazal wrote in the Zohar, "The Shechina speaks from the throat of Moshe," and as the verse states (Shemos 13:8), "Mouth to mouth I speak in him." It does not say "to him," but "in him." Literally, in him. (Nefesh HaChaim 3:14)

Moshe uses the first-person because he has erased his identity and transformed into an instrument through which Hashem speaks to the nation. Total self-nullification was the defining feature of Moshe's personality.<sup>4</sup> It distinguished him from the Forefathers and made him a superconductor of the Divine Will for both miracles and prophecy. Rabbi Chaim Volozhiner explains:

*The level of Moshe Rabbeinu was even higher [than that of the Avos], as the Torah testifies, "there never arose a prophet like Moshe" (Devarim 34:1). Hashem Himself described the nature of the distinction between them: "I am Hashem. I appeared to Avraham, to Yitzchak and to Yaakov as El Shaddai, but I did not make known to them My Name of Y-H-V-H." (Shemos 6:2-3).*

*[The Avos] did not reach a level of prophecy where the natural forces completely ceased to exist. As the Torah states, "I appeared to Avraham, to Yitzchak and to Yaakov as El Shaddai." This is akin to the name Elokim, which means to say, "I am the Master of all forces and at every moment My Will directs the entire system of forces as I set them up from the time of Creation." This is the meaning of El Shaddai. "However, in their prophecy I did not make known to them the dimension of My Name Y-H-V-H."*

*On the other hand, the prophecy of Moshe Rabbeinu was on the level of the name of Hashem's Essence<sup>5</sup> and Unity, Y-H-V-H, may He be blessed, and for this reason no force could block the light of his prophetic vision. This is also the reason why in all the miracles performed by Moshe everyone witnessed the utter nullification of all forces and [recognized] the literal*

<sup>4</sup> For more on the humility of Moshe, see Rabbi Pinchas Gelb's article in this edition of *Nitzachon*.

<sup>5</sup> "All Divine Names are considered labels [which describe attributes]; the name of Y-H-V-H is the name of God's essence" (*Ruach Chaim* 1:1). Citing the *Zohar*, Reb Chaim qualifies this statement in *Nefesh HaChaim* (2:2). The infinite nature of Hashem transcends human comprehension and it is forbidden to label it with any name. Y-H-V-H refers to the Divine Essence only inasmuch as it relates to the created universe.

*truth of ein od milevado, nothing exists other than Hashem...*

*This is also the idea behind the words of Chazal at the end of Perek Kisui HaDam (Chullin 89a). "What it says about Moshe and Aaron is greater than what it says about Avraham. By Avraham it says, "I am dust and ashes" (Bereishis 18:17), but by Moshe and Aaron it says, "What are we?" (Shemos 16:5)." At the very least, "dust and ashes" implies the existence of dust, as opposed to Moshe Rabbeinu who said, "What are we?" – implying that they do not exist in the world at all. (Nefesh HaChaim 3:13)*

In other words, Avraham, Yitzchak and Yaakov experienced Hashem as Master of the Universe, but Moshe experienced Hashem as if there was no universe.

This is why the miracles of the *Avos* differed from the miracles of Moshe. When Hashem made a miracle for the *Avos*, it remained within the bounds of the natural order. Avraham defeated multiple armies, but he had to go out to battle. Sarah had a baby at ninety, but she had to conceive and give birth. Yitzchak harvested one hundred times more than the norm, but he had to plant. Yaakov's monochrome sheep gave birth to multicolored sheep, but they had to mate. The point is that the miracles of the *Avos* did not technically violate the laws of nature. In contrast, the miracles of Moshe – from the plagues to the sea to the manna – were distinctive in their total disregard for physics. This is not coincidental. Moshe achieved awareness of a higher truth: Y-K-V-H *echad*. Hashem is the sole reality, *ein od milvado*. From that perspective, natural law is not law, it is just the current Divine Will. That is why Moshe was able to transcend nature and serve as a conduit for acts of God unfettered by the laws of physics.

This also explains why Moshe's prophecy was unparalleled. When Aaron and Miriam mistakenly compare the quality of their prophecy to Moshe's, the Torah states, "The man Moshe was exceedingly more humble than any other person on the face of the earth" (*Bamidbar* 12:3). In his work on *Pirkei Avos*, Rabbi Chaim Volozhiner explains that Moshe's extraordinary prophetic vision was a function of his extraordinary humility (*Ruach Chaim* 1:1). Moshe viewed his physical self as naught before the reality of Hashem.<sup>6</sup> With self-interest and ego nullified, Moshe was able to receive Hashem's transmissions *b'aspaklaria hameira*, with crystal clarity, free of human static.<sup>7</sup>

<sup>6</sup> Rabbi Meir Simcha of Dvinsk goes so far as to say that Moshe elevated himself to a level where he lost his free-will and lacked the ability to disobey Hashem, cf. *Meshech Chochma*, introduction to *Shemos*.

<sup>7</sup> "All prophets gazed through an unclear lens, but Moshe Rabbeinu gazed through a clear lens" (*Yevamos* 49b). The Rambam enshrined this point in his list of fundamental principles. "The seventh principle is the prophecy of Moshe Rabbeinu... He reached the level of angels. There did not remain before him any screen that he did not rend and none of the obstructions of physicality stopped him..."

Despite the challenge it presents to our senses, the concept of *ein od milvado* is not religious fundamentalism. It is the first fundamental principle of Judaism.

*The first fundamental principle is the existence of the Creator, may He be praised. That is, a perfect Being exists which is the original cause of all else... If we were to imagine that this Being would cease to be, then all reality would vanish and nothing would remain in existence. But if we were to imagine that all that exists would cease to be, His exalted existence would not vanish, nor be detracted from, for He requires nothing outside of Himself. (Rambam, Thirteen Principles of Faith)*

The Rambam spells out the implications of this principle at the beginning of *Mishne Torah* (*Yesodei HaTorah* 1:4).

*The nature of His reality is thus unlike the reality [of created things]. This is what the prophet meant when he said, "Hashem our God is true" (Yirmiyahu 10:10), He alone is true and nothing else is true like Him. This is what the Torah states, ein od milvado, "There is nothing else besides Him" (Devarim 4:35). In other words, there is no other true reality like Him.*

Every believing Jew accepts the principle; only Moshe internalized it.

### **Back at the Rock**

Now we understand why Moshe used the first-person when he brought out water from the rock. In order to facilitate the performance of this supernatural event, in order to channel a Divine Will in flagrant violation of natural law, Moshe needed to disregard physical reality, including the reality of his own self. As Rabbi Chaim Volozhiner explained, when Moshe transmits a prophecy in the first-person, he is absenting himself and allowing the *Shechina* to speak through him. And so at the rock, when Moshe said, "Will we bring out water...?" it was Hashem's words that Moshe declared, not his own.<sup>8</sup>

According to the *midrash*, Hashem actually instructed Moshe to speak in His name.

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<sup>8</sup> Hashem occasionally uses the royal "we," as in "Let us make man" (*Bereishis* 1:26). "The use of *pluralis majestatis*, the royal "we" employed by human sovereigns to proclaim their will to their subjects, is indicative of the nature of their rule... he issues decrees and edicts solely for the general good and the general welfare... So, too, in our verse, the Creator announces the rule of man – for the good of the world and out of concern for its destiny. And so we find, in the section on the scattering of the people of the world: 'Let us go down...'  
(*Bereishis* 11:7)" (*The Hirsch Chumash, Bereishis* 1:26). This would not be the first or the last time Hashem asks a rhetorical question; see note 1.

*“Speak to the rock.” Say in My Name, “Hashem said, ‘Give forth your waters!’” (Lekach Tov; Torah Shleima 60).*

This *midrash* lends credence to the Rach’s contention that Moshe should have made it clearer that he was acting as Hashem’s agent. Although Moshe did not quote Hashem explicitly, we can assume he was following orders and serving as Hashem’s mouthpiece. In fact, in the opinion of the Rambam, the legitimacy of this assumption was the source of Moshe’s sin. When Moshe called the people “traitors” (*Bamidbar* 20:10), the people naturally inferred that Hashem was angry with them; Moshe would never deride them without inside knowledge. Moshe’s sin was giving the Jews a false impression of Divine displeasure (*Shemona Perakim*, chap. 4).

In contradistinction to the Rambam who faults Moshe for appearing to speak in Hashem’s name, the Rach faults Moshe for failing to clarify that he was doing just that. The Rambam’s position highlights our issues with the Rach. Why does Moshe need to quote Hashem explicitly? As the *Ohr HaChaim* asked, doesn’t everyone know that Moshe always speaks in Hashem’s name?

### **Out of Matza**

In order to appreciate the Rach’s understanding of what happened when the Jews ran out of water, we would do well to go back to the early days in the desert and review what happened when the Jews ran out of food.

*The entire community of Bnei Yisrael complained to Moshe and Aaron in the desert. The Bnei Yisrael said to them, “If only Hashem had killed us in the land of Egypt when we sat by the meat pot, when we ate bread to the fill! You have taken us out to this desert to kill this entire congregation by starvation!”*

*... Moshe and Aaron said to the entire Bnei Yisrael, “Tonight you will know that Hashem took you out of the land of Egypt, and in the morning you will see the glory of Hashem. Your complaints against Hashem have been heard. What are we that you complain against us?”*

*Moshe said, “Hashem will give you [quail] meat to eat in the evening and satisfying [manna] bread in the morning, for Hashem has heard your complaints which you have complained against Him. What are we? Your complaints are not against us, they are against Hashem.”*

*Shemos 16:2-8*

One month after the Exodus, when the Jews ran out of provisions and began to

starve, they turned in anger against Moshe and Aaron and attacked them for taking the nation out of Egypt and into the desert. This was an embarrassing failure of faith. Moshe and Aaron didn't bring them out of Egypt, Hashem did!

How could the Jewish People lack clarity on an elementary truth which they witnessed with their own eyes? The answer is that the Jews certainly knew that Hashem was behind the miracles of the Exodus (*Shemos* 4:31, 14:31), but they had difficulty conceiving of a compassionate, all-powerful God who would starve them to death (cf. *Shemos* 17:7). This is what the Jews were saying to Moshe. "If Hashem wanted to kill us, He would have done it in Egypt. If we are starving in the desert, it can only be because of human error. It was your decision!"<sup>9</sup>

In response, Hashem delivers quail and manna. This was not intended merely to feed the nation, but to demonstrate by way of a miracle that Hashem takes personal responsibility for their welfare in the desert – because He is the one who put them there. This is what Moshe meant when he said, "Tonight you will know that Hashem took you out of the land of Egypt" (Rashi). According to the Ibn Ezra, both the quail and the manna served as "signs" which restored the faith of the Jews.

To further strengthen the recognition of Hashem, Moshe and Aaron repeatedly impress upon the people their powerlessness, their virtual nonexistence. "What are we?" Moshe and Aaron are making a critical point. They are nothing more than Hashem's agents and therefore any complaint about life in the desert can only be taken as a complaint against Hashem Himself.

Armed with this historical background, we are prepared to return to the Rock.

### Fixing a Broken Faith

It was a time of national crisis. The prophetess Miriam passed away and the nation's water supply suddenly vanished. Stuck in the desert with nothing to drink, people panicked and the worst came out.

*The nation challenged Moshe. "If only we had died with our brethren before Hashem! Why have you brought the congregation of Hashem to this desert? For us and our animals to die there? Why did you take us out of Egypt? To bring us to this evil place? This is not a place of planting, of figs, grapes and pomegranates! There is no water to drink!" (Bamidbar 20:3-5)*

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<sup>9</sup> What they failed to understand was that starvation was a deliberate part of the Divine plan: it challenged the Jew and steeled his faith. "I afflicted you. I starved you. I fed you the manna ... so that you would know that man does not live on bread alone, rather man lives by the word of Hashem" (*Devarim* 8:3). "[Hashem] who fed you manna in the desert... in order to afflict you and in order to test you, for your own good in the end" (*ibid* 8:16). See Ramban to *Shemos* 16:4.

After all the nation has been through and all they have witnessed, these ugly words are the height of cynicism and ingratitude. It is an uncomfortable truth that this complaint was aired often in the desert. Although it took on different forms, the idea was the same. Whether regretting their departure from Egypt (e.g. *Shemos* 17:3), expressing nostalgia (e.g. *Bamidbar* 11:5), or harping for a return (e.g. *Bamidbar* 14:4), the Jews seem to have positive feelings for a place of pain and enslavement. This is quite difficult to understand. For a Jew, missing Egypt makes as much sense as missing Germany.

Before we suspect the Stockholm Syndrome, we should recall that by the end of the Ten Plagues, the Jews were free and the Egyptian people were bowing to Moshe and gifting the Jews with gold and silver. With the drowning of Pharaoh and his army in the Red Sea, Egypt ceased to exist as a sovereign state. The Jews could easily waltz back in and, in the ultimate poetic justice, take over the country and enslave their taskmasters. It took an extraordinary act of faith for the Jews to abandon the security of the Nile and walk into the deprivations of the desert and war with the Canaanites. Hashem said, "I remember the kindness of your youth, the love of your nuptials. You followed Me into the desert, into a land where nothing grows" (*Yirmiyahu* 2:2). Great indeed was their love, but when the going got tough, some Jews regretted it.

However, the real travesty of the Jews' complaint is not disloyalty or chutzpa, but the sin of heresy, the very same irrational heresy the people committed years earlier when they ran out of food. The Jews blame Moshe for the lack of water? The Exodus was orchestrated by Hashem, not Moshe! How could anyone think otherwise?

Human leaders are necessary, but they pose a threat to the sovereignty of Hashem.<sup>10</sup> It is far easier to become enamored with a physical human being than with an abstract infinite Being. "Moshe was very great... in the eyes of the nation" (*Shemos* 11:3). When that happens, when a person is venerated, there is a danger of crossing the line from reverence to cult worship. "The nation realized that Moshe was late coming down from the mountain. They gathered around Aaron and said to him, 'Get up and make us a god that will lead us, for we do not know what happened to the man Moshe who took us out of Egypt'" (*Shemos* 32:1). The Torah could not be clearer: The Jews built an idol, a Golden Calf, to replace Moshe. Apparently, some thought he was a god.

The Golden Calf was destroyed and the perpetrators were killed, but years later, Jews were again saying that it was Moshe, not Hashem, who took them out of Egypt.

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<sup>10</sup> See *Shmuel I* 8:7

The water crisis, like the food shortage, was a test and the Jews failed miserably. The signs and wonders of the Exodus were designed to demonstrate the reality of the Almighty and the fragility of all else.<sup>11</sup> This should have built a solid foundation of faith, but when the water dried up, instead of faith, the Jews experienced fear. Questioning the wisdom of the Exodus, they doubted God and blamed Moshe.

Hashem responds in the same way He responded years earlier when the Jews blamed Moshe for the lack of food. He decides that a supernatural event is needed to bolster belief in the Divine origin of the Exodus and the goodness of God, and to remind the nation that Moshe is no more than a messenger. When they ran out of food, Hashem recalled the signs of Egypt with the creation of miracle food, and now that they have no water, Hashem creates a new sign, miracle water.

*“Take the staff and gather the congregation – you and Aaron your brother – and speak to the rock in front of their eyes...” (Bamidbar 20:8)*

Notice the elements which evoke memories of Egypt: the use of the staff, the partnership of Moshe and Aaron. Both function to take the spotlight off the personage of Moshe. Most tellingly, Hashem instructs them to perform the miracle in the presence of the people. “Gather the congregation... speak to the rock before their eyes.” This is exactly how the signs were performed in Egypt. “He performed the signs before the eyes of the nation” (*Shemos* 4:30). The hope was that witnessing water flowing from a rock would sanctify Hashem’s name and, like the signs of Egypt, restore faith in the fundamental principle of Judaism, immortalized in the first of the Ten Commandments: Hashem exists. He is the sole power that runs the world, and He is the One, the only One, Who took us out of Egypt and gifted us with freedom.

Moshe misunderstood. He thought this was about supplying drinking water. Moshe didn’t catch the heresy implicit in the people’s words, for in his humility Moshe viewed himself as nonexistent; nothing more than an agent, an angel, of Hashem. Moshe was accustomed to speaking in Hashem’s Name, and so when he hears people blaming him for the Exodus, he innocently assumes they are referring not to him, but to Hashem.<sup>12</sup> After all, years earlier when they ran out of food, Moshe had made it

<sup>11</sup> See Ramban to *Shemos* 13:16

<sup>12</sup> “I am standing between Hashem and you” (*Devarim* 5:5). Moshe’s unique position allows him to serve both as a Hashem’s representative for the nation and as the nation’s representative for Hashem. Indeed, Hashem occasionally speaks to Moshe as if Moshe is the nation. “Hashem said to Moshe... so that you will tell your children and your children’s children how I mocked Egypt...” (*Shemos* 10:2; Ibn Ezra ad loc.). It follows that from the perspective of the people, Moshe could be spoken of as if he was Hashem, as in the verse, *Torah tziva lanu Moshe*, “The Torah was given to us (lit., commanded) by Moshe” (*Devarim* 33:4).



clear that all complaints would be received as complaints against Hashem. This is why Moshe did not hear a denial of Divine providence; all he heard was a protest about the lack of water.

Serving as Hashem's spokesperson, Moshe uses the divine "we." "Will we bring forth water from this rock?" With this dangerously ambiguous language, Moshe unwittingly undermined Hashem's plan.

*Hashem said to Moshe and to Aaron, "Since you did not trust Me to sanctify Me before the eyes of the Jewish People, you will therefore not bring this congregation into the land which I have given them." (Bamidbar 20:12)*

The miracle at the rock was supposed to put an end to the cult of Moshe. Ironically, Moshe's humility exacerbated the problem. As the Rach wrote, to some Jews – particularly those who blamed Moshe for their predicament – Moshe's choice of words sounded as if he was using his own powers to produce water. Worse, it reinforced the notion that Moshe was the one who took the nation out of Egypt. The situation has gone from bad to worse and Hashem is forced to take drastic measures. Hashem decrees that Moshe and Aaron will die in the desert. It is a tragedy, but the people must face the mortality of their heroes.

When the nation is bereft of its great leaders, when Miriam, Aaron and Moshe have all passed on and their bodies lie buried in the Sinai Desert, Jews will finally cease putting their faith in people, magic, and the natural forces of the world. Even the weakest will wake up and realize that the only dependable power is Hashem. In the end, Moshe will achieve in death what he failed to achieve in life: the nullification of man and the sanctification of Hashem in the eyes of the Jewish People. When that happens, the nation will finally be ready to enter the Promised Land.



*Parshas Pinchas**B'nos Tzlafchad and the Halachic Will*

STEPHEN KIRSCHENBAUM



**C**hazal (*Shabbos* 10b) teach us a person should never show any preference to a particular child over another. After all, the preferential treatment Yosef received from Yaakov Avinu elicited strong resentment from his brothers, which ultimately led to drastic ramifications. The Rambam, (*Mishne Torah, Hilchos Nachalos* 6:13), in the midst of presenting detailed *halachos* concerning inheritance, uncharacteristically codifies this ethical statement from the *gemara*. Seemingly, the Rambam is teaching that maintaining familial harmony by fairly distributing one's assets upon death is principally essential.

**The Torah's Order of Succession**

The Torah's rules of inheritance, derived in part from the story of the *B'nos Tzlafchad* in *Bamidbar* 27:8-11, outline a particular line of succession of one's estate. If a man dies, his estate is to be distributed in the following manner:

- (1) First, to the deceased's son and the son's male descendants;
- (2) If there are no male heirs, a daughter and her male descendants can inherit the estate (but the daughter's female descendants are allowed to inherit if she has no male descendants); and
- (3) If someone has no descendants at all, then the deceased's father and brothers can inherit.

When describing this *seder ha'yerusha*, or inheritance scheme, the Torah uses the words "*chukas mishpat*," making this scheme divinely mandated and obligatory upon all Jews.<sup>1</sup> If a person acts, or fails to act, and causes a non-Torah heir to receive property outside the bounds of the *seder ha'yerusha*, that person has violated the positive commandment delineated above. Furthermore, by not taking the necessary

<sup>1</sup> Thus, issues of inheritance are not only labeled monetary matters (*dinei mamonos*), but also matters of religious law (*issur v'heter*). Rambam, *Mishne Torah, Hilchos Ishus* 12:9; *Hilchos Nachalos* 6:1.

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measures, one causes money to be taken from the proper heirs and given to those who are not *halachically* entitled to the estate. *Halacha* views this as theft on the part of the non-*halachic* heirs.<sup>2</sup>

The *mishna* (*Bava Basra* 8:2) explains the lineal descendants of anyone with priority to succession take precedence. For example, the grandchild (son of a son) of the deceased has priority over the daughter of the deceased. If a man dies with no living son, the inheritance passes to any deceased son's lineal male descendants (the grandsons or great-grandsons of the deceased) and only then to a daughter. Sons, as stated clearly in the Torah, have the first priority to inherit. If the deceased was not survived by any sons, his daughters inherit the entire estate. The *mishna* explains that the decedent's father is third in the line of succession, after sons and daughters, even though the father is not explicitly mentioned in the Torah's list. Thus, if the decedent was not survived by children, the father inherits it all. If the father is not alive, then the decedent's brothers inherit. If no brothers survive, then the closest relative inherits.<sup>3</sup>

### The Special Status of the Firstborn (*Bechor*)

The Torah, in *Devarim* 21:16-17, commands us to give a first-born male a double portion of the assets contained within his father's estate at the time of death.<sup>4</sup> For example, if the deceased was survived by five sons, the *bechor* receives two-sixths of the inheritance, and the remaining sons each receive one-sixth of the estate. There are several important exceptions to this seemingly straightforward *halacha*. Firstly, a son born by Caesarian section does not qualify as a *bechor* for this purpose, and is consequently not entitled to a double portion of the assets in the estate.<sup>5</sup> Furthermore, this *halacha* applies only when children inherit their father's estate. When children inherit their mother's estate, the *bechor* does not receive a double share.

Moreover, the *mishna* (*Bechoros* 8:9) teaches that the *bechor* is entitled to receive a double share only from assets held by the decedent at the time of death ("*muchzak*"). Alternatively, the *bechor* is not entitled to receive a double portion from

2 *Chiddushei Rav Akiva Eiger, Choshen Mishpat* 26:1. See Responsum of Rashba, 6:254, as cited by both *Beis Yosef, Choshen Mishpat* 26 and Rama, *Choshen Mishpat* 369:11, ruling *dina d'malchusa dina* (adherence to the civil laws of the country of residence) only applies to monetary matters relating to the external functioning of the country (e.g. taxes), but not to internal matters between Jews. Were Jews to embrace the civil laws of the country amongst themselves, a complete abandonment of Jewish civil law would result.

3 See *Shulchan Aruch, Choshen Mishpat* 276 and *Pischei Choshen* 8:1 for a thorough description of the Torah's line of succession.

4 *Bava Basra* 125b

5 *Bechoros* 8:9

contingent assets (“*ra’ui*”) to which the decedent had a right at the time of death, but were not actually in his possession (e.g. an unpaid debt). There is considerable debate concerning the application of this rule. For instance, Rav Ovadia Yosef (*Yabia Omer, Choshen Mishpat* 8:8) and Rav Yaakov Yeshaya Blau (*Pischei Choshen* 8:2:26) rule that money deposited in a bank is considered *ra’ui*. On the other hand, Rav Hershel Schachter has stated on multiple occasions that Rav Moshe Feinstein believed that money deposited in a bank is considered to be *muchzak*. A similar dispute exists between Rav Yechezkel Landau (*Noda B’Yehuda, Choshen Mishpat* 1:34) and the *Aruch HaShulchan* (*Choshen Mishpat* 278:13) as to whether government bonds are considered *ra’ui* or *muchzak*.<sup>6</sup>

### Spouses

The husband is heir to his wife’s estate and takes precedence over all other heirs. There is considerable discourse whether this halacha is a Torah law or a rabbinic enactment.<sup>7</sup>

The wife, in contrast, does not inherit her husband’s estate, although she is entitled to significant support until she remarries or claims her *kesuba*.<sup>8</sup> Accordingly, the widow derives the benefits of her deceased husband’s estate, but without any of the responsibilities of ownership. The children or other *halachic* heirs control and manage the estate, while the widow retains a priority claim against its assets to ensure her standard of living.

### Daughter’s Inheritance

Although a daughter does not inherit if the deceased has sons, each unmarried daughter is entitled to ten percent of the estate to be used for her dowry.<sup>9</sup> Some attorneys suggest that this distribution is to be calculated net of any estate tax because of the enactment of *dina d’malchusa dina*, since the money taxed is deemed to belong to the government from the outset. Furthermore, a daughter is to be supported by the estate until she is betrothed or reaches the age of *bas mitzva*.<sup>10</sup>

<sup>6</sup> For a comprehensive discussion regarding the special entitlement of the *bechor*, see *Shulchan Aruch, Choshen Mishpat* 277 and *Pischei Choshen* 8:2.

<sup>7</sup> See Rambam, *Mishne Torah, Hilchos Nachalos* 1:8 and the comments of the Raavad, *Maggid Mishne* and *Kesef Mishne* thereto.

<sup>8</sup> *Shulchan Aruch, Even Haezer* 93; *Kesubos* 4:21

<sup>9</sup> *Kesubos* 6:6; *Kesubos* 68a; and *Shulchan Aruch, Even Haezer* 113:1

<sup>10</sup> *Kesubos* 4:11

## Contemporary Wills

The most common method of distribution of an estate in modern times is for children, sons and daughters, to share equally in the decedent's estate and for one's wife/mother of the children to inherit the estate. Because a decedent has no *halachic* authority to transfer his possessions after death,<sup>11</sup> the conventional Last Will and Testament, which takes effect after death, has no halachic validity.<sup>12</sup> How then can one achieve this personal objective without violating the *halachic* requirements of *yerusha* discussed above?

The most common solution utilizes a special document called a "*shtar chatzi zachar*." The Rama (*Even Haezer* 113:2 and *Choshen Mishpat* 281:7) records that this was the commonly accepted way to provide each daughter with a share in the estate. Modern day *poskim* have constructed a contemporary version of the *shtar chatzi zachar*, generally referred to as a "*Halachic Will*," which allows the testator (i.e. person who has made a will) to create an estate plan that is consistent with his wishes while also being *halachically* compliant.

The *Halachic Will* supplements, but does not supplant, a conventional Last Will and Testament. After preparing the secular will, the person then undertakes the *shtar chatzi zachar*. The *shtar*, or promissory note, is a document in which the person accepts upon himself a conditional debt to a non-*halachic* heir. He records in this *shtar* that he owes the non-*halachic* heir a large sum — an amount clearly exceeding the value of his estate — and stipulates that this debt is enforceable against both himself and his Torah heirs. The debt is then created by the testator executing symbolic consideration, the *kinyan suddar*.

The obligation to repay this debt has two conditions attached. First, the debt

11 *Shulchan Aruch*, *Choshen Mishpat* 258 and Rama thereto.

12 *Lev Aryeh* 2:57; *Chasam Sofer*, *Choshen Mishpat* 142; *Binyan Tzion* 24; *Achiezer* 3:34. These authorities, among many others, would not sanction the use of a secular will without the appropriate *halachic* accompaniment. See *Temura* 25b that when an individual's directive directly conflicts with a directive from Hashem, the directive from Hashem prevails. Similarly, if one stipulates at death his assets should belong to a non-*halachic* heir, Hashem's directive that the assets belong to the *halachic* heir prevails.

Rav Moshe Feinstein argues that a secular will drafted in compliance with civil law is *halachically* valid and that the heirs as set forth in the will are not guilty of theft even if *halacha* normally excludes them from inheriting. Rav Moshe contends that since a will is an automatic transfer effectuated by civil law upon death, a *kinyan* (formal act of acquisition) is not necessary, for there is no greater *kinyan* than this. Therefore, since a *kinyan* is not necessary, the will is *halachically* effective. *Igros Moshe*, *Even Haezer*, 1:104. However, this view has not been generally accepted and is not considered the normative *halacha*. *Lev Aryeh* 2:57; Rav Hershel Schachter (in lectures heard by author).

cannot be claimed until one hour before death.<sup>13</sup> Second, this debt is waived if the *halachic* heirs follow the dictates contained within the accompanying secular will. Upon death, the *halachic* heirs would be forced to either honor the terms of the secular will, thereby waiving the debt, or else pay the entire debt (which, being exceedingly more than the entire estate, is an insurmountable obligation).

This arrangement can be implemented to devise a share of one's estate to as many people and/or charities as one desires. Supplementing the conventional Last Will and Testament with a *Halachic* Will enables a person to formulate an estate plan that fits well with one's family's needs while also being acceptable under Torah law.

The topics discussed herein are a brief overview of the various issues that may arise when formulating an estate plan. A *rav* and legal professional should be consulted to ensure proper conformity from both a *halachic* and legal perspective. Moreover, beneficiaries who are not *halachically* entitled to receive their portion of an estate should consult a *rav* for guidance on how to remedy this problem.

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<sup>13</sup> If the obligation would take effect immediately, the recipient of the debt could insist on collecting right away.





*Parshas Matos-Masei*

# Infusing Tisha B'av with “Something Glorious”

EZRA MARTON



**E**ach year, *Parshas Matos-Masei* is read during the Three Weeks. This period is a time of mourning and reflection over the loss of our holy *Beis Hamikdash* as well as many other tragedies that befell *Klal Yisrael* over the course of history. In order to internalize and grow from the memory of these calamities, *Chazal* instituted increasing degrees of mourning practices during this period. While these practices are similar to the mourning customs after the loss of a close relative, there are *halachic* differences that warrant exploration and analysis.

כל מצות שנוהגת באבל נוהגת בתשעה באב (תענית ל.)

*All the practices that a mourner is forbidden to do, [like wearing leather shoes and bathing,] are forbidden on Tisha B'av, [the day we mourn the destruction of the Beis Hamikdash.]*

The *rishonim* note that in truth, not everything that is forbidden to an *avel* is actually forbidden on Tisha B'av. For example, an *avel* is forbidden to wear *tefillin* on his first day of mourning, the day of the funeral, but we are still able to wear *tefillin* on Tisha B'av. The *rishonim* explain that on Tisha B'av we only forbid the practices that apply throughout the seven days of mourning like bathing, but wearing *tefillin* is permitted on Tisha B'av since it is permitted on the remaining six days of *aveilus*.

Although according to strict *halacha* it is permitted to wear *tefillin* on Tisha B'av, the *Shulchan Aruch* says that our practice is that we do not wear *tefillin* during

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This article is adapted from the author's bar mitzva *drasha*. He would like to express his gratitude to Rabbi Revah for his help in preparing this *drasha*.

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*shacharis* of Tisha B'av and only put them on at *mincha*. Because not wearing *tefillin* is only a *minhag*, we do not prohibit them the entire day, like all the other restrictions of Tisha B'av, but rather only in the morning. The *Shulchan Aruch* suggests that, as the day goes on, we lessen some of the practices of *aveilus* and wear *tefillin* at *mincha*.

The Vilna Gaon questions why we would have less *aveilus* in the afternoon. After all, the *gemara* tells us that the actual destruction of the *Beis Hamikdash* took place on the afternoon of Tisha B'av, and if anything, we should be stricter in the afternoon. The Vilna Gaon answers that, surprisingly, the burning of the *Beis Hamikdash* is actually a reason to lessen the *aveilus*. He explains that *Klal Yisrael* should actually have been destroyed at the time of Tisha B'av. Their relationship with Hashem had become so troubled that that it was almost irreparable. However, instead of destroying *Klal Yisrael*, Hashem destroyed the *Beis Hamikdash* in their place. This catastrophe was the tipping point that began our rehabilitation. The *gemara* tells us that *kila Hashem chamaso al eitzim v'avanim*, Hashem let out his anger on wood and stones.

The destruction of the *Beis Hamikdash* was an act of kindness that allowed us to recognize our problems and begin to change. For this reason, we lessen our mourning practices in the afternoon.

The Rambam also quotes the *minhag* not to wear *tefillin* but somewhat different from our practice.

ומקצת חכמים נוהגים שלא להניח בו תפילין בראש. (הלכות תענית ה:יא)

*There are those who have a custom not to wear tefillin on their head on Tisha B'av.*

The Rambam's custom is different than ours in two ways. First, we forbid *tefillin* only in the morning but permit them at *mincha*, whereas the Rambam makes no distinction between morning and the afternoon. Second, during *shacharis* we do not wear either the *tefillin shel yad* or the *tefillin shel rosh*, whereas the Rambam's custom is to wear the *tefillin shel yad* even in the morning and not to wear the *tefillin shel rosh* at all.

The Rambam's *minhag* is difficult to understand. Why should there be a difference between wearing *tefillin shel yad* and *tefillin shel rosh*? Just as an *avel* does not wear either of his *tefillin* on his first day of *aveilus*, so too, on Tisha B'av, one should not wear either of them.

A possible explanation of the Rambam's *minhag* can be derived by first examining why an *avel* may not wear *tefillin* on the first day of *aveilus*.

One might consider the two following reasons for why an *avel* is forbidden to wear *tefillin*:

1. *Tefillin* are considered to be our crown which Hashem gave us. It would be out of place for a person in a state of mourning to be putting on a crown.

2. When one wears *tefillin* he is supposed to be aware that he is wearing *tefillin* at all times. A person who just buried a relative is not in the proper state of mind to wear *tefillin*.

The prohibition of an *avel* wearing *tefillin* is quoted in both *Maseches Brachos* and *Maseches Succa*. Interestingly, Rashi seems to give the first reason in *Maseches Succa* and the second reason in *Maseches Brachos*.

In *Maseches Succa* 25a Rashi says

ואבל לאו בר פאר הוא, וכשמתפאר מראה עצמו שאינו אבל.

*Tefillin* are called *pe'er*, “something glorious,” by the *Navi* and by an *avel* wearing *tefillin* it would be saying that he is indifferent to his *aveilus*.

However, in *Maseches Brachos* 11a Rashi says

וכיון דאבל מתגלגל בצערו בעפר אין זה פאר.

Since an *avel* is engrossed in his pain, sitting on the floor, he is not in a state that he can wear *tefillin* properly.

It would seem from Rashi that there are two *halachic* angles why an *avel* cannot wear *tefillin*. First, based on the *halachos* of *aveilus*, wearing *tefillin* would detract from proper *aveilus*. Second, based on the *halachos* of *tefillin*, it would not be correct to wear *tefillin* if one is not able to treat them properly and have the proper *kavana* due to his state of mind.

Let us see which of these two reasons apply to Tisha B'av. Certainly the first reason can apply. If we are supposed to be in mourning on Tisha B'av, it would not be right to wear something royal like *tefillin*. But the second reason may not apply. While a mourner just coming back from a funeral is in no state of mind to properly concentrate on *tefillin*, this reasoning may not apply to Tisha B'av. The *gemara* says that Tisha B'av is an *aveilus yishana*, we are mourning an event that happened long ago, and the level of *aveilus* is not as intense as someone who is experiencing *aveilus* now. Therefore, a person could be in the proper frame of mind to wear *tefillin* on Tisha B'av.

With this idea we can explain the *minhag* of the Rambam of not wearing the *tefillin shel rosh* but wearing the *tefillin shel yad*. The Rambam maintains that only the *tefillin shel rosh* is considered to be a crown, not the *tefillin shel yad*. The source for this is the *gemara* in *Brachos* 6a:

וראו כל עמי הארץ כי שם ה' נקרא אליך ויראו ממך, אלו תפילין שבראש.

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*“Everyone will see that Hashem is with you and they will fear you” – that is when you wear tefillin on your head.*

Only wearing *tefillin* on your head is considered to be wearing a crown, and is inconsistent with *aveilus*. *Tefillin shel yad* is not considered wearing a crown and would not detract from *aveilus*.

Although it is true that an *avel* cannot wear even *tefillin shel yad*, that is because the second reason applies. An *avel* is not in the state of mind to concentrate on *tefillin*. Both the *shel rosh* and the *shel yad* require proper concentration. However, on Tisha B'av, which is an *aveilus yishana* we are able to concentrate and we can wear the *tefillin shel yad*.

May the proper observance of Tisha B'av and its associated *aveilus* help us to understand the loss of the *Beis Hamikdash* and help us to bring the *geula b'mehera b'yameinu*.

# Devarim



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*Parshas Va'eschanan*

# Are Double Black Diamonds Kosher?

RABBI YAAKOV SIEGEL



There is a mitzva in the Torah to avoid danger. The source of this mitzva is two *pesukim* in *Parshas Va'eschanan*: “*Rak hishamer licha u'shmor nafshecha me'od*,” you should safeguard yourself and safeguard your soul (*Devarim* 4:9), and “*vinishmartem meod linafshoseichem*,” you shall strongly safeguard your souls (*Devarim* 4:15).<sup>1</sup> Even though in context, these *pesukim* are about being careful not to forget receiving the Torah at *Har Sinai*, nonetheless, the Rambam (*Hilchos Rotzeach U'shmiras Hanefesh* 11:4) and *Shulchan Aruch* (*Choshen Mishpat* 427:8) codify “*hishamer licha u'shmor nafshecha*” as a *mitzvas aseh*, a Torah commandment, to avoid any life threatening danger.<sup>2</sup>

## Skiing and Snowboarding are Dangerous

According to the National Ski Area Association, 38 people die each year in the United

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<sup>1</sup> This is based on the *gemara* (*Brachos* 32b) which tells the story of a certain *chasid* who refused to stop *davening* to greet a Roman officer. The officer tells the *chasid* that he could be killed for his disrespect, and that the *chasid* violated what it says in the Torah, “*Rak hishamer licha u'shmor nafshicha*,” you should safeguard yourself and safeguard your soul (*Devarim* 4:9), and “*vinishmartem meod linafshoseichem*,” you shall strongly safeguard your souls (*Devarim* 4:15). So the source of this mitzva is the words of a gentile, but nonetheless it is codified by the Rambam and *Shulchan Aruch* as *halacha*.

<sup>2</sup> Even though both the Rambam and *Shulchan Aruch* use the expression *mitzvas aseh*, the *Be'er Hagola* (*Choshen Mishpat* 427) questions whether it is *de'oraisa* or *derabbanan* since the Rambam says one who violates *hishamer licha u'shmor nafshecha* gets *makos mardus* (rabbinic lashes). The *Tzitz Eliezer* (15:39) however says that the *halacha* follows the *Levush* (*Choshen Mishpat* *ibid.*) that it is *de'oraisa*.

It is worthwhile to note that the *Sefer Hachinuch* (546) includes the obligation to avoid danger as part of the mitzva of *lo sasim damim* (*Devarim* 22:8). The Rambam and *Shulchan Aruch* limit *lo sasim damim* to removing obstacles that could cause danger.

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States while skiing or snowboarding in a ski resort,<sup>3</sup> and it is estimated that there are approximately 600,000 ski or snowboard injuries each year that require a visit to a hospital or doctor.<sup>4</sup> With an average of approximately 56 million annual skier/snowboarder visits, the fatality rate is less than 1 per million visits, but the injury rate is higher than 1 per hundred.

So are skiing and snowboarding forbidden by the Torah? And if they are allowed, would all runs be permitted? What about double black diamond runs – the most difficult and dangerous runs on the mountain? While there are no standards for the difficulty ratings of ski runs, double black diamonds are almost always incredibly steep, and are often narrow paths between tight trees or rocky chutes. These “experts only” slopes often have difficult snow conditions and unmarked obstacles, including cliff bands, and sometimes require significant local knowledge in order to ski them well. For a skier, *chas v’shalom*, to die on a beginner run, it would require a bizarre fluke.<sup>5</sup> But it is easy to look at a double black diamond run, see the *sakanas nefashos* and appreciate that the Torah could say “*hishamer licha u’shmor nafshecha*,” and don’t do it.

To answer these questions, we will analyze the mitzva of *hishamer licha*, of avoiding danger. We will look at how the *poskim* over the generations apply this mitzva to questions such as the permissibility of smoking, hunting, using contraception, and travelling during war time, and with Hashem’s help hopefully arrive at conclusions about the *halachos* of skiing and snowboarding on the most challenging expert-only terrain.<sup>6</sup>

## Understanding the Mitzva of Avoiding Danger

The Rambam describes the mitzva of avoiding danger:

כל מכשול שיש בו סכנת נפשות מצות עשה להסירו ולהשמר ממנו ולהזהר בדבר  
 יפה יפה. שנאמר השמר לך ושמור נפשך. ואם לא הסיר והניח המכשולות המביאים  
 לידי סכנה ביטל מצות עשה ועבר בלא תשים דמים.

3 [http://www.nsaa.org/media/275270/Fatality\\_Fact\\_Sheet\\_9\\_1\\_2016.pdf](http://www.nsaa.org/media/275270/Fatality_Fact_Sheet_9_1_2016.pdf)

4 <http://www.denverpost.com/2013/03/18/colorado-skiers-die-on-groomed-blue-runs-after-hitting-trees/>

5 There is limited data regarding fatalities on different types of ski runs. In 2013, the Denver Post (*ibid.*) did an analysis of skier deaths in Colorado from 2008-2012. 54% of skier or snowboarder deaths were on intermediate runs, 31% were on advanced or expert runs, and 15% were on beginner runs. According to the Denver Post, “If those who died had anything in common, it was catching an edge or losing control just long enough to crash into a tree on the side of a trail. ‘People don’t want to hear it, but it’s really the luck of the draw. It’s an experienced skier and a perfect storm of events or one bad moment of judgment,’ said Joanne Richardson, the former coroner for Summit County, where four ski areas account for close to 4 million skier visits a season.”

6 **Any halachic conclusions are my own and have not been explicitly endorsed by any posek. *Sakanas nefashos* is a very serious and grave issue, and I strongly request that you discuss any questions about risking life or limb, especially for a recreational activity, with your *rov* or *posek*.**



הרבה דברים אסרו חכמים מפני שיש בהם סכנת נפשות. וכל העובר עליהן ואומר  
הריני מסכן בעצמי ומה לאחרים עלי בכך או איני מקפיד בכך מכין אותו מכת  
מרדות. (הלכות רוצח ושמירת הנפש יא:ד-ה)

*For any obstacle that presents life-threatening danger, there is a positive mitzva to remove it, to guard oneself from it, and to be very careful about it. As it is written, "you should safeguard yourself and safeguard your soul (Devarim 4:9)." And if one does not remove the obstacle, or if he places obstacles that could present life-threatening danger, he has violated a positive commandment [of "you should safeguard"] and transgressed "do not place blood (Devarim 22:8)."*

*The Sages have prohibited many things that might present life-threatening danger. And anyone who violates these and says "I will endanger myself, and why should anyone else care," or "I don't care" gets rabbinic lashes. (Hilchos Rotzeach Ushmiras Hanefesh 11:4-5)*

Examples of things prohibited by the Sages are found in *Shulchan Aruch Yoreh Deah* 116, and include oral contact with items that might carry disease, such as food that was bitten into by a potentially diseased or venomous animal, and the prohibition of putting coins into one's mouth.

The very last three *halachos* in the entire *Shulchan Aruch* (*Choshen Mishpat* 427:8-10), codify this Rambam almost verbatim.

The *Be'er Hagola* (ibid. 427:60, written by the 17th century Lithuanian *posek* Rav Moshe Rivkes) beautifully explains the reason for the mitzva:

הטעם שהזהירה תורה על שמירת הנפש, הוא מטעם שהקדוש ברוך הוא ברא את העולם בחסדו להיטיב לנבראים שיכירו גדולתו ולעבוד עבודתו בקיום מצוותיו ותורתו... וליתן להם שכר טוב בעמלם. והמסכן את עצמו כאילו מואס ברצון בוראו ואינו רוצה לא בעבודתו ולא במתן שכרו, ואין לך זלזול אפקירותא יותר מזה.

*The reason that the Torah commanded one to safeguard his life is because Hashem created the world with His kindness to do good to His creatures, so they should recognize His greatness and perform His service by keeping His mitzvos and Torah... and to give good reward to those who toil in them. And one who endangers himself, it is as if he is disgusted with the Will of his Creator and wants neither His service nor His reward. And there is no greater wanton disrespect than that.*

There are two critical questions that we need to address in order to fully understand the applications of this mitzva: First, does the mitzva apply only to the

danger of losing one's life, as is the simple reading of the Rambam and the *pasuk* itself, or does it also extend to avoiding non-life-threatening injuries, such as joint sprains and fractures, the most common skiing and snowboarding injuries? Second, is any danger at all completely forbidden? There is danger in taking a walk down the street, and danger in eating dinner. What are the limits of this prohibition? Obviously, the answers to these two questions will shape any *halachic* discussion about the permissibility of skiing dangerously challenging terrain.

### **Risking Life or Limb?**

The question of whether one is allowed to risk non-life-threatening injury is somewhat mysterious as it is almost completely ignored by the *poskim* and contemporary *sefarim* on medical *halacha*.<sup>7</sup> Let's briefly analyze the issues and try to find some direction in answering this question.

There are two main reasons why one may not be allowed to risk injury. The first is that perhaps the mitzva of *hishamer licha u'shmor nafshecha* extends beyond avoiding mortal danger, and applies to avoiding injuries as well. The second is that the Torah prohibits *chovel b'atzmo*, wounding oneself,<sup>8</sup> and one should not be allowed to risk injuring himself because of the *safek issur* – if he is risking injuring himself, he is risking violating the *issur* of *chovel b'atzmo*.

Regarding *hishamer licha*, there are many indications and reasons to argue that it would not extend to protecting oneself from injuries. First, the *pesukim* themselves say "*hishamer licha u'shmor nafshecha*" and "*ushmartem me'od es nafsoseichem*" both referring to safeguarding your life. Additionally, the aforementioned Rambam in *Rotzeach* 11:4 says "*v'cheyn kol michshol sheyesh bo sakanas nefashos*" any obstacle that might be mortally dangerous one must avoid, and in 11:5 he says "*harbu dvarim asru chachamim mishum sakanas nefashos*," there are many things the Sages forbade because of mortal danger. This, as we mentioned, is the text of the *Shulchan Aruch* as well, and all of the items listed by the *Shulchan Aruch* in Y"D 116 that were forbidden, were forbidden because they are potentially life-threatening. Furthermore, almost all of the *poskim* we will discuss in this essay exclusively discuss *sakanas nefashos*, and do not seem to mention the risk of injury at all.

Additionally, while the Rambam speaks only of avoiding mortal danger in

7 Even Rabbi Dr. Avraham Steinberg's *Encyclopedia of Medical Halacha's* extensive appendix about self-endangerment only discusses life-threatening injuries.

8 The source of this *issur* is the *gemara* (*Bava Kama* 90b) and it is recorded in the Rambam (*Chovel U'mazik* 5:1) and the *Shulchan Aruch* (C"M 420:31).

*Hilchos Rotzeach*, he does discuss avoiding injury and sickness in *Hilchos Deos* (4:1), albeit in a very different tone:

הואיל והיות הגוף בריא ושלם מדרכי השם הוא... לפיכך צריך להרחיק אדם עצמו  
מדברים המאבדין את הגוף, ולהנהיג עצמו בדברים המברין והמחלימים. ואלו הן:  
לעולם לא יאכל אדם אלא כשהוא רעב, ולא ישתה אלא כשהוא צמא...

*Since it the ways of Hashem that He gave us a body that that is healthy  
and complete, therefore one must distance himself from things that damage  
the body, and accustom himself to things that make him healthy and well.  
For example, he should only eat when he is hungry and drink when he is  
thirsty...*

Rav Moshe Feinstein (*Igros Moshe C" M 2:76*) explains that while the Rambam in *Rotzeach* is expressing a prohibition, the Rambam in *Deos* is only suggesting healthy behavior and giving good advice. Thus, the Rambam is saying that the prohibition is only risking one's life, but it would also be a good idea to avoid risking one's health.

Additionally, in one of the very few recent *teshuvos* that directly discusses risking injury (*Shu"t Be'er Moshe 1:60:1*), Rav Moshe Stern, the Debreciner Rav,<sup>9</sup> brings from earlier *poskim*, including the *Chid" a* (*Birkei Yosef Y" D 240*), *Sefer Chasidim* (234), and Rav Yaakov Molcho (*Resp. 113*), that *hishamer licha* only prohibits mortal danger, while there is no prohibition of putting one's body in danger. It should be noted, however, that the Debreciner Rav himself rules that *hishamer licha* does in fact prohibit risking non-life-threatening injuries, although he offers little support for his ruling.

There is also a strong argument that the risk of *chovel b'atzmo* should also not be grounds to prohibit skiing out of the concern that one might become injured. First, Rav Moshe Feinstein in a different context – his landmark *teshuva* permitting cosmetic surgery (*Igros Moshe C" M 2:66*) – explains that the prohibition of *chovel b'atzmo*, wounding oneself, is only prohibited if it is done *derech nitzayon*, in a belligerent manner, or *derech bizayon*, in a degrading manner. According to Rav Moshe, *chovel b'atzmo* would obviously not apply to skiing injuries. And even if one does not accept Rav Moshe's limitations to *chovel b'atzmo*, we will discuss later in this essay that the

<sup>9</sup> One of the important *chassidische poskim* in New York in the second half of the 20th century. The Debreciner is discussing a sick father who asks a son to give him something to make him feel better that will definitely injure the father. The *Chid" a* quotes the *Sefer Chasidim* who, in discussing that case, says if there is "*sakana*" the son should not listen. The *Chid" a* infers that if it would injure the father, but would not be *sakana* – i.e. mortal danger – the son should listen. The Debreciner infers from the *Chid" a* that there is no *hishamer licha u'shmor nafshecha* for non-life-threatening danger.

likelihood of injury while skiing is low enough<sup>10</sup> that skiing should not be prohibited because of the risk of *chovel b'atzmo*.

At the very least, though, *hishamer licha* does forbid one from risking his life. And since a small, but tragically meaningful number of skiers die each year, should skiing – especially the most dangerous terrain – be forbidden because of *hishamer licha*? Let's take a look at some of the limitations to this mitzva and see how they are relevant to this question.

### He Pities the Fools

In five places in *Shas*, the *gemara* develops the primary limitation on the mitzva of *hishamer licha u'shmor nafshecha*. Let's look at one of them:

אמר שמואל פורסא דדמא חד בשבתא ארבעה ומעלי שבתא בתלתא בשבתא. מאי טעמא לא משום דקיימא ליה מאדים בזווי? מעלי שבתא נמי קיימא בזווי. כיון דדשו ביה רבים (תהלים קטז, ו) שומר פתאים ה'. (שבת קכט:)

*Shmuel said, one should let blood<sup>11</sup> on Sundays, Wednesdays, and Fridays... On Tuesdays, why should one not let blood? Because the planet Mars influences the world on even hours [and therefore bloodletting is dangerous]. But doesn't it also influence the world on even hours on Fridays too? Yes, but since the public has trampled over this concern of danger [dashu bei rabim], "God protects the fools (Tehillim 115:6)" (Shabbos 129b)*

Without getting into the technicalities of bloodletting and the influence of Mars, the *gemara* is saying that an activity that is routinely done and is not considered dangerous by the public is called *dashu bei rabim*, and for that, *shomer pisaim Hashem*, Hashem allows it and sees to it that people will not be un-necessarily harmed by this danger.<sup>12</sup>

10 i.e. it is a *miut sh'eino matzui*, a *halachically* unlikely occurrence.

11 An ancient practice believed to be medically therapeutic.

12 The other cases where the *gemara* applies *shomer pisaim Hashem* to allow socially acceptable danger, are eating grapes or figs at night even though a diseased animal might have eaten from them (*Avoda Zara* 30b), a pregnant, nursing, or young woman not using contraception even though a new pregnancy could be harmful to her child or herself (*Yevamos* 12b), engaging in marital intimacy on the 90th day of a pregnancy (*Nidda* 31a), and doing a *bris mila* on a cloudy day (*Yevamos* 72a).

Reb Elchonon Wasserman (*Kovetz Shiurim Kesubos* 136) explains the philosophy behind this concept. Hashem, through *hashgacha pratit*, decrees how long a person will live (see *Moed Katan* 28a). For this decree to be carried out, however, Hashem must protect a person from any dangers until his appointed time. Hashem commands every person to avoid risk that could endanger his life, and if someone ignores this command Hashem may remove His protection leaving the person exposed to the risks posed by this danger and the potential consequences of premature death, *lo aleinu* (see *Mesilas Yesarim* 9). But it's impossible to truly know where

Skiing happens to be a cute example, because you can look at any ski run and literally see if *dashu bei rabim* or not, as any skier or snowboarder will leave his tracks in the snow. And pretty much any in-bounds (within the marked boundaries of a ski resort) double black diamond run in North America will be skied dozens if not hundreds of times a day. But what is the *halachic* definition of what is *dashu bei rabim* – socially acceptable risk – and what are unacceptable risks that are prohibited?

Rav Shlomo Zalman Auerbach provides the following definition:

שמצד הסברא נלענ"ד דכל שדרך רוב בני אדם לברוח מזה כבורח מפני הסכנה ה"ז  
חשיב כספק פקוח נפש... אבל אם אין רוב בני אדם נבהלים ומפחדים מזה אין זה  
חשיב סכנה. (מנחת שלמה ב:לז)

*Logically, I would humbly suggest that anything from which most people would flee as if they are fleeing from danger, this would be considered a life threatening risk [for which one would even be required to violate Shabbos to avoid], but if most people are not afraid or shaken by this, then it is not considered danger. (Minchas Shlomo 2:37)*

To evaluate how to apply the halachic standard of *dashu bei rabim* to skiing, we must answer three important questions:

First, does *dashu bei rabim*, public acceptance of risk, permit any dangerous activity even if there is a high likelihood of death?<sup>13</sup>

Second, how do you define the *rabim*? If ski instructors or professional skiers would look at a double black diamond run and think it was easy, but a non-skier or beginner skier would think it was crazy and “flee as if they were fleeing from danger,” is that *dashu bei rabim* and permitted?

Third, can one rely on *dashu bei rabim* and *shomer pesaim Hashem* just for fun, such as skiing, or only for a compelling need, such as earning a living?

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danger lurks – which hand that one is about to shake carries germs that could get him sick, which food that he’s about to eat carries harmful bacteria or food poisoning, or perhaps which ski run has a section of difficult snow that will cause him to lose control. So Hashem says, don’t go crazy obsessing over potential danger. Do what everyone else is doing, and I will forgive your foolishness – or lack of knowledge – and I will protect you even though you are voluntarily taking risk and endangering your life.

13 Take smoking for example. While in the United States, smoking is no longer *dashu bei rabim*, in many societies across the world it is. Yet a huge percentage of smokers die from smoking related illnesses (anywhere from 8% [NIH study in US (1987): <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1647211/>] to 67% [BMC study in Australia (2013): <http://bmcmedicine.biomedcentral.com/articles/10.1186/s12916-015-0281-z>] depending on when, where, and how the study was conducted).

### The *Birkas Hagomel* Paradox

There is a very important question asked by the *achronim* about *Birkas Hagomel*, the blessing one makes after being saved from danger. What is particularly interesting is that each of the different answers given by the *achronim* answers one of our three questions and can provide a different perspective on the *halachos* of skiing double black diamond terrain.

The *gemara* (*Brachos* 54b) learns from *Tehilim* 107 that four different people must give thanks to Hashem after emerging safely from danger (“*kisheyotzin min hasakana*” in the words of Rashi *d”h tzrichin lihodos*): one who travelled through the ocean, travelled through the desert, was healed from illness, or was released from prison. When there was a *Beis Hamikdash*, they would bring a *korban toda*, and today they would *bentsch gomel*, say the special thanksgiving blessing during the Torah reading in shul. While the latter two, being healed from illness or released from prison, are generally involuntary, the first two, travelling the oceans or deserts, are often voluntary. So many *achronim* ask: If desert and ocean travel are dangerous enough that one is obligated to give special thanks to Hashem for safely escaping, how is one allowed to even travel through the ocean or desert at all? What happened to the mitzva of *hishamer licha u’shmor nafshecha* which prohibits putting oneself into danger?

### Answer #1: *Binyan Tzion* and Contraception

Rav Yaakov Ettlinger, the author of the *Aruch La’ner* and one of the leading *rabbanim* in Germany in the middle of the 19th century, was asked if a woman, about whom the doctors said it would be *sakanas nefashos* for her to become pregnant, could use contraceptive methods that would ordinarily be prohibited (i.e. a contraceptive sponge). He based his response (*Shu”t Binyan Tzion* 137) on his own answer to the *Birkas Hagomel* paradox – how does one ever come to *bentsch gomel* for crossing the sea or desert if one is not allowed to put himself into danger.

After posing the *Birkas Hagomel* paradox, the *Binyan Tzion* answers:

דאע”ג דכלל בידינו דאין לך דבר עומד בפני פקוח נפש ואין הולכין בפ”נ אחר הרוב, זה דוקא ביש ודאי סכנת נפש לפנינו כגון בנפל עליו הגל דאז חוששין אפילו למיעוטא דמיעוטא. אבל בשעתה אין כאן פקוח נפש רק שיש לחוש לסכנה הבאה בזה אזלינן בתר רובא כמו לענין איסורא.

*Even though when one’s life is in danger, we would override all mitzvos and the concept of following the majority, that is only if there is definitely mortal danger in front of us, like if a pile of stones collapsed in which we [would desecrate Shabbos] out of a concern of the smallest possibility [that*

someone is buried under the rubble]. But if at the time of the question there is no mortal danger, but there is only a concern that it might come in the future, about this we would follow a simple majority.

The *Binyan Tzion* is answering that while *hishamer licha* does prohibit many types of *sakana*, there are some genuine risks of *sakanas nefashos* that one is allowed to take – specifically those in which the danger is not imminent, but rather there is a concern that the danger might present itself. If a danger is imminent, one may not take the risk even if the chances are very unlikely. But if the danger is not imminent, one may take the risk as long as there is less than a 50% chance that taking the risk will result in death, and *shomer pesaim Hashem* – Hashem will keep him safe. So one would be allowed to cross the sea or desert if there is less than a 50% chance of death, because since the danger is not immediately present, there is no prohibition of *hishamer licha u'shmor nafshecha*. Nonetheless, since it is risky, the person would say *Birkas Hagomel* if he survives the journey. Similarly, says the *Binyan Tzion*, the woman cannot use the contraception since the danger of her death from the pregnancy is not imminent. So *shomer pesaim Hashem* and she need not worry about putting her life in danger.<sup>14</sup>

So according to the *Binyan Tzion*, there should be a difference between the most difficult double black diamond ski runs, and all other terrain. On most ski terrain, there is actually no real danger in front of the skier or snowboarder. There is only the “*chashash shema yavo*” that he might *chas v'shalom* in a bizarre fluke lose control and crash into a tree on the side of the trail.<sup>15</sup> But for some double black diamond runs (and even some black runs) where there are tight trees, cliff bands, and/or large rocks immediately in front of the skier or snowboarder, it could be viewed as “*vaday sakanas nefesh lifaneinu*”, that certain danger is in front of us, and it would be permitted only if it is *dashu bei rabim*, even if the chance of death is very small and well below 50%. But for all other runs, if there is less than a 50% chance of death (which is most certainly the case) they would automatically be permitted.

It is important to note, however, that Rav Chaim Ozer Grodzinsky (*Shu"t Achiezer E" H 1:23*), the leading *posek* in Lithuania immediately prior to World War II, and many other *poskim*<sup>16</sup> reject the *Binyan Tzion's* idea that one can take a risk

14 Why the absence of *hishamer licha* automatically prohibits the use of the contraceptive sponge is explained clearly by the *Binyan Tzion*, but is beyond the scope of our discussion.

15 See footnote #5.

16 Including Rav Avraham Yitzchok Hakohen Kook (*Shu"t Ezras Cohen 37*) and Rav Yitzchok Isaac Halevi Herzog (*Shu"t Heichal Yitzchok E" H 2:16*). See Rabbi Dr. Avraham Steinberg's *Encyclopedia of Medical Halacha*, Appendix on Self Endangerment.

of up to a 49% chance of death as long as the danger is not immediately present. They rule that one can never put themselves in danger, even if it is *dashu bei rabim*, unless the odds of death are *mi'ut she'eino matzui*, an unlikely minority. While the technical definition of *mi'ut she'eino matzui* is when something is unlikely enough that one would be surprised if it occurred,<sup>17</sup> it is often estimated to be a 10% chance.<sup>18</sup> Nonetheless, many *poskim* (including *Tzitz Eliezer* 15:37 and apparently *Igros Moshe C" M 2:76*) accept the *Binyan Tzion's* premise that the extra *chumros* of *hishamer licha u'shmor nafshecha* only apply if the danger is immediately present.

So according to the *Binyan Tzion*, modified for Rav Chaim Ozer's stringency, all but the most dangerous runs are permitted regardless of whether a person would be looked at as negligent for skiing them, provided that there is less than a 10% chance that the skier will die on the run, *chas v'shalom*. But for the most difficult expert-only runs, where the dangers – tight trees, rocks, and/or cliffs – are obviously present, it will only be permitted if there is less than a 10% chance of death and it is *dashu bei rabim*, a socially acceptable risk.

## Answer #2: *Noda Biyehuda* and Hunting

Rav Yechezkel Landau, the rav of Prague during the second half the 18th century, was one of the most influential *rabbanim* in Europe during his time. He was asked (*Noda Biyehuda Tinyana Y"D 10*) whether one may hunt for sport, with one of the issues being the danger of hiding out in the forest. To answer this question, the *Noda Biyehuda* poses the *Birkas Hagomel* paradox and presents his own answer. He says that while usually one may not put themselves into danger, the Torah itself permits one to do so for the sake of his livelihood and *parnasa* (the *gemara* – *Bava Metzia* 112a – learns this from *Devarim* 24:15, "*v'eilav noseh es nafsho*".) It is the person who risks his life by crossing the ocean or desert for his *parnasa* that says *Birkas Hagomel*, as no one else would be allowed to, even if it is *dashu bei rabim*.

So bad news for skiers. According to the *Noda Biyehuda*, all skiing and snowboarding would be forbidden, except perhaps the easiest beginner runs which might have no danger at all (or unless you are a ski instructor and skiing is your livelihood).

The good news for skiers is that most *poskim* reject the *Noda Biyehuda*, and allow some levels of risk even when it is voluntary and not at all for *parnasa*. The *Aruch*

<sup>17</sup> Rav Pesach Eliyahu Falk *shlit"a* (*Madrich Livdikas Tolaim, Hearos* p.10 no. 30) infers this from the Rambam (*Mechira* 19:5). I also heard this definition from my *rebbe*, Rav Yitzchok Berkovits, *shlit"a*.

<sup>18</sup> See *Mishkenos Yaakov* (16-17)



*Hashulchan* (Y"D 163:5), one of those who argues with the *Noda Biyeuda*, points out that three of the five cases in which the *gemara* applies the *heter* of *shomer pesaim Hashem*, are entirely voluntary risks (i.e. eating figs at night, bloodletting on Fridays, and marital intimacy on the 90th day of pregnancy), and are nonetheless permitted. Similarly, Rav Moshe Feinstein in his famous 1981 *teshuva* (*Igros Moshe C"M 2:76*) permitting smoking, allows smoking because of *shomer pesaim Hashem*, even though the risk is entirely voluntary.<sup>19</sup>

### Answer #3: *Shem Aryeh* and Adventure Tourism

Rav Aryeh Leibush Balchover, the *rav* of Zaslav, Belarus in the 19th century also poses the *Birkas Hagomel* paradox in a frequently quoted *teshuva* (*Shu"t Shem Aryeh Y"D 27*) about the laws of self-endangerment. The *Shem Aryeh* answers the paradox by saying that while crossing the desert or ocean is certainly dangerous and a *sakana* – and one must thank Hashem for saving him from the *sakana* – if it is *dashu bei rabim*, it would be a *sakana* that one would be allowed to undertake. Even if Hashem is saving this person through *shomer pesaim Hashem*, He is still saving this person, so he would therefore be obligated to give proper thanks.

What is most important about the *Shem Aryeh's teshuva* is the way he describes *dashu bei rabim*:

ודע, דאף בדברים שיש בהם סכנה, מכל מקום בדבר שהוא מנהגו של עולם ודרך הכרח - אין לחוש. דהרי ארבעה צריכים להודות, ושניים מהם: הולכי מדברות והולכי ימים. הרי דאיכא בהם סכנא, ומכל מקום מותר לפרוש בספינה ולילך במדבר... א"ו דבדברים כאלו אשר הם לצורך העולם, אין איסור כלל... ויצא לנו מזה דלפרוש לים הגדול לשוט הינו כדי לשוטט בעולם ולראות דברים חדשים.... מהראוי להרחיק מזה רק לצורך מזונות או לסחורה.... אבל מה שהוא מנהגו של עולם - אין לחוש לסכנה. *Know that even things that are dangerous, nonetheless if it is the way of the world, and a necessity, there is nothing to worry about. Because of the four who are obligated to give thanks, two of them are people who cross the desert and the ocean. Those are dangerous, yet one is allowed to do them... So certainly things like these which are normal necessities, there is no prohibition at all... Therefore, for one to go on a cruise in the ocean to tour and see new things... one should avoid doing that unless it is for his livelihood... but that which is common practice, one need not be concerned about the danger.*

<sup>19</sup> See also *Tzitz Eliezer* 15:37 who presents a more lenient interpretation of the *Noda Biyeuda* in a way that is similar to the way we will describe the *Shem Aryeh* below.

The most likely way to understand the *Shem Aryeh* is that the *heter of shomer pesaim* applies whenever a risk is socially acceptable, and typically (at least in 19th century Belarus) people would only take on such risks when there was a serious need for *parnassa* or perhaps to do an important mitzva. In his day, it was not acceptable to take an ocean cruise – which was likely dangerous – just for pleasure. Furthermore, vacations and tourism were not a normal part of life as they are today, and would not have been considered “*minhago shel olam*” the way of the world, whereas they would be today, and could arguably be considered a necessity for many people as well.<sup>20</sup>

An important conclusion that we can draw from the *Shem Aryeh* is that even though there is a large population of people – a *rabim* – for whom ocean or desert travel is a normally acceptable risk – business travelers – unless you are part of that *rabim*, you will not be allowed to take on that risk. So if you were to look up at a double black diamond ski run and see that hundreds of expert skiers have skied it, the *Shem Aryeh* would only permit you to ski it if you yourself are an expert skier. Since it is a normally accepted risk for expert skiers to ski this run, expert skiers may ski it, and since it is not a normally accepted risk for non-expert skiers, then non-expert skiers may not.<sup>21</sup>

While this might sound elementary, the *Mabi*’t seems to disagree.

#### Answer #4: *Mabi*’t and *Aliyah* to Israel

The *Mabi*’t, Rav Moshe ben Yosef di Trani, the 16th century *rav* of Tzefas at the time of the *Beis Yosef*, also raised the *Birkas Hagomel* paradox while answering a question about whether a wife can force her husband to make *aliya* to Israel if the journey is

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20 This appears to be the way that the *Shem Aryeh* is understood by *Tzitz Eliezer* 15:37. There might be another way to understand the *Shem Aryeh* – that he is saying that the *heter of shomer pesaim Hashem* does not apply to voluntary risk taking. In other words, even if something is *dashu bei rabim*, such as going on an ocean cruise, one may only do so if it is for an important need such as doing a mitzva or earning one’s living. It does not appear that this is the intent of the *Shem Aryeh* for two reasons. First, the language he uses repeatedly contrasts “*ain tzorech v’hechrach*” – something that is not a necessity, with “*minhago shel olam*” something that is normally undertaken. This implies a risk that is not for a necessity is prohibited because it is not *minhago shel olam*. Secondly, the *Aruch Hashulchan*’s proof from the fact that the *gemaras of shomer pesaim Hashem* are discussing cases of voluntary risk makes it less likely that the *Shem Aryeh* would ban voluntary risk.

21 To be sure, there is a significant difference between the *Shem Aryeh*’s example – business travelers vs. leisure travelers – and our example – expert skiers vs. non-expert skiers, in that in his example the different groups have different motivations – necessity vs. recreation – whereas in our example both groups are taking the risk of skiing the run for the same reason – it’s fun. Nonetheless, the comparison is valid since the logic of the *Shem Aryeh* is that in each case you ask “society” whether this is appropriate risk-taking or if it’s reckless. If “society” would think that the run is appropriate for experts, but reckless for non-experts, the *Shem Aryeh* would likely permit it for experts and forbid it for non-experts.

dangerous. The *Mabi*"t writes (*Shu*"t *Mabi*"t 2:216):

לפעמים יש סכנת שביה וסכנת נפשות לעולם כל הדרכים הם בחזקת סכנה וצריכים להודות לאל יתברך כמו הולכי המדברות. ואינו מעכב את הכפיה לעלות אלא באותם הימים שיש סכנה ידועה בדרכים. אבל כשכל הסוחרים אינם נמנעים מללכת בדרכים גם איש ואשתו יכולים לכוף זה את זה.

*Since sometimes there is the danger of being captured or killed [when travelling to Israel], the roads are always considered dangerous, and one must give proper thanks to Hashem [when completing such a journey] just like someone who crossed the desert. But he may only object to [his wife's request] to move to Israel at times when the roads are considered to be imminently dangerous. But if merchants are willing to travel for business, then a husband and wife may force each other to move to Israel.*

The *Mabi*"t seems to giving the same answer about *Birkas Hagomel* as the *Shem Aryeh*, that if a risk is *dashu bei rabim* it would be permitted, but one would nevertheless *bentsch gomel* upon surviving the risk, since he was in fact saved by Hashem from the danger. Rav Eliezer Waldenburg, one of the leading *halachic* authorities over the last few decades, explains (*Tzitz Eliezer* 15:37) that the *Mabi*"t is adding a significant *chiddush*. If merchants are willing to accept the risk of the danger on the roads, a husband and wife may voluntarily do so as well. Unlike the *Shem Aryeh*, the *Mabi*"t is saying that if any *rabim* accepts a risk, it is now considered "*minhago shel olam*" the way of the world, and then it is *shomer pesaim Hashem* for every *rabim*, even if you are not part of the group that usually would accept this risk.

So according to the *Tzitz Eliezer's* interpretation of the *Mabi*"t it should follow that the permissibility of skiing expert-only runs would not be limited to experts only. If an advanced skier or snowboarder would want to challenge himself on harder terrain, if he would be advanced enough to ski the run with enough control that his chances of death *chas v'shalom* would still be an unlikely *miut she'eino matzui*, it should be permissible.<sup>22</sup>

### Summary of the Relevant *Halachic* Principals

To briefly summarize the *halachos* we've discussed:

- The mitzva of *hishamer licha u'shmor nafshecha* requires one to avoid mortal danger, but not danger of non-life-threatening injuries. And while there may be

<sup>22</sup> The same should be true for an intermediate skier who wants to challenge himself on advanced, (single) black diamond terrain.

room to be lenient, one should avoid an activity that has a chance of injury that is greater than 10%.

- One must always avoid any activity that has a 10% or greater chance of death.
- If the danger is not imminently present, but rather there is only a concern that the danger may come, one may partake in the activity provided that the chance of death is less than 10%.<sup>23</sup>
- If the danger is imminently present, one may only partake in the activity if the chance of death is less than 10% and it is *dashu bei rabim*, a risk that people would generally consider acceptable.
- If society thinks it's normal for one group of people to take a certain risk, according to the *Shem Aryeh*<sup>24</sup> only that group is allowed to take the risk. According to the *Tzitz Eliezer's* interpretation of the *Mabi*"t, once it is considered acceptable risk for one group, it becomes permissible for everyone.

### So Where Can I Point My Skis?

To apply these *halachic* principals to skiing expert terrain, let's briefly revisit the statistics quoted at the beginning of this discussion. Approximately 1 out of every 1,000,000 skier visits results in death and 1 out of every 100 skier visits results in an injury requiring a visit to a hospital or doctor. So skiing in general is definitely a *miut she'eino matzui* regarding both death and injury, and this is most likely to be the case for all types of terrain including double black diamond runs.<sup>25</sup>

But it is critically important to recognize that this is only the case for someone who is skiing or snowboarding prudently and within his own capabilities. If someone, *chas v'shalom* skis recklessly, or tries terrain well beyond his capabilities, the potential for injury or death, *lo aleinu*, could easily exceed 10%, and that would be an *issur de'oraisa*, a Torah prohibition.

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23 One could argue based on Rav Falk and Rav Berkovitz's definitions of *miut she'eino matzui* (see footnote 17) that in most cases, a risk that would not be *dashu bei rabim* would be de facto a *miut hamztui*. Even if correct, this would probably not be the case for skiing, since deaths are so infrequent, people would likely be surprised to hear of a skiing death, even if it was on a run that would scare most people.

24 And also the *Noda Biyehuda* according to the *Tzitz Eliezer*.

25 There is limited data about the distribution of injuries on different types of terrain, but we can make some conservative assumptions based on the 2013 Denver Post study that found that 31% of deaths occur on advanced or expert runs. Even if we were to assume that half of those were on expert runs, and only 10% of skiers ski expert runs, and that the distribution of skier injuries was similar to the distribution of skier deaths, you would still only have 1 out of every 60 days of skiing double black terrain resulting in injury. So skiing or snowboarding on double black diamonds would also be a *miut she'eino matzui* regarding both death and injury.

Now for *halachic* conclusions, let's divide double black terrain into three categories: runs with no imminent danger, in-bound runs with imminent danger, and out-of-bounds runs with imminent danger:

- For runs with no imminent danger (often wide open runs which are rated double black only because of their steepness) we have the *heter* of the *Binyan Tizon*, and they would be permitted for any skier who would ski prudently and whose skills and experience are strong enough that there is less than a 10% chance that he would become injured.
- For runs with imminent danger such as cliff bands, tight trees, narrow chutes, and/or large rocks or obstructions, they would only be permitted for a capable skier who would ski prudently – if it is *dashu bei rabim*. It is obvious that these runs, if they are in bounds (meaning they are marked trails within an established ski resort) are in fact – for expert skiers – *dashu bei rabim* and are a normally accepted risk. This can be seen by the sheer number of skiers who constantly ski these runs – they are nearly always completely tracked out within a day (two maximum) of new snowfall.<sup>26</sup> So for expert skiers, these runs would be permitted if skied prudently. For advanced but non-expert skiers who would like to challenge themselves, it would be a *machlokes* between the *Shem Aryeh* and the *Tzitz Eliezer's* interpretation of the *Mabit*. Such a skier should certainly consult his *rov* before doing so, and should err on the side of caution as this is a potential *issur de'oraisa* and *sakanas nefashos*.
- Out-of-bounds runs with imminent danger generally could not be considered *dashu bei rabim* and would be forbidden. Well-established routes may be considered *dashu beu rabim* for a skier or snowboarder who has backcountry training, is travelling with a certified guide, and is carrying avalanche safety equipment, but a *rov* must be consulted, and again it is better to err on the side of caution.

Bottom line, double black diamonds are permitted for expert skiers if they are in-bounds and within your abilities. If you're not yet an expert and want to push your limits, consult your *rov*.

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<sup>26</sup> If you know of runs that aren't, please contact the author! Additionally, the resorts – corporations that, like all corporations, are risk averse and try to avoid being sued – heavily market and promote these runs, which is a clear indication that skiing them is a normally accepted risk.



*Parshas Va'eschanan****Aseres Hadibros: What is the  
Second Commandment?***

YAAKOV ZUBER

*Adapted from a shiur delivered by HaRav Zelik Epstein zt"l*

**T**he writing of a *Sefer Torah* does not contain punctuation or vowels. To separate between *parshiyos* and topics, the Torah employs a writing tool that is referred to as a *hafsaka*, a blank area. This blank area can be short – beginning and ending on the same line – or it could extend to the end of a line, depending on the degree of separation desired between the ending of the previous topic and the beginning of the new topic. The text of the *Aseres Hadibros* is unique in that there is a *hafsaka* after every Commandment, even when there are multiple Commandments within one verse. The purpose of all these separations within the *Aseres Hadibros* is to signify that each Commandment is a topic in and of itself. However, interestingly enough, between the first and second Commandment, between the end of the verse of *Anochi Hashem* and the beginning of the verse of *Lo Yihiye Lecha*, no *hafsaka* is utilized to separate between the first two commandments. The first two Commandments appear to be two separate topics, so why does the Torah not contain a separation between the two verses?

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I Rav Zelik Epstein was a *talmid* of the Mirrer Yeshiva in Poland. A close *talmid* of Harav Yeruchem Levovitz, the Mirrer *Mashgiach*, he assisted in the writing of Reb Yeruchem's *Sefer Da'as Torah*. Rav Zelik married the granddaughter of one of the *gedolim* in Europe prior to WWII, the Grodno Rosh Yeshiva, Rav Shimon Shkop. At the onset of World War II, Rav Zelik escaped to Toronto, and eventually joined Rav Yaakov Kamenetsky as a Rosh Yeshiva in Torah Vodaas. Rav Zelik subsequently became the Rosh Yeshiva of Yeshiva Sha'ar Hatorah in Queens, NY. Additionally, Rav Zelik was a member of the editorial board of the *Encyclopedia Talmudis*. It was at that yeshiva that I had the privilege of hearing this *shiur* from Rav Zelik. Rav Zelik was *niftar* on the 13th day of Av, 5769.

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### Rambam's List of Mitzvos

During the 11th and 12th centuries, a number of the early *rishonim*, including the *Behag*, the *Semag*, the *Sefer Hachinuch*, and the Rambam, created a compendium of the 613 *mitzvos*, comprised of a listing of the 248 positive commandments and the 365 negative commandments. All of the *rishonim* agree that there are 613 *mitzvos*, but they disagree as to what is included within this number.

The source that creates a definitive number of 613 *mitzvos*, with a breakout of 248 *mitzvos aseh* and 365 *mitzvos lo saase*, is a teaching of the *amora* Rav Simlai in the *gemara Makkos 23b*. Another *amora*, Rav Hamnuna, states that this teaching of Rav Simlai is alluded to in the verse in the last *parsha* in the Torah, *Vezos Habracha*. The *pasuk* states, “*Torah tziva lanu Moshe*,” Moshe Rabbeinu taught us the amount of *mitzvos* that are equivalent to the numerical value of the word Torah. The *gemara* asks that the numerical value of the word Torah is 611, and yet Rav Simlai stated that Moshe Rabbeinu taught us 613 *mitzvos*? The *gemara* responds that in fact at *Har Sinai* we were taught 613 *mitzvos*, but 611 of those *mitzvos* were relayed to us by Moshe Rabbeinu, while *Anochi Hashem* and *Lo Yihiye Lecha* were heard directly from Hashem.

The Rambam, at the onset of his list of the 248 positive Commandments, writes that the first mitzva is “*Anochi Hashem*.” We are commanded to have an absolute belief in Hashem. This corresponds to the first of the Ten Commandments. The Rambam supports his position by quoting the above mentioned *gemara* in *Makkos*, which clearly states that *Anochi Hashem* is one of the 613 *mitzvos*, and it was commanded to us directly from Hashem. The Rambam feels a need to substantiate his position as the *Behag* is in disagreement with the Rambam. The *Behag*'s position is that the verse of *Anochi Hashem* is a preamble to the *Aseres Hadibros*, a prerequisite to fulfilling the Ten Commandments which is an absolute and true belief in the existence and absoluteness of Hashem. The Rambam's position is that although the *Behag*'s position seems reasonable, and there is a *midrash* that appears to be in sync with the *Behag*'s position, the *gemara* in *Makkos* is a clear proof to the position that *Anochi Hashem* is an actual mitzva.

### Ramban's Question

When discussing the mitzva of “*Lo Yihiye Lecha*,” the other mitzva that Hashem taught directly, the Rambam appears to develop an opinion that is seemingly problematic and in contradiction with his opinion regarding the mitzva of *Anochi Hashem*. According to the Rambam, the mitzva of *Lo Yihiye Lecha* is the first of the



365 negative commandments. Here too the Rambam substantiates his position by quoting the above-mentioned *gemara* in *Makkos*, where we are taught that *Lo Yihiye Lecha* is a mitzva. However, the Rambam lists the following three *mitzvos lo saase* from the remaining words of the second *Dibra*, “*Lo saase lecha pesel... Lo sishtachave... v’lo sa’avdem.*” The Ramban,<sup>2</sup> in atypical and pointed language, vehemently argues with the Rambam and writes that the Rambam forgot his own words. It appears from the Rambam that there are four negative commandments in the second *Dibra*, but if that is true then we should conclude that Hashem taught us five *mitzvos*, the first *mitzvos aseh* and the first four *mitzvos lo saase*, and Moshe Rabbeinu instructed 608 *mitzvos*. However, the Rambam twice mentions the *gemara* in *Makkos* which clearly indicates that Moshe Rabbeinu taught us 611 *mitzvos*, not 608? If the Rambam insists that the *gemara* in *Makkos* should be understood in the literal sense, that we heard the first two *Dibros* directly from Hashem and these two *Dibros* refer to actual *mitzvos*, how can the Rambam be of the position that included in the *Dibra* of *Lo Yihiye Lecha* are four *mitzvos*?

### Solutions for the Rambam’s Position

The *Sefer Megilas Esther*, a commentary that is published in the classic editions of the Rambam’s *Sefer Hamitzvos*, responds to the Ramban’s question and posits that the Rambam is of the opinion that Hashem did indeed relay to us the words of *Lo Yihiye Lecha*, but Hashem stopped in middle of the *Dibra* and Moshe Rabbeinu took over from that point. The *gemara* in *Makkos* is to be understood literally, that we heard the verses of *Anochi* and *Lo Yihiye Lecha* directly from Hashem, not the entire *Dibra* of *Lo Yihiye Licha*. The *Dibra* of *Lo Yihiye Lecha* does contain four *mitzvos*, but Hashem only taught us one directly.

The response of the *Megilas Esther* appears to be rather simple, and it is surprising that the Ramban would employ such strong words when arguing with the Rambam when this answer seems so basic. It is evident from the Ramban’s use of words in his question that he would disagree with the answer of the *Megilas Esther* and he would reply that it is not likely that Hashem would stop in middle of a *Dibra*. It is true that there are many *mitzvos* within each *Dibra*, but it is farfetched to argue that one of the Ten Commandments was split in two in the manner in which it was relayed on *Har Sinai*. We are left with having to respond to the Ramban’s overwhelming retort that the Rambam seems to have forgotten his own words regarding what Hashem said and what Moshe Rabbeinu said on *Har Sinai*.

<sup>2</sup> *Mitzvos Lo Saase* 1

A stronger, and more analytical solution, can be presented as follows. In the beginning of this article we inquired as to why there is no separation in the writing of the Torah between the first two *Dibros*, while in between all the other *Dibros* there is a space denoting a separation. In other words, it is unclear where the first Commandment ends and where the second Commandment begins. Maybe *Anochi* and *Lo Yihiye Lecha* are one Commandment? Although every picture of the *Luchos* contains the words of *Anochi Hashem* on the first line and the words of *Lo Yihiye Lecha* on the second line, maybe that is not accurate? If they are in fact one Commandment, that would indicate that *Anochi* and *Lo Yihiye Lecha* are of one topic and related to the same concept and teaching.

Using this observation, the Rambam's position can be resolved. According to the Rambam the essence of the mitzva of *Anochi Hashem* is that we must have absolute belief that Hashem exists, controls the world, and is the only God. *Lo Yihiye Lecha* is the reverse of *Anochi Hashem*, in that a person who doesn't have an absolute belief in Hashem is transgressing the mitzva in not believing that there is any other deity and no other thing controls the world. The first two *mitzvos* are one concept, complete belief in Hashem, in a positive and negative mitzva. The *Behag*, the *rishon* that argues with the Rambam and is of the opinion that *Anochi Hashem* is not a *mitzva*, is also of the opinion that *Lo Yihiye Lecha* is a *mitzva* related to idol worship, and not the reverse of *Anochi Hashem*.

The Rambam's question on the Rambam was that it would be impossible to say that there are four *mitzvos* included in the *Dibra* of *Lo Yihiye Lecha* as that would result in Moshe Rabbeinu only teaching us 608 *mitzvos*, not 611. The Rambam's response is that when the gemara in *Makkos* states that we heard *Anochi Hashem* and *Lo Yihiye Lecha* directly from Hashem, that is not to be understood that we heard two *Dibros* from Hashem, but rather that we heard one *Dibra* from Hashem which contains the two *mitzvos* that relate to the absoluteness in the belief of Hashem. *Anochi Hashem* and *Lo Yihiye Lecha* are part of the same Commandment. There are four negative *mitzvos* beginning from the words of *Lo Yihiye Lecha* until the Commandment that one shall not swear falsely in Hashem's name, but we only heard the first negative mitzva directly from Hashem, being that it is part of the same Commandment as *Anochi Hashem*. Additionally, this solution for the Rambam's position is not concerned with the problem of the *Megilas Esther's* response because Hashem did not stop in middle of a *Dibra*, as the end of the verse of *Lo Yihiye Lecha* is the conclusion of the first *Dibra*.

One can ask a question on this response. We had posited that perhaps the first Commandment does not end at the conclusion of the verse of *Anochi Hashem*, and

the lack of a space in the Torah at the end of that verse lend support to such a position. However, even according to the above solution that the first *Dibra* ends after the verse of “*Lo Yihiye Lecha*,” there is still no space in the Torah to indicate that a *Dibra* has concluded and a new *Dibra* is about to begin. The second Commandment ends when a new Commandment is introduced, the Commandment not to swear falsely, but where does the Commandment begin? A possible answer is that the second Commandment does begin after the verse of *Lo Yihiye Lecha*, it begins with the next verse which contains the words of *Lo Saase Lecha Pesel*, but the Torah still did not place a space in between the first and second *Dibra*, to illustrate that the negative Commandments related to idol worship do relate to the negative Commandment of a lack in complete belief in Hashem. *Anochi* and *Lo Yihiye Lecha* are more closely related and are in fact a reverse of each other, but the second *Dibra* is still closely related to the first *Dibra* and is of a similar topic, so the Torah did not employ the use of a space which normally indicates a completely new topic.



*Parshas Va'eschanan*

# Brooklyn Lightning<sup>1</sup>

ROBERT MILLMAN



**T**he *pasuk* in *Tehillim* compares the Jewish people to a dove. The *gemara* in *maseches Shabbos* explains that just as the wings of the dove provide it protection, so too our *mitzvos* protect us. This is hinted in the *pasuk*:

אתם ראיתם אשר עשיתי למצרים ואשא אתכם על כנפי נשרים ואבא אתכם אלי.  
*You saw what I did to Egypt, and I lifted you upon the wings of doves and brought you to me.* (Shemos 19:4)

The *mitzvos* are our treasures. Each one provides indescribable benefits. In this world, we usually don't see these benefits openly. However, sometimes Hashem does show us how adhering to a certain *mitzva* provides protection to a person.

There was a man named Sam Zeitlin, whose nickname was "Brooklyn Lightning" because of the speeds he reached racing his bicycle. From the time his father bought him his first bike on his fifth birthday, Sam dreamed of racing in the Olympics. As he grew older, he practiced day and night. He entered competitions in the New York metropolitan area and won race after race. Scouts took notice of his talents, and he was asked to join the New York cycling team. By the time the Olympic trials took place in 1967, he had been practicing for many hours every day, building his stamina. He rode his bike through all-weather conditions with the hope of winning an Olympic gold medal. At the tryouts, he sped through the finish line 50 meters ahead of the competition. However, the judges disqualified him from the race, because he raised

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<sup>1</sup> This story is dedicated to the memory of Donald Etra who passed away suddenly on *Motzei Shabbos* January 28, 2017. Don was an exceptional human being in every respect: brilliant, warm, funny, compassionate, loving and kind to all. May the collective *mitzva* of this edition of *Nitzachon* be in the *zechus* for his *neschama*. He will live in our hearts forever more.

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his arms in victory a fraction of a second before crossing the finish line. Sam was rejected from the Olympic team. He was crushed.

A few days later, while riding his bike, a car sped towards him. He swerved onto the sidewalk and barely avoided a head-on collision. The car window opened, and he saw some of his rival cyclists from the tryouts. They told him, "We'll get you next time, Jew." Sam then realized that he would never be successful here because of the anti-Semitism. But nothing would prevent him from following his dream. He moved to Israel with the hope of winning a gold medal for them in the 1972 Olympics. He joined the sports club there, and his ability quickly became known. He designed a rigorous cycling routine for the Israeli athletes and, under his tutelage, his vision of sending an Israeli cycling team to the Olympics began to take form.

At that time, Sam had a basic knowledge of Judaism, but was not religious. Once, while visiting the Kotel, he noticed two boys praying with heartfelt emotion. Afterwards, he had a conversation with them and was very impressed by their spiritual ideals. Sam used to ride his bike all over Israel. One day, he rode to Bnei Brak and went in to a yeshiva to see what it looked like. He saw hundreds of students debating over sacred texts. Again, he was very impressed. Rabbi Gershon Rabinowitz came over and introduced himself to Sam. He invited him to spend Shabbos in his house. Sam agreed and loved the experience. He came back on a weekly basis. Shabbos became the highlight of his week. The rabbi introduced him to Torah thoughts and Shabbos songs. Eventually, Sam became much more observant.

He felt guilty about training on Shabbos, but how could he stop now? Saturday was the designated day for practice and tryouts in Israel. He went to the Israeli Sports Federation, explaining his dilemma, but they were unmoved. He pleaded with them, saying that he was their only hope of winning a gold medal. They responded, "Practices and tryouts will only be held on Saturday. No exceptions."

Sam had spent his entire life preparing for the upcoming tryouts for the 1972 Olympics in Munich, Germany. After serious deliberation, he resolved not to violate Shabbos, even if it meant giving up his dream. That year, without Sam, there was no Israeli cycling team. *Lo alenu*, on the tenth day of the Olympics, the Black September terror group burst into the Israeli sleeping quarters and brutally murdered all eleven athletes. *Klal Yisrael* mourned a terrible tragedy. But, *Baruch Hashem*, Sam and his entire cycling team were saved from that attack. Adhering to Shabbos provided protection for Sam and his friends. Sam went on to marry the daughter of a rabbi and build a beautiful family.

We can never comprehend the power of even one mitzva. We are so fortunate to

have the opportunity to observe all of the *mitzvos*, all of the time.<sup>2</sup>

This edition of *Nitzachon* is dedicated to our reading of *Vayikra*, *Bamidbar* and *Devarim*. In *Parshas Va'eschanan*, the second *parsha* in *Sefer Devarim*, the Ten Commandments are repeated. The repetition was necessary because the generation at hand was born after the giving of the Torah. They had not heard the commandments directly from God.

The *mitzvos* in *Parshas Va'eschanan* includes the mitzva of believing in One God and believing unalterably in the existence and power of Hashem. One must be convinced with a whole heart that God is in the beginning and the end, the prime cause of all existence. In fact, to firmly believe in the existence of God is the mitzva that forms the basis for all *mitzvos*. Moreover, not only did Moshe Rabbeinu instruct the Jewish people to believe in God's Oneness, but he also explained that loving Hashem is the quintessential mitzva of all *mitzvos*.

Rabbi David Asher reminds us in his *shiur*, and on a daily basis, that we cannot comprehend the power of performing even one mitzva. He concludes by reminding us that we are *zoche* to observe all of the *mitzvos* all of the time and in any place. Yet, in *Parshas Va'eschanan*, we learn how blessed we are to say *Shema Yisrael* three times a day, re-affirming by way of a mitzva, the basis for all our *mitzvos*.

Sam Zeitlin understood this lesson well. In a remarkable open miracle, Hashem showed us how adherence to *mitzvos* can provide life-long protection to each and every one of us.

With the winter months coming to a close, and with Purim and Pesach around the corner and the earth ready for springtime, a time of renewal and rebirth, may we all rededicate our lives to the Master of the Universe and to our performance of *mitzvos*. As Shlomo Hamelech reminds us at the end of *Koheles*:

סוף דבר הכל נשמע את האלהים ירא ואת מצותיו שמור כי זה כל האדם.

*The sum of the matter, when you consider everything, is to fear Hashem and keep his commandments. (Koheles 12:13)*

So may it be His will.

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<sup>2</sup> This story appeared in Daily Emunah on November 8, 2016. Daily Emunah is a daily online *shiur* sponsored by Yeshivas Ateres Shimon in Rockaway, NY. The daily *shiurim* are written by and delivered by Rabbi David Asher at [www.emunidaily.com](http://www.emunidaily.com). This *shiur* is reprinted by permission.





*Parshas Re'eh*

# *Aliya L'Regel* Nowadays: Why Should We Skip This Mitzva?

DR. ABIE MENDELSON



In *Parshas Re'eh*, the Torah very plainly commands:

שלוש פעמים בשנה יראה כל זכורך את פני ה' אלוֹקֶיךָ בַּמָּקוֹם אֲשֶׁר יִבְחַר בְּחַג  
הַמִּצְוֹת, וּבְחַג הַשְּׂבֹעוֹת, וּבְחַג הַסּוּכוֹת וְלֹא יֵרָאֶה אֶת פְּנֵי ה' רִיקִים. (דברים טז:טז)

The Torah instructs us that three times a year we should go see the *Shechina* at the *makom Hashem*, on Pesach, Shavous, and Sukkos, and that we should not see the *P'nei Hashem* empty-handed. This *pasuk* is an unambiguous commandment for us to perform, but apart from the lucky few who are able to take a well-timed vacation to *Yerushalayim* during the *chagim*, the rest of *Bnei Yisrael* regularly skip out on what looks to be a clear mitzva *d'oraisa*. Obviously, we could not abide by the avoidance of a mitzva *d'oraisa*; so, what is the requirement of *aliya l'regel* nowadays?<sup>1</sup>

Strangely, as we look for guidance for the performance of this mitzva, there is not much in the way of specifics found in Chazal. The *mishna* in *Chagiga* does reiterate the commandment for *aliya l'regel*, but within the *gemara* we do not find clear instruction on how this mitzva should be practiced, neither before nor after the *Churban*.

The *Yerushalmi* in *Chagiga* notes that in addition to the standard mitzva of *aliya l'regel*, there is also an independent mitzva on children to make the trip to *Yerushalayim*. In another reference to the mitzva, the *Bavli* in *Nedarim* discusses the situation where a husband makes a *neder* that his wife should not continue to be *olah*

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1 A comprehensive review of the *halachic* positions on *aliya l'regel* nowadays can be found in an article in the *Journal of Halacha and Contemporary Society* (Vol. 66 Fall 2013) by R' Shimshon HaKohen Nadel and can be found: <http://shimshonnadel.com/wp-content/uploads/2013/09/On-the-Mitzva-of-Aliyah-l-Regel-Today-Journal-of-Halacha-Contemporary-Society-Vol.-66-Fall-2013.pdf>

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*l'regel*, and what to do if she goes anyway. Hidden within the *pratei halacha* of the *shevu'a* is the fact that in the times of the *amoraim*, some people would make the trip even after the *Churban*, but not everyone was required to go. Similarly, the *gemara* in *Gittin* says that while at one time *sh'lichim* delivering and accepting a *get* on behalf of a husband and wife could plan to meet in *Yerushalayim* over the *chagim*, now that the *Beis Hamikdash* is no longer present, they can no longer assume that the other *shliach* is going. In other words, while some still go to *Yerushalayim* during the *chag*, it is not required, and therefore not a reliable assumption that everyone would be there.

These and other examples hint that once the *Beis Hamikdash* was destroyed, the mitzva of *aliya l'regel* went with it. Striking on this theme in the *gemara*, the Rambam (1135-1204 CE) takes a firm view on the status of this mitzva nowadays:

שלוש מצוות עשה נצטוו ישראל בכל רגל משלש רגלים ואלו הן: הראייה שנאמר יראה כל זכורך והחגיגה שנאמר תחוג לה' אלהיך והשמחה שנאמר ושמחת בחגך הראייה האמורה בתורה היא שנראה פניו בעזרה ביום טוב הראשון של חג ויביא עמו קרבן עולה בין מן העוף בין מן הבהמה ומי שבא לעזרה ביום ראשון ולא הביא עולה לא דיו שלא עשה מצוות עשה אלא עובר על לא תעשה שנאמר לא יראו פני ריקם ואינו לוקה על לאו זה שהרי לא עשה מעשה. (הלכות חגיגה א:א)

*The Jewish people have been commanded to observe three positive commandments on each of the three pilgrimage festivals. They are: a) to appear before the Divine presence, as Shemos 23:17 states: "All of your males shall appear"; b) bringing a festive offering, as Devarim 16:15 states: "You shall bring a festive offering to God your Lord"; and c) celebration, as ibid.:14 states: "And you shall rejoice in festivals." The Torah's charge to appear before God mandates that one should appear in the Temple Courtyard on the first day of a festival and bring with him a burnt-offering, whether from fowl or from domesticated animals. One who comes to the Temple Courtyard on the first day of a festival without bringing a burnt-offering has not only failed to perform a positive commandment, but has violated a negative commandment, as Shemos 23:15 states: "You shall not appear in My presence empty-handed." One is not liable for lashes for the violation of this prohibition, because he did not perform a deed.<sup>2</sup>*

The Rambam codifies the mitzva of *aliya l'regel* into three distinct requirements: to see (*re'iya*), to be happy (*v'samachta*) and to bring a korban (*chagiga*). Since nowadays *olim* cannot fulfill all the aspects of the mitzva, it is therefore no longer applicable to us.

<sup>2</sup> Translation from Chabad.org

Yet the Rambam continues that if they show up to *Yerushalayim* nowadays on the first day of the *chag* (when the mitzva is truly *d'oraisa*), without a *korban*, not only do they not fulfill the mitzva of *aliya l'regel*, but they are actually transgressing a *lo ta'ase d'oraisa* by violating “*v'lo yerah'e es Pnei Hashem reikom*,” coming before Hashem empty-handed.

Nevertheless, we find striking examples of *teshuvos* which may temper the Rambam's strict nullification of our mitzva. The Ran (1320-1376) weighs in on the topic during his discussion of when we should begin saying *v'sein tal u'matar* in *Maseches Taanis*. The general rule was to wait until at least the seventh of Cheshvan to allow the *olim* time to make it home without getting rained on. Even during his time, the Ran writes that enough people still made the trip that we should continue to wait these extra weeks to say *v'sein tal u'matar*. The Tashbeitz (1361-1444), considered a late *rishon*, writes that there is still a mitzva to travel even without bringing a *korban* since the miracles which the *mishna* describes of *Yerushalayim* are still present and therefore we can still see the *Pnei Hashechina*. Of the miracles recounted of the *Beis Hamikdash*, we still see the miracle of the *olim* described in the *azara*, that somehow no matter how many people still come to daven there is always room for more.<sup>3</sup>

Many *achronim* also discuss the Rambam's nullification of this mitzva. The *Noda B'yehuda* (1713-1793) writes that even in when there is no *Beis Hamikdash*, the *Shechina* is still present and the *kedusha* of *Yerushalayim* is still applicable. However, in line with the Rambam, the *Noda B'yehuda* writes there is no mitzva to be *oleh l'regel* nowadays because there are no longer obligations of *korbanos*. The *Chasam Sofer* (1762–1839), in distinction, was very clear in pronouncing that “*gam b'zman hazeh yesh mitzva l'alos regel l'Yerushalayim*” and we currently have a mitzva to make the trip three times a year. In stark contrast, Rav Moshe Feinstein (1895-1986), quoted by the *Mishna Halachos* (1924-2011), says outright that since the *Beis Hamikdash* is not here the mitzva of *aliya l'regel* does not apply. However, in a contrasting view within his own *teshuva*, the *Mishna Halachos* writes that today there is an extra mitzva above and beyond the mitzva of old because making *aliya l'regel* can reverse some of the current neglect of the *Makom Hashem*.<sup>4</sup> Yet the *Mishna Halachos* also notes that

3 From a historical standpoint, around the year 1400 CE, *Yerushalayim* was a decimated city following centuries of Arab Caliphate rule, overturned by Turkish conquests, then further demolished by the Mongol invaders. The numbers of Jews living in, or traveling to, *Yerushalayim* for the *chagim* in the time of the Tashbeitz were estimated to number in the hundreds and yet to make room for “all” of these people was seen as miraculous. How much appreciation do we need nowadays for the throngs of thousands seen at the *Kotel* every *chag*.

4 The *Mishna Halachos* was written by Rav Menashe Klein, the Ungvarer Rebbe, in Williamsburg, Brooklyn. Generally an area not known for strong *Tzioni* views, this strong statement of importance of *Eretz Yisrael* is thought to be even more striking.

if someone does not make the trip, there is no worry that they did not act properly. Finally, the *Tzitz Eliezer* (1915-2006) also offers a *teshuva* noting that while it is not technically a fulfillment of *aliya l'regel*, as that mitzva does not exist nowadays because it needs to be together with offering the *korban chagiga*, being *oleh l'regel* should still be considered a mitzva of *kabbalas Pnei Hashechina*.

With regard to the performance of the mitzva itself, as we saw in the Rambam, the positive mitzva of *aliyah l'regel* is the performance of “*re'iya*.” The *gemara* in *Chagiga* notes that the mitzva is “*re'iyas panim ba'azara*,” that is, to be seen in the *azara* of the *Beis Hamikdash*. However, a well-known reversal of this understanding was from Rav Akiva Yosef Schlesinger (1838-1922), one of the more well-known *talmidim* of the Maraham Schick (1807-1879). Rav Schlesinger held that the mitzva was to see the actual stones of the *azara*, instead of necessarily being seen within it. The *minhag* has sprouted in the Old City to go to the roof of the buildings overlooking the *Har Habayis* and to look down at the ground which made up the *azara*. Within his *Iggeros Moshe*, however, Rav Moshe Feinstein insists that irrespective of our inability to bring a *korban* nowadays, without the *Beis Hamikdash* there is simply no positive mitzva of *re'iya*.

So all in all, although it appears that it may be a good thing to do to go to *Yerushalayim*, it's unlikely that we can expect any fulfillment of the *pasuk* of “*shalosh pa'amim bashana...*” as it is no longer available to us because we can no longer bring *korbanos* until the time of the coming of *Moshiach*, *bimheira b'yameinu*.

But the entire idea is perplexing. Just because we can't bring *korbanos* means that we don't perform any associated *mitzvos*? How does that make sense? We know that an absolute dependence of *mitzvos* on *korbanos* just doesn't exist. Just keeping within the topic of the *chagim* we find plenty of *mitzvos* that we are still required to perform *mitzvos* that are integrated with the offering of *korbanos*.

The entire holiday of Pesach is based on a *korban*. Let's take the example of the mitzva of *korech* during the *seder*. Just before we take a bite of the matza and *marror* sandwich, we call out that in the time of the *Beis Hamikdash* we used to eat this sandwich filled with the meat of the *korban pesach*. Nowadays, without the *korban* we eat the sandwich without the meat. The status of this mitzva is so clear that there is even a question regarding the absence of *bracha*, which is generally explained by the fact that it is covered by the *brachos* of the matza and *marror*. However, that there is a firm mitzva of *korech* to begin with, even without its integral component of the *korban*, is without doubt.

In similar standing, the mitzva of *netilas lulav* is, *mid'oraisa*, only required on the first day of Sukkos. Taking the *lulav* the rest of the week was only required within

the confines of the *Beis Hamikdash*. However, after the *Churban*, Rav Yochanan ben Zakai ruled that *zecher l'Mikdash* there is still a mitzva to take the *lulav* for the whole week, and to do so with a *bracha*. That the absence of the *Beis Hamikdash* does not diminish the standing of this mitzva also seems to conflict with our idea of *aliya l'regel*.

The entire purpose of *Sefiras Ha'omer* was to ensure the proper timing of the *korban ha'omer*. Yet, even without the *Beis Hamikdash*, we keep the mitzva of the counting and even more so, to count with a *bracha*. It is so explicitly clear that the mitzva should continue without the fulfillment of the *korban* and without the *Beis Hamikdash* that the Ramban (1194-1270) holds that *Sefiras Ha'omer* is still considered a mitzva *d'oraisa* today.

So why is the mitzva of *aliya l'regel* left out in the cold? Why do we continue to keep and safeguard so many other *mitzvos* dependent on the presence of the *Beis Hamikdash* and bringing of *korbanos*, while *aliya l'regel* is relegated to optional status at best?

As a potential explanation, we might turn to the *Minchas Chinuch* (1800-1874), who quotes the *Turei Even* (1695-1785), noting that the Rambam is remarkable indeed by the fact that by performing *aliya l'regel* nowadays one wouldn't even get credit for the part of the trip which does not include the bringing of the *korban chagiga*. It is remarkable that coming to *Yerushalayim* without a *korban* actually cancels out the positive commandment of traveling there. While the *Turei Even* does not claim to know how exactly the Rambam comes to his opinion, he suggests that perhaps it is focused on the word "*reikom*." If, in fact, coming to *Yerushalayim* empty-handed is transgressing a *lo ta'ase min haTorah*, then any credit for traveling would be mired in performing a *mitzva haba'a b'aveira*. While the specifics of the status of a mitzva performed by doing an *aveira* are complex, all in all, this type of mitzva is not encouraged. With this in mind, we can therefore single out the mitzva of *aliya l'regel* by itself as it compares with other *mitzvos* connected with the times of the *Beis Hamikdash*.

Yet, although this technicality may have explained the nullification of the mitzva of *aliya l'regel* nowadays, it may have also thrown us further in to doubt as to whether we should ever go to *Yerushalayim* during the *chagim* without a *korban*. Will we be doing an *aveira* by traveling within the borders of *Yerushalayim* without offering the *korban chagiga*? Clearly this is not the case as we have reviewed many examples of prominent Jews still making the trip from the times of the *amoraim*, continuing on until the present day. So perhaps the worry of transgressing a *lo ta'ase min haTorah* might be simply pushed to the side as a *daas yachid*, and it is not accepted as an *aveira*

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nowadays. Yet, deferring an opinion of the Rambam as just a *daas yachid* can be problematic as well. Instead we turn to the *Sefer Yereim* (c. 1150), who explains that although “*reikom*” from our *pasuk* clearly refers to the *korbanos*, this requirement of not coming before Hashem empty-handed is not strictly limited to a *korban*. Instead, the *Sefer Yereim* writes that coming to *Yerushalayim* with *tzedaka* can satisfy the requirement of “*v’lo yerae es P’nei Hashem reikom.*”

So now, we may finally understand why although it is great and respected *minhag* to come and visit *Yerushalayim* during the *chagim*, we should not consider it a mitzva or a requirement to uphold the *pasuk* of “*shalosh pa’amim ba’shana*” until the day we can see the rebuilding of the *Beis Hamikdash*, *b’meheira b’yameinu*.

*Parshas Shoftim*

# The Role of *Mishpat Tzedek* in the *Beis Hamikdash*

EITAN GELB



**P***arshas Shoftim* begins with laws about establishing a just and good society. It says: “*Shoftim ve-shotrim titen lecha bechol she’arecha*,” “Judges and officers you shall appoint for yourself in all of your gates.” The *Parsha* then discusses some of the laws about the High Court – the *Sanhedrin* – and its administration of “*mishpat tzedek*,” fair and righteous justice. But right in the middle of that section it discusses three prohibitions that have nothing to do with *shoftim* or with justice, but instead deal with the *Beis Hamikdash*.

Why are these three prohibitions about actions in the *Beis Hamikdash* included in the middle of the section about setting up civil society? You might say that there is no connection at all between these two categories of verses, and they are just put next to each other for no significant reason. But there is a *midrash* quoted by the Vilna Gaon that emphasizes a connection between the laws regarding the *Beis Hamikdash* and the laws of setting up a society.

The *midrash* says that Shlomo HaMelech’s throne had six steps leading up to it, and, when he would climb these stairs that led up to his throne every day, someone would read the first six prohibitions listed in the opening verses of *Parshas Shoftim*. The first three deal with civil and criminal justice and the last three deal with the *Beis Hamikdash*. They say:

1. You shall not pervert justice,
2. You shall not be partial in justice, and
3. You shall not take a bribe.

Then they say:

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4. You shall not plant a tree designated for idolatry,
5. You shall not make a *matzeiva*, and
6. You shall not slaughter an ox or lamb with a blemish.

These first six prohibitions in *Parshas Shoftim* are the principles upon which Shlomo HaMelech built his kingdom. According to this *midrash*, they are literally the foundation of his throne.

We also see this connection in how Shlomo HaMelech lived his life. His two main achievements during the time that he reigned were the establishment of widely respected judging and the building of the *Beis Hamikdash*. People talk about the “wisdom of Solomon” and also about “Solomon’s Temple.”

In halachic discussion, there likewise is a strong link between establishing a society that cares for individuals, and the *Beis Hamikdash*, which is the symbol of religious life.

For instance, the Ramban takes the position that the *Sanhedrin’s* authority comes from that fact that it meets in the *Beis Hamikdash*. The Ramban quotes a *gemara* (*Sanhedrin* 14b) to conclude that even if the *Sanhedrin* goes on a small trip, which he calls “a *tiyul*,” they would not have their authority as the *Sanhedrin* until they return to the *Beis Hamikdash*. The fact that they convened in the *Beis Hamikdash* and were part of the *Beis Hamikdash* was a basis for their real and complete authority.

And when the *Beis Hamikdash* was destroyed, they lost their authority as the *Sanhedrin* altogether. According to the Ramban, quoting *Sanhedrin* 52b, their authority as the *Sanhedrin* comes from the fact that they are in the *Beis Hamikdash*.

The Rambam disagrees about this and holds that the *Sanhedrin* was able to function independently of the *Beis Hamikdash*. Therefore, he takes the position that the *Sanhedrin* could continue to declare the new month even after the destruction of the *Beis Hamikdash*.

But the Rambam definitely agrees that there is a strong connection between the *Sanhedrin* and the *Beis Hamikdash*. In fact, while the Ramban says that the *Sanhedrin* gained its authority from being in the *Beis Hamikdash*, the Rambam implies that the full *kedusha* of the *Beis Hamikdash* itself depended on the *Sanhedrin* doing its job. Based on the *midrash* discussed before about King Solomon’s throne, the Rambam connects the verses in *Parshas Shoftim* about fair justice with the prohibitions against planting an idolatrous tree in the *Beis Hamikdash*. Rabbi Yosef Dov Soloveitchik takes this to mean that the *kedusha* of the *Beis Hamikdash* would not be complete until a fair and qualified *Sanhedrin* was in the *Beis Hamikdash* making sure that there was “*mishpat tzedek*” for all of the people.



To summarize: the Ramban shows that the authority of the *Sanhedrin* comes from the fact that it convenes in the *Beis Hamikdash*, while the Rambam says that the sanctity and *kedusha* of the *Beis Hamikdash* was dependent on the ability of the *Sanhedrin* to do “*mishpat tzedek*.”

The *Navi* refers to *Yerushalayim* as an “*Ir Hatzedek*,” a city that is defined by *tzedek*, where kind and fair justice is found. This is the definition of *Yerushalayim*, which is centered around the *Beis Hamikdash*. The *kedusha* of the *Beis Hamikdash* depends not only on the lack of blemish on the sacrifices, but also on the ability of the *Sanhedrin* that meets in the *Beis Hamikdash* to help and take care of people. The center of our religion consists of careful observance and also of care for our society and the individual people.

When we reach the age of *Bar Mitzva*, we become obligated in *mitzvos*. These include many more daily observances, like putting on *tefillin*, that have tremendous significance. At that point in time, we also become obligated to reach out and help people, to join the generations before us and to take our place in the community, and to contribute to our community, society, and world.



*Parshas Shoftim*  
*Baal Tashchis*

SHLOMO TASHMAN



**P***arshas Shoftim* discusses the *halachos* of a Jewish army and the laws that apply during war. Even at a time of war, when we are fighting and there is chaos, we are still expected to uphold the moral values of the Torah. In ancient times, when an army would wage war, it was normal behavior for soldiers to destroy the enemy's property.

However, the Torah prohibits destroying useful property for no reason, even during war time.

Specifically, the Torah tells us that if we are besieging a city

לא תשחית את עצה

*Don't destroy its trees.*

According to *Chazal*, this is the source for the *halacha* of *baal tashchis*. The *gemara* in *Kiddushin* 32b explains that the *halacha* of *baal tashchis* is not limited to cutting down fruit trees, but includes wasting anything that has a purpose. The *gemara* tells a story in which Rav Huna destroyed some material to test his son to see if he would get angry. The *gemara* asks how he could do that, for seemingly that would violate *baal tashchis*. From the question we can infer that not only are fruit trees included in the issur of *baal tashchis*, but also any waste of any kind. In this article, I will explore the definition of waste as it relates to *baal tashchis*.

The *gemara* in *Avoda Zara* 11b says that after a king or a *nasi* died, it was inappropriate and disrespectful for anyone else to use his personal possessions. In those days, reverence for a king dictated that possessions used by him should not be used by anyone else. In order to ensure that no one else would use them, the custom was that the king's possessions would be burnt after his death. Further, the *gemara* says that they would cripple the deceased king's horse so that no one else would ever ride it again.

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*Tosafos* asks, how is it permitted to cripple the horse, isn't that a prohibition of *tzaar baalei chaim*? *Tosafos* clarifies that with regards to burning the king's possessions, since they were destroyed in order to honor the king, it is not considered wasteful, and therefore not *baal tashchis*. The question is only why it is permitted to cause the animal pain, and *Tosfos* answers that the mitzva of honoring the king is so important that it overrides the prohibition of *tzaar baalei chaim*.

Rav Moshe Feinstein notes that we often cause animals pain for human use. For example, yoking oxen to a plow is surely painful and slaughtering an animal must cause some pain, but they are both permitted. If so, Rav Moshe asks, why is *Tosafos* bothered by the practice of crippling the king's horse, which is also being done for human purpose – to show honor to the king. In other words, what is the difference between slaughtering an animal for food and disabling an animal for the king's honor, if they are both being done for human use?

Rav Moshe answers that ideally, we would not want to cause any pain to animals. However, for human need, like food, it is permitted, but anything that is not essential would not be permitted. Honoring a king may be important but it is not a human need and therefore *Tosafos* questions why it is not *tzaar baalei chaim*.

This is only with regards to the prohibition of *tzaar baalei chaim*. In contrast, for *baal tashchis*, the Torah is not concerned about how the item is consumed, as long as it is not wasted. Since no one else would be allowed to wear the king's clothes, burning them would not be considered wasting. Therefore, *Tosafos* was only questioning the practice of disabling the animal, but not the practice of burning the king's possessions. In other words, according to *Tosafos*, as long as an item is not wasted, it is not considered *baal tashchis* at all.

To recap: *Tosafos* in *Avoda Zara* makes two important points:

A. *Baal tashchis* only applies when an item is wasted - it is not an issue of consumption.

B. The mitzva of showing honor to a king is so important, it overrides the *issur* of *tzaar baalei chaim*. In other words, even though crippling the king's horse is a technical violation of *tzaar baalei chaim*, the issue is outweighed by the greater mitzva of honoring the king.

However, here is where things start to get complicated. *Tosafos* asks a similar question on the same statement of the *gemara* in *Maseches Bava Metzia* 32b with one big difference. In *Bava Metzia*, *Tosafos* questions both the practice of crippling the king's horse and the practice of burning the king's possessions, whereas in *Avoda Zara*, *Tosafos* questions only the practice of crippling the horse.

*Tosafos* in *Bava Metzia* answers that both the prohibitions of *baal tashchis* and *tzaar baalei chaim* are superseded by the mitzva of demonstrating honor for the king. (In *Avoda Zara* *Tosafos* only answered that *tzaar baalei chaim* is superseded by the mitzva of demonstrating honor for the king, but did not even question whether it was *baal tashchis* to destroy the king's clothes)

Rav Moshe questions the approach of *Tosafos* in *Bava Metzia*. At first glance it seems more logical to argue that as long as an item is consumed for a constructive purpose it is no longer consider *baal tashchis*. It is fulfilling a purpose and is therefore not wasted! So why doesn't *Tosafos* in *Bava Metzia* say that burning the king's clothes for his honor is not *baal tashchis*?

I would like to share an answer to this question based on the reason for the mitzva of *baal tashchis* offered by the *Sefer Hachinuch*. The *Chinuch* explains that everything in the world was created for a reason and one should try to use an item for its purpose. In essence, the mitzva of *baal tashchis* teaches us that everything in the world was created for a reason and we are mandated to use it for that reason.

Here is a demonstration of the *Chinuch's* explanation. It is true that firewood was created for fuel and it is perfectly legitimate to burn wood for fuel. But a wood table was not created for fuel. Even if one is burning it for a constructive purpose, one is not using it for its intended use and therefore not maximizing its potential. Therefore, there is a little bit of *baal tashchis* taking place.

As an important aside, the *Chinuch* continues that this notion of *baal tashchis* is powerful and can become a way of life. If a person becomes mindful of the mitzva of *baal tashchis* it will influence many other areas of his life. He will see the world through a lens focused on seeing potential and purpose. Not only will he try to maximize his own potential but also he will see the potential in those around him. In other words, he will become a person determined to ensure that everything and everyone is empowered to fulfill its individual purpose.

For our purpose, the *Chinuch* is implying that anything not used for its maximum potential would be called *baal tashchis*. Similarly, *Tosafos* in *Bava Metzia* may be assuming that although destroying a dead king's clothes is a constructive purpose, it is not the intended purpose the object was created for and therefore there is a small element of destruction involved. Consequently, it would still be a technical violation of *baal tashchis* despite the fact that there is a reason for destroying the object. Thus, *Tosafos* in *Bava Metzia* feels the need to ask why burning the king's clothes is not *baal tashchis* and subsequently answer that it is outweighed by the mitzva of honoring the king.

To recap: It would appear that there is a *machlokes* between *Tosafos* in *Avoda Zara* and *Tosafos* in *Bava Metzia*. According to *Tosafos* in *Avoda Zara*, as long as the destruction or waste is for a constructive purpose it is not a violation of *baal tashchis* at all. Whereas, according to *Tosafos* in *Bava Metzia*, even if it is being done for a constructive purpose, it would still be forbidden if one is not using the item for its intended purpose.

Now that we understand the *hesber hamachlokes*, which opinion has a stronger basis? Rav Moshe offers a proof from the *gemara* to the position of *Tosafos* in *Avoda Zara* that as long as there is a constructive reason for destroying an object, its destruction is not *baal tashchis*.

The *gemara* in *Avoda Zara* says that not only would they burn the king's possessions but they would also burn the *nasi's* (the leader of the Jewish community after the time of the kings) possessions after his death. The *gemara* tells that Onkelos burnt many of the possessions of Rav Gamliel Hanasi, but does not say that they crippled his horse. It would seem that they would only maim the king's horse but not the *nasi's*. Why does the practice of burning possessions extend to the *nasi* and not the practice of crippling the horse?

Rav Moshe argues that this *gemara* is a proof to the approach of *Tosafos* in *Avoda Zara*. Maiming the horse is a technical violation of *tzaar baalei chaim* and is only permitted because the mitzva of honoring the king would override that prohibition. Therefore, it is limited to the greater mitzva of honoring the king but not extended to the lesser mitzva of honoring the *nasi*. However, burning the possessions of the dead king or the dead *nasi* is not a violation of *baal tashchis* at all. As long as it fulfills a constructive purpose, it is permitted. Since showing honor even to the *nasi* is constructive, it would be permitted. Whereas, according to *Tosafos* in *Bava Metzia*, even burning the possessions is a violation of *baal tashchis*. If the mitzva of honoring the *nasi* allows us to violate *baal tashchis* it should also allow us to violate *tzaar baalei chaim*.

*Parshas Ki Seitzei*

# Maybe Bernie Does Deserve A *Kiddush*: A Torah Perspective on Economics

J.D. LIFSHITZ



**A**bout a year ago, I decided to play a simple joke on a politically conservative co-worker of mine, by sponsoring a *kiddush* in his name, honoring Bernie Sanders and the important dialogue he started. It seemed innocuous enough, but he appreciated it, and we had a good laugh. No harm, no foul.

Or so I thought, until people started complaining to me: “He’s an atheist!” “He hates Israel!” “He’s the wicked son at the *seider*!” (Senator Sanders, not my friend.)

People clearly had strong disagreements with the policies of Bernie Sanders, but the absolute outpouring of unbridled animosity felt strange. Why do some people in our community have a visceral animosity toward the political left, and almost automatic affinity toward conservative ideas? Are they genuinely basing these sentiments on *halacha* and Torah thought? Is it possible that liberals are finding their ideas from Torah sources as well?

In *Parshas Vayikra* (25: 35) we find: “If your brother becomes impoverished and his means falter in your proximity, you shall strengthen him, proselyte or resident, so that he can live with you.” This is a fascinating obligation, essentially stripping away man’s right to be an island, tearing at the very fabric of meritocracy. One might think, “why should it be my problem if, no doubt through this person’s own poor choices, he or she has fallen on hard times? What about a free market economy?” The very next *pasuk*: “Do not take from him interest and increase; you shall fear your God and let your brother live with you. Do not give him your money for interest, and do not give your food for increase.” One might ask, “shouldn’t I be allowed to loan money at my

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sole discretion? I'm already doing the guy a favor, why shouldn't I be entitled to make it worth my time?" The answer immediately follows: "I am Hashem, your God, Who took you out of the land of Egypt, to give you the land of Canaan, to be a God unto you."

We see this echoed in *Devarim* (6:10-12): "It shall be that when Hashem, your God, brings you to the Land that Hashem swore to your Forefathers, to Avraham, to Yitzchak, and to Yaakov, to give you great and good cities that you did not build. Houses filled with every good thing that you did not fill, chiseled cisterns that you did not chisel, orchards and olive trees that you did not plant, and you shall eat and be satisfied. Beware for yourself lest you forget Hashem who took you out of the land of Egypt, from the house of slavery." It would appear the implication is that because the only reason we have anything is through God's kindness, one should in turn obliterate any sense of ownership and pride. Perhaps this can help us understand why the Torah seems to speak so harshly of egotism, saying (*Mishlei*: 16:5) "He who is proud of heart is an abomination to the Lord..." amongst many other such statements. Perhaps one can hear echoes of this idea of Shlomo Hamelech in President Obama's famous "You've Got A Business, You Didn't Build That" speech, in which he encouraged successful people to humbly realize that their successes were not theirs alone.<sup>1</sup>

Okay, so maybe I have to help those hard-working people who've come on rough times, and assist them in getting back on their feet. But what about people who are not working hard, and seem to living solely off of others?

In *Devarim* (24:19), we find: When you reap your harvest in your field, and you forget a bundle in the field, you shall not turn back to take it; it shall be for the proselyte, the orphan, and the widow, so that Hashem, your God, will bless you in all your handiwork." Wait a minute, why should I have to give these people charity for free? What about teaching people to fish?

Fine, fine, I'll do this whole "compassion" thing, but what about my own workers? Surely I can manage my own business how I see fit, after all, it's whatever the market will support, and if they don't like it they can find another job.

*Devarim* (23:25): "When you come into the vineyard of your fellow, you may eat grapes as is your desire, to your fill, but you may not put it into your vessel."

Hold on. Why should workers already getting paid receive a piece of my business? I've assumed all the risk, why shouldn't I reap all the benefits? This is even without a union!

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<sup>1</sup> Thank you to Rabbi Ben Packer, who (maybe regrettably) assisted with this article, and drew the comparison to the "You've Got A Business..." speech.



I get it, I gotta care about my community, whatever. At least if I'm aggressive and cunning enough, I can still get a clear edge on my competitors, and bury his business, right?

*Devarim* (22:4): “You shall not see the donkey of your brother or his ox falling on the road and hide yourself from them; you shall surely stand them up, with him.”

What? Why should it be my problem if this *shlemazel* can't manage his own business properly?

I'd like to highlight one more story in particular, dealing with R' Bar Bar Chana in *Bava Metzia* 83a. R' Bar Bar Chana hired a group of porters to transport barrels, one of which broke, and he took their shirts as compensation. This was brought before Rav, who demanded the shirts be returned. R' Bar Bar Chana asked: “Is that the law?” Rav responded “for you that's the law.” The porters then demanded their wages for the day, and Rav awarded them this as well, again declaring to R' Bar Bar Chana “for you that's the law.”

It might be far-fetched to make the leap to tiered taxation and public responsibility, but this story clearly shows that all people should not and are not held to the same standard. I think it's pretty clear that a Jewish *halachic* state does not advocate a strictly capitalistic viewpoint.

The Torah is filled with lessons such as this, implying an ideal society might in some ways run counter to some fundamental capitalist or even conservative concepts. Now, I'm not arguing that the Torah has an explicitly liberal viewpoint, just like I'm not arguing the Torah has an explicitly conservative viewpoint. I'm arguing that we need to be taking our perspectives and values from the Torah, and not villainize people who might be trying to do just that, but end up with different conclusions than we might. And while it's very important to note that many liberal and progressive thinkers (including Senator Sanders) are specifically not claiming that their ideology is based on Torah thought (and some might claim that their ideas are purposefully anti-Torah), it is equally important to note that some liberal thinkers are basing their ideas on the *mitzvos* we have been discussing.

Now, one can make the argument, as Rav Yitzchack Breitowitz has,<sup>2</sup> that in a secular society one does not have an obligation to pursue a religious agenda politically. However, many of those who subscribe to a more conservative, strictly-capitalist philosophy also speak about a certain confusing concept, “Judeo-Christian values.” I believe that for a frum Jew to espouse this concept is entirely incorrect and

2 See the shiur “Separation of Church and State”, available at <https://torahdownloads.com/shiur-16576.html>.

a direct result of being overly influenced by contemporary politics rather than Torah thought. Perhaps this may be one of the things that *Pirkei Avos* (1:10) warned about when it says “*al tisvada l’reshus*” which might be best translated as “don’t get involved in politics.” We are fortunate enough to enjoy incredible liberties in this wonderful country, and while the benefits of this are obvious, the cost must not be ignored. It is said that the Lubavitcher Rebbe once remarked: “It is easier to be a Jew in Siberia than in suburbia.” (Perhaps this speaks to why the Alter Rebbe opposed Napoleon’s “liberation” of European Jewry.)

The more emotionally involved one becomes in one area, the harder it is to maintain enthusiasm in another. There are Jewish values and there are Christian values (one only need to look through our bloodied history to see these on display), and to put them to together insults *Yiddishkeit*. It is akin to saying “Yaakov-Eisav values.” Sure, there are some similarities, but ultimately there are more differences, as Jewish values are Torah-only, while others’ are so obviously not. Why should a Jew be offended by a “war on Christmas” when it is a non-Jewish holiday, and at times during not so long-ago history was an anti-Jewish holiday? This is another example of how sometimes from people might use expressions or base their thoughts on ideas that are actually counter to Torah ideas.

One might even be able to argue that political obsession within the frum community could be considered a form of assimilation, and could, *chas v’shalom*, sometimes lead to *sinas chinam* toward those with different views. Rashi comments on the story of Purim that before the salvation took place, Mordechai was hated by the populace, and afterwards, the *Sanhedrin* had issues with him. Before it was due to his stubborn nature in not bowing, but why after the fact? Rashi points out that this was due to his *bitul Torah* for being involved in politics, even for something as noble as ensuring the security of the Jewish people (Rashi, *Megilla* 16b). *Kal vachomer*, we who are not directly involved in such pursuits, and simply comment from the sidelines, how much more so must we ensure not only to avoid *bitul Torah*, but also the *aveiros* of *sinas chinam*, *nivul peh*, etc. As Torah-true Jews, we must always analyze our most inner depths, and make sure that our moral compass and our priorities come from the Torah, as opposed to political ideas.

Also it can’t hurt to learn how to take a joke.

*Parshas Ki Seitzei*

# How To Make Your Home And Marriage Into A Fortress

HENRY MANOUCHERI



*Based on the thoughts of HaRav Yaakov Hillel*

## Planning the building

כי תבנה בית חדש ועשית מעקה לגגך ולא תשים דמים בביתך כי יפל הנפל ממנו.  
*When you build a new make a fence for your roof, and do not put blood in  
your house if a fallen one falls from it. (Devarim 22:8)*

The simple meaning of this verse is that we should erect a fence around our roof as a safeguard against dangerous falls. However, we may interpret this verse on a more profound level as well, as an analogy to man's service of Hashem, which is often compared to building a house:

- “Through wisdom a house is built, and is established through understanding. And through knowledge its rooms are filled with precious and pleasant wealth.” (*Mishlei 24:3-4*; see commentaries of Ralbag and *Malbim*)
- May Hashem make the woman who is coming into your house like Rachel and Leah, who both built the house of Israel” (*Ruth 4:11*)
- “And it was because the midwives feared God that He made them houses” (*Shemos 1:21*). Rashi explains: “the houses of priesthood and of the Tribe of Levi and of royalty, which are called ‘houses’”

“Building a house” is symbolic of the way we build our spiritual life. We may explain the words “when you build a new house” as a directive for continuing our spiritual growth, moving ahead from level to level. We should not remain stuck in one

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place, on the same story of our spiritual “structure,” so to speak. We should always strive to add yet another new level to our service of Hashem, as we learn from King David’s words, “they will go from strength to strength” (*Tehillim* 84:8, see *Malbim*).

However, even as we attempt to climb spiritually, caution and careful planning are definitely in order. What exactly do we envision as our next step? Is it something appropriate for us that we will be able to maintain, or are we reaching above and beyond our appropriate capacities? If we extend ourselves too far in one grand leap, we are more than likely to sustain a very painful fall, God forbid. This is why the Torah tells us, “make a fence around your roof.” The roof—the new, higher level we would like to add to our structure—must be safe. It needs the secure limits defined by a fence, to keep us from toppling off our recently acquired peak. Otherwise, by lacking sensible borders, we endanger ourselves, as the Torah says, “do not put blood in your house, if a fallen one falls from it.” If we shoot up too high, rather than progressing in an ordered, careful sequence suited to our abilities, we will fall and lose everything.

### Step by Step

We learn this lesson from the ladder which Hashem showed our forefather Yaakov in his prophetic dream. Yaakov had just left the protective shelter of the *beis medrash* of Shem and Ever, and was on his way out into the world, where he would be getting married and building a home. At this critical juncture in his life, he was granted a vision of “a ladder standing on the ground and its head reaching the Heavens” (*Bereishis* 28:12). The ladder symbolizes the way we should approach our service of Hashem. As human being, we are highly physical, created from “the dust of the Earth” (*Bereishis* 2:7). As such, our feet are planted quite firmly on the ground. Our soul, on the other hand, is spiritual. It can soar to great heights, reaching the Heavens and cleaving to the Almighty. The way to rise above base physicality and reach the Heavens is specifically by way of a ladder—level after level, rung by rung. If we skip over rungs and jump up haphazardly, we will lose our grip and plummet to the bottom, forfeiting whatever levels we did manage to gain.

We find another allusion to this concept in the Torah, in the verse, “And do not climb up steps on My altar, so that you do not uncover your nakedness upon it” (*Shemos* 20:23). In order to reach the summit of the altar and offer sacrifices, it was necessary to ascend a rise. Hashem commanded that this rise be in the form of a ramp, rather than steps, to avoid any possible immodesty during the ascent. This is the literal meaning of the verse.

We may be eager to sprint up to the top of the altar, but the Torah, knowing the tendency to rush impulsively ahead, issues a timely warning: our advance should be carefully graduated. If we bound upwards at a faster pace than we can manage, bypassing the fundamentals which would ensure our safe footing, we set ourselves up for a terrible, humiliating crash. When that happens, our “nakedness will be revealed.” Our shortcomings will become glaringly, painfully apparent, showing all too clearly why we did not reach the peak of spiritual perfection we desired.

### **In Place**

In *Pirkei Avos*, our Sages list “forty-eight means by which Torah is acquired.” One of them is “knowing one’s place” (*Avos* 6:6). This means being aware of our spiritual level and serving Hashem in keeping with that level, moving ahead at a pace which allows us to hold on to our accomplishments.

This advice is true not only of our spiritual status, but also of our physical strengths and capacities. For example, if our constitution is not strong, we should not take on voluntary fasts and afflictions not required by *halacha*. If we break ourselves by embracing extras beyond our endurance, we will become the “fallen one” referred to in the verse. It will not work, and we will pay a heavy price. There is another consideration to keep in mind as well. Before adopting an optional stricture related to spiritual growth, one should stop to consider whether or not one’s spiritual partner, namely one’s spouse, is also ready for this new step. We find this concept in the verse, “a righteous man will flourish like a date palm” (*Tehillim* 92:13). Pollination of the date palm involves the plants’ male and female elements, with pollen transferred from one to another in order to produce fruit. According to some opinions, the date palm combines both male and female in one tree.

In this sense, a righteous man is comparable to a date palm. If he and his wife grow together, their growth will be balanced, stable and long-lived. But if the husband begins to vault ahead too rapidly for his wife to keep up, they are headed for trouble. A man’s progress in the service of Hashem should take his wife’s needs and capacities into account, so that his pursuit of advanced levels does not send her tumbling down, with him following in her wake.

### **Angels’ Wings**

The principle of careful, graduated, appropriate progress is true not only of man; it is even true of the angels, as we learn from the verse, “If you go in My way and keep My charge... I will make you a walker among these standing ones” (*Zecharia* 3:7).

The commentators explain that the expression “standing ones” refers to the angels.<sup>1</sup> On their own, angels are static, with neither growth nor regression. They have no free will, and as a result, they go nowhere – they are merely “standing ones.” Their only movement is through man’s deeds. For example, they can ascend to elevate the prayers of the Jewish People, and descend to bring down Divine bounty. Yet even as they fulfill their tasks, they too must be careful not to climb too high or sink too low, as we learn from another verse which describes the service of the angels.

An angel has six wings. “With two he covers his face, with two he covers his feet, and with two he flies” (*Yeshayahu* 6:2). The higher pair covers the face, the lower pair covers the feet, and the middle pair is used for flight. The Arizal explains this profound concept.

The angels’ ascent or descent is very carefully controlled. When they ascend, they use the two wings on top to cover their faces, because Hashem has imbued them with a fear of going higher than they should. This fear prevents them from becoming overly ambitious, seeking to climb beyond their proper place. When they descend, they have a corresponding fear of going too far down. They use the lower two wings to cover their feet, to keep them from going too low. The middle wings represent the level to which they will ascend, which is where they belong. These are the wings they use to fly. Thus their movements are balanced and regulated; not too high and not too low, continually advancing to attain the right level.<sup>2</sup> The same is true of our own service of Hashem. If we fly too high, beyond our capabilities, we will burn out. If we stoop too low, below what we could be doing, we are wasting our opportunities. The Arizal calls this being *mevatel mahus tikuno*, not ascending to the proper level and achieving the rectification which we could have and should have attained.

### Spiritual Satisfaction

Our Sages describe the futility of never-ending material ambition. “A person does not leave this world with even half his desires in hand. If he has one hundred, he wants two hundred” (*Koheles Rabba* 1:34, 3:12). Getting all that we want will not necessarily make us happy. This is the natural human tendency concerning physical and material aspiration; the more we have and the greater our material success, the more we want. Regardless of the extent of our worldly achievements and acquisitions, we will never be satisfied. Apparently, the same should be true of spiritual accomplishments as well. If it is simply our nature to always want more than we have, should we not also want

<sup>1</sup> See Rashi and *Metzudas David*

<sup>2</sup> *Shaar HaHakdamos*, p. 62b,c and *Likkutei Torah* on *Yeshayahu*.

more spiritually? In fact, we find this idea in the title bestowed on our Torah scholars, who are known as *talmidei chachamim*, literally “students of the wise.” No matter how much Torah they know, they continue to view themselves as students who are eager to learn more, hear more, and know more. They are lifelong learners, because they will never be satisfied with what they already know.

And yet, there is a vast difference between mundane and spiritual aspirations. The fact is that the constant drive for further material gains leaves us drained and parched. This is not the case with spiritual accomplishments. Hashem has endowed them with a unique quality which sets them apart from worldly ambitions; regardless of how much still lies ahead, they are satisfying at every level. While we should always set new goals and work towards higher levels, every level brings its own joy; why should we let it go?

This principle is illustrated by an incident in the life of Rabbi Yosef Chaim of Baghdad, known as the *Ben Ish Chai*. Even as a young man, the *Ben Ish Chai* was already a Torah scholar of note. When he was only twenty-six, he wrote to his mentor, the saintly Rabbi Eliyahu Mani, the chief rabbi of Chevron, asking about certain hidden Kabbalistic meanings of the prayers. Based on his questions, Rabbi Mani assumed that the young Rabbi Yosef Chaim planned to begin conducting his own prayers according to the profound Kabbalistic intents found in the *siddur* of the Rashash. Rather than encouraging him to take on this pious practice, he advised against it. He cited our Sages’ teaching, “Who is wealthy? One who is happy with his lot” (*Avos* 4:1), explaining that as our early authorities teach, this refers to our spiritual lot as much as to our material lot. Every stage of our service of Hashem brings its own particular satisfaction, and we should not lose it by trying to rush ahead too fast.<sup>3</sup>

Rabbi Mani illustrated his point with a vivid parable from the *Tanya*. A thirsty man stood in the middle of a clear blue river, surrounded by sweet, pure water. Rather than quenching his thirst with the water at hand, he frantically studies the horizon, searching for... water. What was there for the taking had no appeal; he was sure that only what lay ahead was really worth having.

Our progress should always be balanced and carefully thought out, never impulsive. We should not spring recklessly forward, hoping to achieve spiritual satisfaction. If we do, we are likely to get hurt. Instead, we should derive the maximum benefit and enjoyment from where we are and what we have, using our current level as a secure stepping stone to the next stage.

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<sup>3</sup> *Rav Pe'alim*, Vol 3, *Chelek Sod Yesharim* 13.





*Parshas Vezos Habracha***Shimon, Where Art Thou?****DR. SAM ROSS**

**I**n the last *parsha* of *Sefer Bereishis*, as Yaakov was nearing the end of this life, he gives his last message and blessings to his twelve sons. I could not help but notice the parallel between this story, and the last *parsha* of the Torah where Moshe blesses the twelve tribes as well. There are a number of fascinating comparisons between the two sections, but there is one glaring difference: Shimon is absent from Moshe's blessings.

The Ibn Ezra explains that this is simply a punishment for Shimon's participation in the sin of Baal Peor. The Ramban raises a number of questions with this explanation. First, all of the transgressors were killed. Anyone remaining alive was assumed to be free of sin. Second, there were members of a number of tribes that worshiped Baal Peor. Why should Shimon be singled out for punishment? Instead, the Ramban explains that any time the *shevatim* are listed, they must be named as twelve tribes. When bestowing his *brachos*, Moshe mentions both Menashe and Ephraim, which would bring the total number of tribes to thirteen. Therefore, another *shevet* must be left out.

The question remains though, why Shimon? The Ramban explains that Shimon is included within the *bracha* of Yehuda. The *shevet* of Shimon was small and their inheritance in the land of Israel was located within the portion of Yehuda, and therefore their *bracha* from Moshe was incorporated into that of the *shevet* of Yehuda.

This explanation seems to have support from the wording of the pasuk itself.

וזאת ליהודה ויאמר שמע ה' קול יהודה ואל עמו תביאנו ידיו רב לו ועזר מצריו תהיה.  
(דברים לג:ז)

Rashi points out that by using the word "*Shema*" instead of "*Haazin*," the Torah hints to Shimon within the *bracha* of Yehuda, as Shimon's name comes from the pasuk, "*Shema Hashem B'Onyi*."

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However, this still leaves us with questions. Why was the land of Shimon within the land of Yehuda to begin with? To better understand, we must look back to the *brachos* of Yaakov at the end of *Sefer Bereishis*, as explained by Rav Shamshon Rephael Hirsch. Rav Hirsch interprets the *brachos* of Yaakov as explanations as to why Yehuda was chosen to be the leader of the Jewish people, and not one of his older brothers.

Yaakov first blesses Reuven:

ראובן בכרי אתה כחי וראשית אוני יתר שאת ויתר עז. פחו כמים אל תותר כי עלית  
משכבי אביך אז חללת יצועי עלה. (בראשית מט:ג-ד)

*Reuven, my first-born, my strength, you are pre-eminent in office and power.  
However, you are unstable like water...*

Rav Hirsch explains that as the oldest son, it was expected that Reuven was to be the leader of the Jewish people. However, a leader must have inner strength and not be swayed by gentle winds or even the fiercest storm. Reuven lacked this necessary fortitude, and therefore could not be the leader of the Jewish nation.

Yaakov then moves on the Shimon and Levi, addressing them together.

שמעון ולוי אחים כלי חמס מכרתיהם. (בראשית מט:ה)

Shimon and Levi were *achim*, brothers. They possessed a quality that really should have made them great leaders for the future Jewish nation, a sense of “communal brotherhood developed to the highest degree.” They felt the needs of every member of their family, and felt personally attacked whenever one of their relatives were threatened.

However, Yaakov then continues by saying, “instruments of violence are their means to acquisition.”

Rav Hirsch expounds as follows:

*It is interesting that at the beginning of the formation of the Jewish people Yaakov admonishes Shimon and Levi for saving their sister because their means were inappropriate. They tricked the people of Shechem, pretended to befriend them, convinced them to have bris mila, and only then, in their weakened state did Shimon and Levi attack.*

The Jewish people believe the means must in and of themselves be justified. In general society, when acting on behalf of the country, almost anything is acceptable, as long as the goal is to protect the greater good. This is not so for the Jewish people. The means themselves must be just and right, or they diminish the end result.

Shimon and Levi had an energy and zeal that they were unable to properly

control. They acted on emotion, championing their cause without the control and thought required. This inability to temper their passion led them to murder an entire city, instead of seeking vengeance against the few that were responsible for kidnapping Dina.

Yehuda was quite the opposite; he demonstrated a masterful control of his actions. Rav Hirsch writes, “You [Yehuda] combine the courage of youth with the prudence of old age.” It is for this character trait that Yehuda was chosen to serve as the leaders of the Jewish people.

With this understanding, it makes more sense why Shimon needed to be surrounded by a Yehuda. Shimon needed the positive influence of Yehuda’s thoughtful level-headedness.

But what about Levi? They were also admonished by Yaakov for the same character flaws as Shimon. Why does Levi receive their own *bracha*? Why do they not need the influence of Yehuda?

It appears that Levi was actually able to overcome this trait. They were able to change; to learn to control their actions. We see this revealed during the episode of the *Chet HaEgel*. They were the only shevet who did not participate in the *Chet HaEgel*. When Moshe asked, “*Mi L’Hashem Eilai?*” Levi was the first to respond, and when called upon to kill the transgressors, they accepted.

In the episode with Dina, Levi’s loyalty towards his family caused him to sin. He justified his actions for the sake of his ultimate goal. In the episode of the *Egel* we find that the tribe of Levi changed. They were able to kill their family members, those who they felt most loyal to, because that was what Hashem asked of them. They channeled their “emotions” according to the will of Hashem.

The power of Levi to turn a negative trait into something positive is echoed in a comment by the *Baal Haturim* that Yaakov “cursed” Levi to be spread out, and not have a land of their own. Levi became the teachers of Torah to the Jewish people, a profession which required them to always be moving, unable to settle down in one place.

Through excluding the tribe of Shimon in the final *bracha*, the Torah teaches us many important lessons. Not only does it expound on the qualities a leader of *Klal Yisrael* should possess, it also reminds us that the end does not justify the means. As a Jew, we must make sure our every action is done according to Hashem’s will, no matter what our intention may be.



# Letters to the Editor





Dear Editors:

In Volume 4:1 – Bereishis—Shemos 5777 “*The Battle of Brothers: Sibling Rivalry vs. Symbiosis—What Wins Out?*” (pg. 37-44), the article fails to attribute the source for the contention that “It was *improbable* that Rivka never told Yitzchak the prophesy that the younger son would serve the older son” (emphasis added). Indeed the Ramban, Ran and Abravanel specially maintain that Rivka deliberately did not convey the prophesy told to her by Shem and/or Avraham that the twins in her womb are two warring nations.

I would appreciate a response from the editors or author.

**Judy Kraus**

Kochav Yair, Israel

Dear Editors:

In response to the aforementioned letter, be advised that the general rule is that a prophet is not permitted to withhold a prophesy unless the prophesy is for the sole purpose of expanding the prophet’s knowledge of a certain matter (see Rambam *Hilchos Yesodei HaTorah* 7:7).

Here, Rivka was not informed by either Shem or Avraham that the prophesy concerning the nature of the fetuses in her womb was not to be disclosed to Yitzchak who was her husband, the father of the twins and also a prophet. Out of respect for her husband, Rivka may have been duty-bound to disclose this prophesy to Yitzchak. This information may have prevented the bitter acrimony over the blessings that Yitzchak conferred to his younger son Yaakov.

*Nesivos Shalom* opines that Yitzchak was fully cognizant of the prophesy by elaborating the divergent pedagogical approach between Yitzchak and Rivka regarding their eldest son Eisav.

The *Zohar* (second volume chapters 137(b) - 139 (a)) emphasizes that Yitzchak was cognizant of the prophesy relating to the respective roles of Eisav and Yaakov and that Yitzchak identified more closely with his son Eisav, and found him suitable for the role of a spiritual warrior and leader of the patriarchal family. The basis for such a kindred connection to Eisav is that Yitzchak and Eisav shared the predominant

attribute of “*gevura*,” spiritual strength. Yitzchak believed that he could nurture Eisav’s strength as a warrior and a provider by guiding him to use these skills for the higher purpose of advancing and benefiting society at large.

In contrast, Yitzchak believed that Yaakov’s predominant attribute of “*chesed*,” loving kindness, inherited from his grandfather Avraham, did not require the same nurturing and guidance that Eisav required because Yaakov was well on his way to moral perfection. On the other hand, Rivka sensed Eisav’s true nature as a warrior, brigand and plunderer based on the fact that Eisav inherited these base traits from her brother Lavan and father Besuel. Indeed, Rivka realized that Eisav was incorrigible, and that in order to preserve the Jewish legacy, Yaakov had to secure Yitzchak’s blessings that were safeguarded for the true leader of the family.

*Nesivos Shalom* deftly attempts to resolve the most intractable query as to why Rivka and Yaakov engaged in subterfuge to underhandedly wrest the first-born blessings from Eisav. Rivka was well aware of her husband’s preference to nurture and guide Eisav into refining his base character and using his strength for a higher purpose. Based on the *Zohar’s* model of repentance, that the penitent must first fully disengage from wayward conduct before engaging in virtuous conduct, *Nesivos Shalom* suggests that Hashem challenged Yaakov’s attribute of *gevura* in order develop Yaakov as a leader of the Twelve Tribes which formed the Nation of Israel.

In order for Yaakov to earn the right(s) of the first-born and leader of the Nation of Israel, he had to leave the comforts of the ivory tower of scholarship and spiritual purity and refine his ability and skill as a warrior and provider. Put simply, Yaakov had to fight for what is rightfully his and face the daunting challenges of the real world where people sacrifice their lives just to earn their right to survive.

God put Yaakov to the test by pitting him squarely in the middle of his parents’ conflicting views of child rearing. Yaakov was faced with the insoluble question as to whether he would challenge his father’s preference to bestow the first-born blessings on Eisav, from who<sup>1</sup> Yaakov rightfully purchased those rights. The question is further compounded by the fact that if God truly desired to bestow the first-born blessing on Yaakov, why then would Yaakov have to engage in such artifice to extract such blessing?

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1 It is interesting to note that Yaakov’s grandfather Avraham is similarly tested at the “*Akeidas Yitzchak*” wherein he is confronted with the insoluble conflict as to whether to heed God’s commandment to sacrifice Yitzchak when God unequivocally promised that through Isaac the nation of Israel will be born. It appears that God throughout the Torah challenges his leaders by presenting them moral dilemmas. These moral dilemmas form the bases from which springs spiritual refinement of the base moral character.



*Nesivos Shalom* concludes that Yaakov, as the archetype, had to lay the critical groundwork for the Jewish nation's secret to survival throughout their millennial travails in the dark despair of four exiles. In order to earn the right to be an active participant in the Nation of Israel, like Yaakov, one must oppose and fight the formidable forces of evil embodied by Eisav. Indeed, these evil forces are not only presented as an external struggle, but are by and large internal battles of refining and transforming our base and selfish character. To rightfully receive the blessings of the first-born nation we must win over and refine the 'Eisav within us.'

Based on the foregoing, what appears at first blush as divergent views of child rearing in reality are convergent views. Yitzchak recognized that Eisav's strongest attributes needed refinement in order to achieve its higher purpose, and Rivka realized that Yaakov needed to cultivate and refine his *mida* of *gevura* through asserting his right to assume the role as the progenitor of the Nation of Israel.

Yitzchak and Rivka's apparent conflict is the crucible used to effect the Divine plan from which springs forth the Nation of Israel.

Some critics may conclude that the Israel is still paying the price for deceiving Eisav into selling his birthright and thereby stealing Eisav's blessing. However, if that conclusion is true, then why would Eisav's angel who fought with Yaakov bless him by stating that "No longer will it be said that your name is Yaakov, but Yisrael, for you have striven with God and with man and have overcome." (See *Bereishis* 31:29).

Significantly, Rashi avers that Eisav's angel's blessing openly demonstrates that Yaakov rightfully attained the blessings of the first-born and that he was fully acquitted of any accusations of deceitful conduct.

Note that Yaakov only attains full recognition of his rights to this blessing after an arduous and gut wrenching twenty-two years of servitude under his mother's brother's deceitful mastery. Yaakov acquires the moral strength to build his family under the ruthless eye and fist of Lavan and then confronts his vengeful and implacable brother and foe and likewise prevails.

Yaakov's lifelong struggle to lead a moral and just life acts a guide for each Jew and the Nation of Israel to fight oppression, injustice and deceit. By zealously engaging in such process as individuals and as a unified nation, we refine our moral character in order to assume our role as a 'light unto the nations.'

**David Schwarcz**