



# ניצחון

NITZACHON

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Adas Torah Journal of Torah Ideas

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**Nitzachon**

*Adas Torah Journal of Torah Ideas*  
*Volume 7:1 Fall-Winter 5780*

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and the Torah it spreads

**With special thanks to  
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# ראש וראשון



Rabbi Dovid Revah

Rabbi Aryeh Adler  
**Guest Contributor**



# Finders Keepers: When Don't I Have to Return a Lost Object?

RABBI DOVID REVAH



**T**he second perek of *Maseches Bava Metzia*, *Perek Eilu Metzios*, discusses the *halachos* of *hashavas aveida*, the mitzva to return a lost object. If one finds a lost object, in many cases they are not allowed keep it. In addition, there is an obligation to pick it up, store it safely and make every effort to locate the owner. Practically that would mean posting it on communal emails or hanging a sign in a public area.

The first two *mishnayos* teach us which items must be returned and which can be kept. If one finds an item after *yiush*, after the owner has given up hope of getting back his object, he may keep it. The requirement to return the object is only when it was found while the owner still retains hope of getting it back. The *mishna* sets out a rule; if an item has a *siman*, something unique with which the owner can use to identify the object as his, and the item was lost in a mostly Jewish area, one must assume that the owner was not *meyaish*. The owner will probably not give up hope because he expects that the finder will follow *halacha* and attempt to return the object and he will be able to demonstrate that the item is his by identifying the *siman*.<sup>1</sup> But if the object was lost in a non-Jewish area, the owner will give up hope because he will assume a non-Jew will find it. Even if it was lost in a Jewish area, if there is no *siman*, he will not be able to prove that the object is his. Since there is very little chance that he will get it back, he will be *meyaish*. Therefore, the finder can keep the object.

The *gemara* adds a second condition required in order to keep the found object. It is not enough for the loser to be *meyaish*, but the *yiush* must have occurred before

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<sup>1</sup> A *siman* plays two roles. First, by providing the *siman* it proves that he is telling the truth that he lost this object. In addition, even if we do not suspect the claimant of lying, without a *siman*, it is possible that this found pen is not the one he lost.

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the item is found, which means that the owner must have already discovered that he lost the item before it was found. However, if one found the object before the owner realized that he lost it, he would not be able to keep it.<sup>2</sup> The *gemara* questions how a finder will ever know if the owner has as of yet realized that he lost this object, and the *gemara* sets several rules. We can assume that when someone loses cash, or something valuable or something heavy, he will realize almost immediately, and if there is no *siman*, he will be *meyaish*.<sup>3</sup> Accordingly, a non-valuable object, where there is no assumption that the owner is immediately aware that it was lost would not be permitted to keep.<sup>4</sup>

Throughout *Perek Eilu Metzios* we find four other categories of lost objects that do not have to be returned even if they have a *siman*.<sup>5</sup>

1. *Zuto shel Yam*: An object found after being carried off by the sea or a flood.<sup>6</sup>
2. *Pachos mishave pruta*: An object which has very little worth.
3. *Aveidas Akum*: An object belonging to a non-Jew.
4. *Aveida midaas*: An object with which the owner was knowingly negligent. For example, leaving something overnight on the front lawn in a way that it can easily be stolen.

As we mentioned, there are two *halachos* which are relevant when one finds an *aveida* with a *siman*. First, he may not take it for himself, and secondly, he must attempt to return it. The assumption is that the exclusion of *zuto shel yam*, *pachos mishave pruta*, and *aveidas akum* will exempt you from both *halachos*. You do not need to try to return it and you may even keep it. What about an *aveida midaas*? The *Tur*

2 The *gemara* adds that although the owner will eventually become aware that he lost the object and will most certainly be *meyaish*, it is too late. The *gemara* does not explain why this is true, and several reasons are offered by the *rishonim*.

3 The assumptions of the *gemara* do not seem to be true today. For example, the *gemara* says that a person holding money constantly checks his pocket. This is not true today. Contemporary *poskim* argue whether the *halacha* should change in light of the change in people's practices.

4 The *poskim* disagree what should be done. Rav Akiva Eiger says that there is no point in picking it up since you anyways will not be able to locate the owner. He says that you should just leave it on the ground. The *Shulchan Aruch HaRav* disagrees and says that you must pick it up and hold on to it. Contemporary *poskim* say that as long as the item is not unique, you may choose to write down the circumstances of how you found it, and then keep the object, provided that you would pay for a replacement if the owner is ever found.

5 All four of these categories are excluded from the words of the *pasuk asher tova mimenu umtza*.

6 Rashi (*Bava Kama* 66a d"h *motzei aveida*) and Rabbeinu Peretz (*Bava Metzia* 21b) explain that this is based on *yiush*, except that here we assume *yiush* even before the owner is aware of his loss. The Rashba (*Bava Metzia* 21b) says that it is an independent *heter* not based on *yiush*.

(*Choshen Mishpat* 261) says that here, too, one can keep it. However, the Rambam says:

המאבד ממונו לדעת אין נזקקין לו כיצד הניח פרתו ברפת שאין לה דלת ולא קשרה והלך לו וכי' הרי זה אבד ממונו לדעתו ואע"פ שאסור לרואה דבר זה ליטול לעצמו אינו זקוק להחזירו.

*One who intentionally allows his assets to be lost does not have to be helped by you. For example, he left his cow in the stable without closing the door and securing it, and then left. He is intentionally allowing his property to be lost. Although you may not take the item, you do not have to make any effort to return it. (Hilchos Gzeila V'aveda 11:11)*

The *Tur*'s position is consistent. All four of the *drashos* are excluding these lost objects not only from the requirement to return it,<sup>7</sup> but even allowing the finder to keep it.<sup>8</sup> The Rambam is difficult – if one can keep an *aveidas akum* and *pachos mishave pruta*, why can't one keep an *aveida midaas* which is excluded from the same *pasuk*?<sup>9</sup>

I would like to share an approach. First, we must question our assumption that *pachos mishave pruta* and *aveidas akum* may be kept. The Rambam says

אבידה שאין בו שוה פרוטה אינו חייב ליטפל בה ולא להחזירה.

*There is no requirement to care for or return an aveida worth less than a pruta. (Hilchos Gzeila V'aveda 11:12)*

7 It is unclear how *Chazal* know that the *pasuk* is excluding these categories from both requirements. Why not assume that they are only exempted from the requirement to return it but not allowed to be kept? We must say that *Chazal* had a tradition that these categories are excluded from all the *dinim* of the *pasuk*.

8 This would explain why the *Tur* allows you to keep an *aveida midaas* but it is not the standard explanation. The *Beis Yosef* understands that the *Tur* allows you to keep it because we assume that you are intentionally relinquishing ownership from the object. The *Beis Yosef* asks that this assumption does not seem correct. Why should we assume that a person is relinquishing his ownership just because he is negligent? Most likely he still wants the object. For example, one may knowingly leave his bike outside his home even though he is aware that there is a good chance that it will be stolen. Probably he is just too lazy to go outside and put it away, but he is still hoping that it will be there the next morning. It does not seem reasonable to assume that he is trying to throw out his bike. Because of this question, the *Beis Yosef* disagrees with the *Tur*. However it is possible that the *Tur*'s ruling is not based on the owner being *mafsir* the item, but based on the *pasuk* which excludes *aveida midaas* both from the mitzva of *hashavas aveida* and from the prohibition of keeping it.

9 This is less of a question for the exclusion of *yiush* and *zuto shel yam*. Intuitively, the exclusion of *yiush* is allowing you to keep the item. If you cannot keep it, it would be difficult to understand why you should not be required to give it back. (The Rambam agrees with Rashi that the exclusion of *zuto shel yam* is also because of *yiush*). However, the exclusion of *aveidas akum* would make sense to be only excluding the requirement to give it back. Same with less than a *pruta*.

The Rambam does not say simply that it is yours. It seems that *pachos mishave pruta* is also only excluded from the mitzva to return it<sup>10</sup> but may not be kept. If so, we can suggest that *aveida midaas*, *pachos mishave pruta* and *aveidas akum* are only excluded from the requirement of picking up the *aveida* and returning it, but they may not be kept. However, when the Rambam discusses *aveidas akum* he says:

אבידת הגוי מותרת שנאמר אבידת אחיך.

*An aveida belonging to a non-Jew is permitted. (Gzeila V'aveda 11:3)*

Simply saying “it is permitted” indicates that one may immediately take it for himself. But why should it be different than the exclusion of *pachos mishave pruta* which only exempts one from returning it?

Rav Isser Zalman Meltzer explains that according to the Rambam, an *aveida* of a non-Jew is also only excluded from the *halacha* of returning it. Even so, one would be permitted to keep it. This is because although *gezeila* from a non-Jew is forbidden *min Hatorah*, the prohibition of stealing from a non-Jew has different guidelines than the prohibition of stealing from a Jew. For example, *ta'us akum*, not correcting the mistake of a non-Jew, may be permitted but would be considered *gezeila* if done with a Jew. He suggests that since keeping a lost object is not outright *gezeila*, since it was lost beforehand and you are not taking directly from the owner, it would be *gezeila* from a Jew, but it would not be *gezeilas akum*. Practically, this would mean that one may use the object, but would not actually become the owner since there was no mechanism to transfer the ownership. This, in fact, is the opinion of the *Bach*. The *Bach* writes that if you find an object belonging to a non-Jew, you may use it even before *yiush*, but it is not yours, and in circumstances that the *halacha* requires ownership, it would not suffice.<sup>11 12</sup>

10 The *Machaneh Efraim* points out that although you would not be able to initially keep the *aveida*, eventually you would be allowed to do so. As we noted above, if an item was found before *yiush*, there is still a requirement to return it, even if the owner is eventually *meyaish*. This is because once the mitzva to return it started, it will remain even after *yiush*. (The exact reason for this is a *machlokes* between Tosafos and the Ramban). However, in regard to *pachos mishave pruta*, in which picking it up does not generate a mitzva to return it, the *yiush* can take effect even afterwards. At some point it is clear that the owner was by then *meyaish*, and one would be then allowed to keep it.

11 However the *Biur Halacha* 186 d"h v'hu shelo niskaven understands the *Bach* differently.

12 This idea would also explain a difficult comment of the Rosh. The *mishna* says that if a child is found and we are not sure if he is Jewish or not, the child's status is determined by the majority of the city's residents. The *gemara* says that if the majority of the city are Jewish we assume the child is Jewish and if the child loses an *aveida*, you must treat it as *aveidas Yisrael* and return it to him. The *rishonim* ask that since there is a possibility

Based on the above, if one found an *aveida* worth less than a *pruta*, he would not immediately be able to keep it. But if he holds it until he can be reasonably sure the owner was *meyaish*, he would be able to keep it. The *gemara* discusses a case where partners lost an object that was worth more than a *pruta*, but each person's individual ownership is worth less than a *pruta*. The *gemara* says that it would be treated as an *aveida* which is not worth a *pruta* and there would not be a requirement to return it. The *gemara* is discussing a case where the finder is aware that the *aveida* is owned by partners. But the *poskim* assume that the *halacha* would be the same if the finder only discovered the owners were partners when he came to return it, and the finder would not have to give it back. However, if we assume that the exemption of *pachos mishave pruta* does not directly permit one to keep it, the *halacha* would be that one would have to return the object. The owners would not be *meyaish* because they would not expect the finder to know that it was owned by a partnership and once he located the owners (not realizing that he was exempt from doing so) he would have to give it back.

In conclusion, the *gemara* tells us that one who finds an *aveida* worth less than a *pruta* does not have to return it. Many *rishonim* say that you can keep it; however, the Rambam says that you are only exempt from returning it, but it is not yours to keep. The *Machane Efraim* says that the *machlokes* is not so relevant because even according to the Rambam one can keep it after the owner is *meyaish*. However, there is one case where the *machlokes* may be relevant, where a large group of people have a joint ownership of an expensive object, but each individual's ownership is less than a *pruta*. According to most *rishonim* if the object is lost the finder could keep it but according to the Rambam he cannot.

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that the object belongs to the finder, he should be able to keep it because we have a principle that in a monetary question we do not follow the majority, rather we award the money to whoever has possession. The finder is holding on to the *aveida*, so he should be able to keep it, since there is a possibility that the child is not Jewish, and the finder has possession. The Rosh gives an enigmatic answer. He may be saying that in this instance we cannot use the rule of possession. Normally one can use his possession to maintain the minority possibility that the item is his. But here, even according to the minority possibility that the child is not Jewish, the finder does not have any real rights to the item, only he is not stealing if he doesn't return it. Since the *aveida* definitely does not belong to the finder (if the child is a Jew he must return it, if the child is non-Jew the *aveida* still technically belongs to the child) being the *muchzak* will not help.





# Common *Ribbis Shailos* When Friends and Family Help You Borrow Money

RABBI ARYEH ADLER



*Reuven finds a beautiful new house in the neighborhood and puts down a deposit. However, when he meets with the bank, he is told that his income is not sufficient to qualify for the mortgage. His parents hear about the situation and offer to take the mortgage under their name, while the son commits to make the monthly payments to the bank. Could there be any question of ribbis in this scenario?*

*Yehudah wants to remodel his house and asks his father-in-law to allow him to borrow on his line of credit, and he, Yehudah, will make all the monthly payments. Is this permissible?*

*Shimon wants to buy a new bedroom set, but can't afford it. Levi offers Shimon the use of his credit card, with Shimon being responsible for any late or interest payments. Are there any ribbis issues?*

**H**alachah prohibits a Jew from lending to another Jew with interest. As the *mefarshim* explain, all Jews are considered brothers, and one should not charge interest to a brother. One may charge interest to a non-Jew, as there is nothing intrinsically wrong with taking interest—it is a special prohibition between Jew and Jew.

In the above scenarios, it would appear that the Jew is borrowing money from a bank, which is primarily owned by non-Jewish shareholders, and therefore there should be no issue of *ribbis*. However, this may not be so.

## Defining the Borrower

The *gemara* teaches us in *Bava Metzia* (71b):

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ישראל שלוח מעות מן הנכרי ברבית וביקש להחזירם לו, מצאו ישראל אחר ואמר לו  
תנם לי ואני אעלה לך כדרך שאתה מעלה לו, אסור.

*A Jew who borrowed money from a non-Jew with interest and wants to repay the debt; another Jew met him and said 'Give the money to me and I will pay the non-Jew the amount which you were paying' – this is prohibited.*

The principle the *gemara* is elucidating is that in a lending relationship between a non-Jew and Reuven, if Reuven passes the money on to Shimon, even if Shimon commits to pay the non-Jew the interest directly, it is still prohibited as *ribbis*. The rationale behind this is that, in the eyes of *halacha*, the non-Jew has no claim against Shimon; the deal between Reuven and Shimon is a 'side deal' worked out among themselves. Therefore, we cannot look at the non-Jew as having charged *ribbis* to Shimon; it is rather Reuven who has created an interest obligation on Shimon, which is then fulfilled by Shimon paying Reuven's creditor directly.

In *Shulchan Aruch* it is clear that in any case where the non-Jew extends a loan to an individual and views him as responsible for the debt, that individual is considered the borrower in the eyes of *halacha*, even if that individual is acting on behalf of a second party.

ישראל שאמר לחבירו: לזה לי מעות מהעובד כוכבים ברבית וכו' אסור אלא אם כן  
אמר לו לזה לי מעות בריבית מהעובד כוכבים על שמי והאמינו העובד כוכבים והוא  
סומך על הלזה ולא על השליח.

*A Jew who tells his friend: 'Borrow money for me from a non-Jew with interest' ... it is prohibited, unless he tells him 'Borrow money for me with interest in my name' and he (the non-Jew) relies on the borrower and not on the agent. (Shulchan Aruch Yoreh Deah 168:17)*

In other words, unless the non-Jew is specifically told that the borrower is the second party, and not the one arranging the loan, it is considered a loan to the first individual, which is then passed on to the second party, which creates a *ribbis* issue since there is now a loan with interest between two Jews.

Based on the above, in all the scenarios we began with, there would be a prohibition of *ribbis*, since the bank or credit card issuer has no relationship with the second party. The only responsible party as far as the bank is concerned is the one signed on the mortgage or credit card agreement. *Halacha* views this as if the bank extended the loan to the signer, who then lent the money to the second party. When the second party pays interest, even directly to the bank, it is as if he is paying interest

to the one who signed on the loan which is prohibited.

A suggestion has been offered as to why the above case of the mortgage may be permissible. Some prominent *poskim*<sup>1</sup> wish to apply the words of the *Shach* to our case. The *Shulchan Aruch* quoted before continues:

ישראל שאמר לחבירו: לוו לי מעות מהעובד כוכבים ברבית, אם נתן לו משכון ללוות עליו, אם אחריות העובד כוכבים על המשכון בלבד ולא על השליח כלל, מותר לשליח ליקח הרבית וליתנו לעובד כוכבים.

*A Jew who tells another Jew: 'Borrow money from a non-Jew with interest'; if he gave him collateral to borrow with, and the debt of the non-Jew is on the collateral alone and not on the agent, it is permissible for the agent to receive the interest from the Jew and to give it to the non-Jew.*

To this, the *Shach* adds:

והטור לא הזכיר שיהא אחריות העובד כוכבים על המשכון לבד, אלא כתב שתמא שהעובד כוכבים סומך על משכונו. ונ"ל דמיירי שהמשכון הוא טוב דאז מסתמא הוא סומך על המשכון לבד ולא על השליח.

*The Tur does not require that the non-Jew rely on the collateral alone, but writes just that in general, the non-Jew relies on the collateral. It seems to me that the Tur is discussing a case where the collateral is 'good' in which case the assumption is that the non-Jew relies on the collateral and not on the agent.*

The *Shach* explains earlier (#49) that "good collateral" is defined as collateral that is worth the sum of principal and interest even if the interest accrues for a long period of time. The concept of the *Shach* is that the collateral can define who the actual borrower is. If the collateral is reliable and the non-Jew relies on it for repayment of the debt, then the owner of the collateral is actually the borrower.

According to the opinion of the *Shach*, some *poskim* suggest that since the property is mortgaged, and under *halacha* the property belongs to the son, we may look at this loan as a direct loan from the bank to the owner of the property, since the property is the collateral for the loan and the son is the owner of the property.

The *sefer Mishnas Ribbis*, however, quotes others who question this argument. We know that the bank does extensive research into the financials of the borrower and does not rely on the property alone; if so, by definition, the bank is relying on

<sup>1</sup> See introduction to the *Keren Hatorah* and the *sefer V'chei Achicha Imach* #6

the borrower (the father) and not just on the collateral. Additionally, the *Shevet HaLevi* (7:141) writes that the leniency of the *Shach* only applies if there is no clear statement from the borrower that he is responsible for the loan, which is not the case in our scenario, where the father signs documents making him responsible for the debt. Therefore, the consensus of many *poskim* is that there is a prohibition of *ribbis* in the above case.

Is there a solution to take the loan in a permissible manner? The *poskim* suggest that one may make a *heter iska* between the two Jewish parties (i.e. father and son, in above case). A *heter iska* is an arrangement where instead of the money being advanced as a loan, it is rather given as an investment. There is no prohibition on investing money with another Jew and receiving profits from the investment, as long as the recipient does not guarantee the principal or profits.<sup>2</sup> A *heter iska* was developed by *poskim* for a case where one Jew wants to advance money to another Jew with the expectation that he will receive the full principal back with an agreed-upon rate of return. The *heter iska* contract defines the money extended as an investment in the assets of the recipient, with the investor receiving profits and potentially suffering any losses from the investment. However, the level of proof necessary to claim loss is set as the testimony of two kosher witnesses and an oath by the recipient of the sum is required as to the amount of profits realized. The recipient is given the right to pay a specific rate of return on the money in lieu of an oath. In the vast majority of cases, the recipient will pay back the full principal amount plus the agreed upon rate of return, rather than try to prove a loss with witnesses or swear about the amount of profits. However, the possibility of proving a loss of principal and swearing that no profits were realized must always remain. The *poskim* do not allow making unreasonable demands, e.g. requiring that the communal rav testify that the principal was lost. Since the *heter iska* is an enforceable contract and the possibility of loss of principal exists, it is defined as an investment, not a loan, and has no prohibition of *ribbis*.<sup>3</sup>

In the above cases, the two Jewish parties can sign a *heter iska* between themselves, where the 'rate of return' in lieu of an oath is set at the bank's interest rate.

## A Guarantor

A related question is in the scenario that the bank requires a guarantor or co-borrower

2 With certain conditions; see *Shulchan Aruch* YD 177.

3 The above is a simplification of *heter iska*; the typical *heter iska* is actually half loan, half investment, although some contemporary *heter iskas* are made as *kulo pikadon*, a full investment.

to cosign on the loan. Is there an issue of *ribbis* in that case?

ישראל שלוח מעות מעובד כוכבים ברבית, אסור לישראל אחר להיות לו ערב. שכיון שבדיניהם תובע הערב תחלה, נמצא הערב תובע את ישראל ברבית שהערב חייב בה לעובד כוכבים.

*A Jew who borrows money from a non-Jew with interest; another Jew cannot be a guarantor, since in their [i.e. the non-Jewish] system of law, the lender can demand payment from the guarantor even before [demanding from] the borrower, the guarantor will then demand the interest from the borrower... (Shulchan Aruch YD 170:1)*

In other words, if the non-Jew demands payment of the principal and interest from the guarantor, the guarantor will end up collecting principal and interest from the Jewish borrower, which is prohibited. This is because, in the eyes of *halacha*, the guarantor has the status of a borrower to a certain extent; if he ends up paying the non-Jew, it is considered as if he was the borrower, and then lent to the original borrower with interest.<sup>4</sup> Therefore, in any case where a Jew co-signs a loan to another Jew, a *heter iska* should be made between the borrower and the guarantor.

### Co-Borrowers

Often, the bank will request another party to sign as a co-borrower and not just as a cosigner. In America, a co-signer is responsible for the loan only if the primary borrower does not pay, but a co-borrower is equally responsible to repay the loan. How does *halacha* view a co-borrower?

The Rishonim on the *gemara* in *Shevuos* 38a quote the *Yerushalmi*:

אמר ר' יוסי: הדה אמרה שנים שלוו מאחד אע"ג דלא כתבין, אחראין וערבאין זה לזה.

*Rabbi Yossi says: Two who borrowed from one, even if they did not specify, they are both responsible one for the other (they are both responsible for the entire amount.)*

The *rishonim* dispute how to understand this *halacha*. The Ramban understands that each one is considered a borrower on half the sum, and is a guarantor on the

<sup>4</sup> The *rishonim* discuss whether this prohibition applies to any guarantor, or only to a type of guarantor termed in *halacha* "shlof dutz", where the lender must always go to the guarantor for payment. We are stringent and prohibit even a regular guarantor, if payment can be demanded from him before exhausting all possibilities of collecting from the borrower, which is normally the case in the current banking system.

other half. The Rosh argues and says that each is fully responsible for the entire sum and the lender can collect the entire sum from either borrower. The *halacha* follows the opinion of the Ramban that each is considered a borrower on half.

Based on this, some *poskim* argue<sup>5</sup> that if a father becomes a co-borrower on a bank loan to his son, in the eyes of *halacha* the money is considered as a loan, half to the father and half to the son. Therefore, if the son commits to pay back the entire loan to the bank, he is considered to have borrowed half of the money from his father and committed to pay back interest to the bank, which would be actual *ribbis*!

Other *poskim* argue<sup>6</sup> that since it is understood that the son will receive the entire sum to purchase the house, and the bank legally has the right to collect the entire sum from either borrower, *halacha* views this as a direct loan to the son and an interest obligation from the son directly to the bank.

It would seem that, practically, a *heter iska* should be made in the case of co-borrowers, since even if we consider the son to be the sole borrower in the eyes of *halacha*, the father is at least a guarantor, and would require a *heter iska* as a guarantor.

The *halachos* of *ribbis* are complex, but with knowledge and awareness, it is not difficult to keep them properly.

The *Sforno* in *Devarim* 23:20 writes that the Torah puts the prohibition of *ribbis* in *Parshas Ki Setzei* after the laws concerning keeping the camp holy and not causing the *Shechina* to leave our camp, to teach us that refraining from lending with interest and performing acts of *chesed* for other Jews brings the *Shechina* to *Klal Yisrael*. As *Chazal*<sup>7</sup> teach us, when *Klal Yisrael* acts to one another as brothers, which is represented by the prohibition of *ribbis*, the *Shechina* rests upon us. May we be *zoche* through our care in the *halachos* of *ribbis* to bring the *Shechina* to *Klal Yisrael*.

<sup>5</sup> See *Yeshurun* 34 page 495 quoting from Rav Shmuel Mordechai Gersten *shlita*.

<sup>6</sup> Rav Shalom Segal *shlita* based on the *Noda B'Yehuda* in *Teshuva Me'Ahava*

<sup>7</sup> See the *Sifrei* in *Vezos Habracha* 346 and *Sefer Chareidim* 74

# Rosh Hashana



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# Seeing is Knowing: Synesthesia and the Shofar Blasts

DAVID R. SCHWARCZ



Most people are familiar with the grand and vivid multi-sensory epic encounter between Hashem, Moshe and the Nation of Israel that mesmerized, transfixed and transformed the 600,000 ‘root souls’ that stood in complete rapture at the foot of *Har Sinai*.

The positive commandment to sound the shofar on Rosh Hashana in the *Mussaf* service while reciting the selected portions from the Torah, *Nevi'im* and *Kesuvim* is a re-enactment of this Sinaitic sensory immersive experience. The *Talmud Bavli* in *Rosh Hashana* (16a, 34b) explains that the shofar is the instrument through which the remembrance of the Jewish people is brought before God so that “He may benefit them.” But how is the shofar an agency for stirring the collective consciousness of the Jewish people before the Divine?

This article details how the experience of hearing and seeing the shofar blasts at *Har Sinai* embedded into the soul of each participant revelatory consciousness as explained by Rav Joseph Ber Soloveitchik.

## The Shofar and Synesthetic Effect<sup>1</sup>

According to the Torah, the Jewish people “saw the voices (of God), the lightning, and the sound of the shofar” (*Shemos* 20:18) at *Har Sinai*. Essentially, an estimated two million people experienced sensory stimuli in one modality but perceived sensation in a different modality. Specifically, the Torah states that the sensory stimuli of God’s voice and the sound of the shofar were perceived by the Jewish people as an

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<sup>1</sup> This section is based on Schwarcz, Vera (no relation to the author), “KOLOT – Seeing Sounds & Synesthesia of the Soul”, CT Jewish Ledger, January 29, 2019.

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image(s), which, of course, is the typical perception evoked by a visual stimulus, not an auditory one.

This sensory experience is commonly referred to as “Synesthesia,” which is a distinctive neurological condition where the senses are heightened to the point we can actually see what is normally heard. At Sinai, God bestowed upon the Jewish people the ability to perceive sound and hear light waves at once. In a way it was a soul gift bequeathed to us at Sinai. At a mountain also referred to as “Horev” (meaning: broken)<sup>2</sup> we arrived broken and somehow we became whole. The receiving of the Torah through the ecstatic experience of synesthesia pieced us together, and shattered us all over again. We came to the foot of the mountain as a united family.<sup>3</sup> And there, in the most awe-filled moment of Jewish history, our senses became confused.

After the ground shakes and thunder deafens all ears, after the shofar blasts and after the uttering of the 10 Speech Acts (“commandments,” but really more like the life-creating words of Genesis), we read: *ve’chol ha’am roim es hakolos...* and the whole nation saw the sounds/voices. Scientists call this “joint perception” – during which the stimulation of one sensory organ is experienced in a secondary cognitive pathway. In an average population, very few people – often poets and musicians – experience synesthesia. Yet the entire Jewish people did at Sinai.

We saw what could only be heard.<sup>4</sup> In the process, each person was addressed directly, each sound was uniquely calibrated and each Jew experienced existence anew. Each of us became capable of double cognition and hence we were able to answer with a two-fold commitment: *na’ase ve’nishma...* we shall do/act [in keeping with the Torah] and then understand/learn.<sup>5</sup>

Because of this synesthesia of the soul, each of us gained extra sensory perception and envisaged the possibility of action even before fully comprehending the Torah’s complexity. We, mere humans – lowly beings whom the angels mocked as “paltry issue of a woman” – merited access to a kind of holiness denied in the upper realms as described in the *Talmud Babil, Shabbos* 88a-b wherein the heavenly angels were

<sup>2</sup> *Devarim* 5:2

<sup>3</sup> *Shemos* 19:3

<sup>4</sup> *Shemos* 20:15, Rashi citing the *Mechilta* that they saw what was usually heard.

<sup>5</sup> *Shemos* 24:7, See the *gemara* in *Shabbos* 88a-b; Jews had faith in God, and because of that, God likened them to angels, for they, too, are totally submissive to God. The Sages declare that when God heard Israel proclaim: “We will do and we will obey,” He exclaimed, “Who revealed this secret to My children, the secret that the ministering angels use for themselves who are referred to as “strong warriors who do bidding to obey the sound of His word” (*Tehillim* 103:20).

jealous of the *Bnei Yisrael* for accessing this secret method of Divine service.

### **Ego Death, Cleaving to God and Accessing the Latent ‘Soul Sense’**

The Alter Rebbe<sup>6</sup> aptly describes in the *Tanya* (chapter 34) based on *Shemos* 19:20 that Hashem ‘descended on the *Har Sinai*’ where it is as if Divinity came close to humanity and each Jew experienced an individual and collective ‘*bitul*’ or ‘nullification of ego’ (i.e. ego death). This resulted in the utter blissful conjoining to God (known as ‘*dveikus*’) an inconceivable transcendental event, were we to think about it in logical terms.<sup>7</sup> We continue to build upon this event and upon the text of the covenant that binds Jews and God every day. We may not see sounds all the time, but the possibility of overcoming the limitations of a single cognitive pathway through our “soul-sense” exists in each of us. Accessing this “soul sense” enables us to develop a direct connection to Hashem.

### **The Awakening of the Latent Soul Sense**

Rav Soloveitchik, in his seminal essay “*From There You Shall Seek*,” powerfully points out the interplay and dynamic between the holistic integration of Creation and Sinai.<sup>8</sup> Rav Soloveitchik asserts that Creation attains its perfection in the revelation at Sinai.

In explaining this assertion, Rav Soloveitchik begins with the premise that existence derives from a moral act—God’s creation of a world that is “very good” (*Bereishis* 1:31) which is of itself the supreme moral performance. It follows that Sinai is connected to Creation because the revelation at Sinai mandated all humans to act morally. Man repairs and perfects the world by elevating the existence of others. The observance of Jewish law, including bestowing acts of loving kindness on others,

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6 Shneur Zalman of Liadi (1745 – 1812) was the founder and first *rebbe* of Chabad, then based in Liadi in the Russian Empire. He was the author of many works, and is best known for *Shulchan Aruch HaRav*, *Tanya*, and his *Siddur Torah Or* compiled according to the *Nusach Ari*.

7 See *Mishlei* 24:16 which states “for though the righteous fall seven times, they rise again, but the wicked stumble when calamity strikes. See also, *Ego Death: 7 Stages to the Obliteration of the Self*, by Lachlan Brown, November 14, 2018. Note that the seven stages to the obliteration of the ego include the following: 1. Spiritual Awakening, 2. The Dark Night, 3. Exploration, 4. Glimpse of Enlightenment, 5. Soul Growth, 6. The Surrendering, and 7. Awareness and End.

8 *From There You Shall Seek*, Rabbi Joseph B. Soloveitchik, chapter 17, pages 123 through 129, 2008 Toras Harav Foundation.

and study of Torah elevates the world and crowns it with a new soul.<sup>9</sup>

### **But why do we feel so distant and disconnected from God?**

Rav Soloveitchik was consumed by these feelings of alienation, loneliness and sought personal refuge in deep meditation and communion with Hashem. In the classic work of “*Soloveitchik On Repentance*,” Rav Soloveitchik bares his soul in a public gathering of prominent Jewish leaders at the annual Yahrzeit Shiur in memory of his late wife Tanya by sharing a rare and startling personal encounter with Hashem: “Believe me when I tell you that I myself could never have endured the past years had I not felt the close proximity of God. I am not a kabbalist nor a mystic, so when I speak of the nearness of God, it is something I feel when opening the pages of the Talmud in order to study. When I am thus immersed in study, I feel as if the Almighty is there standing behind me, putting His hand on my shoulder, looking with me at the text lying on the table and asking me about it. This is not something I imagine. For me this is true-to-life experience.”<sup>10</sup> This encounter helped Rav Soloveitchik overcome his existential loneliness.

Rav Soloveitchik’s recording of this nocturnal Divine encounter is preceded by the famous *sefer* authored by Rav Yosef Karo, the compiler of the *Shulchan Aruch*. Indeed, the *Maggid Meisharim* (1646) is a strange and mystical diary in which Rav Karo recorded over a period of fifty years the nocturnal visits of an angelic being, his heavenly mentor, the personified *mishna* (the authoritative collection of Jewish Oral Law). His visitor spurred him to acts of righteousness and even asceticism, exhorted him to study the kabbala, and reproved him for moral laxities.

The *maggid* enjoins him to be modest in the extreme, to say his prayers with the utmost devotion, to be gentle and patient always. Special stress is laid on asceticism, and he is often severely rebuked for taking more than one glass of wine, or for eating meat. Whenever Rav Karo did not follow the severe instructions of his *maggid*, he suddenly heard its warning voice. His mentor also advised him in family affairs, told him what reputation he enjoyed in heaven, and praised or criticized his decisions in religious questions. Rav Karo received new ideas from his *maggid* in regard to the kabbala only. Such information was in the nature of sundry kabbalistic interpretations

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<sup>9</sup> *From There You Seek*, pages 131-134.

<sup>10</sup> *Soloveitchik On Repentance*, Pinchas Peli (1984, Paulist Press) page 304. The quote was expressed in Yeshiva University’s Lamm Auditorium before a packed audience of leading and prominent Jewish figures where the Rav wept publicly over the loss of his “*ezer k’negdo*,” Tanya Soloveitchik, and dedicated this lecture in her cherished memory.

of the *Chumash* that in content, though not in form, remind one of the theories of his pupil, Rav Moshe Cordovero.<sup>11</sup>

Indeed, the foregoing anecdotal evidence demonstrates that in our desire to develop an intimate connection to God, we may unexpectedly receive heavenly angels or the Divine Himself Who will guide and direct us in achieving our life's mission. This dialectic and oscillation of alienation and closeness is more fully described as the experience of "*ratzo v'shov*"<sup>12</sup> which is (chassidic term; lit. "run and return") *ratzo* is a state of longing to cleave to God; the passionate desire of the soul to transcend its material existence, to "run forward" and cleave to its Source; *shov* is the soul's sober determination to "return" and fulfill its mission in the body, the resolve to live within the context of material reality, based on the awareness that this is G-d's ultimate intent.

### **How Does Sinaitic Experience of Synesthesia Facilitate the Access to the "Soul Sense"**

We still have to understand, though, what the need is for this miracle. What do I care if they just heard the sounds of the shofar, without a miracle? The *Sefas Emes*<sup>13</sup> in his commentary on *Shemos* 20:18 explains that seeing and hearing are two distinct experiences, one unlike the other. And each one has an advantage and a disadvantage. To see is to look at a thing in its completeness, exactly as it is. But for the hearer, the sound changes as it enters his ears, and it isn't exactly the same sound that was originally made. That's the advantage of seeing. But with hearing, there is an advantage that the sound truly enters inside of him through the ear, whereas the sight remains outside. With this in mind, the verse teaches us that the Children of Israel had both advantages. They received the words in the manner of "seeing sounds," such that even though they truly entered inside of them, nevertheless they "saw" the sounds, without any distortion.

Our scientific understanding of sight and hearing may be quite different now, of course, but his description corresponds well with our intuitive experience of seeing and hearing. Hearing is our weaker, less-reliable sense, but it's more powerful to the extent that it actually enters us, and we can feel it vibrating inside of us.

The *Sfas Emes'* bigger point, however, is not as much about the technical

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<sup>11</sup> Wikipedia, Joseph Karo, August 11, 2019.

<sup>12</sup> Based on *Yechezkel* 1:14. See *Chagiga* 13b; *Sefer Yetzira* 1:7; *Tanya*, ch. 41.

<sup>13</sup> The *Sfas Emes*, Rebbe Yehudah Leib Alter was the second *rebbe* of the Gerer chassidim and the grandson of the *Chiddushei HaRim*. He was orphaned at the age of one and raised by his grandfather.

description as it is about the spiritual. What was so incredible about the experience of revelation was that they heard and understood the objective meaning of God's word without distortion, but *also* were able to completely internalize it? The goal of seeking to understand an objective reality is to truly know things, as they actually are. But the power of a subjective reality, though it may be somewhat distorted by a particular perspective, is that it is personal; we make it our own and through it we find meaning.

In the moment of revelation, somehow the objective and the subjective, seeing and hearing, merged. The Children of Israel were able to understand God as God meant to be understood, but to personalize that understanding in the way that was most meaningful for them. In other words, for that one moment, God and Man were truly communicating.<sup>14</sup>

### Searching for God Through Natural Consciousness

The quest for God usually begins with the exploration of the created world and culminates after a long a tortuous journey in the individual attainment of connectedness to the Creator. One begins this daunting journey to find God by examining every "hidden corner of the natural and spiritual world."<sup>15</sup>

Rav Soloveitchik observes that there are two forms of religious consciousness "natural consciousness" and "revelational consciousness." A person's "natural consciousness" propels one to find God through products of human culture like studying the theories of evolution to comprehend creation or studying various spiritual or transcendental experiences in the secular or other religions. At first this exploration is exciting and appealing but ultimately we do not gain any true and satisfying relationship or connection to Hashem and we feel lonely and inadequate. Just when it seems that the quest for God has simply failed, God reveals Himself by activating man's latent 'soul sense' bestowed at *Har Sinai* and suddenly he enters the realm of "revelational consciousness."<sup>16</sup> Rav Soloveitchik is steadfast in his belief that the natural and revelational modes of consciousness are essential for the full and

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14 See Rambam, *Hilchot Yesodei Hatorah* 2:1 where he posits from the Divine perspective the "Knower, Knowledge and Known" are one, and at *Kabbolas HaTorah*, *Bnei Yisrael* attained such perspective through Synesthesia. Recent popular books describing near death experiences discuss this phenomenon that one experiences all knowledge as a part of their consciousness (See Dr. Eben Alexander's description of his near death experience in the popular book called *Proof of Heaven* (Simon and Schuster 2011)).

15 *And From There You Shall Seek* pages 39-45.

16 *And From There You Shall Seek* page 53-60.

dynamic development of rich and varied religious experience.

Since we are created in God's image with a soul, we naturally yearn and pine to reconnect to God in a meaningful way. Science can only describe and quantify various features of existence but cannot prove existence nor can it explain "qualitative" reality. "The human bond to God is expressed in aspiration, not in casuistry; yearning, not in clever logical acrobatics."<sup>17</sup>

When experience rather than science is the means chosen to complete man's search, the *Shechina*, or Divine presence, proves paradoxically to be both hidden and revealed. Rav Soloveitchik emphasizes that God eludes His creation partly because sin obscures Man's perception of God, thus causing man to feel separated and distant from his Creator and unable to encounter the Divine in a meaningful way.

In the end, natural consciousness can be broken down into scientific exploration and transcendental experience. Whereas the former is expressed in mathematical equations, the latter is expressed in longings and aspirations for an immediate experience. God mandates man to "fill the earth and subdue it" (*Bereishis* 1:28). In everything man sees the glory of God and learns to connect with His creation. Rav Soloveitchik points out that "Only the combination of scientific reason with the heart that searches and yearns for the living God can allow man to progress."<sup>18</sup>

Surprisingly, humans can find God in another way; through God's initiative. Out of nowhere without any human effort, God by chance shows up. "The voice of my beloved knocks" (*Shir Hashirim* 5:2). God brings prophecy to humans without any striving or yearning. It is sudden and without any prerequisites. Indeed, man searches for God through reason and actually finds Him in the splendor and glory of the world. We utter benedictions and praise our existence but ultimately this rational search for God fails due to built-in limitations and human sinfulness.

God, however, reveals Himself to man sometimes out of black agony or evil or misfortune. At times God does not reveal himself to rational individuals but rather to a person who is confused, bankrupt or forlorn.<sup>19</sup> Adam, Chava, Kayin, Yona and Yirmiyahu attest to the fact that if God designates a person for a Divine mission and that person refuses or attempts to evade the undertaking of such mission then God will overtake him to accomplish such mission.

Rav Soloveitchik incisively emphasizes that "When God reveals Himself,

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<sup>17</sup> *And From There You Shall Seek*, pages 159-173

<sup>18</sup> Id. at page 44

<sup>19</sup> Id. at page 30



it is not for the sake of helping man realize an intellectual goal. It is for the sake of expressing His will; He wishes to command the human being, to impose discipline and submission. Man finds God through creation like Henry David Thoreau describes in “Walden Pond;” by immersing himself in nature, Thoreau hoped to gain a more objective understanding of society through personal introspection. Simple living and self-sufficiency were Thoreau’s other goals, and the whole project was inspired by transcendentalist philosophy, a central theme of the American Romantic Period. In contrast, according to Rav Soloveitchik finding God through His creation “is not sufficient because God mandates faith in a revelation imposed on his creation. “The God of Sinai is the God of the Will... The goal of creation is the God of the Hidden Intellect...”<sup>20</sup> Man must be willing to fulfill the revelation’s imperatives.

This duality in the religious experience of seeking God by either imitating His ways (i.e. *imatatio Dei*) or through ‘cleaving’ (*dveikus*) leads one to become God’s captive because ultimately we submit the Will of God. Revelational consciousness is closed off from cultural consciousness.

### **Elevating Human Consciousness**

According to Rav Soloveitchik, the following three ways is how Judaism expresses its desire to raise human consciousness to a spiritual one, thus “linking the natural search for God to revelatory faith:”<sup>21</sup> (1) the rule of the intellect, (2) the elevation of the body; and (3) the perpetuity of God’s word.

**The Role of the Intellect** is to act as the final arbiter of Jewish Law. The Torah student’s exercise of intellect involves the construction of novel concepts, interpretations and ideas. According to Rav Soloveitchik, these novallae must arise from within the bounds of certain fixed, a priori postulates given by revelation; but the freedom of creative interpretation and conceptualization granted to the *halachic* personalities provide critics the opening for claiming that *halacha* is rigid and inflexible. On the contrary, the use of reason in *halachic* thought not only creates new ideas, but infuses the fixed axioms with vitality. “While the axioms are revealed and cannot be rejected, there is a ‘marvelous freedom’ in the creative conceptual activity of the *halachist*.”<sup>22</sup>

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20 Id. at page 35

21 Id. at 109

22 Id. at 108



**The Elevation of the Body:** Judaism does not despair of the natural and biological aspects of the human being. The body is a “temple” that houses our soul and should be guarded and cherished.<sup>23</sup> The Torah encourages us to do this through action-based commandments to refine, redeem and sanctify the body and its desires. Even the most basic biological function can be harnessed and elevated in the service of God. Rav Soloveitchik notes that eating is both an act of religious worship, and one of social morality and connectedness. Regarding marriage, unlike Christianity and other philosophies, Judaism adopted a positive view of marriage and intimacy. Based on *Bereishis* 1:28 “Be fruitful and multiply,” the Sages lauded marriage by mandating that a husband joyfully engage in intimate relations with his wife and treat her with love, kindness and affection. Worship of the Creator through one’s body is preferable to worship through prayer.<sup>24</sup> Sanctifying the body creates one whole integrated unit of psychosomatic man who worships God with his spirit and body and elevates them to the eternal heavens.<sup>25</sup> Rav Soloveitchik’s critics level the scathing assertion that revelatory faith denies the significance of reality akin to believing that the world is flat or that the sun orbits the earth. On the contrary, *halacha* takes account of all scientific and technological innovations and its articulation and application depends upon concepts like space, causation, intention, and compulsion. All disciplines like anatomy, physiology, astronomy and politics are considered. Rav Soloveitchik exclaimed that “*halacha* writes the language of orderly scientific reality!”<sup>26</sup>

**Perpetuity of God’s Word** refers to prophecy as well as the ongoing transmission of God’s word (i.e. the *Masora*). Prophecy reflects the blending of revelation and reality. God reveals Himself to man, transporting the prophet into a supra-rational world. The prophet is commanded “to return to the actual world, to repair and purify it.”<sup>27</sup> Even though God reveals himself to humans it is expected that the individual seek him and prepare for such encounter. The aspiring prophet must focus “on penetrating the secrets of the world, living pure and holy.”<sup>28</sup>

However there are times when man encounters God without preparation. But when the individual encounters God after seeking Him, then “the free creative

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<sup>23</sup> *Sforno’s commentary on Shemos* 25:9

<sup>24</sup> Id. at 115

<sup>25</sup> Id. at 117

<sup>26</sup> Id. p. 121

<sup>27</sup> Id. at 123

<sup>28</sup> Id. at 123-124 based on *Vayikra* (19:2) “You shall be holy”.

consciousness and relationship of question and answer of longing and fulfillment, bursts forth.”<sup>29</sup>

A student may well perceive a disconnect or a disunity between the works of creation (the “Hidden Intellect”) and the supernal Will as codified in the written and oral tradition. Put simply, people commonly question “How does the Torah and *mitzvos* afford an understanding of the real world? For instance, what does a hen laying an egg on the second day of Yom Tov help me accomplish my mission in this world? Significantly, Rav Soloveitchik observes that man’s search for meaning always comes up short because the finite can never full grasp the infinite mysteries of the universe and its inner workings. God in nature is always hidden. On the other hand, God has chosen to reveal Himself through the Torah and *mitzvos*.

In revelational consciousness, one connects to God thereby aligning and integrating one’s essence with God. “The weight of the irrationality and inconsistency in the perceived world lies heavily” upon cultural man before one encounters revelation and grasps its depths.<sup>30</sup> At that point the student’s awareness is heightened and one comes to the realization that the *mitzvos* and Torah are ways of connecting to Hashem and drawing down the supernal light into this world. It is no longer the mundane act of a hen laying an egg on the second day of Yom Tov but rather by learning and observing Hashem’s laws one begins to extract and internalize the holiness and essential meaning of the second day of Yom into one’s unique persona.

The compulsion felt by the student when binding his essence to the authority of revelation, becomes his “savior.” Revelation of the Torah and *mitzvos* “free him from the chains of the natural world and raises him to the level of the freedom of the person of God.”<sup>31</sup>

Indeed, the individual begins his exploration of the universe for freedom and pleasure, and then encounters compulsion, strong opposition and consequentially is subdued into submission to a higher authority. This point of surrender of the ego allows one to free themselves from self-limitation and encounter the infinite possibilities by connecting to the Divine through revelation. The transformation from natural consciousness to meaningful revelational consciousness results in joy, happiness and total freedom. This paradox of the search for freedom leads one to loss of ‘self’ or surrender which ultimately results to everlasting freedom. *Pirkei Avos* (6:2)

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29 Id. at 126

30 Id. at 127

31 Id. at 128

states that “There is no one as free as one who is engaged in the study of Torah.”

And yet the problem still lingers, our children are not inspired and animated by their ritual observance and Torah education. They do not experience the joy of observance. The answer may lie within. Our children must view their role models and themselves as partners with the Creator. Each child has a unique spark of the Divine embedded in their soul that cries out for connection and meaning. The parents and teachers just need to inspire and encourage each child to courageously embark on their individual journey to encounter and develop their unique revelational consciousness.

### Conclusion

The sounding of the shofar arouses our dormant ‘soul sense’ to the point where we perceive the hand of God with our heightened senses. This arousal from below stimulates a corresponding parallel arousal from above to the point where we fully experience an ecstatic cleaving (i.e. *dveikus*) with the creator. At *Har Sinai*, the souls of each person arose to the point where their *neshamos* literally flew out of their bodies in ecstatic rapture and utterly were enveloped in the supernal light.

The *Nesivos Shalom*<sup>32</sup> opines based on *Tehillim* 119:89<sup>33</sup> that if the Torah is eternal then this Sinai experience is present in every moment of our lives. In support of this proposition the *Nesivos Shalom* relates that the Baal Shem Tov achieved the highest ecstatic state while transmitting Torah to his students to the point where the students actually saw, heard and felt the same sounds of thunder and lightning that occurred at *Har Sinai*. But if this depiction is accurate, queries the *Nesivos Shalom*, then why don’t we experience this Sinaitic experience or actually hear the voice from Sinai call out to each of us?

The *Baal Shem Tov* explains that the reason why we don’t hear or perceive the heavenly voice is because we are not appropriately attuned and evolved to fully perceive, process and internalize these Divine callings. In order to initiate the synesthetic process of heightening our perception and senses the *Baal Shem Tov* directs us to focus on our life challenges whether it be earning a living, raising a family, finding a mate, disease, death and disappointments as a means and path to connect to Hashem. The *Baal Shem Tov* declares that these challenges are the Divine callings from *Har Sinai* that awaken one to their respective Divine mission.

<sup>32</sup> *Nesivos Shalom, Shemos* page 145

<sup>33</sup> *Tehillim* 119:89 is freely translated as “Your word God is eternal: it stands firm in the Heavens.”

In line with this approach in *Devarim* 17:18, the Torah commands the King of Israel upon occupying the seat of royalty to “write for himself two copies of this Torah in a book...” Rashi comments that the king shall have two Torah scrolls; one to be placed in the ark and other to be taken with the king when he goes out in public.<sup>34</sup> The *Nesivos Shalom* asks what is the significance of these two Torah scrolls and their respective locations.

By way of background, the *Nesivos Shalom* explains that there are 600,000 letters in the Torah representing the 600,000 root souls that were present at *Har Sinai*. Each of the 600,000 root souls correspond to one of the letters in the Torah. The first word in the Ten Commandments<sup>35</sup> is transliterated as “*ANOCHI*” which is an abbreviation for “*Ana Nafshi Kesivat Yahavis*,” translated from Aramaic as God encoded His soul in the letters, crowns and symbols of the Torah.<sup>36</sup> Accordingly, the 600,000 letters corresponding to the 600,000 root souls derive from the Divine soul encoded in each letter of the Torah.

Based on the foregoing, *Nesivos Shalom* explains that the two Torah scrolls relate to the inner/hidden teachings and revealed laws of the Torah. The revealed laws guide and govern one’s interpersonal, ritual and cultural conduct whereas the hidden teachings illuminate one’s individual spiritual mission. Both the revealed and hidden scrolls guide, inform and assist one to develop into a moral and spiritually evolved person. As one merges and integrates his natural and revelational consciousness he achieves a heightened awareness of his Divine mission—one’s personal letter in the Torah—thereby enabling him to unscramble his personal source code to access his Creator.

But the ultimate question gnawingly lingers: how do I know that I actually discovered my life’s mission?

Surprisingly, Cat Stevens (“*I’havdil*”) in his 1970s folk song “On the Road To Find Out” stakes claim to the credo that “Yes the answer lies within, so why not take a look now, kick out the devil’s sin, pickup, pickup a good book now!”

On a deeper level, the answer to this seemingly insoluble question may be found in the famous commentary of the *Maharal*, *Chiddushei Aggados*, Volume III on Talmud *Bavli*, *Nidda* 30b comments on Rebecca’s agitated pregnancy of her

<sup>34</sup> See *Talmud Sanhedrin* 21b

<sup>35</sup> *Shemos* 20:2

<sup>36</sup> *Talmud Bavli*, *Shabbos* 105a, as interpreted by the saintly Noam Elimelech in his commentary on *Shemos* 20:2.

fraternal twins Esav and Yaakov. Rebecca who seeks a spiritual sonogram from either her father-in-law Abraham or Shem is informed that due to Esav and Yaakov's diametrically opposed spiritual natures they will be warring with each other. Based on the above prophecy the Talmud states that on the fortieth day of conception the soul is conceived and hovers over the embryo until birth when it fuses with the body and all its limitless perception and knowledge are stunted and limited. During pregnancy the body begins to form and is nourished from the mother's placenta via the umbilical cord, while the soul is free and unfettered by the body to absorb the entire revealed and hidden Torah knowledge. After this pre-natal bliss, an angel comes along slaps the fetus on the upper lip causing an indent or philtrum.

So why does the newborn lose all the pre-natal clarity upon birth? Why did the angel have to make the child forget all that it learned in the womb? The *Maharal* explains that the purpose for having been taught everything inside the womb is so that during our lifetime, we should always have a sense of coming back to what we once already knew - a sort of spiritual "*déjà vu*." But we were not put in this world just to have everything given to us on a silver platter without working at it ourselves, without the struggle. God wants us to search, question, grow and change, and to earn back the spiritual closeness and clarity of purpose that we once so enjoyed inside the womb.<sup>37</sup>

Thus, the primary purpose of our journey is to re-learn what has already been taught to us in the womb. The process of gaining this "soul sense" or "spiritual *déjà vu*" is through "*Anochi*" - finding your special letter among the 600,000 letters of Torah that will provide you the keys to unscramble your source code. The revelation of your personal source code will propel you to embark on your personal journey back to the Divine. This discovery will refine your soul to the point where you can receive and internalize the Divine callings reverberating from *Har Sinai*.

In line with our divine mission, Chazal constructed the daily blessing before learning and reading of the Torah by encapsulating this process in declaring that "Blessed are You, Hashem, our God, King of the universe, Who gave us the Torah of truth and '**implanted eternal life**' within us..." Put simply, by blessing Hashem for "implanting eternal life within us," we acknowledge that the revealed and hidden Torah are implanted within us at conception and that our daily Torah learning and performance of *mitzvos* helps us discover our eternal mission.<sup>38</sup>

37 [http://www.torchweb.org/torah\\_detail.php?id=488](http://www.torchweb.org/torah_detail.php?id=488), The Torch, November 2018

38 See *Shulchan Aruch*, *Orach Chaim* 139.



# Depth by a Thousand Cuts

MEIR NEMETSKY



**T**he deepest of Torah truths are found everywhere. Even—or perhaps especially—at Florence’s famed Accademia, home of Michaelangelo’s David. I never cared for museums, but my wife does, so this past summer we made the pilgrimage. Accompanied on a walking tour of Florence by a professional tour guide, there would be an exterior stop at each point of interest followed by an overview of its historical significance. But all I could think was, “is this really worth \$200?” As soon as we arrived outside the Accademia, I asserted my position. “I saw the statue and it was impressive, but there are similar sculptures in museums around the world! What could possibly be so unique as to draw an infinite line and sellout crowd for weeks on end?” My tour guide turned to me and rolled her eyes. “If you want to appreciate great art, you have to see it through the eyes of its contemporaries. You need to tap into the context and worldview which birthed it. You need to try to view and appreciate it *in situ*.”

“Imagine” she continued, “the Roman empire—by far the most potent force of sophistication and power the world had ever seen—ruled for nearly a thousand continuous years. They controlled the Mediterranean and all the territory on its banks. They brought unparalleled technology, culture, stability, architecture, and central authority to somewhere between a quarter and 40% of what was then the world’s population. Picture this entity as a thin pane of glass as wide and long as you could possibly hold...and then imagine it thrust full force at the ground—in a moment fracturing it into a score of tiny shards. Gone were stability, technology, medicine, philosophy, architecture and running water. In their place stood tribalism, warring factions, ignorance, disease, famine, starvation, and chaos. Try to envision for a moment that for next thousand years life was more difficult for these people than it was for every preceding generation in living memory. Relate to their despair knowing that the unyielding and seemingly invincible arc of human progress had not only abruptly ceased, but completely reversed into a bleak, regressive cycle. These

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people were essentially hopeless.

“Rationally, they should have despaired. With no promise of a better future for which to endeavor, and more likely the continued erosion of life expectancy and living conditions, for what would they strive? They lived in a world they understood more poorly than their forbears, and yet refused to lose heart. Quite the contrary—in an upside-down world they accepted their reality, and somehow embraced it. For the next thousand years the Christian Europeans stubbornly held on, imparting to each subsequent generation their belief system and way of life. Western Civilization’s trove of medieval architectural and artistic productions is both the product and proof of their perseverance. The ubiquitous Gothic Cathedrals that rise from nearly every medieval metropolis to village were built in titanic proportion to make their gaping admirers feel small. Their sharply pointed spires pierced the clouds to draw the eyes heavenward, and their frescoes of judgement day featured demons and gargoyles stoking fear in the hearts of all who eyed them. Their message was passionate and unmistakable: this world is one in which justice is seemingly absent. We do not understand why we suffer, and we may never—in this lifetime. But there is a bigger picture, a grander scheme. And we believe in reward, punishment, and justice even if we cannot see them. It is therefore incumbent upon each of us to set aside our worst fears in the effort to live up to our creed.

“Likewise, this period produced countless statues of David—all of them as a youth, preparing to face the dreaded giant. He too had no reason to believe he would survive. By all rational accounts he was scrawny and outmatched. But sometimes armed with nothing more than belief we are reluctantly cast into battle and must choose to survive by faith or perish. The artistic geniuses who produced these childhood Davids captured the determined spirit of their day and in doing so stoked the convictions of their generations to carry on.

“With the dawn of the Renaissance came the reemergence of human confidence and creativity known as Humanism—the belief that as people we had the intellectual capacity and ability to carry out some meaningful mission. People began to push back on earth’s natural predation of human survival and started to harness the hostile forces of nature to develop science. They returned to philosophy and architecture, rebuilt the ancient aqueducts restoring running water to millions of people, pondered and implemented better government, and mastered human anatomy to invent modern medicine. In that moment an explosion of human confidence and ingenuity erupted, and all of the major advances that followed—the Reformation, the Scientific Revolution, the Enlightenment, the Industrial Revolution, and the Tech boom—are



its continuing reverberations to this very day.

“In this historical context it is obvious that Michelangelo’s portrayal of David as an adult was a complete divergence with orthodoxy, but it was also much more than that. The artist peered into the soul of his generation and expressed the nascent yet unspoken ethos of his era. ‘We have survived our vulnerable age of tenderness, but we have arrived. And now, as the next generation, we are ready to step forward and brave the world, *our world*. Gone are the youths upon whom the forces of nature act, replaced by men who self-author destiny.’

I cannot overstate how profoundly this rebuttal impacted me—I was stunned. I thanked this woman profusely and celebrated it as the \$200 answer (which puzzled her). In explaining this singular historical event she also imparted a perspective with which to understand the perspective of centuries gone by. Hindsight preconceives destiny; in doing so it disregards the uncertainty of the journey that preceded it. To relate to the accomplishment, one must first embrace the predicament. Excited by this realization, I had only one further question. “How is it then, that these people performed the ultimate transformation? How were they able to make this transition from a thousand years of victimhood to the confident and autonomous initiative of Renaissance? She paused, and after reflecting for a moment, she turned to me. “That unanswerable question is the reason people flock here from all over the globe. It itself is the miracle of the Renaissance.”

On this point I knew she could not be more wrong. I was adamant...even indignant. Lacking a point of reference from which to begin to draw a response, I was in no position to stake out my ground. But of one thing I was certain. Greatness is not produced *ex nihilo*. The relentless perseverance of the generations that bore the Renaissance was not merely the inconsequential bridge between two eras of unrivaled human progress. The people of the Dark Ages sacrificed endlessly to preserve and relay their faith. Any interpretation lacking a direct correlation between what they sacrificed and what they ultimately produced was tantamount to arrogant dismissal. I would find be forced to find my answer elsewhere.

For days I mentally replayed our dialogue in search of an explanation. As it happens, I recalled reading Rabbi Akiva Tatz’s book “Living Inspired” years prior. The thesis of this book was simple but fundamental. All human progress follows a three-stage process commencing with inspiration—an inexplicable untraceable revelation in which an idea materializes from nowhere, followed by persistence in which the first stage is challenged by real-world obstacles and deemed worthy or unworthy by its ability to endure, and finally arrival—the culminating achievement which

tangibly manifests the initial vision of inspiration. This formula is more axiomatic than theoretical, as any experienced individual will attest. Powerful, though hardly his most revelatory point, it is one of those truths that is self-evident, yet worthy of articulation, because its conscious acknowledgement is self-fulfilling. Rabbi Tatz's most striking insight was not his formula, however, but what takes place immediately following the cycle's completion. While both the fleeting moment of inspiration and the lengthy laboring period that follow are goal centered and therefore completely focused on the third stage—namely accomplishment—once safely procured, the glow of climactic achievement gradually fades as retrospection sets in. The glory of the accomplishment itself has hardly the lasting power it was originally conceived to behold. In a deeply counterintuitive stroke Rabbi Tatz reveals a hidden truth in human nature: it is not the elusive goal that we end up treasuring, but the harrowing journey formerly perceived at best as a logistical problem and at worst a dreaded obstacle that interminably remains.

At around the same time I read “Living Inspired”, it was becoming prevalent in my religious seminary to purchase and use the “Pathway to Prayer” English interlinear translation for high holiday services. Paying attention for the first time to the meaning of words I had uttered yearly for as long as I could remember, I came upon a confounding verse. “So says the Master of all: ‘I remember the kindness that you did with Me in your youth when you left Egypt and the love at Mount Sinai, that you went after My messengers [Moses and Aaron] into a desert, in a desolate terrain.’” (*Yirmiyahu* 2:2) In this delicate moment of judgement and prayer, the Jewish people beseech God that for lack of personal merit, He recall an episode highlighting our nation's dedication to Him in which we cast aside our rational fears and entered the desert with nothing more than faith.

On its surface the passage is moving, but upon deeper reflection it appears devoid of context. The Jewish people were forcibly enslaved under back-breaking and spirit-crushing physical labor for over two hundred years. Quarantined, tortured, maligned, and abused, their infants were brutally crushed between bricks as mortar, and their sons deliberately drowned in the Nile. In a sudden unprecedented burst of supernatural power, the most robust civilization and dominant empire the world had ever known was brought to its knees. Incomprehensible forces crushed the oppressor in plain sight and in a massive exodus they walked out—an entire people—unscathed. Enraged, the Egyptian military pursued their harried victims and cornered them at the Red Sea. The stage for a decision was set, and it is this binary ultimatum to which the prayer alludes: surrender and return to victimization at the hands of Egyptian

despotism or continue under God's transcendent all-powerful protection that had just liberated them in awe-inspiring fashion.

In what capacity was this a choice at all? More than just a weak basis to request mercy, it appears a brazen and audacious attempt at revisionist history. On the day of judgement, with everything in the balance and when all else fails, this is the redeeming feat of the Jewish People? That we chose divine protection over continued persecution is our finest redeeming quality? For fifteen continuous years after reading the translation, each time I uttered the words they increasingly disturbed me, but to my knowledge nowhere else was this questioned raised let alone addressed.

Recently, I read a self-help novel by the now controversial (and therefore bestselling) author Jordan Peterson titled "*12 Rules for Life*." Therein, the author devotes a chapter to change and articulates a striking perplexity. There are countless people experiencing difficulty at the hands of addiction, dysfunctional relationships, or one of many other sources of unhappiness. Most appear paralyzed to make meaningful, lasting change, instead remaining mired in the failed status quo. Why do they remain passive? Often any attempt—including a failed one—would almost inevitably yield an improvement. They have nothing to lose and everything to gain, yet for some reason they resist change. Why?

Peterson, who admits to ambiguous religious identification, selects our Biblical narrative to tackle this question with a question of his own. If God Himself performed open miracles in extracting the Jewish people from Egypt, could He not also have deposited them directly at the foot of the mountain? Was He compelled to subject them to desperation at the banks of the sea and force them to wander the perilous desert? Rather says Peterson, before there could be a chosen nation, first its people would have to choose. It is undeniable that the Jewish people suffered immeasurably under Egypt; they were assuredly tortured beyond comprehension and mercilessly murdered at the hands of their slave masters—but they endured. And they were all too aware they didn't merely survive; under duress they had successfully safeguarded their national identity and ideology. They conserved their culture in native language and purity of speech, they preserved their practice of modest garb, and most importantly they fervently maintained their purity of moral standards. For two hundred and ten years they persisted.

Now consider the emotional state of the displaced masses at the water's edge, trapped between a hostile military and impassable terrain. Imagine, after two centuries of difficult but uninterrupted cohesion, betting everything on the supernatural. What if they consented to enter the desert and ultimately sinned? What if they failed to

remain worthy in the eyes of God? The safety in knowing that they had survived to this point was the *only* thing they had, making it all the more precious! This test for the fledgling Jewish nation was intended to indelibly imprint a universal truth on the human psyche for all time: to make the journey from an imperfect present to an improved future requires the fortitude to confront the dangers of the unknown. The selection of a barren wasteland to teach this metaphor is exquisite in its precision, because in between the safety of familiarity at the point of embarkation, and the comfort of having arrived once the destination is reached, one must cross a chasmal abyss—a dangerous vacuum which lacks the comforts of either. Peterson manages to state this point in with even more morbid gravity. “For something new to live within, something old first must die.” More than anything else, change demands courage; it is the undeniable prerequisite to progress. Thus, it is the mandatory vehicle of achievement, it is how nations are formed, and it is how the dependence of boyhood willingly self-destructs and—out of its own remnants—reconstructs the autonomy of manhood.

From where did the fleeing Jewish refugees derive such courage? Under those circumstances, the instinctive drive for survival was almost certainly all-consuming. For it to have even been a choice at all first that courage had to be developed by something more powerful. The preservation of their language, garb, and bloodline in Egypt was hardly for its own sake. That sacrifice was itself evidence of a belief in something worth enduring the pain for moment by moment, and though at first unbeknownst to them, the longer they held to this belief in the face of the impossible, the more gradually resolute their inner strength became.

And therein lies the answer to the “unanswerable question”. After a thousand years of backwardness, from where did the Medieval Europeans summon this belief in “Humanism” such that they could produce perhaps the most prolific period of advancement in human history? Like the enslaved Jews, we find that the ancestors of the Renaissance had nearly nothing other than faith and desperately held to it. Where reason failed to justify their terrible quest for survival rather than despair, they held on. The thousand years of commitment to their belief didn’t weaken their spirit. On the contrary, with every passing moment of faith they fortified their belief in themselves and their capacity to endure. What is classically misperceived as one thousand years of slowly inching closer and closer to the breaking point was actually a thousand years of steady character-forging distance between destruction and salvation.

Michelangelo intuitively understood this when he produced his masterpiece.

David was no longer a pawn, a mere conduit through which God's miracle was delivered. He was a fully grown and completely changed fighter ready to meet Goliath in violent confrontation. But more importantly, he was also the very same individual who was previously lost in darkness. Unlike my tour guide would have it, just as David's musculature was not so much a break from the orthodoxy that portrayed him as a child as it was the next stage on the continuum of his multifaceted growth, so too the geniuses of the Renaissance were the fully developed versions of their evolving predecessors much more so than a new breed of man.

Humanism, though certainly more optimistic, is no more or less spiritual than the Gothic philosophy that bore it, because alone they each embody an attitude towards the human condition. One is a resignation to fear of human frailty, the other a love of human potential. But each resides on the same continuum of self-perception and left unchecked by the other is subject to equal but opposite dangers. In their purest forms, fear without love is paralyzing, and love without fear is overwhelming. Fear is reverent; love is presumptuous. Fear is chaste and love indulgent. Thus, we hang in the perpetual balance of these two opposite empowering and dangerous forces. How do we reconcile them as it relates to self-perception? Faith is the consummate equalizer. In the face of fear, it is closeness with the divine that arouses and propels us with meaning. Where self-affection portends to engulf, it is reverence for authority that corrects our course.

Thus, we can explain why the Renaissance was the most prolific era of human ingenuity for all time and is inasmuch considered to be the father of all of the great periods of advancement that followed. Naturally, it is the most difficult periods that instill the most influential and lasting faith, and with it the principled living that nurtures self-worth. Having arrived at that point, however, the dangers of self-affection arise, making us susceptible to the notion that we are the root cause and source of this worth. The further in time and memory one travels from the period that produced faith, the more alluring this self-absorption becomes. History is rife with the ruins of great men and empires that have fallen prey to this trap. As such, at precisely the contact point between fear and confidence following the struggle which produced faith that its balancing effect is most potent. The great periods of advancement that came centuries after the Renaissance certainly possessed characteristics of that original moment, but at what cost? Anything less than a thousand years of struggle could only be a mere shadow of the Renaissance.

This too would explain why in our most vulnerable spiritual moment we cite the choice to follow God into the desert as our crowning and most cherished

achievement, and why that moment in particular merited the single episode of mass revelation in world history. There are multiple instances in our storied history which represent extraordinary faith-based courage in our celebrated past, but in none of these instances was as intense a struggle so immediately paired with the transition from fear to the realization of divine love. By that measure no other moment could produce as true a faith as the one that merited us to be his chosen nation.

It is evident from the sculpture itself that Michelangelo knew and sought to convey all of these themes within this one great work. As David contemplates the impossible task of facing Goliath, a confluence of conflicting emotion plays out. Michelangelo portrayed the new love of human potential and powerful autonomous strength in David's muscular frame. He depicted the still present but age-old fears of human frailty in David's apprehensive facial expression. But in the balance of those two overwhelming opposing forces, how could he explain David's choice to confront and pursue the ensuing battle? How would he sculpt faith itself? How could he carve a man's heart on the outside of his body? He didn't have to. Those who lived it could already see it—*in situ*.

# Is *Teshuva* Possible?

ROBERT MILLMAN



**E**lul is upon us and the Yomim Noraim will be here in but a few weeks. We know that Elul begins the annual *teshuva* process, the method by which we endeavor to erase our improper actions through the classic four step process known to us all :

1. Discontinuance of the commission of the sinful act.
2. Sincere regret in performing your wrong action (a genuine shame and embarrassment of the sin.
3. Acceptance for the future of a resolve in your heart to never commit the sin again.
4. Orally confessing before Hashem that you have sinned, regret doing so, and declaring that you will never do so again.

What follows are two powerful Holocaust stories, including one with a short story following the story itself. In the context of the classic description of *teshuva* defined above, I ask you the following question: How is it possible for the “sinner” in the following stories to effectuate *teshuva*? I admit that I have not been able to answer my question. Perhaps you will be able to do so.

## **Lieutenant Birnbaum<sup>1</sup>**

The following first-person account is taken from the introduction to the book, *Lieutenant Birnbaum*, by Meyer Birnbaum:

I will never forget the haunted look on the face of that 16-year-old boy. It was my first taste of the concentration camps. Piled at the entrance to Ohrdruff, an annex to Buchenwald, were dead bodies left by the retreating Germans. Many of the bodies were warm, the blood still flowing from machine-gun holes. I began searching for any

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<sup>1</sup> Reproduced from “*Lieutenant Birnbaum*” by Meyer Birnbaum with permission of the copyright holders, ArtScroll / Mesorah Publications, Ltd.

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Jews who had escaped the final spasm of hatred of the defeated Nazis, and found two in the typhus ward.

Lying on bare wood slats were a Polish Jew, who was between 30 and 35 years old, and a 16-year-old Hungarian boy. The two were barely able to move, though the older man was in better shape than his younger companion. They had been far too sick to respond to the order to gather in the courtyard, and had thus been spared the fate of their fellow prisoners.

In the camps, there was no point talking to fellow prisoners about loved ones lost – everyone had his own horror tales. But the sight of a Jew who had been spared such losses gave the two survivors an opportunity to share their pain. As they recalled their murdered families, they both broke into heaving sobs. Only their eyes remained dry. It was a phenomenon I would notice frequently over the next month. These Jews had cried so much that the wellsprings of their tears had actually run dry.

After about fifteen minutes of sobbing, the boy suddenly looked at me and asked whether I could teach him how to do *teshuva*. I was taken aback by his question and tried to comfort him.

“After the *Gehinnom* you’ve been through,” I said, “you don’t have to worry about doing *teshuva*. Your slate is clean. You’re alive, and you have to get hold of yourself and stop worrying about doing *teshuva*.”

But my words had no effect. I could not convince him. He kept insisting: “*Ich will tun teshuva* – I want to do *teshuva*. *Ich muz tun teshuva* – I must do *teshuva*.”

Finally, I asked him, why must you do *teshuva*?,” in the hope that talking would enable him to let go of some of the pain I saw in his eyes.

He pointed out the window and asked me if I saw the gallows. Satisfied that I did, he began his story, which the Polish Jew subsequently confirmed in every detail.

“Two months ago, one of the prisoners escaped. No one even knew whether he was a Jew or not. We were so caught up in our own survival that we didn’t bother to find out the name of the person on the next bunk, much less anything else about him.

“The guards realized at roll call that one of the prisoners was missing but had no way of knowing who he was, since roll call was by number, not by name. The camp commandant was furious about the escape and demanded to know the identity of the escaped prisoner. No one could provide him with the information he was seeking.”

At this point in the boy’s narrative, his companion interjected that sometimes the prisoners knew the first name of the worker next to them, but most of the time they just concentrated on conserving their strength and speaking as little as possible. Even the effort required to say a few words could leave one exhausted. I tried to



imagine being so tired that even speaking would be beyond my physical capacity.

"In his fury," continued the boy, "the commandant decided to play a sadistic game with us. He demanded that any pairs of brothers, or fathers and sons, step forward. We were terrified of what he would do if we did not comply, so my father and I stepped forward. They placed my father on a stool under those gallows and tied a noose around his neck. Once the noose was around my father's neck, the commandant cocked his leg and placed it at my temple, and hissed, 'If either you or your father doesn't tell me who escaped you are going to kick that stool out from under your father.'

"I looked at my father and told him, '*Zorg zich nisht* – Don't worry. Father, I won't do it.' But my father answered me, 'My son, you have to do it. He's got a gun to your head and he's going to kill you if you don't, and then he'll kick the chair out from under me and we'll both be gone. This way, at least there's a chance you'll survive. But if you don't, we'll both be killed.'

"*Tatte, nein, ich vell dos nisht tun* – Father, no, I will not do it. *Ich hub nisht, fargessen kibbud av* – I didn't forget about the mitzva of *kibbud av*."

Instead of being comforted by my words, my father suddenly screamed at me, 'I'm ordering you to kick that stool. That is your father's command.'

"*Nein, Tatte, nein* – No, father, no."

"But my father only got angrier, knowing that if I didn't obey, he would see his son murdered in front of him. 'You talk about *kibbud av*,' he shouted. 'This is your father's last order to you. Listen to me! Kick the chair!'

"I was so frightened and confused after hearing my father scream that I kicked the chair and watched as my father's neck snapped in the noose."

His story over, the boy looked at me, his eyes still dry, even as my own tears flowed freely, and asked, "Now, you tell me. Do I have to do *teshuva*?"

As we are well aware, this child was very much the oppressed, not the one inflicting pain. And, as the Klausenberger Rebbe so eloquently conveyed in the following story, that is what makes us the *am hanivchar*.

In the Mehlendorf concentration camp, the Klausenberger Rebbe was once beaten by a Nazi guard. As the guard held up his metal truncheon and prepared to apply another blow to the bruised and bloodied body of the Rebbe, he taunted and mocked him. "*Rabbiner*, do you still believe that you are the chosen people?"

The Rebbe looked up at him defiantly and, with blazing eyes, he retorted, "As long as you are inflicting the pain and we are being beaten, we are still chosen. But if we were to ever hurt others, I would wonder..."

## A Rebbe's Confession<sup>2</sup>

Evening was falling. In another few minutes would be Yom Kippur, the holiest day of the year, and the large room was filled to capacity.

But an unearthly silence filled the synagogue. No one seemed to move. The congregants either looked down at the floor, or straight ahead, as though they were more dead than alive, like some sort of strange black and gray picture.

The year was 1945 just after the war. The place: a refugee camp somewhere in Germany. Jews just out of concentration camps had gathered in a barracks-turned-synagogue to pray.

The unanimously chosen “rabbi” of this one-time congregation was none other than the famous Klausenburger Rebbe, Rabbi Yekusiel Yehuda Halberstam. His holiness and erudition were unquestionable, but even more amazing, he had retained his sanity after losing his wife and eleven children to the Nazis.

The “congregation” was composed of all sorts of Jews. From traditionally orthodox, to those that had never been in a synagogue before. But they all had one thing in common. No one but them could possibly understand what they had been through.

Slowly the cantor began singing, and the congregation followed. There was much genuine weeping that night, until they got to the confession prayer called “*Al Chait*” where we request forgiveness for the sins we did with our eyes, our hands, through brazenness, through callousness, and so on.

Suddenly one of the congregants stood up and stamped his foot. “No!!” He screamed “No!”

Everyone turned and looked at him. One or two tried to gently calm him down. “No!” he looked at them and yelled.

“What? I should ask forgiveness to God for sins I did with my eyes or my hands?

“These eyes saw my own children killed! These hands had no time to sin, they had to work for those German devils day and night!

“What? I was brazen?! I didn’t dare lift my head for three years! I was callous? I gave my last piece of bread to people I didn’t know!

“No! No! If anyone has to ask for forgiveness, it is God. God should ask *us* for forgiveness! He gave the Nazis eyes to see and hands to torture, and brazenness and callousness to rape and kill. So let Him ask forgiveness from us!”

The room fell silent again, and all eyes filled with tears and turned to the

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Klausenberger Rebbe. What would he say?

After several seconds of awful silence, the Rebbe cleared his throat and said:

“You... are... right...”

And everyone burst out in uncontrollable weeping. Men fell to their knees, and others just put their faces in their hands and wept and wept and wept.

After the crying had subsided and the room fell quiet once again, the Rebbe continued where he had left off.

“But I want to tell you why I did ask God for forgiveness today.

“In our camp the guards used to amuse themselves every morning by playing a sadistic game. They would line us up and pick five inmates. These unfortunate souls would be forced to carry a load of bricks up a steep flight of stairs in front of everyone. If one brick would fall, they would add another two in its place, and if the prisoner himself fell, they would slowly torture him to death before our eyes.

“So it was every morning. True, the rest of the day wasn’t much better. It was unbearably cold, our clothes were infested with lice, and we were given almost nothing to eat. Everyone was sick, and prisoners were dying like flies. But the worst and most humiliating was that morning ordeal.

“It got to the point that the prayer each of us said before we went to sleep was: ‘God, merciful God, please let me die in my sleep. Please don’t let me wake up tomorrow morning.’ And I used to say it too.

“That is what I just asked forgiveness for. That is the sin I confessed to this Yom Kippur.

“It never entered my mind that if I am going to pray, if I am going to ask God for something, I should ask Him to set me free! I forgot that there could be such a thing as being free....”

After several minutes the prayers resumed.

May we all in our lifetimes never have to face the challenges described above. May our *teshuva* of 5780 be sincere and accepted in *shamayim* and all of us be blessed with a sweet, healthy and prosperous new year.



# Sukkos



Rabbi David Mahler

Ariella Azizi

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# The Secret Message of the Sukkas Shalom: A *Halachic* Perspective

RABBI DAVID MAHLER



**A**m Yisrael is commanded to observe three festivals, the *Shalosh Regalim*, in *Yerushalayim* – Pesach, Shavuot and Sukkot. Though these three *chagim* are one unit, Sukkot and Pesach seem to share more similarities compared to Shavuot (i.e. length of holiday, multitude of *mitzvos*). The *gemara* in *Moed Katan* (20a) even presents an initial *halachic* explanation of a *pasuk* (*Amos 8:10*) that claims that “festivals” in Judaism are seven days. The *gemara* needs to later comment that Shavuot is also a *chag* yet it is only one day.

Though Pesach and Sukkot are linked in many ways, there is an aspect to their *halachic* observance that could not be farther apart. On Pesach there is a major stress on *chumra*, while with respect to the mitzva of *sukka*, there is much room for leniency. It almost seems as if a *rav*’s approach to answering questions on Sukkot is diametrically opposed to the way they respond on Pesach. While on Pesach a fidelity to the strictest possible standard is espoused, within the laws of building a *sukka* it is as if the most lenient approach is sought after. Why the difference?

There is an important concept that impacts all of *hilchos* Pesach – a standard known as *chumra d’Pesach* (stringencies of Pesach). The principle of *chumra d’Pesach* dictates that due to the extreme emphasis the Torah places on the *issurim* of *chametz* on Pesach, one must adopt a stringent attitude with respect to questions of *issur chametz*. This translates into many actual, practical *halachic* requirements, not strictly measures of optional *middas chasidus* (meticulous piety).

For example, although there is a general rule of *bitul b’shishim* in the regular laws of *hilchos kashrus*, this does not apply on Pesach (*Pesachim* 29b) due to the principle of *chumra d’Pesach* (Rashi). Therefore, if a minute particle of *chametz* becomes mixed into a large pot of *kasher l’Pesach* food, all the food is forbidden, even if the ratio of the

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Pesach food to the *chametz* is greater than sixty to one. The *halacha* is clear that even a bit of *chametz treifs* up the entire dish.

Furthermore, although throughout the year there is a rule that *stam keilim einam bnei yoman* (one can assume a vessel has not been used the last 24 hours unless he knows otherwise), this does not apply on Pesach due to the principle of *chumra d'Pesach*. Although throughout the year, pots with *bliyos* that are not from the last 24 hours may be permitted to be reused (ex-post facto), during Pesach there is no such leniency. Therefore, if a *chametz* pot or pan (unused for the last 24 hours) was mistakenly used during Pesach, the food may not be eaten. In this case, once again, while we may be lenient during the year, we are stringent with *chametz*.

In the realm of *minhagim*, *chumra d'Pesach* might apply in the observance of those who refrain from eating *gebrukts* as well.

According to most, the fact that consumption of *chametz* is punishable by *kares*, in addition to all that *chametz* represents in the world of *machshava*, *hashkafa* and *kaballa*, the *halacha* bends towards *chumra*.

However, when one takes a look at the laws which govern the building of a *sukka* – it seems as if *Chazal* allowed for much more *halachic* flexibility.

The ideal of a beautiful *sukka* one envisions dwelling in is often very different than the reality.

Though the *Chayei Adam* (146:3) writes that it is a *mitzva min hamuvchar* to construct a *sukka* of four complete walls, the *gemara* records that a *halacha l'Moshe miSinai* teaches that when constructed properly, two walls and an additional piece may suffice. Instead of a nice, complete four-walled *sukka*, two and a bit suffice.

Another *halacha l'Moshe miSinai* (*Sukka* 6b) teaches that two components separated by a gap of less than three *tefachim* are considered to be *levud*, connected. Therefore, if a wall is separated from the ground, another wall, or the *schach* by less than three *tefachim*, we overlook the gap and consider the wall to be connected to the other *sukka* component. The practice of many *Sefardim* is that one may create the walls of the *sukka* by placing several poles within three *tefachim* of each other. This is true whether the poles are placed horizontally or vertically.<sup>1</sup>

Further *halachic* flexibility is seen in the law which teaches that the walls of the

<sup>1</sup> The *Kaf Hachaim* 630:18 writes that one may create a *sukka* with three walls by placing poles within three *tefachim* of each other, either horizontally or vertically. *Chazon Ovadia* p. 5-6 agrees and thus allows building a *sukka* on a porch enclosed on three sides by bars with less than three *tefachim* space between them.



*sukka* do not have to reach the *schach* as long as they line up with the *schach* (*Sukka* 16a). Many people rely on this leniency when building *sukkot* using pre-existing walls. The *Ritva* suggests that this leniency relies on the principle of *gud asik mechitzta*.

Additionally, the *mishna* (17a) describes a case in which there is a hole in the middle of a house's roof. The person wishes to put *schach* over the hole and rely upon the walls of the house to function as the walls of the *sukka*. Part of the roof, however, still extends from the walls of the house until where the *schach* begins. The *mishna* teaches that if the existing roof is larger than *daled amos*, the walls of the house cannot be relied upon as walls of a *sukka*. However, if the part of the remaining roof is smaller than *daled amos*, then the *sukka* is valid. The *gemara* bases this upon the principle of *dofen akuma* (a bent wall). The law of *dofen akuma* allows for up to *daled amos* of invalid *schach* adjacent to a wall. The wall is considered curved and in direct contact with the valid *schach*. This is another principle of *halacha l'Moshe miSinai*.

Until this point, we have seen that there is a salient theme within *hilchos sukka* which almost seeks out leniencies and flexibility. The question we must address is why.

In his *Moadei Hareiyah*, Rav Kook writes that there is a clear association between *sukka* and *shalom*. Each night in *maariv* we state *ufros aleinu sukkas shlomecha*, spread on us the shelter of Your peace, while every Shabbos and Yom Tov night we conclude the second *bracha* following *Shma* with the line *hapores sukkas shalom aleinu*, Who spreads the shelter of peace upon us. What is the connection between *sukka* and *shalom*? Rav Kook draws on many of the *halachic* flexibilities and leniencies embedded in *hilchos sukka* to draw his conclusion.

Just as a *sukka* is *kasher* even with its imperfections, so too, peace is achieved only if we are willing to accept imperfections. Even though the *sukka* does not have the totality of its construction in reality, the *halachic* reality is created by simply having components of it. The same is true with *shalom*. If one's expectations of other people is that they will be perfect – they will have four complete walls, no gaps, no strings and nothing bent – then you will never reach the world of *shalom*. *Shalom* can only exist when people embrace the deficiencies and shortcomings of others. *Shalom* allows for the space that exists and fills it in an imaginary way in order to create a larger reality which transcends that which is in front of us. That is the secret to success in every relationship. Our expectations of others, our expectation of community, of our spouses, children, parents and friends, must allow for leniencies and flexibility in order to attain *shalom* and *achdus*.

May we all be blessed with Hashem spreading over us His very special *sukkas shalom*.



# Sukkos: Reaching for the Stars

ARIELLA AZIZI



**H**ave you ever thought about the Jewish calendar? That's quite a large spectrum. What about just the month of *Tishrei*? Think about it, we have an entire month, *Elul*, building up to Rosh Hashana which then feeds into Yom Kippur. These are the days when we spend most of our time in shul, recognizing Hashem's awesome Kingship, pleading forgiveness for the year elapsed, and desperately praying for goodness in the year to come. Then, we observe the Aseres Yemei Teshuva by continuing to search our souls for any faults that remain. Finally, these days of *teshuva* culminate in the awesome Yom Kippur, the day where we stand before Hashem as angels, entreating for our lives. The intensity of this day may be captured by a statement from Rabbi Yitzchak Hunter in his work, *Pachad Yitzchak*, where he states that while most *chagim* are partially for Hashem and partially for man, Yom Kippur is *kulo l'Hashem*, entirely for Hashem. While this statement is somewhat ambiguous, it allows us a glimpse into the importance of the day.

In light of the intense buildup to the *Yamin Noraim*, we may find it strange that once we end Yom Kippur, we hop right into the most joyous holiday of all, Sukkos. Now, we must ask ourselves, why, and even more so, how, do we follow the period of greatest fear and solemnity with the holiday of greatest joy? How are we meant to reconcile the sudden mood shift in our attempt to bridge one holiday to the next? Furthermore, why is Sukkos our time of greatest joy? Which practices specific to Sukkos engender such *simcha*?

## ***Simcha Resulting from Teshuva***

Following the *Yamin Noraim*, we may find that, as a result of experiencing a month of intense *teshuva* and judgement, we develop an increased sense of closeness to Hashem. This is caused, in part, by the profound effects of *teshuva* through which the individual is granted the unique opportunity to start anew from a clean slate regardless of his prior misdeeds. Thus, one who genuinely seeks forgiveness sheds

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the faulty pieces of his previous character as he adopts a new identity, so to speak. If done correctly, this realization should elicit a profound sense of *simcha*. In fact, we learn that when *Adam HaRishon* discovered the concept of *teshuva*, he rejoiced in song.<sup>1</sup> Thus, it appears that our *simcha* on the holiday of Sukkos is sourced in our repentance which precedes this *chag*.

### ***Simcha Resulting from Limiting Physicalities***

The next piece that contributes to our great *simcha* on Sukkos stems from our distancing ourselves from the *gashmi*, the physical. On Sukkos, we leave our comfortable homes and take shelter in temporary huts where, for seven days, we live with Hashem. Additionally, we read *Megillas Koheles* which emphasizes the mitigation of physicalities and promotes searching one's true self.<sup>2</sup> In this way, we decrease our attachment to the material in pursuit of something more meaningful. We learn that the physical and spiritual are at odds and therefore, the more one is submerged in physical pursuits, the less room he has for his spiritual ambitions. This practice of lessened attachment to the physical and heightened attachment to the spiritual elicits great *simcha*, as one clears the space for himself to connect to his true Godly essence, his *neshama*.

### ***Simcha Resulting from Heightened Attachment and Dedication to Hashem***

By limiting our materialism, we make room for greater spiritual pursuits. And this is where true *simcha* is found, at the point where one is able to achieve clarity and connection with something beyond oneself. After we decrease our dependence on the material, we open our hearts to turn to Hashem with greater conviction. Now we must note that Sukkos is not a holiday of asceticism for such is not a Jewish practice. Rather, we acknowledge that Hashem is our King and we are not reliant on anyone or anything other than Him, *ein od milvado*.<sup>3</sup> For this reason, the Zohar refers to the *sukka* as "the shade of faith."<sup>4</sup> Furthermore, the *gemara* in *Sukka* 37b cites Rabbi Yochanan who states that one of the reasons why we shake the *arba minim* is to acknowledge that it is our God who rules the entire world; the *shamayim* and the *aretz*, as signified by the various directions to which we direct our *arba minim*. Thus, on Sukkos, we seek to ingrain in ourselves the lesson that Hashem runs our world and everything that we have is sourced from Him. This is the period during which we are provided

<sup>1</sup> Bereishis Rabba 22

<sup>2</sup> Koheles 12:13 "Sof davar hakol nishma es Ha'Elokim yirah v'es mitzvosav shemor ki zeh kol ha'adam."

<sup>3</sup> Devarim 4:35

<sup>4</sup> Tzeila D'heminusa

the opportunity to develop our *emuna* and *bitachon*, faith and trust in Hashem.

Once we lessen our attachment to the physical, we must take our remaining physical pursuits, those which are vital to our existence, and dedicate them to Hashem. This is not to say that we must eradicate any trace of physicality; for, after all, God made us human. Rather, we must strive to use the physical that God has given us to uplift His world. The *Sifsei Chaim* brings Moshe Rabbeinu as an example of how to properly approach the *gashmi*. He writes:

שחלקו העליון, הרוחני שלט על חציו התחתון... שהעולם הזה שלו שימש אך ורק למילוי התפקידים הרוחניים המתחייבים מהיותו מחציו ולמעלה 'האלקים'.<sup>5</sup>  
*That his higher, exalted self, that of the spiritual, reigned over his lower self... That he used his material world solely for the fulfillment of the spiritual tasks that were incumbent upon him as a being whose higher self was Godly. This is how we should approach the physical, as a means of increasing our connection to Hashem and to the specialized role that He has delegated for each and every one of us.*

This idea may be understood further when we observe the festival that took place at the height of Sukkos, the *Simchas Beis Hashoeva*. In fact, the *gemara* states that whoever has not seen the *Simchas Beis Hashoeva* has never experienced joy in his life.<sup>6</sup> If we look deeper, past the exterior of musicians and jugglers, we may understand the profound depth of this event shrouded in a most unassuming veneer. We seem to find a lot of that in Judaism; events of unfathomable holiness hidden behind simple, unassuming veneers. And so it is here by the *Simchas Beis Hashoeva*. This ritual symbolizes total dedication to Hashem as symbolized by water, representative of life, which was poured onto the *mizbeach* in service of Hashem.<sup>7</sup>

### ***Simcha* Resulting from Achieving the Ultimate Individual Existence**

Another source for the *simcha* that we experience on Sukkos stems from the vision we are granted of our highest potential selves. After doing *teshuva*, we are, in a sense created anew. At this point, we are able to turn to any direction we wish and follow any path that our hearts desire. After all, if we internalize the idea of 'new year, new me,' we mustn't be chained by last year's habits. Thus, in our recreating ourselves, we

<sup>5</sup> *Sifsei Chaim*, *Shivisi Hashem L'negdi Samid vaad* 2 page 412

<sup>6</sup> *Sukka* Sa: "Mi shelo ra'ah *Simchas Beis Hashoeva* lo ra'ah *simcha b'yamav*."

<sup>7</sup> Information about *Simchas Beis Hashoeva* derived from Chabad.org

are guided to strive to achieve the highest existence of man, that of the *tzadik*. We find many references to *tzadikim* in our holiday of Sukkos. The *esrog*, in particular carries a primary hint to the *tzadik's* existence. This may be understood by the Torah's commandment regarding the *arba minim*. In *Vayikra* (23:40), the Torah states, "And you shall take for yourselves on the first day, the fruit of the *hadar* tree." Rashi explains this *passuk* by clarifying the identity of the '*hadar* tree'. He writes, "A tree whose bark has the same taste as its fruit." Interestingly, this description is also appropriate for the *tzadik*. This may be seen in the way in which a *tzadik* composes himself, where he is unified in his purpose. His 'bark', or the manner in which he engages in the mundane aspects of this world, is identical to what he seeks to produce in the next world. The *tzadik* is one who practices what he preaches, one who is the true embodiment of *tocho k'boro*.<sup>8</sup> Thus, in his unity of self, his wood does not deviate, in taste, from his fruit.

A further reference to the *tzadik* may be found in the *gemara* in *Sukka* 35a. In clarifying the meaning of the *pri etz hadar*, the *gemara* states:

בן עזאי אומר אל תקרי הדר אלא (אידור) שכן בלשון יווני קורין למים (אידור) ואיזו  
היא שגדל על כל מים היא אומר זה אתרוג.

*Ben Azzai says: Do not read it hadar, but rather read it idur, as in the Greek language one calls water idur. And which is the fruit that grows on the basis of all water sources? You must say it is an esrog.*<sup>9</sup>

Interestingly, Ben Azzai's words are reminiscent of those in *Tehillim* (1:3):

והיה כעץ שתול על פלגי מים אשר פריו יתן בעתו ועלהו לא יבול וכל אשר יעשה  
יצליח.

*He shall be as a tree planted beside rivulets of water, which brings forth its fruit in its season, and its leaves do not wilt; and whatever he does prospers.*<sup>10</sup>

The description of the *tzadik* in *Tehillim* teaches us that the *tzadik* can be moved through different environments, like we have moved through different exiles, while still retaining his identity. Even though he is transplanted from one area to the next, he does not allow the change in his surroundings affect his internal connection to what is true. So too, we must strive to mirror the *tzadik's* being by embodying this

<sup>8</sup> Yoma 72b

<sup>9</sup> Hebrew *gemara* text and translation from Sefaria.org

<sup>10</sup> Hebrew text and translation from Chabad.org

characteristic of *emes* whereupon our means in this world do not deviate from our ultimate goal, where we are Jewish through and through, not only in our fruit but also in our wood, and where our environment does not detract from our true potential.

### ***Simcha* Resulting from Achieving the Ultimate National Existence**

The final source for our *simcha* on Sukkos is rooted in the vision of our ultimate goal, the perfection of humanity. We find many texts that draw links between Sukkos and the time of *Mashiach*. Why is this so?

The relation between Sukkos and the time of *Mashiach* becomes clear when we understand that the time of *Mashiach* will be one of ultimate clarity and connection to Hashem. This theme is apparent in the words of the *navi* Amos, when he says, “On that day, I will raise up *Sukkas David hanofeles*, the fallen Tabernacle of David.”<sup>11</sup> It is interesting to note the terminology used whereby the *sukka* is attributed to David. The Malbim writes that upon the return of the kingdom of David, the Jewish people will be led to follow in the ways of Hashem. However, *Mashiach* will not arrive until the Jewish people yearn to serve Hashem by their own will. *Mashiach* ben David will be the one to promote the mass return to Hashem.

David, the last of the *Ushpizin*, is the symbol of *emuna*. David is unique in that his vision is one where, despite tremendous pain, he retains a clear vision of the ultimate truth. Even as his family neglects him, even as his son rebels against him, even as his father-in-law seeks to kill him, David maintains *emuna*. On Sukkos, as we prepare to endure the birth pangs of *Mashiach*, we must take the message from David. At this point, the prophecy of Amos will be complete when Hashem will move us from our temporary *sukka* to a permanent Temple. Thus, it seems that our *sukka* is the preparatory phase for us to build our connection to Hashem so that we may merit to see the final *geula* and the arrival of *Mashiach*.

Only once we link all of the disparate pieces of the holiday of Sukkos can we understand the role of each piece in drawing us closer to our ultimate individual and national existence. When we follow the order of Sukkos, beginning with self-renewal and ending with the discovery of our ultimate identity, we can achieve true *simcha*. *Be’ezras Hashem*, as we sit under the stars this year, may we be compelled to truly connect with Hashem and ultimately, find a point where we may realize our highest selves.

<sup>11</sup> Amos 9:11. Hebrew text and translation from Chabad.org





# These Sukkos: Why Do We Build Them?

YAAKOV RICH



**T**he mitzva of *sukka* is one of only a few *mitzvos* in the Torah for which the reason is explicitly given alongside it.

בסכת תשבו שבעת ימים כל האזרח בישראל ישבו בסכת. למען ידעו דרתיכם כי בסכות הושבתי את בני ישראל בהוציא אותם מארץ מצרים אני ה' אלקיכם.

*You shall dwell in sukkos for seven days; all citizens of Israel shall dwell in sukkos. So that your generations will know that I settled Bnei Yisrael in sukkos when I took them out from Egypt; I am Hashem your God.*  
(Vayikra 23:42-43)

The mitzva of living in a *sukka* is meant to be a reminder of a historical event, something that happened when the Jews were leaving Egypt. But what happened? Rashi here gives us a two-word comment: “*ananei kavod*,” clouds of glory. He is referring of course to the clouds which led the Jews from place to place throughout their journeys between Egypt and the land of Canaan. As we know, Rashi is citing one opinion in a disagreement between two *tannaim* famously quoted in the *Talmud Bavli* in *Maseches Sukka* (11b).

כי בסוכות הושבתי את בני ישראל – ענני כבוד היו דברי ר' אליעזר. ר' עומר סוכות ממש עשו להם.

*“That I settled Bnei Yisrael in sukkos” – these were the clouds of glory, so says Rabbi Eliezer. Rabbi Akiva says: They made themselves physical huts.*

The implicit problem that this *braisa* is addressing is that although the *pasuk* we quoted above references the “*sukkos*” in which *Bnei Yisrael* lived, it's not obvious what

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that is referring to. After they leave Egypt, the Jews seem to always be described as living in *ohalim*, which ostensibly are not the same as *sukkos*.<sup>1</sup> To this, the approach of the first *tanna* in this *braisa* – which Rashi follows – is that the “*sukkos*” in the *pasuk* refer to the well-known *ananei hakavod*. The second *tanna*, on the other hand, posits that the Jews did indeed build physical huts, which we commemorate by building similar structures for ourselves.

One thing that the above *braisa* does not address is when this event that they are arguing about happened. When was the event with the clouds of glory or the huts that we are commemorating? The *pasuk* says “*b’hotzi’i osam me-eretz Mitzrayim*” – “when I took them from the land of Egypt”, but was it precisely then? Again, we look to Rashi, this time in the *gemara*:

ענני כבוד היו: סוכות שאמר הכתוב שהשיבם במדבר.

*These were the clouds of glory – The “sukkos” to which the verse refers, in which He settled them in the desert.* (Rashi, Sukka 11b)

Usually, “in the *midbar*” refers to the forty-year journey starting from after the Jews crossed the *Yam Suf* until they crossed the Jordan River into Canaan.<sup>2</sup> Rashi here implies that when we sit in *sukkos* we are commemorating something that happened over the course of that forty year period. The commentary of Ibn Ezra on the *pasuk* is even more specific.

כי בסכות – שהיו עושים אחר שעברו ים סוף סוכות ואף כי במדבר סיני שעמדו שם קרוב משנה וכן מנהג כל המחנות והנה גם זה המועד זכר ליציאת מצרים. ואם ישאל שואל למה בתשרי זאת המצוה יש להשיב כי ענן ה' היה על המחנה יומם והשמש לא יכם ומימות תשרי החלו לעשות סוכות בעבור הקור.

*That in Sukkos: They [the Jewish People] would make huts **after they crossed the Red Sea**, even in the Sinai desert, where they remained for more than one year, as this was the practice of encampments in general. And this holiday is also a commemoration of the Exodus. And if one will ask: why is this mitzva commanded to be performed in Tishrei? We can answer:*

1 Many have already noted that whenever the encampment of the Jews in the desert is described, the term *sukkos* is never used. This includes the famous line of Bilaam: “how pleasant are your tents (*ohalecha*) ...”, and many others.

2 This is implied by *Bamidbar* 33:8:

ויסעו מפני החירת ויעברו בתוך הים המדברה...

However, this is not really an exact rule, and the term “*midbar*” is often used to refer to the travels from Egypt to Canaan in general and any point in between.

*Because the cloud of God was protecting them from the sun, but beginning in Tishrei is when they had to begin to build huts to protect them from the cold.*

Ibn Ezra is following the approach that the *pasuk* refers to actual huts, but he specifies that this was done in the *midbar* beginning when the weather began to turn cold, since they would need protection from the elements. The opinion of most *rishonim* on the *pasuk*<sup>3</sup> and on the interpretation thereof by the *tannaim* seems to be that we sit in *sukkos* to commemorate some phenomenon that occurred – either miraculous clouds or physical huts – over the course of a forty-year desert journey.<sup>4</sup>

It's fair to say that according to this understanding, the phrase "*b'hotzi'i osam me-eretz Mitzrayim*" is *lav davka* – it's not precise. The *sukka* is not something like *korban pesach* or *achilas matza* which recalls something which happened literally at the point of the Exodus, but rather it means "over the course of time after I took them out of Egypt."<sup>5</sup> However, more recently, a different interpretation of the *pasuk* has been expressed by some commentators which takes "*b'hotzi'i osam me-eretz Mitzrayim*" more literally, as something which happened precisely as the Jewish people were leaving Egypt. Let's take a look, for example, at the words of Rabbi Tzadok HaKohen of Lublin in his *Pri Tzadik*.

ובוודאי המכוון הוא על החניה הראשונה שנא' מרעמסס סכותה וגם ש"נ ויאפו את הבצק עוגות מצות כי לא חמץ וכפירש"י ז"ל שק"ך מילין הי' והלכו באותו יום לפי שעה ושם עשו להם סוכות.

*The intention [of the verse "That I settled them in sukkos"] is certainly a reference to the first encampment, as it says "[They traveled] from Raamses to Sukkos." And there too it says "They baked the dough which they had brought from Egypt, unleavened loaves, since they had not leavened." So*

3 One exception to this is the "*yesh mefarshim*" quoted by Rav Eliezer of Worms – one of the *Baalei Hatosafos* – in *Sefer HaRokeach*. According to him, some hold that the *sukkos* of the *pasuk* are actually referring to the end of the forty year journey, when the Jewish people waged war with Sichon and Og, and then subsequently with sections of Canaan under the leadership of Yehoshua, during which time they lived in temporary huts. See there for more details (*Hilchos Sukka* 219; p. 117 in the Schneerson edition, 1967). See note 26 below as well.

4 Throughout this article, I will refer to this approach – that the *sukka* is a remembrance of the desert experience – as the approach of Rashi and of the *rishonim*. However, this approach is older than Rashi and can be found in the writings of the *geonim* as well.

5 This sort of usage of that language is not unheard of. As an example, the *pasuk* in *Devarim* 23:5:

על דבר אשר לא קדמו אתכם בלחם ובמים בדרך בצאתכם ממצרים...

This does not refer to the actual time of *Yetzias Mitzrayim*, but rather many years later before they entered the land of Canaan.

*too Rashi explains there that it [the town of Sukkos] was 120 miles away and yet they traveled there in a short time. It was there that they made these sukkos. (Pri Tzadik, Sukkos 13)*

According to this interpretation, “*sukkos*” in our *pasuk* is a reference to a place called *Sukkos* to which the Jews went immediately in their hasty exit from Egypt. Following this *pshat*, the phrase “*b’hotzi’i osam me-eret Mitzrayim*” is indeed to be taken literally; this actually happened as the people left Mitzrayim. Rav David Tzvi Hoffmann, in his *peirush* to *Vayikra*, also takes this approach, and he claims that this interpretation is actually better supported by *Chazal*.

What I’d like to do in this article is to take a step back and look at the sources in *Chazal* to which Rav Hoffmann is referring, to see if we can understand how the *tannaim* understood our *pasuk*. We can then compare the former approach of Rashi and the *rishonim*, and see if it too is supported by those sources of *Chazal*.<sup>6</sup>

### The Origin of the *Machlokes*

Let’s start by taking a moment to look at the *pesukim* which describe the experience of the actual exit from Egypt – the literal *Yetzias Mitzrayim*. For context, the last plague of *Makkas Bechoros* had just occurred. Pharaoh rose in the middle of the night to tell Moshe and Aharon to gather the people, along with everything they need, to go serve Hashem outside of Egypt like they had asked. The Egyptians also urged the people to leave, and lent them all sorts of nice things to take with them. The Jews also took their unrisen dough and their kneading bowls. Then the *pesukim* continue:

ויסעו בני ישראל מרעמסס סכתה כשש מאות אלף רגלי הגברים לבד מטף. וגם ערב רב עלה אתם וצאן ובקר מקנה כבד מאד. ויאפו את-הבצק אשר הוציאו ממצרים עגת מצות כי לא חמץ כי גרשו ממצרים ולא יכלו להתמהמה וגם צדה לא עשו להם. ומושב בני ישראל אשר ישבו במצרים שלשים שנה וארבע מאות שנה. ויהי מקץ שלשים שנה וארבע מאות שנה ויהי בעצם היום הזה יצאו כל צבאות ה’ מארץ מצרים. ליל שמרים הוא לה’ להוציאם מארץ מצרים הוא הלילה הזה לה’ שמרים לכל בני ישראל לדרתם.

*Bnei Yisrael traveled from Raamses to Sukkos, around six hundred thousand men besides for children. And a mixed crowd also ascended with them, and sheep and cattle, very many livestock. They baked the dough which they had brought from Egypt, unleavened loaves, since they had not*

<sup>6</sup> I’d like to thank Jordan Lurie, who, around one year ago, discussed this idea with me and inspired me to look into this issue in more depth.

leavened; because they were expelled from Egypt and were not able to wait, and they had not made themselves any provisions. The settlement of Bnei Yisrael in Egypt lasted four hundred and thirty years. And it was after four hundred and thirty years, on this very day, all the ranks of Hashem left from Egypt. It is a dedicated night for Hashem to take them out from Egypt; that is this night for Hashem, dedicated for all Bnei Yisrael for their generations. (Shemos 12:37-42)

So, after four-hundred and thirty years of settlement in Egypt,<sup>7</sup> the *pesukim* tell us, finally the Jews left. They did this by travelling from Raamses, where presumably they all lived in or near to it, and travelled from there to a place called *Sukkos*, which would have been right outside or on the edge of Egypt.<sup>8</sup> It was there that they baked their famous *matza*, since they didn't have time for the bread to leaven. And it was there, as the *pesukim* continue, that Hashem tells Moshe and Aharon the laws of the *korban pesach* and gives them several *mitzvos*, including *peter rechem* and *tefillin*, which are intended to commemorate *Yetzias Mitzrayim*.

Now we can look at what the *tannaim* have to say in the *Mechilta* about the first *pasuk* above:

[ויסעו בני ישראל מרעמסס] סכתה – סכות ממש. דכתיב ויעקב נסע סכתה (בראשית לג) דברי רבי אליעזר. וחכמים אומרים, אין סכות אלא מקום. שנאמר ויסעו מסכות ויחנו באתם (במדבר לג), מה איתם מקום אף סכות מקום. רבי עקיבא אומר, אין סכות אלא ענני כבוד. שנאמר וברא ה' על מכון הר ציון ועל מקראיה ענן יומם ונוגה אש להבה לילה כי על כל כבוד חופה (ישעיה ד). אין לי אלא לשעבר, לעתיד לבא מנין – תלמוד לומר וסכה תהיה לצל יומם מחורב וגו', ואומר ופדויי ה' ישובון (שם לה). רבי נחמיה אומר, סכותה לפי שצריך למ"ד מתחלתו, נותן לו ה"א בסופו.

[And Bnei Yisrael traveled from Raamses] to Sukkos – Physical huts [sukkos]. As it is written “And Yaakov traveled to Sukkos” (Bereishis 33); so says Rabbi Eliezer. The Chachamim say, “Sukkos” is nothing but a place, as it says “They traveled from Sukkos and encamped in Etham” (Shemos

7 The timeline of the Egyptian subjugation is beyond the scope of this article. Rashi notes that the settlement in Egypt can only be counted to 210 years, and how to arrive at the figure of 430 is debated in the commentaries.

8 In the past century, scholars have tried to identify where this place may be located. Some have tried to identify it with places recorded with similar sounding names, but Egyptologists seem to have converged on the idea that it was near Tel-el Maskhuta, not far from the present-day city of Ismailia, Egypt. But there can be no certainty about this. See the Carta Bible Atlas by Y. Aharoni.

12 and Bamidbar 33). Just as Etham is a place, so too Sukkos is a place. Rabbi Akiva says, “sukkos” are nothing but the clouds of glory, as it says “And Hashem will create over the whole habitation of mount Zion, and over her assemblies, a cloud and smoke by day, and the shining of a flaming fire by night; for over all the glory shall be a canopy.” (Yeshayahu 4:5) From this I know only in the past; how do I know the future as well? It says, “And there shall be a sukka for shade during the day from the heat etc.” (4:6) Additionally it says, “And the captured of Hashem will return.”<sup>9</sup> (35:10) Rabbi Nechemia says, “To Sukkos [sukkos-ah]” – Since it requires a ‘lamed’ at the beginning of the word, it is given a ‘heh’ at its end.

The Mechilta records a *machlokes* about this place Sukkos where the Jewish People traveled to directly from Raamses in Egypt. Rabbi Eliezer<sup>10</sup> says “*sukkos mamash*”, this place was called Sukkos because they actually lived in huts, *sukkos*, there. He quotes the *pasuk* in Bereishis when Yaakov also travels to a place called Sukkos:

ויעקב נסע סכתה ויבן לו בית ולמקנהו עשה סכת על כן קרא שם המקום סכות.  
Yaakov traveled to Sukkos and built for himself a house; and for his livestock he made huts (*sukkos*), therefore he called the name of the place Sukkos. (Bereishis 33:17)

Rabbi Eliezer seems to be proposing, perhaps based on the very similar language between the start of this *pasuk* and the one in *Shemos*, that in *Shemos* the name of the place was Sukkos **because** *Bnei Yisrael* went there and built huts.

Rabbi Akiva, on the other hand, doesn’t see the name of the place as literally conveying huts that were built there. Rather, Rabbi Akiva points to something else that we know about the place Sukkos. Later, when *Bnei Yisrael* leave Sukkos, we find

9 The full verse is:

ופדויי יהוה ישבון ובאו ציון ברנה ושמחת עולם על ראשם ששון ושמחה ישיגו ונסו יגון ואנחה.

The phrase “*simchas olam al rosham*” is what is being understood in the context of this *midrash* as clouds of glory upon the heads of the returning remnants, which shows that this phenomenon is to come back *l’asid lavo* – in the Messianic future. This is mirrored as well by the *Targum Yonasan* there:

וחדות עלם תהי להון די לא פסקא וענן יקר תהי מטל על רישיהון.

See note 13 below.

10 As noted below, different sources for this *machlokes* have these opinions flipped between these two *tannaim*. The *braisa* we saw in the *Talmud Bavli* had Rabbi Akiva’s opinion as “*sukkos mamash*” and Rabbi Eliezer’s as *ananei hakavod*. Although this will be discussed in greater depth below in note 15, for consistency’s sake, I’ve decided to refer to *sukkos mamash* as Rabbi Eliezer’s view and *ananei hakavod* as Rabbi Akiva’s view throughout this article.

the following:

ויסעו מסכת ויחנו באתם בקצה המדבר. וה' הלך לפניהם יומם בעמוד ענן לנחתם הדרך ולילה בעמוד אש להאיר להם ללכת יומם ולילה. לא ימיש עמוד הענן יומם ועמוד האש לילה לפני העם.

*They traveled from Sukkos and encamped at Etham on the edge of the desert. And Hashem went before them during the day in a pillar of cloud to lead them on the way, and at night in a pillar of fire to make light for them, to travel during the day and at night. The pillar of cloud by day did not depart, nor the pillar of fire at night, from before the people. (Shemos 13:20-22)*

It was here in *Sukkos*, as they began to travel elsewhere, where we first hear of the clouds of glory accompanying the people. So, says Rabbi Akiva, it must have been called *Sukkos* because of the *ananei hakavod* which were introduced there: *ein sukkos ella ananei hakavod*. All Rabbi Akiva has to do is show that the term “*sukka*” can apply to a cloud in some form, and this he does. He quotes a *nevua* from Yeshaya describing the redemption of Zion:<sup>11</sup>

וברא ה' על כל מכון הר ציון ועל מקראה ענן יומם ועשן ונגה אש להבה לילה כי על כל כבוד חפה. וסכה תהיה לצל-יומם מחרב ולמחסה ולמסתור מזרם וממטה.  
*Hashem will create over the whole habitation of mount Zion, and over her assemblies, a cloud and smoke by day, and the shining of a flaming fire by night; for over all the glory shall be a canopy. And there shall be a sukka for shade during the day from the heat, and for shelter and protection from the downpour and rain. (Yeshayahu 4:5-6)*

Yeshaya Hanavi describes something very similar to what we saw with the *ananei hakavod*, a pillar of cloud by day and of fire by night. He uses two words to refer to this; firstly, the term “*chuppa*”, a canopy. And secondly, in the following *pasuk*, which is arguably a continuation of the description of these clouds,<sup>12</sup> it is referred to as a

11 Many *mefarshim* do not interpret this prophecy as a description of Messianic times. Some understand it as a vision of the return to the land after the Babylonian exile, and others as a prophecy about the upcoming days of King Chizkiyahu, when Sancheriv will be defeated. (Even Abarbanel, who criticizes his predecessors for failing to interpret many of the prophecies as Messianic, in this case does not.) However, we have several sources from Chazal, including this one, that treat this *pasuk* as a Messianic prophecy. (See also *Bava Basra* 75a.)

12 The *pasuk* in Yeshayahu could actually be read to mean “there shall be a *sukka*...”, as it’s translated above and as it’s rendered in the JPS translation. That would mean that the *sukka* could be something else, separate from the clouds and fire mentioned in the previous verse. In other words, it would be read as “in addition [to



“*sukka*”! From here we see, according to Rabbi Akiva, that the term “*sukka*” can be used to refer to the *ananei hakavod*.<sup>13</sup> Inspired by the great miracle of their presence, *Bnei Yisrael* called the place where they first were enveloped by these clouds “*Sukkos*”.

This *Mechilta* that we’ve just unpacked seems to be the original source for the *machlokes* between Rabbi Eliezer and Rabbi Akiva. It is here where they bring proofs to support their respective approaches; it is here, focused on this *pasuk* in *Shemos*, where their opinions are formulated.<sup>14</sup> But their disagreement is also quoted, without similar elaboration, elsewhere. On the *pasuk* with which we began this article, “*ki basukkos hoshavti*,” the *Sifra* records as follows:

למען ידעו דורותיכם כי בסוכות הושבתי את בני ישראל בהוציאי אותם מארץ מצרים: ר' אליעזר אומר סוכות ממש היו. ר' עקיבא אומר ענני כבוד היו. בהוציאי אותם מארץ מצרים: מלמד שאף הסוכה זכר ליציאת מצרים.

“So that your generations will know that I settled Bnei Yisrael in *sukkos* when I took them out from Egypt” – Rabbi Eliezer says they were actual huts. Rabbi Akiva says they were the clouds of glory. “When I took them out from Egypt” – this teaches that even the *sukka* is a commemoration of the Exodus.

the clouds etc.], there will be a *sukka*...”. It seems to me, however, that Rabbi Akiva in this *midrash* is reading it as “and it shall be a *sukka*”, where “it” is modifying the word “*chuppa*” from the previous verse (which is the only female noun it could be modifying). So he would read it as “And it [the *chuppa* we just mentioned] will be for shade etc.” This is also how it is read by many of the *mefarshim* available to us. See for example Radak there.

13 Rabbi Akiva adds an additional component in the *Mechilta* regarding *l'asid lavo* – the Messianic period. This section has perplexed many *achronim*, as it seems that he brings only the verse of *Yeshaya* 4:5 as proof that *sukkos* are the clouds of glory even though it is 4:6 that contains the word “*sukka*”. Then he asks, “we know from this the past; how do we know *l'asid lavo*?” even though the *pasuk* is presumably already about the Messianic era. The response given is the next *pasuk*, 4:6, and another *pasuk* from another prophecy in 35:10. Because of this confusion, the Gra emends the text of this section such that the proof for Rabbi Akiva’s opinion of *ananei kavod* is the entirety of the two *pesukim* 4:5-6; then the question on that is, “we know the past **and** *l'asid lavo*, how do we know *l'yemos hamashiach*?” And the response is simply the *pasuk* in 35:10. The Gra is forced to move things around – without any evidence for this *girsā*, based on *sevara* alone – in order to have it make sense.

However, *l'anuyus daati*, the question in the *midrash* “*ein li ella l'she-avar*” means that we know there were *sukkos* – i.e. clouds of glory – in the past [in the *midbar*] from the *pasuk* in *Vayikra* “*ki basukkos hoshavti*.” [Not from “*v'sukka tihye l'tzel*”, as that was only teaching us about the term “*sukka*,” not that there actually were *sukkos*/clouds in the *midbar*.] The *midrash* is now telling us that just like there were *sukkos* in the *midbar*, so too there will be in Messianic times (*l'asid lavo*), as we see from this very same *pasuk* that we quoted before from *Yeshaya* to show how “*sukka*” can refer to clouds. And the *midrash* brings a second *pasuk* to back this up (which it does with the language “*v'omer...*” as is common) from 35:10 (see note 9 above).

14 The argument that the *Mechilta* is the origin of the *machlokes* is also made by S. Friedman (See note 15 below; pp. 287-289).



Here, in the *Sifra*, the opinions are stated without proof, without any other context. And likely, it's this *Sifra* which is the source for the citation we saw above from the *Talmud Bavli*.

כי בסוכות הושבתי את בני ישראל ענני כבוד היו דברי ר' אליעזר ר' ע' אומר סוכות  
ממש עשו להם.

"That I settled Bnei Yisrael in sukkos... " – these were the clouds of glory, so  
says Rabbi Eliezer. Rabbi Akiva says: They made themselves actual huts.

Even given the minor differences between the *Sifra* and the *braisa* in the *Bavli*, including a flip between which opinion is held by Rabbi Eliezer and which by Rabbi Akiva, the *Sifra* seems to be what the *gemara* is quoting.<sup>15</sup> And the *Sifra*, in turn, seems to be quoting the *machlokes* that we saw originally in the *Mechilta*. But, as we've just seen, the *machlokes tannaim* in the *Mechilta* was about the namesake of the place called *Sukkos* mentioned in *Shemos*. What does it have to do with the *pasuk* in *Vayikra*? Why is the *Sifra* bringing up this *machlokes*?

The straightforward answer is this: The *Sifra* must think that the *machlokes tannaim* about that place called *Sukkos* in *Shemos* is relevant to the *pasuk* of "ki basukkos hoshavti" in *Vayikra*. It must be that the *Sifra* is assuming that the "sukkos" of

15 Many have pointed out the discrepancy between the *Sifra* and the *Bavli* with regard to which *tanna* holds which opinion. The *Mechilta D'Rabbi Yishmael*, as we saw above, has the same attributions as the *Sifra*. The *Mechilta D'Rashbi* (which we will see below), however, has the same as the *Bavli*. (See note 16. Another connection between the *Bavli* and the *Mechilta D'Rashbi* is the verb "asu" applied to "sukkos mamash" rather than "hayu" in other sources.)

See for example Rav Tzvi Hirsch Chajes (*Hagahos al HaTalmud, Sukka* 11b) and *Aruch L'Ner* (*ibid*). Some *achronim* have preferred the formulation of the *Bavli* for the reason that that would align *Onkelos* with Rabbi Eliezer's opinion (who the *gemara* identifies as one of his teachers). Others have preferred the *Sifra's* (and *Mechilta's*) formulation as justification for the *Tur's* "psak" in favor of *ananei hakavod* (as the *halacha* would follow Rabbi Akiva over Rabbi Eliezer in general). Some scholars have drawn a parallel between Rabbi Eliezer's known tendency to use the formulation "X mamash" as part of his interpretation as evidence to favor the version in the *Sifra*. For example, in the *Talmud Bavli Bava Kamma* (84a):

תניא ר' אליעזר אומר עין תחת עין ממש.

And in the *Sifrei Devarim* (Ki Seitzei 213):

ובכתיב את אביה ואת אמה. אביה ואמה ממש דברי רבי אליעזר רבי עקיבא אומר, אין אביה ואמה, אלא עבודת כוכבים...

As I began to write this essay, a very thorough article by Prof. Shamma Friedman was published on this very topic. (See "Ananei Hakavod: Bein Rabbi Eliezer L'Rabbi Akiva" in "Divrei Chachamim V'Chidotam" 2019, pp. 269-293.) Friedman holds in general that the *midrashei halacha* are more reliable than the *Bavli's braisaos* when it comes to things like this. He shows that the *Mechilta D'Rashbi's* attributions for this *machlokes* (which follow the *Bavli*) conflict between the section here in *Parshas Bo* and a later section in *Parshas Beshalach*, which make it also less reliable than the *Mechilta D'Rabbi Yishmael*. (See also note 21 below, regarding possible connections to Rabbi Eliezer's other *shitos*.)

“*ki basukkos hoshavti*” is referring to the *Sukkos* where the Jews went in their escape from Egypt. During this *chag* of seven days, the Torah says, you shall live in *sukkos* to remember that which *Bnei Yisrael* lived in the place called *Sukkos*. Here, the *Sifra* interjects: why was this place called *Sukkos*? We happen to have a *machlokes tannaim* about that, the same one we saw in the *Mechilta*. Either because of the *ananei hakavod*, or because of actual huts which they lived in. Either way, the implication is that the Torah is telling us to live in these huts to commemorate this place where either they lived in huts or were surrounded by the clouds of glory.

It would seem from what we’ve just concluded that Rav Hoffmann is correct. The sources we inherited from *Chazal* do indeed support the idea that “*ki basukkos hoshavti es Bnei Yisrael*” refers to the experience that the Jewish people had during the *Exodus* when they were taken to a place called *Sukkos* rather than the experience the people had in the desert for forty years.

### The Miracle of *Sukkos*

Following the train of thought we’ve just been taking, we now approach an obvious question. If we are instructed to live in *sukkos* for a seven-day holiday in commemoration of something, that something must have been really important. According to Rabbi Akiva, this makes sense. The presence of the *ananei hakavod* were one of the fantastic miracles of *Yetzias Mitzrayim*. It represented the presence of God with the people, and *Chazal* describe miraculous comforts which were afforded to the people through the presence of the clouds. Additionally, the *Mechilta D’Rashbi* tells us about another component of the miracle:

סכתה. ר' עקיבה אומר סכות ממש עשו להן בסכות. ר' אליעזר אומר סכות ענני  
כבוד באו וחנו על גגי רעמסס. מושלו משל למה הדבר דומה לחתן שהביא אפריון  
לפתח ביתה של כלה כדי שתכנס לו מיד.

*To Sukkos – Rabbi Akiva says they built actual huts in Sukkos. Rabbi Eliezer says, Sukkos – the clouds of glory came and rested on the rooftops of Raamses. What is this like? Like a groom that brings a canopy to the entrance of the bride’s home so that she can enter it immediately.*

Here, the *Mechilta D’Rashbi* expands upon the opinion that *Sukkos* is named for the *ananei hakavod*.<sup>16</sup> Not only were the *ananei hakavod* present in *Sukkos*, but

<sup>16</sup> The main *Mechilta* we have on *Sefer Shemos*, and which we cited above, is known as the *Mechilta D’Rabbi Yishmael*. For several centuries, that was the only *midrash tannaim* for *Sefer Shemos* that was known and available. Rav David Tzvi Hoffmann, in his pioneering work on the *midrashei tannaim*, identified the *midrashic*

the *ananei hakavod* **brought them to Sukkos** from Egypt, like God's *chuppa*, marching the Jews toward His marriage with them. In this understanding, the *ananei hakavod* are not just a side miracle of *Yetzias Mitzrayim*; they are the means by which *Yetzias Mitzrayim* actually happened. The Jews left Egypt enshrouded by these clouds, which brought them directly to *Sukkos*.

It would make sense then, by building and living in *sukkos* throughout the holiday, to invoke the memory of the *ananei hakavod* either by associating the *sukkos* with the clouds themselves (similar to how Yeshaya Hanavi does in his prophecy), or by associating them with the place called *Sukkos* where the clouds first brought them, or at least where they were first introduced.

All this is great according to Rabbi Akiva, but what about Rabbi Eliezer, who holds that they built actual huts in *Sukkos*? What is so important about that that we need to commemorate it?<sup>17</sup> The simplest answer would be in the same spirit as what we say in the *hagada* on Pesach: *chayav adam l'haros es atzmo k'ilu hu yatza mimitzrayim* – one is obligated to act as if he himself has left Egypt, and we do this by acting in ways that our ancestors did during *Yetzias Mitzrayim*. Similarly, *Sukkos* is also a holiday instituted *zecher l'Yetzias Mitzrayim*. We build *sukkos* because when our ancestors left Egypt, they also built *sukkos*, and this will give us a feeling as though

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material that we have as belonging to two main schools, that of Rabbi Akiva and that of Rabbi Yishmael. He identified the *Mechilta D'Rabbi Yishmael* as being mostly a product of the school of Rabbi Yishmael, but he also recognized that there used to exist another *midrash tannaim* on *Shemos* from the school of Rabbi Akiva which was quoted by some of the *rishonim*. Rav Hoffmann used the *Midrash Hagadol* along with some other sources, to reconstruct this *midrash*, known as the *Mechilta D'Rabbi Shimon bar Yochai* (or *Mechilta D'Rashbi*). Although a full manuscript of the *midrash* has not been discovered, fragments of it have been found in the *geniza* over time, and an updated edition of the *Mechilta D'Rashbi* was published in 1955 by Profs. Nahum Epstein and Ezra Z. Melamed. (See M. Kahana "Mavo L'Midrashai Hatannaim" in "Safrut Chazal Ha-Eretz Yisraelit" 2018) Generally, the *agadic* sections of the two *Mechiltos* are very similar to one another, but as Prof. Menachem Kahana shows, the *Mechilta D'Rashbi* tends to employ more literary license, an affinity for hyperbole, and less rigid linkage to the phrases from the *pesukim*, which we find to be the case here as well. In our scenario, the *Mechilta D'Rashbi* takes what was a somewhat dry piece of the *Mechilta D'Rabbi Yishmael* about *sukkos* being clouds, and imbues it with far more character by giving a description to the scene and a beautiful *mashal* alongside it. (See at length the concluding section of M. Kahana "HaMechiltot L'Parshat Amalek" 1999.)

17 This question prompted Naftali Herz Wessely, author of the *Biur* to *Vayikra*, to suppose that the huts that Rabbi Eliezer is maintaining that the Jewish People lived in when they exited Egypt must have been miraculously brought into existence by God for their benefit. Because if that was not the case, why are huts that the people built for themselves so worthy of recollection? This suggestion of Wessely veered too far from the *pshat*, though, for Mendelssohn, who criticizes him in his editorial comments there. Mendelssohn prefers the approach of the *rishonim* – particularly the Rashbam, which we'll see below – that the huts were made later during the desert journey.

we ourselves are involved in *Yetzias Mitzrayim*. Essentially, it's not the actual *sukkos* we're commemorating, but rather the entire experience of that moment of *Yetzias Mitzrayim*, during which we went to live in huts. A similar idea is expressed quite nicely by Rav Eliezer Nahum in his commentary to the *Mechilta*:<sup>18</sup>

ולעד"נ כי מה שצונו הוא ית' לעשות זכרון לסוכות הללו עם שהיו סוכות ממש הוא בעבור הנס הנעשה בהם שהפריחם כהרף עין מרעמסס לסוכות שהוא מהלך מאה ועשרים כמ"ש לעיל וכדכתיב ואשא אתכם על כנפי נשרים, וזש"ה כי בסוכות הושבתי את בני ישראל פי' אני בעצמי הושבתי את בני ישראל באותו מקום הנקרא סוכות שהפריחתים בשעה קלה כי בדרך טבע לא היו באפשר... וזהו שדייק הכתוב באומרו כי בסוכות הושבתי את בני ישראל בהוציא אותם מארץ מצרים כלומר שנס זה בכלל יציאת מצרים יחשב, ואח"כ אם עשו שם סוכות ממש באותו מקום וכן משם והלאה לר"א או שהיו ענני כבוד לית לן בה, כי כל מה שצונו הוא ית' במצוה זו הוא כדי לזכור הנס ההוא שכתבנו.

*According to my humble opinion, that which Hashem commanded us to commemorate the sukkos, assuming they were actual huts, is on account of the miracle that was performed in that they were "flown" like the blink of an eye from Raamses to Sukkos, which is a distance of 120 miles, as I wrote above,<sup>19</sup> and as it is written "And I carried them on the wings of great birds". And this is what the pasuk means "That I settled Bnei Yisrael in Sukkos" – meaning, "I myself settled them in the place called 'Sukkos' in that I flew them there in a short time period, which would have been impossible by nature." ... And the pasuk specifies "That I settled Bnei Yisrael in Sukkos when I took them out of Egypt," meaning that this was an integral component of Yetzias Mitzrayim. And after that, whether they built actual huts there and throughout their travels like Rabbi Eliezer, or whether there were ananei kavod like Rabbi Akiva, that does not matter [i.e. that is not the point of the commemoration] since the whole point of what Hashem commanded us to do with this mitzva is to remember this miracle which we've described.*

18 Rabbi Eliezer Nahum was a Turkish rav who was *Av Beis Din* and *Rosh Yeshiva*, first in Edirne then in Constantinople, in the early eighteenth century. Toward the end of his life, he moved to Palestine and was appointed as *Rishon L'Tziyon* in 1730 until his death in 1744. His commentary to the *Mechilta* remained in manuscript until it was published by Yad Harav Nisim in 1999.

19 The reference here is to the section immediately before this in the *Mechilta* which is nicely encapsulated by Rashi to 12:37:

מרעמסס סכתה. מאה ועשרים מיל היו ובאו שם לפי שעה, שנאמר "ואשא אתכם על כנפי נשרים".

As Rav Nahum explains it, the mitzva of *sukka*, just like *korban pesach* and *matza*, is performed to commemorate *Yetzias Mitzrayim* by recreating some portion of the miraculous Exodus and re-experiencing it in person. The *sukkos* are not built and lived in for seven days because they themselves were miraculous necessarily, but rather because through them we recall the experience of *Yetzias Mitzrayim*, of being whisked out of Egypt so fast that the dough didn't even leaven, so fast that we arrived at the town of *Sukkos* many miles away on that same day. The mitzva of *sukka*, similar to the mitzva of *matza*, is a way of recalling the experience of our forefathers in their exodus from the land of Egypt and a way of commemorating how miraculous it was in its speed. The *sukka* is – in actuality – *zecher l'yetzias mitzrayim*.

So far, we've seen the sources from *Chazal* in the *Mechilta* and the *Sifra*, which seem to imply that Rav Hoffmann and Rav Tzadok HaKohen, whose approach we saw above, are correct that "*ki basukkos hoshavti*" refers to the actual moments of *Yetzias Mitzrayim*. We've also explained, with help from Rav Nahum, why given this interpretation, the reason behind the mitzva of *sukka* is significant. It remains for us now to decipher the approach of Rashi and the other *rishonim*. We know that most *rishonim* had access to the *midrashei tannaim*, including the sources we've seen in this article.<sup>20</sup> Why do they understand the *pasuk* as referring to something which happened in the forty years in the desert, and not as a part of the actual *Yetzias Mitzrayim*?

### Do the *Rishonim* follow the *Chachamim*?

To this point, we've been discussing the *shitos* of Rabbi Eliezer and Rabbi Akiva found in the *Mechilta* and quoted in the *Sifra* and the *Talmud Bavli*. We've explained how each of them comes to their opinion and why they each think the *sukkos* of *Yetzias Mitzrayim* are important enough to be commemorated.<sup>21</sup> But you may have noticed

20 It's interesting that with regard to the *Mechilta*, I've found no *rishonim* that quote the particular section of the *Mechilta* we saw above (save for an indirect reference by the *Rokeach*; see below note 26). This is even though I've found several *rishonim* that quote the statements immediately before and after this section of the *Mechilta*. As examples, Rashi quotes the *Mechilta* immediately before (see previous note) and some of the *Baalei Hatosafos*, including the *Chizkuni*, quote the statement of Rabbi Nechemia which is immediately after the pertinent part of the *Mechilta* above.

21 In this article, we don't really discuss differences between the opinions of Rabbi Eliezer and Rabbi Akiva, as our main focus is on the meaning of "*b'hotzi'i osam me-eretz Mitzrayim*", irrespective of their disagreement. But although I think it's a stretch, I'll point out that it is tempting to connect Rabbi Eliezer's opinion of *sukkos mamash* to his other unique opinions about the mitzva of *sukka*. In the *Sifrei* to *Devarim* (140) we find:

ר' אליעזר אומר כשם שאין אדם יוצא ידי חובתו ביום טוב הראשון של חג בלולבו של חברו כך אין אדם יוצא ידי חובתו ביום"ט הראשון בסוכתו של חברו שנאמר חג הסוכות תעשה לך. וחכמים אומרים בלולבו של חברו אינו יוצא... אבל יוצא הוא בסוכתו של חברו, שנאמר כל האזור ב ישראל ישבו בסכות כל ישראל ישבו בסוכה אחת.

that we neglected one of the opinions in the *Mechilta*. After Rabbi Eliezer is quoted as saying “*sukkos mamash*,” the *Mechilta* brings the opinion of the *Chachamim* even before mentioning Rabbi Akiva:

וחכמים אומרים אין סכות אלא מקום. שנאמר ויסעו מסכות ויחנו באתם, מה איתם מקום אף סכות מקום.

*The Chachamim say, “Sukkos” is nothing but a place, as it says “They traveled from Sukkos and encamped in Etham” (Shemos 12 and Bamidbar 33) – just as Etham is a place, so too Sukkos is a place.*<sup>22</sup>

What is the opinion of the *Chachamim*? It sounds like the *Mechilta* is presenting the opinion of the *Chachamim* as being in opposition to the others. Is that to say that Rabbi Eliezer and Rabbi Akiva hold that *Sukkos* is not the name of a place?<sup>23</sup> But

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Rabbi Eliezer holds that one must perform the *mitzva* with his own *sukka*, and cannot fulfill the obligation in another’s *sukka*, just like with *lulav*. (The *girsā* of “*b’youm tov rishon*” here is questionable; see *Dikdukei Sofrim* to *Sukka* 27b.) Although the *gemara* in *Sukka* provides *drashos* to bolster Rabbi Eliezer’s opinion, it is possible that his connecting the *mitzva* to *lulav* in this way is motivated by his understanding for the historical reason behind *Sukkos*. If the “*sukkos*” were actual huts that were built and lived in by each individual, how could a whole community fulfill the obligation in a single *sukka*? The other Sages, however, may have followed Rabbi Akiva’s understanding; if the commemoration is of the clouds of glory which encompassed all of the people together, how could it be that an entire community could *not* fulfill the obligation in this way? (See also A. Walfish, “*Lecha V’Lachem: Hayachas bein Sukka L’lulav B’Talmud Bavli*” in *B’chag Hasukkos*, 2010; note 45.)

The opinion of Rabbi Eliezer that the properties of the *mitzva* of *sukka* can be learned from those of *lulav* is far-reaching, and is also likely responsible for his more famous opinion found in the *mishna* (*Sukka* 2:6) that there is a specific obligation to eat meals in the *Sukka* every day of the holiday. This is as opposed to the other Sages who hold that only if one eats what qualifies as a meal does he need to eat in a *sukka* at all, and if he does not want to eat, the *mitzva* of *sukka* does not invoke any obligation to do so. Some even conclude that according to Rabbi Eliezer, similar to *lulav*, once the *mitzva* of *Sukka* is fulfilled for the day (by eating two meals inside it), there is no longer any other part of the obligation that needs fulfillment, and one would be able to eat any other meals in his house. (See Migdal Oz on Rambam *Hilchos Sukka* 6:11. Also see D. Henshke, “*Eimatai Yoshevim B’Sukka? L’shichzurah shel Mishnah Rishonah*” in *Atarah L’Chaim*, 2000, p. 97 n. 49)

22 This opinion of the *Chachamim* is quoted again later in the *Mechilta* on the *pasuk* in *Shemos* 12, and the *Mechilta* there brings the opinion of the Rabbi Akiva as well. Similarly in the *Mechilta D’Rashbi*. (See S. Friedman’s long discussion regarding this piece of the *Mechilta D’Rashbi* and its corresponding section in the *Midrash Hagadol*.)

23 It is actually possible that Rabbi Eliezer understands that the *pasuk* “*vayisu bnei yisrael me-raamses sukosa*” means that they traveled from Raamses **in huts** – as an adjective; in other words, that from the time they left Egypt, they built *sukkos* in their places of settlement. And similarly, it is possible that Rabbi Akiva understands it to mean that they traveled from Raamses **enveloped by the ananei hakavod**. This latter suggestion is made by the Netziv as well (*Birchas HaNetziv; ad loc*), who sees Rabbi Nechemia’s statement at the end of the *Mechilta* above (about the *heh* in place of a *lamed*) as in opposition to the opinion recorded before him. This would mean that according to Rabbi Eliezer and Rabbi Akiva, there never was a place called *Sukkos* that was on the way out of Egypt, and only the *Chachamim* believe that there was.



this would ignore several other *pesukim* in which it seems inescapable that *Sukkos* was indeed a place. Firstly, the *pasuk* later in *Shemos* when *Bnei Yisrael* travel “from *Sukkos*” to Etham. And later in the full list of travels in *Bamidbar*:

ויסעו בני ישראל מרעמסס ויחנו בסכת. ויסעו מסכת ויחנו באתם אשר בקצה המדבר.  
*And Bnei Yisrael traveled from Raamses, and they encamped in Sukkos.*  
*Then they traveled from Sukkos and encamped in Etham which is on the*  
*edge of the desert.*

Rather, it seems more likely that everyone agrees that *Sukkos* was the name of a place. But Rabbi Akiva and Rabbi Eliezer hold that the name of the place called *Sukkos* signifies something important that happened there, that it has that name for an important reason. The *Chachamim*, on the other hand, hold that *Sukkos* is the name of a place just like Etham is the name of a place; both of them are just names of stops on the journey that don’t necessarily hold more significance than that. Quite literally, *ein sukkos ella makom* – *Sukkos* is **nothing more** than a place.<sup>24</sup>

This makes sense – the *Chachamim* are reflecting what is probably the simplest straightforward *pshat* in the *pasuk* in *Shemos* – but it triggers another question. What do the *Chachamim* think about the *sukkos* in *Vayikra*? What is “*ki basukkos hoshavti es Bnei Yisrael*” referring to according to the *Chachamim*?

I think that it is still possible to maintain that the *Chachamim* believe that “*ki basukkos hoshavti es Bnei Yisrael*” means “I settled the *Bnei Yisrael* in the place called *Sukkos* when I took them out of Egypt.” According to Rav Nahum’s understanding of the significance of *Sukkos* which we quoted above, the commemoration that we accomplish by living in *sukkos* is only to remind us of the place called *Sukkos*, since it represents the speed and miraculousness by which we left *Mitzrayim*. There need not have been actual huts or clouds of glory. So the *Chachamim* hold that *Sukkos* is the name of a place, not necessarily named for anything important, but which became important to us because it is the place where Hashem brought us to safety at the moment of *Yetzias Mitzrayim* – from Raamses to *Sukkos*. And because of that we build and live in huts – also called *sukkos* – to remind us of that place and that moment. That, I believe, is the simplest possibility to explain the *shita* of the *Chachamim*.

But maybe the *rishonim* saw something different in the opinion of the *Chachamim*.

<sup>24</sup> This is also one of the approaches to the *Chachamim* suggested by Rav Eliezer Nahum, and a similar approach is taken by Rav M. M. Kasher (*Torah Shleima, Vayishlach* 33:17, n. 55). Rav Hoffmann, on the other hand, believes that the *Chachamim* do not argue with Rabbi Eliezer and are just pointing out that *Sukkos* is the name of a place irrespective of what the reason for the name is.

Is it possible that Rashi and others are really following the *Chachamim*? Maybe the *rishonim* believe that the *Chachamim*, when it comes to the *pasuk* in *Vayikra*, can't hold that it means the place *Sukkos* which was the first stop out of Egypt, since the *Chachamim* hold that nothing significant happened there, like we saw in the *Mechilta*. Rather, the *Chachamim* must hold that the *sukkos* are something which happened in the desert over the course of the people's forty years of traveling – either the clouds which accompanied them (like Rashi) or the huts that they built there themselves (like Ibn Ezra). Is this how the *rishonim* got their interpretation?

This cannot be. The *rishonim* do not see themselves as followers of the *Chachamim*, as we see in their own words. The first to be almost explicit about this is the Rashbam.

למען ידעו דורותיכם – פשוטו כדברי האומרים במסכת סוכה סוכה ממש. וזה טעמו של דבר: חג הסוכות תעשה לך באספק מגרנך ומיקבך – באספק את תבואת הארץ ובתיכם מלאים כל טוב דגן ותירוש ויצהה למען תזכרו – כי בסוכות הושבתי את בני ישראל במדבר ארבעים שנה – בלא יישוב ובלא נחלה ומתוך כך תתנו הודאה למי שנתן לכם נחלה ובתים מלאים כל טוב ואל תאמרו בלבבכם כחי ועוצם ידי עשה לי את החיל הזה.

*So that your generations shall know... The straightforward explanation is like those who say in* Maseches Sukka *"sukka mamash" – "actual huts". And the reason for this is: The holiday of Sukkos should be observed when you gather the products of your grain and grape harvests, when you gather from the produce of the land and your homes are full of good things, grain, oil, and wine. This is so that you will remember that I settled the Jewish People in huts in the desert for forty years without permanence or estate. And through this we can properly give thanks to He who gave us our land and our homes full of goods, and we will not say in our hearts, "This is my strength and effort alone which produced this bounty."*

Here the Rashbam expands on this idea that the purpose of living in the huts is to remember when the Jews did the same in the desert with nothing of their own, and to thus thank God for the land and the produce He provides on a yearly basis.<sup>25</sup>

<sup>25</sup> It is interesting to note that the Rashbam considers this to be closest to the *pshat* – that the *sukkos* were *sukkos mamash*. Notice, though, that below when we quote the Ramban, he thinks that the interpretation that the *sukkos* were clouds is actually more in line with the *pshat* – as apparently does Rashi. *Onkelos* even translates "*sukkos*" here as "*bimtalas anani*" – "in an enclosure of clouds", which would be unusual unless *Onkelos* felt this approach really conformed with the *pshat*.



Notice, though, that the Rashbam believes the *sukkos* in this *pasuk* is not the *Sukkos* of *Yetzias Mitzrayim* or the huts that were made there; it is the huts that the Jews made later in the desert over the course of forty years, just like Ibn Ezra said. Not only that, but Rashbam ascribes this view to “the ones who say in *Maseches Sukka* that ‘*sukkos mamash*!’” We cannot escape the fact that the Rashbam thinks that what Rabbi Eliezer means when he says “actual huts” is that the people built huts during their desert journey – unrelated to the place called *Sukkos* to which they were delivered on the fifteenth of Nissan.

Another good example is the Ramban:

כי בסכות הושבתי את בני ישראל ענני כבוד לשון רש"י והוא הנכון בעיני על דרך הפשט כי צוה שידעו הדורות את כל מעשי ה' הגדול אשר עשה עמהם להפליא ששכן אותם בענני כבודו כסוכה כענין שנאמר (ישעיה ד ה) וברא ה' על כל מכון הר ציון ועל מקראיה ענן יומם ועשן ונגה אש להבה לילה כי על כל כבוד חפה וסוכה תהיה לצל יומם מחרב וגו' ומפני שכבר פירש שענן ה' עליהם יומם ועמוד האש בלילה אמר סתם כי בסכות הושבתי שעשיתי להם ענני כבודי סכות להגן עליהם והנה צוה בתחילת ימות החמה בזכרון יציאת מצרים בחדשו ובמועדו וצוה בזכרון הנס הקיים הנעשה להם כל ימי עמידתם במדבר בתחלת ימות הגשמים ועל דעת האומר סכות ממש עשו להם (סוכה יא) החלו לעשותן בתחילת החרף מפני הקור כמנהג המחנות ולכן צוה בהן בזמן הזה והזכרון שידעו ויזכרו שהיו במדבר לא באו בבית ועיר מושב לא מצאו ארבעים שנה והשם היה עמהם לא חסרו דבר

*That I settled the People of Israel in Sukkos – the clouds of glory, so says*

It seems that both interpretations of “*sukkos*” have elements which make them difficult from a *pshat* perspective. If *sukkos* are actual huts, why did the Torah never mention them before this, and why are huts so important? If they are clouds, why does the Torah not just say clouds, and why does it use the word “*sukkos*” twice in a row to mean two different things?

Personally, I think that Rashi and the Ramban are more correct in this matter, as the latter questions above are easier to answer than the former. The idea that “*sukkos*” are clouds does not have to mean that the Torah is using the word for “hut” as a metaphor for clouds. The idea could be that the term “*sukka*” (which comes from the root “סכך” – to cover) is a general term that can mean a hut with a covering for the roof, but it could also mean a covering of clouds; it is a word with multiple meanings. The Torah here is using it with both of its possible meanings because that’s exactly the point it’s trying to make: you will sit in a *sukka* (hut) to remind you of another type of *sukka* (clouds). “*Sukkos mamash*” may not mean “actual huts” but rather “tangible huts” (as opposed to clouds which are not tangible).

According to the approach that these *sukkos* are a reference to the actual time of *Yetzias Mitzrayim*, as we elaborated upon above, it seems even more so that *ananei hakavod* would be closer to the *pshat*, as it’s something that we already know from the *pesukim* happened in *Sukkos*, as we showed above; the *pasuk* here in *Vayikra* would not be telling us anything new. (This is also pointed out by David Zinberg in “*Clouds of Glory, Clouds of Honor*”, Jewish Standard, 10/3/2014.)

Rashi, and this is the correct interpretation in my eyes. God commanded that the generations should know the great wonders of God that he rested them in the *ananei kavod* like a *sukka*, similar to what is said in Yeshaya: “Hashem will create over the whole habitation of mount Zion, and over her assemblies, a cloud and smoke by day, and the shining of a flaming fire by night; for over all the glory shall be a canopy. And there shall be a *sukka* for shade during the day from the heat etc.” And since the Torah has already discussed the nature of the clouds, here it says without explanation, “that I settles them in *sukkos*” – that I made my clouds of glory for them as *sukkos* to protect them. In the beginning of the summer months, He commanded to commemorate *Yetzias Mitzrayim* at the actual time of year it occurred (Pesach). And He commanded that the remembrance of the longstanding miracle which was performed for them throughout their journey in the desert be done at the start of the winter months. And according to he who says “they made actual huts (*sukkos mamash*)”, they began to build them at the start of winter because of cold, as is the common practice. Therefore, the *mitzva* is done at this time; and the commemoration is to remember their time in the desert, when they never had real shelter nor permanent settlements for forty years. Yet, God was with them and they lacked nothing.

The Ramban makes it clear that even according to the interpretation that *sukkos* are *ananei hakavod*, which is his preferred *pshat*, what we’re remembering is the forty-year journey of the Jews in the desert, during which time they were led by the *ananei hakavod*. And similarly for those who say *sukkos mamash*. The Ramban seems pretty clear that this is how he understood the interpretations of Rabbi Eliezer and Rabbi Akiva. The understanding of “*ki basukkos hoshavti*” in the *rishonim* has shifted to not being literally “*b’hotzi’i osam me-eretz Mitzrayim*” – precisely when the Jewish People left the land of Egypt. The standard understanding has become that this was *after* the Jews left Egypt for the next forty years. What happened? How did these *rishonim* end up with such a different approach than we did above?

## Two Distinct Disagreements

I believe that when we discussed the approach of Chazal above, we made one assumption that the *rishonim* like the Rashbam and Ramban did not make, and that they made a different assumption. We assumed that there is only one *machlokes* between Rabbi Eliezer and Rabbi Akiva concerning the term *sukkos*, that it is elaborated in the *Mechilta* and cited again by the *Sifra* and the *Bavli*. Because it is clear

that the *machlokes* in the *Mechilta* is concerning the *place Sukkos*, we assumed that this must be the *machlokes* referred to as well by the *Sifra* and by the *gemara*.

The *rishonim*, on the other hand, assumed that the *machlokes* referred to by the *Mechilta* and the one referred to by the *Sifra* are distinct, albeit related, disagreements. They understood that Rabbi Eliezer and Rabbi Akiva disagree concerning the background behind the name of the place *Sukkos* in *Shemos*, and that Rabbi Eliezer and Rabbi Akiva *also disagree* about the meaning of a completely different usage of the word *sukkos* in *Vayikra* – “*ki basukkos hoshavti*”. The interpretation of these two instances of the word “*sukkos*” were disagreed upon by Rabbi Eliezer and Rabbi Akiva **independently**, each in its place.<sup>26</sup>

When the *rishonim* saw the *machlokes tannaim* cited in the *Sifra* or in the *Bavli* about whether *sukkos* means “*sukkos mamash*” or *ananei hakavod*, they didn’t think that the *Sifra* was talking about the same *machlokes* as the one in the *Mechilta* like we did. They didn’t think that the *Sifra* was assuming *Sukkos* in *Vayikra* was referring to the place just like in *Shemos*. We are left to wonder why this is the case; why did the *rishonim* think these were two independent disagreements between these *tannaim*? While I think there are some textual reasons in the *midrashim* for their approach,<sup>27</sup>

26 The assumption that we’re attributing to the *rishonim* is explicit in the Netziv, who, commenting on the section in the *Mechilta*, writes:

ובתו”כ פ’ אמור עה”פ כי בסוכות הושבתי את בני”י פליגי ג”כ ר”א ור”ע כשיטתייהו הכא, ר”א אומר סוכות ממש, ר”ע אומר ענני כבוד היו, ולא הביא שום פסוק על זה, ולא פליגי אלא בסברא...

The *Rokeach*, whom we quoted above in note 3, also cites the *machlokes* of Rabbi Akiva and Rabbi Eliezer in a way which somewhat implies that this is his understanding as well:

ומרעמסס באו לסכות על אותן סכות היה א”ר אליעזר סכות ממש היה ר’ עקיבא אומר ענני כבוד היו וכן פירשו כי בסכות הושבתי.

The opposing assumption that we made above, that it is one and the same *machlokes* in both places – is also explicit in some of the sources we’ve mentioned. Rav Eliezer Nahum, in his comments, mentions:

ולפי דרכינו מחלוקת דר”א ור”ע דת”כ הוא הוא המחלוקת דמכלתין וכל א’ מביא ראיה לדבריו.

Similarly, in the comments of Rav Hoffmann:

גם ר’ אליעזר וגם ר’ עקיבא קושרים את “כי בסכות הושבתי” אל הסיפור “ויסעו בני ישראל מרעמסס סכתה”...

27 I’ll give two examples that I can think of:

A. The *Sifra* ignores the opinion of the *Chachamim* and doesn’t quote them, instead just presenting Rabbi Eliezer and Rabbi Akiva. If the *Sifra* thought that “*ki basukkos hoshavti*” was referring to the name of the place where *Yetzias Mitzrayim* occurred and the *Sifra* was just quoting these opinions as to how the place got its name, why wouldn’t it bring the opinion of the *Chachamim* that it’s just the name of the place where the Jews were delivered from Egypt without any other significance necessarily? It must be, according to the *Sifra*, that “*ki basukkos hoshavti*” is **not** referring to the place called *Sukkos*, but to something else which occurred over the course of the “Exodus process” (which includes the forty year journey). What was that? Well, that’s what Rabbi Eliezer and Rabbi Akiva disagree about here as well – either actual huts or the clouds of glory which occurred in the desert. There is no other third opinion for this *pasuk*.

B. Take a look at the last line of the *Sifra* once more:

there are clearly exegetical reasons as well. One reason with which some of them were explicitly concerned, including both the Rashbam and Ramban we saw above, is the reasoning behind the date of the *Sukkos* holiday. If the *sukkos* are intended to commemorate the experience of *Yetzias Mitzrayim*, why would the *mitzva* not be performed along with the other *mitzvos* of this sort – like *pesach* and *matza* – in Nissan? Perhaps concerns like this influenced the *rishonim* to take the approach that we’ve described, that “*ki basukkos hoshavti*” could not have been just a singular event during *Yetzias Mitzrayim*, but rather one that endured over the course of the year, or, as Ibn Ezra explains, may have been exclusive to the months at this time of year.

Most authorities and commentators, save for a few, follow in this approach of the *rishonim*. And as we saw above in the Rashbam and the Ramban, they developed ideas for why these phenomena in the desert were so important as to have a *mitzva* like *sukka* to commemorate them. Following the approach that there were physical huts, the idea of the Rashbam is that we are to remember the time before we entered the land of Israel, when we had nothing more than these huts and whatever God gave us to eat. This will give us the opportunity to thank God anew for our land and for the continual bounty which it provides. According to the Ramban, the idea is to recall the fantastic miracle of the clouds of glory in the desert, when the *shechina* rested in the midst of the Jewish people.

As we’ve seen, though, the other interpretation, that *sukka* is a commemoration of the experience of *Yetzias Mitzrayim*, remains a viable view and one that is arguably a more straightforward understanding of how *Chazal* viewed the *mitzva*.<sup>28</sup>

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בהוציא אותם מארץ מצרים: מלמד שאף הסוכה זכר ליציאת מצרים.

“When I took them out of Egypt” – that teaches that even the *sukka* is *zecher l’yetzias mitzrayim*. Now, if the *Sifra* thought, like we thought it did, that *Sukkos* here is the name of the place where *Yetzias Mitzrayim* happened, then of course the *mitzva* is *zecher l’Yetzias Mitzrayim*, that’s explicitly the point of the *pasuk*! What is this “*melamed...*” in the *midrash* which implies some sort of derivation? According to the approach of the *rishonim*, though, it makes sense. As we noted, the phrase “When I took them out of Egypt” is not precise; this happened after they left Egypt, on their way through the desert. So why is the *pasuk* describing this as “when I took them out”? This is what the *midrash* addresses: “*melamed she-af hasukka zecher l’Yetzias Mitzrayim*” – the *pasuk* wants to connect the idea of *sukka* to the Exodus and to have the *mitzva* be a commemoration of it, even though the Jewish people built their historical *sukkos* on their journey in the desert which was only preceded by the Exodus.

28 The sources we’ve quoted in this article that follow this understanding of *Chazal* are relatively recent. However, I think there may be hints in some of the *piyutim* that we have that this understanding is actually quite old. For example, in Rav Elazar Hakalir’s *Uyamti B’chil Kippur*, recited in the Ashkenaz tradition during the first day’s *shacharis*, we find:

רבבות סע סכותה. בלוד צקונם הסכיתה. בנשק לראשם סכותה. ומאנף להקם חשכת.

In the Ashkenaz *maariv* for the second night, the *piyut* of Yechiel ben Yitzchak reads:

## Summary

To summarize, we saw that Rabbi Eliezer and Rabbi Akiva disagree about the namesake of the place called *Sukkos* where the Jewish People first stopped on their way out of Egypt, and their *machlokes* is recorded in the *Mechilta*. But the *Sifra*, commenting on “*ki basukkos hoshavti es Bnei Yisrael*”, also brings this *machlokes* between Rabbi Akiva and Rabbi Eliezer. We determined that a key component in the understanding of the *mitzva* is dependent on whether one sees the *machlokes* in the *Sifra* as the same one as the original *machlokes*. If so, then the *midrash* must see “*ki basukkos hoshavti*” as a reference to that first stop of *Yetzias Mitzrayim*, and consequently, the *mitzva* of *sukka* is likely designed to be a re-experiencing of a component of the Exodus, much like eating *matza* on Pesach. If, however, the *machlokes* recorded in the *Sifra* is a completely new one, then Rabbi Akiva and Rabbi Eliezer could be referring to a different time period altogether when they talk about the building of huts or the envelopment of clouds. This latter approach is the one which, as we’ve seen, was taken by the *rishonim*, as they understood the commemoration of “*ki basukkos hoshavti*” to be of the journey in the desert – “that you should remember the journeys that Hashem guided you these forty years in the desert.” (*Devarim* 8:2) Yet others, though, have taken the former approach, that the *mitzva* of *sukka* is another commemoration of the great miracle of *Yetzias Mitzrayim*, when God took his chosen nation in an instant out of Egypt – from Raamses to *Sukkos*.

## Musings of the Sukka Dweller

Famously, some of the *achronim* have suggested that the *mitzva* of *sukka* must be performed with the particular intention specified by the *pasuk*, that we must actually recall that which Hashem settled the People of Israel in *sukkos*.<sup>29</sup> Rav Yaakov Ettlinger even concludes that a failure to capture the correct intention nullifies the *mitzva* – that

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יופי ענגך סככת על גאולים. חפת כבודך פרשת עליהם להיות סלולים. יחדוך ופארוך כעוברי גלים. אז לשמך שבחו בני אלים.  
זה צור ישענו פצו פה ואמר: ה' ימלך...

This gives the impression that the *sukkos* being celebrated were upon redemption and before the *Yam Suf*. Similarly, we find pieces like these scattered throughout the *piyutim*. But the nature of these is that they are ambiguous and it's not certain that they are to be understood as direct interpretations of “*ki basukkos hoshavti*”. And on the other hand, we have other snippets like this one from the *zulas* of Shabbos Chol Hamoed (also of *Nusach Ashkenaz*):

הושיבה בסכה בארץ מדברים. והכניסה לחפה בחדרי חדרים.

It may be possible to find some references in the *piyutim* that are more direct, but more work needs to be done in this area.

29 See the *Bach* (OC 625:1), and the *Pri Megadim* there.

it is *me'akev*.<sup>30</sup> According to this theory, our discussion in these pages has added more complexity to the performance of the *mitzva*. Not only is there ambiguity in *what* the *sukkos* were – clouds or huts – but also with respect to *when* they were – immediately upon the *yetzia* from *Mitzrayim*, or later during the journey in the *midbar*.

It is my hope, though, that this essay has brought more understanding to the *mitzva*, and will perhaps inspire additional *kavana* during the *kiddush* made in the *sukka*, when one recites the words “*zecher l'Yetzias Mitzrayim*” – this *yom tov* serves as a remembrance for the Exodus. The words that follow these are consequential as well: “*ki vanu vacharta v'osanu kidashta*” – God chose the Jewish People and He sanctified them. One of the ways in which Hashem has sanctified the nation is by taking components of everyday life and weaving within them the service of God. When the produce of the land was harvested, as a society that was largely agrarian, the people would bring their first fruits to the *Beis Hamikdash*, and recite a formal allegiance to God, including a retelling of the Exodus. Shepherds and cattle herders would redeem the first born of their animals. Even the small act of entering and exiting one's home is beset with the reminder of God's presence represented by the *mezuzah*. The Torah builds upon the mundane and sanctifies it.

It is this idea that we can use to answer the question that we mentioned above that bothered the *rishonim*: why indeed is the festival of *Sukkos* in the month of Tishrei? According to the understanding we quoted from Rav Tzadok and Rav David Tzvi Hoffmann, this question stands out; this *mitzva* after all is a re-experiencing of *Yetzias Mitzrayim*. Wouldn't it make more sense to perform this *mitzva b'chodesh ha-aviv* – in the springtime? The answer is that the celebration of the harvest was already a natural part of the annual cycle of a society. The first time that the holiday arises in the Torah, in fact, that is the only way it is described – as a celebration of the ingathering of the produce. Only later in *Sefer Vayikra* were the other *mitzvos* associated with the holiday introduced.<sup>31</sup> Hashem was *mekadesh* this natural celebration by making it *zecher l'Yetzias Mitzrayim* like so many other parts of our lives. As Rav Mordechai Breuer points out,<sup>32</sup> living in huts may have already been a common practice of agricultural

30 *Bikurei Yaakov* (*ibid*).

31 The *chag* is sometimes called *chag ha'asif* without reference to *sukkos*, and sometimes it is called *chag hasukkos* even if the *mitzva* of *sukka* is not mentioned. The *mefarshim* have long recognized that this indicates two components of the *chag*. See, for example, Abarbanel (*Vayikra* 23:42):

למען ידעו דורותיכם ר' ל שתי סבות היו בחג הזה ואף שאחת מהן תפסק והיא אסיפת התבואות הנה נשארה הסבה השנית והיא לזכרון הסכות אשר ישבו בהם ישר' בצאתם מארץ מצרים.

32 *Pirkei Moadot* (Vol. 2, pp. 578-579). Rav Breuer uses this point to explain why the Torah references *chag*

workers during that time of year, as they collected produce from throughout their properties. The *sukka* was the natural place where the annual celebration of the new harvest took place. *Hakadosh Baruch Hu* was *mekadesh* this: those huts that you will be dwelling in and celebrating in at that time of year, in Tishrei, those will now remind you of the experience you had when I took you out of Egypt. *Ki vanu vacharta v'osanu kidashta*.

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*hasukkos* without mentioning the *mitzva* of *sukka* (see previous note), unlike its references to “*chag hamatzos*” when it generally mentions the *mitzva* of *achilas matza*. The idea is that because the dwelling in huts was a normative practice, it wasn’t something that the Torah had to explain; the people of that time understood that the natural place for celebration of the harvest was in the huts which they collected the harvest in.

When it comes to the component of *Sukkos* that is a commemoration, Rav Breuer follows the approach that the commemoration is of the huts of the *midbar* period. As he sees it, remembrance of *Yetzias Mitzrayim* is recalling that which Hashem does great miracles to save His people. Remembrance of the *midbar*, though, recalls that which Hashem is behind the necessities of day-to-day life over the course of a lifetime. Pesach is a time for recalling the God of one-time fantastic miracles. But *Sukkos*, the harvest time, when the necessities of the year are fulfilled, that’s when the recalling of the God of day-to-day life is necessary. This is, in essence, an elaboration of the Rashbam’s idea we quoted above.





# Machlokes L'shem Shamayim



Rabbi Zvi Schindel

Rabbi Yaakov Siegel

Dr. Michael Kleinman

Evan Silver



# All Quiet on the Western Front? *Aliya* and Spiritual Gain

RABBI ZVI SCHINDEL



*The land of Israel is not some external entity.  
It is not merely an external acquisition for the Jewish people.  
It is not merely a means of uniting the populace.  
It is not merely a means of strengthening our physical existence.  
It is not even merely a means of strengthening our spiritual existence.*

*Rather, the land of Israel has an intrinsic meaning.  
It is connected to the Jewish people with the knot of life.  
Its very being is suffused with extraordinary qualities.*

*The extraordinary qualities of the land of Israel and the extraordinary  
qualities of the Jewish people are two halves of a whole.*

**- Rav Avraham Yitzchak HaKohen Kook, Eretz Cheifetz I**

*I once took a walk with Rav Kook and another man amidst the  
mountains of the land of Israel. Rav Kook told how impressed he was  
by the landscape. The other man asked him, "But you were in the Alps.  
What is so special about these mountains?" Rav Kook replied, "The Alps  
didn't speak to me."*

**- Rav Yitzchak Hutner, quoted in Shivchei Harayah, p. 195**

**E**retz Yisrael stands at the epicenter of Jewish life and longing. The preponderance of mentions of it in *Tanach*, all the *mitzvos hateluyos ba'aretz*, and its dominance within our daily *tefillos*, all bespeak its centrality and choiceness. "Had we but world enough and time" we would still lack the tools of distillation to properly explain its significance or account for its indispensability to the Jewish nation and

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Jewish history. The presupposition that all Jews should, ideally, inhabit the Land of Israel proves conclusive and settled among the consensus of decisive opinions throughout our millennia. And yet, irrespective of persecutory circumstances within exilic communities, the supermajority throughout our history have chosen not to replant their generations into *Eretz Yisrael*. What accounts for this dissonance?

Is *yishuv Eretz Yisrael* even a mitzva? Famously, the Rambam and Ramban debated this point and their [apparent] disagreement is as relevant today as it was some 800 years ago. If one were scavenging through the Mishna Torah it would be easy to locate glittering statements by the Rambam about the Land of Israel. But absent in his *Sefer HaMitzvos* is the positive commandment to settle in Israel.<sup>1</sup> The Ramban emphatically disagrees.<sup>2</sup> In his *Hasagos HaRamban al Sefer HaMitzvos*, *Mitzvos Aseh* 4:1, he writes:

*The fourth mitzvah is that we are commanded to inhabit the land that Hashem gave to our forefathers, Abraham, Isaac and Jacob, and that we may not abandon it to the hands of other nations, or leave it desolate. This is what is said to them, "You shall take possession of the land and settle in it, for I have given you the land to possess. And you shall inherit the land."*

*Do not become confused and say that the real commandment is a commandment to war against the seven nations and destroy them. That is not the case. For we were commanded to kill those nations when they fight us, and if they want to make peace with us then we make peace with them... but the land we will not leave in their hands nor in the hands of any other nation in any generation...*

*Therefore, it is a positive commandment for the generations which obligates every individual amongst us even in times of exile—as is made clear in the Talmud in many places.*

And again, in his *Perush Al HaTorah*, *Bamidbar* 33:53:

1 Much has been written in explanation of the Rambam's glaring omission to count the mitzva of *Yishuv Eretz Yisrael*, most notably the *perush* of the *Megilas Esther* and the *Avnei Nezer*, *Yoreh Deah* 454:2. The *Megilas Esther* explains that the obligation to live in Israel was only in force during the times of Moshe, Yehoshua, and David [and future Messianic times] and therefore is not categorized as a 'mitzva l'doros.' The *Avnei Nezer* disagrees and in fact argues that, even according to *shitas HaRambam*, *Yishuv Eretz Yisrael* is a mitzva *min HaTorah* and was not included in his count based on technical reasons. Other opinions maintain the Rambam viewed *Yishuv Eretz Yisrael* as a rabbinic mitzva. On a biographical note, the Rambam did visit Israel in 1165 but did not remain.

2 The Ramban himself made *aliya* from Spain in 1267.

***And you shall take possession of the land and settle in it, for I have assigned the land for you to possess:*** In my opinion, this is a positive commandment. He commands them to settle in the land and inherit it; He gave it to them and they should not abhor Hashem's inheritance. And if it should enter their minds to go and conquer the land of Shinar or the land of Ashur [Assyria] or to settle in some other place, they would be transgressing Hashem's commandment.<sup>3</sup>

The Ramban is unequivocal in his position that moving to Israel is a fulfillment of a Biblical commandment. Even if we assume the Ramban's position, how do we classify this mitzva? Is it an elective mitzva defined by opportunity—similar to *tzitzis*—where one is obligated provided certain requirements and circumstances present themselves, known as a *mitzva kiyumis*; or is this an enforceable obligation, barring exemptions, that we must proactively seek to fulfill, known as a *mitzva chiyuvis*? In short, Rav Moshe Feinstein<sup>4</sup> maintained the former approach, while a plethora of contemporary *poskim* sided with the latter.<sup>5</sup>

Admittedly, *halachic* exemptions have always existed for those who choose to remain in *Chutz La'aretz*, even caveats for those who wish to relocate to Israel. Most striking among the *rishonim* is the opinion of *Tosfos* found in *Kesuvos* 110b.<sup>6</sup> *Tosfos* first mentions the dangers involved in travelling to *Eretz Yitzrael*, *sakanas derachim*, as the primary reason why they were not *noheg* to make *aliya*. Presumably, this reason is subject to reevaluation based on historical and political circumstances. *Tosfos* then cite the opinion of Rabbeinu Chaim Kohen that there exists another potential calamity from a spiritual consideration:

Rav Chaim Kohen was wont to say that the mitzva to live in Israel does not apply nowadays, for there are many *mitzvos* and prohibitions that exist only in *Eretz Yisrael* and it is truly difficult to diligently fulfill all those obligations.

The possibility, and in Rabbeinu Chaim Kohen's estimation, probability, of violating *mitzvos hateluyos ba'aretz* warranted the decision to refrain from moving

3 See also the Ramban's *perush* on *Vayikra* 18:25 where he famously [and radically] declares that *mitzvos* performed outside of Israel only achieve preparatory status until one can fulfill them in *Eretz Yisrael*.

4 *Igros Moshe, Even HaEzer, Chelek Aleph*, 102. This is reportedly also the opinion of Rav Soloveitchik, cited by Rav Schachter in *Peninei HaRav*.

5 Among them are Rav Shlomo Zalman Auerbach, Rav Eliezer Waldenberg (*Tzitz Eliezer, Chelek 7, Siman 48*), Rav Yitzchak Yaakov Weiss and Rav Chaim Kanievsky *shlita*.

6 *D"H Hu Omer La'alos*

to Israel. This concern remains ever-present and real according to many, and one must certainly prepare accordingly even *bizman hazeh*.<sup>7</sup> At least on a *midrashic* level, however, it would not have convinced Moshe Rabbeinu:

*Rabbi Simlai expounded: Why did Moshe our Teacher yearn to enter the land of Israel? Did he want to eat its fruits or satisfy himself from its bounty? But thus said Moses: "Many mitzvos were commanded to Israel which could only be fulfilled in Eretz Yisrael. I wish to enter the land so that they may all be fulfilled by me."*<sup>8</sup>

Aside from the ability to perform many more *mitzvos*, [some rabbinic *bizman-hazeh*], within the Land of Israel, it also creates an opportunity to live a more holistic and all-encompassing Torah life. Only during the purchasing of *esrogim* before *Succos* do *Chutz La'aretz* Jewish communities take notice of *shemita* and its ramifications; *terumos* and *ma'asros* as practical and living entities virtually do not exist. In *Eretz Yisrael* these realities are impossible to ignore as the land itself produces *mitzvos*. An earnest *oved Hashem* should crave these opportunities.

Other veritable leniencies exist to leave Israel or remain abroad. *Tosfos* in *Avodah Zara* 13a<sup>9</sup> permits leaving Israel only to learn Torah or to get married. The *Pischei Teshuva* writes that while *Yishuv Eretz Yisrael* is a *mitzva*, economic considerations may justify one not to resettle. One is not obligated to move if unable to earn a living to support one's family.<sup>10</sup>

7 Rav Moshe Feinstein makes this point explicitly in his aforementioned *teshuva*.

8 *Sota* 14a

9 *D"H Lilmod Torah v'Lissa Isha*

10 Commentary on *Even HaEzer* 75:1 and 75:6. See also *Yechave Da'as* 3:69. It should be noted there are many counterbalancing sources which must be weighed before adopting any individual exemption: The *mishna* in *Kesuvos*, 13:11 says "Both husbands and wives may force their spouses to make *aliya*." See also the *Shulchan Aruch*, *Even HaEzer* 75:4 where a woman may need to relinquish her *kesuba* or a husband may be required to pay the *kesuba* depending on which spouse refuses to make *aliya*; The *Sifrei* in *Parshas Re'eh* 53 declares settling in Israel as equal to all other *mitzvos*; "If a Jew wants to buy land in Israel, he may tell the non-Jewish owner to draw up a contract even on *Shabbos*," (*Gittin* 8b and *Bava Kamma* 80b); The *gemara* in *Bava Basra* 91a informs us, "It is forbidden to leave Israel unless two *se'ah* of wheat sell for one *selah*. Rabbi Shimon said if one can find any wheat at all, even if one *se'ah* costs a *selah* he should not leave Israel."; Rambam, *Hilchos Melachim* 5:12 writes "An individual should always live in Israel..."

**“Ship me somewhere east of Suez...”<sup>11</sup>**

To the case at hand, what if one sincerely and authentically believes their *raison d'être* is better served in *Chutz La'aretz*? Does it obligate the person to remain? Would the calculus change when considering an individual's spiritual attainability, or should we only gauge their contributions to their current community? Should a rabbi leave his *kehilla*? Is he allowed? Should a *mechanech* or *mechanechet* leave his or her classroom in exchange for one in Israel, or even change professions to relocate to Israel? Does the *petur* of leaving [or not settling in] Israel based on where one can learn Torah better even apply when there are Anglo-oriented neighborhoods in Israel with a *Beis Midrash* on every corner? Does our 'irreplaceability' to our community depend solely on our own self-esteem, or should we seek an additional opinion? And how do we quantify spirituality or contribution? Fattening the Land of Israel with Jewish bodies, our own and our progeny, is certainly a contribution. Developing and nurturing a Community Kollel in Los Angeles or Atlanta is undoubtably another. Which is greater, and do they represent a zero-sum game? Can one develop, support, and learn in a Kollel in Israel just the same?

These are weighty questions. Such debates, primarily rooted in ideological or experiential data, will rarely be dispositive of any question, but may prove worthwhile and illuminating if only for the purposes of persuasive correspondence. Differing legitimate viewpoints can exist and run parallel to one another, but not all avenues necessarily lead to the same destination.

In truth, I question the opposing premise itself. One can certainly climb to intellectual heights in *Chutz La'aretz*, but spiritual ascendance to the loftier towers is one reserved for a particular land designated by the *Ribbono Shel Olam*. I believe, *b'emuna shleima*, that a person who sincerely proclaims that they are living their spiritual potential in *Chutz La'aretz* has created a delusional setting, a pipedream where the “Iceman Cometh” each day to deliver the goods and chat about the daily news. Doubtless, one can raise an *erhlichen* family, aspire to become a *Talmid Chacham*, fulfill the definition of being counted as part of the ‘*baishanim, rachmanim, and gomlei chassadim*,’ but there will always exist an internal void in one's *shleimus ha'avoda*, and this we must acknowledge. Jim Abbot pitched a full career in the Majors with one arm and the handicap made his achievements even the more remarkable, but he still retired missing an arm.

The issue at hand is not one which orbits in a vacuum external to one's inner-feelings and emotions. A *mechanech* or *rav* in America may feel his creation was

<sup>11</sup> Kipling, Rudyard. “Mandalay”

conditional to meet and fill that position. It provides existential and internal value and meaning, accomplishment and indispensability. While in *Chutz La'aretz* I certainly felt this way, and there are *eidim ne'emanim* who will tell testify I cried away my nights and days in an emotional whirlwind of inner tension as the last few months faded toward our *aliya*. But I no longer wanted to define my habitat for the length of my days with the modifier "*chutz*;" I wanted to feel part-of and immanent in the grand unfolding of Jewish destiny.<sup>12</sup>

When asked regarding the drafting of Yeshiva students into the Israeli army, Rav Aharon Lichtenstein responded:

*It's comparable to the question which people sometimes ask me: can Kohanim go to medical school? I tell them that if you told me you are going be a crackerjack doctor, and there is no other doctor in the community who can approach your abilities, and if you don't go to medical school there is no one else in the area who is willing to do it and who can do it – of course I would have no question whatsoever about your going to medical school. If the physical health of your community is dependent upon your abilities – of course you can do that. But, it's unlikely that that is the situation, and to a great extent, you need to ask yourself, and ask people like me: is that an accurate account? Well, that depends what you're dealing with. If you are living in a country where there are five applicants for each spot in the medical school, can you honestly say: if I don't go to medical school, the whole community is going to be full of people who are sick, some of whom will die? If one can say that honestly, I think we would certainly have to let him go. But, inasmuch as very few people take that position, subscribe to that situation – we'll tell him: you, go sit and learn in a kollel, or become a comedian or become a sociologist – or do whatever else will enrich, enhance, enliven the community. Ay, they need a doctor? Fine, someone else will be a doctor.<sup>13</sup>*

Without delving into the parameters of *efshar l'kayem al yedei acher* and its

12 Independent to one's view of *Medinas Yisrael* as a harbinger of *Yemos HaMashiach* or not, it is important to note that Rav Chaim Kanievsky encourages all Jews to move to Israel and is quoted numerous times saying that making *aliya* is a fulfillment of a *mitzva de'oraisa* and will hasten the Messianic arrival. Rav Chaim unsolicitedly told a personal *chaver* of mine (a current *rebbe* in Los Angeles) to move to Israel.

13 Lichtenstein, Rav Aharon "On the Drafting of Yeshiva Students," ([pagesoffaith.wordpress.com](http://pagesoffaith.wordpress.com))



*halachic* applicability, I believe this raises a central feature within this debate. How necessary am I to my community's spiritual balance and growth, and how necessary is my community to my spiritual health and comfortability? Regarding *mechanchim* and *rabbanim* specifically, Rav Soloveitchik used to quote a *teshuva* of the *Maharam Schick* that a general doesn't leave his army and a captain doesn't abandon his ship. Rav Hershel Schachter employed this *sevara* to remain as a Rosh Yeshiva in New York and Rav Chaim Ozer Grodzinski, utilizing similar reasoning, was dissuaded from moving to Israel from Vilna. Are we all generals and captains with armies and crews depending upon us?

Rabbi Moshe Shmuel Glasner<sup>14</sup> passionately described the feeling and significance of contributing to *Eretz Yisrael* even outside the realm of *avodas hakodesh*. Seemingly mundane activities adopt greater spiritual significance in Israel.

*Work in the Land of Israel ennobles and refines because it raises the level of prosperity of the people and advances development of the homeland... The commandment to engage in such work is comparable to the commandment to pray and study Torah in the Diaspora. This idea is expressed forcefully in Midrash Rabba (Parshas Ki Savo): "When Moshe saw that the Holy Temple would be destroyed, and the bikkurim would be canceled, he rose and enacted three daily prayers for the Jewish people." Besides the religious meaning of the commandment of bikkurim, there was an added purpose: to spur the people working their land to more intensive and more exquisite care of their tillage. This care was like a religious vow. The mishna in Bikkurim (3:4-5) tells us with what ceremony of crowds and musical accompaniment the bikkurim were brought up to Jerusalem. All the artisans before whom the carriers of the bikkurim passed stood up and ceased working as a sign of respect for the carriers of the bikkurim, even though they were not obligated to stand even for a Torah scholar. To such an extent was agricultural work venerated! The recognition of the simple farmer, whose diligent care for his land served not only himself and his family, but the whole nation, uplifted and refined his Jewish recognition and character so greatly that he did not have to attend the house of worship*

14 Better known as the great-grandson of the *Chassam Sofer* and author of the classic commentary on *Maseches Chulin*, the *Dor Revi'i*. Rabbi Glasner made *aliya* at the end of his life in 1923 and was a staunch supporter of Zionism.

*except on Shabbos and Yom Tov. But when Moshe saw... the image of the Jew in the Diaspora, who would have only the selfish goal of his personal welfare before his eyes, and, separated from his land and unsure of his livelihood, would have no thought but to profit at others' expense, Moshe had to provide him with a moral safeguard. So he sent him three times a day to the house of prayer in order that he not be immersed in mundane, selfish work.*<sup>15</sup>

To be sure, holy activities such as Talmud Torah also enjoy preferred status and sanctity in the Land of Israel. In his presentation of the *Shores Hamitzva* for *ma'aser behema tehora b'chol shana*, the *Sefer HaChinuch* (Mitzva 360) explains the importance of physically visiting *Yerushalayim* and its subsequent spiritual influence upon the pilgrim and his extended family in their pursuit of Torah and *mitzvos* back home. He writes:

*...for there is no doubt that every man will be drawn to establish his residence in the place where his money is there. And as such, when each person brings up the tithe of all his cattle and sheep each year to the place where involvement with wisdom and Torah is found—that is Yerushalayim, where is the Sanhedrin of those who master knowledge and understand information—and we similarly bring up the tithe of our grain in four years of the shemita cycle, as we know that the second tithe is eaten there, and so [too,] the fourth year planting is eating there; the owner of [these things] will perforce either go there and study Torah himself, or send one of his sons to study there and to be sustained by that produce.*

*And through this, each and every house in all of Israel will have someone who is wise and knowledgeable in the Torah and who can [then] teach the entire household of his father with his wisdom. And with this, 'the land will be filled with knowledge of the Lord.'*

According to the *Sefer HaChinuch*, the primary reason *ma'aser behema*, *ma'aser sheni*, *neta rivai*, *et al*, are brought to *Yerushalayim* is the proliferation of *talmidei chachamim* and resultant dissemination of Talmud Torah throughout *Klal Yisrael*, wherever else they may reside.

This begs an obvious question: the author of the *Sefer HaChinuch*, living in

<sup>15</sup> *HaTziyonut BeOr HaEmuna*, 71-72

Spain during the 13th century, was intimately familiar with the great centers of Torah scholarship from after the destruction of *Bayis Sheni* until his lifetime. Great *yeshivos*, talmudic and *halachic* scholars all existed at some point in Bavel, North Africa, and Europe. Why the need to learn Torah in *Yerushalayim*? Can we logically and emotionally only attribute the pilgrimage to the placement of the *Sanhedrin*? The conclusion must be *Toras Eretz Yisrael* [and specifically *Toras Yerushalayim*] enjoys a qualitatively distinct status than elsewhere, where *chochma* constellates, endowing it with metaphysical qualities absent the world over.<sup>16</sup>

Similarly, Rav Aharon Lichtenstein related the following personal anecdote:

*There are those who feel that they may be learning in Eretz Yisrael, but if the same circumstances could be obtained in southern France, or in northern Scotland, they would go there just as well. This is absolutely inconceivable. The role and significance of Eretz Yisrael in one's personal life, in its historical context, and with its many historical associations – that is certainly something which a Jew, and certainly a ben Torah, needs to feel. Even if later on he finds, for one reason or another (and I don't say that there aren't valid reasons), that he has to forgo the dream, at least he should have this dream and aspiration. Unfortunately, many bnei Torah don't feel this.*

*I myself underwent this experience upon my first visit to Eretz Yisrael in the summer of 1962, and it left an indelible imprint on me. I made it my business to get to know as much of the country as I could. One day, I went to see *mori ve-rabbi* Rav Hutner zt"l, who used to spend summers in Eretz Yisrael. He had an attachment to Eretz Yisrael – he had studied in Yeshivat Chevron when it was still in Chevron. He began to ask me what*

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<sup>16</sup> Accounting for the metaphysical uniqueness of Israel, Rav Yehudah HaLevi, in his *Kuzari*, writes, “No other place shares the distinction of the Divine influence, just as no other mountain produces such good wine.” In his analogy, just as there are some countries, climates, and soils particularly suited to grow vines, *Eretz Yisrael* is particularly primed to cultivate prophecy and prophets, or, nowadays, Divinely-inspired people.

The *Ramban*, in his *perush al HaTorah*, *Vayikra* 18:25, writes “God created everything and placed the power over the ones below in the ones above and placed over each and every people in their lands according to their nations a star and a specific constellation ... But the Land of Israel, in the middle of the inhabited earth, is the inheritance of God ... He has set apart from all the nations over whom He has appointed princes and other celestial powers, by giving us the Land of Israel of so that He, blessed be He, will be our God and we will be dedicated to His name.” *HaKadosh Baruch Hu's* relationship with *Eretz Yisrael* is direct and unyielding, woven into the geological and astronomical fabric of the Land of Israel, terrestrial and celestial alike. Doubtless, the views presented by Rav Yehudah HaLevi and the *Ramban* are mystically driven, but is there really any other way to explain the ahistorical significance of *Eretz Yisrael* to the Jewish People?

*are my impressions, what do I see here, what do I feel. I discussed with him the vitality of Jewish life and the sense of total community, as opposed to the Diaspora, where one's life is more fragmented. He felt that you could have felt that wholeness and vitality in Eastern Europe as well. Then I said that I think there is a broader range of application of Halakha in Israel. In America, rabbinical courts handled only ritual law, and here they dealt with dinei mammonot (commercial and financial cases) as well, so here you feel the resonance of Halakha in more areas of life. He said that you could have seen that in Eastern Europe or in North Africa also.*

*I tried to get him to elaborate, and finally he exclaimed, "Why don't you mention the uniqueness of being in Eretz Yisrael? Chazal (Ketubot 112a) speak of Eretz Yisrael as a country that Moshe and Aharon didn't merit to enter, and we are there!" It was stunning to him to meet a ben Torah on an airplane flying to Israel, whose attitude was the same as if he were going to California. I walked out of there like a beaten dog.<sup>17</sup>*

And again in Mevakshei Panecha, Rav Aharon Lichtenstein shares:

*Once, Yeshivas Rabbeinu Yitzchak Elchanan wanted to honor me.... They allotted me ten minutes to speak at the ceremony. I said as follows, "Here I am standing before you and asking myself—according to whatever measure one chooses—scholarship, yira'as Shamayim, ethical behavior, anything that ought to be dear to the heart of every Jew—I am not the one that should be honored here; we would all [choose to] honor Mori v'Rabi, Rav Aharon Solveichik." And then I said to them, "Why then did I agree? I agreed because I said to myself: 'True, you are but the dust beneath his feet (afar ata tachas kapot raglav), but he is in chutz la'aretz and you are in Eretz Yisrael!' I said to myself, 'If one proliferates Torah in Eretz Yisrael, your reward is doubly meritorious. You enrich the individuals, you contribute to their world spiritually, but you also contribute to the development of the State of Israel and to enriching society in Eretz Yisrael.'" And I do that.<sup>18</sup>*

17 Lichtenstein, Rav Aharon "The Land of his Father's Dwelling, the Land of Canaan: On the Uniqueness of Living in Eretz Yisrael." This *sicha* was delivered to overseas students at Yeshivat Har Etzion in Winter 5758 (1998)

18 Sabato, Rav Chaim and Lichtenstein, Rav Aharon, *Mevakshei Panecha* p. 82 in the Hebrew version and p.102 in the English translation.

Whether we submit to the Kookian view that a street sweeper in Israel is fulfilling the mitzva of *Yishuv Eretz Yisrael* on a formal level or not, we cannot deny the qualitative difference in value of one who contributes to *Eretz Yisrael* and one who contributes abroad. Rav Aharon Lichtenstein, in his humility, attributed his receipt of honor amongst fellow Roshei Yeshiva to his position as a *marbitz Torah* in *Eretz Yisrael*. Could he, would he, have accomplished more in New York? In his estimation, the answer was as plain and obvious as the difference between addition and multiplication. Learning Torah, teaching Torah, living the spiritual and good life in *Eretz Yisrael* creates an unfair distribution of wealth compared to those learning and teaching abroad, an unbridgeable gap in spiritual attainment and potential accomplishment. I hold this truth to be self-evident.

I conclude with an idea quoted in the name of Rav Moshe Shapiro. He asked what was so terrible about the *Chet HaMeraglim*. In the grand historical scheme *Am Yisrael* simply delayed their entry into *Eretz Yisrael* by one generation. Yet we continue to mourn this event and cry each *Tisha'a B'av* a few millennia later. He answered that the *Meraglim* introduced the *mussag*, the concept, that there can exist a *Klal Yisrael* without an *Eretz Yisrael*, and that idea should never have been entertained after *Yetzias Mitzrayim* and *Maamad Har Sinai*. The *Meraglim* introduced this schism into our history and it is one that should make us feel uncomfortable and unsettled. 'Am I achieving my spiritual potential' is a question even the *toshavei Eretz Yisrael* must ask frequently. I believe the path to answering that question is easier to find in Israel.



# There's Only One Place a Jew Should Live – Where He'll Do the Most Torah and *Mitzvos*

RABBI YAAKOV SIEGEL



For centuries, *teshuvos* have been written about whether Jews living in *galus* should try to move to *Eretz Yisrael*. These discussions have generally focused on weighing a possible mitzva of *yishuv Eretz Yisrael* – living in the land of Israel<sup>1</sup> – against the danger of travel, the danger of living in *Eretz Yisrael* under foreign rule, the near impossibility of earning a *parnasa*, and the impracticality of keeping *mitzvos hatluyos ba'aretz* – the *mitzvos* only applicable in *Eretz Yisrael*. *Ashreinu ma tov chelkeinu u'ma na'im goraleinu* – how fortunate is our generation that nowadays travel to *Eretz Yisrael* is safe, it has a Jewish government, its economy is robust, there are *parnassa* opportunities in numerous fields, and *mitzvos hatluyos ba'aretz* are scrupulously observed by millions of Jews every day. So many brave families and individuals have made *aliya* and have reaped incomparable spiritual bounty. Their lives have been enriched by countless opportunities for Torah and *mitzvos* that come with a life that lives and breathes *yahadus* that only exists in *Eretz Yisrael*.

But to be sure, even today there are numerous difficult challenges in moving to *Eretz Yisrael* – many of them identified by *poskim* as bona fide reasons to stay in *chutz*

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<sup>1</sup> It seems from the Ramban in *Sefer Hamitzvos* (*Shichichas Ha'esin* 4) and his Torah commentary (*Bamidbar* 33:53) that we will quote below, that the mitzva includes at least “*vishavtem ba*,” living in *Eretz Yisrael*. There is a discussion in the *achronim* as to whether the *aliya la'aretz* – the journey itself – is a mitzva, or just a *hechsher mitzva*. There is also a discussion about whether settling the land – for example, if someone living in *Eretz Yisrael* buys additional land – qualifies as a mitzva. For a discussion on this topic, see *Yishuv Eretz Yisrael Vishivasa* 5779 by Rav Asher Weiss ([www.torahbase.org](http://www.torahbase.org))

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*la'aretz*. Many *olim* will find it too difficult to adjust to the language, to find friends and a community in which they feel comfortable, and to find a suitable *parnassa* with which they can support their families. Additionally, making such a dramatic move can often be traumatic for children, and can sometimes, *lo aleinu*, have adverse social, developmental, and religious implications. For others, leaving home might have negative impacts on their own religious observance and growth, as they are forced to leave their shul, rabbeim, *chavrusas*, and for some, their *rabbanus*, communal teaching positions, or *chesed* projects in which they are involved.

It is this last issue that will be the focus of our discussion. Let's say a person or a couple is finding success in accomplishing their religious goals in *chutz la'aretz*. They daven at a shul in which they are growing in their *tefila* and connection with Hashem, and have *their rav* and *rebbeitzin* who are helping them grow. They have a *beis medrash* or *shiurim* in which they are growing in their *Talmud Torah*. They have *tzedaka*, *chesed*, and communal projects that are making an impact in their community. If they were to move to *Eretz Yisrael*, perhaps they will have more opportunity for spiritual growth – but it seems like they might have less. Should they move to *Eretz Yisrael* even though it means risking much of their accomplishments in *chutz la'aretz*?

And what about a *rav*, a *rebbe*, a *mechaneches*, a *ba'al tzedaka*, or an *askan*? Should they move to *Eretz Yisrael* if their *chutz la'aretz* community that relies on their talents and resources will be harmed by their leaving?

In this discussion, we will present numerous arguments as to why a person who is accomplishing and growing in their Torah and *mitzvos* in *chutz la'aretz* need not move to *Eretz Yisrael*.

While other factors impacting the *Eretz Yisrael* vs. *chutz la'aretz* decision might weigh more heavily in *halacha*, such as *chinuch* of one's children and ability to find a *parnassa*, those factors will be left for another discussion, and for the sake of our analysis we will assume that our subjects can happily satisfy their *parnassa* and *chinuch* goals and needs in *Eretz Yisrael*.

### **Is there a Mitzva of Yishuv Eretz Yisrael without a Beis Hamikdash?**

The question of *mitzvas yishuv Eretz Yisrael bizmaneinu*, is there a mitzva to live in the land of Israel even after the *Beis Hamikdash* was destroyed and the Jews sent to exile, was probably the most fiercely debated *halachic* question of the 20<sup>th</sup> century. With the rise of Zionism and the formation of the State of Israel, what had previously only been an impossible dream became a reality and a real *shaila*; is one obligated to move to Israel? While the *halachic* literature on this question could easily fill a *seforim*



*shrank*, for our discussion a short summary will suffice.

In *Kesubos* (110b-111a), the *gemara* strongly praises and encourages living in *Eretz Yisrael*. Yet, mixed in with the encouragement, the *gemara* includes a few ambiguous statements that imply that one should *not* leave *galus* to make *aliya*. For example, the *gemara* says that anyone who leaves *Bavel* for *Eretz Yisrael* violates an “*aseh*” of “*vishama yihyu ad yom pokdi osam* – and they shall remain in [*Bavel*] until the day I remember them” (*Yirmiyahu* 27:22). The *gemara* also says that Hashem made the Jews take an oath “*shelo ya’alu kachoma*,” that they would not ascend like a wall and forcibly take back *Eretz Yisrael* until the time of *Moshiach*.<sup>2</sup>

The *Rishonim* argue if, while the Jews are officially in *galus*, there still is a mitzva to live in *Eretz Yisrael*. The Ramban says there is a mitzva, Rabbeinu Chaim – one of the *ba’alei hatosfos* – says there is no mitzva, and the Rambam is unclear.

In the *Sefer Hamitzvos*, the Rambam does not count *yishuv Eretz Yisrael* as one of the 613 mitzvos. The Ramban in his comments on the Rambam (*Shichichas Ha’esin* 4) says the Rambam should have included *yishuv Eretz Yisrael* as the *pasuk* says:

והורשתם את-הארץ וישבתם-בה כי לכם נתתי את-הארץ לרשת אתה.  
*And you shall possess the land, and you shall live in it, for to you I have  
 given the land to possess it. (Bamidbar 33:53)*<sup>3</sup>

In *Megilas Esther*, Rav Yitzchok de Leon’s defense of the Rambam’s *Sefer Hamitzvos*,<sup>4</sup> he writes that the Rambam also holds that there is no mitzva of *yishuv Eretz Yisrael* nowadays, as the mitzva only applied until the *Beis Hamikdash* was destroyed and the Jews were exiled from *Eretz Yisrael*. And since the mitzva will not apply until the times of *Mashiach*, the Rambam did not count *yishuv Eretz Yisrael* because he only counts mitzvos that apply forever. Many Hungarian *gedolei Torah* such as the *Minchas Eluzar* of Munkacz and the *Divrei Yoel* of Sztatmar accepted the *Megilas Esther*’s explanation of the Rambam, whereas most other *achronim* including

2 Rashi in *Kesubos* 111a d”h *shelo yaalu bachoma* (as explained by *Avnei Nezer* YD 454) explains this *gemara* to mean that it is prohibited to move *en masse* to *Eretz Yisrael*, even without forming a Jewish government.

3 The Ramban quotes numerous other *pesukim* such as *Devarim* 1:8, “*bo’u urishu es ha’aretz asher nishbati la’avoseichem*,” - “Come and take over the land that I have promised to your fathers.”

4 While there is not much biographical information known about Rav Yitzchok de Leon, we do know he was one of the last great *rabbanim* in Spain prior to the expulsion in 1492. He was the *rav* of Toledo, Spain when Rav Yosef Karo was a young child, and died shortly before the expulsion. Since *Megilas Esther* – a commentary packed with *lomdus* – is the defense of *Sefer Hamitzvos* against the Ramban’s challenges that is printed in most editions of the *Sefer Hamitzvos*, it has become a very popular and widely studied work.

the *Avnei Nezer* ( YD 454:62), and Rav Chaim Palagi (*Shu"t Nishmas Kol Chai* YD 48) rejected the *Megilas Esther's* approach. They bring numerous examples of *mitzvos* the Rambam counts even though they do not apply when there is no *Beis Hamikdash*, such as *korbanos*, *trumos* and *ma'asros*, and *aliya l'regel*. These *achronim* give many reasons why the Rambam wouldn't count *yishuv Eretz Yisrael* even if it is a *mitzva de'oraisa*. One of the explanations commonly quoted is that the Rambam holds the *mitzva of yishuv Eretz Yisrael* is a preparation for the *mitzvos* that can only be performed there, and if one *mitzva* is a preparation for another *mitzva*, the Rambam counts them as one *mitzva* and not two.<sup>5</sup>

On the other hand, *Tosfos* in *Kesubos* (110b d"hu amar la'alos) quotes Rabbeinu Chaim who says:

והיה אומר רבינו חיים דעכשיו אינו מצוה לדור בא"י כי יש כמה מצות התלויות  
בארץ וכמה עונשין דאין אנו יכולין לזוהר בהם ולעמוד עליהם.  
And Rabbeinu Chaim says that nowadays, it is not a *mitzva* to live in the  
Land of Israel, as there are many commandments that are dependent upon  
the land (*mitzvos hatluyos ba'aretz*) and many punishments - that we are  
not able to be careful about and to keep.

We will discuss this opinion of Rabbeinu Chaim in greater depth later.

It remains a *machlokes haposkim* whether there is a *mitzva of yishuv Eretz Yisrael* nowadays. The *Darchei Moshe* (A"H 75:6) and the *Taz* (A"H 75:2) both quote the opinion of Rabbeinu Chaim in *Tosfos* that there is no *mitzva* nowadays, whereas the *Pischei Teshuva* (A"H 75:6) quotes the Maharit and Rav Yaakov Milisa (author of the *Nesivos Hamishpat*) as saying there is a *mitzva of yishuv Eretz Yisrael* nowadays.<sup>6</sup>

Rav Moshe Feinstein, whose view we will soon discuss in greater detail, rules (*Igros Moshe* YD 3:122 and E"H 1:102) that there is a *mitzva d'oraisa of yishuv Eretz Yisrael* nowadays, but it is only a *mitzva kiyumis*, meaning that one is not obligated to live

5 This explanation is quoted by Rav Yisrael Meir Lau (*Shu"t Yachel Yisrael* 2:42) and Rav Pinchas Zvichi (*Ateres Paz* 1:1:10:5). Another example (cited by the *Avnei Nezer*) is that the Rambam does not count making the *keilim* of the *Mishkan* as a separate *mitzva*, whereas the Ramban does, because the making of the *keilim* is a preparation for the *hashra'as haShechina* generated from making the *Mishkan*.

6 While nearly all who hold there is a *mitzva* nowadays hold it is *mid'oraisa*, the *Kenesses Hagedola* ( YD 239) and Radvaz (cited in *Arah Dirabanan*) hold that it is a *mitzva derabanan*. Rav Moshe Feinstein (*Igros Moshe* YD 3:122) rejects these opinions, asking how it is possible that when the Jews were kicked out of Israel that the Rabbis would make a decree to move there which would immediately be impossible to keep.

in Israel, but one fulfills a mitzva if he does so. This is also the position of *Avnei Nezer*<sup>7</sup> ( YD 454:62), *Tzitz Eliezer* (14:72:7),<sup>8</sup> Rav Yaakov Breisch in *Chelkas Yaakov* ( YD 128:6), and Rav Moshe Sternbuch in *Teshuvos V'hanhagos* (4:327). While Rav Moshe Feinstein is unanimously considered the *posek* with the greatest influence in America, it is worthwhile to note that there are important *poskim* who do hold that *yishuv Eretz Yisrael* is an obligatory *mitzva chiyuv* – including Rav Ovadia Yosef (*Kovetz Torah Sheba'al Peh* Vol. 11) and Rav Yitzchok Zilberstein (*Chashukei Chemed Kesubos* 110b)

So regarding our question at hand, if we were to follow the opinions that there is no mitzva of *yishuv Eretz Yisrael* nowadays, there would be no question at all. According to those opinions, it is obvious that a person who is thriving in their *ruchniyus* in *chutz la'aretz* – whether in their own personal *avodas Hashem* or as a communal leader, should *not* move to *Eretz Yisrael*, unless they are convinced that they can accomplish more in *ruchniyus* in *Eretz Yisrael*. But what about according to the majority of *poskim* who hold that there is a mitzva nowadays? Should such a person risk their Torah accomplishments in *chutz la'aretz* and make *aliya*?

### **If You're Allowed to Leave Israel, You Don't Have to Move There**

Our question is discussed directly by the Maharam Rotenburg and the *Me'il Tzedaka* (Rav Yona Landsofer, one of the *gedolim* of Prague at the beginning of the 18<sup>th</sup> century), but first a little background.

The *gemara* in *Eiruvin* (47a) and *Avoda Zara* (13a) says:

ומטמא ללמוד תורה ולישא אשה.

[Even a kohen is allowed] to go to *chutz la'aretz* to learn Torah and marry.

The *gemara* in *Bava Basra* (91a) adds that one is also allowed to leave if economic conditions are dire in *Eretz Yisrael*, and one needs to leave for their *parnasa*.

The Rambam (*Hilchos Melachim* 5:9) and *Tosfos* in *Avoda Zara* (13a *d"h* *lilmod Torah*) rule that one is only allowed to leave for these three reasons. *Tosfos*, however,

7 Interestingly, the *Avnei Nezer* ( YD 2 454:18) suggests that one can only fulfill *yishuv Eretz Yisrael* if their *parnasa* comes from *Eretz Yisrael*. He says that one of the greatest benefits of living in *Eretz Yisrael* is that *parnasa* is given by Hashem with direct *hashgacha*, whereas outside of *Eretz Yisrael* the *hashgacha* is more indirect, coming from a ministering angel. Accordingly, one who lives in *Eretz Yisrael* but flies in regularly to *chutz la'aretz* to earn a *parnasa*, or even one who works remotely for an American company, would not be fulfilling the mitzva of *yishuv Eretz Yisrael*.

8 See, however, *Tzitz Eliezer* (7:48:12) where in an essay written shortly after the establishment of the State of Israel, he strongly implies that *yishuv Eretz Yisrael* is a *mitzva chiyuv*. Perhaps he later changed his mind and accepted Rav Moshe's position (which he does quote in his much later *teshuvah* in Vol. 14, written in 1980.)

also quotes the *She'iltos Dirav Acha* (Emor 103) who says that those are just examples, but one is allowed to leave *Eretz Yisrael* for any mitzva. While this is not addressed directly in *Shulchan Aruch*, the *Shulchan Aruch* does rule (O"H 531:4) that one may shave if he returns from *chutz la'aretz* to *Eretz Yisrael* on *Chol Hamoed* if he left for a permitted reason, but if he left "*litayel*," to tour, then he may not – since *litayel* is a prohibited reason to leave *Eretz Yisrael*. The *Magen Avraham* (531:7) and *Mishna Brura* (531:14) explain that this ruling of the *Shulchan Aruch* is based on the lenient opinion of the *She'iltos* that one may leave *Eretz Yisrael* for any mitzva, not just marriage, Talmud Torah or earning a *parnasa*.

Based on this *psak* of the *Shulchan Aruch*, *poskim* allow people to leave *Eretz Yisrael* to daven at *kivrei tzadikim* (*Birkei Yosef* 568), go to a relative's or friend's wedding (*Minchas Yitzchak* 3:26), and even to go on vacation to a beautiful destination where one will appreciate the amazing beauty of Hashem's creation (*Shevet Halevi* 5:173).

But if you're allowed to leave *Eretz Yisrael* for *Talmud Torah* and other *mitzvos*, does that automatically mean you're allowed to stay in *chutz la'aretz* for *Talmud Torah* and other *mitzvos*? Maharam Rotenburg and the *Me'il Tzedaka* say yes.<sup>9</sup>

While Maharam Rotenburg was imprisoned for ransom, his student Rav Shimshon bar Tzadok was occasionally allowed to visit the Maharam. Rav Shimshon used his visits to ask the Maharam *sheilos* and record the Maharam's *minhagim*. One of his recorded discussions with the Maharam addresses our question (*Tashbetz Katan* – *siman* 561 in the Warsaw edition and 564 in Salzburg edition):

וששאלת למה לא הלכו שם כל האמורים, אשיבך דלא הוה מותר להו דהוו צריכים לבטל מלמודם ולשוט אחר מזונותם. דאמרינן בפרק מי שהוציאנהו (דף מז.) דמותר לצאת מארץ ישראל לחוצה לארץ אחר רבו ללמוד תורה כל שכן שאין לילך מרבו מחוצה לארץ לארץ ישראל להתבטל מלימודו ולשוט אחר מזונותיו.

*That which you asked, why didn't all of the amoraim move [to Israel], I will answer you that it would not be permitted for them because they would have needed to waste their learning time to chase after their livelihoods. As we say in Eiruvין 47a, one is allowed to leave Eretz Yisrael to chutz la'aretz to follow his rebbi to learn Torah. Certainly one need not leave his*

<sup>9</sup> Rambam and apparently *Tosfos* both hold that even though for *parnasa* one may permanently move from *Eretz Yisrael* to *chutz la'aretz*, for *Talmud Torah* and marrying a wife, one may only move to *chutz la'aretz* if his intention is to eventually move back to *Eretz Yisrael*. Based on this, one could argue that the *heterim* to leave *Eretz Yisrael* would not apply to staying in *chutz la'aretz*. It is clear, however, that Maharam Rotenburg and *Me'il Tzedaka* hold that the *heterim* do apply to staying in *chutz la'aretz*.

*rebbe to go from chutz la'aretz to Eretz Yisrael and waste his learning time chasing after his livelihood.*

The *Me'il Tzedaka* (26) writes a lengthy *teshuva* in which he strongly argues that there is a *mitzva* of *yishuv Eretz Yisrael* nowadays. He ends, however, with a stern warning:

ועי' בתשב' צ"ס' תקס"ב דכל שאין לו שם פרנסה מוכנ' מעבירים על דעתו ועל דעת קונו ח"ו ואין אדם שליט בנפשו. ואפשר אם שיהי' לו פרנסה מוכנת בקלות כ"כ מח"ל עד שלא יחסר לו בדרך הטבע מותה. כי ענינו ראו ולא זר שהרוב הבאים שמה לגדול עניותם צריכין לשוב חוצה ומתבלבלים מעבודת השם ומלימוד התורה והלא יוצאין מא"י לח"ל ללמוד תורה מרבו מכ"ש שלא לנסוע לכתחילה.

See Tashbetz *siman* 562<sup>10</sup> who says that anyone who doesn't have his *parnasa* prepared [for when he moves to Eretz Yisrael], it removes him from his mind and from thinking about his Creator, God forbid, and such a person will not be able to control himself. And it is possible that if he can easily earn a livelihood for himself in Eretz Yisrael – that he will have what he needs without relying on miracles – then he would be allowed [to move to Eretz Yisrael]. Because our eyes see, and it is not unusual that most of those who come to Eretz Yisrael, due to their poverty, need to return to *chutz la'aretz*, and [while they are in Eretz Yisrael] are distracted from their *avodas Hashem* and Torah learning. **And since one may leave Eretz Yisrael to learn Torah from his rebbe, certainly he should not travel there lichatchila.**

The Maharam Rotenburg and *Me'il Tzedaka*, both quoted on the page of the *Shulchan Aruch* by *Pischei Teshuva* (75:6), are clearly saying that if you're allowed to leave Eretz Yisrael for a reason, you're allowed to stay in *chutz la'aretz* for that reason. And since we *pasken* like the *She'iltos* that one may leave Eretz Yisrael for most *mitzvos*, one could stay in *chutz la'aretz* for most *mitzvos* as well. So obviously, if one is concerned that they might not be able to learn the Torah that they are learning, daven the way they are davening, give *tzedaka* the way they are giving *tzedaka*, or teach the way they are teaching, he or she may – and probably should – stay in *chutz la'aretz*.

### Voluntary Means You Don't Have to Do It

*Mitzvos asei*, positive *mitzvos*, can generally be divided into two categories: *mitzvos chiyuvios*, obligatory *mitzvos*, and *mitzvos kiyumios*, voluntary *mitzvos* one does not

10 He is referring to the same *siman* of *Tashbetz Katan*. It seems like nearly every edition of *Tashbetz Katan* has a slightly different numbering system.

have to do, but it is the fulfillment of a mitzva if he does it. *Tefilin* is an example of an obligatory *mitzva chiyuv*; every man is obligated to put on *tefilin*. *Shechita* is an example of a voluntary *mitzva kiyum*; no one is obligated to do *shechita*. If one *shechts* an animal because he wants to eat it, he has performed a mitzva, but if he goes his entire life without ever performing *shechita*, that's okay too.<sup>11</sup>

So which type of mitzva is *yishuv Eretz Yisrael*? We mentioned earlier that Rav Moshe Feinstein holds that *yishuv Eretz Yisrael* is a *mitzva kiyum*. While Rav Moshe never wrote a full *teshuvah* on this issue, he explains his position most clearly in *Igros Moshe* (E"H 1:102):

הנה רוב הפוסקים סברי שהוא מצוה. אבל פשוט שאין זה בזה "מצוה חיובית שעל הגוף דא"כ היה ממילא נמצא שאסור לדור בחו"ל משום שעובר על עשה כמו מי שילבש בגד של ד' כנפות בלא ציצית שיש איסור ללבוש כדי שלא יעבור על עשה דציצית. ולא הוזכר איסור אלא על הדר בא"י שאסור לצאת ע"מ לשכון בחו"ל ברמב"ם פ"ה ממלכים ה"ט, וג"כ הא דאינו איסור לאו. ואם היה איסור גם לאנשי חו"ל הי"ל לרמב"ם לומר סתם אסור לשכון בחו"ל אא"כ חזק בא"י הרעב. משמע דרך ליושבי א"י יש איסור שאסרו חכמים אבל מצד העשה אינה חיובית אלא כשדר שם מקיים מצוה.

*Most poskim hold that [yishuv Eretz Yisrael] is a mitzva. But it is obvious that nowadays there is no mitzva chiyuv incumbent upon a person, because if there were, it would be prohibited to live in chutz la'aretz, because by doing so one would be violating the positive commandment similar to the way one violates the positive commandment of tzitzis by wearing a four cornered garment without tzitzis – which there is a prohibition to wear so that one doesn't violate the positive commandment of tzitzis. Yet, we never find a prohibition related to this except for a person who lives in Eretz Yisrael that it is forbidden to leave (Rambam Hilchos Melachim 5:9). And even that is not a full Torah prohibition. And if it was prohibited even for people who live in*

11 We are using the term "voluntary" loosely to help make our discussion about *mitzvos kiyum* easier to follow. In reality, *mitzvos kiyum* can also be divided into two subcategories. One is truly voluntary *mitzvos*. One could make a special trip to the hospital on Friday afternoon to wish *Gut Shabbos* to Jewish patients – that would be a fulfillment of *bikur cholim*, but it is totally voluntary. The other category is *mitzvos* which are conditionally obligatory. If one wants to eat meat, he must *shecht* the animal; if one owns donkeys, he must redeem the first born from the *kohen* for a sheep. If one lives his entire life never doing *shechita* or *pidyon peter rechem chamor*, he is still a complete *tzadik*. As we will discuss, the examples of *mitzvos kiyum* that the *poskim* use, are generally from the second category – conditionally obligatory. So any leniencies applied to this category, would certainly be applied to the category of truly voluntary *mitzvos*.



*chutz la'aretz, the Rambam should have simply said, it is prohibited to live in chutz la'aretz unless there is intense famine.<sup>12</sup> Rather it sounds like only for people living in Eretz Yisrael, did the Rabbis make a Rabbinic prohibition against leaving. But for the positive commandment, it is not obligatory (chiyuvis), rather if he lives there he fulfills a mitzva.*

Rav Moshe is basically saying that since the Rambam only prohibits leaving Eretz Yisrael and not living in *chutz la'aretz*, *yishuv Eretz Yisrael* cannot be a *mitzva chiyuvis* – it can only be *kiyumis*.<sup>13</sup>

As mentioned earlier, many of the greatest *poskim* of the 20<sup>th</sup> century agreed that *yishuv Eretz Yisrael* is *kiyumis*. This list includes *Avnei Nezer* (YD 454:62), *Tzitz Eliezer* (14:72:7), Rav Yaakov Breisch in *Chelkas Yaakov* (YD 128:6), and Rav Moshe Sternbuch in *T'shuvos Vihanhagos* (4:327).

So according to Rav Moshe and these other *poskim*, if one wants to stay in *chutz la'aretz*, he might not need an excuse, since it's voluntary and there's no prohibition of staying in *chutz la'aretz*. Certainly if there are other *mitzvos* a person would rather do, or if a person is concerned that they would not accomplish as much with certain *mitzvos* – such as giving *tzedakah* or teaching Torah – they would be allowed to stay in *chutz la'aretz*.

### **A Mitzva Chiyuvis Trumps a Mitzva Kiyumis**

If *yishuv Eretz Yisrael* is a voluntary *mitzva kiyumis*, in some cases a person *should not* move to Eretz Yisrael.

The rule is a *mitzva chiyuvis* takes precedence over a *mitzva kiyuims*. For example, the *Yerushalmi* at the end of *Megilla* rules that if a person can only afford *tefillin* or a

12 While Rav Moshe does not point this out, the Rambam (*Melachim* 5:7) is explicit that it is permitted to live in *chutz la'aretz*, when he writes “*mutar lishkon bichol ha'olam chutz me'erezt Mitzrayim*,” it is permitted to live anywhere in the world except for Egypt, which three times the Torah prohibits returning to Egypt. It is well known that Rav Ishtori Haparchi (1280-1355) writes in *Sefer Kaftor Vaferach* (Ch.5) that he met a grandson of the Rambam who told him that the Rambam signed his letters “I, Moshe ben Maimon, who violates every day three prohibitions in the Torah,” referring to the three times the Torah prohibits returning to Egypt. But the Rambam did not think that he violated a fourth prohibition of living in *chutz la'aretz*.

13 If there is no *issur* to live in *chutz la'aretz*, why would there be an *issur* to leave Eretz Yisrael? The *rishonim* argue as to why in general there is an *issur* to leave. The Rashbam on the *gemara* in Bava Basra 91a (*d"h ein yotzin*) says that one who leaves is “*mafkaia atzmo min hamitzvos*,” he is removing from himself his obligation in *mitzvos hatluys ba'artez*. The Ramban (*Bamidbar* 33:53 *d"h vihorashtem*) says the *issur* of leaving is the same as the *mitzva* of *yishuv Eretz Yisrael*. So Rav Moshe must understand that the Rambam follows the Rashbam's reason for the *issur* of leaving – removing oneself from the *mitzvos* of Eretz Yisrael.

*mezuzah*, he should buy *tefillin*. The Rema explains ( YD 285:1) that *tefillin* is a *mitzva chiyuv*, whereas *mezuzah* is a *mitzva kiyumi* which one only has to fulfill if he owns or is renting a house that is obligated in *mezuzah*.<sup>14</sup> Similarly, Rav Akiva Eiger rules (*siman* 9) that *lulav* takes precedence over *tzitzis* and *mezuzah* because it is a *mitzva chiyuv*, while *tzitzis* and *mezuzah* are *mitzvos kiyumim*. Thus, according to Rav Moshe and the other *poskim*, one should not move to *Eretz Yisrael* if it would mean missing out on *mitzvos chiyuv*, and certainly not if it would mean violating *mitzvos lo sa'ase*.

Many Torah-observant Jews today are all struggling with the same list of challenges: finding time to learn Torah, davening with *kavana*, *shmiras einayim* in the street and at home, avoiding *lashon hara* and inappropriate discussions, honesty in business, and maintaining modest attire. And it is precisely with these *mitzvos*, the challenges of today, that one can test if he is growing in his *avodas Hashem*, because if he's not, it is precisely these *mitzvos* that suffer. And none of the *mitzvos* on this list are voluntary like *yishuv Eretz Yisrael*. They are all either obligatory *mitzvos chiyuv*,<sup>15</sup> or *mitzvos lo sa'ase*.

So when considering *aliya*, one needs to ask – what will happen to my obligatory *mitzvos* if I leave my *rav*, my *shul*, my *beis medrash*, my friends and family who give me *chizuk*, or my position as a *rav* or *rebbe* or communal leader? Do I risk *bitul Torah* or falling short in other obligatory *mitzvos*? If the answer is yes, then those concerns should outweigh the voluntary *mitzva* of *yishuv Eretz Yisrael*.

### The Purpose of Yishuv Eretz Yisrael is to do More Mitzvos, not Less

Earlier we mentioned the opinion of Rabbeinu Chaim, quoted in *Tosfos* in *Kesubos* (110b d"v hu amar la'alos):

דעכשו אינו מצוה לדור בא"י כי יש כמה מצות התלויות בארץ וכמה עונשין דאין אנו יכולין ליזהר בהם ולעמוד עליהם.

*Nowadays, it is not a mitzva to live in the Land of Israel, as there are many commandments that are dependent upon the land (mitzvos hatluyos ba'aretz) and many punishments that we are not able to be careful about and to keep.*

<sup>14</sup> This is Rav Akiva Eiger's (*siman* 9) explanation of the Rema – arguing on the *Beis Hillel's* interpretation ( YD 285:2). And as we mentioned in footnote 10, *mezuzah* is actually a conditionally obligatory *mitzva* – if you live in a house that's four by four *amos*, you will become obligated to put up a *mezuzah*. But if a *mitzva chiyuv* takes precedence over a conditionally obligatory *mitzva kiyumi*, it certainly would take precedence over a truly voluntary *mitzva kiyumi*.

<sup>15</sup> See *Kehilas Yaakov* (*Shabbos* 11), where the Steipler proves at length that Talmud Torah is a *mitzva chiyuv*, even though one should stop learning to perform a time limited *mitzva*.



There is an obvious question on Rabbeinu Chaim, which nearly all *acharonim* ask, starting with the Maharit (*Teshuvos Maharit* 2:28). Why should the mitzva of living in *Eretz Yisrael* disappear just because it's hard to keep *orla* and *shmita*? There should be a mitzva to live in *Eretz Yisrael*, and everyone should try as hard as possible to keep the *mitzvos hatluyos ba'aretz*. For this reason the Maharit suggests that “*eize talmid toeh kosvo*” this line must have really been misquoted by a student of Rabbeinu Chaim.

We can answer the Maharit's question based on the well-known *gemara* (*Sota* 14a) that asks why Moshe Rabbeinu so desperately wanted to enter *Eretz Yisrael*. The *gemara* answers that Moshe Rabbeinu said, “there are many *mitzvos* that can only be kept in *Eretz Yisrael*; let me go into the land so I can keep all of them.” The *gemara* did not say that Moshe wanted to go into *Eretz Yisrael* because *yishuv Eretz Yisrael* is a mitzva, but rather because there are more *mitzvos* that can be kept in *Eretz Yisrael*. The clear implication is that the *only* value of living in *Eretz Yisrael* is that it gives you more opportunities to keep *mitzvos*. (As mentioned previously, this is one of the explanations given as to why the Rambam would not have counted *yishuv Eretz Yisrael* as a mitzva even if he considers it a mitzva nowadays).

Based on this principle, many *acharonim* explain Rabbeinu Chaim's surprising *chidush*. Since the whole purpose of the mitzva of *yishuv Eretz Yisrael* is to do *more mitzvos* by living in Israel, if one would be *mivatel mitzvos* or violating *issurim* by living there, then he would not fulfill the mitzva of *yishuv Eretz Yisrael*. In other words, there is no mitzva to move to *Eretz Yisrael* and keep fewer *mitzvos*.

But nowadays, *bichasdei Hashem*, keeping the *mitzvos hatluyos ba'aretz* has never been easier, so perhaps even Rabbeinu Chaim would agree that nowadays there should be a mitzva of *yishuv Eretz Yisrael*.<sup>16</sup> But what if by moving to *Eretz Yisrael*, a person would not be able to excel as much in other *mitzvos*? What if moving to *Eretz Yisrael* would mean less learning Torah, less teaching Torah, less ability to give *tzedaka* and be *machzik* Torah, less opportunity to be *osek bitzorchei tzibur*, or less peace of mind to continue growing in *mitzvos*? It should follow that Rabbeinu Chaim would say that there would not be a mitzva to move to *Eretz Yisrael*.

It's possible, however, that Rabbeinu Chaim holds that only the difficulty of keeping actual *mitzvos hatluyos ba'aretz* – like *orla* and *shmita* – removes the mitzva of *yishuv Eretz Yisrael*. But looking closely at the text of Rabbeinu Chaim, he says there is no mitzva because there are many *mitzvos hatluyos ba'aretz v'kama onshin* – and prohibitions. While it is not entirely clear what *onshin* Rabbeinu Chaim is referring

<sup>16</sup> The *Avnei Nezer* (454:4) makes this point, that Rabbeinu Chaim would say there is a mitzva nowadays.

to, the implication is that if one would have difficulties performing other *mitzvos* too – not just *mitzvos hatluyos baaretz* – there would be no mitzva of *yishuv Eretz Yisrael*. Thus, it would result that for our question, Rabbeinu Chaim would say if a person might end up with less Torah and *mitzvos* by moving to *Eretz Yisrael*, there would be no mitzva to move at all.<sup>17</sup> And as mentioned earlier, many *poskim*, such as the *Rema* and *Taz*, do *pasken* like Rabbeinu Chaim.

### **How is it Even Possible that One Could Achieve Greater Spiritual Gains Outside of Eretz Yisrael?**

Some argue, however, that it should be impossible for one to have a spiritual *yerida* by moving to *Eretz Yisrael*. If a person moves to fulfill the mitzva of *yishuv Eretz Yisrael*, how is it possible that Hashem would allow fewer opportunities for spiritual growth to someone who is making huge sacrifices to fulfill a mitzva as important as *yishuv Eretz Yisrael*? If a *rav* or *mechanech* makes *aliya*, shouldn't Hashem guarantee him a position with equal or greater opportunities for *harbotzas Hatorah*?<sup>18</sup> Shouldn't every Torah-minded *ba'al habayis* be guaranteed an equal or better *chavrusa*, *shiur*, *rav*, and *shul*?

It's impossible to know Hashem's ways, but it's clear that the *Rishonim* and *Achronim* do not think this is the case. Nearly every *posek* who discusses the challenges of *yishuv Eretz Yisrael* takes it for granted that in many situations it will be easier to keep Torah and *mitzvos* in *chutz la'aretz* than in *Eretz Yisrael*. The Maharam Rotenburg quoted above said that it would be *prohibited* for many of the *amoraim* to move to *Eretz Yisrael* because of the *bitul Torah* involved. Obviously, the Maharam does not believe that Hashem guarantees an *oleh la'aretz* more opportunities to learn. The aforementioned *Me'il Tzedaka* similarly warned against *aliya* because it so often results in spiritual challenges that comes from poverty in *Eretz Yisrael*. Again, it's clear that *aliya* does not bring a guarantee of spiritual success. These concerns are mentioned by many of the *poskim* quoted by the *Pischei Teshuva* (*E"H* 75:6), the *Avnei Nezer*, and many other *poskim* who discuss the challenges of living in *Eretz Yisrael*. Even those who challenge Rabbeinu Chaim don't challenge his assertion that at some times in history it is dangerous to live in *Eretz Yisrael* and nearly impossible to properly keep *mitzvos hatluyos baaretz*. Obviously there's no guarantee of success in Torah and *mitzvos* for anyone and everyone who makes *aliya*.

<sup>17</sup> This approach was explained to me by Harav Eliyahu Levine, *shlita*.

<sup>18</sup> And if he does not get such a position, shouldn't that prove that he would have lost his position in *chutz la'aretz* anyway?

Similarly, there are some who argue that it is better to be a simple farmer or street sweeper in *Eretz Yisrael* than a *rav*, *rebbe*, or *rosh yeshiva* in *chutz la'aretz* because any contribution to the growth of *Eretz Yisrael* is greater than any possible religious accomplishments elsewhere. Again, *ein ata yodeah matan secharam shel mitzvos*, it's impossible to know what *mitzvos* Hashem values more or less, but we do know the *gemara* (*Megila* 16a) that says "*gadol Talmud Torah yoser mibinyan Beis Hamikdash*," that Ezra Hasofer did not come to *Eretz Yisrael* to rebuild the *Beis Hamikdash* as long as he could learn Torah from his *rebbe* in *Bavel*. If Torah study in *chutz la'aretz* is more important than building the *Beis Hamikdash* in *Eretz Yisrael*, then it's certainly more important than building a farm or sweeping a street.

### **But for Many People, There Are More Spiritual Opportunities for Growth in Eretz Yisrael**

Nothing that we have discussed should be construed, *chas vishalom*, as implying that most people can achieve greater spiritual accomplishments in *chutz la'aretz* than *Eretz Yisrael*, as that is absolutely false. Every corner of *Eretz Yisrael* is packed with people of all stripes who prioritize their Torah, *mitzvos*, and relationship with Hashem to a degree that's hard to find in any other place on earth. It seems like every corner has a shul where people daven with *kavana*, a *beis medrash* where people learn with *hasmada*, a *tzadik* who can be a role model, and an opportunity for *tzedaka* and *chesed*. The language is *lashon hakodesh* – the language of Torah and *mitzvos*. Even the secular vernacular is packed with phrases from *Tanach* or *Chazal*, and it is so easy to see that "*afilu reikanim she'bach mileim mitzvos kirimon*," even the non-observant Jews in Israel are filled with *mitzvos* like pomegranates are filled with seeds. In *Eretz Yisrael* one would need to be emotionally deaf and blind to not feel the *kedusha* and see the special *hashgochas Hashem*.

It is incumbent upon every single Jew living in *chutz la'aretz* to seriously study what it would be like to live in *Eretz Yisrael*. Ask – where would I live, and what would I do for *paranasa*? Can I find schools that work for my kids, and can I find a community in which my family can acclimate, but also be supported and encouraged to continue in its religious growth? Who would be my *rebbeim* and *rabbanim*? Every *chutz la'aretz* Jew must analyze – together with their family and their *Rov* or religious mentors – whether they can grow more in *Eretz Yisrael* or *chutz la'aretz*. And re-assess every few years, because as communities in *Eretz Yisrael* grow and mature, and more *bnei chutz la'aretz* make *aliya*, the move is only going to get easier.

### **What's the Bottom Line?**

Many people can accomplish more in Torah and *mitzvos* by moving to *Eretz Yisrael*

if they join the right community. They should do so with Hashem's help. But for many, the risk of leaving their community and positions is great. For *rabbanim*, *rabbeim*, *askanim*, accomplished *ba'alei chesed*, and *ba'alei tzedaka* to leave their accomplishments behind in *chutz la'aretz* might be leaving an irreplaceable void both in the communities that they are leaving, and in their own personal *avodas Hashem*. It's really anybody who is growing in their own *avodas Hashem* with the support of their *rabbanim*, family, and friends could be risking their accomplishments by moving across the world to an unfamiliar language and culture.

For all of these people, we've discussed numerous *heterim* to stay in *chutz la'aretz* even according to the many *poskim* who hold that there is a mitzva of *yishuv Eretz Yisrael* nowadays without a *Beis Hamikdash*:

1. Since one can leave *Eretz Yisrael* for the sake of performing *mitzvos*, certainly one can stay in *chutz la'aretz* for the sake of performing those *mitzvos*.
2. According to many *poskim*, the mitzva of *yishuv Eretz Yisrael* is a voluntary *mitzva kiyumis*, which one is not *obligated* to do. Therefore he should not do if it would mean sacrificing the performance of obligatory *mitzvos chiyuvios*.
3. The *shita* of Rabbeinu Chaim quoted in *Tosfos* implies that the whole purpose of the mitzva of *yishuv Eretz Yisrael* is only to do more *mitzvos*. A person who would do fewer *mitzvos* or more *aveiros* in *Eretz Yisrael*, would have no mitzva to live there.

It is worthwhile to end with the comments of the *Hafla'a*<sup>19</sup> on Rabbeinu Chaim quoted in *Kesubos*. He notes that most of the *heterim* not to live in *Eretz Yisrael* rely on *ones rachmana patrei* – that one simply is unable to move to *Eretz Yisrael* because of danger, poverty, or the inability to properly keep *mitzvos* there – and Hashem permits and forgives those who are forcibly prevented from keeping a mitzva. But, *ones rachmana patrei* only works if the person really wants to perform the mitzva, but is prevented from doing so because of reasons beyond his control. But if a person has no interest in performing a mitzva - and just his luck - he is prevented from doing so by an *ones*, then the person is not *patur* after all. Therefore, says the *Hafla'ah*, one is actually only *patur* from the mitzva of living in *Eretz Yisrael* if he or she truly, genuinely wants to live in *Eretz Yisrael*. So everyone is *obligated* to either live in *Eretz Yisrael* or, at least, to want to live in *Eretz Yisrael*. And if we can't do the former, we have a mitzva to do the latter.

19 Rav Pinchas Halevi Horowitz (1731-1805), rav of Frankfurt AM, *talmid* of the *Magid of Mezeritch*, and brother of Rav Shmelke of Nikolsburg.

# Shabbos: Argument for a 6:55pm Minyan

DR. MICHAEL KLEINMAN



**T**he start time for Shabbos is something that many people take for granted. It may appear on a yearly wall calendar, shul bulletin, or various websites and emails. There may be one *minyan* or many, and the time may vary from week to week or be set all summer long. Finding out the times is the easy part, but understanding the various *halachic* and social parameters that interplay to arrive at those times is a deep and fascinating subject.

One of the most interesting aspects of this discussion is the *halachic* status of having a set time for Shabbos over an extended period of time, usually over the summer months. Many communities have this practice, but in recent years there has been a shift away from it. Nevertheless, a great deal of communities maintain these *minyanim*.

My hope is that through this article, the reader will have a better understanding of what determines the start of Shabbos, the issue of having a set time, and reasons why it still works within *halacha* and is favorable in many situations.

## A Regular Day

The *mishna* in *Berachos* 26a teaches that the last time to *daven mincha* is the subject of a *machlokes*. According to the *Rabbanan*, *mincha* can be said until the evening, which is understood to mean sunset. Rabbi Yehuda holds that *mincha* is only said until a time called “*plag hamincha*.” *Maariv* is not discussed in the *mishna* and both agree that the ending time for *mincha* is the *de facto* earliest time for *maariv*.

Besides for the regular twenty-four hours of the day, there is a separate subset of

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*halachic* hours, known as *sha'os zmanios*. Put simply,<sup>1</sup> a *halachic* day starts at sunrise (*neitz*) and ends at sunset (*shkia*). The amount of time between these two points is then divided by twelve, with each part serving as a *halachic* hour. *Plag hamincha* (*plag*) is defined as  $9 \frac{3}{4}$  hours<sup>2</sup> into the day. For example, on a day when *neitz* is at 6:00am and *shkia* is at 6:00pm, *plag* will be at 4:45pm. This would be the latest time for *mincha* according to Rebbe Yehuda, whereas the *Rabbonon* would allow until 6:00pm. These two dissenting opinions contradict each other. Therefore, if a person were to *daven mincha* at 5:00pm, they would be holding like the *Rabbonon*, since according to Rebbe Yehuda it is already time for *maariv*. To then *daven maariv* before 6:00pm would be contradictory, since the person is relying on both opinions within the same time frame. This is known in *halacha* as “*tartei d'sasrei*,” two factors that contradict. Keep this in mind as *tartei d'sasrei* is the main argument against a set time for making early Shabbos.

The *gemara* in *Berachos* 27a rules that in this case, a person can choose to hold like either opinion as long as they are consistent. There is a disagreement amongst the *rishonim* whether one may change opinions on a daily basis. The *Shulchan Aruch Orach Chaim* 235:1 rules that consistency means to pick one opinion and stick with it always, as opposed to choosing one day at a time. He further teaches that since the opinion of the *Rabbonon* had become the prevalent custom, *shkia* should serve as the latest time to *daven mincha*, barring any extenuating circumstances, and this is our practice.

## Erev Shabbos

There is a *mitzva* of *tosefes Shabbos*, adding on to the beginning of Shabbos. The source comes from the *gemara*<sup>3</sup> wherein Chazal derive a *mitzva d'oraissa* to start Yom Kippur early. This *mitzva* also applies to Shabbos and Yom Tov.<sup>4</sup> If one would *daven mincha* at *shkia*, by the time they start *maariv* it will already be Shabbos or yom tov and it would not be possible to perform *tosefes Shabbos*. Due to this additional consideration, *erev Shabbos* and *Yom Tov* must be treated differently than any other day of the week. For this reason, the *Aruch Hashulchan* states:

1 Alternate methods of calculating *sha'os zmanios* are discussed later in the article, though sunrise to sunset is the generally accepted practice.

2 For the duration of the article, “hours” refers to *sha'os zmanios*.

3 *Rosh Hashana* 9a and *Yoma* 81a

4 The exact parameters of whether the other days are *d'oraissa* or *d'rabbanan*, how early does one need to bring in the day, what needs to be done to effect the early bringing in are beyond the scope of this article.



וכן בשבת יש לו לכתחלה להתפלל תפלת ערבית של שבת מפלג המנחה ולמעלה מפני תוספת שבת דכיון דקיבל עליו שבת הוה כלילה ממש.

*And similarly, one should initially daven maariv of Shabbos from plag hamincha and on because of tosefes Shabbos. Since one has accepted Shabbos on themselves it becomes exactly like the night. (233:3).*

The Magen Avraham (267:1) also rules like this and adds an additional practical reason. *Shacharis* is in place of the *korban tamid* of the morning, *mincha* is in place of the *korban tamid* of the afternoon, and *maariv* is in place of the extra burning of fats and limbs overnight. The Magen Avraham explains that the *kohanim* would stop burning the extras at the time of *plag hamincha* on *erev Shabbos*, therefore the time of Friday night *maariv* can also be from *plag hamincha*.

The Shulchan Aruch (267:2) *paskens* like the Aruch Hashulchan and Magen Avraham. Due to the aforementioned reasons, we are allowed to rely on the *rishonim* who allow changing the custom on a daily basis and use the time of *plag hamincha* on *erev Shabbos*. The Mishna Berura (267:3) states:

משמע מדברי המ"א דאפילו הנוהגין להתפלל מעריב בזמנה מותרים להתפלל בליל שבת מבע"י ובלבד שיהיה מפלג המנחה ואילך דכיון דמצותה להוסיף מחול על הקודש וכבר קבל שבת עליו יכול לסמוך על דעת הסוברים דהוי כלילה לענין תפלה אך הנוהג כן יזהר עכ"פ בע"ש להתפלל מנחה קודם פלג המנחה כדי שלא יהיה תרתי דסתרי אהדי... וי"א דבצבור יש להקל להתפלל מעריב מבע"י אף אם התפלל מנחה אחר פלג המנחה ונ"ל שאין לסמוך על זה רק כשהוא מתפלל מעריב עכ"פ בבין השמשות ובשעת הדחק ...

*It is implied from the Magen Avraham that even according to those who daven maariv at nightfall, on erev Shabbos it would be allowed in the afternoon as long as it is after plag since we have a mitzva to add onto Shabbos. Since we have already accepted Shabbos, we are able to rely on the opinions that it is like nighttime in regards to tefila. However, one with this practice must be careful on erev Shabbos to daven mincha before plag in order to avoid a contradiction ... There are those that say that a tzibbur can be lenient to daven maariv during the afternoon even when mincha was said after plag. It appears to me that one should not rely on this opinion unless they are saying maariv in bein hashmashos (between sundown and three stars) and there's a great need...*

He clarifies that even though one may use *plag hamincha* for *maariv*, they must be careful to *daven mincha* before *plag* in order to avoid a *tartei d'sasrei*. The lenient

opinion is from the *Derech Chaim*. The *Biur Halacha* (ibid) explains:

... ומה שכתבנו שאין לסמוך וכו' הוא משום דכל האחרונים לא הזכירו קולא זו וטעמם הוא כיון דאנן נהיגין בשאר ימות החול להתפלל בזמנה כדין משום שאין לקולא זו מקור מן הש"ס איך נסמוך על קולא זו בשבת...  
*...That which we wrote 'not to rely on...' is because none of the achronim mention this leniency. Their reason is that since during the week we daven at the correct time due to the fact that there's no source for this leniency in shas, how could we rely on this on Shabbos?...*

Even though the *Derech Chaim* is a strong opinion, the *Mishna Berura* rejects his approach and does not feel that the ease of gathering a *minyan* together is enough of a reason to allow a state of *tartei d'sasrei*.

### Behind the Scenes of *Tosefes Shabbos*

When one brings in Shabbos or Yom Tov early, what is really going on? Is it simply the prohibition of *melacha* added on to the weekday, or is there an actual change in the day itself? There are three main approaches.

1. *Tosefos* in *Kesubos* 47a (*d"h D'masar*) brings the most minimal approach. He explains that early Shabbos or Yom Tov simply brings on an *issur melacha* on an otherwise completely *chol* day.

2. *Tosfos* in *Pesachim* 99b (*d"h Ad shetechshach*) takes it one step further. In examining why the *mishna* makes a specific prohibition to eat on *erev Pesach* close to evening, the *Ri Mi'korbil* proposes that *Pesach* is different. *Pesach* is singled out because there is a specific *mitzva* in the Torah to eat matza **at night**, but others do not have that requirement. In fact, one may say *kiddush* on Shabbos before dark if they have brought in Shabbos already. Here we see that in addition to an *issur melacha*, there is also the ability to perform positive commandments associated with Shabbos or Yom Tov.

3. The final approach is the opinion of the *Taz* and appears in his comments related to many *halachic* discussions. For example, in *Orach Chaim* 668:1 the *Taz* discusses the process of transitioning from *Sukkos* into *Shmini Atzeres*. Once *Sukkos* ends, there is no longer a *mitzva* to eat in the *Sukka* and the *bracha* of *leishev basukka* is no longer said. If one is not sure whether *Sukkos* is over, a *halachic* question will arise as to whether to say a *bracha* or not. The *Maharshal* does not believe that early Yom Tov changes the character of the day and therefore rules that one must wait until full darkness before starting the meal on *Shmini Atzeres*. The *Taz* vehemently disagrees.



ובאמת סברא שבנה הרב עליו הוא אינו קיום כלל, דודאי מי שמוסיף מחול על הקודש הוא עושה ע"פ צווי תורתנו כבר חלף והלך ממנו חובת היום מה שהיה עליו קודם זה, והוה כמו בלילה ומחר ממש ...

*"In truth, the idea that the Rav (Maharshal) put forth is not established, and certainly one who adds from weekday onto Shabbos is acting according to the command of our Torah has already gone and switched to the obligations of the new day and it is like **night and literally the next day.**"*

The Taz's view is that once Yom Tov is brought in early, the sun may as well have set because *halachically* it has become full fledged nightfall.

### **Halachic Ramifications of Tosefes Shabbos**

The different approaches to the mechanics of *tosefes Shabbos* create practical ramifications in many different areas of *halacha*. The question of whether to wait until nightfall on Shemini Atzeres was already mentioned above. A similar question arises on the first night of Shavuos. There is a *mitzva* to count 49 complete days of the Omer. If one brings in Shavuos early, are they cutting off part of the *mitzva* of *sefiras ha'omer*?<sup>5</sup> The Maharshal rules that one may bring in Shavuos early since the *tosefes Shabbos* does nothing to the last day of the Omer. Conversely, the Taz holds that one must wait until complete nightfall before starting Shavuos. This fits with his opinion that *tosefes Shabbos* instantly ends the day of *erev Yom Tov*. Interestingly, the two opinions are flipped from Shemini Atzeres to Shavuos, but they still remain consistent.

Another case is that of a woman who started Shabbos early then realized that she forgot to make a *hefsek tahara* but it is not yet *shkia*.<sup>6</sup> According to the Maharshal's approach, a *hefsek tahara* would still be allowed, but the Taz would say it is too late. A final illustrative case is found in the *Teshuvos Meishiv Davar* (#73) and quoted by *Nefesh Harav* (p.155). A woman lit candles to bring in Yom Tov early and was then brought news about the death of a close relative who she was required to sit *shiva* for. If she would sit for a few moments before *shkia*, she would have fulfilled her requirement of *shiva*. However, if she does not do so, then she would be required to sit for a full *shiva* period once the week of Yom Tov ends. Clearly, the decision in this case would have a significant ramification for this family. The *sefer* explains in the name of Rav Soloveitchik that the analysis is based on the approaches of the two

<sup>5</sup> *Orach Chaim* 494:1

<sup>6</sup> *Yoreh Deah* 196:4

*Tosfosim* quoted above. If early Yom Tov is only an *issur melacha*, then *shiva* would still be allowed. However, if it already brings on the *mitzvos* of the day then the *mitzva* of *simchas Yom Tov* would contradict *shiva*. One could similarly analyze based on the *Maharshal* vs. the *Taz*. The *Maharshal* would allow her to complete her *shiva* before Yom Tov, whereas the *Taz* would require waiting until after Yom Tov.

The same argument could apply to the question of *tartei d'sasrei*. According to the *Maharshal*, *tosefes Shabbos* is not really starting the next day early, so starting *maariv* before *shkia* would still be a contradiction. However, according to the *Taz*, once *tosefes Shabbos* kicks in it is fully considered nightfall and *davening* before *shkia* would not contradict the *mincha* after *plag* at all. Perhaps the opinion of the *Derech Chaim* is based on this *Taz*. With this approach, *tartei d'sasrei* is not simply a leniency to ensure that people *daven* with a *minyan*, but rather is working through an actual *halachic* mechanism wherein there is no longer a contradiction. While this way of looking at *tosefes Shabbos* is not agreed upon by all, it is still a valid opinion that combined with other factors can make a case for a *minyan* at a set time.

### A Mathematical Approach

There is another solution to the problem of *tartei d'sasrei* said over in the name of Rav Moshe Heinemann *shlita* of Baltimore.<sup>7</sup> Thus far we have been marking *plag hamincha* as 9  $\frac{3}{4}$  hours in a day that starts at *neitz* and ends at *shkia*, which is the opinion of the *Gra* and the most accepted way to calculate a day (method 1). However, the *Magen Avraham* holds that the day really ends when three stars emerge (*tzeis*), which is a longer day. Furthermore, there are opinions that *tzeis* is seventy-two minutes after *shkia* (Rabbeinu Tam) (method 2), fifty minutes after *shkia* (Rav Moshe Feinstein<sup>8</sup>) (method 3), and more. What emerges is that 9  $\frac{3}{4}$  hours will be a different time each day depending on how the length of the day itself is calculated. On our 6:00am to 6:00pm day, *plag* would be either 4:45pm, 5:42pm, or 5:22pm. A *kehilla* could effectively *daven mincha* and *maariv* on either side of *plag* each week by shifting the opinions defining the length of the day. Even though they are relying on different *shitos* of *rishonim* and *achronim* each week, this is still not considered a “classic” *tartei d'sasrei* since opinions directly from the *mishna* are never being contradicted. This is admittedly a novel approach, as we generally do not pick and choose *halachic*

<sup>7</sup> I originally saw this approach in the *sefer Shaarei Zmanim* by Rav Dovid Heber *shlita* who attributes this idea to Rav Heinemann. I subsequently heard that this solution has been suggested by others as well.

<sup>8</sup> Fifty minutes was a set time specifically for the New York area based on the time it takes for the sun to set there. In Los Angeles it would be about forty minutes.

opinions for convenience. This case may be different since there already is precedent to shift opinions specifically on *erev Shabbos*, as discussed above. Again, this is not a standalone reason to allow a *minyan* at a set time, but can form an important aspect of the rationale.

### Discussion

From a purely *halachic* perspective, it is definitely most correct to stick with one opinion and make sure not to *daven* both *mincha* and *maariv* after *plag*. However, there are several other factors that add shades of grey to the *halachic* picture.

- **Rov am hadras melech:** It is much nicer to *daven* in a big *minyan* where more people can give honor to Hashem together. A person may go to a house *minyan* instead of shul if the shul *minyan* is not convenient.
- **Davening in a shul:** It is preferable to *daven* in a real shul for many spiritual reasons.<sup>9</sup> Additionally, a shul *minyan* can be more inspiring with the ability to hear from the rav and have serious singing and learning. People may be more likely to come to shul for a convenient *minyan* that violates *tartei d'sasrei* in the manner mentioned above, as opposed to going to a house *minyan*. Even if house *minyanim* still take place, if some people elect to *daven* in shul instead then that is a great success.
- **Consistency of time:** During the summer months when the *kehilla* generally *davens* at *plag*, it is easy for people to get confused as to what time Shabbos starts. They may leave work too late and end up skipping *minyan* or going to a house to *daven*. It is also confusing in regards to preparing the Shabbos meal and getting the home ready when the time shifts or there are multiple different start times. Having a uniform start time allows for consistency and uniformity.<sup>10</sup> Even though the times change during the winter months and Standard Time, it is different. The fluctuation is more expected in those months and a set time is not possible anyway.
- **Oneg Shabbos and Families:** While related to the previous point, it is worth mentioning that the feeling of coming into Shabbos with some time to unwind is beneficial. Starting Shabbos at *plag* will result in many people rushing to shul,

9 If someone has to *daven* without a *minyan*, it is recommended to do so in a shul if possible.

10 This idea was explained to me by a *chashuve* Mara D'Asra of a shul in Baltimore that has set *minyan* at 7pm all summer long. He said that he was told this by Rav Tzvi Berkowitz *shlita*. He explained that over the years in Baltimore some shuls had reversed their practice of set *minyanim* and the result was fractured attendance and the proliferation of house *minyanim*. In his words: "*chacham adif mi'Navi*."

whereas a 7pm start time gives some breathing room. This is also true for children staying up for the meal when one is faced with starting Shabbos with *shkia* if *plag* is too early for them.

### Conclusion

Some may argue that the leniencies used in previous generations to allow for *tartei d'sasrei* no longer apply in our day and age. We have a large choice of *minyanim* to attend and there's no reason to rely on *heterim*. I feel that in this day and age our challenges are even greater than before. We are harried and pulled in many directions, but all with the common goal of distracting us from *avodas Hashem*.

As this article has proven, there is definitely a *halachic* basis for having a set time for Friday night *davening* all summer long. The various *heterim* combined with the social benefits should tip the scales to favor a 6:55pm minyan. Whatever time and place we decide to bring in Shabbos, may its *kedusha* inspire us all in our *avodas Hashem* and through that help bring the *geula* speedily.

# Shabbos: Argument for Either *Shkia* or *Plag*<sup>1</sup>

EVAN SILVER



**D**eciding when to bring in Shabbos is often a tricky balancing act. While we are supposed to come into Shabbos relaxed and ready, this, unfortunately, is not always the case. Friday is often a rushed and hectic day, making bringing in Shabbos at the earliest time very challenging. Waiting until when Shabbos actually starts can result in eating dinner too late to be enjoyable for some or for young kids to be awake. However, it is important to understand the *halachic* limitations that exist beyond these social factors.

## Times Overview<sup>2</sup>

Before we get into the details of Shabbos, we must go over a quick introduction and review of some of the times that will be discussed. The day is broken up into twelve equal parts, each one making a *halachic* hour.<sup>3</sup> The Gra measures a day from *neitz hachama* (sunrise) to *shkiya* (sunset). The Magen Avraham calculates a day from *alos hashachar* (dawn) to *tzeis hakochavim* (nightfall, or emergence of three stars). *Plag hamincha* occurs one and a quarter hours before the day ends; therefore the Magen Avraham's *plag* will be later than that of the Gra. Similarly, the last time to recite *Shema*, which is three hours from the start of the day, will be earlier according to the Magen Avraham. We generally follow the times of the Gra, otherwise *davening* would

1 I would like to thank the editors of *Nitzachon* for allowing me to participate in this *Machlokes L'shem Shamayim* and to Rabbi Revah for his review of the article. All *halachic* sources cited are located in *Orach Chaim* unless otherwise noted.

2 If you're familiar, feel free to skip this section.

3 All hours will refer to *halachic* hours.

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start a lot earlier Shabbos morning. The end time for *davening* is referred to as the *sof zman tefilla*, and this refers to the cut-off time for the *Amida*.

### Time and Minhagim Matter

Keeping a mitzva is more than just a spiritual aspect. It must also function within the *halachic* parameters. Some of our *mitzvos* are bound by specific time requirements and, even if one has all the right intentions, failure to perform them within the time constraints is the same as failure to perform them at all. As Rav Chaim of Volozhin<sup>4</sup> writes, one can spend all of Pesach seder night getting ready with the proper *kavana* (concentration, intent) to eat matza, but if eaten after sunrise, they have not fulfilled the mitzva of eating matza on seder night. He compares this to eating matza on Rosh Hashana or blowing shofar on Yom Kippur. While many people may find this troubling that a few seconds late is the same as six months off, that is the *halachic* reality as given by Hashem, and it is beyond our comprehension. This also applies to *davening*; one could have all the *kavana* while *davening* mincha, but if it is not done at the proper time, then it was not mincha. A good modern-day example is a basketball game. If the shooter releases the ball a fraction of a second before the buzzer, the basket counts, but a fraction of a second after it would not.

People used to rely on the position of the sun in the sky to determine the time. Now, you can go to myzmanim.com and get countless opinions for each time to the nearest second (you will also have multiple different opinions in shul for the current time). While this is convenient, it also creates two difficulties. We might rely on a time to the nearest second, even though there is a margin of error, and we now also have multiple opinions to follow for the time to end Shabbos or say *krias shema*. It is important that we have some consistency when determining the correct zman to follow. We have *halachic* principals of *achar harabbim* (to go after the majority), choosing a rav, and following our family *minhagim*. Simply choosing the most convenient opinion is like Ashkenazim just deciding to eat *kitniyos* on Pesach. Picking and choosing opinions is not Torah Judaism. To quote one of my father's favorite analogies, "Baseball has four bases. You can invent a game with five bases; maybe it's even a better game, but it's not baseball."<sup>5</sup> Once we accept a certain ruling then it becomes *halachic* fact. Once the majority ruled to follow Beis Hillel or Beis Shamai, then that became the *halacha*. Once we decide on a method for calculating

<sup>4</sup> *Nefesh Hachaim* perek 4

<sup>5</sup> Attributed to Arthur Kurzweil, according to <https://cross-currents.com/2014/12/21/candles-and-candor/>

*shkia* (sunset), then that time is *shkia*. One can always voluntarily decide to be strict to satisfy the minority opinions, like choosing to end Shabbos later, but that does not necessarily allow someone to start Shabbos later. There are, however, extenuating circumstances when one might be able to rely on minority views, but that would require guidance from a rav.

One notable reason people often give as to why they think it is acceptable to be lenient with regard to following times is due to the *minhagim* of some *chassidic* communities. They have various reasons for relying on different times, but it would not make sense to follow these leniencies without the stringencies that go along with it. For example, some sects *daven shacharis* after *zman tefilla* in order to get in the proper mind set by learning and going to the *mikva*. That is also why they allow eating before *davening*. Unless one accepts the stringencies, including their end time to Shabbos, it would not make sense or be proper to try and claim to be lenient on times like the *chassidim*. It is interesting to note that none of their leniencies allow for being lenient on the *zman* for early Shabbos, likely because they generally do not make early Shabbos.

To be proper Torah-observant Jews, *mitzvos* need to be performed within the confines of *halacha*. This requires that *mitzvos* be done at a proper time and with consistency with regard to choosing which opinions to follow.

### **When is the Zman for Mincha and Maariv**

The basis of the discussion on when to *daven* stems from a dispute in the *gemara* in *Brachos* (26a) which states two opinions for the latest time for *mincha*, either *plag* or *shkia*. In a rare ruling, both opinions are considered correct and one can choose which opinion to follow, but there is dispute on interpreting how the choosing works. Does one need to choose an opinion for life? For a given day? Can one waiver within the same day? According to most opinions, the latest time for *mincha* will also serve as the earliest time for *maariv*. The *Mechaber*<sup>6</sup> says one should be consistent, and now that we usually *daven mincha* until *shkia*, we should *daven maariv* after *shkia*. He goes on to say that one may only *daven maariv* before *shkia* in extenuating circumstances. The *Mishna Berura*<sup>7</sup> adds that *davening maariv* before *shkia* would require *davening mincha* prior to *plag*, otherwise it would be *tartei d'sasrei*, an internal contradiction. Either we are saying the time between *plag* and *shkia* belongs to *maariv* or it belongs to *mincha*, for it cannot

<sup>6</sup> 233:1

<sup>7</sup> *ibid* 11



relate to both on the same day. The Rama<sup>8</sup> also says that we should be consistent, so in his time, when they davened *maariv* before *shkia*, they also davened *mincha* before *plag*. Since we now daven *maariv* at *shkia*, that becomes the generally accepted cut-off time for *mincha*. The *Aruch Hashulchan*<sup>9</sup> explains that they used to daven *maariv* from *plag*, but now that we daven *mincha* until *shkia*, one should not daven *maariv* before *shkia*. However, he says, *b'dieved* (after the fact) davening *tartei d'sasrei* would be valid. In an effort to justify a custom of the times he explains that there is an idea that *maariv* may not actually depend on *mincha*, so if there is no other way to get a *minyan*, there is room to be lenient based on this idea of independence of timing for *mincha* and *maariv*. The *Ishei Yisrael*<sup>10</sup> rules that one should ideally daven *maariv* after *tzeis*, as is the custom in many shuls in *Yerushalayim*.<sup>11</sup> He also cites in the name of Rav Moshe Shternbuch<sup>12</sup> that even during the week one can be *meikel* in extenuating circumstances to daven *mincha* after *plag* and *maariv* before *shkiah*.<sup>13</sup> This is based on the Rambam who would permit one to daven *maariv* after *plag* on *erev Shabbos* in order to have *tosefes Shabbos*.<sup>14</sup> Even though the specific case dealt with *Shabbos*, the logic could still technically apply during the week. Further, even those who say one shouldn't electively daven at this time state that one would *b'dieved* be *yotzei* (fulfilled their obligation).<sup>15</sup>

During the week, when there is no *tosefes Shabbos*, ideally *maariv* should be after *tzeis*. If we are worried people will not come back out for *maariv*, we are lenient and permit davening *mincha* right up until *shkia* which would be followed by *maariv* right after *shkia*. In extenuating circumstances one can daven *maariv* starting from *plag* if they davened *mincha* before *plag*. Lastly, in a case of absolute need, one would technically be *yotzei* by davening both *mincha* and *maariv* between *plag* and *shkia*.

### ***Erev Shabbos***

With the rule governing weekday davening, it would seem problematic to daven *maariv*

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8 233

9 233

10 26. For those unfamiliar with this work it is a comprehensive *sefer* of the laws of davening.

11 In addition to the dispute of the times for *maariv*, there is also the issue of *krias shema* that should be recited after *tzeis*. For this reason many are strict to wait. This is for a different article.

12 *Teshuvos VeHanhagos*, 2:69

13 28:3

14 This is the mitzva of bringing in *Shabbos* early

15 *Mishna Berura* and *Biur Halacha*, 233 and 267



early on Friday night. The *Mishna Berura*<sup>16</sup> rules that because of *tosefes Shabbos* one can change opinions to *daven maariv* from *plag* on Friday night, which is a leniency for a weekday. However, it is important to be careful not to *daven maariv* or start Shabbos before *plag*. This does raise a couple of issues with early Shabbos. It is important that a woman not light candles when her husband leaves for *mincha* before *plag*. If someone lights candles or makes *kiddush* before *plag*, not only have they not fulfilled the commandment, but they also sinned by making a *bracha l'vatala* (in vain). Rav Moshe<sup>17</sup> says while the wife can continue to do *melacha* at *plag*, she should not do work for her husband. Even with these issues this is not a reason not to *daven maariv* from *plag*, as we know to be careful. The *Aruch Hashulchan*<sup>18</sup> allows *maariv* before *shkia* on Friday night because the *avoda* (service) which *maariv* replaces would have been done earlier on Friday, so as not to do it on Shabbos. He then goes on to say that *mincha* should really be before *plag*, but there are those who are lenient. He also adds to his earlier statement<sup>19</sup> that one can *daven maariv* before *shkia* because of *tosefes Shabbos*. The *Ishei Yisrael*<sup>20</sup> says the one who usually waits until *tzeis* for *maariv* during the week may *daven maariv* Friday night from *plag*, but should take care to *daven mincha* before *plag*; however there is the lenience of *davening* both in the same time frame in extenuating circumstances.

Not only is *tosefes Shabbos* a reason to start Shabbos early, it also helps with the mechanics of allowing for early *maariv*. According to the *Magen Avraham*,<sup>21</sup> accepting early Shabbos is not simply accepting the *mitzvos* of Shabbos, we are actually changing the day. We have the power to say it is no longer Friday but rather Shabbos, which is something that we cannot do any other day of the week. There are those that suggest that since Shabbos creates a new day, there is no issue of *tartei d'sasrei*, although this is never said explicitly. One of the sources for this is a *Taz* discussing Shemini Atzeres and Shavuot, both of which have unique problems.<sup>22</sup> Starting dinner early on Shemini Atzeres creates an issue of making a *bracha* on eating in the *sukka*. If it is still Sukkos, one would need to recite the *bracha*, but if it's Shemini Atzeres, then one

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<sup>16</sup> 267:2

<sup>17</sup> *Igros Moshe* 3:38

<sup>18</sup> 267:3

<sup>19</sup> 233

<sup>20</sup> 36:19.

<sup>21</sup> 263 & 267

<sup>22</sup> 668 & 494

would eat in the *sukka* without a *bracha*. In Israel the issue is different, since if it is already Shemini Atzeres one does not need to eat in the *sukka* at all. The *Taz* suggests that there is no issue because once one accepts Shemini Atzeres, Sukkos is over. This suggestion is rejected by most opinions and the accepted practice is to wait until *tzeis* for dinner.<sup>23</sup> On Shavuot, based on his reasoning, the *Taz* says that one should not even *daven maariv* before *tzeis*, as that would be cutting into the days of *sefira*. While the *Mishna Berura* says to be strict, others say that one only needs to wait to make *kiddush* because *maariv* by itself would not be considered shortening *sefira*.<sup>24</sup> This *Taz* is considered a stringency and is not the followed opinion, especially in the case of a leniency.

The other idea proposed to start early Shabbos later is to use the *plag* of the *Magen Avraham* instead of the *Gra*. Doing so would also make *zman tefilla* and *krias shema* earlier each morning. Right after we change the clocks in November, the latest *shema* is 8:55AM according to the *Gra*, but 8:18AM according to the *Magen Avraham*. Simply saying *shema* before *davening* would not help because there would be a bigger problem that the latest *tefilla* according to the *Magen Avraham* would be 9:25AM. This would rule out *davening* at many shuls on Shabbos morning. Even if someone *davens* early and accepts the opinion of the *Magen Avraham*, this would contradict the principle of following the majority and the *minhagim* of the community. This does not prevent someone from being *machmir* to say *shema* early to satisfy both opinions. This is not a simple case of saying that we hold like the *Magen Avraham* for some things and the *Gra* for others. The issues of *krias shema* and *plag* are both linked to how the day itself is calculated. There is no opinion that states that we can switch opinions on how a day is calculated day to day, especially not in the same day. Once we accept an opinion for the time then that is the time we are using.

On Shabbos, because of *tosefes Shabos*, the hierarchy of when to *daven* differs from that of the weekdays. Almost everyone would allow *davening maariv* from *shkia* and not waiting for *tzeis*.<sup>25</sup> Most *poskim* would also allow *davening mincha* before *plag* with *maariv* immediately following after *plag*, even without any necessity. If there is no other way to get a *minyan* one could also *daven* both *mincha* and *maariv* between *plag* and *shkia*.

23 Such as *Mishna Berura* 668:7 and *Magen Avraham* 668:3

24 *Mishna Berura* 494:1 and *Magen Avraham* 494

25 The major exception would be those who are *machmir* to say *maariv* after *tzeis* and to say *krias shema* with its *brachos* at the proper time.

### But my Shul always did...

One of the most common reasons people *daven tartei d'sasrei* is because that is how their shul or family has been doing it forever. The most common example of this situation is shuls that have a set 7PM *mincha* on *erev Shabbos* all summer long. While there may have been leniencies to allow this in the past, it is important to analyze whether or not these reasons still apply. When our ancestors were in Europe, sunset was much later than it is in most of America, making *davening* at *shkia* difficult. This explains why they did not wait until *shkia* to *daven maariv*, both on *Shabbos* and during the week. On the Summer solstice, *shkia* in Los Angeles is a little after 8PM but in parts of Europe, where the *Aruch HaShulchan* lived, it is two hours later, after 10PM (Can you imagine the shul trying to get a *minyan* for a 10PM *mincha/maariv*?!). Living in smaller communities, they had to *daven* when it was convenient for everyone, but *plag* would often be too early. To complicate things more, in a town with only one *minyan*, everyone starts *Shabbos* with the congregation. If the *minyan* started *Shabbos* at *plag* then no one would be allowed to continue working. There were similar problems with the early American Jewish communities. They were often too small to support multiple *minyanim* and it was often unsafe to be walking the streets late at night to attend *minyan* at *shkia*. At a time when Jews were getting fired on Monday for not working on Saturday, no one was in a position to leave work to make a *plag minyan*. Without any choice and due to these extreme circumstances, they relied on leniencies. *Baruch Hashem* we live in a large and affluent community that can support multiple *minyanim* (*plag, shkia* and *midday*), there are no additional safety risks by *davening* at a later time, and no one is being fired on Monday for not working on *Shabbos*. This affords us many alternatives to *davening* at a questionable time. The simplest choice is to either start *Shabbos* at *shkia* or at *plag*. Starting *Shabbos* at a convenient time between *plag* and *shkia* could be accomplished without relying on leniencies by *davening mincha* in the middle of the day or on the way home from work close to *plag* and then going back out to *maariv* after getting ready for *Shabbos*. Another option is starting *mincha* at the earliest time in which *maariv* would be after *shkia*. For example, when *shkia* is 8PM, most shuls *daven mincha* at the latest possible time, around 7:50PM. One could instead *daven mincha* at 7:15PM, and by the time *maariv* started, it would be after *shkia* anyway (as there's no issue of *tartei d'sasrei* for *Kabbalas Shabbos* or the *drasha*). A less convenient option would be to *daven mincha* sometime between *plag* and *shkia*, go home to have *Shabbos* dinner, and go back out for *maariv* later, a common solution for those wanting to *daven maariv* after *tzeis*. Depending how one decides to utilize these options, they can allow for *tosefes*

*Shabbos*, a set time and less rushed Friday without *davening tartei d'sasrei*. With all these opportunities, there is often little need to rely on the leniencies. The previous generations relied on leniencies out of great necessity, but nowadays it's more of a convenience and it does not seem, based on the sources, that convenience alone would be enough of a reason to rely on leniencies. There may be times where there is no other choice, which is why a shul has a rav who can determine what is proper. (This is another potential problem with house *minyanim*, although that dispute was covered in a previous issue).

### **Minyan Vs Individual**

Shuls may have been forced to choose between *davening* at a less ideal time or not getting a *minyan*. This does not mean that one should electively choose to *daven* at such a shul, especially if they have other choices. Even if there are no other *minyanim*, many *rabbanim* say that it's better to *daven mincha* without a minyan but before *plag*<sup>26</sup> instead of with a minyan and do *tartei d'sasrei*. This concept of a *minyan* and individuals having different requirement is seen in other areas as well. *Selichos* are supposed to be recited after midnight but Rav Moshe<sup>27</sup> allowed them to be recited before if there was no other way to get a *minyan*. An additional reason to wait when saying *selichos* on *motzei Shabbos* is that they should not be recited too close to Shabbos. Rav Moshe even allowed early *selichos* on *motzei Shabbos* if it was the only way to get a *minyan*, but specifically said it was a one-time *heter* based on extenuating circumstances. (It is unclear how this would still be applicable today.) Even though the *minyan* is allowed to recite *selichos*, some *rabbanim* hold one should not say the thirteen *midos harachamim*<sup>28</sup> with the congregation.<sup>29</sup> The reason for Rav Moshe's leniency was that it is important for the shul to be saying *selichos*. Similarly, if the only way a shul can get a *minyan* every Shabbos is by *davening* at a compromised time, then it might be better for the shul to have a *minyan* even though an individual should not electively *daven* there. Another similarity between *selichos* and early Shabbos is that people continue to rely on the leniencies even though the circumstances have changed.

26 For example Rav Yosef Dov Soloveitchik, as quoted by Rabbi Aryeh Lebowitz, who also adds that one should pretend to *daven mincha* with the congregation so as not to appear religiously arrogant, [http://bknworg.weebly.com/uploads/5/9/9/5/5995719/making\\_early\\_Shabbos.pdf](http://bknworg.weebly.com/uploads/5/9/9/5/5995719/making_early_Shabbos.pdf)

27 *Igros Moshe* 2:105

28 The Thirteen Attributes of Mercy, which is the main part of *selichos*

29 *Shaarei Teshuva* 581:1

There seems to be a contrast between the rulings for an individual and for a *minyan*. This could create a situation of there being a *minyan* that no one is allowed to attend. Everyone would have shown up to *mincha* having already *davened mincha*. It seems that in the communities with only one *minyan*, *davening* with the *minyan* would be permitted, as otherwise there would not be a *minyan*. If a shul or the community has an option other than a *tartei d'sasrei minyan*, there seems to be little reason to allow it. One could argue that the shul needs the *tartei d'sasrei minyan* for those who cannot make it at the right time, but it would be better for the individual to *daven* by themselves than to go to such a *minyan*. The leniencies exist because it is important for the community to have a *minyan* or *selichos*, but this does not carry over to the individual. The *heter* to allow *davening mincha* and *maariv* at the same time is if it is the only way a community can get a *minyan*, not if it is the only way an individual can *daven* with the *minyan*. It seems that in both of these cases, people prefer to be part of the *minyan* at a less acceptable time as opposed to *davening* by themselves. However, Judaism is based on *halacha*, not emotions or what feels better. When visiting a locale with only a *tartei d'sasrei minyan*, a rav may recommend *davening* without the *minyan*.<sup>30</sup>

## Conclusion

Our accepted practice is that *shkia* becomes both the latest time for *mincha* and earliest time for *maariv* and we should not only be consistent within the same day, but throughout the year. Due to the uniqueness of Shabbos, and to allow for *tosefes Shabbos*, it is acceptable to *l'chatchila* be lenient and to *daven maariv* after *plag* as long as one *davened mincha* before *plag*. While there might be opinions that allow for *davening* at a different time, it is important to consider that they rely on additional leniencies. As we are fortunate to live in a time with so many options, it really should be a last resort to rely on such leniencies. It is my hope that through this *machlokes l'shem shamayim* there will be a better understanding of the *halachos* of early Shabbos, allowing everyone to be able to consider taking this information into account to better serve Hashem.

## Epilogue

After reading the article of my friend, Michael Kleinman, I have the following thoughts. We both seem to be in agreement that if everything else is equal, it is better not to *daven tartei d'sasrei*. The core of the debate is focused on what factors, such

30 It seems this would raise the issue of electively going somewhere knowingly missing a *minyan*, which is an entirely different discussion.

as necessity or convenience, will make it better to *daven* at a less ideal time. This is similar to a common scenario in laws of *kashrus*. Sometimes things will be permitted only in *hefsed meruba* (a great loss), but there is no litmus test given for what is *hefsed meruba* because it varies by situation. What is considered a great loss for one person might be a small loss for someone else and what is a great loss for someone in one situation might be a small loss for the same person in a different situation. It takes an experienced rav who knows the individual, *halacha*, and any mitigating factors well to make the determination. Here as well, in the case of making early Shabbos, it takes a rav who knows the community to make the proper decision.

# Halacha and Machshava



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# Mordechai and Esther's Conviction of Conscience

RABBI PINCHAS GELB



**T**here are some paths forward that a single individual can see but which no other person knows.<sup>1</sup> Sometimes even this individual lacks the language to articulate the basis for, or clarity about how to effectuate, the great truth perceived. But this individual has a deep conviction to impart and, not only that, also knows that he or she must act. At precisely this moment, human conscience is born.

Such was the insight that Mordechai transmitted to Esther, causing the Divine redemption to unfold. Esther had wanted to wait thirty days. It was dangerous to approach the king hastily. And, perhaps if they were to celebrate Pesach the following day, they would find another way to confront their peril. Yet, Mordechai was confident of three things: (1) they had to act immediately if they were going to take part, (2) if they did not then Hashem would effectuate deliverance for the Jewish people some other way, and (3) they could succeed. Mordechai conveyed his certainty to Esther who, until then, had remained passively silent, only following direction, but now somehow was about to find a way to draw from within the recesses of her soul the acumen and ability to navigate the treacherous intrigues of the palace, necessary to bring deliverance – without prophecy, but nevertheless effectuating the Divine plan.

Mordechai's conviction, which he conveyed to Esther, was the pivot point of the entire Purim story. The redemption from Egypt effectuated the vision for deliverance that had been held only by Hashem. But the deliverance of Purim allowed for and, in fact, also depended upon the insights of two individuals, Mordechai and Esther. They drew upon their inner conviction to navigate ahead.

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<sup>1</sup> This article is dedicated to the memory of Rabbi Dr. Brian Galbut, z"l, whose broad humanity and deep love for Talmud Torah and the Jewish people endures.

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With this, they introduced a new paradigm into Jewish history. Indeed, as discussed further below, perhaps this is the meaning of Rashi's comment to the verse "*vaya'avur Mordechai*," that Mordechai committed an *aveira* by not making a Pesach seder that year and fasting instead. This was the first time in Jewish national history when the vision of how to proceed came not from prophesy or from Divine directive, but rather from the deep conviction and informed conscience of rare individuals. Toward the close of Tanach, this established something necessary and new: a model for Jewish history that – while prompted by prayer, and directed behind the scenes by the Divine – was driven forward, ostensibly and centrally, by human agency.

### Meaning of the Verse "*VaYa'avur Mordechai*"

Esther tells Mordechai to gather the Jews of Shushan and fast for three days. Afterwards, the verse states:

ויעבר מרדכי ויעש ככל אשר צותה עליו אסתר  
*Mordechai passed through [Shushan] and he did exactly as Esther had  
 commanded him. (Esther 4:17)*

Rashi comments on the apparently extraneous phrase "*vaya'avur Mordechai*" which comes right after Esther's instruction to fast for three days and, amazingly, interprets it to mean that Mordechai committed an *aveira*:

ויעבר מרדכי. על דת להתענות ב"ט ראשון של פסח שהתענה י"ד בניסן וט"ו וט"ז  
 שהרי ביום י"ג נכתבו הספרים.  
*Mordechai violated [because] he planned to fast on the first day of yom tov  
 on Pesach; for the fast was to be on the 14th, 15th and 16th of Nisan, given  
 that the royal decrees had been enacted on the 13th [of Nisan].*

Hence, Rashi explains that the word "*vaya'avur*" means not only that Mordechai passed through the city, but also that there was something sinful about the fact that Mordechai instructed the Jews of the city to fast instead of observing the *mitzvos asei* of Pesach that year. This explains the juxtaposition between the three-day fast that is announced in verse 16 and the seemingly redundant phrase "*vaya'avur Mordechai*" in verse 17.

Yet, it is unclear why this should be considered a sinful act at all. To the contrary, *Chazal* have the power to instruct the people to forego a positive precept because of some overriding concern, under the principle of "*shev ve-al ta'ase*." For instance, we do not blow shofar when Rosh Hashana coincides with Shabbos, out of concern that someone will carry the shofar in the public domain to learn how to

sound the blasts. So too, Mordechai could permissibly tell the people not to observe the positive *mitzvos* of Pesach due to the overriding need for a three-day fast to address the impending doom that the Jewish people collectively faced. This does not appear to be sinful at all. Why, then, does Rashi translate the word “*vaya’avor*” to mean that Mordechai breached a duty, thereby characterizing this as something of a violation?

The answer likely lies with the nature of Pesach and the nature of Mordechai’s actions during the events leading to the deliverance of Purim. The paradigm of Pesach is that deliverance for the Jewish people and movement forward in Jewish history results from the express direction of, and overt effectuation by, Hashem. Had this paradigm been followed, Mordechai and Esther would have waited for Divine direction of what to say, when to act, where to go and what to do – like Moshe – before proceeding ahead. But they did not do so. At Mordechai’s direction, they did not even wait until after the celebration of Pesach. To the contrary, they fasted exactly during the time that they had been commanded to eat matza and speak about the Exodus. This was technically permissible as it was an act of “*shev ve-al ta’ase*.” But, nevertheless, they breached something else, although not strictly speaking a *mitzva*. Rather, they broke the Divine protocol of Hashem directing the salvation. Indeed, Mordechai and Esther strategized the deliverance themselves.

When Esther says that the king has not called her for thirty days, it is not only the human king who had neither spoken to her nor invited her to engage, it was also the Divine King. Yet, by proceeding without receiving, or even waiting for, Divine invitation or instruction, Mordechai established a new paradigm for the range of possibilities in Jewish history, one that includes acts of human conscience as a driver of Jewish history during a time when the Jewish people are imperiled.

### **Emergence of Individual Conscience as a Driving Force in History**

This also provided a poignant example of what conscience means and how it works. Conscience is a deeply held conviction that has the power, through the force of its ineffable but reverberating truth, to spark a similar conviction in another. Human faith can be inspired by our experience of the faith held by another or, in Mordechai’s case, from within.

Mordechai had a feeling of what to do and a strong motivating force that drove him to speak and to act. It is similar to what Winston Churchill stated in a speech given on November 12, 1939:

*I am in the singular position in having lived through the early months of the*

*last German war upon Europe in the same position in charge of the British admiralty as I am now. I am therefore very careful not to say anything of an overconfident or an unduly sanguine nature. I am sure we have very rough weather ahead. But I have this feeling, which I must impart to you, that the Germany which assaults us all today is a far less strongly built and solidly founded organism than that which the allies and the United States forced to beg for armistice 21 years ago. I have the sensation, and also the conviction, that that evil man over there and his cluster of confederates are not sure of themselves as we are sure of ourselves, that they are harassed in their guilty souls by the thought and by the fear of an ever-approaching retribution for their crimes.*

This “feeling,” this “sensation,” this “conviction” drove Churchill – and as a consequence all of Britain – to stand firmly to oppose Nazism when the other countries of Europe were surrendering to it. Likewise, an inner belief arose deeply from within Mordechai’s conscience, and then Esther’s, that drove their steadfast response to Haman’s terrible scheme.

Indeed, it was precisely the unfathomable extent of Haman’s plot that sparked the force of Esther’s conscience. Esther states, when recounting the events to Achashveirosh, that if the threat had been anything less severe then, rather than troubling the king, she would have deafened herself to their plight:

כי נמכרנו אני ועמי להשמיד להרוג ולאבד ואלו לעבדים ולשפחות נמכרנו החרשתי  
כי אין הצר שוה בנוק המלך.

*Had we [simply] been impressed into slavery, I would have deafened myself because it would not have been worth troubling the king. (Esther 7:4)*

This use of the word “*hechrashti*” is resonant of Mordechai’s charge to Esther that she should not deafen herself to the ordeal that was pressing upon the other Jewish people (*Esther* 4:14): “*ki im hachareish tacharishi ba-eis ha-zos...*,” “because if you altogether deafen yourself at this time...” When Esther speaks to Achashveirosh, she states that if the plot had been other than it was, she might not have had the force of conviction to risk herself to intercede. But it was the dire extent of the threat that forced her, immediately and unwaveringly, to act.

While this might have been something Esther was saying just to appease Achashveirosh, it might have been a candid statement. If so, then this also underscores the significance of each and every detail of the Purim story. Even the extreme harshness of the decree was instrumental in bringing about the eventual deliverance.

As Esther attests, it was due to this severity that she spurred herself into action and pulled out from the depths of her soul the ability to navigate the fraught situation and to effectuate a turnabout. The significance of every detail and facet reflects the Divine presence throughout the events of Purim.

### **Reconciliation Between the Paradigm of Purim and the Paradigm of Pesach**

Thus, even while we are acting alone within history, the Divine presence is still guiding Jewish history. In the Purim story, even the human initiative had the imprimatur of Hashem. Accordingly, the new paradigm of Purim complemented, rather than supplanting, that of Pesach because Esther's force of conscience was in fact guided by the Divine.

By way of analogy, the Kotzker Rebbe states that, although writing the Mishna was construed as being within the category of "*eis la'asos laHashem hefeiru sorasecha*" ("it is time to do for Hashem; they have annulled your Torah"), the writing of *Torah Shebe'al Peh* did not, in fact, push aside an essential quality of the Oral Law but, rather, ended up maintaining the prior paradigm in addition to the new one. He writes:

עַתָּה לַעֲשׂוֹת לַה' הִפְרוּ תוֹרַתְךָ. חֲז"ל לָמְדוּ מִזֶּה לְהַתִּיר כְּתִיבַת תּוֹרָה שֶׁבַע"פ, וְאִם כֵּן נִצְמַח כָּל קִיּוֹם הַתּוֹרָה מִהִפְרוּ תוֹרַתְךָ? וְנִרְאָה וְאֵף עַל פִּי שֶׁהִתִּירוּ לִכְתּוֹב תּוֹרָה שֶׁבַע"פ הָאֵל עֲדִיין הוּא בַּעַל פֶּה.

*"It is time to do for Hashem; they have annulled your Torah (Tehillim 119:126)." Chazal taught from this to permit the writing of Torah Shebe'al Peh. And if so, then all of the subsequent fulfillment of the Torah sprouts from the annulment of the Torah [which is impossible]. So it appears that, even though they permitted the writing of Torah Shebe'al Peh, nevertheless, it retained its original character as Oral Law. (Emes VeEmuna vol. 3 no. 588)*

So too, the conviction of Mordechai and Esther – to which *Chazal* subsequently gave their approval by including *Megillas Esther* within Tanach – added the new paradigm of Purim in which the conviction of human conscience, strategic and determined human action, and prayer to Hashem are what spark the path toward deliverance in Jewish history. They did this precisely when they were supposed to be celebrating Pesach. In this sense, Rashi interprets the verse's phrase "*vaya'avur Mordechai*" to mean that there was something paradoxical in this act. Yet, the subtext of the Megilla conveys that while the paradigm of Divine intervention in Jewish history (*i.e.*, the paradigm of Pesach) might become obscured, as in the Purim story,

it is never entirely absent. This dialectical tension between the paradigm of Purim and the paradigm of Pesach – this juxtaposition of the *geula* of Purim to the *geula* of Pesach (see *Megilla* 6b) – generated a new idea that became the dominant model on how to respond to national threats during the subsequent periods of Jewish history without active prophesy.

# The Bar Mitzva Boy's Question: Can I Daven Mussaf from the Amud?

MOSHE AND OREN NEIMAN



**T**he *pesukim* in the beginning of *Parshas Ki Sisa* describe the procedure for *Bnei Yisrael* donating the *Machatzis Hashekel*.

וידבר ה' אל משה לאמה. כי תשא את ראש בני ישראל לפקדיהם ונתנו איש כפר נפשו לה' בפקד אתם ולא יהיה בהם נגף בפקד אתם. זה יתנו כל העבר על הפקדים מחצית השקל בשקל הקדש עשרים גרה השקל מחצית השקל תרומה לה'. כל העבר על הפקדים מבין עשרים שנה ומעלה יתן תרומת ה'. העשיר לא ירבה והדל לא ימעט ממחצית השקל לתת את תרומת ה' לכפר על נפשתיכם.

*The Lord spoke to Moshe, saying: "When you take the sum of the children of Israel according to their numbers, let each one give to the Lord an atonement for his soul when they are counted; then there will be no plague among them when they are counted. **This they shall give, everyone who goes through the counting: half a shekel according to the holy shekel. Twenty geiras equal one shekel; half of [such] a shekel shall be an offering to the Lord. Everyone who goes through the counting, from the age of twenty and upward, shall give an offering to the Lord. The rich shall give no more, and the poor shall give no less than half a shekel, with which to give the offering to the Lord, to atone for your souls.** (Shemos 30:11–15)*

In *Parshas Pekudei*, the Torah describes the total sums of the items donated to the *Mishkan* and in the midst of that discussion describes that:

וכסף פקודי העדה מאת ככר ואלף ושבע מאות וחמשה ושבעים שקל בשקל הקדש. בקע לגלגלת מחצית השקל בשקל הקדש לכל העבר על הפקדים מבין עשרים שנה ומעלה לשש מאות אלף ושלושת אלפים וחמש מאות וחמשים.

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*The silver of the community numbers was one hundred talents and one thousand seven hundred and seventy five shekels, according to the holy shekel. **One bekka per head; [that is,] half a shekel according to the holy shekel for each one who goes through the counting,** from twenty years old and upward, for six hundred three thousand, five hundred and fifty [people]". (Shemos 38:25–26)*

In *Parshas Teruma* the Torah also describes donations to the *Mishkan* and there it states that

וידבר ה' אל־משה לאמר. דבר אל־בני ישראל ויקחורלי תרומה מאת כל־איש אשר ידבנו לבו תקחו את־תרומתי. וזאת התרומה אשר תקחו מאתם זהב וכסף ונחשת.  
*The Lord spoke to Moses saying "Speak to the children of Israel, and have them take for Me an offering; **from every person whose heart inspires him to generosity,** you shall take My offering. And this is the offering that you shall take from them: gold, silver, and copper. (Shemos 25:25–26)*

When reading these three different sections of the Torah, it is difficult to distinguish how much one really gave to the *Mishkan*. On the one hand we have the verses in *Ki Sisa* and *Pekudei* which state that everyone who was counted should give the same half a shekel, yet in *Parshas Teruma* it says that a donation was taken "from every person whose heart inspires him to generosity." Rashi in 25:2 addresses this question and quotes *Chazal*<sup>1</sup> stating that there were essentially three collections. The one in *Teruma* was for items to build the *Mishkan* and clothes for the *kohanim*, the one in *Pekudei* was for silver used to make the sockets that held the beams of the walls, and the one in *Ki Sisa* is the regular *machatzis hashekel* used for all *korbanos tzibur*.

The *Sefer Hachinuch Mitzva 105* rules that any male above the age of twenty is required to give the *machatzis hashekel*. He also states that one who doesn't give it will be punished severely because he has removed himself from the *tzibur* and will also not receive any atonement from the *korbanos* that they bring. In his commentary to the *Sefer Hachinuch*, the *Minchas Chinuch* notes that not everyone agrees that

1 "Our Rabbis said: [The word *teruma*, mentioned three times, denotes that] three offerings are mentioned here. One is the offering of a *beka* [half-shekel] per head, from which they made the sockets, as is delineated in [Shemos 38:26, 27] "*eileh pekudei*, These are the accounts." Another is the offering of a *beka* per head for the [community] coffers, from which to purchase the communal sacrifices, and another is the offering for the *Mishkan*, each one's [Israelite's] donation (*Talmud Yerushalmi, Shekalim 1:1; Meg. 29b*). The thirteen materials mentioned in this section [i.e., this chapter] were all required for the work of the *Mishkan* or for the garments of the *kohanim*, [as you will find] when you study them closely (*Tanchuma 5, Shir Hashirim Rabba 4:25*).



only males above the age of twenty give the *Machatzis Hashekel*. The Rambam and Ramban both rule that from the age of thirteen every Jewish male is obligated to give it, just like every other mitzva in the *Torah*. The major question on the Rambam and Ramban is the *pesukim* themselves! The *Torah* clearly states in *Ki Sisa* “Everyone who goes through the counting, from the age of twenty and upward shall give an offering to the Lord.” Many times there are difficult Rambams that seem to contradict each other or even contradict different *gemaras*, but a Rambam against a *pasuk* is simply impossible. The *Torah Temima* in his *he’aros* to *perek* 30 answers this question with the point referred to earlier by Rashi that there were really three donations given in the first year that the *Mishkan* was erected. According to the *Torah Temima*, when the *Torah* ruled that one must be twenty or older to participate in the *machatzis hashekel*, the Rambam and Ramban understood that this was referring to the collection for the building of the sockets as a one-time mitzva when the *Mishkan* was built. The *machatzis hashekel* for the communal offerings were collected from anyone above the age of thirteen.<sup>2</sup>

At this point in the article you may be wondering what the donation of the *machatzis hashekel* has to do with davening *Musaf*. There is a fundamental *machlokes* between the Rambam and the Ramban in their understanding of the mitzva of *tefilla*. According to the Rambam in his *Sefer Hamitzvos* #5, there is a mitzva *min hatorah* to daven. In the *Mishna Torah Hilchos Tefila* 1:1 he elucidates that *m’deoraisa* just davening once a day would suffice, and one could say any request to Hashem and that would fulfill his obligation. The Ramban in his *hasagos* disagrees and says that the only time *tefilla* would be a biblical obligation is if it was at a time of distress.<sup>3</sup> The *Shulchan Aruch* in 106:2 rules that women are obligated in *tefilla* every day because it is not a time-bound mitzva. The *Magen Avraham* 106:2 understood from his *lashon* that he was *paskening* like the Rambam that because there is no specific time, davening every day would be a mitzva *min hatorah* even for women. Based on this assumption, the *Magen Avraham* justifies the practice of women, who after waking up in the morning and washing their hands, say a short *tefilla* by asking Hashem for something

2 This answer is a little difficult to understand in the simple reading of the *pesukim*. According to this interpretation, all of the *pesukim* quoted before this verse were referring to the regular *machatzis hashekel* for the communal offerings, and then, without any transition, the *Torah* takes a break and moves on to discuss the collection for the sockets.

3 Rav Soloveitchik has a magnificent explanation of their *machlokes*. He claims that they both agree that the *mechayav* of *tefilla* is only at a time of distress. Where they disagree is if its perceived distress (Ramban) or is every day of our lives a time of distress that God is constantly saving us even though we don’t notice it and therefore one needs to daven every day (Rambam).

and would not *daven* anything else. The *Mishna Brura* 106:4 argues that we should *paskin* like the Ramban that *tefilla* is *miderabbanan* and therefore women are *chayav* in *shmonei esrei* of *shacharis* and *mincha* just like men.<sup>4</sup>

Having ascertained that many *rishonim* and *poskim* hold that women are required to daven *Shacharis* and *Mincha*, one is left to ponder whether women would be obligated in the other *tefillos*. The *Mishna Brura* is clear that although the *rishonim* tell us that men accepted *Maariv* as an obligation, we don't find anywhere that women made such an acceptance, and therefore they are not *chayav* in *Maariv*. When it comes to *Mussaf*, Rav Akiva Eiger in his commentary to *Shulchan Aruch* 106:2 quotes the *Teshuvos Besamim Rosh* who states that women are exempt because it is only a commemoration for the *korban mussaf* that was brought in the *Beis Hamikdash*, and women were exempt from the *machatzis hashekel* and didn't have a *chelek* in the *korban mussaf*. The *Besamim Rosh* concludes that nevertheless women accepted upon themselves to treat *Mussaf* as an obligation.<sup>5</sup> According to the *Besamim Rosh*, why should *Mussaf* be treated differently than *Shacharis* and *Mincha*? After all, those *tefillos* are also based on *korbanos* brought from the money given from the *machatzis hashekel* which women were exempt from.

To answer this question, we will need to analyze if *Mussaf* is really the same as the other three *tefillos* we say on a daily basis. The *Tzelach* in his commentary to the *gemara* in *Brachos* 26a claims that women are required to daven *Shacharis* and *Mincha* on a daily basis because it is *rachamim* which women require just like men do. However, *Mussaf* is simply a *zecher* for the *korban mussaf* and doesn't have an aspect of *rachamim* associated with it. He brings a proof from Rabbeinu Yona who says that unlike all the other *tefillos* on Shabbos, if one forgot to daven *Mussaf* he would not make it up with a *tefillas tashlumim* because it doesn't have this aspect of *rachamim*.

Another difference that makes *Mussaf* unique is with regards to the accidental recitation of *ata chonen* in the *amida* on Shabbos. The *gemara* in *Brachos* 21a says that if one accidentally started to say the *tefillos* of *chol* on Shabbos he should finish the *bracha* that he was saying before switching back to the Shabbos davening. The reason is that fundamentally one should be asking Hashem for his needs all the time,

4 It is interesting to note that for those who hold that davening for women is *derabbanan* we end up with a *chumra* that women need to daven the full *tefilla* of *shacharis* and *mincha*, whereas for those who hold that davening is *mideoraisa*, we end up with a *kula* that women need only say one *tefilla* per day in any method they desire.

5 Rav Akiva Eiger quotes the *Tzelach* who also concludes that women are exempt from davening *mussaf* and adds an additional reason that it is a time-bound mitzva.

including on Shabbos, but the rabbis were afraid that if one mentioned his needs on Shabbos it would ruin the *kavod* of Shabbos and therefore one doesn't ask for his needs. This is only the rule *lechatchila*, but *bedieved* if one already started the *bracha* of *chol* then he should finish it. There are many *rishonim*<sup>6</sup> who understood that in *Mussaf* one must stop even in the middle of a *bracha*. The *Mishna Brura* 268:5 and *Kitzur Shulchan Aruch* 76:19 both *paskin* like this as well.

A third difference between *Mussaf* and the other *tefillos* is found in two *teshuvos* asked to Rav Moshe (OC 1:23 and 2:19) about counting *mechalelei Shabbos* for a *minyan*. He answered that one is allowed to include them for a *minyan* to say *kaddish* and *kedusha* because the source of the requirement of ten for a *minyan* is the *meraglim* who were certainly *kofrim*, which is worse than *chillul Shabbos*. Rav Moshe was asked a series of follow up questions to his *psak* that he addressed in the later *teshuva*. The *shoel* quoted the Rogatchover who ruled that one cannot count a *mechalel Shabbos* for a *minyan* for *Mussaf* because it is in place of a *korban* and we don't accept *korbanos* from a *mumar*. Rav Moshe responded by claiming that the Rogatchover would only apply this rule to *Mussaf* but for all other *tefillos* he would allow a *mechalel Shabbos* to count towards a *minyan* because those *tefillos* are fundamentally different.

With all of this one can understand the *svara* behind the ruling of the *Besamim Rosh* that women are exempt from *Mussaf* because it is only a commemoration for the *korban mussaf*. The *Torah Temima* (ibid.) adds a bombshell to the entire *sugya*. He points out that if the *Besamim Rosh's* logic is correct, then anyone who is not *mechuyav* to give the *machatzis hashekel* would be exempt from *Mussaf*. According to the *Bartenura* and *Sefer Hachinuch* quoted earlier, that would include anyone below the age of twenty. The *Torah Temima* says that if that's the case, someone below the age of twenty who decides to *daven mussaf* would only be volunteering, and we have a rule that someone who is exempt from a *mitzva* cannot be *motzei* those who are obligated in a *mitzva*. Therefore he can't *daven* for the *amud* to be *motzei* the *tzibur* in their obligation. The *Torah Temima* himself ends off by saying that the matter needs further investigation.

The *Torah Temima* has a very compelling argument and one must wonder why his opinion has not been broadly accepted. The first and maybe most important issue is the authorship of the *Besamim Rosh*. The *Besamim Rosh* is a collection of responsa attributed to Rabenu Asher ben Yechiel (1250-1327) one of the prominent *rishonim*,

<sup>6</sup> See, for example, Rabbeinu Yona in *Brachos* 13a *b'dapei Harif*, Rosh in *Brachos siman* 17 and Rashba in *Brachos* 21a.

and one of the *baalei tosafos*. The problem with these responsa is that they were discovered by Saul Berlin in 1793, almost five hundred years after they were allegedly written. It also contains controversial *teshuvos* with regard to burial and other topics that had many *gedolim* of the time questioning the authenticity of its authorship. The *Avnei Nezer* is quoted by the *Pardes Yosef* 3:220 as having said that one should not own the *sefer* and it should be burned, even on Yom Kippur that falls out on Shabbos<sup>7</sup>. The *Chasam Sofer* OC 154 also nicknamed it the *Kozvei Rosh*, the forgery of the *Rosh*. The *Chida* in his *sefer Tov Ayin*, however, praised the *sefer* and said it is from the *Rosh* and other *rishonim*. Rav Akiva Eiger and the *Torah Temima* also quoted from it without questioning its authorship or authenticity, and it influenced their *psakim*. The debate on how to view the *Besamim Rosh* really hasn't ended and is a question which modern *poskim* deal with even today. Rav Avigdor Nebenzhal *shlita*<sup>8</sup> is of the opinion that everything found in the *Besamim Rosh* is considered a *safek* if its really from a *rishon* and it should carry greater weight than things found in an *achron*. Even if the *Besamim Rosh* was a forgery, Rav Akiva Eiger seemed to agree with his *svara* and that would certainly be influential when deciding *psak*.

The second argument against the *psak* of the *Torah Temima* is that it is only according to the *Sefer Hachinuch* and the *Bartenura*. However, according to the Rambam and Ramban who hold that anyone above the age of thirteen brings the *machatzis hashekel*, any boy above bar mitzva would be *chayav* in *Mussaf* and therefore would be able to be *motzi* the *tzibbur*. With the *Bartenura* and *Sefer Hachinuch* on one side and the Rambam and Ramban on the other, one would assume that we should follow the Rambam and the Ramban. However, the Rama in *siman* 694 discusses the custom of giving *machatzis hashekel* before reading *Megillas Esther* and *paskins* that only men above the age of twenty have to do so, like the *psak* of the *Bartenura* and *Sefer Hachinuch*. The *Magen Avraham* and the *Mateh Yehuda* both argue on the Rama based on the Rambam and Ramban and hold that all boys over the age of thirteen should give the *machatzis hashekel*.

While we have found this topic very intellectually stimulating, we have not come across any *tzibbur* that is *choshesh* to this *shayla* and shuls everywhere allow a *bar mitzva* boy to daven for the *amud*.

<sup>7</sup> It would be difficult to suggest that this quote is to be taken literally.

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# The Eclipse, the Calendar, and the Future

JOSH ROTHENBERG



**A**n eclipse is one of the most spectacular and rare acts of nature that one can witness. Could it be that the eclipse is also the hidden and essential key to the modern Jewish calendar? Could the eclipse have even more meaning for us today? Let's take a deeper look at the origins of the Jewish calendar and see the incredible role of solar eclipses in its past and future.

The element of time is essential in Jewish law and practice. This is most apparent in the weekly observance of Shabbos and annual observance of the *Yomim Tovim*. These observances require keeping track of the days and months as described in the Torah. The Jewish people have been observing Shabbos by keeping count of the seven-day weekly cycle from Sinai to the present day. The *Yomim Tovim* are dependent on establishing the Jewish calendar by the monthly declaration of Rosh Chodesh, our first mitzva as a nation, and leap years as needed to maintain Pesach in the Spring. The responsibility for these calendrical declarations rested on the *Sanhedrin* and subsequent *battei din*. The *gemara* describes the procedures used to examine witnesses and the declaration of Rosh Chodesh as well as intercalation of leap months. These procedures were apparently used until ~4119 (~ 359 CE), when Hillel II recognized that persecution was endangering the monthly declarations of Rosh Chodesh by a properly authorized *beis din*, and the need to address the future calendar in advance, while *beis din* was still extant. As a result of Hillel's innovation, the current Jewish calendar is fixed, and described by the Rambam in *Hilchos Kiddush HaChodesh* (HKH).<sup>1</sup>

This article focuses on the most fundamental aspect of the modern Jewish calendar, the declaration of Rosh Chodesh by calculation, which is described in

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<sup>1</sup> Rambam, *Mishna Torah*, *Hilchos Kiddush HaChodesh*, *perakim* 6 and 7

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HKH, chapter 6. Each month on *Shabbos Mevorchim* we announce the result of a simple calculation that identifies the “time of the *molad*” (new moon) in the coming week (the assumed time zone used for this is generally understood to be that of Jerusalem). These calculated times are based on an average value of the interval between successive *moladim*, which the Rambam (HKH 6:3) states is 29 days, 12 hours, and 793 *chalakim* (a *chelek* equals  $1/1080^{\text{th}}$  of an hour, which is  $1/18^{\text{th}}$  of a minute, or  $3 \frac{1}{3}$  seconds), or equivalently 44 minutes and 1 *chelek*. Lets call this average *molad* interval  $M$ . Then any announced *molad* time is simply found from a previous *molad* time by adding  $n \times M$ , where  $n$  is the number of intervening months.

If one examines a series of these declaration times, one can easily see this simple progression rule in action. For example, the *molad* of Elul 5779 was announced as Friday (Aug 30, 2019) at 5:06 PM and 4 *chalakim*. Then adding  $M$  one finds Tishrei 5780 is Sunday (September 29) at 5:50 AM and 5 *chalakim*, etc, as shown in Table 1. Since 29 days is 4 weeks and one day, each subsequent *molad* advances one day in the week, or two days if the addition of 12 hours, 44 minutes, and 1 *chelek* advances the time to the next morning.

Table 1. Examples of Announced Moladot						
Month	Year	Day	Date	Hour	Minute	Chelek
Elul	5779 (2019)	Friday	30 Aug / 30 Av	5 PM	6	4
Tishrei	5780	Sunday	29 Sep / 29 Elul	5 AM	50	5
Cheshvan	5780	Monday	28 Oct / 29 Tishrei	6 PM	34	6
Kislev	5780	Wednesday	27 Nov / 29 Cheshvan	7 AM	18	7
Teves	5780	Thursday	26 Dec / 28 Kislev	8 PM	2	8
Shvat	5780 (2000)	Shabbos	25 Jan / 28 Tevet	8 AM	46	9

However, it should be noted that these announced times are not intended to be notice of the actual times of the true *molad*, the conjunction of the earth, sun, and the moon (i.e. the time when their centers all line up exactly in longitude). Rather, these announcements serve to inform the congregation of the times that Hillel’s *beis din* declared to be the “effective” birth of the new moon, which is a portion of the *minhag* we have for the blessing we say on *Shabbos Mevorchim*. Several reasons suggested for this *minhag* include providing transparency in determining the calendar, *zmanim* for



*Kiddush Levana*, and perhaps as a remembrance of the historic *beis din* declaration process. In fact, as we shall see, the announced times for the *molad* differ noticeably from the true conjunctions. The actual interval between successive conjunctions varies by as much as  $\sim \pm 7$  hours around this average value ( $M$ ) owing to the varied orbital speed of the moon. The cumulative effect of this approximation is that our announced *moladim* vary in comparison to the true lunar conjunction over a total span of  $\sim 28$  hours.

The *molad* announcements have no consequence, other than that of the month of Tishrei (which, since we do not celebrate Shabbos *Mevorchim* before Rosh HaShanah, is strangely not announced in Shul). The Jewish calendar year today is determined solely by the calculation of the *molad* of Tishrei for successive years, along with a rule that determines which years have leap months added. A leap month, an extra Adar, is added in 7 years of every 19 in a cycle known as the *machzor katan*. The seven leap months are added in the years 3, 6, 8, 11, 14, 17, and 19 of each cycle (HKH 6:10-11). The nature of any year in the cycle of 19 is easily determined by finding the remainder when dividing the year number by 19. E.g. 5779 ( $= 19 \times 304 + 3$ ) has remainder 3 and is therefore the 3<sup>rd</sup> year in the cycle and a leap year.

The details of the calendar for a given year are defined by the calculated *molad* of Tishrei, and several “*dechiyos*” (postponement) rules. In recognition of the time required for the new Moon to reappear after the true conjunction, if the (average calculated) *molad* of Tishrei falls after noon, then Rosh Hashanah is delayed one day. The remaining rules are used to ensure that Rosh Hashanah does not fall on Sunday, Wednesday, or Friday (to avoid Yom Kippur landing on Friday or Sunday, or Hoshana Rabba on Shabbos), and to ensure the length of the year is always within one day of a ‘regular’ year. In a regular year the 12 months alternate between 30 and 29 days to average out to exactly  $29\frac{1}{2}$  (354 days). In a leap year “Adar I” is added and always is 30 days for a total of 384 days (“Adar II” is 29 days in both regular or leap years). However, to avoid deviating by more than one day from a regular year, two additional *dechiyos* are employed (see HKH, Chapter 7). Cheshvan and Kislev are then adjusted to be either 30 (*malei*, full) or 29 (*chaser*, deficient) days as needed to shorten or lengthen the (leap or non-leap) year by one day, and this finalizes the dates for all the remaining Roshei Chodashim of the year. As a result of the *dechiyos*, the announced *moladim* may not fall on Rosh Chodesh, but can occur a day or two in advance.

The 19 year cycle with 7 leap months that spans 235 ( $19 \times 12 + 7$ ) lunations was chosen based on the near coincidence (noted by Greek astronomer Meton) between the length of the 235 lunar cycles and 19 solar “tropical” years (i.e. from one spring equinox to the next). Using this cycle the Jewish calendar attempts to keep Pesach in the spring

(*Chodesh Aviv*). It turns out that 235 lunations is slightly longer than 19 years by just over 2 hours. As a result, the Jewish calendar advances one day relative to the solar seasons by about 1 day every 220 years, and we are now about 8 days later than the average season in the time of Hillel II. This discrepancy is about half of that resulting from the Julian calendar, which assumes the year is exactly  $365\frac{1}{4}$  days and corresponds to the opinion of Shmuel, and advances about 1 day every 128 years. The Julian calendar discrepancy was resolved by the change to the current Gregorian calendar in October 1582. The seasonal discrepancy in the Jewish calendar is another complex and interesting topic. We are commanded to keep Pesach in Spring, but we measure the seasons (*tekufos*) by the opinion of Shmuel; hence Pesach in our calendar, which follows the 19 year Metonic cycle, is actually slowly getting earlier (by about one day every 315 years) with respect to Shmuel's opinion for the Spring Equinox. For a more extensive discussion of this topic see the works by Rabbi J.D. Bleich<sup>2</sup> and Rabbi D. Heber.<sup>3</sup>

The main topic addressed in this article regards the “*molad*” that is announced in shul every month, which currently is the backbone of our calendar.

The calculation of the *molad* needs a starting point. From the current *molad* announcements, one can work backward to the 1<sup>st</sup> of Tishrei in year “1”. One finds this *molad* “*tohu*” (primordial – as this precedes the seven days of creation, which is conventionally considered to have begun on the 25<sup>th</sup> of Elul in year 1) is, as the Rambam (HKH 6:8) states “B’H’R’D”. This mnemonic refers to (B) Monday, (H) 5<sup>th</sup> hour (the daily hour count is assumed to start at the beginning of *halachic* day, i.e. nominal sunset or 6 pm Sunday night, thus the *molad* “*tohu*” time is  $5 + 6 = 11$  pm Sunday), and (R’D) 204 *chalakim*, or 11 minutes and 6 *chalakim*. To find the *molad* for any month in history one only needs to count the months from Tishrei of year “1” and add the number of monthly intervals (*M*). The value of the *molad tohu* of year “1” is based on the concept that the first *molad* observed by man was in fact declared by Adam HaRishon on his day of creation (*yom HaShishi*), which was Rosh Hashana (1 Tishrei), but now year “2”. By adding  $12M$  to *molad tohu* one finds the year 2 Tishrei (average) *molad* occurred exactly at 14:00 (or 8 AM, again counting hours from 6 pm the previous evening) on Friday, the sixth day of creation. The *molad* was observed by Adam the minimum possible 6 hours later, when at 2 pm he was commanded not to eat from the tree of knowledge (see *Tosfos* “*litekufos*”, *Rosh Hashana* 8a and

2 J. D. Bleich, “*Bircas HaChammah*,” p47 ff (Artscroll, 2009)

3 D. Heber, “Why is This Pesach the Earliest Since 1899?,” *Tzav/Pesach Yated Ne’eman* 2013 (<http://www.theyeshivaworld.com/news/headlines-breaking-stories/161959/why-is-this-pesach-the-earliest-since-1899.html#sthash.PDFJXY2e.dpuf>)



*Sanhedrin* 38b). Mid-day would appear a difficult time to observe a new moon. One might conclude that those who set the fixed calendar adjusted the parameters to meet this allegorical criteria in the traditional account of creation.

More fundamentally, prior to Hillel II, Rosh Chodesh and the calendar were set using the observation of witnesses. Using the current fixed *molad* interval for calibration of events prior to Hillel, and prior to Sinai, is problematic. Such use of a calendar system prior to its establishment is referred to as ‘proleptic’. It is also worth noting there appears to be a significant issue in the year number we currently use (a resolution was attempted by R. Shimon Schwab among others – for an interesting discussion see Epstein et al).<sup>4</sup> The generally accepted historical record indicates a discrepancy of ~ 166 years in the duration of the Persian dynasty compared with our traditional count. Finally, one observes that the traditional counting of year “1”, which primarily precedes creation seems awkward. This would not be the first time we have miscounted by “1.” A similar issue is noted in Moshe’s delay in returning prior to the *Chet* of the Eigel, and the delay of the rebuilding of the first *Beis HaMikdash* leading into the story of Purim. If you are wondering what possible relevance a 1 year discrepancy has, hold that thought ...

What is most noteworthy about the current *molad* calculation system is that a very accurate value of the average lunar month  $M$  is needed to keep our calendrical system approximately aligned with the lunar reality. Consider the *molad* of Rosh Hashana (Tishrei) 5780 =  $19 \times 304 + 4$ . 304 cycles of 19 years have elapsed, or  $304 \times 235$  lunar months that comprise 304 complete 19 year cycles, since *molad* *tohu*, and then add  $3 \times 12$  months + 1 leap month to arrive at the beginning of the 4<sup>th</sup> year in the current 19 year cycle, for a total of 71,477 months. With the starting point of *molad* *tohu*, B’H’R’D, and adding  $71,477 \times M$ , one finds the *molad* is exactly Sunday (September 29) at 5:50 AM and 5 *chalakim*, as quoted above. Now, imagine the value we use for  $M$  (29 days, 12 hrs, 44 min, and 1 *chelek*) is one second off, then the *molad* of Rosh Hashana 5780 would be shifted by 71477 seconds, or about 20 hrs. If the value of  $M$  is off by 1 *chelek*, the *moladim* today would be different by almost 3 days.

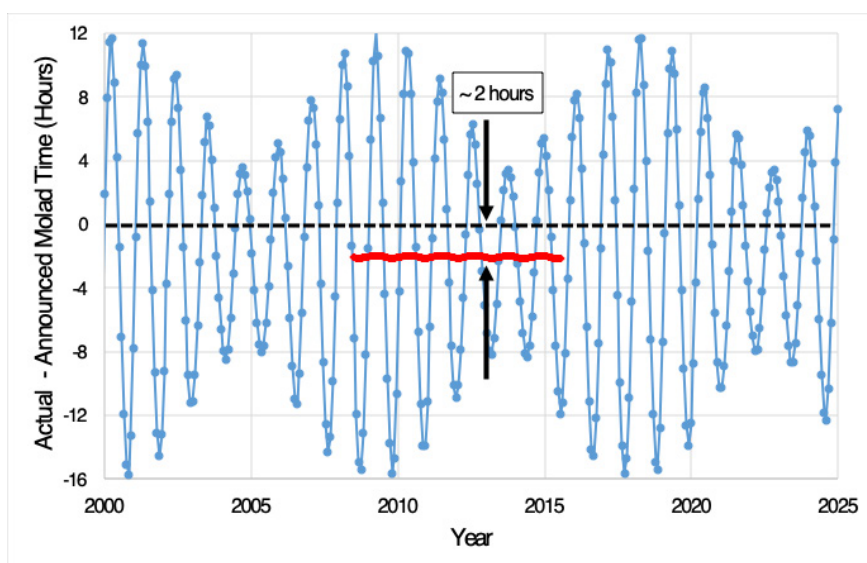
As we shall see, the currently announced *moladim* are, on average, about 2 hours after the actual lunar conjunctions, as measured with a *halachic* Jerusalem clock (for which the average time at *chatzos* is noon – or about 20 minutes later than the clocks in Israel that read “Israel Standard Time” or IST). To be this close to reality after 5780

4 S. Epstein et al, “A Y2K Solution to the Chronology Problem”, *Hakirah*, Vol. 3, 2006 (<http://www.hakirah.org/Vol%203%20Epstein.pdf>)

years, or even ~1700 years since Hillel II, requires a highly accurate value of  $M$ , within a fraction of a second.

How accurate is the value we use for  $M$ , and where did it come from?

Lets try to answer the second question first. In the *Bavli* this value of  $M$  appears in *Rosh Hashana* 25a, (per Artscoll's translation) "Rabban Gamliel said to them: thus have I received a tradition from the house of my father's father, the rebirth of the moon is not less than  $29\frac{1}{2}$  days, two-thirds of an hour and 73 *chalakim*." The language here of 'not less than' seems misplaced if this value is to represent the very precise average value of the *molad* interval. In fact, the actual *molad* interval is regularly more than 6 hours less than this value. In addition, some authors point to variant readings in other manuscripts, which they conclude indicates the value in our present *gemara* was amended (e.g. see discussions by Belenkiy<sup>5</sup> and Feldman<sup>6</sup>). Furthermore, it has been pointed out that Ptolemy's *Almagest* quotes this value and attributes it to the Greek astronomer Hipparchus (~ 120 – 150 BCE), and perhaps also to Babylonian astronomers.



**Figure 1:** The difference between the actual time of the conjunction (new Moon) adjusted to local Jerusalem time (GMT + 2:20) and the time of the announced monthly *moladim* (dots) over a 25 year interval. The short red curve is the average over a moving 19 year (235 month) window.

5 A. Belenkiy, "Jewish Calendar in the Roman Period: In Search of a Viable Calendar System," (<http://u.cs.biu.ac.il/~belenka/roman.pdf>)

6 W.M Feldman, "Rabbinical Mathematics and Astronomy," p74 ff, 3rd Ed. (Hermon, 1978)

The difficulty in measuring the average interval  $M$  between lunar conjunctions is seen in Figure 1, which shows the difference between our announced *moladim* and the actual conjunctions (as taken from the US Naval Observatory calculator<sup>7</sup> and adjusted from Greenwich Mean Time (GMT) to *Halachic* Jerusalem time by adding 2 hours and 20 minutes). The variation pattern shown is interesting and can be understood from various aspects of the elliptical lunar orbit. The basic variation is due to the effect of the change in orbital speed, e.g. the Moon speeds up near the perigee (point of closest approach to Earth), but is complicated by the elliptical orbit of Earth, and simultaneous rotation of the axes of the elliptical lunar orbit with respect to the Sun. For more detail see I. Bromberg<sup>8</sup> and references therein. One sees the actual *moladim* vary over ~28 hours, which makes it extremely difficult to determine the average to the sub-second precision needed. Also plotted in Figure 1 is the moving average over the 19 year (235 lunation *machzor katan*) cycle, which to a great extent averages out the large annual variations. This curve shows the average of the actual conjunctions occur about 2 hours before the times we announce in shul. The 19 year average varies by ~10 minutes, depending on when the window begins and ends. This variation still appears to be much larger than the ~second accuracy required to avoid a large cumulative error over the centuries.

How does one make a highly accurate measurement of the average interval between *moladim*, particularly when the interval can vary from month to month by many hours? We see in Figure 1, that even if one can accurately measure the actual moment of the *moladim* and take the average of the intervals over 19 years, the variation of the average is still many minutes. There are two elements needed to achieve sub-second accuracy – precise measurement of the actual time of two conjunctions and a very long interval between them.

Hipparchus reportedly did exactly that, and derived his value from observation of a long interval between recorded eclipses, making use of Babylonian records of eclipses some 350 years before his own eclipse observation. The eclipse is the only clear manifestation of the moment of alignment between the Earth, Sun, and Moon. Even the region of a total solar eclipse, which last for only a few minutes, but travels over the Earth at over 1000 MPH for several hours, only coincides exactly with the

<sup>7</sup> United States Naval Observatory, Astronomical Applications Department, “Phases of the Moon,” (<https://aa.usno.navy.mil/data/docs/MoonPhase.php>)

<sup>8</sup> I. Bromberg, “Moon and the Molad of the Hebrew Calendar,” (<https://individual.utoronto.ca/kalendis/hebrew/molad.htm>)

conjunction at one longitude on Earth – the point where the eclipse occurs at local *chatzos* (noon). An eclipse observation, along with the local time (for example, from a sundial), enables one with reasonable expertise to extrapolate the actual moment of conjunction.

It is thought that Hipparchus observed a lunar eclipse at an interval of 4267 months (345 years) from a previous Babylonian eclipse. Hipparchus determined the events were separated by 126007 days and 1 hour, which leads to a measured average monthly interval  $M$  of 29 days, 12 hours, 44 minutes, and 3.26 secs (i.e. the total interval between the eclipses was  $126007 \text{ days} \times 24 + 1 = 3024169$  hours; then divide by 4267 months to obtain the average length of a month is 708.73424 hours, which is the value of  $M$  stated). The fact that there were a huge number (4267) of months between the measurements meant that any error in the measured time interval was divided by this large number, thereby greatly increasing the accuracy of  $M$ . If the interval between these two eclipses was correct to within 1 hour, this would translate into an accuracy of  $M$  of  $\sim 0.8$  secs, which leads to an accumulated error of only  $\sim 5$  hours since Hillel II established the calendar.

The eclipse was the essential event that enabled a precision measurement of the moment of alignment of Sun, Moon, and Earth. By making two such observations centuries apart, and reckoning the time elapsed between, one could achieve the precision needed to determine the *molad* interval to less than one second. The result for  $M$  formed the basis that has enabled our fixed calendar to hold up for millennia. One can only wonder what would have been without the eclipse and this precise value for  $M$ .

The actual length of the average lunar month today is about  $\frac{1}{2}$  second less than the value we use for  $M$  in our calendar, but this average has been changing, albeit slowly. It turns out that the Earth's rotation rate is slowing. This is primarily a result of the interaction between the Moon and the Earth's tides. The Earth's tidal bulge is rotated ahead of the Moon and causes a small torque and acceleration on the Moon. We recently celebrated the anniversary of Man's first landing on the Moon. In that mission, a 'cat's-eye' retro-reflector was placed on the Moon's surface, which allows us to bounce a laser pulse off the moon and precisely measure its round trip time. From these laser ranging measurements we have found that the tidal acceleration of the Moon results in an increase in its orbital radius by about 1.5 inches per year. The reciprocal torque of the Moon acting upon the Earth is slowing its daily rotation rate by about 0.0023 seconds per century. This is small but the time change relative to today's length of the Earth's day accumulates to several hours in the time of Hillel II.

This indicates that the value we are using for  $M$  today was even more accurate when the fixed calendar was implemented. There is likely more to the story of the origin of our value of  $M$ , but whether Hipparchus or others derived this value, or it was a *mesora* transmitted by Moshe from Sinai, it was accurate enough so that after ~ 1700 years the *moladim* we announce today are, on average, only 2 hours different from the actual time of the conjunctions as measured in Jerusalem, and this deficit that may be in large part due to the miniscule slowing of the Earth's spin rate.

Other changes can also affect the Earth's spin rate, such as the change in sea level that has been suggested in connection with global warming trends. With today's precise astronomical theory, and modern computation, one can calculate all the eclipses throughout history on Earth (see Espenak and Meeus).<sup>9</sup> However, the uncertainty in the exact length of an Earth day can make assignment of a total eclipse to a particular location thousands of years ago uncertain by 100's of miles or more. In contrast, looking to the next few hundred years, unless there is some dramatic event, the changing length of day has a small impact on such eclipse calculations.

What does this topic portend for the future? Certainly over the next few hundred years the accuracy of the *molad* should continue to be more than adequate. Also, over this time period the discrepancy between Pesach and the start of Spring (however one measures the vernal equinox) will grow incrementally (by about a day), but this would seem to have no impact on our current calendar. More significant changes may occur in the distant future, but our tradition seems to preclude that consideration, since we expect the reestablishment of the *Sanhedrin* soon.

The eclipse is an interesting subject in and of itself (for example, see Brown,<sup>10</sup> and also the upcoming 100<sup>th</sup> anniversary of the November 1919 announcement of the "most famous eclipse in history," confirming Einstein's prediction that light is bent by gravity).<sup>11</sup> It seems observation of the eclipse was the essential ingredient that made our fixed calendar so precise today. However, the *gemara* indicates an eclipse is a bad omen (see e.g. *Sukka* 29a). Can calculation and/or observation of future eclipses provide any insights for us? It turns out that a single location will experience a total solar eclipse about every 375 years on average. However, there is a great deal

9 F. Espenak and J. Meeus, "Five Millennium Canon of Solar Eclipses: -1999 to +3000 (2000 BCE to 3000 CE)," NASA/TP-2006-214141, (<https://eclipse.gsfc.nasa.gov/SMCSE/TP2009-214174.pdf>)

10 J. Brown, "The Great American Eclipse of 2017: Halachic and Philosophical Aspects," *Hakirah*, Vol. 23, 2017 (<http://www.hakirah.org/Vol23Brown.pdf>)

11 The New York Times, November 10, 1919 (<https://www.nytimes.com/1919/11/10/archives/lights-all-askew-in-the-heavens-men-of-science-more-or-less-agog.html>)

of variation. You might ask when the last total eclipse in Jerusalem occurred – the answer is 1133 CE (4893, 29<sup>th</sup> of Av). When will the next total eclipse occur in Jerusalem? August 8, 2241, which is the 30<sup>th</sup> of Av, 6001. If one now recalls the issue of “year 1”, this is ‘coincidentally’ Rosh Chodesh Elul, the last month of the 6000<sup>th</sup> year after creation.

The *geula* from *Mitzrayim* happened at night, because it was only temporary, and further exile was to follow. The final redemption will also be at night, but night that will be as light as day (*Shemos Rabba*), since that redemption will be complete. Maybe the only total eclipse to occur for over 1000 years in Jerusalem just happens to fall exactly in Elul 6000 years after creation, and it is only a coincidence. Or perhaps there is a message for us to consider – how we can make the most of the current Elul before this final Elul is upon us.

# Hawaiian Fridays

ELI SNYDER



Your bags are packed and so is your itinerary; surf lessons on the North Shore of Oahu, a stunning hike up a live volcano, and a somber visit to the Pearl Harbor National Memorial in Honolulu. Right before you leave, you make a quick call to your rav to ask a question regarding *kashering* the oven at your AirBNB. Excitedly, you can't help but share your plans, and when he inquires about Friday you tell him the details; driving your rental car up to an orchard that lets you grind your own Kona coffee beans and pick your own pineapples and then back home to prepare for Shabbos. He then advises that you would be better off swapping that day plan with the surf lessons or museum visit. How come? Well...

The geographic placement of Hawaii on the round planet on which we live poses an interesting *halachic* question. Hawaii sits to the east of the International Date Line (IDL) but west of what many consider to be the *Halachic* Date Line (HDL). The IDL is squiggly line roughly straddling the antimeridian, 180° from the prime meridian (i.e. it is directly across the planet from the line drawn through Greenwich, England). Since the Earth rotates to the east over a 24 hour period, sunlight reaches areas to the west of a given location later than relative locations in the east, e.g. it is daytime in Israel before it is daytime in the U.S. (well, at least the contiguous U.S. as we'll see). It follows, then, that the further west you travel, the later daytime will come relative to where you started. The further east, the earlier. However, this cannot continue as a rule forever. For instance, if it is 6 pm on a Wednesday in Philadelphia, it will be 1 am, Thursday, in Israel. Keep heading east to the opposite side of the globe, it should be 6 am Thursday. Looking west, it is 3 pm, Wednesday in Los Angeles and keep heading that direction, it would be 6 am *Wednesday*. It obviously cannot be both. Back in the mid-19<sup>th</sup> Century, when England was still a somewhat relevant world-power, it was determined that Greenwich shall be the relative starting point for "time," and the determining factor of the location of the prime meridian. On the opposite side of the globe is the IDL, which is where things get interesting. If you are east of the IDL and

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walk west, you essentially step into tomorrow. That is, instead of shifting to an earlier time, you shift 24 hours *forward*. It is as if you completely circumnavigated the globe heading east in a split second. Similarly, if you are west of the IDL and head east, you shift *back* 24 hours, you step into yesterday. So where does Hawaii fit in?

Hawaii sits east of the IDL, which makes sense, since as a U.S state, it should be the same day in Hawaii as it is in the rest of the country. However, the IDL is a line drawn relative to a location in England that ultimately is arbitrary. Generally, the Jewish people do not draw our lines arbitrarily;<sup>1</sup> there must be an inherently meaningful and objective starting point, and that certainly is not Greenwich, England. There is essentially a three-way *machlokes* over how we should determine the day of the week in this regard.<sup>2</sup> Rav Yechiel Michel Tukatzinsky and the Chazon Ish both use Jerusalem (obviously) as the starting point but the former draws the HDL as 180° from Israel and the latter draws it at 90°. Rav Tukatzinsky's opinion thus shifts the HDL a few hundred miles east, landing on the other side of Hawaii. According to this opinion, "today" in the contiguous states is "tomorrow" in Hawaii and as relevant to this discussion, while most align Shabbos to the international Saturday, Hawaii should be aligning to the international "Friday" since per the HDL, what they call Friday should really be Saturday. The 90° line of the Chazon Ish is interesting since it cuts through a number of land masses, e.g. China and Australia. On a practical level, this would present all sorts of issues and so we must move the HDL east until it hits water. In this way, all of China and Australia experience the same day. However, islands off of these continents, e.g. Japan and New Zealand, are to the east of the HDL (and west of the IDL) so their Shabbos would actually be on the international Sunday! The third opinion places the HDL in the mid-Pacific, and essentially aligns the international standard as the *halachic* standard. Support for this the concept can be found in the *gemara* (*Shabbos* 69B) that says that if a traveler completely loses track of the days and does not know when Shabbos is, he should begin counting from the day he realizes. Functionally speaking, Shabbos is established by his own count. Since there are permanent Jewish communities in Japan and Hawaii, and they have established Shabbos as Saturday, we can simply follow the day like the rest of the world.

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1 Not just physically but morally as well. See "Thoughts on Morality" *Nitzachon* Vol 5:2.

2 There are many fascinating articles, *shiurim* and books on the topics stemming from the International & Halachic Date Line and issues that can arise as far as counting *Sefira*, fasting, what day is Shabbos/Yom Tov etc. This article will gloss over most of these issues and focus on, as the title suggests, the interesting conundrum of how to go about keeping Shabbos on Friday in Hawaii.



When we look at Hawaii, there are two opinions saying Shabbos is Saturday (90° line and follow the community) and one saying Shabbos is Friday (180° line) implying that Saturday is *probably* when our visitor should be keeping Shabbos.<sup>3</sup> However, there is still a *safek* that we should treat Friday as Shabbos. The rule is *safek d'oraisa l'hachmir* and *safek d'rabanan l'hakel*; when in doubt, you need to be strict for Torah prohibitions and can be lenient for rabbinic prohibitions. This takes us to the meat of the discussion. Shabbos includes many Torah and rabbinic prohibitions, and on Friday in Hawaii, due to *safek*, the Torah prohibitions must still be followed.<sup>4</sup> While one might choose to avoid Hawaii altogether from Thursday night through Saturday night, this nevertheless presents an interesting chance to explore how much of our Shabbos experience is dictated by the Torah and how much was later molded through rabbinic input.

To start off, what elements of Shabbos are *dinei d'oraisa*? From the *lo s'aasei*, negative commandment, side, it starts with the 39 *Melachos* and then in addition, each one's relative *toldos* (lit. offspring). Whether the 39 *Melachos* are the categories of action used in building the *Mishkan* or the actions used in the actual *Mishkan*/ Temple service, the list is clear cut and is as follows:

### Sedura D'Pas

1. *Zoreiya* – Planting
2. *Choreish* – Plowing
3. *Kotzair* – Harvesting
4. *Me'amer* – Gathering
5. *Dosh* – Threshing
6. *Zoreh* – Winnowing
7. *Borer* – Selecting
8. *Tochein* – Grinding
9. *Merakeid* – Sifting
10. *Losh* – Kneading
11. *Ofeh/Bishul* – Baking/Cooking

### Making Material

12. *Gozez* – Shearing
13. *Melabein* – Laundering
14. *Menapetz* – Combing
15. *Tzoveiya* – Dyeing
16. *Toveh* – Spinning
17. *Meisach* – Stretching the Threads
18. *Oseh Shtei Batei Nirin* – Making Two Loops
19. *Oreig* – Weaving
20. *Potzeiya* – Separating Threads
21. *Kosheir* – Tying a knot
22. *Matir* – Untying a knot
23. *Tofeir* – Sewing
24. *Koreya* – Tearing

3 Similarly for Japan/New Zealand, Saturday is Shabbos per the community and the 180° line but it is Sunday per the 90° line.

4 This reflects the opinion of many contemporary *poskim* but please check with your Local Orthodox Rabbi™ before planning your trip.

### Making Leather

25. *Tzod* – Trapping
26. *Shocheit* – Slaughtering
27. *Mafsheet* – Skinning
28. *Me'abeid* – Tanning
29. *Memachaik* – Smoothing
30. *Mesarteis* – Scoring a line
31. *Mechateich* – Precise cutting

### Order of Construction

32. *Koseiv* – Writing
33. *Mocheik* – Erasing
34. *Boneh* – Building
35. *Sossair* – Demolishing
36. *Makeh B'Patish* – Completing a vessel
37. *Ma'avir* – Kindling a fire
38. *Mechabeh* – Extinguishing a fire
39. *Hotza'ah* – Carrying

It is apparent from this list that many are not relevant in general daily practice, let alone a vacation in Hawaii. Unless one finds leisure in the ancient art of weaving, *melochos* 17 – 20 will not likely be an issue. Also, an important qualifier is for an action to be an *issur d'oraisa*, it must be a *melech machsheves*. Perhaps literally defined as calculated work, a *d'oraisa* level of transgression needs to mirror how it was performed in the *Mishkan* i.e. with intent, with proficiency, with significant results and in a non-backhanded fashion.

With that in mind, here are just a few *issurei d'oraisa* that can arise<sup>5</sup> on vacation:

- Signing a receipt: While performing a monetary transaction in and of itself would only be an *issur d'rabanen* (and permitted on Friday), one would transgress *koseiv* if they sign a receipt or write a check on paper with their dominant hand<sup>6</sup>.
- Tearing toilet paper or a paper towel: Tearing paper to create a new functional item is likely an *issur d'oraisa* of *koreya*. Also, due to the etched lines in toilet paper and paper towels, tearing along those lines might also be a violation of *mechateich*, cutting to a precise size, although this assumes you are intending for a piece of paper that is exactly those dimensions.
- Shaving or getting a haircut: This arguably violates the *issur d'oraisa* of *gozez*, shearing. Plucking any hair with tweezers from the body would as well. However, this is a *machlokes* since you typically don't use for the hair you are removing and it might be a *melacha she'eina tzricha l'gufo*, as the end goal of *gozez* is to have

5 This list is of course not exhaustive, considering the volumes upon volumes written on *Hilchos Shabbos* and what actions are considered an *issur d'oraisa*, *issur d'rabanen*, *divrei kabala*, *b'dieved muttar* (e.g. certain means of refua) or completely permitted. Best not rely on this article.

6 The Rambam in the *Mishna Torah* says there is *gezeira* against monetary transactions because one may come to write. There are additional issues of *memtzo cheftzecha* and *daber davar* which are *divrei kabala* but not on the level of *d'oraisa*.

the wool, unlike when you get a haircut. In a similar vein, brushing or combing hair is generally forbidden since the high likelihood of pulling out hair means the action is a *p'sik reisha*, an inevitable consequence. However, pulling out hair is an unintended consequence, a *p'sik reisha d'lo nicha lei*, so it is likely only *d'raban* and therefore would be ok on Friday.

- Use of chapstick or lipstick: While the *refua*, medicinal, element of chapstick is not *d'oraisa* and similarly *tzoveiya*, coloring, with lipstick is possibly only *d'raban* as it is not *miskayeim*, intended to be permanent, both might violate the *d'oraisa* prohibition of *mamereyach*. The *av melacha*, *memachaik*, involves smoothing/sanding a hard surface of bumps and imperfections. Its *tolda*, *mamerayach*, involves smoothing out a rigid but pliable substance e.g. wax or tar, onto another surface.
- Taking a shower: In a single-family unit or a multi-family unit of mostly Jews, using hot water from the tap will directly cause cold water to be heated in a *kli rishon* to above *yad soledes bo*, which would be *bishul m'doraisa*. However, since the heating is taking place far upstream, arguably this can be considered *grama*, indirect, and would be *d'raban*.
- Juicing: The *av melacha* of *dosh*, threshing, involves the separating an earth-grown entity from its natural inedible encasement, e.g. shell, peel, husk etc. by means of pressure or force. The *tolda*, offspring, of *dosh*, is *mefarek*, extraction which includes juicing, and therefore is also an *issur d'oraisa*. On a *d'oraisa* level, this primarily applies only to grapes and olives.
- Driving: With the exception of fully electric cars, most motor vehicles rely on an internal combustion engine which burns fuel to operate, a violation of *ma'avir*, kindling a fire.
- Hiking: An offshoot of *hotza'a*, carrying, is the concept of *techumin*, limiting your movement to your personal dwelling place on Shabbos. The laws of *techumin* are deep and complex (e.g. how to measure the boundaries of a town, how far it extends and/or how it can overlap with other towns etc.) but as a simple application, per the *Shulchan Aruch*, traveling 12 *mil* (between 6.8 to 9 miles) along a public road would be a *d'oraisa* level prohibition. While hiking that far out is unlikely, if you were to ride a horse or bicycle (only *d'raban*) or even a fully electric car (possibly only *d'raban*), the issue of *techum* can very much be a reality.

This is of course does not cover all the *issurei d'oraisa* one unwittingly performs on a regular day. Crossing into the realm of *bishul*, the nuances of what constitutes

cooking *d'oraisa* and *d'raban* are indeed too extensive and complex for the scope of this discussion. The best advice would be to do the obvious cooking on “*erev safek Shabbos*” (i.e. Thursday) if you are unsure about the specifics.

While a great deal of violations on Shabbos are indeed *d'oraisa*, it is quite interesting to reflect on how much we do not do on a regular Shabbos that *would* be ok on Hawaiian Fridays. Like above, here are a few examples:

- Signing an electronic receipt or signing with your non-dominant hand: As mentioned above, one of the primary qualifications for an *issur d'oraisa* on Shabbos is that it is a *melech machsheves*, a calculated action. Included within that qualification is that the action is performed in a direct manner in the way it is typically performed. Therefore, signing a receipt with your non-dominant hand would not be a Torah violation.
- Regarding electricity, the majority of opinions<sup>7</sup> hold that using electricity e.g. a cell phone, a laptop, powering on/off fluorescent or LED lights, is not an *issur d'oraisa* which of course opens up a lot of avenues for Friday activities.
- Swatting a mosquito: Intentionally killing a living creature would only be a Torah violation of *shochait*, if you need the animal. If it is simply bothering you, this would be a *melocho sh'eina tzricha l'gufa*. Similarly, the *melocho* of *tzod*, trapping, only applies to animals with some use or purpose and therefore it is only a *d'raban* to trap a bug that is bothering you.
- Swimming/snorkeling/surfing and horseback riding/cycling: The prohibitions against swimming (i.e. safeguards against building a flotation device (*boneh*), avoiding the possibility of wringing out your clothes (*melabain* and/or *schita*), or submerging your body i.e. bathing (*bishul*) are not directly *d'oraisa* prohibitions. They are *gedarim*, lit. fences, erected by the rabbis to avoid unwittingly violating a more severe prohibition. Similarly, the *gedarim* around horseback riding (might break off a branch i.e. *kotzeir*) and cycling (might perform a repair i.e. *boneh* and/or *makeh b'patish*) are not constraints on a *d'oraisa* level.
- Taking a taxi: The prohibition to ride a taxi on a regular Shabbos would primarily be a violation of *Amira L'Akum* – asking a non-Jew to perform an *issur* Shabbos for you. *Amira L'Akum* is only *d'raban* and therefore having a non-Jew drive you around, light a fire, tie a knot etc. would be completely permissible. However, to return to *bishul*, while asking a non-Jew to cook for you on Friday would

<sup>7</sup> This is not, however, the consensus opinion. There are Poskim that maintain that electricity can be on the level of *d'oraisa*, e.g. any use of electricity is *Makeh b'Patish*, which would indeed severely limit many activities that can be performed on Friday.

not be a Shabbos violation, depending on how and what he or she cooks, you might run into the issue of *bishul akum*, the prohibition of eating food that was completely prepared by a non-Jew. The common way around *bishul akum*, in restaurants for example, is for a Jew to partake in part of the cooking process, which in the Hawaiian Friday scenario would not work. A tenable solution would be to find a means of contributing to the cooking that is only *d'rabanan* in nature but sufficiently significant to avoid *bishul akum*. Best consult with your local Orthodox rabbi.

- Moving or handling *Muktzah* items: Since the prohibition of *Muktzah* is *d'rabanan*, all forms would be allowed on Friday – picking up rocks, expensive artwork, your pet cat, etc.
- Carrying an item: *Hotza'a* is only prohibited on a *d'oraisa* level when transferring to or from a *reshus harabim*, a public thoroughfare. Some *Poskim* hold this requires at least 600,000 people pass through a given area each day. The population of Honolulu, Hawaii's biggest city, is approximately 337,000 people – not enough to constitute a *reshus harabim*, per these opinions. There are many cities in Japan, however, that are well above the 600,000 mark and you would need to be conscious on Sunday if there is no *eruv*.<sup>8</sup> One should consult a rabbi beforehand if their Friday plans involve a public area and whether it meets the general *d'oraisa* definition and should be a concern.

Probing into the depths of what constitutes a *d'oraisa* vs *d'rabanan* violation could fill several volumes but there are some other points to discuss regarding Hawaii and New Zealand regarding their funny place in this world. For instance, assuming Friday needs to be regarded as Shabbos on a *d'oraisa* level but not *d'rabanan*, how do you go about making *kiddush* and lighting candles on Thursday night? As it were, lighting candles is *d'rabanan* and in fact, lighting candles Thursday night with a bracha would constitute a *bracha l'vatala*, a superfluous bracha, which is a prohibition in its own right. Similarly, while *kiddush* at night is a *d'oraisa*, the *bracha* is not, and per the *Magen Avraham*, one can fulfill their requirement on Thursday night by only saying *Vayeichulu*.<sup>9</sup> *Hamotzi* and the daytime *kiddush* are not *d'oraisa* requirements at all. What about lighting candles on Friday evening for the “real” Shabbos? Lighting a fire

<sup>8</sup> Auckland, New Zealand has 417,910 residents as of 2019 so you might want to keep an eye on that for the future.

<sup>9</sup> The *Mishna Berura* maintains that the *d'oraisa chiyuv* of *kiddush* also requires mentioning *Yetzias Mitzrayim*. A glass of wine is not necessary but couldn't hurt, right?

would obviously be prohibited so what is the course of action? An interesting work-around would can be as follows. Since the concept that lighting candles draws from the concept of *Shalom Bayis*, increasing the light and therefore peacefulness of the home, the traditional kindling a flame upon candles is not compulsory, any increase of light will do. Therefore, flipping on a light switch would also accomplish the same goal.<sup>10</sup> However, the bulbs cannot be incandescent since lighting the filament can also be considered *ha'avara mideoraisa* and so you must use a fluorescent or LED bulb which most *poskim* agree is not a flame.<sup>11</sup>

Back to planning your itinerary, Friday will look a little different. Instead of visiting the orchard, you take a taxi to your surf lesson where you can carry the board into the water with no concern and even sign the receipt with your weak hand. You ride a bicycle back home, and while you wait for the hotel to turn on your shower, you check your emails and place your prepared food in the electric oven reheat for “real” Shabbos. Navigated correctly, Friday in Hawaii (and Sunday in Japan) can very much not feel like Shabbos at all. Imagine then a world where the Sages never instituted the *d’raban* prohibitions.<sup>12</sup> Besides for the increased likelihood of violating *d’oraisa* prohibitions without any *gedarim* to help keep the distance, we would also be free to do many activities that would allow us to completely forget it is Shabbos altogether. How close knit would our communities be if we did not need to live within walking distance of our Shul? How long would Shabbos meals last when USC is playing Notre Dame in the next room? Throughout the earlier generations, the Sages kept a pulse on the world and the underlying trials that would present themselves to threaten the spirit of Shabbos and enacted accordingly. Unfortunately, that Rabbinic authority is

10 This is common advice for folks staying in a hotel in general that prohibits flames in your room. A lot of Pesach programs have communal candle lighting in a public area downstairs which does not accomplish the task of increasing *Shalom Bayis* and so the preferred method is to turn on the light in your bathroom in order to actually fulfil the mitzva.

11 Also consider *havdala* and *kiddush* on Saturday night on Japan/New Zealand. You certainly cannot use a candle for *havdala* but you should say *Baruch HaMavdil* or *Ata Chonantanu*. *Kiddush* should resemble the Hawaiian Thursday night – just *Vayeichulu* (and *Yetzias Mitzrayim* per the *Magen Avraham*). As for candle lighting for “Sunday Shabbos,” you would be pretty stuck since you would have to perform the lighting on “real” Shabbos when even *d’raban* actions are prohibited.

12 I did not get the chance to explore in this article the Shabbos “prohibitions” that were derived from the *Navi*, specifically in *Yeshaya* (58:13-14), “...if you honor (Shabbos) by not doing your business, attending to your affairs, or speaking of (weekday) matters, then you will delight in Hashem...” The aim of these *divrei kabala* is *shvita*, resting, and include not running (for a non-mitzva), talking business, and making verbal plans for after Shabbos. It is a debate whether *divrei kabala* are a more severe than the *d’raban* prohibitions or less but from the perspective of *safek d’oraisa l’hachmir*, they would presumably not be a concern on Hawaiian Friday.

no longer here and we are left speculating what they would have said about modern challenges, be it electricity or Razor scooters. Until then, we can guess and also appreciate on our Hawaiian vacations how different our Shabbos and by extension, our lives, would be without their foresight.





# Discovering Fundamentals of *Hilchos Shabbos* Through Fishing

ISAAC KLEINMAN



**T**he *mishna* in *Maseches Shabbos* 73a lists the 39 *melachos* of shabbos, the 39 categories of work that are the basis for all the Torah-level (*de'oraisa*) Shabbos prohibitions. The ensuing *gemara* goes on to give short, somewhat random discussions of many of the *melachos* listed in the *mishna*. On *daf* 75a, the *gemara* cites the *melacha* of *tzad*, capturing, and commences a discussion that opens up a world of extremely fundamental and fascinating global concepts in *Hilchos Shabbos* (the laws of Shabbos). We will attempt to learn this *gemara* and the accompanying discussions that surround it.<sup>1</sup>

We will begin with a cursory translation and summary, but rest assured, we will delve into each part of the *gemara* with extreme depth, so although you may have many questions, make sure to put them in your back pocket and I hope that they will be answered in our upcoming discussion.

The *gemara* quotes a *beraisa* (source from the times of the *mishna*) that presents a debate between the *Chachamim* and Rabbi Yehuda as follows:

תנו רבנן: הצד חלזון והפוצעו - אינו חייב אלא אחת, רבי יהודה אומר: חייב שנים.  
שהיה רבי יהודה אומר: פציעה - בכלל דישה. אמרו לו: אין פציעה בכלל דישה. אמר  
רבא: מאי טעמא דרבנן - קסברי: אין דישה אלא לגדולי קרקע.

*One who captures a chilazon fish and squeezes it (to extract the dye contained within) is only liable for one melacha, but Rabbi Yehuda says you are liable for two melachos, as Rabbi Yehuda maintains that squeezing the fish is included in the melacha of threshing (extracting something from its*

<sup>1</sup> The Torah in this article is based on the teachings of Rav Herschel Schachter *shlita*, and was studied over the course of several months during my Shabbos morning *shiurim* on *Maseches Shabbos*.

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*surrounding “container”), to which the Rabbis responded, squeezing is not included in the melacha of threshing. Rava said: The reasoning behind the Rabbis’ opinion is that the melacha of threshing only applies to things that grow from the ground. (Whereas Rabbi Yehuda maintains that threshing even applies to things that do not grow from the ground.)*

The gemara continues:

ולחייב נמי משום נטילת נשמה! אמר רבי יוחנן: שפצעו מת. רבא אמר: אפילו תימא שפצעו חי, מתעסק הוא אצל נטילת נשמה. והא אביי ורבא דאמר תרוייהו: מודה רבי שמעון בפסיק רישא ולא ימות! - שאני הכא, דכמה דאית ביה נשמה - טפי נחא ליה, כי היכי דליציל ציבעיה

*[The beraisa brought two opinions of whether you are only liable for trapping or for squeezing as well], but why should you not be liable for the melacha of slaughtering?! [As you are surely killing the chilazon when you squeeze it to extract the dye!] Rabbi Yochanan answers that the case being discussed in the beraisa is that you allowed it to die naturally after capturing it and only then did you squeeze it [therefore, you did not kill it by squeezing it, but if you would have squeezed it alive then you would also be liable for the melacha of slaughtering.] Rava says, we can even explain the beraisa as dealing with a case where you squeezed it alive [and still you were not liable for slaughtering], because you did not have the intention to kill the chilazon, you merely had the intention to obtain the dye, [and the death of the chilazon occurred as a byproduct of your act]. However, [that cannot be correct] because don’t Rava and Abaye both agree that even according to Rabbi Shimon [who maintains that actions that occur without your intention on Shabbos are permitted] when the resulting “byproduct” action that occurs will certainly occur as a result of your intended action then your action is, in fact, forbidden! [The gemara responds] this case is different, because [even though the death of the chilazon will definitely occur when you squeeze it, and we would have thought that even Rabbi Shimon would agree that you are then liable for slaughtering], in this case, you specifically prefer if the chilazon would stay alive and not die, because then its dye is clearer [and more effective].*

### **The Debate Between the Chachamim and Rabbi Yehuda**

In this *beraisa* and *gemara*, we learn about a debate between the Rabbis and Rabbi Yehuda about whether or not the *melacha* of *dosh*, threshing, applies to things that

do not grow from the ground, which was the basis for their specific argument about whether or not squeezing the *chilazon* fish would be liable for *dosh* or not. At face value, it seems that according to the *Chachamim*, *dosh* would only apply to grain and other produce.

However, *Tosfos* on 73b presents a wrinkle to this simplified understanding. The *gemara* there mentions a sub-*melacha* called *mefarek*. Rashi defines *mefarek* as a subcategory of *dosh*, threshing, based on the *gemara* 73b, which was discussing a case regarding dates. *Tosfos*, however, quotes a *gemara* later in *Shabbos* 95a, which states:

חולב חייב משום מפרק.

*One who milks a cow is liable for mefarek.*

*Tosfos* astutely asks: if, as we know from our *gemara* that the *Chachamim* (the majority opinion) maintain that *dosh* only applies to things that grow from the ground, and the *gemara* on 73b seems to be saying that *mefarek* is a subcategory of *dosh*, then how could the *gemara* on 95a say that milking a cow is *mefarek* i.e. *dosh*, since cows do not grow from the ground!

*Tosfos* proposes an initial answer that the term “grows from the ground” with regards to *dosh* includes things that are sustained from the vegetation, which would therefore include cows and other livestock. *Tosfos* rejects this answer due to other contradictions and logical arguments and actually concludes that we must rule like Rabbi Yehuda, the minority opinion, that *dosh* applies even to things that do not grow from the ground. This would be puzzling, however, as we do not usually rule like the minority unless there are clear indications to do that.

The consensus, though, is that with regards to *dosh*, things that are sustained from the ground are included as things that “grow from the ground,” and that is the reason that milking a cow is liable for *mefarek* i.e. *dosh*. We do, in fact, rule like the *Chachamim* that *dosh* only applies to things that grow from the ground, including things sustained from the ground.<sup>2</sup>

2 Therefore, one may not milk a cow to obtain the milk on Shabbos, as it will be a Torah violation of *mefarek*. However, since cows that are milked daily need to continue being milked to avoid being in pain, there are *halachic* ways to have the cow be milked, all of which involve the milk not being used but instead being thrown out, and one should consult a rabbi for a practical ruling.

A more relevant case for us is a woman who needs to nurse on Shabbos. When the baby itself is nursing this does not present a problem for many reasons, but if the baby is unable to nurse, or if the mother is producing more milk than the baby needs at that particular time, the mother would normally pump, but how can you pump on Shabbos? The mother would then be extracting the milk herself and not merely allowing the baby to do it! The workarounds involve pumping but causing the milk to go to waste, preferably by adding soap to the

This is extremely convenient in explaining our *gemara* on 95a, as the *Chachamim* and Rabbi Yehuda are arguing about a fish, which is not sustained by the ground, but by things that live in the ocean! Therefore, this answer that includes livestock as things that grow from the ground fits perfectly with the actual debate between the *Chachamim* and Rabbi Yehuda, which was about a fish.

### Taking Fish out of the Water

The *gemara* that we have learned asked why one is not liable for slaughtering the fish due to his squeezing. But there is a seemingly more obvious question; why is one not liable for slaughtering the fish by removing it from the water?! That question should have arisen before the question about squeezing it!

*Tosfos* on 75a (*d"h hatzad chilazon*) addresses this question, albeit from a different perspective. If one analyzes the *beraisa* brought in the *gemara*, it seems to only focus on the argument between the *Chachamim* and Rabbi Yehuda about whether *dosh* applies to things to do not grow from the ground. If so, why did the *beraisa* have to mention that you captured the *chilazon* in the first place? It should have just stated the debate about whether squeezing the *chilazon* is liable or not!

*Tosfos* gives two answers based on the two approaches that the *gemara* gives to explain the *beraisa*. One approach is that the *beraisa's* case was that you squeezed the *chilazon* after it had already died (and that is why you were not liable for slaughtering by squeezing it). Accordingly, *Tosfos* explains, the *beraisa* mentioned that you captured the *chilazon* first to teach the very concept that fueled our question. Even though you captured the *chilazon* and it died due to being extracted from the water, you are nonetheless only liable for capturing it and not for slaughtering it. This is actually a *chiddush*, novel concept, because the *gemara* on 107b states that if you remove a fish from the water and it dries out a certain amount you are, in fact, liable for slaughtering it! Why, then, are you not liable in this case of the *chilazon*? *Tosfos* explains that a *chilazon* is an exception to the rule, since it jumps around more than regular fish when being taken out of the water, and it actually is blamed for its own death (perhaps due to stress) which occurs before the death that would have occurred to a regular fish that had been taken out of water.

However, according to the *gemara's* explanation of the *beraisa* that you squeeze the fish when it is alive, *Tosfos* must give a different answer to explain why the *beraisa* mentioned that you captured the fish and did not just mention the debate about

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bottle beforehand, so that the milk is inedible immediately as it exits the woman's body.

the obligation for squeezing. *Tosfos* cannot give the answer he gave in the previous paragraph, as you would obviously not be liable for slaughtering as a result of extracting it from the water if you ended up killing it by squeezing it!<sup>3</sup> Instead *Tosfos* explains that the *beraisa*'s mention of the capturing of the *chilazon* is there to teach us that you are also exempt from the *melacha* of slaughtering even though you squeeze it to death. How does it teach that? *Tosfos* explains that the normal way to obtain *chilazon* dye was to capture it and squeeze it right away, while still alive. Thus, the *beraisa* mentions that you captured it and squeezed it to tell us that you extracted the dye in the normal way, while it was still alive, and still you are only liable for the capturing and perhaps the squeezing (*dosh*), but not for the death that occurred due to your squeezing. Thus, the *beraisa* is hinting to the exemption for slaughtering that the *gemara* goes on to explain by its (seemingly unnecessary) mention of the capture.

### ***Melechesh Machsheves***

In *Parshas Vayakhel* we learn that Shabbos and the *Mishkan* are strongly connected, as all the 39 forbidden categories of work are those same actions that were done in the construction of the *Mishkan*. There is another significant concept of Shabbos that originates from the *Mishkan*. The Torah calls the work performed in the *Mishkan* “*melechesh machsheves*,” which is loosely translated as “carefully calculated work.” This is the basis to several fundamental principles of *hilchos Shabbos*. Just as the work in the *Mishkan* was “carefully calculated,” forbidden work on Shabbos (in order to be liable) must also be deliberate, premeditated, intended and conscious.

### ***Mis'asek***

Based on the above, there are many laws listed in the *gemara* that explain how deliberate an action must be in order to be liable. One such example is a statement of Rava in Shabbos 73a:

מה שאין כן בשבת - דפטור, דנתכוון לחתוך את התלוש וחתך את המחובר - פטור.  
*If you intended to cut a branch that was already detached from the ground*

3 This actually relates to a fascinating concept. There are certain *melachos* on Shabbos for which it is unclear whether you are liable for the action you perform or for the result that occurs due to that action. For example, are you liable for planting when you put the seed in the ground or only when the plant actually begins to germinate? Are you liable for cooking when you put the food on the fire or only when it actually cooks a certain amount? When it comes to extracting a fish from water, *Tosfos* seems to assume that you are not liable for killing it after taking it out even though it will certainly die should the status quo remain! *Tosfos* understands that since you squeezed it before it died from asphyxiation, or since it killed itself prior to that death, your “slaughtering” due to extracting it from the water did not end up occurring.

*and you ended up cutting a branch that was attached to the ground (thus, detaching it, and performing the melacha of harvesting), that is considered shogeg, unintentional, and you are exempt from punishment. [Whereas, in other areas of halacha, you would have been liable for that case, as long as you intended to perform the same basic action, even if you intended to perform it on a different object that would not have involved a prohibition.]*

We see from this *gemara* that Shabbos is unique in that you are only liable on a Torah level for your actions if you ended up performing what you intended to do. An unintended action is called *mis'asek*, and Shabbos requires a very high level of intention in order to be liable, as it is connected to the *Mishkan*, which required *meleches machsheves*.

There is still a concept of *mis'asek* in other areas of *halacha*, unrelated to *meleches machsheves* (which only has relevance to Shabbos). In general, something will only qualify as *mis'asek* if you intended to do one thing, and instead of what you intended occurring, something completely unrelated happened. When that transpires, the action that resulted cannot be attributed to you, and you are thus exempt.<sup>4</sup>

In colloquial *halachic* terms, we say, “*mis'asek* on Shabbos is *talui* (derived from and inherently connected to) on *meleches machsheves*.” Were it not for the concept of *meleches machsheves*, the added exemption for *mis'asek* on Shabbos would not exist.

### **Mekalkel**

Another important *halacha* based on *meleches machsheves* is that of *mekalkel*. The *melachos* of the *Mishkan* were all done in order to construct the *Mishkan*; they were all done creatively in nature. That, though, does not mean that it is *impossible* to perform those same *melachos* in a destructive way. However, we learn from *meleches machsheves* that only when you perform *melachos* in a constructive way (like in the *Mishkan*) are you liable on a Torah level. If you perform them in a destructive way then you are only liable on a rabbinic level.

Examples of this are if one commits the *melacha* of destroying without intention to rebuild something in that same area, or if one tears something just to destroy it, but not to re-sew it or for any other constructive purpose, like to fulfill the mitzva of

<sup>4</sup> The one notable exception to this is forbidden relationships and forbidden foods, where the *gemara* says *hamis'asek b'chalavim v'arayos chayav shekein neheneh*, one who is *mis'asek* [in these areas] is still liable, because [even though he did not intend for this to occur] he nonetheless derives physical benefit, [and therefore the action is undeniably attributed to him].



*kriya* after a relative dies.<sup>5</sup>

Just like with *mis'asek*, the exemption of *mekalkel* exists solely due to the concept of *meleches machsheves*, but were there to be no requirement of *meleches machsheves*, there would be no exemption for *mekalkel*.

### ***Davar She'ayno Miskaven and P'sik Reisha***

There is a famous *machlokes* between Rabbi Shimon and Rabbi Yehuda about the concept of *davar she'ayno miskaven*. This refers to someone who does a certain action, and another action that he did not intend for occurs as well. We will refer to these as the “first action” and the “second action”. If the second action is prohibited, may one perform the first permitted action anyway? Rabbi Shimon says that it is 100% permitted to perform that first action, and Rabbi Yehuda forbids.

There are many permutations of *davar she'ayno miskaven*, but we will give one example just to begin the discussion, and an example which actually does not involve *hilchos Shabbos*. The *mishna* in *Kilayim* (9:5) states that sellers of *shatnez* clothing are permitted to transport the clothes on their backs, or wear the clothes to show off their appearance, as long as they do not intend to benefit physically from the wearing of the clothing. We see that they committed one action of having the clothing on their body, but another action of wearing *shatnez* resulted. As long as they do not have intention for the wearing of the *shatnez* it is permitted according to Rabbi Shimon.

### ***P'sik Reisha***

The *gemara* in many places, one of which is on our *daf* in *Shabbos* (75a), states that Rabbi Shimon only maintains that *davar she'ayno miskaven* is permitted when the “second action” *may* or *may not* occur, but if it will definitely occur, then Rabbi Shimon agrees that it is forbidden to perform that first action. The term *p'sik reisha* means “cutting off the head,” and is used to describe this case, because the *gemara* provides a memorable example: “If you cut off the head of a chicken will it not also die?” So too, our *gemara* asked this question as well: “Even if you are not interested in the *chilazon* dying, but instead you just want the dye, nevertheless it will 100% die when you squeeze it to extract the dye. Therefore, we could not simply answer that squeezing the *chilazon* is a *davar she'ayno miskaven* for the slaughtering.

Within *p'sik reisha*, though, there are three categories of the “second action”. One could be happy about the second action occurring, one could be indifferent, and one could be upset about it. These *three* instances must fit into *two* categories called *nicha*

<sup>5</sup> See *Shabbos* 105b

*lei* and *lo nicha lei*, meaning “good for him” and “not good for him.” (As we have three instances, which must fit into two categories, there will naturally be debate about how to define the categories.) Even though everyone agrees that *p’sik reisha* is forbidden, there is sometimes a *halachic* difference between a *p’sik reisha* that is *nicha lei* and one that is *lo nicha lei*, which we will explore soon.

### **Melacha She’ayna Tzricha L’Gufa**

The concept called *melacha she’ayna tzricha l’gufa* appears in many *gemaras*, and it is clear that it is another *machlokes* between Rabbi Shimon and Rabbi Yehuda. Rabbi Shimon says you are not liable on a Torah level when doing this and Rabbi Yehuda says you are liable. What exactly a *melacha she’ayna tzricha l’gufa* is, though, is not as clear.

*Tosfos* in multiple locations explains this to mean when a *melacha* is performed for a different purpose/need than it had been performed in the *Mishkan*. For example, if one digs a hole in order to get dirt but not to use the hole, the *gemara* on 73b says that this is a *melacha she’ayna tzricha l’gufa*, because in the *Mishkan* they dug holes to plant seeds in and to build structures but they did not dig holes to obtain dirt.

Rashi has a different, slightly cryptic understanding. He says that it means when one performs a *melacha* that they would prefer to not have been required to do. Another example that is given is if one removes a corpse from his house just to get it out, but not to be able to place it somewhere specific. Rashi explains that it is a *melacha she’ayna tzricha l’gufa*, because you would have preferred if the person would not have died in the first place! *Tosfos* explains that in the *Mishkan* they carried things to be able to have them in a new location and not just to get them out of the way.

### **Chovel U’Mav’ir**

A final concept crucial to the understanding of our *gemara* is presented on Shabbos 106a. We will summarize the concept briefly, as a full discussion is beyond what is needed to understand our topic. The *gemara* states that Rabbi Shimon believes there are two *melachos* that take exception to the regular rules and are actually liable for *mekalkel*. (Rabbi Yehuda disagrees.) Earlier we explained that *mekalkel* describes a situation when a *melacha* is done in a destructive manner and not a constructive one. These two *melachos* are the *melachos* of *chovel* (wounding, slaughtering) and *ma’avir* (lighting a fire). We learn from the *gemara* that even if one performs these *melachos* without a constructive purpose one will nonetheless be liable.

Why is this so? The *gemara* explains that it is learned from capital punishment and *bris mila*. We all know that when a healthy baby boy’s eighth day falls out on



Shabbos, the *bris* is performed anyway. But if you think about it, performing a *bris* on Shabbos should be a violation of causing a wound, a subcategory of the *melacha* of slaughtering! Why, then, do we perform a *bris* on Shabbos? The answer is that the Torah specifically instructs us to perform a *bris* on Shabbos when that is its correct time, based on the extra words in *Parshas Tazria*, “*u’vayom hashmini yimol besar orlaso*,” “and on the eighth day you should cut the flesh of his foreskin.” The *gemara* understands from this special wording that the Torah instructs us to perform a *bris* even if the day falls out on Shabbos.

The *gemara* Shabbos 106a asks why we need a special *pasuk* to teach that it is permitted, since based on the rules of *mekalkel*, the performance of destructive actions are not liable on Shabbos, and wounding a baby by cutting of his foreskin is definitely a destructive act! The fact that the Torah had to teach us that a *bris* is permitted must be because the *melacha* of *chovel*, wounding, is an exception to the usual rule of *mekalkel*.

There is a similar teaching with regards to *ma’avir*, lighting a fire. The *gemara* in other places teach that when the Torah says “*lo seva’aru eish... b’yom haShabbos*,” “do not light a fire on Shabbos” in *Parshas Vayakhel*, it is actually an instruction to *beis din* to not perform capital punishment on Shabbos (as one of our accepted forms of capital punishment is *sreifa*, burning someone by pouring molten lead down their throat). The *gemara* in 106a also implies that although lighting a fire to perform capital punishment is not a constructive act, and we would have thought it is not forbidden on a Torah level, nevertheless the Torah forbids this capital punishment, so we must understand that the *melacha* of *ma’avir* is also an exception to the rule of *mekalkel*.

*Tosfos* and the other *rishonim* take this one step further. They wonder: Why are *chovel* and *ma’avir* exceptions to *mekalkel*? They understand that by the Torah removing these two *melachos* from the usual exemption of *mekalkel*, the Torah is actually teaching that these two *melachos* are removed from the usual requirement of *melech machsheves* completely, along with the other halachos relating to *melech machsheves*, one of which we mentioned above: *mis’asek*!

In sum, one will be liable for the *melachos* of *chovel* and *ma’avir* (wounding and lighting a fire) even if one performs them in a destructive way or if one had the intention to do something else and these *melachos* ended up occurring instead.

### Analysis of Our Gemara

Now we can fully understand our *gemara* on Shabbos 75a and the related disagreements between the *rishonim* regarding it.

To quickly review: The *gemara* asked why you are not liable for slaughtering when squeezing the *chilazon* alive. It answered that you are “*mis’asek*” (do not intend) for the animal to die, that you only intend to extract the dye. But since Rabbi Shimon agrees that you are liable for a *p’sik reisha*, having a different intention should not help! The *gemara* answers that here the different intention does help, because you would actually prefer the *chilazon* to stay alive because then the dye comes out better.

*Tosfos* and Rashi differ in their explanations of the *gemara*. We will begin with *Tosfos*’s approach and then mention how Rashi differs and the problems with both Rashi’s and *Tosfos*’s approaches.

### ***Tosfos*’s Approach**

In the *gemara*’s initial answer, it uses the word “*mis’asek*,” in the phrase “*mis’asek hu eitzel netilas neshama*.” We usually use the word *mis’asek* for when one intends to do one thing and something completely different ends up happening. *Tosfos* says that this simply cannot be the meaning of this word here, because we are dealing with the *melacha* of slaughtering, which is the same *melacha* as *chovel*, and, as we explained above, the *melacha* of *chovel* is exempt from *melechesh machsheves*, which would mean that *mis’asek* would be liable! Therefore, how could the *gemara* be explaining why you are exempt by saying you are *mis’asek*? *Tosfos* explains that the word *mis’asek* here is actually referring to a *davar she’ayno miskaven*, which is not dependent on *melechesh machsheves*, as it applies to all *halachos* in the Torah. Then we also understand the *gemara*’s response that it is a *p’sik reisha* and Rabbi Shimon agrees that a *davar she’ayno miskaven* where the second action will definitely occur is still liable!

*Tosfos* explains the *gemara*’s answer as follows: Even though it is a *p’sik reisha* that the *chilazon* will die when you squeeze it, since you definitely do not want it to die (as it will negatively affect the quality of the dye) it then becomes what we call a *p’sik reisha d’lo nicha lei*, which *Tosfos* says includes both when you do not care about the second result and when you specifically do not want the second result (in this case, you specifically do not want the second result). *Tosfos* explains that a *p’sik reisha d’lo nicha lei* is, in fact, a *melacha she’ayna tzricha l’gufa*, because even though the action will definitely occur and should be attributed to you, nevertheless they did not perform actions in the *Mishkan* that they did not specifically want. Therefore, this becomes a *melacha* that is being done in a way that it was not done in the *Mishkan*. *Tosfos* supports his idea that a *melacha she’ayna tzricha l’gufa* can apply even to the *melachos* of *chovel* and *ma’avir* from the *gemara* in *Sanhedrin* (84b), which clearly states that these two concepts can co-exist.

Thus, according to *Tosfos's* understanding, the reason you are not liable for slaughtering the *chilazon* when you squeezed it is because, although it is a *p'sik reisha*, it is a *melacha she'ayna tzricha l'gufa*, which is not liable on a Torah level (according to Rabbi Shimon, whom this *gemara* is following at this point).

There is one major problem with *Tosfos's* approach that *Tosfos* themselves bring up in the last line of *d"h t'fey nicha lei*. Although the *gemara* in *Sanhedrin* 84b says that the *melachos* of *chovel u'mavir* can still be exempted by a *melacha she'ayna tzricha l'gufa*, nevertheless the *gemara* in *Chagiga* (10b) seems to say explicitly that *melacha she'ayna tzricha l'gufa* does stem from the need for *meleches machsheves*. If this were true, then when dealing with the *melachos* of *chovel* and *ma'avir*, *melacha she'ayna tzricha l'gufa* would not help to explain why you were exempt! We will not resolve this challenge at this time, and we will leave it as a contradiction between the *gemara* in *Sanhedrin* and the *gemara* in *Chagiga*.

### Rashi's Approach

Rashi explains the line in the *gemara* "*mis'asek hu eitzel netilas neshama*" as its simple understanding, that there is a classic *mis'asek* situation going on here (as the person does not intend for the act of slaughtering to be committed) and Rashi says explicitly that "it therefore lacks *meleches machsheves*."

Rashi's approach is thus problematic as we saw earlier in *Tosfos's* explanation, as we are discussing the *melacha* of *chovel*, which is removed from all the concepts of *meleches machsheves*, including *mis'asek*! Therefore, we have trouble understanding Rashi's approach in this section of the *gemara*.

Rashi also differs from *Tosfos* on another point. In the *gemara's* final answer, that it would be preferable if the *chilazon* would stay alive, Rashi states that this person intensely want to avoid the *chilazon* dying and therefore this is just a *mis'asek* (that word appears again), because Rabbi Shimon only agrees to Rabbi Yehuda about *p'sik reisha* when the person at least does not care about the second result, but in a case like this where the person desperately does not want the second result, Rabbi Shimon would not agree that you are liable on a Torah level.

We see that Rashi categorizes two things as *p'sik reisha d'nicha lei*, a *p'sik reisha* that is good for you both when you actually want the second result, and when you just do not care about the second result. The only things Rashi calls *lo nicha lei* is when you actively do *not* want the second result. *Tosfos*, on the other hand, categorized both when you do not care and when you do not want the second result as *p'sik reisha d'lo nicha lei*. *Tosfos* (*d"h t'fey nicha lei*) questions Rashi from a *gemara* on 103a, which

seems to call a case where you merely do not care about the second result as a *p'sik reisha d'lo nicha lei*.

### Final Notes on the Rashi/Tosfos Debate

From this and other *gemaras*, it is clear that Rashi and *Tosfos* disagree on the nature of *melacha she'ayna tzricha l'gufa*. As we see clearly from *Tosfos's* explanation here, *Tosfos* views *melech machsheves* and *melacha she'ayna tzricha l'gufa* as completely separate entities, and therefore he can apply *melacha she'ayno tzricha l'gufa* to the *melachos* of *chovel* and *ma'avir*, which are removed from the requirement of *melech machsheves*. *Tosfos* draws his proof from the *gemara Sanhedrin* 84b, but has difficulty from the *gemara Chagiga* 10b. Rashi, on the other hand, views *melacha she'ayna tzricha l'gufa* as part of the requirement of *melech machsheves*, and therefore does not give *Tosfos's* elaborate explanation of *p'sik reisha d'lo nicha lei*. (Rashi also has a completely different understanding of *melacha she'ayno tzricha l'gufa*, as we mentioned above, which complicates this discussion even further.) Rashi seems to prefer the *gemara* in *Chagiga* over the *gemara* in *Sanhedrin*.

### Conclusion

Hopefully this discussion was stimulating, informative and something that you might have to read over a few times to start to get the full picture. There are *many, many* more points that relate to this *sugya*, and many more sources that I did not cite here. If you are interested in pursuing this *sugya*, definitely look up all the *gemaras* and learn the *Tosfos's* and the Rashi's, as that will help to add much understanding. It is amazing to realize that this entire discussion is really based on only about ten lines of *gemara*. There is so much to be learned, and every few lines of *gemara* is packed with worlds of concepts and information. We should use this realization as a motivation to keep learning more and more, as there is always something new to study.

In conclusion, by studying the complex *halachos* of Shabbos, let us emphasize to ourselves the importance and intricacy that Shabbos possesses. Just as its *halachos* have the ability to stimulate our minds, its proper observance has the immense ability to stimulate our *neshamos* and bring us closer to Hashem.

# Torah About Torah

ADIV PACHTER



## Torah from Rabbi Baruch Simon of Yeshiva University

The *Tosafos Yom Tov* in the seventh *perek* of *Berachos* discusses the *halachos* of eating and *Birkas Hamazon*. He points out that when we *bentch* with a *zimun* of ten people we say “*nevarech l'Elokeinu...*” However when we get an *aliya* to the Torah we say “*Barchu es Hashem...*” We know that *Elokeinu* represents *midas hadin* and that *Hashem* represents *midas harachamim*. God created man as a physical being. So, *midas hadin* dictates that He “has” to provide us with food; otherwise we would not be able to live. By right, He needs to provide us with food! It follows that when we *bentch* we invoke the name of *din*. But, the Torah is His wisdom; He did not “have” to share His Torah with us; so it is pure *rachamim* that he shared His Torah with us. Therefore when we get an *aliya* we invoke the name of *rachamim*.

By *Matan Torah*, in the beginning there were *kolos u'berakim*, thunder and lightening. The *Zohar HaKadosh* points out that after *Matan Torah* the *lashon* changes from to *kolos v'lapidim*. What is the difference between lightning and a torch? Rav Avraham Schor explains based on a *Zohar* that with lightning, you see a flash and then it disappears. This is in contrast to a torch which stays lit; it remains burning. When we were getting ready to receive the Torah there was a lot of excitement. But excitement wanes; it comes and goes like bolts of lightening. However, once we receive the Torah, we have a burning torch which is constant.

In *birkas haTorah* we ask that the Torah be sweet; “*Vehaarev na.*” We do not find this request by other *mitzvos*. We do not ask Hashem to make *tefilin* sweet or to make the sitting in the *sukka* sweet; only by Torah. In the *hakdama* to the *Eiglei Tal* it says that some people mistakenly think that if you enjoy learning Torah it is not *lishma* because you are enjoying it. He says that is a mistake. Enjoying your learning is the ultimate! There are many reasons given as to why we eat dairy on Shavuot. The original reason, given by the *Kol Bo*, is because the *pasuk* says “*d'vash v'chalav tachas*

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*leshonech*” which teaches us that the Torah we learn needs to be sweet to us.

The *Toldos Yaakov Yosef* points out that by the *maka* of *choshech* it says “*ul’chol Bnei Yisrael hayah ohr b’moshvosam.*” For *Klal Yisrael* there was light. By the other *makos* it does not say that *Klal Yisrael* were not affected. It does not say that the *Mitzrim* had frogs but the Jewish people were frog-free, or that the *Mitzrim* had *dam* but the Jews did not. Why only by *choshech* does it say that they had *choshech* but we had light? He explains that Moshe Rabbeinu brought down an aura of spirituality. If you are a person who can appreciate spirituality it is light for you. But if you were never taught to appreciate Torah, and therefore you have no interest in Torah, that same aura of spirituality is *choshech* for you. It is not that there was light and *choshech*, that there were two separate things. Rather it was one *hashpaa* of *ruchnius* and for the Jews it was *ohr* because they were able to appreciate the spirituality whereas it was *choshech* for the *Mitzrim* because they were not able to appreciate it.

The *Berach Moshe*, the Satmar Rebbe, says that we see the word “*koh*” appear in two contexts. By *Birkas Kohanim* it says “*Koh sivarchu es Bnei Yisrael.*” By *Matan Torah* it says “*Koh somar l’Veis Yaakov.*” What is the connection between the two *kohs*? By *Birkas Kohanim* it says “*Yivarechecha,*” a personal *beracha*, because everyone has different needs in life. So too by *Kabalas HaTorah* everyone connects to Torah in a different way; everyone has their own personal *Kabalas HaTorah*.

The *midrash* says that the Torah was given with three things; *aish*, *mayim* and *midbar*. The common denominator between these three things is that just like there three things are free, so too Torah is free, at our fingertips; all we need to do is want it and it is accessible for us. The *sefer Beis Aharon* explains that these three things are a reference to how Torah is to be acquired.

- Fire represents the burning desire and heated passion that we need for Torah.
- Water represents humility; water goes from a high place to a low place.
- The desert represents the need to acquire the trait of being content with a small amount and not needing luxuries.

### **Torah from Rabbi Shmuel Zucker of Ramat Eshkol**

The *midrash* in *Ki Savo* tells the following story; Rabbi Akiva was teaching Torah in public and was caught, arrested and imprisoned. While he was in jail, an inmate asked him how he could have endangered himself and his students by teaching Torah when it was prohibited by the officials. Rabbi Akiva answered with a *mashal*. Once, there was a fish swimming in water. A fox came along and told the fish that a fisherman is on his way with his net and once he casts his net, it will be the end of the fish! So,



the fox said to the fish: “come onto dry land with me and I will protect you.” The fish responded to the fox as follows: “You are supposed to be the smart fox! But you are so foolish! For me, coming out of water is certain death. At least in the water, I have life and the potential for life.” The lesson that we must learn from this *midrash* is that we have to feel that the Torah is our life; it is our water! Leaving the water, leaving Torah, which is our life source, is certain death!

At the end of *Parshas Ki Seitzei* is the mitzva of *mechiyas Amalek*. Immediately after, at the beginning of *Ki Savo* is the mitzvah of bringing *bikurim*. Amalek came to wage war before *Matan Torah*. Amalek is the opposite of *hischadshus*. Amalek is the grandson of Eisav; Eisav declared that he did not want the *bechora*; Amalek denies the concept that we can transform into something new.

Shavuot is the time to bring *bikurim* which represent the concept of *hischadshus* as it says “*V’lakachtem me’reishis pri admascha*.” When we received the Torah we received the power of *hischadshus*. Hashem looked into the Torah and created the world. When we learn Torah, we create ourselves and transform ourselves into something new.

This is the connection between Shavuot and *geirus*; the *parsha* of *Kabalas HaTorah* is *Parshas Yisro*, who was a *ger*. And we read *Megilas Rus* on Shavuot, who was also a *giyores*. The concept of *geirus* is the concept of *hischadshus*, as it says “*Ger shenigayer k’katan shenolad*.”

Shavuot is also the *yartzeit* of David HaMelech. The *gemara* in *Avoda Zara* says that David instituted the concept of *teshuva* which is renewal and *hischadshus*.

### **Torah from Rabbi Yaakov Vosoghi of Yeshivat Ohr Chanoch**

The *talmidim* of Rabbi Akiva died because they did not respect each other; “*lo nahagu kavod zeh ba’zeh*.” Simply, this means that they did not respect each other. I once heard from my rebbe, Rav Yoel, that the *lashon* of *nahagu* means that they had a *minhag* not to respect each other; it became part of their way of being not to respect others.

We know that it says “*V’ahavta lereicha kamocho*” and that Rabbi Akiva said “*zeh klal gadol baTorah*.” We also know that a non-Jew once came looking to have the rabbis sum up all of Torah in one sentence. Shamai threw him out. But Hillel said “whatever is hateful to you, do not do unto your neighbor.” He said that this is all of Torah and that the rest is commentary.

Isn’t loving your fellow Jew only half of the Torah? There are two *luchos*; one half is *bein adam lamakom* and other other half is *bein adam lechaveiro*. So, how is Hillel saying that the Torah is all built on one foundation?

The answer is that it is not necessary for you to love the next guy like yourself. Rather it is that just as you want the best for yourself, you should rejoice and be happy that your fellow Jew has good things as well. Do not have a jealous eye. And if a person has this trait of wanting the best for all Jews, this person who has worked on themselves to not be a jealous person and has become a selfless person; such a person will also be selfless when it comes to *Avodas Hashem*. And when Hashem tells us to do something and we do not want to, how will we react and behave? A selfless person will serve Hashem on a higher level!

The Maharsha says that the 24,000 *talmidim* of Rabbi Akiva did not care for their friends' Torah as much as their own Torah. They did not care if the next guy knew one *daf*, as long as they knew two! They wanted to be better than the next guy and they wanted better for themselves. Their currency was Torah and they competed in that. That exists today but we can mostly relate to competition in money and materialism.

The *Orchos Tzadikim* says that without good *midos*, you have no Torah or *mitzvos*. Hashem could not allow the Torah to be disseminated through these rabbis. So, Rabbi Akiva needed to start with five new rabbis and he warned them to have *midos* and a good eye. And interestingly, each of these rabbis taught lessons about caring for others.

- Rashbi teaches that it is better for a person to throw himself into a furnace than to embarrass a fellow Jew.
- Rabbi Yossi teaches that you should care about your friend's money just like you care about your own money.
- Rabbi Meir teaches that you should always be humble.
- Rabbi Elazar teaches that the *kavod* of your fellow Jew should be as dear to you as the *kavod* that you have for your *rav*.

In *Hilchos Ishus*, the Rambam discusses the formula to *Shalom Bayis*. He says that the key is respect. Avraham Avinu pitched his wife's tent first. And it was Avraham Avinu who we have to thank for the Torah! The next Torah will explain this! Read on!

### **Torah from Rabbi Yoel Rackovsky of Yeshivat Netiv Aryeh**

The *midrash* says that Moshe went up to Hashem to receive the Torah to bring it down to *Klal Yisrael*. The angels did not want to let Moshe Rabbeinu in. They questioned why a mortal human was up there. They said Torah belongs in *Shamayim*. It is not for mankind. In that very moment Hashem made it so that it was as if Moshe was wearing a mask that made his face look like the face of Avraham Avinu. And then Hashem pointed to Moshe, who now looked like Avraham and said to the angels: Are



you not embarrassed of yourselves? This is the man who hosted you and fed you in his house. And then Hashem said to Moshe, the Torah was only given to you in the *zechus* of Avraham Avinu.

Avraham Avinu cared about every person's *kavod*, even those who worshipped idols. He was doing *chesed* all day long and it was in this *zechus* that we have the Torah today.

This is how the Maharam Shif understands "*Im ein kemach ein Torah.*" Simply this means that without food and money, there can be no Torah. But he explains that it is even deeper; without the *kemach* of Avraham Avinu we would not have the Torah of Moshe Rabbeinu. If Avraham would not have served the guests with *kemach*, the angels would not have let Moshe in to receive the Torah.