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INTERNET PARSHA SHEET
ON MASEI - 5765

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From: kby-parsha-owner@kby.org

Sent: August 04, 2005 8:12 PM

Parshat Masei

"This is the Land that shall Fall to you as an Inheritance"

Rosh Hayeshiva RAV MORDECHAI GREENBERG shlita

The book of Bamidbar concludes the period of exile in the desert. At the end of the forty years, Am Yisrael stands at the entrance to Eretz Yisrael, conquers the east-bank of the Jordan River, delineates the borders of Israel and prepares for war.

This is a commandment for generations. According to the Ramban: "You shall possess the land and settle in it" – that we shall not leave it in the hands of a nation other than us or allow it to become barren." (Bamidbar 33:53) Despising the precious land brought about the long exile. However, many people still ask: Why did Hashem "lock us" us in this particular tract of land?

The Ramban writes at length on this subject in Parshat Acharei Mot. Rav Kook encapsulates the idea succinctly in his opening to Orot: "Eretz Yisrael is not something external, an external possession of the nation, merely as a means to the goal of collective joining and of maintaining its material or even spiritual existence. Eretz Yisrael is connected by a bond of life to the nation."

Every means has a substitute. When Eretz Yisrael is seen as a means towards the security of Am Yisrael, as a national or even cultural center, it is possible in times of distress to find a substitute. However, Eretz Yisrael is a land of life: "I shall walk before Hashem in the lands of the living" (Tehillim 116:9) Chazal teach that this is Eretz Yisrael. The Torah writes several times: "That you may live, and you will come and possess the land." (Devarim 4:1) Since Am Yisrael is characterized by: "You who cling to Hashem, your G-d – you are all alive today," (Devarim 4:4) it is impossible to maintain this kind of life and attachment anywhere but in the land of life. Just like a person does not look for explanations on the existence of life, so there should be no need to look for reasons to live in Eretz Yisrael, because that is where life really is. Am Yisrael can only find a full life in this place. Chazal teach that the pasuk: "The dove could not find a resting place for the sole of its foot" (Bereishit 8:9), alludes to Knesset Yisrael, which is compared to a dove. For this it says: "Among those nations you will not be tranquil, there will be no rest for the sole of your foot." (Devarim 28:65)

On the other hand, gentiles cannot find peace in Eretz Yisrael. The Ramban writes about Eretz Yisrael: "They are unworthy of you, and you are not deserving of them."

Eretz Yisrael is not just a place that people live in. It is the "Sanctuary of Hashem," as the Ramban writes. The Torah writes about it: "Cain left the presence of Hashem", (Bereishit 4:16) "Yonah rose to flee to Tarshish from the presence of Hashem." (Yonah 1:3) Therefore, the Ramban writes: "It is impossible to comment any more on the subject of the land, but if you are worthy of understanding the first [mention in the Torah of] "land," you will

understand a great and hidden secret, and you will understand what our rabbis meant that the Temple above corresponds to the temple below." His intention is that the pasuk: "In the beginning of G-d's creating the Heavens and the land" (Bereishit 1:1) should be interpreted that Hashem first created the land above and only then did he create the parallel land below.

This is what the Torah means when it states in the Parsha: "This is the land that shall fall to you as an inheritance." (Bamidbar 34:2) Chazal ask: "Can the land fall?"

The Sefat Emet explains Chazal's answer, that so long as the Canaanites were in Eretz Yisrael, the necessary vessels to contain the land above were not yet formed. However, when Am Yisrael enter the land, the land above drops and connects with the land below, thus creating compatibility between Heaven and earth.

The war over Eretz Yisrael is not about territories and other national rights. This is a global war over Hashem's Throne in the world. "For the Hand is on the Throne (kes) of G-d" (Shemot 17:16) –Hashem's name is incomplete and His Throne is incomplete. Therefore, the war in the end will focus on Yerushalayim because: "At that time people will call Yerushalayim 'the Throne (kisei) of Hashem'" (Yirmiyahu 3:17) and the nations wish to prevent this. Otherwise, it is impossible to understand this great interest of all the nations in such a small place.

However, we are sure of: "Not one of Your words is turned back to its origin unfulfilled" (Haftarah blessings), and, "May our eyes behold your return to Zion in compassion" (Shemoneh Esrei prayer)

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EMES LIYA AKOV

Weekly Insights from MOREINU

HORAV YAAKOV KAMENETZKY zt"l

[Translated by Ephraim Weiss <Easykgh@aol.com>]

In this week's parsha, we read about the division of Eretz Yisroel amongst the shevatim. The Torah lists off the nasi of each shevet, who upon entering Eretz Yisroel would represent his shevet during the distribution of the land. For every shevet, the Torah uses the words "Limatch Bnei ... Nasi..." "And for the tribe of the sons of ___ the nasi ___," and then inserts the name of the nasi for that shevet. However, by three shevatim, the usual format is changed. When discussing the shevatim of Yehudah, Shimon, and Binyomin, the Torah writes, "Limatch Bnei" omitting the word "Nasi". The expressions used while discussing the tribes of Yehudah and Binyamin deviate even further from the norm, in that the word "Bnei" is also absent.

HaRav Yaakov Kamenetzky, zt"l solves these issues in the following way. In omitting the word "Bnei" while discussing the shevatim of Yehudah and Binyomin, the Torah was hinting to the future split between malchus Yehudah, which included Yehudah and Binyomin, and malchus Yisroel which encompassed the balance of the shevatim. Before the split, every shevet was referred to as the sons of their patriarch (i.e. the sons of Reuven, or the sons of Asher) in order to distinguish which part of Klal Yisroel they were from. However, after the schism between the two parts of Klal Yisroel, the tribes of Yehudah and Binyomin became their own segment within Klal Yisroel, and were referred to simply as Yehudah and Binyomin. They were no longer part of a whole, but rather were a separate unit. As a remez to these future events, the Torah already refers to these two shevatim as Yehudah and Binyomin, without the word "Bnei". For the same reason, the word "Nasi" is omitted with regard to these two shevatim. One can only be considered a nasi when it is clear that they are the highest leader of their shevet, without any competition. After the split, the shevatim of Yehudah and Binyomin became so attached, that at times it

was difficult to distinguish between the two. While there was certainly no competition between their *nessiim*, no one person was recognizable as the ultimate authority, even amongst his own *shevet*.

However, the discrepancy found by *shevet Shimon* still needs to be clarified. Rav Yaakov explains that ever since *Zimri*, the *nasi* of *shevet Shimon* sinned during the war with *Midyan*, *shevet Shimon* had stopped using the distinction of *nasi*, due to its negative connotations. As such, the *Torah* did not use the title of *nasi* when discussing the *shevet* of *Shimon*.

From: RABBI BEREL WEIN [rbwein@torah.org] Sent: August 03, 2005
Subject: Rabbi Wein - Masei www.RabbiWein.com

Jerusalem Post August 05, 2005 www.rabbiwein.com/jpost-index.html
LEADERSHIP <http://rabbiwein.com/column-945.html> Throughout the ages, Jewish leadership has almost always been defined in terms of knowledge, intelligence, vision and personal integrity. The paradigm of Jewish leadership was established by our first national leader, Moshe, and traces its line through the other biblical leaders and later through the great men of the *Mishna* and the *Talmud*. Through the long night of the Jewish exile, the leaders of Israel came mostly, though not exclusively, from the ranks of its rabbis and scholars. Though this did not guarantee infallibility of judgment, it did, in the main, produce wise and skillful leadership from people of high moral character and honestly held convictions. Since this type of leadership did not need to engage in never-ending electioneering, it proved to be worthy of the respect and loyalty of the people. The advent of political parties, of a new secular leadership for the Jewish people and of the ideas of representative elected government, which rose to the fore in the eighteenth century in Europe and America, changed the form of Jewish leadership as well. The traditional leader drawn from rabbinic ranks was no longer the sought-after authority and father figure for many Jews. In the *Chasidic* world, the *rebbe* became the leader and in the *yeshiva* world, the *rosh yeshiva* assumed that role. As more of the Jewish world turned secular in the eighteenth and nineteenth centuries, secular leaders, Jewish and non-Jewish, often times more demagogic than wise, assumed the mantle of Jewish leadership. This created a state of chaos and near anarchy in the Jewish world, a situation that persists till our very day.

In the book of *Shoftim* (*Judges*) we are told that there was no central figure of leadership present so thus everyone was free to do their own thing. This eventually led to a society of lawlessness and idolatry, civil war and a loss of national vision and common goals. In our present world, political leadership is a necessary reality but one should not look to it for long-term vision or moral guidance. The secularist camp in Israel, by aping the ideas and schemes of the West and the Left, finds itself with an "empty wagon," Jewishly speaking. The religious Jewish world in Israel has installed its own halachic authorities, mainly by political party and/or geographic designation - Rav Ovadya Yosef for *Shas*; Rav Elyashiv for *Degel HaTorah*; Rav Chaim Kanievisky for *Bnei Brak*; the *rebbe* of *Gur* for *Agudat Yisrael*; Rav Eliyahu and Rav Shapira for *Mafdal*; and the various *Chasidic* *rebbeim* and *roshei yeshiva* for their own groupings - all great and worthy scholars. But, there are no overriding figures of leadership and vision who are above politics and who could therefore serve to unite and guide religious Jewry. The situation in the secular camp is far worse. There the bitterness and backbiting between the parties, the personal insults and corruption of the leaders and those that aspire to be leaders, induce a feeling of disgust and disrespect. It is not a pretty picture.

It may very well be that under our current political and societal systems there is little possibility that apolitical moral leadership will arise in Israel and the Jewish world. It is clear though that such moral leadership is vitally necessary to allow us to confront the problems that face Jewish society. The *mussar* movement that emphasized ethics and sensitive interpersonal relationships did not survive the Holocaust and its aftermath. A shame, for perhaps it could have provided us with such apolitical, moral leaders. But

we should not give up in our search for such leadership. We must look beyond the narrow band of leadership that currently rules our society for learned, holy, incorruptible people to guide and advise us. Jewish history has shown us that such people can be found to meet the needs of the generation. But the generation must demand that such a leadership cadre come to the fore. It has often been said regarding societies that people get the leadership that they deserve. In our perilous times, I would hope and pray that we would deserve raised standards, a breadth of vision and a strengthening of integrity in our leadership ranks.

Weekly Parsha August 05, 2005 <http://www.rabbiwein.com/parsha-index.html> MAASEI <http://rabbiwein.com/column-946.html>

The parsha of *Maasei* represents the culmination of the story of Israel's sojourn in the desert after its escape from Egypt and the revelation of the *Torah* on Mount Sinai. The Jewish people are poised to enter the Holy Land and to adjust to a more "normal" national existence. *Manna* will no longer come from heaven daily nor will there be miraculous traveling wells of water accompanying them. The parsha now deals with the issues of the borders of Israel and its attendant problems and with the methods of the division of the land amongst its inhabitants. All of this is pretty mundane stuff compared to the heady experiences of the desert - miracles, plagues, rewards and punishments, Moshe's masked radiant countenance and the thrill of building and servicing the *mishkan*. The parsha even tells us that there will be murders and murderers in the Land of Israel and that cities or refuge must be built to house them and protect them from avenging enemies. From the *Midrash* it may be implied that there were no such murderous occurrences during Israel's sojourn in the desert. In short, the rarified atmosphere and purely spiritual existence of Israel in the Sinai desert is now over. The challenges of creating an ordered, just and *Torah* society under natural national and human conditions are now the order of the day. It will take four centuries, until the times of *Shmuel*, *Dovid* and *Shlomo* for these challenges to be successfully met. The transition from the supernatural to the mundane is much harder to accomplish successfully than is the transition from the ordinary to the spiritual.

To help this transition occur, memory of past events is vital. The newness of the experience of the Land of Israel will be seen in perspective by remembering the previous experiences of Egypt and the desert. Faith and confidence will dominate Jewish life when the Jews recall the history of their existence and their survival and triumph over daunting odds. *Rashi* indicates that the listing of the thirty-eight encampments of Israel during their trek through the Sinai desert is to remind the Jews of their past difficulties and struggles and how they nevertheless prevailed. Part of the difficulty that Israel faces today in attempting to build a "normal" state and nation is that the early founders of secular Zionism not only denigrated the experiences of the Jewish exile but attempted to erase them from the memory of the "new" Jew they wished to create. Thus, the problems that challenge and disturb us today here in Israel - boundaries and demographics, value systems and the creation of a kinder, gentler Israel - are compounded by the lack of memory that could help us make reference to previous generations' wisdom and strengths. The truth is that we have all been here, in one way or another before, and common sense would dictate that we therefore remember what happened then. But amnesia is the greatest Jewish malady of our day. All of the problems and difficulties that we face are in reality byproducts of that amnesia. *Maasei* teaches us that we should remember where we have been so that we have a sense of faith and confidence in where we want to now go.

Shabat shalom. Rabbi Berel Wein
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From: RABBI SHLOMO RISKIN'S SHABBAT SHALOM Parsha Column parshat_hashavua@ohrtorahstone.org.il Sent: August 03, 2005
Shabbat Shalom: Parshat Masai (Numbers 33:1-36:13) By Shlomo Riskin

Efrat, Israel - "These are the journeys of the children of Israel... And Moses wrote their places of origin towards their journeys of destination in accordance with the bidding of G-d, and these are their journeys of destination towards their places of origin" (Numbers 33:1,2).

This concluding Torah portion of the Book of Numbers records the travelogue of the Israelites as they wandered through the desert - a foreshadowing of the many exiles which would host the Jews, throughout our 4,000 year-long history, sometimes graciously but more often grudgingly and even cruelly. What is peculiar about the formulation, however, is the order of the journeys from place to place: "And Moses wrote their places of origin (motza'ehem) towards their journey of destination (mas'ehem)" - which is logical, similar to the manner in which I would record that I journeyed from Brooklyn (my place of origin) to Efrat (my journey of destination) - "and these are their journeys of destination towards the places of origin" - which is completely backward and totally illogical. I never went from Efrat back to Brooklyn!

I believe that our Bible is communicating a most profound truth about life in general and Judaism in particular. From a certain perspective, "you can't go home again," as every individual who undertakes a "trip of roots" (as I did when I visited my grandparent's shtetl Lubien, Poland) quickly discovers; but from another, and perhaps even more profound perspective, "You always go home again!" After all, each of us is formed by our roots, by seminal events of our earliest childhood, and in some way or another we are constantly returning to those early experiences. And our Jewish infrastructure and ultimate vision was initially formed by our Patriarchs and Matriarchs in Hebron where they were charged with a Divine mission, and in Jerusalem, where the first Jew was willing to sacrifice his beloved son for the goal of world peace which his G-d expressed. From that point of view, wherever we may depart from, we depart from Hebron, and wherever we yearn to be, we yearn to be in Jerusalem. Hebron and Jerusalem are our points of departure as well as our goals of destination. We owe both, whom we are and whom we hope to become, to the dreams which reside in Hebron and Jerusalem.

This is the real meaning of a striking Mishnah in Avot (Ethics of the Fathers 2:10,13,14), which adds yet another dimension to our interpretation:

"Rabban Yohanan ben Zakkai had five disciples... He said to them, 'Go out and see what is the best characteristic to which an individual ought cleave. R. Eliezer says, a good eye. R. Yehoshua says, a good friend. R. Yose says, a good neighbor. R. Shimon says, to see that which will be born (Hanolad). R. Elazar says, a good heart. He then said to them, 'Go out and see which is the worst characteristic from which an individual ought flee? R. Eliezer says, an evil eye. R. Yehoshua says, an evil friend. R. Yose says, an evil neighbor. R. Shimon says, to borrow and not repay. R. Eliezer says, an evil heart."

One of the fascinating aspects of this Mishnah is that only R. Shimon seems to have bypassed the parallel structure of the two halves of the Mishnah: according to him, the good characteristic towards which one must aspire is the ability to see what is yet to be born, the outcome of events and experiences, the opposite of which he defines as to borrow and not repay rather than as not to see that which will be born, not to be aware of the outcome of events (which we could expect to find). It could very well be that his intent is precisely the parallel structure; after all, one who borrows and doesn't repay was generally not sufficiently aware when he borrowed the money that pay-day will soon arrive, and that he'd better be prepared for

that day with sources from which to repay his debt. Be that as it may, R. Shimon's unique formulation within the Mishnah cries out for further commentary.

Rav Shalom Gold of Har Nof, Jerusalem once suggested another interpretation for 'ha'ro'eh et ha'nolad:" not one who sees that which will be born (which in Hebrew would be vivald) but rather one who sees from whom he was born, one who understands that he did not emerge from an empty vacuum- and realizes that he has a certain debt to pay to the previous generations which formed him.

What comes to mind in this context is a well-known incident which took place before the establishment of the State of Israel, when Great Britain offered to David ben Gurion an early "partition plan" which would have given us an exceedingly small parcel of land as our Jewish State. Ben Gurion was uncertain as to whether to accept this insulting offer as a first step, or to hold out for a more respectable fulfillment of what we had been promised by the Balfour Declaration, at the risk of losing any chance, for a State at all. As uncharacteristic as it was for Ben Gurion to find himself in a quandary, he nevertheless asked one of the only contemporaries he truly respected, Yitzhak Tabenkin, to decide for him.

Tabenkin agreed, but asked for an evening to take counsel with two individuals before giving his decision. The next morning, Tabenkin advised him to reject the offer; Ben Gurion agreed, but requested to hear from Tabenkin with whom he took counsel to reach his decision. "I asked two individuals," responded Tabenkin, "My grand-father and my grand-son. My grand-father who died ten years ago, and my grand-son who is yet unborn." We are, each of us, part of a historical-traditional process which formed us, and we have a debt to repay the past - part of which is a responsibility to the future."

In order to connect these words to the "three week" period of mourning for the Holy Temple in which we find ourselves, permit me to cite a midrash cited by Rav Avigdor Amliel in his masterful work, "Drashot El Ami" (Rabbinic Discourses to My Nation).

"When the Holy Temple was destroyed, the Holy One Blessed be He wept and cried out, 'My children, where are you? My beloved ones, where are you? My priests, where are you?'"

Said the Holy One to Jeremiah: 'I may be compared to one who had an only son for whom I prepared a nuptial canopy, and he died under the canopy. Go and summon Abraham, Isaac, Jacob and Moses from their graves, because they know how to weep (because they understand the depth of the tragic loss).' Jeremiah immediately went to Ma'arat HaMachpela, the Cave of the Couples in Hebron, and called out to the ancient patriarchs: 'Arise, the time has come for you to be summoned before the Holy One, Blessed be He.' They responded, 'Why' (they apparently didn't know of the destruction). He (Jeremiah) replied, 'I don't know,' because he was frightened (and embarrassed) lest they confront him with the question, 'was it in your period that the Temple was destroyed? How did you allow it to happen? Did we not prepare the road to redemption for you?'"

It seems to me that in our generation this agonizing question is even more relevant. Have we erased from our consciousness our starting places which must remain the guide-posts for our journey of destination? Have we forgotten those who bore and formed us, by whose sacrifices and commitments we have remained an eternal people and we have been privileged to return to our homeland after 2000 years of exile? We dare not forsake our debt to our past and our responsibility for our future.

Shabbat Shalom

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From: usa-weekly-owner@yatednews.com Sent: August 04, 2005 5:35 PM To: usa-weekly@yatednews.com Subject: YATED USA WEEKLY 08-05-05

Halacha Discussion by RABBI DONIEL NEUSTADT

EATING MEAT AND DRINKING WINE DURING THE NINE DAYS

The first nine days of the month of Av, known as the Nine Days, is a period of time established by the Rabbis to mourn the destruction of the two Batei ha-Mikdash. There are certain activities which are prohibited during this period. Since the Talmud tells us that only one who has properly mourned the Temple's destruction will merit to see its rebuilding, it is important to become more knowledgeable about the exact nature of the prohibitions of the Nine Days. One of them, the injunction against eating meat and drinking wine, is reviewed here. Although this prohibition is not clearly mentioned in the Talmud as binding halachah, it is an age-old custom which is recorded by many Rishonim¹ and has become universally accepted. Thus, today it may not be compromised in any way, and one who does so is considered a poreitz geder, literally, a "fence-breaker."² The restriction against eating meat and drinking wine begins at sunset [or after davening Ma'ariv³] on Rosh Chodesh Av and ends at midday on the tenth of Av. All meat and poultry and their derivatives, even if no meat or poultry is actually visible, e.g., chicken soup, are included. Pareve dishes cooked in a utensil used for meat are permitted.⁴ [If a small piece of meat accidentally fell into a pareve dish and its taste will not be sensed, the dish may be eaten.⁵] All wines and grape juices are prohibited. Beer, whiskey, and wine vinegar are permitted.⁶ The restriction applies to men, women and children, even to children who are under the age of chinuch and who do not understand the concept of mourning for the destruction of the Beis ha-Mikdash.⁷ A child, a pregnant or nursing woman, or an elderly or sick person who cannot eat dairy foods or who needs to eat meat for health reasons, may eat meat. If possible, they should limit themselves to meat derivatives or to poultry rather than to actual meat.⁸ On Friday afternoon close to the onset of Shabbos, it is permitted to feed children – who normally eat at that time – the regular meaty Shabbos foods.⁹ A woman who needs to taste the Shabbos foods while cooking may do so on Friday afternoon after midday.¹⁰ On Shabbos there is no restriction against eating meat or drinking wine even if one began Shabbos early – any time after plag ha-Minchah. It is forbidden, however, to eat food left over from Shabbos even for melaveh malkah.¹¹ If, by mistake, one recited a blessing over meat or wine, he should taste a bit so that his blessing will not have been in vain.¹² Butcher shops may remain open during the Nine Days.¹³ Proprietors of meat restaurants should consult a rabbi.

Meat and wine at a seudas mitzvah The restriction against eating meat and drinking wine is lifted when a seudas mitzvah takes place. This includes a siyum,¹⁴ a bris,¹⁵ or a pidyon ha-ben. Several poskim also include a bar mitzvah dinner which takes place on the day the boy becomes bar mitzvah.¹⁶ For a seudas mitzvah one may invite any man or woman who would normally be invited at any other time of the year, e.g., relatives or friends. Thus all campers and staff of a summer camp, both men and women, may join in a public siyum.¹⁷ During the week in which Tishah b'Av occurs, only a minyan of people plus close relatives may partake of meat and wine at a seudas mitzvah meal.¹⁸ There are conflicting opinions about whether or not it is permitted to make a siyum specifically in order to partake of meat and wine.¹⁹ While it is preferable to be stringent, one should follow the custom and the directives of his rabbi. Regarding the nature of the text upon which it is permitted to make a siyum, the custom follows the halachically preferred option that a siyum be made only on a tractate of the Talmud, either Bavli or Yerushalmi. But there are poskim who allow a siyum to be made upon completing the intensive study of either an entire seder of Mishnayos or on an entire book of Tanach. Some allow a siyum even on three tractates of Mishnayos while others allow it even on one.²⁰ L'chatchilah, all the participants should listen to and understand the siyum of the text as it is being read.²¹ B'diavad, some poskim permit even those who were not present at the siyum to eat meat and drink wine at the siyum meal,²² while other poskim are stringent.²³ When a seudas mitzvah takes place, it is also permitted to drink the wine after Birkas ha-Mazon.²⁴ But the cup of wine which is usually drunk at a

bris should be given either to a minor or to the mother of the child.²⁵ Those who are particular to recite Havdalah every week over wine or grape juice should do so during the Nine Days as well,²⁶ since this too is permitted, just as it is permitted to drink wine at a seudas mitzvah.²⁷ In some places it is customary for a minor,²⁸ if one is present, to drink the wine,²⁹ while in other places an adult drinks the Havdalah wine.³⁰ Those who make Havdalah on beer or another chamar medinah year-round should do so this week as well.³¹

After Tishah b'Av It is customary not to eat meat³² or drink wine until midday of the tenth of Av, even when the tenth of Av falls on a Friday. This is because the destruction of the Beis ha-Mikdash, which began on the ninth of Av, continued throughout the night and most of the next day.³³ All of the aforementioned leniencies regarding eating meat and drinking wine during the Nine Days apply to motzaei Tishah b'Av until midday of the tenth of Av.³⁴ When Tishah b'Av falls on Shabbos and the fast is postponed until Sunday, meat and wine are to be avoided only on Sunday night. On Monday morning meat and wine are permitted.³⁵ Drinking the havdalah wine on Sunday night is permitted without restriction.³⁶

FOOTNOTES ¹Several reasons for this custom are given: To minimize joyfulness; to mourn the abolishment of the Korban Tamid and Nissuch ha-Yayin; to mark the loss of the Even Shesiyah (see Orchos Chayim, Kol Bo and Avudraham). 2O.C. 551:11. Most Sephardim, too, follow this custom for all of the Nine Days, although some Sephardim do not observe it on Rosh Chodesh day itself; Kaf ha-Chayim 551:125; Yechaveh Da'as 1:41. 3Kaf ha-Chayim 551:122. 4Mishnah Berurah 551:63. It makes no difference whether the pareve food is sharp or bland; Orchos Chayim 31. 5Sha'ar ha-Tziyun 551:68. Some poskim hold that even l'chatchilah it is permitted to put a small amount of meat or wine into a dish if its taste will not be detected. 6Sha'arei Teshuvah 551:10. 7Mishnah Berurah 551:70. Some poskim allow children under the age of three to eat meat and some allow it up until age six; Divrei Yatziv O.C. 2:236. 8Mishnah Berurah 551:61,64 and Sha'ar ha-Tziyun 69. Most poskim hold that hataras nedarim is not required; Yechaveh Da'as 1:41. 9Igras Moshe O.C. 4:21-4. 10Mekor Chayim 551:9. 11Igras Moshe O.C. 4:21-4. 12Sdei Chemed (Bein ha-Metzarim 1:4). 13Igras Moshe O.C. 4:112-3. 14Some poskim recommend that no siyum take place after the sixth of Av (Harav M. Feinstein, Moadei Yeshurun, pg. 132). See also Aruch ha-Shulchan 551:28, who advises that a siyum should not take place at all during the Nine Days, since we cannot properly rejoice and honor the Torah during this time of mourning. 15Even if it was deferred due to illness, etc.; Sha'arei Teshuvah 551:15. 16Yad Efrayim 551:31; Divrei Yatziv 2:238. 17Harav M. Feinstein and Harav S.Z. Auerbach (quoted in Nitei Gavriel 18:7). 18Mishnah Berurah 551:77. Some poskim hold that only a minyan – including the relatives – may eat meat or drink wine; Sha'ar ha-Tziyun 84. 19See Mishnah Berurah 551:73, Aruch ha-Shulchan 551:28 and Kaf ha-Chayim 551:161. 20See the various opinions in Ha-elef Lecha Shelomo 386; Igras Moshe O.C. 157 and O.C. 2:12, Yabia Omer 1:26, Yechaveh Da'as 1:40 and B'tzeil ha-Chochmah 4:99. 21Mishnah Berurah 470:10. 22Minchas Yitzchak 9:45; Teshuvos v'Hanhagos 1:300 quoting Harav Y.Y. Kanievsky, who says that it is customary to be lenient in this matter, provided that the participant is sincerely "happy" with the siyum taking place. See also the lenient ruling of Harav Y.Y. Fisher concerning a mourner (Pnei Baruch, pg. 463). Harav M. Feinstein is also quoted as being lenient (Moadei Yeshurun, pg. 132). 23Ben Ish Chai 1:96-25; Chazon Ovadiah, pg. 99; Harav Y.S. Elyashiv (Siddur Pesach K'hilchaso, pg. 168). 24Mishnah Berurah 551:72. 25Harav Y.S. Elyashiv (quoted in Otzar ha-Bris, pg. 187). 26Eishel Avraham 551; Chazon Ish (quoted in Imrei Yosher, pg. 4). 27Mishnah Berurah 551:67. 28The preferred minor for this purpose is a boy beyond the age of chinuch but who is not yet old enough to understand the concept of mourning the destruction of the Beis ha-Mikdash; Mishnah Berurah 551:70. [It is difficult to define the age of such a child.] If such a child is not present, any boy under bar mitzvah age will do. 29Rama O.C. 551:10. 30Harav M. Feinstein (Moadei Yeshurun, pg. 154). 31See Aruch ha-Shulchan 551:26. 32But a meaty food which presently contains no meat is permitted; Beir Halachah 558:1 (s.v. shelo). 33O.C. 558:1. 34Mishnah Berurah 558:2. 35Rama O.C. 558:1. 36Mishnah Berurah 556:3.

From: Shema Yisrael Torah Network [shemalist@shemayisrael.com] Sent: August 04, 2005 To: Peninim Parsha
PENINIM ON THE TORAH
BY RABBI A. LEIB SCHEINBAUM
Parshas Massei

You shall designate cities for yourselves... and a murderer shall flee there - one who takes a life unintentionally. (35:11)

The Alter, zl, m'Kelm derives that the mitzvah of creating a haven for the unintentional murderer demonstrates that the Torah is sensitive to the needs of all people - even those who take a human life. Indeed, Moshe Rabbeinu was acutely aware that the three Arei Miklat, Cities of Refuge, that were situated on the Ever HaYarden did not go into effect until the three in Eretz Yisrael were designated. Yet, he did not tarry, but immediately designated the Arei Miklat of Ever HaYarden. Even a murderer must be treated as a human being. While this is especially true of the unintentional murderer, Chazal teach us that even a rotzeach b'mezid, intentional murderer, must be given every chance to be found innocent. How different it is today, when a person is derided at his slightest deviation from Jewish observance, and not given a chance to return to correct his sin.

The following story was related by someone who was directly involved with the secular Zionist movement in Eretz Yisrael. In the early nineteen-twenties, struggle raged between the secular Zionist organization and the right-wing faction of the Agudath Israel, led by the venerable sage, Horav Yosef Chaim Sonnenfeld, zl. One of the Zionist leaders, infamous for his virulent attacks both on the religious community in general and Rav Yosef Chaim in particular, suddenly fell critically ill. After being hospitalized in the English Missionary Hospital, his condition deteriorated, and hope for his recovery was, at best, slim. Knowing that the finest doctors in the country practiced at the Shaarei Tzedek Hospital, the family of the patient sought to have him moved there.

A move such as this was easier said than done. The Bais Din of Yerushalayim had placed a cheirem, ban, on entering the Missionary Hospital. Therefore, Dr. Wallach, chief administrator of Shaarei Tzedek, would probably not permit this patient access to Shaarei Tzedek. The decision to transfer the patient was made. Dr. Wallach met the patient and his family in the emergency room and, upon discovering that the patient was being transferred from the Missionary Hospital, stalked out of the room. It seemed almost certain that he would refuse to admit the patient.

The family quickly deliberated and decided to send the person who was relating this story to Rav Yosef Chaim. This individual, although presently a staunch secularist, had originally been raised in the home of one of Yerushalayim's most distinguished Torah scholars. The individual had himself once been very close with Rav Yosef Chaim. Alas, the winds of change had swept him away. He ran as fast as he could to the home of Rav Yosef Chaim. On the way, a terrific thunderstorm struck, and he arrived there thoroughly drenched and cold.

He entered the house to find Rav Yosef Chaim immersed in a large volume of Talmud. Nervous that Rav Yosef Chaim might berate him for forsaking his upbringing and turning his back on religion, he was quite surprised to be greeted with a warm, friendly smile. He apologized for the interruption and explained the seriousness of the predicament. Rav Yosef Chaim listened intently and immediately closed the Talmud, donned his fur coat, and prepared to leave for the hospital. The emissary said, "Rebbe, the weather outside is treacherous. I only want a letter asking Dr. Wallach to provide medical attention. I have no wish for the Rav to go outside."

Rav Yosef Chaim's response was emphatic: "When a Jewish life is in danger, a letter is insufficient. I must personally attend to fulfilling this great mitzvah. A letter might help. I will not, however, leave the hospital until the patient is admitted!"

With these words, Rav Yosef Chaim dashed out into the torrential downpour to save a Jewish life. At the Jaffa Gate, they boarded a carriage and asked the driver to get them to the hospital as fast as possible. During this time, Rav Yosef Chaim's face glowed as he quietly recited pesukim from Sefer Tehillim on behalf of the patient. As soon as the carriage pulled up to the hospital, Rav Yosef Chaim sprang from it and ran directly to Dr. Wallach's office.

"Since when is a doctor a halachic authority with regard to human life?" asked Rav Yosef Chaim. "Immediately admit this patient! A Jewish life is at risk."

Two weeks later, the patient, now fully recovered, was released from the hospital. Knowing that the relationship between the patient and Rav Yosef Chaim was, at best, very tense, the family refrained from telling him who it was that had intervened on his behalf and had been indirectly responsible for his recovery.

One year later, as the patient returned to his position in promoting the aims of secular Zionism, while denigrating the position of Orthodoxy, he was asked to be the keynote speaker at a groundbreaking ceremony for a new settlement in the Galilee. Speaking eloquently of the lofty goals of his group, his closing words were a jab at Agudath Israel, "We will build this land in our own way with our own strength! We will build this land by waging a battle to the death against the black arm of Rabbi Sonnenfeld and his cronies!"

The one who related this story, who had originally been instrumental in bringing in Rav Yosef Chaim to save the speaker, was in the audience. Hearing these vilifying words and knowing the truth about Rav Yosef Chaim, he jumped up and ran towards the podium, "How dare you speak so disparagingly! Have a little respect for the saintly rabbi to whom you owe your very life!" he declared.

The speaker was shocked into silence and immediately asked for an explanation. The explanation came forth as a public announcement, as the young man who had by now regretted ever having left the Torah camp, strode to the podium and explained to the assemblage exactly how the "black arm" of Rav Yosef Chaim had interceded to save the life of the individual who had just vowed to destroy him.

You shall designate cities for yourselves, Cities of Refuge shall they be for you, and a murderer shall flee there - one who takes a life unintentionally. (35:11)

Not every unintentional murderer was permitted to seek sanctuary in the Arei Miklat, Cities of Refuge. Chazal explain that there are three cases to which the term unintentional murderer may be subscribed: A) Accident, whereby the perpetrator is blameless; B) Unintentional, but with a certain degree of carelessness - the perpetrator is exiled to a City of Refuge; C) Unintentional, but where circumstances are such that although there is a high degree of negligence, the bais din cannot consider it intentional. In such a case, the perpetrator is not exiled, since the sin is too great to be absolved by exile. Only the bais din has the authority to determine the degree of "unintentional" and until, that time, the go'el ha'dam, avenger of the blood, a close relative of the victim, may kill the perpetrator. In the event that it has been determined that there was a prevalent degree of negligence, and, consequently, the perpetrator is not to be exiled, in the event that he were to flee to the City of Refuge, the go'el ha'dam may kill him even there.

The aveirah, sin, of killing b'shogeg, unintentionally, is underscored by the fact that misasek, an unwitting act, is not considered a reason for exemption regarding murder, even though concerning all other areas of halachah, a misasek is patur, exempt. For instance, if a person has set out to cut a vegetable that had already been picked and his hand slipped, causing him to cut another vegetable that was still growing, he is exempt. One who is chopping trees in a place where people are usually to be found, but he had no clue that anyone was in the vicinity, and the axe handle flew off and struck and killed someone - he goes into exile. He should have been more careful. Human life is sacrosanct. One must take the greatest care to prevent any tragedy.

There is another aspect concerning taking a human life which underscores its significance - the form of penance. Desecrating Shabbos unintentionally carries with it the punishment of a Korban Chatas, Sin-Offering. This seems to be a fairly inexpensive form of atonement, especially compared to the unintentional murderer, who is exiled sometimes for many years. His

entire life comes to a standstill, as he must change and give up everything and flee for his life. He can never leave until the Kohen Gadol dies. If he leaves prematurely, he may be killed by the go'el ha'dam, and, according to one position in Chazal, anyone is permitted to avenge the death of the victim.

Horav Avigdor Halevi Nebenzhal, Shlita, takes this point further. Imagine, one is driving along, talking on his cell phone, and, because he is engrossed in the conversation, he does not notice the young child that has wandered into the path of his car. This is a clear case of misasek. It is as unwitting as one can get. According to the Torah, however, he must go into exile. He took a life unintentionally, unwittingly - but there is a victim, and someone must take responsibility.

Let us go a bit further. If one were to throw a stone into a public place and no one was hurt, has the perpetrator transgressed a mitzvah of the Torah? Certainly. He had not been careful regarding human life. Luckily, Hashem had taken pity on him and had not permitted the stone to strike anyone and inflict damage. In a way, this person is worse off than he who is exiled. At least the one who is exiled has the opportunity to repent the consequences of his actions. He sees what has resulted from his unwitting act. Rav Nebenzhal wonders how we should react to the individual who brags about how fast he had driven his car and almost had an accident. Baruch Hashem, no tragedy occurred. Is that it? Something certainly happened! He played with human life. He could have been hurt, or he could have hurt others! This is a case of rotzeach b'koach, potential murderer. He could have, but he did not - by the grace of the Almighty. What is he going to do about it? Teshuvah? Regrettably, not. It usually goes on until someone is hurt.

Interestingly, at a meeting in the Har Nof community of Yerushalayim, the residents complained to their rav regarding those individuals whose reckless driving was endangering them and the general population. The following decision, with the encouragement of the rav and Rav Nebenzhal, was proposed. A bais din should be designated to listen and validate these complaints. The driver must be warned and taken to task. If this does not help, then the driver should not be given an aliyah, called to the Torah; he should not be permitted to be a shliach tzibur, lead the services; he should be placed in cheirem, a ban of excommunication leveled against him whereby he is not counted in a Minyan, quorum, nor will anyone do business with him. Rav Nebenzhal added that it is permitted to release the air from his tires, if it is confirmed and documented that he is a habitual reckless driver.

There is another point that should be addressed, one that quite possibly is more serious and, regrettably, more common. Chazal tell us that one who causes the spiritual demise of another Jew by leading him to sin, or, if I may add, by turning him off to Yiddishkeit, is worse than a murderer, who takes his physical life. The life of the spirit extends to this world and the next. The physical realm is only in this world. If this is the case, we should ask ourselves, how often are we guilty of causing another Jew to sin? Bitul Torah, causing another Jew to waste time from Torah study, is also an aveirah, a sin of epic proportion. Furthermore, while it is very difficult to calculate the loss created by taking someone's life, can we even begin to imagine the incredible loss incurred in Olam Habah, the World to Come, for one who has deviated from the Torah way?

It does not take much. We are not talking about blatant incitement to sin - just simply situations in which our thoughtlessness creates a situation which might unwittingly have a negative influence on another Jew. It is mind-boggling how often we might cause bitul Torah, unknowingly, and certainly, unintentionally. Take a simple case of removing a sefer from its proper place in the bais ha'medrash and neglecting to return it. This causes bitul Torah. Is it any different than speeding down a city street?

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From: Heritage House [innernet@gmail.com] Sent: August 03, 2005 To: innernet@innernet.org.il Subject: InnerNet - "In & Out of the World" INNERNET MAGAZINE <http://innernet.org.il> AUGUST 2005

"IN & OUT OF THE WORLD"

by RABBI ABRAHAM TWERSKI

* * *

Rabbi Dosa ben Harkinas was accustomed to say: "Morning sleep, midday wine, children's chatter, and sitting at gatherings of the ignorant remove a person from the world." (Mishnah - Avot 3:14)

The "morning hours" may also be understood as the early years of a person's life, which are all too often "slept away." On several occasions the Talmud states that Rabbi Yehudah HaNasi wept, saying, "It is possible for a person to achieve his entire world in one brief moment" (Avodah Zarah 10b). He would say this when he noticed a person redeem himself after wasting away an entire lifetime. Why would such an observation cause sadness and move him to tears? Because even though a person did redeem himself in one moment, a wasted lifetime is a terrible tragedy. Just think of what that person could have accomplished had he lived properly all his life!

This is a particularly important issue in these days, when so many young people go astray, whether into drugs or other self-destructive behavior. They may come to their senses when they are well into their adult years, but the years of their youth, when they were at their highest learning capacity, can never be regained. This is indeed tragic. Obviously, if there were any way to help young people preserve these precious years and avoid squandering them foolishly, this would be an invaluable contribution to them and to mankind as a whole.

Children often mimic the behavior of adults. If the values of the mature culture are defective, it is only natural that young people will be apt to adopt them.

The term "mature culture" may not be accurate. Yes, there is an adult culture, consisting of people from age 20 to 80-plus, but age does not necessarily make for maturity. Perhaps the most distinctive feature of the juvenile is "I want what I want and I want it now!" A truly mature person gives greater consideration to the appropriateness of his desires, and if their gratification may have negative consequences, he will forego them. Furthermore, a mature person is able to delay gratification, whereas the child typically wails, "But I want it right now."

A 45-year-old executive, who has a graduate degree and functions effectively in operating a large corporation, may indeed be thought of as mature. However, if he lights up a cigarette, and gratifies his desire for nicotine in spite of his knowledge that this may seriously impair his health and endanger his very life, he is exhibiting immature behavior. A group of people whose lust for money results in their polluting the air and water and in upsetting the ecology cannot be thought of as truly mature. An analysis of what the adult culture is doing reveals much juvenile behavior. When it sacrifices decency and morality by exploiting indecency and violence on television in order to bring in lucrative advertisements, it is anything but mature...

* * *

Killing Time

The colloquial expression that refers to pastimes as "killing time" is most appropriate. We would be wise to think of the significance of this term. Time is the one commodity which is irreplaceable, and to "kill" it is the height of folly. It has been wisely said that killing time is not murder, but suicide, and such behavior indeed "removes one from the world."

Some people may think that sleeping long hours gives the body the rest it needs and is conducive to long life. The author of this Mishnah, Rabbi Dosa, enjoyed longevity (Talmud - Yevamos 17a), and it is he who warns against lingering too long in bed.

I was impressed with the autobiography of the Nobel laureate, S.Y. Agnon, who related that his father had to open his store early. He wished to teach his son Torah, and he would wake the child before dawn so that he could learn with him before attending early morning services. Agnon's mother, who was protective of her child, would plead with the father, "Let the child sleep! He is young and needs to grow." The father responded, "What! You want him to grow up ignorant?"

One might think that the child would have grown up with marginal health and with a negative attitude toward Torah. After all, he was pulled out of bed on cold winter mornings to study Torah. But this child who was aroused out of his sleep while it was still dark, lived to a ripe old age, remained loyal to Torah study and observance throughout his long life, and brought great pride to his people by his contributions to world literature.

Our sages knew what keeps a person in the world and what removes him from it.

* * *

Intentions and Outcomes

Western civilization has become very business minded, probably more than in the past. Many more people are invested in the market, and many more people are tuned in to the economy. This preoccupation with economic issues seems to have had a deleterious impact on our personal lives.

The rules of economics are based primarily on profit or loss. Thus, if a person goes into a business venture with reckless abandon and takes great risks, and happens to hit it rich and make a windfall profit, he is not thought of as irresponsible. Rather, he is hailed as an economic wizard. On the other hand, if someone takes great caution, assiduously adhering to the rules of economics and seeking advice from the best sources, but his business venture turns out to be a total failure, he is considered a schlimazel. People will flock to the former for advice, and will shun the latter. Why? Because economic "good and bad" are determined by success or failure: Profit is good, loss is bad. How one came to make the decisions that resulted in success or failure is irrelevant. Good and bad are dependent on outcome, not on intentions. That is the way economics operate, and indeed, that is how economics should operate. Morality and ethics, however, are just the reverse. Good moral and ethical behavior is determined by intentions rather than outcome. For example, if a doctor does not believe his patient needs surgery, but tells him that he must undergo an operation because he is money hungry and wishes to collect an exorbitant fee, he is an unscrupulous, unethical doctor. It may happen that when he performs the unnecessary surgery, he may discover a tiny cancerous tumor which had as yet not shown any symptoms. He removes it in its early stages, and he saves the patient's life. Is he a hero? No, he is a scoundrel, and one should avoid this kind of a doctor. The fact that he happened to save the patient's life by accidentally discovering an early cancer does not make him a good doctor, even if this patient is eternally grateful to him.

On the other hand, a doctor may have a patient about whom he is very concerned. Without surgery, there is a 75 percent likelihood that the patient will not live a year, and successful surgery can prolong his life. However, the operation is a risky one, and there is a 50 percent chance that the patient will not survive the surgery. The doctor agonizes over this decision, and calls in several consultants for their opinion. After taking all the factors into account and giving it a great amount of thought, he concludes that it would be best to operate. Unfortunately, the patient does not survive the surgery. Is he a bad doctor? No, he is a highly ethical doctor, and one would be wise to be his patient.

In these cases, the one who had the successful outcome is bad, while the one who had the failure is good. This is because moral and ethical issues are not dependent on outcome. No one has prophecy to foresee what will happen, and there are many things that are beyond our control. All we can do is the best we can do, setting aside our own desires and trying to do what is best for others. When we behave in this way, we are good, regardless of the outcome.

* * *

Life is Not a Business

Clinically, I have come across people who harbor guilt for things that happened, even though they tried to do their best. I have encountered parents whose child has gone astray, either to the use of drugs or other destructive behavior, although they tried their utmost to be responsible and caring parents. The tragic outcome occurred in spite of their best efforts. Yet, they are consumed with guilt. On the other hand, there are instances where parents were selfish and negligent, yet the child turned out to be an excellent scholar who achieved high honors. These are the parents who should have felt guilty for their dereliction, even though their child happened to succeed.

In these examples, as in all other phases of ethics and morality, we must not allow the rules of economics to determine our behavior or feelings. One does not play football according to the rules of baseball, and one should not run one's spiritual and personal life according to the rules of economics.

The problem is that when we are totally absorbed in economics, we might not even realize that there is another set of rules. We must be able to disengage ourselves from economic concepts and adopt the rules of ethics and morality that are appropriate to our personal and spiritual lives. [W]e must remember that our lives are not business enterprises.

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From: Halacha [halacha@yutorah.org] Sent: August 01, 2005

Weekly Halacha Overview

BY RABBI JOSH FLUG -

THE LAWS OF BEIN HAMETZARIM

The three week period between Shiva Asar B'Tammuz and Tisha B'Av (known as *bein hametzarim*) is a period in which many customs and restrictions are observed in order to commemorate the destruction of the first and second Beit HaMikdash. There is an incremental increase in these observances as Tisha B'Av approaches. Tisha B'Av is the culmination of these observances when the most intense form of mourning the loss of the Temples is observed.

There are four different time periods that bring about these increases in observances. Shiva Asar B'Tammuz marks the beginning of the *bein hametzarim* period, known colloquially as "the three weeks." Rosh Chodesh Av is the beginning of the period known as "the nine days." Another significant period is the week in which Tisha B'Av occurs (*shavu'a shechal bo*). The final time period is Tisha B'Av itself.

The Three Week Period

The concept of a three week mourning period was initiated by Daniel the Prophet (see Daniel ch. 10). Daniel mourned for a three week period over the destruction of the Temple (see the comments of R. Sa'adiah Gaon, Daniel 10:2). For this reason, some practices that were originally instituted for one of the more intense periods of mourning were adopted to be observed during this three week period.

Sefer Chasidim, no. 840, writes that there are people who don't recite a *shehechyanu* on a new fruit during the three week period, though there are others who permit recitation of *shehechyanu* on a Shabbat of the three week period. Maharil, Teshuvot Maharil no. 31, writes that if the *beracha* is one that can wait until after Tisha B'Av, such as a *beracha* on a new fruit, one should wait. However, if it is a *beracha* that cannot wait, such as the *shehechyanu* recited at a *Pidyon HaBen*, one should recite it during this period. Shulchan Aruch, Orach Chaim 551:17, rules in accordance with the opinion of Maharil. Nevertheless, R. Ovadia Yosef, Yechave Da'at 1:37, rules that on Shabbat, one may recite a *shehechyanu* on a new fruit or new clothes if they will enhance one's enjoyment of Shabbat.

R. Yitzchak Tirnau, Sefer Haminhagim, Chodesh Tammuz, writes that one should refrain from getting married or from cutting one's hair during this period. This position is adopted by Rama, Orach Chaim 551:2, 4. R. Yosef D. Soloveitchik, Shiurei HaRav Al Inyanei Aveilut VTisha B'Av, pp. 20-21, provides a basis for shaving one's beard during this period. He contends that the observances of the three week mourning period are patterned after the twelve month period of mourning that one observes when losing a parent. A mourner during this period may shave or cut his hair when he has reached a state that his friends note his unkempt appearance. Nowadays, when people shave on a daily basis, this state is attained after a day or two. Once that state is reached, one may shave his beard and continue to shave for the rest of the mourning period. However, this leniency will only apply to the three week period.

R. Moshe Feinstein, Igrot Moshe, Orach Chaim 4:21, prohibits listening to music during the three week period, even if it is recorded music. R. Ovadia Yosef, Yechave Da'at 6:34, permits music at a *seudat mitzvah*, such as a *Pidyon HaBen*, or a *siyyum* (completion of a tractate of Talmud).

The Nine Day Period

The Gemara, Yevamot 43b, quotes a *Beraita* that from Rosh Chodesh Av until the fast of Tisha B'Av one should minimize business activities and refrain from getting married, building, and planting. The Talmud Yerushalmi, Ta'anit 4:6, implies that the ruling of the *beraita* is based on the principle listed in the Mishna, Ta'anit 26b, "*mishenichnas Av mema'atin b'simcha*," when the month of Av commences, one should limit in rejoicing. Therefore, the mandate to refrain from business transactions, building and planting only applies to activities that bring one happiness. Tur, Orach Chaim 551, writes that there is a dispute among the *poskim* as to whether one may adopt the leniency presented in the Talmud Yerushalmi. Shulchan Aruch, Orach Chaim 551:2, follows the lenient position that activities that don't bring one happiness are permitted.

The Gemara, Baba Batra 60b, quotes the opinion of R. Yishmael Ben Elisha that after the destruction of the Beit HaMikdash, it would have been appropriate for the rabbis to place a ban on eating meat and drinking wine in order to properly mourn its destruction. However, since most of the tzibbur would not be able to abide by such a ban, the rabbis never instituted the ban. The Vilna Gaon, Biur HaGra, Orach Chaim 551:9, writes that this is the source for refraining from eating meat and drinking wine prior to Tisha B'Av. Although it is impossible to ban eating meat and drinking wine throughout the year, it is possible to refrain from meat and wine for a short period of time. Rambam, Hilchot Ta'aniot 5:6, writes that one should refrain from eating meat starting the week of Tisha B'Av. However, he writes that there are communities that refrain from eating meat starting on Rosh Chodesh. Tur, op. cit., writes that there are certain people who refrain from meat and wine starting on Shiva Asar B'Tammuz. Shulchan Aruch, Orach Chaim 551:9, quotes all three practices, and does not rule on the matter. Rama, ad loc., writes shechita should not take place during these nine days, apparently following the opinion that meat is not eaten during the nine days. Mishna Berurah, ad loc., writes that the common practice is to refrain from eating meat or drinking wine during the nine day period. Mishna Berurah notes that this practice does not apply on Shabbat.

Rama, Orach Chaim 551:10, writes that the tradition to refrain from eating meat and drinking wine does not apply to a seudat mitzvah. Rama includes a siyyum in his list of meals that constitute a seudat mitzvah. Rama adds that one should try to minimize the siyyum by only inviting a few guests. Nevertheless, R. Moshe Feinstein and R. Shlomo Z. Auerbach (cited in Nitei Gavriel, Hilchot Bein HaMetzarim 41:4), rule that if the one who completes the tractate eats in a communal dining room (such as a camp or hotel), all those who eat with him may participate in the siyyum.

Rambam, Hilchot Ta'aniot 5:6, writes that a tradition has been accepted by the Jewish people to refrain from bathing during the week of Tisha B'Av. Mordechai, Ta'anit no. 639, writes that it is proper to refrain from bathing starting on Rosh Chodesh Av. Shulchan Aruch, Orach Chaim 551:16, quotes both traditions. The Vilna Gaon, Biur HaGra, ad loc., notes that this tradition is based on the laws of mourning. Just as it is prohibited for a mourner to bathe, so too it is prohibited to bathe during the period of mourning the destruction of the Temple.

The Week of Tisha B'Av

The Mishna, Ta'anit 26b, states that during the week of Tisha B'Av it is prohibited to wash clothing and to cut one's hair. As noted earlier, Rama extends the prohibition of cutting one's hair to encompass the whole three weeks. Likewise, Rama, Orach Chaim 551:2 includes washing clothing in the activities that one should refrain from starting on Rosh Chodesh Av.

Shulchan Aruch, Orach Chaim 551:2 (based on the Gemara, Ta'anit 29b), rules that it is prohibited to wear clothes that are freshly laundered, even if they were washed beforehand. It is also prohibited to wash clothes that are going to be worn after Tisha B'Av. Rama, Orach Chaim 551:14, writes that one may wash children's' clothing that the children regularly soil.

Tisha B'Av

R. Soloveitchik, Shiurei HaRav pg.36, notes that the observances on Tisha B'Av are based on a combination of two factors. First, Tisha B'Av is a full-fledged fast-day comparable to Yom Kippur. As such, the five prohibited activities on Yom Kippur apply to Tisha B'Av. Second, Tisha B'Av is a day of intense mourning, and the observances reflect the mourning comparable to one who is observing shiva. Four of the observances apply to both the fast-day aspect as well as the mourning aspect (bathing, donning leather shoes, anointing, and marital relations). The prohibition to eat and drink is unique to the fast day aspect. The prohibition of learning Torah and the tradition of sitting on the floor are unique to the mourning aspect of Tisha B'Av.

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Covenant & Conversation

Thoughts on the Weekly Parsha from

SIR JONATHAN SACKS

Chief Rabbi of the United Hebrew Congregations of the British Commonwealth

[From last year] <http://www.chiefrabbi.org/tt-index.html>

Matot-Masei

Rights and Wrongs

ONE OF THE GREAT DIFFERENCES BETWEEN JUDAISM AND CONTEMPORARY POLITICS lies in a single word – the word “rights”. What Mary Ann Glendon calls “rights-talk” dominates moral debate today. So the argument about abortion becomes a conflict between the mother’s right to choose and the foetus’ right to life. The argument about the use of animals in medical experiments becomes a clash between human rights and animal rights. The debate about the intrusiveness of the media is constructed in terms of the individual’s right to privacy versus the public’s right to know, and so on. The West has become a culture of rights.

But rights are not the best way of talking about moral conflict. The difficulty is this: rights are what Ronald Dworkin calls “trumps.” They override any other claim. They make absolute demands. Thus when they clash, we have no way of resolving the clash. Two claims meet, and neither admits a compromise. The result is angry, inconclusive debate and sometimes worse. Abortion clinics have been burned. Scientists engaging in animal experimentation have been sent letter bombs. Episodes like this point to the breakdown of moral argument. When reason fails, violence begins.

It is sometimes said that Judaism has no concept of rights. That is not so. The Hebrew words zekhut and zekhuiyot, which mean “merit(s)” also mean “rights.” Indeed much of Judaism’s ethical system presupposes that people have rights. The poor have a right to be helped; the innocent have a right to justice; human beings have a right to life. But the Torah does not talk in the language of rights. It talks of commands and prohibitions, duties and obligations. It uses the language of responsibilities. For without responsibilities, there can be no rights. The poor cannot have a right to receive if the rich have no responsibility to give.

The difference between the two concepts is profound. Rights are what we are entitled to claim from the world. Responsibilities are what the world is entitled to claim from us. Rights demand; responsibility contributes. Rights are what we think others should do for us. Responsibilities are what we think we should do for others. An ethic of responsibility is more active and altruistic than a politics of rights.

It is also more subtle. Rights focus our attention on one side of the conflict – the mother in the case of the right to choose, the foetus in the case of the right to life. That is their strength – they give voice to a claim. But it is also their weakness. By definition, a conflict has more than one side. If there were only one side there would be no conflict. That is why rights-talk is powerful, seductive and superficially persuasive but ultimately inadequate to the complexity of the moral life.

The moral life is complex. It is easy to resolve a conflict between right and wrong. But what about a conflict between right and right – one where both parties have a legitimate case? That needs wisdom, judgement and the ability to compromise. The greatness of Judaism is its refusal to simplify, to make the moral life seem easier than it is. The Torah, the Mishnah, the two Talmuds, the codes of Jewish law and the vast library of rabbinic responsa are testimony to the extraordinary care Jews and Judaism have taken to hear both sides of a conflict and to reach a judgement only when all the relevant voices have been heard. . One of the most striking early instances occurs in this week’s parshah.

THE STORY BEGINS some chapters back. The land was about to be allocated to the various tribes and their families. Inheritance went to the males. (Judaism makes a distinction between two kinds of inheritance, material and spiritual. Material inheritance passes through males, spiritual inheritance – the very fact that one is Jewish – passes through females. A father confers property, a mother confers identity.) This led, however, to an anomaly. One Israelite male, Zelophehad, died, leaving five daughters but no sons. The daughters brought a claim to Moses:

“Our father died in the desert. He was not among Korah’s followers, who banded together against the LORD, but he died for his own sin and left no sons. Why should our father’s name disappear from his clan because he had no son? Give us property among our father’s relatives.” So Moses brought their case before the LORD, and the LORD said to him, “What Zelophehad’s daughters are saying is right. You must certainly give them property as an inheritance among their father’s relatives and turn

their father's inheritance over to them. "Say to the Israelites, 'If a man dies and leaves no son, turn his inheritance over to his daughter . . . This is to be a legal requirement for the Israelites, as the LORD commanded Moses.'"¹

The case is interesting, firstly, because of the way in which it is resolved. Moses "brought their case before the Lord." This is one of the cases in the Torah in which we see that the "written law" needs supplementation or clarification. In this case the missing detail was supplied directly from G-d. In later ages it came from the rabbis themselves, though the rules they used were part of the revelation at Sinai. This is what is known as the "oral law."

No less interesting is the outcome. G-d rules, "What Zelophehad's daughters are saying is right." They were entitled to their share in the land. They had rights. A failure to implement these rights would be an injustice.

The daughters of Zelophehad are given high praise in Jewish tradition. Kli Yakar contrasts their behaviour with that of the spies Moses sent to search out the land. They came back with a demoralising report. The land was indeed flowing with milk and honey; but it would be impossible to conquer. Its inhabitants were "giants." We, said the spies, were like "grasshoppers." The story of the spies begins with the words, "Send for yourselves men" on which Kli Yakar comments, "G-d acceded to Moses' request to send men, but had G-d himself chosen, He would have sent women, for we see in the case of the daughters of Zelophehad that they loved the land and sought their own portion in it. They would not have brought back a negative report."

THE STORY SEEMS TO END at this point. On the face of it, it is a clear victory for the daughters of Zelophehad and for the inheritance rights of daughters in the absence of sons. It is only several chapters later, that we discover that the story had a sequel. The family heads of the clan of Gilad of the tribe of Manasseh (the clan and tribe to which Zelophehad belonged) come to Moses and point out one of the consequences of heaven's ruling:

They said, "When the LORD commanded my lord to give the land as an inheritance to the Israelites by lot, he ordered you to give the inheritance of our brother Zelophehad to his daughters. 3 Now suppose they marry men from other Israelite tribes; then their inheritance will be taken from our ancestral inheritance and added to that of the tribe they marry into. And so part of the inheritance allotted to us will be taken away. When the Year of Jubilee for the Israelites comes, their inheritance will be added to that of the tribe into which they marry, and their property will be taken from the tribal inheritance of our forefathers."²

There is, in other words, a conflict between the rights of the daughters of Zelophehad and the rights of the tribe. Giving them the right – entirely justified – to inherit their father's share carries with it the risk that, if they marry outside the tribe, the land will eventually pass to their husbands or children, and thus to another tribe. The original distribution of land will then not hold. Some tribes will gain. Others will lose. The justice of the original distribution will be compromised in the course of time. We have here a classic instance of a conflict between right and right.

G-d's reply is simple:

Then at the LORD's command Moses gave this order to the Israelites: "What the tribe of the descendants of Joseph is saying is right. This is what the LORD commands for Zelophehad's daughters: They may marry anyone they please as long as they marry within the tribal clan of their father. No inheritance in Israel is to pass from tribe to tribe, for every Israelite shall keep the tribal land inherited from his forefathers. Every daughter who inherits land in any Israelite tribe must marry someone in her father's tribal clan, so that every Israelite will possess the inheritance of his fathers. No inheritance may pass from tribe to tribe, for each Israelite tribe is to keep the land it inherits."³

The parallel between the two claims is striking – more so in the original Hebrew than in English translation. Both use the same verb to state their claim. Zelophehad's daughters say, "Why should our father's name be diminished [yigara]?" The tribesmen say, "Why should the inheritance of the tribe of our fathers be diminished [yigara]?" G-d's reply in both cases is the same: "What they say is right [ken . . . dovro/dovrim]."

The literary parallelism emphasizes the legal and moral point. Both claims have right on their side. (This is the origin of the famous joke: A woman comes to a rabbi and tells him the bad treatment she has suffered at the hands of her husband. The rabbi listens and says, "You are right." Next day the husband comes to the rabbi and tells him the opposite story. It is he who has suffered at the hands of his wife. The rabbi says, "You are right." After the man has left, the rabbi's student, who has heard both conversations, protests: "They can't both be right." The rabbi replies, "You too are right." As with many Jewish jokes, the story has a deeply moral message.) Not every conflict is between right and wrong. Some are between right and right.

Conflicts between right and right often seem insoluble, but they are not. In this case, the concern of Zelophehad's tribesmen is met by restricting his daughters to marrying within the tribe. They achieve what they sought, a share in the land. The tribesmen achieve what they sought, that their land should not pass to another tribe. What we have here is a paradigm of conflict-resolution. Lateral thinking yields an outcome acceptable to both sides.

This is one of the most important principles of mediation. When two sides appear to have incompatible claims, an arbitrator needs to listen carefully to what is most important to each. Often it will be different. A compromise formula can then be reached, in which each side sacrifices something less important to them but more important to the other side. Conflict is usually not a zero-sum game in which one party wins, the other loses. It can be one in which both sides gain.

The M.I.T. conflict resolution team, who have produced some of the most effective studies on the subject, summarise the most important principle as: Focus on interests, not positions (see Roger Fisher and William Ury, *Getting to Yes*). The daughters had one interest (a share in the land), the tribes had another (no land to pass outside the tribe). Both could therefore win. Had the conflict been constructed solely in terms of rights (women's rights against those of men), it could not have been resolved without one side losing. The result would have been lasting rancour on the part of the side that lost. That is why framing an argument in terms of interests is more effective (more just, more equitable) than framing it in terms of rights.

THERE IS ANOTHER FAMOUS EXAMPLE, whose significance is rarely understood:

This is one of the things instituted by Hillel the elder: when he saw that people were not making loans, and were transgressing what is written in the Torah, "Be careful not to harbor this wicked thought. . . ." Hillel instituted the *prozbol*.⁴

One of the Torah's social welfare provisions is *shemittat kesafim*, the "release" of loans in the seventh (sabbatical) year. This was designed to prevent the poor from becoming trapped in poverty. It is a magnificent idea and one that is still relevant. "Jubilee 2000" – the international initiative to reduce the debt burden of developing countries – was undertaken explicitly in the spirit of biblical legislation. The idea, then and now, was periodically to provide a level playing field for the poor. Judaism embraces the free market, but at the same time it recognises that it can lead to gross inequalities, and these must be rectified.

There was, however, a danger in the release of debts, one recognised by the Torah itself:

At the end of every seven years you must cancel debts. . . . If there is a poor man among your brothers in any of the towns of the land that the LORD your G-d is giving you, do not be hardhearted or tightfisted toward your poor brother. Rather be openhanded and freely lend him whatever he needs. Be careful not to harbor this wicked thought: "The seventh year, the year for canceling debts, is near," so that you do not show ill will toward your needy brother and give him nothing. He may then appeal to the LORD against you, and you will be found guilty of sin. . . .⁵

Since debts were cancelled in the seventh year, there was always a possibility that the rich would refuse to make loans when the seventh year was at hand, since they knew they would not be repaid. That is what happened in Hillel's day. The result was that the poor suffered. Hillel therefore created the *prozbol*, a legal device whereby debts were assigned to the court rather than to individuals. Since the loan was not between two individuals, it was not covered by the provisions of *shemittat kesafim*. It could be collected. So the rich continued to make loans, and the poor benefited.

This is often hailed, rightly, as a daring example of the rabbi's power to remedy social wrongs. To be sure, in technical terms, most authorities take the view that in Hillel's day the full biblical provisions of the sabbatical and jubilee years were not in force, otherwise Hillel would have lacked the authority to set aside biblical law.

There is, however, another aspect of Hillel's institution that should be noted. Hillel helped the poor by removing one of their rights. They had a right to have their debts released. But at a certain stage this very right was against their interests. It meant that they were unable to find loans in the sixth year. By putting their interests ahead of their rights, Hillel was able to bring them relief (it should be added that Hillel himself was famed for being poor). Once again we see Judaism wrestling with the concept of rights. Sometimes rights generate wrongs. There are conflicts that can only be resolved by invoking a more multifaceted approach to ethics.

THE DAUGHTERS OF ZELOPHEHAD remain as role models of faith and moral courage:

"Then the daughters of Zelophehad drew near": When the daughters of Zelophehad heard that the land was about to be divided among the tribes – but only for males, not females – they gathered to take counsel. They decided that the mercies of flesh and blood are not like the mercies of Him who is everywhere. Flesh and blood is apt to be more merciful to males than females. But He who spoke and the world came into being is different – He cares for females as well as males, and His mercies are for all [as it is said], "The Lord is good to all and his tender mercies are for all His works." "Give us a possession": R. Nathan said, Women's tenacity is stronger than men's. The men of Israel said, "Let us appoint a leader and return to Egypt." But the women insisted, "Give us a possession."⁶

They loved the land more than the men, and they understood that G-d cares for all, not just the rights of men. Indeed it was to their credit that when they heard that they could only marry within the tribe, they willingly accepted the verdict.

The point of the second half of their story, however, is that rights fail to do justice to the complexity of the moral life. They generate conflict without providing the means

of resolving it. That is why Judaism emphasizes interests as well as claims, responsibilities as well as rights.

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-- Parshat Masei by RABBI YAAKOV ASHER SINCLAIR
<http://ohr.edu/yhiy/article.php/2284>

OVERVIEW

The Torah names all 42 encampments of Bnei Yisrael on their 40-year journey from the Exodus until the crossing of the Jordan River into Eretz Yisrael. G-d commands Bnei Yisrael to drive out the Canaanites from Eretz Yisrael and to demolish every vestige of their idolatry. Bnei Yisrael are warned that if they fail to rid the Land completely of the Canaanites, those who remain will be "pins in their eyes and thorns in their sides." The boundaries of the Land of Israel are defined, and the tribes are commanded to set aside 48 cities for the levi'im, who do not receive a regular portion in the division of the Land. Cities of refuge are to be established: Someone who murders unintentionally may flee there. The daughters of Tzelofchod marry members of their tribe so that their inheritance will stay in their own tribe. Thus ends the Book of Bamidbar/Numbers, the fourth of the Books of The Torah.

INSIGHTS

A Matchless Matchmaker "When you cross the Jordan to the land of Canaan, you shall designate cities for yourselves, cities of refuge..." (35:10-11)

Not long ago, the much loved wife of a great Rabbi passed away. In due course he was remarried to a lady many years his junior. The second marriage was also very happy. Someone commented to him that he had been blessed to find such a good second match. "Well," he commented, "you see, I had the best matchmaker in the world." "Oh really, who was that?" asked the other. The Rabbi replied, "Shortly before my first wife, may she rest in peace, passed away, she said to me in the hospital one day, "David, when I pass away, I want you to go to Eretz Yisrael. There's a great friend of mine who lives in Jerusalem. I'll give you the address. I want you to marry her. She's a wonderful person. I can rely on her to look after you properly."

In this week's parsha the Torah mandates the establishment of cities of refuge. Someone who had killed inadvertently could take refuge in one of these cities and escape the blood avenger of the victim's family. The Torah chose as the sites of the refuge cities the cities of the Levi'im. Why? Why did G-d choose the cities of the Levi'im as the cities of refuge?

When someone kills, he doesn't just kill a person; he kills a son, a brother, a sister, a father, a mother. It's rare indeed that no one is affected by a murder save the victim himself. Killing someone always has a ripple effect. A relative feels implacable resentment against someone who kills a member of his family. The Levi'im, however, did not react in this way. Since it was G-d's will that there should be cities to which accidental murderers could run, they would accept a murderer into their community without any resentment, even if they were related to the deceased. Such was their spiritual level that they subordinated their feelings totally to G-d's will.

Man is not an animal. Being human means being able to subordinate our instinctive feelings to our higher selves. However it's difficult to imagine being on the level of selflessness of the Levi'im or that rebetzin on her deathbed. Nevertheless, just knowing that there are people like that in the world may encourage us to be a little less selfish.

For the right match can kindle a lot of light.

Written and compiled by Rabbi Yaakov Asher Sinclair

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