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ON VAYICHI - 5759

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From owner-ravfrand@torah.org Thu Dec 31 10:06:05 1998 Subject: Rabbi Frand on Parshas Vayechi These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 175 -- Embalming, Autopsies, and Cremation. Good Shabbos!

**Too Much Of A Good Thing** At the beginning of Parshas Vayechi, Yaakov Avinu gathered his sons to speak to them. In Bereishis 49:16, Yaakov addressed his son Dan: "Dan will judge his nation". Yaakov was, in a sense, saying that Dan (as his name implies) has a unique sense of justice within him, and as a result it is appropriate that his tribe will produce judges for our people. Our Rabbis tell us that Yaakov was referring to Samson, who was from the tribe of Dan. Samson would judge the Jewish people for 20 years. Samson inherited this ability from his great grandfather Dan, who possessed a tremendous sense of fairness. The Talmud (Pesachim 4a) tells of an individual who would always say, "Judge my case" and concludes that this individual must have come from the tribe of Dan. Rash"i explains that this man would insist on going to court about every little matter, refusing to settle without taking the matter before judges. This Gemara [Talmud] is hard to understand. When Yaakov said, "Dan will judge his nation" he was referring to a beautiful attribute of the tribe of Dan -- his sense of fairness and justice. However, here the Gemara implies that Dan's attribute is bad, by assuming that this fellow, who would always say, "sue me" or "I'll see you in court," must have been from the tribe of Dan. How do we reconcile this contradiction? Rabbi Hensch Leibowitz says that this Gemara teaches us an important lesson about character traits (midos). We speak about a person having good character traits -- being honest and humble, not losing one's temper, not being haughty. Why are they referred to as "midos" (literally measurements)? An underlying principle of character traits is that they have to be measured. The ba'alei mussar ask why there is no commandment in the Torah that a person should have good "midos". They explain that there is no such thing as a character trait that is all bad or all good. The challenge is to

use the various character traits in the proper measure. Sometimes it is appropriate for a person to have a 'measure' of anger, and sometimes a person needs to have a 'measure' of haughtiness. The trouble starts if a character trait gets out of hand. This Gemara is telling us is that Dan had a tremendous sense of Din (justice). However, this trait that the founder of the tribe had in his genes went haywire in the fellow mentioned in tractate Pesachim. He took the 'measure' of justice too far. His sense of justice was too strict. There was never compromise. It was always 'Din' -- "See you in Court!" Any trait, even the best, if not applied in its proper measure and in its proper context, can go bad.

**Chushim Was Deaf, But Not Dumb** The verse (50:13) says, "His sons carried him [Yaakov Avinu] to the land of Canaan and they buried him in the cave of the Machpelah field, the field that Avraham had bought as a burial estate from Ephron the Hitiite, facing Mamre." There is a very interesting Gemara (Sotah 13a) that describes Yaakov's funeral: When they reached the Me'aras HaMachpelah, Yaakov's brother, Eisav came and tried to stop them. Eisav claimed that Yaakov had already used his allotted plot in the cave -- by burying Leah there -- and that the remaining plot belongs to him (Eisav). Yaakov's sons reminded Eisav that he had sold his birthright to their father. Eisav countered that he only sold the birthright but he did not forsake his own burial spot in the cave to which he would have been entitled even as a non-firstborn. They argued back and forth and finally the brothers said they had the receipt for the sale of the plot -- but it was in Egypt. They sent Naftali -- the fastest runner among them -- to Egypt to retrieve the document. Naftali began running to Egypt to retrieve the receipt. In the meantime, Chushim, son of Dan, came forward. He was deaf and he had not heard the exchange between Eisav and the children of Yaakov. He inquired about the cause of the delay. The brothers explained why they were waiting to bury Yaakov until Naftali returned from Egypt. Chushim was incensed that his grandfather should remain in shame, unburied, until Naftali returned. He took the situation into his own hands. Chushim took a club, hit Eisav over the head, and killed him. End of problem. Yaakov Avinu was buried. Who was on the mark here and who was off the mark? Chushim son of Dan was clearly right. What kind of insult was this to Yaakov to let him lie unburied while they retrieved the paperwork of the sale? What kind of nonsense was this to put up with this harassment from Eisav after all these years? However, Chushim was the only person, out of the entire delegation of sons and grandsons to have this sensitivity to object to what was transpiring. What was Chushim's special trait that gave him this clarity of insight? Rabbi Hensch Leibowitz explained that the difference between Chushim and everyone else was that he was deaf. Everyone else became involved in the argument. When someone is involved in an argument, he sometimes forgets the ultimate point over which he is arguing. The goal sometimes becomes winning the argument, for the argument's own sake. People become so involved in the back and forth -- "You did sell it", "You didn't sell it", "I'm right", you're wrong" -- to the extent that they forget the ultimate point. We are in the middle of a funeral over here! Yaakov Avinu is laying in disgrace! It is easy to become so involved in the peripheral -- in argument for argument's sake, in which egos are involved -- that we lose perspective. People can sit and argue whether the Peace Table should be round or square for weeks, while thousands of people are killed every day in a war. People come to negotiate a peace treaty to save lives, and instead argue about the size and shape of the table! Chushim was deaf, and did not need to become a party to the arguments. He was not concerned about who was right and who was wrong. Chushim saw one issue. The issue was "my grandfather is laying in disgrace". When grandfather is laying in disgrace, forget arguments, forget bills of sale, forget receipts, and forget who is right and who is wrong. This is a travesty and it can not be allowed to continue! How often does this happen to us? We lose sight of the bigger picture and allow an argument to take on a life of its own. We often forget what it is all about. We must never lose sight of the forest because of the trees. We must never fail to distinguish between the 'likar' (main issue) and the 'tafel' (the peripheral).

Sources and Personalities Rav Hensch Leibowitz - Rosh Yeshiva Chofetz Chaim, Forest Hills  
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from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 for further information. Now Available: Mesorah / Artscroll has recently published a collection of Rabbi Frand's essays. The book is entitled: Rabbi Yissocher Frand: In Print RavFrand. Copyright (c) 1998 by Rabbi Y. Frand and Project Genesis, Inc. Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. http://www.torah.org/ Baltimore, MD

From: parsha-insights@torah.org Parsha-Insights - Parshas Va'y'chi

This week we conclude Sefer Breishis {the Book of Genesis} with the parsha of Va'y'chi. "Va'y'chi Yaakov b'Eretz Mitzrayim {And Yaakov lived in the land of Egypt} for seventeen years. And the years of Yaakov's life were one hundred and forty seven years.[47:28-29]" The parsha of "Va'y'chi Yaakov {And Yaakov lived}" paradoxically deals with Yaakov's preparations for his death. It's interesting to note that the two parshios which contain the word 'life' in their title (Chayai Sarah - The life of Sarah and Va'y'chi - And he lived) deal with death. The Torah's clear demonstration that true 'life' encompasses far more and extends far beyond our definition of that term.

Yaakov summoned his sons in order to bless them before his death. "Yehuda, atah yoducha a'checha [49:8]," literally meaning, "Yehuda, your brothers will admit to you." The Kli Yakar explains as follows. Because you put aside your embarrassment and admitted to having relations with Tamar, commensurately, your brothers will put aside their embarrassment and will admit and confirm that you alone are worthy to be the king. The Medrash relates the extent of Yehuda's kingdom. Hashem said to Yehuda, "You saved Tamar and her two sons from being burnt to death and you saved Yosef from the pit he'd been thrown into, you will reign in both this world and the next."

Rav Sholom Schwadron zt"l asks why such a big deal is being made out of Yehuda's admission that Tamar was pregnant from him. Did he really have any other choice but to admit? Tamar, disguised herself and had relations with Yehuda without him realizing that it was her. She was thereby fulfilling the mitzva of 'yibbum' {levirate marriage} -- lending continuity to her late husband, Yehuda's son. The Yehuda-led court, unaware that Tamar was pregnant from Yehuda, sentenced her to death by burning for her seeming infidelity. As Tamar was being led to her death she sent them Yehuda's signet ring, cloak and walking stick. "I am pregnant from the man that these belong to!" What alternative did Yehuda have when he recognized his articles? Could he have murderously stood idly by while his daughter-in-law, pregnant with two babies fathered by him, would be burnt to death?! The reward he received reveals the difficulty of the test. What was the test? What could he have done? Rav Sholom explains that Yehuda could have rationalized... "True, if I don't admit, innocent people will die. However, if I do admit won't it be a chilul Hashem {a desecration of Hashem's name}?

What will happen to the honor of the courts and the judges? Won't it reap scorn onto the Kingdom of Israel that I will head? No! No! I can't admit... It will be a transgression for me to admit... 'How about the murder of innocent people? I'll work things out... As the leader of the beis-din {court} I'll announce that in light of the new development, the arrival of a ring, cloak and staff, the court has decided to hold further deliberations. I'll then find ample doubts to indefinitely postpone the actual death sentence. No one gets killed and the honor of Hashem, the courts and the kingdom remains intact.' Yet, Yehuda didn't allow himself to get sucked into such calculations. He ignored the enormity of the humiliation he was about to suffer. There he was, the leader of the court. Who else sat with Yehuda on this court? His grandfather, Yitzchok Avinu and Shem, the son of Noach. Such leaders were surely surrounded by their disciples, soaking up their every word and nuance. Undoubtedly, there were also many onlookers, interested in following the developments of this rather sensational case and wanting to get a glimpse of their generations greatest and holiest leaders. And then, the climactic moment... Tamar is being led to her death. All eyes are glued. Absolute silence. Yehuda sees the items. He recognizes them. No rationalizations are made. He shouts, "She is righteous! It was me!" Every single eye turns toward Yehuda as a collective gasp is heard. You?! Our judge?! The tzaddik {righteous individual}! It was you?! Who can imagine the stomach-dropping humiliation of that moment? What gave him the strength to do it? Honesty... No rationalizing. No misleading. Nothing less than the pure and brutal truth.

Immediately! No hesitation! Any delaying would have prolonged a misunderstanding. It would have prolonged falsehood. It wasn't an option.

The question: 'Who's a Jew?' is one that often finds its way into the headlines. The name Yehudi {Jew} comes from the name Yehuda {Judah}. It means to acknowledge, to admit. Why was his name chosen to be the banner-carrier of the entire nation, even of those who in fact descended from his eleven brothers? Targum Yonasan ben Uziel writes: "Yehuda, you admitted to the incident with Tamar, as a result the nation will be called by your name, Yehudim {Jews} [49:8]." Honesty. Pure, unadulterated, not from concentrate honesty. That's "Who's a Jew". That's how we got our name. If we're not following in the path of Yehuda then we're not deserving of his name.

Rav Chatzkel Levenstein zt"l, the renowned mashgiach {spiritual leader} of the Ponevezher Yeshiva had a grandson in America who was critically ill. One Friday night, the child passed away. After Shabbos, the family sent a telegram to Rav Nachum Pertzovitz zt"l of the Mirrer Yeshiva informing him of the sad news and asking him to gently break it to Rav Chatzkel. Rav Nachum went to Rav Chatzkel and quietly said, "We received information from America." "I know already," Rav Chatzkel replied. "Friday night I had a dream that my late father and another man buried the child wrapped in the cover of a Sefer Torah." The two had spoken for a few minutes when there was a knock on the door. That day was the thirtieth day since the passing of Rav Isaac Sher, zt"l, the Slobodka Rosh Yeshiva. Eulogies were scheduled to be given and Rav Chatzkel was slated as one of the speakers. "When does the Mashgiach wish to go to the eulogy?" asked the young man who had entered. "I can't speak there today," Rav Chatzkel replied softly. "I know that if I'll speak about Rav Isaac it will awaken in me a sadness that I feel about my grandson. I'll be moved to tears. Those attending will think that I'm crying for Rav Isaac but I'll know that I'm really crying for my grandson. I do not want to shed false, misleading tears..."

I recently heard an amazing story. A woman called a certain chevra kadisha {burial society} asking them to come and tend to her husband. Although she was not a member of that community, she explained that she and her husband had not been affiliated with any community. When they arrived they found her alone with her late husband. Explaining that they had no relatives or friends who would take her to the cemetery, she asked for a moment to say good-bye before they'd take him to his burial. One of the members of the chevra kadisha overheard as she bent down to her husband. "Itchik, you're going to the World of Truth. Tell them not to be upset with us that we had no children. Explain to them that it wasn't our fault. We wanted to have children but what could we do. We lived in Russia. And for seventeen years there was no mikveh. By then it was too late. Explain it to them Itchik..." Honest people. Rav Chatzkel -- one of the greatest of his generation -- refused to mislead anyone with false tears. Itchik and his wife -- simple Russian immigrants -- with super-human resolve refused to rationalize and go against the little that they knew. Honest people. The true answer to the question "Who's a Jew?". Chazak, chazak v'nischazek. Good Shabbos, Yisroel Ciner Parsha-Insights, Copyright (c) 1998 by Rabbi Yisroel Ciner and Project Genesis, Inc. Rabbi Yisroel Ciner is a Rebbe [teacher] at Neveh Zion, http://www.neveh.org/, located outside of Yerushalayim. Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. http://www.torah.org/ Baltimore, MD 21215 (410) 358-9800 FAX: 358-9801

From jr@sco.COM Fri Jan 9 01:13:28 1998 [Too late for last year's distribution] Subject: Shiur HaRav Soloveichik on Parshas Vayechi vayechi.98 Shiur HaRav Soloveichik ZT"L on Parshas Vayechi (Shiur date: 1/8/74)

The Torah tells us that Jacob blessed Efrayim and Menashe prior to his death and placed his right hand on the head of Efrayim and his left hand on the head of Menashe. He then blessed them with Hamalach Hagoel. After this blessing Joseph protests and asks his father to place his right hand on the head of Menashe, the first born. Jacob refuses and gives them a second blessing followed by Jacob giving Joseph the city of Shechem as an extra

portion above and beyond what he gave the other brothers. The Rav asked why did Joseph wait to protest until after the completion of the first blessing? Why didn't he immediately try to reposition his father's hands to place the right one on Menashe? What is the difference between the first and second blessing that motivated Joseph to act in this way?

In Sefer Breishis we find several blessings that were given. Often the Torah says simply that a blessing was given (e.g. where the angel blessed Jacob after their encounter) without explaining the blessing in detail. The exception is the blessing of Vyiten Lecha. The Bircas Avraham that Isaac gave Jacob prior to his departure for Charan is not explained in detail, yet it clearly was related to the inheritance of Eretz Yisrael. In fact, Bircas Avraham and Yerushas Haaretz go together. That is why Chazal said that even though Isaac wanted to bless Esau with the blessings of Vyiten Lecha, Isaac always intended to bless Jacob with Bircas Avraham and the associated Yerushas Haaretz. The Mesoras Haavos is the Bircas Avraham and that, along with Eretz Yisrael, could only go to Abraham Isaac and Jacob.

The first blessing from Jacob related to Hashem who protected them. The next blessing relates to how the children will be blessed in the future. After that Jacob tells him that he is giving him Shechem as an extra portion. Why tell Joseph about Shechem at this point? Jacob had previously said that Menashe and Efrayim will be given equal status with the other tribes, which would mean that Joseph would get a double share. However the land required a Kinyan, How did Joseph create the Kinyan that gave him this extra portion? Apparently, this Kinyan came through the extra blessing. That is why Jacob told Joseph about Shechem at this point. Jacob, who was the owner of the land having taken it with his sword and bow, was now transferring title to the extra portion via the second blessing that he gave Efrayim and Menashe.

Now let us examine the 2 blessings given by Jacob to Menashe and Efrayim. Jacob says that Hashem, who my forefathers walked before, should bless the children. The Ramban says that Jacob was emphasizing that the patriarchs each exemplified a characteristic of Hashem. Abraham epitomized the aspect of Gedulah (Chesed), while Isaac had the trait of Gevurah (strength). Hashem performed great acts (Gedulos) and amazing feats (Noraos) for each of them. The Ramban says that after this introduction Jacob mentions Hashem Elokay Haemes, the God of truth. Emes and Tiferes are the traits of Jacob, as it says Titen Emes Lyaakov Chesed L'Avraham. Hashem who exemplifies the attributes of Chesed Gevurah and Tiferes/Emes protected the patriarchs who walked before Him, who each exemplified one of these attributes. Jacob, who saw the Shechina and was protected throughout his life by the angel, often experienced miracles that were of a non-natural manner, Shelo Bderech Hateva. The next verse of Hamalach Hagoel... Bkerev Haaretz symbolizes the attribute of Malchus as Hashem protected Jacob wherever he went. Jacob blessed Menashe and Efrayim that they should merit the Giluy Shechina Lmaalal Miderech Hateva (of Gedulah Gevurah Tiferes) and the Giluy Shechina Bderech Hateva (of Malchus) Jacob blessed them that they should always reflect the Chesed, Gevurah and Tiferes of the patriarchs. Wherever they go and whatever they do, it should always be obvious that they are the children of Abraham, Isaac and Jacob.

When it comes to Giluy Shechina and exemplifying the patriarchs, all Jews are equal. Both brothers, [indeed, all of Jacob's children] have equal rights to, and need for, this blessing. A great person possesses certain attributes in a greater quantity than a simple person. For example some are blessed with greater talents and abilities. In other attributes all are equal. This applies in Mitzvos as well. For example, the Mitzvah of Machtzis Hashekel (according to the Ramban) was that each person above the age of 20 contribute exactly one Machtzis Hashekel, no more no less. The Machtzis Hashekel was required for Kofer Nefesh, redemption of the soul, and each Jew whether rich or poor, a scholar or an ignorant person, had an equivalent need for Kofer Nefesh. In other cases, each person is permitted to donate according to his hearts desire.

Each Jew has an obligation to represent the Mesorah and must be worthy of carrying the name of Abraham, Isaac and Jacob. Efrayim was no greater than Menashe when it came to this blessing. Vydigu Larov Bkerev Haaretz, each Jew must be worthy to represent the Mesorah and the patriarchs, Bkerev

Haaretz. The main ideal of Jewish education is to teach each child to be worthy to carry the name of Abraham Isaac and Jacob with honor and distinction. We should never say that the responsibility of carrying on the Mesorah of the patriarchs is limited to great people like the Vilna Gaon and not to the average individual. All are equally bound by this obligation. When a Jewish father blesses his child with Hamalach Hagoel he prays that each child should represent favorably the patriarchs and carry on their tradition. He does not bless his child to be greater than all other Jews in this regard.

The second blessing was of a different nature. Chazal comment on the verse that Abraham was blessed with everything, that Abraham was blessed with a daughter whose name was Bakol. The Ramban says that this "daughter" is really Knesses Yisrael, the collection of all the individual strengths, talents, hopes and aspirations of each member of the Jewish nation. Efrayim and Menashe, indeed the rest of the tribes as well, each had his own unique strength and talent. The background of all the blessings given by Jacob was the common blessing of Vyikoray Bahem Shmi Vshem Avosay. This applies to all tribes equally. Afterwards, Jacob recognized them individually and blessed each one accordingly. At the conclusion of the blessings in Vayechi, the Torah says that Jacob blessed each according to his own individual blessing. Rashi comments that all the blessings were applied to all the tribes at the end, however the focal blessing for each tribe was the specific one that Jacob blessed him with. Hence the order of the blessings was (1)global, (2)individual and (3)global.

It is interesting to note that Moshe learned from Jacob how to bless the Jewish nation prior to his death. First it says Vayehi Byeshurun Melech.. Yachad Shivtey Yisrael. First Moshe began by blessing all the tribes equally, Yachad, together. First, all of Klal Yisrael must be worthy to receive Giluy Shechina, Yachad Shivtei Yisrael. Only then did he bless Knesses Yisrael, each tribe individually according to his talents and strengths. He concluded by again blessing them all together, Ashrecha Yisrael Mi Komocha. The blessings for that which we call "Knesses Yisrael" are in the middle. The Ramban says that Knesses Yisrael is called a Kallah because it is Kollel, includes, all the blessings and talents each member of the Jewish nation brings to it.

Jacob and Moses both blessed Klal Yisrael and Knesses Yisrael. The difference between these blessings was that the first blessing related to Klal Yisrael, where all are blessed equally. The second blessing related to Knesses Yisrael, to each individual according to his talents and strengths. Knesses Yisrael represents the aggregate of all the individual blessings. Chazal say that the multi-colored coat (Ksones Pasim) that Jacob gave Joseph, represented the Knesses Yisrael as it was comprised of many different sections and colors, each one representing a different talent and strength.

Joseph did not protest the first blessing even though Jacob had switched his hands because he thought that the position of Jacob's hands was irrelevant in the context of a blessing that applies equally to all, to Klal Yisrael. Each child has an equal right to represent the patriarchs. The first-born is not entitled to a double portion of this blessing, just like he does not donate a double Kofer Nefesh and does not have to provide an extra Machtzis Hashekel. Joseph realized that Jacob wanted to give them an additional blessing that related to the individual talents and strengths of Menashe and Efrayim. Joseph thought that the first born, Menashe, who Joseph thought had the greater talents and strengths, should have the right hand placed on his head. Jacob replied that he was well aware of who the first born is, yet he has his reasons for reversing his hands, for Efrayim will be the one who will exhibit the greater talents and strengths. The second blessing was related to Knesses Yisrael. Such a blessing requires a distinction between Menashe and Efrayim, that each one be blessed according to his talents and strengths.

Jacob blessed the rest of his children in this dual manner as well: he blessed each one individually as Knesses Yisrael, then he blessed them all as a group, as Klal Yisrael.

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From: weekly-halacha@torah.org Subject: Parshas Vayechi: Mourners Attending Festive Meals By Rabbi Doniel Neustadt A discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

And he ordained a seven-day mourning period for his father (50:10)

**WHICH OCCASIONS MAY A MOURNER ATTEND** When a close relative passes away, the family is required to sit shivah, followed by three-week period of less "severe" mourning called shloshim. One who loses a parent observes a full year of mourning, starting with the day of burial(1) and ending 12 months later(2). This extended period of mourning, known as "12 months", was instituted by the Sages in order to pay proper respect to parents. Since a child is obligated to honor parents even after their death, this mourning period for parents is longer than for any other relative(3). [A child should not mourn for "12 months" if a parent explicitly requested that he not do so(4).] One of the main features of this extended mourning period is the restriction on attending festive meals which take place outside of the mourner's home(5). In the view of the Rabbis, partaking of festive meals outside of one's home is inappropriate for one who is in mourning. But what exactly constitutes a festive meal and what does not is a subject of much debate among the Rishonim and is further complicated by the various customs which have evolved over the years. What follows is an attempt to clarify the sources so that the reader can present his specific case to his rav for a ruling(6). Note: Our discussion covers the mourning period known as "12 months" only. The laws for shivah [or shloshim for a parent(7)] are stricter and are not the subject of this discussion.

**THE VIEWS OF THE RISHONIM** There are different views among the Rishonim(8) as to the type of meal which is restricted [Note that only the meal is restricted. It is clearly permitted for a mourner to attend a bris, a pidyon ha-ben or any other mitzvah ceremony [other than a wedding] before the meal begins(9)]: The restriction applies only to meals which are strictly of a social nature and have no religious significance (seudas ha-reshus). Any mitzvah celebration, e.g., a wedding, bris, bar mitzvah, etc. may be attended(10). The restriction applies [mainly(11)] to meals of mitzvah celebration like weddings, bar-mitzvahs, brisim, etc. This is because the mitzvah itself lends a festive atmosphere to the occasion. There are two exceptions: 1) Weddings - if the absence of the mourner will cause great distress to the groom or bride and mar their simchah(12); 2) A meal which the mourner is obligated to eat, such as korban pesach or ma'aser sheini during the time of the Beis ha-Mikdash(13). The restriction applies only to weddings [or sheva berachos] and remains in effect even if the absence of the mourner will cause distress to the groom or bride(14). Other mitzvah celebrations, such as a pidyon ha-ben, bar mitzvah or siyum, are permitted(15).

**THE VIEW OF THE SHULCHAN ARUCH** Shulchan Aruch deals with this issue from two different angles. First, the Rama rules that the basic halachah is a compromise between the second and the third views listed above. Thus he rules that all mitzvah celebrations - other than weddings - may be attended [like the third view], and even a wedding may be attended if the simchah will be marred by the mourner's absence [like the second view].

But after positing all of the above, the Rama goes on to say that the custom has become that a mourner does not attend any meal outside of his home, neither meals of a social nature [like the first view] nor any type of seudas mitzvah, including a bris or a pidyon ha-ben. While the Rama's custom is recorded in all of the later poskim and has become the accepted minhag yisrael, there are conflicting opinions whether the custom covers all meals outside the home or whether there are some exceptions. Some poskim mention a siyum(16) or a seudas bar mitzvah(17) as exceptions(18), while others specifically include them in the Rama's ban and prohibit attending them(19). The Rama's custom notwithstanding, it is clear that a mourner is not forbidden to eat a meal outside of his home if otherwise he would not have a place to eat. Thus it is permitted, for example, to invite an out-of town mourner who needs a place to eat(20), or to invite a mourner's family for supper when circumstances have made it difficult for them to prepare their own food.

**DOES IT MAKE A DIFFERENCE IF IT IS SHABBOS OR YOM TOV?**

Some poskim(21) maintain that the Rama's custom of not eating meals outside of the mourner's home applies only to weekday meals; on Shabbos it is permitted to attend certain meals(22), e.g., a bris, a Seudas Shabbos or a group Seudas Shlishis(23). Other poskim do not agree with this leniency and do not differentiate between Shabbos and weekdays(24). But the poskim are in agreement that a relative(25) - whose absence from a simchah will surely be felt or noted by the participants - may attend any meal on Shabbos, even a sheva berachos. This is because it is prohibited to make a public display of mourning on Shabbos(26). If people will notice that a relative who should be there is not present, it is as if the "mourning" is taking place publicly(27).

**WHERE NO MEAL IS SERVED** The Shulchan Aruch quoted above discusses only attending a meal outside of the mourner's home. There is no mention, however, about partaking in a simchah where refreshments or snacks are served. Harav S.Z. Auerbach was asked whether the Rama's custom refers only to meals eaten out of the home or also to attending a kiddush or a simchah where refreshments are served. He answered that a mourner is permitted to attend such a kiddush or a simchah, congratulate the celebrants, partake minimally of the food and then leave(28). He noted that even such limited participation should be avoided if there is dancing or music being played. Harav Auerbach added that it is permitted to attend in this limited fashion only in order to celebrate a simchah or a mitzvah observance. It is prohibited, however, for a mourner to attend any function whose purpose is purely social. Thus it is prohibited for a mourner to invite people to his house, or to be invited to other people's homes, for a social gathering even if no meal is served(29).

**ATTENDING A WEDDING - SPECIAL CIRCUMSTANCES** As previously stated, a mourner may not attend a wedding celebration. Nor may he enter a wedding hall while a wedding is taking place, even if he will not be eating there or actively participating in the wedding. There are three views quoted in Shulchan Aruch(30) about attending the chupah only(31): Some allow it; others allow it only if the chupah takes place outside of the wedding hall, e.g., in a shul [or outdoors]; others prohibit even that(32) and require the mourner to stand outside the shul [or hall] while the chupah is taking place(33). Upon consultation with a rav, there could be room for leniency to allow the following mourners to attend a wedding: Parents and grandparents of the groom and bride(34); Siblings [who have been living together in one home](35); A shoshvin (one who escorts the bride or groom to the chupah)(36). For the sake of family harmony (sholom bayis)(37). If otherwise there will be no minyan at the wedding(38). A rav, whose job is to be the mesader kiddushin(39); A cantor, sexton, musician, photographer or anyone whose livelihood depends upon being present(40); In certain, unique situations, when the absence of a relative will seriously interfere with the happiness of the groom or bride, some poskim permit their attendance(41);

Rama quotes a view that any mourner may attend a wedding if he serves as a waiter(42) and does not partake of the food while in attendance at the wedding dinner. It has become customary that only relatives rely on this leniency(43).

**FOOTNOTES:** 1 Mishnah Berurah 568:44. 2 During a leap year, the thirteenth month does not count; the restrictions end after 12 months. 3 Igros Moshe Y.D. 1:255. See Nekudos ha-Kesef Y.D. 402 to Taz 9. 4 Shach Y.D. 344:9. 5 It is permitted to take part in any meal - except a wedding - which takes place at the mourner's home; Rama Y.D. 391:2. When possible, sheva berachos should be avoided as well; see Pnei Baruch, pg. 214, note 30, and pg. 460, and Nishmas Yisrael, pg. 294. 6 Each case must be evaluated on its own merit, as sometimes there are extenuating circumstances, such as family obligations or sholom bayis situations, which may affect the final decision. 7 Shloshim observed for other relatives generally follows the same guidelines as "12 months" for a parent. 8 There are also various interpretations among the latter authorities in explanation of the views of the Rishonim. Here, we have followed mainly the interpretation of the Aruch ha-Shulchan. 9 Geshet ha-Chayim 21:8-5. 10 S'mag, quoted in Beis Yosef Y.D. 391, but not directly quoted in Shulchan Aruch. 11 Apparently, this view also holds that festive meals of a social nature are prohibited [since this is stated explicitly in the Gemara Moed Katan 22b], but it still maintains that mitzvah celebrations are stricter. 12 Ra'avad, quoted by Rama, as explained by Aruch ha-Shulchan Y.D. 391:5. [The actual situation described in the source deals with the wedding of an orphan.] See, however, Noda beYehuda Y.D. 1:100 who maintains that this exception applies only if the wedding will otherwise be canceled. 13 Accordingly, this exception does not apply nowadays; ibid. [See Radvaz on Rambam Hilchos Avel 6:6 for an explanation.] 14 Ramban, as explained by Aruch ha-Shulchan Y.D. 391:6. If the mourner's absence will cause the wedding to be canceled, it would be permitted to attend; ibid. 15 Nimukei Yosef, quoted by Rama. According to this opinion, attending a bris is questionable, since it is debatable whether or not a bris is considered a festive occasion;

Rama, *ibid.* 16 See Shach Y.D. 246:27, as apparently understood by R' Akiva Eiger, *Dagul M'revavah* and *Pischei Teshuvah* in Y.D. 391. See also Geshher ha -Chayim 21:8-6; 22:2-6. According to this view, it is permitted to attend a Melava Malkah whose purpose is to raise funds for charity if no music is played; *She'arim Metzuyanim B'halachah* 212:1; *Nishmas Yisrael*, pg. 274. 17 *Ibid.* This applies only to the meal that takes place on the day of the bar mitzvah or if the bar mitzvah boy recites a drashah. [Contemporary poskim note that nowadays the custom is to be stringent concerning bar mitzvos; *Pnei Baruch*, pg. 224, note 63.] 18 Provided that no music is played; *Shearim Metzuyanim B'halachah* 212:1. 19 *Chochmas Adam* 161:2; *Derech ha -Chayim*; *Kitzur Shulchan Aruch* 212:1; *Tuv Ta'am v'Da'as* 3:86. But even according to this view it is permitted to attend a siyum if the mourner himself is the mesayem (*Beis Lechem Yehudah* Y.D. 391:2; see *Mishnah Berurah* 669:8) or if the siyum is being held in memory of the deceased (*Nishmas Yisrael*, pg. 261-262). 20 See *Da'as Kedoshim* Y.D. 391 who permits eating in a hotel. 21 *She'alas Ya'avetz* 2:180; *R' Efraim Zalman Margalios*, 26; *Kol Bo*, pg. 361; *Geshher ha -Hachayim*, pg. 233. 22 But a *Sheva Berachos*, etc., is prohibited even according to this view. 23 Eating these meals with the company of friends enhances the special Shabbos atmosphere. If the purpose of the meal is purely social, however, it may be prohibited according to all views. 24 *Pischei Teshuvah* 391:2 and 4; *Igros Moshe* Y.D. 3:161. Seemingly, this is also the view of all the major poskim who do not differentiate between Shabbos and Yom Tov. 25 Or a close friend; *Tzitz Eliezer* (*Even Ya'akov* 56). 26 Even during the shivah or shloshim. 27 *She'alas Ya'avetz* 2:180; *R' Efraim Zalman Margalios*, 26; *Pischei Teshuvah* 391:4; *Igros Moshe* Y.D. 3:161. 28 According to Harav Auerbach's opinion, apparently, it is permitted to attend any simchah where no actual meal is served. While there certainly are sources upon which this decision may be based (see *Teshuvah me -Ahavah* 3:77-1), it is not clear if all poskim are in agreement; see *Igros Moshe* Y.D. 3:161 who allows attending a sholom zachar only if the mourner's absence will be noticed. 29 This ruling is based on the words of the *Shulchan Aruch* and *Taz* Y.D. 385:1, *Teshuvos Binyan Olam* 62 and *Geshher ha -Chayim* 21:7-9. 30 Y.D. 391:3. See *Aruch ha -Shulchan* 12. 31 *Chupah* means the actual ceremony [even though music is being played; *Shevet ha -Levi* 1:213]. It does not include the reception before or after. 32 Unless the mourner is honored with reciting a berachah under the chupah. 33 While there is no clear decision or binding custom, the Rama seems to rule like the second view and *Geshher ha -Chayim* 21:8-4 writes that this has become the custom. 34 *Aruch ha -Shulchan* Y.D. 391:10; *Igros Moshe* Y.D. 2:171 and O.C. 4: 40-16 [who permits parents to attend a child's wedding even during shivah.] 35 *Gilyon M'harshav* Y.D. 391:1. 36 Some poskim permit a shoshvin to attend the wedding but not to partake of the food, while others allow him to eat if he also "serves a little bit". 37 *Igros Moshe* Y.D. 1:255; *Tzitz Eliezer* (*Even Ya'akov* 56-9). 38 *R' Akiva Eiger*; Y.D. 391:3. 39 He should not, however, partake of the meal - *Kol Bo*, pg. 360. 40 See *Kol Bo*, pg. 360; *Geshher ha -Chayim* 21:8-3; *Pnei Boruch*, pg. 227, note 73. 41 *Tzitz Eliezer* (*Even Ya'akov*, 56). Not all poskim agree with this leniency. 42 A "waiter" means serving the entire meal, just like any other waiter who is employed by the caterer - *Harav S.Z. Auerbach* and *Harav S.Y. Elyashiv* quoted in *Pnei Boruch*, pg. 216, note 35. 43 *Geshher ha -Chayim* 21:8-11.

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From: [weekly@vjlists.com](mailto:weekly@vjlists.com) \* TORAH WEEKLY \* Highlights of the Weekly Torah Portion Parshas *Vayeichi* <http://www.ohr.org.il>

The End "And Yaakov lived..." (47:28) As every child knows, the school term goes on forever. Or at least it seems to. The amount of time left till vacation seems like a life term in Alcatraz. Or almost. Almost any affliction, school included, is bearable if we know when it will finish. What really makes it bearable, however, is not so much that we know when the term will end, rather that it will end. Similarly, when we're sitting in the dentist's chair with what feels like a pneumatic drill in our mouth and the dentist says "Just another couple of seconds..." our solace comes, not so much from knowing when the drilling will end, but rather the fact that it will end. This week's Parsha is unique. It's the only Parsha in the Torah that is "sealed." *Rashi* tells us that Yaakov wanted to reveal "The End," the time when *mashiach* would come, when history would draw to a close. G-d prevented him. The secret remains as sealed as this week's Parsha. Why wasn't Yaakov allowed to reveal when the final redemption would come? Why wasn't he permitted to sweeten the bitterness of thousands of years of exile? If the Jewish People would have known the date, the time when G-d would finally redeem them, wouldn't all the years of waiting be so much more bearable? Maybe G-d didn't want Yaakov to reveal the End, not so much because we would then know when the End would be, but rather that there would be an End. Not a leaf falls in the forest unless its descent is decreed on High. Not a blade of grass grows without the compulsion of G-d's spiritual messengers. The only thing which is truly ours is the decision to

fear G-d. We can look at this world as happenstance with no Beginning and no End. Or we can lift our eyes to Heaven and realize Who created all this.

Mirror, Mirror "Yosef took the two of them -- Efraim with his right hand, to Israel's left, and Menashe with his left hand, to Israel's right... But Israel extended his right hand and laid it on Efraim's head though he was the younger, and his left hand on Menashe's head." (48:13-14) Strange things happen to people when they look in a mirror. Their normal expression becomes contorted. An eyebrow is raised. Lips are pursed. The head is turned ever so slightly to the right and then to the left. When we look in the mirror, we see ourselves not so much as we really are, but as we'd like to be: Head held a little higher, the posture more erect and holding in our breath so that clothes don't betray the evidence of one too many slices of chocolate cake. When we look at other people, however, our perspective changes radically. Rather than emphasize the positive, we tend to scrutinize their defects and lay the stress on what's wrong with them. What we see in ourselves as prudent, in others becomes stingy. Where we are vivacious, others are loud. When Yaakov blesses Yosef's children Efraim and Menashe, Yaakov crosses his hands. He places his right hand, his stronger hand, on the younger son Efraim, and his weaker left hand on Menashe, the elder son. But wouldn't it have been easier for Yaakov to have told Efraim to stand opposite his right hand and Menashe opposite his left? That way there would have been no need for him to cross his hands. The right side symbolizes strength and importance. The left symbolizes weakness and insignificance. When we look at ourselves in the mirror, our right hand is reflected on the right side of the mirror. In other words, our strengths are reflected as being important. Our left hand, the hand that characterizes weakness, corresponds to our left hand in the mirror. Meaning that we see our weaknesses as insignificant. However, when we stand opposite someone else, our right hand corresponds to their left hand, meaning we emphasize their shortcomings. Our left hand is opposite their right -- we play down their strengths. This is what Yaakov was teaching the two brothers Efraim and Menashe. When you look at each other, use the eyes that you use for yourself. See the other person's weakness as secondary, and his virtues as being his essence.

Sources: \* *Mirror, Mirror* - Rabbi Chaim M'Velezhin in *Beis Yitzchak*, Rabbi Chaim Zvi Senter

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From: Jonathan Schwartz[SMTP:[jschwartz@yml.yu.edu](mailto:jschwartz@yml.yu.edu)] To: chabura Subject: Internet Chaburah --- Parshas *VaYeichi*

Prologue: After living 17 years in the wretched land of Egypt surviving a famine, Yaakov Avienu takes ill for the last time. The *Chizkuni* among others, points out that this was the first time that a human being took ill prior to his death. Yaakov had actually asked for that illness in order to be aware of impending death and how to properly instruct his children. Why didn't Avraham or Yitzchak need the same warning and prep time? *Rav Zalman Sorotzkin* points out that Avraham had been told who would be the future among his many children ("*Ki B'Yitzchak Yikarei lach zera*"). Accordingly, he sent away the *Bnei Hapilagshim* in order to prevent dispute among the children and to allow Yitzchak's glory to flourish. Yitzchak became blind and handed out the *berachos*. Accordingly, he too, had already prepared for his demise long before he actually expired. Yaakov had 12 pure and dear children. He had a hard time with the difficulty of having to split the *bechora*. He needed time to prepare to do it, preferably close to his death. Similarly, many children were going to need *mussar* and he felt the proper time for the delivery of such rebuke was close to his death (see *sefrei*, *Devarim*) Therefore, Yaakov asked for a sickness so that he could be properly prepared for his impending death and meet it *B'Ahava*. Still, there are others who would rather not know of impending death. Are we obligated to be silent about their plights? Must we tell a terminal patient that his condition is terminal? These questions lead to this week's *chaburah* entitled:

Quit or Quiet: revealing terminal illness information to patients The Gemara (Horayos 12a) notes that one going to travel and wants to know if he will return to his home, should look into his shadow while in a Beis Choshech, if he sees a shadow within a shadow, he knows he will return. The gemara continues that really one should not do this because perhaps one will become fainthearted (depressed?) and as a result, will be down on his luck should he not find the shadow. Rav Betzalel Shtern (Shut B'tzel HaChochma II:55) learns that one faced with terminal information should not be told of impending death, lest he become aware of a potential treatment and refuse it because of severe depression. The gemara in Shabbos (32a) notes that a person faced with impending death should be told to say Vidui. The Ramban (Toldos HaAdam) explains that this information should be tempered with the point that many have said Vidui and not died. In the merit of your saying Vidui, you could remain alive (See also Shulchan Aruch Yoreh Deah 338:1). The Bach (338) adds that one who is not about to die should not be told to recite vidui lest he become fainthearted. This is true even when tempering the request to say vidui with the caveat that those who do say it can live. The reason being that one given the shpiel about vidui knows he is in a grave situation indeed. (see also Shach 338:1). Based upon the above, the Lev Avraham (I:17:14) notes that it is preferable for one not to reveal terminal information to a patient lest he give up hope. The Bzel Hachochma adds a proof form the gemara in Nedarim (40a) which notes that one should not visit a sick person in the last three hours of the day for then the ill man's illness is strongest. The Niumukei Yosef explains that the reason is that he will give up hope at that time. The Rosh and Ritva add that he will daven to die for there is no reason for him to live. Rabbeinu B'Chaya adds that tefilla has supernatural abilities. If a person would give up hope, he might lose those set aside abilities and calls to go beyond nature. Thus, one should not reveal such information to a choleh because the losses clearly outweigh the gains of revealing the information. Still, there are poskim (shut Emek Halacha Medicine:3) who differentiate between a relatively healthy person and one who has already taken a serious turn for the worse. Telling the healthy one of a condition will guarantee that his spirit be broken and will possibly cause him to lose hope. However, a person who senses impending death might be happier with his lot if he were able to properly prepare for it. Additionally, there are occasions where people prefer knowing for certain over the suspecting that they are dying. In these situations, these poskim encourage the release of terminal information to patients. The general consensus of the poskim is not to tell (Rav Aviner, Assia III)lest one violate the heading of the gemara in berachos (40b) Even if a sharpened sword be placed at his throat, don't allow yourself to give up hope. The Tzitz Eliezer (V,Ramat Rachel, 1) quotes the Aruch Hashulchan who felt that medical knowledge was speculation at best and subject to medical breakthrough at any given time. (A similar view is advanced by Rav Kook Daas Cohen pg. 160). Therefore they feel such information should not be given to a patient because it might very well be wrong.

Battala News Mazal Tov to Hillel and Chayii Cohen upon their recent marriage. Mazal Tov to Yitzchok Rottenstein upon his forthcoming marriage. Mazal Tov to R. Ezra Schwartz upon his engagement to Bracha Press of Flatbush. Mazal Tov to Rabbi Dr. and Dr. Carmi Schwartz as well.

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Viable Solutions to the Aguna Problem - Part I by Rabbi Howard Jachter

Introduction The halachic community is faced with a very serious problem. On one hand, the problem of Agunot is a most serious issue that should be a primary communal concern. In fact, as a member of the Beth Din of Elizabeth, this author devotes much time dealing with situations of Igun. With God's help and with much effort we have successfully resolved many problem situations. On the other hand, the halachic community is faced with a phenomenon that poses serious concerns for the Orthodox community. We are referring specifically to the court that annuls marriages of Agunot, which consists of Rabbi Emanuel Rackman, Rabbi Moshe Morgenstern, and an unnamed third rabbi. Virtually the entire Orthodox rabbinate (including the

entire Orthodox rabbinate of Teaneck) has publicly declared that they do not recognize this court's rulings as halachically valid. In fact, the (RCA-OU) Beth Din of America has repeatedly sent letters to every member of the Rabbinical Council of America, urging in the strongest of terms, that this court's rulings not be honored. In the next few weeks we will briefly outline some of the reasons this court's proceedings are not recognized by virtually the entire Orthodox rabbinate. However, before we criticize others, we will outline viable solutions to the Aguna problem. We will discuss the issues of prenuptial agreements, severe communal pressure, rabbinic persistence, discovering certain marriages to be invalid, and the 1983 New York State Get Law. It should be noted at the outset that the halacha restricts the situations in which a spouse can be coerced to give Get (see Gittin 88b; Ketubot 77a; Shulchan Aruch, Even Haezer 134:4-9 and chapter 154). Only leading rabbis with great expertise and experience in this area of halacha are competent to issue rulings regarding which actions do not constitute illicit coercion of a spouse to participate in a Get ceremony. We will present the views of leading rabbis regarding the varied methods of securing the cooperation of a recalcitrant spouse.

Prenuptial Agreements A major tool in the struggle to eliminate problems of Igun is the prenuptial agreement. On many occasions in past years, we have discussed the prenuptial agreement formulated by Rav Zalman Nechemia Goldberg and Rav Mordechai Willig. (These agreements and explanations of the agreements appear on the internet at [www.orthodoxcaucus.org](http://www.orthodoxcaucus.org).) Rabbis who officiate at Get proceedings have seen positive results from the use of prenuptial agreement. A properly formulated prenuptial empowers the rabbinic court by giving it standing in civil court. A problem posed by living in a society which separates religion and state is the disempowerment of the rabbinate, especially in regards to resolving difficult "Get situations." This author has witnessed recalcitrant parties, who have signed halachically sound prenuptial agreements, give Gittin because of the enhanced stature given the Beth Din by the prenuptial. It should be noted that Rav Moshe Feinstein (Igrot Moshe Even Haezer, 4:107) writes, regarding signing a binding arbitration agreement which assigns jurisdiction to resolving a Get dispute to a specific Beit Din, - "This is halachically permissible to do and a Get given in the wake of such an agreement will not be considered illicitly coerced ("Get M'eusah"). Saving both parties from being trapped in an Aguna situation is indeed a matter of great importance." It should be noted that Rav Mordechai Willig's prenuptial agreements have received the approval of halachic luminaries such as Rav Ovadia Yosef, Rav Yitzchak Isaac Liebes, Rav Zalman Nechemia Goldberg, Rav Gedaliah Schwartz, and Rav Hershel Schachter. Nonetheless, Rav Moshe writes (in 1980) that the Rav who officiates a wedding should be careful not to urge a couple to sign such an agreement if it will cause fights. This approach is similar to Rav Moshe's approach to Tay- Sachs testing (Igrot Moshe, Even Haezer 4:10). Rav Feinstein favored testing couples for Tay-Sachs but not in a manner which would cause social problems. It appears to this author that just as the observant community has successfully taken proactive measures to significantly reduce the incidence of Tay Sachs disease, without causing social problems, the observant Jewish community can take effective measures to have everyone sign a halachically acceptable prenuptial. The more couples who sign a prenuptial agreement (or even married couples who sign a postnuptial agreement) the less controversial the procedure becomes. If everyone signs the prenuptial then it will not be a source of a dispute or ill feelings between the couple; it will just be a standard procedure of a Jewish wedding. At this author's wedding, someone complained to my father-in-law when he saw me signing Rav Willig's prenuptial - "what do you need this for?" was his claim. My father-in-law, Rabbi Dr. Shmuel Tokayer promptly responded with the Talmudic phrase "Lo Plug Rabbanan," we make no exception to the rule. Chazal did not say that only certain couples should sign a Ketuba - they decreed that everyone must sign a Ketuba, "Lo Plug Rabbanan." No one should sign the agreement with the primary intention of protecting themselves from Igun. Rather, the primary intent should be to help others and to make a lasting impact on Am Yisrael by helping reduce the scourge of Igun. Finally, it should be added

that signing a proper prenuptial serves "L'hotzi Milibam Shel Tz'dukim," to counter the claims of the heretical "Saducees" (Chazal instituted a number of practices to counter the heretical claims of the Sadducees, especially in the area of Korban Ha'omer and Parah Adumah). Universal adoption of the practice of signing a halachically sound prenuptial agreement counters the unjustified claim that halacha is unsympathetic to those suffering with a problem of Igun. It also proves the capability of halacha to effectively grapple with the challenges of the contemporary situations. Rav David Zvi Hoffman (Melameid L'hoil III: 33) writes, in the context of discussing the establishment of a tradition how to write Gittin in Brussels, Belgium that, "In our time it is a Mitzva for us to take proactive steps so that the skeptics should not be able to criticize us by saying that Orthodoxy has severely declined and is incapable of doing anything unless previous generations have done it for them." It must be emphasized that no couple who uses Rav Willig's agreements should modify them without consulting an eminent halachic authority and an attorney with great expertise in this area of law. Rav Willig spent years meeting with great rabbis and attorneys to carefully craft the agreement to meet stringent halachic and secular legal standards. Any modification may render the agreement halachically and/or legally invalid or ineffective. For example, Rav Willig secured the agreement of many halachic giants that a husband agreeing to give \$150 per day in support payments for the duration of the marriage to one's wife (i.e. until he gives a get) does not constitute illicit coercion. This is based on rulings of the great Rav Yaakov Lisa (the author of "Netivot," and "Chavat Da'at"). that appears in the Pitchei Teshuva Shulchan Aruch, E.H. 134:9. If, however, one writes that he will give his wife \$1000 a day until he gives a Get, a Beit Din will consider the agreement to be invalid (see Rama on Shulchan Aruch, E.H. 134:4 and Pitchei Teshuva 134:11). A payment of \$150 per day constitutes support payment to the wife; a payment of \$1000 per day constitutes monetary coercion to give a Get, for most people.

Rabbinic Persistence More than seven years of experience of serving on rabbinic courts has taught this author that a rabbinic court which politely but persistently contacts the recalcitrant party will often eventually convince a recalcitrant spouse to participate in a Get ceremony. A Beit Din which pursues justice ("Tzedek Tzedek Tirdof") will often produce positive results. The Rambam (Hilchot Sanhedrin 2:7) writes that a member of a Beit Din "must possess a courageous heart, willing to save the oppressed from the hands of the oppressors." The Rambam cites Moshe Rabbeinu's behavior Yitro's daughters from the shepherds as a model for a Dayan's behavior. The rabbinic court often needs to be willing to inconvenience itself by accommodating a recalcitrant spouses' request to come to his or her office or house to administrate a Get at odd hours of the day. A Get should preferably not be performed at night, Chol Hamoed, Rosh Chodesh, and the month of Iyar, however, in case of great need a Get can be supervised by a Beit Din on these dates (see Shulchan Aruch, Even Ha'ezer 123:5, 126:6, 127:7; Aruch Hashulchan 126:15 and 154; Seder Hageit 3-4, Kitvei Ha-Rav Yosef Eliyahu Henkin 2:144-145, and Beit Yitzchak 26:219 where the practice of Rav Moshe Feinstein is cited). In fact, Rav Henkin writes that Gittin in America (where rabbis have no legal powers) should always be considered "Makom Igun," an emergency situation. Thus Rav Henkin ruled (and practiced) that Gittin in this country may, if need be, be performed at night, Rosh Chodesh, Chol Hamoed, and the month of Iyar. When choosing a Beit Din to resolve a potential problem of Igun, one should choose a rabbinic court which engages in a persistent and flexible manner to resolve problems of Igun. Similarly, the Beit Din designated in one's prenuptial or postnuptial agreement should be one which is known for its proactive approach to resolving problems of Igun. A lesson can be derived from the Rambam's description of a king (Hilchot Melachim 4:9). Among the roles of a king, writes the Rambam, is that he "break the arms of the wicked". This not only applies to a king but to any leadership position. Even in a country where the rabbinate has no legal power this can still be accomplished with a combination of perseverance and skill. In addition, the cooperation of lay people such as attorneys (who help agunot pro bono) has helped resolve many situations of Igun. An example of this is Rav Yosef Dov Soloveitchik's courageous fight against the Boston kosher

poultry industry for years in the 1930s and the 1940s in a successful effort to establish higher kashrut standards and more humane working conditions for the "shochatim" (see Tradition Summer 1996 pp. 198-201). Similarly, a Beit Din should skillfully work to stop the unethical actions of recalcitrant spouses. Moreover, if the recalcitrant spouse's friends, family, and community strongly reprimand him, it is much more likely that he or she will give or receive a Get. If many people present recalcitrant spouses with an unambiguous message stating that their actions are profoundly intolerable, they most often will not persist in their hurtful behavior. It should be noted that recalcitrant spouses invariably present a litany of excuses for their behavior. There is, however, virtually no excuse for ignoring the ruling of a legitimate Beit Din that one should give a Get. Anyone who is in contempt of a recognized Beit Din should be severely ostracized by the Jewish community. Next week, we shall with God's help and Bli Neder, continue our overview of viable solutions to the Aguna problem. We conclude with the words of Rav Yosef Eliyahu Henkin (Kol Kitvei Ha-Rav Henkin pp.143-144): "one who withholds a Get because of unjust monetary demands is a thief and violates a sub-prohibition (Abizrie'hu) which is part of the prohibition of murder." [For parts 2-5 of this article see <http://www.tabc.org/koltorah/AGUNA/index.htm>]

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From: daf-insights@shemayisrael.com Subject: Insights to the Daf: Shekalim 14-17 INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim Rosh Kollel: Rabbi Mordecai Kornfeld daf@shemayisrael.co.il

SHEKALIM 11 - has been generously dedicated by Lee and Marsha Weinblatt of Teaneck, N.J. SHEKALIM 16 - Dedicated to the memory of Max (Meir Menachem) Turkel (Yahrzeit: 5 Teves) by his wife Jean and children Eddie and Lawrence.

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Shekalim 14 HASHEM EXACTS JUSTICE FROM THE RIGHTEOUS QUESTION: The Gemara relates that Nechunya the "Chofer Shichin" (digger of water wells) had a son who died of thirst. The Gemara says that even though Nechunya dedicated his life to providing water to the people who came to Yerushalayim during the festivals, his son died of thirst because Hashem is "Medakdek k'Chut ha'Se'arah" with the righteous; when a person has perfected himself in an area of Avodas Hashem, Hashem demands from him more exact standards. The Gemara then relates that a certain Chasid who used to dig water wells to provide water for travelers, had a daughter who was tragically swept away by a river while she was on the way to her wedding. (From the words of the Bavli in Bava Kama 50a), it appears that this Chasid was none other than Nechunya.) Rebbi Pinchas ben Yair prayed to Hashem and said, "Is it possible that this person honored his Creator with water, and now his Creator punishes him with water?" At that moment, a commotion was heard in the city, as the daughter returned safe and sound. If Hashem does not punish a person with the thing in which he excels in his service of Hashem -- as Rebbi Pinchas ben Yair expressed and the second incident demonstrates -- then how could Hashem allow Nechunya's son to die of thirst? ANSWERS: (a) TOSFOS (Bava Kama 50a, Yevamos 121b) explains that since Nechunya excelled in "providing water", the fact that his son died of thirst is not considered suffering with the same thing with which Nechunya excelled. His son suffered from a "lack" of water, whereas Nechunya excelled in "providing" water. However, for his daughter to die by drowning in a flood of water would have been a punishment in the exact same area in which Nechunya excelled -- providing water, and Hashem would not do such a thing. Alternatively, Nechunya dug wells, but did not provide the water to fill them, which came naturally through rain. His daughter couldn't die in the pit of a "well", but his son could die from lack of "water". (RASHI in Yevamos 121b DH Chofer Shichin, according to ETZ YOSEF ad loc. This does not conform to the Yerushalmi's description of "honoring his Creator \*with water\*.) (b) The SHITAH MEKUBETZES (Bava Kama 50a) suggests that there is no such concept that Hashem never harms a person with the object of the Mitzvah in which one excelled. Hashem has His own calculations, based on His infinite wisdom, which we cannot comprehend. Here, though, Rebbi Pinchas ben Yair was offering a "prayer" to Hashem on behalf of the Chasid's daughter. Rebbi Pinchas ben Yair's Tefillah aroused Hashem's mercy, and Nechunya's daughter was saved. His son, though, died of thirst \*after\* Rebbi Pinchas ben Yair had passed away\*, when his Tefillah was no longer effective. REBBI ELIYAHU FULDA adds that this might be the intention of the Yerushalmi that says that his daughter was saved by an angel that had the appearance of Rebbi Pinchas ben Yair. She was saved in the merit of his prayer on her behalf, and therefore the force that saved her manifested itself in the likeness of Rebbi Pinchas ben Yair. In fact, this may even be the difference between the two descriptions offered by the Yerushalmi as to how the daughter was saved. The one that says she was saved by a branch, is of the opinion that Hashem never punishes the righteous with that in which they excelled, while the one that says she was saved by the likeness of Rebbi Pinchas is of the opinion that only Rebbi Pinchas' interjection saved her. (KORBAN HA'EDAH; ETZ YOSEF in Yevamos 121b) (c) THE MISHNAS ELIYAHU explains that the principle that Hashem does not permit harm to befall someone from the object of the Mitzvah in which he excels applies only if that person performs the Mitzvah entirely l'Shem Shamayim, for the sake of Hashem with no other motives. When a person performs a Mitzvah in that way, the object of that Mitzvah cannot harm him. When Nechunya's daughter presumably drowned, Nechunya was doing the Mitzvah of providing water for the travelers entirely l'Shem Shamayim. Perhaps at a later time, though, when his son died of thirst, he had in mind other motivations and he

did not do the Mitzvah solely for the sake of Hashem. When that occurs, Hashem is "Medakdek Im Tzadikim k'Chut ha'Se'arah," and that is why Nechunya's son died of thirst.

**Shekalim 16b THE DIFFERENCE BETWEEN THE FIRST AND SECOND LUCHOS AGADAH:** The Gemara describes the Luchos that Moshe Rabeinu received at Har Sinai. Rabbi Chananyah says that between each of the Aseres ha'Dibros that were on the Luchos, all of the details and letters of the entire Torah were written as well (miraculously, see Shabbos 104a). The BEIS HA'LEVI (Derush #18) makes a novel assertion that this feature of the Luchos applied only to the \*first\* set of Luchos (which were broken by Moshe Rabeinu when the Jewish people sinned with the golden calf). (See also ha'K'sav ve'ha'Kabalah to Devarim 10:4.) (a) He demonstrates this by citing the Midrash (Yalkut Shimoni #405, see also Tosfos, Gitin 60b) that tells us that the only reason the Oral Torah (Torah sh'Ba'al Peh) was not written down at the time the Torah was given was to ensure the enduring uniqueness of the Jewish people; even though the Jews would be subjugated and the written Torah would be taken away by the gentiles and translated for themselves (as in the times of Ptolemy, see Megilah 9a), the Jewish people would remain unique due to their possession of the Oral Torah. He asks that the Gemara (Eruvin 54a) says that if the first Luchos had never been broken (that is, if the sin of the Golden Calf had never occurred) no nation would have been able to exercise dominion over the Jewish people. The Gemara proves this from the verse, "[the writing] on the Luchos was engraved ('Charus')" (Shemos 32: 16), which can be read, "[the writing] on the Luchos was able to bring freedom ('Cherus')." We see from here that at the time that the Torah was given, the Jewish people was not yet destined to become subjugated by the nations of the world, and therefore the Oral Torah \*could\* have been written down! It must be, concludes the Beis ha'Levi, that the first Luchos did indeed contain the entire Torah, including the entire Written and Oral Torah. The Midrash is referring only to the \*second\* set of Luchos when it says that the Oral Torah was not written down, for at the time of the writing of the second Luchos it had already been decreed that the Jewish people would be subjugated by the nations! (b) The Beis ha'Levi offers several proofs for his thesis that only the first Luchos, contained the entire Torah, including the Oral Torah. Moshe Rabeinu said with regard to the first Luchos, "Hashem then gave me the two stone Luchos that were written by the finger of Hashem, and \*upon them\* were \*all\* of the words that Hashem spoke to you on the Mountain" (Devarim 9:10). The Midrash cited above derives from the word "all" in a different (Shemos 20:1) that the entire body of Torah -- Written and Oral -- was related to Moshe on Har Sinai. Similarly, this verse says that "all of the words that Hashem spoke" at Har Sinai were written on the Luchos! (See also Megilah 19b, which explains that the word "all" in this verse refers to \*all\* sections of Torah, even to the later enactment of the reading of the Megilas Esther on Purim.) In reference to the second Luchos, however, the Torah repeats several times that what was written on the Tablets was simply "the ten utterances" (Shemos 34:28, Devarim 10:4). This description is never given for the first Luchos, because they indeed had more on them than the ten commandments! The second Luchos had nothing on them but the Aseres ha'Dibros. (c) The Beis ha'Levi takes this suggestion further. The Midrash (Yalkut Shimoni #392) points out another contrast between the two sets of Luchos. The first Luchos were readable from both sides and were "the work of G-d" (Shemos 32:15-16). The second Luchos, on the other hand, were hewn by Moshe himself from ordinary rock (Shemos 34:1). Based on the Beis ha'Levi's thesis, the need for these differences can be easily explained. The first Luchos, which contained a vast amount of information, had to be made of a supernatural substance, and had to be written in a miraculous handwriting. The second Luchos, which contained only the ten statements, could be written on ordinary hewn stone, and Moshe himself could easily inscribe the Written Law alone in his own hand. Miracles were, therefore, unnecessary in the material and inscription of the second Luchos! (d) The Beis ha'Levi uses this thesis to explain the meaning of another Midrash (Yalkut Shimoni #393) which says that when Moshe Rabeinu saw that the people had sinned with the golden calf, he looked at the Luchos and saw the words begin to fly off from them. At that point the Luchos became heavy in his hands and they fell down to the ground, shattering. When the Jewish people sinned, their entire destiny changed. That was the point in time at which it was decreed that they would one day become subjugated to the nations of the world, as explained earlier. At this time, then, it became impossible to have both components of the Torah -- the Oral Torah and Written Torah -- in writing. Thus Moshe saw the words of the Oral Torah "flying off" from the Luchos at this time. Hashem had decided not to commit the Oral Torah to writing, and He removed that part of the miraculous engraving from the miraculous Tablets. These were the "words flying off" from the Luchos! Moshe knew that it would be impossible for anyone to be able to understand the Written Torah without the guidance of the Oral Torah (and the idea of teaching the Oral Law orally was not yet introduced by Hashem). The Luchos thus "became heavy in his hands" -- that is, he realized that it was no longer possible for them to be given as an independent entity. Without the Oral Torah to go with them, they would be "too heavy to bear." This is what the Midrash means when it relates that the Luchos became heavy in Moshe's hands, and fell to the ground! Based on this Midrash, we can understand what the Torah means when it says that what was written on the second Luchos was that which was "written on the first Luchos \*which you [Moshe] broke\*" (Shemos 34:1, Devarim 10:2). Most of the material that had originally been engraved on the first Luchos had already "flown off" as soon as the sin of the golden calf took place. By the time Moshe broke these Luchos, the only writing left on them was the "Ten Commandments." Only these ten statements that were on the Luchos "when you broke them" were reproduced on the second set of Luchos!

**Shekalim 17 THE THIRTEEN BREACHES AGADAH:** The Mishnah (15b) at the beginning of the Perek mentions that there were "thirteen prostrations" in the Beis ha'Mikdash. Whenever the Kohanim would pass by one of thirteen specific places in the Beis ha'Mikdash, they would bow down. The Mishnah (16b) goes on to describe where these prostrations took place and says that they were done at the thirteen gates in the wall of the Mikdash (four in the north, four on the south, three in the east, and two in the west). The Gemara says that the Mishnah is going according to the opinion of Aba Yosi ben Yochanan, who maintains that there were thirteen gates in the wall of the Mikdash. The Rabanan, though, maintain that there were only seven gates. According to the Rabanan, where were the thirteen prostrations done? The Gemara answers that they were done at the thirteen places in the Soreg (the ten-Tefach-high fence surrounding the Mikdash within the walls of Har ha'Bayis) where the Greeks made breaches in the Soreg, which the Chashmona'im repaired. The prostrations at those places were instituted as a sign of gratitude to Hashem for the victory over the Greeks (Bartenura, Midos 2:3). The thirteen breaches the Greeks made in the Soreg, and the thirteen repairs that the Chashmona'im made, reflect the essence of the real battle between the Greeks

and the Jews at that time. The Midrash (Bereishis Rabah 2:4) states that the word "darkness" in the verse, "The world was chaos and void, with darkness over the face of the deep" (Bereishis 1:2), is an allusion "to the exile imposed by the Greeks, who darkened the eyes of Israel with their decrees." Why is the Greek persecution of the Jews specifically represented by the word "darkness?" Our Sages tell us that on the day that the Egyptian ruler, Ptolemy, commissioned his translation of the Torah (the Septuagint), "A three-day long period of darkness descended upon the world" (TUR OC 580). The translating of the Torah, then, is the "darkness" of the Greek exile. What, though, was the great tragedy of translating the Torah into another language, and why should it cause the world to become dark? The Midrash relates that Ptolemy gathered together seventy-two elders and placed them in seventy-two separate rooms, not informing any of them the purpose of their summons. He approached each of them and said, "Write down [into Greek] the Torah of your teacher Moshe for me." Hashem arranged that the same thoughts occurred to all of them and they made the same thirteen modifications in their translations. (Sofrim 1:7-8; Megilah 9a) When the Torah was translated, it lost of the nuances of meaning -- the double-entendres and the various implicit insinuations in the words of the Torah, and Gematrias, acrostics and other word-based analyses are impossible to carry over from Lashon ha'Kodesh to another language. The entire body of the Oral Torah which lies beneath the surface of the written text was thus severed -- and deleted -- from the translation. That was the tragedy. The Oral Torah is compared in the Midrash (Tanchuma, Noach #3) to a light that illuminates the darkness. The Midrash says: "The Oral Torah is difficult to learn and its mastery involves great hardship. It is therefore compared to darkness in the verse, 'The people who walked in darkness saw a great light' (Yeshayahu 9:1). The 'great light' is a reference to the great light that is seen by the Talmudic sages (they understand matters with great clarity), for Hashem enlightens their eyes in matters of ritual law and laws of purity. In the future it is said of them, 'Those who love Him will shine as bright as the sun when it rises with its full intensity' (Shoftim 5:31). ...Reward for the study of the Oral Torah is to be received in the World to Come, as it says, 'The people who walk in darkness saw a great light.' 'Great light' is a reference to the primeval light which was hidden away by Hashem during Creation as a reward for those who toil over the Oral Torah day and night." Those who "shed a great light" on the Oral Torah are rewarded with the pleasure of the "great light" of Creation. It is now clear why translating the Torah into Greek caused a darkness to descend upon the world. The darkness was caused by the obstruction of the "great light" of the Oral Torah that resulted from the translation of the Torah into a foreign language. The Chashmona'im, who defeated the Greeks and the culture they espoused, returned to some degree the glory of the Torah to its place, and the Chanukah candles that we light in commemoration of that miracle represent the "great light" of the Oral Torah. Now we can better understand the significance of the thirteen breaches the Greeks made in the Soreg, and the thirteen repairs that the Chashmona'im made. The foundation of the Oral Torah is the thirteen Midos she'ha'Torah Nidreshes ba'Hen -- the thirteen exegetical principles which are enumerated in the introduction to Toras Kohanim. Through these principles, the Oral Law is derived from the written text of the Torah. (This is why the Midrash HaZohar on Bereishis teaches that the number thirteen serves as a metaphor for the Oral Torah.) The Elders made \*thirteen\* modifications in the text of the Torah when they translated it into Greek. This number represents the fact that inherent in the translation is the loss of the Oral Torah, which is derived through the \*thirteen\* exegetical principles. The \*thirteen\* breaches made by the Greeks and repaired by the Chashmona'im represent the entire focus of the Chashmona'im war against the Greeks. The Greeks sought to eliminate the thirteen principles through their literal translation of the Torah into Greek, with its resultant loss of the Oral component of the Torah. The Chashmona'im succeeded in restoring the tools of Torah interpretation. In order to commemorate and give thanks for this victory of authentic Torah ideology over the shallow, incomplete misrepresentation of Torah, \*thirteen\* bowings were instituted at the sites of the repaired breaches. It is interesting to note that according to Rashi (Devarim 33:11), there were \*thirteen\* Chashmona'im who commanded the Jewish army that overthrew the Greeks. These thirteen men enabled the Jewish people to preserve the Oral Torah and its thirteen principles! (Based on the explanation of Rav David Cohen in "Bircat Yaavetz," p. 147)

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