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THE TENTH OF TEVET :: Rabbi Berel Wein

This week the Jewish world commemorated the tenth day of Tevet, one of the many sad dates that form the Jewish calendar. The date commemorates the beginning of the siege and eventual destruction of the Temple in Jerusalem.

It is one of the four biblical fast days that were ordered by the rabbis and prophets of Israel and accepted by all of the Jewish people and observed for many centuries.

After the terrible tragedy of the Holocaust the Jewish people and the State of Israel searched for a proper date and method to give expression to their grief and just memory to the innocent victims of that terrible unprecedented slaughter.

The State of Israel set a date at the end of Nissan as Yom Hashoah. This observance includes the sounding of a siren, a moment of silence, special memorial programs and somber music and serious programming on the radio and television.

The Holocaust has been memorialized in films, museums, books, lectures and almost all other means. However, the rabbinate of Israel sought to commemorate the tragedy in a different, more traditional manner.

They set aside the tenth day of Tevet as the day of memorial and of universal recitation of Kadish in memory of the six million victims of the Holocaust.

In Jewish history all tragedies were marked and remembered by fasting. Since the tenth of Tevet is a fast day, the rabbinate attached the universal Kadish day for the Holocaust to it. Aside from the four usual fast days – tenth of Tevet, third of Tishrei, seventeenth of Tamuz and the ninth of Av – there were additional fast days such as the twentieth of Sivan, that Eastern European Jews observed.

These fast days commemorated the pogroms and expulsions that Ashkenazic Jewry experienced over the centuries from the Crusades through Chmielnicki and later. Whenever possible the commemorations such as that for the expulsion of the Jews from Spain were attached to the ninth of Av or other fast days. That was always the pattern in Jewish life.

One of the great difficulties of modern Jewry is how to commemorate the enormous events that have occurred to us in the last century. How is the establishment of the State of Israel to be commemorated? How is the memory of the victims of the Holocaust to be sanctified?

In Jewish tradition all great events were commemorated within a religious context. However, in our time, when a great section of the Jewish people and its substantial leadership no longer saw themselves bound by traditional religious norms, the questions of commemoration mentioned above have produced very controversial results.

Religious Jewry has attempted to install a religious tone into these otherwise secular commemorations. The success of doing so has been only partial and therefore a great deal of ambivalence regarding these commemorations remains.

The universal Kadish recital of the tenth of Tevet is the religious attempt to have a unified memorial service in a manner that is dignified, traditional and acceptable to all Jews.

My personal impression is that this commemoration has gained some momentum over the past few years. Whether it will ever be able to gain the universal acceptance that the rabbinate hoped that it would achieve remains yet to be seen.

As the generation of the Holocaust falls to the attrition of time, the difficulty of commemorating the Holocaust in a meaningful fashion to new generations of Jews increases.

A universal Kadish day, such as on the tenth day of Tevet, is dependent on some sort of Jewish feeling and emotion. To create such a feeling or emotion without recourse to Jewish tradition, faith and ritual becomes a very difficult task.

And thus the tenth of Tevet and its universal Kadish day message reveals the deep problem of Jewish identity and the place of tradition and some sort of religious ritual in our society and lives.

The Jewish world in its historical memory forgets little if anything. Thus the commemoration of events, both tragic and triumphant, in Jewish history remains somehow embedded in Jewish life. The form that remembrance of the events of Jewish history takes may vary from time to time and generation to generation.

But we can be certain that Jewish memory and eternity will prevail. Therefore the universal Kadish day on the tenth of Tevet takes on greater importance than just being a day of fasting and commemoration. It is a day of national rededication to the values, history and mission of the Jewish people.

Shabat shalom.

Weekly Parsha :: VAYECHI :: Rabbi Berel Wein

The parsha of Vayechi marks the end of the story of the house of Yaakov and the conclusion of the book of Bereshith – the book of the patriarchs and matriarchs of our people. The parsha tells us of the end of an era that spanned many long centuries. People alive at the end of an era oftentimes are unable to realize that they are at the end of what has been so normal and expected for centuries.

All of us expect things to continue apace and regularly as they have been.. Thus, great and sudden changes in circumstances always blindsides us for we are never prepared for the unknown and completely unexpected. The Jews were aware that neither Yaakov nor Yosef would live forever. But they did not ever imagine how drastically their situation in Egypt would change after the death of the generation of Yaakov and Yosef.

It becomes apparent that the presence of Yaakov and Yosef was the deciding factor in the "good exile" of Egypt. Therefore the Torah emphasizes that Yaakov lived in the land of Egypt. Yaakov's presence in the land of Egypt is the protection for his family and descendants from the natural resentment of the Egyptians to what they undoubtedly view as the undue power, wealth and influence of an alien group within its midst.

It is the old and worn down Yaakov that saves Egypt from five more years of terrible hunger not the young and confident and wise Yosef. So the emphasis on Yaakov's living in Egypt is the Torah's way of warning us not to be as certain as to why things happen and the real main catalysts for the situations of national and personal life.

Yaakov's farewell to his children, recorded for us in this parsha, indicates his awareness of the problems that will yet face his children. The Torah teaches us that he wished to reveal the entire story of Jewish history to his children even till the messianic era, but that the Lord, so to speak, prevented him from so doing. But Yaakov certainly indicated the immediate future that they would have to face – that there was going to be a change in eras and that the past remains the past and not the present and certainly not necessarily the future.

The blessings that Yaakov bestowed upon his children were all long range and meant to be fulfilled over many years and centuries. Yaakov cannot tell them of the end plot of the story of the Jewish people but he assures them that there is a bright ending somehow. It is again an indication that the central figure in the era of the patriarchs and matriarchs is Yaakov.

And, the first words of the parsha, which indicate that Yaakov lived, may also be understood to mean that Yaakov still lives. It is his personality and example that guides all Jewish history and life. We are all still under the influence of our great forefather on whose name –Yisrael – we are called. We should all be aware of this blessing.

Shabat shalom.

For the week ending 10 January 2009 / 14 Tevet 5769
from Ohr Somayach | www.ohr.edu
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
OVERVIEW

After 17 years in Egypt, Yaakov senses his days drawing to a close and summons Yosef. He has Yosef swear to bury him in the Machpela Cave, the burial place of Adam and Chava, Avraham and Sara, Yitzchak and Rivka. Yaakov falls ill and Yosef brings to him his two sons, Ephraim and Menashe. Yaakov elevates Ephraim and Menashe to the status of his own sons, thus giving Yosef a double portion that removes the status of firstborn from Reuven. As Yaakov is blind from old age, Yosef leads his sons close to their grandfather. Yaakov kisses and hugs them. He had not thought to see his son Yosef again, let alone Yosef's children. Yaakov begins to bless them, giving precedence to Ephraim, the younger, but Yosef interrupts him and indicates that Menashe is the elder. Yaakov explains that he intends to bless Ephraim with his strong hand because Yehoshua will descend from him, and Yehoshua will be both the conqueror of Eretz Yisrael and the teacher of Torah to the Jewish People. Yaakov summons the rest of his sons in order to bless them as well. Yaakov's blessing reflects the unique character and ability of each tribe, directing each one in its unique mission in serving G-d. Yaakov passes from this world at age 147. A tremendous procession accompanies his funeral cortege up from Egypt to his resting place in the Cave of Machpela in Chevron. After Yaakov's passing, the brothers are concerned that Yosef will now take revenge on them. Yosef reassures them, even promising to support them and their families. Yosef lives out the rest of his years in Egypt, seeing Ephraim's great-grandchildren. Before his death, Yosef foretells to his brothers that G-d will redeem them from Egypt. He makes them swear to bring his bones out of Egypt with them at that time. Yosef passes away at the age of 110 and is embalmed. Thus ends Sefer Bereishet, the first of the five Books of the Torah. Chazak!

INSIGHTS

The Mighty D and the Mighty G

“then Yisrael bowed himself towards the head of the bed” (47:31)

The recent meltdown of some of the world's most sacred financial gods has shown us once again the truth of the words inscribed on the once Mighty Dollar: “In G-d we trust”.

There is no One else.

Shortly before he passes away in this week's Torah portion, Yaakov Avinu bows towards the head of his bed. Rashi explains that the Shechina, the Divine Presence, rests above the head of someone who is ill.

Why does the Shechina hover over the head of an ill person?

G-d's closeness to us is in direct proportion to our feeling that we are powerless without Him. The more we feel “It's nice of G-d to give me a Hand - but I can also get by on my own,” the further we are from G-d.

Being ill makes us realize how feeble we really are. Nothing removes our complacency like the inability to function. When we place our lives willingly in G-d's Hands, we merit a special closeness to Him.

It is for this reason that an ill person's prayers for himself are more effective than the prayers of someone else for him, because a sick person realizes that ultimately his only help is from G-d.

When Yitzchak and Rivka pray for children, G-d hearkens to Yitzchak's prayers more than Rivka's. Rashi explains that the prayers of someone whose parents are wicked cannot be compared to the prayers of someone whose parents are righteous. Why should that be? Surely it all depends only on the person himself?

Someone whose parents are unworthy knows that they can't depend on any hereditary merits. Someone, however, whose forbears were righteous can feel that he or she doesn't need to pray quite that hard because they are still reaping the spiritual dividends of their forbears. If nonetheless that person prays as though he had no merits whatsoever, because they have overcome their natural complacency, their prayer reaches the highest places.

Rabbenu Yonah writes that a haughty person doesn't get help from G-d because his pride stops him from being submissive to G-d. Children, on the other hand, realize their total dependence on others, and as a result G-d saves children miraculously all the time. Their lack of self-reliance is their key to receiving Divine intervention.

“G-d is close to all those who call out to Him - to all who truly call out to Him.” G-d listens to every single prayer without regard to our spiritual level, with the condition that when we pray we acknowledge our total and absolute dependence on Him.

The gods of communism, and now capitalism, have dissolved into worthless dross. Only when all the ‘isms’ have joined that same junkyard will we realize that we have no One to rely on except for the Mighty G(-d).

Source: Rabbi Shlomo Wolbe

Written and compiled by Rabbi Yaakov Asher Sinclair

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Rabbi Yissocher Frand on Parshas VaYechi

Mitigating The Embarrassment As Much As Possible

Yosef brought his two sons, Menashe and Ephraim, to Yaakov, their grandfather, for a final blessing. In Judaism, the right hand is symbolically more prestigious than the left hand. Therefore, Yosef placed his first-born son (Menashe) opposite Yaakov's right hand and he placed his younger son (Ephraim) opposite Yaakov's left hand. However, Yaakov crossed his arms and placed his right hand on Ephraim's head and his left hand on Menashe's head.

Although Yosef protested, Yaakov assured him that he knew what he was doing and informed him “the younger brother shall become greater than he, and his offspring's fame will fill the nations” [Bereshis 48:19]. (Rashi notes that this prophecy related to Yehoshua, who descended from Ephraim.)

A simple question may be asked: Why did Yaakov execute the awkward motion of crossing his arms to bless his grandchildren? Why did he not merely ask the two boys to reposition themselves so that Ephraim was by his right hand and Menashe by his left hand?

The Chizkuni explains that Yaakov purposely and wisely crossed his hands. The Chizkuni says that the Hebrew word “Sikel” used in the expression “sikel es yadav” [he crossed his hands] is related to the word “sechel” [wisdom; understanding]. Yaakov did this, the Chizkuni suggests, to preserve the dignity and self-esteem of Menashe and to give him at least a bit of the respect due him as the older brother. It was less embarrassing for him to have Yaakov cross his arms than to have asked the brothers to switch places.

Even if we have to do something that is painful, we should try to carry out the unpleasant task in as nice a way as possible. If a person must fire a worker, he should do it in a way that minimizes the hurt to the greatest extent possible. If a person is dating and decides to terminate the relationship, he should do this in as gentle and delicate a fashion as possible, always sensitive to the feelings and emotions of the other person. A person must be careful how he says “no”. “No” hurts. If a person must say “no,” it should be done by inflicting as little pain as possible.

The Almighty is called “Kel Emunah [the Faithful] G-d , v'Ayn Avel [without iniquity]” [Devorim 32:4]. G-d administers justice, but He does it in a way that is without vengeance or cruelty, only administering the absolute degree of judgment necessary.

When Yosef needed to go down to Egypt and be sold as a slave, he was transported by Arabs who were carrying spices with them [Bereshis 37:5]. Rashi notes that Arabs were usually oil merchants, but since it was more pleasant for Yosef to sit in the back of a spice wagon than a petroleum wagon, Providence decreed that these merchants should be selling spices rather than oil. Although there was a decree that Yosef had to undergo exile and suffering, only the absolutely decreed amount of suffering was part of the Judgment and therefore beyond that, Providence “rewarded” him with a “pleasant journey”.

This is similar to the idea expressed by the Chizkuni regarding Yaakov crossing his hands. Sometime a person has an unpleasant task that must be carried out, but even “unpleasant matters” should be administered with kindness and mercy.

Ephraim and Menashe: Role Models For Future Generations

Yaakov's blessing to his grandsons was “With your (names) will the Jewish people bless (their children) saying: May G-d make you be like Ephraim and Menashe...” [Bereshis 48:20]. Many people have the custom

of reciting this blessing to their children every Friday night while placing their hands on the heads of the children. Some have the custom of reciting this blessing under the Chupah when marrying off a child.

The Torah says us that before Yaakov died, he elevated Ephraim and Menashe to “Shevet” status. He equated their status with that of his own sons Reuven and Shimeon, although in fact they were from a younger generation. We may ask – if these two grandsons were equated with the other tribes – why is the traditional blessing amongst the Jewish people not “May God make you like Yissacher and Zevulun” or “like Gad and Asher”? Why specifically like “Ephraim and Menashe”?

Over the years we have given many answers to this question. I would now like to share a new insight I found in “Sefer haMatzpun”.

Let us consider how Menashe felt when he heard the words of his grandfather “his younger brother will surpass him”. Menashe did not utter any words of complaint. He did not turn around and complain to his father. He did not issue any words of protest to his grandfather. His attitude was “If this is how my grandfather wants it, I accept his position with a cheerful attitude. So be it.”

“May G-d make you like Ephraim and Menashe” is the greatest blessing we can give our children. It is the blessing that they should get along with each other and should not be jealous of one another. A parent’s greatest desire is that his children should be able to live together in harmony. This is the blessing we recite Friday night and under the wedding canopy: May you emulate Ephraim and Menashe who were not jealous of one another.

However, this explanation only addresses Yaakov’s praise of Menashe. Menashe is the one who was willing to accept the superior blessing given to Ephraim and did not manifest any sign of jealousy. But Yaakov specifically said that the blessing invoked by future generations would be “May G-d make you like EPHRAIM and Menashe.” How does this explanation address the role of Ephraim as a role model in this blessing for all future generations?

The answer is that Ephraim had a role to play here as well. When a person receives preferential treatment, such as a higher status that someone else does not receive, he might flaunt it. He might rub it into the other person’s face, show off, and make him feel bad. Certainly, if Ephraim would have turned to his brother and said “Ha, ha grandfather gave ME the better blessing,” Menashe would never have accepted his status with such equanimity.

It is the fact that Ephraim accepted his blessing with humility and modesty that allowed Menashe to accept the situation. This is also beautiful. “May G-d make you like Ephraim and Menashe” means the following: If you are an Ephraim and you are fortunate to have more, know how to use it, know how to hide it, and know how to deal with a blessing. And if you are a Menashe, accept the hand that the Almighty has given you.

This is an especially poignant message for Yaakov to give to his grandchildren, considering all the suffering he endured as a result of the rivalry between Yosef and his brothers, Yaakov’s own children. Given the sibling rivalry that Yaakov witnessed with his own sons, when he saw such model behavior in his grandchildren, he was thrilled and blessed them that every Jew should aspire to have them as role models for their own children.

Transcribed by David Twersky Seattle, WA; Technical Assistance by Dovid Hoffman, Baltimore, MD

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Rabbi Michael Rosensweig (TorahWeb.org)

Yaakov’s Final Spiritual Bequest to His Children

“Vayikra Yaakov el banav vayomer heiasfu ve-agidah lachem eit asher yikra etchem bi-acharit ha-yamim”(Bereishit 49:1). The gemara (Pesachim 56a) relates that Yaakov intended to reveal details of the End of Days to his children when they gathered to receive his final blessings but was frustrated in this attempt. Consequently, he became concerned that this failure implied that his progeny were spiritually flawed and unworthy. His fears were allayed only when they collectively recited the text of “Shema Yisrael Hashem Elokeinu Hashem Echad” and asserted their shared commitment to Hashem’s unity (“kesheim she-ein belibcha ela echad kach

ein be-libeinu ela echad”). Yaakov responded to this affirmation by proclaiming “baruch sheim kevod malchuto leolam va-ed”. The gemara goes on to discuss the halachic status of this phrase which celebrates Hashem’s glorious sovereignty (kevod malchuto). It was articulated by Yaakov and integrated into the Shema according to this report, but was subsequently omitted in Moshe Rabbeinu’s actual rendition of the Shema in parshat Vaetchanan (Devarim 6:4). The gemara concludes that this phrase should be included but in an undertone so as to set it apart from the primary text of the Shema. This intriguing gemara requires clarification: why did the specific proclamation of Shema Yisrael calm Yaakov’s anxiety? Moreover, what is the significance of Yaakov’s reference to Hashem’s sovereignty in this context?

The Rambam (Keriat Shema 1:2) cites this gemara prominently in the very beginning of his discussion of the mitzvah of keriat Shema. Moreover, the Rambam subtly reformulates the gemara. He accentuates the importance of Divine unity (one of his thirteen tenets of faith- see hilchos Yesodei ha-Torah and Introduction to Perush ha-Miahnah Perek Chelek) in this context. Furthermore, the Rambam records that Yaakov’s very intention in gathering his children was to inculcate the tenet of Divine unity! Why this particular focus at this crucial juncture?

We may better appreciate the significance of the Shema’s Divine unity affirmation in Yaakov’s final meeting with his children when we consider the formidable challenge that Yaakov encountered as he addressed his remarkably diverse family to bequeath his final legacy. The berachot that he subsequently transmitted reveal the wide range of personalities and ideologies embodied by these great men. How would he impart pivotal principles and values designed ultimately to shape a unified and integrated nation to men whose talents and interests were so disparate. Moreover, when Yaakov’s aspiration to reveal Divine mysteries was rebuffed, he began to question whether the wide diversity that characterized his sons did not perhaps betoken a serious flaw or even failure in the development of the shevatim as a foundation for Kelal Yisrael. He may even have been concerned that the different interests and inclinations of the shevatim might find expression in their avodat Hashem in a manner that might engender challenges to the theological principle of Hashem’s unity. Many heretical movements that are dualistic or pluralistic stem from a misunderstanding of the diversity encountered in the world.

When the highly individualistic shevatim responded reflexively and as one by succinctly affirming Hashem’s unity via the formula of Shema Yisrael, Yaakov recognized that his fears were groundless. The fact that they selected this mechanism to convey their religious commitment reflected their acute sensitivity to both the challenge and opportunity of harnessing diversity as a vehicle to promote Divine unity. By asserting their exclusive Divine focus (kesheim she-ein belibechah ela echad kach ein be-libeinu ela echad), the shevatim established themselves as the authentic spiritual heirs of Yaakov.

The Maharsha (Pesachim) explains that Yaakov’s response invoking Hashem’s sovereignty (baruch sheim kevod malchuto) invoked the theme of kabalat ol malchut shamayim in addition to the theological truth of Hashem’s unity. Yaakov was profoundly impressed with the unified reflexive reaction of the shevatim. When the full dimensions and implications of Divine unity are recognized, it becomes the foundation for greater religious commitment and an ambitious expansion of the corpus of Torah and the range of avodat Hashem. Civil law, ritual performance, marital interaction are equally halachic expressions of avodat Hashem rooted in Hashem’s unity. The principle that halachic life and law encompass many different realms and types of experience, projects Torah’s breadth and its relevance to all domains of existence. Ke-sheim she-mevarchin al ha-tov kach mevarchin al ha-ra (One must acknowledge Hashem’s sovereignty even in misfortune) further demonstrates the impressive scope of halachic life and exemplifies the extraordinary faith in Hashem that underpins it.

It can be demonstrated that the Rambam in particular (See Sefer ha-Mizvot no. 2, and hilchos Keriat Shema 1:2) integrated the themes of yichud Hashem (Divine Unity) and kabalat ol malchut shamayim (commitment to the Heavenly yoke). It is conceivable that this interrelationship stems from the final interaction between Yaakov and his sons. A more profound and

powerful legacy from Yisrael to the shevatim would be difficult to imagine.

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h a a r e t z

Portion of the Week / 'May we all be strong'

By Benjamin Lau

Unlike Abraham and Sarah, whose name changes are permanent, Jacob retains both his former name and his new one. On the one hand, he is Jacob - a name derived from *akev* (heel): He grabs Esau's heel when they are born. This appellation connotes the cunning of the weak who must use stratagems to defeat those who are stronger. On the other hand, he is also Israel, the Jewish nation's father; this name connotes immense strength and, when he receives it, its meaning is explained thus: "for as a prince hast thou power with God and with men, and hast prevailed" (Genesis 32:28).

Throughout Genesis, Jacob has a double identity: Sometimes he is Jacob, fighting to survive, and sometimes he is Israel, a proud warrior. Sometimes his own children must remind him that he must stand tall, that he is Israel: When Dina is abducted and then raped by Shechem, we read, "And the sons of Jacob came out of the field when they heard it: and the men were grieved, and they were very wroth, because he had wrought folly in Israel in lying with Jacob's daughter; which thing ought not to be done" (Gen. 34:7).

Throughout this week's Torah reading, the names Jacob and Israel are used alternatively, and sometimes both appear in a single verse - for example, in the passage depicting the ailing Jacob, preparing for Joseph's visit: "And one told Jacob, and said, Behold, thy son Joseph cometh unto thee: and Israel strengthened himself, and sat upon the bed" (Gen. 48:2). Although he is Jacob, the father lying on his deathbed, he is also Israel, the patriarch of the Jewish people, who wishes to confront his son, the ruler of Egypt, from a position of strength.

When he blesses the tribes, Jacob alternates between personal memories and the vision of a future Jewish nation - between "Jacob" and "Israel." The relevant verse contains both situations: "Gather yourselves together, and hear, ye sons of Jacob; and hearken unto Israel your father" (Gen. 49:2). There are two instances of hearing cited here: On the one hand, Jacob's sons hear their father recall the struggles he has engaged in throughout his life; on the other hand, the founders of the Twelve Tribes hear the third patriarch talk about the vision of the Jewish people, whose narrative begins at this point.

After Reuben fails to receive a blessing because of his impetuosity - "Unstable as water, thou shalt not excel; because thou wentest up to thy father's bed; then defiledst thou it: he went up to my couch" (Gen. 49:4) - Jacob blesses Simeon and Levi, both of whom are impulsive and aggressive. Jacob distances himself from them: "O my soul, come not thou into their secret; unto their assembly, mine honor, be not thou united: for in their anger they slew a man, and in their self-will they digged down a wall" (Gen. 49:6). However, although Jacob rejects them, cursing their impetuous anger, "Cursed be their anger, for it was fierce; and their wrath, for it was cruel" (Gen. 49:7) - the remaining half of the verse reads: "I will divide them in Jacob, and scatter them in Israel."

Perhaps this is an allusion to the difference between the zeal and aggressiveness of two brothers operating as private individuals (Jacob) and aggressive behavior when it is expressed in a general-national context (Israel). There is a clear-cut difference between "I will divide them" (*akhalkem*) and "[I will] scatter them" (*afitzem*). Division means to cut up the whole into small pieces and to neutralize everything; scattering can involve increasing and empowering the whole. When Simeon and Levi are united, they are dangerous; Jacob therefore wants to dissipate this concentrated power. Yet, when Jacob thinks of the future Jewish nation of Israel, he realizes that it will be unable to survive all the struggles of future generations without this powerful force, which, however, must not be concentrated in the two Tribes of Simeon and Levi and thus be distributed among all Israel.

Each generation requires the exertion of this force, which is expressed later in the Torah in Moses' call, after seeing the Golden Calf created and worshiped by the sinful Israelites: "Then Moses stood in the gate of the camp, and said, Who is on the Lord's side? let him come unto me. And all the sons of Levi gathered themselves together unto him" (Exodus 32:26). This cry symbolizes the Tribe of Levi's powerful religious zeal; it is also the zeal of Phinehas, the zeal of the Maccabees, and the zeal of Israelis who today stand erect as they defend the State of Israel.

Between the blessings to Dan and Gad, we find a strange assertion: "Dan shall judge his people, as one of the tribes of Israel. Dan shall be a serpent by the way, an adder in the path, that biteth the horse heels, so that his rider shall fall backward. I have waited for thy salvation, O Lord" (Gen. 49:16-18).

According to some commentators, Jacob is referring here to Samson, a member of the Tribe of Dan. Jacob can see that future hero seeking to avenge himself on the Philistines and praying to God for one last burst of strength: "And Samson called unto the Lord, and said, O Lord God, remember me, I pray thee, and strengthen me, I pray thee, only this once, O God, that I may be at once avenged of the Philistines for my two eyes" (Judges 16:28). Jacob "looks ahead" to Samson, one of the most remarkable figures in Jewish history, and to his descendants, the citizens of Israel, dressed in military uniform, muscular Jews, Jews who are ready to stand proud and to fight for the survival of their country.

Jacob's prayer, "I have waited for thy salvation, O Lord," is intended to strengthen in the future the hands of Samson and the hands of the soldiers of the Israel Defense Forces. Though there are those who are referring to Israel now as the neighborhood bully, the war in Gaza was forced upon us. I pray that God will protect our soldiers in battle. May we all derive inspiration from Jacob's prayer and from the phrase that will be recited this Shabbat, and which we utter whenever we finish reading one of the Five Books of Moses: "Hazak, hazak venithazek [Be strong, be strong, may we all be strong]!"

Rav Kook on the Torah Portion

Rabbi Akiva's Prayer

The Talmud in Berachot 31a relates how Rabbi Akiva, the great first-century sage, would conduct himself in prayer:

"When he was with the congregation, he would pray quickly so as not to be a burden on those praying with him [who would respectfully wait for him to finish]. But when he prayed alone, one could leave him in one corner and afterwards find him in another corner, due to his many bows and prostrations."

Two Levels of Kavanah

From this account we see that there are two levels of kavanah - proper intent and mental focus in prayer. The minimal level of kavanah is to concentrate on the meaning of the words. This is a basic requirement of prayer [Shulchan Aruch, Orach Chaim 98:1].

There is, however, a higher level of kavanah, when one's thoughts are raised upwards, scaling the heights of profound insights and penetrating revelations. The Shulchan Aruch describes this lofty kavanah of great *tzaddikim*:

"Devout and pious individuals would seclude themselves, and then they would direct their thoughts in prayer until they succeeded in divesting themselves from the physical and enabling the intellect to dominate. Then they would come close to the level of prophecy." [ibid]

While every prayer makes an impact on the one praying, the extent of this impact depends on the kavanah. A prayer recited with the basic kavanah of concentrating on the words promotes spiritual advance - but a gradual one, like the imperceptible growth of the body.

A prayer focused on higher kavanah, on the other hand, will be the source of more radical transformation. When Rabbi Akiva was alone, his prayer was not the reserved, dignified prayer of the community, but an intense and ecstatic service of God. His vibrant spiritual ascent was expressed physically, so that when he finished praying, he would find himself in the opposite corner of the room.

Such great movement during prayer is unusual - the Amidah prayer is to be recited standing in one place - but Rabbi Akiva would move across the room "due to his many bows and prostrations." The more we are aware of God's greatness, the stronger will be our feelings of submission and selflessness. As Rabbi Akiva progressively deepened his awareness of God's greatness, he would express his profound sense of subservience to God's infinity by bowing and prostrating himself.

Communal Prayer

Despite the obvious benefits of such an intense prayer, it is only suitable when one is secluded in private prayer. But when praying with the congregation, one should align oneself with their level of prayer. The entire congregation could never attain the intensity of prayer of a holy scholar like Rabbi Akiva, so he would pray quickly, content with the ordinary kavanah of concentrating on the meaning of the words.

This is the (perhaps unexpected) implication of Rabbi Akiva's conduct when praying with the congregation. The importance of joining in communal prayer outweighs the benefits of private prayer - even a profoundly intense prayer that reflects one's own spiritual attainments.

[Adapted from *Olat Re'iyah* vol. I, p. 28; *Ein Eyah* vol. I, p. 132]

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YatedUSA Parshas Vayechi 13 Teves 5769

Halacha Discussion

by Rabbi Doniel Neustadt

Mechitzah In Shul: Why and How?

The halachah that requires men to be separated from women while davening in shul has its origins in the procedure followed in the Beis ha-Mikdash. Our Sages in the Mishnah¹ report that a major "adjustment" was made in the Beis ha-Mikdash during the festive holiday of Succos. The Talmud explains that the adjustment consisted of building a balcony over the men's section so that the women could witness the festivities of Simchas beis ha-shoeivah. Had they stood where they normally did, the mingling of the crowds and the festive holiday air would have led to kalus rosh, excessive frivolity. The Talmud attests that the need for a balcony was so pressing that its construction was approved even though it is generally prohibited to expand or modify the original structure of the Beis ha-Mikdash. The Biblical source for the separation of men and women, says the Talmud, is found in the verse in Zecharyah in which the prophet foretells the eulogy of Moshiach ben Yosef, where men and women will be seated separately. If separate seating is required even at so solemn an affair as a eulogy, how much more so must separate seating be required on a joyous occasion!

Following the example set by our Sages in the Beis ha-Mikdash, the age-old tradition has been to make a clear division and a separation between the main sanctuary and the women's section. Some shuls built a balcony, like the Beis ha-Mikdash had, while others constructed a thick wall that completely separated the two sections. This arrangement was so taken for granted, so undisputed, that it is not even explicitly cited in the Shulchan Aruch as a requirement.² About a hundred years ago, when some shuls in Germany and Hungary began to question the need for a mechitzah, all the leading rabbis³ strictly prohibited davening in any shul that lowered or removed the traditional separation between the two sections.

With the mass immigration of Jews to the United States in the late 1800's, many modern synagogues did not insist upon a mechitzah that completely blocked off the women's section. First Reform and Conservative temples, and then even more traditional ones, began to openly defy our hallowed tradition and gradually lowered or removed the barrier which separated the men from the women. The following questions were then posed to the venerable poskim in the U.S.: Is this practice justified? Is a mechitzah halachically required? How high does a mechitzah have to be?

Reason for the balcony in the Beis ha-Mikdash

In order to answer these questions correctly, we must first examine what, exactly, was the purpose of the balcony in the Beis ha-Mikdash. We explained earlier that a balcony was constructed to prevent kalus rosh, excessive frivolity. The Talmud does not, however, elaborate on how the

separation was effective in guaranteeing that kalus rosh did not prevail. There are two possible ways to understand this:

◆ Kalus rosh prevails when the men can freely gaze at the women. It interferes with their concentration and profanes the sanctity of the Beis ha-Mikdash. By seating the women on a balcony over the men's section, the men can no longer view the women.⁴ To accomplish this purpose, the balcony was constructed in one of two ways: 1) The men's section was directly underneath the balcony, hidden from the women's line of vision. The women were nevertheless able to see a small clearing in the middle of the men's section where the few dancers would perform.⁵ (The majority of the men did not actively participate in the festivities; they were merely spectators.)⁶ 2) The balcony was built above the sides of the men's section, but it was enclosed with a curtain or a one-way mirror. This permitted the women to watch the men from above but completely blocked the men's view of the women.⁷

◆ Kalus rosh prevails when men and women are free to mix socially with one another. By relegating the women to a balcony and physically separating them from "mixing" with the men, the proper decorum and sanctity of the Beis ha-Mikdash was duly preserved.⁸ According to this understanding, then, the balcony did not completely block the men's view. Rather, it separated the two sections and prevented the men and women from communicating or interacting with each other in any way.

The question, then, as it applies to present day mechitzos, is as follows: Do we follow the first interpretation and require a mechitzah that completely blocks the men's view, or is it sufficient to have a mechitzah that divides the two sections in a way that prevents frivolity?

The two views of the poskim

There are two schools of thought among contemporary authorities as to the practical halachah. Many poskim⁹ hold that the purpose of the mechitzah is that the men should not be able to view the women. Accordingly:

◆ The mechitzah must be high enough to completely block the entire women's section.

◆ The mechitzah must be made entirely from an opaque material. Glass, flowers and decorative wood slats are not acceptable for any part of the mechitzah.

◆ Even a balcony must be completely encircled by a curtain, etc.

As stated previously, this practice was universally accepted, wherever Jews davened. The women's section, whether in the balcony or at the back of the shul, was totally separated from the men's. Such a separation was a fundamental feature of shul architecture, as basic as positioning the amud at the front of the shul and a bimah in the middle. It was and still is part of the standard model for a Jewish place of worship.

Rav M. Feinstein,¹⁰ however, after establishing that the basic requirement for separating men and women during prayer services is a Biblical obligation, holds that the basic halachah follows the second approach that we mentioned earlier. Although he agrees that it is commendable and praiseworthy to maintain the age-old traditional mechitzah, he nevertheless rules that the widespread practice of many shuls to lower the mechitzah somewhat is permitted according to the basic halachah. As long as the mechitzah is high enough to effectively block out any communication or interaction between the men's and women's sections, it is a halachically valid mechitzah. Accordingly:

◆ The minimum height for a mechitzah is shoulder-high, which the Talmud calculates to be 17 to 18 tefachim high.¹¹ Allowing for a difference of opinion concerning the exact size of a tefach, Rav Feinstein rules that a 66-inch mechitzah is permitted,¹² while in extenuating circumstances 60 inches will suffice.¹³ Any mechitzah lower than that, however, is not considered a mechitzah at all.

◆ A balcony does not need to be encircled with a partition or a curtain. It is preferable and recommended, however, to do so if possible.¹⁴

◆ Although, technically, the upper part of the mechitzah may be made out of glass since it serves as a physical barrier between the sections, it is self-defeating and inadequate to use glass, as many women, unfortunately, come to shul improperly dressed and /or with their hair not covered properly.¹⁵

- ◆ A mechitzah which has sizable gaps towards the top is not acceptable since it does not effectively guard against kalus rosh.16 A mechitzah which has tiny openings in the lattice work is permitted.17
- ◆ The mechitzah must reach the minimum required height (60 inches) in both the men's and women's sections. Raising the floor of the women's section — which in effect lowers the height of the mechitzah — defeats the purpose of the mechitzah.18

Footnotes

- 1 Succah 51a.
- 2 Tzitz Eliezer 7:8.
- 3 Led by Rav Shlomo Ganzfried, author of Kitzur Shulchan Aruch, and Maharam Ash, disciple of Chasam Sofer, and countersigned by the Divrei Chaim. The proclamation is published in Lev ha-Ivri. See also Maharam Shick, O.C. 77 and Zichron Yehudah 1:62 who also voiced strong objections to any tampering with the traditional mechitzah.
- 4 Rambam (commentary to the Mishnah Succah 5:2)
- 5 Tosfos Yom Tov (commentary to the Mishnah Succah 5:2).
- 6 Rambam Hilchos Lulav 8:14.
- 7 Piskei Rid Succah 51; Meiri Midos 2:5; Korban Eidah (Yerushalmi Succah 5:2) as explained in Divrei Yoel 1:10.
- 8 Rambam, Hilchos Lulav 8:12 and Hilchos Beis ha-Bechirah 5:9; Meiri Succah 51a; Tiferes Yisrael Succah 5:6; Aruch ha-Shulchan ha-Asid 11.
- 9 Maharam Shick 77; Rav E. M. Bloch (Taharas Yom Tov, vol. 6); Divrei Yoel, O.C. 10; Shevet ha-Levi 1:29.
- 10 Igros Moshe, O.C. 1:39 and in various other responsa; Seridei Eish 2:14. See also ruling of Rav Y. E. Henkin (quoted in Teshuvos Bnei Banim, pg. 12).
- 11 Shabbos 92a.
- 12 Igros Moshe, O.C. 4:31.
- 13 Igros Moshe, O.C. 3:23; 3:24; 4:30; 4:31.
- 14 Igros Moshe, O.C. 1:42.
- 15 Igros Moshe, O.C. 1:43; 3:23.
- 16 Igros Moshe, O.C. 4:29.
- 17 Igros Moshe, O.C. 4:32.
- 18 Igros Moshe, O.C. 3:23; 3:24; 4:31.

YatedUSA Parshas Vayechi 13 Teves 5769

Halacha Talk

by Rabbi Yirmiyahu Kaganoff

Should a Kohein be afraid of Confederate Ghosts?

When Yaakov Avinu asks his sons not to bury him in Egypt, Rashi notes three reasons for this request:

- (1) The earth of Egypt would turn to lice during the Ten Plagues.
- (2) To avoid the suffering of rolling to Eretz Yisroel at the time of techiyas hameisim.
- (3) To prevent the Egyptians from making him into an idol.

On the other hand, although Yosef and his brothers undoubtedly had the same motives to be buried in Eretz Yisroel, they could not arrange their immediate burials there and were interred in Egypt until the Jews left. This is a classic example of the exhumation and reburial of meisim (human remains).

Our article will discuss a case where meisim were supposed to have been reburied, but apparently were not, creating a number of halachic concerns.

THE HISTORICAL BACKGROUND

In a major metropolis, one section of the city included a large cemetery. About 140 years ago, this cemetery was closed to new burials, and later many of its graves were exhumed. Subsequently, the city constructed residential and commercial areas, city streets, a major park, a zoo, and museums atop the seventy-two acres of the cemetery.

Here is the historical background: In 5603/1843, the city designated a sixty acre area as a cemetery and three years later, a Jewish organization paid \$45 to purchase part of this land as its own cemetery. Four years later, in 5610/1850, the city purchased an adjacent area of twelve more acres to expand the cemetery, so that it now encompassed 72 acres.

However, in the late 1850's, a prominent physician requested that the cemetery be closed because of concern that it was too close to the city's water supply and that it might spread disease. Until that point, this cemetery was the only authorized one in the city, and included a large "potters' field," or area for burying the destitute and the unidentified.

Two years later, an area immediately north of the cemetery was set aside as a park. During this time, the city gradually ceased using the cemetery. However, since the area was near a large prisoner-of-war camp housing captured Confederate soldiers, an estimated 4,000 Confederates who died in custody were interred in the cemetery's potters' field. At one time, the cemetery held an estimated 35,000 graves, including the resting place for those who made the ultimate sacrifice for the Confederacy.

In 5626/1866 the cemetery was officially closed, partly due to the physician's health concerns. By now, the Civil War was over and the surviving Confederate captives had been repatriated. The city officially decided to move the remains buried in this cemetery to other locations. Over the next thirty years there are numerous scattered reports of moving the graves to new locations. Despite attempts to remove graves, a conservative speculation is that the majority of the remains were never removed.

Fast forward to the contemporary era: In 5722/1962, workers digging a foundation for the zoo's new barn discovered a skeleton and a casket. They reburied the casket in situ and poured the foundation right on top. During 5758/1998, workers constructing a parking lot in the area discovered 81 skeletons and an iron casket containing a cadaver. There are at least nineteen more reports of human bones found in the disused cemetery's location.

Thus, the shailah is whether a kohein may walk through the streets and businesses of this old-time burial ground.

Steve Katz lives and works in this city and is well aware of the history of this park and its environs. His boss assigns him to attend a business meeting at a hotel that is located in the area that was originally the cemetery. Since Steve is a kohein, may he attend the meeting? If he cannot, how will he explain this to his gentile employer?

Steve made an appointment to discuss the problem with his rav, whom he knows will explain to him all the aspects of the shailah.

WILL THE TUMAH RISE FROM THE GROUND?

Rav Goldberg begins by explaining some of the halachic background. When human remains are buried, under most circumstances the tumah rises directly above and contaminates the area above it. If a building is constructed directly above a grave, tumah may spread throughout that building, although sometimes it may spread only through the bottom floor and possibly only into the room constructed directly above the grave. We will have to leave for another time the discussion as to what factors affect how far tumah will spread through the structure.

If there is no building, tree or overhang over the gravesite, one becomes tamei only if one walks or stands directly above the gravesite.

SAFEK TUMAH BIRSHUS HARABIM

"However, the specific situation that you are asking about may be more lenient," explains the Rav, "because of a concept called safek tumah birshus harabim, sefeiko tahir, which means, literally, that if there is doubt about whether something in a public area became tamei, the halacha is that it remains tahir (see Nazir 57a). Notwithstanding our usual assumption that safek de'oraysa lechumra (we rule strictly on doubts concerning Torah prohibitions), we rule leniently concerning a doubt of matters of tumah when the question occurred in a 'public' area, a term we will define shortly."

There is also an inverse principle that safek tumah birshus hayachid, sefeiko tamei, which means that if there is doubt whether someone or something contracted tumah when it was in a private area, it is considered tamei.

WHAT IS PUBLIC?

For the purposes of these two principles, "public" is defined as an area to which at least three people have ready access, and "private" means a place that is accessible to less than three people. Thus, someone who discovers that he may have become tamei while walking down the street remains tahir. However, if he discovers that he may have become tamei while he was in a private area he is tamei. (All of these laws are derived from pesukim.)

"I know that there is more to explain," interjects Steve, "but it would appear that one could have a situation in which one may enter a building,

but one may not use the bathrooms, have a private office, or have a private interview.”

“It is certainly true,” responded the sage, “that someone entering a public building and discovering that he may have become tamei while there, would remain tahor, whereas if he entered a similar private area, he would be considered tamei. However, there are other factors to consider before we reach a definitive ruling.”

MAY THE KOHEIN ENTER?

At this point, Steve raised a sophisticated point:

“I understand that someone who entered this area would afterwards be considered tahor. But may I enter the area knowing that I may be contaminating my kehunah?”

The Rav explained: “You are asking whether a kohein may lichatchilah rely on the principle of safek tumah birshus harabim, or whether this principle is applied only after the fact. In general, one must be stringent when there is concern that one may be violating a Torah prohibition, and it is prohibited min haTorah for a kohein to contract tumah from a meis. Thus, one could assume that a kohein should not enter an area where there is a possibility of tumah. However, many authorities rule leniently when dealing with a safek tumah birshus harabim. They contend that the Torah only prohibited a kohein from becoming tamei, but not from entering a situation where he will be ruled as tahor (Tosafos, Kesubos 28b s.v. Beis; Shu”t Rashba #83; Binas Odom, Klal 157; Pischei Teshuvah 369:4, quoting Shu”t Chasam Sofer, Yoreh Deah; Minchas Chinuch 263:13 s.v. Vehinei). Thus, a kohein could enter any publicly available area, including an office or residential building constructed over the city’s defunct cemetery. However, he could not enter an area restricted to less than three people.

“Others contend that since the Torah prohibits a kohein from being in contact with a meis, he is similarly prohibited, because of safek de’oraysah lechumra, to be in a place where he might be exposed to a meis” (Tzelach, Brachos 19b; Achiezer 3:1:1, 3:65:7; Kovetz Shiurim; Teshuvos VeHanhagos).

STATUS QUO

Steve raised another point:

“In fact, we know that this area was once a cemetery, and we are fairly certain that not all the graves were exhumed. Does this make matters worse?”

“You are raising a very insightful question. Even assuming that a kohein can rely on the principle of safek tumah birshus harabim, this principle might not apply here since we know that this area was once a cemetery, and we are fairly certain that some graves remain. Thus we have a chazakah, status quo, that the area was once tamei meis, and we are uncertain whether the tumah was removed. In such a situation, perhaps the principle of safek tumah birshus harabim does not apply since this rule may apply only where there is no status quo. (In Mikvaos 2:2, this seems to be the subject of a dispute between Tannaim. See also Tosafos, Niddah 2a s.v. Vehillel.)

“Nevertheless, in our particular case, we have some basis to be lenient. Although this entire area was once set aside as a cemetery, it is very unlikely that it became filled wall-to-wall with graves, and also, only the places directly above the graves were tamei. Thus, any place within the cemetery was tamei because of doubt, not because of certainty.

JEWISH VERSUS NON-JEWISH GRAVES

“There is another reason to permit entering the hotel for your meeting. People who researched the area have ascertained the exact location of the original Jewish cemetery, which is now the location of the ball fields of a local park. Thus, although I would advise you and your sons not to play ball on those particular diamonds, we can be more lenient regarding entering the hotel constructed in the area, as I will explain.”

Steve replied: “But how can we be certain that no Jews were ever buried in the non-Jewish cemetery? There definitely were some Jewish soldiers in the Confederate army, and it is likely that some Jews were buried in the non-Jewish cemetery or in the potters’ field.”

His Rav replied: “You are correct that some Jews were probably buried in the non-Jewish parts of the cemetery. Nevertheless, since we do not know

this for certain, we may work with the assumption that there are no Jews there.”

“But even a non-Jewish body conveys tumah, so I still have a problem.”

“This depends on whether remains of a gentile convey tumas ohel, that is by being under the same roof, cover, or overhang that is at least three inches (a tefach) wide.

DO THE REMAINS OF A NON-JEW CONVEY TUMAH?

“Although virtually all authorities agree that remains of a non-Jew convey tumah through touching and carrying, the Gemara cites the opinion of Rabbi Shimon that remains of a non-Jew do not convey tumas ohel (Yevamos 61a). The Rishonim dispute whether this position is held universally, and, in addition, whether this is the way we rule. It appears that most Rishonim conclude that a kohein may enter a room containing the remains of a gentile because they follow Rabbi Shimon’s position. Others contend that we do not follow Rabbi Shimon’s position and that tumah of a gentile does spread through ohel. The Shulchan Aruch considers the question as unresolved and advises a kohein not to walk over the graves of non-Jews (Yoreh Deah 372:2).”

At this point, Steve commented. “It seems from what you are saying that it is not a good idea for a kohein to enter buildings in this area, but one may enter if there is a pressing reason” (see Shu”t Avnei Nezer, Yoreh Deah #470).

The Rav responded: “This is the conclusion of many authorities. Some are even more lenient. One famous responsum permits a kohein to enter a field that he purchased without realizing that it contained an unmarked gentile cemetery. The author permits this by combining two different leniencies, each of which is somewhat questionable. One leniency is that perhaps a gentile does not spread tumah through ohel, and the other leniency is that some early authorities contend that once a kohein becomes tamei, he is not forbidden from making himself tamei again (Raavad, Hil. Nezirus 5:15, as explained by Mishneh LaMelech, Hil. Aveil 3:1). Although we do not rule like this last opinion, the Avnei Nezer contends that one can combine both of these ideas to permit the kohein who purchased this field without realizing the problem to utilize his purchase (Shu”t Avnei Nezer, Yoreh Deah #466).”

“This case of the Avnei Nezer sounds like a much more difficult situation in which to rule leniently than mine,” noted Steve. “After all, in his case there was no attempt to clear out the cemetery.”

“You are correct. For this reason, I would certainly not find fault with someone who chooses to be lenient and indiscriminately enters the area that was only a gentile cemetery, relying on the ruling that gentile remains do not contaminate through ohel, and on the principle of safek tumah birshus harabim.”

“It still seems that one should avoid the ball fields that are located right over the old Jewish cemetery.”

“I would certainly advise this,” closed the Rav.

So Steve does not need to explain to his boss that he cannot attend business meetings at the hotel because of lost Confederate ghosts.

Although there may be little reason to panic over such issues, as we have discussed, one should be aware that it is not infrequent to discover old cemeteries beneath modern cities. Cemeteries, particularly Jewish ones, were always consecrated on sites outside the city limits in order to avoid the obvious problems of tumah affecting kohanim. Unfortunately, when Jews were exiled, the whereabouts of many cemeteries became forgotten, and in addition, as cities expand, they include areas that were originally outside the city’s limits that often include earlier cemeteries. Thus, these problems will most likely continue. In each case, a posek must be consulted to find out whether, and to what extent, a kohein need be concerned.

WHY IS IT PROHIBITED FOR A KOHEIN TO COME IN CONTACT WITH A MEIS?

It is beyond our understanding to explain why Hashem commanded us to keep each specific mitzvah. However, we can and should attempt to glean a taste of Hashem’s mitzvos in order to appreciate and grow from the experience, including understanding why the Torah bans the kohein from having contact with a meis under normal circumstances.

Rav Hirsch, in his commentary on Vayikra 21:5, provides a beautiful educational insight into this mitzvah. In most religions, fear of death is a major “selling point” of the religion. Thus, the role of the priest is most important when dealing with the dying and the dead.

However, the Torah emphasizes how to live like a Jew — to study Torah, perform the mitzvos, and develop ourselves in Hashem’s image. To emphasize that Hashem provided us with the blueprint for perfect living, the Torah excludes the kohein, who is the nation’s teacher, from involvement with death. Thus, the kohein’s role is to imbue us with the knowledge and enthusiasm to truly live!

THE WEEKLY DAF :: Bava Kama 16 - 22
For the week ending 10 January 2009 / 14 Tevet 5769
from Ohr Somayach | www.ohr.edu
by Rabbi Mendel Weinbach

A TALMUDIC MYSTERY - WHO IS GUILTY?

An animal steps on a vessel in someone else’s property, causing it to roll and eventually break. Do we judge the degree of responsibility of its owner according to the beginning of the action and consider it as damage caused by the actual body of the animal (which requires full payment) or do we judge it according to the end - the moment of breakage - and consider it as damage caused by the power, rather than the body, of the animal (requiring only half payment)?

This is the problem posed by the Sage Rava. But what was a problem for Rava was clear to his master, the Sage Rabbah, who issued this ruling in a parallel case:

If a man hurls a vessel from a rooftop and another comes along and smashes it with a stick before it reaches the ground, the second is absolved of responsibility, for we judge responsibility according to the beginning and therefore consider the vessel as having been broken even before he smashed it.

Bava Kama 17b

The identity of the hurler is a subject of controversy:

1. It must be the owner of the vessel. Otherwise Rabbah should have mentioned that the hurler is responsible for the damage.

Rabbi Shlomo ben Yitzchak (Rashi)

2. It must be someone other than the owner. Otherwise, it is the owner’s abandonment of his property which absolves the smasher from responsibility for damage and not necessarily because we judge according to the beginning. The hurler’s responsibility is implicit in the exemption of the smasher and therefore requires no explicit mention.

Rabbi Asher ben Yechiel (Rosh)

LEARNING TO DO AND TO TEACH

When King Chizkiyahu passed away he was accorded “great honor” for he was a righteous leader who disseminated Torah learning throughout Israel. This “great honor” consisted of a Sefer Torah being placed on his funeral bier as an expression of his lifetime fulfillment of what is written in that Torah. Rabbi Yochanan pointed out that while a similar honor was accorded to great Torah scholars even in the Talmudic era, there was a special dimension in the tribute accorded to Chizkiyahu:

“He fulfilled what was written in this Torah” was proclaimed at the funeral of the great men of Talmud times. “He taught what was written in this Torah” was proclaimed in regard to Chizkiyahu. This conclusion that Torah study is of greater importance than fulfillment of mitzvos is not inconsistent with the Talmudic dictate that “Torah study is important because it leads to fulfillment,” which gives the opposite impression, because there is a crucial difference between studying Torah, which is only a prelude to fulfillment, and teaching Torah to others, whose value surpasses fulfillment of mitzvos.

Bava Kama 17a

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TALMUDIGEST :: Bava Kama 16 - 22
For the week ending 10 January 2009 / 14 Tevet 5769
from Ohr Somayach | www.ohr.edu

by Rabbi Mendel Weinbach

SQUATTER’S RIGHTS - Bava Kama 20a

Is one who takes up residence in the vacant home of another without his permission obligated to pay him rent?

This question takes several forms:

1. If the owner does not rent out the house and the squatter is not one who normally rents a house, then it is considered a case of no loss and no benefit and there is no obligation to pay.

2. If the owner does rent out the house and the squatter normally does rent a house, then this is a case of loss (because the presence of the squatter discourages others from renting) and benefit and there is definitely an obligation to pay.

3. If the owner does not rent out the house but the squatter does normally rent a house, this is a situation of someone benefiting from another without causing him a loss. This case is debated by the Sages, and the ruling is that there is no obligation to pay.

4. If the owner does not rent out his house and the squatter does not normally rent a place. While the above three cases are all mentioned in our gemara, this one is not. The position of Tosefot is that there is no obligation to pay since the squatter derives no benefit. The fact that his presence caused the owner a loss by discouraging potential paying tenants is considered only indirect damage, for which there is no obligation to pay. This position is challenged by other commentaries who contend that if one derives even a fringe benefit from another’s loss he is obligated to pay.

WHAT THE SAGES SAY

“The honor which Scripture records was accorded to the righteous King Chizkiyahu when he died consisted of establishing a yeshiva for Torah study by his tomb (for three, seven or thirty days according to different opinions).”

Rabbi Natan and Other Sages - Bava Kama 16b

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YayedUSA

Rav Chaim Leib Shmulevitz Zt”l

On His 30th Yahrzeit - 3 Teves 5739

by Avrohom Birnbaum

Part I

Introduction:

It was the middle of the difficult Shanghai era, an era that Rav Chaim Shmulevitz classified as the “Gehinnom of Shanghai”.

Rav Chaim Shmulevitz, the great masmid and gaon, who was wont to spend 18 to 20 hours learning daily, was given the additional “job” of materially sustaining the yeshiva and its 400 talmidim and family members. His days became nightmares of clandestine transactions of money from the United States, an enemy of Japan. Securing money from an enemy country was punishable by death.

Despite this heavy burden, Rav Chaim still spent most of his time in the beis medrash and delivered his regular shiurim. Every second of his day was precious and accounted for. There was no such thing as wasted time in Rav Chaim’s lexicon.

The owner of the house where Rav Chaim and his family found a room was a simple, unschooled Jew, whose worldview and spiritual world was light years away from that of Rav Chaim. Rav Chaim was a person who considered every second to be precious, yet he would often sit and shmuess for long periods of time with this Jew about trivialities. The members of the yeshiva were very troubled by this. They knew how important each second was to Rav Chaim, especially during that period of war when the job of sustaining the yeshiva had fallen to him. How could so much valuable time of the Rosh Yeshiva’s be regularly wasted discussing inconsequential matters? How could Rav Chaim just let the person waste his time and be mevatal Torah? When one talmid expressed his puzzlement to the Rosh Yeshiva, Rav Chaim responded simply, “The man opened his home for me when I needed a place to live. I am indebted to him. I owe him hakaras hatov!”

Rav Chaim's hakaras hatov did not end in Shanghai. Years later, when that simple Jew moved to Eretz Yisroel and lived in a small town far from Yerushalayim, Rav Chaim made a number of trips to his home just to visit and say hello. To Rav Chaim that was part of his obligation of hakaras hatov.

This was Rav Chaim Shmulevitz whose 30th yahrtzeit is marked on 3 Teves, the last day of Chanuka - a synthesis of tremendous hasmada, gaonus, responsibility to his fellow man and the highest levels of middos, love and sensitivity to his fellow Jew.

The Child Masmid

Rav Chaim Leib Shmulevitz was born on motzei Rosh Hashana, 1902 in the city of Kovno. His father, Rav Raphael Alter Shmulevitz was a gadol baTorah who served as Rosh Yeshiva in the city of Stutchin. It was for this reason that, in the pre-World War II Yeshiva world, Rav Chaim was called Reb Chaim Stutchiner, after the city from where he was raised.

Rav Chaim's mother, Ettel, was the daughter of the famed Alter of Novardok, Rav Yosef Yoizel Horowitz. Rav Chaim's father, Rav Alter Shmulevitz, was known throughout Lithuania as a great gaon and tzaddik. In addition to his greatness in Torah and yirah, he was known as a great baki in kabbalah and spent much time engaging in the learning of kabbalah.

Rav Chaim's childhood years were spent together with his father. Even as a young child, Rav Chaim would spend hours every day and night learning with his father. The Yidden living in Stutchin would lovingly refer to the young boy Chaim as the masmid of the city.

Throughout his life, Rav Chaim viewed his father as his primary Rebbi who imparted upon him the foundations of his future learning. Rav Chaim's father passed away at a young age, leaving hundreds of pages of hand written chiddushei Torah on a wide array of areas of Torah. Rav Chaim watched over the manuscripts like the apple of his eye, guarding them and carrying them with him throughout his wanderings across Europe, Japan, China, the United States and ultimately Eretz Yisroel. He would constantly learn them and spent much time preparing them for publication.

Chaim was only a bochur when he was orphaned from both his parents. It was 1918 during the upheaval of World War I when his mother passed away followed about a year and a half later by his father. Neither of his parents merited to reach their 40th birthday. Before Rav Chaim's father passed away he called his son to his sick bed and begged him to undertake the responsibility of caring for his two sisters and one brother. Thus, at the young age of 16, the great masmid, Rav Chaim Shmulevitz, who knew nothing other than the walls of the beis medrash, was forced to somehow sustain himself and his three siblings, the youngest a boy not even five years old.

Working in the Marketplace of Stutchin

In those days following World War I, poverty was rampant, the entire world was in chaos, there were no mass tzedaka collections for widows and orphans, there was no government "safety net"... The task of somehow supporting himself and his three siblings therefore fell upon his frail shoulders.

Every morning, instead of making his way to the beis medrash as had been his wont, the young Chaim Leib would go to the city market place where he would offer his services for any job, that he could get.

When observing the teeming market place, the keen-eyed members of the Stutchiner community noticed something different, something of an anomaly for the rough and tumble marketplace. Life in the marketplace seemed to have everyone engaged in the elusive task of trying to earn a few coins. There was one bochur, however, barely 16 years old who seemed to have been yanked out of a distinctly more refined environment and placed against his will into the roughhouse market atmosphere. He would run from one peddler to the other like all of the other boys seeking work - seeking to perhaps shlep a heavy load, serve as an apprentice or messenger boy... He worked hard, by the sweat of his brow and earned the few coins necessary to keep him and his three siblings from starvation.

Nevertheless, any comparison between him and the other young teens working in the market was only superficial. Those with a discerning eye related that even while he was running around in the market, it was only

his feet that were running. His mind was constantly occupied with the give and take of Abaya and Rava; with reconciling seemingly contradictory Gemaros; with thinking of a new approach to the sugya or composing a chiddush based on the inference derived from the words of one of the Rishonim. As soon as the work day ended, the young Chaimke would run to the beis medrash, open a Gemara and, with the ravenous appetite of a person who hasn't 'eaten' in days, Rav Chaim would swallow up pages of Gemara. When he immersed himself deep into the life-giving waters of learning, he would forget the backbreaking labor that he had been forced to do during the day; he would forget the fact that he was just a young teenager, orphaned from both parents and responsible for the welfare of his younger siblings. At those times he would have only one thing on his mind - the sweet geshmak of the Torah that he learned. From the end of the workday until the wee hours of the morning, Chaimke would sit in the beis medrash learning and writing divrei Torah that he had thought of while running from one peddler to another.

For two and a half years, Rav Chaim remained in Stutchin with his siblings, fighting two simultaneous, never ending battles; one against hunger and poverty to sustain his family and the second battle to retain his level of ruchnius and learning despite the difficult situation in which he had been placed.

The 19 Year Old Maggid Shiur in Grodno

When he was about 19 years old, the young bochur, Chaim Shmulevitz, was invited by Rav Shimon Shkop, Rosh Yeshiva of the Grodno Yeshiva, to become a maggid shiur in the yeshiva. Rav Chaim was ecstatic about the proposal because it would enable him to return full time to the beis medrash while earning a salary to help support his sisters and brother.

Thus, beginning in the summer zeman of 1921, Rav Chaim began to deliver a shiur to older bochurim in the "kibbutz". Before long the bochurim became extremely attached to the young gaon and were simply amazed by his wide-ranging bekius and ingenious ability to bring proofs to his approach to a sugya, from the widest range of sources. He gained renown for his ability to explain difficult concepts in a way that even the less gifted talmidim could understand. Perhaps even more importantly, he had the profound ability to impart the "geshmak" of learning to his talmidim. He himself, was the greatest example of a person who could almost "smack his lips" from pleasure when saying a chiddush or coming up with an approach that would resolve a difficult contradiction in the sugya and this geshmak was contagious. Often, late at night, hours after delivering the shiur, Rav Chaim would return to the beis medrash, round up the talmidim in his shiur. He would excitedly exclaim, "Come! You must come and listen! I have just thought up a new way to explain the difficult Yerushalmi!"

His talmidim became so attached to him that even at the end of the year, when it was time for them to graduate to the next level, they did not want to miss his shiur and thus while Rav Chaim's shiur was in session they would go upstairs to the ezras nashim so that they could continue to hear Rav Chaim deliver his shiur.

While in Grodno, Rav Chaim continued to faithfully support his siblings who had remained in Stutchin, both financially and morally. He would write them weekly letters conveying his love for them and his concern for their welfare. They would also send him regular letters. On the occasions that he did not receive a response to his letters, he would become very worried and would pick himself up and journey from Grodno to Stutchin to make sure everything was alright.

Joining the Mirrer Yeshiva

Rav Chaim was a maggid shiur in Grodno for close to four years. During those years, he absorbed the unique approach to learning of the Rosh Yeshiva, Rav Shimon Shkop. In 1925, when he was just 24 years old, Rav Chaim decided to make a move that would impact the rest of his life. A group of senior Grodno talmidim decided to travel to the famed Mirrer Yeshiva to learn. Rav Chaim, who was by then a well known maggid shiur, chose to give up the coveted post in order to go to the Mir to once again become a talmid and progress further in his learning.

Even in Mir, a Yeshiva that possessed some of the best minds in Poland, Rav Chaim almost immediately stood out as an ilui and masmid. His corner in the Mirrer beis medrash soon became a magnet, attracting the

best bochorim who sought to talk with him in learning. His phenomenal bekius, his wide-ranging knowledge of all areas of Torah soon became the talk of the yeshiva. The bochorim would talk among themselves, amazed at how Rav Chaim Stutchiner could quote entire seforim by heart, *avbatim!* Before long, the members of the yeshiva realized that Rav Chaim knew the contents of every single sefer in the yeshiva's library. They also knew that every new sefer that joined the library did not leave the hands of Rav Chaim until he had learned the entire sefer from beginning to end.

The Masmid that Stood Out Even Among Masmidim

Rav Chaim Shmulevitz's life was one long song of *ahavas haTorah* and *simchas haTorah*. He was a masmid in a yeshiva and a generation of masmidim but what made his hasmada unique was the pleasure, the *geshmak* that he derived from his learning. No pleasure in the world could even come close to the daily *oneg* that Rav Chaim had when learning. Most amazing was how he invested tremendous energy, concentration and hard work into his learning – hour upon hour of non-stop effort and yet, in the midst of his work, one could clearly discern the pleasure penetrating every fiber of his being.

At times while learning, he was unable to contain himself and one could hear him almost smacking his lips. While saying, "Ah, this is so *simchadig*", "this *peshat* is *sassondig*" or "Ah, this is so sweet!" his countenance beamed with happiness.

In an article written in the Jewish Observer, not long after Rav Chaim's passing, Rabbi Eliyahu Meir Klugman elucidated Rav Chaim's hasmada as follows:

"Hasmada can be defined variously as diligence or persistence. But the term falls short as a description of Rav Chaim's single-minded devotion to Torah learning. The Vilna Gaon explains that hasmada is an integral part of one's character, an ability to concentrate. But there is a higher level – that of being *davuk b'Hashem* (cleaving to Hashem). One who is intensely devoted to Hashem and His Torah, can, with Divine assistance become *davuk b'Hashem*. This *dveikus* is not within the range of human capability. It is Hashem's gift to a chosen few whose every fiber of body and soul has become permeated with Torah and *avodah*. One can say that Rav Chaim was blessed by Hashem with this special gift, for his entire personality seemed to radiate it."

"He once confided to his brother, Reb Shlomo, "The most difficult thing for me is to refrain from my Torah thoughts when I am in unclean places where Torah study is forbidden."

Those who merited to hear his *shiurim* or to learn with him *bechavrusa* remember the wellsprings of *simcha* that emanated from him when he learned. One *chavrusa* of his who learned with him during the terrible year that the *Mirrer Yeshiva* spent in the suburbs of Vilna before going to the Far East, recalls learning the order of *Mishnayos Taharos* with Rav Chaim in the *beis medrash* of the Vilna suburb of *Keidan*. While learning, Rav Chaim thought of a novel interpretation in the *sugya* by connecting the *sugya* of *Taharos* with a *Gemara* in *Mesechta Bava Kama*. He was so taken by the idea that had fallen into his head that he excitedly stood on his chair analyzing whether his analogy of the two seemingly disparate topics were really connected. When he ascertained that the *chiddush* was legitimate and the difficulty in the *Mishna* in *Taharos* could be understood in light of the *Gemara* in *Bava Kama*, he became so excited that, right then and there, in *Keidan*, in the middle of World War II, he jumped up onto the shaky, unstable table and began to dance with joy while repeating the amazing *chiddush*, a look of sheer pleasure etched on his face.

The joy he derived from learning was commensurate with the effort he invested. His hasmada and effort often defied logic and the levels of normal human endurance. He would frequently eat a breakfast of bread and herring after which he would immerse himself in learning for 30 hours straight with such concentration that he seemed oblivious to the passage of day and night. At times he would take a quick nap after the 30 hour learning stint and then return to his learning once again. His friends would often find him in the *beis medrash* in the morning sleeping under a chair – he had fallen asleep from utter exhaustion.

Rav Chaim never tired of *chazara*. When Rav Chaim would learn, he was completely oblivious to everything around him. A *talmid* once approached Rav Chaim while he was learning a *Rambam*. The *talmid* stood next to

Rav Chaim hoping that he would be noticed and would be able to ask his question. Rav Chaim, however, was so immersed in the *Rambam* that he didn't even register the *talmid's* presence. The *talmid* watched as Rav Chaim read a paragraph in the *Rambam* slowly and, upon finishing, returned to the beginning of the paragraph and learned it again. As the *talmid* looked on, Rav Chaim, with utmost concentration, reviewed the same few lines 25 times! Only after 25 times did he notice the *talmid* standing in front of him.

During his years as a *bochur*, Rav Chaim's day began at 5:00am. He learned with *chavrusos* throughout the day until after midnight. One night, after finishing learning with his *chavrusa* he chanced upon the sefer *Shaar Hamelech*. He picked it up from the table intending to glance at it momentarily. Soon, he became so involved in it that he lost track of time passing. In the morning, the *bochorim* came to *Shacharis* in the yeshiva and found Rav Chaim standing in the same spot where they had left him the night before, glued to the sefer.

Not long after Rav Chaim arrived in the *Mir*, the question began to abound, "When and for how long did Reb Chaim Stutchiner sleep?" Logic dictated that being human, Rav Chaim had to sleep, but people simply could not figure out when he did. For Rav Chaim there was not much difference between day and night. He had *chavrusas* with whom he learned until 1:00am and then other *chavrusas* with whom he began to learn at 3:00am. Between those two periods, people would catch him by his *shtender*, talking in learning...

Coupled with Rav Chaim's hasmada was an unbelievable desire to not just learn Torah but to also know and acquire Torah. Rav Chaim's hard work and toil were the stuff of legends.

Rav Chaim had a *seder* in *Talmud Yerushalmi* with one of the *gedolei Mir*. One night they learned through a very difficult, complex *sugya* and, after much effort, came up with 7 or 8 disparate approaches to explain the *Gemara*. Finally, very late at night, they stopped learning. The next day, when they began to learn with a quick review of the previous day's *sugya*, the friend was astonished. Rav Chaim repeated, in the most condensed, concise form, all of the various approaches that they had spent hours toiling over.

Stunned, the *chavrusa* turned to Rav Chaim and asked, "How were you able to remember such complex material without even having time to properly review it? To remember all of that requires a supernatural memory?"

Rav Chaim countered, "What did you do yesterday after we finished learning?"

The *chavrusa* replied, "What do you mean? We stopped learning well after midnight! I got into bed and went to sleep."

"I too got into bed," Rav Chaim said, "but not to sleep. I put my head under my pillow so as not to awaken my roommates. With my head under my pillow, I spent hours repeating all of the different approaches to the *sugya* in order to 'hock es arein' into my brain."

With the power of his legendary constant hasmada and desire to continuously grow in Torah, Rav Chaim attained levels in learning that combined tremendous, in-depth knowledge with wide-ranging *bekius* that were considered a *chiddush*, even then, in the great pre-World War II yeshiva world of Europe. Rav Chaim Ozer Grodzensky, the *gadol hador* of that era, treated Rav Chaim with the utmost deference. Once, Rav Chaim came to Vilna and, of course, went to the home of Rav Chaim Ozer to talk in learning. When he entered, Rav Chaim Ozer was conversing with a senior *Rov* from Vilna. Nevertheless, upon seeing Rav Chaim Shmulevitz, Rav Chaim Ozer rose to his full height. The *Rov* could not contain his surprise – the *gadol hador* and *manhig hador* was standing up for a young man?! Rav Chaim Ozer replied, "When the entire library of the *Mirrer Yeshiva* passes before my eyes, I should not stand?"

Chasna d'bei Nesiah

In 1929, Rav Eliezer Yudel Finkel, *Rosh Yeshiva* of *Mir*, took Rav Chaim as a husband for his daughter, *Chana Miriam*. *Rebbetzin Chana Miriam* was truly a worthy daughter of the home of her great father, a home permeated with a love of Torah. She stood by her husband throughout his life and was known for her kindness, altruism, *middos* and wisdom. Rav Chaim would praise the *mesiras nefesh* that she exhibited to enable him to

continue learning with hasmada both during difficult and good times. Rav Chaim once said, "It is only in her zechus that I was able to accomplish all that I have accomplished."

For the next six years, Rav Chaim continued learning with tremendous hasmada. It was nearly impossible to discern any difference between his hasmada as a bochur and his hasmada as a yungerman.

During the year 1936, his father-in-law, Rav Laizer Yudel, asked him to begin delivering regular shiurim in the yeshiva. In an amazing demonstration of love and honor, the entire yeshiva, from oldest to youngest, came to attend Rav Chaim's first shiur. They didn't leave disappointed. The shiur, a masterpiece of gaonus, bekius and depth, was delivered with a profound clarity. In the Mir, the talmidim quipped that Rav Chaim's shiur was so packed with chiddushim and foundations of the sugya that each shiur could really have been split into five individual shiurim.

For the next 50 years, Rav Chaim delivered regular shiurim beginning in Mir, Poland, continuing in Shanghai and ultimately in Yerushalayim. In Shanghai, Rav Chaim began to deliver his shiur klali twice weekly instead of once as he had done in Poland.

Purity of Heart

During his years in the Mirrer Yeshiva, Rav Chaim forged a very close relationship with the famed Mirrer Mashgiach, Rav Yeruchem Levovitz.

Almost immediately upon his arrival in Mir, Rav Yeruchem recognized his unique qualities, both as a gaon and masmid and also as a mussar personality with a remarkable heart and feeling for his fellow Jew. Rav Yeruchem displayed great love for Rav Chaim and drew him into his inner circle. Every Shabbos, Rav Chaim was invited to eat the seudos Shabbos at Rav Yeruchem's table. Every motzaei Shabbos, Rav Chaim and Rav Yeruchem would meet privately in Rav Yeruchem's room and Rav Chaim would tell over what he had learned that week. They would spend several hours discussing topics of mussar and machshava.

Rav Yeruchem was Rav Chaim's rebbi and guide in avodas Hashem and spiritual growth. It was his personal guidance that accompanied Rav Chaim throughout his life. Rav Yeruchem himself greatly respected Rav Chaim and his power of limud haTorah and he was reported to have once commented that "Reb Chaim Stutchiner does not have to learn mussar, he can accomplish what mussar does through learning Torah!"

Indeed, it was clearly discernable from Rav Chaim's conduct that, in addition to his learning mussar, Torah learning itself raised him to higher levels of ruchnius; to new levels of middos, chesed and sensitivity towards the feelings of others.

The compassionate way in which Rav Chaim interacted with others was simply amazing. He never refused a bochur who wished to learn with him bechavrusa – even if that bochur was on a low level of learning and intellect. The sensitivity and purity of heart that was evident in his interactions with each of these "chavrusos" can be categorized as mind boggling. The hours that he devoted to them combined with the good cheer that he exuded were the greatest manifestations of the fact that he truly wanted to convey that their learning was the learning of equals, of partners, not the learning of the strong helping the weak.

When he would address his chavrusos he would say, "Bruderke – my dear brother." His warmth and friendliness melted away the massive difference in knowledge and academic performance. In addition, the honor he displayed towards his chavrusos, the way in which he, as it were, sought their opinions, depicted a love, friendship and level of middos that defies description. In his later years in Yerushalayim, when he served as the Mirrer Rosh Yeshiva, his conduct with chavrusos remained the same.

If, in the middle of learning, he needed a sefer, Rav Chaim would never ask his chavrusos to fetch the sefer. He would go himself. Even in his last years, when he was old and weak, he refused to permit his chavrusa to get a sefer, rather, he would ask a child. His intent was clear - he did not want it to appear that he was treating his chavrusa in a less honorable manner.

Rav Klugman related, "A chavrusa of his recalled studying together when this chavrusa's pupil, a young novice, approached to ask some simple questions. Reb Chaim leaned over, straining to catch every word. "What did he ask? What does he think? What did he say?" Perhaps he would hear

a new approach, a new insight, something too precious to miss. He thirsted to learn from anyone, no matter how humble."

One Mirrer talmid remembers Rav Chaim, about two years before the latter's passing, coming down to the dining room of Mir after davening on Shabbos to participate in a Kiddush. Rav Chaim was asked to speak and it soon became clear that he needed a sefer. A few yungeleit approached asking if they could get something for him. "No, not you," Rav Chaim said to one. "Not you," he said to another. Finally, his eyes alighted on a bochur, "You!" Rav Chaim then asked the bochur to bring him a certain sefer. Rav Chaim felt that it was beneath the dignity of a yungerman, a married person, to get him a sefer and he was makpid that it should be brought by a bochur.

The sources for this article are the sefer, Hazericha B'paasei Kedem, the Jewish Observer and personal interviews with talmidim.

·He was A synthesis of tremendous hasmada, gaonus, responsibility to his fellow man and the highest levels of middos, love and sensitivity to his fellow Jew.

·As soon as the work day ended, the young Chaimke would run to the beis medrash, open a Gemara and, with the ravenous appetite of a person who hasn't 'eaten' in days, Rav Chaim would swallow up pages of Gemara. When he immersed himself deep into the life-giving waters of learning, he would forget the backbreaking labor that he had been forced to do during the day; he would forget the fact that he was just a young teenager, orphaned from both parents and responsible for the welfare of his younger siblings.

·He was a masmid in a yeshiva and a generation of masmidim but what made his hasmada unique was the pleasure, the geshmak that he derived from his learning. No pleasure in the world could even come close to the daily oneg that Rav Chaim had when learning.

·When he would address his chavrusos he would say, "Bruderke – my dear brother." His warmth and friendliness melted away the massive difference in knowledge and academic performance.

Part II

World War II

The Sole Surviving Yeshiva

With the outbreak of World War II in 1939, the yeshiva was forced into exile, beginning one of its most glorious chapters. Years later, Rav Chaim would say that under these most trying circumstances, while in flight, the yeshiva prospered as never before. The ensuing seven years of galus - exile in the most real sense - serve as a shining example of the heights a united community can scale, of the dimensions of greatness and strength of character a yeshiva can attain when its only nourishment is Torah, its only home bitachon.

On the second day of Cheshvan, 5700 (1939), the yeshiva bachurim and faculty fled Mir to Vilna, where they stayed for about two months, after which they moved to Keidan, where they managed to set up the yeshiva once more. Seven months later they were ordered out of Keidan by the Lithuanian Communist authorities, whereupon the yeshiva divided into four groups, each numbering between eighty and one hundred students. So as not to attract attention, each group studied in a different town in the surrounding countryside. Rav Chaim would shuttle from one to another to say the weekly shiur, preparing it on the bumpy ride between towns.

The hashgacha pratis (Divine Providence) of the next few years was patently evident. The yeshiva miraculously obtained transit visas for the entire group, and after much travail managed to reach Japan via the trans-Siberian railroad. Those involved saw Divine manipulation of events every step of the way. The passuk "Lev melachim ve'sarim be'yad Hashem - The hearts of kings and officials are in the Hands of G-d" was for them a living reality.

Reb Chaim frequently mentioned in his shmuesen that one of the most important factors in its miraculous salvation was the yeshiva's staying together at all times. In this connection he often spoke of the power of the united community:

"When the Jews reached Mount Sinai, the Torah says, "Israel set camp adjacent to the Mountain": Rashi comments that the Torah employed the singular, speaking of the entire nation as one individual - "As one person with one heart." The Ohr HaChaim Hakadosh explains that this unity was a

prerequisite to receiving the Torah. "Imagine," said Reb Chaim, "600,000 men, plus women and children, whose release from Egyptian bondage was only to facilitate their receiving the Torah, thereby becoming G-d's chosen people. They traveled to Sinai for this reason and this reason alone. But that did not suffice. These multitudes could not have received the Torah as individuals. It was only as a nation, as a cohesive unit with one body and one heart, as it were, that they could receive the Torah and fulfill their destiny."

He would elaborate further: "Those who separated themselves from the yeshiva - numbering 30 or so - and tried to make their own way out of the European inferno did not succeed. Only the yeshiva as a unit managed, with Divine Guidance, to escape unscathed."

The yeshiva stayed in Kobe, Japan, for about six months, and then relocated to Shanghai for the next five years: living conditions were extremely difficult, but the yeshiva prospered.

The Ship's Captain in the Most Stormy of Seas

In 1940, Rav Eliezer Yehuda Finkel managed to flee Europe and journey to Eretz Yisroel where he tried to obtain visas for the yeshiva. Prior to his departure, he placed the yeshiva in the hands of his illustrious son-in-law, Rav Chaim Shmulevitz, who together with the Mashgiach, Rabbi Yechezkel Levenstein led the yeshiva throughout its years of golus. In addition to his task of delivering shiurim and the daily running of the yeshiva, another massive yoke was placed on the shoulders of Rav Chaim - the task of sustaining 350 talmidei hayeshiva, along with close to 50 members of the hanhala and their families. The full responsibility for all of their material needs, food, clothing, lodging and the like fell upon Rav Chaim.

For most of the period that the yeshiva was in Shanghai, the country of Japan which had jurisdiction over Shanghai was at war with the United States. Most of the money to sustain the yeshiva was sent from the United States and it was thus illegal to send or receive money from an "enemy" country. It was therefore necessary to create many elaborate, intricate methods of transferring money to enable the yeshiva to hopefully survive. Many of those closest to Rav Chaim doubted that he would be able to succeed in his quest to sustain the yeshiva. His life until this point had been spent in front of his Gemara. Engaging in all kinds of "illegal" schemes in order to obtain money seemed to be something far removed from his pure world of Abaya and Rava, Bavli and Yerushalmi. How could Rav Chaim, a man steeped in ruchnius, become involved in the dangerous rough and tumble world of smuggling, intrigue and war in which he had been placed? Rav Chaim, however, defied the naysayers. During those years, a heretofore unknown facet of Rav Chaim's personality came to the fore. The fact that 400 people were completely dependent on him for survival left him no room for complacency. Rav Chaim displayed a combination of wisdom, cleverness and even slyness when necessary to establish clandestine lines of communication between Shanghai and the United States and primarily with Rav Avrohom Kalmanowitz, who was the primary conduit and savior of the Mirrer Yeshiva in America. The letters exchanged between them were ostensibly benign letters of personal correspondence. Every line, however, contained gematrios, hints to various chapters in Shulchan Aruch or certain pages in Gemara that appeared harmless to the censors. In reality they contained very urgent messages of money transfers. In addition, numerous proposals to extricate the yeshiva from Shanghai and relocate it to the United States were discussed in code and hints throughout those letters. During those years, Rav Chaim, as the yeshiva's official representative, knew that the Japanese government was tracking his every move. They understood that it was impossible for 400 people to live on nothing and they could not figure out from where the money was coming. The penalty for receiving money from an enemy country was severe and at times was even punishable by death.

Each passing day was a virtual battle of minds as Japanese detectives tried to catch Rav Chaim while Rav Chaim tried to smuggle in thousands of dollars under their very noses. Rav Chaim was frequently summoned to the military offices for questioning. Just the mention of the Shanghai military compound was sufficient to send chills of terror up and down the spine of any Jew. It was known that human life was worthless in that building where murder and torture were perpetrated daily.

Reciting Viduy Before Interrogation

Before every questioning session in that notorious building, Rav Chaim would recite the vidui and ask Hashem to assist him in giving the right answers to their questions. Rav Chaim would say that a time of sakana represents an especially auspicious time for davening.

On one occasion, when he thought all hope had been lost and he would not leave the interrogation alive, he lifted his eyes up to Heaven and exclaimed, "Ribbono Shel Olam, please! I wasn't born menahel [of the material aspects] of a yeshiva and I don't want to die as a menahel!"

Years later, at the chasuna of one of his daughters, Rav Chaim, during his drasha, became very emotional and related the following story: "I was once called to the Japanese military compound in Shanghai. I was directed to the third floor for "Interrogation". Everyone knew that no one returns alive from the third floor, the office of Mr. Guya, the ruthless head of the Japanese governmental authority in Shanghai. I was terrified. As I walked up the stairs, I davened to Hashem saying, "Ribbono Shel Olam, if it has been decreed upon me to die here, I am going with simcha. If, however, it is decreed upon me that I will return from this ordeal alive, I ask three things of You: 1) That I should be absolved of taking care of money matters for the yeshiva. 2) That I should merit to marry my daughters off to talmidei chachomim. 3) That I should merit to raise sons that are talmidei chachomim."

"Rabbosei," continued Rav Chaim, "When a person thinks his life is in danger, a person has a zechus to beg Hashem for his needs. As to what happened on the third floor," Rav Chaim continued, "that I cannot relate, but in the end I left the place alive..."

During the years in Shanghai, Reb Chaim was like a father to all the students, many of whom had been orphaned as a result of the war. He himself would bring food and medicine to the ill. And he cared for them spiritually and emotionally, teaching them, learning with them, and raising their spirits in every possible way.

In Shanghai, the yeshiva was confined to the ghetto, together with most other Jewish refugees. As dean of the yeshiva, Rav Chaim had the privilege of living outside the ghetto. Since he studied with a chavrusa whenever possible, the chavrusa slipped out of the ghetto every night without permission, to learn with him. In time, he was caught and the two of them were thrown into jail for a day or so. During his entire stay in jail, Reb Chaim was seen standing at the window engrossed in his Torah thoughts.

From Shanghai to America

Finally, the Shanghai era was coming to an end. By 1947, due to the yeoman efforts of Rav Avrohom Kalmanowitz, all of the members of the Mirrer Yeshiva who wished to immigrate to the United States received visas.

One of the tragic byproducts of the war years was the fact that one of the talmidim of the Mirrer Yeshiva became mentally unbalanced as a result of his travails. The United States government only issued visas to those whom they felt would not become a burden to the American system. Mentally ill people were not included and this bochur could therefore not receive the coveted visa.

It seemed that there was no choice other than to leave this bochur behind in Shanghai. The local Shanghai community altruistically accepted the task of taking care of the bochur. The yeshiva felt that it had no other choice than to leave him in the hands of the local community.

Rav Chaim was adamant, however, that he would not leave unless the entire yeshiva could accompany him. Not one bochur could be left behind. Much pressure was exerted upon Rav Chaim not to hold up the departure, but Rav Chaim would not relent - The yeshiva could not leave Shanghai without each and every bochur.

When Rav Chaim saw how many of the talmidei hayeshiva were upset because of his decision, he entered the beis medrash and declared, "If it was a question of traveling to America while leaving your own brother here in Shanghai would you do it?!"

Ultimately, through an impressive network of contacts and various maneuvers, Rav Chaim succeeded in obtaining a visa for the bochur. Miraculously the American consul in Shanghai did not notice the bochur's seemingly obvious lack of mental stability and stamped his visa.

Nevertheless, Rav Chaim was still terrified that, in the course of the long trip by ship, the charade would be revealed and he would not be permitted to step onto American soil. Rav Chaim decided that the only solution would be to send that bochur by airplane. In 1947, commercial plane flights were virtually non-existent and cost a small fortune. Nevertheless, Rav Chaim was so insistent that the bochur fly to America that even when it became known that the only flight set to leave was on Shabbos, Rav Chaim paskened that he was obligated to fly on Shabbos. On the day of the bochur's planned departure, the bochur inexplicably disappeared and could not be found. After a short while it became clear that he was hiding. When he was finally located, Rav Chaim hired a taxi and commanded one of the bnei Yeshiva to accompany him right then and there, on Shabbos. Boruch Hashem, the bochur eventually recovered from his breakdown, married and established a wonderful Torah family.

The talmidim left in several groups. Only after the last group of talmidim left did Rav Chaim consent to join them together with his family and journey to America. Upon his arrival in America, Rav Avrohom Kalmanowitz begged Rav Chaim to remain in America and serve as Rosh Yeshiva of the newly established Mirrer Yeshiva. However, Rav Eliezer Yudel Finkel, Rav Chaim's father-in-law who had established the Mirrer Yeshiva in Yerushalayim in 1941 insisted that Rav Chaim join him in Yerushalayim to deliver his shiurim in the Mirrer Yeshiva of Yerushalayim.

Thus several months after his arrival in America, Rav Chaim set off on the long journey to Eretz Yisroel. Rav Chaim, however, was adamant that he did not want to serve as a Rosh Yeshiva who would be burdened with the responsibility of the material well being of the yeshiva. He once said that he would rather be a simple shoemaker in Yerushalayim than have to have the unsavory and time consuming responsibility of sustaining a yeshiva. In Yerushalayim he once again became a regular "maggid shiur" without the responsibility of leading the yeshiva which once again became the responsibility of Rav Lazer Yudel Finkel.

His shiurim soon became very popular and large crowds, many from outside the yeshiva, began to flock to the Mir to hear his shiurim which were a combination of tremendous depth and wide-ranging bekius. Until 1965, Rav Chaim served as a maggid shiur, leaving the running of the yeshiva to his father-in-law, Rav Lazer Yudel. Only in 1965, upon the passing of Rav Lazer Yudel did he again assume the position of Rosh Yeshiva, a position which he had avoided since Shanghai. Nevertheless, the monetary upkeep of the yeshiva was undertaken by his brother-in-law, Rav Binyomin Beinisch Finkel. Rav Chaim saw in Rav Beinisch's altruistic undertaking the fulfillment of his heartfelt tefilla in Shanghai as he was being taken into the interrogation that should have cost him his life. For the rest of his life, Rav Chaim always expressed his deepest gratitude to his brother-in-law for exempting him from the task of caring for the yeshiva's budgetary needs.

Rav Chaim threw himself into the yeshiva's spiritual needs as he gave shiurim and guided the bochorim in learning, in yiras shamayim and personal matters.

For the next 14 years until his passing, Rav Chaim raised an entire generation of bnei Torah who became his most enthusiastic talmidim.

During the last years of his life, Rav Chaim himself rose to new spiritual heights. The almost superhuman hasmada that he displayed in his younger years continued unabated. Even when he was plagued by terrible pain and suffering, his hasmada was unaffected. It was not uncommon to find Rav Chaim spending the entire night closeted in a small shul in one of Yerushalayim's obscure neighborhoods. During the wars of 1948 and 1967, when bombs were falling in the Bais Yisroel neighborhood where he lived, Rav Chaim never ceased learning. His phenomenal concentration did not appear to be broken by the thundering sounds of bombs falling and windows shattering. Rav Chaim was wont to say that precisely those trying times were the ideal times to strengthen oneself in learning.

Emotion and Intellect

In 1964, with the passing of Rav Chaim's brother-in-law, Rav Chaim Zev Finkel, a new facet of Rav Chaim's personality was revealed. Rav Chaim Zev had delivered a weekly mussar shmuess in the yeshiva and Rav Chaim was asked to assume his position. Reluctantly, Rav Chaim agreed. Before

long the Sunday night shmuess of Rav Chaim became the highlight of the week for hundreds of Yidden from Yerushalayim. It is difficult to describe the atmosphere during those shmuessen – his eloquence, his ability to drive home a point simply and lucidly, his wide-ranging knowledge, and his emphasis on matters pertaining to man and his fellow, were among the reasons that they attracted standing room only crowds.

Reb Chaim had a habit of standing by the bima, waiting several minutes before speaking. Reb Shlomo Wolbe explained: "He did not need the time to prepare his words. He needed it to prepare himself for the shmuess. Only when he was certain that his thoughts were purely from his heart would he say them."

In truth, it was more than his eloquence. It was his "hartz", the passion, the way that he lived the words of Chazal that was what made the profound impression on all: when he would expound on the pain of Chana, mother of Shmuel, as she longed for a child; when he depicted the pain of Peninah, the second wife and her mesiras nefesh to go against her own nature and cause pain to Chana to propel her to daven with her broken heart, one could literally feel as if he was living through the events – that is how alive Rav Chaim made the words of Tanach and Chazal!

Rav Chaim's heart, his tremendous sensitivity to the feelings and to the pain of others, enabled his deep lessons of Chazal to be transmitted with such clarity, such feeling that no one who attended the shmuessen could remain unmoved.

Rav Chaim would stand at the bima and say the shmuess in his deep, commanding, booming voice while tears would force their way out of the corner of his eye and slowly drip down his face into his beard. This was Rav Chaim - a combination of the tremendous power of intellect combined with the tremendous power of a heart pulsating with love for his fellow Jews.

In his interactions with others, Rav Chaim embodied the sensitivity which he relayed in his shmuessen. He rejoiced in the good fortune of others as if it was his own and would literally become ill upon hearing of their misfortunes as was evidenced, for example, during the weeklong Entebbe incident when he became physically sick with concern.

Rav Eli Meir Klugman was standing near the Rosh Yeshiva when the yeshiva was praying for the recovery of the Gerer Rebbe, the Beis Yisroel, zt"l. "His body was shaking with sobs as he entreated the Almighty to spare the life of this great leader."

Rav Klugman related that, "On a shiva visit to a friend who had lost his wife, Rav Chaim sat down and wept bitterly over his friend's loss. After twenty minutes, he arose, said "Hamakom yenacheim – may Hashem console you..." and left, having offered the greatest comfort to the bereaved by bearing together with him the agony of his loss."

Reb Yechiel Zilberberg, The baal korei in Mir, captured the profundity of Rav Chaim's emotions: "On Shavuos morning, the drowsy assemblage could barely stay awake for the reading of Megillas Rus; Rav Chaim, however, would stand and sob. Why? In contrast to shallow emotionalism, which is activated by a few banal sentiments, Rav Chaim's heart was stimulated by his mind. He thought about Rus: The tragedy of a splendid princess reduced to the most degrading poverty, picking kernels with the rabble; and the beacon of light that would someday emanate from her, to enlighten the world – her great grandson Dovid Hamelech."

"How else," continued Reb Yechiel, "could one explain Rav Chaim's vivid portrayal of daily life tragedies – of an impoverished mother who must heartbrokenly refuse her child dressed in tatters when he begs for a pair of shoes; of the bitterness and hopelessness of an aguna deserted by her husband over twenty years ago..."

"I doubt that the women alone could have portrayed themselves as vividly as Rav Chaim did. This was because he thought about people and strove to understand their sorrows and rejoice in their fortunes," concluded Reb Yechiel.

We can understand Rav Chaim's shmuess about Yad Avshalom in the same vein: Rav Chaim was wont to stand by Yad Avshalom and daven. He was once asked why he prayed at Avshalom's graveside, after all "wasn't Avshalom a rasha, a wicked person?"

Rav Chaim replied, "Contemplate Avshalom – he tried to kill his father; and yet, when he died, his father Dovid was heartbroken and prayed for

him. This helps me understand what is meant by a 'father's mercy' and I'm ready to beseech Hashem: 'As a father has mercy on a son, so should Hashem have mercy on us!'"

Everyone's feelings are aroused by standing at the Kosel. Who but Rav Chaim could respond to Yad Avshalom?

Watching Rav Chaim daven was a lesson in dveikus. Observing him was observing a child opening up his heart before his father. He spoke to Hashem emotionally, his words were so real. He would talk to Hashem in Yiddish with a tremendous pashtus, the simplicity of a child who knows that his all powerful father is listening.

It was just after the yom tov of Sukkos, 5739 (1978). Rav Chaim was rushed to the hospital to be treated for the terminal illness from which he never recovered. Even during the subsequent weeks of semi-consciousness, his lips moved and he could periodically be heard

mumbling divrei Torah. Throughout the world, Torah Jewry stormed the gates of heaven pleading for his recovery.

The gates of heaven were closed and on a Monday night, 3 Teves, after the last of the Chanuka lights had cast their glow, this great light shined its last. With Rav Chaim's passing the world had lost a giant of hasmadah, Torah giant, a mussar giant and a giant of bein adam l'chaveiro, who illuminated the lives of three generations of his talmidim with the eternal flame of Torah.

The sources for this article are the sefer, Hazericha B'paasei Kedem, the Jewish Observer and personal interviews with talmidim.

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