

BS"D



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INTERNET PARSHA SHEET  
ON VAYISHLACH - 5767

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**Rav Soloveitchik ZT"L** Notes

( Volume 3)

Notice These are unapproved unedited notes [of R.Y.?] of classes given by Rav Soloveitchik. ..However we offer this to the world that maybe someone can get some use out of these notes. A member of the family has looked at the notes and said that look like the real thing . (Rav Soloveitchik did NOT write these notes.) [Thanks to David Isaac for typing these notes]

Lecture delivered by Rabbi Soloveitchik on Saturday night, December 8, 1979

"Vayishlach"

Tonight, we shall concern ourselves with a few problems of the sedra. We read today of the confrontation between Jacob and Esau. Of course, we have read of many confrontations, larger, stronger and more cruel ones. There was the confrontation of Noah and the people of his generation at the flood, of Abraham and those who opposed him. There was the confrontation of Yitzchak and Abimelech. Always it was tension. Also, we had the earlier confrontation of Jacob and Esau. In general, the story of the patriarchs is tension and confrontation. Some tried to make peace -- others made it as hard as possible.

However, that which we read this morning, the confrontations between Jacob and Esau -- also Jacob and Shechem is unique and different in one regard -- that of regarding the final end or disposition of the struggle. The answer to this struggle we find in the last line of today's haftorah from Ovadyahu. "V'olu Moshyim" - (And the saviours shall come up on Mount Zion to judge the Mount of Esau: And the kingdom shall be the L-rd's). We find it also in the liturgy of Rosh Hashonah. It is the confrontation which will be terminated on one given day!

All the negotiations of Abraham and the rest were temporary. They met; it was resolved. Crisis and crisis came and was settled. Temporary! Here it is Jacob versus Esau. When will it stop? When the messianic age will come. There is something else which I could quote to support this. It is almost an eternal problem. Whether it is to be described physically or spiritually it will be a permanent confrontation.

It is strange that Jacob is ready to meet Esau the next morning. Esau is ready to fight. Why was it necessary that the night before a "mysterious figure" engaged Jacob in a struggle which lasted all night -- until day came. G-d wanted to teach Jacob a lesson: "Tomorrow morning you will emerge victorious as a gentleman. There will be no trace of animosity. But don't make a mistake; there will be plenty of confrontations with strange and mysterious people during the long night of diaspora and it will be

terminated when the 'daylight' will come in that eschatological era of the messiah." "Bayom Hahu - Hashem Echod U'shmo Echod." - On that day will G-d be recognized as One.

We are still engaged! The best ones do not understand us. We are told that Rabbi Yehuda Hanasi under the Roman domination, whenever he went to see, to appeal to the governors of Rome, always studied this sedra to prepare for the confrontation. "It will be resolved but very late. Those confrontations of the early patriarchs were temporary. This is metaphysical."

What is the struggle actually about? It is a serious struggle! He (Esau) was convinced that he couldn't destroy Jacob. But why is Esau so opposed? We must consider how the Torah describes the birth of Esau. It gives us an insight to the great portrayal of these two people, Jacob and Esau. It is not merely a descriptive picture because Torah is not concerned with objective descriptions. Rather Torah tells us pertinent facts about these individuals who will be the forerunners of the world's great forces. "The first one came ruddy, completed and covered with hair and his name was called Esau. The other was smooth! When they grew up, one was a hunter - the other a dweller in tents."

The Torah describes their professions. The word "Admon" is not necessarily red but could be blonde. Although, it would appear that Esau actually was red. What does it mean that he came red and hairy? What does it have to do with Esau? Normally, at the age of 13 with the advent of puberty, hair appears and an individual's status changes from minor to major. Here Esau was already grown up - a major at birth. Here, he looked like a mature person although just recently born. Jacob looked like a child. Therefore, the word Esev (Esau) is synonymous with the Hebrew word Oso - already complete. What are we told about Jacob? "Ohchezes B'aykav Aysov" - He was a child holding onto his mother's apron. Esau was mature - completed. Esau's attitude was, "I am boss; no one can tell me what to do!" Psychologically, he was ready to play the part of the protector. Esau was an adult physically and mentally. Jacob was a child. Therefore, he (Esau) is described as "red" - the image of an adult.

Because of this difference, history records their parting of the ways. Also, the struggle in the night is the difference of two personalities, later reflected in the confrontation. What is the modern philosophy of all of this? What should a mother or father declare on the day of birth? What should the child be? It is incumbent upon parents to see that the child is educated. I believe the child should be "Esev" - Oso - complete. He should be an adult, should know and be capable of doing things. Basically, a man is born to do things but he should do it well. When a child is born, the father's prayer should be, "the child should do things and do them well." Modern man wants expertise -- good performance. Whatever you do, whatever your work -- Do it well.

Evil as they were, the Nazis did things well in that they produced fliers who were expert. Their mistake was that they underestimated America, believing that it could not produce just as well. It is the philosophy of Communism and Socialism. It is not only the economic theory but the theory of expertise. One should be very good or not at all. This applies to medicine, physics -- all fields.

This is the basic philosophy of "Esev" - "Ossu". Skill can be learned through the brain or through primitive means. The error is that for instance we say that so called inferior nations cannot operate skillful undertakings. It was said that Egypt would not be able to operate its giant dam because it is an inferior nation. But it is an error. For though even primitive, one learns to operate and to overcome. Also, success can be reached by scientific learning. This is the class of the scientist. In Russia, for instance, we have the superior and the inferior citizens. In Russia, the great scientists may receive as much recompense as the great politicians themselves because the government is overawed by the "Ossu".

What is Jacob's role? A lot of what Esau developed is certainly beneficial to us. We have, for example, the Mishna on Yom Kippur regarding the views of doctors as affecting the status of a fasting Jew. If a person is ill or weak

and a Jewish physician declares that the individual can safely fast while a gentile doctor rules that it will be injurious, we must accept the ruling of the gentile over the Jewish doctor. It is possible that the Jewish doctor is influenced by religion while overlooking the safety of the individual. When Yitcha discovered the fact that he had blessed the wrong one, he declared immediately, "V'gam Boruch Yiyhe" (May be definitely be blessed.) "Yes, let him have the power of 'Osso' too!" He could have rejected and refuted the brochos at once.

Our confrontation originally was Christian against Jew, not Muslim against Jew. The whole history of the Jewish-Muslim confrontation is Eretz Yisroel. Otherwise, there would be no confrontation. The only way to defeat them is with the "M'tal Hashamayim" the blessings intended for Esau. In order to exist, we need the same expertise, the same science, the same weapons. So why did Yitzchak want to give it all way to Esau? He suddenly realized it and changed his mind. (Note: In a previous lecture on the subject, the Rav pointed out that Rivka's prespicacity led Yitzchak to realize that a Jew can be successful not only in the spiritual world but in the physical world too. Previously, Yitzchak felt that 'L'olam Habah' is for Esau's seed. Rivka felt that the Jew should be successful in both realms.) However, to Jacob he also gave the Birkas Avrohom. "No you have something which Esau doesn't, it is Birkas Avrohom. Without this you will be no different than Esau. He (Esau) can never accept the Birkas Avrohom."

Be strong, be decisive, be also a hunter but never forget the Birkas Avrohom for the major principle of these blessings is to listen to Ethical Norms, which you may not understand. To be able to understand and advise people, you must have Avrohom's principles. You must listen to the "masoreh" (traditional teachings) of those who came before you. How does the child learn? By listening! The "masoreh" of faith 'Emunah' is listening to the principles of Avrohom.

Had Jacob only received the "M'tal Hashamayim" and not Abraham's blessings then he would have remained in Choron with Laban. Let us consider; he came to Choron completely bankrupt and made his fortune in the manner of Esau "Ossu" (complete). There he made his fortune. Why did he leave and go back to Eretz? Let's fact it, only an idiot leaves a land where he is making a fortune. What was the magnetic pull that compelled him back to Eretz. After all, he had opulence, riches, prestige and society. Emigration from a land is associated with a crisis. Here, there was no crisis! G-d told him to "go back" to his land because he had a commitment. "Vayifga Bamokom" - and he chanced upon the place. At this place where the Akeidah occurred and where the Temple was to be built, he felt a magnetic pull which didn't let him go away. Therefore, "Bamokom" - at that place. Har Homoriah. What pulled him? At this place he felt he could not move further. He had a feeling of compulsion. "Vayifga Bamokom - Vayolen Shom" - There he stopped. Why should he stop? -- Just because my father was offered here as a sacrifice? The reason is that Jacob had a sensitivity for Kedusha - holiness.

For example, Abraham entered at the Golan Heights from the north and kept on traveling southwards. He was a shepherd and the best part for cattle is the north where the vegetation is most copious. Yet he went south! Why? What pulled him? Rashi says, "because Yerushalayim is in the south." It was the same instinct as what pulls the bird to the south in the winter. There is the instinct which physically draws the bird to the place of sunlight and warmth. This is the instinct of Abraham which dragged him to the south. He discovered the reason, however, when G-d told him, "Take your son to the mountain." This is the Birkas Avrohom. The Jew is lonesome for Kedusha. What brings the Jews there now? Is it economic security? What pulls the Jew? What pulls the bird and what pulled Abraham? The will of G-d.

I often ask, "What is it that makes the dead want to go to Eretz? What is it? There is the story of Baron Edmund Rothschild who died in France during the war of independence and was buried in Paris. Later, when it was possible they decided to transfer the body to Israel and they came to ask

permission. James Rothschild got a disturbed call from DeGaulle who asked, "What is a good Frenchman? -- One who lives in France and is buried in France. Now I see he was not a good Frenchman!"

Without the Birkas Avrohom not a single person would want to expose himself to the dangers of Eretz. From the viewpoint of "Osso" - a complete man, Esau was great, but from the viewpoint of Birkas Avrohom, he couldn't understand. You have to have the ability to listen.

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Vayishlach 5767 From: Rabbi Kalman Packouz [newsletterserver@aish.com] Sent: Sunday, December 03, 2006 10:31 AM Subject: Shabbat Shalom - Vayishlach [http://www.aish.com/torahportion/shalomweekly/Vayishlach\\_5767.asp](http://www.aish.com/torahportion/shalomweekly/Vayishlach_5767.asp)

... Dvar Torah **based on**  
**Growth Through Torah**  
**by Rabbi Zelig Pliskin**

When Jacob was wrestling with Esau's angel, the Torah tells us: "And Jacob asked ... 'Please tell me your name.'" And he (the angel) replied, 'Why do you ask me my name? And he blessed him (the angel blessed Jacob) there.'

Jacob fought with the spiritual being which saw the personification of Esau, which was also the personification of the evil inclination (the yetzer hara -- the desire to follow after your desires rather than to do what is right). When Jacob was victorious, he asked the being for its name, but was told, "Why do you ask me my name?" This reply might appear to be a refusal to give a truthful answer. However, Rabbi Yehuda Leib Chasman explained that this was actually the name of the evil inclination: "Don't ask!"

The desires of this world draw a person like a magnet. The best way to overcome one's negative impulses is to be aware of how illusory these pleasures actually are. As soon as you take a close look with your intellect at worldly desires you will see how empty and meaningless they are. "Don't ask!" As soon as you start asking questions to clarify the reality of the yetzer hara, you will find that there is nothing there. This is analogous to seeing a shadow and thinking that something is actually there. As soon as you light a candle, you realize that what you saw was only an illusion. Use your intellect to see the emptiness of negative desires and you will be free from their pull. (Ohr Yohail, vol. 2, p. 35)

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From: ravfrand-owner@torah.org on behalf of **Rabbi Yissocher Frand** [ryfrand@torah.org]  
Sent: Wednesday, December 06, 2006 11:28 PM To: ravfrand@torah.org  
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**Born To Lose**

This week's parsha contains the famous battle between Yaakov Avinu and Eisav's Guardian Angel (Saro shel Eisav). Eisav's Angel requests that Yaakov release him "because the dawn had come" [Bereshis 32:27]. Chazal elaborate on this request: "I am an Angel and from the day I was created, my turn to recite Shirah [Song] in Heaven never came until today."

Rav Chaim Soloveitchik explained this as follows: An Angel is not allowed to say Shirah in Heaven until it fulfills its “tachlis” – the purpose for which it was created. When an Angel fulfills its “tachlis,” the Angel can approach the Almighty and say “I have done that which I was sent to do” and at that point, the Angel is allowed to say Shirah.

Our Sages equate the “Saro shel Eisav” with the Satan, with the Yetzer HaRa [evil inclination] and with the Malach HaMaves [Angel of Death]. Why, then, did he only fulfill his purpose of creation NOW? Rav Chaim explains that he fulfilled his “tachlis” NOW because he was defeated by Yaakov Avinu NOW.

The “tachlis” of the Evil Inclination, contrary to what we would think, is not to trip us up. The opposite is so – its “tachlis” is to present temptation before us, but allow us to strengthen ourselves in order to overcome that temptation.

The victory -- the fulfillment of the “Yetzer HaRa” in the Master Plan occurs when the “Yetzer HaRa” is defeated. He reaches his spiritual completion when he fails. Thus in this epic battle between Yaakov Avinu and the Saro shel Eisav, the Angel – upon having lost – can tell Yaakov “Now is my time to say ‘Shirah’ – precisely because you were able to beat me.”

#### Sensitivity Gores (Leads to More) Sensitivity

The parsha contains the pasuk [verse] “Now Dinah – the daughter of Leah, whom she had borne to Yaakov – went out to look over the daughters of the land.” [Bereshis 34:1] This is one of the more disturbing incidents in the tumultuous life of Yaakov Avinu. Both the fact that his own daughter was violated and the subsequent ramifications of this incident are indeed troubling.

Chazal wonder why Dinah is called “the daughter of Leah”. They ask “Is she then only the daughter of Leah, not the daughter of Yaakov?” This is analogous to a father coming home after one of his children has misbehaved. His wife tells him, “You will never guess what YOUR son did today!” The traditional answer to such a statement is “Is he then MY son, but not YOUR son?”

Chazal explain that Dinah’s lineage is traced to her mother based on the fact that “she went out,” since Leah also had a history of “going out,” as is written “And Leah went out to meet him” [Bereshis 30:16]. This is a difficult teaching. In past years, we have explained this but for some reason Chazal are faulting Leah’s behavior in that incident and referring to Dinah as “one who goes out, the daughter of one who goes out.”

When Leah “went out,” she went out for the best of reasons, to greet her husband. One of the Tribes was conceived that night, as a result of that encounter. Therefore, this is a difficult Chazal to understand. How can they fault Leah? Chazal explain that this was a minute shortcoming in Leah. However in the next generation (Dinah) this “character blemish” manifested itself in a greater form.

Notwithstanding this teaching of Chazal, the Kedushas Levi has a different approach to the expression “And Dinah daughter of Leah went out”. [It was the life’s mission of Rav Levi Yitzchak of Berditchev, author of the Kedushas Levi, to be “melamed zechus” (find spiritual justification) for Klal Yisrael.]

The Kedushas Levi writes that Dinah is called “daughter of Leah” because her whole existence was due solely to an act of Leah. What does that mean? The pasuk states in Parshas Vayetzei “And afterwards she gave birth to a daughter and she called her name Dinah.” [Bereshis 30:21]

Rashi quotes a famous Gemara: “Our Rabbis explained she is called Dinah because Leah made a judgment (Din) about herself: “If this one is a male, my sister Rachel will not even be like one of the maidservants. She prayed over her fetus and it was transformed into a female.” [Berachos 60a]

Leah was pregnant again after already having six sons. Indeed, she was pregnant, according to this Gemara, with Yosef. She made a simple calculation: “I already have six sons. Each of the handmaidens have two sons. If I have a seventh son, Yaakov will already have 11 of the 12 sons

that he is destined to have. That would leave my sister Rachel at best providing one tribe, less than even the handmaidens.” At this time, Rachel was pregnant with a girl who would have been Dinah. Leah worried about the embarrassment of her sister and prayed to G-d that a miraculous switch take place and that the female child become hers and the male child become her sister’s.

This is what happened. The babies were miraculously switched. Rachel became pregnant with Yosef and Leah became pregnant with Dinah. This is the intent of the expression “and afterwards (after she made this calculation) she gave birth to a daughter and called her Dinah (based on the ‘Din’ she made upon herself)”

The Kedushas Levi uses this Midrash to explain the attribution of Dinah as “the daughter of Leah” in our parsha. Dinah was only born through Leah’s intervention -- her pleading with the Almighty on behalf of her sister.

The Shemen HaTov takes the premise of the Kedushas Levi – the great self-sacrifice of Leah on behalf of her sister – and turns it into a question: Why, in fact, is there not greater recognition in Chazal for this magnanimous act of Leah? Why do we not find more explicit mention of the tremendous merit of Leah for this heroic act in classical Rabbinic teachings?

The Shemen HaTov answers that the reason this merit does not accrue directly to Leah is because it is really Rachel’s merit. That which influenced Leah to do this was an incident that happened years earlier. If there was anyone who was really very sensitive about her sister’s embarrassment, it was Rachel.

Rachel was supposed to marry Yaakov. Lavan performed a big switch. One daughter was supposed to marry Yaakov and the other daughter was supposed to marry Eisav. Rachel -- in order to save her sister embarrassment -- risked the possibility of becoming the wife of the wicked Eisav!

Years later, this great act of self-sacrifice on Rachel’s part inspired Leah, to repay the favor, and in a sense, give up a seventh son for the sake of her sister not feeling that she contributed less to the future Klal Yisrael than the hand-maidens. Relatively speaking, Leah’s sacrifice showed less sensitivity and was only a result of Rachel’s initial sacrifice. Consequently, the Shemen HaTov states, the Rabbis do not make the same mention of it as they do with Rachel’s sacrifice. The primary merit therefore accrues to Rachel.

The lesson is one in sensitivity. I will relate another incident – not with Biblical personalities but with a contemporary – who also had the sensitivity to protect his fellow man from embarrassment.

There were two Ba’alei Keriah [Torah readers] in a shul. For the sake of anonymity we will call them Reuven and Shimon. They read on alternate weeks. It was Reuven’s week to read. However, on Friday night Reuven came into shul and told the Gabbai “I am hoarse. I cannot lein tomorrow. Please ask Shimon to pinch hit for me this Shabbos.” The Gabbai went to Shimon and relayed Reuven’s message. Shimon said there would be no problem, he would prepare during the long Friday night and be ready to lein the next morning.

The next morning when they took out the Sefer Torah Reuven went up to lein! However, he was obviously hoarse and at the end of the first aliyah he announced loudly, “I can’t go any further. My voice is hoarse. Let Shimon lein.” Shimon approached the bimah and took over the Torah reading from that point forward.

After services, the Gabbai approached Reuven and asked for an explanation. “I don’t understand. What was the whole act over here? We discussed this last night. Everything was a done deal. Why did you start reading this morning and make a whole act as if this was something sudden?”

Reuven explained that he was concerned that he did not give Shimon enough time to prepare properly. He was afraid that Shimon would have to lein on short notice and since he was not properly prepared, he might make

many mistakes and embarrass himself. "Many people would not remember that this was not Shimon's week to lein. They would think that he was making mistakes because he is not a good Ba'al Koreh. I wanted to make clear to everyone that it was really my week and that Shimon was pinching for me on short notice."

May we all learn to apply the sensitivity demonstrated by our Biblical heroes and heroines to our own lives as did this "regular Jew."

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<http://www.yu.edu/riets/torah/enayim/archives/archives.htm> [From 1999]  
Enayim L'Torah Vayishlach

**In The Still Of The Night**  
**Rabbi Benzion Sheinfeld**

In this week's parshah, we find a mysterious struggle between Yaakov and an Ish, identified by most meforshim as an angel of sorts. Only after Yaakov's struggle with this mysterious being does he merit the name Yisrael and become the Av destined to establish B'nei Yisrael.

Upon closer analysis, the mystery of the episode begins even before the enigmatic Ish appears. It begins with the unexpected, unusual and seemingly inexplicable reality of Yaakov being totally alone, as the Torah states VaYivaser Yaakov Levado. According to Rashi and other meforshim, Yaakov's being alone on that fateful evening was apparently an accident. Rashi explains that Yaakov returned for some small vessels that he had forgotten. Ramban, however, is of the opinion that Yaakov, in fact, had planned to be alone that night. On the words VaYa'aver Es Asher Lo, Ramban explains that Yaakov commanded others to bring his possessions across the Nachal but had remained himself on the other side; he had neither crossed nor planned to cross that night. Apparently, Yaakov had orchestrated events so that he would in fact be alone that night. In analyzing why Yaakov felt it necessary to be alone, perhaps we must look at the spiritual growth one can gain from being alone.

In the halachos of tzara'as, the Torah quarantines afflicted individuals, badad yeshev. Chazal explain that the obligation of sitting alone outside the camp as part of the process of kaparah and taharah is a fitting demand. Tza'aras comes as a punishment for lashon hara, a sin which divides people. Similarly, the malshin must be separated from his fellow man. Perhaps there is another explanation for the malshin's isolation. At the core of lashon harah, the desire to speak ill of one's friends, is the insecurity and inadequacy one feels about oneself. If a person is shalem with himself and feels his own self worth, he would not be moved to speak ill of others. Conversely, when one feels inadequate, an easy (although ultimately not satisfying) way of covering his inner feelings and not facing his personal reality and challenges is to put down others. In fact, people who are not in touch with their own inner beauty and goodness are usually overly concerned with the lives and opinions of others and are most apt to speak lashon hara.

Accordingly, the Torah prescribes that a malshin should withdraw from society as a type of spiritual therapy. One can learn by being alone how to face their own inner challenges and inner selves By getting in touch with

their true value and beauty, they can rid themselves of the desire to speak lashon hara.

The importance and power of spending time alone and facing the particular challenges of your own personal essence is one of the most important, yet ignored, parts of Avodas Hashem. Yaakov Avinu knew that he was at a crossroads in his life. He knew that tomorrow was going to be a day that would make or break his destiny and the destiny of Am Yisrael forever. Yaakov knew that he must spend the night totally alone, challenging himself with more excruciating honesty than ever before, and ensuring that he had grown as much as possible and had searched as much as he could search. VaYivaser Yaakov LeVado - alone with his heart, with his thoughts and ultimately with Hashem. It was only because of the courage Yaakov expressed and the truth Yaakov sought on this night of being Levado that he was zocheh to victory over the Saro Shel Esav and to achieve the Emes that he is known for, as we say Titen Emes L'Yaakov.

May we all, on our own levels, have the courage and know how to challenge ourselves and face our true selves in order to achieve and express our own personal Emes in our Avodas Hashem.

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Vayishlach

**Jacob's Destiny, Israel's Name**

It is the moment the Jewish people acquired its name. Nothing could have been more unexpected or mysterious. Jacob is about to meet the brother he had not seen for 22 years - Esau, the man who had once vowed to kill him. Alone and afraid at the dead of night, he is assaulted by an unnamed stranger. They wrestle. Time passes. Dawn is about to break:

Then the man said, "Let me go, for it is daybreak." But Jacob replied, "I will not let you go until you bless me." The man asked him, "What is your name?" "Jacob," he answered. Then the man said, "Your name will no longer be Jacob, but Israel, because you have struggled with G-d and with men and have overcome." So the people Israel acquired its name, surely the strangest and most haunting in all the religious experience of mankind.

Religion, faith, spirituality - these words conjure up many ideas and associations: peace, serenity, inwardness, meditation, calm, acceptance, bliss. Often faith has been conceived as an alternative reality, a "haven in a heartless world," an escape from the strife and conflict of everyday life. There is much to be said for this idea. But it is not Judaism.

Judaism is not an escape from the world but an engagement with the world. It is not "the opium of the people," as Karl Marx once called religion. It does not anaesthetise us to the pains and apparent injustices of life. It does not reconcile us to suffering. It asks us to play our part in the most daunting undertaking ever asked by G-d of mankind: to construct relationships, communities, and ultimately a society, that will become homes for the Divine presence. And that means wrestling with G-d and with men and refusing to give up or despair.

Wrestling with G-d: that is what Moses and the prophets did. They said, in effect: G-d, your demands are great but we human beings are small. We try, but often we fail. We make mistakes. We have moments of weakness. You are right: we have much to feel bad about in our lives. But we are your children. You made us. You chose us. So forgive us. And G-d forgives. Judaism is a religion of repentance and confession, but it is not a religion of guilt.

Wrestling with men: since the days of Abraham, to be a Jew is to be an iconoclast. We challenge the idols of the age, whatever the idols, whatever the age. Sometimes it meant wrestling with idolatry, superstition, paganism, magic, astrology, primitive beliefs. At other times it means wrestling with secularism, materialism, consumerism. There were times, in the Middle Ages, when Europe was largely illiterate and Jews alone practised universal education. There were others - the twentieth century, for example - when Jews became the targets of Fascism and Communism, systems that worshipped power and desecrated the dignity of the individual. Judaism is a religion of protest - the counter-voice in the conversation of mankind.

Jacob is not Abraham or Isaac. Abraham symbolises faith as love. Abraham loved G-d so much he was willing to leave his land, home and father's house to follow him to an unknown land. He loved people so much that he treated passing strangers as if they were angels (the irony is: they were angels. Often people become what we see them as. Treat people like enemies and they become enemies. Treat them as friends and they become friends). Abraham dies "at a good age, old and satisfied." A life of love is serene. Abraham was serene.

Isaac is faith as fear, reverence, awe. He was the child who was nearly sacrificed. He remains the most shadowy of the patriarchs. His life was simple, his manner quiet, his demeanour undemonstrative. Often we find him doing exactly what his father did. His is faith as tradition, reverence for the past, continuity. Isaac was a bridge between the generations. Simple, self-contained, pure: that is Isaac.

But Jacob is faith as struggle. Often his life seemed to be a matter of escaping one danger into another. He flees from his vengeful brother only to find himself at the mercy of deceptive Laban. He escapes from Laban only to encounter Esau marching to meet him with a force of four hundred men. He emerges from that meeting unscathed, only to be plunged into the drama of the conflict between Joseph and his other sons, which caused him great grief. Alone among the patriarchs, he dies in exile. Jacob wrestles, as his descendants - the children of Israel - continue to wrestle with a world that never seems to grant us peace.

Yet Jacob never gives up and is never defeated. He is the man whose greatest religious experiences occur when he is alone, at night, and far from home. Jacob wrestles with the angel of destiny and inner conflict and says, "I will not let you go until you bless me." That is how he rescues hope from catastrophe - as Jews have always done. Their darkest nights have always been preludes to their most creative dawns.

Zis schver zu sein a Yid, they used to say. "It's hard to be a Jew." In some ways, it still is. It is not easy to face our fears and wrestle with them, refusing to let go until we have turned them into renewed strength and blessing. But speaking personally, I would have it no other way. Judaism is not faith as illusion, seeing the world through rose-tinted lenses as we would wish it to be. It is faith as relentless honesty, seeing evil as evil and fighting it in the name of life, and good, and G-d. That is our vocation. It remains a privilege to carry Jacob's destiny, Israel's name.

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From: peninim-bounces@shemayisrael.com on behalf of Shema Yisrael Torah Network [shemalist@shemayisrael.com] Sent: Wednesday, December 06, 2006 2:07 PM To: Peninim Parsha

**Peninim on the Torah**  
**by Rabbi A. Leib Scheinbaum**  
Parshas Vayishlach

But he got up that night... and crossed the ford of Yabok...Yaakov was left alone and a man wrestled with him. (32:23,24) Chazal teach us that Yaakov Avinu had forgotten some pachim ketanim, small pitchers, and returned to retrieve them. They derive from our Patriarch's action that "to the righteous, their money is more dear to them than their bodies." They earn every penny diligently and honestly, thus everything they own is very dear to them. Is that a reason to endanger one's life? In fact, Chazal in Pirkei Avos 3:5, admonish us to beware of the night and to refrain from going out alone. "If a person is awake at night, or travels on the road alone...then he can blame himself if anything bad happens to him." The night is a

time when the mazikin, spiritual demons, prevail. The road presents its own set of dangers. One who puts himself into a dangerous situation has only himself to blame if he suffers as a result of his foolhardy decision. Yaakov endangered himself for some little jugs that probably were not worth very much. Was it worth it? Was it the correct thing to do? Apparently, if Yaakov did it, it was the proper action to take - but why?

The Arizal explains that Yaakov viewed his material possessions as gifts from Hashem. When one receives a gift from the King of Kings, he makes certain not to lose it. We view our possessions as something we either purchased, earned or deserved. We look at all the parties involved in enabling us to acquire our material possessions - but we never think about the true source of all that income. From where did it actually come? The righteous understand that it all begins and ends with Hashem, the Source of all income. Therefore, they have a deep and abiding respect for their possessions, regardless of their monetary value. It is not what it is, but, rather, from Whom it comes.

Probably the greatest gift that we receive from Hashem is the gift of life. We have become so complacent with life that we fail to recognize its Source. I recently read a story about Horav Yaakov Kaminetzky, zl, that underscores this idea. His devotion to Klal Yisrael, to the Klal, general community, and the prat, individual Jew, was legendary. As a man of ninety years old, he was certainly entitled to take it easy, to have some "down" time for himself, but he was not that way. He would tell his Rebbetzin never to leave the phone off the hook - even during meals. "Picture the frustration," he would say, "of a person who calls, finds the line busy, and calls again - only to find the line still busy. Can you imagine his frustration? Besides, my feeling is that Hashem has granted me these extra years as a gift for me to use for others. How can I squander my time for my personal comfort?"

The Sanzer Rav, zl, would record in a notebook every single moment that he did not devote to Torah or mitzvos. One year, prior to Yom Kippur, he tallied up the minutes, and it totaled three hours. He then wept for three hours, asking Hashem for Divine forgiveness. Time is short; time is precious; time is a gift. It is not to be wasted.

Horav Meir zl, m'Premishlan would give everything away to the poor. He once remarked, "Every day I thank the Almighty that having money is not a mitzvah. If it were, I do not believe I could sleep a single night knowing that I have the means, while there are those less fortunate than I who are going hungry." When one recognizes that he has been granted a gift, he delves into the purpose of that gift.

And a man wrestled with him (Yaakov) until the break of dawn. When he (the angel) perceived that he could not overcome him, he struck the socket of his hip; so Yaakov's hip-socket was dislocated...the sun rose for him...and he was limping on his hip. (32:25,26,32)

Yaakov's Avinu's handicap did not last very long. He was struck at alos ha'shachar, daybreak, and was healed by the zerichas ha'shemesh, rising sun. This implies that Eisav's guardian angel did not have the power to overwhelm Yaakov during a time that was either clearly night or clearly day. It was only during this small window of opportunity between alos ha'shachar and netz hachamah, daybreak to sunrise, that he was able to achieve a measure of success. What does this teach us? Horav Eliyahu Schlessinger, Shlita, explains this homiletically. Night and day represent clarity. Whether it is clear day or dark night, it is unambiguous. These two concepts reflect Klal Yisrael's spiritual condition when it is strong, conclusive and free of doubt. Under such conditions, there is no question concerning Klal Yisrael's ability to withstand challenge and triumph over adversity. This idea applies equally to the individual. When a person's beliefs are unequivocal, and his moral posture and perspective are not vague, he can overcome the trials that confront him. As long as he is rooted solidly in his Torah- study and ethical demeanor, he will triumph through every encounter with the forces of Eisav.

It is only when he is philosophically on shaky ground, when his emunah, belief in Hashem, is unclear, that his situation is compared to a twilight zone, which is neither dark nor light. It is not night, but it is also not yet day. This is symbolized by the period between daybreak and sunrise. It is no longer dark, but it is not yet fully light. During this period of obscurity, Eisav can grasp a foothold in us, squeeze himself in, and even, at times, succeed in swaying us.

Eisav's angel is the yetzer hora, evil inclination, who knows that it is during these times in which we are unsure of ourselves and our beliefs that he must launch his spiritual offensive against us. This is our weak point, and he will make the most of it. Our moment of indeterminateness, our lack of clarity, is his window of opportunity. He is sure to seize the moment. The Gaon, zl, m'Vilna interprets this idea into the pasuk in Bereishis 4:7, "L'pesach chatas roveitz." "Sin rests at the door." A pesach is an opening, a doorway. When man prepares the opening, when he opens the door, he allows the sin to enter. When there is doubt, it creates an access for the yetzer hora. Chavah said to the serpent, "Of the fruit of the tree... You shall not eat of it nor touch it, lest you die." (ibid.3:3) By saying "lest you die," she was implying that death was only a possibility. She was unsure. This allowed the serpent to penetrate the doorway

that she created. Had she said, "You will surely die," with clarity and certainty, the serpent would not have had a chance.

This is the lesson of the gid ha'nashe, the sinew that moved out of place. Anything that is not in its place or in its proper perspective is in danger of falling prey to the winds of change. When we are firmly rooted in our heritage and strongly committed to transmitting the legacy to the next generation, nothing can stand in our way.

Yaakov was left alone and a man wrestled with him...when he perceived that he could not overcome him, he struck the socket of his hip...Therefore, the Bnei Yisrael are not to eat the displaced sinew on the hip socket. (32:25,26, 33)

Yaakov Avinu's encounter with the guardian angel of Eisav is an experience that remains eternalized in the annals of Jewish history. There is more to this confrontation than meets the eye. The Zohar Hakadosh says that this encounter took place on the night of Tisha B'Av. When the angel succeeded in striking the socket of Yaakov's hip, it became a portent for the Jewish nation that Tisha B'Av would remain a day on which Eisav and his minions of evil would have the ability to prevail over us. The angel did not affect Yaakov, since he quickly healed from the mishap. It affected, however, the future generations of the Patriarch, an idea which is symbolized by the yerech, hip.

Children are referred to as yotzei yerech, those "who go out from the hip." Therefore, Tisha B'Av became a night when the forces of evil have prevailed against us. It was the night that the meraglim, spies, returned and disparaged Eretz Yisrael. It was the night that Klal Yisrael overreacted and wept for no justifiable reason. Hashem declared, "You cried needlessly; I will give you a reason to cry for generations." Tisha B'Av commemorates that fateful night with its own set of tragedies: the destruction of the two Batei Mikdash and a number of other calamities that have taken their toll on our People. In other words, it is not that the Ninth of Av became a day that denotes negativity and tragedy because of what has historically occurred on that day. Rather, there are "good" days and "not such good" days - days which for some reason have been rendered as days that are not fortuitous for Jews. Horav Zvi Hirsch Broide, zl, explains that time, as it was originally created, stands still. We travel through time, and there are "station" stops during the calendar year which are designated by Hashem and maintain the same attributes and spiritual context as that date held in the original calendar of creation. Thus, Shabbos has been imbued with the exact forces that prevailed in the original Shabbos Bereishis of Creation. Pesach has the same forces that are endemic to geulah, liberation. Adar has the qualities inherent in simchah, joy. Av is a month during which misfortune has had its reign. The Ninth of Av is a day that from the creation of time has been designated for trouble and calamity. We have only to peruse our history to perceive this reality.

It is due to this that Eisav's angel chose this unfortuitous night to challenge Yaakov. He knew that the forces of evil and impurity have greater power on this night. Indeed, the Chasam Sofer posits that Hashem enabled the meraglim to return to their camp three days earlier than planned. He did not want them to be on the road during the Ninth of Av, because of that day's negativity. It would be too much of a challenge for them. Regrettably, despite returning early, they nonetheless fell into the trap of Tisha B'Av, memorializing it forever as a day of even greater calamity.

Interestingly, the Zohar HaKodesh says that eating on Tisha B'Av is tantamount to eating the gid ha'nashe. Furthermore, the Sifrei Kabbalah say that the three hundred and sixty-five prohibitive mitzvos each correspond to one day of the yearly calendar, and the mitzvah of gid ha'nashe coincides with the Ninth day of Av! Apparently, there are times in the Jewish calendar that are propitious, and there are times that are not. This awareness gives us all the more reason to acknowledge and appreciate the good fortune that Hashem provides for us.

Yaakov arrived intact at the city of Shechem. (33:18)

The first place of significance that Yaakov Avinu visited upon returning to Eretz Yisrael was Shechem. The Ramban applies the rubric of Maaseh Avos siman l'banim, "all that occurred to the forefathers is a portent of what will happen to their descendants on a general, national level." Indeed, Shechem was the first place that Klal Yisrael conquered upon entering the land. Avraham Avinu also first approached Shechem when he entered Eretz Yisrael. On the very day that Klal Yisrael entered the land, they went to Har Gerizim and Har Eival, which are situated in the Shechem district. Something about this place must have caused Avraham, Yaakov and Klal Yisrael to commence their relationship with Eretz Yisrael at this specific location.

The Shem MiShmuel gives us a deeper understanding of the meaning and significance of the place called Shechem. When Yaakov arrived in Shechem, he experienced an unfortunate incident in which his daughter, Dinah, was violated by Shechem ben Chamor, who was the area's ruler. After his beastly act, he asked for Dinah's hand in marriage. The condition that Yaakov's sons demanded, in order to grant permission for this union, was that all the men in the city circumcise themselves. Shechem agreed, and the rest is history.

Interestingly, when Shechem asked for Dinah's hand, she is referred to by the Torah as "the daughter of Yaakov." She had a name. Why is she not referred to by her name? The Avnei Nezer, father of the Shem MiShmuel, explains that he was not merely interested in satisfying his physical desires, he wanted Dinah because she was "Yaakov's daughter"! He wanted to be a part of Yaakov's unique world. In truth, this is implied by the name "Shechem," which means "segment" or "portion." He sought a portion of Yaakov's family. He did not want Dinah simply as a wife, but also to share in his future father-in-law's distinction. This attitude is in contradiction to the general position which one who seeks to convert to Judaism must maintain. A ger tzedek, righteous convert, should feel privileged to be a part of Klal Yisrael. Shechem, however, felt that Klal Yisrael owed him something!

Every word in the Hebrew language describes the essence of its subject. Thus, the word shechem aptly describes the individual who was named Shechem. It was not a coincidence that he and the city's inhabitants lived in Shechem. They all personified the meaning of shechem - segment, portion. Each person wanted his own portion in life. They all sought individuality, significance and personal distinction. Being a part of a larger entity, of a community, of an organization, was not for them. Shechem was a place that infused its inhabitants with a feeling of importance and worthiness.

The character trait signified by Shechem is a double-edged sword. One can apply it positively, saying that bishvili nivra ha'olam, "the world was created for me." He can perform one mitzvah and have the privilege of tipping the scales of merit in his favor in order to save an entire world. Having a feeling of self-worth and self-confidence is extremely important in one's quest for Torah distinction.

On the other hand, if one misapplies this character trait, it can lead to his downfall. He becomes so obsessed with furthering "himself," his goals and objectives, that his principles and his position on everything revolve around himself. He becomes so self-oriented that he will not permit anything to stand in the way of his personal achievement. He becomes so arrogant that people, society and even G-d may not dispute him. Such a person refuses to accept criticism, so that he can never be corrected. He is perfect in his own eyes.

In other words, the middah of "shechem" is something we all need in varied dosages in order to succeed in life. Like all therapeutic devices, however, too much can be destructive. To succeed one must be driven. He must be able to triumph over challenge and adversity, to stand up for what he believes. In order to complete a project of significance, one must feel good about himself, or else the project is doomed from its inception. The flip side is obvious. Personal empowerment and independence can lead to arrogance. Self-sufficiency and inflexibility are the precursors of haughtiness. The shechem character trait has to be carefully blended into the human persona, so that it does not overpower the individual, undermining his potential for success.

This is why Klal Yisrael began their assault on Eretz Yisrael through the city of Shechem. Until that time, they had been living in the wilderness, the descendants of slaves- certainly not what we would consider the necessary attributes for conquering a land. This was probably the greatest enterprise that they ever encountered. It would demand an incredible amount of self-assurance and drive to overcome the awesome and daunting task that confronted them. They received their boost of energy and self confidence in Shechem. It launched their mindset and energized their drive to conquer, to succeed, to triumph for Hashem.

There is a caveat that must be observed in Shechem. Too much indulgence in the character trait of shechem can lead to self reliance and arrogance. The Avos attempted to ameliorate this fear, to prevent plunging into the trap of shechem. Avraham and Yaakov, who were paragons of humility and self-effacement, sought to temper the shechem effect on future generations. Their visitation to Shechem ensured that the positive aspects of Shechem could be employed when necessary, and a proper perspective on life and success could still be retained. Through the established rule of Maaseh Avos siman labanim, they transmitted this ability to their descendants, so that they could receive the proper inspiration from this place without losing the balance between self-confidence and arrogance.

Shechem was a holy place with incredible potential. Yet, it was a place that has been recorded in the annals of Jewish history as one of disaster and strife. It is not the place that is inherently bad. Shechem can bring out the best in a person, but if not checked and tempered properly, it can lead to personal disaster. The sale of Yosef resulted from the brothers' refusal to submit to his leadership. The monarchy of Klal Yisrael was split due to Yeravam's arrogance, his refusal to accept the Davidic monarchy and the authority of the Bais Hamikdash. Shechem empowered them. It also set them up for destruction. Is that not the story of life? The greatest good can suddenly, with too much indulgence, become destructive.

... Sponsored In Memory Of Rabbi Louis Engelberg z"l niftar 8 Kislev 5758 Mrs. Hannah Engelberg z"l niftara 3 Teves 5742 t.n.tz.b.h.

Etzmon and Abigail Rozen and Family

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From: Michael Rosenthal [webmaster@koltorah.org] Sent: Friday, November 03, 2006 11:28 AM To: Kol Torah Subject: Kol Torah Parashat Lech Lecha Yerushah and Dina DeMalchuta Dina - Part 1 of 1 KOL TORAH A Student Publication of the Torah Academy of Bergen County Parshat Lech Lecha 12 Cheshvan 5767 November 3, 2006 Vol.16 No.7

### **Yerushah and Dina DeMalchuta Dina – by Rabbi Chaim Jachter**

(assisted by Martin M. Shenkman, Esq.)

**Introduction** In the past issue, we discussed some of the basic Halachot regarding inheritance. We noted that if there are sons, daughters do not inherit and that wives do not inherit their husbands' estate. Today, however, husbands usually wish to leave their estate to their wives and parents wish to bequeath their daughters with an equal share in the Yerushah. How can this be accomplished without violating the Halacha? One cannot simply stipulate that he wants his wife and/or daughters to inherit. The Halacha regards this as an invalid stipulation (Bava Batra 8:5). Although the opinion of Rabi Yehuda that Kol Tenai ShebeMamon Kayam (Bava Metzia 94a and Shulchan Aruch Even HaEzer 38:5), monetary stipulations are (if structured properly) valid even if they contradict Torah law, is accepted, stipulations made in contradiction to the Torah rules of Yerushah (inheritance) are invalid. The Rambam (Hilchot Nachalot 6:1) explains that the Torah (Bemidbar 27:11) describes the rules of inheritance as "Chukat Mishpat", a decree of judgment, meaning that it applies in all circumstances and cannot be overridden by a stipulation. Thus, we are left in a quandary- how can a person distribute his estate to non-Halachic heirs such as a wife and daughter without violating Halacha? In this issue, we will discuss whether the principle of Dina DeMalchuta Dina, the Halachic obligation to follow the law of the land in which we reside (as codified in the Shulchan Aruch Choshen Mishpat 369), can be invoked to solve this problem.

**Dina DeMalchuta Dina: A Ruling of the Rashba** The Gemara in a variety of contexts presents the rule of Dina DeMalchuta Dina, which obligates us to follow civil laws such as paying taxes and traffic laws. However, the rule of Dina DeMalchuta Dina does not apply, generally speaking, to Yerushah. This point is best illustrated by a frequently quoted responsum of the Rashba (6:254). The Rashba addressed an interesting case. Reuven's (not their real names) daughter, Leah, married Shimon and gave birth to a daughter. Shortly afterward, Leah and her daughter both died. Reuven subsequently claimed, based on the law of the land, that he had the right to the large dowry he had given Leah. Shimon, on the other hand, claimed he had the right to the dowry based on the Halacha that the husband is the primary inheritor of his wife. The Rashba, responding sharply, stated that the Halacha prevails over Dina DeMalchuta Dina in this situation. He writes that Dina DeMalchuta Dina applies only to external matters such as taxes and the functioning of the country, not to internal matters between Jews. The Rashba ruled that if Jews would embrace the civil laws of the countries in which they reside to resolve internal monetary disputes, it would lead to complete abandonment of Talmudic civil law. "In that case," argues the Rashba, "what would become of the holy books of the Mishnah and the Talmud? G-d forbid, such a thing must never happen in Israel, lest the Torah wrap itself in the sackcloth of mourning."

**Rav Moshe Feinstein's Ruling** This responsa of the Rashba is accepted as normative Halacha and is cited by the Beit Yosef (Tur Choshen Mishpat 26 s.v. Katav HaRashba) and the Rama (369:11). Accordingly, Dina DeMalchuta Dina does not override the Halachot governing Yerushah. If one does not take affirmative measures to assure that his estate is distributed in conformity with the Torah's order of inheritance, his heirs as defined by civil law will have violated Halacha. If one dies intestate (without a will), the civil authorities will distribute his estate in accordance with the state laws of intestacy, which almost invariably differ from the laws of the Torah (as noted by Rav Feivel Cohen in Kuntress Midor LeDor, pp.7-8). By not taking the necessary measures, one will cause money to be taken from his Halachic heirs and given to those who are not Halachically entitled to the estate. The Halacha views this as theft (see Rav Akiva Eiger C. M. 26:1). It is clear from the Rashba that if one dies intestate, Halacha, not civil law, must control the distribution of his assets. Rav Moshe Feinstein, however, argues (Teshuvot Igrat Moshe, Even HaEzer 1:104) that a will drafted in compliance with civil law is Halachically valid and that the heirs as set forth in the will are not guilty of theft even if they do not inherit according to the Halacha. Rav Moshe writes that since a will deals with a gift (bequest) to be made after the death of the testator, it would seem that such a gift is not valid in the eyes of Jewish Law. This is because there is no recognition under Jewish Law of a Kinyan (transfer of title) after death (Gittin 13a), because the asset involved no longer belongs to the testator. Upon death, Halachic heirs inherit immediately. Nevertheless, according to the law of the land, one may transfer property after death even though it no longer belongs to the testator. Rav Moshe states: It appears, according to my humble opinion, a [secular] will of this kind, which will definitely be put into effect by the civil authorities of the country in which

he resides, does not need a Kinyan, for there is no greater Kinyan than this [transfer effectuated by the civil law]. Therefore, since a Kinyan is not necessary, the legatees [of the secular will] are Halachically entitled to the property left to them in the will and not the Halachic heirs. And this is a significant basis for the practice [of observant Jews] in this country [the United States] to rely on these types of [secular] wills.

Critique of Rav Moshe's Opinion ruling met with much opposition. Dayan Aryeh Leib Grossnass of The London Beth Din wrote a thorough critique of Rav Feinstein's ruling (Teshuvot Lev Aryeh 2:57). The authorities who concur with Dayan Grossnass include Rav Zalman Nechemia Goldberg (Techumin 4:342-344), Rav Feivel Cohen (Kuntress Midor LeDor), Rav Ezra Basri (Dinei Mammanot 3:208-213), Rav Hershel Schachter (presented in a lecture to rabbinical students at Yeshiva University) and Rav Mordechai Willig (personal communication). Furthermore, several classical commentaries disagree with Rav Moshe, including the Chatam Sofer (Teshuvot Chatam Sofer, Choshen Mishpat number 142), Rav Yaakov Ettlinger (Teshuvot Binyan Tzion Hechadashot number 24), and Rav Chaim Ozer Grodzinski (Teshuvot Achiezer 3:34). All of these authorities reject the conclusion of Rav Moshe and would not sanction the use of a secular will without supplements, such as the Shtar Chatzi Zachar that will be discussed in later issues.

Dayan Grossnass cites a passage from the Gemara (Temura 25b) that seems to clearly disprove Rav Moshe's contention. The Gemara teaches that when there is a conflict between an individual's directive and God's directive, God's directive prevails. For example, if one declares that when a first born animal will be born it will be a Korban Olah, Hashem's directive that the animal be designated as a Behor at birth prevails over this individual's desire. Similarly, Dayan Grossnass argues, if one stipulates that at death one's assets belong to a non-Halachic heir, Hashem's directive that at death the assets belong to the Halachic heir prevails. Rav Hershel Schachter remarked that he finds this proof particularly convincing. Dayan I. Grunfeld of the London Beth Din presents (The Jewish Law of Inheritance 81-82) another disproof of Rav Moshe Feinstein's theory. He cites the following passage from Sefer HaChinuch (Mitzvah 400): Hashem teaches that the right of the heir to the hereditary estate is inexorably tied to the estate, and as soon as the individual who transmits the inheritance dies, the right to the inheritance immediately rests on his heir. The relationship of the person who transmits the inheritance to the heir is such as if the bodies of the two persons were glued together, and what emanates from one immediately reaches the other. Hence, Chazal teach that if an individual states that my son shall not inherit me or my daughter shall inherit me in a case where there is a son, or if the testator makes any similar stipulation which contradicts the Jewish law of inheritance, these stipulations are entirely invalid. One cannot uproot the word of Hashem, Who ordained that the Halachic heir inherits the one who transmits the inheritance. As explained by the Sefer HaChinuch, as soon as a person dies, his Halachic heirs automatically possess title to the inheritance without any interruption.

From a Halachic perspective, this appears to preclude civil authorities from making a gift on behalf of the deceased. Since, immediately at the time of death, an estate belongs to the Halachic heirs, a Kinyan cannot be enacted on behalf of the deceased, as the estate no longer belongs to him. Therefore, one cannot empower anyone (not even a governmental authority) to distribute his property in contradiction to Halacha.

If an individual signs a secular will (without an effective Halachic supplement), he is effectively directing the civil authorities to improperly take assets from his Halachic heirs.

**Conclusion** One causes a violation of Halacha if he does not take steps to insure that his estate is distributed properly. Thus, according to all authorities, one who does not have a valid secular will causes a violation of Halacha because the laws of intestacy (state statutes which govern how assets will be distributed if one does not have a valid will) almost always contradict the Torah's directives for distribution of an inheritance. Furthermore, most Poskim rule that simply drafting and executing a will in accordance with civil law does not avoid this problem. Thus, it is proper for every Jew to have a secular will and, according to most Halachic authorities, take additional steps.

Indeed, Rav Feivel Cohen wrote to me that one is obligated to draft a will (and a supplementary document as we shall discuss in a future issue). He explains that one who fails to do so violates the prohibition of Lifnei Iveir Lo Titein Michshol (the prohibition to facilitate violation of Halacha) even though the prohibition will occur after his death. Indeed, Rav Yitzchak Elchanan Spektor (in a responsum printed in Teshuvot Mateh Levi 13) rules that one must take affirmative action to ensure that one's heirs abide by the Halachot governing inheritance. He notes that Tosafot (Bava Metzia 30b s.v. Akerah) teach that one must take proactive steps to ensure that others do not violate the prohibition of theft. Moreover, Rav Feivel Cohen wrote to me that one should write a will considerably before the age of fifty, even though the Chaim UBERachah LeMishmeret Shalom (in his discussion of Tzavaah) writes that the age of fifty is the age when one should write a will. Rav Cohen bases his ruling on the Gemara (Shabbat 153a) that states that one should consider and plan for the possibility that one might die the next day. Rav Cohen notes (Kuntress Midor LeDor p.6) the vital importance for parents of young children

to write a will to name appropriate guardians for their children in case of death or incapacity (R"l). Interestingly, the Chaim UBERACHAH LeMishmeret Shalom records that Rav Shlomo Kluger (a great authority who lived in the nineteenth century) wrote a will at age fifty and lived to the age of eighty six (which was relatively rare in the pre-modern world). Indeed, Rav Ezra Basri writes (in his Sefer HaTzavaot p.5) that one need not be concerned for Ayin HaRa or "bad Mazal" as a result of writing a will. He writes that, on the contrary, if one's intentions are to "increase peace in the world", it "brings one Mazal". In the next issue, we will (IY"l and B"l) discuss the impact of Mitzvah LeKayaim Divrei HaMeit, the obligation to carry out the wishes of the deceased, as a possible means to bequeath assets to non-Halachic heirs in a way that does not violate Halacha.

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From: Halacha [halacha@yutorah.org] Sent: Thursday, December 07, 2006 9:45 AM Subject: Weekly Halacha Overview BY RABBI JOSH FLUG

### Waiting Between Milk and Meat

Guest Writer: **Rabbi Eli Ozarowski**

#### Part 1

Orthodox Jews all observe the rule of separating milk from meat. But just how long must one wait between eating meat and milk, and what is the source for this?

#### The Gemara

The Gemara (Chullin 105a) cites R'Chisda, who says if you eat meat, you cannot eat cheese afterwards. However, R'Chisda does not specify how long this prohibition remains in effect. Mar Ukva then says that his father was much stricter than he in keeping this rule and waited twenty-four hours between meat and cheese, but Mar Ukva himself only waited until the next Seudah (meal).

The impression one gets from this statement is that Mar Ukva's father was being extra strict, while Mar Ukva waited the amount of time he felt was absolutely required according to the halachah. If so, we should decide the halachah based on Mar Ukva's opinion. This leaves us with the question of how long is the amount of time between one meal and the next?

#### Positions of the Rishonim

This point is debated by the Rishonim on this Gemara. Rambam (Maachalos Asuros 9:8) says we wait the amount of time one actually waits between meals, which he says is about six hours. Rosh (Chullin 8:5) says similarly that we must wait the normal time between the morning meal and the evening meal. Based on this, the Hagahos Asheri cites Hagahos Maimonios (Maachalos Assuros 9:#3 in) who concludes that we indeed wait six hours in between meat and milk, since this was the amount of time between meals. According to Ran, the Rif (Chullin 37b in the pages of the Rif) also takes this position when he says we wait "shiur mai d'tzarich leseudah acharisi," "the amount of time necessary to wait before beginning another meal," though others such as Raah are unsure if this is really what the Rif meant. Many other Rishonim hold this way as well, including Rashba (Chullin 105a and Toras HaBayis 86a in old editions; Rashba Toras HaBayis also implies that R'Chisda agreed with Mar Ukva's father that twenty-four hours is required, interestingly enough), Tur, and Shulchan Aruch (Yoreh Deah 89:1; see Beis Yosef there as well concerning how Rishonim conclude that one must wait the same length of time between meals of chicken and milk as one would wait between meals of beef and milk).

A number of Rishonim interpret the Gemara differently, however: Tosafos (Chullin 105a s.v. leseudasa) understands Mar Ukva to mean that we wait only until you could potentially start a new meal, which just means waiting until after bentching, removing the food table (which was the Talmudic practice similar to "clearing off" tables today), and performing Kinuach and Hadachah (different forms of rinsing the mouth), but not actually waiting until the next official meal of the day some six hours later. According to this, all you have to do is finish your meal completely and then you can eat milk products. Some other Rishonim take this position as well, such as Mordechai, Raaviah and Hagahos Maimonios (cited in the Beis Yosef O.C. 173).

What are the reasons for each opinion? Tosafos might say that all we require is a significant "heker" or method of demonstrating a separation between meat and milk, and finishing the meal and starting a new one qualifies. According to the Rishonim

who require six hours, there are two possible explanations: A) Swallowing meat brings out a fatty residue which remains in the throat for a while, perhaps for as long as six hours (this is Rashi's explanation for R'Chisda, and although he doesn't mention six hours, it would explain this opinion). B) Six hours allows time for the meat between the teeth to decay (this is Rambam's approach). There may be some practical differences between the two opinions (e.g. chewing on food for a child and spitting it out – in such a case, the first explanation wouldn't apply because you didn't swallow the food), but Shulchan Aruch (89:1) appears to employ both opinions together.

#### The Rulings of Shulchan Aruch and Rama

As mentioned, Shulchan Aruch says we wait 6 hours, while Rama quotes the other opinion that just bentching, removing the table, and doing kinuach and hadachah is sufficient. But Rama then says that the accepted custom is to wait one hour, and the question is where this custom developed, since none of the Rishonim mentioned hold this way.

In the Darchei Moshe (89:#1), the Rama himself refers to Hagahos Shaarei Dura (76:2) that reports many made up their own compromise to wait an hour after eating meat, and even though we don't have a source for this specific length of time, we can't protest since Tosafos ruled even more leniently and permitted it immediately. Darchei Moshe also cites Issur V'Heter Aroch (40:4-5,7) who mentions this minhag as well (and assumes it was true for chicken as well as meat).

Some attempt to provide precedents for this custom, such as the Vilna Gaon (Beur HaGra 89:6) who cites a Zohar (Parshas Mishpatim) that a person should wait one hour between milk and meat. Others, such as Taz (89:2), assume that it was a custom initiated by the common people who followed Tosafos but wished to add an additional level of precaution to it. A third approach is offered by Kresl Uplei, who suggests that it is linked to the beginning of the digestive period which may occur about an hour after eating (see Berachos 53b and Rishonim there). He adds that the six-hour approach also links the waiting period to digestion, but whereas the one-hour approach is based on waiting until the beginning of digestion, the six-hour approach requires waiting until the end of digestion.

The problem with this suggestion is that there is no mention of digestion being a relevant factor in determining how long to wait between milk and meat in any of the Rishonim quoted above. In any case, these are some of the explanations given to explain the custom of waiting one hour, and some original Dutch Jews continue to follow this custom today (see R.Binyamin Forst in "The Laws of Kashrus" p.197).

Although Rama does record waiting one hour as the prevalent custom, Rama himself says it is proper to wait 6 hours, and many Acharonim strongly concur, including Shach (89:8), Chochmas Adam (40:13) and Aruch HaShulchan (89:7). Nevertheless, there were some Acharonim, such as Darchei Teshuvah (89:6) who report that the custom among most people was to follow the lenient position of the Rama and wait one hour; only the "medakdekin" (especially careful people) followed Rama's opinion that it is proper to wait longer, and waited six hours.

#### The Three-Hour Opinion

There is also one other minority opinion in the poskim that one should wait three hours between meat and milk. This is first mentioned by R'Yerucham (15:31:39) and again by Darchei Teshuvah (89:6) who does not cite R'Yerucham, but instead cites the Mizmor L'Dovid (R.Dovid Prado) that explains that during the winter months in Europe, when the sun sets quite early, the standard amount of time between the lunch and dinner meals was approximately three hours, so even according to the approach that we wait the actual time between meals, we should follow the custom in each locale, and if part of the year this was three hours, we can accept this all the time (see also Pri Chadash here who says one can wait four hours for the same reason, though he says it should depend on the season and how long one actually waits at that time of year).

Contemporary authorities generally advise that unless one has a family custom to wait less, one should follow the opinion of six hours, in accordance with the majority view (see R.Forst p.197). However, there may be room for leniency in certain situations.

#### Illness

Pischei Teshuvah (89:3), Chochmas Adam (40:13) and Aruch HaShulchan (89:7) state that when one is sick, we can be lenient since for Asheknazim it is only a chumra anyway, and one hour suffices, as per the accepted custom recorded in Rama (Chochmas Adam adds that you need to clean your teeth and bench first, while Aruch HaShulchan adds you need kinuach and hadachah as well, though see R. Forst who indicates that Kinuach and Hadachah may not be necessary).

#### Already Made a Berachah on Milk

R. Forst (p.200) cites Beer Moshe (4:24) and Sdei Chemed that to avoid a Berachah L'vatalah (blessing in vain), one can drink a little milk if one hour has passed. Therefore, they allow drinking a small amount of milk if one already recited the berachah for it. R. Ovadia Yosef (Yechaveh Daas 4:41) says it might be allowed even before one hour has passed, the logic being that the real shiur is over right after the Seudah, and waiting one hour was only a custom, so for a potential Berachah

Lvatalah (which may be an issur Deoraisa) it should be permitted even if less than an hour has passed (though if we need Kinuach-Hadachah according to Tosafos, perhaps for that reason one shouldn't drink the milk).

## Part 2

Last week we discussed eating dairy products after eating meat; this week we deal with the reverse scenario: How long must one wait to consume meat after eating dairy?

### Kinuach, Hadachah, and Netilas Yadayim

The Gemara (Chullin 105a) states that after eating dairy, one is immediately permitted to eat meat. However, the Gemara (Chullin 104b-105a) does mention doing Kinuach and Hadachah in between milk and meat.

There are a number of ambiguities in this Gemara, which are discussed by the Rishonim. First, it is not clear what exactly Hadachah entails. Rashi (105a s.v. v'lo madeach) and Tosafos (105a s.v. ilema) both define Hadachah as washing out one's mouth with water, while Rambam (Maachalos Asuros 9:26) defines Hadachah as washing one's hands.

Second, it is also unclear which scenario the Gemara is referring to. Rambam writes that one must perform Kinuach and Hadachah after finishing a dairy meal and before eating meat. R'Tam, on the other hand, (cited in Tosafos 104b s.v. Ohf) claims that Kinuach and Hadachah are only required when one wishes to eat dairy after completing a meat meal, but are not necessary for eating meat after a dairy meal. Thus, R'Tam interprets the statement of the Gemara that one need not wait between dairy and meat to mean that even Kinuach and Hadachah are unnecessary.

Third, it is unclear whether one must do both Kinuach and Hadachah together or whether the Gemara means that either alone suffices. Rashi (105a s.v. af madeach) and Tosafos (105a s.v. mekaneach) contend that both actions are required, while Rashba (Toras HaBayis p.87b) opines that either of these alone is sufficient.

Finally, the Gemara does not provide the precise rationale for these actions. Meiri (Chullin 105a) posits that Kinuach removes the pieces of cheese that might remain in the mouth or between the teeth (he does not discuss Hadachah). Rashi (104b s.v. blo kinuach) appears to agree when he says that Kinuach ensures that the first food, the dairy, doesn't remain stuck inside the mouth. However, Levush holds that Kinuach removes the Taam, or taste, of the dairy from one's mouth, and Hadachah rinses one's mouth from any remaining pieces.

### Halachah

These are the rulings accepted by the Shulchan Aruch (Yoreh Deah 89:2):

1.. Kinuach is defined as chewing solid foods (Acharonim debate whether one must swallow it or not- see Pischei Teshuvah (89:5) and Pri Megadim in Sifsei Daas 89:12), except for dates, raw flour, and greens, which the Gemara does not allow. Hadachah is defined as rinsing the mouth with any water or wine (Acharonim also debate if other liquids can be used instead- see Shach (89:10) and Darchei Teshuvah (89:26)).

2.. Kinuach and Hadachah are required in order to eat meat after eating dairy.

3.. Kinuach and Hadachah are both required, and Shach (89:11) holds that the order does not matter, though Darchei Teshuvah (89:28) cites some opinions that argue that Kinuach should precede Hadachah.

4.. Netilas Yadayim is also required, as seen from another passage earlier in the Gemara (Chullin 104b) requiring hand washing for meat. However, the Shulchan Aruch states, based on that Gemara, that washing is only necessary when there is not enough light to inspect the hands. Nonetheless, Shach (89:9) records an opinion requiring hand washing irrespective of how much light there is. Furthermore, Pri Megadim (Sifsei Daas 89:20) and Aruch HaShulchan (89:8) cite the Pri Chadash (89:20) who suggests that there is no obligation to check one's hands when using silverware, since we assume that the hands did not get dirty, but Pri Megadim still recommends hand washing, saying it is a good idea.

5.. There is no clear ruling on the precise purpose of these actions.

Based on the sources cited above, it appears that one need not wait between milk and meat if Kinuach, Hadachah, and Netilas Yadayim are performed. According to Magen Avraham (Orach Chaim 494:6) and Mishnah Berurah (Orach Chaim 494:16), one does not even need to recite Birkas HaMazon before eating meat. However, there are a few other possible factors that might limit the application of these rules.

### Milk

According to Meiri's opinion that Kinuach removes pieces of dairy remaining in one's mouth, Kinuach may not be required for milk since it is entirely liquid. This approach is embraced by the Rashash (Chullin 103 s.v. b'mishneh), Darchei Teshuvah (89:31), R.Ovadia Yosef (Yabia Omer 6:Y.D. 7), and R.Binyamin Forst (The Laws of Kashrus, p.208). But according to Levush, who holds that Kinuach removes the taste of the dairy food, perhaps Kinuach is required for milk as well, and Badei HaShulchan (89:50 and Beurim there) recommends being stringent for this reason.

The Zohar and Maharam Rotenberg

There are some individuals who have the custom to wait either a half hour or an hour after eating dairy before eating meat. Although the source for the hour custom may be based on the Zohar (Mishpatim 125a, cited in Shach 89:17) that says one should not eat dairy either in the same meal as meat or within the same hour, there is no strong basis for the half hour custom (though see R.Shaul Weiss' Sefer Otzar Divrei HaPoskim, p.170 who quotes a number of approaches to defend this custom).

Another possible source of stringency is based on the Maharam Rotenberg. Hagahos Ashri (Chullin 8:5) and Mordechai (Chullin 867) record that Maharam initially got upset at people who waited six hours between dairy and meat, because the Gemara doesn't require any waiting. However, he later changed his mind when on one occasion he discovered cheese in his mouth after beginning to eat meat. At that point, he decided that the fact that one Amora in the Gemara (105a) waited an entire day between meat and dairy demonstrates that one is in fact permitted to be more stringent than the letter of the law on this issue.

Although Maharam adopted this only as a personal custom, it grew into a broader custom, which Rama later codified as halachah. Nevertheless, a major difference exists between the two opinions. Maharam appears to have employed this stringency to all types of cheese, but Rama (based on Issur V'heter 40:8) limits it to consumption of hard cheese, presumably both because for hard cheese there is a greater concern that pieces may get stuck in the mouth and because the taste of hard cheese is more likely to remain in the mouth (see Issur V'heter 40:10 who mentions both of these explicitly). However, Rama, as opposed to Maharam, permits eating soft cheese immediately after meat, so long as Kinuach, Hadachah, and Netilas Yadayim are performed (it is also noteworthy that Rama is stringent regarding eating chicken after hard cheese while Maharam himself was lenient in this regard).

### Hard Cheese Today

Shach (89:15) holds that cheese that has aged for 6 months generally qualifies as hard cheese. Taz (89:4) notes that "Swiss" cheese is also included in this rule. But poskim debate the status of other cheeses produced today, such as American cheese or yellow cheese sold in Israel.

Some poskim hold that we treat these as hard cheese, since some of them do indeed age for more than six months, and it is often difficult for the consumer to determine which have and which have not. Another reason to treat these cheese as hard cheeses is because they have certain characteristics of hard cheese even when they are aged for less than six months.

This is the position taken by R.Y.S. Eliashiv who even required six hours for melted pizza cheese, (cited in R. Feuffer's Kitzur Shulchan Aruch al Basar B'chalav, Kuntres HaBeurim p.138), R.Shmuel Vozner (cited in Peninei HaMaor on Hilchos Shabbos, p.427; see also Shevet HaLevi 2:Y.D. 35), R.Shlomo Zalman Auerbach (cited in Peninei HaMaor, ibid., though this may have been only his personal practice- see Moriah 5757 "Piskei Halachos MeRav Shlomo Zalman Auerbach" for a discussion of his position), and R.Moshe Vaya.

Other poskim, including many American authorities, argue that the great majority of cheeses do not qualify as hard cheese, since they have not aged for six months, nor do they fulfill the criteria of having a strong, lasting taste or getting stuck in the mouth. This more lenient approach is adopted by R.Aharon Kotler (cited in Kitzur Shulchan Aruch al Basar B'chalav quoted above), R.Moshe Stern (author of Shut Beer Moshe, quoted in R.Binyamin Forst's Pischei Halachah L'hilchos Kashrus, p.108), and others quoted in R.Shaul Weiss' Sefer Otzar Divrei HaPoskim (p.179).

R.Avraham Gordimer reports ("The Halachot of Waiting Between Meals" in Jewish Action, Fall 2006) that the O.U. rules stringently for cheese which is "endowed with a unique texture or lingering taste similar to the texture or taste acquired via aging qualifies as hard cheese, regardless of the precise aging period." This includes Parmesan cheese, Swiss cheese, and aged cheddar, among others. The majority of cheeses sold in the U.S. do not qualify as hard cheese though. He also notes that the O.U. is lenient for melted cheese because it loses some of its texture and blend in the process.

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From: Yeshivat Har Etzion Office [office@etzion.org.il] Sent: Wednesday, November 24, 2004 4:40 AM To: yhe-parsha@etzion.org.il Subject: PARSHA65 -08: Parashat Vayishlach By Rav Yaakov Medan

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This parasha series is dedicated in memory of Michael Jotkowitz, z"l.

In memory of Chana Friedman z"l (Chana bat Yaakov u'Devorah) on her ninth yearzeit.

This shiur is dedicated in memory of Esther Schreiber Maidenbaum z"l, whose love, warmth and time were dedicated to the Jewish community and to her friends and family. May the extended Schreiber-Maidenbaum family be comforted among the mourners of Tzion veYerushalayim.

### **"Anyone Who Says That Reuven Sinned..."**

**By Rav Yaakov Medan**

#### **I. PRESENTATION OF THE PROBLEM**

The standard rabbinic interpretation of Reuven's sin concerning Bilha, his father's concubine, poses two fundamental questions. A. There are assumptions which, for reasons that are not always clear to us, become fundamental to our faith, after a process of refining in yeshivot throughout the generations. How far can exegesis be pulled away from the literal meaning of the text on the basis of these assumptions? B. Does our desire to see the great figures of our nation in a favorable light not sometimes come at the expense of the rules of faith and logic - which are no less important than the merits of those great people?

We have proceeded ahead of ourselves; let us start at the beginning. The Torah recounts Reuven's sin concerning Bilha in clear and straightforward language which seems difficult to interpret in any way other than its simple meaning: "Yisrael journeyed and erected his tent beyond Migdal Eder. And it was, while Yisrael dwelled in that land, that Reuven went and lay with Bilha, his father's concubine, and Yisrael heard. And the sons of Yaakov were twelve..." (35:21-22)

Nevertheless, Rabbi Shemuel bar Nachmani - representing many other opinions among the Tannaim - explains: "Rabbi Shemuel bar Nachmani said in the name of Rabbi Yonatan: Anyone who says that Reuven sinned, is mistaken, as it is written: 'The sons of Yaakov were twelve' - this teaches that all were equally worthy. What, then, is the meaning of the verse teaching that he 'lay with Bilha, his father's concubine'?" It teaches that he moved (upset) his father's bed, and the text regards him as though he had lain with her.

We learn [in a baraita]: Rabbi Shimon ben Elazar says: That righteous one [Reuven] was protected from committing that sin, and he did not perform that act. Is it possible that his descendants were destined to stand upon Mount Eival and to declare, 'Cursed is he who lies with his father's wife' - while he himself did this? What, then, are we to learn from the verse teaching, 'he lay with Bilha, his father's concubine'? He wanted to protest his mother's honor. He said: My mother's sister troubled my mother - shall the maidservant of my mother's sister than also trouble my mother? He stood up and moved her bed... The Tannaim disagreed: 'Unstable (pachaz) as water, you shall not excel' (Ber. 49:4) - Rabbi Eliezer interpreted: ['Pachaz' is a mnemonic for:] You were hasty, you were guilty, you did disgrace. R. Joshua interpreted: You did overstep the law, you did sin, you did fornicate. R. Gamaliel interpreted: You did meditate, you did supplicate, your prayer shone forth. Said R. Gamaliel: We still need [the interpretation of] the Moda'i, for R. Eleazar ha-Moda'i said, Reverse the word and interpret it: You did tremble, you did recoil, your sin fled [Parhah] from you. Raba - others state, R. Yirmiyah b. Abba - interpreted: You did remember the penalty of the crime, you were [grievously] sick, you held aloof from sinning." (Shabbat 55b)

Two reasons are given to support the claim that it is impossible for Reuven to have literally committed this atrocity. The first reason, provided by R. Shemuel bar Nachmani, is that "all of Yaakov's children were equally worthy" - i.e., all of them were righteous. We may question this point on the basis of Yaakov's harsh criticism of Shimon and Levi at the end of his life - from which it would appear that these two brothers were not as worthy as their brethren. Moreover, even if all of them were equally righteous, this does not necessarily prove that they all had a spotless record: after all, most of the brothers sinned through participation in the sale of Yosef. The second reason is raised by R. Shimon ben Elazar, who notes that Reuven's descendants were destined to stand together with another five tribes and declare, "Cursed is he who lies with his father's wife." This claim, too, seems forced; even according to R. Shimon ben Elazar's explanation that Reuven only upset his father's bedclothes - he still apparently transgressed against "Cursed is he who dishonors his father..." - which was also declared at Mount Eival. How, then, could the tribe of Reuven have stood and made this declaration?

Perhaps behind these two reasons there lies a more fundamental perception, for which the reasons mentioned merely serve as cover. This reason may be the very fact that it is impossible for one of Yaakov's sons - the foundation stones of God's nation - to have committed such a heinous sin. This position is adopted, among others, by Rav Avigdor Nebenzahl in his book, "Sichot le- Sefer Bereishit": "Anyone who thinks that Reuven, David and other great figures of Israel... are people who descended to such a distance from

holiness - such a person is surely mistaken." His disciple, Rav Yehuda Brandes (in an article in Megadim 26), understood that his teacher's point of departure was not historical truth or compatibility with the literal meaning of the text, but rather the educational need to clear the great figures of the nation of such serious transgressions in the eyes of the nation. I have questioned the views of both of them at length, on both technical and theoretical grounds, in the past (Megadim 26; see also my book on David and Batsheva), and shall not repeat that discussion here. Let us return to our question. Whatever the need may be to seek merit for Reuven, can we allow ourselves to depart so far from the literal meaning of the text, which presents such an unequivocal narrative, solely on the basis of the logic which dictates that Reuven could not have sinned thus? Moreover, let us take a closer look at what happened according to the midrashic approach. After Rachel died, Yaakov moved his bed into Bilha's tent, or alternatively, Bilha's bed into his own tent. Reuven, out of zeal for the honor of his mother Leah, from whose tent Yaakov was conspicuously absent, came and "upset Bilha's bed." It is not entirely clear what this phrase means. From the Midrash, it would seem that he overturned her bed [3], but it is not clear what harm Reuven caused by this act. Did Bilha fall and injure herself? Was she humiliated? Was Yaakov humiliated, having to resort personally to restoring the bed to its proper position? Other commentators suggest that Reuven uprooted her bed - i.e., removed it from the tent. Still, this would appear to have caused minimal damage that could easily be repaired. We may summarize and say that this interpretation of Reuven's act does not sit well with the literal text, does not make clear why the act was so serious, and does not make sense in light of what Yaakov decreed for him at the End of Days.

#### **II. THE CONTROVERSY SURROUNDING REUVEN'S SIN**

In my view, the reason to defend Reuven is exegetical rather than ideological. There is a contradiction between the description of the sin in Bereishit chapter 35, and Yaakov's attitude towards Reuven in his last words to him at the end of his life: "Reuven, you are my firstborn, my might and the beginning of my strength, the excellence of dignity and the excellence of power. Unstable as water, you shall not excel, for you ascended to your father's bed and then defiled it; he went up to my bedclothes." (49:3-4)

If indeed the act was committed as described in chapter 35 and Reuven did indeed lie with his father's concubine during his father's lifetime - is it possible that following such an abomination Yaakov would have allowed Reuven to remain in his home, including him with the other sons and giving him an inheritance in the land? Were the sins that led to the exclusion of Kayin, Cham, Yishmael and Esav more serious? We are forced into viewing the two episodes - that of chapter 35 and that of chapter 49 - as contradictory and requiring some solution. Chazal were faced with two possibilities: either to accept the verses in chapter 49 at face value, implying that Reuven did not commit such a terrible sin, and to provide some appropriate explanation for the verses in chapter 35, or they could accept literally the verses in chapter 35 - implying that Reuven's sin was truly an abomination - and find some explanation for Yaakov's relatively mild words in chapter 49. R. Shemuel bar Nachmani adopts the first approach, maintaining that Reuven did not lie with Bilha. He does this not out of a blind need to defend or justify Reuven, but rather in order to explain Yaakov's attitude towards him at the end of his life. Other Sages, who understood the textual description of the sin literally - as sexual immorality - adopt the second approach. They understand Yaakov's somewhat forgiving attitude towards Reuven while on his deathbed as reflecting the long, profound and sincere repentance that Reuven had undergone: his sackcloth and fasting throughout his life, as well as his behavior in the story of the sale of Yosef, as will be explained below. For these Sages, the difference between Yaakov's attitude towards Shimon and Levi in his last words and his attitude towards Reuven arises not from the discrepancy in the severity of the sin, but rather from a discrepancy in the repentance following it. Reuven recognized his sin, confessed it and spent the rest of his life engaged in repentance, while Shimon and Levi refused to accept their father's rebuke, and even boldly answered him back (34:31). They had not undertaken any repentance for their sin up until the day they stood before their father on his deathbed.

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#### **III. TWO DEFENSES OF REUVEN**

What I have said above deviates from the accepted understanding in Rashi and in the beit midrash. Rashi, in his interpretation of the sin (35:22), adopts the position that Reuven did not lie with Bilha but rather only upset his father's bed. In the story of the sale of Yosef, on the other hand (37:29), Rashi insists that Reuven was not together with his brothers at the time of the sale; he explains that he was clothed in sackcloth and engaged in fasting over his previous sin. The combination of these two midrashim leads us to an apparently impossible conclusion: although Reuven's sin was motivated by good intentions (zeal for his mother's dignity), although this sin was not particularly severe and its results could even be corrected quickly and easily - despite all of this, Reuven wore sackcloth and fasted for the rest of his life, or at least for many years (up until the sale of Yosef). Moreover, following this repentance, which is unparalleled in all of

Tanakh, Reuven's birthright is handed over to Yehuda - who is the principal guilty party in the sale of Yosef!

This picture confuses two different solutions to the question of the relationship between Reuven's sin and Yaakov's response. These two solutions cannot be combined; they represent two opposing views. According to one, Reuven's sin was relatively "minor" - he upset his father's bed, but nowhere are we told that he engaged in repentance for this act. This represents the view of some of the greatest Tanna'im and Amoraim: R. Shemuel bar Nachmani in the name of R. Yonatan; R. Shimon ben Elazar and R. Elazar ha-Moda'i (Shabbat 55b); Rabban Shimon ben Gamliel in the Sifri (as we shall see below); and even the Targum Yerushalmi, the Ba'alei ha-Tosafot in their commentary on the Torah, the Chizkuni and other commentators. The great difference between Reuven's relatively light rebuke and the heavy-handed treatment of Shimon and Levi arose from the severity of the latter sin in contrast with the minor offense committed by Reuven. The second approach is adopted by R. Eliezer and R. Yehoshua (Shabbat 55b); the Sages who disagree with Rabban Shimon ben Gamliel in the Sifri; R. Eliezer ben Yaakov in Bereishit Rabba (100); the Ramban, Radak, R. Yosef Bekhor Shor and other commentators. According to this view, Reuven committed an act of sexual immorality, lying with his father's concubine, but he also repented. Let us now examine each approach, starting with the second. IV. REUVEN'S SIN OF SEXUAL IMMORALITY

The assumption that Reuven literally committed an act of sexual immorality led Chazal (and us) to seek some merit for him: to conclude that he repented. The idea of his repentance is based on the relatively forgiving attitude displayed by Yaakov in his last hours, as opposed to his attitude towards Shimon and Levi; it is also based on the fact that he did not sit together with his brothers at the time of the sale of Yosef. These two factors do not seem strong enough to prove that he underwent such a profound and sincere process of repentance, of which the text gives no hint at all. We shall therefore expand a little on this repentance, but first let us discuss the sin itself. THE BATTLE FOR LEADERSHIP

How could Reuven, an intelligent man, involve himself in such foolishness, such an abomination, as to lie with his father's concubine? Could Bilha, a generation older than Reuven, have been such an exceptionally beautiful woman that he fell prey to his evil inclination? If we adopt this approach, Reuven's act has an obvious biblical parallel: Avshalom, who lay with his father's concubines as a declaration of rebellion against his father and a coup to take over the kingdom (Shemuel II 16:21-22). Adoniyahu, David's son, also tried to follow Avshalom's example and to marry Avishag, who was regarded by the nation as his father's concubine. The context of Reuven's story may point to a similar situation. Following Yaakov's encounter with Esav and his obsequious bowing before him, one receives the impression that Yaakov has lost his leadership of the family.

Let us try to imagine what was going on in Yaakov's family as they returned to Eretz Yisrael after their exile in Lavan's home. The head of the household, Yaakov - a mighty warrior who single-handedly removed the great stone from the mouth of the well, who stood alone day and night to fend off robbers and wild animals and to protect Lavan's flocks, who fought for his rights bravely and determinedly before Lavan and schemed against him - this Yaakov bows seven times to the ground before his brother Esav. Furthermore, he sends his wives and sons to bow down as well, he sends gifts of livestock to his brother, promises to subject himself to Esav's sovereignty in Se'ir and sees him "as one sees the face of God." The Hivvites inhabiting the land, knowing that the brave, strong Yaakov is on his way - grandson of Avraham, who liberated the land from the hand of Kedarla'omer; son of Yitzchak, the stubborn settler; brother of Esav, commander of the "battalion of four hundred men" - must certainly have feared and revered him. But after witnessing such fawning behavior, Shekhem - son of the prince of the land - did not hesitate to rape Yaakov's daughter, to kidnap her and bring her to his house, and then to engage in negotiations. Yaakov was silent until his sons returned, accepting - out of fear of Shekhem - the possibility that Dina would remain an unwilling prisoner in Shekhem's house forever. Yaakov's sons see (inaccurately, of course) an elderly father who has lost his strength, just as many years later the elders of Israel would regard Shemuel as an elderly leader who had lost his strength and therefore decide that he must be replaced. In Yaakov's household, there commences a battle of inheritance - a battle for leadership.

Shimon and Levi are the first to try out their power to inherit the role - while their father is still alive, and without his permission. Yaakov approves, by his silence, the agreement between his sons and Chamor and Shekhem that Dina will be given to Shekhem in return for the circumcision of all the men of the city. Shimon and Levi violate the agreement with their swords, regarding Shekhem and his compatriots as barbarians who raped and kidnapped their sister. There would be justification for regarding Shekhem and his men in this light, had they not made an agreement with Yaakov and with his sons. Shimon and Levi did not recognize the agreement to which their father had committed himself - even if only by remaining silent - and for this reason they permitted themselves to spill the blood of an entire city. Following Shimon and Levi's downfall - the wholesale

massacre - Reuven tries out his own leadership prospects according to the same bad counsel that was given, many years later, to Avshalom: he took his father's concubine. Thus Natan would describe to David the way in which his kingdom would be lost - "I will raise evil against you from your own house... another man will lie with your wives before this very sun" (Shemuel II 12:11), paralleling the expression used to describe how David himself received the kingdom from God: "I gave you the house of your master and your master's wives to your bosom" (Shemuel II 12:8). This, it seems, is the behavior of one who inherits rulership.

It is not clear whether Reuven's misdeed involved real sexual immorality, since Bilha was not his father's wife, but rather only a concubine. It seems, then, that when Rachel died and Yaakov moved his bed to Bilha's tent, he meant thereby to promote her not only to the status of his wife, like Leah, but even to the status of the "woman of the house." Reuven did not recognize Yaakov's "right" to do this. From his perspective, Leah was the natural candidate to inherit Rachel's place. Through his deed with Bilha, Reuven expressed the fact that he did not recognize Yaakov's choice; it was a vehement declaration that Bilha was no more than a maidservant and concubine. Reuven's lack of recognition of Yaakov's authority therefore led him to commit a sin of sexual immorality. Yehuda tries out his chances after his three elder brothers fail.

When Yosef comes to Dotan to visit his brothers, the three oldest debate his fate. Shimon and Levi suggest that he be killed and cast into the pit (see Rashi 49:5), Reuven proposes that he be thrown into the pit alive, but a new leader arises among the brothers - Yehuda - and he decides that Yosef will be sold to the Yishmaelims. This is a "punishment," *inter alia*, for Yaakov having chosen Yosef and loved him more than all his brothers. Yehuda's rejection of Yaakov's right to do this draws him down to the level of kidnapping, concerning which we are commanded: "One who kidnaps a person and sells him, and he is found guilty - he shall surely die." Even before Yehuda arrived at this point, Yosef dreamed of his father, mother and brothers bowing down before him. He, too, sees himself as the leader of the family in place of his father. He lacks his elder brothers' ability to realize his leadership potential; it remains, for him, a dream. A dream of leadership would not seem to represent a crime, but Yosef adds to his dreams some tales about his brothers that he recounts to his father, implying that he is better than they. REUVEN'S PUNISHMENT

All the brothers discussed here receive a punishment. Within the limited scope of this shiur, I shall be able to discuss only that of Reuven, who - as a result of his act - is relieved of the birthright, which is given to Yosef, and of his leadership, which is given to Yehuda. It is possible that among the rights that were meant to be awarded to Reuven, there was also the portion of land that eventually became the portion of Yehuda, who assumed some of Reuven's leadership role. Moreover, it is possible that Reuven's inheritance was among the factors that led him into his sin, since he felt himself - located in Migdal-Eder, between Beit-Lechem and Chevron - as owner of that property and entitled to sit there and decide the fate of the entire family at his own discretion. In the same way, Shimon and Levi - regarding themselves as the conquerors of Shekhem and its inheritors forever - schemed against Yosef on "their turf," eventually being punished by having Shekhem taken from them and given to Yosef.

In this portion of land, Reuven - as the firstborn - was meant to inherit the resting places of the forefathers and to see himself as the heir to their dynasty, as it is customary for the firstborn to serve the father and to continue his path. His portion would have been located on the southern border of Binyamin - the portion in which the Shekhina rests - and not to its east, as was when the tribe of Reuven ultimately settled east of the Jordan; this arrangement would have accorded with his place south of the portion of the Shekhina in the desert encampment. Following Reuven's sin, he lost this portion and was pushed eastwards to the land of Moav, the place where Lot's daughters violated their father's honor. Although their intention - like that of Reuven, who showed disrespect for his father - was good, the stain of their act remained and was not erased. REUVEN'S REPENTANCE

From where do Chazal deduce Reuven's profound process of repentance for his sin concerning his father's concubine? Reuven, as we have said, wanted to inherit his father's role in the latter's lifetime, and he expressed this insolently by lying with his father's concubine, thereby showing his lack of recognition of Yaakov's right to choose the woman of the house - Bilha. In the wake of this ugly act, Yaakov kept Reuven at a distance, and it appears that his special fostering of Yosef as the firstborn who remains at his father's side and receives the "radiance of his image" (see Rashi 37:3) is accelerated as a result of Reuven's banishment. Reuven, then, is the principal loser as a result of Yaakov's special relationship with Yosef. If any one of the brothers has good reason to scheme against him, it is Reuven. Because of Yosef, Reuven loses his birthright; by means of his special relationship with Yosef, Yaakov demonstrates his love for and closeness to Rachel even after her death, and his decision not to replace her with the living Leah. But it is Reuven who takes on the challenge and tries to save Yosef from his brothers' scheme. He does this out of respect for his father and in order "to

return him to his father" (37:22). His act is interpreted not only as a desire to save a life, and not only as respect for his father, but also as profound repentance for his sin in not honoring his father, and even at the price of relinquishing his birthright and the status of his mother in Yaakov's house. This, to my view, is the basis for the midrashim by Chazal as to Reuven's great repentance. The precise words they choose to describe his prolonged fasting, and the analysis of Yaakov's mild attitude towards him, are claims that merely accumulate along with the basic argument presented here. V. REUVEN'S SIN IN UPSETTING HIS FATHER'S BEDCLOTHES

We have treated at length the view of those Tannaim who maintain that Reuven did in fact commit an act of sexual immorality and later repented. Let us now turn our attention to the view of R. Shemuel bar Nachmani in the name of R. Yonatan, and others who adopt this view, that Reuven's sin involved not a forbidden sexual act but rather upsetting his father's bed. Three elements here require clarification.

A. What exactly did Reuven do - what is the meaning of upsetting the bed, and why does this act (assuming that it refers to overturning the bed or moving it from one tent to another, as most of the commentators understand it) represent what Yaakov refers to, in his last words, as "violation of his bed" (Bereishit 49)? B. If, indeed, we are speaking of an act that is done for the sake of his mother's honor, and an act that caused no actual damage other than momentary insult, then even if we reject the possibility that Reuven engaged his whole life in sackcloth and fasting over this trifling act, we still have no answer as to why it causes such wrath and fury, to the point where Reuven is denied the birthright, the priesthood and the kingship, as we are told in Divrei ha-Yamim I (5:1-2): "The sons of Reuven, firstborn of Israel - for he was the firstborn, but because he violated his father's bed, his firstborn rights were given to the children of Yosef, son of Yisrael, but not so as to have the birthright attributed to him by genealogy, for Yehuda prevailed over his brothers and the ruler came from him, while the birthright belonged to Yosef." C. How does this interpretation fit in with the literal meaning of the verse - "Reuven went and lay with Bilha, his father's concubine; and Yisrael heard"? REUVEN'S SIN

Following the death of Rachel, Yaakov invited Bilha to his tent in order to make her the "woman of the house" in place of Rachel, or in order to bear another son - a thirteenth. We can only speculate as to why Yaakov did not invite Leah, second in importance after Rachel. Was it perhaps because she was "despised," following her deception of him on their marriage night? Did he regard Bilha, Rachel's maidservant, as the image of the deceased Rachel? Was he hoping to balance the number of children born of Rachel and her maidservant in relation to those born of Leah and her maidservant? Was Yaakov perhaps commanded to do this; was he perhaps acting with Divine inspiration? Or did he perhaps choose Bilha because she became the adoptive mother of his most beloved sons, Yosef and Binyamin, following the death of Rachel (Bereishit Rabba 84:11 and Rashi 37:10)? We cannot know the answers to these questions, but we know with certainty that it was Yaakov's right as a person and his obligation as the head of the household to choose for himself who his partner would be. No one had any right to question him. Let us apply our imagination to what happened that night. Here is Yaakov's tent, in the dark of night. Yaakov is busy elsewhere for a while, and Bilha - inside the tent - is preparing herself for her husband's return, excited at the honor that she has been given. Bilha is no longer wearing her regular garments; she is wearing only her night clothes. It is dark outside; everyone is asleep; no one is watching. Into the tent marches Reuven, determined, full of anger and cruelty. He grabs Bilha, drags her or carries her off, stifling her screams with his hand. He takes her to a distant tent, where he restrains her and gags her so as to keep her silent. He does not lie with her. Heaven forefend that he should defile himself with his father's concubine! His whole intention is for the sake of heaven, for the sake of justice and his mother's honor. He also does not lie with her because he hates her: Bilha has fulfilled for his mother - even if not of her own initiative - the expression, "a maidservant who inherits the place of her mistress," by taking the status of favored wife after Rachel's death. He has no interest in "a despised woman with whom you have relations" (see Mishlei 30:23). In addition to all of the above, Reuven has no time to spend on Bilha. The moment he has finished tying her up somewhere far away, he hurries to his mother's tent (for it seems that she must was at least partially party to his plan) and accompanies her surreptitiously to Yaakov's tent, which is still empty. It is late. Yaakov returns to his tent after summoning - for the first time since Rachel's death - her replacement, Bilha. There is no moon and the tent is completely dark. Yaakov, with the modesty that he has always practiced, does what he does quietly; perhaps wordlessly, perhaps with whispers. He has no way of knowing, by means of either voice or appearance, who it is that is waiting for him in bed. He draws "Bilha" close to him, and "she" returns his affection... In the morning, behold, it is Leah. A final detail in this most troubling scenario. Let us return to Reuven, dragging an unwilling Bilha from Yaakov's tent to somewhere outside, her mouth gagged and wearing only a nightgown. We have assumed that everyone is asleep and no one

sees. But this is not so! In one of the tents a young boy is trying to calm his younger brother, a crying baby, because Rachel his mother has died, and Bilha, who now raises them, has left the tent for the night without any notice of where she is going. Young Yosef is not asleep. From the entrance to his tent he watches, terror-stricken, as Reuven drags Bilha from her bed, like an attacker dragging his victim, and he concludes what any one of us would conclude in a similar situation. He also understands, that ghastly night, what kind of life awaits a person with no mother to protect him, just as Bilha has no mistress to protect her. The next day, when the plot is discovered by Yaakov, Yosef tells him what he saw and all about his fear of Reuven and the other brothers, who may potentially act as he did. "He told evil stories about them" - every bad thing that he witnessed in his brothers, the sons of Leah, he told to his father... and suspected them of sexual immorality." (Rashi 37:2) Perhaps the words of the verse telling us that Reuven lay with his father's concubine are not an objective reporting of the facts, but rather a fact subject to the clause in the second part of the verse - "And Yisrael heard." This is how it appeared; this is what Yaakov was told - but the Torah testifies: "the children of Yaakov were twelve." None of them committed the atrocity mentioned. Let us return to Yaakov's tent. As dawn breaks, the plot is revealed to him - in the form of Leah. There is no need to elaborate on Yaakov's humiliation and anguish at being tricked in this manner for the second time. There is likewise no need to elaborate on the humiliation and anguish caused to Bilha, who was about to be transformed from a concubine into a legal wife and one of the matriarchs of Israel. Reuven's sin, even for those who maintain that he did not commit sexual immorality, is severe, justifying the punishment that will last for eternity. The fact that he was zealous for his mother's honor is not sufficient justification for his act; after all, Shimon and Levi also did what they did in Shekhem out of zeal for their sister's honor. Yaakov's bed was not only upset but also violated. For the second time, Yaakov has been intimate with a woman while believing her to be someone else. This act represents a severe violation of the sanctity of marital relations. "I shall separate from among you those who have rebelled and sinned against Me" (Yechezkel 20:38) - R. Levi said: This refers to those born of marital relations conducted under one of the following nine conditions: when the woman is intimidated, when she is forced, when she is despised by him, when he is under the ban, when he mistakes her for another wife, when they are quarreling, when they (or one of them) are inebriated, when he intends to divorce her, when he is thinking about someone else, or when she is brazen." (Nedarim 20b) "When he mistakes her for another wife" - when he cohabits with one of his wives, believing her to be her rival." (Commentary of the Ran on Nedarim) Perhaps Yaakov ceased to cohabit with his wives at that point. He did not have any further relations with Bilha, and it appears that he did not cohabit with Leah, either. "And the children of Yisrael were twelve." (35:22) While we previously interpreted this information in accordance with those commentaries who explain "twelve - and not eleven," concluding that Reuven did not sin, we now view it from the perspective of those who explain, "twelve - and not thirteen," for no more sons were born after this violation of his private life. Thus we conclude that Yaakov did not cohabit any more with his wives. WHAT WAS YAAKOV THINKING?

The great disappointment in Reuven arises from the assumption that Yaakov did not suspect Reuven of having defiled himself with Bilha. Above, we raised the possibility that the explicit description of Reuven as having had relations with Bilha is actually what Yosef told his father; this is what Yaakov heard. According to this view, we may assume that Yaakov's anger was much greater, for he had good reason to suspect that this had happened, and Yosef's report to him was not pure gossip. When Reuven's shameful treatment - according to our postulation - of Bilha was discovered, no sensible person would believe that he had not had relations with her, and even Bilha's own testimony would not necessarily have been accepted as reliable. At what stage, then, came the transition from "Yisrael heard" to "the sons of Yaakov were twelve"? For, obviously, this assertion by the Torah - that all of Yaakov's sons were equally worthy - is not meant as a purely theoretical matter. The possibility that Reuven is suspected unjustly of a serious sin, and that the Torah needs to testify that he did not commit it, is familiar to us from the story of the sale of Yosef. Reuven's advice to his brothers - to cast Yosef alive into the pit in the desert - sounds no less cruel than the brothers' previous plan - to kill him with their own hands and to cast his body into the pit. A verdict of "lowering and not lifting up" is very similar to a death sentence, and once the brother's hear Yehuda's idea - that Yosef be lifted out of the pit and sold - they take back their agreement to Reuven's "cruel" idea, since "What benefit is there in our killing our brother and covering his blood?" Reuven is the only one who is not party to the brothers' merciful decision, and hence is alone remains stuck with the image of the "cruel" one. But in truth, the Torah tells us that he was actually the most merciful and moral among them, for his intention was "to save him from their hand and to restore him to his father." Did the brothers know this? From Reuven's rebuke to his brothers, as they stand before Yosef to receive food, it would

seem that they did. It appears that when Reuven returned to the pit, tore his clothing and cried, "The child is gone, and I - what shall I do?" - the brothers understood that his intention had been to save Yosef. Perhaps his nobility at that moment towards Yosef, who had reported his act concerning Bilha to his father (thereby bringing about his banishment by his father and brothers), represented the basis for believing his version of the story concerning Bilha: he had not defiled her, and - as terrible as his deed had been - his intentions had been good. Although a distinction must be made between the two cases, there may be some similarity between them. The brothers felt that if Yosef had exposed Reuven's true shame, it would not be logical for Reuven to do anything to save him. His (relatively) clear conscience led him to want to save Yosef from his brothers and return him to his father. "YOU INTRODUCED REPENTANCE"

We are left with one final point to clarify. According to the view according to which Reuven genuinely and completely repented for his act, why is the repentance of Yehuda accepted, such that he receives a blessing from his father, while the repentance of Reuven is not accepted wholeheartedly, and he is left ultimately with his father's rebuke? If we had only the midrash to rely on,

with its description of Reuven's sackcloth and fasting, the solution to the question would be easy: these external manifestations of repentance are not of the same weight as the repentance of Yehuda, who was unconditionally and wholeheartedly ready to save Binyamin from slavery in Egypt because of his desire to atone for the sin of having sold Yosef into Egyptian slavery. This is repentance that includes repair, not just mourning and sorrow. We see that sackcloth and fasting did not help Achav when it came to the vineyard of Navot, because he did not actually take the step of returning the vineyard to Navot's heirs.

But even according to what we have said above - that the crux of Reuven's repentance lay in his attempt to save Yosef, who was responsible for him losing his birthright - Yehuda's repentance is still on a higher level. Yehuda did not only desire to save his brother, nor did he only berate his brothers in this regard. He went so far as to accept his punishment, bearing up bravely to the punishment embodied in the death of his wife and two of his sons, and even submitted himself as an eternal slave in place of Binyamin, brother of Yosef, whom Yehuda had sold as a slave. Shimon and Levi, who never repented for their sin, were completely rejected from the inheritance. Reuven, who repented but did not perform any act to repair his deed, was rejected from the birthright and all that it involved. Yehuda received his reward intact. (Translated by Kaeren Fish)

This shiur is abridged from the Hebrew original. The full shiur can be accessed in the original at: <http://www.etzion.org.il/vbm/parsha.php>.

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