



BS"D

To: parsha@parsha.net
From: cshulman@gmail.com

INTERNET PARSHA SHEET ON VAYISHLACH - 5774

In our 19th year! To receive this parsha sheet, go to <http://www.parsha.net> and click Subscribe or send a blank e-mail to parsha-subscribe@yahoogroups.com. Please also copy me at cshulman@gmail.com. A complete archive of previous issues is now available at <http://www.parsha.net>. It is also fully searchable.

Sponsored in memory of
Chaim Yissachar z"l ben Yecheil Zaydel Dov

Sponsored by **Jack & Charlotte Steinberg**
on the sixth Yartzeit of
Naomi Weintraub - Naomi Rachel a"h bas Yaakov Chaim

To sponsor a parsha sheet (proceeds to tzedaka) contact
cshulman@parsha.net

<http://www.chiefrabbi.org/>
Covenant & Conversation

Thoughts on the Weekly Parsha from Lord Jonathan Sacks

Chief Rabbi of the United Hebrew Congregations of the British
Commonwealth

5769 Covenant & Conversation - Vayishlach 5769
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.

The Jewish question is not, What can the world give me? from "From Renewal to Responsibility" September 2001

JEWIS ARE, to put it mildly, a small people, less than one-quarter of one per cent of the population of the world. For every Jew today there are 165 Christians and 83 Muslims. I remember being given, in 1991, a directory of Jewish communities around the world. For each country it listed the total population, followed by the number of Jews. I will never forget the entry for China. It read: China, population 1 billion, Jewish population 5. I remember saying to Elaine, "If there are five Jews in China, I am sure of two things. There will be six shuls, and someone somewhere will be saying, The Jews are running the country." More than three thousand years later, the words of Moses remain true (Deut. 7:7): "The Lord did not set His affection on you and choose you because you were more numerous than other peoples, for you were the fewest of peoples." We were then. We are now.

Why then did God choose this tiny people – us and our ancestors – for so great a task, to be His witnesses in the world, the people who fought against the idols of the age in every age, the carriers of His message to humanity? Why did He promise Abraham and Sarah that their descendants would be innumerable, as many as the stars of the sky and the sand on the sea shore? Why are we so few? What is the meaning of this dissonance between the greatness of the task and the smallness of the people charged with carrying it out?

There is a passage in the Torah that deserves our greatest attention. "When you take a census of the Israelites to count them, each one must pay the Lord a ransom for his life at the time he is counted. Then no mishap (negef) will come on them when you number them" (Ex. 30:12). This is a strange verse. It suggests that it is dangerous to count Jews. Many centuries later, ignoring this warning, King David took a census of the people, and disaster struck the nation. To this day, we do not needlessly count Jews, even to calculate whether there is a minyan in the synagogue. Our custom is to take a verse with ten words, and use that instead. Why is it dangerous to count Jews?

The classic commentators give many answers. I want to suggest another. Why do nations take censuses? Why do they count their numbers? To estimate their strength – military, political, or economic. Behind the ancient practice of counting populations is the assumption that there is strength in numbers. The larger the people, the stronger it is. That is why it is dangerous to count Jews. If we ever came to believe that there is strength in numbers we would, God forbid, give way to despair. For four thousand years the strength of the Jewish people has never lain in numbers. In ancient Israel, our ancestors were a small nation surrounded by mighty empires: Mesopotamia, Egypt, Assyria, Babylon, Persia, Greece and Rome. In the Diaspora, throughout the centuries and continents, Jews were a minority without rights or power. Jewish strength did not lie in numbers.

Where then did it lie? To this the Torah gives an answer of surpassing beauty. In effect, God tells Moses, "Do not count Jews. Ask them to give, and then count the contributions. That is how you measure the strength of the Jewish people." In terms of numbers we are small. But in terms of our contributions, we are vast. In almost every age, Jews have given something special to the world. In one era it was the Hebrew Bible, the most influential document in the history of the world. In later centuries Jews produced a never-ending stream of scholars, scientists, poets and philosophers. In more recent times, as the doors of Western society opened, they made their mark in one field after another: business, industry, the arts and sciences, cinema, the media, medicine and almost every field of academic life. Among the shapers of the modern mind, a disproportionate number have been Jews. In the United States alone, where they form a mere 2 per cent of the population, they have contributed 40% of its Nobel Prize winners in science and economics, and a half of its most influential intellectuals. In Britain, two of the last three Lord Chief Justices have been Jews.

There is a mystery here in need of demystification. It is not that Jews are brighter, cleverer, more energetic or talented than others. That is a

racist doctrine and I reject it utterly. Nor is it that Jews, more than others, are driven to succeed. That is at the heart of much antisemitic propaganda, and it is false. The simple answer, given in the Torah and engraved in Jewish sensibility, is that to be a Jew is to be asked to give, to contribute, to make a difference, to help in the monumental task that has engaged Jews since the dawn of our history, to make the world a home for the Divine presence, a place of justice, compassion, human dignity and the sanctity of life. Though our ancestors cherished their relationship with God, they never saw it as a privilege.

Instead they saw it as a responsibility. Except in their earliest days, God never offered to do things for them: He asked them to do things for and with Him. He challenged them to give. He empowered them to lead. In that familiar yet astonishing phrase He invited them to be His "partners in the work of creation."

I wonder if ever a religion or a philosophy has taken a more challenging view of the nature of mankind. According to Judaism we are not tainted by original sin and therefore incapable of doing good without God's grace. To the contrary, we are a mix of good and evil and everything depends on our choice. Nor are we asked, humbly and passively, to accept the world as it is. That is not what the patriarchs and prophets did. They raged against the injustice of the world. They even argued with God Himself. God's reply was simple. Hit-halekh lefanai, "Walk on ahead of Me." I will show you what to do, but you must do it. The whole of Judaism is a call to responsibility - to God, His word and His world. Judaism is, par excellence, a religion of responsibility.

God asked great things of the Jewish people, and in so doing, made them "Do not count Jews. Ask them to give, and then count the contributions. That is how you measure the strength of the Jewish people." great. Perhaps that is also why He made the Jewish people small. There is a fascinating passage in the Book of Judges. Gideon is about to wage war against the Midianites. God tells him he will succeed. Gideon assembles an army of 32,000 men. God says: Too many. Gideon gets up and tells the people: Whoever wants to leave, should leave. 22,000 do so, leaving ten thousand men. God says: Still too many. Take the people, He says, to a river and see how they drink. Those who kneel down, send home. Those who raise the water in their hands, keep with you. Gideon does so. By now, only 300 men are left, an absurdly small force. Now, says God, go and fight. They do, and win.

If any story in the Bible tells us about the significance of Jewish smallness, it is this. To win the special battle in which you are engaged, says God, you do not need numbers. You need commitment, passion, dedication to a cause. Precisely because you are outnumbered, every individual will know that he or she counts; that each Jew carries an immense responsibility for the fate of Judaism and the Jewish people. Zechariah put it best: "Not by might nor by power but by My spirit, says the Almighty Lord." Physical strength needs numbers. The larger the nation, the more powerful it is. But when it comes to spiritual strength, you need not numbers but a sense of responsibility. You need a people, each of whom knows that he or she must contribute something to the human heritage, leaving the world better than it would have been had they not existed. The Jewish question is not, What can the world give me? It is, What can I give to the world? The Jewish story is a story of responsibility.

From: ravfrand-owner@torah.org on behalf of Rabbi Yissocher Frand [ryfrand@torah.org] Sent: Thursday, December 15, 2005 10:08 PM
To: ravfrand@torah.org Subject: Rabbi Frand on Parshas VaYishlach
"RavFrand" List - **Rabbi Frand on Parshas VaYishlach**

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion:
The Attribute of Being "Alone"

This week's parsha contains the pasuk: "And Yaakov remained alone and a man wrestled with him until dawn" [Bereshis 32:25]. The Medrash sees a connection between Yaakov remaining alone and the "Aloneness" of the Almighty. Even more strikingly, the Medrash states that Yaakov attained a stature that made him similar to the Ribono Shel Olam [Master of the Universe, i.e. G-d].

"And you shall walk in His ways" [Devorim 28:9] is one of the most fundamental mitzvos of the Torah. Emulating G-d's ways by acting merciful (as He is Merciful), acting compassionate (as He is Compassionate) and so forth, is a primary religious obligation and is the ultimate source for many of our responsibilities towards our fellow man.

The Medrash states that in this incident Yaakov achieved a significant spiritual accomplishment by imitating one of the Almighty's attributes. Regarding the Almighty, the pasuk says: "And Hashem ALONE will be exalted on that day [Yeshaya 2:17] and here in VaYishlach the pasuk says: "And Yaakov remained ALONE." At this moment Yaakov emulated the G-d-like attribute of being alone.

The thrust of the pasuk "And Hashem ALONE will be exalted" is that Hashem does not need anything or anybody else to exist. He can be alone and independent. Yaakov too demonstrates this ability of going it alone, of being able to survive by himself, as it were.

Rav Yeruchem states that this is a level that every person try to achieve. A person should try to reach completeness (shleimus) by himself without the necessity of relying on others.

Rav Yeruchem is not advising us to become hermits. Rather, Rav Yeruchem is giving an insight into the meaning of the teaching of a famous Mishneh. "Ben Zoma states: Who is the wise man? One who learns from everyone. Who is the strong man? One who conquers his evil inclination. Who is the wealthy man? One who is satisfied with his lot. Who is honored? One who honors creatures." [Avos 4:1].

What do all these four things have in common? The common denominator is that a person can achieve these goals without the help of others.

The Mishneh does not require a person to have a good teacher to become a wise man. That would make achieving wisdom dependent on someone outside oneself. The Mishneh precludes one from arguing, "I can't become a wise man, because I don't have a proper teacher." Pirkei Avos counters, "No. One can become a wise man on his own – providing he is ready to learn from everyone."

So it is with achieving strength. Strength does not have to be measured in relationship to another individual. ("I am stronger than he is.") One can be strong independently of everyone else in the world – provided one conquers his evil inclination. Strength is not dependent on comparisons. Strength is measured "bein adam l'atzmo" (between man and himself).

The same can be said regarding wealth. It has nothing to do with having more money than my neighbor. If that were the case, I could never be considered wealthy, for there is always someone richer. True wealth only depends on oneself (levado), alone and independent. I can be the richest person in the world if I am happy with my lot.

Finally, even honor, contrary to our expectations, can be achieved independently. Honor is not dependant on being given Shlishi or Shishi or Maftir. Honor is determined by whether one honors other creatures.

Rav Yeruchem points out as follows. This Mishneh is emphasizing that in order to achieve perfection, a person must be able to function in a vacuum – as a "levado" [one who is alone]. Wisdom, wealth, strength, and honor do not need outsiders to be measured or to be achieved. One achieves them through the attribute of being "alone."

Nothing Stands In The Way of One's Will

At the end of the parsha Shimeon and Levi made a deal with Shechem son of Chamor that they would allow him to marry their sister if he circumcised himself and all the other males of the city. The Torah

testifies: "The youth did not delay doing the thing, for he wanted Yaakov's daughter..." [Bereshis 34:19]

One cannot but be amazed at what Shechem accomplished. Virtually on the spot he circumcised himself and convinced every other male in the city to likewise have themselves circumcised. One is astonished at both the physical and diplomatic accomplishment of this young man. It is nothing short of mind-boggling. How did he manage to do this?

Rav Yeruchem states that the Torah explains how he managed it: "for he wanted Yaakov's daughter." He wanted to marry her so badly that nothing would stand in his way; whatever it took he would do. If he had to promise one resident a trip to Bermuda and another resident this and another resident that in order to convince them to allow themselves to be circumcised, that's what Shechem would promise. Whatever it took, he would get it done. Why? Because he wanted Yaakov's daughter.

If there was ever a proof that nothing stands in the way of one's personal desires, it is the actions of Shechem son of Chamor.

Rav Noach Weinberg tells a story indicating how one can bring another person to Torah commitment. What is the trick to be successful at 'kiruv'? Certain individuals have been successful in drawing hundreds and thousands of individuals back to Yiddishkeit. Other people cannot seem to accomplish anything in this area. What is the secret of those who succeed?

Rav Weinberg tells the story of a person who owned a nursing home. In the nursing home, 90% of the residents were non-Jews. He served them non-Kosher meat. However, he had three or four residents who were non-observant Jews. As the halacha [Jewish Law] requires, he would not serve these Jewish residents non-Kosher food. He prepared special Kosher meals for them.

One day the State inspector came to inspect the nursing home. One of the Jewish residents, an old woman, complained to the inspector that her food was not as good as everyone else's food. The inspector investigated and found out that there were in fact two menus. The inspector gave the owner of the home an ultimatum: "Either you acquiesce and give this woman the food she wants or I will shut down your home."

The owner went to the woman and told her that Kosher meat was better and healthier and more expensive than non-Kosher meat. None of his reasoned arguments made a difference. The woman was adamant, and insisted she wanted the non-kosher meat.

Finally, he began talking to the woman about religion. He told her that she would soon be meeting her Maker. He explained the concepts of reward and punishment in the afterlife to her. To make a long story short, he was successful, and she told the inspector she wanted the Kosher meat.

Rav Noach Weinberg asked the nursing home operator how he was successful in reaching and convincing this woman who was so set in her ways and who for so long had rejected Torah practices to suddenly say she wanted to only eat Kosher. The nursing home operator told him simply, "You don't understand. I HAD TO DO IT. If not, I would have lost my business."

Nothing stands in the way of a person's will. This is the key. The principle that "nothing stands in the way of a person's will" can move mountains. It can make a whole city circumcise themselves and it can make a lady in a nursing home decide that she in fact wants to keep kosher.

Transcribed by David Twersky; Seattle, WA
DavidATwersky@aol.com Technical Assistance by Dovid Hoffman;
Baltimore, MD dhoffman@torah.org RavFrاند, Copyright © 2005 by
Rabbi Yissocher Frand and Torah.org. Torah.org: The Judaism Site
www.torah.org/ Project Genesis, Inc. learn@torah.org 122 Slade
Avenue, Suite 250 (410) 602-1350 Baltimore, MD 21208

<http://www.torah.org/advanced/nesivosshalom/5768/vayishlach.html>
Nesivos Shalom

Parshas Vayishlach

Yaakov's Mixed Messages 1

Rabbi Yitzchok Adlerstein

How are we to imagine the tone of Yaakov's voice in the message he sent his brother? "With Lavan I dwelled/ garti..." Rashi offers us two understandings of Yaakov's intent.

The word garti may convey the impermanence of its root, ger. Yaakov would be relating that Esav needn't rue the loss of their father's berachah. It did not translate into the kind of success that Esav was interested in. Yaakov remained a ger, a wanderer and stranger who had not succeed in putting down roots. Yaakov's mood would then be muted, subdued and restrained.

Alternatively, garti may be taken as an anagram for taryag, or the 613 commandments of the Torah. Yaakov's message would then be one of confidence and triumph: I am not one to trifle with. I spiritually held my own against all odds, surviving with my ruchniyus intact in the house of Lavan. I survived him; I will survive you.

These are not variations on a theme. They seem to be mutually exclusive, to tell two different stories.

If we examine this episode for its avodah-instruction to us, we realize that it is all about our own battle with our yetzer hora. The struggle is never easy – but it at least seems possible to withstand the wiles of the yetzer hora when it conducts a conventional campaign, tempting us with all sorts of desires and lusts. When the yetzer hora comes after us in two completely different forms and guises, we might easily despair of holding our own. We might think of fighting a battle on one front, but find ourselves crushed by the prospect of a multi-frontal assault.

Yaakov alludes to such an assault. "Save me, please, from the hand of my brother, from the hand of Esav." Yaakov speaks of a two-pronged battle. Esav here represents pure, unvarnished yetzer hora, urging a person to taste all sorts of forbidden pleasures. The temptation can be strong – but we have proven strategy of meeting evil with good. We can help ourselves accomplish sur me-ra, turning back from evil, through *asei tov*, increasing our involvement with good. The poison of the yetzer hora has an antidote in Torah. Every mitzvah that we perform further weakens the power the yetzer hora holds over us.

To offset this, however, the yetzer hora embraces a very different strategy, coming to us not as Esav, but as a "brother." It offers no resistance to our performance of mitzvos, preferring instead to "create blemishes in the sacred."² It tries to lessen the effect of our avodas Hashem by cheapening it, by lacing our Torah and our service of Hashem with pride and ulterior motives. By thus perverting our Torah and mitzvos, they become the property of the Sitra Achra³. Their power to protect us from the more direct overtures of the yetzer hora is nullified in the process.

We can understand Yaakov's dividing his camp in two along these lines. In the struggle against the yetzer hora (as symbolized by Esav), some would expend much effort in deepening their humility and self-abnegation, in order to better resist the yetzer hora's attempt to contaminate their mitzvos with pride and ulterior motives. Others – a second camp – would assume the opposite stance. They would stand up to the yetzer hora, directly battling its seductive appeal to baser lusts and desires.

It is sometimes crucial to take the strong, determined posture against the yetzer hora. We find an allusion to this in the story of Yosef and Potiphar's wife, as explicated by the Bais Avraham. In her attempt to get Yosef to sin, his master's wife grabs on to his cloak, his *begeh*, a word which, Chazal teach, is related to *begidah*, treachery. Potiphar's wife seized Yosef's previous indiscretions: "Do you imagine yourself to be perfect? You are far from it! How much of a difference will it make if you commit one more sin?" The yetzer hora attempts to ensnare us with

a false, counterproductive humility, telling us to think less of ourselves than we ought to. Yosef responds perfectly. "There is none greater in this house than myself." Yosef employs *gaavah de-kedusha*, a holy pride, elevating his heart in the service of Hashem to assert his worth. "What you would have me do is unworthy of someone as important as myself! I will not do it!"

Which of these two approaches – unbending strength, or self-effacing humility – is the more important? In truth, every person must employ both. This might seem strange. The two approaches would seem to draw on antipodal qualities that cannot coexist within the same personality.

While it might seem that way, it is important to know that this is not true in regard to spiritual quests. In all other regards, *ahavah* and *yirah*⁴ cannot reign at the same moment within the same person. When it comes to the service of Hashem, however, "Anochi" and "Lo yih'yeh lechah" were stated together⁵. In conventional pursuits, all things have their own goals and purposes, often making them incompatible with each other. In the pursuit of *ruchniyus*, however, the goal is always to get closer to Hashem. Here, *ahavah* and *yirah* do not annihilate each other, but serve as different means to the same end, an end which unites them rather than separates them. When a person meekly yields himself up entirely to Hashem, the Sitra Achra loses his power over him – and he is freed up to become the very opposite: strong, confident and direct in battling the yetzer hora.

This, then, is what Yaakov meant by the double entendre of garti. He definitely meant both, serially and sequentially. "I lived simply and discretely, like the impermanent ger. I did not become haughty and self-important." This humility made room for him to boast that he had remained true to the 613 mitzvos, that he was indeed a force to contend with." The contradiction is its own resolution.

Having come this far, we can also state that Yaakov's two camps may not refer to two different groups of Jews. Rather, we are required to divide our internal forces between these seemingly opposing strategies that in striving for spiritual advancement are not contradictory at all.

1 Based on Nesivos Shalom, pgs. 216-218 2 An allusion to the halacha that certain blemishes disqualify consecrated animals from being offered in the Temple. 3 Lit. the other side, i.e. the cosmic force of evil 4 Love and fear: two different modes of serving G-d, that stem from two very different expressions of our personalities. The former is expansive, the latter limiting and restrictive. In the context of this piece, *ahavah* would lead to rising to the occasion with a new-found confidence, whereas *yirah* would lead to the restrained and muted response. 5 I.e. the first two of the Ten Commandments were uttered simultaneously according to Chazal. The first is an affirmative obligation (and therefore, like all affirmative obligations, a reflection of *ahavah*). The second sets in place a prohibition, a restriction. We summon up *yirah*, reverence for Hashem and fear of the consequences of disobedience, when we submit to their strictures.

Text Copyright © 2007 by Rabbi Yitzchok Adlerstein and Torah.org

Text & Texture - <http://text.rcarabbis.org> -

Gid haNasheh: Yaacov Avinu's Contribution to Jewish Spirituality

Posted By **Gidon Rothstein** On December 8, 2009

Gid haNasheh: Yaacov Avinu's Contribution to Jewish Spirituality by Gidon Rothstein

There are only three commandments recorded in the book of Bereshit, so when we come across one, we sit up and take notice. If that weren't enough, the prohibition of Gid haNasheh (commonly translated as sciatic nerve, but easily as likely referring to a muscle or sinew in or near the hollow of the thigh) is striking in other ways. By looking at this mitzvah a little more closely, I believe we can be reminded of Yaacov Avinu's particular role in shaping the character of the Jewish nation.

Memory and a Food with No Taste

The first oddity of the prohibition is the halachic assumption that this part of the animal has no taste.[1] [1] If so, it is not clear what it is about the sinew or nerve that makes it problematic to be eaten. Rishonim assume that there is some symbolism in the eating that we are meant to keep in mind. Thus, Rashbam on the verse says that we are supposed to remember Yaacov's heroism in battling the angel, and his having been saved.

As Ibn Ezra notes in a different context, though,[2] [2] this memory is based on our refraining from eating, as opposed to, for example, the Pesach sacrifice, where we reinforce our memory by eating something. The simplest reading of that difference, it seems to me, would be that we eat an item to remember something positive, and refrain from eating when we want to remember a negative or difficult circumstance.

Rambam also lets the attentive reader know that he sees this prohibition as being about memory in a remarkable way. In his attempt to explain the reasons for the commandments towards the end of the Moreh Nevuchim, he reaches the topic of food prohibitions.[3] [3] In general, he ascribes those to some physical or psychological/spiritual damage the food causes. Blood and meat that is not ritually slaughtered were, for him, difficult to digest, while ??? ?? ???, foods that have been removed from an animal while it was still alive, teach a person cruelty.[4] [4]

Sandwiched between those, without his noting that he is giving a completely different type of explanation for this commandment, Rambam mentions that the reason for ??? ???? is written in the verse. Meaning that, for Rambam, this food prohibition is actually exceptional, in that it is not a function of the food's impact on us, it is only as a memory device.

Sefer haChinuch offers one suggestion for the memory we are trying to retain. Following the tradition cited by Rashi that the angel was the representative of Esav, he suggests that we refrain from eating the Gid to remind ourselves that although we may suffer in our various exiles, we should always know that we will eventually be redeemed. This lack of eating, in his view, holds us firmly in our faith in the face of adversity.

Adversity or Uncertainty?

I find his idea less than fully convincing, most prominently because it requires our assuming that the Torah, without acknowledging it, identified this angel and gave it an historical significance that formed the background for a mitzvah of the Torah. While not impossible, it seems unusual. In addition, I am still bothered with why we here are told not to eat the Gid, and in the Pesach sacrifice told to eat it (I'm not sure I have a good answer to that, but let's push on and see).

Another comment of Rambam's suggests to me an avenue we could take that seems productive. At the end of Hilchot Melachim,[5] [5] he offers a mini-history of how mitsvot came into the world. Adam got six (Rambam assumes animal flesh was prohibited until after the Flood, so ??? ?? ??? only became an issue in Noah's time), Noah got the right to eat meat and the prohibition against eating that which has come off of live animals, Avraham got circumcision and established the morning prayer, Yitzhak tithed and added the afternoon prayer, and Yaacov gave us gid hanasheh as well as the night-time prayer.

I find it striking that both of Yaacov's contributions focus on night, the time of uncertainty. Night is, we might note, a time when we have many fewer mitsvot that during the day, almost as if the Torah assumed we would just retreat to our homes for its duration, returning to active life with the next day.

Pushing forward through such times of night, including exile, seems a theme that plays a repeat role in Yaacov's life. In a Rashi that Dr. Aviva Zornberg first alerted me to,[6] [6] Hazal see Yaacov as having worried his whole life as to whether he would be sent to Gehinnom, to post-mortem punishment for his sins; Yaacov spends twenty years struggling with Lavan and fearing Esav, finally is forced to confront his brother and is deathly uncertain as to how that will go; and, in summarizing his life

to Paroh sees it as a short and unhappy life. Yaacov, in other words, lives a life where he cannot see whether he is succeeding, and spends his life uncertain as to how it will look at the end.

This is not completely different from the view offered by Sefer haChinuch; the troubles of exile lead some to doubt their faith, an uncertainty akin to what I am suggesting. The emphasis, though, is not our ultimate survival so much as stressing building the fortitude to follow uncertain paths with the faith and confidence that God will make it work out as best possible.

The mitzvah of Gid haNasheh, to me, then, is about watching our Father Yaacov's life struggles and learn from them, somewhat like Sefer haChinuch said, that the road may be long, lonely, and doubt-filled, but as long as we struggle conscientiously, guided by our faith and the dictates it sets out for us, we can know that we will find success and reward from our Father in Heaven.

[1] [7] ??? ??:?, Yoreh Deah 100;2. [2] [8] ??? ???? ? ? ?, Yesod Morah Gate 5. [3] [9] III;48. [4] [10] I confess I have long failed to understand this explanation: if that concerned the Torah, there should have been a separate and serious prohibition against removing the animal's parts while it was alive, yet ??? ?? ??? is a food prohibition. We may not eat ??? ?? ??? even if we removed it in the most humane way possible, or even if it came off on its own. I would suggest that the prohibition stems from the Torah's wish to stress that animals are not food until they have died (in the case of fish or for non-Jews) or been killed. We cannot eat ??? ?? ???, it seems to me, because it is not food. If so, incidentally, this might explain why the Torah never explicitly prohibits human flesh—that is never food, so there is no reason to mention it. [5] [11] ??:, 9;1. [6] [12] ?????? ??: ??:, Bereshit 37;35.

Thanks to hamelaket@gmail.com for collecting the following items:

from: Destiny Foundation/Rabbi Berel Wein <info@jewishdestiny.com>
reply-to: info@jewishdestiny.com

subject: Weekly Parsha from Rabbi Berel Wein

In My Opinion :: Rabbi Berel Wein

More Soulful

The organizations that claim to represent American Jewry meet this week in their annual General Assembly gathering. Once every five years this meeting takes place in Jerusalem, while rotating around American cities the other four years of the cycle. Surveying the wreckage of much of current American Jewish society, there is now a call for a much more soulful approach to Judaism and Jewish life to help reverse current trends and demographic and social realities.

For decades, official American Jewry has been trapped by its own public relations sloganeering. No one can be against a more soulful Jewish public. But what exactly does the word soulful mean? In what context is the word to be translated into deed and attitude? In short, what and where is the key to reaching and opening the shriveled soul of American Jewish society?

Truth be said, it does not appear to be in the existing structure of organized Jewish life in America. Organizational meetings, banquets, dinners and conferences are all important events but none of them really create a soulful atmosphere. The scruffy business of fundraising and organizational turf protection or expansion all gets in the way of soulfulness.

This, by the very nature of the matter, apparently cannot be helped or avoided. But it is a reality that should be recognized. It is apparent that it is outside of the realm of official organized Jewish leadership that soulfulness must be created and pursued. Organizational life, no matter how efficiently structured and well-intentioned can only achieve practical results in the physical world. It is too sterile an enterprise to affect the soul.

In Jewish tradition the house of worship, of prayer, was meant to be a soulful place. It was not meant to be a place of entertainment or even of

the mere fulfillment of a religious obligation. It was meant to be a place where one could converse with one's own inner self and thereby with one's Creator. It was and is governed by physical rules and set texts in order to help the one praying to achieve that goal of inner and lofty communication.

But the rabbis characterized it as a place of "kavanah" – a Hebrew word that almost defies translation because of its exquisite sense of nuance. The word is loosely translated as direction or intent or concentrated fervor but in terms of prayer it really signifies connection with one's own soul and thereby with its Creator.

I have experienced such a place a few times in my lifetime. The first was as a child in my father's large synagogue in Chicago on Rosh Hashanah and Yom Kippur when the synagogue was filled with Eastern European Jews and their prayers rose as a storm sweeping all before it. Their roar of anguish and awe was a soulful experience.

Later in life I read about the experience of the great Jewish philosopher Franz Rosenzweig serving with the German army in Poland in World War I. A completely assimilated German Jew, engaged to marry a non-Jew, he wandered into a small nondescript synagogue in a Polish village on Yom Kippur night and the experience of that prayer service transformed him forever. Our synagogues and prayer services are certainly sterile and cold in comparison.

The house of study was also meant to be a place of soulful inspiration. I remember the moment when, at fifteen, the study of Talmud was transformed within me from a chore and an assignment into a joy and a spiritual experience, I had teachers that enabled me to feel that way and that allowed me to draw inspiration from the white spaces and not only from the black letters on the page.

Torah study was meant not only to provide necessary knowledge but it also, just as importantly, was meant to create a conduit to one's own soul and being. That is why the rabbis stated that there were seventy facets to every word and idea of Torah. Every individual finds a different facet of spirituality to attach one's self to. There is no one size fits all when it comes to matters of the soul.

But the ignorant and unlettered – tragically, most of American Jewry - are almost automatically precluded from such an attachment; the Torah for them remains an unexplored and forbidding dark continent. It is within the synagogue and the study hall that soulfulness in Jewish life can be regained and fostered.

It will require new ideas and tactics, much determination, and human and capital investment to achieve this. But the Jewish soul is not dead within us. It needs nurturing and will. Maybe organized Jewry will yet devote its talents and resources towards this pursuit of soulfulness and not continue to flounder in slogans and the wilds of organizational life. Shabat shalom

from: Destiny Foundation/Rabbi Berel Wein <info@jewishdestiny.com>
reply-to: info@jewishdestiny.com
subject: Weekly Parsha from Rabbi Berel Wein

**Weekly Parsha :: Rabbi Berel Wein
Vayishlach**

Many commentators over the ages have seen in the two confrontations between Yaakov and Eisav – first the struggle with Eisav's angel and then the meeting with Eisav in the flesh – the two-front war that Judaism and the Jewish people have been forced to fight over millennia in order to simply survive.

The struggle with Eisav's angel, as described in the parsha, represents a spiritual and intellectual fight, a contest of ideas, beliefs and debate. The meeting with the physical Eisav in turn represents the struggle of the Jewish people to simply stay alive in a bigoted, cruel, and nearly fatal environment.

Yaakov does not escape unscathed from either confrontation. He is crippled physically and somewhat impoverished financially. Eisav's "evil eye" gazes upon his children and Yaakov is relieved to escape alive, even if damaged in body and purse, separating himself from Eisav physically and from his civilization and worldview.

The scenario is pretty much set for the long dance of Jewish history, with the Jews always attempting to survive in a constantly challenging and brutal society governed by Eisav. The rabbis of Midrash discussed the possibilities of coexistence and even cooperation with Eisav.

Though this debate did not result in any permanent or convincing conclusion, the opinion of Rabbi Shimon ben Yochai that Eisav's hatred of Yaakov is completely irrational and implacable seems to be borne out by history, past and present. The anti-Semitism in today's seemingly enlightened world is so pervasive as to be frightening. And we seem to be powerless to do anything about it.

As is painfully obvious to all, these struggles for continued Jewish existence are ongoing and seemingly unending. All of the foreign ideas and current fads of Western society stand almost unanimously opposed to Torah values and traditional lifestyle. The angel of Eisav changes his program from time to time, but he is always opposed to Torah and moral behavior.

He wavers from totalitarian extreme conservatism to wild liberalism but always is able to wound the Jewish psyche and body no matter what philosophy or culture he now advocates. We limp today from this attack on Jewish values and Torah study and practice.

Jewish parents in America sue school boards for anti-Semitic attitudes, policies and behavior. Yet they would not dream of sending their children to a Jewish school or giving them an intensive Jewish education. The lawsuit is the indicator of the limp inflicted upon us by Eisav's cultural angel.

All agree that Europe is currently a lost continent as far as Jews are concerned. The question most asked of travel agents by Jews today is "Can I wear a kippah on the street there?" Billions of dollars of Jewish treasure pillaged during World War II and immediately thereafter still lie in the hands of Eisav.

And yet we certainly would be satisfied if the world just let us alone but that seems to be a forlorn hope. So our struggle continues but the Lord's promise to us that we will somehow prevail remains valid and true. And that is our hope for continuing on as loyal and steadfast Jews. Shabat shalom

from: Ohr Somayach <ohr@ohr.edu>
to: weekly@ohr.edu
subject: Torah Weekly

Ohr Somayach :: Torah Weekly :: Parshat Vayishlach

For the week ending 16 November 2013 / 13 Kislev 5774

**by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Insights**

Dynasty

"Now these are the kings who reigned in the land of Edom..." (36:31)

Why do Jews believe that there is a G-d?

The famous English physicist Sir Isaac Newton had a colleague who was a staunch atheist. Newton would frequently cross swords with his colleague on this subject.

One day, when the atheist came to visit Newton in his library, his eyes fell upon a most beautiful sight. Sitting on Newton's desk, basking in the rays of the afternoon sun, was an exquisite astrolabe — a brass machine that depicted the solar system in three dimensions.

"How beautiful!", remarked the atheist.

"You haven't seen anything yet," said Newton. "Do you see the small lever on the base? Move it towards you."

As the atheist moved the lever, the entire engine slowly came to life. At its center the orb of the sun started to revolve. Further out, turning on brass cogs, the earth and the planets began their revolutions around the sun; each planet accompanied by its own moons, all moving in wonderful precision.

"This is amazing!" remarked the atheist. "Who made it?"

"No one" replied Newton, deadpan.

"What do you mean 'No one'?"

"No one. It just sort of fell together, you know."

"No, I don't know! I insist you tell me who the maker of this priceless object is. I refuse to believe that this object merely 'fell together'."

"This..." said Newton, pointing to the astrolabe, "This you insist has to have a maker. But this..." Newton spread his arms wide, indicating the Creation, "how infinitely more beautiful and complex! This you insist has no Maker?"

You don't have to be able to invent the First Law of Motion to read the world like a book.

Just as the book testifies to the existence of its writer, so too the world testifies to the existence of a Divine Author.

Yet, however compelling is the evidence of design in the Creation, this is not the reason that the Jewish People believe in G-d.

We believe in G-d because the entire Jewish People had a first-hand experience of the Divine during the Exodus from Egypt, at Sinai and the forty years of daily miracles that followed. Ah, you will say, that was them — what about me? What connects my belief in G-d to the experience of people I never met a couple of thousand years ago?

The answer is that parents don't lie to their children about essential life information. If indeed G-d did speak to the Jewish People at Sinai and miraculously guided us through the desert, if He indeed gave us a Torah which tells us how to live our lives, then this certainly qualifies as information that our forbears would deem essential to pass on to us. "Tradition" is infinitely more than the rhapsody of a Russian-Jewish milkman named Tevye. "Tradition", the passing over from parent to child of that encounter at Sinai is the lifeblood of Judaism.

One of the ways we express that link is by referring to ourselves as the son/daughter of so-and-so. For example, my Hebrew name is Yaakov Asher ben Dovid. Yaakov Asher the son of David. My father's name is Dovid ben Shmuel, and his father's name is Shmuel ben Tanchum Yitzchak. An so on.

My name — who I am — is inextricably linked with from where I come. I am a link in a chain that spans the millennia. My very name says that. At the end of this week's Torah portion, there is a list of the kings of Edom. If you look at this list you'll notice that not one of these kings was hereditary. Every one of them founded and finished his own dynasty.

Edom descended from Esav. Esav despised the birthright and sold it to Yaakov. Esav viewed heredity as disposable, insignificant. He was prepared to sell it for a bowl of lentils. Esav's worldview is that of unmitigated meritocracy. Nothing else counts. This is his view to this day.

Meritocracy has much to recommend it. However, when you are building a belief system which will rely on a chain of transmission spanning millennia, to despise dynasty is to disqualify yourself from the job at hand — the eternal witnessing of G-d's interaction and interest in Mankind.

Thanks to Rabbi Mordechai Perlman

© 2013 Ohr Somayach International - all rights reserved

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

And leave a space between drove and drove. (32:17)

The Midrash Rabbah quotes a poignant request made by Yaakov Avinu of Hashem: "Yaakov said to HaKodesh Baruch Hu, 'Ribbono Shel Olam! If adversity/troubles/pain will (be decreed) to come upon my children, please do not send them one following (immediately) after another; but rather, leave (a) space between them!' This is to be implied from the word revach, 'space' between the flocks of sheep." Horav Yaakov Galinsky, Shlita, wonders what is the meaning of "space" between troubles? How does space make a difference?

The Maggid quotes an explanation which he heard from the Steipler Gaon, zl, given during a group lecture while in the Novardok Yeshiva in Bialystok, Poland. In the Talmud Berachos 5b, Chazal relate that when Rabbi Elazar became ill, Rabbi Yochanan came to visit him. When he entered the house, he noticed that it was very dark. Rabbi Yochanan uncovered his arm, and the house immediately became illuminated. He then noticed that Rabbi Elazar was crying. "Why are you crying?" he asked. "If it is because you feel that you did not sufficiently learn Torah, it should not be of concern to you. We have learned that it is not how much one learns, but rather, his intention and devotion to Heaven, that it be l'shem Shomayim, for Heaven's sake, that counts. If it is because of your extreme poverty: not everyone merits two tables (i.e. distinction in Torah and material wealth). If it is because you did not merit to have children: I have here with me a bone from my tenth son to have passed away. The bottom line is: Do you appreciate yissurim, troubles?" Rabbi Elazar replied, "Neither them, nor the reward they incur." When Rabbi Yochanan heard this, he stretched out his hand to Rabbi Elazar and the sage immediately became cured. The question is obvious: If Rabbi Yochanan possessed this incredible power, why did he wait to pose all of these questions to him? Why did he not heal him on the spot?

The Steipler explained that, had Rabbi Yochanan asked him outright, "Do you want to be healed?" the immediate response would have been one of dejection, "Leave me be; I want to die!" Why would he have responded so negatively? Because this is exactly how he felt. He had not learned enough Torah; he had no money, no children, and now he was gravely ill on top of all of that! Yes, his immediate response would have been, "Leave me alone, I just want to die!" He no longer had any strength left to continue his painful suffering.

Therefore, Rabbi Yochanan took apart the various adversities which, throughout his life, had taken their toll on him. Each one was disassembled and ameliorated. Individually, none was a catastrophic burden with which he could not deal. What was left? His illness! That, he could cure! This is how the brilliant Rabbi Yochanan was able to bring Rabbi Elazar back to manifest a positive outlook on life.

This is the meaning of revach, space. Everyone suffers through some form of adversity. Some experience much more than others. Yet, it does not destroy them. This is because they catch their breath in between each one. There is a space during which one can straighten out his life, pull himself together — and then go on to the next one. He breaks up his tzaros, troubles, into distinct adversities dealing with each one on an individual basis. This allows him time to reflect when transitioning from one situation to another.

Perhaps we might suggest another interpretation of allowing for revach bein eider l'eider. Revach means space. It also means benefit, profit, surplus. If we follow along the lines of Chazal that we are addressing issues of adversity, revach can be interpreted as the benefit or lesson one derives from the adversity. Thus, he triumphs over the troubles, rather than letting them envelop him. This idea came to me when I read a simple, but poignant, quote: "Grief is the price we pay for love." One who loves someone grieves over his loss. One who cares about something mourns his separation from it. One who does not care, who does not love, does not grieve or mourn. Every "negative" emotion is a response to a positive feeling within us. One who undergoes an adverse situation can either: gain from it, thus triumphing over it, or it can destroy him.

I recently read a book about people who had undergone various challenging situations. They coped and grew from their experiences. At times, the ending was a happy one, but sometimes not: the patient did not survive. Yet, the people who were involved in the experience emerged stronger, emotionally healthier, nobler, wiser and more caring individuals. Despite the grief that overtook them following the bad endings, they benefitted so much from their ordeal that the tragedy itself was redefined.

Whether revach means space or it is interpreted as benefit, the message remains the same: Do not allow adversity to triumph over you. Delve into every situation. Allow yourself to think, to expand your horizons, to recognize that every situation carries a lesson, a message, an opportunity for betterment. "Grief is the price one

from: Shema Yisrael Torah Network <shemalist@shemayisrael.com>
to: Peninim <peninim@shemayisrael.com>
subject: Peninim on the Torah by Rabbi A. Leib Scheinbaum

pays for love" is a powerful statement, which teaches us that it is not all bad. One who does not love will never have to grieve. Think about that.

I close with a powerful exposition attributed to the Chiddushei HaRim. Avraham Avinu was tested through the Akeidas Yitzchak, Binding of Yitzchak, whereby Hashem commanded him to sacrifice his only son, whom he loved. It involved a lengthy process of traveling three days to Har HaMoriah. Why could Hashem not have tested Avraham with a quick, sudden command: "Put a knife to your son's throat." Why did he have to go through the whole process? The Rebbe explains that a person's senses can desert him under such duress. A moment so sudden, so traumatic, can have a deleterious effect on his consciousness. Avraham and, - by extension, each person who is tested by Hashem - undergoes a test for how well-prepared he is for the challenge. Every human being can study, contemplate, mull over the issues of life and fill his internal repositories of faith, compassion, trust in Hashem and Jewish perspective, to the point that his instincts are well-honed and properly molded. Therefore, when the time of challenge - that awful moment we pray never happens - does come, he is prepared to deal with the adversity that confronts him.

We live a life of hope - hope that "bad things" will never happen, but we must leave ourselves revach, take every opportunity to pack our bags with inspiration and faith, so that if it "does happen," we are prepared.

He said, "No longer will it be said that your name is Yaakov, but Yisrael, for you have striven with the Divine and with man and have overcome." (32:29)

Yaakov/Yisrael are two names, each with unique implications. The name Yaakov heralds back to the birth of the Patriarch, v'yado ochezes b'akeiv Eisav, "his hand grasping on the heel of Eisav" (Bereishis 25:26). Yaakov Avinu emerged into this world holding onto the heel of his brother Eisav. This clearly does not imply strength or assertiveness. Later, at the convincing of his mother, Rivkah Imeinu, he appropriated the b'rachos, blessings, from Eisav, under what appears to be in less than a forthright manner. Eisav declared, Hachi kara shemo Yaakov vayaakveini zeh paamayim, "Is it because his name was called Yaakov that he outwitted me these two times?" (Bereishis 27:36). Once again, the name Yaakov connotes stealth, cunning, acting somewhat surreptitiously.

This is in contrast with the name Yisrael, which is derived from sarisa, "You have striven/contended." Sarisa is derived from sar, which means officer, dignitary. Thus, Yisrael is a name which denotes dignity and pride, strength, openness, authority - definitely the opposite of deceit and treachery.

It is, therefore, interesting to note that the Torah calls the righteous women of our nation by the appellation Bais Yaakov, the House of Yaakov, while the men are referred to as Bnei Yisrael, the sons of Yisrael. This is evidenced in Shemos 19:3, when Hashem instructed Moshe Rabbeinu to inform the nation of the terms of the covenant. He distinguished between the men and women - referring to the men as Yisrael, while the women were called Yaakov. Why is this so? What is it about the righteous women of our nation that connects them to the Yaakov name?

In his Livyas Chein, Horav Cohen, Shlita, offers a fascinating understanding of the dichotomy between the role of women versus the role of men, based on the women's guiding principle in life of: Kol kevudah bas melech penimah, "All the honor of the daughter of the king is within" (Tehillim 45:14). We must refer back to the role played by Rivkah Imeinu in Yaakov's ruse to relieve Eisav of the blessings. She did not act without guidance from Above. Through Ruach HaKodesh, Divine Inspiration, she was able to perceive that the blessings were to be given to Yaakov. The problem was that Yitzchak had made it clear that his intention was to give the blessings to Eisav. What does a righteous, chaste, but principled and logical, woman do when she perceives a conflict between Divine Inspiration and her husband's personal proclivity? One thing that she does not do is confront her husband. This is not the way a bas melech, princess, conducts herself. Most women have gentler characters. They are not aggressive. Thus, when Hashem told Moshe to convey the covenant to the women, He used the term tomar, "say," to Bais Yaakov. Men are by nature much more assertive and bold. Their imperious nature demands a strong form of communication. Thus, Hashem told Moshe, v'sagid, "and speak," to Bnei Yisrael.

Kol kevudah bas Melech penimah is much more than an adjunct description of the character of womanhood. It asserts the very definition of the role and position of woman in Judaism. The soft-spoken, genteel, dignified, but modest, way of the Jewish woman is not only desirable, it is a requisite. Thus, the righteous woman understands that the tactics which princes and soldiers employ are hardly appropriate for her. She must focus on a non-confrontational, almost passive, way of influencing those around her. Binah yeseirah, a surplus of understanding, was given to the woman. Thus, she should utilize her intuition and wisdom to prevail in life.

This, explains Rav Cohen, is exactly what Rivkah did when she instructed her son, Yaakov, to appropriate the blessings through a maneuver that appears to be subterfuge. In an attempt to avoid an outright confrontation with her husband, she turned to her son, Yaakov, and instructed him on how to obtain the blessings that were due to him, covertly. She was able to see her son blessed without having to catalyze confrontation or discord.

Rivkah Imeinu set the tone for women of future generations. Chochmas nashim bansah beisah, "The wisdom of women has built the house" (Mishlei 14:1). In building her home, Rivkah used good judgment as the mortar to hold the bricks of Torah and ethics together, so that her home would flourish, thereby ensuring the continuation and success of the Jewish People through the blessings bestowed upon her son, Yaakov. A Jewish woman employs her wisdom and intuition l'shem Shomayim, for the sake of Heaven, discretely and without fanfare, developing her home into a bastion of Torah and yiraas Shomayim, fear of Heaven.

We now understand the significance of - and the necessity for - calling the Jewish community of women by the appellation, Bais Yaakov. Recalling the name of the Patriarch who was guided by guile and wisdom, who was crafty when necessary, who listened to his mother's wise advice, serves an important function. It teaches the generations of women to follow and strive to emulate the ways of the Matriarch Rivkah. She brought blessing to her home: neither by grabbing, nor by protest; by eschewing the limelight; without aggressiveness - but with strength, modesty and gentleness. Every Jewish woman must avail herself of her unique qualities of wisdom and intuition, in order to remain the paradigm of the true Bais Yaakov, the revered princess, which personifies her essence and enables her calling.

He raised his eyes and saw the women and children, and he asked, "Who are these to you?" he answered, "The children whom G-d has graciously given your servant." (33:5)

Eisav took one look at the women and children and asked Yaakov Avinu, "Who are these to you?" Yaakov replied that the children were graciously bestowed to him by the Almighty. We assume that, upon seeing the group of women and children, Eisav questioned Yaakov concerning both the women and children. Yaakov, however, only replied concerning the children. He seems to have ignored the wives. The Malbim explains that Yaakov was conveying to Eisav an important aspect of his outlook on life, which was altogether different than that of Eisav.

To Eisav, a wife was a goal within itself. He had no other purpose in establishing the relationship. It was all for the purpose of self-gratification. Yaakov, however, married for the purpose of procreation, which, without a wife, was impossible. Marriage served as the cornerstone for a family. A family is of primary significance in Jewish life. Family represents future. Life is all about future. Without a future, we have no present.

Eisav asked about the women and children. Yaakov responded concerning the children, because the women's significance was intrinsic to the children. They were all one family unit. Eisav could not comprehend the idea of a family, because everything he did was to satisfy the here and now. Family represents future. Eisav lives for the present.

Perhaps, Yaakov was suggesting another perspective on marriage to Eisav. Eisav inquired concerning the women and children who were accompanying Yaakov, as if they were two separate entities, sort of Yaakov's "possessions." The Patriarch replied only concerning the children - not the women. He was intimating to Eisav that the women who Eisav viewed as assets were his wives, the mothers of his children, and, hence, had status equal to his own. They were a couple, and the children were "theirs."

In Eisav's perverted world, the woman/mother had no individual status. Rather than being the husband's companion for life, she was his chattel; she belonged to him. This is why Eisav asked about the women in the same manner as he asked about the children. Yaakov's reply was very telling. The children were "theirs." In the "triangle" of Yaakov's family, he and his wives were along the same "line," with their children serving as the focal point. Not so Eisav, who viewed himself as the focal point, and his wives and children to be mere possessions. They were just not on the same page.

Now Yaakov heard that he had defiled his daughter Dinah, while his sons were with his cattle in the field; so Yaakov kept silent until their arrival. (34:5)

There were no cellphones in those days, so Yaakov Avinu had to wait until his sons arrived home before he could tell them of the outrage that had taken place. Abarbanel explains that the Patriarch waited for his sons, because he was not going to make a decision without first consulting them. Their input was important to him. Horav Yaakov Meir Shechter, Shlita, explains that including mature children in decision making is good parenting. In fact, this is specifically how one should relate to his children.

This is especially true under circumstances in which one is compelled to point out a son's errant ways, in the hope that he will alter his present activities. For instance, if one son is acting inappropriately, the father should approach him to discuss a problem which he feels exists with regard to the behavior of his siblings. By including this son in the decision-making process, he raises his self-esteem, and, at times, can point out areas of behavior which he sees in the other children. This is actually a ruse, so that the father can point out these same issues to this son. Subconsciously, as the son "advises" his father concerning his brothers, the message will invariably be reflected back on himself.

That a parent loves his child goes without saying. It is the manifestation of this love under everyday circumstances that is not all that common. Rav Shachter quotes Tanna D'vei Eliyahu Zuta that says, "One should act with humility toward all men. This is especially true with regard to members of one's family. It is important that, upon occasion, he acts as one of them, including them in affairs and decisions concerning activities in the home. In this manner, he will inspire them to follow the correct path, without the need for discipline."

Indeed, Yaakov Avinu referred to his sons as brothers. "And Yaakov said to his brethren, 'Gather stones!'" (ibid. 31:46) Rashi explains that the Patriarch was speaking to his sons who stood by his side in trouble and war like brothers. While the above is the principle to which one should adhere, how this plays out in each individual family and when to apply this principle are based upon a parent's common sense. Every child is different, and every family dynamic is different. The bottom line is that a child must feel a parent's love, and that love should be manifested on more than an annual basis.

Horav Eliyahu Roth, zl, was a master mechanech, educator, in Yerushalayim, who devoted his entire life to preparing the next generation of Torah students. He himself was a student of Horav Shlomo, zl, m'Zvehil, who was a saintly Rebbe, well-known for his devotion to Jews of all stripes. Aside from being a holy, esoteric individual, he was uncommonly wise. He was wont to say that chinuch ha'banim, child-rearing, may be compared to a hen resting upon its eggs. During the twenty-one-day gestation period, it may not allow any cold air to enter between its body and that of the eggs. The air will have an adverse effect on the chick's development. On the other hand, it may not press down too hard with its body, lest it crack the egg. These two contrasting measures - tight, without permitting air to enter; and light enough not to crack the egg's shell - are requisites for the maturation of a healthy chick. Hashem provided the hen with the innate ability to bridge these opposing measures.

Likewise, a parent must take great care in protecting his child from the deleterious winds of contemporary society. This requires great care and often strong, practical common sense concerning what to allow and what not to allow. Unless the parent is himself a victim of society's pervasive permissiveness, he should be competent in making such decisions. If he has questions, he can always approach his local Orthodox Rabbi who should be well-versed and able to offer guidance and inspiration. All the same, pressing down too hard, too much discipline, inflexible and uncompromising demands, might create a fissure in the "shell" of the child. In his *Generation to Generation*, Rabbi Dr. Abraham Twerski writes about growing up in Milwaukee, in the home of the revered Chassidic Rebbe, Horav Yaakov Yisrael Twerski, zl. His father was a giant of intellect, wisdom, compassion and inspiration. His legacy is his incredible family and the Torah community he left behind. He was also a mechanech par excellence, who imparted to his children a way of life steeped in Torah and Chassidus, while remaining cognizant of worldly disciplines. Rabbi Twerski remarks concerning his father's method of parenting and the manner in which he taught his children to distinguish between right and wrong. We all know that the greatest challenge confronting parents is imparting Torah values to their children. Children must know what is right and what is wrong, and they must learn to choose to do what is right. This must be done while nurturing a sense of positive self-esteem within the child, so that if he does something wrong, he will not feel that he is bad. This requires discipline with love, a discipline whereby the child is made to feel that some of the things which he has done are considered to be unacceptable behavior. How does a parent teach this to a child, however, without somehow making him feel guilty or bad?

This is the question that Rabbi Twerski focuses on. He remembers once early on in life being disciplined by his father. His father heard what he had done, and it was something of which he disapproved. In a no-nonsense, quiet and firm voice, he said, *Es past nisht*, "It is not becoming (of you)." No screaming; no names; no corporeal punishment - just a simple, but stern, reprimand to the effect that such behavior, albeit acceptable by others, was unbecoming of him. Rather than put the child down, such discipline elevates the child's status and expresses the notion that more is expected of him. No put-down; rather, it was the exact opposite: "You are special. It behooves you to act differently."

As a practicing psychiatrist dealing with problems of addiction, Rabbi Twerski relates that he has employed this method in speaking to teenagers who have fallen prey to the scourge of drugs. A teenager enters his office suffering from a drug abuse problem. This beautiful child has for years been putting these harmful substances into his/her body.

"Tell me," Rabbi Twerski asks, "what do you do if you are working in the kitchen and you accumulate garbage? Where do you put the garbage?"

The teenager has a puzzled look on his face. "What is the question? I put it into the garbage can, of course. Where else?"

"Then tell me, my child, how is it that you have been putting all of this drug garbage into yourself? I am certain that you knew that all the stuff that you were taking was all garbage?"

This approach has rarely failed to elicit an immediate reaction. Tears well up as the children who appear lovely on the outside share the fact that they had never felt good about themselves. Thus, essentially, they saw nothing wrong with introducing garbage into their systems. They viewed themselves as trash cans - so, why not? Imagine, if people would realize that certain behaviors are inappropriate because, *Es past nisht*, "it's just not becoming." We are a *mamleches Kohanim v'goi kadosh*, "a kingdom of Priests and a holy nation." We are dressed in exquisite finery. We are not permitted to play in the mud. It is as "simple" as that! We are too fine, too important, too easily soiled, to be playing in the garbage dump. This is how a Jewish child is to be raised: *Es past nisht!*

Va'ani Tefillah

U'keshartam l'os yadecha. And you shall bind them on your hands.

In *Sefer Shemos* (13:16), the Torah elaborates on the mitzvah of Tefillin shel yad, the Tefillin worn on the arm: "It shall be a sign on your hand... that with strength of hand Hashem took you out of Egypt." Also, it is written (ibid 13:9), "It shall be a sign on your hand... in order that the Torah of Hashem be in your mouth." Horav Avigdor Miller, zl, explains that these two signs are actually one. Hashem took us out of Egypt, not simply because He did not want us to be subjected to slavery, but because He wanted us to be His nation. Entrance into the Jewish nation is based upon acceptance of Hashem's Torah. He took us out of Egypt so that we would study His Torah. It really is as simple as that.

Rav Miller adds that the sign on the arm is a sign of love. He quotes the pasuk in *Shir HaShirim* (8:6), "Put me as a sign upon your heart, as a sign upon your arm; for love is as strong as death." The Tefillin on the arm is opposite the heart, as a sign of Hashem's everlasting love for us and our love for Him. It also serves as a reminder, so that whenever we do something with our arms, we thereby become aware of the Tefillin. Last, I think we are compelled to keep in our mind the fact that something as holy as Tefillin is placed on our arms, thus making them a repository of holiness. We will, therefore, think twice when we do something with our arms. All we have to imagine is having a *Sefer Torah* tied onto our arms. In loving memory of RABBI SAMUEL STONE - Harav Yeshayahu ben Nachman z"l, niftar 9 Kislev 5747

By his children and grandchildren Birdie & Lenny Frank & Family

www.matzav.com or www.torah.org/learning/drasha
Parsha Parables By Rabbi Mordechai Kamenetzky

Project Genesis <genesis@torah.org>
Torah.org

Drasha Parshas Vayishlach by Rabbi Mordechai Kamenetzky

No News is Jews News

Yaakov's family faced a tremendous crisis. While passing through the city of Shechem, Dena, their sister was attacked and was violated by Shechem, the son of King Chamor, who bore the same name as the city. Shechem later claimed that he desperately wanted to marry her! No one in the entire city brought the prince to justice and Yaakov's sons were not going to ignore that behavior.

They were not ready for open warfare either, and so they developed a ruse. They claimed that they were ready to form a harmonious relationship with the entire population of the city of Shechem. "We will give our daughters to you, and take your daughters to ourselves; we will dwell with you, and become a single people" (*Braishis* 34:16). However, there was one condition. Every male of Shechem had to circumcise. Yaakov's children insisted that it would be a disgrace for the daughters of Abraham to marry uncircumcised men. Upon direction from King Chamor and Prince Shechem the entire town agreed, and three days later, when the people of

Shechem were in painful recuperation from their surgery, Yaakov's children avenged Dina's honor. Despite Yaakov's consternation, they attacked the male population and wiped them out.

The question is simple: Why ask the people of Shechem to circumcise? If Yaakov's children wanted to attack them, why go through a process of converting them? They should have asked them to fast for three days. That would have made them even weaker. They could have asked them to hand over all their weapons. Why ask them to do an act is so blatantly Jewish?

On September 30, 2000, the word intafada was almost unknown to the average American. And then the riots began. On one of the first days of what has now been over three years of unceasing violence, against innocent Israelis, The New York Times, Associated Press and other major media outlets published a photo of a young man who looked terrified, bloodied and battered. There was an Israeli soldier in the background brandishing a billy-club. The caption in everyone of the papers that carried the photo identified the teen as an innocent Palestinian victim of the riots -- with the clear implication that the Israeli soldier was the one who beat him. The world was in shock and outrage at the sight of the poor teen, blood oozing from his temple crouching beneath the club-wielding Israeli policeman. Letters of protest and sympathy poured in from the genteel readers of the gentile world. The victim's true identity was soon revealed. Dr. Aaron Grossman wrote the NY Times that the picture of the Israeli soldier and the Palestinian on the Temple Mount was indeed not a Palestinian. The battered boy was actually his son, Tuvia Grossman, a Yeshiva student from Chicago. He, and two of his friends, were pulled from their taxicab by a mob of Palestinian Arabs, and were severely beaten and stabbed. The Israeli soldier wielding the club was actually attempting to protect Tuvia from the vicious mob.

All of a sudden the outrage ceased, the brutal attack was almost ignored and a correction buried somewhere deep amongst "all the news that is fit to print" re-identified Tuvia Grossman as "an American student in Israel." It hardly mentioned that he was an innocent Jew who was nearly lynched by Arabs. This blatant hypocrisy in news coverage incidentally help launch a media watchdog named Honest Reporting.com.

Rav Yonasan Eibeschitz, zt"l, explains that Yaakov's children knew something that was as relevant in Biblical times as it is in today's "New York" times. Yaakov's sons knew the secret of society. Have them circumcised. Make them Jews. Then you can do whatever you want with them and no one will say a word. You can wipe out an entire city -- as long as it is not a gentile city. If Shechem had remained a gentile city had the people not circumcised according the laws of Avraham then Yaakov's children would have been condemned by the entire world. But Yaakov's children knew better. They made sure that the Shechemites, went through a Jewish circumcision. Shechem now was a Jewish city; and when a Jewish city is destroyed, the story becomes as irrelevant as an American student attacked by a Palestinian mob in Yerushalayim! Unfortunately it is that simple and that old. Rabbi Mordechai Kamenetzky is the Rosh Yeshiva of Yeshiva Toras Chaim at South Shore and the author of the Parsha Parables series.

Questions or comments? Email feedback@torah.org. Project Genesis, Inc.

from: Yeshiva.org.il <subscribe@yeshiva.org.il>

reply-to: subscribe@yeshiva.org.il

By Rabbi Yirmiyohu Kaganoff

Yeshiva.co The Torah World Gateway Bet El Yeshiva Center, Bet El D.N.

Mizrah Binyamin 90628 Email: beitel@yeshiva.org.il

Is a Will the Halachic Way?

By Rabbi Yirmiyohu Kaganoff

Would Yitzchak (and ultimately klal Yisroel) have been better off had he written up, in advance, a will, clearly determining how he wanted his spiritual and temporal properties to be divided?

Should one write a will?

May one distribute one's estate differently from the way the Torah instructs?

SHOULD A JEW WRITE A WILL?

Before answering this question, we should clarify what would happen if one left no legally binding will. For example, who becomes the legal guardian of one's minor children? The law may prescribe a very different solution than what one would want to happen, with potentially catastrophic results. After discovering this possibility, the need to have a will usually becomes obvious.

Another question to resolve is what happens to one's property if one leaves no will. Each state and country has different laws determining who takes possession of the property of a person who dies without having left a will. One thing is virtually

certain: The division followed by a court will not follow halacha. Probate court will almost certainly award part of or the entire estate to someone who is not halachically entitled to it. Since there is no reason to assume that the halachic heirs should want to forgo their rightful ownership, someone will receive property that is not rightfully his or hers.

SOME YERUSHA BASICS

In order to understand why the wrong person ends up with the property, we must first understand who should be the halachic heir. Many people are surprised to discover that halacha distributes inheritance very differently from modern legal procedure.

According to Torah Law, property is bequeathed as follows: Sons or heirs of sons inherit everything, even if there are daughters (Bava Basra 115a). (Yes, this means that a granddaughter who is the daughter of an already deceased son inherits Grandpa's estate ahead of Grandpa's own daughter, an anomaly that the Gemara itself notes [Bava Basra 115b].)

If there is more than one son, the father's bechor, firstborn son, receives a double portion in much of his father's properties, but not his mother's. This means that if there are three sons, including the firstborn, the property is divided into four portions, and the firstborn receives two. (Who qualifies as a bechor for these laws, and in which properties he does or does not receive an extra portion, are topics to be dealt with a different time.) If there are no sons or heirs of sons, then the daughters inherit, and if there are no surviving daughters, then their heirs do (Bava Basra 115a). If the deceased left no surviving descendants, the father of the deceased is the beneficiary of the entire estate (Bava Basra 108b). If the father has already passed on, then the paternal brothers inherit; if there are no brothers, their progeny are next in line. If no brothers or offspring survive, then paternal sisters and their children are the heirs. If the deceased's father has no surviving progeny, then the deceased's paternal grandfather and his descendants become the beneficiaries, again following the same pattern.

HUSBAND INHERITING

There is one major exception to these rules of yerusha -- a husband inherits most assets left by his deceased wife. (Again, I will leave the exceptions for a different time.) This is true even if she has children, and even if her children are from a previous marriage. There are many ramifications of this rule, which can be the subject of a full-length halachic/legal treatise, and certainly reflect a very different hashkafah, perspective, on fiscal decision making than what is politically correct in today's world.

DAUGHTERS

Although daughters are not heirs when there are sons, minor daughters receive support from their father's estate. In addition, the estate provides for the wedding and related expenses of all unmarried daughters. Beis Din estimates the amount of these gifts based on the father's means and how much he provided, while still alive, for the older sisters' weddings (Kesubos 68a; cf., however, Tosafos, Kesubos 50b). A widow does not inherit from her husband; instead, her late husband's assets provide for her, until she shows interest in remarriage. At that time, she may collect her kesubah.

PATRILINEAL RELATIVES

Note that all halachic heirs follow the father's line and not the mother's (Bava Basra 108a; Shulchan Aruch Choshen Mishpat 276:4). Thus, if an only child, whose father is also an only child, died, his heir will be a cousin on his paternal side, and not his closer relatives on his mother's side.

Yankel (not his real name) once asked me the following shaylah: "My half-sister, who is my mother's daughter, passed on, leaving all her property to her caretaker. The family members are contesting the will, and would like me to join their lawsuit. May I?"

I noted that there is no halachic point in his participating in this litigation, even if Beis Din authorized the suit. Even assuming that the will is indeed worthless, Yankel has no halachic claim to the money, since only relatives on the paternal side have halachic claim to the estate, and he is related on her mother's side. Therefore, any properties he receives would actually belong to someone else. In this instance, bitachon must teach one that although civil law may consider the property to be yours, the ratzon Hashem is that to keep it is tantamount to stealing!

CHOOSING ONE'S HEIRS

According to civil law, a person may choose his heirs and thereby distribute his earthly wealth after he passes on. However, according to the Torah, a person cannot technically choose his heirs, nor distribute property after his demise. When a man dies, the Torah instructs who owns his assets according to the laws of yerusha presented previously.

If a person cannot create his own heir, does this mean that it is impossible to influence who eventually receives his assets? No, since there are several halachically acceptable methods of transferring property to someone who is not a

halachic heir. Most of the methods take effect by creating some form of gift while the benefactor is still alive. Exactly how each method works, and the relative advantages and disadvantages of each approach, is a complex topic, beyond the range of this article. Certainly prior to finalizing a will drafted by an attorney, one should ask one's rav whether there are any halachic concerns with the will's goals, and what needs to be added (or changed) to validate it halachically. It is even better to speak to one's rav before drafting the will for direction on some of the halachic issues involved.

Let us now examine the second question I raised above:

MAY ONE DISTRIBUTE ONE'S ESTATE DIFFERENTLY FROM WHAT THE TORAH INSTRUCTS?

Granted that one can change how one's estate is to be divided, is it halachically correct to do so? Does the Torah require us to follow its yerusha laws, or are these merely default procedures if someone made no other provisions?

We can answer this question by analyzing the following incident:

Rav Papa was negotiating a shidduch for one of his sons (he had ten) with the daughter of Abba Soraah. When Rav Papa traveled to discuss the dowry Abba Soraah would provide, he was accompanied by Yehudah bar Mareimar, who declined to enter Abba Soraah's house. Rav Papa invited Yehudah bar Mareimar to join him, but Yehudah bar Mareimar declined the invitation.

Rav Papa then asked Yehudah bar Mareimar, "Why do you not want to join me? Is it because you feel that my negotiating violates Shmuel's ruling, 'Do not be among those who transfer inheritance, even from a sinful son to a good one, since one never knows – perhaps the bad son will raise fine children?'" Following Shmuel's ruling, one should certainly not transfer property to the daughter that rightfully belongs to the son. "However," continued Rav Papa, "this is not a correct application of Shmuel's rule, since there is another rabbinic ruling of Rabbi Yochanan quoting Rabbi Shimon ben Yochai that encourages people to provide substantial dowries for their daughters."

Yehudah bar Mareimar responded, "Indeed Rabbi Yochanan ruled that we encourage men to provide their daughters with dowries -- but we do not pressure them to do so" (Kesubos 52b- 53a).

We can derive several principles from this passage:

1. One should provide for one's daughter in order to encourage her marriage, even when this reduces the amount available for inheritance.
2. One should not pressure someone to provide a substantive dowry for his daughter's shidduch.
3. Although one can disinherit an heir, Chazal discourage this practice, even if the heir is an evil person, since he may have righteous children who should not be deprived of their just portion. One is certainly discouraged from transferring the inheritance to someone who is not a halachic heir at all.

The Shulchan Aruch codifies this last rule: "The Sages are displeased with someone who gives away his property to others and abandons his heirs, even if they do not treat him properly" (Choshen Mishpat 282:1; note comments of Sm'a, and Shu't Chasam Sofer, Choshen Mishpat #153).

The authorities dispute whether this prohibition applies only to the testator or includes even others who assist him in transferring the inheritance. According to the Chasam Sofer, a rav who teaches how to transfer inheritance violates this rabbinic prohibition! (Shu't Chasam Sofer, Choshen Mishpat #153; cf. Shevet HaLevi 4:116, who quotes authorities who disagree.)

SHTAR CHATZI ZACHOR

An old custom, dating back hundreds of years, was to draft a shtar chatzi zachor, which provided daughters with half of what their brothers inherit. (The words shtar chatzi zachor mean a document providing half that of a male child.) Several early authorities approve this practice, even though it transfers property from the male heirs, because providing for one's daughters enhances their chance of finding suitable shidduchin (Shu't Maharam Mintz #47, quoted by Nachalas Shivah 21:4:2). Although Rabbi Shimon ben Yochai, quoted in the above Gemara, encouraged providing only a dowry for one's daughter and made no mention of inheritance, these poskim contend that knowing that she will eventually inherit also entices a potential groom. (However, note that Shu't Maharam Rottenberg #998 disagrees with this approach, implying that he would object to the practice of shtar chatzi zachor.)

CONTEMPORARY PRACTICE

It is now common for wills to provide equally for all children, both sons and daughters, and to ignore the bechor's double portion. Contemporary poskim suggest that one should follow whatever practice is necessary to avoid a machlokes caused by unrealized expectations, and advise asking a rav for direction (Gesher HaChayim, 1:8; MiDor LeDor pg. 36). Many authorities recommend that one set aside a small amount of property to be divided according to the laws of yerusha (based on Tashbeitz end of 3:147, quoted by Ketzos HaChoshen 282:2).

The Gesher HaChayim records a story of a talmid chacham who wanted his estate divided exactly as the Torah instructs, legally arranging that his bechor should receive a double portion and that only his sons, and not his daughters, receive inheritance. Unfortunately, the result of this distribution was a legacy of machlokes that created a tremendous chillul Hashem. For this reason, the Gesher HaChayim recommends that a person divide his estate among his children in a way that maintains shalom.

ABANDONING HEIRS

Other than the two reasons mentioned above, (1) encouraging daughters' shidduchin (2) maintaining harmonious relationship among family members, halacha frowns strongly on disinheriting the rightful heirs in favor of those who are not, and disapproves of providing more for one heir at the expense of another (Rashbam, Bava Basra 133b). In order to explain this better, let us examine the following case:

Mr. Rubinstein, who has no children, would like to divide his estate equally among all his nephews and nieces. However, only some of his nephews are his halachic heirs, those who are sons of his brothers. The nephews who are sons of his sisters are not halachic heirs, nor are any of his nieces. If Mr. Rubinstein divides all his property among all his nephews and nieces evenly, he has violated Chazal's concept of not transferring inheritance, since he has given away his halachic heirs' portion to those who are not his heirs.

Note that in this case, the two reasons that permit transferring inheritance do not apply. Mr. Rubinstein is not obligated to provide for his nieces' marriages nor is it likely that limiting his will to his halachic heirs will create a family dispute.

May Mr. Rubinstein give most of his estate to his nieces and sisters' sons, as long as he bequeaths some according to the laws of yerusha? The halachic authorities debate this question, some maintaining that one may give a large part of one's estate to those who are not halachic heirs, provided that each heir receives some inheritance. According to this opinion, Mr. Rubinstein may dispose of his property any way he chooses, provided he leaves part of the estate according to the laws of yerusha.

Other authorities prohibit any action that deprives the halachic heirs of their rightful portion (Shu't Chasam Sofer, Choshen Mishpat #151). Furthermore, it should be noted that the prohibition against transferring inheritance applies even when the heirs are not his sons (see Shu't Chasam Sofer Choshen Mishpat #151; Aruch HaShulchan, Choshen Mishpat 282:3; Shu't Shevet HaLevi 4:116).

TZEDAKAH

Is it considered abandoning one's heirs if one bequeaths sizable amounts of one's estate to tzedakah?

Some authorities contend that it is not, and one may leave even one's entire fortune to tzedakah. The reason for this approach is very interesting.

A person has no obligation to acquire assets in order to fulfill the mitzvah of yerusha. Furthermore, one has the right to use up all one's financial resources, while alive, in any way one chooses and leave nothing to his heirs. After all, as owner of the property he is free to do with it as he sees fit.

Donating tzedakah, reasons the Chasam Sofer, is using money for oneself, since all the merits accrue to the donor. Just as one may use his resources for himself however one chooses, so may one donate all the resources that he will no longer need to tzedakah, without violating the prohibition of transferring inheritance. The Chasam Sofer reasons that this is equivalent to the testator keeping the property for himself, since he receives all the reward for the tzedakah he gives (Shu't Chasam Sofer, Choshen Mishpat #151). (From this perspective, you can take it with you!!) However, although some earlier authorities (Rama, Yoreh Deah 249:1) concur with the Chasam Sofer's conclusions, others contend that one should limit his tzedakah bequests to one third or one half of one's assets (Rabbi Akiva Eiger ad loc., quoting Sheiltos; Chachmas Odom 144:12). Still others feel that one should not give substantial amounts of tzedakah at the expense of the heirs, unless the heirs are acting inappropriately (Shu't Maharam Rottenberg #998).

CONCLUSION

It is important to realize that one's legal rights and responsibilities are not governed by secular law. A Torah Jew understands that Hashem's Torah is all-encompassing, and that it directs every aspect of one's life. Thus, one should discuss with one's rav all aspects of the important shaylah -- how to draw one's will.