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STEPPING OUT :: Rabbi Berel Wein

One of the great dilemmas that plague any individual is one's relationship to the general community that one lives in. What if the standards of culture and behavior of that general community do not match those of the individual concerned? Is one entitled to withdraw from the community because of this divergence of views and beliefs? What is one's responsibility to a community that does not meet one's standards and expectations?

These are important issues especially relevant to everyday Jewish life here in Israel. A large section of Israeli society, principally, though not exclusively Arab and Charedi, has no connection to the society at large or to the national agenda. In Jewish life in the Diaspora this situation has occurred before and no unanimously satisfactory solution was found. I think that it will be no less difficult to find some sort of solution in our current Jewish national state.

The inclination to step out of the general society is very strong within the Jewish psyche and memory. Though this attitude exists in all sections of Jewry, it is manifested especially in the society of religious Jewry. There the splitting into small individual groupings has become the norm. Large synagogues are no longer the usual house of prayer. Instead there are hundreds of small prayer groupings each one contributing little sense of unity or community support to the general larger society. This is the situation all over the Jewish world today, here in Israel and in the Diaspora as well.

In the nineteenth century, in Germany, the Reform movement swept German Jewry into its agenda. At that time many thousands of Jews chose to advance in German society by converting to Christianity. Reform ironically saw itself as a force against such a wave of conversion. The leadership and control of the kehillot – the Jewish communities – of Germany, which were part of the mandatory governmental organization of those communities, passed into the hands of Reform. The general membership as well as the majority of the members of the kehilla was Reform.

The leaders of the kehillot were willing to meet the communal needs of the remaining Orthodox minority but the general agenda of the community was clearly in line with the programs of German Reform Jewry of the time. The question that faced German Orthodox Jews was whether or not to remain part of the general kehilla system. In Frankfurt am Main, Rabbi Samson Raphael Hirsch established his famous austritt community. Austritt literally means "to step out." Rabbi Hirsch's community left the general Jewish kehilla of Frankfurt and established its own independent kehilla. However, great rabbis disagreed with Rabbi Hirsch's approach, foremost among them Rav Bamberger and Rav Hildesheimer.

The majority of Frankfurt's Orthodox Jews did not follow Rabbi Hirsch's austritt community but remained part of the general community, even though its agenda and leadership was not in accord with their traditional beliefs and lifestyle. In Eastern Europe Rabbi Naftali Zvi Yehuda Berlin warned against following Rabbi Hirsch's lead in the Lithuanian communities that were beginning to be dominated by secularists. He wrote strongly against separating from the general community saying that this type of division among Jews led to the destruction of the Second Temple.

So here we have the two divergent views as how to deal with the problem of belonging to a society or national government that does not appeal to our sensitivities, goals and lifestyle. It seems that the view of Rabbi Hirsch has triumphed in our time. There are undoubtedly various reasons as to why this view has prevailed in our time. The bitter seeds of centuries of secular-religious strife have developed poisoned fruit. The example of the successful "stepping out" of the Chasidic movement in the eighteenth century has undoubtedly strengthened the tendency to step out. The bitter struggle over Zionism, which consumed the Jewish world in pre-war

Europe and America and here in the Land of Israel, has unfortunately not ended with the emergence of the State of Israel.

One would have hoped for greater wisdom and harmony among all concerned by now. One would also have thought that we would have realized that we are all in the same boat together. In the middle of an airplane or ship journey there is no option of "stepping out." I hope that in the new year with its opportunities and challenges, a greater sense of tolerance and togetherness will govern in our society. As such, it will truly turn into a new year of accomplishment and progress.

Shabat shalom.

Weekly Parsha :: KI TAVO :: Rabbi Berel Wein

The parsha of the week is dominated by the two polarities that dominate Jewish life over the ages and especially Jewish life over the past two generations. They are the idea of the entry of the Jewish people into their promised homeland, the Land of Israel, and the awful and awesome description of the troubles, persecution and deaths that will befall the Jewish people - the tochacha. One is a message of hope, vitality and a future of serenity - each person at peace under one's vine and fig tree. The other message is one of tragedy and depression, almost of despair. How are we to reconcile these two seemingly contradictory messages and prophecies?

By the simple review of the past events of the last seventy years of Jewish life, we are able to see clearly how these absolutely irreconcilable and opposite events and moods can exist in simultaneous disharmony. The Holocaust was the complete fulfillment, down to the last horrid detail, of the prophecy foretelling the tochacha. Rashi points out that no one in the world would be ready to accept the Jews within their homes and borders, even as laborers and servants. Death would be the only acceptable solution to the "Jewish problem." As Moshe will state later in the book of Dvarim "the hidden things are known to God our Lord alone" but nevertheless "what is revealed to us that we must persevere and observe the words and commandments of the Torah for us and our descendants." So we can only accept the tochacha as a reality and not attempt tortured explanations and justifications.

However, the idea of the return of the people of Israel to the Land of Israel has also been translated into reality over the past decades. And we read in this week's parsha, a Jew who is privileged to share in the bounty and blessing of the Land of Israel is obligated to make a public acknowledgement of one's gratitude and thanks to the God of Israel for living in such a time and place. The Torah teaches us to abhor ingratitude.

Life provides all of us with ample annoyances and problems to cause us discomfort. This is as true in the Land of Israel as anywhere else. I have just returned from the United States where I experienced Israelis who now live there sheepishly tell me that their quality of life is no better if not even somewhat worse in New York than it was in Jerusalem. Most people are distracted by the mundane and eventually unimportant aspects of daily life. The Torah bids us to view life in a broader perspective and more meaningful fashion. God wishes, so to speak, a more sophisticated and wise appreciation of the gifts granted us by Him. In our time, the Land of Israel is one of the greatest gifts granted unto us. We cannot be guilty of treating it with ingratitude and complaint, no matter the frustrations and problems of everyday life here. Balancing the polarities of the messages of the parsha remain a great challenge to us. May we be worthy of that challenge and its solutions.

Shabat shalom.

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Parshat Ki Tavo

by Rabbi Yaakov Asher Sinclair

OVERVIEW

When Bnei Yisrael dwell in the Land of Israel, its first fruits are to be taken to the Temple and given to the kohen in a ceremony expressing recognition that it is G-d who guides the history of the Jewish People throughout all ages. This passage forms one of the central parts of the Haggadah that we read at the Passover Seder. On the last day of Pesach of the fourth and seventh years of the seven-year shemitta cycle, a person must recite a disclosure stating that he has indeed distributed the tithes to the appropriate people in the prescribed manner. With this mitzvah Moshe concludes the commandments that G-d has told him to give to the Jewish People. Moshe exhorts them to walk in G-d's ways, because they are set aside as a treasured people to G-d. When Bnei Yisrael cross the Jordan River they are to make a new commitment to the Torah. Huge stones are to be erected and the Torah is to be written on them in the world's seventy primary languages, after which they are to be covered over with a thin layer of plaster. Half the tribes will stand on Mount Gerizim, and half on Mount Eval, and the levi'im will stand in a valley between the two mountains. There the levi'im will recite 12 commandments and all the people will answer "amen" to the blessings and the curses. Moshe then details the blessings that will be bestowed upon Bnei Yisrael. These blessings are both physical and spiritual. However if the Jewish People do not keep the Torah, Moshe details a chilling picture of destruction, resulting in exile and wandering among the nations.

INSIGHTS

Self Service

"Because you did not serve the L-rd, your G-d, with joy and with a good heart, when you had everything in abundance, you will serve your enemies in hunger and thirst .lacking everything." (28:47-48)

On a recent flight in the States I leaned forward and pulled out my in-flight buying guide.

I was amazed at what I saw.

I gazed, awe-struck, at products whose ingenuity was worthy of a James Bond movie: a pair of sterling silver monogrammed cuff-links for my pajamas; a tomato ketchup bottle-reamer that extracts the last gram of ketchup from the bottom of the bottle; a nose-tweezer for my pet-poodle.

I've never seen a magazine so full of things I didn't need.

We live in a world where there are solutions to problems that we didn't even know we had. (Of course, no one has problems any more - just "issues".)

Advertising is symptomatic of the age.

Our society defines itself by its needs.

Our mindset is: "I need, therefore I am." The fact that I am in need of something, however small, is the clearest indication that I am still here.

What happens when we define ourselves by our needs?

The outcome is that we can never be happy. A person who defines his happiness by the absence of needs is doomed never to be happy, because a person always has unfulfilled and unfulfillable needs. When we define ourselves by our needs we condemn ourselves to a lifetime of frustration. Nobody dies with even half his or her wishes fulfilled.

When we turn on the television, what do we see? "Do you have bad breath? You need PHEW-gard@!"

"Are you tired? Run down? Do you need a break?" "Listen. We're offering you two free weeks in a Russian heavy-plutonium disposal plant to 'cool off' and put the glow back in your life." etc. etc. etc.

I need, therefore I am.

The Jewish view of the world could not be more different. In fact it's the opposite. Judaism looks at life as a series of moments to give. Life is a constantly unraveling saga of opportunities to give, in big ways and in small ways. We can give a large check to a worthy cause, or we can give a word of encouragement to someone who needs it. It's all the same. We can give a liver to someone who is dying without one or we can say "Thank you!" to the person who washes the floors.

There is no such thing as a small gift.

Because the world was made as a place of giving. That's its purpose.

That's its function.

Nowadays, many people find it difficult to believe in G-d. Why is that?

The Torah teaches that Man was made in the "image of G-d." How can Man be an image of a Being who is indescribably beyond any adjective or comparison, whether physical or spiritual?

When the spiritual masters teach that when the Torah says that Man was made in the image of G-d, it means that just like He is Merciful, so we should be merciful. Just like He is The Giver, we must also be givers. Needless to say our giving can never approach His giving, because His is a giving that is impossible to reciprocate - He already owns everything, and He doesn't need anything. But, as much as we can, G-d has put us into this world to be givers.

Thus, the purpose of this world, its design, is to be a series of opportunities to give.

This is why so many people fail to see G-d in the world, and in their lives. For they conceive of the world as a place of taking, of fulfilling their unending needs. That's not what the world looks like. We will fail to see the Hand of the Creator if we look at the world 'through the wrong end of the telescope.' This world will look like a place where G-d is playing 'dirty pool', because we can never fulfill our desires here. But that's not the way the world looks 'from G-d's point of view'. From His "point of view" the world was made as a facility for giving.

Let's take this a step further. Let's get really deep. Are you sitting comfortably? Then, I'll begin.

As we said before, real happiness means giving. The reverse is also true. Giving is an expression of real happiness. When a person is truly happy, it manifests itself as an overflowing of feelings of inner joy and fulfillment.

Secondly, we said that G-d created man in His image.

So just as our giving is an expression of a deep internal happiness, it must be that this giving is a reflection, however distant, of G-d's giving, which in turn is an expression of His happiness.

Obviously, we can never have the slightest idea of what G-d's happiness consists.

But it is clear that G-d's giving, his chesed, is an outflow of a happiness in the fullness and perfection of His being.

G-d's giving comes from an overflowing of His nature. It is an expression of Who He is.

Obviously, G-d's nature, His inner happiness, His fullness of being, are matters that are totally beyond our understanding in every way possible. However, one thing is clear. G-d made us in His image, and in the most distant of echoes our happiness is a reflection of His happiness.

In His goodness, therefore, G-d implanted in man the potential for a joy akin to His, a joy in being, a joy of being fulfilled. It follows that every elevated human being - the true giver - resembles his Creator. In this very fundamental way a person's giving flows from an inner joy similar, in some sense, to the joy of the Creator.

When a person does a mitzvah he can feel happy for one of two reasons. He can feel happy that he 'chalked up a few more brownie points'. Or, alternatively, he can feel happiness from the mitzvah itself. In learning Torah it often happens that we enjoy the process of the learning as much as the fact that we have learned something.

This inner joy resembles the intrinsic joy that we spoke of above.

Our feeling when we do a mitzvah gives us a yardstick to the quality of our mitzvot. Are we suffused with a feeling of joy at doing the will of the Creator, or are we going through the motions without joy and without enthusiasm? Are our mitzvot an outpouring of the heart, or merely a drudge?

With this in mind, maybe we can understand a difficult aspect of this week's parsha.

"Because you did not serve the L-rd, your G-d, with joy and with a good heart, when you had everything in abundance, you will serve your enemies in hunger and thirst .lacking everything." (28:47-48)

What's so terrible about serving G-d without joy, without a good heart, that it merits such dire consequences? What makes serving G-d without joy seemingly the gravest sin of all?

Service without joy, without heart, is no service at all. It shows that we are needers and not givers. It shows we have totally missed the point of life. It shows that our service is really self-service.

Sources: Rabbi Eliyahu Dessler and others

Written and compiled by Rabbi Yaakov Asher Sinclair

Peninim on the Torah by Rabbi A. Leib Scheinbaum

PARSHAS KI SAVO

And now, behold! I have brought the first fruit of the ground that You have given me. (26:10)

The Midrash emphasizes the significance of the mitzvah of Bikurim when it posits, "In the merit of three things the world was created: Challah, Maaser, and Bikurim." Three mitzvos played a pivotal role in Creation, and one of them is Bikurim. Clearly, it is an important mitzvah which infuses us with a sense of hakoras hatov, gratitude, to the Almighty for all that He does for us. What renders it important enough to be one of the three mitzvos which were the precursors of creation of the world?

Horav Yaakov Neiman, zl, gives us a practical understanding of this mitzvah, how we should approach its performance, and what impact it should have on us. Obviously, anyone who possesses a modicum of intelligence understands that Hashem created the world. This is a given for every thinking individual. What seems to create a problem-- even for the rational man-- is the fact that even those activities that seem to be consequences of his own creation are not. They are the work of the Almighty. In fact, everything and everybody are the results of Hashem's creation and His continuing will that it/they continue to exist. To believe in anything less than that is heretical.

Thus, when an individual who has toiled, plowed, planted and harvested the first fruits of his labor comes to the Sanctuary and declares: "I have brought the first fruits...that You have given me," he affirms the purpose of Creation. He acknowledges that everything in this world-- even what he has seemingly created with his own hands--all emanates from Hashem.

You shall erect these stones which I command you today, on Har Eival...There you shall build an Altar for Hashem. (27:4,5)

As the people are about to enter the Holy Land, they are commanded to renew their commitment to the Torah, by inscribing it on twelve huge stones. This commitment was to be accompanied by offering sacrifices on an altar which they were to erect. This entire experience was to be one of festivity and joy. It is, therefore, surprising that the site for this festive occurrence was on Har Eival, the site designated for the reading of the curses. Was not Har Gerizim, the mountain upon which the blessings were pronounced, a more appropriate place for festivity, commitment, altar and sacrifices? Horav Moshe Feinstein, zl, explains that the punishments of the curses were meant to encourage the people to be Torah observant. If they were confronted only with the wonderful rewards in store for the observant, it would allow the yetzer hora, evil inclination, to entice them into disobedience - by claiming that the fleeting pleasures it promises have even greater benefit and are more practical than the distant, abstract rewards which the Torah promises are prepared in the World to Come. If, however, they were to be aware of the drastic punishments which are the consequences of a life of sin, they would wake up from their slumber and react. Thus, the curses avail them a greater opportunity for survival. This is the reason for the festivity.

Perhaps we might suggest a slightly different approach. In Parashas Masei, the Torah summarizes the entire route taken by the Jewish people during their exodus from Egypt until they stood poised to enter Eretz Yisrael. The Torah emphasizes that "Moshe wrote their goings forth according to their journeys at the bidding of Hashem" (Bamidbar 33:2). We wonder why the Torah singles out this particular point, the people's journey through the wilderness, emphasizing that it was written by Moshe Rabbeinu at Hashem's bidding. Was not the entire Torah written at Hashem's instructions?

Horav Moshe Ephraim, zl, of Sedlikow, author of the Degel Machanei Ephraim, discusses an idea taught by his grandfather, the Baal Shem Tov. The route which Klal Yisrael followed from Egypt into the Holy Land, which included forty-two encampments, represents the journey taken by

every human being throughout his life. He begins in Egypt, which is symbolized by the narrow passageway of the mother's womb: Mitzrayim, the Hebrew term for Egypt, means "narrow constraints," represented by the narrow channel through which an infant emerges. Life travels through the wilderness of the world with forty-two encampments, leading to our own inner "Holy Land," a life of transcendent holiness.

Our personal journeys through our individual wildernesses are filled with forty-two singular experiences, each composed of unique psychological, physical and emotional components which can be used as opportunities for emotional and spiritual growth and productivity. Alternatively, they can be viewed as a source of demoralization, debasement and despair. These encounters can either bring us to our inner spiritual zenith or drive us away from our spiritual destination.

In short, we see from here that Hashem writes the script of our lives. By our own actions, we determine if the "play" will be depressing or uplifting. Will the journey be one of blessing, or will it generate curse? It is all up to us. We make the choices that define our journey. We encounter the challenges that are there to elevate us or take us down. Our reactions influence the sequel.

What often seems to be a curse may actually be an opportunity to bring one closer to his or her personal "Holy Land." It is not the position in which one stands that decides his fate. It is how he perceives his position and what he does about it that determine his destiny.

Accursed is one who will not uphold the words of the Torah. (27:21)

This is a very powerful curse. According to Ramban, this curse applies to anyone who does not accept the validity of the entire Torah - each and every one of its commandments. This curse does not apply to the one who sins, but to the one who repudiates, who discards a mitzvah, claiming that it lacks relevance in our day. This applies equally to one who denies the Divinity of any part of the Torah. The Yerushalmi Sotah 7:4 goes further when it posits that this curse applies to anyone who can influence another Jew to be loyal to the Torah, but does not. This is especially true of people in authority and those who possess the talent and the power to leave a positive imprimatur on a fellow Jew.

I wonder if, by extension, this would include those who are in the position of helping a Jewish child, by including him or her in their learning groups or accepting the child into their schools. What about those who refuse to accept a child because his family pedigree is not on the same scale as that of the other children, or because his parents have just not been "Torah-oriented" as long as the parents of "other" children? Are they to be included in "not upholding the words of this Torah"? Of course, everybody has a "justifiable" excuse, or so they rationalize, but at the end of the day, can he really say that he did not turn away another Jewish child just because he or she did not fit in to his preconceived notion of what constitutes a ben Torah. One who turns his back on another Jew who is seeking to learn, or to have his child learn, Torah thinks more highly of himself than he does of the Torah.

Finally, this pasuk enjoins us to support Torah study. There are those who are extremely selective concerning their tzedakah, charity, viewing educational institutions as the responsibility of the parents. This is a rational observation for someone who does not appreciate the significance of Torah. Without Torah, there is no tzedakah! Torah defines the totality of Jewish life, teaching us how to live under every condition. Torah is our lifeline, our blood supply, the energy that keeps us alive as Jews. Without Torah, we are no different than all of the other inhabitants of this planet. It is the responsibility of those who have, each according to his own ability, to sustain Torah study.

The Midrash in Koheles makes an intriguing statement: "One who studies Torah, reviews his studies, teaches others, observes the Torah, but has the ability to support others who study- and does not - is included in the curse." Here we have an individual who acknowledges the significance of Torah. He learns - and, clearly, if Chazal say that he learns, they mean properly, not merely a cursory reading of the text. This person "horeved," toiled, in Torah study. He taught others and was himself meticulous in its observance. He just refused to support Torah financially. Is that a reason to be cursed? He is missing just one aspect of the total Torah picture. Is that so bad?

Horav Dovid Povarsky, zl, explains that one must understand the meaning of kabbolas haTorah, receiving the Torah, from Hashem. By its essence, the Torah is a Divine creation. It is Divinely authored and, therefore, is not adaptable to this world, to mankind with his physical limitations. This is why, after learning the Torah from Hashem on Har Sinai, Moshe Rabbeinu was to forget everything that he had learned. Torah is Divine; Moshe is human. The Torah was an external entity which did not coalesce with Moshe as an individual. When Hashem gave him the Torah b'matanah, as a gift, there was a fusion, a symbiotic transfer of the Torah into the essence of Klal Yisrael. This was the Giving of the Torah. It was taken from its Heavenly perch and united with man. The Torah was no longer an external presence. It was now an integral part of the Jew. Klal Yisrael and the Torah are one!

When something is a part of an individual, he cannot exist without it. He does not tolerate life without this component. Avraham Avinu was the amud ha'chesed, pillar of kindness. The Rosh Yeshivah of Ponevez explains that this means that chesed was a part of Avraham's essence. He could not live without chesed. Therefore, even when he was ill and in extreme pain, he looked for wayfarers. He needed his chesed. When he saw the wayfarers who were sent by Hashem, he ran to them. He was energized, because he had now participated in his chesed. It was not merely an act of kindness. It was his life! It was Avraham Avinu!

This is what Torah should be to us. If one has the ability to support Torah, then he is consumed with a desire to do so. If he sees someone studying Torah, and he is able to sustain his learning, he is driven to do so with alacrity and enthusiasm because it is his life. One who studies and observes, but does not feel compelled to support Torah, indicates that the Torah still remains outside of him. It is not amalgamated into his being, as it should be for every Jew. This is not a simple, minute deficiency. This is a serious matter and worthy of a curse.

Because you did not serve Hashem, Your G-d, amid gladness and goodness of heart, when everything was abundant. (28:47)

Imagine, the entire Tochachah, Rebuke, is the consequence of our serving Hashem without joy. We served Him; we performed the mitzvos, but it was without a sense of happiness. That is why we suffer the many tragic curses. It seems a bit demanding. We are addressing G-d fearing, observant Jews who go to shul and daven. They perform mitzvos and do basically everything that is enjoined of them. Is the fact that they do not exhibit enthusiasm and joy a reason to punish them so harshly? I have written many responses to this question over the years, and they all point to the importance of simchah, joy, in mitzvah performance. It just is not the same mitzvah.

I recently saw a simple, but compelling, explanation from Horav Yitzchak Zilberstein, Shlita, that really addresses the crux of the problem. In order to transmit mitzvah observance to the next generation, there must be simchah in mitzvah performance. Let us face it, you cannot fool children. They are very perceptive and always see through the facade that we project to cover up the truth. When a child sees his father performing a mitzvah amid joy, the child understands that this activity is important. It is valued by his father. If, on the other hand, the child notices complacency, indifference, even coldness in his father's mitzvah performance, then he will recognize exactly what the mitzvah is worth to his father -nothing! If a child grows up in a home in which the father does not arise bright and early for davening - if he goes altogether - the child will surely not place a premium on the value of prayer with a minyan. The list goes on, and it is needless to elaborate. Simchah is that component of mitzvah observance that guarantees the survival of the mitzvah. Without joy, the mitzvah will not have an enduring relationship with the next generation.

Having said this, we should address the meaning of simchah, a term with which the commentators grapple. Clearly, our idea of simchah contrasts the popular definition employed by contemporary society. Their joy is frivolous, without meaning, loose, uncontrolled and unabashed. Simchah has dignity, integrity and emanates from within. Does simchah mean having a good time? Does one have to shout from the rooftops to demonstrate that he is happy? Furthermore, we have mitzvos that are to be celebrated amid sadness, such as mourning for the Bais Hamikdash. How does one mourn for the Bais Hamikdash and yet still feel a sense of

simchah? How does one eat maror, bitter herbs, on Pesach and experience simchah? It seems a bit incongruous.

I think we may explain this in the following manner. Horav S.R. Hirsch, zl, posits that when two Hebrew words are similar, they are related in meaning. Thus, the word sameach, happy, and tzameach, grow, are related one to another. With this in mind, a whole new vista of understanding unfolds before us. Happiness means that one senses or experiences growth. When one performs a mitzvah properly, he should feel elevated, transformed, a better person, a holier Jew. He has grown! This feeling generates satisfaction, serenity, even joy. Any activity which engenders a feeling of growth is an experience of simchah. If one does not feel he has grown, then there is no simchah, because the two realities are intertwined with one another.

Hence, one can cry bitter tears on Tisha B'Av, but still experience simchah, because he has grown. He has mourned for the Bais Hamikdash. That is a growth experience! Growth generates inner satisfaction - even if the growth has been generated by a painful experience. Growth alters the definition of pain.

When we recite the Vidduy, confessional prayer on Yom Kippur, we do so with a melody. It might be a haunting melody, but it is a melody no less. Why? This question is asked by the K'sav Sofer, who explains that when we recite Vidduy, we are carrying out a Biblical command. Therefore, we are happy and thankful to Hashem that He has availed us of this opportunity to cleanse and purify ourselves before Him. This is why we sing. Also, when we confess, we grow. We cleanse ourselves of sin and become better Jews who are now closer to the Almighty. We have grown. We are, therefore, b'simchah.

The Baal Shem Tov once visited a town in which the people came to him complaining that their chazzan, cantor, had been behaving very strangely. It seems that on Yom Kippur, when he would chant the Al Cheit, confession of sin, he would do so with a merry melody, rather than the usual solemn tune. They presented a legitimate complaint, so the Baal Shem Tov asked to speak to the chazzan.

"Rebbe," the chazzan replied, "if I were a janitor in the palace of the king, would I not be happy that I have the privilege to beautify the king's palace? I feel the same way during my recital of the al cheit. The neshamah, soul, within me is Divine. It is a part of G-d. When I confess my sins, I am actually cleansing myself, so that I can be a more pleasant place for the neshamah which resides within me. Is this not enough reason to sing with joy?" The Baal Shem Tov told the townspeople that they were very fortunate to have a chazzan of such spiritual integrity leading their service. He recognized that he was growing and, therefore, was filled with simchah. Growth often is the product of toil. One has to exert himself in order to catalyze growth. In Yaakov Avinu's blessing to his son Yissachar, he says, "He saw tranquility that it was good... Yet, he bent his shoulder to bear and he became an indentured laborer." (Bereishis 49:15) The Kotzker Rebbe, zl, gleans from this pasuk that true simchah in life is derived through toil and shouldering responsibility. The one who "cops out," who looks for excuses to avoid taking responsibility, is not a happy person. Imagine, Yaakov says, "He saw tranquility that it was good." He presented to his son the opportunity for menuchah, tranquility and bliss. One would expect Yissachar to lay back, soak up the sun, plug himself into every electronic device, and just do nothing. Not Yissachar. He responds to the offer of tranquility by "bending his shoulder" and "becoming an indentured slave." He understood the value of serenity and peace, but he was also acutely aware that the only way to achieve this sense of calm is through ameilus, toil. Material excess and physical pleasures do not bring about tranquility. In fact, they increase one's dependency on them. Toil and responsibility effectuate growth, which is the primary component of simchah.

As we stand close to the end of the year, may we merit to cleanse ourselves of the impurities that suppress our ability to grow, so that we will enjoy true simchas ha'chaim in the coming years.

Even any illness or any blow that is not written in this Book of the Torah, Hashem will bring upon you, until you are destroyed. (28:61)

A number of distinguished commentators cite a Midrash whose source seems to be elusive; yet, its message is compelling. The Torah details

many terrible punishments, concluding that even those that are not mentioned for whatever reason will also be employed as a means of punishing us. The Midrash asks what illness or painful experience is not included among the many that are enumerated here. The response is misas tzadikim, death of the righteous. This collective punishment is truly devastating. What is the Midrash teaching us with this statement? Furthermore, what does the Midrash mean when it posits the death of the righteous is not mentioned in the Torah?

The Noda B'Yehudah explains that each of the previous Sefarim mention a tzadik who passes away. Sefer Bereishis tells us of the passing of Noach, the Patriarchs and the Matriarchs. Sefer Shemos begins with the passing of Yosef and his brothers. In Sefer Vayikra, we are told about the untimely deaths of Nadav and Avihu. Bamidbar is the Sefer in which the deaths of Aharon and Miriam are recorded. There is no death of a tzadik mentioned in Sefer Devarim. This is what is meant by the "illness or blow that is not written in this Book of the Torah."

The question that glares at us is what about Moshe Rabbeinu? He is certainly righteous enough to be listed among the tzadikim, and his death is recorded at the end of Sefer Devarim. The Noda B'Yehudah gives two reasons why Moshe's passing is not recorded. First, it occurred after the Tochachah, Rebuke. While Moshe was voicing the ninety-eight curses, he was obviously still alive. Second, as the consummate anav, paragon of humility, Moshe did not view himself as a tzadik. The others were tzadikim. He was not! This is an incredible statement coming from one of the greatest Torah leaders in the last two hundred years. Moshe did not consider himself to be on the spiritual plateau of his brother and sister, who were his contemporaries. He was the quintessential leader of the Jewish People, the individual who gave them Hashem's Torah after being on Har Sinai and learning the Torah directly from Hashem. Yet, he did not view himself as a tzadik. That is the definition of humility. How distant are we from this character trait?

Va'ani Tefillah

Kavod malchuscha yomeiru u'gvurasecha yedabeiru.

Of the glory of Your Kingdom they shall speak, and of Your power they will tell.

The pasuk begins with malchus, kingdom, and concludes with gevurah, power/strength. Also, it begins with amirah, speaking, which is a "lighter" form of expression than dibur, with which it concludes. Why is there a change in the pasuk's vernacular? The Alter, zl, m'Kelm, explains this with an analogy. One who is invited to the home of a wealthy man will surely be impressed with his cursory view of his palatial home. This impression will grow in proportion once the host has shown him some of his unique, extremely expensive jewelry. When he is permitted to visit the host's vault in the basement of the house and come face to face with gold, diamonds, securities and an overwhelming amount of cash, it will literally stupefy him. It is only after he has seen everything that his host owns, and digests all of this knowledge into one all-inclusive frame, however, that he is able to really laud the host's fortune.

This is the meaning of meluchah, kingdom - everything that is under the power of the king: people, wealth, institutions, everything. Malchus Shomayim, the Heavenly Kingdom, coincides with the concept of kingdom on earth: everything is under Hashem's domain. When one praises Hashem, the glory of His Kingdom, he lauds every individual aspect of His reign. Since it is not the total picture, the all-encompassing, all inclusive portrait of everything together as one whole; however, it can only be expressed through amirah, speaking. When one praises Hashem's gevurah, the entire amalgam of everything in the universe under One guiding Hand, it is utilizing dibur, the stronger expression.

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h a a r e t z

Portion of the Week /One among many

By Benjamin Lau

During the time they spent in the wilderness, the people of Israel, liberated from bondage in Egypt, were totally dependent on God, and on Mount

Sinai our first covenant with him is articulated thus: "Ye have seen what I did unto the Egyptians, and how I bore you on eagles' wings, and brought you unto myself. Now therefore, if ye will obey my voice indeed, and keep my covenant, then ye shall be a peculiar treasure unto me above all people: for all the earth is mine: And ye shall be unto me a kingdom of priests, and a holy nation. These are the words which thou shalt speak unto the children of Israel" (Exodus 19:4-6).

The second covenant, appearing in this week's Torah portion, is different: "Thou hast avouched the Lord this day to be thy God, and to walk in his ways, and to keep his statutes, and his commandments, and his judgments, and to hearken unto his voice: And the Lord hath avouched thee this day to be his peculiar people, as he hath promised thee, and that thou shouldest keep all his commandments" (Deuteronomy 26:17-18). We are no longer dependent, nor can we continue to be passive and protected; instead, we must reciprocate, take an active part in the covenant. We have affirmed (he'emarta) God as our deity and he has affirmed (he'emircha) us as his unique people.

Commenting on these two verses, Rashi writes, "No other instances of the use of this word (he'emarta/he'emircha) exist in the Bible, which can help us understand its meaning. I believe it connotes separateness, isolation." God, says the famous commentator, has chosen us as a unique nation, while we have chosen him as unique among the gods (the others of whom are, of course, all false).

For Rashi, isolation is the core of the second - and mutual - covenant. What is special about it is that God goes beyond just conveying his message to us here; he also demands that we recognize him as a unique - and sole - deity. Our entry into Canaan substantially changes our relationship with God. In the desert, there were only two entities - Israel and God; in Canaan, there are dozens of nations and idols. Our role is to spread the word of God and to sanctify him. Our religious life must include the kind of behavior that restrains our passions and increases our sensitivity to others.

Rashi's exegesis resembles one that predated him by a millennium. In the Talmud, we read an interpretation presented as a quote from Rabbi Elazar ben Azariah: "The Torah states, 'Thou hast avouched the Lord this day to be thy God' and 'the Lord hath avouched thee this day to be his peculiar people.' God is telling Israel: 'You have proclaimed my uniqueness as a deity and I will, in turn, proclaim yours among the nations. You have proclaimed my uniqueness, as it is written, 'Hear, O Israel: The Lord our God, the Lord is one' [Deuteronomy 6:4], while I will proclaim your uniqueness among the nations, as it is written, 'And what one nation in the earth is like thy people Israel...?' [1 Chronicles 17:21]."

Inherent here is the concept of the Jewish people as a unique, unified nation and not just a collection of unconnected individuals. The Torah does not advocate factionalism, which can threaten unity. As Rabbi Abraham Isaac Kook writes in "Orot hatekhiya": "The physical and spiritual evils that can arise from our nation's disintegration into factions are infinite; besides, factionalism, which its proponents cruelly advocate, is impossible and will never develop."

Tomorrow night, after the Sabbath has ended, Ashkenazi Jews will join their Sephardi counterparts in reciting daily Selihot (penitential prayers) in the early hours of the morning, until Yom Kippur (the Day of Atonement). Recently, standing before the Western Wall, I participated in a Selihot service. Thousands of Jews had gathered there, each group behaving as a separate entity. They all loudly recited the liturgical texts, trying to outshout their neighbors. In this din, the cantor's voice could hardly be heard.

I asked myself, "How many of these people share my agenda? How many of them identify themselves as Israelis, not just as Jews?" The Selihot service ended and the daily Shaharit (morning) service commenced. Again, the prayers were loudly recited in a tumult of voices. Suddenly, at sunrise, at precisely 6:22 A.M., there was total silence. The thousands of worshippers in the minyanim (prayer quorums of 10 men) began the Amidah prayer, which must be recited silently and which, together with the Shema Yisrael (Hear, O Israel) prayer, is the core of the Shaharit service. This was one of those moments when I was moved by the thought that all the Jews around me were engaged in the same sacred task, all aiming their

prayers at the same destination - and all with the same goal. After a few minutes of silence, tumult reigned once again.

Leaving the Western Wall and driving along the perimeter of the Old City toward Jaffa Gate, I joined the many angry Jewish and Arab drivers stuck in a traffic jam. "To which of these drivers would I concede my place in the line of traffic, as a gesture of magnanimity?" I asked myself.

Proceeding to Emek Refaim Street, I saw Jerusalemites starting their late-summer mornings, beginning to trickle into coffee shops. They had not experienced the sunrise at the Western Wall, nor was the Old City on their agenda. Driving along, I pondered, "Where is the Jewish people's core? Where is its uniqueness? Is the commemorative air-raid siren heard throughout the country on Memorial Day the only element uniting Israel's Jews?"

And then I heard the strains of the new CD of Shuli Rand, the actor-singer who became Orthodox. He was singing about the return of our uniqueness: "Unique treasure, / So lovely that you need do nothing to improve your appearance. / Your eye has captivated me. / Your beauty, my aristocratic lady, is inside you. / That's always been the case. / You know you're no longer young / And Autumn is already knocking on your door. / His hand's always outstretched. / Just whistle and you will instantly find him facing you."

Rav Kook List

Ki Tavo: Two Paths of Bikkurim Fresh and Dried Fruits

The mitzvah of bringing first-fruits (bikkurim) to the Temple, the spiritual focal point of the Jewish people, contains tremendous significance for our own service of God. The bikkurim offering indicates how each person can connect his private activities - the fruits of his labors - to the nation's holiest aspirations.

The Mishnah in Bikkurim (3:3) explains how the first-fruits were brought to the Temple:

"Those close to Jerusalem would bring fresh figs and grapes, but those further away would bring dried figs and raisins."

The Mishnah describes two circumstances, those living close and those living far. Those near to Jerusalem could bring fresh fruits, while those living further away had to be content with dried fruit that could withstand the long journey.

Torah and Prophecy

These two situations, Rav Kook wrote, correspond to two spiritual paths that the Jewish people have taken throughout history. They are the paths of Torah and Prophecy, each with its unique advantages and benefits.

The path of Torah is paved through the development of the Oral Law, through the nation's efforts to project the application of Halachah to all aspects of life. The fruit of these legalistic labors, however, may appear dry. This is particularly true when this path is compared to the vitality of prophecy, which deals with divine wisdom and elevated matters, and is tightly bound to meditative prayer and the mystical teachings of the Torah. When the Jewish people lived in the Land of Israel and were close to the divine light, their spiritual world centered primarily on the enlightenment of prophecy. We have been promised that the conduit of prophecy will return to us - and on an even higher level - providing a vitality of holiness that engages heart and soul with enlightening knowledge of God. When we will be able to safeguard over this gift, we will merit it once more - when we are back in our land, near to God's house and secure from the confused ideas and misleading opinions of the nations.

However, when we were distanced from our beloved homeland and burdened under the yoke of bitter exile, it became necessary for us to follow a second path - a path capable of retaining its special character, despite exile and dispersion. This is the path of Torah, as the Sages wrote: "From the day the Temple was destroyed, the Holy One has only the four cubits of Halachah in His world" [Berachot 8a]. The legal system of Halachah may appear to be dry and barren; but like the dried fruits of bikkurim, it retains hidden reserves of spiritual life and vitality. It is this

path of Torah that has maintained the Jewish people throughout the challenges of a long and difficult exile.

Complementary Paths

When did the switch between prophecy and Torah take place? This happened during the Second Temple period, when prophecy ceased. In preparation for the long exile that would follow, those spiritual forces of the nation that had previously focused on the lights of prophecy now concentrated their talents on the discipline of Halachah, developing and refining the focus of Torah. These efforts enabled the Jewish people to survive as a separate nation in foreign lands, distinguished by a precise Halachic lifestyle.

These two paths are reflected in the paradigm of the bikkurim offerings. Those close to the spiritual center prefer the delicious fresh fruits. However, the gifts from those living far away - dried figs and raisins that may appear to be shriveled and lifeless, but have the advantage of retaining their flavor despite the long journey - are also valued and beloved. In the treasury of the nation, the paths of Torah and prophecy are joined; together they provide enduring strength and exquisite vitality for the nation's special service of God.

[Adapted from Ein Ayah vol. II p. 412]

Comments and inquiries may be sent to: RavKookList@gmail.com

YatedUSA Parshas Ki Savo 19 Elul 5768

Halacha Talk

by Rabbi Avraham Rosenthal

SHMITTAS KESAFIM AND PRUZBUL

In less than two weeks, the year 5768 will come to a close. For most of the people living in chutz la'aretz, the fact that this past year has been a shmittah year has barely been on the agenda. Unless one visits Eretz Yisroel, or his local green grocer receives produce from there, one's life during shmittah can pretty much remain "business as usual." However, now that the conclusion of shmittah is almost upon us, we must discuss one aspect of this special year that is potentially relevant to every single Jew, no matter where he or she lives: namely, the mitzvah of shmittas kesafim.

THE MITZVAH

The Torah states, "At the end of seven years, you shall institute a release. This is the matter of the remission: Every creditor shall remit his authority over what he has lent his fellow. He shall not press his fellow or his brother, for He has proclaimed a release for Hashem. You may press the non-Jew, but over what you have with your brother, you shall release your authority" (Devorim 15:1-3).

These pesukim contain a mitzvas asech and a mitzvas lo saaseh. When shmittah ends, we are commanded to remit any outstanding loans owed to us by fellow Jews. Additionally, once shmittah is over, we are not allowed to demand payment of those loans (Rambam, Sefer Hamitzvos, Aseh #141; Chinuch #477).

The fact that upon the conclusion of shmittah a creditor stands to lose the money he lent out might be cause for people to refrain from lending money in anticipation of shmittah. Therefore, the Torah warns, "Beware lest there be a lawless thought in your heart saying, 'The seventh year approaches, the remission year,' and you will look malevolently upon your destitute brother and refuse to give him - then he may appeal against you to Hashem, and it will be a sin upon you. You shall surely give him, and let your heart not feel bad when you give him, for in return for this matter, Hashem, your G-d, will bless you in all your deeds and in your every undertaking" (Devorim 15:9-10).

Chazal explain that the words "hishamer" and "pen" - "beware" and "lest" - indicate negative commandments. Anyone who refuses to lend money because he is afraid he will lose because of shmittah transgresses these two aveiros. Additionally, he does not fulfill the positive mitzvah to lend money, "You shall surely give him" (Rambam, Sefer Hamitzvos, Lo Saaseh #231; Chinuch #480).

MIDE'ORAISA OR MIDE'RABBANAN

In order to understand whether *shmittas kesafim* nowadays is *mide'Oraisa* or *mide'Rabbanan*, we first must discuss the mitzvos of *yovel* and *shmittah*. As we know, the Torah commands us that every seventh year is *shmittah*. After counting seven *shmittah* cycles, the year following – the fiftieth year – is a *yovel* year. *Yovel* has many special halachos, but to discuss them all now is beyond the scope of this article.

In discussing the mitzvah of *yovel*, the Torah states, “You shall sanctify the fiftieth year and you shall proclaim freedom throughout the land for all of its inhabitants” (Vayikra 25:10). Since the Torah specifies, “for all of its inhabitants,” Chazal understood that *yovel* is only observed when all of the Jews are living in Eretz Yisroel. Once the shevatim of Reuven, Gad, and half of Menashe were exiled, *yovel* was no longer observed. Even after the Jews returned from Bavel and rebuilt the Beis Hamikdash, not everyone came back, and they observed *shmittah*, but not *yovel* (Erchin 32b; Tosafos, Avodah Zarah 9b, s.v., “Hei”; Rambam, Hilchos Shmittah v'Yovel 10:8-9, and Kesef Mishnah, ad loc).

There is a disagreement in the Gemara as to whether *shmittah* nowadays is *mide'Oraisa* or *mide'Rabbanan*. The Chachomim maintain that it is a Torah obligation. Rabbi [Yehudah Hanassi] contends that since *shmittah* and *yovel* are discussed together in the Torah, once *yovel* is no longer applicable, *shmittah* is also not observed according to Torah law. Included in “*shmittah*” are both the prohibitions of working the land and the mitzvah of *shmittas kesafim* (Moed Katan 2b; Gittin 36a, Rashi and Tosafos, ad loc).

Most Rishonim pasken like Rabbi and, therefore, all aspects of *shmittah* today are observed only *mide'Rabbanan* (Ritva, Gittin 36a; Chinuch #84 and 475; Tur, Yoreh Deah 331 and Beis Yosef, s.v., “U'besheviis”).

The reason why Chazal saw fit to enact the mitzvos of *shmittah*, both the prohibitions of working the land and the mitzvah of *shmittas kesafim*, was so that these mitzvos would not be forgotten over the course of the galus. On the other hand, we do not find that Chazal instituted a Rabbinic form of *yovel*. This is because such an enactment would necessitate two consecutive years, i.e., the forty-ninth and fiftieth, of not working the fields. In all of their decrees, Chazal were always mindful about whether the people would be able to uphold them properly. If Chazal saw that this was not possible, they would not institute their decree (Gittin 36b, Rashi and Tosafos, ad loc; Rambam, Hilchos Shmittah v'Yovel 9:3).

THE POWER OF CHAZAL

At this point, a very important question must be addressed. However, in order to properly understand the question, let us first discuss what occurs during *shmittah* under Torah Law. Suppose Reuven borrows \$100 from Shimon and promises to pay him back before *shmittah* is over. (Why I am using this example will become clearer later in the article.) Reuven forgets about the loan and only remembers after Rosh Hashanah. Since the Torah declared that Shimon must forgo the loan and not demand it from Reuven, the money is no longer Shimon's and Reuven can keep it.

This was all fine when *shmittah* was *mide'Oraisa*. The Ribbono shel Olam can determine what belongs to whom, and after *shmittah*, He decided that Shimon's money now belongs to Reuven. However, *shmittah* nowadays is *mide'Rabbanan*, and, according to Torah law, Shimon does not have to forgo the loan. Therefore, the money in Reuven's possession is still Shimon's! Thus, when Chazal instituted a Rabbinic *shmittas kesafim*, they were in essence telling Reuven, “Do not return the money. Keep it for yourself.” Our question now is: What right do Chazal have to do this? Since, according to Torah law, the money belongs to Shimon, Chazal are instructing Reuven to keep something that is not his.

This question is addressed in the Gemara (Gittin 36b). The final answer provided is that there is a concept called “*hefker beis din, hefker*.” In other words, Chazal have the authority to declare anything *hefker*, or ownerless. In this situation, Shimon's money that is currently in Reuven's possession has been declared ownerless and Reuven is allowed to keep it.

WOMEN, TOO

At first glance, it would seem that women should be exempt from the mitzvah of *shmittas kesafim*. The reason one might think this is because women are usually exempt from positive mitzvos that are time-based, and this mitzvah only occurs once in seven years. However, on closer examination, we see that this is not true for two reasons:

1. The mitzvah of *shmittas kesafim* is, in fact, not limited by time. Although *shmittah* only occurs once in seven years, the mitzvah of remitting a loan applies at any time when a borrower wishes to repay the loan after *shmittah*, whether it is a week after *shmittah* or five or ten years later.

2. Another reason why women are obligated in *shmittas kesafim* is because this mitzvah involves the negative commandment of “He shall not press his fellow,” as well as an *aseh*, and women are obligated in virtually all negative commandments (Chinuch #477 and 480; Sefer Hamiknah, Kiddushin 33b, s.v., “Af halav”).

TWO TYPES OF BORROWING

In the English language, the word “borrow” can refer both to items that the borrower is expected to return “as is,” or to items where he only needs to return a replacement of similar value. For example, one borrows an onion or money from his neighbor. The borrower does not plan on returning that exact item, nor does the lender expect him to do so. On the other hand, if one borrows an electric drill from a tool gemach, the borrower is expected and required to return the borrowed object. Thus, English uses the same word to mean two totally different types of transactions: the use of an item that I will return and the keeping of an item that I will replace.

In Lashon Hakodesh, however, these two types of transactions are expressed with different words. When the borrower is expected to return the exact same item that was lent, such as a pot, a tool, or a pen, it is called *she'eilah*. If someone borrows an item and he is not expected to return the exact item borrowed, but rather something of the same value, such as money or food, it is referred to as *halvaah*.

Shmittah only cancels a *halvaah*, not a *she'eilah*. Therefore, if one borrowed a car, a tool, eating utensils, a garment, or a pen – all items that the lender expects to get back “as is” – the borrower must return them after *shmittah* is over, since the loaned item is still the property of its original owner. However, if he borrows money, food, paper, or laundry soap – things that the borrower is expected to replace, *shmittah* will affect such loans, and care must be taken not to transgress the mitzvah of *shmittas kesafim*, unless one creates a *pruzbul*, an item I will explain shortly (Melech Shlomo, Sheviis 10:2, in glosses; Shu"t Chaim She'al [Chida], vol. II, #38:13; Derech Emunah, Hilchos Shmittah v'Yovel 9:2).

Thus, if a woman wishing to bake *challo*s *lichvod* Rosh Hashanah discovers she is out of flour and her bread machine is broken, and she borrows both these items from her neighbor, it is possible that *shmittah* will cancel the loan of the flour, but it will not cancel that of the bread machine.

DEPENDS ON THE DUE DATE

The Gemara states (Makkos 3a-b) that if one lends someone money for ten years, *shmittah* does not cancel the loan. The reason for this is based on the *posukim* outlining the laws of *shmittah*. The *posuk* says, “At the end of seven years, you shall institute a release. This is the matter of the release: Every creditor shall release his authority over what he has lent his fellow. He shall not press his fellow or his brother” (Devorim 15:1-2). Juxtaposed to the mitzvah of forgoing loans, the *posuk* instructs, “He shall not press.” Chazal understood from this that *shmittah* only cancels a loan when it is possible “to press,” or to demand payment of the loan at that time. If one cannot demand payment yet, *shmittas kesafim* does not apply.

In the case of a ten-year loan, the lender may not demand from the borrower to repay until the ten years are over. Therefore, the prohibition of “He shall not press” is not applicable and *shmittah* does not affect the loan. The same holds true of any loan whose due date is after Erev Rosh Hashanah at the conclusion of *shmittah*. Since *shmittah* cancels loans at the end of *shmittah*, and at that point the lender was not allowed to ask for the money, *shmittah* does not cancel that loan (Shulchan Aruch, Choshen Mishpat 67:10).

UNSPECIFIED DUE DATE

What about a scenario where no due date was fixed? In this situation, the halacha states, “*Stam halvaah, shloshim yom*, An unspecified loan is for thirty days.” This means that if one borrows money and does not say he will return it by a specific date and the lender does not specify when he wants it back, the borrower has a thirty-day grace period during which the

lender cannot demand payment (Gemara Makkos 3b; Rambam, Hilchos Malveh v'Loveh 13:5; Shulchan Aruch 73:1).

Therefore, in the case of shmittah, many Rishonim maintain that if the thirty days are over after Rosh Hashanah, the loan is not canceled, since no demand of payment can be made. If the thirty days are over before Rosh Hashanah, however, the loan will be canceled (Or Zarua, Avodah Zarah, chap. 1, #123; Chiddushei HaRan, Shabbos 148a; Minchas Chinuch 477:8).

However, other Rishonim contend that a stam halvaah of thirty days is not the same as a situation where the borrower and lender fixed a date for the repayment of the loan. When a day was agreed upon, it is almost as if the borrower did not borrow the money until that time and he is under no obligation to repay it beforehand. Thus, even if the lender needs the money back, and the borrower could find a way to repay it early, it could be that he is not halachically bound to do so. (I am not speaking here about lifnim mishuras hadin, beyond the letter of the law.) However, in the case of a stam halvaah, we do not say this, and therefore it is possible that shmittah will cancel the loan (Bach 67:13, based on Rambam, Hilchos Shmittah v'Yovel 9:5; see Shu"t Minchas Shlomo, vol. III, #172:19.3).

This discussion concerning stam halvaah, shloshim yom is only relevant to monetary loans. With regard to food items and other objects, since it is common to return such loans within thirty days, shmittah will definitely cancel the loan, even if one borrowed something within thirty days of Rosh Hashanah and did not specify a due date (Shmittas Kesafim u'Pruzbul 6:3).

DEBTS OF BEIS DIN

Another type of situation not affected by shmittah is when the lender gives his promissory notes to beis din and the court then collects the outstanding debts. The basis for this type of arrangement is the Torah's choice of words when instructing us regarding shmittah; the posuk says, "But over what you have with your brother, you shall release your authority," (Devorim 15:3). Chazal derived from this that only debts between one person and another are canceled by shmittah, but debts owed to beis din remain unaffected (Shviis 10:2; Yerushalmi Shviis 10:1; Rambam, Hilchos Shmittah v'Yovel 9:15; Shulchan Aruch 67:11).

PRUZBUL

As we mentioned earlier, the Torah commands (Devorim 15:9-10) that one should not refrain from lending money out of fear that he will lose his money when shmittah cancels the debts. Unfortunately, during the time of Hillel Hazaken – approximately 100 years before churban Bayis Sheini, the wealthy were indeed refusing to lend money for that very reason and the poor had nowhere to turn. Hillel therefore instituted the concept of pruzbul (Shviis 10:3 and Rashi, ad loc; Gittin 36a and Rashi, ad loc).

The word "pruzbul" is actually a shortened version of the phrase "pruz bulei butei." These three Aramaic words mean: (1) pruz, institution; (2) bulei, wealthy people; and (3) butei, poor people. Thus, the pruzbul is an institution that is beneficial for both the wealthy and the poor. It is good for the wealthy, as it protects them from financial loss if they lend before shmittah. It is also beneficial for the poor, as they will now find people who are willing to lend them money (Gittin 36b-37a and Rashi, ad loc; Rashbam, Bava Basra 65b-66a; Tosafos Yom Tov, Shviis 10:3).

Once the creditor arranges a pruzbul, shmittah will not cancel the loan. This halachic loophole is based on two legalities, the first of which we have already discussed. We mentioned earlier that if one gives his promissory notes to beis din, they are not canceled by shmittah. This is the main point of the pruzbul – the creditor transfers the IOUs and promissory notes to beis din. Once they are in beis din's possession, they are unaffected by shmittah.

REAL ESTATE AS COLLATERAL

The other legal mechanism that creates a halachic basis for pruzbul is the concept of using real estate as collateral for a loan. Throughout Shas we come across the idea that real estate is the best collateral for a loan. Unlike moveable objects, real estate cannot be stolen, destroyed, or hidden away; it is always there. If the borrower defaults on the loan, the creditor will always have something to collect. Under certain circumstances, beis din, or its representative, has the legal right to seize property of the borrower in the event that he defaults on the loan. Therefore, the Rishonim maintain

that any outstanding loan that has real estate as collateral is viewed in halacha as having already been collected.

Once we have established that loans backed by real estate are considered to have been collected, it follows that shmittah will not cancel this loan. Shmittah only cancels outstanding loans, not those that have already been collected (Mishnah Shviis 10:6; Rosh and Rash, ad loc).

This is one of the reasons why the poskim require that the borrower own land in order for the creditor to make a pruzbul. Once the borrower owns a piece of property, the halacha views this property as the collateral for the loan and the loan is considered as if it were already collected.

WHAT WAS ACCOMPLISHED?

As we have seen, Hillel's enactment of pruzbul was based on the concept of transferring the debts to beis din and having the loan backed up by real estate. The question is: What is the novelty of Hillel's pruzbul? We discussed earlier that one type of situation not affected by shmittah is if someone transfers his debts to beis din. According to many Rishonim, that method of avoiding the cancellation of the debt is mide'Oraisa. If so, what did Hillel gain through his enactment?

The Rishonim mention several advantages to Hillel's enactment. Two of them are as follows:

1. According to the original halacha that one could transfer his IOUs and promissory notes to beis din, it was necessary to physically transfer them. One could not simply make a statement in beis din attesting to the fact that he was transferring them. If one did not have the documents available, he could not make use of this halacha. Hillel expanded on the idea of transferring the debts and permitted the creditor to transfer the debts without having to transfer the documents. According to Hillel, it is sufficient to merely make a statement in beis din verbalizing the fact that he is transferring the debts.

2) Similarly, before Hillel enacted pruzbul, if one lent money without receiving a promissory note, he was not able to transfer that debt to beis din, and shmittah would cancel the debt. Using a pruzbul, verbal IOUs are also transferred to beis din and are unaffected by shmittah (Ritva, Ran, and Ramban on Gittin 36a).

THE PROCEDURE

In order for the pruzbul to take effect, it must be written before the end of shmittah. Although it can be written any time during the shmittah year, the custom is to write it on Erev Rosh Hashanah. One of the reasons for this is that the pruzbul only affects those loans that were made prior to it. If a person lent money (or other items, as outlined above) after writing a pruzbul, he must either set the payment date for after shmittah or write another pruzbul. Otherwise, the later loan will be canceled when shmittah ends.

In most communities, the pruzbul is written on Erev Rosh Hashanah after the customary hataras nedarim. Since people anyway require a beis din for hataras nedarim at that time, it is a convenient time to arrange the pruzbul as well.

It is interesting to note that in Shmittas Kesafim u'Pruzbul, the author reprinted almost forty different versions of pruzbul, dating from the times of the Rishonim until our generation. Each version has various nuances, but the basic text of the pruzbul reads as follows:

"We (the undersigned) sat together and so-and-so came before us and stated: 'I transfer to you judges all of the (outstanding) loans that I have, in order that I can collect them whenever I want.' To this we affix our signatures on such-and-such a date."

The three judges then sign the document.

Someone who cannot arrange to write a pruzbul in front of three people is allowed to appoint a sh'liach to do this. The shaliach then informs the beis din that he is so-and-so's agent to arrange the pruzbul, and they make note of this in the pruzbul document (Shu"t Tzitz Eliezer, vol. VI, #39; Derech Emunah, Shmittah v'Yovel, Tziyun Halacha 9:237, in the name of the Chazon Ish; Orchos Rabbeinu, vol. II, pp. 381-9).

Therefore, a single woman who is owed money, or a married woman who lent money that does not belong to her husband, may appoint a sh'liach to arrange a pruzbul on her behalf.

WITHOUT A PRUZBUL

What happens if a person does not arrange a pruzbul?

If the creditor had outstanding loans due before the end of shmittah and the borrower did not repay the loan before Rosh Hashanah, shmittah cancels the loan. When the borrower approaches the creditor after shmittah and attempts to return the loan, the creditor must say, "I forgo the loan." If the borrower responds that he nevertheless wishes to repay the money, the creditor is allowed to take it.

The reason for this is because the Torah did not forbid accepting the money. It only commanded that the creditor must remit the loan and not demand the money back. Once the creditor has stated that he forgoes the loan, the borrower has the option of giving it to him as a gift. In fact, Chazal speak very highly of a person who chooses to repay a loan canceled by shmittah (Mishnah Shviis 10:8-10; Gittin 37b and Rashi, ad loc; Rambam, Hilchos Shmittah v'Yovel 9:28; Shulchan Aruch 67:36).

TRYING TO PERFORM THE MITZVAH

Some are accustomed to fulfill the mitzvah of shmittas kesafim. How is this done? After one has arranged a pruzbul, he then lends a small amount of money to an acquaintance, and he stipulates that the loan is due before Rosh Hashanah. Since this loan took place after the pruzbul was arranged, it is not included in the pruzbul. Also, since the loan is due before Rosh Hashanah, it will be canceled if it is not paid by then. When the borrower comes to repay after Yom Tov, the creditor says that he forgoes it, and he fulfills the mitzvah (Ben Ish Chai, Parshas Ki Savo).

KEEP SHMITTAH – SINS ARE FORGIVEN

By keeping the laws of shmittas kesafim, one gains atonement for his sins. The reason for this is because Hashem pays someone back middah kenegged middah. Thus, if a person does not collect his debts and IOUs after shmittah, Hashem also will not collect on our sins (Nachal Kedumim).

YatedUSA Parshas Ki Savo 19 Elul 5768

Halacha Discussion

by Rabbi Daniel Neustadt

Carrying Garments on Shabbos

Question: In an area where it is forbidden to carry on Shabbos, is one permitted to wear a jacket over the shoulders with the sleeves hanging free?

Discussion: There are two reasons why it may be forbidden to wear a jacket in this manner: 1) Wearing a jacket over the shoulders may not be considered "wearing" at all, but rather "carrying," since the normal way of wearing a jacket is by inserting the arms into the sleeves; 2) The jacket may slip off and inadvertently be picked up and carried a distance of four amos, thus possibly violating a prohibition of the Torah.

There are conflicting opinions among the poskim regarding the validity of these concerns: Many poskim maintain that neither concern is valid and that one is permitted to wear a jacket over his shoulders.¹ Rav M. Feinstein is quoted,² however, as forbidding it under any circumstances. There are poskim who permit wearing a jacket over the shoulders, but nevertheless advise that it not be worn over the shoulders in a public domain (reshus harabim min ha-Torah).³

Question: In an area where it is forbidden to carry on Shabbos, is it permitted to wear a garment that has extra (reserve) buttons sewn onto it?

Discussion: Most poskim allow one to wear garments with extra (reserve) buttons sewn onto them.⁴ There are several reasons given for this leniency: 1) The buttons have no importance in and of themselves and are, therefore, secondary to the garment; 2) Garments are normally manufactured with extra buttons sewn onto them; 3) Since the buttons are sewn onto the garment they are considered an extension of the garment.⁵

Question: In an area where it is forbidden to carry on Shabbos, is it permitted to wear a garment which has a price tag or a cleaning tag attached to it?

Discussion: If the owner of the garment is not planning to remove the tag from the garment, it is definitely permitted to wear the garment on

Shabbos.⁶ This is because the tag is of no consequence to the wearer and thus becomes secondary to the garment.

If the owner of the garment plans to remove the tag, however, some poskim rule that the garment may not be worn in an area where carrying is prohibited.⁷ In their view, the tag cannot be considered to be of no consequence since it is of sufficient consequence that one cares to remove it. Other poskim, however, permit the garment to be worn with the tag on it. In their view, only expensive objects are important in and of themselves and do not become secondary to the garment.⁸ Ideally, however, cleaning and price tags should be removed before Shabbos.⁹

Question: In an area where it is forbidden to carry on Shabbos, is it permitted to wear a garment whose belt is looped through the back or side loops but hangs loose (unfastened) in the front?

Discussion: If the belt is sewn onto the garment, it is permitted.¹⁰ If the belt is not sewn onto the garment, there is a difference of opinion among the poskim as to whether the garment may be worn with the belt unfastened.¹¹

Question: In an area where it is forbidden to carry on Shabbos, is it permitted to walk outside in boots into which plastic bags were inserted in order to ease the shoes into the boots?

Discussion: Parents often slide plastic bags over their children's feet or shoes to enable them to pull their boots on more easily. These plastic bags are not considered garments, and it is therefore forbidden to wear them if one will be walking in an area where one may not carry.¹²

Question: May one who does not use the city eiruv (for carrying on Shabbos) ask another person who does use the eiruv to carry on his behalf?

Discussion: The answer will depend upon the reason why the first person does not make use of the eiruv. If, in his opinion or in the opinion of his halachic authority, the eiruv is not valid and may not be used at all, then he may not ask another person to carry for him either. This is because he is asking the other person to do something which is not halachically permitted. But if, in his opinion or in the opinion of his halachic authority, the eiruv is valid, yet he chooses to be stringent and not use the eiruv, it is permitted to ask another person to carry on his behalf. In this case, the other person is not performing a halachically forbidden action.

The same principle applies in other areas of halachah. For example, contemporary poskim disagree whether or not it is permitted to lift off the tab of a soda or beer can on Shabbos.¹³ One who does not remove tabs because he adheres to the halachic opinion that forbids it, may not ask another person to open a can on his behalf. If, however, it is only a personal stringency but in theory he agrees that it is permissible, he is allowed to ask another person who opens soda cans to open one for him as well.

May a person who keeps Shabbos until seventy-two minutes past sunset ask another person who waits less than seventy-two minutes to perform a forbidden Shabbos Labor for him before seventy-two minutes are up? Again, it will depend on the previously mentioned principle. If waiting seventy-two minutes is based on a strict halachic interpretation, then asking someone else to do a forbidden Labor is like asking him to violate Shabbos. If, however, keeping seventy-two minutes is a personal stringency or a family custom, it is permitted to ask another person who does not have this stringency or custom to "transgress" Shabbos on one's behalf.¹⁴

Footnotes

1 Tzitz Eliezer 13:33; Az Nidberu 14:14; Orchos Rabbeinu 1:137 quoting the Chazon Ish who permitted doing so and even did so himself; Rav P.E. Falk (Zachor v'Shamor, sec. 39, pg. 43).

2 The Shabbos Home, pg. 107. His reason, however, is not specified.

3 Shemiras Shabbos K'hilchasah 18:4 and note 24. See also Be'er Moshe 3:63 and Halichos Shlomo on Tefilah, pg. 18 (Orchos Halachah, note 77).

4 Rav M. Feinstein (quoted in Rivevos Efrayim 4:87, l'Torah v'Hora'ah 1:8 and Kol ha-Torah, vol. 54, pg. 18); Rav S. Z. Auerbach (quoted in Shemiras Shabbos K'hilchasah 18, note 131 and in Shulchan Shlomo 301:20); Rav Y.S. Elyashiv (quoted in Machazeh Eliyahu, pg. 126 and in Deror Yikra, pg. 343); Az Nidberu 2:40.

5 The various reasons for leniency are presented in Machazeh Eliyahu 43. For a dissenting, more stringent opinion, see Be'er Moshe 3:67 and Shemiras Shabbos K'hilchasah 18:30.
 6 Shevet ha-Levi 2:61.
 7 Az Nidberu 2:45; Teshuvos v'Hanagos 1:240.
 8 Rav M. Feinstein (quoted in l'Torah v'Hora'ah 1:8); Minchas Yitzchak 3:36; Shemiras Shabbos K'hilchasah 18:44.
 9 Rav M. Feinstein (quoted in l'Torah v'Hora'ah 1:8).
 10 Mishnah Berurah 301:135.
 11 Chelkas Yaakov 2:130, Shemiras Shabbos K'hilchasah 18:29 and Rav C.P. Scheinberg (quoted in The Shabbos Home, pg. 118) are lenient. Az Nidberu 13:15 and Be'er Moshe 3:62 forbid it.
 12 Rav M. Feinstein (quoted in The Shabbos Home, pg. 121).
 13 See The Weekly Halachah Discussion on Parashas Beshalach.
 14 Entire discussion based on the following sources: Darchei Teshuvah, Y.D. 119:58 quoting Kesav Sofer; Igros Moshe, O.C. 1:186; Rav S.Z. Auerbach (Peninei ha-Ma'or, letter 3-8 and letter 22-1; Shulchan Shlomo 318:57 and footnote); Shevet ha-Levi 1:53.

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Ki Tavo - Avoiding Celebration for a Mourner
Rabbi Asher Meir

Our parsha opens with the declaration of thanks made by the farmer who brings his first fruits. He affirms that he separated out tithes including maaser sheni, and adds, "I did not eat of it during mourning" (Devarim 26:14). The sadness of mourning is a contradiction to the joy required for eating maaser. (Technically this prohibition only applies during the first stage of mourning known as aninut.)

A modern-day analog of this law is the prohibition for the mourner to take part in a rejoicing such as a wedding. This prohibition is for thirty days; if the mourning is for a parent, then the prohibition is for twelve months (Yoreh Deah 391).

WAVES OF JOY AND SORROW

The primary celebration that is forbidden is a wedding. A wedding is not only inappropriate to mourning; it is in fact a mirror image. During a wedding, the person renews and reconstructs the self by expansion, by incorporating a new person into the self and the family; during mourning, the renewal and reconstruction takes place after the contraction of the self and the family through the loss of a loved one.

The parallel relationship between mourning and the rejoicing of the wedding is hinted at in the Yerushalmi which explains that Moshe instituted both the seven day period of rejoicing for bride and groom and the seven day period of mourning for the bereaved (Yerushalmi Ketubot 1:1).

One central theme of the laws of mourning is that death is a momentous event, one that we do not allow to pass unnoticed. It is obligatory to make a funeral, which it is a mitzva to attend; the mourners sit shiva and all of their friends and relatives come to console them, and so on. The idea is to extend the wave of bereavement as far as possible. This is a way of giving proper respect for the departed soul, and also spreads the burden of the mourning as widely as possible.

The same applies to a wedding. The creation of a new family is of inestimable importance. It is a mitzva to take part in the bridal procession, and to gladden the bride and groom; after the wedding, all the friends and relatives come to the sheva berachot to extend the rejoicing.

The parallel extends even to the idea of panim chadashot - new faces. Just as the sheva berachot are said only if there is a new celebrant present, so in previous generations the special blessing of mourning was said only if a new person came to console (Tur Yoreh Deah 376 - Today this blessing is not said). Again, the emphasis on new faces shows the importance of extending as much as possible the participation in the event.

INDIVIDUAL AND COMMUNITY

This halakha underscores a paradox in the laws of mourning. On the one hand, the prohibition to eat maaser while in mourning expresses the contradiction between the public character of simcha and the private seclusion of mourning. The maaser is shared with "the Levi, the stranger, the orphan and the widow" (26:12), while the mourner is alone in his

sorrow. On the other hand, mourning, like all other periods of personal transition, requires the participation and support of the community, to give expression to the communal nature of the Jewish people and to our mutual responsibility.

Rabbi Asher Meir is the author of the book Meaning in Mitzvot, distributed by Feldheim. The book provides insights into the inner meaning of our daily practices, following the order of the 221 chapters of the Kitzur Shulchan Arukh.

TALMUDIGEST :: Gittin 72 - 78

For the week ending 20 September 2008 / 20 Elul 5768

from Ohr Somayach | www.ohr.edu

by Rabbi Mendel Weinbach

THE TWO PRINCES - Gittin 76b

"The Beit Din that permitted the use of the oil of non-Jews."

This was the name given to a body of Talmudic Sages headed by Rabbi Yehuda Nessiah whose ruling regarding a divorce with a condition is mentioned in our gemara.

Who was this Sage whose name is so similar to that of Rabbi Yehuda Hanassi who is reverently referred to as Rebbie or Rabbeinu Hakadosh?

Rashi supplies us with the answer. Rabbi Yehuda Nessiah was the grandson of Rabbi Yehuda Hanassi and lived in the era of the amoraim, as distinguished from his grandfather who was among the last of the tanaim. Although both of them had the title of nassi - head of the Sanhedrin - the title affixed to their similar name was changed in order to indicate that they were two different people.

Although his above-mentioned ruling regarding oil was accepted, Rabbi Yehuda Nessiah did not fare so well in regard to his ruling regarding the divorce. Rabbi Yochanan reported that his position - that the date written in a get indicates that the divorce is intended to take retroactive effect on that day once the condition mentioned is fulfilled - was not accepted by his colleagues.

WHAT THE SAGES SAY

"The first, second and third days of the week are called after Shabbat in regard to a get given on condition of the man returning after Shabbat (and applied to how long one can make havdalah) while the fourth, fifth and sixth are considered as being before the next Shabbat."

Rabbi Zeira or Rabbi Assi - Gittin 77a

THE WEEKLY :: DAF Gittin 68 - 74

For the week ending 20 September 2008 / 20 Elul 5768

from Ohr Somayach | www.ohr.edu

by Rabbi Mendel Weinbach

REMEDIES OF THE RABBIS - Gittin 69b

A wide variety of remedies for physical and psychological disorders is offered by our Sages in the first part of the seventh perek.

Maharsha raises an interesting problem in regard to this: King Chizkiyahu was praised by the Sages for hiding the "Book of Remedies" (Mesechta Berachot 10b). Rashi explains that his motive was to encourage people to pray to Hashem for recovery. Why then did the Sages Ravina and Rabbi Ashi, who redacted the Babylonian Talmud, include these remedies? Might this not defeat the purpose of Chizkiyahu's concealment?

Maharsha's explanation is that since Hashem gave man the right to heal himself (Shemot 21:19) there is nothing wrong with having a knowledge of remedies for illnesses. Publicizing all of them for the general public, however, is problematic because there may be some people who will put all of their faith in the remedy rather than in Hashem. This is why Chizkiyahu put away the Book of Remedies and left their knowledge to those who received them via oral tradition.

But just as the Sages saw the need to write down the Oral Law—which was initially supposed to be transmitted orally—because the weakening memories in later generations posed a danger that this information would be forgotten (Gittin 60a), so too did the Sages find it necessary to record the remedies lest they likewise be forgotten by everyone, even those who should know them.

Maharsha concludes with these words:

“Thus you see that the Talmud lacks no area of wisdom, for you will find a true and effective remedy for any illness if you fully understand the language of the Sages. Let not any scorners scoff at the Sages that they were deficient in medical knowledge.”

The compilation “Ta’amei Haminhagim” quotes the Maharil to the effect that one should refrain from using any of the remedies and chants mentioned in the Talmud because a failure to fully understand and administer them may lead to a person losing faith in the Sages. The only exception, he notes, is the treatment mentioned in Mesechta Shabbat (67a) for one who has a fish or meat bone stuck in his throat because experience has proven its effectiveness.

[Ed: I know a first-hand of the effectiveness of the above.]

IS IT THE GESTURE THAT COUNTS? - Gittin 74b

If a man gives his wife a get on the condition that she give him a specific sum of money, the get is valid, says the mishna, only if she fulfills the condition. Rabbi Asi posed the following question to his master, Rabbi Yochanan:

What if the husband subsequently waives the need for giving him the money—is this considered fulfillment of the condition or not?

When Rabbi Yochanan replied that this is not considered fulfillment since she did not actually give him the money, he was challenged from a beraita concerning vows:

If a man told his friend that he would take a vow prohibiting himself from having any benefit from that friend unless that friend provided the man’s son with a certain amount of grain and wine, it is the opinion of the majority of the Sages that, should he change his mind, he need not apply to a sage for nullification of the vow. Rather, he can waive his demand and declare that he considers it as if his son had received the goods.

Rabbi Yochanan’s response was that in the case of divorce it may be assumed that bitter feelings motivated the man to make his condition, in order to make things difficult for his wife. Therefore, if she is spared this difficulty it is not considered fulfillment of the condition. In the case of the vow, on the other hand, the father’s only motivation was to improve his son’s financial situation. If his situation improved in a manner which rendered such a gift unnecessary, the waiving of the demand can readily be considered a fulfillment of the condition.

An interesting halachic question arises regarding the gift of two food items that one is obligated to give another Jew on Purim. If the recipient refuses the gift and declares that he considers the gesture of giving as if he had actually received the gift—does this qualify as fulfillment of the mitzvah?

Rema (Shulchan Aruch Orach Chaim 695:4) rules that in such a case the giver is considered as having fulfilled his obligation.

Mishna Berura (ibid.), however, cites the view of later authorities who disagree. Their objection can be understood in light of the reason that the Sages commanded the sending of gifts on Purim. Since the purpose was to improve relations between Jews by providing one another with food for the Purim feast, this goal cannot be achieved unless one accepts the gift.

On the other hand the language of the command in Megillat Esther (9:22) is the “sending of gifts” rather than “giving of gifts.” This can be interpreted as a requirement only to make the gesture of sending, and the mitzvah would be thus fulfilled even if the intended receiver doesn’t accept it.

Please address all comments and requests to
HAMELAKET@hotmail.com
