

BS"D



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**Rav Soloveitchik ZT"L**

Notes ( Volume 3)

Notice These are unapproved unedited notes [of R.Y.?] of classes given by Rav Soloveitchik. ...Rav Soloveitchik did NOT write these notes. [Thanks to David Isaac for typing these notes]

Lecture delivered by Rabbi Soloveitchik on Saturday evening, January 27, 1979

The Torah recorded three incidents about Moshe's early years, his birth, his encounter with the Mitzri and subsequent defense against persecution and flight from Egypt, and his joining of Yisro (father-in-law to be). There could have been more!

When we read carefully, not only the words tell us a story, but we learn to decipher by that which is missing and not disclosed. Pharaoh not only prosecuted him for murder but condemned him for murder. I would like to know what occurred during that span of time, perhaps fifty to sixty years, between his young years and having a son Gershom. We have to read and interpret not the text but the gap (the time gap). What happened during those circa 60 years? We have no script. What does Torah tell us? By not telling us, it is recorded in clear unequivocal manner. Torah itself simply doesn't tell!

It is a time when G-d covered His face. If we are judged on Rosh Hashanah on face value only, without considering extenuating circumstances, who can win? The whole concept of Rosh Hashanah is changing "Din" (strict justice) into "Rachamim" (mercy). Not even the Archangels can win and will be found wanting. But there is another aspect which is worse than "Midas Hadin" -- strict justice. It is called "Hester Ponim" -- hiding His face. "He has turned His back on Israel; there is no confrontation. We address our prayer; He doesn't listen! This was the historical experience which the Jew underwent in that period. It was tragic.

We find in Parsha Vayelech of Chumas Dvorim - Chapter 31 - sentence 17, the following statement. "And My anger will wax hot against him on that day and I shall avoid him and hide my face from them and they shall be for prey when the many evils shall befall them; And he shall say on that day, "Behold it is because G-d is not with me that these evils have befallen me!" This is exactly what happened then to the people, "Hester Ponim". Why were they slaves is a different problem and does not concern us here. He executes the world in perfect justice and none said a word. They worked as slaves in silence. That is why Torah doesn't record. His face was covered up.

Moshe wanted to become acquainted with his brethren about whom he learned from his parents Amram and Yocheved. It was not only, "Hester Ponim" on the part of G-d but on the part of Moshe on account of what happened. In Parsha "Shmosh" chapter 2, line 14, it records, "Ochayn Nodah Hadovor." "Now I understand. I was wrestling with a tremendous

problem. Why are the Jews deserving of such a fate? Now I understand; there is no devotion among them. You went and told the authorities; such people do not deserve salvation!" These words of denunciation come from the mouths of Jews against Moshe, their loving, devoted friend. For him, it was not only flight from Pharaoh but flight from his brethren. He broke up his relationship with his brethren. "It is not what I hoped for or imagined. I thought I would find the doctrine and morality of Abraham, Isaac and Jacob. They are not ready! Thus, he broke relationship and wanted to remain in Midyan as a permanent resident, not a temporary sojourner. Jacob in his twenty years with Laban always had in mind to return. "Garti" (I was a sojourner); not so Moshe. In the same Chapter of Shmosh -2- line 15, the word "Vayeshev" is written twice. "He dwelt in the land of Midyan - he dwelt at the well." This double "Vayeshev" is the proof of his intention of remaining there. "Chazal" (sages) tell us that the prince Moshe carried the burdens of his brethren on his shoulder while he was in Egypt. He would have lived with them and left with them. This incident, however, caused him to doubt if they were worthy of leaving. He was confused and settled in Midyan -- settled at the well. Moshe's prayer was very important and never rejected by G-d (except for his own misdeed). This, however, was one silent period -- "Hester Ponim". Thus, the Torah tells us a story not by screaming but by silence. A motion of the hand sometimes tells more than a long story. Silence is the best story teller of suffering. The people who slaved in Egypt already felt that this is life; such should it be.

Yayhi Bayomim HoRabim HaHaym "And it came to pass after many days." What does this mean? -- Those days which have not been recorded -- the days of silence. It is interesting that the Torah says, "HoRabim HoHaym". Only G-d could interpret "how many days". People who suffer the torture of time lose the concept of time -- day, night, hour. Time becomes abstract! You cease to feel time. Sometimes it goes quickly, sometimes slowly. When one is a slave or one is in fear there is not appreciation of time. To people who are in danger or are very sick, time becomes a heap of minutes, days or hours. "HoRabim" -- there was nothing to count. It was same humiliation, the same ridicule. It was many days of silence. The only differentiation was that day was light, night was dark. Thus was it in the German concentration camps. They were days which merely piled up. Thus Torah uses this condition to convey a long time without significance. We Jews have experienced it not only in Mitzraim but much more in the Holocaust. This picture is projected merely by the few words. "Hayomim HoRabim HaHaym". What happened? "Vayomos Melech Mitzraim -- the Egyptian King died! Why is this so important for us to know? Rambam explains that quite often when the Jew meets with hostility or enmity, he is inclined to assume that merely a certain government leader displays hostility and calls it "Coincidental". People said it couldn't happen in Germany because there had been good interrelationship for so many years. "How about Hitler?" The answer: "Merely coincidental! Once he achieves power, he'll forget anti-Semitism!" However, unfortunately it isn't so.

The same was in Egypt. They believed that once there is a change in government the new King will be progressive -- a different type of individual. Instead, according to Rambam, the old dies and the new is worse. I believe the answer is simple. We know what the death of a King in Egypt meant. They built pyramids and enshrined the royal dead. Now the Jews were assigned the job of building the pyramids. The job was assigned to them and that which was bad previously became unbearable now. This was in addition to their other labors. Torah is not merely a script but has a beautiful fragrance.

"Vayaonchu" -- and they sighed. We are told that they moaned; those were sounds emitted by people in pain. What Torah tells us is that "Vayaonchu" was unbearable. The same was in Germany. "To the right - to the left" - life or death according to the whims. Why "Vayaonchu"? It is a strange sound -- not intentional. I cry when I want G-d to help but "Vayonchu" is not speech. It is the sound which can be produced by animal as well as man. It is the defense mechanism of survival. G-d granted this

defense mechanism to all creatures. Before the "Melech Chodesh" - the new King, there was not even a sound.

What is "Vayizaku"? Is it complaining! It is part of the defense mechanism. It is the natural instinct. "Vayizaku" is "asking why". These are the various stages. First, there is no complaining at all -- complete silence. "They night of silence". Second is the death of the King - "Vayaonchu"; they felt pain and began to moan. Third is "Vayizaku" -- they complained -- resented, protested. Suddenly, they regained human dignity. Dathan and Aviram were subhuman because a human doesn't complain against one who is ready to help. Fourth was "Acceptance". "Vatal Shavosom" -- their appeal, their prayer arose. Once their prayers came up, He gave them credit for all the steps they had gone through in silence and G-d shortened their stay. These are the semantics, the fragrances of the text.

Now Torah should say, "Vayared Hashem L'Hatzil" (G-d descended to help them). Instead, Torah now begins to tell us of Moshe. "Vayar Elokim Es Bnai Yisroel" (And G-d saw the children of Israel). Of course, G-d saw the children of Israel. What is imparted to us? A few sentences later - sentence 7 - it says "Ro-oh Roisi". "You saw them superficially with one eye; I see them as well with both eyes!"

Moshe, you made a terrible mistake because one individual wronged you. You still remember but after sixty years you should forget already. But you were wrong in your evaluation. They are not bad. Their surface may have been bad. Sometimes they do not display the "Chesed" of Avraham, Yitzchak and Yaakov but deep down they are different. I looked deeply. Three months after "Yetzias Mitzraim" you will be confronted by a new people who understand "Onochi Hashem" (I am G-d). This is "Ro-oh Ro-Isi". I see them through and through but your estimation is wrong. They are worthy. You must awaken them, teach them! You escaped not only from Pharaoh but from your brethren. These two words represent the finest words of Yahadus and T'Shuvah - faith and repentance. If the sin has penetrated the deepest recesses there is no possibility for "Tshuvah" except for the two words, "Ro-oh-Ro-Isi". I see deeper and more profoundly.

Then there is "Vayada Elokim" (and G-d knew them). "Yizaker" means to be concerned to feel. We say on Rosh Hashanah "Habayn Yakir Li. Yeled Shaashuim." "It is a beautiful child to me -- my baby; every time I speak of him, I recollect, I feel, I share his trouble. I am restless when he is in trouble. I mention him with a tremor in my heart!"

Going back to Egypt, therefore "Vayada Elokim", "He suffered with him - he felt with him. "Vayada Elokim" follows "Vayizaker Elokim" G-d liberated Himself with Israel. Liberation meant also liberation of G-d. This is confirmed by the double expression "Vayizaker" and "Vayada". He suffered with them and was freed from bondage with them. The whole drama of Yetzias Mitzraim and the whole vision will be the final redemption.

All that depended on one thing, something which meant a lot to G-d. If this condition had not been met, it would have prevented the "Geulah" the redemption. Only if Moshe will accept the mission! -- providing Moshe accepts. If he refuses there is no redemption. G-d is the redeemer but likes to have the tool for redemption, the man to do the mission. Why did G-d have to explain all this? "Laych" (Go) would have been sufficient. Because G-d wanted Moshe to acquiesce. A person cannot be a "sheliach" or an agent if he doesn't want to accept. A mission must have the consent of the "sheliach". What else is Ro-oh Ro-Isi indicative of?

What new institution is introduced? What was Moshe doing? He was a shepherd; he had forgotten the people. He wanted to forget, he tried to forget and erase it from his mind. They were not deserving to be representatives of G-d. Moshe was not ready for them and tried to get further and further away from their sufferings. As long as he is merely "Roah Tzon" (a shepherd) he cannot be the redeemer. When G-d wants to punish or to save, He doesn't send an angel but a human. He sends him as a "sheliach". Therefore, He made everything dependent upon Moshe. He must change his opinion of the people; he must change from shepherd to redeemer. That is why G-d spent so much time, seven days, speaking with

Moshe. And Moshe did not give in until the final day. When he finally said he'll go, G-d accepted. G-d's job was not to persuade Pharaoh but Moshe.

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EMES LIYAAKOV

Weekly Insights from MOREINU

**HORAV YAAKOV KAMENETZKY zt"l**

[Translated by Ephraim Weiss <Easykgh@aol.com>]

Weekly Insights from Moreinu HaRav Yaakov Kamenetzky zt"l

"Why did you abandon the man? Call him in so that he may eat bread."

When Moshe reached the well in Midyan, he noticed the Midyani shepherds tormenting some girls as they attempted to draw water from the well. Moshe ran to the girls' rescue, saved them from the shepherds, and drew water for all their sheep. The girls went back home, and related the day's events to their father Yisro, who immediately admonished them for leaving the man alone, and not inviting him in to eat.

HaRav Yaakov Kamenetzky, zt"l points out that we can learn a very important lesson from this episode. Sometimes, a single positive midah can catapult a person to heights that he would never have dreamed possible. The Midrash relates that Yisro tried every form of avodah zarah in the world before recognizing Hashem as the True G-d. He could never have imagined that he would someday be the father-in-law of Moshe Rabbeinu, the greatest Navi that Klal Yisroel ever had. With his yichus, how did he ever make such a shidduch? Rav Yaakov explains that this was a reward for one midah that he had spent his whole life developing; that of hakaras hatov. The Midrash relates that Pharaoh had three advisors; Bilam, Iyov, and Yisro. When Pharaoh decided that the time had come to act with regard to Bnei Yisroel, he asked them for their advice as to how to deal with the Jewish problem. Bilam advised Pharaoh to enslave Bnei Yisroel, and was later punished in that he was killed by Pinchas during Bnei Yisroel's battle with Midyan. Iyov kept quiet, and was punished with great suffering in this world. Yisro disagreed with Bilam, and was forced to flee Mitzrayim. He was rewarded, in that he merited having Moshe Rabbeinu as a son-in-law. Yisro's problem with enslaving Bnei Yisroel was that as Yosef had kept the country of Mitzrayim alive and flourishing during a period that could have been a time of great disaster, he felt that it would be extreme ingratitude to enslave Yosef's very own family and their descendants. We see that the first step in achieving such a great reward was Yisro's extreme sensitivity to the hakaras hatov that one must have for anyone that has done something for you. Yisro displayed this midah once again when he insisted that his daughters go back to find Moshe and invite him in. At this point, he was zocheh to achieve the great reward that was in store for him.

We must understand the importance of each and every midah tovah, for we never know which midah will be the elevator through which we can attain heights that we could never have imagined. We must work on all our midos, no matter how insignificant we perceive them to be, so that we may merit all the good that Hashem has in store for us.

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From: **Rabbi Yissocher Frand** [ryfrand@torah.org] Sent: Friday, January 20, 2006 12:50 AM To: ravfrand@torah.org

"RavFrاند" List - Rabbi Frand on Parshas Shmos

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#### Modern Medicine Corroborates Medieval Doctors

The pasuk says, "And the children of Israel were fruitful, teemed, increased, and became strong - very, very much so, and the land became filled with them" [Shmos 1:7]. Chazal state that the Jewish women in Egypt miraculously gave birth to six children at a time (sextuplets). The Ibn Ezra writes that he himself witnessed a case in which a woman had four children at once (quadruplets). He further states that the doctors advised him that women can physically have up to 7 children from a single pregnancy.

Until fairly recently, we would have been tempted to write off such a statement with sentiments such as "what did the doctors know in the time of the Ibn Ezra?" However, modern medicine, has proved that the doctors in the time of Ibn Ezra were right. It is possible to have up to seven children in one pregnancy - witness: the McCaughey septuplets (born on November 19, 1997 in Des Moines, Iowa).

#### The Bottom Line Is Exactly As Spelled Out By King Solomon

Although Pharaoh decreed that all male children were to be drowned in the Nile immediately after their birth, the two Hebrew midwives -- "Shifra" and "Puah" - did not follow through with the evil decree. They allowed the boys to live. Twice, the Torah says that the midwives feared Hashem. First the pasuk says: "The midwives feared the G-d and they did not comply" [Shmos 1:17]. Shortly later the Torah again writes: "And it was because the midwives feared G-d that He made them houses" [Shmos 1:21]

I saw a similar thought from both Rav Gifter and Rav Elya Meir Bloch on this narration. If we would have been asked to identify the human character trait that was most responsible for prompting the midwives to refuse to follow Pharaoh's orders, we would most likely have attributed it to the trait of compassion. We would say that women have a natural compassion for little infants. This reflects their midas haChessed (kind-heartedness), and that is what motivated them to save the lives of these babies.

Yet the Torah does not attribute their actions to kindness or good-heartedness. Their action is attributed purely to their Yiraas Shamayim [Fear of Heaven]. In 'crunch time', when a person's life is on the line, the main motivating force in a person's life is his Yiraas Shamayim. Ultimately, it is the realization that what a person is doing is wrong -- in this case, murder -- that inhibits a person from taking actions that he would otherwise be pressured into taking. In the final analysis, it is only the fact that we are bound by a Higher Moral Authority not to kill anybody stopping us from murder when we might otherwise be tempted to do just that.

Every other motivating factor one can rationalize and weasel out of. The only thing that allowed the midwives to stand up and say "no" was the fact that they feared a Greater Authority than Pharaoh. Otherwise it would have been very easy to rationalize. They could have constructed very logical arguments for themselves: Let us at least comply with his decree and kill the unhealthy children and the premature babies. This way perhaps we can save some of the healthier babies. If we save everyone Pharaoh will fire us and replace us with Egyptian midwives who would not even save the healthy children! They could have made the argument that they were not engaged in murder. On the contrary, they might have argued -- "we are SAVING lives by killing only some of the babies!"

Had their motivation been kindness or compassion or even logic, they could have devised all kinds of justifications. In the final analysis, the only thing that stopped them from committing murder was the fact that G-d said it was forbidden. No "ifs", "ands", or "buts".

In a very poignant comment Rav Elya Meir Bloch says: We saw this with our own eyes. What do we say about the great doctors who were trained by

the best of what western civilization had to offer? They performed sadistic and cruel experiments on Jewish men, women, and children - knowing that these human "guinea pigs" would die as a result of these experiments. They argued: "medical knowledge will be gained" from these cruel experiments. What happened to all their training? The first rule of medicine is "do no harm!" How does a doctor do this? We are not talking about "witch doctors" or doctors from barbaric countries. We are speaking of doctors from the most cultured country in Europe.

The argument was "this is for the good of humanity." "We are not killing lives -- we are saving lives! These Jews were going to be put to death anyway by Hitler. I am just following orders!" They were not stopped by their conscience. They were not stopped by the Hippocratic Oath. Nothing stopped them from murder -- not compassion, not professional credibility, nothing. One thing was lacking: Fear of G-d.

Therefore, the Torah testifies concerning our holy matriarchs (Yocheved and Miriam who our Sages identify as Shifra and Puah): The midwives feared the L-rd. All their moral fortitude came to them as a result of their Yiras HaElokim.

This dovetails with the remark of Shlomo Hamelech at the end of Koheles: "The sum of the matter when all has been considered: Fear G-d and keep His commandments, for that is man's whole duty." [Koheles 12:13]

Transcribed by David Twersky; Seattle, WA DavidATwersky@aol.com Technical Assistance by Dovid Hoffman; Baltimore, MD dhoffman@torah.org This write-up was adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Torah Tape series on the weekly Torah portion. These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape #488 - Marrying Cousins?

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Covenant & Conversation

Thoughts on the Weekly Parsha from

**Sir Jonathan Sacks**

Chief Rabbi of the United Hebrew Congregations of the British Commonwealth

[From 2 years ago - currently 5765]

<http://www.chiefrabbi.org/tt-index.html>

Shemot Civil Disobedience

The opening chapter of Shemot contains an episode that properly deserves a place of honour in the history of morality. Pharaoh has decided on a plan of slow genocide. He tells the midwives, Shifra and Puah, to kill any male Israelite child. We then read the following:

The midwives feared G-d and did not do what the Egyptian king had commanded. They allowed the infant boys to live. The king of Egypt summoned the midwives and said to them, 'Why did you do this? You let the boys live.' The midwives replied, 'The Hebrew women are not like the Egyptians. They know how to deliver. They can give birth even before a midwife gets to them.' G-d was good to the midwives, and the people increased and became very numerous. Because the midwives feared G-d, He made them houses [of their own]. Who were Shifra and Puah? Midrashic tradition identifies them with Yocheved and Miriam. However, in describing them the Torah uses an ambiguous phrase, hameyaldot ha'ivriyot, which could mean either 'the Hebrew midwives' or 'the midwives to the Hebrews.' On the second interpretation, they may not have been Hebrews at all, but Egyptians. This is the view taken by Abrabanel and Samuel David Luzzatto. Luzzatto's reasoning is simple: could Pharaoh

realistically have expected Hebrew women to murder their own people's children?

The Torah's ambiguity on this point is deliberate. We do not know to which people they belonged because their particular form of moral courage transcends nationality and race. In essence, they were being asked to commit a 'crime against humanity,' and they refused to do so. Theirs is a story that deserves to be set in its full historical perspective.

One of the landmarks of modern international law was the judgement against Nazi war criminals in the Nuremberg trials of 1946. This established that there are certain crimes in relation to which the claim that 'I was obeying orders' is no defence. There are moral laws higher than those of the state. 'Crimes against humanity' remain crimes, whatever the law of the land or the orders of a government. There are instructions one is morally bound to disobey, times when civil disobedience is the necessary response. This principle, attributed to the American writer Henry David Thoreau in 1848, inspired many of those who fought for the abolition of slavery in the United States, as well as the late Martin Luther King in his struggle for black civil rights in the 1960s. At stake in the principle of civil disobedience is a theory of the moral limits of the state.

Until modern times rulers had absolute authority, tempered only by the concessions they had to make to other powerful groups. It was not until the seventeenth century that figures like John Locke began to develop theories of liberty, social contract and human rights. Most religious thought until then was dedicated to justifying existing structures of power. That was the function of myth, and later the concept of the 'divine right of kings.' In such societies, the idea that there might be moral limits to power is unthinkable. To challenge the king was to defy reality itself.

Biblical monotheism was a revolution thousands of years ahead of its time. The exodus was more than the liberation of slaves. It was a redrawing of the moral landscape. If the image of G-d is to be found, not only in kings but in the human person as such, then all power that dehumanizes is ipso facto an abuse of power. Slavery, seen by almost all ancient thinkers as part of the natural order, is for the first time called into question. To be sure, the Torah permits it - it was not banned in Britain and America until the nineteenth century, and even then not without (in America) a civil war - but, by restricting it in many ways (Shabbat, release after seven years, and so on), it prepared the way for its eventual abolition.

When G-d tells Moses to say to Pharaoh, 'My son, My firstborn, Israel,' He is announcing to the most powerful ruler of the ancient world that these people may be your slaves but they are My children. The story of the Exodus is as much political as theological. Theologically, the plagues showed that the Creator of nature is supreme over the forces of nature. Politically it declared that over every human power stands the sovereignty of G-d, defender and guarantor of the rights of mankind.

In such a worldview, the idea of civil disobedience is not unthinkable but self-evident. The very notion of authority is defined by the transcendence of right over might, morality over power. In one of the world-changing moments in history, social criticism was born in Israel simultaneously with institutionalization of power. No sooner were there kings in Israel, than there were prophets mandated by G-d to criticize them when they abuse their power. As the Talmud puts it: 'If there is a conflict between the words of the master and the words of the disciple, whose words should one obey?' No human order overrides the commands of G-d.

How moving it is, therefore, that the first recorded instance of civil disobedience - predating Thoreau by more than three millennia - is the story of Shifra and Puah, two ordinary women defying Pharaoh in the name of simple humanity. All we know about them is that they 'feared G-d and did not do what the Egyptian king had commanded.' In those words, a precedent was set that eventually became the basis of the United Nations Declaration of Human Rights. Shifra and Puah, by refusing to obey an immoral order, redefined the moral imagination of the world.

A final note is in place. Though Greek literature does not know of the concept of civil disobedience, it does contain one famous case where an

individual defies the king - Sophocles' Antigone, who buries her brother in defiance of King Creon's order that he stay unburied as a traitor. The contrast between Sophocles and the Bible is fascinating. Antigone is a tragedy: the eponymous heroine pays for her defiance with her life. The story of Shifra and Puah is not a tragedy. It ends with a curious phrase: G-d 'made them houses.'

What does this mean? The Italian commentator Samuel David Luzzatto offered an insightful interpretation. Sometimes women become midwives when they are unable to have children of their own. That, he suggests, was the case with Shifra and Puah. Because they saved children's lives, G-d rewarded them - measure for measure - with children of their own ('houses' = families). In Judaism the moral life is not inescapably tragic, because neither the universe nor fate is blind. 'In reward for the righteous women of that generation, our ancestors were redeemed from Egypt.' Shifra and Puah were two of those women, heroines of the spirit, giants in the story of mankind.

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<http://hirhurim.blogspot.com/2006/11/is-milk-kosher.html>

### **Is Milk Kosher?**

It seems there is renewed discussion over whether milk (both Chalav Yisrael and plain milk) is kosher. The reason is that the percentage of non-kosher cows, particularly milking cows, discovered after slaughter is somewhere above 30% (some estimates are as high as 90%). If that is the case, then a large portion of milk comes from non-kosher cows and is therefore not kosher. The way milk is processed is that milk from a number of cows is mixed together. If milk in general is at least 30% non-kosher, then any mixture of milk -- which is what reaches the consumer -- contains at least 30% of non-kosher. The Shulchan Arukh (Yoreh De'ah 81:2) rules that if milk from a non-kosher cow is mixed in with milk from regular cows, the maximum allowed for bitul is one-sixtieth, 1.67%. Evidently, our milk supply contains huge amounts of milk from non-kosher cows, well above the bitul threshold. If this is the case, why is this milk kosher? Or isn't it?

This question was posed in the journal Ha-B'er (Nissan 5763/2003) and responses were published from three prominent scholars in Israel. What follows below are very brief summaries of extensive analyses of the complex concepts of rov and chazakah that, frankly, make my head spin. I apologize if this is not entirely correct. The articles can be found in this file (PDF). I am also including a summary of a recent responsum by R. Yisroel Belsky, which is an internal OU document for which I obtained permission to quote but not to disseminate.

I. R. Zalman Nechemiah Goldberg

R. Zalman Nechemiah Goldberg answered that milk is kosher because we look at each individual cow and, despite the percentage of non-kosher cows, each individual cow is considered kosher until proven otherwise. For example, if there was only one cow left in the world, we would assume that it is kosher and not automatically render it non-kosher based on the above percentage. Therefore, if all the cows in the world were gathered together we would also not assume that there are non-kosher cows among them. The milk is similar to a gathering of all the cows in the world, and we similarly do not assume that there is non-kosher milk in the mixture.

II. R. Asher Weiss

R. Asher Weiss writes that the rules of rov are not the same as statistical probabilities. For example, if one lives in a city that is 60% Jewish and ten men from the city gather to pray, must we say that only 60% of them are Jewish and they lack a minyan? Therefore, since each individual cow is considered kosher, the statistical incidence of non-kosher cows is irrelevant.

III. R. Levi Yitzchak Halpern

R. Levi Yitzchak Halpern points out that most of the cows we render non-kosher are not necessarily technically non-kosher, and are often due to various stringencies and doubts. It is therefore impossible to say what

percentage is unquestionably non-kosher and what percentage is possibly non-kosher. Therefore, we have no conclusive proof that contradicts the general rule that most slaughtered animals are kosher.

As noted above, the Shulchan Arukh (Yoreh De'ah 81:2) rules that if milk from a known non-kosher cow is mixed in with milk from regular, unknown cows, the maximum allowed for bitul is one-sixtieth, 1.67%. It is relevant to note that the halakhah requires checking slaughtered cows for problems in their lungs, because the incidence of such problems is 10% or greater. Incidence of other problems (of the 17 problems) is evidently less than 10%. However, if you add them all together, it seems that somewhere between 20-30% are assumed to be non-kosher. Despite this, the Rama allows milks from a known non-kosher cow that is mixed in with milk from unknown but presumably kosher cows in a ratio of 1.67% or less. Evidently, this is because unless known for certain, other cows are presumed kosher despite the 20-30% assumed rate of non-kosher cows.

#### IV. R. Yisroel Belsky

In a recent responsum, R. Yisroel Belsky ruled that cows have a *chezkas kashrus*, a presumption of being kosher. Thus, even if a cow is slaughtered and found to be non-kosher, we assume that the problem that rendered this cow non-kosher is a recent development. Therefore, regarding the milk we do not have a known statistical majority of non-kosher milk. Furthermore, none of the milk-producing cows are definitely non-kosher.

R. Belsky also adds that the statistics for non-kosher cows includes many stringencies and doubts, and does not represent a true percentage of non-kosher cows.

It seems that R. Hershel Schachter remains in doubt about this matter and has not been convinced by R. Belsky's arguments.

- posted by **Gil Student** @ 7:28 AM

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From **Chaim Ozer Shulman** [cshulman@gmail.com](mailto:cshulman@gmail.com)

Shmos Dvar Torah

In the beginning of the Parsha when B'nai Yisroel are counted, the Pasuk states "Vayihi Kol Nefesh Yotzei Yerech Yaakov Shivim Nafesh - VeYosef Haya BeMitzrayim" (Perek 1; Pasuk 5). And Rashi quotes a Sifri in Haazinu which asks "Vichi Lo Hayinu Yodim Shehu Haya BeMitzrayim?" Don't we know that Yosef was in Mitzrayim? "Elah Lehodiacha Tzidkaso Shel Yosef. Hu Yosef Haroeh Es Tzon Aviv; Hu Yosef Shehaya BeMitzrayim Vinaaseh Melech Viomed Bitzidkaso." He was the same Yosef herding his father's sheep as he was as Vice King in Egypt.

A question that arises is - why is "VeYosef Haya BeMitzrayim" mentioned here and not in the first counting of the Yordei Mitzrayim in Parshas Vayigash?

And actually one must understand why the counting itself was repeated in Shmos when the Shivim Nefesh were already counted in Parshas Vayigash (Perek 46; Pasuk 8)? Rashi says that "Chazar Umanaan BeMisanan Lehodiacha Cheebasan." That they were counted in their death to show Hashem's love for them. But as the Abarbanel asks (on Rashi's Pshat): Since the death of the brothers is only mentioned later after the counting in Pasuk Vav, this implies that the counting was in their lifetime?

In addition, one can ask: Why does it say here "ViEileh Shmos B'nai Yisroel Habaim Mitzraima" with a Vav Mosif Al Inyan Rishon? Also, why does it say here "Habaim" - Belashon Hoveh if this actually occurred many years before?

I would like to suggest that the counting of B'nai Yisroel in the beginning of Shmos is really an introduction to the story of Shmos that B'nai Yisroel were able to continue and thrive as a nation even as they were enslaved in Egypt. As the Pasuk says: "UB'nai Yisroel Paru Vayishritzu Vayirbu Vayaatzmu Bimeod Meod" (Perek 1; Pasuk 7); "ViKaasher Yaanu Oso Ken Yirbeh ViChen Yifrotz" (Pasuk 12). And I believe that the success of B'nai Yisroel in not assimilating and being lost among the Mitzrim was due to the fact that when Yaakov's children came into Mitzrayim they remained

as strong in their Emunah, their Torah, and their Tzidkus in Mitzrayim as the Avos were in Eretz Yisroel. Therefore, their children were able to maintain this tradition and didn't assimilate in Egypt.

So that's why Hashem counted the children of Yaakov once again, as a prelude to the story of the Shibud. As the Midrash Rabbah states: "SheKein Ksiv 'ViEileh Shmos B'nai Yisroel Habaim Mitzrayama Vegomer; Hishvan Kulam LeYaakov Shekulam Tzadikim". They were all compared to Yaakov since they were all Tzadikim. The Midrash does not explain how we see that the children were all compared to Yaakov. But it's probably from the fact that it says "ViEileh Shmos B'nai Yisroel" with a Vav Mosif Al Inyan Rishon, to show that the children of Yaakov were as strong in their Emunah as their forefathers were; and perhaps also from the fact that it says here "Eis Yaakov" to equate them all to Yaakov.

This is perhaps why it says "Habaim", Bilashon Hoveh, to stress that B'nai Yisroel always considered themselves newcomers even many years later.

This also explains why the Pasuk says "VeYosef Haya BeMitzrayim" Davka in Shmos and not in Vayigash, because in Shmos when discussing how the children of Yaakov retained their faith in Mitzrayim it's appropriate to state "VeYosef Haya BeMitzrayim", since Yosef was the epitome of a Tzadik in Mitzrayim, and Yosef exemplified more than any of the other brothers how one can be in Mitzrayim and still remain steadfast in one's faith and one's Tzidkus.

It's interesting to note that Yosef Hatzadik is the only person in the Torah referred to as "Hatzadik". The contemporary Mefarshim try to understand why Yosef in particular merited this title. Some point to the fact that Yosef resisted the enticements and threats of Eishes Potiphar. But that doesn't seem to distinguish Yosef from the Avos who also withstood many Nisyonos. I believe that Yosef merited the title "Tzadik" because of the fact that he remained firm in his Tzidkus even as Vice King of Egypt. "Hu Yosef Shehaya BeMitzrayim ViNaaseh Melech Viomed Bitzidkaso".

So since Yosef and his brothers remained with their Emunah and their Tzidkus even in Mitzrayim this enabled B'nai Yisroel to remain a distinct nation there.

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From: [webmaster@koltorah.org](mailto:webmaster@koltorah.org) on behalf of Kol Torah [koltorah@koltorah.org] Sent: Wednesday, November 22, 2006 7:50 PM  
To: Kol Torah Subject: Kol Torah Parashat Toldot Yerushah - Disinheritance KOL TORAH A Student Publication of the Torah Academy of Bergen County Parshat Toldot 5 Cheshvan 5767 November 25, 2006 Vol.16 No.10

#### **Yerushah - Disinheritance by Rabbi Chaim Jachter**

(assisted by Martin M. Shenkman, Esq.)

**Introduction** In several prior articles, we spoke of the need to supplement a secular will to avoid violation of the Halachot of Yerushah. Many people ask why these mechanisms do not offend the spirit of Jewish Law, as the Halachic heirs do not receive all of the money and property that they are entitled to according to Biblical and Talmudic sources. In this essay, we will attempt to answer this and other related questions. Once again I thank attorney Martin Shenkman for his assistance in the preparation of this series. I bear sole responsibility for any errors that might appear in any of these articles.

The Torah Order for Yerushah and Human Nature "If a man will have two wives, one beloved one hated and they bear him sons, the beloved one and the hated one, and the firstborn son is the hated one's. Then it shall be that on the day that he causes his sons to inherit whatever will be his, he cannot give the right of the firstborn to the son of the beloved one ahead of the son of the hated one, the firstborn" (Devarim 12:51-61). The general lesson in these Pesukim is that family members must not permit rivalries or animosities to interfere with their obligations and family relationships. For

example, a parent should not permit favoritism of one child over another to influence his following Torah law or his behavior toward his children. Chazal caution us against giving even the smallest degree of advantage to one child over the others so as to avoid causing jealousy, as we discussed in the first part of this series.

**Talmudic Background** The Mishnah in Bava Batra (8:5) states that if one gives his assets to others and leaves nothing for his sons to inherit, what he has done is Halachically valid but “Ein Ruach Chachamim Nochah Heimenu” (the spirit of the sages is not pleased by him). In other words, his actions violate the spirit of the Jewish Law. However, Rabban Shimon ben Gamliel says that if one’s children were not acting properly, and as a result he transferred all of his assets to others, he should be “remembered for good.”

The Gemara (Bava Batra 133b) indicates that the Halacha follows the first opinion. The Gemara presents the authoritative words of Shemuel that one should not engage in “Avurei Achsanta” (disinheriting the Halachic heirs) even from a bad son to a good son. This opinion is codified by the Rambam (Hilchot Nachalat 7:11) and Shulchan Aruch (Choshen Mishpat 282). It should be noted that the term “Ein Ruach Chachamim Nochah Heimenu” is not a mild rebuke. The Rashbam (commenting to Bava Batra 133b s.v. Ein) explains this phrase to mean that Chazal are profoundly disturbed by someone disinheriting their Halachic heirs. The Rashbam’s comments are cited by the Sema (C.M. 282:2), one of the premier commentaries to the Choshen Mishpat section of the Shulchan Aruch.

**When is Disinheritance Permitted?** As we have mentioned, the Gemara specifically mentions that one should not disinherit a “bad” son in favor of a “good” son. The reason given is that one does not know what will become of the “bad” son’s descendants. Perhaps they will be righteous and will deserve the financial support of their ancestor. The Sema (282:1) adds that the “bad” son should not be disinherited even if he did not demonstrate proper respect for his father during his lifetime. Nevertheless, Rav Moshe Feinstein (Teshuvot Igrot Moshe C.M. 2:50) rules that if the “bad” son has completely abandoned a Torah lifestyle, he may be disinherited. Rav Moshe explains that in such a situation, it is highly unlikely that a descendant of such an individual will lead a Torah lifestyle (for further discussion of this issue see Teshuvot Maharam Schick C.M. 43 and Teshuvot Doveiv Meisharim 1:97).

It should be noted that Rav Moshe penned this responsum in 1965, prior to the emergence of the “Baal Teshuva movement.” Today, it is not so unlikely that a descendant of one who has abandoned a Torah lifestyle will return to the proper path. Thus, Rav Moshe’s ruling may no longer be applicable. Moreover, Rav Moshe does not absolutely forbid one to leave assets for a child who has abandoned the Torah. Indeed, in many instances a child’s alienation from Torah may be deepened if he is disinherited. These matters are complex and vary from case to case. A Rav and competent attorney should both be consulted if one is faced with this problem due to the complexity of both the Halachic and legal issues involved. To disinherit a child who has abandoned a Torah lifestyle is to establish a trust which, if carefully and properly planned, will reward the child for adhering to Jewish tradition. The trustee may be given the discretion to allocate money for many purposes, so that he may choose to expend funds to pay for Yeshiva education, Orthodox summer camps, and visits to Israel. This must be drafted in a manner which avoids religious dictates which could be overturned by a secular court if the affected child were to challenge the will. Similarly, a statement in a will that any child or grandchild who intermarries will be disinherited might not be enforced by a secular court, as it is a violation of (secular) public policy. In such cases, leaving assets in a trust with multiple beneficiaries and appointing trustees who understand your concerns and wishes may be a more viable alternative. Rav Ovadia Yosef (Teshuvot Yabia Omer 8: C.M. 10) offers a similar approach. In addition, Rav Ezra Basri (Sefer HaTzavaot p. 6) writes, “One who realizes that his adult children will act irresponsibly with their money and is concerned that they will waste their inheritance on gambling or some other frivolous activity...should appoint trustees over the

money he wishes to bequeath these children to insure that it is properly invested. The trustees should be instructed to give the children a limited amount of money each month.” Rav Basri cites the Meiri (Bava Batra 134) as a source for this ruling. In all cases, it must be strongly emphasized that a will must not be used as a tool for revenge. The Torah specifically forbids taking revenge (Vayikra 19:18).

**Disinheriting Sons in Favor of Daughters** The aforementioned Gemara (Bava Batra 133b) teaches that it is highly improper to disinherit sons in favor of daughters. Accordingly, it would appear at first glance that the mechanisms to present daughters with a share in the estate described in the previous articles should not be used. Although they successfully enable one to avoid violating the letter of the Jewish law, they appear to violate the spirit of the law. This question was in fact raised many centuries ago (see Nachalat Tzvi 12:2). There are several possible answers to this problem, two of which will be reviewed here. First, the Gemara (Ketubot 53a) explains that one may divert money to a daughter to improve her marriage prospects. Rav Zalman Nechemia Goldberg (Techumin 4:345) adds that this reasoning applies to bequeathing money to a married daughter as well, because a woman’s marriage prospects are greater if it is possible that she will be willed a share in her father’s estate after marriage. Second, the Ketzot HaChoshen (282:2) cites the Tashbetz (3:741), who rules that the negative attitude Chazal maintained against disinheriting Halachic heirs does not apply if the Halachic heirs are provided with a significant share in the estate. Although some authorities disagree with this ruling (see Teshuvot Chatam Sofer C.M. 151, Pitchei Teshuvah C.M. 282:1 and Pitchei Choshen 8:111), Rav Zalman Nechemia writes that the widespread use of the Shtar Chatzi Zachar throughout the past four centuries indicates that the accepted practice is to follow the opinion of the Tashbetz as cited in the Ketzot. Thus, presenting daughters with a share in the estate through the mechanism of a Shtar Chatzi Zachar or a contemporary variation thereof does not constitute a violation of the spirit of Jewish law. For a somewhat different approach to this issue, see Rav Feivel Cohen’s Kuntress Midor LeDor (pp. 43-44). We noted last week that the Ketzot mentions the option of leaving a daughter a full share in the Yerushah and that Rav Asher Weiss reported that Rav Akiva Eiger wrote a Shtar Shalem Zachar for his daughter upon her marriage to the Chatam Sofer. Rav Hershel Schachter, in turn, told me that today one should give his daughters a full share in the Yerushah lest there be bitterness and acrimony in the family. Likewise, Rav Yitzchak Herzog (Techukah LeYisrael Al Pi HaTorah 2:110) records that the famed author Shemuel Yosef Agnon told him that in pre-war Galicia, a great Chassidic Rebbe died and his sons asserted their Halachic right to the entire Yerushah, to the stern disapproval of the entire Jewish community in the region. Rav Yaakov Kaminetzky (cited in Emet LeYaakov 455) expresses a similar sentiment stating, “In today’s times, it is proper for the daughters to receive an appropriate share of the estate, and it is not considered Avurei Achsanta. However, the sons should also receive an appropriate share of the estate.” Rav Yechiel Michal Tukachinsky (Gesher HaChaim 1:41-42) espouses a similar approach. Rav Binyamin Rabinowitz-Teumim (in an essay published in Rav Herzog’s Techukah LeYisrael Al Pi HaTorah 2:224-226) explains that in an age when women are expected to contribute to the financial well-being of their families, daughters also need a share in the Yerushah. This is not the ideal, as the Torah would prefer that the women not be burdened with financial responsibilities. Interestingly, Rav Ovadia Yosef (Teshuvot Yabia Omer 8 C.M. 9) permits giving a son who studies Torah full-time most of the Yerushah, provided he leaves a significant sum to his other sons.

**Disinheritance in Favor of Charity** The Rama and later authorities differ regarding how much of a person’s estate may be designated for charity as opposed to the Halachic heirs. The Rama (Shulchan Aruch Yoreh Deah 942:1) seems to permit one to donate his entire estate to charity. Rav Akiva Eiger (ad locum s.v. Kol), however, cites the view of the She’iltot that one should not divert more than one-third of his estate to charity. The Aruch HaShulchan (Y.D. 249:1) rules that one may leave up to half of his estate

to charity. It is possible that if the estate is unusually large one may leave a much larger percentage of his estate to charity, as the Halachic heirs will nevertheless receive a sufficient amount of money (following the example set by Warren Buffet – see Kiddushin 31a that Jews should draw a Kal VaChomer from the actions of Dama ben Netina). Rav Feivel Cohen, though, wrote to me that even a very wealthy person should follow the Aruch HaShulchan and not give more than half of his estate to Tzedakah following the reasoning presented in the Aruch HaShulchan. One should consult his Rav regarding about this issue. Generous charitable bequests are encouraged to address the needs of the Neshamah of the testator. The Gemara (Ketubot 67b) records that Mar Ukva had donated a considerable amount of money during his lifetime. However, prior to his death, he donated (according to the standard version of the text) half of his estate to Tzedakah. He explained, “I have prepared few provisions for the long trip that I am about to embark on.” Mar Ukva was concerned that he would not have sufficient merit, as he was about to enter the world to come. This idea is developed at length in the Chafetz Chaim’s work Ahavat Chessed Inyanei Gemilut Chassadim in the footnotes. Accordingly, Rav Feivel Cohen wrote to me that it is appropriate for Rabbanim and financial advisors to urge people to leave considerable gifts to Tzedakah in their will. Rav Hershel Schachter (Tradition 29:4 p.90) cautions, though, that, “It should be emphasized that it is prohibited to pressure older people, weak in mind and in body, to bequeath their monies to charities against their wishes.” Rav Elazar Meir Teitz told this author that his father Rav Pinchas Teitz zt”l strongly urged his congregants to leave at least ten percent of their estates to charity. Rav Elazar Meir added that his father did so in his own will. It also should be noted that a trust can be established that will motivate children to give charity throughout their lives. One should consult his Rav and attorney about this issue.

**Conclusion** Whatever mechanism one uses to comply with the Torah requirements of Yerushah, it should be handled with care and sensitivity for all people involved, with consideration of fundamental Torah values and recognition of the importance, if not obligation, of bequeathing something to Tzedakah. Next week (IY”H and B”N), we will discuss the issue of living wills and other health care matters.

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