

INTERNET PARSHA SHEET
ON CHUKAS BALAK - 5760

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PENINIM ON THE TORAH BY RABBI A. LEIB SCHEINBAUM
Parshas Chukas

This is the teaching regarding a man if he will die in a tent, whoever enters the tent and whatever is in the tent will be contaminated for seven days. (19:14)

In a lecture on the topic of hasmadah, diligence in Torah study, Horav Chaim Soloveitchik, zl, once cited the Talmud in Berachos 63b in which Chazal say that Torah is sustained only in he who kills himself over it. This is derived from the words, "This is the Torah: A man who dies in a tent", referring to the ohalah shel Torah, the tent of Torah. In order for the Torah one studies to become integrated into his essence, he must literally be willing to give up his life for it. The material benefits of this world -- with its worldly pleasures -- are of no value to this person. He is like a corpse who does not sense these pleasures.

Rav Chaim related a story of a wealthy man who was so engrossed in his business activities that he had little time for spiritual pursuits. Indeed, he had no time for tefillah b'tzibur, communal prayer with a minyan, quorum, and limited time and energy left at the end of the day to study Torah. As the years went by and he became older and wiser, he came to realize that he would soon be summoned to meet his Maker. He would have to give an account for neglecting to pray and study in accordance with Hashem's wishes. He decided to alter his daily schedule to provide for minyan attendance and Torah study. Every day he would leave his home early in the morning, daven, and then study Torah. A few hours would elapse before he left for work.

Undoubtedly, arriving at the office three hours late did little to endear him to his customers, and especially to his wife who would slave in the store alone. When his wife questioned him as to his whereabouts, his response was simple but abrupt. He was busy with other very important things. After she pestered him for a number of days, she decided that she would follow him and see for herself how he was spending the time away from the store. She followed him discreetly and -- lo and behold -- she discovered that he was "wasting" their hard-earned money to study in the yeshivah. This was simply not right. "Have you taken leave of your senses?" she asked. "Do you realize how much money we are losing every day? Moreover, you owe it to your regular customers who have supported you to be there for them. How can you do this?" she asked incredulously.

"Listen to me, my dear wife," he responded, "and tell me what you would do if one day the Malach ha'Maves, Angel of Death, shows up at our door, bids me good day and says, 'Your time is up.' Would you tell him, 'No, he cannot go. There are customers waiting in the store; it will ruin our business!' Veritably, you could never give such a foolish response to the Angel of Death. Therefore, from today on, during those hours of the day that I am not in the business, you are to view it as if I were dead! When I arrive from the bais ha'medrash, it will be my techias ha'meisim, resurrection of the dead!"

Rav Chaim explains that in this story lies the underlying meaning of our pasuk: A person should view himself as gone from this world, dead

B'S'Do society and its pressures and demands. Thus, every excuse to "shter," deter, his Torah study will be for naught. Indeed, only then will he realize how much time he really has to study Torah.

Furthermore, continued Rav Chaim, we can delve even deeper into this idea. Imagine if one day it was decided in Heaven to avail all those who have died, every holy neshamah, one hour - one single hour - to arise from the dead and do whatever he wants. Indeed, when family and friends who are alive would hear of this wonderful news, they would all rush to the cemeteries to meet with their loved ones. The long-awaited moment would arrive and everybody who flocked to the cemeteries would be awaiting that single hour meeting, and -- lo and behold -- the neshamos, souls, would arise and immediately run to the nearest bais ha'medrash to study Torah with unbelievable intensity. They would refuse to waste a second of their one hour to speak to anyone. Why? Because now they know and appreciate the remarkable value of Torah study. Now they understand the futility of this temporary world.

This is the meaning of Chazal's dictum: Torah is sustained only by he who views his short stay on this world as one who was released from the grave for a short period and makes the most of it by applying his time and energy to Torah study.

Therefore do the rulers say: Come to Cheshbon. (Let us make a reckoning.) (21:27) Chazal teach us that these "rulers" are those who are able to rule over their inclinations, who are in control of their yetzer hora, evil inclination. What type of reckoning do these rulers make? They determine the advantage derived from a mitzvah as opposed to a loss, and the gain of a sin as opposed to the "loss". One who makes this reckoning will be "built in Olam Hazeh, this world, and established in Olam Habah, the Eternal World." While it goes without saying that one gains eternal benefit from mitzvah performance, the novelty of this dictum is that one also gains immeasurably in this world.

Horav Shalom Schwadron, zl, related an intriguing story he heard from one of the listeners at his Friday night shmuesen, ethical discourses, in which he spoke about weighing the loss incurred in performing a mitzvah against its reward. The story took place in Russia during the beginning of Socialist rule. This man worked at the Bourse, dealing in pearls. He would leave for work promptly every day at 8:00 a.m. One day as he went to work, he passed a house from which a man called out to him to come inside and be the tenth man for a minyan. Apparently, he had yahrzeit that day, and he needed a minyan for kaddish. Looking at his watch, the man decided he could spend fifteen minutes to help another Jew. This feeling changed drastically when he entered the house and discovered that there were only five others there. After a few more minutes, they had seven people. The man, who now realized that he would be late for work, became angry and complained to his "host," "You told me that you needed a tenth man, but even now, you still need more men!"

The owner of the house said, "You are right, but what would you do if it were you who needed to say Kaddish?" "It is easy for you to say, since you are not losing money," the man responded. "I am sorry, I must leave." The owner went to the door and blocked the entrance, saying, "I am not letting you go."

When he saw that he had no choice but to stay, the jeweler relented and took out a Sefer Tehillim and began to recite the Psalms. Finally, there was a minyan, but the host did not merely choose to say Kaddish, he proceeded to daven the entire davening. How does one say no to another Jew who wants to say Kaddish for a parent? Indeed, too many of us wait until it is too late, focusing their Kibud Av v'Eim solely on the Kaddish and rarely on anything else. The jeweler was resigned to sit it out until the end of davening, thus performing the mitzvah in the fullest sense of the word, by enabling another Jew to daven with a minyan. After davening, the jeweler resumed his journey to the Bourse.

As he neared his office, a man came running over to him and shouted, "Get out of here now! The Bolsheviks are attacking! They have

killed just about everyone. Run for your life!" The jeweler did an about-face and escaped into the woods. After a few days of running and hiding, he made it to the border and eventually to safety. He now realized that had he not stayed to help his host with his Kaddish, he would right now be the subject of Kaddish. The mitzvah that he performed protected him even in this world.

Peninim on the Torah is in its 7th year of publication. The first five years have been published in book form. The fifth volume is available at your local book seller or directly from Rabbi Scheinbaum. He can be contacted at 216-321-5838 ext. 165 or by fax at 216-321-0588. <http://www.shemayisrael.co.il> Jerusalem, Israel 972-2-641-8801

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Sponsored by Martin and Michelle Swartz in memory of grandfather, John Hofmann a"h Sponsored by Michael and Naomi Cowen in honor of the marriage of their daughter Dena to Yaakov Morton Today's Learning: Sukkah 1:11-2:1 Orach Chaim 307:20-22 Daf Yomi (Bavli): Ketubot 107

The gemara (Avodah Zarah 24a) relates that a certain gentile named Damah ben Netinah had a gem that was needed for the choshen / breastplate of the Kohen Gadol. The Sages approached him and asked to buy the stone, but Damah refused to sell it. His father was sleeping on the key to the safe, and he did not wish to disturb his father's sleep. The following year, a Parah Adumah was born among Damah's cattle, and he sold it to the Sages and recouped his earlier loss.

Why, asks R' Yehoshua Baruch Reinitz z"l (1823-1912; rabbi of Chechowitz) was Damah rewarded specifically with a Parah Adumah? He answers:

Damah's act must have awakened a loud complaint in Heaven against the Jewish people. "Look," the prosecutor said. "The gentiles are not commanded by the Torah to honor their parents, yet Damah gave up a fortune for his father's sake. Why do the Jews not honor their parents thusly?"

Hashem answered the prosecutor: "True Damah's act was meritorious, but, after all, honoring parents is a matter of common-sense. Look how much money the Jewish people will forego for the sake of Parah Adumah, a mitzvah that seemingly makes no sense! (Quoted in Otzrot Tzadikhei Ve'geonei Ha'dorot p. 455)

In the second of this week's two parashot, Balak, we read of Bilam's attempt to curse the Jewish people. It appears from the verses and from statements in the gemara that this was a real threat to Bnei Yisrael, writes R' Elya Meir Bloch z"l (1895-1955; founder and rosh yeshiva of the Telshe Yeshiva in Cleveland). But why? Why should Bilam's words have any effect?

R' Bloch explains: Things which are foreign and supernatural to us were perfectly normal and obvious to our ancestors. Why? Because, despite our supposed sophistication, we live on a lower plane of existence than those earlier generations did. Specifically, our spiritual stature (in R' Bloch's words, our "shiur komah", lit. "measure of height") is lower and we cannot see or understand certain things which were commonplace in earlier times.

We all know that when one puts a seed in the earth and gives it proper care, a plant will grow. Many people, however, do not understand how this happens, and even fewer understand why it happens. Do we therefore ridicule the fruit of that plant? No, we take for granted that the fruit exists, and we eat it. Similarly, there are other forces at work in the world, including the power to curse, and the fact that we cannot understand them does not make them less real.

The power of the mouth and the ability of a seed to produce fruit actually come from the same place - they are extensions of G-d's Will in

creating the world. And, because Bilam's powers were as real as the fruit we eat, he did pose a threat to Bnei Yisrael. (Quoted in Peninei Da'at)

"Bilam answered and said to the servants of Balak, 'If Balak will give me his house-full of silver and gold, I cannot transgress the word of Hashem. . .'" (22:18)

Rashi writes: We learn from here that Bilam had a big appetite [for wealth] and desired the money of others.

We learn in Pirkei Avot (Chapter 5):

Whoever has the following three traits is among the disciples of our forefather Avraham; and whoever has the following three traits is among the disciples of the wicked Bilam. Those who have a good eye, a humble spirit and a meek soul are among the disciples of our forefather Avraham. Those who have an evil eye, an arrogant spirit and a greedy soul are among the disciples of the wicked Bilam.

R' Leib Chasman z"l (1869-1935; mashgiach of the Chevron Yeshiva) explains: These three traits - an evil eye, an arrogant spirit and a greedy soul - parallel "jealousy, honor and desire," the three traits which Pirkei Avot says can destroy a person. There is nothing inherently wrong with jealousy, honor and desire; indeed, all three traits can be put to positive uses. However, if these traits become a person's primary aspirations, they will destroy him.

Why? Because a person's aspirations are manifestations of his spirit, and a person has only one spirit. To whatever extent a person's spirit is devoted to pursuing wealth and honor, he cannot simultaneously pursue closeness to G-d. In the end, someone like Bilam ends up consorting with a donkey (as Chazal say he did). On the other hand, to whatever extent one suppresses his desire for wealth and honor and instead has a good eye, a humble spirit, and a meek soul, he is a disciple of Avraham and close to G-d.

The mishnah quoted above continues:

How are the disciples of our forefather Avraham different from the disciples of the wicked Bilam? The disciples of our forefather Avraham enjoy the fruits of their good deeds in this world and inherit the World to Come . . . but the disciples of Bilam inherit Gehinnom and descend into the well of destruction.

This means: Do not think that the disciples of Avraham will therefore live in poverty and misery, since they have no material ambitions. This is not the case; rather, they inherit this world and the next. To the contrary, it is the disciples of Bilam who will never satisfy their lusts and will live as if in Gehinnom. (Ohr Yahel II, p. 132)

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From: RABBI YISSOCHER FRAND [SMTP:ryfrand@torah.org]
"RavFrاند" List - RABBI FRAND ON PARSHAS CHUKAS(-Balak)
These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 289, Use of Unethical Medical Research. Good Shabbos!

The Parah Adumah and Comprehensibility: Never the Twain Shall Meet

Parshas Chukas contains the mitzvah of Parah Adumah -- the red heifer that is used in the process of purifying someone who is Tameh Mes [ritually impure as a result of contact with a dead body]. The Medrash comments on this Mitzvah, and says that the Parah Adumah symbolizes the Jewish people. This Medrash is obviously fertile ground for homiletics.

The Sefer Mikdash Mordechai offers two interpretations:

Rash"i says that the nations of the world mock the Jews and Judaism, based on the law of Parah Adumah, which is essentially

incomprehensible to people. It is no accident that specifically Parah Adumah is used to mock the Jews.

Chazal [the Rabbis] teach that before G-d gave the Torah to the Jewish people, He offered it to the nations of the world. Their responses were to ask "What is written therein?" In other words, they were not prepared to sign any blank check. The Jewish people, on the other hand, accepted the Torah unconditionally.

This is a fundamental difference between the Jewish nation and the other nations. The Jewish nation said "We will do and then listen" (Na'aseh and then Nishma), while the other nations said "We will first understand and only then do" (Nishma first, then Na'aseh).

If there is one mitzvah in the Torah which personifies the attitude of "We will do, and then subsequently try to understand", it is the Parah Adumah -- the ultimate 'chok' (law that seemingly makes no sense).

The Mikdash Mordechai's second interpretation of how the Parah Adumah symbolizes the Jewish people is as follows:

Shlomo HaMelech [King Solomon] commented regarding the Parah Adumah, "I thought I would be wise concerning it, but it is still distant from me" [Koheles 7:23]. The Medrash explains that this refers to the fact that Shlomo HaMelech understood the reason for every mitzvah in the Torah except for Parah Adumah.

The Mikdash Mordechai explains that just as the Parah Adumah eludes understanding, so too the Jewish people are beyond the grasp of understanding of the nations of the world. They do not understand: Why do the Jewish people still exist?

One of the biggest enigmas of world history is "Why are the Jews still around?" It does not make any sense. There were far mightier nations and far more populous nations that have ceased to exist. And yet the Jew somehow outlives them all. What is it about the Jews?

"The Parah Adumah", the Medrash commented, "this is Israel". Just like the Parah Adumah is an inexplicable phenomenon that no one can understand, so too the continued existence of the Jews is such an inexplicable phenomenon.

The following quote, from an unlikely source, says it well.

"The Egyptians, the Babylonians, and the Persians rose to build the planet with sound and splendor, then faded in to dream stuff and passed away. The Greeks and Romans followed and made a vast noise and they were gone. Other peoples have sprung up and held their torch high for a time, but it burnt out and they sit in twilight now or have vanished. The Jew saw them all, beat them all, and is now what he always was exhibiting no decadence, no infirmities of age, no weakening of his parts, no slowing of his energies, no dulling of his alert and aggressive mind. All things are mortal but the Jew. All forces pass, but he remains. What is the secret of his immortality?" [Mark Twain (1835-1910)]

This is what the Medrash means when it says that "Parah = Yisroel". Neither makes any sense. What is it with the Jew? What is the secret of his immortality? This is something that not only Mark Twain asked, but philosophers, historians and thinkers have asked throughout the ages.

What Was Lost By Failing To Speak To The Rock?

Parshas Chukas contains the sin of the Mei Merivah [Waters of Strife]. There is a wide disparity of opinion as to exactly what was Moshe's sin. This sin cost Moshe the privilege of entering Eretz Yisroel. According to many commentaries, the sin was that Moshe hit the rock rather than speaking to it.

The obvious problem with this explanation is that there does not seem to be much difference between bringing forth water from a rock by hitting it, or by speaking to it. Why was it so important to speak to the rock? There apparently was some specific lesson that the people were supposed to learn when Moshe spoke to the rock. What was that lesson?

Rav Moshe Feinstein, zt"l, suggests that the lesson is that sometimes in life it is necessary to speak to rocks. Sometimes we have to speak to people who seem unreceptive to what we have to say. Sometimes we

have to speak to a congregation or a community or a class and we feel that we are speaking -- if not to a rock, then at least -- to a wall. Rabbis have been doing this from time immemorial. This goes back to the days of the prophets. They speak, they speak, they speak and it is as if they are talking to a wall.

Even those people who do not have the opportunity to speak to a community or a congregation, may have the opportunity to speak to children. Sometimes talking to children can also feel like talking to a wall. The intended message was that it is necessary to speak to others, even if it seems like you are speaking to a rock. The Chofetz Chaim often said, "It is necessary to speak to the people, whether one thinks it helps or not. At least seeds are planted."

That is the nature of the business. Sometimes we speak to our children and we think that they are not listening, but we need to keep speaking. We need to keep the dialog open. The lesson of Mei Merivah was so important to the Jewish People because it taught that even when a person speaks to a rock -- there sometimes are results. This is a life-long lesson that we must always remember.

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From: Yated USA[SMTP:yated-usa@ttec.com]
PARSHA PERSPECTIVES Parshas Chukas- Substance Over Symbolism!

by RABBI MORDECHAI KAMENETZKY

Symbolism Over Substance

In one of the most difficult episodes in the Torah, this week, in Parshas Chukas, we read how Moshe loses his entitlement to enter Eretz Yisrael, the Land he so desired to inherit. Hashem commanded Moshe to "take his staff and speak to the rock," causing the rock to disgorge water, Moshe did not end up speaking to the rock. The nation was upset and impatient. When Moshe chose the wrong rock they chided him. He turned to them asking, "Listen you rebellious folk. Do you expect me to draw water from this rock?" (Bamidbar 20:10) Moshe immediately hit the rock instead of speaking to it and water flowed from it.

Hashem was angered by Moshe's actions. "Because you have not sanctified me in the eyes of the nation, you will not enter Eretz Yisrael" (Bamidbar 20:12). Rashi, quotes the Midrash: "Imagine," said the Ribbono Shel Olam, "if the Jewish nation would have seen that scenario. A rock, that does not talk nor hear and does not need sustenance, produces water by the request of the Almighty. Surely, they would have taken heart when Hashem speaks to them! The impact would have been far more reaching!" The nation just wanted water, they did not ask for miracles or rock-wells. It was Hashem who told Moshe to approach the rock. Moshe knew that the water would come. So why was Moshe's admonition given in the inquisitive form? It should rather have been decreed in the declarative mode! "Listen you rebellious folk! I am going to extract water from a rock!" Though many mefarshim explain the question as rhetorical, on the simple level, it appears that Moshe, himself, (Heaven-forbid) doubted his own authority. Of course, that is not the case.

Surely, the connection between the rock and the flowing of the water cannot be taken at face value. Anyone who has so much as opened any sefer realizes the great symbols of water as Torah and the rock as the dry and parched quest for ruchniyos. Hashem meant to send a message that even the driest stone can produce water. Why, then did Moshe not

expound directly on that lesson to the rebellious folk and tell them that even the driest amongst them could become a wellspring of Torah? Why did he not choose afterwards to at least explain the great lesson that even the driest Yid can produce Torah when prodded?

The concept of learning from inanimate objects is truly brought to light with this beautiful story about Reb Shraga Faivel Mendelovitz, zt"l the founder of Yeshiva Torah Voda'ath. Once, he stayed in Miami for Shabbos at the home of a former student. The man escorted the Rebbe home from synagogue, but when he opened the door the young man was shocked and embarrassed. His wife, exhausted from a week's worth of child rearing, and the responsibility of keeping a home, was sprawled on the couch. The Shabbos table was half-set, the dishes placed in a pile next to the kiddush cup and wine. In front of the head seat were two large challos-sitting uncovered. The minhag is to cover the challos when making kiddush. As the blessing over bread normally precedes that of wine it is a metaphorical embarrassment to the challah-thus, it is covered during kiddush. The student, who was embarrassed at the state of domestic affairs, called out to his wife in a somewhat demeaning manner. "Please, let us prepare the table in its entirety." Turning to his mentor, he exclaimed, "I'm sure that leaving the bread uncovered was an oversight! Everyone knows," he exclaimed shifting his self-inflicted embarrassment upon his wife, "that we must cover the challah before the kiddush." Rav Mendelovitz was annoyed at the man's self-righteous behavior and turned to him. "Over the years, I have heard many problems that people faced. Students, couples, and adults from all walks of life have entered my office to discuss their personal situations with me. Not once did a challah ever enter my office, suffering an inferiority complex because it was left uncovered during kiddush! Do you know why? Because we are not concerned with the challah! We are concerned with making ourselves cognizant of feelings. We worry about challass because the goal is to worry about people. How than can you embarrass your wife over not covering the challah when the act of covering is supposed to train you in sensitivity?"

Moshe understood the valuable lesson that Hashem wanted to teach His nation. But if all that was on their minds was water to drink and not the great lessons for eternity, he questioned his mission. "Listen you rebellious folk. Do you expect me to draw water from this rock?" he asked. Do you expect that the lessons of the great parable can be taught to those whose minds are only set on the parable itself? Perhaps that is why Moshe cast the great lessons aside and hit the rock, thus disobeying Hashem's initial command. Perhaps he felt that a nation that focuses solely on the flow of drinking water couldn't understand the wellsprings of its spirituality. Therefore, explaining the nimshal to an unresponsive nation, interested in complaints and quenching physical thirst, may have been in vain. In the corporeal world that Chazal call a "vestibule to the World To Come," we must realize that everything is a preparation for eternity. All of life's experiences can teach us how to grow and how to strive. But, like extracting water from a well, we must all dig a little deeper. When we are only worried about our stomachs, it is very difficult to nourish the heart.

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From: Ohr Somayach[SMTP:ohr@virtual.co.il] * TORAH WEEKLY *
Highlights of the Weekly Torah Portion Parshat Chukat

TOO RICH AND TOO THIN

"This is the decree of the Torah" (19:2)

Who would ever have thought that Judaism, or at least its more arcane teachings, would have become hip amongst the glitterati? And yet it's happened. Pop stars and other media darlings are all hot-footing it to be the latest adherents of Instant Kabbala. While one may suspect that this gross trivializing of the deepest secrets of the cosmos is no more

than another quick fix for an increasingly jaded generation, this "one-stop" spiritual shopping actually reveals a deep-seated longing. Modern man displays a curious dichotomy: On the one hand he has rejected religion. On the other hand you find "Korrespondence Kabbala" -- an enormous clamor for all kinds of spiritual exotica and esoteric wisdom.

Our Sages tell us that "the lover of money will not be satisfied by money." To re-mint an old saying: "You can never be too rich or too thin." Someone who has a million dollars doesn't want another million. He already has that and it didn't do the trick. What he wants is two million. Of course, the same goes for someone who has two million, four million, or a million million. A person is never satisfied with what he has. Most people die with not even half their desires fulfilled.

But there's another saying by our Sages which is a little more difficult to fathom. "The lover of Torah will not be satisfied by Torah." It's easy to understand why material craving leads to more material craving. The desire for possessions is really the desire to possess. The act of taking possession is the sweetness. The actual object of my desire itself ceases to give me the kick that I'm looking for once I own it. But why should the lover of Torah never be satisfied with Torah?

In this week's Torah reading, we learn about the mitzvah of the para aduma (red cow). The para aduma was the quintessential command whose function is hidden from the human mind. King Solomon, the wisest of people said: "I said I would be wise, but it [this commandment] is far from me." (Proverbs 7:23)

The paradox of the para aduma is that while it purifies from the spiritual miasma that results from contact with death, it itself taints those who prepare it. That is, it purifies the impure and taints the pure. This paradox is beyond normal understanding.

The root of all knowledge is another seeming paradox: To know that there is a Knowledge beyond knowledge, beyond the hollow skull of man. We live in a world that has been tainted by the concept that what is beyond our mind's grasp cannot exist. This is the basis of all atheism.

Those who reach for spirituality, albeit in a superficial way, reflect the axiom: "The one who loves Torah, will not be satisfied by Torah." A person is never satisfied with his spiritual level. He always wants to be closer to G-d. And the closer he becomes, the more he feels the distance that remains.

In the book of Job it says "Who can draw a pure thing out of an impure one? Is it not the One? (Job 14:4) Only He who is One can draw a pure generation out of an impure one.

However, the Torah does not yield her secrets to everyone. Someone who thinks that he can achieve a quick spiritual fix by a superficial embrace with mysticism will find, at best, disappointment. For G-d gave his most secret wishes in the form of a Divine kiss. And just like a kiss, it is bestowed only on those of the greatest intimacy.

Sources: * Talmud Avoda Zara 35a, Tosfot ibid. * Rabbi E. E. Dessler

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Parshat Chukat

Moshe and Aharon's Sin

Rosh Hayeshiva HARAV MORDECHAI GREENBERG, shlita

The story of Mei-Meriva is very unclear, and many explanations have been offered as to the exact nature of Moshe's sin. Rashi, for example, explains that Moshe was supposed to speak to the stone, but he hit it instead. There are a number of difficulties with this explanation.

1. Why was Moshe told to take the staff with him if he was not meant to use it?

2. G-d tells Moshe that he and Aharon are not being allowed to enter the Land of Israel, "because you have not had faith in Me ("lo he'emantem bi") to sanctify Me ... because you have trespassed against Me ("me' altem bi")." (Devarim 32:51) What sanctification was supposed to be brought about, and what trespassing was involved?

3. Is it possible to say that Moshe lacked faith?

4. Why was Aharon, who was completely passive, included in the sin and its punishment?

5. What is the connection between the sin and the resulting punishment not to enter the land of Israel?

The Netziv offers an alternate explanation which answers these questions. Sefer Bamidbar is the book which deals with the transition from the miraculous lifestyle of the wilderness to the natural lifestyle which was intended for the land of Israel. The event of Mei-Meriva takes place in the fortieth year, just as the people were about to enter the land, and through it G-d wanted to teach Israel how to lead their lives in the natural environment of Eretz Yisrael.

One of the fundamental aspects of G-d's dominion in Eretz Yisrael is His provision of sustenance and rain. The Torah emphasizes the importance of rain specifically in Eretz Yisrael, in contrast to the land of Egypt which was irrigated by the Nile:

The land that you are coming there to inherit it is not like the land of Egypt ... that you water with your feet ... But the land that you are crossing over to there to inherit it, ... you will drink water from the rain of the heavens ... If you listen to my commandments ... I will give the rain for your land in its time ... Be careful lest your hearts be tempted ... He will shut the heavens and there will not be rain. (Devarim 11:10-17)

The mishna (Ta'anit 15a) relates that when there would be a shortage of rain, the people would gather, and the leader of the community would say words of rebuke (or a halacha), and then they would begin their prayers and fasts. At Mei-Meriva, G-d wanted to teach Israel this method and to demonstrate to them the power of public prayer.

The midrash comments on the verse, "Speak to the stone" (Bamidbar 20:8), "Teach it one chapter [of laws], and it will give forth water from the stone." (Yalkut Shim'oni) In other words, Moshe was not told to speak to the stone and command it to give water, but rather to say words of Torah and prayer. This was in order to teach Israel that in Eretz Yisrael there is no need for the miraculous abilities of Moshe and his staff in order to make a living, but rather, in the merit of Torah and prayer one can earn a living through natural means. G-d did not instruct Moshe to use the staff and hit with it, but just to hold it in his hand while he talked and prayed. This was to emphasize that the era of the staff and daily supernatural miracles was over, and from now on the mode of Divine intervention would be through natural means.

Moshe did, indeed, speak and rebuke, but he did so in an angry manner, which caused him to forget the halacha that was supposed to lead and inspire them to prayer. This is what Hazal mean when they say about this event, "He became angry and made a mistake" (Sifrei Bamidbar 31:21) - that he was unable to properly express the halacha. He therefore hit with the staff, and once again acted through the means of a miracle. This is why the Torah calls this act one of "me'ila" (trespassing), since one who performs a miracle without G-d's desire for it trespasses and is punished. [The Gemara (Ta'anit 22) relates that Rava was rebuked by heaven for having caused a miraculous rain in the summer.] In this way, Aharon also sinned, since he too was included in the original command, "v'dibartem" (you (pl.) should speak), and he did not do so.

This explanation answers the other difficulties as well. Had Moshe and Aharon done as they were told, they would have strengthened the faith of the people, who would have seen that Israel is answered through Torah and prayer. This is why "lo he'emantem" is in the causative form;

their sin was not that they themselves lacked belief, but rather that they had lost an opportunity to promote belief in Israel. The sanctification that was supposed to ensue, "to Sanctify me," refers to prayer, which is done with sanctity in public, and they failed to do. Finally, the reason that they were not permitted to enter Eretz Yisrael, was because it became evident that Moshe and Aharon were unable to lead the people in the natural mode necessary in Eretz Yisrael, only through the miraculous mode of the staff.

This idea of the Netziv is encapsulated in a fascinating expression in the Zohar:

It says about the Torah, "My words are like fire, says G-d, and like a hammer that shatters a stone." (Yirmiyahu 23:29) This refers to the stone about which it was said, "Speak to the stone in front of them and it should provide its waters." (Bamidbar 20:8)

In other words, the lesson of Mei-Meriva is that Torah itself has the power to shatter the stone, and to provide water and sustenance.

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SHABBAT SHALOM: Congregation and community

By RABBI SHLOMO RISKIN

(July 6) "And Moses lifted up his hand, and smote the rock with his rod twice, and water came forth abundantly and the congregation drank, and their cattle. And God said unto Moses and Aaron: 'Because you believed not in Me, to sanctify Me in the eyes of the children of Israel, therefore you shall not bring this assembly into the land which I have given them.' " (Num. 20:11-12)

What exactly is the sin of Moses?

Various explanations have been given for Moses' punishment. According to Rashi, his sin was that instead of speaking to the rock, he struck it. According to Maimonides, Moses is punished because he is angry at the Israelites and speaks evil of them, calling them rebels. And as we've mentioned in the past, striking the rock may be a sublimated form of striking the people, hardly a strategy for an effective leader.

But what caused Moses to lash out at his charges? After all, this was the very Moses who was always the great defender of his nation, the Moses who asked the Almighty to blot out his name from the Bible but not to destroy the people of Israel, the faithful shepherd who even after the sin of the Golden Calf argued on Israel's behalf!

Undoubtedly he had become frustrated, tired, bitterly disappointed by a nation which chose the evil report of the scouts rather than the Divine Will taught by Caleb, Joshua, Moses and Aaron, broken and emotionally bankrupt by an ungrateful people who remained deafeningly silent even during Korah's rebellion.

But why couldn't he overcome this understandable vexation, rise above it and remain the patient and loving shepherd who had overcome every obstacle?

A direction towards understanding is provided by Rav Jacob Harlap (1883-1951), disciple of Rav A.Y.H. Kook, in his multi-volumed Mei Marom, wherein he distinguishes between two biblical descriptions of the Israelites which are usually taken for synonyms: kehal and edah, congregation and community.

A congregation consists of the many individuals who congregate together, the separate and disparate persons who make up a crowd; a community is guided by a specific purpose which serves to unite (com-unity), and connotes an historic continuity from generation to generation. Indeed, edah really means witness, and the continued survival of the nation of Israel despite exile and persecution offers eloquent testimony to the reality and truth of God; the historic community of Israel stands as the most persuasive witness to God's presence in the world and in history.

With this introduction, let us take a fresh look at our Torah reading.

Immediately following Miriam's death, the desert wells dry up and the Israelites assemble as a rabble (vayikahalu) in complaint against Moses and Aaron. In response, God addresses Moses: "Take the staff and you and Aaron assemble the community (hakhel et ha'edah). Speak to the rock in their presence and it will give forth its water. You will thus bring forth water from the cliff and allow the community (ha'edah) and their beasts to drink." (Num. 20:8)

Moses is therefore told by God to assemble the community (edah)! However, the text records that "Moses and Aaron assembled the congregation (vayakhelu haKahal) in front of the rock."

What a literal reading of the text is teaching us is that God wanted Moses to look at the motley crew of complainers and see that behind the facade of rabble were to be found witnesses of the Divine; Moses was supposed to appreciate the fact that standing before him were the children of Abraham, Isaac and Jacob, Sarah, Rebecca, Rachel and Leah and the parents of Ruth, David and the righteous Messiah. God expected Moses to see through the angry rabble and extract from deep within them the moments when they declared their willingness to be a kingdom of priests and that "the Lord shall be King for ever and ever."

But Moses, disappointed and disgruntled, could only see a bunch of kvetching individuals, a Datan and an Aviram who even refused to meet with him, a scout who frightened the masses into paralysis. And a leader who loses sight of the Community of Israel and can only see the congregation, who speaks to what is in front of him instead of to the great moments and the noble individuals who comprise historic Israel, will be unable to speak with love.

Such an individual cannot continue to lead the nation toward the fulfillment of its historical destiny.

Many years ago, I had the unique privilege of spending an unforgettable Sabbath with one of the great scholars of contemporary times, Rav Charles Chavel. I could not resist asking him how, despite the fact that he was a Rabbi of a Jewish congregation, he nevertheless found the time to be so productive in Jewish scholarship, producing special editions of and commentaries on Rashi and the Ramban, as well as responses to difficult Talmudic questions asked by R. Akiva Eiger.

"I always had small congregations," he told me, "small in number and sometimes even mean in spirit. And after a difficult board meeting with Mrs. Goldberg and Mr. Schwartz I yearned for the company of profound minds and deep perspectives. Who could be greater antidotes to petty concerns and small-minded and mean-spirited individuals than the Ramban and R. Akiva Eiger?"

Rav Chavel understood the secret; he had the capacity to look beyond the congregation and see the community. That's what every leader must aspire to do if he is to truly succeed!

Shabbat Shalom

RABBI JONATHAN SCHWARTZ From: Jonathan Schwartz[SMTP:jschwartz@ymail.yu.edu]
To: chaburah@hotmail.com
Subject: internet Chaburah - Parshas Chukas/Balak

Prologue: We live in the world of the coverup. When we do wrong, man's natural instinct is to hide himself and/or his misgiving. Adam Harishon's first instinct upon recognizing his sin in the great Gan Eden was to coverup. Can we, individually or collectively, be so different?

The funny thing is, the harder we try to cover up for our misgivings, the more obvious they appear. Bilaam refers to himself as the Gever Sisum HaAyin. Rashi, commenting on the verse notes that Bilaam was blind in one eye and, as such, was open in one eye. Onkelos, translates the same term, Sisum HaAyin as having a better ability to see. How can the two commentaries offer such diametrically opposing positions concerning the definition of the same words?

The story is told of a certain leader in the Nazi party who, as the

result of a battle injury, was fitted with a glass eye. The work on the eye was so realistic that someone looking at that eye could not tell which eye was real and which one was fake. Once, while leading a Jewish woman out to slaughter, he agreed to spare her life if she could detect which of his eyes was the glass one. Immediately, the woman guessed the glass one from the real one. When asked how she was able to tell, the woman told the Nazi that she looked for the eye that didn't show evil in it. That one had to be the cover up.

Similarly, Rabbi Dr. Sol Roth and Rabbi Lavi Greenspan have pointed out that the beauty of the term Sagee Nahor, (full of light) when used in connection to the blind person. It is not merely a euphemism. The blind person is often not able to be swayed by impurities of the eye and cannot be fooled with optical and other illusions in the same way that a person with sight can. Thus, HE is full of light, true light, the Ohr HaGanuz.

The Shai L'Torah explains that perhaps this is the commonality between Onkelos and Rashi's definitions of the concept of Sisum HaAyin. The one with the closed eye might be physically blind in that eye but is often granted with the true ability of seeing, the Koach HaNevuah that is able to be seen as sight beyond sight. This was Bilaam's claim: He had clarity especially given his condition being blind in one eye. There was no coverup from Bilaam.

Mah Tov Ohalecha Yaakov. At times, coverups are called for. They are the basis for modesty and Tznius in the nation of Yisroel. At other times, they are improperly utilized to pretend there was no wrong and deflect responsibility for one's actions. This week's Chaburah examines a coverup that is desired and perhaps required on Shabbos. It is entitled:

A COVER-UP THAT PREVENTS EMBARRASSMENT AND DESERVES RESPECT

The Michaber (Orach Chaim 271:9) notes that a cover must be on the Shabbos table under the Challos and another one above it. The Tur explains three reasons why this would be so. The first reason is so that the Challos aren't embarrassed by the fact that they are skipped over by Kiddush. The second reason offered concerns the fact that the covers are a Zecher of the Manna and the third is so that the meal is clearly considered a Shabbos meal (Yikara D'Shabbos).

The reasoning of the third explanation seems to be that something on the table (like Challos) do not have the status of Kavod Shabbos until after Kiddush when the Kiddush infuses the meal with Kedushas Shabbos (Hence Kiddush B'Makom Seuda potentially). The Mogen Avraham (20) notes that a potential Nafka mina between the first and third reasons for covering up the Challos would be when they can be uncovered. According to the first reason cited by the Tur, the Challos can be uncovered right after the Beracha of Borai Pri HaGofen but according to the third reason, there must be a completed Kiddush recitation before the food may be uncovered.

Now, Tosafos and the Rashbam (Pesachim 100b) quote this third reason and note a basis in the Sheiltos of Rav Achai Gaon (Yisro, 54). It appears that they hold this is the main reason for covering the Challos. In fact, the Gemara there discusses a L'Chatchila situation of not bringing the Challos to the table UNTIL AFTER the Kiddush and using a cover as a B'DIEVED. Tosafos qualifies this implication noting that in the time of the Gemara people ate on smaller tables and they could be transported easier. Today, a cover would be appropriate and will help us merit the Beracha of the Malach HaTov if we were to set our tables with the Challos.

The Vilna Gaon (Maaseh Rav 118) seems to disagree. He seems to indicate that during Kiddush there should be nothing on the table at all. This disagreement only takes place within the third reason cited by the Tur. According to the first two reasons, what difference does it make if the Challos are on the table and covered during Kiddush or off the table

and in the kitchen?

There appears to be another Nafka Mina between these reasons of the Tur. According to the first two reasons cited, one must only cover the Challos (either so they won't be embarrassed or as a Zecher to the Manna). However any other food on the table need not be covered. But, according to the third reason cited by the Tur, everything eaten at the Shabbos meal should be infused with kavod Shabbos. This can be done only if it is covered (at least) during Kiddush.

The Pri Megadim (Mishbitzos Zahav 17) maintains that only the Challos need to be covered. Hence, those who do not cover the other items on the table during Kiddush do have a leg to stand upon. The Mogen Avraham is cited as his proof and interestingly does not bring this example as a Nafka mina between the three reasons of the Tur. The Levush disagrees (271:4) and maintains that everything needs to be covered.

L'Halacha, it should be noted that this whole issue concerns the kiddush at night. However, Kiddush during the day already has Kedushas Shabbos of the night before and as such, other foods need not be covered (Horaas HaGaon Harav Tuvia Goldstein Shlita, HaEmek III, p. 292) at the day meal. The Challos would need covers due to the other two reasons brought by the Tur.

From: Jeffrey Gross[SMTP:jgross@torah.org] neustadt@torah.org
To: weekly-halacha@torah.org Subject: Parshas Chukas - Medications on Shabbos
MEDICATIONS ON SHABBOS
BY RABBI DANIEL NEUSTADT

One of several Rabbinical decrees that our Sages enacted in order to guard the sanctity of Shabbos concerns the use of medications. In the opinion and experience of the Rabbis, easy access to medicine may lead to the transgression of certain Shabbos Labors. While issuing the decree, however, the Rabbis were bound by the halachic principle of being as lenient as possible with those suffering pain or distress. Thus, they established guidelines for determining when it is permitted to take medication on Shabbos and when it is not. Towards the end of this discussion, we will list many common conditions which normally require medication and how they are dealt with on Shabbos.

EXPLANATION OF THE RABBINICAL PROHIBITION

To determine when one is allowed to take medicine on Shabbos for non life-threatening conditions, we must focus on two separate halachic considerations. First of all, we must ascertain that none of the thirty-nine Shabbos Labors is being transgressed in any way, either Biblical or Rabbinical. Obviously, we cannot prepare medication by either grinding raw material or mixing it; we cannot buy medication at a drug store; we cannot put on a light to see where medication was stored, and so on. In this regard - in determining that there is no transgression of the thirty-nine forbidden Shabbos Labors - there is no difference between this Shabbos prohibition and any other.

However, the prohibition against using medication on Shabbos is also governed by a Rabbinical decree against using medication on Shabbos even when no forbidden Shabbos Labor is performed. The Rabbis prohibited unrestricted use of medication on Shabbos for fear that it would lead to the violation of one of the thirty-nine Shabbos Labors. The Labor which concerned the Rabbis most was "grinding", since grinding some substance is a prerequisite for almost every medicinal preparation(1).

Once the Rabbis prohibited using medicine on Shabbos, they included in this prohibition any kind of treatment or procedure which could involve the use of medicine - even if medicine is not actually being used. The classic example in the Shulchan Aruch is the prohibition against the old-time remedy of sweating for medicinal purposes(2). Sweating can be induced in one of two ways: a) by taking certain medicines which are prepared by grinding, and b) by performing certain types of exercises. Even though exercise is totally unrelated to taking medicine and cannot possibly lead to "grinding", it is still forbidden to exercise on Shabbos(3) since one could also induce sweating by the first method - taking certain medicines which are prepared by grinding(4).

If, however, the goal of the treatment or procedure can only be achieved without the use of medicine, then it is permitted to avail oneself of that treatment or procedure. For example, it is permitted to press on a bump with a knife, since the goal, which is to reduce swelling, cannot be arrived at by taking medicine. Similarly, braces may be worn on Shabbos because there is no medicine for aligning teeth properly.

Included in the Rabbinical prohibition are only actions which heal a wound or alleviate pain. If the action merely serves to protect a wound from infection(5) or to shield a healed wound from being re-injured(6), it is allowed. It is permitted, therefore, to clean and bandage a wound or to pour hydrogen peroxide over it.

The Rabbinical prohibition includes medications only. Food and drink, however, are permitted even when they are being consumed for medicinal purposes. It is permitted, therefore, to drink tea for a sore throat, to eat almonds to relieve heartburn and to chew vitamins which serve as a food supplement(7).

QUESTION: Nowadays, when medicine is always prepared at a pharmacy, there is no longer any fear that using medicine will lead to "grinding". Why, then, is this Rabbinical

prohibition still in effect?

DISCUSSION: Although a minority of contemporary poskim are inclined to be lenient with medication on Shabbos nowadays because of the change in technique(8), the general consensus is to reject this argument. Some of the reasons offered are as follows: Generally, a Rabbinical decree, once enacted, is not repealed even when the reason behind it no longer applies(9). There are several homeopathic remedies, such as natural herbs and spices, which are still prepared at home and require grinding. In fact, these types of medications are gaining popularity. In underdeveloped countries, people have never stopped preparing medicines in their own homes. Some modern-day medication may lead to other Biblical Labors, such as "smoothing" or "kneading". In spite of the above, there are some poskim who feel that nowadays we can be somewhat more lenient when interpreting the Rabbinical decree. Although all the poskim agree that we may not do away with the Rabbinical decree altogether, we may, nevertheless, find some room for leniency in case of severe distress or pain (even if the pain is localized and does not require bed rest)(10).

QUESTION: Why did the Rabbis suspend the prohibition against taking medicine when one feels weak all over or bad enough to go to bed?

DISCUSSION: The Talmud rules that the Rabbis suspended many of their decrees for a person who can be classified as "ill", even if not dangerously so. Thus, for example, it is permitted to instruct a non-Jew to do anything which a patient may require on Shabbos, since instructing a non-Jew is a Rabbinical prohibition. Since taking medication on Shabbos is a Rabbinical prohibition, it is suspended when the patient can be classified as "ill". The poskim agree that when one has fever, feels weak all over or feels bad enough to require bed rest, he can be classified as a "patient not dangerously ill" and medications are permitted to be taken(11).

Since "requiring bed rest" and "weak all over" are subjective terms, it is up to each individual to determine his personal pain threshold. Consequently, one who feels that he must lie in bed for his condition, may take medication on Shabbos even though other people in the "same" condition would not go to bed. As stated earlier, there is no requirement to be overly stringent when judging the degree of illness(12).

In addition, healthy infants and babies till the age of three(13) (and according to some poskim even older children till the age of six(14) or nine(15)) are also halachically classified as "patients not dangerously ill", which means that the Rabbinical prohibition against taking medication is suspended. They are permitted to take all forms of medicine(16), provided that no Biblical prohibitions are transgressed.

LIST OF AILMENTS AND CONDITIONS Note: Our discussion is limited to adults who are in non-life threatening situations. When in doubt whether or not a situation is life-threatening, consult a rav and/or a doctor. abscess - may be squeezed to relieve pressure from pus, even if some blood is secreted in the process(17). allergies (mild) - medication may not be taken. angina - all medications are permitted. asthma - all oral and/or breathing medications may be taken(18). athlete's foot - all medications are prohibited. back or neck brace - may be put on or removed(19). bedridden(20) due to pain - all oral medications may be taken. bee sting - the stinger may be removed and the area may be washed with ice water, lemon juice or vinegar, etc. The area may not be soaked, however, in those liquids(21). bleeding (slow) - pressure may be applied to a cut to stop bleeding. Sucking or squeezing out blood is prohibited(22). broken bone - a non-Jew may be asked to do anything necessary, e.g., make a phone call, drive a car, take x-rays or put on a cast. [If a non-Jew is not available, some poskim permit a Jew to do these actions if they are done with a shinui, in an abnormal manner(23).] cold (running nose) - medication may not be taken. cough - medication may not be taken. If the cough may be an indication of pneumonia or asthma, medication is permitted. cuts and abrasions (minor wounds) - may be washed or soaked in water. Hydrogen peroxide may be poured over a cut. It is not permitted, however, to soak absorbent cotton or paper in such a solution and then wash the wound with it. The wound may be covered with a non-medicated band-aid(24). diabetes - all oral medications may be taken. dried (or cracked) lips - it is prohibited to apply chapstick or any other medication, liquid or otherwise. dried (or chapped) hands - It is prohibited to rub them with either oil, ointment (Vaseline) or lotion. One who regularly uses a pourable, liquid lotion or oil on his hands (whether they are chapped or not) may do so on Shabbos, too, even if his hands are chapped(25). ear infection - all medications are permitted. Cotton balls may be inserted(26). Even if the infection is no longer present, the prescription begun during the week must be continued until finished in order to avoid a relapse. eye inflammation - eye drops (or ointment) may be instilled in the eye. If the eye is not inflamed but merely irritated, no medication is permitted(27). fever - all oral medications may be taken. A conventional thermometer may be used(28). If a person is suffering from high-grade fever, a non-Jew may be asked to do whatever the patient needs in order to feel better(29). If the cause of the fever is unknown, a doctor should be consulted. headache - medication may not be taken. If the headache is severe enough so that one feels weak all over or is forced to go to bed, medication may be taken. One who is unsure if he has reached that stage of illness may be lenient and take pain relieving medication(30). heartburn - Foods which will have a soothing effect may be eaten. Some poskim permit taking anti-acid medication while others are more hesitant. In a severe case, one may be lenient(31). insect repellent - liquid or spray repellents may be used(32). migraine headache - all oral medications may be taken. nosebleed - the bleeding may be stopped with a tissue or a napkin. If none is available, a cloth napkin may be used(33). retainer - may be inserted and removed(34). rheumatism - It is prohibited to bathe in therapeutic hot springs(35). scab - it is permitted to remove a scab as long as blood is not drawn from the wound(36). sore throat - medication may not be taken. Gargling is prohibited(37). Drinking tea or any other hot drink, or sucking a candy, is permitted even if the intention is for medicinal purposes(38). See also 'strep throat'. sleep disorder - There are conflicting views among contemporary poskim whether it is permitted to take sleeping pills or no-doze pills(39). One who is weak all over or is bedridden may take these pills. Cotton balls may be used as ear plugs. It is questionable if it is permitted to use pliable ear plugs, which are made from a wax-like material that must be spread in the cavity of the ear(40). sprains - If the patient is not experiencing severe pain, nothing may be

done. If the patient is experiencing severe pain, medication may be taken and a massage may be given. A makeshift splint may be applied, provided that no Shabbos Labors are transgressed. splinter under the skin(41) - may be extracted with the fingers, or with tweezers or a needle. If, unavoidably, a little blood is secreted in the process, it is of no consequence(42). stitches - a non-Jew is allowed to stitch any wound(43), even if the stitching is done only for cosmetic reasons(44). stomach cramps - Unless one is in severe pain or weak all over, it is prohibited to take a laxative or castor oil. Prune juice or any other food or drink is permitted. A hot water bottle is permitted when one experiences strong pains(45). strep throat - all oral medications may be taken. Even if the infection is no longer present, the prescription begun during the week must be continued until finished in order to avoid a relapse. sunburn (ordinary) - medications are not permitted. sweating - it is permitted to sprinkle baby powder on those parts of the body which are perspiring(46). swelling - It is permitted to press a knife, etc. against the skin to prevent or minimize swelling(47). It is permitted to wash or soak the swollen area in water(48). It is permitted to place a compress, ice (placed in plastic bag) or any frozen item over a swollen area(50). toothache - a slight toothache may not be treated with painkillers, but one is permitted to drink whiskey, etc., provided that it is swallowed immediately(51). A severe toothache (to the point where one feels weak all over) or gum infection may be treated with oral medication. If the tooth needs to be extracted, a non-Jew may be asked to do so(52). weak all over - all oral medications are permitted to be taken.

General Notes: It is commonly accepted among the majority of poskim that the Rabbinical restriction against taking medications on Shabbos applies to Yom Tov as well(53). The poskim agree, however, that on the second day of Yom Tov(54) and on Chol ha-Moed(55) it is permitted to swallow any medication, even for the most minor of ailments. No shinui is required. On Shabbos, a pill may be split in half(56) (even on a dotted line(57)) ground into small pieces(58) or dissolved in a cup of liquid(59). Sometimes (as described above) a medication may not be taken on Shabbos, but not taking it could lead to aggravating a condition to the point where the medication would become necessary and permitted. In such a case, one is allowed to take the medication in order to avoid this eventuality. For example, one who has a headache which, if untreated, tends to escalate to a migraine, may take medication before the migraine sets in(60). One who suffers from two conditions - one for which he may take medication on Shabbos and another for which he may not - may take medication only for the former(61). When ointment is permitted to be applied on Shabbos, it is forbidden to first smear the ointment on a gauze square. Rather, before Shabbos a gauze square with ointment on it should be prepared and then placed on the skin on Shabbos(62). If this was not done, the ointment may be squeezed directly from the tube on to the wound and a bandage placed over it. Whatever shinui can be made should be employed, so as to serve as a reminder not to inadvertently spread ointment on the skin ("smoothing"), which is prohibited(63). [If this is impractical, there is a minority view that permits smearing ointment directly on the body provided that all of the ointment is absorbed into the skin and nothing remains on the surface. One should only rely on this leniency under extenuating circumstances.]

FOOTNOTES:

1 Mishnah Berurah 327:1. 2 O.C. 328:42. 3 When the purpose of the exercise is to work up a sweat, see Beir Halachah, ibid. If the purpose of the exercise is to work up an appetite, it is questionable; see Sha'ar ha-Tziyun 301:9. If the purpose of the exercise is to lose weight, it is prohibited, since weight loss can be (partly) accomplished by taking pills. If the exercise is for pure enjoyment, it may be permitted according to the basic halachah. A rav should be consulted. 4 Mishnah Berurah 328:130. 5 O.C. 328:23 as explained by Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 35, note 17). See Tzitz Eliezer 11:37 who permits drinking certain oils (like castor oil) to aid in the elimination process. 6 O.C. 328:27. See Igros Moshe O.C. 3:54. 7 Note, however, that the purpose of many vitamins is not to serve as a food supplement but rather to strengthen a weak body or to relieve certain symptoms. In the opinion of many poskim, those vitamins may not be taken on Shabbos, see Igros Moshe O.C. 3:54 and Shemiras Shabbos K'hilchasah 34, note 85, quoting Harav S.Z. Auerbach. See, however, Tzitz Eliezer 14:50 who takes a more lenient approach concerning vitamins on Shabbos. 8 The complex preparation entailed in manufacturing modern medicine is another reason for leniency, since it may be argued that the Rabbis were fearful that "simple" and quick Labors such as grinding would be transgressed; they did not fear that someone would engage in the lengthy and involved processing required today. 9 See Igros Moshe O.C. 2:100 for a general explanation of this rule. 10 See Minchas Shabbos 91:9; Ketzos ha-Shulchan 134:7; Chelkas Yaakov 4:41; and Tzitz Eliezer 8:15-15. See also Minchas Yitzchak 3:35 who permits taking aspirin for a headache when one is in severe distress. 11 Entire paragraph based on O.C. 328:17 and 37 and Mishnah Berurah, ibid. [Note that although Shulchan Aruch rules that a shinui is required for Rabbinical prohibitions to be suspended, the general consensus of the poskim is that this restriction is waived when taking oral medication. When using other medications, however (such as ointment) it is proper to employ a shinui, see Mishnah Berurah 328:85 and 130.] 12 See Tzitz Eliezer 14:50-7 and 17:13. 13 Chazon Ish O.C. 59:4. Harav S.Z. Auerbach in Nishmas Avraham 328:54, and Harav Y.S. Elyashiv in Eis la-Ledes, pg. 57, quote the age of 2-3. 14 Tzitz Eliezer 8:15-12. 15 Minchas Yitzchak 1:78. In the final analysis, it all depends on the strength and maturity of the child. 16 Rama O.C. 328:17. Note, however, that not all of a baby's needs are exempted from the prohibition against medication, see, for instance, Mishnah Berurah 328:131 and 330:36. See Tehillah l'David 328:24 who deals with this difficulty. 17 O.C. 328:28 and Mishnah Berurah 89. 18 See The Journal of Halacha and Contemporary Society # 6, pg. 47 for a full discussion of how to treat asthma on Shabbos. 19 Based on ruling of Harav S.Z. Auerbach in Tikunim u'Miluim 34, note 111. 20 Even if he is capable of getting out of bed and walking around, but presently he is in bed due to his pain, he is considered as bedridden; Aruch ha-Shulchan 328:19. 21 See Mishnah Berurah 328:141,142. Obviously, one who is allergic to a bee sting must do everything necessary to avert danger. 22 Mishnah Berurah 328:147. 23 This is the view of Shulchan Aruch Harav 328:19 and Eglei Tal (Tochen 18). Some poskim (Harav S.Z. Auerbach, quoted in Shemiras Shabbos K'hilchasah 33, note *17) rule that one may rely on this view, especially when there is "danger to a limb". Note, however, that Mishnah Berurah and Aruch ha-Shulchan and the majority of the poskim do not agree with this leniency. 24 Some poskim (oral ruling by Harav M. Feinstein; Harav S.Z. Auerbach in Tikunim u'Miluim, pg. 58; Harav C.P. Scheinberg, quoted in Children in Halachah, pg. 88; Az Nidberu 7:34,35) permit removing the protective tabs from a band-aid, while other poskim (Minchas Yitzchak 5:39-2; Harav Y.S. Elyashiv, quoted in Machazeh Eliyahu 70) are stringent. It is proper to prepare band-aids for Shabbos use by peeling off their protective tabs and re-sealing them before Shabbos. Once they have been prepared in this fashion, they may be used on Shabbos (Tzitz Eliezer 16:6-5). 25 Based on O.C. 327:1. 26 It is prohibited to tear cotton balling on Shabbos; Shemiras Shabbos K'hilchasah 35:19 and Tikunim u'Miluim; Minchas Yitzchak 4:45. 27 O.C. 328:20. See also Eglei Tal (Tochen 17). 28 O.C. 306:7. Before using it, the mercury may be shaken down. 29 Mishnah Berurah 328:46, 47. 30 See Ketzos ha-Shulchan 138, pg. 100; Minchas Yitzchak 3:35; Be'er Moshe 1:33; 2:32. 31 See Ketzos ha-Shulchan 138, pg. 98; Tzitz Eliezer 8:15 (15-21); Az Nidberu 1:31; Shemiras Shabbos K'hilchasah 34:4. 32 Shemiras Shabbos K'hilchasah 14:31; Shalmei Yehudah, pg. 179. 33 Mishnah Berurah 328:146. 34 Harav S.Z. Auerbach, quoted in Shemiras Shabbos K'hilchasah 34:29. See Tikunim u'Miluim for the reason that it is not considered mesaken. 35 Mishnah

Berurah 328:137. 36 O.C. 328:22 and Mishnah Berurah 90. 37 O.C. 328:32. 38 O.C. 328:37. 39 See Minchas Yitzchak 3:21, Tzitz Eliezer 9:17, Be'er Moshe 1:33 and Shalmei Yehudah, pg. 176 for the various views. 40 Harav S.Z. Auerbach (Tikunim u'Miluim 14:39) permits their usage while Harav Y.S. Elyashiv (Shalmei Yehudah, pg. 179) and Az Nidberu 3:21 do not. 41 If the thorn or splinter is under a fingernail, it may be considered dangerous. 42 Mishnah Berurah 328:88 and Sha'ar ha-Tziyun 63. 43 See Nishmas Avrohom, vol. 4, O.C. 340 who quotes Harav S.Z. Auerbach and Harav S. Y. Elyashiv as ruling that stitching a wound may be a Biblically prohibited activity. Accordingly, only a non-Jew may do it, unless it is a life threatening situation. 44 Ibid. See also Shemiras Shabbos K'hilchasah 33, note 23 and 35, note 62. 45 Mishnah Berurah 326:19. The same halachos apply to one who suffers from diarrhea. 46 Shemiras Shabbos K'hilchasah 34:12. 47 Mishnah Berurah 328:124. 48 Tzitz Eliezer 8:15 (15-12). 49 In order to avoid several possible prohibitions, only paper towels or napkins should be used and care should be taken not to squeeze them 50 Harav S.Z. Auerbach (Tikunim u'Miluim 34, note 87); Be'er Moshe 1:33-18. 51 O.C. 328:32. It may not be retained in the mouth longer than usual, nor may one rinse his mouth with it and then spit it out. 52 Rama O.C. 328:3. See Tzitz Eliezer 9:17 (2-11). 53 Mishnah Berurah 532:5. There is a minority opinion that permits taking medications on Yom Tov, see Tzitz Eliezer 8:15 (16) who quotes this opinion and rules that when in distress one may rely on this view. 54 Mishnah Berurah 496:5. 55 O.C. 532:2. 56 Harav S.Z. Auerbach, quoted in Shemiras Shabbos K'hilchasah 33:4. 57 Harav S.Z. Auerbach, quoted in Nishmas Avraham, vol. 5, pg. 225. 58 Rama O.C. 321:12. 59 See Mishnah Berurah 320:34,35. 60 Shemiras Shabbos K'hilchasah 34:16. 61 Igros Moshe O.C. 3:53. 62 Shemiras Shabbos K'hilchasah 33:14. 63 Chazon Ish O.C. 52:16.

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RABBI MORDECHAI KORNFELD From kornfeld@netvision.net.il To: daf-insights Subject: Insights to the Daf: Kesuvos

INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim daf@dafyomi.co.il, http://www.dafyomi.co.il

Kesuvos 103 AGADAH: REBBI'S POSTHUMOUS PRACTICE QUESTIONS: The Gemara relates the account of the death of Rabbi. Before he died, Rabbi told his family that after his death they should light a candle at his place, set his table, and make the bed, as was done during his lifetime. Indeed, after he died, Rabbi returned every Friday evening to his home. According to the Midrash cited by Rabbi Akiva Eiger, Rabbi even recited Kidush for his family. This occurred every Shabbos until one Shabbos night, when a neighbor came to the door and called out, and the maidservant of Rabbi's family told her to be quiet because Rabbi was present. Rabbi did not return afterwards, saying that since has become known that he has been coming back, he does not want to embarrass all of the other Tzadikim who had died but who did not have miraculous returns to their families.

A number of points in this story beg explanation.

First, why did Rabbi return only on Friday evenings?

Second, if Rabbi had died, how could he recite Kidush on behalf of his family? A dead person is exempt from Mitzvos! (REBBI AKIVA EIGER quoting SEFER CHASIDIM)

Third, the Gemara in Shabbos (152b) tells us that even the great Tzadikim do not have permission to leave their graves once they are buried, until Hashem takes everyone out of their graves together at the time of Techiyas ha'Mesim, like the verse says (Yechezkel 37:12). How, then, could Rabbi leave his grave to return home each week?

Fourth, why is Rabbi the only one of all of the Chachamim in history who merited to have such a miraculous experience? Even the holy Avos did not experience such a miracle (see Ta'anis 5a)!

Finally, what are the Chachamim trying to teach us with this cryptic Gemara?

ANSWER: To answer these questions, we must understand what was unique about Rabbi's service of Hashem. The Mishnah at end of Sotah says that when Rabbi died, "Batlah Anavah v'Yir'as Hashem" -- "humility and the fear of Hashem ceased." No Anavah and Yir'as Hashem could compare to Rabbi's.

The Gemara in Shabbos (152b) relates an incident of an Amora, Rav Achai bar Yoshiyah, who spoke with Rav Nachman from his grave, because his Neshamah was still with his body and he was able to communicate after his burial. When Rav Nachman asked him why he did not turn to dust after being buried, Rav Achai answered that the verse says, "It is jealousy that causes bones to rot" (Mishlei 14:30), and thus the body of a Tzadik who had no jealousy in his heart in his lifetime does not decompose.

According to this, it is clear that the more Anavah a person has, the less jealousy of others he has in his heart. It is only arrogance that causes a person to be jealous and covet the lot of another person. Since Rabbi was the epitome of Anavah, he had no jealousy at all and thus his bones did not rot. His body remained intact and that is how he was able to return home.

Why, though, was Rabbi granted permission to leave his grave? Rav Achai bar Yoshiyah did not have permission to leave his grave because, as he explained, Tzadikim may not leave their graves until the time of Techiyas ha'Mesim. How, then, did Rabbi leave his grave and come home each week?

The answer apparently is that Rabbi did not leave the grave in order to come back and stay among the living. He only left on Shabbos night, for the specific purpose of being with his family at the time of Kidush, and then he returned to his grave. The verse only teaches that Tzadikim have no right to "rise" from the grave, which means to dwell among the living, and Rabbi's practice of returning home each week for a short period of time was not considered "rising" from the grave.

Since his body still contained his Neshamah even after death, he was able to be obligated to do Mitzvos and to exempt others. The rest of the time, other than Shabbos night, he could not do Mitzvos (and thus was exempt because of "Ones"), because he was in the grave. On Shabbos night, when he left the grave, he was able to recite Kidush for his family.

Why was Rabbi given permission to leave the grave only for this particular Mitzvah? And why was no one else given permission to leave the grave for any Mitzvah?

The Gemara (104a) tells us that Rabbi, before he died, lifted his ten fingers towards the heavens and declared, "Ribono Shel Olam! You know... that I did not derive any pleasure from this world, even with the smallest one of my fingers! Ma y I have peace in my eternal rest!"

Rebbi's declaration was obviously related to his trait of Anavah and total lack of any trace of arrogance. The more modest a person is, the more spiritually-attuned he is and the less he desires to benefit from this world, lest doing so cause him to be arrogant, as the Gemara says in Berachos (32a) that the more a person fills himself with the pleasures of this world, the more arrogant he becomes. The Gemara in Shabbos (118b) explains that Rebbi was called "Rabeinu ha'Kadosh" because he never put his hand below his belt; this was a preventative measure intended to prevent him from having any sensation of worldly pleasure that might lead to Aveirah. The term "Kadosh" describes this character trait, as we find that the Gemara says in Yevamos (20a) that Kedushah refers to guarding oneself from any Isur of Ervah, and to refraining from worldly pleasures even when such pleasures are permitted.

The CHIDA (in Pesach Einayim) quotes RAV BER (from Mezritch) who explains that Rebbi's declaration (104a) that he did not have any worldly pleasure, even from his smallest finger, alludes to this attribute of Kedushah of guarding oneself from Arayos and to refraining from worldly pleasures, as the Gemara in Shabbos (118b) describes Rebbi's cautiousness. (This is because the word "Etzba," finger, is used as a euphemism to refer to the Ever ha'Tashmish (see Pesachim 112b and Nidah 66a). The VILNA GA'ON alludes to this as well (OC 231:1).

How, though, could Rebbi attest that he never benefited from this world? It is certainly not possible that he did not eat or drink at all! TOSFOS (Avodah Zarah 11a, DH Tzenon) points out that the Gemara says that Rebbi's table was always laden with the finest of delicacies. How, then, can Rebbi say that he derived no pleasure from this world?

The Vilna Ga'on there (OC 231:1) points out that the Shulchan Aruch says that even when a person is hungry or thirsty, he should not eat or drink to fulfill his cravings, but he should have intention to eat in order to make himself strong in order to serve Hashem. The same applies to all other physical activities that a person does, such as sleeping. The Vilna Ga'on explains that Rebbi was not saying that he did not partake of any physical activity, but rather, he was saying that everything that he did do in this world was all done solely I'Shem Shamayim. Even eating delicacies can be done I'Shem Shamayim, such as when eating fine foods at the Shabbos meal for the sake of Oneg Shabbos, in order to give honor to Hashem and to His Shabbos. When Rebbi ate his meals on Shabbos, he certainly did so I'Shem Shamayim.

That explains how Rebbi returned home every Shabbos night. Since he performed the Mitzvah of Oneg Shabbos with such pure intentions, completely I'Shem Shamayim, when he ate while he was alive was akin to eating while he was not alive, in the sense that he did not experience any physical pleasure at all. Hence, he merited to come back after his death.

The time of greatest Oneg on Shabbos is at the nighttime meal, because eating prior to that time is prohibited, and people are especially hungry. Moreover, eating the nighttime meal with a lit candle adds to the pleasure (Yoma 74b). That might be why Rebbi said specifically to keep a candle burning for him, the table set, and the bed made for him, for these are the preparations for the primary forms of Oneg on Shabbos ("Mitah Tutza'as" either means a place to sit at the Shabbos table, or it means literally his bed upon which to sleep, as Rebbi's fulfillment of "Onah Shel Talmidei Chachamim... m'Erev Shabbos l'Erev Shabbos" (Kesuvos 62b) was done with such Kedushah that it was as if he was not doing it in the physical world).

When Rebbi said that he would not be coming back again in order not to embarrass the other Tzadikim, he meant that he did not want people to think that the other Tzadikim had some minute intention of obtaining pleasure in their eating and Tashmish and other forms of Oneg Shabbos (as the Gemara says in Nazir 23b).

Based on this explanation of the Gemara, we can better understand the message that the Gemara is teaching us. Even if Rebbi did not literally return from the grave to his home on Shabbos, the Gemara might be saying that Rebbi's family members -- who saw Rebbi experience such tremendous Kedushah on Shabbos night -- were so strongly affected by his practice during his lifetime that whenever they ate with him on Shabbos night, for them, too, it became a non-physical experience. Rebbi asked his family to continue that experience even after his death -- to light his candle and set his table so that they remember to conduct the meal the same way that he had conducted it. Indeed, their experience continued even after Rebbi had died, and they continued to eat and have Oneg Shabbos completely I'Shem Shamayim. It was as if Rebbi had come back from the grave to lead the meal for them.

One night, though, a neighbor came to the door, and the family saw the grossly physical lust for food on the face of the neighbor, and they were henceforth no longer able to relate to the Shabbos meal as they did in the past. From that time onward, "Rebbi stopped coming" to their Shabbos meal. They were not able to continue their holy practice, because once word became known to others of their holy practice, they did not have Divine assistance to continue it, lest other Tzadikim who had not reached that level become embarrassed. Moreover, because the maidservant of Rebbi's family had a minute amount of arrogance in telling the neighbor not to bother them because they were experiencing Oneg Shabbos I'Shem Shamayim, they no longer merited to have that experience.

103b KILLING ONESELF QUESTION: The Gemara relates that a certain "Koves" (washer), upon hearing news of the death of Rebbi, ascended to the roof and fell to his death. A Bas Kol announced that this Koves merited life in Olam ha'Ba ("Mezuman Hu l'Chayei ha'Olam ha'Ba").

How could he be "Mezuman l'Chayei ha'Olam ha'Ba" if he killed himself? We know that killing oneself is a very severe transgression, for which one is "Chayav b'Nafsho!"

ANSWERS:

(a) RAV YAKOV EMDEN explains that the death of Rebbi was so traumatic to this simple Jew that he went out of his mind. He did not consciously choose, with his working faculties, to throw himself off of the roof, and indeed he only "fell," and thus he is not held accountable for his death, but he is credited with being of such greatness that the death of the Torah sage caused him such tremendous anguish.

(b) TOSFOS quoted by the SHITAH MEKUBETZES says that we find that it is permitted

for a person to kill himself in order to do Teshuvah for an Aveirah for which one is Chayav Misah. The Gemara says that the sun delayed its setting on the day of Rebbi's death in order to delay the onset of Shabbos and give time for his burial. The people were afraid that they had desecrated Shabbos by doing Melachah after the time that the sun should have set, and the Bas Kol announced to them that since they were involved in the burial of the Tzadik, they were not Chayav, but rather they are "Mezumanim l'Chayei ha'Olam ha'Ba." The simple Koves, though, who was not there at the burial, continued working even after the time that Shabbos was supposed to enter. When he realized that he had worked on Shabbos, he was worried that he had desecrated Shabbos. He was afraid that he was Chayav Sekilah, the punishment for Chilul Shabbos. The Gemara (Kesuvos 30b) says that even when the Beis Din can no longer administer capital punishment, one who is Chayav Sekilah will "fall from a roof" since that resembles the death of Sekilah. Therefore, in order to do Teshuvah, he jumped from the roof. The Bas Kol came forth and declared that he, too, is "Mezuman l'Chayei ha'Olam ha'Ba," for his Teshuvah was accepted.

103b PERMITTING A KOHEN TO BECOME "TAMEI" QUESTION: The Gemara says that the day on which Rebbi died, "holiness ceased" ("Batlah Kedushah"). The RAN and the RAMBAN have a different text of the Gemara which says that "Kehunah ceased" ("Batlah Kehunah") on that day, implying that even the Kohanim were required to be Metamei themselves by taking part in the funeral of Rebbi.

We know that a Kohen is prohibited to Metamei himself for anyone other than his immediate relatives and for a Mes Mitzvah (one who has no one else to bury him). How, then, were the Kohanim permitted to be Metamei themselves and take part in Rebbi's burial?

ANSWERS: (a) TOSFOS writes that RABEINU CHAIM KOHEN wanted to permit himself to take part in the burial of Rabeinu Tam, based on this Gemara. Tosfos disagrees with him and writes that a Kohen may not come into contact with Tum'ah d'Oraisa in such a situation. The Gemara was only permitting Kohanim to be Metamei themselves with a Tum'ah d'Rabanan for the honor of Rebbi.

(b) The RAMBAM writes that when a Nasi, a leader of the Jewish people, dies, everyone must take part in his funeral, even Kohanim, since he is considered to be a Mes Mitzvah in respect to everyone, since everyone is required to honor him. (See also RAN on the Rif, and the RAMBAN in Toras ha'Adam (p. 131 of Hotza'as Rav Kook).)

This can be explained by the fact the Torah permits a Kohen to bury a Mes Mitzvah because of Kavod ha'Mes, the honor that is due to a deceased person. When a normal person dies, there is only a lack of respect (a disgrace to the deceased) when he goes without being buried. Consequently, a Kohen is permitted to be Metamei himself only if there is no one else to bury the deceased. In contrast, when a Nasi -- whom everyone in the nation is required to respect -- dies, there is a lack of Kavod ha'Mes if there is a single person who does not take part in his burial. Therefore, Kohanim are also required to take part in his burial. (See OR SAME'ACH, Hilchos Avel 3:8.)

The SHULCHAN ARUCH (YD 374) accepts the Rambam's explanation.

"GREAT ARE THE DEEDS OF CHIYA" QUESTION: The Gemara describes how Rebbi Chiya planted flax seeds, harvested the flax, and manufactured nets from the flax with which he caught gazelle, the meat of which he fed to poor orphans, and the hide of which he used to make parchment upon which he wrote books of Mishnah and of Chumash in order to give to children to teach them Torah.

Why did Rebbi Chiya go through all of this trouble, when he could have simply bought a finished book of Mishnah or Chumash?

ANSWER: The MAHARSHA (Bava Metzia 85b) explains that Rebbi Chiya wanted the Torah that was being taught to the children to be free of any admixture that was not I'Shem Shamayim. Had he bought the books, those books would have had an element in them that was not I'Shem Shamayim, since the seller manufactured them in order to sell and make money. Rebbi Chiya wanted every element of the Torah that the children were learning to be totally I'Shem Shamayim.

The SEFORNO (Shemos 38:21) further develops this theme. He explains that the reason the Shechinah dwelled upon the Mishkan in the Midbar, and why the Mishkan was never captured by enemies, was because the ones who made it were the Tzadikim of the generation (such as Betzalel), who built the Mishkan in complete holiness and totally I'Shem Shamayim. He says that because of that, the Mishkan was eternal and could not be taken by enemies. In contrast, the Beis ha'Mikdash of Shlomo ha'Melech was built by Nochi workers, and it eventually wore out until it had to be continually restrengthened, and in the end it was captured by the enemy. Nevertheless, since Shlomo ha'Melech at least was behind the building, it merited to have the Shechinah dwell upon it. In contrast, the second Beis ha'Mikdash was not only built by Nochi workers, but the impetus behind the building was the king Koresh, and therefore it did not even have the Shechinah dwelling upon it.

Rav Chiya wanted the Shechinah to rest upon his work, and he wanted his work to have a lasting effect, and therefore he made sure that the entire production process was done solely I'Shem Shamayim. (See also RAV YAKOV KAMINETZKY in EMES L'YAKOV, Parshas Toldos and Pekudei.)

From: Mordecai Kornfeld [SMTP: kornfeld@netvision.net.il] Subject: Insights to the Daf: Kesuvos 94-95 *Ask your question on the Daf to the Kollel! (daf@dafyomi.co.il)* Send donations to: D.A.F., 140-32 69th Avenue, Flushing NY 11367, USA

Kesuvos 94 "SHUDA" VERSUS "CHALUKAH" OPINIONS: The Gemara discusses a case where two people are each holding a Shtar Mechirah (deed of sale) for the purchase of the same field from the same person. Both Shtaros were written on the same day, and each person holding a Shtar claims that he is the recipient of the field. Obviously, though, the field was only sold to one of them. Rav and Shmuel dispute how Beis Din is to resolve the conflict. Rav says "Cholkin" -- Beis Din is to split it up ("Cholkin") the property among the two claimants. Shmuel says that "Shuda d'Yayani" is preferable -- the judges decide to whom to give the entire field.

The Gemara concludes that the reason why Rav says that the field is divided is because he holds like Rabbi Meir, who says that "Edei Chasimah Kartei," the witnesses who sign the Shtar make the Shtar take effect. Shmuel holds that the field is given to whomever the judges decide because he holds like Rabbi Elazar, who says that "Edei Mesirah Kartei," the witnesses in front of whom the Shtar is delivered to the recipient make the Shtar take effect.

Shmuel's opinion is easy to understand. Since Shmuel holds "Edei Mesirah Kartei," only the Shtar which was delivered first to its recipient was a valid Shtar. When the second Shtar was given afterward to someone else, it was not a valid sale because the property no longer belonged to the original owner; it was no longer his to sell. However, it is not known which Shtar was given first, and there is no way to know from the text in the Shtaros themselves which of the two was given first. Since neither party can prove on his own which Shtar was given first, the judges must decide the case on their own. Their options are either to split the property between the two claimants out of doubt, or to choose one of the two claimants and give the entire field to him.

(The Rishonim disagree about how the judges "choose" ("Shuda") one of the claimants to give him the entire field. Rashi explains that "Shuda d'Dayanei" means that the judges choose to whom to give the property in question by trying to determine, based on logical considerations, to whom the seller would have preferred to give the field. Tosfos (85b, DH Shuda, and 94b, DH Leima) argues with Rashi and says that "Shuda d'Dayanei" means that the judges give the field to whomever they please. They need not base their decision on whom they think the seller preferred, but rather they base their decision on whatever considerations they deem appropriate, such as which of the two claimants needs the property more, or which one is a Talmid Chacham.)

The Gemara holds, at this point, that in general it is preferable to resolve the case with "Shuda d'Dayanei" rather than to split the property, because by using "Shuda d'Dayanei" there is at least a possibility that the correct person will receive the entire field. Therefore, according to Shmuel, the judges give the entire field to one of the two claimants.

What, though, is the reasoning behind Rav's opinion, that the property is to be split because of "Edei Chasimah Kartei"? "Edei Chasimah Kartei" means that the primary testimony on a Shtar that effects the legal transfer of property are the witnesses signed on the Shtar. A Shtar that attests to the transfer of property but contains no signatures of witnesses is worthless. Why, though, should that affect the Halachah in this case? As far as the transfer of the property is concerned, the first Shtar that was actually delivered to the recipient should be the one that makes the sale take effect, just like according to Shmuel. Writing the Shtar alone does not cause the transfer of the ownership of the field. Besides, even if writing the Shtar alone would effect a transfer of ownership, in our case we have no idea which of the two Shtaros was written first, since the hour of the writing of the Shtar is not written in the Shtar. We should still have to decide the case with a Shuda d'Dayanei!

There are a number of approaches among the Rishonim to this question:

(a) RASHI explains that according to the opinion that "Edei Chasimah Kartei," any details of importance must be written in the Shtar. If the time of the Kinyan was omitted from the Shtar (that is, the witnesses who signed on it did not know the time of the Kinyan and are not testifying about it), then it shows that the time was not important to the buyer and seller. Therefore, the one who received the document first is not necessarily the true owner.

Who, then, is the true owner? If the Shtaros were written and delivered on the same day, which of the two Shtaros take effect first? The answer is that there is no way to know. One of the Shtaros takes effect first, but there is no way for us to know which one.

Since Rashi explains that "Shuda d'Dayanei" means that the judges determine to whom to give the field based on logical deduction, in this case "Shuda d'Dayanei" does not apply, since there is no possible way of deducting who the logical owner should be. (It is comparable to a man who gives Kesef Kidushin simultaneously to five sisters and says, "One of you five shall be Mekudeshes to me"; one of them becomes Mekudeshes but it is impossible for us to know which one.) Since "Shuda d'Dayanei" cannot be done, the only option that remains according to Rav is to split the field.

(b) TOSFOS (citing his Rebbe) and other Rishonim argue with Rashi, because they explain that "Shuda d'Dayanei" means that the judges choose on their own, and not necessarily based on logical deduction. Therefore, "Shuda d'Dayanei" is applicable even when we have no logical way to determine which Shtar took effect first.

Tosfos explains that those who say "Edei Chasimah Kartei" maintain that if a document is lacking information that is vital to the Kinyan, then the Shtar cannot create a Kinyan. Even though the "Edei Mesirah" know the information, since it is not written in the Shtar the property cannot be transferred with the Shtar. The Shtaros in the case of our Gemara did not have the time of day written in them, making it impossible to determine based on the Shtar whether the Kinyan was made earlier or later in the day. All we can determine based on what was written in the Shtar is that the Kinyan was made before the last second of the day. Therefore, the Shtar will create a valid Kinyan only at the end of the day, no matter at what point in the day it was actually delivered.

Hence, if there are two Shtaros that have the same day written in them (with no time written in them), they both will take effect at the same moment (i.e. at the last moment of the day) no matter when they were delivered. Since they take effect at the same moment, each recipient legally owns half of the field and they become partners in the ownership of the field. This is why Rav says to split the property. We have no doubt whatsoever as to who owns the field. We know for certain that they *both* own the field!

The RITVA questions this approach of Tosfos based on the Gemara in Gitin (17b). The Gemara there clearly says that if a Get contains an ambiguous date (such as the month without the day of the month), the Get takes effect at the time at which it is given, and not at the last moment of the month. (Tosfos must be learning that the Gemara there follows the opinion of Rabbi Elazar, that "Edei Mesirah Kartei.")

(c) RABEINU TAM, also cited by Tosfos, gives an entirely different approach. Rabeinu Tam says that a "Shuda" is better than splitting the property only in a case where it is impossible for the field to actually belong to both parties. In such a case, if the field is divided equally, then it will look strange for Beis Din to be splitting the property when everyone knows that it *cannot* belong to both parties. On the other hand, if there is even a remote possibility that the property belongs to both parties, then it is better to split the property than to give to one of them the entire property based on the judges' choice. People who see it split will assume that the judges investigated the matter and decided that that remote possibility was the truth. This is a better alternative than Shuda, which leaves the ownership of the field dependent upon the whims of the judges.

As we explained earlier, according to the opinion that "Edei Mesirah Kartei," the first one to receive the Shtar is the true owner. For all practical purposes it is impossible for the two Shtaros to have been delivered at the same moment to both parties. The seller, who is obviously trying to fool one of the recipients by selling or giving him a field that was not his, would not dare to give it to one party in front of the other, for they would immediately realize his treachery. Rather, he gives the first Shtar to one recipient, and then, at a later point and after the first one has left, he gives the second Shtar to the second recipient.

Since no possibility exists that the Shtaros were given at the same time, it is not possible that *both* recipients own the property. Only one recipient can own the property. Therefore, the preferred ruling is "Shuda d'Dayanei."

However, according to Rav, who holds "Edei Chasimah Kartei," since the writing and signing of the Shtar is the primary act accomplishing the Kinyan, when the seller delivers the Shtaros to the recipients, he probably has in mind at that time that they should only take effect in *the order in which they were written*. Even if the Shtar that was written second is given over first, it does not transfer the field to the recipient, because the seller intended that it take effect after the other Shtar, that was written *first*, takes effect. If the two Shtaros

were written at the same moment (such as when they were signed by different witnesses), then no matter which one is delivered first, both Shtaros take effect at the same moment, and the property becomes acquired by both of the recipients, with each one receiving half of the property.

Rabeinu Tam asserts that there does exist a possibility that both Shtaros were signed by different witnesses in different places at the same moment, without revealing the seller's plot. Moreover, even if the second Shtar was signed by the *same* witnesses who signed the first Shtar, as long as they signed the second Shtar while the seller was still involved in the proceedings of the first Shtar ("Asukim b'Oso Inyan"), it is considered as if they were both signed at the same moment. Since there is a possibility that the Shtaros were signed simultaneously and that the property actually belongs to both recipients, it is better to split it than to leave it to the judges' discretion.

(d) The RITVA explains that the question of whether "Shuda d'Dayanei" is better or "Chalukah" is better is simply a matter of statistical probability. He explains that Rabbi Elazar ("Edei Mesirah Kartei") and Rabbi Meir ("Edei Chasimah Kartei") argue with regard to a Shtar that is delivered *on the day after* it is written. If "Edei Mesirah Kartei," then the date written in the Shtar is irrelevant to the Kinyan. The Kinyan takes place at the time at which the Shtar is delivered. Consequently, if the Shtar is delivered after the date written in the Shtar, the Shtar is invalid because it is a Shtar Mukdam (i.e. pre-dated; see Insights to Rosh Hashanah 2:2).

According to those who say "Edei Chasimah Kartei," the moment that the date of the Shtar arrives, the Shtar is considered to have been delivered through the principle of "Edav b'Chasumav Zachin Lo" -- witnesses, through the act of signing the Shtar, make the Shtar take effect (Bava Metzia 13a). If the Shtar does not have the hour written in it but only the date, at the last moment of that day the Shtar takes effect, whether or not it has been delivered. Therefore, no matter when it is eventually delivered, it is not a Shtar Mukdam.

In short, if "Edei Chasimah Kartei," then there are two ways to transfer ownership through the Shtar: either by delivering the Shtar, or by writing the time in the Shtar and waiting for the time of the Shtar to arrive.

Now when two Shtaros are written with the same date, there exists four possibilities as to when they were delivered: (1) They could have been delivered to both recipients *simultaneously* on the *same* day they were written, or (2) they could have been delivered *one after the other* on the same day they were written. Alternatively, (3) they could have been delivered to both recipients *simultaneously* on a day *after* the day on which they were written, or (4) they could have been delivered *one after the other* after the day on which they were written.

If "Edei Chasimah Kartei," then in three of these four possibilities the field belongs to *both* of the claimants. Only if the Shtaros were delivered to the two claimants *one after the other* on the *same* day that they were written, does the first recipient acquire the field. If the Shtaros were delivered at the same time on the day they were written, or if they were delivered on a later day (whether at the same time or one after the other), then they both take effect at the same time, because "Edav b'Chasumav Zachin Lo." Therefore, it is better to split the field, since three out of the four possibilities point to splitting the field.

If, on the other hand, "Edei Mesirah Kartei," then if the Shtaros were given on a later day, they are invalid (so two of the four possibilities are not taken into consideration). Rather, we assume that the Shtaros were given on the day they were written, and thus there are two possibilities: (1) they were given to the recipients simultaneously (in which case they both own the field), or (2) one after the other (in which case the first recipient owns the field). Of the two possibilities, we consider it to be more probable that they were given one after the other. Therefore, "Shuda d'Dayanei," giving all of the property to one person, is preferable to splitting the property.

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