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INTERNET PARSHA SHEET ON TOLDOS - 5770

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Rabbi Yissocher Frand

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This *dvar Torah* was adapted from the hashkafa portion of Rabbi Y. Frand's Commuter Chavrusah Tapes on the weekly Torah portion: Tape #73, Non-Kosher Medicines & the Bircas Hareiach (Scents). Good Shabbos!

To Be and Not To Do - That Is the Question

The pasuk [verse] says "And Yitzchak loved Esav, for game was in his mouth; and Rivkah loves Yaakov" [Bereshis 25:28]. There is a strange use of grammar in this pasuk. By Yitzchak it says "va'ye-eh-av", meaning "and he loved" -- in the past tense. By Rivkah it says "o-heves" meaning "she loves" -- in the present tense.

The Dubno Maggid once asked why there is this grammatical discrepancy. The Dubno Maggid answered with a powerful truth which is particularly applicable in our time: He said that one of the differences between the non-Jewish world and ours, is that in the former people are evaluated by what they do, whereas the Jew is evaluated not by what he does, but by what he is.

If one ever asks a child what he wants to be when he grows up, the child will answer "I want to be a..." doctor or lawyer or teacher. This is improper usage! The child was asked what he wants to be, and instead he answers with what he wants to do.

'Doctor', 'teacher', and 'lawyer' are professions, what you do -- not what you are. However, we are conditioned in this society that one's whole importance or value is based upon what one does.

A columnist recently wrote a piece in the Baltimore Sun complaining about the conversations at cocktail parties. While standing at a cocktail party, drink in hand, a person will introduce himself to someone. When the conversation is not fifteen seconds old, he will be asked, "What do you do?"

The columnist writes that "in America, you are what you do." If one does something important, then he is important. If one does something

menial, then he's not important. The type of person that someone is makes no difference whatsoever.

The columnist writes that he is so turned off by this line of questioning, that now, if anybody asks him what he does, he says he is an undercover agent for the IRS [U.S. Internal Revenue Service], at which time the conversation ends.

This writer identified a tremendous truth. We are preoccupied not with who we are, not with what type of person I am, but with what we do. This reflects a very non-Jewish outlook. It does not reflect the outlook of Judaism.

This is what the pasuk is hinting to us. "Yitzchak loved Esav (past tense) for game was in his mouth" -- because Esav, reflecting non-Jewish values, evaluated himself based only upon what he does. If he is only what he does, then if he ceases to do what he does (e.g. -- hunt), he loses his value.

A grandson of Esav [Baseball player Pete Rose] once said, "You're only as good as your last 'at bat'". He accurately reflected his society's values. He saw no inner importance, only the pragmatic importance of what he does. When he stops doing what he does, "the love is nullified" [Avot 5:16].

However, a Jew is not what he does, but what he is. Whether he makes a lot of money or he does not make a lot of money; whether he does something which has status in the world or whether he does something menial - it makes no difference. If one is a mensch, is ethical, fears Heaven and loves Israel, that is what counts. One is what he is, not what he does.

"And Rivkah loves Yaakov." because Yaakov was loved not for what he did, but for what he was. The character of Yaakov, the qualities of Yaakov, the truthfulness of Yaakov. These are constants. These are forever.

Therefore the love for such a person is forever.

This write-up was adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Torah Tape series on the weekly Torah portion. The complete list of halachic topics covered in this series for Parshas Toldos are provided below: Tape # 031 - Marriage Between Relatives Tape # 073 - Non-Kosher Medicines and the Bircas Hareiach (Scents) Tape # 122 - G'neivas Da'as: Deception and Your Fellow Man Tape # 169 - The Blind Person in Halacha Tape # 215 - V'sain Tal U'matar Tape # 259 - "Sofrin Al Hachzakos": The Concept of Chazaka in Halacha Tape # 305 - The Bracha of "Baruch Sheptarani" Tape # 349 - Must Mincha Have a "Chazoras Hashatz"? Tape # 393 - Neitz Hachama vs. Tefilah B'tzibur Tape # 437 - Accepting Tz'eda ka from Women Tape # 481 - Lying to Keep What's Yours Tape # 525 - Maris Ayin Tape # 569 - Yichud With Relatives Tape # 613 - Shiva and the Wayward Son Tape # 657 - Fascinating Insights into the Tefilah of Mincha Tape # 701 - Fasting on The Wedding Day Tape # 745 - The Cost of Stealing a Mizvah Tape # 789 - The Power of Your Own Words Tape # 833 - Six or Ten People for Chazoras Hashatz? Tape # 877 - Bar Mitzvah Sh'ailos Tape # 921 - Accepting Someone Else's Curse
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Rabbi Zweig on the Parsha

by Rabbi Yochanan Zweig

[Rosh Yeshiva of Talmudic University of Miami Beach]

Parshas Toldos

How About Them Apples? "And these are the offspring of Yitzchak son of Avraham - Avraham gave birth to Yitzchak" (25:19)

Parshas Toldos records the births of Yaakov and Eisav. The introductory verse states "these are the generations of Yitzchak, the son of Avraham - Avraham gave birth to Yitzchak". Citing the Midrash, Rashi explains the necessity of the apparent redundancy regarding Yitzchak's relationship to Avraham; it was in response to cynics of the generation who cast aspersions as to the legitimacy of Yitzchak's lineage. They claimed that since Sarah had not conceived for many years while married to Avraham, yet became pregnant immediately after spending the night in the palace of Avimelech, king of Plishtim, Yitzchak was clearly sired by Avimelech and not Avraham. Consequently, the Torah reiterates that Yitzchak was the son of Avraham. Sarah giving birth to Yitzchak is covered extensively in last

week's parsha, Parshas Vayeira. Why is it necessary to refute the cynics in this week's parsha which begins with Yitzchak at the age of sixty?

The verse immediately following the reiteration of Avraham siring Yitzchak relates that Yitzchak fathered Yaakov and Eisav. Eisav's evil ways reinforced the claims of the cynics, for it was difficult to understand how the biologically and genetically endowed bearer of Avraham's legacy could be so malevolent. Therefore, the cynics argued that Yitzchak must have been the child of Avimelech, for if such was the case, it was Avimelech's genetic makeup to which the nature and disposition of Eisav could be attributed. Furthermore, Eisav was the progenitor of Amaleik who is described as having no "yiras Elokim" - "fear of Hashem".[1] This is the same attribute that Avraham Avinu ascribes to the people of Plishtim, further lending credence to the theory of Avimelech being Eisav's grandfather.[2]

Therefore, specifically at this juncture the Torah deems it necessary to quell the malicious charges which threatened to undermine the heritage and sanctity of the Jewish people.

1. See Ba'al Haturim 23:2 2. See Kli Yakar 23:2 3. See Tosafos Hashaleim Bereishis p. 231

All Dressed Up And No One To Owe

"Rivka then took Eisav's clean garments which were with her in the house..." (27:15)

As part of the subterfuge which Rivka created to ensure that Yaakov would receive the blessings from Yitzchak, she dressed him in Eisav's "bigdei chamudos". Rashi explains that these were a set of clean clothes that Eisav kept at his mother's home to change into when serving his father, Yitzchak. In a second interpretation Rashi cites the Midrash which states that these were regal garments that Eisav had pilfered from Nimrod.[1]

The Midrash relates the following concerning Eisav's great filial devotion: Rabbi Shimon ben Gamliel commented "All my life I served my father, but I did not attain even one percent of the service performed by Eisav for his father. I was not particular about the cleanliness of my clothes when servicing my father. Only when I went out into the public eye did I take note of the condition of the clothes I was wearing. In contrast, Eisav was particular to serve his father in clean garments, but would not care if he walked into the market wearing rags." [2]

When Yaakov entered Yitzchak's room impersonating Eisav in order to receive the blessings, his father's suspicions were aroused. The verse states that it was Yaakov's voice that betrayed him.[3] The Ramban notes that since Yaakov and Eisav were twins the sound of their voices were identical.[4] Rashi therefore explains that it was the manner in which Yaakov spoke that betrayed him. Whereas Yaakov spoke to his father respectfully, requesting him to please sit up to eat, Eisav spoke brashly and without supplications.[5]

Rashi paints a different portrait of Eisav, the paradigm of parental honor. How do we reconcile Rashi's comments with the aforementioned Midrash? The Torah attests to Eisav marrying women who were a source of great emotional distress to his parents.[6] The smoke produced by the idolatrous service of Eisav's wives contributed to Yitzchak's loss of vision.[7] How could Eisav have exhibited such a lack of sensitivity to his parents' feelings? Honoring parents is one of the few precepts for which the Torah delineates a reward, longevity.[8]

The Talmud teaches that this reward refers to a greater sense of existence in the World to Come.[9] Why is this the appropriate reward for honoring parents?

The Mishna teaches that our parents deserve to be honored because they bring us into this world, i.e. give us existence. We can react to receiving existence from our parents in two very different ways, either by displaying indebtedness or by showing gratitude. A person who feels a tremendous sense of indebtedness will serve his parents as a means by which to pay off this debt. A person who feels gratitude for his existence will give his parents their existence by showing his subservience and devotion to them. A person who repays a debt begrudges the fact that he has incurred this debt. As he

pays it off, he feels better for repayment offers him liberation. He therefore performs his service with a sense of expansiveness. Giving our parents their existence requires that we minimize ourselves before them, acknowledging their superiority over us. It is clearly easier to perform a service with heightened enthusiasm when we perceive that we are expanding through our actions. If we are required to minimize ourselves the task becomes more arduous. It is this enthusiasm that our sages laud when describing Eisav's actions, not the motivation behind them. Eisav sought his independence and served his father as a form of payment. He did not submit himself to his father's will when it infringed upon his way of life. The ideal method of honoring parents would employ the enthusiasm of Eisav coupled with the motivation to submit ourselves to our parents thereby giving them a greater existence. If we are successful in giving our parents a greater existence, Hashem rewards us with the ultimate existence, a greater reality in the World to Come. 1.27:15 2. Bereishis Rabbah 65:16 3.27:22 4. Ibid 5. Ibid 6.26:35 7. See Rashi 37:1 8. S. H. H. 20:12 9. Kiddushin 39b

Rabbi Dr. Abraham J. Twerski - Descartes and Reb Yeruchem
Rabbi Dr. Abraham J. Twerski
Descartes and Reb Yeruchem

The philosopher, Descartes is, famous for his dictum, cogito ergo sum, I think, therefore I am. Inasmuch as there is a phenomenon of hallucination, in which a person sees or hears things that do not exist, yet one is absolutely certain of their existence, Descartes raises the possibility, remote as it may be, that perhaps I am hallucinating. Nothing in the world exists, nothing that I see, hear, touch, taste or smell. I may be hallucinating all these things. My body may be a hallucination. Perhaps I don't have arms or legs, and when I pinch myself to make sure I'm awake, that too may be hallucinatory. However, one thing is undeniable. Even if I am hallucinating everything, I must exist in order to be hallucinating. Perhaps I don't exist as a body, because that may be a hallucination. However, in some shape or form, I must exist, otherwise I could not be hallucinating. Hence, cogito ergo sum, I think, therefore I am.

Alongside hallucination as an error of reality testing, stands "delusion." Delusion is a fixed belief from which a person cannot be swerved by logical argument. A man who had the delusion that he was dead was brought to a psychiatrist. The psychiatrist asked him, "Do dead people bleed?" The man said, "Of course not." The psychiatrist then had him recite 100 times, "Dead people do not bleed." He then pricked the man's finger, causing it to bleed. The man said, "Dead people do bleed." Rebbe Yeruchem Levovitz of Yeshivas Mir (Daas Chochma Umussar vol.2 pp. 139-142) cites the Talmud which states that Iyov claimed that "The world was turned over to Satan," (Iyov 9:24) and states that this indeed is so. Satan was given the extraordinary power to delude people and even to cause them to hallucinate.

When Moses did not return from Sinai at the expected time, Satan told them that without food and water, Moses had perished, and caused them to have a vision of Moses being carried on a bier (Shabbos 89a). With their own eyes, they saw that Moses had died!

The Torah says that there may arise a false prophet who will claim that G-d has commanded to worship an idol, and to prove his authenticity, the prophet will perform miracles. The Torah cautions us to beware of this, because this is Hashem's testing our loyalty to Him. Rebbe Yeruchem states that the ability to perform miracles to justify idolatry is an example of the power to delude that was given to Satan.

Rebbe Yeruchem says that we live in a world of delusion. Moses warned us against thinking that our success is due to our own prowess. "You may say in your heart, 'My strength and the might of my hand made me all this wealth'" (Devarim 8:17). Yet, we think that if we spend ten hours a day at work, we will earn more than if we spent four hours a day at work, as if the time we invest in work determines how much we will earn. Everyone

thinks this way, but it is a delusion. Satan has caused us to think that our success depends on our effort.

In Yellowstone National Park there is a geyser, Old Faithful, that erupts regularly. Two pranksters brought a steering wheel and shaft, and placed themselves where they could be seen by tourists. The guide was telling tourists about the eruptions of Old Faithful, and just as the geyser was due to erupt, one prankster shouted to the other, "OK! Let 'er go!". The other prankster gave the wheel a sharp twist, and then the geyser erupted. Observers could believe that the eruption was fabricated mechanically. So it is with us. Torah teaches us that, with the exception of choosing good or evil, which Hashem has left to the individual, Hashem controls everything, from the minutest to the most cataclysmic events. However, we do not live our lives according to this belief. Rather, we believe that there is much that we can control. This, Rebbe Yeruchem says, is the work of Satan, who causes us to be deluded.

So, Descartes tells us that we may all be hallucinating, and Rebbe Yeruchem says that we all live one massive delusion. Whereas we need not live our lives according to Descartes' philosophy, Rebbe Yeruchem says that we must free ourselves of Satan's delusion. The only true reality is what Torah says is true. Everything else is delusional.

Ramchal in Mesilas Yesharim says that we were placed in a world replete with nisyonos (trials and tests). Rebbe Yeruchem says that accepting what Torah says as the true reality and resisting the Satanic delusion is the nisayon with which we are all tested.

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Hezekiel Re'iyah – Encroachment on a Neighbor's Privacy Parashat Chayei Sarah November 14, 2009 27 MarCheshvan 5770 Volume 19 No. 7

Hezekiel Re'iyah – Encroachment on a Neighbor's Privacy by Rabbi Chaim Jachter

This week we present an important ruling of the Beit Din (rabbinic court) of Gush Etzion that appears in Techumin 19:55-59. Rav Gidon Perl, the longtime Rav of Alon Shevut, wrote the decision on behalf of his two colleagues on the court, Rav Eliyahu Blumentzweig and Rav Shlomo Levi, two outstanding Torah scholars associated with Yeshivat Har Etzion.

We call attention to this case because it addresses an important Halacha that is often neglected in our times, Hezekiel Re'iyah, encroachment on a neighbor's privacy. The Gemara devotes much attention to this subject at the beginning of tractate Bava Batra. It is an especially important Halacha as Chazal (Bava Batra 61) teach that Bilam praises the Jewish People with his celebrated proclamation "Mah Tovu Ohalecha Yaakov" (how beautiful are your tents O Israel; Bemidbar 24:5), in light of seeing that neighbors positioned their windows and entrances to their homes in a manner that protects the privacy of one another.

How ironic, notes Rav Perl, in an age that stresses individual rights, that this Halacha becomes overlooked! This case reminds us that despite the overcrowding in many contemporary communities, an effort should be made to uphold the privacy of neighbors whenever possible. Indeed, this is especially true in light of the fact that some opinions regard this as a Torah level obligation.

The Case Two neighbors lived opposite each other and the distance between the houses was thirteen meters. From the beginning of their living in close proximity they forego building a fence between the two properties with the intention of each allowing the other full use of the two neighboring backyards. However, after the first neighbor began to build an addition to his house the second neighbor decided to demand the division of the backyards and that the first neighbor share in the expenses to build it.

The addition to the first neighbor's house included an above ground porch and the second neighbor claimed that the porch will create Hezekiel Re'iyah since without effort one would be able to see from the porch into the neighbor's bedroom window. As a clarification, we note that Halacha

regards even encroachment on one's everyday indoor activities as Hezekiel Re'iyah and not only in regard to one's very private moments.

The first neighbor responded that the second neighbor had already waived his right to build the fence between the properties and that the time to exercise this right had long expired. In regards to the porch, the first neighbor argued that it was legally approved in accordance with Israeli civil law by the local building authority.

The Fence The Beit Din ruled that the right to build the fence and demand that the neighbor shares the expenses had not elapsed. The Shulchan Aruch (Choshen Mishpat 171:1) states "if one of the neighbors demands to split the common outdoor area and to take hold of his share...the other neighbors may be coerced to split the property". In this case the neighbors did not have a need to split the property as the property line was already demarcated.

The Beit Din did not accept the claim that the second neighbor waived his right to split the property and the claim of Hezekiel Re'iyah, since the original agreement was made specifically in order to jointly use the space between the houses. In such circumstances Hezekiel Re'iyah is not a relevant concern. However, once a neighbor wishes to split the yard, the concern for Hezekiel Re'iyah becomes relevant and therefore both neighbors must build a fence and share its building costs.

The Beit Din also rejected the claim of the first neighbor that since the backyard does not face the street, there is no concern for Hezekiel Re'iyah. The first neighbor claimed that their yard paralleled the "Rechava" described in Bava Batra 2a and 6b from where it appears from Rashi (6b s.v. Aval) that there is no concern for Hezekiel Re'iyah.

The Beit Din responded that the Rechava described in the Gemara was not regularly traversed and was primarily used for storage. However, the yard in the case we are discussing was used regularly for family activities, like the courtyards described in the Mishnah (Bava Batra 2a), and thus Hezekiel Re'iyah is a relevant concern.

Finally, the Beit Din argued that even absent concern for Hezekiel Re'iyah it seems that there is an obligation to build a fence between the yards. Rav Perl cites the Sma and Taz to Shulchan Aruch C.M. 171 as a source for this assertion.

The Porch The fence will serve to prevent Hezekiel Re'iyah between the ground levels of the two residencies but not regarding the porch. Thus, it would appear that building the porch creates a serious Halachic problem.

The first neighbor potentially could claim that a Chazakah (established living pattern that cannot be disturbed) was established that the two neighbors live in close proximity and therefore the first neighbor has established a right to engage in Hezekiel Re'iyah to his neighbor. The Beit Din dismisses this suggestion, citing the Ramban (at the conclusion of the third chapter of Bava Batra) "One can never establish a Chazakah in regards to Hezekiel Re'iyah". The Ramban explains "Since the neighbor will certainly violate the prohibition to intentionally engage in Hezekiel Re'iyah, and one cannot prevent this as he cannot remain the entire day with his eyes closed, therefore we must demand from the neighbor that he eliminate the window [from where one can peer at his neighbor's activities] in order not to constantly sin".

The Rama (C.M. 154:3) rules in accordance with the Ramban and there are even Poskim (cited in the Sma 154:10) that even a formal Kinyan (transaction) does not effectuate an agreement to waive Hezekiel Re'iyah since it is an absolute prohibition. The Beit Din noted that even if there are authorities that disagree, the second neighbor emerges victorious since he protested to Beit Din immediately when the building of the porch commenced before the first established a Chazakah to maintain the porch. Moreover, in regards to Nezek (damages), Teshuvot Maharival (1:85) rules that Hezekiel Re'iyah constitutes a full-fledged tort, where the victim is viewed as the Muchzak (the side to the dispute which maintains the status quo) and thus the second neighbor emerges victorious even if the matter is regarded as subject to debate (a most basic rule of adjudication of monetary disputes is that the Muchzak emerges victorious in case of doubt, see Bava

Kama 46a). The Beit Din similarly rejected the first neighbor's claim that there already existed a window which faced his neighbor's window and that other neighbors have windows facing his house. The Beit Din explained that the porch is a far worse situation since regarding the window one would have to make a special effort to peer into the neighbor's domicile but on the porch it is impossible not to see into the next person's property even when one is sitting. Moreover, the porch will be located in closer proximity than where the window had been located. The Beit Din cited Shulchan Aruch (C.M. 154:4), where it forbids expanding a small opening when it faces his neighbor, as a precedent regarding the neighbor which creates far more Hezeik Re'iyah.

Minhag Hamakom Common commercial practice (Minhag Hamakom) is a major consideration in adjudicating monetary disputes (Shulchan Aruch C.M. 201:2, 215:8 and 331:1). Accordingly, the first neighbor noted that it has become Minhag Hamakom to forego concern for Hezeik Re'iyah as there were already a number of porches such as these which were built in the local where the same concerns arose.

The Beit Din rejected this argument, noting that Rama (C.M. 331:1) requires widespread practice to establish a Minhag Hamakom and that it did not regard this arrangement of building porches as sufficiently prevalent to qualify as Minhag Hamakom. Moreover, it noted (as rabbinic courts frequently do) that Tosafot (Bava Batra 2a s.v. Bigvil) assert that Halacha does not recognize improper practices (Minhag Garu'ah) as binding, even if it has become a widespread practice. The Beit Din asserts that this practice regarding porches that create Hezeik Re'iyah should be classified as a Minhag Garu'ah.

The Beit Din did not regard common building practice as establishing a legitimate Minhag to disregard Hezeik Re'iyah. The Beit Din argued that buyers are not offered a choice and must accept the builders' plans as is; therefore a proper Minhag is not created. The Beit Din felt that neighbors must act differently than builders when planning additions to their homes, over which they exercise control.

Shutters The Beit Din acknowledged a work known as Minchat Tzvi which states that Hezeik Re'iyah is no longer a relevant concern since we commonly have shutters and blinds to cover our windows. The Beit Din rejected this opinion since people wish to open their shutters and blinds during the day. They are not required, said the Beit Din, to live without sunlight in order to avoid the Hezeik Re'iyah of their neighbor. Rav Perl notes that even if the Beit Din's dispute with the Minchat Tzvi remains unresolved, in a case of doubt the ruling will be in favor of the victim of Hezeik Re'iyah since he is the Muchzak, as we noted above.

Conclusion The Beit Din ruled in favor of the second neighbor, stating that the neighbors must share in the cost of building the fence between the properties. In addition, the Beit Din forbade the first neighbor from using his porch or even building a temporary entrance to it until Hezeik Re'iyah was eliminated. The remedy, ruled the Beit Din, was to build a partition two meters high along the outside of the porch so that the first neighbor cannot peer at his neighbor from his porch.

The Beit Din did not recognize the decision of the civil building authority authorizing the building since its decision contradicted a fundamental Torah value. Indeed, the Beit Din called upon the local authorities to take greater cognizance of Hezeik Re'iyah in order to create communities in which we deserve to be commended with the praise of "Mah Tovv Ohalecha Yaakov".

Miscellaneous Kol Torah is a student publication of Torah Academy of Bergen County.

Sponsored by Robert and Hannah Klein on the yahrzeit of his mother Devorah bat Avraham a"h (Dorothy Jacobs Klein)

The Midrash Tanchuma comments on the opening verse of our parashah, "These are the descendants of Yitzchak the son of Avraham; Avraham fathered Yitzchak," as follows: "This is the message of the verse (Mishlei 17:6), 'The crown of elders is grandchildren, and the glory of children is their parents.' The righteous wear their grandchildren as crowns, and children wear their parents as crowns. Avraham was crowned in the merit of Yaakov. When Avraham was thrown into the furnace by Nimrod, Hashem 'descended' to save him. The angels objected, 'You are saving him?! Look how many evildoers are destined to descend from him!' Hashem responded, 'I am saving Avraham for the sake of his grandson Yaakov who is destined to come from him.' How do we know this? Because the verse (Yeshayah 29:22) states, 'Yaakov, who redeemed Avraham'."

Why was Avraham saved in Yaakov's merit and not Yitzchak's merit? R' Eliezer David Gruenwald z"l (1867-1928; Hungarian rabbi and rosh yeshiva) observes that the verse in Mishlei says that grandchildren are the crown of elders, not children. Why? Because the true test of whether we have raised G-d-fearing, Torah-observant children is whether they are able to pass our beliefs on to their own children. If one's grandchildren follow the proper path, then one knows that he raised his children successfully. Moreover, one has not succeeded unless, as the second half of the verse in Mishlei says, "The glory of children is their parents." Many children think that their parents' ways are old-fashioned or out of touch. Only when children look up to their parents--"the glory of children is their parents"--has one truly succeeded. (Keren Le'David)

"The first one [Esav] emerged red . . ." (25:25)

The Midrash Rabbah states: "He was a murderer [from birth]. Likewise, when the prophet Shmuel met the future King David for the first time, he thought David was a murderer. To counter this notion, the verse says (Shmuel I 16:12), 'He was ruddy [but] with beautiful eyes and a pleasing appearance'."

Does this mean that Esav was predestined to be a murderer, or that David would have been predestined to be a murderer if not for his beautiful eyes?

R' Moshe ben Maimon z"l (Rambam; 1135-1204) writes: It is impossible for a person to be born possessing good character traits or bad character traits, just as it is impossible for a person to be born already having a profession. However, a person can be born with a tendency towards good or bad, i.e., that one trait or another comes to him more easily than others. For example, one person might be a quicker learner than another person. However, if the quick learner does nothing with that tendency, i.e., he makes no effort to learn, he will undoubtedly remain an ignoramus. Conversely, even a person who does not have the tendency to be a learner can be taught, albeit with great effort. Similarly, a person who is born with the tendency to become a warrior will learn quickly if he is taught that skill, but even a person who is naturally cowardly can learn to become a warrior, though with difficulty.

I have explained this, Rambam writes, so that you will not be taken in by the ridiculous lies of astrologers who claim that a person's accomplishments or failures are determined by the stars under which he is born. Rather, all of a person's actions are under his own control. If a person were not in control of his actions, the Torah and its warnings would necessarily be nullified, since one would have no bechirah / free will to choose how to act. Likewise, there would be no reason to study Torah or a profession; it would all be for nothing. And, reward and punishment would be an injustice. If Shimon [a hypothetical person] has no choice but to kill Reuven [also a hypothetical person], how could Shimon be punished? How could a just and righteous G-d punish someone for an act that he had no choice but to

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Hama'ayan [Edited by Shlomo Katz]

Toldot "The Crown of the Elders" Volume 24, No. 6 4 Kislev
5770 November 21, 2009

commit? And, what would be the purpose of building homes, gathering wealth, or fleeing in time of danger?

Rambam continues: What then do our Sages mean when they say, "Everything is in the hands of Heaven except fear of Heaven"? Some people think that this means that their spouses are predetermined or that it is predestined that they own certain property, but this is not true. If that were the case, how could it be considered a mitzvah for a man to marry a woman who is permitted to him, or a sin to marry a woman who is not permitted to him? How could it be a sin to steal, if it is predestined that this item will belong to the thief? Rather, every action that a person takes is under his own control. When our Sages say, "Everything is in the hands of Heaven except fear of Heaven," they are referring only to those phenomena that are clearly out of a person's control, for example, whether he is tall or short, whether it rains or there is a drought, etc. However, any action that is a mitzvah or sin or that leads to a mitzvah or sin is definitely within a person's control.

Moreover, it is also possible for an action to simultaneously be the product of man's free choice and G-d's decree. For example, man has free will whether to throw a stone in the air and cause it to land somewhere else. At the same time, Rambam writes, this result is also decreed by G-d because G-d implanted in nature that a stone that is thrown in the air will land. (Shemonah Perakim ch.8)

"Esav became one who understands hunting . . ." (25:27)

Rashi z"l explains: "Understanding how to entrap and deceive his father with his mouth. Esav would ask Yitzchak, 'Father how should salt and straw be tithed?' Consequently, Yitzchak believed Esav to be very punctilious in observing the divine ordinances."

R' Yosef Teomim z"l (author of the important halachic work Pri Megadim; died 1792) notes the irony in the fact that Esav inquired about straw and salt. Ma'asrot / tithes are required to be given only from types of produce which are stored for use in the future. Straw is not such a crop. Thus, the prophet Ovadiah (Ovadiah 1:18) states, "The House of Yaakov will be a fire and the House of Yosef a flame -- and the House of Esav like straw; they will kindle among them and consume them; and there will be no survivor of the House of Esav, for Hashem has spoken." The House of Esav is called "straw" because it has no permanent existence.

Similarly, salt symbolizes Esav's lack of a future. Land that is too salty has no agricultural use. [Sdom was destroyed with salt so that its destruction would be complete and final.] So, too, Esav will leave no legacy in the long run. (Tevat Gomeh)

"Now Rivka was listening as Yitzchak spoke to Esav his son; and Esav went to the field to hunt game to bring." (27:5)

R' Moshe ibn Chaviv z"l (Chief Rabbi of Yerushalayim; died 1696) asks: If Yitzchak intended to bless Esav, what good could it do Yaakov to receive the blessing surreptitiously?

He answers based on another question: Why isn't our verse in the reverse order- "Esav went to the field to hunt game to bring; and Rivka was listening as Yitzchak spoke to Esav his son"--thus completing one thread of the story (Yitzchak talking to Esav) before beginning the second thread (Rivka "conspiring" with Yaakov)?

He explains: Yitzchak told Esav (verse 3), "Now sharpen, if you please, your gear -- your sword and your bow -- and go out to the field and hunt game for me." The word for "your sword" is "telyecha," which also means "your hanging thing." According to the midrash, Yitzchak was speaking to G-d as well as to Esav: "G-d, it all depends ('hangs') on You. He whom You wish to bless shall be blessed."

On the phrase, "Esav went to the field to hunt game to bring," the midrash comments that "to bring" seems to be superfluous. These words teach that Esav's plan was that if he were unsuccessful in trapping a kosher animal, he would bring a non-kosher, or even a stolen, animal.

"Now Rivka was listening as Yitzchak spoke to Esav his son." Rivka understood that it was Yitzchak's intention to give the berachah only to the son that was worthy. "And [Rivka saw that] Esav went to the field to hunt game to bring." She realized Esav's intentions and thus knew that he was not worthy of the berachah. Therefore she understood that Yaakov would succeed in receiving the berachah. (Derashot Maharam Chaviv)

V'yten Lecha

Many congregations and individuals have the custom to recite on Motzai Shabbat -- either in shul or after havdalah -- the collection of verses beginning with the words from Yitzchak's blessing to Yaakov in this week's parashah, "V'yten lecha" / "May G-d give you of the dew of the heavens and the fatness of the earth . . ." The verses of this prayer are drawn from all over Tanach and share the common theme of alluding to the blessings that G-d showers upon the Jewish People. R' Moshe Mos z"l (Przemsyl, Poland; died 1606) explains the reason for this custom as follows: We read (Yeshayah 56:2, 7), "One who guards Shabbat against desecrating it . . . I will gladden them in My house of prayer." Therefore, after we have observed Shabbat, we recite verses which bring gladness. Also, since the new week is beginning, we recite verses which contain blessings and good tidings, as it is written (Yeshayah 55:12), "For in gladness you shall go out and in peace you shall arrive." [Presumably, the author means, "For in gladness you shall go out from Shabbat and in peace you shall arrive in the new work week."] (Mateh Moshe, * 501)

Why does this prayer end with a quotation from the Talmud attesting to G-d's humility? R' Yaakov Zvi Mecklenburg z"l (1785-1865; German rabbi; author of the Torah commentary Haketav Ve'hakabbalah) explains:

One might think: "How can I approach the Omnipotent King of Kings with my mundane request for material blessings in the coming work week?" So that we will not think this, we remind ourselves that G-d is humble and is therefore interested in our needs.

Also, as we begin the new work week and might be tempted to cheat or take advantage of the less fortunate, we remind ourselves that G-d is humble and therefore cares about widows, orphans and other less fortunate people in society. (Iyun Tefilah)

The editors hope these brief 'snippets' will engender further study and discussion of Torah topics ('lehagdil Torah u'leha'adirah'), and your letters are appreciated. Web archives at Torah.org start with 5758 (1997) and may be retrieved from the Hamaayan page.

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Torah Weekly - Parshat Toldot
TORAH WEEKLY - For the week ending 21 November 2009 / 3
Kislev 5770 - from Ohr Somayach | www.ohr.edu
by **Rabbi Yaakov Asher Sinclair** - www.seasonsofthemoon.com
<http://ohr.edu/yhiy/article.php/4082>

OVERVIEW After 20 years of marriage, Yitzchak's prayers are answered and Rivka conceives twins. The pregnancy is extremely painful. G-d reveals to Rivka that the suffering is a microcosmic prelude to the worldwide conflict that will rage between the two great nations descended from these twins, Rome and Israel. Esav is born, and then Yaakov, holding onto Esav's heel. They grow and Esav becomes a hunter, a man of the physical world, whereas Yaakov sits in the tents of Torah developing his soul. On the day of their grandfather Avraham's funeral, Yaakov is cooking lentils, the traditional mourner's meal. Esav rushes in, ravenous from a hard day's hunting, and sells his birthright (and its concomitant spiritual responsibilities) for a bowl of lentils, demonstrating his unworthiness for the position of firstborn. A famine strikes Canaan and Yitzchak thinks of escaping to Egypt, but G-d tells him that because he was bound as a sacrifice, he has become holy and must remain in the Holy Land. He relocates to Gerar in the land of the Philistines, where, to protect Rivka, he has to say she is his sister. The Philistines grow jealous of Yitzchak when he becomes immensely wealthy, and Avimelech the king asks him to leave. Yitzchak re-digs three wells dug by his father, prophetically

alluding to the three future Temples. Avimelech, seeing that Yitzchak is blessed by G-d, makes a treaty with him. When Yitzchak senses his end approaching, he summons Esav to give him his blessings. Rivka, acting on a prophetic command that the blessings must go to Yaakov, arranges for Yaakov to impersonate Esav and receive the blessings. When Esav in frustration reveals to his father that Yaakov has bought the birthright, Yitzchak realizes that the birthright has been bestowed correctly on Yaakov and confirms the blessings he has given Yaakov. Esav vows to kill Yaakov, so Rivka sends Yaakov to her brother Lavan where he may find a suitable wife.

INSIGHTS

Wake-Up Call “And Yitzchak prayed to Hashem opposite his wife.” (25:20)

The verse here doesn't say that Yitzchak prayed 'about' his wife, rather, 'opposite' his wife. The Talmud (Yevamot 64) learns from this anomaly that both Yitzchak and Rivka were barren. And why, asks the Talmud, were our Patriarchs incapable of bearing children? Because G-d desires the prayers of the righteous.

“The will of those that fear Him, He will do, and to their cries He will hearken and save them.” (Tehillim 145:19)

Ostensibly, the second half of the verse is redundant. If G-d does the will of those that fear Him, surely that means that He will hear their cries and save them. What is the second half of the verse adding here?

Someone who truly fears G-d has no will or desire. To a person like this, all is good and appropriate and thus he or she seeks for nothing from G-d.

However, since G-d desires the prayers of the righteous, He awakens in them the desire for something. This is the explanation of the verse in Tehillim. The first part of the verse can also be read, “He will make desire in those that fear Him,” and thus they will need to pray for that thing, and then afterwards, “Their cries He will hear and save them,” for G-d desires the prayers of the righteous.

- Source: Kotzke Rebbe in Iturei Torah

Written and compiled by Rabbi Yaakov Asher Sinclair

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The Timeless Rav Hirsch by Rabbi Yitzchok Adlerstein Parshas Toldos

One Size Does Not Fit All The boys grew up. Esav became a man who knows hunting, a man of the field, and Yaakov a wholesome man, dwelling in tents.

Different as they were from the womb, Yaakov and Esav were not prisoners of their separate natures. They were not forced by their dispositions into antagonistic roles. Esav's strengths and talents could have been pressed into productive and positive service, had they been properly nurtured and guided. That did not happen. The very real differences between the brothers did not factor into the way they were educated in their formative years.

Is it proper for us to speculate that Esav's upbringing by his parents had not been picture-perfect? Is it conceivable that Yitzchok and Rivka missed an opportunity? With all the yiras ha-romemus we have for the Avos, we still will take our cues from Chazal. Despite the enormous appreciation and respect that they had for the Avos, their critical eye was never blind to the occasional errors and flaws of the Forefathers. They even call attention to them when we might have missed them ourselves. In doing so, they did us a great favor. They turned many episodes in the lives of the Avos into important lessons for us. It is only because the Avos, in all their greatness, were not perfect that we are able to learn from them, rather than dismiss their example as irrelevant to us.

In our verse, Chazal point to a decision that may have led to the behaviors that shaped Esav's life. To be sure, Esav was responsible for his wrongdoing. Yet, had he had other options from which to choose, who knows how differently he might have developed, and how that could have changed human history!

It is not difficult to describe in simple terms what Hashem wants every Jew to achieve in the course of his or her lifetime. How we get there is a different matter. All the multifarious possibilities within the human personality and all the various situations of time and place make each person's odyssey different from that of the next.

It is a mistake to believe that two children, whose natures markedly varied from each other at an early age, could be given the same kind of training and education. Yet, the pasuk sums up their early years in one, brief description of uniformity: “the boys grew up.” We see them sharing the same classroom, the same curriculum, the same hobbies and schedule. Both were being prepared for a life of intense study and contemplation.

Yaakov found great satisfaction in this. He thirsted for more knowledge and thrived on finding it. His inner needs were met, and his strengths were enhanced by his upbringing.

For Esav, this was poison. He longed for the moment when he could rid himself of the cumbersome books and hours of regimented restriction. In his mind, however, the system of his education became synonymous with the entire lifestyle that produced it. When he became old enough to assert his independence, he would bolt not only from the classroom, but from all the values associated with it.

It did not have to be that way. Judaism does not hope to mass-produce a single product. The covenant Hashem established with Avraham called for the building of a nation, not a large number of people. Within a nation, there is a need and a calling for application to all of life's needs – not just priests and scholars. The Torah nation would have to include many vocations, and make use of many virtues and talents. Probing, analytic thought and refined feeling would be important in a Torah nation – but so would other characteristics. A community committed to applying Hashem's truths to myriad human affairs would need citizens with strength and courage, as well as intellectual acumen.

Had Yitzchok and Rivka found ways to recognize young Esav's energy, agility and courage, and to direct them to activities of positive Torah value, he could have become a different person. The spirit of Yaakov and the sword of Esav could have partnered together, rather than become pitted against each other.

Esav became the hunter. At the core of that vocation is self-control: patiently waiting for the moment to strike against prey. The hunter seems to wait peaceably; his real intent remains hidden within. The hunter uses his cunning to achieve what he wants. Applied selfishly, Esav's talent set is devoted to trickery. Applied correctly, it was suited for loftier accomplishment, like diplomacy. Instead, Esav suffered years of repression of his needs. He developed an aversion to the restrictions of the indoors, and waited patiently for the opportunity to become the man of the field. To the same extent that he had been kept prisoner inside, he now demanded the absolute freedom of the outdoors, of life away from the expectations of city and state.

While children are best served by different educational experiences, some areas require sameness. Siblings should be treated to the same displays of love and closeness from their parents, as well as agreement between parents on the goals and methods of their development. Some children in a family may seem not as “good” as others; they are the ones who require the love and sacrifice of their parents more than others – at times, more desperately than children who may be ill or have special needs. The Torah tells us, however, that “Yitzchok loved Esav...and Rivka loved Yaakov.” They did not present a common, united and equivalent face to the two brothers. This did not help Esav's development.

The reactions of the parents are entirely understandable. Each was attracted to their missing part.

After the powerful experience of the Akeidah, Yitzchok rose from the altar to an intensely meditative existence. He shunned the crowd and found himself drawn to the Be'er L'Chai Ro'ee, to the desert spring where he hones the power of his prayer. Esav's intoxication with the active life reminded him of something within himself that he had lost, and wanted to believe could be put to good use.

Rivka, on the other hand, spent her early years in the house of Besu'el and Lavan. She had never watched someone grow up in purity and innocence, constantly improving in his spiritual output, before being thrilled to observe it happen in her own son.

Each parent, then, was drawn to a different child, and therefore grew apart from the commonality of goal and method that are so important in raising children. Their feelings cannot be criticized – but they should have been better hidden from their children.

Ironically, then, Yaakov and Esav's upbringing departed from the textbook formula. Where they required difference – in their education – they received sameness. Where they should have seen nothing but equivalence – in the affections displayed by their parents – they experienced difference. We don't know why this was. [2] We can, however, learn from the episode about how to raise our own children.

[1] Based on the Hirsch Chumash, (Bereishis 25:27)

[2] See Netziv 24:65 who notes a different anomaly in the relationship between Yitzchok and Rivka, and assumes that the Hand of Providence was behind it. It contributed to the strained relationship between Yaakov and Esav, leading to Yaakov receiving the brachah from his father.

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Is a Will the Halachic Way? Rabbi Yirmiyohu Kaganoff

SHOULD A JEW WRITE A WILL? A person's natural tendency is to ignore thinking about whether he should draft a will. After all, considering one's mortality is not a pleasant topic. Some people mistakenly feel that discussing these topics shows a lack of bitachon, trust in Hashem, or can cause bad news. However, it is erroneous to apply either of these concepts in this context, as I will explain:

BITACHON Bitachon, trust in Hashem, requires a realization that everything that happens is under Hashem's supervision and control. However, bitachon does not mean ignoring future needs, and similarly there is no bitachon problem in planning for the eventuality of one's demise (see Shu"t Igros Moshe, Orach Chayim 2:111; Shu"t Yechaveh Daas 3:85; Shu"t Kochavei Yitzchak 1:22, the latter two each quoting several other poskim). Many great tzaddikim purchased their shrouds in advance to remind themselves not to be vain, and to serve Hashem wholeheartedly every day. Similarly, when approached from the proper Torah perspective, drawing up a will can also accomplish that one serve Hashem with one's total heart.

AL YIFTACH PIV L'SATAN The concept of "al yiftach adam piv l'satan" literally translates as, "A person should not open his mouth to accusation," and means that one should not say something that might cause evil to occur (Berachos 19a). The Gemara provides the following example of this principle: A person should not say, "I sinned a lot, but Hashem has not punished me" (Berachos 19a), since this admission that one deserves punishment provides Satan with ammunition to accuse in the Heavenly Tribunal. (For further description of this concept, see Derech Hashem by Rav Moshe Chayim Luzzatto, Part II, Section 6.)

Some people misunderstand that discussing posthumous arrangements is included in al yiftach adam piv l'satan. However, there is no halachic foundation for this position – quite the contrary; evidence demonstrates that this concern is unfounded. For example, the following halachic discussion demonstrates that such apprehension is misplaced: The poskim dispute whether one may dig a grave on Erev Shabbos for a person who is still alive, so that he can be buried before Shabbos if he dies Friday afternoon. Most authorities permit opening the grave (Beis Yosef, Bach and Gr"a to Yoreh Deah 339; Mishneh LaMelech, Hilchos Aveil 4:5), whereas those who forbid it do so out of concern that it will distress the sick person should he discover that his grave has already been dug (Shu"t Rivash #114). However, none of these authorities mention any concern about al yiftach piv l'satan. Furthermore, some explicitly permit a healthy person to dig his own grave, prepare his own shrouds, and for a living couple to purchase adjacent burial plots (Rivash). Thus, we see that neither bitachon nor al yiftach adam piv l'satan preclude drafting a will.

SO SHOULD I? The previous discussion explains why there is nothing wrong with drafting a will. But are there any benefits?

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

Another question to resolve is what happens to one's property if one leaves no will. Each state has different laws determining who takes possession of the property of someone who dies without a will. One thing is virtually certain: The division will not follow halacha. Probably probate court will award part of or the entire estate to someone who is halachically not entitled to it. Since there is no reason to assume that the halachic heirs should want to forgo their rightful ownership, someone will receive property that is not rightfully his or hers.

SOME YERUSHA BASICS In order to understand why the wrong person ends up with the property, we must first understand who should be the halachic heir. Many people are surprised to discover that halacha distributes inheritance very differently than modern legal procedure does. Here is another good lesson in bitachon, the realization that my assumptions of right and wrong are often created by the society I live in, and may not reflect what the Torah wants!

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

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

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

DAUGHTERS Although daughters are not heirs when there are sons, minor daughters receive support from their father's estate. In addition, the estate provides for the wedding and related expenses of all unmarried daughters. Beis Din estimates the amount of these gifts based on the father's means, and how much he provided when alive for older sisters' weddings (Kesubos 68a; cf., however, Tosafos, Kesubos 50b).

A widow does not inherit from her husband; instead, her late husband's assets provide for her until she shows interest in remarriage. At that time, she may collect her kesubah.

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

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

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

CHOOSING ONE'S HEIRS According to civil law, a person may choose his heirs and thereby distribute his earthly wealth after he passes on. However, according to the Torah, a person cannot technically choose his heirs, nor distribute property

after his demise. When a man dies, the Torah instructs who owns his assets according to the laws of yerusha presented previously.

If a person cannot create his own heir, does this mean that it is impossible to influence who eventually receives his assets? No, since there are several halachically acceptable methods of transferring property to someone who is not a halachic heir. Most of the methods take effect by creating some form of gift while the benefactor is still alive. Exactly how each method works, and the relative advantages and disadvantages of each approach, is a complex topic beyond the range of this article. Certainly prior to finalizing a will drafted by an attorney, one should ask one's rav whether there are any halachic concerns with the will's goals and what needs to be added (or changed) to validate it halachically. It is even better to speak to one's rav before drafting the will for direction about some of the halachic issues involved.

Let us now examine the second question I raised above:

MAY ONE DISTRIBUTE ONE'S ESTATE DIFFERENTLY THAN WHAT THE TORAH INSTRUCTS? Granted that one can change how one's estate is divided, is this the correct halachic procedure? Does the Torah require us to follow its yerusha laws or are these merely default procedures if someone made no other provisions?

We can answer this question by analyzing the following incident:

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

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

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

We can derive several principles from this passage:

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

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

The authorities dispute whether this prohibition applies only to the testator or includes even others who assist him in transferring the inheritance. According to the Chasam Sofer, a rav who teaches how to transfer inheritance violates this rabbinic prohibition! (Shu"t Chasam Sofer, Choshen Mishpat #153; cf. Shevet HaLevi 4:116, who quotes authorities who disagree.)

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

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

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

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

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

Note that in this case, the two reasons that permit transferring inheritance do not apply. Mr. Rubinstein is not obligated to provide for his nieces' marriages nor is it likely that limiting his will to his halachic heirs will create a family dispute. May Mr. Rubinstein give most of his estate to his nieces and sisters' sons as long as he bequeaths some according to the laws of yerusha? The halachic authorities debate this question, some maintaining that one may give a large part of one's estate to those who are not halachic heirs provided that each heir receives some inheritance. According to this opinion, Mr. Rubinstein may dispose of his property any way he chooses, provided he leaves part of the estate according to the laws of yerusha.

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

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

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

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

Donating tzedakah, reasons the Chasam Sofer, is using money for oneself, since all the merits accrue to the donor. Just as one may use his resources for himself however one chooses, so one may donate all the resources that he will no longer need to tzedakah without violating the prohibition of transferring inheritance. The Chasam Sofer reasons that this is equivalent to the testator keeping the property for himself since he receives all the reward for the tzedakah he gives (Shu"t, Choshen Mishpat #151). (From this perspective, you can take it with you!!)

However, although some earlier authorities (Rama, Yoreh Deah 249:1) concur with the Chasam Sofer's conclusions, others contend that one should limit his tzedakah bequests to one third or one half of one's assets (Rabbi Akiva Eiger ad loc., quoting Sheiltos; Chachmas Odom 144:12). Still others feel that one should not give substantial amounts of tzedakah at the expense of the heirs unless the heirs are acting inappropriately (Shu"t Maharam Rottenberg #998).

CONCLUSION

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

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Rabbi Berel Wein

Weekly Parsha

TOLDOT

Finding a mate is no simple matter. The rabbis characterized its difficulty as being on the scale of splitting the Yam Suf. But finding that mate and building a successful and satisfying marriage thereafter are two different tasks. From this week's parsha it is obvious that Yitzchok and Rivka are at cross purposes regarding the treatment due to Eisav. Yitzchok is willing to give him almost everything in order to attempt to save him from his own evil nature and negative course in life.

Rivka feels that Eisav is irredeemable and that the entire investment of parental energy should be concentrated on Yaakov. Her policy of very tough love contradicts that of Yitzchak towards Eisav. Thus she does not inform Yitzchak of her plans to grant Yaakov the blessings by dressing him up as Eisav. She demands that Yaakov now flee the country to escape Eisav's wrath and death threats.

Yitzchak acquiesces in her wishes though not from the same motives that impelled Rivka to send Yaakov away. In short for much of the parsha Yitzchak and Rivka do not appear to be on the same page as far as the future of their sons is concerned. This naturally leads to complications and problems that will again reflect themselves in the family of Yaakov and his wives and children.

The rift between Yitzchak and Rivka is not discussed further in the Torah and even Midrash and the commentators do not dwell on it. Yet it appears to be a major influence on the lives of both Yaakov and Eisav and on the tortured relationship between the two brothers.

The saga of favoritism by parents regarding one of their children will be repeated by Yaakov in the story of Yosef and his brothers. That dispute will haunt Jewish life throughout its history. Everyone strives to achieve a harmonious home and family. But the goal is an elusive one for many. Differing circumstances, personal preferences, human error, and societal influences all play a part in the problem of creating a harmonious and loving household.

That is what the rabbis meant when they stated that Yaakov wanted to dwell in peace and serenity – he wanted to achieve that household of goodness and peace. Instead, the disaster of Yosef and his brothers impressed itself upon him and his family. A great sage once said that life and especially family life can be likened to ships that traverse the ocean. Each one fabricates its own wake but the wake soon disappears and the next ship has to find its way across the ocean by itself.

No two family situations are the same nor are two children in the same family identical – even identical twins. The Torah informs us of the difficulties inherent in family situations and differing personalities and opinions. It offers no magic solution to these situations for there is no one-size fits all that can be advanced. Wisdom, patience, good will and common sense are the ingredients for family success and achievement.

Shabat shalom. Rabbi Berel Wein

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Peninim on the Torah

by Rabbi A. Leib Scheinbaum –

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PARSHAS TOLDOS Yitzchak entreated Hashem. (25:21) The Zohar HaKadosh asks a profound question. Yitzchak Avinu was not the first Patriarch to have difficulty fathering a son. His father, Avraham Avinu, and mother, Sarah Imeinu, were not blessed with a child until they were advanced in age. Only then were they miraculously blessed. Yet, we do not find the Torah emphasizing that Avraham prayed to Hashem for a child. While we do find an "off the cuff" comment, "See, to me You have given no offspring" (Bereishis 15:3), this is a statement, not a prayer. The Zohar explains that Avraham was aware that Hashem would bless him with a child, but, since he had not yet had a Bris Milah, he did not want his child born to him while he was still uncircumcised. The child had to be born b'kedushah, into holiness.

Horav Chaim Zaitchik, zl, expounds on our Patriarch's enormous strength of character. Imagine what must have gone through his mind. He had been waiting most of his life for a child, someone who would carry on the Abrahamatic legacy. He certainly also had the usual yearnings that we all have, to hold his own child, to sense the future, to experience the unique feeling that only a parent can perceive. Avraham was occupied all day with reaching out to a pagan world, but when he came home, it was to an empty tent. The sense of joy that permeates a home with a child was lacking. When Avraham rested, when he lay down at night, he thought about his empty home, and he cried. Do we have any idea how much the Patriarch wept for a child, how much he suffered, how much pain he felt?

Nonetheless, he was willing to continue living this misery until such a time that he could have the child b'kedushah, in holiness. Now do we have an idea concerning his strength of character? It is mind-boggling! He was not going to "force" Hashem to do anything before its designated time. He would wait patiently, regardless of the pain, because he wanted to do it right.

The following story has made the rounds. It was first told over by the Kaliver Rebbe. Perhaps, over the years, some variations have crept in, but the underlying

lesson is clear. Soviet Russia was a place where practicing Judaism was very dangerous. The godless Russian government wanted their citizens to believe in "them" - nothing else. Any ritual, such as Bris Milah, was fraught with danger. One who circumcised his infant son was immediately subject to job-loss and often trumped-up criminal charges, in addition to a hefty fine. Thus, in order to preserve the health and welfare of their parents, the vast majority of Jewish boys did not have a Bris Milah.

I say the vast majority, because there was a distinct minority of committed Jews who risked their lives to circumcise their sons as soon as possible. It was rarely performed on the eighth day, since the spies who were all over expected this, and they waited for the slightest reason to inform on these dedicated souls. The families would wait a few months - at times even up to a year -- until they felt that the coast was clear. Only then would they perform the holy ritual.

In one particular village, a group of like-minded Jews kept an eye out for one another and, when they felt it was safe, they would pass the word and see to it that whoever needed a Bris had one with a minyan, quorum, and even a seudah, ritual meal. A child was born to a family, and a year had gone by before the group felt it was safe to perform the Bris.

The guests all gathered in a basement; the tables were decked out with whatever delicacies they could prepare on such short notice. The mitzvah was about to be carried out, albeit one year later than prescribed. The Bris was performed, and the child was sent back to the care of his mother. A few minutes elapsed and, suddenly, there was a piercing scream, followed by a loud crash and thud. It sounded as if someone had fallen to the ground after first breaking a piece of furniture. Indeed, this is what had happened. The mother had fainted shortly after taking the child into her arms. Cool heads prevailed, and they were able to revive the mother. After she was checked out and they made certain that the child was fine, the group turned to the mother, who gave an intriguing explanation for her fainting spell.

Having a son and living in Russia was an awesome responsibility for this young woman. What if she could not bring him into the Covenant that every Jewish boy is supposed to enter? Due to her fear of the authorities, she was afraid that she might become complacent about her son's Bris Milah and forget about it altogether. She needed a constant reminder, a powerful motivation that would ensure her compliance in this mitzvah. She decided to accept upon herself something so powerful that she would surely not be lulled into laxity regarding this mitzvah. She vowed not to kiss her son until after he had a Bris! As long as he was uncircumcised, she would not put her lips to him.

For close to a year, this brave young mother suppressed her emotions, the feelings that are intrinsic to motherhood, and she did not kiss her son. Finally, the day of the Bris, the emotions were rising within her as every minute brought her closer to that first embrace and kiss. As soon as the Bris took place and her son was brought to her, it all burst forward, a watershed of pent-up emotion, a torrent of love, and she kissed him fervently. It was too much for her. She was so overcome with emotion that she fainted.

This was not Avraham Avinu. It was a young, Jewish mother, a devoted Jewess, committed to preserving a mitzvah that has been a Jewish staple from the time Hashem commanded our first Patriarch to circumcise himself. She embodied Jewish heroism at its zenith.

Yitzchak entreated Hashem opposite his wife, because she was barren. (25:21)

In the Talmud Yevamos 64a, Chazal assert that the Imahos, Matriarchs, were originally akaros, barren, because Hashem loves the prayers of the righteous. In other words, they did not pray because they were barren. They were barren because their prayer was desired. This is the simple p'shat, explanation, of Chazal. Horav Shimshon Pincus, zl, feels that a profound lesson with powerful ramifications is hidden within the words of Chazal. Hashem loves the prayers of the righteous. Therefore, the conception/birth of the Avos, Patriarchs, had to occur through the medium of prayer. There is a special love for a child who is the product of many heartfelt entreaties. A child whose birth is the result of tears of supplication, begging Hashem for a miracle, tears of hope, of parents who never gave up, who continued praying, hoping, begging. Such a child is special; such a child is especially beloved-not only by his parents - but also by Hashem.

What a gripping, but heartwarming, statement! How many people have waited for that special something, praying fervently for that special blessing that many of us take for granted? How little we realize the value of prayer, but especially the value of prayer's products. Hashem wanted the Avos - Yitzchak and Yaakov - to represent the realization of heartrending prayer, to become such products and to be special to Him. They are not taken for granted. They are valued bestowals for which one constantly recognizes their Originator.

Rav Pincus cites Chazal in Meseches Berachos 31b to support this idea. Concerning Chanah's reply to Eili HaKohen, "This is the child that I prayed for" (Shmuel I, 1:27), Rabbi Elazar asserts that the young Shmuel was moreh halachah bifnei rabbo, rendered a halachic decision in the presence of his rebbe, Eili HaKohen.

Eili then told Chanah that the young lad had committed a sin for which one receives Heavenly excision. As Kohen, he could either forgive the slight to his honor, which is the honor of the Torah, or he could not. He told her, "I will not forgive him, and he will be punished by Heaven. I will then pray for you to have another son who will be even greater than Shmuel." Chanah replied, "I want this child. He is the one for whom I prayed." The Maharsha explains this as: He was born as a result of my prayers. He is, therefore, more dear to me than anyone you could bring for me as a result of your prayers. In Yiddish it is referred to as an oisgebetener kind, a supplicated child. She would never exchange this child for anyone else, regardless of the exceptional abilities of the proposed alternate child.

We all have that "something" for which we have prayed fervently. Clearly, we warmly appreciated the gift that we received. We now have a new perspective on the reason some of us have to wait for Hashem's gift. He wants that gift to be the result of prayer. There is an added benefit which eludes many of us, one which I recently had the great pleasure of experiencing.

Horav Aryeh Leib Gunzberg, zl, popularly known by the treatise he authored, the Shaagas Arye, was a brilliant talmid chacham, Torah scholar, of great renown. For most of his rabbinic career, he lived in absolute abject poverty, with no money to purchase even the barest necessities. He could not even afford paper upon which to write his chiddushim, novellae. The last twenty-five years of his long life, he served as Rav in the city of Metz, leaving this world at the age of ninety-five. In Metz, he was given living quarters which were quite impressive in comparison to that which he had been accustomed prior to this point.

When he first assumed his position, the Rosh HaKahal, president of the community, and the board of laymen, showed him around his new house. While it was not a mansion, it seemed like one to the man who had heretofore been living in hovels, with cramped quarters for him and his family. This was truly a remarkable change for him. As they were leading the Shaagas Arye from room to room, the townspeople noticed that the Rav's lips were moving. He appeared to be talking to himself. This bothered some of them, because it seemed as if his "age" was playing a role. They wondered whether he was really up to his rabbanus position.

After a few moments of watching this, one of the members of the board came forward and asked the Shaagas Arye if something was wrong. What was he mumbling? The Shaagas Arye stopped walking, looked at the questioner and said, "David HaMelech says in Tehillim (90:15), Samcheinu k'yemos inisanu, which I interpret as: 'Grant me happiness commensurate with the pain I have sustained.' I am simply asking Hashem to permit me to enjoy my newly-gained material resources in proportion to the poverty and suffering my family has experienced."

This is a powerful story with an equally compelling message. Yes, some of us endure serious hardship. For some, it is illness- either personal or family; others wait for a child and go through extremely frustrating, painful treatments - often accompanied by mind-numbing and heartrending failure-only to go and try again, with the hope that the next time will succeed; some confront debilitating financial challenges. All of these painful experiences are calculated by Hashem, and we will one day be remunerated with joy. We wait for that day when, Samcheinu k'yemos inisanu. Until then, we must be comforted with hope that this prayer endures.

The lads grew up and Eisav became one who knows hunting, a man of the field; but Yaakov was a wholesome man, abiding in tents. (25:27)

Titein emes l'Yaakov, "Grant to Yaakov the truth." (Michah 7:20). Yaakov Avinu personifies the middah, attribute, of emes, truth. With this in mind, it might be difficult to come to terms with the activities of our Patriarchs presented in this parshah. Beginning with the purchase of the birthright when Eisav was "down," up to the point that Yaakov dresses up as Eisav as part of a charade to receive the berachos, blessings, from Yitzchak, Yaakov's maneuvering of the "truth" appears irregular. We almost have to look for justification on his part for some of his actions. On the other hand, heterim, justifications and dispensations, cannot be characterized as bending the truth. Yaakov personifies the truth. Thus, every action which he takes, anything attributed to the Patriarchs, must exemplify emes. Furthermore, if Yaakov is the embodiment of emes, Eisav, by contrast, must emblemize sheker, falsehood. All we see of Eisav is the Torah's description of him as one who was tzayid b'fiv (ibid.25:28), "game was in his mouth;" he was adept at "trapping" his father by asking him questions which made it appear that he was pious. So, on the one hand, Yaakov, who epitomizes truth, comes across as bending the truth and bordering on falsehood, while Eisav, who symbolizes falsehood, is guilty of nothing more than fooling his father.

Horav Boruch Mordechai Ezrachi, Shlita, cites the Ibn Ezra who interprets yodea tzayid, "knows hunting," as a person who is accustomed to defrauding others, a charlatan who is used to convincing and deceiving. By its very nature, hunting is a game of deception, whereby the hunter must trick the hunted. While hunting is permissible, its very essence is based upon a lie. Setting a trap, and concealing it beneath a false covering in order to deceive the animal, are certainly not examples of truthfulness. For Eisav to present himself to his father as a pious, upright individual -

seeking answers to difficult halachic questions - was not a lie; it was natural! He was a hunter, and, by the nature of their pastime - hunters lie. Yaakov, however, went to his father filled with trepidation. He wept as he presented himself as Eisav. This was not something an honest person, an ish emes, man of truth, does.

Why was Yaakov afraid? His mother told him to do it. She was matir, had given him a dispensation. It was no longer wrong. Since Yaakov, however, embodied truthfulness - so sheker, even with a heter, dispensation, was tainted. It just was not him. Eisav, however, the personification of falsehood, thrived on sheker with a heter. Yaakov could not live with the heter; Eisav did not need it!

Rav Ezrachi goes a bit further in explaining the middah of emes, its relationship with Yaakov, and the Patriarch's attitude towards presenting himself to his father, Yitzchak Avinu, as Eisav. The Rosh Yeshivah feels that not only was this not an act of a prevaricator, it was the inherent attribute of emes that comprises titein emes l'Yaakov.

For the most part, when people evaluate an object, endeavor or a person, it is not objective, but relative. Often, one is not able to assess the quality of something unless he compares it to something similar. In Mishlei 21:7, Shlomo Hamelech says, "A man's every way is upright in his eyes." This means that a man's eyes - his vision, his own perception - create the standard for determining the straightness of a path. He creates the path based on his perception. When one wants to hang a painting on the wall, he measures a straight line either from the ceiling or the floor. If the ceiling or floor is not level, the frame will seem straight in comparison to the ceiling or floor - even though it actually is off-center.

Objectively, it is crooked; relatively, it is straight. Man's perception, determined by comparison, is what decides the accuracy of the image before his eyes. In contrast, the straightness of the rails upon which a train travels is determined by its sister rail. One rail must be equally parallel to the other, regardless of what one sees. They must be straight, or the train will not be able to travel over them.

The distinction between relative perception and objective perception is emphasized more in the area of the spirit than it is in the physical dimension. In the spiritual dimension there is a clear-cut, objective criterion: the Torah. In physical terms, the truth is established by determining that something "is" or "is not," that it "happened" or it "did not happen." This is objectivity with regard to truth, and, on the surface, seems to apply to the spiritual, as well. When we think about it, however, this hypothesis is incorrect. When we describe an event that occurred, what we are describing may be defined as "not false," but it does not necessarily mean that it is emes. Truth goes beyond that which is "not false." Truth is not expressed only in the fact that something took place. It is expressed in the source of something, justified by its creation. Truth is similar to two rails, which from their initial construction must be perfectly accurate.

Let us take an example in order to explain this profound concept. Yaakov was compelled to extract the blessings from Yitzchok in a manner that appears tainted with deception. Why did it have to be this way? We have no idea why Hashem wanted it to occur in such a manner, but once Rivkah revealed to Yaakov that the berachos were destined for him, the emes, truth, was established that the blessings were to go to Yaakov under such questionable circumstances. This became the emes. Emes is not necessarily a mirror image of what is in front of us. It is not even what appears to be reality. Emes is the opposite of sheker. For Eisav to have received the blessings would have been sheker. The blessings belonged to Yaakov and the manner devised by Rivkah to bring them out is the paragon of truth. Not only is the taking of the blessings not a contradiction of the truth, on the contrary, taking them in that specific manner was the highest form of emes. This is the meaning of titein emes l'Yaakov. Specifically, a situation which appeared tainted served as the greatest expression of the truth.

Spiritual accuracy is determined relative to the Torah, which is like the parallel rail. One must conform with the other. What we see as objective is based on just that: what we see. The Torah has a different perception, and that is the one which we follow. Thus, truth goes to the source which is determined by the Torah, the criterion for true reality in the life of a Jew.

The same idea applies to Leah's deception of Yaakov on what was supposed to be Rachel's wedding night. It seems as if the establishment of Klal Yisrael, the house of Yaakov Avinu was founded on subterfuge. Once again, we see that emes is not based upon the standard of what occurs before us. Emes is the truth to its source. Therefore, once it was revealed that Leah was also to be one of the Imahos, Matriarchs, then her becoming Yaakov's wife was to take place under the circumstances determined by Hashem. That is the whole truth.

Va'ani Tefillah Kefor ka'eifer yefazer He spreads the frost like ashes.

We are used to the changing seasons, with the weather changes that they herald. It becomes so natural that we forget that every seasonal change is orchestrated from Above. Hot and cold, wet and dry, and their effect on the world are not natural occurrences. They are guided by Hashem and concealed beneath a cloak of "natural occurrence." We take it for granted that freezing, biting cold is natural, and exposure

to the elements has a detrimental effect on a person's health. Chazal teach us that all illness is the result of Heavenly decree - except that which results from exposure to heat or cold. This is because one has the ability to protect himself. His negligence is the cause of his illness.

Horav Yechezkel Abramsky, zl, was exiled to Siberia for some time. The inmates were given light garments - no heavy fur coat. The weather in the winter was forty degrees below zero. Whenever an individual complained about his treatment, he was forced to remove his shoes and "jog" on the ice. This usually solved any issues one had concerning his treatment. One day, shortly after arriving in Siberia, Rav Abramsky went outside, looked Heavenward, and declared, "Ribono Shel Olam, Chazal say that everything is in the hands of Heaven, except for cold and hot. This is because whoever is exposed to elements without proper protection acts negligently. His disregard of his health caused his illness. I am here in the cold without anything to protect myself. Thus, the responsibility to preserve my health reverts back to You. Therefore, Hashem, watch over me, because I am seeking refuge in You." As a young child, Rav Abramsky was quite sickly, and his mother would clothe him in heavy wool garments to protect his health. Yet, in Siberia, he never once had a sniffle. Hashem took care of him.

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