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INTERNET PARSHA SHEET ON VAYEISHEV CHANUKA 1 - 5767

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SHABBAT CHANUKAH I

SHABBAT MEVARCHIM

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Chanukah: Making Light with what Remains **Chief Rabbi Sir Jonathan Sacks**

The Israeli violinist Yitzhak Perlman contracted polio at the age of 4. Ever since, he has had to wear metal braces on his legs and walk with crutches, yet he became one of the great virtuosi of our time. On one occasion, the story is told: he came out onto the stage at a concert to play a violin concerto. Laying down his crutches, he placed the violin under his chin and began tuning the instrument when, with an audible crack, one of the strings broke. The audience was expecting him to send for another string, but instead he signalled the conductor to begin, and he proceeded to play the concerto entirely on three strings. At the end of the performance the audience gave him a standing ovation and called on him to speak. What he said, so the story goes, was this: 'Our task is to make music with what remains.' That was a comment on more than a broken violin string. It was a comment on his paralysis and on all that is broken in life.

That, it seems to me, is an extraordinarily powerful way of understanding the story of Chanukah. On the face of it, Chanukah is about many things. It recalls the stunning military victory of the Maccabees against the Seleucid-Syrian branch of the Alexandrian empire, which restored Israel's independence. It marks one of Jewry's most decisive cultural battles – against assimilation and Hellenisation. It brought about the return of

Jerusalem to Jewish hands and the rededication of the Temple after its pagan desecration.

Each one of these events would have been enough to secure for Chanukah a lasting place in Jewish history. Yet what has remained engraved in Jewish memory is something else altogether: the story of the single cruse of oil, found undefiled amid the wreckage of the Sanctuary, that burned for eight days while new oil could be prepared for the Temple menorah. Jews responded almost exactly as did Yitzhak Perlman, by in effect saying: our task is to make light with what remains.

Jewish history has been etched all too often with pain, persecution, suffering and defeat. Yet somehow Jews have always found the inner strength to rededicate themselves – Chanukah means 'dedication' – to the task of life. Visiting the north of Israel this summer, immediately after the devastating Katyusha attacks from Lebanon that left a third of Israel exposed, we were astonished by the resilience of the people. They had already put the nightmare behind them and were busy rebuilding their lives.

This year, as I light the menorah, I will be thinking of what it symbolizes in terms of the Jewish spirit. I will think of what a privilege it is to be part of a people who, instead of cursing the darkness, taught us how to light a candle of hope.

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

"And Yosef's brothers went to pasture the sheep in Shechem."

Rashi on this pasuk comments that there are two dots on top of the word "Es" to teach us that in reality, the brothers did not go Shechem to pasture the sheep, but rather they went for their own benefit. The miforshim struggle to understand this Rashi. Why was it to the brother's benefit to pasture their father's sheep in Shechem?

HaRav Yaakov Kamenetzky, ז"ל explains that the brothers were concerned that Yosef wished to rule over them. Yaakov had clearly chosen Yosef as a favored son, and Yosef had related to his brothers the dreams in which he achieved supremacy over them. The brothers were convinced that Yosef's dreams were representative of his aspirations to ultimately rule over Yaakov's family. The pasuk states, "Haya Roeh Es Achiv Batzon" "Yosef pastured the sheep with his brothers." Yaakov had placed Yosef in charge of the sheep, and the other brothers were forced to answer to him. As such, when the brothers decided that they would no longer accept Yosef as their leader, the first thing that they did to rebel was to take the sheep to graze in Shechem, without Yosef's knowledge. Their intent in taking the sheep to Shechem was not for the benefit of the sheep, but rather was for their own benefit, in that they now showed their freedom from Yosef's control.

This concept can be used to explain the rest of the episode that led to Yosef's eventual sale to Mitzrayim. When Yaakov realized that the brothers had taken the sheep to Shechem, he realized what their intention was, and instructed Yosef to follow them there, and let them know that they were not yet free from his authority. Yosef traveled to Shechem, and discovered that his brothers had taken the sheep to Dosan, an area to which they had never previously brought the sheep. This was part of the brothers' declaration of independence; they took the sheep to a place that Yosef did not know of in order to demonstrate their disregard for his command. When they saw that Yosef had followed them to Dosan, they presumed that he had come to take

them to task for not informing him of their change in plans. At that point, Shimon said to Levi, "Hineh Ba'al Hacholomos Hazeh" "Behold! The big dreamer is approaching." The brothers saw the fact that Yosef followed them as further proof that it was Yosef's ambition to rule over his brothers. They were reminded of Yosef's dreams, in both the literal and figurative sense, and as such they decided to kill him.

<http://www.torah.org/learning/ravfrand/5765/>

[From 2 years ago]

Rabbi Frand on Parshas VaYeishev

Special Privileges Bring Special Responsibilities

Parshas VaYeishev begins with the story of Yosef and his brothers. It ends with the story of Yosef arriving in Egypt and his initial adventures in that land. Yosef seems to be the central figure throughout the Parsha. There is only one exception -- Chapter 38 narrates the story of Yehudah and Tamar.

On the surface, the complex narrative of Yehudah, his sons, and his daughter-in-law has no relationship whatsoever to the story of Yosef. It seems to fit awkwardly into the middle of what would otherwise be a smooth-flowing narrative. The obvious question is: what is it doing here?

Rashi quotes a statement of Chazal (which is actually part of a longer Medrash) that this chapter, beginning with the words "And it was at that time, Yehudah descended from his brothers..." marks a descent in the stature of the leadership of Yehudah. Up until this point, the brothers accepted Yehudah as their leader. After the sale of Yosef and the impact of his disappearance on their father Yaakov, the brothers blamed Yehudah for the sequence of events, and demoted him, so to speak, from his leadership role in the family.

This seems to be a rather unfair reaction on the part of the brothers. The pasukim [verses] describing the plan to dispose of Yosef indicate, if anything, that Yehudah was the "good guy". The other brothers wanted to kill him. Yehudah tried to save his life. Now, the brothers suddenly turn around, and blame Yehudah for the reaction of Yaakov! What chutzpah [audacity] on the part of his brothers, to blame him for not doing more to protect Yosef!

The other part of the aforementioned Medrash is even more unsettling. The Medrash states that a person who begins a mitzvah, but doesn't complete it, is punished by having to bury his wife and children (which is what happens to Yehudah in Chapter 38). Yehudah began the mitzvah. It was his idea to try to save Yosef. He should have gone all the way. He should have stood up and told his brothers, "This is not acceptable. I am going to take Yosef out of that pit and bring him back home to our father."

This is a really mind-boggling Medrash! The other brothers, who were ready to kill Yosef, suffered no negative family consequences. They did not bury their children. Yehudah, who at least tried to save Yosef -- and was partially successful -- winds up losing his wife and children. Where is the fairness here?

Rav Yeruchum Levovitz (1874-1936) says we learn two startling facts from this Medrash. We learn from the fact that Yehudah was demoted that leadership does not only include privileges, it also includes responsibilities. Ultimately, the buck stops at the leader. Every brother was responsible for his own deeds. But Yehudah was the leader and as such he was responsible for the collective deeds of everyone. If the leader fails to meet his responsibility, the results are disastrous.

This is true of every area of responsibility. If the foot soldier "blows his assignment", it can cause trouble. If the general blows his assignment, the results can be disastrous. If we want to give a mundane analogy from American football -- if the tackle blows his assignment, it is not the end of the world. But if the quarterback drops the football, the play is over. The team and the fans and the coach will all come to him with complaints: "It's all your fault now."

Yehudah was the leader. He had the power to save the day, but he did not do so. In terms of the "fairness" issue raised by the second Medrash, Rav Yeruchum says that we see from here that when one begins a mitzvah he creates a force in the world that if carried to fruition can take on a life of its own. When one begins a mitzvah, he creates something tangible. The mitzvah beckons to its initiator: nurture me; follow through with me. Those who did not begin the mitzvah did not create such a force. The chain reaction that may be generated by the initiated mitzvah is not going to be theirs to nurture and follow through on.

Stopping a mitzvah in the middle is analogous to squashing out a life. The analogy here is to someone who decides not to have children. This is, from our perspective, not a good thing; but we would not call that person a murderer. On the other hand, if a person decides to have a child, conceives a child, and then aborts this child, that is another story. Alternatively, what if the person allowed a child to be born and then strangled the baby? The latter person is certainly deserving of much harsher criticism than the person who decided from the outset not to have children.

When a person creates something real and then destroys it or does not allow it to reach its expected potential, he is or is like a murderer. He created a human being or a force that has the capacity to become something.

Starting a mitzvah is like conceiving a child. Aborting the mitzvah, before it has a chance to be completed leaves the initiator much worse off spiritually than one who merely said, "I am not going to try."

The brothers didn't even try. For whatever personal reasons, they never even "began the mitzvah." But Yehudah started something. He created a force with a potential to become real and alive. He decided to squelch it and stomp it out. He aborted his mitzvah. This is the poetic justice, that Divine Providence caused him in the end to bury his own children.

This is truly a frightening idea. It runs counter to our usual inclinations. We would normally tend to say, that the brothers were worse than Yehudah. Yehudah at least tried to save Yosef. He should get credit for trying -- "an A for effort!"

While it is true that effort is what really counts when it comes to ruchniyus [spirituality], in this case there is a chesoron [something lacking] in the effort. The imperfect effort is worse than no effort. When one tries and creates something that creates responsibility. Just like leadership has responsibility, so too the creation of the life force of a mitzvah includes responsibility as well. May we all merit to begin mitzvos and see them through to fruition.

A Happy Chanukah to everyone.

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VAYESHEV

http://www.rabbiwein.com/modules.php?name=News&file=article&sid=2173 As is well known, our father Yaakov is the prototype for the future generations of the Jewish people descended from his loins. Thus when Yaakov after a long, painful, dangerous and crippling experience in exile returns to his ancestral home he wishes only to dwell in peace and tranquility with himself and his neighbors. But immediately there descends upon him the ongoing tragedy of Yosef and his brothers which will occupy the latter decades of the life of Yaakov.

In fact it will now dominate his life completely, not allowing restful sleep or spiritual growth. In his sadness over the disappearance of Yosef he becomes disconnected from God's spirit, so to speak, and is distracted from his vocation and goal of promoting monotheism and Godly values in an otherwise pagan world. Returning to the Land of Israel has not solved any of Yaakov's difficulties in life. In fact, it has exacerbated them. It is in the Land of Israel that his beloved wife Rachel dies and it is in the Land of Israel that his beloved son Yosef is sold as a slave by his own brothers.

Yaakov's daughter Dena is assaulted and her brothers Shimon and Levi resort to brutal violence to free her from Shechem and return her home. All of this is in the Land of Israel, the "promised land" of holiness and goodness. How ironic that all of these events and struggles should befall Yaakov in his beloved homeland, the Land of Israel. Having come home at last from decades long exile, Yaakov apparently felt that his troubles were behind him. But in fact they were just beginning.

There is a great parallel in all of this to our current situation here in the Land of Israel and in the Jewish world generally. We thought, that returning to the Land of Israel en masse and establishing a Jewish sovereignty within its borders would solve our problems. Herzl promised an end to anti-Semitism, Ben Gurion promised world acceptance, Golda Meir and Moshe Dayan promised security and safety, Rabin and his successors promised peace. Sadly none of these promises have been realized.

The Land of Israel guarantees us no material benefits. Just as Yaakov did, so too do we face bitter internal divisions, violence, abductions, enmity and tragic deaths. In fact many if not most of the problems that Jews and Jewish society as a whole faced in the Exile are still omnipresent and sometimes even in a more virulent form here in Israel today.

We also wish for peace and tranquility, to dwell peacefully with our neighbors and ourselves. So far this goal has escaped us. But the lesson of Yaakov's life is perseverance and tenacity. That is the lesson and agenda for us as well. The ride may be a very bumpy one but the road, nevertheless, leads to greatness and the ultimate tranquility and peace that we all crave. Yaakov stays the course because he has no other alternatives. That is most probably the lesson and prediction for us as well.

Shabat shalom.

Rabbi Berel Wein

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the html version of this dvar Torah can be found at http://www.torahweb.org/torah/2006/moadim/rros_chanukah.html

Rabbi Michael Rosensweig

Chanukah as a Holiday of Idealism and Maximalism

The gemara in Shabbat (21b) responds to the query "mai Chanukah" (what is the basis and character of Chanukah) by describing the miracle of the cruise of oil that miraculously burned for eight days in the aftermath of the Chasmonean victory. The account is striking for its de-emphasis of the military victory as a motivating force in the establishment of the holiday.

To be sure, the significance of the military campaign registers in other accounts (Pesikta Rabbati, Megillat Taanit, in the insertion of "al hanissim" etc.), and even in numerous halachic references and nuances. Abudraham and Shibleit ha-Leket even find allusion to the victory in the very name of Chanukah (hanu be-kaf hei). The Peri Chadash posits that the first day is celebrated in tribute of the decisive victory since the oil was sufficient for that day. Indeed, the Netziv argues that one should focus attention also on the miraculous survival as one recites the beracha of shehecheyanu on the first night.

Notwithstanding these and other expressions, it is precisely the first post-revolt event, the effort to rededicate the mizbeach, that is the primary focal point of Chanukah. The Or Zarua sees the name "Chanukah" in this reference (see also Rashi Megillah 30b). In any case, it was the lighting of the menorah that emerged as the central mitzvah and symbol of Chanukah.

Why should a post-revolt event, even one that was miraculous, be accorded such centrality, even eclipsing national survival, an apparently more urgent miracle. Moreover, there were other miraculous manifestations, recorded in Megillat Taanit, that did not generate equivalent days of hallel and hodaah. What is singular about the miracle of the candles?

A celebrated question posed by R. Eliyahu Mizrahi and discussed extensively by the meforshim further highlights the problem. Why doesn't the halachic principle that ritual defilement is not an obstacle to national temple obligations (tumah hutrah betzibbur) dictate that the menorah could have been kindled with impure oil as well, rendering the miracle of the cruise of oil completely superfluous? While many meforshim conclude that this rule does not apply in this case, others confirm that the rule does prevail. The Chakham Zvi argues that the miracle, while not indispensable, was an important projection of Hashem's special affection for Klal Yisrael. Still, is it conceivable that the miraculous centerpiece of Chanukah may not have been fully necessary?

We encounter parallel difficulties when we examine the eight-day period. The Raavad explains that it took this long to return from Tekoa with the most refined (mehudar) oil. Thus, the miracle sustained the higher ambition of lighting the menorah with the most preferred oil, but may not have been required simply to discharge the Temple obligation of ritually pure oil! The Beit ha-Levi queries why the menorah was not lit with thinner wicks during this period to stretch the oil supply. Wouldn't a concession in the quality of the mitzvah have been justified given the crisis?

It is conceivable that the menorah miracle emerged as the central feature and symbol of Chanukah precisely because it was not technically indispensable. As the Levush, Bach, and others note, Chanukah (in contrast to Purim) celebrates salvation from spiritual extinction. The Chasmonean revolt rejected the very notion of institutionalized spiritual mediocrity even

at the expense of national survival. The nation could not acquiesce to the decrees against the study of Torah and performance of mitzvot because such acquiescence would have undermined the very foundation of Jewish existence, even if it might temporarily have secured the physical continuity of the nation. The concept of shaat ha-shemad (Sanhedrin 74a:Rambam, Hil. Yesodei ha-Torah 5:3; Chanukah 3:1) which demands that Jews sacrifice life itself to affirm their Torah commitment in a time of religious crisis stems from the realization that Jewish life cannot long survive without the idealism and ambition of a life of mitzvot. Each discrete challenge to halachic life might warrant a response of yaavor ve-al yehiareg (Sanhedrin 74a- violate rather than be killed) as a concession to the sanctity of human life. However, when applied pervasively to justify a comprehensive and systematic breakdown of halachic life, this policy condemns Klal Yisrael to spiritual oblivion. The principle of shaat ha-shemad underscores the transcendent value of ideal halachic standards as worthy of sacrifice. Chanukah, then, represents a struggle for a maximalist halachic lifestyle.

Precisely because attaining victory in the military struggle once joined was indispensable, this miracle did not accurately convey the singular character of Chanukah, although it certainly occasions the *hodaah* expressed in *al ha-nissim*. However, the miracle that resolved the first national-spiritual challenge in the aftermath of victory, the ritual impurity of the Temple oil, dramatically captured the very spirit of the Chasmonian struggle. A miracle that obviated the need to rely upon the bedeviled halachic response of *tumah hutrah betzibbur*, or even the thinning of the wicks or use of halachically inferior oil forcefully projected halachic idealism and maximalism as the foundation of the revolt and set a powerful tone for the new era. Thus, the gemara's question "mai Chanukah" conveys an effort to capture the essence of the holiday, not merely to record its history or the details of its observance. The miracle of the *neirot*, which enabled the mitzvah to be implemented without compromise, perfectly encapsulates the motive, goal and impact of Chanukah.

It is entirely appropriate that unique among mitzvot, the mitzvah of *neirot Chanukah* projects three distinct levels- *neir ish u-beito*, *mehadrin*, *mehadrin min ha-mehadrin*. While the concept of *zeh Keili ve-anveihu* establishes a general concept of *hiddur mitzvah* (adorning the mitzvah), only in Chanukah do we encounter different qualitative performances. Moreover, the Shulchan Aruch and Tur almost exclusively emphasize the more ambitious and idealistic performance of the mitzvah! According to R. Bechya the term "Chanukah" also suggests *chinuch* - an educational program. May we succeed in internalizing and inculcating maximalism and idealism in halachic standards and performance thereby fulfilling the aspirations of Chanukah.

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- For the week ending 16 December 2006 / 25 Kislev 5767 - from Ohr Somayach | www.ohr.edu

-- The First Chanukah Light in Begen Belsen

by **Rabbi Mendel Weinbach** <http://ohr.edu/yhiy/article.php/2835>

Chanuka came to Bergen Belsen. It was time to kindle the Chanuka lights. A jug of oil was not to be found, no candle was in sight, and a Chanukia belonged to the distant past. Instead, a wooden clog, the shoe of one of the inmates, became a Chanukia, strings pulled from a concentration camp uniform, a wick, and the black camp shoe polish, pure oil.

Not far from the heaps of bodies, the living skeletons assembled to participate in the kindling of the Chanuka lights.

The Rabbi of Bluzhov lit the first light and chanted the first two blessings in his pleasant voice, and the festive melody was filled with sorrow and

pain. When he was about to recite the third blessing, he stopped, turned his head, and looked around as if he were searching for something.

But immediately, he turned his face back to the quivering small lights and in a strong, reassuring, comforting voice, chanted the third blessing: "Blessed are Thou, O L-ord, our G-d, King of the Universe, who has kept us alive, and has preserved us, and enabled us to reach this season."

Among the people present at the kindling of the light was a Mr. Zamietchkowski, one of the leaders of the Warsaw Bund. He was a clever, sincere person with a passion for discussing matters of religion, faith and truth. Even here in camp at Bergen Belsen, his passion for discussion did not abate. He never missed an opportunity to engage in such conversation.

As soon as the Rabbi of Bluzhov had finished the ceremony of kindling the lights, Zamiechkowski elbowed his way to the Rabbi and said, "Spira, you are a clever and honest person. I can understand your need to light Chanuka candles in these wretched times. I can even understand the historical note of the second blessing, "Who wrought miracles for our Fathers in days of old, at this season." But the fact that you recited the third blessing is beyond me. How could you thank G-d and say "Blessed art Thou, O L-rd, our G-d, King of the Universe, who has kept us alive, and hast preserved us, and enabled us to reach this season"? How could you say it when hundreds of dead Jewish bodies are literally lying within the shadows of the Chanuka lights, when thousands of living Jewish skeletons are walking around in camp, and millions more are being massacred? For this you are thankful to G-d? For this you praise the L-rd? This you call "keeping us alive"?

"Zamietchkowski, you are a hundred percent right," answered the Rabbi. "When I reached the third blessing, I also hesitated and asked myself, what should I do with this blessing? I turned my head in order to ask the Rabbi of Zener and other distinguished Rabbis who were standing near me if indeed I might recite the blessing. But just as I was turning my head, I noticed that behind me a throng was standing, a large crowd of living Jews, their faces expressing faith, devotion, and deliberation as they were listening to the rite of the kindling of the Chanuka lights. I said to myself, if G-d has such a nation that at times like these, when during the lighting of the Chanuka lights they see in front of them the heaps of bodies of their beloved fathers, brothers, and sons, and death is looking from every corner, if despite all that, they stand in throngs and with devotion listening to the Chanuka blessing "Who performed miracles for our Fathers in days of old, at this season"; indeed I was blessed to see such a people with so much faith and fervor, then I am under a special obligation to recite the third blessing."

Some years after the liberation, the Rabbi of Bluzhov received regards from Mr. Zamietchkowski. Zamietchkowski asked the son of the Skabiner Rabbi to tell Israel Spira, the Rabbi of Bluzhov, that the answer he gave him that dark Chanuka night in Bergen Belsen had stayed with him ever since, and was a constant source of inspiration during hard and troubled times.

- From Chassidic Tales of the Holocaust by Yaffa Eliach

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Peninim on the Torah

by **Rabbi A. Leib Scheinbaum** - Parshas Vayeishev

Yaakov settled in the land of his father's sojournings. (37:1) It is related that the saintly Gaon, zl, M'Vilna would lecture every Shabbos on the parsha of the week. When it came to Parshas Vayeishev he said, "I find it very hard to speak this Shabbos, in contrast to the previous Shabbos. This

is because I cannot employ the usual syntax I use for my drashah, lecture, this week. Every week I focus on the righteous hero of the parsha, and I elevate him, while I denigrate the rasha, evil individual, in the parsha. I was able to do this with Kayin and Hevel, Noach and the people of his generation, Avraham and Lot, Yitzchak and Yishmael, Yaakov and Eisav, Yaakov and Lavan, and - once again - Yaakov and Eisav. This week, however, the parsha revolves around Yosef and his brothers. I have nothing to say, for they were all tzadikim, kedoshim and tehorim - righteous, holy and pure!" This attitude should prevail whenever we approach the parshios from Parashas Vayeishev until the end of Sefer Bereishis. We do not understand what really occurred and what really was happening behind the scenes. We do know one thing, however, they were all - Yosef and his brothers - holy and righteous individuals. There is no "bad guy" in this parsha - just two distinct perspectives which are far beyond our ability to grasp; it is certainly above our capability to distinguish between them.

Now Yisrael loved Yosef more than all of his sons, since he was a child of his old age. (37:3)

Targum Onkelos defines ben zekunim as bar chakim, a wise child. Yaakov Avinu's affection for Yosef was based upon the reality that he was a bright child with incredible potential. This is a nice pshat, explanation, but what is the connection between Yosef's acumen and his status as the ben zekunim, child of Yaakov's old age? Obviously, as is explained by many a commentator, the ben zekunim is showered with an extra dose of love, precisely because he is the youngest. A child who receives love will produce. Love begets wisdom. When we smile to a child; when we demonstrate to him that we love him; when he feels loved and cared for, he responds accordingly. He becomes a better student. His wisdom increases in accordance with the love he receives.

On the other hand, a child who is the subject of scorn, screaming and constant rebuke and negativity will not produce effectively. Hitting a child will not make him learn. It will only guarantee that he will distance himself from the parent and his values. It might have worked years ago, which is something I hear, but do not believe. Rabbeinu Gershom writes in Bava Basra 21A, "Do not hit a child more than necessary, for as a result of too much physical discipline, he will not become smarter."

The Chazon Ish, zl, was wont to relate stories about tzadikim, righteous Jews, to young children, claiming that these vignettes would instill yiras Shomayim, fear of Heaven, in the child. He was especially fond of using the sefer, "Chut Ha'Meshulash," stories about Rabbi Akiva Eiger, the Chasam Sofer and Kesav Sofer as a favorite sourcebook. He related that when the Chasam Sofer, zl, was but a lad of four years old, he once came home from cheder appearing very depressed. His father immediately asked him what was wrong. After all, this was a child who loved to study Torah, who ran to cheder, who imbibed every word of Torah with an unquenchable thirst. He explained to his father that his rebbe had beat him for asking a question. His father was shocked to hear this, and he asked his son to explain.

"We learned the pasuk in Bereishis which describes Hashem fashioning Adam HaRishon, 'And Hashem G-d formed the man of dust from the ground' (Bereishis 2,7) The rebbe explained this as, 'He (Hashem) took dust/earth from ground/earth.' I immediately asked, 'From where else does one take earth, if not from the earth?' What is so novel about this pasuk?"

"The rebbe became angry with me for asking this question. He did not respond to me. When I repeated my question, he came over to me and hit me a number of times."

When the Chasam Sofer's father heard this, he became incensed. After all, this was a perceptive question, one that even Rashi addresses. How could the rebbe hit a young child for asking this question? Moreover, he was concerned for his young son. How could he study Torah from someone who not only is unable to explain the material properly, but is also impatient and subject to an uncontrolled temper. He went to the rav of Frankfurt, Horav Nossan Adler, zl, who, after hearing an account of the incident,

instructed him to cease working in his business and spend all of his time with his brilliant son and personally teach him Torah. The Chasam Sofer's father did not have to be convinced of his parental responsibility. He dropped everything to devote himself to his son's educational development. The Torah world is forever indebted to him.

It is not the act of disciplining that is the problem, as much as the attitude that accompanies it. When one strikes a student out of anger, it fosters negativity and hatred. When one must discipline for a valid reason, it should be with dignity and love. Horav Yaakov Kaminetsky, zl, a Rosh Hayeshivah and mechanech, educator par excellence, was an individual who was famous not only for his encyclopedic knowledge of Torah, but also for his middos, character traits. He once remarked that he never held a grudge against anyone - except for one of his earliest melamdim, elementary school teachers. He related an incident from his early childhood that had never left him. It was a gentile holiday, and the town was celebrating in the usual way with a festive parade. The children in the cheder were admonished by their rebbe that it was absolutely forbidden to attend the parade. Everyone was expected to be in class on time.

The next morning, as the young (Rav) Yaakov was walking to cheder, he noticed an elderly woman carrying a number of heavy shopping bags. He approached her and offered his assistance in carrying the bags. After helping her home with her bags, he went immediately to cheder, but arrived slightly late. The rebbe asked him, "Why did you go to the parade? Did I not tell everyone yesterday that it is absolutely forbidden to attend their parade?" The young boy immediately replied, "But I did not go to the parade. I am late because I was helping an elderly lady with her packages." "Not only did you disobey me by going to the parade, you also have the nerve to lie!" declared the rebbe. This angry retort was accompanied by two slaps to complete the humiliation.

Rav Yaakov concluded, "He is the only person I have not been able to bring myself to forgive, because, to the best of my knowledge, I have never lied in my life."

The Tolner Rebbe, Shlita, once met a man who boasted that he had no problem disciplining his children in the "ancient" practice of spanking or slapping. After all, if it was good enough for his father and grandfather, why should it be different with him? The Rebbe replied, "Your grandfather kept his meat cold in an icebox, not a refrigerator. He also did not have the benefit of a microwave. Perhaps you should place the fish your wife prepares for Shabbos in an icebox and share with me if you care for the taste. Things have changed. Life has changed. We no longer discipline with negativity and corporeal punishment. Today, we discipline with love."

Horav Mordechai Rogov, zl, Rosh HaYeshivah of Bais Medrash L'Torah in Skokie, Illinois, was a distinguished Lithuanian Torah scholar and mussar personality who, following World War II, moved to Chicago. During his tenure as Rosh HaYeshivah, he reached out to many talmidim, students, imbuing them with a love of Torah. What his talmidim recall about him most was the love and respect that he demonstrated towards them. He was warm and caring, making every student feel comfortable in his presence. Rav Rogov never turned his back on a talmid. After speaking with a student, whether it was in the bais ha'medrash or in a classroom, he would always back away when he had finished. He did not turn around and leave with his back to the student. This taught the talmidim to respect and show reverence to those who study Torah.

He once announced to his class that since a student was expected to inform his rebbe if he could not attend class, it was only right that the rebbe should notify his talmid if he was going to miss shiur, class. Since his grandson was becoming Bar Mitzvah that Shabbos in Detroit, he would like to attend - providing that his talmidim did not mind. If anyone had objected, he would not have attended his grandson's Bar Mitzvah!

His son once came home to discover Rav Rogov upset. Indeed, his eyes even seemed damp. Concerned, he asked his father if he felt well. His father explained that a talmid had approached him that day and cried bitterly that he had been unable to achieve success in learning. "Please, rebbe, give

me a brachah!" the boy asked. He attempted to encourage the student, but, unfortunately, learning was only one of his problems. He had other troubles as well. Rav Rogov was distressed by his talmid's pain and, even now, many hours later, was still concerned about his student's condition.

A man discovered him, and behold! He was blundering in the field. (37:15)

A chasid once came to the Sanzer Rav, zl, lamenting the fact that his eldest daughter had reached marriageable age, but he did not have the wherewithal with which to marry her off. The Rebbe quickly prepared a letter of approbation for the chasid to deliver to one of his wealthy chassidim who lived in another town, appealing to him to help this individual raise the necessary funds to marry off his daughter. When the poor chasid approached the wealthy man for assistance, the man curtly replied, "Talmud Torah k'neged kulam, 'The study of Torah supersedes everything' I must learn Torah. I do not have the time to run around the city raising funds."

A number of months went by, and the wealthy chasid had occasion to be in Sanz. When he greeted the Rebbe, the Rebbe ignored him. He figured that the Rebbe must be deeply engrossed in thought. When he was about to leave, he came to say "goodbye" to the Rebbe, and, once again, he rebuffed him. This was not typical of the Sanzer Rav. He decided to gather his courage to ask the Rebbe what was wrong. The Sanzer Rav replied with the following Torah thought. "In the Torah in Bereishis 32:25, when Yaakov Avinu encountered Eisav's guardian angel, the Torah writes, 'And a man wrestled with him.' This went on all night until Yaakov prevailed over the angel, after which Yaakov asked for his blessing. It was daybreak, and the angel asked Yaakov, 'Let me go, for dawn has broken.' (ibid.27) Rashi explains that the angel asked to be released because it was his turn to sing praise to Hashem. We also find that when Yosef was wandering in the field, a man showed him the way. Rashi comments that the man was actually the angel Gavriel. Now, let me ask you, why, in the debate between Yaakov and the man, does Rashi say it was Eisav's angel, and, in the incident of Yosef, he says that the angel was Gavriel? It says the man in both cases! What is there about each episode that alludes to the true identity of this man?

"The answer is," the Sanzer explained, "that when Yosef was lost and a man came forward to help him find the way, it must be the angel Gavriel. When Yaakov found himself alone in the middle of the night, however, and asked the "man" to bless him, and he responded, "I am in a rush to praise Hashem," this must have been the response of Eisav's angel. Only Eisav's angel would use such an excuse not to help a Jew. The mitzvah to act kindly to help another Jew is all-encompassing and takes precedence over everything. Obviously, it must have been Eisav's angel."

The Sanzer Rav got his message across to the chasid. There is a time and place for everything. When a Jew is in need, one makes the time to help him. Regrettably, there are many who do not take this idea to heart. They are kind and benevolent, and always there to help, but it is always on their terms. A person in need determines the terms according to his needs. If he is in need now, then the act of chesed demands that he be assisted now - not when it is convenient for the benefactor. Veritably, we do not realize the extent to which a simple act of kindness can go and the difference it can make in someone's life. The following episode illustrates just one instance among myriads of episodes in which a small act of kindness has gone a long way towards saving a soul.

A young bachur, yeshiva student, who was studying in a new yeshiva felt very lonely: he was homesick; the yeshiva was a bit overwhelming; he had a difficult time making friends. He felt out of place and wanted to leave. No one seemed to take a real interest in him, so he decided this was not going to work. He was leaving the yeshiva.

He remained in the yeshiva for one last Shabbos, packed his bags and prepared to leave. On motzei Shabbos, out of the blue, a young kollel fellow struck up a conversation with him. A friendship developed between the two, and they even began to learn b'chavrusa, became study partners. The

young bachur forgot about leaving and began to study Torah diligently. He soon became a budding talmid chacham, Torah scholar.

A number of years went by, and he became engaged to a very fine girl from a distinguished family. He decided to look up the kollel fellow who had taken the time to converse with him that motzei Shabbos. He located him and sent him a wedding invitation. At first, the kollel fellow had to think twice before he remembered the name. It was not as if they had had that much time together. However, he did attend the wedding. It was an emotional scene when the kollel fellow entered the room where the chassan was seated surrounded by family and friends. The chassan stood up and ran over to the kollel fellow, and they embraced. Amid tears, he declared, "You are the most important guest at this wedding! If not for you, I would not be here tonight. You went out of your way to befriend a young bachur in the yeshiva. If not for your friendship, I would have left the yeshiva and probably would never have matured into a ben Torah. Thank you!"

It does not take much, but it does take some effort. Everyone has the desire to help. We somehow never find the time. By making the time, we could be saving someone's life, or even more - his neshamah.

For she saw that Shelah had grown, and she had not been given to him as a wife. (38:14)

The Baal HaTurim takes note of the Mesorah, Masoretic tradition, of the words, "For she saw that Shelah had grown" and cites three other instances in total in which a similar phrase is used. The first is, previously, in Bereishis 26:13, "The man (Yitzchak) became great and kept becoming greater until he was very great." The second is this pasuk, which relates Tamar's reaction to Shelah's maturing and the fact that he had still not been given to her as a husband. The third citation is a pasuk in Sefer Iyov, "Because the pain is very great." He explains that there is a distinct relationship between these pesukim. They explain why Tamar merited to be the matriarch of Malchus Bais David, the Davidic Monarchy, from whom Moshiach Tzidkeinu descends. When she saw that Shelah had matured and she had yet not been given to him as a wife, she was filled with great pain, which is a reference to the pasuk in Iyov. Since she was so distressed over not being designated as the progenitor of Moshiach, she merited to become the matriarch of the Davidic Dynasty, which would grow greater and greater until the advent of Moshiach, which is an allusion to the pasuk concerning Yitzchak Avinu's material growth.

This Mesorah is teaching us that Tamar merited this distinction because she felt so much pain, to the point of distress. When someone cares enough about an ideal, and they are worthy of reward, Hashem will grant them what they value the most. Hashem looks at one's priorities and rewards accordingly.

My mechutan, Horav Shmuel Gluck, Shlita, RAM in Telshe Chicago, shared with me an insight regarding this idea. We find that when Aharon HaKohen was designated by Hashem to be Kohen Gadol, he had to be encouraged by Moshe Rabbeinu to approach the Altar. He was filled with fear, trepidation and awe, and he felt ashamed to approach the Altar because of his role in the sin of the Golden Calf. He felt guilty and, thus, unworthy of the High Priesthood. Moshe encouraged him saying, "Why are you ashamed? It is for this that you have been chosen." The commentators add that Moshe was intimating that it was specifically because of his awe and shame, because of his outstanding humility, that he had been chosen. He demonstrated what was important to him. His overwhelming reverence for the Altar and what it represented made him feel unworthy of serving there on behalf of Klal Yisrael. He indicated what his priorities were, and, thus, merited to become one of Hashem's priorities.

Sponsored l'zechar nishmas R' Noach ben Yehuda Aryeh z'l niftar 22 Kislev 5726 by his family

From: office@etzion.org.il on behalf of Yeshivat Har Etzion [office@etzion.org.il] Sent: Thursday, December 14, 2006 7:38 AM To: yhe-sichot@etzion.org.il Subject: SICHOT67 -09: Parashat Vayeshev

STUDENT SUMMARIES OF SICHOT OF THE ROSHEI YESHIVA
Parashat VAYESHEV

SICHA OF HARAV YEHUDA AMITAL SHLIT" A

The Problem of Monarchy

Summarized by Matan Glidai

Translated by Kaeren Fish

His brothers said to him: "Shall you then rule over us? Shall you then be our ruler?" And they hated him even more, because of his dreams and because of his words. (37:8)

Seemingly, the anger that the brothers feel towards Yosef is disproportionate, perhaps altogether unjustified. Yaakov, their father, had worked for seven years for Rachel; he loved her more than he loved Leah and regarded her as his primary wife. It is therefore only natural that he demonstrated preferential treatment towards her firstborn son, Yosef, regarding him as his successor.

Moreover, if anyone among the brothers should have taken offense, it should have been Reuven, whose firstborn status had been snatched from him, as it were. But it is specifically he who tries to prevent the sale of Yosef, while the other brothers are enthusiastically planning it. What was it about Yosef's behavior that aroused such anger among his brothers?

Further on in the parasha, we read the story of Yehuda and Tamar. The Midrash describes what each character was involved in while this episode was taking place:

The brothers were busy with the sale of Yosef; Yosef was busy with his sackcloth and fasting; Reuven was busy with sackcloth and fasting; Yaakov was busy with sackcloth and fasting; Yehuda was busy taking himself a wife – and the Holy One, blessed be He, was busy creating the light of the King Mashiach. (Bereishit Rabba 85, 1)

How was the "King Messiah" created? Not through the normative family framework, but rather through a relationship seemingly based upon prostitution, taking place between a man and his daughter-in-law. Later on it was necessary for Ruth the Moabite to come and marry one of the descendants of this family, in order that ultimately King David could be born, so that Mashiach can eventually come into existence. The relationship between Ruth and Boaz, likewise, did not start off as what we could describe as normal relations between husband and wife. An anonymous midrash (quoted in Yalkut Ha-Makhiri on Tehillim 118:22) teaches that the birth of David himself was likewise the result of an unusual set of circumstances: Yishai meant to engage in sexual relations with his handmaid, but mistakenly lay with his wife.

Why is King David – and, ultimately, the Mashiach - descended from such a problematic background?

The midrash goes on to assert that King David was supposed to live for only a very short time:

"This is the book of the generations of Adam" (Bereishit 5:1) – G-d showed him [Adam] all of the generations. He showed him David; the life allotted to him was three hours. He said before Him: "Master of the world, is there no repair for this?"

[God] said: "So it is My intention."

[Adam] said: "How many years will I live?"

G-d said to him: "A thousand years."

[Adam] asked: "Is there such a thing as a gift in the heavens?"

G-d answered him: "Yes."

[Adam] said: "Let seventy years of my life go towards him." (Yalkut Shimoni, 41)

King David was allotted only three hours to live; he lived for seventy years thanks only to the "gift" of Adam. Why was he given such a brief lifespan? What does the midrash mean to tell us?

It seems that the midrash is expressing the idea that kingship has no right to exist in Israel. We cannot naturally accept a situation whereby one Jew

rules over another Jew. In order for kingship to exist in Israel, a special gift from Adam, as it were, is required. The problematic ancestry from which David was descended expresses a similar idea: Am Yisrael cannot attain kingship in a natural manner.

The Rebbe of Kotzk used to say that in order to establish kingship, Am Yisrael had to import a Moabite woman. The nation could not create kingship out of its own resources. Yosef succeeded in functioning as Pharaoh's second-in-command only after he learned this skill in Egypt. Moshe was called "king," according to some of the commentaries (who apply to him the verse, "There was a king in Yeshurun," Devarim 33:5), after he learned the art in Midian. Am Yisrael needs to learn from the other nations how a king conducts himself; the nation cannot learn alone. When Am Yisrael asks for a king, their request is: "Let us place over ourselves a king, like all the nations that are around us" (Devarim 17:14). The concept of a king stands in contradiction to the path and nature of Am Yisrael; it must be borrowed from outside.

Indeed, after people from amongst Am Yisrael request of Shemuel that he appoint them a king, G-d is angry: "It is not you whom they have despised, but Me, from ruling over them" (I Shemuel 8:7). Kingship in Israel is not a desirable, natural phenomenon. An ideal kingship will exist only in the days of Mashiach. Concerning the verse, "Yaakov sent messengers before him to Esav, his brother" (Bereishit 32:3), Chazal teach:

"Before him" – to him whose time had come to take up kingship from before him. R. Yehoshua taught: He sent royal garments and cast them before [Esav], saying: Two starlings cannot sleep on the same board (i.e., two people cannot rule at the same time). (Bereishit Rabba 75, 4)

Yaakov, at that time, had no desire for kingship, and so he allowed Esav to precede him in establishing this institution. Regarding the verse, "Let my lord pass on before his servant... until I shall come to my master at Se'ir" (Bereishit 33:14), the Midrash says,

Rabbi Abahu taught: We have reviewed the entire Tanakh, but nowhere do we find that Yaakov ever went to Esav at Mount Se'ir... When will [Yaakov] come to him? In the future, as it is written: "The saviors shall ascend Mount Zion to judge the Mountain of Esav..." (Ovadia 1:21). (Bereishit Rabba 78,18)

Am Yisrael allows the other nations to take the lead in creating royalty; however, Am Yisrael aspires to attain ideal kingship in the days of the Mashiach. (Rav Kook expands on this idea in his Ma'amar Ha-Milchama, par. 3.)

As noted, it is not only the institution of kingship that is not suited to Am Yisrael. Even on the personal level, it is difficult to find a person who is suited to be king, who is capable of ruling over his own nation. It was necessary to enlist help from the other nations in order to create such a person. (Of course, the problem with monarchy is that one person rules over others; however, the fact that Jews rule themselves and exercise sovereignty is not problematic. In fact, the restoration of Jewish sovereignty is one of the reasons we celebrate Chanuka.)

Perhaps this is the reason for the great anger that the brothers feel towards Yosef. "Shall you then rule over us? Shall you then be our ruler?" It is not the identity of the person who will rule over them that so disturbs them. Rather, it is the very idea that one person is king and rules over others. It was the concept of kingship that they rejected outright.

(This sicha was delivered at seuda shelishit, Shabbat Parashat Vayeshev 5758 [1998].)

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BY RABBI JOSH FLUG –

Lighting Chanukah Lights When Away From Home

The Gemara, Shabbat 21b, states that the primary mitzvah of lighting Chanukah lights is lighting one light per household. This implies that the obligation of lighting Chanukah lights centers on the home rather than the individual. This article will discuss various scenarios in which one is not able to light at home.

The Law of the Guest

The Gemara, Shabbat 23a, quotes R. Sheshet, who states that if someone is a guest at another person's home he should contribute a perutah (a very small amount of money) towards the purchase of the oil necessary to fuel the Chanukah candles. The Gemara then quotes R. Zeira, who states that when he was a guest he used to contribute a perutah. After he got married he no longer contributed a perutah because his wife lit the Chanukah lights at home, thus fulfilling his obligation.

The implication of the Gemara is that if one is traveling and his wife is lighting at home, he is not required to light Chanukah candles. If his wife is not lighting at home (either because she is traveling with him or because he is not married), he is required to contribute a perutah to purchase part of the oil that his host will use.

Although the law of the guest is clear, there are three factors that affect the application of this law on a practical level. First, the Gemara, Shabbat 23a, states that one who sees the lights of others recites the beracha of she'asa nissim la'avoteinu. Ran, Shabbat 10a, s.v. Amar Rav Chiya, rules that this beracha is only recited if someone has no way of fulfilling the mitzvah. If one fulfills the mitzvah, even if it is fulfilled through one's wife lighting at home or by contributing a perutah, one does not recite the beracha. However, Mordechai, Shabbat no. 267, claims that one who is a guest and is not lighting on his own should recite the beracha upon seeing someone else's light.

Second, the Gemara, Shabbat 23a, states that if one's home has multiple entrances, he must light in each of the entrances in order to avoid suspicion (chashad) that he does not light Chanukah lights. Rif, Shabbat 10a, applies this concept to a guest and notes that if a guest has a private entrance to the house, he must light at that entrance in order to avoid chashad.

Regarding the house with multiple entrances, Rama, Orach Chaim 671:8, rules that nowadays, when everyone lights indoors, there is no need to light in all entrances of the house. However, regarding the guest, one can take the viewpoint that there is no concern at all of chashad. Alternatively, one can take the viewpoint that even the guest has no private entrance to the house, there is a concern of chashad since the other members of the house don't necessarily know that someone else is lighting for the guest elsewhere. Mishna Berurah, Biur Halacha 671:1, s.v. Petach, asserts that logically, he would follow the former approach. However, he notes that Maharil, Teshuvot Maharil no. 145, explicitly presents the latter approach.

Third, Tosafot, Shabbat 21b, s.v. VeHaMehadrin, state that one cannot fulfill the mehadrin (preferable) aspect of lighting if one places more than one set of lights in the doorway because it won't be recognizable that there are multiple sets of lights. Rama, Orach Chaim 671:2 (see Darkei Moshe 671:1) rules that nowadays, when everyone lights indoors, there is no concern for multiple lights because the different sets of lights can be separated.

Based on these three factors, Mishna Berurah 677:7 (based on the comments of Maharil, op. cit.), rules that one who is a guest should light on his own, regardless of whether his wife is lighting for him. By lighting on his own, he can avoid the issue of whether he should recite the beracha of she'asa nissim la'avoteinu. He may now certainly recite the beracha because he is fulfilling the mitzvah himself. By lighting himself he also mitigates the concern for chashad. Furthermore, since nowadays, it is justifiable for the guest to light himself, and it will not affect the lights of everyone else, there is a third option for a guest other than contributing a perutah or relying on one's wife.

While most Acharonim do allow a guest to light in someone else's house and recite a beracha, Mishna Berurah 677:16, presents a minority opinion among the Acharonim that if one's wife already lit at home, he should not recite a beracha upon lighting. Mishna Berurah rules that if one finds himself in this situation, he should listen to someone else recite the berachot and then light the Chanukah lights.

According to Mishna Berurah a guest may certainly recite a beracha if his wife is not lighting at home. Nevertheless, Rav Yosef D. Soloveitchik (cited in B'Ikvei HaTzon ch. 20, note 2) was of the opinion that a guest may never recite a beracha because the mitzvah of lighting Chanukah lights was only instituted in one's own home.

What Constitutes a Guest?

Given that a guest may light, one must question what constitutes a guest. May one light in someone else's home if he is only visiting for a few hours? Rashba, Teshuvot HaRashba 1:542, rules that one may only employ the rule of the guest in a

situation where the guest has no option to light in his own home. Ostensibly, this same ruling should apply to someone who is not employing the rule of the guest by contributing a perutah, but would like to consider himself part of the household for the purpose of lighting there. If this person has an option of lighting at home, he should do so. If not, he may light at the home of his host.

For this reason, Magen Avraham 677:7, and Taz, Orach Chaim 677:2, rule that if one is eating at someone else's home and he plans to sleep in his own home, he may not light at the home of his host. Nevertheless, the comments of Taz imply that if one is sleeping at his host's home, he may light there. However, P'ri Chadash, Orach Chaim 677:1, discusses a case of a family who spends the entire Chanukah at the home of another family while only returning to their own home for an occasional meal. P'ri Chadash rules that since they are sleeping at the host's house for the entire Chanukah, they may light at the home of the host. P'ri Chadash's comments are quoted by Mishna Berurah, Biur Halacha 677:1 s.v. L'Atzmo.

Implicit in P'ri Chadash's ruling is that one may only light at the home of the host if one resides there for the entire Chanukah. If one only resides there for one night of Chanukah, one may not light at the home of the host. However, R. Yeshaya. Y. Bloi, Chovat HaDar, Ner Chanukah ch. 1 note 58, claims that P'ri Chadash does not necessarily insist on one staying at the host for all eight days in order to light there. He is merely giving an example of a common situation where a family spends Chanukah at the home of another family. R. Bloi rules that since Taz implies that sleeping at the host for one night is sufficient and it is possible that P'ri Chadash is lenient, one may light at a place where one stays for one night.

Rav Moshe Shternbuch, Moadim Uzmanim, Orach Chaim 1:391, also rules that it is not necessary to stay for the entire Chanukah in order to light at the home of the host. The reason why P'ri Chadash mentions eight days is because in that situation the guest was continuously returning to his home, albeit only occasionally, and on a temporary basis. If a person is not going to return home at all, R. Shternbuch contends that it is sufficient that the guest remains for a twenty-four hour period. [See also, B'Ikvei HaTzon op. cit.]

R. Shternbuch then notes that if someone is a guest for Shabbat and is planning on returning home after Shabbat, he may light at the home of his host after Shabbat, even though he has the ability to light in his own home later that night. However, R. Shternbuch rules that if one is able to light at a time when there are still people traversing the streets around one's home, it is preferable to light at home.

R. Joshua Flug is the Rosh Kollel of the Boca Raton Community Kollel, a member of the YU Kollel Initiative and senior contributor for YUTorah.org, a division of Yeshiva University's Center for the Jewish Future. To access the archives of the Weekly Halacha Overview click here. To unsubscribe from this list, please click here.

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Vayeshev Vol 19 No 9 16 December 2006

25 Kislev 5767
SHABBAT CHANUKAH I
SHABBAT MEVARCHIM
Hertz p. 141 Soncino p. 229
Shabbat ends in London at 4.46pm
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Chanukah: Making Light with what Remains

Chief Rabbi Sir Jonathan Sacks

The Israeli violinist Yitzhak Perlman contracted polio at the age of 4. Ever since, he has had to wear metal braces on his legs and walk with crutches, yet he became one of the great virtuosos of our time. On one occasion, the story is told: he came out onto the stage at a concert to play a violin concerto. Laying down his crutches, he placed the violin under his chin and began tuning the instrument when, with an audible crack, one of the strings broke. The audience was expecting him to send for another string, but instead he signalled the conductor to begin, and he proceeded to play the concerto entirely on three strings. At the end of the performance the audience gave him a standing ovation and called on him to speak. What he said, so the story goes, was this: 'Our task is to make music with what remains.' That was a comment on more than a broken violin string. It was a comment on his paralysis and on all that is broken in life.

That, it seems to me, is an extraordinarily powerful way of understanding the story of Chanukah. On the face of it, Chanukah is about many things. It recalls the stunning military victory of the Maccabees against the Seleucid-Syrian branch of the Alexandrian empire, which restored Israel's independence. It marks one of Jewry's most decisive cultural battles – against assimilation and Hellenisation. It brought about the return of Jerusalem to Jewish hands and the rededication of the Temple after its pagan desecration.

Each one of these events would have been enough to secure for Chanukah a lasting place in Jewish history. Yet what has remained engraved in Jewish memory is something else altogether: the story of the single cruse of oil, found undefiled amid the wreckage of the Sanctuary, that burned for eight days while new oil could be prepared for the Temple menorah. Jews responded almost exactly as did Yitzhak Perlman, by in effect saying: our task is to make light with what remains.

Jewish history has been etched all too often with pain, persecution, suffering and defeat. Yet somehow Jews have always found the inner strength to rededicate themselves – Chanukah means 'dedication' – to the task of life. Visiting the north of Israel this summer, immediately after the devastating Katyusha attacks from Lebanon that left a third of Israel exposed, we were astonished by the resilience of the people. They had already put the nightmare behind them and were busy rebuilding their lives.

This year, as I light the menorah, I will be thinking of what it symbolizes in terms of the Jewish spirit. I will think of what a privilege it is to be part of a people who, instead of cursing the darkness, taught us how to light a candle of hope.

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From: Michael Rosenthal [webmaster@koltorah.org] Sent: Friday, November 10, 2006 1:13 PM To: Kol Torah Subject: Kol Torah Parashat Vayeira Yerushah – Mizvah LeKayeim Divrei HaMeit - KOL TORAH A Student Publication of the Torah Academy of Bergen County Parshat Vayeira 20 Cheshvan 5767 November 11, 2006 Vol.16 No.8

Yerushah – Mizvah LeKayeim Divrei HaMeit by Rabbi Chaim Jachter
(assisted by Martin M. Shenkman, Esq.)

Introduction In the previous issue, we noted that most Poskim concur that the rule of Dina Demalchuta Dina has no impact on the Halachot of Yerushah and is therefore not a viable means of making one's will Halachically acceptable. There is, however, another potential means of distributing assets without violating Halacha – the rule of Mizvah LeKayeim Divrei HaMeit, the Mizvah to carry out the wishes or commands of the deceased. In this issue, we shall discuss the parameters of this rule and see if it is a relevant solution to the problem of non-Halachic heirs receiving a share in the estate. Once again I thank attorney Martin M. Shenkman for his assistance in the preparation of this series. However, I assume sole responsibility for any mistakes that might appear in this and all of the other essays in this series.

Mizvah LeKayeim Divrei HaMeit The Gemara (Gittin 14) articulates the principle that one must obey the commands of the deceased. The source for this rule is Yosef HaTzadik, who honored his father Yaakov's command to bury him in the Land of Israel. The Mordechai (Bava Batra at the conclusion of the eighth chapter) explains that the Gemara intends this rule to mollify the anxieties of the seriously ill by assuring them that others will honor their instructions should they expire (see Teshuvot Maharsham 2:224, who discusses whether this rule is of Biblical or Rabbinic origin). The Shulchan Aruch (Choshen Mishpat 252:2) rules in accordance with the opinion of Rabbeinu Tam (cited in Tosafot Gittin 13a s.v. VeHa), limiting the applicability of this principle to asset transfers in a situation where the donor had deposited assets with a third party before his death. Although many Rishonim dispute this ruling, the Shulchan Aruch codifies Rabbeinu Tam's view as normative Halacha. (For a discussion of the basis for Rabbeinu Tam's opinion, see the sources cited in Pitchei Choshen 8:4 footnote 82.) Accordingly, the rule of Mizvah LeKayeim Divrei HaMeit does not apply to post death distribution of assets under a secular last will and testament because the money and property involved are not deposited with a third party until after death. An attempt to "deposit" assets after death with a third party is ineffective because the Halachic requirements for distribution will have already been triggered at the time of death. Interestingly, Rav Feivel Cohen wrote to me that money deposited in IRAs is considered to be deposited in the hands of a third party, and Mizvah LeKayeim Divrei HaMeit would apply to such assets even according to Rabbeinu Tam. The same might apply to life insurance and retirement assets other than IRA's. According to the Ran (Gittin 5b in the pages of the Rif), the rule of Mizvah LeKayeim Divrei HaMeit applies only to adults. Minor heirs are not obligated to honor the requests of the deceased. Thus, the rule of Mizvah LeKayeim Divrei HaMeit does not solve the problems inherent in a secular will if there are minor heirs, even according to those who disagree with Rabbeinu Tam. (For further discussion

and debate concerning this point see the sources cited in Pitchei Choshen 8:4 footnotes 82 and 87.)

Response of the Binyan Tzion and Achiezer Despite the fact that the Shulchan Aruch accepts the ruling of Rabbeinu Tam as normative, some major Acharonim do not entirely dismiss the dissenting views in the Rishonim. An individual posed an interesting question to Rav Yaakov Ettlinger (Teshuvot Binyan Tzion Hechadashot 24). A testator named the questioner as a beneficiary to inherit under a secular will, and the civil courts gave him money as stipulated in the will. The questioner wanted to know if Halacha entitles him to keep the money in light of the fact that he is not a Halachic heir. The questioner/inheritor thought that Halacha would require him to return the bequests to the Halachic heirs. Rav Ettlinger replied that he could keep the money. Since the questioner is the Muchzak (the one in possession of the object in question), the burden of proof falls upon one who seeks to exact the money from him, i.e., the Torah heirs. Accordingly, since many Rishonim (including the Rosh and the Ramban) disagree with Rabbeinu Tam, the questioner may claim that he is abiding by the opinions that reject Rabbeinu Tam's conclusion, and it is upon the Halachic heirs to prove that Rabbeinu Tam is correct. Thus, the Muchzak can claim that he has the right to retain the bequests made to him under the secular will in accordance with the Rishonim who rule that Mizvah LeKayeim Divrei HaMeit applies even to property that the donor did not deposit with a third party. Rav Chaim Ozer Grodzinsky (Teshuvot Achiezer 3:34) is inclined to endorse Rav Ettlinger's ruling, but notes the dissent of the Teshuvot Har HaMor (number 39) and Teshuvot Chessed LeAvraham (C.M. 43). Rav Chaim Ozer adds the highly significant point that even Rabbeinu Tam concedes that regarding Tzedakah, the rule of Mizvah LeKayeim Divrei HaMeit applies even if the testator did not deposit the money in the hands of a third party. Rav Chaim Ozer suggests applying the rule of Amira LeGavoha KeMesirato LeHedyot Dami (Kiddushin 28b) to the Halachot regarding the obligation to honor the orders of the deceased. This means that a verbal promise made to Hashem is the equivalent of handing an object to an ordinary individual in that both are binding and irrevocable. Accordingly, when a testator assigns money in a will to Tzedakah, the Halacha might regard this as the equivalent of him depositing the money in the hands of the charity, which even Rabbeinu Tam would accept as a valid transfer. Rav Chaim Ozer does not issue a definitive ruling regarding the opinion of the Binyan Tzion. However, in a posthumously published collection of his letters (Kovetz Igrot Achiezer, Divrei Halacha number 25), Rav Chaim Ozer writes that the practice of Batei Din is to honor secular wills probated in civil courts, and the Batei Din even appoint an executor to distribute the deceased's assets in accordance with the secular will. Dayan Grossnass of the London Beth Din (Teshuvot Lev Aryeh 2:57) asserts that Rav Chaim Ozer's leniency does not apply if the assets were distributed by a civil court appointed executor. In fact, he rules that the money received by a non-Halachic heir from a secular will probated and distributed by a civil court is considered to be theft. One should consult with his Rav regarding this matter, as it is not clear if this is the conclusive interpretation of Rav Chaim Ozer's words.

A New Practical Solution We must emphasize that Rav Ettlinger and Rav Chaim Ozer do not condone Lechatchila (ab initio) sole reliance upon a secular will. They merely argue that Bedieved (post facto), the legatees may keep the money distributed to them in favor of the Halachic heirs. Accordingly, the principle of Mizvah LeKayeim Divrei HaMeit does not sanction the use of a secular will alone and should not be relied upon as a solution to the Halachic requirements of Yerushah. A new suggestion may provide a Halachically viable solution to the Yerushah issues in a manner that is consistent with common secular legal and estate planning for many people. This involves establishing a revocable living trust, a contractual arrangement between a person as the grantor forming the trust, preferably that person and another person as co-trustees managing the trust, and he and his family members as beneficiaries to receive the economic benefits of the trust. This approach to a living trust is fundamentally different from the more simplistic approach of most living trusts in which one would be the sole grantor, trustee and beneficiary until death. The latter approach is less likely to be respected as a valid entity under Halacha. If the former kind of trust can be regarded as a legal entity (a third party) by Halacha, and the subsequent transfers of one's assets to such a trust characterized as lifetime gifts, this commonly used secular planning technique may afford a new method of complying with the Torah requirements concerning Yerushah. Rav Feivel Cohen wrote two letters to me concerning this issue. In the first letter, he wrote that Halacha does not recognize a trust as a legal entity per se. Merely placing one's assets in a trust is not regarded as having placed the money in the hands of a third party. Rav Cohen explained that he believes that money deposited in a trust still belongs to the grantor according to the Halacha, since the grantor can revoke the trust at any time that he wishes to do so. This approach is hardly surprising given that Poskim in general do not recognize legal entities that lack substance. For example, Rav Moshe Feinstein (Teshuvot Igrot Moshe Orach Chaim 1:90) does not permit a store to operate on Shabbat merely because its owner incorporated the business. Similarly, Rav Shlomo Zalman Auerbach (Teshuvot Minchat Shlomo 1:28) rules that a person

is not shielded from Ribbit (interest) restrictions simply because he borrows money from a corporate entity. If Jews control and run that corporate entity, the Ribbit prohibition is violated. By the same token, Rav Mordechai Willig told me that Avodah Zarah or Chametz on Pesach in an estate must be disposed of by the Halachic heirs, for they cannot claim that the estate owns the Avodah Zarah or the Chametz on Pesach. In the second letter, Rav Cohen wrote that if a trust has a co-trustee named who can legally spend the money in the trust on behalf of the beneficiaries, the money is considered to be deposited in the hands of a third party, allowing the application of Mizvah LeKayeim Divrei HaMeit. Rav Cohen considers this form of a trust to have more substance, granting it recognition as a separate entity. This major ruling provides a practical mechanism to leave assets to non-Halachic heirs in a manner that is consistent with Halacha. Rav Asher Weiss of Jerusalem told me (after a Shiur he delivered in August 2006 at Congregation Rinat Yisrael in Teaneck) that he believes that Rav Cohen's ruling is correct. One should consult with his/her Rav and attorney to see if this is a viable option for his estate plan.

Kibbud Av VaEim and Moral Considerations One should also consider that even in a case where Halacha does not technically mandate honoring the wishes of the dead, one may have an ethical obligation to act Lifnim Meshurat HaDin (beyond the letter of the law) and honor the wishes of the dead (see, for example, Teshuvot Maharsham 2:224 and Rav Ezra Basri's Sefer HaTzavaot p.12). Rav Yaakov Kaminitzky (cited in Emet LeYaakov p.455) rules that even though, strictly speaking, one is not obligated to honor a secular will that is Halachically invalid, it is nevertheless "Hiddur Mizvat Kibbud Av VaEim", an enhanced level of fulfilling the obligation to honor one's parents, to do so. In practice, this means that if one's parents directed in the will that the estate be divided equally among sons and daughters, the Halachic heirs should "gift" their Halachic entitlement to the non-Halachic heirs. This can be accomplished very easily with a Kinyan Sudar, a transaction that is effected by the beneficiary or his agent giving symbolic consideration to the grantor, which most are familiar with from the sale of Chametz before Pesach and the execution of the Ketubah before a wedding. It is advisable for a person to ask his Rav for help in executing the Kinyan Sudar properly. One should consult his attorney regarding the tax consequences of performing such a Kinyan. If, however, the Halachic heirs insist on following the strict letter of the law and are unwilling to gift portions of the estate in accordance with the will to the non-Halachic heirs, the problem remains unsolved. Thus, there is a need for a means for non-Halachic heirs to inherit even according to technical Halacha. I once posed a related question to Rav Zalman Nechemia Goldberg. A testator dictated (in his secular will) that money be given to a specific "secular" Jewish charity (an Israeli hospital that serves an overwhelmingly secular Jewish community). The testator's children thought that the money instead should be given to a "religious" Jewish charity, and asked if they could deviate from the wishes of the deceased. The children felt that the secular charity had a much larger pool of potential donors, and the religious charities had more of a need for the money. Rav Zalman Nechemia ruled in accordance with the aforementioned decision of Rav Chaim Ozer that money designated as Tzedakah must be given even though the will is Halachically invalid. Rav Zalman Nechemia added that it is improper to change the charity to one other than that designated by the testator.

Conclusion The principle of Mizvah LeKayeim Divrei HaMeit has both a technical Halachic dimension as well as an ethical one (also see Ramban to Gittin 13a s.v. LeOlam). The technical dimension of Mizvah LeKayeim Divrei HaMeit can serve as a vehicle to facilitate non-Halachic heirs receiving a share in an estate without violating Halacha in certain limited circumstances. In many cases, though, it is an inadequate method to allow non-Halachic heirs to receive their share in an estate. Although there remains an ethical obligation to honor a secular will, there is still the need for a mechanism that would allow non-Halachic heirs to inherit in all situations. The mechanism which has been presented in this generation, the contemporary variation of the classic Shtar Chatzi Zachar, shall be discussed in our next issue.

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