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INTERNET PARSHA SHEET ON VAYEITZE - 5773

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From: "TorahWeb.org" <torahweb@torahweb.org>
Date: Fri, 16 Nov 2007 13:02:50 To: weeklydt@torahweb2.org
Subject: **Rabbi Yaakov Neuburger - Step Lively and Watch the
Opening Doors**

HTML version is at
http://www.torahweb.org/torah/2007/parsha/rneu_vayetse.html
Rabbi Yaakov Neuburger Step Lively and Watch the Opening Doors
"Step lively", a refrain that I heard often traveling the NYC subways,
reminded me of a similar unusual phrase that begins a new phase in the
travels of Yaakov Avinu. "Vayiso Yaakov Raglov, vayelech artzo bnei
kedem" Yaakov lifted his feet; he went to the land of the Kedemites.
Yet its literal similarity to the ongoing instructions of the NYC train

conductor has to encourage us to find much deeper meaning and
significance. No doubt that is why numerous commentaries attach
greater importance to it. Accordingly, the Ohr Hachayim translates the
posuk to say that Yaakov was in dire poverty and carried absolutely
nothing with him. (Quite interesting, coming on the heels of Yaakov's
promise to tithe all of his future earnings.) Alternatively, the Kli
Yakar learns from this phrase that Yaakov would now be traveling like
anyone else, on his own steam, and unlike his earlier miraculous
"kefitzas haderech" that Rashi describes at the beginning of the
parsha.

Interestingly both the medrash quoted by Rashi and the literal
interpretation of the Rashbam see in this phrase a light step or a
bouncy gait and evidence of a newly found contentment and even
happiness. Having received Hashem's promise that He would always
watch over Yaakov and return him to his father's home, Yaakov moved
forward with renewed vigor.

One cannot overlook that this must be intended as a stark contrast to
the slow moving opening of the parsha. There, the attention to seeming
meaningless and mundane detail, including the setting sun and the
gathering of stones for a headrest of sorts, communicates a heaviness
and even labored dreariness. True the medrashim quoted by Rashi all
uncover the remarkable stories, alluded to by every detail. Through
them accounts of Yaakov's missed opportunity to daven in
Yerushalayim, his miraculous return trip, and of the uniqueness of
the land of Israel where the stones fight over servicing a tzaddik, all
these and more rise to the surface. Nevertheless, the Rov zt"l
suggested that the ordinariness of the text was intended to
communicate a lonely and distressed Yaakov who had found no
meaning in the exile that he faced.

The record of Yaakov's renewed energies take on even greater meaning
in light of the Ramban's appreciation of the following parsha. He
considers for what purpose Hashem wants us to study Yaakov's
physical prowess. Of what significance to us is Yaakov's youthful
ability to remove a rock, something beyond the strength of three
shepherds and all their aides? Explains Ramban that all of this is to
teach that which Yeshaya Hanovi will formulate for us much later,
"kovei Hashem yachlifko koach". Loosely put, being aware of
Hashem's watchful eye invigorates and refreshes.

Indeed the phrase "kovei Hashem" is very hard to translate. The
Ramban's comment is thus extremely instructive. For Yaakov was not
told that his exile would be easy, nor free of fear or pain of all kinds,
as it was surely not. He was simply told that Hashem would watch over
him and ultimately deliver him home. Apparently this is the awareness
that characterizes "kovei Hashem" and brings boundless energy and
life and happiness.

Further and even of greater importance is the counterintuitive truth
that, as in the story of Yaakov Avinu, bitachon fosters liveliness,
creativity and ambition and the courage to act on one's dreams and
missions.

What is the intended instruction of Yaakov's light step and newly found
energies? Perhaps to model for his children that they too, when
feeling emotionally drained and exhausted should find renewed
strength and courage, and even happiness, in the awareness of
Hashem's knowledge and concern.

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What's in a Naming?

by Rabbi Ezra Wiener

In Parashat VaYeitzei, Leah gives birth to four sons: Reuven, Shim'on, Levi, and Yehudah. Rashi (BeReishit 29:34 s.v. HaPa'am Yilaveh Ishi) explains the significance of the names Levi and Yehudah. He says that all the Imahot – matriarchs – are prophetesses and therefore know Ya'akov is destined to have 12 sons. Having four wives, that means three sons from each wife. When Leah gives birth to her third son she uses the language, "HaPa'am Yilaveh Ishi Eilay Ki Yaladeti Lo Sheloshah Vanim," "This time my husband will be joined unto me, for I bore him three sons" (29:34). The significance of "three sons" somehow making Ya'akov "joined unto" Leah is due to the fact that she is meant to bear three sons to Ya'akov and has now done just that. She therefore names her son from the word "Yilaveh," and calls him Levi. On the other hand, when she bears him a fourth son, she expresses her joy by saying, "HaPa'am Odeh Et Hashem," "This time I shall praise Hashem [for he has given me another son]" (29:35). She recognizes she has given birth to more than her share of Ya'akov's sons and expresses her gratitude by deriving his name Yehudah from "Odeh" – I will praise.

There is, however, an incongruity in Leah's naming of her children. When naming Reuven and Shim'on, the Torah uses the language "VaTikra" (with an Alef at the end) while when naming Yehudah it uses "Kare'ah" (with a Hey at the end). Even stranger, the language describing the naming of Levi is "Al Kein Kara," "He was therefore called" (29:34). Rashi (ad loc. s.v. Kara Shemo Levi) explains the masculine/feminine discrepancy between the language used for Levi and Yehudah, respectively, by explaining that the angel Gavriel brought Levi the 24 gifts of Kehunah, and it was he who named Levi, necessitating the masculine form, whereas Leah named Yehudah, hence the feminine form.

Rav Hirsch offers a more apt reading of the Pesukim that describe the naming of the first four sons of Leah. He argues that the names of Reuven, Shim'on, and Levi reflect Leah's dejection and her prayers that she be loved and cherished by her husband. In fact, she repeatedly declaims that the reason for her newborn son is because she is hated and hopes that perhaps this time Ya'akov will love her. Leah sees Ya'akov's lack of response after Reuven's birth; she then prays for a response after Shim'on's birth, anticipating a greater degree of love. This love again fails to manifest until the birth of Levi. As Leah declares at his birth (29:34), "Now my husband will be [finally] joined unto me." Ya'akov at last gets the hint and pledges his love to Leah by naming her child Levi on his own, hence the masculine "Kara." Likewise, the declaration of gratitude in the name of Yehudah, Rav Hirsch argues, is not because Leah has received more than her share, as Rashi suggests, but rather due to a revitalization of her relationship with Ya'akov.

These Pesukim, interpreted in the manner above, provide a profound message concerning the relationship between husband and wife or parent and child by reminding us of the sensitivity we must feel and the empathy we must exhibit. This message of "Bein Adam LaChaveiro" is equally important as the message of "Bein Adam LaMakom."

How often do we receive gifts from Hashem and neglect to express our sincerest gratitude? Hashem, so to speak, feels as Leah does with respect to our marriage to him: Maybe with this gift I have bestowed my children will at last join me in Tefillah, and perhaps even in Talmud Torah. As Leah recognizes, our children are our most precious gifts and when Hashem gives them to us he desires that we grow closer to Him as well.

Let us learn a lesson from the names of Leah's sons and hope that we improve our appreciation and empathy toward one another and also revitalize our relationship with the Ribono Shel Olam. With this may Hashem be pleased with our gratitude for all that He has given us.

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Erev Shabbat Shalom from Yeshivat Kerem B'Yavneh!

Seclusion for the Purpose of Inclusion

Rosh Hayeshiva Harav Mordechai Greenberg, shlita

When Yaakov awoke from his famous dream and realized that the place where he had slept was graced with G-d's presence, he took the stone upon which he had slept and erected it as a "matzeiva," a sacrificial pillar. He then vowed his commitment to G-d, concluding with the pledge, "This stone that I have set up as a pillar ("matzeiva") shall become a House of G-d." (Bereishit 28:22) Rav Kook, zt"l, in his letters, explains this verse based on the definition of the Rambam (Hil. Avoda Zara 6:6) that a "matzeiva" is a stone that serves as an open religious center, around which anyone wishing to serve G-d may gather. In contrast, a house is a center enclosed with walls, open only to those who are allowed entrance.

The manner of our patriarchs' worship varied, and it developed gradually. Chazal express this idea by pointing out the terms used for the Temple mount, "Not like Avraham who called it a mountain, not like Yitzchak who called it a field, but rather like Yaakov who called it a house." (Pesachim 88a) A mountain is a high place, visible to all around it. Avraham called out in the name of G-d to all, and accustomed the nations to the notion of monotheism. This belief, however, was abstract and general, without an accompanying set of practical commandments. Yitzchak had a more detailed religious practice, which required him to begin a process of isolation. This is symbolized by a field, which is still open, but not visible from afar. The process culminated with Yaakov who withdraws with his family into his house, and teaches them a comprehensive and detailed way of life, completely detached from the world at large.

This, then, was the intention of Yaakov: This stone that I now set up as a pillar -- a public center for what is still an abstract belief, fit for all people -- will be in the future a House of G-d. It will be a house surrounded with walls, into which only the family of Yaakov will enter, for only Bnei Yisrael are fit for a religion defined by a detailed practice of Torah and mitzvot.

This detachment, however, is for the ultimate purpose of influencing, seclusion for the purpose of inclusion, as stated in the Zohar, "The demonic forces of evil begin with attachment and end with separation; the Heavenly forces of holiness begin with separation and end with attachment." It is impossible for a person or a nation to influence others without first undergoing a process of seclusion and self-fulfillment. When a cup is not filled, it cannot run over. It is Yaakov, who completely isolated himself in a house surrounded with walls, who will ultimately expand without bounds. "I will give you the lot of your father Yaakov" (Yeshaya 58:14) - a lot without boundaries. (Shabbat 118a)

In the end of days, the nations of the world will recognize the worth of Israel, and they will see the importance of religious practice and its influence on the Jewish nation. They will aspire to join with Israel, and to learn from them, not only religious belief, but also a specific way of life. Yeshaya declares this in his famous prophecy (2:2-4):

In the end of days, the mountain of the House of G-d will stand firm ... And the many peoples shall go and say, "Come let us go up to the Mount of the L-rd, to the House of the G-d of Yaakov, that He may instruct us in His ways, and that we may walk in His paths." The nations

will say: We will not suffice this time will merely going up the mountain, with an abstract, undefined belief as it was in the time of Avraham. Rather, we will enter into the house, the House of the G-d of Yaakov, in order to learn specific lessons, because it has become clear to us that belief without religious practice and specific guidelines for living is insufficient to lead an ethical life. "That He may instruct us in His ways, and that we may walk in His paths."

The Gemara states (Shabbat 21b): "The Chanukah lamp should be placed, ideally, at the opening of one's house outside, but in a time of danger it is sufficient to place it on one's table." The idea of the light of Israel is to brighten the outside, so that the entire world will be able to benefit from and enjoy its light. However, in a time of danger, when it is impossible for us to influence others, we seclude ourselves in the house, and brighten our table alone. We continue to hope, nonetheless, that ultimately we will have more than enough light, in order to once again take the candles outside to brighten the land with them.

Thanks to hamelaket@gmail.com for collecting the following items:

From Destiny Foundation/Rabbi Berel Wein
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Subject Weekly Parsha from Rabbi Berel Wein

Reflections on a New Reality
By Rabbi Dr. Tzvi Hersch Weinreb / Nov 21st, 2012

I am humbly aware that I have no answers to the questions that we are all asking at this troubled time. Why are we being confronted with these tragic challenges? What does G-d want from us? What message is He sending? Are we being punished? If so, why? Is Moshiach, the Messiah, coming?

I begin by stating that no one has answers to these questions. Yes, I know that many, greater than I, have been publicly proclaiming answers to these questions. They claim, I suppose, to have access to some Higher Source. I have no such access and doubt that anyone alive today possesses such knowledge. The powers of prophecy were taken away from us long ago.

I do, however, have some reflections which I would like to share with you, in full recognition that they are inadequate given the immensity of our current circumstances.

We are in an eis tzarah, a time of trouble and suffering and ominous events. How do we react? How do we act?

I begin by reflecting on our long history as a people. We have known much suffering, and the suffering we now experience cannot be belittled. However, we have survived worse times, and one of the reasons for our survival has been our attitude of trust and hope.

Hopefulness is rare nowadays, and we must do what we can to restore it. Think of the national anthem of the State of Israel, HaTikvah. The other national anthems with which I am familiar either have themes of war ("bombs bursting in air") or of royal kings and queens and their exaggerated powers. Israel, however, has an anthem whose theme is tikvah, hope.

Reb Nachman of Breslav would repeatedly shout to his followers, "Yidden, yidden, do not despair! Zeit sich nisht meyaesh! Do not fall into a state of yi'ush, of hopelessness!"

So hope and faith in G-d's mercy is one necessary response. How to cultivate an attitude of hope is a matter for each individual to discover for himself or herself. Among the sources to turn to are the words of Psalms and Prophets, especially Isaiah. I refer here not just to prayer, but

to discovering and studying, and perhaps reciting and even singing, verses and passages which are uplifting and encouraging.

Another response is one that has been particularly difficult for our people to achieve. I speak of achdut (unity), the recognition that we are all one people. We must profoundly transform our attitudes and achieve the genuine realization that hatred and machloket (dispute) are grievous sins, and that there is a mitzvah of ahavat Yisrael, of loving each and every Jew, and that we cannot fulfill this mitzvah (commandment) through lip service, but only by courageously changing our behavior towards all others.

The only way to achieve this is by actively working together, face to face and shoulder to shoulder, with other Jews. Soldiers in the Israel Defense Forces discover this every day on the fields of battle. The pictures we have all witnessed of soldiers, with and without kippot (skullcaps), dancing in a circle together and singing songs of great faith, is but one example of this ideal. The physical acts of chesed (kindness) and awesome generosity for the victims of the Hurricane Sandy disaster, from Jew to Jew irrespective of the petty distinctions to which we have become accustomed, is the "way to go," the road to achdut.

Prayer, especially communal prayer, is another response, and so is Torah study, again best done b'rabbim, in group settings.

Finally, teshuvah (repentance) is necessary. But true teshuvah is not merely a matter of beating our chests and reciting confessional formulas. Rather, it requires profound soul-searching and honest, probing self-criticism. We must look inside ourselves to discover our real sins, which are not necessarily the ones we usually think of when we "do teshuvah." Teshuvah is not just a matter of learning a few more Mishnayot (the first major written redaction of the Jewish oral traditions), or being more concerned with the kashrut of our food. It is also a matter of facing our own roles in the discord which eats away at our Jewish society. It is a matter of facing and resolving the abusive behaviors which pervade our communities and which range from callous disrespect and cynical dismissal of the accomplishments of others to violent and immoral behavior. We must adopt stringent and effective methods of ridding ourselves of the scourge of such abuse. Teshuvah demands real, thorough change, which can be frightening, but which is achievable if we are really courageously honest with ourselves.

We must rid ourselves of the sanctimony which is common to observant Jews, the feeling that we are somehow "holier than thou." We must scrutinize the ways in which we look down upon those with different standards of observance than ours, and we must be prepared to alter our mindset and our behavior in this regard. We must especially be on guard lest our noble attempts at kiruv (outreach) become tainted by this poison of looking down upon others who are not where we are, or where we think we are, religiously.

We must erase smugness and complacency from our ranks. We cannot continue to triumphantly proclaim our undeniably great achievements. We must persist to improve and perfect those achievements. We must assure that all of our institutions serve all of our people, rich and poor, handicapped and healthy, observant and less observant alike.

I have limited my suggestions to the spiritual realm. There is certainly much to be done in other areas: the political sphere, in our philanthropy, and in arguing Israel's cause in the media, to mention just a few examples.

Hopefully, the rockets falling on our brothers and sisters in Israel will cease and a true and lasting peace will be achieved.

Hopefully, we will find solutions which will enable those struck by natural disaster to rebuild their lives at an even better level than before. Hopefully, the suffering of those among us who are desperately ill will be alleviated by remedy and cure.

Hopefully, when all that is achieved, we will not revert to the apathy and indifference to which we are (accustomed), but we will have learned our

lessons permanently—the lessons of hope, charity, sincere prayer, edifying Torah study, and brotherly love. Then we will merit the arrival of Elijah the Prophet, who will answer the questions with which I began these reflections; and shortly afterwards, the arrival of the Moshiach himself, speedily in our times. Amen. Rabbi Dr. Tzvi Hersh Weinreb is a talented teacher, writer and orator. He is currently the Executive Vice President, Emeritus of the Orthodox Union.

From Destiny Foundation/Rabbi Berel Wein
<info@jewishdestiny.com>
Subject Weekly Parsha from Rabbi Berel Wein

Weekly Parsha :: Rabbi Berel Wein
VAYETZEI

Rashi points out for us in the beginning of this week's parsha (really at the conclusion of last week's parsha) that Yaakov stopped at the study house of Shem and Ever for fourteen years on his flight from Eisav to his uncle's house in Aram. This seems to be a strange stopover at first glance.

How will the instruction that he received in the school established by Shem and Ever contribute to his survival and success at the house of Lavan, the master conniver and duplicitous character? The question is phrased in a more current if blunter fashion in the Talmud itself – of what value are the Torah students to society at large?

To meet Lavan, Yaakov apparently needs to train in different forms of legal, commercial and worldly pursuits. Studying Torah is all well and fine, but how does it prepare one for the real world? This question is heard today in thousands of Jewish households and is a most vexing one. Our world today is one of Lavan compounded.

Where does Torah study and Torah knowledge fit into our milieu, into solving our problems and difficulties, in facing down our enemies? Yet, we find that on the whole Yaakov was quite successful in the house of Lavan. He acquires his wives there and his children are born and raised there. He waxes wealthy in spite of all of Lavan's efforts to cheat him out of his just payments and wages. What courses of study did he take and master in the school of Shem and Ever that enabled him to so succeed?

I have always felt that the answer lies in understanding the place and goals of a Torah education in one's life. Most people, especially those who view it from the outside looking in, think that Torah education is purely a matter of material covered, of knowledge of facts, of understanding complex and difficult Talmudical concepts and statements. In truth it is all that but it is much more.

A proper Torah education, a study course at the school of Shem and Ever, is meant to impart life-long values and a world view in which to fit the events of one's life in a proper and moral fashion. One has to learn how to deal effectively with Lavan but one has to be very cautious not to become Lavan in the process.

Self-defense and protection of one's own interests is part of the Torah value system. But pleasantness, sensitivity, faith in God's justice and promises, and a willingness to tolerate and accommodate others (even unpleasant others) are also a part of the value system of the Torah. Yaakov enters the school of Shem and Ever to absorb the Torah value system that will allow him to survive Lavan and not to fall spiritually and become Lavan in the form of Yaakov. One of the most difficult tasks that faces Jewish society today is to remain a kingdom of priests and a holy people even when struggling with Lavan, Yishmael and Eisav for our very existence. Our schools have to teach Torah values and not be satisfied merely with knowledge, grades and test scores. .

Shabat shalom

From Ohr Somayach <ohr@ohr.edu>
To weekly@ohr.edu
Subject Torah Weekly

Ohr Somayach :: Torah Weekly :: Parshat Vayeitzei
For the week ending 24 November 2012 / 9 Kislev 5773
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Insights

Heaven's Gate

"This is none other than the abode of G-d, and this is the gate of the Heavens." (28:17)

As far as architecture is concerned, the Western Wall cannot compete with the Taj Mahal, or the Sistine Chapel, or any number of Far Eastern places of worship.

Yet that row of enigmatic stone blocks and what is beyond them has an unparalleled draw on the hearts and minds of man.

The Muslims may look to Mecca and Medina, but they would like nothing better than to bury their leaders on that hill. The Catholic Church may have its seat of power in the Vatican, but their eye is constantly on Jerusalem.

Why?

On that small hill called Har HaMoriah, the central events of world history have been played out. On that hill lies the stone that was the first physical existence that G-d created. It is called the "foundation stone." From that stone, G-d extruded the entire creation. That stone is the bridge between this reality and the reality beyond.

On that same hill, Avraham brought up Yitzchak as an offering in the ultimate test of his faithfulness to G-d.

And, in this week's Torah portion, Yaakov saw a vision of the ladder with its feet planted on the ground and its head reaching to the Heavens. That place has always been, and is to this day, the gate of Heaven.

On that hill stood the two Holy Temples and very soon the third one will stand there again. Subconsciously, the world understands this, but it cannot verbalize that knowledge. That intuitive feeling manifests itself as a stream of resolutions in the United Nations about the necessity to preserve the international nature of the city of Jerusalem.

In this week's Torah portion Yaakov prayed at Har HaMoriah. After completing his prayer Yaakov suddenly heard the voices of angels saying, "Yaakov has arrived, the great Yaakov who casts light on the world like the sun!" Yaakov understood that he was overhearing a conversation in Heaven. From Yaakov's words, "the Shechina (Divine Presence) rests in this place," we learn that the Shechina rests on Har HaMoriah forever. Not only did it rest there when the two Holy Temples were standing, but it is there to this day.

When you stand at that Wall, you are standing at the gateway of Heaven. If Yaakov could hear what they were saying in Heaven, surely in Heaven they can hear what we are saying in this world. When you pray at the Wall, it is as if you are praying in front of the Kisei HaKavod, "the Heavenly Throne." This is Heaven's gate — the gate that is open to all prayers.

No wonder then that the eyes of the world are constantly on the Wall.

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Orthodox Union / www.ou.org
Britain's Chief Rabbi Lord Jonathan Sacks

Encountering G-d

It is one of the great visions of the Torah. Jacob, alone at night, fleeing from the wrath of Esau, lies down to rest, and sees not a nightmare of fear but an epiphany:

He came to a certain place [vayifga bamakom] and stopped for the night because the sun had set. Taking one of the stones there, he put it under his head and lay down to sleep. He had a dream. He saw a ladder resting on the earth, with its top reaching heaven. G-d's angels were going up and down on it. There above it stood G-d . . .

Jacob awoke from his sleep and said, "G-d is truly in this place, but I did not know it." He was afraid and said, "How awesome is this place! This is none other than the house of G-d; this is the gate of heaven." (28:11-17)

On the basis of this passage the sages said that "Jacob instituted the evening prayer." The inference is based on the word vayifga which can mean not only, "he came to, encountered, happened upon" but also "he prayed, entreated, pleaded" as in Jeremiah 7: 16, "Neither lift up cry nor prayer for them nor make intercession to Me [ve-al tifga bi]."

The sages also understood the word bamakom, "the place" to mean "G-d" (the "place" of the universe). Thus Jacob completed the cycle of daily prayers. Abraham instituted shacharit, the morning prayer, Isaac minchah, the afternoon prayer, and Jacob arvit, the prayer of nighttimes. This is a striking idea. Though each of the weekday prayers is identical in wording, each bears the character of one of the patriarchs. Abraham represents morning. He is the initiator, the one who introduced a new religious consciousness to the world. With him a day begins. Isaac represents afternoon. There is nothing new about Isaac – no major transition from darkness to light or light to darkness. Many of the incidents in Isaac's life recapitulate those of his father. Famine forces him, as it did Abraham, to go to the land of the Philistines. He re-digs his father's wells. Isaac's is the quiet heroism of continuity. He is a link in the chain of the covenant. He joins one generation to the next. He introduces nothing new into the life of faith, but his life has its own nobility. Isaac is steadfastness, loyalty, the determination to continue. Jacob represents night. He is the man of fear and flight, the man who wrestles with G-d, with others and with himself. Jacob is one who knows the darkness of this world.

There is, however, a difficulty with the idea that Jacob introduced the evening prayer. In a famous episode in the Talmud, Rabbi Joshua takes the view that, unlike shacharit or minchah, the evening prayer is not obligatory (though, as the commentators note, it has become obligatory through the acceptance of generations of Jews). Why, if it was instituted by Jacob, was it not held to carry the same obligation as the prayers of Abraham and Isaac? Tradition offers three answers.

The first is that the view that arvit is non-obligatory according to those who hold that our daily prayers are based, not on the patriarchs but on the sacrifices that were offered in the Temple. There was a morning and afternoon offering but no evening sacrifice. The two views differ precisely on this, that for those who trace prayer to sacrifice, the evening prayer is voluntary, whereas for those who base it on the patriarchs, it is obligatory.

The second is that there is a law that those on a journey (and for three days thereafter) are exempt from prayer. In the days when journeys were hazardous – when travellers were in constant fear of attack by raiders – it was impossible to concentrate. Prayer requires concentration (kavanah). Therefore Jacob was exempt from prayer, and offered up his entreaty not as an obligation but as a voluntary act – and so it remained.

The third is that there is a tradition that, as Jacob was travelling, "the sun set suddenly" – not at its normal time. Jacob had intended to say the afternoon prayer, but found, to his surprise, that night had fallen. Arvit did not become an obligation, since Jacob had not meant to say an evening prayer at all.

There is, however, a more profound explanation. A different linguistic construction is used for each of the three occasions that the sages saw as the basis of prayer. Abraham "rose early in the morning to the place where he had stood before G-d" (19:27). Isaac "went out to meditate [lasuach] in the field towards evening" (24:63). Jacob "met, encountered, came across" G-d [vayifga bamakom]. These are different kinds of religious experience.

Abraham initiated the quest for G-d. He was a creative religious personality – the father of all those who set out on a journey of the spirit to an unknown destination, armed only with the trust that those who seek, find. Abraham sought G-d before G-d sought him.

Isaac's prayer is described as a sichah, literally, a conversation or dialogue. There are two parties to a dialogue – one who speaks and one who listens, and having listened, responds. Isaac represents the religious experience as conversation between the word of G-d and the word of mankind.

Jacob's prayer is very different. He does not initiate it. His thoughts are elsewhere – on Esau from whom he is escaping, and on Laban to whom he is travelling. Into this troubled mind comes a vision of G-d and the angels and a stairway connecting earth and heaven. He has done nothing to prepare for it. It is unexpected. Jacob literally "encounters" G-d as we can sometimes encounter a familiar face among a crowd of strangers. This is a meeting brought about by G-d, not man. That is why Jacob's prayer could not be made the basis of a regular obligation. None of us knows when the presence of G-d will suddenly intrude into our lives. There is an element of the religious life that is beyond conscious control. It comes out of nowhere, when we are least expecting it. If Abraham represents our journey towards G-d, and Isaac our dialogue with G-d, Jacob signifies G-d's encounter with us – unplanned, unscheduled, unexpected; the vision, the voice, the call we can never know in advance but which leaves us transformed. As for Jacob so for us, it feels as if we are waking from a sleep and realising as if for the first time that "G-d was in this place and I did not know it." The place has not changed, but we have. Such an experience can never be made the subject of an obligation. It is not something we do. It is something that happens to us. Vayifga bamakom means that, thinking of other things, we find that we have walked into the presence of G-d.

Such experiences take place, literally or metaphorically, at night. They happen when we are alone, afraid, vulnerable, close to despair. It is then that, when we least expect it, we can find our lives flooded by the radiance of the divine. Suddenly, with a certainty that is unmistakable, we know that we are not alone, that G-d is there and has been all along but that we were too preoccupied by our own concerns to notice Him. That is how Jacob found G-d – not by his own efforts, like Abraham; not through continuous dialogue, like Isaac; but in the midst of fear and isolation. Jacob, in flight, trips and falls – and finds he has fallen into the waiting arms of G-d. No one who has had this experience, ever forgets it. "Now I know that You were with me all the time but I was looking elsewhere."

That was Jacob's prayer. There are times when we speak and times when we are spoken to. Prayer is not always predictable, a matter of fixed times and daily obligation. It is also an openness, a vulnerability. G-d can take us by surprise, waking us from our sleep, catching us as we fall. To read more writings and teachings from the Chief Rabbi Lord Jonathan Sacks, please visit www.chief Rabbi.org.

From Rabbi Yissocher Frand ryfrand@torah.org & genesis@torah.org
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Subject Rabbi Frand on Parsha

Rabbi Yissocher Frand - Parshas Vayetzai

A Unique Application of the Law of "Keifel" (Double)

After Leah's 6 sons are born (plus 2 from her handmaiden), the pasuk says, "And afterwards she had a daughter and she called her name Dena" [Bereshis 30:21]. Rashi, alluding to a Talmudic statement [Brochos 60a] notes: Our Rabbis explained that Leah (who knew prophetically that Yaakov was going to have 12 sons) made the calculation that if she had another son now (which would have been Yaakov's 11th son), then her sister Rochel would only be able to be the mother of one son, less than even the handmaidens (who were each mothers of two tribes). Leah issued a judgment (din) against herself, so to speak, that the child she was carrying should be a girl not a boy. In other words, the pasuk is to be interpreted "After Leah prayed that her fetus should be changed from male to female, indeed her prayer was answered and a daughter was born."

The Tiferes Torah from Rav Shimshon Pinkus, z"l, offers the following insight on this Rashi. There is a saying in the world "No good deed goes unpunished". That may be true as far as people are concerned, but regarding the Master of the Universe, on the contrary, "No good deed goes unrewarded." Leah, as we see from the earlier pasukim, was very anxious to be mother of as many Tribes as possible. It was a source of great merit to be the matriarch of many tribes in Israel. Here she forfeits the opportunity to be the mother of an additional tribe. This was a tremendous sacrifice on her part, considering how important this was to her.

As we all know, Dena was violated later on in life. The Yalkut states that she became pregnant as a result of that incident and gave birth to a baby daughter named Osnas -- the very same girl who years later was given by Pharaoh to Yosef as a wife. Yosef had two sons with Osnas: Ephraim and Menashe, who each on their own became an independent Tribe of Israel. Thus, if Leah was not the "mother" of the additional one tribe (Yosef) -- she at least became the grandmother of these two additional tribes.

Rav Shimshon Pinkus makes the following comment: If one secretly steals something from someone, he has to pay back double. Here we see a case where someone secretly gave something to someone (Leah gave the right to be the mother of an additional tribe to Rochel) and she received back double (she herself was the grandmother of two additional tribes!)

Giving thanks for receiving "More Than I Deserve". What?!

Upon the birth of Yehuda the pasuk says: "She conceived again, and bore a son and said, 'This time I will give thanks to Hashem...'" [Bereshis 29:35]. Rashi comments: "Now that I have four sons -- now that I took more than my share, now I have to give thanks."

This is a troubling Rashi. The implication is that we only need to thank Hashem when we get MORE than we deserve! Do we "deserve" anything? Why should we not thank Hashem for whatever we get? G-d did not sign a contract with anyone. We need to thank Him for every breath of life we are privileged to inhale.

There is another difficulty with this Rashi. The Talmud states [Brachos 7b] that from the day G-d created the world, no one came and thanked Him for anything until Leah came and thanked Him when she named her fourth son Yehuda, as it is written "This time I will thank Hashem." What does this mean? Does the pasuk not say that Eliezer bowed down when he found an appropriate wife for Yitzchak?< br>

We say in the Al HaNissim that we are duty-bound to thank Hashem for the miracles and for the salvation and for the mighty deeds and for the wars. This is strange. We have already thanked Him for the salvation and the victories. It sounds like the intent of the prayer is that we are thanking G-d as well for the wars themselves. Why would that be the case?

I saw the following observation in the Sefer Heima Yenachamuni (by Rabbi Yitzchak Menachem Weinberg of Jerusalem, the Tolner Rebbe). The Talmud discusses [Shabbas 13b] the authorship of Megilas Taanis, which transcribed dates of Jewish historical salvation. In earlier times, these dates had the status of pseudo holidays on which it was forbidden to fast or give eulogies. The Gemara attributes the authorship to Chananya ben Chizkiya and his colleagues "because they loved tzaros [troubles]".

Now, who have we ever met who loves tzaros? Rashi explains that what is meant is they celebrated the miracle which allowed their salvation from the troubles. It was the miracle which was dear to them because it allowed them to mention the praises of the Holy One Blessed Be He. The troubles brought them to the appreciation that G-d was watching over them and He redeemed them from their tzaros. But according to Rashi it is still a bit problematic: Is that not then a misnomer? We should not say they "love the tzaros." We should say they love the redemption from tzaros!

The Sefas Emes in Tractate Shabbos interprets that "love the tzaros" means that if a person can make a simcha [celebration] after he has a tzarah [misfortune], it demonstrates that he sees the Hand of G-d even in the troubles. If a person, Heaven forbid, is terribly sick and then has a miraculous recovery and makes a party to celebrate -- what is the nature of that celebration? After all, what is there to celebrate -- is it not better that he should not have been sick in the first place so that he would not have needed the "miraculous recovery?" If one can make a simcha and celebrate the fact that (a) he was in the state of danger and (b) he was saved from it, demonstrates the person has the faith that somehow even the danger was for his own good. This is a very high spiritual level -- to see the Hand of G-d even in the troubles one encounters in life.

This is the intent of the Gemara. Chananya ben Chizkiya and his friends could write a book (Megillas Taanis) about all the troubles the Jewish people faced throughout the generations and their salvation from them and consider the whole book to be a book of praises of the Almighty. They were on such a high spiritual level that they could actually even appreciate the "tzaros" as being part of G-d's Divine Plan and manifesting His love for us.

The same is the message of adding the words "v'al haMilchomos" [and upon the wars] to the list of praises we utter in the "Al HaNissim" [upon the miracles] insertion into our prayers. We can even see the Hand of G-d and His Goodness to us in the wars that led up to our salvation.

This was the innovative novelty of Leah our Matriarch. Sure, there were people in history who preceded her in thanking the Almighty. Noah, Avraham, and Eliezer all expressed gratitude to Hashem. But Leah saw that she had been "senuah" [literally: hated by her husband] and now she was given a fourth son and clearly had achieved a preeminent role as matriarch of the Jewish nation as a result of G-d's pity for her. On this occasion, she expressed gratitude to Hashem even for the trials and tribulations of being an unappreciated wife. When she had Yehuda, she perceived that her earlier second class citizenship was ultimately for her good and it allowed her to merit having something that no other wife had -- a fourth son of Yaakov.

We can now appreciate the author of this teaching: Rav Yochanan in the name of Rav Shimon bar Yochai. Rav Shimon bar Yochai has a history. He was a disciple of Rabbi Akiva who taught "All that the Almighty does is for the best" (kol mai d'Avid Rachmana l'Tava avid). Rabbi Akiva had this uncanny ability to -- no matter what happened -- to see the good. When he saw foxes running out of the area of the Holy of Holies, when all his colleagues were crying, he laughed. He saw the silver lining in the sight he was witnessing. [Makkos 24b]. As a Rebbi, Rabbi Akiva was successful in giving over to his disciples this ability to see that all that Hashem does is for the best.

When Rav Shimon ben Yochai (the disciple of Rabbi Akiva) spoke out against the Roman Government, he had to go into hiding in a cave. His

study partner Rav Meir was made Rosh Yeshiva and he was not. The Holy Ari says that Rav Shimon ben Yochai suffered his whole life and that is why he can make the statement [Sanhedrin 97b] that his suffering could atone for the sins of the whole world from the beginning of creation until his own time.

It is this Rav Shimon ben Yochai who appreciates the fact that there was no one in the world who expressed thanksgiving to the Almighty until Leah thanked Him after the birth of her fourth child. He had an affinity for a person who could thank G-d for the tzaros [troubles] they endured in their life. Leah was such a person and it was her great, great grandson through Yehuda, Dovid HaMelech [King David], who also had a life filled with suffering, but who could himself say, "Also when I walk in the shadow of death, I will fear no evil because You are with me."

[Tehillim 23:4] The whole volume of Tehillim describes the toil and turmoil he faced at every turn in his life, yet it is filled with praise and thanksgiving to the Almighty.

This is the approach of Rav Shimon ben Yochai. Not everyone merits having such an attitude. It is easier said than done, but it is a level of spirituality to which we must aspire.

Transcribed by David Twersky Seattle, WA; Technical Assistance by Dovid Hoffman, Baltimore, MD
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From TorahWeb <torahweb@torahweb.org>
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Rabbi Benjamin Yudin **The TorahWeb Foundation** **Transcending Time**

The Tzalach cites a popular expression focusing on the significance of time which says, "The past is gone (aiyen) the future is not-yet here (adayin) and the present is like the blink of an eye (k'heref aiyen)". While this is true most of the time for most people, it does not apply to the Jewish nation. Case in point: while it is understood that the past might affect the future, we have as an integral part of our mesorah (tradition), that the future affects the present and past, as I will demonstrate.

That our rich past positivity influences our future can be seen by the selfless actions of Rachel Imeinu. The Talmud (Yevamos 64A) teaches that our matriarchs were barren because Hashem desired their prayers. Deep heartfelt prayers create a stronger bond and connection between the petitioner and the Divine. Thus, when Rachel is granted a child, we are told (30:22) "G-d remembered Rachel, He hearkened to her and He opened her womb". The words "G-d remembered" are understood by Chazal (Bava Basra 123A) to indicate that Hashem remembered her giving the secret signs shared between her and Yaakov to her sister Leah on the night she was to marry Yaakov in order to spare her sister great humiliation. This incredible act of self-sacrifice, not knowing at the time that she would marry Yaakov a week later, was not only beneficial in her having children, but we are taught in the introduction to Eicha (24) and in Kina (26) of Tisha Ba'av, that the prophet Yirmiyahu awakens the patriarchs and matriarchs to arouse Hashem's mercy to allow the Jewish nation to return to their land and relationship to Hashem. However, none of the Avos are successful until Rachel Imeinu entreats, "I allowed a tzarah (rival) to come into my house (my sister) therefore Hashem you forgive them for bringing the tzarah of idolatry into your home."

The haftorah we read annually on Rosh Hashana from Yeshiyah cites the magnanimity of Rachel (31:15) "So said Hashem: restrain your voice from weeping and your eyes from tears; for there is a reward for your accomplishment - the words of Hashem - and they shall return from the enemies' land". The "accomplishment" is understood by Rashi to be her

sharing the signs with her sister. The future redemption of Klal Yisroel is anchored in her rich meritorious past.

In addition, the medrash at the beginning of Chayei Sarah (Berashis Raba 58:3) teaches that Rabbi Akiva was sitting and teaching and the people were dozing; in order to arouse them he shared the following: "Why was Queen Esther privileged to rule over 127 provinces, because her great-grandmother Sarah lived for 127 years". This was more than a pedagogic tactic. The nation at the time of Roman persecution was giving up hope and faith. In order to ignite their spirits Rabbi Akiva told them that they possess in their arsenal an invaluable commodity, perhaps bigger and greater than themselves, namely the merit of their ancestors. Thus the deposit that Sarah made through her noble life in the Divine Bank of Israel accrued dividends for her offspring for many generations to come. The past unties with the future.

The Jewish nation is unique in that the future as well effects and influences the present/past. The medrash (Ibid 63 :2) on the opening verse of parshas Toldos teaches based upon Yeshiyah (29:22) that Jacob redeemed Avraham. The medrash understands this to mean that Avraham Avinu was miraculously spared the inferno of Ur Kasdim in the merit of his grandson Yaakov. (The Sfas Emes understands that since Avraham was not yet circumcised when he was thrown into the furnace, he did not yet have enough of his own merit to survive.) Moreover, the medrash in parshas Noach on the challenging verse (8:21) that follows Noah's bringing offerings after the flood states that, "Hashem smelled the pleasing aroma, and Hashem said in His heart: 'I will not continue to curse again the ground because of man, since the imagery of man's heart is evil from his youth nor will I again continue to smite every living being, as I have done'". What does it mean that He smelled - Hashem is incorporeal!? The medrash (ibid 34:9) understands this to mean that He saw the heroism and self-sacrifice of Chananya, Mishael, and Azaria being thrown by Nebuchadnezzar into the furnace. The future sterling character of these righteous, courageous, young men was beneficial to prior generations.

Chanukah is rapidly approaching. The second blessing we recite prior to lighting the menorah is that He performed miracles for our ancestors in those days at this time. The last phrase, at this time, is usually understood to pinpoint the time of the year. However, in keeping with our theme, it can also be understood to mean He performed miracles for our ancestors that they might not have been worthy of, but Hashem looked to the future (bazman ha'zeh - at this time) and in our merit, and that of subsequent generations, He performed miracles for them. The exciting lesson derived from above is that every chayal (Israeli soldier) is accompanied by 3,000 years of Jewish history and a glorious future of Torah and mitzvos to protect him. In addition, Hashem gave the land of Israel to the Jewish nation on condition we are faithful to His laws (Tehillim 105:44-45). Our personal rededication to Torah and mitzvos is another real way we can help our soldiers.

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From Jeffrey Gross <jgross@torah.org>
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Subject Weekly Halacha
by Rabbi Doniel Neustadt (dneustadt@cordetroit.com)
Yoshev Rosh - Vaad HaRabanim of Detroit

Weekly Halacha **by Rabbi Doniel Neustadt**

Shabbos body care

Is it permissible to brush a sheitel on Shabbos? Does it matter if the hair is knotty or smooth? May I put pin-curls in my sheitel on Friday night so it looks fresh for Shabbos morning?

Brushing or combing a sheitel on Shabbos in the manner in which it is done during the week is forbidden. This is because one is sure to rip out some hairs from the netting while brushing. It is, however, permitted to smooth down the hair of a sheitel with a soft-haired brush. Preferably, a special Shabbos brush should be used for that. Putting a pin curl in a sheitel on Shabbos should be avoided.

Can you explain a bit about the problem of putting on makeup on Shabbos?

There are two forbidden Shabbos Labors which might be transgressed when using makeup; one is Memareiach, smoothing, and the other is Tzoveia, coloring. All poskim, without exception or debate, agree that any cream makeup, liquid makeup, lipstick, or makeup of any sort which contains cream or oil is strictly prohibited to use. They also agree that these forms of makeup may not be applied even on top of existing makeup to touch up, etc.

While there is some discussion among contemporary poskim in regard to face powder or powdery substances which have no cream or oil base, Rav S.Z. Auerbach leaves no room for doubt as to his opinion on this question. He writes that “so long as the purpose is to color [the skin], even if it lasts only a short while, there is no basis to be lenient. This is especially true when the powder was intended for makeup and women color their faces in this manner; we find no source to be lenient.”

If a piece of loose skin develops on my lip on Shabbos and it is very bothersome, am I permitted to remove it in some way? What about a hanging, half-broken fingernail or a painful hangnail?

There is no permissible method to remove small pieces of skin which are peeling around the lip area or any other area of the body.

When it comes to a hanging fingernail there is some more room for leniency. Many poskim rule that if the end of the nail has become detached for most of its width and it is causing pain, it may be removed either by hand or with the teeth, but not with a scissor or a nail file.

Is there a problem using baby wipes on Shabbos? If so, is there a permissible way in which to use them?

When using baby wipes on Shabbos, we are concerned with violating the Shabbos Labor of Sechitah, Squeezing. If the wipe can be used without Squeezing then it may be used on Shabbos. A baby wipe that is slightly moist and is gently dabbed onto the diaper area would be an example of the permissible use of a baby wipe on Shabbos.

However, a baby wipe that is very moist — and there are numerous types of wipes on the market ranging from very moist to hardly so — would be prohibited from use on Shabbos, and indeed, may even be muktzeh, since the slightest pressure applied upon it would cause Sechitah. Moreover, pressing any type of baby wipe — even one which is only slightly or moderately moist — against the baby’s skin, and/or scrubbing the diaper area with it may also be forbidden, as such pressure would result in Sechitah.

In actual practice, cleaning a baby who is wet or lightly soiled can generally be accomplished by gently dabbing a wipe on his skin. Indeed, one does not want to “squeeze” out any more moisture than necessary so as to eliminate the need to dry off the diaper area before putting on the diaper. When cleaning a baby who is more heavily soiled, however, one normally has to apply pressure to the wipe in order to clean the baby off. This becomes a case of Squeezing and may be forbidden on Shabbos.

Am I allowed to affix a brooch to an outfit on Shabbos? If so, do I need to take it off before Shabbos is over?

It is permitted to fix a brooch on an outfit on Shabbos, and there is no need to take it off before Shabbos is over.

If my son's button falls off his shirt on Shabbos, may I reattach it with a safety pin?

A minority opinion maintains that using a safety pin (or a straight pin) to connect fragments of a torn garment, to pin up a loose hem or to fasten a button to a garment, should be avoided on Shabbos. In their opinion, pinning is included in the Shabbos Labor of Sewing, since the safety pin binds two (or more) previously disconnected or torn parts of a garment, just as Sewing does.

But the vast majority of poskim maintain that it is permitted to use a safety pin on Shabbos. They explain that using a pin is not considered Sewing at all, since no thread or other bonding agent is being used. In addition, Sewing is defined as connecting two pieces of material into a single solid piece; an entity that could only be separated by the process of tearing or cutting. Using a safety pin to connect two pieces of fabric is similar to buttoning a shirt or zipping a zipper, which is not considered Sewing at all.

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From Yeshiva.org.il <subscribe@yeshiva.org.il>
reply-To subscribe@yeshiva.org.il
By Rabbi Yirmiyohu Kaganoff

By Rabbi Yirmiyohu Kaganoff
In honor of Yaakov Avinu's contractual dealings with his father-in-law, I am sending:

Can You be Paid for What You Did Not Do?

From the halachic literature:

Case #I: The Scheming Seamstress

Rivka hired a seamstress, Mrs. Chait, to sew a custom-made gown for her daughter's wedding. Then, Mrs. Chait realized that she had too many orders and asked a second seamstress, Mrs. Snyder, to make the gown. Although Mrs. Snyder requested a lower fee, Mrs. Chait charged Rivka her higher price, intending to pay Mrs. Snyder the lower wage and keep the difference. Rivka feels she should not pay Mrs. Chait anything, since Mrs. Chait did no work, and that she (Rivka) only needs to pay what Mrs. Snyder charged. Mrs. Snyder would like to receive the full wage Rivka was planning to pay Mrs. Chait. What is the halacha?

Case #II: The Congregations and the Cantors

Congregation Ohavei Kol engaged the renowned Chazzan Shatz to daven Musaf for Yomim Norayim. Subsequently, Congregation Shachain Tov hired him to daven Shacharis at their shul. The chazzan contended that davening Shacharis at Shachain Tov would not have a negative effect on his Musaf at Ohavei Kol. However, after Rosh HaShanah, Ohavei Kol contended that the Chazzan's Musaf was less melodious than they were expecting, since he was tired from Shacharis, and that he must decline the Shacharis job for Yom Kippur. Chazzan Shatz agreed, in order to not jeopardize his wages from the better-paying Musaf job. However, Shachain Tov was dissatisfied with the last-minute substitute they arranged for Shacharis in their shul on Yom Kippur.

After the High Holidays, the two congregations and the two cantors began some unholy negotiations. Chazzan Shatz contended that both congregations should pay him the agreed amounts, less what the substitute bal Shacharis received. Congregation Ohavei Kol deducted substantially from the chazan's pay, claiming that they received an inferior Rosh HaShanah Musaf than what they had originally negotiated. Shachain Tov claimed that they should not pay the chazzan anything since he did not fulfill his contract with them, and furthermore, his backing out

caused them to have an unsatisfactory Yom Kippur davening. How would you rule if you were the dayan?

Case #III: Is the Gelt Glatt?

The Rav HaMachshir of Glatt Kosher Inc. contacted one of his regular mashgichim, Rabbi Gold, to oversee a special production. With Glatt's knowledge, Rabbi Gold hired a substitute, Monish Key, to oversee the production. Rabbi Gold subsequently charged Glatt his standard fee, and then paid Mon Key peanuts. Glatt claims that this was not glatt and that Rabbi Gold is not entitled to any more than what Monish received.

ANSWER

All three of these actual cases entail the issue of whether one person can collect wages for work performed by another. As we will see, the exact rules governing these halachos are very subtle and sometimes disputed, and a small variation in circumstances can change the halacha. But first we need to analyze the Gemara involved.

THE CONTRACTOR

The Gemara (Bava Metzia 76a) discusses the following circumstance: A businessman instructed his supervisor to hire day laborers at the rate of three dinarim a day. The supervisor subsequently discovered that the market rate for laborers was more than three dinarim, but he was unable to contact the owner for approval to pay more. The supervisor therefore promised the laborers that he personally guaranteed that they would receive four dinarim. The Gemara concludes that since the supervisor guaranteed the laborers' wages, he must pay them four dinarim; he then collects from the owner "as much as the owner benefited," an ambiguous term which then becomes subject of a dispute among the Rishonim. Shulchan Aruch (Choshen Mishpat 332:1) concludes that it means whatever the owner was willing to pay; in his opinion the owner compensates the supervisor only three dinarim per worker, and the supervisor absorbs the difference. However, most poskim rule that "as much as the owner benefited" means the market rate for laborers, since this is what the owner would have been forced to pay, had he hired the workers himself.

The question, now, is what happens if the market rate for laborers is five dinarim per day, and the supervisor convinced them to work for only four? Does the supervisor receive five dinarim per day per laborer, since this is what the owner benefited, or does he receive only four, which was his actual out-of-pocket cost? The Rama concludes that the supervisor receives only what he paid, and no more. Although the owner technically benefited five because of the supervisor's adept negotiating, the supervisor cannot claim greater compensation than his actual cost (Tur ad loc. quoting Ramah). Thus we see that although the owner should be obligated to pay the supervisor according to the usual value of market labor, which is five, he is not required to pay more than the supervisor actually spent. Thus, the supervisor cannot make a profit by marking up labor for work he did not perform. At this point, we can now follow the footsteps of the poskim and analyze our first case. Remember our seamstress? Mrs. Chait, the first seamstress, passed work on to Mrs. Snyder, who charged less than Mrs. Chait's original quote. Mrs. Chait felt that she was entitled to the difference. The client wants to pay the lower fee. Mrs. Snyder, who now discovers that the client was prepared to pay more for the gown, would like to collect the higher fee. Would you like to be the dayan and tell us what to do?

Over hundred years ago, the great Hungarian gadol and posek Rav Meir Arik zt'l discussed this exact case. Rav Arik reasoned that just as the owner reimburses the supervisor only as much as the laborers received, similarly Rivka pays the second seamstress her price and the first seamstress receives no compensation for making the arrangements (Minchas Pitim, Choshen Mishpat Chapter 332, quoted by Pischei Choshen, Sechirus 8:29).

I later discovered that Rav Arik's ruling is based on an earlier responsum authored by the Mabit (Shu't Mabit 3:23), who was a Rav in Yerushalayim in the Sixteenth Century. However, there are some significant differences in the Mabit's original case:

Reuven supplied Shimon with material to weave a garment. Unbeknownst to Reuven, Shimon contracted Levi to weave the garment for a lower price and sent Levi the material. Reuven subsequently claims that more material was used than should have been, and he has concerns about Levi's honesty. He also wants to pay Levi's lower fee and not Shimon's higher one. In this case, Shimon violated the trust agreement because Reuven never allowed Shimon to entrust the material to anyone else. This is a halachic violation of the laws of shomrim for which Shimon is liable -- if I am entrusted with someone's property, I may not give the item to someone else to watch in my place. Therefore, Shimon is liable for any losses and

damages that might ensue, should the material be lost or stolen. The Mabit also rules that in addition to Shimon's liability for breach of trust, Reuven is required to pay only the lower wage, since the higher wage is contingent on Shimon performing the work. Reuven is not required to pay the same price to someone else, nor to Shimon, if someone else performed the work. The first tailor is not entitled to any payment for someone else's labor, as we see from the previously quoted Gemara.

CONTRACTING OUT WORK

In our original case, could Mrs. Chait have simply contracted out the work, and presented it to Rivka without telling her who made it, or how much it cost? I believe that if Rivka had not supplied the material, then Mrs. Chait could have subcontracted the work, provided she assumes responsibility for the finished product. When I order a garment, my concern is to receive what I ordered and it makes no difference to me who actually produced the garment. Thus, Mrs. Chait could have subcontracted the garment to Mrs. Snyder, and maintained control of her dealing with Rivka. Of course, if she had done this, she would also have been responsible for the finished garment, and would have been responsible for adjustments and alterations to the gown.

A BUILDING CONTRACTOR

Let me explain the difference between subcontracting and Rav Arik's case with the following common example. When you hire a contractor to perform major renovation work, he usually subcontracts much of the work to other artisans, such as electricians or plumbers. Does your contractor charge you the same price that his subcontractors charge him? Of course not; he marks up the price. How can he mark up his charges when we just said that the supervisor of the Gemara is not entitled to charge extra for the costs of the laborers?

The difference is whether the contractor is still responsible for the work of the subcontractor. In the Gemara's case, the supervisor is not responsible to repair inferior work performed by the laborers. Similarly, I believe that in Rav Arik's case, once the second seamstress took over the job, the first seamstress was no longer involved. If the client is unhappy with the job, she will ask Mrs. Snyder to fix it, but has no recourse against Mrs. Chait.

However, if the customer is dissatisfied with the work of a subcontractor, who is responsible to make sure that it is repaired? The contractor. Therefore, the contractor may charge for his involvement and responsibility and mark up the subcontractor's charges. In essence, the subcontractor is not working for you: he is working for the contractor. In the case of the Gemara, although the supervisor guaranteed the wages, the laborers were working for the business owner, not for the supervisor.

Therefore, if Mrs. Chait is still responsible for the quality of the finished product, she may charge for that part of the responsibility. She may assume total responsibility for the finished product and merely use Mrs. Snyder as her subcontractor. Clearly Rav Arik was not discussing such a case.

A FINDER'S FEE

Could the first seamstress have requested a finder's fee?

The Gemara (Bava Metzia 63b) mentions the responsibility to pay a broker's fee to the person who arranges the sale of property or merchandise (Shulchan Aruch, Choshen Mishpat 185:1; Rama 87:39). This is a standard business practice, similar to paying a commission to a stockbroker, real estate agent, or personnel recruiter (sometimes called a "headhunter"). As a matter of fact, this is also the halachic source for paying shadchanus gelt; one pays a shadchan for making the arrangements necessary for the engagement and marriage to transpire. If this is true, why could the first seamstress not have requested a shadchanus fee for arranging that the second seamstress make the gown for the client? In this instance, Mrs. Chait should be entitled to a finder's fee for referring the business to Mrs. Snyder, yet Rav Arik does not mention this fact. Why not?

I do not know why he does not discuss this possibility, but I would suggest the following: Shadchanus gelt and finder's fees are chargeable only when they are standard practice. If a certain type of transaction does not usually involve a finder's fee, one cannot charge it. For this reason, one cannot charge a finder's fee for referring a visitor to a neighborhood grocery store: although purchasing groceries is a transaction, one does not usually charge for the service of informing a person where to buy a bottle of milk. Similarly, it is not standard practice to charge for referring a person to a tailor or seamstress for the production of a single garment; therefore, it does not warrant a finder's fee.

THE CONGREGATIONS AND THE CANTORS

We can now examine the legal issues involved in the din Torah mentioned above, where the chazzan booked two different shullen for Yomim Norayim, one for Shacharis and the other for Musaf, and incurred the wrath of both congregations. An actual din Torah ensued in 1896 in Brayulav, Moldavia under very similar circumstances. The shaylah was more interesting because the chazzan involved was the community shocheit, and some members of his community wanted to disqualify him as a shocheit due to the moral turpitude displayed by not keeping his word. (Can you imagine what they would think about our contemporary politicians?) The shocheit-chazzan contended that both congregations should pay him as agreed, minus the expense of hiring the additional bal Shacharis for Yom Kippur. Congregation Shachein Tov felt that since he had left them without a chazzan of choice for Yom Kippur, they owed him nothing. The local rav, Rav Shelomoh Mehr, who was asked to rule on the case, referred it to the posek hador, the Maharsham of Brezin, Galicia, for final judgment. Does Shachein Tov's claim that the shocheit-chazzan is entitled to no financial compensation have validity? The shul claims that the shocheit-chazzan's breach of contract caused them irreparable damage. Both Rav Shelomoh Mehr and the Maharsham concur that the shul did not suffer irreparable damage by the substitution of a mediocre chazzan. Thus, the agreed amount should be prorated based on a calculation as to how much of the fee was for Rosh HaShanah and how much for Yom Kippur, and the chazzan receives compensation appropriate for the Rosh HaShanah davening. Since the substitute chazzan received less for Yom Kippur than the shocheit-chazzan would have earned, the shul saved some money as a result. On the other hand, the chazzan's claim that the shul should simply subtract the substitute's wage from his fee is inappropriate. Since this would result in his receiving more than the prorated amount for Rosh HaShanah, it would in essence pay the chazzan some compensation for the Yom Kippur davening that he did not perform. Therefore, the difference between what the first chazzan was supposed to receive and what the second chazzan actually did receive reverts back to the shul.

Regarding whether the chazzan-shocheit is disqualified in the future as a shocheit for exhibiting moral turpitude, the Maharsham ruled him qualified to continue in his profession as shocheit. Maharsham agreed, in principle, that someone who breaks his word in financial matters has seriously compromised his integrity and is considered mechusar amanah which halachically makes him a rosho, an evil person. The Maharsham implies that this offence is serious enough to warrant dismissal of a shocheit.

However in this case, the shocheit was not mechusar amanah in failing to abide by his agreement, but rather, he overextended himself in a way that he thought he could honor both commitments. Indeed, even if we assume that he could not honor his commitments, his violation was one of negligence, not intent. The chazzan-shocheit truly believed that his double commitments were not in conflict with one another, and that he could accomplish both. Furthermore, had he realized that Congregation Ohavei Kol would fire him for davening Shacharis at Shachein Tov, he would never have agreed to daven at Shachein Tov. Therefore, he is considered someone who placed himself negligently in a circumstance where he was forced to forgo one of his agreements. This constitutes sloppy or careless behavior in business dealings, which, although reprehensible, demonstrates bad judgment, not moral turpitude. Bad judgment about one's financial matters does not disqualify a shocheit or anyone else for that matter.

The Maharsham does not discuss directly how much Congregation Ohavei Kol must pay the chazzan. He implies that Rav Mehr had ruled that they must pay the chazzan in full, and that neither rav accepted the shul's claim that he had underperformed in his vocal commitments to them, since he had indeed davened all the tefillos contracted.

THE CASE OF THE GLATT GELT

We can now examine the last of the three original shaylos, that of the Glatt Gelt. The Rav HaMachshir of Glatt Kosher Inc. had hired Rabbi Gold to be his mashgiach, and knew that Rabbi Gold was making a substitution. If Glatt is dealing directly only with the substitute, then this case is parallel to the Gemara's case of the supervisor and Rav Arik's case of the seamstress; thus, Rabbi Gold would receive no additional compensation, unless this entitles him to a finder's fee. However, if Rabbi Gold is still responsible to make sure that someone oversees the production, or he is responsible to train the mashgiach, then he is entitled to compensation for this work. If he chooses to charge Glatt and in turn pay Monish Key, he could argue that Mr. Key is really his employee and not Glatt's. For example, if the substitute will contact Rabbi Gold if he has a problem, or if some other complication would still involve Rabbi Gold's responsibility, then Rabbi Gold can claim that he is still in the hire of Glatt Foods, and Mr. Key is his

subcontractor. Similarly, if Rabbi Gold is training or instructing Mr. Key for the job, then he may charge for this service.

However, this is permitted only if Glatt Kosher Inc. agrees to allow Rabbi Gold to arrange his own substitute. Otherwise, Glatt Kosher Inc., would assume that Rabbi Gold, their crackerjack field supervisor, is doing all the work himself. It is unacceptable and a serious breach of faith on the part of the field supervisor if he is not the one providing the service for which he is charging and instead arranging a substitute unbeknownst to the hechsher. This is indeed similar to the Mabit's ruling, cited earlier, that it is deceptive to substitute an artisan without the knowledge of the customer. Although the cases are not 100% parallel, it is certainly true that in kashrus supervision the religiosity, practical expertise, and halachic knowledge of the field supervisor are major factors influencing the quality of work performed. Therefore, the supervisor has no right to arrange substitution without the foreknowledge of the hechsher.

A Torah Jew observes his contractual commitments with trust and faith. He certainly realizes that Hashem's Torah is all-encompassing and directs every aspect of his life, certainly the details of his livelihood and his financial dealings.

all names have been changed