

INTERNET PARSHA SHEET
ON VAYISHLACH - 5759

B'S'D'

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haaros@torah.org Tal Umatar -- The Prayer for Dew and Rain: Sheilas "Tal Umatar" would normally have been said this year on the night of Dec. 4, for the first time. Because it happens to be Shabbos, however, it will not actually be said until Motzoei Shabbos -- Sat. night, Dec. 5.

"RavFrاند" List - Rabbi Frاند on Parshas Vayishlach

Putting the Value of Money into Proper Perspective The verse says, "Yaakov returned and remained by himself" [Bereishis 32:25]. Rabbi Eliezer explains that Yaakov went back because "he left over some small vessels." The Talmud derives from Rabbi Eliezer's teaching that the property of the righteous is dearer to them than their bodies [Chulin 91a]. The Talmud explains that the righteous do not partake of stolen property. A righteous person is aware that property is a gift from G-d. When a person receives a gift from G-d, large or small, he has an obligation to treat it as something significant. However, there appears to be an inconsistency in Yaakov's behavior. When Yaakov went down to Egypt, the verse tells us that he took all the wealth that he inherited in the Land of Canaan [46:6]. Rash"i there infers that he gave all the wealth that he received (from Lavan) in Padan Aram to Esav, in exchange for Esav's burial plot in the Me'aras HaMachpela. Yaakov felt that property gained outside of Israel was not worth retaining. However, the "small vessels" which Yaakov returned to retrieve in this week's portion were also acquired in Chutz L'Aretz [Outside the Land (of Israel)]. ("...For I crossed over this Jordan River with (only) the staff in my hand..." [32:11] [when leaving the Land, thus implying that all of his property was acquired outside]). Why does Yaakov risk his life to retrieve them, if a short time later he is ready to part with all the property that he acquired from Lavan? What is the story? Is Yaakov careful with his money or not? The Menachem Zion explains that the righteous know that money comes from G-d, and therefore they will not abandon or abuse it. However, compared to a mitzvah, or anything spiritual, money becomes valueless. Yaakov would never abandon property without reason. But when Yaakov has the opportunity to be buried in the burial plot of his father and grandfather -- with Avraham and Yitzchak -- then his attitude is that money has no value. A person must certainly value money. But he must know that there is a hierarchy of values and everything is relative. Nothing is as important as spirituality.

"Who Are These Children?" -- A Strange Question by Eisav When Esav meets Yaakov and his wives and children, Esav inquires "Who are these to you?" [Bereshis 33:5] This is a strange question. When one has not seen someone for 20 years, it is not unusual that during this time the person may have married and had children. Upon greeting the person for the first time in 20 years, and seeing that he is accompanied by a number of children, is it appropriate to ask "who are these children"? The Pirkei D'Rabbi Eliezer explains the dialog between Yaakov and Eisav: Eisav asked, "What are you doing with all these? I thought we made a division -- I would take This World and you would take the World to Come? If so, what are you doing with children? Children are a function of This World. Yaakov responded, "these are the children that G-d graciously provided to your servant. (In other words, children are included in the World to Come.) That is why I have children." We thus have a dispute here between Eisav and Yaakov, concerning whether children are a function of Olam HaZeh or Olam HaBa, of This World or the World to Come. If we have a dispute, there must be a practical difference. What is that difference here? The practical difference is that if someone views children as a function of this world, he believes that

the purpose of children is to make life easier. Those who lived two or three hundred years ago in an agrarian economy had many children, because every extra pair of hands on the farm meant an easier life.

Modern man has become a little more progressive. He has moved off the farm and does not have such a need for children anymore. He sees that children can not help him. As a matter of fact he has made a startling revelation: Children are a tremendous pain! They cost money and bother and aggravation. Who needs children? Modern man can even believe that children can be replaced... if one needs companionship, let him get a dog! Dogs are wonderful. He can come home, after a tiring day, to a house full of crying children. This one has not done his homework. This one is sick. This one is nudging. Or, he can come home to a dog. The dog will run to him. It will be happy to see him. The dog may be the first being that has been happy to see him the entire day. So if a person wants Olam Hazeh, he does not have children; he has dogs! This is the attitude of Eisav.

Yaakov, on the other hand, understands that the purpose of children is not for enjoying this world or for making our lives easier. The purpose of children is that children, like all of us, have souls. Those souls need to somehow make their way to Olam HaBa. The only way that a soul can ever get to the World to Come is by spending even the smallest amount of time in This World. Every child that a person has -- whether the child lives to 120 be"H [with G-d's help], or if G-d forbid he doesn't live long; whether he is productive or not so productive -- the only way that soul will ever arrive in the Next World is if it is brought into This World first. That is what children are all about -- following G-d's desire to take a soul, try to improve the soul and see that the soul makes it to Olam HaBa.

Rav Matisyahu Solomon says that this is the interpretation of the verse: "May the L-rd, G-d of your fathers, add to you like yourselves a thousand times over, and Bless you as he spoke to you" [Devorim 1:11]. Rash"i comments that the Jewish people complained that Moshe was putting a limit on this blessing (only a thousand times!), because G-d had already promised that their children would be "like the dust of the earth which cannot be counted because of its multitude" [Bereshis 32:13]. Moshe responded, "this is my own personal blessing; but G-d will in fact bless you as he has promised." The Chasam Sofer explains that Moshe was saying, "if you want to merit the blessing of G-d, you have to appreciate children. When I told you that you would have children 1000 times over, that was a test to see your reaction. Had your reaction been, 'that's enough already,' I would have been disappointed. You reacted the right way -- every child is a blessing; every child is Olam HaBa; every child is the greatest thing that G-d can give us. Therefore, since I see that you do appreciate children, you will in fact merit G-d's blessing of having an infinite number of children."

Sources and Personalities Rash"i -- (1040-1105) Rav Shlomo ben Yitzchok; Troyes and Worms, France. Menachem Zion -- Rabbi Menachem Ben-Tzion Zachs; Israel. Chasam Sofer -- (1762-1839) Rav Moshe Sofer/Schreiber; Hungarian Jewish Rabbinical leader; Pressburg (today's Bratislava). Rav Matisyahu Solomon -- Mashgiach Ruchni, of Yeshiva Beth Medrash Gavoha, Lakewood, N.J. Transcribed by David Twersky; Seattle, Washington twerskyd@aol.com Technical Assistance by Dovid Hoffman; Yerushalayim dhoffman@torah.org Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. <http://www.torah.org/Baltimore,MD21215> (410) 358-9800 FAX: 358-9801

Drasha Parshas Vayishlach -- Landmark Decision
Rabbi Mordechai Kamenetzky 12/04/98

This week's portion entails many of the trials and tribulations that Yaakov Avinu endured, both on a national level and on a very personal one. First, he prepared to confront his brother Esav, the results of which would produce either war or reconciliation. Then he battled an angel who dislocated his sciatic nerve. Then finally, Yaakov confronted his brother, playing the role of diplomat-warrior. He carefully weighed how to treat him with Chamberlain-like appeasement or Churchill-like aggressiveness. He returned from that encounter unscathed, but not long afterwards, the Torah tells us that Yaakov's own daughter was brutally violated, which led to a war in which his sons decimated the city of Shechem. Then he endures the death of Devorah, who was his mother Rivka's nursemaid. But all these roles that Yaakov plays -- the angel-fighter, the warrior-diplomat, even the

father whose daughter is attacked are different then the role Yaakov must play in another tragic incident in this week's parsha. Yaakov simultaneously becomes a grieving widower during the birth of his final child, Binyamin, who is born an orphan for life. Rachel, Yaakov's beloved wife, dies in childbirth. Now a wayfarer on a trek to Chevron, Yaakov must bury his wife. But Yaakov does something strange. He does not bury her in the family plot in the M'aras HaMachpelah, which was bought by Avraham and reserved for the forefathers and their spouses, Yaakov opts instead to bury her where she dies in Bais Lechem (Bethlehem). Surely Yaakov had no objection to travelling with a deceased whilst trekking to a final resting place. After all, he asked his own children to bring him from Egypt to Canaan after his demise, surely a longer and more arduous trek than Bethlehem to Chevron? Why then did he bury Rachel in Beth Lechem? The Midrash tells us that Yaakov foresaw that one day Jews would be in exiled from the Land of Israel. They would plod down the road leading from Jerusalem toward the Rivers of Babylon. They would pass the Tomb of Rachel and they would cry. She in turn would join them in their prayers. Therefore Yaakov opted for a burial site for Rachel on the road to Babylon.

But aren't there many places to pray? Isn't every stone on every road holy? And doesn't Hashem hear prayers and see tears even when they are not shed by a graveside? What gift did Yaakov give his children by relinquishing Rachel's eternal resting-place for a way station on the oft-traveled road of Galut? Is there perhaps an even deeper intent with Yaakov's plan?

Anatoly Sharansky's trials and tribulations from the time of his arrest in March 1977 through his release in 1987 included the Soviet Union's most notorious prisons and labor camps. It was a tormenting journey, but along the arduous term there were many encouraging little reminders that the One Above was holding his hand. One day during his trial, Sharansky firmly requested to be allowed to select a lawyer of his own choosing rather than the stooge given to him by the Soviet authorities. The judge who presided over the kangaroo court reacted by declaring a brief recess and had Anatoly thrown into a tiny holding cell. There was hardly any light in the dank compartment, and there was nothing for Sharansky to do but wait for the proceedings to resume. To pass time he stared at the various curses and inscriptions scratched on the walls by prisoners who also sat and waited like he was for the decisions of their mortal fate. However, Anatoly did not notice the curses etched by the previous men that once sat in that cell. Instead, he saw a message of hope and inspiration scratched on the wall. A Magen David etched in the wall, stood out proudly amongst all the other frivolities of frustration. The words Chazak V'Ematz (Be strong and fortify yourself) were energetically etched underneath it. It was signed Asir Tziyon (Prisoner of Zion) Yosef Begun. Begun knew that like him others would pass this way and he engraved for them a mark of hope.

Yaakov realized that the experience of his personal pain should not be limited to his own personal suffering. He converted it into a message of hope and inspiration for the ages. Rachel was transformed from a symbol of despair and grief into a symbol of hope for eternity. Yaakov foresaw that one day the Jews would leave Israel, shattered and broken. By having Rachel's final resting place as landmark in their agonizing journey, they, too could garner a message of hope. They would see Yaakov's pain and remember his triumphant endurance. They would understand that despite his sad life, Yaakov persisted. His children united and his legacy was impeccably unblemished. And though he often stood on the desolate road surrounded by enemies, his future was never renounced. And his children's future, too, will never despair. For Rachel cries for them, and she will not stop until they return to their true borders.

Good Shabbos « 1998 Rabbi Mordechai Kamenetzky

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Hamaayan / The Torah Spring Edited by Mr. Shlomo Katz Vayishlach

Today's Learning: Tevul Yom 1:3-4 Orach Chaim 25:1-3 Pesachim 111

"He [Esav] raised his eyes and saw the women and children, and he asked, 'Who are these to you?' "He [Yaakov] answered, 'The children whom G-d has graciously given your servant.'" (33:5)

The midrash Tanna D'vei Eliyahu Zuta (ch.19) explains this exchange as follows:

When Yaakov and Esav were yet in their mother's womb, Yaakov said to Esav, "Esav, my brother! We are two brothers and there are two worlds in front of us - This World and the World-to-Come. This World has in it eating and drinking, business, marriage and raising children, while the World-to-Come has none of these. If you would like, you take This World, and I will take the World-to-Come." Esav agreed. However, when Yaakov returned from Lavan's house and Esav saw that Yaakov had wives and children and slaves, animals, gold and silver, Esav said to Yaakov, "Did you not say that I would take This World? Why do you have so much of This World - wives, children, money, and slaves?" Yaakov answered him, "This is the small amount that Hashem gave me to use in This World as needed." R' Shmuel Heida z"l (R' Shmuel Hakattan"; died 1685) explains Yaakov's answer: "It is impossible to exist in this world without some possessions, but I do not seek any enjoyment from this world." R' Heida adds that this also explains the prayer that the author of the Mishnah, R' Yehuda Hanassi (known as "Rebbe"), uttered on his deathbed. Rebbe was an extremely wealthy man and always had many types of delicacies on his table.

Still, before he died, he lifted his fingers toward the heavens and proclaimed that he had never taken any enjoyment from this world. He then prayed, "May it be Your will that I rest in peace." Why did Rebbe pray thus? Because of his riches, it might appear that Rebbe had taken Esav's portion in This World and, therefore, was not entitled to a place in the World-to-Come. "No!" said Rebbe. "I never took anything from This World that was not essential [to maintaining my stature as the political head of the Jews]. Therefore, let me rest in peace in my place in the World-to-Come." (Zikukin D'Nura)

R' Akiva Yosef Schlesinger z"l (died 1922) explains Yaakov's answer to Esav differently. Yaakov said, "The children asher chanan Elokim/whom G-d has graciously given your servant." The word "chanan" implies a matnat chinam/an undeserved gift. In other words, "You are right; This World is yours, not mine. Even so, Hashem has given me these children as an undeserved gift." (Tosfot Ben Yechiel)

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* TORAH WEEKLY * Highlights of the Weekly Torah Portion Parshas Vayishlach For the week ending 16 Kislev 5759 / 4 - 5 December 1998 This publication is available in HTML format at <http://www.ohr.org.il>

Two Dollars a Jew "...An offering to Esav his brother" (32:14) When we remember the fanatical hatred of the Nazis, we would imagine that nothing could have stopped their desire to kill every last Jew in Europe. There is considerable evidence, however, that even their blind insane hatred was susceptible to good old-fashioned bribery.

During the height of the war, Rabbi Michael Ber Weissmandel managed to stop the deportation of 25,000 Rumanian Jews by bribing Adolf Eichmann's second-in-command. The price: \$50,000. Two dollars a head. Two dollars a Jew. About the price of an evening at the cinema. Encouraged by this success, Rabbi Weissmandel conceived an incredibly bold plan. If the Nazis were susceptible to bribery on this relatively modest scale, why not on a grand scale? Why not try and buy the life of every Jew in Europe? The Europa plan, as it was called, was an attempt to rescue every remaining Jew by giving the Nazis a massive bribe. Rabbi Weissmandel saw that the tide of the war was turning. He surmised that those Nazis who still hoped to win would want to use the Jews to put pressure on the Allies. Others, who feared future Allied retribution if they were defeated, would view such a deal as a way to curry favor after the war.

In any event, Rabbi Weissmandel's intention was simply that the Nazis should start to appreciate that live Jews were more useful than dead ones.

Rabbi Weissmandel's "Working Group" again made contact with Eichmann's aide. After protracted negotiations, the word came through from Berlin that the highest echelons would agree to stop all deportations everywhere except from Poland, for a price. How much? Two million dollars. For two million dollars, literally millions of lives would be saved. With the receipt of the first \$200,000 the Nazis would halt the transports for two months. After that, the next payment would be due. Money isn't what it used to be. Two million dollars in 1943 is the equivalent of hundreds of millions of dollars today. In spite of almost superhuman efforts, Rabbi Weissmandel was unable to raise the first \$200,000 dollars, and negotiations broke down in September 1943. Would the Nazis have kept their word? No one can know for sure. However, there is evidence that they would have. Two Jews who escaped from Auschwitz reported that during the time of the negotiations, the trains with their relentless flow of human cargo had suddenly stopped. Even the gas chambers had lain idle. Also, a special transport of Jews from Theresienstadt who had arrived at Auschwitz were treated with abnormal respect. Perhaps these Jews would have been the first released if the bribe had been paid. When the negotiations foundered, they were sent to their deaths. Why couldn't Rabbi Weissmandel raise the money? The reasons are complex. One reason is that there was an underlying attitude that it was anathema to have any dealings with the Nazis, let alone give them vast sums of money. Legally, too, the Americans would not have taken kindly to pumping millions into the Nazi war machine. All these considerations pale into insignificance when faced with the overriding imperative of the Torah to ransom captives.

Before setting out to deal with the powers in Rome, Rabbi Yehuda HaNasi (the codifier of the Mishna) and the great Sages of the Talmud would always study the encounter between Yaakov and Esav in this week's Parsha.

Once, the Sage Rabbi Yannai neglected to do so and his mission was a dismal failure. Why was it so important to study this chapter before dealing with the super power of the day? The book of Bereishis is a road-map for the Jewish People for all time. The actions of the fathers are a sign to the children. The deeds of the Patriarchs carved out a perpetual reality. When Yaakov met his brother Esav, he was creating a reality, he was "writing the book" of how the Jewish People are to behave towards Esav and his spiritual heirs in every generation. Yaakov prepared for war. He prayed for mercy and help from G-d. And he sent a bribe to his brother Esav. Even though Esav had 400 soldiers and could have taken everything from him, the bribe worked. Even though Esav had a fanatical hatred of his brother, Yaakov bought him off. The Torah is the road-map of the Jewish People throughout history. It teaches what to do when we are at peace in our own land and it teaches us what to do in the blackest night of exile. When we ignore its directions, we do so not only at our own peril, but at the peril of millions. ...

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Yated Peninim Ahl Hatorah Parshas Vayishlach by Rabbi A. Leib Scheinbaum Hebrew Academy of Cleveland

Therefore the Bnei Yisrael are not to eat the displaced sinew on the hip socket because he (the angel) struck Yaakov's hip-socket on the displaced sinew. (32:33) Rashi attributes the name given by the Torah to the sciatic nerve, Gid Hanashe, to the fact that the nerve was nashe, jumped, out of its place. When the angel struck Yaakov, he dislocated the sciatic nerve. Accordingly, the word nashe is defined as being removed from its original or usual place. Another meaning can be applied to the word nashe, which sheds light upon the actual damage that resulted when the angel struck Yaakov.

Horav Avigdor Tzvi Nebentzhal, Shlita, cites the pasuk in Parashas Mikeitz (Bereishis 41:51) in which Yosef, upon naming his son Menashe, says, ki nashani elokim es kol amoli, Hashem has made me forget all my hardship. In this instance the word nashani is defined as made me forget. Hence, nashe, has something to do with forgetting. Essentially, both

definitions coincide. One who forgets has a certain frame of reference removed from his memory. Hashem facilitated Yosef's ability to forget his affliction. How do we now reconcile our definition with the gid hanashe? Does it become the gid hashikchah the nerve of forgetfulness? Horav Nebentzhal suggests that essentially this is the manner in which the angel impaired Yaakov and his descendants. Shikcha forgetfulness like most qualities, has its advantages as well as its disadvantages. The ability to forget can be an enormous gift that is necessary in order to maintain our sanity. The fact that Hashem has decreed that the memory of one who has passed on slowly slips away from us, is a blessing in disguise. If we would remember the death of a loved one many years later as if it had happened that day, we would go out of our minds! It is similar to our relationships with people. Imagine if we would continue remembering the humiliation we once suffered once at the hands of another person. We might never forgive him, if we had not been blessed with the ability to forget. The Orchos Tzaddikim offers yet another advantage to forgetting Torah study. If a person never forgets, he might complete the Torah and feel he has nothing more to learn. This is impossible, since there is no end to the length and breadth of the study of Torah with all of its commentary. A person might foolishly think, however, that he has learned it all and stop studying. Obviously, there is also a

downside to forgetfulness. We are obliged to remember certain things. We are to remember all of the trial and travail that has accompanied us as a nation, so that we remember that Hashem has been with us throughout. We must remember that it is to Hashem to whom we owe everything. We may not forget divrei Torah, Torah lessons. We must review them constantly, for to forget demonstrates laxity and thoughtlessness. It shows that we do not take our Torah study seriously. We are not addressing the one who forgets because his memory fails him. We are, rather, criticizing he who desires to forget, who puts the Torah out of his mind because its mitzvos encumber him.

In light of the above, Horav Nebentzhal suggests that the dislocation that occurred symbolically represented the angel's dislodging the Jew's memory of Hashem, His Torah and mitzvos. This became the gid hanashe, nerve of forgetfulness, to signify the forgetfulness that Eisav's angel penetrated into our psyche. Had the angel not harmed Yaakov, we would be as perfect in our belief in Hashem as Yaakov Avinu was before he was struck by the angel.

perceptions@torah.org Perceptions -Vayishlach: On the Way to Yisroel

Yaakov sent messengers before him to Eisav his brother, to the land of Seir, the field of Edom. He instructed them saying, "This is what you should say to my master, to Eisav, 'Thus says your servant, Ya'akov ...' " (Bereishis 32:3) As we have discussed in the past on this week's parshah, Chazal did not look favorably at Ya'akov's encounter with Eisav. From the parshah, it seems as Ya'akov had no choice but to cross paths with his brother and mortal enemy; indeed, it seems like a self-sacrifice Ya'akov was prepared to make to return to the family and land he left thirty-four years after fleeing his angry brother.

However, the Midrash provides a different insight: Rav Huna began, "Like one who grasps a passing dog by the ears, so is one who becomes impassioned over discord that is not his own." (Mishlei 26:17). Shmuel bar Nachman said, it can be compared to leader of thieves who was sleeping by the crossroads, by whom a person passed and aroused saying, "Get up! It is dangerous here!" He asked him, "Are you the bad person? Why did you wake me up? (Matanos Kehunah) You awoke the bad person and have endangered your own life!" So said The Holy One, Blessed is He, to Ya'akov, "He [Eisav] was going his own way (i.e., his anger had subsided; Matanos Kehunah), and you sent to him [messengers] and said to him, 'So says your servant Ya'akov ...' " (Bereishis Rabbah, Vayishlach, 75:3) Furthermore, it says in another Midrash: When Ya'akov said [to Eisav], "So says your servant Ya'akov ..." The Holy One, Blessed is He, said, "It is not enough for you that you profaned yourself, even after I said, 'The mightier will serve the smaller one,' that you have to say, 'your servant, Ya'akov?' Your life will be as you have said; he will rule over you in This World, while you will rule over him in the World-to-Come!" (Pirkei d'Rebi Eliezer 37)

From these words, it seems as if Ya'akov made a mistake. From the midrashim, it seems that what at first appeared as an inevitable confrontation was anything but that; in fact, it was completely avoidable! If so, then what was Ya'akov doing? What compelled him to "pull the dog by the ears"?

The answer lies in last week's parshah, where we explained Ya'akov's surprise in marrying Leah. We said there that Ya'akov thought that creation had been rectified to the extent that the souls of the future mothers of the tribes had been unified within Rachel herself, as should have been the case. However, Divine Providence indicated otherwise when it worked out, even against Ya'akov's preparation, that Leah married Ya'akov as well. "Perhaps," Ya'akov thought to himself, "if I still needed to marry both Rachel and Leah, then maybe my absorption of the positive aspects of Eisav was not complete either when I bought the birthright and took the blessings. Maybe Eisav still possesses holiness that belongs to me!" To find out, Ya'akov went out of his way to confront Eisav, to draw him out and to draw out of him what ever holiness there was left to absorb. The result was a night-long battle with the angel of Eisav, after which the angel conceded to Ya'akov that the blessings truly belonged to him, and not to Eisav. The crowning glory of this achievement: [The stranger] said, "Let me go! Dawn has arrived." He answered, "I won't let you go unless you bless me." He said to him, "What is your name?" He answered, "Ya'akov." He told him, "No longer will you be called 'Ya'akov,' but 'Yisroel,' because you have struggled with [an angel of] G-d, and with men, and have prevailed." (Bereishis 32:27-29) Until that point, he had only been Ya'akov, the twin brother of Eisav. But after this last confrontation, Ya'akov became Yisroel--the unification of all that was holy in both Ya'akov and Eisav. This paved the way for the birth of the twelfth and final tribe: Binyomin. ...

Have a good Shabbos, Pinchas Winston Perceptions, Copyright (c) 1998 Rabbi Pinchas Winston and Project Genesis, Inc. Rabbi Winston teaches at both Neve Yerushalym (Jerusalem) - <http://www.torah.org/neve/> and Neveh Tzion (Telzstone) - <http://www.neveh.org/> Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. <http://www.torah.org/> Baltimore, MD 21215 (410) 358-9800 FAX: 358-9801

ye-halak-return[SMTP:ye-halak-return@vbm-torah.org] Halak -06: Counting Sabbath Desecrators in a Minyan Yeshivat Har Etzion Israel Koschitzky Virtual Beit Midrash (Vbm) Halakha: a Weekly Shiur in Halakic Topics

COUNTING SABBATH DESECRATORS IN A MINYAN BY HARAV YEHUDA AMITAL Translated and adapted by Rav Eliezer Kwass

Question: Can Jews who do not keep Halakha (defined in classic sources as "mechalelei Shabbat be-farhesia," those who publicly desecrate the Shabbat) be counted towards a minyan? In other words, if there are only ten Jews, and one or more of them publicly desecrates the Shabbat, is the group considered a minyan and therefore able to say kaddish, kedusha, and barkhu?

Answer: This issue has been discussed extensively in our times. I believe that we must do whatever possible in order to foster ties between Jews and not to alienate them, God forbid. Already in a previous generation, the Gaon Mahari Asad wrote (Teshuvot Mahari Asad YD #50): Certainly in our times, when our generation has mostly broken with tradition, they should not be alienated further. God forbid that they should be pushed away; this will only intensify their lack of belief. Rather, they should actively be brought close. Based on this, he concludes that in order for Sabbath desecrators to be invalidated (as a witness, for instance), we require that the strictest rules of procedure be followed: there must be proper testimony concerning their non-observance before a rabbinical court where they are present. With regard to our issue, even though the Peri Megadim (OC 55) does not permit counting them, as quoted in the Mishna Berura (OC 55:46), it seems that in our times we can rule leniently for the reasons listed below.

I. PRIVATE DESECRATION The Shulchan Arukh (OC 385:2) explains that one who desecrates the Shabbat in private is not disqualified from standard Israelite status (with regard to the laws of eruvim), even though he transgresses a biblical law. What is defined as "private Shabbat desecration?" The Mishna Berura (385:6) writes that one who is embarrassed to transgress before a "great man" is still defined as a private Shabbat desecrator, even if he is otherwise willing to desecrate the Shabbat before a number of people. The source for this definition of private desecration is a passage in Eruvin (69b): A certain man walked in the public domain on Shabbat wearing a spice container (which is forbidden as an act of carrying). When he saw Rav Yehuda the Prince, he covered it up. He (Rav Yehuda) said, "Someone like this is still considered [a full-fledged Jew with regard to the laws of Eruvin]." Rashi explains that he is considered to be a who transgresses the Shabbat only privately. According to this, one who would refrain from transgressing Shabbat only in front of the greatest scholar or leader of the generation (like Rav Yehuda) is not defined as a public transgressor. Even though the Maharsham (Da'at Torah, YD 2:30) writes that this view is overly innovative, this halakha is quoted authoritatively by the Eliyahu Rabba and the Tosafot Shabbat in their comments on that section of the Shulchan Arukh, as well as by the Chayyei Adam (75:26) and the Tzemach Tzedek (Responsa, EH 259). Based on this, it is clear to me that the vast majority of Shabbat desecrators today would be classified only as private desecrators. One should certainly not assume that a particular person is part of the small minority that is more audacious. Classification as that kind of a

radical Shabbat desecrator would require, as the Mahari Asad asserted, testimony before a court in the person's presence. See the Teshuvot Peri Ha-sadeh (part 1, #62) and the Teshuvot Avnei Tzedek (YD #60), who rule according to Mahari Asad's opinion.

2. UNWILLFUL SIN The Chazon Ish (YD 2:28) writes: There is another condition - that the person's act should be considered willful, not coerced. As the Rambam said (Hilkhot Mamrim 3:3), "Their (the Karaites) children and students are considered to be coerced and to be like a tinok she-nishba (a child who was taken captive by non-Jews and raised as a non-Jew)."

A tinok she-nishba a) brings a sacrifice (when he begins to live as a Jew) as it says in Tractate Shabbat, Chapter "Klal Gadol;" b) we are commanded to ensure his survival and c) even to desecrate the Shabbat in order to save his life. Furthermore, the Hagahot Maimoniot (Hilkhot Mamrim 6) writes that a person is not categorized as a rasha unless he transgresses intentionally and refuses to accept rebuke. At the end of his book "Ahavat Chesed," the Chafetz Chayyim quotes the Mahari Molin's opinion that it is a mitzva to love evil people ("reshaim") for this reason. It is related in the name of the Maharam Lublin that today, we are always considered "before having given rebuke" because (as the gemara says) we no longer know how to properly and effectively administer rebuke. Non-observant Jews are therefore considered "anussim" - under extenuating circumstances - and we cannot consider a woman absolved from yibbum (the levirate marriage if the remaining brother is a Shabbat desecrator).

The same holds true for other halakhot (i.e. Sabbath desecrators are always considered full-fledged Jews)." This principle, that Shabbat desecrators are nowadays considered anussim, was already enunciated in the writings of Harav Avraham Yitzchak Kook (e.g. Iggerot Re'aya 1:171). What makes the Chazon Ish's statement innovative is that he explicitly relates to the laws that apply to a "mumar" - one who habitually transgresses.

3. OPPOSITION TO THE PERI MEGADIM It seems to me that the Peri Megadim's view (quoted by the Mishna Berura) that we do not count a public Shabbat transgressor in a minyan, is not a consensus opinion. The Shulchan Arukh (OC 385:11) writes that "a sinner who goes against a community decree or committed a sin can still be counted towards a minyan if the ban was not executed against him (lo niduhu)." The Mishna Berura (385:47) quotes the Magen Gibborim who says that this refers even to one who commits a capital offense. The prooftext for this is the biblical story of Akhan who, despite having committed a grievous sin (that resulted in the death penalty) was still referred to as a Jew. The verse says concerning him, "Israel has sinned." Even though he sinned, he was still referred to as "Israel" and retained the holiness of a Jew. The Sha'ar Ha-tziun adds that the sin of Akhan included transgressing Shabbat, as Rashi explains in his commentary on the book of Yehoshua. The proof from Akhan, however, is not necessarily conclusive. The Maharshadam (EH #10) writes that Akhan's sin was only disobeying the ban against taking from the booty of Yericho. Even though the gemara (Sanhedrin 44a) says that "Akhan transgressed all five books of the Torah," Maharshadam believes that this is a lone opinion, or merely an idea attached to a biblical source (an "asmakhta"). And even if Akhan's sin was Shabbat desecration, the Mishna Berura can maintain that it was not done in front of ten people. Therefore, Akhan retained his full status.

However, according to Mahari Asad (in the responsum quoted above), even if one does not sin in front of ten people but the sin will eventually be publicized, the sinner is considered a public transgressor. Rashi says that Akhan was liable for the stoning penalty, which implies that a warning must have been given by witnesses and therefore the sin would eventually have been publicized. That would define Akhan as a public Shabbat transgressor. And to reiterate, Akhan was nevertheless called a bona fide Jew! It follows that a public Shabbat transgressor would still be able to count in a minyan. Furthermore, the Gra quotes the gemara concerning Akhan (Sanhedrin 44a), with its conclusion "Even though he sinned, he is still a Jew," as the source of the law that a sinner can still be counted in a minyan. Thus, Akhan is the model of a sinner whose Jewishness is still unaffected. The Gra also quotes this gemara as the source for the Shulchan Arukh's ruling (YD 129:2) which forbids borrowing with interest from a habitual transgressor ("mumar"). The mumar to there is a "mumar le-khol ha-Torah" - one who transgresses the entire Torah, not just one particular mitzva. The Gra, then, must hold that for a number of halakhot, a mumar can be treated halakhically as a full-fledged Jew. This is obviously not the case for everything (performing ritual slaughter, for example), but it is the case regarding counting for a minyan or the prohibition of borrowing with interest. Even though we are stringent about Shabbat transgressors in a number of areas, we would be able, based on the Gra, to count them for a minyan. Apparently, according to the Gra, prayer is different than other realms.

The Rambam's inspiring statement at the end of his "Ma'amar Kiddush Hashem" provides support for this: It is also not proper to alienate Shabbat desecrators and to despise them. Rather, we should bring them close and encourage them to fulfill the mitzvot. The Sages have already taught that if a willful sinner later comes to the synagogue and wants to pray, we should accept him. He should not be treated disdainfully. They relied on the words of King Shelomo, "Do not despise a thief when he steals to fill himself because he is hungry" - Do not despise a Jewish sinner who comes secretly to 'steal' mitzvat. We will close with the words of Rav David Tzvi Hoffman in his responsa Melamed Le-ho'il (OC #29): In these times we are accustomed to rule leniently even in Hungary and in all of Germany. I remember that once, one of the men of our community who kept his store open on Shabbat was in mourning. He took his place leading the prayers in the synagogue during his mourning period. ... When I asked the gaba'im why they did not prevent him, they told me that this was the custom from days of old. In the Beit Ha-midrash here, they do not prevent one whose business is open on Shabbat from leading the prayers. Since the earlier rabbis were men of great renown, they must have had good reasons not to object. He also writes: The Rav also told me ... that the Gaon, the author of the Sho'eil U-meishiv, wrote that people from America who desecrate the Shabbat are not disqualified through their lack of observance because they are equivalent to children who were taken captive. From the same source: There is another reason to be lenient today and not to consider them public Shabbat desecrators - because there are so many who transgress. When there is a strong majority who keep the Torah and a small minority who transgress publicly, they are seen as acting brazenly, denying the Torah. Such a one is acting (as the Torah says) 'with a high hand,' and separates himself from the community of Israel. Since today, unfortunately, we have sinned to the degree that most Jews have broken with tradition, an individual who desecrates the Sabbath does not think that he is committing such a grave sin. He therefore thinks

that there is no reason to act only privately. His public sin is thus no different than a private one.

Based on all of the above, it is legitimate to count Shabbat desecrators towards a minyan for kaddish, barchu, and the repetition of the silent prayer.

[This adaptation has not been reviewed by Harav Amital. See also his article "A Torah Perspective on the Status of Secular Jews Today," which appears in the archives on the VBM website.]

WEEKLY-HALACHA FOR 5759 SELECTED HALACHOS RELATING TO PARSHAS VAYETZE [From last week] By Rabbi Doniel Neustadt

A discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

You shall spread forth to the west, to the east, to the north and to the south (28:14) He who delights in the Shabbos is given an unbounded estate... as it is written of Yaakov, "You shall spread forth..."

QUESTION: What can be done if a telephone, a clock radio or a camera is mistakenly left on a bed or chair before Shabbos, and one needs the bed or chair on Shabbos? **DISCUSSION:** To answer this question, we must break it down into its components: 1) What type of muktzeh are such objects? 2) Are they the type that can be moved under certain circumstances? 3) If they are the type that cannot be moved, is there any other way to deal with them? Does the issue of bosis apply here?

TYPES OF MUKTZEH There are basically two kinds of muktzeh. We will refer to them as severe muktzeh (chamur) and light muktzeh (kal): SEVERE MUKTZEH - includes items which are "set apart" before Shabbos because they will definitely not be used on Shabbos. Severe muktzeh includes items which are classified as "non-utensils", such as a rock, as well as items which are classified as "delicate" or "precision" utensils, such as a ritual slaughterer's knife, which will not, of course, be used for slaughtering on Shabbos, nor will it be used for any permitted activity because it is so easily damaged; LIGHT MUKTZEH - includes items which are set apart because they are normally used for activities which are prohibited on Shabbos, but may, on occasion, be used for a permitted Shabbos activity, e.g., scissors.

WHAT PRACTICAL DIFFERENCE IS THERE BETWEEN THE TWO TYPES? The main difference between the two types of muktzeh is that light muktzeh can be moved [in a normal manner] under certain circumstances while severe muktzeh cannot. The circumstances under which light muktzeh can be moved are a) if the muktzeh item is needed in order to perform a permissible activity, or b) if the place which the muktzeh item occupies is needed in order to perform a permissible activity. Let us explain: In order to perform a permitted activity: A hammer, a typical light muktzeh, may be used in order to crack nuts. A sewing needle, another light muktzeh, may be used to remove a splinter from one's finger. Since nut-cracking and splinter removal are permitted activities, a light muktzeh item may be used. [The poskim(1) note, however, that light muktzeh should only be employed when no other suitable item is readily available. Therefore, if a nutcracker and a hammer are equally accessible, the nutcracker should be used. There is no need, however, to borrow a nutcracker if a hammer is available.] If the place which the muktzeh item occupies is needed: If a tool was left on a bed and the bed is needed for sleeping, or if scissors were left on a chair and the chair is needed for sitting, the light muktzeh item may be picked up and removed, since the muktzeh article is in the way of a need which is permitted to be met on Shabbos. Also, if the light muktzeh is in the way of a permitted item, e.g., a hammer is on a bookshelf and it is blocking a book, it is permitted to move the hammer in order to reach the book. [It is questionable if one is allowed to move a light muktzeh item which is simply creating a clutter but not actually interfering with a permissible activity, e.g. a hammer left lying on a mantel. Contemporary poskim disagree over whether moving it is permitted(2).]

SMALL APPLIANCES - WHAT TYPE OF MUKTZEH ARE THEY? There are two reasons as to why a telephone, clock radio or a camera may be classified as severe muktzeh: Delicate or fragile items - While these small appliances are not as delicate as a slaughterer's knife, they are still fragile electronic devices which are handled carefully and not used for any purpose other than the one for which they are manufactured. Possibly, they can be classified as a muktzeh machmas chisaron kis(3); No permissible use on Shabbos - Some poskim maintain that in order for a utensil to retain its status of light muktzeh, it must have some possible permissible use on Shabbos as do a hammer, a comb or a phone book, for example. These items are light muktzeh because they have various uses, some permitted on Shabbos and some not. But an object like a candlestick, which can be used only for a forbidden activity, can no longer be considered light muktzeh. Small appliances such as these in * have no permitted use on Shabbos. There is nothing that can be done with a telephone except making calls, an activity which is prohibited on Shabbos. Not all poskim, however, agree that a light muktzeh object must have a possible use on Shabbos(4). Mishnah Berurah does not give a clear-cut ruling on this issue(5). Several contemporary poskim(6) rule that under extenuating circumstance one may be lenient and consider these items as light muktzeh. Concerning our case, therefore, we have established two points: 1) The small appliances in question may be considered severe muktzeh; 2) Severe muktzeh may not be moved, even if the place which it occupies is needed for a permitted activity. It follows, therefore, that the telephone, etc., cannot just be picked up and removed from the bed or chair.

MOVING VIA "BODY" - IS IT AN OPTION? In the opinion of the majority of the poskim(7), even severe muktzeh may be moved by means of one's body, which means moving the item by employing any part of the body except for the hand. When necessary(8), one can move all types of muktzeh using the foot, head, mouth(9), teeth, elbow(10), or any other part of the body(11). Although theoretically this option can be exercised, it has virtually no practical application. There is a hardly a good method for kicking or shoving a telephone without taking the receiver off the hook, in violation of a strict - possibly Biblical - prohibition. A clock radio, too, may be activated - a strict prohibition - as it hits the floor. While these particular violations do not apply to a camera, it is still not practical to shove or kick a camera from the bed to the floor, since doing so would likely ruin the camera.

IS "INDIRECT MOVEMENT" AN OPTION? Indirect movement means using a non-muktzeh item to move a muktzeh item. In our case, it would mean pulling at the blanket which automatically - but "indirectly" - moves the telephone. In the opinion of the Mishnah Berurah(12) and most poskim, indirect movement is permitted when it is being done for a permissible purpose but

not when it is done for the sake of the muktzeh item. For instance, indirectly moving a camera off the bed or chair in order to protect it, i.e., for the sake of the camera, is prohibited. If, as in our case, the camera is moved [via the blanket] so that the bed or chair can be used, it is permitted.

This leniency, however, is not agreed upon by all poskim. Chazon Ish(13) rules clearly that indirect movement is prohibited in this case. In his opinion, indirect movement is permitted only when the permitted item is being moved for its own sake, and the muktzeh is inadvertently being carried along with it. But if the purpose is to move the muktzeh, even if ultimately one will use the bed on Shabbos - a permitted activity - it is prohibited to move the muktzeh.

It seems, though, that even the Chazon Ish would agree that the following case is permitted: If there is a bedspread on the bed which needs to be removed before one can sleep in the bed, then the camera is being indirectly moved in a permitted manner. Even when there is no bedspread, but the blanket is folded down [as is normally done] to get the bed ready for sleeping, and the camera is indirectly moved as the blanket is folded down, it may be permitted according to all views.

IS THE "BOSIS" ISSUE A PROBLEM? Bosis, lit. a base, is any object which severe muktzeh was placed on before Shabbos. While the laws of bosis are complicated, the basic rule is that the bosis cannot be moved even if somehow the muktzeh item is no longer on it. Were a blanket or a bed a bosis, then even if somehow the telephone or camera were removed from the bed [either by body movement or indirect movement, or by a non-Jew or a baby(14)] it would still be prohibited to use the bed, since it had served as a base for the muktzeh, which in turn, made the base itself muktzeh. The blanket and bed in our case, however, do not become a bosis. A base can only be a bosis if the muktzeh was purposely placed on it before Shabbos, with the intention of leaving it there for Shabbos(15). In our case, though, the telephone, etc., was left there by mistake, so the chair or bed does not become a bosis. If we can figure out a way to remove the muktzeh, the blankets and bed themselves will be permitted to be used.

WHAT TO DO? In conclusion, there is no one solution for all cases. Sometimes "body movement" or "indirect movement" will solve the problem, but not always. In a situation when no other bed is available or accessible, there is some room for leniency. An argument can be made that a telephone, etc., is not severe muktzeh at all, which will allow one to move it when the place it occupies is needed. We have previously stated that, under extenuating circumstances, contemporary poskim rely on the lenient view concerning items which have no permissible use. Having no other bed to sleep on is definitely extenuating circumstances. Concerning the halachic definition of a telephone, etc., as a delicate and fragile object, this definition is subject to the quick-changing pace of modern technology which can reformulate once delicate and fragile appliances into durable, unbreakable ones. Thus it is difficult to determine what is at the moment muktzeh machmas chisaron kis, severe muktzeh, and what is not. As is true here and in all similar cases, one should consult his rav for an actual ruling.

FOOTNOTES: 1 Mishnah Berurah 308:12, as explained by Igras Moshe O.C. 5:21-12. 2 Igras Moshe O.C. 5:22-31, Harav S. Y. Elyashiv (Shalmei Yehudah, pg. 11) and Az Nidberu 8:30 are stringent, while Harav S.Z. Auerbach (quoted in Shemiras Shabbos K'hilchasa pg. 235) and Machazeh Eliyahu 46 are lenient. See also Igras Moshe O.C. 5:23. 3 Harav S.Y. Elyashiv (Shalmei Yehudah, pg. 41). 4 See Pri Megadim (Eishel Avraham 308:12), Aruch ha-Shulchan 279:1; 308:23 and Chazon Ish 44:13 who rule stringently, while Tosfos Shabbos 308:29 and Igras Moshe O.C. 5:22-28,32 do not. 5 See 308:34 quoting Mor u'Ketzia and Sha'ar ha-Tziyun 279:4 based on Magen Avraham. 6 Harav S.Z. Auerbach and Harav S.Y. Elyashiv (Shalmei Yehudah, pg. 19); Shevet ha-Levi 2:32; Az Nidberu 8:67; Zachor v'Shamor 41:4. 7 Mishnah Berurah 308:13; 309:14; 311:30; Beir Halachah 266:13. 8 Igras Moshe O.C. 5:22-6. Note that Chazon Ish O.C. 47:13 does not agree with this leniency; in his opinion there is no difference between moving muktzeh with the hand or any other part of the body. 9 Includes blowing; Rama 308:3. 10 Or back of the hand; Mishnah Berurah 276:31. 11 Note that the leniency of using the body applies only to items which are normally moved by hand. If this item is normally moved by the body, the leniency does not apply; see Mishnah Berurah 308:62. 12 O.C. 311:8. 13 O.C. 47:14. This may be the view of Shulchan Aruch Harav 308:60 as well. 14 Although a non-Jew or baby cannot be instructed to remove the muktzeh, they might do so on their own. 15 O. C. 309:4.

WEEKLY-HALACHA FOR 5759 SELECTED HALACHOS RELATING TO PARSHAS VAYISHLACH By Rabbi Doniel Neustadt A discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

Therefore the Children of Israel are not to eat the displaced sinew of the thigh... (32:33)

CONDUCTING BUSINESS WITH NON-KOSHER FOOD ITEMS By definition, non-kosher means an item that one is forbidden to eat, asur b'achilah. But eating is not the only restriction that applies to non-kosher foods. Certain non-kosher foods are also asur b'hana'ah: it is forbidden to derive any benefit from them whatsoever. From other non-kosher foods one may derive benefit, but eating them is forbidden and they are asur b'schorah: it is forbidden to "do business" with them. Most foods fall into this category, for the general rule is that foods which are prohibited for eating are also forbidden to be bought and sold for business. [The exceptions to this rule - foods which are prohibited for eating but permitted to be bought and sold - will be listed below.] The Rishonim debate whether the prohibition of conducting business with non-kosher food items is of Biblical(1) or Rabbinic origin(2). Do not confuse "deriving benefit" with "doing business." "Doing business" refers strictly to buying and selling a given item, while "deriving benefit" includes every imaginable type of benefit that one could derive from an item. For example, lobsters, which one is forbidden to eat, are mutar b'hana'ah; it is permissible to derive benefit from them. Hence, it would be permissible to drive a truck that delivers lobsters [to a non-Jew] and get paid for the delivery. Nevertheless, lobsters are asur b'schorah: business may not be done with them. It is, therefore, forbidden to buy or sell lobsters for profit(3). To clarify the distinctions between the different restrictions on non-kosher foods, we have compiled three lists. While by no means exhaustive, they will provide general guidelines on the subject.

A. ASUR B'ACHILAH AND B'SCHORAH - FORBIDDEN TO EAT AND FORBIDDEN TO BUY AND SELL Any edible part of all non-kosher animals, fish or fowl; Kosher animals that are treifos (rendered non-kosher due to terminal illness); Kosher animals which are neveilos (rendered non-kosher at the time of slaughter); All cooked meat and milk mixtures; Chametz on Pesach; Orlah (fruit yielded by a tree during its first three years of growth); Non-kosher wines(4).

B. ASUR B'ACHILAH, B'HANA'AH and B'SCHORAH - FORBIDDEN TO EAT, TO "DERIVE BENEFIT" and TO BUY and SELL Cooked meat and milk mixtures; Chametz on Pesach; Orlah.

C. ASUR B'ACHILAH - FORBIDDEN TO EAT (BUT PERMITTED TO BUY AND SELL AND TO "DERIVE BENEFIT") Non-kosher fats of a kosher animal(5); Blood of a kosher animal(6); Eiver min ha-chai (a limb of a kosher animal which was severed while the animal was alive)(7); Wormy fruits(8); All non-kosher items which are Biblically permitted but have been forbidden by the Rabbis(9), such as unsupervised cheese(10); Food items which are manufactured for animal consumption, even if people could eat them(11); Live horses, donkeys, camels(12) or household pets(13); Non-food items, such as furs and soaps(14).

QUESTION: Are there any extenuating circumstances that would allow for doing business with the items on List A? DISCUSSION: The Shulchan Aruch rules that if a hunter happened to net kosher and non-kosher animals or fish together, he may sell the non-kosher items along with the kosher ones. This is permitted because the non-kosher items came to him "by chance," unintentionally. Similarly, an animal that was rendered non-kosher during the slaughtering process may be sold, since the non-kosher item came to him "by chance." The non-kosher animal must be sold immediately, without delay, even if he is able to recover only a minimum price for it(15). He is not, however, required to sell it below market value(16). Based on this precedent, many poskim(17) rule that if one is offered a deal in which he must buy prohibited items together with permitted items, he may buy the entire package, since the prohibited items came to him "by chance."

Therefore: If a customer will order from a supplier only if the supplier will sell him non-kosher items along with kosher ones, the supplier is allowed to sell the non-kosher items on the customer's terms, since this is considered "by chance(18)." But it is clearly forbidden to own a store or a business that stocks up on prohibited items routinely in order to have them on hand for customers, even if not stocking them would cause the business to fail(19). Some poskim permit buying non-kosher meat to feed one's workers(20). Others prohibit this practice(21). The custom is to be lenient in this matter(22). One who is owed money by a non-Jew may collect his debt by foreclosing on non-kosher items(23).

FOOTNOTES: 1 Tosafos (Pesachim 23a); Rosh (Bava Kama 79b) and others. 2 Rashba quoted in Taz 117:1. According to this view, the Rabbis forbade profiting from non-kosher items as a precaution against eating them. 3 Y.D. 117:1. 4 See following subtitle for clarification. 5 This is permitted since the Torah explicitly allows conducting business with fat - Rama 117:1. 6 Pischei Teshuvah 117:1 quoting Pri Toar, Noda B'yehudah 2 Y.D. 62 and Chasam Sofer 106 - since the Torah compares blood to water. 7 Pischei Teshuvah 117:1 quoting the Chasam Sofer. Minchas Chinuch (452), however, remains undecided on this issue. 8 Many poskim quoted in Darkei Teshuvah 117:6. 9 Y.D. 117:1. 10 See Kaf ha-Chayim 117:77. 11 Igros Moshe Y.D. 2:37. 12 This is permitted since these animals are used for work or play and not for food - Shach Y.D. 117:1. 13 Darkei Teshuvah 117:10. 14 Darkei Teshuvah 117:12. 15 Rama Y.D. 117:1. 16 Shach Y.D. 117:11; Chochmas Adam 69:8. See Kaf ha-Chayim 117:40 for more details. 17 Bach, Taz Y.D. 117:4; Pri Chadash 117:5; Maharsha"m 1:126; Aruch ha-Shulchan 117:26. 18 Aruch ha-Shulchan 117:27. 19 Consensus of the poskim - Darkei Teshuvah 117:46; Mishpatei Uziel Y.D. 2:15; Igros Moshe Y.D. 2:38; Minchas Yitzchak 3:93; Kaf ha-Chayim 117:67 - unlike the Aruch ha-Shulchan 117:26 who attempts to justify those who conduct their business in this manner. 20 Shach Y.D. 117:3. 21 Rama Y.D. 117:1; Pri Chadash 3; 22 Aruch ha-Shulchan 117:19. See also Maharam Shick 136 who says we may not object if one is lenient, although a G-d-fearing person should not be lenient. 23 Rama Y.D. 117:1; Shach 12.

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The Weekly Daf #251 Pesachim 107-113 Week of 12 - 18 Kislev 5759 / 1 - 7 December 1998 Parshas Vayishlach http://www.ohr.org.il/yomi/yomi251.htm

Feminine Equality Women are generally exempt from fulfilling mitzvot aseil (positive commandments) which are time oriented, such as hearing the shofar, sitting in the succah and shaking the lulav. However, there are a few exceptions. One is the obligation to drink four cups of wine on the eve of Pesach. The explanation offered by Rabbi Yehoshua ben Levi for obligating women in this mitzvah is the same given for obligating them to hear the Megilla on Purim and to light the menorah on Chanuka -- "they too were involved in the miracle." What does it mean that "they too were involved in the miracle?" The Rashbam's approach is that the women were actually the catalysts of these miracles. Esther was the heroine of Purim, Yehudis of Chanuka and "in the merit of the righteous women of that generation," say our Sages, "our ancestors were redeemed from Egypt." (Sota 11b) Tosefos challenges this approach because the phrase "they too" suggests that they were not the main players. The alternative explanation is that they too were threatened by the dangers preceding those miracles. But why, asks Tosefos, are women not obligated to sit in the succah? This may not be a problem for the first approach, because we don't find any heroine playing a role in bringing about the miracle of Divine protection of our ancestors from the harsh climate of the wilderness. It is, however, a problem for the approach of Tosefos, since women too were affected by the wilderness climate and benefited as much as the men. In regard to a Torah command which is time oriented, Tosefos explains, women are exempt even if they benefited from the miracle associated with it. Only regarding Rabbinic mitzvot -- such as Megilla, Chanuka and the four cups of wine -- did the Sages obligate women because "they too" were saved by the miracle. * Pesachim 108b

A Watched Night "Leil shumirim -- a watched night" is the way the Torah (Shmos 12:42) describes the eve of Pesach. In his commentary on Chumash, Rashi explains that it is called a "watched night for Hashem," because He had long watched and waited for the time to come to fulfill His promise to Avraham to redeem his descendants from Egyptian bondage. But Rabbi

Nachman in our section of the gemara applies the term in a different way -- it is a night when we are watched by Hashem and need not fear the mysterious forces which threaten us at other times. Maharsha explains that the first part of the passage which speaks of a "watched night for Hashem" indeed refers to Hashem's watching for the moment of redemption. But the passage concludes with the words "watched for all the Children of Israel throughout their generations." This watching refers first of all to the watching that Hashem did over the Jewish homes when He slaughtered the Egyptian firstborn on the eve of the Exodus and ensured that "the plague will not strike you" (Shmos 12:13). The additional term "throughout their generations" extends this guarantee of Divine protection to every Pesach throughout history. We have two familiar customs to remind us of the fact that it is a "watched night." One is opening the door during the Pesach seder to indicate that we have nothing to fear. The other is the deletion of the special psalms we usually recite at the bedtime shema, whose purpose is to ward off the mysterious evil spirits which threaten one who sleeps. It was a "watched night" for Hashem before the Exodus. It was a "watched night" for our ancestors at the time of the Exodus. And it remains a "watched night" for us every year that we remember and celebrate the Exodus. * Pesachim 109b

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INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim Rosh Kollel: Rabbi Mordecai Kornfeld daf@shemayisrael.co.il

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Pesachim 106 RECITING TWO KEDUSHOS ON ONE CUP OF WINE QUESTION: The Gemara proves from a Beraisa that it is permitted to recite two Kedushos on one cup of wine. Therefore, one may recite Birkas ha'Mazon and Havdalah on a single cup. However, this clearly contradicts the Gemara earlier (102b) which said, "Ein Osin Mitzvos Chavilos Chavilos" -- "We are not allowed to package Mitzvos together" unless there is no other option! How do we resolve these two Gemaras? ANSWERS: (a) The RASHBAM and TOSFOS explain that when the Gemara here says that one may recite two Kedushos on one cup, it is referring to a situation where there is no other option. (b) The RAMBAM (Hilchos Shabbos 29:12-13) rules that only *Kidush* and *Birkas ha'Mazon* are considered two different Kedushos that cannot be recited on one cup of wine. However, Kidush and Havdalah, or Havdalah and Birkas ha'Mazon, *may* be recited on one cup, even l'Chatchilah. The Rambam's opinion is consistent with the implication of the Gemara earlier (102b) which specifies Kidush and Birkas ha'Mazon as two different Kedushos, but it does not mention *Havdalah* and Birkas ha'Mazon as being two different Kedushos. The logic behind this is expressed by RABEINU CHANANEL 102b and by the MAGID MISHNAH's commentary on the Rambam. Havdalah and Birkas ha'Mazon both mark the end of an event (Havdalah marks the end of Shabbos, Birkas ha'Mazon marks the end of a meal). Kidush, though, marks the *beginning* of Shabbos, and therefore it is considered a separate Kedushah which cannot be recited on the same cup as Birkas ha'Mazon. The NETZIV (in MEROMEI SADEH) points out that our Gemara, which says that two Kedushos may be said on one cup when reciting Havdalah and Birkas ha'Mazon, provides strong support for the Rambam. ...

107 HALACHAH: USING CHAMAR MEDINAH FOR KIDUSH AND HAVDALAH The Gemara discusses whether one may use Chamar Medinah for Kidush and Havdalah. Several opinions are offered (see previous Insight). What is the definition of Chamar Medinah, and what is the Halachah? [I] What is Chamar Medinah? (a) The RASHBAM (DH Chamar Medinah) defines Chamar Medinah as the beverage used as the substitute for wine in a city where no wine is available. (b) The ROSH (10:17) cites the Rashbam's definition and says that others define Chamar Medinah in a different way. Others define it as a substitute for wine in a place where wine is not produced near the city within the distance that a person walks in one day. This can be understood in two ways. The TUR (OC 272) implies that it is a Chumra, more stringent than the Rashbam's definition. That is, in order for a beverage to be considered Chamar Medinah, not only must there be no wine available in the city, but there also must be no winery near the city (within a distance of one day's travel). However, the Acharonim (MAGEN AVRAHAM OC 182:2) understand it to be a Kula, more *lenient* than the Rashbam's definition. That is, even if there *is* wine in the city, another beverage will still be considered Chamar Medinah if the wine is not produced locally; in such a case, the second most significant beverage in the city becomes the Chamar Medinah. The MORDECHAI adds that even if grapes usually grow near the city, but one year they did not grow, then the significant beverage in that city is also considered Chamar Medinah in such a situation. The Achronim (BEIS YOSEF) point out that the presence or absence of wine in a city determines whether an important beverage is considered Chamar Medinah only when that wine is Jewish-made wine. If there is wine made by gentiles, that does not affect the status of a beverage as Chamar Medinah. (c) The RAMBAM (Hilchos Shabbos 29:17) explains that a beverage is considered Chamar Medinah when most of the people in the city drink beer instead of wine. It seems from the Rambam that even if wine is common in the city, and even common in the person's home, if beer is consumed instead of wine in that city, it is called Chamar Medinah (BI'UR HALACHAH OC 272:9). According to all of the opinions, the status of Chamar Medinah does not depend on what beverage is popular in a particular person's household, but it depends on the state of that beverage in the whole city. That is why Ameimar did not make Havdalah on beer the first year he visited a certain city, but only the following year, for that is when he realized that the entire city used beer and not wine. [II] What is the Halachah with regard to reciting Kidush or Havdalah on Chamar Medinah? The Gemara relates that Ameimar relied on Chamar Medinah for reciting Havdalah. The Halachah follows his opinion, because "Ma'aseh Rav" -- we see that he conducted himself *in practice* according to that opinion. Therefore, Chamar Medinah may be used for Havdalah. Even though several Amoraim in the Gemara hold that one may *not* recite Havdalah on beer even when it is Chamar Medinah, the Halachah follows the opinion of Ameimar. That is the Halachah concerning Havdalah. What is the Halachah concerning Kidush? (a) The ROSH says that since Ameimar disagrees with the other opinion as far as Havdalah is concerned, we may assume that he

also argues with them concerning Kidush (for the Amora'im who argue with him equate Havdalah and Kidush). Therefore, since the Halachah follows Ameimar, we may use Chamar Medinah for Kidush. TOSFOS (106b, DH Mekadesh) suggests that those opinions that say one may not recite Kidush on beer were discussing a situation where beer was *not* the Chamar Medinah. Therefore, in a place where beer *is* the Chamar Medinah, perhaps even those opinions will agree that one may recite Kidush on it (see previous Insight, (b)). (b) However, the ROSH cites RAV AMRAM GA'ON who disagrees and states that Chamar Medinah may only be used for Havdalah (as was Ameimar's practice), but not for Kidush, because the other Amora'im do not permit using it for Kidush and Ameimar never argued with them explicitly with regard to Kidush. This is also the ruling of the RAMBAM (Hilchos Shabbos 29:17). The HAGAHOS MAIMONI says that this is the ruling of "all of the Ge'onim v'Kadmonim." What is the logic to differentiate between Kidush and Havdalah? TOSFOS and the RAN suggest that since -- when no wine is available -- one may recite Kidush on bread, the Rabanan did not give the option of reciting it on Chamar Medinah. Havdalah, though, has nothing to do with eating a meal, so there is no option to recite Havdalah on bread. Therefore, the Rabanan gave the option of using Chamar Medinah. What about reciting Birkas ha'Mazon over a cup of Chamar Medinah? Since there are opinions which hold that Birkas ha'Mazon does not need to be recited over a cup of wine altogether, one may certainly be lenient and use Chamar Medinah for Birkas ha'Mazon. HALACHAH: The ROSH rules with a compromise, as the TUR (OC 272) and SHULCHAN ARUCH cite him. The Rosh rules that for Kidush at night, since one may use bread for Kidush, one should use bread and not Chamar Medinah. In the morning, though, it is better to use Chamar Medinah than to use bread. Since the entire Kidush in the morning is comprised of only the blessing for wine (or for whatever one is using for Kidush), if one uses bread for Kidush, it will not be recognizable as Kidush, because the blessing for bread is recited anyway in order to eat the meal. Therefore, it is better to use Chamar Medinah for Kidush in the morning than to use bread. The RAN points out that even the Rambam, who maintains that Kidush at night may not be recited on Chamar Medinah, would agree that in the morning one may recite Kidush on Chamar Medinah. For Havdalah, one may certainly use Chamar Medinah (SHULCHAN ARUCH OC 182:2, 272:9, 296:2). As we have learned, the Halachah is that where wine is available, one must use wine; any other significant beverage is not considered Chamar Medinah. The BACH (OC 272), therefore, is extremely perplexed why the widespread practice in his time was to recite Kidush during the day on whiskey. If one has wine available, he must certainly use wine, for the whiskey is no longer considered Chamar Medinah! The Bach writes that this point was raised at the annual rabbinical convention of that time, and although everyone acknowledged that the practice of the great Sages was to recite Kidush during the day on whiskey, they had no clear reason why (see ARUCH HA'SHULCHAN OC 272:14). It seems that the practice to recite Kidush during the day on whiskey even where wine is available is based on the opinion of the Rambam, who rules that even if there is wine in the city, if most of the people drink beer instead of wine most of the time, it is considered Chamar Medinah. Similarly, since most people would drink whiskey more often than wine, it became the Chamar Medinah, according to the Rambam's definition (see SHA'AR HATZION OC 182:4). Even though Chamar Medinah may only be used b'Di'evved, and l'Chatchilah one should use wine, it could be that since the Rambam does not mention that it may only be used b'Di'evved, he holds that it may even be used l'Chatchilah. Alternatively, we find that the REMA (OC 296:2) does rule that one may use Chamar Medinah only b'Di'evved, even though he seems to rule like the Rambam. The Rema, however, adds that if the person considers the Chamar Medinah to be more tasty than wine, then he may use it l'Chatchilah (this is based on our Gemara that relates that Rabbi and Rav would use beer l'Chatchilah, even though they undoubtedly had wine available; see previous Insight, (c)). The MISHNAH BERURAH (OC 272:29) says that since Kidush during the day is d'Rabanan, one may be lenient and use whiskey l'Chatchilah. The MISHNAH BERURAH (272:30; see also ARUCH HA'SHULCHAN OC 272:13) writes that if a person uses whiskey or other spirits for Kidush or Havdalah, one must be careful to use a cup which holds a Revi'is, like the cup one normally uses for Kidush when using wine, and one must drink a "Melo Lugmav" (a majority of a Revi'is). If a majority of a Revi'is is consumed among everyone, then b'Di'evved that suffices.

Pesachim 108b THE UNDERLYING ELEMENTS OF THE MITZVAH OF "ARBA KOSOS" [I] THE MITZVAH OF 'DRINKING WINE' ON THE SEDER NIGHT OPINIONS: The Gemara says that if a person drinks all four cups of the Arba Kosos "at one time" ("b'Vas Achas"), he has fulfilled his obligation of "Yayin" (wine) but he has not fulfilled his obligation of "Arba Kosos." The RASHBAM and TOSFOS explain that "b'Vas Achas" means that he drank the four cups one after the other. RASHI explains that it means he poured them into one large cup and drank them all at once. What Mitzvah is the Gemara referring to when it says that he fulfills his obligation of "Yayin?" (a) The RASHBAM and TOSFOS explain that the Mitzvah of "Yayin" refers to the Mitzvah of Simchas Yom Tov, which the Gemara later (109a) says that one fulfills by drinking wine. The SHA'AGAS ARIEH (#68) challenges this explanation from the Gemara earlier (71a) which derives from a verse that there is no obligation of Simchah on the first night of Yom Tov. Our Gemara is referring to the first night of Yom Tov, on which the Seder takes place! The Sha'agas Arieh answers that although there is no obligation of Simchah on the first night mid'Oraisa, there *is* an obligation of Simchah mid'Rabanan. Tosfos (DH b'Vas Achas) asks why the Gemara needs to inform us that one fulfills his obligation of Simchah, when the Gemara is discussing the Halachos of Arba Kosos. Drinking wine to fulfill the Mitzvah of Simchah has nothing to do with how the Arba Kosos are consumed! Tosfos answers that we might have thought that the rabbinical enactment to drink Arba Kosos is a Rabbinic refinement of the normal Mitzvah of Simchas Yom Tov. If it is, then after the Rabanan enacted to drink Arba Kosos, one cannot fulfill even the Mitzvah of Simchas Yom Tov without fulfilling the Mitzvah of drinking Arba Kosos on the Seder night. Therefore, the Gemara must teach us that the rabbinical enactment to drink Arba Kosos is independent of the obligation of drinking wine for Simchah. (b) The RIF AND RAMBAM have a different Girsas in their texts. Where our Gemara says that one who drinks the Arba Kosos "b'Vas Achas" fulfills his obligation of "Yayin," their text read that one fulfills his obligation of "Cherus" (experiencing freedom). That is, the case of drinking "b'Vas Achas" is the exact opposite of the previous case of the Gemara, drinking the Arba Kosos "Chai" (undiluted). That is, the Girsas of the Rif and Rambam is one who drinks the Arba Kosos "Chai," fulfills the Mitzvah of "Arba Kosos" but not the Mitzvah of "Cherus," while one who drinks them "b'Vas Achas" fulfills "Cherus" but not "Arba Kosos." What is the Mitzvah of "Cherus" which one fulfills without fulfilling Arba Kosos? Is

not the entire point of drinking the Arba Kosos the expression of Cherus? The BRISKER RAV explains that according to the Gemara (109b, 117b), the Rabanan enacted the Four Cups to be "Derech Cherus, and a Mitzvah should be performed with each cup." (Those four Mitzvos are the Kidush, Hagadah, Birkas ha'Mazon, and Hallel.) These two elements of the Arba Kosos -- "Cherus" and performing a Mitzvah with each cup -- are the two elements which our Gemara here is discussing. The first aspect is "Cherus" -- the celebration of Yetzi'as Mitzrayim, which we express by drinking a lot of wine. (The RAMBAM, Hilchos Chametz u'Matzah 7:7, writes that we want to show that we are free, and as part of the expression of Cherus at the meal, we drink four cups of wine.) Besides the expression of Cherus, the Rabanan enacted that a person should perform each of the four Mitzvos mentioned above on a cup of wine. Our Gemara is saying that if one drinks the wine when it is *undiluted*, he fulfills the element of performing each Mitzvah on a cup of wine, but he does not fulfill the element of Cherus. On the other hand, if one drinks all four cups "b'Vas Achas," he fulfills the element of Cherus, but he does not fulfill the enactment of performing each of the four Mitzvos on a cup of wine! Tosfos and the Rashbam, however, explain that "Yayin" refers to the Mitzvah of Simchas Yom Tov (as we mentioned above). They learned that there is only *one* element in the enactment of Arba Kosos -- to perform the four Mitzvos on a cup of wine. There is no separate aspect of drinking wine for the sake of expressing Cherus. That is why the only Mitzvah that they could find of "Yayin" was Simchas Yom Tov. (As far as the Gemara on 109b and 117b is concerned, which states that the enactment of the Arba Kosos was to show "Derech Cherus" as well as to perform the Mitzvah on a cup of wine, we find that the Rashbam there (DH Hachi Garsinan) did not have the Girsas of "Derech Cherus" in his text of the Gemara, and hence he holds that there is no separate aspect of drinking wine because of Cherus!) [II] IS DRINKING THE FOUR CUPS A SINGLE MITZVAH OR TWO MITZVOS? As we concluded above, the Rambam understood that the Mitzvah of drinking four cups of wine has two elements; an expression of Cherus, freedom, and performing the Mitzvos of the Seder night (Kidush; Hagadah; Birkas ha'Mazon; Hallel) while holding a cup of wine. The Rashbam and Tosfos disagree, explaining that only the latter aspect is included in the Mitzvah of drinking four cups. There a number of Halachic differences between the approach of the RAMBAM and the approach of TOSFOS: (a) The BRISKER RAV points out that TOSFOS (107a, DH Im) says that a person must drink "Melo Lugmav" for Kidush. How much is "Melo Lugmav?" Tosfos cites the Gemara (108b) which states that for the Arba Kosos, one must drink a "Rov Kos" (a majority of the cup, which means a majority of a Revi'is, or a "Rov Revi'is"). Tosfos says this must be the size of "Melo Lugmav" -- a "Rov Revi'is." Tosfos is consistent with his understanding that the Mitzvah of Arba Kosos is no different than the usual Mitzvah of Kidush -- in both cases the wine is brought simply to perform a Mitzvah with a cup of wine -- and that is why he says one must drink as much of the Kidush wine as one drinks from the Arba Kosos. The RAN, however, says that a "Rov Revi'is" and a "Melo Lugmav" are *two different amounts*. A "Rov Revi'is" is larger than a "Melo Lugmav." For Arba Kosos, there is a special requirement to drink the entire cup (and one fulfills this requirement by drinking a majority of the cup, for a majority is considered like the entirety -- "Ruba k'Kula"). This special requirement is related to the additional element of Arba Kosos -- "Derech Cherus" -- which a normal Kidush does not have. The Ran apparently follows the approach of the Rambam, that there are two distinct parts to the Mitzvah of drinking Arba Kosos. (b) The Brisker Rav further notes that TOSFOS (99b, DH Lo) is in doubt whether each person at the Seder must have four cups of wine, or they just have to hear someone recite make the Berachah on the wine of the four cups. Tosfos says that there is strong reason to say that it is enough to hear someone else recite the Berachah, because the Kidush of the Arba Kosos should be no different than a normal Kidush, where one fulfills his obligation by hearing someone recite the Berachah. Tosfos is consistent with his reasoning, in that he holds that there is no element of "Derech Cherus" involved with the enactment to drink the four cups of wine. This is in contrast to the Rambam, according to the Brisker Rav's understanding, who maintains that the Arba Kosos includes the element of "Derech Cherus," and therefore there is strong reason to say that everyone *should* have his own cup of wine and drink from it. (c) Furthermore, TOSFOS (DH Shasa'an) asks why does one have to drink the Arba Kosos when they are in a state of Mazug (diluted). We find that the Gemara in Berachos says that the cup of wine used for Birkas ha'Mazon should be Chai (undiluted); Rabeinu Tam says that this means that it is less diluted than usual). Tosfos concludes that it must be that here, too, the Gemara means that the cup is less diluted than usual. The Brisker Rav notes that according to the Rambam, since there is a requirement to fulfill "Derech Cherus" by drinking the Arba Kosos, which means that one must *enjoy* the wine and not just recite a Berachah on it, it makes sense that the wine must be properly diluted, as opposed to a normal Kidush where there is no such Mitzvah. (CHIDUSHEI HA'GRIZ, HILCHOS CHAMETZ U'MATZAH) (d) We might add another difference (based on the CHIDUSHEI CHAZON YEchezkel in the beginning of Arvei Pesachim) between the approach of the Rambam and the approach of Tosfos. The Gemara says that if one drinks all four cups "b'Vas Achas," at one time, he does not fulfill the Mitzvah of "Arba Kosos," but he does fulfill the Mitzvah of "Yayin" (or "Cherus," according to the Girsas of the Rif and Rambam). TOSFOS and the RASHBAM explain that "b'Vas Achas" means that one drinks the four cups consecutively, one after the other. It cannot mean that one poured all four cups into one large cup and drank it, because that has nothing to do with drinking four cups -- one is drinking one large cup, and therefore the Gemara would not be teaching us anything! RASHI, however, says that it indeed means that one poured all four cups into one large cup and drank it. Why was he not bothered by the question of the Rashbam and Tosfos? The Rashbam and Tosfos explain that the Gemara is discussing drinking four cups consecutively, because they maintain that the enactment of Arba Kosos is only to perform a Mitzvah with each cup of wine. If so, it does not matter how much wine is in the cup -- the cup can never be considered more than one cup as far as reciting a Berachah on it is concerned. Rashi, though, perhaps learns like the Rambam, who says that there is an additional element in the enactment of the Arba Kosos -- to experience "Cherus." The Simchas Cherus that one should attain on Pesach night is accomplished by drinking a certain amount: four Revi'iyos of wine. Therefore, if one poured all of them into one cup, he indeed fulfills the element of drinking four cups for the sake of "Cherus." (Nevertheless, the Gemara states, he does not fulfill the second element, which is performing the Mitzvos over four cups of wine.)

Pesachim 109 THE SIZE OF A "REVI'IS" OPINIONS: The Gemara describes a Revi'is, which is a liquid volume measure, in terms of cubic Etzba'os (thumb-breadths) -- which are measures of distance. Rav Chisda says that a Revi'is (in liquid volume) is equal to the volume held within a box

which is 2 Etzba'os long, 2 Etzba'os wide, and 2.7 Etzba'os high (2 X 2 X 2.7 cubic Etzba'os, or 10.8 cubic Etzba'os). We are also told that a Revi'is is equal to the size of 1.5 average eggs (Rashbam). These correlations, which have ramifications for everything we do which requires a Shi'ur of a Revi'is or Beitzah or kZayis (which is equal to half of a Beitzah), have inspired much discussion among the Acharonim.

(a) The NODA B'YEHUDAH (d. 553/1793), in the middle of the eighteenth century, used his thumbs (Etzba'os) to determine the volume of an egg, using the figure that Chazal gave for the size of an egg in terms of fingerbreadths. Then, he took an egg and measured its actual volume. He found that the actual volume of a Beitzah was only *half* of the figure that he calculated using fingerbreadths! How could the Gemara equate these two Shi'urim? The Noda b'Yehudah (TZELACH, Pesachim 116b) concluded that either thumbs have become larger than they were in the times of the Gemara, or eggs have become smaller. It does not make sense that our thumbs are larger than those of generations before us, he wrote, because we know that each generation is weaker and punier than the previous one. Rather, he concludes, it must be that eggs have become smaller. Therefore, when it comes to any Mitzvah which involves the Shi'ur of a Beitzah (or Revi'is), one should use *twice* the amount of what the Gemara requires (for example, if the Gemara says that in order to fulfill the Mitzvah of eating Matzah one must eat "one Beitzah," then nowadays one must eat *two* Beitzim worth of Matzah, based on today's average egg size, in order to compensate for the decrease in size of eggs). This opinion is cited as the Halachah by the CHASAM SOFER (Teshuvos OC 127), the VILNA GA'ON (Ma'aseh Rav #105), and the CHAZON ISH (Kuntrus ha'Shi'urim, Chazon Ish OC 39). The Chazon Ish translated the size of a Revi'is, as calculated by the Noda b'Yehudah in terms of Etzba'os, into cubic centimeters. Using the figures of the Noda b'Yehudah, who judged the value of an average thumbwidth to be 2.4 centimeters, the Chazon Ish arrived at a figure of 150cc (cubic centimeters), or approx. 150 grams of water), as the size of a Revi'is. However, the calculations of the Noda b'Yehudah and the Chazon Ish are faced with serious problems, since they size of a Revi'is seems to contradict the rulings of the Rishonim. 1. The RAMBAM (Perush ha'Mishnayos, Eduyos 1:2) measured the size of a Revi'is in dirhams (a common coin in Arabian countries in the time of the Rambam, which is still used today in some places). The Rambam writes that a Revi'is equals about 27 dirhams. Based on numismatic records and collectors' dirhams, we know the approximate size of a dirham. 27 dirhams comes to about *half* of the size of the Noda b'Yehudah's Revi'is! 2. Second, the Rambam (Hilchos Erubin 1:12) measured the weight of a Revi'is based on the weight of the Dinar, a common coin used in the times of the Gemara, and says that a Revi'is equals 17.5 Dinars. We know the weight of the Dinar to which the Rambam is referring since he based his measurements on the BEHAG and the RIF (Kidushin 12a) who write that the Dinar in the times of Chazal was equivalent to the contemporary Arabic "Sheshdang" Dinar. Furthermore, the Rambam himself spells out the weight of a Dinar in terms of barley grains, which later Rishonim correlate to carob pits (four barley grains are equal to one carob pit). These modes of measurement correlate nicely even today, and thus the weight of the Dinar is fairly well known (i.e. it is highly unlikely that both the barley grains and the carob pits shrank equally since the days of the Rishonim). The size of a Revi'is as calculated based on the weight of the Dinar comes out -- again -- to *half* the size of the Revi'is as measured by the Noda b'Yehudah! 3. The Mishnah says in Kelim (17:11) that the measures of volume which were used by Chazal were the same as the Italian (Roman) measures. Based on comparisons to old Roman measures, it can be demonstrated that the size of a Revi'is was much smaller than the size proposed by the Noda b'Yehudah (see Midos u'Mishkalos Shel Torah, 1:48). 4. The MISHNAH BERURAH (OC 271:13, Bi'ur Halachah) points out that the Gemara in Yoma (80a) says that a person can hold more than a Revi'is (which is 1.5 eggs) in both of his cheeks at one time. The Mishnah Berurah says that the average person can hold the volume of at most about two modern eggs at one time in his cheeks. However, according to the Noda b'Yehudah, who says that a Revi'is contains twice the amount of eggs than it did in the time of the Gemara, a person should be able to hold at least *three* modern eggs in his mouth at once -- but we do not find anyone with cheeks that large! 5. The CHAZON ISH (recorded in the Steipler Ga'on's SHI'URIM SHEL TORAH 3:9- 10) himself asks another question on the measurement of the Noda b'Yehudah. Throughout the generations, the Jewish people have had the custom to use between 70 and 100 grams of silver for the Mitzvah of Pidyon ha'Ben, redeeming the firstborn son. The Rambam writes that a Revi'is is 17.5 Dinars (see above, (2)), while we know that Pidyon ha'Ben is done with 20 Dinars. If so, the weight of the silver used for Pidyon ha'Ben should be fourteen percent more than the weight of silver which is equivalent to a Revi'is. However, if a Revi'is is 150 grams (according to the calculations of the Chazon Ish, based on the Noda b'Yehudah), then one should use fourteen percent more of that weight in silver for Pidyon ha'Ben -- or about 170 grams of silver, and that was never the custom anywhere! 6. Interestingly, some ancient eggs actually survived to our times. I heard from Harav Yakov Gershon Weiss (author of Midos u'Mishkalos Shel Torah) that mummified eggs found in the pyramids, as well as eggs preserved by the ashes of Vesuvius in the ruins of Pompei, are more or less equal in size to today's eggs. (The "TESHUVAH ME'AHAVAH," a student of Noda b'Yehudah's, rejected his Rebbi's calculations based on the fact that "the Noda b'Yehudah was one of the tallest men in the generation, and he measured with his own thumbs!" The Chasam Sofer, however, rejects this argument, pointing out that although 2.4cm is a bit on the large side, it is not uncommon for thumbs to be that size -- see Midos u'Mishkalos Shel Torah ch. 87.)

(b) RAV CHAIM NA'EH (in Shi'urei Torah), who lived in Eretz Yisrael during the time of the British Mandate, measured the Revi'is based on the dirham which was in use in Israel during the Ottoman Empire (the Turkish occupation), which was still in use during the times of the British Mandate. During his time, the dirham weighed 3.2 grams, and therefore he concluded that the Revi'is must be 86.4 grams, because according to the Rambam there are 27 dirhams in a Revi'is (27 X 3.2 = 86.4) (he points out that this also happens to be the Gematria of "Kos" (86)). The width of a Etzba then, working backwards, would be 2 centimeters, which is closer to the average thumbwidth. However, this size of the Revi'is is also problematic: 1. The weight of old dirhams, which are very common, vary between 2.7 and 3 grams. If so, the maximum size of a Revi'is should be 81 grams, and not 86 as Rav Chaim Na'eh states, who measured the Revi'is based on a dirham of 3.2 grams. 2. Second, our records of the "Sheshdang" Dinar also show that the Dinar is 4.25 grams, making a Revi'is (which is 17.5 Dinars) about 74.4 grams. When divided by 27, that figures gives the weight of a dirham as being 2.75 grams, which fits within the range of the average weight of old dirhams. 3. Third, according to Rav Chaim Na'eh who says that a Revi'is is 86 grams, an egg today

should have an average size of 57 1/3 grams. (Since an egg is 2/3rds of a Revi'is, an egg should be 2/3rds of 86, which is 57 1/3.) In reality, the egg is somewhat smaller than that. According to the calculation of the Revi'is based on the old dirhams as we mentioned above, the average egg should be about 50 grams, which is much closer to the actual size of our eggs. 4. Fourth, the size of an Amah is the distance from the elbow until the tip of the middle finger of the average arm. If the average Etzba is 2 centimeters, as Rav Chaim Na'eh asserts, and we know that there are 24 Etzba'os in an Amah, then the Amah should be 48 centimeters. The length of the average arm, from elbow to tip of middle finger, though, is smaller than that. Using the measure of the Etzba based on the Revi'is as calculated by using dirhams, the Amah comes out to 46 centimeters, which is closer to the length of the average arm. 5. RAV SHLOMO ZALMAN AUERBACH zt'l points out that the Gemara in Shabbos (14a) says that the Rabanan made a Gezeirah that a person who drinks liquids which are Tamei becomes Tamei. Chazal enacted that Gezeirah so that a person would not eat Terumah at the same time that there is a Revi'is of Tamei liquid in his mouth (see Tosfos in Shabbos). Rav Shlomo Zalman Auerbach says that according to the size of a Revi'is as calculated by Rav Chaim Na'eh, one cannot possibly fit any food into one's mouth when there is already a Revi'is there!

(c) The third opinion gives an even smaller calculation of the size of a Revi'is than the one given by Rav Chaim Na'eh, or approximately 74 cc. This opinion bases the size of the Revi'is on the size of the dirham at the time of the Rambam. Historical records show that the dirham has increased in weight through the centuries, and Rav Chaim Na'eh's dirham was larger than the Rambam's. (See MIDOS U'MISHKELOS SHEL TORAH ch. 60-64). This fits well with the weight of the Dinar and with the size of common eggs. The only remaining problem is the size of fingerbreadths. For a Revi'is of 74 cc, one would expect that the average thumbwidth is 1.9cm, while a width of over 2cm is much more common. It might be either that they indeed had smaller fingers in the earlier generations, or that they measured fingerbreadths by pressing their fingers closer and harder together. HALACHAH: The MISHNAH BERURAH (Bi'ur Halachah 271:13) writes that when measuring for a Mitzvah d'Oraisa, such as for Kidush on the night of Shabbos, one should be stringent and use the larger size of a Revi'is, the size of at least two modern eggs. When measuring for a Mitzvah d'Rabanan, one may rely on the smaller size of a Revi'is. What is the larger Shi'ur with which a person should be stringent? The CHAZON ISH writes that it is 150 cc. The IGROS MOSHE (OC 1:36) says that it is enough to use approximately 120 cc, based on the average fingerbreadth being 2.25 centimeters. The EINAYIM LA'MISHPAT (Berachos 39a) writes that the Vilna Ga'on gave a Kidush cup to his Talmid, Rav Yisrael mi'Shkvov, which was measured to be approximately 120 cc. B'Dieved, one should try to have a cup which holds at least 100 cc (which is the volume of two eggs), as the Bi'ur Halachah writes, and for Mitzvos d'Rabanan a person may rely on Rav Chaim Na'eh's Shi'ur of 86 cc, or in extenuating circumstances, 74 cc, as described above.

PESACHIM 112 - this Daf has been dedicated by Lee and Marsha Weinblatt of Teaneck N.J.

113b FOLLOWING ASTROLOGICAL PREDICTIONS QUESTION: The Gemara teaches that the source for the prohibition against inquiring information from the "Kaldi'im" is from the verse, "You shall be completely faithful to Hashem your G-d" (Devarim 18:13). The Gemara in Shabbos (156b) describes a "Kalda'ei" as a gentile astrologer who gazes at the constellations and predicts future events based upon them. Why, then, our Gemara say that it is prohibited to have any trust or faith in the advice of the Kalda'ei, while the Gemara in Shabbos describes this discipline as something which is legitimate and trustworthy? ANSWERS: (a) RASHI here in Pesachim translates "Kalda'ei" as "Ba'alei Ovos," those who divine with bones and commune with dead people. Everywhere else in Shas, though, Rashi defines "Kalda'ei" as astrologers. Apparently Rashi maintained that the Sugya here in Pesachim cannot be referring to astrologers, because -- as the Sugya in Shabbos states -- there is nothing wrong with consulting with astrologers. (TOSFOS and the RASHBAM here take issue with Rashi's definition of "Kalda'ei" as Ba'alei Ovos.) (b) The RAMBAN (in Teshuvos ha'Meyuchasos #243) and the NIMUKI YOSEF (Sanhedrin 65b) write that the Gemara here is not teaching that there is an Isur d'Oraisa to consult astrologers. If there was such an Isur d'Oraisa, the Gemara would have cited as the source the negative commandment (Devarim 18:10) commanding us not to be involved in any type of divination. It must be that consulting astrologers is not included in that prohibition, and that there is some veracity to the science of astrological prediction. Consequently, says the Rambam, if a person is told his astrological forecast, he must not attempt to defy it because he might thereby be placing himself in danger. Rather, he should heed the warning and avoid the situation which his forecast says is dangerous for him. When the Gemara here says that one may not consult with astrologers, it means that the *Rabanan advise* that one should not look into astrology in the first place. Instead one should place his trust in Hashem and acknowledge that his prayers to Hashem can be effective in altering his fate. The reason why the Tana'im and Amora'im in the Gemara in Shabbos were concerned with their astrological forecasts was not because they went to *consult* with astrologers, but because they *happened* to find out about their forecasts. To defy what they heard in such a manner would require relying on a miracle to save them, and one may not rely on a miracle. (c) The RAMBAM (Hilchos Avodah Zarah 11:8) rules that it is an Isur d'Oraisa to look into one's astrological horoscope, as the Gemara here implies. What, then, does the Rambam do with the Gemara in Shabbos? The Gemara there lists each Mazal and its effects on one who was born in it. However, that does not tell the person anything about how he should act in the future, i.e. what day will be a good one and what day will be a bad one. It is just telling us the facts about what that person's tendency will be. Apparently, that does not fall into the prohibition against divining. Similarly, when the Gemara in Shabbos records that Rebbi Akiva was concerned for the astrological prediction that was said about the fate of his daughter, it means that he was merely worried, but he did not *act* on the prediction of the astrologer. However, the Rambam writes later (11:16) that anyone who believes that there is any truth in these predictions is foolish and childish. How, then, could Rebbi Akiva and the Amora'im be concerned for the predictions of astrologers? The Rambam, in his Introduction to Perush ha'Mishnayos, intimates that the predictions of astrologers contain truth, but they are not *exact* in their predictions. He might mean that a person's fate, as seen by astrological prediction, is liable to change based on the performance of good deeds (as the Gemara in Shabbos concludes). In Hilchos Avodah Zarah, when he writes that anyone who believes in astrological predictions is foolish, he avods that one must put his faith only in Hashem and acknowledge that Tefilah and Yir'as Shamayim can entirely change one's fate and therefore it is futile to put one's trust in the Mazalos, as the Gemara in Shabbos concludes. When Rebbi Akiva

was worried about the prediction of the astrologer, he was worried for someone else (his daughter), since *she* might not be G-d- fearing enough to merit having a good future. Similarly, the mother of Rav Nachman bar Yitzchak was worried for the prediction said about Rav Nachman, in Shabbos, because she was worried that *her son* might not have enough merit to save him from the fate that the astrologer predicted. About one's self, though, a person need not fear; let him simply place his trust in Hashem and perform Mitzvos and the dreaded outcome will not come to pass, as the Gemara tells us here. (M. Kornfeld)

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