

INTERNET PARSHA SHEET  
ON KI SEITZEI - 5758

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ravfrand@torah.org "RavFrand" List - Rabbi Frand on Parshas Ki  
Seitzei These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher  
Frands Commuter Chavrusah Tapes on the weekly portion: Tape # 250, The Mitzvah of Ma'akeh.  
Good Shabbos!

Ramban's Insight Into The Distancing of Ammon and Moab  
The Torah tells us [Devorim 23:4-5] that descendants of Ammon and  
Moav are not allowed to marry into the 'Congregation of G-d' even 10  
generations after having converted to Judaism. (This is the same type of  
stigma that we find in connection with marrying a mamzer.) The reason  
given by the verse is "because they did not welcome you with bread and  
water when you came out from Egypt and they hired against you Bilaam... to  
curse you". The Ramban tells us that for these sins alone, they would not  
have been stigmatized to such a degree. Their real sin traces back to the  
mothers of these nations -- the two sisters, daughters of Lot, who were saved  
from destruction by the patriarch Abraham. These nations owed the  
descendants of Abraham a favor for this kindness, but instead they acted  
against them in an ungrateful fashion. The Ramban is telling us the  
essential ethical principle of recognizing and appreciating favors. If I have to  
think back, about some of the main ethical principles stressed by the Rosh  
Yeshiva, zt"l (Rav Yakov Ruderman), this would certainly qualify as one of  
them: It is essential for a person to be thankful and grateful to someone else  
who has done a favor for him. There is something innately despicable about  
the soul of a person who is an ingrate. A nation characterized by the quality  
of being ungrateful has something wrong with their national psyche and can  
have nothing to do with the Jewish people. Lessons in Drawing  
Near From One Who Attempts to Draw Away "You shall not hate an  
Edomite, for he is your brother; and you shall not hate an Egyptian, for you  
were a stranger in his land." [Devorim 23:8]. Three generations after  
converting they are allowed to marry into the Jewish people. Rashi points  
out that the Egyptians were not righteous people - we suffered greatly at  
their hands. Why then do we let them marry into our nation? This teaches  
us, Rashi says, that it is worse to cause a person to sin than it is to kill him.

Midyan hired Bilaam and caused the Jewish people to have illicit  
relations with the daughters of Moab. As a result of causing the Jewish  
people to sin, Moab deserved a worse fate than the Egyptians did for  
actually killing Jewish people. "For one who kills a person, takes him out  
(only) from this world; whereas one who corrupts causes him to be totally  
wiped out (even from the world to come)". The way the Torah deals  
with one who causes others to sin is stricter than the way it deals with any  
other type of transgression. The classic example of one who causes someone  
else to sin is the Meisid (the one who attempts to convince others to worship  
idolatry) [Devorim 13:7-12]. In unprecedented treatment, the Torah tells us  
not to have mercy upon the Meisid. Even though usually Beis Din always  
tries to find leniencies for an accused, here we are told to 'throw the book at  
him'. He requires no warning and we are allowed to entrap him by hiding  
witnesses and so forth. The reason is because he tried to make people sin,  
to take them away from G-d, to take them off the right track. The Alter  
from Kelm says that we learn a stunning insight from the laws of the Meisid.  
The Meisid deserves this harsh treatment for merely trying to take someone  
off the correct path ("Ki bikesh l'hadichacha"). We have a rule that the  
Attribute of Reward is 500 times greater than the Attribute of Punishment  
[Yalkut Shimoni Vayikra 475]. That means that G-d is 500 times more  
generous with us when it comes to reward than when it comes to  
punishment. If the punishment for trying to push a person away from  
G-d is so bad, then certainly the reward for trying to bring a person close to  
G-d must be unbelievably great. Just as the punishment of the Meisid is not

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based on the success of his attempt, likewise the reward for trying to bring  
people close to G-d will be based on effort alone. This is something  
that is essential to remember. I am not speaking only of those people who  
are in -- what we call today -- the 'kiruv field', the people who professionally  
through outreach organizations try to influence people spiritually. One  
of the most common expressions of complaint is that one can try and try  
and try, without seeing any results. For every success story, how many cases are  
there which are not successful? A person might throw up his hands in  
frustration. We must remember that G-d gives reward for TRYING to  
influence ("ki bikesh"). "...for he TRIED to push you away from the  
way of the L-rd your G-d". [Devorim 13:11] Trying is the name of the game.

I would like to add one hint from a person who is in the 'field', who  
spends a large part of his day working to teach Russian Jews, and to attract  
them to Judaism. That person is Rav Pessach Diskin, a person to whom this  
community owes a great debt of gratitude. Rav Pessach Diskin's philosophy  
is that the motivation for working with Russian Jews should not be "All  
Israel is responsible one for another" [Shavuos 39a], but must be "You  
should love your neighbor as yourself" [Vayikra 19:18]. To say that  
this person is my responsibility, and therefore I must help him, can be a great  
mistake. If someone feels that he is being used as your ticket to the World to  
Come, he will see through that and reject it. "You just want me because you  
want my soul? I don't want that!" Instead, just treat him as you would want to  
be treated if you found yourself without a job in a foreign country where you  
did not know the language. Extend to him unconditional friendship. With  
such an attitude, you are much more likely to eventually influence him  
spiritually, as well. Whether, however, one is 'successful' or not, is not  
the issue. The principle, which we must remember in this and all areas, is 'ki  
bikesh' -- we have only to try

Sources and Personalities Ramban (1194-1270) -- Rav  
Moshe ben Nachman; Spain, Eretz Yisroel. Rashi (1040-1105) -- Rav Sholomo Yitzchaki; France.  
Alter from Kelm (1824-1898) -- Rav Simcha Zisel Ziv, one of the leaders of the Mussar movement.  
Transcribed by David Twersky; Seattle, Washington twerskyd@aol.com Technical Assistance  
by Dovid Hoffman; Yerushalayim dhoffman@torah.org RavFrand, Copyright (c) 1998 by Rabbi Y.  
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parsha-insights@torah.org Parsha-Insights - Parshas Ki Saitzay  
- http://www.torah.org/learning/parsha-insights/5758/kiseitzei.html -

This week's parsha, Ki Saitzay, is replete with seventy four different  
mitzvos. It begins: "Ki saitzay lamilchama ol oyevecha {When you go out to  
war against your enemies} un'sano Hashem Elokecha b'yadecha {and  
Hashem Elokecha will deliver them to your hand} [21:10]." The Ohr  
HaChaim writes that in addition to the laws stated in regard to an actual,  
physical battle, this possuk (verse) is also alluding to the spiritual struggle of  
man. Every moment of our life is a part of the epic saga -- our battle to stay  
focused on why we are here. The Mishna in Avos [4:1] teaches: Who is truly  
strong? One who conquers his yetzer {personal inclination}. Controlling  
oneself through maintaining that focus is the only true show of strength.  
How can one hope to succeed in this battle? "Un'sano Hashem Elokecha  
b'yadecha {and Hashem Elokecha will deliver them to your hand}." The Ohr  
Gedalyahu explains that the "Anochi Hashem Elokecha... {I am Hashem your  
G-d...}" -- the opening words of the Ten Commandments -- the giving of the  
Torah at Har Sinai and our adherence to that Torah -- is the elixir for the  
yetzer. That 'Hashem Elokecha' will give us the necessary strength in order  
that our 'enemies' will be delivered into our hands. Perhaps, that is a reason  
why our parsha contains so many mitzvos. If it begins with going out to  
battle, it must arm us with the necessary weaponry. This is demonstrated in  
the following Medrash Rabbah [Ki Saitzay, parsha 6;3]. The possuk [Mishlei  
1:9] states: "Ki l'viov chein heim l'roshecha {They (the mitzvos) are  
accompaniments of grace for your head}." Rabi Pinchas bar Chama said:  
Wherever a person goes, the mitzvos accompany him. When you build a new  
house... a protective gate must be erected on the roof and porches. When you  
put up a door... a mezuzah must be affixed to the doorpost. When you wear  
garments... there can be no wool-linen mixtures. When you have your hair  
cut... do not round of the corners (payos) of your head. If you have a field,

when you plow... don't have two different species of animals pulling the plow. When you plant... don't plant kil'a'yim {forbidden mixtures}. When you harvest... don't return for forgotten bundles -- leave them for the poor. The mitzvos accompany us throughout all of the twists and turns of life, enabling us to maintain that ever-important focus. The Mishna [Avos 5:1] teaches that the world was created through ten utterances. Each utterance brought us one step further from that initial state of pure G-dliness. We've explained that this was necessary in order to 'distance' this world from Hashem enough to enable us to have free-will. After ten utterances, the world was in a state that didn't show Hashem too clearly, thereby allowing one to sin, yet, it didn't cloak Hashem too thickly, thereby allowing us the choice to connect to Him. The Ohr Gedalyahu explains that every time we physically change this world through an act that we perform, we distance ourselves and the world a little bit more from that initial state of pure G-dliness. We run the risk of forgetting our purpose in life, the risk of overinvolvement in this world of illusion and falsehood. Therefore, Hashem, in His compassion, gave us a mitzva at each of these junctures enabling us to retain our focus. "Ki l'vios chein heim l'roshecha {They (the mitzvos) are accompaniments of grace for your head}." In addition to meaning accompaniments, the word 'l'vios' also means connection. The mitzvos enable each and every one of us to maintain our connection. Our connection to what? "L'roshecha"... To our 'head'. To our life. To our Source. To Hashem Elokecha.

"In the Footsteps of the Maggid" tells of Rav Shammai, the head of the Chevra Kadisha {Burial Society}. Whereas, outside of Eretz Yisroel, the Chevra Kadisha is primarily busy with the taharah {purification} process performed before burial, here in Eretz Yisroel, their duties also include gathering the remains of terror and battle victims and giving them a proper and dignified burial. The story took place during the Yom Kippur war, when we were caught by surprise and attacked by Arabs on all fronts. For days after Yom Kippur and during Sukkos, Rav Shammai and his assistants would travel throughout the Sinai desert and southward toward Suez where they caringly tended to the bodies of the fallen. On Sukkos, he had with him in his jeep his siddur {prayer book}, his tallis {prayer shawl}, his T'hilim {Psalms}, his lulav and his esrog. At every base, soldiers of all backgrounds would beg him to allow them to use these. He would stay as long as he could, sometimes delaying his scheduled departure for hours. Eventually, however, he had to tell the disappointed young men still in line that he needed to move on. He had been summoned elsewhere. On the last day of Sukkos, Rav Shammai and his assistants were near the Suez. As he approached a newly constructed army base in the wide open desert, it occurred to him that, since he had already prayed with his lulav and esrog on that final day of Sukkos, he could leave them in the army base if he'd be summoned elsewhere. Shortly after Rav Shammai arrived, a long line of soldiers began to form, awaiting their turn to use his lulav and esrog. As a crowd began to assemble, a young non-religious soldier, driving an ammunition truck, was making his way southward. Noticing a large crowd, he got out of his truck and made his way on foot to where the soldiers had assembled. He came closer and asked what the commotion was all about. Another soldier explained to him that Rav Shammai had come and the soldiers were all waiting for an opportunity to use his lulav and esrog. The driver didn't seem too interested in waiting around, but when one of the soldiers mentioned that it was the last day to perform the mitzva, he decided to wait in line. His turn arrived after a short period of time. Just as he was gingerly holding the lulav and esrog, a bomb tore into his truck. It exploded and set off multiple explosions of the ammunition on board. The blasts were so powerful that a crater was formed in the ground where the truck had been parked. Not even a shard of metal could be found from the demolished vehicle. Three months later, Rav Shammai read a short notice in the army newspaper. This driver's wife had given birth to a girl. The announcement included a statement by the new father. "I believe with every fiber of my being that I am alive today and I merited to see my new daughter only because of the mitzva I was doing at the time that my truck was bombed." In thanks to Hashem he named his daughter Lulava.

The mitzvos enable each and every one of us to maintain our connection.

Our connection to what? "L'roshecha"... To our 'head'. To our life. To our Source. To Hashem Elokecha.

Good Shabbos, Yisroel Ciner Parsha-Insights, Copyright (c) 1998 by Rabbi Yisroel Ciner and Project Genesis, Inc. Rabbi Yisroel Ciner is a Rebbe [teacher] at Neveh Zion, <http://www.neveh.org/>, located outside of Yerushalayim. Project Genesis: Torah on the Information Superhighway [learn@torah.org](mailto:learn@torah.org)

<http://www.biu.ac.il/JH/Eparasha> Daf Parashat Hashavua Parashat Ki Thetze The Exemption of Newly- Wed Husbands from Military Service Prof. Eric Zimmer Dept. of Jewish History Bar Ilan University

"When a man has taken a new bride he shall not go out with the army, or be assigned to it for any purpose; he shall be exempt one year for the sake of his household to give happiness to the woman he has married" (Deuteronomy 24:5). The verse lays down the conditions to strengthen the bond between newlywed couples. These conditions were examined by the commentators and one of them received major focus: is the exemption of a husband during the first year of his marriage an absolute obligation, worded here as both a positive and negative commandment ("He shall not...he shall be"), or does the Torah leave the question of his exemption to his own decision?

A. At first glance it would seem that the Torah gives the new husband a total exemption from military service. Our verse must be linked to similar verses in Parashat Shoftim (20:5-7), known as the chapter of "those who return from the battlefield". A man who has built a new home but has not yet dedicated it, or planted a vineyard but did not yet harvest it, or betrothed a wife but has not yet married her, is exempted from combat duty. These somewhat marginal soldiers join the army and march with it to the front, where they listen to the words of the priest-chaplain anointed for the war and those of the officers (Deut. 20:2-8) and then are sent back from the battlefield. However, they are not allowed to return to their homes but remain conscripted in order to supply food and water to the combat soldiers and to maintain the roads. According to our verse, the husband who has already taken his bride is exempt not only from actual combat duty and fighting during his first year of marriage; he is not even called upon for ordnance or other peripheral army duties. He is not required to go out to the front to hear the words of the war-priest. Further, according to the Halacha, one who has built a house and already dedicated it or planted a vineyard and eaten from it is also exempt from any military duties during the first year, as we find in the Mishnah in Sotah 8, 4: "And these are the ones who do not move from their homes: he who built a house and dedicated it, planted a vineyard and harvested it, or one who has married his betrothed ... for the verse says, "He shall be exempt one year for the sake of his household"... therefore they do not supply water and food or repair the roads". "When does all this apply? To voluntary wars - but in the wars commanded by the Torah all go out, even a bridegroom from his chamber and a bride from her canopy".

B. Despite the above impression of a total exemption, there is an interpretation of our verse which allows for the induction of the newlywed husband into the army, but this depends on the exact meaning of the words. For the commentators ponder over the meaning of the negative command "nor shall he be assigned to it for any purpose" (literally: - "and it shall not pass over him -- velo ya'avov alav-- for any purpose"). What is the subject of the predicate "shall not pass over"? Who does the Torah designate with the word alav, "him"? What is included in the expression "for any purpose"? Rashi explains: "Neither shall pass upon him"--any army matter, "for any purpose"-- that is, any requirement of the army: not to supply water and food, nor to repair the roads; but those who are sent back from the front by the priest, such as he that built a house but did not yet dedicate it... they are bound to supply water and food and to fix the roads" (based on Sotah 44a). In other words, "any army matter" is the subject of the predicate "shall not pass over," and "him" refers to the antecedent ish at the beginning of the verse, the new husband. Moses Mendelssohn's (1729-1786) Biur offers a similar, though more vivid, interpretation: "The army official who passes among the houses of the individuals to conscript them or inform them as to the affairs of state shall not go over to him (alav) for he is to be free from any

obligation... for one year". Nachmanides, after quoting Rashi's commentary, concludes by saying: "Rashi's commentary is based on the Talmud, and if so, then "alav--him" refers to the army, meaning that this man will not pass over to the army "for any purpose," neither to be a conscript nor an officer nor even as a commoner (am ha'aretz) supplying their needs such as drinking water. He need not pay attention to them but only to his own happiness, and that is the correct meaning". He seems to have understood Rashi in a different manner. The subject of the phrase "it/he shall not pass over it/him" is the husband, and the word "him" or "it" (alav) refers to the army. This man shall not pass over to the army regime "for any purpose," whether combat duty or civilian service to the army on the homefront. The Re'em (Mizrachi supercommentary on Rashi) takes issue with the explanation of Nachmanides. The Talmud (in Sotah 49a), which is the source for Rashi's comments, quotes the Sifre: "Could it be that I must include (in the release from any sort of army service) even he who has built a house but has not dedicated it, planted a vineyard but not yet eaten of it, or he who has betrothed a woman but not taken her? [These people were exempted in the previous parasha from active duty on the front, but not from supplying the army or repairing the roads.] Since the Torah used the word "over him" (alav), over him [you must pass] but not over the others". The implication is that "over him" comes to eliminate certain people from this category, therefore alav-"him" must refer to a person, an individual. If so, says the Re'em, we must ask ourselves: How did Nachmanides interpret this word to refer to the army or the obligations of military service? As the Re'em himself asks: "Could it mean the army and also eliminate [in the Sifre] other individuals?" Further, if the word "over him" already refers to the army, why does Rashi interpret "For any purpose" - that is, for any need of the army"? In the Re'em's own incisive language: "Since "he shall not pass over to it" refers to the army, obviously then "for any purpose" must mean for the needs of the army!" His conclusion, therefore, that the original first understanding of Rashi is correct: the word "alav- him" refers to "a man who has recently married". It would seem that Ibn Ezra also believes that the subject of "it shall not pass" is the army, since he explains that the letter lamed in the phrase "for any purpose" --lekol dabar is superfluous, and it is as if the verse said, "it shall not pass over him any purpose (or matter)". It would therefore mean: no army purpose or matter shall pass over him (the newlywed husband). His interpretation then is like that of the first understanding in Rashi and like the Re'em. These two conflicting interpretations of Rashi and Ramban, based as they are on differing syntactical understandings of the verse, have practical implications. If one maintains, as does Nachmanides, that the subject of "he shall not pass over" is the husband, then the prohibition applies to him, and we may conclude that he may under no condition ignore it by serving in the army. On the other hand, in the understanding of Rashi and the Re'em, the subject of the negative commandment is, in fact, the army, and the term "over him" refers to the husband: the army is commanded to skip over the new husband at conscription time, but possibly the husband may disregard his own military exemption to volunteer to supply water and food or work at road maintenance.

C. A priori, we have here not only a negative commandment which affects the new husband, but also a positive commandment which binds him. Most commentators and halachic decisors (poskim) agree that the end of the verse "to give happiness to the wife whom he has married" is a positive commandment. Among these are Maimonides in Sefer Hamitzvot (positive commandment 214) and following his lead, the Sefer Hachinuch. At first glance the obligation of the husband to remain at home seems to refer to the beginning of the verse which talks about military service. However, in the Tosefta we find that "being free for his house for one year" is greatly broadened: "They do not go at all, and they do not pay the city taxes and they do not supply water and food to the army..." Based on the Tosefta Maimonides adds that those who are totally exempted from all military duties "do not stand guard on the walls" (Hilchot Melachim, chap. 7,11). They are freed from all communal activities which are civil obligations. Moreover, Maimonides in Sefer Hamitzvot goes on to limit even personal or private

activities by dint of this commandment: "And know that the husband himself is warned not to leave his home for any kind of journey during the year". ( Y. Kapach edition, Jerusalem, 1971). In the version in the R. Chaim Heller edition this issue is explained more fully: "and know that the husband ... is warned against leaving his home, that is to travel for business purposes, during that entire year...". However when the Ridbaz was asked [Responsa of the Ridbaz, part 1, 238] "Whether or not it was permitted to travel for business to another country, since there are some who strictly observe this, must we take their opinion into consideration?", he answered that the text of Maimonides was corrupt and that the word "for business" was a copyist's error. The author of the Sefer Hachinuch also tended towards including the husband's personal activities within the framework of the positive commandment: "... And anyone who transgresses this and leaves her (his wife) during that year to be alone for a long time... ignores a positive commandment. In any case one who wishes to travel in order to observe some commandment or to enjoy the company of his friends, on the condition that he will return happily after a few days, it would seem that this would not be a violation of the commandment" (Par. 582). Rabbi Eliezer of Metz in his Sefer Hayera'im (Vilna, 1922, Par. 228) commented: "And this commandment is to be observed both in the Land of Israel and in the Diaspora, therefore one should be careful to observe it today". The Netziv in his Torah commentary Ha'amek Davar disagrees with all these explanations. "There is no positive commandment obliging a man to make his wife happy the entire first year of marriage, not even so according to Rabbinic law, which obligates the groom to make her happy for one week [Sheva Brachot]". He interprets the end of the Biblical verse as the reason why he need not serve in the army: "But the truth is that 'and he shall cause his wife to be happy' is nothing more than permission to stay at home and make his wife happy even though all of Israel are engaged in the hardships of war... the reason for this is that since they have only recently married and they have not yet strengthened the bond between them, if he goes off on a long trip and she is out of mind, the connection between them may break entirely. There is no prohibition on him to leave her the house, but he should not leave if he is uncertain that he will continue to love her". From all of the above it is clear that the commentators dealt with the conditions necessary to reinforce the love of a husband for his wife and to make certain that the new family unit, less than one year old, would be built on sturdy foundations and survive as a strong household in Israel, an everlasting structure. The commentators only differed as to the degree of exemption which the husband has from public affairs in order to build the circle of his private life. One approach commits the husband to remaining at home in every case and not to go to war, even adding the proscription to remain at home the entire year, not leaving home even for business. Another approach allows the husband, if he so desires, to go to war, limiting the positive commandment to make his wife happy only one week. The commandment to make his wife happy is a voluntary matter, which he should do by remaining home if there is reason for concern that if he goes to war "the marriage connection may break entirely". This dispute between the commentators is based on just how much protection is necessary for a new marriage. Must they be totally separated from communal involvement in order to establish the relationship between them or is there a possibility of merging communal and personal lives? Most commentators and legalists believe that a negative commandment exists and also a positive commandment incumbent on the husband to devote one full year to making his wife happy. Others are of the opinion that the final decision rests with the husband and it is not necessary to force him to remain at home for an entire year. The weekly Torah portion is distributed with the assistance of the President's Fund for Torah and Science.

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Hamaayan@torah.org Edited by Shlomo Katz Ki Tetze  
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"You shall surely send away the mother [bird] and take the young

[literally: 'the children'] for yourself, so that it will be good for you and prolong your days." (22:7) R' Moshe Shick z"l ("Maharam Shick") writes: This verse can be understood in light of the explanation given by the Chatam Sofer to the verse (Devarim 28:11), "Hashem will increase your bounty for the good [literally: 'Hashem will leave you over for the good'], in the fruit of your womb . . ." The Chatam Sofer, in turn, explained that verse in light of Rambam's statement to his son: "Fortunate is the person who completes his days quickly," i.e., who completes his appointed mission on this earth quickly. The Chatam Sofer asks: How could Rambam say this, considering that the Torah promises long life to those who perform mitzvot? (Why would the Torah promise something which is not desirable?) He answers that long life is worthwhile if, after one completes the mission for which Hashem placed him on this earth, he then uses his time to help or teach others. This is the meaning of the quoted verse, "Hashem will leave you over for good in the fruit of your womb," i.e., Hashem will leave you on this earth longer as long as you are doing good for the fruit of your womb, a reference to one's children and students. Maharam Shick adds: Chazal say that one who observes the mitzvah of sending away the mother bird will merit to have children of his own. This is alluded to in the verse, "You shall surely send away the mother bird and take the children for yourself." After you have children [or someone to whom to teach Torah], then, the verse continues, it will be good for you if Hashem prolongs your days. (Maharam Shick Al Ha'Torah)

"Beware of the tzara'at infliction . . . Remember what Hashem, your G-d, did to Miriam on the way, when you were leaving Egypt." (24:8-9) "Remember what Amalek did to you, on the way when you were leaving Egypt . . . you shall not forget." (25:17-19) It is written in the name of the Arizal that in reciting the prayer Ahavah Rabbah (or Ahavat Olam in Nusach Sefard) before Shma, when one reaches the words "le'shimcha hagadol"/"to Your great Name," one should recall in his mind the mitzvah to eradicate Amalek. The connection of these words to Amalek is that Hashem's Name is said to be incomplete as long as Amalek exists (see below). Similarly, when one reaches the words, "lehodot lecha"/"to thank You," one should recall in his mind how Miriam was punished for her lashon hara. This is an appropriate place to remember Miriam's punishment in order to be reminded that the mouth was created for praising Hashem, not for speaking lashon hara. (quoted in Siddur Yeshuot Yisrael) R' Chaim Yosef David Azulai z"l (the "Chida") writes: In my humble opinion, one does not fulfill the mitzvah of "remembering" in the above manner. The gemara (Megillah 18a) states expressly: "I might think that 'Remember' can be fulfilled by thought alone; therefore, the Torah says, 'You shall not forget' [which implies thought]. How then does one fulfill 'Remember'? By speech." Rather, the proper way to fulfill the mitzvah of remembering Amalek and Miriam's punishment [and eight other subjects which we are similarly commanded to remember, i.e., the Exodus; Shabbat; the giving of the Torah; that all power is given by Hashem; how we angered Hashem in the desert; the mahn; Bilam; and Yerushalayim] is by reciting aloud the verses which mention these subjects, as printed in many siddurim after Shacharit. (quoted in Siddur Ha'Chida, p.185) R' Zvi Elimelech of Dinov z"l writes: The Arizal was not suggesting that one fulfills the mitzvah of "remembering" merely by thinking about Amalek. In fact, there is no obligation to fulfill that mitzvah every day, only once a year. However, there is a separate mitzvah of "not forgetting," which is a daily obligation, and that is the mitzvah that the Arizal was referring to. (Bnei Yissaschar, Chodesh Adar I:8)

What does it mean to say that Hashem's Name is incomplete as long as Amalek exists? R' Joseph B. Soloveitchik z"l explained that "Amalek" does refer not only to the ancient nation by that name but to any nation which adheres to the philosophy of Amalek and attacks Jews for no reason other than the fact that they are Jews. In our own times, R' Soloveitchik said, Nazi Germany was a manifestation of Amalek. It is a desecration of G-d's Name when Amalek flourishes at the expense of the Jewish people. As long as G-d's Name can be desecrated in this manner, it is not complete. (From a taped lecture: Mitzvat Minui Melech)

An Astonishing Midrash Who ordered Miriam sequestered [when she

contracted tzara'at]? It could not have been Aharon, for he was her relative. It could not have been Moshe, for he was not a kohen. Therefore, it must have been Hashem. Why does the midrash say that Moshe could not have ordered Miriam sequestered because he was not a kohen? Wasn't he also Miriam's relative (just as Aharon was)? Also, wasn't Moshe a kohen? The gemara does state that Moshe served, together with Aharon, as a kohen in the mishkan. The halachic work Bet Shmuel rules that if a person enters Gan Eden alive, his "widow" may remarry. Only a woman who is married to a "man" may not marry another man, whereas a woman who is married to a malach/angel may marry "another" man. The Torah refers to Moshe as a "malach" (Bemidbar 20:16). As a malach, Moshe had no relatives (as we see from the fact that a malach's wife can remarry). Of course, as a malach, Moshe could not be a kohen, since only a human can be a kohen. This is the point of the midrash - if you argue that Moshe was not Miriam's relative because he was a malach, then he also was not a kohen. (Conversely, if he was a kohen, he was also Miriam's relative.) (Binat Nevonim)

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Parashat Ki Teitzei Rabbi Ephraim Kanarfogel

Parshas Ki Seitzei, with its panoply of 74 mitzvos (more than any other single parshah) affords us an excellent opportunity to review the way that we categorize mitzvos. Typically, we distinguish between mitzvos bein adam lachaveiro (concerning man and his neighbor) and mitzvos bein adam laMakom (concerning man and G-d). Or, one could say, between those mitzvos that are also expressions of basic morality, and those whose sole motivation is Divine imperative. These distinctions have their roots in venerable rabbinic sources and are quite useful. Nonetheless, we sometimes tend to employ these distinctions too sharply. For example, most would consider charity to be a classic mitzvah bein adam lachaveiro. The Sefer Hachinnuch argues, however, that this mitzvah has significant bein adam laMakom dimensions. Had the A-mighty wished to distribute the resources and assets of His world in a perfectly equitable manner so that all people would have equal amounts, He certainly could have done so. Rather, the A-mighty wished to inculcate within His people the great importance of doing acts of kindness and showing compassion to others. Thus, charity clearly has an aspect of bein adam laMakom as well.

Two mitzvos in Ki Seitzei can also be understood in this manner. The requirement to build a maakeh, a porch or parapet, around a flat roof so that "you should not cause bloodshed in your home," lest someone fall off, would appear to be a mitzvah bein adam lachaveiro. Yet, in putting up a maakeh, one recites a blessing, and the Rambam indicates that one does not make a blessing on any mitzvah that is bein adam lachaveiro. This would suggest that a maakeh is not exclusively in this category. This may be because once the roof is complete, even before people are actually able to go up on it, the Torah commands that a maakeh be erected. It would be insufficient to simply prevent anyone from going on the roof. The requirement of a maakeh is not just to protect people; it fulfills a Divine imperative, which sensitizes us even further. Similarly, the mitzvah of maintaining honest weights and measures would seem to be a simple case of treating fellow humans fairly. But it is juxtaposed with the story of Amaleik's attack on Israel, and the Midrah notes a connection: if a person is dishonest in business, he exposes himself to attack.

The Netziv wonders about this connection. How could Amaleik be the symbolic punishment for corrupt weights and measures if the Jews did not engage in any commerce while in the desert? The Netziv explains that one who cheats in weights and measures does not do so for personal gain. Rather,

he manifests a lack of faith in the A-mighty by expressing doubt that Hashem supports and sustains people according to His will. The Gemara even suggests that this is a form of idolatry.

Amaleik attacked the Jewish people because they expressed doubts about whether the A-mighty would continue to sustain them in the desert--the same sin that a dishonest businessman engages in. This sin is another example of how a mitzvah bein adam lachveiro is, at its root, a mitzvah bein adam laMakom, and demonstrates once again how observing even those mitzvos that appear to be simple rules of social conduct achieves the highest levels of Divine service.

Rabbi Ephraim Kanarfogel Rabbi Kanarfogel is the rabbi of Congregation Beth Aaron in Teaneck, New Jersey.

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weekly@virtual.co.il \* TORAH WEEKLY \* Highlights of the Weekly Torah Portion Parshas Ki Seitze

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Just For Starters "When you go out to war against your enemies, and Hashem, your G-d, will deliver them into your hand..." (21:10) The Talmud states that a person's yetzer hara (negative inclination) grows more powerful every day, and were it not for Hashem's help he would succumb. Through natural means alone, we can never overcome our yetzer hara, and we would become discouraged and stop even trying to fight. Therefore the Torah tells us "When you go out to war against your enemies" -- if you will only start to fight, only go out to war -- you will be victorious, because "Hashem your G-d will give them into your hand" -- you will receive Divine assistance to win the battle. As the Talmud states: "Someone who tries to purify himself receives help from above." Talmud, Tractate Kidushin, Toras Moshe

Donkey Kong "Do not plow with an ox and a donkey together." (22:17) The ox represents the elevated part in each of us, our gazing heavenward, our desire to attain lofty spiritual goals. The donkey, on the other hand, is symbolic of everything physical, materialistic, and earthbound. If we want to serve Hashem, to plow and labor in the field of spiritual elevation, we cannot hope to succeed if we are still yoked to the donkey within. Meor V'Shemesh

Haftorah: Yishayahu 54:1-10 An Orphan Prayer "Sing out O barren one, who has not given birth...for the children of the desolate outnumber the children of the inhabited." (54:1) An old joke: "Rabbi. I prayed and prayed to G-d for something I really wanted, but my prayers weren't answered." "Yes, they were." said the Rabbi, "The answer was no." Even when we think the answer to our prayers is "no," in reality, no prayer ever goes unanswered. Every prayer makes an impact in the higher spiritual realms. When a prayer seems to have fallen by the way, we look at it as worthless, and yet it makes an awesome impact on the very fabric of reality. Far beyond our comprehension in the loftier spheres, that little prayer is moving worlds. This is the meaning that lies behind the verse "Sing out O barren one, who has not given birth...for the children of the desolate outnumber the children of the inhabited." The children of the desolate, those "orphan" prayers are changing the universe beyond the limited view of our physical eyes. (Degel Machane Ephraim)

Written and Compiled by Rabbi Yaakov Asher Sinclair General Editor: Rabbi Moshe Newman Production Design: Eli Ballon Ohr Somayach International 22 Shimon Hatzadik Street, POB 18103 Jerusalem 91180, Israel (C) 1998 Ohr Somayach International

Drasha@torah.org Drasha (Parsha Parables) - Parshas Ki Saitzay - Soup Opera

Rabbi Mordechai Kamenetzky

Love. It is a word that is supposed to explain the feelings that bind two individuals, parent and child, man and wife, G-d and His creations. The love between a man and his wife is the constant symbol used in Shlomo HaMelech's Shir Hashirim (Song of Songs) to declare the unshakable love

G-d has for His nation. But divorce is also a fact of life and in this parsha the Torah, albeit very succinctly, discusses the method of divorce. It also tells us why marriages end. "It will be if she does not find favor in his eyes for he found in her an ervas davar then he may write a divorce" (Deuteronomy 24:1). The Mishna in Tractate Gittin discusses the meaning of ervas davar in different ways. Bais Shammai, who is known for a strict opinion in most matters says that divorce should only occur over a matter of immorality. Bais Hillel says, that divorce is permitted "even if she burns his soup." And Rabbi Akiva, whose devotion and gratitude to his wife is legendary, says that "even if he finds a nicer woman, (he may divorce)." It is most difficult to understand the Mishna. It seems to go against the grain of every teaching.

How do Bais Hillel, those who spoke of loving peace and pursuing peace say that one may get divorce over burned soup? Rabbi Akiva once pointed to his wife in front of 24,000 students and announced, "Whatever I have and whatever you have, it is all due to her." How could he say that one could get divorced if he found a more lovely woman? It seems preposterous!

My father, Rabbi Binyomin Kamenetzky, Dean of the Yeshiva of South Shore, once told me a wonderful story. Reb Dovid was happily married to his dear and loving wife, Chayka, for nearly half a century. Her sudden death cast him into a terrible depression for which there was almost no cure. His son and daughter-in-law, Roizy, graciously invited him to stay at their home and share everything with them. Reb Dovid's daughter-in-law, cooked every meal for him but Reb Dovid was never pleased. No matter how deliciously prepared the meals were, he would sigh and mutter to himself, loud enough for his son to hear, "this was not the way Momma made the soup." Roizy poured through her mother-in-law's old recipe books and tried to re-create the delicious taste for which her father-in-law longed. But Reb Dovid was still not pleased. One day, while the soup was on the fire, Reb Dovid's grandchild fell outside. In her haste to get to the child, Roizy almost dropped in the entire pepper shaker. In addition, by the time the child was washed and bandaged, the soup was totally burned! There was nothing for Reb Dovid's daughter to do but serve the severely spiced, burnt soup. She stood in agony as her elderly father in-law brought the soup to his lips. This time he would probably more than mumble a complaint. But it was not to be. A wide smile broke across Reb Dovid's face. "Delicious my dear daughter," said Reb Dovid with a tear in his eye. "Absolutely delicious! This is exactly how Momma made the soup!"

My grandfather, Rabbi Yaakov Kamenetzky, in his sefer Emes L'Yaakov explains the Mishna in an amazing fashion: it is giving us a sign, when a marriage is disrepair. If a man tastes burnt soup that his loving wife cooked and he is repulsed, then he is missing the love that the Torah requires. Rabbi Akiva, who was separated from his wife for 24 years while he studied Torah, declared that if a man finds a woman whom he thinks is better, then his marriage needs scrutiny! Because a person must think that there is nothing tastier than what his wife prepared, and that there is no one more beautiful than the woman he married. Reb Aryeh Levin, the Tzadik of Jerusalem, once entered a doctor's office with his wife and spoke on behalf of both of them. "Her leg hurts us," he said. The Mishna is not defining how to get divorced.

That is easy. It is teaching us an attitude that defines love. Because love is a lot more than not having to say I'm sorry. It's always believing that the soup is delicious. Even if it's burnt.

Good Shabbos Rabbi Mordechai Kamenetzky

Dedicated in memory of Jesse Chatzinoft Yishai ben Zev Wolf by Peter and Donna Chatzinoft Special thanks to Sam Ottensosser for all his encouragement Mordechai Kamenetzky - Yeshiva of South Shore [rmk@torah.org](mailto:rmk@torah.org) 516-328-2490 -- Fax 516-328-2553 <http://www.yoss.org> for drasha <http://www.torah.org/learning/drasha> Drasha, Copyright (c) 1998 by Rabbi M. Kamenetzky and Project Genesis, Inc. Rabbi Mordechai Kamenetzky is the Rosh Mesivta at Mesivta Ateres Yaakov, the High School Division of Yeshiva of South Shore, <http://www.yoss.org/> Project Genesis: Torah on the Information Superhighway [learn@torah.org](mailto:learn@torah.org) 6810 Park Heights Ave. <http://www.torah.org/> Baltimore, MD 21215 (410) 358-9800 FAX: 358-9801

Peninim Ahl HaTorah Parshas Ki Seitzei by Rabbi A. Leib Scheinbaum  
"You shall not see the donkey of your brother or his ox falling on the road you shall surely stand them up with him." (22:4) The Torah admonishes us to be sensitive to the pain of animals. The Chofetz Chaim

renders a symbolic meaning to these words. He suggests that they apply to any activity one sets out to accomplish with Hashem's help. For instance, when we implore Hashem daily in tefillas Shacharis, "Enlighten our eyes in Your Torah," we should not think that Torah scholarship will simply come down from Heaven as a gift. Erudition is not a gift; it is something for which one works, diligently and with great toil. We cannot sit back and relax, waiting for Hashem to provide Torah to us at our convenience. We should enter the Bais Hamedrash, open up a sefer and learn with enthusiasm and fervor. Only then can we anticipate that Hashem will grant us the profundities of Torah. Consequently, the interpretation of the pasuk changes to the following, "You shall surely stand them up, with him." It is understood in the sense that "You", Hashem, will help the Jew by supporting his goals and sustaining him throughout, only as long as "with him" means, the person plays an active role. Judaism is not a spectator religion. One must be active in performing mitzvos, studying Torah, and performing acts of loving kindness. Only after one "does" will Hashem support him throughout his endeavor.

"An Amoni or a Moavi shall not enter into the congregation of Hashem because they did not meet you with bread and water and because they hired against you Bilaam. Nevertheless Hashem would not listen to Bilaam. (23:4, 5, 6) The Torah places great emphasis upon the imperative to distance the nations of Amon and Moav from our midst. Why? What did these nations do that was so invidious that they may never be accepted into the fold of Judaism? What crime did they commit that castigates them for all time? The Torah offers two responses. First, they did not come forward and welcome us with food when we passed by them during our trek in the desert. Second, they hired Bilaam to work against us. These actions, especially the second one, are unquestionably reprehensible. Are they worse, however, than the acts which the Egyptians committed against us? Are we to ignore two hundred and ten years of suffering, torment and murder?

Nebuchadnezzar and Titus were reshaim who destroyed the Bais Hamikdash. Yet their descendants are permitted to marry into the Jewish nation. The Ramban addresses this question. He offers a classical response that goes to the foundation of the Jewish People, demonstrating the caliber of refinement that is demanded of the Jewish personality. He writes that Amon and Moav were descendants of individuals who benefited from Avraham Avinu's kindnesses. Avraham had saved Lot and his family from the destruction that befell Sodom. Lot had fathered Amon and Moav. The key that elucidates the enigma of Amon and Moav is hakoras tov, appreciation/gratitude. Amazing! Because their ancestor was saved by our ancestor, Avraham, they were obliged to us; they should have been makir tov. The root of their iniquity is their lack of appreciation, their refusal to acknowledge the benefit that they received. By nature, man thinks first and foremost of himself. He leaves little room for others. The middah of chesed, kindness, is a characteristic transmitted to us by Avraham Avinu, the pillar of chesed. Everyone possesses an element of this character trait, although some people manage to bury it deep in their personalities. If one does not go out of his way to be kind to others, however, we cannot sever him from the human race, since we expect man to be egotistical by nature. Hakoras tov is a character trait which is inherent in every human being. Who does not repay those who are kind to him? What kind of human being would ignore those who benefited him? Such a person is repulsive, his actions contemptible. He has isolated himself from humanity by his refusal to recognize and repay those who have helped him. Amon and Moav acted in a despicable manner. They demonstrated their unworthiness to be viewed as human beings at all, let alone to be accepted into the Jewish nation.

"When you go forth in camp against your enemies, you shall guard against evil." (23:10) The Torah previously addressed the problems and challenges that abound during the course of warfare. The Torah here does not seem to be speaking of physical war, but rather of spiritual war. The term "machane" is different from the term "milchamah." We are referring here to one's own "machane," camp, one's peace of mind and spiritual values not the enemy's. Hence, the Torah says, "You shall guard against evil." This suggests that the only time one needs shmira, "protection" is when he goes out. This

is obviously not true. Chazal state that the Satan is particularly active during times of danger. Thus, one should be extremely careful whenever he separates himself from the Klal, community. In the Yerushalmi, Shabbos 2:5 Chazal ask a noteworthy question: Why does the Torah emphasize the need for shmira only when one leaves the camp? Is it not imperative to be on one's guard at all times? They respond that the Satan is overly active during times of danger. Horav Moshe Swift, zl, comments that the term Satan never refers to those who oppose us by aiming for our physical annihilation. The Satan takes a more subtle approach. He waits until the person is outside of the Torah camp, when his defenses are down, when his spiritual values are vulnerable, when his entire Torah lifestyle is at risk. The Satan strikes specifically at a time when one is not surrounded by the Torah community, when the support that encourages and maintains all of us is not accessible. The Torah addresses such situations and enjoins us to be ever vigilant, lest we fall into the clutches of the yetzer hora. If one remains "within" the Torah community, if he is not exposed to the adversity and cynicism that permeate the social circles of the secular world, then the need does not arise. We are admonished to guard ourselves particularly when communal and social pressures demand that we must interface with the world "out there," when we must come in contact with a culture that is at best not in consonance with Torah dictate. Probably one of the biggest problems is the orthodox Jew, who as a result of his insecurity attempts to outdo his secular counterparts. We should realize that actions which are unbecoming a Torah Jew degrades orthodoxy and flaws the brand of Judaism which our ancestors died for. It is unfortunate when the Jew who attends a Minyan in the morning and even goes to a shiur, proceeds during the rest of the day in a manner unbefitting his Torah orientation. This is blatant chilul Hashem! We must stand out as Hashem's emissaries to the world, as examples of integrity, as paragons of virtue and as models of a nation committed to a heightened spiritual/moral perspective.

"You shall observe and carry out what emerges from your lips, just as you vowed a voluntary gift to Hashem, your G-d, whatever you spoke with your mouth." (23:24) Upon examining the text, the end of the pasuk seems redundant. Would it not have sufficed to simply write, "You shall observe and carry out whatever emerges from your lips." Horav Mordechai Rogov, zl, makes a practical insight which explains the pasuk. When a person is involved in an "eis tzarah," a period of pain or anguish, the neder, vow, which he makes is undoubtedly sincere. He is stressed and motivated by anxiety. At the time, he truly plans to fulfill every promise that he makes. What happens, however, when it is all over and things have calmed down, when there is no longer a reason to worry? Does he retain the same genuine feelings as he had before, or is he doing what he has to do because he committed himself during his time of need? The Torah demands that an individual demonstrate the same enthusiasm when fulfilling his promise, as when he had originally made the vow. David Hamelech says in Tehillim 116, "My vows to Hashem I will pay, in the presence, now, of His entire People." What is so impressive about David's fulfilling his vows? Is that not to be expected? Horav Rogov suggests that David is saying he will fulfill his vows with the same enthusiasm and emotion that he exhibited when he originally made the vow. This is the interpretation of the pasuk, "You shall observe and carry out what emerges from your mouth" fulfill your requirements not out of obligation and complacency, but "just as you vowed whatever you spoke with your mouth." With the exact conviction, with the same sentiment with which you made the vow, so should you fulfill its demand. "Remember what Hashem your G-d did to Miriam on the way as you came forth from Egypt." (24:9) Rashi explains that Miriam's punishment serves as a model for us to use to admonish others not to speak lashon hora. "Do not speak lashon hora or you will be punished with tzaraas just like Miriam", is the warning according to Rashi. Upon reviewing the commentary of Yonasan ben Uziel, we note an interesting interpretation of Miriam's sin. He writes that we should warn others not to be unduly suspicious of other people's actions, as Miriam's suspicions of Moshe were groundless. This indicates that Miriam's sin was not in slandering Moshe; it began much earlier with her spurious suspicions. This idea implies that, at

least according to the Targum Yonasan, it is prohibited even to suspect someone of a wrongdoing. We suggest that suspicion is a component of lashon hora. First, we incorrectly suspect this suspicion grows in our minds; then, we "share" our feelings with others. Perhaps, if we view those around us in a positive light, the path towards slander and hatred would have no place to begin.

yated-usa@mailserver.ttec.com

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shabbat-zomet@virtual.co.il Shabbat-B'Shabbato - Parshat Ki Teitzei HOW SHOULD WE REMEMBER? by Rabbi Yehoshua Katz, Maale Adumim Two of the "Six Memories" which we are commanded never to forget appear in this week's Torah portion: "Remember what your G-d did to Miriam," [Devarim 24:9], and "Remember what Amalek did to you" [25:17]. We are very stringent in our observance of the mitzva of remembering Amalek. We have a special Torah reading before Pesach, on Shabbat "Zachor," and we keep the issue fresh in our minds for an entire year. Just memory is not enough, and we take care to read about the matter out loud, as commanded by our sages. For example: "Remember what Amalek did to you" - I might think that it would be sufficient to observe the memory within the heart, but that would have been included in the verse 'Do not forget' [25:19]. Therefore, the command 'remember' must be referring to a requirement to speak the words out loud." [Torat Kohanim]. The question is why the memory of the incident of Miriam is treated differently. Since the same command is used, why aren't we required to speak the words out loud in Miriam's case too? Evidently the mitzva to remember Miriam is fulfilled by this Shabbat's Torah reading. It may be that reading the initial story of Miriam's actions in Bamidbar is also a fulfillment of the mitzva, in accordance with the ruling by the Magen Avraham, that reading the history of the war with Amalek (Shemot 17:14) is also sufficient to fulfill the mitzva of remembering Amalek. In an article named "Remember Miriam," the Chafetz Chaim wrote: "When one talks to other people, he may forget himself and engage in forbidden talk. We are therefore commanded to remember what happened to Miriam because of her speech." But this does not contradict what we have written above. We may still be commanded to remember Miriam out loud at least once a year, in order to help us guard our tongues in discussions with others. In his commentary on Torat Kohanim, the Raavad writes: "Study this matter with your mouth." That is, the laws related to an appropriate issue should be studied. He explains that "Remember the day of Shabbat" [Shemot 20:18] refers to Shabbat, remembering Miriam is related to the laws of "Nega," [leprosy], and remembering Amalek is related to reading the Megilla. The first connection, with Shabbat, is straightforward. But why shouldn't the memory of Miriam be connected to gossip? Why isn't the memory of Amalek related to the rules of war and the mitzva of eradicating Amalek? The answer may be that according to the Raavad, the sages feel that it is not enough to parrot slogans in order to internalize an important message and pass it on to later generations. What is necessary is to study the matter in depth. It is clear that the memory of Miriam's sin will be maintained by studying the laws of slander and gossip, just as studying the laws of Amalek will be a fulfillment of the mitzva to eradicate them. However, the Raavad wants to emphasize that in order to make sure the message is totally absorbed it is necessary to broaden the scope, and to also study related topics. This is evidently the meaning of the Midrash, "you should make an effort to study Torah," implying that it is necessary to expend extra energy in order to fulfill the mitzva of remembering.

EXPLAIN A MIDRASH: Maintaining the Proper Perspective by Rabbi Yehuda Shaviv This week's Torah portion has a wealth of mitzvot from many different fields: personal, family, social, and national. It is to be expected that halachic discussions will relate to all the different types of commandments. However, the Midrash evidently did not feel the need to refer to all the different types of mitzva, and it chose to emphasize some very specific issues, evidently because of their moral importance. The Tanchuma devotes 11 chapters to this week's Torah portion. The first one

deals with the proximity of various mitzvot to each other, and the second deals with the prohibition of capturing a mother bird together with her eggs or children. The third chapter is about holiness of an army camp. The next eight chapters deal with remembering the actions of Amalek. Compare this to the Torah itself, which only devotes three verses to this matter! Devarim Rabba deals with only two matters in this week's Torah portion. The first is the mitzva of capturing a mother bird, specifically relating to the reasons for the commandment, observing the mitzva as part of a sequence of mitzvot (observing one mitzva leads to others), and the rewards involved. The second issue is something to which the Torah devotes no more than a single verse: "Remember what your G-d did to Miriam" [Devarim 24:9]. It may be that the first word of this phrase, "remember," implies to the Midrash that this matter should be expanded and discussed in detail. In summary, the Tanchuma emphasizes our struggle against an ever-present external enemy, Amalek, while Devarim Rabba analyzes the struggle against internal enemies: gossip and slander which can consume society from within.

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Business-halacha@torah.org Business-Halacha - Hilchos Choshen Mishpat Week Of Parshas Ki Seitzei 5758 - Invasion of Privacy

Question: Reuven recently purchased a scanner with which he is able to eavesdrop on conversations made on cellular and portable phones. He would now like to know: A. Is there a Halachic prohibition to listen to other people's phone conversations? B. Are there any situations in which it would be permitted according to Halacha to listen in on the conversations of others without their knowledge and permission?

Answer: A. Rabbeinu Gershom (also known as Me'or Hagolah, the "Light of the Diaspora" - a Rishon who lived approximately 1000 years ago) issued a Cherem (ban) on unauthorized reading of private letters. This prohibition applies even if the reader does not take the letter to his own domain. However, if the owner of the letter threw it into the trash, it is permissible to read it (1). This Cherem is still effective today, and must be considered with the same gravity as any other Torah prohibition. It was embraced and accepted at the time that it was issued by all Jewish communities throughout the world. There was no time limitation placed on this ban (2).

B Included in this ban is looking at any information that a person prefers remain private, e.g. looking at private documents, health or legal records, and credit reports. The prohibition applies even if the person looking at these items does not plan on acting on the information that he sees, but is merely curious, or is interested in finding out what other people think and write about him. (3).

C. It seems logical that today this Cherem would include intentionally eavesdropping on private telephone conversations. It would be forbidden even if none of the parties talking will be damaged by the fact that someone else was aware of their conversation, how much more so, if, as a result of the eavesdropping of the third party, one of the conversing parties will be financially hurt, or private personal information will now become known! (4)

D. There are some situations where it is permitted to examine another's personal letters and documents, and to listen in on private conversations. This is if doing so will help the person whose privacy is being invaded, or others, in a physical or spiritual manner. In such situations, the Cherem of Rabbeinu Gershom was never instituted, and it is absolutely permitted to do so. Some examples of this would be if parents or educators have reasonable suspicion that their child or student is involved with peers that are influencing him in a harmful manner, whether physically or spiritually. Similarly, if parents or educators are concerned that a child or student has been involved in wrongdoing, they or an agent of a Bais Din may look at his private letters or listen in on his conversations so that they may deal with the problem effectively (5). However, if nothing positive could possibly come from this, and the parent or educator is curious to know what the child's opinion of them is, the Cherem would apply and it would be forbidden to do so.

Sources: (1) In the Teshuvos Maharam MiRottenberg (Frankfurt Edition 160a) the Cherem Of Rabbeinu Gershom is quoted as follows: "A ban was issued not to look at a letter of one's friend

that was sent to another friend, without his knowledge. If it was thrown (into the trash) - it is permitted." It is clear from this that the prohibition applies to any situation where private information is gleaned, regardless of whether it is in the owner's domain or not. In other words, even if theft is not an issue, the reader of this private information is still transgressing the Cherem.

(2) We must realize that Rabbeinu Gershom actually issued many Takanos (injunctions) and Cheramim (bans). Some were not accepted at all, some were restricted only to his generation, some were only accepted in the European Jewish communities, some had a specific time limitation on them, and others were accepted and embraced by all Jewish communities everywhere with no time restrictions. Similarly, some were enacted as a "fence" to ensure the keeping of Halacha, while others were enacted for the benefit of the social fabric of Jewish communities. Therefore, we can not compare the effectiveness and limitations of one of his Takanos to another. For example, Rabbeinu Gershom's ban on bigamy was only accepted in the Jewish communities of Europe, and was originally only instituted until the end of 5000 years from the creation of the world (758 years ago). The only reason why we still continue this ban today is because the Rishonim who lived at the time that the ban was to expire decided to extend it indefinitely, as is stated by the Rema (Even HaEzer 1:10). However, in Sephardic communities this Cherem was never accepted at all. Additionally, the Darchei Moshe (Even HaEzer 1:10) points out that this edict was not made as a "fence", that the laws of the Torah not be transgressed, rather it was created to protect and insure the happiness and security of Jewish women. Therefore, the Rema concludes that in certain extenuating situations, where there may be a doubt if a man has been previously married, we might allow him to marry, since this is merely a "Takana Of The Poskim". However, Rabbeinu Gershom's ban on divorcing a wife involuntarily was originally instituted indefinitely, and was universally accepted by all Jewish communities. Additionally, this Cherem was issued as a "fence", to insure that the Torah laws not be violated, as is stated in the Teshuvos Chassam Sofer (Even HaEzer Siman 3). Such a Cherem is much more stringent. In the words of the Ramban (in his commentary at the end of Parshas Bechukosai), such a Cherem is a "Cherem D'Oraysoh" - is given the status of a Torah law, in which case we may not be lenient even in a case of doubt. This is also pointed out by the Nodah BiYehuda (Even HaEzer Vol. 1, Siman 75 and 77), and the Sedei Chemed (Vol. 6 Page 265). The Cherem that we are discussing in our case, i.e. not to read another person's private information, was also instituted by Rabbeinu Gershom to be effective indefinitely, and was also accepted and embraced universally by all Jewish communities. Additionally, it was created as a "fence" so that people not transgress Torah prohibitions, i.e. the prohibitions of Loshon Hara (slander) and Rechilus (gossip) that would result from people knowing other's private business, and harm and damage that may befall people whose information becomes public knowledge, including informing (Mesira). This was evidently a prevalent problem in the times of Rabbeinu Gershom. Therefore, this Cherem must also be considered a "Cherem D'Oraysoh", and one must be stringent regarding it even in a case of doubt, as stated above.

(3) Because Rabbeinu Gershom issued the Cherem to create a fence around the Torah and prevent people from accessing private information that belongs to others, it is obvious that a distinction should not be made between letters sent by a messenger, mail, or via fax. Additionally, it makes no difference if the information has been transcribed on paper or is being displayed on a computer screen. There is an additional interesting point that is discussed in Teshuvos Halachos Katanos (Vol. 1 Siman 276). Not only is it considered Rechilus to talk about others, it is also Rechilus to seek out other's private information even if you do not disclose it to any one else! He calls this "gossiping to one's self." Therefore, in our case, if someone listens to other's private conversations he is also violating the Torah prohibition of (Vayikra 19:16) "Lo Saylech Rochil B'Amecha."

(4) In light of all of the above, it seems that the reasoning of the Rabbeinu Gershom would extend to eavesdropping on telephone conversations if the parties are unaware of his listening in and can do nothing to protect themselves from it. However, if two people are talking in a room in a manner in which others can hear, there is no prohibition in listening in on their conversation. They are causing the breach of their privacy themselves, and they can't expect that others within earshot will close their ears to what is being discussed around them. If they want to discuss things privately, they should learn from Yaakov Avinu who called his wives Rachel and Leah to the fields when he wanted to discuss something private with them in a manner that Lavan and his sons not hear them (Beraishis 31:4). If someone is talking on the phone and there are others within earshot, they should avoid listening even to one side of the conversation, unless they can tell from the person talking on the phone's actions that he is not discussing a private matter.

(5) The Teshuvos HaRashba (Vol. 1 Siman 557) states that Rabbeinu Gershom did not make his decrees so that people might violate Torah or Rabbinic Halacha because of them. Just the opposite, they were instituted only to insure compliance with our Torah and to insure that Jewish people act in a correct and modest manner. Therefore, if a Bais Din, parents, or educators objectively determine that in a certain situation they can only insure compliance with our Torah by "violating the privacy" of an individual by reading their mail, diary, or listening in on their telephone conversations, there is no doubt that Rabbeinu Gershom would agree that it would be a Mitzva to do so. We actually see this also from the Gemara (Sanhedrin 67a), that states that Bais Din would designate witnesses to eavesdrop on the conversation of a Maitis (a person trying to convince others to transgress the Mitzvos of the Torah) to find out who he is and to punish him.

This week's class is based on a column by Rabbi Tzvi Shpitz, who is an Av Bet Din and Rosh Kollel in the Ramot neighborhood of Jerusalem. His columns have recently been compiled and published in a three volume work called Mishpetei HaTorah Business-Halacha. Copyright (c) 1998 by Project Genesis, Inc. This class is translated and moderated by Rabbi Aaron Tendler of Yeshivas Ner Yisroel in Baltimore. Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. <http://www.torah.org/Baltimore,MD21215> (410)

dafyomi@virtual.co.il The Weekly Daf #238 <http://www.ohr.org.il/yomi/yomi238.htm>

Little Word With A Big Meaning A powerful dilemma faced the Sage Shimon the Amsonite. He had made a lifelong project of interpreting the word "es" every time it appeared in the Torah. Even though it often seemed superfluous, he would find some way of explaining how it came to include something not explicitly mentioned in the passage in which this word appeared. Then he came to the passage in which this word "es" precedes the command "You shall fear Hashem your G-d."

(Devarim 10:20) What could this "es" possibly include, he asked, since nothing could be equated to Hashem and included with Him as an object of fear? He therefore decided to abandon his approach: "But Rebbie," asked his distraught disciple, "what will happen to all the interpretations you made until now on the word `es'?" "Just as I received Heavenly reward for the drisha (the interpretation)," replied the Sage, "so shall I receive this reward for the prisha (the abandonment of this approach)." Maharsha explains this cryptic response as follows: This Sage's objective in offering interpretations for every "es" in the Torah was to honor Hashem and His Torah by demonstrating that there was not a single superfluous word in the Torah. Since his purpose was to thus honor Hashem, he felt that he would achieve that same goal by avoiding any interpretation which might cause anyone to be included in the same category with Hashem. But, asks Maharsha, why did this Sage not reach the same impasse in an earlier passage in which the word "es" precedes the command of "You shall love Hashem, your G-d?" (Devarim 6:5) This was a surmountable challenge, explains Maharsha, because it is conceivable that the "es" here teaches to include loving a Torah scholar, which could be equated to love of Hashem. But fear of Hashem, which stems from fear of retribution, could hardly be extended to any mortal, even Torah scholars. Rabbi Akiva, however, did interpret the "es" in regard to Torah scholars, not from the point of view of fear of retribution, but rather of respect. He saw this not as a slight to the honor of Hashem, but as a tribute to the Torah scholars who learn Hashem's Torah. Pesachim 22b

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Production Design: Eli Ballon Prepared by the Jewish Learning Exchange of Ohr Somayach International 22 Shimon Hatzadik Street, POB 18103 Jerusalem 91180, Israel Tel: 972-2-581-0315 Fax: 972-2-581-2890 E-Mail: [info@ohr.org.il](mailto:info@ohr.org.il) Home Page: <http://www.ohr.org.il> (C) 1998 Ohr Somayach International - All rights reserved.

Daf-insights@shemayisrael.com Insights to the Daf: Pesachim 9-20 INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim Rosh Kollel: Rabbi Mordecai Kornfeld DAF@shemayisrael.co.il Pesachim 13 1) WHEN TO EAT THE THIRD SHABOS MEAL WHEN EREV PESACH FALLS ON SHABOS QUESTION: The Gemara says that if Erev Pesach, the fourteenth of Nisan, occurs on Shabbos, a person should burn all of his Chametz, even Terumah, before Shabbos, leaving over just two meals' worth of food for the Shabbos Se'udos. RASHI explains that the two meals' worth of food will be used for the meal on Shabbos night and the meal on Shabbos morning. There is no need to save Chametz for the afternoon meal, though, since Chametz is forbidden in the afternoon on Erev Pesach. It seems from Rashi that a person is allowed to eat only two Se'udos on this Shabbos and not three. Why not? After all, since there is a Mitzvah to eat three meals on Shabbos, everyone should arrange to eat a third meal \*earlier\* in the day, by eating two meals instead of one in the morning, so that altogether he eats three meals on this Shabbos! Consequently, the Gemara should say that he should leave over \*three\* meals' worth of Chametz to eat on Shabbos and not just two meals' worth, so that he will have three meals on Shabbos! ANSWERS: (a) TOSFOS HA'ROSH here and TOSFOS in Shabbos (118a) explain that perhaps one must indeed make two meals in the morning so that he will have a total of three meals on Shabbos. When the Gemara says that one should only leave over two meals' worth of Chametz, it means that one should leave over the \*amount of food\* that he eats in two meals, since a person does not consume any more food than usual when he makes an "extra" morning meal. Rather, he simply splits the morning meal in half, eating the first half, reciting Birkas ha'Mazon and then eating the second half. The Gemara, therefore, is correct in saying that he should leave over the amount of food necessary for two meals, even though he will make out of that food three meals. (b) TOSFOS RABEINU PERETZ argues, pointing out that it is not proper to split one meal into two by reciting Birkas ha'Mazon in the middle, because by doing so one recites extra blessings unnecessarily. Therefore, if a person wants to fulfill the Mitzvah of eating three meals on Shabbos, he may not do as Tosfos suggests, but rather he must get up early on Shabbos morning, Daven, and eat much earlier than usual. He should eat a full Se'udah at that time, and then later on in the morning, he should eat another full Se'udah, which will be his third Shabbos meal. Why, then, does the Gemara not say that one should leave over enough food for three meals? It must be that a person is \*not\* allowed to eat the third Shabbos meal before the afternoon. If he eats it in the morning, it does not count as his third Shabbos meal and he does not fulfill the Mitzvah of eating three meals on Shabbos.

HALACHAH: The SHULCHAN ARUCH (OC 291:2) rules that one does not fulfill the Mitzvah of eating the third Shabbos meal if he eats it before the afternoon (prior to six and a half Halachic hours into the day). The MISHNAH BERURAH (291:7) cites the MAGEN AVRAHAM and others who rule that if one began the third Se'udah before the afternoon and it continued on into the afternoon, one has fulfilled his obligation. Similarly, in Hilchos Pesach the SHULCHAN ARUCH (OC 444:1) rules that when Erev Pesach falls on Shabbos, one cannot eat Chametz at the third Shabbos meal.

Pesachim 14 1) SUMMARY: INTRODUCTION TO THE SUGYA OF "REBBI CHANINA SEGAN HA'KOHANIM" (PESACHIM 14a-21a) [I] THE PRINCIPLES OF TUM'OS AND TAHAROS Although the details of the laws of Tum'ah mentioned in our Sugya have already been summarized in Pesachim Chart #2, we present here a concise survey of the main principles to serve as a tool for convenient review and future reference.

(a) LEVELS OF TUM'AH - Chazal learned from the verses in the Torah (in Parshas Shemini and Parshas Chukas) the various levels of Tum'ah. There are six levels of Tum'ah: (1) Avi Avos ha'Tum'ah; (2) Av ha'Tum'ah; (3) Rishon l'Tum'ah; (4) Sheni l'Tum'ah; (5) Shelishi l'Tum'ah; (6) Revi'i l'Tum'ah. Something that touches a person or object that is at a particular level of Tum'ah becomes Tamei at one level down from the original Tum'ah. The exception to this rule is metal utensils that touch an Avi Avos ha'Tum'ah or an Av ha'Tum'ah, which become Tamei at the same level of Tum'ah as the object they touched. (However, \*they\* cannot in turn cause other metal utensils to become Tamei at their same level of Tum'ah.)

(b) WHICH TUM'OS APPLY TO WHICH ITEMS - \*Metal utensils\* can become Avi Avos ha'Tum'ah, Av ha'Tum'ah or Rishon l'Tum'ah (see Insights to 14b), but not any lower level. \*People and all other utensils except for earthenware utensils\* can become Av ha'Tum'ah or Rishon l'Tum'ah, but not any lower level - except that Chazal decreed that \*the hands\* can sometimes become Sheni l'Tum'ah. \*Earthenware utensils\* can only become Rishon l'Tum'ah, and not any other level of

Tum'ah. \*Food and liquids\* can become Rishon l'Tum'ah, Sheni, Shelishi and Revi'i, but not any higher level.

(c) TERUMAH AND KODSHIM PESULIM - Terumah that is Teme'ah at the level of a Shelishi l'Tum'ah becomes Pesulah and may not be eaten. Similarly, Kodshim that become Teme'im at the level of a Revi'i l'Tum'ah become Pesulim. If Terumah receives Tum'ah from a normal Sheni l'Tum'ah, it can in turn Metamei Kodshim to make them a Revi'i and Pesulim. However, if Terumah receives Tum'ah from a Tevul Yom (who is also considered a Sheni l'Tum'ah), it cannot be Metamei Kodshim. For this reason it is called "Terumah \*Pesulah\*" and not "Terumah \*Teme'ah\*." Kodshim that are a Revi'i l'Tum'ah are called \*Pesulim\* and not Teme'im because they cannot be Metamei anything else (except for Mei Chatas, which, by Rabbinic institution, can become a Chamishi l'Tum'ah).

(d) PASSING TUMAH TO A LIKE SUBSTANCE - The Gemara here (14a, and in various other places in the Sugya) mentions an opinion that Tamei foods and liquids cannot be Metamei similar substances. That is, foods cannot be Metamei foods and liquids cannot be Metamei liquids. Foods can only be Metamei liquids and liquids can only be Metamei foods. (There is an opinion, though, that Kodshim can be Metamei similar substances and another opinion that even Terumah can be Metamei similar substances.) The Gemara concludes that these laws are all mid'Oraisa. However, Mid'Rabanan, foods can certainly be Metamei foods and liquids can Metamei liquids.

[II] TUM'AS MASHKIN A significant portion of our Sugya deals with the topic of Tum'as Mashkin, the Tum'ah that liquids can acquire and convey. In order to facilitate understanding the Sugya, we will briefly summarize several fundamental concepts with regard to Tum'as Mashkin. (a) THE ABILITY OF LIQUIDS TO BE METAMEI OTHER THINGS MID'ORAISA - There is an argument among Tana'im (in the Tosefta in Taharos, cited by the ROSH in Pesachim 16a) whether a liquid which is Tamei is able to be Metamei other things mid'Oraisa even when the liquid is a Rishon l'Tum'ah. (Even though a \*food\* which is a Rishon can be Metamei a liquid to make it a Sheni, liquids are weaker and may be unable to be Metamei foods to make them into a Sheni.) The opinions are as follows: (1) Rabbi Meir and Rabbi Eliezer maintain that liquids cannot be Metamei anything else at all. (2) Rabbi Yosi and Rabbi Shimon maintain that liquids can be Metamei foods, but not other liquids (since mid'Oraisa, an object cannot be Metamei a like object, as mentioned in Footnote 5 of Chart #2). (3) Rabbi Yehudah maintains that mid'Oraisa, liquids can be Metamei even utensils. (The opinion of Rabbi Yehudah is very novel, for the liquid itself is a Rishon, and yet it can be Metamei a utensil, which normally can only become a Rishon. The Gemara concludes (17b) that Rabbi Yehudah rescinded his opinion in this regard.) (b) THE ABILITY OF LIQUIDS THEMSELVES TO BECOME TAMEI. Regarding the opinion of Rabbi Meir and Rabbi Eliezer who maintain that liquids cannot be Metamei foods mid'Oraisa (see (1) above), the Amora'im argue (16a) whether they mean that liquids themselves cannot become Tamei mid'Oraisa, or only that liquids cannot be Metamei other things, but they themselves can become Tamei. Shmuel says that these Tana'im hold that liquids can become Tamei mid'Oraisa; they just cannot be Metamei something else. Rav says that these Tana'im hold that liquids themselves do not become Tamei mid'Oraisa (that is, even if the liquids are Terumah or Kodshim, if it touches something Tamei it will not become Pasul mid'Oraisa). (c) THE TUM'AH OF LIQUIDS MID'RABANAN - The above discussion relates to the Halachah of liquids on a Torah level. Mid'Rabanan, however, everyone agrees that liquids can become Tamei and that they can be Metamei other things, even other liquids (see above, I:(d)). Furthermore, the Rabanan decreed that liquids have a status of "Rishon" even if they touched only a Sheni (that is, mid'Rabanan, a liquid becomes \*more\* Tamei that the item which made it Tamei). In addition, the Rabanan decreed that liquids can be Metamei utensils as well (20a), making a utensil into a Sheni l'Tum'ah. (Mid'Oraisa, of course, a utensil cannot become a Sheni, no matter what touches it, as mentioned above, I:(b), and only by touching a Tamei liquid can a utensil become a Sheni mid'Rabanan). The reason for these rabbinical enactments is twofold: (1) Liquids become Tamei without Hechsher (that is, other objects, such as foods, will not become Tamei even when they come into contact with Tum'ah, until they have become "prepared" to receive Tum'ah by coming into contact with one of the seven liquids that serve that purpose). Consequently, liquids are more prone to becoming Tamei and require additional vigilance to protect them from becoming Tamei (or from becoming Pasul if they are Terumah or Kodshim). Therefore, the Rabanan decreed that liquids always become a Rishon (Rashi, Shabbos 14b, DH Gezeirah Mishum Mashkin). (2) In addition, there is a type of liquid -- the bodily fluids of a Zav and Zavah -- which is an Av ha'Tum'ah that can be Metamei even utensils mid'Oraisa. As a safeguard, the Rabanan decreed that all liquids become a Rishon and can be Metamei utensils the same way an Av ha'Tum'ah can be Metamei utensils (Shabbos 14b -- According to the opinion that liquids cannot become Tamei at all mid'Oraisa, this is apparently the only reason why the Rabanan decreed that liquids become Tamei.)

[III] "MASHKIN BEIS MITBECHAYA DACHAN" -- THE LIQUIDS IN THE BEIS HA'MIKDASH ARE TAHOR This topic also comprises a significant part of our Sugya. The following are the basic points, in brief, of this topic: (a) REBBI YOSI'S TESTIMONY - "Rabbi Yosi ben Yo'ezer testified that the liquids in the Beis Mitbechaya are Tahor." The point of this testimony is to teach that there is a basic difference with regard to Tum'ah between liquids found in the Beis ha'Mikdash and liquids found in all places outside of the Beis ha'Mikdash. The Rabanan did not decree that liquids inside the Beis ha'Mikdash become Tamei. The Amora'im argue, though, whether this means that the liquids inside the Beis ha'Mikdash become Tamei themselves but are not Metamei other things, or whether they do not even become Tamei themselves. This argument, in turn, revolves on the argument mentioned earlier whether liquids can become Tamei themselves mid'Oraisa or not (see II:(b) above), and whether they can be Metamei other things mid'Oraisa or not (since the Rabanan were not lenient with the liquids in the Beis ha'Mikdash when it comes to Tum'ah d'Oraisa). (b) WHICH LIQUIDS? - There is an argument among the Tana'im and the Amora'im (17a) concerning exactly which liquids in the Beis ha'Mikdash do not become Tamei: (1) Some say that only those types of liquids that are found in the slaughterhouse of the Beis ha'Mikdash are Tahor. Thus, only water and blood are Tahor in the Beis ha'Mikdash. Other liquids, such as oil and wine, are affected by the rabbinical enactment that liquids can become Tamei in the Beis ha'Mikdash just as they are outside the Beis ha'Mikdash. (2) Others say that all liquids that can be brought upon the Mizbe'ach are Tahor in the Beis ha'Mikdash, that is water, blood, oil, and wine. According to this opinion, the proper reading of the statement of Rabbi Yosi ben Yo'ezer is "Beis Mi\*d'bechaya," referring to the Mizbe'ach, and not "Beis Mi\*t'bechaya" which refers to the

slaughterhouse. (c) WITH REGARD TO "HECHSHER" - The Rabanan were not only lenient with regard to Tum'ah of liquids in the Beis ha'Mikdash, but they were also lenient with regard to "Hechsher." We know that a food item cannot become Tamei until it has come into contact with one of the seven types of liquids that enable a food to receive Tum'ah (the four liquids in the Beis ha'Mikdash -- water, blood, wine, and oil -- are included in these seven). The Rabanan stated that the liquids of the Beis ha'Mikdash do not serve to be Machshir a food to receive Tum'ah. The Amora'im dispute the reason behind this. According to Rav, this leniency applies only to the blood of Kodshim, which the Torah states is not Machshir items to receive Tum'ah because the Torah differentiates between blood that comes from the slaughter of Kodshim and blood from other slaughtered animals (end of 16a). According to Shmuel, the Rabanan were lenient even with regard to water in the Beis ha'Mikdash (and also wine and oil, according to those who read the word "Mi\*d'bechaya"), and they enacted that it cannot be Machshir something to receive Tum'ah. The reason for this is because mid'Oraisa, water is not Machshir a food unless the food fell into the water when the water was still attached to the ground (that is, while the water was collected in a pit in the ground). When the water has been removed from the ground and is now in a utensil, mid'Oraisa it is \*not\* Machshir. Although the Rabanan decreed that all water is Machshir, in the Beis ha'Mikdash they were lenient and left the Halachah as it is mid'Oraisa, and thus water in a utensil in the Beis ha'Mikdash is not Machshir (TOSFOS 20a, DH Lo). (d) AFFECTING THE TORAH LAW - Thus far, we have explained that the Rabanan were only lenient in the Beis ha'Mikdash with regard to rabbinical laws of Tum'ah, but not with regard to Torah laws. This point, though, is not unanimous. Rav Papa (17b) holds that even though mid'Oraisa liquids can become Tamei and can be Metamei other things, nevertheless liquids in the Beis ha'Mikdash are Tahor, as taught by a Halachah l'Moshe mi'Sinai. (In its conclusion, the Gemara labels the opinion of Rav Papa as "difficult.")

14b 2) "CHEREV HAREI HU K'CHALAL" OPINIONS: The Torah teaches that certain objects acquire the same level of Tum'as Mes as the object which they touched and which gave them the Tum'ah. This concept is called "Cherev Harei Hu k'Chalal" (literally, "a sword is like a corpse"). To which objects does this refer? (a) RASHI here explains that it refers to metal objects, similar to the "Cherev" mentioned in the verse from which this rule is learned. This rule does not apply to any type of utensil which is not metal, and thus all other types of objects descend a level of Tum'ah from the Tum'ah of the object they touched. This is also the opinion of RABEINU TAM (Nazir 54b, Tosfos DH Ta Shema) and the RASH (Ohalos 1:3). (b) THE RAMBAM (Perush ha'Mishnayos in Ohalos 1:3; Hilchos Tum'as Mes 5:3) and RAV YITZCHAK OF SIMPONTI assert that this principle applies to all types of utensils and therefore non-metal utensils also acquire the same Tum'ah as the object they touched. Why, then, does our Gemara specifically say that the lamp which makes the oil inside of it Tamei is a \*metal\* lamp that became Tamei through an Av ha'Tum'ah, like the corpse that it touched? The Gemara's intention is to exclude an earthenware lamp, because earthenware is the only type of utensil which does not acquire the same level of Tum'ah as the object which it touches. All other types of material, though, will become Tamei as Av ha'Tum'ah when they touch an Av ha'Tum'ah. (Lamps are normally made either from earthenware or of metal, not from other materials.) These Rishonim cite proof to their words from the Toras Kohanim, which derives the principle that a utensil which touches another utensil which is an Av ha'Tum'ah also becomes an Av ha'Tum'ah from the clothing upon a person who touched a corpse. The Torah teaches that the clothing becomes an Av ha'Tum'ah, just like the person who touched the corpse. We see from there that even non-metal utensils (clothing) become an Av ha'Tum'ah when they touch an Av ha'Tum'ah. (Rabeinu Tam (Nazir 54b), who ascribes to the first opinion, explains that when the Toras Kohanim says that the clothing of the person becomes an Av ha'Tum'ah, it is referring to metal jewelry that the person is wearing.) (c) The GE'ONIM (cited by Rabeinu Chananel here) and RAV YITZCHAK OF SIMPONTI in his second explanation (as cited by the Rash in Ohalos, loc cit.) explain that the principle of "Cherev Harei Hu k'Chalal" is only stated with respect to the object which \*killed\* the person. That object becomes Avi Avos ha'Tum'ah, but no other object -- even metal -- will become Tamei with the same degree of Tum'ah as the object it touches. (The Ge'onim explain, therefore, that the metal candlestick mentioned in our Sugya is one that was used to kill somebody.) This opinion appears to differentiate between an object that touched an Avi Avos ha'Tum'ah when it was used for murder, and something which touched an Av ha'Tum'ah, which was not used for murder. This principle obviously does not apply to an Av ha'Tum'ah, since an Av ha'Tum'ah has not been murdered. However, the Mishnah clearly says that even a utensil that touches an Av ha'Tum'ah becomes an Av ha'Tum'ah! Why should that be? -- From the words of Rabeinu Chananel and the Rash it appears that according to this opinion, it is not the principle of "Cherev Harei Hu k'Chalal" which makes the utensil an Av ha'Tum'ah when it touches an Av ha'Tum'ah. Rather, it is a different principle at work here -- the principle of "Chiburin." While an object is \*still touching\* an Av ha'Tum'ah (and not after it is removed from the Av ha'Tum'ah), it is considered an Av ha'Tum'ah to make whatever touches it a Rishon. This Halachah applies to all utensils except earthenware (parallel Halachos are to be found with regard to what is touching a Zav or a Mishkav). This is the Tum'ah which the Toras Kohanim derives from the clothing a person who touches a corpse; since his clothes were touching him at the time that he touched the corpse, they become an Av ha'Tum'ah like him. This also appears to be the opinion of the RA'AVAD (Hilchos Tum'as Mes 5:3).

Mordecai Kornfeld |Email: kornfeld@virtual.co.il|TI/Fx(02)6522633 6/12 Katzenelbogen St. | kornfeld@netvision.net.il|US:(718)520-0210 Har Nof, Jerusalem, ISRAEL | kornfeld@shemayisrael.co.il|POB:43087, Jrslm

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