

B'S'D'

To: Parsha@YahooGroups.com
From: crshulman@aol.com

INTERNET PARSHA SHEET ON SHMOS - 5762

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PARSHAS SHMOS
RABBI ELI BARUCH SHULMAN

As Moshe Rabeinu approached the Sneh, the burning bush, the Torah tells us that he turned his face away, fearing to look at the Divine apparition: Vayaster Moshe Panav Ki Yare Mehabit El Ha'Elokim.

Now this turning away would seem to be a praiseworthy thing since it stemmed, as the Pasuk tell us, from his fear of Hashem; we know, after all, that Moshe Rabeinu epitomized the quality of Yiras Hashem, and the fear that he demonstrated here was an expression of that trait.

And, indeed, the Gemara in Bracos quotes the view of Rav Shmuel Bar Nachmeini who says that Moshe Rabeinu was ultimately rewarded for turning away from gazing at the Sneh: ultimately meriting to have the Shechina shine through his own countenance to such a degree that the people were afraid to approach him, as he had once been afraid to approach the Sneh.

That is one view in the Gemara. However, the Gemara there also cites an opposing view, and it is on that opposing view that I would like to focus our attention this morning.

For against the view of Rav Shmuel Bar Nachmeini, who considers Moshe Rabeinu's turning away as deserving of reward, the Gemara cites the view of Rabbi Yehoshua Ben Karcha, who maintains that Moshe Rabeinu was punished for turning away from looking at the Sneh; for when Moshe later asked: Hareini Na Es Kvodcha, show me Your glory, HKB"H said to him: Kisheratzisi Lo Ratzisa, Achshav Sheata Rotze Ani Eini Rotze, When I had wanted you to look at My manifestation in the burning Sneh, you did not want to; now that you want, I am no longer willing.

Apparently Rav Shmuel Bar Nachmeini believes that Moshe was at fault; that he should have forced himself to look at the bush, rather than turn away in fear.

Now we need to understand this. After all, as we have seen, Moshe turned away out of fear of Hashem, which is one of our highest values. What fault is there in that? Or, to put the question differently, what imperative was there to look at the Sneh, that ought to have overridden the fear that Moshe felt and that ought to have made him keep his gaze fixed on the fire.

The answer is this. We all know that as human beings we have a moral obligation to alleviate the suffering of our fellow man; and as Jews, we have a particular obligation to alleviate the suffering of our fellow Jews. This is an obligation that is embodied in countless particular mitzvos, as well as in the general injunction of Vihishalachta Bidrachav, to walk in the ways of HKB"H, Ma Hu Rachum Af Ata Heye Rachum, as He is merciful so was are required to be merciful.

Of course, in order to help people we have to first listen to them, we have to pay attention to their needs. And, therefore, Chazal spoke with special disdain of someone who is Maalim Einav Min Hatzdaka, who turns his eyes away from those who seek his charity. Helping begins with looking.

So we need to listen, and to look, at suffering, in order to help alleviate it.

But what if we can't help? What about cases of suffering where we

know that there is nothing we can do or say that will be of any help? Can we turn away then, when - after all - looking will do no good?

The answer to this question can be found in a Gemara in Sanhedrin. The Gemara tells of a certain woman who was a neighbor of Raban Gamliel, and who had lost a son. Every night she would stay up crying, and Raban Gamliel, in his home, would hear her and cry along with her, until - the Gemara tell us - he become sick from it.

Now obviously anything Rabban Gamliel might have done to help this woman he must have done; but her son was dead, and Rabban Gamliel could not bring him back. What was the point, then, of his listening to her crying and crying along with her? After all, she didn't even see him do it. Why didn't Rabban Gamliel simply shut his shutters tight, delve into his learning and ignore her cries?

Apparently Rabban Gamliel believed that so long as he could hear her crying he had a moral obligation to cry along with her. Even though there was nothing he could do to help; and even though she didn't even know that he was crying.

And that too stems from our emulation of the ways of HKB"H. For when the Jews were suffering in Egypt HKB"H appeared to Moshe in a Sneh, in a lowly thorn bush. And Chazal tell us that by doing so HKB"H was revealing to Moshe one of the most amazing things that the Torah teaches about G-d; that when man suffers, and when the Jewish people suffer, HKB"H suffers, Kiviyachol, along with them, Imo Anochi Bitzara, HKB"H is with man in his pain.

And here we come back to the point from whence we began. When Moshe saw the burning bush he turned away in fear. And Rav Shmeul Bar Nachmeini maintains that that was wrong; despite his fear, he should have looked. Because what HKB"H was showing Moshe was the Tza'ar HaShechina, the pain of the Shechina itself; Moshe was given the opportunity to gaze into the mystery of HKB"H's suffering, kiviyachol. That must have been a terrible, an awesome thing to gaze it. And so Moshe turned away in fear. We can certainly understand that. And yet - he should have looked. Despite the fear, despite the awe, even despite Yiras Shamayim, he should not have turned away. Because there is an obligation not to turn away from suffering; to look suffering in the face. And for Moshe Rabeinu, in his uniqueness, that obligation extended even to the suffering of HKB"H himself.

There is a great deal of suffering in Eretz Yisroel today. Young men and women killed in their prime; innocent children maimed; and no one able to say how it will all end. Now it may well be that, from a practical point of view, there is nothing we here in America can do. Yet we have a moral obligation not to turn our gaze away; hard as it is, there is a moral obligation to look suffering in the face.

And [it is very important to visit Eretz Yisroel], and to say to our brothers and sisters in Eretz Yisroel: Imachem Anachnu Bitzara; we are with you; your pain is our pain; and as we are with you now in your time of trouble, we will be with you too in your time of deliverance and rejoicing, may it come Hashta Bagala Bizman Kariv, speedily in our day.

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RABBI YAAKOV NEUBERGER
PARSHAS SHEMOS

And it was on the way, in an inn, and Hashem met [Moshe] and sought to kill him (Shemos 4:24)

In unraveling the story behind this story, the Talmud relates that a second son was born to Moshe and Tzipora as they were preparing to leave Midyan for Mitzraim. No doubt their dedication to fulfilling Hashem's command coupled with the unrelenting suffering of their brothers gave the newborn's parents no time to delay their departure. Thus they journeyed without performing their son's bris, careful not to expose him neither to the threatening elements of the desert nor the discomfort of traveling while nursing a fresh wound. Arriving close to

Mitzrayim, they found lodging and could now arrange for the bris without slowing down the work of redemption or compromising the infant's health. It is at this moment, their first opportunity to circumcise their baby, that Moshe finds himself under the deadly censure of Hashem. Rashi explains that G-d's sudden impatience erupted when Moshe chose to first settle in to the hotel and only then to tend to the uncircumcised child.

Rashi's interpretation and its inference are almost as troubling as the very event he wishes to resolve. It seems that though Moshe would have momentarily performed the mitzvah for which he had waited some time, Hashem considered killing him and squashing the nascent redemption, almost before it started.

Perhaps we can understand this medrash through introspection into our own lives. We are so often besieged with obligations and commitments robbing from us the feeling that we are designing our own days and our own schedules. Over time, daily minyan and daily learning, community involvement and chesed commitments may give way to what we need to do to establish a parnoso, run a home and tend to its members. Some get accustomed to the change while for others it is a source of agony. Some don't look back, and settle in to new expectations and adjust or limit their earlier visions. Their lives are full of accomplishments and much reason to be comfortable and satisfied. Others are always looking back, always wondering, always comparing, harboring a nagging frustration that demands constant assuaging in order to move on with contentment and direction. To be sure, their measure of discomfort is the motivation to move and to grow, which does carry with it its own source of happiness.

One's aspirations become apparent in those few moments, when the pressure lets up, the holiday, the vacation, the Sunday morning. If at those moments we find ourselves simply moving along pushed only by inertia, then we may have lost something along the way and our standards may indeed have slipped. However, if when those moments roll around, even if only infrequently, we jump at the opportunity to open a sefer or catch a minyan or visit an aunt, then indeed our schedules have not altered our priorities, and can feel that we will be transmitting our ideals to another generation.

Perhaps the medrash, that Rashi cited, conjures up the image of a family traveling with the uncircumcised baby in tow, taking every step with heavy anxiety, wondering at once when they will see their brethren in Mitzrayim and when they will welcome their son into the covenant of Avrohom. Those parents, be it on the way, even at an inn, would be found sharpening a rock long before unpacking their bags. Hashem demanded that the one to be entrusted to teach Torah, its practice and its preciousness, must be entirely consumed by being in a situation that came short of his own expectations. This, it would seem, is the standard set for us, to be ever mindful of our aspirations, seize the moments in which we can realize them, and even find happiness in the knowledge that these moments can be the context for all else that transpires.

http://www.torahweb.org/torah/2001/parsha/rros_shemos.html
[From last year]

RABBI MICHAEL ROSENSWEIG
THE CONTRIBUTION OF THE IVRI CONCEPT
TO JEWISH NATIONHOOD

Sefer Shemot marks an important transition in the development of Jewish history. While Sefer Bereishit focuses on the role of the individual avot in shaping the beginnings of kelal yisrael, it is Sefer Shemot which highlights the fate of the nation itself. Thus, at the very outset of the Sefer (1:1), we read of "benei yisrael" even as the small group of individuals who comprise the entire nation are delineated: "Ve-eileh shemot benei yisrael ha-baim mizraymah, et Yaakov ish u-beito bau". When the Torah chronicles the proliferation of kelal yisrael (1:7) and the harsh reaction it engendered (1:9,12,13) it refers to the nation as "benei yisrael".

Given this context, it is particularly interesting that in relating the counter response of the "meyaldot" the Torah abandons the term "yisrael", opting instead for the name "ivriyot" (1:15-22), previously

used in connection with both Avraham and Yosef in Bereishit. Moreover, while the term appears 7 times scattered throughout Bereishit, it appears 8 times just in this concentrated section in the beginning of Shemot, notwithstanding the fact that "yisrael" is now a more obvious alternative, especially as the focus appears to be the total history of the nation!

To appreciate the significance of this phenomenon, we need to examine the context and determine the implications of this term. The Neziv argues that the fledgling nation had seriously mis-stepped by improperly integrating themselves into the broader society of Egypt- "va-temalei ha-aretz otam", revealing a serious misconception of their true mission. Even if they were also charged to impact upon the broader civilization, perhaps to be an "or la-goyim" (see Neziv intro. to Shemot), they were to accomplish this goal not by diluting their uniqueness or compromising their standards, but by projecting their principles and ideals in an unambiguous manner. They were challenged to build this particular nation without losing the qualities of courage, faith, and unswerving dedication to principle that normally characterize special individuals. The principled, heroic conduct of a group of remarkable individuals, the meyaldot, reflected this aspiration. By defying the cruel edict of the King of Egypt, the meyaldot exhibited extraordinary courage and exemplified the intense dedication to their fellow Jews and absolute commitment to yirat Hashem that must define Jewish nationhood even in pressured situations. Their response may have seemed stubborn and even irrational to others, but it reflected a critical component in Jewish nationhood, and was precisely the appropriate antidote to counter the excesses of "va-temalei ha-aretz otam", as perceived by the Neziv.

These indispensable qualities, first associated with Avraham, the "av hamon goyim" (father of the nation), are conveyed by the term "ivri" with which he is identified. When Avraham was approached by the "palit" to involve himself in a massive war just to save his nephew Lot, he is addressed as "ivri" (Bereishit 14:13, and see Seforno). The pasuk (Bereishit 14:13) emphasizes that Avraham acted despite the fact that Lot had willingly chosen a different fate- "ve-hu yoshev be-sedom". Avraham's response reflected not irrationality, but a principled and idealistic stance vis a vis his nephew who was in crisis. Hazal explain that the term "ivri" ("Avraham be-zad ehad ve-kol ha-olam be-zad aher") connotes Avraham's capacity to resist any pressure and his willingness to stand alone if need be for the sake of principle, notwithstanding his avowed mission to impact upon others. Apparently, the dimension of "ivri" had become somewhat neglected as other important components that contribute to the necessary complex balance of "yisrael" (symbolized by the complex "tiferet") developed.

The term "ivri" surfaces with respect to Yosef, as well, as he faces formidable challenges in a totally hostile and alien environment. His ability to maintain his uniqueness, project his ideals and withstand temptation and the pressures to conform which qualify him for a leadership role have their origin in his "ivri" roots. Ramban (Ber. 40:15) explains that this term always underscores the singular nature of the Jewish people and their unwillingness to conform or assimilate. He adds that this characteristic is an eternal legacy of the Jewish people: "hihziq shemam ivrim shelo yitarvu be-amei ha-aratzot ha-kenanim ve-huzaq hashem hazeh bekol zera yisrael leolam. Ve-zehu ha-taam be-Yosef she-amar ivri anokhi, velo sheyahziq be-kenani."

It is noteworthy that the principled conduct of the meyaldot ha-ivriyot is depicted as a manifestation of "yirat Hashem" (Shemot 1:17, 21, and Onkeles), the ideal standard of which was established by none other than Avraham ha-ivri in the context of the akedah (Ber. 22:12), and in the episode with Avimelech (Ber. 20:11). [The link between the "ivri" theme and yirat Hashem is evident with respect to Yonah, as well (Yonah 1:9): "Vayomer aleihem ivri anokhi ve-et Hashem elokei ha-shamayim ani yarei..."] The capacity of the meyaldot to reinforce the quality of "ivri" in the framework of "benei yisrael" established the "meyaldot ha-ivriyot" as the ideal foundation for future Jewish leadership in the form of keter kehunah, leviyah and keter malkhut- "va-yaas la-hem batim" (Sotah 11b).

The quality of "ivri" is reflected particularly in the early life of Moshe Rabbeinu, the penultimate Jewish leader. As an infant, he is already

identified by Paaraoh's daughter by this designation (Shemot 2:6-7)- "va-tomer mi-yaldei ha-ivrim zeh". The commentators ask how she was able to determine his background, particularly according to the view that the decree was extended to all male children in the realm. Alternatively, if the law was limited to Jewish males, what is significant about her proclamation? It is possible, however, that it was her recognition of Moshe's innate "ivri" capacity that is meaningful according to both perspectives. Hazal suggest that she discerned Moshe's special status by the fact that the infant was unwilling to nurse from a non-Jewish source, reflecting an innate commitment to Jewish uniqueness. According to some mefarshim, it is also possible that she identified his origins through the tevah in which he was placed, the design of which reflected the qualities of the "ivrim". Hazal explain that the tevah was constructed to insulate Moshe from the harsh realities and influences of the external environment and in a way that reflected special sensitivity to his personal spiritual needs. The contrast to tevat Noah, whose primary purpose was merely survival, is especially noteworthy. Thus, the Torah emphasizes "va-tahmera ba-hemer u-ba-zefet". Hazal interpret that the zefet was on the outside in this tevah "kedai shelo yariah oto zadik reiah ra shel zefet".

"Vayigdal Moshe vayeze el ehav vayare ish mizri makeh ish ivri me-ehav"(2:11). The young Moshe discovers his own link to the Jewish people when his "ivri" perspective is triggered by two incidents in which the fates of individual Jews are put in jeopardy in a hostile environment. His response to the first crisis follows an awareness that Jews have no other recourse but their commitment and loyalty to each other (see Seforno's comment on "ivri")- "vayifen koh va-khoh vayare ki ein ish". In the second occurrence-"ve-hineh shenei anashim ivrim nizim"-, Moshe is shocked that two "ivrim" could interact in such a manner. According to some interpretations, his conclusion -"akhen noda hadavar"- constitutes a begrudging acknowledgement that the "ivri" component, latent in every Jew, is, alas, not always manifest. This recognition is to play an important role in Moshe's approach to his future leadership challenge.

Upon encountering Hashem, Moshe inquires about Hashem's nature and also queries how he should represent Hashem to the nation: "ve-amru li mah shemo...mah omar aleihem"(3:13). Rashi cites Hazal's comment that Hashem emphasized that specifically his quality of empathy (3:14)- "imam anokhi be-zarah" and not a theological statement should form the basis for the renewed relationship with the nation. Moreover, He instructed that Moshe introduce the request to Paaraoh by invoking the "ivri" theme (3:18): "va-amartem eilav Hashem elokey ha-ivriyim niqrah aleinu..." In fact, Moshe and Aharon initially took a different route(5:1):" vayomru el Paaraoh koh amar Hashem elokey yisrael shalah et ami." Indeed, this reference to "elokey yisrael" proved ineffective, as Paaraoh immediately responded by dismissing this perspective: "Vayomer Paaraoh mi Hashem asher eshma be-kolo leshalah et yisrael; lo yadati et Hashem ve-gam et yisrael lo ashaleiah." Upon hearing the reformulated demand invoking the initial ivri theme (5:3)"va-yomru elokey ha-ivrim niqra aleinu"-, Paaraoh was forced to adopt different tactics in his struggle with benei yisrael. Paaraoh's memorable encounter with the "meyaldot ha-ivriyot" and perhaps the reports of Moshe's response to the fate of his fellow "ivrim" ("akhen noda ha-davar") precluded him from simply ignoring this theme.

The names "yisrael" and "benei yisrael" dominate Biblical and post-Biblical Jewish history. Yet, precisely in the formative stages of the development of and as "yisrael" it was critical to reassert the roots of the nation which could be traced to the unyielding idealism of Avraham ha-ivri, as manifest in the conduct of the meyaldot and in the persona of Moshe Rabbenu.

which you stand is holy ground" (Ex. 3:5). A similar thing, with the omission of the last word "ground" was said to Joshua by the captain of the Lord's host (Josh. 5:15).

Removing sandals and going barefoot denotes various things in Scripture. It appears as an expression of sorrow and grieving: "David meanwhile went up... weeping as he went; his head was covered and he walked barefoot" (II Sam. 15:30). Similarly, we read in Jeremiah 2:25: "Save your foot from going bare, and your throat from thirst." Sometimes it appears along with removal of clothes, so regarding the war against Assyria, the Lord said to Isaiah: " 'Go, untie the sackcloth from your loins and take your sandals off your feet,' which he had done, going naked and barefoot... so shall the king of Assyria drive off the captives of Egypt and the exiles of Nubia, young and old, naked and barefoot..." (Isaiah 20:2-4). Thus we see that taking off sandals denotes an encounter with the sacred, mourning, and going off into exile.

Did Moses' action at the burning bush provide a precedent in subsequent generations to remove the sandals as a sign of respect for a sacred place? Mishna Berakhot (9.5) instructs us as follows: "One may not enter the Holy Mount of the Temple with one's staff, or with one's shoes on or with one's money belt." Since a synagogue is considered a "minor Temple," the question arises whether the above rule applies also to synagogues. This is discussed in Tractate Berakhot (63a), and Rabba is of the opinion that the ways of showing respect in the synagogue are deduced from the practice in the home, not the Temple: "Just as in a private person's home one does not want it to serve as a thoroughfare for strangers, but one does not mind spitting within the home or wearing footwear, so too, the synagogue must not be used as a thoroughfare, but spitting and footwear are permitted."

Indeed, Maimonides ruled that a person may enter the synagogue with one's staff, shoes, and money belt. Maimonides' ruling in Hilkhhot Tefillah 11.10 follows the practice in Babylonia, but it was customary in the land of Israel to remove one's shoes before entering a synagogue. The Jerusalem Talmud, Bava Metzia 2, 9, tells the following story: "Judah b. Rabbi went into a synagogue and left his sandals outside, and they were stolen. He said, 'Had I not gone into the synagogue, my sandals would not have been stolen.'" The fact that well-preserved mosaic floors of synagogues from the Byzantine period have survived in Israel is further evidence that those who prayed there walked barefoot.

Not only in Israel but also in certain places in the Diaspora it was customary to remove one's shoes before entering a synagogue. This was the practice, for example, among the Jews of Yemen.[1] [1] Maimonides, Mishneh Torah, Kafih ed., Jerusalem 1985. With respect to the above-mentioned halakhah, Rabbi Kafih notes what was the practice in Israel and Yemen. I am indebted to Dr. Aharon Gimani for calling my attention to this source.

A halakhic discussion of this question is found in a responsum by Rashbash (Rabbi Solomon b. Simeon b. Tzemah Duran, Algeria, d. 1467) to a dayan in Bejaia, a city in eastern Algeria:

You wrote concerning a congregation that wished to reach consensus that one should not enter the synagogue wearing shoes, due to the contempt in which the Ishmaelites (Moslems) held them. Moreover, there is another synagogue in the very same city in which it is the custom not to enter wearing shoes. A few individuals came forward challenging this idea, arguing that Maimonides permitted entering a synagogue in shoes; and now you ask my opinion on the subject.

Some background information will help us better understand the issue. The responsum dates to the period when Jews were emigrating from Spain to Algeria in the wake of the decrees of 1391. There they came in contact with a Jewish community of long standing that had been living among the Moslems for many generations. The practice of the Algerian Jews was to remove their shoes before entering the synagogue, just as the Moslems removed their shoes before entering a mosque.

The Jews of Spain, who lived in the midst of a Christian society where it was not customary to remove one's shoes before entering a church, established a synagogue in Algeria according to their own

<http://www.biu.ac.il/JH/Eparasha/shemot/bas.html>
Bar-Ilan University's Parashat Hashavua Study Center
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BAREFOOT IN THE SYNAGOGUE

PROF. ELIEZER BASHAN Department of Jewish History
When G-d was revealed to Moses at the burning bush, He called out to him, "Remove your sandals from your feet, for the place on

traditions. When the local Moslems with whom they came into contact found out that these Jews were entering their synagogue without removing their shoes, they held them in contempt. As a result an initiative was taken to reach agreement that henceforth no one would enter the synagogue wearing shoes. However there were some people who objected, basing their position on the stand taken by Maimonides, who, even though he was familiar with Moslem practices, ruled that one may enter a synagogue wearing shoes. The disagreement within the congregation made it necessary to ask the opinion of this rabbi, who himself came from Spain.

In a lengthy and carefully substantiated responsum he ruled that respect is not something absolute, rather it is dependent on social norms. He presented various approaches to the way respect is shown to a venerable person or a holy place, depending on the cultural environment, and analyzed the difference between what is considered respectful in the Christian culture or Europe as opposed to the Moslem world. We cite representative passages from his responsum:

Response: It is well known that a synagogue deserves to be glorified, exalted and respected, keeping any sign of contempt away from it. Respect, however, is anything that people consider as such, ... true respect or contempt are according to the way people think and the mores of the place. For example, in the lands of the Christians, where it is not considered a sign of contempt to enter in one's shoes, or even to appear in shoes before the monarch, if a person enters a synagogue in one of their cities wearing shoes that does not show contempt. But in these lands [Moslem countries], where it is a sign of contempt to come before dignitaries, not to mention before the king, wearing shoes, in their cities one must not enter a synagogue wearing shoes, since if one does not do so before a king of flesh and blood, all the more so before the King of Kings, the Holy One, blessed be He.

Further on he discusses what is considered acceptable in Moslem countries, where people remove their shoes and leave them at the door even before entering their own homes so as not to dirty them. He contrasts this with the practice in Europe, where people wear their shoes in the house, taking them off only before going to bed.

Considering the fact that in Christian countries people wear their shoes until they get into bed, one is permitted to enter a synagogue in a Christian city in one's shoes, but in countries where care is taken [not] to enter the home in shoes, ... it is unfitting to sully the house of our Lord... Thus, in the land of Edom [the Christian world], where one does not stand before important people except in footwear, it is forbidden to stand in the house of prayer barefoot. In the land of Ishmael [the Moslem world], where it is customary to stand before dignitaries barefoot, it is permitted [to remove one's shoes]. The law in this regard varies according to the local custom of what is considered a sign of contempt or of respect, ... according to the place and its practices, ... it all depends on complying with the custom of the place.

The rabbi concludes, "Therefore it is a good thing which they sought to do, to avoid being held in contempt by the nation that thought us contemptuous." In other words, he encouraged that community to decide that everyone should remove their shoes before entering the synagogue (Resp. Rashbash, Leghorn 1742, par. 285). The upshot of this teshuva is that certain religious practices depend on the cultural environment.

An interesting aside is that one of the decrees passed against the Jews of Morocco, especially in inland cities, and remaining in force until 1912, was that they had to remove their shoes when they left the mullah [Jewish Quarter] and entered the Moslem city. The Jews came to terms with this decree, notwithstanding the discomfort it caused them in the cold of winter and heat of summer. The Jewish organizations in Europe, which from 1860 on were the political and economic rear guard of Moroccan Jewry, applied political pressure on the Sultans to annul this order, but to no avail. A Moslem wazir answered a British diplomat that removing one's shoes is a sign of respect, just like taking off one's hat in Europe, and that abrogating the decree was likely to arouse Moslem extremists and result in the government being accused of giving in to foreign dictates, thus hurting Moslem pride.

From: Yeshivat Har Etzion[SMTP:office@etzion.org.il] To: yhe-sichot@etzion.org.il
Student summaries of Sichot delivered by the Roshei Yeshiva
PARASHAT SHEMOT SICHA OF
HARAV YEHUDA AMITAL SHLIT"A
THE LEVEL OF THEIR FOREFATHERS
Summarized by Betzalel Posy

The Ramban believes that each of the five books of Chumash has its own theme. At the beginning of Sefer Shemot, he relates to both Bereishit and Shemot, since his introduction to Bereishit deals with Torah generally. Sefer Bereishit is about creation and history: both the creation of the world and the creation of Am Yisrael. These events serve as an example and a pattern for the history following them, and Sefer Shemot is the beginning of that history.

The entire history of the Jewish People follows a single pattern: "galut" and "ge'ula" (exile and redemption). This is what happened to the Avot and it is what happened to the Jews in Egypt and the desert. For Am Yisrael, their exile was expressed by their presence in Egypt, and their redemption was expressed by the presence of God in the mishkan.

However, the Ramban's words raise an interesting problem. Where is Eretz Yisrael in his discussion? Is not the redemption incomplete until the arrival forty years later in the Promised Land? How could the Ramban, for whom Eretz Yisrael was so central, say that the ge'ula occurred in the middle of a desert?

The entire Torah is a tale of how the Jews reached Israel. Rashi says as much in parashat Vayeshev. While, with regard to all other nations, the Torah simply tells us that they got their land ("Eileh toldot Eisav be-har Se'ir, etc."), the toldot of Yaakov and the story of how his children inherited the land is quite lengthy. Why do we need to hear every detail?

The normal situation is that every nation has its homeland: the French have France, the Belgians Belgium, etc. Thus, Am Yisrael receiving Eretz Yisrael is within the normal workings of the world. Ge'ula, in the religious sense of the word, occurs when Am Yisrael reaches the level of its forefathers. There might be only a very short period when this goal is realized, such as part of the time in the desert and some of the period of the first Temple. But this sad historical reality in no way detracts from the fact that this is the ideal situation.

Just as this ge'ula can occur at Har Sinai, so too the mere presence of Am Yisrael in Eretz Yisrael does not assure redemption. Many people have said that with our return to Israel, we have reached redemption. But ge'ula is not about land, being like the French or the Belgians, although that is important. We still have a long way to go; we cannot sit back and rest.

As a child in chutz la-arezt, I heard from a Maggid a very interesting parable. In a small shtetl, there was a shamash (beadle) named Yankele. Yankele the shamash was a tzaddik. He stayed up late at night cleaning and fixing the beit midrash; he serviced all the public facilities; he made sure everything in the synagogue was ready for the holidays. Whenever needed, he gave the daily shiur, and served as chazzan when there was no one else. During the week before Rosh Hashana, he would stay up all night cleaning the synagogue and then would wake everyone in the town before daybreak for selichot.

On erev Rosh Hashana, selichot were especially early, and after a week of hard work, Yankele could barely keep his eyes open. He would recite "Hashem, Hashem..." and nod off. The mischievous youths started throwing things at him to wake him up. "What do you want from me?" Yankele exclaimed. "All year long I work hard for you; let me live in peace!" "Yankele," they answered him, "you wake us up for selichot at five in the morning, and you expect us to allow you to fall asleep!?"

For two thousand years, Am Yisrael disturbed the peaceful slumber of the world. We woke up the nations of the world to the values of tzedek and yosher (justice and righteousness), trying to remind them of their duties and conscience. Finally, Am Yisrael came home, to the "menucha ve-nachala;" but the nations of the

world will not let us rest.

No, there is no ge'ula until Benei Yisrael "higi'u le-ramat avotam" - reach the level of their forefathers.

(Originally delivered on Leil Shabbat Parashat Shemot 5757.)

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From: Kol Torah[SMTP:koltorah@hotmail.com] Sent: Friday, December 28, 2001 To: koltorah@hotmail.com Subject: Parshat Vayechi Opening Cans on Shabbat

KOL TORAH A Student Publication of the Isaac and Mara Benmergui Torah Academy of Bergen County Parshat Vayechi
OPENING CANS ON SHABBAT
BY RABBI HOWARD JACHTER

This week we will discuss the permissibility of opening cans on Shabbat. We will trace the development of the debate from the Gemara and Rishonim to the Shulchan Aruch and its commentaries, and through twentieth century Halachic authorities.

Gemara and Rishonim - Shabbat 146a and Eruvin 34b The Mishna (Shabbat 146a) states that one may break open a barrel in order to retrieve the figs contained in the barrel, if one does not intend to create a functional opening for the barrel. A problem with this rule is that it seems to be a destructive act (Soter), which should be forbidden (on a rabbinic level) on Shabbat. Rashi (as interpreted by the Ran to the Rif Shabbat 61b s.v. Shover Adam) explains that since one destroys the barrel to obtain Shabbat needs, the rabbinical prohibition to destroy is waived. This Gemara indicates that one may open a container to gain access to the food inside.

On the other hand, the Gemara (Eruvin 34b) indicates that one may not break open an object in order to gain access to the contents. This Gemara teaches that one may not break a shed to obtain the food inside it. Accordingly, the Gemara in Eruvin appears to contradict the Gemara in Shabbat. There are two main schools of thought in the Rishonim regarding how to resolve this apparent contradiction. The Ran (ibid.) and other Rishonim argue that Shabbat 146a represents the conventional case. Eruvin 34b constitutes the exception, as it is speaking of breaking an exceptionally large vessel. The policy of Chazal to suspend the rabbinic prohibition against breaking items if the breaking is done for Shabbat needs, applies only to breaking items normally used for food storage. However, Chazal never waived their prohibition in the case of breaking a very large item such as a shack.

Tosafot (Shabbat 146a s.v. Shover), on the other hand, argue that Eruvin 34b represents the conventional case. Shabbat 146a constitutes the exceptional case because it is speaking of breaking a makeshift and flimsy vessel (a Mustiki). Tosafot argue that Chazal prohibited opening a conventional vessel because of concern that one create a viable opening. Chazal are not concerned that he may make a viable opening when one opens a Mustiki. Since a Mustiki is a poor quality item, it is not worth investing the effort in order to make a functional opening.

The Rambam (Hilchot Shabbat 23:2) seems to agree with the Ran, as he does not limit permission to break open a vessel containing food to a Mustiki. The Rambam and Ran do not believe that Chazal were concerned lest one create a viable opening. The Rosh (Shabbat 22:6), however, follows the approach of Tosafot.

Shulchan Aruch, its Commentaries, and Nineteenth Century Codes The Shulchan Aruch (314:1) rules in accordance with Tosafot and the Rosh. This is somewhat surprising since the Shulchan Aruch here rules in accordance with the Ashkenazic Rishonim and rejects the approach of the Sefardic Rishonim. The Biur Hagra (O.C.314:1 s.v. Sheeinah Machzeket), though, rules in accordance with the Ran and the Rambam. The Mishna Berurah (314:7) mentions the ruling of the Vilna Gaon, but does not regard the Vilna Gaon's opinion as normative.

This decision of the Shulchan Aruch troubles the Aruch Hashulchan (O.C. 314:7-8). The Aruch Hashulchan wonders why the Shulchan Aruch chose to reject the opinion of such a significant number of Rishonim on this issue, which involve only a Rabbinic

prohibition. The Aruch Hashulchan concludes that one should not rebuke those that follow the opinion of the lenient Rishonim and the Vilna Gaon in this context.

Cans - Four Approaches

The issue of opening cans has been vigorously debated for many decades. Four basic approaches have emerged. The Tehillah Ledavid (314:12) believes that cans constitute sturdy vessels, which are forbidden (on a rabbinic level) to open, lest he fashion a proper opening.

On the other hand, some Poskim (Kaf Hachaim 314:38; Rav Shlomo Zalman Auerbach, cited in Shmirat Shabbat Kehilchata 9: footnote 10; Rav Ovadia Yosef, Teshuvot Yechave Daat 2:42;) regard cans as a Mustiki, since cans are customarily discarded after use. We stress that even these authorities prohibit opening a can if one intends to use the can for storage after removing its contents. Moreover, these authorities urge accommodating the stricter opinion and opening cans before Shabbat. Rav Yosef Adler reports that Rav Yosef Dov Soloveitchik subscribes to the lenient approach.

The Chazon Ish (O.C. 51:11) adopts a very interesting position regarding cans. He believes that a sealed can is not the Halachic equivalent of a barrel, which is forbidden to open only on a rabbinic level. He argues that a can, unlike a barrel, does not have the Halachic status of a vessel (Kli). The Chazon Ish therefore asserts that when one opens a can he "transforms a [functionless] sealed item into a functional Kli." Hence, the Chazon Ish believes that opening a sealed can constitutes a violation of the biblical prohibition of Binyan (building) on Shabbat. Rav Shlomo Zalman Auerbach (Shmirat Shabbat Kehilchata 9:footnote 10) notes, however, that one could argue that Binyan occurs when sealing the cans in the factory. It seems counterintuitive to Rav Averbach that sealing the cans constitutes an act of Soter when one's intention is to facilitate shipment and long-term integrity of the food contents.

Rav Moshe Feinstein (Teshuvot Igrot Moshe O.C. 1:122) wrote a lengthy responsum on this topic. It is interesting to note that Rav Moshe wrote this Teshuva in 1935 when the Soviet police placed him under house arrest because of his service as a community Rabbi. Ironically, this Teshuva explores this issue in great depth, perhaps because of the extra time Rav Moshe had available to concentrate on his writing because of the limitation the Soviet authorities put on his activities outside the home (note Shemot 1:12, which tells us that the more they try to hurt us, the more we flourish).

Rav Moshe writes that it is theoretically permissible to open cans that people customarily discard after emptying their contents. He believes that opening these cans is analogous to cracking open a nut or peeling a banana (see Shulchan Aruch O.C.314:8). Rav Moshe argues that even Tosafot, Rosh, and Shulchan Aruch would permit opening this type of can, since there is no concern for fashioning an opening. However, Rav Moshe writes that it is forbidden to open those cans that some people use after emptying its contents. Regarding these cans there is concern that one will create a functional opening. Rav Moshe also believes that when one intends to use a can after emptying its food contents, he creates a Kli. Rav Moshe believes that the can is not a Kli because people intend to use it only once. Only when one intends to reuse a can does it attain the status of a Kli.

These assertions also have ramifications for the Halachot pertaining to Tevilat Keilim. Rav Moshe (Teshuvot Igrot Moshe Yoreh Deah 3:23) rules that Tevilat Keilim is not required for disposable items, since they do not enjoy the status of a Kli. Similarly, one who wishes to fill a Snapple bottle with water need not immerse the glass in a Mikvah before drinking the water based on these principles that Rav Moshe outlines. The Snapple bottle is disposable and is not regarded as a Kli. When a Jew decides to use the empty Snapple bottle as a water container, he has upgraded the bottle to a Kli status. It is considered as if the Jew created the Kli and therefore the bottle does not require Tevilah according to Rav Feinstein (Teshuvot Igrot Moshe Yoreh Deah 2:40; but others disagree, see Teshuvot Seridei Eish 2: Y.D. 75).

Rav Moshe writes that in practice one should not even open cans that people customarily discard. He expresses concern that people

who are not learned will be unable to grasp the distinction between cans that we may open and those we may not. He cites Shabbat 139, where the Gemara forbids certain permissible activities for communities where the people are not scholars, as a precedent for this approach. Rav Moshe notes the lack of Torah scholarship and the prevalence of Chillul Shabbat in our generation. Hence, he refrains from issuing a lenient ruling that he feels will ultimately lead to Chillul Shabbat.

My student Mashiach Farzanfar notes that Rav Moshe's concern is particularly relevant today when people fill empty cans with garbage in order to save space in the garbage can. Since one intends to use the can as a receptacle for garbage after emptying its food contents, it seems that he violates a biblical prohibition of creating a Kli when opening a can. Nevertheless, Rav Moshe permits asking a non-Jew to open a can that people customarily discard after use in case of great need. It is for this reason, Rav Moshe writes (Teshuvot Igrot Moshe O.C. 5:21:24), that such cans are not Muktzeh.

We should note that Rav Moshe Feinstein (Teshuvot Igrot Moshe O.C. 3:76) and Rav Moshe Soloveitchik (cited in Nefesh Harav p.189) forbade Yom Tov Sheini burials in America due to concern that this practice will lead to violations of Hilchot Yom Tov in this country due to the low level of Torah scholarship among the broader Jewish community. Chassidim continue to practice burial on Yom Tov Sheini in this country.

Conclusion

There is a rich debate whether one may open cans on Shabbat. Almost all poskim agree that the best policy is to survey the situation at home on Erev Shabbat and open any cans that one might need on Shabbat. Next week we will discuss the issues of opening various containers on Shabbat.

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From: Rabbi Riskin's Shabbat Shalom List
parsha@ohrtorahstone.org.il

To: Shabbat_Shalom@ohrtorahstone.org.il
SHABBAT SHALOM: PARSHAT SHEMOT (Exodus 1:1-6:1)
BY RABBI SHLOMO RISKIN

The Book of Exodus recounts the drama of the exodus from Egypt, the emancipation of the Hebrew slaves from servitude in exile to freedom in their own land. However, from the very beginning of the story, there appears to be the offer of a strange compromise on the part of G-d and the Hebrews which is incomprehensible if it is given in good faith, and immoral if it is a mere ploy.

Initially, the Almighty encounters Moses with a very direct and unambiguous mission-mandate: And now go, and I shall send you to Pharaoh; take out my nation, the children of Israel, from Egypt" (Exodus 3:10). Moses demurs, protesting that he is not worthy of the task and cannot possibly succeed in effectuating the desired goal of an exodus. G-d reveals His name, and then offers what seems to be a plan of mediation: ".You come together with the elders of Israel to the King of Egypt, and say to him, 'The Lord G-d of the Hebrews chanced upon us; and now let us please go for a journey of three days in the desert so that we may offer sacrifices to the Lord our G-d'" (Exodus 3:18). What is happening here? It seems as if the Almighty began charging Moses to demand the right of aliyah, and concludes with the request of a three-day U.J.A. Mission! Why the switch, especially since it is obviously disingenuous!

This question is raised by various Biblical commentaries who attempt to deal with this issue in various ways. The Abarbanel

attempts to mitigate the moral problem of the apparent deception: Neither (G-d, nor Moses (Exodus 5:3)) stated that the Israelites would return (to Egypt) after their desert journey of three days; therefore, Moses did not lie." Perhaps the Abarbanel is correct from a technical perspective - the precise words that they would return after three days are not included in their request - but they certainly did give the impression that they would return after their religious pilgrimage!

The Holy Ohr HaHaim (Rav Haim Ibn Atar) suggests that by saying that they would return after three days they made it more likely that the Egyptians would accede to their request for a loan of gold and silver vessels; after all, were they to state that they were off on "aliyah," the Egyptians would understand that there was no chance that they would receive the vessels back, and so they would "lend" the vessels in the first place. Obviously the Bible believes that the Israelites were entitled to the gold and silver as a minimally just compensation for the hard work the Hebrews had expended on behalf of the Egyptians for 210 years - without having received any remuneration. But this only exacerbates our moral problem. Why not make the legitimate demand up-front? Why resort to the deception of a loan and a three-day-mission?

The fact is that a strong argument can be made to justify lying to Pharaoh in order to effectuate the exodus. The Talmud - and therefore normative Jewish law - grants unequivocal permission to lie for the sake of a higher good; peace is considered to be a far more important goal than truth. It is on this basis that the Sages explain the fact that G-d deleted Sarah's comment about Abraham's being old when He reports her reaction to His guarantee that she will bear progeny: G-d acted in the interest of familial peace (shalom bayit), which is a higher value than complete disclosure of the whole truth. (B.T. Bava Metzia 22a). I would submit that facing a slave people, saving innocent Hebrews from being slain by sadistic Egyptian taskmasters, certainly qualifies as legitimate enough "peace" to justify the ploy of "three days".

My question on the reason for the three day U.J.A. "mission" suggestion would be a different one. Apparently it didn't help much to soften Pharaoh's opposition; the Almighty certainly knew that Pharaoh would not be moved even by such a reasonable concession, so why suggest it in the first place?

I believe that we can best understand the "three day" concession once we realize that Moses' major task was not to convince Pharaoh - that was clearly "mission impossible" - but was rather to convince the Jewish people. Indeed, Moses complains to G-d in the beginning of next week's reading, "Behold, the children of Israel do not listen to me, so how can I expect Pharaoh to listen to me?" (Exodus 6:12). Apparently Moses understands that the first task of a Jewish leader is to rouse his own nation to proper action - and only then will the Gentile enemy fall into line. As David Ben Gurion said, "It's not important what the Gentiles think' the only important thing is what the Jews do!"

Pharaoh as all anti-Semitic despots in history did everything in his power to disarm the Israelites, to dull their senses to such an extent that they would not realize that he was destroying them until it was too late for them to act. And so he "deals cleverly with them," convinces them that they are part of a national work force, and attempts to enlist Hebrew women as mid-wife baby murderers and Hebrew men as officers over their brethren (Exodus 1: 10, 11, 16). The national reaction of a weak minority is to believe in the good intent of the powerful despot, to hide their eyes from the apparent persecution and cruelty, to try to believe that the situation will improve. G-d and Moses had to demonstrate Pharaoh's cruel unreasonableness first and foremost to the Israelites - so that they would participate in the rebellion. The best way to do this is by requesting not full scale aliyah but merely a three day "mission" into the desert for a religious ceremony; when Pharaoh rejects even that, the true intent of his masochistic machinations becomes clear even to the Israelites who wanted desperately to believe in him.

The lessons of the Egyptians experience reverberate down to Nazi Germany, Stalinist Russia and Arafat, Palestine. It was only when Arafat rejected most of the post '67 territories offered by former Prime Minister Barak and made clear, by terrorist actions, his designs on the

post '47 territories as well, that most of Israel became united in the continuation of our War of Independence. May the Book of Exodus bring peace and redemption in our times as well.

Shabbat Shalom www.ohrtorahstone.org.il/parsha/index.htm
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From: listmaster@shemayisrael.com To: Peninim Parsha
PENINIM ON THE TORAH
BY RABBI A. LEIB SCHEINBAUM
PARSHAS SHEMOS

So they appointed taskmasters over the nation in order to afflict it with their burdens. (1:11)

In order to understand fully the meaning of geulas Mitzraim, redemption from Egypt, it is essential that we have a clearer conception of the shibud, slave labor, to which the Jewish People were subjected. Pharaoh was a cruel despot whose goal was to demoralize and dehumanize the Jewish people who were propagating by leaps and bounds. Simply subjecting them to hard labor would just not be an effective response to his problem. Chazal teach us that Jewish slaves built the two great treasure cities of Pison and Raamses on soil which was totally unsuitable for construction. Indeed, as soon as a building was erected, it would topple over. Another opinion contends that as the work progressed, the building was swallowed up in the quicksand-like earth. Why would Pharaoh initiate a project that was doomed? Why would he waste the free labor of millions of workers, to say nothing of the tons of raw material that he was wasting?

Horav Avraham Pam, zl, suggests that this is the meaning of "I'maan anos b'sivlosam," "to afflict it with their burdens." Pharaoh understood that hard work, even back-breaking labor, was something with which a person could learn to live, as long as he had the ability to enjoy the fruits of his labor. When a person toils and slaves, however, but receives no sense of satisfaction from the completed task - in fact, observes the destruction of the fruits of his labor - he is then being subjected to the most demeaning torture. Nothing demoralizes a person more than seeing everything for which he has slaved become rubble. This was Pharaoh's diabolical goal: to see to it that the Jews derived no fulfillment from their toil. He was willing to lose so much as long as the Jews could not gain anything from their work. This is evil at its nadir. Rav Pam applies this idea to parents and rebbeim, Torah teachers, as well. Parents toil endlessly in an attempt to support their families. The daily pressures, the inevitable crises, together with the regular dosage of tzaar gidul banim, the pain of raising children, all contribute to rendering parenthood an extremely difficult task. Yet, if the children grow into G-d-fearing Jews whose commitment to Torah and mitzvos is unequivocal, then it is all worth it. If, unfortunately, the converse occurs, and the children do not turn out as we had hoped, there is no greater source of pain and distress.

Likewise, in the world of education, it can all be worth it: the energy expended, the sacrifice of a more lucrative career, dealing with difficult students and parents; and devoting oneself to a profession which is far from glamorous and not yet held in its proper esteem. If one succeeds and produces students that are a credit to the rebbe and Am Yisrael - it is all-worthwhile. If one does not succeed, however, the feelings of frustration and regret are extremely difficult to manage. Now, if we can only get our children and students to appreciate this perspective, life would be much easier.

Moreover, behold, he is going out to meet you and when he sees you he will rejoice in his heart. (4:15)

Chazal teach us that Hashem overlooks no good deed, however natural or insignificant. The Midrash views Aharon's sincere joy at meeting his brother, and celebrating his appointment as leader and spokesman for the emerging Klal Yisrael, as an act of great nobility. Indeed, it states that had Aharon realized that the Torah took note of his joy at Moshe's good fortune, he would have greeted Moshe with drums and danced. In other words, had Aharon known that his natural,

sincere feelings of brotherly love and joy was significant enough to be recorded in the Torah as a lesson for eternity, he would have done even more than he had already done. Chazal continue, deriving a lesson in derech erez, proper conduct, from Aharon's actions: a person carrying out a mitzvah should do so with a happy heart. They express a similar thought in regard to Reuven and Boaz. If Reuven would have known that Hashem would write about him, "Reuven heard and saved him (Yosef) from their hands," he would have put Yosef up on his shoulders and carried him to his father. Furthermore, if Boaz had known that Hashem would write about him, "He pinched up a bit of grain for (Rus)," he would have brought fattened cows and served her. Obviously, this Midrash demands elucidation. These great tzaddikim were not the type whose actions were influenced by the plaudits they received. They did what had to be done. They were capable of performing great deeds - and if in these three incidents they only did so much, it was because they ascertained that this is what was warranted at the time. How would an awareness of Hashem's high regard for them and their actions change what they felt should be done? Did they not always act in accordance with the demands of the situation?

Horav Meir Bergman, Shlita, cites what he heard his father-in-law, Horav Elazar Menachem Man Shach, zl, say in regard to this Midrash. Aharon HaKohen appraised and scrutinized every one of his actions. Despite being a great Navi, prophet, in his own right and also Moshe Rabbeinu's older brother, his natural humility overrode any feelings of envy he might have harbored over Moshe's appointed role as savior of the Jews in Egypt. Moreover, in his great self-effacement, he even went out to greet and pay respect to Moshe with a heart filled with sincere happiness. However, his constant introspection impeded him from expressing his feeling of joy through music and dancing. He was unsure of himself. Was it for real? Would such an exhibition of joy be sincere, or would it be tainted, an empty, insincere display that did not veritably reflect his true inner emotions. Because he was not sure, he kept his joy silent, his emotions concealed from the world.

Had he known that Hashem would write about him a testimony to his untarnished integrity, he would certainly have gone out to greet Moshe with dance. Aharon was unsure of the integrity of his actions. How far are we from this concept?

Horav Bergman extends this idea further as he explains the rest of the Midrash which focuses on Reuven and Boaz's dilemma. Reuven was concerned. How could he take upon himself the responsibility to save Yosef if his brothers had rendered a halachic decision against him? They were righteous scholars who had even included the Shechinah in their deliberations. Who could say authoritatively that Reuven was right and the brothers were wrong? Perhaps he was not a hero but, simply, a rebel who was undermining the power of Bais Din?

If he had known, however, that Hashem would write about him, "Reuven heard and saved him from their hands," attesting to the integrity of his rescue, he would not have thought twice about putting Yosef on his shoulders and carrying him to his father.

Boaz's action may be viewed through the same prism. When he asked his servant, "To whom does this woman belong?" the servant was slightly taken aback. Boaz was not one to ask about strange women. Chazal say that Boaz was impressed with her wise conduct: She would glean two stalks at a time - not three - in accordance with halachah, Jewish law. The Alshich Hakadosh explains that the servant privately questioned Boaz's motives and thus his oblique answer, "She is a Moabite woman," was his way of telling Boaz, "You cannot marry her. Besides, because of your stature, there really is no Jewish woman that is suitable for you."

Boaz was humble and pure in spirit. He took the hint. He always made sure his behavior met with the approval of those who looked up to him. Now was no different. He questioned his motives; he introspected his intentions. Was he being truly altruistic or carried away by a young woman? Thus, when he called Rus to eat and she sat at one side, away from the men, he gave her only a token amount of food, for he was distrustful of his personal motivation. Hence, he would not allow himself to do more.

Had he known, however, that Hashem would later write about his conduct with praise, declaring his purity of heart to future generations,

he would have undoubtedly have run and "brought her fattened calves and fed them to her."

We now understand the rationale behind Reuven, Aharon and Boaz's actions. Yet, the Midrash seems to criticize them for not doing the mitzvah wholeheartedly. If they had a good reason for their actions, why are they criticized? Horav Bergman explains that these great individuals acted with constraint precisely because they were great. Men of diminished spiritual stature, less respectful of the Divine Majesty, less in awe of the Heavenly Throne, might have acted with greater tolerance, but are these giants of Torah to be rebuked for their immense veneration? Horav Bergman responds affirmatively, explaining that people of such stature redefine the word "wholeheartedly." Although the self-distrust and consequent actions which Reuven, Aharon and Boaz exhibited, were motivated by greatness, meticulous integrity and objectivity - something is still missing from the picture. In the final analysis, they still did not act wholeheartedly. There was something missing in their avodas Hashem, service to the Almighty. For however much a person should scrutinize and distrust himself, when a mitzvah presents itself, he should act with a pure heart and trust in Hashem - regardless of his personal doubts. This is the underlying meaning of the pasuk, "B'chol derachecha de'eihu; v'hu yeyasher orchosecha," "In all your ways know Him, then He will straighten your path." If "in all your ways you know Him," desiring that everything you do be in accordance with His will, then whenever a mitzvah presents itself, He will give you the fortitude and understanding to carry out your duty truthfully. We have to act, and Hashem will "straighten" our path.

From: RABBI JONATHAN SCHWARTZ jschwrtz@ymail.yu.edu Sent: Wednesday, January 02, 2002 To: chabura613@hotmail.com Subject: Internet Chaburah -- parshas Shemos

Prologue: Interestingly Chumash Shemos opens a bit earlier than it left off.

Whereas the Sefer terminated with the death of yosef and the promise of Pakod Yifkod, Sefer Shemos opens with an enumeration of the names of the children HaBaim Mitzrayima those who came down with Yaakov. Interestingly enough, the language of Habaim is similar to the one used in VaYigash when the Jews actually came down to Egypt. Then, the children of Yaakov were actually entering Egypt. However, why stress the same census again with the prelude HaBaim? Wouldnt a term that stressed past tense be more correct? After all, the Jews had been in Egypt for at least 2 generations at the start of the book of Shemos?

The Midrash Rabba points out that the reason for the stress on Habaim at the beginning of the Parsha relates to the sense of newness that the Jews felt at the start of the beginning of the book of Shemos. Despite being in Mitzrayim for a long time, they were as accepted as if they had arrived the day before. Chezkuni notes that the Jews were still not being welcomed into the midst of Egypt and as a result were treated suspiciously and ultimately enslaved. Thus, despite the issue being "old news" the Torah needs to repeat the history of the beginning of the sojourn in Mitzrayim in order to appreciate the underpinning of the slavery that followed.

The Rov ztl. (Divrei Hashkafa) noted that this concept of isolation and separation has been the hallmark of anti-Semitism in every generation. Those Anti-Semites who try to incite the masses against the Jews do so by isolating them and not welcoming them. The Egyptians did it by classifying Bnei Yaakov as Ivriim. Haman noted the fact that the Jews were different than all other nations and the Germans did the same in our generation. No matter how hard the Jew tries to assimilate, the Anti-Semite sets him apart as a stranger like the first day he joined the country.

One of the praises of the Jew in Egypt was his ability to remain proud of his heritage. He did not change his clothes, his language or his Jewish name. This weeks Chaburah examines the Halachic requirements of not changing. It is entitled:

Lo Sheenu Es Malbusham: Do clothes really make the man or the

religion??

One of the most glorious merits of the young Jewish nation was their ability to withstand the pressures of the long and often treacherous exile in Mitzrayim. Chazal tell us that it was in the merit of simple things like not changing their names, language and dress style that they merited redemption from Egypt (see Torah Shelaima who challenges the correct text for this Mamar Chazal). Keeping ones name straight and retaining his mother tongue are clearly part of keeping ones identity even in a strange land. But what are the parameters of an obligation not to change ones dress? Are we obligated to look different like the Amish? Or perhaps merely wear reminders on our sleeves, a yellow mark perhaps, to be different? What are the obligations of the praise Lo Sheenu Es Malbusham?

Interestingly, the major Poskim seem to agree on the source of the issue but take it along different lines in explanation. Smag (Lo taaseh 50) notes that the obligation of BChukoseiheim Lo Seileichu includes a prohibition against dressing like non-Jews. He notes that the obligation, repeated three times in the Torah (VaYikra 18:3, 20:23, Devarim 12:30), come to remind a Jew of the necessity to be different from non-Jews in dress, style and spoken word. Rambam concurs (Hil. Avoda Zara 11:1) with the need for a Jew to be recognizably different from non-Jews in his dress but adds that this is accomplished if the Jew does not wear clothes that are specifically made for non-Jews (like a Nuns habit or even an Easter bonnet). Both the Rambam and the Smag seem to feel that to violate the dress code of Jews is a violation of Biblical law (See Gra who seems to agree).

The problem for both begins with a statement of the Talmud (Bava Kamma 83a) which notes that the rabbis allowed Avtolmos Bar Reuven to receive a non-Jewish haircut merely because he was a regular at the secular royal court. Tosafos asks how this was possible and explains that the original Gezaira did not apply to those who were involved in political careers and might need the haircut in order to find favor in the eyes of the king. Rabbeinu Yeshiah (cited in Shittah Mikubetzes) notes that from this example in the Talmud (where a dispensation was offered) we see that the decree on clothes is not Biblical but rather Rabbinic in origin. Others (Minchas Chinuch 262, Kovetz Shiurim, Bava Kamma 98, Prisha Y.D. 278:2) try to explain the Gemara differently in accord with the opinions of the Smag and the Rambam who both agree that for political reasons the rules of dress can be relaxed.

What is included in the practice of Chukos Hagoyim? Yerayim (313) notes that there is a Tosefta (Shabbos 7:1) that spells out all of the forbidden practices of Chukos HaGoyim. Bach adds that these are related to the specific practices of Avoda Zara practice and it is these practices (and these alone) that are forbidden. However, something not on the list would be Mutar. This opinion is a minority and generally not followed Halachically.

However, the position of Tosafos (Avodah Zara 11a) is taken a bit more seriously. Tosafos develops two major criteria for the definition of chukos Hagoyim. He notes that either the practices contain direct Avodah Zara specification or they are Chukim of nonsense. Without these two criteria, there is no prohibition of Chukos hagoy. Thus, if there is a reason for a practice that a non-Jew follows and it is not Avoda Zara related, it would be Mutar to follow that practice. Ran (Rif pages 2b) adds that when there is no reason for a practice, Avoda Zara is a usual underlying reason. Otherwise it is Mutar. Rav Yosef Colonge (Maharik 88, cited in Kesef Mishneh Hil. A.Z. 11:1) utilizes this reasoning in our Sugya as well. He notes that unless there is a Tznius or Avoda Zara reason for the differentiation between Jewish and non-Jewish clothing, there is no reason for the differentiation and separation in dress from the non-Jews. Thus, a doctor may wear his lab coat because there is a reason for the dress. He is wearing the sign that he is a doctor. (Similarly, it would follow that one can wear cap and gown as it delineates a graduate so long as this dress is not recognized as coming from the church.)

This position created a bit of difficulty for the Vilna Gaon (cited in Biur Gra to Y.D. 178) who cited a prominent Gemara (Sanhedrin 52b) suggesting that Chukos Hagoyim applies even where a reason for the practice is clear and not Avoda Zara. He concludes that so long as

the clothing is specifically non-Jewish, one may not wear it in order to prevent the intermingling of Jew and non-Jew possibly leading to intermarriage. This was his Psak even in instances where the clothes style was neutral. Thus, any dress of non-jews cannot be followed by Jews.

What then does one do today? The Taz (Orach Chaim Siman 8) seemed to define the Issur to instances when Chok was a legal definition. That means if the government regulated dress differences, then Jews may not follow the prescribed dress of non-Jews. Otherwise, there is no problem. Rav Mordechai Banet (Eleh Divrei haBris p. 19) applied the same definition to describe the right of doctors to wear white coats. It is not a law but rather a societal issue that doctors wear white coats. That being the case, doctors (even the Jewish ones) can continue their practice as it is not Chukos Hagoyim but rather Minhagim. Similarly, statements of fashion may be followed by Jews as it is not the government that sets fashion policy but society. Ergo, the term Chukos Hagoy does not fit in describing this phenomenon. It is not a Chok but rather a practice. (see also Nefesh HaRov p. 231 for the differentiation that the Rov made between dress of a country and that of Western Society which would fit into this schema that Chok implies something handed down by government while fashion is something that transcends Chukim boundaries.)

LHalacha, it seems that most Poskim follow the view of the Maharik despite the position of the Gra. Accordingly, Rav Moshe (Igros Moshe Y.D. 81) allows any dress that has a purpose even if the original purpose was for Avoda zara as long as Tznius is preserved. He allowed Polish immigrants to follow Western dress styles because there were those in America who were already dressing this way and were Jewish. Rav Ovadia (Yabia Omer III: Y.D. 24:5) agrees that Halachically one can rely on the Maharik and follow Western dress as it is not specifically Goyishche. The position of the Rov (Divrei Hashkafa, p. 227) should not be discounted. Namely that the Jewish success in exile has always been in not being embarrassed of being Jewish. Any attempt to cover ones Jewishness violates Chukos Hagoyim. Lo Sheenu Es Malbushim Vlo Boshu.

Battala News Mazal tov to Simcha Stern upon his recent engagement. Mazal tov to Rabbi Menachem Luftglass upon his sisters engagement.

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SHMOS RABBI BEREL WEIN

The Kohanim and Leviim (priests and Levites) form a distinct and special group among the Jewish people. The Torah grants them special privileges and the Jewish people as a whole accord them special honors. In Temple times, they were the custodians and public servants of Israel in the Temple service. The gifts and tithes of Israel supported them and they were exempted from many civic responsibilities and national duties. They were to be devoted to the service of God and of Israel, a holy and dedicated cadre of teachers, role models and public servants. Even today, when Temple services in Jerusalem are nonexistent and the Kohanim and Leviim receive no tithes or special gifts from the rest of Israel, they still receive special honors in the synagogue and family and are viewed with unique respect and honor.

In the enslavement of the Jews in Egypt, which is described in this week's Torah reading, the tribe of Levi was exempted from the physical toil of forced labor. Moshe and Aharon, the first kohanim, were the leaders of Israel and it is through their hands that the deliverance from Egyptian bondage was achieved. We all know that being a kohen or a Levi is a matter of Jewish patrilineal descent. But nevertheless, there is a clearer and much more universal definition of being a member of this group that the Torah provides, and that definition includes all of us, in fact, every human being on earth.

Rabbi Moshe ben Maimon in his Mishna Torah, at the end of Hilchot Shmita V'Yovel, states: "What differentiated the tribe of LeviBwas that they were designated and separated from the others in order to devote themselves to the service of God, to teach God's

righteous ways and just statutes to the manyBTherefore, they were held apart from worldly ways and mundane tasks; they did not participate in the battles of war; they did not inherit or acquire for themselves land. Rather, they were God's armyB and the Blessed One sustained them for it is written 'I am your share and your inheritance.' And this is true not only for the tribe of Levi exclusively, but for every human being that enters this world's life whose spirit moves one and one understands of one's own knowledge and will that one wishes to be apart and to stand before the Lord and serve and obey Him, to know God and to walk righteously as the Creator intended; to remove from one's neck the yoke of the many schemes that man pursues - such a person is sanctified and is holy of holies.

The Lord will be that person's share and inheritance forever and the Lord will provide for this holy person in this physical world as well so that the person will be able to have that which is sufficient for life, as the Lord so provided for the kohanim and Leviim." This most powerful statement contains within it the essence of the Jewish worldview of life and its purpose. Rambam declares therein: "everyone can be a Levi!" That was the hard lesson of Egyptian bondage - namely, that the way for a Jew to escape the physical bondage of society that otherwise engulfs us is to be a Levi. It is because of this insight, that Moshe and Aharon become the leaders of Israel and the redeemers and role models for all generations of Jews. My beloved grandson, Ephraim Yirmiyahu Halevi Teitelbaum celebrates his Bar Mitzva this Shabat of Shmot. He is a Levi by virtue of family descent. But in our time, perhaps even in past times, family descent is an insufficient guarantee of the spiritual future of any individual Jew, and certainly of Jewish society as a whole.

The road of assimilation in American Jewish life is littered with the descendants of great Jews of previous generations. Hillel had it right when he said, "If I am not for myself, then who will be for me?" It is not sufficient for Ephraim to be a Levi by descent and pedigree only. He must become a "Rambam Levi" and the accomplishment of that is dependent completely upon him. It takes years of Torah study, personal sacrifice and unwavering commitment to become a "Rambam Levi." The taskmasters of Egyptian bondage, in all of their attractive and unattractive guises, are persistent and cruel in our society, especially towards the young. Moshe and Aharon call out to redeem but sometimes Jews don't hear or listen to them. But the truth of the matter is that we all would like to be Leviim. And true Leviim - "Rambam Leviim" - never toil in the bondage of the Egyptian Pharaoh. May Ephraim and all of his siblings and cousins grow tall and straight in Torah knowledge and values and be of vital service to the Almighty and Israel.

From: Ohr Somayach[SMTP:ohr@ohr.edu] To: weekly@ohr.edu
* TORAH WEEKLY * Highlights of the Weekly Torah Portion
Parshat Shemot

OH SO VERY 'UMBLE!

"Moshe replied to G-d, 'Who am I that I should go to Pharaoh?'" (3:11) The Day of Judgment. Millions of eyes turn to the West. Trembling fingers open the envelope of destiny. "Ladies and Gentlemen, the award for the best actor in a leading role isB."

Every camera in the building zooms in on the carefully-rehearsed spontaneous outpouring of emotion of the victor. Rising from his seat, he emotes all the way to the microphone and that little golden idol called Oscar. He ascends the stage. The lights dim. In a voice that drips the sincerity of a leaking faucet, he begins his acceptance speech.

"Members of the Academy. Dear friends. I can't tell you what an honor it is to be standing here.

"There are so many people that I have to thank. My director. My producer. My cameraman. All the crew who worked so hard on my film.

"Yes, there are so many people to whom I owe a tremendous debt of gratitude. But there is one person who deserves special thanks. One person without whom I would not be standing here today. One person, above all, who has been responsible for making me a legend

in my own lunchtime. I know he's going to be very embarrassed when I mention his name because, not only is he a leading talent, one of the most brilliant people in the industry, but he is also undoubtedly the humblest.

"Ladies and Gentlemen, I want to thank.....ME.

"You have no idea what it was like to work with Me. The incredible generosity and inspiration of spending so much time with Me. The unbelievably unselfish way that Me had in every scene we had together. The feeling that I had really formed a lifelong friendship with Me. All I can say is that I can't wait to work again with Me.

"They say that this is a dog-eat-dog industry, that you can't trust anybody. But I know that whatever may happen, even if the world turns me down, I can still trust Me.

"I know that at this moment Me is probably cringing with embarrassment, but I want you to know that a person can have the best script in the world and the best director in the world and the best editor in the world, but the most important person in the world is Me!

"Thank you and remember, I did it my way."

There was a holy Jew who left this world of illusion not so long ago. Once someone showed him a picture of himself. He looked at the picture and exclaimed, "Who is this holy Jew whom awe of Heaven shines from his face?!" He had never looked in a mirror and had no idea what he looked like!

When G-d tells Moses to lead the Jews out of Egypt, Moses replies "Who am I to go to Pharaoh and to take the Children of Israel out of Egypt?"

Moses' reluctance is puzzling. How could he supplant G-d's judgment with his own? G-d told him to do something, so why should he fear failure?

Moses understood that G-d wanted him to use his own human powers of persuasion on Pharaoh, and his own charisma to inspire the Jews, not relying on Divine intervention. Moses thought the task was on his shoulders alone and so he hesitated. He wasn't sure he had the necessary qualifications.

About a hundred years ago in Europe, the Chafetz Chaim dispatched one of his students to serve as rabbi in a large, distant and unlearned community. The potential rabbi balked. "The job is not for me," he said. "I'm afraid I'll make mistakes." The Chafetz Chaim replied, "Should I send someone who's not afraid of making mistakes?"

It's easy to mistake humility with a lack of confidence and low self-esteem. Yet they are very different. Realizing your limitations is the first step to greatness. It's only someone with a lack of self-confidence who believes that he is a legend in his own lunchtime.

Sources: Midrash, Shemot Rabba 3:5 Written and compiled by Rabbi Yaakov Asher Sinclair

From: Jeffrey Gross[SMTP:jgross@torah.org]
WEEKLY-HALACHA FOR 5762
BY RABBI DONIEL NEUSTADT Rav of Young Israel of Cleveland Heights
A discussion of Halachic topics. For final rulings, consult your Rav.
IS A JEW ALLOWED TO BRING HIS CASE AGAINST ANOTHER JEW BEFORE A SECULAR COURT?

Part 2 (Continued from last week)

WHEN IS IT PERMITTED TO GO TO A SECULAR COURT?

Under certain circumstances it is permitted for TWO JEWS to use the secular court system. Obviously, it is permitted to defend oneself in court even if the claimant was wrong in bringing his case to a secular court in the first place. But there are situations when it is even permitted to prosecute another Jew in a secular court.

Shulchan Aruch rules that if the defendant is a "rough" person who will not abide by beis din's ruling, one may prosecute him in court, provided that he has permission to do so from beis din.(1) The procedure is as follows: Beis din summons the defendant to appear before it.(2) If beis din feels that the defendant is purposely ignoring its summons,(3) or if the defendant defiantly rejects its summons, beis din may then grant the claimant permission to prosecute(4) the defendant in court.(5) [Permission may be granted, when needed, by any informed beis din, not only by the one whose summons was ignored or rejected.(6)]

Sometimes it is even permitted to use the court system without first securing permission from a beis din. This applies to situations when the court system is being used not to adjudicate a dispute but rather to enforce the collection of an undisputed claim.

The following actions, for example, do not need explicit permission from a beis din.

[It is recommended, however, to review the exact case and all pertinent details with one's rabbi, since there may be facts which could be overlooked.] It is permitted to: Request(7) of a secular court to enforce a beis din's ruling which is not being adhered to.(8) Indeed, a document called shtar berurin, which is a formal arbitration agreement, is available at any beis din. In most states, the court system will accept a shtar berurin as a binding agreement and will enforce its findings.(9) Ask a court to issue a temporary injunction against a defendant's assets so that the litigants have a chance to prepare and present their dispute to beis din. This is permitted only if there is a reasonable chance that a loss will occur if an injunction is not issued.(10) Certify in court that an undisputed loan document is overdue and has not been repaid; petition a secular court to force payment from an admitted debtor who despite having available funds avoids or delays payment.(11) Engage the services of a collection agency to collect a debt which is not in dispute, yet is not being paid. Complain to the housing court that rent is overdue, when there are no issues to be decided and the renter admits to his debt, etc.

FOOTNOTES:

1 C.M. 26:2. In this case, any expenses incurred by the claimant in prosecuting in secular court are to be borne by the defendant; Rama C.M. 14:5. 2 It is customary to summon a defendant three times to beis din before permission is granted to enjoin a secular court. [See, however, Gilyonei ha-Shas on Bava Kamma 92b, that this is not required.] The exact procedure of the summoning process, including the manner, frequency and style of the summons, depends on the rulings and customs of each individual beis din and each individual case. [See Igros Moshe C.M. 2:6 who rules that beis din is not necessarily required to detail the particulars of the accusation when sending a summons to the defendant.] 3 In certain cases, when it is obvious to beis din that the defendant will not appear before it or any other beis din, they may opt to skip the summons entirely; Minchas Yitzchak 9:155. 4 This is permitted even if the defendant will now suffer great financial loss or place himself in physical danger; see Mishpatei Shmuel 94 and 114 and Kesef ha-Kadashim 26:2. See also Kenesses ha-Gedolah 26:2; Divrei Chayim C.M. 2:9; Teshuvos V'hanhagos 3:438. 5 Beis din, however, should give permission to prosecute in court only if it believes that the claimant has a solid case against the defendant; see Aruch ha-Shulchan C.M. 26:2 and Imrei Binah C.M. 26. 6 Teshuvos Maharil Diskin (page 92). Many poskim maintain that the community rabbi alone, even without the authority of a formal beis din, can authorize prosecution in secular court; see Betzeil ha-Chachmah 4:37. 7 Indeed, not only is this permitted, but it is a mitzvah to do so, since this demonstrates that there are methods with which to enforce beis din's ruling; Harav B.Y. Wosner (Divrei Mishpat, vol. 3, pg. 200). 8 Maharsham 1:89; 3:195; 4:105; Ha-Elef Lecha Shelomo C.M. 3. See also Emes L'yaakov C.M. 26:1. 9 For a legal review of this subject, see Chaim David Zwiebel, The Jewish Observer, January 1993, and Shlomo Chaim Resnicoff, The Jewish Observer, October 1999. 10 Kenesses Ha-Gedolah 73 (Bais Yosef 47). 11 Kesef ha-Kadashim 26:2; Maharsham 1:89

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From: Ohr Somayach[SMTP:ohr@ohr.edu] To: dafyomi@ohr.edu Subject: Weekly DAFootnotes - #23

Weekly DAFootnotes Bava Metzia 37-43

By RABBI MENDEL WEINBACH, Dean, Ohr Somayach Institutions
DOUBLE CRY AND DOUBLE CURSE

A stern warning is issued by Hashem to anyone who dares to exploit the helplessness of a widow or orphan in order to oppress them. "Should one oppress, surely oppress him and cry out, he shall surely cry out to Me, and hear, will I surely hear his outcry. My wrath will be kindled and I shall slay you with the sword and your wives will be widows and your children orphans." (Shmot 22:21-24)

If a man is slain, asked Rabbi Eliezer, is it not self understood that his wife becomes a widow and his children orphans? Rabbi Eliezer therefore interprets this passage as a warning that the oppressor of widows and orphans will be taken into captivity, and his family will not know whether he is alive or dead. His wife will be unable to remarry and must remain a permanent widow. His children will not be able to claim their inheritance and will remain destitute orphans.

This warning is grim enough, but it does not preclude the punishment mentioned in the first part of the passage about death by the sword. Rashi points out that a double curse is to be found in this passage j captivity and death. But death will come under circumstances which will not release his wife and children from their plight as widow and orphans.

In this light, the double expression in regard to the curse is understandable. Why, though, does the Torah employ double phrasing when characterizing the oppression, the outcry and its reception?

While it is true, as Rashi in his commentary on Torah points out, that it is forbidden to oppress anyone, the Torah singles out the widow and orphan because they are the most vulnerable and therefore the most frequent victims. This focus on such victims helps us understand the double phrasing as well. When one hurts a widow or orphan the resulting outcry is a double one. First of all there is the pain of the blow, physical or verbal. Then there comes a second outcry when the victim realizes that the absence of a protecting husband or father is what created this

vulnerability to oppression. This is the silent outcry of a poor soul recalling its unfortunate situation in life.

The double oppression causes a double outcry which only the Divine Judge of widows and Father of orphans is capable of hearing, and the retribution He visits upon the oppressor is a double one as well.

Bava Metzia 38b

ONE-SIDED RECOGNITION

When his brothers came to Egypt to purchase grain to bring back to their famine-stricken homes in the Land of Israel, they came before Josef, whom they had not seen for 22 years since they sold him into slavery.

"Joseph recognized his brothers," says the Torah (Bereishet 42:8), "but they did not recognize him."

The reason Rabbi Chisda gives for this one-sided recognition is that when Joseph left his brothers he was without a beard, and now had a beard, making him unrecognizable.

This precedent was cited by Rabbi Chisda in defense of a man who told a second man, claiming to be his brother and therefore entitled to share in his inheritance, that he did not recognize him. Just as Joseph could not be recognized because he left his brothers beardless, so too should this defendant not be suspected of lying, as the brother who left him long ago was beardless then while the claimant had a beard.

Rashi explains that when Joseph left his brothers they all had beards already and he was therefore able to recognize them years later. Ramban finds this difficult to accept because two of the brothers, Yissachar and Zevulun were only a little older than Josef, so that it is inconceivable that they already had beards when he had none. He therefore offers two alternative explanations for Josef's ability to recognize them while they failed to recognize him.

One solution is that even though the two brothers close to Josef's age did not have beards when they parted company, the older brothers did. Once he recognized the older brothers, he was able to extend that recognition to the younger ones.

Another approach is that Joseph was able to recognize them because he expected them to come to Egypt like everyone else who came from all over to buy grain. They, on the other hand, could not imagine that the brother they had sold to the Ishmaelites was now the virtual ruler of Egypt, and therefore they could not recognize him.

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From: Kollel Iyun Hadaf [kornfeld@netvision.net.il] Subject: Insights to the Daf:
Bava Metzia 39

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Bava Metzia 39

THE MECHANISM OF THE HEFKER OF SHEMITAH OPINIONS: The Gemara defines the word "Netushim" (as used by the Tosefta cited on 38b) as referring to landowners who abandoned their land against their will. The word is derived from the verse, "v'ha'Shevi'is Tishmetenah u'Ntashtah" (Shemos 23:11), in which "u'Ntashtah" refers to the fruits of one's land automatically becoming Hefker in the Shemithah year, regardless of the will of the owner.

The Mefarshim discuss the nature of the way that the fruit of one's land becomes Hefker at the arrival of the Shemithah year.

(a) The MAHARIT (1:43, in the name of his father, the MABIT) proves from this Sugya, and from other places, that the fruit of one's field indeed becomes Hefker against his will. The MINCHAS CHINUCH (Mitzvah 84) writes that if the owner does not "make" his fruit Hefker, it becomes Hefker anyway, and his refusal to let others into his field does not constitute a lack of fulfillment of a Mitzvas Aseh to make his field Hefker, but rather it constitutes a transgression of Gezeilah from the public (since the fruits automatically become Hefker and the public has the right to take them).

(b) The BEIS YOSEF (cited by the Maharit there, 1:44), however, maintains that the fruit of the field does not become Hefker unless the owner makes it Hefker. Since he is obligated by the Torah to make it Hefker, it is considered "an appropriation of the King" ("Afka'asa d'Malka"). (I. Alsheich)

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