

Weekly Internet Parsha Sheet
BEHAR BECHUKOSAI 5770

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A Morning Walk In Jerusalem :: Rabbi Berel Wein

This past week the city of Jerusalem in its wisdom decided to install new curbs around the boulevard island on the street where I reside. As is usual in the municipality of Jerusalem most of the workers (there were six in all) working on the new curbs were Arabs living in Jerusalem. They were working on the project for two whole days and to tell you the absolute truth, I did not notice much of a difference at the end of the work from the original curbing that they replaced.

I passed them numerous times walking from my house to the synagogue and to attend to my daily errands. I even greeted them and they – with a very shocked look on their faces - responded in kind. As I passed by them during their two days of work outside of my home I began to think about their lives and situation.

I am certain that they appreciate having a job and that as municipal employees they have considerable benefits accruing to them. Jerusalem's Arabs are free to go where they wish in the city. They are found in large numbers in Jerusalem's health facilities, parks, malls and commercial districts. They do not have the look of an oppressed people.

Large numbers of Jerusalem's taxis are owned and operated by Arabs and all major construction projects use predominantly Arab labor. They receive family stipends from Israel's Social Security system and attend Jerusalem's universities and technological schools in large numbers. So I wondered to myself whether given a really free choice they would opt to forego their current Israeli status and choose to live under Abass' less than benign rule.

Their standard of living and personal rights would certainly decline. But the policy makers rarely take into account the true wishes and benefits of the ordinary citizen when making policy. I did not have the temerity to ask them directly what their choice would be if such a scenario would arise, assuming that they would have any choice at all, but it certainly left me wondering about the so-called justice of ideological and political causes and its practical effect on the lives of ordinary human beings, who basically desire a living for their family and personal freedoms.

On my walk to the synagogue every morning I also regularly encounter a number of Israeli governmental security personnel. The neighborhood of Rechavia is home to the Prime Minister's office, the President's mansion and the dwellings of a number of cabinet members. As such, it is well patrolled and heavily scrutinized by the security arm of the government.

Every morning, every automobile parked in my block is examined thoroughly by these security personnel. The undersides of the automobiles are looked at and license plates are checked against the computer database for stolen or suspicious vehicles. Again, I greet the security men with a morning good wish but rarely, if ever, do I receive an acknowledgment let alone a response.

The security people eyed the Arab workers last week suspiciously but I did not notice any interaction with them. The Arab workers nonchalantly continued building the curb paying no heed to the security personnel present in the area. They were treated as part of the usual landscape of the neighborhood.

I thought to myself that in a perfect world of true peace and mutual understanding and civilized behavior, the security men would be out of work but the Arabs would have unlimited opportunities of employment. In a twisted and perverted sense, it is the Arabs who provide so much employment for the Israelis. If there were no justified fear of Arab terrorism then Israel could dispense with most of these security personnel guarding our political elite.

Thus we have entered into a symbiotic relationship, the Jews and Arabs of Jerusalem, a type of Gordian knot that ties us together in a strange and almost insoluble dilemma of weird practicality and difficult choices

Eventually my morning walk brings me to the synagogue for morning prayers. The prayers include special requests for Jerusalem, for Jewish sovereignty, for good health and physical economic success and for peace. We are all naive enough to believe that somehow health, prosperity, sovereignty and the like are within our human hands to achieve.

However, peace and the attendant fallout that it would bring to all concerned seem to be reserved for Heaven to achieve. Peace to be real must be practical and not just theoretical. It requires hearts touched by the Divine spirit within us. And it requires a hardheaded assessment of the practicalities required to make it work.

Perhaps I think too much on my morning walk to the synagogue. Strangely but understandably, I feel much better walking home from the synagogue than I did on my walk there. I have confidence that Heaven will help us sort out the problems of peace – let it only arrive.

Shabat shalom.

Weekly Parsha :: B'HAR – B'CHUKOTAI :: Rabbi Berel Wein

The double parsha of this week has, so to speak, bookends to it. It begins with the statement that the Torah was given to us at Sinai and that all of its commandments and not only the commandment of shemitta – the sabbatical year – are of Divine origin as given to Moshe on Mount Sinai.

The book of Vayikra concludes with the tochacha – the uncanny forecast of the troubles that will befall Israel as it strays away from its godly mission and the values and standards of behavior of the Torah. The ways of the Lord are hidden from us and often we are unable to see the causes of our difficulties, troubles and persecutions.

The severity of the tochacha shocks and bewilders us. Any explanation, let alone justification, of such hideous events always fall short of the mark. And, therefore, we are left with the thought expressed at the beginning of the parsha that the decrees of Sinai somehow bind all of us throughout our existence. The ongoing mystery of Jewish survival and existence is part and parcel of the entire package of the Torah that was delivered to us at Sinai.

Both the microcosm and the macrocosm of Jewish life are derived from Sinai and from the Torah. There is no other logical way to view the story of the Jews and of Israel except through the prism of Torah and Sinai. We find ourselves unable to comprehend the causes of Jewish suffering but we can certainly testify to the fact that the Torah predicted all of this with minute detail and that it came to pass in our history.

The entire thrust of the debate and the difference between traditional Judaism and other groups of non-conforming Jews is regarding the divinity of the Torah from Sinai. This is the principle that all of traditional Judaism rests upon. Without it the entire jumble of laws, commandments, customs and traditions becomes almost meaningless.

All of the Sinai deniers have eventually caused assimilation, conversion, intermarriage and terrible difficulties for themselves and other Jews. A man-made Judaism will never be able to stand the challenges and overcome the vicissitudes of time and place that always arise.

I recall the famous quip that Rabbi Samson Raphael Hirsch used in replying to the Bishop of Frankfurt as to why Hirsch's Jews would not join so many other Jews in the nineteenth century in converting to Christianity. Hirsch stated to the Bishop that the difference between us (Christianity and Judaism) was that Christianity was a man made religion used to describe God while Judaism was a Godly given religion used to describe humans.

In its most simplistic form, this statement really sums up the essence of Judaism - its commandments and goals. The revelation to Israel on Sinai, the granting of the Torah, the observance of its values and laws are the keys to Jewish survival. They enable us to overcome the dire tochacha and

continue forward bearing the message and hope of Sinai to all of humanity at all times and in all places and situations.
Shabat shalom

Ohr Somayach :: Torah Weekly :: Parshat Behar - Bechukotai
For the week ending 8 May 2010 / 23 Iyyar 5770
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Overviews

Behar

The Torah prohibits normal farming of the Land of Israel every seven years. This "Shabbat" for the Land is called "shemita". After every seventh shemita, the fiftieth year, yovel (jubilee) is announced with the sound of the shofar on Yom Kippur. This was also a year for the Land to lie fallow. G-d promises to provide a bumper crop prior to the shemita and yovel years. During yovel, all land is returned to its original division from the time of Joshua, and all Jewish indentured servants are freed, even if they have not completed their six years of work. A Jewish indentured servant may not be given any demeaning, unnecessary or excessively difficult work, and may not be sold in the public market. The price of his labor must be calculated according to the amount of time remaining until he will automatically become free. The price of land is similarly calculated. Should anyone sell his ancestral land, he has the right to redeem it after two years. If a house in a walled city is sold, the right of redemption is limited to the first year after the sale. The Levites' cities belong to them forever. The Jewish People are forbidden to take advantage of one another by lending or borrowing with interest. Family members should redeem any relative who was sold as an indentured servant as a result of impoverishment.

Bechukotai

The Torah promises prosperity for the Jewish People if they follow G-d's commandments. However, if they fail to live up to the responsibility of being the Chosen People, then chilling punishments will result. The Torah details the harsh historical process that will fall upon them when Divine protection is removed. These punishments, whose purpose is to bring the Jewish People to repent, will be in seven stages, each more severe than the last. Sefer Vayikra, the book of Leviticus, concludes with the details of erachin – the process by which someone vows to give the Beit Hamikdash the equivalent monetary value of a person, an animal or property.

Insights

Holy Crop Rotation!

"For six years you may sow your field" (25:3)

I still remember learning at school about crop rotation. One year the field would be planted with wheat, the next year with barley or some other crop, and the third it would be left to lie fallow. And then the cycle would begin again.

When reading this week's Torah portion, one could think that the mitzvah of Shemita, the prohibition of working the fields in the seventh year, is some kind of holy crop rotation. The difference being that in the Torah it says you should work the field for six years and leave it for a seventh.

Nothing could be further from the truth.

First, there is evidence that working a field for six straight years and then leaving it for one year does nothing to improve its yield and may even have a negative effect. Second, the Torah prescribes dire punishments for the non-observance of Shemita. The seventy years of the Babylonian exile were a punishment for seventy non-observed Shemita years during the 430 years that the Jewish People dwelled in the Land of Israel. We know that G-d's punishment is always measure for measure. If Shemita was a matter of crop husbandry, how is exile an appropriate punishment? What does exile have to do with the cessation of agriculture in the seventh year? Furthermore, from an agricultural point of view, seventy years without husbandry can have had no possible benefit for the land. Seventy years of weeds and neglect in no way contribute to the lands rejuvenation, so how is this punishment an appropriate restitution?

To answer these questions we must examine what causes a person to violate Shemita in the first place.

A great malaise of our own era is the compulsion to overwork. The workaholic defines himself by his job. When you meet someone socially, the question "What are you?" is usually answered by "I'm a doctor," or "I'm an accountant" or "I'm a rabbi."

There is a fundamental mistake here. What we do is not what we are.

In our society we have confused what we do with who we are. The underlying belief revealed here is that the more I work the more I become myself. Violation of the laws of Shemita comes from a belief that the more I work, the more money will I make, and the more I make, the more I am the master of my own world.

When a person is sent into exile, all the familiar comforting symbols of his success are taken away from him. He realizes that what he does is not who he is. Both his survival and his identity are G-d given gifts. The insecurity of exile brings a person face to face with his total dependence on G-d.

It is from the perspective of exile that a person can rebuild his worldview so that he can see that what he does is not who he is.

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Peninim on the Torah by Rabbi A. Leib Scheinbaum

ParshasBehar/Bechukosai

Parashas Behar

On Yom Kippur you shall sound the shofar throughout your land. You shall sanctify the fiftieth year and proclaim freedom throughout your land. (25:9,10)

Is the Torah suggesting a connection between the Yovel, proclaiming freedom throughout the land at the onset of the fiftieth /Jubilee year, and Yom Kippur? The Day of Atonement is a day reserved for teshuvah, repentance, contrition and eventual atonement. Exactly where does freedom enter into the equation? Horav Betzalel Zolti, zl, sees a strong link between the two themes: teshuvah and freedom. The sinner is a slave to his base desires. His entire life is nothing more than a pawn manipulated by the desires, habits and tendencies of the body. The spirit must contend long and hard to vanquish the effects of man's physical dimension. For those who have successfully triumphed, who have been able to extricate themselves from the muck created by their servitude to the yetzer hora, evil inclination, it is a moment of pure freedom. They have liberated themselves from the maelstrom of ritual impurity that had been sucking them down. The baal teshuvah knows the true meaning of freedom. He has achieved it. He is "free at last." V'karasem d'ror b'chol ha'aretz l'chol yoshvehah, "You shall proclaim freedom throughout the land." The essence of teshuvah is proclaiming, "Enough is enough."

This is a powerful insight. What makes it so compelling is that it is so simple. The baal teshuvah is a person who has broken the shackles that have impeded his forward and upward growth. As a result of his new status, he is recreated as a new person. Until now, he has been a slave. Now he is a king, master over himself. This explains how the most malevolent person can, through the power of teshuvah, be accepted by Hashem. King Yechanyah was an evil man, a rasha, wicked person, who was despised by Hashem. The Almighty swore that he would die childless without leaving an heir to sit on the throne. As the last descendant of malchus Bais David, he reigned over Yehudah. His passing from the world would bring an end to the Davidic dynasty. Yet, this evil man repented, his teshuvah was accepted, and the Rambam considers him to be the standard-bearer of the power of teshuvah.

How did this transformation in Yechanyah occur? The Midrash teaches that when Nevuchadnezer conquered Yerushalayim, he took Yechanyah captive and locked him into a dungeon to die. Since Yechanyah had no children, the Sanhedrin was concerned lest this signal the end of the Davidic dynasty. After much dialogue, they were able to convince Nevuchadnezer to permit Yechanyah's wife to be lowered into the dungeon with the hope that her liaison with the king would produce a child. This

was done, but there was a problem: Yechanyah's wife was ritually contaminated, thereby restricting relations between husband and wife.

One would expect Yechanyah to laugh this restriction off as he had so many others, but he did not. Something in his mind snapped, and he acted atypically - by refraining from laying a finger on his wife. This was his teshuvah. Hashem was so impressed that He Himself annulled his vow, and when Yechanyah's wife was once again lowered into the dungeon, she conceived. What happened? I can accept the power of teshuvah, but can it actually transform a person?

I think the answer lies in the matter that was mentioned earlier. Until this point, Yechanyah was nothing more than a slave. Perhaps he wore a crown on his head and people called him "King," but he was nothing more than a slave to his yetzer hora. He was addicted to evil. Then he repented. A spark of teshuvah germinated within him until he had the strength of character to say, "No! I will not transgress Hashem's laws, and he did not touch his wife. With that, he was coronated. He became a king - a free man. No longer was he Yechanyah, the "slave;" he had become Yechanyah, the "free" man.

In order to achieve true freedom, one must become a servant to Hashem. When we subjugate our lives to Him, we become liberated from the fetters imposed upon us by the yetzer hora. A person can be locked up in prison, incarcerated in an impenetrable dungeon, but still considered to be free; and a person can be free to go anywhere he pleases, but ultimately remain a slave. It all depends on to whom one ascribes his allegiance.

Horav Yitzchak Zilberstein, Shlita, relates a poignant episode about one such Jewish prisoner who, although incarcerated in a maximum security prison in Eretz Yisrael, was actually a "free" man. The individual was found guilty of a crime and sentenced to twelve years in a tiny, restricted cell. The physical conditions of the prison were horrendous, the building dating back to pre-British mandate times. He was allowed out to stretch his bones for thirty minutes each day. Otherwise, the 8X4 cell was his home. In this miserable place, he began to contemplate the lifestyle that had led to his incarceration. His free-wheeling way of life was not very free. He was a slave to his various addictions. Slowly, he began to see the error of his ways and, with the spiritual guidance which he received from Rav Zilberstein, he became a chozeir b'teshuvah, a bona fide returnee to a Torah way of life.

One day, he made a request of the prison authorities. Since he had not been observant until this point, he never had the privilege of officially celebrating his bar mitzvah. Could they, please, arrange for him to have his bar mitzvah? This was not all. Because he had earned the respect of the guards, he wondered if he could celebrate his bar mitzvah at the Kosel. While such a request would be ludicrous in any other country, this was Eretz Yisrael, where, after all is said and done, compassion is part of our DNA. The prison officials acquiesced and, on the given day, transported the bar mitzvah "bochur" and a small number of other prisoners to the Kosel. There, amid tears of remorse mingled with extreme joy, the convicted criminal became a "free" Jew. Arrangements were made by a local caterer to serve a simple meal in honor of the occasion, as they all shared in this unique moment.

I personally have had occasion to witness similar events, during which Jewish prisoners who had been raised in a manner totally alien to anything Jewish were given a chance to: don a pair of Tefillin; share in a Pesach Seder; light Chanukah candles; daven; discuss a section in the Talmud; learn a pasuk in the Chumash. The freedom which they experience is palpable, characterized by the glistening in their eyes and the bright smiles on their faces. Freedom is a state of mind which no one - other than ourselves - can take away from us.

And let your brother live with you. (25:36)

During the spring of 1943, when the first survivors of the Nazi brutality trickled into Eretz Yisrael, the administration of Batei Avos, the orphan home established by the Ponovezer Rav, Horav Yosef Kahaneman, was confronted with a compelling dilemma: How to provide for the most basic needs of these poor children. Orphaned by the war, they were coming to seek safe havens, and hopefully to begin a new life. Pillows and blankets

upon which the children could rest their heads were nowhere to be found. Had they not suffered enough? To have indignity added to a life short on years, but long on injury and insult, was asking too much. As usual, it ended up on the Rav's "desk." Two days before the children were to arrive in Bnei Brak, word went out that the Ponovezer Rav would speak publicly on Shabbos afternoon in the largest shul of the city. Everyone was urged to attend.

The Ponovezer Rav was an incredible person. Space does not allow for presenting a felicitous appreciation of this exceptional and unique Torah giant. When he spoke - people listened. The shul was filled to capacity. He began his speech by citing the Talmud Kiddushin 20a, where Chazal state: "Whoever purchases a Jewish bondsman, (essentially) purchases a master for himself." They attribute this statement to the fact that the master must see to it that the servant is provided with a lifestyle equivalent to that of himself. The master may not sleep upon a posturepedic mattress while the servant sleeps on straw. Tosfos cites the Yerushalmi that posits if the master owns only one pillow, he is obligated to give it to his servant, because of the Torah's injunction, ki tov lo imach, "For it is good for him with you." (Devarim 15:16).

After quoting the above, the Rav looked up from his Talmud and asked, "If the master has only one pillow, how can we demand that he give it to his servant? Does the Torah not say, V'chai achicha imach, 'And your brother shall live with you'? This means that my life comes first. If so, even if we were to consider the eved Ivri, Hebrew bondsman, a full-fledged brother, which he is, the master's life and welfare take priority. So, why must he give away his only pillow?"

The Rav replied that veritably, giving away one's only pillow to his eved, servant, is part of chayeicha kodmim, "your life takes priority." Penetrating the Jewish psyche, the Torah understands that if a Jew knows that a fellow Jew has no pillow upon which to place his head, then he himself cannot sleep - even if he only has one pillow! He will be miserable knowing that out there lies a Jew without a pillow! How can "I" sleep knowing that my fellow cannot sleep? Thus, the Torah tells the master, "Because your life takes priority; so that you can have a restful sleep, go to your friend's home and give him your pillow. This way, both of you will sleep."

"In one more day," the Rav declared, his voice rising in pitch and emotion, "there will arrive in our city many Yiddische kepelach, little Jewish heads, children orphaned by the war, who have nothing and have nowhere to even rest their heads. Who among us can possibly sleep peacefully knowing that Jewish children are unable to put their heads down for lack of a pillow?" Let it suffice to say that immediately following the conclusion of Shabbos, the people began arriving with their contributions. The Ponovezer Rav had successfully driven home a point.

But with your brethren, Bnei Yisrael - a man with his brother - you shall not subjugate him through hard labor. (25:46) A Jew who sells himself as a slave has already suffered an indignity. There is no reason to add to his pain. The Jew who does not sense the indignity has a greater problem than he realizes. Regardless if he "minds" or not, taking advantage of another Jew is wrong and totally inappropriate behavior for a Jew. This is, regrettably, done in a number of ways and for various reasons. Imagine, a Jewish employee who every so often has some free time on his hands. The thought of paying someone to sit around is unnerving to some. Therefore, the employer will have the worker do anything, whether it is necessary or not, just to keep him busy. This is "subjugating" a person to hard labor.

Horav Yosef Grossman, Shlita relates a telling incident that occurred concerning Horav Yisrael Salanter, zl, when he visited a Matzah bakery shortly before Pesach. In those days, the workers who prepared the Matzah were usually widows and orphans with no other means of support. They would work long, hard hours under extreme conditions, so that they could eke out a bare minimum. Rav Yisrael observed the owner of the bakery coming down hard on his workers. He screamed at them to work faster and harder. Because these were helpless people who had been subjected to physical deprivation and verbal abuse, the father of the mussar, ethical development, movement, felt that he had to speak up. "Years ago," Rav Yisrael began his admonishment of the bakery's owner, "the Jewish people

were accused of the notorious blood libel, claiming that we had taken the blood of Christian children whom we had killed, and mixed it with the Matzah. While those accusations were patently false, one thing is quite possibly true: we do not seem to be adverse to taking the blood of Jewish widows and orphans and mixing it with the Matzah!"

Rav Grossman cites Rabbeinu Yonah who discusses the individual who is aware that, if he makes a request of someone, the other person will do him a favor, but it will not be wholehearted. He will do it only because he has no way to say no. Then he should not make the request. If he does, he transgresses the prohibition, "You shall not subjugate him through hard labor."

Parashas Bechukosai

If you will go in My statutes and observe My commandments.

Rashi observes that one might have interpreted, "If you will go in My statutes," as a reference to mitzvah observance; thus, when the pasuk concludes with, "and observe My commandments," we have mitzvah observance - again. What then, are we to maintain is meant by, "If you go in My statutes"? It refers to *ameilus baTorah*, toiling in Torah. The Torah underscores *ameilus* as being the lynchpin of Torah study. One must toil, labor, put all of himself into his Torah study. As Horav Mordechai Gifter, zl, would remark, "*Ameilus baTorah* means more than the act of toiling over one's studies. *Ameilus* denotes making Torah study the focus of attention in life. Even when one is engaged in other matters - regardless of how Torah-oriented they may be - his true focus, his *raison d'etre*, is Torah study."

This observation requires elucidation. After all, Torah study is a mitzvah just like other mitzvos. Surely, it falls under the category of "observing My commandments." Why is it singled out? Moreover, what indicates that *Im bechukosei teileichu* is a reference to Torah study? Last, if *ameilus*, toil, is to be the standard, the opposite of toil would then have to be, *v'im bechukosei timasu*, "And if you will consider My statutes revolting" (ibid, 26:15). Is this not a bit extreme - to slip from a lack of toil to viewing the mitzvos as revolting? Some "gray" area must exist between "toil" and "revolting" - or is this really the way it is: one who does not consider Torah the focus of his life, will ultimately end up despising it?

We will address the last question first. Horav Elazar M. Shach, zl, asserts that this is essentially the digression that comes with a lack of toil. If Torah is not the essence of one's life it will soon become the antithesis of his existence, causing him eventually to despise and revile it. One who studies Torah through toil will understand - or at least accept - what life throws at him. He will not have questions concerning *emunah*, faith, because he will see life through the clarity of the Torah's spectacles. When one "tastes" Torah, he truly sees the goodness of Hashem.

One who, regrettably, does not apply himself properly to Torah study will hate Torah, as well as those who study and disseminate it. The wisdom that one acquires through Torah study is internalized within the person only if it is accompanied with *yiraas Shomayim*, fear of Hashem. One cannot be a *maamin*, believer in Hashem, unless he studies Torah. The two go together; separately, the person possesses neither.

Rav Gifter addresses the issue of why Torah study is not included in mitzvah performance. Is it not a mitzvah like the rest? The Rosh Yeshivah cites the well-known Ramban at the beginning of Parashas Kedoshim, who explains *kedushah*, holiness, from a unique perspective. He introduces us to the concept of *naval b'reshus haTorah*, "an abominable person with the Torah's permission." This is an individual who, although he fulfills the Torah to the letter of the law, still does things which, although not categorically prohibited, are nonetheless antithetical to the spirit of Torah. He relates an incident which took place in 1965, a time of social upheaval, when the college campuses spewed forth rebellion against the moral and ethical codes which had previously been the staples of society. They undermined and eventually destroyed, these precepts. Anti war demonstrations were fueled by drugs, as the nonsensical suddenly became sane and even acceptable.

Two friends were conversing, and one had mentioned that his greatest source of enjoyment was attending a halachah shiur, lecture in Jewish law,

in which only the end result of the halachah was mentioned. The entire dialectic which preceded the outcome was ignored. His friend was shocked by this comment: "How can you enjoy a shiur without the accompanying 'spice' of *lomdus*, the reasoning and logical deduction, from which the halachah is developed?"

His counterpart replied that it did not concern him. He only wanted to hear the final halachah.

A bystander listening to this claim would, indeed, be impressed. It is not often that a person states his preference to study Torah without the added stimulation of knowing the underlying, guiding principles and reasoning that led up to the halachic conclusion. Here was someone who needed no reasoning. The Torah's decree sufficed for him.

As the conversation continued, it became clear that the individual who was so much into halachah was a student at Columbia University, who admitted to having experimented a number of times with mind-altering drugs. When asked how he could have done such an outrageous thing, he countered, "What is wrong? There is no halachah prohibiting it. It is for my personal pleasure and enjoyment. Halachah does not forbid pleasure."

Yes, Torah does not actually forbid such reprehensible behavior, but it certainly is not within the spirit of Torah. True-to-life Torah calls for both mitzvah observance and living a Torah way of life, following in Hashem's ways by emulating His attributes. There are some practices that are not prohibited by law but do not fall under the purview of emulating Hashem's ways.

Having said this, we wonder how we are to know whether we are living in accordance with the spirit of the law. The Rosh Yeshivah explains that this is where *ameilus ba' Torah*, toiling in Torah study, is introduced. A mere superficial understanding of the Torah cannot lead man to recognition of the Torah's ways - which type of behavior is commendable and which is reprehensible. In fact, a cursory approach to Torah study can, at times, cause more bad than good. Only Torah that is studied laboriously, plumbing through its depths amid toil, will lead one to an awareness of what is an acceptable Torah-way of life.

As we quoted earlier from the Rosh Yeshivah, however, *ameilus* is much more than toil; it is focus. Torah becomes the focus of one's attention in life. Thus, he toils to understand it, and it always maintains preeminence in his life. *Im bechukosei teileichu*, "If you will go in My statutes," "Going" in Hashem's statutes is a reference to going along the ways of Torah - not simply following the letter of the law, but also living the spirit of the law. The GPS for defining the correct road to follow can be accessed only through *ameilus baTorah*. Rashi teaches us that "going" in the ways of the Torah can only occur when one is *ameil*, makes Torah as his focus in life.

Horav Yechiel Michel Epstein, zl, author of the *Aruch HaShulchan*, asserts that *Im bechukosei teileichu* must be referring to Torah study, because the word *teileichu*, "go," applies only to Torah study. Throughout the Torah, *chukim*, statutes, are equated with *shemirah*, guarding, never *halichah*, going. He suggests a practical rationale for this. The fulfillment of all mitzvos are established in one set place. The *Shofar* which we use is exactly like the one Moshe Rabbeinu used thousands of years ago. The *Tefillin*, *Lulav*, and *Sukkah* are all the same. Thus, we are commanded to guard, to safe keep the mitzvos, so that they remain the same - without modification from the original.

We are not instructed to "go" in them, since *halichah*, going, bespeaks *hischadshus*, newness, renovation, metamorphosis, which is not the case concerning these mitzvos. They have not changed in thousands of years.

Only concerning the study of Torah do the concepts of novelty, originality and innovation apply, since every day, every time one opens a sefer, volume of Torah literature, he discovers something new. Thus, we must say that concerning the nomenclature that applies to Torah, *teileichu* is most appropriate.

If you will go in My statutes. (26:3)

Rashi interprets, "If you will go in My statutes," to be a reference to *ameilus baTorah*, exerting oneself in the study of Torah. This study of Torah should be equivalent to life itself. When one's life is on the line, toil is not an impediment. No obstacle, no challenge will prevent one from

saving his life. That is how it should be with Torah. It is our life. Chazal teach us (Meseches Chagigah 15a) that Torah is as difficult to acquire as golden vessels and as easy to lose as glass ones. One does not acquire Torah on his own. Anything of Divine Authorship requires assistance from the Divine Author Himself in order to achieve true proficiency in it. This prized acquisition is attained through toil, heart, drive and passion. When Hashem sees how much we want Torah, He then grants it to us. Horav Elchanan Wasserman, zl, would often quote his revered rebbe, the Chafetz Chaim, zl, who said, "The yetzer hora, evil inclination, allows one to perform all of the mitzvos in the world as long as it can prevent him from studying Torah." This is something to think about the next time the opportunity to perform a mitzvah avails itself specifically during the time we allot for Torah study.

Horav Mendel Kaplan, zl, the legendary Rosh Yeshivah in Skokie and Philadelphia was a model of *ameilus baTorah*. He quotes Chazal in the Talmud Berachos 63b, who teach that Torah remains with a person only when he "kills himself" over it. Horav Yisrael Salanter, zl, explains that "killing yourself" means breaking down one's selfishness, extirpating all thoughts of one's own needs and desires. Rav Mendel would add that learning when one feels tired and lazy is "killing yourself." One who studies Torah under such circumstances will sense immediate reward in terms of his ability to better understand what he learns. "The more you accept the Torah as your ol, yoke, the better you will learn... I have the greatest successes when I am stubborn or push myself... If you learn only because it is a nice way to spend the day, then it is nothing more than a hobby, and you will not succeed.

"The Ketzos HaChoshen was so poor that he could not heat his home. Thus, he had to spend all day wrapped in heavy blankets to keep from freezing. While he was writing his magnum opus, the ink would freeze in his inkwell, and he was compelled to write under the blankets in order to keep his ink warm. It is because he sacrificed himself so much for Torah that his Torah is so sweet and has merited to be studied for generations."

One day Rav Mandel taught his class another meaning concerning toil in Torah. They were having difficulty understanding a concept in the Talmud. "So what if you do not understand it," he said. "When you learn diligently for the sake of finding the truth without applying your own preconceived notions into the Talmud, even if you still do not understand it, you have learned it. Every drop, every crumb, every little piece you manage to learn plants a seed that keeps on growing even when you move away from it. Then, when you return to it again, what you learned the first time will help you come to the true understanding. If you toil now, even without understanding, then later on you will find it. It will be given to you from Heaven.

"I want you to know that you will receive greater reward for believing in a Gemorah that you do not understand. You might not agree with me, because you are interested in becoming a great scholar, but I am interested in the reward."

Va'ani Tefillah

Baruch Hashem l'olam amen v'amen.

Blessed is Hashem forever, amen and amen.

Horav Avigdor Miller, zl, observes that blessing is the result of gratitude. One understands that he is the recipient of a favor. He responds with gratitude, which is expressed as a blessing. Considering Hashem as our Benefactor, His benefactions are constant and regular. Thus, our obligation to pay gratitude to Him in the form of blessing is incessant, continuing forever. In addition, each kindness is in itself a gift of permanent benefit, as David HaMelech says in Tehillim 136, *Ki l'olam chasdo*, "For His kindness endures forever." We must, therefore, forever thank Hashem for each and every kindness. Thus, we respond with amen and amen for two reasons: We declare that this is true, for we acknowledge the constant shower of gifts and the eternal nature of each of these gifts. All of this obligates us to "thank/bless" Hashem forever. The second amen is a prayer that this process of blessing Hashem not cease, but continue on forever. We pray that all men will recognize the true sense of all that they possess,

including their very beings, so that the Name of Hashem will be on the lips of all mankind forever.

Horav Yosef Ometz, zl, suggests that the two amens allude to what Chazal state in the Talmud Berachos 54a, "One should bless for good, one blesses for bad. There is nothing bad that comes from Hashem. It is bad in our perception. David HaMelech expresses himself with a dual amen, underscoring the concept that both bad and good are inherently good.

Sponsored in memory of Mrs. Seliga Ahuva (Schur) Mandelbaum Seliga Ahuva bas HaRav Daniel a"h 26 Iyar 5751 "t'nu la miprei yadeha vehalelluha bashe'arim maaseha" by her family HoRav Doniel z"l & Shoshana Schur

Rabbi Yissocher Frand on Parshas Behar – Bechukosai

How Easy It Is To Forget Last Year's Blessings

Parshas Behar begins with the laws of Shmita [the Sabbatical year]. Observance of the Shmitah year is very difficult, particularly for farmers. Just imagine if the halacha required all of us to take a sabbatical from our jobs, drop what we have been doing, and forfeit our means of income for an entire year, once every 7 years!

The Torah anticipates the difficulty of Shmitah-observance: "And if you will say: What will we eat in the seventh year? Behold! We will not sow and we will not gather our crop! I will ordain My blessing for you in the sixth year and it will yield a crop sufficient for the three years." [Vayikra 25:20-21]

The Medrash calls the people who observe the Shmitah: "Masters of strength (*giborei koach*) who fulfill My words". In other words, it takes tremendous courage and faith to observe the Shmitah. Those who fulfill it are deserving of great praise for being highly spiritual individuals.

However, the question must be asked: Where is the great strength of faith in observing Shmitah? If the promise of "I will ordain My blessing for you in the sixth year..." comes true, then the farmer has already put away income for the seventh and eighth years from his bumper crop on the sixth year. He can sit back and draw on his reserves that are already in the bank! Where, then, is there manifestation of the attribute of '*giborei koach*' [master of spiritual strength]?

Had the promise been "Do not worry in the seventh year because money will come to you, somehow," we would have understood the appropriateness of the term "*giborei koach*". However, that is not what the pasuk says. The pasuk seemingly promises that already at the end of the sixth year, the farmer will have three times as much as normal. In those circumstances, seemingly great faith is not required to take a Sabbatical during the upcoming Shmitah year.

The Shemen ha Tov makes an interesting observation which is really a reality of life. Human beings have an unbelievable capacity to forget. In other words, even though a person might have made triple his normal income in the sixth year, if in the middle of the seventh year he sees that there will be no income that year, he begins to get nervous. He does not like to have to draw down the reserves, which he has stashed away in the bank from his bumper crop in year six of the cycle! People forget that they made more than usual the previous year. We remember the "bad" but we do not remember the "good" so well. All too easily, we forget all the Kindnesses that the Almighty is always showering upon us.

In fact, it takes strength and faith during the seventh year to not ask "what's going to be?" when the land is lying fallow, regardless of how much money one was able to stash away during the sixth year. Such an attitude is truly worth the accolade of "Masters of strength (*giborei koach*) who fulfill My words."

King and Prophet Cross Swords on Application of a Biblical Blessing

There is a pasuk in Parshas Bechukosai whose historical import is often not appreciated. A high profile dispute regarding applicability of this pasuk lay at the core of a seminal event in Jewish history during the time of the First Beis HaMikdash. We allude to this pasuk every single year during recitation of the Tisha B'Av Kinos.

The pasuk spells out the promised reward for the Jewish society that walks in the ways of G-d's statutes. It reads: "I will provide peace in the land and you will lie down with none to frighten you, I will cause wild beasts to withdraw from the land, and a sword will not cross your land." [Vayikra 26:6]

The Gemara [Taanis 22b] teaches that the words "a sword will not cross your land" means more than just the fact that war will not come to our land, for that is taught by the words "I will provide peace in the land." Rather, it teaches that even "a sword of peace" will not pass through our land. Meaning, we will not even need to worry about a nation asking us to allow them to pass through our land on their way to do battle with someone else.

Such in fact was a historical incident recalled in both the Book of Melachim as well as in Divrei HaYomim. One of the most wicked kings to rule over the Jewish people was Menashe King of Yehudah. He caused the entire population to turn to idolatry and even installed an idol in the Kodesh Kadoshim [Holy of Holies]. His son Amon was also wicked. However, his grandson, Yoshiyahu, instituted a mass Teshuva movement and was himself a righteous monarch.

However, Yoshiyahu made one serious mistake. Pharaoh-Neco, King of Egypt, wanted to pass through Israel to do battle with Assyria, their northern enemy. He asked permission from the King of Yehudah to pass through his land on his way to battle, however Yoshiyahu turned him down. According to the Medrash, Yoshiyahu cited to Pharaoh-Neco the pasuk in Bechukosai that when the Jews keep the Torah, no sword (even a "peaceful one") will pass through their land. Yoshiyahu was convinced that he had eradicated every vestige of idolatry left over from the reigns of his father and grandfather and therefore qualified for the blessing of the pasuk in this week's parsha.

The prophet Yirmiyahu warned Yoshiyahu that he did not qualify for this blessing. Things were not perfect. Avodah Zarah had not been totally eradicated from the land. Yirmiyahu advised Yoshiyahu to grant Pharaoh-Neco the right of passage for himself and his troops. Yoshiyahu did not believe Yirmiyahu. He sent inspectors throughout the land and they reported back that they could find not a single idol throughout the country. He therefore confidently over-ruled the prophet and forbade the Egyptian King to march his troops through the Land of Judah.

Yoshiyahu did not realize that the people outsmarted his inspectors. Idolatry was not totally eradicated from the land. The idols were painted on the inside of double doors, so that when the doors were opened for the inspectors, they did not see anything. However, as soon as the inspectors left and the doors were closed, the idols were right there in the open.

Not only did Yoshiyahu not let Pharaoh Neco pass through his land, he went to war with him. He was massacred in that battle. The Talmud said his body was thrust through with so many arrows that blood flowed out like a sieve. It was a tragic death of a righteous king.

From that time things went downhill and the Bais HaMikdash [Temple] was ultimately destroyed. This event is recalled in the elegy read every year on Tisha B'Av morning: "And Yirmiyahu mourned for Yoshiyahu..."

The moral of this story is "When the Gadol HaDor [the greatest person in the generation] tells you to do something or not to do something, you better listen!" With all the calculations in the world and with the simple reading of Torah pasukim on one's side, it is fool-hardy and suicidal to reject the advice of the likes of the prophet Yirmiyahu or the likes of the great Torah leaders of any generation – the Gedolei HaDor.

Transcribed by David Twersky Seattle, WA; Technical Assistance by Dovid Hoffman, Baltimore, MD

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Haftorah Parshas Behar-Bechukosai Yirmiyahu 16:19 by Rabbi Dovid Siegel

This week's haftorah teaches us a profound lesson in trust and faith in Hashem. The prophet Yirmiyahu introduces the haftorah by proclaiming,

"Hashem is my strength, my stronghold, my refuge in the day of trouble." Yirmiyahu proceeds and admonishes the Jewish people for pursuing foreign avenues and engaging in strange practices for security. He warns them that they are subject to forfeiting their wealth and possessions because of their public involvement in idolatry.

He then delivers a crushing blow in the name of Hashem and says, "And you will forsake your land which you are to blame for mistreating the inheritance I gave you and you will be enslaved to your enemies in a foreign land." (17:4) This is the dreadful prophecy about their pending exile from their precious homeland, Eretz Yisroel. Yet, Yirmiyahu devotes his attention to one specific detail as the cause of their exile. He immediately follows with serious reprimand about trust and says, "Cursed is the person who trusts in man...and turns his heart away from Hashem... Blessed is the person who trusts in Hashem." The juxtaposition of these words suggests that the Jewish exile was caused by lack of trust. Apparently, the previous criticism of mistreating the land related to this fault. Rashi develops this and explains that the admonition referred to their failure to properly observe Shmita laws. Yirmiyahu chastised them for mistreating their inheritance by refusing to return it to its true owner during Shmita.

This explanation requires serious reflection. Although the mitzvah of Shmita is undoubtedly significant, it seems to be treated with extreme severity. The prophet equates lack of Shmita observance with total lack of faith in Hashem. This suggests that one who does not properly adhere to Shmita laws has no trust and faith in Hashem!? This is difficult to digest after considering the severe demands of Shmita. During that year, one may not exert any effort towards his personal sustenance and livelihood. Hashem demands that one place his total faith and trust in Him. If one does not achieve this lofty level and fails to display total faith can he be compared to an agnostic possessing no faith?

We can raise similar concern regarding the repercussions of profiting from Shmita fruit. In addition to Shmita's agricultural prohibition one is prohibited from engaging in any profitable transaction with fruit grown during the Shmita year. The Talmud predicts the severe hardships one will endure for violating this prohibition. His first repercussion will be his sale of all his fields and possessions. This process could continue and include the sale of his home and eventually even result in the sale of his daughter as a maid servant. (see Kiddushin 20a) These punishments seem extremely severe relative to their offense. There are many grave sins whose consequences are trivial in comparison to those of Shmita violations. What establishes Shmita so significant as to warrant these responses?

We can shed light on this entire subject through the Malbim's classic commentary on this week's haftorah. He explains that the prophet discusses three approaches to one's faith in Hashem. Yirmiyahu showers praise and blessing upon one who places his total trust in Hashem. Although this person undoubtedly involves himself in securing his sustenance he realizes that Hashem is ultimately his true provider. A second prevalent attitude comes from those of dual allegiance, who place their trust in Hashem and in their personal efforts. Although this is certainly not a supreme form of service and doesn't receive words of praise it is nonetheless acceptable. There exists yet a third attitude amongst some, one that is totally unacceptable and condemned by the prophet. Yirmiyahu curses one who places total trust in his personal involvement without even including Hashem as a factor in the equation. This person totally disregards Hashem's involvement and believes that he obtains success and fortune exclusively through personal efforts.

These insightful words place the mitzvah of Shmita in its proper perspective. Every seventh year Hashem reminds us that He is constantly involved in our lives and sustenance. Hashem facilitates this recognition by restricting us from personal involvement in our livelihood for an entire year. One who adheres to Shmita's restrictions clearly demonstrates his total faith in Hashem as his provider. However, one who violates Shmita's laws shows his total belief and trust in his personal efforts. Hashem absolutely banned these efforts during that year and will undoubtedly have no part in helping them bear fruits. Such activity reflects a defiant attitude that Hashem need not be involved for one to succeed. He expresses to all

that irrespective of Hashem's approval or involvement these efforts will nevertheless produce as usual.

This totally unacceptable attitude inevitably engages Hashem in a clear demonstration that all sustenance and provisions are ultimately His doing. Hashem's response to such misguided individuals will be to gradually force them to sell their possessions in exchange for basic sustenance. This process helps them realize that all possessions come from Hashem and that He is their sole provider. A similar response will be given to the Jewish people when they display this defiant attitude. Hashem will remind them that He controls their lives and not themselves. Their failure to observe Shmita laws will cause them to forfeit their privilege of living in Eretz Yisroel, the land of Divine Providence. Conceivably whoever merits to live in Eretz Yisroel should sense Hashem's closeness and direct involvement in every step of their lives. If the entire nation fails to recognize this reality it truly has nothing to gain from dwelling in the king's palace. Hashem will therefore banish the people from His presence until they recognize and learn to appreciate His active role in their lives.

If we could only internalize this lesson our lives would be so much better. May we soon merit to return to our father's table with His full return to His people in the nearest future.

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Rav Kook List

Rav Kook on the Torah Portion

Psalm 145: To Pray "in Truth"

"God is near to all who call to Him - to all who call to Him in truth." (Ps. 145:18)

What does it mean to call to God "in truth"?

This phrase describes prayer that is sincere and from the heart. However, this refers not only to how we should pray. Even more, it indicates for what we should pray.

Falsehood is transitory and fleeting. Truth, on the other hand, is eternal and enduring. The World to Come is called "the World of Truth," reflecting its eternal nature.

We call out to God 'in truth' when we pray, not for the fleeting and insignificant, but for that which is true and eternal. Prayer in truth aspires to uncover the inner meaning of our existence, the very essence of our lives. "Return us, our Father, to Your Torah. Draw us near, our King, to Your service" (from the Amidah prayer). When we pray to find our purpose in life and our path to serve God, such a prayer is an authentic reflection of the soul's inner desires.

God answers prayers that are 'in truth,' prayers that express our true inner will. As the psalm continues: "He fulfills the will of those who revere Him" (145:19).

(adapted from Olat Re'iyah vol. I, pp. 226-267)

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Weekly Halachah

Rabbi Doniel Neustadt (dneustadt@cordetroit.com)

Yoshev Rosh - Vaad HaRabanim of Detroit

Preparing for Shabbos Properly

Shulchan Aruch cites challah-baking for Shabbos and Yom Tov as a mitzvah¹ and a worthy practice "that should not be abandoned."² Indeed, it is a time-honored custom for women to bake challah loaves for Shabbos and Yom Tov, both because it enhances kavod Shabbos and kavod Yom Tov³ and because it is an opportunity for them – by fulfilling the mitzvah of hafrashas challah – to set aright Chavah's sin on the first erev Shabbos of Creation.⁴ For this reason, it is halachically preferable that a woman be the one who separates the challah rather than a man.⁵

But in order to fulfill the mitzvah of hafrashas challah and recite the blessing over the mitzvah, the batter must contain at least sixteen cups (over four pounds) of flour.⁶ [A batter which contains less than ten cups (approximately two-and-a-half to three pounds) of flour is completely exempt from challah separation, while a batter which contains more than ten cups but fewer than sixteen cups of flour⁷ requires separation of challah, but no blessing is recited.]

The poskim debate whether hafrashas challah is required for a batter that contains sixteen or more cups of flour, but the batter is divided into two [or more] parts – half is baked immediately and the other half is frozen, to be baked at a later time. Many women prefer this arrangement since it allows them to prepare a large enough quantity of dough to allow for hafrashas challah, while still being able to bake fresh challah every erev Shabbos for their household. This arrangement, however, is controversial: Some poskim are of the opinion that hafrashas challah is performed only if the entire batter [of 16 cups] is baked at one time, but if part of the dough is frozen for baking at a later date, then the entire dough is exempt from hafrashas challah altogether.⁸ Many other poskim, though, disagree and permit hafrashas challah from a divided dough, as long as the entire dough is going to be baked by one person and not divided among several people.⁹ Due to this dispute, Rav S.Z. Auerbach ruled that challah should be taken but the blessing not be recited.¹⁰

Question: Nowadays when almost every home has a washing machine and dryer, does Ezra's takanah of not doing laundry on Friday still apply?

Discussion: Contemporary poskim debate whether or not Ezra's takanah of not doing laundry on Friday is applicable nowadays as well, since doing laundry today is not nearly as time consuming or strenuous as it was in earlier times. Some argue that regardless of the change in circumstances, the idea behind the takanah was to reserve the precious hours of erev Shabbos for the immediate Shabbos needs that cannot be attended to earlier in the week. Since laundry can be done earlier in the week,¹¹ no laundry should be done on Friday. According to this opinion, even if the laundry is being done by a non-Jewish maid, it should still not be done on Friday.¹² Most other poskim, however, argue that it all depends on the time factor, and if one can find the time to do laundry while also properly preparing for Shabbos, he may do so even l'chatchilah.¹³ Practically speaking, while it is preferable and praiseworthy to do the laundry before Friday¹⁴ (especially in the short winter months), it is not a must. Certainly, one who failed to do his laundry before Friday for whatever reason is permitted to do laundry on Friday.¹⁵

Implied in Ezra's takanah against doing laundry in Friday is the understanding that one should wear freshly laundered clothing in honor of Shabbos. Thus Mishnah Berurah rules that one should not wear the same garment a number of Shabbosos in a row without laundering it, so as to not violate Ezra's takanah. Obviously, Mishnah Berurah is referring to garments such as a shirt or undergarments which become soiled or sweaty when worn. Suits or pants which can be worn repeatedly without becoming dirty are not required to be cleaned on a weekly basis.

Question: Is one allowed to schedule non-emergency surgery for the latter part of the week, since one might need to desecrate the Shabbos during the post-operative period?

Discussion: While this issue is not raised explicitly in Shulchan Aruch, some contemporary poskim base their ruling on this question on the principle established in O.C. 248 concerning embarking on a sea voyage before Shabbos: In the olden times, it was permitted to embark upon a sea voyage in the beginning of the week, even though it was likely that by the time Shabbos arrived one would find himself in a "dangerous" (pikuach nefesh) situation and be forced to desecrate the Shabbos in order to save his life.¹⁶ From Wednesday¹⁷ onward, however, it was forbidden to set sail. This is because the three days before Shabbos are associated with the coming Shabbos; during those days one must avoid any situation that could cause him to desecrate the coming Shabbos. Setting sail within these days is, therefore, like setting oneself up for Shabbos desecration. If, however, one was travelling for the purpose of performing a mitzvah, such as

visiting Eretz Yisrael, it was permitted to begin travelling even at the end of the week, even if in all likelihood a pikuach nefesh situation would arise and chillul Shabbos would result from it.

Based on this Halachah, some poskim infer that from Wednesday onward, one should not engage in any activity that will result in a situation of pikuach nefesh and will require chillul Shabbos to save one's life. Whenever possible, therefore, a non-emergency procedure that could possibly result in chillul Shabbos during the recuperation or post-operative period should not be scheduled from Wednesday until Friday of any given week. Still, if the doctor most skilled at the procedure is available only at the end of the week, or if the patient is in pain and does not wish to delay the procedure, it is permitted to schedule the procedure even at the end of the week.¹⁸

In the event that, contrary to Halachah, one underwent a procedure at the end of the week and now finds himself in a state of pikuach nefesh, he is treated like any other person whose life is in danger and may do whatever is necessary to save his life.¹⁹

Even if the procedure in question will not necessarily cause chillul Shabbos during the recuperation period, it is still recommended to schedule all elective surgeries and procedures for the beginning of the week whenever possible. This is based on the view of the Rif and Rambam, quoted by Shulchan Aruch, that one may not deliberately place himself in circumstances where he will be in pain on Shabbos and thereby diminish his oneg Shabbos. So if, for example, one has the option of scheduling non-emergency oral surgery for the beginning of the week, it is recommended that he do so.²⁰

- 1 Rama O.C. 529:1.
- 2 Rama O.C. 242:1 and Beur Halachah (s.v. ve'hu).
- 3 Rama O.C. 242:1; 529:1.
- 4 Mishnah Berurah 242:6.
- 5 Kitzur Shulchan Aruch 38:8. See another reason in Bartenura, Shabbos 2:6.
- 6 Ruling of Rav T.P. Frank (quoted in Siddur Korban Minchah, pg. 40), which is followed by many women. Some poskim maintain that a blessing should not be recited unless five pounds of flour are used; Rav Y.E. Henkin (Eidus l'Yisrael 40), while others rule that a blessing is recited even over less than 16 cups (Yalkut Yosef, Hilchos Challah).
- 7 Water and other ingredients are not included in the minimum amount.
- 8 See Pischei Teshuvah, Y.D. 326:2, quoting Beis Efrayim and Maadnei Melech.
- 9 See Pischei Teshuvah, Y.D. 326:2, quoting Levush, Bach and Derishah. This is also the opinion of Beur ha-Gra, Y.D. 326:7. See also Chazon Ish, Y.D. 198:2-3 for yet a third opinion in this dispute.
- 10 Quoted in Shemiras Shabbos K'hilchasah 42, note 45 and Leket ha-Omer 7, note 9. Note, however, that Shevet ha-Levi 4:145 disagrees and permits reciting the blessing in this case as well.
- 11 Some poskim recommend that laundry be done specifically on Thursday, since that makes it clear that the laundry is being done for the sake of Shabbos. Many other poskim, however, are not particular about this; See Shemiras Shabbos K'hilchasah 42, note 13, quoting Rav S.Z. Auerbach and Chazon Ovadyah, Shabbos, vol. 1, pg. 23.
- 12 Chut Shani 3:1. See also Piskei Teshuvos, vol. 3, pg. 255.
- 13 Rav Y.S. Elyashiv (quoted in Avnei Yashfei 1:49); Ohr l'Tziyon 2:16-1; Shemiras Shabbos K'hilchasah 42, note 13; Chazon Ovadyah, Shabbos, vol. 1, pg. 24; Shevet ha-Kehasi 2:104-4.
- 14 Rav S.Z. Auerbach (quoted in Shemiras Shabbos K'hilchasah 42, note 13)
- 15 Ben Ish Chai (Lech Lecha 8).
- 16 According to Shulchan Aruch, this is permitted even when a pikuach nefesh situation will certainly occur. Mishnah Berurah and Aruch ha-Shulchan rule, however, that even in the beginning of the week it is only permitted to travel when it is likely that a pikuach nefesh situation will arise, but not when it is certain that this would be the case.
- 17 Tuesday night is considered like Wednesday. Note that some poskim rule that this prohibition begins on Thursday (Wednesday night).
- 18 Emes L'yaakov, O.C. 331:1; Yalkut Yosef 248:10; Shemiras Shabbos K'hilchasah 32:33; Orchos Shabbos 20:69.
- 19 Igros Moshe, O.C. 1:127; Shulchan Shelomo 248:4.

How Does a Heter Iska Work?

By Rabbi Yirmiyohu Kaganoff

Please note: I am now utilizing a new e-mail address: ymkaganoff@gmail.com for those who would like to be in touch with my wife, please contact: kaganofffamily@gmail.com. I will be retiring the other address shortly.

Andy Gross, a businessman who is proud that he is now observing mitzvos, is on time for his appointment. After a brief greeting, I ask him what brings him to my office on this beautiful morning.

"I recently learned that even though the Torah prohibits paying or receiving interest, there is something called a heter iska that legalizes it. How can we legitimize something that the Torah expressly prohibits?"

Indeed, Andy's question is both insightful and important, and deserves a thorough explanation. Why don't you join us!

I noted that this week's parsha discusses the prohibition of interest: Do not collect interest from him, for you shall fear Hashem and allow your brother to live. Therefore, do not provide him money with interest (Chapter 25:36- 37).

This verse teaches three different mitzvos:

1. Do not collect interest from him. This entails a prohibition on the lender against collecting interest (Bava Metzia 75b).
2. Allow your brother to live. From the words allow your brother to live we derive a positive commandment that one who did collect interest is required to return it (Bava Metzia 62a).
3. Do not provide him money with interest prohibits creating a loan that involves interest, even if the lender never collects it (Bava Metzia 62a). A lender who later collects the interest also violates the first prohibition, and if he subsequently refuses to return it, he violates the positive commandment.

Not only does the lender violate the prohibition against ribbis, but also the borrower, the witnesses, the broker, the co-signer, the scribe who writes up the loan document (Mishnah Bava Metzia 75b), the notary public who notarizes it, and possibly even the attorney who drafts a document that includes provisions for ribbis all violate the laws of ribbis (Bris Yehudah 1:6). Thus, anyone causing the loan to be either finalized or collected violates the Torah's law.

"The halachos of ribbis are quite complex," I told Andy. "From my experience, even seasoned Torah scholars sometimes mistakenly violate the prohibition of ribbis. For example, having a margin account at a Jewish owned brokerage, charging a Jewish customer for late payment, or borrowing off someone else's credit line usually entail violations of ribbis. I even know of Torah institutions that 'borrow' the use of someone's credit card in order to meet their payroll, intending to gradually pay back the interest charges."

"Why does the last case involve ribbis?" inquired an inquisitive Andy.

"Let me present a case where I was involved. A Torah institution was behind on its payroll, and had no one available from whom to borrow money. The director asked a backer of the institution if the institution could borrow money through his bank credit line."

"I still do not see any ribbis problem here" replied Andy, "just a chesed that costs him nothing."

"To whom did the bank lend money?" I asked Andy.

"As far as they are concerned, they are lending money to the backer, since it was his credit line."

"So from whom did the institution borrow? The bank did not lend to them. Doesn't this mean that really two loans have taken place: one from the bank to Mr. Chesed, and another from him to the institution? The loan from the bank incurs interest charges that Mr. Chesed is obligated to pay. Who is paying those charges?"

“It would only be fair for the institution to pay them,” responded Andy. “However, if the institution pays those charges, they are in effect paying more money to Mr. Chesed than they borrowed from him since they are also paying his debt to the bank. This violates ribbis. The fact that the institution pays the bank directly does not mitigate the problem (see Gemara Bava Metzia 71b).”

Andy was noticeably stunned. “I have always thought of interest as a prohibition against usury – or taking advantage of a desperate borrower. Here the ‘usurer’ did not even lend any money, and thought he was doing a tremendous chesed for tzedakah; he did not realize that his assistance caused both of them to violate a serious prohibition!”

“What is even more tragic,” I continued, “is that one can convert most of these prohibited transactions into a heter iska that is perfectly permitted.”

WHAT IS A HETER ISKA?

“A heter iska is a halachically approved way of restructuring a loan or debt so that it becomes an investment instead of a loan. This presumes that the investor assumes some element of risk should the business fail, which is one basic difference between an investment and a loan. An investor could potentially lose money, whereas a borrower always remains responsible to pay.

“One is permitted to create a heter iska even when the goal of both parties is only to find a kosher way of creating a transaction that is very similar to an interest-bearing loan (Terumas HaDeshen #302). The words heter iska mean exactly that: performing an allowable business deal that is similar to a prohibited transaction. As we will see, the structure must still allow for an element of risk and loss as accepted by halacha, otherwise it fails the test of being an investment.

“There are several ways of structuring a heter iska, and indeed different situations may call for different types of heter iska. In order to explain how a basic heter iska operates, I must first explain an investment that involve no ribbis, so that we can understand how a heter iska was developed. For the balance of this article, we will no longer refer to “borrowers” and “lenders.” Instead, I will refer to a “managing partner” or “manager” and an “investor.”

Andy interrupts my monologue. “Was heter iska used in earlier generations?”

THE EARLIEST HETER ISKA

“The concept of heter iska is hundreds of years old. The earliest heter iska of which I am aware is suggested by the Terumas HaDeshen (1390- 1460). His case involves Reuven, who wishes to invest in interest-bearing loans to gentile customers, but does not want to take any risk. Shimon, who is an experienced broker of such loans, is willing to take the risk in return for some of the profit on Reuven’s money.

“Reuven wants a guarantee that he will receive back all his capital regardless of what actually happens in the business venture. Essentially, this means that Shimon is borrowing money from Reuven and then lending it out to the gentiles; this would result in a straightforward Torah prohibition of ribbis, since Shimon is paying Reuven a return on the loan. Is there any way that Reuven and Shimon can structure the deal without violating the Torah’s prohibitions against paying and receiving interest?”

At this point, Andy exclaims: “Either this is a loan, and Reuven’s money is protected, or it is an investment, and it is not. How can Reuven have his cake and eat it too!”

“Actually, all the attempts at creating heter iska are attempts to find a balance whereby the investor is fairly secure that his assets are safe, and yet can generate profit.

PIKADON – INVESTING

“Let me explain how a heter iska accomplishes both these goals, by developing a case: Mr. Sweat has a business idea, but he lacks the capital to implement it. He approaches Mr. Bucks for investment capital. If Bucks has sufficient confidence in Sweat’s acumen to build a business, he might decide to invest even without knowing any details about it in the hope that

Sweat’s idea will provide handsome profits. None of this involves any ribbis issues since there is no loan and no one is paying to use the other person’s capital. This business venture is called a pikadon.

GUARANTEEING THE INVESTMENT

“Your model is highly theoretical,” Andy points out, “since it assumes that Mr. Bucks invests without much assurance. Few people I know would entrust someone with their money without some type of guarantee.”

“You have hit on a key point – let us see how halacha deals with this. Whenever an investor entrusts someone with funds, the Torah permits him to demand an oath afterwards that the manager was not negligent. Therefore, Bucks may insist that Sweat swears an oath that he was not negligent with the money and also that he reported exactly how much money Bucks is due. The heter iska agreement may even require that Sweat swears this oath by using G-d’s name and while holding a Sefer Torah in front of the entire congregation.”

“That should certainly get Mr. Sweat to sweat,” quipped Andy. “But then again, assuming Mr. Sweat is a frum Jew, is he going to want to swear any oath at all?”

“That is exactly the point that secures Bucks’ bucks, since observant people would rather pay a substantial sum of money to avoid swearing an oath. The heter iska specifies that the manager has the option of swearing the oath and paying only what the investor is entitled. However, the manager has the option of substituting an agreed upon payment for the oath. Since observant Jews would rather pay the fixed return rather than swear an oath, we accomplish that the investor is reasonably secure, although no loan and no ribbis transpired. The result is not a loan, but a cleverly structured investment.”

After waiting a few seconds and absorbing what he just learned, Andy continued:

“Is there anything else I need to know about a heter iska before I use one?”

“I need to explain one other very important detail that people often, unfortunately, overlook. Most forms of heter iska state that the investor paid the manager a specific sum of money, say one dollar, for his time involved in the business venture. It is vitally important that this dollar be actually paid; otherwise there is a ribbis prohibition involved. Yet I know that many people overlook this requirement and do not understand its importance.”

“Could you explain why this is important?”

STANDARD ISKA – A SILENT PARTNERSHIP

“The standard heter iska assumes that the arrangement is half loan and half pikadon. This means that if Mr. Bucks invests \$100,000 with Mr. Sweat to open a business, Mr. Bucks and Mr. Sweat become partners in the business because half of the amount is now a \$50,000 loan that Mr. Sweat must eventually repay, and the other half is a \$50,000 outlay that Mr. Bucks has now invested in a business that Mr. Sweat owns or intends to open. Bucks may receive no profit on the \$50,000 loan he extended -- if he does, it is prohibited ribbis. However, he may receive as much profit on the investment part of the portfolio as is generated by half the business. As a result, Mr. Bucks and Mr. Sweat are both 50% partners in the business.

RECEIVING PROFIT FROM THE LOAN

“However, there is an interesting problem that we must resolve. Bucks invested a sum with Sweat, for which he received a profit, and he also loaned Sweat money, for which he may not receive any profit. However, the return on the investment was realized only because Mr. Sweat is investing his know how and labor to generate profit for the partnership – know how and labor that Bucks did not pay for. Why is this investment of services not considered payment for Mr. Bucks’ loan, and therefore a ribbis problem?”

“Indeed this concern is raised by the Gemara, which presents two methods to resolve the problem.

“The first method is that the investor pays the manager a certain amount for his expertise and effort. As long as both parties agree in advance, we

are unconcerned how little (or much) this amount is (Bava Metzia 68b). However, there must be an amount, and it must be actually paid. Even if they agree to a sum as paltry as one dollar, this is an acceptable arrangement, similar to Michael Bloomberg's accepting one dollar as salary to be mayor of New York."

"I now understand," interjected Andy, "why it is so important that this amount be actually paid. If Mr. Sweat receives no compensation for his hard work on behalf of Mr. Bucks' investment, it demonstrates that he was working because he received a loan, which would be prohibited as ribbis."

"Precisely," I replied. "However, there is another way to structure the heter iska so that this is not a problem. This is by having the profit and loss percentages vary. This means that if the business profits, the managing partner makes a larger part of the profit than he loses if there is a loss. For example, in the original deal, let us assume that our silent and managing partners will divide the profits, but in case of loss, our manager is responsible to pay only \$30,000. This means that Sweat borrowed only \$30,000 and therefore owns only 30% of the business, which should entitle him to only 30% of the profits. The extra 20% of the profits he receives is his salary for managing the business. He is therefore being paid a percentage of Bucks' profits for his efforts, similar to the way a money manager or financial consultant is often compensated by receiving a percentage of the profits on the funds he manages.

"The heter iska I have seen used by the Jewish owned banks in Israel includes this method. The bank invests 45% in a "business" managed by the mortgage borrower, but the borrower is entitled to 50% of the profits. Thus, he is "paid" five per cent of the bank's profits for his services in managing the investment."

"Can you explain to me how the Terumas HaDeshen's money lender would use a heter iska?" inquired Andy.

"Actually, his heter iska varied slightly from what we use today. Using today's accepted heter iska, Shimon the manager accepts the money with the understanding that he is borrowing part and managing the balance for Reuven. He is compensated for his efforts according to one of the approaches mentioned above, and agrees in advance to divide the profits. He also agrees that he will swear an oath guaranteeing that he was not negligent in his responsibilities, and the two parties agree that if he subsequently chooses to pay Reuven a certain amount he is absolved of swearing the oath. Thus, Reuven's return is not interest on a loan, but the amount Shimon had agreed to pay rather than swear how much he actually owes Reuven.

"This approach has been accepted by thousands of halachic authorities as a valid method of receiving a return on one's investment that looks like interest but is not. The Chofetz Chayim notes that if someone can lend money without compensation, he should certainly do so and not utilize a heter iska, because this is the mitzvah of performing chesed (Ahavas Chesed 2:15). Heter iska is meant for investment situations, and should ideally be limited to them.

"I would like to close by sharing with you a thought from Rav Samson Raphael Hirsch about the reason why the Torah prohibited interest. He notes that if the Torah considered charging interest to be inherently immoral, it would have banned charging interest from non-Jews, and also would have prohibited only the lender and not the borrower. Rather, Rav Hirsch notes, the Torah's prohibition is to demonstrate that the capital we receive from Hashem is so that we donate tzedakah and provide loans, and thereby fulfill our share in building and maintaining a Torah community.

The Torah's goal in banning the use of capital for interest-paying loans is to direct excess funds to chesed and tzedakah."

Ohr Somayach :: TalmuDigest :: Sanhedrin 86 - 92

For the week ending 8 May 2010 / 23 Iyyar 5770

by Rabbi Mendel Weinbach

Return and Overturn • Sanhedrin 89b

A prophet who withholds revealing the prophecy granted him, ruled our Sages, is punished with lashes. Rabbi Chisda raised the question as to how it was possible for others to be aware of this prophecy in order to give him the warning that is required to make one liable for such a punishment. The Sage Abaye explained that other prophets would be privy to this prophecy, as it is written: "For the L-rd G-d will not do anything without revealing it to His servants the prophets." (Amos 3:17)

But, asks the gemara, perhaps the Heavenly Host mercifully reversed the harsh decree and withdrew the prophecy? If so, came the reply, this reversal would have been communicated to all of the prophets. This too is challenged by citing the case of the Prophet Yonah. He received a prophecy commanding him to go to Nineveh, capital of the sinful Assyrian Empire, and announce that, "in forty days from now Nineveh will be overturned." (Yonah 3:4) As we are all familiar with the outcome of this prophecy from our annual reading of the Book of Yonah at the Mincha service on Yom Kippur, Nineveh was indeed spared without Yonah being informed of any reversal.

The response to this challenge is that that prophecy Yonah received was one that Nineveh would be "overturned" — which could be understood that the sinners there would "overturn" their ways by repenting. Yonah made the misinterpretation that this was a prophecy of destruction. But his call for repentance achieved its goal and "G-d saw in their actions that they had repented their evil ways and G-d reconsidered the evil He had intended for them and did not bring it upon them." (Yonah 3:10) Only then did the prophet realize that there had been no change in his prophecy requiring notification, but that the initial message from Heaven was that there was an option of "overturning" which could spare Nineveh.

When we hear this historical account read on Yom Kippur we cannot help wondering how a foreigner like Yonah could succeed in arousing the capital of the world's superpower to repentance by threatening Heavenly destruction. Should someone come forward in our time with such a doomsday prophecy he would probably be placed in a mental institution!

The secret lies in the origins of the city Nineveh. "From that land went out Ashur (founder of the Ashur-Assyrian Empire) and built Nineveh." (Bereishet 10:11) Rashi explains that Ashur was concerned about the influence which the evil Nimrod, leader of a rebellion against G-d, was having on his children, and therefore moved away to found a new city. A city founded with such noble intentions was thus granted the potential to properly respond to a prophet's call for return and "overturn" more than a millennium afterwards.

What the Sages Say

"The punishment of the inveterate liar is that he is not believed even when he tells the truth."

•Gemara, Sanhedrin 89b

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