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INTERNET PARSHA SHEET
ON **METZORA** - 5768

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The Connection between the Eye and the Skin Rabbi Yossef Carmel
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Dedicated to the memory of R' Meir b'r Yechezkel Shraga Brachfeld zt"l

The gemara mentions seven things that cause tzara'at (roughly, leprosy): lashon hara, murder, false oaths, incest and adultery, haughtiness, theft, and tzarut ayin (stinginess; literally, a narrow eye) (Arachin 16a). The hardest of the above to understand is tzarut ayin, as lack of magnanimity doesn't violate any sins, at least not on the level of the rest. Why did Chazal consider it so objectionable to want to keep that which is one's own?

Chazal find a hint to tzarut ayin in the following p'sukim. Regarding an affliction of the house, the Torah says: "The one, that the house is his, comes" (Vayikra 14). The gemara says that this refers to one who sets his house aside for himself alone and refuses to share his utensils. After claiming that he does not have what his neighbor requests, he is forced to remove his wares for all to see upon evacuating the afflicted house.

The Meshech Chochma explains halachot of tzara'at based on the connection to tzarut ayin. The Torah requires the leper to stay alone outside the encampment (Vayikra 13:46), isolated even from other impure people (Pesachim 67a). This is part of a punishment that fits the crime. He who is unwilling to contribute to society is deprived of basic human interaction. Another halacha that takes on new light relates to the expense of the korban the afflicted is supposed to bring. In general, regarding korbanot that are more or less expensive depending on one's financial capabilities, if one spent less than prescribed on the korban, he fulfills his obligation anyway. However, a rich leper who brought a korban befitting a poor one does not fulfill his obligation (Yoma 41b). Since tzarut ayin is a factor in tzara'at, one who maintains his characteristic of stinginess cannot expect to receive atonement in that manner.

There are also halachic proofs that the Torah encourages social interconnectedness. If a husband uses oaths to prevent his wife from lending utensils to neighbors, this can be used as grounds for divorce (Ketubot 72a). This is because the Torah views community life and proper relationships with neighbors as basic needs that it is forbidden to deprive a person of.

Furthermore, the halacha is that while two witnesses are usually required to establish facts, when it comes to questions of whether something is forbidden or permitted, one witness is sufficient (ed echad ne'emana b'issurin - Gittin 2b). The Ritva (ad loc.) explains that if this were not so, it would be impossible for one to be a guest at another's house and eat his food. Thus, social needs ensure the relaxation of certain halachic standards (as subscribed by halacha), showing the relative importance of mitzvot between man and man.

Thus, we have seen that tzarut ayin, an anti-social trait, is, in regard to tzara'at, comparable to the cardinal sins. Let us cling to the values and traits needed to be positive members of society.

<http://www.anshe.org/parsha.htm#parsha> Parsha Page by **Fred Toczek** - A Service of Anshe Emes Synagogue (Los Angeles)

Tazria/Metzorah 5757

I. Summary

A. The Mother of a Newborn. After giving birth to a child, a mother was not permitted to enter the Sanctuary for a specified period, at the termination of which she brought burnt and sin offerings to the Sanctuary and was then considered ritually clean once again.

B. Tzora'as. Anyone who contacts the disease of Tzora'as (similar to leprosy) was not allowed to enter the Sanctuary. Consequently, when one's skin color indicated that he might have the disease, he was examined by the Priest. If the Kohein, after scrutinizing the person's skin, was unable to give a definitive diagnosis regarding the Tzora'as, the person was put in isolation for seven days, and then re-examined. If the appearance of the skin remained unchanged, he was confined for an additional seven days. Then, a final examination was conducted. If the mark had still not spread, the person was declared ritually clean. On the other hand, if the blemish had spread, the person was declared a metzorah, a person afflicted with Tzora'as. He was then sent to live outside the camp of the assembly, with his clothes torn and his hair unkempt. He was told to call out "Unclean, unclean!", as a warning for others not to touch him. When the Tzora'as subsided, the person was again examined by a Kohein outside the camp, to ascertain whether or not the recovery was complete. The elaborate cleansing ceremony which followed took place over an eight-day period, during the first and last of which special rites were observed. Sacrifices were offered by the Priest, and both cedar wood and hyssop were used in the process of purification. The former metzorah was then pronounced a full-fledged member of the community once again. The laws of Tzora'as applied equally to a garment and to a house. If a garment showed signs of Tzora'as, depending on the situation, it might be burned. If a house suddenly became marked by green or red streaks, it was boarded up for seven days. If the streaks then spread, the affected stones of the house were removed and replaced with new ones. The house was replastered, and the old stones and dust were thrown in a specially designated unclean area outside of the camp. If signs of Tzora'as still lingered in the walls, the whole building was demolished, and its building materials were discarded in the unclean area outside the camp. Certain physical impurities rendered a man or woman ritually cleaned, thus preventing them from entering the Sanctuary or touching or partaking of sacred articles. This state of uncleanness was ended after the prescribed time by special purifying ceremonies.

II. Divrei Torah

A. Lil'Mode U'lilamed (**Rabbi Mordechai Katz**)

1. Tzora'as and Loshon Ho'rah. Chazal say that Tzora'as was a punishment meted out to those who had spoken spitefully of their fellow man. (For instance, it was with Tzora'as that Miriam was stricken after she spoke ill of Moshe.) Loshon Ho'rah (saying gossip, slander and negative things about others), then, is considered a most heinous crime. One who speaks Loshon Ho'rah by another person is, say Chazal, burdened with the other person's

sins. This may seem to be an unfair punishment for an apparently minor misdeed. After all, making a nasty comment about someone seems much less damaging than physically assaulting them. Yet, this is not necessarily true. Granted, one who has just been hurt feels a definite pain, but often the pain subsides in a short while. The disparaging remark, on the other hand, can linger on to haunt the victim for years. Loshon Ho'rah can be compared to one opening a bag of feathers. Even if one wanted to re-gather them one cannot, for they have been spread over by the wind.

2. Punishment for Loshon Ho'rah. Why do people speak Loshon Ho'rah? Some do so in the belief that, by belittling others, they themselves gain status. They don't realize the suffering they are causing others. Perhaps if they, too, experienced belittlement, if they knew what it was like to become isolated from others, they would be more considerate of others. This is perhaps why the punishment for Loshon Ho'rah is Tzora'as. The metzorah, the one afflicted with Tzora'as, becomes, literally, an outcast. He must leave the three camps of Israel and maintain an isolated existence. He is looked down upon and avoided by others. He is considered impure. This is exactly the condition he caused the libeled person to experience. Now that he knows what it is like himself, he will (hopefully) be more careful in the future. When he avoids later opportunities to speak Loshon Ho'rah, he has learned his lesson. Hopefully, such severe punishment is not necessary for the average person to realize that Loshon Ho'rah is detrimental. Everyone should reach the conclusion that one way to a more peaceful life is to avoid Loshon Ho'rah. Rabbi Yannai once observed a peddler striding for town and chanting, "Who wants to buy the elixir of life?" Rabbi Yannai approached the peddler and asked him to reveal his secret potion to a lengthy existence. The peddler refused, and Rabbi Yannai persisted. Finally, the peddler responded, "You do not need any special potions. The key to a long, happy life is contained in your holy books, which state, 'Who is the man who desires long life . . . Guard your tongue from evil . . .'" Rabbi Yannai turned to his companions and said, "I did not fully understand the feeling of this verse until the peddler clarified it. He brought it to my attention that avoiding Loshon Ho'rah is in itself a remedy for the torments of life. If one keeps away from speaking ill of others and from animosity and arguments, then he has a better chance of a calmer, more peaceful and longer life. That, indeed, is the elixir of life."

B. Growth Through Torah (**Rabbi Zelig Pliskin**)

i. Learn from Aharon to make peace between people even at the price of distorting the truth. A person afflicted with Tzora'as was to be brought to Aharon or one of his sons. The Rabbi of Alexander noted that when people say negative things about others, they frequently rationalize it by saying that they are telling the truth. The other person has done so much wrong it is important to publicize what a bad person he is, they claim with "elevated intentions". Although their claims might sound good at first, they cause much hatred, quarrels and pain. Therefore, the person with Tzora'as was sent to Aharon. One of his traits was that he did everything he could to make peace between people. He even exaggerated and told untruths in order to bring about peaceful relationships between people. This was the lesson that Aharon would give to the person who spoke against others. Don't justify your harming and wronging others by claiming that you want to publicize the truth. Do all that is in your power to help people feel love for one another.

ii. Find a spiritual guide to assist you if you suffer. "And the Priest shall see him on the seventh day." The Torah requires a Priest to be the one to make the decision about whether a person is afflicted with Tzora'as. This is because the Priest was able to advise those afflicted to check their behavior and correct their faults. They would also teach the person how to pray to Hashem for help. Moreover, the Priests themselves would pray for the person's welfare. This is a lesson for someone who finds the Almighty has sent him affliction. Find a spiritual guide who will be able to point out ways in which you can improve yourself, give you advise on what to pray for, and pray for you. By doing so, you will gain much from your suffering.

iii. View the irritations caused by other people as a price you pay for companionship. "All the days of plague is in him . . . he shall dwell alone; outside the camp shall his dwelling be." Chazal say that since the metzorah caused separation of friends by speaking against others, he too should be separated from others. Being all alone is a great distress. Everyone needs other people. Having people around you is the source of many benefits, but there is a price to pay. Your friends and relatives are bound to do things that irritate you (just as you are bound to do things that irritate them). If you keep in mind that the alternative to having people around is being all alone, you will view the drawbacks of having friends and relatives as a price well worth paying.

iv. Think before you speak. "And the Priest shall command to take for him who is to purify two birds alive and pure." Rashi states that the reason birds were taken for the process of purifying the metzorah was because birds constantly chirp. Since Tzora'as comes from speaking Loshon Ho'rah, which is a matter of chattering, the metzorah needs birds for its atonement. Rabbi Yeruchem Levovitz commented on this that the Torah is giving us a key into what lies behind a person's speaking against others. A root of the problem is that the person keeps on talking without thinking about what he is saying. Just as birds keep making noises, so too is the person just making a lot of noise. A person needs to think about the goals of what he about to say. Before speaking you should ask yourself, "What is the purpose of what I'm about to say? What will it accomplish? What effects will it have?" Once you get into the habit of asking yourself these questions, you will always think before you speak. This will enable you to overcome the tendency of speaking against others.

v. Focus on your own faults and you will not speak against others. "And the Priest shall command to take for him who is to be purified two birds alive and pure, and cedar wood, and scarlet, and hyssop." Rashi cites the Chazal that the cedar symbolized arrogance because Tzora'as comes from arrogance. What is a cure for the person that he shall be healed? He should humble himself, which is symbolized by the scarlet that comes from the lowly worm and by the small hyssop. The Chofetz Chaim commented on this that one of the major reasons a person speaks Loshon Ho'rah is because of arrogance. Someone who speaks against others views himself as above other people and therefore feels he has a right to say negative things about them. If he were aware of his own faults and limitations, he would not seek out the faults of others. The greater your awareness of your own errors and negative traits, the less you will focus on the faults of others. When you focus on the faults of others, you gain nothing yourself. By becoming more aware of your own faults, however, you will keep improving your character and you will free yourself from speaking against others.

C. The Wellsprings of Torah (**Rabbi Alexander Zusia Friedman**)

i. Two ways to connect with Hashem. There are two ways in which man can be made to realize that there is a G-d in this world and that he should turn his thoughts to repentance and to higher things of the spirit. One way is through plagues and suffering, which remind man that there is a Supreme Being Who will demand strict accounting for all his deeds and to Whom he must therefore return in repentance. The other way is through Divine Grace which enlightens the eye of man so that he will be able to perceive the deeper meaning of His purpose. Such enlightenment from above comes from the performance of mitzvos and most frequently comes during the hallowed seasons, on Shabbos and on the Holidays, the Mikroei Kodesh ("Holy Consecrations") as Scripture calls, them which summon man to commune with himself and to draw nearer to sanctity.

ii. Seeing One's Own Faults. ". . . and the Priest shall look at the plague . . ." Man can immediately see other's faults, but not his own, and he finds the fault of strangers more readily than those of his own kin.

D. Peninim on the Torah (**Rabbi A. L. Scheinbaum**)

i. Transcending the Physical. Bearos Yitzchak suggests the following rationale for why Tzora'as was the specific form of punishment for sinful speech. Man is distinguished from all the creations by his ability to express himself through the medium of speech. In fact the term "one who speaks"

is used to describe human beings. In contrast to all other creations, man's power of speech is an inherent part of his essence. When man sins using his G-d-given power of speech, he exhibits an apparent contempt for this attribute which was granted only to him. He is, therefore, indistinguishable from an animal. This absurd view would be corrected only when he is able to clearly see the folly of his beliefs. Through the degradation of the body caused by such a debilitating illness as leprosy, man comes to reflect upon his true essence. The purpose of these plagues is not the pain which is associated with them, but rather the humiliating effect upon the individual. With the realization that the body is no more than a superficial covering for his true essence, man will mend his ways and seek true repentance.

ii. True Repentance. "All the days wherein the plague is with him, he shall be unclean." This verse seems superfluous. Obviously, if the disease still plagues him, he is deemed unclean! The Netziv explains that one might assume that after performing the ritual of cleansing oneself and observing the rites of the metzora, he would now be permitted to return a state of purity, even though the disease is still in him. Indeed, one is not viewed as a true baal teshuvah (penitent) until after he's altered his previous offending habits. Superficial acts of penance, going through the external motions of performing teshuvah (repentance), are insufficient. Teshuvah begins with acknowledgment of one's mistakes, remorse or regret for those mistakes, and definite change from one's previous lifestyle. Thus, the Torah hereby declares that as long as the deeds remains, the repentance is not complete and the metzora remains unclean.

E. Living each week (**Rabbi Abraham Twerski**)

i. Projection. "And he shall call, 'Unclean! Unclean!'" The literal meaning of this verse is that the metzora was to alert people at his approach, that they did not become contaminated by contact with him. The Shelah gives this verse an additional interpretation, by inserting a comma, so that it reads "And he who is unclean calls [everyone else] unclean." Thus interpreted, this verse supports the Talmudic statement that a person who insults others generally projects his own defects onto them (Kiddushin 70a). The Torah predated the discovery of the psychological mechanism of "projection" by thousands of years. The Baal Shem Tov elaborated on this theme, stating that the world is a mirror in whose reflection one sees one's own image. A person with good character traits will see the good in everyone, and a person with many character defects will find fault with everyone. It is related that the Baal Shem Tov once saw a person violate the Shabbos. In keeping with his teaching, he assumed that he, too, had violated the Shabbos, or else he would not have seen this. In spite of a thorough self-searching, he could not recall having violated Shabbos, and he prayed fervently for a Divine revelation to help him realize how and when he had violated Shabbos. It was revealed to him that on one occasion he had remained silent when someone had spoken disparagingly of a Tzaddik. Inasmuch as the Zohar states that a Tzaddik has the kedushah (sanctity) of Shabbos, failure to offend the honor of the Tzaddik was tantamount to a violation of Shabbos. Some people are very critical of others who transgress the Torah commandments, and indeed it is a mitzvah to try and enlighten a person on the importance of observing its mitzvos. The Baal Shem Tov's teaching, however, is that we must do sincere soul searching to find in what manner we ourselves have been guilty of the behavior we are criticizing in others. Just think of how wonderful the world would be if we followed this teaching of the Baal Shem Tov. Each time we were aroused to criticize the fault of another, we would turn our attention inwardly to work on self-improvement first.

ii. Blessings in Disguise. "When you enter the land of Canaan that I'm giving you as an inheritance, then I will inflict a 'leprous' lesion in the houses you inherit." The tone of this verse referring to lesions in the walls of the house is totally different than that relating to lesions of the skin or garments, where the verses read "if there shall be a lesion . . ." The verse appears to be, as it were, a Divine promise. Rashi therefore quotes the Midrash which states that when the inhabitants of Canaan became aware of the advancing Israelites, they concealed their valuables in the recesses of

their walls. In order that these hidden treasures be discovered, G-d caused lesions to appear in the walls of the houses. The homes would then have to be demolished, and the Israelites would find the hidden treasures. There are many other ways in which G-d could have provided the Israelites with riches. This particular method was to teach us that there are blessings in disguise. The first reaction to the appearance of a defect which could necessitate demolishing one's home is one of anger and outrage. "Why is G-d doing this to me?" When the hidden treasure is ultimately discovered, one understands that what had seemed to be a curse was actually a blessing. Sometimes a blessing that is concealed within painful wrappings eventually becomes apparent to us, but at other times we are not privileged to discover the hidden good. It requires an enormous strength of faith to accept distressful occurrences as being blessings in disguise. The Talmud tells us that the extraordinary faith of Nahum of Ganzu, who accepted that everything that happened to him with the statement, "This, too, is somehow good." The Torah approach to acceptance of suffering is well-balanced. On the one hand, a person is not taken to account for feeling angry toward G-d during his acute pain (Bava Basra 16b). On the other hand, he is required to have faith in G-d's benevolence. The initial human reaction of feeling angry towards whomever one holds responsible for one's suffering is essentially a reflex response. On the other hand, by exercising faith in G-d's absolute benevolence, one should be able to replace anger with serenity, with an acceptance of the fact that even things which appear to be evil according to our human perception are part of the Divine plan which is benign in its totality. The Midrash states that when Jacob was mourning the loss of his son, Joseph, and complained that G-d had turned away from him, G-d said, "Here I am manipulating things to make his son the viceroy of the Egyptian empire, and he is complaining!" Both aspects of the Torah approach are depicted by the Midrash: (1) even a Tzaddik of the magnitude of Jacob may complain about his suffering and (2) G-d has a design into which everything fits, even though we may not be able to see any good in it. While we may not find a hidden treasure in every building that is demolished, we should not lose sight of this extremely important aspect of Emunah (faith) and we should gather the strength from our Emunah to withstand the stresses and distresses of life.

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Baal HaTurim's Insight Highlights The Torah's Sensitivity
The Baal HaTurim provides us with a fascinating insight into the purification offerings brought by a woman who has given birth (following the prescribed days of impurity and purity). At the beginning of Parshas Tazria, the Torah specifies the nature of these offerings:

A woman who can afford the standard offering is commanded to bring a sheep within its first year as an Olah offering and a young dove (ben yonah) or a turtledove (tor) as a Chatas [sin offering]. [Vayikra 12:6]
A woman who has given birth (yoledes) who cannot afford the standard offering of a sheep is allowed to bring two turtledoves (shnei torim) or two young doves (shnei bnei yonah) – one for the Olah offering and one for the sin offering. [Vayikra 12:8].

The Baal HaTurim points out that throughout the Torah — including the above quoted pasuk 8 — whenever the torim (turtledoves) and the bnei yonah (young doves) are mentioned, the torim are always mentioned first. Only in pasuk 6 above is the sequence reversed, with the Torah first mentioning the ben yonah and then the tor.

He explains the reason as follows. Normally, the Torah requires two birds to be brought at a time. In the case of the woman who gave birth, only one bird is required (one sheep and one bird). If only one bird is to be brought,

it is preferable to bring a "ben yonah" type of bird than a tor. Why? Because turtledoves always live in pairs — male and female. When one of the pair is taken away from its mate, the Talmud states in Kerisus that the remaining bird will never take another mate. They only mate with one bird their entire lives.

The Torah is concerned that the remaining turtledove should not remain lonely and depressed the remainder of its life. Consequently, the Torah advises us to give preference to taking the ben yonah in such a situation. The ben yonah's mate will find someone else.

This should not be interpreted as an "Animal Rights" Baal HaTurim. This is a "Sensitivity" Baal HaTurim. The Baal HaTurim is teaching that the Torah's ways are full of pleasantness. The Torah always tries to teach us to be sensitive and caring human beings. If one treats animals and even birds with such sensitivity, then certainly one will treat humans with sensitivity.

A person who is insensitive and uncaring acts that way across the board. He cannot just "turn on sweetness" for the people in his shul or the people in his immediate circle. One trains oneself with the attribute of compassion by applying such compassion to everyone and everything he comes in contact with.

This lesson of the Baal HaTurim regarding the sacrifice of the yoledes is the same concept pointed out by the Ramba"n regarding the mitzvah of Shiluach HaKen [Sending away the mother bird before taking its young]. The Ramba"n says that the mother bird has pain seeing its young taken from the nest, therefore we are commanded to send her away before we take the young for ourselves. The Talmud says that one who praises G-d for showing mercy to the mother bird regarding this mitzvah is silenced. Why? Because this is not an "Animal Rights" mitzvah. Rather, here too, the Torah is training us to be caring human beings so that we should treat PEOPLE properly.

The Kohen Picks The Birds For the Metzarah's Offering -----

When it is time for the Metzarah to go through his purification process, the pasuk says: "The Kohen shall command, and for the person being purified there shall be taken two live birds..." [Vayikra 14:4] Rav Moshe Feinstein in the sefer Darash Moshe asks, why is it the Kohen who has to worry about the bringing of these birds? Let the Metzarah himself look into the Torah, see what offerings he needs to bring, and procure the offerings himself! Why does the Kohen need to prescribe the two birds for the Metzarah?

Rav Moshe Feinstein wrote 8-10 volumes of his Igros Moshe responsa. He answered thousands of queries in his lifetime. But he used to complain. He used to say that he would get many queries about pretzels and about the details of Shabbos observance and other ritual laws. But he bemoaned the fact that rarely, if ever, would he be asked how to raise one's children or how to give charity. Certainly, everyone knows that one must give Tzedaka. But there are priorities. Who do we give to and who do we not give to? He was not asked those types of questions. The two smallest volumes of the Igros Moshe collection are from Choshen Mishpat (the section of Shulchan Aruch dealing with business matters). He used to complain that people did not ask him enough of the "right questions."

People confront so many spiritual matters in their lives. Too often, they don't realize that these matters are "shaylos" (require Rabbinic consideration) as well.

The Gemara tells us that the condition of Tzaraas comes as a result of a person being stingy (tzaar ayin), and not wanting to lend out his property. Tzaraas comes because someone does not know the difference between how to speak and how not to speak.

Rav Moshe explains that the Metzarah's problem was that he did not ask advice regarding how to conduct himself in life. He thought he knew how to treat his money and how to treat his speech. Therefore the cure for him is that he cannot even decide for himself which two birds to take for his purification offering. The Kohen must instruct him: "These are the two birds you should use for your offering."

This will hopefully send home to him the message that one needs to consult a Rov for ALL types of Shailos.

A shaylah is not only the laws of Shabbos, Niddah, and Pesach. Hilchos Tzedakah is also a shaylah. Therefore, specifically here by the Metzarah, who is lacking in this matter of taking counsel in matters which he feels he is competent to decide on his own, the Torah goes out of its way to insist that it is the Kohen who arranges the procurement of his birds.

Winning a Windfall And Learning How To Handle It At The Same Time -----

Not only can Tzaraas affect the body of a person and his clothing, it can even affect the walls of his home. We learn [Vayikra 14:34]: "When you arrive in the land of Canaan that I give you as a possession, and I will place a tzaraas affliction upon a house in the land of your possession."

Rashi explains in the name of the Medrash that the affliction of one's house with Tzaraas is actually a blessing in disguise. When the Canaanites heard that the Jews were about to enter their land, they were afraid for their money. They therefore dug holes in their walls, stuck in their wealth, and plastered up the holes.

The question is, if the Almighty wished to deliver a windfall bonus to the Jews who entered Canaan, this is a strange way to bestow the blessing. Could He not provide a windfall that would not involve ripping up one's house? It would be a very traumatic business to find a "nega tzaraas" on the wall of one's home. When the process of the House-Leprosy started, one did not know where it would end. In a worse case scenario, one could lose his entire house! This is how G-d chooses to give us a present?

The interpretation could be that the Ribbono shel Olam is doing the person a kindness by delivering the wealth to him in this manner. Receiving wealth easily with no strings attached, like falling off a log, is not an easy thing to handle.

Periodically, we read stories in the paper of lottery winners winning 9 figure jackpots. Initially, they claim that their winnings will not change them in the slightest. A year later, we read an update of their lives — they have been ruined. A windfall of money is a tremendous test. Unless it is handled properly, it can be a curse.

G-d says: I will give you a windfall. You will win the lottery. But you will gain your windfall in a context that will emphasize how fragile life is. You will first come to understand how wealth (one's house) can be here today and gone tomorrow. When the person gets the money under those circumstances, he treats it differently and approaches it differently. It is an insurance policy that it won't change him.

Transcribed by David Twersky; Seattle, WA DavidATwersky@aol.com
Technical Assistance by Dovid Hoffman; Baltimore dhoffman@torah.org

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Rabbi Eli Baruch Shulman
Parshas Tazria - Metzora 5764

Start with two stories - we'll see later a connection between them. R' Isser Zalman on Purim, had a card in front of him, would look at from time to time - עיניו נלכדו ביטו ועפעפוך - people come, he notices their failings, reminds himself - יישרו עפעפוך - נגדך - קוק ניט אויף יענעם, נאר אויף זיך.

Story about R' Tzvi Hirsch, rav of Cracow, vulgar members of community started whispering campaign. Spoke in shul - why did (ס"ט ישיחו בי יושבי שער ונגינות שותי שער) פרק דוד המלך - whose who lounge in doorways and guzzle beer speak ill of me - would it have been better if great צדיקים and respectable people spoke ill of him? Because it says in ספרים מצוות of מספר לשה"ר go to person about whom he spoke - so if it had been צדיקים at least I would have gotten their מצוות!

Source in (שער הכניעה) (חובות הלבבות) שער הכניעה - people will be shown their ledger and there will be מצוות they never did - and לשה"ר - because their transferred as a result of עבירות.

תold the same thing. יוסף בית מגיד

Very bizarre punishment!

ריש לקיש מאי דכתיב אם ישוך הנחש נחש - אמר associated with לשה"ר חיות ובאות אצל הנחש בלא לחש ואין יתרון לעל הלשון - לעת"ל מתקבצות כל לך. אמר להם - ואומרות - ארי דורס ואוכל, זאב טורף ואוכל - אתה מה הנאה יש וכי מה יתרון לבעל הלשון

explain connection between נחש and לשה"ר as follows. What is the attraction of לשה"ר? If there is no הנאה - why is it told with such glee? We've heard the expression "delicious gossip". What makes it so delicious?

People generally tend to measure themselves against others. We derive our self-image from how we compare to others. If we meet someone smarter than ourselves - we feel unintelligent. If we meet someone foolish - we feel smart. If we meet someone richer than ourselves - we feel poor. If we meet someone more successful - we feel unaccomplished. If we meet someone more learned - we feel ignorant.

Now, if a person has a strong sense of self - a strong inner perception of who he is and what his strengths and weaknesses are - then that balances the other tendency. The more empty he is inside, the more dependent he is for his sense of self on comparing himself to others.

From there it is not a large step to feeling that other people's accomplishments diminish us. And it is from that place that the compulsion of יצה"ר comes. Because - if I only measure myself against other people - then the easiest way for me to build up myself - is by tearing other people down. If the yardstick of my worth is how I measure up against my neighbor, then the smaller I make him - the more I diminish him or her - then the bigger I am in comparison.

You know in פרשה we learn that a person who has צרעת - which is a punishment for לשה"ר - has to live alone, outside society - בודד יושב . We usually understand that as a punishment for his unsocial behavior. But I would suggest that it is just as much an education. The בעל לשה"ר has to learn to live inside his own skin. He has to learn to define himself without measuring himself against others, and to build himself without tearing others down. To quote Polonius - who was a fool in most ways but who said one good thing - he needs to learn to be true to himself, so that he can be true to others.

Here we come back to the נחש - and why it is such a symbol of לשה"ר. When the נחש was enticing חוה to eat - said כי יודע א' ביום כל אומן שונא בני - אכלכם ממנו והייתם כא' יודעי טוב ורע אומנותו. In other words - the נחש was that voice that whispered into חוה's ear to project on to the רבש"ע that most human failing - the failing that is at the source of לשה"ר - of feeling diminished by someone else's stature. And therefore the נחש becomes emblematic of that very ugly trait.

And hence the fitness of the punishment - that the מצוות of בעל לשה"ר should be transferred to his victim, and visa versa. Because the root cause of לשה"ר is the desire to build oneself up by tearing down someone else - and the most apt punishment is that the spiritual stature of the בעל לשה"ר should be reduced, and the stature of his victim enhanced at his expense.

The בעל לשה"ר derives his sense of worth from the smallness of other people. And since he does not derive his sense of worth from his own accomplishments, it stands to reason that his accomplishments should not be credited to him, but to others; and that their failings, which he is so attracted to, should be credited to him.

We've been talking about לשה"ר but the truth is that this same human weakness is at the root of other problems, many of which have become pathologies in our own community. The constant need to keep up with the Joneses - in our homes, our simchas, our clothing - the conspicuous consumption, the religious one-upmanship, the obsessive conformity - people are obsessed with what other people are going to say about them. It all goes back to the same malady - of deriving our sense of worth from comparing ourselves to other people. And that is a very shabby - and second-hand - and inauthentic way to live a life.

We would do well to adopt for ourselves R' Isser Zalman's motto: עיניך לנכח יביטו; when we are tempted to look out at our neighbors, whether it is to envy them, or to condemn them, or just out of sheer nosiness - ועפעפוך יישירו נגדך - better to look at ourselves, where there is enough to occupy us for a lifetime.

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Covenant & Conversation

Thoughts on the Weekly Parsha from

Sir Jonathan Sacks

Chief Rabbi of the United Hebrew Congregations of the British Commonwealth

[From 2 years ago - 5766]

<http://www.chiefrabbi.org/tt-index.html>

Tazria-Metzora

Advances in medical technology such as in vitro fertilisation have raised complex ethical and legal questions. In the case of surrogacy for example - where the ovum comes from one woman, but the fertilised embryo is carried to term by another - who is the mother? On the one hand, the donor mother from whom the ovum is taken contributes her genetic endowment to the child. On the other, the host mother provides the womb in which the foetus grows, and is the one who actually gives birth. The mother may thus be [1] the genetic mother or [2] the host mother; or it could be that from a legal point of view [3] the child has no mother, or [4] two mothers, or [5] maternity may be adjudged to be a matter of doubt, requiring us to take into consideration all possibilities.

One of the first halakhic authorities to consider the question was the late Rabbi Shlomo Goren (1917-1994), senior chaplain to the Israel Defence Forces from 1948 onward and later Chief Rabbi of Israel (1972-1983). His view was that the genetic mother remains, in Jewish law, the mother of the child despite the fact that it was brought to term by someone else. Maternal identity, he held, is purely genetic. It is determined by conception, not birth. One of his proofs is the opening of this week's sedra:

G-d spoke to Moses, telling him to speak to the Israelites, relating the following: When a woman conceives and gives birth to a boy . . . The word 'conceives' is - as commentators point out - seemingly superfluous. The 'uncleanliness' from which the mother must be cleansed has to do with the birth, not conception. According to Rabbi Goren, the term 'conceives' comes to supply additional information, namely that it is conception - the meeting of egg and sperm - that determines motherhood. Thus, if the egg donor is Jewish and the host mother not Jewish, the child is Jewish, and requires no act of conversion. If the donor is non-Jewish, and the host mother Jewish, the child is regarded as non-Jewish and will require conversion if it is to be brought up as a Jew.

Other authorities take the opposite view. The relationship between the host mother and the foetus is a dynamic one. She is not a mere incubator to the child developing within her womb. Though its genetic origins are elsewhere, the foetus becomes part of her as it develops.

An earlier question, relating to organ transplantation, had raised a similar issue. Does a donated organ retain its original identity as part of the donor, or does it become part of the recipient (legally, not just biologically)? The authorities considered the case of orlah - the fruit of a tree in its first three years, which is forbidden to be eaten. When the branch of a young tree is grafted to an old one, it takes on the identity of the tree as a whole. The fruit it bears is not considered orlah, even though the branch is less than three years old. From this, the authorities concluded that a transplanted organ, like a grafted branch, loses its original identity and becomes part of the organism to which it has been joined. A similar logic would hold that the embryo takes on the identity of the woman into whom it has been implanted. Thus the host mother is considered the mother in Jewish law.

In fact, the matter is more complex. There is a difference between transplantation and implantation; and between an organ and a foetus. An organ has no identity of its own; a foetus does. Eventually, at birth, it will separate and become a person in its own right. Even within the womb, it has its own distinct identity. An organ, successfully transplanted, becomes part of the biological system to which it is attached, whereas the foetus, though nourished and protected by the host mother, remains a separate biological system in its own right. There is a debate in Jewish law as to whether the foetus is, or is not, considered 'a limb of the mother', and that argument has a bearing on our question. If it is a limb of the mother, then once implanted it takes on the identity of the host; if not, not. The question of maternal identity therefore remains open.

Some authorities have recourse to a midrashic (i.e. non-legal) tradition about an episode in the lifetime of Jacob. Jacob fell in love with Rachel, but through Laban's deception, married her elder sister Leah. Eventually he married Rachel as well, but G-d, seeing that Leah was unloved, gave her children, while Rachel remained infertile. She bore Jacob six sons, and then

became pregnant a seventh time, eventually giving birth to a daughter. The text at this point (Gen 30: 21) says:

And afterwards, she gave birth to a daughter, whom she named Dinah. The apparent redundancy of the phrase 'and afterwards' led the rabbis to the following reconstruction of events. Leah had six sons. The two handmaids, Bilhah and Zilpah, had two sons each. Leah knew through prophetic insight that Jacob was destined to have twelve sons, each of whom would become the ancestor of a tribe. If her seventh child were a boy, this would mean that her sister Rachel would have only one son, one tribe, and thus leave less to posterity than her own handmaid. Not wanting her sister to suffer this humiliation, Leah prayed that the child within her womb - a boy - be changed to a girl; and so it happened.

According to one of the ancient Aramaic translations, Targum Yonatan, a miracle occurred. The male foetus in Leah's womb and the female in Rachel's womb were transposed. As a result, Rachel gave birth to a boy, Joseph, and Leah to a daughter, Dinah. From this we can infer that maternity is determined by birth, not conception. Joseph - conceived by Leah and bearing her genes - is nonetheless regarded as Rachel's child, for it was she who gave birth to him. The host mother is the mother for all legal purposes.

Those who believe that maternal identity is genetic, not gestational, reject this proof on a number of grounds. First, there is an alternative tradition (Talmud Yerushalmi Berakhot 9:3), that Leah's child was miraculously changed from male to female in the womb, rather than being transferred to Rachel. Second, a legal proof can not be derived from a non-legal source. Third, miracles do not establish laws. Thus the matter remains in doubt, and most contemporary authorities act accordingly, taking both possibilities into consideration.

Which is decisive: nature or nurture? Medical science has developed in astonishing new directions since Mendel's 19th century research into genes, Crick and Watson's 1953 discovery of DNA, and the decoding of the human genome. In February 2001 it was announced that the human genome contains not 100,000 genes, as originally postulated, but only 30,000. This surprising result led scientists to conclude that there are not enough human genes to account for the different ways people behave. We are shaped by nurture as well as nature. The two are not separate, but interact in complex and still not yet fully understood ways (for an excellent survey, see Matt Ridley's *Nature via Nurture*, 2003). Contemporary science is thus writing a new commentary to the ancient phrase in this week's sedra: 'when a woman conceives and gives birth'. Conception (genetic endowment) and gestation (the foetus' pre-birth biological environment) both play a part in the formation of a child. There are two aspects of maternity, not one - genetic and gestational; nature and nurture. Thus does science reveal new depths of meaning in the ancient but ever-renewed word of G-d.

Penim on the Torah by Rabbi A. Leib Scheinbaum PARSHAS METZORA

This shall be the law of the metzora. (14:2)

There is no shortage of punishment in store for the individual, whose mouth runs loosely, spewing forth slander and other forms of evil speech. Yet, it does not seem to be enough of a deterrent. We get caught up in the rush of life and, before we know it, we have once again rationalized speaking negatively about someone, finding some reason to justify whatever disparaging comments come into our minds. Explaining the gloom that awaits the baal lashon hora, slanderer, the Zohar HaKadosh makes one statement that should serve as a wake-up call for us. He writes: "The prayer of the individual who speaks lashon hora will not ascend to Hashem, because there is a ruach of tumah, spirit of ritual impurity, hovering over him. This spirit hovers until the individual repents completely." David Hamelech alludes to this idea when he writes in

Tehillim 17:1, "A Prayer of David. Attend to my entreaty, give ear to my prayer - which is not from deceitful lips." Hashem, since I am not guilty of speaking lashon hora, I ask that You listen to my entreaty. This statement should disturb us. Imagine pouring out one's heart to Hashem in prayer—either for another Jew or for oneself—and praying with devotion, sincerity and true fervor, yet not a single prayer penetrates the Heavens, because the prayer emanates from an impure source. Very frightening, but true. We daven; we scream; we cry our hearts out, but the tefillos lack the "propulsion" to rise up to Heaven, because they are stuck in the muck of our lashon hora. Clearly, we do not think about this when we supplicate Hashem. In reality, the situation is even worse than that. When the nachash, serpent, was guilty of being the catalyst of the first sin, his mouth played a crucial role in this debacle. Hashem punished the serpent by recreating him to live off dirt as its means of sustenance. At first glance, this does not seem to be a serious punishment. After all, the serpent always finds its "food" readily available. He never has a shortage of dirt to eat. It may not be tasty, but it is plentiful. Apparently, the punishment has a deeper meaning. Essentially, because its food will always be readily available, the serpent never has to turn to Hashem in prayer for sustenance. That is exactly what Hashem wants; He wants absolutely nothing to do with the serpent: "Here is your food. Leave Me alone; I am not interested in anything that you have to say." When we think about it, Hashem has the same reaction to us when we speak disparagingly of others. He does not listen to our prayers, because they emanate from a defiled source. He wants nothing to do with us. Just like the serpent. This is truly frightening.

This shall be the law of the metzora. (14:2)

The Zohar Hakadosh says that the word metzora is an acronym for motzi (shem) ra, one who brings forth slander and evil. Regrettably, the more prevalent a sin becomes, the more it is ignored and accepted as a way of life. Lashon hora is a general term that applies to any form of speech that defiles the purity of one's mouth. The consequences are devastating. Yet, we continue to ignore the admonishments, the exhortations, the rebuke and the constant punishments that are clear messages from Heaven invoking us to cease our abuse of the primary characteristic by which man is distinguished from the animal. Rather than focus on lashon hora, I would like to address another area of speech in which many of us are deficient. It is not evil speech, but it is the lack of good speech: the refusal to speak up when necessary. The Zohar on Sefer Vayikra 46 declares: "Just as a person is punished for speaking evil (gossip, slander), so, too, is a person punished for not speaking up when the opportunity arises." If one can talk, and he chooses not to, he has sinned. All Jews are responsible for one another. Therefore, we have a moral obligation to "mix in" when a co-religionist is acting inappropriately. Likewise, if a Jew is suffering at the hands of someone, we must do something to ameliorate his travail. The Torah tells us that when Moshe Rabbeinu saw two Jews fighting with each other, he rebuked them. Their response was not very friendly, as they accused him of murdering an Egyptian, intimating that they had no qualms about relaying this information to the authorities. Moshe Rabbeinu's reaction was: "Indeed, the matter is known!" (Shemos 2:14) Simply, this means that the fact that Moshe had killed the Egyptian was public knowledge. Rashi, however, citing the Midrash, explains, "It has now become known to Moshe why the Jews (in Egypt) deserved to suffer so: they quarreled and carried tales about one another." This is enigmatic. Egypt was filled with an entire Jewish nation of which two miscreants, Dathan and Aviram, were slanderous. Is this a reason for an entire nation to suffer? When this question was posed to Horav Chaim Kanievsky, Shlita, he replied that when there are talebearers among the Jewish people, they delay the redemption. Why, however, should the rest of the nation suffer? "They did not protest!" When we ignore the evil that occurs; when we turn our heads away from those who blatantly undermine the Torah laws; when we shy away from rebuking those who act inappropriately—whether it be in the manner of dress, the places they frequent, the lifestyles they choose to adopt—then we are equally responsible. Lashon hora does not only mean

actively speaking evil. If one refrains from speaking up when he should, he is guilty of passively defiling his power of speech. Many of us are acutely aware of indignities, travesties, and tragedies that occur all of the time. Some of these occurrences take place far away, while others occur in our own backyard. Nonetheless, this awareness does not evoke a response of indignation, concern, or protest from us. We go about our insular lives with our collective heads in the ground as if nothing is happening. By not speaking up, we are committing a grave sin - similar to what occurred in Egypt thousands of years ago when no one put a stop to the two scoundrels who were Moshe's nemesis throughout their stay in the wilderness. We are aware of the pain suffered by others, but we refuse to picture that pain, lest it affect us. At every possible opportunity, we seek to channel our thoughts away from any form of negative emotion, because it will ruin the idyllic life we have constructed for ourselves.

Sixty-five years ago, an entire world stood deaf and mute to the cries of the Jews in Europe. As innocent Jews were being subjected to the cruelest and most brutal suffering imaginable, the world blocked out what they knew was happening, hoping to maintain their innocence. They refused to hear the cries, and they refused to speak up. They defiled their power of speech. In a very moving statement, a German Protestant pastor, who was himself interred in a German concentration camp, wrote the following: "In Germany: They first came for the Jews, and I did not speak up because I was not a Jew. Then they came for the Communists, and I did not speak up because I was not a Communist. Then they came for the trade unionists, and I did not speak up because I was not a trade unionist. Then they came for the gypsies, and I did not speak up because I was not a gypsy. Then they came for the Catholics, and I did not speak up because I was not a Catholic. Then they came for me. And by that time, there was no one left to speak up."

I would like to address another aspect of "speaking up" or "speaking out". How often have we "kicked ourselves" for not giving a compliment, for not inviting someone, for not saying something nice that would make a difference in someone's life? I recently read a story that reflects a reality that probably has happened to all of us at one time or another. When we look back, it is often too late. We ask ourselves, "Why did I not say something?" Let this episode be a reminder to all of us for all those lost words that never make their way to the surface: the things that we wanted to say; things that we know we should have said. A successful businessman on the West Coast decided that after working hard on a project for a number of months, he needed a vacation. There was an opportunity for a short trip to Eretz Yisrael as part of a seminar. The hotel was distinctive, the speakers prolific and engaging. Why not? It is only money! He decided to make the trip. The Sunday before the trip, he had occasion to speak to his father, who lived in the south and said that he would be in New York that week. The son told his father that he was flying through New York on his way to the Holy Land. Perhaps they would get together. As soon as he mentioned Eretz Yisrael, his father seemed interested and said, "Oh, I wish I could go again!" In one of those rare moments of lucidity, the son said, "Dad, why not come along? It would be so nice to spend a few days together in Eretz Yisrael." His father, taken aback at the suddenness of the offer, at first demurred. "I am not ready," he said lamely. "It is really too much money for me to spend right now," was his final excuse. "Dad, do not worry about the money. It is my treat. I just did very well on my latest project, and it generated much more cash flow than I had expected. I would be happy to pay for the trip," his son countered. The father agreed. Thinking back to the conversation, the son could not determine what motivated his sudden altruism. "Something" told him: "Do it; it is the right thing to do." The trip was a huge success. While father and son were close, they had not lived near one another in over twenty years. This was quality time, well spent in a place that inspired one with great kedushah. Let it suffice to say that this trip was a once-in-a-lifetime experience for both father and son. They returned from Eretz Yisrael with each one disembarking in New York and switching planes for

his own individual destination. A few months went by. Every time the son spoke to his father, his father would make some remark about the trip. It was as if it had been the most seminal event in his life. At the end of the summer, the father suddenly became ill. After a short stay in the hospital, he succumbed to his illness. Before he died, he told his son, "Thank you once again for the trip. It meant so much to me." Looking back, the son remarked, "If I would not have spoken up, invited my father and offered to pay for the ticket, it would not have happened. I would have lost out on the experience of my life." We are all confronted at one time or another with a similar situation. Should we speak up - or not? In the episode above, the son listened to that "inner voice" that encouraged him to speak. Perhaps we should start listening more closely, and then we might start speaking when necessary.

This should be the law of the metzora. (14:2)

In his commentary to the previous parsha, Sforno addresses the fact that the miraculous plague of tzaraas no longer occurs. He explains that this phenomenon is Heaven-sent for the sole purpose of alerting the owner of the garment, house, or person, to take stock of his life and actions—and repent for his sins. As the Ramban, Hilchos Tzaraas 16:10, states: "The changes that occur within the individual, his house or his garments are not part of the natural order of the world. They are a sign from Heaven, a wonder for Klal Yisrael, cautioning them to abstain from the evil tongue." Furthermore, writes the Sforno, the fact that these laws do not apply to gentiles serves as a springboard for emphasizing that man is the crown of creation, selected to imitate G-d through his cognitive abilities and freedom of choice. While this elevates the entire creation of humankind, the bulk of mankind has not realized this G-d-given mandate, this mission for life. Thus, they rejected this awesome responsibility. Even among Klal Yisrael, only a relatively small number, an elite few, achieved the level of excellence which Hashem has ordained for them. Even these individuals need to be reminded, to receive that little nudge, when they falter or deviate. They must have their memories refreshed to mend their ways to return to Hashem. One of Hashem's methods for arousing us from our periodic slumber is that of negaim, afflictions. It, therefore, is understandable that these laws apply only to Klal Yisrael, for negaim are a miraculous lesson reserved only for those who understand their ultimate purpose and act accordingly. Bearing this in mind, Sforno posits that the visiting of these afflictions upon Klal Yisrael is a consequence of Hashem's compassion for us and His desire that we repent to accept our historic mission to be a *mamleches Kohanim v'goi kadosh*, "kingdom of Priests and a holy nation." The special providence enjoyed by our people is manifested by Hashem's ongoing concern which, paradoxically, also carries with it special reminders. It is precisely because Klal Yisrael has achieved a high level of holiness that their sins create such sensitivity and susceptibility to punishment. Once we descended from that exalted plateau, we were no longer worthy of being singled out for such direct and wondrous catalysts for remembering our place in the scheme of creation. This is why we neither witness these phenomena today, nor have we heard of them for many generations. Sforno concludes by lamenting the fact that we are not on the spiritual plateau worthy of negaim. Sforno wrote this thesis over five hundred years ago. What should we say today? If he is poor and his means are not sufficient, then he shall take one sheep as a guilt-offering. (14:21) While the "wealthy" metzora brings three animals for his sacrifice, the poor metzora gets by with one sheep. The Midrash explains the reason for the Torah's emphasis on dal, poor, and also, *einy yado maseges*, his means are insufficient. There are two types of poor man. The dal is halachically poor in that he has bankrupted his possessions, leaving himself with very little. While he may have originally been worth one hundred and now he is worth only fifty, he may collect charity, but he is not yet at the point of being allowed to bring a *korban ani*, poor man's sacrifice. He still has - perhaps not as much as he did before—surely not as much as he would like, but he has. He is a dal and, therefore, he must bring a *korban ashir*, rich man's sacrifice. There is a powerful lesson to be derived from here. Many of us

do not have as much as we would like. Some once had it, but lost it. Others only dreamed of having it and never really made it, their dreams often ending up as just that: dreams. At least you have! We go through life complaining that we would have liked to have had more; we aspired to have much more; this is not what I planned for. Rather than thank Hashem for what we do have, we spend our time complaining about what we are lacking. The Torah teaches us not to sin, not to complain. Perhaps you do not have as much as you would have liked, but at least you have something. Thank Hashem for what you have! Maybe you will be worthy of receiving more. Complaining about what he is lacking is a poor way of showing gratitude for what one has. To rule on which day it is to be contaminated and on which day it is to be purified: this is the law of tzaraas. (14:57) Some of us have been there. When one is sick and relegated to lying in a hospital bed, he expects to be stuck and poked every few hours. The worst part is the indignity the physician with his entourage manifest as he enters the room to teach a class with you, the patient, exhibited as the specimen around which the class revolves. The shame and humiliation of being degraded, of being viewed as a piece of meat, is an issue that halachah addresses. In fact, Horav Eliezer Waldenberg, Shlita, renders that if the demonstration will not bring about a positive benefit for the patient, it is absolutely forbidden. It is *halbonas panim*, humiliation, which has no therapeutic purpose other than to stroke the physician's ego. Rav Waldenberg supports his thesis with the words of the Netziv, to the pasuk in our parsha, "To rule on which day it is contaminated and on which day it is purified; this is the law of tzaraas." (14:57) The word *l'horos*, to rule, is used by the Raavad in his commentary to *Toras Kohanim* after citing a *Yerushalmi*, that a Kohen may not render a decision concerning the purity or impurity of a plague unless he has studied under a rebbe, mentor, who has shown him the variations in *negaim*, plagues, and how to distinguish between them. The Netziv adds that this is why the Torah concludes with the words: "This is the law of tzaraas." Veritably, it is humiliating for the metzora to be visited by a "class" of Kohanim with the head Kohen teaching a class in "show and tell," describing the various plagues using the metzora as the specimen. Certainly, under any other circumstance, this would be absolutely prohibited, due to the severe humiliation it causes for the patient. However, tzaraas is different. This "patient" brought the affliction upon himself by disparaging others. The only way he can atone for his miscreancy is by himself undergoing the process of humiliation. That is why it is permitted only in this specific case of tzaraas. Otherwise, there is absolutely no dispensation whatsoever to embarrass another Jew under any circumstance. Some of us think that humiliation is an integral part of discipline, and embarrassment is a vital aspect of rebuke. It is wrong. There is no heter, allowance, for degrading another Jew, regardless of the reason. Indeed, Chazal tell us that *Yeravam ben Nevat* of Yisrael, despite his evil ways, merited the monarchy of the Jewish People, because he rebuked *Shlomo Hamelech*. He ultimately lost it because he performed his rebuke in public, causing *Shlomo* embarrassment. No justification validates putting down another Jew - none whatsoever. Hashem *heifir atzas goyim, heini machshevos amim*.

Hashem annuls the counsel of nations, He balks the designs of peoples.

Siach Yitzchak distinguishes between *heifer*, *annul*, and *heini*, balk, in that *heini* refers to one who prevents the objective from occurring through force or other means. *Heifir* does not interfere with one's choice to carry out his objective. He simply abrogates it, rendering it ineffective. A difference also exists between *eitzah*, counsel, and *machshavah*, design, in that *machshavah* refers to the thoughts and plans that serve as a medium for bringing about the objective. *Eitzah* is the objective, the end result of one's plans. We now understand the pasuk, "Hashem is *meifir*, annuls, the counsel of nations," even after they have carried out their well-made plans, He annuls their *eitzos*, counsel. Their success is short-lived, because He puts an end to their achievements. Furthermore, "He is *meni*, balks the designs of nations;" Hashem prevents the plans from ever reaching fruition, transforming the best laid plans into gibberish. The Gaon, *zl*, *m'Vilna*,

explains that machshavah is one's own personal thoughts, while eitzah is the advice he receives from others. When a person seeks to do something, he makes all kinds of machshavos, plans. He only fulfills these plans when it is atzas Hashem, the counsel of Hashem. Only if his thoughts coincide with those of Hashem, will he be successful. In memory of our beloved parents Rabbi Dr. Avrohom Yitzchok Wolf Rebbetzin Anna Moses Sruely and Chaya Wolf and Family Ari and Rivky Wolf and Family Abba and Sarah Spero and Family Pesach and Esther Ostroy and Family Sruely and Chaya Wolf and Family

YatedUSA Parshas Metzora 6 Nissan 5768 **Halacha Discussion**
by Rabbi Doniel Neustadt
Shabbos Erev Pesach

This year, erev Pesach falls on Shabbos. While our lack of familiarity with observing erev Pesach on Shabbos may catch us off guard and cause some confusion, with the proper planning and know-how it need not be a difficult Shabbos to keep. Indeed, it actually gives us an opportunity to be well-rested for the Seder and to be able to fulfill the mitzvos of Pesach in a more alert and dignified manner. In the following essay we will discuss some of the frequently asked questions that deal with the special halachos of erev Pesach which falls on Shabbos.

Question: Why do we burn and sell the chametz by the 6th hour on Friday morning when it is actually permitted to eat chametz until Shabbos morning? Discussion: Although Friday is not really erev Pesach, in certain respects we act as if it really is erev Pesach. This is done in order to avoid confusion in subsequent years when erev Pesach does not fall on Shabbos. Thus any chametz which will not be consumed before Pesach is burned or sold1 no later than the time that would have been the deadline had this day truly been erev Pesach.2 Concerning other halachos, we do not treat Friday as erev Pesach. Thus: •The paragraphs usually omitted from Shacharis on erev Pesach are recited on Friday. •Kol Chamira, which is a statement that nullifies one's chametz and is normally recited when the chametz is burned, is not recited this year on Friday. Instead, it is recited on Shabbos morning after the last remnants of chametz are gone. •The special erev Pesach restrictions concerning taking a haircut and doing laundry after midday do not apply on Friday.3 •Dishes may be kashered until the onset of Shabbos.

Question: When should the maror and the other Seder items be prepared? Discussion: All Seder preparations should be done on Friday, since it is prohibited to prepare anything4 for the Seder on Shabbos. While technically the preparations may be done after Shabbos ends and before the Seder begins, this is not a good idea since it unnecessarily delays an already late start for the Seder.5 Thus the horseradish, charoses, shank bone, roasted egg and salt water should all be prepared on Friday.6 The romaine lettuce should also be washed and checked on Friday. Care must be taken, however, not to leave the lettuce soaking in water, as lettuce that was soaked in water for twenty-four hours may no longer be used for maror.7

Question: How do we discard the chametz crumbs on Shabbos? Discussion: Leftover crumbs on the table, dishes or floor should be swept,8 gathered together and then flushed down the toilet. Larger pieces of bread may be crumbled9 and then flushed. If the Sanitation Department will not pick up the garbage before the time that one may no longer own chametz, do not place chametz in the trash cans or garbage bags which are left outside in order to be collected by the Sanitation Department. If the floor needs to be swept, make sure that no chametz crumbs remain on the broom. Since it is extremely difficult to adequately clean a broom on Shabbos, it is advisable to clean the broom as much as possible and then put away the broom with the chametz items which have been sold to a non-Jew.

Question: Some people use chametz rolls for lechem mishneh on this Shabbos, and then serve the rest of the meal with kosher-for-Passover foods. Which dishes should be used during those meals? Discussion: The recommended method is to use disposable (paper or plastic) dishes when

any chametz is being eaten. After the chametz is gone, the rest of the meal may be served on Pesach dishes. Question: In order to rid one's teeth of chametz, is it permitted to brush them on Shabbos, with or without toothpaste? Discussion: The consensus of contemporary poskim is that it is forbidden to use toothpaste on Shabbos.10 Their main concern is that applying toothpaste to the teeth or the brush could result in a transgression of the prohibited Shabbos Labor of Memareich, Smoothing. Brushing without toothpaste is permitted,11 provided that the following conditions are met: •Use a toothbrush that is designated for Shabbos use only.12 Some poskim require that the Shabbos toothbrush also look different from the weekday one, e.g., be of a different color or style.13 •Use a soft brush so as not to irritate the gums and cause bleeding. (People with gum disease who bleed whenever they brush their teeth may not use a toothbrush at all.) •To avoid the prohibition of Sechitah, Squeezing, a dry toothbrush should be used. It is, however, permitted to rinse the mouth with cold water first and then use the toothbrush on the wet surface.14 •The toothbrush should not be rinsed off after it is used unless it is going to be used again this Shabbos.15

Question: Many people do not want to have any chametz in their home on Shabbos. Instead, they use egg matzah16 for lechem mishneh at both the Friday night and the Shabbos morning meals, and recite ha-motzi over the egg matzah. Is this permitted? Discussion: Yes, it is.17 In fact, this is the preferred method for homes with little children who may scatter chametz crumbs around the house. This is also recommended for hotels, for large gatherings where Shabbos meals are being served, or for anyone who feels more secure with having no chametz in the house on Shabbos. Although usually the proper blessing over egg matzah is mezonos, when egg matzah is eaten during a full-course meal and substitutes for bread, ha-motzi is recited.18 One should eat at least a k'zayis19 (about 1 fl. oz.) of egg matzah for each meal in addition to the other foods served at the meal. One should finish eating the egg matzah before sof zeman achilas chametz, the time that chametz can no longer be eaten.20 The other foods served at the meal may be eaten later.

Question: When is seudah shelishis, the third Shabbos meal, eaten on this Shabbos? Discussion: Scheduling the third meal on this Shabbos is difficult, since the third meal is supposed to be eaten after midday (chatzos). By then, however, we may no longer eat chametz, matzah or egg matzah. Thus, there is no perfect system for the third meal on this Shabbos.21 Instead, the poskim offer two options, neither of which is ideal: •Divide the morning meal into two parts — i.e., wash, recite ha-motzi, eat a meal,22 recite Birkas ha-mazon, take a break (fifteen to thirty minutes),23 wash again, recite ha-motzi, eat a meal and recite Birkas ha-mazon. The chametz or egg matzah24 which is used for lechem mishneh at the second meal, seudah shelishis, must be consumed before sof zeman achilas chametz. •Eat a meal consisting of "other foods," such as cooked matzah meal25 balls (kneidelach26), meat, fish,27 fruit28 or a kosher-for-Passover cholent29 any time after one half hour past chatzos until the beginning of the tenth hour of the day. After that time, one is required to minimize his intake of food so as not to ruin his appetite for the Seder. Since both of these options are halachically problematic, some people have the custom of following both procedures, i.e., they split the morning meal, and then eat a meal of "other foods" after one half hour past chatzos. Points to remember... •Although we do not eat matzah on this Shabbos, the matzos are not considered muktzeh, since it is permitted to feed small children matzah on erev Pesach.30 It is permitted, therefore, to use a matzah for lechem mishneh on this Shabbos.31 Care should be taken that no chametz crumbs attach themselves to the matzah. •On Shabbos, it is advisable not to cast chametz crumbs to the winds even within an eiruv, as some poskim hold that this may be a violation of the Shabbos Labor of Zoreh, Winnowing.32 •The challos which are designated for lechem mishneh should be left in a safe place where children cannot reach them.33 •Before women begin to prepare for the Seder after Shabbos is over, they should recite Baruch ha-mavdil bein kodesh l'kodesh.34

FOOTNOTES 1 There are different customs regarding when exactly the chametz is sold this year, since many people eat chametz and use chametz dishes until Shabbos morning. 2 This custom is only l'chatchilah. If the chametz was not burned by this time, it may be burned anytime prior to the onset of Shabbos. 3 See Be'ur Halachah 468:1. 4 Even a "verbal preparation," such as stating that the Shabbos nap is for the purpose of being well-rested for the Seder, should be avoided; see Mishnah Berurah 290:4. 5 For the sake of the children, who are a primary focus of the Seder, the Seder should begin as promptly as possible once Shabbos is over. 6 When feasible and practical, even the Seder table should be set on Friday. 7 Mishnah Berurah 473:38. 8 A soft-bristled broom should be used. A carpet sweeper should not be used on Shabbos. 9 Mishnah Berurah 321:30. 10 Igros Moshe, O.C. 1:112; Seridei Eish 2:28; Minchas Yitzchak 3:48; Shevet ha-Levi 5:45; Tzitz Eliezer 7:30. (Although a minority opinion permits using toothpaste — see Ketzos ha-Shulchan (Badei ha-Shulchan 138:31), Yabia Omer 4:28 and Nefesh ha-Rav, pg. 168 — it is generally accepted not to do so.) 11 See Minchas Shlomo 2:35:3. For information on using liquid toothpaste on Shabbos, see Discussion on 28 Adar. 12 Based on Mishnah Berurah 327:10. 13 Minchas Yitzchak 3:50. 14 See Igros Moshe, O.C. 1:112; Shevet ha-Levi 5:45. 15 Igros Moshe, O.C. 1:112. 16 Although egg matzos contain some eggs, the main difference between them and regular matzos is that they are kneaded with either apple cider or grape juice. 17 Igros Moshe, O.C. 1:155. There is, however, a minority view that objects to eating egg matzah on erev Pesach; see Nezer ha-Kodesh 52 and Teshuvos v' Hanhagos 2:211-23 for an explanation of this view. [To partially satisfy this view, it is preferable to use egg matzah which is kneaded with grape juice.] 18 Mishnah Berurah 168:24; Igros Moshe, O.C. 1:56; 3:32; 4:41. See explanation in Pirkei Moed on Pesach (Harav M. Gifter), pgs. 17-19. 19 It is recommended to eat a k'beitzah (about 2 fl. oz.) of egg matzah since, according to some poskim, Al netilas yadayim is only recited over a k'beitzah or more; see Mishnah Berurah 158:10 and Igros Moshe, O.C. 4:41. 20 Igros Moshe, O.C. 1:155, based on Rama 444:1. 21 Indeed, some poskim suggest that (according to the Zohar) there is no mitzvah to eat seudah shelishis at all on this Shabbos, and that none of the following options should be employed; Aruch ha-Shulchan 444:6. However, see the Be'er Heiteiv who quotes the sha'alah, in the name of the zohar that the Rashbi fulfilled the obligation of seudah shlishis by learning Torah. (444:2) 22 The more important Shabbos foods should be served during the first morning meal, as the second Shabbos meal is considered more significant than seudah shelishis. 23 If time allows, a short walk outside between the meals is recommended. 24 When using egg matzah at this meal, other foods must also be served; otherwise ha-motzi and Birkas ha-mazon cannot be recited. 25 Although it is prohibited to eat matzah on erev Pesach, cooked or boiled matzah meal products are permitted according to all of the poskim. Fried matzah meal products, however, should be avoided (see Sha'ar ha-Tziyun 444:1). Baked matzah meal products, such as cakes or cookies, are prohibited; Harav S.Z. Auerbach (Erev Pesach Shechal b' Shabbos, pg. 207); Shevet ha-Levi 8:117. 26 For those who eat gebrochts. Some people eat gebrochts on erev Pesach even if they do not do so on Pesach; She'arim Metzuyanim b'Halachah 115:7. 27 Even if they were prepared with matzah meal. A she'hakol is recited over them. 28 When possible, eating matzah balls — whose blessing is mezonos — is preferable to eating meat or fish. Eating meat or fish is preferable to eating fruit; O.C. 291:5. 29 Mishnah Berurah 444:14. 30 Rama 471:2. 31 Igros Chazon Ish 1:188, quoted by Shemiras Shabbos k'Hilchasah 55:14. 32 Magen Avraham 446:2; Shulchan Aruch Harav 446:5-6; Maharsham (Derashah to Shabbos ha-Gadol 76). Mishnah Berurah, however, is not concerned with this; see Be'ur Halachah 319:17, s.v. mefazer. 33 Mishnah Berurah 444:3. 34 Mishnah Berurah 299:36.

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Bittul Chametz and Contemporary Financial Arrangements - Part 1 by Rabbi Chaim Jachter

An Erev Pesach Debate I experienced an eye-opening interaction this past Erev Pesach. I joined a gathering of rabbis who assembled in the office of a leading New Jersey Rav for the sale of Chametz. As the fifth Halachic hour of the day, when Chametz becomes forbidden to derive benefit from, approached, I called my wife to remind her to nullify her Chametz (Bittul Chametz). The rabbis expressed their astonishment at my behavior. Their reaction stemmed from the Shulchan Aruch (O.C. 434:4), which indicates that a wife recites Bittul Chametz only in a situation where her husband did not perform the Bittul. The basis for the Shulchan Aruch's uncontested approach is that the husband is traditionally considered the owner of marital property. This idea is partly expressed by the Talmudic principle "What a woman acquires automatically comes into the ownership of her husband" (Gittin 77b). In fact, the Mishnah Berurah (434:19) writes that in the unusual case where a wife does proclaim the Bittul, she should state that she nullifies "All of the Chametz in my husband's domain" and not "All the Chametz in my domain," since Halacha regards marital property as under the sole control of the husband. I responded that Halacha might be different nowadays, since contemporary society regards marital property as a joint ownership. In general, contemporary practices are relevant regarding Halachic monetary matters (see, for example, Bava Metzia 74a and 83a). With regards to money, there is much more flexibility, as the Gemara (Bava Metzia 94a) presents the accepted opinion of Rabi Yehuda that "Conditions regarding money are valid." Generally speaking, one may dispose of his money as he deems fit and may even arrange monetary affairs in contradiction to Halacha. A classic example of this is a case of a lender and a borrower who agree that the borrower's responsibility regarding the borrowed item applies only to the extent of an unpaid watchman, a Shomer Chinam (see Bava Metzia ad. loc. and my Gray Matter II pp. 170-171). , some Dayanim, such as Rav Shlomo Dichovsky of the Israeli Supreme Rabbinic Court, insist that Halacha recognizes and incorporates contemporary attitudes and civil laws as Halachically binding. I reasoned that according to this approach, my wife and I jointly own the Chametz, and therefore both of us should recite Bittul Chametz. Even though Bittul Chametz can be accomplished by one's agent (Shulchan Aruch O.C. 434:3), the Gemara (Kiddushin 41a) teaches, "It is a greater Mitzvah when done by oneself than by his agent." Therefore, I remind my wife very year to recite Bittul Chametz. On the other hand, the other Rabbanim (with the notable exception of one veteran Rav, who commented that he thought that I might be correct) replied that they believe that the age-old principle of "What a wife acquires belongs to her husband" still applies nowadays despite changes in contemporary society. This debate reflects a much larger debate that currently rages among Rabbanim and Dayanim as to whether the Talmudic principle of "What a wife acquires belongs to the husband" applies in current circumstances and milieus. In this series of essays, we shall present this debate and its manifold Halachic applications, of which Bittul Chametz is but one. We shall begin by outlining the basic rules regarding the classic financial relationship of husband and wife as presented by Chazal throughout the Talmud.

A Husband's Obligations and Entitlements Rambam (Hilchos Ishut 12:1-4) outlines the mutual obligations between husband and wife. He begins by presenting ten obligations Halacha demands from a husband, three of biblical origin and seven of rabbinic origin. The three Torah obligations are the obligations to feed, clothe, and have intimate relations with his wife. The seven rabbinic obligations are to pay the basic Ketubah payment in case of death or divorce, to pay her medical bills if she is sick, to redeem her if she is taken captive (a not-uncommon occurrence in the time of the Gemara and in certain countries even today), to bury her if she dies,

to support her from his estate and allow her to live in his house if he predeceases her (though she does not inherit him), to support their daughters from his estate until they marry, and to give their sons a larger portion from his inheritance than sons from a marriage to another woman (Ketubat Banin Dichrin). Halacha entitles a man to four items from his wife: whatever she earns (Maaseih Yadyaim), whatever she finds (Metziah), the income generated during her lifetime by the property that she brings into the marriage (Nichsei Melog), and priority to inherit her if she predeceases him. Chazal also instituted, the Rambam continues, that three of each partner's respective obligations be arranged as quid pro quo arrangements. The husband is entitled to his wife's earnings in exchange for supporting her, to benefit from her Nichsei Melog in exchange for redeeming her, and to inherit her in exchange burying her.

The Wife's Property Halacha divides a wife's property into three sections (see Shulchan Aruch E.H. 85 and Pitchei Choshen 8 for details). The first is the dowry, or the Nedunyah, which is categorized as Nichsei Tzon Barzel (lit. iron sheep property). Generally speaking, the Nedunyah is listed and assigned a value in the Ketubah, whereupon the husband assumes financial responsibility for this property. Upon his death or the couple's divorce, the Nedunyah is returned to the wife, either in its original form or as its assigned value in the Ketubah regardless of whether its value has appreciated or depreciated. Since the amount he must pay for the Nedunyah does not vary, it is referred to as "iron sheep property." Nichsei Melog (lit. property that is plucked) are all other properties that a wife either brings into the marriage (but are not listed in the Ketubah) or acquires during the marriage. The wife retains title to the Nichsei Melog, but the husband is entitled to benefit from it during the wife's lifetime (provided that he does not mismanage it) and potentially inherit it. Since the husband may "pluck" this property by keeping the revenue generated by it, such as dividends from stocks or rent from an apartment, it is referred to as "property that is plucked." A wife also can own her own private property in a marriage. This occurs either when she is gifted the money on condition that the husband enjoys no rights to this specific property or if the husband waives his rights to the property.

The Ketubah Chazal (Ketubot 11a) instituted the Ketubah obligation "So that it should not be light in his eyes to divorce her" (i.e. as an impediment to a divorce). This concern was particularly relevant in the days prior to the enactment of Cheirem DeRabbeinu Gershon, which forbids a husband to divorce his wife against her will. The Ketubah is intended to be of a very significant sum so as to constitute a significant disincentive to divorce a woman against her will (as is seen from Gittin 58a, Rama E.H. 119:6 and Pitchei Teshuvah 154:27). A study of Masechet Ketubot clearly shows that the Ketubah also serves as a potent tool in the arsenal of Beit Din (rabbinic court) to prod a spouse to treat his or her partner appropriately. If a husband misbehaves, Beit Din can warn the husband that if he does not mend his ways, he will be pressured to divorce his wife and pay her the Ketubah. If a wife is not acting properly, she may be warned that if she persists, her husband can divorce her without paying the Ketubah. In case of death and divorce where the wife is not at fault, she receives the Nichsei Melog that she brought into the marriage, the Nedunyah (or its original value as set forth in the Ketubah), the substantial value of Ketubah, and, obviously, her private property. On the other hand, the husband takes all the money that is generated during the course of the marriage.

The Theological Basis of These Rules These rules emerge from the roles assigned to man and woman after their banishment from the Garden of Eden, which is described in the third chapter of Sefer Bereishit. Man is charged with the mission of earning a living for his family, as the Torah states, "BeZeiat Apecha Tochal Lechem," "By the sweat of your brow shall you eat bread" (Bereishit 3:19), and woman is obligated to tend to the family (Bereishit 3:16 with Rashi s.v. Itzevoneich). The monetary arrangements between husband and wife allow for an even distribution of obligations and rights. A man works hard for his family, so the family's

financial assets are in his control. A woman needs to focus her attention on tending to the family, so she is relieved from the burden of generating income and managing investments to support the family. In case of death or divorce, she is provided for with the provisions of the Ketubah. Even during the course of a marriage, there are ramifications of the fact that Halacha regards marital property to be in the sole possession of the husband. For instance, a wife is not permitted to donate significant mounts of money to Tzedakah (charity) without her husband's consent (see Shulchan Aruch Y.D. 248:4). A husband has no such limitation. Regarding ritual matters, the home and marital property belong to the husband; therefore, since any Chametz is in his domain, he nullifies it.

Contemporary Application Applying these rules to contemporary situations is far from simple. The value of the Ketubah as set forth by Chazal is exceedingly low for contemporary needs and hardly serves as ample means of supporting a woman in case of death or divorce. According to Rav Moshe Feinstein (Teshuvot Igrot Moshe E.H. 4:91-92), the Ashkenazic Ketubah is valued at a hundred pounds of silver, which ten years ago translated into approximately ten thousand dollars (for alternative views regarding the value of the Ketubah, see Techumin 25:180-194). Indeed, Rav Hershel Schachter articulated (in an address at a conference of Young srael rabbis) the need to update the value of the Ketubah, but there has been no movement among Rabbanim to implement his idea. In addition, the Ashkenazic Ketubah is a standard document, and a proper list and evaluation of the Nedunyah is not made. Furthermore, couples commonly list their real estate and financial assets such as stocks and bonds as jointly owned between husband and wife. (Some male professionals even list all of their assets in their wives' names to make them "judgment-proof," meaning they cannot be sued for malpractice, since they themselves do not own any money.) Moreover, many women at some point in the marriage earn substantial salaries from jobs that entail considerable responsibilities. Today, a wife is expected to assume some of the financial responsibility for household finances. These considerations cry out for a critical reevaluation of the responsibilities and rights of spouses towards each other in contemporary settings. Next week, we shall review the titanic debate concerning this subject between two of the great Dayanim of our generation, Rav Shlomo Dichovsky and Rav Avraham Sherman.

Bittul Chametz and Contemporary Financial Arrangements - Part 2 by Rabbi Chaim Jachter

Introduction Last week, we outlined the classic Halachic approach to the financial relationship between husband and wife. Essentially, Halacha regards the husband as the owner of marital property, with some notable exceptions, as we explained at some length last week. However, at the conclusion of that essay, we raised the intriguing possibility that Halacha recognizes that the financial relationship between husband and wife has changed radically in our times and that this might have profound Halachic implications regarding Bittul Chametz and many other areas of Halacha. We mentioned that this issue is the subject of an intense debate between two great Dayanim of our time, Rav Shlomo Dichovsky and Rav Avraham Sherman, members of the Israeli Supreme Rabbinic Court. They present their opinions in the eighteenth volume of Techumin and respond to each other's arguments in the subsequent volume. In this issue, we shall begin to summarize this great debate. We shall focus on three primary issues involved in this debate: whether the Tenaim signed at the wedding constitute a financial partnership agreement between husband and wife, whether Halacha recognizes and incorporates Israeli civil laws concerning community marital property laws in accordance with the celebrated rule of Dina DeMalchuta Dina (the Halachic obligation to respect the law of the land in which we reside), and whether Halacha recognizes as binding the custom among married couples in the contemporary era to regard their property as a financial partnership. The Rav Dichovsky-Rav Sherman debate concerns an Israeli secular law enacted by the Knesset in 1973 that views marital property as "community property," a financial partnership

requiring an equal division in case of death or divorce. Professor Ruth Halperin-Kaddari of Bar-Ilan University writes that "The trend in recent years has been to broaden the scope of shared property to include even private assets that belonged to either spouse prior to the marriage or that either spouse inherited" (Women in Israel: A State of Their Own p. 253). From 1973 until 1992, Israeli secular law stated that the community property laws did not apply to cases adjudicated by State of Israel Rabbinic Courts. However, in 1992, Chief Justice Aharon Barak of Israel's secular Supreme Court ruled that Israeli Rabbinic Courts also must adjudicate disputes in accordance with community property laws. This ruling sparked the major debate between Rav Dichovsky and Rav Sherman as to whether Dayanim can tolerate Judge Barak's order or must resist it.

Tenaim Since the time of the Rishonim, Ashkenazic Jews conduct Tenaim (lit. conditions) at first weddings, at which point the in-laws pledge the financial support they will provide the young couple (and the mothers break a plate). Included in this document is a clause stating, "They (the couple) shall not conceal assets from each other and they shall equally control their property." Rav Dichovsky points to this clause as a precedent for the Halachic recognition of civil communal property. He notes that one of the great nineteenth-century Halachic authorities, the Maharsham (Teshuvot Maharsham 1:45), applies this clause in practice, arguing that it entitles the wife to give a substantial present to her needy sister even without her husband's consent. As a precedent, he cites a Rishon, the Maharik, (number 57), who excommunicated a husband who concealed marital assets from his wife; furthermore, the Maharik cited the clause in the Tenaim as the basis for his actions. Maharsham explains that in the time of the Gemara, such action was not taken since the Tenaim at that time apparently did not contain this clause. Indeed, an early twentieth-century authority, Rav Yehuda Leib Graubart of Toronto (Teshuvot Chavalim BeNiimim 5 E.H. 34), rules on the basis of the Tenaim (and Dina DeMalchuta Dina) that a wife in contemporary circumstances shares the same right as her husband to donate large sums of money to Tzedakah. However, Rav Sherman responds that two major nineteenth-century Halachic authorities do not subscribe to the approach of the Maharsham. Rav Shlomo Kluger (Teshuvot Tuv Taam VaDaat 3:181) objects to the approach of the Maharik since "So many pages of the Gemara and the Shulchan Aruch would be nullified" if the Maharik's ruling were to be accepted. He asserts that the clause in the Tenaim is merely a blessing bestowed on the couple by the witnesses and the fathers of the bride and groom. He also raises the possibility that the assets mentioned in the Tenaim refer only to the property that the wife brings into the marriage (Nichsei Melog). Rav Yitzchak Shmelkes (Teshuvot Beit Yitzchak E.H. 1:110) also expresses doubt as to whether the clause in the Tenaim is a binding financial agreement or simply poetics ("Shufra DeShtara"). Moreover, Rav Sherman notes that the Tenaim refer only to the situation when the couple is married. The clause in question gives the wife the right to fully access the family's assets, he argues, but it does not assign her title or partnership rights in the family's assets. He points to the concluding sentence of the Tenaim, "They should live together with love and affection," as evidence that the clause applies only to financial arrangements during the marriage. Finally, the potential impact of the Tenaim is limited, since Sephardic Jews and even some Ashkenazic Jews do not sign this document. Rav Dichovsky responds by acknowledging that Tenaim do not assign the wife partnership rights to marital assets. However, he explains, the Tenaim teach that the system presented in the Gemara and the Shulchan Aruch for the financial arrangement in marriage is not immutable and is subject to change in favor of more rights for the wife. Rav Dichovsky simply seeks to prove that the Israeli civil law concept of community property is not a "foreign implant within the vineyard of Israel."

Interestingly, Rav Graubart writes that this rule does not apply if the bride and groom (and their fathers) clearly do not understand Hebrew and therefore did not understand the Tenaim. His basis is a ruling of the Rama (E.H. 66:13), who states that an unlearned individual who comes to divorce

his wife cannot disclaim his Ketubah obligation based on the argument that he did not understand the document when he consented to its provisions, for we assume that the witnesses certainly did not sign the Ketubah without first explaining it to the groom. Rav Graubart infers that if one can prove that the document was not translated to the groom, it does not take effect.

Rav Sherman, on the other hand, cites Teshuvot Rav Betzalel Ashkenazi (number 24), who rules that if the groom actually signed the Ketubah or Tenaim, he cannot claim that he did not understand the document he signed. Rav Sherman writes that Israeli rabbinic courts accept this ruling in practice, as recorded in Rav Ovadia Yosef's Teshuvot Yabia Omer 3:13:1 and Piskei Din Rabbaniyim 1:293-295.

Dina DeMalchuta Dina The Gemara (Gittin 10b and elsewhere) presents the principle of Dina DeMalchuta Dina, which obligates us to honor the laws of the country in which we reside. Thus, Halacha obligates us to pay taxes in accordance with local laws (see the many sources cited by Rav Ovadia Yosef in his Teshuvot Yecheveh Daat 5:64). However, the scope of this principle remains a matter of unresolved debate. One unsolved matter is the question as to whether a Beit Din should follow civil laws in adjudicating financial disputes between Jews when such laws contradict Halacha. The Rama (Choshen Mishpat 369:11) rules that if such laws are made "for the betterment of society," the Beit Din must honor them. The Shach (C.M. 73:69), on the other hand, rules that civil laws that do not conform to Jewish financial law never should be applied by Beit Din in resolving disputes between two Jews. Rav Dichovsky cites prominent nineteenth- and twentieth-century authorities who endorse the view of the Rama. The Chatam Sofer (Teshuvot Chatam Sofer C.M. number 44) rules that government rules prohibiting the number of wine distributors in a certain region should be honored in Beit Din despite the fact that Halacha imposes no such restrictions. Rav Meir Arik (Teshuvot Imrei Yosher 2:152:2) maintains that Beit Din must honor civil laws prohibiting landlords from expelling tenants from an apartment at the termination of the lease. Rav Moshe Feinstein (Teshuvot Igrat Moshe C.M. 2:62) asserts that Halacha recognizes the validity of civil bankruptcy laws that undoubtedly contradict Halachic norms. Rav Dichovsky argues that Beit Din should also recognize civil common property laws, since the civil authorities make these laws for the benefit of society. Rav Sherman responds that civil communal property laws are not enacted for the betterment of society. He cites the writings of Israel's Chief Justice Aharon Barak (who is well-known or infamous, depending on one's opinion, for legislating secular values from the bench) to the effect that these laws are enacted to inculcate within society the secular belief that males and females are exactly the same. Rav Sherman notes that these laws often are unfair to husbands, as on one hand they must support their wives and pay medical and clothing expenses, but on the other hand the wives are entitled to half of their husbands' earnings despite not being required to work outside the home. Rav Sherman goes as far to compare such judicial activism to the attempts of the leaders of the Soviet Union to enact revolutionary laws to force social change, which proved unsuccessful. Rav Itamar Warhaftig (Alon Shevut 92:39) writes that an unscrupulous wife could be motivated to divorce by the communal property rules, especially if marital assets are large. Thus, the communal property laws are far from being a law that serves to better society, since they actually could undermine society. In fact, most states in the United States do not have community property laws, because in many cases they can lead to dramatically unfair results. Rather, most states use equitable distribution laws, which we shall discuss further next week. Rav Sherman applies a thirteenth-century ruling of the Rashba (cited as normative by the aforementioned Rama), who writes that Beit Din must not adopt the civil laws that mandate that the bride's father recovers the dowry in case the wife dies within the first year of marriage. Rashba sharply condemns any Dayan who would adopt civil law on this matter, asserting that such a judge "collapses the walls of Torah and eliminates the roots and branches [of Torah], and the Torah will demand justice from his hand." Rashba believes that such internal matters of

dispute between Jews must be resolved in accordance with Halacha, not by adopting a foreign legal system whose values differ from our own. Rav Sherman believes that the Rashba's strong rebuke applies equally to a Beit Din that adopts civil communal property laws. Even without utilizing communal property laws, Dayanim can insure that a divorced mother is taken care of by ordering the husband to provide support for her and her children even after the divorce. A Beit Din could award such money, even though it is not mandated by Halacha, based on the idea of "divorce compensation," which a Beit Din can issue "using its authority of discretion (as provided for in many Beit Din arbitration agreements) as appropriate to all the circumstances involved and in accordance with the size of the marital assets and the economic situation of the parties" (Piskei Din Rabbaniyim 1:137). An example of this approach would be a case where the marital assets total ten million dollars. A Beit Din may award twenty to thirty percent of the assets to the wife to insure her maintenance, obviating the need to resort to communal property laws. We should note, however, that Rav Yosef Shalom Eliashiv, a leading Halachic authority of our times, does not accept the approach of divorce compensation (Piskei Din Rabbaniyim 7:111, 8:36 and 9:65).

Conclusion It seems that Rav Dichovsky's arguments from Tenaim and Dina DeMalchuta Dina do not support his arguments that Dayanim can cooperate with Judge Barak's order to enforce secular community property laws. Next week, we shall (IY"H and B"N) complete our discussion of this monumental debate by exploring whether common practice constitutes adequate grounds to allow Halacha to assimilate secular community property laws.

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Kind Vengeance by Shlomo Klapper

In Parashat Metzora, the Torah teaches that when somebody says Lashon HaRa, "VeNatati Nega Tzaraat BeVeit Eretz Achuzatchem," "And I shall put the plague of Tzaraat in a house of the land of your possession" (VaYikra 14:34). According to Rashi, when the Canaanite inhabitants of Israel saw that the Jews would be victorious over them, they hid their valuables in the walls of their homes so that the Jews would not get them. By placing Tzaraat on the walls of the house, Hashem provided the new Jewish owners with a way to access the treasure. This seems to contradict the view of the Talmud (Yoma 11b) which views Tzaraat afflictions on homes as a punishment for the refusal to loan household effects to others. Since those who turn down their neighbors' requests usually claim that they do not have what the borrower needs, Hashem forces them to remove all their household items, so that everyone can see the truth.

Rav Y. Eiger offers an explanation of this contradiction based on a thought of the Maggid of Metzritch. In Zemiroth of Shabbat, we say, "MeShoch Chasdecha LeYodecha Keil Kano VeNokeim," "Bring Your kindness to those who know You, jealous and vengeful God." Why is God's treating us kindly related to the fact that He is a jealous and vengeful God? The Maggid explains by means of a parable. A king was once traveling with one of his servants, when a peasant threw mud at the king's cloak. The servants wanted to immediately punish the peasant, but the king would not allow it. "Rather," said the king, "teach him proper etiquette, until he is fit to serve me." When the fellow was finally trained, the king had him brought to the palace, where the former peasant was brought before him. The man was so overcome with shame at having insulted the person who was so kind to him that he began to weep uncontrollably. Similarly, we turn to G-d and ask that He expose us to such an overwhelming outpouring of divine kindness that we will be embarrassed over how we have "mistreated" Him. This "punishment" will have a more powerful and lasting effect on us than true punishment will. While the Tzaraat afflictions are a punishment, they come together with God's blessing in the form of the Canaanite's

treasures. In this way, G-d brings the sinner to repentance and rehabilitates him with kindness.