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BAMIDBAR

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Leading a Nation of Individuals (Bamidbar 5779)
Rabbi Jonathan Sacks

Bamidbar begins with a census of the Israelites. That is why this book is known in English as Numbers. What is the significance of this act of counting? And why here at the beginning of the book? Besides which, there have already been two previous censuses of the people and this is the third within the space of a single year. Surely one would have been sufficient. And does counting have anything to do with leadership? The place to begin, is to note what appears to be a contradiction. On the one hand Rashi says that the acts of counting in the Torah are gestures of love on the part of God: Because they (the children of Israel) are dear to Him, God counts them often. He counted them when they were about to leave Egypt. He counted them after the Golden Calf to establish how many were left. And now that He was about to cause His presence to rest on them (with the inauguration of the sanctuary), He counted them again. (Rashi to Bamidbar 1:1) So we learn that when God initiates a census of the Israelites, it is to show that He loves them. In contradiction to this, centuries later King David counted the people, but there was Divine anger and 70,000 people died. How can this be, if counting is an expression of love? The Torah is explicit in saying that taking a census of the nation is fraught with risk: Then God said to Moses, "When you take a census of the Israelites to count them, each must give to God a ransom for his life at the time he is counted. Then no plague will come on

them when you number them. (Ex. 30:11-12). The answer to this apparent contradiction lies in the phrase the Torah uses to describe the act of counting: se'u et rosh, literally, "lift the head." This is a strange, circumlocutory expression. Biblical Hebrew contains many verbs meaning "to count": limnot, lifkod, lispor, lachshov. Why does the Torah not use these simple words, choosing instead the roundabout expression, "lift the heads" of the people? The short answer is this: In any census, count or roll-call there is a tendency to focus on the total: the crowd, the multitude, the mass. Here is a nation of 60 million people, or a company with 100,000 employees or a sports crowd of 60,000. Any total tends to value the group or nation as a whole. The larger the total, the stronger is the army, the more popular the team, and the more successful the company. Counting devalues the individual, and tends to make him or her replaceable. If one soldier dies in battle, another will take his place. If one person leaves the organisation, someone else can be hired to do his or her job. Notoriously, too, crowds have the effect of tending to make the individual lose his or her independent judgment and follow what others are doing. We call this "herd behaviour," and it sometimes leads to collective madness. In 1841 Charles Mackay published his classic study, *Extraordinary Popular Delusions And The Madness Of Crowds*, which tells of the South Sea Bubble that cost thousands their money in the 1720s, and the tulip mania in Holland when fortunes were spent on single tulip bulbs. The Great Crashes of 1929 and 2008 had the same crowd psychology. Another great work, Gustav Le Bon's *The Crowd: A Study of the Popular Mind* (1895) showed how crowds exercise a "magnetic influence" that transmutes the behaviour of individuals into a collective "group mind." As he put it, "An individual in a crowd is a grain of sand amid other grains of sand, which the wind stirs up at will." People in a crowd become anonymous. Their conscience is silenced. They lose a sense of personal responsibility. Crowds are peculiarly prone to regressive behaviour, primitive reactions and instinctual behaviour. They are easily led by figures who are demagogues, playing on people's fears and sense of victimhood. Such leaders, he said, are "especially recruited from the ranks of those morbidly nervous excitable half-deranged persons who are bordering on madness", a remarkable anticipation of Hitler. It is no accident that Le Bon's work was published in France at a time of rising antisemitism and the Dreyfus trial. Hence the significance of one remarkable feature of Judaism: its principled insistence – like no other civilisation before – on the dignity and integrity of the individual. We believe that every human being is in the image and likeness of God. The Sages said that every life is like an entire universe. Maimonides says that each of us should see ourselves as if our next act could change the fate of the world. Every dissenting view is carefully recorded in the Mishnah, even if the law is otherwise. Every verse of the Torah is capable, said the Sages, of seventy interpretations. No voice, no view, is silenced. Judaism never allows us to lose our individuality in the mass. There is a wonderful blessing mentioned in the Talmud to be said on seeing 600,000 Israelites together in one place. It is: "Blessed are You, Lord ... who discerns secrets." The Talmud explains that every person is different. We each have different attributes. We all think our own thoughts. Only God can enter the minds of each of us and know what we are thinking, and this is what the blessing refers to. In other words, even in a massive crowd where, to human eyes, faces blur into a mass, God still relates to us as individuals, not as members of a crowd. That is the meaning of the phrase, "lift the head," used in the context of a census. God tells Moses that there is a danger, when counting a nation, that each individual will feel insignificant. "What am I? What difference can I make? I am only one of millions, a mere wave in the ocean, a grain of sand on the sea-shore, dust on the surface of infinity." Against that, God tells Moses to lift people's heads by showing that they each count; they matter as individuals. Indeed in Jewish law a *davar she-be-minyan*, something that is counted, sold individually rather than by weight, is never nullified even in a mixture of a thousand or a million others. In Judaism taking a census must always be done in such a way as to signal that we are valued as individuals. We each have unique gifts. There is a

contribution only I can bring. To lift someone's head means to show them favour, to recognise them. It is a gesture of love. There is, however, all the difference in the world between individuality and individualism. Individuality means that I am a unique and valued member of a team. Individualism means that I am not a team player at all. I am interested in myself alone, not the group. Harvard sociologist Robert Putnam gave this a famous name, noting that more people than ever in the United States are going ten-pin bowling but fewer than ever are joining teams. He called it "Bowling alone." MIT professor Sherry Turkle calls our age of Twitter, Facebook, and online (rather than face-to-face) friendships, "Alone together." Judaism values individuality, not individualism. As Hillel said, "If I am only for myself, what am I?" All this has implications for Jewish leadership. We are not in the business of counting numbers. The Jewish people always was small and yet achieved great things. Judaism has a profound mistrust of demagogic leaders who manipulate the emotions of crowds. Moses at the burning bush spoke of his inability to be eloquent. "I am not a man of words." He thought this was a failing in a leader. In fact it was the opposite. Moses did not sway people by his oratory. Rather, he lifted them by his teaching. A Jewish leader has to respect individuals. He or she must "lift their heads." However large the group you lead, you must always communicate the value you place on everyone. You must never attempt to sway a crowd by appealing to the primitive emotions of fear or hate. You must never ride roughshod over the opinions of others. It is hard to lead a nation of individuals, but this is the most challenging, empowering, inspiring leadership of all. Shabbat Shalom.

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subject: Rabbi Riskin on the Weekly Torah Portion

Shabbat Shalom: Bamidbar (Numbers 1:1-4:20)

By Rabbi Shlomo Riskin

Efrat, Israel- "...by their families, by their parents' houses."

Early in the book of Numbers the Torah records the first census in the history of the Jewish people: "Count the heads of the entire witness community of the children of Israel, by their families, by their parents' houses" (Numbers 1:2). Certainly a census is a momentous event – not only as a profile of a nation's most important natural resource – its people – but also as a means of enhancing each national with a sense of pride in his newly acquired significance as a member of an important nation.

At the end of the day, when all the counts of the various tribes were added up, the total number of those twenty years and above was 603,550 (Numbers 1:46). The census tells us – in more ways than one – that each person counts. Again and again we encounter the phrase in connection with the census: "by their families [lemishpehotam], by their parents' houses [leveit avotam]." This particular term is repeated with each of the tribes and families, except for two instances wherein the phrase is inverted – in the case of the Levites, as well as the sons of Gershon. In these two instances, instead of the order of being "by their families" and "by their parents' houses" we find "by their parents house and by their families" (Numbers 3:15).

In contrast, Levi's other sons, Kehat (Numbers 4:2) and Merari (Numbers 4:27) are presented in the book of Numbers in a manner similar to the presentation of the rest of the tribes – first by their "families" and only afterwards by their "fathers' houses." Why should there be such a reversal in phraseology in the case of Levi and the children of Gershon?

In our last commentary, we rendered the phrase "lemishpehotam" to mean "by the family of their tribal forebears," and "leveit avotam" to mean "by their immediate parental names," in accordance with the interpretation of Rashi (1040–1105). However, the earlier Aramaic translation of these phrases, Targum Onkelos, which is generally placed alongside of the biblical

text as a demonstration of its authoritative position, render "lemishpehotam" as "lezarayaton" – "by their seed, by their children."

Thus the usual formulation, found no less than seventeen times in our passage, is rendered to mean that each individual is numbered by their children and by their parents' house. The message of the Targum is clear: an individual is to be counted first by whom he or she has produced – by his or her children – and only afterwards and secondarily do we pay attention to his or her forebears, to the yihus which comes from one's parents and the parental forebears; perhaps Targum would include the tribal background as well in "leveit avotam."

From the perspective of this definition, we can also readily understand the reversal of the phrase regarding the tribe of Levi. Ordinarily individuals are defined first by whom and what they have produced – their children first. However, a kohen (priest) or Levite serves in the Temple and performs special ritual duties not by virtue of merit but only by virtue of ancestry: I am a kohen only because my father was a kohen. Hence in accordance with this reality, the Bible insists that their census is "by their parents' house and by their children" – the parents coming first!

And in addition to special ritual functions, the care and maintenance of the Sanctuary (during the years of wandering in the desert) was divided among the three scions of the house of Levi. The duty of Gershon, as described in the previous portion, focused on the curtains, the hangings, the various coverings inside the Tabernacle. According to the midrash, this was the easiest job in the Sanctuary. It is therefore assumed that the children of Gershon were satisfied to rest on their laurels; they remained in essence Levites, dependent on their "parent's house" for their status and function. In contrast, the children of Kehat were in charge of the much heavier items, such as the Menora and the Ark. In Bamidbar Rabba (5:1), we read the following description: "When the Jews were traveling, two sparks of flame came out from the two poles of the Ark of the Tablets of Law." The Kehatites volunteered to put their lives on the line and risk the fire in order to bear the Holy Ark. And their brothers the Merarites learned from their example, volunteering to transport the heaviest wood and metals. These children of Levi were anxious to be their own people, to establish their own yihus. As a result, the Torah counts them in accord with "their children and their parents' house" – themselves and their children coming first!

What we've gathered from the overview is that a seemingly slight difference in word order may reveal a world of attitude and psychology. When each of us is counted and assessed when the Almighty conducts His census, the most important criterion in our judgment will not be who our parents were, but who and what we and our children have developed into. All too often, the descendant has descended too far down! And when we ponder the question of "Who is a Jew?" as we so often do within the context of necessity for conversion and the "right of return," it is important to note that at least from a sociological (rather than a halakhic) perspective, a Jew is defined more by his children than by his parents; indeed, I would argue that sociologically speaking, a Jew is he or she who has Jewish grandchildren!

Postscript

The Maggid of Mezritch (eighteenth century, Ukraine) was a great disciple of the Ba'al Shem Tov, and heir to his leadership of the Hasidic movement. It is told that when the Maggid was still a child, a fire broke out in his family home. Although the family was rescued from the flames, his mother was weeping hysterically. When he asked her why she was so upset at the loss of mere physical objects, the mother explained that she was crying for the loss – not of the home or its furniture – but of the record of their family pedigree, which had been destroyed in the flames. This record had traced back their familial roots to King David himself! "You don't have to cry over that," said the young Maggid, comforting his mother. "I will begin a new record of our family pedigree; from me will begin a new yihus. Subsequent generations will trace their lineage back to me."

Shabbat Shalom!

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Yeshivat Ateret Yerushalayim
From the teachings of the Rosh Yeshiva

Rav Shlomo Aviner Shlit" a

Ha-Rav answers hundreds of text message questions a day. Here's a sample:

Visiting Safari

Q: Is it permissible to go on a safari where the animals roam freely?

A: If there is danger, it is forbidden. Maran Ha-Rav Kook wrote in Igrat Ha-Re'eiya (3, 852), that one should not go on a trip in a place where there is even a fear of danger. It is only permissible to take a slight risk for making a livelihood or performing a Mitzvah (Mitzvat Ha-Re'eiya 3:17). It is obviously forbidden to leave Eretz Yisrael for such a reason.

Drawing

Q: B"H, I have a talent for drawing. How can I use it to serve Hashem?

A: Draw things which arouse positive emotions.

War with Terror

Q: How is it possible to say that the State of Israel is the beginning of Redemption if there is still terror?

A: B"H, we are well beyond the beginning of Redemption. But, to our great distress, there are murders in every country. See Wikipedia: List of Countries by Intentional Homicide Rate, murders rates for 100,000 citizens – Americas: 16.3. Africa: 12.5. Europe: 3.0. Oceania: 3.0. Asia: 2.9. World average: 6.2. State of Israel: 1.36. Blessed is Hashem who saves us.

Pouring Water on Ground before Leaving

Q: Some communities have the custom to pour water on the ground before leaving the house. What is the source?

A: There is no source. It is for a good sign.

Mitzvah of Serving in the Army

Q: I heard from an Ultra-Orthodox Jew that in the period of the Kings they only drafted people with ADD or ADHD, because they were unable to sit and learn Torah in Yeshiva.

A: This is made up. There is no source for this in the laws of war of the Rambam.

Ruach Ha-Kodesh for Woman

Q: Is it possible in our times a woman could have Ruach Ha-Kodesh?

A: 1. There is no difference between a man and a woman in this respect. 2.. Ruach Ha-Kodesh is only for unique individuals. See the last chapter of Mesilat Yesharim.

Temporarily Closing the Mikveh

Q: Is it permissible to temporarily close the Mikveh in order to expedite renovations?

A: It is forbidden. Shut Imrei Yosher (2:210 #1). Shut Igrat Moshe (Yoreh Deah 2:91).

Mistakenly Entering the Har Ha-Bayit

Q: I entered the Har Ha-Bayit because people told me it was permissible. I was certain that it is a great Mitzvah. I then found out that the Rabbis forbid it. How do I do Teshuvah?

A: Regret. Abandonment of the transgression. Acceptance of not repeating it. Recitation of Tehillim. Tzedakah. Completing all of Mesilat Yesharim.

Cell Phone in Shul

Q: Is it permissible to bring a cell phone to Shul during the week?

A: Only if it is turned off. Shut Mishnat Yosef (4:13).

Shabbat Observance or Building Mikveh

Q: I am going on Shelichut and most of the people there are not observant. Which is preferable – focusing on Shabbat observance or building a Mikveh?

A: 1. Rabbenu Ha-Rav Tzvi Yehudah taught us that learning Emunah is the foundation for everything. 2. Ha-Rav Yonatan Steif, who was a Gadol in America, ruled that one should focus on building a Mikveh, since a person is obligated to have self-sacrifice for the laws of Family Purity, which is not the case for Shabbat observance (Shut Mahari Steif #187). Obviously, Shabbat observance is also extremely important and one of the main facets of a Torah-observant Jew.

Moshe Rabbenu's Name

Q: Batya, the daughter of Pharaoh, gave Moshe his name (Shemot 2:10).

How did she know Hebrew?

A: She called him an Egyptian name and it was translated. Pharaoh's words brought in the Torah were also not said in Hebrew.

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Shema Yisrael Torah Network

Peninim on the Torah - Parshas Bamidbar

פרשת במדבר תשע"ט

לבני יוסף לבני אפרים

For the sons of Yosef: For the sons of Ephraim. (1:32)

The *Baal HaTurim* notes the word *livnei*, for the sons of – Ephraim. It should have said, *l'Ephraim*, for Ephraim, since Yosef was the head of the *shevet*, tribe. He explains that the *Degalim* formation (which is mentioned later in the *parsha*) coincided with the formation of pallbearers (who were Yaakov Avinu's sons) at Yaakov Avinu's funeral. Since Yosef did not participate in the actual carrying of his father's coffin he was not counted among the *Degalim*, Banners, representing each tribe. (Due to his royal position as monarch, it was considered undignified to carry the coffin along with everyone else.) The Banner is, instead, listed under the names of his sons. The question is obvious: Yosef certainly wanted to participate on equal keel with his brothers. He surely wanted to carry his father's *aron*, coffin. He was prevented due to his position, which makes his exclusion an *oneis*, accident beyond his control (as if one is forced to act -- or unable to act -- because circumstances are out of his capacity to act). Is this a reason to disqualify him from being listed on the *Degalim*?

The *Alter*, *zl*, *m'Kelm*, derives from here an important principle. Concerning the rule of *oneis Rachmana patrei*, the *Rachmana*, Merciful One, Hashem, exempts one who sins because of coercion. (This rule is applied to one who is compelled to sin due to an external coercive element, rather than a lack of internal self-control.) Likewise, one who fails to fulfill a *mitzvah* -- after he has exhausted every possible effort to fulfill the *mitzvah* or avoid its violation -- is exempt. Nonetheless, he has not fulfilled the *mitzvah*.

The *Alter* adds that this individual should be filled with regret and sorrow, much like Moshe *Rabbeinu* when he was informed that he was not entering *Eretz Yisrael*. What about all of the *mitzvos ha'teluyos ba'aretz*, commandments that were dependent upon the Land, as they could only be performed in *Eretz Yisrael*? Hashem prevented him from entering the Land. This, however, did not stop him from being depressed over losing the opportunity to perform these *mitzvos*. Therefore, Yosef, albeit exempt from carrying his father's coffin, could not be included in the *Degalim* formation.

The *Talmud* (*Meilah* 17a) relates that Reuven ben Istrubli shaved his head and his *peyos* in order to appear as a gentile, so that the Caesar's servant would not recognize that he was Jewish (and would prevent him from meeting with the Caesar). His purpose in meeting with the Caesar was to plead with him to rescind his decree to nullify the observance of *Shabbos*,

Bris Milah and family life. When he died, his *neshamah* ascended to *Gan Eden*, where it was elevated to a high spiritual plateau until it came to a room above which was written the *mitzvah* of *lo sakifu pe'as roshchem*, “Do not round off the corners of your forehead.” R’ Reuven asked, “Why? Whatever I did (cut off my *peyos*) was to save *Klal Yisrael*. I risked my life.” Despite his sacrifice, at the end of the day, he did not fulfill the *mitzvah*. He was exempt because he was on a mission to save the Jewish People. Still, he had not fulfilled the *mitzvah*.

Horav Yitzchak Zilberstein, Shlita, offers the rationale for this. There are certain spiritual benefits/qualities that one is able to achieve only through the execution of specific *mitzvos*. If one had a perfect excuse, i.e., he was in the middle of performing another critical *mitzvah*, or was absolutely unable to do so due to extenuating circumstances, he has missed out on that *mitzvah*. Exemption from a *mitzvah* does not replace that *mitzvah*. He is “present,” but “not present.”

יִמַת נָדָב וְאִיִּחוּ לִפְנֵי ד'

Nadav and Avihu died before Hashem. (3:4)

Noticeably, the Torah uses the word, *va'yamas*, “And (he) died,” which is in the singular. The Torah should have written, *vayamusu*, “And (they) died” in reference to the deaths of Nadav and Avihu. Simply, it means that they died together in a similar manner. Thus, it refers to their deaths in the singular. The *Chida*, *zl* (quoted by *Horav Reuven Karlinstein, zl*), quotes the *Zohar HaKadosh Parashas Acharei Mos*, concerning the *pasuk* in *Shemos* (6:25), “And Elazar ben Aharon took for himself from the daughters of Putiel as a wife and she bore to him Pinchas; these were the leaders of the fathers of the *Leviim*, according to their families.” The word *eileh*, “these (were the leaders),” refers to Pinchas. Why does the Torah write “these” concerning one person? The *Zohar* explains that when Nadav and Avihu died, their *neshamos*, souls, passed over to Pinchas. Since Pinchas was bequeathed the *neshamos* of his two uncles, he is listed in the plural. Thus, Pinchas is referred to both as the son of Elazar and the son of Aharon (He was known as Pinchas ben Elazar ben Aharon *HaKohen*, which really means that Elazar was the son of Aharon *HaKohen*. It could, however, also be interpreted to mean that Pinchas was the son of both Elazar and Aharon). Since Pinchas was the recipient of the *neshamos* of Aharon’s two sons, he (Pinchas) can conceivably be considered to be Aharon’s son.

The *Zohar* relates that Rabbi Elazar, son of Rabbi Shimon bar Yochai (author of the *Zohar*), asked his father why, indeed, did two *neshamos* enter into the body of one person? (It is not as if there was a shortage of people in whom to place the *neshamos*.) *Rashi* replied that Nadav and Avihu were considered one person, since they had not married. (Thus, they were considered as *plag gufa*, “half a body.”)

After all is said and done, the above is cloaked in esoteric obscurity and far above the knowledge and understanding of the average person. This is, however, what is stated in the *Zohar*. The question that should be addressed is: Why Pinchas? Why, of all people in whom these purest of pure *neshamos* could have been placed, was it Pinchas who achieved the merit? *Rav Karlinstein* quotes the *Chidushei HaRim* who explains, that although *Chazal* enumerate a fair number of missteps attributed to Nadav and Avihu, at the top of the list (is the sin of, *Horu halachah bifnei Rabban*; “They rendered a *p’sak halachah* in front of their *Rebbe*, Moshe *Rabbeinu*.” This is considered a grave infraction. When one’s *rebbe* is present, one may not adjudicate, offer his own interpretation or render the *halachah*. It is considered to be disrespectful and a rejection of the chain of *halachic* authority. Nadav and Avihu brought an offering *asher lo tzivah osam*, “which they were not commanded by Hashem.”

Veritably, Pinchas acted somewhat similarly. When Zimri committed his moral outrage, everyone seemed to be in severe shock. It was Pinchas who came forward and said to Moshe *Rabbeinu*, *Mekublani mimcha*; “It has been accepted from you that one who cohabits with an *aramis*, pagan/Aramean/gentile, *kanain pog’in bo*, zealous ones may strike/kill him.” Pinchas initiated the statement but essentially he was

pushing Moshe to respond to the outrage. Was this appropriate? Moshe was the *Rabban shel Kol Yisrael*, the quintessential *Rebbe* of the Jewish People. Did he require Pinchas’ advice/motivation in order to act?

The *Chidushei HaRim* explains that Pinchas’ action coincided with *halachah*, since there had been a potential *chillul Hashem*, desecration of Hashem’s Name, if someone had not taken immediate action to quell the outrage. *Chazal* teach that when there is a *chillul Hashem – ein cholkin kavod l’rav*, we do not render/concern ourselves with the necessary honor due to a *rav*. Moshe took note of Pinchas’ “question” responding, *Krayna d’agarta ihu lehevai parvanka*; “The one who reads the letter (proclaims the message) should deliver it (carry out the message).”

Thus, Pinchas, with his act of *moreh halachah bifnei rabo*, repaired the infraction which Nadav and Avihu created when they acted without prior command. Since Pinchas was *mesakein*, repaired, their sin, he was worthy of becoming the vessel to carry their holy *neshamos*.

We may supplement this exposition with the notion that the act of *kanaus*, jealousy, is, by its very nature, to be carried out alone, without prior direction or counsel. Pinchas went down in history as the *kanai* par excellence. As the *kenai* of *Klal Yisrael*, Pinchas was the perfect person to be the receptacle for the *neshamos* of Nadav and Avihu.

The *Zohar HaKadosh* teaches that Pinchas did not die. Pinchas was Eliyahu *HaNavi* who went up to Heaven – alive. Since Pinchas was the repository of the *neshamos* of Nadav and Avihu – they, too, did not really die. How little we know and how much less we understand. At the time of the conflagration that ended their mortal lives, it appeared to the human eye (and, indeed, it is thus recorded in the Torah) that they were victims of an epic tragedy. In truth, as we have just deduced, they never died, their souls having transmigrated to Pinchas/Eliyahu, who will herald *Moshiach Tziddkeinu*. How little we know.

הַחֲנִימִים לִפְנֵי הַמִּשְׁכָּן קְדָמָה לִפְנֵי אֹהֶל מוֹעֵד מִזֶּרְחָה מִשֶּׁה וְאֶחָרָן וּבָנָיו

Those who encamped before the Mishkan to the front, before the Ohel Moed to the east, were Moshe and Aharon and his sons. (3:38)

“Aharon’s sons” is a reference to his children, grandchildren and their families. *Chazal* (*Midrash Tanchuma* 12) teach: “Fortunate is a *tzaddik*, and fortunate is his neighbor.” Because the tribes of Yehudah, Yissachar and Zevulun encamped on the east near Moshe *Rabbeinu*, who was engaged in Torah study, they became great in Torah. Conversely, “Woe is to the wicked, and woe to his neighbor.” The tribe of Reuven encamped to the south near the *Kehasim*, which included the family of Korach; therefore, many of the tribe of Reuven became enmeshed in his rebellion against Hashem.

Moshe’s life revolved around Torah study, as did the life of Aharon *HaKohen*, as well as the lives of his children and grandchildren. Simply, *Chazal* teach that living in the proximity of a Jew whose life revolves around his involvement in Torah is most beneficial. It will inspire him positively to study Torah and live an upright life. How did they derive this inspiration? It does not say that Moshe -- or anyone else -- studied Torah with them. All they did was merely observe these holy individuals living a Torah life engrossed in Torah study. Whenever they saw them, they were learning.

A similar observation may be noted from the *Talmud* (*Bava Basra* 21a), *Ki mitzion teitzei Torah*, “From Zion will go out Torah. *Tosfos* quotes the *Sifri*, “Great is *Maaser sheni* (the second tithe) that it brings one to study Torah. Apparently, the Jew was compelled to remain in the holy city of Yerushalayim until he finished eating his *Maaser sheni*. (*Maaser sheni* fruits must be brought down to Yerushalayim and eaten there or exchanged for money with which one purchased food to be eaten in Yerushalayim. In any event, the Jew who had *Maaser sheni* perishables was directed to consume them in Yerushalayim.) During this interval of time, he was availed the extraordinary benefit of observing the *Yerushalmi* citizens engaged in Torah study and other holy endeavors. This inspired him to emulate their actions by following suit, both while he was there and when he returned home.

Horav Moshe Shmuel Shapiro, zl, posits that just seeing/observing a holy man engaged in Torah study suffices to inspire a person to himself study and grow in Torah. How is this? It is understandable that if one engages in Torah study with a great scholar, he would be inspired by his knowledge, passion and excitement for learning. How does merely watching this scholar learning, seeing him study, inspire the spectator to seek to emulate him?

I was reading excerpts from “The Life and Legacy of Rabbi Shlomo Freifeld,” by Rabbi Yisroel Besser, when I came across the author’s appreciation of the legendary *Rosh Yeshivah*’s love for every Jew – regardless of background and level of religious persuasion. He simply exuded love for every Jew. He had a special ability to peer into the heart and mind of those who stood before him, because of his profound non-judgmental love of everyone. Indeed, he would sit at the head of the table receiving people, listening to their stories guiding and encouraging them. On the wall, among the many beautiful graphics, hung a picture whose subject was rather incongruous: a silver key on a black background.

Rav Shlomo explained the reason that he kept this picture in such a prominent place – opposite his chair, where it would always be in his line of sight: “All day, *Yidden* sit here. I keep this picture to remind me that every *Yiddishe neshamah*, Jewish soul, has a key to unlock it. Sometimes he only requires a cup of coffee; other times the situation requires more – but there is a key to every Jewish soul.” This was the secret of his unusual success in reaching so many Jewish souls. He was able to connect with them, because he looked at them with heart. He sought a way to unlock their souls. When one looks with insight at a person who is learning Torah, he peers right into his heart and is afforded a unique and powerful insight into the person.

When *Rav Eliyahu Essas*, one of the original Russian Refuseniks, came to hear *Rav Shlomo* speak at a gathering in Yerushalayim, he felt the *Rosh Yeshivah*’s penetrating gaze. He remarked, “When I stood before *Rav Shlomo*, the *Rosh Yeshivah*’s eyes suddenly welled up with tears. He rose and embraced me and held me close. I had a sense that this Jew understood all of the suffering that I had undergone in my life.” *Rav Shlomo* did not just look at him. He looked into him, penetrating the very recesses of his psyche – all because he cared. When one looks at a *talmid chacham* in such a manner, he sees the passion, excitement and love with which the Torah scholar studies Torah.

Rav Shlomo’s boundless love for every Jew was the result of his unique vision, which permitted him to see deeper, beyond the normal scope of what others would see. A distinguished lay person once entered the *bais hamedrash* and *Rav Shlomo* pointed to a boy sitting on a bench. “Do you see that boy?” he asked. “I do” was the person’s reply.

“Again, do you see him?” Once again, the person responded in the affirmative.

“No, you do not really ‘see’ him. You see a long ponytail and a ripped T-shirt... you are not seeing his *neshamah*!”

Looking at an object is different than looking into an object. Some can look at a Torah scholar as he pores over the many *sefarim* on his desk and remain uninspired, because they see only superficially. Others will look with penetrating insight and see more than a scholar studying. They will be moved by his total devotion to Torah, by his intoxicating love, his animation and excitement as he delves deeper, plumbing the depths of Torah erudition, every bit of knowledge a precious jewel. We see what we want/expect to see. Open eyes with a closed heart and closed mind will see the superficial. To see beyond the periphery, one must look with an open heart and an open mind. Then, what he sees will have sufficient meaning to inspire.

SHAVUOS

<https://yated.com/surprising-avodah-shavuos/>

A Surprising Avodah for Shavuos

By Rabbi Yaakov Feitman - Jun 8, 2016

Everyone knows that Shavuos is all about learning Torah. We stay up all night, we learn the parshah of Matan Torah and we try to enter the summer with renewed hasmadah and dedication to limud haTorah. However, there is also an important middah, profoundly linked to Shavuos, whose lessons began on Pesach and culminate this week with Shavuos. That is the middah of hakoras hatov, truly feeling and expressing gratitude for our blessings. One of the common denominators between Pesach and Shavuos is the mitzvah of bikkurim, offering the first fruits of our harvest to Hashem. The Haggadah Shel Pesach is largely based upon the four pesukim (Devorim 26:5-8) recited when offering bikkurim to the kohein in Yerushalayim. Of course, bikkurim is not only one of the mitzvos associated with Shavuos, but constitutes one of the names of this Yom Tov (Bamidbar 28:26). As the Sefer Hachinuch and many others explain, the essence of bikkurim is our obligation to thank Hashem for His beneficence, utilizing both actions and words to express our appreciation. But what does this have to do with Shavuos?

The Ramban (Shemos 20:17), in a lengthy exposition, explains that Matan Torah was actually a colossal test to determine if we understand and are properly grateful for the incredible gift of the Torah that we were granted. Regarding the place of hakoras hatov at the Seder, *Rav Dovid Cohen* (Birchas Yaavetz 3:224) relates the centrality of the bikkurim theme to the Mishnah requiring that we begin the story of Yetzias Mitzrayim with our lowliness (genus) and end with praise for our elevation (shevach). He points out that one of the most basic aspects of hakoras hatov is establishing how bad things were before and how drastically they have changed for the better. This requires us to enumerate the sad state of our slavery and even depravity and to then acknowledge the magnanimous redemption we experienced from all these deplorable conditions.

In a separate piece in the same volume (page 276), *Rav Cohen* points out that on Shavuos we must also thank Hashem for giving us the tools (i.e., the Torah itself) to combat the yeitzer hara. As he concludes, the criticism of Klal Yisroel for not properly reciting Birchas HaTorah (Nedorim 81a, with Ran) is actually a rebuke for not being sufficiently grateful for the gift of the Torah. Armed with these insights, we can now understand that the entire period from Pesach to Shavuos must be suffused with the common theme of these Yomim Tovim, of recognizing Hashem’s kindness and attention to our needs. In truth, Hashem taught us this fundamental lesson at the very beginning of creation. Although the world immediately required rain, Hashem did not allow it to rain until man arrived on the scene to appreciate this heavenly largesse (Rashi, Bereishis 2:5). The Maharal (Gur Aryeh, *ibid.*) adds that since it is forbidden to perform chesed to one who is unappreciative and no other creature has this ability, Hashem waited to grant rain to the earth when man came on the scene to show gratitude.

Rav Yitzchok Zilberstein (Lechanech Besimcha, page 95) tells movingly of a rosh yeshiva in the Switzerland of his youth who installed an aquarium in the hall of the yeshiva, so that the talmidim would be inspired to thank Hashem for His creations. He further strongly suggests that Jewish children be trained to listen carefully to the song of the birds, an activity that leads to both hakoras hatov and personal serenity. These examples demonstrate dramatically that the middah of hakoras hatov began at creation and is crucial to our spiritual lives today.

Rav Shlomo Wolbe (Daas Shlomo, page 30) grants us an incredible insight into the Shavuos avodah of bikkurim and hakoras hatov. He quotes the posuk (Devorim 26:3) delineating the text that the farmer recites when he

offers bikkurim. Rashi states that it is to testify that “you are not an ingrate and unappreciative of Hashem’s goodness.” Why, Rav Wolbe asks, does Rashi put this into the negative? Why not simply state that “I am grateful to Hashem”? He answers that there are, in fact, two aspects to the bikkurim lesson. The first is to eliminate our bad middah of being a kofuy tovah, not appreciating what we have been given. Only then can we begin traveling down the road of positively feeling and expressing hakoras tovah. He quotes the Chovos Halevavos (beginning of Shaar Habechinah) and the Alter of Kelm that for the majority of the time, most of mankind forgets that there is a Creator who gave and provides us with everything we have. Rav Wolbe, in these shmuesen, which were delivered on or just before Shavuos, teaches clearly that Shavuos is inexorably bound up with hakoras hatov.

We might add to these powerful sources that perhaps one aspect of reading Megillas Rus on Shavuos relates to hakoras hatov. Rus, of course, hailed from the nation of Moav, whose males were forbidden to enter Klal Yisroel. What was their great sin? The Ramban explains that since Amon’s and Moav’s ancestors were saved by Avrohom Avinu, they should have met us in the desert with, at the least, the most minimal welcome of bread and water. The Alter of Kelm (Chochmah Umussar 1:12) uses this condemnation of Amon and Moav as a lesson for us all in hakoras hatov. “Imagine what an obligation we all have,” he teaches, “to be grateful to our elders.” Rus, who is forever called by the appellation Hamoaviyah, of Moav, provided an antidote to their flaw by constantly acting and teaching the principle of gratitude. By doing this, she not only removed any possible taint of Moav, but uplifted her progeny to the point that Malchus Bais Dovid and Moshiach himself are proud to be her children.

Rav Eliyahu Eliezer Dessler (Michtav M’Eliyahu 1:142) asserts that “it is possible for one to see open miracles and yet not gain any new feelings of faith if he doesn’t internalize gratitude for these amazing phenomena.” This may also explain why Hashem did indeed perform astonishing miracles at Matan Torah, but also taught us Who did them and why. This was to instill in us the lesson of never taking anything for granted and affirming the source of our bounty. Thus, not only should we seize the opportunity in our times to work on our hakoras hatov on Shavuos, but we are, in effect, emulating what Klal Yisroel did at Matan Torah.

My rebbi, Rav Yitzchok Hutner, often repeated the exhortation of his own rabbeim, the giants of the mussar movement, that someone who does not show hakoras hatov – a kofuy tovah – is barely human and spiritually toxic to others. In fact, Rav Chaim Vital (Shaarei Kedushah 1:6) goes so far as to say that forgetting the favors someone did for us “is one of the three worst spiritual ills.”

In preparing for the hakoras hatov part of the Shavuos avodah, we will mention two stories that can help guide us. When Rav Isser Zalman Meltzer, author of the Even Ha’azul passed away, he was buried in the chalukah derabbonon, the rabbinic section, of Har Hamenuchos. Rav Elazar Menachem Man Shach immediately purchased a plot for himself so that he could be with his beloved uncle and rebbi for eternity. However, when a certain dayan passed away at an early age, Rav Shach yielded the plot to him, since he, too, had wanted to be buried near Rav Isser Zalman. Many asked Rav Shach why he would give up such an important wish that involves many mitzvos and eternal fulfillments. Rav Shach answered simply that this dayan had helped him move from the north, very close to Lebanon, to Yerushalayim. Rav Shach clearly felt that there is no limit to the obligations of hakoras hatov.

A famous story about Rav Yisroel Zev Gustman also illustrates this middah, but with an amazing twist. Rav Gustman was a very young member of Rav Chaim Ozer Grodzensky’s Vilna Bais Din and often took walks with his mentor; these were necessary for the older man’s health. Many times, Rav Chaim Ozer would point out various plants, mushrooms and other unusual forest growths. Amazingly, he seemed to know the efficacy of each plant, telling his young protégé what he could eat and what was dangerous. Rav Gustman listened politely, but could not fathom why Rav Chaim Ozer, the

gadol hador, would be sharing this information. Later, under the Nazi occupation, Rav Gustman had to live in the forest for a year and was sustained by the edibles and was able to avoid the poisonous ones. When he moved to Eretz Yisroel, Rav Gustman made sure to plant a garden with the plants that had saved his life so that he could show them proper hakoras hatov.

The lesson Rav Gustman taught is actually the same one we experience every Shabbos and Yom Tov when we cover the challah while we make Kiddush on the wine. We do not want the challah “to be embarrassed” that it is not being used for Kiddush. Now, as the seforim point out, everyone knows that challah has no feelings, just as Rav Gustman’s plants would not express gratitude. But he had to do the right thing because “ha’adam nifal lefi pe’ulosav – man is what he does” (Sefer Hachinuch). If we just say thank you to those who do so much for us on Shavuos, we will have taken a giant step toward being the people to whom Hashem gave the Torah.

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SHAVUOT

Rabbi Wein’s Weekly Blog

This holiday was marked in Temple times by bringing the first fruits of the new crops of the new agricultural year as an offering. However, during our times, when the Temple service is not performed, there is no single commandment that applies to this holiday. Therefore, the Jewish people, in their love for the holidays of the year, have created customs that accompany this holiday even if they were not of biblical or halachic imperatives. This holiday has become associated with dairy foods and all-night Torah study sessions. Here in Israel the holiday is only a one-day celebration and for many it feels like it is over before it even began. Nevertheless, every Jewish holiday has its own personality and that is true for Shavout as well. Shavuot marks the beginning of summer, though the hot weather has been with us already for a number of weeks. The essence of the holiday is the renewal of our commitment and bond to Torah as being the basic pillar of our national and personal lives. The prayers and Torah reading of the holiday emphasize this central point, upon which all of Jewish life and existence is based. Torah is not only a book or intellectual discipline to be studied and absorbed but it is rather the complete and overriding core of the Jewish existence and purpose. In the words of Rav Saadia Gaon: “...we are a nation only because of our Torah.”

As such, Pesach is the holiday of our freedom, but Shavuot is the holiday of our nationhood. The Lord informed us at Sinai that, “... it is today that you have become a nation.” Nationhood and freedom are two different concepts and achievements. Freedom is personal and signifies control over one’s life, behavior and actions. Nationhood signifies connection to society, history and destiny, as being part of a whole and not merely an individual.

It is nationhood that confers upon the individual the sense of being unique and different, important and not simply redundant, eternal and not a feather passing in the wind. The Jewish definition of freedom is integrated with the discipline of Torah practice and study. The Jewish definition of nationhood is integrated with loyalty to the Jewish people as a whole and to the land of Israel. In current times I am well of the opinion that it is also integrated with loyalty and support of the state of Israel, imperfect as that state may be since it is composed of human beings and human leadership.

This holiday represents for us this definition of nationhood in its finest and holiest way. For centuries the Jewish people experienced spiritual but not physical freedom. We also experienced a sense of nationhood even though we had no country under our control, one to which we really belonged. Our generation currently has the gift of experiencing both freedom and nationhood at one and the same time. We should not squander such a wonderful golden opportunity.

From: Dailyhalacha@aol.com
<http://thepartialview.blogspot.com/2015/05/hilchos-uminhagei-shavuos-yizkor-on.html>

The Partial View

Friday, May 22, 2015

Hilchos uminhagei Shavuos- Yizkor on Monday 25th of May

906. On Shavuos at night the minhag is to wait until it is night (Tzeis Hakochavim) to daven Maariv in order to have 49 complete days. Shulchan Aruch w/Mishnah Brurah 494:1

907. Likewise, it is preferable for women to wait until it is night to light candles and say Shehechyanu on Shavuos night. Luach R' Yechezkel Michel Tukatchinsky, Piskei Tshuvos 494:2

908. There is a minhag (brought in The Zohar) to stay up the night of Shavuos and learn Torah. This is based on the Midrash which says that Klal Yisroel overslept the night before Matan Torah and Hashem had to awaken them to receive the Torah. Therefore we stay up all night to rectify their oversight. Shulchan Aruch with Mishnah Brurah 494:1

909. The Ari'zal writes that one who does not sleep the night of Shavuos and toils in Torah is assured to live out the year and no harm will occur to him. Shulchan Aruch with Mishnah Brurah 494:1

910. There is a compilation of torah learning known as "Tikkun Lay'l Shavuos" which has The Zohar and the writings of The Ari'zal as its source, and many have the minhag to say/learn this on Shavuos night. Kaf Hachaim 106:7, Lev Dovid L'Hachidah.

911. Generally women should not say the "Tikkun Lay'l Shavuos". However, some say that a woman who counted all the days of Sefiras Ha'omer may learn the portions of the Tikkun which are from Tanach. S'U Rav Poalim 1SY:9, Kaf Hachaim 106:8

912. One who stayed awake all night of Shavuos should immediately, at Alos Hashachar wash one's hands for Netilas Yadayim without a beracha, and listen to Birchas Hatorah from someone who slept, before one continues to learn.

Shulchan Aruch 4:14, 47:12MB28

913. Before Shachris one should use the restroom, wash his hands and then make the berachos of "al netilas yadayim" and "asher yotzar". Shulchan Aruch w/Mishnah Brurah 594:1

914. One who stayed awake all night should not make a beracha on his tzitzis. Rather, he should make the beracha on his Tallis Gadol and have in mind to be yotze for his tzitzis with the same beracha. Shulchan Aruch w/Mishnah Brurah 494:1

915. One who stayed awake all night should listen to the berachos of "Elokai Neshama" and "Hamaveir Shayna Mayeinai" from someone who slept during the night.

Shulchan Aruch w/Mishnah Brurah 46:MB24

916. One who goes to sleep after Alos Hashachar Shavuos morning (or on any day) does not say the beracha of Hamapil. Shulchan Aruch w/Mishnah Brurah 239:1MB8, Piskei Tshuvos 494:5

917. There is a well known minhag to bring flowers into shul and one's home as a remembrance that on Shavuos we are judged on "Peiros Ha'ilon" - fruits. However, one should not cut off branches from fruit bearing trees for this purpose because of the Torah prohibition of "Bal Tashchis". Shulchan Aruch w/Mishnah Brurah 494:3, Piskei Tshuvos 494:10

918. There is a (not so well known) minhag to bring good smelling grasses into shul to be passed around for people to make a beracha and smell the grass in remembrance of the Simcha of Mattan Torah where Har Sinai was surrounded by grass.

Shulchan Aruch w/Mishnah Brurah 494:3

919. When practicing this minhag one should not pass the grass around during davening between Boruch She'amar and kaddish after Sh'mona Esrei because one is not permitted to interrupt davening at that time to make the beracha. Shulchan Aruch w/Mishnah Brurah 494:3

920. Many have the minhag to eat a milchige meal (and milk and honey) on Shavuos. Some eat milchig at night and fleishig at the day meal, while others eat milchig, bentch, and then wash again, and eat fleishig to be yotze Simchas Yom Tov with meat.

Shulchan Aruch w/Mishnah Brurah 494:3

921. If one eats milchig but not "hard cheese" (which requires one to wait six hours before eating meat) one need not bentch and wash again before eating meat. However, one should wash his /her mouth well and the tablecloth should be changed. (Other poskim require one to bentch).

Shulchan Aruch w/Mishnah Brurah 494:3, Piskei Tshuvos 494:12

922. One should be careful not use leftover challah from a milchig meal at a fleishig meal. (This is applicable all year as well). Rather, one should use new challahs for each meal. This also fulfills the minhag of remembrance of the Shtei Halachem (Two Loaves) brought on Shavuos in the Beis Hamikdash. Shulchan Aruch w/Mishnah Brurah 494:3

923. We read Megillas Rus on Shavuos because it was written to document the yichus of Dovid Hamelech and (according to one opinion) Dovid Hamelech was born and niftar on Shavuos. Shulchan Aruch w/Mishnah Brurah 490:9, see also Shaarei Tshuvah 494:3

Posted by Tomim Ti at 3:00 AM

fw from hamelaket@gmail.com

http://ohr.edu/this_week/insights_into_halacha/

Ohr Somayach

Insights into Halacha

Rabbi Yehuda Spitz

Ohr Somayach :: Shavuot

For the week ending 23 May 2015 / 5 Sivan 5775

***The Halachic Challenges of the Cheesecake
by Rabbi Yehuda Spitz***

The upcoming holiday of Shavuos, aside from its most common name, has several others: Chag HaKatzir (The Holiday of the Harvest), Atzeres (Assembly), Yom HaBikkurim (Day of the offering of the first fruits), and Zman Mattan Toraseinu (The Time of the Giving of the Torah). Yet, in Israel, it has gained a new moniker: Chag HaGevinah - The Holiday of the Cheese! Amazingly, and only in Israel, will you find a Jewish custom that has become so commercialized. Although no one really minds paying a lot less for all the various cheeses on sale during the weeks leading up to Shavuos, still, the idea that a "holiday" can be commercially sponsored (by the cheese companies, no less), should give us pause.

Interestingly, having cheesecake on Shavuos is one minhag with which many non-practicing Jews are stringent! Have you ever met someone who turned down a piece of cheesecake? But where does this time-honored traditional custom of consuming cheesecake on Shavuos come from?

Korban Cheesecake?!

It seems that one of the earliest mentions of such a minhag is by the great Rema, Rav Moshe Isserles, the authoritative decisor for all Ashkenazic Jewry, who cites the 'prevailing custom' of eating dairy items specifically on Shavuos (Orach Chaim 494, 3). Although there are many rationales and reasons opined through the ages to explain this custom[1], the Rema himself provides an enigmatic one, to be a commemoration of the special Korban, the Shtei HaLechem[2] (Two Loaves) offered exclusively on Shavuos during the times of the Beis Hamikdash.

However, since the connection between dairy food and a bread offering seems tenuous, the Machatzis HaShekel[3] (Orach Chaim 494, 7 s.v. h"th) offers a remarkable glimpse as to the Rema's intent. The halacha states (Shulchan Aruch Yoreh Deah 89, 4 and relevant commentaries) that one may

not use the same loaf of bread at both a dairy meal and a meat meal. The reason for this is that there may be some (possibly unnoticed) residue on the bread, and thus one might come to eat a forbidden mixture of milk and meat[4].

Therefore, in order to properly commemorate this unique Korban which had two loaves of bread, one should have a separate dairy meal aside from the traditional meat meal one has on Yom Tov. This way, he will be mandated to have separate breads for each of these meals, as the challah meant for the dairy meal cannot be used for the meat meal and vice versa.

It is well known that our tables are compared to the Mizbe'ach and our food to Korbanos[5]. Therefore, serving a food item at a meal is considered an appropriate commemoration for a Korban. Consequently, by having an additional dairy meal, the outcome is a suitable commemoration for this unique Korban, as now on Shavuos, two separate distinct breads are being served. In fact, the venerated Rav Moshe Feinstein (Shu"t Igros Moshe Orach Chaim vol. 1, 160) cites this explanation as the proper one for maintaining two separate types of meals on Shavuos, one milky and one meaty.

Terrific! So now we can appreciate that by eating cheesecake on Shavuos, we are actually commemorating a special Korban! But before we sink our teeth into a luscious calorie-laden (it can't be sinful - it's commemorating a Korban!) cheesecake, we should realize that, potentially, there might be another halachic issue involved: the prohibition against baking dairy bread. Dairy Dilemma

Bread has been mankind's basic staple since time immemorial[6]. Therefore, Chazal worried that an unsuspecting person might mistake dairy bread for plain pareve bread and eat it together with meat. He would thus inadvertently violate the prohibition of eating a forbidden mixture of milk and meat. They thereby decreed (Gemara Pesachim 30a and 36a) that one may not bake dairy bread unless certain criteria are met[7]: either changing the shape of the dough prior to baking[8] (known as making a shinui), thereby making it instantly recognizable to all[9] as milky[10], or baking dairy bread exclusively in small quantities.[11] The same prohibition and exclusions apply to meaty bread as well, due to bread's propensity to be eaten with a dairy meal.

Bullseye!

The hetter is called by Chazal (Gemara Pesachim 36a) "k'eyn tura" (like the eye of an ox; possibly the source for the expression 'bullseye'). Although this expression is debated by the Rishonim, with Rashi (ad loc. s.v. k'eyn tura) explaining that it means a small amount (seemingly taking the bull's-eye idiom literally), while the Rif (Chullin 38a), Rashba (Toras HaBayis HaKatzet Bayis 3, Sha'ar 4, 86a), and Rambam (Hilchos Ma'achalos Asuros Ch. 9, 22) maintain that it is referring to a changed shape that makes it obvious to all that it is dairy or meaty, nonetheless, the Shulchan Aruch (Yoreh Deah 97, 1) rules that both are acceptable ways to ensure that the dairy bread will not be mixed-up.

Even so, there is a practical difference between Sefardic and Ashkenazic psak. According to the Shulchan Aruch (ibid.) the small amount of milchig bread that is permissible to make is only enough for one meal. This is how Sefardim rule [See Ben Ish Chai (Year 2, Parshas Shelach 17), and Kaf Hachaim (Yoreh Deah 97, 7)]. The Rema (ad loc. & Toras Chatas 36, 9), however, is a bit more lenient, allowing an amount necessary for one day, meaning a 24-hour period. This is the custom that Ashkenazim follow. [See Pri Megadim (ad loc. Sifsei Daas 1, s.v. v'im), Chavas Daas (ad loc. Biurim 3), Yad Yehuda (ad loc. Pirush HaKatzet 6), Aruch Hashulchan (ad loc. 4), Atzei HaOlah (Hilchos Basar BeChalav 12, 1) and Darchei Teshuva (ad loc. 17)].

Let Them Eat (Cheese)Cake!

Although several authorities extend this prohibition to include other baked goods, such as cookies and bourekas[12], which, if baked milky, might be mistakenly eaten with meat, nevertheless, the prevailing ruling is that the prohibition only applies to bread[13]. Even so, aside from the signs in the

bakeries proclaiming which items are dairy and which are pareve, it is nonetheless a widespread practice throughout Israel that bakeries form the dairy baked goods (cheese bourekas, anyone?) in a triangular shape and the pareve ones in a rectangular shape as an extra safeguard against mix-ups. Since at busy bakeries the potential for mistakes is quite high, this is done as an added precaution, even though m'ikar hadin it is deemed unnecessary by most authorities.

So...does this ruling affect our beloved cheesecake in any way?

Actually, not much. In a typical cheesecake, since the cheese aspect of it is quite conspicuous[14], it would be considered as if produced with a changed shape from standard dough. Additionally, cheesecake is universally recognized as... containing cheese (!), and thus known world-wide as being dairy[15]. No one would make a mistake confusing cheesecake with pareve bread. Therefore, even according to the opinions of those authorities who maintain that the prohibition of dairy bread extends to cakes, even so, they all agree it would be permissible to make plenty of cheesecake for Shavuos, even in large quantities.

Thankfully, when it comes time to indulge in a piece of traditional cheesecake on the holiday of Shavuos, we can "have our cake and eat it too", both in the literal sense as well as in the spiritual sense; knowing we have fulfilled the halachic requirements and are even commemorating a unique Korban.

Postscript: Another common question related to cheesecake concerns the proper bracha to recite, whether Mezonos or Shehakol. This topic is discussed at length in many recent sefarim including V'zos HaBracha, V'sein Bracha, and Rabbi Binyomin Forst's Pischei Halacha: The Laws of Brachos. It seems that the consensus of contemporary authorities is that the correct bracha is subjective, depending on the makeup of each individual cheesecake and its crust, based on the laws of primary and secondary food (Ikar and Tafel)[16]. If the crust is indeed deemed significant and adds necessary taste and crunch, many poskim maintain that two separate brachos be recited. One should ascertain a final ruling on the matter from his or her own local halachic authority.

[1] This topic has been addressed by many - see the relevant commentaries to the Rema's comment, as well as Rav Yaakov Kamenetsky zt"l's Emes L'Yaakov on Tur / Shulchan Aruch (Orach Chaim 494 s.v. v'nohagin) and Rav Shlomo Zalman Auerbach zt"l's Halichos Shlomo (Moadim vol. 2, Ch. 12, Orchos Halacha 1 and 35, and Dvar Halacha 10). There is even a recent sefer, Meta'amei Moshe, which lists 149 (!) different reasons for this minhag. Actually, several Rishonim, including the Kol Bo (72 and in Orchos Chaim - Tefillas HaMo'adim 13) and the Melamed HaTalmidim (pg. 121b) predate the Rema on this by several centuries, yet their mention is that of eating 'milk and honey' together in order to be yotzei the pasuk in Shir HaShirim (Ch. 4, 11) 'dvash v'chalav tachas leshonecha', that the Torah is compared to milk and honey. Interestingly, other Rishonim, Rav Avigdor HaTzarfati (pg. 478) and Rav Yitzchak Isaack Tirnau in his Sefer HaMinhagim (Hilchos Shavuos, Haghos 49) both write a different reason to eat milchigs on Shavuos. The pasuk that describes the holiday of Shavuos (Bamidbar, Parshas Pinchas Ch. 28, 26) states that one should bring a 'm incha ch adasha la'Hashem B ashavuoseichem' of which the first letters spell - 'meichalav' - with milk, implying that milk products should be eaten on Shavuos. This minhag is also mentioned by the Terumas Hadeshen (Leket Yosher pg. 103) and Maharil (Minhagim pg. 85), yet, it was not until the Rema codified this minhag in halacha that it became widespread. See also Rabbi Eliezer Brod's excellent recent 'The Mysteries of Milchigs'.

[2] See Shemos (Parshas Ki Sisa) Ch. 34, verse 32; Vayikra (Parshas Emor) Ch. 23, verses 15 - 22; Bamidbar (Parshas Pinchas) Ch. 28, verse 26. This is the first Temple offering from the new wheat crop.

[3] This is also cited by the Mishna Berura (Orach Chaim 493, 14 & 15) and Kaf Hachaim (ad loc. 63).

[4] See also Rav Chaim Falag'i's Kaf Hachaim (Ch. 24, 20) and Yalkut Me'am Loez (Shemos, Parshas Mishpatim pg. 890 s.v. basar achar gevina) and Shu"t Igros Moshe (Yoreh Deah vol. 1, 38) for the parameters of this halacha.

[5] See Gemara Brachos (55a), Beis Yosef (Orach Chaim 167, quoting the Shibolei Leket 141), Rema (ad loc.), Mishna Berura (ad loc. 30) and Shla"h (Shaar HaOsiyos, Eimek Bra cha 66). This was addressed at length in an article titled 'Salting With Sugar'.

[6] Devarim (Parshas Eikev) Ch. 8, verse 3: “Ki lo al halechem levado yichyeh ha’adam”.

[8] According to the vast majority of poskim this leniency only applies if the change was made prior to the baking. See Pri Megadim (Yoreh Deah 97, Sifsei Daas 1 s.v. v'im), Pischei Teshuva (ad loc. 3), Gilyon Maharsha (ad loc. 2), Chavas Daas (ad loc. Chiddushim 5 & Biurim 3), Arugas HaBosem (ad loc.), Maharsham (Daas Torah ad loc. 1), Ben Ish Chai (Year 2, Parshas Shelach 17 & Shu”t Rav Pealim vol. 2, Yoreh Deah 11), Yad Yehuda (ad loc. Pirush HaAruch 3), Zer Zahav (on the Issur V’Hetter 40, 4), Levushei Srad (Yoreh Deah 41, 139), Ksav Sofer (Shu”t Yoreh Deah end 61), and Aruch Hashulchan (Yoreh Deah 97, 9). See also footnote 11.

[9] Shu”t Mahari”t (vol. 2, 18), Pischei Teshuva (Yoreh Deah 97, 3), Pri Chadash (ad loc. 1), Pri Toar (ad loc. 2 - who adds that this is an issue only lechatchila), Chochmas Adam (50, 3), Aruch Hashulchan (ad loc. 7), and Kaf Hachaim (ad loc. 12). They all maintain that the shinui made to allow dairy bread must be known to all, and not just the local townspeople. The dissenting opinion is that of the Yad Yehuda (ad loc. Pirush HaKatzner 7), who argues that we need not concern ourselves with visiting guests for this halacha. The Kreisi U’Pleisi (ad loc. Kreisi 2) mentions similarly (although he notes that he protested), that since in his town every bakery baked with milk and everyone knew about it, it was considered a hekker. He concludes that it would be preferable not to rely on this, though.

[10] There is an interesting debate on “biskugies”, apparently a type of bread that was commonly sold as pareve, with the Mahar”i Chagiz (Shu”t Halachos Ketanos vol. 1, 56) writing briefly that since they are a type of bread and everyone assumes they are pareve, they also fall in the category of the dairy bread prohibition. This is according to the understanding of the Rav Yaakov Emden (Shu”t Sheilas Ya’avetz vol. 1, 62), Chida (Shiyurei Bracha Yoreh Deah 97, 1), and Zivchei Tzedek (Yoreh Deah 97, 8), and not like the Mahar”i’s own son, who wrote (by amending and adding a few words to his father’s responsum) that his father meant to permit them. The Ya’avetz himself concludes that he does not know what “biskugies” actually are, but if they are, as he suspects, biscuits or cookies, then they are permitted to be baked dairy as they are not an actual bread. See also footnotes 12 and 13.

[11] Although most authorities are stringent even if someone violated the prohibition accidentally, (as mentioned in footnote 8), there are those however, who are lenient if a tiny amount of milk accidentally spilled on bread [see Shu”t Aish Das (end 12); Shu”t Shoel U’Meishiv (Timyana vol. 4, end 189); Nachlas Tzvi (Yoreh Deah 97, 1); Shu”t Nefesh Chaya (36); and Imrei Binah (Hilchos Basar BeChalav 13)]. The Kreisi U’Pleisi (Yoreh Deah 97, Pleisi 1 s.v. shamaati, Kreisi 3) quotes his grandfather as allowing one who made a large batch of dairy bread without a shinui to divide it up into small quantities and give it out to various households. Although the Chamudei Daniel (Taaruwos vol. 2, 18) agrees with this, nevertheless most authorities do not (see footnote 8) and rule that it is prohibited. The Kreisi U’Pleisi himself concludes that it is tzarich iyun to be lenient with this, and only allows its use as a snif lehakel. Yet, the Yad Yehuda (Yoreh Deah 97, Pirush HaAruch 3), Chochmas Adam (50, 5 & Binas Adam 51; in some editions 70), Zivchei Tzedek (Yoreh Deah 97, 6), Atzei HaOlah (Hilchos Basar BeChalav 12, 3), Aruch Hashulchan (Yoreh Deah 97, 9), and Kaf Hachaim (ad loc. 9 and 11), rule that in case of great loss and it was done accidentally, one may indeed rely on this. This is also the ruling of the B’tzeil HaChochma (Shu”t vol. 6, 84, 3 and 4) and the Maadanei Hashulchan (3 and in his Shu”t Maadanei Melachim 123). The Ksav Sofer (Shu”t Yoreh Deah end 61) maintains that a baker is allowed to mass produce dairy bread on condition to exclusively sell a small amount to each family, as that is the normal method of selling. See also Rav Yisrael Yaakov Fischer zt”l’s Shu”t Even Yisrael (vol. 9, 67). And Rav Shammai Kehas Gross’s Shu”t Shevet HaKehasi (vol. 5, 128).

[12] Including the Taz (Yoreh Deah 97, 1), Pri Toar (ad loc. 2), Erech Hashulchan (ad loc. 2), Zivchei Tzedek (ibid.), and Ben Ish Chai (ibid.).

[13] Including the Mahari”t (Shu”t ibid.), Pri Chadash (Yoreh Deah 97, 1), Minchas Yaakov (60, 3), Chavas Daas (Yoreh Deah 97, 1), Chida (Shiyurei Bracha Yoreh Deah 97, 3), Pischei Teshuva (ad loc. end 3), Yeshuos Yaakov (ad loc. 1), Ya’avetz (Shu”t ibid.), Machatzis HaShekel (Yoreh Deah 97 s.v. ayin), Chochmas Adam (50, 3 & 7), Atzei HaOlah (ibid. 4), and Aruch Hashulchan (Yoreh Deah 97, 2). See also Rav Yisrael Belsky’s Shu”t Shulchan HaLevi (vol. 1, Ch. 22, 7 and 8).

[14] The Be’er Sheva (Shu”t 32) maintains as long as some cheese is noticeable, it is considered an adequate shinui to allow it to be made. This is also cited by the Pri Chadash (Yoreh Deah 97, end 3), Pri Megadim (ad loc. Sifsei Daas 1), Zivchei Tzedek (ad loc. 10), Aruch Hashulchan (ad loc. 5; who calls it “Minhag Yisrael Torah”), and Kaf Hachaim (ad loc. 1). Although the Atzei HaOlah (Basar BeChalav 12, Chukei Chaim 1) is uneasy about a small amount of cheese being noticed, and others, including the Gilyon Maharsha (ibid.) and Chamudei Daniel (ibid.) maintain that said shinui must affect the entire dairy bread, nevertheless, where it would be recognizable throughout, as a cheesecake is, it would definitely be permitted.

[15] Mahari”t (Shu”t ibid.), Pri Chadash (Yoreh Deah 97, 1), Ben Ish Chai (ibid.), Yad Yehuda (ad loc. Pirush HaKatzner 7), Aruch Hashulchan (ad loc. 8), Kaf Hachaim (ad loc. 12, s.v. u’va’ir). See also footnote 9 - If it is recognizable to all, it is considered a proper shinui.

[16] For more on this topic see Rav Nissan Kaplan’s Shalmei Nissan (Perek Keitzad Mevorchin Ch. 80 - 84), Rabbi Mordechai Zev Trenk’s Brachos Basics (Ch. 4), and Rabbi Avi Wiesenfeld’s discussion on the DinOnline.org website: http://www.dinonline.org/2011/04/05/q-a-guide-to-the-halachos-of-brachos-ikar-tafel/#identifier_72_10407 - Par. Cheesecake.

The author wishes to thank friend and colleague Rabbi Elie Schoemann, Rabbinic Coordinator of the London Beth Din Kashrus Division (KLBD), as his relevant article served as the impetus for my interest and research on this topic.

Lezechus Shira Yaffa bas Rochel Miriam v’chol yotzei chalatzeha for a yeshua teikif umiyad.

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Would You Like One Day or Two?

By Rabbi Yirmiyohu Kaganoff

On the evening of the first night of Chol HaMoed in Eretz Yisroel (corresponding to the eve of the second night of Yom Tov in chutz la’aretz), I received a curious phone call:

“Rabbi,” the female voice began, “I am calling on behalf of my friend, Rivkah.” After decades of rabbinic experience, I was convinced that this was the introduction to an embarrassing question. People often prefer pretending that they are asking for someone else -- hiding behind the name of “a friend.” But this time, I was wrong.

KIDDUSH OR HAVDALAH?

“Rivkah is a student at Bnos Aliyah Seminary and is uncertain whether she should keep one day of Yom Tov or two. A few weeks ago, she visited a family for Shabbos and mentioned her predicament. The man of the house graciously told her that he answers halachic inquiries, and ruled that she need keep only one day of Yom Tov. However, upon returning to Seminary, a teacher told Rivkah that she should not ask her shaylah from just anyone, but must ask one of the seminary rabbis. Rivkah did so, and was told to keep two days. Subsequently, someone told her that she should not have asked the question a second time and must follow the first ruling she received. Now, she is in a dilemma: Should she observe the second day of Yom Tov or not? Although most people do not have a Yom Tov issue like Rivkah did, they could still stumble into a similar predicament by making a query of two different rabbonim. As I understood the shaylah, the answer to Rivkah’s query did not involve analyzing the laws of who must observe two days, but concerned whether she must follow the first opinion or the second. Although the Gemara states that one may not ask the same shaylah twice, perhaps this applies only if someone received a strict ruling that he or she is now trying to overturn. But what happens if someone first received a lenient ruling, and then received a stricter response? In our instance, the first authority told Rivkah that she need keep only one day Yom Tov, which, according to most opinions, is considered a lenient ruling, since she now may perform melacha on the second day (Minchas Shelomoh 1:19:8). (Shu”t Chacham Tzvi #167 contends, for reasons beyond the scope of this article, that keeping one day is the stricter ruling.)

In order to resolve Rivkah’s quandary, we need to discuss the following questions:

1. May one ask again after receiving a lenient answer?
2. If one did, and the second authority ruled strictly, whose reply is binding? Is one still bound by the first ruling, which in Rivkah’s case was lenient, or the second, stricter ruling; or perhaps she should now ask a third authority for a final decision?

3. Was the teacher correct in directing her to ask a second shaylah after she already received a psak?

BACKGROUND INFORMATION

Before focusing on Rivkah's predicament, we must first understand the general principles of the topic:

The Gemara (Avodah Zarah 7a) teaches that someone who asked a shaylah and received a strict ruling may not subsequently ask the question from a different authority. I will refer to this principle as hanishal lechacham ("one who asked a Torah scholar"), based on the opening words of the Gemara's statement.

Tosafos (Avodah Zarah 7a s.v. hanishal) inquires, "May one never question the rav's decision? Let the different authorities debate the issue and perhaps the second will prove to the original authority that the original decision was incorrect." Tosafos concludes that the Gemara prohibits only asking a second rav without notifying him that one has already asked the question. However, if one notifies the second authority that the question had already been asked, the second authority may oppose the decision, if he considers it mistaken. Can he actually overturn the first ruling? This depends, as there are three levels of error:

CLEAR MISTAKE

I. If it is obvious to the second rav that the first rav erred, the second rav may inform the inquirer of the correct practice (Tosafos). This is true only if the first rav's ruling conflicts with accepted halachic practice or was based on inaccurate information (see Mishnah, Bechoros 28b). In these instances, the first opinion is totally disregarded, since it is erroneous. Judaism does not accept a doctrine of rabbinic infallibility; on the contrary, the Gemara records several instances where great halachic authorities erred in specific rulings (see Horiyos 2a). For example, Rabbi Tarfon ruled that a cow whose uterus was surgically removed is not kosher, as it will die shortly. The Mishnah records that when it was demonstrated that an animal can survive this surgery satisfactorily, Rabbi Tarfon acknowledged his error (Mishnah, Bechoros 28b).

PROVABLE ERROR

II. If the second rav feels he can prove that the first one's ruling was mistaken, but the ruling is not an obvious error, the second authority may not say anything directly to the inquirer. Instead, he should contact the first rav and share with him his proofs that the ruling was flawed. In the true style of intellectual honesty required of a Torah scholar, the first rav should carefully examine the second rav's approach to see if it has merit. It is now up to the first rav to decide whether to change his ruling (Shu't Panim Meiros #2; cf. Shach, Yoreh Deah 242:58; Choshen Mishpat 25:14:17). If he still feels that his first interpretation is correct, or, at least, not proven to be in error, he should maintain his original position. According to some opinions, he may retract his position if he no longer feels it to be correct, even though he cannot prove it wrong (Levush, Yoreh Deah 242:31; Aruch HaShulchan, Yoreh Deah 242:60).

A similar situation could result if the second rav knows that well-accepted authorities rule differently from the way the first rav did, and he suspects that the first rav would accept their position (see Rosh, Sanhedrin 4:6). In this situation, too, the second rav may simply notify the first rav of the variant opinion, and then it is up to the first rav to decide whether to rescind his original decision.

In all the cases we mentioned so far, the first rav's ruling is retracted, either because it was clearly erroneous or because he himself withdrew it.

DISPUTE IN INTERPRETATION

III. If the second rav disagrees with the first rav's conclusion, but cannot prove it incorrect, the second rav should say nothing to the questioner, who remains bound by the original decision. There is no halachic error here, but a diversity of outlook, and the first rav's verdict cannot be overturned. Even if the first rav himself subsequently reconsiders his decision, most authorities contend that he cannot alter his own original ruling, since the original approach cannot be disproved (Shach, Yoreh Deah 242:58 and Choshen

Mishpat 25:14:17; Shu't Panim Meiros #2; Divrei Chamudos, Chullin 3:24). (However, note that the Levush, Yoreh Deah 242:31, and the Aruch HaShulchan, Yoreh Deah 242:60, rule that he can change his mind. They feel that the second rav should engage the first rav in debate, because this might change the first one's mind.)

HOW LONG?

How long does the ruling remain binding?

The Rama (Yoreh Deah 242:31) rules that the rav's decision is binding only for the specific instance just asked. However, if the same shaylah recurs, one may re-ask the shaylah from either the same or a different rav. The same rav himself, and certainly any other rav, may rule differently when the question recurs. Therefore, if someone asked whether one may perform a certain activity on Shabbos, was told that it is forbidden, and subsequently discovers that the consensus of poskim permits this activity, he may be lenient in the future. Similarly, a rav who ruled one way and subsequently discovered that most poskim dispute his conclusion may conclude differently the next time he is asked this question.

WHAT IF THE FIRST SCHOLAR WAS LENIENT?

So far, we have assumed that the first rav decided strictly. What happens if the first rav ruled leniently, and the questioner would like to ask someone else? This issue is germane to Rivkah asking her seminary rabbi about observing two days of Yom Tov after the first rabbi permitted her to keep only one day.

The answer to this question depends on why one may not ask a shaylah from a second authority. Here are two reasons given:

Reason #1: CONSIDERING IT PROHIBITED

Most Rishonim contend that when submitting a question to a rav, the inquirer accepts the rav's decision as binding and must then consider the item either permitted or prohibited (Raavad quoted by Ran; Rosh). This concept is called shavya anafshei chaticha de'issura (considering something as prohibited). I will clarify this principle with a case that I discussed in a different article.

A man believes himself to be a kohen, even though there is insufficient evidence for his assumption. Since most Jews are yisroelim and not kohanim, his halachic status is a yisroel, and he has none of the rights of a kohen -- he may not duchen, redeem a bechor or receive the first aliyah to the Torah. However, since he considers himself a kohen, he must assume the stringencies that result from that esteemed status: he may not come in contact with corpses, nor marry a woman forbidden to a kohen. Since he believes that he is a kohen, he is shavya anafshei chaticha de'issura, he must consider himself prohibited to do these things, as if he is a kohen.

The Rishonim mentioned above maintain that asking a shaylah means accepting the rav's opinion as binding halacha; if he rules stringently, I must accept his verdict, and therefore I may not re-ask the question. (The exceptions mentioned previously, where the ruling can be retracted, are because the decision is considered an error and, therefore, not a valid decision.)

This approach rules that the principle of hanishal lechacham applies only when the first rav ruled stringently. If he ruled leniently, I am permitted to follow his ruling, but not obligated to, and therefore, I may re-ask the shaylah from a different rav (see Tosafos, Avodah Zarah 7a s.v. hanishal). Thus, Rivkah may ask her shaylah from the seminary rabbi, notwithstanding the first ruling she received. We will soon discuss whether she is obligated to keep the second day of Yom Tov, once she received this second ruling.

Reason #2: RESPECT FOR A TALMID CHACHAM

Other authorities explain that re-asking a shaylah from a second rav affronts the respect due the first rav, by implying that one is questioning his competence (cited by Ran to Avodah Zarah. See there that he also quotes an additional reason.) This rationale forbids re-asking a question, even if the first rav ruled leniently, as it is still offensive to the rav's honor. Following this approach, Rivkah should not have asked the seminary rabbi, once she had already asked someone qualified to answer her shaylah.

In view of the second reason, Rivkah's teacher should certainly have asked her own shaylah as to whether to instruct Rivkah to ask her shaylah again. Do any other differences result from the dispute as to why one may not re-ask a shaylah? Indeed, they do.

A BRACHA DISPUTE

Many halachic issues are not matters of being strict versus lenient, but simply questions regarding correct procedure. For example, whether or not to recite a bracha in a certain instance, which bracha to recite, or whether to repeat a tefillah are all instances where there is no "stricter" or "more lenient" side of the question. Both sides of the question involve a stringency, and therefore, the principle of shavya anafshei chaticha de'issura is not applicable.

Those who ban re-asking a question because of shavya anafshei chaticha de'issura should therefore permit re-asking any question of this type, in order to receive a more accurate or authoritative response. On the other hand, those who ban re-asking a question because it is offensive to a scholar's honor should prohibit it in this instance, too, since it implies a lack of competence on the part of the first rav asked.

Before resolving Rivkah's dilemma, we need to explore one other fascinating point:

A DISPUTE BETWEEN THE TALMUDS?

When the Gemara Bavli (Avodah Zarah 7a) cites the prohibition of remaking a halachic inquiry, it refers only to cases where the first rav answered stringently, but mentions no cases where the first rav ruled leniently. This implies that the Bavli explains the reason for this prohibition like the first approach – that one has accepted the prohibition of the rav.

However, the Yerushalmi (Shabbos 19:1) quotes the following anecdote: Rabbi Simon permitted something which Rabbi Ami subsequently prohibited. Rabbi Simon was upset; is it not said that if one sage permitted something, a second sage may not prohibit it?

This Yerushalmi appears to rule that one may not re-ask a question, even if one received a lenient ruling, which is impossible according to the first approach. Thus, the Yerushalmi appears to understand that the reason one may not re-ask a question is the talmid chacham's honor, the second approach cited. This would imply that the two Talmuds dispute the exact question upon which our dear Rivkah and her teacher stumbled!

The Rishonim prefer to avoid saying that the two Talmuds disagree, suggesting different approaches to resolve this contradiction.

AN ALTERNATIVE READING

Tosafos (Avodah Zarah 7a s.v. hanishal) suggests reading the last statement of the Yerushalmi rhetorically, as opposed to being a support for Rabbi Simon's position. The passage now reads:

Rabbi Simon permitted something which Rabbi Ami subsequently prohibited. Rabbi Simon was upset. The Yerushalmi now questions the validity of Rabbi Simon's reaction:

"Does it say anywhere that if one sage permitted something, a second sage may not prohibit it?"

Following Tosafos' approach, the Yerushalmi rules, exactly as the Bavli implies, that the prohibition to re-ask a question applies only when the first scholar decided stringently. However, when he ruled leniently, a second scholar may rule freely on the case.

On the other hand, the Rosh explains the Yerushalmi as I explained originally, that Rabbi Simon objected to Rabbi Ami's strict ruling as halachically objectionable, after he (Rabbi Simon) had permitted the matter. The Rosh quotes this approach as definitive halacha, meaning that hanishal lechacham is prohibited because of the honor of the first rav. The Rosh appears to contend that both reasons are true, the Bavli emphasizes one reason, and the Yerushalmi the second. This approach maintains that one may, indeed, not seek out a second rav's opinion, whether the first rav was lenient or strict.

HOW DO WE RULE?

How do we rule in this dispute?

Most halachic authorities rule that the law of hanishal lechacham applies only when the initial ruling was strict, but if it was lenient, one may, indeed, re-ask the shaylah (Shach, Yoreh Deah 242:59; Gra). However, there are some who rule, like the Rosh, that hanishal lechacham applies whether the initial ruling was strict or lenient and therefore forbid re-asking a question, even if one received a lenient ruling (Rama, Yoreh Deah 242:31). According to the first approach, there was nothing wrong with Rivkah re-asking her question.

CONCLUSION

Now that Rivkah already re-asked the question, must she keep one or two days of Yom Tov? According to those who rule that hanishal lechacham is because one has accepted the stringent opinion, once Rivkah re-asked the question she is bound to follow the second, stricter, ruling. Since most authorities rule this way, one who re-asks the question from a second authority will be obligated to follow his opinion, if he is stricter. No matter how many people one asks, one will be always obliged to follow the strictest ruling. Thus, Rivkah should celebrate two days of Yom Tov this Pesach. The final psak Rivkah received applies only to the question she asked about Pesach. When Shavuot arrives, she may ask again whether to observe one day Yom Tov or two. May she direct her question to a particular rav, knowing what answer she wants to receive? That is a topic for a different article.

<https://rabbikaganoff.com/rus-david-and-the-prohibition-of-marrying-moavites-2/>

Rus, David, and the Prohibition of Marrying Moavites

Rabbi Yirmiyohu Kaganoff

With Shavuot coming in a little more than a week, the following article is very appropriate. For those who would like to research the laws of Yom Tov, preparing dairy bread on Shavuot, the mitzvah of aliyah la'regel or any other topics about Shavuot, there are many articles on the website RabbiKaganoff.com that can be located by using the search words, Shavuot, Yom Tov, or dairy bread.

A critical feature of the Book of Rus is the question of whether Rus was allowed to marry into the Jewish people. The Torah prohibits a Moavite from marrying into Klal Yisroel to prevent damaging Klal Yisroel's pristine moral nature by people who have inherited the disturbing character traits associated with the Moavite people:

An Ammonite or a Moavite should not enter the congregation of Hashem. Even the tenth generation should not enter the congregation of Hashem, forever. Because of the fact that they did not come forward with bread and water when you were on your way out of Mitzrayim and because of the fact that they hired Bilaam ben Be'or of Pesor, Aram Naharayim, to curse you (Devarim 23:4, 5).

Since there are no indications that the nation of Ammon participated in employing Bilaam, the Ramban (ad loc.) explains that each of the two reasons specified here applies to only one of the two nations involved: The Ammonites are excluded from marrying into Klal Yisroel because they did not provide food for the Jewish people, thus not demonstrating any hakaras hatov for the fact that Avraham Avinu had saved their ancestor Lot, and Moav is banned for hiring Bilaam.

The Mishnah (Yevamos 76b) rules Ammoni velo Ammonis, Moavi velo Moavis, that the prohibition of marrying into the Jewish people applies only to male Ammonites and Moavites and their male descendants. Thus, a male member of the Moavite people who converts to Judaism is still prohibited from marrying someone born Jewish. However, a female Moavite convert and all her descendants, and the female descendant of a male Moavite convert may freely marry within Klal Yisroel. It is for this reason that Boaz was permitted to marry Rus, who was a Moavite.

The Gemara explains that only Ammonite men are included in the ban, since only men would have been involved in going out to present food and drink

to the Jews. The female Ammonites' lack of involvement in this mitzvah may have been because of their extreme modesty – they never left their houses to be near unfamiliar men. Similarly, since we can assume that Bilaam was hired by the Moavite men, only they are prohibited from marrying into the Jewish people, not the women (see also Yerushalmi).

The Story of Rus

In addition to the above-quoted Mishnah, several other early sources discuss whether the prohibition preventing Moavites and Ammonites from marrying Jews is restricted to males or extends also to females. The first time we find this matter discussed is in the days of Rus. Megillas Rus tells us that Ploni Almoni, an uncle of Rus's late husband Machlon, was concerned about marrying Rus pen ashchis nachalasi, lest I destroy my descendants (Rus 4:6), which Rashi explains to be a concern that his descendants born from Rus would not be allowed to marry other Jews, because of their Moavite ancestress. Rashi there explains that Ploni Almoni erred regarding the halachic rule of Ammoni velo Ammonis.

Yet, the comment of Ploni Almoni is peculiar. If he felt that female Moavites are prohibited from marrying Jews, why was he only concerned that his descendants would be banned and not about whether he himself was permitted to marry Rus? On the other hand, if he was willing to marry Rus because he knew that the prohibition is restricted to male Moavites, why was he concerned about his children? We will return to this question shortly.

The Story of David

The issue of whether Moavite women may marry Jews surfaced again concerning the lineage of King David, who was descended from Rus. A fascinating passage of Gemara describes an early halachic debate among several known Biblical personages – whom we see from this Gemara were exemplary Torah scholars. Doeig HaEdomi, a member of King Shaul's retinue, and Avner ben Ner, Shaul's chief-of-military-staff, debate the halachic issue concerning whether Moavite women may marry Jews. The discussion between them is what one expects from Talmidei Chachamim of the first order, vociferously debating a halachic issue in your local Beis Medrash. But first let us examine the historical context.

Background to the Story

After Shaul failed to destroy Amalek and he had been told that he would therefore lose the monarchy, Hashem commanded Shmuel to clandestinely anoint David, the youngest of Yishai's eight sons, as the new King of Israel. Shmuel carried out this mission, but it had been kept a complete secret. At this time, Shaul began suffering bouts of depression. Shaul's advisers sought out someone who could play music and thereby help Shaul cope with his depression. One of Shaul's attendants knew David and suggested him for the position. David tried out for the position and was very successful. Shaul then sent a message to Yishai, David's father, requesting that David be allowed to assume this position permanently. David did fill the position, and Shaul loved David tremendously, and had David also assume the role of being the royal armor-bearer. Shaul sent a second message to Yishai, requesting that David remain with Shaul "for he has found favor in my eyes" (Shmuel I 16:14-23).

At this point, the Pelishtim (Philistines) waged war against the Jews. The Pelishtim had a giant warrior among them, Golyas (known in English as "Goliath"), who stood over six amos tall (well over ten feet!). Golyas would taunt the Jews with his powerful, terrifying voice. Golyas challenged the Jews to send one representative who would face off in battle against him, with the nation of the victor taking the members of the other nation as slaves. At the same time, Golyas screamed blasphemous declarations about Hashem. The Jewish troops were terrified of Golyas (Shmuel I 17:1-11).

At the time, David's three oldest brothers served in Shaul's army. Yishai, David's father, who is described as zakein ba va'anashim, meaning a well known personage, sent David to bring provisions to his brothers at the battlefield (Shmuel I 17:12). David discovered that Shaul was offering a vast reward to whoever would vanquish Golyas.

David the Brave

David, after gathering information about the situation, volunteered to fight Golyas by himself. Shaul discouraged David, noting that Golyas was an experienced warrior, whereas David was not.

David replied that Hashem is the One who provides all salvation, and that Hashem often helped David fight lions and bears while he was tending his sheep. Shaul gave David his blessing.

Shaul's armor was placed upon David, but David said that he could not move freely with the armor, and removed it. David then took five smooth stones from a stream and placed them in his shepherd's bag.

When Golyas saw David, he taunted him, saying "I will offer your flesh to the birds of the heavens and the animals of the field," to which David responded: "You come against me with sword, spear and javelin, and I come against you with the Name of Hashem, Master of Armies, the G-d of the troops of Israel." At this point, David took his slingshot, shot one stone that struck Golyas on the forehead, and Golyas fell dead. David then took Golyas's sword, chopped off his head and demonstrated to all the Pelishtim that their hero was dead. The Pelishtim fled, and on that day, the Jews vanquished their enemy.

Now we come to the strangest part of the story:

"And when Shaul saw David move forward against the Pelishti, he said to Avner, his general, 'Avner, whose son is this lad?' And Avner answered, 'As you live, O King, I do not know.' And the king responded, 'Find out whose son is this lad'" (Shmuel I, 17:55-56).

This last part of the story is bizarre. Both Shaul and Avner certainly knew David well -- David was Shaul's armor-bearer and the one who played music to treat Shaul's fits of depression. Furthermore, they were also familiar with Yishai, who was a well-known personage and with whom Shaul had negotiated twice for David's employ.

The Gemara Passage

As we can imagine, we are not the first to ask these questions: They form the basis of a fascinating Talmudic discussion (Yevamos 76b-77a).

The Gemara asks why Shaul asked Avner who David and Yishai were; he knew them both, very well. The Gemara answers that he suspected that David might be the person who would be replacing him as king of the Jews. Shaul inquired whether David was descended from the branch of Yehudah that was destined to be the Jewish royal family. Thus, the question "Avner, whose son is this lad?" was not about David's identity but about his genealogical roots.

At this point, Doeig HaEdomi piped up, "Rather than ask concerning whether he is appropriate to become king, you should ask whether he may marry into the Jewish people. After all, he is descended from Rus, the Moavite." To this, Avner retorted that we know that the halachah is that only male descendants of Ammon and Moav are prohibited, and therefore Rus was permitted to marry into the Jewish people. Doeig, however, disputed the veracity of this ruling. A halachic debate ensued between Doeig and Avner, concerning whether one can prove from the verses that the prohibition against Ammon and Moav is limited to males, or whether it extends also to the female descendants. Doeig won the upper hand in the debate, producing irrefutable arguments that females are also prohibited.

What was Doeig's Argument?

As explained by the Ritva (ad loc.), Doeig insisted that the prohibition against marrying Ammonites applies equally to men and women of this nation. In his opinion, the Ammonite women equally share blame for the discourtesy they showed the Israelites, since the Ammonite women should also have provided food and water. He disputes with excusing their not providing help as attributable to their extreme modesty, since the Ammonite women should have assisted the Jewish women.

But what about the Moavite women?

But wait one minute! This concern should not affect David, who was descended from Moav, not from Ammon, and the Moavite women cannot be accused of hiring Bilaam. However, Doeig contended that Moavite women are also prohibited. Although it may be true that Bilaam was hired by the

men, since the prohibitions against marrying Moavites and Ammonites are mentioned together, just as female Ammonites may not marry Jews, the same applies to female Moavites (Rashba, Yevamos 76b).

When Avner was unable to disprove Doeig's approach, Shaul referred the issue to the scholars who debated such matters in the Beis Medrash. These scholars also responded that the prohibition banning the marriage of Ammon and Moav applies only to males and not to females. Doeig then proceeded to demonstrate that their approach was incorrect, leading the scholars of the Beis Medrash to conclude that their previous assumption was wrong and that henceforth the halachah would be that female descendants of Ammon and Moav are prohibited from marrying into Klal Yisroel. This ruling would seriously affect David and all his family members. Boaz had married Rus assuming that the prohibition banning Moavites applied only to males, and now the scholars of the Beis Medrash were considering banning Moavite and Ammonite women and all their descendants.

Amasa to the Rescue!

They were about to conclude that this is the halachah, when another scholar, Amasa, who was also a general in Shaul's army, rose and declared, "I have received a direct mesorah from Shmuel's Beis Din that the prohibition relates only to male descendants and not to female ones." This last argument apparently turned the entire debate back in favor of Avner's original position, and it was accepted that David and all of Yishai's descendants could marry within Klal Yisroel (Yevamos 76b-77a).

What did Amasa's declaration change? In what way did this refute Doeig's arguments?

Based on a halachic explanation of the Rambam (Hilchos Mamrim 1:2), the Brisker Rav explains what changed.

There are two basic types of Torah laws:

Those that are handed down as a mesorah from Moshe Rabbeinu at Har Sinai.

Those derived on the basis of the thirteen rules with which we derive new halachos, called in English the hermeneutic rules.

Let me explain each category by using examples:

Mesorah

We have a mesorah that the Torah's requirement that we take "the fruit of a beautiful tree" on Sukkos refers to an esrog. No halachic authority in Klal Yisroel's history ever questioned this fact, and for a very simple reason. We know this piece of information directly from the great leaders of Klal Yisroel who received this information from Moshe Rabbeinu, who heard it directly from Hashem (Rambam, Introduction to the Commentary on the Mishnah).

Logic

However, there are also Torah laws that were not taught with a direct mesorah from Har Sinai, but are derived through the hermeneutic rules of the Torah. For example, there is a dispute among tana'im whether a sukkah requires four walls to be kosher or whether it is sufficient if it has three. This debate is based on two different ways to explain the words of the Torah (Sukkah 6b).

Mesorah Versus Logic

Are there any halachic distinctions between the two categories of Torah-derived laws? Indeed, there are. The Rambam explains that when the position is based on logic, halachic authorities may disagree what is the halachah. Thus, there can be a dispute among tana'im whether a sukkah must have three walls or four. However, there can never be a dispute concerning a matter that Klal Yisroel received as a mesorah. Once a greatly respected Torah authority reports a mesorah from his rebbe, who in turn received this mesorah back to Moshe Rabbeinu, that a specific halachah or principle is true, no one can question this mesorah. Thus, any dispute about a halachah of the Torah can concern only something derived logically with hermeneutic principles.

There is another halachic difference between something taught by mesorah and something derived through logic. The final decider of all halachah in every generation (until the end of the era of the Talmud) was the Sanhedrin,

also often called the Beis Din HaGadol, the supreme Beis Din. Once the great Torah scholars of Klal Yisroel participated in a debate in the Beis Din HaGadol, which then reached a decision, their conclusion is binding on all of Klal Yisroel (Rambam, Hilchos Mamrim 1:1; Comments of Ramban to Sefer HaMitzvos, Rule II).

There is a question whether a Beis Din HaGadol may overturn a ruling that had been decided previously, either its own decision or one made by an earlier Beis Din HaGadol. The answer to this question depends on whether the ruling involved was based on logic or whether it was taught by mesorah. When the original decision was reached by logic, then a later Beis Din HaGadol has the authority to reexamine the case, and, should it decide to, overturn the previous ruling.

However, this can never happen with a law whose source is mesorah. There can be no debate, no discussion and no overturning. Once a recognized scholar announces that he received this law as a mesorah from Sinai, this is accepted by all, and no debate or questioning of this mesorah may transpire. Thus, it makes a tremendous difference in halachah whether something is a mesorah, which means it is not subject to argument or debate, or whether it is based on an interpretation of the hermeneutic rules, which is subject to argument and debate.

On the basis of these rules of the Rambam, the Brisker Rav (in his notes to the book of Rus in his Chiddushim on Tanach) explains why Amasa's argument closed the debate in David's favor. Doeig, Shaul, Avner, and the other members of Shaul's Beis Medrash all assumed that limiting the prohibition of Ammoni and Moavi to males was based on hermeneutic exposition, and thus debatable. Furthermore, if Doeig demonstrated that his approach was logically correct, the long-established interpretation permitting Rus to marry into the Jewish people would be overturned. Indeed, the result of this ruling would be that Rus and all her descendants would be prohibited to marry into the Jewish people.

Amasa, however, explains the Brisker Rav, knew that the principle of Moavi velo Moavis, that female descendants of Moav could marry into Klal Yisroel, was a mesorah that Shmuel knew originated at Har Sinai. Thus, its basis was not a logical interpretation of the Torah, which can be refuted, but mesorah, which cannot. Therefore, a logical interpretation concluding otherwise was completely irrelevant.

At this point, we can return to an earlier question we asked about the story of Megillas Rus. Ploni Almoni, Machlon's uncle, seems convinced that he may marry Rus, notwithstanding her Moavite origins, yet he was concerned that his descendants from her might not be allowed to marry other Jews. The Brisker Rav explains that Ploni Almoni assumed that the law permitting Moavite women to marry Jews was based on logic, which might at some time in the future be refuted, thus changing the accepted halachah. At that point, the ability of his descendants to marry Jews would be overturned. However, Ploni Almoni was incorrect, since the halachah that Moavite women may marry Jews is mesorah, and therefore irrefutable. There can and will never be a question as to whether the descendants of Boaz and David may marry Jews, notwithstanding their Moavite origins.

Conclusion

Besides the halachic issues regarding the pedigree of David, which are of supreme importance to us, since they are the basis of the lineage of Mashiah, we learn a very important lesson from the marital restrictions of the Moavites. One of the three identifying characteristics of the Jewish people is our quality that we are makir tov, we appreciate what others, and especially Hashem, have done for us and acknowledge that appreciation. From this mitzvah, we see how concerned we should be about developing the qualities that characterize the Jewish people.

<http://halachipedia.com/index.php?title=Shavuot>
[Editor Rabbi Ike Sultan]

Preparing for Shavuot

Some say that thirty days before Shavuot one should start learning the halachot of Shavuot, whereas others say that one should start from Rosh Chodesh Sivan. [1] All agree that on the holiday itself one should learn the halachot of Shavuot. [2]

The notion that one should learn in preparation for the holiday doesn't mean that a talmid chacham should stop his regular learning in order to learn halacha of the upcoming holiday, rather it means that a question about hilchot shavuot is given precedence to questions not about shavuot.[3] Some, however, dispute this point.[4]

Decorating the Shul for Shavuot

Some have the custom to decorate the shul for Shavuot with flowers, trees or nice smelling fruits. [5] While some communities abstain from this custom because it may be considered a chok akum,[6] others justify the practice.[7]

Similarly, some have the practice to hand out scented herbs so that people can smell them and recite a beracha.[8] This should not be done between Baruch Sheamar and the Shemoneh Esreh.[9]Some also place flowers on the Sefer Torah itself[10] or distribute flowers to be thrown at the Sefer Torah[11] in honor of Shavuot.

If Shavuot falls out on a Sunday, one should not place the greenery on Shabbat in preparation for Shavuot but should do so either on Yom Tov or before Shabbat.[12]

Reading Megillat Rut on Shavuot

The Ashkenazic minhag is to read Megillat Rut on Shavuot.[13]

Eating Dairy on Shavuot

The minhag Yisrael is to have dairy foods on Shavuot. [14]

It is preferable to eat meat at the Yom Tov meals. While some consider this to be an obligation, others hold that there is no technical requirement to do so. [15]

It is preferable to have meat both at the nighttime and daytime meal of Yom Tov. Those who have a practice to eat one dairy meal, however, have what to rely on. [16]

Shavuot night

Kiddush

One shouldn't say Kiddush on Shavuot night until Tzet HaKochavim.[17]Some say one should even wait to say Arvit,[18] while others argue.[19]

If one forgot to say shehecheyanu during Kiddush on Shavuot, one cannot say it after Shavuot even within the seven days after the holiday. [20]

Learning all Night

Many have the custom to stay up Shavuot night learning torah in anticipation of accepting the Torah on Shavuot. [21] Some even stay up the second night of Shavuot in the diaspora. [22]

If staying up all night, and one plans on drinking multiple times throughout the night, it is best to make a Shehakol and Borei Nefashot for each drinking. However, if when making the first Shehakol of the night, one has explicit Kavanah (intention) for that Bracha to cover all other drinkings of the night, that works as well, and one would then not need a new bracha at each drinking. [23]

The minhag to stay up all night applies to men and not women. [24]

If yeshiva boys would prefer to learn gemara rather than reading the tikkun for shavuot, there is no need to stop them because they have on who to rely. However, if most of the congregation is reading the tikkun, individuals should not break off to learn gemara. [25]

If, on account of the exhaustion of learning Torah all night, he cannot daven Shacharit in the morning with proper concentration, it is better not to stay up since davening properly is a clear obligation [26]

Shavuot morning

As previously mentioned, many have the custom to stay up Shavuot night learning Torah. [27] There are several halachot that those who follow this practice should bear in mind:

According to Ashkenazim, after daybreak [28], one should use the bathroom,

thus dirtying one's hands, wash his hands for Netilat Yadayim with a Bracha, and then say Asher Yatzer. [29] One should hear Elokai Neshama, HaMaavir Sheinah, and Birkot HaTorah from someone who slept. The rest of the Birkot HaShachar may be recited as usual. [30] If one normally wears a Tallit for Shacharit, one should have intent that the bracha on his Tallit should cover his Tallit Katan as well. If, however, one doesn't wear a Tallit, one should hear the bracha from someone else. [31] If one slept a Sheinat Kevah the day before staying up all night, he may recite the Birkot HaTorah in the morning for himself. [32]

According to Sephardim, after using the bathroom one should say Asher Yatzer and not the bracha of Al Netilat Yadayim. [33]One may say Elokai Nishama, HaMaavir Sheinah, and Birkot HaTorah for himself. [34] The bracha recited over the Tallit covers the Tallit Katan as well. [35]

Netilat Yadayim

One who didn't sleep at all at night should wash Netilat Yadayim in the morning without a bracha, since there's a dispute whether there's an obligation to wash Netilat Yadayim in the morning if one did not sleep the night before. According to Ashkenazim, one who didn't sleep but goes to the bathroom in the morning should wash Netilat Yadayim with a Bracha. [36] One should not learn after Olot HaShachar until he washed his hands in the morning. [37]

If one slept less than 30 minutes [38] or slept in a temporary fashion (putting one's head on the table) [39], then it is as if he did not sleep at all. [40]

Asher Yatzer

According to Ashkenazim, if one slept at night, one should make Asher Yatzer in the morning whether or not one went to the bathroom; however, if one didn't sleep, he should only recite Asher Yatzer if he goes to the bathroom. [41] According to Sephardim, one can only recite Asher Yatzer if he used the bathroom. Even if he does though, he would not recite the beracha of al netilat yadayim [42]

Tzitzit

If one went to sleep (or stayed up) in Tzitzit, preferably one should make a Bracha on wearing a Tallit to cover the Bracha for Tzitzit, however if that's not possible, one may make a Bracha on those Tzitzit in the morning, and as one makes the bracha one should shake the Tzitzit strings. [43]

Birkot HaTorah

For Ashkenazim, if one didn't sleep at all during the night, one shouldn't recite Brachot HaTorah but should hear them from someone who is obligated to make them (both must have kavana, and after the Bracha, both learn some pesukim such as Parshat Birkat Cohanim). [44] For Sephardim, the minhag is to recite these brachot even if you remained awake all night. [45]

One should not say birkot hatorah until after alot hashachar. [46]

If one slept Shinat Kevah the day before staying up all night, one should make the Brachot HaTorah in the morning after one didn't sleep. [47]

Birkot HaShachar

If one didn't sleep at all, according to Ashkenazim, one should listen to Elokei Nishama and HaMaavir Shenah from someone who did sleep. [48] However, the rest of the Birchot HaShachar one can make oneself. [49] However, according to Sephardim, one may recite these brachot oneself.[50] One should not learn after Olot HaShachar until he said Birchot HaShachar. [51]

Sources

1. In Gemara Pesachim 6a, Rabbanan hold that one should begin to learn Hilchot Pesach thirty days in advance of Pesach, whereas Rabban Shimon Ben Gamliel holds only 2 weeks. Rabbanan learn this idea from Moshe who taught the laws of Pesach Sheni thirty days in advance which was Pesach in Nissan. Shulchan Aruch 429:1 rules like the opinion of the Rabbanan. Mishna Brurah 429:1 quotes some who extend this to other Yamim Tovim such as Shavuot, whereas the Gra held that it does not apply to Shavuot and it is sufficient to begin learning the halachot of shavuot from Rosh Chodesh Sivan.

2. Gemara Megillah 32b states that one should learn the halachot of Shavuot on Shavuot. Mishna Brurah 429:1 quotes this as halacha.
3. Chazon Ovadyah (Pesach pg 1) explains that the halacha in Gemara Pesachim 6a is relevant in regards to the laws established in Tosefta Sanhedrin 7:5 which state that a person should ask relevant questions and a relevant question has precedence over the irrelevant questions.
4. See Beir Halacha 429 s.v. Shoalin
5. Rama O"C 494:3 (quoting Maharil pg. 160) explains that the custom commemorates the joy of Matan Torah. Birkei Yosef 494:6 says that this custom is an ancient one dating back to the time of the Midrash Targum Sheini on Megillat Esther 3:8 which writes that Haman mentioned this minhag of ours to Achashverosh. Magen Avraham 494:5 explains that trees are used for decoration so that we should pray for a good fruit harvest because Shavuot is the day we are judged regarding the fruits of the year. The Levush 494:1 writes that this minhag is based on the pasuk "????-?????? ????-????? ????-????, ???-???? ???? ?????" (Shemot 34:3) which implies that there was pasture on Har Sinai. Sefer Minhag Avoteinu Biyadenu vol. 2 pg. 578 suggests the Maharil himself felt that the minhag was a fulfillment of added simcha of the holiday itself, not a commemoration of the simcha of Matan Torah. He writes that this minhag developed specifically on Shavuot because there is an added level of happiness which manifests in physical pleasures, as the Gemara Pesachim 68b writes that though there is a machloket Tannaim if the holidays should be "?? ??" or "?? ??" and "?? ??", all opinions agree that there is an aspect of "??" on Shavuot. With this, he explains why the Maharil writes that the greenery should smell nice. Thus, according to the Maharil, it is our joy in essence of the Torah itself and our ability to learn it that we are celebrating by putting out decorations, while according to the Rama the celebration is more focused on the historical fact that Hashem chose us as His nation and gave us His Torah. see also Yechave Daat 4:33. See further in Sefer Minhag Avotenu Biyadenu vol. 2 pg. 573-604 for a lengthy discussion of the development of this minhag and the various reasons.
6. This is the opinion of the Gra as quoted by the Chayei Adam 131:13 and Maaseh Rav Siman 191. He felt that since it was only a minhag and not a real din, we should abolish it since it became a religious practice of the non-Jews. This seems to be accepted by the Aruch Hashulchan 494:6 and Rav Moshe Feinstein (Iggerot Moshe YD 4:11:5). The Munkatcher Rov (Shaar Yissachar vol. 2 pg. 119) writes that although the minhag is well-founded, the best option is to refrain. Rav Shlomo Zalman Auerbach (quoted in Ve'alehu Lo Yibol 1:page 184) argues that the Gra only wanted to abolish the custom of placing trees in shuls and not flowers. The Steipler (Orchos Rabbenu vol. 2 pg. 99) agrees.
7. Chacham Ovadia Yosef (Yechave Daat 4:33 and Yabia Omer YD 3:24, see also Yalkut Yosef Kitzur S" A 494:17) explains that the custom is justified based on the Sh"t Maharik Shoresh 88 who explains that there is no concern of "Bechukoteihem lo telechu" (Vayikra 18:3, the prohibition regarding following non-Jewish practices and laws) by a custom that has a good reason for its practice. See also Rav Yosef Shaul Nathanson (Yosef Daat Siman 348) and Maharsham (Daat Torah 494:3 and Shu"t Maharsham 1:127), ad Chut Hamishulash pg. 128 who argue in favor of the minhag. Minhagei Edot Yisrael writes that Persian Jews call Shavuot Moed'eh Gol, meaning holiday of flowers. In conclusion, Piskei Teshuvot 494:10 writes that the minhag in most places is to place flowers in the shuls.
8. Derashot Chatam Sofer 5562 where he writes that this is based on the Gemara Shabbat 88b which says that "with every single statement that emanated from the mouth of Hashem the whole world became filled with besamim — the fragrance of spices." see also Birkat Yaavetz of Rav Dovid Cohen on Moadim vol. 2 pg. 263
9. Magen Avraham 494:9 quoting the Shela Hakadosh, Kaf Hachaim 494:57, Torat Hacham Baruch pg. 27
10. Minhag Avoteinu Biyadeinu 2, page 602.
11. Kaf Hachaim Sofer 494:58
12. Magen Avraham 494:5, Shulchan Aruch Harav 494:14, Mishna Berura 494:9 write that even though there is not a problem of muktzeh since they were designated from before Shabbat for this purpose, there is still a problem of preparing on Shabbat for Yom Tov.
13. The Rama 490:9 writes that the minhag is to read Megillas Rut on Shavuot. The Birkei Yosef 694:11 quotes the midrash which says that the reason we read Rut on Shavuot is because it emphasizes the sacrifice Rut made to accept the Torah and because it describes an awesome act of kindness, which is one of the core themes of Torah.
 - See Rabbi Aryeh Lebowitz for Ten Reasons to Read Rus on Shavuot.
14. Rama 494:3 writes that the minhag is to eat dairy foods on Shavuot. He explains that by having a dairy meal, one ensures that will have two loaves of bread, one for the dairy meal and one for the meat meal, and the two loaves of bread are in commemoration of the Shte HaLechem brought in the Beit HaMikdash on Shavuot. The Mishna Brurah 494:12 adds an alternative reason for the custom: the Jews had only dairy food immediately after Matan Torah because preparing kosher meat takes a long time. Thus, we eat dairy in commemoration of Matan Torah.
 - Additionally, the Olelot Efraim (Ma'amar 141) writes that the reason for the minhag is that Chazal (Eiruvin 52b) compare learning Torah to a baby suckling milk: just as a baby always finds a new and sweet taste in the milk, so too the learner always a new and sweet taste in Torah.
 - Rav Moshe Shternbuch in Moadim U'zmanim 8:319 says that prior to matan torah, milk was a problem because it could have been considered "ever min hachai," eating from a live animal. Therefore, we celebrate our first opportunity to eat dairy products which occurred at Matan Torah because if the torah in shemot 3:8 praises Israel for being a land filled with milk and honey it has to be that it is permissible for consumption.
 - The Yeshuot Yaakov 494:2 gives another reason. He says that the primary change at kabbalat hatorah was that even though the avot could keep mitzvot they didn't have a yetzer hara. We received the yetzer hara at Har Sinai and that's why the gemara tells us that the reward for someone who is commanded in a mitzva is greater than someone's who isn't because he doesn't have a yetzer hara not to fulfill it. Our goal now is to control the yetzer hara and defeat it to achieve the ultimate good. Based on a gemara in Nidda he says that blood is the symbol of tumah so we take the potential for impurity and turn it around completely to achieve the purity of milk.
 - The Bais Halevi on Parashat Yitro gives his own reason. The gemara says that we were given the torah and not the angels because many mitzvot require performance with the body and angels don't have bodies. We have milk and then we have meat to fulfill simchat yom tov, so we show how our observance of the laws of milk and meat requires physicality.
 - The Torat Chaim on Bava Metzia 86b says that we eat dairy based on an Aggada that when Hashem gave us the torah and the angels complained that they should be the ones receiving the torah, Hashem showed them Avraham, and we are told in Bereishit 18:8 that they ate milk and meat together but the Jews don't eat milk and meat together. see also Yalkut Yosef Moadim page 444 and Noda Biyehuda YD 64.
 - see Rabbi Aryeh Lebowitz for elaboration on some of these reasons
15. The Rambam (Yom Tov 6:18) rules that the Mitzvah of Simchat Yom Tov is fulfilled through consumption of meat and wine. The Beit Yosef 529:2 asks why the Rambam codifies the consumption of meat on Yom Tov when the Gemara (Pesachim 109a) states clearly that the mitzvah of Simcha is fulfilled through eating meat only during the time of the Beit HaMikdash, while nowadays the mitzvah is fulfilled through wine alone. Accordingly, the S" A 529:1 writes that one must have wine at each Yom Tov meal and makes no mention of the consumption of meat. The Eliyah Rabba 529:6 and Bei'ur Halacha 529 s.v. Keitzad explain that Shulchan Aruch intentionally omitted the obligation to eat meat because of his question in the Beit Yosef.
 - The Yam Shel Shlomo (Beitzah 2:5) answers the Beit Yosef's question by reinterpreting the Gemara to mean that nowadays, one must have wine in addition to meat, as opposed to the times of the Beit HaMikdash when one

could fulfill the Mitzvah through meat without wine. Thus, Mor U'Ketziyah 529, Kitzur S" A 103:7, Aruch HaShulchan 529:5, and Chazon Ovadia (Yom Tov, p. 319) rule that it is an obligation to eat meat on Yom Tov.

- The Bach 529, however, explains that although there is no obligation to eat meat nowadays, there still is a mitzvah to do so, and one would fulfill the Mitzvah of Simcha thereby. The Magen Avraham 529:3, Shulchan Aruch HaRav 529:7, Mishna Brurah 529:11, and Kaf HaChaim 529:28 agree.

- See also the Sha'agat Aryeh (Siman 65), who argues that Simchat Yom Tov does not obligate one to eat meat in particular; rather, it is fulfilled by what is subjectively considered enjoyable by each person (see Pesachim 109a). Birkei Yosef 529:4 agrees. Darkei Teshuva 89:19 quotes Rav Chaim of Sanz as disagreeing with the Sha'agat Aryeh.

16. The Darkei Teshuva (89:19) mentions a number of minhagim:

- (A) Some people eat only dairy on Shavuot in order to fulfill the minhag. The Darkei Teshuva disapproves of this practice because he accepts the view of the Rambam that there is an obligation to eat meat on Yom Tov. See note 1 above.

- (B) Some people eat dairy for the nighttime meal and meat for the daytime meal. Such was the minhag of the Steipler (Orchot Rabbeinu v. 2 p. 98). The Darkei Teshuva comments that this is reasonable according to the Sha'agat Aryeh's (Siman 68) view that Simchat Yom Tov is only d'rabanan at night; however, others disagree with the Sha'agat Aryeh. Otzrot Yosef (Rav Dovid Yosef 13:7) quotes this as a minhag. Rav Hershel Schachter (Bikvei HaTzon p. 81) suggests that Simchat Yom Tov follows the schedule of Korbanot for which the night follows the day, implying that eating meat for Simchat Yom Tov does not apply the first night. Therefore, he said (oral communication) that if one enjoys dairy, one may have a dairy meal for the night of Yom Tov. This approach is supported by the Sfat Emet (Sukkah 48b), who writes that Simchat Yom Tov can be fulfilled with one meat meal, either during the night or day. Rabbi Mordechai Willig (Pesachim Shiur 110, min 40-50) agrees with this reasoning.

- Tangentially, Rav Ovadia Yosef in Meor Yisrael (Beitzah 36b v. 2 p. 313) writes that Shulchan Aruch 546:3 might also hold that simcha at night is only derabbanan. Pitchei Teshuva YD 341:13 quotes the VShav Hakohen 95 who argues that there is a mitzvah of simcha deoritta even at night. He proves his contention from Rambam (Chagiga 2:13) unlike the Maharik ad loc. Rashbam (Pesachim 108b s.v. yedey yayin yatzah (2)) implies that he agrees with Rambam.

- (C) Some eat a dairy meal and then a meat meal. The Torat Chaim (Chullin 83a) writes that it is better to abrogate the minhag of eating dairy rather than have meat after eating dairy, which is forbidden according to the Zohar. The Darkei Teshuva responds that in order to fulfill this minhag, one may be lenient against the Zohar. Mishna Brurah 494:16 notes that one need not make Birkat HaMazon as long as he cleanses his mouth with bread and water as well as washes his hands (S" A Y.D. 89:2).

- (D) Some eat a dairy Kiddush, wait an hour, and then have a meat meal. The Darkei Teshuva finds this to be the most preferable minhag.

17. Magen Avraham (Intro to 494). Chacham Ovadia Yosef in Sh"t Yechave Daat 6:30, Halichot Olam 2: page 3, Sh"t Chazon Ovadia 1:1 and Sh"t Yabia Omer 5:6:5 says that ideally one should wait until 20 minutes after sunset but if necessary one can be lenient and say Kiddush earlier, but still should ideally wait until after sunset and try to eat a kezayit of bread after tzet hakochavim.

18. Mishna Brurah 494:1, Taz 494:1

19. Kaf HaChaim 494:1, Moed Likol Chai 8:23, Sh"t Yechave Daat 6:30

20. Chazon Ovadia Pesach page 134

21. Mishna Brurah 494:1 writes based on the Magen Avraham that the practice is to stay up all night to learn. He quotes Arizal who said that one who learns all night on Shavuot will long the next year without being damaged. He also quotes the Magen Avraham who explains that since Bnei Yisrael overslept on the day of Matan Torah we stay up all night in order to rectify that mistake.

22. Kaf Hachaim 494:6

23. Halichot Shlomo 12:3

24. Sh"t Rav Pealim 1:9 in sod yesharim

25. Yalkut Yosef Moadim page 439, Sh"t Yechave Daat 3:32.

26. Rav Shlomo Aviner

27. Magen Avraham (Intro to 494) quotes the Zohar that says that the early Chasidim would learn all of Shavuot night. Birkei Yosef 494:8, Mishna Brurah 494:1, Kaf HaChaim 494:6, Yalkut Yosef Moadim page 438, and Aruch HaShulchan 494:3 also record this minhag.

28. Regarding Netilat Yadayim and Birkot HaTorah, it's clear that if they are to be made, they shouldn't be said until Alot HaShachar. Nitei Gavriel 18:1 and 20:1 writes so explicitly. Regarding Birkot HaShachar, Kaf HaChaim 46:49 writes that one can say all of them at Chatzot, however, Piskei Teshuvot 46:14 rules that one should wait until Alot HaShachar. Regarding Tallit, S" A 18:3 rules that one may not make the Bracha until MeSheYakir.

29.

- The Rosh (Brachot 9:23) writes that the reason a person must wash his hands in the morning is that one's hands almost certainly touched an unclean area. The Rashba (responsa 1:191), on the other hand, writes that the reason is that a person is created anew each morning. The Bet Yosef 4:13 writes that according to the Rosh, one who stays up all night doesn't have to wash because one can ensure that his hands stay clean, while according to the Rashba, one is created anew whether he slept or not. Because of this dispute, S" A and Rama 4:13 rule that one should wash without a bracha. Magen Avraham 494, Taz 4:9, Beir HaGra 4:13, Birkei Yosef 46:12, and Mishna Brurah 494:1 agree. See, the Bach 4, Aruch HaShulchan 4:12, and Maaseh Rav (#2) who argue that one who didn't sleep can say the Bracha.

- Hagahot Rabbi Akiva Eiger 4:12 writes that if one went to the bathroom, one can make the bracha. Olat Tamid 4:8, Eliyah Rabba 4:8, and Pri Megadim (E" A 494) agree. Artzot HaChaim 4:1 and Chaye Adam 7:6 seem to agree as well. Thus, Mishna Brurah 4:30 rules one should use the bathroom, thus dirtying his hands, wash his hands with a Bracha, and then say Asher Yatzar.

- Some achronim (Nitei Gavriel 18:1, Weekly Halacha Discussion, vol 2, p. 363, Halachically Speaking vol 7, issue 6, p. 9) quote the Mishna Brurah as saying that one should use the bathroom and leave out dirtying one's hands. Rabbi Mordechai Willig and Rabbi Hershel Schachter (cited by Halachipedia Article #22) explained that although the Mishna Brurah certainly meant to be precise, one can make the Bracha even if one merely touches an unclean area of the body.

- Derech HaChaim 1:17 adds that even by touching an unclean area, one can make the Bracha. Beir Halacha s.v. Veyitlem agrees. Rav Shlomo Zalman Auerbach (Halichot Shlomo 2:24), however, argues that it is insufficient to touch an unclean area.

- Maamar Mordechai 4:8 disagrees with Rabbi Akiva Eiger because even according to the Rashba there is a doubt as to whether one is considered created anew if he didn't sleep (see Magen Avraham 4:12). Kaf HaChaim 4:49 and Yalkut Yosef 4:9 agree.

30.

- The Tur and S" A 47:12 write that if one is learning at night one doesn't have to make new Birkot HaTorah as long as one didn't fall asleep. Beir HaGra 47:12 explains that sleep is a hefsek and if one didn't sleep, one doesn't need new Brachot. Chaye Adam 9:9, Mishna Brurah 47:28, and Rabbi Hershel Schachter (cited in Bet Yitzchak vol 30, p. 592) agree but advise hearing them from someone who slept. Magen Avraham (47:12, 494) argues that essentially Birkot HaTorah are like Birkot HaShachar, which are said every day. He adds that it's preferable to hear them from someone who certainly is obligated. Eliyah Rabba 47:9, Birkei Yosef 46:12, and Aruch HaShulchan 47:23 concur. Kaf HaChaim 47:26 and Chazon Ovadyah (p. 312) write that the Sephardic minhag is to make Birkot HaTorah oneself.

- Rama 46:8 writes that one may say all the Birkot HaShachar whether one

experienced the event described in the particular Bracha or not. Although the Shulchan Aruch argues, Kaf HaChaim 46:49 writes that the Sephardic minhag is to follow the Rama.

• Eliyah Rabba 46:12 quotes the Ateret Zekenim 46:3 who says that if one didn't sleep, one shouldn't say Elokai Nishama or HaMaavir Sheinah. Thus, Mishna Brurah 46:24 writes that one should hear these Brachot from someone who slept. However, Pri Megadim (E" A 46:2) wonders why Elokai Nishama and HaMaavir Sheinah should be different than the other Birkot HaShachar. Aruch HaShulchan 46:13 rules that one may say these brachot even if he didn't sleep. Also, Birkei Yosef 46:12 and Yalkut Yosef 489:13 Moadim page 441 write that the Sephardic minhag is to say these Brachot even if one didn't sleep.

31. Although S" A 8:16 rules if one slept in one's Tzitzit one should make a Bracha upon arising, the Bach 8:15, Taz 8:15, Eliyah Rabba 8:18, and Kaf HaChaim 8:61 argue that one shouldn't make a Bracha. Magen Avraham 8:21 writes that one should have in mind that his bracha on the Tallit should exempt his Tallit Katan. Mishna Brurah 8:42 agrees. Rabbi Hershel Schachter (cited in Bet Yitzchak vol 30, p. 591) rules that if one doesn't have a Tallit, one should hear the Bracha from someone else and feel his Tzitzit at the time of the Bracha.

32. Hagahot Rabbi Akiva Eiger 47:12 writes that if one slept during the day prior to staying up all night, according to all opinions one has to recite Birkot HaTorah in the morning. Mishna Brurah 47:28 specifies that the sleep should be a Sheinat Kevah. Chatam Sofer (cited by Netah Sorek YD 63), Hilchot Chag BeChag (p. 131), and Rabbi Mordechai Willig ("Inyanei Chag Hashavuos", min 48) agree. See Beirur Halacha (vol 7, p. 20) who quotes the Chazon Ish as questioning Rabbi Akiva Eiger.

33. #netilat

34. #birkot hashachar

35. #tzitzit

36. Mishna Brurah 4:30, 494:1

37. S" A 4:14 says that if one was awake from before Olot HaShachar and washed his hands earlier, he should wash again at Olot HaShachar without a Bracha because of Safek. Piskei Teshuvot 494:5 says once there's an obligation to wash one's hands one shouldn't learn Torah.

38. Kitzur S" A 2:8, Dinei Nieyor Kol HaLaylah (pg 42) in name of Rav Chaim Kanievsky

39. Ishei Yisrael 2:33 note 110, Piskei Teshuvot 494:6

40. Mishna Brurah 4:27, Ishei Yisrael 2:33

41. Mishna Brurah 4:3

42. Yalkut Yosef Moadim 441.

43. S" A 8:16 rules that if one slept in Tzitzit one may make a new Bracha on it in the morning and at the time of the Bracha one should shake the Tzitzit strings. Mishna Brurah 8:42 explains that really this issue depends on whether there's a mitzvah of Tzitzit at night and so it's preferable to make the Bracha on a Tallit and cover the Bracha for Tzitzit. Piskei Teshuvot 8:30 adds that someone who that option is unavailable, such as bochrim who don't wear Tallitim, should make the Bracha oneself like S" A.

44. Mishna Brurah 47:28

45. Yabia Omer 5:5, Yechave Daat 3:33.

46. Yalkut Yosef Chelek 1 page 137.

47. Mishna Brurah 47:28 in name of Rabbi Akiva Eiger

48. Mishna Brurah 46:24

49. Piskei Teshuvot 494:7

50. Yalkut Yosef 489:13

51. Mishna Brurah 47:28

52. Kaf Hachayim 494:48

53. Yalkut Yosef Moadim page 445, Chazon Ovadia Yom Tov page 329.

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<http://www.ravkooktorah.org/SHAVUOT59.htm>

Shavuot: The King's Torah Scroll

Rav Kook Torah

While the Torah commands every Jew to write a Torah scroll, there is one individual who is obligated to write an additional Torah scroll. Surprisingly, it is neither the high priest, nor the head of Sanhedrin. It is the king who is commanded to write a second Torah scroll during his reign and keep it with him at all times (Deut. 17:18-19, Sanhedrin 2:4).

What is the significance of these two Torah scrolls, that of the individual and that of the king?

Personal Torah and Communal Torah

The people of Israel accepted the Torah at Sinai on two levels. Each individual consented to follow the Torah's laws as a member of the Jewish people. And the Jewish people as a nation also accepted the Torah, so that its moral instructions are binding on its national institutions - the judiciary, the government, the army, and so on.

Observing the Torah on the national level is, however, far more complex than the individual's observance of the Torah. The Torah and its mitzvot were given to refine and elevate humanity. The process of uplifting an entire nation, with its political exigencies and security needs, is far more complicated than the process of elevating the individual.

As individuals, we approach issues of interpersonal morality informed by an innate sense of justice. Mankind, however, has yet to attain a consensus on the ethical issues connected to affairs of state. Furthermore, the propensity for moral lapse - and the severity of such lapses - is far greater on the national level. As a result, all notions of good and evil, propriety and injustice, are frequently lost amidst the raging turmoil of political issues and national concerns.

The greatness of the messianic king lies in his potential to fulfill the Torah's ethical ideals also in the political realm. We read about the foundation of the messianic dynasty in the book of Ruth, which concludes with the lineage of David, king of Israel. Why is it customary to read the book of Ruth on the holiday of Shavuot? Because the account of the origins of the Davidic dynasty reminds us of the second level of Torah law that we accepted at Sinai, that of the nation as a whole.

Rav Kook cautioned regarding the moral and spiritual dangers inherent in political life:

"We must not allow the tendency toward factionalism, which threatens most strongly at the inception of a political movement, to deter us from seeking justice and truth, from loving all of humanity, both the collective and the individual, from love for the Jewish people, and from the holy obligations that are unique to Israel. We are commanded not only to be holy individuals, but also, and especially, to be 'a kingdom of priests and a holy nation.'"

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