

BS"D

lesson to be derived from Rashi's grammatical insight is that we must be judicious with our use of letters.



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INTERNET PARSHA SHEET ON VAYISHLACH - 5766

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Rabbi Yissocher Frand on Parshas VaYishlach

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 439, Executing a Ben Noach based On His Admission. Good Shabbos!

Learning To Be "Stingy" With Our Words

Rashi on the first verse in this week's parsha [Bereshis 32:4] teaches us a lesson in Biblical grammar. [Hebrew uses single-letter prefixes such as "hey" for "the", "beis" for "in" or "with", "caf" for "like", or "lamed" for "to".] Regarding the words "Artzah Se'ir," Rashi explains that adding the letter "hey" as a suffix to a word is the same as adding a "lamed" as a prefix. Thus when the "hey" is added to the word "Aretz", land, the resulting word "Artzah" (Aleph-Reish-Tzadi-Hay) means *to* the land of Se'ir. The meaning would be the same if the Torah had written L'Aretz (Lamed-Alpeh-Reish_Tzadi) Seir.

The question may be raised, why does the Torah have such a grammatical rule? If the same number of letters are needed in either case, what is gained by introducing this Biblical construct of adding a "hey" at the end of the word in lieu of the more common prefix?

I saw a beautiful insight into this question in the name of Rav Yitzchak Vorker. The first law of running a business, or running any type of financial endeavor, is to delay the expenditure of assets. If one has a choice between spending money now and spending money later, it is always preferable to spend the money later rather than sooner. If I know that my payment is due thirty days from now, I will wait until later to pay it. Why should I pay it now?

This is the way we deal with money. We treat money as something precious. We need money. We have to preserve our "cash flow". We try to retain our money as long as possible. We dispense it only when absolutely necessary.

The Torah's relationship to words and to speaking is the same as our relationship to money. If I have to say a word -- or even a letter -- I should be so stingy in my usage of the words and letters that when confronted with the choice -- between saying them now or saying them later -- I should always defer the utterance of the word or letter. The Torah illustrates this idea here in our pasuk by "spending the letter hey" at the end of the word rather than "spending the letter lamed" at the beginning of the word. Thus, the Torah deviates from its common practice in order to teach this lesson.

Just as we know how to be stingy with our money, we must learn to be stingy with our words. There are a multitude of sins that we commit with our mouths. When one scans the list of "Al Chet"s [for the sin of...] in the Yom Kippur confession, one immediately notices that the preponderance of these sins are related to speech: Slander, tale-bearing, scoffing, lustful speech. There are so many sins committed by our mouths. The ethical

The Ability To Not Be Influenced: A Good Or Bad Character Trait?

Rashi teaches a famous Gematria lesson on the words "With Laven I have lived (garti)" [Bereshis 32:5]. The numerical value of the word "garti" [I have lived] is 613 (Tarya"g). [In fact they are the identical letters in a different order.] The subtle message in Yaakov's words to Eisav was "I have lived with Lavan for twenty years, but I have kept the 613 mitzvos of the Torah; I have not learned from his evil ways."

When a person is away from his family for twenty years, without any support system to buttress him against the mores of the surrounding culture, it takes great fortitude to maintain one's religious convictions. Yaakov Avinu possessed a special attribute that gave him immunity from societal influences.

Where did Yaakov get this attribute from? Yaakov acquired this attribute from his mother, Rivkah. Rivkah was the daughter of Besuel and the sister of Lavan. Her home influences were negative, yet she remained a righteous woman characterized by kindness and piety. She transmitted the attribute of not being influenced by one's surroundings to her son, Yaakov.

But, we must remember, Rivkah had another son as well. In fact, her sons were twins! Even though they were not identical twins, all studies show that twins are very similar in nature. Why didn't Yaakov's twin, Eisav, also inherit this attribute?

Rav Matisyahu Solomon offers a brilliant insight. Eisav *did* also inherit this attribute. He had a grandfather named Avraham. He had a father named Yitzchak. He had a mother named Rivkah. He had a righteous brother named Yaakov. Eisav should certainly have turned out to be a tremendous Tzadik [righteous man]. And yet that is not what happened. Eisav became wicked. He murdered, he practiced idolatry, he committed the worst of crimes. Why? It is precisely because he had this attribute. The same giant gene that he inherited -- like his brother -- from Rivkah, his mother, is what enabled him to ignore his positive surroundings, and grow up the way he did *despite* his environment!

The "gene" that does not let one be influenced by his surroundings can be spiritually advantageous, or it can be spiritually destructive. The same is true of all attributes that make up a person's personality. They can each be used for the greatest good or for the greatest evil. This has frightening ramifications. Any gift or blessing we possess can be used for good or for bad. It is simply a matter of free choice to determine how we will channel our G-d given powers.

The Power of Sama-el Is To Blind

The Kli Yakar [Bereshis 32:25] comments on the epic struggle between Yaakov Avinu and the Guardian Angel of Eisav (Sama-el), who represented the forces of evil in this world. Our Sages equate this angel, Sama-el, with Satan, with the Yetzer Hara [evil inclination], and with the Malach HaMaves (Angel of Death).

The Kli Yakar links the name Sama-el with the word "Suma", meaning blind. The whole goal of the evil inclination is to blind a person to reality. The ability of the Yetzer Hara to make people blind is the oldest story in the world. If we look around and see how other people act, we sometimes ask ourselves, "How can one person be so stupid? How can one person be so blind?" The answer is that is the power of the Yetzer HaRah. The worst things that happen to people are what they do to themselves. Man's own stupidity and blindness results in the most horrible of consequences.

As I was preparing this shiur [this being, of course, several years ago -- Ed.], I heard the news about the widening investigation into the Speaker of the House, Newt Gingrich. I have nothing against Newt Gingrich, and this is not a political speech. Here is someone who is ostensibly a very bright fellow. Only three or four years earlier, he had brought down the former Speaker of the House, Bill Wright, on the basis of a book deal that did not pass the smell test.

I may not be as smart as Newt Gingrich. But if I were the Speaker of the House and I was the guy who brought down the previous Speaker of the House because of a scam book deal, then whatever shortcomings I may personally have, the last thing in the world that I would do would be to sign a scam book deal meant to enrich me. How on earth can a person who is so bright and so talented be so stupid as to accept an offer of a \$4,500,000 advance on a phony book deal under those circumstances!

The answer is that he was blinded. "I became Speaker. I am now powerful. I have been making relatively small salaries and now I have my big chance. He is offering me four and a half million dollars. I am going to take it."

That is being blind. It is the bribe of money. It is the bribe of power. It is literal blindness, because everyone in the rest of the country knows it is stupidity of the highest order. This is the power of the Yetzer HaRah -- be it the Yetzer HaRah of money, of power, or of other lusts.

The problem is that we always see the stupidity in the *other* person. We do not see the stupidity in ourselves. Sama-el's whole purpose in existence is to blind the eyes of people from the light. We must guard against allowing the Yetzer HaRah blind us from that which should be as clear as the light of day.

Transcribed by David Twersky; Seattle, WA DavidATwersky@aol.com Technical Assistance by Dovid Hoffman; Baltimore, MD dhoffman@torah.org This write-up was adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Torah Tape series on the weekly Torah portion. The complete list of halachic topics covered in this series for Parshas Vayishlach are provided below: Tape # 033 - Nitel Nacht Tape # 075 - Tombstones Tape # 124 - The Seven Noachide Laws Tape # 171 - The Prohibition Against Flattery Tape # 217 - Terrorism: How May an Individual Respond? Tape # 261 - Elective Surgery and Milah on Thursdays Tape # 307 - The Difficult Childbirth Tape # 351 - Tefilas Haderech Tape # 395 - Free Will vs. Hashgocha Pratis Tape # 439 - Executing a Ben Noach based On His Admission Tape # 483 - Celebrating Thanksgiving Tape # 527 - Matzeivah Questions Tape # 571 - Bowing to a person Tape # 615 - The Prohibition of Gid Hanasheh Tape # 659 - The Father of the Bride: His Responsibilities Tapes or a complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadvechiel.org or visit <http://www.yadvechiel.org/> for further information. Text Copyright © 2004 by Rabbi Yissocher Frand and Torah.org. Transcribed by David Twersky; Seattle, Washington. Technical Assistance by Dovid Hoffman; Yerushalayim. Rav Frand Books and Audio Tapes are now available for sale! Thanks to www.yadvechiel.org and [Artsroll.com](http://www.Artsroll.com).

From: torahweb@torahweb.org Sent: December 14, 2005

To: weeklydt@torahweb2.org Subject:

[TorahWeb] Rabbi Hershel Schachter - Taxation and Dina Demalchusa

http://www.torahweb.org/torah/special/2005/rsch_taxes.html

Rabbi Hershel Schachter

Taxation and Dina Demalchusa

In the days of the Talmud taxes were collected for the purpose of enriching the king. Based on the parshas hamelech in Sefer Shmuel (Shmuel I 8:11), the Rabbis formulated the principle of dina demalchusa dina (Nedarim 28a), literally, the "law of the land is binding": everyone must pay taxes. In Shulchan Aruch (Chosehn Mishpat 369:8), the Rishonim are quoted as having pointed out that if the taxes are unfair, or discriminatory (which is also unfair,) this would not constitute "dina" demalchusa - "the law of the land," but rather "gazlanusa" demalchusa - "the embezzlement of the land," and such tax laws are not binding (see Nefesh Harav p. 269). A system of graduated income tax is considered fair and reasonable (see LeTorah Veleמודim by Rav Zevin, p. 118).

There was a theory among some of the Baalei HaTosfos that the idea behind paying taxes is the principle of rent. The land of each country belongs to the ruler (or the government) of that particular country, and the owner of any real estate is entitled to charge rent from all those who want to live on their property. The one exception to this rule (according to this view) is Eretz Yisroel, which the Torah declares belongs to Hashem (Vayikra 25:23). Since Hashem is the true property owner, and He has encouraged all of Bnei Yisroel to live in Eretz Yisroel, no government in control there ever has the right to charge taxes (rent) because they are not the rightful landlord. The Landlord (with a capital "L") has granted permission for all of Bnei Yisroel to live in His country (what is called the "paltin shel melech" - "the palace of the king".) This view is quoted by the

Ran in his commentary to Nedarim (28a). There are many religious people who are not that knowledgeable of any other comments made by the Ran on Nedarim, either before or after page 28 and are only familiar with this one position of the Ran. The truth of the matter is that not only has this view not been accepted in Shulchan Aruch (Chosehn Mishpat 369:6), it didn't even gain honorable mention. The Shulchan Aruch quotes verbatim from the Rambam that one is obligated to pay taxes both in Eretz Yisroel as well as in other countries.

It is important to note that today the basis for taxation is totally different from what it was in Talmudic times. Today, all modern countries provide a variety of services: They provide streets and highways, and maintain forests and museums. They provide fire, police, and military protection. They collect garbage and deliver mail. They do medical research to discover cures for diseases, etc. The taxes are collected for the purpose of covering the annual budget, which pays for all of these projects. The halacha views all of the people living in the same neighborhood as "shutfim" - "partners," sharing a common need for a shul, yeshiva, mikveh and an eruv, and therefore, the "partners" can force each other to put up the needed amount to further their partnership. So too, all people who live in the same city, state, and country are considered "shutfim" with respect to the services provided by that city, state, and country. The purpose behind the taxes is no longer "to enrich the king" in the slightest. In addition to all the other expenses, the government officials have to be paid as well, but it is because they serve as the employees of all the citizens for the purpose of looking after all these services, and seeing to it that they are properly taken care of. In our modern world, one who does not pay his proper share of taxes is no longer viewed as cheating the king (or the ruler) of the country, but rather as cheating (i.e. stealing from) his partners. The amount of money not paid by the one who cheats will have to be taken care of by having the rest of the "partners" put up more money from their pockets to cover all the expenses of the partnership. And even if much of the tax money goes towards expenditures that are not to one's personal liking and that one gets nothing out of, such is the halacha of any partnership: the majority of the partners have the right to determine what are the reasonable needs of the partnership (Choshen Mishpat 163:1). Therefore, this majority has the legitimate right to force the minority to contribute their share towards properly furthering the partnership.

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Sent: Thursday, December 15, 2005 3:06 PM To: rabiwein@torah.org

Subject: Rabbi Wein - Parshas Vayishlach

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Jerusalem Post December 16, 2005 www.rabiwein.com/jpost-index.html

OUR NOBEL PRIZE WINNER

<http://rabiwein.com/column-1054.html>

We were all thrilled, gratified and emotionally touched at seeing Professor Yisrael Auman receive his award as the Nobel laureate in Economics for 2005. All of the other awardees, significant scholars that they may be, paled in comparison to the Jew with the big white kippah and the long white beard to match whose smile enlivened an otherwise overly somber and very formal affair. Naturally, all Israelis (or almost all Israelis) have received an added boost to our national pride by Professor Auman receiving this award. But understandably most Israelis and Jews the world over are not in the fortunate position that we at Beit Knesset Hanassi are in of knowing Professor Auman as a fellow member and worshipper in our synagogue. I am not going to indulge myself in a paean of glory to Professor Auman from this humble sheet. Suffice it to say that we are all blessed having him

with us (and this was true even before he was a Nobel laureate) and that our blessings go forth to him, his wife Batya, a great person in her own right, and to the entire Auman family in all of their generations. May there be many more families like the Auman/Schlesinger family in the midst of Israel and may they only enjoy further good health, happiness and continued achievements on behalf of Torah, Israel and humanity at large.

Professor Auman's achievement and award allows me a platform to say a few words about the struggles that the observant Jewish society faces in this world of modernity, personal autonomy and breathtaking technological and scientific creativity. Rabbi Samson Rafael Hirsch addressed the problem of Jewish participation in the general world and the surrounding society of modernity in his writings and in the creation of the unique Orthodox Jew that his kehilla in Frankfurt am Main represented. His advocacy of a rational Judaism, intellectually oriented, open to secular knowledge and Western culture, created a cadre of Orthodox professors, physicians, lawyers, merchants, trades people and artisans, all of whom were punctiliously observant of the laws, rituals and customs of Judaism without compromise. They were the products of his Torah im Derech Eretz approach and vision of Judaism. Rabbi Hirsch in effect beat Reform at its own game by producing the cultured German intelligentsia figure of that time. While Reform attempted to create this as well, they ended up producing assimilated Jews susceptible in droves to conversion to Christianity. Rabbi Hirsch did not feel, as later Orthodox revisionist historians have sometimes made it out to be, that his view of Torah im Derech Eretz was a temporary expedient necessary to meet the exigencies of the time. Rather, he was convinced that this was a normative form of Judaism and Jewish practice and that in the face of modernity it was perhaps the normative form of observant Jewish behavior.

For various reasons, social, economic, cultural and societal, Torah im Derech Eretz did not take deep root in Eastern Europe. There Chasidut on one hand and Haskala on the other end of the spectrum controlled the debate and movements of change in the struggle against the Czar's tyranny and anti-Semitism and the new ideas of modernity that swept eastward from England, France and Germany. Orthodoxy, the yeshiva world and Chasidut, to a great extent sought to defend itself from the onslaught of the new ideas of modernism, Marxism and secularism, by isolating themselves from the struggle of ideas. Thus was created a pretty much all-or-nothing situation in the relationship of the Eastern European Jewish world towards such subjects as secular knowledge, the struggle for Zionism and Jewish nationalism (it should be noted that Hirschian Jewry in Germany was in the main also anti-Zionist) and the shunning and banning of all technology and ideas that were considered to be "modern." This attitude, in differing degrees and depending where Jews live (America or Israel for instance), claims to be mainstream Orthodoxy today. As a natural reaction to the destruction of Torah institutions in the Holocaust, the great rabbis of the time concentrated on exclusively rebuilding Torah learning within the Jewish world. Sixty years later, their dream of thousands of Torah scholars populating the Jewish world has been realized, perhaps beyond even their own visionary expectations. But this does not mean that Torah im Derech Eretz should have no place in our Orthodox society. Professor Auman and his accomplishments and the kiddush Hashem involved in his receiving the Nobel prize comes to remind us of the different and noble ways that Jews can serve their Creator, the cause of Torah and traditional observance.

Weekly Parsha December 16, 2005 <http://www.rabbiwein.com/parsha-index.html> VAYISHLACH <http://rabbiwein.com/column-1059.html>

In this week's parsha, our father Yaakov, fresh from his successful escape from Lavan, prepares to encounter his brother and sworn enemy, Eisav. He sends malachim to deal with Eisav before he will actually meet with him face to face. The word malachim signifies two different meanings. One is that it means agents, messengers, human beings who were sent on a particular mission to do Yaakov's bidding. The other meaning is that the world malachim signifies angels, supernatural messengers of G-d who

were sent to Yaakov to help him in his fateful encounter with his brother. Rashi cites both possible interpretations in his commentary. When Rashi does so, he is teaching us that both interpretations are correct at differing levels of understanding the verse involved. The message here is that the encounter with Eisav, in order to be successful from Yaakov's vantage point and situation, has to have both human and supernatural help. Eisav is a formidable foe, physically, militarily, culturally and intellectually speaking. He cannot be ignored nor wished away. He has accompanied us from the time of Yaakov till this very day. At times he threatens our very existence and at times he appears to have a more benevolent attitude towards us. Yet at all times he is there, hovering over and around us, and he has never relinquished any of his demands upon us to either convert, assimilate or just plain disappear. While it is Yishmael that currently occupies the bulk of our attention, it would be foolish of us to ignore the continuing presence of Eisav in our world and affairs.

Yaakov's strategy is to employ both possibilities of malachim in his defense. He prepares himself for soothing Eisav by gifts and wealth, pointing out to Eisav that it is beneficial to him to have Yaakov around and being productive. He also strengthens himself spiritually in prayer and in appeal to G-d to deliver him from Eisav. And finally as a last resort he is prepared to fight Eisav with his own weapons, the sword and war. Two of these strategies – gifts to Eisav and war against Eisav – require human endeavor, talent and sacrifice. They represent the interpretation of malachim as being human agents and messengers. The third strategy, prayer and reliance upon heavenly intervention to thwart Eisav's evil designs, follows the idea that Yaakov's malachim were heavenly, supernatural creatures. In the long history of our encounter with Eisav we have always relied upon both interpretations of malachim. Neither interpretation by itself will suffice to defeat Eisav. Without human endeavor and sacrifice, heavenly aid is often denied or diminished. According to the labor is the reward. But it is foolish to believe that a small and beleaguered people alone can weather all storms and defeat Eisav's intentions. Without the Lord's help, in vain do we attempt to build our national home. Thus the double meaning of malachim in this week's parsha has great relevance to our situation and ourselves.

Shabat shalom. Rabbi Berel Wein

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[From crshulman@aol.com - I don't have the full shema koleinu since it was not yet uploaded, but i'm including one part that I have b/c my son wrote it!]

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SHEMA KOLEINU The Weekly Torah Publication Of The Marsha Stern Talmudical Academy – Yeshiva University High school for Boys

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No Guarantees

By Moshe Shulman

In the beginning of Vayishlach we find that Yaakov was afraid of Eisav – "Va'yirah Yaakov Mi'od." Why was Yaakov afraid? Didn't Hashem guarantee Yaakov that he would be protected in the beginning of Parshas Vayeitzei ("U'shmarticha Bichol Asher Teileich")? Why was he worried that he would be killed by Eisav? Surely Hashem would protect him just as he promised?

The Gemara in Brachos (4a) asks this question and answers that Yaakov was afraid "Shemoh Yigrom Ha'chet" maybe his sins would cause

him to be punished. However, don't we learn from "Im Lavan Garti" that Yaakov didn't sin, as Rashi says "Im Lavan Garti VTaryag Mitzvos Shumarti"? What sin did Yaakov have?

Several Mefarshim answer that even though Yaakov didn't sin, there were still certain Mitzvos that he was not able to keep in Lavan's house, namely Kibud Av Va'Eim and Yishuv Eretz Yisrael. Eisav, on the other hand, was able to keep these Mitzvos, so Yaakov was afraid that these Mitzvos would give Eisav an edge. We find Moshe in a similar situation at the end of Parshas Chukas. Moshe was worried that Og's z'chus of helping Avraham might help Og defeat Moshe in battle.

One can still ask, however, why would Hashem break his promise? Doesn't the Gemara in Brachos (7a) say "Kol Dibur V'Dibur She'Yatzah MiPi HKB"H L'Tova, Afilu al T'nai, Lo Chazar Bo," if Hashem says that something good will happen, he won't go back on his word? This question is answered by the Rambam in the introduction to his Peirush on the Mishnah (page 106 in the Brachos Vilna Shas) that this Gemara only applies when Hashem makes a promise to many people. If Hashem tells something to only one person, as in Yaakov's case, he can renege on his word if the circumstances have changed.

There are important lessons to be learned from this about the power of Mitzvos. Mitzvos can be a great z'chus even for a person who is not a Tzadik. On the other hand, even a Tzadik cannot rest on his laurels—one can never do enough Mitzvos. ...

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From: ZeitlinShelley@aol.com Sent: December 14, 2005 11:22 PM To: ZeitlinShelley@aol.com Subject: Beware of Embarrassing Others by Rabbi Moshe Meir Weiss

Beware of Embarrassing Others By Rabbi Moshe Meir Weiss

After many, many years of barrenness, Hashem blesses Rochel with a son whom she calls Yosef. This name has a dual meaning. First, it is a prayer for the future. "Yoseif Hashem li ben acheir – May Hashem give to me yet another son." It is also thanks to Hashem that, "Asaf Elokim es cherpasi – Hashem has gathered in and removed my shame." On a simple level, this refers to the disgrace that a woman feels from being childless. In Rochel's case it was more profound than usual since other childless women could at least reason that maybe the source of the problem lies with her husband. But Rochel couldn't even claim this as her husband already had many children from three other wives. Rashi adds another element of thanks. Until now when something was amiss in the home, everyone blamed her – since she was the only one in the house. Now, her shame was removed since there was a baby around and everyone will say, 'Yossele did it.'

The Beis Yosef adds yet another angle. In ancient times, there was a custom that a person would have two wives. One would take care of the childbearing responsibilities. The other would be given a 'cup of sterility' so that the effects of pregnancy and childbirth should not mar her beauty. Being that Rochel was extraordinarily beautiful, she had to bear the disgrace of malicious slander – that she was Yaakov's trophy wife. Therefore, when she gave birth to Yosef, she thanked Hashem for removing this disgrace as well.

We must know, however, that she didn't merely issue these thanks privately in her 'modim' prayer in the Shemone Esrei. Rather, she named Yosef after this element of his birth. I believe it is to teach us an even greater lesson. Rochel Imeinu was certain that one day Hashem would remove her shame for she risked everything herself in order to spare her

sister Leah from being shamed. When her father Lavan switched Rochel for Leah on the wedding night, Yaakov prepared for this eventuality. Anticipating the deceit of Lavan, Yaakov gave Rochel a secret password. (It was challah, niddah, hadlakas hanair.) Rochel, in a tremendous act of self-sacrifice, gave the password to Leah in order that Leah not be unmasked and shamed by Yaakov. This courageous act to save her sister from disgrace caused Rochel to feel confident that Hashem would also not allow her to remain with her shame. When she had her son and was vindicated in her belief, she named her child Yosef to exhibit and demonstrate this element of midah kneged midah, measure for measure.

This talent of sensitivity to another, Rochel passed down to Yosef, and his name implies that he was also keenly attuned not to embarrass others. Therefore, in Egypt when he was about to make a dramatic announcement to his brothers, "Ani Yosef – It is I, Yosef," he sent all the Egyptian courtiers out of the room before revealing himself. He did this in order not to embarrass the brothers in front of the Egyptians. This was a great act of courage since the brothers could have over-powered him and killed him right on the spot. Still, Yosef took the risk in order not to embarrass them.

The Medrash Tanchuma teaches us that Yosef has the same gematria as Tzion because the traits and strengths of Yosef are those of all Tzion. This therefore teaches us how careful all of us must be not to embarrass another person. Indeed, it is one of the gravest sins that a Jewish person can commit, for we are taught, "Hamalbin p'nei chaveiro b'rabim – One who habitually embarrasses a person in public, Ein lo cheilek l'olam haba – Will not have a portion in the Afterlife." Imagine that! A murderer or an adulterer has a portion in eternity but one who habitually embarrasses people loses everything.

Jews have three national traits. We are rachmonim, baishonim, and gomei chasodim. We are merciful, we have a strong sense of shame, and we do acts of loving-kindness. Since one of our key nationalistic traits is a keen sense of shame, it puts even more of a burden upon us to be sensitive to someone else's disgrace. Thus, for example, it is imperative that parents find out whether their children are making fun of friends in the schoolyard or whether they are calling their peers by insulting nicknames such as fatty, shnatola, bones or the like. While an American would say, 'Kids will be kids,' and, 'Sticks and stones will break my bones but names will never hurt me,' in the Torah world such behaviors must be corrected at a young age lest they continue into adulthood where these behaviors might manifest themselves in shul, in the workplace, and in one's marriage.

May Hashem bless us that we have the smarts to always be considerate of others and in that merit may we never experience shame, instead may we be blessed with long life, good health and everything wonderful.

To receive a weekly cassette tape or CD directly from Rabbi Weiss, please send a check to Rabbi Moshe Meir Weiss, P.O. Box 140726, Staten Island, NY 10314 or contact him at RMMWSI@aol.com. Attend Rabbi Weiss's weekly shiur at the Landau Shul, Avenue L and East 9th in Flatbush, Tuesday nights at 9:30 p.m. Rabbi Weiss's Daf Yomi shiurim can be heard LIVE on Kol Haloshon at (718) 906-6400. Write to KolHaloshon@gmail.com for details.

From: **Rabbi Kalman Packouz** [<mailto:newsletterserver@aish.com>]
Sent: Sunday, December 11, 2005 10:11 AM To: Subject: Shabbat Shalom - Vayishlach

Dvar Torah **based on Growth Through Torah by Rabbi Zelig Pliskin**
The Torah states that after Jacob took his wives, their handmaids and children across the Jabbok and then sent his possessions across:
"And Jacob remained alone."

Why did he remain alone?

The Sages (Talmud Bavli Chulin 91a) explain that Jacob remained behind to retrieve some small flasks. From here, say the Sages, we see the principle that for the righteous their possessions are more dear to them than their bodies (since Jacob placed himself in danger for his possessions). The reason for this, said the Ari, is that the righteous realize that if the Almighty

gave them something, it is important for them to have it. If it were not necessary for their total welfare, the Almighty would not have given it to them. Therefore, they do whatever they can not to lose what they were given.

Rabbi Yeruchem Levovitz cited the story of a philosopher who wished to be satisfied with the least amount of possessions that were absolutely necessary. After thinking the matter over, he gave up everything he owned and kept only a pump to draw water from wells. Once when he was walking on the road he saw a caravan of people. They stopped near a well and drank directly from it without any pumps or cups. The philosopher said to himself, "Now I see that I don't even need a pump!" He immediately threw away the pump, his only remaining possession. However, from Jacob we learn otherwise. The spirit of Torah is not to have nothing, but to have a deep appreciation for whatever you do have!

From: weekly-owner@ohr.edu [mailto:weekly-owner@ohr.edu] On Behalf Of Ohr Somayach Sent: Monday, December 12, 2005 3:01 AM To: weekly@ohr.edu Subject: Torah Weekly - Parshat Vayishlach

Written and compiled by **Rabbi Yaakov Asher Sinclair**

INSIGHTS

M.T.V.= A.D.D. "Yaakov was left alone and a man wrestled with him until the break of dawn." (32:25)

We live in an era of distraction. Television advertising and music video driven by big BPM (bucks-per-minute) have accelerated the cutting rates of film and video to the microsecond. The ubiquitous cell phone interrupts us our thoughts, our conversations, our lives. We don't think anymore; we just surf through our thoughts. Now this. Now this. Now this. How long can you hold an idea in your head? Try it. Whoops! Try again! How long you can concentrate on an idea without any other thought intruding... Ten seconds? Twenty? Twenty is pretty Olympic in my experience.

In this week's Torah portion, an incorporeal spiritual force (trans. 'angel') attacks Yaakov and wrestles with him until the dawn. This 'angel' was the protecting force of the nation of Eisav. Why didn't the angel of Eisav attack Avraham or Yitzchak? Why did he wait for Yaakov?

This world stands on three pillars: on kindness, on prayer and on Torah. The three Patriarchs represent these three pillars: Avraham is the pillar of kindness, Yitzchak, the pillar of prayer, and Yaakov, the pillar of Torah. The Torah is the unique possession of the Jewish people. No other nation in the world has the Torah. Thus the attack on Torah is the one that hits at the heart of Judaism.

The angel of Eisav attacked Yaakov because he knew that the most effective way to destroy the Jewish People is to deter them from learning Torah.

Even though the angel of Eisav was unsuccessful in his fight with Yaakov, he managed to damage him in the thigh. The thigh is the place in the body that represents progeny and the continuation of the generations - Jewish continuity. In the era before the coming of Mashiach, Eisav will try to make it very difficult to educate our children with Torah. Torah demands commitment, application and concentration. The essence of Talmudic thought is to be able to contain several ideas in one's head and to synthesize and counterpoint these ideas. You can't learn Torah if you are distracted. We live in an era where distraction has become an industry.

In the generation before the Mashiach in which we find ourselves, "holding kop" - maintaining a minimal attention span - will be a gigantic battle in itself.

Young Israel Weekly Dvar Torah From: 11325-return-209-10500539@lb.bcentral.com on behalf of National Council of Young Israel [YI_Torah@lb.bcentral.com] Sent: Thursday, December 15, 2005 9:00 AM Subject: NCYI Dvar Torah: Parshat Vayishlach
Parshat Vayishlach 16 Kislev 5766 December 17, 2005 Daf
Yomi: Eruvin 73

Guest Rabbi: **Rabbi Chaim Landau**

Ner Tamid Congregation, Baltimore, MD

What does it really take to be a prophet? How perfect must such a leader be? Is he/she ever allowed the normal human manifestations of character imperfections that we associate with ourselves - or are the standards higher? The answer is perhaps hinted in the parshah when the delegation Yaakov sent out to meet with Esau returns with the information that an entire army of people is headed towards Yaakov, whose intentions might be anything other than cordial. And then the text tells us that Yaakov was afraid.... which, in any other context might be an appropriate and acceptable reaction to the news. But, given that in the previous Parshah, HaShem has already promised Yaakov that He will protect and be with him, and not forsake him (Chapter 31, verse 3) why does Yaakov accede to fear? Has he lost his trust in HaShem?... HaShem's promise?... HaShem's ability to even fulfill His promise?

A most beautiful response to this seeming lack of trust displayed by a Patriarch is afforded by Rav Elchanon Wasserman. He quotes the statement of the Rambam from Chapter 7 in the Shemoneh Perokim where Maimonides authoritatively states that perfection is no precondition to prophecy. Proof? Well, he offers, look at King Solomon and the prophet Samuel, both of whom, in the pursuit of a divine imperative, allowed fear to become a matter of concern. Which, he says, is proof positive that one doesn't have to be perfect to receive divine prophecy.

The Chesed Le'Avraham, however, asks the following question on the Rambam, which is: How can the Rambam present his case with such original authority when the Gemara has already asked that very same question. Quoting Masechet Berachot, the Gemara however responds to the possibility of Yaakov's fear in meeting with Esau, which is: "shemoh yigrom ha-chet", meaning that when HaShem originally made the promise, Yaakov was indeed the epitome of perfection, but with the passing of time, and having worked some twenty years for Lavan, maybe Yaakov no longer is that perfect being and might now be tarnished with sin...thus negating the precondition for HaShem's promise.

Furthermore, the Gemara continues, regarding the fear displayed by the prophet Samuel, the reason given to understand this is that people on a mission of a "sheliach mitzvah" are guaranteed from any kind of harm.....So why does Shmuel not know this ? Because when you go to a place fraught with danger, then this concept is inapplicable.

So, if the Gemara has already asked and responded to the fears surrounding Yaakov and Shmuel, wherein lies the originality of the Rambam? And this is where the beauty of Rav Elchanon is on display. He responded that, in fact, we are dealing with two very different questions. The Gemara is asking the question that, following HaShem's promise of protection, why didn't our two heroes trust in the divine word. The Rambam is asking a totally different question. What ever happened to ordinary, basic elementary trust in HaShem, the "bitachon" that comes with "ve'ani be'chasdechah botachti..."? ...the trust that comes not as a response to a promise but as part of being a Jew... Here, the Rambam states that no one is perfect, and even a prophet is allowed in certain situations to allow the normal human condition of fear to emanate. It's a very warming interpretation that allows us normal people, who love our Judaism, our Jewish people, and through the former, our trust in HaShem, to sometimes allow the fear we at times face in our lives to be not a denial of our fundamental beliefs, not a denial of HaShem (G-d forbid) an acceptable response of the human condition. For to be perfect means to be super-prophetic. But to err at times on the side on being afraid is to be, simply, prophetic.

Shabbat Shalom

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From: Peninim@shemayisrael.com Shema Yisrael Torah Network [shemalist@shemayisrael.com] Sent: Thursday, December 15, 2005 6:43 AM To: Peninim Parsha

Peninim on the Torah
by Rabbi A. Leib Scheinbaum
- Parshas Vayishlach

No longer will it be said that your name is Yaakov, but Yisrael. (32:29)

We are taught by Chazal that maasei Avos siman la'banim, the experiences of the Forefathers are a portent for the events that will befall their children. While this principle is true regarding all three of the Patriarchs, it has stronger application concerning Yaakov Avinu, who is the ancestor of Klal Yisrael exclusively. When Saro shel Eisav, the Angel of Eisav, conferred the name Yisrael on Yaakov, he thereby sent a message to his descendants.

As Yaakov prepared for his encounter with Eisav, a remarkable incident took place during the night. While Yaakov was all alone in the bleak darkness, someone suddenly began to wrestle with him. Chazal tell us that this "someone" was an Angel representing Eisav. It was his old enemy, attempting to stack the deck, to prevent Yaakov from returning to his homeland. Chazal describe this Angel in different terms, which imply his appearance and the methods he employed to beat Yaakov. Some say he appeared to Yaakov as a strong-armed robber, a vicious bandit, weapon in hand, poised to steal and kill. Others say he came dressed in the garb of a talmid chacham, Torah scholar, assuming the position of sage, counselor, resorting to prejudice and deception, in order to frustrate Yaakov's efforts at return. Yet another interpretation contends that he appeared as a shepherd, using the guise of simplicity, faith, morality and love to convert Yaakov and subvert his efforts to continue on.

Yaakov fought valiantly and, subsequently, won. True, he sustained a crippling blow; nonetheless, his determination and fortitude triumphed. He was even able to elicit a blessing from the aggressive Angel.

Horav Aharon Soloveitchik, zl, draws an inspiring and meaningful picture of this scene and derives a number of significant lessons. Throughout the millennia, we have struggled and contended with the representatives of Eisav. Throughout the long darkness of galus, exile, we have suffered as they made every attempt to thwart our mission and discourage our beliefs. They have appeared in all forms. At times, Eisav's emissary came as a robber and a murderer, pillaging and humiliating, destroying and persecuting us for no apparent reason other than the fact that we were Jews. There were other times, when he came as "achi," my brother, sweet, charming, seeking to lure us away with his pagan glamour and false facade. Then there is a third scenario that even at the break of dawn, when the darkness of exile begins to lighten, when the principles of enlightenment and democracy are becoming part of a world order, when we, as Jews, are "supposedly" accepted, we will still have reason to fear the pernicious Eisav. At this time, he will send his emissary disguised in the robe of scholarship, bedecked in ministerial garb, with one goal in mind - to dissuade the Jews from leading their own unique spiritual life. He often succeeds in convincing them to eschew their nationalistic aspirations, to renege on Judaism and assimilate with the greater world community. In the end, just as their ancestor Yaakov emerged victorious, so will we also triumph over this form of adversity and even elicit the praise and admiration of Eisav's descendants.

In the text of the blessing, Eisav's Angel says to Yaakov that his name will now be Yisrael, "For you have striven im Elokim, with G-d, and with people and you have prevailed." According to Targum Onkelos the term Elokim refers to Hashem, while the word im, usually translated as "with", now means "before". Thus, the word im has two meanings: Yaakov fought before G-d and with people and prevailed. Onkelos' translation teaches us that Yaakov's distinction was that he led a struggle against people - only it was before G-d. In other words, before G-d, in areas of theology and spirituality, a Jew cannot adapt to the prevailing environment. In matters of ethics and religion, there is only one path of belief - ours. A Jew must be an Ivri - on one side, regardless of who is on the other side. With regard to other areas, the sciences, civil matters, one may adapt a policy that pursues peace and harmony. It is only in the area of religion, "before G-d", that we are to be intractable.

Rav Soloveitchik derives another important lesson in our striving to maintain religious distinction. The Torah does not use the word nilchamta, you have fought. It uses the word sarisa, you have striven. Nilchamta implies a conflict entailing physical force and verbal abuse with the purpose of delivering a crushing blow to an opponent. Sarisa, on the other hand, intimates a striving towards leadership, succeeding by attempting to arouse the latent good, spiritual potential and noble qualities inherent in one's opponent.

Yaakov Avinu contended with Eisav's emissary before G-d. He did not use brute force, nor did he vilify him. He did not employ bans and anathemas,

nor did he incite him with destructive criticism and defamatory statements. Rather, he struggled valiantly with courage and resolution, with dignity and firmness, with piety and a love for all people, with a burning desire to sanctify Hashem's Name. Yaakov endeavored to be a leader - not simply a winner. He sought to rule, not to vanquish. By asserting his own uniqueness, and by reconciling and unifying the various conflicting forces in the human soul, by harmonizing the Yaakov with Yisrael, the earthly with the Heavenly, he emerged victorious and succeeded in raising the banner of Hashem's Name. It is much easier to counteract the environment that is against us by sublimating its conflicting factors into one harmonious entity, than to fight it head-on. In a war, everyone is hurt. The goal is to strive to rise above challenge by earning the respect of others, and by demonstrating in a noble manner the folly of their intentions.

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From: Sent: Friday, September 09, 2005 10:55 AM To: Subject: RE: headings <http://www.chief Rabbi.org/>
Covenant & Conversation

Thoughts on the Weekly Parsha from

Sir Jonathan Sacks

Chief Rabbi of the United Hebrew Congregations of the British Commonwealth [From 2 years ago 5764]

<http://www.chief Rabbi.org/tt-index.html> Vayishlach

THE STORY OF JACOB'S WRESTLING MATCH WITH AN UNNAMED ADVERSARY ALONE AT NIGHT is surely one of the most enigmatic in the entire Torah. With whom was Jacob wrestling? The text itself calls him "a man." According to the prophet Hosea, it was an angel. For the sages, it was the guardian angel of Esau. Jacob himself had no doubt. It was G-d. He called the place of the encounter Peniel, "because I saw G-d face to face, and yet my life was spared." The adversary himself implies as much when he gives Jacob the name Israel, "because you have struggled with G-d and with man and have overcome."

The passage resists easy interpretation, yet it holds the key to understanding Jewish identity. It is not we, the readers, who give it this significance but the Torah itself. For it was then, as dawn was about to break, that Jacob acquired the name that his descendants would bear throughout eternity. The people of the covenant are not the children of Abraham or Isaac but "the children of Israel." It was only with the division of the kingdom and the Assyrian conquest of the north, that those who remained were called generically Yehudah (the southern kingdom), and thus Yehudim or, in English, Jews.

Names in the Torah - especially a new name given by G-d - are not mere labels but signals of character or calling. The moment at which Jacob became Israel contains the clue to who we are. To be sure, our ancestors were later called on to be "a kingdom of priests and a holy nation" but we never lost that earlier appellation. We are the people who struggled with G-d and with man and yet survived. What does this mean?

One way into the text (to be sure, only one of many) is to ask: what happened next? By reasoning backward, from effect to cause, we may gain an insight into what transpired that night.

The events of the next day are little short of astonishing. We have been prepared for a tense encounter. Hearing that Esau was coming to meet him with a force of four hundred men, Jacob was "very afraid and distressed." He made elaborate preparations. As the sages said, he adopted three tactics: diplomacy (he sent lavish gifts of herds and flocks), prayer ("Save me, I pray, from the hand of my brother, from the hand of Esau") and readiness for war (dividing his household into two camps so that one at least would survive).

Yet when Esau finally appears, all the fears turn out to be unfounded. He "ran" to meet Jacob, threw his arms around his neck, kissed him and wept. There is no anger, animosity or threat of revenge in Esau's behaviour (to be sure, there are midrashic traditions that suggest otherwise, but we are concerned here with the plain sense of the narrative). That is not to say that Jacob's fears were irrational. They were not. After all, Esau had vowed revenge twenty two years before ("The days of mourning for my father are near; then I will kill my brother Jacob"). Esau, however, is an impulsive man who lives in the mood of the moment. He has none of Cassius' "lean and hungry look" or Iago's cold calculation. He is quick to anger, quick to forget. The anti-climax when the brothers meet remind us of Roosevelt's famous words that "the only thing we have to fear is fear itself."

Second, and far more consequential, is Jacob's behaviour when the brothers meet. It is little short of extraordinary. First, he "bowed down to the ground seven times," prostrating himself before Esau. Each of his family members does likewise: "Then

the maidservants and their children approached and bowed down. Next Leah and her children came and bowed down. Last came Joseph and Rachel, and they too bowed down." The threefold repetition is significant.

No less striking is Jacob's use of language. Five times he calls Esau adoni, "my lord" (in the previous chapter he tells his servants three times to use the same word to Esau). Twice he calls himself Esau's eved, "servant," (and four times in the previous chapter tells his servants to do likewise). As with his physical gesture of sevenfold prostration, so with his sevenfold use of the words adon and eved, this is the choreography of self-abasement.

How are we to connect this with the wrestling match of the previous night? Surely Jacob had won a victory over his adversary. At the very least he had refused to let him go until he blessed him. The new name implied that henceforth Jacob should have no doubts about his ability to survive any conflict. A man who has "wrestled with G-d and with men and has overcome" is not one who needs to bow down to anyone or call him "my lord." We would have expected Jacob to show a new-found confidence rather than a wholly surprising servility.

Nor is this all. When Esau at first refuses the gifts (with the words, "I have plenty [yesh li rav]; let what is yours be yours"), Jacob replies in the following extraordinary words:

"No, please, if I have found favour in your eyes, accept this gift [minchah] from my hand, for to see your face is like seeing the face of G-d, now that you have received me favourably. Please accept the present [birkhati, literally "my blessing"] that was brought to you, for G-d has been gracious to me and I have everything [yesh li khol]."

Why has the "gift" become a "blessing"? In what conceivable way is seeing the face of Esau like "seeing the face of G-d"? And what exactly does Jacob mean by altering Esau's words, "I have plenty," into his own "I have everything"?

There are other resonances in the passage. The most significant has to do with the word panim, "face." Jacob's words to Esau, "to see your face is like seeing the face of G-d," clearly echo his remark after the wrestling match, "He called the place Peniel, saying, 'It is because I saw G-d face to face, and yet my life was spared.'" Altogether, chapters 32 and 33 (the preparations for the meeting, the night-time struggle, and the meeting itself) echo time and again with variants on the word panim. This is missed in translation, because panim has many forms in Hebrew not evident in English. To take one example, verse 32: 21 is translated:

[Jacob said to his servants], "You shall say, 'Your servant Jacob is coming behind us,' for he thought, 'I will pacify him with these gifts I am sending on ahead; later, when I see him, perhaps he will receive me.'"

There is nothing here to suggest that, in fact, the word panim appears four times in this verse alone (Literally, the second half of the verse should be translated: "for he thought, 'I will wipe [the anger from] his face with the gift that goes ahead of my face; afterward, when I see his face perhaps he will lift up my face"). There is a drama here and it has to do with faces: the face of Esau, of Jacob, and of G-d himself. What is going on?

The clue lies in Jacobs use of the word "blessing". This takes us back twenty-two years to another fateful moment (Bereishith chapter 27) in which Jacob, dressed in Esau's clothes, takes his brother's blessing (whether by accident or design, the term b-r-kh, "bless" or "blessing" occurs exactly twenty-two times in that chapter). Let us remind ourselves of what the blessing was:

May G-d give you of the dew of heaven And the richness of the earth – An abundance of corn and new wine. May nations serve you And peoples bow down to you. Be lord over your brothers, and may the sons of your mother bow down to you. May those who curse you be cursed And those who bless you be blessed.

The plain sense of these words is clear. They mean wealth and power. This is the blessing Jacob took, dressed in Esau's clothes, taking Esau's place. That is the first fact.

The second, whose importance cannot be overstated, is that there was a later blessing. Esau had married two Hittite women. This was "a source of grief to Isaac and Rebekah." Rebekah takes this as an opportunity to send Jacob away to her brother Laban, where he would be safe from Esau's desire for revenge. Before Jacob leaves, Isaac blesses him in these words:

May G-d Almighty bless you and make you fruitful and increase your numbers until you become a community of peoples. May He give you and your descendants the blessing of Abraham, so that you may take possession of the land where you now live as an alien, the land G-d gave to Abraham.

This is a completely different blessing: for children and a land, the two key things G-d had repeatedly promised Abraham. These are the "covenantal blessings." They dominate the book of Bereishith, and have nothing to do with wealth or power. G-d promised Abraham that he would have children who would continue the covenant, and a land in which to do so. G-d never promises Abraham "the dew of heaven and the richness of the earth," nor does He use the language of power, "Be lord over your brothers, and may the sons of your mother bow down to you." Before sending him

away from home, Isaac gives Jacob the Abrahamic blessings, saying to him in so many words: it will be you who will continue the covenant into the future.

The third significant fact is that, at the time of the blessings, Isaac was blind. Jacob's impersonation of Esau was possible only because Isaac could not see. Bereishith 27 is almost an essay on the senses. Deprived of one (sight), Isaac uses the other four. He tastes the food, touches Jacob's hands (which Rebekah has covered with goatskins to make them feel rough) and smells his clothes ("Ah, the smell of my son is like the smell of a field the Lord has blessed"). He also hears his voice ("The voice is the voice of Jacob, but the hands are the hands of Esau"). Eventually, after considerable doubt, Isaac trusts the evidence of taste, touch and smell over that of sound, and gives Jacob Esau's blessing. He does so only because he cannot see Jacob's face. These three facts are enough to allow us to decipher the mystery of the meeting between Jacob and Esau twenty-two years later.

The patriarchs were more than just founders of a new faith. They were also role models. Their lives are significant not only for what they tell us about the past but also for what they tell us about the present – for their challenges are ours.

Abraham was the man who had the strength of conviction to stand apart from the culture of his time – to be different, to refuse to worship the idols of the age, to listen instead to the inner voice of the one G-d, even when it meant setting out on a long and risk-laden journey. What carried him through was love (chesed) – love of G-d and, yes, the love of humanity that shines through all his deeds and words.

Isaac was the man who knew the reality of sacrifice. He lived, he survived, but not without seeing the knife lifted against him. He knew to the core of his being that to be a child of the covenant is neither easy nor safe. What carried him through was courage (gevurah) – and for whatever reason, the historical record is clear: to remain Jewish takes courage.

In connection with Jacob, though, the prophet Micah speaks of truth ("You will give truth to Jacob"). He does not mean truth in a cognitive sense (What are the facts? What is ultimately real?). He means it in an existential sense (Who am I? To which story do I belong and what part am I called on to play?). The search for cognitive truth – scientific, metaphysical, artistic – is not specific to the Abrahamic covenant. It is the heritage of all mankind. There is no such thing as Jewish science or economics or psychology. What is, is; and it is given to homo sapiens as such to discover it (Rashi translates the phrase "Let us make man in our image, after our likeness" to mean "with the capacity to understand and discern"). The truth with which Jacob spent much of his life wrestling was quite different. It was a truth about identity. Central to it are the words face (in which mirror do I look to see who I am?), name (by which term do I know myself?) and blessing (to what destiny am I called?).

One thing stands out about the first phase in Jacob's life. He longs to be Esau – more specifically, he desires to occupy Esau's place. He struggles with him in the womb. He is born holding on to Esau's heel (this is what gives him the name Jacob, "heel-grasper"). He buys Esau's birthright. He dresses in Esau's clothes. He takes Esau's blessing. When the blind Isaac asks him who he is, he replies, "I am Esau, your firstborn."

Why? The answer seems clear. Esau is everything Jacob is not. He is the firstborn. He emerges from the womb red and covered in hair (Esau means "fully made"). He is strong, full of energy, a skilled hunter, "a man of the fields." More importantly, he has his father's love. Esau is homo naturalis, a man of nature. He knows that homo homini lupus est, "man is wolf to man." He has the strength and skill to fight and win in the Darwinian struggle to survive and the Hobbesian war of "all against all." These are his natural battle-grounds and he relishes the contest.

Esau is the archetypal hero of a hundred myths and legends of the ancient world (and of action movies today). He is not without dignity, nor does he lack human feelings. His love for his father Isaac is genuine and touching. The midrash, for sound educational reasons, turned Esau into a bad man. The Torah itself is altogether more subtle and profound. Esau is not a bad man; he is a natural man, celebrating the Homeric virtues and the Nietzschean will to power.

It is not surprising that Jacob's first desire was to be like him. That is the face he first saw in the mirror of his imagination, the face he presented to the blind Isaac when he came to take the blessing. But the face was not the face of Jacob, any more than were the hands.

Nor was the blessing he took the one that was destined for him. The true blessing was the one he received later when Isaac knew he was blessing Jacob, not thinking him to be Esau.

Jacob's blessing had nothing to do with wealth or power. It had to do with children and a land – children he would instruct in the ways of the covenant and a land in which his descendants would strive to construct a covenantal society based on justice and compassion, law and love. To receive that blessing Jacob did not have to dress in Esau's clothes. Instead he had to be himself, not a man of nature but a person whose ears were attuned to a voice beyond nature, the call of the Author of all to be true to that which cannot be bought by wealth or controlled by power, namely, the human spirit as the breath of G-d and human dignity as the image of G-d.

It should now be clear exactly what Jacob was doing when he met Esau twenty-two years later. He was giving back the blessing he had taken all those years before. The herds and flocks he sent to Esau represented wealth (“the dew of heaven and the richness of the earth”). The sevenfold bowing and calling himself “your servant” and Esau “my lord” represented power (“Be lord over your brothers, and may the sons of your mother bow down to you”). Jacob no longer wanted or needed these things (“I have everything” – meaning, “I no longer need either wealth or power to be complete”). He is explicit. He says, “Please take (not just “my gift” but also) “my blessing.” He now knows the blessing he took from Esau was never meant for him, and he is returning it.

It is equally clear what was transacted in the wrestling match the previous night. It was Jacob’s inner battle with existential truth. Who was he? The man who longed to be Esau? Or the man called to a different destiny, “the road less travelled,” the Abrahamic covenant? “I will not let you go until you bless me,” he says to his adversary. The unnamed stranger responds in a way that defies expectation. He does not give Jacob a conventional blessing (You will be rich, or strong, or safe). Nor does he promise Jacob a life free of conflict. The name Jacob signified struggle; the name Israel also signified struggle. But the terms of the conflict have been reversed.

It is as if the man said to him, “In the past, you struggled to be Esau. In the future you will struggle not to be Esau but to be yourself. In the past you held on to Esau’s heel. In the future you will hold on to G-d. You will not let go of Him; He will not let go of You. Now let go of Esau so that you can be free to hold on to G-d.” The next day, Jacob did so. He let go of Esau by giving him back his blessing. And though Jacob had now renounced both wealth and power, and though he still limped from encounter the night before, the passage ends with the words, *Vayavo Yaakov shalem*, “And Jacob emerged complete.” That is the stunning truth at which Jacob finally arrived, and to which the name Israel is testimony. To be complete we do not need Esau’s blessings of wealth and power. Ours is another face, an alternative destiny, a different blessing. The face we bear is the image we see reflected in the face of G-d when we wrestle with Him and refuse to let go.

Not by accident was this episode the birth of our identity (our “name”) as Israel. At almost every significant juncture in our history we have wrestled with civilizations who worshipped the gods of nature: wealth (“the dew of heaven and the richness of the earth”) or power (“may nations serve you and peoples bow down to you”). Israel never knew the wealth of ancient Greece or Rome, Renaissance Italy or aristocratic France. It never knew the power of great empires, their invincible armies and weapons of destruction. When it longed for these things (as in the days of Solomon) it lost its way.

Israel’s strength never lay in itself but in that which was other and greater than itself: the power that transcends all earthly powers, and the wealth that is not physical but spiritual, a matter of mind and heart. Jews have often wished to be someone else, the Esaus of the age. Too often, they knew what it was, in Shakespeare’s words, to

... look upon myself, and curse my fate, Wishing me like to one more rich in hope, Featur’d like him, like him with friends possess’d, Desiring this man’s art, and that man’s scope, With what I most enjoy contented least.

That is a feeling we must ultimately reject. The Torah does not ask us to think badly of Esau. To the contrary, it commands us: “Do not hate an Edomite [ie, a descendant of Esau], for he is your brother.” It did however ask us to wrestle, as did Jacob, alone, at night, in the depths of our soul, and discover the face, the name and the blessing that is ours. Before Jacob could be at peace with Esau he had to learn that he was not Esau but Israel – he who wrestles with G-d and never lets go.

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Subject: Kol Torah KOL TORAH A Student Publication of the Torah Academy of Bergen County Parshat Vayeira
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High-Risk Medical Procedures – Part One by Rabbi Chaim Jachter

This week we shall begin to discuss the question of the propriety of engaging in high-risk medical procedures. We shall survey this issue from its sources in the Tanach and Gemara, eighteenth-, nineteenth-, and twentieth-century Poskim. Rav J. David Bleich contributed a very important article on this subject to Tradition (Fall 2003) that provides much new insight with regard to this issue. We shall present Rav Bleich’s points and hopefully make some contributions to the discussion of this topic.

Tanach and Gemara The Gemara (Avodah Zarah 27b), in its discussion of the propriety of risky medical procedures, cites a story recounted in Melachim II 7:3-8. In the course of the Tanach’s discussion of the king of Aram’s siege of Shomron during the reign of King Yehoram (the son of Achav), the Tanach records how four lepers were deliberating their course of action. Shomron was suffering from a terrible drought and the lepers realized that if they remained in the besieged city of

Shomron they would soon die of starvation. They thought that it would be prudent for them to enter the camp of the enemy, for even if the Arameans would kill them immediately, they would have died shortly anyway if they had remained in the camp of Israel. It was worth risking immediate death because of the possibility that the Arameans would pity them and feed them, thereby allowing them to live much longer than if they had remained among their own people. The Tanach records that they concluded that they should enter the enemy camp, whereupon they discovered that Hashem had made a great miracle for the Israelites and had chased the Aramean army away.

Talmudic Application – Pagan Doctors The Gemara applies the reasoning and actions of the four lepers to a problem faced in the time of the Gemara. During the time of the Mishnah and Gemara, pagan doctors harbored enormous ill will towards Jews and posed a grave threat to their Jewish patients. Chazal therefore forbade using pagan doctors. However, the Gemara concludes that if a patient will soon die within a short time and no Jewish doctor is able to heal him, he may visit the pagan doctor with the hope of curing his illness, despite the grave risk associated with such a visit. The Gemara sanctions assuming the risk of immediate death by the hands of the pagan doctor despite the fact that the patient would have certainly lived for a brief time if he did not visit this doctor, asserting that “LeChayei Shaah Lo Chaishinan,” we are not concerned about a very brief amount of life. The basis of this assertion, states the Gemara, is the above-cited story in the Tanach about the four lepers.

Two Questions on Avodah Zarah 27b We may raise two questions regarding this Gemara. First, the Gemara’s assertion that “LeChayei Shaah Lo Chaishinan” seems astonishing in light of the Gemara’s teaching elsewhere (Yoma 85a) that we may violate Shabbat in order to preserve Chayei Shaah. Indeed, the Shulchan Aruch (Orach Chaim 329:4) codifies this rule and the B’iur Halacha (ad. loc. s.v. Ela) adds that this rule applies even if the patient will not be able to do anything meaningful with the short period of life that he will be given as a result of the efforts made to save him. Tosafot (Avodah Zarah 27b s.v. LeChayei) and the Taz (Yoreh Deah 155:2) answer that in both Talmudic passages the operating principle is to act in the best interest of the patient. On one hand, we violate Shabbat in order to allow a patient to live a bit longer. In this case, concern for Chayei Shaah is in the patient’s best interest. On the other hand, the Gemara tolerates risking Chayei Shaah in the hope that the patient will be cured and live for a considerable amount of time. In this situation, risking Chayei Shaah is also in the best interest of the patient. For further discussion of the “best interest of the patient” standard in the context of Chayei Shaah, see the Tiferet Yisrael (Yoma 8:3, s.v. Yachin).

The second question we may pose is why the Gemara bases its conclusion on the thought process and actions of these four lepers who do not appear to be Torah scholars. Indeed, Chazal believe that Hashem afflicts people with leprosy because of certain sins that they violated (see Arachin 15b-16a). Moreover, Chazal (Sanhedrin 107b) identify these four lepers as Geichazi and his three sons. Geichazi is regarded by Chazal as a profound sinner (see Berachot 17b, Sanhedrin 90a, and Sanhedrin 107b). Accordingly, it seems bizarre that Chazal derive a Halacha from Geichazi and his three sons! We may answer that although these four lepers were not reputable individuals, the Tanach seems to approve of their actions. Indeed, the action of the four lepers led to the salvation of Shomron. Moreover, the very fact that the Tanach (so uncharacteristically) records the thought process of the four lepers, seems to signal the Tanach’s approval of their thought process and actions (although not of the four lepers as individuals; the fact that they remain anonymous perhaps indicates the Tanach’s disapproval of these individuals, which may have served as a cue for Chazal to conclude that these lepers were none other than Geichazi and his sons). Richard Schulz of Teaneck adds that if Hashem allowed them to live, He was directly approving their action. Indeed, Rav Yosef Dov Soloveitchik (cited in Nefesh HaRav p. 88) argues that history potentially can resolve certain Halachic policy issues. Rav Moshe Feinstein (Teshuvot Igrot Moshe Y.D. 3:36) offers another answer to this question. Rav Moshe writes that Halacha allows prudent human judgment to determine when it is permissible to engage in risky medical procedures. Indeed, the Halacha, in general, looks to prudent human judgments to establish the norm regarding which behaviors involve tolerable risk (Keivan DeDashu Beih Rabbim Shomer Peta’im Hashem – see Yevamot 12b and Niddah 31a). Accordingly, although the four lepers were not Torah scholars, their logic reflects prudent human judgment (and proved successful), and therefore a Halachic principle may be derived from their thought pattern and actions. Rav Bleich adds to this concept by noting that human beings are Shomrim (guardians) over the bodies that the Creator has bestowed upon them. He also notes that the standard expected from Shomrim (those who have assumed the responsibility to watch something) is that they guard items in the manner that prudent individuals normally guard them (see Bava Metzia 42a and 93b). Thus, the Halacha expects each of us to guard his body in the manner that prudent individuals would. Accordingly, it is understandable that the Gemara looks to four lepers for guidance regarding what is considered prudent behavior.

Eighteenth and Nineteenth Century Poskim – Risky Medical Procedures In the eighteenth and nineteenth centuries, man was starting to make progress towards developing treatments to help heal individuals from serious illness. Accordingly, it is not surprising to find that a number of the great Poskim of this time were asked if the Halacha tolerates engaging in high-risk medical procedures in order to save one who, without medical intervention, would certainly die within a short while. The Poskim responded unanimously in favor of permitting such risky surgeries, despite the serious risk that such surgeries pose to the very short period of time the patient has left to live. The primary source of these authorities is the story of the four lepers and Avodah Zarah 27b. The Poskim who permit submitting to such hazardous medical procedures include Teshuvot Shvut Yaakov (3:75 cited in Pitchei Teshuva Y.D. 339:1), Gilyon Maharsha (Y.D. 155:1), Chochmat Adam (Binat Adam 73,93), Teshuvot Binyan Tzion (111), Tiferet Yisrael (ad. loc.), Teshuvot Achiezer (2:16:6), Teshuvot Igrot Moshe (Y.D. 2:58 and 3:36), and Teshuvot Tzitz Eliezer (4:13). I am unaware of any dissenting opinion.

These Poskim marshal sources in addition to the narrative in Tanach and Gemara Avodah Zarah 27b to support their rulings. The Binyan Tzion cites the explanations of Ramban (in his work Torat HaAdam, 2:43 in Rav Chavel's Kol Kitvei HaRamban) and Tur (Y.D. 336) for why the Gemara (Bava Kama 85a) states that Hashem issued a divine license for us to practice medicine. Tosafot (ad. loc. s.v. SheNitnah) explain that we need the divine license to heal since otherwise it would appear to contradict the divine will for the patient to be ill. The Ramban and Tur, though, explain that since medical procedures are fraught with danger, absent a specific divine license we would have thought that we are not permitted to assume such risks. The divine license sanctions physicians taking risks in their attempts to heal their patients. The Binyan Tzion concludes from the Ramban and the Tur that since we are permitted to take risks in an attempt to heal patients, we should also be permitted to risk Chayei Shaah in order to restore the health of a patient. The Tiferet Yisrael notes (based on the Talmud Yerushalmi, Terumot chapter eight) that one is permitted to place himself in a situation of possible danger in order to save another from certain death. Although the Talmud Bavli does not make this assertion, nonetheless, this passage in the Talmud Yerushalmi is cited as normative by the Beit Yosef (Choshen Mishpat 426). Indeed, Rav Moshe Feinstein (Teshuvot Igrot Moshe Y.D. 2:174:4) rules that one is permitted to choose to place himself in possible danger to save another from certain death (though not all Poskim agree with this ruling, see Teshuvot Yechave Daat 3:84 and the many sources cited therein). For further discussion of this issue see Pitchei Teshuva (C.M. 426:2) and Nishmat Avraham (1:220-222). The Tiferet Yisrael writes that since one is permitted (in his opinion) to place himself in possible danger in an attempt to save another from certain death, one is also permitted to place his own Chayei Shaah in possible danger in an attempt to save himself from certain imminent death. Interestingly, the Tiferet Yisrael writes (towards the end of the nineteenth century) that based on this Gemara, we are permitted to inoculate ourselves against smallpox even though there is a small chance (he writes that one in a thousand was the prevailing risk in his time) that one may contract small pox from the inoculation. He argues that we are permitted to assume the small risk in order to avoid the much greater risk of contracting smallpox. We should note that the Tiferet Yisrael is speaking of a considerably different situation than did the Tanach, Gemara, and the other eighteenth and nineteenth century Poskim. These other sources speak of a situation where someone assumes a very great risk when he is expected to die otherwise in a very short amount of time (Chayei Shaah). The Tiferet Yisrael extends the Gemara's principle to teach that one may assume a small short-term risk in order to avoid a greater long-term risk. The basis for the Tiferet Yisrael's ruling, though, is fundamentally identical with the Gemara's case. In both cases it is permitted to assume these risks because most prudent individuals would agree that such risks are worth taking and constitute an appropriate manner for us to guard the body that Hashem has bestowed upon us.

Conclusion We have seen that the Halacha permits us to place ourselves in danger in the attempt to extend our lives. Next week, we shall explore the parameters and limitations on when we are permitted to engage in hazardous medical procedures in attempting to achieve a cure for a serious illness.

Chayei Sarah November 26, 2005

High-Risk Medical Procedures – Part Two by Rabbi Chaim Jachter

Last week we began to explore the issue of whether a gravely ill individual who is expected to live only a very brief while is permitted to undergo a very risky medical procedure in an attempt to restore his health. We noted that the Gemara articulates a principle that "LeChayei Shaah Lo Chaishinan," that we are permitted to risk a small amount of life in the hope of restoring one's health. Thus, even though the patient may die immediately from the medical intervention, he is permitted to risk Chayei Shaah (the brief amount of time that he is expected to live without medical intervention) in order to hopefully restore his health.

This week we shall begin to explore some of the parameters of this issue.

We shall review the debate regarding how much of a risk to Chayei Shaah one is permitted to assume and what the precise definition of Chayei Shaah is.

How Much Risk? The Gemara does not explicitly state how much risk to Chayei Shaah we are permitted to assume. This issue, however, is debated by nineteenth and twentieth century Poskim. The Mishnat Chachamim (cited in Teshuvot Achiezer 2:16:6) asserts that one is permitted to risk Chayei Shaah only if the risk to Chayei Shaah is fifty percent or less (Safeik HaShakul). According to this view, one who is expected to live only for a short while is forbidden to engage in a medical procedure if there is a chance greater than fifty percent that the medical procedure might kill him immediately, even though there is a chance that the procedure might completely heal him. The Chatam Sofer (Teshuvot Y.D. 76, cited in the Pitchei Teshuva Y.D. 155:1) seems to agree with this ruling. Rav Chaim Ozer Grodzinsky (Teshuvot Achiezer ad. loc.), however, disagrees and permits a patient to assume an even greater risk than fifty percent in the hope to achieve a longer life. Later twentieth century authorities debate how to resolve this issue. Teshuvot Tzitz Eliezer (10:25:5:5) seems to agree with the Mishnat Chachamim. On the other hand, Rav Moshe Feinstein (Teshuvot Igrot Moshe Yoreh Deah 2:58, written in 1961) rules that one may risk Chayei Shaah even if there is only a Safeik Rachok (remote or slim chance) that the procedure will effect a cure, and it is more likely than not that the procedure will kill the patient immediately. Rav Chaim writes that Rav Yosef Eliyahu Henkin agreed with this ruling (from 1936-1972, the Lower East Side of Manhattan was blessed with the presence of two outstanding Poskim, Rav Moshe and Rav Henkin; occasionally we find that regarding very serious and new issues Rav Moshe reports that he consulted with Rav Henkin). However, writing in 1972, we find that Rav Moshe (Teshuvot Igrot Moshe Y.D. 3:36) is much more inclined to the opinion of the Mishnat Chachamim. He concludes that we cannot protest if one wishes to rely upon the ruling of Rav Chaim Ozer and assume a very great risk to Chayei Shaah.

Proofs to Each Opinion Rav Chaim Ozer writes that the Gemara's statement that "LeChayei Shaah Lo Chaishinan" appears to be absolute with no reservations. On the other hand, Rav Moshe (in the later responsum) points out that the concern of the Gemara (as discussed last week) is that a pagan doctor would immediately kill his Jewish patient. Rav Moshe reasons that it is logical to assume that this concern only rises to the level of a Safeik Hashakul that the pagan doctor would harm his Jewish patient (see the Igrot Moshe for Rav Moshe's understanding of Rashi s.v. Safeik Chai). Thus, Rav Moshe argues, the Gemara sanctions assuming only a Safeik Hashakul risk to Chayei Shaah. Rav Moshe also draws a proof from the story in Tanach (Melachim II 7:3-8) that serves as the source for permitting us to risk Chayei Shaah (as discussed last week). In that story, the starving lepers were willing to enter the enemy camp and ask for food despite the risk that the enemy would kill them immediately. Rav Moshe argues that the lepers were not assuming a greater than fifty percent risk to their Chayei Shaah, since it would appear to be more in the interest of the Arameans to take the lepers as slaves instead of simply killing them. After all, the lepers were not combatants that posed a threat to the Arameans and thus there was no need to kill them. On the other hand, one could argue that lepers would not be desirable slaves. Accordingly, the only chance the lepers thought they had was for the Arameans to pity them since they were non-combatants and feed them. As Rav Bleich notes, it seems that the chances for mercy were far less than fifty percent. The conceptual basis for this disagreement seems to be as follows. The more liberal approach would argue that the Halachic standard is essentially what most prudent people would choose. They would argue that prudent people would view it as reasonable to place Chayei Shaah at great risk for a chance at achieving a cure for one's ailment. The more conservative approach could adopt one of two approaches. These authorities might argue that prudent people would not view a very great risk to Chayei Shaah as reasonable. Alternatively, they might argue that although prudent people regard such a risk as prudent, the Halacha places a limit on the degree of risk we are permitted to assume. Recall from last week that we cited Tosafot who explain that we sanction the risk to Chayei Shaah only because it is done LeTovato, in the patient's best interest. One might argue that the Halacha believes that an enormous risk to the patient's Chayei Shaah is not in his interest and therefore we disregard "the prudent person standard" in such a situation.

Defining Chayei Shaah The Gemara does not precisely define Chayei Shaah. Rashi (s.v. Chayei Shaah) explains that the Gemara is speaking about one who is expected to live for only a day or two. This statement does not appear to establish a formal standard for the category of Chayei Shaah, as Rashi seems to deliberately use an imprecise example – a day or two. Indeed, we do not find a precise definition for the term Chayei Shaah in the writings of the Rishonim and early Acharonim. In fact, Rav Shlomo Eger (Gilyon Maharsha 155:1) permitted a very risky medical procedure on a patient who was expected to live "Zeman Mah," only a short while, even though it seems that he was expected to live longer than a day or two.

Accordingly, we should not find it surprising that Rav Chaim Ozer permits a very risky surgery for someone who was expected to live for six months. Rav Chaim Ozer writes "the logic is obvious" that there is no conceptual

distinction between a day or two as opposed to six months. Indeed, as we explained earlier, the basis for permitting a risk is that reasonable people regard such action as prudent and thus it is an appropriate manner for us to guard the body that Hashem has given us. Therefore, since most people would regard risking six months of life in the hope of achieving a cure to be as reasonable as risking a day or two of life to achieve a cure, there indeed is no conceptual difference between risking a day or two as opposed to six months.

Rav Chaim Ozer does not set six months as the upper limit on the time that he believes is permissible to risk. This simply was the situation of the case regarding which he was asked to adjudicate. Indeed, Rav Moshe Feinstein (Teshuvot Igrot Moshe Y.D. 3:36) writes that one may undergo very risky surgery in the hope of achieving a cure, even if the person is expected to live up to a year. Rav Avraham Yitzchak HaKohen Kook (Teshuvot Mishpat Kohlen 144:3) agrees with this standard. Rav Moshe writes, however, that this ruling does not apply if the patient is expected to live more than a year.

Rav J. David Bleich (Tradition Spring 2003) raises the possibility that the standard of one year is not ironclad and might depend on the circumstances. He gives an example of someone who is afflicted with a slowly developing lethal form of leukemia, and doctors expect that he will live for thirteen months unless he receives a bone marrow transplant. The bone marrow transplant does involve a significant risk of death from tissue incompatibility or infection.

Rav Bleich notes that in such a case it seems imprudent to wait a month for the patient's life expectancy to dip below a year in order to permit him to assume the risk of the bone marrow transplant. This is because the chance of the surgery's success diminishes as the leukemia has developed further and the patient's condition has deteriorated further. Rav Bleich cites Tiferet Yisrael's ruling that we discussed last week permitting smallpox inoculation (despite a one in a thousand chance of contracting smallpox from the inoculation) as a precedent to permit a risky medical procedure on a patient who is expected to live longer than a year.

It appears to me that Rav Moshe would not necessarily forbid the bone marrow transplant (or the smallpox inoculation) in the scenario described by Rav Bleich. Rav Moshe speaks of a very risky medical procedure that would be performed only if the person had a very short life expectancy. The risks involved in a bone marrow transplant do not seem at all to be similar to the risks involved in the procedure addressed by Rav Moshe. One could argue that the lower the risk, the longer the amount of life one is permitted to risk. According to this approach, even Rav Moshe would permit the smallpox inoculation at a time when it involved a one in thousand risk of contracting the disease.

One could argue that it is difficult to establish objective criteria for precisely how much risk of how much life is considered acceptable according to the Halacha. One approach could be, as we have presented earlier, that the Halachic standard follows the opinion of most prudent people. Most reasonable people may deem a certain amount of risk to a certain amount of life to be either prudent or imprudent, and this is the standard that we follow. Obviously, consultation with top tier doctors and rabbis is necessary for one who (Rachama LeTzlan) finds himself in such a situation in order to properly assess the wisdom of any high-risk surgery.

Next week we shall (IY"Y) continue our discussion of high-risk medical procedures by further exploring the parameters of the permissibility of engaging in dangerous medical procedures in the hope of effecting a cure.

Toldot December 3, 2005

High-Risk Medical Procedures – Part Three by Rabbi Chaim Jachter

In the past two issues, we have outlined some of the basic issues regarding risky medical procedures. The Gemara specifically permits one who is expected to live only a very short while (Chayei Shaah) to undergo a medical procedure that involves a great risk. Last week we discussed how much risk is tolerated and what is considered Chayei Shaah. This week we shall continue our discussion of this topic with a discussion of two more facets of this issue. We will discuss whether one is ever obligated to undergo a hazardous medical procedure, and whether one may risk very brief Chayei Shaah for an extended period of Chayei Shaah.

Risky Surgery to Eliminate Pain Rav Moshe Feinstein (Teshuvot Igrot Moshe Yoreh Deah 3:36) argues that one may not undergo very risky surgery merely to eliminate pain. He addresses a case where the patient would be able to live a number of years even without a surgery if he would remain in bed and would not walk. Rav Moshe rules that we may undergo very hazardous surgery only in order to save one's life, but not to eliminate pain or enhance one's quality of life. Perhaps Rav Moshe reasons that since our bodies belong to Hashem, we have no right to endanger our bodies merely for our convenience.

On the other hand, Rav J. David Bleich (Tradition Spring 2003) presents a possible alternative opinion. He notes that Rav Yaakov Emden (Mor U'Ketzia 328) writes (in the eighteenth century) that a high-risk surgical procedure that is intended to alleviate the excruciating pain of kidney stones or gallstones is "Karov LeIsse" (close to being forbidden). Rav Bleich notes that Rav Emden regards it as "Karov LeIsse" and not actually forbidden, unlike Rav

Moshe who specifically writes that such a risky procedure is technically forbidden. Rav Bleich writes that an analogous contemporary situation would be surgery to sever a nerve in order to eliminate pain (though I am unsure if the modern surgery is as risky as the surgery described by Rav Yaakov Emden).

In addition, Rav Eliezer Waldenberg (Teshuvot Tzitz Eliezer 13:87) specifically permits administering morphine to a very sick patient despite the risk involved (morphine depresses the respiratory system). Among the reasons offered by Rav Waldenberg for his leniency is that for a very ill patient, extreme pain may hasten death. Rav Shlomo Zalman Auerbach (cited in Shmirat Shabbat KeHilchata 32: footnote 150) suggests that it is permitted to administer morphine on Shabbat because great pain may endanger the patient (recall that we are permitted to violate Torah prohibitions on Shabbat only to save a life, but not merely to eliminate pain).

Moreover, Rav Bleich writes that it seems that the Rama (Y.D. 241:13) permits assuming a considerable risk in order to alleviate pain. The Rama permits one to amputate a limb in order to eliminate pain. Rav Bleich observes that in the time of the Rama (sixteenth century) amputation of a limb was accompanied by significant risk to the patient. To this Rav Moshe might respond that he forbids only surgery that involves considerably more risk than the surgery described by the Rama.

We may add that it is also possible that circumstances have changed since Rav Moshe issued his ruling in 1972. The current generation that has grown up with central heating and air conditioning along with other comforts unavailable to earlier generations probably has a dramatically lower tolerance for pain than previous generations. Thus, extreme pain constitutes a much greater danger for the current generation than in earlier times. It is also possible that Rav Moshe forbids very risky surgery only in the case he described where the surgery was to be done to eliminate psychological pain of the patient being confined to his house. However, it is possible that Rav Moshe would permit even a very risky medical procedure to eliminate true physical pain.

Risky Surgery: Obligatory or Discretionary Ordinarily, one is obligated to undergo medical treatments. Indeed, the Halacha believes that a duly constituted and recognized Beit Din is authorized to coerce an unwilling patient to undergo medical treatment (Mishna Berura 328:6 and the soon to be published Gray Matter volume two). The reason for this appears to be that since our bodies belong to Hashem, we have no right to neglect our health. Just as a guardian of an object must properly guard the item under his watch, so too we must guard our health, for we are only guardians of the body that Hashem has given us.

However, Rav Moshe Feinstein (ad. loc.) and Tiferet Yisrael rule that even in cases where Halacha permits one to risk Chayei Shaah and undergo very risky surgery in the hope of achieving a cure, one is not obligated to risk his Chayei Shaah. I have not found a single authority that disagrees with this ruling. Rav Bleich offers a very cogent explanation of this ruling. He explains (as we have cited in the past two weeks) that the Halacha obligates us to guard our bodies in the manner that prudent people normally guard their bodies. Rav Bleich also notes that Hashem has created people with different temperaments (Berachot 58a states that just as our faces differ, so too our temperaments differ.) Some people tolerate more risk than others.

Both the risk-averse and the risk-tolerant individual might be acting prudently, as there is a range and variation for what is regarded as reasonable behavior (Rav Bleich offers the example of investment strategy; some will invest very conservatively, others will invest aggressively, and yet others will seek to balance conservative and aggressive investments.) Thus, just as the person who is willing to risk his Chayei Shaah is guarding his body appropriately, so too the individual who does not wish to risk his Chayei Shaah is guarding his body properly, as some people are by nature more conservative than others.

Next week we shall, IY"Y and B"Y, complete our discussion of hazardous medical procedures with a discussion of the role of the Rav in the decision making process in this context.

Vayetzei December 10, 2005

High-Risk Medical Procedures – Part Four by Rabbi Chaim Jachter

This week we shall conclude our presentation of Halachic perspectives on high-risk medical procedures. We shall discuss whether it is permissible to engage in a very dangerous procedure in order to extend life briefly and the role of the Rav in the decision making process regarding a very risky medical procedure.

Very Risky Surgery to Extend Life Briefly Rav Moshe (ad. loc.) writes that it is forbidden to undergo very risky surgery if the doctors do not believe that there is a chance that the surgery will restore the patient's health and achieve longevity. Interestingly, Rav Moshe forbids such a surgery even if the doctors believe that there is a possibility to restore a number of years to the patient's life. In other words, Rav Moshe believes that we are permitted to risk Chayei Shaah only in the hope of achieving a normal lifespan, but not merely to achieve a longer Chayei Shaah.

Interestingly, Rav Moshe does not cite a source for this ruling other than the responsum (that we cited last week) of Rav Chaim Ozer Grodzinsky, which, Rav Moshe notes, permits risky surgery in a case where there is a chance that the patient

will “live.” Rav Moshe understands the term “live” to refer to living a normal lifespan. It should be noted that although many Poskim base their decisions to a great extent on precedent from the great Poskim of earlier generations, Rav Moshe tends not to do this. Instead, Rav Moshe almost always resolves an issue based on an analysis of an issue from the Gemara, Rishonim, and the Shulchan Aruch and its commentaries. Thus, this responsum is unusual for Rav Moshe and demonstrates the great respect Rav Moshe had for Rav Chaim Ozer, who was considered by many to be the leading Ashkenazic Halachic authority of the early twentieth century. Rav Bleich, however, challenges Rav Moshe’s assertion. He notes that the Ramban (in his work *Torat HaAdam*, 2:38 in Rav Chavel’s *Kitvei Ramban*) presents the Gemara in *Avoda Zarah* 27b as teaching that we may risk Chayei Shaah for “Chayei Tuva”-more life. Rav Bleich explains this to mean that we may risk Chayei Shaah for even more Chayei Shaah. Thus, Rav Bleich understands the Ramban to teach that one may risk a very brief Chayei Shaah for a lengthier Chayei Shaah. Rav Bleich offers a tragically common *Nafka Minah* (practical ramification) of his dispute with Rav Moshe. His example is someone with terminal cancer (Rachamana Letzlan) who has developed an intestinal obstruction. Without surgery, the patient is expected to live no more than three days. If, however, the blockage is removed he could be expected to live for thirty days. Nonetheless, the surgery to remove the blockage involves a thirty three and one third percent chance of death during the course of the surgery or shortly thereafter. Rav Moshe might not sanction this procedure, while Rav Bleich might rule that it is permissible to perform or undergo such surgery.

We should note, however, that the *Jastrow* dictionary translates the Aramaic word “Tuva” (which appears very often in the Gemara) as “much, many, more.” Rav Bleich understands the Ramban’s use of the word “Tuva” in this context to mean “more” – more life. However, Dr. Avraham Steinberg (*Encyclopedia Refu’it* 5:3) understands the Ramban’s use of the word “Tuva” in this context to refer to “much life” i.e. normal life expectancy. This appears to be the way that Rav Moshe would understand the Ramban. Normally, the opposite of Chayei Shaah is Chayei Olam, eternal life (see, for example, *Shabbat* 10a and *Shabbat* 33b). However, the Gemara or Ramban cannot use the term Chayei Olam in our context as an antonym for Chayei Shaah since even when one’s health is restored, one’s body does not live Chayei Olam, forever. Thus, the Ramban had to use the term Tuva, despite its somewhat imprecise connotations that leave room for disagreement. Rav Bleich writes, however, that the Ramban could have used the term Chayei Kiyum-which Rav Bleich understands to refer to lasting life- had he meant that the patient would have his normal lifespan restored. Indeed, in the *Yekum Purkan* prayer recited by Ashkenazim before *Mussaf* on *Shabbat*, we ask for “*Zarah Chayah VeKayama*”, viable children who will live a normal lifespan. In the context of *Hilchot Chalitzah*, the term “*Zerah Shel Kayama*” refers to children who outlive their father (see for example *Rama*, *Even HaEzer* 157:4). Indeed, in the context of *Hilchot Shabbat* the term *Shel Kayama* refers to the normal amount of time something usually lasts (see Rav Dovid Ribiat, *The 39 Melochos*, 1: pp.132-134 in the Hebrew section). Thus, the fact that the Ramban chooses the term Chayei Tuva instead of Chayei Kiyum seems to prove that the Ramban even sanctions risky surgery merely to extend Chayei Shaah. Rav Moshe might respond that the Ramban could not have used the term Chayei Kiyum, as life (in this world) is almost by definition unstable and this term would be entirely inapt (note that the Gemara, *Avoda Zarah* 27b, does not use an opposite term of Chayei Shaah, probably due to the difficulty in finding an appropriate antonym). It is possible to suggest a compromise between Rav Moshe and Rav Bleich. Perhaps it is forbidden to engage in very risky surgery in an attempt to merely extend Chayei Shaah. On the other hand, it might be permissible to engage in a moderately risky surgery in order to achieve a longer Chayei Shaah. The resolution of this question would again appear to depend on what prudent individuals would regard as a prudent risk. Of course, this is difficult to gauge and must be done in consultation with top rank medical and rabbinic guidance.

The Role of the Rav Finally, we will explore the role of a Poseik in the making of these very delicate and difficult decisions regarding high-risk medical procedures. *Teshuvot Shevut Yaakov* (that we cited earlier in this series) writes that this decision should be made “in consultation with the top doctors in the area, and one should decide based on the majority medical opinion and with the consent of the local Rav.” Rav Chaim Ozer Grodzinsky (in aforementioned *Teshuva*) also cites from the *Mishnat Chachamim* that the decision should be made by rabbinic authority together with consultation with top medical personnel. One could ask, however, why Rabbanim should have a role in the decision- making process if they lack the necessary medical knowledge to make such a decision. One approach could be that perhaps Rabbanim should be involved in matters that do not involve purely Halachic issues. Indeed, Rav Chaim Ozer was renowned for not confining his activities only to purely Halachic matters such as *Kashrut* and *Mikveh* in his role as the spiritual leader of Vilna’s Jews. He played a major role in all matter regarding Jews in Vilna – a point emphasized by Rav Yosef Dov Soloveitchik in his celebrated eulogy for Rav Chaim Ozer. In fact, in 1993 I met an elderly, non-observant gentleman who

was a leader of a non-observant youth group in pre-war Vilna, who recounted to me that he met regularly with Rav Chaim Ozer about communal concerns that were not of a Halachic nature. Incidentally, this gentleman recalled Rav Chaim Ozer with fondness and said he was a “great guy” who had a good relationship with everybody, whether they were religious or not.

Rav Bleich offers two other suggestions to explain the role of the Rav in this matter. First, he notes that although doctors are potentially qualified to offer their opinion regarding the risks and prospects of the surgery as well as the medical status of the patient, the decision whether or not to conduct the surgery fundamentally is an ethical one, not a medical one. In fact, one might add that in some hospitals such decisions might be made by a staff medical ethicist rather than the patient’s physician. Thus, the role of the Rav would be to render an ethical or Halachic decision and not a medical one.

Moreover, since the decision (as we have emphasized in the previous issues) fundamentally is what is the prudent way of guarding the body that Hashem has bestowed upon us, the decision regarding whether to undergo hazardous surgery is a religious decision that should be rendered by a Poseik who has been given all the relevant medical information from the finest available medical personnel.

Rav Bleich offers another reason based on a ruling of Rav Chaim Pelaggi (*Chikekei Lev* 1:Y.D. 50), a major Sephardic Halachic authority of the nineteenth century. Rav Pelaggi rules that even though the Halacha permits praying for the death of someone who is very ill and suffering terribly (see *Ran* to *Nedarim* 40a based on *Ketubot* 104a), the decision to permit such prayer may be made only by someone who is an entirely disinterested party. Such a profoundly delicate decision must be made by someone who can make an objective decision and not be biased by the myriad of possible issues involved.

Rav Bleich suggests that the same concern might apply regarding the issue of sanctioning a hazardous medical procedure. He argues that physicians might be too aggressive in their zeal to heal their patient or advance the field of medicine to act in the best interest of the patient. Recall that *Tosafot* to *Avoda Zarah* 27b explain that we are willing to risk Chayei Shaah only because it is in the best interest of the patient. In such a delicate situation, the Poseik might be the appropriate individual to determine what is in the best interest of the patient. An example of this phenomenon appears in *Teshuvot Tzitz Eliezer* (10:25:5:5) regarding heart transplant recipients at the early stages of the performance of such procedures. Among his many objections to heart transplants, Rav Waldenberg thought it wrong for the recipients who would otherwise be able to live for a number of years (albeit with some pain) to undergo this very hazardous procedure for which two thirds of the patients die shortly after the surgery. Rav Waldenberg objected to taking such a great risk to what may constitute even more than mere Chayei Shaah. In this case, the zeal of the doctors to advance the field of heart transplants and the patients’ desperation to lengthen their years seems to have led them to make imprudent decisions. Rav Waldenberg evaluated the situation in an unbiased manner and reached the conclusion that these procedures were not serving the best interest of the patients.

On the other hand, both the Rav and the physicians must realize their respective limitations and roles. The physician should not try to play the role of a Poseik (even if the physician is a Torah scholar) and the Poseik should not try to play the role of a doctor (even if he has extensive medical knowledge).

One may suggest yet another reason for a Poseik’s involvement in the decision- making process. The Rav should ensure that the finest and most experienced medical personnel assess the patient and his situation as well as conduct the hazardous medical procedure. Indeed, *Chazal* (*Sanhedrin* 32b) teach that one should seek the finest *Beit Din* to adjudicate a monetary dispute (monetary disputes are usually quite intricate and it is very challenging to resolve them in an appropriate manner). I heard Rav Yosef Dov Soloveitchik comment that the same applies to other areas of life, such as choosing the institution that will educate his child. Similarly, one should choose only the finest available medical care especially regarding a hazardous medical procedure, where the finest staff, experience, and equipment can often mean the difference between life and death. The Rav should do his best to insure that these are made available to the patient.

Moreover, the Poseik also serves to remind all involved that although one should act prudently and seek the finest care, at the end of the proverbial day, it is the *Ribbono Shel Olam* who will decide whether the surgery will be successful. Thus, while every effort should be made to make the best decision, *Tefillah* on the part of the patient, his family, and even the physicians are an essential (if not the most important) component of achieving success in a very difficult situation.

Finally, a Poseik’s involvement will help a family, physician, and institution cope with disaster in case the medical procedure fails and results in the death of the patient (Rachamana Letzlan). The fact that a reputable Poseik was consulted and sanctioned the procedure provides everyone involved the security of knowing that the procedure was conducted in harmony with Halacha and that it was the appropriate action to take. Otherwise, those involved might find it difficult to cope with the guilt associated with the failure of a high-risk procedure.

Conclusion The decision whether to undergo a hazardous medical procedure can be one of the most difficult an individual or a family will even have to

make. Although we have presented in the past four weeks the parameters of the Halachic issues involved, there is no substitute for proper consultation with the finest available medical personnel and one's Rav who will guide one through such a situation. May Hashem grant good health to all of His people.

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From: Yeshivat Har Etzion Office [office@etzion.org.il] Sent: Wednesday, November 24, 2004 4:40 AM To: yhe-parsha@etzion.org.il Subject: PARSHA65 - 08: Parashat Vayishlach By Rav Yaakov Medan

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In memory of Chana Friedman z"l (Chana bat Yaakov u'Devorah) on her ninth yearzeit. This shiur is dedicated in memory of Esther Schreiber Maidenbaum z"l, whose love, warmth and time were dedicated to the Jewish community and to her friends and family. May the extended Schreiber-Maidenbaum family be comforted among the mourners of Tzion veYerushalayim.

"Anyone Who Says That Reuven Sinned..."

By Rav Yaakov Medan

I. PRESENTATION OF THE PROBLEM

The standard rabbinic interpretation of Reuven's sin concerning Bilha, his father's concubine, poses two fundamental questions. A. There are assumptions which, for reasons that are not always clear to us, become fundamental to our faith, after a process of refining in yeshivot throughout the generations. How far can exegesis be pulled away from the literal meaning of the text on the basis of these assumptions? B. Does our desire to see the great figures of our nation in a favorable light not sometimes come at the expense of the rules of faith and logic - which are no less important than the merits of those great people?

We have proceeded ahead of ourselves; let us start at the beginning. The Torah recounts Reuven's sin concerning Bilha in clear and straightforward language which seems difficult to interpret in any way other than its simple meaning:

"Yisrael journeyed and erected his tent beyond Migdal Eder. And it was, while Yisrael dwelled in that land, that Reuven went and lay with Bilha, his father's concubine, and Yisrael heard. And the sons of Yaakov were twelve..." (35:21-22) Nevertheless, Rabbi Shmuel bar Nachmani - representing many other opinions among the Tannaim - explains: "Rabbi Shmuel bar Nachmani said in the name of Rabbi Yonatan: Anyone who says that Reuven sinned, is mistaken, as it is written: 'The sons of Yaakov were twelve' - this teaches that all were equally worthy. What, then, is the meaning of the verse teaching that he 'lay with Bilha, his father's concubine'? It teaches that he moved (upset) his father's bed, and the text regards him as though he had lain with her. We learn [in a baraita]: Rabbi Shimon ben Elazar says: That righteous one [Reuven] was protected from committing that sin, and he did not perform that act. Is it possible that his descendants were destined to stand upon Mount Eival and to declare, 'Cursed is he who lies with his father's wife' - while he himself did this? What, then, are we to learn from the verse teaching, 'he lay with Bilha, his father's concubine'? He wanted to protest his mother's honor. He said: My mother's sister troubled my mother - shall the maidservant of my mother's sister than also trouble my mother? He stood up and moved her bed..."

The Tannaim disagreed: 'Unstable (pachaz) as water, you shall not excel' (Ber. 49:4) - Rabbi Eliezer interpreted: [Pachaz is a mnemonic for:] You were hasty, you were guilty, you did disgrace. R. Joshua interpreted: You did overstep the law, you did sin, you did fornicate. R. Gamaliel interpreted: You did meditate, you did supplicate, your prayer shone forth. Said R. Gamaliel: We still need [the interpretation of] the Moda'i, for R. Eleazar ha-Moda'i said, Reverse the word and interpret it: You did tremble, you did recoil, your sin fled [Parhah] from you. Raba — others state, R.

Yirmiyah b. Abba - interpreted: You did remember the penalty of the crime, you were [grievously] sick, you held aloof from sinning."(Shabbat 55b) Two reasons are given to support the claim that it is impossible for Reuven to have literally committed this atrocity. The first reason, provided by R. Shmuel bar Nachmani, is that "all of Yaakov's children were equally worthy" - i.e., all of them were righteous. We may question this point on the basis of Yaakov's harsh criticism of Shimon and Levi at the end of his life - from which it would appear that these two brothers were not as worthy as their brethren. Moreover, even if all of them were equally righteous, this does not necessarily prove that they all had a spotless record: after all, most of the brothers sinned through participation in the sale of Yosef.

The second reason is raised by R. Shimon ben Elazar, who notes that Reuven's descendants were destined to stand together with another five tribes and declare, "Cursed is he who lies with his father's wife." This claim, too, seems forced; even according to R. Shimon ben Elazar's explanation that Reuven only upset his father's bedclothes - he still apparently transgressed against "Cursed is he who dishonors his father..." - which was also declared at Mount Eival. How, then, could the tribe of Reuven have stood and made this declaration? Perhaps behind these two reasons there lies a more fundamental perception, for which the reasons mentioned merely serve as cover. This reason may be the very fact that it is impossible for one of Yaakov's sons - the foundation stones of God's nation - to have committed such a heinous sin. This position is adopted, among others, by Rav Avigdor Nebenzahl in his book, "Sichot le- Sefer Bereishit":

"Anyone who thinks that Reuven, David and other great figures of Israel... are people who descended to such a distance from holiness - such a person is surely mistaken." His disciple, Rav Yehuda Brandes (in an article in Megadim 26), understood that his teacher's point of departure was not historical truth or compatibility with the literal meaning of the text, but rather the educational need to clear the great figures of the nation of such serious transgressions in the eyes of the nation. I have questioned the views of both of them at length, on both technical and theoretical grounds, in the past (Megadim 26; see also my book on David and Batsheva), and shall not repeat that discussion here. Let us return to our question. Whatever the need may be to seek merit for Reuven, can we allow ourselves to depart so far from the literal meaning of the text, which presents such an unequivocal narrative, solely on the basis on the logic which dictates that Reuven could not have sinned thus? Moreover, let us take a closer look at what happened according to the midrashic approach. After Rachel died, Yaakov moved his bed into Bilha's tent, or alternatively, Bilha's bed into his own tent. Reuven, out of zeal for the honor of his mother Leah, from whose tent Yaakov was conspicuously absent, came and "upset Bilha's bed." It is not entirely clear what this phrase means. From the Midrash, it would seem that he overturned her bed [3], but it is not clear what harm Reuven caused by this act. Did Bilha fall and injure herself? Was she humiliated? Was Yaakov humiliated, having to resort personally to restoring the bed to its proper position? Other commentators suggest that Reuven uprooted her bed - i.e., removed it from the tent. Still, this would appear to have caused minimal damage that could easily be repaired. We may summarize and say that this interpretation of Reuven's act does not sit well with the literal text, does not make clear why the act was so serious, and does not make sense in light of what Yaakov decreed for him at the End of Days.

II. THE CONTROVERSY SURROUNDING REUVEN'S SIN

In my view, the reason to defend Reuven is exegetical rather than ideological. There is a contradiction between the description of the sin in Bereishit chapter 35, and Yaakov's attitude towards Reuven in his last words to him at the end of his life: "Reuven, you are my firstborn, my might and the beginning of my strength, the excellence of dignity and the excellence of power. Unstable as water, you shall not excel, for you ascended to your father's bed and then defiled it; he went up to my bedclothes." (49:3-4) If indeed the act was committed as described in chapter 35 and Reuven did indeed lie with his father's concubine during his father's lifetime - is it possible that following such an abomination Yaakov would have allowed Reuven to remain in his home, including him with the other sons and giving him an inheritance in the land? Were the sins that led to the exclusion of Kayin, Cham, Yishmael and Esav more serious? We are forced into viewing the two episodes - that of chapter 35 and that of chapter 49 - as contradictory and requiring some solution. Chazal were faced with two possibilities: either to accept the verses in chapter 49 at face value, implying that Reuven did not commit such a terrible sin, and to provide some appropriate explanation for the verses in chapter 35, or they could accept literally the verses in chapter 35 - implying that Reuven's sin was truly an abomination - and find some explanation for Yaakov's relatively mild words in chapter 49. R. Shmuel bar Nachmani adopts the first approach, maintaining that Reuven did not lie with Bilha. He does this not out of a blind need to defend or justify Reuven, but rather in order to explain Yaakov's attitude towards him at the end of his life. Other Sages, who understood the textual description of the sin literally - as sexual immorality - adopt the second approach. They understand Yaakov's somewhat

forgiving attitude towards Reuven while on his deathbed as reflecting the long, profound and sincere repentance that Reuven had undergone: his sackcloth and fasting throughout his life, as well as his behavior in the story of the sale of Yosef, as will be explained below. For these Sages, the difference between Yaakov's attitude towards Shimon and Levi in his last words and his attitude towards Reuven arises not from the discrepancy in the severity of the sin, but rather from a discrepancy in the repentance following it. Reuven recognized his sin, confessed it and spent the rest of his life engaged in repentance, while Shimon and Levi refused to accept their father's rebuke, and even boldly answered him back (34:31). They had not undertaken any repentance for their sin up until the day they stood before their father on his deathbed.

III. TWO DEFENSES OF REUVEN

What I have said above deviates from the accepted understanding in Rashi and in the *beit midrash*. Rashi, in his interpretation of the sin (35:22), adopts the position that Reuven did not lie with Bilha but rather only upset his father's bed. In the story of the sale of Yosef, on the other hand (37:29), Rashi insists that Reuven was not together with his brothers at the time of the sale; he explains that he was clothed in sackcloth and engaged in fasting over his previous sin. The combination of these two *midrashim* leads us to an apparently impossible conclusion: although Reuven's sin was motivated by good intentions (zeal for his mother's dignity), although this sin was not particularly severe and its results could even be corrected quickly and easily - despite all of this, Reuven wore sackcloth and fasted for the rest of his life, or at least for many years (up until the sale of Yosef). Moreover, following this repentance, which is unparalleled in all of Tanakh, Reuven's birthright is handed over to Yehuda - who is the principal guilty party in the sale of Yosef! This picture confuses two different solutions to the question of the relationship between Reuven's sin and Yaakov's response. These two solutions cannot be combined; they represent two opposing views. According to one, Reuven's sin was relatively "minor" - he upset his father's bed, but nowhere are we told that he engaged in repentance for this act. This represents the view of some of the greatest Tannaim and Amoraim: R. Shemuel bar Nachmani in the name of R. Yonatan; R. Shimon ben Elazar and R. Elazar ha-Moda'i (Shabbat 55b); Rabban Shimon ben Gamliel in the *Sifri* (as we shall see below); and even the Targum Yerushalmi, the *Ba'alei ha-Tosafot* in their commentary on the Torah, the *Chizkuni* and other commentators. The great difference between Reuven's relatively light rebuke and the heavy-handed treatment of Shimon and Levi arose from the severity of the latter sin in contrast with the minor offense committed by Reuven.

The second approach is adopted by R. Eliezer and R. Yehoshua (Shabbat 55b); the Sages who disagree with Rabban Shimon ben Gamliel in the *Sifri*; R. Eliezer ben Yaakov in *Bereishit Rabba* (100); the Ramban, Radak, R. Yosef Bekhor Shor and other commentators. According to this view, Reuven committed an act of sexual immorality, lying with his father's concubine, but he also repented. Let us now examine each approach, starting with the second. IV. REUVEN'S SIN OF SEXUAL IMMORALITY

The assumption that Reuven literally committed an act of sexual immorality led Chazal (and us) to seek some merit for him: to conclude that he repented. The idea of his repentance is based on the relatively forgiving attitude displayed by Yaakov in his last hours, as opposed to his attitude towards Shimon and Levi; it is also based on the fact that he did not sit together with his brothers at the time of the sale of Yosef. These two factors do not seem strong enough to prove that he underwent such a profound and sincere process of repentance, of which the text gives no hint at all. We shall therefore expand a little on this repentance, but first let us discuss the sin itself.

THE BATTLE FOR LEADERSHIP

How could Reuven, an intelligent man, involve himself in such foolishness, such an abomination, as to lie with his father's concubine? Could Bilha, a generation older than Reuven, have been such an exceptionally beautiful woman that he fell prey to his evil inclination? If we adopt this approach, Reuven's act has an obvious biblical parallel: Avshalom, who lay with his father's concubines as a declaration of rebellion against his father and a coup to take over the kingdom (Shemuel II 16:21-22). Adoniyahu, David's son, also tried to follow Avshalom's example and to marry Avishag, who was regarded by the nation as his father's concubine. The context of Reuven's story may point to a similar situation. Following Yaakov's encounter with Esav and his obsequious bowing before him, one receives the impression that Yaakov has lost his leadership of the family.

Let us try to imagine what was going on in Yaakov's family as they returned to Eretz Yisrael after their exile in Lavan's home. The head of the household, Yaakov - a mighty warrior who single-handedly removed the great stone from the mouth of the well, who stood alone day and night to fend off robbers and wild animals and to protect Lavan's flocks, who fought for his rights bravely and determinedly before Lavan and schemed against him - this Yaakov bows seven times to the ground before his brother Esav. Furthermore, he sends his wives and sons to bow down as well, he sends gifts of livestock to his brother,

promises to subject himself to Esav's sovereignty in Se'ir and sees him "as one sees the face of God." The Hivvites inhabiting the land, knowing that the brave, strong Yaakov is on his way - grandson of Avraham, who liberated the land from the hand of Kedarla'omer; son of Yitzchak, the stubborn settler; brother of Esav, commander of the "battalion of four hundred men" - must certainly have feared and revered him. But after witnessing such fawning behavior, Shekhem - son of the prince of the land - did not hesitate to rape Yaakov's daughter, to kidnap her and bring her to his house, and then to engage in negotiations. Yaakov was silent until his sons returned, accepting - out of fear of Shekhem - the possibility that Dina would remain an unwilling prisoner in Shekhem's house forever. Yaakov's sons see (inaccurately, of course) an elderly father who has lost his strength, just as many years later the elders of Israel would regard Shemuel as an elderly leader who had lost his strength and therefore decide that he must be replaced. In Yaakov's household, there commences a battle of inheritance - a battle for leadership. Shimon and Levi are the first to try out their power to inherit the role - while their father is still alive, and without his permission. Yaakov approves, by his silence, the agreement between his sons and Chamor and Shekhem that Dina will be given to Shekhem in return for the circumcision of all the men of the city. Shimon and Levi violate the agreement with their swords, regarding Shekhem and his compatriots as barbarians who raped and kidnapped their sister. There would be justification for regarding Shekhem and his men in this light, had they not made an agreement with Yaakov and with his sons. Shimon and Levi did not recognize the agreement to which their father had committed himself - even if only by remaining silent - and for this reason they permitted themselves to spill the blood of an entire city. Following Shimon and Levi's downfall - the wholesale massacre - Reuven tries out his own leadership prospects according to the same bad counsel that was given, many years later, to Avshalom: he took his father's concubine. Thus Natan would describe to David the way in which his kingdom would be lost - "I will raise evil against you from your own house... another man will lie with your wives before this very sun" (Shemuel II 12:11), paralleling the expression used to describe how David himself received the kingdom from God: "I gave you the house of your master and your master's wives to your bosom" (Shemuel II 12:8). This, it seems, is the behavior of one who inherits rulership.

It is not clear whether Reuven's misdeed involved real sexual immorality, since Bilha was not his father's wife, but rather only a concubine. It seems, then, that when Rachel died and Yaakov moved his bed to Bilha's tent, he meant thereby to promote her not only to the status of his wife, like Leah, but even to the status of the "woman of the house." Reuven did not recognize Yaakov's "right" to do this. From his perspective, Leah was the natural candidate to inherit Rachel's place. Through his deed with Bilha, Reuven expressed the fact that he did not recognize Yaakov's choice; it was a vehement declaration that Bilha was no more than a maidservant and concubine. Reuven's lack of recognition of Yaakov's authority therefore led him to commit a sin of sexual immorality. Yehuda tries out his chances after his three elder brothers fail. When Yosef comes to Dotan to visit his brothers, the three oldest debate his fate. Shimon and Levi suggest that he be killed and cast into the pit (see Rashi 49:5), Reuven proposes that he be thrown into the pit alive, but a new leader arises among the brothers - Yehuda - and he decides that Yosef will be sold to the Yishmaelim. This is a "punishment," *inter alia*, for Yaakov having chosen Yosef and loved him more than all his brothers. Yehuda's rejection of Yaakov's right to do this draws him down to the level of kidnapping, concerning which we are commanded: "One who kidnaps a person and sells him, and he is found guilty - he shall surely die." Even before Yehuda arrived at this point, Yosef dreamed of his father, mother and brothers bowing down before him. He, too, sees himself as the leader of the family in place of his father. He lacks his elder brothers' ability to realize his leadership potential; it remains, for him, a dream. A dream of leadership would not seem to represent a crime, but Yosef adds to his dreams some tales about his brothers that he recounts to his father, implying that he is better than they.

REUVEN'S PUNISHMENT

All the brothers discussed here receive a punishment. Within the limited scope of this shiur, I shall be able to discuss only that of Reuven, who - as a result of his act - is relieved of the birthright, which is given to Yosef, and of his leadership, which is given to Yehuda. It is possible that among the rights that were meant to be awarded to Reuven, there was also the portion of land that eventually became the portion of Yehuda, who assumed some of Reuven's leadership role. Moreover, it is possible that Reuven's inheritance was among the factors that led him into his sin, since he felt himself - located in Migdal-Eder, between Beit-Lechem and Chevron - as owner of that property and entitled to sit there and decide the fate of the entire family at his own discretion. In the same way, Shimon and Levi - regarding themselves as the conquerors of Shekhem and its inheritors forever - schemed against Yosef on "their turf," eventually being punished by having Shekhem taken from them and given to Yosef. In this portion of land, Reuven - as the firstborn - was meant to inherit the resting places

of the forefathers and to see himself as the heir to their dynasty, as it is customary for the firstborn to serve the father and to continue his path. His portion would have been located on the southern border of Binyamin - the portion in which the Shekhina rests - and not to its east, as was when the tribe of Reuven ultimately settled east of the Jordan; this arrangement would have accorded with his place south of the portion of the Shekhina in the desert encampment. Following Reuven's sin, he lost this portion and was pushed eastwards to the land of Moav, the place where Lot's daughters violated their father's honor. Although their intention - like that of Reuven, who showed disrespect for his father - was good, the stain of their act remained and was not erased.

REUVEN'S REPENTANCE

From where do Chazal deduce Reuven's profound process of repentance for his sin concerning his father's concubine? Reuven, as we have said, wanted to inherit his father's role in the latter's lifetime, and he expressed this insolently by lying with his father's concubine, thereby showing his lack of recognition of Yaakov's right to choose the woman of the house - Bilha. In the wake of this ugly act, Yaakov kept Reuven at a distance, and it appears that his special fostering of Yosef as the firstborn who remains at his father's side and receives the "radiance of his image" (see Rashi 37:3) is accelerated as a result of Reuven's banishment. Reuven, then, is the principal loser as a result of Yaakov's special relationship with Yosef. If any one of the brothers has good reason to scheme against him, it is Reuven. Because of Yosef, Reuven loses his birthright; by means of his special relationship with Yosef, Yaakov demonstrates his love for and closeness to Rachel even after her death, and his decision not to replace her with the living Leah. But it is Reuven who takes on the challenge and tries to save Yosef from his brothers' scheme. He does this out of respect for his father and in order "to return him to his father" (37:22). His act is interpreted not only as a desire to save a life, and not only as respect for his father, but also as profound repentance for his sin in not honoring his father, and even at the price of relinquishing his birthright and the status of his mother in Yaakov's house. This, to my view, is the basis for the midrashim by Chazal as to Reuven's great repentance. The precise words they choose to describe his prolonged fasting, and the analysis of Yaakov's mild attitude towards him, are claims that merely accumulate along with the basic argument presented here.

V. REUVEN'S SIN IN UPSETTING HIS FATHER'S BEDCLOTHES

We have treated at length the view of those Tannaim who maintain that Reuven did in fact commit an act of sexual immorality and later repented. Let us now turn our attention to the view of R. Shemuel bar Nachmani in the name of R. Yonatan, and others who adopt this view, that Reuven's sin involved not a forbidden sexual act but rather upsetting his father's bed. Three elements here require clarification.

A. What exactly did Reuven do - what is the meaning of upsetting the bed, and why does this act (assuming that it refers to overturning the bed or moving it from one tent to another, as most of the commentators understand it) represent what Yaakov refers to, in his last words, as "violation of his bed" (Bereishit 49)? B. If, indeed, we are speaking of an act that is done for the sake of his mother's honor, and an act that caused no actual damage other than momentary insult, then even if we reject the possibility that Reuven engaged his whole life in sackcloth and fasting over this trifling act, we still have no answer as to why it causes such wrath and fury, to the point where Reuven is denied the birthright, the priesthood and the kingship, as we are told in Divrei ha-Yamim I (5:1-2): "The sons of Reuven, firstborn of Israel - for he was the firstborn, but because he violated his father's bed, his firstborn rights were given to the children of Yosef, son of Yisrael, but not so as to have the birthright attributed to him by genealogy, for Yehuda prevailed over his brothers and the ruler came from him, while the birthright belonged to Yosef." C. How does this interpretation fit in with the literal meaning of the verse - "Reuven went and lay with Bilha, his father's concubine; and Yisrael heard"?

REUVEN'S SIN

Following the death of Rachel, Yaakov invited Bilha to his tent in order to make her the "woman of the house" in place of Rachel, or in order to bear another son - a thirteenth. We can only speculate as to why Yaakov did not invite Leah, second in importance after Rachel. Was it perhaps because she was "despised," following her deception of him on their marriage night? Did he regard Bilha, Rachel's maidservant, as the image of the deceased Rachel? Was he hoping to balance the number of children born of Rachel and her maidservant in relation to those born of Leah and her maidservant? Was Yaakov perhaps commanded to do this; was he perhaps acting with Divine inspiration? Or did he perhaps choose Bilha because she became the adoptive mother of his most beloved sons, Yosef and Binyamin, following the death of Rachel (Bereishit Rabba 84:11 and Rashi 37:10)? We cannot know the answers to these questions, but we know with certainty that it was Yaakov's right as a person and his obligation as the head of the household to choose for himself who his partner would be. No one had any right to question him. Let us apply our imagination to what happened that night. Here is Yaakov's tent,

in the dark of night. Yaakov is busy elsewhere for a while, and Bilha - inside the tent - is preparing herself for her husband's return, excited at the honor that she has been given. Bilha is no longer wearing her regular garments; she is wearing only her night clothes. It is dark outside; everyone is asleep; no one is watching. Into the tent marches Reuven, determined, full of anger and cruelty. He grabs Bilha, drags her or carries her off, stifling her screams with his hand. He takes her to a distant tent, where he restrains her and gags her so as to keep her silent. He does not lie with her. Heaven forefend that he should defile himself with his father's concubine!

His whole intention is for the sake of heaven, for the sake of justice and his mother's honor. He also does not lie with her because he hates her: Bilha has fulfilled for his mother - even if not of her own initiative - the expression, "a maidservant who inherits the place of her mistress," by taking the status of favored wife after Rachel's death. He has no interest in "a despised woman with whom you have relations" (see Mishlei 30:23). In addition to all of the above, Reuven has no time to spend on Bilha. The moment he has finished tying her up somewhere far away, he hurries to his mother's tent (for it seems that she must was at least partially party to his plan) and accompanies her surreptitiously to Yaakov's tent, which is still empty. It is late. Yaakov returns to his tent after summoning - for the first time since Rachel's death - her replacement, Bilha. There is no moon and the tent is completely dark. Yaakov, with the modesty that he has always practiced, does what he does quietly; perhaps wordlessly, perhaps with whispers. He has no way of knowing, by means of either voice or appearance, who it is that is waiting for him in bed. He draws "Bilha" close to him, and "she" returns his affection... In the morning, behold, it is Leah. A final detail in this most troubling scenario. Let us return to Reuven, dragging an unwilling Bilha from Yaakov's tent to somewhere outside, her mouth gagged and wearing only a nightgown. We have assumed that everyone is asleep and no one sees. But this is not so! In one of the tents a young boy is trying to calm his younger brother, a crying baby, because Rachel his mother has died, and Bilha, who now raises them, has left the tent for the night without any notice of where she is going. Young Yosef is not asleep. From the entrance to his tent he watches, terror-stricken, as Reuven drags Bilha from her bed, like an attacker dragging his victim, and he concludes what any one of us would conclude in a similar situation. He also understands, that ghastly night, what kind of life awaits a person with no mother to protect him, just as Bilha has no mistress to protect her. The next day, when the plot is discovered by Yaakov, Yosef tells him what he saw and all about his fear of Reuven and the other brothers, who may potentially act as he did. "He told evil stories about them" - every bad thing that he witnessed in his brothers, the sons of Leah, he told to his father... and suspected them of sexual immorality." (Rashi 37:2)

Perhaps the words of the verse telling us that Reuven lay with his father's concubine are not an objective reporting of the facts, but rather a fact subject to the clause in the second part of the verse - "And Yisrael heard." This is how it appeared; this is what Yaakov was told - but the Torah testifies: "the children of Yaakov were twelve." None of them committed the atrocity mentioned.

Let us return to Yaakov's tent. As dawn breaks, the plot is revealed to him - in the form of Leah. There is no need to elaborate on Yaakov's humiliation and anguish at being tricked in this manner for the second time. There is likewise no need to elaborate on the humiliation and anguish caused to Bilha, who was about to be transformed from a concubine into a legal wife and one of the matriarchs of Israel. Reuven's sin, even for those who maintain that he did not commit sexual immorality, is severe, justifying the punishment that will last for eternity. The fact that he was zealous for his mother's honor is not sufficient justification for his act; after all, Shimon and Levi also did what they did in Shekhem out of zeal for their sister's honor. Yaakov's bed was not only upset but also violated. For the second time, Yaakov has been intimate with a woman while believing her to be someone else. This act represents a severe violation of the sanctity of marital relations. "I shall separate from among you those who have rebelled and sinned against Me" (Yechezkel 20:38) - R. Levi said: This refers to those born of marital relations conducted under one of the following nine conditions: when the woman is intimidated, when she is forced, when she is despised by him, when he is under the ban, when he mistakes her for another wife, when they are quarreling, when they (or one of them) are inebriated, when he intends to divorce her, when he is thinking about someone else, or when she is brazen." (Nedarim 20b) "When he mistakes her for another wife" - when he cohabits with one of his wives, believing her to be her rival." (Commentary of the Ran on Nedarim) Perhaps Yaakov ceased to cohabit with his wives at that point. He did not have any further relations with Bilha, and it appears that he did not cohabit with Leah, either. "And the children of Yisrael were twelve." (35:22) While we previously interpreted this information in accordance with those commentaries who explain "twelve - and not eleven," concluding that Reuven did not sin, we now view it from the perspective of those who explain, "twelve - and not thirteen," for no more sons were born after this violation of his private life. Thus we conclude

that Yaakov did not cohabit any more with his wives. WHAT WAS YAAKOV THINKING?

The great disappointment in Reuven arises from the assumption that Yaakov did not suspect Reuven of having defiled himself with Bilha. Above, we raised the possibility that the explicit description of Reuven as having had relations with Bilha is actually what Yosef told his father; this is what Yaakov heard. According to this view, we may assume that Yaakov's anger was much greater, for he had good reason to suspect that this had happened, and Yosef's report to him was not pure gossip. When Reuven's shameful treatment - according to our postulation - of Bilha was discovered, no sensible person would believe that he had not had relations with her, and even Bilha's own testimony would not necessarily have been accepted as reliable. At what stage, then, came the transition from "Yisrael heard" to "the sons of Yaakov were twelve"? For, obviously, this assertion by the Torah - that all of Yaakov's sons were equally worthy - is not meant as a purely theoretical matter.

The possibility that Reuven is suspected unjustly of a serious sin, and that the Torah needs to testify that he did not commit it, is familiar to us from the story of the sale of Yosef. Reuven's advice to his brothers - to cast Yosef alive into the pit in the desert - sounds no less cruel than the brothers' previous plan - to kill him with their own hands and to cast his body into the pit. A verdict of "lowering and not lifting up" is very similar to a death sentence, and once the brother's hear Yehuda's idea - that Yosef be lifted out of the pit and sold - they take back their agreement to Reuven's "cruel" idea, since "What benefit is there in our killing our brother and covering his blood?" Reuven is the only one who is not party to the brothers' merciful decision, and hence is alone remains stuck with the image of the "cruel" one. But in truth, the Torah tells us that he was actually the most merciful and moral among them, for his intention was "to save him from their hand and to restore him to his father." Did the brothers know this? From Reuven's rebuke to his brothers, as they stand before Yosef to receive food, it would seem that they did. It appears that when Reuven returned to the pit, tore his clothing and cried, "The child is gone, and I - what shall I do?" - the brothers understood that his intention had been to save Yosef. Perhaps his nobility at that moment towards Yosef, who had reported his act concerning Bilha to his father (thereby bringing about his banishment by his father and brothers), represented the basis for believing his version of the story concerning Bilha: he had not defiled her, and - as terrible as his deed had been - his intentions had been good. Although a distinction must be made between the two cases, there may be some similarity between them. The brothers felt that if Yosef had exposed Reuven's true shame, it would not be logical for Reuven to do anything to save him. His (relatively) clear conscience led him to want to save Yosef from his brothers and return him to his father.

"YOU INTRODUCED REPENTANCE"

We are left with one final point to clarify. According to the view according to which Reuven genuinely and completely repented for his act, why is the repentance of Yehuda accepted, such that he receives a blessing from his father, while the repentance of Reuven is not accepted wholeheartedly, and he is left ultimately with his father's rebuke? If we had only the midrash to rely on, with its description of Reuven's sackcloth and fasting, the solution to the question would be easy: these external manifestations of repentance are not of the same weight as the repentance of Yehuda, who was unconditionally and wholeheartedly ready to save Binyamin from slavery in Egypt because of his desire to atone for the sin of having sold Yosef into Egyptian slavery. This is repentance that includes repair, not just mourning and sorrow. We see that sackcloth and fasting did not help Achav when it came to the vineyard of Navot, because he did not actually take the step of returning the vineyard to Navot's heirs.

But even according to what we have said above - that the crux of Reuven's repentance lay in his attempt to save Yosef, who was responsible for him losing his birthright - Yehuda's repentance is still on a higher level. Yehuda did not only desire to save his brother, nor did he only berate his brothers in this regard. He went so far as to accept his punishment, bearing up bravely to the punishment embodied in the death of his wife and two of his sons, and even submitted himself as an eternal slave in place of Binyamin, brother of Yosef, whom Yehuda had sold as a slave. Shimon and Levi, who never repented for their sin, were completely rejected from the inheritance. Reuven, who repented but did not perform any act to repair his deed, was rejected from the birthright and all that it involved. Yehuda received his reward intact. (Translated by Kaeren Fish)

This shiur is abridged from the Hebrew original. The full shiur can be accessed in the original at: <http://www.etzion.org.il/vbm/parsha.php>.

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