

Rabbi Wein's Weekly Blog

LOST CAUSES

The tendency of us old folks is to glorify the past generation of the days of our youth and to be skeptical of the motives and behavior of current generations. This tendency is so universal and pronounced that King Solomon in Kohelet warns us against so thinking for it is not out of wisdom that we believe it to be so. Yet I cannot help but in my mind compare the great causes that dominated the Jewish world in my youth to the seeming absence of such inspiring causes in the generation of my grandchildren.

It is as though all of our battles have been won and there are really no new worlds left to discover and conquer. This may be the view of a grumpy old man but please hear me out. In my generation, after the destruction of a third of world Jewry, there were three main goals that dominated the minds and hearts of my friends and me studying then in the yeshiva in Chicago.

The first one was how to go about rebuilding the Jewish people physically. There was no thought of marrying late or placing career or profession ahead of marriage and family. Jewish souls required Jewish bodies to inhabit. Anti-Semitism was still rampant in America but Jews began to stand up to it and became more assertive in their Jewish identity. We began to wear a kippah in college classes and on the public street. And our generation fostered a great sense of solidarity amongst all Jews regardless of religious levels of observance and political affiliation. And "never again" meant what it said.

The second great cause in our lives was the State of Israel. We prayed for its success, hungered for its news and hoped to be able to somehow and at some time to be able to settle and live there. The then very secular nature of the state, with its constant political, noisy bickering and its ingrained unfriendliness towards strangers from the Western world, was in the main ignored by us in our hopes and wishes for the success of the first independent Jewish state in nineteen hundred years.

Israel was no longer a question of Zionism or not; it was the embodiment of the Jewish people and its future. Israel to us was like an arrangement in marriage – certain things had to be ignored in the interests of the overall success of the relationship. We felt that Israel was too fragile a gift to be subjected to the scrutiny of a George Soros or a J Street. And the wars that Israel was compelled to fight and the never-ending Arab terror to which it was subjected only served to strengthen our support and resolve.

We were never blind to the faults and deficiencies of the State of Israel but it was viewed as a work in progress, with patience and optimism the watchwords of most of the Jewish world towards Israel. The very success of Israel has now allowed its critics – left, right and center, charedim, "modern" and Reform, etc. – to become open critics of the State of Israel and some even question its right of existence. How sad it is that they so misread the map of Jewish history and the import of current events.

The third cause that was paramount in my youth was the restoration of Torah study, observance and values to its rightful place as the fulcrum of Jewish life. There was an idealistic urge to build Jewish schools and staff them, wherever Jewish communities existed. The focus was on sharing Jewish knowledge and lifestyle with Jews who had lost their traditions and heritage. There was a realization that this would require a great deal of personal sacrifice –familial, financial and even spiritual – on the part of these Torah pioneers. But somehow this bold idea found roots and growth in Israel and throughout the Diaspora as well. The cause of Torah engendered an adventurous pioneering spirit amongst yeshiva students who were willingly ready to forego lucrative careers in the world of commerce and the professions in order to restore the crown of Torah to the Jewish people.

All of the causes described above have, to a certain extent, become victims of their amazing, near miraculous achievements and successes. So perhaps what is needed are new challenges and causes to fire up the imaginations and hopes of the arriving generation and to continue in the never-ending process of renewal and regeneration of the ever-young Jewish people. I am certain that these causes will be found.

Shabbat shalom

Berel Wein

Parshat Ki Tavo (Deuteronomy 26:1-29-8)

Rabbi Shlomo Riskin

Efrat, Israel – "You must then make the following declaration before the Lord your God: "I have removed all the sacred portions from my house. I have given the appropriate ones to the Levite and to the orphan and widow, following all the commandments You prescribed to us. And I did not forget" [Deut. 26:13].

Although the Torah commands us regarding a number of commandments "to remember," such as "Remember the Sabbath day to keep it holy" (Ex. 20:8), we do not find that someone observing the Sabbath must declare that he has not forgotten to fulfill that mitzvah.

This makes the abovementioned verse from our portion, Ki Tavo, all the more curious.

Why must the Israelite farmer make this declaration upon fulfilling all of his tithing obligations? It seems superfluous. After all, if he has given his tithes, it is apparent that he has not forgotten to do so!

Rashi suggests that the farmer is affirming that he did not forget to make the appropriate blessing (Deut. 26:13). However, why is this the case only regarding this commandment and not others, some of which may be even more difficult to fulfill? Moreover – notwithstanding the importance of blessings – even if one forgets to recite a blessing, the commandment is nevertheless considered to have been fulfilled. So why did the Torah single out this mitzvah?

Perhaps what Rashi had in mind was the necessity for us to give our charity gladly and full-heartedly, even praising the Almighty for the privilege of being among the donors and not among the recipients. Hence, Rashi highlights the importance of not forgetting the blessing of thanksgiving for giving tithes!

I would like to suggest an additional explanation of the significance of the phrase "I did not forget," which I believe is closely tied to the Biblical words themselves. Recall the closing words of last week's portion: "...obliterate the memory of Amalek...do not forget (lo tishkach)."

Why must Amalek and the philosophy of Amalek-ism must be obliterated? Because they are the antithesis of the morality of the Torah:

"Remember what Amalek did to you on your way out of Egypt, when they encountered you on the way, and you were tired and exhausted.... They cut off those weak and infirm, lagging to your rear, and they did not fear God.... You must obliterate the memory of Amalek from under the heavens. Do not forget" [ibid., 25:17-19].

Amalek is identified with evil incarnate because he represents that cruel and diabolical force within humanity that takes advantage of and preys upon the weak and the disadvantaged. Over the centuries his name changes, but his motto remains the same: might makes right. He aims his poisonous hate toward the weakest members of society: the stragglers, the lame, the blind, the old, and the sick.

Amalek's attack of the weak represents the very opposite of the message that God has just given the Jewish people. If anything, the moral code of this nation of ex-slaves is to never forget its origins, to never inflict upon others what it once suffered on its own flesh at the hands of its Egyptian taskmasters.

Throughout the Torah, the ethical ideal of the Jewish People is to manifest an exquisite sensitivity to the needs of others, especially the disadvantaged other, a landless Levite, a homeless stranger, a defenseless widow, a bereft orphan; the very people Amalek seeks to exploit.

Indeed, Amalek's attack is not only directed toward a few weak, defenseless stragglers, but is hell-bent upon inflicting the death blow to the people who revere a God of compassion and loving-kindness. Amalek is the quintessence of immorality. Hence the Israelites are commanded not only to wipe out the physical presence of Amalek, but also to obliterate the very memory, or remnant, of his message. Remember what Amalek did to you. "Do not forget."

The true significance of the strange phrase ("I did not forget") in our portion now becomes evident. The sins of Amalek and the tithes to the Levites, the stranger, and the poor are intimately connected. In our portion, when the farmer declares, "I did not forget," the simplest, most straight-forward understanding of this term is that he is referring to the previous command regarding Amalek: he did not forget to give to the widow, to the stranger, to the orphan, to the Levite. After all, if he did not "forget" to help these underprivileged, he did indeed remember to destroy Amalek.

In effect, he is demonstrating to the Almighty that he has internalized the commandment to destroy Amalek and not to forget; in giving his tithes to the disadvantaged he is truly destroying any remnant of the spirit of Amalek.

Shabbat Shalom

Yeshivat Ateret Yerushalayim
From the teachings of the Rosh Yeshiva
Rav Shlomo Aviner Shlit"א

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

Cremation

Q: Is cremation permissible according to the Torah?

A: Certainly not. There is a positive Torah Mitzvah to bury the deceased. It is an honor for the deceased, an honor for the living and an honor for the soul (in the book *Gesher Ha-Chaim* [Volume 1 16:9], Ha-Rav Yechiel Michal Tukachinsky writes that it is a severe prohibition to cremate a body, since one nullifies a positive Torah Mitzvah with his hands, and causes a great calamity to the deceased. Gedolei Yisrael therefore agree that the ashes of one who is cremated are not to be buried in a Jewish cemetery. Other Rabbis explain, however, that while cremation is absolutely forbidden, it is nonetheless permissible to bury the ashes in a Jewish cemetery. *Shut Seredei Aish* 2:123-124. *Shut Melamed Le-Hoiv* 2:113-114. And in *Shut Chelkat* [2:4], Ha-Rav Mordechai Yaakov Bereish, Av Beit Din of Zurich, writes that it is preferable to be buried in a non-Jewish cemetery than to be cremated!).

"Ve-Hu Rachum"

Q: Many times at the beginning of Maariv, people who are there to Daven say "Ve-Hu Rachum" to encourage the Shalaich Tzibur to begin. Is there a problem with this?

A: Yes, since it is the Shaliach Tzibur's role to begin (And Ha-Rav Moshe Aryeh Freund, Av Beit Din of the Edah Ha-Charedit in Yerushalayim, once got up to serve as Shaliach Tzibur on Motzai Shabbat, and one of the Daveners loudly began "Ve-Hu Rachum". Ha-Rav Freund turned to him and said that the Shalaich Tzibur begins this line. *Mara De-Shematata* p. 50).

Kidney Donation by a Cohain

Q: I am a Cohain and want to donate a kidney. Is the lack of a kidney considered a blemish for which I would not be able to say Birkat Cohanim?

A: No, since it is hidden, i.e. internal.

Loving Your Fellow Jew as Yourself

Q: How can I reach the level of loving my fellow Jew as myself?

A: Through intellect, i.e. thinking about the positives of that person, despite his deficiencies.

Kashrut at a Wedding

Q: I am invited to a wedding under the Kashrut supervision of the Israeli Rabbinate. The host told me that they could order us a Mehadrin meal, but the other guests sitting with us will see the difference in the meals. What should we do?

A: Eat like everyone else, since the food is Kosher, and you should not separate yourself (And this how Ha-Rav Yosef Chaim Sonnenfeld and Ha-Rav Shlomo Zalman Auerbach acted. They would eat foods at a Simcha that they were strict not to eat in their home, as it says in the Book of Tehillim [101:2], "I walk with wholeness of heart within the confines of my house" - in the confines of my house I am strict, with other people I am not. *Ve-Alehu Lo Yibol* Volume 2, p. 66-67. See *Shut Pe'at Shadecha* 1:66 which also mentions how Rav Sonnenfeld acted in this way).

Smoking Before Davening

Q: Is it forbidden to smoke before Davening just as it is forbidden to eat and drink?

A: Yes. *Piskei Teshuvot* 89:17. And, in any event, smoking is forbidden (See *Piskei Shlomo* Volume 4 on smoking).

Gemara Fell on Floor

Q: While cleaning, my entire set of Gemara fell on the floor and my Kiddush cup broke. What should I do?

A: Pick up the Gemara and kiss it. If you are troubled about it, give Tzedakah.

The Rights of a Copyright Holder

By Rabbi Yirmiyohu Kaganoff

What is the halachic background to copyright law? Does the Torah have a concept of intellectual property rights, meaning that someone who creates or invents an item is the owner of his invention? May a rav prevent people from taping his shiur? May one copy computer software or music disks?

I will try to provide the background and history behind these issues. For our purposes, I am dividing the topic into three subtopics:

1. Copyright. Does a publisher have rights protecting him so that he has the opportunity to recoup his investment? Assuming that such rights exist, do they

apply in all cases, or only if it is a new publication? For how long are his rights protected?

2. Intellectual property rights. Does someone who wrote a book or created an invention own rights to future sales of this book or this invention? If he does, for how long do his rights last?

3. Conditions of sale. Can a seller or manufacturer stipulate that a buyer may not copy the item sold?

WHAT RIGHTS DOES THE PUBLISHER HAVE?

One of the earliest published responsa on this subject deals with a very interesting sixteenth-century case. One of the gedolei Yisrael of the time, the Maharam of Padua, Italy, entered a partnership with a non-Jewish publisher in Venice to produce a new edition of the Rambam. The Maharam invested a huge amount of time checking and correcting the text for this edition, included notes of his own, and apparently also invested significant amounts of his own money in the undertaking. A competing publisher, also a non-Jew, produced an edition of the Rambam (without the Maharam's corrections and notes) at a greatly reduced price, apparently out of spite because the Maharam had engaged his competitor. It appears that the second publisher might have been selling the set of the Rambam at a loss, with the intent to ruin the Maharam financially. The halachic question was whether an individual may purchase the less expensive edition of the second publisher.

The shaylah was referred to the Rama for decision, who ruled that the second publisher's actions constitute unfair trade practices. The Rama prohibited purchasing or selling the second edition, until the Maharam's edition was sold out. Realizing that the non-Jewish publisher would not obey his ruling, the Rama reinforced his ruling by placing a cherem (decree of excommunication) on anyone selling, buying or abetting the sale of the competing edition (*Shu't Rama* #10). This was an effective way of guaranteeing that Jews did not purchase the less expensive (but inferior) edition.

Subsequent to the Rama's ruling, it became common practice for publishers to include in their works a cherem (plural: charamim) from a well-known posek, banning the publishing of the same sefer, for a period of anywhere from four to twenty-five years, depending on the circumstances. The purpose of these charamim was to make it financially worthwhile for the publisher to invest the resources necessary to produce the sefer. Thus, these charamim encouraged publishing more seforim and the spread of Torah learning.

Generally, charamim protecting the publisher's rights were accepted and obeyed. However, in the early nineteenth century, an interesting dispute arose between the Chasam Sofer, the Rav of Pressburg, and Rav Mordechai Benet, the Rav of Nikolsburg, germane to the production of the famous Roedelheim machzorim. Two competing editions of these machzorim were produced, the first by Wolf Heidenheim, who had invested much time and money gathering and comparing manuscripts and texts. A Jewish publishing house located in a different city subsequently published a competing edition. Prior to Heidenheim's issuing the machzorim, several prominent rabbonim had issued a cherem banning other publishers from competing.

The Chasam Sofer prohibited the second publisher from selling his machzorim and similarly banned people from purchasing them (*Shu't Chasam Sofer*, *Choshen Mishpat* #41, #79). In his opinion, this case is halachically comparable to the edition of Rambam produced by the Maharam Padua.

Rav Benet disagreed, contending that there were several key differences between the cases. In his opinion, it was unnecessary to guarantee publication of machzorim by issuing charamim. Machzorim are a common item, and publishers know that they will profit from producing them. Thus, the entire purpose for which these charamim were created, to guarantee the production of seforim, did not apply. Furthermore, since non-Jewish publishers will certainly produce machzorim, issuing a cherem against competition will benefit the non-Jewish publishers, who will be faced with less competition, more than it will benefit a Jewish publisher such as Wolf Heidenheim. In addition to the above legal arguments, Rav Benet did not consider the second publisher to be unfair competition for a variety of reasons (*Shu't Parashas Mordechai*, *Choshen Mishpat* #7, 8).

The Chasam Sofer responded by contending that since Heidenheim had invested time and money in checking and correcting texts, his business interest should be protected. The Chasam Sofer even contended that Heidenheim's monopoly should be allowed for the entire twenty-five years decreed in the original cherem, even after he had sold out his first edition. This was because the investment had been so great that it required multiple editions to recoup. This leads us to a new discussion.

WHAT IF THE FIRST EDITION SELLS OUT?

May a competitor produce a new edition, if the first edition was sold out before the terms of the cherem have been completed? Some poskim contend that the cherem becomes void at this point. They reason that the purpose of the cherem has already been accomplished once the publisher successfully sold out his first edition. The goal is to encourage the production of more seforim, and that will be best accomplished by opening up the market to any publisher who is willing to produce the sefer (*Pischei Teshuvah*, *Yoreh Deah* 236:1, quoting *Tiferes Tzvi*. *Pischei Teshuvah* there also quotes Rav Efrayim Zalman Margaliyos as disputing this conclusion, but does not explain his position.)

Support for this position can be brought from an interesting halachic decision rendered by the Rosh and quoted by the Rama (*Choshen Mishpat* 292:20). In a

certain community, there was an insufficient number of seforim available for people to study, but there were individuals who had private seforim that they were unwilling to lend. The local dayan ruled that these individuals were required to lend their seforim, since their reticence was preventing Torah learning. Apparently, individuals challenged the ruling of their local dayan and referred the shaylah to the Rosh. The Rosh agreed with the dayan, although he stipulated that each borrowed sefer should be evaluated by three experts and that the borrower must provide the lender with a security deposit, in case of damage or loss (Shu't Rosh 93:3).

The question here is: Upon what halachic basis did the Rosh insist that these individuals relinquish their seforim? After all, it is an individual's prerogative to lend his property. Clearly, the Rosh held that an individual's rights are surrendered if people are deprived of Torah learning, as a result. Similarly, the right of the publisher is rescinded after the first edition sells out if the result is that less seforim are available for study.

DOES HALACHA RECOGNIZE INTELLECTUAL PROPERTY AS OWNERSHIP?

This shaylah came to the forefront in the middle of the nineteenth century, also as a result of a din torah. Around 1850, a printer named Yosef Hirsch Balaban published a large-sized edition of the Shulchan Aruch with major commentaries, accompanied for the first time by the anthologized commentary, the Pischei Teshuvah. (This is the Pischei Teshuvah that was referred to above in a note and is often quoted in these articles.)

Balaban was sued in beis din by a printer who claimed to have purchased exclusive rights to the Pischei Teshuvah from its author. At the time, the Pischei Teshuvah had been printed only once, in a small-sized edition including only the Shulchan Aruch and one other commentary. The plaintiff claimed that Balaban had violated his exclusive ownership rights to the Pischei Teshuvah.

This writer is aware of three teshuvos on the shaylah, each reaching a different conclusion.

The rav who presided over the din Torah, Rav Shmuel Valdborg of Zalkava, ruled in favor of Balaban for the following reason: The original edition of the Pischei Teshuvah did not include any statement placing a cherem against someone printing a competing edition. Rav Valdborg contended that this voided any copyright on the Pischei Teshuvah. Rav Valdborg included two more reasons to sustain his ruling. One, the original edition of the Pischei Teshuvah was no longer available. Thus, even had a cherem banned a competing edition, it would have already expired once the first edition had sold out. Second, even if the first edition was still available for sale, Balaban's reproducing the Pischei Teshuvah as part of a multi-volume set of Shulchan Aruch was not competition for the original edition, where the Pischei Teshuvah had been published as a small, presumably inexpensive sefer. Rav Valdborg reasoned that no one interested in purchasing the Pischei Teshuvah would likely purchase Balaban's edition of the Shulchan Aruch just for that purpose; instead, he would buy the small edition (assuming it was available). Thus, he did not consider Balaban's edition to be unfair competition for those looking to purchase the Pischei Teshuvah.

According to Rav Valdborg's analysis, the author of the Pischei Teshuvah has no greater ownership to his work than any person publishing someone else's work. His latter two arguments, that the first edition was already sold out and therefore the cherem expired, and that the multi-volume set does not compete with the one volume edition, would both be preempted if we assume that the author retains ownership over his work. Thus, Rav Valdborg did not believe that halacha recognizes intellectual property rights. The Sho'eil uMeishiv (1:44) took issue with this point. He contended that the author of a work is its owner. Thus, the Pischei Teshuvah retains his rights as author/owner, whether or not a cherem was declared against competition. A cherem is to guarantee a publisher enough time to recoup his investment. An author is an owner, not an investor, and maintains ownership over the item produced, which he is entitled to sell, regulate, or contract. This is called intellectual property rights.

A contemporary of the Sho'eil uMeishiv, Rav Yitzchok Shmelkes, also ruled against Balaban, but disagreed with the Sho'eil uMeishiv's reasoning (Shu't Beis Yitzchok, Yoreh Deah 2:75). The Beis Yitzchok contends that halacha does not recognize intellectual property rights as inherent ownership. In the Beis Yitzchok's opinion, the author has a right of ownership, but only because it is accepted by government regulation, what is called dina dimalchusa dina, literally, the law of the government is binding. Although halacha does not usually accept non-Jewish legal regulations, a civil law established for the wellbeing of society is sometimes accepted. Since intellectual property rights encourage initiative and invention that are in society's best interests, halacha accepts these ownership rights to the extent that they are recognized by civil law.

There are several key differences between the position of the Sho'eil uMeishiv and that of the Beis Yitzchok. According to the Sho'eil uMeishiv, the ownership of an author exists forever, just as any other property that he owns. Upon his passing, they are inherited by his heirs, just like his other property. However, in the Beis Yitzchok's opinion, the ownership rights extend only according to what is established by government regulation and expire after a number of years. Moreover, in most countries a copyright is valid only if registered, and it must also be indicated in the published work. Presumably,

this was not true in the Beis Yitzchok's place and time, since he applied civil copyright law to the Pischei Teshuvah, even though the author had not indicated any copyright in the sefer.

Thus, whether halacha recognizes intellectual property ownership is a three-way dispute, Rav Valdborg rejecting it, the Sho'eil uMeishiv accepting it, and the Beis Yitzchok contending that it depends upon whether such ownership is assumed in the country of publication.

Incidentally, there is evidence that the Chofetz Chayim agreed with the Sho'eil uMeishiv's position. The Chofetz Chayim left specific instructions detailing who owns the publishing rights to his seforim after his passing. He instructed that his seforim on loshon hora could be republished freely, and that the Mishnah Berurah may be published by anyone, provided that 4% of its volumes printed are donated to shullen and batei medrash. However, he stipulated that most of his seforim could not be republished without permission of his family members and that the proceeds from such publication should succor his widow for the rest of her life. The Chofetz Chayim's instructions imply that he considered his ownership to be in perpetuity. Furthermore, the Chofetz Chayim did not publish any words of cherem or copyright inside his seforim. Thus, he seems to have presumed ownership over future editions of seforim on the basis of intellectual property (Shu't Minchas Yitzchok 9:153), although it is possible that he based it on dina dimalchusa dina, following the opinion of the Beis Yitzchok.

MAY A RAV PREVENT PEOPLE FROM TAPING HIS SHIUR?

On the basis of the above discussion whether or not halacha recognizes intellectual property rights, one might suggest that someone giving a shiur may restrict the taping of the shiur on the basis that he owns the shiur. However, in a responsa on the subject Rav Moshe Feinstein rules that a rav may forbid taping his shiur, but for totally different reasons. They are:

The lecture may include material that should not be circulated without supervision.

Subsequently, the rav may change his mind from the conclusions he reached in the shiur, or the shiur may include ideas that are conjectural.

He might be embarrassed later by the opinions he stated when he gave the original shiur (Shu't Igros Moshe, Orach Chayim 4:40:19).

In the same responsa, Rav Moshe rules that if the rav permitted the shiur to be taped, he may not prevent people from reproducing these tapes for sale (Shu't Igros Moshe, Orach Chayim 4:40:19). This implies that Rav Moshe holds that the rav cannot claim ownership of the shiur on the basis of intellectual property, certainly not to the extent held by the Sho'eil uMeishiv.

Rav Moshe also rules that if someone is selling copies of a shiur, it is prohibited to make copies without permission of the seller. This takes us to the next subtopic in our discussion.

IS IT PERMITTED TO COPY A TAPE OR DISK?

Does a seller have the halachic right to stipulate that a buyer may not copy the item sold? This shaylah takes our discussion in a new direction. Until now, we have been discussing whether halacha prohibits publishing a competing edition to an existent work. Now our shaylah is whether one may copy what he purchased, when the seller stipulates that he may not.

As we saw above, Rav Moshe rules that this is prohibited unequivocally and is an act of stealing, since you are using someone's property in a way he has not permitted. Numerous other contemporary poskim also rule this way (see Mishnas Zechuyos HaYotzeir; cf. Shu't Shevet HaLevi 4:202).

Some poskim contend that copying disks may not be considered stealing, although they also prohibit doing so for various other reasons. The line of reasoning why they do not consider it stealing is very instructive.

There are basically two ways that a seller can limit how a purchaser will use an item after the sale. The first is by placing a condition on the sale. If the buyer subsequently violates the condition of sale, the sale becomes invalid, and the buyer has used the item without permission. According to halacha, using someone's item without permission is stealing. Thus, by voiding the condition of sale, the purchaser has retroactively made himself into a thief.

However, there is a strong argument against this position. If indeed the sale has been voided, then the purchaser is entitled to a refund of his purchase money. Since the seller has no intention of providing a refund to everyone who copies his tape or disk, clearly he does not intend this stipulation to be a condition that invalidates the sale.

There are two other ways that the seller can enforce rights not to copy his material. One is halachically referred to as "shiyur," which means that the seller places a partial restriction on the sale. In this case it means that he sold the right to use the tape but not the right to copy it. Some poskim contend that one should assume that computer programs, tapes, etc. are sold with these stipulations. It appears that Rav Moshe Feinstein held this way.

There is a second reason why it is prohibited to copy this material. Most computer software agreements specify that the programs are licensed, rather than sold. This means that the seller has rented the right to use the equipment but has never sold these items outright. Using the items in an unapproved fashion thereby constitutes using an item I have rented in a way that violates my agreement with the owner. Therefore, copying these items against the owner's expressed wishes is certainly a violation of halacha.

In addition to the above reasons, many poskim point out that it is not good for a Torah Jew to use something in a way that violates the implied trust he has

been given. There also might be a halachic issue of violating *ve'ahavta l'rei'acha kamocha*, loving your fellowman like yourself, since if you published software or disks, you would not want someone else to copy them.

Based on the above discussion, most of us will realize that we have probably been following certain practices without verifying whether they are halachically permitted. It behooves us to clarify with the posek we use whether, indeed, these activities are permitted. For example, may I photocopy a page of a book for educational purposes? Does it make a difference whether it is being used for Torah purposes or for a secular use? (See *Shu't Shevet HaLevi* 4:202.) May I make a copy of a tape or disk, if I am concerned that the original will wear out? May I make an extra copy of a computer program and use one at home and one at work?

Clearly, a Torah Jew must be careful to follow halacha in all his financial dealings and arrangements. Ultimately, this is the true benchmark that measures what is considered *kiddush Hashem* in this world.

Although the actual hurricane has passed, the full extent of its toll on Houston's Jewish community is still being assessed. What is certain is that many homes have been damaged and hit hard by flooding, and many families are suffering as a result.

As we have done over the years when disaster strikes, we have already provided emergency food relief, and will continue doing so. In addition, as we look ahead to the next few weeks in which the *Yomim Tovim* occur, our priority will be to provide humanitarian assistance like food, clothing and other *Yom Tov* needs, to Jewish families and institutions.

You can share in this great mitzvah, by being a part of this extraordinary chessed opportunity to help our fellow Jews.

Electronic donations can be made at www.agudathisrael.org.

Type "Disaster Relief Fund" in the "comments" box.

Donations for that purpose can be sent to Agudath Israel's offices at 42 Broadway, 14th Floor, New York, NY 10004 (checks should be made out to Agudath Israel but marked "Disaster Relief Fund").

Relief: Update

BY YITZCHOK ADLERSTEIN · PUBLISHED SEPTEMBER 3, 2017 · UPDATED SEPTEMBER 3, 2017

Lots of hungry people in Houston are now being fed. As reported here earlier, the Dallas community assumed responsibility for providing fresh meals, coordinating with HKA – Houston Kashruth Association.

Three caterers in Dallas swung into action, two fixed location, and one mobile. The latter is now in place in Houston. It is not going to move for a while.

Three thousand meals were originally prepared and sent on an 18-wheeler. They were intended for an assumed 300 families, and were supposed to be used for weekday use. It was quickly learned that 300 was wishful thinking. More affected families came out of nowhere.

The Dallas crew was immediately urged to use some of the meals for Shabbos. Then the Houston partner realized that they had nothing for Thursday night. So by now, all the shipped Dallas meals are gone, having been allocated for Thurs. evening through Shabbos, and local Houston caterers are working feverishly to help with the weekday demand, even as Dallas continues to produce through the mobile kitchen it sent, as well as shipping by truck from a Dallas kitchen.

The fresh meal supply is only one part of the relief operation. The waters have receded even in areas that were covered by 15-18 feet of water. Most of the streets are dry, but in front of homes are small mountains of debris: carpets, mattresses, furniture.

And sheetrock. That's the most important. Homeowners have a narrow window of time in which to use crowbars to rip out their sheetrock walls. If they miss it, they will lose their homes to mold.

So a small army of volunteers from all over the country, including three vanloads from Dallas, has descended upon Houston, to help provide the muscle.

Hebrew Theological College (aka Skokie has sent both high school and beis medrash students to help. [Shout-out to my grandson Eli Adlerstein!]) This means that besides the affected families, the Dallas effort has assumed responsibility for feeding lots of justifiably hungry volunteer workers.

(Rabbi Sholey Klein, the head of Dallas Kosher – who provided most of the information for this report – simply accepts each new challenge with equanimity. The *Ribono Shel Olam* wants us to do it, so we're doing it.)

There are amazing stories here of the greatness of ordinary people.

Of volunteers who have come in at their own expense to help out, like the *Hatzolah* group from Miami that couldn't even get situated before the National Guard commandeered them to man boats and go house to house to rescue people.

Like the Houstonian who took in ten families (that is families, not people), but wouldn't take food for himself (although he had run out of all of his own; since his house was spared, he didn't think he was entitled), until forced by Rabbi Klein.

You can't find a rental car for under \$150 a day, but maybe this is why HKBH invented Uber, whose drivers are up and about. Trucks are a different matter. You can't find a rental at any price.

Two Dallas Christian pastors, impressed by the food operation, tried to rent one, and got nowhere. So they bought a 24 foot refrigerated truck, and provided it to Dallas Kosher to shuttle food. (yes, we are looking for the names; any info, contact Rav Adlerstein.)

Meanwhile, they are the ones driving it! (When the Dallas team first arrived, roads were still impassable. So they set up shop at the Beren Campus. By now, they are distributing to four satellite locations in other neighborhoods, which of course is another logistical challenge.)

The daily expenses are now at \$10,000. Sponsors of an entire day are urgently sought.

(If you are a potential major donor, contact me offline. You will find me.)

They will be there a minimum of two weeks – but they may have to stay much longer. The costs per day will rise with time, not fall.

That is because right now, kosher food providers from around the country are making large, generous contribution of raw product which can't be expected to be repeated.

The costs of the food will rise. Volunteers will not be able to put their lives on hold for weeks on end either. Donations of any amount, of course, are welcome. To help with this food effort, please go to the Congregation Ohr HaTorah website, and contribute online. Be sure to go to the Comments box, and fill in Houston Relief.)

Mi k'amchah Yisrael!

HOUSTON RELIEF FUND

As you are surely aware, Houston TX has been hit with the worst floods in its history, affecting many thousands of homes, and tens of thousands of people. Earlier today I was in touch with Rabbi Yehoshua Wender, the senior rabbi of our sister community in Houston, Young Israel of Houston. I also spoke for some time to his wife.

You can find information on Young Israel of Houston here: <https://www.yihouston.org/default.aspx>. You can find information on Rabbi Wender here: <https://www.yihouston.org/about.aspx#rabbi>. Rabbi Wender shared with me the following information about relief efforts he is personally involved in at the moment:

"My estimate is that at least 20,000 Jews in Houston have been affected by the flood.

"People from the community who just moved back into their homes that were flooded in the floods 15 months ago have now been flooded out of their homes again.

"Getting money from the Federal aid program and from insurance companies is difficult and complex, made even harder by the many thousands who need to do it right now.

"Many people are finding that they need to lay out large sums of money that they don't have available.

"This shabbat, the shul is providing 3,000 meals across the community.

"We will need to continue providing meals for quite some time to many people who have been affected. There are literally hundreds who are in immediate and desperate need of financial help that have been in direct contact with me.

"I have told them all I will help them, but I don't have the funds to fulfil the promises I've already made — and I know that I am going to have to help many more people. Every dollar that I receive will be passed on to those who need it.

"I am overwhelmed at the incredible support we have already received from across the country, but it is not enough.

Rabbi Wender will personally distribute the money raised in our community to those in the Houston Jewish community who have been severely affected by the disaster.

Just to be clear — there is no middleman here — every penny you give will go directly to those in need.

Please send your check made out to YINBH, and in the memo line write: Houston Flood Relief

The address to send your check to is: YINBH, 9261 Alden Drive, Beverly Hills CA 90210

You can also make your donation online, using this link: <https://beverlyhillssynagogue.shulcloud.com/payment.php>

You can also make your donation online, using this link: <https://beverlyhillssynagogue.shulcloud.com/payment.php>

In the dropdown menu choose: "Rabbi Discretionary Fund", and in the Payment Notes type: "Houston Flood Relief"

IMPORTANT: If you could let me know by email how much you have sent, or intend to send, we can wire that money ASAP so that it gets to the recipients immediately.

I URGE YOU TO PLEASE GIVE AS GENEROUSLY AS YOU CAN.

Ohr Somayach :: Torah Weekly :: Parshat Ki Tavo

For the week ending 9 September 2017 / 18 Elul 5777

Rabbi Yehuda Spitz

Insights - The Red Carpet Treatment

"That you should take of the first of every fruit of the ground that your bring in from your Land that the L-rd your G-d gives you, and you

shall put it in a basket and go to the place that the L-rd your G-d will choose to make His Name rest there.” (26:2)

I once heard Rabbi Noach Orlowek say to someone who had just complimented him on the shiur (lecture) he had given, "Thank you so much. Rabbis also need encouragement."

If you were to ask me as a rebbe (teacher) in a Ohr Somayach, what is the most important quality that a rebbe must have, I would say the ability to give one's talmidim (students) the belief that they can succeed.

The Mishna in Tractate Bikurim says that when the bearers of the "first fruits" approached Jerusalem, even hired workers in the middle of their work were obliged to down tools and greet them, saying: "Welcome, our brothers from (such and such place)!" And a flute played in front of them all the way until they reached the Temple Mount with their offerings.

The Talmud (Kiddushin 33a and Chullin 54b) points out an apparent contradiction to this. It says that a hired worker is forbidden to stop his work even to stand for a Talmid Chacham (Torah scholar). Rabbi Yosi Bar Avin resolves this matter: "In the case of bikurim, if the bringers don't receive an enthusiastic reception there is a possibility that next year they won't want to go through the trouble of bringing their first fruits up to Jerusalem at all."

There is something puzzling about this: The halacha says that a hired worker is forbidden to stop work even to greet a Torah scholar — in other words that's the right thing to do. Nevertheless when it comes to bikurim, if the workers don't stop and greet those bringing their bikurim they are considered in the wrong. But surely, those who are bringing the bikurim should overcome their feelings of lethargy and rouse themselves even though they will not get a "red-carpet" reception! After all, it's their mitzvah.

Even if a talmid lacks the appropriate motivation to fulfill his mitzvah of learning Torah, but the rebbe has not done everything to roll out the red carpet for him — to imbue him with the enthusiasm and the belief that he can succeed — the responsibility is the rebbe's and not the talmid's.

My father was a furniture manufacturer for most of his adult life. He used to say to me, "There's no such thing as a bad worker — just a bad boss."

If that's true of furniture, how much more are we, as teachers and mentors, responsible for the success of our wards?

Source: based on the Chiddushei Halev

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OU Torah

Ki Tavo: Walls Have Ears

Rabbi Dr. Tzvi Hersch Weinreb

We all have our secret lives.

I don't mean to say that each of us has a sinister side, which we wickedly act out in some deep, dark, private world. What I do mean is that we all act differently when we are alone, or with a few close intimates, than we act when we are out in public, among others.

There is no one who is so behaviorally consistent that he is the same person in the privacy of his own home as he is in the workplace or marketplace.

Nor do I suggest that there is anything wrong with the fact that we each are two persons, and perhaps even multiple persons, depending upon the social context in which we find ourselves.

It is problematic, however, when we act hypocritically, presenting a pious and altruistic face to the world, while acting cruelly and crudely in our own homes and with our families.

In this week's Torah portion, Parshat Ki Tavo, there appears a particularly piercing and perceptive verse: "Cursed be he who strikes his fellow in secret—and all the people shall say, Amen."

In no way does the Torah imply that he who strikes his fellow in public is to be blessed. Rather, the Torah recognizes the tendency humans have to reserve the worst side of themselves for their secret social settings, even when they behave meritoriously in their public social worlds. It is the façade, the contrast, between public demonstrations of righteousness and private acts of fiendishness that is cursed.

Sinning in secret is particularly offensive in the religious personality. He or she who believes in a God who is omniscient, and who yet sins

in private, is guilty, not merely of hypocrisy, but of heresy. If God knows all, how can you delude yourself into thinking that your secret misdeeds can go undetected?

The Shulchan Aruch, the Jewish code of law, opens with a statement recognizing that a person's behavior, when he is alone at home, is very different from his behavior when he appears before a great king. And it urges the religious person to be aware that he is always in the presence of the great King of Kings, the all-knowing God.

But it is not only from a spiritual perspective that it is wrong to act demeaningly in private. There is a practical aspect as well to the importance of behaving properly even in secret. There always is the very real possibility that our secrets will be "leaked" and that things we were sure would never be known will become embarrassingly exposed.

I know of no place where this is conveyed more cogently than in these words of caution, to be found in Ecclesiastes (10:20):

"Don't revile a king, even in your intimate thoughts.

Don't revile a rich man, even in your bedchamber;

For a bird of the air may carry the utterance,

And a winged creature may report the word."

Indeed, as our Sages say (see Rashi on Berachot 8b), the walls have ears.

The passage in this week's Torah portion that condemns secret violence also gives quite a comprehensive catalog of other sins which tend to be performed behind closed doors. They include elder abuse, criminal business practices, deceiving blind persons, subverting the rights of the helpless, incest and bestiality, and the acceptance of bribery. Quite a list, and one that has certainly not lost its relevance over the centuries.

I am not so naïve as to think that we are required to act in an absolutely identical fashion in our "secret chambers" as we do out in the "real world." To a certain extent, it is necessary and right that we maintain a façade of sorts when we interact in public. We all have, and need, our masks and personas.

But many times, we go too far and indeed split our personalities between the Dr. Jekylls of our external visible behavior and the Mr. Hydes of our inner sancta. How well advised we would be to set as an objective for ourselves the words of the daily prayer book:

"A person should always be God-fearing,

privately and publicly,

acknowledging the truth and speaking it in his heart."

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Kee Tavo 5777-2017

"The Choice Parts to G-d"

Rabbi Ephraim Z. Buchwald

Parashat Kee Tavo is best known for the second תוכחה, Tochacha, G-d's second reproof of the People of Israel. The first is found in parashat Bechukotai, Leviticus 26:8-26:44.

Aside from the Tochacha, this week's parasha, Kee Tavo, also concludes the general clarification of the numerous mitzvot that are found in the Book of Deuteronomy. As the parasha opens, Moses emphasizes those mitzvot that specifically relate to the land of Israel, focusing on the fruits that the land brings forth. It also records the texts of the prayers recited by the farmers when the first ripened crops are brought to the Temple and which the farmers present to the Kohanim—the Priests, in Jerusalem. This ceremony serves to underscore the fundamental principle of Judaism, which recognizes every mortal accomplishment as a gift from G-d.

Parashat Kee Tavo opens with the verse in Deuteronomy 26:1, וְהָיָה כִּי יָבִי, and it will come to pass when you enter the land that the L-rd your G-d gives you as an inheritance and you possess it and dwell in it. The Torah continues (Deuteronomy 26:2), you shall take the first of every fruit of the ground that you bring in from your land that the L-rd your G-d gives you, and you shall put it in a basket and go to the place that the L-rd your G-d will choose to make His Name rest there.

It is in Jerusalem that the farmers come to the Priests who will be there in those days to proclaim that their every accomplishment is a gift from G-d, and that the beautiful fruits are a testimony to that fact.

Rabbi Shimshon Dovid Pincus in Tiferet Shimshon al HaTorah, Deuteronomy, explains why the Torah's commandment to bring the first fruits to the Temple is relevant to contemporary times. In Temple times, every Jewish farmer brought the first fruits that grew in the gardens and fields, and transported them to Jerusalem in beautifully decorated baskets in a great public ceremony accompanied by music. Although we are no longer able to practice this commandment, and the first fruits are no longer brought to the Temple, the basic premise of the ceremony is still relevant and applicable today.

In general, the first fruits are always the most beloved by the farmer. It was for these fruits that the farmer longed for an entire year, labored in the fields during the harsh winters and the hot summers, looked with hope for the spring to come to behold the rewards of his efforts. Obviously, when the farmer finally goes to the field and sees the beautiful, first-ripened fruits, the farmer is eager to bring them home as quickly as possible to share them with his family. The Torah, however, says that the first and most beloved fruits are the portion of G-d.

Like the farmer, we too must remember that the source of all the blessings is the Al-mighty Who has given us these fruits with abundant grace and love. As we look upon the colorful and beautiful basket of fruits, or their modern equivalents, in our homes, every fruit so unique and tasteful, we must recognize the abundant love that G-d showers upon us. It is He, Who provides food for the entire world with grace, loving-kindness and mercy.

The sparkle emitted from the basket of the first fruits is very much like a kiss from G-d, that is to be reciprocated to G-d Al-mighty with abundant love. The first fruits that are brought to the priest at the holy Temple, are therefore sanctified to G-d.

Rabbi Pincus points out that the idea of gratitude that's expressed in the ceremony of the firstborn fruits, applies to the entire Torah, and to all of life.

Maimonides in the Laws of Forbidden Offerings 7:11, writes:

The same principle applies to everything that is done for the sake of the good G-d; namely, that it be of the finest and the best. If one builds a house of prayer, it should be finer than his private dwelling. If he feeds the hungry, he should give him of the best and sweetest of his table. If he clothes the naked, he should give him of the finest of his garments. Hence, if he consecrated something to G-d, he ought to give the best of his possessions. Thus, scripture says: "All the fat is the L-rd's," Leviticus 3:16.

Rabbi Pincus provides a stark example of this principle from contemporary times. A person comes to the door to collect for Hachnassat Kallah-funds for a poor bride. In most instances, people start rummaging through their closets for some old garment to get rid of that they never wore, that they received long ago from an aunt. While they mistakenly think that they profit from the mitzvah, that is wrong. After all, Maimonides says, "Give the best garment."

Rabbi Pincus concludes by emphasizing, that everything that is done for the sake of Heaven and for the good of G-d, needs to be done in the most beautiful and elegant manner.

May you be blessed.

Rabbi Yissocher Frand

Personal Time & Effort / Be Happy

Normally We Say, "Don't Look at the Kankan" [Avos 4:20] But Not Here

The Torah says us that when a person brings the Bikkurim [First Fruits] to the Kohen "the Kohen shall take the basket from your hand and place it before the Altar of the L-rd, your G-d." [Devorim 26:4] The Malbim points out that there were a number of rituals in the Bais HaMikdash [Temple] Service, for which keilim [receptacles] were necessary. Rarely, if ever, however, does the Torah speak about the Keili that is used to bring the offering. For example, in discussing the ritual of "zerikas hadam" [sprinkling the blood from a sacrifice on the altar], the Torah does not say, "you shall take the receptacle in which the blood was gathered and sprinkle the blood..." it merely says, "you shall sprinkle the blood." We would expect that here too the Torah should say, "the Kohen takes the Bikkurim from your hand." Uncharacteristically, the Torah here focuses on the basket, rather than merely the contents of the basket!

The Malbim quotes the Sifrei: "From here we derive that the wealthy used to bring their First Fruits in keilim of silver and gold (which they took back after the Kohanim took the Bikkurim from them) and the poor used to bring the First Fruits in woven reed baskets (which the Kohanim kept)." According to the Malbim, based on this Sifrei, the reason the Torah emphasizes that the Bikkurim were brought in baskets is precisely for this reason — to teach us that (in the case of poor farmers who brought reed baskets) the Kohanim kept the basket along with the fruits.

The Malbim explains that the Sifrei derives this distinction between the rich and poor farmer from the fact that when the Torah speaks about Bikkurim in parshas Mishpatim and parshas Ki Sisa there is no mention of baskets. It is only here in parshas Ki Savo that the basket is mentioned. The Sifrei concludes that our parsha is referring to a poor farmer who brings the fruit in a woven reed basket. In this case, the Kohen takes the basket from his hand (and keeps it). In Sefer Shmos, the Torah is referring to a rich farmer who brings his First Fruits up to Yerushalayim on a silver platter. There, the Kohen takes the fruit from him and the farmer keeps the fancy container.

The purpose of this "double standard", the Malbim explains, is actually to the poor farmer's merit (l'zakos es ha'ani). Most likely, the poor person wove the basket himself. The basket he makes with his own hands is more impressive for the Kohen than the rich farmer's silver platter — to such an extent that it becomes part of the Bikkurim gift to the Kohen. Why? It is because the poor person put his blood, sweat, and tears into making that basket. Since he needed to ensure that the basket would be tahor [pure], he presumably made a new basket with his own hard labor and the basket now becomes an integral part of his Bikkurim offering. The woven reeds are infused with the same Kedusha [holiness] as the Bikkurim are.

True, the wealthy person paid a lot of money for the silver platter — but it is not the same. That which you put your personal time and effort into because it is the most you can afford takes on a special importance.

When my wife and I were first in Kollel, we were struggling financially. I remember that for some special occasion — a birthday or Mother's day — my wife wanted to buy her mother a present. However, in those days, the money we had would not have bought more than a trivial item. Instead, my wife decided to make some kind of item for her mother — either knitting or embroidery, I do not remember the details. I do remember that it made a big impression on my mother-in-law. This is the best we could do. It was the most we could afford. But it was a beautiful hand crafted item that my wife made with love with her own hands. This is exactly what happens with the poor farmer and the basket. The rich farmer can go to a silver store and buy plenty of platters. However, the poor farmer, who knew he had to make a basket and spent time gathering the materials and working hard in shaping it — he probably even cut himself in making it — it was literally his blood, sweat, and tears. That takes on a special importance.

Therefore, Parshas Bikkurim is one of the rare places where the Torah talks about the keili in which the offering is brought.

A Sad Person Cannot Make Someone Else Happy

Parshas Ki Savo contains the parsha of Vidui Ma'aser [The "Confession" recited regarding one's tithing obligations]. "I have not eaten of it in my intense mourning, I have not consumed it in a state of impurity, and I have not given it to a dead person..." [Devorim 26:14]. A Jewish farmer needs to give an accounting at the completion of the tithing cycle.

The seven year Shmittah cycle is composed of two three year "mini cycles" followed by the Sabbatical year. In each of the first two years of the "mini cycle," the farmer must give ma'aser rishon [a first tithe] to the Levi and he must bring ma'aser sheni [a second tithe] to Yerushalayim and consume it there. In the third year of this cycle, ma'aser ani [a tithe given to the poor] replaces ma'aser sheni.

Following the completion of the three-year cycle, the farmer needs to make a statement declaring he has properly observed all the ma'aser requirements. He concludes the declaration with the words "...I have listened to the voice of Hashem, my G-d, I have acted according to everything You have commanded me." Rashi interprets the words "I have acted according to everything You have commanded me" to

mean I have rejoiced (samachti) and have brought joy to others with (seemachti) the ma'aser."

Now we understand well what it means "I have brought joy to others (seemachti) with these tithes" — because the produce was given to those who were less fortunate — the Leviim and the poor. The Leviim did not have much money and the impoverished certainly did not have money either. Therefore, when they receive the gifts of ma'aser from the successful Jewish farmer, it brings them much joy. However, where do we find in the laws of ma'aser — even regarding ma'aser sheni (which is consumed by the farmer and his family themselves in Jerusalem) — that there is a requirement of simcha [joy]?

My son told me an interesting observation. In last week's parsha (Ki Seitzei), we read "When a man marries a new wife he shall not go out to the army, nor shall it obligate him for any matter; he shall be free for his house for one year, and he shall gladden [v'seemach] his wife whom he has married." This is the halacha that the first year after marriage, a newlywed does not go to war, he is charged to stay home — "and gladden his wife he has married" (v'seemach es ishto asher lakach).

The trop [cantillation] under the word v'seemach is a tipcha. A tipcha is the equivalent of a comma — it indicates a pause in the pasuk. This would seem to be inappropriate punctuation. We would assume that this is one statement: "He shall gladden the wife he has married."

There should be no pause in this pasuk. We would expect to see a mercha-tipcha cantillation and have the pasuk read as a single thought instructing the new husband to make his wife happy. Why the pause?

The answer could be that in order to make someone else happy, one has to be happy himself. Unhappy people cannot provide for others and make them happy. In order for a husband to gladden his new wife, he himself must be b'simcha [joyful]. Therefore, even though technically the word v'seemach means you should make others happy, the remez (nuance; hint) alluded to here by the cantillation is: First you be happy (pause) and then you can make someone else happy.

The halacha is, for instance, by Birkas Kohanim [the Priestly Benediction] that a Kohen who is not in a state of happiness (sharui b'simcha) cannot "duchen." Why? It is because when one is dispensing blessing, he must be in a joyous state of mind. He must have a generosity of spirit in his heart before he can properly convey blessings to others.

This could be what Rashi means here in Parshas Ki Savo when he interprets the word "I have rejoiced" [samachti] as both samachti and seemachti. I have been joyful myself; therefore I was able to accomplish the true purpose of tithing — bringing joy to others through my gifts to them.

*Transcribed by David Twersky; Jerusalem DavidATwersky@gmail.com
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Rav Kook Torah

Ki Savo: Be Happy!

The Torah portion opens and closes with the same theme: simchah, joy. It begins with the mitzvah of offering bikkurim (first-fruits) in the Temple, an exercise in appreciating what God has given us, as it says, "You shall rejoice in all the good that the Lord your God has granted you and your family" (Deut. 26:11).

Afterwards, the Torah describes the terrible trials that will befall the Jewish people if they are unfaithful to the Torah's teachings. This section concludes with the root cause for these punishments:

"Because you did not serve the Lord your God with joy (simchah) and contentment (tuv leivav)." (Deut. 28:47)

Not only does God expect us to keep the mitzvot, but we are to perform them with joy and contentment. What is the difference between these two emotions?

Joy and Contentment

Simchah and tuv leivav are two distinct levels of happiness. Interestingly, they are the result of contradictory perceptions.

What is the source of tuv leivav? This is a sense of satisfaction that we feel good about our service of God. We pray, study Torah, and perform mitzvot out of a feeling that we are doing what we were created to do. As one of God's creations, it is natural for us to serve Him. We are grateful to have been blessed with the intellectual and

spiritual capabilities needed to worship Him through Torah study and mitzvot.

Simchah, on the other hand, comes from the perception that some unexpected boon has befallen us. We feel joy in serving God when we are aware of the tremendous privilege in being able to connect to God — a gift far beyond our true level. Awareness of this amazing gift, while at the same time feeling that our service is appropriate and suitable, allows us to feel both simchah and tuv leivav.

Cultivating Joy

How does one attain this simchah in serving God? The secret to developing and enhancing our sense of joy is to reflect on two thoughts:

Appreciating the significance and wonder of every medium - such as Torah study and mitzvot — that allows us to connect with the Master of the universe.

Recognizing the Divine source of our soul and its inherent holiness, even though it may have become soiled through contact with the material world.

We experience genuine joy in serving God when we are able to thoroughly internalize these two insights.

(Gold from the Land of Israel, pp. 332-333. Adapted from Mussar Avicha, p. 32) - Copyright © 2006 by Chanan Morrison

Peninim on the Torah Hebrew Academy of Cleveland

פרשת כי תבוא - תשע"ז

Parashas Ki Savo

Rabbi L. Scheinbaum

ונצעק אל ד' אלקי אבותינו וישמע ד' את קלנו

Then we cried out to Hashem, the G-d of our forefathers, and Hashem heard our voice. (26:7)

The Chassidic Masters teach that, when Klal Yisrael was enslaved in Egypt, they lost the power to articulate their needs to Hashem. Sagar aleihem ha'midbar; "The wilderness has locked them in" (Shemos 14:3). Pharaoh claimed that the Jews were confused and lost in the wilderness; literally, they were locked in. Midbar is interpreted by the Masters as medaber, to speak. Their ability to speak, to pray to Hashem properly, to voice their concerns and plead their case was locked, i.e., they were unable to speak. Thus, the only manners of expression left for them were: anachah, groaning; zaakah, crying out; shaavah, outcry/crying; naakah, moaning. These are not terms of speech, because we had not yet reached that level in which we could speak to Hashem. Shaavas aniyim Atah sishma; "The outcry of the poor You hear" (Tefillas Nishmas, nusach Sfarad). Chazal (Nedarim 41a) say, "Ein ani ela b'daas, A (true) poor person is one who is impoverished of understanding." The Nesivos Shalom explains that, like the poor person/poor of intelligence, who lacks the ability to speak, to express himself intelligently, so that he cries out, so, too, was Klal Yisrael in Egypt. Impeded in their ability to pray to Hashem, to articulate clearly their needs, their pain, their aspirations, they resorted to crying out.

We, too, are often so overwhelmed by our physical desires that we are unable to think properly, to express ourselves cogently to Hashem. The Nesivos Shalom observes that Shabbos is a time of spiritual clarity, when the tefillos, prayers, that are lacking during the week, due to our impoverished/physical state, come to the fore anew, with fresh clarity. We must then see to it that our tefillos of Shabbos carry over to the week. This, of course, achieves efficacy only if one makes a point to attend shul and daven – not socialize (author's addendum). The advantage of Shabbos, the benefits reaped from the rich, spiritual atmosphere that permeates the person, his home, his life, allows him to daven in such an exalted manner that he is able to offer his heartfelt feelings to Hashem. To articulate to the Almighty is to reach out to Him in a manner ordinarily unattainable during the weekdays, when he is absorbed with the endeavors of his mundane, physical life.

The Nesivos Shalom quotes the Toras Avos, who offers a similar explanation with regard to Tekias Shofar. He analogizes our Tekias Shofar "prayer" to sons of a king who were taken captive by a band of thieves. During the ensuing stay of captivity, the princes themselves were so influenced by the rough environment and vulgar nature of their captors that they became like them. No longer did they speak with refinement. They were uncouth, gross individuals, who spoke in a manner becoming such dropouts from society. A number of years passed, and the princes were finally rescued and returned to the palace. They entered the palace and began speaking to their father, the king, in their newly-acquired vernacular.

Understandably, the king was clueless concerning what they were saying, to the point that he said, "These are not my sons!" When the princes saw that they were about to be dismissed, they began crying out "Tatte! Father! Do you not recognize us?" They were no longer speaking in their vulgar language; they were crying out to their father. Now, he heard them! They were his children.

A Jew stands before Hashem on Rosh Hashanah unsure of what to say, how to plead, what excuse to give. He has no mouth, no words, nothing intelligent to

articulate, to explain the past year and why he is not where he was supposed to be at this point in life. What does a son whose father neither understands nor recognizes him do to get his father's attention? He cries! Our cries are the tekios, shevarim, teruah, the blasts of the Shofar, which represent our brokenhearted emotions. Vanitzaak el Hashem, vayishma es koleinu – “We cried out to Hashem... and He listened to our voices” – not our words, because we were unable to speak. We cried. He heard our emotional pleas.

Yosef Mendeleovich was a refusenik who stood up to the evil empire of the USSR before the fall of the Iron Curtain. In his autobiography, “Unbroken Spirit,” he describes his youth and his first memory of Hashem. He was outwardly raised as a good and loyal Soviet, while inwardly he had questions concerning some unusual rituals that were somehow connected with his Jewish heritage. As a young boy, he did not have the luxury of a Jewish education, so his knowledge of religion, Hashem, Torah and mitzvos was nil. These are things that we take for granted. Perhaps if we would meet Jews who might even be living on our block, who were raised without everything which we take for granted, we might no longer take them for granted. He describes his first memory of Hashem at the age of ten.

Yosef recalls returning home from school to find his house in shambles, furniture overturned, books strewn on the floor, clothes all over. It appeared as if it had been hit by a tornado. His mother explained that the government was searching their home for Jewish artifacts, which they found. As a result, his father was arrested and taken off to prison. Yosef describes vividly that fateful day when the entire family came to the courthouse to be present in support of his father, when the judge would declare his verdict. At the moment that Yosef saw his father standing there, waiting for the judge's pronouncement, he was filled with an overwhelming emotion. From the depths of his heart, he cried out, “Hashem! Please save us!” He was as shocked as everyone else, because he had never heard of Hashem. He had never prayed, studied, interacted in any manner with Hashem. Actually, being Jewishly illiterate, he was an ani b'daas, person impoverished in understanding, a Jewish boy by birth – but totally foreign to Judaism. Never having been educated about Hashem, how did he cry out like that? The cry emanated from his innermost soul. The Pintele Yid, essential Jew, was crying out to his Father in Heaven, “Tateh! Shoyn genuck, enough! Please!”

That moment was the game-changer, as he became consumed with Judaism. He desired to meet, greet, study with, and teach fellow Jews. He was eventually sentenced to eleven years in Siberia for his activities as a “refusenik,” but he was proud. He was answering the cry from his innermost soul.

There are many Jews, some from without, others who are among us, who sadly stifle that cry. They are acutely aware of its existence, but they are afraid of the implications of allowing it to emerge from within. We should all shed a tear for them.

השקפה ממעון קדשך מן השמים וברך את עמך ישראל

Gaze down from Your abode, from the heavens and bless Your people Yisrael. (26:15)

Rashi explains that this prayer implies: “Hashem, we have carried out Your wishes. We have done that what You decreed upon us; now, You do what behooves You.” The word hashkifah, “gaze (down)” is unique in that it is almost always used to denote careful examination to determine the appropriate punishment. In other words, it is not used in connection with something positive about to occur. Rashi observes this in his commentary to Bereishis 18:16, Vayashkifu al pnei Sodom; “They (the angels) gazed towards Sodom.” The angels who had come to visit and participate in the healing of Avraham Avinu, now gazed on the city which would be their next stop – the city in whose destruction they would participate. Apparently, the hashkifah of Viduy Maaser is different (as explained by the commentators), because when Jews contribute to the poor (when Jews act as they should, being kind and compassionate to their fellow Jew), the Middas HaDin, Attribute of Strict Justice, is transformed into Middas HaRachamim, the Attribute of Mercy.

It makes sense, but is it necessary to distinguish between the two instances of “gazing” between the gazing on Sodom, and Hashem's gazing down on us? Apparently, since the distinction is made, it indicates that some commonality between the hashkifah of Viduy Maaser and that of Sodom must exist. What could this possibly be?

Horav Elazar HaKohen Kahanov, zl, explains that the angels who gazed at Sodom did so for a good reason. Actually, it was of a positive nature. Prior to punishing a person, especially a large community, it must be discerned whether they are sinners or they committed a sin, an external act of iniquity, which does reflect upon their actual hashkafah, outlook, perspective, on life and living. In other words, to put it simply: Are they evil, or did they just commit an act of evil? Why did the people of Sodom act in such a reprehensible manner? Was it caused by outrage: they simply could not tolerate outsiders, especially beggars who came to take their hard-earned money? Was their sin a temporary lapse, an error in judgement, a one-time deferment to the wiles of the yetzer hora, evil-inclination? Or was it their outlook, the way of life that they chose for themselves? When it is a temporary lapse caused by an extraneous influence, there is hope. If, however, it is already imbedded in one's hashkafatah, it is much deeper than a simple deviation. This person is evil incarnate. He deserves the ultimate punishment.

We know from studying Chazal that the evil of Sodom was no walk in the park; it was no temporary lapse. These people had developed an entire hashkafah, outlook, of evil. Chesed, acts of lovingkindness, were an anathema to them, a symbol of weakness. They waged war with kindness; they despised goodness. For such people, whose hashkafas ha'chaim, outlook on life, is so perverted, there is only one solution: they have no place in society.

The hashkifah that accompanies Viduy Maaser is also about outlook – a Jew's outlook, a Jew's hashkafah, a Jew's true way of life. While it is true that we all have temporary lapses, downfalls which must be corrected, our intrinsic hashkafah, our outlook on life, is replete with compassion and sensitivity for our fellow. When we bring our matanos, gifts for the Kohen, Levi and ani, poor man, we do so out of pride, love and empathy. We come to the Bais Hamikdash, our hearts filled with joy, bursting with enthusiasm and excitement, knowing that we are carrying out Hashem's Will wholeheartedly. No one is bending our arms, because this is who we are. Thus, we ask Hashem to hashkifah, gaze down from upon High, and observe that our actions are a reflection of our true selves.

Yes, a connection exists between the hashkafas/gazing of the angels to that which we ask Hashem to do concerning our matanos. They both focus on the true essence, the hashkafah, of the person. Sodom's hashkafah warranted their destruction. We pray that our hashkafah will be our source of merit for life, good health and spiritual reward.

והיה בעברכם את הירדן תקימו את האבנים האלה בהר עיבל...

It shall be when you cross the Jordan, you shall erect these stones... on Har Eival. (27:4)

Har Gerizim was the site of the blessings; Har Eival served as its counterpart, the site reserved for the curses. Would it not make sense that the Mizbayach, Altar, upon which the Korbanos Shelamim, Peace-offerings and Festive-offerings were brought, would be situated on Har Gerizim, the mountain of blessing? Har Eival was the mountain upon which the curses were pronounced. One would consider it an unlikely candidate for the Mizbayach. Horav Moshe Feinstein, zl, illuminates us with an insight into the meaning of -- and the distinction between --blessing and curse.

Blessing is defined as abundance, fulfillment of all one's needs; curse means the opposite: Chisaron, insufficiency, privation, an awareness that one's life is unfulfilled. The problem arises when he who is “blessed” with abundance begins to think that he deserves it, because he is a tzaddik, righteous man. He warrants blessing as reward for his good deeds and virtue. Such a person falls into the danger zone of complacency, of thinking that he has it; he has done it all; he is there; there is no longer a need on his part to strive for higher and better. Such a person risks having his blessings become the source of curse for him. Man's sole purpose in life is continued, consistent Torah study and mitzvah performance. Whatever causes him to pause, to halt his striving for more, is a curse.

The optimum blessing is experienced when one is satisfied with the material gifts that Hashem has granted him, but actually dissatisfied with his own Torah and mitzvos. Blessings are granted on the basis that one not become spiritually complacent, not rest on the laurels of past spiritual achievements. It is logical that when one is “deprived” of material abundance, he will place greater focus on his spiritual striving. Simply, when he thinks he has already received his reward, he thinks he should not have to bother with more spirituality: “I seem to be doing quite well.” This attitude has the ability to transform a blessing into a curse. Being satisfied with what we have only applies to material gifts – not spirituality.

Hashem conveyed this message to the people when He had the Altar which is used for festive sacrificial service placed on Har Eival, the mountain reserved for the pronouncement of the curses. In this way, the nation will realize that privation and lack can lead to blessing.

Perhaps we may elaborate on this theme. Blessing and curse are relative, a matter of perspective. A three-year-old boy wants to eat an entire chocolate cake. His mother knows that if he succeeds in devouring the cake, he will become quite sick. Second vignette: Ask a young child what his mother does all day. The reply will probably be, “Nothing.” The mother will invariably give you a long list of motherly duties, which began at 5:00am when she groped her way out of bed. Third case: A group of men stab a person with knives. Soon after this, they knock him unconscious, saw open his chest, proceed to suction out his blood prior to removing a vital organ. Such a scene will definitely raise one's ire, until he realizes that he is observing open-heart surgery.

By now, the reader understands that it all depends from what vantage point one gazes on an occurrence. We often feel deprived and wonder why Hashem does not grant us what we ask. Why are we “cursed”? We view occurrences from the seat of emotion, rather than from intellect. We lack the patience to perceive the larger picture. A blessed person trusts, is intelligent, is reasonable, waits to see and grasp the whole picture. The Mizbayach was placed on Har Eival as a message for those who always think they have received the short end of the deal. They are wrong!

רופא חולי עמו ישראל – Rofeh cholei amo Yisrael. Who heals the sick of His People, Yisrael.

When we pray to Hashem to heal an individual of his illness, we add, b'soch shaar cholei Yisrael, “among the other ill people of Yisrael.” We do not ask only for ourselves or for a close relative or friend; we ask for all of our people

to be healed of their ills. We do so, explains Horav Yitzchak Kirzner, zl, because we acknowledge the unique role and mission of each and every Jew in his contribution to the world. Hashem has created each of us with a special mission to accomplish. When a person is ill, he cannot fulfill his mission, thus depriving the world of its perfection. We ask Hashem to consider that merit, that mission which will be left incomplete as long as that person is ill. We do not ask for health just because we care for that person. We look at the larger picture, the global, Klal Yisrael picture – because this is where a person's

z'chusim, merits, are purposeful. Sure, we want our friends/relatives to live; this goes without saying. If we are to present a good reason, however, it should be that, as long as that person is incapacitated, he/she cannot make his/her unique contribution to the Jewish nation at large.

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שרה משא בת ר' יעקב אליעזר ע"ה