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INTERNET PARSHA SHEET ON **Ki Seitzei** - 5772

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Ki Tetse

This week's sedra provides us with a fine example of the humanity of Jewish law - as well as the way the sages interpreted the Torah. Our point of departure is this passage:

When men have a dispute, they are to take it to court and the judges will decide the case, acquitting the innocent and condemning the guilty. If the guilty man deserves to be beaten, the judge shall make him lie down and have him flogged in his presence with the number of lashes his crime deserves, but he must not give him more than forty lashes. If he is flogged more than that, your brother will be degraded in your eyes. (Deut. 25: 1-3)

The passage is not straightforward, since in Jewish law lashes are not a form of punishment in civil cases as the verse seems to imply. However, our focus will be on the last phrase: "your brother will be degraded in your eyes".

The sages derived from this a fundamental principle, namely the rehabilitation of an offender once he has served his punishment. In the earlier part of the passage the offender is called ha-rasha, translated here as "the guilty" but which literally means "the wicked". At the end,

however, he is called "your brother". From this, the sages (Sifre ad loc.) drew the conclusion that "once he has been beaten, he becomes [again] your brother".

This has both a specific and more general application. The specific rule applies to offences that carried with them the severe punishment of karet, literally "being cut off" from one's people. In many cases this was interpreted as a divine rather than human punishment; the human punishment was to receive lashes. The principle that "once he has been beaten, he becomes [again] your brother" was taken to mean that the human punishment cancels the divine punishment. Once the offender has been beaten, there is no residual guilt (Mishnah, Makkot 3: 15).

In addition, however, the sages inferred the far wider principle that when the guilty has received the punishment his offence deserved, he is restored to his earlier status. For example, he is permitted to be a witness, and his testimony is not invalidated by the fact that previously he had been found guilty of an offence. The stain on his character is temporary, not permanent. Offenders are to be rehabilitated.

This led to a specific enactment by the sages, known as takkanat ha-shavim, a rule designed to remove obstacles to penitence. The Mishnah (Gittin 5:5) teaches that "If a beam which was acquired by robbery has been built into a building, restitution for it may be made in money so as not to put obstacles in the way of penitents."

The rule is that in the case of robbery, the guilty party must return what he has taken to its rightful owner ("He shall restore that which he took by robbery", Lev. 5: 23). This makes obvious sense. If a robber were allowed merely to make monetary compensation rather than return the stolen object, the law would, in effect, allow someone to acquire an object - albeit at a price - by violence. That must be wrong.

Yet this rule was suspended in a case where returning the object would involve massive loss on the part of the robber. The situation envisaged by the Mishnah is one where, having stolen a beam, the robber has used it to build a house. Restoring the beam would involve tearing down the house. A sense of guilt at the original crime might induce remorse in the robber and an effort on his part to return objects he has wrongly taken. If, however, this would involve disproportionate loss on his part - not just returning the stolen object, but also having to dismantle what he has built using it - he might decide that restitution was just too costly, and decide against giving the object back.

So what, one might say. The man is a robber. What matters is the right of the innocent - the original owner of the beam - not the right of the guilty. Surely the robber, by breaking the law, has forfeited any claim on the court's clemency. Yet Jewish law ruled otherwise. To be sure, the owner must be compensated for his loss. Without this, he will have suffered an injustice. But we must have concern for the offender also, in the sense that we must clear away any obstacles in the path of his return to law-abidingness. The sages fully understood that this was not part of Torah law. It required a positive enactment, takkanat ha-shavim, on their part. But the sages would not have made this enactment if they did not feel that it was in the spirit of Torah law.

They went further still. We find in the Talmud (Baba Kamma 94b) this remarkable principle: "If robbers or usurers [repent, and of their own accord] are prepared to restore what they have wrongly taken, it is not right to accept it from them, and one who does so is not acting with the approval of the sages." The Talmud explains how this teaching emerged from an actual case.

In the time of Rabbi Judah ha-Nasi, head of the Jewish community in the early third century, a robber decided to end his life of crime and restore everything he had wrongly taken to its owners. His wife said to him: "Fool. If you give back everything you have taken, you will not be left with even the belt you are wearing." The rule was then instituted those who had been robbed should not insist on the return of their property.

Needless to say, this does not apply to a robber who has been brought to court - only to one who has, without any prompting other than his own

conscience, decided to confess his guilt and make amends. Nor does it apply if the robber still has the stolen objects in his possession. Nor is it a legal requirement. The rightful owner may still take the robber to court if he so chooses. Some go so far as to say that this was never intended as a permanent enactment, for it is all too easily exploitable: robbers could steal and then pretend to be penitent (see Maggid Mishneh to Rambam, Hilkhos Gezeleh 1: 13). Yet despite all this, Maimonides writes: "Even though robbing someone is like taking their life . . . we must help [a robber who repents of his own accord] and pardon him in order to bring him back to the right path of penitents" (Hilkhos Gezeleh 1: 13).

Another principle the sages articulated - this time on the basis of a biblical command - was that one should not make reference to a penitent's past. One should not say to someone who committed a crime, but has now served his sentence and expressed remorse, "Remember the crime you committed". To do so is to be guilty to "verbal oppression", which is forbidden by the verse, "You shall not oppress one another, but you shall fear your God; I am the Lord your G-d" (Lev. 25: 17; Rambam, Hilkhos Teshuvah 7: 8). In the tenth century, Rabbenu Gershom instituted a rule that one who made public mention of a penitent's earlier deeds was to be excommunicated (Teshuvot Chakhmei Tzorfat, 21).

The rules of rehabilitation are complex, and I make no attempt to summarise them here. Yet it is clear that from earliest times the sages tempered their concern for justice with a desire to help criminals and wrongdoers find their way back to honesty and society. What mandated them to do so was the teaching of the prophet Ezekiel:

"Son of man, say to the house of Israel: This is what you have been saying, 'Our offenses and sins weigh heavily on us, and we are sick at heart because of them. How can we survive?' Say to them, 'As surely as I live, declares the Sovereign Lord, I take no pleasure in the death of the wicked, but rather that they turn from their ways and live. Turn back, turn back from your evil ways, that you may not die, O house of Israel.'" (Ezekiel 33: 10-12)

Not only were these teachings many centuries ahead of their time. They also have much to teach us today. Retributive justice is not incompatible with a sense of human dignity and freedom. To the contrary, it is based on them. Jewish law is concerned not only to protect the rights of those who have been wronged, but also to help wrongdoers rebuild their future. Guilt, in Judaism, is about acts, not persons. It is the act, not the person, that is condemned. Once the criminal has served his punishment and repented of his crime, he becomes, once more, "your brother".

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Sent: Friday, September 16, 2005 1:07 PM

To: ravfrand@torah.org

Subject: Rabbi Frand on Parshas Ki Seitzei

"RavFrand" List - Rabbi Frand on Parshas Ki Seitzei -

Parents Need To Speak To Their Children With A Unified Voice

This week's parsha contains the laws of the Wayward and Rebellious Son (ben sorer u'moreh). This is one of the most difficult chapters in the Torah to comprehend. The Talmud in the eighth chapter of Sanhedrin explains that this is a very exceptional situation. The parents notice a trend in their young son's spiritual development that will almost inevitably lead to a lifestyle involving robbery and perhaps even murder. Therefore the Torah advises that he should be put to death "at the stage in life when he is still innocent," rather than allowing him to mature to a point where he will actually be fully deserving of death.

There is an opinion in the Talmud [Sanhedrin 71a] that an actual case of ben sorer u'moreh never happened, and never will happen. It was, according to this opinion, included in the Torah merely for the lessons of life which it contains. At any rate, the chapter clearly does present

lessons regarding how parents should and should not act when raising children.

Rav Dovid Feinstein makes an interesting linguistic inference from the wording in this chapter. When the Torah originally describes the situation of the ben sorer u'moreh, it states "he did not listen to the voice of his father nor to the voice of his mother" [Devorim 21:18].

However when the Torah describes the testimony of the parents in Beis Din, there is a subtle change of language: "He does not listen to OUR voice" [Devorim 21:20].

There are no secret formulas to raising good children. Raising children is the most difficult job in the world. However, there are clearly certain things parents should try to avoid. Parents should always present a unified message of their expectations to their children. When a child hears mixed messages - one thing from the father and another thing from the mother - that is a garden in which weeds can grow.

When the child hears mixed messages, he follows whatever he thinks is right. Since one parent says one thing and the other parent says another thing - "let the third pasuk [verse] come and reconcile between them."

Even if the parents present a unified approach as to what is good and what is not good, what can be done and what can not be done - there is still no guarantee that the children will come out perfect. But at least the parents have removed one of the greatest reasons why children go astray. Therefore, the Torah stressed at the outset that the parents were not of one voice and one opinion. The child did not listen to his father's voice and independently he did not listen to his mother's alternate voice. Only subsequently, when the child has already left the tried and true path, do the parents come and, sadly, tell the elders of the court: "Now we are together. We have a unified voice and we know that what our son is doing is wrong." Unfortunately, by then it is too late.

Parents may have disagreements among themselves as to what is the proper course in raising children. But those disagreements need to be decided among themselves. When parents come before their children, they need to articulate a clear, decisive, and uniform position. When they reach the status of "our voice" rather than "the father's voice" and "the mother's voice," their chances for success will be much greater.

Ingratitude Leads To Far Worse Sins

The parsha teaches "An Ammonite or Moabite shall not enter the congregation of Hashem, even their tenth generation shall not enter the congregation of Hashem, to eternity" [Devorim 23:4]. This means even an Amonite or Moabite who converts to Judaism is not allowed to marry a native member of the Jewish nation. This is contrasted with the law of an Egyptian, whose third generation convert is allowed to marry a native Jew or Jewess. We know from the story of Rus that the prohibition only applies to the male members of Ammon and Moav.

The Torah [Devorim 23:5] specifies the reason for the harsh treatment of these two nations. First, the Torah states that it is because of the fact "that they did not greet you with bread and water on the road when you were leaving Egypt". They refused to even sell us the bare necessities of food and drink during our travels from Egypt when we approached their land. Their hatred for the Jewish nation went so deep that they passed up the opportunity to make a great business profit, just to cause hardship to Klal Yisrael.

The Torah continues in this very same pasuk with the second reason for our enmity towards the nation of Moav. It is because "he hired against you Bilaam son of Beor, of Pethor, Aram Naharaim, to curse you."

Rav Elyah Meir Bloch makes the following observation:

Suppose a person comes home from shul, he walks into his house, his wife takes one look at him and she notices that he has a bloody nose. She asks him, "What happened?" He responds, "I was walking down the street and saw another fellow who I don't particularly get along with. Not only did he not say 'Good Shabbos' to me, he punched me in the nose!"

The two complaints are anything but equal. If a person we know does

not wish us 'Good Shabbos' and also punches us in the nose, we don't take equal insult. In such a scenario, the fact that he didn't say 'Good Shabbos' is nothing compared to the punch in the nose.

This is analogous to the explanation the Torah gives in the above quoted pasuk. The fact that they didn't greet us with bread and water was not very hospitable on the part of Moav and Amon. But it wouldn't have been the end of the world. However, the fact that they hired Bilaam to curse us, that was like a punch in the nose!

What is perplexing is that the verse treats the two insults as if they were equal. "They did not greet you with bread and water" and "hired against you Bilaam son of Beor." How do we explain this pasuk?

The answer is that we have a long history with Ammon and Moav. They are our cousins. They descend from Lot, the nephew of Avraham. Were it not for Uncle Avraham's rescue, Lot would have been consumed in the destruction of Sodom. If there are any two nations in the world who owe us a debt of gratitude, whose existence is dependant upon us; it is the nations of Ammon and Moav.

This pasuk is telling us that the fact that Ammon and Moav did not welcome us with bread and water is far more serious than merely not saying 'Good Shabbos'. Such lack of action is indicative of the rottenness of these people. Any person that won't return a favor to someone who saved their life is so corrupt to the core that there is no hope for them.

Because they are so corrupt and rotten to the core that they could forget this favor, that is why they went to the next step of hiring Bilaam in an attempt to curse and eradicate the Jewish people. The second part of the pasuk is the natural consequence of the first part.

People that forget those who saved their lives can turn around and try to destroy those very same people towards whom they should show exceptional gratitude.

Rav Yaakov Kamenetsky Explains A Difficult Mishneh

In this week's parsha we are introduced to the laws of divorce. The Torah specifies the way to end a Jewish marriage. The last Mishneh in Tractate Gittin [90a] cites a difference of opinion as to justifiable grounds for divorce: Bais Shammai rule that a person should not divorce his wife unless he finds that she has been unfaithful to him ('ervas davar'; i.e. - adultery). Short of that, a person is not allowed to divorce his wife according to Bais Shammai.

Bais Hillel rule that a man may divorce his wife even if she burns his dinner. Rabbi Akiva goes even further than Bais Hillel, ruling that a person is allowed to divorce his wife merely because he found another woman more pleasing to him. This is the same Rabbi Akiva who told his students: All that I have learned and all that you have learned is attributable to my wife ("mine and yours is hers") [Kesuvos 63a]. He certainly was appreciative of his wife. Nevertheless, he rules that finding a better-looking woman than one's wife is valid grounds for divorce! This is a difficult Mishneh to understand.

Rav Yaakov Kamenetsky was once asked to explain the interpretation of this Mishneh. Rav Yaakov stated that one must look at the language of the Mishneh very precisely in order to properly understand the opinions of Bais Hillel and Rabbi Akiva.

Bais Hillel rule "even if she burned his dish". Rav Yaakov asked, "What does it mean HIS dish?" She made dinner for the two of them. It should say she burned "their dish". So what must have happened? She was cooking dinner and noticed smoke in the kitchen. She ran to the stove and found that the bottom layer of the dish was burnt, but the top layer was still not burnt. She cut the food in two, slicing off the upper layer from the bottom layer. She then served her husband the bottom layer and told him

- "YOUR portion got burnt!" However, she was able to eat HER portion because it did not get burnt. Bais Hillel rules that one is allowed to divorce such a woman. A woman who is so selfish, who does not view marriage as 'us' or 'we' but as 'my portion' and 'your portion' (with 'your

portion' being the burnt portion), one may justifiably divorce such a woman.

Rav Yaakov was then pressed as to the interpretation of Rabbi Akiva's ruling, whereupon he replied in a similar fashion. The Mishneh is not teaching justifiable reasons for divorcing a wife; the Mishneh is enumerating situations of "sick marriages" where divorce may be appropriate. How, asked Rav Yaakov, can one think that there is a woman out there who is nicer than his own wife?

If a person believes in G-d, if he believes in the idea of 'basherte' [being Divinely destined to marry one's own spouse], if he believes in 'hashgacha pratis' [personal Divine Providence] he should be confident that he is already married to the woman that the Almighty wanted him to have. That being the case, how is it possible to find "a nicer woman than his wife?"

A person who enters marriage and life believing that the Master of the World is in charge and that "He takes care of me" cannot possibly think that he has found a prettier, nicer, better woman than the woman who is already his wife.

The reason why Rabbi Akiva says that a man can divorce his wife under such circumstances is because if a person doesn't appreciate that the wife he has is the wife that the Almighty wants for him, then the marriage is fundamentally flawed. In that case, the marriage may - and perhaps should - be terminated.

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From Destiny Foundation/Rabbi Berel Wein info@jewishdestiny.com
Subject Weekly Parsha from Rabbi Berel Wein

In My Opinion :: THE UNIVERSAL JEW :: Rabbi Berel Wein

The modern liberal Jew has redefined Judaism according to his or her wants and fashion. He or she has created a religion that has no fixed laws, that is built on vacuous slogans (see tikun olam), that embraces moral relativity and abhors tribal loyalties and defines Judaism in purely currently acceptable universalistic terms. This type of Judaism has removed all the peculiarities and uniqueness of Jewish life and tradition. It seeks mainly to appeal to the non-Jewish world by showing that we and they are really the same - and that there is nothing special about being Jewish or unique about the beliefs of Judaism.

As an example of this, a recent issue of Commentary magazine quoted a young Reform rabbi in Los Angeles as stating: "Don't keep kosher, that's fine; don't keep Shabat, that's fine; marry a non-Jew - whatever. But understand that it will take away your Jewish identity if you don't

fight for justice.” The fatuousness of this is breathtaking. Judaism is now reduced to a struggle for an undefined and almost indefinable universal concept called justice.

And somehow this idea is to become the core of one’s Jewish identity. Is there any hope for Jewish survival with such religious redefinitions of Judaism prevailing? The liberal Jewish community in America and elsewhere has turned Judaism on its head in its public and principled support of unlimited abortion, gay marriage, unwarranted and untrue accusations against the State of Israel and its very right to exist, and the complete abandonment of the necessity of any observances of Jewish law and tradition whatsoever. Well, whatever this liberal hodgepodge of ideas may be it is certainly not Judaism.

This idea of Jewish universalism versus Jewish particularism is an ancient one, disproved many times over by the events of Jewish history themselves. Twenty five hundred years ago the then leaders of the Jewish exiles in Babylon came to the prophet Yechezkel and declared their intention that the Jewish people, the House of Israel as they phrased it, should be identical in outlook, behavior and goals with the rest of the non-Jewish world.

The Lord informed the prophet that such an arrangement would never really take hold – not because of the Jewish side but because the non-Jewish world (the instrument of God’s wrath, so to speak) would never yet permanently agree to such an arrangement. It is the very particularity of the Jewish nation that makes for its value to all mankind. The more German Jewry became German, the more the Russian Jews became Soviet Marxists, the more fertile the ground became for hatred of the Jew.

As long as Jews insist on being liberals first and Jews second or not at all; feminists first and Jews second or not at all; greens/environmentalists first and Jews second or not at all, etc. then eventually a large portion of those groups of Jews will simply disappear.

As long as attending Harvard or Yale is more important to Jewish parents than giving their children a basic Jewish education and the ephemeral pursuit of utopian world justice is more important than Shabat or marrying a Jew then the disappearance of large swaths of American Jewry is guaranteed.

It is the modern liberal Jew that is loathed throughout the non-Jewish Western world today. The Israeli government’s foolish secular message that “we are just like you” has little resonance in the EU or the UN. The support that Israel receives from many Christian groups is based on their perception of Israel as a Jewish state, biblically ordained, and not as a universalist, liberal, fixing-and-repairing-the-world bunch of Jews somehow living in the Middle East.

The Jewish liberal establishment preaches inclusion of non-Jewish partners but wants very little to do with the Orthodox Jewish world. It is somehow outside of the pale of inclusion despite its expanding numbers and growing influence. When one is occupied with fixing the world one has little time or patience for one’s brethren who still are unwilling to countenance the public desecration of Shabat and oppose intermarriage with non-Jews.

Being busy with the universal leaves little ability to be occupied or even interested with the particular. I am fascinated by the fact that there are two main groups within American Jewry who voice vociferous opposition to the State of Israel. One opposes the state because it is too Jewish and the other opposes it because it is not Jewish enough in its eyes

The universal Jew is ashamed of the Jewish state. It is too small, too parochial, too mundane and certainly too narrowly Jewish. But Jewish survival – a worthy end all in itself – will never be assured through the outlook and ideals of universality for the sake of universality alone. Shabat shalom

From Destiny Foundation/Rabbi Berel Wein info@jewishdestiny.com
Subject Weekly Parsha from Rabbi Berel Wein

Weekly Parsha :: KI TEITZEI :: Rabbi Berel Wein

The idea of the necessity of a fence on one’s roof and exposed staircases and high landings is a very logical and realistic one. The Torah itself advances this simple reasoning by stating that otherwise one may fall from that exposed area with painful if not tragic consequences. However halacha and practicality indicate that not everyone is obligated in this mitzvah and that there are physical instances where such a fence is impossible to construct or is even unnecessary.

Nevertheless, the moral imperative that drives the mitzvah seems to be omnipresent and always operative. A house, a home, a family always needs to be protected, both physically and morally. Just as negligence in failing to erect a fence around one’s exposed roof is a cause for monetary and even criminal liability, so too negligence in failing to construct the moral fence to protect our home and family from the ravages of a rather depraved society is seen to be a serious transgression.

In raising children, as well as in governing society generally, there can be no doubt that fences have to be fashioned and protected. The rub always is as to how many fences and where they are to be placed and how high the actual fence should be. When it comes to the issue of the physical fences around our rooftops, halacha answers all of these questions for us. But when the issue is regarding the moral fence that we must construct for our family and ourselves, there we find minimal guidance.

Just as every physical fence must be constructed to conform to the dimensions of the roof it protects – a circular fence will not completely protect a rectangular roof – so too there is no one-size-fits-all moral fence that is appropriate for every home and family. Tragically, in today’s Jewish world, there are many homes that have no moral fence at all protecting the house and family.

Everyone is allowed, if not even encouraged, to live a life without limits, restraints or moral discipline. And at the other end of the spectrum of Jewish society there are homes where the fence has been constructed too high and is too constrictive as to impede and prevent healthy individual development and constructive discovery and innovation. It is therefore obvious that knowing where, when and how to create this moral fence that will safeguard the Jewish home is the main challenge of parenting and family dynamics.

The Torah in this week’s parsha speaks of ben sorer u’moreh – a rebellious, undisciplined youth – who will grow to be a very destructive force in society. Such a child in most cases represents the failure in the family in erecting and enforcing the proper moral fence in the house. That negligence of safeguarding the home spiritually, emotionally and morally will invariably come back to haunt that family and all society generally.

There are no magical ways to build these necessary fences. Every family and home is different and unique and there is only the common necessity for all families to erect the proper and fitting fences within their home and family. Patience, wisdom, restraint and prayer are key ingredients in accomplishing this vital task.

Shabat shalom

From Ohr Somayach <ohr@ohr.edu>

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Subject Torah Weekly

Ohr Somayach :: Torah Weekly :: Parshat Ki Tetzei

For the week ending 1 September 2012 / 13 Elul 5772

by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com

Insights

One Message With One Voice

"If a man will have a wayward and rebellious son, who does not listen to the voice of his father and the voice of his mother..." (21:18)

Three of the essential ingredients in raising happy, well-integrated children are "The Three F's" — Firm, Fair and Friendly.

Firm: Children need to know where they stand. They like nothing more than clearly defined limits. A parent who makes a demand and then backs down gives a child a sense of insecurity, for the child never knows exactly where the boundary is. Children push the limits precisely because they wish to know that there are limits. When we are firm, we give our children a defined world in which they can establish their relationship to the world at large rather than a vast expanse of frighteningly unknown possibilities. Of course, as parents we should therefore limit our demands to those things over which we are prepared not to back down. We must choose our battlefields wisely.

Fair: A child has a sense of what's fair and what's not. True, children are somewhat biased in their view of what fair consists of, but they are the first to recognize uneven-handed treatment. As parents, we must be unstinting in guarding against any kind of favoritism, either to siblings or to our own agendas.

Friendly: The correct proportion of positive interaction to negative interaction should be 80/20. In other words, every interaction that requires disciplinary words or action should be balanced by four times as many positive and loving experiences. In addition, however exasperating children can be, it's always more effective to oblige them in a friendly manner. When they need correction, it should be done in a friendly tone of voice. Shouting certainly makes one feel better, but it's nearly always counterproductive in the long run. It shows weakness and insecurity. Apart from The Three F's, there's a fourth ingredient that is equally as important.

Consistency.

Consistency is necessary not just in the behavior of each parent, but between the parents themselves. We learn this message from this week's Torah portion:

If a man will have a wayward and rebellious son, who does not listen to the voice of his father and the voice of his mother...

A child is considered to be in the halachic category of wayward and rebellious only if he does not listen to the voice of his father and his mother. Among other things we learn from this verse is that both the father and the mother must have similar voices. The deeper meaning of both the parents having similar voices is that they must both speak with one voice, that they should not contradict one another in what is expected both of themselves and the child. The message that is broadcast in the home must be consistent, for without this keystone in child-rearing the child cannot be considered at fault.

*Sources: based on Rabbi Noach Orlowek

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Subject Peninim on the Torah by Rabbi A. Leib Scheinbaum

Peninim on the Torah by Rabbi A. Leib Scheinbaum

Parshas Ki Seitzei

When you will go out to war against your enemies, and Hashem, your G-d, will deliver them into your hands, and you will capture its captivity. (21:10)

The Baal Shem Tov HaKadosh says that the war to which the Torah alludes is none other than the war of our lives, the daily battle which we wage against the blandishments of the yetzer hora, evil-inclination. The Torah is teaching us v'shavis shivyo, "(And you will) capture its captivity," essentially to grab the yetzer hora, take it captive, and learn

from its strategy. Let one study the yetzer hora's guile, how it ensnares us to sin, disregarding the type or severity of the sin. Who cares? As long as one sins, he is ensnared in the trap of the evil one. We should derive from the yetzer hora's strategies that it does not make a difference which mitzvos we observe; they are all the same. A mitzvah is a mitzvah. It is Hashem's decree. We do not determine value or significance. Every mitzvah that we perform serves as a stepping-stone and catalyst for the performance of other mitzvos.

In the Midrash, Chazal teach that the Torah enumerates forty-seven mitzvos - none of which has a revealed reward. The reason for this is so that we should observe them equally. It is not the reward that counts. It is all part of carrying out the will of Hashem. Each mitzvah as part of the total collective is invaluable. This Midrash does distinguish between kala she'b'kalos, least demanding/easy, simple mitzvah and chamur sh'b'chamuros, most difficult, mitzvos which involve hardship. The mitzvah that requires the least effort is Shiluach ha'kein, sending off the mother bird which is roosting on its young. The most demanding mitzvah is Kibbud av v'eim, Honoring one's parents. Each of these mitzvos carries the incredible reward of arichas yamim, longevity. It is almost impossible to truly reimburse one's parents fully for all that they have done, from bringing a child into the world and caring for him until adulthood and beyond. Sending away the mother bird provides instant gratification - in a sense. It is a "feel good" mitzvah. The knowledge that one is alleviating the mother's pain when her young are being taken from her is in itself rewarding.

Interestingly, the Baal HaTurim observes that, concerning each mitzvah, the Torah writes that one will be granted the reward of longevity in conjunction with L'maan yitav lach, "So that He will be good to you." There is, however, one disparity between the two mitzvos. Concerning honoring one's parents, the reward of L'maan yitav follows longevity, while concerning Shiluach ha'kein, arichas yamim, longevity, precedes L'maan yitav lach. Why?

Horav Zev Weinberger, Shlita, explains that as soon as one sends off the mother bird, he immediately senses the "goodness" derived from performing this mitzvah. Acting compassionately generates a good feeling all over. Thus, it is only right that this act of goodness should be followed with a promise of longevity. The script changes radically with regard to honoring one's parents. It is not always easy. In fact, in some situations, it is increasingly difficult to execute properly. One hardly sees the benefit of his toil. The appreciation is not always there. The demand is constantly on the rise. However, one who is blessed with longevity sees the fruits of his labor when his own children carry out the mitzvah with him as the parent! Then, he sees the important and valuable lessons that all those years of his fulfilling the mitzvah of Kibud av v'eim imparted to his children. Therefore, the Torah precedes L'maan yitav lach with longevity, because one does not always immediately see the good. ***And so shall you do for any lost article of your brother that may become lost from him and you find it; you shall not hide yourself. (22:3)***

Horav Yechiel Yaakov Weinberg, zl, writes that he once received a brief from a law professor at the University of Buenos Aires lauding the halachic jurisprudence of the Torah. Indeed, the man wrote that he had studied the entire Torah and was able to understand and qualify the rationale for every law in the Torah - except for one. As impressed as he was by the Torah, he was extremely troubled with the one law that does not seem to make sense - at all. This is the law concerning yuush, whereby one who despairs of recovering his lost object gives up hope of ever seeing it again; thus, the finder is allowed to keep it. How can a natural, emotional response to a depressing situation like losing something very dear to a person permit this object to whomever discovers it? Are we a nation of wolves waiting to pounce upon anything that our fellow man loses?

The Montreaux Rosh Yeshivah replied to the professor that, if there is any halachah in Biblical jurisprudence which exemplifies the difference between machsheves Yisrael, Jewish thought, and its gentile counterpart, it is the law of yiush, abandonment of hope. He explains that Roman law, which has served as the foundation for much of western civilization's approach to jurisprudence, "sanctifies" individual ownership; the source of acquisition is man's ability to grasp the item and maintain it in his personal possession. In other words, the object belongs to "me"; it is "mine"; "I" am its owner. It is, therefore, natural that, in order for the ownership to come to an end, it takes an action to end ownership. A proactive act of acquisition is obviated by another proactive act of relinquishing ownership.

Jewish law believes L'Hashem ha'aretz u'meloah, "To Hashem belongs the land and everything within it." There is no such thing as individual ownership, since everything belongs to Hashem. The Almighty has granted each individual owner who acquires an object special zechuyos, rights, to use the item. After all is said and done, however, everything continues to belong to Hashem. He allows us to use it by virtue of our act of acquisition. The rights of ownership are not an absolute, limitless, unrestricted dominion; rather, the Torah restricts the propriety of the "owner" to the laws outlined by the Torah. The Torah has "determined" that when one abandons hope of retrieving his object, it becomes ownerless, and whoever takes it for himself may do so without any concern.

Rav Weinberg explains this further. Baalus mamonis, material ownership, is real - but not absolute. In his commentary to the beginning of the Torah, the quintessential Rebbe and annotator, Rashi, writes: "The entire land/world belongs to Hashem. When He willed it, He gave it to them. At His will, He took it from them." In other words, the definition of ownership is z'chus histamshus, the right of use, which is wide-ranging and transferable through inheritance. It is a kinyan gamur, faultless acquisition, but not unconditional. Man was given the command of Peru u'Revu u'milu es ha'aretz v'kivshuah, "Be fruitful and multiply and fill the earth and subdue it" (Bereishis 1:28). As man habitates the land through his conquering and acquisition, he becomes the rightful owner, meaning he has rights to its ownership. When he abandons hope of it, he relinquishes his rights and it becomes hefker, ownerless, without any specific act of transference. The land/item reverts back to its original owner, the Borei Kol ha'Olamim, Creator of the worlds until He designates it to its next "owner."

This is such a practical - yet powerful - way of looking at our material possessions. We live in a society in which everything revolves around "me" and "mine," where possession plays such a critical role, and one is characterized and classified in accordance with how much he possesses. We have lost sight of the true Owner of all that exists: Hashem. We fight for possession, scheme for ownership, connive for control, when, in fact, it all belongs to Hashem - Who will grant it to whom He determines should be its owner. One who is obsessed with "having," "owning," "controlling" lacks a primary element of faith in Hashem. The feeling should be: If I am supposed to have it - I will. If Hashem grants it to me, I will have. Otherwise, I will not. Life would be so much easier if we would maintain this attitude.

You shall not have in your house diverse measures, great and small. A whole and just weight you should have. (25:14,15)

Simply put, one may not keep faulty, dishonest weights in his possession, because it might result in cheating others in a business transaction. What about cheating oneself? Where does the "double standard" fit in? The Torah writes in Vayikra 25:17, "Do not deceive another person." The Kotzker Rebbe, zl, distinguishes between the actual law, prohibiting one from deceiving others, and the law's severe implication: Self-deception. Having two sets of measures - one for myself and one for others, - can lead to a serious "double standard."

We are quick to condemn, to decry, to repudiate and rebuke - when it involves someone else. Do we maintain the same standard of weights and measures when it involves us, our spouses, our children, our shul, etc? How many distinguished people and wonderful organizations have been destroyed from "within" as a result of double standard and self-deception? Being quick to find fault in the actions of others, but having a blind eye concerning one's personal activities, fosters a state of hypocrisy which only leads to self-destruction.

People often tend to hold favorable views of their abilities in a variety of social and intellectual domains. Regrettably, these views are the result of serious over-estimation on the part of the person. This is called self-deception. It is the process of misleading ourselves to accept claims concerning ourselves to be true or valid, despite this not being the case. In short, we believe things about ourselves that are untrue.

One of life's greatest self-deceptions is in the area of time. We have convinced ourselves that we have no time. When it comes to learning - we have no time. Our children need us - we have no time. Our spouses need us - we have no time. Everyone claims to be busy earning a living. Thus, Torah study, which is the staple of Judaism, is left wanting. This does not mean that people do not have valid excuses - in their own minds. Are these excuses, however, self-deceiving?

There is a famous episode that took place with the Chozeh, zl, m'Lublin. He once accosted one of his chassidim running in the street to the marketplace. "Come with me to the bais ha'medrash to study Torah," the Chozeh appealed to the man. "No, Rebbe," he answered, "I cannot afford the time." "Are you that busy that you have no time to learn?" the Rebbe asked. "I have to earn a living and every minute is valuable," the man replied - in a hurry. "What for?" asked the Rebbe. "What do you need the money for?" The man offered the natural and logical response: "I have to make a living for my children." When the Rebbe heard this, he no longer belabored the issue, appearing satisfied with the response.

Twenty years later, the Chozeh was "again" walking on the street when he chanced upon a man rushing by him. The Rebbe was persistent and a dialogue similar to that which had occurred twenty years earlier ensued with this man. Same questions - same responses - all for the children. Suddenly, the Rebbe looked deeply into the man's eyes and said, "Wait, I know you! I had a similar encounter with your father twenty years ago. At that time, he, too, told me he was too busy to learn because he was earning a living to support his children. And now you tell me that you must earn a living for your children. When, Almighty G-d, will I meet that one unique human being for whom all the generations have been laboring so incessantly?"

We deceive ourselves by thinking that our material ventures take precedence over our spiritual pursuits. Yes, we must earn a living - but since when does our commitment to Torah learning take a backseat to our material activity? We have deluded ourselves into believing that we need "this" and "that"; our children must go "here" and "there." Everyone has heavy schedules which demand physical expenditure, but, at a certain point, we must declare emphatically, "Enough is enough!" We think that we cannot do it. That is the self-deception talking.

An anecdote related by the Chafetz Chaim has certainly gone the rounds, but this charming story conveys a powerful message that is well worth repeating. Chazal teach that the Torah flourishes only for one who is willing to die for it, literally meimis atzmo aleha, "kill himself over it." The Chafetz Chaim commented on this through the application of a story concerning a poor Jewish couple who lived in Lithuania. They opened a small grocery store in a village which was entirely non-Jewish. They worked hard and long hours to eke out a meager living. Since there was no shul in town, the husband would make his way to the shul in a nearby village.

The husband made every effort to return home as soon as possible, since coming late meant that his wife would be left in the store all alone. You know how things are; soon the elan of the store had worn off and the

geshmak, satisfaction, in learning increased to the point that he did not want to rush back to the store. He came at the very beginning of the services and would hang around for a few moments after davening to learn a little. As time went on, he began arriving earlier in shul and learning later. A few months later, he began coming to the shul even earlier to recite Tehillim, as others his age were doing. He remained in shul a little longer, since he now also studied Mishnah and Talmud. The spiritual satisfaction that he garnered was incredible. As the Yamin Nora'im loomed closer, he attended services even earlier, so that he could recite the Selichos supplication with the proper kavanah, intentions. The synagogue was slowly becoming his home, since was spending Succos in the shul! It seemed like a utopian situation. The husband spent a good part of his day in shul, while his wife fended for their material sustenance in the grocery store. This made the wife distraught, because she was spending the greater part of the day by herself in the store. She let her husband know that she was upset.

The next evening after the husband had once again returned to the store sometime in the late afternoon, he said to his wife, "I have something important to discuss with you." Anyone who has ever heard this preface to a conversation usually becomes anxious. It usually does not precede good news. The wife was visibly upset and she showed it when she asked, "What is wrong?" The husband said, "Nothing is wrong. I do want to talk to you about something important. You know, sooner or later, we are both going to our eternal rest. Since I am several years older than you, the odds are that I will precede you in death. Now tell me, what will you do when I am no longer here? How will you support yourself?" The mere thought of her husband's death brought the poor woman to tears. She regained her composure and replied to the question, "I guess I will continue with the store and do whatever I can."

"In other words," her husband continued, "you will be able to continue to make do without me."

"Yes," she replied, "If I have no choice, I will have to go it alone."

"In that case, I must ask you for a favor. I hope to G-d that we both continue to live for a very long time, but, as long as I live I want you to consider me "dead" every morning for a few hours. Just assume that for a few hours each day you are all alone in the world. This way I will be able to spend time in the bais ha'medrash learning Torah."

When a man is prepared to "die" for Torah, it will "live" and thrive within him. We have to have "down" time daily when we are "dead" to the world, when our only pursuit is Torah. By "dying" a little every day, we are actually going to catalyze greater life, deeper, more thoughtful, inspirational life. We will, thus, realize that all of those areas in our life's endeavor in which we think we are indispensable, actually we are not. Life goes on. If we do not act now, we will close the deal later. If Hashem wants it to happen, it will happen. We should stop deluding ourselves into thinking that it all revolves around us. One day we will not be here - and it will still continue to revolve.

Va'ani Tefillah

Avinu Malkeinu, ba'avur avoseinu she'batchu becha, va'telamdeim chukai chaim.

Our Father, Our King, for the sake of our forefathers who had faith in You, and You taught them the laws of life.

The Torah is referred to here as chukai chaim, the laws of life, or the ground rules for existence. We understand that the Torah is the basis for our lives. Without the Torah, life is meaningless. Indeed, there is no life. Chukim are those mitzvos whose reason defies human rationale. In other words, we have no idea concerning the "whys" of these mitzvos. At times, life is quite difficult to understand. Without the Torah, navigating the sea of life would be impossible. Thus, the Torah is our Book of chukai chaim. It does not explain life, but it intimates that if we hold on to it, if we embrace it and follow it, we will be able to steer the proper course through the uncharted waters of life.

We ask Hashem to endow us spiritually for the sake of our forefathers who had bitachon, faith in Him. What is the connection between bitachon in Hashem and limud ha'Torah? Horav Shimon Schwab, zl, explains that while Torah learning requires yegiah, toil/effort, after all is said and done, true success in learning and the acquisition of knowledge is based upon bitachon, trust, that Hashem will crown one's efforts with success. We must understand that Torah is unlike any other body of knowledge. The Torah is Divinely authored and, thus, spiritual in nature. How does the human mind with its physical limitations grasp the profundity of the spiritual Torah? Hashem grants one this ability commensurate with his effort. It is not acuity that catalyzes success. It might be easier at first blush for the brilliant student, but retention and cognition are gifts from the Almighty which one must earn. l'zchus u'lilui nishmas R' Baruch ben Zev Yehuda z"l nifter 24 Ellul 5771 In memory of Baruch Berger z"l Whose contribution to Peninim was immeasurable.

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Orthodox Union / www.ou.org

Rabbi Weinreb's Parsha Column, Parshat Ki Tetzei

"We Are All Judges and Kings"

Sponsored in memory of Nathan and Louise Schwartz a"h

"Character Assassination"

We have been hearing a lot lately about the dangers of the Internet. Not long ago, thousands of Orthodox Jews gathered in a large sports stadium to publicize the negative consequences that exposure to the Internet has in store for adults and children alike.

Most of the speakers were concerned with the pornographic content which pervades even seemingly innocuous websites. Even content which our secular society does not deem pornographic, is, to say the least, inconsistent with Orthodox Jewish standards. That the Internet poses a major threat to the moral sensitivities of the traditional Jew cannot be gainsaid.

My own reaction to the world of the Internet, and indeed to electronic communication in general, is based on a different concern. The image that I have of typical Internet content is the image of a battlefield strewn with bloodied corpses. Modern electronic communication is a murderous weapon, in which all of us can perpetrate vicious crimes with impunity. I refer, of course, to the character assassinations which are part and parcel of the daily fare of so many websites, and which occur in thousands of e-mail communications every moment of the day. There seems to be no compunction against speaking maliciously, and usually falsely, against other individuals. Worse, there is no defense against this onslaught.

We are all familiar with famous people whose careers have been ruined by malicious gossip. Most of us know friends or acquaintances whose marriages have been destroyed by the disclosure of indiscretions in their remote past, indiscretions which are sincerely regretted and for which they have long repented.

The modern world puts all of our religious principles to severe tests on a daily basis. But it is especially within the realm of Jewish ethical principles that modernity presents the greatest challenge.

One of those ethical principles involves the sin of malicious gossip, of lashon hara, the evil tongue.

This week's Torah portion, Parshat Ki Tetze (Deuteronomy 21:10-25:19), has much to say about evil and the need to vigilantly combat it. It contains two commandments, two mitzvot, which urge us to remember evil and to be on guard against it.

One of these commandments comes at the very end of the parsha in the form of a passage which is familiar to every observant Jew. "Remember what Amalek did to you on your journey... You shall blot out the memory of Amalek from under heaven. Do not forget!" (Deuteronomy 25:17-19)

This commandment is easily understood. Amalek attacked us when we were weak and vulnerable. He has become the prototype of the persecutors of our people throughout the ages, down to this very day. He personifies the evil that over the centuries was expressed in the pillage of pogroms and in the tortures of concentration camps. It is easy to understand why we must remember and not forget that sort of evil.

But this week's Torah portion also enjoins us in remarkably similar language to remember an entirely different sort of evil, personified not by one of Jewish history's fiends but by one of its most saintly heroines. "Remember what the Lord your God did to Miriam on the journey..." (Deuteronomy 24:9) The identical command: "Remember!" The same reference to an event which marred the "journey."

Rashi, basing his comment upon earlier Sages, understands this to be a command to remember the consequences of malicious gossip. We are asked to recall the narrative which we read in the synagogue some months ago, in the Torah portion of Beha'alotcha (Numbers 12:1-16). There we read of how Miriam had spoken against her brother, Moses. She did not telegraph her critique to the entire nation. She did not e-mail her negative remarks to hundreds of anonymous others. Nor did she post what she had to say about Moses on her blog. She uttered her remarks in the utmost privacy, in the confines of her relationship with her other brother, Aaron. And she never intended any malice. Nevertheless, the Almighty's reaction was harsh and swift. It was the reaction, quite literally, of "a father who spits in his daughter's face."

Commentators throughout the ages have struggled with the odd juxtaposition of Amalek's genocidal plot and Miriam's well-intentioned criticism of her dear brother. One way of understanding this oddity is that it is meant to put all of us on guard against the natural tendency to belittle the severity of the sin of speaking negatively against another. It is impossible for us to identify with Amalek, it is easy for us to identify with Miriam. If even the courageous and noble Miriam could utter words of lashon hara, then so might we all. The fact that the Almighty held her accountable for her misspeaking is a lesson which we must all remember. In our contemporary "journey" through the desert of modernity, when the power of the words we speak or write are infinitely greater than the power of Miriam's words along our ancient "journey" through the desert of Sinai, it is worthwhile to "remember Miriam." How pertinent are the words of the unknown medieval author of the ethical masterpiece, *Orchot Tzaddikim* (Section 25):

"Scrupulously avoid speaking malicious gossip, because one who does so degrades himself, and one who denigrates others is himself denigrated... One who speaks lashon hara searches for people's flaws, and is compared to a fly who will always land on the dirtiest of places... So too with one who speaks lashon hara – he disregards the good in people and instead focuses upon the bad."

It is hardly likely that any of us will ever be guilty of Amalek's sins. But Miriam is a legitimate model for us all so that we must be cautious not to be guilty even of her only recorded misdemeanor.

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Rav Kook List
Rav Kook on the Torah Portion
Ki Teitzei - The Rebellious Son - Preventive Medicine

Only Theoretical

Is there really a death penalty for rebellious children? Even in Talmudic times, it was clear that the severe punishment for the "wayward and rebellious son" (Deut. 21:18-21) is only 'on the books.'

"There never was, nor will there ever be, a child who meets all of the legal qualifications of the 'wayward and rebellious son.' Why then was this law written? That you may study it and receive reward [for the Torah learning, despite its lack of practical application]." (Sanhedrin 71a)
Does this law serve no other purpose other than as a theoretical area of study?

Preventive Medicine

While the field of medicine has made tremendous strides over the centuries, it is widely recognized that its greatest successes have been in the area of preventive medicine. Efforts to ensure clean air and water, sewage treatment, public education on healthy lifestyles and food, and immunization against infectious diseases, have been the most important factors in fighting disease and increasing life expectancy.

We should similarly appreciate the benefit of the Torah and its mitzvot in terms of the most effective assistance: preventing harm and ruin. Thus, God promised, "If you obey God... keeping all His decrees, I will not strike you with any of the sicknesses that I brought on Egypt. I am God, your Physician" (Ex. 15:26). The healing powers of the Torah should be compared to preventive medicine. It provides a healthy lifestyle that does not leave room for affliction. God did not promise that He will cure us of the sicknesses of Egypt. Rather, by faithfully following the Torah, we will not be visited by those maladies.

What does this have to do with the hypothetical 'rebellious son'? By educating the people about the draconic punishment for the rebellious child, the Torah helps prevent this tragic breakdown in family and society from occurring in the first place. This is what the Talmud means by 'Study it and receive reward' - the very study of the subject is its own reward. As each generation is educated about the dangers of the 'rebellious son' and absorbs the message of the gravity of the offense, this deplorable situation is avoided.

Teaching For Free

We often take for granted the truly important things in life, such as peace, freedom, mental and physical health. They safeguard our happiness and well-being, yet we only properly appreciate them in their absence. Inconsequential matters, on the other hand, are just the opposite. They come to our attention only when they are present and visible. As the Talmud (Sotah 8a) teaches, "The evil inclination only rules over what the eyes can see."

This explanation can shed light on why one should not accept payment for teaching Torah. "Just as I taught for free, so you shall teach for free" (Nedarim 37a). The most vital aspects of life, protecting our health and well-being, cannot be procured with money. Thus, a doctor who heals a sick patient may request remuneration for his services, but one who chases away a lion and averts damage to his neighbor's possessions may not demand a reward. What is the difference? The doctor may be paid for after-the-fact healing, but the greater benefit - preventing potential injury - must be provided free of charge.

This is the lesson of the 'rebellious son,' the Torah's preventive medicine to safeguard familial and social order. "Study it and receive reward." (Gold from the Land of Israel, pp. 324-326. Adapted from Otzarot HaRe'iyah vol. II, p. 187)

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Weekly Halacha
by Rabbi Doniel Neustadt

Airplane Travel – Washing for a Meal

Question: What should one do if he wants to eat bread, but he is traveling and has no access to water with which to wash his hands?

Answer: If he has a bottle of seltzer with him, he may use that to wash his hands and recite the proper blessing. Otherwise, he may use a soft drink, beer or tea, with which to wash his hands, but it is questionable whether or not a blessing is recited when these beverages are used for netilas yadayim. If a soft drink or beer is not available, he may wash his hands with any fruit juice, but not with oil or wine. No blessing is recited when washing with fruit juice.

If there are no beverages to wash with, one may wear gloves or wrap both of his hands—until the wrist—in plastic bags, etc. The hands must remain covered during the entire meal, even when one is eating foods other than bread.

If none of the above options are available, some poskim allow eating bread with a fork while being very careful not to touch the bread with one's hands. This method should be relied upon only if one is very hungry, as most poskim do not allow this option.

Generally, it is advisable for an orthodox Jew who is taking a long flight to book an aisle seat so that he will not need to disturb his seat mates each time he needs to get up to wash for a meal or daven. One who disturbs his seat mates unduly, even if he does so in order to fulfill certain halachic obligations, runs the chance of annoying or angering them and possibly causing a chillul Hashem.

Question: Is it permitted to wash one's hands for a meal inside a bathroom?

Answer: L'chatchilah this should not be done, even if the hands will be dried outside the bathroom. It is proper, therefore, to fill a cup with water and wash one's hands outside the bathroom.

Under extenuating circumstances, however, there are several poskim who are lenient and allow washing in a modern-day bathroom which is considerably different from the bathrooms of yesteryear to which the Shulchan Aruch was referring.

Question: What type of cup may be used for netilas yadayim?

Answer: A cup made of any material, including paper or plastic, may be used. Even a cone-shaped paper cup which cannot stand on its own may be used, since the cup was designed and manufactured in that shape.

L'chatchilah it is not advisable to use a bottle, a soda can, or any vessel with a narrow opening for washing, since it is preferable that the entire revi'is reach the hand full-force from the vessel from which it is being poured. If, however, no other vessel is readily available, it is permitted to use one with a narrow opening as long as the water is poured in an uninterrupted flow.
Airplane Travel – Davening

Question: What is preferable—davening Shacharis at the airport or on the plane at the proper time (after sunrise), or davening at home or in shul before sunrise but after alos amud ha-shacher?

Discussion: Although, generally, the preferred time to recite Shacharis Shemoneh Esrei is no earlier than sunrise, this rule is waived for one who is embarking on a trip. It is l'chatchillah permitted to put on tallis and tefillin and daven from the time of misheyakir (approximately 60 minutes before sunrise) for someone who is travelling. Since it is difficult—for several reasons—to daven and concentrate properly while davening at the airport or on an airplane, it is preferable to daven at shul or at home, even though one would be davening earlier than the ideal time for davening Shacharis.

Question: While flying on an airplane, is one obligated to join a minyan which is being organized on the plane?

Discussion: Shulchan Aruch rules that all men should make every effort to daven all tefillos with a minyan, for tefillah b'tzibbur is much more than a preferred course of action—it is a rabbinic obligation. Still, everything has its time and place. Many people just cannot concentrate properly while standing in a busy aisle way or passageway, valiantly trying to keep their balance. Sometimes there is turbulence in the air and the captain orders those standing to immediately return to

their seats, which certainly interferes with one's concentration. Being able to concentrate properly often overrides the importance of davening with a minyan.

In addition, davening while standing in an aisle surrounded by other passengers, could entail the prohibition of davening in the presence of a woman who is not properly dressed or whose hair is not covered. Those who remain in their seats do not encounter these problems, since they need only look straight ahead, close their eyes or focus entirely on the siddur in front of them.

But there is yet another point to ponder: Some airlines welcome public prayer and permit the passengers to daven in a minyan while flying. Others, however, object to this practice and resent the fact that the "orthodox Jews are taking over the plane". Passengers may become upset from the noise and the tumult created by the makeshift minyanim. Since there is a strong chance that a chillul Hashem will result, many poskim recommend davening byechchidus while remaining in one's seat, being careful to keep a low profile and to create the least disturbance possible.

Question: How does one daven Shemoneh Esrei in his airplane seat?

Discussion: He should sit up as straight as possible with his head slightly bent downward; his feet should be placed together. He should rise slightly from his seat onto his feet when it comes time to bending his knees and bow, and to take the three steps backwards.

Question: What should one do if he stood up for Shemoneh Esrei and, while davening, the captain turned on the seat belt sign ordering the passengers to return to their seats?

Discussion: He should finish the brachah reciting, take three steps back, and then walk back to his seat and resume davening. He must be careful not to speak at all on his way back to his seat, since it is strictly forbidden to talk during Shemoneh Esrei.

In addition to the safety issue involved, an Orthodox Jew who fails to return to his seat when ordered to do so by the airline staff could very well be causing a massive chillul Hashem, which must be avoided at all costs.
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By Rabbi Yirmiyohu Kaganoff

Reciting Brachos in the Presence of Unpleasant Odors
By Rabbi Yirmiyohu Kaganoff

The source for this halacha is in this week's parsha, Ki Seitzei.

Question #1: I work in a factory where many pungent chemicals are used. May I recite a bracha at work?

Question #2: I changed the baby's diaper and the room still has a foul odor. May I bensch now? How long must I wait until I can bensch? Is there any way I can shorten that time? May I put the soiled diaper in the kitchen garbage without worrying about reciting brachos there?

Question #3: Two people are studying together when one of them detects a plumbing problem in the vicinity. His friend cannot smell any foul odor. May they continue?

Question #4: May I wash for bread in a public restroom? Can I discuss Torah while walking through city streets where there are dumpsters or dog droppings? In other articles, I explored the brachos recited before smelling pleasant fragrances. As we all know, not all odors are pleasant, but we may not realize that there are halachos pertaining to foul-smelling odors. Specifically, one may not recite a bracha, study Torah aloud, or daven when he detects an unpleasant smell. Although this rule seems straightforward enough, its halachos are actually a bit more complicated, as we will see.

An introductory comment:

As a general rule, whenever one may not recite a bracha, one may also not daven, answer a davar she'bikedusha, such as kaddish or kedusha, or study Torah aloud. In these circumstances, one may not recite Divrei Torah in any language. One is permitted to speak Hebrew about everyday matters, even though Hebrew is the Holy Tongue (Gemara Shabbos 40b; Shulchan Aruch, Orach Chayim 85:2) One

may not mention names of Hashem in Hebrew; however, one may use words that refer to Hashem, such as Rachum, HaRachaman, and HaMakom (see Rambam, Hil. Keriyas Shma 3:5, based on Gemara Shabbos 10b). For simplicity's sake, throughout this article I will refer to reciting brachos, but one should realize that all the other Torah activities mentioned above have the same halachic status.

THREE CATEGORIES:

For halachic purposes, there are three categories of malodorous circumstances that prohibit reciting brachos:

1. When the source of the odor is noticeable, such as manure, something rotten or a soiled diaper. This category is called *reiach ra she-yesh lo ikar*, lit., an unpleasant odor that has substance.
2. Places meant to hold human waste that are usually foul-smelling, where it is halachically prohibited to recite a bracha even when the area is clean, such as an outhouse (Berachos 26a). I will refer to these places by their halachic term, a *beis hakisei*. I will discuss later whether contemporary toilets, bathrooms, children's potties, bedpans and catheters are included in this category.
3. When the unpleasant smell has no noticeable substance, such as after one has removed the source or in the case of flatulence. This is called *reiach ra she'ayn lo ikar*, lit., a foul odor without substance. I will soon explain the halachos of these three categories.

AN IMPORTANT EXCEPTION

Only substances whose malodor results from decomposition prohibit reciting a bracha, but not inherently foul-smelling items, such as pitch (Chayei Odor 3:12; Mishnah Berurah 79:23). According to this ruling, one may recite a bracha in the presence of exhaust fumes or the stench generated by a skunk, since it is not a result of decomposition. Thus, we can answer the first question asked above: "I work in a factory where many pungent chemicals are used. May I recite a bracha at work?" The answer is that you may, since this smell does not result from spoilage. However, one may not recite a bracha in the presence of foul-smelling compost or dead frogs or rotten fish, whether in Egypt or not.

1. MALODORS WITH SUBSTANCE

Reciting a bracha where one can smell a malodor that comes from a noticeable substance, such as manure or rotten food, is forbidden *min haTorah*. If the bracha was recited knowing that there is a foul odor, it is invalid and has the status of a bracha *l'vatalah*, a bracha recited in vain. One must repeat this bracha after the source of the foul odor has been removed and the odor has dissipated. I will discuss shortly whether one must recite the bracha again if one did not realize that the malodorous item was nearby.

In some cases, Chazal instructed us to treat an item as being malodorous even if we do not necessarily consider it particularly ill-smelling. For example, halacha considers the feces of a baby older than about six months (the age at which a child begins to eat grain cereals) as a malodorous substance. This is true even though this particular baby has not yet begun to eat solids (Shulchan Aruch, Orach Chayim 81:1). [It is noteworthy that the Rambam (Hil. Keriyas Shma 3:6) contends that the halacha depends on whether this particular baby is eating solids, and not on his or her age. However, the accepted *psak halacha* is to follow the Shulchan Aruch that this halacha is contingent on the age of the child, unless he is physically unable to eat solids (Magen Avraham 81:1; Mishnah Berurah 81:2).] One may recite brachos near the soil produced by a child younger than six months.

HOW FAR MUST YOU BE FROM THE MALODOROUS SUBSTANCE?

How far from the foul odor must you be to recite a bracha? This depends on a few factors:

Is the malodorous substance covered? If it is uncovered, then you must be more than four amos, about seven feet, from where its odor ends (see Berachos 25a). That is, one must walk to where the average person can no longer detect the malodor, and then distance oneself four more amos from where the malodor ends, and there one may recite a bracha (based on Biur Halacha to 79:1 s.v. oh).

SEEING BUT NOT SMELLING

The Rishonim dispute whether one may recite a bracha from this distance if one can see the malodorous matter. According to the Rosh, one may recite a bracha from a different room if one is sufficiently distant from the source of the foul odor, even if one can still see the source of the odor, whereas the Rashba (Shu't # 168) rules that one cannot recite a bracha if one can see it. The Shulchan Aruch (Orach Chayim 83:1) rules leniently, like the Rosh, although other poskim conclude that one should be stringent, like the Rashba. Many poskim contend that even according to the Rashba, it is sufficient if one closes one's eyes, since now one cannot see the

malodorous material, provided one is in a different room. One may rely on this approach in extenuating circumstances (Biur Halacha, introduction to Chapter 79). If the malodorous material is covered, the poskim dispute whether you may recite a bracha when you cannot smell it, even though you are within four amos of the substance (Byur Halacha, introduction to Chapter 79). The lenient approach contends that since the source of the odor is covered, one may recite a bracha as long as one cannot smell the foul odor. Others contend that even though the source of the odor is covered, one still may not recite a bracha unless one is more than four amos from where it can be smelled.

If the source of the odor is covered so well that no odor emanates at all, all poskim agree that one may recite a bracha, even when right next to it. This is true even if one can see the malodorous material through a plastic bag or pane of glass, since the soil is covered.

Therefore, if a soiled diaper has been placed in a plastic bag, one may recite a bracha anywhere around it, since no ill odor emanates at all beyond the bag (VeZos HaBeracha pg. 150).

We may now answer the last part of Question #2 above:

"May I put the soiled diaper in the kitchen garbage without worrying about reciting brachos there?"

The answer is that if one bags the diaper in a way that no odor emanates from it, one may recite brachos nearby without any concern. (If the baby is younger than the age when children eat solid food, then there is no concern at all.)

Someone who made a bracha without checking a child's diaper and subsequently found that the child was soiled is not required to recite a new bracha (see VeZos HaBeracha, pg. 150).

One does not need to be concerned about reciting a bracha near a wet diaper, provided that there is no noticeable odor (Berachos 25a).

2. AREAS THAT ARE USUALLY MALODOROUS

One may not recite a bracha in certain areas that usually have bad odors even if they are presently clean and pleasant smelling. For example, one may not recite a bracha in or near a primitive commode or chamber pot made of earthenware, wood, or other porous material, even if it is clean at the moment and is odor-free (Brachos 25b; Shulchan Aruch 83:1). Since these items usually retain a foul odor even after they are emptied, one may not recite a bracha near them ever. Davening facing these items is prohibited *min HaTorah* (Rabbeinu Yonah).

However, Chazal ruled that if the *beis hakisei* is made of metal or glass and it is clean, one may recite a bracha near it since metal and glass do not absorb odors (Shulchan Aruch 87:1; Mishnah Berurah ad loc. See however Taz 87:2).

Therefore, one may recite a bracha near a metal bedpan, provided that it is completely clean and odor-free. Similarly, one may recite a bracha near a covered catheter since no odor emanates from it (VeZos HaBeracha p. 150, quoting Rav Ben Zion Abba Shaul 6:15). Some poskim require putting an additional cover over the catheter (Shu't Igros Moshe, Orach Chayim 1:27).

Many authorities contend that whether one may recite a bracha when one can see a *beis hakisei* is dependent on the same dispute I mentioned above between the Rosh and the Rashba, whether one may recite a bracha when one can see the source of the odor but is too distant to smell it. Following these authorities, the Rosh permits reciting a bracha while facing the open door of a *beis hakisei*, provided that one is more than four amos from where its odor ends, whereas the Rashba prohibits reciting the bracha under these circumstances. On the other hand, other authorities contend that all opinions forbid reciting a bracha when one can see any part of the *beis hakisei*, even its outside (Biur Halacha 83:1 s.v. im).

OUR BATHROOMS

The later-day poskim dispute whether our bathrooms have the halachic status of the *beis hakisei* of the days of Chazal. Some poskim are lenient, since our bathrooms are much cleaner than old-time outhouses (Shu't Zakan Aharon 1:1; Shu't Minchas Yitzchok 1:60). Others contend that our bathrooms should still be treated as a *beis hakisei* (see Shu't Yechaveh Daas 3:1). Both the Chazon Ish (Orach Chayim 17:4) and Rav Moshe Feinstein (Shu't Igros Moshe, Even HaEzer 1:114) rule that we should treat our bathrooms as a *safek* (questionable) *beis hakisei*. The universal practice is to not recite brachos in the bathroom, but some people are lenient about washing their hands there. Rav Moshe rules that one may not wash for bread in our bathrooms, but one may wash his hands there before davening, although one should dry one's hands outside the bathroom.

According to what I have explained above, if we assume that our bathrooms have the halachic status of a *beis hakisei*; one should not recite a bracha, sing *zemiros*, or say *divrei Torah* facing the bathroom when its door is ajar. However, if we assume that it is only questionable, then one may have grounds to be lenient.

WASHING FOR BREAD IN A PUBLIC RESTROOM

According to the Shulchan Aruch (Orach Chayim 83:1), one may recite a bracha if there are mechitzos (walls or dividers) between yourself and a beis hakisei, provided you do not smell any foul odor. According to his ruling, one may wash for bread and recite a bracha inside the restroom, provided one is beyond the mechitzos separating the hygienic facilities and one cannot smell any odor (Chazon Ish 17:5). According to the Shulchan Aruch's ruling, one need not be four amos from where the odor ends to recite a bracha. Many poskim add one more qualification to this case before permitting it -- they require that the area between the bottom of the facility dividers and the floor be less than three tefachim (about eleven inches) so that the dividers qualify as full mechitzos (Bach; Mishnah Berurah 83:4). However, many poskim disagree with the above-quoted ruling of the Shulchan Aruch, for two reasons: 1. They contend that one needs to be 4 amos distant from where the odor ends. 2. They contend that the wall of the beis hakisei is itself considered part of the beis hakisei. According to the stricter ruling, if we assume that our bathrooms have the halacha of a beis hakisei, one needs to be more than four amos from where the odor ends and one must be facing away from the dividers that surround the commodes (Taz and Magen Avraham 83:1; Mishnah Berurah 83:5). Note that according to all opinions, if the sinks in the restroom are separated from the comfort facilities by their own divider or mechitzah and they are more than four amos from where the odor ends, one may wash for bread and recite a bracha there, provided one is not facing the commode dividers when reciting the bracha.

CHILD'S POTTY

The contemporary poskim dispute whether a child's potty is halachically equivalent to a beis hakisei, or whether it is more like our bathrooms, where there is more grounds for lenience. According to most opinions, one may not recite a bracha in the presence of a potty, even if it is completely clean and has no odor at all. One may recite a bracha if one does not smell any odor and the potty is completely covered by a cloth or something similar (Shaarei Teshuvah 81:2) or if it is in a different room (Mishnah Berurah 83:13).

Some poskim contend that if a potty has a seat and a bowl that are two separate pieces, the seat is not considered a beis hakisei (Chazon Ish 17:3). According to this opinion, one may recite a bracha while this seat is in the room, provided that there is no foul odor and the bowl is not here. However, most poskim contend that this seat should be treated like a beis hakisei and it must be covered completely or removed to a different room (Chayei Odom 3:10; Mishnah Berurah 83:13).

DUMPSTERS

Since most dumpsters are malodorous, many poskim contend that we should treat them like toilets or potties. Thus, if one can see the dumpster, one should preferably not recite brachos etc., even if one cannot smell any malodor. According to the Rashba, this is true even if you and the dumpster are in different areas, such as you are indoors and can see the dumpster through an open window. (According to all opinions, there would be no problem reciting a bracha while seeing a dumpster through a closed window, since it is not worse than seeing a covered malodorous material.) Other poskim contend that a dumpster is not as strict as a toilet (VeZos HaBeracha pg. 151). According to this opinion, there is no problem with reciting a bracha near a dumpster, providing there is no objectionable odor emanating from it. EXAMPLE: In one Beis Medrash where I used to learn, through the window was a prominent view of a dumpster. Thus, according to Rashba, one should not learn Torah while facing the dumpster through an open window, whereas according to other poskim, this poses no problem.

We are now in a position to discuss one of the questions asked above: "May I discuss Torah topics while walking through the streets, although there may be dumpsters, garbage cans, or dog droppings on the street?" Whether or not the dumpster presents a halachic problem is a dispute among contemporary poskim, and each individual should ask his own Rav. In reference to the dog droppings, it should be noted that not all animal manure possesses an odor foul enough to be considered a problem. The Gemara (Berachos 25a) implies that dog manure is not automatically considered malodorous enough to be a rei'ach ra (Shulchan Aruch, Orach Chayim 79:4). Similarly, the manure of some other species is also not considered to be ill-smelling (Rosh, Berachos 3:46), whereas the manure of turkeys, cats, and donkeys is considered to have a pungent odor (Shulchan Aruch, Orach Chayim 79:5; Chayei Odom 3:6).

3. ODOR WITHOUT A SUBSTANCE

Halacha calls foul odors that have no visible source as "rei'ach ra she'ain lo ikar, lit., a foul scent without any substance. This class includes situations where one

removed the ill-smelling matter from the room, yet some vestigial odor remains. The category also includes foul smell caused by flatulence (Rashi, Berachos 25a). Reciting a bracha while smelling items included under this type of malodor is prohibited only miderabbanan (Mishnah Berurah 79:30, quoting Pri Megadim and Ramban), and, as such, its halachos are somewhat more lenient than the previous groupings we studied. For example, if there is no foul-smelling substance nearby, but only a foul odor, one need distance himself only from the scent, but does not need to distance himself the additional four amos (Rambam, Hil. Keriyas Shma 3:12; Mishnah Berurah 79:32).

A lenience applies also in the following case: Since the prohibition is only while the air smells foul, spraying room deodorizer to cloud the scent suffices to allow you to recite a bracha (see Shu't Maharsham 2:38). Thus, the answer to Question #2 above: "I changed the baby's diaper and the room still smells. May I bensch now?" The answer is that one may not recite any brachos until the odor dissipates; however, one may spray deodorizer to mask the odor and then bensch immediately. I mentioned above that whenever one may not recite a bracha because one can smell a foul odor, one may also not daven, answer a davar she'bikedusha such as kaddish or kedusha, and usually one may not learn Torah aloud, either. However, a foul odor that does not have a source has a lenience concerning learning Torah. One may study Torah when smelling this type of malodor, provided it was not the result of one's own flatulence (Berachos 25a). Since the prohibition in this instance is only miderabbanan, Chazal were lenient in order to avoid excessive bitul Torah. If someone smells flatulence in the middle of davening, he should wait until the odor subsides and then continue davening from where he was (Berachos 24b; Shulchan Aruch, Orach Chayim 79:9). However, one may not daven knowing that one will be flatulent during davening. To quote the words of the Shulchan Aruch (Orach Chayim 80), "it is better for him to miss davening altogether than to daven and be flatulent during davening. If he missed davening as a result, it is beyond his control and he should daven the next prayer with a make-up shemoneh esrei". These words of Shulchan Aruch are a direct quotation of the Rosh (Shu't 4:1).

SOMEONE WHO CANNOT SMELL

Someone who cannot smell, either because he has a bad cold or has a permanent impairment, is bound by the same halachos as someone who can smell (Tur and Shulchan Aruch, Orach Chayim 79:1). Therefore, he may not recite a bracha or learn Torah unless he is more than four amos distant from the point at which a person with a normal sense of smell would no longer be able to smell the odor. Similarly, at night one is required to distance oneself from the source of the foul odor the distance that one would be able to see it by day (Rosh, Berachos 3:46, quoting Yerushalmi).

However, in this halacha there is a tremendous difference between a substance that smells foul and a case of a rei'ach ra she'ain lo ikar, where there is no visible source of the odor. If the foul odor is without a visible source, then one who does not smell the bad odor may recite a bracha even though other people who smell a foul odor may not (Magen Avraham 79:9; Mishnah Berurah 79:19).

CONCLUSION

When making a presentation to a human king, someone would be exceedingly careful to have his clothes clean and in neat order, and certainly would be exceedingly careful that there are no objectionable odors. Certainly when we are davening, learning Torah, or reciting brachos in Hashem's service, we too should be careful that there is no objectionable odor. The Gemara (Taanis 20b) tells us that the disciples of the Amora, Rav Adda bar Ahavah, asked him why he merited longevity. Rav Adda answered that this was because he was careful in several halachos, including not thinking about Divrei Torah in inappropriate places. Thus, we see that that carefully observing these halachos leads us not only to a greater honor of Hashem, but also leads to long years