

Home Weekly Parsha SHOFTIM
Rabbi Wein's Weekly Blog

Following the decisions of the court and judges of one's time, even if one personally disagrees with those judicial conclusions, is the subject of this week's parsha. This leads to a later concept in halacha of a zakein mamreh – a leading scholar, a member of the Sanhedrin itself, who refuses to accept or abide by the majority position and opinion of his colleagues.

There is a normative stance in Jewish life and Judaism that demands and restricts individual freedom and everyone doing their own thing. Every scholar is convinced that his opinion is correct, perhaps even perfectly and exclusively correct. But one must be willing to accept the fact that if most of the scholars disagree, then the law must remain that way even if history later proves them wrong or mistaken.

The majority, like any individual as well, is not infallible. But human society must function according to certain standards and norms and the Torah demands this type of discipline from all responsible leaders and judges. The zakein mamreh has the right to his own opinion but he has no right to preach it publicly in a way that will split the Jewish society and come to the disastrous situation of there being “two Torahs” present in Jewish society.

There must be a great deal of frustration in the heart of the zakein mamreh for he is undoubtedly convinced of the correctness of his position. But the Torah does not allow for the correctness of an individual opinion of law to endanger the entire delicate balance of judicial decision and halachic parameters. Again, the forest always trumps the trees in the Jewish view of law and halachic life.

The question now remains: is this true of the majority opinion regarding political and societal issues as well? Many times, in human history has the majority been wrong on crucial life and death issues. Winston Churchill was the lonely voice of warning in the 1930's when Germany rearmend.

Here in Israel, there have been many instances, especially over the past decade, when the majority has been wrong in its decisions and policies. The rabbis were a minority opinion in the times of the great rebellion against Rome and correctly foresaw the defeat and the destruction of the Temple. The prophet Yirmiyahu was a strident voice of dissension against

the majority military and diplomatic policies of the kings of Judah.

It is apparent that there is a significant difference between halachic and judicial decisions and national political and security issues. Eventually, even in these issues, the will of the majority will prevail in a democracy. But the dissenters have an innate right to be heard - and their opinion to be judiciously considered. The tyranny of the majority is a real danger in national matters.

It is much harder in these types of issues to define what is the forest and what are the trees. It is clear though that the concept of zakein mamreh is limited to those specific halachic issues and procedures that are detailed for us in the Talmudic tractate of Sanhedrin. In other matters, the majority should always force itself to truly listen to the opinion of the minority and the minority has the duty to express those opinions lucidly and publicly.

Shabat shalom. Rabbi Berel Wein

Environmental Responsibility SHOFTIM

Rabbi Jonathan Sacks ZT"L

Some commands in the Torah were understood so narrowly by the Sages that they were rendered almost inapplicable. One example is the ir ha-nidachat, the city led astray into idolatry, about which the Torah states that “you shall put the inhabitants of that town to the sword.” (Deut. 13:16) Another is the ben sorer umoreh, the stubborn and rebellious child, brought by his parents to the court and, if found guilty, put to death. (Deut. 21:18-21)

In both of these cases some Sages then interpreted the law so restrictively that they said “there never was and never will be” a case in which the law was applied. (Sanhedrin 71a) As for the condemned city, Rabbi Eliezer said that if it contained a single mezuzah, the law was not enforced (ibid.). In the case of the rebellious child, R. Yehuda taught that if the mother and father did not sound or look alike, the law did not apply (ibid.). According to these interpretations, the two laws were never meant to be put into practice, but were written solely “so that we should expound them and receive reward.”[1] They had only an educational – not a legal – function.

In the opposite direction, some laws were held to be far more extensive than they seemed at first sight. One

striking example occurs in this week's parsha. It refers to the conduct of a siege during wartime. The Torah states:

When you lay siege to a town and wage war against it for a long time to capture it, do not destroy its trees; do not wield an axe against them. You may eat from them; you must not cut them down. Are trees of the field human beings, that you should besiege them too? Only trees that you know do not produce food may you cut down for use building siege works until the town that has made war against you falls.

Deut. 20:19-20 This prohibition against destroying fruit-bearing trees was known as the rule of *bal tashchit*, "do not destroy". On the face of it, it is highly limited in scope. It does no more than forbid a "scorched earth" policy in the conduct of war. It seems to have no peacetime application. However, the Sages understood it very broadly to include any act of needless destruction. Maimonides states the law thus:

"Not only does this apply to trees, but also whoever breaks vessels or tears garments, destroys a building, blocks a wellspring of water, or destructively wastes food transgresses the command of *bal tashchit*." [2]

This is the halachic basis of an ethic of environmental responsibility.

Why did the Oral Tradition, or at least some of its exponents, narrow the scope of the law in some cases, and broaden it in others? The short answer is: we do not know. The rabbinic literature does not tell us. But we can speculate. A *posek*, seeking to interpret Divine law in specific cases, will endeavour to do so in a way consistent with the total structure of biblical teaching. If a text seems to conflict with a basic principle of Jewish law, it will be understood restrictively, at least by some. If it exemplifies such a principle, it will be understood broadly.

The law of the condemned city, where all the inhabitants were sentenced to death, seems to conflict with the principle of individual justice. When Sodom was threatened with such a fate, Abraham argued that if there were only ten innocent people, the destruction of the entire population would be manifestly unfair:

"Shall the Judge of all the earth not do justice?" Gen. 18:25 The law of the stubborn and rebellious son was explained in the Talmud by R. Jose the Galilean on the grounds that: "The Torah foresaw his ultimate destiny." He had begun with theft. The likelihood was that he would go on to violence and then to murder.

"Therefore the Torah ordained: Let him die innocent rather than die guilty." [3]

This is pre-emptive punishment. The child is punished less for what he has done than for what he may go on to do. Rabbi Shimon bar Yochai, who said the law never was or would be applied, may have believed that in Judaism there is a contrary principle, that people are only judged for what they have done, not for what they will do. Retributive punishment is justice; pre-emptive punishment is not.

To repeat: this is speculative. There may have been other reasons at work. But it makes sense to suppose that the Sages sought as far as possible to make their individual rulings consistent with the value-structure of Jewish law as they understood it. On this view, the law of the condemned city exists to teach us that idolatry, once accepted in public, is contagious, as we see from the history of Israel's kings. The law of the stubborn and rebellious child is there to teach us how steep is the downward slope from juvenile delinquency to adult crime. Law exists not just to regulate but also to educate.

In the case of *bal tashchit*, however, there is an obvious fit with much else in Jewish law and thought. The Torah is concerned with what we would nowadays call 'sustainability.' This is particularly true of the three commands ordaining periodic rest: the Sabbath, the Sabbatical year, and the Jubilee year.

On the Sabbath all agricultural work is forbidden, "so that your ox and your donkey may rest." (Ex. 23:12) It sets a limit to our intervention in nature and the pursuit of economic growth. We become conscious that we are creations, not just creators. The earth is not ours but God's. For six days it is handed over to us, but on the seventh we symbolically abdicate that power. We may perform no 'work', which is to say, an act that alters the state of something for human purposes. The Sabbath is a weekly reminder of the integrity of nature and the boundaries of human striving.

What the Sabbath does for humans and animals, the Sabbatical and Jubilee years do for the land. The earth, too, is entitled to its periodic rest. The Torah warns that if the Israelites do not respect this, they will suffer exile, "then shall the land make appeasement for its Sabbaths, for as long as it lies desolate and you are in your enemies' lands. Then the land will rest and make appeasement for its Sabbaths." (Lev. 26:34)

Behind this are two concerns. One is environmental. As Maimonides points out, land which is overexploited eventually erodes and loses its fertility. The Israelites were therefore commanded to conserve

the soil by giving it periodic fallow years, not pursuing short-term gain at the cost of long-term desolation.[4] The second, no less significant, is theological. “The land,” says God, “is Mine; you are merely migrants and visitors to Me.” (Lev. 25:23)

We are guests on earth.

There is another group of commands which directs us against over-interference with nature. The Torah forbids crossbreeding livestock, planting a field with mixed seeds, and wearing a garment of mixed wool and linen. These rules are called *chukim* or ‘statutes’. Nahmanides understood this term to mean laws that respect the integrity of nature. To mix different species, he argued, was to presume to be able to improve on creation, and is thus an affront to the Creator. Each species has its own internal laws of development and reproduction, and these must not be tampered with:

“One who combines two different species thereby changes and defies the work of creation, as if he believes that the Holy One, blessed be He, has not completely perfected the world and he now wishes to improve it by adding new kinds of creatures.”[5]

Deuteronomy also contains a law forbidding taking a young bird together with its mother. Nahmanides sees this as having the same underlying concern, namely of protecting species. Though the Bible permits us to use some animals for food, we must not cull them to extinction.

Samson Raphael Hirsch in the nineteenth century gave the most forcible interpretation of biblical law. The statutes relating to environmental protection, he said, represent the principle that “the same regard which you show to humanity you must also demonstrate to every lower creature, to the earth which bears and sustains all, and to the world of plants and animals.” They are a kind of social justice applied to the natural world:

“They ask you to regard all living things as God’s property. Destroy none; abuse none; waste nothing; employ all things wisely ... Look upon all creatures as servants in the household of creation.”[6]

Hirsch also gave a novel interpretation to the phrase in Genesis 1, “Let Us make man in Our image after Our own likeness.” (Gen. 1:26) The passage is puzzling, for at that stage, prior to the creation of man, God was alone. The ‘Us’, says Hirsch, refers to the rest of creation. Because man alone would develop the capacity to change and possibly endanger the natural world, nature itself was consulted as to whether it

approved of such a being. The implied condition is that humans may use nature only in such a way as to enhance it, not put it at risk. Anything else is *ultra vires*, outside the remit of our stewardship of the planet.

In this context, a phrase in Genesis 2 is decisive. Man was set in the Garden of Eden “to work it and safeguard it.” (Gen. 2:15) The two Hebrew verbs are significant. The first – *le’ovdah* – literally means ‘to serve it’. Man is not just a master but also a servant of nature. The second – *leshomrah* – means ‘to guard it’. This is the verb used in later Torah legislation to describe the responsibilities of a guardian of property that does not belong to him. He must exercise vigilance in its protection and is liable for loss through negligence. This is perhaps the best short definition of humanity’s responsibility for nature as the Bible conceives it.

Man’s dominion over nature is thus limited by the requirement to serve and conserve. The famous story of Genesis 2-3 – eating the forbidden fruit, and the subsequent exile from Eden – makes just this point. Not everything we can do, may we do. Transgress the limits, and disaster follows. All of this is summed up by a simple Midrash:

“When God made man, He showed him the panoply of creation and said to him: ‘See all My works, how beautiful they are. All I have made, I have made for you. Take care, therefore, that you do not destroy My world, for if you do, there will be no one left to mend what you have destroyed.’”[7]

We know much more than we once did about the dangers to the earth’s ecology by the ceaseless pursuit of economic gain. The guidance of the Oral tradition in interpreting “do not destroy” expansively, not restrictively, should inspire us now. We should expand our horizons of environmental responsibility for the sake of generations not yet born, and for the sake of God, whose guests on earth we are.

[1] Tosefta Sanhedrin 11:6, 14:1. [2] *Hilchot Melachim* 6:10. [3] *Mishnah Sanhedrin* 8:5. [4] Rambam, *The Guide for the Perplexed*, III:39. [5] Ramban, *Commentary to Lev. 19:19*. [6] S. R. Hirsch, *The Nineteen Letters*, Letter 11. [7] *Kohelet Rabbah* 7:13.

Shabbat Shalom: Parshat Shoftim (Deuteronomy 16:18 – 21:9)

By **Rabbi Shlomo Riskin**

Efrat, Israel – “Judges and Executors of Justice shall you establish for yourselves in all of your gates.... Justice, justice shall you pursue in order that you may live and

inherit the land which the Lord your God is giving to you.” (Deuteronomy 16:18–20)

In this opening passage of our weekly portion, the Bible conditions our ability to remain as inhabitants of the Land of Israel upon the appointment of righteous judges, who will not prevent justice, show favoritism before the law or take bribes of any kind (Deut. 16:19).

The Bible also reiterates, “Justice, justice shall you pursue,” a commandment with a number of important interpretations. First of all, seek or appoint another judicial court if the local court is not deemed adequate for the needs of the litigants (Rashi, ad loc.). Secondly, in the words of Rabbi Menahem Mendel of Kotzk, make certain that you pursue justice by means of justice, that your goals as well as your means are just.

I would add to this the stipulation that the “administration” aspect of courtroom management be just: begin on time without keeping the litigants waiting, conclude each case with as much dispatch as possible, and listen sympathetically to the claims of each party, so that everyone feels that he/she has received a fair hearing.

Further on in our portion, the Bible adds another critical criterion for true justice:

“When there will arise a matter for judgment, which is hidden from you [a case which is not cut-and-dry; which involves changing conditions and therefore requires extra consideration on the part of the judges] ... you shall come to... the judge who shall be in those days” (Deut. 17:8-9).

Rashi makes it clear, basing himself on the words of our Talmudic sages, that we must rely on the Sages of the particular era of the problem for the judgment at hand, that “Yiftah in his generation is as good as Samuel in his generation.”

This notion is further elucidated by Rabbi Levi Yitzhak of Berditchev in his masterful *Kedushat Levi*, under the rubric “teiku,”: t-y-k-u – Tishbi Yetaretz Kushyot Veba’abayot, or “Elijah the Prophet will answer questions and ponderings” in the Messianic Age. “Why Elijah?” asks Rabbi Levi Yitzhak. After all, there will be a resurrection of the dead in the Messianic Age, wherein Moses will be resurrected; since Moses was a greater halakhic authority than Elijah, since Moses studied directly with God Himself, why not have him answer the questions rather than Elijah?

Rabbi Levi Yitzhak answers his seemingly naïve question with a most sophisticated response. Moses died close to four thousand years ago; Elijah, according to the biblical account, was “translated” live into heaven, and – says the midrash – regularly returns to earth, appearing at important moments to help certain individuals as well as at every circumcision and at every Passover Seder. And since Elijah will be involved with people and will therefore understand the travail and the angst, the hopes and the complexities of the generation of the redemption, only he can answer the

questions for that generation. A judge must be sensitive to the specific needs and cries of his particular generation!

Then what are the most important criteria for a righteous judge? We have seen that he must clearly be a scholar in Jewish legal literature and must be an aware, intelligent, and sensitive observer of the times and places in which he lives, a judge of and for the period and place of adjudication.

But there is more. In the book of Exodus, when Yitro, the Midianite priest, first suggests to his son-in-law Moses that he set up a judicial court system of district judges, we find more qualifications for our judges:

“You shall choose from the entire nation men of valor (hayil), God-fearers, men of probity who hate dishonest profit” (Ex. 18:21).

Our great twelfth-century legalist-theologian, Maimonides, defines “men of valor” (hayil), a Hebrew word which connotes the courage of a soldier in battle, as follows:

“‘Men of valor’ refers to those who are valiantly mighty with regard to the commandments, punctilious in their own observance... And under the rubric of ‘men and valor’ is the stipulation that they have a courageous heart to rescue the oppressed from the hands of the oppressor, as in the matter of which it is scripturally written, ‘And Moses rose up, and saved [the shepherdesses] from the hands of the more powerful shepherds’... And just as Moses was humble, so must every judge be humble” (Mishneh Torah, Laws of Sanhedrin 2:7).

Rabbi Shlomo Daichovsky, one of the most learned and incisive judges who ever occupied a seat on the Religious High Court in Jerusalem queries (in an “Epistle to my Fellow Judges,” dated 25 Shevat 5768, and published in *Tefumin*, Winter 5768) as to how it is possible for a judge to be a valiant fighter on behalf of the oppressed – which requires the recognition of one’s power to exercise one’s strength against the guilty party – and at the same time for him to be humble, which requires self-abnegation and nullification before every person? These seem to be two conflicting and contrasting characteristics!

Rabbi Daichovsky concludes that humility is an important characteristic only when the judge is not sitting in judgment; when the judge is seated on the throne of judgment, he must be a valiant and self-conscious fighter, fearlessly struggling against injustice as though “a sword is resting against his neck and hell is opened up under his feet” (Sanhedrin 7). “The Judge must be ready to enter Gehenna and to face a murderous sword in defense of his legal decision.... He must take responsibility and take risks, just like a soldier at war, who dare not worry about saving his own skin” (Maimonides, *Mishneh Torah*, Laws of Sanhedrin 23:8).

The chief concern of a judge must be for the justice and well-being of the litigants before him and not for his own security and reputation in walking on the “safe” (and more stringent) halakhic ground.

This week's parsha teaches the prohibition against having one witness testify against someone, which is a violation of *loshon hora*.

No Talebearing!

By Rabbi Yirmiyohu Kaganoff

Yes, indeed, but what constitutes talebearing? Question #1: Talebearing -- Rechilus "What is the legal definition of rechilus?" Question #2: *Loshon hora* "May I listen to someone say inappropriate things about a second person, in order to calm the speaker down?" Question #3: *Motzi shem ra* "I found out that a smear campaign is being planned against someone I know. Whom may I tell about it?" Introduction In parshas *Kedoshim*, the Torah teaches *lo seileich rachil be'amecha* (*Vayikra* 19:16), which Rashi and most authorities translate as: "You shall not go as a talebearer among your people." Rashi explains that the three-letter root of the word *rachil*, the letters *reish*, *kof*, *lamid*, is related to the root *reish*, *gimel*, *lamid*, which is the root of the word meaning "spy," since the *kof* and the *gimel* sounds are created by the same parts of the mouth. They are both palatals, meaning that both are pronounced by pressing the back of the tongue against the soft part of the palate. Thus, the *pasuk* means someone who seeks gossip. This mitzvah is counted as one of the 365 *lo sa'aseh* prohibitions of the Torah. We will soon clarify what is included in this prohibition. Broader definitions Several other prohibitions are also included under the general heading of *lo seileich rachil be'amecha*. According to many authorities, this also includes the *lo sa'aseh* not to say *loshon hora*. According to the Gemara and other rishonim, this *lo sa'aseh* also applies to a judge who does not treat the two parties before him in an equal way, but acts harshly to one and softly to the other. The latter prohibition is derived from a different translation of the word *rachil*, explaining that its root is related to the word *rach*, soft. Let us examine the passage of Gemara (*Kesubos* 46a) that derives both of these prohibitions from this *pasuk*: "Which source teaches that spreading falsehood about someone else violates a *lo sa'aseh* of the Torah? Rabbi Elazar says 'lo seileich rachil,' whereas Rabbi Nosson says that he violates a different *pasuk*, in parshas *Ki Seitzei* (*Devorim* 23:10) 'and you should guard yourself from any evil matter.' Why did Rabbi Nosson not use Rabbi Elazar's verse? Because he considers this verse (*lo seileich rachil*) to teach us a *lo sa'aseh* that applies only to *beis din* – that they should not be soft to one of the two litigants and harsh to the other. Rashi explains that this is derived in the following way: *lo seileich rachil* means, 'you shall not be soft to me' when you dealt more harshly with the other litigant. This latter law is mentioned by both the Semag (*Lo Sa'aseh* 9) and the *Sefer Hachinuch* (*Mitzvah* #236). Hurting feelings, Betraying a secret There are other prohibitions that are included under the heading of *lo seileich rachil*. According

to the *Sefer Hachinuch*, the mitzvah of *lo seileich rachil* also includes saying something that might hurt someone's feelings. The prohibition of *lo seileich rachil be'amecha* also includes revealing information that someone wants kept confidential (*Semag*). This ruling is codified by later halachic authorities on the topic (*Orach Meisharim* 8:2). If the information is negative, the teller also violates speaking *loshon hora*. Ask your Rabbi Rav Naftali Amsterdam, one of the primary disciples of Rav Yisroel Salanter, was famous for saying that he found it quite astonishing that people spend so much time and money to effect a heter *mei'ah rabbonim*, a program which releases someone from a prohibition that has the status of only a *cherem* established by *Rabbeinu Gershom*, and yet they freely violate a prohibition to speak *loshon hora* or to spread gossip, both of which involve violations of Torah laws, without asking any rabbonim what they are permitted to say (retold in *Torah Lada'as*, Volume V, page 56). What is talebearing? At this point, we are ready to discuss our first question: "What is the legal definition of rechilus?" Thanks to the Chofetz Chayim's efforts, the laws of *loshon hora* are much better known and more carefully observed today than they were in earlier days. Nevertheless, there is still much confusion regarding what is considered spreading gossip, and therefore prohibited, and what is not. To begin our elucidation of the mitzvah, let us quote the words of the Rambam (*Hilchos Dei'os* 7:1-2) on the topic: "Someone who tells tales about his fellow violates the proscription of *lo seileich rachil be'amecha*, 'You shall not go as a talebearer among your people.' Even though the violator of this prohibition does not receive lashes for this, it is a major sin and has caused much loss of life among the people of Israel. For this reason, the continuation of the *pasuk* reads, *lo sa'amod al dam rei'echa* 'Do not stand aside, ignoring the blood of another.' Go see what happened to *Do'eig* the Edomite. "Who is a talebearer? Someone who carries stories and goes from one person to another, saying, 'This is what so-and-so said; I heard such-and-such about someone.' Even if what he says is true, he destroys the world. "There is a greater sin than this, which is included in this *lo sa'aseh*, and that is *loshon hora*, which means that he tells over embarrassing things about his fellow, notwithstanding that it is the truth." It is quite clear from the Rambam that, whereas *loshon hora* is saying over something that is embarrassing about someone else, the prohibition of *lo seileich rachil be'amecha* is violated even if the story is not embarrassing. Does this mean that the Torah has prohibited saying nice things about your fellowman? We can prove from later comments of the Rambam that he cannot possibly mean this, since he writes as follows: "Someone who talks about another person's qualities in front of that person's enemies is engaging in *avak loshon hora* (literally, the 'dust' of *loshon hora*, meaning a rabbinic violation of this prohibition) since it causes them to begin to talk disparagingly about him. In

this context, Shelomoh said, *Mevoreich rei'eihu bekol gadol baboker hashkeim, kelalah teichasheiv lo*, 'He who blesses his neighbor in a loud voice early in the morning, is considered that he cursed him (Mishlei 27, 14), because a result of the good that he (the talker) did caused him (his neighbor) harm' (Hilchos Dei'os 7:4). Obviously, there is nothing wrong with talking about another person's qualities, if it is not in front of that person's enemies or will not cause him any harm. So, what then is the Torah prohibition of *lo seileich rachil be'amecha*? Two excellent works on the topic of the laws of *loshon hora* discuss this question and reach the same conclusion. The *Orach Meisharim* (8:2 in biurim), authored by Rav Menachem Troish, who was the rav of Salzburg, a village in the Austrian Alps, in the late nineteenth century, and the *Nesiv Chayim* (Hilchos Rechilus 1:1), authored by Rav Moshe Kaufman, a contemporary author in Bnei Braq, both explain that the prohibition of *lo seileich rachil be'amecha* applies when the information will ultimately cause harm to the person about whom it is said or when it will lead to some type of *machlokes*. The person who recounts the "tale" intends to spread gossip, to harm someone, or to create *machlokes*. This is prohibited even when the person who did the act is not embarrassed by what he did or said; the gossip is in violation since his goal is to create harm, he violates *lo seileich rachil be'amecha*. For example, if the decision of a *beis din* was not unanimous, the ruling should not be recorded as a split decision, since this may easily create ill feeling between the losing party and those *dayanim* who sided against him (see *Sanhedrin* 30a). Instead, you simply write the halachic conclusion. Furthermore, the *dayan* who disagreed is prohibited from telling this to others (*Sanhedrin* 31a) since this may cause that those who lost will be upset or angry at the other *dayanim*. Another example is when Reuven said something non-complimentary to Shimon about Levi, and Shimon tells Levi what was said. Since this certainly leads to ill feeling among people, it violates *lo seileich rachil be'amecha*. Among the types of harm that are included under *lo seileich rachil be'amecha* is to inform a person that someone helped his enemy. The person who did the act may be unaware that this individual is an enemy of the person he helped, but the *rochil* is aware of this and wants to spread the *machlokes*. Let us for a moment review the story of *Do'eig* to understand this prohibition better. David he sought refuge in Nov, a city of *kohanim*, in his flight from Shaul. The residents of Nov were unaware that David was a wanted man, and they provided him with food and a sword. *Do'eig* told Shaul that the city of Nov had provided for David. Although Shaul was told that the people of Nov were completely unaware that Shaul was pursuing David, Shaul ordered the entire city wiped out. The *Mishnah* (*Sanhedrin* 10:2) mentions *Do'eig* as one of the individuals who forfeited his right to *olam haba*. *Lo sa'amod* At this point, we can discuss the third of our opening questions: "I

found out that a smear campaign is being planned against someone I know. Whom may I tell about it?" When talker (T) plans something that may harm V (the victim), listener (L) is required to tell victim (V), so that V can protect himself. This is an example of *lo sa'amod al dam rei'echa* and is true even if the threat is not life-threatening, but concerns only V's reputation or his finances. The Torah teaches that there are instances in which telling over what you know is not only permitted, but required. However, if L (listener) knows that the T (talker) is halachically correct -- "person V" is not a victim but actually did harm the talker, and talker is justified to respond -- *lo sa'amod al dam rei'echa* does not apply. In this latter situation, it is prohibited for L to tell over T's plans, and, if L does so, he violates *lo seileich rachil* (*Be'er Mayim Chayim*, *Hilchos Rechilus* 1:3). More on *lo seileich rachil*, which includes *loshon hora*. To continue the quotation of the Rambam (*Hilchos Dei'os* 7:3): "Chazal said, 'Three sins are punished in this world and deprive a person of the next world -- idolatry, adultery, and murder -- and *loshon hora* is equivalent to all three of them. Furthermore, Chazal (*Arachin* 15b) said that speaking *loshon hora* is tantamount to denying that there is a G-d, as the *pasuk* says, *Asher amru lil'shoneinu nagbir sefaseinu itanu mi adon lanu*, 'Those who say: "We will make our tongue powerful! Our lips are ours! Who is lord over us?"' *Tehillim* 12:5). In addition, Chazal said, 'Loshon hora kills three people: The one who said it, the one who believes it, and the person about whom it is said. And the one who is hurt most is he who believed it.'" To quote the Gemara (*Arachin* 15a), "Rav Elazar ben Parta said, 'Come and see how serious is the power of *loshon hora*. How do we see this? From the *meraglim*, where we see that someone saying *loshon hora* only about wood and stones could cause such a calamity -- how much worse is someone who says *loshon hora* about another person!'" The *Mishnah* (*Arachin* 15a) states that the decree on our forefathers in the desert was sealed because of the *loshon hora* that they reported. Continuing the Rambam (*Hilchos Dei'os* 7:2, 4, 5): "The person who says *loshon hora* sits around, saying, 'So-and-so did this,' 'His parents were no better and did this,' 'I heard these stories about him,' and repeats embarrassing things. About this, the *pasuk* says, *yachreis Hashem kol sifsei chalokus loshon medaberes gedolos*, 'Hashem will cut off all smooth-talking lips, the tongue that talks boastfully' (*Tehillim* 12:4). "There are things that are prohibited as *avak loshon hora* the 'dust' of *loshon hora*. For example, 'Who would have believed that so-and-so would end up where he is now,' or someone who says, 'Don't talk about so-and-so, I don't want to tell you what he did,' or anything similar. Someone who talks about another person's qualities in front of that person's enemies is engaging in *avak loshon hora*, since it causes them to begin to talk disparagingly about him. In this context, Shelomoh said, *Mevoreich rei'eihu bekol gadol baboker hashkeim, kelalah*

teichasheiv lo, 'Someone who praises another loudly from early in the morning, is considered a curse to him' (Mishlei, 27:14), because a result of the good that he did caused him harmbad. Similarly, someone who says loшон hora as a joke or with levity, as if he is not speaking out of hatred, is also engaging in avak loшон hora. This is what Shelomoh intended when he said, in his wisdom, kemislah'lei'ah hayoreh zikim chitzim vamaves, kein ish rimah es rei'eihu ve'amar halo mesacheik ani, 'Just as a person who exhausts himself by throwing burning wood, arrows and death, so is someone who tricks his fellow, saying, "I was only joking" (Mishlei, 26:18-19). A similar prohibition is violated by someone who says loшон hora, pretending that he does not realize that what he said is negative. "Something qualifies as loшон hora whether it is said in front of the aggrieved party or not. Furthermore, something that is not inherently negative about the person, but, if spread, will cause him harm either to his body or to his financial situation, it is loшон hora." An example of the latter might be that a potential investor may decide not to assist someone who is a good risk to start a business because, based on the information he has received, the investor is led to believe that the business will not succeed. Calming someone down At this point, let us discuss the second of our opening questions: "May I listen to someone say inappropriate things about a second person, in order to calm the speaker down?" Accepting loшон hora violates the lo sa'aseh of lo sisa sheima shav, "Do not listen to a purposeless rumor" (Shemos 23:1). However, the Sefer Hasidim rules that if someone comes to you very upset and angry, and you realize that by hearing him out you may be able to calm him down so that he does not tell anyone else, it is a mitzvah to listen to him and then convince him that the person he is upset about really cares about him. Either way, you are not to believe the story, and you are not to share it with others, because of concern that they will share it with the person about whom it is said and it will create a machlokes (Sefer Hasidim #64).

Conclusion The Talmud Yerushalmi (Peah 1:1) relates the following: In the days of the evil king Achav, the Jews were victorious in their wars, notwithstanding that both idol worship and murder were, unfortunately, prevalent. The Gemara attributes this to the fact that they were extremely meticulous about avoiding loшон hora, as can be demonstrated from the fact that Ovadyah was a member of Achav's household at the very same time that he was sustaining a hundred prophets who were hiding from Achav (Melachim I 18:13). Obviously, Ovadyah could not hide this information without many people knowing about it, yet Achav never found out. On the other hand, in the days of Shaul, when they were meticulous about refraining from idol worship, they lost the battle with the Pelishtim, because there was loшон hora among the Jews.

It has been said that one time, a yeshivah bochur came to the Chofetz Chayim, complaining that many times he had

given long sermons in different communities, and he had as yet not noticed that he had achieved any success in drawing these people closer to the level of observance of mitzvos for which he was striving. The Chofetz Chayim answered that he disagrees with the bchur's attitude. The midrash states that for every moment that someone keeps his mouth closed and is careful not to say anything that is prohibited, he merits a heavenly light in the next world that no angel or any other creature can even imagine what it accomplishes. This, noted the Chofetz Chayim, is the reward for being quiet for a few seconds, and perhaps even less. How much reward have you gained for yourself and for the people who are listening to you that for all the hours you have spoken, they have not said anything inappropriate? Do you have any idea how much reward you have brought to them and to yourself? (This story is quoted in the biography of the Chofetz Chayim – chayav upoalo, Volume I, page 77).

Drasha By Rabbi Mordechai Kamenetzky

Parshas Shoftim Royal Humility This week, the Torah teaches us about royalty and its symbiotic relationship with humility. The concept of the Jewish king is discussed in this week's portion, He is given a tremendous amount of power, but there are caveats as well. He is told not to amass a large cavalry, nor shall he have too many wives lest they sway his heart. Third, he is warned against amassing an excess fortune of gold and silver. But in an interesting addendum, Hashem puts a roadblock to haughtiness in front of the king in a surprisingly different manner. "It shall be that when he sits on the throne of his kingdom, he shall write for himself two copies of this Torah in a book, from before the Kohanim, the Levites. It shall be with him, and he shall read from it all the days of his life, so that he will learn to fear Hashem, his G-d, to observe all the words of this Torah and these decrees, to perform them so that his heart does not become haughty over his brethren and not turn from the commandment right or left, so that he will prolong years over his kingdom, he and his sons amid Israel." (Deuteronomy 17:16-17). It seems that this Book of chastisement and its message of restraint need be with the king everyday of his life. Need that be the case? Why not have a court castigator, a prophet or clergy who would sermonize monthly or even weekly. Does the King truly need to constantly carry and read a Book of ethics to forever keep him in check? Rav Yosef Poesner, was the son-in-law of the Nodeh B'Yehuda, the esteemed Rav of Prague. He was a brilliant scholar and an amazingly righteous individual. During his entire life, he seemed to be plagued by a nagging wife who would belittle him at every opportunity. After a brilliant lecture, she would come into the room, and belittle him. During meetings at which his opinion was prominently sought, she would serve the company food, but at the same time she made sure to deride him. During all these outbursts, he never said a word. He never defended himself. In fact, he hung his head

low, as if to agree with her words of derision. Then, suddenly, he passed away. Hundreds came to the funeral. All of the gathered contrasted his greatness to the difficult life he had led, by being married to a shrew of a wife who was about to bury him. After the eulogies, his wife suddenly appeared before the coffin, crying uncontrollably. She begged his permission to speak and then burst into tears. “All these years,” she cried, “I fulfilled the adage that a loyal wife fulfills the wishes of her husband. And due to my loyalty and respect to you and your greatness, I did whatever you had asked me to. But now that you are in the world of the truth, I can finally say the truth.” She began to declare her respect for his greatness and humility, his piety and patience, his kindness and compassion. The people near the coffin were shocked to see this woman transformed into a loving, grieving widow. And then the true shock came. She continued her soliloquy. “Despite, how difficult it was for me, I kept the promise and commitment you had asked me to make. Any time you were treated honorably, or were asked to fulfill a prestigious role, you told me to come in and belittle you as strongly as possible. You were afraid that the honor they afforded you would make you haughty. I only complied because that was your will!” “But now I can finally say the truth!” But that was only in front of people! “You know how much I appreciated and cherished you!” She continued to cry over the great tzadik and lifelong companion she lost. The stunned grieverers were shocked at the tremendous devotion of the Rebbitzin, who deemed herself a harrying nag all for the sake of her husband’s wishes. Humility is not easy to attain. And for a man thrust in the limelight of power, flashbulbs popping, the media pressing, and servants waiting, it is an even more arduous task. The only antidote is constant mussar, day in day out. The Torah “shall be with him, and he shall read from it all the days of his life.” Every day. All mussar all the time. No weekly speeches nor sporadic sermons. If the Torah must be cherished like a wife, it also must be asked to nag us into reality. And then, it will serve its men not only delicious desserts, but also humble pie. Good Shabbos!

Rabbi Yochanan Zweig Weekly Insights

This week’s Insights is dedicated in loving memory of Yisroel ben Aryeh Leib.

Self-Definition The officers will speak to the people saying; who is a man that has built a house but not inaugurated it? Let him go and return to his house lest he die in war and another man will inaugurate it. Who is the man that has planted a vineyard and has not yet redeemed the fruits? Let him return to his house lest another man [...] Who is the man that has betrothed a woman but not yet married her? Let him return [...] (20:5-7).

The Torah lists three categories of soldiers who are exempt from going into battle: 1) those who have built a house, but have not yet taken residence, 2) those who have planted a

vineyard, but have not yet enjoyed the fruits of his labor, 3) those who have become engaged to a woman, but are not yet married. Many commentators have struggled to explain why these three categories excuse one from military service. Maharal in the Gur Aryeh (ad loc) explains that a soldier who contemplates someone else living in the house that he built but never moved into would become depressed and thus his ability as a soldier would be adversely affected.

But this approach doesn’t fully explain why specifically these three categories are the exemptions for military service. There are many other situations that are very depressing (e.g. a terminally ill relative with very little time left), yet we don’t find that they qualify for exemptions from battle. What is unique about these three situations?

The Gemara (Sotah 2a) tells us that forty days prior to the formation of an embryo a heavenly voice goes forth and proclaims the daughter of this person will marry this person, the house of this person will go to this person, and the field of this person will go to this person. In other words, as part of the very creation of a child, three things are predetermined: one’s spouse, one’s home, and one’s property (livelihood).

From this Gemara we see that these items are the very definition of who we are. A spouse completes the man; before he marries he is only a half being, but once married he is finished (or rather complete). Likewise, a person’s home defines him; the modern expression of a member of the community is called a Bal Habayis. Lastly, most people define themselves by their profession or livelihood. In fact, many of our surnames come from the professions of our ancestors.

The Torah is telling us that someone who is right in the middle of any one of these self-defining events is in a state of flux and not fit for military service. In fact, Rashi (ad loc) calls these situations (i.e. contemplating that someone else might supplant you in one of the situations that are the very definition of who you are) a torment of the soul. This kind of existential torment is not fair to ask of someone, so these individuals are released from military service. An Eternal Nation If a corpse will be found on the land that Hashem, your God, gives you to inherit, fallen in the field; and the killer is unknown, the elders and the judges shall go out and they shall measure to the cities that are around the corpse [...] (21:1-2).

The end of this week’s parsha relates the details of the mitzvah of eglah arufa: When a person traveling between two cities is found murdered, the city closest to the corpse must bring a calf to atone for the host city for the sin of not properly accompanying this traveler. This mitzvah is known as levoya – escorting guests. Maimonides, in the Yad Hachazaka (Hilchos Aveilus 13:1), enumerates the mitzvos that fall under the category of gemilus chassadim and says that the reward for properly escorting guests is greater than any of the others (ibid 13:2).

Maimonides goes on to say that this was established by Avraham Avinu (Chazal establish this from the verse that says that Avraham planted an “aishel,” which is an acronym for eating, drinking, and escorting). Maimonides concludes that escorting is the most important aspect of having guests, and if one does not properly escort it is as if he committed murder (ibid 13:3).

Maimonides seems to be basing this principle on the Gemara (Sotah 46a) that wonders why do the sages and judges of the city have to deny responsibility for the death of the victim? Clearly they had no part in his death! The Talmud answers that they have to proclaim that they didn't know that he was leaving the city without provisions and that they were likewise unaware that he left unaccompanied. The implication being that if one allows a person to depart without an escort he is liable for his death. Maharal on this Gemara points out that the law of escorting a visitor is fulfilled by accompanying him a few steps; one doesn't have to escort a visitor to the next city. If so, asks Maharal, how does not giving someone a proper escort have anything to do with the murder?

Furthermore, the Talmud (Horayos 6a) points out that the atonement here is not only for the inhabitants of the city closest to the corpse but also “for Your nation of Israel that You have redeemed Hashem;” this refers to those who left Egypt. In other words, those who left Egypt also have some culpability in this murder, and part of the atonement of the calf is for them. What possible reason could there be that those who left Egypt have any culpability in this unfortunate incident?

In the mid 1980's there was a rash of attacks on tourists in South Florida. Groups of thugs would target tourists who were staring at maps (this was many decades before GPS systems and smart phones) and were obviously disoriented as to where they were and where they had to go. These unfortunate tourists were clearly in a state of vulnerability and the predators seized on the opportunity. Escorting someone from your home or city gives a guest the confidence that someone cares about them and values them. Not only that, but very often while escorting someone who is new to the city, you can put them on the proper path and orient them as to where they should be going.

The visitor who is accompanied and given the feeling that someone cares about them and is also properly oriented walks with a different level of confidence. They don't stick out as a potential target for predators. In other words, not escorting someone is very likely making him vulnerable to attack, one that could have very possibly been prevented; which is why an atonement is needed. This is why those who left Egypt are also held responsible. When the Jews left Egypt they became established as a nation. The Torah is teaching us that a nation is an entity made up of individuals; and every single individual is precious. When we don't show proper care for every individual it is a

failure of the corporate entity of our nation. Because a nation is an eternal entity, everyone has a degree of culpability, even those who left Egypt.

chiefrabbi.org Chief Rabbi Ephraim Mirvis Dvar Torah Shoftim: The King of Israel kept his Torah in a surprising place! 1 September 2022

If you were blessed to have a Sefer Torah, which room in your house would you keep it in? In Parshat Shoftim (Devarim 17:18), the Torah gives us a commandment relating to the king. “Vehaya keshivto al kisei mamlachto,” – “And it shall come to pass when he sits on his throne and rules the people,” “Vechatav lo et mishne hatorah hazot al sefer.” – “He must write two Sifrei Torah.” The Torah goes on to say, “Vekaravo kol yemei chayav,” – “And he must read from the Sefer Torah on every day of his life.” The Chatam Sofer explains that from here we learn that the king would need to consult with the Sefer Torah each and every day to guarantee that Torah law would guide and inspire him while he ruled the people. Now Rashi tells us what the king did with the two Sifrei Torah: he writes that one of them was to accompany him wherever he would go and the other he was to keep in his treasury, where all his money and his jewellery was. We see that the Torah resided in that part of the palace which stood for materialism in order to guarantee that when the king would consult with the Torah on every day of his reign, spirituality would triumph over materialism and ultimately the word of Hashem would guide the king in all ways. This was the way in which Joseph ruled Egypt as is described to us in the book of Bereishit. The Torah tells us how, immediately after revealing his true identity to his brothers, Joseph charged them with the responsibility of going back to Canaan to tell their father Yaakov that Joseph had said in Bereishit 45:9, “Samani Elokim lehaadon lekol Mitzrayim.” – “God has made me the lord over all Egypt.” The Kotzker Rebbe beautifully interprets it a different way: Samani Elokim is not ‘God has made me’ but rather ‘I have made God’ – I have made God to be ‘adon lechol Mitzrayim,’ the Lord over all Egypt, meaning that in every decision that Joseph took, for every policy that he made for Egypt he was inspired by one single consideration – what would Hashem want me to do? In this way, he guaranteed that it was actually Hashem who was ruling Egypt. Just like the ancient kings of Israel, let us guarantee that in every decision we take, in all the policies we have in our homes and in our workplaces, we will be guided and inspired by what Hashem wants us to do. In addition, bearing in mind where the Sefer Torah was kept in the king's palace, let's always ensure that our ruchaniut, our spirituality, will be the priority of our lives. *Shabbat shalom. Rabbi Mirvis is the Chief Rabbi of the United Kingdom. He was formerly Chief Rabbi of Ireland.*

blogs.timesofisrael.com Judging Others (Shoftim) Ben-Tzion Spitz

If you are pained by external things, it is not they that disturb you, but your own judgment of them. And it is in your power to wipe out that judgment now. - Marcus Aurelius

The opening of the Torah reading of Shoftim starts with the prescriptive command of: Judges and officers you shall place at all your gates, that God your Lord gives you to your tribes, and you shall judge the people a judgement of righteousness. The Chidushei HaRim on Deuteronomy 16:18 explains the verse homiletically. He explains that “gates” is referring to the gates of our heart and “tribes” is referring to various attributes in our service of God, such as “the gates of awe,” “the gates of love,” “the gates of Torah,” “the gates of lovingkindness,” and so forth. He elaborates, that if we were to take a deep look at ourselves, that if we were to judge ourselves honestly, we would realize that everything we have is from God. In essence, there is no attribute, skill, trait, or strength that we possess that isn’t from God. We need to realize that it’s all from God and not pat ourselves on the back for something that is basically a gift from God. The Chidushei HaRim suggests that we need to keep that awareness and gratitude in mind when confronted by the failings of others. Whether as a judge or as a layman we come across people who don’t act appropriately. We compare ourselves to them and say to ourselves how terrible or lacking or inappropriate the behavior of the other is. We need to remember that our own comparatively better behavior is not something we can take full credit for, nor can we fully blame the other. This is reminiscent of Nachmanides’ famous advice to his son (Igeret HaRamban), to think of others as inadvertent sinners and oneself as a purposeful sinner, if one decides to start comparing oneself to others. Each of us has our own unique advantages and disadvantages. The Chidushei HaRim proposes that instead of judging the disturbing person, one needs to show compassion. It may be that their behavior, sin, ill-manners, or affront is wrong, offensive and upsetting. However, the solution is not to think that one is in anyway better or superior to the other. Whatever apparent ethical advantage one has is not something that is entirely of our own making, but rather a gift from God. The answer is to remember that we are no better than the other and to think and demonstrate compassion rather than judgement, affection rather than disdain. May we judge others favorably as much as possible. *Dedication - To the incredible hospitality of the Nofei Aviv community. Thank you! Shabbat Shalom Ben-Tzion Spitz is a former Chief Rabbi of Uruguay. He is the author of three books of Biblical Fiction and over 600 articles and stories dealing with biblical themes.*

Rav Kook Torah Psalm 4: Controlling Negative Impulses Rabbi Chanan Morrison

We are often tempted by destructive or selfish impulses. How can we control and resist these urges?

When King David called upon his opponents to repent, he counseled them: רָגְזוּ וְאַל-תִּחַטְּאוּ. אָמְרוּ בְּלִבְבְּכֶם עַל-מִשְׁכְּבְּכֶם, וְדַמּוּ סֵלָה. תְּהִלִּים דַּ:הַ “Tremble and do not sin. Speak in your hearts upon your bed, and be still forever.” (Psalms 4:5)

According to third-century scholar Rabbi Shimon ben Lakish — himself a well-known penitent — this verse outlines a four-step program how to master the temptations of the yeitzer hara, the evil inclination. First, רָגְזוּ וְאַל-תִּחַטְּאוּ, you should “tremble and not sin.” Awaken your innate positive nature, your yeitzer hatov. Use your positive traits to counter any bad impulses. If this does not work, then אָמְרוּ בְּלִבְבְּכֶם — “speak in your hearts” - i.e., engage in Torah study, which should be עַל-לִבְבְּךָ (Deut. 6:6). If that is not enough, then say the Shema prayer, which is recited עַל-מִשְׁכְּבְּכֶם — “upon your bed” before going to sleep. As it says, “when you lie down” (וּבְשֹׁכְבְּךָ) (Deut. 6:7). And if that does not vanquish the negative impulse, then וְדַמּוּ סֵלָה — “be still forever.” Remind yourself of the day of death (Berachot 5a). These are four tools to overcome negative urges and unhealthy desires. But if the ultimate weapon in battling evil inclinations is to reflect on our mortality and the transient nature of life in this world, then why not use this method right from the start? Why wait before employing our most effective weapon?

1. Awaken Your Good Traits All of our characteristics, whether positive or negative, are meant to be used for the good. Even bad traits, such as jealousy, competitiveness, and pride, have their place and can be sublimated for positive purposes. If we weaken these negative traits, they will not be available to help us attain our goals. The ideal is that all of our energies be strong and healthy, while our negative traits are firmly under the control of our intellect and positive nature. It is natural that negative traits are more readily aroused. Therefore, the first step in subduing them is to “awaken the good inclinations.” We must bring our good traits to the fore so that they will be in control and rule over the negative ones.

2. Learn Torah For those who have a strong sense of right and morality, it is enough to awaken the soul’s innate goodness. But those who have not adequately refined their character traits must gain knowledge of the proper path. Therefore, Rabbi Shimon’s second advice is “to engage in Torah study.” This does not refer to the study of Torah in general. Rabbi Shimon meant specifically studying those areas of Torah that we are lacking. By absorbing this knowledge, we bolster our higher aspirations and will be prepared to overcome negative urges.

3. Uplift Your Emotions For some people, however, knowledge alone is insufficient to awaken their inner good. They need to refine and uplift their emotional faculties. To purify their emotions — which have a stronger impact than

abstract knowledge — the third technique is to recite the Shema prayer. The Shema is not simply a matter of intellectual recognition of God's oneness. Were that the case, it would be sufficient to recite it at infrequent intervals, perhaps once a year (like the mitzvah to remember the evil of Amalek). The fact that we are commanded to recite the Shema twice a day indicates that this recitation relates to our emotional faculties. The Shema is meant to instill in us feelings of love and closeness to God. We recite it every morning and evening, to constantly confirm and renew this truth in our hearts. It is a continual spiritual need, like air to the soul. As we refine our emotions, we strengthen our positive character and our control over negative impulses.

4. Contemplate Life's Transience All of the first three techniques share a common element: they work by strengthening the soul's positive qualities. But if we have still not overcome these impulses, it becomes necessary to weaken the negative traits. This is the final method: to "remind oneself of the day of death." When we reflect on our mortality, we dampen the lures of our imaginings that inflate the importance of worldly pleasures. However, if it is possible to strengthen our positive forces, this is the preferred method. For once we start weakening the forces of the soul, we will also weaken — as may occur with certain medical treatments like radiation therapy — our positive and healthy powers. (*Adapted from Ein Eyah vol. I, pp. 13-14; vol. II, p. 389*). Copyright © 2022 Rav Kook Torah

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שופטים ושופטים תתן לך ... ושפטו את העם משפט צדק... צדק, צדק תרדף **Judges and officers shall you appoint... and they shall judge the people with righteous judgment... righteous, righteous shall you pursue. (16:18,20)** We are enjoined to establish a justice system in which righteousness is the criterion by which justice is determined and by which reward and punishment is to be meted out. While justice is a concept ingrained in all humanity, the Jewish religion places a premium on justice and considers it the foundation of our existence. Hashem is the Ultimate Judge, the Arbiter who determines what is right and what is wrong. A society that adheres to rewarding good and punishing bad is a just society. A society which disregards good and bad is corrupt. Justice is the lodestar by which we navigate life in our society. Thus, one who acts unjustly does not belong in our circle. In his commentary to (16:20), *L'maan tichyeh v'yarashta es ha'aretz*; "So that you will live and take possession of the Land," *Rashi* writes: "The merit of appointing judges keeps *Am Yisrael* alive and allows them to settle upon the Land." *Horav Yeruchem Levovitz, zl*, writes (concerning the above *Rashi*), "So great does the Torah consider the concept of *mishpat*, justice, that merely the appointment of

Judges, even without enacting a system, is sufficient reason to keep *Klal Yisrael* alive. All the Heavenly promises we merit to receive are due to our adherence to even the simplest laws, such as monetary disputes." The *Mashgiach* teaches us that the justice system is not to be followed merely in order for society to determine how it should live, what to do and what not. The concept extends far beyond that. It is the reason that we are alive. Without justice as our guide, we are not worthy of life! The perversion of justice in the most minute manner -- when absolute truth is not our guide -- is the beginning of the destruction of the individual and the society which permits it. Our *gedolei Yisrael*, Torah giants, personified the Torah's view of *mishpat*. To take something from another person, regardless of the circumstance, even with the knowledge that the owner would be honored to give permission for its use, is considered tantamount to theft. It is not absolute truth. If the individual were to be asked, "Do you have express permission to use it?" and the answer would be, "No," even though the person would certainly have given permission, the act constitutes theft. *Horav Moshe Chevroni (Rosh Yeshivah, Chevron)* once sat in his seat on the *Mizrach vont*, eastern wall (the prestigious place reserved for the *Roshei Yeshivah* and distinguished guests), during *Mussaf* on *Shabbos* without a *tallis*. He *davened Mussaf* not wearing a *tallis*. Apparently, he had to leave *davening* for a few moments and had removed his *tallis*. When he returned, he discovered someone had taken his *tallis* by mistake. *Halachically*, he was permitted to use the other man's *tallis*. A dispensation allows one to use another fellow's *tallis* for a short while. The *Rosh Yeshivah* refused to rely on the dispensation. If it was not his *tallis*, he would not use it. Instead, he would sit in front of the entire *yeshivah* and *daven* without a *tallis*.

When *Horav Eliyahu Eliezer Dessler, zl*, arrived in *Eretz Yisrael* to serve as *Mashgiach* in *Ponovezh*, a group of students from *Gateshead, England* (where he had founded and built the *yeshivah*), joined him. When they wanted to speak with their *Rebbe* in learning, he demurred. He said, "I have been hired to serve as *Mashgiach*, to be the ethical supervisor of the student body. As such, I am supposed to devote all of my thoughts and abilities to this task. To take time off to speak in learning on another subject is akin to stealing." Last, when *Rav Yechezkel Levenstein, zl*, the *Mashgiach* in *Ponovezh*, reached the age of seventy-five, he asked the *Ponovezher Rav, zl*, to relieve him of his duties. He felt that, due to his age, he was unable to devote enough of himself physically to the students. The *Rosh Yeshivah* replied, "*Rav Chatzkel*, I am prepared to pay your salary just to have you *daven* and learn in the *bais hamedrash*. The *bachurim*, students, benefit just from looking at you!"

כי השחד יעור עיני חכמים ויסלף דברי צדיקים **For the bribe will blind the eyes of the wise and make just words crooked.**

(16:19) We think that *shochad*, bribery, is about taking money to sway judgment. As *Horav Shlomo Levenstein, Shlita*, points out, it is not always about accepting money. Any favor that, when granted, makes the beneficiary /judge feel indebted is considered a bribe. Indeed, as we see from the following story (“In the Footsteps of the Maggid,” by Rabbi Paysach Krohn), one can never be too careful with regard to the far-reaching effects of taking a bribe/accepting a favor. *Horav Eliyahu Meir Bloch, zl*, together with his brother-in-law, *Horav Chaim Mordechai Katz, zl*, founded Telshe Yeshiva in America. The *Rosh Yeshivah* had lost his wife and four of his children to the Nazi murderers, when they decimated the city of Telshe, Lithuania. He remarried, and he and his wife were blessed with a son and a daughter. Understandably, he doted on these two children who served in some small manner as comfort and solace after the tragedy that he had sustained. Unfortunately, as much as they wanted to, they were unable, due to their material insufficiency, to provide the two children with even the basic, simple toys with which all children grow up. When their son’s third birthday arrived, two of the *yeshivah’s bachurim*, students, each one hailing from a well-to-do family, purchased a small tricycle as a birthday gift. We can only begin to imagine the joy that permeated within their home. A short while later, the *Rosh Yeshivah* was set to give the *Yoreh Deah bechinah*, to test the oldest students and grant them *semichah*, ordination. When they walked into the *bechinah* the *Rosh Yeshivah* smiled, “Just the other day, I penned a thank you note to you for the gift you gave our son. It was greatly appreciated. However, due to the feelings of gratitude that I have for you, I do not think that I can be objective in testing you for *semichah*. Therefore, I must recuse myself and ask you to take a *bechinah* elsewhere.” Such was the greatness of the *Rosh Yeshivah*. He sensed that his overwhelming love for his son and his appreciation to the students who had brought a little extra joy to his son’s life, would impair his objectivity. This is the extent to which the prohibition against taking a bribe can go

ועשית על פי הדבר אשר יגידו לך ... לא תסור מן הדבר אשר יגידו לך
You shall do according to the word that they will tell you ... You shall not deviate from the word that they will tell you, right or left. (17: 10,11) As faithful Jews we adhere to *emunas chachamim*, faith in our sages – in the sages of each individual generation. Some, although observant, have difficulty accepting the interpretations of the Torah leaders concerning what they believe is fact. In a correspondence to such a misled Jew, *Horav Eliyahu Eliezer Dessler, zl (Michtav M’Eliyahu)*, addresses the disputant who claimed that the Holocaust might have been at least partially averted had the Torah leaders of Eastern Europe encouraged the masses to emigrate to *Eretz Yisrael*. He explains that the Torah teaches us to submit in all moral judgment and outlook, even to what we consider to be fact, to the clarity of vision evinced by our sages. He does not

distinguish between “opinion” and “fact,” because even fact is given to interpretation, which allows ample scope for our biased judgment to lead us astray. As a result of our materialistic bias, we are prone to view the political, economic and military backdrop as the primary juggernaut of any given situation. What about the spiritual factors? While we should not ignore the material factors, it is the spiritual factor that determines the outcome, thus weighing heavily in the sages’ decision. The interpretations of historical events rendered by our sages -- and the measures they took to address them -- have always considered, above all, the spiritual dimension. In a strong declaration, *Rav Dessler* asserts, “Lack of self-effacement towards our sages is the root of all sin and the precursor of all destruction. All merits are as nothing compared with that root of spiritual progress -- faith in our Sages.” I think this approach avails us deeper insight into *Moshe Rabbeinu’s* clarion call: *Mi l’Hashem eilai*, “Whoever is for Hashem, join me!” (*Shemos* 32:26) It was following the sin of the Golden Calf, during which a portion of *Klal Yisrael* flagrantly sinned and made a molten calf to replace Moshe, whom they claimed was not returning. The rest of the nation idly stood by demonstrating indifference. Now was the time of reckoning. The perpetrators must be punished. Moshe asked for those who still were part of Hashem’s legion, who did not in any way sin. *Shevet Levi* came forward to join Moshe. We wonder why Moshe added the word *eilai*, to me? Is it not obvious that he was calling for volunteers? Who else would have joined? Moshe could simply have called out, *Mi l’Hashem*, “Whoever is for Hashem!” Perhaps Moshe was imparting a lesson. It is not sufficient to be for Hashem while ignoring the *eilai*, the *Moshe Rabbeinus* of every generation. Moshe intimated to them, “If you want to be for Hashem, then you must also have *emunas chachamim*. The two go hand-in-hand.” The uncanny ability to cut through ambiguity and see, understand and interpret situations with amazing clarity is what defines *daas Torah*, the wisdom which comes from one whose life is suffused with Torah. The following vignettes offer glimpses into this unusual, unparalleled wisdom. *Horav Yosef Kahaneman, zl*, the *Ponovezher Rav*, was blessed with an extraordinary mind, coupled with his vast erudition that afforded him rare insight into circumstances that, for the most part, went over the head of a lesser person. He set for himself the goal to perpetuate the *yeshivos* that reigned in pre-Holocaust Europe and went about his life to realize this vision. A young teenager, a remnant of the fires that devastated European Jewry, arrived at the *Ponovezh Yeshivah*. The *Rav* accepted him, and he availed himself of the services he required to function and learn in the *yeshivah*. He stayed, learned, grew up and eventually raised a beautiful, impressive Torah family. Many years later, his grandchildren went on a trip to Poland to discover their roots. (Such a trip is quite popular for young adults from all corners of the globe.)

While in Poland, they made a point to visit their grandfather's place of birth. When they visited the records department of the local library, they discovered that their grandfather was actually one year older than they had thought. This was not uncommon, since the record system had not been very good. As such, it was possible (probable) that people were unsure of their true birthdate. When the grandchildren returned to *Eretz Yisrael*, they debated sharing their discovery with their grandfather. After all, since he had been born a year earlier than he thought, it meant he had delayed putting on *tefillin* for an entire year. Their grandfather was not oblivious to their covert discussions and inuendo. He would not be the first Holocaust survivor whose stated birthdate did not coincide with his real birthdate. He approached them and said, "I am certain that you are hesitating to show me the records that you discovered while in Poland. Do not worry. The *Ponovezher Rav* was quite aware of these errors. Thus, he insisted that every boy who was housed in his *Batei Avos* (the *Ponovezher Rav* had established an orphanage for children who survived the Holocaust without their parents) should begin putting on *tefillin* when he reached the age of twelve. I see now what I did not understand then. Indeed, I began putting on *tefillin* on my twelfth birthday, which was actually my *bar mitzvah*." Following World War II, *Horav Zev Rosengarten, zl* and *Horav Moshe Soloveitchik, zl*, established a yeshiva in Lucerne, Switzerland. Their goal was to bring in a Torah scholar of repute to serve as Rosh Yeshivah once the yeshivah had a functioning student body. They turned to *Horav Yechezkel Levinstein, zl*, for a recommendation, being that he, together with the *Mirror Yeshivah*, had escaped to Shanghai. Certainly, he knew confirmed *talmidei chachamim* who could satisfy the criteria vital for the *yeshivah's* growth. They explained the significance of having a *yeshivah gedolah* in Switzerland which could ultimately be a source of scholarship to produce the future leaders of European Jewry. Furthermore, a *yeshivah* of such caliber would influence the entire country and its environs. Not only did *Rav Chatzkel* not give them names, he dissuaded anyone from taking the position. With no other recourse, *Rav Moshe Soloveitchik* took it upon himself to lead the *yeshivah* temporarily. As a result of his brilliance in Torah, his personality and his ethical, moral character refinement, the yeshivah grew into the Torah center of Europe, with *Rav Moshe* as the Torah giant that led European Jewry until his passing. *Rav Zev Rosengarten* later mused, "This was all from Hashem. *Rav Chatzkel* saw that *Rav Moshe* was the perfect and best candidate for the position. Thus, he discouraged others from accepting it, thereby compelling *Rav Moshe* to assume the leadership position." The *Chazon Ish, zl*, was endowed with *Ruach haKodesh*, Divine Inspiration. He saw what others could not see; he understood what others could not understand. His life was guided by Heaven Above – as is all of ours; only he was

aware of it. He was "in touch" with Heaven at all times, so divested was he of physicality. His knowledge of medicine was legend. His ability to see what medical experts could not was a clear indication of his medical expertise -- or classic *Ruach haKodesh*. Numerous stories concerning this topic abound, of which I chose one, because it clearly demonstrates the *Ruach haKodesh* of the *Chazon Ish*. Doctors had insisted that a *Yerushalmi* woman undergo serious brain surgery. The *Chazon Ish* disagreed, insisting that the woman be taken to America. He provided travel expenses and a place to stay with *Horav Shmuel Greineman*, with specific instructions: No surgery, under any circumstances. *Rav Greineman* brought the woman to a world-renowned specialist, Dr. Lazarus. After examining the woman, Dr. Lazarus said that the case did not fall within his area of expertise. He referred the woman to his colleague, Dr. Globus. Appointments with a specialist were hard to come by. The earliest Dr. Globus was available was in a month. *Rav Greineman* prevailed upon Dr. Lazarus to personally call Dr. Globus to see the woman as soon as possible, which he did. Dr. Globus examined the woman and declared that she required a specific treatment which was available at a leading New York hospital. The family thanked Dr. Globus profusely. As they left the office, Dr. Globus suffered a fatal heart attack. *Hashgacha Pratis*, Divine Providence, had allowed him to live long enough to save this woman's life! If this is not a clear indication of the *Ruach haKodesh* of the *Chazon Ish*, what is?

Va'ani Tefillah ואנחנו לא נדע מה נעשה כי עליך עינינו
Va'anachnu lo neida mah naaseh ki Alecha eineinu. We know not what to do, but our eyes are upon You. Applying the vernacular of the *Kadmonim* (*Rambam* in *Shemoneh Perakim* and others), *Tachlis ha'yediah asher no neida*, "The purpose of knowledge is that we should not know (that we come to realize how little we really know)." We should merit to achieve the plateau of, *Va'anachnu lo neida*, "We know not." We acknowledge how little we know; how helpless we are. We can rely on no one other than Hashem. The *Tzadik* of Teveriah, *Horav Dov Kook, Shlita*, explains the *pasuk* in *Tehillim* (121), *Mei'ayin yavo ezri*, "From whence will come my salvation?" In a similar manner, *mei'ayin* means from where. *Ayin* also means nothing. *Ayin* also has the letters of *ani*. When we will transform the *ani*: I, me, myself, into nothingness. When we realize that we are powerless without Hashem's assistance, we will merit *Ezri*, (My) salvation. *Horav Baruch Ber Leibowitz, zl*, primary student of *Horav Chaim Soloveitchik, zl*, was asked by his venerable *Rebbe*, "What do you think I ask for when I recite the blessing in *Shemoneh Esrai, Atah chonein l'adam daas*, 'You grant knowledge (*seichel*, intelligence, common sense) to a person?'" *Rav Baruch Ber* replied, "The *Rebbe* probably asks Hashem to enlighten him, so that he can better understand the difficult *Rambam*." "No," countered *Rav*

Chaim. “I ask Hashem to grant me the *daas* to know that (there are things that) I do not know.” This is the purpose of *daas* – to know that we do not know. *Sponsored by Rabbi & Mrs. Sroy Levitansky In memory of her parents שלמה בן צבי ז"ל נפ' אלו תשל"ה הענא בת בנימין מנחם ע"ה נפ' ל אב תשע"א Mr. & Mrs. Sol Rosenfeld Hebrew Academy of Cleveland, ©All rights reserved prepared and edited by Rabbi L. Scheinbaum*

Ohr Somayach Insights into Halacha For the week ending 23 September 2017/3 Tishri 5778

Of Elul, L'David, and Golems

Rabbi Yehuda Spitz

There is near universal Ashkenazic custom during the month of Elul to recite the Chapter of Tehillim (27) “L’Dovid Hashem Ori” during davening, both every morning and evening, and all the way up to Shmini Atzeres[1], as preparation for the Yomim Noraim. This custom is based on the Midrash Shochar Tov[2] that elucidates that various phrases of this chapter contain allusions to the holidays of the repentance period - Rosh Hashana, Yom Kippur, and Sukkos, as well as to the month of Elul itself[3]. The Malbim, in his commentary on Tehillim, offers an alternate explanation. In this chapter, Dovid HaMelech, the author of Tehillim, asked to cleave to Hashem and that all obstacles that block coming close to Him should be removed. The Malbim[4] explains that when we strive to do so, Hashem will attach Himself to us with a higher level of personalized supervision. It is thus quite apropos to recite “L’Dovid” during the month of Elul, whose name hints to the acronym “Ani L’dodi V’dodi Li - I am to my beloved and my beloved is to me”(Shir HaShirim Ch. 6, verse 3). Elul is a month which symbolizes our relationship to Hashem, and one in which proper repentance is more readily accepted[5].

Where’s the source? But, the obvious question is where and when did this minhag start? It is not mentioned in the Gemara, nor in the Rishonim, and not even referenced in the Shulchan Aruch or its main commentaries. It seems a bit odd that such a common custom would not stem from a primary source! Much research has been done and many works have been written to try to find the earliest source for this meaningful minhag[6]. Although many erroneously concluded that the original source of reciting “L’Dovid” throughout the entire month of Elul was the controversial ‘Chemdas Yamim’, first printed in 1731, history has since proven that an earlier source has been found. Many now attribute this minhag to the noted Kabbalist and famed author of “Amtachas Binyomin”, Rav Binyomin Beinisch Cohen, in his sefer “Shem Tov Kattan[7]”, first printed in 1706. There he writes that one should be scrupulous with reciting “L’Dovid” daily from Rosh Chodesh Elul until after Simchas Torah, averring that this has the potential to avert and even nullify Heavenly decrees.

Who’s Who? Yet, there is possibly an earlier source. In the sefer “Nezer Hakodesh - Minhagei Beis Ropschitz”[8] a story is told about the Baal Shem Tov, where he mentioned a Tzaddik, known as Rav Eliyahu Baal Shem, who had saved the Jews of a certain town from eviction by successfully promising the childless non-Jewish mayor a son within a year. The Baal Shem Tov mentioned that this Tzaddik, who lived in the late 1600s, was the one who established the custom of reciting “L’Dovid” during Elul. However, it is unclear whom exactly he was referring to. Although much detailed information has been obscured with the passage of time, still history has shown that there were two Tzaddikim known by this name[9]. The better known of the two was Rav Eliyahu Baal Shem of Chelm, a talmid of the great Maharshal, Rav Shlomo Luria, and an ancestor of the luminaries commonly known as the Chacham Tzvi (Rav Tzvi Ashkenazi) and his son, the Ya’avetz (Rav Yaakov Emden).

A Golem as a Tzenter? Here is where it gets interesting. Rav Eliyahu Baal Shem of Chelm was best known for being of such stature that he created a Golem[10]. In fact, both of his aforementioned illustrious descendants have written responsa on the topic of the Golem that their grandfather created. The Chid”a[11], in his encyclopedia of Gedolim throughout Jewish history, ‘Shem Gedolim’ also attested to its existence. But before our readers decry the supernatural turn this article has taken, they should realize that Golems actually do have a place in the halachic realm as well. The issue that these Gedolim were debating was whether a Golem can count for a minyan! Although the Chacham Tzvi (Shu”t Chacham Tzvi 93) at first remained undecided, his son, Rav Yaakov Emden (Shu”t Sheilas Ya’avetz vol. 2, 82) ruled unequivocally that a Golem cannot count for a minyan! Apparently not just a theoretical topic, it is even cited and debated by such contemporary authorities as the Mishna Berura (55, 4)[12] and the Chazon Ish (Yoreh Deah 116, 1)! The Mishna Berura does not actually rule, but rather addresses the issue and concludes that it is a safeik; which is actually the main thrust of the Chacham Tzvi’s teshuvah – that he personally was undecided as to the proper halacha. Although the majority consensus is that a Golem would not count for a minyan, there were several other authorities who defended the Chacham Tzvi’s logic allowing a Golem to count for a minyan. The Chazon Ish, conversely, concluded, akin to the Ya’avetz’s position, that a Golem would undeniably not be able to count for a minyan, as it not only would be excluded from the rights and privileges of a Jew, but even from those of a human being. One of Rav Yaakov Emden’s main proofs to this is that we find that in order to be considered having a neshama, a creation needs to have the potential for speech [see, for example the Ramban’s commentary to Parshas Bereishis (Ch. 2, verse 7; based on Targum Onkelus ad loc.)], an ability a Golem sorely lacks[13]. What is lesser known (and actually seemingly

unknown to many later authorities, including the Mishna Berura) is that, posthumously, another son of the Chacham Tzvi, Rav Meshulem Ashkenazi, in his responsa, appended and printed a later teshuva from his father (Shu"t Divrei HaRav Meshulem vol. 1, 10 s.v. shayach); in it the Chacham Tzvi actually retracted his original position and ruled strictly as well. Either way, and regardless of what one might want to assume about his fellow mispallelim, the vast majority of poskim rule conclusively that a Golem cannot be counted for a minyan[14].

The Second Rav Eliyahu Back to figuring out who originated the recital of "L'Dovid" in Elul. The other Rav Eliyahu Baal Shem was Rav Eliyahu Luentz, known as a master Kabbalist in the 17th century. He authored a seminal volume on the Zohar titled "Aderes Eliyahu", and was a disciple of my ancestor and namesake, the renowned Maharal M'Prague, (who, as an interesting side point, and incredible Torah works aside, is regrettably nowadays best 'known' for having also created a Golem[15]). In conclusion, although we are left uncertain as to whom the originator of this powerful minhag was, we can rest assured that it has a reliable source. We can thus appreciate the significance of saying this chapter of Tehillim throughout Elul, as it underscores the major goals of the season of repentance.

Postscript: There are a few communities, including many of Germanic origin, and the Chassidic communities of Sanz, Bobov, and Kamarna, however, who do not recite "L'Dovid" during Elul[16]. The Kamarna Rebbe of Yerushalayim recently told this author that although in his shul "L'Dovid" is recited, as most of his congregants are not Kamarna Chassidim and nearly everyone's custom is to recite it, nevertheless, he personally does not. It is also known that the Vilna Gaon and the Maharsha did not approve of this addition to davening as it possibly constitutes 'tircha d'tzibura'[17]. The general Sefardi minhag as well is not necessarily to recite "L'Dovid" specifically during Elul, but many nonetheless recite it all year long as an addition after Shacharis, with many Moroccans reciting it instead daily before Ma'ariv[18]. There are other variations of reciting "L'Dovid" during 'Yemei HaRachamin V'HaSelichos' as well, with some communities doing so only after Shacharis (including Telz and KAJ), while most communities additionally recite it either at the end of Mincha (generally Nusach Sefard) or Maariv (generally Nusach Ashkenaz).

Much of this article is based on Rabbi Eliezer Brodt's fascinating sefer Likutei Eliezer - Ch. 1.

[1] See Matteh Ephraim (581, 6; and Katzeh HaMatteh ad loc.), Shulchan Aruch HaRav (Siddur, Hilchos Krias Shma U'Tefillah), Kitzur Shulchan Aruch (128, 2), Mishna Berura (581, 2), Rav Yosef Eliyahu Henkin's Shu"t Gevuros Eliyahu (Orach Chaim 155, 1; based on his annual Ezras Torah Luach, Ikrei Dinei Chodesh Elul), Rav Yechiel Michel Tukachinsky's annual Luach Eretz Yisrael (Rosh Chodesh Elul), Shu"t Shevet Halevi (vol. 10, 87, 1), Chazon Ovadia (Yomim Noraim pg. 24), and Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 581, Ode B'hilchos Chodesh Elul 2). See also Emes L'Yaakov (on Tur & Shulchan

Aruch, Orach Chaim 581, 1 and footnote 535) for an explanation why 'Borchi Nafshi' is nevertheless recited prior to 'L'Dovid' on Rosh Chodesh Elul, even though 'L'Dovid', as an addition to davening, is recited more often. [2] Midrash Shochar Tov (Tehillim Ch. 27), which famously elucidates that "Ori" refers to Rav Hashana, "Yishi" to Yom Kippur, and "Yitzpineini B'Sukkoh" on Sukkos. [3] See Panim Yafos (Parshas Acharei Mos, Ch. 16: 29 s.v. v'keivan), as well as Rabbi Elchanan Shoff's V'ani BaHashem Atzapeh (pg. 71, footnote 13), quoting Rav Chaim Palag'i. These explanations include that "Lulei" is referring to Elul (which has the same letters re-arranged) and that the 13 times Hashem's name is mentioned in this Kapital is referencing the 13 Middos of Hashem, essential during the Yomam Noraim. Additionally, the combined Gematria of Zikaron and Kippurim (the proper names of Rosh Hashana and Yom Kippur, respectively) add up to 639, the same value of the words "Hashem Ori V'Yishi". [4] Malbim (introduction to Tehillim Chapter 27); quoted in Rabbi Simcha Groffman's 'Awesome Days' (pg. 31). [5] See the Mishna Berura's introduction to Orach Chaim 581. For more on the various connections between Elul and "L'Dovid", see Rav Asher Weiss' Minchas Asher (Sichos on Moadim, Elul). For more on the various themes hidden in L'Dovid, see Rabbi Elchanan Shoff's recent excellent book titled 'Lord, Get Me High!'. [6] For long list of recent works addressing this topic, see Rabbi Eliezer Brodt's Likutei Eliezer (pg. 1, footnote 2). [7] See, for example Katzeh HaMatteh (Glosses on the Matteh Efraim 581, 13) and Likutei Eliezer (pg. 4). [8] Cited in Likutei Eliezer (pg. 7). [9] Likutei Eliezer ibid. [10] For more on this topic see Yeshurun (vol. 17, pg. 665 - 666), in the article by Rabbi M.D. Chichik about Rav Eliyahu Baal Shem from Chelm. In fact, the story of Rav Eliyahu and his Golem was recently adapted as a hardcover comic book entitled "The Golem of Chelm - Hayah V'Nivra". [11] Shem Gedolim (vol. 1, Ma'areches Gedolim - Ma'areches Alef, 166). See also Rav Yitzchok Zilberstein's Chashukei Chemed (Sanhedrin 65b) at length, for a list of historical Golems created, as well as many potential halachic inyanim related to Golems. [12] Although the majority consensus is that a Golem would not count for a minyan (as detailed in footnote 14), there were several other authorities who defended the Chacham Tzvi's original rationale that a Golem would be able to count for a minyan, including Rav Yosef Engel (Gilyonei HaShas, Sanhedrin 19b s.v. sham maaleh alav) and the Likutei Chaver Ben Chaim (vol. 5, pg. 64a, comments on Chacham Tzvi 93), who dismisses one of the Chid"i's counter-arguments, explaining that even a Golem should need to be 13 years old from the day he was created to count for a minyan! [On the other hand, Rav Menashe Klein (Shu"t Mishna Halachos (vol. 15, 27) counters that that would only hold true for an actual Jew, whose status changes as he increases in age and intelligence; a Golem, who does not gain intelligence as he ages would not.] See also Shu"t B'tzeil HaChochma (vol. 6, 99 s.v. uvmch"t) who explains that the very fact that the Chacham Tzvi was originally undecided whether a Golem can be included as part of Bnei Yisrael and count for a minyan (and although not the halacha l'maaseh) shows that he held that a Golem is mechuyev b'mitzvos; otherwise, there is no hava amina to count him for a minyan. [Conversely, Rav Dovid Sperber (Shu"t Afraksta D'Anyah vol. 4, 388 s.v. v'hadavar) and the Matteh Reuven (16) counter that that was not the Chacham Tzvi's intent, but rather that since a Golem would have been created via 'maaseh tzaddikim', it is feasible that his status might be somewhat elevated than a non-Jew's; and that was the crux of the Chacham Tzvi's dilemma whether or not he may be included in a minyan.] However, it is important to note that although it was apparently not known to the Mishna Berura nor these authorities, the Chacham Tzvi actually later retracted his position! See footnote 14. [13] See also Maharsha (Sanhedrin 65b, Chiddushei Aggados s.v. v'lo), Shu"t Yehuda Ya'aleh (vol. 1, Orach Chaim 26), Shu"t Afraksta D'Anyah (vol. 4, 388 s.v. puk), and the Radzhiner Rebbe's Seder Taharos on Maseches Ohalos (pg. 5a, Pirush Ha'aruch). Accordingly, in layman's terms, a Golem is technically considered 'an animal in human form' as it lacks the power of speech. [14] Including the Chid"i (Birkei Yosef, Orach Chaim 55, 4 s.v. u'lmai - also quoting Rav Yosef Leib Katz, son of the Shaar Efraim,

although he personally does not agree to his proofs; Machazik Bracha ad loc; Tzavarei Shalal to Parshas Va'eschanan; Midbar Kedmos - Maareches Yud, 27; and sefer Maris HaAyin on Sanhedrin 65; also quoting his ancestor, the Chessed L'Avrohom, Ikrei HaDat (Ikrei Dinim, Orach Chaim 3, 15), Baruch Taam (Ha'aros on Chacham Tzvi, 93), Sidrei Taharos (Ohelos 4b), Ben Ish Chai (Binayahu, Sanhedrin 65b), the Rogatchover Gaon (Shu"t Tzafnas Paneach vol. 2, 7), Afraksta D'Anyu (Shu"t vol. 4, 388), Pardes Yosef (Hashalem - new print; Parshas Vayeishev 4, s.v. v'ayen ode), Kaf Hachaim (Orach Chaim 55, 12), Rivevos Efraim (Shu"t vol. 7, 385; in a teshuva from Rav Yosef Binyamin Tzarfati of Antwerp), Mishna Halachos (Shu"t vol. 15, 27), and Minchas Asher (Parshas Noach, 12, 2). Similarly, Rav Tzadok HaKohen M'Lublin, in his sefer written on Torah topics that occurred to him while dreaming (Kuntress Divrei Chalomos, 6; appended to his sefer Resisei Laylah; cited in Rabbi Mordechai Zev Trenk's 'Treasures: Illuminating Insights on Esoteric Torah Topics', pg. 44 - 45; second edition pg. 48 - 50), as well, argues that the Ya'avetz's psak that a Golem cannot be counted for a minyan is the correct ruling. Interestingly, the Mahar"i Assad (Shu"t Yehuda Ya'aleh vol. 1, Orach Chaim 26 s.v. v'da), ties this machlokes to the machlokes whether someone sleeping can count for a minyan [see Orach Chaim 55, 6; with the Taz and Pri Chodosh taking an opposing viewpoint to the Shulchan Aruch and Magen Avaham]. [15] Although legends about the Maharal's Golem have been in print since 1837, the well known stories that captivated the public's imagination were actually first published in the early 20th century (Niflaos HaMaharal) by Rav Yudel Rosenberg, author of the famed Yados Nedarim. He was also known for translating the Zohar into Hebrew, and later served as the Av Beis Din of Montreal, Canada. For more on this topic see Prof. Shneur Zalman Leiman's excellent "R Yudel Rosenberg and the Golem of Prague", (Tradition vol. 36, 1 - 2002). There is a famous related quote attributed to the renowned author of the Shu"t Imrei Yosher, Rav Meir Arik zt"l, [originally printed in Zer Zahav (Tzitzernbaum; published in 5693), and later cited in the introduction to Machon Yerushalayim's recent Chiddushei Maharal M'Prague on Bava Metzia (pg. 14, footnote 1)] that "it is unknown whether the Maharal actually created a Golem. However, to have 'created' a talmid of the stature of the Tosafos Yom Tov, is certainly a greater wonder!" [16] See Shu"t Divrei Yatziv (vol. Lekutin, 52), Shu"t Divrei Moshe (34), sefer Minhagei Kamarna, (printed in the back of Shulchan HaTahor; Elul, 381), as well as Likutei Eliezer (pg. 5, footnotes 30 - 31). [17] See the recent Weinreb edition of Maaseh Rav (53; 5771), with the accompanying comment (Kovetz Mefarshim ad loc. 30) gleaned from the Aderes' Tefillas Dovid. [18] See Rav Mordechai Eliyahu's Darchei Halacha glosses to the Kitzur Shulchan Aruch (128, footnote 4). On the other hand, see Rav Ovadiah Yosef's Chazon Ovadia (Yomim Noraim pg. 24), and his son, Rav Yitzchak Yosef's Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 581, Ode B'hilchos Chodesh Elul 2), citing precedent mainly from Ashkenazic authorities, and maintaining that nonetheless, it is a 'minhag yafeh' to recite "L'Dovid" after Shacharis, throughout Elul until Hoshana Rabba. Rav Yaakov Hillel's Ahavat Shalom Luach (5777 English edition; Laws of the Month of Elul, 30 Av) writes simply "Some say L'David Hashem Ori V'yish'i (T'hillim 27) every day after Shaharit, and say Kaddish afterwards." Interestingly, both divergent Sefardic minhagim can possibly be traced back to the Chida (Avodas Hakodesh, end Kuntress Sansan L'Yair; and similarly in Moreh B'etzba 2, 37) who approvingly cites the minhag of reciting "L'Dovid" during Elul until Motzai Yom Kippur, as well as on Hoshana Rabba, adding that it is the minhag in Chevron as well, yet concludes 'u'mah tov l'omro Kol Hashana achar HaTefillah'. The Ben Ish Chai (Year 1, Parshas Pekudei end 6), citing a letter from Rav Eliyahu Mani, Av Beis Din of Chevron, also attests to reciting "L'Dovid" from Rosh Chodesh Elul until Shemini Atzeres as the Minhag Chevron. The Ahavat Shalom Luach (ibid. footnote 7) notes that history has since proven that in the full text of Rav Mani's aforementioned letter to the Ben Ish Chai (printed in Kovetz Min Hagnazim vol. 7, pg. 295) he added that in his Beis Midrash - Beis Yaakov, as well as in Yeshivas Beit E-l (for Mekubalim) the minhag is

not to recite "L'Dovid" during Eul, as it is not mentioned in the Arizal's writings. As such, the Luach asserts that "one should take note" that the Ben Ish Chai mentioned only the first half of the responsum (the minhag to recite "L'Dovid"), whereas he did not quote the second half of the responsum (the minhag not to recite it), which, in their words, "is unusual for him", but does imply his preference to reciting it.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'Ilu Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda L'Ilu Nishmas R' Chaim Baruch Yehuda ben Dovid Tzvi, L'Refuah Sheleimah for R' Shlomo Yoel ben Chaya Leah, L'Ilu Nishmas Naftali Frankel, Gilad Shaar, and Eyal Yifrach Hy"d. and I'zechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua sheleimah teikif u'miyad!, For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu. Rabbi Yehuda Spitz, author of M'Shulchan Yehuda on Inyanei Halacha, serves as the Sho'el U'Meishiv and Rosh Chabura of the Ohr Lagolah Halacha Kollel at Yeshivas Ohr Somayach in Yerushalayim. © 1995-2022 Ohr Somayach International - All rights reserved.

CS - I've attached this week's Rabbi YY Jacobson article from: Rabbi YY Jacobson <rabiyy@theyeshiva.net>

date: Sep 1, 2022, 10:19 PM

subject: Why Atheism Struggles with Genuine Diversity - New Essay by Rabbi YY

Why Atheism Struggles with Genuine Diversity And Why True Religion Celebrates It

By: Rabbi YY Jacobson

Dedicated by Rachel Wagschal

In honor of Rabbi YY's 50th birthday, please help him quadruple his efforts to lift up & unite the Jewish People.

First Anecdote:

A man goes out with a woman on their first date. For the first three hours, he talks only about himself, his history, accomplishments and interests. Finally, he turns to her and says: "Enough of me speaking about myself; let me hear what you have to say about me."

Second Anecdote:

The rabbi was hospitalized recovering from a heart attack when the president of the congregation visited him. He said: "Rabbi, I have good news and bad news."

"First the good news," the rabbi said.

"On behalf of the board of directors, I am here to wish you a speedy recovery."

"That' s wonderful," said the rabbi, "and what' s the bad news?"

"The vote was 7 to 6."

Despising Single Stones

This week's Torah portion, Shoftim, communicates the following interesting commandment[1]: "You shall not erect for yourself a pillar; this is something which the Lord your G-d despises."

The most basic biblical commentator, Rashi[2], explains this as a prohibition against erecting an altar of a single stone, even if the intent was to use this altar as a place for Divine worship, where offerings would be presented to G-d.

Though the Torah elsewhere[3] allows the existence of altars made of stone in the Holy Temple in Jerusalem and in the Tabernacle in the desert, Rashi explains that this is only true of altars comprised of many stones, not of a single stone[4].

But what's the logic? Does it make a difference whether you present an offering on an altar of one stone or of many stones?

Rashi explains that the difference is not intrinsic but historical. In the times of the Patriarchs, Rashi writes, our forefathers built single stone pillars for Divine service, and "it was beloved by G-d." However, once the Canaanites adopted this practice and began building single-stone altars for idolatrous offerings, including the horrific practices of ancient idolatry, G-d rejected them[5].

But why? Just because some tribes used the single stone for idolatry, can't we use it in a productive and meaningful way? The Pagans would also worship the sun, the moon, or water, but we still use them and enjoy them in a beneficial way.

Embracing Diversity

What this prohibition against the single-stone pillar may be teaching us is that though there is one G-d, the altars constructed by the human being to serve Him should not, and could not be of one stone, of one color, dimension, shape and quality.

In paganism, or modern atheism, a human being creates a god, or some higher power, in his or her own individual image. My mind and ego define what is essential, and what is of supreme importance. When god is a product of my image, that god is inevitably defined by the properties of that image. Since no two human images are identical, it follows that your god, the god of your image, cannot serve as my god as well. My god must be worshiped in my way, based on my perception of who he is and what he stands for. My altar must be constructed of one stone: my own.

Sure, I will tolerate those people and views that my "image" of my god can make peace with. But if you step out of line, I will hunt you down. I have no genuine room for your position.

The faith of Judaism, the idea of Monotheism, declares the oneness of G-d and the plurality of man. The transcendental G-d of Judaism transcends the natural universe but also any spiritual definition. G-d is undefined by any form, shape, or characteristic, physical or spiritual. We do not create Him in our image; He creates us in His image. Judaism thus challenges me to see G-d's image in the one who is not in my image, for every person knows and feels something about reality, about truth, about G-d that no one else does.

None of us knows all the truth and each of us knows some of it. Like a symphony composed of many notes, each of us constitutes an individual note in the divine symphony, and together we complete the music. If G-d wanted you and me

to experience Him and serve Him in the same way, one of us would be superfluous.

True Religion Celebrates Diversity

Diversity within religion is not only a factor we must reluctantly accept; it is a cause for genuine celebration. It grants us the opportunity to encounter G-d since it is only in the face of the other that we can discover the part of G-d that we lack in our own face. The result of a relationship with a transcendental G-d is a growing appreciation of people's differences, not merely as tolerable, but as the essence of a rich and rewarding human and religious experience.

"Diversity is the one true thing we all have in common, celebrate it every day," a wise man once said. Diversity is the trace of an undefined G-d on the human species.

One of the greatest challenges facing humanity today is the ingrained belief by many Muslims that those of us who do not embrace Islam as a faith and a lifestyle are infidels who need to be converted or killed.

On another level, and in a far more subtle and fine way, one of the challenges facing many communities today (a challenge that has pervaded the history of all religions from the beginning of time), is a sense of tribalism that found a nest among many devout Jews. My way of serving G-d is the only true way, and if you have a different path, you are on the "wrong team." I can't respect you.

Many of us feel that in the construction of the "altars," the structures in which we serve G-d, there is room for only a single stone, a single path, one flavor, and one style -- to the exclusion of anything else that does not fit our religious imagination or upbringing. Yet, paradoxically, it is precisely the paths of paganism, polytheism, or atheism, that invite a singular altar, made of one stone, while the monotheistic path of a singular G-d welcomes the diverse altar, made of many distinct stones. The structures constructed by man to serve G-d are, by definition, diverse and individualistic[6].

This does not mean that G-d condones every act done in His name. The G-d of the Bible created absolute universal standards of morality and ethics that bind us all. But these rules do not step from my ego and comfort zone, but rather from an absolute truth that includes and benefits every human being.

To the Jewish people, G-d presented an absolute system of Torah and mitzvos.

Yet within this framework, every human possesses his or her unique path to Truth. One of the great masters put it this way[7]: "The concrete laws of Torah are the same for us all, but the spiritual experience of Torah, the feelings of love and awe, contain infinite pathways, one for each person, according to his (or her) individual identity."

We may compare it to the 88 keys of the piano that lend themselves to infinite combinations. The very same keys allow for so many different expressions. Authentic religion must welcome, not fear, diversity, and individualistic

expression. When you truly cultivate a relationship with G-d, a G-d who is undefined by any image or color, you know that in the presence of other-ness, you can encounter a fragment of truth that you could never access within your own framework[8].

[1] Deuteronomy 16:22. [2] Rabbi Shlomo Yitzchaki lived in France and Germany during the 11th century. His classical commentary on the Bible and the Talmud turned him into one of the greatest and most cherished Torah figures in the history of Judaism. [3] Exodus 15:22. [4] This is the difference between the Hebrew expression "Matzavah" vs. "Mizbach." Matzavah is an altar made of a single stone while Mizbach is an altar built of many stones. That is why the tombstone erected on a grave is called in Hebrew a Matzavah, since it is made of a single large stone. The reason that tombstones in cemeteries are permitted is that they are not used as altars for offerings, but as monuments for the dead (see Midrash Hagadol to this verse. Cf. Abarbanel here). [5] Rashi here from Sifrei section 146. [6] This may be the deeper reason why during the time of the Patriarchs the single-stone altar was welcome and used. For during the time of the Patriarchs, prior to the development of the Jews into a nation, each of the Patriarchs embodied a particular mode in serving G-d, which became the paradigm of service in that generation. [7] Tanya chapter 44. Cf. introduction to Tanya. [8] This essay is based on Mei Haseloach, by the great Chassidic master Rabbi Yosef Mordechai Leiner of Izhbitz (1800-1854), vol. 1 to Shoftim 16:22. Cf. Likkutei Sichos vol. 18 Parshas Korach and the references noted there. See also Likkutei Maharani I, 34:4.

CS – I am adding Rav Frand dvar torah, which just came through.

from: **Rabbi Yissocher Frand** <ryfrand@torah.org>
to: ravfrand@torah.org date: Sep 1, 2022, 11:41 PM
subject: Rav Frand - The Dual Personality of the Jewish Monarch

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Series on the weekly portion: #1302 - Cutting Down Your Fruit Tree for Your S' chach. Good Shabbos!

The Dual Personality of the Jewish Monarch

In Parshas Shoftim, the Torah speaks of the mitzvah of appointing a king. Apparently, a monarchy can be an optimal type of government - assuming, of course, that the right type of king is in place. The king must not be corrupt. He must be G-d fearing. Even though in the history of Klal Yisrael there were kings who were terrible, in theory, if it can be done properly, the Torah advocates the appointment of a king.

Even though every Jew has an independent mitzvah to write his own Sefer Torah, the king has a special mitzvah to write a second Sefer Torah (in addition to his first Sefer Torah). The Gemara (Sanhedrin 21b) says that the king

kept one of his Sifrei Torah in his personal treasure house (i.e. - his palace) and his other Sefer Torah accompanied him at all times. Many Torah commentaries discuss why the king needed to have this second Sefer Torah that accompanied him whenever he appeared in public.

In past years, we mentioned a very beautiful dvar Torah that appears in a sefer called Ner Uziel from Rav Uziel Milevsky, z"l, (among other places): Normally, the rule of thumb that every Jew should try to live by is "a person's insides should be like his outsides." A person should not live one way in private and another way in public. Obviously, there is a certain casualness that we allow ourselves at home. People don't always need to wear their jacket and tie at home, just because they appear that way in public. But in terms of a person's midos (character traits), his personality, his frumkeit (religiosity) and his hashkafa (outlook on life) - these must be uniform inside and outside the home. This is the default rule for every Jew EXCEPT the king.

The king needs to have a different type of conduct and behavior outside the palace than he does inside. Inside the palace, like every other Jew, he needs to practice humility. He needs to be forgoing and forgiving. But the public king cannot play that role. He must assert his authority and project a certain awe and reverence to the public at large. He must maintain a certain demeanor outside the home, which may be totally different than his natural demeanor when no one is around.

The Jewish king thus has a dual personality - one for the king in the palace and another for the king who is the public figure. That is why he needs two Sifrei Torah. He needs a Sefer Torah b' Chutz (outside) and a Sefer Torah b' fnim (inside). The Sefer Torah that he keeps in his private treasury teaches him how to have humility and to be forgoing - all the things that the mussar sefarim instruct us. But when he goes outside, he needs that second Torah which reminds him to conduct his actions with a certain presence, a kind of haughtiness, and a certain unforgiveness when the situation demands it.

In Parshas VaYelech, when Moshe hands over the leadership of Klal Yisrael to Yehoshua, the pasuk says:

"And Moshe called out to Yehoshua and said to him in the eyes of all of Israel: Be Strong and Mighty! ..." (Devorim 31:7). There is some ambiguity as to how to punctuate this opening pasuk. I believe most people assume that the comma comes after "in the eyes of all of Israel". In other words, the body of the message is a blanket statement - "Chazak V' Ematz!" However, the trop (cantillation notes) on the words "I' Einei kol Yisrael Chazak V' Ematz" are munach zarka munach segol. Therefore, the proper way to read the pasuk is "In the eyes of all of Israel be strong and mighty" - which means

that the comma follows the words “Vayomer Ailav “! Thus, the instruction “Be strong and mighty” is qualified by the antecedent clause. Only in front of the eyes of all of Israel are you (the king) to act strong and mighty. Yehoshua, now that you are the leader, you can no longer act as the humble Yehoshua who cleaned out the Beis Medrash and swept the floor there! To the eyes of all Israel, you may only show strength and valor. That is the job of the Jewish king.

This is a very difficult balance to achieve. Most people who act on the outside with strength and arrogance think that they are also the king when they walk in the front door to their personal living quarters (until “the Queen” tells him “No such thing!”).

I saw a beautiful comment from the Chasam Sofer: When Dovid HaMelech gave over the kingship to his son Shlomo, how did he signify the passing of the torch, so to speak? The pasuk in Melachim I (1:33) says as follows:

“The king said to them, ‘take with you your master’ s servants and mount my son Shlomo upon my mule...”

The servants are to take the king’ s personal mule and allow Shlomo to ride upon it. The general protocol of royalty is that no one uses the king’ s scepter and no one uses the king’ s mode of transportation. Air Force One, I’ havdil elef havdolas, is uniquely reserved for use by the President of the United States. No one else uses it. If you are president, you get Air Force One. In Biblical times, the king’ s mule was the equivalent of Air Force One.

This never struck me when reading the pasuk, but the Chasam Sofer notes that the king should be riding on a horse, not a mule! A horse is a beautiful animal, especially a kingly horse like a thoroughbred. It is a beautiful animal. The Torah talks about “the horse of Pharaoh and his chariot.” Pharaoh did not ride around on a donkey. He rode around on a horse!

However, what was Avraham Avinu’ s mode of transportation? What will the Moshiach’ s mode of transportation be? A donkey! A donkey does not have the glamor and status of a horse. This however is the Jewish vision of Moshiach - a poor man riding upon a donkey!

What is a mule? A mule is the product of the mating of a horse and a donkey. That is why King David used a mule. The Jewish king needs to have the haughtiness of the horse, but the haughtiness needs to be tempered with the humility of a donkey. How does he achieve that? He rides on the synthesis of a horse and a donkey. That, the Chasam Sofer says, was why Dovid picked a mule to ride upon and also to be the vehicle of transfer of power to the next Jewish king - his son Shlomo. The mule testifies to the duality, the synthesis of personalities that a Jewish king must possess. He needs to know when to be the Baal Gaivah and when to be the Ani. Therefore, the proper mode of transportation is “the mule that belongs to me.”

Hopelessness Is the Worst Curse

Parshas Shoftim also contains within it the mitzvah of the Arei Miklat - the cities of refuge - for people who kill unintentionally. Such a refugee remains in the “Ir Miklat” until the death of the Kohen Gadol.

The Halacha is that even though Moshe established three Arei Miklat in Aver Hayarden (TransJordan), they were not functioning as “Arei Miklat” until Yehoshua later established the three Arei Miklat in Eretz Yisrael proper. In today’ s parlance, we would say that Moshe’ s Arei Miklat did not “come online” until Yehoshua established his Arei Miklat in Eretz Yisroel, to the west of the Yarden. That process took an additional 14 years. What happened if someone unintentionally killed from the time Bnei Yisroel crossed the Yarden until Yehoshua established the three Arei Miklat in Eretz Yisrael proper? The answer is that the Rotzeach B’ Shogeg (unintentional murderer) did not need to go to the Ir Miklat. The following anomaly emerges: For 14 years, a person could literally get away with murder! He would not be killed because his killing was unintentional and he would not need to go into exile in the Ir Miklat because none of the Arei Miklat were yet functioning.

We can assume that even the Rotzeach B’ Shogeg needs some type of atonement (which is normally provided by his exile), but for some reason, during these 14 years, he did not receive such Kaparah. What is the meaning of this?

The Meshech Chochmah in Parshas Massei makes a beautiful observation. When a person goes to the Arei Miklat, he remains there until the death of the Kohen Gadol. In other words, he knows he can get out whenever the Kohen Gadol dies. He thinks: Any day could be my time to get out of here! Any day, the Kohen Gadol could pass on. Aye - the Kohen Gadol is now 32 years old and I am twice his age? Unfortunately, we see that people who are 32 years old also die. Anything is possible.

So, every single day the Rotzeach B’ Shogeg wakes up and thinks “Maybe today is my lucky day! Maybe by the end of today, I will be a free man.” In fact, the Talmud in Makkos says that those confined to the Arei Miklat used to pray that the Kohen Gadol should die. That is why the mothers of the High Priests used to bring the refugees cookies so that they would not pray for the death of their sons. Every day there was hope.

When Klal Yisrael entered Eretz Yisrael, Yehoshua was involved in the process of dividing the land between the different tribes. But who was helping him divide the land? It was Elazar the Kohen Gadol! They were jointly tasked in dividing the Land and until that task was completed, neither Elazar nor Yehoshua would die. It thus comes out that this “unintentional murderer” would have had nothing to look forward to on a daily basis. He could only conclude “I am in here for a minimum of fourteen years. I

have no hope. I cannot say ‘today might be my last day of exile.’ That, says the Meshech Chochmah, would have been cruel and unusual punishment. Taking away someone’s hope is the worst type of punishment.

Therefore, in order to avoid this situation, there was no institution of Arei Miklat for 14 years. Better let this fellow “get away with murder” than impose such a harsh sentence.

With this idea, Rav Shlomo Zalman Auerbach made a beautiful observation about davening. The “nineteenth blessing” that was added to the “Eighteen Blessings” (Shmoneh Esrei) is called Birkas HaMinim - the “blessing” of the heretics. One of the worst types of people is a person who is a “Malshin” (someone who slanders a fellow Jew to the anti-Semitic Government). The Talmud says that Shmuel HaKatan was commissioned to compose this “blessing,” cursing those people who perennially caused trouble for their brethren. So, he composed a curse for these people. What was this curse - the worst thing that could befall them? “LaMalshinim al te’ hi Sikvah” (let there be no hope for the slanderers).

That is why the Rotzeach B’ Shogeg could not go into an Ir Miklat during the 14 years of Conquest and Division, because in such a situation he would have no hope (of getting out prior to the end of the 14 years).

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לע"נ

שרה משא בת ר' יעקב אליעזר ע"ה
ביילא בת (אריה) לייב ע"ה
אנא מלכה בת ישראל ע"ה