

BS"D



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INTERNET PARSHA SHEET  
ON BO - 5764

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From Chaim Shulman [crshulman@aol.com](mailto:crshulman@aol.com)  
I didn't have a chance to prepare a parsha sheet this week. So Efraim Goldstein let me use his parsha sheet. (I merely added Rabbi Frand which came too late for his edition.) Yasher koach Efraim.  
Chaim

From Efraim Goldstein [HAMELAKET@hotmail.com](mailto:HAMELAKET@hotmail.com)

**Weekly Internet Parsha Sheet**

**YatedUSA 01.30.04**  
**Parasha Parables Parshas Bo**  
**True Wealth**

**by Rabbi Mordechai Kamenetsky**

The Master of the Universe does not say "please" often. The Ribono Shel Olam commands. Yet this week, in issuing one of the final charges to Moshe during the final days in Mitzrayim Hashem does not command Moshe to do his bidding - He beseeches him. In Shmos11:2 Hashem asks Moshe to, "please speak in the ears of the people (of Israel): let each man ask his fellow (Egyptian) man and each woman ask her fellow (Egyptian) woman for gold and silver utensils."

The Talmud in Brachos explains the unusual terminology - "please." Hashem was concerned. He promised Avraham Avinu that his children would be enslaved in a foreign land and leave with great wealth. Yet so far only the first half of the promise was fulfilled. Hashem did not want the righteous one (Avraham) to say, "Enslavement you fulfilled, but you did not fulfill the promise of wealth." Therefore, though out of character, Hashem implores Moshe "please speak in the ears of the nation that they ask the Egyptians for gold and silver." The questions are obvious. First, Hashem must keep His commitment because of His own promise, regardless of Avraham's impending complaints. Second, why must G-d enrich his people by telling them to ask the Egyptians for their due? Couldn't He have showered them with riches from the heavens as He gave them Manna?

Rav Shmuel Shtrashan of Vilna, was a wealthy banker as well as a renowned Torah scholar. In addition to his commerce, he maintained a g'mach to provide interest-free loans to the needy. One time he granted a one-year loan of 300 rubles to Reb Zalman the tailor and carefully recorded it in his ledger. One year later, to the date, with 300 rubles in an envelope, Reb Zalman knocked on the door of Rav Shmuel's study. The Rav was in the midst a of deep Talmudic contemplation and hardly interrupted his studies while tucking the money away in one of the volumes he had been using.

A few weeks later, while reviewing his ledgers, Rav Shmuel noticed that Reb Zalman's loan was overdue. He summoned him to his office to inquire about the payment. Of course, Reb Zalman was astonished. He had paid the loan in full on the day it was due! The Rav could not recall payment and insisted that they go together to Beis Din.

Word in town spread rapidly, and people began to shun Reb Zalman. His business declined, and his children and wife were affronted by their peers. The only recourse the Bais Din had was to have Reb Zalman swear that he had repaid the loan. Rav Shmuel did not want to allow a Jew to swear falsely on his account and decided to forego the procedure by annulling the loan. This latest event brought even more scorn to the tailor, and eventually he felt forced to leave Vilna and establish himself elsewhere.

A year later, Rav Shmuel was analyzing a section of the Talmud and opened a volume he had used sometime in the past. He could not believe his eyes when he saw a thick envelope with Reb Zalman's return address, containing 300 rubles. Quickly, he ran to find the hapless tailor who had been so besmirched. After unsuccessfully searching Vilna, he found that the tailor had moved. Rabbi Shtrashan traveled to Reb Zalman to beg forgiveness. The tailor, a broken man, explained that there was no way that anyone would believe the true story.

They would just say that the pious scholar had shown mercy on the unscrupulous tailor. Finally, they decided that the only way to truly atone and give back the tailor his reputation was for the scholar to take Reb Zalman's son as his son-in-law. The shocked town of Vilna rejoiced at the divine union that helped re-establish a reputation.

The Ribono Shel Olam understood that after 210 years of hard labor there was hardly a way to give the Jews true wealth. Showering them with miraculous gifts and treasures would in no way compensate for years of degradation. Abraham would not find that reward acceptable. The only way for a slave to gain true wealth is to discard his subservient mentality, knock on his master's door, and proclaim, "I want and deserve your gold and silver!" The Egyptians complied by showering their former captives with an abundance of wealth. The Yidden walked out of Mitzrayim with more than just gold. They left with the pride and power to demand what they deserved. They received one of the most important gifts the Jews would treasure throughout their sojourn in exile - their pride. And that would even make the righteous Avraham happy.

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[From: **Rabbi Yissocher Frand** [<mailto:ryfrand@torah.org>] Sent: January 29, 2004 To: [ravfrand@torah.org](mailto:ravfrand@torah.org) Subject: Rabbi Frand on Parshas Bo

"RavFrand" List - Rabbi Frand on Parshas Bo

"Tomorrow" Is The Difference Between the Rasha and the Other Sons

This week's reading contains the essence of the story of the Exodus. The parsha contains the words of three of the "Four Sons" mentioned by the author of the Hagaddah. The Shemen HaTov notes that we find something very interesting if we look at the three sons who ask questions (the fourth son is the "One who does not ask"): the Torah introduces the questions of both the Wise son (Chochom) and the Simple son (Tam) with the words "And it will be when your son will ask you tomorrow..." However, the Torah does not use the word "tomorrow" when introducing the Wicked son (Rasha).

The Shemen HaTov explains that the Wise son and the Simple son have questions about the story of the Exodus. They have questions of faith, perhaps. But the questions are asked "tomorrow". They may have inquiries to make on the day after the bringing of the Pesach. But on the fourteenth of Nissan and the night of the fifteenth of Nissan they do what they need to do. Only after they have done what they are supposed to do, do they raise their questions about what they've done.

The Wicked son, on the other hand, is different. If he does not understand, he is not willing to do. That is what makes him into a wicked son. The basis of being a Jew is Na'aseh V'Nishma. Once we understand the overall picture, we realize that we must perform. First we do and then we seek understanding.

The Kotzker Rebbe points out that the definitive statement "Ein K'Elokeinu" (There is no one other than our G-d) precedes all the questions of "Mi K'Elokeinu" (Who is like our G-d?); "Mi K'Adoneinu" (Who is like our Master?); "Mi K'Moshienu" (Who is like our Redeemer?). Only after we have

firmly established the basic principle that there is no one like our G-d, can we start raising questions. The questions are deferred until tomorrow. Rav Chaim Soloveitchik once had a disciple who left the Yeshiva and abandoned the Torah way of life. Unfortunately, this was not all that uncommon in the days of the Volozhin Yeshiva. It was a very turbulent time. Judaism was under assault. There were some very precocious minds in Volozhin. Not everyone withstood the temptations of the Haskalah, of Socialism, of Communism, and the other "isms" that were prevalent in that era.

Many years later, Rav Chaim happened to be in another city and this wayward student came to see him. He said to his old Rebbi, "I have so many questions about Judaism, so many questions of faith. Will you sit down and talk to me about them?"

Rav Chaim responded, "I'll be glad to sit down and talk to you about your questions. I'll talk to you the whole night. But just tell me one thing: When did you get these questions -- before you became a Sabbath desecrator or after you became a Sabbath desecrator?" The student answered, "These questions arose after I became a Sabbath desecrator." Rav Chaim then said, "If that is the case, you have 'Terutzim' [excuses], rather than 'kashes' [questions]. You have already made the break with the G-d of Israel, now you are trying to rationalize your actions. I will answer questions. I will not answer excuses. You can answer 'kashes'; you cannot answer 'Terutzim.'"

Questions are fine -- as long as they come "tomorrow". As long as the commitment and bedrock faith is there, there can be an abundance of questions that may be asked. However, when questions are a pre-condition to action, then we are dealing with the Son who is the Rasha.

The Redemption Can Come Any Time

The pasuk in Shir HaShirim says, "Behold the sound of my Beloved is coming" [2:8]. The Medrash there cites the following narration: Moshe came to the Jewish people and told them that the current month would be the first of months for them, for this was the month in which they were about to be redeemed. They asked, "How will we be redeemed -- we have no good deeds to our credit?" Moshe responded, "Since He wants to redeem you, He will not look at your evil deeds."

This Medrash is revealing an amazing insight: When G-d wants to bring about our redemption, he will not stop to worry about our evil actions. There is a pre-ordained time, when G-d has made up his mind that redemption will arrive, regardless of anything. We can not ask "How can it be that redemption did not arrive in the generation of the Rambam or the Vilna Gaon or the Chofetz Chaim and yet it might come in our generation?" This Medrash is saying that when G-d's pre-ordained time for redemption arrives, redemption will come.

Rav Pam quotes from Melachim II, Chapter 14: Yeravam ben Yoash was a wicked King. The prophet testifies that Yeravam did not deviate from the sins of (his namesake) Yeravam ben Nevat, who caused Israel to sin. He promoted idolatry, he sinned, and he caused the nation to sin. And yet, the Navi says that he extended the borders of Israel from Levo Chamas until Yam Ha'Aravah. This wicked King was successful in extending the boundaries of the Land of Israel far beyond those enjoyed by his predecessors. The pasukim there explain how it was that he was able to accomplish this despite his wickedness: "For HaShem had seen that Israel's suffering was very severe, with none surviving and none remaining, and there was no helper for Israel." Things were so dark and so bad that HaShem saw the redemption had to come. Through whose hands did it come? It came through the hands of Yeravam ben Yoash.

Rav Pam said that this chapter must be a tremendous source of inspiration and solace for us. We look around and see the status of the Jewish people -- intermarriage rates, anti-Semitism, and a host of other problems. There is none surviving and none remaining! We ask the question that the Jewish people asked thousands of years ago: How can we be redeemed? We have no good deeds to our credit! What is going to be with us?

As the Medrash points out, since G-d wants our redemption, he will not look closely at our deeds. When the Master of the World wants our deliverance to come, he will bring it about, not because of who we are, but despite who we are. We can never say that the situation is spiritually hopeless and therefore

we are doomed. It is no worse than it was in the days of Yeravam. When G-d sees that the situation is hopeless, He knows that He must bring the redemption -- may it come speedily in our days.

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These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 402, Doing Work on Rosh Chodesh. Tapes or a complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit <http://www.yadyechiel.org/> <<http://www.yadyechiel.org/>> for further information. RavFrand, Copyright © 2004 by Rabbi Yissocher Frand and Torah.org. Project Genesis, Inc. learn@torah.org 122 Slade Avenue, Suite 250 Baltimore, MD 21208

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## Ohr Torah Stone - Rabbi Riskin's Shabbat Shalom

### Shabbat Shalom: Parshat Bo Exodus 10:1-13:16

#### By Shlomo Riskin

Efrat, Israel - "And the Lord said to Moses and to Aaron in the Land of Egypt, saying: "This hodesh shall be for you the beginning (day) of the months..." (Exodus 12:1,2).

A number of disturbing questions arise in the first seven verses of this chapter. First of all, what is the precise definition of this first commandment of the Torah? Rashi presents two possibilities initially suggesting that the Hebrew word hodesh in the verse is to be translated as the emergence of a waxing moon (as in hidush, or the novelty of a sliver of a moon being "born" amidst the dark blackness of the night) which is to determine the beginning of each month ("G-d showed Moses the moon as it begins to newly emerge and said to him, 'When the moon becomes renewed you shall establish the new month'" Rashi ad loc), but then goes on to maintain that "a verse is never to be re-routed from its literal meaning, so G-d was instructing (Moses) concerning the month of Nisan, which ought to be the first month in the calendrical order of the months..." What is the correct definition of the first commandment?

Secondly, immediately following the commandment - however we may interpret it - comes the exhortation to have every household slaughter a lamb and place the animal's blood on the two door-posts and lintel of the house. The midrash explains that since the lamb was considered an idol in the eyes of the Egyptians, such an act would be a capital crime, a sign of the willingness of the Israelites to place their lives on the line for the sake of their belief in one G-d (Kiddush HaShem). But what has this to do with the first commandment to mark the emergent moon or to establish Nisan as the first of the months?

Rav Shimshon Rafael Hirsch insists that the first suggestion of Rashi is actually the definition of this first commandment, since it is the literal interpretation of the words. After all, the second clause of the verse states that Nisan ought to be established as the first month of the calendric months of the year, so the first clause must apparently be relating to the emergence of the nascent moon which marks the Rosh Hodesh festival. But why make such a fuss over the first sliver of the moon? And the Jewish lunar interest (obsession?) doesn't end with Rosh Hodesh itself. The first Saturday night following Rosh Hodesh features a curious ritual called "Kiddush levana", or the sanctification of the moon. Following the evening service, the congregants gather outside the synagogue in a place from which they can view the waxing moon. At some point in their chanting of psalms, each participant seemingly greets three surrounding neighbors with the salutation, "Shalom Aleichem." The service concludes with everyone dancing in a circle and singing praises to the orbs of the heavens, concluding by pointing up at the emerging form of the bright moon withing the blue-black skies. What is the significance of this strange rite? The Sacred Zohar teaches that "the nation of Israel may be compared to the moon." Just as the moon wanes and totally disappears, t just as the bleak-black heavens seem to be totally devoid of light, the sliver of the new, waxing moon appears: in just such a manner does a new spirit of regeneration emerge from within Israel just when the

children of Abraham and Sarah seem to be utterly devastated and destroyed by anti-Semitic persecution, pogrom and perdition. "From the depths of despair do I call out to the Lord." And so the Babylonian Talmud emerged from the destruction of the Second Temple, and the renewed Jewish State rose out of the ashes of Auschwitz. "Even if you are scattered to the ends of the heavens, from there will the Lord your G-d gather you and from there will He take you. And the Lord your G-d will bring you to the land which your ancestors have inherited and you shall inherit it. He will do good things for you and He will make you more numerous than your ancestors." (Deuteronomy 30:4,5) The bright-light of redemption will emerge from the dark night of exile.

This symbolism is expressed by the Talmudic Sages, when they composed the prayers for the rite of the Sanctification of the Moon, which expresses ultimate Israelite victory and redemption: "And one recites three times, 'Just as I dance before you (oh moon) but cannot touch you, so if my enemies dance before me to harm me, they will be unable to touch me. Fear and trembling shall fall upon them, and by means of Your great arm (O G-d) they will become silenced as stone. David King of Israel lives and exists.

Peace unto you (Shalom Aleichem)" (Babylonean Tractate Soferim, 20, 2 Hagger P340). Indeed, in the words of our Sages, our optimistic faith in the messianic Redemption was born and strengthened on Tisha B'Av (the day of the destruction of both Temples), and Menahem (lit. Comfort) is the name of our King-Redeemer. It is not mere accident that in the Jewish tradition the night leads into - and is followed by - the day, with the dawn always symbolizing redemption. No wonder that the Israelites in Egypt were willing to place their lives in danger by sacrificing a lamb and placing its blood on the doorposts just as they hear the command of the new moon. G-d has taught them the optimistic message of light coming from darkness and salvation emerging from slavery by means of the light of the new moon. They are willing to risk their lives for the dream of redemption!

Shabbat Shalom Postscript:

Maimonides brings his crowning proof for Jewish faithful optimism in a more glorious future of world peace and harmony in defining the commandment to mark the new moon at the beginning of each month (Book of Commandments, Positive Commands, 153). He reminds us that our calendar was established by Hillel the Second in the third Century of the Common Era, and we could not maintain it today were the Sages of our generation not considered the agents of that generation which initially intercalated the months. "And if we ever posited the thought that the time could ever come when there would cease to be a Jewish community in the Land of Israel... or a Religious Court there, the agency could not be effective, because Torah (and therefore the calendar) can only come forth from Zion! But G-d would never allow such a possibility, since the Almighty guaranteed that the Jewish community in Israel will never be erased..." (ibid.). Remember that Maimonides expressed such an awesome and stirring faith despite the fact that he was chased from pillar to post in his life-time by the marauding Moslem Almohads, and he lived at the time of the European Christian Crusades. It is especially significant that Maimonides expresses his eternal faith in the command to mark the New Moon. And what more reason have we to be optimistic about Jewish future, since our generation has witnessed the miraculous return to Jewish national sovereignty in Israel after almost 2000 years of exile! May the Merciful Lord lead us to our land and enable us to walk on our land proudly and uprightly.

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### **Weekly Parsha BO**

**Jan 30 2004**

A great military leader is reputed to have once said that the only thing more dangerous than defeat is victory. By that he meant a military or even political victory rarely settles the matter. It only provides an opportunity to the victor to come up with a plan how to best exploit that victory and convert it to a more permanent accomplishment. This point is well made in the entire story of the Exodus that reaches its climax in this week's Torah reading. The fact of the Exodus itself would be sufficient cause for celebration for the generation that experienced deliverance. But, by itself, it would mean little if nothing to later descendants and generations.

The Jewish people, exiled and physically defeated many times over in its long history, would hardly commemorate a victory as temporary as the Exodus if it did not lead to a more permanent and lasting triumph. It would be comparable to the Confederate States of America-the South- continuing today to celebrate its victory at First Bull Run! And yet it is the Exodus as the centerpiece of all Jewish history, and the Pesach Seder, which commemorates it, that remains the most observed ritual in Jewish life. So, it is obvious that the Exodus must be about more than just the departure from Egyptian bondage.

When Moshe, at the beginning of his mission, encounters the God of destiny at the burning bush at Sinai, the Lord informs him that his purpose is to bring the people of Israel to Mount Sinai to serve God and to accept the Torah. The Exodus is the necessary preparation for the acceptance of Torah at Sinai. But the Exodus is the means to the end, not the end in itself. The Exodus without Sinai is the First Bull Run. It would have been a temporary and unexploited victory, an event that would dim and disappear in time, losing its relevance and meaning to later generations. For, it is only the spirit lasts and gives permanent meaning to physical and temporal occurrences. And for Jews, spirit and spirituality are permanently meaningful only if they are based in Torah and Jewish tradition. Thus, the Lord's message to Moshe, that when Israel is redeemed they will "worship me at this mountain" is the essence of the entire meaning of the story of the Exodus.

The Jewish people have experienced abysmal defeat and destruction in this, the bloodiest of all human centuries. We have also been witness to great and unpredictable triumphs and successes. We have somehow been able to survive and rebuild ourselves, personally and nationally, after the defeats and destruction. But we have as yet been unable to truly exploit the triumphs and successes of this century. The State of Israel, the crowning Jewish physical achievement of our time, is still embroiled in a conflict for its soul and direction and purpose. This struggle is as important as is the physical struggle to survive and prosper, for without meaning (spiritual, Torah meaning) the Israeli War of Independence and all of the subsequent victories can, God forbid, become as First Bull Run.

The test of wills, the search for national meaning, the unexpressed but omnipresent inner disappointment and emptiness, are all underlying causes for the divisiveness and political turmoil that characterize current Israeli life. As of yet, there is no Sinai to give meaning to our modern Exodus. The wondrous Exodus of our time has not as yet been translated into terms - ritual, spiritual, and traditional terms - that are truly transmittable to later generations. Only when this goal is finally accomplished will a sense of "normalcy" be achieved in Israeli and Jewish life. And it is this task and goal that is the order of the day for all segments of the Jewish People. By creating Sinai to accompany the Israeli "Exodus" we will be guaranteeing the permanent blessing of the Land of Israel in the lives and hearts of the people of Israel.

Shabat Shalom. **Rabbi Berel Wein**

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### **TORAH WEEKLY**

**For the week ending 31 January 2004 / 8 Shevat 5764**

**from Ohr Somayach**

**Parshat Bo**

**INSIGHTS - I'm Being Watched!**

**"And G-d said to Moshe, 'Come to Pharaoh...' " (10:1)**

Have you ever had the feeling that you are being watched? Have you ever felt that your every move is being scrutinized?

I'm not just asking those of you who have the misfortune to live in a police state. (Mind you, if you live in a police state, I doubt that the authorities are sufficiently magnanimous to allow you access to e-mail.) No. I'm addressing this to all of us whose most intimate contact with Big Brother was in a novel by George Orwell.

Have you ever felt that you are being watched? Do you feel that, as you are reading these words, that, right now, you are being investigated?

If the answer to these questions is no, then you're in trouble.

Before you write to the editor of this august publication and suggest that he send this present writer on an extended South Sea cruise (chance would be a

fine thing!), or call for those nice smiling men in their white coats, let me explain what I mean.

The phrase "the fear of Heaven" to our Anglo-Saxon ears sounds extremely archaic. It sounds like something out of the mouth of a TV gospel preacher, standing on a street corner, ranting his heart out to indifferent passersby. We may be frightened by many things: that the dollar may go up; that the dollar may go down; that thieves may break into our homes; that we may contract some terrible malady; we may even be frightened that the supermarket will have sold out of our favorite dog food, but "the fear of Heaven" is something very far from our hearts.

But, quite simply, the fear of Heaven means the feeling that you are being watched.

Try this experiment. Think for one moment that G-d is watching you. That's right. Right now. G-d is watching your every move. In great detail. Think that G-d is right here, right now. Now, with that in mind, change the way you're sitting or standing. Just a little.

What you just did was to show the fear of Heaven.

"And Hashem said to Moshe, 'Come to Pharaoh...'"

Notice that the Torah doesn't say "Go to Pharaoh," rather "Come to Pharaoh." Why?

There's no such thing as "going" from G-d. G-d fills the world. There is nowhere where He is not. No place can exist if He is not there. You can't "go" from G-d. Therefore the expression "Come to Pharaoh" is more apt because it also means, "Come - and I will go with you."

Source: based on the Kotzker Rebbe

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## Bar-Ilan University's Parashat Hashavua Study Center

Parashat Bo 5764/ January 31, 2004

### Must Children be Educated?

#### Dr. Yisrael Zvi Gilat - School of Education

From what age is a young child obliged to lay *tefillin*? [The expression "to lay *tefillin*" derives from the Hebrew *lehaniyah tefillin*, to don, put on the *tefillin*.] there are two basic formulations of this issue. The first is *Tosefta Hagigah* 1.2 (Lieberman edition, pp. 374-375), which is found with variant readings as a *baraita* in the Babylonian Talmud (Tractate *Sukkah* 42a):

A minor ... who knows how to wave [a *lulav*] is obliged to perform the commandment of *lulav*; one who knows how to wrap himself, is obliged to perform the commandment of *tzitzit*; one who knows how to speak, his father must teach him the *Shema*, Torah, and the holy tongue; ... one who knows how to take care of *tefillin*, his father gets *tefillin* for him; ... one who knows how to slaughter, his slaughtering is kosher; [one who knows to eat] an olive's worth of roast, the Passover sacrifice is slaughtered for him.

The second formulation reads: "Whoever knows how to take care of *tefillin* is obliged to perform the commandment of *tefillin*" (*Sifre Zuta*, Numbers 15.38, Horowitz ed., p. 288); "Any minor who knows how to take care of his own *tefillin*, is obliged to perform the commandment of *tefillin* (Tractate *Tefillin*, *halakhah* 3).

#### "For Educational Purposes Only"

One might have thought that there is a basic difference between "his father gets *tefillin* for him" and "is obliged to perform the commandment of *tefillin*". Is the father obligated, or the son? According to the *posekim*, however, these differences of formulation are insignificant. The reason for this is that the minor's obligation is purely *mi-shum hinnukh*, for reasons of "education," and therefore *Shulkhan Arukh*, in a seeming combination of the sources, writes that any "minor who knows how to take care of *tefillin*, his father must buy him *tefillin* in order to teach him" (Tur, *Orah Hayyim*, par. 33). The duty to educate devolves specifically upon the father, and to this end alone he must buy his son *tefillin*.

It is interesting to note, however, that neither the *baraita* nor the *tosefta* mention the duty of educating. It is hard to argue that if a minor "knows how to slaughter, his slaughtering is kosher" only for educational purposes; rather, it is kosher in every respect, even for an adult to eat. Likewise, when a minor who "knows how to eat an olive's worth of roasted meat" slaughters the Passover sacrifice, his slaughtering is considered perfectly fit for all those who eat the Passover; so, too, with the other commandments listed - *lulav*,

wearing *tzitzit* and laying *tefillin*; once a minor reaches an age where he is capable of performing these commandments, he is obliged to do so no less than one who has reached majority.

#### Tannaitic Sources

Moreover, the idea that educating is a commandment appears in Tannaitic sources only three times, and in all these instances the duty of educating is not specifically made with respect to minor sons, who are not obliged to perform the commandments in and of themselves, but also includes older sons and other members of the household, who are obliged by the commandments. Thus, in the Babylonian Talmud, Tractate *Kiddushin* (30a) we find a disagreement among the *tannaim* over the interpretation of the verse, "Train a lad in the way he ought to go" (Prov. 22:6): "Rabbi Judah and Rabbi Nehemiah [disagreed] - one of them said from twelve until twenty and thirty, and the other said from eighteen until twenty-four," but at such ages, according to all opinions, a son is obliged to perform the commandments. The Babylonian Talmud, Tractate *Rosh ha-Shanah* 29b, cites the tannaitic *halakhah*, that "one should not slice bread for one's guests unless one eats with them, but one should slice for one's sons and household in order to train them in the commandments." In this source, as well, the members of one's household and sons are not necessarily those who are exempt from the commandments because of their age. Only the Mishnah, Tractate *Yoma* 10.1, and *Tosefta Kippurim* 5.2 (Lieberman, p. 249) mentions education in connection with sons who are minors: "Infants should not be made to fast on the Day of Atonement, but they should be taught [to do so] a year or two beforehand, so that they become accustomed to the commandments." That source, however, does not say that the duty of educating devolves upon the father alone, rather, it may apply to any Jew who has reached majority.

As we said, aside from these sources, nowhere have we found the term "education" or "educating in the commandments" in tannaitic sources. We have, however, found various criteria of time by which a minor is expected to perform certain commandments, each commandment having its own criterion. Regarding the commandment of pilgrimage, the houses of Shammai and Hillel disagree in the Mishnah, Tractate *Hagigah* 1.1, whether the obligatory age is from the time the infant "can ride on his father's shoulders," or whether from the time he can "hold his father's hand and make the pilgrimage to the Temple Mount in Jerusalem." Or, another example: "A minor who does not need his mother is obliged by the commandment of *sukkah*."

#### The Babylonian Talmud

It appears that only in the Babylonian Talmud did the concept of education acquire the specific meaning of an obligation to accustom minors to perform the commandments even though they are exempt from performing them. Thus, Rabbi Abbaye (*Hagigah* 4a) resolved the contradiction between a minor being exempted from the commandments of pilgrimage, according to what we read in Mishnah *Hagigah*, and the *midrash halakhah* on the verse, "all your males shall appear before the Lord" (Deut. 16:16): "All your males,' including minors ... Abbaye said: there is no problem here; one (*the midrash halakhah*) refers to a minor who has reached the age that he can be taught, the other refers to a minor who has not reached the age he can be taught. Asks the Talmud: But in the case of a minor who has reached the age he can be taught, is not the requirement rabbinic (*mi-derabbanan*, and how can it be learned from a biblical verse)? Answers the Talmud, indeed it is, and the verse is only an *asmakhta* ( a hint ).

Thus, in Abbaye's opinion, the criteria given in the Mishnah of being "able to ride on his father's shoulders" or "able to hold onto his father's hand" do not indicate the age at which a minor actually becomes obliged to do the commandment, rather they indicate the point at which one becomes obliged to educate a minor, even though he is exempt from performing the commandment.

A similar seeming contradiction is discussed in the Babylonian Talmud, Tractate *Sukkah* 28b, regarding a minor being exempt from the commandment of *sukkah*, as it says in the Mishnah, as opposed to his being obliged by this commandment according to the interpretation of the verse, "all citizens in Israel shall live in booths" (Lev. 23:42): " 'All' including minors... There is no difficulty here, for one case refers to a youngster who

has reached an age at which he can be taught, and the other refers to a minor who has not reached an age at which he can be taught. Is the obligation on a minor who has reached the age at which he can be taught rabbinic? Yes, rabbinic, and the verse is only a hint". According to this reasoning, the age at which a young child "no longer needs his mother" does not mark the age when he begins to be obligated to perform the commandment of dwelling in the *sukkah*, rather the age when he begins to be obliged to learn to perform this commandment, even though he is exempt from it.

It follows that there is a difference between the tannaitic sources and the amoraic sources. The tannaitic sources actually list various ages at which a minor becomes obliged to perform certain commandments himself, whereas the amoraic sources note these ages only as marking the point at which the father becomes obliged to begin educating his son in the commandment. This difference between the tannaitic and amoraic sources which we have cited (and other sources not cited here), was noted by my father and teacher, Prof. Isaac D. Gilat,<sup>[1]</sup> where he discussed the question of when a Jew becomes obliged to perform the commandments. In his opinion, there is a difference between the earlier and later sources:

The early *halakhah* did not recognize thirteen as the age when a son is obliged to observe the commandments of the Torah. Quite the contrary, early *halakhah* moved this obligation up as far as the age of a toddler, in accordance with the child's physical ability to actually perform the given commandment... In the time of the *amoraim*, however, a trend emerged towards introducing uniformity in the age at which a minor was obliged by the commandments. The age the commandments became obligatory and the age at which the child was subject to punishment was set at thirteen (for a son, twelve for a daughter), and the commandments that a child observed before this age were defined as commandments of rabbinic authority (*mi-de-rabbanan*).

My father's theory also explains another matter: the nature of educating towards performance of the commandments. In the ancient tannaitic sources the age criteria cited above were aimed at the minor, indicating the point at which he himself became obliged to observe the commandments. The role of the mother or father, mentioned in respect of these age criteria, is only to help define the minor's ability to perform the commandment. For example, the commandment of pilgrimage is imposed on a minor from the point that he can "ride on his father's shoulders" or "hold onto his father's hand." The commandment of dwelling in the *sukkah* applies from the time he "no longer needs his mother," for a young child who still needs his mother cannot dwell in the *sukkah*, since the mother herself is exempt from this commandment. Even the ruling that a child who "knows how to take care of his own *tefillin*, his father gets *tefillin* for him," is only to indicate the age when a minor becomes obliged to lay *tefillin* and not necessarily to indicate an obligation of the father. The same goes for the rule, "A child who knows how to speak, his father must teach him the *shema*, Torah, and the holy tongue." Although this deals with the commandment of teaching Torah, the father being obliged to teach him, nevertheless the obligation on the father is compounded by the obligation of the minor himself to learn Torah as soon as he knows how to speak.

Thus in the tannaitic Mishnah we find no specific obligation placed on the father to educate his son in the commandments. Regarding what we learned in *Sifre Zuta* (above) -

'Speak to the children of Israel'[meaning adults] ... and on the other hand it says 'children of Israel,' to enjoin the adults in respect of the minors, training them in the commandment of *tzizit* [an apparent contradiction]. Hence they said that any infant who knows how to dress must put on *tzizit*, and any child who knows how to wave a *lulav* must perform the commandment of *lulav*, ... and any one who knows how to take care of *tefillin* must lay *tefillin*...

--we note that the obligation to train the youngster in the commandments was not placed specifically upon the father, but upon any adult Jew who has to do with the child. All adults in Israel are cautioned to train the youngster of requisite age in performance of the commandments, even though this obligation of the adult is only ancillary and secondary to the obligation of the minor himself; it is in the same class as the responsibility of every Jew for

his fellow Jews to perform the commandments, perhaps even being able to force performance on his fellow. In the case of minors, however, who are not capable of doing this themselves, all adults are admonished that they must watch after the minors and see to it that they do what is obligatory upon them.

#### **How the Talmud interpreted the earlier sources**

It was only in the time of the *amoraim* that the obligation of all male Jews to perform the commandments began from the time of physical or intellectual maturity, or the age of thirteen. As a result, the various criteria in the *tannaitic* sources came to be interpreted as marking the age when the minor becomes obliged to begin learning. Whose duty is it to see to this education, if the minor himself is not actually obliged to perform the commandments himself at these ages? One would say the father, since he is mentioned in the tannaitic Mishnah in connection with the minor's obligation. That is to say, it is the father who is obliged to bring his son to Jerusalem, to "appear before the Lord," even though the son himself is not obliged to do pilgrimage. It is the father who must acquire *tefillin* for his son in order to educate him, as soon as his son is capable of taking care of his *tefillin*, even though the son himself is exempt from laying *tefillin* until he reaches the age of thirteen. It is the father who must see to it that his son who no longer "needs his mother" dwells in the *sukkah*, even though the youngster himself is exempt from this commandment.

It appears that the criteria given in tannaitic sources regarding the obligation to begin performing various commandments were deduced by the *tannaim* on the basis of the statement: "A child who knows how to speak - his father should teach him the *shema*, Torah, and the holy tongue," which is a prime example of a commandment that the father is obliged to do for his son. Just as this obligation devolves upon the father, so too the duty of educating in the other commandments is placed on the father alone.<sup>[2]</sup>

[1] *Perakim be-Hishtalshelut ha-Halakhah*, Bar Ilan University, 1992, p. 31.

[2] For further reading, see my article, "*Al mi mutelet ha-hovah le-hanekeh et ha-ben ha-katan le-kiyyum mitzvot?*," Sidra 11 (1995); *Dinei Mishpahah ve-Yehahsei Horim ve-Yeladim*, Hoshen le-Mishpat, 2001, 315-334.

Last Update: January 29, 2004

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#### **Peninim on the Torah Hebrew Academy Parsha Sheet Rabbi A. Leib Scheinbaum - Hebrew Academy of Cleveland PARSHAS BO**

#### **Hashem said to Moshe, "Come to Pharaoh, for I have made his heart and the heart of his servants stubborn. (10:1)**

The concept of *hachbodas ha'lev*, hardening of the heart, and basically removing one's *bechirah chafshis*, free will, is a difficult idea to accept. G-d has endowed man with the ability to choose between right and wrong, good and evil. This concept plays a critical role in providing the correct balance for reward and punishment. Why did Hashem take this opportunity from Pharaoh? In his *Sefer Simchas HaTorah*, Horav Simchah HaKohen Shepps, zl, applies the following analogy to explain and validate hardening Pharaoh's heart. A Jew once had a litigation with a gentile, which necessitated going to a secular court for adjudication. The Jew, realizing what he was up against, went to the gentile judge on the day of the trial and offered him a hefty bribe. The judge, understandably, was taken aback. "Is it not written in your Bible that one should not accept a bribe, because it blinds the eyes of even the most astute individual?" the judge asked indignantly. "How can you justify giving me a bribe?"

The Jew quickly responded, "Your honor, what I did was really not inappropriate. After all, you and my litigant are both non-Jews. It makes sense, therefore, that you are predisposed to hear his side of the case with greater sensitivity than you would my claim. Thus, by giving you a bribe, I am only balancing the scales of justice by attempting to override your predisposition."

The same idea applies to Pharaoh's *hachbodas ha'lev*. The plagues wreaked havoc on Egypt. They left an indelible impact on the Egyptian psyche. Hence, Pharaoh and his people were partial to the Jewish cause. He was inclined to let the Jews leave the country, but for the wrong reason. He had

no remorse; he did not regret the evil decrees that he had directed against the Jewish People. His contrition was insincere. Hashem, therefore, hardened his heart, in order to counteract the effect of the plagues.

**There was a darkness of gloom throughout the land of Egypt for a three-day period. No man could see his brother, nor could anyone rise from his place. (10:22,23)**

Rashi explains the rationale behind the intense darkness that lasted three days. It seems that among the Jews of that generation were wicked individuals who had no desire to depart the Egyptian exile. They perished during the three days of gloom, in order that the Egyptians should not be witness to their downfall and say, "They, too, are being smitten as we are." The question that glares at us is basic: Is the fact that they did not want to leave Egypt sufficient reason to die? We see later, concerning the eved Ivri, Hebrew slave, who wants to extend his servitude beyond the required six years, that he goes to Bais Din, Jewish court, and has his ear drilled. That is it! One does not incur capitol punishment because he is foolish enough to remain a slave. What is Rashi teaching us?

Horav Shmuel David Walkin, zl, explains this pragmatically. How could there have been Jews who refused to leave Egypt? Who, in their right mind, would want to remain in Egypt only to be subjected to back-breaking labor and brutal suffering? Perhaps there were those Jews who were exempted from the slavery. They were not subject to the suffering that their brethren sustained. How could they remain indifferent to the suffering of their brothers? How could they go about Egypt and ignore the pain of their brethren? Apparently, they neither saw nor were sensitive to the pain of their fellow Jews. Such a person who does not empathize with the plight of his brethren does not deserve to be liberated with them.

This is the underlying meaning of the words, "No man could see his brother, nor could anyone rise from his place." Hashem punishes middah k'neged middah, measure for measure. If one wonders why they were punished in such a manner that they could not see one another, it is because they did not get up to help when they saw a Jew suffering. In an alternative explanation, the wicked Jews were punished because they followed the pattern of centuries. Those who did not want to leave were not satisfied by simply staying back themselves; they had to make sure that others stayed with them. This attitude has plagued us for millennia. Jews that do not want to join in the quest for spiritual development want to arrange that those who are observant are similarly hampered. The adage of "live and let live" does not apply to them. That is why they were left with the Egyptians. Their attitude toward their brethren was inherently Egyptian in nature.

**Against all Bnei Yisrael, no dog shall whet his tongue. (11:7)**

Rashi cites the Mechilta that teaches us that the dogs became the beneficiaries of treifah meat, in the event an animal is deemed not kosher as the result of a wound. This is all due to their keeping still during the deaths of the Egyptian first-born. Another animal, the donkey, also received a reward for its role in the Egyptian exodus. The Torah instructs us (Shemos 13:13), "Every first-born donkey you shall redeem with a lamb." Rashi tells us that this law applies only to the first-born donkey, not to any other non-kosher animal. This is because the donkey carried the Egyptian spoils that the Jews took with them out of Egypt.

The question is evident. Two unclean animals both played a role in the Exodus. Both were rewarded; one with being fed unkosher, defiled meat; the other with the exalted status of kedushah, sanctity, which applies to bechorah, the first-born. Why did the donkey achieve kedushas bechorah, while the dog became the repository for defiled meat? Horav Yosef Chaim Sonnenfeld, zl, gives a practical explanation that conveys to us a compelling lesson. The donkeys acted in a proactive manner. Their good deeds consisted of exertion in carrying the heavy burdens that were placed upon them. They provided necessary assistance to the Jews. For helping another fellow to carry his burden, one earns the merit of being rewarded with added sanctity. The dog also assisted, but, by contrast, it was in a passive manner. For refraining from barking it deserved a reward, but since no exertion was expended on its part, the reward is not very impressive. Perhaps we can say it is fit for a dog.

On the other hand, I question the above, since the dog went against its nature and refrained from barking, but the donkey did what it usually does: it carried a load. One would think that the dog should receive a greater reward than the donkey. Apparently, active performance of a chesed is of greater significance than unnatural, passive accomplishment.

**You shall guard the matzos, for on this very day I will have taken your legions out of the land of Egypt. (12:17)**

Rashi cites the famous dictum of Rabbi Yoshiah, "Do not read the word only as 'matzos,' but rather, also, as 'mitzvos,' commandments. In this sense the pasuk is teaching us that just as people do not permit the matzos to become leavened, so should they not allow the mitzvos to become leavened, by leaving opportunities for their fulfillment unattended. Rather, "if the opportunity to fulfill a mitzvah comes to your hand, do it immediately." A noteworthy statement, but how does it fit into the textual flow of the pasuk? What does meticulous observance of mitzvos have to do with the fact that on that very day the Jewish people were redeemed from Egypt?

The Kesav Sofer explains that it is a well-known axiom that, prior to the geulah, Exodus, Klal Yisrael were at a precarious point. Had they remained any longer in Egypt, they would have descended to the nadir of depravity and reached the fiftieth level of spiritual impurity. Had this occurred, they could not have arisen from defeat and would have been relegated to a posterity of servitude in Egypt. The Exodus teaches us the overwhelming significance of seizing the moment. That fleeting moment made the difference in their redemption. Had they waited another minute we would still be there, enslaved to the Egyptian culture and mindset. Likewise, when the opportunity for performing a mitzvah materializes, one should not waste it and immediately react to perform the mitzvah.

Otzros HaTorah derives this same lesson from the blessings that Yitzchak Avinu gave to Yaakov Avinu. The Torah relates (Bereishis 27:30), "And it was, when Yitzchak had finished blessing Yaakov, and Yaakov had scarcely left from the presence of Yitzchak his father, that Eisav his brother came back from the hunt." Rashi adds, "This one left, and the other one arrived." The Midrash delves into how they missed each other, but after all is said and done, we are talking about mere moments, when Yaakov preceded Eisav in receiving the blessings, that made the difference in the lot of his descendants for all time. Another minute - had Eisav returned a moment earlier or had Yaakov tarried a moment longer - our history would have been forever altered!

When the wellsprings of spiritual bounty open in Heaven, we have to be prepared and waiting to receive our share - or lose it forever. The value of a moment is incredible. For some, it is the opportunity for tremendous spiritual or material benefit, while for others, it could mean the difference between success and failure. The Gedolei Yisrael, Torah leaders, knew how to value every minute of their lives. The following short vignettes, cited by Otzros HaTorah, lend us insight into their lives.

Horav Elchanan Wasserman, zl, the legendary Rosh Hayeshivah of Baranowitz and one of the preeminent Torah leaders of pre World War II Europe, was known for his piety and intensity in Torah study. His diligence was so outstanding that, as a student in the Telshe Yeshivah in Lithuania, he would study for eighteen hours a day. Time was of the essence and it could not be wasted. As Rosh Hayeshivah, he refused to take a salary from the yeshivah, leaving him quite poor - but satisfied. It is related that his shoes were so worn-out that the students took up a collection in the yeshivah to purchase a new pair of shoes for their venerable rebbe. He accepted the gift, but after a while lamented the new shoes. It seems that it took him an extra two minutes every day to lace up his new shoes, while his old, torn shoes no longer had laces. The amount of time he wasted from Torah study disturbed him greatly! On the last Yom Kippur of his life, the great tzaddik Horav Yehudah Leib Chasman, zl, Mashgiach of Yeshivas Chevron, davened Neilah at his home, surrounded by his closest students. In his weakened state after fasting the entire day, the Mashgiach sat down and waited for the zman, time, to begin Maariv. He looked at his students and said, "In the Haftorah of Minchah, we read that Yonah HaNavi tells the captain and crew of the boat that was rocking precariously in the turbulent sea, 'Lift me up and throw me into the water!' Why did he say 'Lift me up'?' He should have simply said,

'Throw me into the water.' He said this because he wanted to gain another moment of life! We must do the same. We have a few minutes left. Let us not waste these precious moments." At times, one can delay a positive undertaking, and it can make the difference between success and failure. Horav Sholom Schwadron, zl, related the following story: A member of a distinguished Yerushalmi family once had occasion to spend Shabbos in a hotel. Shortly after the Shabbos meal, he noticed an Israeli soldier writing. When the soldier became aware of the man staring at him, he said, "You are surprised that I am writing on Shabbos? Well, let me tell you what led to this." The soldier began, "I would like you to know that I believe in Hashem just as you do. Let me explain to you why I do not observe Shabbos. My parents were not observant. As a result, I grew up with no knowledge of Judaism. My sole exposure to Judaism was being called 'dirty Jew' by the Polish peasants. I was drafted into the army at the beginning of World War I and sent to the front. During an exceptionally heavy military attack, I noticed a group of Jewish soldiers taking out a Sefer Tehillim from their pockets and beginning to pray fervently to Hashem. I was heartbroken to see that I, also a Jew, had nothing. I was not accepted by the gentiles, but neither did I know how to act as a Jew. "At that moment, I looked up at Heaven and said to Hashem, 'You know that I have no way of knowing of Your existence. I entreat You that You demonstrate Your existence to me by having a piece of shrapnel puncture my finger, so that I will no longer be able to shoot.' The moment I finished speaking, a piece of shrapnel hit my finger and wounded me to the point that till this very day I cannot bend that finger. I was released from the army and decided that I would enter the bais hamedrash on that very day and begin to study about my religion. "Regrettably, I pushed off my visit to the bais hamedrash until after the war. Then, I was already enrolled in school with three months left to graduation. One thing led to another, and by the time I found my way to the bais hamedrash, my heart that had originally been so turned on, had turned into stone. Nothing could penetrate it. The motivation and enthusiasm that had reigned months earlier had cooled. I had waited too long. The mind understood, but the emotion was no longer there." If the opportunity for mitzvah performance appears, do not waste it. Act immediately. A split second decision to act correctly, to follow up on a positive experience, can spell the difference between success or failure. In an incredible story cited by Rabbi Yechiel Spero in his book, "Touched by a Story," we see how the saintly Chafetz Chaim exemplified this idea. The cold, harsh winters in Radin, Poland, home of the Chafetz Chaim, were a challenge for the poor Jews due to inadequate heating. As bad as it was at home, it was much worse outdoors. Consequently, they would remain at home, unless they had to take an occasional trip to the market.

Warm clothes were a scarce commodity. Gloves, especially were a sought after item. Once a wealthy man came to visit the Chafetz Chaim and, after spending some time with the sage, left him a precious gift: an expensive pair of fur-lined gloves. The Chafetz Chaim was not one to accept gifts, nor was he inclined to wear such fancy gloves. After seeing how much it meant to the man, the Chafetz Chaim acquiesced and accepted the gift.

A few days later, the Chafetz Chaim, accompanied by a few of his closest students, traveled by train to a neighboring town to attend an important meeting. The compartment on the train in which they sat was small and compact. The trip was short, so the Chafetz Chaim sat in his coat with his new gloves stored in his pockets. After a short while, it became stuffy in the compartment, so one of the students opened the window to let in some fresh air. The Chafetz Chaim moved to another seat, and, in the process, his coat brushed against the open window, causing one of his gloves to fall out of his pocket and out the window. A student noticed this and, when he told his rebbe, the Chafetz Chaim, to the amazement of his students, took the second glove and immediately threw it out of the window as well.

Noticing the puzzled stare of his students, he explained, "Someone is going to be walking along the tracks one day and will find the beautiful glove, but since it is a single glove, it will have very little use for him. I asked myself, what benefit would I derive from a single glove. I might as well provide another person with a pair of gloves, so at least he will benefit from them.

The Chafetz Chaim was the paradigm of the ish hachessed, man of loving kindness. His thoughts before he acted were even more impressive. He saw

an opportunity to perform chesed, and he acted immediately. Wasted opportunities are lost opportunities.

#### **Va'ani Tefillah - Birkas Asher Yotzar**

We take the brachah of Asher Yotzar for granted. This is a blessing that deals with bodily functions; therefore, it is one that is neglected. I will never forget watching in awe as the Manchester Rosh Hayeshivah, Horav Yehudah Zev Segal, zl, recited Asher Yotzar with trepidation, enunciating each word, placing great emphasis on its meaning. Horav Yitzchak Zilberstein, Shlita, cites a number of narratives that support the notion that Asher Yotzar is a segulah, remedy/good omen, for a refuah shleimah, complete recovery. It would make sense that, when one has the proper kavanah, intention and devotion, upon reciting its words, it will inspire him to a deeper realization of its meaning and thus, realize that Hashem is the true rofeh, Healer. Indeed, in one of the kollelim in Bnei Brak, when the young child of one of the kollel fellows was stricken ill, all the members of the kollel took it upon themselves to recite Asher Yotzar with greater kavanah. This simple but profound kabbalah, affirmation, turned the tide and the child was miraculously cured. We search for brachos and segulos in our time of need and often ignore the opportunities that are right before our eyes.

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#### **YatedUSA Parshas Bo 01.30.04**

#### **Halacha Discussion**

#### **Consumer Competition (Part 2)**

#### **by Rabbi Doniel Neustadt**

**QUESTION:** It has become customary for Jewish book publishers and cassette tape producers to prohibit copying or otherwise reproducing any part of their materials under any circumstances. What, if any, is the halachic background for this prohibition?

**DISCUSSION:** The poskim, in their written works, hardly deal with this issue. It is important, therefore, to present some of the arguments that may be made on either side of the question<sup>1</sup>:

On the one hand, it may be permissible to copy such material based, in part, on the following arguments:

**Complete ownership** - When one buys a book or a tape he may do with it whatever he pleases. He may destroy it, lend it to a friend, or make a copy either for himself or for a friend. Since, after all, he paid for the item in full, he is entitled to unrestricted use.<sup>2</sup> **Intellectual property** - Some poskim maintain that it is halachically permissible for one to benefit from "intangibles" such as another person's idea or invention. Once the creator has committed his wisdom or talent to paper or tape, he no longer owns anything of material value. If so, nothing tangible is being taken away from the rightful owner.<sup>3</sup> But a strong case may be made for prohibiting copying and reproducing materials:

**Benefiting from another person's labor** - Although, as stated, many poskim do not expressly prohibit benefiting from another person's creativity, when creativity is one's business the rules are different. If by copying someone else's creation you are causing him a business loss, it may be prohibited according to the majority of the poskim.<sup>4</sup> [According to a minority view, beis din even has the power to force the copier to pay the publisher whatever profit he has generated from his copying.<sup>5</sup>] **Government law** - In many countries the law prohibits copying or reproducing materials in any form. Halachah follows government law whenever the intent is to protect the safety and welfare of the citizenry.<sup>6</sup> **Retention of ownership** - The publisher may claim that his wares are for sale subject to certain restrictions on the buyer. This parallels the Talmudic case where a seller has the right to withhold certain rights from a buyer,<sup>7</sup> provided that he does so at the time of sale. Since the publishers state explicitly that copying is forbidden, it may be argued that their statement is tantamount to a "provisional sale."<sup>8</sup> This is known in halachah as shiur b' mechirah, i.e., a sale with partial retention of ownership. **Intangibles** - Some poskim do not differentiate between tangible and intangible possessions. In their opinion, the owner of intangible items has the halachic power to prohibit others from infringing on his ownership.<sup>9</sup> None of the above arguments, either pro or con, are exhaustive or completely irrefutable, especially regarding copying for personal use.<sup>10</sup> It goes without

saying, however, that one who copies a published or a taped work against the wishes of the publisher or producer stands a good chance of transgressing a serious, possibly Biblical, prohibition. Indeed, Harav M. Feinstein<sup>11</sup> writes that one may not copy a Torah cassette tape without the explicit consent of the producer. He goes on to say that one who does so commits a form of theft, but he does not explain the source for his ruling or the reasoning behind it.<sup>12</sup> Other prominent rabbis have rendered similar rulings orally.<sup>13</sup> Harav S. Wosner<sup>14</sup> allows copying individual pages from a published book for classroom use. A careful reading of his responsum implies, however, that this is permitted only when we can reasonably assume that the publisher would have no objection. If the publisher, however, clearly objects, it seems that it is prohibited to disregard his objection.<sup>15</sup> Note, however, that there are certain publishers and producers who do not object to copying or reproducing their work under certain limited conditions, such as classroom use. In any case, one must be particular to ask each company or author if and how they allow copying, for laxness could result in the violation of a serious prohibition.

A possible exception to the above is when a book is out of print and no plans for reprinting are underway. One can argue that in such a case the publisher or author has nothing to lose, for there is no possibility for making a sale. Indeed, some poskim advance the argument that the author is pleased when his work is studied or heard by additional people. A rabbi should be consulted.

**QUESTION:** Does the mitzvah of Lo salin - timely payment - apply to a yeshiva or other public institution? **DISCUSSION:** This mitzvah requires an employer to pay his worker before the day [or night] of his employment is over, or on the day [or night] that his wages are due. But Shulchan Aruch<sup>16</sup> rules that Lo salin applies only when an employee is hired directly by an employer. If, however, an employee is hired through an agent who makes it clear that it is the employer's responsibility to pay the employee's salary,<sup>17</sup> then neither the employer nor the agent transgresses Lo salin.<sup>18</sup> Rama adds that whenever an employee is aware that the person doing the hiring is not the actual boss, but merely a company agent, then Lo salin does not apply.<sup>19</sup> It follows, therefore, that for the Biblical prohibition of Lo salin to apply, two conditions must be met: 1) The employee must be hired directly by the employer, not by an agent or an agency; and 2) there must be an "owner," one individual who is legally responsible for paying salaries and bills. If there is any ambiguity concerning who, exactly, is responsible, or if the person responsible for paying is not the one who actually promised the salary to the employee, then the Biblical prohibition of Lo salin does not apply.

Based on this definition of terms, Harav Y.S. Elyashiv is quoted<sup>20</sup> as orally ruling that if a public institution such as a yeshiva is late in paying its employees, the Biblical prohibition of Lo salin was not transgressed. This is because a yeshiva is not a private enterprise which has one owner who is responsible

for paying the bills and salaries. Rather, a yeshiva generally has a board of directors who appoints a principal or an executive director to hire the staff. The principal or executive director are "agents" of a non-specific "owner" (the board or the institution), who, according to the above-stated guidelines set by the Shulchan Aruch, are not affected<sup>21</sup> by the prohibition of Lo salin.<sup>22</sup> In addition, a separate argument can be made for exempting yeshivos and other non-profit organizations from the prohibition of Lo salin. It is all too well known that yeshivos and other public institutions are not exactly cash-flow operations. When they are forced to delay payment to their staff, it is because they lack the necessary funds. Shulchan Aruch rules decisively that an employer who has no money to pay his employee does not transgress the prohibition of Lo salin. Thus, yeshivos that are late in payment would not transgress this prohibition even if a yeshiva is considered an "employer" according to the guidelines stated above.

Moreover, an employee of a yeshiva knows - prior to his employment - that it is possible that he may not be paid on time. Since he took the job anyway - knowing that it was a distinct possibility that he would not be paid on time - his case is similar to that of an employee with whom the employer has made an explicit pre-condition that he will not pay on time.

Such a condition is halachically valid.<sup>23</sup>

But it is important to stress that we are defining the parameters of one specific mitzvah only, that of not paying a worker exactly when his work is completed or his pay is due. This is a mitzvah with limited applications, whose purpose is to show special sensitivity to a worker's needs and expectations. This mitzvah has nothing to do with the overall obligation of paying one's bills, debts, etc. in full and as soon as possible. Anyone who deliberately and brazenly withholds a worker's salary transgresses at least two different Biblical prohibitions<sup>24</sup>:

You shall not cheat your fellow (by depriving a worker of his earnings; Rashi) and You shall not rob. Even an employer who intends to pay his employee but dallies with him by making him come back several times for his wages, transgresses a Rabbinical prohibition based on the following verse<sup>25</sup>: Do not say to your fellow go and come back go and come back and tomorrow I will give you. This prohibition applies to everyone, even one who technically does not transgress Lo salin according to the very specific definition given above.<sup>26</sup>

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FOOTNOTES: <sup>1</sup>See The Journal of Halachah and Contemporary Society # 21, pgs. 84-96, for a review of this subject by Rabbi Y. Schneider. <sup>2</sup>See Chasam Sofer C.M. 2, who debates this question. <sup>3</sup>See Beis Yitzchak Y.D. 2:75, who discusses this theory. <sup>4</sup>There is a Talmudic basis for this claim based on the view of Tosafos Kiddushin 59a, in the name of Rabbeinu Meir, which is endorsed as practical halachah by many of the authorities, see Rashdam 259; Chasam Sofer C.M. 79; Parashas Mordechai C.M. 67; Nachalas Tzvi C.M. 237. Maharsham 1:202. 5Masa'as Binyamin 27. <sup>6</sup>Beis Yitzchak Y.D. 2:75, based on the Shach Y.D. 165:8. <sup>7</sup>See Bava Metzia 34a, where the concept of shiyur is mentioned, concerning one who sells sheep yet retains for himself its fleece and offspring. See also Bava Basra 63a. The comparison, though, is not exact, since in our case the seller retains something intangible. <sup>8</sup>This argument is advanced by Rabbi Z.N. Goldberg in Techumin, vol. 6, pgs. 181-182. See also vol. 7, pgs. 360-380. <sup>9</sup>See Shoel u'Meishiv (Kamma, 1:44). See also Minchas Yitzchak 9:153, who proves that this was the view of the Chafetz Chayim. <sup>10</sup>See Pischei Choshen, Geneivah, pg. 287, who tends to be lenient when copying tapes for personal use. He does not, however, issue a clear decision. <sup>11</sup>Igros Moshe O.C. 4:40-19. <sup>12</sup>It is also not clear if in the case discussed there the copier bought the tape or merely borrowed it for the sake of copying it. <sup>13</sup>See Heart to Heart Talks, pg. 54, quoting Harav C.P. Scheinberg. <sup>14</sup>Shevet ha-Levi 4:202. <sup>15</sup>See Pischei Choshen, Geneivah, pg. 287, who disagrees altogether with Harav Wosner's lenient ruling concerning copying pages for classroom use. See also Shraga ha-Meir 4:77, who prohibits copying both published materials or tapes even for personal use as long as the item is available for sale. <sup>16</sup>C.M. 339:7. <sup>17</sup>If, however, the agent said that he is responsible to pay, then Lo salin would apply to him. <sup>18</sup>For a deeper explanation of why we do not invoke shlucho shel adam k'moso concerning this halachah, see Tosafos Rid and Ritva to Bava Metzia 110b and Meshech Chochmah, Kedoshim 19:13. <sup>19</sup>Indeed, Shulchan Aruch Harav (Sechirus 18) rules that even l'chatchilah one may hire workers in this manner so as to sidestep the Biblical prohibition of Lo salin. <sup>20</sup>Avnei Yashfei 2:118. <sup>21</sup>Harav Elyashiv, however, was quick to point out that the reverse is not true. We have previously stated that Lo salin applies to property rentals as well. Thus, if one owes a property rental fee to a yeshiva, he would transgress Lo salin if the payment were late. Even though there is no specific "owner" who demands payment, Lo salin still applies. Apparently, the demand for payment does not have to come directly from the owner. <sup>22</sup>Other poskim, however, do not agree with this leniency; see Pischei Choshen, Sechirus 9, note 66, who rules that an executive director who is responsible for salary payments is considered like the owner concerning Lo salin. <sup>23</sup>Shach C.M. 339:2. <sup>24</sup>Kedoshim 19:13. An additional verse in Ki Seitzei 24:14 states: You shall not cheat a poor or destitute hired person. See Bava Metzia 61a and 111a for the Talmudic interpretation. <sup>25</sup>Mishlei 3:28. See Rashi ibid. <sup>26</sup>C.M. 339:7.

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