

מילין חביבין  
**BELOVED  
WORDS**

*Milin Havivin*

*An Annual Devoted to  
Torah, Society and the Rabbinate*

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*Where Open Orthodoxy Begins*

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**Cultivating** spirituality—God consciousness, piety, and ethical sensitivity (*yirat shamayim*) and integrating it into all learning, religious practice and worldly pursuits.

**Encouraging** intellectual openness, questioning, and critical thinking as essential components of one's full service of God (*avodat Hashem*).

**Affirming** the shared covenantal bond between all Jews; promoting love of all Jews (*ahavat Yisrael*) and actively pursuing the positive and respectful interaction of all Jewish movements.

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With the publication of this volume,  
the editors wish to honor our teachers

**Rabbi Avi Weiss & Rabbi Dov Linzer**

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Caring, Passionate and Thoughtful Jews.



This inaugural volume of *Milin Havivin*  
is dedicated by  
Jeffrey, Bonnie, Yonah and Yosef Berman  
in memory of their beloved  
mother and grandmother

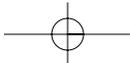
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פנינה בת יום טוב ושרה לאה

(1917–2003)

תהא נשמתה צרורה בצרור החיים

She lives on in the hearts of all who knew her  
as the definition of generosity, love and  
the constant pursuit of knowledge.



## *Editors' Foreword*

**O**n *Shavuot* we celebrate our acceptance of the Torah from God during the mass-revelation at Sinai. Because every member of the Jewish People took part in that encounter, each of us has the opportunity to study and apply the Torah. We pray that this publication's words of Torah will help all of Am Yisrael appreciate the relevance and applicability of *Torat Yisrael* to every aspect of life, bringing the world closer to redemption.

We would like to express our deep gratitude to many different individuals. First, we wish to thank our teachers: Rabbis Avi Weiss, Dov Linzer, Dov Weiss, Tsvi Blanchard, Jeff Fox, Barry Gellman, Ysoscher Katz, Yaacov Love, Chaim Marder, Jonathan Milgram, and Drs. Michelle Friedman, Tamar Ross and Marc Shapiro. In addition, we thank the YCT administrative staff, lead by Oksana Bellas, Jocelyn Eyles, Nava Pickman and Ruthie Simon, for their tireless efforts.

This project would not have moved forward without the assistance of Rabbi Nati Helfgot, our faculty advisor, and the editing and patience of our *hevrutot*, friends and wives in the YCT community.

Finally we wish to acknowledge Hashem, whose Torah permeates these pages. The love of that Torah and its message are the framework of our Yeshiva, and the motivation of every participant in this journal.

*B'ahavat haTorah,*

Yonah Berman and Jason Weiner  
Yeshivat Chovevei Torah Rabbinical School  
*Sivan, 5765*



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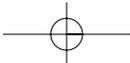
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## ISRAEL'S INDEPENDENCE DAY IN THE FACE OF ADVERSITY\*

Rabbi Yehuda Amital

We, the Jewish People in the Land of Israel, have experienced many rough periods and the preceding period is certainly no exception. As we mark *Yom ha'Atzmaut* (Israel's Independence Day), the questions that arise are twofold.

First, has it all been worth it? Meaning, have the challenges we continue to face and the losses that we continue to suffer been worth the gains that we have made as an independent nation in our own land?

Second, assuming that we decide that the national and individual pain and suffering have been worthwhile due to their great significance, how do we allow ourselves to celebrate when these losses have been so great? Perhaps there is a difference between recognizing the value of our independence and the actual celebration of it despite its tremendous costs.

This essay will focus on these two questions, attempting to gain a greater understanding and appreciation of *Yom ha'Atzmaut*.

### I. THE VALUE OF ISRAEL'S INDEPENDENCE

On the 5th of *Iyar*, 5708 (May 14, 1948), a major shift occurred in the course of world history. This change can be appreciated on three different levels, namely: the Nation of Israel, the Land of Israel and the Eternity of Israel.

First of all, for the first time in two thousand years, a self-governing Jewish

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\* This address was originally delivered on the eve of *Yom ha'Atzmaut* 5743 (1983), following the Israeli military's heavy human losses during its invasion of Lebanon. Many *hesder* students were among the casualties in this war, including a number of students from Yeshivat Har Etzion. Rav Amital's words are just as relevant in today's tumultuous times as they were when they were originally delivered. This piece has been adapted by Yonah Berman with Rav Amital's permission, from the transcript originally published in *Alon Shevut Bogrims*. Our thanks to Yisrael Wollman and David Greenberg for originally summarizing this speech.

country was established in—and as—the homeland of the Jewish people. *Am Yisrael*, to paraphrase Israel's Declaration of Independence, "has taken up its rightful place as a sovereign entity among the nations." The fact that a Jewish regime now governs almost half of the world's Jews is a clear step towards the Redemption. That Jews can be killed in a war in which they are fighting in a Jewish army, rather than at the mercy of anti-Semitic thugs, is something worthy of recognition, as it shows our rise to the status of a sovereign people in its own land.

On a second level, the Land of Israel is now in Jewish hands. We have not taken up statehood in Uganda or anywhere else, but rather the site of our former Temples and indeed, of the vast majority of Biblical history. Just as importantly, this land has become the refuge and aspiration for so many Jews around the world who recognize the value of Jewish independence in the Jewish State. We are no longer the subjects of the Turks or the British who happen to control *Eretz Yisrael*; we are, with God's help, the rulers of our land.

Third, we find a change in the fate of our People worldwide. Many people expected—if not outrightly wished—that the end of the Jews was near, and felt certain that the Holocaust would be one of the final nails in our national coffin. However, just the opposite occurred only three years after World War II ended, as the Jews—albeit scarred and decimated—assumed their place as an independent entity, rooted in its own soil.

The Jewish people of 1948 were thus transformed from a group which was often treated worse than animals through imprisonment, beatings and murders, to a nation that could be proud of its peoplehood, its country, and the accomplishments therein. This downtrodden people were quite similar to their ancestors who, upon leaving Egypt, were experiencing the first steps of redemption, *ge'ulah*.<sup>1</sup>

These three aspects of the current redemption all indicate a clear message from God to His nation: "For the first time in two thousand years, I am giving you the ability to control your own destiny. You, the Jews, are now responsible to make decisions of national importance with all of the ramifications that entails."

Clearly, there are many gifts from God which call for our gratitude towards Him.

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<sup>1</sup> Of course, it is important to remember that Israel's Independence Day occurs between the holidays of *Pesah* and *Shavuot*. Clearly, it is a step in a process of redemption that also must involve *kabalat haTorah*. Yet, the reality of an incomplete redemption should act as a motivation for us to continue this process, rather than to impede our recognition of the miracles involved therein.

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## II. THE PROPRIETY OF CELEBRATION

Our tradition frowns upon the notion of *holelut*, “empty” celebration. However, celebrating on *Yom ha’Atzmaut* is far from empty, in any sense of the word.

Unfortunately, however, many people on both sides of the religious spectrum are unaware of the deeper values and reasons behind *Yom ha’Atzmaut*. Some have turned it into a celebration devoid of religious meaning, instead creating what could better be called “*Yom haBarbeque*” or “*Yom haTiyul*.” While there is certainly nothing wrong with hiking and other forms of recreation, this displays a lack of understanding of the depth and ramifications of Israel’s independence, and the reasons for celebrating it. On the other extreme, many individuals refuse to acknowledge the reality of the thriving State of Israel. For them, *Yom ha’Atzmaut* is a regular workday at best, and an opportunity to mourn the results of Zionism at worst.

In contrast to these two groups, the Religious Zionist community is called upon to appreciate this day’s significance from both religious and national standpoints.

Many years ago, there was an elderly European Hasid who worked in our yeshiva. He was not raised on the values of Zionism, yet danced with tremendous fervor on *Yom ha’Atzmaut*. He would say, “After what I went through in Warsaw, how can I **not** dance?”

This idea of spontaneous and noticeable celebration of the State is certainly easier for those who immigrated to Israel, or for those who have experienced the horrors that not having a Jewish State has caused over the years. However, even those who were born into a world in which the Jewish State was already a reality should be able to appreciate its significance and the importance of rejoicing over its existence, even if it takes a little more effort to do so.

One of the results of the destruction of European Jewry has been the loss of a culture with values and traditions. This multi-faceted society has been replaced by the more one-dimensional world-view of “*halakhah* only,” in which one questions not how to value and understand different phenomena within the larger world, but rather how to fit things into the framework of the Jewish legal system. Although this change has allowed for a flourishing and continuation of the Jewish People despite the fragmentation following the Holocaust, it has also limited a more holistic understanding of our tradition. We examine questions solely from a halakhic perspective, largely forgetting or ignoring their social and societal ramifications.

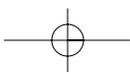
The attitude toward *Yom ha’Atzmaut* is a prime example of this phenomenon. Orthodox Jews find themselves asking if it is appropriate to make a blessing over *hallel*, rather than asking, “What is the long-term religious and social significance of the return of the Jewish People to their homeland?” These are not the questions that are discussed in the *Shulhan Arukh* and other books of Jewish law, yet they must be examined by Jews today.

Taking Judaism to a place that is inclusive of both Jewish law and Jewish thought regarding our national independence in our homeland is not easy, since it requires a certain paradigm shift away from two thousand years of exile, during which these questions were both painful and largely irrelevant. Nonetheless, we must rely on our instincts to dance when it seems obvious and appropriate to do so, and to appreciate the tremendous blessings bestowed upon us by God.

As we celebrate the gift that is the State of Israel, let us remember Ezekiel's prophecy:

For I will take you from among the nations, and gather you out of all the countries, and will bring you into your own land

And ye shall dwell in the land that I gave to your fathers; and ye shall be My people, and I will be your God. (Ezekiel 36:24 & 28)



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## *HAMETZ AND MATZAH ON THE FESTIVALS OF PESAH, SHAVUOT, AND IN THE BREAD OFFERINGS\**

Rabbi Yoel Bin-Nun

**H***ametz* (leaven foodstuffs) and *matzah* (unleavened bread) appear many times in the Torah as a pair, often opposing one another. There are times when consuming *hametz* is forbidden and eating *matzah* is obligatory; there are other times when it is *hametz* that is required as a core component of the commandment. There are also cases in the middle, where both *hametz* and *matzah* are mixed, and must be used as a single unit. By examining the various places where *hametz* and *matzah* appear in the Torah we can begin to understand what these two items represent, how they relate to one another, and their place within a methodical system of thought.

Any explanation of *hametz* and *matzah* must take into account the contexts of their appearance in the text, along with the actual commandments, both positive and negative, related in these texts. The following is a list of the times *hametz* and *matzah* are mentioned in the Torah:

**1. PASSOVER:** *Hametz* is forbidden by force of a negative commandment, and there is a positive commandment to eat *matzah*.<sup>1</sup> The context for this prohibition is in relation to the Paschal Offering brought on the afternoon of the fourteenth of Nisan,<sup>2</sup> and may also apply to the week that follows.<sup>3</sup>

**2. THE FESTIVAL OF MATZOT:** One who eats *hametz* during this festival is liable for *karet*, spiritual excision from the people of Israel. There is also a positive commandment to eat *matzah* during the festival. These commandments are jus-

\* First appeared in Hebrew in *Megadim* 13, Adar 5751. Translation into English for *Milin Havivin* by Benjy Myers of Yeshivat Hakibutz Hadati.

<sup>1</sup> Exodus 12:18-20; Deuteronomy 16:1-8; *Pesachim* 120a.

<sup>2</sup> See above, and cf. Numbers 9:2-3.

<sup>3</sup> See Deuteronomy 16:1-8, where the festival is called only by the name of *Pesah*. Also mentioned there, however, is the prohibition to eat yeast and the obligation to eat *matzah* on all seven days.

tified by the historical account of the Exodus story found alongside them: “And they baked unleavened cakes of the dough that they had taken out of Egypt, for it was not leavened, since they had been driven out of Egypt and could not delay . . .” (Exodus 12:39).

**3. THE TWO LOAVES (*SHTET HALEHEM*) ON THE FESTIVAL OF THE FIRST FRUIT (*SHAVUOT*):** This offering, brought along with the first fruits of the harvest, is certainly connected to the barley measure (*omer*) brought in what the Torah calls “the spring month,” and is also indirectly connected to the Festival of Passover and the Festival of *Matzot*, for it is dependent on counting fifty days from “the day after the Sabbath” (Leviticus 23:15). In addition, the Torah states, “You shall count seven weeks; start to count the seven weeks when the sickle is first put to the standing grain” (Deuteronomy 16:9). The Sages explain<sup>4</sup> that this verse refers to the day after the “day of complete rest,” which is the first day of the Festival of *Matzot*. However, as opposed to the Festival of Passover and the Festival of *Matzot*, where *hametz* is forbidden, its use here is obligatory: “You shall bring from your settlements two loaves of bread as an elevation offering; each shall be made of two-tenths of a measure of choice flour, baked after leavening, as first fruits to the Lord” (Leviticus 23:17).

**4. THE MEAL OFFERING (*KORBAN MINHAH*):** All meal offerings that are offered on the altar are made of *matzah*, and may not contain *hametz*: “No meal offering that you offer to the Lord shall be made with leaven, for no leaven or honey may be turned into smoke as an offering by fire to the Lord. You may bring them to the Lord as an offering of choice products (i.e., the Offering of the First Fruit—YBN); but they shall not be offered up on the Altar for a pleasing odor” (Leviticus 2:11-12).

**5. THE THANKSGIVING OFFERING (*KORBAN TODAH*):** Here there is a selection of both *hametz* and *matzah*: “If he offers it for thanksgiving, he shall offer together with the sacrifice of thanksgiving unleavened cakes with oil mixed in, unleavened wafers spread with oil, and cakes of choice flour with oil mixed in, well soaked. This offering, with cakes of leavened bread added, he shall offer along with his thanksgiving sacrifice of well being” (Leviticus 7:12-13). In all, this offering combines three types of *matzah* and one type of *hametz*.

**6. THE OFFERING OF ORDINATION (*KORBAN HAMILUIM*):** Similar to the Thanksgiving Offering, here there are also three types of *matzah*: “Also unleavened bread, unleavened cakes with oil mixed in, and unleavened wafers spread with oil—make these of choice wheat flour...” (Exodus 29:2; Leviticus 8:26). The Mishnah (*Menahot* 7:2) in fact stresses the parallel between these two offerings: “The *matzot* brought during the Offering of Ordination were like those of

<sup>4</sup> *Menahot* 65a-b.

the Thanksgiving Offering: bread, cakes and wafers.” However, *hametz* is not a part of this offering.

**7. THE RAM BROUGHT BY THE NAZIRITE:** “On the day that his term as a Nazirite is completed” (Numbers 6:13) the Nazirite brought a Burnt Offering, a Sin Offering and a Peace Offering, and together with the Peace Offering he also brought: “a basket of unleavened cakes of choice flour with oil mixed in, and unleavened wafers spread with oil; and the proper meal offerings and libations” (*ad loc* v. 15). That is, two types of *matzah* were brought, as the Mishnah (*Menahot* 7:2) explains: “The Nazirite Meal Offering consisted of two-thirds of the unleavened cakes of the Thanksgiving Offering; namely: cakes and wafers, but not soaked loaves.”

**8. THE OFFERING OF DEDICATION (*KORBAN HAMESHAHAH*):** This is the offering brought by priest upon his “dedication” to Temple service, and by the high priest before he enters his ministry. Like the Offering of Ordination, this offering also contains *matzah* but no *hametz* (Leviticus 6:12-16).

**9. THE PROHIBITION OF BRINGING *HAMETZ* ONTO THE ALTAR:** “. . . for no leaven or honey may be turned into smoke as an offering by fire to the Lord. You may bring them to the Lord as an offering of choice products (e.g. the Offering of the First Fruit); but they shall not be offered up on the Altar for a pleasing odor” (Leviticus 2:11-12). As a result, the “two loaves offering” brought on the Festival of the First Fruits (which are *hametz*, as described above), is brought up to the altar and waved before God, however, it does not ascend upon the actual Altar. The same is true of the first offering of honey, that is, the honey of the sweet fruits.

In order to understand the above sources, we must analyze the character and nature of both *hametz* and *matzah*, with an eye toward appreciating the relationship between these texts.

Bread and honey (of sweet fruits) represent the culmination of everything that farmers yearn for from the very beginning of the agricultural cycle. The leavened bread and the sweet, ripe fruit both are expressions of the much longed-for end of the farming process. To have them is a sign of health, success, blessing and plenitude for the hard-working farmer and his family. In contrast, *matzah* represents the stopping of a process mid-way, before the dough reaches its normal final state, bread. It represents a deficiency that still yearns for completion and wholeness.<sup>5</sup>

We can further expand upon this point and state that *matzah*—both as an actual article and as a symbol—is the bread of the poor: the bread of ones who do not have the power and ability to bring the physical process to its conclusion

<sup>5</sup> Salt also represents the early stages of matter; it is something that the hand of man has not yet touched and is therefore wholly a gift from Heaven.

due to a lack of wealth or physical strength. In contrast, the yeast that causes the dough to rise until it is a wholesome cake is the symbol of the wealthy, able and fruitful individual.

“FOR YOU SHALL BURN NO LEAVEN NOR ANY HONEY IN ANY OFFERING”

The sacrifice that a person offers on the altar is, like prayer, man’s standing before God with a sensation of smallness and insignificance and with the feeling of: “Yours, O Lord, are greatness, might, splendor, triumph and majesty...who am I and who are my people, that we should have the means to make such a freewill offering? For everything is from You and from Your hand we have given to You” (I Chronicles 29:11-15). It is impossible to stand before the Altar with a sentiment of haughty riches that says “I have,” or “my own power and the might of my own hand have won this wealth for me” (Deuteronomy 8:17). In fact, such an arrogant offering is considered one of the worst transgressions within Scripture.<sup>6</sup>

Leaven and honey, the symbols of wealth and contentment, may not be offered as part of a sacrifice. Nonetheless, “You may bring them to the Lord as an offering of choice products (the Offering of the First Fruit)” (Leviticus 2:12), and these offerings that are “of every first fruit of your land” (Deuteronomy 26:2) are offered together with the festive proclamation. Within this dialectic, the objective is to arrest the danger lest the feeling of contentment lead to deviating from the correct path and ultimate expulsion from the land: “Jeshurun grew fat and kicked” (*ad loc* 32:15). However, the first fruits are still not to be considered within the category of: “A prayer for the lowly man when he is faint and pours forth his plea before the Lord” (Psalms 102:1), and therefore one may not sacrifice them on the altar: “they shall not be offered up on the altar for a pleasing odor” (Leviticus 2:12).

In a symbolic manner, success and the feeling of ownership that expresses success can be compared to a ripe, sweet fruit and to leaven – they are very delicate and can be ruined and rapidly disintegrate. It is the rich person “who is most tender and fastidious,” and also the woman “who is most tender and daintiness . . . that she would never venture to set a foot on the ground” (Deuteronomy

<sup>6</sup> This is how, in my opinion, one needs to view the beginning of Cain’s downfall. Bringing an offering to God “from the fruit of the land” (Genesis 4:3) expresses the ultimate haughtiness of the landowner in that “he has.” This is as opposed to the wandering shepherd. Therefore God was disdainful towards the haughty offering and accepted the offering of the lowly. And having reached the stage of haughtiness as rich, valiant man, he also reached the stage of anger, and was unable to digest his rejection until he reached the stage of murder.

The sin of haughtiness is considered to be one of the worst sins in the eyes of the prophets, and it is the sin of all the idolatrous kingdoms (cf. Isaiah 2-10, 13-14, 22, 36-37; Micah 6-7; Nahum 3; Habbakuk 2; Zephaniah 2-3; Jeremiah 48-51; Ezekiel 26-28 *et al*).

28:54-56) who are fragile and spoiled. They can be contrasted to an individual who has felt suffering and has been forged through hardship. Similarly, *matzah*, the bread of affliction, like salt, lasts infinitely longer than leavened bread and than a sweet, ripe fruit.

It is not unintentional that *hametz*, the yeast that is in the dough, is identified throughout rabbinic literature with the evil inclination. One who possesses in his body, house and pocket all the good of the land, even if he is in possession of the Land of Israel and its Torah, may fall into the false feeling of power and independence and come to forget the Lord: "...for **He** is the one who gives you the power to get wealth" (Deuteronomy 8:18). This is precisely the drive of the evil inclination that entices a person, especially in the Land of Israel, to leave the correct path (Deuteronomy 8, and see the Song of Ha'azinu, Deuteronomy 32).

It is therefore critical for a successful farmer in the Land of Israel to remember his days of affliction and oppression in Egypt and God's subsequent miraculous deeds on his behalf in the wilderness. "Remember the long way that the Lord your God has made you travel in the wilderness these past forty years, that He might test you by hardships to learn what was in your hearts, whether you would keep His commandments or not. He subjected you to the hardship of hunger and then gave you manna to eat, which neither you nor your fathers had ever known, in order to teach you that man does not live by bread alone, but that man may live by anything that the Lord decrees" (Deuteronomy 8:2-3). This is also the meaning of the pronouncement made when bringing the first fruit (Deuteronomy 26) that comes to remind the person of his days of affliction and of the wandering of the Children of Israel from the time of the Forefathers, specifically during the celebration of plenitude and the success of the harvest and the bringing of the first fruit.

### THE THANKSGIVING OFFERING

The Thanksgiving Offering is brought by a person who was in trouble and was saved from his ordeal. Therefore, it is proper that at the time of his salvation there should be both leavened and unleavened bread: the *matzot* – to symbolize the tribulations that he had faced, the cry for help and the process of redemption from dire straits to freedom and relief; and the *hametz*—to symbolize the final deliverance and the tranquility that he now has.

There is an interesting parallel between this sacrifice and its components and Psalm 107, which describes four cases of deliverance from trouble to tranquility. Although from a legal, halakhic, perspective we learn from this Psalm regarding the "four who need to give thanks,"<sup>7</sup> from a literal perspective the Psalm speaks

<sup>7</sup> *Berakhot* 54b; *Shulhan Arukh Orach Hayyim* 219:1.

entirely of the ingathering of the exiles—“Let the redeemed of the Lord say, those who He redeemed from adversity, whom He gathered in from the lands, from east and west, from the north and from the sea” (vv. 2-3). The Psalm describes four stages on the route from trouble to thanksgiving: a) the trouble and calamity; b) the cry to God; c) the salvation; d) the thanksgiving.

The first salvation discussed in the Psalm (vv. 4-9) describes the escape from a desolate desert: “Some lost their way in the wilderness, in the wasteland”—this is the trouble; “In their adversity they cried out to the Lord”—this is the cry; “He showed them a direct way to reach a settled place”—the salvation; and finally, the thanksgiving: “They will thank the Lord for his kindness, for His wondrous deeds for mankind, for he satisfied a thirsty soul, and a hungry soul He filled with goodness.”

Similarly, the second passage related in the Psalm (vv. 10-16), which describes “those who dwell in darkness and in the shadow of death, bound in affliction and iron,” has four stages—trouble, cry, salvation, and thanksgiving. Likewise with the third passage (vv. 17-22), which describes “. . . fools who suffered for their sinful ways,” who stand by the mouth of the grave and who “reached the gates of death.” And likewise again with the fourth passage (vv. 23-32), of those who “go to sea in ships, who ply their trade in heavy waters,” whose boat is thrown about by the stormy waves. All of these passages follow the same pattern of trouble, cry, salvation, and thanksgiving.

It may be possible to explain the three *matzot* of the Thanksgiving Offering as comparable to the three stages that precede the thanks – the trouble, cry and salvation (that in itself is a difficult process that is characterized by stages and a lack of tranquility). In contradistinction to these pre-thanksgiving stages stands the leavened bread, that is parallel to the fourth stage, the praise sung to the Master of the Universe, the redeemer of mankind and its savior, after the person has reached “the rest and the inheritance” (Deuteronomy 12:9).

#### THE OFFERING OF ORDINATION AND THE OFFERING OF DEDICATION

These offerings are brought by the priests as they begin their service in the Tabernacle. They are the seals of entry into the service, the beginning of the priestly service that continues henceforth and forever with no borders or endpoints. Therefore, it is appropriate to offer only *matzot*, as this is the beginning of a journey without end, without a sense of rest or arrival for which *hametz* would be appropriate.

The Mishnah (*Menahot* 7:2) compares the Offering of Ordination and the Thanksgiving Offering: “The Offering of Ordination consisted of unleavened cakes like the Thanksgiving Offering, namely, cakes, wafers and soaked cakes.” However, by close examination of the simple meaning of the verses themselves

(as opposed to the understanding rendered by the Mishnah), it may be possible to distinguish between the contents and the ideas behind “. . . unleavened wafers spread with oil, and cakes of choice flour with oil mixed in, well soaked . . .” (Leviticus 7:12) that are mentioned regarding the Thanksgiving Offering, and the “. . . unleavened cakes with oil mixed in . . . and one cake of oil bread . . .” (Exodus 29:2, 23, Leviticus 26:8) mentioned regarding the Offering of Ordination. The fact that the Mishnah draws a parallel between them is not yet conclusive proof for all that we have claimed, though it is nonetheless proof that the Mishnah understood the essence of the offerings along the same lines that we have suggested, namely one of comparison and parallelism between all the types of *matzot* and *hametz* mentioned in the Torah.

### THE OFFERING OF THE NAZIRITE

Examining the offering of the Nazirite in light of the principle set forth above, we will explain Naziritehood in its true light: the period of abstinence is not a goal in itself, but rather it is a period of preparation for a more correct and loftier lifestyle afterward. Its entire essence is focused on the future: “. . . and afterwards he shall drink wine” (Numbers 6:20)—that is, the Nazirite will return to a normal life, but on a higher level, with an improved self-protection system against the desire to lust after wine. It is then that he will be able to drink wine—in moral purity.

Therefore, “on the day his term as a Nazirite is completed” (Numbers 6:13), the Nazirite brings only *matzot* without bringing any *hametz*. The end of his abstinence is not the culmination or the ultimate peak (which would be represented by *hametz*), but rather it is the beginning of a corrected and improved life, and his laboring to live a proper life only begins at the end of his being a Nazirite. There is no reason for the Nazirite to celebrate, satisfied with leavened bread. Rather he should act similar to the priest on the day that he begins his service in the Sanctuary, and he offers two of the *matzot* that are part of the Offering of Ordination.

There is a Tannaitic dispute regarding the essence of the “sin”<sup>8</sup> of the Nazirite. R’ Elazar haKafar is of the opinion that the sin stems from the fact that “he distressed himself by abstaining from wine.” R’ Yishmael stated that “. . . Scripture speaks of an impure Nazirite . . . for he came into contact with the dead (and is thus impure).” The simple meaning of the verses is clearly according to the opinion of R’ Yishmael, for v. 11 is to be viewed in the context of the subject matter: “If a person dies suddenly near him, defiling his consecrated hair . . .” (v. 9). The opinion of R’ Elazar, on the other hand, seems to be far removed from the simple meaning of the verse. However, in light of what we

<sup>8</sup> Numbers 6:11: “. . . and he shall atone for him, for that which he sinned by the corpse.”

have stated previously, R' Elazar's opinion strikes at the root of the issue. The 'sin' of the Nazirite is that the abstinence that he enacted was not received and it did not bring him to the level and the goal that he was attempting to attain. Therefore the Torah states that ". . . the first days shall be void, for his abstinence became impure" (v. 12), and he must begin his period as a Nazirite from the beginning. Due to the fact that in and of itself being a Nazirite is of no value, he is therefore called a sinner for abstaining from wine. If there were any value to abstinence itself (as there is, for example, in Christianity) in that he abstains from wine for a certain period of time, why should we have any complaints against him? However, the Torah teaches that being a Nazirite is only to be viewed as an opening to a more complete and pure life, and therefore one should see that in becoming defiled to the dead, it is a sign from Heaven that his attempt to achieve this level has not been accepted. Abstinence from wine did not truly lead to the desired goal and the abstinence in itself is a sin. Therefore he is called a sinner especially when his attempt fails due to coming into contact with the dead.<sup>9</sup>

Although there is a similarity between the offering brought by the Nazirite who is at the beginning of his journey and the Offering of Ordination brought by the priest at the beginning of his journey, the Torah made a certain distinction between them. The offering brought by the priest contains three types of *matzot*, whereas the offering brought by the Nazirite contains only two types of *matzot*—the latter lacks the cake soaked in oil. The reason for this distinction may be found in that the priests change their standing essentially for the better, and they attain a unique status among the Jewish people. Therefore they are deserving of an oil soaked cake. The status of the Nazirite, however, does not change after his period as a Nazirite, but rather he returns to his normal life and normal status after his momentary spiritual elevation. This is further reflected in the fact that, while as a Nazirite he seems to be on a similar status to that of the High Priest, about whom it is stated: "He shall not come into contact with a dead body, and he shall not become impure for his father and mother. He shall not leave the Sanctuary, nor shall he defile the Sanctuary of his God, for the crown of the anointing oil of his God is upon him, I am the Lord."<sup>10</sup> Nonetheless, after his period as a Nazirite he returns to being an ordinary person.

#### THE *MATZAH* OF PASSOVER AND THE FESTIVAL OF *MATZOT*

In light of all we have discussed, we now aim to show that the *matzah* and

<sup>9</sup> We can therefore bring a proof for our principle outlined above from the opinion of R' Elazar.

<sup>10</sup> Leviticus 21:11-12. Compare to Numbers 6:6-7: ". . . for the crown of the Lord is upon his head."

*hametz*—on the Festival of Passover on the one hand and on the Festival of Shavuot on the other—also belong to the system of differentiation set out above. Furthermore, that which *hametz* and *matzah* represent—the bread of wealth and the bread of affliction—is not merely a homiletic idea, but rather is a methodical approach that is incorporated in the halakhic network that is *hametz* and *matzah* in the Torah.

There is a verse that categorically states this approach: “You shall not eat anything leavened with it, for seven days you shall eat unleavened bread—the bread of affliction—for you came out of Egypt in haste . . .” (Deuteronomy 16:3). *Matzah* is not called the bread of affliction merely because of the speed in which it was baked, but rather because the people who were leaving Egypt behaved in the manner of poor refugees who leave for a long journey into the desert. Since *matzah* is the bread of affliction, it surely follows that *hametz* is its opposite, the bread of wealth.

On the night of Passover the Children of Israel were still in Egypt. Until midnight they were still the slaves of Pharaoh. Therefore, in such a situation – both regarding the first Passover in Egypt, and all future observances of Passover—there is no place whatsoever for *hametz*, as the Torah demonstrates in prescribing that the Paschal lamb be eaten with *matzah* and *maror*. It is the sentiment that the Rabbis famously express in the Passover Hagaddah: “This is the bread of affliction that our forefathers ate when they were in Egypt.”

At midnight that night, God smote all the firstborn of the Egyptians and delivered His people from the house of bondage. In an instant, generations of physical and spiritual captivity reached the desired goal of salvation. In theory, it should have been possible at that moment to sit comfortably as free people, to set a festive table and to bless and praise the Redeemer, in tranquility and peace of mind, while eating the rich bread.

But suddenly, at that moment, the Israelites understood how far their salvation was from being a complete salvation: “The Egyptians urged the people on, impatient to have them leave the country . . . and the people took their dough before it was leavened, their kneading bowls wrapped up in their cloaks upon their shoulders” (Exodus 12:33-34). They now begin a long and arduous journey, full of hardships “in the great and terrible desert, with its fiery snakes and scorpions, a parched land with no water in it” (Deuteronomy 8:15). Before having the opportunity to sit comfortably, to rest and fill their lungs with the air of freedom, they are breathing heavily under the strains of a quick trek in an arid and tired land with no water.

The *hametz* was far from the Israelites, beyond the horizon, and when they left Egypt they only had the bread of affliction with them: “And they baked unleavened cakes of dough that they had taken out of Egypt, for it was not leavened, since they had been driven out of Egypt and could not delay, nor had they prepared any provisions for themselves” (Exodus 12:39).

Such was the rest of their maintenance and livelihood during their time as

refugees—not from their own means, but rather as mercy bread that came down from heaven, each one according to his or her own request: “They asked and He brought quails, and satisfied them with bread from heaven. He opened the rock and water gushed out, it flowed in the arid places like a river” (Psalms 105:40-41).

From all of this it emerges that redemption is an ongoing and difficult process, one that requires patience and a high pain threshold. Therefore it is clear that *hametz* must be forbidden with all its strictures specifically in the days following the Exodus from Egypt—so that we not be fooled into believing that full redemption is at hand. This is redemption, but it is only the beginning. The *matzah* of the seven days of the Festival of *Matzot* expresses the true redemption with all its trials and hardships, an ongoing redemption made up of several stages.

The differences between Passover before the Exodus from Egypt and the Festival of *Matzot* that marks the Exodus itself are now clear. On Passover, the main obligation is the positive commandment of offering of the Paschal Lamb and eating it together with *matzah* and *maror* as a reminder of the end of the slavery in Egypt that immediately preceded it. The prohibition of *hametz* is merely a negative commandment: “You shall not offer the blood of My sacrifice with anything leavened, and the sacrifice of the Festival of Passover shall not be left lying until the morning” (Exodus 34:25). In contradistinction to this, the main obligation during the Festival of *Matzot* is the complete abstention from all things leaven, to the point of “it shall not be seen nor shall it be found,”<sup>11</sup> and the eating of *matzah* is not even a positive commandment, but is merely permissible. One who eats *hametz* during the Festival of *Matzot* is punishable by *karet* (spiritual excision from the people of Israel). Likewise, on the day of Passover, one who does not offer up the Paschal Lamb is also punishable by *karet*, a distinctive punishment for the failure to keep a positive commandment, akin to the punishment regarding the commandment of circumcision. The essence of the Festival of *Matzot* is therefore the severe warning against the misnomer that redemption can happen in an instant, as if the *hametz* that is to be found on the Festival of Shavuot is attainable immediately after Passover. The anticipation of immediate *hametz*, a natural anticipation for a newly redeemed nation, serves as the background for the strict prohibition against *hametz* both in Scripture and in the *halakhah* throughout the generations.

This winding process, beginning with the disgrace of slavery and continuing through the redemption and the yearning to reach the ‘rest and the inheritance’ that is the Land of Israel, is also expressed in the counting of the fifty days from the beginning of the harvest (Deuteronomy 16:9), the day that the wave offering (*omer*) is brought, until the Festival of the Harvest, that is, the day of the bringing of the first fruit, the day after the seventh week. Completing the count-

<sup>11</sup> *Pesahim* 5b, 48a.

ing of the *omer* and the bringing of the bread offering is also the completion and the goal of the Exodus from Egypt.

#### FROM THE DAY AFTER THE SABBATH

It is worthwhile to pause here and explain the unique phrase, “From the day after the Sabbath” (Leviticus 23:15), that is connected with the *Omer* offering, the counting of the *Omer* period, and the festival of Shavuot. In order to do so, we must focus our attention on the ‘Chapter of the Festivals,’ Leviticus 23.

The construction of the chapter demands attention. It is a ‘dual structure,’ parallel to the dual structure of the calendar and the dual meaning of the festivals themselves. The duality is clearly evident in the chapter’s openings and endings, and is especially evident with regard to the Festival of *Sukkot* – the Festival of Ingathering:

#### Verses 34-36

On the fifteenth day of this seventh month

There shall be the Festival of **Booths** (*Sukkot*) to the Lord for seven days.

The first day shall be a **holy convocation**

You shall do no labor

For seven days you shall bring offerings of fire to the Lord -

On the eighth day it shall be a **holy convocation** for you

#### Verses 38-41

However, on the fifteenth day of the seventh month

When you **gather** the produce of the land

You shall celebrate the festival of the Lord for seven days,

A complete rest (*shabbaton*) on the first day

And also on the eighth day it shall be a **complete rest** (*Shabbaton*)

And you shall take for yourselves on the first day . . .

And you shall rejoice before the Lord for seven days.

And you shall celebrate it as a festival before the Lord, for seven days in the year . . .

Immediately following the conclusion of the list of holy convocations (v. 38) come the commandments for the Festival of Ingathering. The days that had just been referred to as a “holy convocation” are now called *Shabbaton*. At first glance this would seem a superfluous repetition, but in fact this duality emanates from the fact that the Hebrew calendar is itself a duality.

The Hebrew calendar is a dual calendar: lunar and solar. The lunar calendar is regulated corresponding to the Exodus from Egypt: “This month<sup>12</sup> shall be for you the beginning of the months, it shall be for you the first of the months of the year” (Exodus 12:2). On the other hand, the solar/agricultural calendar defines the times of spring, harvest and gathering in the Land of Israel. According to the solar calendar, the beginning and end of the year are identified with the season of plowing, planting and rain, and the end of the gathering of the produce (from the threshing floor and from the vineyards), respectively. This agricultural chronology is most pronounced in the following passage from Deuteronomy: “For the land that you are about to enter and inherit . . . it soaks up its water from the rain of heaven . . . the eyes of the Lord are with it from the beginning of the year till the end of the year. And it shall be if you surely hearken to My commandments . . . I will give the rain of your land at its appointed time, the early rain and the late rain, and you shall gather in your grain and wine and oil” (Deuteronomy 11:10-15).

The Torah requires us to keep these two calendars simultaneously. It does so in reference to *Pesah* and the spring season: “Observe the spring month”—the agricultural season of the barley harvest in the Land of Israel—“and you shall offer the Passover sacrifice to the Lord your God, for it was at night, in the Spring month”—of the Land of Israel—“that the Lord your God took you out of Egypt” (Deuteronomy 16:1).

The Torah’s insistence on merging these two calendars is driven by the deeper significance of their duality: The lunar, monthly calendar marks the times of holy convocation that are a reminder of the Exodus from Egypt, and thus form the historical/national calendar of the Jewish people, while the solar calendar defines the times of rest (*Shabbaton*), the agricultural/ritual festivals of the Land of Israel, when one rests from working the land (as agriculture is dependent mainly on the seasons of the solar year). The lunar relates to the national identity, while the solar relates to the nation’s identity in its homeland.

When we look at the entire structure of the “Chapter of Festivals” (Leviticus 23), we see this duality played out in full:

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**The Calendar of The Calendar of the Times**

**Holy Convocations: of Rest (*Shabbaton*):**

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**The People of Israel at the Exodus from Egypt      In the Land of Israel**

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<sup>12</sup> *Hodesh* from the word *hadash* (= new), the renewing moon.

**Opening: Shabbat (v.1-3)**

“These are the times of the Lord,  
holy convocations”

Passover

The Festival of *Matzot* (v.4-8)

“When you **come to the land**  
that I am giving to you, and  
you shall reap its harvest . . .”

The *omer*—from the day after the  
**Sabbath** (v.9-14)

“You shall proclaim in the midst of  
this day, it shall be for you a holy  
convocation . . .” (v.21-22)

The counting of the *omer*—  
seven *shabbatot* (**weeks**)

The two loaves of Show-Bread—  
from the day after the seventh  
*shabbat* (**week**) (v.15-20)

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A Holy Convocation – the Day of Remembrance—*Shabbaton*


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A Holy Convocation – the Day of Atonement – *Shabbat Shabbaton*


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The Festival of Sukkot (v.33-38)

The Festival of Ingathering:

“On the first day it shall be a  
complete rest (*shabbaton*), and  
also on the eighth day it shall be a  
complete rest (*shabbaton*)”

“These are the times of the Lord  
that you shall call holy  
convocations . . .” (v.37)

“You shall dwell in the booths for  
seven days . . .

in order that all you generations  
should know

that I made the Children of Israel  
dwell in booths

**when I took them out of  
the land of Egypt**

I am the Lord your God” (v.42-43)

“And you shall take for yourselves  
on the first day the fruit of a  
goodly tree, branches of palm  
trees, boughs of leafy trees  
and willows of the brook  
and you shall rejoice before  
the Lord for seven days” (v.39-41)

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And Moses declared the times of the Lord to the Children of Israel (v.44)

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According to this layout, it is clear that the Sages were correct—both according to the simple meaning of the text and according to its deeper exegesis—when they expounded the phrase “the day after the Sabbath” to mean the day after *Yom Tov*—the first day of the Festival of *Matzot*. For it is clear that the *omer* is linked in its essence to the first fruits and to the harvest. Therefore it is clear that “the day after the Sabbath” is related to the *shabbaton* that is mentioned later in the chapter, and there is no reason to connect it with “*Shabbat Bereishit*” and

understand the verse to refer to Sunday, as the Sadducees did. *Shabbat Bereishit* does indeed appear at the beginning of the chapter as a holy convocation, but only in a ‘technical’ sense, as the introduction for the sanctified times, and as expressing the sanctity of time from the moment of creation. From verse 4 onwards, the chapter is about the calendar of festivals, months and the seasons of the year, to which *Shabbat Bereishit* is unconnected.

From here it is also clear why it is not written “from the day after Passover” (as in Joshua 5:11). The passage describing the *omer* begins a new theme in the chapter, namely, the calendar of agricultural/ritual festivals of the Land of Israel. It is not a continuation of Passover and the Festival of *Matzot*, but rather is parallel to them. From a ‘technical’ perspective, due to the force of the commandment to institute leap years, the day of the bringing of the *omer* is obviously “from the day after Passover,” as is clearly proven by the verse in Joshua and by its parallel here (Leviticus 23:14). Its time is from the day after the Sabbath, that is, the first *shabbaton* of the month of spring, with the beginning of the barley harvest in the Land of Israel. It is then that the counting of weeks begins, until we reach the two wheat loaves of showbread, baked leaven, marking our arrival at our destination.

#### THE TWO LOAVES OF SHOWBREAD—*HAMETZ*

The Day of the Bringing of First Fruit in itself expresses the end of the process, the attaining of the final goal. This completion is expressed in two manners: the first leads from the Exodus from Egypt to standing at Mount Sinai and receiving the Torah. The second ends not at Sinai, but in permanent settlement in the Land of Israel. Both these themes meet at and are tied together through the Day of the Bringing of the First Fruit.

The entry into the Land of Israel and its permanent settlement are explicitly mentioned: “. . . When you come to the land that I am giving to you, and you shall reap its harvest, you shall bring a measure of the first harvest to the priest . . . and you shall count for yourselves from the day after the Sabbath, from the day you bring the sheaf of elevation . . . until the day after the seventh Sabbath [week] you shall count fifty days, and you shall bring an offering of new grain to the Lord. From your settlements you shall bring two loaves of bread as an elevation offering; each shall be made of two-tenths of a measure of choice flour, baked after leavening, as first fruits to the Lord” (Leviticus 23:9-17). The Festival of *Shavuot*, that is also the Festival of Reaping and the Festival of the First Fruit, is an agricultural festival in all its names, the beginning of the first fruit of the wheat harvest specifically in the sanctified Land of Israel.<sup>13</sup> It is also

<sup>13</sup> See Mishnah *Keilim* 1:4-9: “There are ten sanctities: the Land of Israel is sanctified more than any other land. What is its holiness? One brings from it the *omer*, the first fruits and the two loaves of bread, and they are not brought from any other land.”

the day of the bringing of the two leaven loaves of bread from the settlements on the fiftieth day, the peak of the beginning of the harvest process that has its initial stages in the *omer* offering.

The first theme, of the completion of the Exodus narrative in the Israelites' receiving of the Torah at Mount Sinai, is also connected in an indirect way to the date of the Day of the Bringing of the First Fruit. Admittedly, the connection is not explicit as in the case of the agricultural festival connected with the land. However, it is nonetheless alluded to in Scripture and in the extensive parallels between the giving of the Torah and the giving of the Land. We will expand upon this theme due to its essential importance, one that is firmly ensconced in the Sages' identification of the Festival of *Shavuot* as the time of the giving of the Torah.

1. The date of the arrival of the Children of Israel at Mount Sinai in preparation for the giving of the Torah is explicitly mentioned: "In the third month after the Children of Israel were gone out of the land of Egypt, the same day they came into the wilderness of Sinai...and Israel camped before the mountain" (Exodus 19:1-2). That day, it would appear, is the first day of the third month (Sivan) in the first year of the Exodus from Egypt. Even one who is extreme in explaining the text according to its plain meaning and is of the opinion that the exact date in the third month is missing, must confess that the day of the giving of the Torah occurred close to the fiftieth day after the Exodus (which took place on the fourteenth of Nisan);<sup>14</sup> however, the marking of the date for all generations was established only by counting fifty days.

In direct parallel to this one must examine the original plan for the arrival of the Children of Israel at Kadesh Barnea, the southern gateway into Canaan. The original travel plan seems to have aimed for the same date as that of the giving of the Torah, one year later—that is, the beginning of the third month (Sivan) in the second year: "In the second month of the second year, on the twentieth day of the month, the cloud was lifted from the Tabernacle of Testimony, and the Children of Israel journeyed from the wilderness of Sinai...and they journeyed for the first time at the bidding of the Lord through Moses" (Numbers 10:11-13). We add to this the verse that clearly concludes the journey: "Eleven days from Horeb through the Mountains of Seir until Kadesh Barnea" (Deuteronomy 1:2) and we arrive at the conclusion that the Children of Israel were supposed to have reached the gateway into Canaan—Kadesh Barnea—on the first day of the third month in the second year, exactly a year after the stood at the foot of Mount Sinai.

Both these journeys flow from Passover itself. It is obvious for both the Children of Israel and the Egyptians that the giving of the Torah is a continuation of the Exodus from Egypt, for both were told that the goal of the Israelites

<sup>14</sup> This is the Festival of *Shavuot* and the Festival of the Bringing of the First Fruit.

is to worship God in the wilderness on their way out of Egypt: “this shall be as a sign for you that I indeed have sent you, when you take the People out of Egypt you shall worship God on this mountain” (Exodus 3:12). Therefore, this is not merely an excuse offered to Pharaoh, but rather the true goal from the beginning, as this verse and indeed the events that later took place at Mount Sinai prove. Similar to the Exodus from Egypt, the journey to Canaan in the second month of the second year also comes as a continuation of Passover in the wilderness and includes *Pesah Sheini*<sup>15</sup> on the fourteenth day of the second month (Numbers 9:1-14).

2. The description of the giving of the land in the book of Joshua is similar in style to the account of the giving of the Torah in the Torah.<sup>16</sup> Although Deuteronomy presents the covenant in the Plains of Moab as parallel to the covenant at Horeb (Deuteronomy 4-5; and in parallel *ad loc* 27-28), we find the description of the event most reminiscent of the event at Mount Sinai at the conquest of Jericho (Joshua chapters 5 and 6).

The first parallel to note is in the beginning of the process in Joshua. Immediately before their arrival at Jericho the people pass over the Jordan River in a scene highly reminiscent of the crossing of the Red Sea: the waters of the Jordan split apart. Indeed, it is explicit in the words of Psalm 114: “The sea saw and fled, the Jordan moved backwards.” The general heading for both these events is “When Israel left Egypt.”

Next comes the circumcision at the Hill of *Orlot* (Foreskins) in Gilgal. In this we find a renewed Exodus from Egypt, in that it served as the sign of total detachment from Egypt and all that Egypt stood for: “The Lord said to Joshua: “Today I have banished from you the disgrace of Egypt”” (Joshua 5:9), “. . . for all the people that left [Egypt] were circumcised, and all the people that were born in the wilderness on their way out of Egypt were not circumcised” (*ad loc* v. 5).<sup>17</sup>

Finally, the festival of Passover that took place in the plains of Jericho on the fourteenth day of the first month—*Pesah Gilgal*—did not merely precede

<sup>15</sup> The day set aside to bring the Paschal Lamb for those who were unable to do so at the proper time, cf. Numbers 9:6-14.

<sup>16</sup> It is interesting to note that the original plan of arrival at Kadesh Barnea was delayed about one month (Numbers 11:19-20) due to the complaints and misbehaviors of the Israelites. They therefore arrived at Kadesh Barnea not during the wheat harvest, but rather during the “days of the first ripe vines” (Numbers 13:20)—the heat of the summer. It was at this moment—the seventeenth of Tammuz, rather than the sixth of Sivan—at the peak of their tiredness and weakness, that they reached their lowest point.

<sup>17</sup> It is in the parallel drawn between the Exodus from Egypt and the entry into the Land of Israel that lies the explanation of “the disgrace of Egypt” that many commentators, expounders and researchers have been troubled with, and it is here that the circumcision that preceded the Exodus from Egypt is truly alluded to, although it was only explained in a circuitous manner in the Book of Exodus itself.

chronologically the capture of Jericho upon entry into the Land. Rather, this observance of Passover was essential to the moment. Just as the Paschal Lamb was sacrificed in preparation for the Exodus from Egypt, so a Paschal Lamb was sacrificed in preparation for receiving the Land.

Seeing as the inheritance of the Land of Israel did not come to fruition during the time of the generation of those who left Egypt, the fresh attempt a generation later under the leadership of Joshua begins with the splitting of the River Jordan, circumcision and *Pesach Gilgal*. It is like a renewed Exodus from Egypt.

As we stated above, the Exodus from Egypt serves as the starting point for a two-part process. On the one hand, the aim was to receive the Torah; on the other, it was to inherit the Land of Israel. If the account of Passover in the book of Exodus culminates in the giving of the Torah at Sinai, the account of *Pesach Gilgal* in Joshua culminates in the giving of the Land. The parallelism between the two culminations is clearly attested to in the description of the giving of the Torah in the Exodus, and the capture of the Land of Israel in Joshua:

1. Both Mount Horeb and Jericho are described as ‘holy ground’ upon which an angel of the Lord appears to the prophet, the messenger of God. This occurred to Moses at the burning bush: “An angel of the Lord appeared to him in the eye of a flame that came out from the bush . . . and he said: ‘remove your shoes from your feet, for the place that you are standing on is holy ground’” (Exodus 3:1-5). In Joshua we find: “It was while Joshua was in Jericho that he lifted up his eyes and saw a man standing before him, with his sword drawn in his hand . . . and he said: ‘. . . I am a captain of the host of the Lord, I am now come . . . take off your shoe from your foot, for the place upon which you are standing is holy’” (Joshua 5:13-15).

2. The narrative in the build-up to the giving of the Torah states: “. . . there were thunders and lightning strikes and a heavy cloud was upon the mountain, and the sound of the *shofar* was exceedingly loud, and all the people who were in the camp trembled” (Exodus 19:16). The idea behind the sounding of the *shofar* in this instance was to proclaim the revelation of God, His unique appearance in order to let His word be known and to give His people Israel His Torah.

For the duration of the time that the cloud was upon the mountain, no one was allowed to climb it.<sup>18</sup> All Israel were commanded to “take heed, lest you go up the mountain or touch its border; whoever touches the mountain shall surely be killed. No hand shall touch it, for he shall surely be stoned or shot through, be it beast or man, it shall not live. When the horn sounds long, they shall come up to the mountain” (Exodus 19:12-13). The horn announces the revelation of God and His departure, and from that moment the people may go up the mountain. Not only is the verse speaking of the physical ascent of the mountain,

<sup>18</sup> Except for Moses who was the only one permitted to come to the “mist where the Lord was” (Exodus 20:18).

but also of a spiritual climb, that is, actualizing all that was hidden at the marvel that was the giving of the Torah and the Ten Commandments, that contain within them the core for the whole of the Torah.

A short examination of the Book of Joshua will show that a similar and indeed parallel event is described, although in this instance the subject is the conquest and giving of the Land to the Children of Israel. Everything that takes place in the wars of conquest after Jericho should be viewed as the actualization of the potential of the first, defining event, in Jericho, with the appearance there of the Divine Presence.

In parallel with the *shofar* at the beginning of the giving of the Torah at Mount Sinai and the sounding of the horn at the end, so it was in Jericho: “Let all your troops march around the city and complete one circuit of the city, and so you shall do for six days . . . On the seventh day march around the city seven times, with the priests blowing on the horns. And when a long blast is sounded on the horn, as soon as you hear the sound of that horn, all the people shall give a mighty shout and the city wall will collapse, and all the people shall advance, every man straight ahead” (Joshua 6:3-5). These verses are parallel in content and style to the giving of the Torah, and this includes also the parallel of the six days and the seventh day: “The presence of the Lord rested on Mount Sinai and the cloud hid it for six days. On the seventh day He called to Moses from the midst of the cloud” (Exodus 24:16). It is interesting to note that according to opinions frequently stated in the Midrash, the two events—the giving of the Torah and the conquest of Jericho – took place on *Shabbat* itself.

The main explanation for the parallelism is that at Jericho, like at Mount Sinai, the appearance and descent of the Divine Presence is portrayed as an event whose essence is God’s judgment—upon Israel in one instance and upon the Land of Canaan and its inhabitants in the other instance, for “the sin of the Amorite is complete” (cf. Genesis 15:16) “. . . the Ark of the Lord, sovereign of all the earth” (Joshua 3:13), that circles the city and the blast of “the priests bearing the seven ram’s horns in front of the Ark of the Lord” (*ad loc* 6:13) are the cry that “For the Lord Most High is awesome, great king over all the earth . . . God is seated on His holy throne” (Psalms 47:3,10) and that “. . . a ruling of the God of Jacob” (*ad loc* 81:5). Therefore, at that time it is “holy ground!”

It may also be possible to explain the description of the city in this light: “Jericho was shut up tight because of the Israelites, no one could leave or enter” (Joshua 6:1)—not only because of the technical difficulty of the closed gates, but also because the place of the appearance of the Divine Presence was removed from the domain of man, just as it was at the time of the giving of the Torah: “set bounds around the mountain and sanctify it” (Exodus 19:23) “. . . lest they break through to gaze at the Lord and many of them perish” (*ad loc* v. 21) and therefore no man could approach the city. The blast of the ram’s horn, similar to that at Mount Sinai, is the signal that the appearance of the Divine Presence has ended, the judgment of the nations has been completed

and the verdict has been decreed—the Holy One, blessed be He, has taken from them the Land of Canaan and given it to the ones who found favor in His eyes. From now on, the Israelites are permitted, and indeed obligated, to go up to the place that the Lord has said, for there is a God among them, and therefore they will not be beaten back by their enemies.

All that happened afterward to the thirty-one Canaanite kings is the actualization of the decree given at Jericho, and therefore the Midrash viewed all the kings as having been concentrated in Jericho when, by the hand of God, it fell—For the Lord Most High is awesome, great king over all the earth. He subjects peoples to us, and nations at our feet. He chose heritage for us, the pride of Jacob whom He loved, *Sela*” (Psalms 47:3-5).

Let us return to our main discussion. We find that the Day of the Bringing of the First Fruit, fifty days after Passover, expresses the essence of both the beginning of the harvest in Israel, and the Exodus from Egypt—both from the perspective of the giving of the Torah and from the perspective of the giving of the Land of Israel. Furthermore, both perspectives are already connected in Scripture, and not merely in the works of the Sages.

Therefore, the uniqueness of the day is in the two, specifically leaven loaves, in which no *matzah* is to be found. This is a sign that the Exodus from Egypt has been completed. It is the time to set the festive table and celebrate the completion of the Exodus and of the counting of the harvest in the place of rest and inheritance, and to bring the leaven bread that is waved before the Lord, the first fruits, as a unique public offering, from the land west of the Jordan.

#### INDIVIDUAL BRINGING OF FIRST FRUITS

The public bringing of the first fruit is obviously connected to the individual bringing of first fruits that one may begin to bring from this day forth, and to the scriptural passage that is recited at the same time: “It shall be when you enter the land that the Lord your God is giving you as an inheritance and you possess it and settle in it, you shall take some of every first fruit of your land. . . . You shall go to the priest in charge at that time and say to him: ‘I acknowledge this day before the Lord your God that I have entered the land that the Lord swore to our fathers to give us’” (Deuteronomy 26:1-3). The core of this festive statement is the declaration that the process has also come to end for the individual: “You shall then recite as follows before the Lord your God: ‘My father was a fugitive Aramean. He went down to Egypt. . . . The Egyptians dealt harshly with us. . . . We cried to the Lord, God of our fathers. . . . The Lord freed us from Egypt with a mighty hand. . . . He brought us to this place and gave us this land, a land flowing with milk and honey. And now I bring the first fruits of the land which you, O Lord, have given me.’ You shall leave it before

the Lord your God and bow before the Lord your God. You shall rejoice in all the good that the Lord your God has given to you and your household, you and the Levite and the stranger that is within your midst” (*ad loc* 5-11).

This is neither the prayer nor the supplication of a lowly man standing in the doorway, nor is there any distress in the declaration. Rather it is a festive declaration, a ‘retelling’ from the position of richness, ability and the power of ‘one who has’. The person exclaims that all is good, though at the same time he must remember and state his origins, the place from where the long and difficult process began, from where it is that he has fields and fruits that his forefathers did not have. He declares that all that he has comes from the Master of the Universe who took his forefathers out of Egypt, and it is He who gave him fruits in his field, the land of his inheritance, the inheritance of our forefathers.

This is an essential expansion of the blessings recited before and after meals. There we bless God “who brings forth bread from the land” and “for the land and for the food,” and here we expand the theme and say for the land that the Lord gave us after taking us out of Egypt as a nation, and for the field and fruits that God gave the individual who now brings them and who now recites this passage. In this there is a clearly expressed connection between the belief in the Lord, God of Israel, from the national/historical perspective of the Exodus from Egypt, and in the belief in God from the religious/cosmic perspective as the One who feeds and nourishes the world. These characteristics are entrenched in the basic duality of the Hebrew calendar and of the festivals. The dual contents of the bringing of the first fruits and the Exodus from Egypt are therefore explained in the passage recited upon the bringing of the first fruits.

In this, the difference between the bringing of the first fruits and prayer are emboldened: “A prayer of the lowly man when he is faint and pours forth his plea before the Lord” (Psalms 102:1), “the prayer of the destitute” (*ad loc* v. 18) that is said as a cry for help “on a day of trouble” (*ad loc* v. 3) out of distress and a sense of helplessness. As opposed to this, the sweet, ripe, leaven, first fruit that is never offered as a sacrifice upon the altar, brings with it the passage of ‘the first fruits’ that is recited as a ‘retelling’ out of a position of wealth and happiness: “You shall rejoice in all the good that the Lord your God has given to you and your household” (Deuteronomy 26:11).

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## ON THE *MITZVOT* OF NON-JEWS: AN ANALYSIS OF *AVODAH ZARAH 2B-3A*

Rabbi Dov Linzer

### I. *THE SUGYAH*

Non-Jews are commanded to observe the seven Noahide laws.<sup>1</sup> A logical corollary of this is that they are to be rewarded for their performance of these *mitzvot*, and held liable for transgressing them.<sup>2</sup> This assumption, however, is brought into question by the *sugyah* around the statement of Rav Yosef in *Avodah Zarah 2b-3a* (paralleled in *Bava Kama 35a*):

מיד אומר להם הקב"ה: הראשונות ישמיעונו, שנא': (ישעיהו מג) וראשונות ישמיעונו, שבע מצות שקיבלתם היכן קיימתם! ומגלן דלא קיימום? דתני רב יוסף: (חבוקק ג) עמד וימודד ארץ ראה ויתר גוים, מאי ראה? ראה ז' מצות שקבלו עליהן בני נח ולא קיימום, כיון שלא קיימום עמד והתירן להן. איתגורי איתגור? א"כ מצינו חוטא נשכר! אמר מר בריה דרבינא: לומר, שאף על פי שמקיימין אותן - אין מקבלין עליהם שכר.

<sup>1</sup> *Tosefta Avodah Zarah 8:4; Sanhedrin 74b*

<sup>2</sup> The idea of a world of future reward and punishment for non-Jews is consistent with the position that righteous non-Jews have a portion in the World-to-Come (*Tosefta Sanhedrin 13:2; Sanhedrin 105a*). It is *prima facie* difficult to understand how the opposing position, that even the righteous amongst the non-Jews has no share in the World-to-Come, can explain the significance of Noahide *mitzvot* for a non-Jew. The answers to this question are beyond the scope of this paper, but we can immediately suggest three possible solutions: (1) The phrase "World-to-Come" may not refer to the totality of future metaphysical reward, but only one aspect of it; (2) The primary focus of the Noahide laws might be to enforce behavior on this world and do not suggest a metaphysical religious system for non-Jews and (3) While assured no future reward, non-Jews might suffer different degrees of punishment for the degree of their transgressions. The last two approaches approximate – and even exceed – the position of Rav Yosef that we will discuss below. Nevertheless, while Rav Yosef's position is adopted in the Talmud and assumed to be normative, the harsh position denying the World-to-Come to non-Jews is never endorsed by the Talmud and Rambam (*Hilkhot Teshuvah 3:5* and *Hilkhot Melakhim 8:11*) explicitly rules against it.

Thereupon the Holy One, blessed be He, will say to them [the non-Jewish nations in the End of Days]: “Let us then consider the happenings of old,” as it is said, ‘Let them announce to us former things,’ (Isaiah 43:9) “There are seven commandments which you did accept. Did you observe them?!”

And how do we know that they did not observe them? For R. Yosef taught: “ ‘He stands and shakes the earth, He sees and makes the nations to tremble (*va'yatter*).’ (Havakuk 3:6) What did He see? He saw that the nations did not observe even the seven precepts which the sons of Noah had taken upon themselves, and seeing that they did not observe them, He stood up and released (*bitir*) them therefrom.”

Then they benefited by it! According to this it pays to be a sinner! Said Mar bar Ravina: “The release from those commands only means that even if they observed them they would not be rewarded.”<sup>3</sup>

According to Mar bar Ravina’s understanding, non-Jews now have the worst of both worlds: they are still held responsible for their transgressions, but no longer receive any reward for their fulfillment of the *mitzvot*. No explanation is given for the harshness of this decree, neither for its inherent logic nor for why all future non-Jews should suffer for the transgressions of non-Jews at one stage in history. However, the Talmud does not let this position stand, not due to any inherent problems with it, but because it contradicts a position of Rabbi Meir:

ולא? והתניא, היה רבי מאיר אומר: מנין שאפילו גוי<sup>4</sup> ועוסק בתורה שהוא ככהן גדול? תלמוד לומר: אשר יעשה אותם האדם וחי בהם (ויקרא יח), כהנים לויים וישראלים לא נאמר אלא האדם, הא למדת, שאפילו עובד כוכבים ועוסק בתורה - הרי הוא ככהן גדול! אלא לומר לך, שאין מקבלין עליהם שכר כמצווה ועושה אלא כמי שאינו מצווה ועושה, דאמר ר' חנינא: גדול המצווה ועושה יותר משאינו מצווה ועושה.

But do they not receive reward? Is it not taught: R. Meir used to say, “Whence do we know that even a non-Jew who studies the Torah is equal to a High Priest? From the following verse: ‘Ye shall therefore keep My statutes and My ordinances which, if a man do, he shall live by them.’ (Leviticus 18:5). It does not say ‘If a Priest, Levite, or Israelite do, he shall live by them,’ but ‘a man’; here, then, you can learn that even a non-Jew who studies the Torah is equal to a High Priest!”

<sup>3</sup> Translations of Talmud text largely follow Soncino, with some adaptations.

<sup>4</sup> The term *oved kokhavim* found in the printed Vilna shas is a later emendation. The original term is either *goy* as attested to in *Dikdukei Sofrim*, *ad. Loc.*, or *nokhri*, as appears in the parallel *sugyah* in *Bava Kamma* 38a and *Sanhedrin* 59a.

What is meant, then, [by Mar bar Ravina] is that they are rewarded not as greatly as one who does a thing which he is commanded to do, but as one who does a thing which he is not commanded to do. For, R. Hanina said: He who is commanded and does is greater than he who is not commanded and does.

The two statements are reconciled by modifying Mar bar Ravina's position to allow that non-Jews receive at least partial reward for their fulfillment of their *mitzvot*. While this answer does not seem to fully accommodate R. Meir's position that a non-Jew can become like the High Priest, which would seem inconceivable if he is always considered on the lower level of 'one who is not commanded and does,' the Talmud is satisfied with this answer, and it is with this that the current *sugyah* ends.

Rabbi Meir's position appears again in the *sugyah* in *Sanhedrin* (59a), this time in conflict with a position of Rabbi Yohanan:

ואמר רבי יוחנן: נכרי שעוסק בתורה חייב מיתה, שנאמר תורה צוה לנו משה מורשה - לנו מורשה ולא להם. מיתיבי, היה רבי מאיר אומר: מניין שאפילו נכרי ועוסק בתורה שהוא ככהן גדול - שנאמר אשר יעשה אתם האדם וחי בהם, כהנים לויים וישראלים לא נאמר, אלא האדם. הא למדת: שאפילו נכרי ועוסק בתורה הרי הוא ככהן גדול! - התם בשבע מצות דידהו.

R. Yohanan said: "A non-Jew who studies the Torah deserves death, for it is written, "Moses commanded us a law for an inheritance"—it is our inheritance, not theirs . . ." An objection is raised: R. Meir used to say, "Whence do we know that even a heathen who studies the Torah is as a High Priest? From the following verse: 'Ye shall therefore keep My statutes and My ordinances which, if a man do, he shall live by them.' (Leviticus 18:5). It does not say 'If a Priest, Levite, or Israelite do, he shall live by them,' but 'a man'; here, then, you can learn that even a non-Jew who studies the Torah is equal to a High Priest!"

That [study of Torah] refers to their own seven laws.

Rather than assume that the two opinions conflict, the Gemara chooses to reconcile them by further limiting Rabbi Meir's opinion. A non-Jew's study of Torah is only of value—nay, only permitted!—when such Torah study is relevant to his seven Noahide laws.

The result of the two Talmudic discussions, then, is that non-Jews nowadays are still held responsible for their transgressions, but receive only partial reward for their fulfillment of the seven Noahide *mitzvot*. They are rewarded for their Torah learning, but only insofar as this is related to their Noahide *mitzvot*, and such merit is likewise only partial at best. In short, we are left with quite a low estimation of the religious worth of the Noahide *mitzvot* and Torah learning of non-Jews.

## II. PARTICULARISM AND UNIVERSALISM

The Gemara, in arriving at its conclusion, has leveled out the differences between the different opinions—in particular, between that of Rabbi Meir on the one hand, and those of R. Yohanan and Mar bar Ravina on the other hand. However, if we look at Rabbi Meir's opinion in isolation and in its original location, a completely different picture takes shape. Rabbi Meir's opinion is quoted in full in the Sifra on Leviticus 18:5, there attributed to Rabbi Yirmiyah:

"אשר יעשה אותם." היה רבי ירמיה אומר אתה אומר מנין אפילו גוי ועושה את התורה הרי הוא ככ"ג תלמוד לומר "אשר יעשה אותם האדם וחי בהם," וכן הוא אומר "וזאת תורת הכהנים והלויים וישראל" לא נאמר כאן אלא "וזאת תורת האדם ה' אלהים" וכן הוא אומר "פתחו שערים ויבא כהנים ולויים וישראלים" לא נאמר אלא "ויבא גוי צדיק שומר אמונים" וכן הוא אומר "זה השער לה' כהנים ולויים וישראלים" לא נאמר אלא "צדיקים יבאו בו" וכן הוא אומר "רננו כהנים לויים וישראלים" לא נאמר כאן אלא "רננו צדיקים בה" וכן הוא אומר "הטיבה ה' לכהנים ולויים וישראלים" לא נאמר כאן אלא "הטיבה ה' לטובים" הא אפי' גוי ועושה את התורה הרי הוא ככהן גדול.<sup>5</sup>

"[You shall observe My edicts and laws] that a man shall do [and live by them]" (Leviticus 18:5). Rabbi Yirmiyah says: From where do we know that even a non-Jew who observes the Torah is like a High Priest? The verse teaches, "that a *man* shall do them and live by them."

Similarly, it does not say, "And this is the Torah . . . of Priests, Levites and Israelites" but rather it says, "And this is the Torah of *man*, O Lord God" (Sam II, 7:19).

Similarly it does not say, "Open up ye gates . . . that Priests, Levites, and Israelites may enter" but rather it states, "that *the righteous nation (goy)* who keeps the faith may enter" (Isaiah 26:2).

Similarly, it does not say, "This is the gate of God . . . and let the Priests, Levites, and Israelites enter therein" but rather it states, "and let the *righteous* enter therein" (Ps. 118:20).

Similarly, it does not say, "Rejoice . . . Priests, Levites, and Israelites" but rather it states, "Rejoice *the righteous* in God." (Ps. 33:1).

<sup>5</sup> See Tosafot (*Sanhedrin* 59a, s.v. *Ela*) who notes that some texts of the Gemara *Sanhedrin* have this statement in the name of R. Yirmiyah. Similarly, *Dikdukei Sofrim* on *Bava Kama* 38a, records a text from *Aggadat haTalmud* that has 'R. Yirmiyah' instead of 'R. Meir.'

Similarly, it does not say, “God does good . . .” “to the Priests, Levites, and Israelites” but rather it states, “God does good to *those who are good*.” (Ps. 125:4).

From this we learn that even a non-Jew who observes the Torah, behold he is like a High Priest.

This passage differs from that in the Talmud in two striking ways. The first is its length and the boldness of its position. It is clear that Rabbi Yirmiyah is not merely engaging in straightforward exegesis based on the Torah’s use of the term *adam* in one verse. The quote of verse after verse, at times expounding on the word *adam*, at times on the word *tzaddik*, at times on the word *goy*, and at times on the word *tovim* make it clear that a larger theory is behind this exegesis.

The fact that this passage is more theologically-driven than verse-driven is made clear from the quote from Isaiah 26:2. We are told that “Open the gates, that the righteous nation (*goy emunim*) which keeps the truth may enter in” refers to non-Jews. From its Biblical context this is clearly not the case. As the previous verse makes clear, the referent here is Israel: “On that day shall this song be sung in the land of Judah; We have a strong city; salvation will God appoint for walls and bulwarks.” Although the contextual meaning is clear, Rabbi Yirmiyah seizes on the word *goy*, “nation,” and interprets it to refer to the non-Jew. It seems inescapable that Rabbi Yirmiyah has an inclusive theology, one that unhesitatingly recognizes that even a non-Jew can live a life of religious merit as much as any Jew, and he finds verse after verse that—with some creative reading—can prove his point.<sup>6</sup>

<sup>6</sup> The idea that a Tanna might start with a position and read it back into a verse, rather than derive his position from the verse, has already been articulated by Ramban regarding the hermeneutics of a *gezeira shava*. See Ramban, *Critique of Rambam’s Sefer haMitzvot*, Principle 2, s.v. *Aval yesh im hamidot ha’elu tenaim*. For a discussion of contemporary scholarship on this topic, see Jay Harris, “Modern Students of Midrash Halakha”, in *The Uses of Tradition*, ed. Jack Wertheimer, pp. 261-277, for further discussion (although I strongly disagree with his characterization both of Rambam’s and of Ramban’s positions). For theological *derashot* such as these, it is even easier to assume that the theology might be driving the *derashah*, and not the other way around.

This approach would also address the question raised in the Rishonim of whether non-Jews are included in the phrase *adam*. Both Rashi (*Sanhedrin* 59a, s.v. *ha’adam*) and Tosafot Rid (*Avodah Zarah* 3a, *mahadura kamma*, s.v. *haya*) assert that this is a debate between R. Meir, who reads this term inclusively, and Rabbi Shimeon (*Yevamot* 61a) who reads it in an exclusive fashion. Tosafot (*Avodah Zarah* 3a, s.v. *Kohanim*, and *Sanhedrin* 549a, s.v. *Ela*) quotes Rabbeinu Tam who famously distinguished between *adam* and *ha’adam*. What emerges from our preceding analysis is that even R. Yirmiyah/R. Meir does not adopt a strict exegetical methodology in determining the scope of the word “*adam*.” Rather, all verses that contain terms that can be read to support his position will be read as such.

Once we realize that Rabbi Yirmiyah's point of departure is his fundamental egalitarianism, we can appreciate another aspect of this passage, the comparison of the non-Jew to High Priest. This comparison seems directed at overturning the normal hierarchies present in the halakhic system. As the Mishnah (*Horiyot* 3:8) states:

A Priest takes precedence over a Levite, a Levite over an Israelite, an Israelite over a *mamzer*, a *mamzer* over a *netin*, a *netin* over a proselyte, and a proselyte over an emancipated slave.

In such a hierarchy, the non-Jew is of such little consequence he is not even mentioned. It is with this assumed background<sup>7</sup> that R. Yirmiyah states that even a non-Jew, who is at the very bottom of the hierarchy, can equal the High Priest, the one at the very top of the hierarchy, if he observes the Torah.

As if to underscore this point, the Sifra makes the constant refrain that “the verse does not say Priests, Levites, and Israelites . . .” This point seems, on the face of it, absurd. Of course the verse does not use that phrase; no verse in the entire Tanakh employs such a phrase! The point here then is not exegetical. Rather, Rabbi Yirmiyah's point is that we should learn from these verses that it is not the hierarchy that matters. When all is said and done, what matters is not whether a person is a Priest, a Levite, or an Israelite, what matters is if he or she is “righteous,” is one who “keeps the faith” and a “good person.”

R. Yirmiyah's statement presents us with two contrasting themes in Judaism. On the one hand, Judaism is a strongly hierarchical religion: one that distinguishes between Jew and non-Jew, and amongst Jews, between Priest, Levite, and Israelite. And on the other hand, the Torah clearly states that all people were created in the image of God, that God entered into a covenant with Noah, and, according to the prophets, that the nations will fully recognize God in the End of Days.

How are we to resolve this tension between hierarchy and universalism? Some Jewish thinkers come down strongly on the side of particularism and hierarchy, asserting that after Abraham, or after Sinai, God has largely given up on non-Jews. According to some, non-Jews have a lesser soul. According to others, any religious achievement of non-Jews is necessarily of lesser value. The latter attitude is certainly the upshot of the *sugyah* from *Avodah Zarah* that is under analysis and it is reflected in a terse statement of Radvaz. Commenting on Rambam's ruling that a non-Jew who observes the seven Noahide commandments has a portion in the World-to-Come, Radvaz states that “this portion is not in Gan Eden, for an uncircumcised person cannot enter there.”<sup>8</sup>

<sup>7</sup> I am not taking a position on whether the Mishnah in *Horiyot* predated R. Yirmiyah. Regardless of this point, it is fair to assume that the general hierarchal ranking attested to here was taken for granted.

<sup>8</sup> On *Hilkhot Melakhim* 8:11 (Frankel edition, from manuscripts).

It is also possible to come down on the side of universalism. One can understand that the concept of chosenness, and all the hierarchies that it entails, does not imply an ontological or metaphysical difference between Jew and non-Jew, but implies only that different roles have been assigned to these two groups. This role differentiation may not be an intrinsic good, but only a necessary means to arrive at the full realization of God's plan. I have long understood that implicit in the Adam-Noah-Abraham narrative is the story of a slow shift by God towards the recognition that the divine objective of creation could only be achieved through the (temporary) means of chosenness. Dr. David Berger recently articulated just this thought in a recent article:

Though the choice of Abraham and his descendants represents a short-term narrowing of God's focus, it seems highly improbable that it represents a permanent abandonment of the great aim of creation implied in all that went before. Rather, it is God's way of taking a longer, slower, surer path to the achievement of his universal objective. The messianic dream in its broadest and most inclusive version is implicit at the moment of creation—this, I think, is the meaning of the rabbinic vision of the pre-existing soul of the Messiah— as well as at the election of the father of Israel, who is also the father of a multitude of nations.<sup>9</sup>

If the hierarchies of Judaism are only instrumental, then no individual—Jew or non-Jew—would have more innate religious worth than any other. The only question to be asked is whether the Jew's additional responsibility to perform 613 *mitzvot*, rather than seven, affords him or her the opportunity for greater religious achievement than is available to the non-Jew. It seems reasonable that a Jew's added responsibility, sacrifice and observance should be considered of greater religious value than the comparatively easier life of an observant Noahide. Thus, many of those who come down on the side of universalism, would still be inclined to side to some degree with Radvaz, that—all other things being equal—some difference will exist between Jew and non-Jew in the future world.

I believe that R. Yirmiyah had a different understanding. If the entire difference between Jew and non-Jew is that the former are commanded in more *mitzvot*, then a non-Jew who chooses to perform those *mitzvot* could be as great as any Jew, even as great as the High Priest. This understanding requires bracketing R. Hanina's position that one who is commanded and performs is greater than one who is not commanded and performs, but inasmuch as this

<sup>9</sup> "Jews, Gentiles, and Egalitarianism," soon to be published by the Orthodox Forum. I thank Dr. Berger for making this article available to me.

position was not taken as a given even in the time of the Amoraim (cf. *Kiddushin* 31a),<sup>10</sup> such bracketing presents no problem to R. Yirmiyah.

### III. OBSERVING AND LEARNING TORAH

It is perhaps difficult to accept the idea that a non-Jew's performance of *mitzvot* should be given so much weight. Are not many of the *mitzvot* only meaningful within a Jewish context? It is instructive in this regard to see the fate of a similar position that was held by Rambam. Rambam in *Mishneh Torah* (*Hilkhot Milah* 3:7) hints at the idea that a non-Jew could do even the highly particularistic *mitzvah* of *milah* and receive reward. His statement is somewhat ambiguous and was interpreted otherwise by some Ahronim. Rabbi Moshe Feinstein, on the other hand, recognized the possibility that Rambam might be giving value to the non-Noahide *mitzvot* of a non-Jew, but rejected this reading as totally untenable because he found it theologically objectionable:

אבל בשמירת שבת ויו"ט והנחת תפילין וציצית וסוכה ולולב ושופר ואכילת כשרות  
וזהירה משעטנז וכדומה אין להם שום שכר ע"ז דאין שייכין כלל למצות אלו כיון  
דליתנהו בקבלת התורה ואינם מצות לדידהו כלל כדכתבתי שם. ואף דהדבר הזה  
מוכרח בסברא נראה מוכרח כן מרמב"ם...

But regarding Sabbath and Yom Tov observance, and laying *tefillin*, and wearing *tzitzit*, and *sukkah*, and *lulav*, and *shofar*, and eating kosher food, and not wearing *shatnez*, and all similar matters, a non-Jew would receive no reward for such observance, because non-Jews are totally excluded from these *mitzvot*, since they did not receive the Torah, and these are not in any means considered *mitzvot* for them, as I wrote earlier. And even though this point is self-evidently true, it can also be demonstrated from Rambam's writings. . . . (*Igrot Moshe, Yoreh Deah, 2:7*)

Rambam's position on the matter, however, is relatively clear in his Commentary to the Mishnah (*Terumot* 3:9) and is explicit in his responsum on the matter:

<sup>10</sup> "R. Joseph [who was blind] said: Originally, I thought, that if anyone would tell me that the *halakhah* agrees with R. Judah, that a blind person is exempt from the *mitzvot*, I would make a banquet for the Rabbis, seeing that I am not obliged, yet fulfill them. Now, however, that I have heard R. Hanina's dictum that he who is commanded and fulfils [the command] is greater than he who fulfils it though not commanded; on the contrary, if anyone should tell me that the *halakhah* does not agree with R. Judah, I would make a banquet for the Rabbis."

מותר לישראל למול לגוי אם רוצה הגוי לכרות הערלה ולהסירה, לפי שכל מצוה שהגוי עושה נותנין לו עליה שכר, אבל אינו כמי שהוא מצווה ועושה, ובלבד שיעשנה כשהוא מודה בנבואת משה רבינו, המצווה זאת מפי אלהים יתעלה, ומאמין בזה, ולא שיעשנה (לסבה) אחרת...

It is permitted for a Jew to circumcise a non-Jew if the non-Jew wants to remove the foreskin, because any *mitzvah* that a non-Jew performs, he is given reward, however he is not like one who is commanded and performs. All of this is only if he performs the *mitzvah* in a context where he accepts the prophecy of Moshe our Teacher, who has received this command from God, and he believes this, and is not performing due to other motivations. . . .<sup>11</sup>

The only difference between Rambam's position and that of R. Yirmiyah is this: for Rambam, one who is not commanded and performs receives less reward, in accordance with the Talmud's discussion on this matter, while for R. Yirmiyah such a person would receive equal (or perhaps greater?) reward. This latter position is an eminently reasonable one, and would allow for R. Yirmiyah's conclusion that a non-Jew who performs *mitzvot* is like the High Priest.<sup>12</sup>

Recognizing the difficulty that Ahronim had in coming to terms with the idea of a non-Jew's performance of *mitzvot*—even in its more attenuated form as it appears in Rambam—allows us to appreciate the second significant way in which the Talmud departs from the quote from the Sifra. For the Talmud the issue is not a non-Jew who is *oseh et haTorah*, who performs the mitzvot of the Torah, but one who is *osek baTorah*, who studies Torah.

The Talmud, it seems, was not ready to accept the religious significance of a non-Jew performing Jewish *mitzvot*. These, as Rav Moshe Feinstein argues, can only be of religious value for the Jew. The one *mitzvah* that the Talmud is prepared to accept as relevant for the non-Jew is that of Torah study. The particular *mitzvot ma'asiyot*, practical *mitzvot*, are unique to the Jewish context and experience, but Torah, as Divine revelation, represents ultimate truth, and its study has universal significance.

There is perhaps an additional reason why the Talmud understands Rabbi Yirmiyah/Rabbi Meir's comments to be limited to Torah study. As Tosafot comments (*Avodah Zarah* 3a, s.v. *Harei*):

The phrase "High Priest" is being used here because the verse states "It

<sup>11</sup> Rambam, Responsum 148. That Rambam actually recognized the value of a non-Jew's performance of the particularistic *mitzvot*, including *milah*, was already recognized by Rav Tzvi Pesach Frank (*Shut Har Tzvi, Yoreh Deah*, 215).

<sup>12</sup> There is no need for R. Yirmiyah/R. Meir's position to be consistent with that of R. Yohanan (Sanhedrin 59a) that a non-Jew who keeps the Sabbath is liable for the death penalty. It is the same R. Yohanan who states that a non-Jew is liable for death for studying Torah, which is also against the original position of R. Yirmiyah/R. Meir.

(Torah) is dearer than pearls (*peninim*)” (Prov. 3:15), and we expound this to mean that one who studies Torah is greater than the High Priest who goes into the innermost sanctum (*lifnei velifnim*). This is stated regarding giving precedence to a *mamzer* who is a Torah scholar over a High Priest who is an ignoramus. However, when it comes to a non-Jew (who studies Torah), he is only *as* great as a High Priest.

Tosafot points us to the second part of the Mishnah in *Horiyot* that was quoted above. The end of the Mishnah there reads:

This order of precedence applies only when all these were in other respects equal. If the *mamzer*, however, was a scholar and the High Priest an ignoramus, the learned *mamzer* takes precedence over the ignorant High Priest.

In other words, for the Rabbis it is mastery of Torah that has within it the potential to propel someone to the head of the hierarchy. Torah study is the great equalizer for rabbinic Judaism. If a *mamzer* can be greater than a High Priest on account of his Torah study, then perhaps a non-Jew can at least be as great.

For the Talmud, then, it is only through the study of Torah, with its universal significance and its ability to upturn the traditional hierarchy, that a non-Jew could be considered to be like the High Priest.

Of course, as the *sugyah* continues, this statement even as it has been somewhat transformed is not allowed to stand. Rather, to reconcile it with R. Yohanan’s position the significance—even the permissibility—of Torah study of a non-Jew is limited to the study of the seven Noahide laws, and, to reconcile it with Mar bar Rabina’s position the value of such study is only as one “who is not commanded and performs.” By now it is clear how far this is from the original sense of R. Yirmiyah/R. Meir’s position.

As we mentioned earlier, the difficulty with this reconciliation is obvious even from within the *sugyah* itself, for if a non-Jew’s merit is only of the lesser category of one who “is not commanded yet performs,” how can he be considered like a “High Priest”? This question is dealt with by some of the Rishonim. Some Rishonim seem to have had the text “behold he is like an Israelite,”<sup>13</sup> in clear opposition to the text and the context of the Sifra. Rishonim who had the standard text “behold he is like a High Priest,” either leave the problem unanswered,<sup>14</sup> or explain that this term is meant as an exaggeration.<sup>15</sup>

<sup>13</sup> Rabbeinu Chananel (*Avodah Zarah* 3a), Tosafot Rid (*Avodah Zarah*, 3a, *mahadurah kamma*, s.v. *Hayah*) and Meiri (*Avodah Zarah* 3a).

<sup>14</sup> Rashba (*Bava Kama* 38a), s.v. *Afilu*.

<sup>15</sup> Tosafot Rid, *Avodah Zara*, 3a, *mahadurah tinyana*, s.v. *Harei*, Ra’ah, *Bava Kamma*, 38a as quoted in Shita Mikubetzet, s.v. *Harei*, and Meiri, *Sanhedrin* 59a. It seems that Tosafot Rid and Meiri at times dealt with a text that read “like an Israelite” and at times with texts that read “like a High Priest.”

None of these answers is fully satisfactory. What is clear is that the Talmud, to reconcile R. Yirmiyah/R. Meir's position with those of the Amoraim, has altered it significantly. A position that was originally a powerful voice of a universalistic ethos, is now read to only give some partial credit to a non-Jew who stays within his circumscribed field of religious activity.

#### IV. "HE STOOD UP AND RELEASED THEM THEREFROM"

Before concluding our analysis, it is worth returning to the statement of R. Yosef (*Avodah Zarah* 2b) that once God saw that the non-Jews were not keeping the Noahide commandments, they were released from them. Although Mar bar Rabina interprets this to mean that they do not receive (full) reward even if they perform them, it is possible to take R. Yosef's statement at face value. That is, perhaps R. Yosef is saying that it is unfair to hold non-Jews to the standard of the Noahide laws in a world where they do not perceive themselves to be so commanded. For all intents and purposes, non-Jews are now "released" from their *mitzvot*.

Such a position needs to be assessed in conjunction with the debate in the Talmud (*Makkot* 9a) whether a non-Jew who believes that murder is not prohibited by the Noahide laws and commits murder is to be held liable or not. Rava, who holds that he is liable, states that this is so because "he should have learned but did not do so." One can question whether such an expectation is reasonable in a society where non-Jews have no reason to think that they are under any religious obligation whatsoever from a Jewish perspective and most probably could not be persuaded of this fact. Such a situation, I believe, is more similar to *tinok shenishbah*, an infant taken captive, than to *omer muttar*, one who is simply uninformed about the particulars of his obligations. A *tinok shenishbah* is not held liable for any of his actions and inasmuch as the concept of *tinok shenishbah* is used today to discount the transgressions of non-observant Jews, it seems reasonable that this concept can be extended to non-observant Noahides as well. This, or something close to this, might be the thrust of R. Yosef's statement.<sup>16</sup>

Let me be clear. I do not mean to suggest that non-Jews would not be held *ethically* responsible for acts of murder, stealing, and the like. The question here is, rather, whether they can be held *religiously* responsible. Is the specific *religious* system that has been revealed through the Noahide *commandments* one to which they can continue to be held accountable. R. Yosef, I believe, says that they cannot.

<sup>16</sup> It should be noted that the *drashot* based on the verse "He sees and makes the nations tremble" that are found in the *midrashei halakhah* and *midrashei aggadah* are uniformly negative. See, for example, *Mekhilta deRebbe Yishmael* on Exodus 20:2, and *Vayikra Rabbah* 13:2. Nevertheless, there is no reason that R. Yosef could not have adopted a more positive, or forgiving, read of this verse.

Such a reading of R. Yosef's position runs counter to its interpretation in the Talmud. Nevertheless, and somewhat surprisingly, a number of Ahronim, and perhaps even one Tosafot, take R. Yosef's statement on its face value, and apparently reject the interpretation of Mar bar Rabina.<sup>17</sup> One Aharon even goes so far to state: "It is an astonishment that Rambam rules that non-Jews are liable death for transgressing their obligations, for behold, God has already released them therefrom!"<sup>18</sup> According to these Ahronim, as a matter of practical *halakhab*, non-Jews are not held liable today for their transgressions against the Noahide commandments, in accordance with the simple meaning of R. Yosef's statement.

## V. CONCLUSION

The conclusion of the Talmudic *sugyah* from *Avodah Zarah* was that non-Jews are held liable for their transgressions and only receive partial reward for their *mitzvot*. Putting together the original statement of R. Yirmiyah/R. Meir and what is perhaps the original meaning of R. Yosef's statement, we are presented with a diametrically opposed conclusion. To wit, non-Jews are not to be held responsible for their transgressions nowadays, but if they choose to connect to the Jewish religion and perform its *mitzvot* as non-Jews, their reward will be as great as that of any Jew!

What emerges from the preceding analysis is not only a fuller appreciation of R. Yosef's and R. Yirmiyah/R. Meir's positions. There is in addition the recovery of important voices within the Jewish tradition that articulate an ethos that is particularly resonant with the ethical sentiments of many Jews today.

Many observant Jews today are ethically conflicted by the inequitable treatment between Jews and non-Jews that is found within *halakhab*. The halakhic work for addressing these inequities is already being done by important *posekim*. In this halakhic endeavor the recovery of such original positions as we have done is largely irrelevant, inasmuch as *halakhab* follows the interpretation that the *Gemara* gives to the statements of the Tana'im and Amora'im. Nevertheless, many committed Jews are often left feeling that even when halakhic solutions are being found, they run counter to the ethos of the system, and are to some degree disingenuous and lacking in integrity. "Should we be bending the *halakhab* to conform to our modern notions of egalitarianism?" is a reasonable question to ask and a hard one to answer. An honest answer requires finding within the Talmud voices that articulate those same values that are driving us.<sup>19</sup>

<sup>17</sup> See Rav Ovadia Yosef, *Shu"t Yabia Omer*, vol. 2, *Yoreh Deah*, no. 15, subsection 10, who cites these positions.

<sup>18</sup> Maharit, as quoted in *Mikra'ei Kodesh* (R. Hayyim Abulafia), on *Bava Kamma* 35a.

If such voices truly exist, we can maintain our fidelity not just to the forms of the system, but to its values as well. The halakhic import of R. Yirmiyah/R. Meir's statement has to be dealt with in the context in which the Gemara interpreted it, but there is no denying the universalistic religious ethos that was held by R. Yirmiyah/R. Meir. Now is the time when such voices must be heard.

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<sup>19</sup> It seems to me that even liberal positions found in the Rishonim, such as those of Meiri, need to be consistent with the ethos of the Talmud.

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## THE DEVELOPMENT OF THE THREE-DAY LIMIT FOR SALTING

Zev Farber

The Geonim wrote: Meat that sat for three days—the full 72 hours—without having been salted, its blood dries out within it, and will not again leave it through salting, and one must not eat it cooked.”<sup>1</sup>

It was probably this statement more than any other that clinched the place of this *halakhah* in the canon, as one that would be taken seriously by Jewish scholars across cultures. As we will see, until the time of the Tur (early fourteenth century), the requirement to salt kosher meat within three days of its slaughter was observed only in Germany. It was not until the time of the Tur that the rest of the Jewish world took on the observance.

In the above passage, the Tur is ostensibly quoting the Geonim. From the quotation itself, it would appear that he is quoting them directly. However, that is not the case. After thorough research, it appears that no Gaon ever set a time limit within which salting must be completed.<sup>1a</sup> If this *halakhah* is not of Geonic origin, where did it come from, and how did it come about? This article aims to answer this question through detailed examination of halakhic sources.

Before we begin, a caveat: The goal of this article is not to offer practical *halakhah*. *Halakhah* is a matter that develops from generation to generation, and the contribution of all generations must be considered when formulating a decision. Nevertheless, in different generations, scholars had different ways of thinking and learning, and it would be incorrect to analyze all halakhic scholars as if they were doing the same thing. Therefore, this article will concentrate specifically on the period known as the Rishonim (early scholars), which, for our

<sup>1</sup> *Tur Yoreh Deah*, 69.

<sup>1a</sup> I claim this because no such Geonic source has come down to us, and no such claim was made by any *Rishon* until the late thirteenth century, almost three hundred years after the period of the Geonim ended.

purposes, is broadly defined as between the eleventh and fourteenth centuries.<sup>2</sup> Further, the organization of this article reflects the development of this *halakhah*: The first part focuses on Germany, where the *halakhah* developed, and the second part on the positions of Rishonim in other countries.

## I. GERMANY

### A. MA'ASEH HAGEONIM

The earliest source to mention a time limit for blood removal is in *Ma'aseh haGeonim*<sup>3</sup> (no. 3). “Blood removal” is not salting, and this source does not refer to salting, but rather to *nikkur*. *Nikkur* is the process of de-veining and removal of forbidden fats as well as the sciatic nerve. It is a process separate from salting. The issue in *Ma'aseh haGeonim* is whether there is a time limit within which one must perform *nikkur*. The speaker is R. Isaac b' Judah<sup>4</sup> (c.1010-c.1090):<sup>5</sup>

About the custom in our place—to perform *nikkur* on the meat within three days—I asked our great Rabbi.<sup>6</sup> He answered and told me: “Even my father was careful about this, but I never heard a reason

<sup>2</sup> Obviously, even within this period there were sub-groups, and, of course, each scholar is unique in his own right. However, there were general intellectual trends shared amongst most rabbis of this time period (for example, the creative interpretation of Talmudic sources to derive *halakhot*), and it is to these trends I am referring.

<sup>3</sup> *Ma'aseh haGeonim* is part of a larger work (parts of which are lost) called *Ma'aseh haMekhivri*. This work was written in the late eleventh century, by a group of brothers from Germany, referred to as “the sons of Makhir,” who studied under some of the great early German scholars such as R. Isaac b' Judah, and R. Solomon b' Samson (c.1030-1096).

<sup>4</sup> He was one of the teachers of the great R. Solomon b' Isaac, known as Rashi (1041-1105).

<sup>5</sup> The dates for the early Germans are rather speculative; I base myself on Avraham Grossman's calculations.

<sup>6</sup> Even though in his notes on the responsa he published in *Sinai* 14 I. Z. Kahana assumes that this is a reference to R. Isaac b' Judah, it is a difficult position to maintain. First of all, he is quoted as the author of this response. Second of all, R. Eliezer b' Isaac is usually referred to this way by his students, (see Avraham Grossman, *Hakhmei Ashkenaz haRishonim*, for a thorough discussion of these rabbis). Therefore, my working assumption, though by no means definite, is that R. Eliezer is the responder here. (For a further example of the ambiguity of the term “Our Great Rabbi” in this work, see Israel Meir Ta-Shma's *Minhag Ashkenaz haKadmon*, pages 237-238.) R. Eliezer was a student of the great R. Gershom b' Judah, known as Rabbeinu Gershom *Me'or haGolah* (c.960-c.1040).

why, and I have not found [one]<sup>7</sup> written. But it appears to me that the blood [from the veins] gets absorbed into the meat in three days, and will not exit afterwards, either with washing or salting. Or, perhaps the reason is [based on this Talmudic passage (*Hullin* 8b)]: ‘A person should not place loins<sup>8</sup> upon meat, for the fat melts and the meat absorbs [it].’ Within three [days], it may [also] absorb, but here<sup>9</sup> [people] are not worried.”

According to this source, in the time of R. Isaac b’ Judah, there was already a custom in his city (Mainz) to perform *nikkur* within three days of the animal’s slaughtering. Not being sure why, he consulted his teacher, R. Eliezer b’ Isaac haGadol (c.990-c.1060). R. Eliezer confirms the authoritativeness of the custom by mentioning that his own father abided by it. Nevertheless, he himself is unsure of why the custom exists. He posits two possible reasons, each one based on one of the objectives of *nikkur*: either de-veining, or removal of forbidden fats. If the de-veining is the relevant objective, then the reasoning behind the custom would be that after three days of sitting with the veins attached, the meat has now absorbed too much blood, and one will no longer be able to remove this excess blood, even through salting.<sup>10</sup> If removal of the fat is the relevant objective, R. Eliezer is able to draw on precedent by quoting the Talmud: One should not leave fat on meat, for the fat melts and is absorbed into the meat. R. Eliezer reasons, therefore, that leaving the forbidden fat attached to the meat would bring about the same problem. This, however, leads to a question: If the analogy is true, then the meat should absorb the fat before the three day time limit is up! He answers, therefore, that before three days, there is only a chance that the meat will absorb the excess fat or blood, as opposed to after three days where it will definitely absorb. Since it is only a chance, people do not concern themselves with it. Ostensibly, this is because the custom is considered a stringency, and not a halakhic requirement.

From this source, what clearly emerges is that according to either interpretation offered by R. Eliezer haGadol, there is no need to salt the meat within three days, there is only a need for *nikkur*. If his second interpretation is correct, the custom of doing *nikkur* within three days has nothing to do with blood, only with forbidden fat. If his first interpretation is correct, the only problem would be with the blood of the veins, which gets absorbed into the meat. It is

<sup>7</sup> The Hebrew does not actually specify what he did not find written. I inserted the word “one”, which would mean that he did not find a reason written. Another possible insertion would be “it,” which would mean that he did not find the custom itself written anywhere.

<sup>8</sup> Loins are covered with *belev*, forbidden fat.

<sup>9</sup> “Here” could either refer to within three days, or the city of Mainz.

<sup>10</sup> Notice that removal through roasting is not mentioned. This will be important for later discussions.

this excess blood which, once fully absorbed, cannot then be removed. However, once *nikkur* has been performed, there would be no need to salt the meat within three days, since the excess blood is no longer there to be absorbed. This fits into the general halakhic principle<sup>11</sup> that “limb blood in the meat (i.e. not in the veins or arteries) which has not been displaced is permitted [to be eaten, along with the meat].”

Let us assume that this early German custom of performing *nikkur* within three days of slaughtering is the original source of the three day minimum for salting mentioned in the Tur (or, at least, related to it in time and place of origin). We should now attempt to trace the development of this tradition. In doing this we must pay close attention to how the concept develops in Germany itself. In addition, we must discern when it is introduced into other communities.<sup>12</sup> Specifically, we will look at the Italian, French, Spanish, Provençal and Arabic communities.

The first point of import to note is that this source from *Ma'aseh haMekbiri* is found only in *Ma'aseh haGeonim*, and not in any of the books from the Rashi school. This is noteworthy. The Rashi school, which does not follow the Tosafist methodology, gleans many of its halakhic discussions from the *Ma'aseh haMekbiri*. R. Isaac b' Judah himself was one of Rashi's teachers. This particular responsum of R. Isaac b' Judah is a large, multi-sectioned response about the blood-removal treatment for hearts and livers. Every other part of this responsum is quoted or paraphrased in at least one of the books of the Rashi school. Only the part in question is not. Thus, we may speculate that Rashi and/or his students were aware of the custom, but considered it a peculiarly German one, and were not sufficiently impressed by the worry to warrant introducing the custom into France.

## B. RAVYAH

In Germany itself, the next time we see this custom mentioned is by R. Eliezer b' Joel haLevi, known as Ravyah (c.1140-c.1225). In his *Avi haEzri*, also known as *Sefer haRavyah* (*Hullin* no. 1119), he writes:

<sup>11</sup> This principle is assumed by many Rishonim. See, for example, Rashi *Hullin* 111a, s.v. *umishum shamnunit*, or Tosafot *Shabbat* 128a s.v. *dehazei le'umtza*.

<sup>12</sup> I am aware that much of this can be construed as an argument from silence. It is always possible that someone was aware of this custom, but never spoke about it. I have tried to keep this in mind when looking through different sources. Although in researching this custom I considered all sources, I have given more weight to organized halakhic works which attempt to be all-encompassing than to responsa or commentaries, which tend to be more hit and miss. Sometimes, but not always, it was possible to infer from other discussions in these works what they would think about a time limit for salting or *nikkur*. In general, a pattern emerges that can explain most of the respective sources' mention of the custom or lack thereof.

And I have also heard from our Rabbi, my father, my master, who received [this tradition] from the Rishonim, that any meat which sits for three days—the full 72 hours—which did not undergo *nikkur* and was not salted, will not again “spit out” its blood, for the forbidden fat and blood harden within it.

Before we begin to look at the development the tradition has undergone, we should note the chronological gap between these two sources. Ravyah lived a bit more than a century later than the editors of *Ma’aseh haGeonim*. In the time between these two books, there were two extremely important halakhic works written in Germany; the *Even haEzer* by R. Eliezer b’ Nathan, known as Ravan (c.1090-c.1170), Ravyah’s maternal grandfather; and *Sefer haYereim* by R. Eliezer b’ Samuel of Metz (c.1175), Ravyah’s teacher.<sup>13</sup> Neither of these works mentions the three-day time limit for either *nikkur* or salting, despite the fact that both works talk about blood removal, (Ravan’s work discusses it rather extensively). Also, Ravyah’s younger contemporary, R. Elazar b’ Judah of Worms (c.1160-c.1238), in his own halakhic work known as the *Rokeah*, does not mention the three-day time limit either. In light of this, one may conclude that up until the time of Ravyah, there were differing traditions in Germany on this matter, some having one version or another of the custom, some none at all. Luckily, we can trace a possible line of transmission, teacher to student, from R. Eleazer *haGadol* to Ravyah, using Ravyah’s own information, that he received this tradition from his father:

R. Eliezer haGadol—R. Isaac b’ Judah—R. Eliakim b’ Meshulam—R. Isaac b’ Asher haLevi (known as Rivah the Elder, c.1130)—R. Isaac b’ Mordecai of Regensburg (known as Rivam, c.1170)—R. Joel *ha-Levi* (Ravyah’s father)—Ravyah.

Apparently, this line of transmission represented a Rabbinic tradition that accepted this custom as normative, whereas the other German tradition(s) were either unaware of it, or rejected it as unimportant.<sup>14</sup>

<sup>13</sup> It should be noted that R. Eliezer of Metz was a disciple of R. Jacob b’ Meir, (known as Rabbeinu Tam, 1100-1171), the founder of the French Tosafist school and the grandson of Rashi. As we noted earlier, Rashi rejected this custom, and, as will be seen, the French school never adopted it (at least until the very end). Therefore, as a student of Rabbeinu Tam, it is possible that R. Eliezer may have had French leanings, (he did serve a French community, though, in essence, he remained a German scholar) and considered the custom not worth mentioning. We will see variations on this theme when we get to Maharam of Rothenburg and Rosh. However, this definitely cannot be said of Ravan, whose work had as one of its main purposes to defend the German school against the up-and-coming French school.

<sup>14</sup> This, of course, is all speculation. It should be noted that there are no early German scholars (or French for that matter) that I have checked who **actively** polemicized against the tradition.

When one closely inspects the tradition as recorded by Ravyah, one notices significant changes occurred over the century. First, the three-day time limit is now applied to salting as well as *nikkur*. Second, the explanation for the time limit has changed: It is no longer about absorbing excess blood or fat, but is rather about said blood or fat hardening, and thereby becoming impossible to remove. These points merit further examination, as many of the subsequent halakhic discussions rely heavily on these distinctions.

The introduction of a time limit for salting completely changes the conceptualization of this stringency. According to R. Eliezer haGadol's custom, the only problem occurs when the meat absorbs blood from somewhere else. There is good reason behind this: as we mentioned earlier, the general assumption in *halakhah* is that blood found naturally in the meat, which has not been displaced, is permitted to be eaten.<sup>15</sup> Presumably, R. Eliezer haGadol's response to Ravyah's worry would be that dried blood which can no longer be removed is akin to blood that has not been displaced, and is therefore permitted to be eaten. As long as *nikkur* has been performed, and there is no excess blood from the veins being absorbed into the meat, why should there be a time requirement for salting the meat? One can hear echoes of R. Eliezer haGadol's absorption theory in the fact that Ravyah still requires that *nikkur* be performed within three days, and he specifically mentions forbidden fat becoming impossible to remove. Clearly, Ravyah envisions the absorption of fat into the meat, since the removal of visible fat even after three days would pose no problem for any butcher.

Essentially, Ravyah has two issues: absorbed fat (and presumably absorbed blood from the veins); and "local" non-displaced blood which hardens in the meat itself. The question we placed in R. Eliezer haGadol's mouth, (i.e. if the blood cannot be displaced, why should the meat be forbidden?), will be the opening for later scholars to add modifications onto this new stringency of salting.

Ravyah was one of the greatest of the German Tosafists, and his work had significant influence on all subsequent generations, even in other schools. Thus we find mention of the custom in *Asufot* (no. 166), a work by a student of R. Elazar of Worms,<sup>16</sup> in the next generation of German scholars (mid-thirteenth century):

<sup>15</sup> That is why raw meat is permitted to be eaten unsalted, though some (like Maimonides) require *halita*, (dipping in vinegar or hot water) first. It should be noted that there are many who saw *halita*, which, in the time of the Geonim and earlier, was considered to be a substitute for salting, as designed to accomplish just that; that is, as opposed to salting, which would remove the blood, *halita* would keep it where it was, guaranteeing that the blood would remain non-displaced, and, therefore, permitted. We will see *halita* become a factor in R. Nathan's argument later on.

<sup>16</sup> The strong influence of Ravyah on R. Elazar of Worms's school can also be seen in *Ma'aseh haRokeah*, attributed (questionably) to R. Elazar himself. However, this work does not contain a section on blood removal.

Any meat that sits for three days—the full 72 hours—which has not undergone *nikkur* or salting, will not again spit out its blood, for the forbidden fat and blood has hardened within it, and [the meat] is forbidden.

This is a word for word quote of Ravyah. The only difference is that whereas Ravyah quotes it as a tradition he received from his father, the *Asufot* writes it as an authoritative statement, without appeal to tradition or other scholars to back it up. Clearly, Ravyah's endorsement of the custom (specifically, his version of it, i.e. *nikkur* and salting) had its impact.<sup>17</sup>

To summarize: by the time of Ravyah, the custom has shifted both in its reason and its practice. The reasoning now has to do with the hardening of the fat and blood, as opposed to their absorption. Accordingly, the custom is extended to salting as well as to the original *nikkur*, since “local” blood is also subject to hardening.

### C. THE GENERATION AFTER RAVYAH

In the next generation of German scholars, some new issues are raised. The first we will look at is reported by a student of R. Yakkar b' Samuel haLevi (late thirteenth century, *Teshuvot uPesakim me'et Hakhmei Ashkenaz uTzarfat*, ed. Kupfer, no. 17):

About that to which we are accustomed—salting meat within three days—this is because of what we say in *Hullin* (8b): “A person should not place loins upon meat, perhaps the meat will absorb from the loins, for [their] fat is upon it.” So too here, since he has delayed salting it from its blood, it will not again exit correctly. And my teacher, Rabbi Yakkar, said to me: “There is a proof in *Genesis Rabbah* (34:21), also brought in Chapter *Hellek* (*Sanhedrin* 91a), it says: “Antoninus asked Rabbi: ‘When is the soul placed in man?’ He

<sup>17</sup> Here I would like to note a troubling fact: The most dominant scholar in this same generation as the *Asufot*, and a disciple of Ravyah himself, was R. Isaac b' Moshe of Vienna (late twelfth-mid thirteenth centuries). However, in his encyclopedic work, *Or Zarua*, there is no mention of this practice at all. Nevertheless, in the next generation, it is taken for granted by every German scholar, including R. Isaac of Vienna's own son, Haim. It is known that R. Isaac studied under the French scholar R. Judah of Paris, which may be a factor here. However, the next generation's leader, R. Meir b' Barukh of Rothenburg also studied under a French scholar, R. Yehiel of Paris, (R. Judah's son) and he certainly observed this custom, though his own practice does reflect French influence. I have no good explanation for why R. Isaac of Vienna ignores the custom, and the point remains a troublesome one. However, it should be noted that R. Israel of Krems seems to quote the *Or Zarua* as his source for the custom, but since his quote is so obviously of R. Mordekhai b' Hillel's work, I tend to think the citation is a mistake (or a reference to something else).

(Rabbi) said to him: “From when he leaves his mother’s womb.”[Antoninus] said to him: “[Here’s] an example: If you leave meat for three days, will it not become rancid? Rather, [the answer is] when he is conceived.”<sup>18</sup> And our rabbi conceded to him, for also a verse aided him (Antoninus): “For as long as my soul is within me, and the spirit of the Lord in my nostrils” (Job 27:3), “And my soul guarded your *pekudot*” (Job 10:12).<sup>19</sup> When did you place the soul within me? When you formed (*pakad*) me.”

The author of this responsum begins with the same proof-text offered by R. Eliezer haGadol. However, whereas R. Eliezer only applied it to *nikkur*, this author applies it to salting, and does not mention *nikkur* at all, an indication that the custom changed yet again.<sup>20</sup> Furthermore, the use of this proof-text is a rather large jump for this author, in that the Talmud only discusses the melting of forbidden fat and its subsequent absorption into the meat,<sup>21</sup> not blood. The author focuses not on the absorption per se, but rather on the time delay implied by the case. Apparently, he imagines the case to involve not simply placing the loins on the meat, but leaving them there for a significant amount of time.<sup>22</sup> Therefore, he argues, if time delay causes the meat to be unable to “spit out” the absorbed fat, so too, time delay would make the meat unable to spit out its already present blood.<sup>23</sup>

The author’s next, and even more fascinating, move is to quote his teacher, R. Yakkar, who has a new proof-text for the custom. He quotes a story in Genesis Rabbah, where R. Judah the Prince and Antoninus<sup>24</sup> are discussing when a person receives his soul. When R. Judah suggests that this occurs only at birth, Antoninus attempts to disprove this hypothesis by analogy. He points out that meat, if left without salt for three days, will go bad. Therefore, by analogy, a fetus, if left without a soul too long, will also “go bad.” The nature of this anal-

<sup>18</sup> The word here is not the usual word for conception, but rather a euphemism for sexual intercourse. Ostensibly, the term was chosen so as to fit in with the upcoming *drashah*.

<sup>19</sup> Literally, either “your commands” or “your visitings,” but here it is taken exegetically to refer to “formings.”

<sup>20</sup> Or, this version could have existed concomitantly with the other(s).

<sup>21</sup> Of course, R. Eliezer haGadol does not have this problem, since he is referring to forbidden fat.

<sup>22</sup> Although this is certainly not mentioned in the Talmud, the author’s assumption is not counter-intuitive. Would Rav Papa really forbid the meat if the loins were only left there for a few minutes?

<sup>23</sup> It should be noted that this author shares Ravyah’s basic difficulty, i.e. that blood which has not moved is permitted to be eaten.

<sup>24</sup> Scholars disagree about the precise identity of Antoninus. Suffice it to say he was an important Roman figure. Popular legend has these two characters as friends, and many midrashic tales depict conversations between the two.

ogy is hard to understand. Apparently, Antoninus understood life force to be a sort of preservative for the body, like salt on meat. How does this apply to the *halakhab* of salting? Kupfer<sup>25</sup> suggests that if the nature of the meat changes after three days, then it is possible that salting would no longer work. Salting is a process which causes **regular** meat to spit out its blood, but once the meat changes its essential nature from regular to rancid, how does one know the process would still work?

In summary, R. Yakkar and his student have a different reason for the three day minimum, which they only mention with regard to salting, (*nikkur* does not figure at all in this piece). Though they agree that salting will not work after three days, they do not mention the drying of the meat as the cause, but, rather, its decomposition. This will be important when we begin to look at some of the leniencies offered in the “drying” model.

#### D. R. MEIR OF ROTHENBURG’S SCHOOL AND RAMAM—ROASTING THE MEAT

The other new issues raised in this generation of scholars are by R. Meir b. Baruch of Rothenburg, called Maharam (c.1215-1293), one in his own name, and one in the name of a contemporary scholar. The first is one reported in his name by many of his students. We will start by looking at the issue as discussed by R. Haim b’ Isaac *Or Zarua*<sup>26</sup> (late 13th century). He mentions the custom in two places in his *Derashot* (interestingly, not in the name of his teacher, R. Meir). The first is found in no. 6, in the context of the larger discussion of whether one needs to salt meat if one is going to roast it:<sup>27</sup>

<sup>25</sup> Note 4. A different explanation is offered by S. Bognac Nasi in a polemical defense of R. Jacob of Bagnols, whose position, similar to R. Yakkar’s and mentioned in his *Issur veHeter*, we will see later. This defense is brought down by the copyist of R. Jacob of Bagnols’ work, a student of S. Bognac. It is actually included as part of the main text, due to a misunderstanding of a later copyist, and, unfortunately, the modern day publisher. (See in Blau’s introduction, the discussion of the identity of S. Bognac Nasi.)

<sup>26</sup> An older student of R. Meir of Rothenburg, and the son of Rabbi Isaac of Vienna, author of the *Or Zarua*.

<sup>27</sup> “Cooking,” in the laws of *kashrut*, refers to cooking in water. “Roasting” refers to the use of direct exposure to fire. The Rabbis considered cooking to be a process that causes all the internal juices to move and stir, mixing everything in the pot. Roasting, on the other hand, according to most authorities (not Rashi or Rambam), would only affect the surface, and a touch deeper. The question about whether one needs to salt before roasting is based on the argument that if one is only affecting the surface, then the internal juices are not flowing, and the blood isn’t moving. Since blood that has not been displaced is not forbidden, the blood in roasted meat would not be a problem at all, so there would be no need to remove it, and, therefore, no need for salting.

<sup>28</sup> R. Isaac b’ Samuel of Dampierre, Rashi’s great grandson, known as Ri the Elder (c.1120-c.1200).

Regarding roasting: Rashi requires salting, so, according to him, meat that sat for three days would be forbidden, even to roast. But Ri<sup>28</sup> questioned Rashi's explanation, and allowed roasting without salting. And the Geonim wrote that meat which sat for three days is permitted to roast. And Ri the Younger<sup>29</sup> answered the question (on Rashi's opinion, posed by Ri the Elder), therefore, it would seem that Rashi [is correct].

Again, in no. 26, in the context of the same discussion:

Rashi explained that roasting does not require as much salt as is needed [in order to permit] cooking in a pot. But the Tosafists<sup>30</sup> say that for roasting, one does not need any salt, just to roast the meat totally, well-done. Thus, according to Rashi's explanation, meat that sat for three days without being salted has no way of being prepared [in a kosher manner], even through roasting. However, according to the Tosafists, one can roast [the "damaged" meat], as long as he roasts it totally. Rizbah explains that roasting does require salting. . . .

There are a few interesting aspects to R. Haim *Or Zarua's* presentation. First of all, R. Haim mentions the Geonim. This in itself is odd, since the Geonim were not mentioned in any of the earlier sources. It is possible that all R. Haim means here is "great ones," but it is difficult to know.<sup>31</sup> Second, and perhaps more telling, is the *halakhah* that he quotes in their name. He does not offer the usual formulation that meat which has sat for three days is forbidden. Rather he states that meat which has sat for three days must be roasted. Not only is this a completely new formulation of the custom, but R. Haim himself contradicts it by saying that this idea—that roasting is a way of permitting meat that sat for three days in its blood—only works according to Ri the Elder's understanding. Rashi, on the other hand, would not accept roasting as a solution, and he would forbid the meat entirely as an unfixable problem. And Rashi's opinion is the one which seems to R. Haim to be correct.<sup>32</sup>

R. Haim is aware that neither Rashi nor Ri the Elder has a problem with meat that sat in its blood for more than three days. His purpose is rather to apply the German stringency to an argument of a different nature. His logic is as follows: According to Ri the Elder, there is never any need to salt meat if one is to roast

<sup>29</sup> R. Isaac b' Abraham, also known as Rizbah (d. c.1210). He was the older brother of the famous R. Samson of Sens (c.1150-c.1214), upon whose comments most of our Tosafot are based.

<sup>30</sup> Representing Ri the Elder's opinion, as quoted in the earlier text.

<sup>31</sup> We will discuss this further when we look at the *Tashbetz*.

<sup>32</sup> This is in contradiction to his father, who states in Part One of the *Or Zarua*, Laws of Meat and Dairy, no. 477 that one need not salt meat for roasting; one need only ensure that it is roasted well (Ri the Elder's opinion).

it. Accordingly, what difference could it make if one waited three hours or three days; either way, the meat should be permitted. However, if one accepts Rashi's position—that all meat needs salting—then, once one also accepts the premise that a three day wait would end the effectiveness of salting on the meat, one would argue that there would be no way to *kasher* this meat, once the three day window passed. Thus, the issue of whether roasting would work or not would be based not on what one's particular custom was; rather it would be based on whether one followed Rashi or Ri the Elder on the matter of salting before roasting. The fact that R. Haim quotes the Geonim as having permitted roasting the meat after three days is an attestation to the fact that he is already including his own deductions into his quotes, and is a tribute to the "looseness" of his style.

This new point mentioned by R. Haim, that roasting may be a mitigating factor in the three day stringency, is quoted by all of the other students of R. Meir of Rothenburg in his (Maharam's) name. In *Sefer haParnes* (no. 90), R. Moses Parnes (late 13th century) writes:

Meat that has sat for three days, the full 72 hours, without salting—it is customary to treat it as forbidden, since all of the blood will not exit it now, even after salting. But Maharam permits it when roasted, even after three days.

What stands out in R. Parnes' presentation is the absence of *nikkur*, which we first observed in the responsum by R. Yakkar's student. Nowhere does R. Parnes indicate that *nikkur* must also be performed within three days. The question must be asked: Is this deliberate? Did Maharam (and the scholars of his generation) apply the three day time limit to *nikkur*, or only to salting? To decide this question, we will turn to other students of Maharam.<sup>33</sup> In *Hagahot Maimoni*, Forbidden Foods, (6:9), R. Meir b' Yekutiel haKohen (d. 1298) writes:<sup>34</sup>

A quote from Ravyah: "And I heard also from my father my master, who received [this tradition] from the Rishonim, that any meat which sat three days—the full 72 hours—{which did not undergo *nikkur*}<sup>35</sup> and was not salted, will not again spit out its blood, for the forbidden fat and blood harden within it." End quote. But behold, Maharam permits it, from that point on, to be eaten roasted. . . .

<sup>33</sup> Since Maharam was by far the most dominant German scholar of his day, almost every German scholar of the next generation studied with him at one time or another, even scholars that were previously educated, like R. Haim and R. Asher.

<sup>34</sup> The quote is from the Frankel edition of the regular text. The Constantine edition, which often differs significantly from the regular one, is here virtually identical, with one major difference which will be addressed in the analysis.

<sup>35</sup> These brackets are in the Hebrew edition itself.

The first thing one notices is the brackets. These words were added by the Frankel editors on the basis of manuscripts, and they are also included in the Constantine edition. However, they were not included in the regular printed editions, and their absence caused much debate among the Ahronim. As we have seen, the words are included in the text of Ravyah. Nevertheless, this is not an absolute proof that R. Meir b' Yekutiel had them in his version.

At first glance, one would say that the end of the quoted text should decide the question; “forbidden fat and blood harden within it.” However, the words “forbidden fat and” do not appear in the Constantine edition. Instead, it reads “the blood hardens within it.” How does this fit with the fact that *nikkur* is specifically mentioned at the beginning of the text? This is a difficult question. Avoiding the possibility of manuscript corruption, it is possible to argue that the author (or editor) of the Constantine printing distinguishes here between the different types of *nikkur*. Perhaps he understands the text to require de-veining within three days, as part of the general concern about blood hardening, but does not require removal of forbidden fats at any specific time.

Nevertheless, what seems most probable is that the Frankel edition is the correct one, but aspects of the *nikkur* discussion were deleted as time went on, due to the general shift in halakhic position of the later Germans. But what about Maharam? Can one determine from the above quotation whether he applied the custom to *nikkur* as well? It seems not. Just because the two quotes, Ravyah and Maharam, are juxtaposed in the *Hagahot Maimoni*, does not mean that the two original sources were discussing the exact same thing. It is possible that Maharam was only referring to unsalted meat after three days, but R. Meir b' Yekutiel decided to bring Maharam's position in as a gloss on Ravyah's more expansive custom.

This point can be better demonstrated by a look at R. Mordekhai b' Hillel's (c.1240-1298) halakhic work (*Hullin* ch.8, nos. 4322 and 4326):

And our Rabbi Joel haLevi received [this tradition] from the Rishonim: Any meat which sat for three days—the full 72 hours—without undergoing *nikkur* and without salting, will not again spit out its blood, for it becomes hardened by the forbidden fat and blood within it. But Maharam is accustomed to permit (it) when roasted, for unsalted meat is permitted (to be eaten) when roasted.<sup>36</sup>

<sup>36</sup> There is an extra line in 4322 which reads: “. . . and so too wrote *Or Zarua*. And it is worth considering whether Maharam would permit (roasted meat) even in a case of *nikkur* [not being performed within three days].” This extra line, however, is not part of R. Mordekhai's words, but is rather a note that was inserted, accidentally, into the text. This is clear from the text of the Glosses on the *Sha'arei Dura*, 4:4, where the author quotes R. Mordekhai, up to his citing of Maharam, then quotes what he calls “a gloss”, which is this very line, (minus the citation of the *Or Zarua*). Freilich, the editor of the *Sha'arei Dura* notes this as well (see his *Sha'arei Binah*, 4:5).

One interesting point about R. Mordekhai's presentation is that the reasoning is shifted slightly: It is not that the fat and blood become hardened, but that due to the meat's having sat in fat and blood, the meat itself becomes hardened. This is reminiscent of the explanation offered by R. Yakkar b' Samuel earlier. Nevertheless, it is clear that R. Mordekhai had *nikkur* in his text of Ravyah, and is concerned about it.

Another source, from an anonymous German Rishon,<sup>37</sup> also quotes the Maharam:

*Avi haEzri* wrote: "Meat which did not undergo *nikkur* and was not salted is forbidden, because the blood hardens within it,<sup>38</sup> and will not exit, even through salting." And the following is a quote from Rav Sa'adia:<sup>39</sup> "Regarding [the fact] that in our place we perform *nikkur* on meat before three days have passed—I asked [Our] Rabbi, and he said to me that even his father was careful about this, but he never heard a reason why this isn't found written down.<sup>40</sup> It would seem [that the reason is because] the blood gets absorbed into the limbs in three days, and will not exit. Or perhaps, the reason is from [the Talmudic statement]: 'One should not place loins upon [meat], for the fat melts and the meat absorbs'." However, within three days [the meat] may also absorb [melted fat]! But here we do not worry [about that], nor [do they] in Worms."<sup>41</sup> End quote. And I heard in the name of the R. Meir (Maharam), that meat which was not salted and did not undergo *nikkur* within three days, is permitted when roasted, for the fire draws out [the fat and blood].

Of all the presentations of Maharam's opinion, this one is the strongest in favor of the idea that Maharam included *nikkur* within his conception of the three day time limit. In fact, Kahana, in a footnote, uses this text to answer "R.

<sup>37</sup> It was published by Isaac Zev Kahana in *Sinai* 14, as Responsa of the Or Zarua and Maharam b' Baruch. This particular responsum is *siman* 84.

<sup>38</sup> Note the use of the same Ravyah text as in the Constantine version of the *Hagahot Maimoni*, with the inclusion of *nikkur*, but the absence of hardening fat.

<sup>39</sup> The Rav Sa'adia mentioned here is not the famous Gaon of that name, but a fourteenth-century German scholar, R. Sa'adia b' Shneur of Vienna. The responsum here is not his own, but is the response of R. Isaac b' Judah which we saw earlier. Apparently, R. Sa'adia had access to the *Ma'aseh haGeonim*, and copied this responsum down on the side of his *Sha'arei Dura*. I infer this from a statement in the Responsa of R. Jacob Moelin (c.1365-1427), no. 87:3.

<sup>40</sup> This is probably a misprint and should read "nor could he find one written down". In the Hebrew it is just the difference of one letter.

<sup>41</sup> In this version of the *Ma'aseh haGeonim* text, there is no ambiguity as to what "here" refers; it refers to Mainz.

Mordekhai's<sup>42</sup> question about whether Maharam would allow meat that sat for three days without *nikkur* to be roasted. However, nothing can be proven from this source. The author of the response clearly never discussed the issue with Maharam, as he only heard second hand about Maharam's opinion. Further, it is clear from the way he phrases the beginning of Maharam's statement that he modeled it after Ravyah, whom he quoted earlier in the response. It therefore seems that our author was influenced by Ravyah and R. Isaac b' Judah, and formulated his notion of Maharam's position around their premises. It is thus impossible to deduce Maharam's real position on *nikkur*, with sources already "tainted" by the premises of the earlier Germans.

We will turn next to R. Samson b' Tzaddok (c. 1285), in his work *Tashbetz*,<sup>43</sup> (nos. 342-343), a work which, like *Sefer haParnes*, is built specifically upon Maharam's thinking:

"Meat which sat for three days—the full 72 hours—without being salted; its blood will not then exit through salting, but only when cooked." Thus was found in *Geonic* responsa. But when roasted, I say that it is permitted, for blood found locally in the meat, which has not been displaced, is permitted. And if it departs due to the fire, the flame draws it [and it doesn't remain in the meat]. And I have seen the Ram (Maharam) ז"ל permit meat, which was not salted until after three days, to be roasted [and eaten].

The first thing to note is that, just like in *Sefer haParnes* and the student of R. Yakkar, there is no mention of *nikkur* in the entire discussion, nor is there any mention of forbidden fats.

Beyond this, a few features stand out: First, not only does R. Samson quote the *Geonim*, but he actually refers to Geonic responsa. His contemporary, and a fellow student of Maharam, R. Haim *Or Zarua*, whom we saw earlier, also mentioned Geonic writings, as does the *Sha'arei Dura*, which we will see next. From this it would seem possible that Maharam actually had in his possession responsa of the Geonim which discussed the requirement to salt meat within three days, but said nothing about *nikkur*. The difficulty with this possibility is the following: No such responsum exists in any Geonic work in our possession today, nor was any such responsum quoted by earlier German scholars, or any other earlier or contemporary scholar from any other country. How is it that Maharam would have in his possession, in the thirteenth century, such a responsum, unknown to any other scholar for three hundred years? Of course, it is possible

<sup>42</sup> Apparently, Kahana was unaware of the source in the Glosses on the *Sha'arei Dura*, which demonstrates that the question was not R. Mordekhai's.

<sup>43</sup> This work is sometimes referred to as the *Smaller Tashbetz*, so as not to confuse it with the larger work of the same name, by the late fourteenth century North African scholar, R. Simon b' Tzemah.

that it was known, just not quoted, but this seems unlikely. Another possibility is that Maharam and his students just mean “an old responsum”, and they are referring to some early Ashkenazic source, probably a reworking of Ravyah’s piece. A third possibility is that Maharam had a late, anonymous responsum, which was written as an edited version of Ravyah’s words,<sup>44</sup> so as not to include *nikkur*. This piece, instead of referring to Rishonim, may have said Geonim, or maybe nothing at all. Either way, it is possible that Maharam (or his students) considered this to be an authentic Geonic responsum, and treated it as such. This final possibility seems most likely, but further research remains to reach a definitive conclusion.<sup>45</sup>

Another interesting point is that R. Samson’s quotation from the Geonim includes the added information that blood which is not removed by salting will be removed by cooking. The point here is that the cooking process is a stronger method of moving the internal juices than salting is. This is due to the liquid used in cooking. The problem then becomes, if the blood is trapped in the meat until the meat is cooked, but the cooking releases the blood, then, effectively, cooking this meat will be tantamount to cooking it in its own blood. This point is essential to R. Samson, who is dealing explicitly with the problem we mentioned earlier: if blood is really trapped and cannot move, even through cooking, it would not be forbidden. Therefore, it is essential that cooking be powerful enough to get the blood moving; otherwise, the whole stringency would be senseless.

This leads to his final point, which is the explanation for why roasting is a mitigating factor. He offers a two-pronged argument: If roasting does not get the blood to move, now that it is dried out, then it is not a problem (since non-displaced blood found locally in meat is not forbidden.) If roasting does get the blood to move, then the fire will draw the blood to it, and it will not be reabsorbed into the meat. This, of course, is the critical difference between salting and roasting on one hand, and cooking on the other. In cooking, the very mechanism which gets the blood to move also causes it to be reabsorbed into the meat.

A good summary of the state of this custom in Maharam’s thinking can be found in the *Sha’arei Dura* (no. 4), the most important of all the Ashkenazic *kashrut* manuals, written by R. Isaac b’ Meir of Duren (late 13th century):<sup>46</sup>

The Geonim wrote that any meat which sat three whole days—72 hours—which was not salted; the blood hardens within it, and will

<sup>44</sup> The phraseology and style of this “Geonic” responsum is extremely similar to Ravyah’s style.

<sup>45</sup> See Israel Meir Ta-Shma’s *Minhag Ashkenaz haKadmon*, pgs. 202,238,&260, and *Sefer haRavyah*, published by Aptowitz, vol. 2 page 72 note 25, for a discussion of the use of the term Gaon to refer to early Ashkenazic sources.

<sup>46</sup> Halperin has him as the son-in-law of R. Yakkar b’ Samuel, mentioned earlier.

not, then, exit through salting, and is forbidden. Indeed, in the Talmud we do not find this stringency, for so what if [the meat] will not spit forth [its blood]? Would this not be [a case of] limb blood which was not displaced, and is permitted! Indeed, Maharam ruled: Any meat which sat three entire days without salting, whether in summer or winter, it is a *mitzvah* to eat it roasted, for then (when roasted) the blood will depart, for the fire draws it, but one should not cook it, since, after all, this [custom] comes from the mouth of the Geonim. For the reasoning is, that after three days, the blood will not depart through salting, but, rather, only through cooking. But, it is permitted to roast it, because even if the blood does not exit, so what? It is limb blood which was not displaced, and is permitted. And that which does depart due to the fire, the flame draws. For they said that the blood, which pooled inside it, will exit through roasting, and he (Maharam) would not forbid it (the meat) to be roasted, even if it sat longer than three full days, 72 hours.

R. Isaac of Duren expresses here, in strong terms, the basic problem with the custom, namely that non-displaced blood is permitted. This issue was never addressed by Ravyah, and we can see from the force of R. Isaac of Duren's argument, that this was the impetus for the cooking versus roasting distinction offered by Maharam, on the basis of the "Geonic" responsum.

However, we can detect something even more from R. Isaac of Duren's language: It seems that, deep down, there is a skepticism regarding this stringency altogether. It almost appears as if R. Isaac of Duren and Maharam accepted this stringency only grudgingly, since "it comes from the mouth of the Geonim". If true, this may point to the strong French influence on Maharam and R. Isaac, both of whom studied in France.<sup>47</sup>

Finally, we should note yet again that no mention is made of *nikkur*. None of the Maharam-influenced sources mentioned *nikkur*,<sup>48</sup> unless quoting R. Isaac b' Judah or Ravyah. This demonstrates that Maharam and his school were either unaware or dismissive of the three day stringency applying to *nikkur*. Why would this be? R. Asher b' Yehiel, called Rosh (c.1250-1327), the most famous of Maharam's students, points us toward an answer in a responsum (no. 20:25):

Regarding what you asked: That it is a widespread custom in this country not to eat meat which sat for three days without undergoing *nikkur*—if it is a Mishnah, or a Gemara, or a Midrash, or a Gaon? I have never heard of this custom, for why would it depend on *nikkur*? The fat will not be absorbed into the meat, since it is cold! Rather, in

<sup>47</sup> Maharam with R. Yehiel of Paris (c.1190-c.1268), and R. Isaac of Duren with R. Tuvia b' Elijah.

<sup>48</sup> *Sefer ha-Parnes*, R. Haim Or Zarua, *Tashbetz*, and *Sha'arei Dura*.

Germany and France<sup>49</sup> they practice like the Geonim, who wrote that meat which sat three days without salting, the blood accumulates<sup>50</sup> within it, and will not depart through salting, and is forbidden. And, R. Meir of Rothenburg permitted it through roasting, for even if the blood does not go out, it is limb blood which was not displaced, and is permitted. But cooking it in a pot is forbidden, for even though [the meat] will not spit out [the blood] when salted, it will spit out its blood when [cooked] in a pot.

In this source, Rosh states explicitly that he knows of no requirement to perform *nikkur* within three days. More than that, he states that he has never heard of such a custom. He even adds a proof why this would not be necessary. His proof is that fat will not melt and the meat will not absorb it, so long as it is cold.<sup>51</sup>

What about the Talmudic passage quoted as a proof by R. Eliezer haGadol, which seems to state just the opposite? *Tosafot* answers this question (*Hullin* 8b):<sup>52</sup>

“A person should not place loins upon meat:” this means immediately after slicing, before the meat cools. However, after it cools, one need not worry, as it is written (Lev. 9:20): “and they placed the fats upon the chests.”

This particular comment was included also in Rosh’s own glosses on the Talmud, (known as *Tosafot haRosh*) word for word. Rosh, and presumably Maharam, accepted this premise as fact. Therefore, as Rosh himself says explicitly, it would be impossible for the leftover fat on a piece of meat to melt into the meat over a three day period, since the meat would not remain hot for that long.

To summarize our findings thus far: The earliest German custom, that of R. Eliezer haGadol, was to perform *nikkur* within three days. This custom apparently was not universal, and was rarely quoted. About a century later Ravyah reported a custom of the Rishonim to perform both *nikkur* and salting within

<sup>49</sup> Rosh here mentions that this custom existed in France. This is interesting since none of the contemporary French sources mention it.

<sup>50</sup> Rosh, here, deviates slightly from the usual explanation, saying that the blood “accumulates” instead of “hardens”. He may be referring to a passage in the Talmud, *Shabbat* 107b, also found in *Hullin* 46b, which says that usually, one violates the prohibition of hitting somebody only when blood is shed, but a bruise, where “the blood accumulates”, also counts as a violation, even if the blood doesn’t leave the skin.

<sup>51</sup> Rosh here conspicuously leaves out the issue of de-veining in his description of *nikkur*.

<sup>52</sup> Compiled by R. Eliezer of Touques, a student of R. Isaac of Vienna, and based mostly on the work of the French schools.

three days. This custom received wide acceptance. Less than a century later, the students of Maharam reported a custom of the Geonim to salt the meat within three days, if one wants to cook it; otherwise, it must be eaten roasted. There is no need, according to this custom, to perform *nikkur* at any particular time. This custom received broad acceptance, in many cases, displacing the custom of Ravyah.

A final interesting development on the issue of roasting is quoted by R. Mendel Klausner<sup>53</sup> in the name of R. Menahem b' Pinhas "*Me'il Tzedek*" of Merseburg,<sup>54</sup> called Ramam, (early 14th century):<sup>55</sup>

Meat which sat for three days, the full 72 hours, which was not salted—it is forbidden to cook it, but it is permitted to roast it. And after one roasts it, Ramam permits one to cook it afterwards.

Apparently, R. Menahem sees roasting as a foolproof way of removing blood. In his conception, salting is simply a less powerful method of removing blood; good enough for a regular case, but not enough for more difficult ones, where one must use the most powerful methods. Of course, this is not the only way to understand Maharam's point, nor is it even the simple reading of the text. For example, Rosh, R. Isaac of Duren and R. Samson b' Tzadok all mention the point that even if the blood does not leave when roasted, then it is nondisplaced limb blood, which is permitted. This "even if" strongly implies that their understanding of Maharam's position was not that roasting was a foolproof way of removing blood<sup>56</sup>, but that it was a way of preparing meat to be eaten without cooking. According to these *poskim* it appears that cooking is the most powerful way to move blood, but it also causes that same blood to be reabsorbed into the meat, something that roasting does not do, because "the fire draws it out".

From this analysis, it would appear that R. Menahem was basing himself only loosely on Maharam's point, but was really introducing an entirely new premise of his own. For this reason, many later scholars were wary to rely on his position, and the matter was hotly debated in the following centuries.<sup>57</sup>

<sup>53</sup> Rulings of our Rabbi Mendel Klausner, *Hullin*, ch. 8. Though his work is part of the "compilers" generation, I quote it here, since his is the earliest quoting of R. Menahem of Merseburg's position.

<sup>54</sup> A student of R. Isaac, son of R. Haim Or Zarua.

<sup>55</sup> Although there is a work called "Reasonings of R. Menahem of Merseburg" published in the back of the standard edition of R. Jacob Weil's responsa, this is, probably, only a small work in comparison to the lost halakhic work of R. Menahem. Many scholars feel that his nickname, *Me'il Tzedek*, was probably the name of his lost work.

<sup>56</sup> This point is argued vociferously by R. Israel Isserlin (c.1390-1460). See his *Terumat haDeshen*, responsa section, no. 160, and Glosses on the *Sha'arei Dura*, 4:3.

<sup>57</sup> See, for example, Responsa of R. Jacob Moelin (Maharil), no. 87:3; also see Responsa of R. David ibn Zimra (Radbaz) 1:138.

**E. RI HOZEH AND RI TRESSON—WASHING THE MEAT**

A second, and separate issue was introduced by a contemporary of Maharam, R. Isaac Hozeh, called Mahari Hozeh (mid-thirteenth century). He was originally a French scholar who later moved to Germany<sup>58</sup> and became one of Rosh's teachers. The first mention of his opinion is found in a responsum of Maharam, (Berlin/Bloch printing of Amsterdam manuscript, no. 90):

Regarding meat which was not salted until [after] three days, but was soaked in water within [the] three days; your city has received [the tradition], in accordance with the rabbi, our rabbi Isaac, that it is permitted [to cook]. If this is a tradition, we will accept it, and it makes some sense. But if it is reasoning, there is a response, and this is easy to understand.

The other mention of this ruling is by a student of Rosh, in a gloss on the *Sha'arei Dura* (ch. 4).<sup>59</sup>

The Rosh told us in the name of R. Isaac *Hozeh*, that if the meat was rinsed within three days, even if it wasn't salted,<sup>60</sup> it is permitted, even [to be cooked] in a pot. And the reason is that when one waits three days without rinsing and salting [the meat], then, the blood hardens within it, and doesn't exit through salting. However, when it is rinsed within three days, the meat softens,<sup>61</sup> and [the blood] will exit through salting, even after three days.

The basic point of R. Isaac Hozeh is clear: this stringency is not to be treated as an enactment, either by the Geonim or Rishonim, but rather as a real halakhic concern, based on the reality of what happens to blood when it sits. Dry blood will simply not be affected by salt. However, if one could keep the blood moist, then salting would still function adequately. Apparently, Rosh accepted this point, and Maharam was willing to consider it.

This conception of the custom would seem to fit only with the "Geonic" version, offered by the Maharam school. R. Eliezer haGadol's custom does not even address the issue of salting. But even more than that, his concern is absorption of fat and blood, not the drying of fat and blood. Keeping meat moist would, therefore, not be a relevant factor.

<sup>58</sup> His identity is the subject of much scholarly conjecture. See J. N. Epstein, *haKedem* vol. 1 pgs. 129-130.

<sup>59</sup> This gloss was accidentally placed into the main text, but is obviously not part of the *Sha'arei Dura*. It is one of a number of glosses, apparently all by the same person, which begin with: "The Rosh told us."

<sup>60</sup> Obviously, he assumes it will be salted before it is cooked, just not within three days of slaughtering.

<sup>61</sup> Oddly enough, R. Israel Isserlin, in the Glosses on the *Sha'arei Dura* 4:6, claims the exact opposite in the name of R. Mordekhai b' Hillel, i.e., that water hardens the meat.

Ravyah, on the other hand, does mention meat drying. But this brings us to a larger question: is Ravyah's custom identical to Maharam's, except that he retains *nikkur*? Or, are the two conceptions, even with regard to salting, fundamentally different? This issue is discussed by the later Rishonim, insofar as it relates to the issue of roasting. If Ravyah and Maharam have identical positions on salting, then they should agree on roasting. But if they have differing conceptions on salting, then Ravyah may differ with Maharam, and forbid even roasted meat.<sup>62</sup>

While it is impossible to know the answer to this question for certain, it seems that Ravyah considered this stringency to be an inviolable German custom,<sup>63</sup> i.e., even roasted meat left unsalted for three days would be forbidden. Obviously, Maharam disagreed. The influence of the French school provides a simple explanation for the disagreement: The French school paid no attention to this German custom, and it is unclear how much, if at all, the custom even existed in France. R. Isaac Hozeh, a French immigrant to Germany, and Maharam, a German trained in the French school, thus had some difficulty seeing the custom as inviolate while only loosely connected to the reason behind its existence. Therefore, understanding the reasoning behind the custom, they each found loopholes: Maharam permitted roasting, and R. Isaac permitted rinsing.

One more point about R. Isaac Hozeh's statement is the difference in presentation offered by Rosh and Maharam. Rosh says that the meat should be "rinsed", whereas Maharam says "soaked." While these processes are not exactly the same,<sup>64</sup> R. Isaac's whole point is that if the blood is still moist after three days, salting would still be effective. Therefore, it does not seem to matter whether it was soaked or rinsed, as long as whatever was done to it would be enough to keep the blood moist beyond the three day mark.

A possible proof of this point can be found in a source quoted in the Glosses on the *Sha'arei Dura* (4:1):<sup>65</sup>

<sup>62</sup> See *Issur veHeter*, 2:2, and Glosses on the *Sha'arei Dura*, 4:5, which argue that Ravyah would not accept roasting as a mitigating factor.

<sup>63</sup> I cannot go into an explication of what "custom" meant to the early Germans. For further information, see the introduction to Israel Meir Ta-Shma's *Minhag Ashkenaz haKadmon*.

<sup>64</sup> Later Rishonim discuss for how long one has to wet the meat. See *Issur veHeter* 2:1, and *Sefer ha'Agur* no. 1200.

<sup>65</sup> A quick note on this work: Officially, there is no such work. What happened was that many scholars put notes on the side of their copies of the *Sha'arei Dura*, since this work was the most influential of all Ashkenazi *kashrut* manuals. There were different collections of these, put out by different publishers, depending upon whose notes they had. The most dominant set of notes was put together by R. Israel Isserlin (or his students), which is why he is mistakenly referred to as the author of this work. Some of the notes are extremely early, from only a generation after R. Isaac of Duren. The version that we have in the standard edition is a hodgepodge collection of all the different versions, put

I found written in the name of our teacher, the rabbi Jacob Katz: “That which Maharam did not permit—to cook meat which sat without salting more than three days; this is specifically when it was not **rinsed** in water at all within three days, and was not salted until after three days. However, if it was **rinsed**, or placed in water within [those] three days, one is permitted to cook it. And the reason that when it sits for three days without salting that it is forbidden is because then the blood within it hardens, and will not again exit through salting. But if it is **rinsed** in the meantime, then, the meat softens, and the blood will depart through salting, even after three days.” And he<sup>66</sup> was a student of Maharam.

There are two key points here. The first is that we have a student of Maharam who states explicitly that his teacher allowed rinsing the meat within three days to permit one to cook the meat later on, even if salted after three days. This is important information, since the other students of Maharam do not mention this leniency. Also, from Maharam’s own responsum, it is difficult to tell whether he accepted the leniency or not, since he evinces a certain amount of skepticism. From this source, we see that, in the end, he accepted the leniency. The second key detail is that R. Jacob Katz uses the word “rinse” as opposed to “soak.” We see from this that the two are interchangeable, and R. Isaac Hozeh’s position is as was assumed earlier: all that matters is that the blood remain moist until the salting occurs.

A similar position is cited in the *Agudah* (*Hullin* 141), a work written by R. Alexander Zuslein haKohen (d. 1348), a student of R. Isaac of Duren:

And meat which sat three days, the full 72 hours, without being salted; the Geonim wrote: “The blood is fixed within it, and will not then exit through salting.” And the Ram z”l permitted [one] to roast it, since for roasting, salting is unnecessary. And if [the meat] was rinsed within three days, the water softens it, and they permitted [one] to salt and cook it, even after three days (meaning: from the day of slaughtering).

We see from this source just how standard R. Isaac Hozeh’s position became among the students of Maharam and their schools. Nevertheless, R. Isaac Hozeh’s opinion, though accepted by many as authoritative, did not enjoy the same near-universal status as did Maharam’s opinion about roasting.<sup>67</sup>

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together by Isaiah Nathan Freilich, in the mid-twentieth century, (including some notes of his own). The work is a treasure trove of sources and information, but it is extremely difficult to navigate. See Freilich’s introduction for how he put the work together.

<sup>66</sup> Presumably R. Jacob Katz.

<sup>67</sup> See Customs of R. Jacob Moelin (Maharil) section *Issur veHeter*, Glosses on the *Sba’arei Dura* 4:6, *Issur veHeter* 2:4,5 (notes in back), *Sefer ha’Agur* no. 1200, *Responsa Benyamin Zev* no. 328.

The final conceptual development of this point, in the time of the Rishonim, was offered by R. Isaac of Tresson (late 13th-early 14th centuries), another French emigrant to Germany,<sup>68</sup> in his gloss on the *Sha'arei Dura*, 4:1:

I heard that in the land of the Geonim, when meat would sit without having been salted for three days or more, that they were accustomed to soak it in tepid water, to “awaken” the blood, [so that the meat could] spit [it] out when salted.—Here ends the quote of Mahari Tresson.

Although R. Isaac of Tresson’s understanding is similar to that of R. Isaac Hoze’h’s, it is significantly more radical. Mahari Hoze’h still requires one to wash the meat during the three days if one wishes to cook the meat afterwards. However, if one follows Mahari Tresson, there is no need to do anything at all during the three days in order to cook the meat later:<sup>69</sup> If the blood dries, just make sure to soak the meat until the blood “awakens” and becomes moist again. Mahari Tresson thus effectively does away with the custom to apply salt within three days. What is left is a simple requirement to salt meat only when the blood is moist. Needless to say, his opinion was not universally accepted,<sup>70</sup> and is rarely quoted.

The *Amarkol* (early 14th century),<sup>71</sup> a German halakhic work of unknown authorship, provides a good summary of the state of German practice at this time:

The Geonim wrote that any meat which sat for three whole days, 72 hours, and wasn’t salted, the blood hardens within it, and will not again depart. We have not found this stringency in the Talmud. And Maharam said that [the meat] is forbidden when cooked, but permitted when roasted. And Mahari Tresson [said] that they were accustomed to soak it in tepid water. Mahari Hoze’h [said] that if it was rinsed within three days, it is permitted [to be cooked] even in a pot.

From this source it clearly emerges that Ravyah’s version of the custom, and any mention of *nikkur* at all, is forgotten. All the possibilities offered by the *Amarkol* are within the logic of Maharam’s “Geonic” version.<sup>72</sup> It is also interesting to note that from the *Amarkol*’s quote of Mahari Tresson, one would not realize the radicality of his position. I do not know if this was a deliberate “censoring” on the author’s part.

<sup>68</sup> This is my own theory, the reasoning behind which is beyond the scope of this paper.

<sup>69</sup> In this sense, it is similar in scope to the point of R. Menahem of Merseburg, about cooking after roasting. However, since roasting meat seriously affects the taste of it, R. Isaac of Tresson’s point is really more radical.

<sup>70</sup> See the comment of R. Israel Isserlin in the Glosses, *ad loc.*

<sup>71</sup> Collections from the *Hilkhot Amarkol*, section *Issur veHeter*.

<sup>72</sup> The only possibility missing is that of Ramam, and this is probably because they

**F. SUMMARY—THE “COMPILERS”**

Additionally, it is worthwhile to glance at the work of the “Compilers.”<sup>73</sup> Rabbi Mendel Klausner of Neustadt (mid-14th century), called Ramak, in his notes on Rosh (*Hullin* 8), begins with the position of Maharam, and adds that of R. Menahem of Merseburg:

Meat which sat for three days, the full 72 hours, which was not salted—it is forbidden to cook it, but it is permitted to roast it. And after one roasts it, Ramam permits one to cook it afterwards.

Next, R. Israel of Krems (c. 1375), in his notes on Rosh (*Hullin* 8:48),<sup>74</sup> quotes directly from R. Mordekhai’s work, beginning with the position of Ravyah, and adding that of Maharam:

Our Rabbi Joel received from the earlier generations that any meat which sat for three days, 72 hours, without undergoing *nikkur* and salting, will not again spit out [its blood], for the forbidden fat and blood become hardened within it. But Maharam is accustomed to permit [it] when roasted, for unsalted meat is permitted [to be eaten] when roasted. (From the *Or Zarua*).<sup>75</sup>

Finally we see R. Moses of Zurich (mid-14th century), in his commentary on the *Semak*<sup>76</sup> (203:89):

“And meat which sat for three days, 72 hours, without being salted—its blood will not then depart through salting, but only when cooked.” Thus was found in Geonic responsa. But when roasted, I say that it is permitted, for blood of the limbs which has not been displaced, is permitted. And then, it departs due to the fire, for the flame draws it.—*Tashbetz*.

As he states explicitly, R. Moses of Zurich is quoting R. Samson b’ Tzadok’s work. He starts with the “Geonic” quote, and brings in Maharam’s opinion (though not by name).

What stands out at this stage is the total lack of mention of either R. Isaac

<sup>73</sup> By the mid-fourteenth century, the outlying German communities found themselves without German rabbinic leadership, as a result of the Rheinfleish Massacres of 1298 and the 1348 Black Death. This is what I refer to as the generation of the Compilers, all of whom were not in Germany proper. They saw their function as collecting classical German texts of their predecessors (much like the works of R. Mordekhai b’ Hillel and R. Meir b’ Yekutiel haKohen half a century before).

<sup>74</sup> There are those who doubt his authorship of this work.

<sup>75</sup> I think that this is what the letters stand for. However, I didn’t find it in the *Or Zarua*, or in his son’s condensed version.

<sup>76</sup> *Sefer Mitzvot Katan*, The Small Book of Mitzvot, by the French scholar R. Isaac of Corbeil (d. 1280).

Hozeh's or R. Isaac of Tresson's opinions. As we discussed above, both of these positions about washing the meat very much circumvent the German custom. The feeling one gets from the Compilers is a "back to basics," purist sort of gesture, as if trying to recapture what was lost. This is felt especially with R. Israel of Krems' reintroduction of Ravyah's custom into the discourse.<sup>77</sup> The unconventional opinions of the two French (immigrant) scholars simply did not fit into that mold.

In summary, we see that this custom in Germany went through hundreds of years of conceptual development. There are at least three major versions of the custom; R. Eliezer haGadol's, Ravyah's and Maharam's, there are multiple variations, such as Ramam's, Mahari Hozeh's, and Mahari Tresson's, and more than one Talmudic proof offered. Clearly this custom has a rich history in Germany, both ritually and conceptually. As we are about to see, the same cannot be said of this practice in other countries.

## II. BEYOND GERMANY

### A. ITALY

Three Italian Rishonim discuss this custom, none of whom seem to be literarily or conceptually dependent upon each other. All are from the thirteenth century and later. One might have expected more Italian acceptance of a German custom, considering the extremely close ties between the two communities. Nevertheless, one must keep in mind two things: First, Italian halakhic sources are not numerous, so one only gets a vague idea of what halakhic discourse was taking place there. Second, two of the most dominant Italian scholars, R. Isaiah of Trani, called Rid (c.1180-c.1260), and his grandson of the same name, called Riaz (c.1235-c.1300), though officially part of the German school,<sup>78</sup> were high-

<sup>77</sup> I should point out that one gets the same feeling from the two compilers of the previous century. It would be an interesting study to compare the two generations of compilers, and see what conclusions could be drawn. Specifically, what I find so intriguing is the German compilers' drive to take a book from another school of thought, and make it German. R. Mordekhai wrote on R. Isaac of Fez's work, known as Rif (1013-1103). R. Meir b' Yekutiel wrote on Maimonides (1135-1204). Both R. Israel of Krems and R. Mendel Klausner wrote on Rosh, (who, though originally from Germany, largely ignores the German scholars in his work), and R. Moses of Zurich wrote on the *Semak*, a French work. These works are not commentaries, they simply list the German rulings on the subjects mentioned. Why not write on a German work, like Ravyah or *Rokeach*? Also consider that the most influential Ashkenazi halakhic work, written by R. Moses Isserles (called Ramah) in the sixteenth century, is nothing less than a Germanizing of the *Shulhan Arukh*, a work written by Ramah's contemporary, the great Spanish/Israeli scholar R. Joseph Karo.

<sup>78</sup> Rid studied under R. Simkhah of Speyer (c. 1200).

ly influenced by the French.

R. Zedekiah b' Benjamin the Physician (c.1230-c.1300) provides the first discussion of the custom, in his *Shibbolei haLeket*, (*Issur veHeter*, no.16, short and long versions):

About the custom to perform *nikkur* on the meat within three days, I asked our Great Rabbi, may he rest in Eden, and he answered and told me: “Even my father was careful about this, but I never heard a reason why, for one was not written. But it appears to me that the blood [from the veins] gets absorbed into the meat in three days, and will not leave afterwards with salting.<sup>79</sup> Or, perhaps the reason is [based on this Talmudic passage]: ‘A person should not place loins upon meat, for then there would be fat upon meat; fat melts and the meat absorbs [it].’ And within three [days], it may absorb? But here [**and here**<sup>80</sup>], people do not worry.”

Other than the nameless student of R. Yakkar whom we saw earlier, R. Zedekiah is the only source to quote R. Eliezer haGadol's practice. Clearly, this quote comes straight out of *Ma'aseh haGeonim*. Does this mean that in Italy, R. Eliezer's custom was practiced as he articulated it, a full two centuries later, and that there was no custom of salting within three days, only *nikkur*? Presumably not. Anyone studying the *Shibbolei haLeket*'s section on *kashrut* will find that it is based primarily on the early Germans, i.e. the *Ma'aseh haGeonim* and the books of Rashi's school. It appears more likely that this represents the author's preference than it does Italian practice.

The next mention of the custom is in the halakhic work *Sefer Recanati* (no. 192), by R. Menahem b' Benjamin of Recanati (c.1260-c.1345):

Meat which sat three days, 72 hours, and was not salted, will not again spit out its blood through salting, because its moistness is gone, but it will spit out [its blood] through cooking. Therefore, it is forbidden to cook it, but roasting it is permitted, for limb blood which has not been displaced is permitted. And it is even forbidden to cook [the meat] after salting [it], since roasting is the same as salting. And the law is the same<sup>81</sup> if one soaks the meat in water within three days—its status is as if it were salted.

Recanati clearly bases himself on Maharam's school, which is notable. He

<sup>79</sup> Notice that the reference to washing is missing.

<sup>80</sup> Found in the short version.

<sup>81</sup> This is a very odd phrase to use here, since in the previous sentence he forbade cooking, and here he is going to permit it.

does not include *nikkur*, and he takes roasting as a given.<sup>82</sup> However, there are significant additions.

First, Recanati rephrases the reasoning for the stringency; instead of saying the standard “because the blood dries,” he says that the moistness is gone. This is probably just a stylistic adjustment, to make one more conscious of why cooking is a problem. Next, Recanati proceeds to discount the possibility offered by R. Menahem of Merseburg, (though not mentioning him by name). His reasoning is, that since roasting is only as effective as salting, one must assume that even after roasting some blood will remain. Therefore, though it is permitted to eat the meat after the roasting, if one would then go ahead and cook the meat, more blood would be displaced, and the meat would become forbidden. Third, Recanati seems to accept R. Isaac Hozeh’s opinion, (though also not in his name). His reasoning seems to be that soaking meat (and salting it later), counts as salting on time.<sup>83</sup> Finally, it is worth noting that R. Isaac of Tresson’s position is not discussed.

The final (possibly) Italian scholar who discusses the stringency is a R. Nathan,<sup>84</sup> whose comment is found in the Glosses on the *Sha’arei Dura* (4:2).

Indeed in the Talmud etc.—From the library (Casanatense) in the city of Rome: My teacher, our teacher the Rabbi Nathan, says that

<sup>82</sup> This backs up the assertion that was made earlier, that R. Zedekiah’s position does not reflect Italian practice, but rather, the author’s reliance on sources. Whereas one can see a gradual conceptual development, through 250 years of variation of practice, between R. Eliezer haGadol and Maharam, no such argument can be made of the barely half a century between R. Zedekiah and Recanati. There are a few possible explanations for the huge discrepancy: Perhaps each source represents the practice in the author’s own city, (Rome and Recanat respectively); maybe both sources are choosing sides that appeal to them, without regard for Italian practice (if there even was one at the time); or perhaps one of them represents Italian practice, the other just theory. I prefer this last explanation, and I assume the R. Zedekiah’s work is just theory, whereas Recanati’s reflects contemporary Italian practice, which would then be the same as the German practice of the time.

<sup>83</sup> Admittedly, this reasoning is difficult to follow, as is the phraseology of the sentence as a whole. Unfortunately, I think we must leave this last point as something deserving of future study, but for now, it remains unclear.

<sup>84</sup> Calling R. Nathan an Italian scholar is nothing more than guesswork. My reasoning is based primarily on the following three factors: One, Freilich states that he found this gloss in the Casanatense library in Rome; two, this gloss is quoted by nobody that I have seen, which leads me to assume he was from a less known Jewish community; three, Nathan as a name is attested in (but not exclusively in) medieval Italy. R. Nathan’s origin still remains speculation, and his identity unknown. It is also unclear when he lived. He may not even be a Rishon (if the page number quoted in the text is him and not a copyist, then he was definitely later, since the period of the Rishonim ended before the advent of the printing press). I have treated him like a Rishon for stylistic reasons.

this reasoning<sup>85</sup> is not relevant except to permit [one] to eat the meat roasted, for there is no worry about blood that was spit out, and what is left would be [local] blood which was not displaced, and [that] is permitted. But [cooking it] in a pot is forbidden, unless one performs *halita* on the meat with hot water,<sup>86</sup> for [then] the blood will become fixed in the meat, and will not become displaced at all (even when cooked). And I have found a bit of a basis [for the idea] that salting is not effective on meat which sat for three days, from that [passage] in [ch.] *Helek*, in [tractate] *Sanhedrin*, 91b: Antoninus said to Rabbi: “When is the soul placed in man? When he is formed or when he is conceived?”<sup>87</sup> [Rabbi] said to him: “From the time he is formed.” [Antoninus] said to him: “Is it possible for a piece of meat to remain three days without salting and not become putrid?! Rather [the answer is] from the time of conception.” Rabbi said: “This thing was taught to me by Antoninus, and the scripture supports him, for it says:<sup>88</sup> “and my soul guarded your *pekudot*”<sup>89</sup>—Here ends [the quote].

R. Nathan begins with the reasoning of Maharam. However, he introduces a new factor, that of *halita*. Though it is well known that *halita* is considered to be an effective way of fixing the blood into place, it is not quoted in any of the previous discussions as a way to permit cooking. The reason is that since the time of the *Geonim*, *halita* was not practiced, because it was argued that people did not really know how to do it. This leads one to wonder whether R. Nathan really meant this point as a practical suggestion, or just as a theoretical point. R.

<sup>85</sup> Referring to R. Isaac of Duren’s question: “so what if the meat won’t spit out its blood from salting; non-displaced blood is fine!” R. Nathan is pointing out that this argument does not work if one premises that cooking will revitalize the blood and cause it to be displaced.

<sup>86</sup> As discussed previously, the process of dipping meat quickly into hot water (or vinegar) was considered to be a way of permanently fixing the blood in its place, so that it would not be displaced either when cooked or eaten raw.

<sup>87</sup> The Genesis Rabbah version of the story has a clearer distinction; birth or conception. Forming is a bit of a vague description. Probably, what is being referred to is the formation of the embryo into a human-looking entity. The Talmudic idea was that until 40 days, the embryo is “just water”.

<sup>88</sup> See earlier text for note.

<sup>89</sup> There is a note in the Glosses: “First of all, one does not learn *halakhah* from *aggadah*. Second, this [passage] is only discussing rotting, not the issue of *kashering* [meat] from [its] blood! And he himself (Rabbi Nathan) felt this weakness, therefore, he wrote ‘I found a bit of a support’.” This is an interesting argument, but not as obvious as the author of the note makes it seem. *Halakhah* is learned from *aggadah* all the time; cf. the note on R. Jacob of Bagnols work by S. Bognac Nasi (not quoted in this article) for a thorough defense.

Nathan ends with a version of the proof-text offered by R. Yakkar b' Samuel; R. Yakkar preferring the Genesis Rabbah text, R. Nathan preferring the Talmudic text. Note that he mentions nothing about washing the meat.

#### B. FRANCE

There is no mention of this custom in any French halakhic work.<sup>90</sup>

#### C. SPAIN

The Spanish awareness of the stringency of salting within three days comes from the emigration of Rosh from Germany to Spain. The first source<sup>91</sup> to mention it is Rosh's son, R. Jacob b' Asher (1269-1343), in Tur *Yoreh Deah* 69:

The Geonim wrote: "Meat that sat for three days, the full 72 hours, without having been salted, its blood dries out within it, and will not again exit through salting, and one must not eat it cooked."

R. Jacob here is quoting the "Geonic" custom, and ends by implying Maharam's idea that roasting is sufficient, but does not say so explicitly. He does not mention washing the meat.

Another student of Rosh, R. Yeruham b' Meshulam (c.1280-c.1350), was originally from Provence, but came to Spain to study with Rosh. In his work, *Toldot Adam veHavah* (15:5), he writes:

"Meat which was not salted until three days [after slaughter], but it was soaked within three days; the people of your city have accepted [the decision] from R. Isaac Hozer [sic] that it is permitted. If this is a tradition—we will accept it. But if it is a logical assertion—there is a response, and this is simple to understand." Thus wrote our Rabbi Meir in a responsum. And he wrote further that "the Geonim wrote in a responsum that if [meat] sits without salting for three days, 72 hours, it is forbidden, for the blood will never then exit. And I say that it is permissible to roast it, for limb blood which has not been displaced is permitted. And if the blood does exit due to the fire, the flame draws it."

<sup>90</sup> An interesting case in point is the *Semak*. The first glosses on the *Semak* were written by R. Isaac of Corbeil's student, R. Peretz b' Elijah of Corbeil, who also does not mention the custom. R. Peretz's student was R. Isaac of Tresson, who we have seen earlier. Tresson probably came in contact with the custom when he moved to Germany. In the next generation, R. Moses of Zurich, in his glosses on the *Semak*, does include the custom. This just illustrates again how entrenched this stringency was in Germany, and how ignored it was by the French scholars.

<sup>91</sup> It is interesting to note that Rosh himself does not mention the custom in his halakhic work, which is why R. Mendel Klausner and R. Israel of Krems felt the need to add it into their glosses. Clearly, this is another example of Rosh's French leanings.

R. Yeruham clearly draws on two sources: the responsum of Maharam and a paraphrase of R. Samson b' Tzadok, in the *Tashbetz*. The one thing that R. Yeruham adds is in his explanation for the custom. He says that the blood will “never” exit. He cannot mean this literally, for, if so, why would cooking be a problem? Obviously, he means that the blood will not leave through salting, and the “never” was probably added to drive the point home.

The final Spanish source to address the custom is the work of R. Menahem b' Zerah (c.1310-1385), a student of R. Jacob b' Asher's younger brother, Judah (1270-1349). In his work *Tzeidah laDerekh* (2:4) he writes:

It is written in the *Geonic* responsa: “Meat which sits three days, 72 hours, without being salted—one should not eat it cooked.”

This language is almost exactly like the Tur, but without the explanation.

In general, we may summarize the Spanish sources by saying that they evince that they were only familiar with Maharam's version of the custom, as brought by Rosh.<sup>92</sup> There is no mention of *nikkur* anywhere.

#### D. PROVENCE

The Provencal tradition is unique in that we actually have a source which deals with the question of time limits for salting from the early twelfth century, over one hundred years before Rosh. R. Abraham b' Isaac the Head of the Court (c.1110-1179), called Ra'abi, writes in his responsa (no. 25):

Salting immediately after butchering—I have no proof for this (either way). However, from the fact that the wise ones did not specify a [time] limit, rather, they said (*Hullin* 113a): “Meat does not become free from its blood unless one washes it, salts it, then washes it [again],”<sup>93</sup> it appears to me that [meat which sat for any length of time] is permitted through soaking in water and salting, and there is no [need to] worry about [salting it] near [the time of] butchering. And with regard to sinews they said (*Hullin* 93a): “When they are heated,<sup>94</sup> they will loosen, and if not, one must cut [into the meat] after them [to remove them]”—you find here that they would allow the meat to sit before they cut it, and all the more so [with regard to] salting it.

It is clear from his presentation that R. Abraham had never heard of a three day time limit. This is not surprising, since the custom was still only a local

<sup>92</sup> All three authors were associated with Rosh's school.

<sup>93</sup> This is actually a composite of two sources.

<sup>94</sup> In our text we have *ad d'hamimei*, meaning, “before they are heated”.

German one at the time.<sup>95</sup> Arguing from Talmudic sources alone, R. Abraham comes to the conclusion that there should be no time limit. His logic is that all the Talmud specifies is that one wash the meat before salting it. This, of course, is the very position of R. Isaac Tresson. The only difference is that Tresson was responding to the custom as articulated by the Germans, whereas R. Abraham was speaking about the question in theory.

Another telling point about R. Abraham's presentation is his final proof. R. Abraham quotes a Talmudic passage about removing fat sinews, a part of *nikkur*. He then argues that if one can wait for a while before one does *nikkur*, then certainly one can wait for salting. Ostensibly, this point is based upon the fact that, usually, *nikkur* would be performed first. R. Abraham's presentation is extremely important: it acts as a sort of test case for how this issue might have been addressed, without consideration of pre-existing custom.

The other Provençal sources all come from the fourteenth century, after Rosh's move to Spain. The first is by R. Aaron haKohen of Lunel (c. 1325), in his *Orhot Haim* (Forbidden Foods no. 95):<sup>96</sup>

And meat which sat for three days, 72 hours, which was not salted—the Ram<sup>97</sup>, may he rest in Eden, wrote that its blood will not exit through salting, but [only] through cooking. Thus you will find in the responsa of the Geonim. But roasting—I say that it is permitted, for limb blood which was not displaced is permitted. And if it exits due to fire, the flame draws it.

R. Aaron is quoting the *Tashbetz* word for word, and naming Maharam as author. He does not mention washing the meat.

The final source from Provence is by the last important rabbi of the period there, R. Jacob b' Moses of Bagnols (mid-14th century). In his book on *Issur veHeter* (laws of salting) he writes:

It is not permitted for a person to leave meat for three days after an animal or bird has been slaughtered, without salting it. For if he leaves it longer, the meat will not “accept” the salt, due to its excessive dryness. Even if it sits in a damp place all three days, and after-

<sup>95</sup> Kapih, the editor of Ra'abi's responsa, seems unaware of this, oddly enough. In his comment on this responsum, he mentions that perhaps Ra'abi did not have the stringency, and seems surprised that neither did Maimonides. Perhaps Kapih was confused by the use of the term Geonim in the Tur, and thought that the custom must have been universal.

<sup>96</sup> The *Kol Bo*, which is mostly a shortened version of the *Orhot Haim* by an unnamed author (possibly R. Aaron himself), has, word for word, what the *Orhot Haim* has here (Forbidden Foods no. 103). Therefore, we will not deal with this work separately.

<sup>97</sup> In a Provençal work, Ram would usually refer to Maimonides (as we will see in Bagnols), but, since he is quoting *Tashbetz* here, it is obviously a reference to Maharam.

wards he soaks it in water, even so, it will never accept the salt, and will remain forbidden. However, the Ram[bam] did not speak of this, and explained nothing about it. And there are those who say: “Since the Rav z”l did not explicate this, we do not forbid that meat, if it sat for three days or more without salting, as long as it did not become extremely dry. For nothing is hidden from Maharam<sup>98</sup> of that which is forbidden, which he did not include explicitly in his worthy composition.” And I heard that this teaching came from French Scholars.<sup>99</sup> And I also heard that they deduced this teaching from a certain statement from the order of *Kod’shim*, but I do not know which tractate it is in. Furthermore, I think that the Geonim<sup>100</sup> supported this prohibition from the [story] in *Sanhedrin*, that Antoninus said to Rabbi: “From when is the soul placed in man, from the time of formation or the time of conception?” [Rabbi] said to him: “The time of formation.” [Antoninus] said to him: “Is it possible for a piece of meat [to sit] for three days without salt?!”<sup>101</sup> He said to him: “From the time of conception,” etc.<sup>102</sup> And I say that it is fitting to be strict like the French Scholars, even though the Ram[bam] explained nothing about this, since they offered a reason.<sup>103</sup> For we find many things that the Ram[bam] left out, things which are forbidden, and they are [really] included in something else the Ram[bam] z”l brought. And it is possible to say that this prohibition is also included in something else.

Bagnols’ attachment to Maimonides is striking. Even in his conclusion, where he decides to accept the “French” custom, he does so only by assuming that Maimonides was really aware of the custom, and, without mentioning it explicit-

<sup>98</sup> “Our Teacher Rabbi Moses,” again, Maimonides, as opposed to “Our Teacher Rabbi Meir” (of Rothenburg). “Maharam” is unusual as a reference to Maimonides.

<sup>99</sup> Probably Franco-German in this context.

<sup>100</sup> Here is an interesting use of the term Geonim. He said before explicitly that he heard that this was from French scholars, and now he calls them *Geonim*. Clearly the term has a more general use here as “Great Ones.”

<sup>101</sup> Notice that he skips the words “without going rancid.”

<sup>102</sup> Here, in the printed edition of Bagnols book, there is a huge copyist’s note inserted into the text. The copyist was a student of a certain S. Bognac Nasi (literally: “prince” or “president”), who wrote a defense of Bagnols’s use of an aggadic text to learn a *halakbah*. The editor, R. Moshe Blau, mistakenly believed that this note was a part of Bagnols’s text, and actually has S. Bognac as Bagnols’s teacher in his introduction. With all due respect to Rabbi Blau, I cannot see this text as anything other than a copyist’s note. Since this note, though extremely interesting, is clearly later than Bagnols, it will not be included in our discussion.

<sup>103</sup> Or, perhaps, “they said reasonable things.”

ly, included it implicitly in a different *halakhah*. Interestingly enough, Bagnols does not accept soaking as a mitigating factor.

In summary, we see that, just as in Spain, the Provençal sources demonstrate the clear influence of Maharam's tradition, and the total lack of discussion of Ravyah, *nikkur*, or even washing the meat.

#### E. NORTHERN AFRICA (ALGIERS)

The first North African Rishon we will examine is R. Isaac b' Sheshet (1326-1407), known as Rivash, who was originally from Spain and studied with the great R. Nissim b' Reuben (c.1290-c.1375), known as Ran. In his responsum to R. Samuel Halio (no. 86), he writes:

You asked further: that which is practiced—not to eat meat which stood three whole days without salting, and they do not allow it [to be eaten] except roasted—where did they get this, since it is not found in Rambam *z"l*? Answer: It is true that this is not found in the works of the Rishonim *z"l*, nor [is it found] in the works of Rashba *z"l*. But the Ram *n"e z"l*<sup>104</sup> wrote that it was found thus in the responsa of the Geonim *z"l*, that its blood will not exit through salting. And he wrote:<sup>105</sup> “But roasting—I say that it is permitted, for limb blood which was not displaced is permitted. And if it exits due to fire, the flame draws it.” So too this is written in the book *Orhot Haim*. Also, in the work *Yoreh Deah* (part of the *Tur*) it is written . . .<sup>106</sup> And in Barcelona they are accustomed to forbid it, even when roasted. And this is an excessive stringency,<sup>107</sup> even forbidding it [to be cooked] in a pot when salted, for it cannot be worse than bloody raw meat, which is very red, and the blood fixed inside it is clearly seen, regarding which we decided in chapter *Gid haNashah* (*Hullin* 93b) that “if one cuts it up and salts it, it can even be [cooked] in a pot. If one roasts it on a spit, [the blood] drips, and [the meat] is permitted.” And this implies even without cutting and salting.<sup>108</sup> And [regarding] placing it on coals, which Rav Aha and Ravina argue

<sup>104</sup> Referring to Maharam.

<sup>105</sup> Quoting R. Samson b' Tzadok's *Tashbetz* as Maharam.

<sup>106</sup> Here follows a word for word quote of the *Tur*.

<sup>107</sup> Possibly, Rivash is referring to the entire custom of a three day time limit.

<sup>108</sup> This is to say that if roasting is permissible without cutting and salting, how could the Barcelonians forbid roasting? Also, his general point is that if very bloody meat is permitted to be cooked when cut and salted, how could meat which sat around be any worse? Rivash seems to ignore the other side's main point, that after three days the blood is dry, and unable to be removed by salt. Though it is true that R. Eliezer haGadol was concerned with excess blood absorbed from the veins, Rivash does not quote this source.

about, the law was decided that [the coals] draw it (the blood), and it is permitted. So too, by (the case of) breaking an animal's neck before it dies,<sup>109</sup> where they say in chapter *Kol haBasar* (*Hullin* 113b): "Behold, this makes the meat heavier, robs others, and causes blood to be absorbed in [other] limbs." According to Rif *z"l*'s text, which reads: "Can one eat it raw?" and it is left as unsolved, and [with an implication to practice according to] the stricter possibility, it would seem that [the question is] specifically about raw [meat], which means fresh, without salting. But roasted, or [cooked] in a pot after salting, obviously it is permitted, for the flame draws it (the blood) and the salt removes it. Since, even though salt does not have the power to remove blood absorbed [in meat] from another place, it will remove this [blood]. . .<sup>110</sup> So too, they said in ch. *haZeroah* (*Hullin* 133a), regarding veins in the cheek, that they are permitted, whether roasted or [cooked] in a pot, when sliced and salted. And this meat, which sat for three days, is no worse than any of these [examples]. Nevertheless, it is fitting to make a conscious effort to roast [the meat] in accordance with the words of the Geonim *z"l*. And one should not break this practice, and certainly in a place where they are accustomed [to keep it].

Rivash's presentation contains several parts. He begins by demonstrating to the questioner that this custom does have a basis in earlier sources, among them *Tashbetz*, *Tur*, and *Orhot Haim*, though not in the important Sephardic halakhists like Rambam or Rashba (1235-1310). Then he adds the interesting fact that in Barcelona the custom was not even to permit roasting. This is fascinating since it recreates a part of the older German practice of Ravyah, two centuries earlier. This in a city that, less than one hundred years prior, was dominated by Rashba, regarding whom Rivash explicitly states that he did not even have this custom!

In the next part of Rivash's presentation he goes on to argue, from numerous Talmudic sources, that the three day limit on salting has no basis in *halakhab*. However, he ends by saying that one should keep the Geonic custom, ostensibly because it is Geonic, and therefore one should not ignore the tradition. This, interestingly enough, is the opposite of Bagnols' logic, who says that one should keep the custom because it is reasonable.<sup>111</sup> One cannot help but wonder what Rivash would have thought had he realized that the custom was not Geonic, but

<sup>109</sup> The Rabbis comment that this would cause the neck blood to be reabsorbed into other limbs.

<sup>110</sup> Here Rivash goes into a long proof that Rif's text is the correct one, and Rashi's text, which has a variant read, is mistaken.

<sup>111</sup> Also, though Bagnols also referred to it as Geonic, he also thought of it as Franco-German.

German.<sup>112</sup>

The second and final North African source we will examine is the only fifteenth century source we will be quoting.<sup>113</sup> R. Solomon b' Simon Duran (c.1400-1467), called Rashbash, in a responsum to R. David b' Samuel haKohen (no. 423) writes:

Regarding the issue of meat which sat for three days without salting—the Geonim ז"ל wrote that they forbade eating it cooked, for its blood will not exit through salting. And it is like a liver, which is only eaten roasted.

Rashbash quotes the “Geonic” custom, in the Tur’s style, but adds a halakhic paradigm in which to fit the custom. The liver, according to the Rabbis, is all blood, so salting it, by definition, will not be sufficient to permit one to cook it. However, one is allowed to roast it, since the remaining blood (and there will inevitably be remaining blood) will be permitted anyway. Rashbash argues that our case is analogous: since one knows that there will be remaining blood, one should not be allowed to cook it, but roasting it should be allowed. In this, Rashbash follows Bagnols in trying to base his country’s practice on reason, not just precedent.

Notice that neither Rashbash nor Rivash mention anything about washing, or about *nikkur*.

### III. CONCLUSION

It is a general rule in both genetics<sup>114</sup> and linguistics<sup>115</sup> that the place where one finds the most diversity is the place where the species or language originated. By analogy, the same may be said about customs. We have seen how various conceptions of the custom to salt meat within three days prevailed in Germany. The explanations began with *nikkur*, moved to include salting, and eventually only dealt with salting. There were various Talmudic proofs for the custom, with more than one explanation. In almost every generation, the custom was discussed, and by the middle of the thirteenth century, it virtually became standard practice.

<sup>112</sup> I thank my colleague Nissan Antine for making this observation.

<sup>113</sup> While by the fifteenth century Jewish intellectuals in other parts of the world had ceased writing major works of Talmudic commentary or *halakhab* of the kind that typify the work of the Rishonim in Northern Africa and Italy, there were still great halakhists at this time using classical methodologies.

<sup>114</sup> See: Spencer Wells, *The Journey of Man*. New York: Random House, 2002.

<sup>115</sup> See: Merrit Ruhlen, *The Origins of Language*. New York: John Wiley & Sons Inc, 1994.

However, outside of Germany the situation was very different. With the exception of R. Zedekiah the Physician, we find no mention of *nikkur* in non-German sources. It is clear that the only version of the custom that became known was Maharam's, the most influential sources being the *Tashbetz* and the Tur.

So too, the nuances and novellae from the later Germans are rarely discussed outside of Germany. R. Menahem of Merseburg's idea of cooking after roasting is mentioned only in Recanati (not by name and possibly independently), and rejected. R. Isaac Hozeh is mentioned once by R. Yeruham, and the issue is brought up by Recanati and Bagnols (without naming a source), accepted by the former and rejected by the later. No one else outside of Germany even discusses it. Finally, R. Isaac of Tresson is never mentioned outside of Germany, though the common sense of his opinion is the same as Ra'abi's, who was speaking without knowledge of the German custom.

The only conceptual novelty offered outside of Germany is by R. Nathan—that *halita* would serve as a mitigating factor. And even this notion is probably just theoretical, and not meant to reflect or suggest a practice.

What seems to follow from all this is that even in the time of the Rishonim, conceptual development can sometimes be influenced by location, and, more probably, by the relevance of a particular custom to the constituency of the Rabbi. I hope that the methodology employed in this paper can help demonstrate the importance of tracing a halakhic concept's history, geography and development. It is my contention that without this understanding, our perspective on the conceptual framework of the *halakhah*, not to mention our weighing of the different positions in the discourse, will be inevitably skewed. Whether this perspective can be of use in clarifying practical *halakhah* is a matter beyond the scope of this paper.

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## SINGING AND SOLITUDE — *HALLEL* AND HISTORY

Rabbi Joshua M. Feigelson

The twentieth-century French moral philosopher Vladimir Jankelevitch was described by the American musicologist Richard Taruskin, as “The anti-Adorno.” What Taruskin meant was that, unlike Adorno, Jankelevitch approached music in strictly phenomenological terms. Where Adorno saw music as a language of symbols, articulating meaning, Jankelevitch listened to music only in terms of his experience of it. “Imagine!” exclaims Taruskin, “A philosopher who meditates on listening to music, not its ontology.” Jankelevitch’s Music is subjective, and performers and listeners in his model are music’s interlocutors, its partners, not its re-enactors or interpreters. While Adorno’s experience of music must penetrate the listener’s consciousness through a layer of Meaning, Jankelevitch’s experience of music is unmediated. It is all in the moment.

This argument about reality as we experience it is one of the premiere debates of Western philosophy. Is there an ontology of meaning? Does Truth exist, or are we only glimpsing shadows on the wall of a cave? Is truth subjective? Is it objective? Is meaning inherent or is it imposed? These questions about human experience are present in music, just as they are in painting and dance, poetry and prose. They run through philosophy, and they run through religion.

Like so many other tensions within human experience, the questions of meaning, of subjectivity and objectivity, find expression in Judaism. Particularly in the post-modern world, Jews, like all people, find themselves asking these questions. But Jewish tradition itself has been framing the questions for much longer. “In every generation one is obligated to see himself as though he himself had gone out of Egypt,” says Rabban Gamliel.<sup>1</sup> The key phrase in the statement is *ke’ilu*, “as if.” It indicates Rabban Gamliel’s desire that every Jew experience the Exodus from Egypt in a deeply personal way, with an awareness of the barriers—historical, physical, psychological—to actually achieving the experience.

<sup>1</sup> Mishnah *Pesachim* 10:5

Rabban Gamliel clearly wants every individual Jew to have a first-hand experience of the founding redemptive moment of the people; he wants not only the meaning, but the truth of that experience to be internalized. But he cannot escape the reality of history: the Exodus happened generations ago.<sup>2</sup>

So Rabban Gamliel creates an act of theater: he constructs a role (redeemed slave) and gives every Jew a script (the Haggadah) and props (the Paschal sacrifice, *matzah*, and *maror*). The props are symbols of a life acknowledged as separate and apart, a life that is not the experience of the one partaking of the symbol, as Rabban Gamliel says himself:

“The Paschal sacrifice, because God passed over the houses of our ancestors in Egypt. *Matzah* because our ancestors were redeemed in Egypt. *Maror* because the Egyptians embittered the lives of our ancestors in Egypt.”<sup>3</sup>

This is a script to be acted out, and as such it is highly conscious of itself as an object to be used in helping the actor undertake a subjective experience. The distinction between “the lives of our ancestors” and the life of the individual partaking of and explaining these symbols is assumed, and the primary goal of the exercise is to experience the objective truth: God is the eternal redeemer of Israel in every generation.<sup>4</sup>

Such playacting is the centerpiece of the entire Biblical holiday cycle. Passover perhaps receives the greatest treatment, but its sister holidays in the agricultural cycle, Shavuot and Sukkot, are also said to be “*zekher leyetziat Mitzrayim*,” a commemoration of the Exodus from Egypt. On Shavuot the Jew is again given a script—this time by the Torah itself—in the form of *vidui bikurim*, the formula recited over the bringing of first fruits. The Rabbis added another layer to the playacting in understanding Shavuot as the moment of the giving of the Torah—thus traditional Jews stand in synagogue on Shavuot morning to hear Exodus 20 read aloud, *ke’ilu*, “as if” they are standing again at Sinai.

What Sukkot lacks in the way of an oral script it makes up for in staging. The Torah instructs the Jew to dwell in the Sukkah for the seven days of the holiday

<sup>2</sup> Jon Levenson’s highly worthwhile discussion notes that the force of the rabbinic move here is for the Jew to take history and make it his own story. I diverge from him here slightly, as will be seen shortly. See Jon Levenson, *Sinai and Zion*. New York: Harper Collins, 1987, pp. 38-39.

<sup>3</sup> Mishnah *Pesahim* 10:5

<sup>4</sup> Clearly there is also a highly subjective element to Rabban Gamliel’s statement: “In every generation, every person is obligated. . .” Rabban Gamliel implicitly acknowledges that different generations will have different experiences of redemption. Nevertheless, the primary focus is on the historical event: Rabban Gamliel does not say, “In every generation, every person is obligated to see how he or she has been liberated this year,” as we moderns might do. Rather the focus is on the Exodus from Egypt and experiencing the meaning of that singular event.

“So that your descendents will know that I caused the Children of Israel to dwell in *sukkot* when I took them out of Egypt” (Lev. 23:43). Again, we encounter playacting intended to re-create an experience from the past, but acknowledging the barriers that exist between the actor and the original model. It is once again “*ke’ilu*,” “as if.”

In contrast to the three pilgrimage festivals stand the two other seasonal Biblical holidays, Rosh Hashanah and Yom Kippur. These holidays do not appear in the lists of the agricultural festivals in Exodus 23, 34, and Deuteronomy 16. Unlike the *regalim*, which involve the entire people, the Days of Awe, as the Rabbis termed them, seem most significant only within the Tabernacle. Further, while they are grouped with their cousins under the general heading *zekher leyetziat Mitzrayim*, their focus is less on historical re-enactment than ongoing relationship maintenance with the Almighty: “It is a day of atonement, to make atonement for you before the Lord your God” (Lev. 23:28). To be sure, there is an aspect of relationship-maintenance to the *regalim*, particularly *Shavuot* and *Sukkot*, as indicated by the verses “You shall rejoice before the Lord your God” (Deut. 16:11), and “Three times a year . . . all your males shall appear before the LORD your God in the place that He will choose” (Deut. 16:16). Nevertheless, the overall thrust of the *regalim* is as I present them here, in accordance with Rosenzweig’s approach (see below). In fact, these verses, as well as the similar verses (Ex. 23:17, 34:23), do not alter my main contention; they merely demonstrate that the historical re-enactment is to take place before God and in a manner of rejoicing. The qualitative difference between the *regalim* and the *yamim noraim* is still fundamental. In other words, the *regalim* create an act of theater to commemorate or re-experience history, while the theater of the High Holidays is about true experience in the moment. High Holiday theater is the Jankelevitch to the Adorno of the *regalim*.

This point is eloquently made by Franz Rosenzweig in *The Star of Redemption*. “The Days of Awe place the eternity of redemption into time. . . In the annual return of this judgment, eternity is stripped of every trace of the beyond, of every vestige of remoteness; it is actually there, within the grasp of every individual and holding every individual close in its strong grasp.”<sup>5</sup> The effect of this on the individual, continues Rosenzweig, is to shine a light “into the most hidden corners of being. . . . There is no more waiting, no more hiding behind history. The individual confronts judgment without any intermediary factor. . . . On these days, the individual in all his naked individuality stands immediately before God.” According to Rosenzweig, *Rosh Hashanah* and *Yom Kippur* are designed to force the Jew to confront his existence and take a full accounting of his actions, not to re-experience history.

<sup>5</sup> Franz Rosenzweig, *The Star Of Redemption*. New York: Holt, Reinhart, 1970, p. 324.

A close reading of the Mishnah supports Rosenzweig's view. We have already noted Rabban Gamliel's statement in the last chapter of *Pesahim*, which emphasizes the holiday's playacting character. In contrast, Rabbi Elazar ben Azaria's words at the end of Tractate *Yoma* impress upon the reader the immediate, ahistorical character, of the holiday:

Rabbi Elazar ben Azaria interpreted: "You will be purified from all your sins before God" (Lev. 16:30): The Day of Atonement enacts atonement for sins between man and God. But for sins between man and his fellow, the Day of Atonement does not enact atonement until his fellow wills it.<sup>6</sup>

Likewise, the Mishnah in *Rosh Hashanah* speaks of continuing, actual judgment:

The world is judged at four times: At *Pesah* concerning produce; at *Atzeret* concerning tree-grown fruits; on *Rosh Hashanah* all the creatures of the world pass before Him like *bnei marom*, as it is said, "He Who fashions their hearts alike, Who understands all their deeds" (Ps. 33:15). And on *Hag* they are judged concerning the water.<sup>7</sup>

These *mishnayot* do not discuss the judgment of *Rosh Hashanah* or the efficacy of *Yom Kippur* in historical terms. Neither is fundamentally about commemorating an historical event.<sup>8</sup> Rather, just as it did in the time of Aaron, *Yom Kippur* continues to actually effect atonement in the penitent, and *Rosh Hashanah* continues to be the Day of Judgment for humanity.

A second distinguishing feature between the High Holidays and the pilgrimage festivals is the recitation, or absence, of *hallel*. It is the relationship between *hallel* and the phenomenological character of these two sets of holidays that we ultimately wish to explore.

The Talmud famously discusses the lack of *hallel* on the High Holidays:

Why do we not recite *hallel* on *Rosh Hashanah*? Rabbi Abahu said, 'The archangels said before the Holy One, Master of the Universe! Why does Israel not recite Song [i.e., *hallel*] before you on *Rosh Hashanah* and *Yom Kippur*? He said to them, Is it possible that the king sits on the throne of judgment, and the books of life and the books of death are open before him, and Israel would say the Song?<sup>9</sup>

<sup>6</sup> Mishnah *Yoma* 8:9

<sup>7</sup> Mishnah *Rosh Hashanah* 1:2

<sup>8</sup> The association of *Yom Kippur* with the giving of the second tablets of the Ten Commandments is rabbinic, and not Biblical, in origin.

<sup>9</sup> *Rosh Hashanah* 32a

Traditionally we read this Gemara as a statement of the character of the day: Is it possible, asks God, that *hallel* could be appropriate on such a day? Singing is inappropriate on such a momentous and solemn occasion, just as it is inappropriate at the moment the Egyptians are drowning in the sea.

But perhaps this reading deserves re-examination. Perhaps the subject of God's statement is not the High Holidays, but *hallel*: The question is not, "Is it appropriate to recite *hallel* on the High Holidays?" but "Are the High Holidays appropriate occasions for the recitation of *hallel*?" The emphasis of the question is on *hallel*, not the High Holidays, with the implication that there is something intrinsic to *hallel* that is at odds with the character of *Rosh Hashanah* and *Yom Kippur*. If we pursue this reading in light of our findings about the approach to symbol and experience and the respective characters of the High Holidays and the pilgrimage festivals, we may arrive at a new understanding.

The Talmud explores the character of *hallel* in the following *beraita*:

Our Rabbis taught: This *hallel*, who said it?

Rabbi Eliezer says: Moses and Israel said it at the time they stood at the sea. They said, "Not to us, O Lord, not to us, [but to thy name give glory, for thy steadfast love, and for thy truth]" (Ps. 115:1), and the holy spirit responded and said to them, "For my own sake, for my own sake will I do it: [for how should my name be profaned? And I will not give my glory to another]" (Is. 48:11).

Rabbi Judah says: Joshua and Israel said it at the time that the kings of Canaan stood against them. . . . Rabbi Elazar haMaodi says: Devorah and Barak said it at the time Siserah stood against them. . . . Rabbi Elazar ben Azaria says: Hezekiah and his helpers said it at the time that Sanaherib stood against them. . . . Rabbi Akiba says: Hanniah, Mishael and Azariah said it at the time that the evil Nebuchadnezzar stood against them. . . . Rabbi Yose the Gallilean says: Mordekhai and Ester said it at the time that the evil Haman stood against them. . . .

And the Sages say: The prophets between them established for Israel that they should recite it in every time of trouble, so that they should not come upon Israel, and that when they are redeemed they should recite it on their redemption.<sup>10</sup>

Two major points stand out from this section: first, *hallel* is repeatedly associated with historical events and personalities; second, in each case *hallel* was originally a spontaneous outpouring of emotion to God. But this spontaneous moment of subjective experience became reified into a moment of national historical memory, and the original spontaneous *hallel* became a symbolic medium

<sup>10</sup> *Pesahim* 117a

for commemorating the salvation that produced that original cry.

While of course it is inappropriate to sing songs of joy during judgment (imagine the Egyptians singing on the shore as their fellows drown in the sea), the deeper point here is that, in the mind of the Talmud, the idea of reciting *hallel* outside of an historical context is antithetical to the idea of *hallel* itself. And it is for this reason that *hallel* is absent from *Rosh Hashanah* and *Yom Kippur*, which, as we have attempted to show, are fundamentally ahistorical holidays.

But we can still go further, and to do so we return to Jankelevitch. In an essay entitled “The Inexpressive Espressivo,” Jankelevitch plays with two kinds of approaches to music, which are really two approaches to language and to life itself. Under the first paradigm, he says,

We declare that music shall be, like all other languages, the bearer of meaning and an instrument of communication, whether it explains certain ideas, or suggests certain sentiments, or describes landscapes or things, or narrates events. . . . If music is thus simple language, meaning will preexist in a direct line to this language, which will constitute the second-level explanation of that meaning. . . . Under these circumstances, one is led to ask whether our ears, far from being organs of hearing, are not rather more the cause of our deafness: does physiological hearing place us in communication with the world of sound, or bar us from the music of the angels?<sup>11</sup>

This is the Adorno way of thinking to which Taruskin refers. Music is a language to be written and read, behind which stands a world of meaning that only awaits our decoding. But Jankelevitch offers another, radically different view through a critique of the dominant paradigm:

The idea of an absolutely tacit music, unexpressed, disembodied, is in the very end a conceptual abstraction. . . . Because down here on earth there is no gratuitous action; no cause is entirely the cause, and no effect is exclusively an effect. . . . The poetic act does not stand in relation to a single unique meaning, in a one-sided and irreversible subordination, but to a mutuality of correlations. . . . The poet will never conceive his poem in advance of making it but in the act of making it, because *in poetry there is no gap between speculation and action, no distance, no temporal interval* [emphasis added].<sup>12</sup>

It is this last point, the emphasis on unmediated musical experience, that interests us. The first paradigm, which posits a meaning behind or beyond the music—that is, the experience—is that of the *regalim*, with their scripted

<sup>11</sup> Vladimir Jankelevitch, *Music and the Ineffable*, trans. Carolyn Abbate. Princeton: Princeton University Press, 2003. pp. 25-26

<sup>12</sup> *ibid.* pp. 28-29.

attempts to commemorate history through symbol. And the music sung on those days—*hallel*—is likewise a scripted attempt to commemorate history, to memorialize an event of ancient days. The second paradigm, which sees the musical experience not as symbolic but rather current, not signaling any time or place far away but rather fully present in the moment, is the paradigm of the *High Holidays*. *hallel* is a music too laden with meaning—and purposefully so—to work on *Rosh Hashanah* and *Yom Kippur*.

Which leads us to ask, What *is* the music of the High Holidays? Immediately the answer comes to mind: *kol shofar*, the sound of the shofar. The shofar's blast is meant to be an 'unmusical' music: A raw, emotional sound, a sound of crying, and a coronating blast of the trumpet. To be sure, the shofar's sound can be interpreted. But its sound is essentially primal, not part of a language, not part of history, not part of civilization. We hear in the *shofar's* blast whatever we hear: the cry of a mother, the call to battle, the herald of the king. It is simply sound, a music waiting for someone to make it meaningful.

Both of these musics have their place: Strauss's story-telling *Heldenleben* and Debussy's experiential *Nocturne* are both classics. Both offer the listener, and the performer, a moving experience. But they are different, just as the *regalim* and the *yamim noraim*. The theater and the song of the festivals connect the Jew to his history, his people, his destiny as a member of the nation of Israel. They make us experience the grandness of our past, and see ourselves as part of a larger historical project that transcends our particular moment on the planet. They facilitate our participation in the language of Israel.

But language has its limits, and individuals cannot only be members of something larger than themselves. We must also tend to our own egos, our own individual lives. We run into irrational moments, moments when we cannot participate in the language of society, when we must retreat from society. At these moments, God is the only One who understands, the only One preventing us from being utterly alone. These are the moments—the non-linguistic, deeply personal moments—that the High Holidays attempt to facilitate.<sup>13</sup> “You know the secrets of the universe, the hiddenmost mysteries of all being,” says the *Yom Kippur Mahzor*. “You probe the innermost chambers and test thoughts and emotions. Nothing is hidden from You, nothing is concealed from Your eyes.” On these days, as on no others, we stand “naked before God,” in Rosenzweig's words—without community, language, or history, as babies reborn to our pre-verbal state. There is a music here, but it is not the music of *hallel*; it is the music of a child's cry.

<sup>13</sup> It is interesting to note the compensatory nature of our rituals in this regard: Passover, fundamentally a national experience, is ordained to be observed in the home, as it continues to be through the *Pesah Seder*; *Yom Kippur*, fundamentally a personal experience of atonement, is observed in the synagogue with the rest of the community. Community and individual are never very far apart, though the focus of each holiday tilts heavily towards one or the other.

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## PASTORAL COUNSELING AT YCT RABBINICAL SCHOOL

Michelle Friedman, MD

“Rabbi, this is hard to talk about but . . .

. . . I want to be more observant but my husband thinks that going to the *mikvah* is primitive.

. . . our daughter wants to bring her non-Jewish “friend” home for Pesah . . .

. . . my father had a stroke and is on life support. He told me he never wanted to live hooked up to machines.”

From the moment young men announce their intention to study for the rabbinate, they are bombarded with questions regarding the most intimate and far-reaching aspects of life. Congregants, friends and complete strangers bestow trust, confidence and enormous responsibility on rabbis by asking their help with navigating difficult religious and personal situations. The observant Jewish community should be grateful for this phenomenon—we know that our *mesorah* has guided the generations before us and we hope, in this increasingly complex era, that Jews turn to traditional sources of wisdom for counsel.

The best community rabbis have always been those who could transition from intellectual scholarship to practical wisdom in real time and with real people. Steeped in Halakhic learning, such rabbis influenced Jewish life not only by answering the specifics of questions posed, but by reaching beyond the manifest *she'eilot*, and going to the emotional and psychological core of questions. The pastoral training of yesteryear was accomplished informally through mentorship and example, but mostly it was left to the individual talents of the rabbi to figure things out for himself.

Today's rabbinate faces the challenges of an increasingly porous and diverse society. While rigorous classical education in *halakhah* is essential the recent fields of psychology and professional counseling can also inform contemporary rabbinic training. Preparing our future rabbis for their work as pastoral counselors is best accomplished when it is not left to osmosis. Rabbinic preparation should include training in specific counseling methods as well as the fostering of sensitivity and awareness regarding the impact of the rabbinate on the rabbi's personal life.

Yeshivat Chovevei Torah is unique among rabbinical schools in making pastoral counseling a mandatory course of study throughout all four years of its program. The program rests on a three-part foundation:

- 1) Didactic instruction in the classroom
- 2) Practical experience in hospitals and rabbinic internships
- 3) Individual awareness through special group work and supervision.

Our goal is to prepare our graduate-rabbis to listen with rigor and compassion, to know what questions need to be asked in order to learn the basic diagnostic information needed in any situation, to tactfully ask those questions, assess the situation and, finally, to either resolve the issue or refer the congregant appropriately to a more expert resource. Throughout, we emphasize the sensitivity of the pastoral counseling encounter. Divulging personal matters evokes powerful emotions on both sides. Rabbis need to chaperone the vulnerability and stigma congregants may experience, while remaining aware of feelings and issues touched off within themselves. Finally, they must monitor the boundaries between themselves and their congregants.

The didactic component of YCT's pastoral counseling program begins with a weekly skill-building course in the first year. Through classroom instruction, reading assignments, and role-play, students learn interview technique. The students explore challenges inherent in the rabbinic encounter—specifically, how to meld the role of compassionate, non-judgmental listener with that of Halakhic Authority. The course goes on to introduce classic signs and symptoms of psychological distress, such as anxiety and depression, which rabbis are likely to encounter in their communities. Also covered are highly emotional personal and communal situations that rabbis more uniquely experience, such as the psychology of *ba'alei teshuvah* and converts, and the impact of trauma and catastrophe on religious people's lives.

The second year didactic curriculum is devoted to two pastoral areas that rabbis frequently deal with: *bikur holim* and family (including marital) counseling. All of our students rotate through an intensive chaplaincy course run by the Jewish Health Care Chaplaincy of New York. These hours are divided between classroom instruction and hospital visits. Group sessions provide a forum for students to discuss and process the powerful experiences evoked sitting by the bedsides of ill and dying patients

The third year program aims to blend counseling and practical *halakhah* around a lifecycle curriculum. Starting with birth and early childhood, topics such as the psychology of parenthood are woven together with rabbinic responsibilities such as *berit milah*, or a family's wish to create a *simhat bat* for their new daughter. We consider issues such as the impact of having a disabled son or daughter, the spiritual life of young children and religious issues of childcare. Topics including dating, courtship and relationship navigation occupy several class hours and pre-marital counseling is a strong priority. We expect that prior to serving as a *mesader kiddushin* at a wedding, a YCT rabbi has spent several

sessions with the couple helping them to prepare for marriage.

The complexities of homosexuality are also explored, as are the situation of older singles. We spend time looking at relationship challenges such as infertility, adoption, addiction disorders, domestic violence, and infidelity. Finally, our third year students examine aging, end-of-life issues and the involvement of caregivers in the final part of the lifecycle. While not all areas can be covered, the goal is to give the students a basic comfort in the halakhic parameters and broad psychological issues of major practical topics.

By the fourth year, students are looking toward their future pulpits. Third- and fourth year students travel to affiliate synagogues where they work under the mentorship of community rabbis. Each student is also assigned a supervisor with whom he meets several times per semester to discuss the problems and nuances of pastoral counseling situations that occur during his internship. The curriculum for the last year of the formal pastoral counseling program is organized around a master class model. Each soon-to-be rabbi prepares a clinical case presentation culled from his internship. In the presence of the entire student body, he presents his case to an invited master teacher—one of a pool of guest experts in the fields of psychology, psychiatry and rabbinic counseling. The master teacher delves into the case, highlighting and exploring the specifics of the situation.

In addition to classroom and supervision time, YCT incorporates a unique forum for personal development—the process group. One of the most difficult challenges for rabbis is the loneliness of the profession. In order to be effective, rabbis need to be simultaneously available, charismatic and slightly separate from their *ba'alei batim*. Negotiating the challenges created by these needs requires preparation. We believe that the process group experience helps our students encounter these issues individually while also strengthening the bonds of trust and support between their fellow students. Every week, each student class meets with a process group leader, a mental health professional who makes a commitment to work with that group for their entire four years at YCT. Discussions of the process group are entirely confidential between leaders and students. They may explore personal, academic, religious or any other issues that they choose. Process group is a template for life outside the yeshiva. Undoubtedly, tension and confrontation between group members occurs. The students need to learn how to mediate moments of crisis in the process group and how to live with conflicts that cannot be resolved. These skills will serve them well in their future work as community rabbis.

Based on the enthusiasm that the rabbinical students have for their process groups, we have instituted a monthly support group for spouses. YCT realizes that the role of *rebbetzin* is a complex one. Women come from varied personal and professional backgrounds and anticipate different degrees of engagement in their husbands' professional lives. The support group, facilitated by a *rebbetzin* who is also a social worker, allows exploration of these issues and provides

opportunities for students' wives to talk with other *rebbetzins* who come to New York specifically for group meetings.

The success of all of these programs depends on the availability of expert faculty. YCT is fortunate to draw upon the resources of many clinicians in New York City who are committed to training rabbis who will be sensitive to the complex needs of today's congregants. Our pastoral counseling teachers recognize that clergy are often first responders, the initial contacts for people in distress. The competence and comfort of rabbis in these tense, demanding situations can determine spiritual and practical outcomes for many individuals and families.

Building a comprehensive pastoral counseling program requires commitment of precious academic time and financial resources. Even more, it calls for flexibility and tolerance. Today's Jewish world desperately needs learned rabbis who can reach *kehilot* through involvement in the day-to-day challenges of living. Pastoral counseling is thus a building block in the foundation of Yeshivat Chovevei Torah Rabbinical School. We hope that sharing our program will inform and enrich *semikhab* preparation elsewhere.

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## WOMEN AS *SHELIHOT TZIBBUR* FOR *HALLEL* ON *ROSH HODESH*\*

William Friedman

### I. INTRODUCTION

Contemporary *sifrei halakhah* which address the issue of women's obligation to recite *hallel* on *Rosh Hodesh* are unanimous—they are entirely exempt (*peturot*).<sup>1</sup> The basis given by most<sup>2</sup> of them is that *hallel* is a positive time-bound commandment (*mitzvah aseh shebazman gramah*), based on *Sukkah* 3:10 and Tosafot.<sup>3</sup> That Mishnah states: “One for whom a slave, a woman, or a child read it (*hallel*)—he must answer after them what they said, and a curse will come to him.”<sup>4</sup> Tosafot comment: “The inference (*mashma*) here is that a woman is exempt from the *hallel* of *Sukkot*, and likewise that of *Shavuot*, and the reason is that it is a positive time-bound commandment.” *Rosh Hodesh*, however, is not mentioned in the list of exemptions.

\* The scope of this article is limited to the technical halakhic issues involved in the specific area of women's obligation to recite *hallel* on *Rosh Hodesh* as it compares to that of men. Issues such as changing *minhag*, *kol isha*, *areivut*, and the proper role of women in Jewish life are beyond that scope.

<sup>1</sup> R. Imanu'el ben Hayim Bashari, *Bat Melekh* (Bnei Brak, 1999), 28:1 (82); Eliyakim Getsel Ellinson, *haIsha vebaMitzvot Sefer Rishon—Bein haIsha leYotzrah* (Jerusalem, 1977), 113, 10:2 (116-117); R. David ben Avraham Dov Auerbakh, *Halikhot Beitah* (Jerusalem, 1982), 8:6-7 (58-59); R. Yitzchak Yaakov Fuchs, *Halikhot Bat Yisrael* (Jerusalem, 1983), 2:22 (50) and note 58 there, 16:6 (238); R. Yitzchak Yaakov Fuchs, *Tefillah keHilkhatah* (Jerusalem, 1989), 22:19 (388); R. Menachem Nissel, Rigshei Lev (Southfield, MI, 2001), 6:1 (162).

<sup>2</sup> Rigshei Lev, op. cit., *Halikhot Bat Yisrael*, 50 note 57, and *haIsha vebaMitzvot*, op. cit., cite these sources explicitly. The other citations will be addressed below, pp. 3ff.

<sup>3</sup> *Sukkah* 38a, s.v. *mi shebaya*.

<sup>4</sup> This is the version of the Mishnah that appears in our printed editions. I will not address here the textual variants nor their implications, nor will I dispute the underlying assumption of the cited *sifrei halakhah* that the position of the Tosafot, namely, that reciting *hallel* on certain occasions is undisputably a *mitzvah shebazman gramah* from which women are exempt, is the correct explanation of the mishna. For more on this, see my forthcoming article “Women and *Hallel*: A Comprehensive Halakhic Analysis.”

## II. THE STATUS OF *HALLEL* ON *ROSH HODESH*

One can only be exempted from something which is obligatory. Tosefta (*Sukkah* 3:2) brings the list of obligatory recitations of *hallel*: “On eighteen days of the year and one evening one reads the *hallel*, and they are: the eight days of *Sukkot*, and eight days of *Hanukah*, and the first day of *Pesah* and its evening and the festival of *Shavuot*.” This list is brought in slightly modified form and augmented for the Diaspora in two places in the Gemara (*Ta’anit* 28b and *Arakhin* 10a): “Rebbi Yohanan said in the name of Rebbi Shimon ben Yehotzadak: Eighteen days that the individual completes on them the *hallel*: the eight days of *Sukkot*, and eight days of *Hanukah*, and the first day of *Pesah*, and [the first] day of *Shavuot*; and in the Diaspora twenty-one days: the nine days of *Sukkot*, and eight days of *Hanukah*, and two days of *Pesah*, and two days of *Shavuot*.” Notably absent is *Rosh Hodesh*.

*Arakhin* 10a addresses the issue of days not listed in this *beraita*:

What is the difference between on *Sukkot* that we say [*hallel*] every day and on *Pesah* that we don’t say it every day? *Sukkot* is differentiated through its sacrifices (*halukin be-korbanoteihen*), [whereas] *Pesah* is not differentiated through its sacrifices. [On] Shabbat, which is differentiated through its sacrifices, one should say it! [One does not, because] it is not called an appointed time (*mo’ed*). [On] *Rosh Hodesh*, which is called an appointed time, one should say it! [One does not, because] it is not sanctified through [refraining from] doing work (*asiyat melakhah*), as it says (Is. 30:29), ‘For you, there shall be singing as on a night when a festival is hallowed’—a night which is hallowed for a festival requires singing, and one which is not hallowed for a festival does not require singing.

The Talmud here clearly posits the possibility that *Rosh Hodesh* would require recitation of *hallel*, and rejects that possibility. So far, we have seen no indication that there exists any obligation to say *hallel* on *Rosh Hodesh*.

*Ta’anit* 28b brings the first evidence of the recitation of *hallel* on *Rosh Hodesh*:

The Mishnah should also have taught the first of Nissan [in addition to the first of Tevet] as a day on which there was no *ma’amad* because there is *hallel*, and *musaf*, and the wood offering. Rava said: ‘This says that the *hallel* of *Rosh Hodesh* is not Biblical’ (*lav de’oraita hi*) as Rebbi Yehoshua said in the name of Rebbe Shim’on ben Yehotzadak [our *beraita* from above is quoted] . . . Rav came to Bavel. He saw them reciting *hallel* on *Rosh Hodesh* and contemplated stopping them. When he saw that they were skipping he said: ‘Learn from this [that] the custom of their ancestors is in their hands.’ A Tanna taught: ‘An individual does not begin and if he began, he should finish.’”

Three important rulings regarding *hallel* on *Rosh Hodesh* are learned from this *sugya*: 1) *Hallel* on *Rosh Hodesh* is not a Biblical commandment such that it would override the *ma`amad*; 2) Rav was ready to stop a community from reciting *hallel* on *Rosh Hodesh*, and only desisted because of changes evidencing the existence of an ancient custom; and 3) An individual has no obligation to recite *hallel* on *Rosh Hodesh*.

Rava's conclusion regarding the status of *hallel* is uncertain. It is entirely possible that he considers the *hallel* of Hanukah to be biblical in origin such that it pushes off the *ma`amad*, but would accept the idea that reciting *hallel* on *Rosh Hodesh* is a rabbinic enactment.<sup>5</sup> *Rashi*<sup>6</sup> rejects this possibility by linking Rava's statement to Rav's story, in which the *hallel* recited on *Rosh Hodesh* in Bavel is identified as *minhag avoteihem beyadeihem* and says that the *hallel* of *Hanukah* is similar to a Biblical commandment.<sup>7</sup>

The *beraita* brought at the end of the *sugyah* in *Taanit* is also open to multiple interpretations.<sup>8</sup> Is it forbidden for an individual (as opposed to the community) to recite *hallel* on *Rosh Hodesh*,<sup>9</sup> or merely optional? Is this referring to the blessing(s), or to the psalms of *hallel* themselves? Is it referring to the full *hallel* or the partial *hallel*? For the purposes of our investigation, we need to know whether the force of the *minhag* devolves upon the individual to recite *hallel* on *Rosh Hodesh*, or on the community as a whole. *Tosafot*<sup>10</sup> provide an answer to this question: "And it appears that the individual is not obligated to read the *hallel*; nevertheless, if he wants to obligate himself, he may (*hareshut beyado*)." Similarly, *Rashi*<sup>11</sup> says: "He does not need (*eino tzarikh*) to begin on *Rosh Hodesh*." For the individual, reciting *hallel* on *Rosh Hodesh* is a completely non-obligatory act, although a permissible one. *Tosafot*, *Arakhin* 10a, s.v. *y"b yamim*

<sup>5</sup> This could be the case if the criteria for reciting *hallel* on any given occasion were Biblically-determined, and if those conditions were met later in time by a new day, then the obligation to recite *hallel* on that day would be Biblical. (See, e.g., *Pesachim* 117a.) This would not contradict the Gemara in *Arakhin* if we assume that Gemara to be defining Biblical criteria for the recitation of *hallel*. *Tosafot*, *Arakhin* 10a, s.v. *y"b yamim* explicitly reject this possibility. See also R. Yehudah Heshil Levenberg, *Sefer Imrei Hen* (Lakewood, NJ, 1992), 10 (64-65).

<sup>6</sup> ad. loc., s.v. *zot omeret*.

<sup>7</sup> There is a wide range of opinion as to whether *hallel* on the occasions listed in the *tosefta* and *baraita* is a Biblical or Rabbinic enactment. For an overview, see, e.g., *Encyclopedia Talmudit*, s.v. *Hallel*.

<sup>8</sup> For a short summary of the ways this *baraita* has been interpreted, see Sinai Adler, *Sefer haHodayah: Be'urim uBeirurim beInyanei Hodayah laHashem baHalakhah ubaTefillah* (Jerusalem, 1997), 125-26.

<sup>9</sup> Perhaps in violation of the injunction not to recite *hallel* every day, which, according to *Rashi*, means superfluously. See *Shabbat* 118b and *Rashi* there, s.v. *harei zeh meharcif umegadeif*.

<sup>10</sup> ad. loc., s.v. *amar*.

<sup>11</sup> ad. loc., s.v. *lo yathil*.

conclude: “The inference [from this *beraita*] is that the community (*tzibbur*) is obligated from the general custom (*meminhag be’alma*).” *Tur, Orah Hayim* 422, and *Beit Yosef*, ad. loc., bring the various halakhic opinions and their sources in the Rishonim, respectively.

### III. WOMEN AND THE CUSTOM TO RECITE *HALLEL* ON *ROSH HODESH*

Regarding the relationship of women to this custom, *Magen Avraham*<sup>12</sup> says:

Women are exempt from every *hallel* (*mekol hallel*) because it is a positive time-bound commandment and therefore they cannot exempt others’ obligation unless he answers after them each word, and a curse will come to him because he did not learn, and if he did learn, he offends his creator by making agents such as these.

The rationale of the *Magen Avraham*’s comment is unclear. He quotes the *Tosafot* in *Sukkah*, but we have seen that that *Tosafot* was referring only to the obligatory readings mentioned in the *beraita*, and not necessarily to *Rosh Hodesh*. The *Magen Avraham* could be implicitly claiming that the exemption of women from *mitzvot aseh shehazman gramam* extends to all such *mitzvot*, even *minhagim*,<sup>13</sup> but such a position would be quite novel, considering the debate over whether women are automatically exempt from positive time-bound rabbinic commandments in the absence of an explicit exemption.<sup>14</sup> Another explanation must be sought.

The *Be’ur Halakha*<sup>15</sup> addresses the *Magen Avraham* directly, in the context of examining the possibility of fulfilling someone else’s obligation in *hallel*:

And it is further explained in *Sukkah* 38 and the *poskim* that women are exempt from *hallel* because it is a positive time-bound commandment [excluding *hallel* on the eve of Pesah for [in that] they are obligated because they too were included in the miracle (*af hen hayu be’oto ha’nes*)—thus wrote the *Tosafot* there] and therefore they cannot exempt men unless they answer after them word for word [he concludes there in the *beraita* that a curse will come to him who requires

<sup>12</sup> Shulhan Arukh, *Orah Hayim* 422:2, s.v. *nashim*

<sup>13</sup> If that is indeed the reasoning of the *Magen Avraham*, he would still have to agree that an additional factor, such as *af hen hayu be’oto hanes*, could override the presumptive exemption. It seems reasonable to suggest that in the arena of *minhagim*, even if the presumption is towards exemption, acceptance of the *minhag* might count as one of those additional factors.

<sup>14</sup> See *Halikhot Beitah, Petah haBayit* 7 (36-38), who brings a number of sources on both sides of the disagreement.

<sup>15</sup> ad. loc., s.v. *Hallel*.

his wife to read for him]. And the implication (*mashma*) from the *Magen Avraham* is that this law is also relevant on *Rosh Hodesh*, and in my humble opinion this is not clear, because it is only appropriate to say regarding days on which we complete *hallel* on which there is a rabbinic obligation on men, [that] women cannot fulfill their obligation even in a place where they are accustomed (*nahagu*) in this *mitzvah* already, because these [the women] are only from the side of minhag and these [the men] are from the side of obligation, but on days on which we don't complete the *hallel*, because for men it is also only from the side of custom (*de'al haanashim hu gam ken rak me'tzad minhagah*), and in this place the women are also accustomed in this commandment, what is the difference between them (*mai nafka mina bein eilu le'eilu*)? And perhaps the intention of the *Magen Avraham* [is] to places in which women are not presumed [to do] this *mitzvah* until now, that also from the side of minhag there is no obligation upon them, and now a women wishes to read and fulfill [a man's obligation], and this requires thought.<sup>16</sup>

The *Be'ur Halakhah's* basic argument is that someone obligated only by the force of custom cannot fulfill the obligation of someone obligated by the force of rabbinic decree, but when the obligation itself comes only by force of custom, then all those who are accustomed to perform that action are equally obligated. In light of this reasoning, it becomes very difficult to understand the aforementioned *sifrei halakhah* who implicitly or explicitly contrast the obligation of women with the obligation of men to recite *hallel* on *Rosh Hodesh* as *peturah* versus *mehuyevet*.<sup>17</sup>

A different source is brought by Rav Fuchs for his contention that women are exempt in *Tefillah keHilkhatah*:<sup>18</sup> Mishnah Berurah, *Orah Hayim* 106:4. That

<sup>16</sup> It is somewhat unclear to what the *Be'ur Halakhah's* "*tzarikh iyyun*" is referring: his explanation of the *Magen Avraham* or his entire proposal that women who have accepted (communally) the *minhag* of reciting *hallel* on *Rosh Hodesh* may fulfill the obligation of men. See note 18 below, where I argue for the former reading.

<sup>17</sup> *Halikhot Beitah*, 58 note 12, *haIsha vebaMitzvot*, 117 note 13, and *Halikhot Bat Yisrael*, 50 note 58, admit to the possibility of women fulfilling the obligation of men introduced by the *Be'ur Halakhah*. The former, however, seems to imply that the *Be'ur Halakhah* is a solitary opinion, whereas in reality the *Be'ur Halakhah* and the *Magen Avraham* are the only two classic halakhic sources even to address the issue, and at that, only the former does so explicitly. (Admittedly, the *Yeshu'ot Ya'akov*, *Orah Hayim* 422:6, agrees with the *Magen Avraham*, but he does not offer any additional proof for the cogency of the *Magen Avraham's* position that the exemption from *mitzvot asch she-ha-zeman gerama* extends to the *hallel* of *Rosh Hodesh*, his logic referring only to the recital of a *berakha* given the assumption that women do not share an equal obligation with men to recite *hallel* on *Rosh Hodesh*.) *Halikhot Bat Yisrael* attempts to diminish the force of the *Be'ur Halakhah's* argument by emphasizing that he leaves it with *tzarikh*

source deals entirely with the controversy surrounding women's obligation for *tefillah*, i.e., the *Amidah*. Nowhere in that paragraph does the Mishnah Berurah relate specifically to *hallel*. Curiously, in *Halikhot Bat Yisrael* (his earlier work), Rav Fuchs gave a different source for the same *halakhab*—the aforementioned *Be'ur Halakhab!* The new source, however, does point us to a deeper understanding of the *Magen Avraham's* exemption of women from *hallel*. The Mishnah Berurah writes:

And the *Magen Avraham* wrote that according to this reasoning [that there are two kinds of prayer, Biblically-obligated prayer unfixed in time and text, and rabbinically-obligated prayer fixed both in time and text] most women are accustomed not to pray *Shemoneh Esrei* regularly morning and evening, because they say immediately in the morning close to washing some petition, and Biblically they are exempt through this, and it is possible that even the Sages did not obligate them further.

Without getting into the various difficulties with the explanation of the *Magen Avraham*<sup>19</sup> (which, it should be noted, the Mishnah Berurah rejects in favor of the position of the Ramban and *rov haposkim* that women are indeed obligated in fixed prayer), we see him here attempting to justify the custom of the women of his day not to pray the *Amidah*. If they were not praying the *amidah*, in which they are certainly obligated according to most opinions, then all the more so they must not have been saying *hallel*, which, by the *Magen Avraham's* time, was inextricably linked to the *shaharit* service, and particularly *hallel* on *Rosh Hodesh* for which there is such strong encouragement that it be recited with the *tzibur!* It seems reasonable, then, to say that the *Magen Avraham* was *paskening* out of a desire to justify the widespread custom of women not to say *hallel* on *Rosh Hodesh*, and did so by extending the general exemption from other *hallels* which are obligatory for men to this one, which is not.<sup>20</sup>

*iiyun*. I contend that the *tzarikh iiyun* refers not to his general presentation, but rather to his explanation of the *Magen Avraham*, which he prefaces with “and perhaps (*ve'u-lai*.)” By contrast, the *Be'ur Halakhab* begins his criticism of the *Magen Avraham* with humble language (*uleaniyut da'ati ain zeh barur*) but nowhere does he indicate lack of certitude except in his attempt to explain the *Magen Avraham*.

<sup>18</sup> p. 388, note 36.

<sup>19</sup> See *Sha'ar Ha-Tziyyun* 106:5.

<sup>20</sup> The obvious difficulty that could be raised against my claim is that the *Magen Avraham* could simply have said that reciting *hallel* on *Rosh Hodesh* is a *minhag* and that the women of this time had not accepted the custom. This would also have excused their behavior, without the need to apply a halakhic source that seems unrelated to the issue at hand, and without introducing a novel idea regarding the automaticity of the *petur* from *mitzvot asch shehazeman geraman*, namely, extending it to *minhagim*. My response to that difficulty is to posit that the *Magen Avraham* found it preferable to offer a general

Two *sifrei halakhah* bring different or additional proofs other than (or in addition to) the exemption from *mitzvot aseh shebazeman geraman*, which we have now contended is either irrelevant to the issue of obligation in a *minhag* or is overridden by the factor of women accepting that *minhag*. Rigshei Lev states:

And my friend R' N. G. added another reason to exempt women from saying *hallel* on *Rosh Hodesh*, because saying *hallel* is a custom (*minhag*), see Tosafot, *Berakhot* 14a, s.v. *Yamim*, and if so it is possible that it was not the custom of women to say it.”<sup>21</sup>

Tosafot there indeed prove that *hallel* is a custom and not an obligation at all, but do not relate to the issue of women; and, it should be noted, utilize their assumption that women may bless upon *mitzvot* from which they are exempt as proof that one may bless upon the *minhag* of reciting *hallel* on *Rosh Hodesh*! So, while true that women are *peturot*, men are equally *peturim*; regarding acceptance of the *minhag*, Rigshei Lev himself notes that women are accustomed to say it, as does the *Be'ur Halakhah*.

*Bat Melekh* cites *Yabia Omer* 6-OH:#45 and *Tzitz Eliezer* 9:#2. Neither source relates directly to our question; the former discusses the question of whether women are obligated to recite *hallel* on *Hanukah*, and the latter addresses the general question of whether women may recite blessings on *mitzvot shebazeman geraman*. R' Waldenberg (*Tzitz Eliezer*) makes only one indirect reference to *hallel* in a general way:

“And see likewise in *Sefer Yeshuot Yaakov Orach Hayim* 422:6 who writes regarding *hallel* that everyone's custom is that women bless on reading *hallel* as they bless on all other positive time-bound commandments despite their exemption. And even though he casts doubt

halakhic justification for the behavior of the women (as he did regarding saying the Amidah) than to make an argument from *minhag*, which would more easily be subject to dispute. Even if one prefers not to accept my explanation of the *Magen Avraham's* motivation, however, the *a fortiori* (*kal vahomer*) regarding the reality of whether women were actually saying *hallel* would still be valid, and lends great strength to the *Be'ur Halakhah's* claim that the women of the *Magen Avraham's* time must not have been reciting *hallel* and for that reason he wrote that they were exempt, but that he would admit that women who have accepted the *minhag* have an obligation on par with men. One could also proffer a slightly different explanation of the *Magen Avraham*: instead of arguing (as does the *Be'ur Halakhah*) that he initially intended this *halakhah* to be contingent on whether women have accepted the *minhag*, simply say that the *Magen Avraham* was responding to the reality of his time (that women were not saying *hallel*), perhaps in order to be *melameid zekhut* on the women of his generation, but that had those women adopted the *minhag*, he would agree that they shared the same obligation as men, and could fulfill their obligation. Ultimately, there is no *nafka mina* between these explanations.

<sup>21</sup> p. 162, note 1.

there about *hallel*, nevertheless he concludes that the custom has a strong hold (*sheyad haminbag gavrah*) and it is not within the ability of the contemporary Sages to stop it (*ve'ein beyedei hakhmei hazman limbot*)."

Not only does R' Waldenberg not address our question, but he agrees with the *Yeshuot Yaakov's* self-refutation regarding the power of the *minbag*!

In connection to *Rosh Hodesh*, R' Ovadiah Yosef (*Yabia Omer*) says:

At first glance, it appeared to me to say that according to what R' Daniel haBavli writes in *Sefer Maaseh Nisim (siman 1)*: 'Nevertheless, reading *hallel* they already said explicitly that it is Biblical, but they distanced (*hirhiku*) the *hallel* of *Rosh Hodesh* in their saying (*Taanit* 28b) that *hallel* of *Rosh Hodesh* is not Biblical (*lav de'oraitta hi*)' . . . and nevertheless *hallel* of *Rosh Hodesh* is not included [in the list of eighteen days on which *hallel* is recited] because the reading on it is only a custom and the Sages did not obligate its reading (*velo hayyavunu hakhamim be'keriyato*) and therefore they said the *hallel* of *Rosh Hodesh* is not Biblical."

Thus R' Ovadiah Yosef affirms the contention that *hallel* on *Rosh Hodesh* has no obligatory force whatsoever for men or women except as adopted through custom.

#### IV. ADDITIONAL FACTORS

Having examined the technical issues of obligation and exemption, and concluded with the *Bewr Halakhah* that there is compelling logic and evidence to allow a woman to recite *hallel* for a man on *Rosh Hodesh*, three more issues ought to be addressed: 1) the curse (*me'eira*) mentioned in *Sukkah* 3:10; 2) the reasons behind the recitation of *hallel* on *Rosh Hodesh*, and whether they would logically lead to exempting (or discouraging) women from the custom of reading *hallel* on *Rosh Hodesh*; and 3) the communal nature of the *minbag* and whether this affects the ability of women to recite *hallel* for a community.

*Rashi*<sup>22</sup> says: "that he has not learned, and if he has learned, a curse will come to him for denigrating his Creator to make such agents as these." *Tosafot*<sup>23</sup> disagree on textual and conceptual grounds, and explain that the curse has nothing to do with learning, but rather because he has appointed people who are not obligated to read for him. According to *Tosafot*, there is nothing wrong at all with a woman reciting *hallel* for men on *Rosh Hodesh*, because they share the

<sup>22</sup> *Sukkah* 38b, s.v. *ve-tavo me'eira*.

<sup>23</sup> ad. loc., s.v. *ve-tehi lo me'eira*.

same obligation. As for Rashi's first explanation, that the curse is the result of his ignorance, it would not matter whether a man or woman says hallel for him.<sup>24</sup> Rashi's second claim that even a learned man deserves a curse for appointing a woman to recite hallel for him is explained by Tosafot to be the result of obligation disparity and would therefore not be relevant on Rosh Hodesh.

What are the reasons behind the custom to recite hallel on Rosh Hodesh?<sup>25</sup> Me'iri says:

*Hallel of Rosh Hodesh* was an established custom (*minhag kavua*) for everyone in *Bavel*, in order that they should publicize the matter (*kedei sheyitparseim hadavar*) to everyone that it is *Rosh Hodesh*.<sup>26</sup>

He does not explain why this did not pertain to *Eretz Yisrael*; perhaps it was because the new moon itself was fixed in *Eretz Yisrael*, there was no need for additional publicization.<sup>27</sup> On the one hand, women, being disqualified from offering testimony, were not involved in the fixing of the new moon, and hence this reason would exempt them; alternatively, they are generally obligated in matters of publicization, and have other special positive connections to *Rosh Hodesh*, as will be detailed below.

Rabbi J.D. Singer<sup>28</sup> offers the following reason for saying *hallel* on *Rosh Hodesh*: "Because of the happiness of the day (*simhat hayom*) which is a holiday (*yom tov*) for the moon whose light is renewed, and Israel are counted to the moon (*monim lalevanah*), and in its fullness there will be peace for us." As will

<sup>24</sup> Rashi's explanation is difficult to understand in light of the next clause in the mishna which does not censure a man who appoints another man to read it for him. See *Tosafot*, *ibid*.

<sup>25</sup> This is a different question than inquiring about the origins of half-*hallel* on Rosh Hodesh. Regarding that question, see Louis Finkelstein, "The Origin of the *Hallel*," *HUCA Annual* 23 (1950-1951): 319-337, especially 320, 334-337, and Robert Alan Hammer, "On the Origin of the Partial *Hallel*," *CJ* 23:4 (1969): 60-63. The former argues on theological and historical grounds that the Babylonia *hallel* actually preceded *hallel Shaleim*, while the latter argues that "the Babylonians were unable to understand the differentiation made between the Passover and Rosh Hodesh and the other days . . . out of deference for the old laws, they omitted small sections . . .," speculation which I hardly find convincing. For our purposes, however, the reasons they proffer are abstract and neither support nor oppose women's inclusion in the custom.

<sup>26</sup> *Beit ha-Behira Ta'anit* b (pub. Kedem, 4<sup>th</sup> ed.), 101.

<sup>27</sup> According to this explanation, it is unclear why this custom did not develop in *Eretz Yisrael* after the destruction of the *Beit Ha-Mikdash* and the cessation of fixing the new moon according to witnesses, when presumably *Rosh Hodesh* would be as much in need of publicization there as it had been in *Bavel*. Perhaps they were conscious of the *baraita* of the 18 days and did not wish to appear to be adding to that, even through changing the form of the *hallel* that they would recite.

<sup>28</sup> *Ziv Ha-Minhagim* (Jerusalem, 5725), 7.

be seen below, the festive holiday nature of *Rosh Hodesh* is connected through Midrash specifically to women, and indeed, was a reward for women and because of women. Relating the recitation of hallel to *simhat yom tov*, which in turn is due entirely to women, offers support for including women in the custom.

There is great debate over whether the *minhag* to recite *hallel* on *Rosh Hodesh* falls also on the individual or just on the community. What is clear is that the ideal situation is to recite *hallel* on *Rosh Hodesh* with the *tzibbur*, and that there is some communal component to the *minhag*. Do women leading *hallel* satisfy this component? If one assumes that the *Be'ur Halakhah* was fully cognizant of the implications of his position, then from the fact that he does not relate to this point one could conclude that he tacitly admits that they do.<sup>29</sup> More convincingly, however, the *Be'ur Halakhah* draws a distinction between a single woman who accepts the *minhag* of reciting *hallel* in an environment in which women generally do not have the *minhag*, saying that she cannot fulfill a man's obligation, versus the ability of a woman to do so when women as a class have accepted the *minhag*. It is eminently reasonable to attribute the *Be'ur Halakhah's* requirement that women as a class accept the *minhag* before they can fulfill the obligation of men to the communal component of this *minhag*, and that when women accept the *minhag* as a community, they thereby include themselves also in the communal component of its recitation, both as participants who should be encouraged to recite it with the *tzibbur*, and as people who can lead the *tzibbur* in its recitation.<sup>30</sup>

There is also a great positive reason for including women as leaders of the recitation of *hallel* on *Rosh Hodesh*. Women have a very famous connection to *Rosh Hodesh*, as summarized by *Halikhot Bat Yisrael* 16:1: "*Rosh Hodesh* . . . was given to them [women] for the merit of the righteousness of the women of the generation of the desert who did not join with their jewelry in the sin of the Golden Calf." Additionally, *Megillah* 22b cites a Beraita that four *aliyot* were established for *Rosh Hodesh* because on that day there is no *bittul melakhah*, which Rashi<sup>31</sup> explains as follows: "There is not so much *bittul melakhah* because the women do not do *melakhah* on it." The claim is astounding—synagogue services were lengthened because of the meritorious customary conduct of women! By this reasoning, it is entirely appropriate that women, having now accepted upon themselves the custom to recite *hallel* on *Rosh Hodesh*, should lead the congregation, as part of their greater connection to this quasi-festival, which was ordained in their merit.

<sup>29</sup> I grant the weakness of argument from silence.

<sup>30</sup> Regarding the factual issue of whether women have actually accepted it as a *minhag*, the *Be'ur Halakhah* himself argues that by his time they had. See also Rigshei Lev, op. cit.

<sup>31</sup> ad. loc., s.v. *rashei hodashim*.

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## V. CONCLUSION

The recitation of *hallel* on *Rosh Hodesh* is a *minhag*; neither men nor women have a fundamental obligation to recite it. In those communities in which women have adopted the custom to recite it, they are on par with men for whom it is also customary, and share the same responsibilities and privileges that stem from that obligation. A woman's recitation fulfills the obligation of each individual man as well as that of the *tzibbur*.<sup>32</sup> The leading of *hallel* by women should serve to remind us of the righteousness of the women who resisted the sin of the Golden Calf, and inspire us to follow their example of remaining firmly committed to our principles in the face of overwhelming pressure and despair.

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<sup>32</sup> Even in accordance with the *minhag* of the *Gr"a* (*Tosefet Ma'aseh Rav* 40) to merely respond to the blessing of the *shaliach tzibbur* and not recite it individually, since women who have adopted the *minhag* to recite *hallel* on *Rosh Hodesh* share in all the identical *halakhot* with men, including the rules regarding the blessing, they may lead it and one who follows the *Gr"a*'s *minhag* will have acted properly.

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## SPYMASTERS: THE *HAFTARAH* OF PARASHAT SHELAH\*

Rabbi Nathaniel Helfgot

### A. INTRODUCTION

Joshua Ch. 2 is the middle section of a larger unit (Ch. 1-4) that makes up the first part of the book of Joshua. In a word, this first unit of four chapters can be entitled: The Narrative of the Entry of Israel into the Land. As Rav Yehudah Kil notes in his commentary to Joshua,<sup>1</sup> our section focuses on the second part of that narrative: the spy mission initiated by Joshua and its consequences. This section was carefully analyzed by the greatest of the commentators and received special attention in the writings of Ralbag and Malbim.

The essay before you is divided into two parts. The first will analyze the structure, key themes and ideas of the various parts of this chapter in its own context. The second part will move to explore the deeper connections between this chapter and *Parashat Shelah* beyond the general statement that both deal with spy missions.

### B. JOSHUA 2—CHRONOLOGY

According to the Vilna Gaon<sup>2</sup> our chapter begins on the very same day (6 Nissan) that Joshua exhorted the tribes of Reuven, Gad and half of Menashe to keep their word and join the conquest of the Land of Israel (Ch. 1: 12-18). In addition, he claims that this was also the very same day that he sent the officers amongst the Israelites to prepare them for entry into the land (Ch.3). Following that approach it emerges that the “internal preparations” and the “external

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<sup>1</sup> *Daat Mikra* on Joshua (Jerusalem, 1994), pg. 3 in the commentary.

<sup>2</sup> Cited in *Daat Mikra*, pg. 10.

preparations” were synchronized to begin at the very same moment. In this reading Chs. 1-3 take place concurrently. In contrast to that perspective, Radak (in his comments to Ch. 3:2) and many other commentaries take the position that the spy mission initiated in our chapter actually was undertaken prior to the preparations in Ch.3. In fact, Radak claims that the spy mission already began during the thirty day mourning period for *Moshe Rabbeinu* mentioned at the end of the Torah in *parashat veZot haBerakhah*. In that reading of the text, our chapter is a precursor to the events of Ch. 3 and needed to be taken care of before the people could truly begin to prepare to cross into the Land of Israel.

### C. STRUCTURE OF THE CHAPTER

- Verse 1—The Sending Out of the Spies by Joshua, their mission and arrival in Jericho at Rahav’s House
- Verses 2-7—The King of Jericho, his agents and their unsuccessful pursuit of the spies
  - Verses 8-14—First Dialogue of Rahav with the Spies including Rahav’s request for an oath of protection when Israel conquers the land
  - Verses 15-21—Second Dialogue of Rahav and the Spies focusing on the sign of protection, as well as the conditions by which the oath becomes void and the sign that Rahav will use to protect her house and family
    - Verses 22 -The Escape from Jericho and the eluding of the pursuit
    - Verses 23-24—The return to Joshua, the upbeat and encouraging report of the results of their mission

Note carefully that the chapter is structured in a classical Biblical chiasmic parallelism (A, B, C, C, B, A) or as it is called in Hebrew *hakbalah nigudit*:

Section 1—Verse 1—Joshua’s sending of the spies and their mission

Section 6—Verse 23-24—The return to Joshua and presentation of the results

Section 2—Verses 2-7—The Pursuit of the Spies

Section 5—Verse 22—The Pursuit of the Spies

Section 3—Verses 8-14—The First Dialogue of Rahav and the Spies

Section 4—Verses 15-21—The Second Dialogue of Rahav and the Spies

This structure helps focus the reader on the middle section as the key element of the narrative and in fact the middle two sections take up more than half of the verses of the entire chapter highlighting its centrality. Moreover, in a very interesting twist, while in the first dialogue (section 3) Rahav gets the lion’s share of “air time”, four out of five verses, in the second dialogue (section 4) the spies are the dominant speakers, setting the “stage” for four out of the six verses.

## D. SOME KEY THEMES OF THE CHAPTER

Section 1—The text at the outset of the chapter emphasizes that Joshua sends out the spies in a “*heresh*” fashion. Most of the commentaries including Radak and the Vilna Gaon interpret this to mean, that he sent them out secretly, without any foreknowledge of the Jewish people. This clearly highlights the fact that this was a normal covert spy mission. In addition we are not told the names of the individuals involved nor are we given exact details of what their exact mission was beyond the general “*lekbnu, re’u et haaretz*”.

Section 2—The text, very significantly, does not tell us if they indeed were successful in “seeing” the land or if they reached Jericho at the end of the mission or was it that they reached Jericho at the very outset of the mission as seems more likely from the plain sense of the verses. In fact, many of the commentators including Malbim<sup>3</sup> interpret the phrase *–et haaretz veYericho* not to mean the entire land but the territory around Jericho.

This ambiguity highlights the fact that they do not seem to actually do much “spying” in the classical sense of the word in terms of checking fortifications, troop movements, size of armies or even in bringing back any physical elements of the territory that they traversed.

They come to the house of Rahav which seems to be either, depending on which view of the commentaries one adopts, either an inn or a brothel.<sup>4</sup> As Rav Yehudah Kil notes in *Daat Mikra*, the advantage of staying in either of those locales is twofold. Firstly, it is a good place to remain anonymous and under the radar screen as well as a place where many travelers and local residents may pass through thus giving the spies a chance to hear unguarded comments and feelings of the populace to the upcoming battle with the Israelites and gauge their feelings and sense of preparedness or pessimism. This section twice highlights the phrase “*lo yadati*” (verses 4, 5) used by Rahav to indicate her supposed lack of knowledge as to the whereabouts of the spies. Of course, the reader knows that she is fully aware of their locale and has indeed chosen to host them. Why this is so is the theme of the next section.

Sections 3-4—In fact, Rahav not only **knows** where they are, but the first words out of her mouth in verse 8 is “*yadati ki natan Hashem lakhem et ha’Aretz*”. Her knowledge extends not only to their whereabouts but to the fact that they will be successful. As Rav Yehudah Kil<sup>5</sup> and others note in the midst of this first conversation Rahav uses the language and imagery of “*Keriat Yam Suf*” such as the phrases “*Namogu kol yoshvei ha’Aretz*” which highlights the fact that the entry of the Jewish people into the Land of Israel will be the culmination of the

<sup>3</sup> Commentary to Ch. 2:1 (standard edition).

<sup>4</sup> See the comments of Radak to Ch. 2:1.

<sup>5</sup> *Daat Mikra* on Joshua, Ch. 2:8.

Exodus from Egypt and the fulfillment of the Divine plan that Moshe prophetically sung about at the Red Sea. This is made explicit by her mention of the miracle at the Red Sea in verse 10, an event that took place at the very beginning of the Jewish people's journey towards the Land of Israel. In a perfect complement to that she then mentions the miracle that God had done for the Jewish people in battle at the end of their forty year trek in the desert in confronting Sihon and Og, the Pharaoh's of the second generation. The destruction of Sihon and Og on the cusp of the entry into the land was the closing of the circle of the battles in the desert that now had set the stage for the entry into the rest of the Land of Israel. (In fact, from many perspectives, the territory of Sihon and Og is viewed in Deuteronomy and parts of Joshua as actually part of the "promised land" and of one piece with the rest of the conquest. The details and exact parameters of that issue are beyond the scope of this short essay. See for example Deuteronomy Ch. 2 and the comments of the Ramban, Rashbam and Seforno on that chapter). It is also interesting to note that *Hazal* in the Mekhilta-Yitro *Parashah* 1 understood her statements in Verse 11 not only as a recognition of the power of God but as a formal declaration of her desire to join the Jewish people in an act of conversion. Her awareness of God's saving hand in Egypt led her to come under the wings of the divine presence.

The remainder of these sections outline the agreement that is made by Rahav with the spies to ensure her safety and that of her family when the Israelite assault begins. As Ralbag notes in his commentary there are actually two conditions that the spies lay out for fulfillment of their side of the bargain. One, only those in Rahav's physical space will be protected. Secondly, only those of her immediate family will be protected. If, however, others are informed of this shelter they will no longer feel bound by their promise of protection to her. Parenthetically, I would like to suggest that the placing of the red string to ensure protection from the impending assault has echoes of the procedure of preparing the first Paschal sacrifice in which the Jewish people were told to smear the red blood on the doorpost so that the impending threat of death would pass over the house. In addition, the emphasis on this sign protecting Rahav's entire immediately family in the house cannot but remind us of the element of the "*seh lebeit avot seh labayit*" which is a critical element of the ritual of the Paschal sacrifice. In effect, then, the Jewish people extend the act of God's protection that was given to them in order to leave Egypt to reach the Land of Israel to the very family that facilitates their reaching that very objective!

Section 5-6—The spies leave the house of Rahav, wait three days, which according to the position of the Vilna Gaon mentioned above overlap with the three days mentioned by Joshua in Ch. 1:11 commanding the Jewish people to prepare and be ready to cross the Jordan in three days time. Thus, while the public is getting ready, Joshua is engaging in secret preparations as well, to ensure the success of the mission. If this is correct, one should not read Ch. 2 as taking

place chronologically after the last part of Ch. 1 but as concurrent events in a sort of split screen fashion moving from what is occurring in the camp of Israel versus what is occurring on the other side of the Jordan. According to Radak and others, of course, these three days take place prior to the actual preparations to cross the Jordan mentioned in Ch. 1 and Ch. 3

The spies return and significantly do not report any military intelligence, description of the land or its cities but simply tell what happened to them and paraphrase Rahav's first words to them: "*Ki natan Hashem beyadeinu et kol ha'aretz vegam namogu kol yoshevei ha'Aretz mipaneinu*". The stage is set for the entry into the land.

#### D. RELATIONSHIP OF THE HAFTORAH TO THE TORAH READING

Beyond the obvious fact that both *Parashat Shelah* (Numbers 13-17) and Joshua 2 deal with spy missions, what exactly is the connection between the two portions? It is clear from our analysis of the text that the Bible does not really seek to compare the two missions but in truth seeks to contrast the two. Malbim in his commentary to Joshua Ch. 2 has a lengthy comment outlining five significant differences in mission. In addition, Rabbi Yehudah Shaviv in a wonderful little volume on the *haftarot* entitled *Bein Parashah leHaftarah*<sup>6</sup> explores the pointed contrasts between *the* two spy missions of Moshe and Joshua. A number of the ideas that will be mentioned below are based upon the insights of the Malbim and R. Shaviv though we have added some of our own notions as well.

Though the spy mission that Moshe sent to "peruse" the land, (*latur et ha'aretz*) turned into a great debacle, this does not mean that using the tactic of spy missions was automatically to be seen as unwarranted or improper. Indeed, Moshe himself later on in the book of Numbers sends two *meraglim* to investigate the area of Ya'azer before its capture (Num. 21:32). Moreover, as the Ramban comments in his lengthy analysis of the *meraglim* episode at the beginning of his commentary to *Shelah*, the act of sending spies was not in and of itself problematic: "For this a proper tactic in all conquest of lands . . . and the Torah does not expect us to rely on miracles in our actions, but rather commands soldiers that they explore and spy out, guard carefully and plan ambushes".

In contrast to the mission in *Shelah* which went far beyond normal reconnaissance the mission in Joshua was at first blush a classic spy mission. In *Shelah* Moshe sends twelve well known leaders, identified by name, in the presence of the entire nation, to report on the land, the people and its status. This public display, the use of so many people to represent every tribe, and the expanded mission clearly highlight that this was no regular affair. In addition, the Hebrew terms "*leragel*," or "*lahpor*," to spy or search out, are never used in *Parashat*

<sup>6</sup> (Jerusalem, 2000), pp. 146-150.

*Shelah*. The *tarim* return and present their findings not just to the general's staff but in front of the entire people. In contrast, Joshua sends out two anonymous souls, in secret, to find out vital information that will be crucial in achieving the mission. On one level, the placing of the Haftarah in juxtaposition to the Torah portion may highlight that while a spy mission along the lines of Joshua's would have been appropriate and successful the very nature of the mission and the modality of its execution were flawed from the outset. (Of course, this point needs to be examined in light of the relationship of the presentation of the narrative in *Parashat Shelah* (Chs. 13-14) and its recounting in *Parashat Devarim* (Ch.1), upon whose initiative the mission was begun and other factors beyond the ken of this essay.)

And yet though the spies in Joshua are sent off on a classical military spy operation, they are immediately discovered upon entering the land and their mission is compromised. They do not seem to be able to achieve any of their goals in searching out the land and providing military intelligence. In fact, the very discovery of their mission could and maybe should have led them to an extremely pessimistic assessment of the prospects of success for the Israelite invasion. One, in fairness, might have concluded that the intelligence capabilities of the enemy are first-rate and they are ready and waiting for us. In addition, nowhere in their report or their travels do we get any sense of the military might that awaits the Jewish people. Indeed, one might safely conclude that not much had changed in forty years since those first twelve *tarim* had come. The land continued to be full of giants and military strongholds and fortified cities and real dangers. And yet it is precisely here that our two spies part company from their predecessors.

In *Parashat Shelah* the Torah tells us the description of the powerful forces of the enemy nations and the conclusion that the 10 *tarim* reached "*lo nukhal la'alot*". In this move the *tarim* went beyond their mandate and challenged the power and ability of God to bring them to the promised land.

The text of Joshua in no way challenges the reality that the Canaanite nations were strong and powerful. However, it does point to the real truth behind the numbers of horses and arrows and fortifications that they had. Namely, that the people of the land had lost their spirit to fight and were scared and defeatist in their attitude. The text of Joshua ch. 2 clues us in into the only real piece of "intelligence" that was necessary (and in fact it is this discovery in Section 3-4 that forms the heart of the chapter as we noted above). The two groups probably saw the same things on the ground, but the *meraglim* of Joshua listened carefully to the people who reflected the true picture beyond the weapons and the chariots. God's outstretched hand in the destruction of Egypt and his leading the Jewish people throughout the desert period had in fact transformed the region and the balance of power. The prophecy uttered at *keriat yam suf* "*namogu kol yoshvei Kanaan*" had indeed come true.

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## THE AFTERMATH OF *AKEIDAT YITZHAK*: A LESSON IN PAIN AND HEALING

Elliot Kaplowitz

One of the most troubling and often discussed episodes in *Humash* is *akeidat yitzhak*, the Binding of Isaac. The Torah does not offer any direct answers to the myriad questions that this incident raises: How could God—a God of mercy and compassion—make such a demand of Abraham? Why did Abraham go along with God’s plan? Thinkers, Jewish and non-Jewish alike, have wrestled with these questions throughout the ages.

Despite the many questions that the episode raises, the *akeidah* is ultimately seen as a positive religious experience. As the Torah frames it, God had tested Abraham and Abraham passed with flying colors:

בראשית כב:א

ויהי אחר הדברים האלה והאלהים נסה את אברהם ויאמר אליו אברהם ויאמר  
הנני

Some time afterward, God put Abraham to the test. He said to him, “Abraham,” and he answered, “I am here.” (Genesis 22:1)

בראשית כב:טו-יח

ויקרא מלאך ידוד אל אברהם שנית מן השמים: ויאמר בי נשבעתי נאם ידוד כי  
יען אשר עשית את הדבר הזה ולא חשכת את בנך את יחידיך: כי ברך אברכך

The angel of the Lord called to Abraham a second time from heaven, and said, “By Myself I swear, the Lord declares: Because you have done this and have not withheld your son, your favored one, I will bestow My blessing upon you and make your descendants as numerous as the stars of heaven and the sands on the seashore; and your descendants shall seize the gates of their foes. All the nations of the earth shall bless themselves by your descendants, because you have obeyed My command.” (Genesis 22:15-18)

An equally important issue is the impact of the *akeidah* on Isaac. Many com-

mentators explain Isaac's general passivity and lack of proactive activities as a result of the *akeidah*. There are Midrashim that connect Isaac's blindness later in life with the *akeidah*. On Genesis 27:1

ויהי כי זקן יצחק ותכהין עיניו מראת ויקרא את עשו בנו הגדל ויאמר אליו בני  
ויאמר אליו הנני

When Isaac was old and his eyes were dimmed from seeing, he called his older son Esau and said to him, "My son. He answered, "Here I am."

The Midrash comments:

מראות מכת אותה ראייה שבשעה שעקד אברהם אבינו את בנו על גבי  
המזבח

"From seeing"—from the strength of that vision, when Abraham bound Isaac his son to the altar. . . (Genesis Rabbah 65:10)

As the Midrash puts it, we should read the verse as "When Isaac grew old and his eyes were dimmed **from having seen [at the *akeidah*]**. . ." The *akeidah* continues to affect Isaac into his old-age. The Midrash does not tell us if Abraham is aware of the impact of the *akeidah* on Isaac. A cursory reading of *Tanakh* and the normative midrashic tradition shows that Abraham is unaware of any negative effects of the *akeidah*. At the same time, Isaac's response to the *akeidah* and the way that he deals with it offers much insight into his character. The interplay between these two dynamics—the impact of the *akeidah* on Isaac, and Abraham's oblivion toward it—teaches a valuable lesson in the religious lives that we lead.

### ISAAC AFTER THE *AKEIDAH*

The first time that Isaac appears in the narrative after the *akeidah*, he is about to meet Rebecca, the woman that Abraham's servant finds for him as a wife at Abraham's command. The Torah paints the following scene:

**בראשית כד:טב-סה**  
ויצחק בא מבוא באר לחי ראי והוא יושב בארץ הנגב: ויצא יצחק לשווח בשדה לפנות  
ערב וישא עיניו וירא והנה גמלים באים: ותשא רבקה את עיניה ותרא את יצחק ותפל  
מעל הגמל: ותאמר אל העבד מי האיש הלזה ההלך בשדה לקראתנו ויאמר העבד הוא  
אדני ותקח הצעיף ותתכס:

Isaac had just come back having gone to Be'er la'Hai Roi, for he was settled in the region of the Negev. And Isaac went out to meditate in the field toward evening and, looking up, he saw camels approaching.

Raising her eyes, Rebecca saw Isaac. She alighted from the camel and said to the servant, “who is that man walking in the field toward us? And the servant said, “that is my master.” So she took her veil and covered herself. (Genesis 24:62-65)

Rashi comments:

**מבוא באר לחי ראי - שהלך להביא הגר לאברהם אביו שישאנה:**

**From having gone to Be'er la'hai Roi**—he had gone to bring Hagar for Abraham, so he could marry her.

This episode raises a number of questions. First, why does the Torah inform us that Isaac went to *Be'er la'hai Roi*? It seems rather odd that we should care where Isaac is coming from. If the Torah is telling us of the relationship between Isaac and Rebecca, we should only be concerned with where they are now. Rashi's comment raises even more difficulties. Abraham, it will be recalled had just sent his servant to find a wife for Isaac. Yet, according to Rashi, Isaac has been occupying himself finding a wife for his father. If Isaac is capable of, and concerned with finding a wife for Abraham, why does Isaac not find a wife for himself? Furthermore, if Isaac is about to get married and begin building his family, why is he at all interested in finding a wife for his aging father? It would seem as though Isaac should be worried about getting his own affairs in order.

### BE'ER LA'HAI ROI—A WELL TO THE LIVING GOD

The first step in beginning to answer these questions is to understand the significance of *Be'er la'hai Roi*. Isaac's journey to *Be'er la'hai Roi* is not the first time we encounter this place. *Be'er la'hai Roi* was named by Hagar in *Parashat Lekh Lekha*, after she had been sent away by Sarah, who was jealous of Hagar for having become pregnant with Abraham's child. Ironically, it was Sarah who suggested that Abraham take Hagar as a wife because of Sarah's inability to conceive.

#### בראשית טז:ה-יב

ותאמר שרי אל אברם חמסי עליך אנכי נתתי שפחתי בחיקך ותרא כי הרתה ואקל בעיניך ישפט ידוד ביני וביניך: ויאמר אברם אל שרי הנה שפחתיך בידך עשי לה הטוב בעיניך ותענה שרי ותברח מפניה: וימצאה מלאך ידוד על עין המים במדבר על העין בדרך שור: ויאמר הגר שפחת שרי אי מזה באת ואנה תלכי ותאמר מפני שרי גברתי אנכי ברחתי: ויאמר לה מלאך ידוד שובי אל גברתיך והתעני תחת ידיה: ויאמר לה מלאך ידוד הרבה ארבה את זרעך ולא יספר מרב: ויאמר לה מלאך ידוד הנך הרה וילדת בן וקראת שמו ישמעאל כי שמע ידוד אל עניך: והוא יהיה פרא אדם ידו בכל ויד כל בו ועל פני כל אחיו ישכן:

Sarai said to Abram: “The wrong done to me is your fault! I myself put my maid in your bosom; now that she sees that she is pregnant, I am lowered in her esteem. The Lord decide between you and me!” Abram said to Sarai, “Your maid is in your hands. Deal with her as you think right.” Then Sarai treated her harshly, and she ran away from her. An angel of the Lord found her by a spring of water in the wilderness, the spring on the road to Shur and said, “Hagar, slave of Sarai, where have you come from, and where are you going?” And she said, “I am running away from my mistress Sarai.” And the angel of the Lord said to her, “Go back to your mistress, and submit to her harsh treatment.” And the angel of the Lord said to her, “I will greatly increase your offspring, and they shall be too many to count.” The angel of the Lord said to her further, “Behold, you are with child and shall bear a son; you shall call him Ishmael. For the Lord has paid heed to your suffering. He shall be a wild ass of a man; His hand against everyone, and everyone’s hand against him; he shall dwell alongside of all his kinsmen.” (Genesis 16 5:-12)

This revelation with the angel prompts Hagar to call God by a new name:

**בראשית טז:יג-יד**

ותקרא שם ידוד הדבר אליה אתה אל ראי כי אמרה הגם הלם ראיתי אחרי ראי: על כן קרא לבאר באר לחי ראי הנה בין קדש ובין ברד:

And she called the Lord who spoke to her, “You Are El-Ro’i” for she said, “Have I not gone on seeing after He saw me!” Therefore the well was called “*Be’er la’Hai Roi*” (the well to Hai Roi); it is between Kadesh and Bered. (Genesis 16:13-14)

Hagar names God “*El Roi*” which literally means “God who sees me.” She also names the place of her revelation “*Be’er la’Hai Roi*” “A well to the Living One Who sees me.”

The Midrash is troubled by Hagar’s name for God. What is it that God sees? The Midrash explains:

**בראשית רבה מה**

אתה אל ראי אמר רבי אייבו אתה הוא רואה בעלבון של עלובין

**You are God Who sees me**—R. Aybu said: You identify with the embarrassment of those who have been insulted and humiliated. (Genesis Rabbah 45)

Hagar had been treated improperly by Sarah, and was humiliated by the lack of dignity and respect afforded her. Her encounter with the angel allows Hagar to feel that God identifies with her plight and is sympathetic to her humiliation. *Be’er la’Hai Roi* comes to symbolize her pain and the comfort she feels when

she realizes that she is not alone in her suffering. God recognizes her plight and has compassion for her.

### THE CONNECTION TO ISAAC

Though the text does not explain how, it is clear that the *akeidah* had a deep impact on Isaac, as indicated in the Midrash cited above. One may raise the possibility that Isaac felt that he had been wronged, insulted, and abandoned both by his father Abraham, and by God who had commanded this on him. In other words, Isaac had many of the same feelings that Hagar had after being kicked out of Abraham's house by Sarah.

The Torah leaves room for speculation about Isaac's exact intentions, but it is clear that his travel to *Be'er la'Hai Roi* should not be seen as a random detail of his wanderings in the desert. Rather he went there because he identified with Hagar's plight. Perhaps Isaac sought out the compassion that Hagar had felt at that same place—Isaac wanted to relate to a God Who identifies with the plight of the downtrodden and humiliated. But Isaac may have gone to question the very existence of the place whose meaning he so desperately sought. In light of his experience at the *akeidah*, Isaac may have questioned the very possibility of *Be'er la'Hai Roi*'s existence. "How could there be a place that testifies to God's compassion," wondered Isaac, "when I feel so abandoned and hurt?" The Midrash on our verse confirms this understanding.

#### בראשית רבה ט

ויצחק בא מבוא, אתא ממיתא, ולהיכן הלך, באר לחי רואי, הלך להביא את הגר אותה שישבה על הבאר ואמרה לחי העולמים ראה בעלבוני

He came from a mission to fetch someone. And where had he gone? To Be'er la'Hai Roi. He had gone to fetch Hagar, **the one who had sat by the well and besought the Eternal God "See my humiliation!"** (Genesis Rabbah 60)

Isaac fetches Hagar because he identifies with her feelings of humiliation. His bringing Hagar has nothing to do with a lack of concern for his own life situation, or an inability to find a wife for himself. Rather, just as Hagar sat on the well and cried to God, "See my humiliation!" so Isaac was crying out to God, to Abraham and perhaps to the rest of the world, "See *my* humiliation!" Abraham was unaware of Isaac's pain and humiliation. Isaac's going to the place named after the pain and humiliation felt at being rejected and abandoned was his way of telling Abraham about his pain. Perhaps Isaac's bringing Hagar back to Abraham was his way of making Abraham aware of the pain that he had caused to others. Just as Abraham was unaware of the deep psychological impact the *akeidah* had on Isaac, he may not have been aware of the pain and suffering felt

by Hagar after being expelled from Abraham's house.

According to this understanding, before he could marry Rebecca and get on with his life, Isaac had to come to terms with his experience at the *akeidah*. This included a need to cry out and admit that he felt hurt and betrayed. He went to the only place he knew of to make such a plea—to *Be'er la'Hai Roi*. Additionally, Isaac had to mend his relationship with Abraham. Bringing Hagar back to Abraham's house was not a way to avoid dealing with his own life. On the contrary, in order for Isaac to deal with his life he needed his father fix the wrong he had done. Abraham begins to do this by taking back Hagar. If the source of Hagar's pain and humiliation was being expelled from Abraham's house, then the way to fix it is to bring her back. By urging Abraham to take in Hagar, Isaac hopes to force Abraham to reassess the other times Abraham may have caused other people to feel the same way as Hagar.

#### THE LESSON FOR US

The above analysis teaches two important lessons. First, we learn how Isaac dealt with his pain, suffering and humiliation. He went to the one place he knew of that could help him deal with his feelings of abandonment, and he sought out the one person he knew to have had similar feelings and issues. When confronted with life's difficulties we should follow this model. Even more important than having a community and support network to celebrate with us in our times of joy is to have that network in times of trouble and despair. Although he was unable to directly confront Abraham about the traumatizing effects the *akeidah* had on him, Isaac knew how to make Abraham aware of his suffering.

Much has been written about how the subsequent events in Isaac's life parallel those of Abraham's. Isaac travels to the same places and digs the same wells as Abraham. Isaac deals with similar political and military issues as Abraham, and he builds altars to God in the same place as Abraham. One explanation of this may be that Isaac has to rebuild a relationship to God in light of his *akeidah* experience. Isaac is not able to relate to God in the same way as Abraham—after all God was the source of Isaac's trauma. Isaac therefore builds a relationship to God on his terms. At the end of the day, Isaac's relationship with God and his actions may closely resemble those of Abraham, but only because Isaac engaged in a process of building that relationship. His initial questions and concerns were very different from his father's. Isaac's willingness to engage in the process of rebuilding his shattered relationship to God should serve as inspiration to us when we have questions about our own spirituality and relationships with God.

A second lesson that emerges from the above analysis is to realize the effect and ramifications that our religious lives may have on others. As the Torah tells us, Abraham passed God's test with flying colors. He did what God demanded

of him, despite the many inherent difficulties contained in such a demand. Abraham, however, was unaware of the effect of his actions on Isaac. It is often the case that religious actions have unintended or undesired consequences. Isaac's silent plea to Abraham—manifest in his bringing Hagar back to Abraham's house—makes Abraham aware of the pain that his desire to follow God's word had on others. This is not to say that Abraham should have acted any differently, or should have refused to follow God's command. Rather, Abraham should have been sensitive to the pain that the *akeidah* caused Isaac and acknowledged it. He should have been aware of the strain in their relationship and of the difficulties in Isaac's personal spiritual life that resulted from the *akeidah*. We too should be aware of the consequences of our religious actions. The demands that *halakhah* makes of us are numerous and can have unintended effects on our family, friends, colleagues, and on our own sensitivities. The *akeidah*, and Isaac's reaction to it, teaches us the need to be sensitive to the possible negative ramifications our personal spiritual quests can have on others.

Prof. Nehama Leibowitz *zt"l* (1905-1997) was a master teacher of Bible and commentaries to students, teachers, rabbis and scholars for close to seventy years. Through her legendary classes, weekly study sheets and numerous books on Torah, the Prophets and pedagogy, she had a profound influence on the study of Bible through most of the last century.

## “ACCEPT THE TRUTH FROM WHEREVER IT COMES”

Prof. Nehama Leibowitz *zt"l*

To the Honorable Rabbi Yehuda Ansbacher,

It is a great honor for me that you commented on my words on *Parshat Pekudei*. I don't recall why I didn't cite the *Tanbuma* at the time, and whether I had a reason for doing so, or simply didn't consider it. But after your comment, I carefully considered your words and the words of the *Midrash*, and saw that the parallels in the *Tanbuma* are not of the same type that I wanted to emphasize and of which [Franz] Rosenzweig mentions in his essay.

Rosenzweig's intention was to parallel the rise of Moshe and *haKadosh Barukh Hu*, and therefore “*vayera . . . vayera*”, “*vayevarekh . . . vayevarekh . . .*” Verbs are paralleled to verbs.

The parallels of the *Tanbuma* are different, as are their intentions: “*vayehi mavdil bein mayim . . . vehivdilah haparokhet*,” “*yishretzu hamayim ve'of ye'ofeif . . . kenegedan la'asot korbanot, kevasim, ve'ofot*,” and in *Bereishit*, “*vayivra et ha'adam, uvemishkan ketiv adam, shehu kohen gadol*.” So you see that the intentions of the *Midrash* and its methodology are completely different than what was quoted in my book.

But more to the point, [let me turn] to the latter part of your comments. It is true that I cite the words of people who are not observant of the *mitzvot*, if their words seem correct to me, and can reveal the light of Torah and display its

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\* The following is a translation of a Hebrew letter written by Prof. Leibowitz in response to a letter from Rabbi Yehuda Ansbacher *z"l* (1908-1988), who served as the rabbi of the *Ihud Shivat Zion* community center on Ben Yehuda St. in Tel Aviv for many decades. It originally appeared in *Alon Shvut-Bogrim* no. 13 and was translated for this journal by YCT student Avidan Friedman. It is reprinted with the kind permission of Dr. Aviad HaCohen, editor of *Alon Shvut Bogrim*. The footnotes were added by the editors.

greatness and holiness to the student. [I work] according to the principle: "Accept the truth from wherever it comes."<sup>1</sup> What can I say?

Benno Jacob was an extreme Reformer, who served in the *Sontag Gemeinde*<sup>2</sup> and certainly transgressed an enormous portion of our holy Torah's *mitzvot* (in addition to the fact that he was an anti-Zionist, etc. etc.). Yet, I learned from his books (*Aug um Auge* has excellent proofs that "an eye for an eye" according to the simple meaning refers to monetary compensation; *Quellenkritik und Exegese, Genesis, Exodus* is a forceful work against the Documentary Hypothesis) more than from many books written by bona-fide God-fearing Jews. His claims against biblical criticism and his proofs of their frivolousness and their errors—no one has ever written things better than them, even Rav David Hoffman, zt"l (as difficult as it is to mention the name of this *gaon* together with B. Jacob) as well as Yissachar Jacobson, a"b and Dr. Muriel who wrote a work on the Torah. Many of my friends—among them, Rabbi David Carlebach zt"l who for many years taught with me in the Seminar in Jerusalem—also learned from his works. He opened our eyes to see things which we had not seen before, and [therefore] toward a true understanding of the Torah.

Prof. [Umberto] Cassuto z"l, who was God-fearing and scrupulous regarding the *mitzvot*, said a number of things that are very far from my belief in *Torah meSinai*, and I won't be part of their dissemination. And therefore I will not pay heed to **who** said it, but only to **what** is said.

There is no need to say that [Martin] Buber was not a "good Jew"—according to the normal understanding of this concept. I knew him—and he was not in any way a man after my heart! Absolutely not!

The story that that gentile wrote seems to me to be slightly far from the truth. At the end of the day, this was not an innocent off-hand remark but rather one made by someone interested in proving a point, but if it is true, then this shows me—which I already knew—that Buber flattered gentiles, and if he truly said what is written, this is an abomination—although according to what he said to me he didn't love Christianity at all, and certainly didn't believe in these things, and if he said them, it was in order to flatter the gentiles, and this is the absolute worst. But what can I do, as I and many religious teachers learned many correct things from him in *Tanakh*, especially the whole concept of the key word, *Lietwort*, and the deep meaning that its application in Torah hints to, and although our Midrash also recognized this principle ("*ne'emar kan . . . vene'emar sham*", and similarly "*midah keneged midah*" and more), it is nevertheless the merit of Buber, and even more so Rosenzweig, that they expanded this concept and revealed several places that I have not found in any early sources. I will not withhold this good from students by hiding this from them.

<sup>1</sup> From Maimonides' introduction to his classic work on ethics, **Shemonah Prakim**.

<sup>2</sup> A Reform congregation that held prayers on Sunday instead of Saturday.

In truth, even non-Jews, at times, (though in my opinion, rarely) offer an interpretation that is good and sharp and proper to present, and even Abravanel in select places brings the words of a Catholic bishop, and accepts his opinion over the opinions of Radak and Ralbag.

Several times, I showed *talmidei hakhamim* details from Benno Jacob's important book, *Aug um Auge* and they thanked me and rejoiced as if discovering a great treasure. Should I then hide the name of the author? This I cannot do. "Who are those whose waters we drink and whose names we don't mention?"<sup>3</sup>

This is my opinion, which I have held to my entire life.

I thank you for writing nice things to me about my class in the *beit kneset*, and I wish you and your family a happy and kosher *Pesah* and good health, and may we merit to see a *Pesah* that brings the rebuilding of the Temple.

With great respect and thanks for your consideration,

Nehama

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<sup>3</sup> *Horiyot* 14

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## CREATING A YOUTH *TZEDAKAH* FOUNDATION\*

Mike Schultz

We must be more careful in the *mitzvah* of *tzedakah* than in any other performative *mitzvah*. For *tzedakah* is a sign of the righteous of the seed of Abraham our Forefather, as it says, ‘For I have known him so he will command his children to do *tzedakah*.’ And the throne of Israel is not established and the true religion stands except through *tzedakah*, as it says, ‘Through *tzedakah*, you will be established.’ And Israel will not be redeemed except through *tzedakah*, as it says ‘Zion through justice will be redeemed, and those who return to her through *tzedakah*.’ No one ever becomes poor through giving *tzedakah*, and no evil or damage will come about because of *tzedakah*, as it says, ‘The act of *tzedakah* will be peace.’ Whoever is merciful, we will be merciful on him, as it says ‘And He will give you mercy and have mercy on you and make you plentiful.’ (Maimonides, *Mishneh Torah, Hilkhoh Matanot Aniyim* 10:1-2)

He who gets others to give *tzedakah* and motivates them to action receives a greater reward from the one who gives, as it says ‘The act of *tzedakah* will be peace.’ (Ibid. 10:6)

### I. MOTIVATION

These two quotes encapsulate the motivating drives for creating the Maimonides Money Pot youth *tzedakah* foundation at Stern Hebrew High School, a modern Orthodox high school in Northeast Philadelphia. If *tzedakah* is the *mitzvat aseh* which requires the most care, then surely students should be led to figure out why it is so significant and be taught how to give *tzedakah* in more than a passing way during *bazarat hashatz*. Because our schools should aim to

\* From 2002-4, I was the community service coordinator at Stern Hebrew High School, and was given the opportunity to build up a multifaceted program of service and service-learning. The *tzedakah* project described here was one of our most successful initiatives.

teach our students proper *bein adam lehavero* behavior through real character education, and because, as Rambam teaches, *tzedakah* helps develop our trait of mercy, it makes sense to include *tzedakah* in our schools in a significant way.

“תשובה ותפלה וצדקה מעבירין את רוע הגזירה”—“Repentance, prayer, and *tzedakah* can change the evil decree.” We tend to focus on the transformative power of repentance and prayer while forgetting *tzedakah*. The reason giving *tzedakah* can save us from receiving the punishment we deserve is that it changes the giver into a new person, for whom the old punishment is no longer fitting. The *gabbai tzedakah* in traditional *kehillot* collected from each person the amount that they should be giving every week based on their wealth, not based on the current level of poverty in the town. *Tzedakah* is not just for the recipient, it is crucially important for the donors. Since every Jew is obligated to give *tzedakah*, no matter how poor he might be, *tzedakah* is crucially important for all of us. Our Rabbis emphasize *tzedakah*'s key role again and again, so I and my colleagues wanted to bring that into our students' education in an active, thought-out way. Since they don't have much money to give themselves, and since one who raises money from others is considered even greater than the one gives, we concluded that we would start a *tzedakah* foundation.

## II. FORMAT

One of the keys to our *tzedakah* foundation's success was framing it as a service-learning project.<sup>1</sup> In service-learning, service projects are part of the curriculum of a course and fulfill academic goals of the course. At Stern, we have a course called For Love and Money (FLAM): Economics, Judaism, and Society. It includes the regular high school microeconomics material, but we tie in units on Jewish attitudes toward wealth, Jewish business ethics and *halakhah*, public poli-

<sup>1</sup> A Philadelphia-area consortium of service-learning professionals, the SLSO (Service-Learning Support Organizations), of which Stern HHS' *hesed* coordinator is a member, came up with the following useful definition of service-learning:

“Service-learning is a form of teaching and learning that engages students in meaningful service activities in their schools and communities as part of the standard academic curriculum. Integrated into (but not limited to) the school day, service-learning connects young people with structured activities that address human and community issues, and that provide opportunities for increased student engagement in school, civic responsibility, personal and social development and the acquisition of critical thinking skills. Concepts central to good service-learning practice include: student voice in choosing, developing and implementing a project; identification of genuine need; connection to community partner(s); sustained student involvement; research; reflection; assessment; culminating presentation and final celebration. Evidence of these elements as well as of their alignment with local and state curriculum standards and promotion/graduation requirements are key to model practices.”

cy analysis from an economic perspective, and of course *tzedakah*. Students were given paper credit for FLAM if they took the option of participating in the *tzedakah* foundation, and about half the students did so. This was crucial, as it gave the foundation a critical mass of dedicated members who were willing to come to weekly or biweekly meetings during their lunchtime and also work on it outside of school. As a service-learning project, we made sure that working on the foundation fulfilled Economics academic goals. As we will describe, students learned how to analyze the effect of a grant on an organization and a community, learned about efficiency while seeing how to calculate what percentage of an organization's spending went to providing actual services, and internalized the importance of setting priorities and striving for the greatest impact.

The *tzedakah* foundation, which chose to call itself the Maimonides Money Pot (MMP), was made up of FLAM students and about ten students not in the course who chose to volunteer with MMP. We met about once a week during lunch. Most meetings would begin with learning something about *tzedakah* or American philanthropy. In addition, we would usually have a task set for each meeting. Our initial task was to choose our priorities.

### III. PRIORITIES

We began by learning the priorities set by Maimonides. Local need takes priority over needs in Israel or elsewhere (Ibid. 7:13); helping out in a case of greater need takes priority (see for example Shulhan Arukh, *Yoreh Deah* 251:7); helping someone become self-sufficient is greater than just giving money (Maimonides' list of eight levels of *tzedakah*, Ibid. 10:7-14); *talmidei hakhamim* take precedence over others, women take precedence over men, and *kohanim* before *leviyim* (Ibid. 8:15-18). But with so many priorities, it is often hard to know what takes precedence. We added to these *halakhic* priorities some other priorities that were apparent to us: giving to a place where our relatively small donation would make a big difference rather than to a very large organization; making a donation that would change the system that caused the problem rather than just help alleviate the problem; and preferably, giving to programs that used more of the money for providing services and less for fundraising and overhead.

In addition to the question of weighing priorities, we had to ask whether prioritizing meant giving to the priority to the exclusion of everything else. We concluded that it does not, and therefore we did not focus solely on giving locally, but we also decided to give to the needy in Israel.<sup>2</sup>

<sup>2</sup> When I did a more condensed version of this project with my Torah of Money course during Panim's Summer JAM (a summer program in Washington, DC devoted to teaching teens the interplay between Jewish values, public policy, and activism), the priority that they focused on was fulfilling Maimonides' highest level of *tzedakah*, helping some

With these decisions under our belts, we began with exercises identifying what Jewish concepts and values mattered to us most, and what issues in the world mattered to us, and then as a group we came to consensus on a couple of focal issues. In this way, the students started being thoughtful about what we were doing, had a lot of ownership over the project, and were excited about moving forward. Using an exercise adapted from Tracy Gary and Melissa Kohner's *Inspired Philanthropy*,<sup>3</sup> students were given a list of Jewish values and asked to select the ones that mattered most to them, and another list of common philanthropic causes, from which they were asked to pick out the ones that they felt most strongly about. We pushed ourselves so that, ideally, we could match up our most important Jewish concepts with the causes we wanted to back. In this way, students were encouraged to include Judaism thoughtfully in what they wanted to support. We then tallied up everyone's preferences. In the next session we examined the results, saw where the group was leaning and after a good discussion came to a consensus on our focus areas: supporting local programs to help fight homelessness and supporting the poor in Israel.

#### IV. GIVING TO NON-JEWISH PROGRAMS

Heated debate arose over the question of donating part of our funds to causes that primarily help non-Jews. Some of the participants had learned a strong ethic of 'take care of your own first,' implicitly based on Maimonides' teaching that support of one's family takes precedence over supporting all others (Ibid. 7:13). Since the Jews are our family, they argued, and there's no end of Jewish poverty, we should give only to Jewish causes. For some of these students, this feeling was strengthened by personal experiences of anti-Semitism. Other students felt a more universalistic ethic, perhaps motivated by their school community service projects, which include working with non-Jewish populations.

To help them make this important decision, we learned some of the relevant sources. Admittedly, I guided the learning in a particular direction, but I presented the sources honestly and I would not have put my foot down had they decided to give only to Jewish causes. The primary source is *Gittin* 61a, "מפרנסים עניי עכום עם עניי ישראל . . . מפני דרכי שלום," "we support poor non-Jews with poor Jews, we visit sick non-Jews along with sick Jews, and we bury non-Jews just as we bury Jews, because of the ways of peace." This line is brought down as *halakhah* in by the Rambam<sup>4</sup> and in the Rama.<sup>5</sup> There is a *mabloket* as

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one become self-sufficient. As a result, they donated a lot of the money they raised to giving microloans in the Third World to help individuals start their own very small businesses.

<sup>3</sup> Gary and Kohner, *Inspired Philanthropy: Your Step-by-Step Guide to Creating a Giving Plan*, San Francisco: Jossey-Bass, 2002.

<sup>4</sup> *Mishneh Torah, Hilkhhot Matanot Aniyim* 7:7

<sup>5</sup> *Shulhan Arukh, Yoreh De'ah* 251:1

to whether one supports non-Jewish poor only together with Jewish poor, or whether one even supports non-Jewish poor alone. Rashi takes the former position, while Rabbeinu Nissim<sup>6</sup> explains that this law extends even to the situation where one is giving to a purely non-Jewish cause. The Shakh<sup>7</sup> understands the Rama to be in agreement with Rabbeinu Nissim.

An important part of our discussion was whether this *gemara* was saying that we *may* give *tzedakah* to support non-Jews or that we *must* do so. On its face, the term sounds like an apologetic, certainly not something we would ideally practice. But when one examines the uses of the term “*mipnei darkhei shalom*” in the Talmud,<sup>8</sup> it becomes clear that its use signifies real *isur* or *hiyuv*. *Mipnei darkhei shalom* a *kohen* gets the first *aliyah*, we keep the food of an *eruv hatzerot* in the same house all the time, taking from someone’s fish nets is considered *gezel*, and so is stealing something that a blind or deaf person finds. The *gemara* is not saying that it might be *gezel* in those cases; rather it *is* *gezel*. And it is not just nice to give the *kohen* the first *aliyah*, but we are obligated to. To be consistent with this use of our term, we can now understand that the *gemara* states that it is not just permitted to support poor non-Jews in our community, but it is a *hiyuv*. In fact, both Maimonides and the Meiri state explicitly that it is a *hiyuv*.<sup>9</sup>

In this way, the group came to agree that some of the money should be donated to support poor non-Jews. The question of whether one can support non-Jews alone was not really relevant to us, because we had clearly decided not to donate only to non-Jewish causes. However, once the group had decided to support non-Jews along with Jews, there was still the key question to be answered: how much of the money should go to non-Jews and how much to Jews? Interestingly, while Maimonides quotes the *gemara*’s exact language in his *Hilkhhot Matanot Aniyim*, he uses a slightly different phrase in *Hilkhhot Melakhim*.<sup>10</sup> “אפילו העכום צו חכמים . . . לפרנס ענייהם בכלל עניי ישראל מפני דרכי שלום.” The key change is that he now says we support poor non-Jews “בכלל,” “amongst,” poor Jews, rather than “עם עניי ישראל,” “with poor Jews.” The word בכלל sounds much more like an obligation that we should support poor non-Jews grouped in with the Jews, i.e. in the same fashion as we support the Jews. At the same time, we did need to balance this command with the priority of supporting one’s fam-

<sup>6</sup> *Gittin 28a bi-dapei ha-Rifs.v.* “קוברים מתי עובדי כוכבים עם מתי ישראל.”

<sup>7</sup> *ad loc. se’if 2*

<sup>8</sup> *Gittin 59a-b.* *Mipnei darchei shalom* also comes up in *Bava Metzia 102a* and *Sanhedrin 25a* regarding other cases that similarly seem to be dealing with *isur* and *hiyuv*.

<sup>9</sup> *Mishneh Torah, Hilkhhot Melakhim 10:12* “אפילו העכום צו חכמים לפרנס ענייהם בכלל עניי” and *Meiri, Bava Batra 10b* “שהרי אף משלנו אנו חייבים לפרנסם כמו” “שאמרו מפרנסין עניי גוים עם ישראל מפני דרכי שלום”

<sup>10</sup> 10:12

ily. In the end, the group came to a consensus: 65 percent of what we raised would go to primarily Jewish causes, and 35 percent to primarily non-Jewish causes.

## V. PROFESSIONALISM

After we had settled on our funding areas, we wanted to teach Maimonides Money Pot participants more about how the world of American philanthropy works. With the help of some outside presenters, we learned about foundations and were taught how to create a professional Request for Proposals (RFP), asking organizations in our target areas to send proposals in for our foundation to review. The RFP that our students created can be seen at [www.maimonidesmp.netfirms.com](http://www.maimonidesmp.netfirms.com). Working professionally in this manner taught the students about the real world of philanthropy and helped them feel especially good about their efforts.

Simultaneously, we planned two big fundraisers so we would have money to give away, and a philanthropist in Florida gave a challenge matching grant to motivate the students. I helped them circulate the RFP to relevant listserves and organizations, and we received almost a dozen proposals. Students then learned how to research the organizations and thoughtfully review their proposals. They went to [www.guidestar.org](http://www.guidestar.org) to look up the tax records of American organizations to see how efficient they were with the money they spent, looked closely at the organizations online and by phone, and prepared presentations about the proposal they were reviewing. In a very exciting group session, they came to a consensus and chose the recipients.

## VI. CONCLUSION

The students held one fundraiser on Purim and a second, a talent show/auction/dinner for the community and raised a considerable amount of money. They came away from the project feeling very proud about what they had accomplished and excited to continue their efforts the next year. They became much more thoughtful about how they give and raise *tzedakah*, they integrated the value of *tzedakah*, and they got the school excited about *tzedakah*. And we fulfilled our mission, as articulated by the students:

The students of Stern Hebrew High School have beckoned to the call of Maimonides, who says, "There is an obligation to give support to your brother, your poor and the impoverished of your land." Our Modern Orthodox school wishes to fulfill our obligation to the community as a whole. This philanthropic experience, we feel, will broad-

en our horizons and will prepare us to continue such activities as adults.

## VII. RECOMMENDED READING

Lawrence Bush and Jeffrey Dekro, *Judaism, Money, & Social Responsibility: Developing a "Torah of Money" for Contemporary Life* (The Shefa Fund, Philadelphia, PA, 1993)

Betsy Tessler and Jeffrey Dekro, *Building Community, Creating Justice A Guide for Organizing Tzedakah Collectives* (The Shefa Fund, Philadelphia, PA, 1994)

Rabbi Shimon Taub, *The Laws of Tzedakah and Maaser* (Artscroll, Brooklyn, NY, 2001)

For the final report of Yeshiva of Flatbush's excellent *Tzedakah* Commission:  
<http://www.areyvut.org/Action/Tzedakah.pdf>

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## “CHAPLAINCY”

Benjamin Pearlberg

### I.

“Pray with me,” he says. His arm is crisscrossed with two lines of thick stitches. His face is patched with a square of skin lifted from his wrist, a bandage of human flesh to cover the hole they'd excised. “Pray, holy man. You think I'm so holy. So holy, the

fan there spins wind straight through my face. I have so many holes.” He snorts and laughs. “Do it so you can feel better. Then we can both go home. Don't you want to feel better? Don't you desire home?”

Dear God, we are here in the hospital. It is eleven in the morning. The forecast is cloudy.”

He says, “Don't forget my name. And then ask me what I want. I want healing. I want peace. Go on, ask. Get moving. Can't you see how dry my lips are?”

Dear God, we are here in the hospital. The forecast is cloudy. We want healing. We want peace.

“Come, come,” he says. “Who are you, anyway? I forget. The chaplain, you said? The rabbi? Which is it? Either way, I'm sure your skills are up to speed. You've practiced and passed your tests, hung your certificates on the wall. So do your duty. I am the book, you are the reader: In chapter one, we have childhood and family. Chapter two is conflict. Chapter three is sedation. And now we have illness and then death for closure and denouement.”

Dear God, we are here in the hospital. We're reading together. We want peace.

“Good, good. Almost finished. ‘How do I feel?’ Excellent, fantastic, you're doing marvelously. I am now all feeling. ‘Why do I think I feel this way? Wonderful question, you're well on your way to success. Why do I feel this way. Because the feelings I have, unleashed by feelings past, are influenced by feelings to come and make my journey about the here and now. I walk my path, and I am one with myself. And sickness is sickness, and it sounds to me that I am who I am. Now let us say, amen. Amen.”

The nurse walks in. She carries a tray of medicine, needles, and a small blue box with a pink bow. She checks her charts and nods her head. "Yes," she says. "Here we have it. Doctor's orders." She places the box on his lap, lifts his hand and helps him pull at the ribbon. "Your prayers are answered. It's all a success. Congratulations. Now we can all go home." She kisses him on the forehead and he beams from cheek to cheek.

"You hear that, boy? Prayers answered, just like I told you." We watch the nurse unplug tubes and shut down machines. She pulls open the blinds and the sun floods in.

## II.

On the fourteenth floor of the Baird Hall at the Beth Israel hospital we cross the bridge that connects to the main campus buildings, Dazion, Silver, Linsky. Here are the patients.

## III.

"So you want to pray?" he asks. "Let's do it right then. He lifts his arm to his mouth and pulls at the red thread with his teeth. He says, "There are no lessons now. You bring what you got, and what you got better be good." He does not smile.

There is no light. Or there is only light. It makes no difference. God is present, because He is always present, or He is never present. It makes no difference. We are given space to speak, to plead our case.

"Nu," God says. "You are here now. What are your wants." We are surrounded by His sound. He is impatient.

The patient is beside me. He grips my arm. His sickness slides easily around and back through his body, laughing. He is crying.

"Speak," God says. "You want life. You want death. You want peace. You want comfort. Let your flood flow."

We are silent. We don't speak. We say nothing. If we choose, we can look around at the mysteries of the world, the secrets of sin and salvation. If we look, we can see the seated surrounding us: Isaac, caressing his swollen neck; Jacob, tearing the hairs from his beard; Hannah, giggling uncontrollably between giddy bursts of Greek. But we do not dare. And have no such need.

Instead, we open ourselves. Not like books, but like people. Exposing our insides, our souls, our hearts, and our guts. We allow God to see what He chooses. And then we close our eyes and seal our lips. We hold hands, and I feel his sickness enter my body. We can't speak, but we ask for mercy. This, is our prayer.

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## THE LITHUANIAN YESHIVOT: YESTERDAY AND TODAY

Dr. Marc B. Shapiro

In 1950 most observers believed that although Orthodoxy might live on, old-fashioned Orthodoxy was a thing of the past. This was also the view of the Modern Orthodox leadership, and they regarded institutions such as Yeshiva University as crucial for the survival of Orthodoxy in the United States. They were also set on establishing Bar Ilan University, which they believed would secure the future of Orthodox Judaism in Israel. Traditional yeshivot had little place in the future vision of Modern Orthodoxy.

What a difference fifty years make. Just look around the Jewish world and you see the great influence of right wing, or *haredi*, Orthodoxy. Leaving aside the large Hasidic communities, most of these Orthodox communities are direct descendants of what is known as the Lithuanian yeshiva world. It is thus of great importance to understand what this yeshiva world was and how it continues to influence the Jewish community as a whole.

In 1943, Rabbi Aaron Kotler established a small yeshiva in the resort town of Lakewood, N. J. A remnant of the yeshiva at Kletsk, Belarus, the *Beth Medrash Gavoha* had fourteen students when it first began. Today there are approximately 3,000 men studying there full-time, many more who study part-time, and a whole community which has built up around it. Even if it is true that one of the great Lithuanian yeshivot had 500 students, which is no doubt an exaggerated number, there is many times that in Lakewood.

After his escape from Europe through Japan, R. Kotler was intent on establishing the prominence of the Lithuanian yeshiva tradition in the New World. The post-war revival of Orthodoxy, and the growing influence of the yeshiva world, can be directly traced to R. Kotler's vision of a Lithuanian yeshiva on American soil. He had this vision at a time when there was much less sympathy in Orthodoxy for such an institution than there is today, when there are many

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\* Editor's Note: This essay is a transcript of a talk delivered as a public lecture at YIVO on Nov. 13, 2002. It is printed as delivered, with some slight revisions. The basic oral nature of the presentation has not, however, been altered. In addition, it should be noted that the lecture was geared to a general audience, with varying levels of knowledge and background on the history of the Yeshivot.

yeshivot along this model. The most prominent ones are Telz in Cleveland, Ner Israel in Baltimore, Mir and Chaim Berlin in Brooklyn. These exist alongside numerous smaller yeshivot, all staffed with graduates of these Lithuanian-style institutions.

In addition, every major Jewish community, and some not so major ones, has a *kollel*—an institute supported by the local community in which a group of men devote themselves to studying Torah. They are paid a monthly stipend, and this is how they make their living. This model, whereby the community contributes to the creation of Torah scholars, was begun in late nineteenth century Lithuania. In Scranton, where I teach, there is a yeshiva of some 200 high school and post-high school students that was created by Lakewood graduates. As is befitting a town with a large yeshiva, there is also a *kollel* supported by the community.

Simply from what I have mentioned so far, it is clear that the influence of Lithuania on the religious experience of American Jewry is substantial. The same can be said about Israel. Jewish religious life in the Holy Land was influenced to a great extent by the students of the Vilna Gaon who settled there (recall that Vilna, Vilnius, is the capital of Lithuania). Furthermore, the Ashkenazic chief rabbis of Palestine all came from Lithuania. This is a great testament to the brilliance of Lithuanian Torah scholars, because the Ashkenazic community in Palestine was composed of men dedicated to Torah study. And yet, when it came time to choose their leader, they felt that they had to look towards Lithuania.

In the 1920's a branch of the Slobodka yeshiva, which was right outside Kovno, was established in Palestine. After the war, the Mir Yeshiva was reestablished there (as well as in Brooklyn), and there are now a number of yeshivot in Israel recreated from pre-war Lithuanian yeshivot. The administrators of these yeshivot usually have a familial connection to those that ran the pre-war yeshivot, and can thus be seen as their historical continuation.

(Incidentally, Mir might not have technically been in Lithuania, but from the standpoint of Jewish geography it was indeed regarded as such. Jewish Lithuania did not always correspond to the political borders.)

The phenomenon in Israel of tens of thousands of young men who exclusively study Torah and expect to be supported by the government is a phenomenon that has aroused animosity within the Israeli body politic and is entirely due to the influence of the Lithuanian yeshivot. Whereas before World War II, only the best and brightest of a town might go off and devote themselves to study, after which they became a rabbi or got some other job, today in Israel there is the phenomenon of families in which every son devotes himself to Torah study, some 25,000 at last count. While exclusive Torah study was certainly the ideal in Lithuania, it only became a reality when successive Israeli governments decided that the ultra-Orthodox vote was so important, that in exchange for this support the state would provide funding, through the yeshivot, to any man who

wished to devote himself to Torah study. These men also receive an army exemption, another great sore point in Israel.

The so-called yeshiva world, which exists in every place where Jews live, and is most readily identified by outsiders when they see the men who wear black hats and black suits, is a Lithuanian yeshiva phenomenon. But how did the Lithuanian yeshivot become so significant? Why are we speaking of Lithuanian yeshivot and not Polish or Hungarian yeshivot?

To answer this we must know something about the central place of Torah study in Lithuanian Jewish life. The figure of Rabbi Elijah, the Gaon of Vilna, stands out in this regard. He became the model for complete devotion to Torah study, and is well known for his unrelenting battle against the new Hasidic movement, which downgraded the significance of study in favor of prayer. It was the Vilna Gaon's students who realized that for Torah study to thrive it was not enough for the local rabbi to gather students around him. A more sophisticated approach was needed, one that focused on inter-communal financial support, rather than the old way of relying on the local townspeople.

In line with this vision the Gaon's great student, R. Chaim of Volozhin, founded a yeshiva in Volozhin which did not regard itself as dependant on the local community. This yeshiva soon grew into the major institution of Torah study in Lithuania. Though R. Chaim also happened to be the rabbi of the town, the other yeshivot that followed his model were completely independent of the community and attracted students from all over. These yeshivot competed with each other and this naturally raised the caliber of study.

As you can imagine, these new yeshivot were bound to create conflicts. When the rabbi was also the head of the yeshiva, everyone knew who the supreme religious authority was. But what do you do when you have both a communal rabbi and a yeshiva head? Where do your allegiances lie? Who is regarded as the supreme authority? This is a great problem in Orthodoxy today and goes back to the nineteenth-century Lithuanian yeshiva model whereby the yeshiva is independent of communal life. Much of the increasing stringency in Orthodox Jewish life can also be traced to this phenomenon. This is so because Jewish law is practiced with much greater rigor in the yeshiva. When yeshiva students come back home, they often attempt to change long-standing practices. It is not important to them if the communal rabbi supports the old way of doing things, since their allegiance is to the head of their yeshiva.

It is also worth noting that the great flowering of yeshivot occurred at the end of the nineteenth century. It was precisely when traditional Jewish life was being challenged that the great yeshivot opened up. They were to be bastions of conservatism, the bulwark against irreligiosity, *Haskalah* (Enlightenment), Zionism, and whatever new ideologies the winds blew in.

Let me now talk a bit about what was characteristic regarding the method of study of the new yeshivot, characteristics that continue to define the institutions. These are not the sort of things that are often written about, but are apparent to

anyone who has spent time in a yeshiva. Most people know that students in a yeshiva study Torah all day, from early morning until late at night. But what is the purpose of this study? It used to be, and is still this way in Sephardic yeshivot, that the purpose of Torah study was primarily about deriving the *halakhah*.

This is not the Lithuanian approach. In the Lithuanian yeshivot you study Torah for its own sake, *lishmah*. The ideal is knowledge without any practical purpose; a parallel to a professor of law versus a lawyer might be apt. In the Lithuanian yeshiva, this is the highest form of Torah study. Listen to Rabbi Joseph B. Soloveitchik, grandson of the most eminent yeshiva head in Lithuania, R. Hayim of Brisk (Brest-Litovsk), and himself one of the most eminent yeshiva heads in the post-war era: "The foundation of foundations and the pillar of *halakhic* thought is not the practical ruling but the determination of the theoretical *halakhah*. . . The theoretical *halakhah*, not the practical decision, the ideal creation, not the empirical one, represent the longing of *halakhic* man."

This has important implications for the curriculum. One who follows this approach studies areas that have no practical application whatsoever. One studies about sacrifices and impurity and the reasoning behind rejected opinions. In the Lithuanian model one connects to God most deeply through the study of Talmud and other areas of Jewish legal literature. This is important to stress, since many people think that the yeshiva students are reading the Bible or studying theology all day, as if they were training to be Jesuits.

While they do study this, the overwhelming bulk of the day is devoted to Jewish legal matters. A whole year can be spent on the laws of witnesses or responsibility for damages caused by an ox. Some of you might be wondering how one possibly connects to God by studying the laws of goring oxen. I think this is the most difficult thing for outsiders to appreciate when they are first exposed to the yeshivot. Yet if you believe that all of Jewish law is ultimately derived from biblical verses and an oral tradition, and is thus no less than God's will on earth, then you begin to see that this is indeed how one connects to God. We cannot know anything about God's essence, but we can know His words and His will, so to speak, and these words, as all who have read the Torah know, do not merely concern theology or helping widows and orphans, but extend to more mundane matters such as how to establish that witnesses are telling the truth.

Since the Talmudic debates concern Holy Writ, there is no real significance to the fact that some tractates' laws are practical and others aren't (for example the laws of sacrifices). Remember, it is the study of Torah for its own sake. Therefore, all areas are the subjects of careful study. Because of this emphasis on theoretical *halakhah*, the greats of the Lithuanian yeshiva world are not known for their works on practical Jewish law. Rather, they devote themselves to theoretical analysis of Talmudic points. A class in a yeshiva is devoted to such analysis. Everyone must learn the practical law, but you can do that on your own. You don't need to spend time with a Talmudic master for this.

Lithuanian Talmud study is also characterized by a brilliant conceptual approach. This method, also called the analytic approach, was primarily developed by R. Hayim Soloveitchik of Brisk (1853-1918) and quickly conquered the yeshiva world. It created a revolution in Talmud study. Since the Lithuanian approach, with its conceptual clarity and analytical categorizations, is so dominant today, many people do not know that there was a time when this approach was new in Lithuania and many old-time Lithuanian Talmudists opposed it.

It is impossible in a short oral presentation to give any sense of what this method is about, but let me give one example nonetheless. Maimonides states that one who prays without *kavanah* must pray again. But, what does the word *kavanah* mean? There are two possibilities. *Kavanah* can mean to be aware of the words you are saying. This would mean that when one prays it must not be by rote. There is also another type of *kavanah*, and that is that one must regard himself as standing in awe before God. So what happens if one has the first form of *kavanah*, that is, awareness of the words, but not the second form? Or vice versa, let's say you clear your mind of all extraneous thoughts and regard yourself as standing before God but you do not have active awareness of what you are saying, what then is the law?

This is a typical analysis, yet in some schools matters went to an extreme. For example, there is a talmudic principle that if you are brought to court in a monetary dispute and you will not take an oath to clear yourself, you have to pay. The question was raised as to how one should understand this. Does it mean that essentially you are obligated to pay, but you can exempt yourself with an oath, or does it mean that essentially you are obligated to take an oath, but if you choose not to then you have to pay? One opponent of this way of thinking, R. Jehiel Jacob Weinberg, called it a foolish Telzer analysis, and said that it is no different than the following ridiculous inquiry: Do we say that essentially X is set to die and only if he eats will he live, or do we say that essentially X is set to live and only if he chooses not to eat will he die? It has always been a struggle to prevent true conceptual analysis from degenerating into this sort of semantic game.

Perhaps the leading opponent of the new Lithuanian method of study was R. Jacob David Wilovsky (1845-1913) of Slutsk, known among other things for his monumental commentary on the Jerusalem Talmud. In the introduction to his responsa R. Wilovsky writes as follows:

A certain rabbi invented the "chemical" method of study. Those in the know now refer to it as "chemistry," but many speak of it as "logic." This proved to be of great harm to us for it is a foreign spirit from without that they have brought in to the Oral Torah. This is not the Torah delivered to us by Moses from the mouth of the Omnipresent. This method of study has spread among the yeshiva students who still hold a *gemara* in their hands. In no way does this type of Torah study bring men to purity. From the day this method spread abroad this kind of Torah has had no power to protect its students. . . . It is better to have no rosh yeshiva than to have one who studies with the "chemical" method.

In his ethical will R. Wilovsky returns to this criticism, directing his sons: “Be careful, and keep far away from the new method of study that has in recent years spread through Lithuania.”

Yet such objections had virtually no influence, and with the benefit of hindsight it is possible to say, without exaggeration, that R. Hayim Soloveitchik raised the quality of Talmud study to a level not seen since the days of the medieval Tosafists. In his hands the argumentation of the Talmud and medieval authorities assumed a “scientific” character, without parallel in previous generations. In fact, Rabbi Joseph B. Soloveitchik went so far as to say that “it would be most difficult to study Talmud with students who are trained in the sciences and mathematics, were it not for [R. Hayim’s] method, which is very modern and equals, if not surpasses, most contemporary forms of logic, metaphysics, or philosophy.” In other words, R. Hayim and his followers showed that Talmud study is just as serious a discipline as anything studied in the modern university.

At the same time, R. Hayim transformed the practical halakhic work *par excellence* — Maimonides’ *Mishneh Torah* — into both the central feature of his theoretical analyses as well as the most profound commentary on the Talmud. By doing so, he became the first to reveal the profundity of the *Mishneh Torah* in all its grandeur. The centrality of Maimonides’ code in contemporary Talmudic lectures is a direct result of R. Hayim’s influence.

Even the seemingly mundane areas of Jewish law became, in R. Hayim’s mind, an area for great intellectual creativity. As his grandson put it: “Suddenly the pots and the pans, the eggs and the onions disappeared from the laws of meat and milk; the salt, the blood, and the spit disappeared from the laws of salting. The laws of *kashrut* were taken out of the kitchen and removed to an ideal halakhic world . . . constructed out of complexes of abstract concepts.”

What was the nature of this analytic method and why did it achieve such popularity? One of R. Hayim’s students, R. Judah Leib Don Yihye, described the lectures of R. Hayim as follows: “He would approach every Talmudic theme as a surgeon. He would first search out the logical elements of every *sugya*, showing the strengths of one side and then the other. After the logical basis was clear to all listeners, he would then focus on the dispute in the Talmud or between Maimonides and Rabad, and explain it in accordance with two [divergent] logical approaches.”

In other words, whereas earlier scholars attempted to prove one side of a dispute, such as between Maimonides and Rabad, R. Hayim instead attempted to clarify the divergent understandings, so as to show what the logical and textual basis was that led each of them to their conclusions. (Along these lines, it is known that R. Joseph Baer, R. Hayim’s father, said to his son that when people point out a difficulty to me and I answer it, the questioner is happy, because he asked well, and I am happy because I succeeded in formulating an answer. However, when they ask you a question and you answer it, no one is happy, because you show the questioner that there was never a difficulty in the first place, and thus no need for any answer.)

This new way of looking at the great disputes in Jewish law was exhilarating. Rabbi Yisachar Dov Teichtal, a famed Hungarian Talmudist and Munkatcher Hasid, sent his son to study in Lithuania in the 1930's. We have one of his son's letters to him in which he describes the high level of Torah study he found there, and this letter illustrates the great intellectual power and attraction of the Lithuanian approach. He writes that even if one would spend a thousand years in Slobodka, he would still be able to grow intellectually. In other words, the yeshiva is an inexhaustible font of learning. "And with literally every breath I praise God who brought me to this place and virtually took me out of a spiritual Egypt and brought me to Mt. Sinai, that is, to the center of Torah in Slobodka, and enabled me to receive the Torah anew."

I realize, of course, that all the attempts at describing the Lithuanian analytic approach, including the wonderful writings of Rabbi Joseph B. Soloveitchik, do not provide a complete picture. In order to truly understand the method one must experience it "in action," and only then can one begin to sense its great attraction.

In conclusion, I think it is fair to say that whereas the Jewish experience in Lithuania gave us many things, there is one aspect of Jewish life in Lithuania that is not just part of history and literature, but is experienced daily by tens of thousands of people, and that is the distinctive Lithuanian approach to Talmud study. As long as Jews study Talmud, Lithuania and the Jewish people will remain linked.

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## ON THE HALAKHIC BASIS FOR WEARING BLACK HATS

Jason Weiner

“*Bigdei adam meramzim al midotav shel adam*—A person’s clothing is reflective of his character,” says the *Maharsha*.<sup>1</sup> The clothing that a person wears is highly representative of who he is and can reveal a great deal about who he or she wants to be. Despite the fact that this subject is rarely explored in a serious way, it is a very deep and nuanced issue. Oftentimes the things that seem most superficial can actually reveal deep insights and reflect very significant truths. While there are many values that inform this decision, we will analyze the halakhic reasoning regarding the wearing of a hat by men, as it can serve as an enlightening study of different approaches to Jewish practice, ideologies, and responses to modernity. We will approach this topic by focusing on five issues relevant to this topic, advancing different approaches to each one: *kavod* or honorable attire, distinction from people who are not Jewish, *atifah* or head wrapping, wearing a double covering of one’s head, and the role of customs. While many observant women also wear hats for very different reasons, the focus of this paper is on the wearing of hats by men, though it is hoped that both men and women will be able to find interesting and relevant ideas therein.

### REASON 1: *KAVOD*

A fundamental necessity of prayer is maintaining consciousness toward whom one is praying, “*Da lifnei mi atah omed (Berakhot 25b)*.” Maintaining this awareness and *kavanah* during prayer requires much preparation and work. Based on the verse, “Prepare to meet your God, Israel, (Amos 4:12)” the Talmud states that part of preparation for prayer is dressing appropriately (*Shabbat 10a*). For example, the Talmud states that Rava Bar R. Huna would don fine footwear when he prayed. Specifically, the correct demeanor during prayer varies in accordance with local protocol.<sup>2</sup> Whatever way people of one’s

<sup>1</sup> *Maharsha, Shabbat 77b*.

<sup>2</sup> *Beit Yosef, Orach Hayim 95:3*.

locale would dress to appear before a king or other such eminent person, is how one should dress during prayer. Along similar lines, the Shulhan Arukh states that we should wear nice clothing for prayer, that is specific and special for prayer.<sup>3</sup>

Many halakhic sources claim that in addition to simply wearing clean and respectable clothing, the appropriate attire for prayer is specifically a hat and jacket. According to the *Hayei Adam*, one must don a hat in addition to his *kip-pah*, in order to be dressed in the way they dress in public.<sup>4</sup> The primary intention behind this source for dignified dress during prayer is that a person should not simply wear the casual clothing that they would wear around their house or to sleep, but must get dressed up to some extent in order to address *Hashem*.

According to the Mishnah Berurah the clothing worn for prayer must be even more formal and distinguished than the clothing one normally wears in public, as he states that, "In our times, one must place a hat on his head when he prays, so that he will be dressed in the manner which he is dressed when he goes about in the street. One should not pray merely with the small cap worn underneath the hat, since it is not the practice to stand like that before respected people."<sup>5</sup>

Despite the reality that hats are not customary in our time, and there is room for leniency in this issue, many contemporary *poskim* do require<sup>6</sup> or advise<sup>7</sup> the wearing of a hat, particularly for prayer. The *Arukh haShulhan* claims that regardless of the fact that many of the clothing improvements that must be made for prayer are dependant upon the custom of one's particular time and place; this does not apply to the covering of one's head for prayer.<sup>8</sup> The *Arukh haShulhan* then goes on to say that, "In our countries we do not only pray with our heads covered by a small covering, but with a hat, such as is worn in the street."<sup>9</sup> It is hard to say if the *Arukh haShulhan* would still require a hat in a society that generally does not wear hats. Nevertheless, this source is used to argue that the obligation still applies, because of the fact that his statement is prefaced by the claim that this requirement is not dependant on local custom.

Another contention used in favor of maintaining the custom of wearing a hat is to move the definition away from the subjective definition of a particular time and place, to an objective definition. It is the position of some that while dignified dress is no longer a hat, there has been such a decline in the ritualization of respect today that we can no longer use modern standards of *karod*. Based on this premise some feel that we should not gauge ourselves by modern standards, but must maintain the standards of earlier times, before styles became so casual.

<sup>3</sup> Shulhan Arukh, *Orah Hayim* 98:4.

<sup>4</sup> *Hayei Adam*, *klal* 22:8.

<sup>5</sup> Mishnah Berurah, *Orah Hayim*, 91:5.

<sup>6</sup> Responsa *Mishnah Halakhot* 13:133.

<sup>7</sup> Responsa *Tzitz Eliezer* 13:13; Responsa *Yehave Daat* 4:1.

<sup>8</sup> *Arukh haShulhan*, *Orah Hayim*, 91:5.

<sup>9</sup> *Ibid.* 91:6.

Similarly, according to the *Pahad Yitzhak*, the true test of *kavod* to *Hashem* is the way the *kohanim* dressed at the time of their service in the Temple. The *Pahad Yitzhak* argues that due to the fact that the *kohanim* completely wrapped their heads at this time, we see that true Jewish respect is to cover one's head. Consequently, despite the fact that it has become the opposite of common practice, the tradition of head covering as a show of respect must continue.<sup>10</sup>

Though the *Pahad Yitzhak* is simply referring to head covering in general, many argue for specifically maintaining the wearing of a hat in our days based on a statement of the *Levush*. The *Levush* rules that since it is considered lightheaded to have an uncovered head in a synagogue, one should thus wear a hat, because it will imbue the individual with fear, humility, and seriousness before *Hashem*.<sup>11</sup> A hat is thus seen as having its own intrinsic value, regardless of common practice. Thus, even if it is the practice to greet people of stature without a hat, Jews are nevertheless to wear a hat for unique reasons of modesty, and holiness, rather than reasons of fashion or pragmatics.<sup>12</sup> We are called to maintain particular standards of dress and behavior, despite changes in prevailing customs.

The obvious difficulty for many contemporary Jews is how one ought to dress for prayer in a society that has not only stopped wearing formal hats in the street, but no longer views the wearing of a hat as an indication of formality and respect. Indeed, despite the objection to this change we saw above, some contemporary *poskim* do clarify that the requirement to wear a hat is dependant upon one's personal custom. The recently written *Shaarei Halakhab* thus states that only "one who usually wears a hat when going out should wear one when praying."<sup>13</sup> Many contemporary Jews have accepted the fact that since we are no longer accustomed to going out, or to meeting honored people while wearing a hat, there is likewise no obligation to wear one for *tefillah*. Rather, it may be argued that one should wear whatever they considered dignified dress, such as a jacket or a tie.<sup>14</sup>

Since we may acknowledge that times change, and that to some extent, religious Jews have to change with the times in order to be relevant to the world at large as well as future generations of Jews. Thus, because conceptions of *kavod* have changed, something besides a hat is needed to make a person feel respectful while standing before *Hashem*. Indeed, because our society is not formal, one may argue that such formality is no longer halakhically mandated. In fact,

<sup>10</sup> R' Yitzchak Lampronti, *Pahad Yitzhak, Ma'arekhet Gimmel*.

<sup>11</sup> *Levush, Orach Hayim* 151:6.

<sup>12</sup> *Shulhan Arukh haRav, Orach Hayim* 46:2, Mishnah Berurah, *Orach Hayim* 46:9.

<sup>13</sup> Rabbi Ze'ev Greenwald, *Shaarei Halakha*, (Jerusalem: Feldheim Publishers, 2002), 18.

<sup>14</sup> Aharon Ziegler, *Halachic Positions of Rabbi Joseph B. Soloveitchik*, (New Jersey/Jerusalem: Jason Aronson Inc., 1998), 82.

Rav David Tzvi Hoffman records that when he first went to the school of Rav Samson Raphael Hirsch, Rav Hirsch instructed him not to wear his hat there, because it had become improper to wear one in front of important people in that locale.<sup>15</sup>

Though some Jewish communities have maintained the standard of wearing hats, if we are to continue to wear a hat only for purposes of *kavod* in societies where they no longer represent *kavod*, we run the risk of losing the original intent of the custom and developing distorted or empty ritualistic reasons for doing things.

### REASON 2: DISTINCTION

Rambam states that one must be separate from the outside world in the way they dress, otherwise transgressing the prohibition of emulating non-Jews (*bukat akum*) if one were to dress similar to them.<sup>16</sup> Indeed, there is a deep human desire to be different and unique in some way, which is intensified by a specifically Jewish yearning to be an “*am levadad yishkon*-a nation that dwells alone (Numbers 23:9).” Many Orthodox Jews are of the opinion that Jews are intended to emphasize, and be proud of their uniqueness in the world. Dressing differently serves to separate the Jew from the non-Jew preventing assimilation, and helping the Jew feel special and unique.

However, many authorities rule that this requirement not to dress like non-Jews is only clothing that is specifically non-Jewish attire, which is either not worn for any specific reason, something that is immodest, or somehow idolatrous, and Jews do only to copy the non-Jews.<sup>17</sup> Furthermore, because most Orthodox men wear *kippot*, that alone may fulfill the requirement to dress differently, though to a different degree.

### REASON 3: ATIFAH

Both Rambam<sup>18</sup> and the Shulhan Arukh<sup>19</sup> state that it is “the practice of all Torah scholars and their students is to pray only when they are *atufim*.” The primary fulfillment of “*atifah*” is generally understood to be covering one’s head.<sup>20</sup> While the simple translation of *atifah* is simply to cover or wrap one’s

<sup>15</sup> R’ David Tzvi Hoffman, Responsa *Melameid Leho’il*, 56.

<sup>16</sup> Maimonides, *Mishneh Torah, Hilkhot Avodat Kohavim*, 11:1.

<sup>17</sup> Responsa *Shut Maharik*, 89; *Rema*, Shulhan Arukh, *Yorah Deah* 178:1.

<sup>18</sup> Maimonides, *Mishneh Torah, Hilkhot Tefillah*, 5:5.

<sup>19</sup> Shulhan Arukh, *Orah Hayim*, 92:6.

<sup>20</sup> *Torat Kohanim, Tazria*, Ch. 12; *Hiddushei haRitva, Mo’ed Katan*, 24a.

self, this *halakhah* is used in reference to wearing a hat in addition to a yarmulke in many contemporary halakhic sources, because of a hat's increased ability to fully cover, or "wrap" one's head.

The Talmud states that any *kos shel berakhah* requires ten things, one of which is "*Ituf* (*Berakhot* 51a)." Based on this need for *atifah*, Rav Avraham Hayarkhi (1155-1215) states that in his days there were those in France who would put a hat on their heads in order to say grace after meals.<sup>21</sup> Though customs have varied throughout the ages, most later halakhic authorities maintain that a "God-fearing" person should not recite *birkhat hamazon* while only wearing a *kippah*, but should also put a hat on his head.<sup>22</sup> Similarly, due to the requirement of *atifah*, some *poskim* maintain that *kiddush* may only be recited, and heard, while wearing a hat in addition to one's *kippah*.<sup>23</sup>

There is a similar requirement for mourners to have *atifat harosh*<sup>24</sup> which the *Arukh haShulhan* advises a person to achieve through the wearing of a hat.<sup>25</sup> One may therefore argue that even in our times the requirement to pray with *atifah* is best achieved through the wearing of a hat. One could then conclude that because of *atifah*, there is a halakhic basis for wearing a hat any time a person is involved in a *kos shel berakhah* or *tefillah*.

On the other hand, there are various reasons why many do not see a hat as being necessary for the obligation of *atifah*. Similar to the issue of proper *kavod*, definitions vary, and it is hard to define exactly what constitutes *atifah*.<sup>26</sup> According to the Talmud, "*Kol atifah she'eina ke'atifat Yishmaelim, einah atifah*—any *atifah* [of the head] that is not like the *atifah* of Ishmaelites is not a proper *atifah* (*Moed Katan* 24a)." Based on this source, it would seem that one would be obligated to wrap their entire head and much of the face in order to attain *atifah*.<sup>27</sup> However, as this sort of wrapping became abnormal, Rashi<sup>28</sup> and

<sup>21</sup> R' Avraham Hayarkhi, *haManhig, Hilkhot Seudah, Din* 14.

<sup>22</sup> Basing himself on a various Rishonim, the Bach (1561-1640, Poland) in *Orah Hayim* 183:3 (5), may be the first to actually rule that one must specifically wear a hat in addition to the head covering that they are already wearing, in order to fulfill the requirement of *atifah* for *Birkat Hamazon*. The Bach argues that this additional head covering brings a person to greater *kavanah*, humility, and fear of heaven. The requirement to wear a hat for this purpose is codified by most later Aharonim, see for example: *Magen Avraham* 183:5; *Shulhan Arukh haRav* 183:6; *Mishnah Berurah* 183:3 (11); *Arukh haShulhan* 183:4; *Kitzur Shulhan Arukh* 44:6; *Yehaveh Daat* 4:1.

<sup>23</sup> Neuwirth, *Shemirat Shabbat Kehilkhatah*, 47:27 & footnote 131 (Hebrew edition).

<sup>24</sup> *Moed Katan* 15a; Maimonides, *Mishneh Torah, Hilkhot Avel* 5:19.

<sup>25</sup> *Arukh haShulhan, Yoreh Deah* 386:1.

<sup>26</sup> See *Mishnah Berurah, Orah Hayim* 8:2 (3) where he says that wrapping of the **body** is the *ikar atifah*.

<sup>27</sup> *Rabbeinu Hananel, Moed Katan*, 24a.

<sup>28</sup> *Teshuvot Rashi, Siman* 339.

Tosafot<sup>29</sup> noticed that if it were continued it would simply cause a person to be ridiculed. The practice of “*Atifat Yishmaelim*” was thus discontinued, and as we have seen, the wearing of a hat eventually became acceptable *atifah*. It may accordingly be argued that since the definition of *atifah* clearly evolves with time and place, it can surely evolve past the wearing of a hat, and as the simple understanding of *atifah* in the “*kos shel berakhah*” *gemara* implies, any head covering should suffice.

Furthermore, even those sources that do require a hat for *atifah* do not make it into an obligation. Rather, it is described with words like “*yire shamayim*-a God fearing person should . . .” or that it is “*nakhon*” or “*ra’ui*” meaning that it is proper, but not an obligation. Indeed, when Rambam codifies the issue of *atifah*, it is recorded along with the need to don respectable attire (dealt with above), and he clearly points out that neither requirement is “*me’akeiv*,” meaning that the prayer is still perfectly acceptable if one does not do either of them.<sup>30</sup> Those who choose not to wear a hat can thus argue that it is not desirable to begin requiring people to do something that is simply a good thing to do, because in general we should not permit the forbidden or forbid the permitted (*Berakhot* 28b).

#### REASON 4: DOUBLE COVERING

The *Talmud Yerushalmi* praises a person who is “*mit’atef*” for a “*kos shel berakhah*” by comparing him to the *malachei hashareit*-ministering angels (*Yerushalmi, Berakhot*, cap. 7, p. 11). The source for this statement is the vision of Isaiah in which he states that he saw angels standing above him, each with six wings, “with two it would cover his face, with two it would cover its legs, and with two it would fly (Isaiah 6:2).” There are in fact Rishonim who rule that it is appropriate to cover one’s head for *Kiddush* and *Birkat Hamazon*, based specifically on this source.<sup>31</sup>

As we see from the fact that the angels covered Isaiah’s face with two wings, this source in the *Yerushalmi* leads us to a fourth reason people wear hats, the idea of “double covering,” which is generally achieved through wearing a hat on top of one’s *kippah*. Special care to wear two coverings on one’s head is especially emphasized in *Kabalah* and *Hasidut*. Though the reasons tend to be outside the arena of halakhic obligation, it can be instructive to examine some of them, because Hasidic and Kabbalistic sources function with the assumption that in addition to specifically technical halakhic reasons for fulfilling *mitzvot*, there is also a deeper, spiritual reason or motivation why they must be observed.

<sup>29</sup> Tosafot, *Moed Katan* 21a.

<sup>30</sup> Maimonides, *Mishneh Torah, Hilkhos Tefillah* 5:1.

<sup>31</sup> *Ravya, Siman* 514.

Indeed, Kabbalistic tradition holds the wearing of two head coverings in high regard. The *Tzitz Eliezer* recounts a story of a certain Rav Yisrael Neigera, a contemporary of the Ari. One *Shabbat* night, the Ari heard Rav Neigera singing beautiful *zemirots* and perceived thousands upon thousands of angels descending to hear this holy music. All of a sudden, the Ari saw that one angel came and stopped all the rest from descending because Rav Neigera was singing with his arms uncovered, and with only a small head covering, rather than a hat on his head. The Ari then immediately sent two of his students to inform Rav Neigera, who began to tremble and immediately put a hat on his head and sat with great *kavod*, which caused the angels to resume descending from heaven.<sup>32</sup>

According to the Lubavitcher Rebbe,<sup>33</sup> one Kabbalistic reason for maintaining two head coverings is that the *kippah* or initial head covering is worn in order to represent the “*hayah*”—level of the soul. In the Kabbalistic five level system of the soul, the *hayah* is the part that is “*makif*,” that hovers, just over a person, as opposed to the lower three levels of the *nefesh*, *ruah*, and *neshamah*, which are “*memalei*,” or actually permeate into the physical person. Wearing a head covering is thus seen as the symbol of the *hayah*—level of the soul, which is above our bodies, or slightly outside of and beyond one’s physical self.

When a person prays or does any holy activity, the fifth and highest level of the soul, “*Yehidah*,” comes into play in an active way. The *Yehidah* hovers even higher than *hayah* and is totally bound up with Godliness, bringing a person to the experience of connection with *Hashem* known as “*deveikut*.” This experience is represented with a second head covering, namely a hat. The terms for the two hovering parts of the *neshamah* are “*makif elyon*” and “*makif tahton*.” We always have the awareness of the *hayah*, *makif tahton*, when we wear a *kip-pah*. At holy moments we also become aware of the *makif elyon*, the “*yehidah shebanefesh*,” by wearing a hat.

Many similar ideas have been put forth for the spiritual symbolism of double covering. For example, the Belzer Rebbe states that people should maintain two coverings on their heads because the letters of the word “*yarmulka*” can also spell out the words “*Yirah Elokim*.” Due to the fact that there is a “higher fear” and a “lower fear” of God, we are to symbolize and remind ourselves of this by wearing two coverings on our heads.<sup>34</sup>

Along similar lines, the Maharsha is an oft-quoted source for the benefit of wearing a double covering on one’s head. Based on two stories in the Gemara, the Maharsha reasons that not only is it true that the bigger the head covering, the bigger the fear of heaven, but adding an extra head covering leads a person to an extra level of fear.<sup>35</sup>

<sup>32</sup> Responsa *Tzitz Eliezer*, 13:13.

<sup>33</sup> *Sefer Hitvadyot* 5748, vol. 4, p.164.

<sup>34</sup> Lewy, *Minhag Yisrael Torah, Orach Hayim* 2:6 (See there for other reasons).

<sup>35</sup> *Maharsha, Shabbat* 156b.

Many sources maintain that a head covering for men is simply “*middat hasidut*,” and not a *biyuv*—obligation.<sup>36</sup> Many will thus argue that those who do not choose to wear a double covering are in fact doing a very good thing by covering their heads at all times, and to require more is excessive and even oppressive. Thus, maintaining the good practice of covering the head, yet not going so far as to require an additional hat represents the Maimonidean ideal of moderation.<sup>37</sup>

Furthermore, *Nedarim* 30b states, “Men sometimes cover their heads and sometimes not; but a women’s [head] is always covered, and children are always bareheaded” suggesting that not all Jewish men in Talmudic times covered their heads. Some sources have trouble accepting this, and argue that it must be that men did cover their heads at all times with one covering, and those great people who are referred to as covering their heads elsewhere in the Talmud,<sup>38</sup> simply added a second covering onto their constant one.<sup>39</sup> Others interpret this quote from *Nedarim* according to its plain sense: Not everyone covered their heads, and those who did had but one covering on their heads.<sup>40</sup> It is difficult to accept that modern people should be required to do more than was done in the times of the Talmud by wearing a double covering, simply based on a questionable interpretation of an otherwise lenient quote.

Others argue that the practice of wearing two head coverings originated in eighteenth century Germany, when the local nobles and heads of state would visit synagogues. Their presence in synagogue brought up the sensitive issue of removing one’s head covering as a sign of respect for the nobility. Various sides were taken on the issue of whether or not one was permitted to remove one’s head covering inside a synagogue in such a situation. The solution of a double covering was suggested by R’ Yaakov Emden, to allow the removal of one’s hat while still keeping one’s head covered.<sup>41</sup> Similarly, some have suggested that the practice of wearing a double covering, specifically a *kippah* under a hat, was begun by the Hasidic elite as well as other “ultra-orthodox” leaders in Hungary to counter the desire of the Reform movement to fully integrate with non-Jewish society by removing their head coverings.<sup>42</sup> These examples suggest that

<sup>36</sup> See for example: *Orhot Hayim Hilkhos Tefillah*, *Siman* 48; *Kol Bo*, #11; *Tashbeitz*, #547; *Beit Yosef Orah Hayim* 91; *Biur Ha’Gra*, *Orah Hayim* 8; *Responsa Yehave Daat* 4:1; *Responsa Iggrot Moshe*, *Orah Hayim* 4:2.

<sup>37</sup> Maimonides, *Hakdamah leMesekhet Avot*, Ch. 4; Maimonides, *Mishneh Torah*, *Hilkhos Deot*, 1:4.

<sup>38</sup> For example: *Kiddushin* 8a; *Kiddushin* 31a; *Shabbat* 118b.

<sup>39</sup> See for example: *Beit Yosef Orah Hayim* 8:4; *Tzemah Tzedek*, *Piskei Dinim Orah Hayim* 2.

<sup>40</sup> See for example: *Biur haGra*, *Orah Hayim* 8, *Responsa Iggrot Moshe Orah Hayim* 1:1, *Responsa Yehave Daat* 4:1.

<sup>41</sup> Yaakov Emden, *Siddur Bet El-Amudei Shamayim* (Altona, 1745), 41b.

<sup>42</sup> Yitzhak Zimmer, *Olam KeMinhago Nobeig* (Jerusalem: Merkaz Zalman Shazar, 1996), 32.

there is neither a firm halakhic basis nor contemporary relevant reason to continue this out-dated and reactionary practice.

Furthermore, regarding the issue of “double coverings,” some contemporary Jews are generally uninspired or even antagonistic of *Kabalah*. While it is true that there are many normative Jewish practices that have Kabalistic sources, the ability of a Kabalistic idea to have any impact on many Modern Orthodox Jews is minimal. There are many reasons for this ambivalence. Firstly, *Kabalah* is not generally considered to be part of the halakhic canon, which leads to a great skepticism in deriving obligations from non-explicitly halakhic sources, such as the material we have seen on double covering. Furthermore, because Modern Orthodox Jews live in a society that is steeped in rationalism, Kabalistic mysticism seems like foreign superstition to some.

#### REASON 5: *MINHAG*<sup>43</sup>

One tenet that has kept the wearing of black hats alive is the simple aversion to change. The Hatam Sofer was one of the primary organizers of *haredi* ideology, and as he fought against enlightenment and reform in the nineteenth century he was famous for propounding the dictum, “*hadash assur min haTorah*,” any innovation not sanctioned by Jewish tradition is seen as decidedly harmful to Judaism.<sup>44</sup> The *Hatam Sofer* felt that people should be particularly careful not to change their Jewish names, language, or clothing.<sup>45</sup> This ideology is still alive, as Rav Shach stated in the late twentieth century, “Anything but our traditional mode of behavior as learned from past generations, weakens *Klal Yisroel*.”<sup>46</sup> Because changes are considered fatal to Jewish survival and vitality, some believe that even the most minute *minhag* must be retained at all costs. In this way, Haredi ideology can be seen as a reactionary movement, which tightly holds on to the past as a way of resisting reform.

In addition to reaction to modernity, traditional dress serves as a way of feeling tied to the past, as well as in line with the lifestyle of one’s ancestors. Many

<sup>43</sup> It should be noted that in previous generations these hats were not necessarily black. We simply refer to them as “black hats” throughout this piece because black has become the most common color of these hats today, and is a colloquial term, such as “the black hat community” or one is a “black hatter.”

<sup>44</sup> First stated in a letter of the Hatam Sofer, printed in *Darchei Hahorah*, Chp. 6, pg. 269. This idea is not without precedent, Rambam, for example, ruled that one of the reasons a person should not wear a *Tallit* with a *pasuk* embroidered on it is because it is a “*biddush vestia, shelo haya kemoto beyisrael*.” (*Teshuvot haRambam, Siman 268*).

<sup>45</sup> See: Hatam Sofer, *Tzavat Moshe*, where he uses “*Sheim, Lashon, V’Malbush*” to form the acronym “*Shalem*” alluding to Jacob’s successful overcoming of cultural temptations (Gen. 33:18).

<sup>46</sup> S. Rakow, *A Beacon of Light* (Bnei Brak, Israel: Yeshivat Rashbi, 1995), 277.

simply feel that wearing a hat is a legitimate Jewish *minhag*, and the cultural changes in non-Jewish society are no reason for Jews to stop wearing hats. A nephew of Rav Joseph B. Soloveitchik records that

once, we had to form a *minyán* in the Rav's home. He told one of the family members to please go get his hat. This young man began trying to demonstrate to the Rav that one did not require a hat for *tefillah*. The Rav snapped back at him, "you may or may not be halakhically correct. I do not wish to debate you on the topic. However, I wear a hat during tefillah because I never saw my father or either of my grandfathers *daven* without a hat. That itself is sufficient grounds to necessitate a hat."<sup>47</sup>

Indeed, custom carries considerable halakhic weight. Rav Moshe Feinstein held that even if it has no basis, any custom that at least one large Jewish community upholds cannot be a mistake. Due to the principle that Jewish communities behave according to the law, which must have some source, the custom must therefore be carefully observed.<sup>48</sup> As the saying goes, "*Minhag Yisrael—Torah*." A Jewish custom is as if it is in the Torah.

Though Modern Orthodoxy shares the traditional emphasis on *minhag*, there is also a desire to "advance," fit in, and keep up with the times. While remaining respectful of *haredi* practice, Rabbi Emanuel Rackman argues that the Haredi response to modernity caused a "freeze in the dynamism of the law" and customs such as clothing styles were only canonized because they coincided in time with the "freeze."<sup>49</sup> It would follow that all of the reasons we have given for wearing a hat are merely justifications for continuing the custom.

While traditional dress may connect some to what they consider to have been a better time in history, other Orthodox Jews feel that this may fall into the common human trap of romanticizing the past. As *Kohelet* commented thousands of years ago, "Do not say, 'How was it that former times were better than these?' For this is not a question prompted by wisdom" (Ecclesiastes 7:10). The tendency to admire the "good old days" is both historically inaccurate and psychologically unhealthy in that it does not allow a person to embrace and enjoy current reality or motivate them to continue improving the world around them.

<sup>47</sup> Moshe Meiselman, "The Rav, Feminism and Public Policy: An Insider's Overview," *Tradition* 33:1 (1998): 14.

<sup>48</sup> Responsa *Iggrot Moshe*, *Orah Hayim* 4:90:17.

<sup>49</sup> Emanuel Rackman, *One Man's Judaism* (Jerusalem: Gefen Publishing House, 2000), 19.

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CONCLUSION

An individual's values and general worldview are major factors in how he will decide nebulous "halakhic" issues like wearing a hat. Those who opt in favor of a black hat and traditional garb based on the above sources may be guilty of citing *halakhah* only in the service of ideology. On the other hand, one who chooses not to dress this way must ask himself if he is ignoring legitimate Jewish ideals and values, jeopardizing their ability to achieve an intense prayer experience and substantive connection to their heritage.

The issue of dress is not superficial, and is in fact about more than simply communal identity. Because it is more casual and colorful, the "Modern Orthodox" dress represents *ahavah*—love, as opposed to the *yirah*—fear, prevalent in "Ultra-Orthodox" ideology. Modern dress is seen as being more free, happy, and open, though possibly less committed. For example, a T-shirt gives a comfortable and relaxed impression, whereas a suit and tie seems more closed and formal. Though this is obviously a broad generalization, it gets to the primary difference between Modern Orthodoxy and Ultra-Orthodoxy—namely, does one consider modernity and the outside world an opportunity or a threat? The Ultra-Orthodox emphasize caution and the need for a protective wall from the outside world, whereas the Modern Orthodox tend to be more attracted to the potential inherent in modern culture and thought. Either way, may we work together, understand each other, and learn from each other toward a more complete, deep, and calculated service of God.

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## DAVID AND BAT-SHEVA: A CLOSE TEXTUAL READING

Rabbi Shmuel Herzfeld

More than any other story in the Book of Samuel, the David and Bat-Sheva narrative stands as the turning point in David's life. Prior to David's sin with Bat-Sheva his life was enchanted; subsequent to the sin, it turned dark. His kingdom fell apart, his children rebelled, and God punished him with a plague.

It is not only the turning point, it is also the most persuasive and effective manner of conveying the central theological message of Book of Samuel; namely, that kingship in Israel was a tragic experiment. Indeed, it was an experiment which contributed to the exile of the people from the land.

Yet despite his involvement in this terrible sin, and despite his association with the flawed institution of kingship, at the conclusion of the story, David's character still shines forth as a spiritual leader worthy of the greatness attributed to him by the rabbinic tradition.

### I. ABUSE OF POWER

Even a superficial reading of the David and Bat-Sheva encounter clearly demonstrates that David's kingship has become corrupt and that he is using the power of the throne for his own personal whims. The story begins with everyone except David going out to war. The text makes a point of the fact that it was the time of year, when kings would go to battle—*le'eit tzeit hamelakhim*—but David stayed home (2 Samuel 11:1).<sup>1</sup>

David's decision not to go to battle is a terrible mistake. In fact, it negates the very reason for his kingship. When the Israelites first ask for a king from Samuel (1 Samuel 8: 20), they state that they need a king to judge over them and to lead them into battle (*ushfatanu malkeinuu, veyatza lefanainuu, venilham et mil-*

\* Note: This paper was originally delivered at the YCT Rabbinical School Yemei Iyyun in Tanakh, which took place during June-July, 2004, at the Ma'ayanot Yeshiva High School for Girls in Teaneck, NJ.

<sup>1</sup> See, however, 2 Samuel 21:15-17, where David's men explicitly instruct him not to go out into battle lest he be killed.

*hamoteinu*). Now that David is not leading the people into battle, we wonder whether it is necessary to have a king. And in a story in which David perverts justice, we wonder if David is the most appropriate person to preside in judgment over Israel.

The sin of not going out to war leads David into committing a chain of sins. First, the sense of the text is that David is leading a soft life in Jerusalem; a life of luxury in the palace while his own men are fighting out in the fields. *Vayehi le'et erev, vayakam David me'al mishkavo, vayithalekh al-gag beit hamelekh*, "It was toward the evening and David arose from his slumber and wandered on the roof" (2 Samuel 11:2). While this act of walking on his roof might have been innocent, there is a tone of opulence. After sleeping the afternoon away, the king arises and walks on the roof of his palace from where he spots the beautiful Bat-Sheva bathing.

The words of the verse imply that there is much more present in this act of wandering on his roof than a simple evening stroll. The words for "on the roof" appear twice in this one verse; as *al-gag*, and then, *al-hagag*. These words starkly remind us of the downfall of Saul, who sinned by not killing Agag (1 Samuel 15: 9). As Saul's sin with Agag signaled the end of his kingdom, so too David's sin, *al-hagag* will usher in his demise. Moreover, just before being anointed King of Israel, Saul met with Samuel on a roof, *al-hagag* (1 Samuel 9:25). At that point, the reader wondered why the text needed to mention the strange and uneventful meeting on a rooftop. Now the message of that meeting is clear. It was on a rooftop that kingship in Israel began, and it will be on a rooftop that the kingship of Israel will fall.

On the roof, David wanders in a seemingly innocent fashion. The word *vayithalekh*, to wander, reminds us that David is abandoning the great courageous moments of his past. Perhaps David's finest moment in his rise to power is when he finds Saul approaching him in the city of Kilah (1 Samuel 23). Saul has just destroyed the entire priestly city of Nov because they unwittingly provided help to David. Finding himself in Kilah—a city that he had just rescued from the Philistines—David has a choice: He can remain in his stronghold of Kilah, thus protecting his own men but endangering the innocent inhabitants of the city; or, he can protect them by abandoning his own secure position. At great personal risk, David obeys the word of God and leaves Kilah and, as the text notes, wanders aimlessly: *vayithalkhu ba'asher yithalkhu* (1 Samuel 23:13). In this story, David is a heroic wanderer.

Standing on the rooftop on that fateful evening, however, he has become a destructive wanderer. David's wandering on the roof leads him to look—even through the oncoming darkness of night—at Bat-Sheva. This leads to David sleeping with Bat-Sheva, bringing back her husband Uriah from battle in order to cover up David's role in Bat-Sheva's pregnancy, lying to Uriah, throwing parties with the food and wine of the palace in order to convince Uriah to return to Bat-Sheva, arranging for Uriah's death in battle, and ultimately, the death of

many innocent soldiers who died alongside Uriah in that intentionally mismanaged campaign.<sup>2</sup> Furthermore, David justifies all of these sins and says to his general, Yoav, *al yera be'inekhab et hadavar hazeh*, “let this matter not seem evil to your eyes.” (2 Samuel 11:25). After first sinning with his eyes, David concludes his chain of sins by desiring to justify his actions in the eyes of Yoav.

David’s sin with Bat-Sheva is compounded by the fact that some evidence suggests that their physical encounter might have been motivated by politics. Before summoning Bat-Sheva to him, David inquires as to who she is. He is told that she is Bat-Sheva, the daughter of Eliam, and the wife of Uriah the Hittite. Elsewhere we are told that Uriah was one of the thirty-seven *gibborim* of David (2 Samuel 23:39); he was a part of David’s inner circle. Another name on that list is Eliam the son of Ahitofel. Thus, Bat-Sheva was married to one of David’s key warriors and might have been the daughter of another one, Eliam. Additionally, it is likely that this Ahitofel—perhaps, her grandfather—is the same Ahitofel who is recognized as chief counselor to David.

Throughout the book of Samuel women of the court are constantly sought for political reasons.<sup>3</sup> By sinning with Bat-Sheva, it is possible that David is attempting to strengthen his kingdom through another alliance. It is possible that he seeks control over or a partnership with a powerful woman, as earlier he isolates Michal or colludes with Abigail. Yet, this time, as a result, David ends up not only sinning to God, but also against his own most loyal supporters, the people of Israel. He is abusing his power by lying with the wife and daughter of his fiercest warriors and the granddaughter of his chief advisor. He seduces her for his own benefit. He betrays his people for his own power.

First introduced to us a person who “looks good,” (*tov ro'i*) and “watches sheep,” (*ro'eh tzon*), David now sins through looking and does not watch his own flock. Rather than protecting his sheep, he betrays them.

In retrospect, one notices that David has a habit of seducing the beloved of others. He has seduced the “daughters of Israel”, who sing to him, “Saul slays in the thousands, but David slays in the tens of thousands.” (1 Samuel 18:7). In his rise to power, he has seduced Abigail from Naval (1 Samuel Chapter 25). He takes Michal, the daughter of Saul, from her husband, Paltiel (2 Samuel 3:15). Finally, David has come to power in large part due to the help of Jonathan, who betrayed his own father on behalf of David. David is a serial seducer. This time, however, it is different. This time the abuse of power is so great and so egregious that it brings about the destruction of his kingdom.

<sup>2</sup> See Moshe Garsiel, *Immanuel II*, 1973.

<sup>3</sup> See for example the stories concerning Michal and Abigail.

## II. LOST POTENTIAL

The tragedy of David's sin and the hardship of his closing years grows when contrasted with the enormous potential he demonstrates in his rise to power. One way to see this is through a comparison of the Bat-Sheva story with the Abigail story. If the Bat-Sheva story marks the turning point for the worse in David's life, the Abigail story signals the onset of David's ascension to the throne. As Abigail is married to Naval, a man of great wealth, her subsequent marriage to David will catapult David from the status of a nomadic warrior into a powerful force.<sup>4</sup>

The two stories are in many ways opposites. David could easily have had an adulterous relationship with Abigail. She betrays her husband and secretly runs to David; falling off of her donkey, she beseeches David. Despite the obvious political incentive to sin with Abigail, David refrains from sinning. In the case of Bat-Sheva, it is the opposite. David sins without any obvious incentive.

The text invites us to see a parallel between the two stories. Both begin with David sending out messengers. In the case of Abigail (1 Samuel 25:5), David sends messengers to ask for a share of Naval's shearing; so too with Bat-Sheva, messengers play a prominent role throughout the story. David sends the messengers to bring Bat-Sheva, to bring back Uriah from battle, to kill Uriah in battle, and to tell Yoav that he has acted appropriately. The Bat-Sheva story comes to a climax when God sends His messenger, Natan, to deliver a sharp message. (2 Samuel 12:1.)

In both stories, David deceptively begins his discussion with his adversary by a threefold prayer for peace, *shalom*. To Naval he says (1 Samuel 25:6): "Peace to you, and peace to your family, and peace for everything you own," *ve'atah shalom, ubeitkhah shalom, vekhol asher lekha shalom*. To Uriah, the text relates (2 Samuel 11:7): "David asked about the peace of Yoav, the peace of the people and the peace of the battle," *vayish'al David lishlom Yoav, velishlom ha'am, velishlom hamilhamah*. Of course, in the end, both of these adversaries, whom David was so concerned about, end up dead.

Other details in the stories match as well. David acts with Bat-Sheva in secret, *ki atah asitah vasater*, (2 Samuel 12:12), and Abigail goes to David in secret, *veyoredet beseter* (1 Samuel 25:20). Abigail gets her husband drunk by giving him wine like a king, *kemishteh hamelekh* (1 Samuel 25:36). So too, David gives Uriah to drink from the winery of the king (2 Samuel 11:13). In his anger against Naval, David pursues him with his sword, *vayahgor gam David et harbo*

<sup>4</sup> Indeed, it is likely that Saul sees David's marriage to Abigail as a political threat, for immediately after their marriage, Saul takes back his daughter Michal from David (1 Samuel 26:1). Apparently, Saul was concerned that David was consolidating too much power through his marriages.

(1 Samuel 25:13). Without fear, David uses his sword to pursue a corrupt enemy. On the other hand, David justifies his actions with Uriah by saying, *kha-zoh vekhazeh tokhal baharev* (2 Samuel 11:25), “Such is the way of the sword to consume.” Ironically he curses himself. The sword which earlier symbolized David’s courage against corruption, now symbolizes his own corruption and downfall. Thus, Natan curses David (2 Samuel 12:10), “The sword will never depart from your house,” *lo tasur herev mibeitkha ad olam*.

The Abigail story represents David’s rise to kingship, as he assumes physical and material power through his marriage to Abigail, the wealthy heiress. More importantly, through Abigail, he gains moral strength as well. By causing him to withhold his sword, Abigail guides David to greatness. He symbolizes strength because he conquers his rage and withholds from attacking Naval. Saul’s rage had led him to wipe out the city of Nov. In contrast, David, with Abigail’s help, does not act upon his rage and is thus worthy to be king.

In an attempt to temper David’s anger, Abigail gives David the following gifts (1 Samuel 25:18): bread (*lehem*), wine (*yayin*), sheep (*tzon*), grain (*kali*), raisins (*tzimukim*), and figs (*develim*). These gifts symbolize the promise of David’s rise to the throne. When Saul was first promised the kingship by Samuel, Samuel offered him a sign (1 Samuel 10:3). Saul too, would receive gifts of bread (*lehem*), wine (*yayin*), and meat (*gedayim*). Later, when David finds an Egyptian man on the road (1 Samuel 30)—who very possibly symbolizes Saul—David offers him a cluster of figs (*pelakh develah*) and raisins (*tzimukim*). Abigail’s gifts to David are a conferral of a blessing. She is telling David that she knows he will be king of Israel.

The contrast with Bat-Sheva could not be greater. She leads him from the heights of Abigail into utter failure. As a result of his encounter with Bat-Sheva, David uses force and innocent men are accidentally killed. All the food and drink that appears in the Bat-Sheva story cannot equal the promise of the food sent by Abigail. Through Bat-Sheva, David loses the grace he gained from Abigail.

### III. DAVID, SAUL AND THE PARABLE OF NATAN

The prophet Natan visits David with a stinging message from God. He teaches David this lesson through the didactic technique of a parable. It is through this that the central message of this story is taught. Yet, the parable, and thus the lesson as well, are not easily understood.

The parable of Natan must be read against the backdrop of the intertwined fates of the first two kings of Israel. Saul and David share a common story. Both were selected from obscurity and chosen without explanation to become king of Israel. As part of their kingship, both suffer tremendous personal losses.

At many places in the text, we see a clear parallel between the two lives. For example, right before the death of Saul (1 Samuel 30), the text goes out of its way to describe David in a way that is reminiscent of Saul. David returns from battle to Tziklag and finds that the Amalekites have burned his city and stolen the women and children. With his men about to stone him, David, unsure of what to do, turns to the *efod* and asks if he should pursue the Philistines in battle. This indecisiveness reminds us of Saul who remains under a pomegranate tree asking the *efod* about going to battle, at the same time that his son Jonathan simply attacks the Philistines (1 Samuel 14:2). The early decisiveness of David, as in his battle with Goliath, is now absent. In the ensuing battle, David defeats the Amalekites, but does not kill all of them. He captures the booty of the Amalekites, and takes the best for himself. Saul too, had failed to kill all the Amalekites. Saul too, had taken the booty for himself. David is now repeating the sins of Saul.

In his battle with Amalek, David makes a new law. "Those who went down to battle and those who remain with baggage shall have the same lot," *kehelek hayored bamilhamah ukehelek hayoshev el hakelim yahdav yabloku.*" (1 Samuel 30:24.) David intends this as a law focused narrowly on splitting the booty of war. But his own words seal his fate. Throughout the narrative, David is famous as the one who goes into battle; he battles Goliath, the Philistines, and Amalek. In contrast, Saul is known for remaining with the baggage. When Samuel wants to anoint him, the text states (1 Samuel 10:22), "Behold, he was hiding amongst the baggage," *hineh hu nebbah el hakelim.* With his words, David is now declaring that both he (the one who goes down to battle) and Saul (the one who remained with the baggage) have the same fate. We already know Saul's fate; David's will be the same.

With this in mind, we can analyze Natan's parable. All the earlier messengers of chapter 11 give way to the messenger of God, Natan; he alone carries the true message. What is his message?

Prof. Robert Polzin offers a bold reading of this story:<sup>5</sup> On the surface, Natan's parable is simple and easily understood (2 Samuel 12:1-6). There were two men in the city, one rich and one poor. The rich man had many cattle. But the poor man had only one ewe (*keves*); the poor man raised this *keves* as though it were his own child, eating with it, drinking with it, and even lying in bed with it. A wanderer came to the rich man presumably seeking food to eat. The rich man did not want to take from his own sheep for the wanderer, so he took the poor man's sheep and prepared it (*vaya'asehah*) as food for the wanderer. Upon hearing this David cries that this man (*ha'ish ha'oseh zot*) is worthy of death, to which Natan responds that David that is the man (*atah ha'ish*).

When Natan says to David (v.7), *atah ha'ish*, which *ish* is he referring to?

<sup>5</sup> The ensuing analysis of the parable of Natan is largely borrowed from Robert Polzin, *David and the Deuteronomist*, 120-130.

Most commentators presume that David's taking of Bat-Sheva makes him equivalent to the rich man who stole the *keves* of the poor man. David had many wives and yet, he took the wife of Uriah. However, if that indeed were the entire point of the parable then the rich man should have taken the *keves* for himself, and not for the wanderer.

Moreover, in the text the rich man (*ashir*), the poor man (*rash*), and the wanderer (*helekh*) are all referred to with the prefix *ish* (2 Samuel 12:4). This is especially noteworthy in light of the fact that they have also all previously been referred to without the prefix *ish*.

When Natan tells David, *atah ha'ish*, he means that David has filled the role of all three of these men at different points in his life.

God says (2 Samuel 12:8), "I gave you *neshei adonekha beheikekha*." Like the wayfarer who gets the *keves* from the bosom of the poor man, so too, God gives David wives from the bosom of other men. (This might refer to God taking Abigail from Naval and giving her to David, *vayigof Hashem et Naval*).<sup>6</sup> God also has transferred the loyalties of the daughters of Israel—and indeed, Saul's own daughter<sup>7</sup>—from Saul and given them over to David (2 Samuel 12:7). God has taken the kingdom from Saul and given it to David.

According to this analysis, then, God parallels the rich man of Natan's parable, Saul the poor man, and David the wanderer. Thus, at first David should be identified with the *helekh* of the parable. Indeed, he has already been referred to in this way in a number of key narratives.<sup>8</sup>

As Natan continues to relay the message of God, David becomes associated with the rich man (*ish ashir*). In taking Bat-Sheva, David's actions parallel the deeds of the rich man who took the sheep. The text too, has already referred to David as a rich man. The one who will kill Goliath will become a rich man and marry the king's daughter (1 Samuel 17:25), *ya'ashbrenu hamelekh osher gadol ve'et bito yiten lo*. David was the wanderer, but he is now the rich man taking the goods of the poor man.

Finally (2 Samuel 12:11-12), in the future David will become the poor man of the parable (*ish rash*). Earlier, when Saul's servants had tried to convince David to marry Saul's daughter, David had innocently said (1 Samuel 18:23), "But, I am a poor man, *ve'anokhi ish rash*." Now, we see that David's words were prophetic. As the poor man's *keves* was taken, so too, in the future will David's wives be taken by Absalom, and his kingdom by Yeravam, then Ashur, and then Bavel.

This is not only a parable to the life of David, but to Saul as well. Saul too, is a wanderer on the road, whom God makes king over all of Israel.<sup>9</sup> He too, becomes a rich man taking other people's wives, when he takes Michal from

<sup>6</sup> 1 Samuel 25:38.

<sup>7</sup> 1 Samuel 19:13.

<sup>8</sup> 2 Samuel 11:2; 1 Samuel 23:13.

<sup>9</sup> 1 Samuel 9:6. *Atah nelkhab sham, ulai yagid lanu et darkeinu asher halakhnu aleha*.

David and gives her to Paltiel ben Laish.<sup>10</sup> And, he too, becomes a poor man. “*Vayikra Hashem et hamamlakhah miyadekha vayitnah lereakha leDavid*” (1 Samuel 28:17). God takes away the kingdom from Saul because he finds another man, a different *ish*. Samuel tells Saul (1 Samuel 13:14), *ve’atah mam-lakhtekha lo takum, bikesh lo Hashem ish kilvavo*. God replaces Saul with another man, and so Saul, who had originally transformed from a wanderer into a rich man (*venehafahta le’ish aber*),<sup>11</sup> eventually becomes a poor man.

Ultimately, this is a parable about kingship in Israel. The narrative had given us warnings that kingship can degenerate through abuses by the king. When the people first approach Samuel and ask for a king (1 Samuel 8:16), God allows it, but only after the people are first taught the *mishpat hamelekh*, the protocol of the king. “He will take your sons and place them in his chariots and cavalry, and they will run before his chariot . . . he will take your daughters to be perfumers, cooks, and bakers . . . he will take your servants and maid-servants and your best young men and your donkeys and press them into his service.” Is this not the way that Saul and David have acted? Is this not what the kingdom has become?

It is also a parable about the Children of Israel. At first, the people are like wanderers. God takes from the “poor” nations and gives Canaan to the Jewish people.<sup>12</sup> Then the people are like the rich man; they are rich, but they seek what is not theirs. They want to be like the other nations; they desire a king just like all the other nations. They sin by lusting after other gods. David’s adultery reminds us of the religious adultery of the Israelites. In the end, the Israelites will become poor themselves. God will take from them and give their land to the people of Ashur.

Hannah foretold all this in her introductory prayer to the book (1 Samuel 2:7). Even though men become kings, she says, it is God alone who plays king-maker. God makes rich and poor, *Hashem morish uma’ashir*.

God says to David, you have scorned the word of God, *bazita et devar Hashem* (2 Samuel 12:9). The only other time the root נב appears in this book is when God sends another messenger to Eli (1 Samuel 2:30). “Indeed, I had promised you that your family would walk with me forever (*yithalkhu lefanai*). But now those that scorn me will be cut off (*ubozai yekalu*). David, Saul, and the Children of Israel—having all been promised the kingdom—will share the fate of the house of Eli; they will all be exiled.

#### IV. DAVID’S REPENTANCE

The root שׁוּב, “return,” reappears over and over again throughout this story. At

<sup>10</sup> 1 Samuel 26:1

<sup>11</sup> After he is first anointed, 1 Samuel 10:7.

<sup>12</sup> *va’etnah lahem et artzam*, as in Judges 6:9.

its end, the David and Bat-Sheva story teaches about the power and limitations of repentance.

According to the Talmud (*Avodah Zarah*, 4b-5a), God allows David to sin in order to teach us about the power of repentance. David utters two words, *batati laHashem*, “I have sinned to God,” and seemingly all is forgiven (2 Samuel 12:13). Yet, the limitations of repentance are also evident. David suffers greatly for his sin. His first child with Bat-Sheva dies. His son (by a different wife) Absalom, lies with David’s concubines in “the sight of all Israel,” *le’enei kol Yisrael* (2 Samuel 16:22), a direct fulfillment of the curse of Natan (2 Samuel 12:11). In gaining absolution, David suffers for the rest of his life, as his kingdom never regains its former glory.

The theme of repentance also connects the lives of Saul and David. After Saul sins by not killing Agag, he too, says (1 Samuel 15:24), “*batati*.” He then begs Samuel (1 Samuel 15:26), “Return with me so that I may bow down to God, *veshuv immi ve’eshtahaveh laHashem*.” Samuel at first rejects Saul’s plea (1 Samuel 15:26), *lo ashuv imakh*, “I shall not return with you,” because (1 Samuel 15:29), “God is not like man who can relent,” *ki lo adam hu le’hinahem*. With these words Samuel is rejecting the concept of repentance. God has issued a decree; His word is final.

Saul beseeches Samuel again, and Samuel relents and returns with Saul, “*Vayashav Shmuel aharei Shaul*” (1 Samuel 15:32). But, soon after, God tells Samuel that he must replace Saul. The repentance is not accepted by God.

Samuel was mistaken that God cannot change His mind. Repentance is always possible; yet, God is not obligated to accept it. The possibility always exists for help from God. As Jonathan says in the chapter preceding Saul’s sin (1 Samuel 14:6), “Perhaps God will save us, for nothing prevents God from saving whether through many or through few, *ulai ya’aseh Hashem lanu, ki ein laHashem matzor leboshia berav o vime’at*.”

Why does God entirely reject Saul’s repentance, yet partially accept David’s? The worst part of David’s sin was that he tried to cover up his own actions. The text demonstrates this through a peculiar exchange between Yoav and David—an exchange that never actually occurs. In sending David news of Uriah’s death, Yoav anticipates that David will rebuke him for coming too close to the wall, thereby killing the innocent men that died along with Uriah. Yoav predicts that David will say, “Did not Avimelekh die at the hands of a woman by coming too close to a wall?” The way things work out David never mentions Avimelekh. Thus, the reader is left wondering why the narrator includes this unusual interaction in the text (2 Samuel 11:21).

On a basic level, Yoav wants to remind David that another general—Avimelekh—died because he came too close to a wall which had a woman behind it. Avimelekh was killed by a woman on a roof. Yoav subtly warns David that he could lose his whole kingdom on account of a woman. However, even more poignant is another message of Yoav. In the Avimelekh story too,

Avimelekh tries to cover up truth. He tells his armor bearer (Judges 9:53), “Draw your sword and kill, lest they say about me, ‘a woman killed him.’” Yoav shows David that everyone knows the true story of Avimelekh’s death. Avimelekh was killed by a woman, and everyone knows it! David’s sins too, will come out. The truth can never be covered up.

After Natan rebukes him, David finally grasps this central lesson of Avimelekh’s death. The Bat-Sheva story offers many potential excuses for David. He might have tried to cover-up his sin. He could have told Natan that Uriah died by a misfortune of war; or, perhaps his encounter with Bat-Sheva was simply an accident as he just happened to be walking on the roof when she was bathing. Instead, he recognizes the futility of covering up a sin. David simply says, “*hatati laHashem*.”<sup>13</sup>

David’s willingness to admit a mistake contrasts with Saul’s denial of his own sin. When Samuel first confronts Samuel, Saul defensively says (1 Sam.15:13), “I have fulfilled the word of God.” David not only admits the sin, he incorporates the rebuke into his life. David has a child named Natan, which demonstrates that Natan’s advice became a daily reminder for him.<sup>14</sup>

When David tries to get Uriah to eat and drink (2 Sam.11:11) Uriah rebukes him: “The Ark of Israel and Judah are staying in huts, and my lord Yoav and the servants of my lord are camping out in the field—shall I then come to my house to eat and to drink and to lie with my wife?” After David repents, when David’s baby becomes sick (2 Sam.12:15), David refuses to eat, only eating again after the baby dies. If David’s child is in pain, how can he eat? David no longer celebrates when his children are in mortal danger.

At the end of chapter twelve, immediately after Solomon is born, David leads his people out to battle. In doing so, he repents for his sin of staying home when his children are in battle. At the very end of the entire story, the text states (2 Sam.12:31), “David returned with all of the people,” “*vayashav David vekhol ha’am*.” Not only did David repent, but through his repentance he taught his people about the power of repentance.

Psalm 51, discussing David’s sin with Bat-Sheva, presents a model of repentance. David publicly admits his sin without any excuses. In 2 Samuel 12:13, David says, “I have sinned to God.” (*hatati laHashem*); in Psalm 51:6, he says, “To you alone did I sin” (*lekha levadkha hatati*). He begs God for forgiveness. David, whose great sin was trying to hide his sin from God, now says (Psalm 51:11), *Haster panekhab mihata’ai*, “hide your face from my sin.”

One can readily identify with David. He is a fearless and pious young hero whom we admire and desire to emulate. Yet, most of us do not identify with

<sup>13</sup> As suggested by Yehudah Elitzur in *Iyyunim beSefer Shmuel*, edited by B. Z. Lurie (Jerusalem, 1992), volume I, 187.

<sup>14</sup> 2 Samuel 15:14. This point was made to me by Rabbi Jack Riemer in private communication.

that side of him. We probably identify with his other side; the side of a sinner who gets caught, a person who makes embarrassing mistakes: who among us does not sin?

Through David's sin with Bat-Sheva he brings about the downfall of his kingdom. On a national level it is a disaster. The kingdom disintegrates. It continues the steady downward path of the book of Samuel. Eli has two sons who die; Saul has three sons who die; David has four sons who die. The Bat-Sheva encounter is the incident that marks the turn to failure of the house of David.

But despite the failure marked by this story, it is also a story of hope. The Talmud states, "David will be the one who recites the blessing on the cup of wine (*kos shel berakhab*) at the meal that God will one day make for all His most righteous people."<sup>15</sup> David merits this great honor, not because he was perfect, but because he sinned. Even though his sin cannot be absolved, David still returns to God. The punishment is there; the kingdom is forever changed—yet, David still seeks closeness with God. By sinning and returning, David teaches us all about the power of faith, hope, and the ever-present ability to return to God.

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<sup>15</sup> *Pesahim* 119b

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## CREATING A MEANINGFUL PRAYER ENVIRONMENT I: TEFILLAH-CENTRIC TEFILLAH

Elli Kranzler, MD

A friend recently told us that the Puritans used to have a poker, a long stick, which they would use to wake up people who fell asleep during their prayer service. This friend suggested that we institute pokers in our Shuls, and the *gab-bai* in charge be called the Pokeman.

Perhaps we do not need pokers to improve the Shabbat morning *tefillah*, really, we just need to take it seriously. Prayer is really a gift, an opportunity to reflect, to go inside and to connect with God. As a community, our goal needs to be to create a *tefillah*-centric culture. One in which we care about our *tefillah* enough that we are willing to make time, contribute energy, ideas and effort toward developing a “good davening.”

Truthfully, in some way, it is easier to daven alone, or with family, in a beautiful, inspiring setting. In the soaring mountains in Montana, or the heavenly blue Caribbean waters, it is easier to personally communicate with God, to create my own pace and rhythm. I can focus on a particular *tefillah*, study it and engage in a careful, meaningful recitation of that prayer. When I daven alone I can proceed at my own pleasure and relate to Hashem in a manner that is meaningful to me.

Why then do the *hakhamim* ordain the concept of *minyan*, of *tefillah beTzibur*?

Beyond the power of the “*zekhut of Knesset Yisrael*” being so much greater than the merit of the individual, there is the notion of *areivut*. I am responsible for you, not just for myself. I am not just responsible for my own communication with my Maker. I am also responsible for your interaction with the Holy One. If you cannot read the text, then I can “be *motzi* you;” having you in mind, I can help you fulfill your obligation. *Areivut* is communicated in the context of our prayer service. We come together to pray as a community.

But beyond our responsibility to each other there is also our need for one another. In the Kuzari, Rabbi Yehuda haLevi suggests most of us are unable to form and express a complete prayer. But together, you and I can piece together

\* Transcript of remarks presented at the YCT Community Yom Iyun held on Dec. 26, 2004 at Cong. Ohab Zedek in New York City.

moments, thoughts, feelings, and *kavanah* to create a unified whole, a prayer. Our prayers are then prayers of interdependence, prayers of mutual responsibility. The congregation, *kehillah*, as a unit, becomes an active player in prayer. Each member of the *tefillah* community is necessary. We are completely dependent on each other. The energy, the devotion, the outcome of your prayer depends on mine, and my prayer depends on yours.

### SUGGESTION #1

**We sign on to a community mission statement—it goes without saying that we should stop talking during *tefillah*, which is important in and of itself. Coupled with this, a larger mission is called for, namely:**

I am willing to commit myself to becoming an engaged *mitpalel*, a member of an active community of “daveners.” That means I will actively participate, contribute, care about *tefillah betzibbur*. I will do my part to join in, to not interrupt with private conversation, but instead, I will work on my personal prayer and contribute to my community’s prayer.

Some of us do not want to violate the trust of our fellow *mitpalelim* by talking, but still find it difficult to *daven* in a focused way for three and a half hours on Shabbat morning and bring along good books to read during davening. This is obviously a *bedieved* solution. I am reading a book or learning instead of being engaged in *tefillah betzibbur*. It reflects the defense of intellectualization. “I would rather not deal with the challenge of *davening*.” Being an intellectual Jew is something I can be more comfortable with, than an unsure *ma’amin*, which is what I have to confront when I engage in *avodah shebalev*, service of the heart.

The truth is *davening* is not an intellectual exercise. It is a spiritual, emotional journey. What follows therefore is:

### SUGGESTION #2

**Throw away the side books. Try to make the *tefillah* personal, and meaningful**

**To that end—during our *tefillah* each Shabbat morning, pick one prayer. Ask the community to read it in English. Pass out a piece that we can all study that will help us understand this *tefillah*. Quietly ponder its significance and personalize it. Then recite the prayer.**

An example: Rabbi Saul Berman has suggested that each person saying *kaddish*, briefly describe the deceased for whom he or she is reciting *kaddish* to his

or her fellow *mitpalelim*. As a result of this brief interlude, when we respond with “*yehei shmeih Rabbah*” and *Amen*, there will be a more powerful connection between the one saying *kaddish* and the responder. This is an example of attention to the inner experience of the prayer that can transform the encounter of *tefillah*. We need to give ourselves the opportunity for our prayer to be reflective, personal, uninterrupted, while at the same time communal.

It is true that Shabbat morning *tefillah* is long. Studies of attention span demonstrate that most of us are unable to concentrate for that long, 3-3½ hours. As a result, some of us choose “zip *tefillah*,” *a la* many *hashkamah minyanim*, or *Eretz Yisrael davening*. While efficient, these *tefillot* often seem lifeless, ‘*yotzei zein*’ versions. Get it done and get out.

Others deal with the length problem by coming late to shul. If shul starts at 8.30, show up at 10 and you will get the highlights, sermon, and *Musaf*.

One option is to shorten the script—get radical. *Daven* until *nishmat* on our own, or cut out *hazarat hashatz* of *musaf*, as the Rambam suggests, definitely get rid of *mishheberakhs* and any unnecessary add-ons. These are possibilities that can be explored by each community in a way that reflects the seriousness of purpose, the goal of heightening our *tefillah*, rather than an attempt to short-cut the problem.

*Keriat haTorah* can be long and disengaging, particularly for those who are not completely fluent in Hebrew.

### SUGGESTION #3

**Make *keriat haTorah* an engaging learning experience. Before each *aliyah* pose questions. After the *aliyah* discuss the questions drawing ideas and participation from the *kehillah*. This can be done, skillfully by talented teachers, in a way that does not take too long, and makes the *keriah* informative and engaging.**

Due to the language barrier in *tefillah* and *keriat haTorah* some communities, therefore, focus on “Moments of Meaning” in English, and inspiring sermons. These efforts may make the time pass in a more interesting or entertaining manner, they are not replacements for meaningful *tefillah betzibbur*. Our energies need to be directed at developing a relationship with the words of prayer, articulating them, understanding them, personalizing them, focusing on particular prayers each time, while also recognizing and respecting the limits of our attention spans.

## SUGGESTION #4

**Tune-up the *tefillah*.**

Why does singing help our *tefillah*? Song expresses our love for God and God's demonstrated love for Us. Our *ahavat Hashem* is central to our spiritual beings. It needs expression. If I am lovesick I communicate my passion in love songs. The words of *tefillah* are poetry, our attempts to convey our love verbally. The melody conveys the emotion, and expresses the intensity and beauty of the connection we feel with our beloved. My daughter Liron once wrote: "On their own, lyrics are similar to poetry, yet when they are intertwined with a melody, their power increases. The words float off the page to stretch their fabric over the music's fluid form, creating something firm, a form that moves with expression and grace."

Hasidic prayer taught us the communal joining power, as well as the emotional *koach* of linking the spoken prayer with the inner feeling of prayer with the help of *niggun*, song. R. Shneur Zalman of Liadi quotes the *Ari*, Rabbi Isaac Luria, who suggests that in the World to Come, the Levites will be the Priests. Perhaps this could mean that the ultimate service of Hashem, will be to "raise the voice of melody and thanksgiving with song and music, with tunefulness and harmony", in a manner similar to that of the angels.

Rabbi Yehudah heHasid, in the Book of the Pious, the *Sefer Hasidim*, written in the late 12th century, writes, "Pleasant melody enhances the *tefillah* by aiding concentration, by arousing feelings."

The choice of melody has to be tailored to the intention of the prayer. Song creates mood of readiness, a frame of mind which is receptive and focused and geared up for engagement. If so, then when we chose to sing melody in prayer, it should be a thoughtful choice. One which respects the mood and the intention of the prayer to which it is being paired. It needs to be a choice which both reflects the prayer and also potentially deepens our understanding and relationship with the prayer.

## SUGGESTION # 5

**Sit with our children. Do not just send them to groups or children's services. Whenever possible we should spend time in *tefillah* with our children. As parents, we must be constantly conscious that how we *daven* will impact on a lifetime of *davening* for our children. It will help define their relationship with God.**

Personally, I learned *tefillah* by attending the school of "Sitting Next to My Father," Dr. Gershon Kranzler, *z"tl*. His relationship with God, the beauty of his private *tefillah*, the seriousness with which he engaged in a dialogue with

*haKadosh Barukh Hu*, is what made me care about *davening*.

My other teacher in *tefillah* was Reb Shlomo. Why does Reb Shlomo's Friday night *nusah* work? It is innovative, but rooted in Reb Shlomo's grasp of *nusah*. It is spirited and uninhibited at the same time serious and deep. It asks us to give of ourselves. Reb Shlomo's *niggunim* invite participation. The *kehillah* feels compelled to join, singing the songs and harmonizing as the *shaliach tzibur* leads the *nusah*.

The *nusah* stimulates us to examine the words of the *tefillah* and at the same time encourages us to venture beyond the words, in our communication with Hashem. A harmonic community develops. *Davening* becomes a family and communal experience. Child next to parent, parent next to child, joyously, seriously engaged. This becomes the convincing image that defines our developing spiritual relationship with God.

These are 5 simple suggestions, ones that will not replace an ongoing constant commitment to working on our *avodah shebalev*, but ones that will reflect the effort of a "Conscious Community of Prayerful Pray-ers."

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**Suggestion #1 — We sign on to a community mission statement of *arevut***

**Suggestion #2 — Throw away the side books. Try to make the *tefillah* personal, and meaningful**

**Suggestion #3 — *Keriat haTorah* — Make it an engaging learning experience**

**Suggestion #4 — Tune-up the *tefillah*.**

**Suggestion # 5 — Sit with our children**

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## CREATING A MEANINGFUL PRAYER ENVIRONMENT II: FINE-TUNING THE SHABBAT SERVICE

Jordana Schoor

As a high school Tanakh teacher and a mother of young children, I chose to orient my comments to those facets of my life and make concrete suggestions.

One of my students, Sarah, runs the Shabbat group for toddlers at our shul. She does a great job—she is fun, responsible, and has an intuitive understanding of 3 year olds. This is fantastic, but as I drop my sons off each week, I feel pangs of guilt—is my *tefillah* more important than hers? Why am I allowed the privilege of being child-free for a couple of hours while she is caring for my children? What kind of message are we sending teenagers, especially girls, about their role in the community, the importance of *tefillah* and the like? While some group leaders attend *hasbkamah minyanim*, there is still something extremely bad in the educational message being sent to these teens in important years of their religious development.

My suggestion is the following. Hire non-Jewish babysitters. Most of us do it during the week and certainly on *Yamim Nora'im*. Have them care for the children—play games, read books, sing songs. . . Additionally, we should hire a couple of real educators, young teachers, university students—or even have parents rotate—that will serve as the educational component of the morning. They can lead the *davening*, teach about *parashah* for 10 minutes, and then move on to another group while a non-Jew passes out the snack. To think that the young woman I spend my week teaching Torah to is wiping my son's nose downstairs while *kedushah* is being recited upstairs just seems ridiculous to me.

With that said, I would also like to add some suggestions for the Shabbat morning experience. To sum it up, I think we need to work on spiritual community building—to create bonds, based on religious values—in addition to the

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community building of hospitality committees; we need real avenues for people to grow religiously from one another.

One of the first steps to doing that is to have shuls become intergenerational experiences and communities. Most of us spend our lives in an almost one dimensional world –if its with coworkers of a similar bend, parents with children the same age—we are limited to our worlds and a small range of experiences. But our community of believers is much wider than that. And I have plenty to learn from the elderly woman down the pew who has much more life wisdom than I, and she has what to learn from me, and even from my teenage students. Rather than *davening* with our friends, we can really grow from ensuring that our communities are open to a range of people. And even if we never say a word to that elderly man we see in shul, the experience of *davening* together is an experience that I think really highlights the unity of God and His Jewish people.

But I would like to go a step further. To create a real community we need to talk to one another and we need to talk about *tefillah*. I propose that shuls set up something like *havurah* groups. I would be excited by the notion of showing up at shul at 8:30 on a Shabbat morning and talking with fellow daveners for half an hour about davening. One week we could learn a passage in depth to enhance our *kavanah*, one week someone can share what he thinks about when they recite certain words and requests, one week we can practice meditation. I would love to know what works for others in enhancing *tefillah*. Whatever the 10 or so of us decide will enhance the way we relate to Hashem and one another, we can give a try. The content of the discussion will facilitate our growth and the concept of uniting as one will also facilitate our growth.

I would recommend that the group be as varied as possible, while still maintaining a level of comfort for all. I would want to see different generations and genders giving to one another. I would love my sixteen year old student Sarah to be involved in whatever form most comfortable to her, and even to have my four year old know that *tefillah* is not just about the songs he sings in school but that *Ima* and *Abba* talk to people about their relationships with Hashem.

It will not be an easy feat. Group therapy takes years to forge bonds and I do not foresee being able to break down the social barriers that have been constructed over millennia.

But:

As a woman it will give me a voice.

As a teacher it will give me a chance to teach .

As a student it will give me a chance to learn.

As a mother it will help me show my children the value I place on *tefillah* and on relating to other people in a meaningful way.

As a friend it will give me a chance to understand, empathize, grow and daven for someone else.

As a lover of Hashem it will give us a chance to unite in that emotion.



*Berov am hadrat melekh*—the glory of the king is expressed in the multitudes—I do not think that is just referring to a number count, but I think that the voices of the community built can break down the walls barring us from encountering God.

