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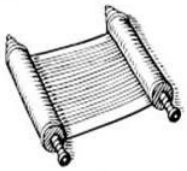

חרות ואחריות

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"Taking Responsibility for Torah"

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Seder

Shir HaShirim

Halakhah

Lomdus

What Are the Implications of Remembering that We Were All Gerim?

April 2, 2015

Many elements of Torah have as either their purpose or their rationale the commemoration of the Exodus. Only five verses, however, focus not on the Exodus but rather on our pre-Exodus experience in Egypt. My thesis is that while the Torah is not in chronological order, it is in literary order, and that reading the first three consecutively generates a clear moral and psychological progression. The fourth and fifth at first glance seem anomalous, but I hope that by essay's end they will seem to fit seamlessly into the same pattern.

Here are the first two:

Exodus 22:20

וגר לא תונה ולא תלחצנו כי גרים הייתם בארץ מצרים

Do not oppress or torment the ger*, for you were* gerim *in the land of* Mitzrayim.

Exodus 23:9

וגר לא תלחץ

ואתם ידעתם את נפש הגר כי גרים הייתם בארץ מצרים

Do not torment the ger*,*

for you know the soul of the ger*, for you were* gerim *in the land of* Mitzrayim

The first verse makes an abstract intellectual argument: what was hateful to you, do not do to someone else. The second verse, however, appeals to empathy: you know not only your own experience, but that of the *ger* whom you are commanded not to torment.

Leviticus 19:33-4

וכי יגור אתך גר בארצכם לא תונו אותו

כאזרח מכם יהיה לכם הגר הגר אתכם

ואהבת לו כמוך

כי גרים הייתם בארץ מצרים; אני ה' א-להיכם

Should a ger *be among you, do not torment him.*

Rather, the ger *among you must be treated just like a citizen,*

and you must love him as yourself,

for you were gerim *in the land of* Mitzrayim. *I am Hashem your G-d.*

The third verse moves from empathy to identification, and commands positive love rather than avoidance of harm. I suggest that identification is the stage following empathy, and the verse states explicitly that the intent of the command is to erase the otherness of the *ger*. One must love the *ger* as oneself, just as one must love one's רע as oneself.

At this point we move into *Sefer Devarim*, and the fourth verse can be seen as harvesting the summing up the progression of the first three:

Deuteronomy 10:19

ואהבתם את הגר כי גרים הייתם בארץ מצרים

You must love the ger*, for you were* gerim *in the land of* Mitzrayim

Whereas initially the appeal to our experience could generate only avoidance of harm, now it generates love.

The assumption I have made throughout is that our experience of *gerut* was one of oppression, and that we progress from awareness that no one should be treated as we were to imagining and enacting to others

how we would have wanted the Egyptians to behave toward us. This assumption is completely upended, even falsified, by the fifth verse:

Deuteronomy 23:8

לא תתעב אדמי כי אחיך הוא
לא תתעב מצרי כי גר היית בארצו
Do not abominate the Edomite, for he is your brother;
do not abominate the Mitzri*, for you were a* ger *in his land.*

Here the experience of Egypt seems to be recalled as positive; it generates an obligation to treat Egyptians as relatives rather than as strangers.

It is possible that we have simply been misreading all along. Perhaps our obligations toward *gerim* are modelled on the Egyptians' initial welcoming of the Jews, rather than on contrast with our eventual enslavement. Now that we have read *Devarim* 23:8, I think that possibility cannot be dismissed.

But I also think that our assumption was warranted by the context of the first two verses. In the immediate aftermath of the Exodus, it would be unreasonable for anyone to expect the phrase "for you were *gerim* in Egypt" to carry a warm and fuzzy connotation. So we must be expected to understand it that way initially. In light of *Devarim* 23:8, we will go back and reread, but we cannot understand *Devarim* 23:8 until we have (mis)read the previous four instances.

How is this? Most theories of ethics ground themselves in sameness; I have obligations toward you because you are like me, and only insofar as you are like me. It is because you suffer as I suffer that I must not torment you; it is because we each flourish when loved that we are obligated to love each other as we love ourselves. If you are different than I, how can I know that you don't valorize the experience of oppression, or see love as the enemy of reason?

The French Jewish philosopher Emmanuel Levinas took a fundamentally opposite approach. Ethics should be grounded in difference, he argued, not in sameness. To the extent that we are the same, we are replaceable; our infinite value is a product of our uniqueness.

The Torah's literary progression suggests a hybrid approach; Levinas is ultimately correct, but Levinasian ethics can best or only be reached by passing through sameness ethics. One can imagine a fully hybrid ethic grounded in the Rabbinic statement that the *tzelem*/mold of G-d, from which he casts all humanity, differs from every other *tzelem* in that each sculpture emerges unique. *Ex uno, plura.*

We can now notice that the verse in Deueronomy differs from its predecessors in one other way; it is written in the singular rather than the plural. Why is this?

I suggest that this verse is intended to refer directly back to the foreshadowing of the Egyptian Exile in the Covenant Between the Pieces, where the use of the singular was also unexpected.

Genesis 15:13

ויאמר לאברם
ידע תדע כי גר יהיה זרעך בארץ לא להם
ועבדום וענו אותם
ארבע מאות שנה
G-d said to Avram:
"You absolutely must know that your descendants will be a ger *in a land not their own –*
they will be enslaved and afflicted –
for 400 years.

Of course the Jews were not enslaved for four hundred years. To maintain the historical accuracy of the prophecy, we must date the period of gerdom back to well before the slavery, and read the verse as sequential: first your descendants will be *gerim*, and afterward they will be enslaved. So this allusion

confirms that our gerdom in Egypt should not be read narrowly as referring to the period of enslavement, but rather broadly to include the period in which Joseph's Pharaoh welcomed us with open granaries.

The other use of the singular is in Exodus 2:22:

ותלד בן
ויקרא את שמו גרשם כי אמר גר הייתי בארץ נכריה
Tzipporah, the wife of Moses, gave birth to a son.
He called him "Gershom," saying: "I have been a ger *in an alien land."*

Here we have a very similar ambiguity. Some read the verse as expressing Mosheh's realization that he had never truly been at home in Egypt. But others see it as referring to Mosheh's time in Midyan, and expressing gratitude for his father in-law's hospitality when he arrived as a fugitive *ger*.

In parallel with Levinas, Professor Michael Wyschogrod and Lord Rabbi Jonathan Sacks argue that the institution of Jewish particularism was G-d's protest against the idea that the Good is homogeneous and the good of humanity is homogeneity. The problem with their thesis is that Jewish particularism in practice is often about two kinds of sameness: the world divides into Jews, who share ancestry and the responsibility of Sinai, and non-Jews, who share their lack of either.

Avraham and Mosheh represent the familial and national origins of Jewish particularism, and the Covenant Between the Pieces is the blueprint of Jewish destiny. By tying our surprising obligations toward Egyptians to Avraham and Mosheh's experience of *gerut*, and by defining in advance the experience of *gerut* in Egypt as antecedent to the slavery, the Torah seeks to ensure that our formative memory of our time in Egypt does not calcify into chauvinism, but rather serves as a constant reminder to appreciate both commonality and uniqueness.

Why I Oppose Adding Symbols to the Seder Plate

April 14, 2014

Seder plates can get awfully crowded these days, with all the causes vying to place a new symbolic food on them. Some of these causes are dear to my heart, and some of the foods are delicious. Nonetheless, I think the effort to formally incorporate them into seder ritual is a mistake. Here's a very rabbinic and somewhat winding explanation of why.

We say the complete Hallel on the first day(s) of Pesach, but we say an incomplete Hallel on the remaining days? Why?

Pesikta Derav Kehana cites as explanation Proverbs 24:17: "**Do not rejoice at the downfall of your enemy".** This explains why we don't complete Hallel, but what is different about the first day(s) that allows us to complete it?

Here is a parallel question. Talmud Sanhedrin 39b states that after G-d drowned the Mitzriyim in the Reed Sea, the angels sought to sing His praises, but He restrained them: "My handiworks are drowning in the sea, and you want to sing?!" But the context, of course, is that the Jews were singing the Song of the Sea, and by all accounts they are praised for doing so. Why was it proper for the Jews to sing while His handiworks were drowning?

One more question: The Haggadah tells a story in which a group of rabbis stay up all night telling the story of the Exodus, until their students come and tell them that the time has come for the morning Shema. Now the third paragraph of the Shema is intended, the rabbis tell us, to fulfill the commandment of . . . telling the story of the Exodus. What is the difference between these mitzvot?

I have one answer for all three questions. The mitzvah on the first night of Pesach is to tell the story not as an observer, but rather as a participant. In Yosef Yerushalmi's famous framework, it is intended to create memory rather than to teach history.

Direct beneficiaries of a miracle have an overwhelming obligation to express gratitude, even if a third party would note that the miracle caused harm to other human beings. Thus the Jews were obligated to sing, but the angels were not permitted to.

On the first night(s) of Passover, we place ourselves in the position of the generation of the Exodus, in other words as direct beneficiaries of G-d's miracles. We therefore may and must sing the complete Hallel. On the remaining nights, we are more like the angels (although unlike them, we are second-degree beneficiaries), and so we cannot complete Hallel – did not His handiworks drown even as we were redeemed?

How does this relate to the question of whether contemporary social justice causes should find symbolic expression at the seder?

Let me be clear. The **ultimate** purpose of the Seder is to recommit us to justice, to recognizing that everything in Torah is mediated by our experience of the G-d Who hates slavery intervening to redeem us from slavery. But the **immediate** purpose of the Seder is to root that experience in our minds, and the minds of our children, as uncontroversial and incontrovertible memory rather than as potentially controversial history. The **immediate** purpose of the seder is to establish a narrative, not to draw morals from it.

When we impose meaning on the story, rather than simply telling it, we transform experience into opinion. The story by itself must generate the meaning. So long as we share memory, our conflicts as to the obligations imposed by that memory will occur within, and perhaps even strengthen, our shared identity. They will be conflicts of interpretation about a common text. But if the controversy is allowed to

feed back into the memory – if our political differences no longer stem from a shared memory – those same conflicts risk turning us into multiple people, with multiple Torahs.

Now it is human and proper for Jews' opinions to find their way into their divrei Torah at the Seder, just as every Jew experienced the original Exodus and Revelation at Sinai uniquely. And it is beautiful and necessary for Jews to experience the Seder as generating obligations to act, to change the world toward greater morality and justice. But we need the Exodus to be available to inspire our descendants as it inspired us; we cannot risk having it be seen as the constructed past of a dead ideology.

As we preserve a common text of Torah, we need to preserve a common core of Exodus narrative, and my strong sense is that this is best done by keeping the seder plate as is.

Diversity is the Spice of Life

March 29, 2018

Diversity is the spice of life, but the scandal, of science, philosophy, and theology. How can there be difference?

For physicists, all matter is made of the same stuff, and for many cosmologists, it all started at a singularity – so why do we have both hot dogs *and* buns?

For Maimonides, G-d is the only necessary existent, and diversity can occur in contingent existence. But it's not clear why this explains diversity, as all contingent existents relate to the Necessary Existent in the same way.

For the kabbalists, and perhaps for Kant, diversity exists in perception but not in reality. Everything that exists is the simple undifferentiated G-d, but we perceive Him through glasses rainbowly. But it is not clear why a homogeneous reality generates diverse perceptions, or how human perceivers exists, and I don't fully understand when a tree falls in the forest with no one there to hear it.

The challenge for each approach is to properly calibrate when to focus on unity and when on diversity.

A recent online discussion addressed the question of whether one may invite nonJews to the seder. One argument against was that since nonJews cannot eat the Paschal sacrifice, it would be inappropriate to invite them to our symbolic commemoration of the eating of that sacrifice. A counterargument was that Halakhah demands that we make crystal clear that we are not in fact eating a sacrifice, so as to avoid the impression that sacrifices can be brought outside the Beit HaMikdash. The presence of a nonJew can serves the positive function of demonstrating that no Paschal sacrifice will be eaten at the Seder. Blurring distinction among humans serves to emphasize distinction among places.

The issue at the heart of the disagreement may be this: One side feels that the absence of the Beit HaMikdash generates a risk of flattening, that Jews will elide other vital distinctions when they no longer have a regular ritual connection to supersacred space. The other side feels that those other distinctions are intended to be ancillary to the fundamental reality of sacred space, and so when the Beit HaMIkdash is gone, there is much less meaning to the other distinctions. One can see the same conversation with regard to the social privileges and duties of kohanim in the post-Destruction era.

Judaism of course has sacred time as well as sacred space, and the sacred time of Shabbat specifically may be largely unaffected by the absence of the Temple. Perhaps that persistence also serves to justify the persistence of human distinctions.

The emphasis on difference as a fundamental component of holiness is classically rooted in the notion that *kedushah* is really best translated as "separated". In the classical form that separation seems almost always to be hierarchical, *kodesh* as opposed to *chol*. The philosophic and kabbalistic analyses seek to make *kodesh* and *chol* into aspects or perceptions of the same underlying matter, but it remains clear that *kodesh* is the goal.

The question for those with fundamentally egalitarian commitments is whether celebrating differentiation as enabling the perception of holiness, even if it entails hierarchy in the realms of time and space, can be transferred to human beings without the same hierarchy. This does not seem to have been a major Jewish concern historically, as hierarchical categories such as "form" and "matter" were often used in the context of Jewish chosenness or gender. But it is very much a modern concern.

To be specific: Some kabbalists respond to the scandal of difference by maintaining a dual consciousness, recognizing that one must relate to our reality as if difference exists while understanding that our reality is

fundamentally an illusion. This may work well with regard to rocks and trees, but with regard to human beings, I submit, a recognition of underlying sameness does not justify maltreatment in the here and now.

I would prefer to go with Levinas and see difference as the ground of value and of ethical obligation. It is because you are different than me that you are infinitely valuable to me, not because of what you share with me. At the same time, this powerful argument doesn't well account for family love, and perhaps even for human speciesism, both of which I have no interest in overcoming.

Celebrations of diversity per se must constantly slide toward notions of "separate but equal", where the identical experience is given to each group. "Separate but equal" itself tends more or less inevitably to "different but equal", where the groups do not have the identical experience, but a claim is made that the different experiences are equally valuable. This can be resisted politically to some extent by libertarianism, which seeks to limit government to the negative role of preventing coercive imposition. This enables separateness to be a choice rather than a mandate, but on the other hand gives private prejudice free reign. It is not clear to me whether any religious approach celebrating difference can resist the slide to "different but equal".

Perhaps such resistance is unnecessary. Contemporary America properly anathematizes "separate but equal", and manages to celebrate multiculturalism at the same time without irony. But multiculturalism without separation consumes itself, as children raised equally in all cultures will grow up homogenized.

The tensions I've tried to outline throughout this discursus are at the heart of Pesach. G-d intervened in history to rescue one people, and that intervention justifies our religious particularism by giving Him a special claim on us. But the claim He makes on us is grounded in the universal claim that what was being done to us was wrong, not because of who we were particularly, but simply because we were human.

The difference in value created by relationship is inevitably hierarchical – a becomes more valuable to b as their (positive) relationship deepens. But in the best of such relationships, our acceptance of greater subjective value – we love each other – also heightens our awareness of objective value – other people are capable of love. The challenge for us is to use all the privileged religious experiences of Judaism as catalysts for appreciating the spiritual capacities of all humankind.

הא לחמא עניא (from the Aryeh Klapper Haggadah, in progress)

April 10, 2017

הא לחמא עניא דאכלו אבהתנא בארעא דמצרים.

כל דכפין – ייתי וייכול; כל דצריך – ייתי ויפסח.

השתא – הכא; לשנה הבאה – בארעא דישראל.

השתא – עבדי; לשנה הבאה – בני חורין.

This is the bread of poverty that was eaten by our ancestors in the land of Mitzrayim

Anyone hungry – let them come and eat! Anyone in need – let them come eat a Pesach!

This year – here; The coming year – in the land of Israel!

This year – slaves; The coming year – free people!

In the United States, we generally recite this paragraph ritually in a locked house or apartment, or a wellguarded resort complex, where the poor – unless previously invited – could not possible hear us. This seems too ironic for words. But it is also true that we live in environments where the desperately and publicly poor are rarely known to us personally, and so reasonable concerns of safety and privacy make the idealistic framework set out here uncomfortable and likely unwise. Can we nonetheless make sense of it? Let us begin by recognizing that the paragraph is structured chronologically – we start in Mitzrayim at the point of the Exodus ("This is the bread our ancestors ate in the Land of Mitzrayim"), move to Israel during the Temple period (""Anyone in need – let him come eat a Pesach"), acknowledge contemporary reality, and finally express our hopes for the future. Our scripted invitation to the needy is a deliberate flashback to the Temple period, when all Israel was camped out in Jerusalem, and the "haves" provided for those who could not afford their own lamb for the Pesach sacrifice. It is not intended as a direct critique of Diaspora practice. Nonetheless, surely one purpose of the Pesach sacrifice was to create a circumstance in which each Jew of means had direct responsibility for the poor. Can we maintain the spirit of the law when the letter remains sadly out of reach? I don't think the solution is necessarily open-air barbecue seders in public parks. Chazal (Bava Batra 7b) recognize a legitimate tension between the right to privacy and the obligation to remain accessible to the poor. Residents of a courtyard may legally compel each other to pay for the construction of a gatehouse; yet Elijah the prophet stopped visiting one chasid's courtyard once a gatehouse was built, in protest against his exclusion of the poor. The proper balance between these values depends on social and individual circumstances. In a perfect world, no one responds to the last-minute Pesach invitation, because all the poor have already been provided for. We can recline in the privacy and freedom of our houses and hotels without guilt, but only if we have done our part in advance to ensure that the poor have the wherewithal to make their own sedarim.

Predictive Prophecy and Free Will

"The world's a stage, where G-d's omnipotence/ His justice, knowledge, love, and providence/ do act the parts." Guillaume de Salluste's metaphor seems an apt summary of the Torah's account of the Exodus. In Genesis 15:13-14, G-d tells Abraham "Know definitively that your descendants will be aliens in a land not their own, whose inhabitants will enslave and afflict them - for four hundred years. I will also judge the nation for which they will slave, after which they will leave with great wealth". Unsurprisingly, G-d's predictions come true; viewed through the lens of Genesis, the Jews and Egyptians of Exodus seem to be reading their lines off a comprehensive Divine script.

This reading of biblical history, however, is psychologically and theologically bittersweet. Every extension of G-d's control limits human freedom - if G-d wills a specific version of history, man's experience of choice is illusory. G-d's detailed foretelling of the Jews' Egyptian experience magnifies His glory, but at the expense of His people's dignity.

Variations of this paradox have occupied Jewish thinkers in every age. In Mishnah Avot 3:15, for example, Rabbi Akiva states that "All is foreseen, yet freedom is granted", clearly recognizing that he affirms a contradiction. Similarly, In Laws of Repentance 5:5, Maimonides writes "And should you say "But G-d knows what will be, and thus must know in advance whether someone will be righteous or wicked. For if G-d knows that he will be righteous, and there remains a possibility that he will be wicked, G-d's knowledge is uncertain. Know that the answer to this question is longer than the earth and wider than the sea . . . but you must understand that G-d's knowledge, unlike human knowledge, is His essence . . . Accordingly, to understand His knowledge would be to understand Him, which is impossible, as it is written "for a person shall not see Me and live" . . . Accordingly, we do not have the ability to understand how G-d knows all our activities but we know without doubt that Man's actions are in our own hands and G-d does not influence us or compel us".

Maimonides' thesis that G-d's knowledge is qualitatively unique and therefore non-determinative became, despite cogent and biting criticism from Gersonides, the standard Jewish approach. Whatever its philosophic merit, however, it cannot resolve the difficulties posed by the biblical account of history. In Genesis, G-d conveys His foreknowledge of Exodus to Avraham, thus transforming Divine into human knowledge. The certainty of Avraham's human foreknowledge should have precluded free human choice.

Other elements of Exodus hint at a different view of history, one in which the human actors are given great freedom to interpret and even write material. At the start of Parashat Bo, for example, G-d tells Moshe "Go to Pharaoh, for I have hardened his heart and those of his court". Moshe complies and tells Pharaoh that should he not release the Jews, locusts will decimate Egyptian agriculture. But G-d never mentioned locusts! Midrashim suggest that Moshe derived hints from other prophetic works, from abbreviations written on the sacred staff he carried, et al. The medieval commentator Chizkuni, however, basing himself on Isaiah 44:26's description of G-d as "upholder of the word of his servants", explains that G-d gave Moshe the right to announce any plague he thought appropriate. Midrashim similarly cite this verse in Isaiah in relation to Moshe's breaking the first Tablets, separating from his wife, adding an extra day of communal preparation for Revelation, and stating to Pharaoh before the ons et of the plague of Darkness that they would no longer meet.

And on rereading, even the apparently most fixed elements of the play seem flexible. The Jews actually spent considerably less than four hundred years in Egypt, and only part of that time as slaves. Midrashim accordingly explain that the four hundred years of Genesis 15:13 referred to the time they would spend as aliens, not as slaves, and included Yitzchak's stay in Gerar. Surely this would not have been Avraham's understanding of his own prophecy.

This flexibility extends to Egyptians as well as Jews. In Exodus 4:22, before the plagues begin, G-d commands Moshe to tell Pharaoh that refusal to release the Jews will cause the death of his first-born son. The actual Plague of the First-Born kills every first-born in Egypt, including those of servants and

animals. Why the change? The medieval commentator R. Ovadiah Seforno argues compellingly that the plagues were intended to educate the Egyptians to worship G-d. Had they succeeded, perhaps only Pharaoh's first-born would have died. Indeed, in Genesis 15:14 G-d promised only to judge the enslaving nation, leaving ambiguous the outcome of that judgment.

Try and picture this revised, almost bloodless Exodus. What would Judaism be like, what would the world be like, if the Jewish nation had been born out of Egyptian religious recognition rather than plagues, if our formative historical experience had been one of aliyah rather than escape?

But if history is really contingent and mutable, what's the point of prophecy? Why make predictions whose meaning becomes clear only in retrospect?

Perhaps because prophecy, like providence, is a double-edged sword. Knowing that G-d has a rigid plan provides comfort and security, but at the same time removes responsibility. If things will work out anyway, if world redemption is inevitable, why should we exert ourselves to bring it?

Ambiguous prophecy, however, imposes responsibility. By showing us the potential consequences of our actions, it obligates us to strive to realize the best interpretations.

In this light, the message of the biblical account of Exodus is twofold. Certainly it demonstrates that G-d acts in history, that He relates to and cares about the world and Jews in particular. At the same time, by hinting at alternate possible Exodi it stresses the human responsibility for history.

Thoughts on the Prophet Eliyahu

2009

Eliyahu the prophet makes perhaps the most dramatic entrance in Tanakh. We can legitimately describe him as "bursting upon the scene", for Eliyahu is not born, has no history, and introduces himself by making the radically presumptuous claim "By the Life of G-d, there will be no dew or rain except by my word". One cannot help but notice that he seems to be emphasizing his own role unnecessarily: does the rain not depend, ultimately, on G-d's decision rather than on Eliyahu's own word? Is a prophet anything more than the voice – however personal and subjective - that conveys G-d's decisions to humanity?

And this initial episode is typical rather than anomalous. Eliyahu forces G-d's hand time and time again, and at times openly defies Him. Yet his career ends with his greatness unchallenged, and with G-d showing him every sign of favor. Why does G-d favor and choose such an independent spokesman?

We will approach this issue by exploring several reckonings with what I see as the central issue of this episode, namely why Eliyahu takes this task upon himself rather than upon G-d's prophets as a class.

1) Eliyahu is contrasting his powers with those of the prophets of Baal. He understands that he cannot, at least at this point, compel the idolatrous prophets into permitting a direct challenge between Baal and Hashem, but he can establish his own credibility. This episode should be seen as a necessary precursor to that direct challenge, wwhich takes place several chapters later on Mount Carmel..

2) Eliyahu is at this point the only public prophet of G-d, as Jezebel has wiped out the remainder. Perhaps he does not wish to even hint that there are other prophets, lest they be found and killed. Perhaps, if he left it as a possibility that other prophets could undo his decree, they would be tortured by the king and queen until they agreed to do so.

3) There were false prophets of G-d around in addition to idolatrous prophets. Any one of those false prophets could at any time declare in G-d's name that the drought was ending, thus making Eliyahu's later accurate declaration seem just a lucky guess. Only by personalizing the test could Eliyahu ensure that fraudulent prophetic pretenders would not undermine his test and leave his public jaundiced and cynical by the time he agreed to end the drought.

4) Eliyahu was aware of and willing to publicly acknowledge the legitimacy of many contemporary prophets. But while he acknowledged them, he didn't trust them not to feel sympathy for the suffering of the drought-ridden Jews. Eliyahu understands that the drought is his own initiative; he believes that G-d will support his decision, but he realizes that the Divine Will could respond in many different ways to the situation he faces. In other words, Eliyahu makes the rain dependent on his word, not on G-d's, to limit G-d's freedom of action, to prevent G-d from ending the test early through the voice of another prophet. "Trust my judgement", he says to G-d, "or fire me".

The fourth suggestion seems to me to fit best with both the text and its Talmudic interpretation. The midrash records that in the end G-d had to force, or in some versions trick, Eliyahu into ending the drought. There are three keys in Heaven, we are told: those of birth, of resurrection, and of rain. Human beings may possess at most one of these at a time. Eliyahu is overcome by guilt, or perhaps by moral anger, at the sudden death of the son of his benevolent Tzarfatite hostess. As a result he asks for the key to resurrection, and must give up the key to rain.

The implication of this midrash is that G-d found a third way; He neither fired Eliyahu nor, ultimately, did He trust Eliyahu's judgement. This generates an inherently unstable situation, and as would be expected, Eliyahu soon finds a way of simultaneously challenging G-d and the Jews again. He summons the prophets of Baal to a challenge match atop Mount Carmel. Each of them slaughters a cow, and prays to their respective god to set it afire. The midrash notes that Eliyahu thus violates the prohibition of bringing

sacrifices outside the Temple, meaning that whatever the short-term consequences of his deeds, in the long term he almost certainly helps make it impossible for the kings of the Israelite kingdom to eliminate that practice, which becomes the bane of many later prophets.

But Eliyahu does not give G-d any real options; once again, he forces G-d to choose between backing him up and firing him. Eliyahu's position vis-a-vis G-d is stronger this time, as by backing him up regarding the drought G-d has irrevocably bound His credibility up with Eliyahu's. So G-d sends the flame and consumes the slaughtered cow, and the awestruck people declare that "Hashem is the L-rd, Hashem is the L-rd", and massacre the prophets of Baal. But the next day Jezebel tells Eliyahu that his life is forfeit, and we see in her words no sense that murdering Eliyahu will generate any significant popular outrage.

We next see Eliyahu in the wilderness in suicidal depression. This time, at least superficially, he does not seek to limit G-d's options, but to take away his own. "Take my life", he asks G-d, "for I am not better than my predecessors".

What generates Eliyahu's depression? Presumably not the threat to his life; Jezebel has been slaughtering all G-d's prophets for years. Rather, he is depressed because the failure of the Mount Carmel challenge indicates that his whole career has been a mistake. Above all, Eliyahu is the prophet of the dramatic, charismatic gesture. His opening scene set the tone for his entire career. Mount Carmel was the ultimate dramatic gesture, it worked perfectly, and nonetheless, the next day it seems that the world is unaffected.

Let us take a moment to understand the meaning of Eliyahu's reliance on the dramatic. His goal, as he memorably phrases it during the challenge, is to force Israel to choose between extremes: "How long will you stand on the threshold of two gates?" In other words, Eliyahu believes that the people deep down understand that G-d is G-d, but are unwilling to face the implications of that understanding. By posing the choice starkly, by making them understand that their behavior denies what they understand to be true, Eliyahu thinks he can make the Jews commit to G-d unconditionally. But now he sees that he cannot make them sustain that commitment. So this time he does not tell G-d "Trust me or fire me", but rather "Fire me; You trusted me and I failed".

Once again, though, G-d does not fire him. Instead, He sends an angel with food, and takes Eliyahu through a very explicit reenactment of Mosheh Rabbeinu's time on Har Sinai. Eliyahu goes forty days and forty nights without water, and ends up on Har Choreiv, Mount Sinai, in the cave where G-d hid Moshe while His Glory passed. A voice comes to Eliyahu, saying: "What are you doing here, Eliyahu?"

Eliyahu understands that he is being asked for a self-justification. His answer brilliantly captures who he is. At the same time, it makes us wonder whether the request that G-d fire him was not just another dramatic gesture, a plea for reassurance rather than a recognition of error. He says: "I have been very zealous for G-d, L-rd of Hosts, for the Children of Israel have abandoned Your Covenant. They have destroyed Your altars and put Your prophets to the sword. I am left alone, and they seek to take my life". We get a clear sense that his life is not worthless, that when push comes to shove his failure is their fault.

Let us not rush to condemn Eliyahu here. He believes in free will, in other words he believes that nothing he does can necessitate that his audiences will make the right decisions, just as nothing can deprive them of responsibility for their wrong decisions. He can legitimately believe that he gave them the best chance of making the right decision, but they nonetheless failed.

G-d responds by showing Eliyahu a complex vision. First there is a hurricane, then an earthquake, then a wildfire – but G-d is not in any of these - and finally a quiet, delicate voice. G-d then repeats His question, word for word.

The simplest understanding of this tableau is that Eliyahu's dramatic path is represented by the three powerful natural phenomena, whereas the quiet delicate voice represents an alternative and preferred

prophetic method. Eliyahu responds to G-d's repeated question by repeating his previous answer, word for word. The vision, so far as we can tell, leaves him unchanged. Let us explore this interaction further.

My student Yeshuah Rabenstein argues that here, with exquisite irony, G-d adopts Eliyahu's own method to instruct him. The reenactment of Mosheh's experience, the powerful vision, all these are dramatic demonstrations, not quiet delicate voices. And yet they leave Eliyahu unchanged. Perhaps, Yeshuah suggested, the point of this whole episode was to make Eliyahu realize that dramatic moments do not change people. Realizing that G-d's drama had not changed him – even momentarily - he would become more sympathetic to the people's failure to be changed by his dramas.

I think Yeshuah's perception is spectacular, but I also think his suggestion is caught in its own ironic web. If Eliyahu understands that he is unchanged because G- d's educational method was (deliberately) flawed, and not because he made the free choice to reject His message, then the method has not failed, and we are back where we started. I accept the irony, but I'm not convinced Eliyahu got it or could reasonably have been expected to get it.

Another student of mine, Chaim Strauchler, suggests that Eliyahu thought the whole vision was a test of his determination. He repeats his self-justification word for word because he thinks he is supposed to; the repetition is a repentance, a teshuvah, for his earlier despair.

My own sense is that Eliyahu understands that he is supposed to change, but consciously refuses to do so. Let me note here that this is a longstanding opinion of mine; my chavruta Eliyahu Teitz and I argued about this while I was still in yeshiva. Eliyahu Teitz thought that Eliyahu HaNavi simply failed to understand what G-d wanted, but I refused to accept this.

I further admit that my refusal had a deep emotional basis, for I identified with Eliyahu, especially in that moment of, as I understood it, defiance. During my college and semikhah years I would frequently read that chapter to renew my determination in the face of seemingly overwhelming opposition. This was, however, not a psychologically original experience on my part. Rabbi Samson Raphael Hirsch records that he would reread this chapter once a month, and his foundational pedagogic work, Horeb, is named after Eliyahu's experience. (We will encounter Rav Hirsch's spectacular counterreading of this episode later in this essay.) One prefers not to identify with figures who just don't get it.

Eliyahu is a self-described zealot, and a large part of zealotry is absolute and unshakable conviction – which, with apologies to modernity, is not always a bad thing. Another Biblical use of the word zealotry indicates that it can involve a dedication to the best interests of someone who may put other interests above his own. When Yehoshuah urges Mosheh to condemn Eldad and Meidad for their temerity in continuing to prophesy in Mosheh's lifetime (or, midrashically, for prophesying that Mosheh will die before reaching the Promised Land), Mosheh's somewhat bemused response is: "Are you being zealous for me?"

The other prominent zealot in Tanakh, Pinchas, seems clearly to be praised for his zealotry. His killing of Zimri and Kazbi successfully aborts a raging Divine plague, and G-d Himself grants him "a covenant of eternal priesthood". Thus Pinchas's zealotry, as opposed to Eliyahu's, is effective. Nonetheless, the midrash identifies Pinchas with Eliyahu.

This midrashic identification is based both on the term "zealot" and by the suddenness of Eliyahu's appearance – as noted above, he is never born – and the absence of Pinchas' death, although he seems to remain prominent throughout Joshua's leadership. We could treat this as simply a formulaic application of what Yitzchak Heineman called "conservation of personalities".

I think, however, that such a treatment would be superficial, especially as "conservation of personalities" usually identifies a bit player with a prominent figure rather than identifying two prominent figures. The midrashists (not to mention Gersonides, who endorses this identification in his commentary) knew full

well that Pinchas and Eliyahu's careers were markedly different. Whatever their motivation for identifying the two Biblical figures, they must have had an account of the differences.

Let us now make a fuller accounting of those differences. We have already noted that Pinchas's zealotry is effective whereas Eliyahu's is not. We might say more sharply that Pinchas's zealotry saves many lives at the cost of two, whereas Eliyahu's zealotry generates a massacre, and he seems to want yet more deaths. Let us add that G-d describes Pinchas as a zealot whereas Eliyahu is self-described. My student Aharon Ross notes that Pinchas is zealous spontaneously, whereas Eliyahu's zealotry is implemented through elaborate plans. I might reformulate that by saying that Eliyahu seems to be a constant zealot. Finally, Pinchas is rewarded for his zealotry, whereas Tanakh describes G-d's reaction to Eliyahu's self-description with real sharpness: "Go, return to your way through the desert to Damascus. When you arrive, you will anoint Chazal King of Aram and Yehu ben Nimshi King of Israel, and you will anoint Elisha ben Shafat of Aveil M'cholah as prophet in your stead". The midrash alertly rephrases the ending as "I don't want your prophecy". In other words, Eliyahu is fired (finally) for his zealotry.

How do the midrashists account for these differences when they identify Pinchas and Eliyahu? Why do they bother? My contention is that they must have developed an integrated, holistic vision of the life of Pinchas-Eliyahu.

Let us return to, and examine more closely, G-d's reaction to Pinchas' zealotry. We mentioned that He grants him "a covenant of eternal priesthood"; this seems an appropriate reward. But G-d also informs Mosheh "Behold, I am giving him My covenant of peace", which seems less character-appropriate. Zealots rarely look forward to lives of peace and tranquility.

Furthermore, the midrash claims that Pinchas does not become an ordinary priest, but rather assumes the office of war-priest. We next meet him leading the Jewish forces into battle against Midyan. What kind of job is that for someone with G-d's covenant of peace? Then, at the end of Joshua, he serves as Grand Inquisitor as the community investigates whether the tribes on the East Bank of the Jordan have committed idolatry. While he absolves them, the sense we get is that he was appointed because he could be counted on to lead the enforcers in if they were guilty. He is then identifies as the High Priest who serves as the oracle of Hashem during the civil war between Benjamin and the other tribes that concludes the Book of Judges. Hashem's instructions to the tribes, conveyed through Pinchas, are to attack and attack again.

Finally, another midrash – a midrash which deserves to be widely publicized in that it demonstrates that the midrashists "got" it, that they understood and to some degree shared the feminist critique of patriarchal society – sums up Pinchas's character in less than attractive fashion. In Judges, we learn that Yiftach made an oath to sacrifice to G-d the first living being emerging from his house upon his successful return from battle. To his shock and dismay, his daughter was first out of the house to greet him. With a heavy heart, Yiftach sacrifices his daughter. (The simple sense of the words is that he killed her. Nachmanides, however, suggests that he only forbade her from marrying, but that the text treats this as equivalent to murder. His reading has much in both text and context to recommend it.)

The midrashists wonder why Yiftach did not have his vow annulled, as halakhah permits. (They don't address an even more obvious halakhic question, namely why the vow was binding at all when it required violating the prohibition against murder, and vows to perform illegal acts are halakhic nullities.) They respond that Yiftach, as political leader, felt that only the High Priest had sufficient stature to annul his vow. So he sent a message to the High Priest asking him to come. The High Priest, however, thought that Yiftach should come to him, and they were unable to resolve this dispute. The midrash sums up: "Between the two of them the girl was lost". Who was the High Priest? Pinchas!

So in the aftermath of his initial act of zealotry, Pinchas becomes warpriest, Grand Inquisitor, and a man so insistent on the dignity of his office that he has no concern for collateral casualties. How do we square this portrait with his having received G-d's Covenant of Peace?

I'd like to suggest that the midrash makes the following claim. Zealots are good, but dangerous. A zealous who gets something right does wonders, but habitual zealots will eventually get something important wrong. So G-d's initial reaction to Pinchas is "Great! You have done well, and earned a great reward. Don't do it again!".

To cement and emphasize his point, G-d announces that he is giving, notein, his covenant of peace to Pinchas. The choice of verb is significant, as covenants are more often established by the consent of all parties involved – one is koreit a covenant – than given (see Genesis 17:2 for the other instance).

Let me therefore suggest the following as midrashic history. Pinchas kills Zimri and Kazbi, and G-d approves but immediately offers him His covenant of peace lest his zealotry metastasize. Pinchas turns it down – his identity is bound up with his zealotry. Over time, as G-d (k'b'yakhol) watches nervously, he becomes warpriest, and signs of incipient disaster emerge in the episode with Yiftach. Pinchas gradually becomes Eliyahu. At Mount Carmel, he makes the long-feared mistake. Mount Carmel is a disaster – people die, and no one is changed.

So G-d takes Eliyahu to Choreiv. He hopes that Eliyahu will be influenced simply by the historical parallel to Mosheh, who argued with G-d on behalf of the Jews rather than against them. As the midrash puts it – "Mosheh sought the honor of the father and the son, but Eliyahu only sought the honor of the father". Perhaps G-d also hoped Eliyahu would learn from His own mistakes. R. Eliyahu Dessler argued that a key message of the Exodus narrative is that people are never really changed by dramatic one-shot experiences – if the Revelation at Sinai, following on the heels of the Ten Plagues, could not prevent the Golden Calf from occurring almost immediately, how could Eliyahu expect his showmanship at Mount Carmel to seriously affect Baal-worship?

But Eliyahu is unmoved. So G-d takes him to the cave, and, via the vision, offers him the Covenant of peace on more time. And Eliyahu turns it down again. Two strikes, and he's out.

The last verses of Malachi, however, seem to present a very different view of Eliyahu. "Behold I am sending you Eliyah the prophet before the coming of the great and terrible Day of the Lord. He will return the hearts of fathers to sons, and the hearts of sons to fathers, lest I come and smite the land utterly". Here Eliyahu is presented as a figure of peace, almost an anti-zealot. In midrash, Eliyahu's post- Biblical career is almost always described in terms compatible with that verse. Eliyahu brings peace and comfort, recognizes the significance of comedians, etc.

I suggest that the midrashists posited that Eliyahu is offered the covenant of peace a third time, in Heaven, and that this time he accepts.

That is one version of history. It resolves many difficulties, as we have shown, but also generates some new questions.

First: why does G-d take so long to fire Eliyahu if we can, in retrospect, see the danger signs all along? Second: Eliyahu as a purely Biblical figure is not consistently without compassion; he argues with G-d on behalf of the widow who hosts him, for example. How does that episode fit with the midrash's claim that he cared "only for the honor of the Father"?

Perhaps these two questions answer one another – perhaps Eliyahu's compassion finally disappears in the crushing aftermath of Mount Carmel. But they have also been used as the basis or what we can call "alternative biographies" of Eliyahu.

One alternative is offered by Rabbi Jonathan Sacks, present Chief Rabbi of England. He notes that while in the cave on Mount Choreiv G-d is not in the whirlwind, in the book of Job G-d does appear out of a whirlwind. Rabbi Sacks accordingly argues that G-d does not reject Eliyahu in toto at Choreiv, but at most points out that Mount Carmel was an error. Indeed, Eliyahu might well have remembered that G-d's

original appeared to Mosheh at Sinai out of a flame, and His public appearance there was accompanied by loud sounds.

Rabbi Samson Raphael Hirsch offers a far more radical rereading. He suggests that the point of the vision was not to reject Eliyahu's path, but to reassure him of its necessity. The verse in Malachi teaches us that Eliyahu comes before the Messiah, that Eliyahu is the harbinger of redemption. That, says R. Hirsch, is precisely the message of the vision – that the quiet delicate voice cannot come before the hurricane, earthquake, and wildfire have passed. Eliyahu is depressed because he cannot see the results of his work, so G-d shows him that his work is a necessary preparation for redemption. (Indeed, while the Revelation at Sinai may not have "worked", in the sense of making the whole population permanently faithful to Hashem, would anyone argue that it was unnecessary or counterproductive?)

In Rav Hirsch's reading, the command to anoint Elisha is not a rejection but a confirmation; G-d uses it to tell Eliyahu that his work will in fact live on. Indeed, Elisha is if anything a less compassionate figure than Eliyahu, and the text describes his role as that of killing those Baal-worshippers who escape the swords of Chazael and Yehu, Eliyahu's anointees as kings of Aram and Israel respectively.

R. Hirsch's reading has several other textual advantages. First, Eliyahu's Biblical career does not end after this episode, indeed it has not yet reached its halfway point. Second, why does Hashem send the angel to revive Eliyahu in the wilderness if in fact "he is not better than his ancestors", and it would be better for his career to be ended?

But let us assume that there is some tension between G-d and Eliyahu in the prophetic relationship, that G-d regularly seeks to moderate Eliyahu's zealotry. We set that possibility up through a reading of the life of Pinchas, but it can also emerge from the Eliyahu story itself. For example, after Eliyahu declares the drought, G-d sends him to places where he will see the suffering his decree has inflicted, presumably to make him aware of the consequences of his passions. Even R. Hirsch can admit that Hashem's overall endorsement of Eliyahu is not without its discomforts.

What drives Eliyahu in this relationship? What makes him either so sure of himself, or else so consumed by his uncertainties, that he feels compelled to challenge G-d?

We noted earlier that in the scene at Har Choreiv Eliyahu is reenacting an encounter between Mosheh and G-d. In that encounter, Mosheh asked to see G-d's Glory, His kavod. According to the midrash, that meant that Mosheh asked why bad things happen to good people, and why good things happen to bad people.

For Mosheh, and probably for most of us, the more difficult question of that pair was the first, why the righteous suffer. It is hard to imagine a book titled "Why Good Things Happen to Bad People" being a runaway bestseller. I suspect that this is because we live in a culture that is fundamentally optimistic about human nature, which assumes that the vast majority of people have not behaved sufficiently badly to deserve failure in the pursuit of happiness.

But it is possible to argue that justifying the suffering of the righteous is simple, whereas the success of the wicked is a theological monstrosity. Let me illustrate, and then explain, why,

A famous Talmudic story tells of G-d taking Mosheh into R. Akiva's classroom. Mosheh is impresses, by R. Akiva, and asks to see the reward prepared for such a man. G-d shows him R. Akiva's flesh being sold in the marketplaces. Mosheh exclaims: "This is Torah and this is its reward?" G-d replies: "Be silent! So it arose in My mind".

R. Eliyahu Dessler, whom we have met before, connects this story to a midrash, cited by Rashi in his commentary to the Torah, which explains why the first chapter of Genesis always uses the name Elokim for G-d whereas the second chapter uses Hashem Elokim. Elokim is taken to refer to G-d's attribute of justice, whereas Hashem refers to His attribute of mercy. Says the midrash: It arose in G-d's mind to

create the world in accordance with justice, but He saw that it would not survive, so He made mercy a partner in Creation.

Says R. Dessler: The inclusion of mercy in creation is not ideal, because Divine mercy erodes the dignity of Man. In a world run in accordance with strict justice, every human moral decision has real and lasting consequences. Mercy means that G-d will ignore some of our decisions and actions. R. Akiva's reward was the chance to live – however briefly and ultimately unsuccessfully – in a world of strict justice. Thus G-d replied to Mosheh's challenge by referring him to what arose in His mind at the time of Creation.

Mercy, unlike justice, is random. One of my high school students would regularly complain that I gave him lower grades on a test for the same answers as his peers. My reply would be that he had gotten exactly the number of points those answers deserved, but that I had been merciful with the other students. He would then demand the same degree of mercy, whereupon I would reply that it was of the essence of mercy that it was not deserved and thus could not be demanded or held accountable to any standard.

In other words, bad things may happen to good people because, in a just world, who of us deserves better? But good things happen to bad people when justice is arbitrarily replaced by mercy.

Eliyahu was deeply offended by the arbitrary nature of mercy. He demands consistency of G-d; "if You require these things, You must enforce them, or our choices are not meaningful and dignified".

In midrash, however, Eliyahu becomes the reconciler of opposites. He is, first of all, the person who lives in Heaven, who is simultaneously an inhabitant of the Upper and Lower worlds. The verse in Malachi tells us that he will reconcile the generations; he also appears at circumcisions, a moment of great generational tension, and immediately after Shabbat, when the borders between sacred and profane blur. Finally, at the seder we open the door to shout our imprecations at murderous pagans, but meanwhile Eliyahu comes in, underscoring that to attack requires leaving our fortifications, and thus makes us vulnerable. (I owe this insight to my friend Shoshanah Gelfand.) This is even more true when the battleground is spiritual or intellectual.

Perhaps the midrash understands that only Eliyahu could play this role. When the idealistic among us are counseled to moderate, we – often correctly - suspect that the apostles of moderation have no understanding of idealism. But the world cannot survive strict justice, and so Eliyahu comes to tell us that, while he of all people understands the powerful attraction of consistent idealism, he has learned that mercy and ambiguity have legitimate roles to play.

May we successfully learn that lesson without in the process forgetting our ideals.

Is Religious Education About Giving Answers, or About Generating Questions?

January 27, 2012

The haggadah famously sees the Rabbis as seeing the Torah as addressing four sons, of whom the youngest "does not know how to ask". There is a rich interpretational history regarding the identities of the other three sons, and of which verse is associated with which son. Rashi to Shemot 13:5-8 claims that both the wicked and the "does not know how to ask" are addressed in the verse. The wicked son is addressed by the statement "for the sake of this G-d acted on my behalf in Egypt"- on my (righteous) behalf, and not on your (wicked) behalf. The "doesn't know how to ask" is implied rather than outright mentioned, as seems appropriate. 13:8 is not preceded by a question; the command "and you must tell this over to your son" appears without preamble, from which we conclude that the son is unable to ask.

The problem with this reading is that it ends up with the wicked and not-asking sons receiving the same answer. Rashi therefore concludes that the response to the not-asker is also implied rather than stated: "*vehagadta* lebinkha" means that you should open him up via *words of aggada* that attract the heart.

This is the rare comment of Rashi that seems to me obvious eisegesis, as I'm not convinced the Biblical "vehigadta" has an essential semantic relationship with the Rabbinic "aggada", and therefore Rashi here should be evaluated in terms of educational philosophy rather than as Biblical interpretation. The claim here is that the best way to approach those who don't know how to ask is via aggada, which attracts the heart.

Now this does not seem to me a claim about how best to educate young children, but rather ignorant adults. In that sense it may seem trivial – of course the best way to reach the ignorant is to teach them something attractive. Note that Rashi in at least two other places warns against being too caught up in addictively pleasant Torah – on Berakhot 28b he understands the caution against higayon as referring to Tanakh study "that attracts", and on Shabbat 115a he explains that study of Ketuvin on Shabbat distracts laymen from the public halakhic lecture, which is better for them. So the purpose of aggada here is to open up the ignorant until they can ask questions, at which point one begins to teach them halakhah instead, such as the laws of the afikomen.

The initial educational goal, then, is to engage students' interest to the point that they have questions. When that point is reached, however, is the point to get them to ask more questions, or rather to give them answers? And is it clear that, once the students are opened up, that their questions will be good and wise, rather than wicked?

The response to the wicked son is direct and harsh, and yet I tend to assume, I think most of us would, that its purpose is to force him to ask questions of himself – whether he really wants to be the kind of person whom G-d would not redeem, or differently, whom his own parents would see as unworthy of redemption. When is this educational technique effective? And by wicked, do we refer to an overall evaluation of the person, or to any aspect of personality that is under the sway of the yetzer hara? Does Rav Moshe's radical claim that we are all tinokot shenishbu, infants raised in an alien culture, and therefore in a sense not fully responsible for at least some of our sins, mean that we cannot be truly wicked for these purposes?

And the Number One MO Meme Is...

January 27, 2015

Designers of Modern Orthodox curricula need to think not only about ideas but about how to embed those ideas in memorable textual readings. What are the ten best Modern Orthodox *vorts* on the *parshah*? What are the three standard Modern Orthodox *divrei Torah* to give at a *sheva berakhot*?

One of my top 10 MO memes is that G-d stopped the angels from singing when He unsplit the Reed Sea. "The products of My hands are drowning in the sea, and you seek to sing?!" This sentence and setting beautifully capture and affirm the tension between universalism and particularism so central to Modern Orthodoxy. G-d loves us Jews, and protects us Jews, and yet He sorrows whenever His relationship with us comes at the expense of His other human creations.

So it was deeply upsetting to me when, in my freshman year at YU, I heard Meir Kahane claim that this midrash was a liberal invention, and that the *midrash*actually spoke of the angels being refused permission because the Jews were not yet fully across.

I found the overall experience of Kahane, in particular his capacity to insult his followers without consequence, simply terrifying. It gave me a lasting distrust and fear of charismatics and charismatic education. But what if he was right, and one of the foundations of my religious identity was hollow? Disliking a Torah claim is not sufficient grounds for rejecting it.

Here is the version of the Midrash found in Tanchuma Beshallach 13.

ד"א: "אז ישיר"

בשעה שהיו ישראל חונים על הים, באו מלאכי השרת לקלס להקב"ה, ולא הניחן הקב"ה

שנאמר "ולא קרב זה אל זה וגו'"

ואומר "וקרא זה אל זה" (ישעי' ו ג)

למי היו דומיין?

למלך שנשבה בנו. לבש נקמה באויביו והלך להביא אותו, ובאו הבריות לומר לו אימנון

אמר להן: לכשאני פודה את בני אתם מקלסין אותי

כך-

ישראל היו נתונים בצרה בים. באו מלאכי השרת לקלס להקב"ה, נזף בהם

אמר להם הקב"ה: בניי נתונים בצרה, ואתם מקלסין?!

"Then did (Mosheh and Bnei Yisroel) sing" -

At the time that the Jews were camped by the sea, the Ministering Angels came to extol the Holy Blessed One, but He did not give them leave,

as Scripture says (Exodus 14:20): "they did not near (karav) one to the other . . .",

and it says (Yeshayahu 6:3) "and they called (kara) one to the other".

To whom were they comparable?

To a king whose son was captured. He dressed for revenge against his enemies and set out to rescue his son, and the populace came to recite his glory.

He said to them: "When I redeem my son you may extol me!"

So -

The Jews were in peril by the sea. The Ministering Angels came to praise the Holy Blessed One, but He angrily rebuked them.

He said to them: "My children are in danger, and you are extolling Me?!"

It is indisputable that in this version G-d stops the angels from singing because the Jews are still in trouble, not because the Egyptians are drowning. The whole point is that G-d has not yet intervened, and so the Egyptians are not yet drowning. The clear implication is that the angel's singing would be premature rather than inherently inappropriate.

On *Megillah* 10b and *Sanhedrin* 39b the text is as follows:

מאי דכתיב (שמות י"ד) "ולא קרב זה אל זה כל הלילה"?

בקשו מלאכי השרת לומר שירה
אמר הקדוש ברוך הוא: 'מעשה ידי טובעין בים, ואתם אומרים שירה?!'
What is meant by the verse "and they did not draw near one to the other all that night"?
At that time the Ministering Angels sought to say the Song before the Holy Blessed One.
The Holy Blessed One said to them: "The products of My hands are drowning in the sea, and you are saying the Song before Me!?"

Only the Egyptians were ever drowning in the sea. Furthermore, the Talmud in both contexts uses this statement to support the claim that G-d does not rejoice at the downfall of the wicked, although he allows those saved from the wicked to rejoice; thus Moshe and Israel sing, but the angels cannot. So clearly the Talmudic version cannot be read the way Kahane suggested.

But which version is correct?

The *Tanchuma* is almost certainly the original, because the prooftext - "they did not draw near one to the other" - discusses the night before the Jews even enter the sea, let alone before G-d drowns the Egyptians in it.

On the other hand, the *Tanchuma* cannot fit in the *Bavli* at all! So the "Modern Orthodox version" was accepted by the editors of the Talmud. In other words, if this version is a liberal invention, we can only conclude that the compilers of these *sugyot*, the *stammas d'gemara*, were liberals. The weakness of the exegetical argument strengthens the authority of its substance.

I would be very comfortable religiously if my universalism places me with the editors of the Talmud against Meir Kahane.

I want to suggest further that applying the phrase "products of My hands" to Gentiles is a Talmudic Modern Orthodox meme. Here is my evidence, from*Sanhedrin* 98b. The context is a discussion of why Joshua's conquest of Israel was supported by miracles, whereas Ezra's return was not:
"שאלו נא וראו אם ילד זכר - מדוע ראיתי כל גבר ידיו על חלציו כיולדה, ונהפכו כל פנים לירון"
מאי "ראיתי כל גבר"?
אמר רבא בר יצחק אמר רב: מי שכל גבורה שלו
ומאי "ונהפכו כל פנים לירון"?
אמר רבי יוחנן: פמליא של מעלה ופמליא של מטה, בשעה שאמר הקדוש ברוך הוא: 'הללו מעשה ידי והללו מעשה ידי, היאך' אאבד אלו מפני אלו
(Yirmiyah 30:6) "Investigate please, and see, whether a male is giving birth - why do I see every man with his hands on his loins like a birthing woman, and all faces turned green?"
What is the referent of "I see every man"?
Said Rava bar Yitzchak said Rav: He to Whom all male virtue belongs;
And what is the referent of "and all faces turned green"?
Said Rabbi Yochanan: The famalia above and the famalia below, at the time when The Holy Blessed One said: 'These are the products of My hands, and these are the products of My hands - how can I destroy these for the sake of those?'

Rashi identifies the two *famalias* as the angels and the Jews, and makes the contextual meaning clear:
מי שכל הגבורה שלו" - הקדוש ברוך הוא מצטער בעצמו כיולדה ואומר בשעה שמעביר העובדי כוכבים מפני ישראל: 'היאך?' "אאביד אלו מפני אלו
"To Whom all male virtue belongs" - The Holy Blessed One is Himself in pain like a birthing woman and says, at the time that he removes the idolaters for the sake of the Jews, "How can I destroy these for the sake of those?"

Orthodox subcultures replicate successfully when their key ideas can be captured in viral rabbinic soundbites. Think "*hechadash assur min haTorah*," or "*avira d'Eretz Yisrael makhkim*." Each of these can be funny to sophisticates. After all, the Chatam Sofer's use of the first phrase to oppose creativity was a creative pun, and contemporary Israel programs cite the second phrase to prove that true Torah

learning can only take place in Israel, when the quote itself is taken from the Babylonian Talmud! But they are nonetheless the engines of cultural success.

The idea that G-d's love of Jews does not exclude His regarding all humanity as His handiwork, and that He cries when forced to choose between them, is demonstrably the intent of *Chazal*, albeit not the intent of *Shemot* 16:20. One measure of a Modern Orthodox day school's success should be whether every student knows the sentence מעשי ידי טובעים בים and its attendant *vort*.

I invite nominations for the other nine members of the top 10.

How and Why We Must Teach Our Children Well

January 8, 2016

I put off watching Hotel Rwanda for a long time. This past Tenth of Tevet, in the afternoon, I finally steeled myself and watched it. Not all at once – I needed breaks, and so the movie wasn't quite done when it was time for *minchah*. But I couldn't bear to eat before finishing, so my fast lasted about twenty minutes longer than everyone else's.

The leitmotif of the film is a radio station playing in the background which constantly refers to Tutsi people as "cockroaches" and encourages Hutu people to commit genocide against them, with devastating success. My mind went constantly to *Parashat Shemot*, in which the Jews "multiply and swarm", like insects. (Or locusts – the eighth plague may be a poetically just response to the *Mitzriyim*'s image of the Jews.)

Now I know full well that there is an attempt to commit genocide against the Jews in (just about) every generation. I also know that it is not only the Jews. Several years ago Gann Academy held an extraordinary assembly in which a Bosnian survivor told stories of longtime friends and childhood playmates turning into genocidal murderers; I hold no brief for Holocaust uniqueness. But the word cockroaches got to me viscerally. What kind of people can be persuaded to regard other human beings as cockroaches?

Here's the educational problem. The simplest answer is that people who hold such opinions become, or always were, as worthless as cockroaches. How can we appreciate the enormity of their evil without repeating it?

It will not work to say that we despise the sinners, but not their genes. Cockroaches do not spawn chihuahuas, and nothing depresses a Manhattanite more than seeing a baby roach – you know there are thousands more where that one came from.

How do we teach the Book of Exodus so that our children and students really feel grateful for G-d's rescue, and still have them understand deep in their souls why G-d stopped the angels from singing while the *Mitzriyim* drowned? How do we allow ourselves to know that Palestinian public culture unambivalently celebrates the murderers of our friends and neighbors and children, and yet not have our children grow up to murder their babies, and then celebrate those murders?

No, it is not good enough if only a few of our children grow up that way, no matter how spectacularly the rest turn out.

Yes, we are responsible for the way all our children grow up. Even those who rebel against us are shaped by our community.

It is absurd to claim that all the good in our community is internally generated, and all the evil the result of malicious external influences. But even if that were plausible, we would still be responsible to develop a pedagogy that would enable our children to resist those influences.

One instinctive response to desecrations of Hashem's Name such as the "wedding of hate" video is to deny that intellectually reasonable people could read Jewish tradition as endorsing such behavior. The prima facie problem, of course, is that some elements of the tradition seem to very much endorse such behavior.

In response, educators talk about the need for a more comprehensive perspective, so that isolated passages that raise moral challenges do not become philosophic centerpieces. This is very true. But children will never know enough (and most adults do not know enough) to have that kind of perspective, and we cannot easily segregate the tradition into G, PG, and R rated components. For that matter, many teachers, especially teachers of young children, do not have great breadth of knowledge.

In a sense, we are dealing here with the core problem of all philosophy: How do we establish our basic assumptions? We need to acknowledge that such assumptions cannot be proven; they can only be instilled.

The core assumptions of a society are instilled not by the rote repetition of propositional statements but rather by the transparent demonstration of values in action. For this purpose, Talmud Torah is an action, perhaps the quintessential action. We need not just to teach our values, but to teach our texts in a manner that demonstrates our values.

Here is an example. When the "Shimshon" song is sung, (as we must acknowledge it is at Dati Leumi events, including Bnei Akiva gatherings, albeit generally without waving weapons), there is a tendency to replace the "*Plishtim*" of the verse with "*Palestinim*."

Now many commentators have correctly noted that this is halakhically illegitimate – the Talmud (*Berakhot* 28a) rules that "Sancheriv already came and mixed up all the nations," so that we now accept male converts from the land of Ammon, even though the Torah explicitly states that an Ammonite male may not enter the Congregation of Hashem. And it is true that discrimination against Ammonites is not currently a problem in Orthodoxy.

My question is, however, whether we learn and teach as if this *halakhah* is true. For example, we translate "*Mitzriyim*" as Egyptians, even though neither the Torah's restriction of *Mitzri* conversion nor it's prohibition against 'abominating' them applies halakhically to contemporary Egyptians. Now I have not heard of anyone making invidious comments about Egyptians on the basis of identifying them with the Biblical *Mitzriyim*. But when we translate *Mitzrayim* as Egypt, without using the occasion to explicitly make the caveat that Egyptians are not halakhically *Mitzriyim*, we undermine our efforts to separate *Plishtim* from *Palestinim*.

This is not exclusively an Israeli problem. For example, there is a children's song in America that translated Amalek as Germans and Ishmaelites as Arabs, and before my wife and I protested, it was taught to our children in both a Chabad and a Modern Orthodox day school.

The impulse behind these identifications is obvious; they create apparent relevance. And we cannot deny that similar identifications are present throughout the Tradition. Perhaps the most common and powerful example is the identification of Christianity with Esav. Contemporary warnings against faith in interfaith cooperation are often accompanied by the citation "It is *halakhah* that Esav hates Yaakov."

Historians point out that Esav was identified with the Roman Empire before the conversion of Constantine, so that the identification with Christianity is an accidental outcome (and one which has never really acknowledged the Reformation). Similarly, those who seek to apply Biblical description of Yishmael to contemporary people can never keep straight whether they are talking about Arabs (including Christian Arabs) or rather Muslims (including Indonesians etc.).

What these changes suggest is that – as Chazal said – there is no genetic connection between Biblical and contemporary categories. Instead, there is an ongoing effort to use Biblical categories to interpret lived experience. As with every act of interpretation, this makes human beings responsible for the implications of Torah in this world. In a world where Jews have genuine, although secular power over others, we cannot afford the indulgence of immediate but misleading relevance.

The Wonder of Wonder and the Miracles of Miracles

January 20, 2015

If G-d split the Red Sea today, a flood of hydrologists would be sweeping toward the Middle East before anyone could make it across on dry land. If frogs overnight populated every oven in Egypt, or a plague *chas veshalom* killed firstborns exclusively, an ocean of virtual ink would drown anyone seeking to leave the event inexplicable. At least, I suspect, this would be the case within Modern Orthodoxy. Does this reflect a lack of faith, or religious maturity?

Maimonides notes brilliantly that the first thing Avraham does after arguing with G-d about Sodom is to wake up and smell the sulfur. Any time angels appear in a narrative, he insists, everything that happens is a dream. The destruction of Sodom as we read it in Torah is Avraham's dream. But when Avraham wakes up, there really is sulfur in the air.

The Torah describes the destruction of Sodom from the perspective of a religious sensibility, but what happened could also be told in the driest objective materialist language. Perhaps it was a volcanic eruption, or a sandstorm, or a massive invasion of carnivorous fireflies, or whatever.

My question is whether Avraham could distinguish the dream from the reality; did Avraham know that he was imposing meaning on a naturally explicable order, or did he believe that Sodom had literally been destroyed by an eruption of Divine justice into an ordinarily self-contained universe?

Here's why this matters. Many of us actively resist seeing tsunamis as different in theological kind from gentle beachside breakers. If miracles can be recognized only when physical explanations are impossible, then it would be miraculous for us ever to recognize a miracle. (This argument was made by Isaac Breuer.) We cannot relate to an Avraham who thought G-d's anger meant that physical effects could proceed from exclusively metaphysical causes. But we should have no difficulty relating to an Avraham with experience of volcanoes but who had never before seen them as ignited by angels.

Every age develops its own naturalistic explanation of the plagues, and at least for Maimonideans, such explanations hold no religious terrors. But regarding another element of the Exodus narrative, there is an enormous *nafka mina* depending on whether one see an event as natural or not. I refer to G-d's hardening of Pharaoh's heart.

Here is a naturalistic explanation, from Steven Spielberg (Prince of Egypt): Pharaoh's late father had often called his adolescent son weak, and contrasted his mental toughness invidiously with that of Mosheh, the adopted son whose personality was far more suited to the throne. So the confrontation with Mosheh was really about proving his father wrong, and the more disastrously things went, the more determined he was to persevere.

Spielberg's approach to this issue is anticipated by Shadal, who writes (7:3):

"ואני אקשה את לב פרעה"

אפשר לפרש כדברי הראשנים (רמב"ם ורמב"ן ואחרים) שהענין כמשמעו, כי לעוצם פשעי פרעה היה מן הדין למנוע ממנו דרכי התשובה.(עיין רמב"ם הל' תשובה פרק ו)

רש"י ז"ל כבר קדם וכתב הפירוש הזה, אך הוא בקוצר לשונו הוסיף בו דבר נאה ונכבד, והוא כי מניעת דרכי התשובה מפרעה לא היתה לעצם פשעיו בלבד, אך נוספה לה סבה אחרת, והוא כי גלוי היה לפניו יתברך שאף אם ישוב לא תהיה תשובתו שלימה; עיין דבריו הקצרים כי נעמו

ואפשר ג"כ לפרש כדעת רמב"ן שלא היה בזה ענש א-להי ונס ממש, אלא כי פרעה עצמו הקשה את לבו, אלא שכל המעשים ייחסו אל הא-ל מצד מה, כי הוא הסיבה הראשנה

ואני מוסיף כי המעשים המיוחסים בספרי הקדש אל הא-ל הם המעשים הזרים שסיבתם בלתי מובנת לנו, וכן כאן קשי ערפו של פרעה אחרי ראותו כמה אותות ומופתים הוא דבר זר ומתמיה, ע"כ יוחס אל הא-ל

"I will harden Pharaoh's heart" –

It is possible to explain as do the medieval (Rambam, Ramban, and others) that the matter is in accordance with its literal meaning, that because of the vastness of Pharaoh's crimes it was reasonable to deny him the paths of repentance (See Rambam Laws of Repentance Chapter 6).
Rashi of blessed memory already wrote this, but in his succinct language he added something attractive and worthy, namely that the denial of the paths of repentance to Pharaoh, was not solely owing to the vastness of his sins, rather there was an additional reason, namely that it was revealed before Him may He be blessed that even if he would repent, his repentance would be incomplete – see Rashi's succinct words for they are pleasing.
It is also possible to explain in accordance with Ramban's opinion that there was not here any Divine punishment or actual miracle, rather Pharaoh himself hardened his heart, but all actions can be ascribed to G-s in some fashion, because He is the Prime Cause.
I add that the actions which are ascribed to G-d in the Holy Books are those strange actions whose causes are not explicable to us, and similarly here the stiffneckedness of Pharaoh after he has seen a number of signs and wonders is something strange and astounding, so therefore it is ascribed to G-d . . .

Shadal and Spielberg (and perhaps Nachmanides) solve the theological problem of how G-d can interfere with free will: He does not. Exodus is a story of human choice. I believe it was Hume who said that we all believe in free will before we act, and determinism after. That we can explain compellingly why Pharaoh made a particular choice does not mean that he could not have chosen otherwise, or would not have chosen otherwise at least once if given infinite do-overs.

But can the religious sensibility to the Exodus survive this solution? Shadal's Divinity is truly a "god of the gaps," invoked only when science fails. Many before me have pointed out that the gaps are narrowing in modernity, so this is not a good survival tactic for religious belief. Moreover, many things are trivial but inexplicable, and I have no interest in ascribing to G-d the fact that my new ATM card matched the numbers in the weekly Powerball drawing (especially as I had not bought a ticket).

The medieval philosopher and exegete Yosef Ibn Caspi raises a different theological difficulty with the Exodus narrative. How can Moshe repeatedly decline the Divine mission, and why does it seem that G-d changes His plans in response to Moshe's advice and lack of consent?

Ibn Caspi's answer is that prophets are certain they have heard G-d's word, but often unsure they have understood it right. What the Torah presents as dialogues between G-d and Mosheh are actually Moshe's deliberations as to the actual intent of what he's been told.

Like Maimonides on miracles, and Spielberg on Pharaoh (lehavdil), Ibn Caspi takes a story that is apparently about Divine intervention and psychologizes it, so the drama takes place fully within a human consciousness. But Ibn Caspi does not fully naturalize the story; there is still the moment of prophetic encounter which precedes deliberation, the mere sight of the unburning bush.

But unlike Avraham at Sodom, it is clear that Moshe is aware that every physical phenomenon is subject to scientific explanation. He turns aside to see "this great sight." Why is the flame not consuming the bush? What makes him a prophet is his capacity to see it as a מראה גדול, a great sight, even while and after he seeks to explain it.

It is not a lack of faith to believe that everything physical can be explained physically, and everything psychological can be explained psychologically (nor is it a lack of maturity to believe otherwise, so long as one is willing to see the data). Maintaining a religious sensibility requires only that we be able to wonder when something wondrous happens, and be able to hang on to that wonder even after we have explained it.

The Peculiarities of the Pesah

by Eliav Grossman
January 14, 2016

The *Korban Pesah* is listed among the *Kodshim Kalim*, or "light sacrifices," a category of sacrifices whose rules are relatively lenient and unconstrictive. Such sacrifices are largely *shelamim,* sacrifices whose meat is shared between the offerer of the sacrifice and the *kohanim*. The meat may be consumed for two days after the sacrifice was offered, which is the most generous window of time associated with any of the sacrifices. Moreover, *Kodshim Kalim* may be eaten anywhere in Jerusalem; unlike other sacrifices, their consumption is not restricted to the confines of the Temple. Finally, *Kodshim Kalim* can be eaten by anyone, whether a *Kohen* or Israelite. The laws of *Kodshim Kalim* are thus broadly characterized as expansive and generous, allowing sacrifices to be eaten leisurely among many people.

Though the *Korban Pesah* is numbered among *Kodshim Kalim*, many of its features undermine the characterization of *Kodshim Kalim* sketched above. One may not consume the *Pesah* for two days after it is offered; rather, it must be eaten only on the night of the 15th of Nisan, immediately after it is slaughtered. Additionally, while any spot within Jerusalem is theoretically appropriate for eating the *Pesah,* in reality the *Korban Pesah* must be eaten within the very restricted space of the group that convenes to eat it. The *Pesah* may not be removed from the house in which the *havurah* gathers to eat. Finally, while all Israelites are obligated to partake in the *Korban Pesah*, each individual *Pesah* sacrifice cannot be eaten by anyone. Instead, only those individuals who signed up as participants for a particular *Pesah* may partake. The *Korban Pesah,* then, in fact features law that tightly restrict when, where, and who may eat the sacrifice. The *Korban Pesah*'s laws seem to belie its status as a member of the *Kodshim Kalim* category.

What, then, accounts for the peculiarities of the *Pesah? Pesahim* 96a records:

תנא רב יוסף ג' מזבחות היו שם על המשקוף ועל שתי המזוזות...

Rav Yosef taught: There were 3 altars there; on the lintel, and on the two doorposts.

The first *Pesah* sacrifice, which occurred in Egypt just before the exodus, included a requirement to smear sacrificial blood across the lintel and doorposts of the house in which the sacrifice was brought. Rav Yosef understands this smearing as equivalent to the דם נתינת usually performed upon the altars in the Temple. For Rav Yosef, the home is transformed into a Temple on *Pesah* night; the doors become the altar.

I think that this idea may explain the *Korban Pesah*'s anomalous features. The *Pesah* must be eaten within the walls of the home. This, perhaps, is reflective of the home's transformation into the *Mikdash:* just as many sacrifices must be eaten within the Temple walls, the *Pesah* must be eaten within the walls of the home. That the Pesah can be eaten only by those who registered with a particular group may also reflect the home's special status as a temporary Temple. For many sacrifices only a special cadre, namely *Kohanim* may partake of the meat. The *Pesah* may accord a priest-like status to all those who eat it, such that they may do so only by registering themselves as members of a special group in advance.

Philo of Alexandria articulates this position, writing:

*In this festival many myriads of victims from noon till eventide are offered by the whole people, old and young alike, raised for that particular day to the dignity of the priesthood…On this day every dwellinghouse is invested with the outward semblance and dignity of a temple. The victim is then slaughtered and dressed for the festal meal which befits the occasion. (*Special Laws *2: 145, 148).*

On the night of *Pesah*, the home becomes the locus of ritual service. Though much more could surely be said about this unique phenomenon, it suffices to suggest it as at least a partial explanation for the *Korban Pesah*'s outstanding features.

Eliav Grossman (SBM 2013) majored in Religion and Philosophy at Columbia College. He is currently studying at Cambridge University.

On the Mechanics of Skipping

by Pnina Grossman
February 3, 2017

Parshat Bo is where the Jewish people are given their first commandments as a new nation. They are commanded about the קרבן פסח – the Passover Offering – that they must bring in Egypt for the first time. During this time, G-d will be carrying out the last of the 10 Plagues in Egypt, but the blood that was to be spread on the doorposts of Jewish houses would also serve as their protection:

וְעָבַר יְהוָה ׀ לִנְגֹּף אֶת־מִצְרַיִם וְרָאָה אֶת־הַדָּם ׀ עַל־הַמַּשְׁקוֹף וְעַל שְׁתֵּי הַמְּזוּזֹת וּפָסַח יְהוָה ׀ עַל־הַפֶּתַח וְלֹא יִתֵּן הַמַּשְׁחִית לָבֹא אֶל־בָּתֵּיכֶם לִנְגֹּף׃

(שמות יב:כג)

For when the LORD goes through to smite the Egyptians, He will see the blood on the lintel and the two doorposts, and the LORD will PaSaCH the door and not let the Destroyer enter and smite your home.
(Exodus 12:23)

While the word פסח is often translated as "pass over", its translation in this context is not clear to many of the commentators. Rashi explains the word as either "to have mercy on" or "to skip." R. Amnon Bazak (as heard in a class in Machon Herzog) ties the two terms together with the observation that skipping involves not only the object that is passed over, but also an object that is landed on. Here also, the Jewish houses are not being passed over, they are being landed on. The Midrash in שמות רבה seems to support this idea. On the words "וראה את הדם," it says "כביכול עמד בפתח ודוחה המשחית, שלא יגוף את ישראל" "If one could say such things, [G-d] will stand in the doorway and push out the Destroyer, so that it cannot strike Israel".

This interpretation completely shifts the role G-d plays in this plague, as well as how He relates to the Jewish people. Instead of G-d's main role being to go through Egypt as a destructive force, avoiding Jewish houses to not cause damage, He is, instead the protector of the Jewish people from the destructive force that is present throughout Egypt on this night. "To have mercy on" here is not a passive act of sparing Jewish households, it is an active stand on G-d's part to choose and protect the Jewish people.

With the talk of skipping, it is unsurprising that מכילתא דרבי ישמעאל links this point with the פסוק in שיר השירים:

קוֹל דּוֹדִי הִנֵּה־זֶה בָּא מְדַלֵּג עַל־הֶהָרִים מְקַפֵּץ עַל־הַגְּבָעוֹת׃

(שה"ש ב:ח)

Hark! My beloved! There he comes, leaping over mountains, Bounding over hills.
(Song of Songs 2:8)

The Midrash comments here "שהקב"ה מדלג על בתי בני ישראל במצרים, שנאמר קול דודי הנה זה בא מדלג על ההרים ..." "That G-d skipped on the houses of Israel in Egypt, as it says 'Hark! My beloved! There he comes, leaping over mountains...'" In addition to bringing up the two ideas of G-d taking mercy on the Jews in Egypt and skipping on their houses, the Midrash ties the idea of חפזון, hurriedness, to this part of שיר השירים. This idea is mentioned in שמות as well, when it talks about how the Jews have to eat the קרבן פסח, but here, the verse is used to talk about the hurriedness of the שכינה. Once again, we see G-d's investment in this new developing relationship as He tells us: בא.

Pnina Grossman (SBM 2012) is a Sharon native and a current student at the City College of New York studying Mechanical Engineering.

Did Egyptian Daughters Die During the Plague of the Firstborn?

by Davida Kollmar
January 19, 2018

As an oldest child whose father is also a firstborn, I always wondered why he had to fast on Erev Pesach for Taanit Bekhorot and I didn't. It is commonly assumed that the reason why firstborn men fast is to commemorate the fact that they were saved during Makkat Bechorot and were not killed along with the Egyptian firstborn. So does the common practice of women not to fast indicate that the firstborn Egyptian women were saved?

Shemot 11:4 and 12:29 tell us that every Mitzri בכור dies during the plague. בכור is masculine, but this by itself is not sufficient evidence, as the Torah often uses the masculine when not specifying gender.

Rav Ovadiah Yosef in Yechaveh Daat 3:25 discusses whether women should fast on Taanit Bekhorot. He quotes opinions both ways and cites Midrashic proof for both sides, beginning with the side that says women should fast:

ונראה שסוברים כדברי המדרש (שמות רבה פרשה י"ח סימן ג'):
ויך כל בכור במצרים ראשית אונים באהלי חם – שאפילו נקבות בכורות מתו,
חוץ מבתיה בת פרעה, שנמצא לה פרקליט טוב, וזה הוא משה שנאמר בו *ותרא אותו כי טוב הוא* ע"כ.
אולם מדרשים חלוקים הם בדבר, כי בשמות רבה (פרשה ט"ו סימן י"ב) איתא:
שה תמים זכר – על שם שהוא הרג בכורי מצרים וחס על בכורי ישראל ע"כ.
וכתב בחידושי הרש"ש שם:
משמע מכאן שלא נהרגו אלא בכורים זכרים ולא נקבות, וחולק המדרש הזה על הפסיקתא שאומר שגם בכורות נקבות מתו. וכן הוא בשמות רבה לקמן.

It seems that they hold like the Midrash (Shemot Rabbah 18:3):
And he smote every firstborn in Egypt, the first-of-their-strength in the tents of Cham – *[the redundancy of firstborn and first-of-their-strength teaches] that even the firstborn women died, except for Bityah the daughter of Pharaoh, because she had a good advocate, Moshe, as it says:* And she saw him, that he was good.

But other Midrashim disagree, because in Shemot Rabbah (15:12) it says,
An unblemished male sheep – *[the Pesach sacrifice is male] because he killed the firstborn of Egypt and took pity on the firstborn of Israel.*
Rashash writes in his novellae there:
This implies that only male firstborns were killed and not females, and this Midrash disagrees with the Psikta that says that female firstborns also died, and also with the Shemot Rabbah below.

In summary, some Midrashim say that the daughters were killed, and others that say they were not. Neither position cites direct or compelling evidence. Are there deeper reasons for saying that the women were killed, or that they were not?

Let us assume that each of the Ten Plagues were Middah KeNeged Middah, in some way poetic or actual justice. Makkat Bekhorot is nonetheless unique in that the reason for the plague is stated in the Torah:

שמות ד:כא-כג
וַיֹּאמֶר יְקֹוָק אֶל מֹשֶׁה בְּלֶכְתְּךָ לָשׁוּב מִצְרַיְמָה רְאֵה כָּל הַמֹּפְתִים אֲשֶׁר שַׂמְתִּי בְיָדֶךָ וַעֲשִׂיתָם לִפְנֵי פַרְעֹה וַאֲנִי אֲחַזֵּק אֶת לִבּוֹ וְלֹא יְשַׁלַּח את הָעָם:
וְאָמַרְתָּ אֶל פַּרְעֹה כֹּה אָמַר יְקֹוָק בְּנִי בְכֹרִי יִשְׂרָאֵל:
וָאֹמַר אֵלֶיךָ שַׁלַּח אֶת בְּנִי וְיַעַבְדֵנִי וַתְּמָאֵן לְשַׁלְּחוֹ הִנֵּה אָנֹכִי הֹרֵג אֶת בִּנְךָ בְּכֹרֶךָ:

Shemot 4:21-23
Hashem said to Mosheh, When you go to return to Egypt, see all of the wonders that I put in your hands and do them before Pharaoh. I will harden his heart and he will not send out the nation.
And you should say to Pharaoh, "Thus said Hashem, 'My firstborn child is Israel.

And I say to you: Send out My child and he will serve Me! If you will refuse to send him out, behold I will kill your child, your firstborn.'"

The firstborns of Egypt are killed because Egypt oppressed the firstborns of Hashem. But what does it mean to be Hashem's firstborn? Rashi gives two explanations:

בני בכרי – לשון גדולה, כמו (תהילים פט כח) אף אני בכור אתנהו, זהו פשוטו.
ומדרשו: כאן חתם הקב"ה על מכירת הבכורה שלקח יעקב מעשו:

My firstborn child – *[firstborn] is an expression of greatness, as it says (Tehillim 89:28):* "And I will make him a firstborn" *(since physical birth order cannot be changed, this proves that bekhor can refer to acquired greatness.) This is the Pshat.*
The Drash is: Here Hashem put his stamp of approval on the sale of the firstborn-ness that Yaakov bought from Esav.

I suggest that Rashi's two explanations tie in to the dispute about whether the daughters were included in the plague of the firstborn.

According to his Midrashic explanation, the term בכור here is used in a technical legal sense, meaning the child who inherited land and who performed priestly services. It seems likely that women were excluded from the plague. However, according to Rashi's Pshat explanation, women would be included in the plague, because G-d referred to the entire Jewish people as His firstborn.

Davida Kollmar (SBM 2014, 2016, 2017, WWBM 2018) is the outgoing Program Administrator for CMTL and an adjunct at the Katz School of Yeshiva University.

Marah and the Torah of the Desert

by Rabbi Jon Kelsen

The latter verses of the *piyyut* (liturgical) poem *Dayennu* proclaim:

Had He drowned our enemies in the sea but not provided our needs in the desert for forty years, Dayennu…
Had He provided our needs in the desert for forty years, but not fed us the manna, Dayennu…
Had He brought us to Sinai but not given us the Torah, Dayennu…

The *piyyut* indicates that each of these steps (along with the others mentioned in the rest of the stanzas) were of themselves sufficiently beneficial to warrant thanksgiving, independent of the subsequent (and prior?) steps. The poet claims that the experience of being sustained in the desert, for example, even without receiving the Torah at Har Sinai, was significant and sufficient. While it is certainly true that gratitude for kindnesses performed need not be contingent upon receipt of further kindnesses, I would argue that the poet might also be implying something more. To wit, Dayyenu teaches that each of these steps constitutes a sort of micro-redemption of its own, while simultaneously playing a critical role in the construction of the larger redemption of Sefer Shemot.

As a case in point, I would like to focus here on the narratives of Shemot 15:22-27, situated within the broader setting of chapters 15-17 of the book. The reader of the biblical text might have predicted that, following the splitting of the sea, the text would move immediately to the next major moment, Sinai (with perhaps brief mention of the names of various sites of encampment along the route). Instead, however, between the splitting of the sea (Shemot 15:21) and Ma'amad Har Sinai (Ibid. 19 forward), the Torah records a series of incidents from Bnai Yisrael's first few weeks post-redemption. As they begin their travels through the desert, we are told, the people encounter several obstacles, most of which are centered around their need for water and food (as well as the battle with Amalek and the arrival of Yitro). The location of these narratives, and the amount of detail provided in them, signal that they play an important role, moving the grand arch of the Shemot narrative forward. This prompts the reader to ask, what function do these narratives play? What would we be missing if the text did not include them?

While much has and could be said about these verses, I would like to advance one particular argument. In the reading I propose, these verses function as an axis, a transition from Egypt to Har Sinai. While that is obviously so in geographical terms, the text indicates that it is also so existentially. Marah and Eilim lie betwixt and between the spatio-spiritual spaces of Egypt and Sinai, between exile and sacred space. They are the transition in the narrative from a focus of freedom *from* slavery, to freedom *to* Torah, Sinai, and eventually *Mishkan*.

(כב) ויסע משה את ישראל מים סוף ויצאו אל מדבר שור וילכו שלשת ימים במדבר ולא מצאו מים: (כג) ויבאו מרתה ולא יכלו
לשתת מים ממרה כי מרים הם על כן קרא שמה מרה: (כד) וילנו העם על משה לאמר מה נשתה: (כה) ויצעק אל יקוק ויורהו
יקוק עץ וישלך אל המים וימתקו המים שם שם לו חק ומשפט ושם נסהו:
(כו) ויאמר אם שמוע תשמע לקול יקוק אלהיך והישר בעיניו תעשה והאזנת למצותיו ושמרת כל חקיו כל המחלה אשר שמתי
במצרים לא אשים עליך כי אני יקוק רפאך: ס (כז) ויבאו אילמה ושם שתים עשרה עינת מים ושבעים תמרים ויחנו שם על המים:

22 And Moses led Israel onward from the Red Sea, and they went out into the wilderness of Shur; and they went three days in the wilderness, and found no water. 23 And when they came to Marah, they could not drink of the waters of Marah, for they were bitter. Therefore the name of it was called Marah. 24 And the people murmured against Moses, saying: 'What shall we drink?' 25 And he cried unto the LORD; and the LORD showed him a tree, and he cast it into the waters, and the waters were made sweet. There He made for them a statute and an ordinance, and there He proved them; 26 and He said: 'If thou wilt diligently hearken to the voice of the LORD thy God, and wilt do that which is right in His eyes, and wilt give ear to His commandments, and keep all His statutes, I will put none of the diseases upon thee, which I have put upon the Egyptians; for I am the LORD that healeth thee.' {S} 27 And they

came to Elim, where were twelve springs of water, and three score and ten palm-trees; and they encamped there by the waters. (translation JPS: 1917)

After finally being redeemed from servitude and passing through the great waters of the Sea of Reeds, Israel enters the nearby desert of Shur[1] and arrive at Marah. During their first three days of travel, the Israelites cannot find any water at all; upon arriving at Marah, they are dismayed to discover that though there is water there, it is too bitter to drink.[2] In this sense, Marah represents a continuation of *avdut Mitzrayim*, as the encounter with the bitter waters is reminiscent of the bitterness of the enslavement, as described in Shemot 1:14:

(יד) וימררו את חייהם בעבדה קשה בחמר ובלבנים ובכל עבדה בשדה את כל עבדתם אשר עבדו בהם בפרך:

"And they [i.e. the Egyptians] embittered (va-yi'mararu) their [i.e. the Israelites'] lives with harsh labor at mortars and brick…"

The experience at Marah continues that of Egypt. Thus, though the Israelites have left Egypt the place, Egypt qua the encounter with bitterness continues. [3]

This quasi return to Egypt is especially traumatic as it comes after a three day journey into the desert. While three day journeys are common in the Bible (e.g. Bereshit 22:4, B'midbar 10:33),[4] here there is an additional, ironic overtone to the sum. As R. Alex Israel points out,[5] earlier in Shemot, Moshe asks Pharaoh for the (temporary) release of the Israelites from their bondage in order to travel three days into the desert, where they will enact a holiday in service of God (Shemot 5:3). Given this association, how bitter indeed it is to find our travelers thirsting at Marah three days into wilderness!

While the bitterness of Marah therefore sends the Israelites and the reader back to the servitude in Egypt, it (and the next stop, Eilim) also reference the redemption from that servitude, the former of which climaxes earlier in the chapter, in the Song of the Sea. Several semantic linkages serve to establish this connection:

Marah/Eilim	Song of the Sea
v. 23 ויבאו מרתה ולא יכלו לשתת מים ממרה כי מרים הם על כן קרא שמה מרה:	v. 21 ותען להם מרים שירו ליקוק כי גאה גאה סוס ורכבו רמה בים.

[1] The reader here is reminded of the first mention of this place in the Chumash, in Bereshit 16:7:

וימצאה מלאך יקוק על עין המים במדבר על העין בדרך שור:

Here Hagar, fleeing from Sarah, is found at a spring of water in the dessert, 'on the way to Shur.' In that context, the term ma'ayan (spring) puns off of the innui (suffering) Hagar (originally from Egypt) experiences at the hand of her mistress Sarah. Similarly, the ma'ayonot in Eilim refer back to the innui the Israelite slaves (or gerim) experience in at the hands of their Egyptian masters (Shemot 1:11). Though there is no water shortage in this passage from Bereshit 15, in its sequel (Ibid. 21:1-21) the protagonists do encounter a dire lack of water before they are miraculously shown a well. Cf. Bereshit 20:1.

Shur is mentioned again in I Shmuel 15:7, in the context of Saul's routing of the Amalek ("and Saul smote Amalek, from Havilah all the way to Shur, which is close to Egypt"), recalling Moses' battle against Amalek in Shemot 17. Perhaps there is to be found an additional reference to the Shemot narratives, in Shmuel's rebuke of Saul: "Does God desire 'olot and zevachim (forms of sacrifice) as much as obeying God? Behold, obeying is better than a sacrifice, and heeding (God) better than fats of eilim (rams)." (I Shmuel 15:22).

[2] Inter alia, one wonders whether Naomi's self-renaming as "מרא/Mara" (Rut 1:20) might play off of the Marah of Shemot. If, as some have suggested, the name of her daughter-in-law ת.ו.ר/Rut derives from the root ה.ו.ר , meaning overflowing or abundantly watered (compare Ps. 23:5), then the change from Naomi (from the root ם.ע.נ., meaning pleasant) to her new name Mara might connote the contrasting sense of 'lack of water.' As she continues in verse 21," I went full, but God has returned me empty."

[3] This is not the only time Egypt appears in the desert narratives. Note for example Shemot 32:25:

וירא משה את העם כי פרע הוא כי פרעה אהרן לשמצה בקמיהם

In the midst of the construction of the golden calf, Pharaoh (פרעה) rises again!

[4] Umberto Cassutto, A Commentary on the Book of Shemot (Magnes:1967), pg 183. See there for more references to three day journeys, drawn from both biblical and extra-biblical sources.

[5] See his The Slave Mentality, accessible at http://www.vbm-torah.org/pesach/ai-slave.htm.

And when they came to Marah, they could not drink of the waters of Marah, for they were bitter.	*And Miriam sang unto (va-ta'an) them: Sing ye to the LORD, for He is highly exalted…*
v. 25 ויצעק אל יקוק ויורהו יקוק עץ וישלך אל המים … *and the LORD showed him a tree, and he cast it into the waters (va-yorehu), and the waters were made sweet*	v. 4 מרכבת פרעה וחילו ירה בים ומבחר שלשיו טבעו בים סוף:[6] *Pharaoh's chariots and his host hath He cast (yarah) into the sea, and his chosen captains are sunk in the Red Sea.*
v. 26 ויאמר אם שמוע תשמע לקול יקוק אלהיך והישר בעיניו תעשה והאזנת למצותיו ושמרת כל חקיו כל המחלה אשר שמתי במצרים לא אשים עליך כי אני יקוק רפאך: *and He said: 'If thou wilt diligently hearken to the voice of the LORD thy God, I will put none of the diseases (machalah) upon thee, which I have put upon the Egyptians*	v. 20 ותקח מרים הנביאה אחות אהרן את התף בידה ותצאן כל הנשים אחריה בתפים ובמחלת *And Miriam the prophetess, the sister of Aaron, took a timbrel in her hand; and all the women went out after her with timbrels and with dances.*
v. 27 ויבאו אילמה ושם שתים עשרה עינת מים ושבעים תמרים ויחנו שם על המים: *And they came to Eilim, where were twelve springs (ayenot) of water, and three score and ten palm-trees (t'marim); and they encamped there by the waters.*	v. 11 מי כמכה באלם יקוק מי כמכה נאדר בקדש v. 15 אז נבהלו אלופי אדום אילי מואב יאחזמו רעד נמגו כל ישבי כנען: *Who is like unto Thee, O Lord, among the mighty(ba-eilim)? …* *Then were the chiefs of Edom affrighted; the mighty men of Moab (eilei Moav), trembling taketh hold upon them; all the inhabitants of Canaan are melted away.*

The semantic links between the Marah/Eilim passage and the enslavement in Egypt and redemption at the sea highlight conceptual connections between these moments. As noted above, the bitterness of the waters of Marah , reminiscent of the bitterness of the slavery, is exacerbated as an anti-climax to the redemption at the water of the sea. Yet, unlike the extended period of enslavement in Egypt, the redemption at Marah is quick to come. The waters are quickly made drinkable, and the sweetness of Eilim (via the dates/ *t'marim*) quickly supersedes the *mayim ha-marim* of Marah.

Crucially, the micro-redemption of Marah and Eilim also pivots the book as a whole forward, anticipating the next major moment in Sefer Shemot, Sinai:

ויאמר כי אהיה עמך וזה לך האות כי אנכי שלחתיך בהוציאך את העם ממצרים תעבדון את האלהים על ההר הזה: (שמות פרק ג:יב)

And He (God) said, I will be with you; and this will be the sign that I have indeed sent you: when you bring the people of out Egypt, you will worship God at this mountain. (Shemot 3: 12)

[6] The semantic connection between v. 4 and v.15 was noted by Bernard P. Robinson, Symbolism in Exod. 15:22-27, published in Revue Biblique No. 3 (July 1987), pg. 383. In researching this piece I discovered that Robinson preceded me in noting most of the other semantic connections in the chart as well.

In the most overt anticipation of Sinai, there is a revelation at Marah which conveys a divine injunction, with a promise of reward for fulfillment thereof.[7] Additionally, however, there are more subtle allusions to that sacred mountain here as well. As noted by Rashbam, the verb *va'yorehu* in v. 25 *(*which above we connected with 15:4) derives from the root י.ר.ה , meaning 'to instruct,' the same root as in the word 'Torah.' While Rashbam might intend that God is instructing Moshe as to how to use the '*etz* in sweetening the water,[8] it is also possible that the text is deliberately framing that instruction as a type of Matan Torah.[9] Eilim is marked here as a place of revelation, a proto-sinaitic site.[10] Its name, meaning "the mighty" or "the strong," contrasts with the bitterness of Marah both in terms of the abundance of food and water, and metaphorically as a site of spiritual strength on the part of Israel.[11]

Additionally, v.27 depicts Israel camping at the twelve springs and seventy date-palms of Eilim.

ויבאו אילמה ושם שתים עשרה עינת מים ושבעים תמרים ויחנו שם על המים

The convergence of a campsite with the numbers twelve and seventy foreshadows a later site in Shemot, chapter 24: 1,4:

(א) ואל משה אמר עלה אל יקוק אתה ואהרן נדב ואביהוא ושבעים מזקני ישראל והשתחויתם מרחק:

(ד) ויכתב משה את כל דברי יקוק וישכם בבקר ויבן מזבח תחת ההר ושתים עשרה מצבה לשנים עשר שבטי ישראל:

And to Moshe He said, Come up to God—you…and the seventy elders of Israel…

And Moshe wrote all the words of God, and arose early and built an altar at the foot on the mount, with twelve pillars for the twelve tribes of Israel.

This connection is already made by Rashi on v. 27:

שתים עשרה עינות מים - כנגד י"ב שבטים נזדמנו להם: ושבעים תמרים - כנגד שבעים זקנים:

Twelve springs of water—they appeared in proportion to the twelve tribes And three score and ten palm-trees—in proportion to the seventy elders

According to Rashi, the oasis of Eilim foreshadows the future encampment of the twelve tribes and seventy elders[12] at the foot of Sinai.

Thus, while indeed Marah functions as a sequel to the enslavement, the second encounter with Egypt, it and Eilim simultaneously function as prequels to Matan Torah. They constitute, in short, the Sinai before Sinai.

What is the Torah given at this pre-Sinaitic site? While the answer is the subject of an instructive interpretive debate, in this context I find the analysis of Nachmanides to be the most compelling:

רמב"ן שמות פרק טו פסוק כה

על דרך הפשט, כאשר החלו לבא במדבר הגדול והנורא וצמאון אשר אין מים שם להם במחייתם וצרכיהם מנהגים אשר ינהגו בהם עד בואם אל ארץ נושבת, כי המנהג יקרא "חק"... או שייסרם בחקי המדבר, לסבול הרעב והצמא, לקרוא בהם אל ה', לא

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[7] This promise is expressed in the common formula of "If you heed My voice, then…," anticipating the usage of this formula again in Shemot 19. In our context, the 'reward' is that the Israelites will not be afflicted with the "*machalah* of Egypt." In other words, Israel can either proceed to Sinai, or revert back to Egypt. I thank X for this insight.

[8] Cf. Robinson, pg. 383, where he notes three additional accounts where God's salvation of Israel is effected by the throwing of something (II Melachim 2:19-22; 4:38-41; 6:1-7). Interestingly, none of these other passages utilizes the root י.ר.ה; in fact, the latter passage from II Melachim provides an instructive contrast:

מלכים ב פרק ו)ו(ויאמר איש האלהים אנה נפל ויראהו את המקום ויקצב עץ וישלך שמה ויצף הברזל:

Here we find the hiphi'l conjuction of the root ר.א.ה, meaning to show, rather than י.ר.ה. The contrast highlights our claim that the usage of the latter root in Shemot 15 is deliberate.

[9] Several commentators see the 'etz as a reference to Torah, as in Proverbs 3:18, "It (wisdom, Torah) is an *'etz chayyim,* a tree of life, to all who grasp it…" See, for example, Maharsha, *Chidushei Aggadot,* Bava Kamma 79a.

[10] Cf. TB BK 82a, which sees in this passage the source for the practice of publicly reading from the Torah every three days.

[11] Robinson references Isaiah 11:16-12:3, where reference to the Shemot from Egypt as well as a parallel to Shemot 15:2 (*kiozi v'zimrat Kah*") are followed by a call to draw from the "springs of salvation." In his reading, this provides support for the contention that the springs of Elim have metaphorical connotations of salvation in addition to the literal salvation from the water shortages in Marah.

[12] See Rashi here. R. David Silber also points out that twelve children and seventy souls descended into Egypt in Bereshit 46:27. Perhaps this represents again a full circle, with all who have descended into Egypt emerging again.

דרך תלונה. ומשפטים, שיחיו בהם, לאהוב איש את רעהו, ולהתנהג בעצת הזקנים, והצנע לכת באהליהם בענין הנשים והילדים, ושינהגו שלום עם הבאים במחנה למכור להם דבר, ותוכחות מוסר שלא יהיו כמחנות השוללים אשר יעשו כל תועבה ולא יתבוששו...

In line with the plain meaning of Scripture, when the Israelites began coming into the great and dreadful wilderness…'thirsty ground where there was no water '(Dev. 8:15), Moses established customs for them concerning how to regulate their lives and affairs until they come to a land inhabited (Ibid. 16:35). A custom is called a chok…Custom is also called Mishpat…It may mean that Moses instructed them in the ways of the wilderness, namely, to be ready to suffer hunger and thirst and to pray to G-d, and not to murmur. He taught them ordinances whereby they should live, to love one another, to follow the counsel of the elders, to be discreet in their tents with regards to women and children, to deal in a peaceful manner with the strangers that come into the camp to sell them various objects. He also imparted moral instructions… (translation by Charles Chavel, Ramban Commentary on the Torah: Shemot [Shilo:1973], pg. 209-210).

For Ramban, the Torah of Marah is different than the Torah of Sinai proper. The former is a Torah specific to life in the desert, an instruction on how to live in that space, with its primal challenges. Only by being in the desert, by experiencing scarcity, lack of rootedness and the consequent temptations for despair , strife, pettiness, and abuse, can Israel cultivate a sense of dependence on God and develop the traits of moderation, mutual respect, and modesty.[13]

Further thirst for water, hunger for food, and struggle with weariness and with Amalek all await Bnai Yisrael as they proceed on their desert journey from Eilim to Sinai. Though chapters 15 through 17 of Shemot seem to be mere digressions from the core moments of the book of redemption, they are in reality a segue in the strong sense of the term, the path Israel must travel to get from their past and to meet their future. Between Egypt and Sinai, one must travel the desert, starting with Marah and, it is always hoped, Eilim.

Had He brought us to the desert, and not to Sinai—Dayennu.

Rabbi Jon Kelsen (SBM 2002) is the Rosh Kollel of the Drisha Kollel and is a faculty member at Drisha, Yeshivat Chovevei Torah, and the Pardes Institute.

[13] Cf. the comments of Ramban on Shemot 16:4 and Devarim 8:2.

Destinations and Transformations

by Rabbi Dr. Ira Bedzow
March 29, 2018

The Torah reading for the seventh day of Pesach begins, "It came to pass when Pharaoh let the people go, that God did not lead them [by] way of the land of the Philistines for it was near, because God said, 'Lest the people reconsider when they see war and return to Egypt.' But God led the people around [by] way of the desert [to] the Yam Suf and the children of Israel were armed when they went up out of Egypt."

Both Rabbi Eliezer and Rabbi Yehoshua interpret the expression, "God led the people around [by] way of the desert [to] the Yam Suf," not as a way to explain the circuitous route the Israelites took, but rather to mean that God led the people to three different "destinations" (i.e. the "way," "the desert," and the "Yam Suf"). (Mechilta d'Rebbi Yishmael 3:18) However, they conceive of the purposes of traveling to these destinations very differently.

Rabbi Eliezer understands these destinations as trials, which were meant to remove the psychological and religious obstacles that hindered the Israelites' ability to serve God fully. For Rabbi Eliezer, the "way" was meant to make them weary, "the desert" was meant to purify them, and the "Yam Suf" was meant to try them.

For Rabbi Yehoshua, on the other hand, these destinations were opportunities for God to show the Israelites His love for them and His requirements for them. For Rabbi Yehoshua, God led the people to the "way," which was the Torah, "the desert," where God gave them the manna, and the "Yam Suf," where He performed miracles for them.

Given their different interpretations of the purposes for these three "destinations," one can also see that they understand the verse to detail different timelines. For Rabbi Eliezer, the three destinations are in order (and are in line with the verses that follow) – the Jews travel along the way to Esam, at the edge of the desert, then through the desert to the Yam Suf. For Rabbi Yehoshua, the three destinations are in reverse order; the Israelites will ultimately be led to receiving the Torah, yet first they will experience the miracles at the Yam Suf and receive the manna in the desert.

The differences between Rabbi Eliezer and Rabbi Yehoshua point to the different ways in which they conceive of how the Israelite's travels transform them from being a people who might return to Egypt to a people who were armed when they went up out of Egypt.

According to Rabbi Eliezer, individual and communal transformation begins with an internal re-evaluation after experiences no longer reconcile with preconceptions. When the Israelites left Egypt, they lacked complete faith in God's plan. Even at the edge of the Yam Suf, the Israelites still question Moshe, asking, "Is it because there are no graves in Egypt that you have taken us to die in the desert?" To which Moshe can only respond, "Don't be afraid! Stand firm and see Hashem's salvation that He will wreak for you today!" Losing the faux security of Egypt and enduring the hardship of actually leaving were therefore necessary to remove from themselves the perception that they were servants of the Egyptians to become servants of Hashem. Only after the trial at the Yam Suf, when the Israelites had witnessed the deaths of the Egyptians on the seashore, do the people fear Hashem and believe in Hashem and in Moshe, His servant.

According to Rabbi Yehoshua, the Yam Suf should not be seen as the culmination of the Israelites' transformation, but rather only its beginning. Rabbi Yehoshua's view is supported by the fact that after crossing the Yam Suf, in the desert of Sin (between Elim and Sinai), the Israelites complain before getting the manna, "If only we had died by the hand of Hashem in the land of Egypt, when we sat by pots of meat, when we ate bread to our fill! For you have brought us out into this desert, to starve this entire congregation to death."

It is not that communal or individual transformation does not begin with an experience of internal dissonance – rather, internal dissonance is only a potential precursor to transformation, there must still be a vision or a goal as to whom one wants ultimately to become. Therefore, according to Rabbi Yehoshua, at the Yam Suf the Israelites first began to understand (and exclaim through song) the relationship they were to have with Hashem. In the desert of Sin, they learned that Hashem not only gives manna from Heaven but demands that the Israelites follow His teaching, and ultimately at Har Sinai the Israelites fully accepted their responsibility, saying "We will do and we will listen!" They became armed when they went up out of Egypt **and received the Torah**. Only then was the option of returning to Egypt no longer a consideration, since they were given a new direction towards which to go and provided the means to get there successfully.

In Rabbi Yehoshua's view, the connection between Pesach and Shavuos becomes even clearer – it is not that Pesach is a first step to be followed by Shavuos. The surety that the Exodus of Egypt will not falter is in matan Toraseinu. Only in adopting a new direction (rather than simply running away) can one truly appreciate the cherus of Pesach.

Rabbi Dr. Ira Bedzow (SBM 2003) is the Director of the Biomedical Ethics and Humanities Program at New York Medical College and Senior Scholar of the Aspen Center for Social Values.

Theology of Miracles

by Ariel Kelman
February 10, 2017

The default understanding of miracles should be that they are supernatural. After all, that's what distinguishes a Miracle from a lucky event. While this topic has received much attention, particularly through the lenses of Rambam and Ramban; throughout my religious education miracles have often been presented from a naturalistic perspective – as events consistent with natural cause-and-effect that simply seemed incredibly unlikely at the time they occurred. Why the tendency toward naturalistic explanations?

Given the success of modern science, religion – when it engages with modern science, as I believe it should – occasionally reacts to the increased scope and success of scientific theories by adopting a posture that credits God with creation of the laws of nature, but removes Him from its daily workings. Sure, on a metaphysical level, Hashem's will to keep the world going may be necessary – but miraculous interventions!? That would go against empirical science – a big no-no for a modern Jew.

According to this view, adopting a naturalistic understanding of miracles implies a 'greater' God than if He performed miracles – the naturalist contends that His work is so perfect that it doesn't need any tweaking.

Yet the naturalistic approach misses out on something crucial. At rock bottom, there can be no difference between a "small" miracle and a "large" one – if the causal order has been broken, what difference does it make? So if there is any Divine intervention in the world, then we must acknowledge that it cannot be part of the natural order – in fact, that is almost true by definition.

It cannot be denied that the world does seem to operate like clockwork – and even the Torah occasionally emphasizes the natural side of a miracle. As Shadal points out (Shmot 14:21), what was the need for a nightly wind if the entire splitting of the sea was miraculous? Still,the phrase והמים להם חומה מימינם ומשמאלם should put to rest any doubt about whether the splitting of the sea did violate the 'laws of nature'.

So how are we to view ancient miracles? It seems to me that the "peshat" of a miracle is just that – a non-natural occurrence. And given that I do not see a compelling way to negate this idea in a religiously consistent manner, I'd be loathe to give that up.

But the real challenge presented by this issue is more fundamental. If we had all been witness to an obviously supernatural miracle, it's fairly unlikely we'd be tempted to naturalize them. But while, for example, the Six Day War was a tremendous and 'miraculous' victory, it is not a demonstration of the obvious nature-breaking power of God. The religious zionist sees God's hand at work as a result of being a religious zionist, rather than an atheist coming to God through the miracle. The inherent nature of the victory is not enough to inspire absolute confidence in God's ultimate power, as יצאית מצרים did, both for our ancestors and the Egyptians.

When we formulate a religious outlook and tackle the idea of miracles, we should be clear about what a miracle means. I don't think that Biblical accounts of miracles can be explained naturalistically, and see insufficient reason for doing so; but as with every issue, argument will enrich our understanding. Hopefully these ideas stimulate a deeper discussion, crucial to forming a rich perspective on the theological topics we encounter while reading and learning Torah.

Ariel Kelman (SBM 2016) is currently studying engineering at University of Toronto.

Thanksgiving Night

by Judah Kerbel
2016

I. The Thanksgiving Meal

My family has a longstanding custom to read part of Sefer Shemot, the original source of the story of the exodus, on at least one of the nights of the Seder. Among the many stages of the Seder, one of the central *mitzvot* is, of course, to tell the story of the exodus, based on the verse והגדת לבנך ביום ההוא לאמר בעבור זה עשה ה׳ לי בצאתי ממצרים - "And you shall tell your son on that day, saying, "this is because of that which the Lord did to me when I came forth out of Egypt" (Exodus 13:8). It would make sense, then, to read the original story, the primary source. Instead, we read the passage ארמי אובד אבי, my father was a wandering Aramean, from Sefer Devarim which is read when the *bikkurim* (first fruits) are brought to Jerusalem. Why, then, do we include virtually none of the pesukim from Shemot and instead read from Devarim during *maggid*?

Before we answer this question, I want to first discuss the central purpose of the Seder itself: to express our gratitude to God for taking us out of Egypt. The Mishnah (Pesachim 116a) tells us that when we tell the story of *yetziat Mitzrayim*, מתחיל בגנות ומסיים בשבח - we begin with disgrace and finish with praise. We have at least two sections in *maggid* specifically devoted to this, based on the opinions of Rav and Shmuel.[14] What's the significance of beginning with disgrace? Why can't we just say our praise and eat? The answer to this lies in the difference between telling the story on the Seder night versus the daily mention of *yetziat* Mitzrayim. One reason suggested by Rav Chaim (Soloveitchik) of Brisk is on the Seder night, we recall the **process** of redemption. The process is an integral means of understanding the result. **In order to fully appreciate the point at which we have arrived, we have to understand our roots**. Rav Yosef Dov Soloveitchik ("the Rav"), provides a related insight. When we merely mention that the exodus happened, that does not drive us to feel deep gratitude. However, **when we tell the story in greater depth, that naturally brings us to praise God**. Towards the end of the *maggid* section, we say "לפיכך" - "therefore - we are obligated to praise" - the word "therefore" denotes the causal relationship between God's redeeming us and the praise thereafter. The Gemara has a story in which Rav Nachman asks his servant, "a slave whose master frees him and gives him money, what should he say?" The servant replies, "He should thank him and praise him!" Our instinct when we re-experience this transformation is to praise God.

Further, the Rav (*Harerei Kedem*, Siman 83) explains that *yetziat Mitzrayim* is a secondary feat to the giving of the Torah. It is just a sign (אות), as the purpose of the exodus is to bring us to the receiving of the Torah. As we see in Dayenu, *yetziat Mitzrayim* is only the beginning of the journey towards Torah. Nevertheless, one must express thanks at each step of the process, and even this partial step is worthy of full thanks and praise. In fact, we wait to begin counting the Omer, leading up to Shavuot, until the second day of Pesach in order to devote full attention to this partial step of the exodus. How do we express our praise? **Maggid is in and of itself the expression of praise**. The obligation of telling the story is equated with the obligation to praise.

Now, we can begin to explain the purpose of reading the passage of the *bikkurim*. We mentioned that the Mishnah tells us that we "begin with disgrace and finish with praise." Right after that, though, the Mishnah tells us to expound upon the passage of "my father was a wandering Aramean," until finishing the entire passage. The Rav (*Harerei Kedem*, Siman 87) suggests that it would seem that the two items in the Mishnah ("begin with disgrace…" and "my father was a wandering Aramean") are two separate items.

[14] Pesachim 116a. According to Rav, disgrace refers to מתחילה עובדי עבודה זרה היו אבותינו (in the beginning, our ancestors were idol worshippers), and the praise that ends that section is ברוך שומר הבטחתו לישראל (blessed is the One who keeps his promise for Israel). According to Shmuel, disgrace refers to עבדים היינו לפרעה במצרים (we were slaves to Pharaoh in Egypt), and we finish with ברוך המקום ברוך הוא.

But really, they are interrelated. It's true, we say the two passages mandated by Rav and Shmuel, respectively, and we have a third section that is the *bikkurim*. But this third passage also begins with disgrace and ends with praise! In fact, while the first two passages do not quote an entire Torah passage, this third passage comprises an *entire* passage, quoted from the Torah, that begins with disgrace and ends with praise. It begins by explaining how we ended up in Egypt, we were oppressed by the Egyptians, we cried out to God, and God took us out of Egypt. It begins with our humiliation and ends with praise, and as such, is the paradigmatic Torah passage that encompasses this idea. Therefore, the Rav says, the entire concept of beginning with disgrace and ending with praise is learned from this *parasha*. **A general principle derived from this passage is that the obligation to give praise means one needs to begin by recalling the disgrace, and only then can we fully express praise.** When one fulfills the Torah obligation to bring *bikkurim*, one fulfills that obligation by also fulfilling the obligation of expressing praise, beginning with the גנות. And as we have an obligation on the Seder night to express praise, we learn from the *bikkurim* that we do this by beginning with our disgrace.

Of course, to Americans, the meal itself resembles Thanksgiving Day meals - both in the sense of the amount of time spent preparing for it and in the abundance of food itself! There is actually what to be said for the resemblance, as Rav Yosef Zvi Rimon (*Leil HaSeder - Kinor David*, p. 184) explains that the reason why we eat during in the middle of Hallel is because the meal itself is part of Hallel, it is a thanksgiving meal.

To summarize: On Pesach night, we have an obligation to tell the story of the exodus. We do this, says the Gemara, by first recalling our disgrace and then finishing by praising God. According to the Rav, the central goal and obligation of the Seder is found in the obligation to praise God; it is the natural reaction to having experienced liberation. But, in order to achieve that goal, one first has to recall the trials and tribulations at our lowest points, and the entire process of redemption, in order to appreciate the point at which we have arrived (Rav Chaim of Brisk). The parasha of ארמי אובד אבי, my father was a wandering Aramean, encapsulates this entire concept. It is a compact passage from the Torah that begins with disgrace and finishes with praise, and it is from there, argues the Rav, that we learn the entire concept that beginning with disgrace and ending with praise is the model for expressing praise itself. It might be that this the exodus is just the beginning of the process, culminating with the giving of the Torah, the main objective - and yet this partial kindness deserves its own expression of praise. And finally, eating the meal itself is an action of praise, sandwiched in the middle of Hallel.

II. Other reasons for the inclusion of ארמי אובד אבי

Since I began with this question of why we say these verses instead of selections from Shemot, I thought I would provide a short list of other reasons that I found.

I. This passage is, in its entirety, praise, which is the obligation of the seder itself (Rav Soloveitchik, *Harerei Kedem*, Explanations on the Haggdah, p. 219).
II. The story in Shemot is told from the third person perspective, while the *bikkurim* passage is told from the first person perspective, and our obligation on Pesach is to see ourselves as if *we* left Egypt (Rav Yitzchak Mirsky, *Haggadat Hegyonei Halakha*, p. 83).
III. From a practical perspective, this passage allows us to give the entire story in a reasonable amount of time (Rav Rimon, *Haggadah shel Pesach 'Shirat Miriam*,' p. 177).
IV. It provides a model summary for the way in which we tell the story of leaving Egypt.
V. In the context of bringing one's own first fruits, it provides a model for expressing both individual gratitude and collective gratitude.
VI. With the entire process of redemption outlined, it serves as a template for all salvation we have experienced in Jewish history.
VII. Just as bikkurim are a "first" (first fruits), we learn to appreciate the roots from which we came (Rav Rimon, *Kinnor David*, p. 272).
VIII. Bikkurim are brought in Eretz Yisrael - when we are in a state of tranquility, we must still recognize our purpose in life and to express our gratitude.

Judah Kerbel (SBM 2015) is in his fourth year at RIETS and his third year at the Bernard Revel Graduate School, concentrating in medieval Jewish history.

Maggid and the Missing Why

by Dina Kritz
April 21, 2016

In the middle of Maggid, after discussing how to discuss the story of *yetziat Mitzrayim*, we finally begin telling the story itself, although in a very condensed form. We recite the same summary of events that farmers recited long ago while bringing their first crops to the *Beit HaMikdash* and expressing gratitude to G-d for their food. Instead of reading the first twelve chapters of *Sefer Shemot*, in which we find the story of the Exodus, we read a few verses which give a very basic outline of G-d's actions. There are a number of key elements missing from this version of the Pesach story, but above all is the reason for our redemption. As we recall twice a day at the very end of *Shema,* G-d declares that he took us out for a specific purpose:

אשר הוצאתי אתכם מארץ מצרים להיות לכם לאלקים (במדבר טו:מא)
I took you out of Egypt to be your G-d (Numbers 15:41)

We were saved from slavery so that we could be free to worship G-d. Even before learning the procedures for leaving Egypt and for celebrating our freedom every year, we received the commandment to live our lives by a Jewish calendar. The very dramatic story of the Egyptian firstborn sons dying and the Jewish people hurrying to freedom is sandwiched between instructions regarding how to celebrate Pesach and how to eat the Korban Pesach, immediately followed by the commandment to dedicate each Jewish firstborn son and animal to G-d.

However, our text at the Seder leaves out most of these commandments. We are reminded that we must tell the story of *yetziat Mitztrayim* every day, and that we must eat (or symbolize) the *Pesach, Matzah,* and *Marror*. According to the Haggadah, G-d freed us from slavery because He promised to always protect us, and because His covenant with Avraham guaranteed that we would be taken out of Egypt and brought to Israel.

The Seder night is not about recalling our daily religious responsibilities, other than the obligation to remember our freedom every day. Rather, it is about praising G-d for redeeming us. When we finish recalling the exodus and its related commandments, as well as our own freedom, we launch into songs of praise before concluding Maggid. "Not only did the Holy One, Blessed is He," we declare, "redeem our forefathers, but He redeemed us with them as well…therefore, it our duty to thank, praise, glorify, exalt, honor, bless… [Him]."

Offering thanks and *shira* (songs of praise) to G-d is its own obligation. The Talmud teaches us (*Sanhedrin* 94a) that King Chizkiyahu's only flaw was that he did not sing praises to G-d after being saved from the Assyrians. Indeed, Rabbi Tanchum teaches in the name of Bar Kapra that had Chizkiyahu offered *shira*, he would have become the Messiah. We cannot simply accept that miracles happen; we must thank the One Who performed the miracles for us. Our Seder version of the Pesach story is much shorter, but it gets the main points: G-d heard us crying out and took us out of Egypt with an outstretched hand. We must demonstrate to G-d that we understand what He did for us and that we understand what it means that He is our G-d before we get down to the rest of the commandments.

At the beginning of Maggid, we remind ourselves that every Jew in the world is obligated to spend this night telling the story of our freedom:

וְאֲפִילוּ כֻּלָּנוּ חֲכָמִים כֻּלָּנוּ נְבוֹנִים כֻּלָּנוּ זְקֵנִים כֻּלָּנוּ יוֹדְעִים אֶת הַתּוֹרָה מִצְוָה עָלֵינוּ לְסַפֵּר בִּיצִיאַת מִצְרָיִם
And even if we were all wise, understanding, elders, and versed in the knowledge of the Torah, we would still be obligated to tell the story of the exodus from Egypt.

The goal of the Seder is not to become well-versed in this part of the Torah, but to remember and reflect on what G-d did for us. Only after we express our gratitude and awe can we be fully prepared to worship G-d. Perhaps one explanation (of many) for our use of the farmer's summary of *yetziat Mitzrayim* is that

instead of reciting the plain facts of *Shemot,* we are telling the version of the story intended to be told by a person who sees G-d's outstretched hand up close and expresses gratitude for it. At the Seder, we are in the moment, focusing on the fact that G-d saved us. Like our ancestors, celebrating the "why" comes later, on Shavuot, but also every day.

Dina Kritz (SBM 15) is an SAR Beit Midrash fellow.

A Literal Religious Translation of Shir HaShirim

2009

If we assume that Shir HaShirim is in fact intended to be an allegory, this would mean that the allegorical meaning is the p'shat of the sefer. However, to write allegorically means writing with two levels of meaning in mind, that of the literal understanding, and the desired non-literal message. The allegory is created by the relationship between the literal meaning and the allegorical meaning. Without first understanding the mashal, any interpretation of the nimshal is not true to the text. So, for example, if the allegory of Shir Hashirim is about the relationship between God and Israel, then the characters, Shepherdess and her beloved, actually refer (l'fi pshuto) to Israel and God. However, the text on the literal level must still be meaningful and coherent in order for the second level meaning, rightly called the true meaning, to be abstracted from it (isn't that what allegory is after all). If it were the case that the text has no literal meaning, then we would not be dealing with an allegorical text, but rather with a coded text. The Shepherdess would not simply refer to Israel, but, in contradistinction to other times it is

used, the word itself would actually mean Israel. If this were to be the case, any object could have been used, and the story itself need not have been coherent, and there would be absolutely no reason to translate it literally (as in the normal usage of the words), as doing so would simply be getting it wrong. However, I think that we have traditionally held that Shir Hashirim is an allegory, and therefore, needs to be understood in relationship to the literal meaning.

Rabbi Elliot Stern, based on Rabbi Aryeh Klapper

In this edition, to our knowledge the first literal translation of Shir HaShirim that makes the religious allegory explicit, changes in speaker are visually represented in the English text. The male speaks in bold, the female in plaintext, and the chorus in italics. Many terms for animals in the text are double entendre for the allegory, for example צבא\קות, or within the allegory, for example תורים – the translation of the former is always the animal, and of the latter is eclectic.

The Song of all Songs Written by Shlomoh	שיר השירים אשר לשלמה:
Let Him kiss me with the kisses of His mouth For Your intimacies are better than wine. Your oils are the best fragrance, and oils perfume Your Name; Therefore the maidens love You.	ישקני מנשיקות פיהו כי טובים דדיך מיין: לריח שמניך טובים שמן תורק שמך על כן עלמות אהבוך:
“Attract me!” **“We will run after you”.** “The King brought me into His rooms!” **“We will rejoice ecstatically in you,** **celebrate your intimacy above wine”.** “They love You deservedly.”	משכני אחריך נרוצה הביאני המלך חדריו נגילה ונשמחה בך נזכירה דדיך מיין מישרים אהבוך: ס
I am blackened but pleasing, daughters of Jerusalem, like the tents of Kedar, like the tapestries of Shlomoh. Don’t look at my blackness, at how the sun has tanned me! My mother’s sons treated me with burning contempt, they made me a vineyard guard; My own vineyard.I have not tended.	שחורה אני ונאוה בנות ירושלם כאהלי קדר כיריעות שלמה: אל תראוני שאני שחרחרת ששזפתני השמש בני אמי נחרו בי שמני נטרה את הכרמים כרמי שלי לא נטרתי:
“Tell me, the One my soul loves, where do You graze, where do You relax at noon? Why should I be like a vulture among Your friends’ flocks?” **“If you can’t understand on your own,** **most beautiful of women,** **you must follow in the footsteps of the flocks,** **and herd your goats** **near the tents of the herders.”**	הגידה לי שאהבה נפשי איכה תרעה איכה תרביץ בצהרים שלמה אהיה כעטיה על עדרי חבריך: אם לא תדעי לך היפה בנשים צאי לך בעקבי הצאן ורעי את גדיתיך על משכנות הרעים: ס
“To a mare of Pharaoh’s chariots, **I compare you, my companion.** **Your cheeks are adorned by rows of jewels,** **your neck with necklaces.** **We will make you rows of gold,** **with points of silver.”** While the king reclined, my nard sent forth its fragrance. “My Love is a bundle of myrrh to me – He will lie between my breasts! My Love is a cluster of henna to me, in the vineyards of Goatspring!”.	לססתי ברכבי פרעה דמיתיך רעיתי: נאוו לחייך בתרים צוארך בחרוזים: תורי זהב נעשה לך עם נקדות הכסף: עד שהמלך במסבו נרדי נתן ריחו: צרור המר דודי לי בין שדי ילין: אשכל הכפר דודי לי בכרמי עין גדי: ס

“Behold, you are beautiful, my companion, **Behold, you are beautiful,** **your eyes are devastating.”** “Behold, You are beautiful, my Intimate, also pleasant, and our bedding is fresh. The beams of our house are cedars, our rafters are cypress.”	הנך יפה רעיתי הנך יפה עיניך יונים: הנך יפה דודי אף נעים אף ערשנו רעננה: קרות בתינו ארזים <רחיטנו> רהיטנו ברותים:
“I am the rose of the Sharon plain, the lily of the valleys” **“Like a lily among brambles,** **so is my companion among the lasses”.** “Like an apple among the forest trees, so is my Intimate among the lads. I have yearned to sit in His shade, with His fruit sweet on my palate. May He bring me to the celebration house, with His banner of love above me!” (Support me with tree trunks, let me lie against the apple trees! For I am sick with love.) “His left hand under my head, with His right hand hugging me.” **“I demand your oath, lasses of Jerusalem,** **by the deer or the rams of the field,** **not to awaken or arouse the love** **until she desires.”** The voice of my Intimate – behold it comes, skipping over the hills, bounding over the valleys. My Intimate is like a deer, or like a young ram. There it stands behind our wall, overlooking the windows, shining through the crevices. My Intimate prompted me: “**Arise, my companion, and go!** **For behold the winter has passed,** **the rain has shifted and departed.** **The buds are visible in the land; the time of singing has come;** **and the voice of the dove is heard in our land.** **The fig has put forth its early fruit,** **and the ripening grapes are redolent.** **Arise, my companion, my beauty, and go!”** **“My dove in the clefts of the rock,** **in the lee of the stairs,** **show me your appearance,** **project your voice to me!**	אני חבצלת השרון שושנת העמקים: כשושנה בין החוחים כן רעיתי בין הבנות: כתפוח בעצי היער כן דודי בין הבנים בצלו חמדתי וישבתי ופריו מתוק לחכי: הביאני אל בית היין ודגלו עלי אהבה: סמכוני באשישות רפדוני בתפוחים כי חולת אהבה אני: שמאלו תחת לראשי וימינו תחבקני: השבעתי אתכם בנות ירושלם בצבאות או באילות השדה אם תעירו ואם תעוררו את האהבה עד שתחפץ: ס קול דודי הנה זה בא מדלג על ההרים מקפץ על הגבעות: דומה דודי לצבי או לעפר האילים הנה זה עומד אחר כתלנו משגיח מן החלנות מציץ מן החרכים: ענה דודי ואמר לי קומי לך רעיתי יפתי ולכי לך: כי הנה <הסתו> הסתיו עבר הגשם חלף הלך לו: הנצנים נראו בארץ עת הזמיר הגיע וקול התור נשמע בארצנו: התאנה חנטה פגיה והגפנים סמדר נתנו ריח קומי <לכי> לך רעיתי יפתי ולכי לך: ס יונתי בחגוי הסלע בסתר המדרגה הראיני את מראיך השמיעיני את קולך

For your voice is precious, **and your appearance pleasing.”**	כי קולך ערב ומראיך נאוה: ס
Grab foxes for us, the little foxes that damage vineyards, for our vineyard is ripening. My Intimate for me, and I for my Intimate, Who grazes among the lilies. “Until the day blows away, until the shadows flee - wander, my Intimate, be like the deer or the young hart on the hills of Beter.”	אחזו לנו שועלים שועלים קטנים מחבלים כרמים וכרמינו סמדר: דודי לי ואני לו הרעה בשושנים: עד שיפוח היום ונסו הצללים סב דמה לך דודי לצבי או לעפר האילים על הרי בתר: ס
While lying down in the nghts, I have sought the One my soul loves; I have sought Him, but I have not found Him. Let me arise and wander the city; in the squares and streets I will seek Him Whom my soul loves; I have sought Him, but I have not found Him. The watchmen wandering the city found me: “The One Whom my soul loves, have you seen Him?” I had almost passed them by when I found the One Whom my soul loves. I grabbed Him! I will not loose Him, not until I bring Him to my mother’s house, to the room of my conception. **“I demand your oath, lasses of Jerusalem,** **by the deer or the rams of the field,** **not to awaken or arouse the love** **until she desires.”**	על משכבי בלילות בקשתי את שאהבה נפשי בקשתיו ולא מצאתיו: אקומה נא ואסובבה בעיר בשוקים וברחבות אבקשה את שאהבה נפשי בקשתיו ולא מצאתיו: מצאוני השמרים הסבבים בעיר את שאהבה נפשי ראיתם: כמעט שעברתי מהם עד שמצאתי את שאהבה נפשי אחזתיו ולא ארפנו עד שהביאתיו אל בית אמי ואל חדר הורתי: השבעתי אתכם בנות ירושלם בצבאות או באילות השדה אם תעירו ואם תעוררו את האהבה עד שתחפץ: ס
“*Who is this* *ascending from the wilderness* *like columns of smoke,* *perfumed with myrrh and frankincense,* *with all the merchant’s powders?***”** Here is the bed of Shlomoh, with sixty warriors surrounding it, of the warriors of Israel. All grasp swords and are trained in war; each has his sword on his thigh, fearing the terrors of the night. Shlomoh made himself a palanquin from the trees of Lebanon. He made its pillars of silver, its back of gold, its seat of royal purple. Inside it was inlaid with love from the lasses of Jerusalem. “Go out, lasses of Zion,	מי זאת עלה מן המדבר כתימרות עשן מקטרת מור ולבונה מכל אבקת רוכל: הנה מטתו שלשלמה ששים גברים סביב לה מגברי ישראל: כלם אחזי חרב מלמדי מלחמה איש חרבו על ירכו מפחד בלילות: ס אפריון עשה לו המלך שלמה מעצי הלבנון: עמודיו עשה כסף רפידתו זהב מרכבו ארגמן תוכו רצוף אהבה מבנות ירושלם: צאינה וראינה בנות ציון

and see King Shlomoh, wearing the crown his mother crowned him with on his wedding day, on the day his heart rejoiced!”	במלך שלמה בעטרה שעטרה לו אמו ביום חתנתו וביום שמחת לבו: ס
“Behold, you are beautiful, my companion, **behold you are beautiful,** **your eyes are devastating** **behind your veil.** **Your hair is like a flock of goats** **cascading from Mount Gilead.** **Your teeth are like a flock of shorn ewes** **just emerged from the wash,** **all bearing twins, with none childless.** **Your lips are like a crimson thread,** **and your throat is attractive,** **your cheeks are like a pomegranate rind** **behind your veil.** **Your neck is like the Tower of David,** **built with turrets, a** **thousand shields hanging from it,** **all the conquests of the warriors.** **Your two breasts are like two fawns,** **twins of a doe,** **that graze among the lilies.”** “Before the day blows away, and the shadows flee, I will take myself to the Mount of Myrrh, and the hills of levonah” **“All of you is beautiful, my companion,** **and there is no flaw in you”.** **“With me from Lebanon, my bride,** **you will come with me from Lebanon.** **You will gaze from the height of loyalty,** **from the heights of Snir and Chermon,** **from the lairs of lions,** **from the hills of leopards.** **You have taken my heart, my sister my bride,** **you have taken my heart with one of your** **eyes, with one necklace from your neck.** **How beautiful your intimacies are,** **my sister my bride;** **how much better than wine your intimacies,** **and the fragrance of your oils than any** **perfumes. Your lips drip nafth, bride,** **honey and milk lie under your tongue,** **and the fragrance of your clothes** **is like the fragrance of Lebanon.”** **“A locked garden is my sister my bride,** **a locked mound, a sealed spring.**	הנך יפה רעיתי הנך יפה עיניך יונים מבעד לצמתך שערך כעדר העזים שגלשו מהר גלעד: שניך כעדר הקצובות שעלו מן הרחצה שכלם מתאימות ושכלה אין בהם: כחוט השני שפתתיך ומדבריך נאוה כפלח הרמון רקתך מבעד לצמתך: כמגדל דויד צוארך בנוי לתלפיות אלף המגן תלוי עליו כל שלטי הגבורים: שני שדיך כשני עפרים תאומי צביה הרועים בשושנים: עד שיפוח היום ונסו הצללים אלך לי אל הר המור ואל גבעת הלבונה: כלך יפה רעיתי ומום אין בך: ס אתי מלבנון כלה אתי מלבנון תבואי תשורי מראש אמנה מראש שניר וחרמון ממענות אריות מהררי נמרים: לבבתני אחתי כלה לבבתני <באחד> באחת מעיניך באחד ענק מצורניך: מה יפו דדיך אחתי כלה מה טבו דדיך מיין וריח שמניך מכל בשמים: נפת תטפנה שפתותיך כלה דבש וחלב תחת לשונך וריח שלמתיך כריח לבנון: ס גן נעול אחתי כלה גל נעול מעין חתום:

Your branches are an orchard of pomegranates, **with sweet fruits for dessert,** **also henna and nard.** **Nard, karkom, kaneh, and cinnamon,** **with twigs of levonah. myrrh and ahalot,** **with all the best perfumes.** **A spring feeding many gardens,** **an effervescent fountain,** **flowing down from Lebanon."** "Awake, O North wind, and come to Yemen! Blow, and the perfumes of my garden will flow! Let my Intimate come to His garden, and let Him eat its sweet fruits."	שלחיך פרדס רמונים עם פרי מגדים כפרים עם נרדים: נרד וכרכם קנה וקנמון עם כל עצי לבונה מר ואהלות עם כל ראשי בשמים: מעין גנים באר מים חיים ונזלים מן לבנון: עורי צפון ובואי תימן הפיחי גני יזלו בשמיו יבא דודי לגנו ויאכל פרי מגדיו:
"I have come to my garden, **my sister my bride!** **I have gathered my perfumed myrrh,** **eaten my honey forest,** **drunk my wine and milk;** **the kind that lovers eat,** **that intimates drink and get drunk on. "** **I was asleep, with my heart aroused;** **the sound of my Intimate pounding:** **"Open for me, my sister my companion** **my dove my perfect,** **for my head is full of dew,** **my locks with night rains."** **"I've taken off my robe: should I put it back on? I've washed my feet: should I dirty them again?" My Intimate let go of the keyhole,** **but my insides churned for him.** **I arose to open for my Intimate,** **my hands dripping myrrh,** **my fingers with flowing myrrh,** **on the palmplate of the lock.** **I opened for my Intimate!** **But my Intimate was vanished and gone.** **My life to hear Him speak!** **I sought Him but could not find Him,** **I called Him but He did not reply.** **The watchmen wandering the city found me;** **they struck me and wounded me;** **they removed my veil from me,** **the guardians of the walls.** **"I demand your oath, daughters of Jerusalem:** **If you find my Intimate,** **you must tell Him that I am sick with love!"** **"*How perfect your intimacy is,*** ***most perfect of women;***	באתי לגני אחתי כלה אריתי מורי עם בשמי אכלתי יערי עם דבשי שתיתי ייני עם חלבי אכלו רעים שתו ושכרו דודים: ס אני ישנה ולבי ער קול דודי דופק פתחי לי אחתי רעיתי יונתי תמתי שראשי נמלא טל קוצותי רסיסי לילה: פשטתי את כתנתי איככה אלבשנה רחצתי את רגלי איככה אטנפם: דודי שלח ידו מן החר ומעי המו עליו: קמתי אני לפתח לדודי וידי נטפו מור ואצבעתי מור עבר על כפות המנעול: פתחתי אני לדודי ודודי חמק עבר נפשי יצאה בדברו בקשתיהו ולא מצאתיהו קראתיו ולא ענני: מצאני השמרים הסבבים בעיר הכוני פצעוני נשאו את רדידי מעלי שמרי החמות: השבעתי אתכם בנות ירושלם אם תמצאו את דודי מה תגידו לו שחולת אהבה אני: מה דודך מדוד היפה בנשים מה דודך מדוד

how perfect beyond words your intimacy,	שככה השבעתנו:
that you have imposed this oath upon us."	דודי צח ואדום
My Intimate is bright and flushed,	דגול מרבבה:
a banner for myriads.	ראשו כתם פז
His head is purest gold,	קוצותיו תלתלים
His locks are piled on each other,	שחרות כעורב:
black as the raven.	עיניו כיונים על אפיקי מים
His eyes are like doves on streams of water,	רחצות בחלב
rinsing in milk,	ישבות על מלאת:
perched on stones.	לחיו כערוגת הבשם
His cheeks are like spice-furrows,	מגדלות מרקחים
with towers of perfume;	שפתותיו שושנים
His lips like lilies,	נטפות מור עבר:
wafting flowing myrrh.	ידיו גלילי זהב
His arms are turned of gold,	ממלאים בתרשיש
set in beryl;	מעיו עשת שן
His abdomen smooth ivory	מעלפת ספירים:
studded with sapphires.	שוקיו עמודי שש
His thighs are marble pillars,	מיסדים על אדני פז
founded on pedestals of purest gold;	מראהו כלבנון
His appearance like Lebanon,	בחור כארזים:
select as cedars.	חכו ממתקים
His palate is all sweetness,	וכלו מחמדים
and all of Him arouses desire;	זה דודי וזה רעי
this is my Intimate and this is my Companion,	בנות ירושלם:
lasses of Jerusalem.	
Where has your Intimate gone,	אנה הלך דודך
most beautiful of women?	היפה בנשים
Toward where has your Intimate set His	אנה פנה דודך
course, that we may seek Him with you?	ונבקשנו עמך:
My Intimate has descended to His garden,	דודי ירד לגנו
to the spice-furrows,	לערוגות הבשם
to pasture in the gardens	לרעות בגנים
and graze among the lilies.	וללקט שושנים:
I for my Intimate, and my Intimate for me,	אני לדודי ודודי לי
Who grazes among the lilies.	הרעה בשושנים: ס
You are beautiful, my companion,	יפה את רעיתי
as All-women's-desire,	כתרצה
attractive as Jerusalem,	נאוה כירושלם
awesome as a bannered army.	אימה כנדגלות:
Turn your eyes away from me,	הסבי עיניך מנגדי
for they have overpromised me;	שהם הרהיבני
your hair is like a flock of goats	שערך כעדר העזים
cascading from Mt. Gilead.	שגלשו מן הגלעד:
Your teeth are like a flock of shorn ewes	שניך כעדר הרחלים
just emerged from the wash,	שעלו מן הרחצה
all bearing twins, with none miscarrying.	שכלם מתאימות ושכלה אין בהם:
Your cheeks are like a pomegranate rind	כפלח הרמון רקתך
behind your veil.	מבעד לצמתך:
Sixty of my women are queens,	ששים המה מלכות

and eighty concubines, **and maidens beyond number.** **But my dove, my perfect one, is unique –** **unique to her mother,** **brilliant to her birthmother;** **Daughters praise her when they see her, and** **queens and concubines exalt her!** ***Who is this who looks out like the morning star,*** ***beautiful as the moon,*** ***brilliant as the sun,*** ***awesome as a bannered army?*** **I descended to a chestnut garden,** **to see the buds of the wadis,** **to see if the grape had flowered,** **if the pomegranates had fruited.** **I could not know** **that my soul had placed me** **in the chariot of my nation's Ruler.**	ושמנים פילגשים ועלמות אין מספר: אחת היא יונתי תמתי אחת היא לאמה ברה היא ליולדתה ראוה בנות ויאשרוה מלכות ופילגשים ויהללוה: ס מי זאת הנשקפה כמו שחר יפה כלבנה ברה כחמה אימה כנדגלות: ס אל גנת אגוז ירדתי לראות באבי הנחל לראות הפרחה הגפן הנצו הרמנים: לא ידעתי נפשי שמתני מרכבות עמי נדיב:
Return, O return, woman of Completion; ***return, O return, and we will feast our eyes on you.*** ***What, will you feast your eyes*** ***on the woman of Completion*** ***as if she were a dancer in the camps!*** ***How beautiful your footsteps in your boots,*** ***O daughter of a ruler;*** ***the sheathes of your thighs*** ***like rings carved by an artisan.*** ***Your navel is a clear goblet,*** ***with nothing lacking in its blend;*** ***your belly is a mound of wheat*** ***enclosed in lilies.*** ***Your two breasts*** ***are like two foals,*** ***twin deer.*** ***Your neck is like the ivory tower,*** ***your eyes calculating pools*** ***near the public gate;*** ***your nose is like the tower of Lebanon,*** ***overlooking the approach to Damascus.*** ***Your head upon you like Carmel,*** ***and the fringes of your head like royal purple; a king imprisoned in their flow.*** ***How beautiful you have made this*** ***and how pleasant;*** ***love with all delights.*** ***This – your figure rising like a palm,*** ***and your breasts like clusters of dates.***	שובי שובי השולמית שובי שובי ונחזה בך מה תחזו בשולמית כמחלת המחנים: מה יפו פעמיך בנעלים בת נדיב חמוקי ירכיך כמו חלאים מעשה ידי אמן: שררך אגן הסהר אל יחסר המזג בטנך ערמת חטים סוגה בשושנים: שני שדיך כשני עפרים תאמי צביה: צוארך כמגדל השן עיניך ברכות בחשבון על שער בת רבים אפך כמגדל הלבנון צופה פני דמשק: ראשך עליך ככרמל ודלת ראשך כארגמן מלך אסור ברהטים: מה יפית ומה נעמת אהבה בתענוגים: זאת קומתך דמתה לתמר ושדיך לאשכלות: אמרתי אעלה בתמר

I said – I will climb the palm, ***I will grasp its finger-stalks;*** ***Let your breasts, please, be like clusters of grapes, and the scent of your face like apples,*** ***and your palate like fine wine,*** ***deserving my intimacy,*** ***animating sleeping lips.*** ***I for my Intimate, and His passion upon me.*** ***“Come, my Intimate,*** ***let us go out to the field,*** ***let us lodge in the villages.*** ***We will go eagerly to the vineyards,*** ***we will see if the grapevine has flowered,*** ***the grapes budded, the pomegranates fruiting; there I will present my intimacy to You.*** ***The mandrakes have given off their scent,*** ***and at our doorstep all sweet fruit;*** ***new and old,*** ***my Intimate,*** ***I have stored up for You.”***	אחזה בסנסניו ויהיו נא שדיך כאשכלות הגפן וריח אפך כתפוחים: וחכך כיין הטוב הולך לדודי למישרים דובב שפתי ישנים: אני לדודי ועלי תשוקתו: ס לכה דודי נצא השדה נלינה בכפרים: נשכימה לכרמים נראה אם פרחה הגפן פתח הסמדר הנצו הרמונים שם אתן את דדי לך: הדודאים נתנו ריח ועל פתחינו כל מגדים חדשים גם ישנים דודי צפנתי לך:
If You could only be like a brother to me, ***who nursed my mother’s breasts with me;*** ***then if I found You outside I would kiss You,*** ***still they would not disdain me.*** ***I would take charge of You,*** ***bring you to my mother’s house;*** ***You would teach me!*** ***I would kiss Your lips with spiced wine,*** ***with the juice of my pomegranates.*** ***(His left hand beneath my head,*** ***with His right hand hugging me.)*** ***I have demanded your oath,*** ***daughters of Jerusalem,*** ***lest you awaken or arouse the love until she desires.*** ***Who is this*** ***ascending from the wilderness,*** ***leaning on her Intimate?*** ***I aroused you under the apple tree,*** ***there where your mother labored with you,*** ***there where your birthmother labored for you.*** ***“Stamp me like a seal on Your heart,*** ***like a seal on Your arm,*** ***because love is strong as death,*** ***jealousy unyielding as the grave.*** ***Its embers*** ***are fiery embers***	מי יתנך כאח לי יונק שדי אמי אמצאך בחוץ אשקך גם לא יבוזו לי: אנהגך אביאך אל בית אמי תלמדני אשקך מיין הרקח מעסיס רמני: שמאלו תחת ראשי וימינו תחבקני: השבעתי אתכם בנות ירושלם מה תעירו ומה תעררו את האהבה עד שתחפץ: ס מי זאת עלה מן המדבר מתרפקת על דודה תחת התפוח עוררתיך שמה חבלתך אמך שמה חבלה ילדתך: שימני כחותם על לבך כחותם על זרועך כי עזה כמות אהבה קשה כשאול קנאה רשפיה רשפי אש שלהבתיה:

מים רבים לא יוכלו לכבות את האהבה ונהרות לא ישטפוה אם יתן איש את כל הון ביתו באהבה בוז יבוזו לו: ס אחות לנו קטנה ושדים אין לה מה נעשה לאחתנו ביום שידבר בה: אם חומה היא נבנה עליה טירת כסף ואם דלת היא נצור עליה לוח ארז: אני חומה ושדי כמגדלות אז הייתי בעיניו כמוצאת שלום: פ כרם היה לשלמה בבעל המון נתן את הכרם לנטרים איש יבא בפריו אלף כסף: כרמי שלי לפני האלף לך שלמה ומאתים לנטרים את פריו: היושבת בגנים חברים מקשיבים לקולך השמיעיני: ברח דודי ודמה לך לצבי או לעפר האילים על הרי בשמים:	***from the flame of God."*** ***Mighty waters could not quench the love,*** ***and rivers could not sweep it away,*** ***though if a man gave*** ***all the wealth of his house*** ***for love,*** ***they would surely disdain him.*** ***"We have a little sister,*** ***who has no breasts.*** ***What will we do for our sister*** ***on the day she is spoken for?"*** ***If she is a wall,*** ***we will bind upon her a silver rampart;*** ***but if she is a door,*** ***we will bar her with a cedar plank.*** ***"I am a wall, and my breasts are like*** ***towers"; then I became in His eyes a source*** ***of peace.*** ***Shlomoh had a vineyard in the Field of*** ***Plenty; he gave the vineyard to the*** ***watchmen.*** ***Each would get a thousand of silver for its*** ***fruits.*** ***"My vineyard is before me;*** ***the thousand are for you, Shlomoh,*** ***and two hundred for those who guard its*** ***fruit."*** ***She who dwells in gardens,*** ***whose friends heed her voice,*** ***tell me your will.*** ***"Flee, my Intimate,*** ***make yourself like a deer*** ***or like an antelope fawn*** ***on spice mountains."***

Ruling Desires and Desiring Rules

by Betsy Morgan
April 14, 2017

On Shabbat Chol ha'Moed it is customary to read Shir ha'Shirim, a megillah of blooming flowers and blossoming love between two lovers. The are they/aren't they protagonists are understood to represent God and the Jewish people. Throughout the megillah their metaphors and similes of passion never culminate in a final moment. Indeed, it ends with the Dod running away again.

What is the story of love meant to teach us about our relationship with God? The dialogue is limited to exchanges of compliments, but no conversation. Is this an ideal relationship? The most salient features of the megillah are passion and appreciation, but the megillah also serves an additional purpose in teaching about equality.

The presence of desire in a relationship creates an opportunity for unequal power dynamic. This is first expressed in the Torah in the aftermath of eating from the tree of knowledge. A punishment of Chava is "וְאֶל-אִישֵׁךְ, תְּשׁוּקָתֵךְ, וְהוּא, יִמְשָׁל-בָּךְ", that she will desire her husband, and he will rule her. Her desire creates a vulnerability that results in an imbalanced relationship. In this archetypical relationship in the Torah, there is a strain of closeness and distance, desire and inequality.

This idea appears again in Bereshit in the aftermath of Kayin killing his brother Hevel. God tells Kayin in regards to sin "הֲלוֹא אִם-תֵּיטִיב, שְׂאֵת, וְאִם לֹא תֵיטִיב, לַפֶּתַח חַטָּאת רֹבֵץ; וְאֵלֶיךָ, תְּשׁוּקָתוֹ, וְאַתָּה תִּמְשָׁל-בּוֹ", is it not so that if you are good you will overcome it, because sin is crouching at your doorstep, it desires you and you rule over it. Like a virus needs a host, sin desires the sinner, and thus Kayin can rule over it.

The final time this language is used in Tanach is in Shir ha'Shirim "אֲנִי לְדוֹדִי, וְעָלַי תְּשׁוּקָתוֹ", I am to my beloved and he desires me. Here is a reversal from Bereshit. First, a person is speaking, whereas God was the speaker of both instances in Bereshit. The affected parties are the active ones, aware of their situation and standing. Second, in Shir ha'Shirim, the man desires the woman, the opposite from Chava and Adam. We would expect that this would make him the vulnerable party, at the woman's mercy to rule over him. However, she is declaring herself to him, making herself equally vulnerable to him. Using her power, she abolishes the power imbalance. They are equal.

Tracing this concept of desire and power gives Shir ha'Shirim a culmination of a larger story, showing how two entities can be vulnerable and equal. God desires us to be His people, as evidenced in the Exodus story from Egypt and throughout our journey in the desert. At Har Sinai we are declared His nation and are sustained in the desert until delivered to Israel. We desire God to be our God, and demonstrate this through the fulfillment of mitzvot and learning His Torah. Pesach is a time when we review the roots of our relationship with God, and renew it by teaching our history to our families at the Seder. The story in Shir ha'Shirim never really ends, because we are still playing the parts in this relationship through the choices we make every day.

Betsy Morgan (SBM 2013, 2014) is a Senior at Drexel University studying Materials Science and Engineering.

Did Women Do Shechitah in Medieval Ashkenaz? Part 1

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Was this observed in practice in the Middle Ages? Did women serve as ritual slaughterers for members for their families and for others? The answer is positive: Female ritual slaughterers were to be found in most of the Jewish diasporas. Thus, the Tosaphists testified that: "It is an everyday matter for us to rely upon a woman or a servant for slaughtering and removing the veins".

Avraham Grossman, Pious and Rebellious

In the beginning there was a beraita, which went something like this:

הכל נאמנים על ביעור חמץ, אפילו נשים אפילו עבדים

Everyone is believed regarding the elimination of chametz, even women even slaves.

Possibly the sentence included one more phrase:

אפילו קטנים

even minors

This beraita found its way into both the Bavli and the Yerushalmi. We'll pick it up as it is cited on Pesachim 4a by the amora Rav Nachman bar Yitzchak (d. 356).

בעו מיניה מרב נחמן בר יצחק:
המשכיר בית לחבירו בארבעה עשר – חזקתו בדוק או אין חזקתו בדוק?
למאי נפקא מינה?! לישייליה!?
דליתיה להאי דלשיוליה. לאטרוחי להאי - מאי?
אמר להו רב נחמן בר יצחק:
תניתוה:
הכל נאמנים על ביעור חמץ, אפילו נשים אפילו עבדים אפילו קטנים.

They queried Rav Nachman bar Yitzchak:
One who rents a house to his fellow on 14 Nissan – is it presumed chametz-inspected, or not?
What practical difference is there?! Ask him!?
Assume he is not there to be asked. Do we trouble the renter to inspect it himself?!
Rav Nachman bar Yitzchak said to them:
We have learned the answer to your query in a beraita:
Everyone is believed regarding the elimination of chametz, even women even slaves even children.

While Rav Nachman bar Yitzchak presents the beraita as an answer to the query, it actually seems to disprove both sides of the either/or. If the house is presumed inspected, we don't need corroboration, so what would it mean to "believe" anyone? If the house is presumed not-inspected, why can we believe anyone other than ordinarily valid witnesses?!

The Talmud first explains why one might presume that the house was inspected, and then introduces the difficulty.

מאי טעמא מהימני? לאו משום דחזקתו בדוק,
דקסבר: הכל חברים הם אצל בדיקת חמץ,
דתניא:
חבר שמת והניח מגורה מליאה פירות, אפילו הן בני יומן - הרי הן בחזקת מתוקנים
?
וממאי?! דילמא שאני הכא משום דקאמרי הני?!
אטו אמירה דהני מידי מששא אית ביה?! אלא מאי - דחזקתו בדוק.
האי "הכל נאמנים", 'כל הבתים בחזקת בדוקין בארבעה עשר' מיבעי ליה!?
אלא מאי - משום אמירה דהני, הא לא אמרי הני - לא, תפשוט מיניה דאין חזקתו בדוק!?
וממאי?! דילמא שאני הכא משום דקאמרי הני?!

אטו אמירה דהני מידי מששא אית ביה?!
אלא מאי - דחזקתו בדוק.
האי "הכל נאמנים", 'כל הבתים בחזקת בדוקין בארבעה עשר' מיבעי ליה!?
אלא מאי - משום אמירה דהני, הא לא אמרי הני - לא, תפשוט מיניה דאין חזקתו בדוק!?
Why are they believed? Isn't it because the house is presumed inspected,
because this beraita holds that all are considered chaverim *regarding chametz-inspection,*
as we learned in a beraita:
A chaver *who dies and left a storehouse of grain, even if they became liable to tithing on that day – they are presumed to have been tithed.*
?
Why (do you presume that all houses are presumed inspected)?! Maybe we only make such a presumption in cases like ours, where it is corroborated by the testimony of these?!
(That can't be, because) What substance could the testimony of such people have?!
So it must be that there is a general presumption of inspection.
But if that is so, why does the beraita frame its rule around the credibility of people, rather than around presumptions regarding houses?!
So it must be that the statements matter, which means that without any such statement, the renter would have to reinspect, and therefore the beraita proves that we don't make the presumption!?

Some background is needed here. At some periods and places of the Rabbinic era, there was a sharp and fraught social division between *chaverim* and *amei ha'aretz*. *Chaverim* were the Torah-educated and punctiliously observant elite; *amei ha'aretz* ate dairy out, mocked anyone who tried to be shomer negiah, and thought that "eruv" was the Hebrew word for "loophole". They also ate grains that had not been tithed, and therefore could not be trusted to certify that food had been tithed. On the other hand, one could eat any grain that had ever been owned by a *chaver*, on the assumption that a *chaver* would tithe his produce immediately upon acquisition.

Here's the rub: During the three annual pilgrimage-holidays, when the groups were brought together en masse in religious contexts, the rabbis declared that כל ישראל חברים = all Jews could be considered *chaverim*, so that tithe-kashrut would not catalyze further social division. The Talmud here suggests that our beraita holds that all Jews are also considered *chaverim* regarding chametz inspection on the 14th of Nissan, and therefore any house rented on 14 Nissan is presumed inspected.

At this point the Talmud asks: If the house is presumed inspected, why would you need to believe anyone's testimony?! Why would the statements of such people have halakhic weight!?

So it must be that their statements don't matter. But then why does the Mishnah frame its rule around their credibility?!

לא, לעולם אימא לך חזקתו בדוק,
והכא במאי עסקינן - דמוחזק לן דלא בדק, וקאמרי הני בדקיניה.
מהו דתימא? לא להימנינהו רבנן;
קמ"ל - כיון דבדיקת חמץ מדרבנן הוא, דמדאורייתא בביטול בעלמא סגי ליה - הימנוהו רבנן בדרבנן.
No – really all houses are presumed inspected,
but here we are discussing a case where the renter has a valid basis for presuming that the rental was not inspected, and one of these says that it was inspected.
(This isn't too obvious a case to include in a beraita, because) What might I have thought? That the rabbis would still not believe them,
so the beraita teaches us that because inspection is only rabbinically required, since Biblically verbal nullification is sufficient – the rabbis believed them about Rabbinic prohibitions.

The Talmud's final solution to the either/or is to make an *okimta* – the Mishnah is dealing with an unusual case, with facts not mentioned in the text that undermine the presumption of inspectedness.

Credibility is necessary in such a case, but because inspection is only Rabbinically necessary, credibility can be extended beyond the usual unsuspects.

We can now formulate the Talmud's conclusion as follows:

The beraita believes that all Jews are considered *chaverim* regarding chametz-inspection on 14 Nissan. Therefore:

1. All houses rented from any Jew on 14 Nissan are presumed inspected.

2. All Jews may be believed if they claim that a house has been adequately inspected.

The Talmud does not explain whether the second principle is caused by the first. Do we all Jews have credibility because they are all *chaverim*? Credibility is extended because the whole issue is derabannan, but perhaps the general extension of *chaver*-status happens only because the issue was derabannan.

We also must discuss to whom this credibility is extended. The beraita says explicitly that women, slaves, and children are believed. It is difficult to see the status of chaver being extended to slaves and children (although it is certainly extended to women in some cases).

It therefore seems that the beraita has two separate rationales. First, it has a default setting that all houses are considered inspected because *chaver*-status is extended. Second, if that presumption breaks down, we can extend credibility because the whole issue is derabannan.

But if the *chaver* and derabannan rationales are independent of each other, then the entire Talmudic discussion was pointless. The Talmud should simply have said: Why are these believed? Because the issue is derabannan. Nothing else was needed or relevant. Perhaps the Talmud concludes that R. Nachman bar Yitzchak erred in citing this beraita as a response to the query. But this seems forced.

The less radical solution to this problem is to say that the presumption of inspectedness was put in place only because the issue was derabannan. The presumption is weakened when we know that the landlord did not do an inspection personally, but not so weakened that it cannot be restored by testimony from children.

The more radical solution is to argue that women, slaves, and children are never discussed in this sugya. Rather, the issue is exclusively *amei ha'aretz*. (According to a beraita on Pesachim 49b, codified in Shulchan Arukh CM 34:17, *amei ha'aretz* are not valid witnesses, although the educational bar to escaping that status is very low.) *Chaver*-status regarding chametz-inspection is initially limited to self-certification, and then extended to allow them to certify others when necessary, because after all the whole issue is derabanan.

The obvious weakness of the radical approach is that it does not explain in the end why slaves and children are believed. There is no manuscript basis for arguing that the clause about women, slaves, and children is not original to the text. And yet, children do not appear in the Yerushalmi version, an amora probably emends the Yerushalmi version to exclude women, and some rishonim argue that the logic of the sugya does not relate to either women or slaves.

Why does any of this matter? Because the sugya as it stands seems to say that women have halakhic credibility only about derabannans, and possibly only when they are supported by a legal presumption. In medieval Ashkenaz, that conclusion contradicted common sense and everyday experience.

How did the rishonim address that contradiction? What is the proper relationship between Talmud Torah and experience? How strong an intellectual or halakhic bias should we have toward interpretations and positions that comport with our sense of the world, even if they don't comport as well with our understanding of texts? Can Halakhic texts be reliable historical sources? Stay tuned!

May Women Get Their Hair Cut on Chol Hamoed?

March 24, 2010

May women get their hair cut on חול המועד?

שולחן ערוך אורח חיים סימן תקמו סעיף ה

עושה אשה כל תכשיטיה במועד; כוחלת ופוקסת (פי' מחלקת שערה לכאן ולכאן רש"י), ומעברת סרק על פניה, וטופלת עצמה בסיד וכיוצא בו; והוא שתוכל לסלקו במועד; ומעברת שער מבית השחי ומבית הערוה, בין ביד בין בכלי, ומעברת סכין על פדחתה

תלמוד בבלי מסכת מועד קטן דף ט עמוד ב

ועושה אשה תכשיטיה תנו רבנן: אלו הן תכשיטי נשים: כוחלת ופוקסת ומעבירה]שרק[על פניה ואיכא דאמרי מעברת סרק על פניה של מטה

רמב"ם הלכות יום טוב פרק ז הלכה כ

מותר ליטול שפה בחולו של מועד, וליטול צפרנים ואפילו בכלי, ומעברת האשה השיער מבית השחי ומבית הערוה בין ביד בין בכלי, ועושה כל תכשיטיה במועד, כוחלת ופוקסת ומעברת סרק על פניה וטופלת עצמה בסיד וכיוצא בו והוא שתוכל לקפלו במועד.

Men are forbidden to shave on chol hamoed, so as to ensure that they shave before the first Yom Tov. According to Shulchan Arukh 546:5, however, women may do all cosmetic necessities on chol hamoed. This general statement is followed by a list of specifics relating to makeup, hair arrangement, and hair removal, with the last being “she may draw a knife across her forehead”; this may refer to shaving eyebrows, but the use of “knife” rather than “razor” is anomalous, so there is a possibility that it refers to trimming bangs.

Shulchan Arukh is rooted in Mishnah Moed Kattan 8b and a beraita on Talmud Bavli Moed Kattan 9b, with one key difference being that the beraita’s language may imply that it is offering a comprehensive list of permitted cosmetics, whereas the Shulchan Arukh seems clearly to be providing only examples. This may be a function of the other key differences, which are the inclusion of removal of underarm hair and the permission of drawing a knife across the forehead; the first comes from Rambam rather than directly from the Talmud that was in front of Beit Yosef, although it seems clear that the latter at least was in Rosh’s Talmud, and the former may have been in Rambam’s. Regardless, no one’s Talmud text listed everything that Shulchan Arukh permitted.

Shulchan Arukh, therefore, is compelled to read the list in the Talmud as noncomprehensive, and has no basis for assuming that his list is comprehensive. Furthermore, it seems reasonable to assume that the cosmetic techniques of his time differed somewhat from those of the Talmud, and that he had no interest in banning the new techniques.

Nonetheless, it seems reasonable to argue that had he believed haircutting and headshaving to be permissible, that would have made the list. This *diyuk* (deduction on the basis of close reading) is the basis for forbidding women’s haircutting on chol hamoed. Mishnah Berurah, for example, writes:

(טז) ומעברת שער מבית השחי וכו' - אבל מראשה אסור גילוח ותספורת בחוה"מ באשה כמו באיש [הגר"א ופמ"ג]:

Our purpose here is to decide whether this reading, and the authorities behind it, are dispositive. Let’s look first at Pri Megadim.

פרי מגדים תקמו:ט

"ומעברת" – עמ"א (כלומר שמעברת השער בסכין). ומשמע לגלח ראשה אף באשה אסור בחה"מ כמו באיש, אף על גב דל"ש בה נוול, דאדרבה שער באשה בראשה נוי, ושער פדחתה מותר בסכין דקישוט הוא.

Pri Megadim suggests that the list of permitted activities specifically excludes headshaving, but concedes that he doesn't understand why the prohibition should apply to women; after all, we should discourage women from shaving their heads before Yom Tov, rather than encouraging them.

At first glance, Pri Megadim does indeed seem to support the prohibition. However, more careful examination shows that he forbids headshaving but never mentions haircutting. Why not? There are three possibilities:

a) He sees haircutting as identical with headshaving, and therefore feels no need to mention it
b) He does not consider haircutting relevant to women
c) He specifically intends to permit haircutting.

Of these, c) seems implausible, as if haircutting is permitted, the *diyuk* that headshaving is forbidden is undermined; and a) seems implausible, as if haircutting actually improves women's appearance, and is forbidden, there is no mystery as to why the decree applies to them, with headshaving included within the decree as the equivalent of a bad haircut. That leaves b) – but is it really plausible that Pri Megadim could not imagine women simply cutting their hair? The answer to that is yes, as per the following Rosh.

<u>רא"ש מסכת מועד קטן פרק ג סימן נג</u>

תניא באבל רבתי(פ"ז): \כל ל' יום אסור בתספורת אחד ראשו ואחד זקנו ואחד כל שער שיש בו ואשה מותרת בנטילת שער לאחר שבעה, וגרסינן בפרק החולץ (דף מג א) בענין: רבי יוסי אומר: כל הנשים יתארסו חוץ מן האלמנה מפני האיבול, וכמה איבול שלהן? שלשים יום. אמר רב חסדא: ק"ו - ומה במקום שאסור לכבס ולספר מותר לארס, שלשים יום של איבול שמותר לספר ולכבס, אינו דין שמותר לארס? וש"מ שהאשה מותרת בנטילת שער כדקתני באבל רבתי, וכן כתב בה"ג דאשה מותרת בנטילת שער. וקשה לדברי האלפסי: דאי אשה מותרת בנטילת שער לאחר שבעה, דלמא שריא נמי בשבת של ט' באב?! ועוד, דנטילת שער שמתיר באבל רבתי באשה היינו ע"י טיפול סיד כדי שלא תתגנה על בעלה, ותספורת לא שייך להזכיר באשה דמגדלת שער כלילית!? ועוד הקשה הרמב"ן ז"ל: דהל"ל שאסורה לספר ולכבס ומותרת ליארס, וגבי ל' יום של איבול היה צריך להזכיר שמותרת לספר ולכבס, דתניא: "האשה מותרת בנטילת שער לאחר ז'", שאין הדבר ידוע ופשוט כל כך להקשות סתם בלא הזכרת הברייתא!? ורש"י לא גרס התם "לספר" אלא "לכבס", והכי פירוש: שאסור לכבס שבת של ט' באב, דאסורין ללבוש כלים מכובסים אפילו ישנים ואפילו אינם מגוהצים, ל' של איבול, דאינם אסורים אלא בכלים חדשים מגוהצים, וכן עיקר:

While the comparison to demonesses seems out of place, and in its original context does not seem intended to flatter, Rosh clearly states that women simply do not cut their hair, and therefore failure to mention that case proves nothing one way or the other.

One might nonetheless argue that since Pri Megadim applies the decree against headshaving to women, it naturally extends to cover haircutting as well. But this would be a misconception, I believe. The Halakhah according to Pri Megadim, rather, is that the decree banning cosmetic procedures on chol hamoed never applies to women. It is precisely because headshaving detracts from their appearance that it can be applied to them, even though, as he concedes, it does so purely mechanically. Thus I suggest, contrary to Mishnah Berurah, that there is at the least no evidence that Pri Megadim bans haircutting for women on chol hamoed.

We move on, then, to the Gra

<u>גר"א תקמו:ח</u>

"ומעברת האשה שיער מבית השחי ומבית הערוה בין ביד בין בכלי" – גירסת הרי"ף: "ומעברת סרק על פניה, וא"ד ומעברת סכין על פניה שלמטה", ובירושלמי שם: "נוטלת שערה וצפרניה ומעברת כלי על פניה. א"ר יודן אבוי דר' מתניה: בלשון נקי היא מתניתא", ר"ל פניה שלמטה. והאי "נוטלת שער" אינה תגלחת, מדל"ק "ומספרת" או "מגלחת", אלא בגוף קאמר, וכמ"ש תוספות במו"ק יח. וכן פירשו המפרשים מ"ש באבל "והאשה מותרת בנטילת שער וכו'". אע"ג שהרמב"ם שם מתיר, היינו משום סוגיא דהחולץ שאמרו: "מה במקום שמותר וכו'", ועיין בטור יו"ד סי' שצ, אבל כאן, משום שלא יכנסו לרגל כשהן מנוולין, והך גזירה ג"כ באשה, וא"א דקאי על בית הערוה – הא קאמר אח"כ "ומעברת וכו'"! אלא על בית השחי, ומדקאמר "ומעברת סכין" וקאמר "ונוטלת שערה וצפרניה", מותר בין ביד בין בכלי כמש"ל סי' תקלב וז"ש "בין וכו'".

Unlike Pri Megadim, Gra explicitly forbids haircutting. His evidence is the same *diyuk*. However, Gra apparently sees the decree against haircutting as directly applicable to women; in other words, he knows

of and forbids cosmetic haircutting for women on chol hamoed. The questions remaining are the strength of his evidence and whether there are explicitly contrary authorities.

A primary point here is that Gra is not primarily engaged in psak – rather, he is engaged to justify Shulchan Arukh's permission to shave underarm hair. He suggests that Shulchan Arukh reached this conclusion by process of elimination: the Talmud Yerushalmi permits נטילת שיער, and this cannot refer to head hair owing to the decree, and pubic hair is mentioned separately, so only underarm hair is left.

Gra knows that Shulchan Arukh is only citing Rambam in this regard, however. This makes his claim that נטילת שיער refers only to body hair weak, as while he cites Ashkenazic authorities who interpreted the phrase in that way regarding Sheloshim, Rambam himself permits women to cut their hair during shloshim.

Tosafot Moed Kattan 18a does explicitly ban haircutting during Sheloshim, although it is hard to understand why the issue is discussed there in Tosafot, which is focused on nailcutting. But Tosfot Yevamot 43a seems to permit, and in general the discussion there demonstrates that נטילת שיער is used to include haircutting.

But while Gra's evidence is weak, his authority stands. But here we turn to Arukh haShulchan:

ערוך השלחן תקמו"ז
ועושה אשה כל תכשיטיה לקישוט הפנים במועד, בין ילדה בין זקנה, והיינו שכוחלת בצבע, וכן נותנת כחול בין עיניה כדי שתהן נאות, ופוקסת – והיינו מחלקת שערה לכאן ולכאן ומתקנת שערה חוץ לצעיף, ונותנת חוטין של בצק דק על פניה להאדים הבשר, ומעברת סרק על פניה, וטופלת עצמה בסיד וכיוצא בו להשיר השיער,
ודווקא שתוכל לסלקו להסיד במועד, דאז מקבלת תענוג מזה, דבשעה שהסיד על פניה מצטערת קצת, אך אח"כ שמחה היא לה, ולכן אם השמחה תהיה במועד מותר, ואם לאחר המועד אסור,
ומעברת שיער מבית השחי ומבית הערוה בין ביד בין בכלי, ומעברת השיער שעל פדחתה בסכין. וכל אלו קשה לעשותן קודם המועד, שתקלקל, ואפילו בלא זה א"א להחמיר על אשה בתכשיטיה, שכל שמחתה היא בתכשיטיה וזהו עונג יו"ט שלה, אבל האיש אסור לו מיני תכשיטין במה שיש בהן מלאכה, דגם בלא"ה אין לאיש להרבות בקישוטין ותכשיטין משום ""לא ילבש גבר שמלת אשה", כמ"ש ביו"ד סי' קפב.

Arukh HaShulchan seems to state that by definition the decree cannot apply to women, even with regard to cosmetic activities they could have completed before yom tov. While he never mentions haircutting, it seems clear that he would permit it, and that he argues fundamentally with Gra.

Finally we turn to Ritva.

ריטב"א מועד קטן דף ח עמוד ב
עושה אשה תכשיטיה במועד פי' שזה צורך הגוף הוא וכעין אוכל נפש ולפיכך עושה כדרכה ובלא שינוי ובטירחא רבה ולא גזרו בה שמא תכנס לרגל מנוולת דקשוט מילתא דצריכא כל יומא ויומא הוא ועוד שאין דרכן להשהות

Ritva supports Arukh HaShulchan against Gra, let alone Magen Avrohom, by saying that the decree intentionally excluded women from its ambit. It follows that Gra is a shitat yachid (minority position). Furthermore, a rule of psak is that the authority of precedent is greatly diminished when new evidence is presented that was not available to the original decisors, and to my knowledge the Ritva was not available to the Gaon. Accordingly, b'mechilat kvod the Gra and with trepidation, it seems to me that at least bish'at hadchak women may have haircuts on chol hamoed.

May women have their hair cut on chol hamoed? On a technical halakhic level, I argue in the companion shiur to this dvar Torah that the answer is yes. What I want to do here is discuss four metahalakhic questions relative to this specific issue.

The first – and this is perhaps the safest topic we can choose to discuss this generally explosive question – is what sort of attitude we should have toward gender distinctions in Halakhah. Here I must acknowledge that this framing – which assumes that gender distinctions constitute a discrete category, toward which a consistent attitude is appropriate – is borrowed from American constitutional law's notion that various

distinctions can be subjected to loose, intermediate, or strict scrutiny. But I think it offers a valuable tool to poskim, and I specifically favor subjecting potential Jew-Gentile distinctions in interpersonal halakhot to strict scrutiny.

This cannot, however, be the case with regard to gender in Halakhah – there are simply too many areas in which the distinction is deeply ingrained, and others in which such distinctions flow inexorably from physical differences. But there is nonetheless room for some form of scrutiny, especially when potential rulings seem to assume psychological or intellectual differences between men and women.

The second question is whether we ought to evaluate potential gender distinctions primarily in terms of their outcomes or rather in terms of their reasoning. What are we to do if the best way to reach the solution we see as most compatible with justice and with properly recognizing the tzelem Elokim in every human being is to utilize a legal rationale that seems sexist or even misogynist?

For example: Some understandings of the exegetical basis for the exclusion of women from the obligation to procreate can easily be criticized as sexist: "It is the way of men to conquer, but not the way of women". To counter this critique, a posek might seek to play up the positions that see women as rabbinically obligated. But a primary effect of the exemption is to prevent women from being halakhically coerced into procreative sex, and generally to give them halakahic control of their sexuality, and this effect can be undone by the position that they are rabbinically obligated.

The third question is the extent to which we are willing to concede that past halakhot simply cannot be extended to current circumstances – the differences are just too great. This issue presents differently with regard to d'oraita law, where we are committed to the position that the Torah's Author foresaw all future circumstances and legislated accordingly, and d'rabbanan law, where we have no such theological commitment. Thus, for example, Rav Moshe Feinstein takes the position that doing otherwise prohibited labor via preset electric timers often falls into a category of "appropriate to forbid but not actually forbidden", on the ground that the Talmudic Rabbis were unaware of electricity and therefore could not have legislated regarding it.

The fourth question is the extent to which we are willing to undo past authoritative rulings, especially those of Rav Yosef Karo in Shulchan Arukh, on the basis of our considerably larger-than-his library of the works of the rishonim and of variant manuscripts of all rabbinic texts. The potentially destructive effects of allowing such overturning can be seen in halakhic civil law, where plaintiffs can succeed only if the defendant has no plausible defense. A primary task of halakhic civil jurisprudence, therefore, is to eliminate positions from the discussion, and this the Shulchan Arukh accomplished admirably; the standard rule is that positions not mentioned in the Shulchan Arukh are halakhically irrelevant in civil matters. And yet, it is hard to allow rulings that no longer accord with the weight of textual evidence to stand, especially when they seem to us to have deleterious consequences.

Let me give very brief answers to these questions, in reverse order, in the expectation that there will be many occasions to discuss them in more detail and depth in the future.

4) We should resist the temptation to establish a bright line in this area and argue that the Halakhah must be determined either by pure historical/interpretational truth, as we understand it, or else by pure halakhic process establishing irreversible precedent. Rather, we should take the nuanced position that precedent generates significant but not infinite inertia, varying with its antiquity and the weight of the authorities who establish it, which can be overcome by some compelling combinations of contrary evidence, practical need, and moral intuition.

In the case of women's haircuts on chol hamoed, the weight of precedent seemed to me extremely weak and the contrary evidence quite strong. I did not see a real issue of morality involved, and practical need would be a function of specific cases only.

3) I think there are actually three positions possible here:

a) Laws should be seen as inevitably extending to whatever new circumstances seem to present the same issues.
b) Laws can only extend to circumstances that could plausibly be seen as having been conceived of when the law was made
c) Laws may or may not be extended to cover new circumstances at the discretion of contemporary decisors, subject to the willingness of the community to follow them when they exercise that discretion. In such cases, it should be evident, what are formally judicial decisions are in practice legislative acts.

I favor the last approach. In the case of women's haircutting, the question then became whether we should extend the decree made regarding men to women. It seemed to me that this was probably extending the wrong rabbinic ray, that we should instead extend the exceptions for cosmetic bodyshaving and tweezing etc. to this case

2) Here again we should avoid bright-line answers. There are times, circumstances, and issues in which it is appropriate to focus on symbols; I cannot think of any non-extreme case, for example, in which I would pasken based on the sometime principle that "women's wisdom is only with the shuttle" – maybe to be matir an agunah. But as a general rule it is wiser to focus on results, although one must always recognize that the results of a halakhic ruling are not just the immediate case, but also all cases for which that case will become precedent.

In our case, it is not clear to me that the presumption that women's happiness often depends on their sense of their own appearance is sexist, although taking the extreme formulation of Arukh haShulchan that "their entire happiness is in their adornments" literally rather than hyperbolically might be sexist. But I take it hyperbolically, and therefore am comfortable using Arukh haShulchan's consequent ruling as precedent.

1) I suggest that the standard should be that the proposed distinction has a purpose plausibly defensible in non-sexist terms and the proposed distinction should plausibly relate to genuine differences in the religious, political, social or other experience of men and women. In this case, the desire to make women's yom tov experience happier is certainly defensible in non-sexist terms, and I suggest that it plausible relates plausibly to the different norms and expectations governing male and female hair grooming and growth in our society.

Accordingly, I see no barrier to ruling permissively on this question.

Must a Diasporan Observe Yom Tov Sheini in Israel?

June 4, 2005

מאמר זה מנסה לברר כמה ענינים השייכים לשאלה הקלאסית איך ינהגו בני חוץ לארץ הנמצאים בארץ ישראל ב"יום טוב שני". אף שכבר הלכו נמושות בסוגיא זו, טענת המאמר היא שמקום הניחו לנו להתגדר בו. המאמר ממקד על ענינים שיש להם השלכות הלכה למעשה, או לפחות שיש להם פוטנציה ולגיטימציה במערכת ההלכה. שאלות הנוגעים רק לבירור האמת ההיסטורי וכדומה מופיעים רק אם כדאי לפוסק הלכה להתמודד עמהם.

נתחיל ברשימת הטענות, כן ולא, בענין.

"יום טוב שני של גלויות" נתחדש בזמן בית שני. אחרי שקלקלו הכותים את דרך ההודעה המקורית – "בראשנה היו משיאין משואות" - שאיפשר ידיעת קביעות החדש בכל העולם תוך שעות, התקינו שיהיו שלוחים יוצאים. אמנם השלוחים לא הצליחו להגיע לרוב ארץ בבל תוך שבועיים, ולכן יהודי בבל היו בספק של ממש מדי שנה בשנה איזה יום הוא יום טוב ראשון של פסח וסוכות, ועל כן קיימו יום טוב שני מצד הדין ולא בתורת מנהג.

התחדשות קביעת החדשים על ידי חשבון ביטל ספק זו. אבל לפי התלמוד הבבלי נשתלח פסיקה מארץ ישראל לבבל שחייב המשכת יום טוב שני בגולה. "שלחו מתם: הזהרו במנהג אבותיכם בידיכם, זמנין דגזרו שמדא ואתי לאקלקולי [15]". נראה מפשט הלשון שחייבו המשכת יום טוב שני מחשש שמא יבוטל החשבון על ידי שמד. מסתברא שאין מקום לחשש זו לאחר שפירסמו החשבון להמון בלוחות וכדומה, ובפרט בזמננו שכבר יש הרבה ספרים שמפרטים החשבון למאות שנים, אמנם המסורת ההלכתית לאו בתר טעמא אזיל, אלא מניח שהחיוב נובע מחיוב כללי לגבי מנהג אבות או מגזירה דרבנן להמשיך מנהג זו אף שבטלה טעמה. לכן קשה למצוא במסורת שיטה שמעלה אפילו מציאות תיאורטי שבו יבוטל יום טוב שני לגמרי.

ברור שבזמן שהשלוחים יצאו, בני הגולה שעלו לרגל לא קיימו יום טוב שני, שהרי מאחר שהגיעו לארץ לא היו מסופקים עוד בענין, בדיוק כמו תושבי הארץ. שאלתינו היא אם לאחר חידוש החשבון גזרו מחדש אקרקפתא דגברא, או שמאחר שהוחלף מדין למנהג שייך ליתן על בני הגלות שעלו לרגל חומרי המקום שיצאו משם. נעיין באפשריות אלו אחת אחת.

הכלל "נותנין עליו חומרי המקום שצאו משם" מופיע במשנה בעיותי במסכת פסחים נ.

מקום שנהגו לעשות מלאכה בערבי פסחים עד חצות - עושין;
מקום שנהגו שלא לעשות - אין עושין.
ההולך ממקום שעושין למקום שאין עושין, או ממקום שאין עושין למקום שעושין - נותנין עליו חומרי מקום שיצא משם, וחומרי מקום שהלך לשם.
ואל ישנה אדם מפני המחלוקת.

הגמרא מפרש המשפט האחרון ככה – ואל ישנה אדם ממנהג המקום שבא לשם, מפני שאם ישנה יגרום מחלוקת. אם מפרשים כן, יש סתירה גלויה במשנה, שהרי נאמר במשפט הקודם שנותנים על אדם חומרי המקום שיצא משם אף אם בא למקום שבו אין נוהגים חומרא זו!

אביי ורבא שניהם מתרצים סתירה זו. אביי אומר ש"אל ישנה" הוא הטעם שנותנין על אדם חומרי המקום שבא לשם, אבל אין לו קשר להלכה של חומרי המקום שיצא משם, וצריכים אנו לומר שמקום המשפט במשנה לאו דוקא. רבא אומר שבפרט בענין המנהג שלא לעשות מלאכה בערבי פסחים אין בעיה של מחלוקת, שהרואה אדם נוהג כמנהגו לחומרא יחשבהו לבטלן ולא למחמיר. "מאי קא אמרת: הרואה אומר מלאכה אסורה? מימר אמרי: כמה בטלני הוי בשוקא."

הנפקא מינה בין רבא לאביי הוי אם חייב או רשאי אדם לנהוג חומרי המקום שיצא משם אף כשזה יגרום מחלוקת. לפי אביי חייב, ולפי רבא אינו רשאי. על פי הכלל שהלכתא כרבא לגבי אביי חוץ מיע"ל קג"ם, הלכה כרבא שאינו רשאי. יוצא מכך שאילו היה קיום יום טוב שני של גליות בארץ ישראל גורם מחלוקת, היה אסור לקיימו, למרות ההתחייבות הכללי בחומרי המקום שיצא משם.

לכאורה נראה שאיו נפקא מינה זו שייך לענייננו, שהרי אף רבא יודה כאן שחייב להמשיך מנהגו, שהרי התנצלותו מהסיפא של המשנה – "מימר אמרי כמה בטלני הוי בשוקי" – שייך גם כאן. אבל לאחר עיון נראה שיש לחלק בשני אופנים. תחלה, קיום יום טוב שני כולל גם חומרות גם קולות, בפרט ביום טוב אחרון, שהרי אין לובשים בו תפילין ומתפללים בו תפלת מוסף והלל ואומרים קידוש היום בלילו וכהנה רבות. שנית, המנהג להבטל ממלאכה בערבי פסחים אינו מוגדר על ידי הפסוק "מלאכת עבודה", אלא אוסר עשיית עבודתו של אדם כדי שיכין היטב לעשות קרבן פסחו. ברור שמותר לעשות כל המלאכות הצריכים לפסח – הגע עצמך: האם אסור להדליק אש מחדש לביעור חמץ? ופשוט שגם אין איסור לאדם להדליק אש בביתו אם הוא קר

[15] ביצה ד:

וכיוצא בו. למרות זאת, ביום טוב שני כל מלאכת עבודה אסורה, וקשה לומר על מי שאינו עושה מלאכה אפילו לדבר האבד או לצורך גדול שהרואים יחשבוהו לבטלן בעלמא.

החילוק הראשון מוזכר בשו"ת אבקת רוכל סימן כו. נביא את הקטע שבו הוא מוזכר תחלה, ולהלן נחזור לדון בתשובה בכללה.
ועל כרחינו לומר דסבירא להו לגדולי עולם דע"כ לא תני אל ישנה אדם מפני המחלוקת אלא במלאכה ודכוותא, דאפשר למיפק מינה חורבה, אבל בתפילה, אף אם יתפלל כמנהג מקום שיצא משם, לא נפיק מיניה חורבה וליכא למיחש בה למידי.

כנראה, ה"חורבה" שלה חושש ר' יוסף קארו היא היא ה"מחלוקת" הנזכר במשנה. אם כן, טענת התשובה היא שאין שינויים בנוסח התפילה וכדומה גורמים מחלוקת. אמנם, לדאבוננו החוש מכחיש סברא זו כמעט יום יום. על כן קשה להבין דברי הרב בית יוסף כאן.

החילוק השני עדיין לא מצאתי מפורש בספרות ההלכה, אבל נדמה לי שזה מפני שהוא פשיטא. ובדידי היתה מעשה שסירוב לעשות מלאכה בארץ ישראל ביום שמיני של פסח גרם תמיהה וערבוביא גדול. כדאי להזכיר שלא ברור שאף האבקת רוכל יתחייב קיום יום טוב שני במקום שאי אפשר להמנע ממלאכה בצינעא.

ולבד מזה לא ברור שקיום יום טוב שני הוי בעצם חומרא, מאחר שאין לובשין בו תפלין ומתפללים בו מוסף)ביום טוב אחרון(וכדומה. גם לא ברור שהכלל שייך למנהגי חומרא שאינם נובעים משיטות הלכתיות[16].

על כן נלע"ד שאין כלל "נותנין עליו חומרי שני המקומות" מחייב קיום יום טוב שני בארץ ישראל.

אמנם כבר הזכרנו שלפי כמה ראשנים אין מקיימים יום טוב שני האידנא מתורת מנהג אלא מתורת גזירה[17]. אם כן, צריך עיון אם הגזירה היה אקרקפתא דגברא או אקרקפתא דארעא או אקרקפתא דגברי ארעא בארעא. מפתשגן הכתב ששלחו מתם – "הזהרו במנהג אבותיכם בידכם" - נראה שהגזירה היה להמשיך את המנהג הקודמת, והמנהג הקודמת, כלומר לפני שחידשו הלוח, בודאי היה שבני חוץ לארץ קיימו יום טוב שני רק בחוץ לארץ. לכל הפחות הטוען שחידשו בגזירה זו חיובים חדשים עליו להביא ראיה, ועד כאן לא ראינו ראיה.

יש שטענו שלא רק שאין חיוב על בני חוץ לארץ לקיים יום טוב שני בארץ ישראל, אלא שאסור להם לקיימו שם משום "בל תוסיף". לכאורה טענה זו חזקה, שהרי באמת הוא מקיים את החג שלא בזמנה בכוונה לצאת. אמנם, לאחר עיון נראה שאין בו ממש, שהרי יש להקשות אותו הקושיא על קיום יום טוב שני בחוץ לארץ. על כן פשוט שאין המקיים מנהג או גזירה עובר משום בל תוסיף, ואם באמת יש חיוב לבני הגולה לקיים יום טוב שני אף כשהם בארץ ישראל, לא ימנעו מכך משום בל תוסיף.

בכל זאת, טענה זו דרך כלל מובא בשם החכם צבי. נראה למטה שזה הבנה של שיבוש בדבריו.

אבל נדמה לי שיש לטעון שקיום יום טוב שני בארץ ישראל אסור משום לא תתגודדו. לפי שיטת הרמב"ם (הלכות ע"ז יב:יד), שמגדיר איסור לא תתגודדו כאיסור לגרום מחלוקת ע"י חילוק מנהגים, אין בזה חידוש, שהרי כבר ראינו שלפי רבא אסור לשנות מפני המחלוקת. אבל לשיטת רש"י אין לא תתגודדו אוסר דברים הגורמים מחלוקות, אלא, כמו שנראה בסמוך, כמעט ההיפך.

לפי רש"י ביבמות יג: איסור לא תתגודדו מדאורייתא אוסר יצירת מצב שבו התורה נעשית שתי תורות, ומדרבנן יצירת מצב שבו מיחזי שהתורה נחלק לשתי תורות. על פי זה אסור משום לא תתגודדו לשנות ממנהג המקום דוקא כשזה לא יגרום מחלוקת, שדוקא כשיהודים מודים שיש ליהודים אחרים הרשות לנהוג אחרת, התורה נראית כשתי תורות[18].

לפי רש"י, ההתנצלות של רבא "מימר אמרי כמה בטלני איכא בשוקי" אינו מונע מחלוקת, אלא מונע ההכרה שיש כאן חילוקי מנהגות. כבר ביארנו שאין סברא זו שייך כלל לאיסור מלאכה ביום טוב. בנוסף לזה ברור שאף אם האבקת רוכל צודק שאין שינוי במנהגי תפלה גורם מחלוקת, היא גופא הטעם שחילוק כזו יאסר לפי רש"י.

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[16] דרך כלל יש לחלק בהלכה בין מנהגים לפנים משורת הדין, או שאינם נוגעים לדין, לבין מנהגי פסק, כלומר לנהוג כפי שיטה מסויימת אע"פ שאיננו מוכרח. הסוג הראשון מחייב רק מתורת נדר, והסוג השני נלמד מ"אל תטוש תורת אמך". לפי יבמות יג: המנהג שלא לעשות מלאכה בערב פסח קודם חצות הוי מנהג הפסק, ואם כן אפשר שכל הכלל של "נותנין עליו חומרי המקום" אינו שייך למנהגים מסוג האחר.

[17] עיין לדוגמא פסקי רי"ד פסחים נא:

[18] בד"ה לא תעשו אגודות אגודות רש"י כותב "דנראה כנוהגין ב' תורות כשקורין כפרים את המגילה ביום כניסה ועיירות גדולות בי"ד ומוקפין חומה בט"ו", וכן בד"ה אמינא לך אנא איסורא כותב "דאסרי להו רבנן לבני ארביסר דאי בעו למיקרא בחמיסר לא מצו, וכן בני ט"ו בי"ד, ודמיא לשתי תורות", וכן בד"ה א"ל התם כותב "לא דמי לשתי תורות דהרואה את זה שאין עושה מלאכה אומר דאין לו מה לעשות." בד"ה ואת אמרת לי מנהגא הוא כותב "דהתם לכולי עלמא שרי, ומיהו באתרא דאחמור לא ישנה את דרכו מפני המחלוקת", כלומר שיש בעיא של מחלוקת אף כשלכולי עלמא אין בעיא של לא תתגגודדו, דהיינו בעית שתי תורות.

על כן נראה שלדעת רש"י קיום יום טוב שני בארץ ישראל אסור משום לא תתגודדו דרבנן.

לסיכום – מן התלמוד בבלי שבדפוס אין מקור לחייב קיום יום טוב שני על ידי בני הגולה העולים לרגל. האיסור לגרום מחלוקת, יהיה מקורו מה שיהיה, ואיסור לא תתגודדו לפי הבנת רש"י, אוסרים קיום זה לפחות בפני בני הארץ. אמנם אין בקיום זה משום בל תוסיף.

נבוא עכשיו לשלשה טקסטים שמצד ההיסטוריה השפיעו הרבה על הבנת ענייניו במסורת ההלכתית: שו"ת חכם צבי סימן קסז, שו"ת אבקת רוכל סימן כו שראינו כבר, וחידושי החתם סופר.

א) החכם צבי מביא בתשובתו שתי טענות נגד קיום יום טוב שני בארץ ישראל

דרך כלל מסבירים שהחכם צבי טוען שאסור משום בל תוסיף לקיים יום טוב שני בארץ. ראינו למעלה שאין זו טענה של ממש, וגם החכם צבי הבין כך.

לאמיתו של תורה החכם צבי טוען שכלל "נותנין עליו חומרי המקום שיצא משם" שייך אך ורק למנהגים שמצד הדין מותר לבני המקום שבא לשם להנהיגם. אחרי שאילו היו תושבי ארץ ישראל מקיימים יום טוב שני מדעתם היו עוברים על בל תוסיף, אין הכלל שייך למנהג זו. הוא מדגיש כמה פעמים שאין כאן בעיה של בל תוסיף לבני בבל, אלא שאסור להם לקיים מנהגם מפני שזה היה אסור משום בל תוסיף לתושבי הארץ.

החכם צבי אינו מנמק טענתו. אמנם נראה לי שהוא מבוסס על שיטת רש"י בענין לא תתגודדו, כלומר האיסור להראות שישנו שתי תורות. קשה ליצור מקרה שיותר מיחזי כשתי תורות מזה שאחד חייב לעשות מה שהוא איסור תורה לחבירו העומד אצלו! החכם צבי טוען שההסבר שהתלמוד נותן להמשכת יום טוב שני – "דלמא ..." - אינו שייך בארץ ישראל. על כן, הוא אומר, ברור שלא גזרו בישירות על קיום יום טוב שני בארץ. על כן, לדעתו, אין סברא חוץ מהכלל "נותנין עליו חומרי המקום" לחייב אותו קיום. אי-שייכות כלל זו מבואר על ידי טעמו השנית, שקיום מנהג זו נראה כשתי תורות.

ב) שו"ת אבקת רוכל מעיד שקיימו יום טוב שני בארץ בימיו, אמנם אינו מסביר למה – הוא רק מתרץ למה אין זה אסור. הוא בעצמו גמגם במה שהתפללו תפלת יום טוב שני בפרהסיא, ומתרץ, כמו שראינו למעלה, בדוחק גדול.

את עדותו של הרב המחבר בודאי אנו חייבים לקבל. אמנם כדאי להזכיר שאף הוא לא כתב שהרבנים תמכו במנהג זו, אלא שלא מיחו בו. והמעיין בספרי השו"ת שלאחריו ימצא הרבה היתרים פרטיים לאי-קיום יום טוב שני על ידי עולי רגל – רווק, מתעכב לשלשים יום, וכו' - שמהם ברור שאילו היה בן גולה נוהג כמנהג המקום, אף הפוסקים שמעיקר הדין חייב לקיים יום טוב שני לא היו יכולים למחות בו. גם כדאי להזכיר שהמחבר לא הביא הלכה זו בתוך חבורו הגדול השלחן ערוך. וגם כדאי להזכיר שאיננו מביא שום מקור מקודמיו בתשובתו. לבסוף, כדאי להזכיר שתשובתו אינו מתייחס לענין עשיית מלאכה, ולפי סברתו ברור שאסור להמנע ממלאכה אם זה יודע לתושבי הארץ. ובאמת היה תמוה אם שאלה כזו, שהיתה למעשה ברוב השנים, אינה נזכרת בספרות המסורת קודם המאה השש עשרה. ועיין מה שאכתוב על זה לקמן.

ג) החתם סופר (בחידושיו לפסחים נא:) מצא אחד מקודמיו שמתייחס לשאלה בישירות , והרי הוא הראב"ן. נראה שר' יוסף קארו לא ראה ספר ראב"ן בפנים – עיין בית יוסף שמצטט הראב"ן רובו ככולו מתוך ההגהות מיימוניות - ועל כן לא ראה המשפט שהחתם סופר מצטט.

לפי דפוס ווילנא, כתוב ככה בפסחים נא.

אמר ליה רב ספרא לרבי אבא: כגון אנן דידעינן בקביעא דירחא, ביישוב לא עבידנא מפני שינוי המחלוקת. במדבר מאי? אמר ליה: הכי אמר רב אמי: ביישוב - אסור, במדבר - מותר.

לכאורה אין סוגיא זו שייך לענייניו. לפי רש"י, ר' ספרא היה בבבל, אלא שידע, ע"פ החשבון, באיזה יום יקבעו החדש בארץ ישראל. (כראה רש"י סובר שלא פירסמו החשבון לעמי הארץ בתחלה.) אבל החתם סופר הכיר שגירסת ראב"ן היתה אחרת. והנה גירסת הראב"ן כאשר העתיקו החתם סופר.

א"ל רב ספרא לרבי אבא: אנא דידענא בקביעא דירחא, ובני מקומי עושין שני ימים, כי קאזילנא לארץ ישראל, דלית להו אלא חד יומא, ביישוב לא עבידנא משום חומר מקום שאני משם. במדבר של ארץ ישראל מי עבידנא ביום שהוא חול? מי אמור רבנן בכי האי גוונא במדבר נותני' עליו חומרי המקום שיצא משם, אי לא?

וא"ל: הכי אמר רבי אמי: בישוב – אסור, במדבר - מותר.

מדבעא מיניה מדבר של ארץ ישראל, מכלל בכל מקומות ארצו אסור! שמע מינה דדבר שנוהגין בו איסור במדינת בבל בכל פרוותא אסור לשנות,

והיינו דאמרי' בבל וכל פרוותא נהוג כרב, נהרדעא וכל פרוותא נהוג כשמואל.

לפי גירסא זו ר' ספרא היה בן בבל העולה לרגל, ושאלתו כנראה הוא ממש שאלתינו. גם ברור שהתשובה היא שצריכים לקיים יום טוב שני ב"יישוב ארץ ישראל" מפני חומרי המקום שיצא משם. אבל תשובה זו קשה משתי טעמים. תחלה, כבר הוכחנו מצד הסברא שאין כלל "חומרי המקום" שייך לענייננו. שנית, אם נניח ששייך, למה לא יחייב קיום יום טוב שני אף במדבר ארץ ישראל? הלא איפכא מסתברא – ביישוב יש חשש מחלוקת, מה שאין כן במדבר!

לתרץ דברי הראב"ן, החתם סופר מחדש בחריפות. הוא טוען שמסתבר שעיקר הגזירה לשמור יום טוב שני חל על יישוב הגולה. מטעם לא פלוג, המשיכו את הגזירה למדבר הגולה ויישוב ארץ ישראל. אמנם, לא המשיכוה למדבר ארץ ישראל, שהרי אם כן יהיה "לא פלוג דלא פלוג" וכעין גזירה לגזירה. הסברה זו נראית נפלאה ודוחק גם יחד, אבל קשה למצוא אחרת.

כדאי להזכיר כאן שהחתם סופר הבין שהחכם צבי חשש לאיסור בל תוסיף ממש בקיום יום טוב שני בארץ, והורה הלכה למעשה ככה: שבן הגולה שעלה לרגל יקיים יום טוב שני בתוך היישוב, אלא שכדי לצאת ידי חשש החכם צבי יצא למדבר במשך היום ושם יעשה מלאכה.

אמנם בדפוס היחיד של הראב"ן שהיה בעולם בימי החתם סופר כתוב ככה:
*א"ל **רב חסדא** לרבי אבא: אנא דידענא בקביעא דירחא, ובני מקומי עושין ב' ימים, כי קאזלינן לארץ ישראל, דלית להו אלא חד יומא, ביישוב לא עבידנא משום חומר מקום שאני **שם**. במדבר של ארץ ישראל מי עבידנא ביום שהוא חול? מי אמור רבנן בכי האי גוונא במדבר ותני' עליו חומרי המקום שיצא משם אי לא?*
וא"ל: הכי אמר רבי אמי: בישוב – אסור, במדבר - מותר.
מדבעא מיניה מדבר של ארץ ישראל, מכלל בכל מקומות ארצו אסור! שמע מינה דדבר שנוהגין בו איסור במדינת בבל בכל פרוותא אסור לשנות, והיינו דאמרי' "בבל וכל פרוותא נהוג כרב, נהרדעא וכל פרוותא נהוג כשמואל."

ברור שהחתם סופר ציטט את הראב"ן מתוך זכרונו, שהרי הוא כתב "ר'ספרא" כמו דפוס התלמוד שלנו במקום שבראב"ן כתוב "רב חסדא". לפיכך יש לשער שגם השינוי מ"שם" ל"משם" נעשית בלא כוונה[19].

אסור לקיים יום טוב שני ביישוב, –הסוגיא לפי ציטוט הראב"ן לכאורה אומרת היפך דברי החתם סופר לכאורה משום לא תתגודדו, אבל מותר במדבר. גירסא כעין זו גם מובא ברבינו חננאל על אתר ובראבי"ה. גירסא זו, כפי שהסברנוה, מסתבר, אבל גם בו יש דוחק, שהרי לפיה צריכים לפרש "ביישוב- אסור" שאסור לקיים היום טוב. גם נראה דלא כפירושינו מהמשך דבריו, שבהם ברור שקיום יום טוב שני נחשב חומרא ושייך לכלל "נותנין עליו חומרי המקום שיצא משם". ולבסוף, קשה להבין לפי גירסתו מה ידיעתו בקביעא דירחא מעלה או מוריד.

בכדי לסיים המאמר, נביא עוד משהו מעניין בסוגיא. השלחן ערוך הרב אורח חיים תצו:יא פוסק כהחכם צבי, ומביא שי"א שני ימים. יש הערה ריקה על הפסק שלו, והראב"ן מופיע בהערה הבאה כמקור הי"א . מהיכן בא הערה ריקה זו, ומדוע הי"א מובאים בשם הראב"ן קשה ההבנה ולא בשם האבקת רוכל?

להבין זה צריכים לדעת שההערות לשו"ע הרב נדפסו לאחר מותו. נראה לי שהעורך מצא את שם הראב"ן בהערה לסימן זו, אולם הוא הגיה בראב"ן כהחתם סופר ואפשר שלא הכיר אותו חוץ מציטוטו של החתם סופר. על כן היה ברור לו שהראב"ן סבר כהיש אומרים, ותמה למה לא הביא הרב מקור לשיטתו המקורית, והכניס הערה ריק לפני הראב"ן. אמנם בעל התניא שפיר ראה הראב"ן וחשבו מקור לשיטת החכם צבי.

[19] אבל בשו"ת יביע אומר ו:או"ח:מ שמגיה בכוונה: "[צ"ל מ]שם".

Advanced Brisk for Beginners: Rav Chayim Soloveitchik on the Obligation to Eliminate Chametz

March 30, 2012

One of my old ambitions was to put out an English version of Rabbeinu Chayim HaLevi al HoRambam that made the beauty of Brisker lomdus accessible to those with no yeshiva background – the ArtScroll Rav Chayyim. That's unlikely to happen at this stage (and perhaps ArtScroll has already found an author), but I thank Ethan Hauser for sending me back to Rav Chayyim this week, and here's a very rough, and much less accessible, version of what might have been:)

1. Rambam in Laws of Chametz and Matzah 1:3

One does not get lashes for violating *lo yeiraeh* and *lo yimatzei*[20] unless one acquired chametz on Pesach or else caused something to become chametz, so that one does an action in order to violate, but if one had chametz prior to Pesach, and was not *mevaer*[21] it, but rather left it under one's authority, even though he violated the two DO NOTs mentioned above, he is not liable to lashes under Biblical law, because he did not do an action in order to violate (*lo asah bo maaseh*).

A. How can Rambam claim that one gets lashes for violating *lo yeiraeh* and *lo yimatzei* under any circumstances?! The Talmud on Pesachim 95a says explicitly that these DO NOTs are consider to be *nitak* to the DO (*laaseh*) of *tashbisu,* and the rule is that any DO NOT that is *nitak* to a DO is not subject to lashes!?
    a. Other versions of Pesachim 95a make no mention of the issue of nitak laaseh, and rather declare these DO NOT's to be DO NOT's not involving actions, perfectly in accordance with Rambam. However, this only transfers the question from Rambam to the Talmud – why does the Talmud in these versions not consider them nitak laaseh? And if one wishes to suggest that the Talmud in these versions picks on of two possible reasons, that just transfers the question back to Rambam!
    b. There are at least three formulations of the rule that one does not get lashes for a DO NOT *she'ein bo maaseh:* that it applies to
        i. any DO NOT that can ever be violated without action;
        ii. only to DO NOT's that can never be violated without action
        iii. to any DO NOT when it is violated without an action.

        Rambam here seems to adopt position 3.

B. There are in theory at least two ways to approach the question of how *lo yeiraeh/yimatzei* cannot be considered *nitak laaseh*.
    a. One might understand *nitak* as implying "undoable", and then define these DO NOTs in such a way that they cannot be undone.
        i. The classic *nitak laaseh* is the prohibition against leaving sacrifices that may be eaten for specific time periods uneaten at the end of those periods – *lo totiru mimenu ad boker*. This is *nitak* to the DO of burning the leftover meat.
        This suggests that the prohibition is defined by the end condition, namely that the meat is unconsumed, rather than by the state, i.e. that the meat existed after the time that it should have been consumed.
        Perhaps the DO NOTs of chametz are defined differently, not by the end condition of chametz existing that should have been destroyed, but rather by the person possessing chametz during a time in which he should not have. In this case the subsequent elimination of the chametz (tashbisu) prevents further transgression, but cannot undo the past.

[20] "Lo yeiraeh" and "lo yimatzei" are a mostly combined pair of prohibitions against maintaining certain kinds of relationships with chametz on Pesach.
[21] This term is defined below.

All agree that *tashbisu* cannot be fulfilled after Pesach, which suggests that the formulation above is correct, i.e. that the prohibition is not defined by the end state, as if that were so, why should there not be a permanent DO of eliminating it? But this is far from an absolute proof.

ii. The DO of *tashbisu* is defined in a way that prevents it from undoing the DO NOTs.

Rav Chayyim adopts method 2. He begins by connecting our problem to another problem raised regarding *tashbisu*.

2. Tur OC 445 writes:

To derive benefit from the ashes of Chametz (that a Jew possessed in violation of *lo yeiraeh/yimatzei,* and subsequently burned in fulfillment of *tashbisu*) – that depends on the dispute between Rabbi Yehudah and the Rabbis:
According to Rabbi Yehudah's position that *biur chametz* (which we will treat as the fulfillment of *tashbisu,* at least with regard to chametz that has already violated the DO NOTs) requires burning, the ashes are permitted, as we generally hold that "All things (from which one is forbidden to derive benefit) that must be burnt – their ashes are permitted",
Whereas according to the Rabbis' position that *tashbisu* can be fulfilled by a variety of means (such as scattering it to the winds), even if one burnt the chametz, the ashes are forbidden, as ""All things (from which one is forbidden to derive benefit) that must be buried – their ashes are forbidden".

A. Rabbi Akiva Eiger attacks Tur as follows:
   a. Tosafot write that the reason for the rule above regarding those that must be burnt/buried is that there is a mitzvah to burn those that must be burnt, so that once they are burn they are considered *naaseit mitzvatan* (literally "their mitzvah has been done), whereas there is no mitzvah to bury those that must be buried, rather one must do so to remove the spiritual obstacle they pose (as people will likely end up deriving benefit from them so long as they remain accessible.
   b. But Rabbi Yehudah and the Rabbis agree that *tashbisu* is a mitzvah to dispose of the chametz, not merely a precaution; they only disagree about which methods of disposal are valid. Therefore, even the rabbis should believe that *chametz* that has been burnt in fulfillment of *tashbisu* – even if t*ashbisu* can be fulfilled by means other than burning – is *naaseit mitzvatoI,* and should be permitted.
B. Rav Chayyim suggests, in response and opposition to Rabbi Eiger, that
   a. the dispute between Rabbi Yehudah and the Rabbis is not only about the appropriate modality of *tashbisu*, but rather is a fundamental dispute about the nature of the prohibition.
      According to Rabbi Yehudah, the mitzvah inheres in the chametz-object, that one must burn it, whereas according to the Rabbis the mitzvah is to ensure that the person no longer has *chametz*
   b. the rule that ashes are *naaseit mitzvatan* applies only when the relevant *mitzvah* inheres in the object
   c. Therefore Tur is correct in saying that the Rabbis would not permit the ashes of burnt *chametz*
      i. Rav Chayyim offers no justification for his claim that the dispute between Rabbi Yehudah and the Rabbis is fundamental. I suggest that his intuitive ground Is that according to the Rabbis, it seems evident that fulfilling *tashbisu* does not prevent one in theory from violating *lo yeiraeh/yimatzei* with regard to the very same object of chametz – if one threw it to the winds, and then ate a surviving crumb one found days later, why would that not be prohibited? All the more so if someone else ate it.
      ii. This incidentally gives one a boundary condition of "burning" according to Rabbi Yehudah, more sharply a way of distinguishing it.

The chametz must be burnt to the point at which, if it had been burnt before Pesach, a Jew would have been permitted to possess it on Pesach.

C. Rav Chayyim now resolves the difficulty with Rambam as follows:
    a. A DO NOT can considered *nitak laaseh* only if the DO has a positive purpose, rather than being simply a positive formulation of a negative purpose.
    b. According to the Rabbis, *tashbisu* is simply a positive formulation of the negative purpose, i.e. that a person not possess *chametz* in violation of *lo yeiraeh/yimatzei*.
    c. Therefore, according to the Rabbis *lo yeiraeh/yimatzei* are not *nitak* to the *aseh* of *tashbisu*.
    d. The Talmudic discussion on Pesachim 95 functions within the position of Rabbi Yehudah, and therefore concludes that *lo yeiraeh/yimatzei* are *nitak* to the *aseh* of *tashbisu*. But Rambam rules in accordance with the Rabbis, and therefore justifiably rejects that statement.
        i. Rav Chayyim asserts that there is independent internal evidence that Pesachim 95 functions within the position of Rabbi Yehudah.

May One Start the Seder Before Dark?

April 3, 2009

May one begin the seder meal before darkness if one has already accepted Yom Tov? My intent here is not to provide a ruling, but rather to provide a model reading of a Tosafot and raise the question of how that should play out halakhically. (My thanks are due to Rabbi Ethan Tucker for his own analysis and for sending me to the analysis of Rav Ovadiah Yosef Shlita in Chazon Ovadiah 1:1.)

Tosafot's question is straightforward: Once the Mishnah has listed a starting point for the prohibition against eating on Passover Eve, why must it mention the endpoint of "after darkness"? No other endpoint is reasonable, as the apparent purpose of the prohibition, enabling us to eat the Yom Tov meal with appetite, would be undercut if we ended the prohibition earlier, and there is no reason to delay the Yom Tov meal at all? He adds that this cannot simply be a stylistic flourish, as the parallel text regarding Shabbat and other Yamim Tovim does not mention the end time.

Tosafot then cites the Ri MiKorbil's response. He suggests that the requirement of waiting until darkness is unique to Passover Eve, owing to the mitzvah of eating matzah, because, as he cites a Tosefta to demonstrate, the mitzvoth of consuming the Pesach, matzah, and maror all begin after darkness. He then roots this Tosefta via Midrash Halakhah, noting that the Pesach is explicitly required to be eaten "on that night", and the laws of matzah and maror by means of Midrash Halakhah are parallel to those of the Pesach. However, on Yom Tov and Shabbat Eves one may start the meal while it is still day, as we learn in Berakhot that one may pray the Shabbat amidah and say Shabbat Kiddush while it is still day.

RY MiKorbil is of course aware that the Beraita in Pesachim forbids eating on Shabbat and Yom Tov Ever after minchah. Accordingly his position must be that on those evenings the prohibition is only against eating anything other than the Shabbat/Yom Tov meal, whereas on Pesach one may not eat even the Yom Tov meal until darkness.

Tosafot then cites Rabbeinu Yechiel. The content of his contribution is that when the Talmud asked why the Mishnah refers specifically to Passover Eve, it could not have answered that this was because regarding Passover Eve there was a need to mention the endpoint, "until darkness", as that endpoint was already taught in Zevachim regarding the Pesach, and here is merely mentions it briefly and in passing.

How does Rabbeinu Yechiel relate to the line of Tosafot's argument? While literarily he follows RY MiKorbil, his comments formally relate directly to the Talmud. He also seems incompatible with Tosafot's opening question, as Tosafot assumed that "until darkness" was obvious for all Yamim Tovim and Shabbat, whereas he assumes that "until darkness" teaches a rule specific to Passover. It is therefore plausible to read him as responding to a potential problem reading the Talmud that arises specifically out of RiMiKorbil's suggestion, as follows: RY MiKorbil suggested that "until darkness" applies exclusively to Passover Eve. If so, why can't the Talmud resolve its opening question simply by stating that while the prohibitions beginning point is common to all festivals, its end point is unique to Passover? This problem does not arise prior to RY MiKorbil, at which point the assumption was that "until darkness" conveyed no significant halakhic information.

In this reading, Rabbeinu Yechiel's structural role is to refute a possible objection to RY MiKorbil before it is raised.

Tosafot then cites Rabbeinu Yehudah as providing a resolution. In the standard Vilna Shas edition, the content of his resolution is as follows. There is a need to mention the endpoint "until darkness" regarding Passover Eve specifically even if there is no halakhic difference between Passover Eve and other Yom Tov Eves with regard to the prohibition against eating, as one might have thought that Passover would be more lenient, as one would expect the Pesach to follow the general pattern that one may begin eating sacrifices on the day they are slaughtered, rather than waiting for the following evening.

The question is – a resolution to what? There are two literary possibilities:
A) The attack Rabbeinu Yechiel sought to forestall, in which case, following the argument above, he would be providing an alternate defense for RY MiKorbil,
B) Tosafot's opening question, in which case he would be providing an alternative to RY MiKorbil.

However, substantively it seems that A is impossible. Rabbeinu Yechiel tries to explain why the Talmud could not answer that the Mishnah in Pesachim distinguished Passover from other Yamim Tovim for the sake of "until darkness", but Rabbeinu Yehudah's opening premise is that there is no such distinction, so the question doesn't arise!

Therefore B must be correct. In that case, Rabbeinu Yehudah is saying that while one might have thought, like RY MiKorbil, that "until darkness" is taught regarding Passover Eve specifically because it references a stringency that applies specifically to Passover Eve, the real reason is to prevent us from distinguishing Passover Eve for leniency.

Tosafot concludes by citing a Yerushalmi in support of Rabbeinu Yehudah. The Yerushalmi in fact explicitly requires waiting to eat from Minchah-time "until darkness" on all Yom Tov and Shabbat Eves, and thus supports Rabbeinu Yehudah's halakhic position.

However, the Yerushalmi seems to undercut Rabbeinu Yehudah's literary position! Rabbeinu Yehudah argued that it was necessary to teach "until darkness" regarding Passover specifically, but it turns out that "until darkness" is taught about every Yom Tov!

But actually, the Yerushalmi undermines the entire Tosafot. Every previous element of the Tosafot is intended to explain why it was necessary to teach "until darkness" specifically regarding Passover! The Yerushalmi fits better with Rabbeinu Yehudah than with either RY MiKorbil or with Rabbeinu Yechiel, however, as at least is supports the claim that whatever the reason "until darkness" is taught in the Mishnah specifically regarding Passover, it is not because there is a halakhic difference between Passover and other Eves.

At the close of Tosafot, then, we have no reason to believe that anyone thinks that one may eat before darkness on Passover Eve even if one is beginning the Seder.

However, Rav Ovadiah Yosef points out that Dikdukei Soferim records an alternate text of the Tosafot, which also seems to have been in front of Maharshal when he wrote his commentary Chokhmat Shlomoh on Tosafot, which reads as follows:

And Rabbeinu Yehudah resolved it by saying
that it comes to teach us that even though the Pesach is slaughtered while it is still day, it cannot be eaten while it is still day like other sacrifices.

The Yerushalmi is then introduced by "but" rather than by "and similarly".

In this version, there is no explicit evidence as to whether Rabbeinu Yehudah equates Passover with other Yamim Tovim lechumra, i.e. banning early Yom Tov meals, or lekula, i.e. allowing early Yom Tov meals. Whichever text he refers to – the Mishnah in Pesachim, the Mishnah in Zevachim, or the Tosefta – is not coming to teach us that Pesach has a stringency, in opposition to other Yamim Tovim, but rather that it does not have a leniency, in opposition to other sacrifices – other Yamim Tovim are simply irrelevant to the text under discussion.

What is the role of the Yerushalmi in this version? The Yerushalmi cannot be opposed to Rabbeinu Yehudah substantively, as by virtue of applying the same language of "until darkness" to Yamim Tovim that the two Mishnahs apply to Passover, it must perforce agree that the law is the same for all, whatever the law turns out to be. So on that understanding it can only be making a literary point, namely that all attempts to explain why it is necessary to teach "until darkness" specifically regarding Passover are incorrect, as in fact "until darkness" is taught about all Yamim Tovim. But this is uncompelling, as the

attempts may be explaining not why “until darkness” is said about Passover specifically, but rather why it is said about Passover additionally, why there is a separate text to tell us about Passover what we already knew about other Yamim Tovim.

The Yerushalmi thus can be understood as opposing Rabbeinu Yehudah only as follows: Rabbeinu Yehudah suggested that the words “until darkness”were taught by Passover, despite their apparent obviousness, because they taught us that the Pesach does not have the leniency of other sacrifices. But sacrifice-eating times are not relevant to Shabbat and Yom Tov, and yet a beraita uses the same language regarding them!

On this reading there is no evidence in the Tosafot whatever as to whether Rabbeinu Yehudah equates Passover with other Yamim Tovim lechumra or rather lekula.

Tosafot Rabbeinu Yehudah HaChassid (presumably the Rabbeinu Yehudah of our Tosafot) to Berakhot 27a does not cite the Yerushalmi (or Rabbeinu Yechiel), but instead follows the RY MiKorbil by saying:
ומיהו שמא הזכיר משתחשך לאשמעינן שאע"פ ששחיטת פסח מבעוד יום, אינו נאכל מבעוד יום כמו שאר קדשים, ולעולם אין "לחלק לענין תוספת, כדאמרינן

“However, perhaps it only mentioned “from the time of darkness” to teach us that even though the Pesach is slaughtered while it is still day, it is not eaten while it is still day like other sacrifices, and thus in reality one should not distinguish with regard to the time added onto Shabbat or Yom Tov, as we have said.”.

Here the final comma is critical - does he mean to argue
A) “as ‘we’ previously said, one should not distinguish between Passover and other Yamim Tovim”,
or rather
B) “one should not, as we previously said, distinguish between Passover and other Yamim tovim”?

The difficulty with A is that RY MiKorbil is the only position previously mentioned on the issue of whether Passover should be different from all other nights, and thus there is no “previously said” that one should not distinguish.

If one adopts B, then the last line comes to reject RY MiKorbil’s distinction, apparently without making clear whether the rejection leads us to equate all Yamim Tovim lechumra or rather lekula.

However: In this version the language that Rabbeinu Yehudah explains as relevant only to sacrifices is משתחשך rather than עד שתחשך. That language is taken from the Tosefta that RY MiKorbil uses to support his claim that one cannot start early on Pesach, not from the Mishnah. One might therefore argue that in this version Rabbeinu Yehudah is taking on not the RY MiKorbil’s explanation of the Mishnah, but rather his claim that the Seder cannot be started earlier, and therefore he must conclude that all Yom Tov meals can be begun early. This reading is apparently endorsed by Rav Ovadiah.

However, it seems to me unlikely that RY MiKorbil’s position was predicated on the Tosefta. As our Tosafot makes clear, he sees the Tosefta as simply recording a ruling derived from the verse “and they must eat the flesh (of the Pesach sacrifice) on that night”, and that verse is used to that effect on Pesachim 41b. I therefore see it as unlikely that Rabbeinu Yehudah would reject RY MiKorbil and allow eating the Pesach early simply because the Tosefta could be read otherwise.

Bottom line, then, there is no compelling evidence as to which way Rabbeinu Yehudah held. The issue may therefore come down to which position it seems more likely that a scholar in his time and place would have held. There is an I think legitimate bias toward saying that an ambiguous position should be read as reflecting a position attested elsewhere; the position equating Pesach with other Yamim Tovim lechumra is cited in the name of “yesh min haGeonim” in Rashba Pesachim, whereas the position equating them lekula is so far as I know viable only here.

Stress and the Exodus: Thoughts on Chipazon

2011

The standard seder text begins with the recitation of הא לחמא עניא, "This is the bread of *oni* that our ancestors ate in the land of Egypt". The use of "this", equivalent the the Hebrew זה, suggests that one is pointing at a matzah, and the literary issue is that no context has been set. An anthropologist visiting the seder would reasonably conclude that the Jews ate matzah throughout their stay in Egypt, rather than specifically during the Exodus.

In Rambam's Haggadah, however, the text begins בבהילו יצאנו ממצרים. 'בהלה' is a translation of the Biblical חפזון, and seems to mean something like "hurry under stress". This makes the opening a straightforward reference to Devarim 16:3:

לא תאכל עליו חמץ שבעת ימים תאכל עליו מצות לחם עני כי בחפזון יצאת מארץ מצרים למען תזכר את יום
צאתך מארץ מצרים כל ימי חייך:

You must not eat chametz over it – for seven days you shall eat over it matzot, bread of oni*, because it was in* chipazon *that you departed the Land of Egypt, so that you will remember the day of your departure from the Land of Egypt all the days of your life.*

It is possible that the absence of this opening is an error in our texts, although if so the error precedes Rambam, as our text is found in the Siddur of Rav Amram Gaon. But (see on this Rav Kasher's הגדה שלמה) the problem here, as in many Biblical texts, is determining the referents of the prepositional phrases. Devarim 16:2 and 3 put together read as follows:

וזבחת פסח ליקוק א-להיך צאן ובקר במקום אשר יבחר יקוק לשכן שמו שם: לא תאכל עליו חמץ שבעת ימים תאכל עליו מצות
לחם עני כי בחפזון יצאת מארץ מצרים למען תזכר את יום צאתך מארץ מצרים כל ימי חייך:

You will sacrifice a Pesach to Hashem your G-d, flock and cattle, in the place where Hashem your G-d will choose to have His Presence dwell there.
You must not eat chametz over it –
for seven days you shall eat over it matzot, bread of oni,
because it was in chipazon *that you departed the Land of Egypt,*
so that you will remember the day of your departure from the Land of Egypt all the days of your life"

Grammatically, the term *chipazon* may relate either specifically to the command to eat

matzah and not chametz, or else to the Pesach sacrifice. The evidence that it relates to the Pesach sacrifice is Shmot 12:11:

וככה תאכלו אתו מתניכם חגרים נעליכם ברגליכם ומקלכם בידכם ואכלתם אתו בחפזון פסח הוא ליקוק:

Thus you must eat it – your loins girded, your shoes on your feet, and your staffs in your hands. And you must eat it in chipazon *– it is a Pesach to Hashem.*

This seems to indicate that the eating of unleavened bread is certainly not an essential component of *chipazon*, and this might lead someone to object that Rambam's Haggadah makes an unwarranted connection, and remove the opening.

Why should this matter, though? Isn't eating unleavened bread is in any case part of the recollection of the "stressed haste" with which we left Egypt? Not necessarily – Mishnah Pesachim 9:5 tells us that while the Pesach of Egypt was eaten in *chipazon*, subsequent Pesachs, should not be, perhaps even must not be. The immediate evidence for this halakhic position, as brought in Mekhilta, is "'you must eat it in *chipazon*'" – it, but not others". This seems to indicate that while the entire Pesach ritual *recalls* the *chipazon* with which we left Egypt, it is not intended to *recreate* that *chipazon*. If matzah were in fact a recreation of *chipazon*, then, it would be inappropriate to eat them with the Pesach. That we eat matzah at the Seder is therefore evidence that matzah is not associated with *chipazon*, and therefore Rambam's text is problematic.

Why should the Torah not wish the *chipazon* to be recreated? One possibility is the controversy as to who, exactly, was in a "stressed hurry" to have the Jews leave Egypt. Various midrashim suggest that it was the Jews, the Egyptians, and/or Hashem! If we take the last approach, which is many ways the most interesting, *chipazon* may be a reference to the idea that redemption from Egypt was urgently necessary, and came prematurely, because the Jews would otherwise have descended into "the 50th gate of tum'ah" and become permanently unworthy of redemption. Perhaps this is not an aspect of the Exodus that we wish to recall at the Seder, at least not at its outset, despite the principle that "we begin with shame".

Another reason to not recreate *chipazon* may be the description of Ultimate Redemption in Yeshayahu 52:12:

כי לא בחפזון תצאו ובמנוסה לא תלכון כי הלך לפניכם יקוק ומאספכם א-להי ישראל:

For you will not depart in chipazon*, and you will not go in the manner of fleeing, because Hashem goes before you, and one One who gathers you is the G-d of Israel.*

This verse, as noted by many midrashim (but not Radak), seems to see the *chipazon* with which we left Egypt as a flaw in that redemption. Perhaps the Pesach is supposed to look both forward and back, and we do not recreate those aspects of the Pesach that did not foreshadow ultimate redemption.

These two rationales are intriguingly combined in a fascinating Midrash Sekhel Tov on the Song of the Sea (attached but not translated). Exodus 15:12-19 is written in a grammatical form that obscures present and past, but there seems to be a perhaps anachronistic mention of the Temple as an ultimate goal, and the verses can be read as suggesting that the inhabitants of Canaan have already been struck dumb by the passage of the Children of Israel among them. The verse Sekhel Tov focuses on is 15:13, "You have guided with Your *chessed* this nation which You have redeemed; You have directed them with Your strength to Your holy dwelling-place". "Your *chessed*" suggests that this was undeserved – but when had Hashem redeemed the Jews, let alone taken them to His holy dwelling-place? Sekhel Tov posits that Hashem took the Jews to the Temple Mount (on the wings of eagles: see Shmot 19:4) on the night of Passover, where they brought and ate the Pesach sacrifice, and then returned them to Egypt in time for the Plague of the FirstBorn. While Hashem was in *chipazon* lest they *return* too late, in His *chessed* He did not hurry them.

In this reading, we did not leave Egypt with *chipazon* at all, although we did eat the Pesach while G-d waited, patiently, but kebyakhol stressed. And so it would certainly be inappropriate to begin the Seder by saying that we *left* Egypt in *chipazon*, and that the matzah recalls that.

In a Chassidic mode, we might suggest that the underlying message of this reading of the poetry of Exodus is that redemption can only happen to those who have already experienced it – the Jews could not leave Egypt unless they had a true understanding not only of what they were leaving, but where they were going. Thus in the narrative of Exodus it is clear that true redemption cannot occur until Sinai, and perhaps not even then, until the message of Torah has been fully understood as well as heard. This is a useful cautionary note with regard to contemporary dreams of redemption, but may we merit that complete understanding speedily and in our days, and strive toward it regardless.