

אוהל אברהם

A Journal of

דברי תורה

in Honor of

הימים הנוראים

וחג הסוכות

תשרי תשע"ב - 5772

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Congregation Beth Abraham

Bergenfield, NJ


~~~~~

*Dedications*

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*May the Torah we learn be an Aliyah
for the Neshama of our
beloved father and grandfather
a man who planted seeds, harvested the
field,
and Baruch Hashem, can see his garden
grow.*

L'Zecher Nishmas

Erez Zalman

ben

Chanoch Henoeh Guzman A'H

*We love you pop pop and will miss you
dearly.*

Carl and Gila Guzman

Temima

Eitan

Ahuva

Aliza

Rephael

Dedicated
In Honor of the Bas Mitzvah of

Atara Schulhof

יב אלול

and

Daniella Schulhof

יט אלול

and all our children and grandchildren.

Nechie & Heshie Schulhof

Dedicated

in honor of our parents

Rifkie and Yossie Rabinowitz

and

Arlene and Sam Kaye

Dena and Alex Kaye

and family

לזכר נשמת רבינו ומורינו

HaRav Shlomo Elimelech Drillman, zt"l

&

In Honor of

רבינו ומורינו

HaRav Yaakov שליט"א and

Rebbetzin Peshi שתחילי Neuburger

For their friendship, guidance, kindness and love

Abby, Ben, Elisheva, Esti & Adira Kelsen

~~~~~

*Dedicated by*

*Claire Strauss and family*

*in memory of Claire's father*

Edmond J. Lang A'H

יוסף בן חיים ע"ה

*in commemoration of his yahrzeit on*

כ"א אלול

*Dedicated in memory of  
our beloved grandparents*

יצחק בן משה ע"ה

נפטר ב' תשרי תשמ"ז

יעקב בן מאיר יצחק ע"ה

נפטר ה' תשרי תש"ע

*By  
Aaron and Tzipora Ross  
and family*



לזכר נשמת

מאיר יעקב בן הרב שמואל אריה ע"ה

טעבא בת הרב ישראל ע"ה

מנשה בן הרב אהרון ע"ה

רבקה זלטא בת חיים ע"ה

*Ari and Sharon Wieder and family*

*In Honor of*

*all those who teach Torah  
at Beth Abraham*

*Todah Rabbah  
for all your time, effort and patience*

*May your dedication to Limud Torah be a  
z'chus for the New Year*

**Jonathan and Yaffa Leah Field**



**לעילוי נשמת**

*our grandparents  
who loved to spend time with their  
grandchildren and great-children on yom tov.*

יוסף ראובן בן משה צבי ע"ה  
טובה גיטל בת בן ציון הלוי ע"ה  
משה צבי בן דוד אנשיל ע"ה

יצחק בן ישעיה ע"ה  
פריבא בת יצחק אייזיק הכהן ע"ה  
מאיר בן שלמה יוסף ע"ה  
לאה בת מאיר ע"ה

*Shira and David Greenberg and Family*

*In great Appreciation of*

Rabbi Neuberger  
and  
Dovid Schild

*Wishing you and your families a*

שנה טובה ומתוקה

*Aliza and Roniel Weinberg and family*

~~~~~

*In gratitude to Hashem
for our children*

Dov, Yoel, Asher, and Chaim Yisroel

Betti and Ari Jacobson

~~~~~

לזכר נשמת

חנן זאב בן ישראל שלמה ע"ה

משפחת לייטמאן

~~~~~

לזכר נשמת

גיטל בת אריה פלאמהולץ ע"ה

Gertrude Flamholz A'H

ט"ז תשרי תשס"ז

The Flamholz Family

A Message from the Rabbi

Moreinu HaRav Yaakov Neuburger

How grateful we must be to Hashem that our community takes pride in publishing our studies, now on our fifth volume!

The continued publication of the Ohel Avrohom gives great expression to our aspirations to create a culture of the love of Torah study within our community. If not for the love of Torah study, would we want to share the joy of an insight? Be curious about the Torah ideas that our friends found of interest? Spend time to research and formulate a thought that moved us?

To bring all of this to realization, to make it happen, I thank all who took the time to contribute, and am extremely grateful to Rabbi Avie Schreiber and Seth Lebowitz for their leadership. I am impressed by their remarkable diligence and dedication, and remain thankful to their families for allowing them the time for this project. We all know and appreciate how hard it is to find the time for communal projects, how daunting volunteering for communal work can be and how all consuming projects become before they are ready for the community. May Hashem bless Seth and Avie and their families with all of the berachos that communal work can bring. May the new year bring them and all of our contributors great peace of mind and much *nachas*, all in good health and prosperity.

Most notably the Ohel Avrohom adds a dimension to the Biblical mandate to fashion our holidays into “*mikra’ai kodesh*” as explained by the Ramban. He interprets it to refer to the holy ventures that bring people together such as learning and davening together as a community.

We are especially thankful to all of our sponsors that made this project possible with their generosity and graciousness. In the merit of the Torah study and *simchas yom tov* generated by this booklet, may Hashem fulfill all of your prayers *letovah, lyomim tovim va’aruchim*.

Editors' Note

We are pleased to present the fifth edition of the Beth Abraham Torah Journal, Ohel Avrohom, in honor of the upcoming חגים. Ohel Avrohom is a journal of *divrei Torah* consisting of articles written by members of the Beth Abraham community and is published by Congregation Beth Abraham.

We are grateful to all of those who have written for this edition. A special thank you to David Flamholz for his time and effort and editorial help. Thank you to all of the sponsors of this volume for your generosity and for your support of communal Talmud Torah.

At the beginning of the third chapter of *Hilchot Talmud Torah*, the Rambam tells us of three ways in which the Jewish people are "crowned." In contrast to the *Keter Kehuna* (the crown of priesthood) and the *Keter Malchut* (the crown of kingship), which are reserved for a special group and a special individual, respectively, the *Keter Torah* (the crown of Torah) belongs to all members of the Jewish people. "כתר תורה הרי מונח ועומד ומוכן לכל. ישראל...כל מי שירצה יבא ויטול" The Rambam is expressing two ideas relating to *Keter Torah*. On the one hand, the Torah is available to us all, but on the other hand, an active desire and effort is required in order to acquire it.

The articles written for the Ohel Avrohom journal are a tangible reflection of our community's broader commitment to living according to these ideas expressed by the Rambam. Many members of the community have submitted pieces for publication in this and earlier editions. These submissions reflect a desire not just to absorb Torah ideas taught by others, but rather actively to acquire Torah for oneself.

יהי רצון that we as a community and as individuals should be blessed in the coming year with the tranquility and the strength to continue to pursue this *Keter Torah*.

Table of Contents

דברי רבותינו

Sukkos – a Yom Tov of Reconciliation

Moreinu HaRav Yaakov Neuburger 1

Sculpture and Sculptor: Rosh Hashana Musings

HaRav Tanchum Cohen 6

ימים נוראים

The Match Ephraim – Hilchos Yamim Noraim

Rabbi Brian Gopin 8

Our Trial On Rosh Hashana: Legal or Political?

Rabbi Elchonon Grunwald 15

Don't Sweat the Big Stuff

Yossi Markovitz 20

Returning To The Task At Hand

Jonathan Kaplan 23

The Strength of the Shofar

Dov Adler 28

Shofar: From Passive Listeners to Active Participants

David Felman 32

The Enigma of the *Hazkarot* of Aseret Yemai Teshuva

Rabbi Benzion Scheinfeld 38

The Great Gig is Not Really in the Sky

Seth Lebowitz 44

The Connection Between the 15th of אב and כפור

Ari Wieder 49

חג הסוכות

Here is my Mitzvah of Sukkah - Please Perform it for Me

Rabbi David Flamholz 53

Birkas Halulav Ovair La'asiyasan

Yossi Kra 57

Found: The Missing Holiday

Rabbi Avie Schreiber 64

Bring Back בה"ב

Josh Gelernter 70

שונות

I Didn't Know that!

Prayer - Pronunciation and Protocol

Uri Jacobs 73

עיונים בנ"ט בר נ"ט

ישראל ברוך פינקלשטיין 84

Sukkos – a Yom Tov of Reconciliation

Moreinu HaRav Yaakov Neuburger

אתה בחרתנו מכל העמים אהבת אותנו **ורצית בנו** ורוממתנו מכל הלשונות וקדשתנו במצותיך וקרבתנו מלכנו לעבודתך ושמך הגדול והקדוש עלינו קראת ותתן לנו ה' אלקינו מועדים לשמחה חגים וזמנים לששון.

“You selected us from among all the nations, You loved us, **and You wanted us**, and You raised us above all tongues, and You sanctified us with Your commandments, and You brought us close to Your service and You have conferred Your great name on us.”

With these descriptions of Hashem’s singular relationship with klal yisroel, we begin the *beracha* of the yom tov shemone esrei that addresses the sanctity of the day. The closing line of this *beracha*, “*mekadesh yisrael vehazemanim*,” which Chazal teach us to read as “[Hashem] who sanctified the Jewish people who in turn confer holiness on the Holidays,” powerfully underscores that the sacredness of every yom tov and the holiness of the Jewish people are inextricably connected.

However, it would seem to me that the third phrase **ורצית בנו** – and You wanted us – is severely anticlimactic and certainly does not fit the pattern of otherwise ascending order of Divine blessings showered upon our people. Needless to say, would we have penned this text, would we not record “You wanted us” before writing “You chose us” and certainly before “You love us”? Surely, Chazal are not suggesting that Hashem was unreasonably infatuated with us and fell into a romantic relationship with us, that which is the stuff of many a human saga. Therefore, how are we to understand the order of the words in the tefilla?

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I believe that once understood, this text becomes a powerful support for the innovative interpretation that the Gaon of Vilna lends to the yom tov of Sukkos.

In fact, Sukkos is one of those parts of the Torah that will forever carry the imprint of the G"ra. No doubt that it serves as but an example of how this towering 17<sup>th</sup> century genius, of legendary diligence, renowned scholarly scope and precision, and of unparalleled breadth, shaped our view of many a "parsha."

The tradition of the Gr"va points out that the very first fifteenth of Tishrei that followed Matan Torah was the day that we as a people became fully licensed to build the mishkan. Consider that Moshe brought the final and enduring *luchos* to us on the eleventh of Tishrei and announced then that we were to build the mishkan. What must have ensued next would be three days of a frenzied and certainly an unprecedented outpouring of gift giving for all the needs of the mishkan. By the time the sun had set on the fourteenth of Tishrei, Moshe had announced that Klal Yisrael successfully responded to Hashem's challenge providing all the materials and more!

Thus, Klal Yisrael ushered in the eve of the fifteenth of Tishrei with the absolutely uplifting knowledge that the sin of the Golden Calf was behind them. Hashem had recommitted Himself to the mishkan, to living among His people, just as He had announced before the sin of the *Eigel*. Torah would continue to be taught from the mishkan through Moshe Rabeinu, concomitant with the great gift of *tzimtzum*,<sup>1</sup> which, as Rav Yosef Dov Soloveitchik zt"l was wont to explain, was the greatest sign of love for our people.

What a sense of accomplishment we should have experienced on that night! We had enthusiastically expressed our yearning for the mishkan, a dream that was part of our tradition from Yaakov

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1. Having Hashem appear in a physical setting, be it Har Sinai or the Ohel Moed, compromises, in the human mind, the very basic principle of His essence, His abstractness. That Hashem did this for us and then again in the mikdash in order to "live among us" is an indication of enormous love and concern.

Avinu and about which we sang as we celebrated our salvation on the shores of the *yam suf*.<sup>2</sup>

Accordingly, Sukkos commemorates the rapprochement of Hashem and His children after what may have been the most threatening event to our covenant and to the entire enterprise of “*bechiras yisrael*.” Looking forward, it celebrates the unbreakable bond that we have with the *Ribono shel Olam* and it amplifies the protection that we venerate as we recall the Sukkos of the desert.<sup>3</sup>

Consequently the holiday of Sukkos is associated in chumash and in our practices with simcha more than any other yom tov, for is there greater simcha than rediscovering an endangered love, reestablishing a passionate relationship that was cast in jeopardy?

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With this new understanding of Sukkos in mind, we can appreciate a comment of the *Siach Yitzchak*, a commentary on the siddur written by a student of the Gr”a. He quotes his teacher as translating “*verotzisa*” (ורצית) not as “You wanted us,” but rather as “You have taken us back even after we betrayed or aggravated You.” Thus, when reciting the *birchas kedushas hayom* of *shemone esrei*, one should have in mind that Hashem chose us, loved us and welcomed us back even after we had profoundly disappointed Him and His mission. Thus, the varied descriptions of our chosenness in the *beracha* indeed ascend and the phrase “*verotziso*” is hardly anticlimactic.

2. “Ze keili vanveihu,” see Rashi.

3. It would seem then that the Gr”a understood that there could be several reasons for a mitzvah beyond even a reason explicitly stated in the Torah, or at least that a reason stated can be interpreted generously beyond its literal translation. This, not surprisingly, is consistent with another tradition from the Gr”a. Rabbinic legislation is in effect even after the stated reasons no longer maintain. The Gr”a is quoted as explaining this ruling as a result of the possibilities of there being several reasons for a legislation and that the rabbis decided to record only one of them.

The Gr”a further teaches us that when we recite the opening line of the *beracha of kedushas hayom* we should have the following intention: On Pesach (אתה בחרתנו) You chose us to be Your partner in a covenant. On Shavuos (אהבת אותנו) You showed Your love for us as You revealed to us the content of the covenant and the promise that we can aspire to. On Sukkos (ורצית בנו) You reconciled with us and announced a covenant that can weather our terrible weaknesses and frailties.

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Where does the word *verotzisa* appear for the first time in chumash? This question is predicated on an oft quoted teaching of the Gr”a: the nuanced understanding of any word can be determined from the context of the word’s first appearance in Tanach. We first find this term when Yaakov meets his brother Eisav after returning from the house of Lavan.

**בראשית פרק לג(י):** ויאמר יעקב אל נא אם נא מצאתי חן בעיניך ולקחת מנחתי מידי כי על כן ראיתי פניך כראת פני אלוקים ותרצני:

*And Yaacov said, "please, if I have found favor in Your eyes, that You shall take my mincha offering from my hands, for I have seen Your face like I would see the face of the Lord, and we have been reconciled."*

This is the moment of reconciliation after years of enmity. Estranged from each other for decades and after Eisav, years before, had committed himself to kill Yaakov for robbing Eisav of his future, they share a soft and brotherly moment. Yaakov characterizes this moment as *vatirzeini*. Thus, following the Gr”a’s rule, the context supports that *verotzisa* means, “You have made peace and we have been reconciled.”

It is not surprising that our entire discussion is found in the underappreciated comment of Rashi on the pasuk marking the reconciliation of Eisav and Yaakov:

רש"י בראשית פרק לג: ותרצני - נתפייסת לי, וכן כל רצון שבמקרא לשון פיוס, אפיימינ"ט בלע"ז [פיוס] (ויקרא כב כ) כי לא לרצון יהיה לכם, הקרבנות באות לפייס ולרצון, וכן (משלי י לב) שפתי צדיק ידעון רצון, יודעים לפייס ולרצות:

*Vatirtzeini: you have become reconciled to me. Similarly every term of ratzon in Scripture [means] appeasement, [apeiement in Old French], as in "It shall not be acceptable for you" [because] sacrifices serve to appease and to conciliate. Similarly, "The lips of the righteous know ratzon ," [meaning:] they know how to appease and conciliate.*

Rashi marshals further support as he demonstrates that seeking *ratzon* is the goal of many a sacrifice, a *korban*.

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And, you may ask what should we have in mind every Shabbos during kiddush when we say “*rotzisa bonu?*” Perhaps we are to recall that even the Shabbos had a “rocky” start with Klal Yisrael. The manna (מן) that is memorialized through the double challos on the table reveals both the blessings of Shabbos and its blessed restrictions. We may well recall that there were those who questioned the blessings of the double portion of manna as well as the restrictions against collecting on Shabbos. Nevertheless, the blessings of Shabbos and the blessings of the manna continued seamlessly. Shabbos too gives us reason to say “**ורצית בני!**”

Sculpture and Sculptor: *Rosh Hashana* Musings

HaRav Tanchum Cohen

We precede our *tekias shofar* on the first day of *Rosh Hashana* with a *haftara* drawn from the opening chapters of *sefer Shemuel*. This *haftara* tells the story of Chana's painful struggle with infertility and of her tearful prayers at the *mishkan* which are ultimately answered with the birth of her son Shemuel. The *haftara* concludes with *shiras Chana*, her poetic response of joy and gratitude for this Divine gift.

Why does the *Gemara*¹ prescribe this *haftara* for *Rosh Hashana*? The classic explanation² relates to the narrative portion of the *haftara*: *Rosh Hashana* is the day that Chana's prayers for a child were answered, as was the case³ for Sara as well (whose childbirth is the topic of the day's *kerias ha-torah*).

Perhaps there are timely connections as well between the major themes of *Rosh Hashana* and the lyrical section of the *haftara*. *Ein tzur kei-lokeinu*⁴, Chana tells us at the outset of her *shira*, there is no Rock like Hashem. Simply put, *hakadosh baruch hu* is the ultimate Source of strength and stability in our lives. The *Gemara*⁵ adds an additional level of interpretation: *ein tzayyar kei-lokeinu*, no sculptor can compare to Him. As the *Gemara* continues to explain, the Divine artistry that is apparent in the internal scheme and intricacy of human beings is singularly remarkable and inspiring.

1. מגילה (לא).

2. רש"י מגילה שם (ד"ה מפטירין).

3. ר"ן מגילה שם (יא: בדפי הר"ן) עפ"י גמ' ר"ה (יא), הו' בב"י (סוף סיל' תקפ"ד).

4. שמואל א' (פרק ב' פסוק ב').

5. ברכות (י), ועיי"ש במהרש"א (לאגדות, ד"ה ואין צייר).

The *Gemara* and several *midrashim*⁶ suggest various aspects of the Divine design of humans which may have particularly inspired Chana. One significant aspect⁷ might be the uniqueness of each person. As the *Gemara* poetically notes elsewhere⁸, the fact that no two people have absolutely identical features reflects a deeper reality that each person is unique within; no two of us share an identical inner landscape.

This singularity and uniqueness of each of us is central as well to *Chazal's* earliest thematic sketches of *Rosh Hashana*. The *mishna*⁹ describes Divine judgement on *Rosh Hashana* as *kol ba'ei olam overin le-fanav ki-vnei maron*. Although we are all judged simultaneously, He relates to each one's inner life and specific situation and circumstances. *Haftaras Chana* can serve to reinforce this central notion. In line with our belief and recognition that *Hashem* is fully aware of our unique situation and our most private thoughts and decisions, our preparation for *Yom ha-Din* ought to stress not only the need to upgrade our adherence to His behavioral expectations of us, but as well our drive to revitalize our inner spiritual lives and reawaken our sense of connectedness to Him in our wishes, plans, and priorities.

6. עי' מכילתא סוף בשלח (שירה פ' ח); מדרש תנחומא ריש תזריע, ובדרשות ן' שועיב שם

7. אולי ע"ד המכילתא.

8. ברכות (ריש נח.), וע"ע במהרש"א (ד"ה ואין).

9. ר"ה (ריש טז.), ועי' בגמ' להלן (סוף יח.).

The Mateh Ephraim – Hilchos Yamim Noraim

Rabbi Brian Gopin

Rav Ephraim Margulies (1762 – 1828) was a successful banker and, more importantly, a rabbinic authority who published a number of classic sefarim, most notably the Yad Ephraim on the Shulchan Aruch Orach Chaim, the Sha'arei Ephraim on the halachos of keriyas ha'torah, and the Mateh Ephraim on the halachos of the Yomim Noraim and Sukkos. This last sefer serves as the basis for many of the halachos and minhagim that Ashkenazi Jewry follows during the Yomim Noraim. A discussion of some interesting points made by the Mateh Ephraim will increase our understanding of some of our practices at this time of year.

תקפ"א: The Mateh Ephraim records the minhag to recite לְדוֹד ה' twice daily from Rosh Chodesh Elul through Shemini Atzeres, after Shacharis and again after Mincha (our minhag is to recite this perek after Maariv instead of after Mincha). On Rosh Chodesh, the Mateh Ephraim points out that one should say לְדוֹד ה' only after בְּרַכֵּי נַפְשֵׁי because בְּרַכֵּי נַפְשֵׁי is תְּדִיר and the tefillah which is more תְּדִיר should be said first (because תְּדִיר (וּשְׂאִינֵי תְּדִיר תְּדִיר קוֹדֵם). The mishna in זְבַחִים ט"א says we learn from the pesukim regarding the Korban Tamid that one must bring the Korban Tamid before the Korban Mussaf because the Tamid is brought daily, while the Mussaf is only brought on Shabbos, Rosh Chodesh and Yom Tov and any action which is done more often is deemed to be more חָשׁוּב. Rav Asher Weiss (מַנְחֵת אֲשֶׁר פִּרְשֵׁת פִּנְחָס) asks a fundamental question regarding this general rule: how are we to understand this concept of תְּדִיר? Do we count how many times the mitzvah is done to determine which one is more תְּדִיר or do we look at the consistency with which the mitzvah is performed? For example, לְדוֹד ה' אֲוִיר is said many more times per year than בְּרַכֵּי נַפְשֵׁי, but בְּרַכֵּי נַפְשֵׁי is said more consistently in that we recite that tefillah all year round as opposed to לְדוֹד ה' אֲוִיר which is only said during this time period. One sees from the Mateh Ephraim's opinion (that one should

recite ברכי נפשי before (לדוד) that to determine what is תדיר we look at the consistency of that mitzvah and not just how many times that mitzvah is performed. Rav Asher Weiss points out that the שאגת אריה disagrees with this approach to תדיר. The שאגת אריה says that if one has to recite ברכת המזון and ספירת העמר, then ברכת המזון should be recited first since the obligation of ברכת המזון applies more times during the year than the counting of the Omer which is only done forty nine times. It seems that if not for this reason, the שאגת אריה would have required one to count the Omer first even though ברכת המזון applies all year round.

תקפ"א: In most shuls the minhag is to recite Kaddish after עלינו and then again after אורי ה' לדוד (and not after the שיר של יום and ברכי נפשי). The reason for this is that we try to minimize the number of times we recite Kaddish. However, the Match Ephraim writes one should say Kaddish after the שיר של יום as well so that it does not appear that אורי ה' לדוד is part of the שיר של יום.

תקפ"א: The Match Ephraim writes that in a place where the חזן recites the ברכות התורה out loud he can do that even during the days of סליחות, when the ברכות התורה was already recited earlier. However, the חזן should have in mind that the beracha he makes at the beginning of סליחות should only apply to the סליחות he is about to say and nothing else. Then after the סליחות he can recite the ברכות התורה again (this is also the opinion of the חכם צבי סי' כב). This opinion that one can determine how long his beracha can be חל seems to be a bit controversial. The ב"ח writes that if one is going to leave the Sukkah he should say a new beracha when he returns since he originally had in mind that his beracha would only apply until he leaves the Sukkah. The Magen Avraham (תרל"ט:יז) argues with this opinion and says that one cannot have in mind to have the beracha on his tzitzis apply only until midday and then be required to recite a new beracha. So too here, a person cannot have a beracha apply only until a specified time (see Pri Megadim there who defends the opinion of the ב"ח). This disagreement also seems to be underlying the comment

made by the *משנה ברורה* in the *ח' ס' ה' ביאור הלכה* that if a person will be going to the bathhouse during the day (and he will have to remove his tzitzis, thereby putting himself in a position of a *ספק ברכה* when he puts them back on) he should have in mind that the beracha he recites in the morning should only be applicable until the time he removes the tzitzis and then make a new beracha after leaving the bathhouse. It seems that this would only work according to the opinion of the *ב"ר* (and the *Mateh Ephraim*) but the *Magen Avraham* would not allow one to follow this approach.¹

תקפ"א:ל: The *Mateh Ephraim* quotes the opinion of the *Rema* that one who is the *שליח ציבור* for the recitation of selichos continues as *שליח ציבור* for *Shacharis*, *Mincha* and *Maariv*². The simple reading of the *Mateh Ephraim* is that the *Maariv* referred to is the *Maariv* of the following night. This opinion is quite difficult to understand since according to halacha, the day usually follows the previous night and it would seem that the *שליח ציבור* should not be given the right to daven the *Maariv* following selichos. In fact, the *משנה ברורה* *ס"ק יד* says that the *Maariv* of the following day has no relevance to the selichos being said and therefore, the *שליח ציבור* should daven the *Maariv* of the previous night. To reconcile the *Mateh Ephraim*, two explanations are given. First, the *הג' חתם סופר* writes that since *Maariv* was instituted as a substitute for the remnants of the *korban Tamid*, which were permitted to be burnt into the night, we allow the *שליח ציבור* to continue even into the *Maariv* of the following day. Second, a similar explanation is given by the *הג' בית מאיר* who says that since the tefillos were enacted as a substitute for the *korbanos* which were brought in the *Beis Hamikdash*, when it comes to our tefillos we say *אחר היום שלפניו* (since in the *Beis Hamikdash* the night follows the day unlike the

1. See 245 *פסקי תשובות* *ס"ח הערה*, which defends our practice of not saying a beracha after bathing as well as *פסקי תשובות* *ח"כז*, which discusses whether a beracha could be made when putting on a tallis for *Mincha* on *Yom Kippur*.

2. The *Rema* actually writes that he should daven the whole day. The *Mateh Ephraim* qualifies this to mean these three tefillos (see *Magen Avraham* there).

generally applicable halacha that the day follows the previous night) and the שליח ציבור can continue to daven the following Maariv even though it is considered halachically a new day.³

תקפ"א:מט: The Mateh Ephraim writes that many people have the custom to do התרת נדרים in the presence of a Beis Din of ten people (unlike our custom of three). The footnotes to the Mateh Ephraim explain that since we try to release our nedarim that were done even in dreams ("בין בהקיץ בין בחלום") we require ten people (see *Yoreh Deiah* 210:2).

תקפ"א:נד: The Mateh Ephraim writes that the custom is that women say the beracha of שהחיינו when they light the candles. Rav Yaakov Emden in קו עב"ץ ש"י questions this custom – why should this be any different from the שהחיינו we theoretically could say on the building of the Sukkah, but which is delayed until we say Kiddush on the first night? If we delay that שהחיינו until Kiddush why shouldn't the woman delay her שהחיינו until that time as well? Although Rav Emden was against the custom, he nevertheless writes that he did not stop his wife from reciting שהחיינו over the candles since doing so does not render the beracha a לבטלה; since in theory, one could recite שהחיינו even in the street he did not believe it necessary for her to stop that practice.⁴

תקפ"ב:ד: The footnote on the bottom of the Mateh Ephraim says that if a person is in the middle of his עשרה עשרה and he does not know what the halacha is regarding the additions we make during עשרת ימי תשובה, he is permitted to walk from where he is standing

3. Perhaps this disagreement between the משנה ברורה and the חתם סופר is dependent on the discussion in the Gemara ברכות כו: whether קרבנות כנגד אבות או כנגד קרבנות מאיר תפילות כנגד אבות או כנגד קרבנות מאיר.

4. See אסף למטה ס"ק לט who discusses whether on yom tov, women should recite the beracha (להדליק נר של יו"ט) after lighting the candles like any normal Shabbos or whether she should light it before the recitation of the beracha.

to look into a sefer to determine what he should do⁵. The sefer שיח הלכה quotes the opinion of the אשי ישראל סי' לב ס"ק כ like the שלחן ערוך אורח חיים קגב that if one feels the need to flatulate during his שמונה עשרה he should move away four amos and then return to his original תפילה מקום, so too in our case of checking the proper halacha in a sefer, the davener should return to finish his שמונה עשרה. The same footnote quotes Rav Chaim Kanievsky who believes that if doing so does not bother him, he should ideally finish his שמונה עשרה wherever he finished investigating the issue and not return to his original תפילה מקום. Not only may one walk over to look into a sefer during his שמונה עשרה, but there is also a disagreement between the חיי אדם and R' Shlomo Kluger whether one is actually permitted to ask his friend during שמונה עשרה what he should do (see the footnote in the Mateh Ephraim).

תקפ"ב: ה On Friday night during עשרת ימי תשובה at Maariv we add המלך הקדוש to the ברכה אחת מעין שבע which is said after שמונה עשרה. The Mateh Ephraim writes that if the שליח ציבור mistakenly said הקל הקדוש and completed the beracha he must repeat the whole beracha over again. The פרי חדש argues and says that he must not repeat; he writes that the only reason why this beracha was instituted on Friday night was to protect the people who came late to shul (so that they would not be left to walk back alone from the shul and come into danger), therefore, it need not be repeated.⁶ Perhaps the Mateh Ephraim disagrees with this opinion and believes that the ברכה אחת מעין שבע recited

5. See הערב נא חלק א' page 327 where Rav Zilberstein discusses whether someone may interrupt his שמונה עשרה to feed a parking meter and avoid a fine. Even though the שלחן ערוך אורח חיים קד"א says that one may not interrupt his שמונה עשרה for a loss of money that is only a הפסק, but merely walking from one place to another to avoid a monetary loss would be permitted. Rav Zilberstein then quotes his father-in-law R' Elyashiv who prohibits this practice.

6. The פרי חדש brings a proof to his opinion: from the fact that we do not mention יום טוב in the ברכה אחת מעין שבע one can see that this is not a bona-fide substitute for שמונה עשרה.

on Friday night was instituted as a חזרת הש"ץ and for that reason the המלך הקדוש שליח ציבור must repeat it should he forget to say שמונה עשרה. There are three other instances which may be dependent on how one views the requirement to say this beracha: (1) the Tur (ס"ח רסח) quotes a disagreement amongst the Geonim if a person mistakenly recited the weekday שמונה עשרה whether he can fulfill his obligation by listening to the ברכה אחת מעין שבע said afterwards. Perhaps the opinion that says one can fulfill his obligation believes that the ברכה אחת מעין שבע is in place of חזרת הש"ץ and therefore, he can fulfill his personal obligation of שמונה עשרה by listening to the שליח ציבור. (2) The Aruch Hashulchan says that it is preferable to follow the custom that the congregation should not recite the middle paragraph of the ברכה אחת מעין שבע (i.e. Magen Avos) (see עמ' קנט that this was the custom of Rav Soloveichik as well); since this beracha should be considered the שליח ציבור's repetition of שמונה עשרה it would not be appropriate for the congregation to recite any part of that beracha. (3) See עמ' קסז that Rav Soloveichik would always wait to take his three steps forward after his personal שמונה עשרה until the chazzan completed the beracha of הקל הקדוש in accordance with the opinion of the Rambam (הל' תפילה ט"ב, ד). And on Friday night, Rav Soloveichik would wait until the chazzan would finish the words במאמר הקל מחיה מתים before he would take three steps forward; one sees from here that Rav Soloveichik believed that the ברכה אחת מעין שבע was considered to be modeled after חזרת הש"ץ, requiring him to wait until the chazzan completed הקל הקדוש.

תקפ"ב: ב' כח: The custom is to cry and shed tears on Rosh Hashana and Yom Kippur, even if they fall on Shabbos. The Mateh Ephraim includes very harsh words for those who do not cry during these days:

"ומי שאין בכיה נופלת עליו בימים האלה הוא הוראה שאין נשמתו הגונה ושלמה"

The Gra is quoted in the עמ' מעשה רב that it is forbidden to cry on Rosh Hashana since the pasuk in Nechemiah forbids crying on this day: אל תתאבלו ואל תבכו וכו' ואל תעצבו כי חדות ה' היא מעוכם. If

so, how can the Mateh Ephraim require crying on these days? See *תשובות והנהגות בריסח* and *יחזה דעת ביסט* who say that there is a difference between crying during one's davening where the crying is a direct result of the feelings that his davening generates, and the crying one has when he fears the judgement that is taking place. The crying out of fear is what the Gra prohibited based on the pasuk in Nechemiah. Or perhaps one can distinguish between the crying resulting from the judgement of the day (which includes the davening that we do) and crying out of mourning which is prohibited by the pasuk in Nechemiah, *אל תתאבלו ואל תבכו*; only crying out of mourning is prohibited but any crying which leads to a complete *תשובה* would certainly be permitted. However, R' Elchanan Grunwald pointed out that if one looks at the context of the pasuk quoted above, it is evident that Nechemiah was responding to the cries of Bnei Yisrael, which were themselves cries of *תשובה*, and still Nechemiah criticized them for their crying, so it seems that the Gra's argument would still apply even in the case of crying as part of the *תשובה* process.

Our Trial On Rosh Hashana: Legal or Political?

Rabbi Elchonon Grunwald

1) The central theme of ראש השנה is יום הדין. Our main focus in the days leading up to ראש השנה is on how we can be found meritorious in judgment. Nations are also judged on ראש השנה as we say in זכרונות, ועל המדינות בו יאמר איזו לחרב ואיזו לשלום. I would like to pose a question: is our trial on ראש השנה similar to a 'legal trial' or to a 'political trial'?

Let me explain. Down here on Earth we have two different ways of deciding someone's fate, legal trials and political trials. We are all used to the concept of a legal trial; an individual is accused of a crime (theft, murder, etc.) and a court of law examines the evidence and renders a verdict of guilty or not guilty. Now there are several basic rules in a legal trial. First of all there is a presumption of innocence; innocent until proven guilty. Another rule is the only thing being tried is this particular charge. If the defendant committed this crime he or she is found guilty, if he or she did not (or it cannot be proven) they must be found innocent. Even if he or she has been a model of virtue up until this point but they committed this crime they must be found guilty. Conversely, if they did not commit this particular deed, even if he or she is a wicked person they must be let free.

However we do have another form of trial also. In a political trial the question is very different and so are the rules. These are trials for activities which are not inherently evil but are dangerous to our country. A most common example is espionage. During the Revolutionary War spies were hung both by the British (Nathan Hale) and by the Americans (Major Andre). Not because spying in itself is such a terrible activity (after all, we do it too) but spying against our country is. In other words, we put spies to death to prevent our country's secrets from being revealed. Another example: during the Civil War, President Abraham Lincoln ordered that deserters should be shot. Again, not so much for what they have done, but as a deterrent for others. A more

contemporary situation is when we put on trial people who have been accused of planning terrorism. It would be hard to justify on legal grounds punishing people for talking or planning. However, for political reasons we can justifiably put those individuals away.

The basic distinction between a legal trial and a political one is that a legal trial is about retribution for the charge on hand, but a political trial is not about retribution, for the charged offense is not necessarily evil, rather the needs of the country are being weighed against the individual. Therefore the rules are different. We do not require the same level of proof. And, unlike a case on legal grounds, there may be different standards for foreigners than for citizens. We find both types of trials in the Torah. We are used to the concept of a Beth Din dealing with individual crimes (ע"ז, רציחה, גניבה). We know that we require two witnesses for a conviction, they are required to presume innocence, and altogether (in cases of capital punishment) to go to great lengths to find the defendant not guilty. See סנהדרין פרק ד דיני נפשות פותחין ליכות ואין פותחין לחובה, מחזירין ליכות ואין מחזירין לחובה.

But we do find political trials too. We know that a מורד במלכות, someone who disobeys the king, can be put to death. See the כל המורד במלך ישראל ... אפילו גזר על אחד: הל' מלכים פ"ג ה"ח in רמב"ם שילך למקום פלוני ולא הלך...חייב מיתה, ואם רצה להרגו יהרג. Probably the reason for the death penalty is not for the crime itself but because by disobeying the king he or she is undermining authority and a country needs control. See also כל ההורג נפשות, הי' שלא בראיה ברורה או בלא בהתראה אפלו בעד אחד או שונה שהרג בשגגה יש למלך רשות להרגו ולתקן העולם כפי מה שהשעה צריכה. 'A king may punish for the crime of murder (probably murder only) without evidence sufficient for a Beth Din or if the perpetrator was not warned (a Beth Din cannot impose a punishment without warning) if it is necessary for the times.' (Loosely translated) (Perhaps the trial of a מסית is also a political one. That would explain why we do not make the standard effort to obtain a not-guilty verdict.)

One explanation is given by the ר"ן in א"ר דרוש, דרשות. Being that a Beth Din is bound by many rules, there will be many people who find ways of committing crimes in manners that are not punishable. For this the Torah said to appoint a king who can punish criminals without following the rules. (See ר"ן inside.)

We should add another point about political trials. They are truly "The People of the State of New Jersey (or any state) against the defendant," because, it is not only the defendant that is on trial, the people also are. For unlike in a legal trial where the only question is the charge on hand, here the needs of 'The People' are those demanding action. And the people only have a right to demand that their needs be met if they themselves are moral and consistent. If they themselves are immoral, why should their needs be more important than the defendant's?

2) Let us return to the original question; on ראש השנה are we judged in a legal sense or in a political sense? To be judged by Hashem in a legal sense would mean that He reviews all our actions, speech, and thoughts from the previous year, both good and bad. How many Mitvos have we done and how many Aveiros? (Even though a human court cannot judge thoughts, that is only because human beings cannot read minds, but Hashem can see and decide accordingly.) To be judged in a political sense would mean that every one of us has a goal to accomplish in this world, and a position vis-à-vis our families, our communities, and our nation. Is our presence enhancing the lives of those groups or detracting from them? In זכרונות we say that Hashem judges מעשה איש ופקדונו, ועלילות מצעדיו גבר, מחשבות אדם ותחבולותיו, ויצרי מעללי איש. 'The deeds of man and his fate, the paths of people, each individual's thoughts and plans, and the desires of every person.' This would imply that He is judging us in a legal sense. Perhaps when He decides the fate of individuals, He does this from a legal angle and when He judges nations He views the political angle.

The רמח"ל writes that even though Hashem could judge everything Himself, He decided to create an entire court system

in Heaven. We hear many times the expression “The Heavenly Court.” Perhaps it is composed of מלאכים, perhaps of צדיקים from previous generations. The חפץ חיים was of the opinion that it composed of צדיקים who just recently passed away. Every individual is judged at least three times: on Rosh Hashanah, after 120 years, and when the time of תחיית המתים comes.¹ I did not find this discussed but it would appear to me that after death a person appears before the בית דין של מעלה and the trial at the time of תחיית המתים is by Hashem Himself. What about on Rosh Hashanah - is it Hashem Himself who judges us or is it the Heavenly Court? Perhaps this is related to our earlier question. If it is simply our deeds and misdeeds that are being tried then it is the בית דין של מעלה. But if it is our relationship to our community that is being tried then it is being done by Hashem Himself.

3) We say in זכרונות that on Rosh Hashanah nations are being judged as well - וְאֵיזוֹ לְחָרֵב, וְאֵיזוֹ לְשָׁלוֹם, אֵיזוֹ לְרָעָב, וְאֵיזוֹ לְשָׂבָע. ‘And regarding the countries on this day the following will be decreed; which shall have war and which shall have peace, which shall have hunger and which shall have plenty.’ We know that לעתיד לבא ‘in the Future’ also nations will be judged as the Gemara in the beginning of עבודה זרה describes in detail. How are nations judged? Is it for the sum total of Mitvos and Avairos they have done? Or are they judged for how much they have contributed to the improvement of the world? From the beginning of the Gemara there, it appears that the trial of nations in the Future is about their contribution to the world, because the main question they have to answer is, “Was all you accomplished for your self-interest or was it כדי שיעסקו ישראל בתורה (so Bnai Yisroel should be able to follow the Torah?)” However, from the detail that the Gemara records, that if they would only keep the Mitzvah of Sukka they would win their case, implies otherwise.

1. דרוש לראש השנה in רמב"ן. Rabbi Neuburger pointed out to me that we also find a Din when someone enters a danger zone.

I would like to add a side point: The truth is even on Earth we have trials of nations. The first is war. The main purpose of war is not to push your way on or to get rid of your enemy through brute force, but to test the conviction and willpower of the nations fighting. Nations that remain true to principles have much willpower. But if their citizens have become full of lust and self-interest they tend to buckle under. The United States lost the Vietnam War even though their army was superior, because they lost the energy for fighting.

The second form of trial of nations is world condemnation. The notion of the United Nations putting a nation on trial is correct, but both the judges and the rules there are flawed. We should also point out that when a nation is put on trial it is not just for the occurrence on the table but their entire approach to life in general. I write this because, being that we are the Chosen Nation, Israel is put on trial more often than any other nation. And, while we know that the judges are biased, it is important to remember that, whenever we are being tried, it is not for the specific occurrence that just happened but it is our entire behavior that is on trial. Simply responding to the specific charge will not accomplish much. We have to be able to stand up and say that in all respects we are living up to the expectations that Hashem spelled out for us.

Don't Sweat the Big Stuff

Yossi Markovitz

Standing quietly during the repetition of the *amidah* on Rosh Hashana, listening to the baritone voice and passionate melodies of Rav Aryeh Hendler, is one of my fondest memories. Few things can compare to the *t'fillat yamim noraim* that a young man experiences while studying in Israel. I still recall the chazanus pieces that Rav Hendler sang to the *u'vchen* portions during the chazan's repetition immediately following *kedusha*. These three paragraphs that we insert into the *amidah* (each beginning with *u'vchen*) beseech Hashem for a tranquil time for the Jewish people:

The first *u'vchen* asks Hashem to instill His awe upon all of creation so everyone will become a single society and worship Him wholeheartedly.

The second *u'vchen* paints a picture of a period of time when all the nations will honor Hashem's people and praise those who seek Him.

The third *u'vchen* elaborates on a time when the righteous will be glad and exalted, sin will be abolished, and all wickedness will evaporate like smoke.

Wow, this is good stuff! This is pretty similar to the blessings we recite on a daily basis. However, at second glance the scale of our request for peace is far more ambitious than our daily prayers for goodness, blessing, countenance, and generosity.

But the question has always struck me. If this vision of a peaceful united world under G-d is something worth praying for, why do we not include these requests in our daily siddur? Surely, we can make room in our daily service for a few elaborate *u'vchens*?

The answer is not difficult to find. Looking closely at the text in the machzor , the words stand out: שְׁמַחָה לְאַרְצֶךָ וְשִׁשׁוֹן לְעִירְךָ... ועריכת נר לְבַר יְשִׁי מְשִׁיחֶךָ, בְּמַחְרָה בְּיָמֵינוּ.

The reason we don't pray to Hashem for a utopian ideal every day is because it has little to do with our daily lives. A world where every nation serves Hashem and acknowledges His people is the world of *acharit ha'yamim* – the end of days. While it is true that we daven daily for the imminent arrival of *moshiach*, it does not behoove us to worry about the details of that period of time yet. Begging for the nations to respect the Jews in general and tzaddikim in particular during *acharit ha'yamim* hardly seems appropriate in our daily *amidah* alongside *refaeinu* (prayer for the sick) and *bareich aleinu* (prayer for sustenance).

If that is indeed the case, then what do we actually pray for on a daily basis? Rabbi Dr. Norman Lamm uses a *sifrei* in *Parshat Naso* to answer this question. In *birkat kohanim*, regarding the words *v'yasem l'cha shalom*, the *sifrei* asks: Which shalom (peace) is this referring to? Rabbi Hanina Sgan Kohanim says "*shalom b'veitecha*" (peace in your homes), whereas Rabbi Natan teaches "*zeh shalom malchut beit David*" (peace of the kingdom of the house of David). Rabbi Lamm defines Rabbi Hanina's opinion as **Domestic Peace**, and Rabbi Natan's view as **Messianic Peace**.

On a daily basis, we Jews strive for an attainable goal – domestic peace. Peace with our parents, our children, our spouses, our friends, and our co-workers. If all of the earth's inhabitants would achieve domestic peace we would be very close to *acharit ha'yamim*. For right now, though, this modest project is enough of a challenge to occupy our busy schedules.

When we say *et tzemach David avd'cha meheira tatzmiach*, we are not implying that we know how to arrive at Messianic peace in our days. We do not believe that antisemitism will immediately vanish due to our actions. We are not confident that Middle Eastern countries will suddenly acknowledge Israel's right to exist if she makes land concessions.

When Yishaya, Amos, and Micha prophesied their great visions of "nations laying down their weapons" and the "wolf lying down with the lamb," they prefaced their words with "*v'haya b'acharit ha'yamim*" – "it will be at the end of days." Contemporary misinterpretations of their words may convince us that all of the features of *acharit ha'yamim* are within our grasp today if we just pray hard, compromise a bit more, and work toward a perfect society. Rabbi Hanina Sgan Kohanim reminds us that our current focus is not to create a utopia in 2011. We are responsible for cultivating a loving and peaceful home with open lines of communication and reciprocal acts of kindness. That may sound like an overly modest aspiration, but how many of us can say we have truly accomplished it?

On Rosh Hashana we are encouraged to think about the big picture. We hope that the upcoming year will be drastically better than the last, not only for ourselves but for the entire world. The *u'vchens* help us envision Messianic Peace. We can realistically hope for it without over-anticipating it.

Throughout the rest of the year we are encouraged to focus on our immediate goals: *kibud av v'eim*, *shalom bayit*, *ahavat yisrael* and *kavod habriyos*. We passionately strive for these paradigms because they certainly are attainable.

Rabbi Israel Salanter, one of the great rabbis of the nineteenth century, used to say: "When I was young, I wanted to change the world. I tried, but the world did not change. So I decided to change my town, but my town did not change. Then I resolved to change my family, but my family did not change. Then I realized - first I have to change myself."

British chief Rabbi Jonathan Sacks wrote in his monthly Credo in The Times of London, "When enough people decide to change themselves, we begin to change the world. It is never too late to mend what we have injured - and never too soon either."

Returning To The Task At Hand

Jonathan Kaplan

Malchus, our acceptance of Hashem's kingship, is a central theme of the Yamim Noraim- the High Holy days. This practice is not exclusive to this time of year. Rather, twice daily we recite the Shema and accept *ol malchus shamayim*, the yoke of Hashem's kingship. In our recitation of Shema we have a strange practice we are so accustomed to that we don't give it much thought. We add ברוך שם כבוד מלכותו לעולם ועד in a whisper. Where does this sentence come from and why do we say it in a whisper? The Gemarah explains:

תלמוד בבלי מסכת פסחים דף נו עמוד א

דאמר רבי שמעון בן לקיש: בראשית מט ויקרא יעקב אל בניו ויאמר האספו ואגידה לכם. ביקש יעקב לגלות לבניו קץ הימיו, ונסתלקה ממנו שכינה. אמר: שמא חס ושלום יש במטתי פסול, כאברהם שיצא ממנו ישמעאל, ואבי יצחק שיצא ממנו עשו. אמרו לו בניו: שמע ישראל ה' אלקינו ה' אחד. אמרו: כשם שאין בלבך אלא אחד - כך אין בלבנו אלא אחד. באותה שעה פתח יעקב אבינו ואמר: ברוך שם כבוד מלכותו לעולם ועד. אמרי רבנן: היכי נעביד? נאמרוהו - לא אמרו משה רבינו, לא נאמרוהו - אמרו יעקב. התקינו שיהו אומרים אותו בחשאי...

Rabbi Shimon ben Lakish said- "Then Jacob called for his sons and said, Gather together and I shall tell you what will befall you in the End of Days" Jacob wished to reveal to his sons the end of days, but the Divine Presence departed from him and he was unable to do so. Jacob said to his sons, perhaps, Heaven forbid, there is a blemish among my offspring similar to Abraham from whom issued Ishmael, or like the case of my father Isaac, from whom issued Esav. His sons answered him reassuringly: Hear, O Israel, Hashem is our G-d, Hashem is One. They explained their response. Just as there is only One Deity in your heart so there is only One Deity in our heart. At that moment Jacob our forefather opened his mouth and exclaimed- "Blessed is the Name of His glorious kingdom for all eternity!"

The Rabbis said: What should we do? Shall we recite "Blessed is the Name" as part of the Shema? Perhaps this is not right, because Moses our teacher did not state it in the Torah as part of the Shema. Shall we not recite it? Perhaps this, too, is incorrect, inasmuch as Jacob did say it as an addendum to Shema. To resolve the dilemma the Rabbis enacted that we recite the statement quietly.

Why do we recite Shema in the same fashion Yaakov Avinu did when he was about to reveal to his sons the secret of the end of days? If anything, we were given the Shema in the Torah by Moshe Rabeinu and there is absolutely no mention of *baruch shem* there. Additionally, what did Yaakov Avinu wish to reveal to his sons? If he was going to tell them when moshiach was going to arrive, we have a tradition that says that it can come early if we are worthy but later if we are not. Which date was Yaakov Avinu going to reveal?

Rambam in *Yad Hachazaka* explains the practice of reciting ברוך שם כבוד מלכותו לעולם ועד.

Rambam Hilchos Krias Shema Perek 1 Halacha 4

ד. הקורא קריאת שמע כשהוא גומר פסוק ראשון ואומר בלחש ברוך שם כבוד מלכותו לעולם ועד וחוזר וקורא כדרכו ואהבת את ה' אלקיך עד סופה ולמה קורין כן מסורת היא בידינו שבשעה שקבץ יעקב אבינו את בניו במצרים בשעת מיתתו ציום וזרזם על יחוד השם ועל דרך ה' שהלך בה אברהם ויצחק אבין ושאל אותם ואמר להם בני שמא יש בכם פסלות מי שאינו עומד עמי ביחוד השם כענין שאמר לנו משה רבינו פן יש בכם איש או אשה וגוי ענו כולם ואמרו שמע ישראל ה' אלקינו ה' אחד כלומר שמע ממנו אבינו ישראל ה' אלקינו ה' אחד פתח הזקן ואמר ברוך שם כבוד מלכותו לעולם ועד לפיכך נהגו כל ישראל לומר שבח ששבח בו ישראל הזקן אחר פסוק זה.

When reciting the Shema, after completing the first verse, one says quietly "Blessed is the Name of His glorious kingdom for all eternity." He then continues to read the first section in its normal fashion: "And you shall love G-d, your Lord..." "Why do we read it in this fashion? It is our tradition that when the patriarch, Jacob, gathered all his sons together in Egypt close to his death, he commanded and urged them regarding the Unity of G-d and the path of G-d upon which Abraham and Isaac, his father, had

thead. He asked them: "My sons, perhaps there are dregs among you, one who does not stand with me in the unity of G-d?" This is comparable to the manner in which Moses, our teacher, said to us: "Lest there be among you a man or woman [whose heart turns this day from G-d...]" (Deuteronomy 29:17). They all answered and said: "Listen, Israel, G-d is our Lord, G-d is One," i.e., listen to us, Israel, our father, G-d is our Lord, G-d is One. The wise elder responded: "Blessed be the Name of the Glory of His Kingdom forever." Therefore, the Jews are accustomed to utter the praise that Israel, the wise elder, uttered after this verse.

HaGaon Rav Moshe Shapiro notes a difficulty in the Rambam. It is clear that Rambam is referencing the gemarah in Pesachim but instead of explaining that Yaakov wanted to reveal the secret of the end of days he says that Yaakov wanted to urge his sons in the Unity of G-d. Rav Moshe explains Rambam's original idea that when it says that Yaakov wanted to reveal the end of days to his sons it was not a calendar date but rather he was explaining to his sons the nature of the world at the end of days. As it says in Zechariah 14:9:

וְהָיָה ה' לְמֶלֶךְ, עַל-כָּל-הָאָרֶץ; בַּיּוֹם הַהוּא, יְהִי־ה' אֶחָד--וְיִשְׁמוּ אֶחָד.

And Hashem shall be King over all the earth; in that day shall Hashem be One, and His name one.

Yaakov Avinu was explaining to his sons that the end of days will be a time when there will be universal clarity in the oneness of G-d. This seems to be the same theme found in Rashi on the pasuk of shema

ה' אלקינו ה' אחד: ה' שהוא אלקינו עתה ולא אלקי האומות, הוא עתיד להיות ה' אחד, שנאמר (צפניה ג, ט) כי אז אהפוך אל עמים שפה ברורה לקרוא כולם בשם ה' ונאמר (זכריה יד, ט) ביום ההוא יהיה ה' אחד ושמו אחד:

Hashem who is our G-d now, but not the G-d of the nations, will in the future be the "One." As it says, (Tzefaniah 3;9) "For then I will convert the peoples to a pure language that all of them call in the name of Hashem, to worship Him of one accord," and it says (Zechariah 14;9) "And Hashem shall become King over all the earth; on that day shall Hashem be one, and His name one."

As we say ברוך שם כבוד מלכותו לעולם ועד, we need to understand what we are saying. “Blessed is the Name of His glorious kingdom for all eternity.” The word כבוד is translated as relating to glory, but is also understood as relating to honor. It says that this world was created for the honor of Hashem. Our ability to give כבוד is an expression of our free will. One can only give true honor if he has the option to do the opposite. מלכות, G-d’s kingdom, is also a concept that relies on man. There is no king without a nation. In other words, that which defines מלכות, G-d’s kingdom, is the involvement of man. It must be recognized that Hashem doesn’t need man, but what is expressed in these two words is the relationship that exists between G-d and man. (An additional aspect within מלכות is the king’s power to unify the people. This very much compliments the concept of *yechud Hashem*.)

As we say ברוך שם כבוד מלכותו לעולם ועד, it is very much a prayer for a time when all will know and recognize the one and only – Hashem. The Maharal points out that when Yaakov said שם ברוך he was expanding on the name of Hashem. The name his sons used was the transcendental name of Hashem that indicates the eternal aspect of Hashem. It is in this vein that Yaakov blesses that the Eternal Name should be forever and ever.

When we say Shema, we return to the bedside of Yaakov Avinu at the end of his days. The framework of our recitation of Shema is with a focus on the *yemos hamashiach*. It is in the end of days that Hashem will be recognized clearly as the one and only. The Vilna Gaon explains that it is through the Jewish nation’s understanding of *yechud Hashem* that brings this clarity to the rest of the world. The greater our clarity, the greater the impact on how the rest of the world perceives this reality. This is one of our tasks as the *am hanivchar*, the choshen nation.

As we celebrate the Yomim Noraim, *malchus*, the kingship of Hashem, takes center stage. On Rosh Hashana we celebrate the creation of man. It is with man’s entry into the world order that

malchus becomes possible. It is man, the creation with discernment and free will, that is tasked with recognizing Hashem. If during our year we have lost this focus, we are given the gift of Rosh Hashana and Yom Kippur to return to this place. It is for this reason that this is a time of *teshuva* – return. If we capitalize on this opportunity, then it is with G-d's help that we shall truly understand the concept of *yechud Hashem*, the Unity of G-d and coronate our King, the Holy One, Blessed Be He, and in turn merit the arrival of *yemos hamashiach*.

The Strength of the Shofar

Dov Adler

Many machzorim print a beautiful and meaningful tefilah composed by the *Ari''zal* that the ba'al tokaya should recite before performing the mitzvah of tekiyas shofar. The tefilah describes our calling to the angels in heaven to come and accompany our shofar blasts to the proper place - the *kisai hakavode* of Hakadosh Baruch Hu.

Within this tefilah we refer to *Akaidas Yitzchak* - a common theme linked to the mitzvah of shofar and one that is mentioned throughout our davening on Rosh Hashana. "*Vatistakail B'afro shel Yitzchak avinu hatzavur al gabai hamizbaiyach, v'tisnahaig im banecha b'midas harachamim, I'tikanais lahem lifnim m'shuras hadin, v'zachor hayome akaidas Yitzchak.*" "May You contemplate the ashes of Yitzchak that are heaped upon the altar, and may You act with Your children with a virtue of kindness...." We mention the ashes of Yitzchak, as though Yitzchak had actually been offered as a *korban*. In reality, Yitzchak was not burned upon the altar. Instead, Avraham offered in his stead an *ayil*, which provides the direct link to the mitzvah of shofar today. Rav Saadia Gaon, as described in many machzorim, lists ten symbolic allusions within the mitzvah of shofar. One of them, the *ayil*, the ram's horn, reminds us of *akaidas Yitzchak* when Avraham sacrificed a ram in lieu of his son. Thus may our remembrances ascend before HIM for good. The linkage of the mitzvah of shofar to *akaidas Yitzchak* - the prime example of obeying G-d's command - makes sense to us all. When we prepare for *tekiyas shofar* and we have in mind the supreme sacrifice that Avraham made, we are asking Hashem to remember that in our favor, in order to grant us *selicha, mechila* and *kapara*.

If we fast forward a few hundred years to *ma'amad har Sinai* and the ceremony that the Torah describes in *Parshas Yisro*, G-d gives us many rules and regulations about the ceremony. Prepare

for three days. Separate from your spouses. Do not touch the mountain. What symbol does G-d use to let us know that the ceremony has come to a close and that we are once again allowed to touch the mountain? "*Bimshoch hayovail haima yaalu bahar*" - at the conclusion of the sound of the shofar blast will you allowed to touch the mountain. Rashi comments on *bimshoch hayovail* - what shofar was G-d using at har Sinai to make this final blast? Rashi answers, "*shofar shel ayil, shel Yitzchak haya*" The ram's horn that was being used was from the *akaida*, from the *ayil* that Avraham used in lieu of sacrificing his son. G-d saved that horn to be used at this moment to conclude the ceremony of *matan Torah*. The Ramban asks a literal question - how could the shofar being used at *har Sinai* be from the *Akaida*, if we know that Avraham offered a *korban olah*, which was fully consumed. There would be no ram's horn left to blow! He answers that perhaps G-d gathered the dust together and put it back together again. Another answer given by the Ra'am is that Avraham separated the horn prior to the *shechita*. However, many commentators question the Ramban's premise, as the medrash is clearly telling us the symbolism of the shofar being used at *har Sinai*, if not referring to the physical shofar.

What is the significance and connection between *ma'amad har Sinai*, *kabalas haTorah*, and *akaidas Yitzchak* that G-d decided to use that specific horn at the conclusion of the ceremony? Perhaps we can suggest the following answer. The sounding of the shofar represents the presence of G-d. Up until this point in time, from the time bnai yisrael left *mitzrayim* through *matan Torah*, G-d took care of all of our needs without expecting anything in return. True, bnai yisrael had a few mitzvos in the *midbar*, but for the most part it was a one-way relationship. At *har Sinai*, the presence of the *shechina* was palpable to everyone. We were on an emotional high getting the Torah, listening to G-d Himself announce *Anochi Hashem Elokecha*. However, *Bimshoch Hayovail*, at the conclusion of ceremony, after the final shofar had sounded, symbolizing the departure of the *shechina* from the immediate area, bnai yisrael were left with very high expectations from G-d. 613 Mitzvot. Hundreds and thousands of *dinim derabanan* and *halachos* to learn and practice. At that

moment, they felt overwhelmed. How can we succeed in such a system that is setting us up to fail! A system that knows we will sin and incorporates a day of Yom Kippur, days of Rosh Hashana in order for us to do *teshuvah*. This is too much for us to handle. Where will we get the strength to be able to live up to the expectations that G-d has just placed upon us at *har Sinai*.... For this reason, G-d took out the shofar of the *ayil* from the *akaida*. At this time, Bnai Yisrael needed a source of strength. They needed to recognize that they could do what had just been asked of them. At this moment G-d wanted to remind them of their grandfather and what he was asked to do. Without blinking an eye - *vayashkaim Avraham baboker*. Getting up early to take on the mission of G-d to sacrifice his son, something that seems impossible for a father to comprehend. The shofar of this specific *ayil* represents the commitment that Avraham and Yitzchak had to G-d. This specific shofar was a symbol of strength, telling bnai yisrael - yes, you can accomplish what I have asked. It is within you to do so and I am here to support you. As we encounter the many challenges that observing the Torah presents, G-d wants us to look at the shofar from the *ayil* of Yitzchak, which reminds us that yes, we can do what G-d has asked of us when it comes to Torah and Mitzvos. For this reason He took out the shofar from the *ayil* of Yitzchak and used it to conclude the ceremony at *har Sinai*. This is the final lasting sensory impression G-d wanted us to have.

Many of us, on Rosh Hashana, will sit in shul prior to *tekiyas shofar* and have the same feelings that *Klal Yisrael* had at the end of *ma'amad har Sinai*. While the shofar is blowing and our eyes are closed, listening closely to each of the sounds, we will be thinking of our tefilos being carried up to the *kisai kahavode* by the *malachim* and G-d responding in our favor. However, *bimshoch hayovail*, when the sounds stop and we listen to *unesana tokef, lekail orech din* and other moving tefilos, perhaps a sense of *pachad*, a sense of fear, comes over us. How can we survive? How can we ask Hashem for *selicha* and *mechila* when we know our shortcomings all too well? Is it possible that God will forgive us again for the same *avairos* we were asking Him about last year? For this reason we blow the shofar, and we

focus on the shofar itself, representing exactly the same message that G-d gave to bnai yisrael at *har Sinai*. Yes, it can be done. At *har Sinai*, G-d wanted to give us the strength to be able to accept with a full heart His Torah and to know that we can live with it on a day to day basis. On Rosh Hashana, the shofar serves as a reminder to us of the good deeds that we have done, of the mitzvos that we have performed throughout the year, in order to give us the strength to ask for *méchila* and to tell God that yes, I am sorry for what I have done, but I am also proud of what I have accomplished. The shofar is a physical object that we can look at to internalize and remind us of what we can accomplish just as klal yisrael looked at the shofar of Yitzhak to remind them of what they could accomplish. This is one of the reasons *akaidas Yitzhak* plays such a central theme throughout the davening on Rosh Hashana.

Let us hope and pray that the mitzvah of shofar this year will carry the significance for each and every one of us as it did for Avraham and Yitzhak and for *klal yisrael* at the *akaida*, and indeed may G-d grant us a year of *selicha*, *méchila* and *kapara lanu u'lchol Yisrael*.

Shofar: From Passive Listeners to Active Participants

David Felman

I would like to explore the halachik definition of the mitzvah of shofar – in particular, the question whether the essence of the mitzvah is to blow the shofar, or to hear the sound of the shofar? This fundamental question forms the basis of several disputes in the halachot of shofar, and ultimately presents us with a broader understanding of the mitzvah.

THE FORMULATION OF THE BERACHA

That there is a disagreement with respect to the definition of the mitzvah is evident from the fact that the rishonim dispute the precise formulation to be recited for the beracha prior to the blowing of the shofar.

The Rambam (Hilkhos Shofar 3:10) rules that we recite the blessing "*lishmo'a kol shofar*." In fact, in a responsum (Teshuvot Ha-Rambam 142), he says explicitly:

The mitzvah which is commanded is not the *tekia*, but rather hearing the *tekia*... and if the mitzvah would have been the *tekia* [alone], each and every male would be obligated to sound [the shofar], just as each and every male is obligated in the mitzvot of sukka and lulav; and one who listens but does not blow would not have fulfilled his obligation... and similarly one who blows but does not hear — for example, one who covers his ears — would fulfill his obligation!... [Rather] we only blow in order to hear... and therefore we recite the blessing "to hear the sound of the shofar," and not "on the blowing of the shofar."

In contrast, Rabbeinu Tam (cited by the Rosh, Rosh Ha-shana 4:10) and the Semag (asei 42) maintain that the mitzvah of shofar is essentially the blowing, and hence the proper text for the beracha is "*al teki'at shofar*."

A particularly interesting version of this beracha appears in Rashi's siddur: "... Who commanded us regarding the blowing of the shofar, to hear the sound of the shofar" ("*ve-tzivanu al teki'at shofar lishmo'a be-kol shofar*"), which seems to combine both positions.

A STOLEN SHOFAR

The Yerushalmi (Sukka 3:1) rules that one may fulfill the obligation of shofar by using a stolen shofar. The reason, however, is subject to dispute. One opinion derives this from the passuk, "You shall observe it as a day of blowing." In other words, the passuk implies that Rosh Hashana should constitute a day of blowing in all circumstances, even if by virtue of a stolen shofar. Without this passuk, we would assume that one cannot fulfill the obligation of shofar with a stolen shofar because of the principle of "*mitzvah haba'ah b'aveira*." The opposing view contends that to derive this halakha requires no inference from a passuk. Since, according to this opinion, the essence of the mitzvah of shofar is hearing its sound, and the shofar itself merely facilitates this function, the means by which a shofar is acquired is not relevant to the fulfillment of the obligation.

It would seem that this argument revolves around the critical question of the nature of the mitzvah of shofar. Presumably, the first view would maintain that the essential mitzvah is the blowing of the shofar. Under this view, in the absence of a passuk, one could not fulfill the mitzvah with a stolen object. This is because the object itself, the shofar, is essential to the mitzvah. The other view would appear to focus upon hearing the sound of the shofar. Under this view, a stolen shofar would be just as effective at producing the requisite sound and no passuk would be needed to prove that a stolen shofar is permitted to produce that sound. In other words, the "sound" cannot be considered a stolen object.

In Hilchot Shofar (1:3), consistent with his view regarding the text of the beracha above, the Rambam rules in accordance with the second view:

If one blew a stolen shofar, he has fulfilled his obligation, since the mitzvah is only the listening to the sound.

PROBLEMS WITH EACH VIEW

Rabbi Doniel Schreiber and Rabbi Daniel Wolf, both of Yeshivat Har Etzion, point out that on closer examination, both of the approaches outlined above appear problematic in light of various halakhot relating to the mitzvah of shofar.

If the essence of the mitzvah is to blow the shofar, then how can one person blow on behalf of others? Shouldn't each individual have to blow for himself? Furthermore, if the essence is to blow the shofar, the obligation would appear to be fulfilled even where the blower does not hear the sound of the shofar. This conclusion however, does not appear consistent with the Mishna in Rosh Hashana that asserts that one who blows into a pit does not fulfill his obligation if all he hears is the sound of the echo.

The opposing view, in which hearing is treated as the essence of the mitzvah, is similarly problematic. For example, according to this approach, it should make no difference who blows the shofar; so long as a shofar sound is heard, the mitzvah should be fulfilled. However, an explicit Mishna in Rosh Hashana disqualifies the shofar blowing of various categories of blowers including a *cheresh*, *shoteh ve-katan* (a deaf-mute, a mentally handicapped person, or a minor). This Mishna would appear to attribute at least some importance to the aspect of blowing.

REB CHAIM BRISKER'S APPROACH

The Rambam writes (Hilkhos Shofar 2:4):

One who blows shofar casually ("*mitaseik*") to practice has not fulfilled his obligation [with this blowing]; similarly, one hearing from a casual blower has not fulfilled his obligation. If the listener had intent to fulfill his obligation but the blower did not have intent to fulfill his [the listener's] obligation, or if the blower had intent to fulfill his [the listener's] obligation but the listener did not have intent to fulfill his obligation, he [the listener] has not fulfilled his obligation, until both listener and blower have intent.

We saw above that the Rambam explicitly ruled that since the mitzvah of shofar is to hear the sound of the blowing, we recite the blessing "*lishmo'a kol shofar.*" Further, the Rambam held that if one blew a stolen shofar, he has fulfilled his obligation, since the mitzvah is fulfilled by listening to the sound. If so, why would the Rambam require intent of both the blower and listener?

The Rambam employs an extremely unusual term in the above halacha. Rabbi Doniel Schreiber explains that the term "*mitaseik*" is generally used when referring to an action performed with no intent whatsoever, not for the mitzvah and not for the action itself. Accordingly, the use of the term *mitaseik* in the context of practicing shofar blowing seems inappropriate, as the person blowing would have intent for the action itself, even if not to perform the mitzvah. To explain how such a case can constitute a form of *mitaseik*, Reb Chaim adds a new dimension to the concept. Under Reb Chaim's approach, a person can be considered a *mitaseik* even when aware of the action he performs, so long as he does not intend to perform a mitzvah through his action. While the practicing blower knows that he is blowing a shofar, he has no interest whatsoever in performing a mitzvah through his blowing so he is *mitaseik*.

Reb Chaim adds a second dimension to the concept of *mitaseik*. According to Reb Chaim, all mitzvot consist of two components: the action, and the *kiyum* – the essential fulfillment. One who merely listens to the shofar blowing does not perform any concrete action and would also appear to be a *mitaseik*.

Therefore, Reb Chaim argues that according to the Rambam, both the blowing and the listening make up the mitzvah of shofar: the blowing is the action ("*ma'aseh mitzvah*"), while the hearing is the essential fulfillment ("*kiyum mitzvah*"). Intent is required with respect to each aspect so as to avoid a problem of "*mitaseik*." Rabbi Schreiber posits that, according to Reb Chaim, when a kehilla listens to the shofar blowing of one who intends to fulfill the obligation of the kehilla's members, we view the entire kehilla as "blowers." This is why the Rambam demands the intent of both blower and listener.

MA'ASEH MITZVAH AND KIYUM MITZVAH IN THE PESSUKIM ABOUT ROSH HASHANA

While Rav Soloveitchik *zt'l* understood, unlike Reb Chaim, that a kehilla could fulfill their obligation merely through listening, without having to be considered blowers, the Rav pointed out that these dual aspects of *ma'aseh mitzvah* and *kiyum mitzvah* as described by Reb Chaim appear to be alluded to in the Torah's description of Rosh Hashana.

In Parshat Pinchas (Bamidbar 29:1), Rosh Hashana is called a "*Yom Teruah*" (a day of blowing), while in Parshat Emor (Vayikra 23:24), it is referred to as a "*Zichron Teruah*" (a remembrance of blowing). To account for this discrepancy, Rav Soloveitchik suggested that the Torah is highlighting these two components of the mitzvah of *tekiyat shofar*. While the *ma'aseh mitzvah* is accomplished through merely blowing the shofar (signified by *Yom Teruah*), the mere action of blowing, by itself, is insufficient. The ultimate fulfillment and completion of the mitzvah (*kiyum mitzvah*) occurs internally, through an emotional recognition of the shofar's message (signified by *Zichron Teruah*). Unlike other mitzvot where the *ma'aseh mitzvah* and

the *kiyum mitzvah* occur simultaneously, in relation to the mitzvah of shofar, the action is a means of triggering an emotional response. It is this emotional response, the *kiyum she'ba'lev* epitomized by the notion of *Zichron Teruah*, which constitutes the essence of the mitzvah. These dual aspects of the mitzvah of shofar underscore our role not as mere listeners but as active participants in the mitzvah.

May we be zocheh to transform our listening to *tekiyat shofar* this Rosh Hashana into an engaged listening and thereby become active participants in the mitzvah of *tekiyat shofar*.

The Enigma of the *Hazkarot* of Aseret Yemai Teshuva

Rabbi Benzion Scheinfeld

The seven days of the Aseret Yemai Tshuva in between Rosh Hashana and Yom Kippur are a bit of a Halachic enigma. There is no reference to them in the Torah as having any special Halachic status. The Torah mentions the first and tenth day of Tishrei (*Chodesh Hashvii*) as being Kodesh but does not make any reference to the days in between these two dates. In contrast to the first and last days of the Pesach and Sukkot respectively, which the Torah links as belonging to the same holiday and forming a bridge (commonly known as Chol Hamoed) between two book ends of Yom Tov, or even the 49 days of Sefirah between Pesach and Shavuot which are minimally linked by counting from one to the other, the Torah does not mention any link between Rosh Hashana and Yom Kippur and certainly does not afford a status to the 7 days in between Rosh Hashana and Yom Kippur. One would be tempted to say that the status of Aseret Yemai Teshuva is in fact limited to custom; customs developed to keep the focus of the Yamim Noraim and to help focus our efforts of introspection and Teshuva. The practices we associate with these days, be they assorted Chumrot or added Tefillot (selichot, etc.) are not reflective of any inherent status of the days themselves. Nothing is different about these days with regard to their essential nature and, except for custom, their status falls fully in the camp of a regular Yom Chol.

It would be halachically clean to declare Aseret Yemai Tshuva as deep down having no true status except for one undeniable fact. If all we were doing was recognizing the powerful bookends surrounding these days, then all the inserts we are supposed to add to reflect this awareness would not have the power and possibility of being *Ma'akev*; they are there to add awareness but are not to be confused with a Chovas Hayom that **must** be mentioned. The inserts of *Zachrenu Lechaim*, *Mi Kamocha*, *Ukesov*, and *B'sefer Chaim* in fact fit well with such a hypothesis. Even the Halachot surrounding the change (in this case an omission of a few words) in the *Beracha* of *Hasheva*

Shoftenu, namely that we should end it with the words *Hamelech Hamishpat* seems to fit in, as a mistake in any of these changes does not require one to repeat the Amida; nor should it according to this hypothesis, since deep down the day is a regular Yom Chol and cannot truly require any special recognition with the power to be *Me'Akev* a Tefillah. Yet as we all famously know, there is one major exception to this rule. The Halacha states that if one forgets to replace *Hakel Hakadosh* with *Hamelech Hakadosh* then one must repeat the entire Amida! The Tefillah is deemed meaningless and invalid because one did not recognize the status of Aseret Yemai Teshuva in Tefillah through the replacment of *Hakel* with *Hamelech*. This seems to prove that the Aseret Yemai Teshuva do in fact have some sort of a Torah recognized Halachic status that requires us to reference in order for our Tefillot to be accepted. A status in fact that is stronger than that of the required insertions of most other Rabbinic holidays (i.e., if one forgets *Al Hanisim* on Chanuka or Purim during a Tefillah, the Amida is still valid). Only Biblical holidays and the requirement to recognize them seem to have the power to disqualify a Tefillah. If so, we must ask the question, from where do these “intermediary days” of the Yamim Noraim get such a lofty status, and why is this not mentioned in the Torah?

Before attempting to explain this conundrum, I would like to mention another enigma that has bothered me regarding the *Hazkarot* demanded by Aseret Yemai Teshuva. Namely, in every other instance of alterations we make in our Tefillot to recognize the status of a day, be it Biblical or Rabbinic, the alterations are reflected both in the Amida and Birkat Hamazon. Every time we are required to say *Al Hanissim* and *Yaaleh Veyavo* the requirement to recognize the day applies to Birkat Hamazon as well. Yet nowhere is it ever suggested that we recognize Aseret Yemai Teshuva in Birkat Hamazon! If the recognition is so essential that it actually is *Me'akev* our Tefillah, something many other alterations do not necessarily do, why does it not require some mention in Birkat Hamazon?

The answer is that the nature of our obligation to recognize other holidays in our Tefillah through various insertions and the nature

to recognize Aseret Yemai Tesuva in our Tefilot are very different. On other holidays the themes of the day are powerful enough to demand recognition. A Tefillah on those days that does not mention the Yom would be lacking in relevance and not adequately express the day's spiritual texture. (One can differentiate between Biblical and Rabbinic holidays in this regard, as it is possible that CHAZAL do not have the power to give texture to a day and subsequently there is no repeating Amidah for a Rabbinical Holiday's omissions). In contrast, during Aseret Yemai Teshuva there is, in fact, no specific spiritual texture to the day that demands mentioning. As was pointed out, the Torah mentions no special nature to the day at all and none is required be recognized. What changes during Aseret Yemai Teshuva is not the nature of the day but the nature of G-d's connection to us. We change our Tefillah because all Tefillot must address Hashem in order to be valid and the very nature of the posture Hashem takes towards humankind changes during Aseret Yemai Teshuva, and without changing the Tefillah one is not addressing Hashem correctly. For all year long, the way we see G-d and the posture that Hashem takes towards Am Yisrael is defined by one word- *Kel*. That word is the term which we use to give some definition to the posture of G-d and His connection to us. It implies awareness, care, oversight and a myriad of other unknowable attributes. Ultimately however, it has a veiled and slightly distant connotation to it. Hashem is aware and caring, but not as immanent and present as He can be. Similar to the parable mentioned in Seforim of the owner of a business overseas who gets a daily report of operations and issues but who is not on premises. Even on the Shalosh Regalim, where there is an added affection to our relationship with Hashem, still the basic connection and veiled nature does not change. He is still *Kel* and still addressed as such.

On Rosh Hashanah however, the entire posture that Hashem takes towards the world changes. It changes from that of a distant yet concerned overseas owner to one that is present and felt every second with palpable immanence. It is the very nature of Rosh Hashana and Malchut that Hashem opens the gates (*Seu Shearim Rashechem*) and comes to spend time with humankind

in a very different way. This posture is definitively described by the term *Melech*. It implies closeness, majesty, immanently palpable and ultimately accountable judgment. In terms of the aforementioned parable, G-d is no longer a distant landowner caring about the field, but rather one present on site, observing, and making decisions. This new posture begins on Rosh Hashana and lasts until the gates close after Neilah on Yom Kippur and Hashem returns to His original posture of *Kel*. If one says *Hakel Hakadosh* instead of *Hamelech Hakadosh*, he is not simply missing a reference to Aseret Yemai Teshuva, rather, he is distorting the nature of G-d and addressing his Tefillah to a relationship with Hashem that is not existent at this moment; for addressing Hashem without an awareness of the posture that Hashem is taking with us at that time is not addressing Hashem at all.

It is for this reason that the changes we make to the Amidah during Aseret Yemai Teshuva are in the Beracha of *Hakel Hakadosh*, a blessing that does not reflect the nature of the day but rather the nature of G-d. We mention events and themes of the day in *Retzah* and *Modim*, but we never change the first three Brachot to express the nature of the day.

Understanding our *Chiyuv* to mention Hamelech in this manner and not as a reflection of some sort of quasi-chol hamoed status afforded to the Aseret Yemai Teshuva also explains why no mention of Aseret Yemai Teshuva is necessary in Birkat Hamazon. For Birkat Hamazon, despite its Biblical mandate and origins, does not demand the status of “*Omaid Lifnei Hamelech*” that the Amida does. One does not take three steps forward, nor put their feet together, nor bow or do any of the rituals that display the intensity of directly standing before G-d that the Amida demands. During Birkat Hamazon one is not in a state of “*Omed Lifnei Hamelech*,” and therefore Birkat Hamazon does not demand such a nuanced posture to connect. It is only in the Amida where one addresses G-d so directly that one has to be so sensitive the nature of Hashem’s posture and mention Hamelech. And of course only Amida has a blessing that addresses the nature of G-d at all as the blessing of *Hakel Hakadosh* does.

So as we prepare for the Yamin Noraim and Aseret Yemai Teshuva, let us recognize that we are about to enter a period where the very nature of the way we are supposed to connect with Hashem changes. The word *Hamelech* is not just a word noting the theme of the day of Rosh Hashana. It is a word that tells us that the posture Hashem takes towards the world is different now and that we must be focused enough and aware enough to recognize that. Every utterance of the word *Hamelech* is a call to wake us up to the fact that Hashem is not just a caring but distant overseer, but rather is here in front of us. To daven without that awareness between Rosh Hashana and Yom Kippur is to miss the very nature of Hashem's connection to humankind and in fact to incorrectly define Hashem's interaction with the world. Such a lack of awareness completely voids the Tefillah. It is like sending a letter to someone who has temporarily moved. The letter being addressed to a place where the recipient no longer abides will come back with a return to sender stamp.

(Interestingly enough, this sensitivity to Hashem's posture in connecting to the world invalidates a Tefillah not only when one substitutes Hashem's less immanent connection (*Hakel*) for the more immanent one (*Hamelech*), but it also invalidates a prayer the other way around. For example, if after Yom Kippur one uses *Hamelech* in place of *Hakel*, the Tefillah is equally invalid. Apparently awareness of the correct posture of Hashem's connection to the world is necessary even if the mistake one makes is overly describing Hashem's immanence when it is not called for.)

One final point. It is interesting that the words that define G-d's interaction with us, namely *Hakel* or *Hamelech* respectively, are mentioned in the Beracha of Kedusha. We call Hashem by many attributes included *Gadol*, *Gibor*, and *Nora*, yet only the attribute of *Kadosh* gets to be preceded by the defining nuance of G-d's interaction. I believe this is a reflection of the central nature of Kedusha in terms of defining what Godliness is in Judaism. Kedusha is the word we always use to express what it is that Hashem brings to the world. Yes, Hashem is strong and awesome

and great, but all of that is there to allow Hashem to endow the world with the essence of what the Torah is all about; Kedusha. When Hashem has a special nation, He endows it with **Kedusha** (*Mekadesh Yisrael*), when Hashem has a special day he endows it with **Kedusha** (*Mekadesh Hashabas*). G-d Himself, the primary source of spirituality is defined as **Kadosh** and shares that attribute with Am Yisrael through the Mitzvot of the Torah (*Kideshanu Bemitzvotav*). If there is a word that sums up what Hashem is and wants us to be it is kedusha. (*Kedoshim Tihiyu Ki Kadosh Ani*). There is no other word to describe the spiritual essence of Torah and there is no other Beracha that demands such nuanced recognition of Hashem's essence other than the third Beracha of Amida, *Ata Kadosh*.

May we merit the spiritual sensitivity to notice and experience the interactions Hashem has with us in Olam Hazeih.

The Great Gig is Not Really in the Sky

Seth Lebowitz

Each year, we read *parshat nitzavim* either immediately before Rosh Hashana, or immediately afterward, on Shabbat Shuva.¹ Although the placement of this parsha in our annual cycle of public Torah readings is part of a system that ensures, among other things, that we will arrive at *parshat v'zot haberacha* in time for Simchat Torah, there is no doubt that the content of *parshat nitzavim* also has a special connection to the *yamim nora'im*. *Parshat nitzavim* contains the *parshat ha'teshuva*, with the Torah's exhortation to Bnei Yisrael to return to G-d when we find ourselves distant from Him as a result of our prior behavior.

Perhaps the most famous and oft-quoted words in *parshat nitzavim*, “לא בשמים היא,” appear not to have much to do with our teshuvah enterprise at this time of year. But a closer look at these words and the broader discussion that surrounds them in the Torah may show that in fact they can serve as guidance and inspiration for us during the עשרת ימי תשובה. Upon examination of two general approaches to the *pshat* in לא בשמים היא, we will find that according to each approach the message of these verses can inspire and fortify us in our efforts at teshuvah at this time of year.

The context in which לא בשמים היא appears is a short paragraph, chapter 30, verses 11-14:

יא כי המצוה הזאת אשר אנכי מצוה היום לא תפלא אתה הוא מקד ולא תרחק הוא: יב לא בשמים הוא לאמר מי יעלה לנו השמימה ויקחה לנו וישמענו אותה ונעשנה: יג ולא מעבר לים הוא לאמר מי יעבר לנו אל עבר הים ויקחה לנו וישמענו אותה ונעשנה: יד כי קרוב אליך הדבר מאד בפיך ובלבבך לעשותו:

11. For this commandment which I command you this day, is not hidden from you, nor is it far off. 12. It is not in heaven, that you should say, Who shall go up for us to heaven, and bring it to us, that we may hear it, and do it? 13. Nor is it beyond the sea, that

1. טור אורח חיים תכח.

you should say, Who shall go over the sea for us, and bring it to us, that we may hear it, and do it? 14. But the word is very near to you, in your mouth, and in your heart, that you may do it.

Which mitzvah is the Torah referring to when it says “המצוה הזאת” “המצוה הזאת”? In the popular consciousness, “המצוה הזאת” is not a single mitzvah at all, but rather the entire Torah. The source of this consciousness is probably Rashi’s interpretation of these verses.² But the words המצוה הזאת are by themselves ambiguous. Other commentators, most notably the Ramban, looked at these words and understood them to mean the mitzvah of teshuvah, which the Torah just discussed earlier in chapter 30 verses 1-10. Let us examine each of these approaches.

These verses are all about a common subject, but the Torah does not explicitly identify that subject. The Torah refers to המצוה הזאת in verse 11 and then refers back to המצוה הזאת with multiple references in each succeeding verse (e.g., “לא נפלאת היא,” “לא היא המצוה הזאת,” “לא בשמים היא” etc.). But what is המצוה הזאת? What is not in the heavens (as well as not hidden, not far away, etc.)?

The Ramban identifies המצוה הזאת as the mitzvah of teshuvah. According to the Ramban, “המצוה הזאת אשר אנכי מצוך היום” refers back, naturally, to the *parshat ha'teshuva*, which immediately precedes our section in verses 1-10. In anticipation of the objection that the *parshat ha'teshuva* is written in language that is descriptive and not prescriptive, (“ושבת” vs., e.g., “שוב תשוב”), the Ramban opines that in addition to commanding us to do teshuvah, the Torah is also promising us that we will do so.³ If so, לא בשמים היא and all the other expressions of accessibility are

2. Although chazal’s non-pshat level interpretations of לא בשמים היא are not the subject here, they seem to support an understanding that the “היא” is the Torah itself:

See, e.g., Eiruvin 54a (לא תמצא במי שמגביה דעתו עליה...),

Bava Metzia 59b (שכבר נתנה תורה מהר סיני, אין אנו משגיחין בבת קול...)

3. It is interesting to note that at least some of the מוני המצוות do not view the *parshat ha'teshuva* as the source of the mitzvah of teshuva, unlike the Ramban.

telling us that this mitzvah is attainable by us. The Torah commands us to do teshuvah, promises us that we will eventually do so, and encourages us by assuring us that this task is not out of reach.

Learning these verses like the Ramban, the connection between לא בשמים היא and the time and situation we find ourselves in today is obvious. During the period of introspection and attempted self-improvement that begins on rosh chodesh Elul, we may find ourselves discouraged by a mistake we cannot believe we made or by a weakness that we cannot believe we still have. We may feel disheartened by the feeling that we are still in the same position vis-à-vis G-d and our responsibilities to Him as we were one year ago. We are prone to feel that we may never successfully improve. In response to these feelings of discouragement and perhaps even despair, the Torah tells us, by means of an abstract promise, that we are destined eventually to do teshuvah and by a concrete reminder that teshuvah is indeed within our reach. The Torah tells us that teshuvah is both inevitable and practically attainable.

The more prevalent view among the *rishonim* identifies המצוה הזאת with the Torah as a whole, rather than with one particular mitzvah.⁴ According to this view, the opening words of our section, “כי המצוה הזאת אשר אנוכי מצוך היום” do not relate the *parshat hateshuva* that comes immediately beforehand. Rather, these words relate to Moshe’s address to the Jewish people from the beginning of the parsha regarding the eternal covenant being struck between G-d and Bnei Yisrael –i.e., the whole Torah. So at least at first glance המצוה הזאת and לא בשמים היא do not appear to relate to our task of the moment, teshuvah.

Within this second approach we find two diametrically opposed understandings of לא בשמים היא. The *Bechor Shor*⁵ understands that these verses are giving us two categories that observance of

4. See Rashi 30:14; Ibn ezra 30:11; שור 30:11.

5. The *Bechor Shor* was one of the תוספות and was a student of Rabbeinu Tam who wrote a commentary on Chumash.

the Torah does **not** fall into, with one example of each category. What the Torah requires is not impossible (לא נפלאה), which it would be if it were בשמים, nor is it prohibitively difficult (לא רחוקה), which it would be if it were מעבר לים. Certain things are impossible, and others are too difficult to accomplish, but what the Torah demands of us is neither.

Rashi, on the other hand, understands that even if the Torah were literally inaccessible to us we would still be obligated to get access to it – “שאלו היתה בשמים, היית צריך לעלות אחריה וללמדה.”⁶ This is just the opposite of the position of the *Bechor Shor*, which acknowledged that if the Torah gave us an impossible task, we would not be required to perform it. It is hard to understand how, according to Rashi, one could go to the heavens to get access to the Torah.⁷ If something is impossible, being commanded to do it does not make it any more possible. Some commentators on Rashi have suggested that Rashi’s intention is that the Torah is underscoring the supreme importance of the Torah – so much so that there is no limit to the lengths that we must go to in order to understand its message. While this is undoubtedly true and important, perhaps we can understand Rashi’s interpretation of this verse a little bit differently. The message of this verse according to Rashi might be that we should not pay too much attention to the attainability (or otherwise) of tasks assigned to us by the Torah, focusing instead on the process of trying to do as the Torah tells us.

Now we see clearly that even if we do not understand לא בשמים היא as referring to the *parshat hateshuva*, but rather to the Torah as a whole, it nevertheless can and should inform our efforts at teshuvah at this time of year. During our process of attempting to improve our behavior and attitudes, we may be discouraged not by the distance we feel from G-d, but by the difficulty we

6. Rashi and the בכור שור also differ on whether the emphasis is on performing the Torah’s mitzvot or studying the Torah, but for simplicity this nuance is not addressed here.

7. At the time the Torah was given, neither lighter-than-air nor heavier-than-air aircraft had yet been invented.

perceive in the tasks the Torah assigns us. Never speaking badly about another person? Always concentrating intently during our tefilot? Becoming a person who never lets anger get the best of him? These seem unattainable. But the Torah tells us that even if they are impossible, we are required to do them successfully. So we might as well forget about the perceived enormity of the task and get started. And none of us can doubt that the process of inching toward any of these goals is worthwhile, and part and parcel of the process of teshuvah itself.

May the meaning of לא בשמים היא as understood by Rashi, the Ramban, and the *Bechor Shor* inform and inspire us during the עשרת ימי תשובה and throughout the coming year.

The Connection Between the 15th of אב and יום כפור

Ari Wieder

The משנה in the fourth פרק of מסכת תענית states:

לא היו ימים טובים לישראל כחמשה עשר באב ויום הכפורים

There were no more joyous days for Israel than the 15th of Av and Yom Kippur.

The גמרא¹ has little difficulty understanding the joyous nature of יום כפור (as the day designated for סליחה ומחילה and the day that בני ישראל received the second לוחות). However, the גמרא does not find it as obvious why the 15th of אב should be described as a day of joy, let alone one that is on par with יום כפור. I would like to suggest, based on approaches taken by הרב משה שפירא הגאון הרב, that at least one of the reasons offered by the גמרא to explain the significance of the 15th of אב points to a deep connection between the two days, and that a proper understanding of the message of the 15th of אב can help us prepare for a more meaningful יום כפור.

One of the reasons the גמרא offers is that on the 15th of אב in the 40th year of the journey through the desert, the generation that was between the ages of 20 and 60 at the time that the מרגלים returned from their mission, the members of which had been told that they would not enter ארץ ישראל, stopped dying. The גמרא describes how every year, the subjects of the decree would dig graves for themselves and lay down in those graves on the night of תשעה באב, and the following morning, those who had survived to live for at least one more year would wake up and climb out of their graves. Each year, the number of people who got out of the graves would decrease, as the generation died off. In the final year in the desert, the final group of somewhere between 15,000 and 16,000 men dug their graves, fully expecting not to awaken the next morning. When they all awoke the next morning, they

1. עיין תענית ל: ובבא בתרא קכא.

became concerned that perhaps they had miscalculated when the new moon had appeared and when the month אב had actually commenced, and that perhaps they had laid down in their graves one night too early (*i.e.*, on what was actually the 8th of אב). They repeated the process the following night, only to awaken the next morning again. They continued to repeat the process until the 15th of Av, at which point, seeing the full moon above, they recognized that their prayers had been answered and that the punishment had run its course, and that they were now ready to enter ארץ ישראל.

In addressing the issue of who stopped dying in the 40th year, תם רבינו takes the position that each year in the desert, an equal number of people who were subject to the decree died. Thus, in the 40th and final year, all of those who lay down in their graves until the 15th of אב were properly the subject of the decree and should have died. However, the decree on this last remnant of the דור המדבר was nullified and they lived to enter ארץ ישראל.² While תם רבינו does not explain why the decree was nullified, Rav Druk suggests that the answer lies in power of תפילה. In each of the preceding 37 years, when hundreds of thousands (and later tens of thousands) of men slept in their graves the night of תשעה באב, they may have all prayed that they be spared death for one more year. However, the power of those תפילות was tempered by the fact that in each of these years, the individuals who prayed understood that not everyone who was digging their grave would die. Thus, they could look at the person next to them and at least entertain the possibility that as a result of their relative merits, that person would be the one who would not awake in the morning, and they would live to see another year. In the final year, however, all of those who remained understood that their time was up as a statistical certainty. Thus, when they prayed to be spared, they literally prayed as if their very existence depended on it. As Rav Druk explains:

אבל בשנה האחרונה כאשר חפרו קבריהם אז היתה
תפילתם מלב קרוע ומרותח והתפללו מכל מעמקי הנפש

2. עיין בבא בתרא קכא תוספות ד"ה יום שכלו בו מתי מדבר.

להנצל בידועם כי אין להם על מי לסמוך אלא אבינו
שבשמים תפילה זו בקעה את הרקיעים ונתבטלה מהם
הגיזרה³

But in the final year (in the desert) when they dug their graves, their prayers were heartfelt and they prayed from the depths of their souls to be saved, with the knowledge that there was no one for them to rely on other than our Father in heaven. This prayer penetrated the heavens and nullified the decree.

Thus, one of the central lessons of the 15th of אב is the power of heartfelt prayer. A related lesson is that no matter what our situation, Hashem cares about us and wants us to engage in a dialogue with Him. That dialogue, רב שמשון פינקוס זצ"ל, explains,⁴ takes the form of prayer – both in its formal, structured framework established by תז"ל, and in a constant 24/7 informal dialogue and ongoing conversation. And the lesson of the 15th of אב is that even when we have sinned and Hashem is angry with us, He still cares. What we do still matters to Him and He still wants to have a relationship with us.

This lesson is driven home in the language of the רמב"ם, who, in explaining the significance of the 15th of אב as the day that בני ישראל stopped dying and realized that the decree had run its course, states:

ואז בטחו בנפשם והאמינו בעצמם והרגישו בו רצון הבורא והשבת אפו
וסיילוק חמתו מהם⁵

They then had confidence and believed in themselves and perceived the will and pleasure of the Creator and the cessation of His wrath and the removal of His anger.

3. עיין דרש מרדכי על ספר דברים (ט"ו באב).

4. עיין שערים בתפלה.

5. עיין פירוש המשניות על מסכת תענית.

Thus, on the 15th of Av, the people learned two lessons: (a) the power of prayer to literally change one's life and (b) the fact that no matter how we may have fallen, Hashem wants us to engage in dialogue with Him – He cares about us and He wants a relationship with us. These lessons should instill in each of us a sense of self-worth and confidence that we matter and what we do matters to Hashem.

With these lessons in mind, perhaps we can now better understand the linkage between the 15th of אב and יום כפור. And that is that the lessons we learn on the former are critical for us to properly appreciate and experience the latter. יום כפור is a day on which a person must bare his or her soul and come clean before their Creator. The recognition that one has sinned, and has done things that may call for punishment, can be frightening. But worse than that, it can create a sense of despair and hopelessness. One might be tempted to feel as if, having disappointed and/or angered the Creator, they are in no position to talk to Him or that He is not interested in repairing a bond that has been frayed. The message and lessons of the 15th of אב should be applied to the Yom Kippur that is now weeks away and give us the self-confidence that we matter -- He still wants to hear from us and He still wants a relationship with us.

כי לא תחפוץ במות המת כי אם בשובו מדרכו וחיה

Here is my Mitzvah of Sukkah - Please Perform it for Me

Rabbi David Flamholz

Typically, when one wants to perform a מצוה that he is either unable or unprepared to perform personally, he may appoint a שליח (agent) to perform the מצוה on his behalf. Through the halachic maxim of שלוחו של אדם כמותו the שליח's act is attributed to him (the משלח) and it is as if he himself performed the מצוה (see Kiddushin 41b-42a). Thus, for example, one who is unable to bring the חטאת or perform the מצוה of ברית מילה or פדיון הבן on his son, may appoint a שליח to perform that מצוה in his behalf.

Accordingly, the רמ"א *paskins*:

בכל דבר שלוחו של אדם כמותו חוץ מלדבר עבירה (חושן משפט קפ"ב:א')

With regard to everything a person's agent is like him except with regard to transgressions.

With this principle in mind, the ריד (קידושין מב:) asks why one ever needs to personally perform a מצוה? Why can't one who feels it is too cold outside to sit in the סוכה or is too tired to get up in the morning to put on his tefillin simply appoint a שליח to perform these מצוות in his behalf and with the application of כמותו של אדם obtain credit for the מצוות as if he himself performed them?

The ר"ד answers that for certain מצוות, such as פסח, קרבן פסח, ברית מילה and פדיון הבן, the appointment of a שליח would indeed suffice but for other מצוות, such as ישיבת סוכה and הנחת תפילין, the תורה requires us to perform them with our bodies (מצוות שבגופו). For these מצוות the performance of the מצוה through a שליח is not effective.

The חושן משפט קפ"ב:א' suggests another approach. According to the קצות, even with the principle of שלוחו של אדם

כמותו, a שליח only has the authority to perform the initial act on the משלח's behalf. This generally suffices for most מצוות. Thus, the שליח may perform the act of שחיטה on the פסח or קרבן פסח or perform the ברית מילה or פדיון הבן on the משלח's behalf - but no more. Should a particular מצוה require more than just an initial, one time, act, a שליח is incapable of assisting the משלח in fulfilling those subsequent portions of the מצוה. Thus, when it comes to תפילין, the הנחת תפילין, the שליח may be able to perform the initial act of donning the תפילין on behalf of the משלח, but subsequent to that initial act, it is the שליח and not the משלח who is wearing the תפילין. Similarly, should one appoint a שליח to sit in the סוכה in his behalf, the שליח can perform the initial מצוה of sitting in the סוכה on behalf of the משלח, but, for the rest of the meal, it is the שליח and not the משלח who is sitting in the סוכה. Any food the משלח eats outside of the סוכה will be considered חוץ לסוכה for the purpose of his מצוה.

Perhaps we can suggest a third approach based on the opinion of the בח regarding סוכה, תפילין and other similar מצוות (see משנה ב' (ברורה סימן ח' סעיף קטן יט). According to the בח, when the תורה provides a specific reason for the performance of a מצוה, mere performance of the מצוה is not sufficient for the fulfillment of the מצוה; rather one must perform the מצוה with that particular reason in mind. The reason for the מצוה thus becomes a critical component of the מצוה. For example, with regard to the מצוה of תפילין, the תורה states:

וְהָיָה לָךְ לְאוֹת עַל־יָדְךָ וּלְזִכָּרוֹן בֵּין עֵינֶיךָ לְמַעַן תִּהְיֶה תּוֹרַת ה' בְּפִיךָ כִּי בָנִדְתָּ הַצִּקָּה הַזֹּאת ה' מִמִּצְרַיִם: (שמות יג:ט').

And it shall be for you a sign on your arm and reminder between your eyes so that Hashem's Torah may be in your mouth, for with a strong hand Hashem took you out of Egypt. (Shmos 13:9).

Since the תורה goes out of its way to give us the reason for the מצוה - “so that Hashem's Torah may be in your mouth” - one

must have this reason in mind when performing the מצוה of תפילין.

When it comes to the מצוה of סוכה as well, the תורה specifically prescribes a reason for the מצוה:

לְמַעַן יֵדְעוּ דֹרֹתֵיכֶם כִּי בַסֻּכּוֹת הוֹשַׁבְתִּי אֶת־בְּנֵי יִשְׂרָאֵל בְּהוֹצִיאִי אוֹתָם מֵאֶרֶץ מִצְרַיִם אֲנִי ה' אֱלֹהֵיכֶם: (ויקרא כג:מג).

So that your generations will know that I caused the Children of Israel to dwell in booths when I took them from the land of Egypt; I am Hashem your G-d. (Leviticus 23:43).

Here too, the תורה stresses the purpose behind the מצוה - that of relating to subsequent generations the story of מצרים. Therefore, says the ב"ה, one cannot fulfill this מצוה without that specific כוונה in mind.

It is therefore not a stretch to suggest that if the תורה expects us to have specific intent when it comes to the performance of these מצוות, we cannot pass off these obligations to a שליח. A שליח's ability to perform מצוות on our behalf through the principle of כמותו של אדם is perhaps limited to the actual performance of the מצוה and cannot be extended to the intent in performing the מצוה. Thus, in מצוות where intent is an absolute necessary component of the מצוה (such as תפילין and סוכה according to the ב"ה) we cannot utilize the principle of כמותו של אדם to have the שליח perform the מצוה on our behalf.

This explanation rings particularly true when it comes to the מצוה of ישיבה בסוכה. After all, as the ב"ה points out, the תורה seems to place great emphasis on the inter-generational experience and seems to envision a ישיבה בסוכה where grandparents, parents, and children are sitting together with the older generations imparting their knowledge and experiences to the younger ones. This, of course, could not be accomplished were one to appoint a שליח to perform it on his behalf. Apparently, the only real way to

completely fulfill the מצוה of ישיבה בסוכה as conceived by the תורה is by sitting together with one's family and sharing together the awareness of יציאת מצרים.

May we all be blessed with the opportunity to observe and enjoy the holiday of סוכות together with our families in the manner in which the תורה envisioned - so that the story of יציאת מצרים can be relayed to our children and our childrens' children for all generations.

Birkas Halulav Ovair La'asiyasan

Yossi Kra

The Mechaber (O.C. 651: 5) records that one should recite the beracha of “*al netilas lulav*” while holding the lulav, hadasim and aravos and prior to also taking the esrog. Alternatively, one can hold all of the *minim* with the esrog upside down and then turn over the esrog after reciting the beracha in accordance with the opinion of Tosafos¹. This enables the beracha to be “*ovair la'asiyasan*,” immediately prior to performing the mitzvah. It would be too early to recite beracha before taking both the lulav and esrog.

The Rambam (Lulav 7:6) disagrees and rules that one should recite the beracha before holding any of the *minim*. After reciting the beracha, one should then take the lulav and esrog in hand.

Two basic approaches to Ovair La'asiyansan

Later in the same siman (si'if 12), the Mechaber rules that one fulfills his obligation if he takes each of the four *minim* separately, even though there is no point in time when he is holding all four simultaneously. The Rema adds that the beracha is recited in such a case before the first of the *minim* is taken.

The Bach observes based on this halacha that the performance of the mitzvah in the typical case starts when one picks up the lulav, hadasim and aravos bundle. If one were to put them down before taking the esrog, that initial action would enable one to fulfill the mitzvah. Accordingly, the Rambam's approach is understandable. Saying the beracha before picking up any of the *minim* immediately precedes the start of the mitzvah. Therefore, the Bach concludes that it is best to pick up both the lulav and esrog upside down before reciting the beracha.

1. Pesachim 7b s.v. *Latzais*, Sukkah 39a s.v. *Ovair La'asiyasan*.

The Shaar Hatzion offers a novel approach to *ovair la'asiyasan* to resolve the question of the Bach. The Shaar Hatzion posits that one recites the beracha after taking the lulav so that the beracha immediately precedes the fulfillment of his obligation, the *kiyum hamitzvah*. According to this explanation, we attempt to place the beracha immediately prior to fulfillment of one's obligation, independent of whether mitzvah actions were required prior to that point in time.²

Based on this approach, Tosafos and the Rambam disagree on whether *ovair la'asiyasan* dictates that the beracha should precede the initial mitzvah action, i.e. the *maaseh mitzvah*, according to the Rambam or if the beracha should precede the *kiyum hamitzvah* according to Tosafos.

Similarly, there are varying opinions³ regarding whether a woman should recite the beracha on Shabbos candles before lighting (with intent not to accept Shabbos when reciting the beracha) or whether she should light and then recite the beracha with her eyes covered. For Shabbos candles, the mitzvah action is the lighting while the fulfillment is achieved through benefiting from the light. Therefore, we can explain the dispute as whether *ovair la'asiyasan* requires that the beracha be recited before an action like the Rambam or whether *ovair la'asiyasan* can be achieved if the beracha is recited before one benefits from the light, in accordance with Tosafos.⁴

Alternate Explanation of Tosafos

The Shaar Hatzion's explanation is difficult for two reasons:

1. In the case where one takes each of the *minim* separately, the Rema ruled one should recite the beracha before taking the first of the *minim*. However, one doesn't fulfill

2. The Bach suggests a similar approach.

3. See Bach O.C. 263:3

4. See Rabbi Shachter's Eretz Hatzvi p14, footnote 6 for a similar discussion.

his obligation until he has taken all of the *minim*. According to the Shaar Hatziun, why doesn't one recite the beracha before taking the fourth *min*?

2. The conventional understanding is that a *maaseh mitzvah* obligates one to recite a beracha while a *kiyum mitzvah* does not. For example, we recite a beracha each night of sefiras haomer while according to many rishonim there is only one mitzvah that is ultimately fulfilled. Additionally, we don't recite brachos on a *kiyum hamitzvah* where there is no *maaseh mitzvah* (e.g. not eating on Yom Kippur or not collecting a debt after shemitah). Accordingly, how can a *kiyum hamitzvah* require *ovair la'asiyan* if it doesn't require a beracha altogether?

Tosafos in Sukkah provides an alternate explanation. Tosafos writes that one fulfills *ovair la'asiyan* by reciting the beracha before performing a mitzvah in the ideal form even if one previously satisfied the essential requirements to fulfill one's obligation. One can recite the beracha as long as he remains involved in the performance of the mitzvah. **Where there are several actions, the beracha should only be recited once and it can be recited before an action, not necessarily the first action. It is best to wait for the climax to recite the beracha, not prior to the initial activities.**⁵

We can use this fundamental understanding to resolve our two questions above. When taking the *minim* one at a time, no one action is independently more significant than the next. Therefore, by default, the beracha is recited before the first

5. Several rationales can be offered for each approach. As a suggestion, according to the Rambam, a *birkas hamitzvah* may be a *matir* that permits us to perform one of Hashem's mitzvos and must precede the start of an initial mitzvah action, analogous to *birkas hanehenin*. (See Ritva Pesachim 7b for an alternate explanation). According to Tosafos in Sukkah, the *birkas hamitzvah* is a declaration that is an integral part of the mitzvah, most powerfully executed as one approaches the highest intensity moment.

lifting. However, if one will take all four *minim* together, we delay the recital of the beracha as taking all four *minim* together is an enhanced activity, more special than first taking the lulav without the esrog.

This approach explains the position of the Ri⁶. The Ri suggests that one should say the beracha after taking all four *minim* when one has fulfilled his primary obligation but before shaking the lulav during hallel. Why would the Ri suggest saying the beracha so late in the process? According to Tosafos in Sukkah, the Ri's position is understandable as the most glamorous taking of the lulav is the shaking during hallel, and therefore, it is the best point in time to recite the beracha.

In summary, there are three approaches to the optimal fulfillment of *ovair la'asiyasan*:⁷

1. Rambam's approach - A beracha should be recited before starting any mitzvah actions
2. Shaar Hatziun's approach - A beracha should be recited immediately before one fulfills his obligation
3. Alternate approach based on Tosafos in Sukkah - A beracha can be recited before any action in a consecutive grouping, preferably the climactic action

Based on this array of positions, we can explain a number of disputes regarding the placement of brachos for other mitzvos.

Application to Netilas Yadayim

6. Tosafos Pesachim and Sukkah ibid.

7. In addition, the Yerushalmi Brachos 9:3 quotes the opinion of Rav Huna that a bracha should be recited concurrent with the mitzvah action where possible. This approach also understands the bracha to be a part of the mitzvah, rather than a prerequisite.

The Ri quoted above suggested delaying recital of the beracha on lulav until the shaking in Hallel. Tosafos in Sukkah notes this approach is consistent with the common practice for washing hands before eating bread. We delay the beracha until after one washes his hands but before drying his hands. *Netilas yadayim* shows that *ovair la'asiyasan* does not require recital of the beracha before the initial action. Recital of the beracha before a second action in a series of consecutive activities in no way compromises fulfillment of *ovair la'asiyasan*.

However, Tosafos in Pesachim and in Brachos (51a) provides an alternate explanation for why we recite the beracha after washing. There are times when one's hands are unfit for the recital of a beracha before they are washed. The placement of the beracha of *netilas yadayim* is suboptimal, but an exception was necessary so that one can recite the beracha in an appropriate level of cleanliness. This is consistent with the opinion of the Rambam above and is counter to the proof of Tosafos in Sukkah.

Application to Bris Milah

The Michaber states that the father should recite the beracha of “*lihachniso*” after the mohel cuts the foreskin and before breaking the membrane.

The Shach explains that the father delays the beracha until he is confident the mohel will carry through with the bris. We don't allow the father to recite the beracha before the initial action because there is a concern that there will be a *beracha livatalah* if the mohel then decides not to perform the bris. However, in principle, it would have been preferred if the beracha could have been recited before the initial cutting. Furthermore, the Shach references opinions that encourage recital of the beracha before the cutting. Accordingly, the Taz rules that the beracha should be recited before the cutting when one is performing a bris on his own child as there is no concern that the mohel will not follow through.

However, the Tur quotes his father the Rosh, who maintained that recital of the beracha at this time unequivocally satisfies the mandate of *ovair la'asiyasan* as the mitzvah has not yet been concluded.

We can explain these positions based on our analysis above. The Rishonim referenced by the Shach and Taz maintain that ideally a *birkas hamitzvah* should be recited before the first mitzvah action while the Rosh maintains that *ovair la'asiyasan* can be recited before any action in the process.⁸

Application to Birkas Hashofar

The Rosh (Rosh Hashanah 4:10) records two opinions regarding the beracha for shofar. Rabbainu Tam maintains the beracha is “al tekiyas shofar,” on the blowing. The Ravyah based on the Yerushalmi maintains the beracha is “lishmoa bikol shofar,” on the listening.

At first glance, the dispute is based on whether the mitzvah is the blowing of the shofar or listening to the shofar. However, this understanding is problematic as both activities are clearly essential elements. For example, the Rosh quotes the Bahag who references the mishna that one who blows into a pit and only hears an echo does not fulfill his obligation. We see from this mishna that the listening is an absolute requirement. On the other hand, the achronim reference the mishna (32b) that one does not fulfill his obligation if he hears from someone who inadvertently blew a shofar. We see from this mishna that the blowing is also clearly part of the mitzvah.

Perhaps we can explain that both Rabbainu Tam and the Ravyah agree there are two parts to the mitzvah. According to Rabbainu

8. As an aside, the Gra quotes the opinion of the Ran that this bracha is not a *birkas hamitzvah* but rather a bracha of thanksgiving and therefore *ovair la'asiyasan* is not relevant.

Tam, *ovair la'asiyasan* requires a beracha on the first activity⁹. However, the Ravyah and our practice is consistent with the position that *ovair la'asiyasan* dictates the beracha should be recited on the most significant action (even though in practice that beracha will be recited before the blowing as well).

In conclusion, we presented three fundamental approaches to *ovair la'asiyasan* and briefly demonstrated how this may explain a range of disputes regarding the brachos for lulav, Shabbos candles, netilas yadayim, milah and shofar. However, it must be noted that each of the topics referenced include many additional considerations beyond the scope of this article. Furthermore, it should be acknowledged that several *rishonim* do not seem to maintain a consistent position throughout each of the examples, perhaps due to the considerations specific to each case.

9. Alternatively, Rabbainu Tam can be explained that the listening is not a bona fide activity.

Found: The Missing Holiday

Rabbi Avie Schreiber

I. The Missing Holiday

There seems to be a glaring omission in the שלוש רגלים. Each of the רגלים commemorates a key historical event or time period in the development of Am Yisrael. Pesach commemorates our formation as a nation. Shavuot reminds us of Matan Torah where we were charged with our mission as a nation, and Sukkot teaches us about the intimate relationship we enjoyed with הקב"ה and the protection He lovingly provided for us during the *Midbar* era.

There is one historical event of great significance that is strikingly absent in the cycle of our Chagim - entering the Land of Israel - כניסה לארץ. Why isn't there a Chag to commemorate this ever-so-important moment in our history? Wasn't this moment the culmination and realization of everything that preceded it? Shouldn't it warrant its own Chag?

II. A Novel View of שמיני עצרת

Perhaps, the answer is that indeed, there is such a holiday. Which holiday is it? By considering the meaning and symbolism of Sukkot vis-a- vis שמיני עצרת, we will arrive at the answer.

As we dwell in our Sukkot during the holiday of Sukkot, we remember the experience of the מדבר - the desert. We acknowledge the love, protection, and close relationship provided by הקב"ה during this time. At the close of Sukkot, on שמיני עצרת we leave our Sukkot and enter our homes. Symbolically, we leave the מדבר and enter into where? It is logical that when we leave the Sukkah - the מדבר - we are symbolically re-entering the Land of Israel.

As we leave our דרית ארעי - our temporary residence and enter our דירת קבע - our permanent residence, we are reminded of the transition from *galut*, a temporary national residence, to the Land

of Israel, our permanent national residence. The movement from the Sukkah to the home is reminiscent of the move from the desert to ארץ ישראל. And so, שמיני עצרת is the holiday that commemorates the dramatic moment of כניסה לארץ¹. From the perspective of the chronological cycle of the Chagim, this idea flows naturally. On Pesach we became free and we became a nation. Soon after, on Shavuot, we received the Torah. For the next forty years we wandered in the desert protected by the Sukkot. What comes immediately after? Entering the land of Israel. שמיני עצרת, following immediately in the footsteps of Sukkot, caps off our journey that began forty years earlier in the Land of Egypt.

But this idea goes further. What is the message of שמיני עצרת as the Chag is typically understood? One message is that as we enter our homes after living in the Sukkot for seven days, we learn an important lesson. Just as eating, drinking, and sleeping are acts of mitzvot and holiness in the Sukkah, in our homes as well, we can transform these seemingly mundane necessities into mitzvot. By harnessing them for עבודת ה', we infuse them with significance and meaning. This message precisely captures the unique quality of the Land of Israel. Daily routines, activities, and actions take on heightened significance in ארץ ישראל. When we left the מדבר and entered Israel, we learned that planting, harvesting, and building are not excluded from the domain of mitzvah and holiness. Mitzvot surround and suffuse these activities with meaning. שמיני עצרת and ארץ ישראל share a common quality and therefore it follows that the former is a celebration of the latter.

תפלת גשם and שמיני עצרת. III.

We can now understand the nature of the ambivalent connection between Chag HaSukkot and water. The Mishna in Masechet Taanit presents an argument between Rabbi Yehoshua and Rabbi Eliezer regarding the appropriate time to begin adding משיב הרוח and גשם. ומוריד הגשם.

1. After developing this idea, I heard Rav Yaakov Meidan of Yeshivat Har Etzion express a very similar view.

מאימתי מזכירין גבורות גשמים?
רבי אליעזר אומר: מיום טוב הראשון של חג.
רבי יהושע אומר: מיום טוב האחרון של חג.

From when do we begin to mention the “might of the rain?”

Rabbi Eliezer says: From the first day of Sukkot.

Rabbi Yehoshua says: From the last day of Sukkot (שמיני עצרת).

Rabbi Eliezer believes that on the first day of Sukkot we should begin saying משיב הרוח ומוריד הגשם, but Rabbi Yehoshua feels that we should wait to say it until the “last Yom Tov” of the holiday, i.e. שמיני עצרת. Rabbi Eliezer’s view is based on the fact that Sukkot is a holiday that is thematically linked to water². This link between Sukkot and water is expressed in many different ways. Firstly, the Mishna in Rosh HaShanna states that during the Holiday of Sukkot, הקב"ה judges the world regarding water. Will water be plentiful, scarce, or destructive? Also, every day during the holiday of Sukkot the Kohanim performed the Mitzvah of נסוך המים - the water libation - which led to the exuberant celebration of the השואבה בית שמחת. It follows logically that at the beginning of Sukkot, we should praise Hashem for providing us with water through the medium of rain. But Rabbi Yehoshua responds -

אמר לו רבי יהושע: הואיל ואין הגשמים אלא סימן קללה בחג, למה הוא מזכיר?

Rabbi Yehoshua believes that it is inappropriate to mention rain during Sukkot proper because rainfall during Sukkot is a bad omen as it prevents us from fulfilling the Mitzvah of ישיבה בסוכה. He therefore states that we should wait until the very end of Sukkot - on שמיני עצרת - to begin saying משיב הרוח ומוריד הגשם. Practically speaking, we follow the opinion of Rabbi Yehoshua and begin saying משיב הרוח ומוריד הגשם on שמיני עצרת. As a result, we say Tefilat Geshem on this day as well.

2. בית הבחירה למאירי מסכת תענית דף ב עמוד א. "... שר' אליעזר סובר מאחר שנסוך המים בחג ונטילת לולב לרצות על המים שאנו נדונים בה בחג הם באים ... ראוי לנו לשבח באותו דבר שאנו עתידים לשאול ולהזכיר אותו בתפלת החג אע"פ שאין אנו שואלים בחג."

There is an irony that results from our practice. Sukkot, a holiday with a central theme of water, is inherently “anti-rain!” We depend on a lack of rain in order to celebrate the holiday of Sukkot properly.

In light of the suggested link between *ארץ ישראל* and *שמיני עצרת*, we can resolve this apparent inconsistency. While Sukkot is closely connected to water, it does not directly relate to any specific “delivery method” of the water. We petition Hashem to supply us with water, but we do not address the issue of rain. On *שמיני עצרת*, however, rain moves to center stage. Why? Sukkot commemorates the desert experience. In the desert, one of the chief concerns of *klal yisrael* was water. They did not ask for, expect, or receive rain, but they wanted water in any form possible. Once *klal yisrael* entered the Land of Israel, where the main source of water is rain, rain now becomes a primary need. The prayer for rain, *Tefilat Geshem*, is indeed, perfectly placed in the liturgy of *שמיני עצרת*. On this holiday, which commemorates *כניסה לארץ*, we pray for *הקב"ה* to bless His land with abundant rainfall.

IV. *שמיני עצרת* and Simchat Torah

With this idea we can explain a well known question raised regarding the relationship between Simchat Torah and *שמיני עצרת*. Why is *שמיני עצרת* the most apropos time to celebrate Simchat Torah? How does the theme of Talmud Torah pertain to *שמיני עצרת* more than to any other holiday? In fact, it would seem eminently more fitting to celebrate Simchat Torah on Shavuot which clearly celebrates Talmud Torah?

We can suggest that while Shavuot celebrates the Torah in its potential form, on *שמיני עצרת* (and therefore Simchat Torah) we celebrate the Torah in its actualized form. On Shavuot we celebrate the gift of the Torah, though the content of the Torah was not yet fully known by *klal yisrael*. The power inherent in the Torah excited, elevated, and sanctified the Jewish people on the holiday of Shavuot - but its potential was not yet realized. In fact, in the *midbar*, removed from civilization, the Torah cannot be completely fulfilled. In addition to the inability to perform the

mitzvot contingent on the land, the ideal and grand vision of the Torah is muted as well. Only in the Land of Israel can we achieve the goal of the Torah in all of its nuances and grandeur.³

Since on שמיני עצרת we reconnect to ארץ ישראל and to our national encounter with it, we can celebrate the Torah in its fullest form. Upon entering Israel, aspects of the Torah that had lain dormant while the Jewish people were in the desert, took root and flourished. The joy erupts and overflows from within us as the Torah unites with its land, finally achieving its full potential. With this in mind, an enigmatic statement in the gemara is demystified: "גדול יום הגשמים יותר מיום שניתנה בו תורה"⁴ - The day of the rain (שמיני עצרת) is greater than the day the Torah was given (Shavuot)!

May we be זוכה to heed the message of שמיני עצרת and celebrate the חג, together with all of *klal yisrael*, in ארץ ישראל.

3. It is interesting to note, that when comparing how we celebrate the holidays in *chutz l'aretz* to how we celebrate them in Israel, the one holiday with the greatest difference is שמיני עצרת. This is in two respects. 1) On the first day of שמיני עצרת we eat in the Sukkah (without a bracha) whereas in Israel we do not. 2) We do not celebrate Simchat Torah on the Biblical day of שמיני עצרת, whereas in Israel we do. Both of these practices in *chutz l'aretz* can be viewed as diminishing the full impact of the day. Eating in the Sukkah is a declaration that שמיני עצרת shares the attention with Sukkot. Also, by not celebrating Simchat Torah we are forced to withhold a full and energetic expression of *simcha*. Perhaps the idea is that on a day which marks and celebrates our entrance into the Land of Israel, we cannot possibly fully experience the meaning of the day **outside** of Israel. We continue to eat in the sukkah - in the desert - even on שמיני עצרת as a reminder that we are still in *chutz l'aretz* and we have not yet achieved the goal that שמיני עצרת envisions for us. Simchat Torah is likewise not celebrated because we cannot live a Torah life to its fullest while we remain distant from the Land of Israel.

4. תענית ז' עמוד א'

Bring Back בה"ב

Josh Gelernter

This past spring, the 5th day of Iyar fell on Monday. Someone asked me if the reason for pushing off *Yom Ha'atzma'ut* until Tuesday was because it conflicted with בה"ב. I replied that *Yom Ha'atzma'ut* being pushed off from Monday relates to *Yom Hazikaron* being on Sunday and the possible *chilul Shabbos* that might entail rather than בה"ב. This question got me thinking about בה"ב, so I decided to look into it.

Many of us are familiar with the concept of בה"ב, and even those of us who are not familiar have been impacted by it in some way. Whenever we say *selichos* on a *taanis tzibur* we often find ourselves flipping pages back and forth in the back of our siddurim. This is because the introductory paragraph and the *י"ג מדות* are usually printed once, at the very beginning of the *selichos* section of our siddurim and there are a couple of pages of *selichos* for שני קמא, שני תנינא, and תמישי. We don't often think about what those pages are for, but I hope this article will shed some light on those skipped pages.

The *sugya* begins with just three words in a gemara (Kidushin פא): סקבא דשתא ריגלא, which literally means the sore spot of the year is the holidays. תוספות explains that it is a bad time of year for ייחוד and עבירה in that men and women congregate together to hear lectures, and they end up looking at each other inappropriately. תוספות concludes that for this reason people have the custom to fast after Pesach and Sukkos. The תצב in טור rules that in Germany and France it is customary to fast on Monday, Thursday and Monday after both Pesach and Sukkos, and that it is proper to wait until after *Nissan* and *Tishrei* before fasting. Interestingly, the טור brings a passuk in Iyov to support the practice. After Iyov threw a party thanking הקב"ה for all of his success, he thought that perhaps his children had sinned during the course of the celebration. Iyov subsequently fasted in order to atone for any incorrect behavior that may have occurred.

The Shulchan Aruch mentions that practice as halachah, and the Rema comments that the fasting should occur on the first Monday after Rosh Chodesh. The Mishna Berura in *seif katan* 3 explains that the Rema is coming to exclude an opinion that says that we should wait until after the 17th of *Marcheshvan* to fast. Presumably, the reason behind waiting would be based on another reason for ברה"ב. The Sefer Chasidim brings that the reason for fasting at these times is as a form of tefila — after Sukkos so that there should be גשמי ברכה, and after Pesach so that the crops should not be smitten with disease. The first rains tend to come around the 17th of *Marcheshvan*, so perhaps that opinion is holding that we should not fast until the appropriate time for the rains.

There is another reason for fasting brought in the לבוש. He says that due to the changing of the seasons at these times of the year, there is a health concern that people will ח"ו become ill, so we fast in order that we are not harmed. It is unclear whether the fasting serves as a medical device to stave off the harmful effects or if it is a form of tefilah, but in any event this is a third reason for the idea of fasting ברה"ב.

In years when Erev Pesach falls on Shabbos, Pesach Sheini will fall out on a Monday. The poskim argue about how to deal with Pesach Sheini coinciding with the second Monday of ברה"ב. The פסקי תשובות quotes a number of אחרונים who are of the opinion that we absolutely do not fast on Pesach Sheini because it is written in מגילת תענית that we do not give eulogies on Pesach Sheini, and these poskim apply the same rule for fasting. Similarly, once we are not fasting on ברה"ב we do not say the ידיו or סליחות. However, others are of the opinion that Pesach Sheini should not be any stricter than the main day for bringing the *korban pesach*, i.e. the 14th of *Nissan*. Although we have the custom to make סיומים so the בכורים do not have to fast, the דין is that firstborns are supposed to fast if they do not attend a סיום. If it is permissible to fast on Erev Pesach, the main day for bringing the *korban*, it should certainly be permissible to fast on the “make-up” day. This opinion takes a very strict and literal reading of מגילת תענית, which only prohibits eulogies but is silent

regarding fasting. Therefore, according to these poskim, it is permitted to fast because it is not expressly forbidden. Some have the custom to fast and say the selichos of בה"ב yet skip תחנון and observe other customs of Pesach Sheini.

The Mishna Berura in *seif kattan* 3 says that on the Shabbos before בה"ב begins, the custom is to say a מי שברך blessing for those who will be observing בה"ב. Normally, when a person wants to accept an additional fast, he must make a verbalized commitment at mincha on the day prior to the day of his fast. However, the Mishna Berura says that when it comes to בה"ב, if a person answers אמן to the מי שברך with intention to fast בה"ב, that will serve as his acceptance of the fast. If he subsequently changes his mind and does not wish to fast, he does not have to undergo a התרת נדרים as long as he did not explicitly accept the fast verbally. Parenthetically, if there is a bris or *chosson* in shul that Shabbos, the מי שברך is delayed until mincha.

There is a debate among the *acharonim* regarding when precisely to make this מי שברך. The לבוש is quoted as saying that we say מי שברך after *ashrei* but before יהללו, while the שערי אפרים is quoted that it should be said after יהללו, based on a Zohar that says in a situation where we will be blessing human beings, it is proper to first bless הקב"ה, and יהללו serves as a beracha. It appears, however, that the prevailing custom is to say this מי שברך after *ashrei* but before יהללו as is brought in the מהרי"ל.

Today, very few if any communities observe בה"ב as it is brought down in the שו"ע, as very few individuals fast on these days. Many places in Eretz Yisroel say *selichos* and there are a few congregations in America where one can find minyanim saying the *selichos* but very few where they *lein* ויחל at mincha. This is not a surprising development as most voluntary fasts have fallen off in modern times as a result of the weakening of the human body and spirit over the many years in *galus*. We daven that this should be the last year of ירידת הדורות, and that next year we will celebrate the Yamim Tovim in the Beis Hamikdash in the rebuilt Yerushalayim, בב"א.

I Didn't Know that! **Prayer - Pronunciation and Protocol**

Uri Jacobs

The purpose of this article is to shed light on some of the procedures, halachos, and pronunciations in our daily davening¹. Increased understanding of these issues assists us in enhancing our davening and enables us to educate our children how to daven properly.

While there are many grammatical and non-grammatical areas that could be discussed in this article, I have chosen to focus on six specific areas:

1. Words that tend to be grouped together incorrectly with misplaced commas or pauses
2. Various davening reminders
3. Various *chazan* procedures and halachos
4. Proper emphasis/accent of words (m'liel/m'lera)
5. Pauses between words where the last letter of one word is the same as the first letter of the next word
6. Rare *mapik b'hay* situations

Area #1- Words that tend to be grouped together incorrectly with misplaced commas or pauses-

Why? There are various reasons why today we tend erroneously to group together certain phrases. These include:

- We are accustomed to tunes taught to us at a young age where the tunes have remained with us over the years,
- popular songs that try to fit the words in to the tune, rather than fitting the tune in with the words,
- some *chazan* “hand me down” tunes that lead to incorrect grouping of words, and

1. Although due to the printing deadline, the Rav was unable to fully review this article, because of the importance of the topic, we wanted to present the article at this time. (The editors)

- not knowing or paying attention to the precise meanings of some of the words.

Below are some examples-

Where	Common incorrect version	Correct version
מוֹדָה אֲנִי	שֶׁהַחַיְתִּית בִּי נִשְׁמָתִי - בְּחַמְלָה רַבָּה אֲמוּנָתְךָ. “you have returned within me my neshama – with great compassion is your faithfulness”	שֶׁהַחַיְתִּית בִּי נִשְׁמָתִי בְּחַמְלָה - רַבָּה אֲמוּנָתְךָ. “You have returned within me my neshama with compassion – great is your faithfulness”
אֶשְׁרֵי	עֵינֵי כָל אֱלֹהִים יִשְׁבְּרוּ “The eyes of all to You do look with hope”	עֵינֵי כָל - אֱלֹהִים יִשְׁבְּרוּ “The eyes of all - to You do look with hope”
יִשְׁתַּבַּח	מֶלֶךְ - קַל-חַי - הָעוֹלָמִים “King – life-giver G-D – of the world”	מֶלֶךְ - קַל-חַי הָעוֹלָמִים “King – G-D – life-giver of the world”
שָׁמַע	וְנָתְנוּ עַל צִיצַת הַכֶּנֶף פִּתִּיל תְּכֵלֶת “And they are to place – upon the tzitzis – of the corner a thread of techeiles”	וְנָתְנוּ עַל צִיצַת הַכֶּנֶף - פִּתִּיל תְּכֵלֶת “And they are to place – upon the tzitzis of the corner - a thread of techeiles”
קְדוּשָׁה	לְדוֹר וָדוֹר הַלְלוּקָה	לְדוֹר וָדוֹר- הַלְלוּקָה
בְּרַכַת כַּהֲנִים	בְּרַכּוּ בְּבִרְכַת הַמְּשׁוּלֶשֶׁת בְּתוֹרָה - הַכְּתוּבָה “bless us with the blessing of three verses that is in the Torah – which was written by”	בְּרַכּוּ בְּבִרְכַת הַמְּשׁוּלֶשֶׁת - בְּתוֹרָה הַכְּתוּבָה “bless us with the blessing of three verses – that is in the Torah which was written by”
קְדִישׁ	בְּעֵלְמָא דְבִרָא כְּרֵעוּתִיה - וּיְמַלִּיךְ מַלְכוּתִיה - בְּחַיִּיכוֹן וּבְיוֹמִיכוֹן “in the world that He created according to His will – and may He give reign to His kingship – in your lifetime and in your days and in the lifetimes of all of Israel”	בְּעֵלְמָא דְבִרָא כְּרֵעוּתִיה - וּיְמַלִּיךְ מַלְכוּתִיה בְּחַיִּיכוֹן וּבְיוֹמִיכוֹן “in the world that He created according to His will – and may He give reign to His kingship in your lifetime and in your days and in the lifetimes of all of Israel”

שיר של יום חמישי	וַיֹּאכִילֵהוּ מִחֶלֶב חֹטֶה - וּמִצֹּר דָּבֶשׁ - אֲשֶׁבִיעֶנּוּ. “And He would feed him with the choicest wheat – and from a rock with honey – I would satiate you”	וַיֹּאכִילֵהוּ מִחֶלֶב חֹטֶה - וּמִצֹּר דָּבֶשׁ אֲשֶׁבִיעֶנּוּ. “And He would feed him with the choicest wheat – and from a rock with honey I would satiate you”
שחרית/ מעריב	מֹשֶׁה וּבְנֵי יִשְׂרָאֵל לָךְ עָנוּ שִׁירָה - בְּשִׂמְחָה רַבָּה - וְאָמְרוּ זֶלֶם: “Moshe and the children of Israel to you exclaimed in song – with great gladness – and said all unanimously”	מֹשֶׁה וּבְנֵי יִשְׂרָאֵל לָךְ עָנוּ שִׁירָה בְּשִׂמְחָה רַבָּה - וְאָמְרוּ זֶלֶם: “Moshe and the children of Israel to you exclaimed in song with great gladness – and said all unanimously”
קבלת שבת	מיד- רשעים יצילם “From the hand – the wicked He rescues them”	מיד רשעים - יצילם “From the hand of the wicked – He rescues them”
שחרית לשבת	שוכן עד- מרום- וקדוש שמו “He who dwells forever – exalted – and holy is His name”	שוכן עד- מרום וקדוש שמו “He who dwells forever – exalted and holy is His name”
Before on שתבת	על כל דברי שירות ותשבחות - דוד בן ישי- עבדיך משיחך “beyond all the expressions of the songs and praises - of David ben Yishai – your servant and anointed one”	על כל דברי שירות ותשבחות דוד בן ישי- עבדיך משיחך “beyond all the expressions of the songs and praises of David ben Yishai – your servant and anointed one”
For the Chazzan – Taking out/putting back the Torah	<ul style="list-style-type: none"> • ונרוממה - שמו יחדיו “and let us exalt - His name in unison” • כי נשגב - שמו לבדו “for exalted - is His name alone” 	<ul style="list-style-type: none"> • ונרוממה שמו - יחדיו “and let us exalt His name – in unison” • כי נשגב שמו - לבדו “for exalted is His name - alone”

Area #2 - Davening reminders

Below are some reminders of common procedures/halachos that we sometimes forget or are unsure of the exact protocol.

- After the chazzan starts a ברכה and says ה' ברוך אתה, we should try to pronounce ברוך הוא וברוך שמו in its correct form. (Some variations that we tend to say are ברכו הוא or בריך הוא וברוך שמו or וברוך שמו.)
- At a minimum, the first beracha of שמונה עשרה is required to be said with *kavanah* with the realization that one is standing before Hashem.
- After taking three steps back when finishing שמונה עשרה (starting with the left foot), one should remain back with his feet together until קדישה and then take three steps forward starting with the right foot. (For maariv, one should stay back until the chazzan starts קדיש.)
- In קדישה, it is best to remain standing with feet together until the end of הקל הקדוש.
- There are three stages of תחנון – 1) Falling on one's face at ויאמר דוד, 2) sitting at שומר ישראל, and 3) standing beginning with ואנחנו לא נדע...
- *L'chatchila*, it is best to keep one's tefillin on until the end of davening; *b'dieved*, one may remove tefillin after עלינו קדיש תתקבל.
- One should say אמן at the end of the ברכה on Friday night before בני ישראל.
- A general reminder that talking, looking at one's blackberry (and even learning) are usually assur during davening, chazaros hashatz and leining.

Area #3- Proper chazan procedures and halachos

Below are some examples that apply to the chazan:

One overriding comment is that one must know the nusach and minhagim of that shul before davening (i.e. אשמנו בגדנו, מוריד הטל, שמונה עשרה, ברוך ה' לעולם...)

ברכות קריאת שמע:

- The ברכה of אור ובורא חושך after ברכו should be said out loud.
- The ending words ומקדישים וממליכים should be connected to אֶת שֵׁם הַקַּל הַמְּלֻדָּ... .

שמונה עשרה:

- At least six people should be ready to begin שמונה עשרה before the צבור begins saying it – if six are not ready, the chazzan should wait until there are.
- גאל ישראל should be said out loud.
- After finishing the private *amida* and taking three steps back, the chazan should stay there until he is ready to begin חזרת הש"ץ and then take 3 steps forward before saying ה' שפתי תפתח.
- Make sure to have at least nine men who have finished חזרת הש"ץ שמונה עשרה before starting.
- Say ה' שפתי תפתח and כי שם שמונה עשרה out loud.
- The first beracha of שמונה עשרה at a minimum should be slower and have the most kavanah.
- The *chazan* should allow enough time for the צבור to say ברוך הוא וברוך שמו before continuing with the rest of the ברכה.
- During the summer months, one should not say מוריד הטל (not the minhag of our shul.)
- All of קדוש should be said out loud, including קדוש, קדוש, קדוש and כבוד ברוך כבוד etc... together with the tzibur or afterwards.
- The procedure for bowing down during ברכת כהנים is at the word וישמרך to bow to the right, at ויחנק to the left, and at אליך to the front.
- The entire מודים should be said out loud during חזרת הש"ץ.
- During מודים the *chazan* should remain bowed until right before Hashem's name and then rise up for Hashem's name.

- יהיו לרצון at the end of עשרה should be said out loud.
- After יהיו לרצון, three steps should be taken back and then three steps forward before saying תחנון or before קדיש if there is no תחנון.
- On days when הלל is said, the chazan's feet should remain together until after הלל is completed. The three steps back during קדיש תתקבל will take the place of the normal three steps after עשרה.

קדיש:

- יהא שמיה רבא should be said by the *chazan* either with the *tzibur* or immediately after the *tzibur* says it.
- End of קדיש procedure – first bow down and take 3 steps back (start with left foot) say עושה שלום במרומי (pause and bow to the left), הוא יעשה שלום עלינו (pause and bow to the right), ועל כל ישראל ואמרו אמן (bow forward.)
- On days when we say הלל such as Rosh Chodesh or Chol Hamoed, when the *chazan* says את עמו ישראל המברך in the yom tov nusach, he should say the word שלום before everyone answers אמן so it does not sound like “*bashamein*.”
- On days when we daven מוסף קדיש תתקבל, מוסף קדיש is recited after הלל – all others, including Chanuka, we say חצי קדיש .

Taking out/putting back the Torah

- When saying the sentence of יהודו על ארץ, remain at the bima until לדוד מזמור (or on Shabbos, לדוד מזמור).

ובא לציון

- Only say יהי ימלך לעולם ועד and not בית שכינתיה since we do not say the Aramaic words of *u'va l'tzion* out loud.

Friday Night:

- *Chazan* should wait for the מנין to say מגן אבות out loud and then say the whole מגן אבות out loud by himself.

Area #4 - Proper emphasis/accent of words (m'liel/m'lera)

Background

Hebrew grammar, for those who went to a yeshiva or day school, is usually not the most popular or exciting of subjects. It is no wonder that many of us have incomplete knowledge of the proper way to pronounce certain words. Sometimes the mispronunciations are harmless, but sometimes the meaning of the word changes.

Why? English and many other languages place heavy emphasis on the first syllable of a word, whereas Hebrew is just the opposite.

The rule of thumb for pronouncing a Hebrew word is that the emphasis is **always** on the last syllable unless otherwise indicated. A word with the emphasis on the last syllable is referred to as *m'lera*. Sometimes the accent may be on the second to last syllable and in very rare occasions the accent will be on an earlier syllable. When the accent is **not** on the last syllable, the emphasis of the word is referred to as *m'liel*.

How does one know where the accent is? Most siddurim today provide us with a little tip to let us know when to pronounce a word on the last syllable (m'lera) or somewhere else (m'liel). Under some words, there is a little straight vertical line known as a *meseg* that helps us out.

- If there is no line, then we pronounce the word like most (m'lera) and the accent is on the last syllable.
- If there is a line, then we accent the word on the syllable with the vertical line.

Example: If you look at the sentence מה טובו אוהליך יעקב משכנותיך ישראל, you will notice a small vertical line under three of the words (טובו, אהלך, משכנותיך). The word טובו would typically be pronounced m'lera (last syllable), but the line tells us that we should not pronounce the word as toVU (as we

typically would) with the accent on the last syllable (m'lera); rather, we should pronounce it as TOvu with the emphasis on the first syllable (m'liel). Similarly, the word ohalecha is pronounced ohaLEcha and mishkonosecha as mishkinoSEcha.

Below are some examples of common m'liel/m'lira mistakes. (Please note, there are literally hundreds of these out there.):

Where	Common incorrect version	Correct version
Everywhere	BA ruch Atoh...	ba RUCH a TOH ...
אשרי	▪ ASH rei	▪ ash REI
שמע	▪ v'a HAV toh ▪ v'a CHAL toh	▪ v'ahav TOH ▪ v'achal TOH
שמונה עשרה	▪ me LECH ▪ michaye meisim a TOH ▪ do MEH lach ▪ ki mochel vsoleich oh TOH	▪ ME lech ▪ michaye meisim A toh ▪ DO meh lach ▪ ki mochel vsoleich OH tah Note: Sometimes the word is a TOH , and other times OH tah.
קדיש	▪ Min kol bir CHA soh vshi RA soh Tushbe CHA soh v'neche MA soh ▪ Yehei she LO ma RA ba	▪ Min kol bircha SOH vshira SOH Tushbecha SOH v'nechema SOH ▪ Yehei shelo MA ra BA
תחנון	▪ SHO mer yisroel	• sho MER yisroel
Taking back the Torah	▪ HO doh al eretz v'shamayim	• ho DOH al eretz v'shamayim Note: Sometimes people say HOdu, which is a totally different word.

אין כאלוקינו	<ul style="list-style-type: none"> ▪ NOdeh leilocheinu ▪ BAruch elocheinu 	<ul style="list-style-type: none"> • noDEH • baRUCH
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Area #5 - Pause between words where the last letter of one word is the same as the first letter of the next word.

Why? The reason is so that each of the letters is pronounced separately for each word instead of having the two words slurred together, sounding like only one of the letters is being pronounced.

Some Examples:

Where	Examples
שמע (these are of particular importance since reciting מצוה is a שמע (דאורייתא))	Has 7 of them: <ul style="list-style-type: none"> ▪ בכל לבבך ▪ על לבבך ▪ בכל לבבכם ▪ ואבדתם מהרה ▪ על לבבכם ▪ בני ישראל ▪ אתכם מארץ
קדיש	<ul style="list-style-type: none"> ▪ יתגדל ויתקדש שמייה רבא ▪ בעגלא ובזמן קריב ואמרו אמן
מזמור לתודה	<ul style="list-style-type: none"> ▪ ועד זוד ודור אמונתו
שמונה עשרה	<ul style="list-style-type: none"> ▪ אלוקי יצחק ▪ אלוקי יעקב ▪ גואל לבני ▪ מחל לנו ▪ גדול לחרותינו ▪ את צמח ▪ ואישי ישראל

There are many examples of these types of “letter overlaps” throughout the davening.

Area #6 – Proper pronunciation of a dot in the letter Hay (mapik b'hay) if the last letter of the word has a patach (-) vowel beneath it.

How to pronounce it-

For almost all letters in Hebrew, one would first sound the letter and then the vowel. In this situation, one would first sound the vowel then the letter. In all of the below situations in our davening, the AH sound for the *patach* will come before the sound of the Hey (which has no sound without a vowel). As a result, we end up with only the AH sound.

Some examples:

Where	Examples
קרבות – Paragraph of אתה הוא עד שלא נברא העולם	<ul style="list-style-type: none"> • vsagbiAH karneinu – not vsagbiHAH
שמונה עשרה	<ul style="list-style-type: none"> ▪ umagbiAH shifalim – not umagbiHAH
הלל – 2 nd paragraph	<ul style="list-style-type: none"> ▪ EloAH Yaakov – not EloHAH
סליחות - ועל פולם	<ul style="list-style-type: none"> ▪ EloAH selichos – not EloHAH

Closing comments

No article about davening would be complete without some tips to help us infuse our davening with more meaning, since it is such a large component of our daily lives. I have taken the liberty of listing a few that are the most meaningful to me, which I have learned from various sources.

1. **Own your own siddur** - This allows you to write in some of the insights gained from this article. :)

2. **Buy an English/Hebrew Interlinear siddur** (one with the English right under the Hebrew words, like Artscroll) - Much of the davening contains difficult words and needless to say, the more words one understands, the better one's davening will be.
3. **Placing your finger on the words** you are saying - this trick works amazingly well to keep you focused on where you are (try it – you'll be amazed!)
4. **Personalize some of the davening** - Write into your siddur some personal things to remember. For example, a specific *choleh* during *rifaeinu* or a specific *parnassa* need during *barech aleinu*.
5. **We should try to remember at least 3 times during davening that we are standing before the מלך מלכי המלכים** – This realization keeps us grounded and thus less likely to give in to distractions during davening, allowing us to focus on the true experience of tefilah.

א. נ"ט בר נ"ט

איתא בגמ' (קיא:): "אתמר דגים שעלו בקערה [פרש"י "דגים שעלו בקערה מן הצלי כשהיו רותחין נתנן לתוך הקערה שאכלו בה בשר". כלומר, שנצלו תחלה בקדרה סתמית, וכשעדיין היו רותחין נתנן לתוך קערה שאכלו בה בשר רותח] רב אמר אסור לאכלן בכותח ושמואל אמר מותר לאכלן בכותח רב אמר אסור נותן טעם הוא ושמואל אמר מותר נותן טעם בר נ"ט הוא [כלומר, מהבשר להקערה להדגים, ועדיין מותר. פרש"י "אם היו מבושלים עם בשר ממש היה אסור לאכלן בכותח אי נמי מודה שמואל שאסור לאכול חלב רותח בקערה דנותן טעם ראשון הוי כבשר גמור אבל קערה זו היא עצמה אינה בשר אלא ע"י נותן טעם ואינה כבשר].

והרא"ש (סי' כט) באר הענין של נ"ט בר נ"ט "דאיכא תרי נתינת טעם קודם שיבא לכלל איסור" ומובן שאסור לאכול חלב רותח בקערה של בשר שהנתינת טעם השני, והאיסור באין כאחד.

והמשיכה בגמ' "אמר חזקיה משום אביי הלכתא דגים שעלו בקערה מותר לאוכלן בכותח ... אמר חזקיה משום אביי הלכתא דגים שעלו בקערה מותר לאוכלן בכותח צנון שחתכו בסכין שחתך בה בשר אסור לאוכלו בכותח וה"מ צנון דאגב חרפיה בלע." פרש"י "סכין פעמים שהשמנונית קרוש עליו ואינו ניכר וכשחותך בצנון הוי נותן טעם הבא מן הממש ועוד דמשום חורפיה בלע טפי מדגים הרותחים ואגב דוחקא דסכינא פליט סכינא ובלע צנון." וקשה לשון ראשון של רש"י, שאם היה שמנונית עליו, אין חילוק בין סכין וקערה שאם היה שמנונית של בשר בקערה ונתן שם דגים, היה אסור לאוכלו בכותח. ועוד קשה לפ"ז מאי שנא צנון מכל דבר אחר, שאף אם לא היה חריף, אם היה שמנונית של בשר עליו שכשחתחו היה אסור לאכלו עם כותח. ולפי לשון שני ברש"י משמע שיש דין מיוחד בצנון (שהוא חריף) וסכין (שדוחקין אותו). ומשמע מרש"י שהצירוף של חריפות ודוחקא דסכינא אוסר, אבל בחד מהם לא.

וכתבו בתוד"ה הלכתא, "אם הקערה והדגים צוננים לא איצטריך לפסוק דליכא מאן דפליג אלא כשהאחד מהן רותח דבין עלאה גבר בין תתאה גבר קליפה מיהא בעי' כדאמרי' בפ' כיצד צולין (פסחים עו.) אדמיקר ליה בלע [כלומר, אפי' אם אנו תופסים להלכה כמ"ד עלאה גבר, מ"מ נאסר כדי קליפה ונטילה ואין היתר לכתחלה]."

וכתבו בתוד"ה הלכתא, "אם הקערה והדגים צוננים לא איצטרך לפסוק דליכא מאן דפליג אלא כשהאחד מהן רותח דבין עלאה גבר בין תתאה גבר קליפה מיהא בעי' כדאמרי' בפ' כיצד צולין (פסחים עו.) אדמיקר ליה בלע [כלומר, אפי' אם אנו תופסים להלכה כמ"ד עלאה גבר, מ"מ נאסר כדי קליפה ונטילה ואין היתר לכתחלה]."

וכתבו בתוס' (שם) "בשם רש"י פי' ריב"ן חתנו דוקא עלו שרו אבל נתבשלו אסור דכחד טעמא חשיב ובא מעשה לפניו בביצים שנתבשלו בקדרה של חלב ואסר לעשות מהם מולייתא של בשר ויש להביא ראיה לדבריו מצנן שחתכו בסכין דאסור לאוכלו בכותח משום דאגב חורפיה בלע טפי וחשיב כחד טעמא ונתבשלו לא גרע מצנן ומיהו לפירוש לשון אחר שפי' בקונטרס (שהוא לשון הראשון של רש"י) דטעמא דאסור משום שהשומן קרוש על הסכין ואינו ניכר והוי טעם ראשון בצנן אין ראיה משם. ומתוך לשון הקונטרס משמע דאין חלוק בין עלו לנתבשלו דלעיל גבי נ"ט בר נ"ט פי' בקונטרס דאם היו מבושלים בבשר ממש או לאכול חלב בקערה מודה שמואל דאסור דהוי נ"ט ראשון משמע מתוך פירושו דמבושלים עם בשר הוא דאסור אבל מבושלים עם הקערה שרי."

וביסוד ההיתר של נ"ט בר נ"ט, פי' הר"ן "דטעם קלוש הוא" [על למטה בעיונים ג'], ועפ"ז יש לבאר את דברי הריב"ן דס"ל שבבישול הטעם אינו קלוש (על מש"כ הגר"מ וויליג שליט"א בהערות בהל' תערובת; בית יצחק כ"ח תשנ"ו, אות ט"ו) . [וכן מבואר בערוה"ש סי' צ"ה ס"ה דשאני בשול מצלי שבשול מבשל כולו וצלי מבשל רק כדי קליפה. וכן משמע מהרא"ש (שם) שכ' "וריב"ן חתנו כ' משמו עלו אין נתבשלו לא. ואע"ג דבעלו נמי קבלו כדי קליפה טעם מן הבשר בבליעה מועטת התירו נ"ט בר נ"ט" [כלומר, בבישול א"א שהוא טעם שני שלא נקלש כלל ממה שהיה מקודם אלא הוא כטעם ראשון ממש].

והרא"ש (סי' ל') חולק על הריב"ן וס"ל דבישול קל מצלי. וז"ל "וכן מסתבר דנתבשלו איכא טעם שלישי ושרי אבל נצלו אסור." ופי' במעדי"ט (סק"נ) בשם הטור "שכיון שנצלו בלא מים קבלו טעם בשר מעיקר הכלי" כלומר, שצלי חזק מבישול שבבשול הטעם הולך דרך אמצעות המים. ואין להקשות מדגים שעלו בקערה ואין שם מים, שפי' הש"ך (סק"ו) בשם המרדכי דעלו קל מנצלו שבעלו אחד מהם צונן. ולפ"ז אם עלה דג רותח בקערה רותחת היה אסור לפי הרא"ש. וכך החמיר המהרש"ל אפי' בדיעבד. והערוה"ש (סי'ב) בשם האי"ו (כלל לד סק"א) חולק שאין זה צלי אפי' אם שניהם רותחים. ושמעתי מפי הר"מ וויליג שליט"א שכן נראה לו עיקר.

והאי"ו (מובא בט"ז סק"ד) כ' שאסור לגרום נ"ט בר נ"ט לכתחלה אפי' בהעלאה בלא בישול.

ולהלכה למעשה, פסק בשו"ע לקולא דנ"ט בר נ"ט מותר בין עלו בין נתבשלו בין נצלו. וכן פסק הרמ"א אלא שהחמיר לכתחלה בנתבשלו ובנצלו.

כ' בשו"ע (סי' צה ס"א) "דגים שנתבשלו או שנצלו בקדירה של בשר רחוצה יפה שאין שום שומן דבוק בה מותר לאכלם בכותח משום דהוי נ"ט בר נ"ט דהיתירא ואם לא היתה רחוצה יפה אם יש בממש שע"פ הקדירה יותר מאחד בששים בדגים אסור לאכלם בכותח." [זהו שיטת המחבר להקל לכתחלה בנ"ט בר נ"ט אבל דעת הרמ"א בסמוך בס"ב להחמיר לכתחלה. כך מבואר בבד"ה סק"ג].

וכ' עוד בשו"ע (ס"ב) "ביצה שנתבשלה במים בקדירה חולבת מותר לתת אותה בתוך התרנגולת אפי' לכתחלה אבל אם נתבשלה בקדרה עם בשר ואפי' בקליפה אסור לאכלה בכותח." וכ' הרמ"א "ויש מחמירים בצלייה ובישול לאסור נ"ט בר נ"ט (ריב"ן בשם רש"י ובארון כלל לד הביא המרדכי וא"ז) והמנהג לאסור לכתחילה ובדיעבד מותר בכל ענין ודוקא לאכול עם חלב והבשר עצמו אבל ליתן בכלי שלהם מותר לכתחלה וכן נהגו וכן אם לא נתבשלו או נצלו תחילה רק עלו בכלי של בשר מותר לאכלן עם חלב עצמו וכן להפך וכן אם היה הכלי שנתבשלו בו לפגם שלא היה בן יומו נוהגין היתר לכתחילה לאכלן עם המין השני. וכל זה כשהמאכל אינו דבר חריף אבל אם היה דבר חריף כגון שבשלו דברים חריפים בכלי של בשר אפי' אינו בן יומו או שדכו תבלין במדוך של בשר אם אכלו בחלב אסור אפי' בדיעבד עד דאיכא ס' נגד הבשר הבלוע בהם ומ"מ לא מקרי דבר חריף משום מעט תבלין שבו רק אם כולו הוא דבר חריף ורובו ככולו."

היוצא לפי הרמ"א שההיתרים בנ"ט בר נ"ט הם:

- א. אם נתבשלו בכלי בשרי, מותר בדיעבד אפי' לאכלם בכותח
- ב. אם עלו בכלי בשרי (ולא נתבשלו), מותר לכתחלה לאכלו בכותח
- ג. אם נתבשלו בכלי בשרי, מותר לכתחלה ליתנם בכלי שלהם
- ד. אם נתבשלו בכלי בשרי שאינו בן יומו, מותר לכתחלה לאכלם בכותח

ובבדי השלחן (ס"ק כב, כז) באר בשם הט"ז שמה שכ' "המנהג לאסור (בבישול וצלי) לכתחילה" היינו שלכתחלה אין לתת דגים בקערה של בשר אם בדעתו לאוכלו אח"כ עם חלב שחכמים אסרו לגרום נ"ט בר נ"ט לכתחלה. וההיתרים לכתחלה הם שאף אם נתבשלו הדגים בכלי בשרי מותר לכתחלה לתת אותם בכלי חלבי וכו'.

סיכום הענין:

בגמ' (קיא:) כ' ההיתר של נ"ט בר נ"ט. וכ' שאין היתר בצנון שחתכו בסכין שחתך בשר. ופרש"י משום חורפא דצנון ודחוקא דסכינא. וריב"ן (בתוס') כ' שההיתר של נ"ט בר נ"ט הוא דוקא בעלו ולא בנתבשלו (ובארנו ע"פ הר"ו) שבנתבשלו אין זה טעם קלוש. ובשו"ע ורמ"א הקילו בנ"ט בר נ"ט בין בעלו בין בנתבשלו בין בנצלו, אלא שהחמיר הרמ"א לכתחלה בנתבשלו ונצלו (לחשוש לשיטת הריב"ן), והוסיף שיש להחמיר לכתחלה א' רק לאכלו עם הבשר או החלב עצמו אבל ליתן בכלי שלהם מותר לכתחלה ב' רק אם נתבשלו או נצלו בכלי שלהם אבל אם עלו מותר לאכלם עם בשר או גבינה ממש ג' רק בנתבשלו ונצלו בכלי בן יומו, אבל בנתבשלו ונצלו באינו בן יומו מותר לאכלו עם בשר או גבינה ממש. והאי"ו (מובא בט"ז סק"ד) כ' שאסור לגרום נ"ט בר נ"ט לכתחלה אפ' בהעלאה בלא בישול.

ג. נ"ט בר נ"ט דהיתירא ודאיסורא

כ' הר"ן "והוי יודע דלא שרינן נ"ט בר נ"ט אלא בשל היתר כבב"ח דכיון דטעם שני אכתני היתירא הוא כיון דאיקליש כולי האי לא חשיב למיסר אבל במידי דאיסורא כל היכא דאיכא טעמא כלל אוסר עד סוף כל העולם". וכ"כ הרשב"א (ת"ה ב"ג ש"ד פ.ו.), ותשו' סי' תקטז) וכדמצינו (סוף ע"ז) בקרבן לענין נותר דדי בהגעלה אף בשפוד ואסכלה דמכיון שכשבלעו היה היתר ולא נעשה נותר עד אח"כ א"צ ליבון. והשוה לכלי שבלע איסור ע"י האור דצריך ליבון ולא די בהגעלה אבל בהיתירא בלע די בהגעלה.

והקשה בפמ"ג "וכי טעם נביא הוא" כלומר, מה ההבדל בין איסורא והיתירא. ובאר הגר"מ וויליג שליט"א (בית יצחק שם) ע"פ מה ששמע מפני הגרי"ד זצ"ל, וכעין זה כ' בס' יד יהודה, וז"ל "וע"כ טעם קלוש דנ"ט בר נ"ט יש לו כח להמשיך איסור הקיים כבר, ולא ליצור איסור מחדש".

ושיטת הר"ן והרשב"א הוא הפשט המקובל בנ"ט בר נ"ט [ע"י בבד"ה סי' צה ס"ג סוס"ק מח]. ויש חולקים.

באו"ה (כלל לד ס"ז) כ' דנ"ט בר נ"ט דאיסורא אסור משום חנ"נ. כל דהקערה נידון ככולו איסור ולכן כל שאין ס' במאכל נגד הקערה אסור. אבל בהיתר ל"א חנ"נ דירק שבלע מבשר ונתבשל בחלב די בס' בחלב נגד הבשר הבלוע (ס' צד ס"ו) דאין כאן **נבילה** דהירק שבלע בשר מותר הוא. ולכן נ"ט בר נ"ט דהיתירא מותר ודאיסורא אסור.

ולפי שיטת האו"ה יוצא שנ"ט בר נ"ט דאיסורא אסור מדרבנן וכ"כ הפמ"ג (ש"ד סי' צד סק"ב) דמדמדמה נ"ט בר נ"ט לחנ"נ משמע דאיסורו רק מדרבנן

וכחנ"נ בשאר איסורים, וז"ל "...וטעמא רבא איכא כיון דאיקליש מה לי היתרא או איסורא ומגיעולי מדין נמי טעם א' אוסר שמעינן לא טעם ב' ומדרבנן הוא דחנ"נ בשאר איסורין דרבנן."

ד. נ"ט בר נ"ט ונרגש הטעם

הנה, בפשטות, הענין של נ"ט בר נ"ט הוא בשנרגש הטעם.

בבדי השלחן (סי' צה סק"ב) הביא מחלוקת הפוסקים בענין נ"ט בר נ"ט דהיתירא ונרגש טעם בשר בדגים, וצדד להקל, והסביר "דמ"מ טעם קלוש הוא ולא חשיב כבשר." ושם בציונם (סק"ו) כ' שהמתירים הם "פר"ח וכן מבואר בס' העיטור וגם לשון הרשב"א והר"ן נראה מוכח כן במה שחילקו בין נ"ט בר נ"ט דהיתירא לנ"ט בר נ"ט דאיסורא." מבואר מדבריו דרק בשנרגש הטעם יש לחלק בין נ"ט בר נ"ט דהיתירא ודאיסורא, אבל אם לא נרגש הטעם אין חילוק ומותר בין בהיתירא בין באיסורא. וכ"כ שם בציונים (סק"ח) שהביא דעת היש"ש שהחמיר בנרגש הטעם בנ"ט בר נ"ט דהיתירא, והקשה עליו וז"ל "ולדעת היש"ש קשה להבין החילוק בין נ"ט בר נ"ט דהיתירא לנ"ט בר נ"ט דאיסורא שאם אין הטעם נרגש הא אף באיסור הוא מותר."

וכ' הגר"מ וויליג שליט"א (שם) דלדעת הר"ן והרשב"א יש לחלק בין נ"ט בר נ"ט דהיתירא ודאיסורא בנרגש הטעם, אבל לא מטעמו של הבד"ה, אלא שכל היסוד של הר"ן הוא איקליש טעמא, משמע אבל טעמא מיהא איכא. וממשיך איסור הקיים כבר (ולכן נ"ט בר נ"ט דאיסורא אסור, ואינו מיצר איסור חדש (ולכן נ"ט בר נ"ט דהיתירא מותר אף בשנרגש הטעם)).

ותי' לקושית הבד"ה על היש"ש שאסר בנ"ט בר נ"ט דהיתירא ונרגש הטעם, וז"ל "ונראה דע"כ היש"ש ס"ל כאו"ה הנ"ל דאסור משום חנ"נ, וכל דין חנ"נ מיייר כשאין טעם האיסור נרגש." ולפי דבריו, כל הענין של נ"ט בר נ"ט הוא בשלא נרגש הטעם (ודלא כהסבר המקובל) ואם היש"ש ואו"ה עומדים בשיטה אחת, יוצא שלדעת הא"ו אם נרגש הטעם, אסור הוא מדא"ו אף בנ"ט בר נ"ט דהיתירא ומחמיר יותר מהר"ן, ודלא כפמ"ג שכ' שלדעת הא"ו איסורו רק מדרבנן בנרגש הטעם בנ"ט בר נ"ט דהיתירא. ותי' הגרמ"ו שליט"א להפמ"ג דל"ל דס"ל להפמ"ג דנקלש הטעם אף אם אפשר להרגישו ואינו מיצר איסור חדש של בב"ח אבל באיסורא אומרים חנ"נ לשוויה טעם ראשון.

עוד כ' הגרמ"ו שליט"א (שם) דמדברי הרמב"ן נראה שיש לו שיטה שלישית שכל הענין של נ"ט בר נ"ט הוא אפ"ל אם נרגש הטעם, כהר"ן, אלא דמותר גם באיסורא בלע. דלהרמב"ן נ"ט בר נ"ט אינו טעם ב' שהוקלש, אלא טעם שלישית הוא דלא אסרתו תורה אפ"ל אם עומד בחזקו שדין ט"כ נאמר רק

בטעם א' וב', כגעוילי מדין, מאיסור לקדירה ומשם להיתר, ולא בטעם ג'. וכ"כ בס' באורי סוגיות (והידוש גדול הוא).

סיכום הענין: לדעת הר"ן והרשב"א, הענין של נ"ט בר נ"ט הוא "טעם קלוש" דהיינו שנרגש הטעם, ולכן נ"ט בר נ"ט דהתיירא מותר, ודאיסורא אסור מה"ת. ואם לא נרגש הטעם, מותר בין בהתיירא בין באיסורא. ולדעת האו"ה הענין של נ"ט בר נ"ט הוא חנ"נ דהיינו שלא נרגש הטעם, ולכן אם נרגש הטעם, י"ל שאסור מה"ת בין בנ"ט בר נ"ט דהתיירא בין בנ"ט בר נ"ט דאיסורא. ואם לא נרגש הטעם, מותר בנ"ט בר נ"ט דהתיירא ואסור מדרבנן בנ"ט בר נ"ט דאיסורא. ולדעת הרמב"ן, הענין הוא בשנרגש הטעם אבל טעם ג' אינו אסור. ולכן מותר בין בהתיירא בלע בין באיסורא בלע.

ה. הדחת כלי בשר בכלי חלב

כתבו בסוף תוד"ה הלכתא (קיא: א קיב). לאסור קערות שמשמשין בהן בשר שהודחו במחבת של חלב בכלי ראשון ושניהם בני יומן, וז"ל "יש לאסור א' אפי' אם נאמר לאו דוקא עלו אלא אפי' נתבשלו (ודלא כהריב"ן) ב' אם השמנונית בעין על הקערות דהוי כסכין שלא נתקנה דאסר בקונטרס ללשון אחר [ובפשטות היינו אפי' אם אינו בן יומו שהשמנונית בעין. ואינו אסור אא"כ יש פחות מס' כנגד השמנונית כגון שמדיח הרבה כלים שיש עליהם שמנונית], ג' ואפילו אין שמנונית בעין אסור דהקערות **נוגעות במחבת** ונפלט טעם מזה לזה והוי טעם שני באיסור. [ומשמע כמו שראינו ברא"ש (סי' ל') שאין היתר של נ"ט בר נ"ט בצל. וקשה מדגים שעלו בקערה, אלא י"ל כהש"ך (סק"ז) שאין היתר אלא כשאחד מהם צונן], ד' ועוד דלא דמי כלל לדגים שעלו בקערה דהא כשהטעם שני של בשר ושל חלב נכנס במים מיד נאסרו המים וחוזרין ואוסרין הקערות והמחבת." [ועי' למטה מה שביארנו בזה].

לאסור קערות שמשמשין בהן בשר שהודחו במחבת של חלב בכלי ראשון ושניהם בני יומן, וז"ל "יש לאסור א' אפי' אם נאמר לאו דוקא עלו אלא אפי' נתבשלו (ודלא כהריב"ן) ב' אם השמנונית בעין על הקערות דהוי כסכין שלא נתקנה דאסר בקונטרס ללשון אחר [ובפשטות היינו אפי' אם אינו בן יומו שהשמנונית בעין. ואינו אסור אא"כ יש פחות מס' כנגד השמנונית כגון שמדיח הרבה כלים שיש עליהם שמנונית], ג' ואפילו אין שמנונית בעין אסור דהקערות **נוגעות במחבת** ונפלט טעם מזה לזה והוי טעם שני באיסור. [ומשמע כמו שראינו ברא"ש (סי' ל') שאין היתר של נ"ט בר נ"ט בצל. וקשה מדגים שעלו בקערה, אלא י"ל כהש"ך (סק"ז) שאין היתר אלא כשאחד מהם צונן], ד' ועוד דלא דמי כלל לדגים שעלו בקערה דהא כשהטעם שני של בשר

ושל חלב נכנס במים מיד נאסרו המים וחוזרין ואוסרין הקערות והמחבת." [ועיל' למטה מה שביארנו בזה].

וסיימו בתוס' "ואם האחד אינו בן יומו אז אותו שהוא בן יומו מותר." וי"ל שסברא זו לא שייך לטעם הב' בתוס' שאם השמנונית הוא בעין לא שנה אם הוא בן יומו (בפשוטות), וכן פי' המהר"ם. ולכאור' גם לא שייך לטעם ד'.

וכ' הר"ן (עמ' מא. ד"ה דגים) בשם סה"ת שקערה בשרית שהודחה בקדירה חולבת ושניהם בני יומן, שניהם אסורים שהטעם שבקדירה נפלט לתוך המים והטעם שבקערה נפלט לתוך המים והטעמים מתערבים שם ונעשים בשר בחלב וחוזרים ואוסרים הקערה והקדירה [והיינו כתוס' בטעם האחרון]. וחלק עליו הרמב"ן והתיר שהוא כדגים שעלו בקערה דקערה בשרית היינו קערה, מים רותחין היינו דגים ופליטה חלבית היינו כותח, וז"ל "ודבר ברור הוא אע"פ שהסכמנו לפרש דשלשה נותני טעם בעינן כאן נמי שלשה נותני טעם הם בשר בקערות קערות במים מים בחלב ולא אמרינן חלב שבמים נתערב עם טעם שני של בשר שבהן [ודלא כתוס'] כשם שא"א בדגים דטעם החלב שבכותח נבלע בדגים ויהא אוסרין וכן בדין לפי שאין בשר שבדגים או במים אוסרין עד שיתערבו עם חלב ויתנו טעם זה בזה שאין בשר בחלב אוסר לעולם אלא בנותן טעם הלכך הו' להו טעם שלישי והכל מותר." והקשה עליו הר"ן וז"ל "ולא דמי כלל לדגים שעלו בקערה דהתם הכותח לא קבל טעם כלל מטעם ראשון דהיינו הקערה אלא מן הדגים דהו' טעם שני אבל כאן טעם החלב הנפלט לתוך המים מקבל טעם מטעם הבשר ראשון שבקערות דמאן לימא לן שלא יתערבו פליטת הבשר ופליטת החלב בעצמן שלא באמצעות המים הילכך לא הו' נ"ט בר נ"ט אלא נותן טעם ראשון הוא שנותן טעם בחלב הילכך לא דמי כלל ועוד דמאי דשרינן נ"ט בר נ"ט לאו משום דסברינן שאין הטעם הראשון מתפשט והולך עד השלישי דא"כ אפי' בשאר איסורין נימא הכי למאן דלית ליה חתיכה עצמה נעשית נבילה [כלומר, בשאר איסורים] ואנן לא שרינן אלא בבב"ח וכיו"ב דהו' שני נותני טעמים של היתר הילכך דוקא כשטעם שני עמד בהיתר בלא תערובת חלב אבל כאן שטעם שני לא עמד בפ"ע כלל אלא תכף שבא לעולם נתערב בטעמו של חלב מסתברא ודאי דאסור וכדברי הרב בעל התרומה ז"ל."

ושיטת התוס' והר"ן צ"ב דנראין דברי הרמב"ן, דלכאור' נידו"ד הוא בדיוק כמו דגים שעלו בקערה. והש"ך (סקי"ב) העתיק לשונו של הר"ן אבל לא ביארו. ובבד"ה (סקנ"ו) הציע סברא וז"ל "שהם סוברים שהטעם היוצא מן הכלי לתוך המים אינו נקלש תיכף אלא שוהה איזה זמן מועט עד שנקלש ע"י שמתמוג עם המים ובההיא שעה מועטת כבר פגעו הטעמים זה בזה ונעשו בב"ח ומשנעשו של איסור בתוך המים שוב נבלעים הם לתוך הכלים ואוסרים אותם."

ודברי הבד"ה ג"כ צ"ב שא"כ י"ל זה גם בדגים שעלו בקערה. ואולי כוונתו לחלק בין דבר גוש לדבר לח. ואולי י"ל שכך הוא הענין: דלדעת התוס' כשמתפשט טעם במים משתנים המים מיד להיות כטעם עצמו (כלומר, חתיכה נעשית נבלה. כ"כ הט"ז (סקי"ג), הבאתי דבריו למטה) וכן משמע בתוס' שכ' "דהא כשהטעם שני של בשר ושל חלב נכנס במים מיד נאסרו המים וחוזרין ואוסרין הקערות והמחבת". אבל דעת הר"ן אינו כן, שכ' הר"ן "דמאן לימא לן שלא יתערבו פליטת הבשר ופליטת החלב בעצמן שלא באמצעות המים" כלומר, כאילו לא נוגעים הטעמים של בשר ושל חלב במים כלל. וזה א"א בדגים (ואולי משום שאין הבלוע יוצא בלא רוטב). ולדעת הרמב"ן אף שהטעם מתפשט בכל המים, כל חלק של טעם עושה חיבור עם חלק של מים אבל אינו גורם שינוי בהמים עצמו וא"כ הטעם השני צריך להתפשט דרך אמצעות המים.

היוצא מדברנו שיש ג' שיטות: א) דעת התוס' שהטעם גורם שינוי במים שבשר וחלב מתערבים זב"ז ומיצרים איסור; ב) דעת הר"ן שהטעמים מתפשטים בלא אמצעות המים ומתערבים זב"ז ומיצרים איסור; ג) דעת הרמב"ן שהטעמים מתחברים עם המים ומתפשטים דרך אמצעות המים והוי נ"ט בר נ"ט ואינם מיצרים איסור.

עו"ל שבדגים שעלו בקערה מדובר בשנתקרו הדגים קודם ששם הכותח אבל אה"נ אם עדיין היו רותחים היו אסורים שטעם הבשר שבקערה ממשיך ליכנס לתוך הדגים, וטעם הכותח נכנס לתוך הדגים ומתערבים שם ומיצרים איסור. ולפ"ז לדעת האוסרים בהדחת כלים היינו מפני שהכלי של בשר והכלי של חלב נמצאים ביחד והמים היו יס"ב בכ"ר. ונראה שכן מבואר ברמ"א (עי' למטה) שפסק כהמחמירים בהדחת כלים אבל כ' שאם הודחו זה אחר זה הכל שרי. יב.פ.].

ופי הגרי"ד צ"ל את דברי הרמב"ן דלא ס"ל חילוק בין טעם שני וטעם שלישי וכו' אלא הפשט בנ"ט בר נ"ט הוא שמהפסוק דלא תבשל גדי בחלב אמו למדנו שאין איסור בב"ח אלא בבעין; כלומר, עירוב דברים שאפשר לראותם בחוש ולא רק ע"י עירוב טעמים, ובנידון שלנו המים הם הדבר שרואים בחוש ולכן ע"כ פליטת הבשר ופליטת החלב הולכים דרך אמצעות המים.

[וכ' הגר"מ וויליג שליט"א (שם) דמסוף דברי הר"ן שכ' "דמאי דשרינן נ"ט בר נ"ט לאו משום דסברינן שאין הטעם הראשון מתפשט והולך עד השלישי דא"כ אפ"י בשאר איסורין נימא הכי למאן דלית ליה חתיכה עצמה נעשית נבילה" פירוש, אם לא אמרינן שהטעם הראשון מתפשט והולך עד השלישי וגם ל"א חנ"נ בש"א, אין סברא לאסור. ומלשונו נראה שלהרמב"ן אה"נ דטעם ג' מותר בש"א, והזכרנו למעלה שהרמב"ן מתיר חנ"נ בש"א].

וכ' הגר"מ וויליג שליט"א (שם) "דהנה הרשב"א (ת"ה פו.) סובר כהרמב"ן שמותר להדיח כלים של בשר במחבת חולבת אבל לשיטתו דס"ל כהר"ן דנ"ט בר נ"ט ר"ל טעם ב' קלוש בהיתר ולא כ' באורו של הרמב"ן דטעם ג' מותר. ומ"מ מתיר מסברת הרמב"ן דבב"ח אינו אסור אא"כ שניהם נ"ט זב"ז. וא"כ במחמם מים במחבת חולבת, טעם חלב הוקלש במים, דהוי טעם ב', מהחלב למחבת ולמים. ואינו אסור טעם הבשר שנכנס למים ששמו בהם הקערות. ואף דטעם בשר כשבא לעולם נתערב תיכף בטעם חלב, וכמש"כ הר"ן, אינו אסור (אף מדרבנן, דכאן אין כח לתת טעם, ולא דמי לאוכל בשר וגבינה, דיכולים לתת טעם זב"ז). והר"ן חולק כי טעם השני לא עמד בפ"ע כלל."

והרא"ש (ס"י כט) ס"ל כהרמב"ן, וז"ל "וקערות שנשתמשו בהן בשר שהודחו ביורה חולבת ושניהם בני יומן הוה ליה נ"ט בר נ"ט. הבשר בקערה והקערה במים ועודנו היתר עד שיתערב באותן המים טעם החלב הנפלט מן היורה ולפירוש ריב"ן דאסר נתבשלו אסורות הקערות והיורה ולי נראה דאף לריב"ן הכל מותר דלא אסר נתבשלו אלא לאכלן בכוח שטעם שני של הבשר נ"ט לתוך ממשות של חלב. אבל הכא שטעם שני של הבשר שבתוך המים אין נ"ט לתוך ממשות החלב אלא מתערב עם טעם שני של החלב שבתוך המים נראה שהמים מותרים והכל מותר."

[ובאר מו"ר שליט"א את שיטת הריב"ן ע"פ הרא"ש, ואח"כ מצא שכעין זה כ' ביד יהודה (על שו"ע ס"י צד ס"ה בהקדמתו לנ"ט בר נ"ט סק"ט ד"ה והרא"ש). מצינו ברא"ש ובר"ן שההסבר של נ"ט בר נ"ט הוא "טעם קלוש". ושיטת הריב"ן הוא שבבישול, הטעם נשאר "חזק". וחדש הרא"ש שטעם שנכנס למים הוא "טעם בינוני". והדין הוא שטעם קלוש אינו נאסר לעולם שדינו כמו שהוא אינו טעם כלל. טעם חזק אסור טעם חזק אחר או טעם בינוני. ב' טעמים בינוניים אינם אוסרים זא"ז. ולפ"ז מובן ההיתר לפי הרא"ש של הדחת כלים. ומ"מ אסר נתבשלו לאכלן בכוח דהוי טעם חזק. וקולא זו של הרא"ש הוא חידוש גדול. אבל לתוס' כל שאינו קלוש, נחשב חזק ומובן שאסרו בהדחת כלים].

עוד כ' הרא"ש (ס"י ל') "ובספר התרומה התיר ירקות וקטניות שנתבשלו בקדירה בת יומא חולבת רק שתהא נקיה מחלב לאכלן בתבשיל של בשר. ואפ"י אם נאמר עלו אין נצלו לא כשנתבשלו שרי משום דאיכא ג' נותני טעם החלב בקדירה והקדירה במים והמים בירק ועודנו היתר. וגמגם בדבר שיש לחוש לפי שהירק והקטניות נוגעין בקדירה ובולעין מן הקדירה עצמה ואעפ"כ הכריע להתיר דכיון דאיכא מים בכלי רוב הטעם מתפשט במים. וגם הירק אינו בולע מדופני הקדירה אלא ע"י רתיחת המים. וכן מסתבר דנתבשלו איכא טעם שלישי ושרי אבל נצלו אסור". הרי שחלק הרא"ש על טעם הד' בתוס' שהחמירו בבישול וגם חלק על טעם הג' בתוס' שהחמירו בנוגעין בדופני המחבת. ויש לפרש שאין הבלוע יוצא מחתיכה לחתיכה בלא רוטב.

ובמעדי"ט (סק"ל) כ' שמשקנת הרא"ש הוא להתיר בנוגעין נקיים והוא לכאן משום דאין הבלוע. וא"כ דברי התוס' צ"ב. ובאר מו"ר שליט"א לכאן י"ל את דברי התוס' דה"מ כשאין רוטב אבל כאן יש רוטב (מים) וזה גורם לטעם לצאת ישר לקערות שנוגעין בדופני המחבת (והרא"ש חולק על נקודה זו).

מצד השני, יש להקשות על הרא"ש. שהאי"ו למד מדגים שעלו בקערה שבלוע יוצא מכלי לאוכל בלא רוטב וא"כ קשה על הרא"ש שהתיר ירקות וקטניות. ות"י מו"ר שליט"א להרא"ש דה"מ כשאין שם רוטב כלל אבל כשיש רוטב, הטעם יכנס שם ולא לירקות אפי' אם הם נוגעים בדופני הקדירה. וכעין זה כ' בס' יד יהודה (שם ד"ה עוד) וז"ל "דמ"מ רוב הטעם מתפשט בהמים לכך גם אי בא קצת לכלי עצמו מ"מ אין להחשיב אלו לעלו."

הלכה למעשה:

ופסק המחבר כהרמב"ן ופסק הרמ"א כהר"ן ותוס'.

כ' בשו"ע (סי' צה ס"ג) "קערות של בשר שהודחו ביורה חולבת בחמין שהיס"ב אפי' שניהם בני יומן מותר משום דהו"ל נ"ט בר נ"ט דהיתירא והוא שיאמר ברי לי שלא היה שום שומן דבוק בהן ואם היה שומן דבוק בהן צריך שיהא במים ס' כנגד ממשות שומן שע"פ הקערה." וכ' הרמ"א "ויש אוסרים אפי' אין שומן דבוק בהן אא"כ א' מן הכלים אינן בני יומן מבליעת כלי ראשון ואז כל הכלים מותרים והמים נוהגין בהן איסור לכתחילה."

והמשך הרמ"א בציור שני, דהיינו הדחת כלים של בשר ושל חלב ביורה סתמית (ע"י בבד"ה סקס"ז), וז"ל "אבל אם שניהם בני יומן והדיח אותן ביחד בכלי ראשון הכל אסור והכי נוהגין ואין לשנות ודוקא שהודחו ביחד ובכלי ראשון. אבל אם הודחו זה אחר זה או בכלי שני אפי' ביחד הכל שרי." והתיר בזה אחר זה הוא משום נ"ט בר נ"ט דהיתירא. וכן מבואר בבד"ה (סקס"ח) וז"ל "אבל אם הודחו זה אחר זה וכו' הכל שרי, דאז הוה ליה כדגים שנתבשלו בקדירה של בשר דקיי"ל בס"ב דשרי דהוי נ"ט בר נ"ט דהיתירא והכא נמי כיון דכשבא טעם הבשר (לדוגמא) לתוך המים לא היה בו שום כלי חלב נעשה אותו טעם בשר לנ"ט בר נ"ט דהיתירא." מבואר דכל האיסורים הנזכרים לעיל הם רק כששני האבות, דהיינו ב' הכלים או הכלי של בשר (לדוגמא) והיורה חולבת נמצאים בבת א'.

והמשך הרמ"א בציור שלישי, וז"ל "ואם עירה מכלי ראשון של בשר על כלי חלב דינו ככ"ר ואוסר אם היה בן יומן." והקשה הט"ז (סקי"ג), דלכאן הא הוה נ"ט בר נ"ט. כלומר, שטעם הבשר כבר נעשה נ"ט בר נ"ט דהיתירא בכלי ראשון של בשר קודם שעירה המים על הכלי חלב ולמה יהיה אסור. [ולא שייך ההסבר שכתבתי למעלה בשיטת הרמב"ן]. ות"י "ונראה דכיון שאנו

אוסרים לעיל כיש אוסרים שהביא רמ"א סעיף זה מטעם דהוה כטעם בשר וחלב מעורבים יחד והיינו כיון ששני הטעמים מתערבים בכלי א' וחנ"נ דומה לזה שאנו חושבים קילוח הערות כאלו הוא בכלי שמערה ממנו" כלומר, עירוי מכ"ר ולא נפסק הקילוח דינו ככ"ר ולכן נחשבים הקדירות כאילו שניהם הודחו בכלי אחד מתחת למים. ובאר בבד"ה (סק"ע) שלדעת החכ"א וכו"פ וכן הוא משמעות הרמ"א בעצמו בת"ח שלא החמיר מדינא אלא מטעם חומרא משום דדמיא קצת להדחת קערות בבת אחת בכ"ר ולדינא כ' בחכ"א שיש להחמיר בזה זולת במקום הפסד או לכבוד שבת וכו"ב שאז יש להקל בזה.

והמשיך הרמ"א בציור רביעי, [שלכאור' לא שייך כלל לענין של נ"ט בר נ"ט אלא הוא ענין בפ"ע של עירוי מכ"ר] וז"ל "... אבל אם עירה מים רותחים שאינן של בשר ולא של חלב על כלים של בשר ושל חלב ביחד ואפ"י שומן דבוק בהם הכל שרי דאין עירוי ככ"ר ממש שיעשה שהכלים שמערה עליהם יבלעו זה מזה."

ובבד"ה (סקע"ז) באר הענין, וז"ל "פ"י דאע"ג דקיי"ל שעירוי מים חמים על הדבר הצונן מפליט ממנו כדי קליפה וכן מבליעו לתוכו כדי קליפה וא"כ אף בזה היה לנו לחוש שנפלט הטעם משני הכלים ונתערבו ביחד ונעשה לבב"ח ושוב נבלעו בחזרה לתוך הכלים ונאסרו וכש"כ כששומן דבוק בהם שהיה לנו לחוש לכך בכל זאת מותר ואפ"י כששומן דבוק בהם כי אין כחו של העירוי חזק כ"כ שיוכל לחמם דבר הצונן עד שיוכל להבליעו לתוך כלי ... אמנם יש שחולקים על פסקו של הרמ"א בזה והם סוברים שיש בכחו של העירוי לחמם ולהבליע אף לתוך כלים ואסור לדידהו בכל גווני אף כשהכלים הם נקיים."

ונפק"מ בכיורות (סינקס) שלנו שהמים באים מהמחמם דרך הצנורות והוא ערוי מכ"ר, ויוצא שמותר לכתחלה לפי הרמ"א להדיח כלים של בשר וכלים של חלב ביחד בסינק אחד אף כשיש שומן דבוק בהם.

והקשה הש"ך (סק"כ) סתירה ברמ"א שכ' בס"י ס"ח ס"י לענין מליגה אם עירה מים רותחים ע"ג תרנגולת קודם שמלחו דאסור דערוי מבשל כדי קליפה ואילו כאן התיר הקערות שעירה עליהם מכ"ר. ות"י שיש חילוק בין דבר רך לדבר קשה, שבתרנגולת מבשל ומבליע כדי קליפה "אבל בכלי שהוא קשה אינו בולע דאינו מפליט ומבליע כאחת בכלי שהוא קשה". ומיהו, הקשה הש"ך בעצמו שמקורו של הרמ"א הוא באו"ה והמשיך הש"ך (שם) "ואו"ה דהתיר אפ"י שומן דבוק בהן היינו משום דאזיל לטעמיה דס"ל דעירוי אינו מבשל ולא מפליט ומבליע אפ"י כדי קליפה" [כלומר, עירוי ככ"ש, וכדעת הרשב"ם בתוס' שבת דף מ"ב] אבל להלכה אנו פוסקים דעירוי מבשל כדי קליפה וא"כ בנידו"ד צריך להיות אסור ודברי הרמ"א הם לא כהלכה. והתיר הש"ך רק במקום הפסד מרובה. ורעק"א אסר אפ"י במקום הפסד מרובה. וכל זה בשיש עליהם שומן

"מיהו היכא דהם נקיים ודאי יש להתיר מטעם נ"ט בר נ"ט." והפר"ח אסר גם בנקיים.

[ובהל' שבת ס'י' שי"ח ס"י, כ' רעק"א בשם האו"ה שמותר לעשות תה בשבת ע"י עירוי הנזחל. וצע"ג שהאו"ה לשיטתו שעירוי ככ"ש אלא שהחמיר להצריך נזחל. אבל אנו תופסים להלכה שעירוי ככ"ר ויהיה אסור לעשות תה ע"י עירוי הנזחל. ופסק מו"ר שליט"א לאסור להלכה למעשה].

והקשה הפמ"ג (שפתי דעת סקי"ח) סתירה אחרת ברמ"א שכ' הרמ"א (ס'י' צב ס"ז) "קלוח מן הקדירה רותחת שהלך אל קדירה צוננת אם נפסק הקלוח מן הקדירה הרותחת קודם שהגיע אל הצונן הוי נמי ככ"ש ואם לא נפסק הוי כעירוי והקדירה הצוננת נאסרה אם היד סולדת בקילוח הנוגע בקדירה והתבשיל שבתוכו שרי דאין עירוי מבשל אלא כדי קליפה" ומדובר בעירוי שנזחל (עיי"ש). הרי שפסק הרמ"א בעירוי שנזחל שלא נפסק הקלוח שדינו ככ"ר. וסתירה היא. ותל' הפמ"ג שהחמיר הרמ"א בס'י' צב שהכלי ראשון עודנו על האש (וראייה מרש"י מס' שבת בסוגיא דחמי טבריה) משא"כ בנידון שלנו בס'י' צה שהכ"ר נאחו בידים ואינו על האש. [ולפ"ז יוצא חילוק בדין בין כ"ר שעומד על האש לכ"ר שהוסר מעל האש. ועפ"ז החמיר החזו"א בהל' שבת במים שעירה מהמחמם לתוך הכוס שדינו ככ"ר]. ומיהו כ' הפמ"ג בעצמו שאינו להלכה שהוא דלא כהרמ"א בעצמו בתורת חטאת (כלל נו ס"ז). ותל' החזו"ד (ס'י' צב סקכ"ג) שעירוי שנזחל מפליט ומבליע אבל אינו מפליט ומבליע כאחד, ומוכן למה אינו אסור בס'י' צה. וקשה, דס"ל להרמ"א מעיקה"ד (בפשטות) שבישול ובליעה הא בהא תליא. ועוד קשה שנידון שלנו הוא בכלים שיש עליהם שומן.

ותל' מו"ר שליט"א לסתירה זו שעירוי מבשל ומבליע ומפליט כדי קליפה. לכן בס'י' ס"ח החמיר הרמ"א גבי מליגת תרנגולת שיש חיבור ע"פ טבע בין ורידי הדם והבשר הסמוך לו. ובס'י' צב הקילוח של בשר נוגע בכלי חלבי ואין ריוח כלל ביניהם. אבל בס'י' צה הקיל הרמ"א שיש ריוח בב' כלים יותר מכדי קליפה. (ומ"מ קושית הש"ך במקומה עומדת שהרמ"א כ' מקורו באו"ה, ואין הלכה כאו"ה).

והחזו"ד (סקי"א) תל' ע"פ הרמ"א בס'י' צא ס"ד (וש"ך סק"ח) שכדי קליפה הוא ענין בדבר גוש ולא בדבר לח ולכן בנידון שלנו אחרי שנגעו המים בכלים, בלעו בשר או חלב מהכלי, וקודם שיכל ליכנס לכלי השני, "נתבטל".

ובאג"מ (ח"א ס'י' מב ענף א') כ' "הנה בדבר הדחת הכלים בהסינק שבמדינה זו שהעיר כתר"ה שיש בזה חששות מצד שהסינק בולע ע"י עירוי מכלי ראשון שלא נפסק הקילוח מלכלוך שומן בשר ומלכלוך שומן חלב שעל הכלים, וגם הרבה פעמים מונח בהסינק גופיה שירי מאכל ובלע ע"י העירוי בתוך מעל"ע

בין מבשר בין מחלב, ואח"כ בשעת ההדחה מבליע ע"י העירוי בהכלים ממה שמפליט מהסינק איסור דבשר בחלב, ולכן סובר כתר"ה שאסור להדיח בהסינק אלא כלים קטנים בתוך כלי גדול מיוחד לבשר ומיוחד לחלב ... אבל באשר שהוא טירחא גדולה והנשים העוסקות בזה יאמרו רבי כמה הארכת עלינו אבאר הענין של לא נפסק הקלוח לתרץ דברי רבותנו הרמ"א והש"ך ויתבאר שנשי שלנו שפיר עבדי ..."

והביא קושיא הנ"ל שהרמ"א לכאור' סתר א"ע דבסיל' צב גבי קילוח מן הקדרה הרתחת פסק שעירוי שנחל ככ"ר ובסיל' צה גבי עירוי ע"ג קערות של בשר ושל חלב פסק שאינו ככ"ר. [ועיי"ש שהקשה על הש"ך שכ' שלדעת האור"ה עירוי מזה שכ' האור"ה (כלל לד סכ"א) שעירוי ככ"ר. והקשה הגר"מ וויליג שליט"א על האג"מ שהרי כ' האור"ה בפירוש (כלל יח) שהוא ככ"ש].

וכ' באג"מ יסוד בידי ערוי שבליעה חמורה מבישול וזהו הפשט בגמ' פסחים (עו) לענין ערוי, "אדמיקר ליה בלע". וכ' שאף להרשב"ם שערוי ככ"ש, היינו לענין בישול, אבל מודה בבליעה שצריך קליפה וז"ל "וצריך לומר שסובר רשב"ם דאפשר שתהיה בליעה בלא בשול, דלא מסתבר לו שבעת שמתחיל להתקרר יהיה לו כח לבשל, ולכן הוכיח מזה שתתאה גבר ומתחיל תיקף להתקרר שעירוי אינו מבשל כלל, ורק שמ"מ מבליע עד דמיקר כדי קליפה."

אלא תי' "אבל סובר האור"ה דליכא כמעט מציאות שיפליט ויבליע לאסור כלי אחר דכיון דרק באותו מקום מהכלי שירד הקלוח עליו הוא מפליט ומבליע ברגע הנגיעה עד דמיקר דתיכף הוא מיקר, וכשנחלו משם המים עם הפליטה וגם עם לכלוך הבעין לכלי האחר הרי כבר נעשים צוננים בדין **כלי שני** דשוב אינו מבליע ואינו מפליט. ויצויר רק לאותו הדבר, שאוסר אף שצריך לעשות תרוייהו להפליט ולהבליע כגון לערות רותחין על התרנגולת אף שהוא רק משום שמפליט מתחלה את הדם ומבליעו תיכף, אבל בכלים לא משכחת לה דלאותו הכלי סגי בהגעלה לבד לאוסרו כשהקלוח הוא איסור או שמונח עליו איסור בעין, ולכלי אחר הרי הוא במקום אחר שכבר נעשה כלי שני. ורק אולי יצויר כשנוגעין שני כלים ומונחים זה אצל זה והקלוח הולך על שניהם במקום הנגיעה שאז יאסרו משום שמפליט מזה ומבליע בזה אבל במונחים זע"ז אף בנוגעין וזה אצל זה כשאין הקלוח הולך על שניהם במקום הנגיעה לא יאסרו... [פירוש הדברים, שעירוי גורם בליעה רק ברגע ממש שהוא נופל, **שמיד אח"ז נעשה כ"ש**, ולכן רק בדבר שיש לו חיבור ע"פ טבע, כגון דם בתרנגולת, אפשר לאסרו. אבל בב' קערות יש הפסק אפי' כלשהו ביניהם ולכן א"א לאסרו (והוקשה לו קצת בקערות המונחים זה ע"ג זה). והוא כעין מה שתירץ מו"ר שליט"א (על למעלה) אלא שבאג"מ הדגיש הפסק זמן ומו"ר שליט"א הדגיש הפסק מקום].

"ונמצא דפסקי הרמ"א נכונים דבס"י צב בקלוח חלב מקדירה רותחת שהלך אל קדירה של בשר צוננת ולא נפסק הקלוח שהאיסור הוא רק בהבלעה לבד ותליא מעצם הדין דאם היא קדירה של חרס יש לאוסרה ואם היא של נחשת אין לאוסרה [שהוא קשה, כמש"כ הש"ך]. וסתם הרמ"א שאסורה הקדירה דהחמיר גם בכלי נחשת כדי שלא לחלק בין הקדירות למעשה ובפרט שהוא חומרא בלא הפסד דכלי נחשת אפשר להגעיל. ובסימן צ"ה במים רותחין על כלים של בשר ושל חלב שאין האיסור אלא כשיפליט ויבליע לא נאסרו משום דהוא כדין בשול שלזה הוא בדין כלי שני. וכן יהיה גם בעירה מים רותחין של היתר על כלים של איסור וכלים של היתר."

ויוצא לפי דברי האג"מ שמוותר מעיקה"ד להדיח קערות של בשר וקערות של חלב ביחד ואפ"י יש עליהם שומן. ומוותר להניח אותם ישר בסינק. כך שמעתי מפי הגר"מ וויליג שליט"א. (ומיהו, החמיר באג"מ לשים דף בסינק.)

וכ' בבד"ה (סק"פ) "כ' בשו"ת מנחת יצחק שמן הראוי והנכון למי שאפשר לו לקבוע בבית שני כיורים א' לבשר וא' לחלב שבזה יוצא מכל חשש ואפשרות של איסור ע"י בליעת חלב לתוך כלי הבשר ולהיפך אולם למי שא"א לו בכך יש להתיר להשתמש בכיור אחד ובתנאים דלהלן - א) שלא ידח הכלים בכיור עצמו רק בכלי גדול להדחה מיוחד לבשר בפני עצמו ולחלב בפני עצמו - ב) שאותו כלי גדול לא יניח על הכיור עצמו רק ע"י הפסק דף או איזה דבר אחר המיוחד לבשר בפ"ע ולחלב בפ"ע - ג) שינקו היטב הכיור בין הדחת הכלים של מין אחד לחברו - ד) שהנקב בתחתית הכיור שמשם המים יוצאים ממנו יהיה פתוח כדי שלא יתאספו המים מתחתית הכלי שמדיחים בו, עכ"ד המנחות יצחק, ובשו"ת אג"מ כ' דסגי בדף מיוחד לבשר לבד ולחלב לבד וא"צ להכניס הכלים שמדיח לתוך כלי גדול אלא מותר להדיחם ע"ג הדף עצמו."

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