

RAV SCHACHTER ON THE MOADIM

Insights and Commentary
Based on the Shiurim of
Rav Hershel Schachter

Adapted by
Dr. Allan Weissman

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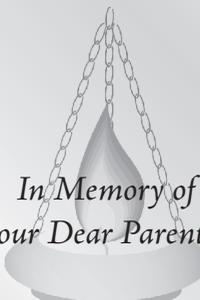
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הרה צבי שכטר
ראש ישיבה וראש כולל
ישיבת רבינו יצחק אלחנן

מכתב דרכי

יקיבו - יוציאו ה' אלרחם מלכה
נ"ו מסרהי גיוונות ספול המצב חי
עניני המועדים. צדמה חי הנה - מהח
עצ גמיטה - אנתימה מאור, היטה
שסיצור הנה קאובן נפלא' ודסעין
ופיה מאור, אקה שהספ ומה
אן עניני הנה מיוזיק וזמנן מנני,
כ' ח' המנינש הנה עסן
שמעמ ממל' הנה ה' סאואו וטסיק, ה'
כדי שפסר
סדור תשע"ז



*In Memory of
our Dear Parents*

**מנחם מענדל בן יואל ז"ל
וסימא מעטל בת יואל עבי הלוי ע"ה
*Nikolos and Sari Jozsef z"l***

*Their greatest qualities were
their emunah peshutah
their unyielding yiras Shamayim
and their unwavering bitachon in Hashem's plan*

*May the Torah learning from this sefer
be an everlasting zechus for their neshamos*

*Seme and Bernice Jozsef
Woodmere, N.Y.*

In Memory of

דינה בת דוד אריה ע"ה
Agnes Dina Moskowitz a"h

נפטרה כ"ה שבט ה'תשע"ו

Woman of Grace and Dignity ☞ Generous of Heart and Steadfast in Faith ☞ A Treasured Wife ☞ A Devoted Daughter ☞ A Mother of Unparalleled Love ☞ A Grandmother of Boundless Giving ☞ A Soul Mate to her Sister ☞ A Friend to So Many ☞ An Inspiration to All

May her memory be a blessing forever

And in Memory of

יהודה גרשון בן יוסף ז"ל
Leo Honigwachs z"l

Man of Courage ☞ Gentle of Spirit ☞ Holocaust Survivor ☞ Faith Builder ☞ Lover of All Jews ☞ G-d Fearing and Pious ☞ Brave of Spirit ☞ Humblest of Men ☞ Longed for the Holy Land ☞ Learned of Mind ☞ Pillar of his Shul ☞ Patriarch of his Family

He will be sorely missed by all

יהי זכרו ברוך

*May the Torah learning from this sefer
be an everlasting zechus for their neshamos*

*Norman Moskowitz
Allan and Susan Weissman*

In Memory of our Beloved Parents
לזכר ולעילוי נשמות

ר' יחזקאל בן ר' מאיה ווייסמאן ז"ל
ורעייתו מרת חיה בת ר' שמואל הלוי ע"ה
ר' שמחה בן ר' יהודה לייביש דערעס ז"ל
ורעייתו מרת מרים טויבא בת ר' אברהם משה ע"ה

Joseph and Sonia Weissman

In Memory of our Beloved Grandparents
לזכר ולעילוי נשמות

ר' שמעון בן ר' אברהם משה מאשקאוויטש ז"ל
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Allan and Susan Weissman

לזכר ולעילוי נשמת

נחמה בת הרב צבי הירש ע"ה
Nechama (Norma) Kletzel a"b

Yitzy and Yaffy Buchen

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♦ *Torah Learning in Yerushalayim* ♦ *Our Dreams about Yerushalayim*

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I am grateful to Rav Hershel Schachter *shlit"á* for allowing me the privilege of adapting a selection of his *shiurim* into writing. His influence as a *marbitz Torah* and as a role model for thousands of young men, as well as an equal number of *balabatim* around the globe and hundreds of *rabbonim* serving the Jewish community throughout the world, is incalculable. He has humbly served in this capacity for me and my family for over thirty years, as he has for a multitude of *talmidim*, and there are no words to express the appreciation that we all feel.

I would like to wish Rebbi, together with his Rebbetzin, many more years filled with *berachah* and *hatzlachah*, good health and happiness, and much deserved *nachas* from their beautiful children and grandchildren, as well as from the scores of *talmidim* and *talmidei talmidim* whose lives they have so enriched.

Everything I have ever accomplished was made possible due to the continued efforts of my dear, devoted parents, Mr. and Mrs. Joseph and Sonia Weissman of Hillcrest, N.Y. It was they who inculcated in me the recognition of the obligation to serve *Hashem* in learning and in deed, and it was they who enabled me to learn in Rav Schachter's *shiur* for four years as

a young adult. May my parents be blessed with many more years together filled with good health, happiness, and continued *nachas* from their children and grandchildren.

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May the Torah that is learned and taught from this *sefer* be an everlasting *zechus* for the *neshamos* so memorialized.

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It gives me great pleasure to be able to express my heartfelt appreciation, in print, to my greatest source of strength, encouragement, and understanding – my dear wife and life partner, Chaya (Susan) 'שתחי – who continues to provide my life with more bliss than can be expressed. She has done her utmost to enable me to devote almost all of my free time and energy to concentrate on this project, and she has an equal share in the undertaking.

My wife and I continue to thank *Hashem* for all of the wonderful *berachos* He has bestowed upon us. We are filled with joy over the birth of our first grandchildren, Mordechai Gavriel and Eitan Gershon, to our dear children, Simcha and Omrit. (The cover picture of Rav Schachter was taken at Simcha's Bar Mitzvah *se'udah*.) May their family be blessed with an abundance of *berachah* and *hatzlachah*, both in the realms of *ruchmiyus* and *gashmiyus*, for many happy and healthy years.

We are also appreciative to have enjoyed the recent wedding of our dear daughter, Hindi, to her wonderful husband, Daniel, of the Yahav family of Chicago, Illinois. May the young couple be *zocheh* to grow in *yiras shamayim* and *ahavas haTorah* together, with an abundance of *berachah* and *hatzlachah* for many happy and healthy years. May we, together with our dear *mechutanim*, merit to enjoy much *nachas* from them as they build their בית נאמן בישראל.

We offer a *tefillah* to the *Ribbono Shel Olam* that we also share in the future accomplishments of each of our other beloved children, Bracha, Shimon and Adina, Sara, Rachel, Miri, Dovid, and Chezky, as they similarly grow in *yiras shamayim* and *ahavas haTorah*. May they enjoy much *berachah* and *hatzlachah* in all that they do for many happy and healthy years, and may we merit to derive much *nachas* from them.

INTRODUCTION

I am extremely gratified that the first *sefer* in this series, *Rav Schachter on the Parsha*, has been so warmly received by the *olam haTorah*. Many people have expressed to me that they study the *sefer* on a weekly basis and that they find the *limmud* a thoroughly enjoyable experience.

The essays in this new *sefer*, *Rav Schachter on the Moadim*, are much lengthier than those in the previous *sefer*. There is a significant advantage to this format. When learning these multifaceted essays, one is better able to appreciate how Rav Schachter integrates many different ideas into a single cohesive unit. This is perhaps best seen in the three essays on Chanukah, Purim, and Yom Ha'Atzmaut, all of which revolve around the concept of *aschalta d'geulah* – the onset of the Redemption.

This methodology is actually one of the recurring themes throughout Rav Schachter's *shiurim*. It reflects Rav Schachter's *derech halimud*, one which he received from his great *Rebbi Muvhak*, HaGaon HaAdir Maran Rav Yosef Dov HaLevi Soloveitchik *zt"l*. Rav Schachter seeks to elucidate the concepts found in one *Gemara* based on a related concept that appears in a different *Gemara*. Through approaching *limud haTorah* in this way, one can come to appreciate how *kol haTorah kulah* forms one large mosaic. In the words of the *Tosefta* in *Sanhedrin* (7:5), כל התורה ענין אחד. [See *Ginas Egoz, Pesichah*, p. 7.]

This notion, that all *dinei haTorah* are interrelated and comprise a single unit, is the basis of the *derashah* known as *מה מצינו*. For example, using this exegetical principle, the *Gemara* in

Sukkah (45b) teaches that the *daled minim* must be held *derech gedilasan* (in the manner in which they grow), just as the *kerashim* (beams) of the *Mishkan* must stand in that manner. The *halachah* of *derech gedilasan* in the *kerashim* is understood as positing a general requirement on **all** natural objects used for a *mitzvah*, and therefore this *halachah* may be extrapolated to the *daled minim*. Despite their superficial dissimilarity, there is an intrinsic connection between one *din* and the other because they are both part of the cohesive unit of *dinei haTorah*. [See *Eretz HaTzvi*, p. 7-9.]

Thus, the entire Torah can be seen as being composed of “building blocks” of Halachah, and one can identify patterns in Halachah if he grasps these underlying principles. This notion of interconnectedness within the halachic system extends to *dinim derabbanan* as well, and this is the basis of the principle, *כל דתקון רבנן כעין דאורייתא תקון* – “Every law the rabbis enacted, they enacted in the manner of a Biblical law” (*Yevamos* 11a). *Chazal* wanted their *takanos* to blend into the corpus of Torah. Therefore, they structured them according to recognized Torah principles and did not create new categories of Halachah. [See *B’Ikei HaTzon*, pp. 68-73; *Divrei Sofrim*, pp. 41-42.]

There are ramifications that emerge from this approach. For example, Rav Schachter cautions his *talmidim* not to “philosophize” over what they have learned in a single *Gemara*, without first knowing the additional information that other related *Gemaros* throughout *Shas* offer on the topic. One must first be aware of all the data on a given subject before proceeding to analyze it. Rav Schachter points out that we should bear in mind that different *sugyos* may use different expressions, yet refer to equivalent concepts. At other times, different *sugyos* make use of identical terminology, but the topics discussed are actually unrelated (*Ba’al HaMa’or* in his *Sefer HaTzava*, *midah* 2; see *Pri Megadim*, *Pesichah HaKolleles*, *Orach Chaim* 5:2, in reference to different meanings of the term “*chazakah*”).

In a similar vein, Rav Schachter explains that one should realize that no single *Acharon* provides the best explanation of every *Gemara*. For example, sometimes it is the *Ohr Samei'ach*, other times the *Brisker Rav*, and yet other times the *Chazon Ish*, who relates the best *pshat* in any given *sugya*. One should learn the various *Acharonim* in order to glean the most accurate interpretation of each *Gemara*.

Interestingly, Rav Schachter employs a similarly broad-minded perspective in reference to the different approaches to serving Hashem. The Ari z"l (partially cited by *Magen Avraham*, *Orach Chayim*, beginning of *siman* 68) teaches that just as *Yechezkel* (end of *perek* 48) describes that in the days of *Mashiach* there will be twelve different gates through which to enter *Yerushalayim*, there are similarly twelve gates of *tefillah* in *shamayim*. These correspond to twelve different *nuschaos* of *tefillah*, each of which is compatible with the *neshamos* of the people of each *shevet*. Since entering *Yerushalayim* represents coming closer to *Hashem*, the different gates represent different paths of *avodas Hashem*, each one equally valid.

[The Ari z"l continues that there will be a thirteenth gate of *Yerushalayim*, "*Sha'ar HaKollel*," for those who do not recognize their particular *shevet*, and that there is a corresponding thirteenth all-inclusive *nusach* (*Nusach HaKollel*), the *Nusach Ari*, which anyone may use.]

Every *shevet* represents a different approach to serving *Hashem*, and all the different approaches are acceptable. The *Ba'al HaTanya* (*Likutei Amarim*, *perek* 27) expands on a comment of the *Zohar* on the *passuk* describing *Yitzchak's* request of *Eisav* prior to blessing him, *ועשה לי מטעמים כאשר אהבתי* – "And make me delicacies such as I love" (*Bereishis* 27:4). Just as *Yitzchak* enjoyed a meal full of variety, so too does *Hashem* appreciate a variety in our service of Him. There are supposed to be different approaches to the service of *Hashem*, and *Hashem* appreciates this variety. [See *Rav Schachter on the Parsha*, *Parshas Vayechi*.]

Rav Schachter comments on how this perspective applies contemporaneously. If any one group would excel in every aspect of *avodas Hashem*, each of the other groups would join them. The reality is that each sect of religious Jews excels in certain areas of *avodas Hashem*, but, unfortunately, is deficient in other areas. Each group must strive to strengthen those aspects of *avodas Hashem* that are wanting.

Part of the intent of this endeavor is to spread the influence of Rav Schachter's sweet words to those who have not yet tasted them. Of course, all are encouraged to personally attend any of Rav Schachter's countless public *shiurim*, or at least to listen to the thousands available online. Although the written word cannot completely convey the experiential aspect of the oral delivery, this work, along with *Rav Schachter on the Parsha*, can serve to introduce the Torah of our Rebbi to those who have not yet experienced it. It is our hope that the *sefer* will open up new vistas of opportunity to enrich and inspire the Torah learning, *shmiras hamitzvos*, and *yiras shamayim* of as many people as possible.

Despite the fact that this *sefer* represents but a small fraction of the Torah that Rebbi transmits over the course of even one year, I feel that after learning this *sefer*, one will come away with an accurate representation of the *hashkafah* and the *lomdus* for which Rebbi is so well-known. Whenever possible, bracketed cross-references are provided to selections in Rebbi's six *sefarim* (*Eretz HaTzvi*, *B'Ikvei HaTzon*, *Ginas Egoz*, *Nefesh HaRav*, *MiPninei HaRav*, and *Divrei HaRav*), as well as *Rav Schachter on the Parsha*, *Divrei Sofrim – The Transmission of Torah SheB'Al Peh*, and other articles, to afford the reader an opportunity for a fuller analysis of a given topic.

Given the length of the essays in the *sefer*, the essays have been divided into shorter sections that may be studied individually to make it easier for the reader. In general, each section represents a self-contained unit of Torah thought.

It goes without saying that any lack of accuracy or clarity in any of these pages is the sole responsibility of the one who adapted the oral *shiurim* to the written form.

Allan Weissman
Teves 5778

SHABBOS

HADLAKAS HANEIROS

THE NATURE OF KIDDUSH AND HAVDALAH

KIDDUSH B'MAKOM SE'UDAH

HADLAKAS HANEIROS

I. *Kibbud* and *Oneg*

The *Rambam* (*Hilchos Shabbos* 30:1) writes that there are a total of four *mitzvos* associated with Shabbos, two of which appear in the *Chumash* and two of which are explained by the *Nevi'im*. In the *Chumash*, we find “*zachor*” (*Shemos* 20:8) and “*shamor*” (*Devarim* 5:12). *Zachor* means to create a Shabbos atmosphere on this day, as reflected in the recitation of *kiddush*, while *shamor* means to be a “*Shomer Shabbos*,” to not engage in any of the forbidden *melachos* of Shabbos. The two *mitzvos* that appear in *Navi* are *kibbud* (honor) and *oneg* (enjoyment), based on the *passuk*, וקראת לשבת עונג לקדוש ד' מכובד - “You shall proclaim the Shabbos ‘a delight,’ and the holy [day] of Hashem ‘honored’ ” (*Yeshayah* 58:13).

The Vilna Gaon (*Bi'ur HaGr" a*, *Orach Chaim* 529:1) provides the following definition of these terms. *Kibbud* refers to all preparations done in advance of Shabbos, while *oneg* refers to enjoying on Shabbos that which was prepared beforehand. For example, setting the table before Shabbos is a fulfillment of *kibbud*, while enjoying the decorated table during the Shabbos meal is considered *oneg*. Similarly, lighting the Shabbos candles before Shabbos is *kibbud*, and enjoying a well-lit home on Shabbos is *oneg* (*Beis HaLevi* 1:11).

Accordingly, even in regard to Yomim Tovim, when one is permitted to light candles on Yom Tov itself from an existing flame, it is more correct to light the candles **before** Yom Tov

begins. Through lighting the candles on *erev Yom Tov*, one fulfills the additional *mitzvah* of *kibbud*, whereas lighting the candles once Yom Tov has already begun only constitutes *oneg* (Rav Yitzchak Blazer (Peterburger) in *Pri Yitzchak* 1:6). [See *Diorei HaRav*, 2010 ed., p. 173.]

II. *Birchas HaMitzvah*

It is so ingrained in our thinking that we recite a *berachah* on *hadlakas neiros* that this *mitzvah* is referred to in Yiddish as “*bentching licht*,” literally, “blessing the lights.” In truth, however, *Tosfos* in *Shabbos* (25b, s.v. *chovah*) cites two opinions as to whether one should recite a *berachah* on *hadlakas neiros*.

One opinion holds that just as one does not recite a *berachah* when taking a shower, vacuuming the rug, or putting up the cholent on *erev Shabbos*, so too one should not recite a *berachah* on *hadlakas neiros*. Indeed, that is why the *Gemara* uses the expression, *הדלקת נר בשבת חובה* – “kindling of a light for Shabbos is an obligation.”

The connotation of this expression is similar to that of the statement, *מים ראשונים מצוה ואחרונים חובה* – “The ‘first waters’ [with which we wash our hands before partaking of bread] are a *mitzvah*, but the ‘last waters’ [with which we wash our hands at the end of the meal] are an obligation” (*Chullin* 105a). *Mayim acharonim*, which is meant to remove the dangerous *melach sedomis* (Sodomite salt) from one’s hands, is a *chovah*, which connotes something that one is obligated to do, but on which he would not recite a *berachah*.

We, of course, follow the other opinion in *Tosfos*, in the name of the *Seder* of Rav Amram Gaon, which distinguishes between *hadlakas neiros* and other preparations done in advance of Shabbos, and we do recite a *berachah* on *hadlakas neiros*. This is because there is a specific *mitzvah derabbanan* to light candles in honor of Shabbos. If the table would already be set or the rug already vacuumed before Shabbos, there would be no obligation

to undo and then redo the preparation in honor of Shabbos. However, if there are lights that had already been lit earlier, Rabbeinu Tam holds that one must extinguish those lights and light new ones in honor of Shabbos. This sets *hadlakas neiros* apart from all other preparations done for Shabbos, and this is the reason that we recite a *berachah* on *hadlakas neiros*.

Historians have offered a different suggestion regarding the *berachah* on *hadlakas neiros*. It is possible that the *berachah* was introduced by the *Ge'onim* as part of their battle with the *Kara'im*, who forbade such lighting. The *Kara'im* misinterpreted the *passuk*, *ביום השבת לא תבערו אש בכל מושבותיכם* (Shemos 35:3), to mean that one may not leave on any light or fire on the Shabbos. The *chachamim* enacted the *berachah* to emphasize that not only is it not prohibited to use lights on the Shabbos, it is a *mitzvah*, worthy of a *berachah*, to kindle these lights before the Shabbos.

In fact, Rav Ovadiah Yosef (*Yechaveh Da'as* 1:27) cites a custom to recite a *berachah* only prior to *hadlakas neiros* on *erev Shabbos*, and not *erev Yom Tov*. This may stem from the fact that there was never a dispute with the *Kara'im* regarding *Yom Tov* lights.

The conflict with the *Kara'im* may explain other matters as well. Dr. Haym Soloveitchik (*Collected Essays*, Volume II (2014), pp. 378-382) notes that the structure of *Hilchos Shabbos* in the *Mishnah Torah* appears to be most problematic. The *Rambam*, who usually follows a system of organization based on conceptual categories, presents *Hilchos Shabbos* in a seemingly illogical order. The most crucial *halachos* of Shabbos are the forbidden *melachos*, and one would have expected to find these *halachos* in the second *perek* of *Hilchos Shabbos*, after the introductory *perek* outlining the fundamental definitions of *melachah*.

Instead, the *Rambam* proceeds, in the initial *perakim*, to present the *halachos* of *piku'ach nefesh*, *shehiyah*, *hachazarah* and *hatmanah*, *hadlakas haneiros*, and *amirah la'akum*. Only in the

seventh *perek* does the *Rambam* begin his discussion of the specific *melachos*. Dr. Soloveitchik suggests that the reason for this arrangement is that the *Rambam* too was involved in opposing the *Kara'im*, who had placed restrictions on these practices and whose views were opposed by the *chachamim*. The intervening *perakim* may therefore be viewed as a polemic against the challenge of the *Kara'im*.

III. *Kabbalas Tosefes Shabbos*

The *Gemara* in *Eiruvin* (40b) discusses reciting *shehecheyanu* at the start of Yom Tov. There is an optional *berachah* of *shehecheyanu* that we recite over new fruits to display our thanksgiving for the fact that we have lived to see another season. Such a *berachah* is appropriate at the time of Yom Tov as well. In addition, there is an obligatory form of the *berachah* to be recited due to the *mitzvah* of *simchah*, which applies on every Yom Tov, including Rosh Hashanah and Yom Kippur.

The *berachah* is enhanced when we recite it over a cup of wine in the context of *kiddush*, as a *berachah al hakos*, after which we drink the wine. However, the *berachah* may also be recited independently, not in the context of *kiddush*. This is indeed our practice on Yom Kippur after *Kol Nidrei*. Since *shehecheyanu* may only be said after Yom Tov has begun, on Yom Kippur, when we obviously cannot drink wine, the *berachah* must be said without the enhancement of the *kos*.

Based on this *Gemara*, the *Bahag* (cited in *Orach Chaim* 263:10) rules that once one has performed *hadlakas neiros*, he has automatically accepted the onset of Shabbos or Yom Tov upon himself. Others disagree, arguing that in the case of *shehecheyanu*, which must be said on Yom Kippur, the recitation of the *berachah* implies acceptance of the day. However, in the case of *hadlakas neiros*, which we perform **before** the day has begun, the *hadlakah* does not necessarily imply that one has accepted the *kedushas hayom* upon himself.

A second ruling of the *Bahag* in reference to *hadlakas neiros* is that the lighting of Shabbos candles by the woman of the house serves as an automatic acceptance of the onset of Shabbos for all the members of the household. We are not stringent to follow this second aspect of the *Bahag's* opinion, to extend the automatic *kabbalas Shabbos* to all the members of the household. However, optimally, out of respect for the opinion of the *Bahag*, we do follow his opinion regarding the woman herself. Upon lighting candles, she automatically accepts Shabbos upon herself. In a pressing circumstance, a woman may stipulate that she does not wish to accept Shabbos with her *hadlakah*.

Many women have the practice of reciting the *berachah* of *shehecheyanu* at the time of *hadlakas neiros* on Yom Tov. [Rebbi Akiva Eiger (263:5), quoting Rav Yaakov Emden, notes that the more correct practice is to delay the recitation of *shehecheyanu* until *kiddush*. This way, it can be enhanced as a *berachah al hakos*.]

If this is one's practice, it must be kept in mind that a stipulation not to accept the Yom Tov with the *hadlakah* would not be possible. Because the *Gemara* above concludes that *shehecheyanu* may only be said once the Yom Tov has already begun, the recitation of *shehecheyanu* at *hadlakas neiros* would constitute an automatic *kabbalas tosefes Yom Tov*. Therefore, if a woman wishes to light candles on *erev Yom Tov* or *erev Yom Kippur* but does not want to accept Yom Tov until later, she should **not** recite *shehecheyanu*, even if that is otherwise her usual practice. [Of note, there is a position in *Rishonim* that one must accept Shabbos or Yom Tov upon himself a minimum of one half-hour before sunset in order to properly fulfill *tosefes Shabbos* (*Tosfos Rabbeinu Peretz, Beitzah* 30a, s.v. *deha*; see *B'Ikvei HaTzon*, pp. 70-71).]

IV. *Over La' Asiyasan*

We usually recite a *birchas hamitzvah* over *la'asiyasan* (immediately preceding the performance of the *mitzvah*), and this rule should apply with regard to *hadlakas haneiros* as well.

Nevertheless, the *Rama* (263:5) writes that the Ashkenazi custom is to first light the candles and then to recite the *berachah*. This is due to a concern that the recitation of the *berachah* itself may be considered a *kabbalah* of *tosefes Shabbos*, after which one would be prohibited from lighting the candles. This concern is a further extension of the position of the *Bahag* mentioned above, that the *hadlakah* constitutes a *kabbalas tosefes Shabbos*.

In order for the *berachah* to be considered, in a certain sense, *over la'asiyasan*, despite the fact that the lighting is done first, the *minhag* is for women to close their eyes so as not to receive any benefit from the light prior to the *berachah*. When doing so, one may not pause between the lighting and the *berachah* that follows. The *Noda B'Yehudah* similarly stressed the inappropriateness of a *hefsek* between *netilas yadayim* and the recitation of its *berachah* afterwards (*Drushei HaTzla" ch 23:22*).

Rebbi Akiva Eiger writes that he fails to see any justification for this *minhag*. Although the *Bahag* maintains that the *hadlakah* constitutes a *kabbalas tosefes Shabbos*, that is true only upon the **conclusion** of the *hadlakah*. Since there is no *kabbalas Shabbos* with the lighting of the first candle, one may continue to light additional candles. The recitation of the *berachah* should be no different. It should be considered the same as the beginning of the *hadlakah*, and thus should not be considered a *kabbalas Shabbos*.

Likewise, Rav Ovadyah Yosef (*Yabi'a Omer, chelek 9, 24:6 and 108:122*) quotes Rav Isser Zalman Meltzer, who advised his wife, immediately upon their immigration to Eretz Yisrael, to begin following the view of the *Mechaber* (the *morah d'asra* of Eretz Yisrael) on this issue, and to recite the *berachah over la'asiyasan*. [It is said in the name of Rav Shlomo Zalman Auerbach that Rav Isser Zalman similarly changed his practice in regard to the *berachah* of *al netilas yadayim*, and would recite the *berachah* prior to washing his hands (see Rav Moshe Sternbuch, *Teshuvos VeHanhagos 3:2*).]

In the introduction to the *Prishah* and *Drishah* to *Yoreh De'ah*, the son of the author quotes an innovative *psak* in the name of his mother. Although *Ashkenazim* have the practice to recite the *berachah* after the *hadlakah*, this consideration would only be applicable on *erev Shabbos*. On *erev Yom Tov*, since one is able to extend a flame on *Yom Tov* itself, the *berachah* should be recited at its proper time, *over la'asiyasan*, **before** the *hadlakah*. Although the *Magen Avraham* (263:12) rejects this *chiddush*, later *poskim* (see *Mishnah Berurah* 263:27) have accepted it.

V. *Hadlakah* in a Well-Lit Room

In a situation in which there are two families eating in the same room, the *Mechaber* (*Orach Chaim* 263:8) rules that the family that lights second should light without a *berachah*, because at that point, the room is already illuminated for the sake of *Shabbos*. The *Rama* holds that a *berachah* may be recited on this second *hadlakah* as well, but only in a situation in which the second lighting is done in a different part of the room. This way, the *Magen Avraham* explains, there will be *תוספת אורה ושמחה* – additional illumination and joy – brought about by the second lighting. If an electric chandelier is already providing a great deal of illumination, however, it is very questionable whether it is proper to recite a *berachah* over a *hadlakah* in that room without first turning the lights off.

In the 1800s, when electric bulbs first began to be used widely, most of the classical *poskim* held that one would fulfill the *mitzvah* of *hadlakas neiros* using these bulbs (see Rav Yitzchok Schmelkes, *Beis Yitzchak*, *Yoreh De'ah* 1:47 and *Orach Chaim* 110). Rav Shlomo Zalman Auerbach (cited in *Shmiras Shabbos K'Hilchassah*, 1989 ed., *perek* 43, *he'arah* 22) accepted the *psak* of the *Beis Yitzchak* that one may fulfill the *mitzvah* of *hadlakas haneiros* and recite a *berachah* on electric lights (if battery-powered lights, like flashlights, are used). This would be the case only with incandescent bulbs, since the bulb has a

metal filament that glows, in contrast to neon or fluorescent bulbs. Rav Moshe Feinstein, however, maintained that it is only a *safek* (doubt) if electric bulbs are acceptable, and that one should therefore not recite a *berachah* on them.

[Notably, Rav Schmelkes wrote that these bulbs would not be acceptable for *neiros Chanukah*. Some explain that this *hadlakah* must consist of the light of fire produced from oil in order to be considered a *zecher l'mikdash* – remembrance of the *hadlakah* in the *Beis HaMikdash*, and not of an electric bulb in which a heated metal filament is the source of the light (*Har Tzvi, Orach Chaim* 2:114).]

Due to the view that electric lights are acceptable for *hadlakas neiros*, Rav Soloveitchik (and Rav Yaakov Kamenetsky) held that if at the time one is about to light candles there are electric lights illuminating the room, one should first turn the lights off, light the Shabbos candles, and then turn the lights on for the sake of Shabbos. One should then recite the *berachah*, which will cover both the candles and the electric lights. If the lights cannot be turned off, as is the case at the time of *hadlakas neiros* on *Yom Tov Sheini*, it is very questionable whether it is proper to recite a *berachah* on such a *hadlakah*. [See *Nefesh Harav*, 1994 ed., pp. 155-156.]

VI. Definition of “Beiso”

The *Magen Avraham* (263:15) cites a practice that women who were going to use the *mikvah* on Friday night would light candles in the adjoining *shul*. This practice is no longer followed (*Mishnah Berurah* 263:21), because the *hadlakah* must be in one's home, a location that meets the halachic definition of “beiso.” The *Mishnah Berurah* elaborates on this requirement based on the principles gleaned from the *Gemara* in *Eiruvin* (72b-73a), which discusses the definition of *beiso* in reference to the *dinim* of *eiruvei chatzeros* and *techum Shabbos*. The location labeled as *beiso* for the

purposes of *hadlakas neiros Shabbos* would also be relevant for the proper location in which to light *neiros Chanukah*.

The *Gemara* discusses the location of one's *makom dirah* (place of residence), citing a *machlokes* between Rav and Shmuel as to whether it is determined by *makom pita* (the place of eating) or *makom linah* (the place of sleeping). The *Gemara* explains that, in fact, either the *makom pita* or the *makom linah* could at times be labeled as *beiso*. If one of the locations is used *b'kvius* (on a permanent basis), and the other only on a temporary basis, the former would constitute one's *makom dirah*.

Similarly, if one has two homes, but one home is more comfortable than the other, the more comfortable home would be the one classified as *beiso*. Therefore, the "bayis" of *yeshivah* students who would sleep in the *yeshivah* dormitory but would eat their meals in the homes of community members, where they felt relatively uncomfortable, would be the dormitory in which they slept.

The *machlokes* between Rav and Shmuel refers to a case in which both homes are equally permanent and equally comfortable. In that case, we follow the opinion of Rav that the *makom pita* is the primary residence and would be the proper location in which to light.

A further criterion used to determine which residence should be labeled as *beiso* would be which residence is more private. If one residence is clearly more private than the other, the private room would have the status of *beiso*, even if it is the *makom linah*, not the *makom pita* (*Mishnah Berurah* 263:29). Therefore, *yeshiva* students who share a dormitory room should light *neiros Chanukah* in that relatively private room, and not in the public dining room used by all the students (*Igros Moshe, Yoreh De'ah, chelek 3, 14:5*).

If one finds himself in a different city than the other members of his family, he must perform *hadlakas neiros* himself, even

if his wife lights candles in his family's house (*Orach Chaim* 263:6). His wife's *hadlakah* in a different city does not constitute a *hadlakah* in *beiso*, since he is not *metzuraf* (connected) to that house at this time. [See *B'Ikvei HaTzon*, pp. 117-123.]

The primary purpose of *hadalkas haneiros* is to illuminate the room in which the *se'udah* will take place (*Rama* 263:10). [That is why the *chachamim* never made a *takanah* (enactment) of *hadlakah* on *erev Yom Kippur*; there is no *se'udah* which we must provide light for. The *hadlakah* on *erev Yom Kippur* is dependent on *minhag hamakom* (local custom) and is due to a totally different consideration, having to do with the prohibition of *tashmish hamitah* (marital relations) on *Yom Kippur* (*Pesachim* 53b).] However, if this is not possible, such as in the case of guests in a hotel who are unable to light in the dining room, we hold that the *hadlakah* is acceptable even if done in a different room than the one in which the *se'udah* will be eaten (*Magen Avraham* 263:21).

In this case, the *hadlakah* should be done in the hotel room (using an incandescent bulb). It is not proper to light in a public room set aside for *hadlakas neiros*, since that room does not have the status of *beiso*; it is not the *makom pita* or the *makom linah*. [This practice is very problematic for another reason as well. Since there are many candles being lit in such close proximity to each other, it is unclear if there is any illumination gained from such a *hadlakah*.]

If one lights in his home, but the candles will not continue to burn until the conclusion of the *se'udah* that he is partaking of at a different location, such that no benefit will be gained on Shabbos from the *hadlakah*, the *mitzvah* will not have been fulfilled (*Shulchan Aruch* 263:9). In such a case, one should light in his home using electric bulbs or long-lasting candles, which will remain lit until he returns to his home.

THE NATURE OF KIDDUSH AND HAVDALAH

I. *D'oraisa* or *Derabbanan*

The *Gemara* in *Berachos* (20b) teaches that the recitation of *kiddush* is a *mitzvah d'oraisa*, based on **זכור את יום השבת לקדשו** – “Remember the Shabbos day to sanctify it” (*Shemos* 20:8). The *drashah* is based on an additional level of interpretation of the *passuk*, according to which **זכור** should be translated as “mention,” in addition to “remember.” The Torah commands us to make an oral proclamation regarding the day of Shabbos.

There is a similar interpretation of **זכור את אשר עשה לך עמלק** – “Remember what Amalek did to you” (*Devarim* 25:17). The exposition of the *Torah SheBe'al Peh* renders the *passuk*, “Mention what Amalek did to you” (*Sifrei*, cited by *Ramban*). Similarly, we derive the *mitzvah* to read the *Megillah* on Purim from **והימים האלה נזכרים ונעשים** – “These days should be remembered and celebrated” (*Ester* 9:28) – that these days are **spoken about**, not only remembered (*Megillah* 2b). [See *Nefesh Harav*, 1994 ed., pp. 287-288.]

In regard to *kiddush*, the *Rambam* (*Hilchos Shabbos* 29:1) writes, **וצריך לזכרה בכניסתו וביציאתו** – “one must mention [the Shabbos] at its entering and at its departing.” Included in the *mitzvah* of *kiddush* is the *mitzvah* of *havdalah*, which is also *d'oraisa*. The *Rambam* continues (29:18) that even though the context of the *passuk* regarding *kiddush* refers only to Shabbos, the *mitzvah*

of *kiddush* on Shabbos extends to Yom Tov as well. “All [of the Yomim Tovim] are *Shabbosos* of *Hashem*,” as in the *passuk*, ממחרת השבת וספרתם לכם - “You shall count for yourselves from the morrow of the rest day” (*Vayikra* 23:15), which refers to the day following the first day of Pesach.

The *Maggid Mishnah*, commenting on both of these *halachos*, cites alternate opinions – that *havdalah* is a *mitzvah derabbanan* and that *kiddush* on Yom Tov is *miderabbanan* – according to which the only *d’oraisa* obligation is *kiddush* on Shabbos. The *Rambam* seems to hold that all four, *kiddush* and *havdalah* on both Shabbos and Yom Tov, are *d’oraisa* obligations. [The *Netziv* (*Ha’amek She’elah* 9:4) though maintains that even according to the *Rambam*, *havdalah* on *motzo’ei Yom Tov* is only *miderabbanan*.]

II. The Obligation of Women in *Havdalah*

The *Bach* (*Orach Chaim*, end of *siman* 296), explaining a statement of the *Orchos Chaim* quoted by the *Beis Yosef*, writes that there is a practical difference dependent on whether *havdalah* is *d’oraisa* or *derabbanan* – namely, whether women are obligated in *havdalah*.

Women are obligated in *kiddush* due to a *hekesh* (an exposition based on juxtaposition, usually of two *pessukim*) that results from the tradition that זכור ושמור בדיבור אחד נאמרו - “The commandments to proclaim [the Shabbos] and to guard [the Shabbos] were pronounced [by *Hashem*] in a single utterance.” Although *kiddush* is a time-bound positive *mitzvah*, from which women are usually exempt, the *Gemara* teaches that in the case of Shabbos, כל שישנו בשמירה ישנו בזכירה - “whoever is included in the commandment of guarding [the Shabbos], is likewise included in the commandment of mentioning it.” Since women are bound by the same negative prohibitions as men, they are included in the positive commandments of Shabbos as well (*Shavuos* 20b).

Although this is true in the case of *kiddush*, it may be argued that if *havdalah* is only *derabbanan*, lacking an indication in the Torah as to whether women are obligated, women should be exempt because of its time-bound nature. If, however, *havdalah* is *d'oraisa* and is included in the *passuk* of *kiddush*, as the *Rambam* writes, women would be obligated in *havdalah*, just as they are obligated in *kiddush*.

Others, such as the *Maggid Mishnah* cited above, point out that the two issues are not necessarily interdependent. It may be that *havdalah* is only *derabbanan*, but that the rabbinic enactment was instituted as an extension of the *mitzvah d'oraisa* of *kiddush*. Therefore, just as women are obligated in *kiddush*, they are rabbinically obligated in *havdalah*.

Because of the *machlokes* whether women are obligated in *havdalah*, the *Rama* (*Orach Chaim* 296:8) recommends that a woman should attempt to hear *havdalah* from a man who recites it for himself, rather than recite the *havdalah* for herself.

This is recommended even for Ashkenazi women, who routinely recite a *berachah* on positive time-bound *mitzvoos* (such as *lulav* and *sukkah*) despite the fact that they are exempt from performing these *mitzvoos*. One could have argued, as does the *Bach*, that women may similarly volunteer to recite the *berachah* of *havdalah*, despite the fact that they are exempt from such an obligation.

Nevertheless, the *Magen Avraham* suggests a somewhat difficult distinction in order to explain the comment of the *Rama*. In the case of *lulav*, the woman is performing a separate *mitzvah-act*, and she may therefore recite a *berachah* in conjunction with that *mitzvah*. However, in the case of *havdalah*, the entire *mitzvah* is the recitation of the *berachah* of *havdalah*. Since it is questionable whether an obligation exists to recite the *berachos* themselves, such recitation should not be volunteered. Thus, the custom is for women to hear *havdalah* from a man.

In a situation in which this cannot be done because there are no men available, or because the men have already made *havdalah* for themselves, a woman should make *havdalah* for herself, because the *psak halachah* is that *havdalah* is *d'oraisa*, and women are therefore obligated in *havdalah*.

This led Rebbi Akiva Eiger (*Hagahos, Hilchos Pesach*, 489:9) to question the ruling of the *Shulchan Aruch* that on *motzo'ei Shabbos*, *sefiras ha'omer* precedes the recitation of *havdalah* in *shul*. The rationale for this ruling is the concept that it is proper to postpone bidding the Shabbos farewell (*Pesachim* 105b), and therefore if there is another *mitzvah* that needs to be performed at the same time it should precede *havdalah*.

However, Rebbi Akiva Eiger argues that this consideration applies only if the other *mitzvah* is on the same level as *havdalah*. If, however, the second *mitzvah* is on a different level than *havdalah*, the order should be dictated by the principle, *כל המקודש מחבירו קודם את חבירו* – “Whatever is more sacred than another precedes the other” (*Mishnah Zevachim* 10:2). Since we assume that *havdalah* is a *d'oraisa*, and *sefiras ha'omer* nowadays is merely a *derabbanan* obligation, *havdalah* should come first.

III. The Function of *Kiddush*

There seems to be a fundamental *machlokes* between the *Maggid Mishnah* and the *Rambam* as to the nature of the *mitzvah* of *kiddush*.

According to the *Maggid Mishnah*, the *mitzvah* is to create the day's *kedushah*-status through the pronouncement of *kiddush*. Even though Shabbos is described as *מקדשא וקיימא* – having a standing sanctification – and its *kedushah* arrives automatically when the day begins (*Beitzah* 17a), there is a *mitzvah* to recite *kiddush* to sanctify the day of Shabbos, so that its *kedushah* occurs through *Klal Yisrael* as well.

This is similar to the case of a *bechor* (firstborn animal). There is a *מצוה להקדישו* – a commandment to verbally consecrate a

firstborn animal (*Nedarim* 13a), which is derived from the *pasuk*, כל הבכור אשר יולד בבקר ובצאן הזכר תקדיש לד' אלקיך, – “Every firstborn male that is born in your cattle and in your flock, you shall sanctify to Hashem, your G-d” (*Devarim* 15:19). Even though the *bechor* is קדוש מרחם – automatically consecrated from birth – the Torah wants us to superimpose a *kedushah* through our utterance, thereby enhancing the *kedushah* that exists on its own from *shamayim*.

Kiddush on Shabbos serves this role of adding *kedushah* through human involvement, imparting *kedushah bidei adam* to a day that already possesses a *kedushah bidei shamayim*. That is why *kiddush* on Shabbos is a *d'oraisa* obligation. However, on Yom Tov, the *kiddush* cannot function in this way. *Klal Yisrael* has already been *mekadesh* the Yom Tov through its performance of *kiddush hachodesh* (sanctification of the new month) and establishment of the consequent Yomim Tovim. There is no need for *Klal Yisrael* to create *kedushas Yom Tov* through the recitation of *kiddush*.

From this perspective, *kedushas Yom Tov* is similar to the *kedushah* of a *korban* that has already been sanctified when its owner designated the animal as a *korban*; there is no further מצוה להקדיש. Thus, according to the *Maggid Mishnah*, the *kiddush* of Yom Tov is not a *d'oraisa* obligation. Furthermore, even on Shabbos, there exists a Torah obligation only to sanctify the Shabbos at its onset; there is no *d'oraisa* obligation to recite *havdalah* at the close of Shabbos.

The *Shulchan Aruch* (*Orach Chaim* 271:1) rules that when one returns home after *Kabbalas Shabbos*, he should rush to eat immediately. The *Mishnah Berurah* explains that this is in order to recite *kiddush* as close to the onset of Shabbos as possible. Since the recitation of *kiddush* serves as a *mekadesh* of Shabbos, it is preferable that as much as possible of the twenty-four hours of Shabbos should be sanctified. Shabbos already possesses *kedushah* even if we are not *mekadesh* it, but the *kiddush* adds additional *kedushah* to the day. [See *Divrei HaRav*, 2010 ed., p. 168.]

The *Rambam's* position is indicative of a different view of the nature of *kiddush*. One must separate Shabbos from the days of the week, both at the onset of Shabbos, through *kiddush*, as well as at the close of Shabbos, through *havdalah*. Such a line of demarcation is relevant to Yom Tov the same way as it is for Shabbos. Thus, *kiddush* and *havdalah* on both Shabbos and Yom Tov are all *d'oraisa* obligations. Through these recitations, we recognize the distinction between sanctified days and secular days. In the case of *kiddush*, we make a declaration that until this point was *chol* and from this point on is *kodesh*; in the case of *havdalah*, we declare that until this point was *kodesh* and from now on it is *chol*.

We may suggest that according to the *Rambam's* view, both of the above aspects of the nature of *kiddush* can exist simultaneously. When we recite *kiddush* on Shabbos, we accomplish a double fulfillment. We both sanctify the Shabbos, adding a human dimension of *kedushah* to the pre-existing *kedushah* of the day, as well as differentiate between days of *kodesh* and days of *chol*. However, with regard to *havdalah* on Shabbos – as well as *kiddush* and *havdalah* on Yom Tov, when there is no need for human sanctification of the day – there is only a single fulfillment, the recognition of the difference between days of *kodesh* and days of *chol*.

IV. Mentioning *Yetzias Mitzrayim*

This understanding of the *Rambam's* position may answer a question of the *Minchas Chinuch* (*mitzva* 31). The *Gemara* in *Pesachim* (117b) teaches that one fulfills the *mitzva* of *kiddush* only if he mentions *yetzias Mitzrayim* in *kiddush*. The basis for this requirement is the *gezeirah shava* (identical phraseology) found in the *pesukim*, יום צאתך מארץ מצרים – “so that you will remember the day of your departure from the land of Mitzrayim” (*Devarim* 16:3) – and, זכור את יום השבת לקדשו, – “Remember the Shabbos day to sanctify it” (*Shemos* 20:8).

If so, asks the *Minchas Chinuch*, according to the *Rambam's* ruling that *havdalah* is on par with *kiddush*, as both are *d'oraisa* obligations learned from the very same word זכור, why is the phrase זכר ליציאת מצרים absent from the text of *havdalah*?

The concept of mentioning *yetzias Mitzrayim* in the *kiddush* may be understood as an allusion to the *mitzvah* of *kiddush hachodesh*, which we received specifically on the occasion of *yetzias Mitzrayim*: החודש הזה לכם ראש חדשים – “This month shall be for you the beginning of the months” (*Shemos* 12:2). Through this *mitzvah*, *Klal Yisrael* was given the ability to sanctify time – in this case, the day of Rosh Chodesh. The ability to be *mekadesh zman* is therefore associated with the concept of *geulah* (redemption).

In a similar way, this *parsha* serves as the precedent for the incorporation of the concept of *geulah* into the body of the Jewish calendar. The *Ramban*, in his commentary on this *passuk*, cites the *Yerushalmi* (*Rosh Hashanah* 1:2), which teaches that שמות חדשים עלו עמנו מבבל – “the names of the months came up with us from Bavel.” Just as Nissan is reckoned as the first month of the calendar year as a remembrance of our redemption from the Egyptian bondage, which occurred in that month, we recall the second redemption, from *galus Bavel*, through the current use of the Babylonian names of the months. That is why we have adopted these names in the Jewish calendar. [See *B'Ikvei HaTzon*, pp. 11-12.]

The *Sha'arei Ephrayim* (10:36) uses this idea to explain why we offer the following request in the context of *birchas hachodesh*:

מי שעשה נסים לאבותינו וגאל אותם מעבדות לחירות הוא יגאל אותנו בקרוב ויקבץ נדחינו מארבע כנפות הארץ.

He Who performed miracles for our forefathers and redeemed them from slavery to freedom, may He redeem us soon and gather in our dispersed from the four corners of the earth.

The *mitzvah* of *kevi'as halu'ach* (establishment of the calendar), comprised of *kiddush hachodesh* and *ibbur hashanah* (intercalation

of the year), is predicated on the ability of *Klal Yisrael* to be *mekadesh zman*. This *mitzvah* was given to *Klal Yisrael* in association with its *geulah* from Mitzrayim, and it is therefore appropriate to *daven* for the final *geulah* every time we are engaged in publicizing the day of Rosh Chodesh.

This also explains why we include the phrase *זכר ליציאת מצרים* in the *nusach* of the *Amidah* on Rosh Hashanah and Yom Kippur, even though these Yomim Tovim are unrelated to the *geulah* from Mitzrayim. Some explain the connection between Rosh Hashanah and *yetzias Mitzrayim* based on our tradition that the slave labor in Mitzrayim ceased on Rosh Hashanah (*Rosh Hashanah* 11b). The relevance of *yetzias Mitzrayim* to Yom Kippur, however, remains unclear. Instead, we may understand the inclusion of this phrase in light of the comment of the *Ramban*. *Kiddush hazman* is rooted in *yetzias Mitzrayim*, and this connection must always be stated when expressing the *kedushas hayom* of any day, even one that is not historically related to *yetzias Mitzrayim*.

We may continue by drawing a distinction between *kiddush* and *havdalah* in terms of *kiddush hazman*. It is appropriate to mention *yetzias Mitzrayim* in *kiddush* on Shabbos, as we endow the Shabbos day with *kedushah bidei adam* superimposed onto its automatic *kedushah bidei shamayim*. As the *Ramban* comments in reference to the use of the Babylonian names of the months, the ability of *Klal Yisrael* to be *mekadesh zman* must always be linked with *geulah*, which serves as the source of this ability.

Havdalah, however, recited as the *kedushah* of the day is concluding, does not function as a *mekadesh*. Even according to the *Rambam's* view that *havdalah* is a *d'oraisa* obligation like *kiddush*, the role of *havdalah* is a very different one. Its purpose is to differentiate between a day of *kodesh* and days of *chol*. There is no need to mention *yetzias Mitzrayim* in *havdalah*,

since *yetzias Mitzrayim* is unrelated to such a demarcation. Only in *kiddush*, in which we invoke the ability of *Klal Yisrael* to be *mekadesh zman*, is it relevant to mention *yetzias Mitzrayim*. [See *Ginas Egoz*, pp. 23-25.]

KIDDUSH B'MAKOM SE'UDAH

I. Recitation of *Retzei* and *Ya'aleh VeYavo*

The *Gemara* in *Berachos* (49b) provides a guideline regarding the omission of *Ya'aleh VeYavo* in *Birchas HaMazon*: one must repeat *Birchas HaMazon* if there was an obligation to partake of a meal consisting of bread at that time. Thus, on Rosh Chodesh, when no such obligation exists, *Birchas HaMazon* is not repeated; on Shabbos or Yom Tov, when there is a requirement to have a *se'udah* with bread, *Birchas HaMazon* is repeated.

Even in regard to Shabbos, *Tosfos* (s.v. *iy ba'i*) questions whether one would have to repeat *Birchas HaMazon* due to the omission of *Retzei* following *se'udah shlishis*. This is because there are opinions in the *Rishonim* that one could discharge his obligation of eating this meal with non-bread items. *Tosfos* adds that if one were to have a fourth *se'udah* on Shabbos, he would not have to repeat *Birchas HaMazon* if he omitted *Retzei* because he was not obligated to eat that meal.

Rav Soloveitchik (*Shiurim LeZecher Abba Mari Z"l II*, 1985 ed., pp. 115-117) developed the following explanation based on the rule of the *Gemara*. The obligation to mention the unique character of the day of Shabbos or Yom Tov in the *Birchas HaMazon*, by adding *Retzei* or *Ya'aleh VeYavo*, is **not** in order to discharge one's obligation of *Birchas HaMazon*. One fulfills the obligation of *Birchas HaMazon* even if he omitted *Retzei* or *Ya'aleh VeYavo*.

The reason one must repeat *Birchas HaMazon* on Shabbos and Yom Tov if he forgot *Retzei* or *Ya'aleh VeYavo* must be in order to fulfill a different requirement – in order to fulfill one's obligation of *se'udas Shabbos* or *se'udas Yom Tov*. Even if one has eaten a meal, if he failed to mention the unique character of the day of Shabbos or Yom Tov in the *Birchas HaMazon*, he has not appropriately labeled the meal as a *se'udas Shabbos* or *se'udas Yom Tov*. This is the purpose of the insertion of *Retzei* and *Ya'aleh VeYavo* in the *Birchas HaMazon*. We mention the *kedushas hayom* following the meal in order to be *kove'a* (to establish) the *se'udah* as a *se'udas Shabbos* or *se'udas Yom Tov*.

Thus, if one omitted *Retzei* or *Ya'aleh VeYavo*, and he now repeats the *Birchas HaMazon* and mentions the day's particular *kedushas hayom*, he has now established his meal as a *se'udas Shabbos* or *se'udas Yom Tov*. He has thereby fulfilled his obligation of *se'udah*; his obligation of *Birchas HaMazon* was fulfilled earlier, in his first recitation. That is why if there is no obligation of *se'udah* on a given day or at a given meal, and there is no need to be *kove'a* the *se'udah* in this manner, *Birchas HaMazon* need not be repeated.

The Rav continued that this explanation forms the basis of the *halachah* (*Orach Chaim* 188:9) that if three people formed a *zimun* and then omitted *Retzei* in their *Birchas HaMazon*, when they repeat *Birchas HaMazon*, they should do so as individuals, without repeating the introductory *zimun*. Even though they omitted *Retzei*, they have already fulfilled their obligation of *Birchas HaMazon*. Since they are repeating *Birchas HaMazon* only in order to fulfill their *se'udas Shabbos* obligation, there is no need to repeat the *zimun*. *Zimun* is only appropriate prior to a group's fulfillment of its obligation of *Birchas HaMazon*, not in this case, in which the repetition of *Birchas HaMazon* is only necessary to establish the meal as a *se'udas Shabbos*.

Rav Soloveitchik offered a similar explanation with regard to the addition of *Ya'aleh VeYavo* in the *Shemoneh Esrei*. The *halachah*

is that one who omits *Ya'aleh VeYavo* in the *Shacharis Shemoneh Esrei* of Rosh Chodesh must repeat *Shemoneh Esrei*. As explained earlier in the context of *Birchas HaMazon*, Rav Chaim Soloveitchik understood that the reason for the repetition is in order to fulfill the obligation of *בכל יום ויום תן לו מעין ברכתיו של יום* – to praise *Hashem* (within each one of the day's various timeframes) for that day's particular quality, in this case its status of Rosh Chodesh (*Berachos* 40a). The repetition is **not** necessary in order to fulfill one's obligation of *Shemoneh Esrei* per se.

Indeed, if the *shali'ach tzibbur* makes a similar error in *chazaras hashatz*, he need not repeat the *Shemoneh Esrei*, due to concern for *tircha detzibbura* (communal inconvenience). In this case, he may rely on the fact that he will recognize the day as Rosh Chodesh when he will *daven* the *Mussaf Shemoneh Esrei* (*Rashi, Berachos* 30b, s.v. *b'tzibbur*, based on *Bahag*). If the *Shemoneh Esrei* without *Ya'aleh VeYavo* were deemed invalid, such a dispensation for the sake of *tircha detzibbura* would not be possible.

Rather, argued Rav Chaim, the requirement of *Shemoneh Esrei* has already been fulfilled. The repetition of the *Shemoneh Esrei* is really a rabbinic **dispensation**, allowing one to offer a *tefillas nedavah* (voluntary prayer) to enable him to fulfill his obligation to recognize the day's status as Rosh Chodesh.

Accordingly, Rav Chaim argued, nowadays, when due to our inadequate concentration during *Shemoneh Esrei* we do not recommend offering *tefillas nedavah*, it is preferable for even the individual who forgot *Ya'aleh VeYavo* in *Shacharis* to act in accordance with the practice of the *shali'ach tzibbur*. He should mention Rosh Chodesh in the *Mussaf Shemoneh Esrei* (during the morning-*tefillah* timeframe), rather than rely on the dispensation to offer a *tefillas nedavah* and repeat his *Shacharis Shemoneh Esrei*. The same applies when Rosh Chodesh falls on Shabbos, since a *tefillas nedavah* may not be offered on Shabbos (*Orach Chaim* 107:1).

II. The Purpose of *Kiddush B'Makom Se'udah*

This background provides us with the basis to understand the *halachah* of *kiddush b'makom se'udah* – the requirement to recite the *kiddush* in the location of the *se'udah* (*Pesachim* 101a). It is the opinion of the Vilna Gaon (*Ma'aseh Rav, siman* 122) that even the Shabbos day *kiddush* must be recited immediately prior to eating a full *se'udah* with bread. This is in contrast to the widespread custom, which appears to rely on the position of the *Ge'onim* cited in the *Shulchan Aruch* (*Orach Chaim* 273:5), permitting the recitation of *kiddush* in connection with *mezonos* food or additional wine.

Rav Soloveitchik (*Shiurim LeZecher Abba Mari Z"l* II, 1985 ed., pp. 110-114) explained that the opinion of the *Gr"a* is based on the premise that the purpose of *kiddush* is in order to be *kove'a* the *se'udah* as a *se'udas Shabbos*. This is accomplished in two ways – by reciting *kiddush* at the onset of the meal and by mentioning Shabbos in *Retzei* in *Birchas HaMazon* following the meal. Since the *se'udas Shabbos* certainly requires the eating of bread (*Berachos* 49b), the *kiddush* must be recited just prior to one's eating of bread, at which point he will fulfill his *mitzvah* of *se'udas Shabbos*.

The position of the *Ge'onim* is clearly different. According to their opinion, the purpose of *kiddush* is not to establish the meal as a *se'udas Shabbos*. The recitation of *kiddush* is a separate *mitzvah*, and the reason that the *kiddush* must be said *b'makom se'udah*, is in order to enhance the importance of the *kiddush*. [Indeed, whether the need for *kiddush b'makom se'udah* is a fulfillment of the *se'udah* obligation, as in the view of the *Gr"a*, or is a fulfillment of the *kiddush* obligation, as in the view of the *Ge'onim*, is reflected in two *leshonos* of the *Rashbam* (*Pesachim* 101a, s.v. *af yedei kiddush*).]

Rav Soloveitchik suggested that the widespread custom to recite *kiddush* and partake of snack food, and not a *se'udah*

consisting of bread, seems to be based on a combination of two lenient opinions, similar to the application of a *sfek sfeika* (double doubt). First, it is possible that the *halachah* is in accordance with the opinion of the *Ge'onim*, that *kiddush* may be recited prior to eating snack food. Second, even according to the opinion of the *Gr"a*, it is possible that the *halachah* is in accordance with the opinion of the *Ra'avad* (*Hilchos Shabbos*, 29:10), that one is permitted to eat prior to reciting *kiddush* on the day of Shabbos.

If this is indeed the rationale behind the custom, one would not be able to have this practice on Friday night, because on *leil Shabbos* (or *leil Yom Tov*), all agree that one may not partake of any food prior to reciting *kiddush*. Furthermore, according to the explanation of the Rav, after eating *mezonos* with *kiddush* on Shabbos morning, it would be proper for one to recite *kiddush* a second time, after he has concluded his snack and when he is now ready to begin his *se'udah* of bread. This would be done in order to be *kove'a* his forthcoming meal as a *se'udas Shabbos*, in fulfillment of the *Gr"a's* requirement. [See *Eretz HaTzvi*, pp. 43-47.]

III. The Food of the *Se'udah*

The *Gemara* in *Pesachim* (100b) cites a related *halachah*, that it is preferable that the food of the *se'udah* not be brought to the table until after the *kiddush*. In the event that the food was brought out prior to *kiddush*, פורס מפה ומקדש – “he spreads a cloth [over the food] and then recites *kiddush*.” The *Rishonim* provide different reasons for this *halachah* of Shmuel. *Tosfos* (s.v. *she'ein*) offers one reason based on the idea that the *lechem mishneh* is reminiscent of the double portion of *man* that fell on *erev Shabbos*. Just as the *man* was enveloped with dew from above and below, we position the *challos* between a tablecloth below and a cover above. This reason would apply only to the *challos*, which serve as a remembrance of the *man*, not to any other food placed on the table.

The *Tur* (*Orach Chaim* 271:9), quoting the *Mordechai* and *Rosh*, provides a second well-known reason: שלא יראה הפת בושתו – so that the bread not be “embarrassed.” We must recite the *borei pri hagafen* on the wine before the *berachah* on the bread because *kiddush* must be made before partaking of any food. As a result, we are not observing the usual precedence in *berachos*, according to which the *berachah* on the more-important bread would precede the *berachah* on the less-important wine. The *challos* are covered to give the appearance that we are not violating this order of precedence.

Tosfos, quoting the *She'iltos* (*Parshas Yisro*, *she'ilta* 54), provides an additional reason for the *halachah* of פורס מפה ומקדש. It is כי היכי דתיתי סעודתא ליקרא דשבתא – “so that the meal is presented in honor of the Shabbos.” It is necessary to first recite *kiddush* in order to be *kove'a* the meal as a *se'udas Shabbos*. This way, we demonstrate that the food of this meal, brought to the table **after** *kiddush*, is for the purpose of a *se'udas mitzvah* in honor of the Shabbos. According to this reason, any food that has been placed on the table, not only the *challos*, should be covered until after *kiddush* is recited.

Rav Soloveitchik felt that the first two reasons are aggadic in nature and that the halachic reason for פורס מפה ומקדש is that of the *She'iltos*.

Additionally, the Rav felt that even on Shabbos morning, when the food placed on the table before *kiddush* was brought to the table on Shabbos itself, it is proper to cover that food until after *kiddush* has been recited. Just as it is forbidden to eat before *kiddush*, it is likewise forbidden to begin the *se'udah* before *kiddush*, and the placing of the food on the table is considered the beginning of the *se'udah*. [See *Nefesh Harav*, 1994 ed., pp. 158-159; *MiPinei HaRav*, 2001 ed., pp. 69-70.]

SHALOSH REGALIM

PESACH: THE *SEDER*

SHAVUOS: *KEVI'US* OF THE YOM TOV

SUKKOS: RECITATION OF *HALLEL*

PESACH: THE SEDER

I. *Berachah Rishonah* on *Maror*

Tosfos (*Pesachim* 115a, s.v. *vehadar*) raises a basic question regarding the *maror* eaten at the *seder*. Why, when we eat *maror*, do we not recite a *berachah* of *borei pri ha'adamah* beforehand? The answers that the *Rishonim* provide to this question have many far-reaching implications. They also serve to elucidate many of the underlying themes of the *halachos* of the *seder*.

One simple answer advanced by *Tosfos* is based on the rule that דברים הבאים מחמת הסעודה – any food that is normally included in the course of a meal – is exempted from a *berachah* through the *birchas hamotzi* at the beginning of the meal. *Tosfos* writes that vegetables used in the fulfillment of the *mitzvah* of *maror* are considered דברים הבאים מחמת הסעודה because a vegetable salad eaten at the beginning of a meal whets one's appetite for the main course. Therefore, in practical terms, vegetables have a place in the course of a meal, and the eating of the *maror* does not require the recitation of a separate *berachah rishonah*.

[*Chrein* (horseradish), which some use for the *mitzvah* of *maror*, in contrast to romaine lettuce, may possibly be viewed as something distinct from that which is normally eaten in the course of a meal. According to this opinion in *Tosfos*, *chrein* may indeed require a *borei pri ha'adamah* prior to its consumption as *maror*.]

A related suggestion of *Tosfos* (*Berachos* 42a, s.v. *iy hachi*) is that for the *seder* meal, the Halachah declares that *maror* is part

of the menu. We should not view each of the obligations of *achilah* on this night – *pesach*, *matzah*, *maror*, *se'udas Yom Tov* – as distinct entities. Rather, all of these obligations blend together, so that the obligation of *se'udas Yom Tov* on this night is to partake of a meal that consists of *pesach*, *matzah*, and *maror*. According to this understanding, even if, in practical terms, *maror* might be considered extraneous to a meal, since, *al pi din*, the Torah established *maror* as obligatory in this meal, we label it as דברים הבאים מחמת הסעודה.

II. The Opinion of Rav Yosef Tuv Elem

Tosfos in *Pesachim* presents an additional answer to the question of why the *maror* is eaten without a preceding *borei pri ha'adamah* based on the *krovetz* for *Shabbos HaGadol*, “*Elokei HaRuchos*,” composed by Rav Yosef Tuv Elem (or Bonfils, in French). In the *piyyut*, he writes:

ולמה שאר ירקות באין תחילה, לפטור חזרת של מצוה ברכה ראויה לה.

Why do other vegetables (*karpas*) come first? In order to relieve the *chazeres* (*maror*) from its required *berachah* [*rishonah*].

In other words, the purpose of the *karpas* is in order to recite *borei pri ha'adamah* on it, so that we may eat the *maror* later without the need for a *berachah rishonah*.

The opinion of Rav Yosef Tuv Elem is that the *maror* is **not** among the דברים הבאים מחמת הסעודה. The reason we do not recite a *berachah* of *borei pri ha'adamah* on it is that we have already recited this *berachah* on the *karpas*, at which time we intended to exempt the *maror* from its *berachah*. Thus, when the *Gemara* (*Pesachim* 114b) states that the reason for *karpas* is היכרא לתינוקות – to pique the interest of the children – it is referring only to the reason for the **placement** of *karpas* at the beginning of the *seder*, and not later, before the eating of the *maror*. The reason for the **institution** of *karpas* is solely to relieve the *maror* from its *berachah rishonah*.

Why was it necessary to institute *karpas* in order to relieve the *maror* from its *borei pri ha'adamah*? Why could we not simply recite this *berachah* on the *maror*? The rationale behind the opinion of Rav Yosef Tuv Elem seems to be that both *berachos*, *borei pri ha'adamah* and *al achilas maror*, could not be said on the *maror*, because this would be a violation of the principle אין עושין מצוות חבילות חבילות – we do not perform *mitzvos* in bundles.

The *Gemara* presents different applications of this principle. The *Gemara* in *Sotah* (8a) teaches that we may not administer the *sotah*-water to two women at once, nor may we purify two *metzora'im* at once, nor may we bore the ears of two slaves at once, nor may we decapitate two *eglah arufah* calves at once. Each *mitzvah* should be accorded its own individual importance, and we therefore may not perform multiple *mitzvos* at once.

The *Gemara* in *Pesachim* (102b) presents a second application of this principle. One may not use the same cup of wine for both *Birchas HaMazon* and the recitation of *kiddush*. Similarly, the *Gemara* in *Berachos* (49a) teaches אין חותמים בשתיים – “We do not conclude one *berachah* [which contains one pronouncement of *shem u'malchus* – the Name of *Hashem* and His Kingship] with two distinct praises.” In these cases, אין עושין מצוות חבילות חבילות prohibits the use of one מצוה של הפצא (*mitzvah*-object) to fulfill two distinct *mitzvos*.

Rav Yosef Tuv Elem applies this latter form of the principle to the case of *maror*, so that we must avoid reciting two *berachos*, both *borei pri ha'adamah* and *al achilas maror*, over *maror*. Since the *maror* would be the הפצא של מצוה of both the *borei pri ha'adamah* **and** of the *al achilas maror*, using the same vegetable for both *mitzvos* would be a violation of אין עושין מצוות חבילות חבילות. Instituting *karpas* earlier in the *seder* was meant to alleviate this concern.

III. First Challenge: *Kiddush*

The other *Ba'alei HaTosfos* raise three questions to disprove the position of Rav Yosef Tuv Elem. First, *Tosfos* in *Berachos* (39b, s.v. *hakol*) points out that during *kiddush* we recite two *berachos* on the same cup of wine; we do not seem to invoke the principle of *אין עושין מצוות חבילות חבילות*. Why is it not a violation of this principle, according to Rav Yosef Tuv Elem, when we use the same *מצוה של הפנא* to fulfill the *mitzvah* of *birchas hanehenin* (*borei pri hagafen*) as well as the *mitzvah* of *kiddush*? [Our practice of reciting two *berachos* on the *matzah* would not pose a difficulty to Rav Yosef Tuv Elem, because we have more than one *matzah* on which we recite the *berachos*. Thus, we say *hamotzi* on the whole *matzos* and *al achilas matzah* on the middle, broken *matzah*.]

The *Netziv*, in his *Hagaddah* (*Imrei Shefer*, s.v. *motzi matzah*), defends Rav Yosef Tuv Elem by offering the following explanation of the nature of the *borei pri hagafen* in *kiddush* and *havdalah*. He explains that wine is singled out as being an item over which praises of *Hashem* are often offered. Thus, the *borei pri hagafen* on wine is not merely a *birchas hanehenin*, but a *birchas hoda'ah* to *Hashem*, Who created the wine. The *berachah* is therefore considered a praise of *Hashem* offered in honor of the Shabbos, and it forms an intrinsic part of the *shevach* of the *kiddush* or *havdalah* itself.

Rav Soloveitchik elaborated on this notion, providing a further source for it in the words of *Rashi*. The *Gemara* in *Eirvain* (40b) teaches the principle, *המברך צריך שיטעום* – “one who recites a *berachah* [over a cup of wine] must taste [the wine afterward].” *Rashi* (s.v. *leisvei*) offers the following explanation: “It is a disgrace to the *kos* of *berachah* that no one benefits from it immediately, such that the *borei pri hagafen* was unnecessary.”

This explanation is puzzling, as a much more straightforward explanation of the principle could have been offered. There is a rabbinic enactment to recite various *berachos* over a cup of wine – *ברכה על הכוס*. In this way, we enhance the *berachah*

by reciting it over a cup of wine. In order to satisfy this enactment and enhance the *kiddush*, one must drink from the cup. Of course, in order to permit the drinking of the wine, one must recite a *borei pri hagafen* beforehand, but the need for the *borei pri hagafen* is an ancillary requirement (*Rashash*). Why, then, does *Rashi* focus on the *berachah* of *borei pri hagafen* instead of the drinking of the wine?

Rashi's comment leads us to two surprising conclusions. First, it seems that even if one would **not** drink from the *kos*, it would still qualify as a ברכה על הכוס. Second, there seems to be some intrinsic requirement to recite a *borei pri hagafen* as part of the *kiddush*.

The Rav explained that it appears that the institution of ברכה על הכוס and the principle of צריך שיטעום in the context of *kiddush* follow the following reasoning. A *borei pri hagafen* must be included along with the second *berachah* of *kedushas hayom* within the text of the *kiddush*, irrespective of whether anyone will drink the wine. This is because the *borei pri hagafen* of *kiddush* forms an **intrinsic** part of the *kiddush*. A secondary consideration also exists, that "it is a disgrace to the *kos* of *berachah* that no one benefits from it immediately." This secondary concern forms the basis of the requirement to actually drink from the *kos*.

Rav Soloveitchik proceeded to provide the rationale for why the *borei pri hagafen* would form an intrinsic part of the *kiddush*. He explained that the purpose of *kiddush* is in order to be *kove'a* (establish) the meal as a *se'udas Shabbos* (see the essay "*Kiddush B'Makom Se'udah*"). This is why *kiddush* may only be recited on wine or bread; the *Gemara* singles out drinking wine and eating bread, due to their importance, as the only methods able to accomplish *kevi'as se'udah* (*Berachos* 43a). Since the essence of the *kiddush* is to be *kove'a* the meal as a *se'udas Shabbos*, and *kevi'as se'udah* requires wine (or bread), it stands to reason that the *berachah* on that wine (or bread) forms an intrinsic part in the series of *berachos* of *kiddush*.

This consideration forms the basis of the opinion of the *Ge'onim* (cited in *Orach Chaim* 271:14) that the one who recites *kiddush* must himself taste of the wine, and it is insufficient to rely on the tasting of one of the listeners. The tasting of one of the listeners would be sufficient in order to fulfil the requirement *ברכה על הכוס*, such as when *havdalah* or *Birchas Ha-Mazon* are recited over a cup of wine. For *kiddush* however, one's *kevi'as se'udah* would be lacking if he failed to drink of the wine.

In fact, the Rav (*Shiurim LeZecher Abba Mari Z"l* II, 1985 ed., p. 115), unlike the *Netziv* cited above, distinguished between *kiddush* and *havdalah* in this regard. The *Magen Avraham* (*Orach Chaim* 296:10) rules that one would discharge his obligation of *havdalah* if he heard the *berachah* of *hamavdil*, even if he lacked intent during the preceding *berachah* of *borei pri hagafen*.

The Rav, in the name of Rav Chaim, felt that this leniency would **not** apply with regard to *kiddush*, because the *borei pri hagafen* forms an intrinsic part of the *kiddush* itself. Only for *havdalah*, in which wine is used merely to accomplish *ברכה על הכוס* to enhance the *mitzvoah* of *havdalah*, do we say that the *borei pri hagafen* is purely a *birchas hanehenin*. The purpose of the *berachah* is only to allow for the drinking of the wine; it is ancillary to the *havdalah*, not an intrinsic part of it.

This is evidenced from the fact that bread may not be used as a replacement for wine in *havdalah*; juxtaposing the *havdalah* to the eating of bread would obviously not fulfill the rabbinic enactment of *ברכה על הכוס*. Furthermore, *chamar medinah* may be used for *havdalah* as a replacement for wine, as this important beverage can also accomplish the enhancement of *ברכה על הכוס*. The fact that *kiddush* does not share these two *halachos* with *havdalah* – for *kiddush*, bread **may** be used and *chamar medinah* **may not** be used – shows that the purpose of wine for *kiddush* is not in order to accomplish *ברכה על הכוס*, but in order to accomplish *kevi'as se'udah*.

IV. Second Challenge: *Birchas HaNehenin*

Tosfos continues to challenge Rav Yosef Tuv Elem, claiming that the principle of *אין עושין מצוות חבילות חבילות* should never apply to *birchos hanehenin*. This assertion also underlies a fundamental difference of opinion between *Tosfos* and Rav Yosef Tuv Elem.

According to *Tosfos'* understanding, the *הפצא של מצוה* of reciting a *birchas hanehenin* is the **words of the berachah**, not the food on which the *berachah* is made. The *mitzvah* is to recite the *berachah*, not to eat the food. The eating of the food is merely a condition that must be met in order for the *mitzvah* to take effect. Therefore, according to *Tosfos*, *אין עושין מצוות חבילות חבילות* is not at all relevant to the *kazayis* of *maror*. According to this principle, one may not use one *הפצא של מצוה* to fulfill two different *mitzvos*. Here, there are two different "objects" being used for the two *mitzvos* – the *הפצא של מצוה* of the *mitzvah* of *achilas maror* is the *kazayis* of *maror*, while the *הפצא של מצוה* of the *berachah* of *borei pri ha'adamah* is the spoken words of the *berachah* itself.

Obviously, Rav Yosef Tuv Elem views the relationship between the food on which the *birchas hanehenin* is recited and the recitation of the *berachah* in a different way. Rav Soloveitchik's analysis of the relationship between the *kol shofar* (sound of the *shofar*) and the *shofar* itself in the *mitzvah* of *teki'as shofar* may provide an insight that we can use to explain the position of Rav Yosef Tuv Elem.

The *Rambam* (*Hilchos Shofar* 1:1) believes that the *mitzvah* of *shofar* is the **hearing** of the *shofar*-blast, not the blowing of the *shofar*. This leads the *Rambam* to the interesting conclusion that one would fulfill his obligation by blowing a stolen *shofar*. The *Rambam* explains that although the *shofar* is a stolen item, *אין בקול דין גול* – "the **sound** of the *shofar* is not subject to the laws of theft." Thus, we would not apply the disqualification of *מצוה הבאה בעבירה* (a *mitzvah* brought about through a transgression) to this case.

The *Rambam* understands that the disqualification of מצוה הבאה בעבירה does not focus on the *mitzvah-act*; it does not indicate that a *mitzvah-act* made possible through an *aveirah* is invalid. Rather, this rule focuses on the *mitzvah-object*, instructing that an object first labeled as a חפצא של עבירה cannot then serve as a חפצא של מצוה. In the case of a stolen *shofar*, although the *shofar* itself is a חפצא של עבירה, the מצוה של חפצא of the *mitzvah* of *teki'as shofar* is the **sound** of the *shofar*, which is not the stolen item. Therefore, that sound of the *shofar* is not invalidated.

The difficulty with this approach is that the *Gemara* in *Rosh Hashanah* (27a) applies the concept of *hiddur mitzvah* (beautification of a *mitzvah-object*) to the *shofar* itself, thereby explaining why the mouth of the *shofar* blown in the *Beis HaMikdash* was plated with gold. This would seem to imply that the *shofar* itself, not the sound of the *shofar*, is the חפצא של מצוה of the *mitzvah* of *teki'as shofar*.

Rav Soloveitchik explained that in the case of many *mitzvos*, the מעשה המצוה (act of the *mitzvah*) and the קיום המצוה (fulfillment of the *mitzvah*) are synonymous. In these situations, the חפצא של מצוה is the same with regard to both of these components of the *mitzvah*. For example, the single act of eating the *matzah* or of taking the *lulav* is considered both the מעשה המצוה and קיום המצוה. Thus, the *matzah* and *lulav* respectively serve as the חפצא של מצוה for both elements of the *mitzvah*.

There are *mitzvos*, however, in which the מעשה המצוה and the קיום המצוה are not identical. *Teki'as shofar* is such an example. The blowing of the *shofar* is the מעשה המצוה, but, as the *Rambam* notes, it is the **hearing** of the *shofar*-blast that is the קיום המצוה. Therefore, in the case of *teki'as shofar*, we are presented with a dichotomy: the *shofar* is the חפצא של מצוה with regard to the מעשה המצוה, but the **sound** of the *shofar* is the חפצא של מצוה with regard to the קיום המצוה.

That is why it is appropriate to apply the concept of *hid-dur mitzvah* to the *shofar* itself; the *shofar* is, in fact, a bona fide מצוה של חפצא. At the same time, the *Rambam* sees fit not to apply the disqualification of מצוה הבאה בעבירה to a stolen *shofar*, because when it comes to the actual fulfillment of the *mitzvah* through the **sound** of the *shofar*, the קיום המצוה has **not** been accomplished with a stolen item.

We may compare the case of *birchas hanehenin* to *teki'as shofar* in order to explain the position of Rav Yosef Tuv Elem. While we recognize that the *mitzvah* involved in *birchas hanehenin* is the recitation of the *berachah*, it is obvious that such recitation may not be performed unless a food item will be eaten immediately afterwards. Therefore, we may suggest that although the food item is not the מצוה של חפצא with regard to the קיום המצוה, it should be considered as serving an intrinsic, and not an incidental, role.

When it comes to the קיום המצוה, it is the spoken words of the *berachah* that serve as the מצוה של חפצא, just as the sound of the *shofar* is the מצוה של חפצא of the קיום המצוה of *teki'as shofar* according to the *Rambam*. However, with regard to the מעשה המצוה, it may be argued that it is the **food item** that serves the role of חפצא של מצוה. The food item is what makes the recitation of the *berachah* to fulfill the *mitzvah* possible, in the same way that the blowing of the *shofar* makes possible the hearing of the *shofar*-blast to fulfill the *mitzvah*.

We can now appreciate the assumption of the *Gemara* in *Be-rachos* (41a) that there exist priorities in the realm of *birchos hanehenin*. The *Gemara* explains that precedence exists not only in relation to the recitation of *berachos* – to give priority to the more important and specialized *berachos* over other more general *berachos* – but even in relation to the actual food items themselves. Thus, even if the *berachah* of two food items is the same, we must give priority, for example, to a fruit that is one of the seven species for which Eretz Yisrael is praised.

This is because the first food that we eat following a *birchas hanehenin* is the food to which the *berachah* relates; the remainder of the food is eaten without the need for a *berachah*. According to the understanding that the food item on which the *berachah* takes effect is the *חפצא של מצוה* with regard to the *מעשה המצוה* of the *mitzvah* of *birchas hanehenin*, we well understand that the principle of *hiddur mitzvah* would have relevance to one's choice of that food item.

In the same way that the *shofar* in the *Beis HaMikdash* had its mouthpiece covered in gold, one must give precedence to certain food items eaten after reciting a *birchas hanehenin*, because by doing so, the *חפצא של מצוה* will be more *mehudar*. The *Mishnah Berurah* (167:88) expresses a similar notion in forbidding tossing bread on which the *berachah* of *hamotzi* has been recited. Again, since that bread is a *חפצא של מצוה*, it must not be denigrated.

This is the way in which Rav Yosef Tuv Elem viewed the food item on which the *birchas hanehenin* is recited. He understood that this food item, which allows for the recitation of the *berachah*, is the *חפצא של מצוה* of the *מעשה המצוה*. Therefore, if the same *kazayis* of *maror* would be used as the *חפצא של מצוה* of the *mitzvah* of *birchas hanehenin* as well as the *חפצא של מצוה* of the *mitzvah* of *achilas maror*, this would be a violation of the rule, *אין עושין מצוות חבילות חבילות*. The institution of *karpas* solves this dilemma by separating between the *mitzvos* of *birchas hanehenin* and *achilas maror*, so that each *mitzvah* makes use of a different *חפצא של מצוה*.

V. Third Challenge: Rav Chisda's Position

Tosfos in *Pesachim* questions Rav Yosef Tuv Elem based on the *Gemara* in *Pesachim* (114b-115a), which discusses the case of one who has only *chassa* (lettuce) and lacks another vegetable to use for *karpas*. In this case, he eats *chassa* twice, once for *karpas* and once for *maror*.

The Gemara presents a *machlokes Amora'im* regarding whether in this case one recites the *berachah* of *al achillas maror* along with *borei pri ha'adamah*, before the consumption of the *chassa* eaten for *karpas* – the view of Rav Chisda – or whether he delays the *al achillas maror* until later, when he eats a second *kazayis* of *chassa* to fulfill his *maror* obligation. We rule in accordance with Rav Chisda on the strength of the argument, *היה מלא כריסו הימנו חוזר ומברך עליה* – “[Is it proper that] after he filled his stomach with [*chassa*] that he return and recite the *berachah* [*al achillas maror*] on it?” Therefore, the proper approach is to recite both *berachos*, *borei pri ha'adamah* and *al achillas maror*, on the *chassa* eaten for *karpas*, and to eat the *chassa* a second time for *maror* without reciting any *berachah*.

Is this not precisely the practice that Rav Yosef Tuv Elem forbade – reciting two *berachos*, *borei pri ha'adamah* and *al achillas maror*, on the same *kazayis* of *chassa*?!

If we consider the practice that Rav Yosef Tuv Elem forbade in light of the above analysis regarding *birchas hanehenin*, it is clear that it should not be compared to the ruling of Rav Chisda. As we explained, according to Rav Yosef Tuv Elem, it is a violation of *אין עושין מצוות חבילות חבילות* if one uses the same *מצוה של חפצא* to fulfill two separate *mitzvos*.

This is not relevant to the special case discussed by Rav Chisda. If one only has *chassa* available and will eat it as a substitute for *karpas*, the *mitzvah* of *maror* is specifically **not** being fulfilled at this time; his intent is only for *karpas*, not for *maror*. [He is delaying the fulfillment of his *mitzvah* of *maror* until after he eats *matzah*, in order to fulfill these *mitzvos* in the preferred sequence, based on the order that appears in the *pas-suk*, *על מצות ומרורים יאכלוהו* – “with *matzos* and bitter herbs shall he eat it” (*Bamidbar* 9:11, as understood by *Rashbam*, *Pesachim* 114a, s.v. *ad shemagi'a*).]

Rav Yosef Tuv Elem never objected to the recitation of two *berachos* on one *מצוה של חפצא*, but rather only to the fulfillment

of two *mitzvos* with one חפצא של מצוה. In the case of Rav Chisda, during *karpas*, the *chassa* only serves as the חפצא של מצוה of the *mitzvoah* of *birchas hanehenin*; later, the *chassa* will serve only as the חפצא של מצוה of the *mitzvoah* of *maror*. Therefore, there is no violation of the principle אין עושין מצוות חבילות חבילות in following the position of Rav Chisda and reciting two *brachos* on the *chassa* used for *karpas*.

VI. The Nature of the *Se'udah* on *Seder* Night

Earlier, we mentioned the position of *Tosfos* in *Berachos* regarding whether *maror* requires a *berachah* of *borei pri ha'adamah*. This *Tosfos* holds that the *maror* does not need a *berachah rishonah* because it is considered דברים הבאים מחמת הסעודה, since the obligation of *se'udas Yom Tov* on the *seder* night is to partake of a meal that consists of *pesach*, *matzah*, and *maror*. The Halachah sets the menu for this *se'udah*, so that the *mitzvos* of *pesach*, *matzah*, and *maror* blend in with the *mitzvoah* of *se'udas Yom Tov*. The concept that *Tosfos* presents here, that the obligation to eat *maror* on *seder* night is part and parcel of the *se'udas Yom Tov* obligation, is in fact the subject of a fundamental *machlokes* among the *Rishonim*.

The *Gemara* in *Pesachim* (115b-116a) notes that the Torah, when describing *matzah* as לחם עוני - "bread of affliction" (*Devarim* 16:3), records this phrase in the *chaser* (incomplete) form, לחם עני - "bread of poverty." This teaches that one must use a broken *matzah* to fulfill his obligation on *seder* night: מה עני שדרכו בפרוסה אף כאן בפרוסה - "Just as it is the way of a poor man [to partake] of a broken [loaf of bread], here too, [one should fulfill the *mitzvah* of *matzah*] with a broken [*matzah*]." The difficulty is that at the *Pesach seder*, there should presumably still be the usual requirement to recite *hamotzi* on *lechem mishneh*, two **complete** loaves, just as at every *Shabbos* and *Yom Tov se'udah* (*Berachos* 39b).

There is a *machlokes Rishonim* as to how to resolve these two competing factors. The opinion of *Tosfos* (*Pesachim* 116a, s.v. *mah darko*), as well as of the *Rosh* and the *Mordechai* (cited in *Bi'ur HaGr" a*, *Orach Chaim* 473:4), is that these two considerations represent two independent and unrelated *mitzvos*. There is a *mitzvah* of *achilas matzah* and a separate *mitzvah* of *se'udas Yom Tov* on this night. One must have one broken *matzah*, as **לחם עני**, for the *mitzvah* of *matzah*, as well as two whole *matzos* for *lechem mishneh* for the *mitzvah* of *se'udas Yom Tov*.

The result is that on *seder* night, we recite the *hamotzi* over a total of two-and-a-half *matzos*. Following this opinion, the common custom is to prepare three whole *matzos*, perform *yachatz* on the middle *matzah*, and recite *hamotzi* on the remaining two-and-a-half *matzos*, using the two whole *matzos* for the *mitzvah* of *se'udas Yom Tov* and the broken *matzah* for the *mitzvah* of *matzah*.

The *Rambam* (*Hilchos Chometz U'Matzah* 8:6) presents a contrary opinion, which was adopted by the Vilna Gaon, as well as by Rav Moshe Feinstein and the Soloveitchik family. The *Rambam* writes, "And for what reason does one not recite the *berachah* on two whole loaves, as on other *Yomim Tovim*? Because it is written **לחם עני**; just as the way of a poor person is [to partake of] a broken piece, also now [we use] a broken piece." The *Rambam* holds that the *mitzvah* of *matzah* is **not** a separate *mitzvah* from the *mitzvah* of *se'udas Yom Tov*. The *mitzvah* of *matzah* and the *mitzvah* of *se'udah* are identical. Thus, the *matzah*'s requirement of **לחם עני** impacts the *se'udah*'s requirement of *lechem mishneh*.

On *seder* night, the usual requirement of *lechem mishneh* for *se'udas Yom Tov* is modified by the requirement of **לחם עני**, which specifically requires the use of a broken *matzah*, so that the **proper** way to fulfill *lechem mishneh* is to use one-and-a-half *matzos*. According to this opinion, one should prepare only two whole *matzos*, such that after *yachatz*, the *hamotzi* will be recited on one-and-a-half *matzos*.

This position of the *Rambam* is consistent with the explanation of the *Tosfos* in *Berachos* cited above, that the obligation of *se'udas Yom Tov* on *seder* night is to partake of a meal that consists of *pesach*, *matzah*, and *maror*.

VII. *Retzei* and *Ya'aleh VeYavo* in *Birchas HaMazon*

Rebbi Akiva Eiger (*Teshuvos, siman 1*) appears to work with this assumption as well. He discusses whether a different rule may apply to women regarding the repetition of *Birchas HaMazon* on *Yom Tov* if one forgets *Ya'aleh VeYavo*. In general, if one omits *Ya'aleh VeYavo* on a day on which there is an obligation to have a meal with bread, he must repeat *Birchas HaMazon*. Thus, on *Rosh Chodesh*, when no such obligation exists, *Birchas HaMazon* is not repeated; on *Yom Tov*, when there is a requirement to have a *se'udah* with bread, *Birchas HaMazon* is repeated (*Berachos 49b*).

Since the source of the *se'udah* obligation on *Yom Tov* is the *mitzvah* of *oneg* (enjoyment), and women are not included in the *mitzvah* of *oneg* because it is a time-bound positive *mitzvah*, Rebbi Akiva Eiger suggests that a woman would not repeat *Birchas HaMazon* if she omitted *Ya'aleh VeYavo* on *Yom Tov*. Rebbi Akiva Eiger qualifies this leniency, however. Since women are clearly included in the *mitzvah* to eat *matzah* on *seder* night, women would have to repeat *Birchas HaMazon* in the event they omitted *Ya'aleh VeYavo* on that night. [Similarly, women are obligated in the *mitzvah* of *oneg* on *Shabbos*. A woman would therefore have to repeat *Birchas HaMazon* if she omitted *Retzei*.]

As discussed above (see the essay "*Kiddush B'Makom Se'udah*"), Rav Soloveitchik (*Shiurim LeZecher Abba Mari Z"l II*, 1985 ed., pp. 115-117) developed the following explanation of the rule of the *Gemara* in *Berachos* above, regarding the repetition of *Birchas HaMazon* following the omission of *ya'aleh veyavo*. The obligation to mention the unique character of the day of *Shabbos*

or Yom Tov in the *Birchas HaMazon* by adding *retzei* or *ya'aleh veyavo*, is **not** critical in order to discharge one's obligation of *Birchas HaMazon*. The obligation of *Birchas HaMazon* has been met even if one omitted *retzei* or *ya'aleh veyavo*.

The reason that one must repeat *Birchas HaMazon* on Shabbos and Yom Tov must therefore be in order to fulfill a different requirement – to fulfill one's obligation of *se'udas Shabbos* or *se'udas Yom Tov*. Even if one has eaten a meal, if he failed to mention the unique character of the day of Shabbos or Yom Tov in the *Birchas HaMazon*, he has not appropriately labeled the meal as a *se'udas Shabbos* or *se'udas Yom Tov*. This is the purpose of the *Retzei* and *Ya'aleh VeYavo* recited in the *Birchas HaMazon*. We mention the *kedushas hayom* following the meal in order to be *kove'a* (to establish) the *se'udah* as a *se'udas Shabbos* or *se'udas Yom Tov*.

If one omitted *Retzei* or *Ya'aleh VeYavo*, and he now repeats the *Birchas HaMazon* and mentions the day's particular *kedushas hayom*, he has now established his meal as a *se'udas Shabbos* or *se'udas Yom Tov*. He has thereby fulfilled his obligation of *se'udah*; his obligation of *Birchas HaMazon* was fulfilled earlier, with his first *Birchas HaMazon*. [See *Eretz HaTzvi*, pp. 46-47.]

Given this background, Rabbi Akiva Eiger's distinction regarding the *se'udah* on *seder* night can be understood if one views that *se'udah* in the way the *Rambam* and *Tosfos* in *Berachos* did. Since, according to this view, the *mitzvah* of *matzah* is identical to the *mitzvah* of *se'udah*, women, who are obligated to eat *matzah*, are also obligated in the *se'udah* on *seder* night.

Thus, on *seder* night in particular, a woman who omitted *Ya'aleh VeYavo* would have to repeat *Birchas HaMazon* in order to fulfill her *se'udas Yom Tov* obligation. When she repeats the *Birchas HaMazon* with *Ya'aleh VeYavo*, she will be establishing her meal as a *se'udas Yom Tov*. In the case of other Yom Tov *se'udos*, in which women may not be obligated, a woman would not have to repeat *Birchas HaMazon* to meet such an obligation.

However, according to the view of *Tosfos* in *Pesachim*, the *Rosh*, and the *Mordechai* – that the *mitzvah* of *se'udah* is distinct from the *mitzvah* of *matzah* – women are exempt from the *mitzvah* of *se'udas Yom Tov* even on *seder* night. The omission of *Ya'aleh VeYavo* on *seder* night should be no different than its omission following any other *se'udas Yom Tov*. Since the obligation of *Birchas HaMazon* has been met even though *Ya'aleh VeYavo* was omitted, there would be no reason to repeat *Birchas HaMazon*.

VIII. Eating Two *Kezeisim* of *Matzah*

The *Shulchan Aruch* (*Orach Chaim* 475:1), based on the opinions of the *Rosh* and the *Mordechai*, rules that one should consume **two** *kezeisim* of *matzah* following the *berachos* of *hamotzi* and *al achilas matzah*. We eat one *kazayis* from the upper, whole *matzah* to fulfill the *mitzvah* of *se'udas Yom Tov*, and a second *kazayis* from the middle, broken *matzah* to fulfill the *mitzvah* of *matzah*.

This opinion of the *Rosh* and *Mordechai* is consistent with their position that we recite the *hamotzi* on two-and-a-half *matzos*. That view, as we explained above, is predicated upon the understanding that the *mitzvah* of *se'udah* and the *mitzvah* of *matzah* are two unrelated *mitzvos*. Given that assumption, we can well understand why these distinct *mitzvos* cannot be fulfilled with the eating of just one *kazayis* of *matzah*. Just as Rav Yosef Tuv Elem maintained that using one *kazayis* of *maror* as the *חפצא של מצוה* for both the *mitzvah* of *birchas hanehenin* and for the *mitzvah* of *maror* would be a violation of the principle of *אין עושין מצוות חבילות חבילות*, the same violation would apply to the use of the same *kazayis* of *matzah* for both the *mitzvah* of *se'udas Yom Tov* and for the *mitzvah* of *matzah*.

The *Mishnah Berurah* (*Bi'ur Halachah*, s.v. *kazayis*) takes issue with the *psak* of the *Shulchan Aruch*, arguing that the majority of the *Rishonim* require eating only **one** *kazayis*, because the two obligations – that of *se'udas Yom Tov* and that of *achilas matzah* –

blend together to form one obligation. On the *seder* night, the way to fulfill *se'udas Yom Tov* is to partake of a *kazayis* of *matzah*.

The *Mishnah Berurah* questions the opinion of the *Rosh* and *Mordechai* based on the *Gemara* in *Pesachim* (108a), which discusses the case of a *shamesh* (waiter) who must eat his *se'udah* on *seder* night while serving guests. The *Gemara* there says, אַ שַׁמֵּשׁ שֶׁאָכַל כֶּזַיִת מִצָּה כְּשֶׁהוּא מִסֵּב יֵצֵא – “A waiter who ate a *kazayis* of *matzah* while reclining has fulfilled his obligation.” This *Gemara* seems to imply, against the position of the *Rosh* and *Mordechai*, that one need only eat a **single** *kazayis* of *matzah*.

We may suggest an answer to the *Mishnah Berurah*'s question by considering the opinion of the *Rosh* and *Mordechai* regarding the nature of the *se'udah* on *seder* night, in combination with their understanding of the nature of the *mitzvah* of *heseibah* (reclining).

The Brisker Rav (*Chiddushei Maran Ri"z HaLevi, Hilchos Chametz U'Matzah 7:7*) elaborates on what seems to be a *machlokes Rishonim* regarding the essence of the *mitzvah* of *heseibah*. The *Rambam* (*Hilchos Chametz U'Matzah 7:6-7*) writes that there is a separate *mitzvah* of *cheirus* on *seder* night – to demonstrate a sense of freedom, as if one is currently leaving the servitude of *Mitzrayim*. This is accomplished in two ways – by reclining while eating the meal and by drinking the *arba kosos* of wine. Based on this understanding of the *mitzvah* of *heseibah*, the *Rama* (*Orach Chaim 472:7*) rules that one should preferably recline for the entire *se'udah*.

The Brisker Rav notes that *Tosfos* (*Pesachim 108a, s.v. kulhu*) and the *Rosh* disagree with the *Rambam*, maintaining that there is no separate *mitzvah* of *cheirus*. Rather, *heseibah* is a detail within the *mitzvos* of *matzah* and *arba kosos*; it describes the proper method in which to fulfill those *mitzvos*. According to the *Rosh*, there is no need to recline while eating the *se'udah*, but rather only while eating the *kazayis* of *matzah*. [The *Rosh*

would also understand the *mitzvah* of *arba kosos* differently. Rather than a demonstration of *cheirus*, the four cups of wine represent an enhancement of the recitation of the four *berachos* of the *seder* (*kiddush*, *asher ge'alanu*, *Birchas HaMazon*, and *birchas hashir*), transforming each one into a *ברכה על הכוס*.]

We can now answer the *Mishnah Berurah's* question. The *Gemara's* statement regarding the *shamesh* who is required to eat only **one** *kazayis* of *matzah* was made in the context of its discussion of the *mitzvah* of *heseibah*. As far as the *mitzvah* of *heseibah* is concerned, the *Rosh* and the *Mordechai* concede that only one *kazayis* of *matzah*, of the two *kezeisim* that one must eat, requires *heseibah*.

Indeed, "A waiter who ate a *kazayis* of *matzah* while reclining has fulfilled his obligation" – **of *heseibah***. The second *kazayis* of *matzah* required by the *Rosh* and the *Mordechai*, which is eaten for the sake of the *mitzvah* of *se'udas Yom Tov*, does not require *heseibah*, because according to the *Rosh*, *leshitaso* (according to his own opinion), the *se'udah* does not require *heseibah*. The *shamesh* may eat that second *kazayis* while serving the guests, in any position that he desires. [See *Eretz HaTzvi*, pp. 33-43.]

IX. *Hesech HaDa'as*

A final point of dispute between the *Ba'alei HaTosfos* and Rav Yosef Tuv Elem centers around the issue of *hesech hada'as* (distraction) due to the interposing recitation of the *Haggadah* between the *borei pri ha'adamah* and the eating of *maror*. The other *Ba'alei HaTosfos* do not accept the reason for *karpas* presented by Rav Yosef Tuv Elem, because there will be a significant pause between the eating of the *karpas* and the eating of the *maror*.

The *Gemara* (*Pesachim* 115b), in the context of the requirement of *netilas yadayim*, states that this pause constitutes a *hesech hada'as*. Therefore, even though one washed his hands

prior to the dipping of the *karpas* into saltwater, he must wash again prior to eating the *matzah*. One should apply the same criterion to disqualify the *borei pri ha'adamah* recited on the *karpas* from being able to exempt the *maror* eaten much later.

In defense of Rav Yosef Tuv Elem, one could argue that the *hesech hada'as* referred to by the *Gemara* is specific to the guarding of the cleanliness of one's hands; it does not apply to the eating of the meal. Rav Yosef Tuv Elem holds that there is no *hesech hada'as* at the *seder* with regard to eating, as one realizes that after *maggid* he will be eating *maror*. Therefore, a new *berachah* on the *maror* would not be required as long as a *borei pri ha'adamah* was recited on the *karpas*.

The *Shulchan Aruch* recommends being careful to satisfy the stringencies of both opinions – those of Rav Yosef Tuv Elem and of the other *Ba'alei HaTosfos*. First, when one recites the *borei pri ha'adamah* on the *karpas*, he should do so with the mindset that this *berachah* should also cover the *maror* that will be eaten later (*Mishnah Berurah*, *Orach Chaim* 473:55). This is done to satisfy the opinion of Rav Yosef Tuv Elem, who holds that this consideration is the entire purpose of the institution of *karpas*. According to the *Ba'alei HaTosfos*, this consideration is unnecessary. There is no need for a *borei pri ha'adamah* on the *maror*; the *maror* is covered by the *hamotzi* recited on the *matzah*, because the *maror* is categorized as *מחמת הסעודה* דברים הבאים מחמת הסעודה.

There is a stringency according to the opinion of the *Ba'alei HaTosfos* as well. According to their understanding, the pause between the eating of the *karpas* and the *maror* constitutes a *hesech hada'as* in relation to *achilah*, as well as in relation to cleanliness of the hands. Therefore, if one were to eat a *kazayis* of *karpas*, he would be required to recite the *berachah acharonah* of *borei nefashos* afterwards. One could not rely on the *Birchas HaMazon* recited after the meal, because the *karpas* eaten before the meal stands alone, unrelated to the food eaten during the meal (see *Mishnah Berurah* 176:2).

However, in practice, a *borei nefashos* cannot be recited after eating *karpas*. First, this would be an unnecessary *berachah* according to Rav Yosef Tuv Elem, because in his view, there is no interruption caused by the recitation of the *Haggadah*. Therefore, just as the *berachah rishonah* on the *karpas* covers the *maror* later, the *Birchas HaMazon* after the meal would similarly cover the *karpas*, which is considered to be connected to the meal (*Taz* 473:8). In addition, reciting a *berachah acharonah* after the *karpas* would cancel the ability of the *borei pri ha'adamah* recited before *karpas* to cover the *maror*. This would undermine the entire purpose of *karpas* according to Rav Yosef Tuv Elem.

Thus, the *Beis Yosef* (473), in the name of the *Maharil*, recommends the *middas chassidus* of being careful to eat **less** than a *kazayis* of *karpas* at the beginning of the meal. This way, one does not involve himself in the *machlokes* between the *Ba'alei HaTosfos* and Rav Yosef Tuv Elem. [If one does eat more than a *kazayis* of *karpas*, he should continue partaking of the *karpas* every so often. This way, he will not have a *hesech hada'as* between the *karpas* and the *maror* even according to the *Ba'alei HaTosfos*, and a *borei nefashos* on the *karpas* would not be necessary.]

The *Maharil* was following the halachic precedent of the *Maharam MiRotenberg*, who, under the influence of the *Chassidei Ashkenaz*, often attempted to satisfy multiple competing opinions in order to avoid getting involved in a *machlokes* (*Mishkenos Ya'akov*, *Orach Chaim*, *hagahah* in *siman* 121; see Rabbi Ephraim Kanarfogel, *Peering Through the Lattices*, pp. 118-122).

For example, on the second night of Rosh Hashanah, since there is a *machlokes* whether the *berachah* of *shehecheyanu* should be said, one should endeavor to have a new fruit or garment present at the time of *kiddush*, so that the *shehecheyanu* will certainly not be a *berachah levatalah* (*Orach Chaim* 600:2, based on *Hagahos Meimoni*, *Hilchos Shabbos* 29:7, citing *Maharam MiRotenberg*). [This style of *psak halachah* was introduced by the

Chassidei Ashkenaz, but it was greatly expanded upon by later *poskim*, such as the *Mishnah Berurah*.]

Regarding *karpas* as well, our practice is to recite the *berachah* on the *karpas* with the intent of covering the *maror* that we will eat later, with the assumption that there will **not** be an intervening *hesech hada'as*. At the same time, we eat less than a *kazayis* of *karpas* because of the opinion of the *Ba'alei HaTosfos* that there **will** be an intervening *hesech hada'as*, and a *borei nefashos* would be necessary if more than a *kazayis* would be consumed.

X. The Rambam's Position: *Kazayis Karpas*

The *Rambam* (*Hilchos Chametz U'Matzah* 8:2), adopting the opinion that *charoses* is a *mitzvah* (*Pesachim* 114a), writes that all of the *mitzvos* of the night, including *matzah*, *maror*, and *karpas*, should be dipped into the *charoses* (with the exception of the *Korban Pesach*).

Rav Soloveitchik suggested that according to the *Rambam*, what initially motivated the *chachamim* to introduce *karpas* was *היכירא לתינוקות* – the goal of piquing the interest of the children. However, once it was instituted, the *takanah* (enactment) was that the *karpas* constitutes a bona fide *mitzvas achilah midera-bbanan*. The *karpas* must therefore be eaten even if there are no children present at the *seder* who need to be kept awake. That is also why the *Rambam* writes that the *karpas*, just like the other *mitzvos* of *achilah*, should be dipped into *charoses*, and that one must eat a *kazayis* of *karpas*.

Interestingly, the *Hagahos Meimoni* (os 4), following the opinion of the *Maharam MiRotenberg*, rules that since the purpose of *karpas* is merely for *היכירא לתינוקות*, there is no need to eat a full *kazayis*. He notes that it is quite surprising that the *Rambam* mentions the requisite *shiur* of *kazayis* in reference to *karpas*, but not later in reference to the eating of *maror*. Therefore, he suggests that the word “*kazayis*” was mistakenly printed in the

halachah of eating the *karpas*, instead of its correct placement in the *halachah* describing the eating of the *maror* (8:8). The *kisvei yad* (manuscripts) of the *Rambam*, however, do not seem to support this emendation. The *Rambam's* opinion seems to be that one **must** eat a *kazayis* of *karpas*.

The position of the *Rambam* appears to find support in a comment of the *Rosh* in relation to the application of **יצא מוציא** to *karpas*. One is able to recite *kiddush* to discharge another person's obligation, even if he has already fulfilled his *kiddush* obligation and has no personal obligation that he needs to satisfy with this recitation. This is based on the principle of **יצא מוציא** – even though one has fulfilled his own obligation to recite a particular *berachah* already, he can enable others to fulfill their obligation by reciting the *berachah* for them. [It is considered as if the listener recited the *berachah* himself through the mechanism of **שומע כעונה** – one who listens is tantamount to one who speaks.]

The *Gemara* in *Rosh Hashanah* (29a-29b) explains that this principle is limited to *berachos* recited on *mitzvos* or recitations that are *mitzvos* themselves, like *Hallel* and *Megillah*, because these recitations are absolutely obligatory. It does not extend to *birchos hanahenin*, where the *berachah* is recited over a purely optional activity. One may not recite a *birchas hanahenin* solely on behalf of another person.

Nevertheless, with regard to the *mitzvah* of *matzah*, the *Gemara* explains that **יצא מוציא** not only applies to the *birchas hamitvah* of *al achilas matzah*, but also to the *birchas hanehenin* of *hamotzi*; we treat this *berachah* like a *birchas hamitvah* vis-a-vis the rule of **יצא מוציא**. This *berachah* constitutes an intrinsic part of the *nusach* of the *Haggadah*. Thus, just as **יצא מוציא** applies to the recitation of the *Haggadah* to enable the listener to fulfill his obligation of *sippur yetzi'as Mitzrayim*, it applies to the *berachah* of *hamotzi* on the *matzah* as well. The *Rosh* (*Perek Arvei Pesachim, siman 36*) rules that the same is true with regard to the *borei pri ha'adamah* on the *karpas*. Even though one has fulfilled his own

obligation of *karpas*, he is able to recite *borei pri ha'adamah* to discharge another person's obligation.

Rebbi Akiva Eiger (*Orach Chaim* 484:1) questions, however, how the principle of **יצא מוציא** could be extended to the *borei pri ha'adamah* on the *karpas*. This *berachah* would seem to be an ordinary *birchas hanehenin*, to which **יצא מוציא** cannot be applied. Rebbi Akiva Eiger cites the answer of the *Rosh* – that since there is a *takanas Chazal* to include *karpas* in the *seder*, the *berachah* recited before its consumption, being part of the *nusach* of the *Haggadah*, is treated as a *birchas hamitzvah* to which **יצא מוציא** can be applied.

This explanation is in line with the understanding of the *Rambam* cited above, that *karpas* is a *mitzvas achilah miderabbanan*. If eating the *karpas* were solely for the purpose of **היכירא לתינוקות**, and was not a *mitzvas achilah* like the *matzah* and *maror*, then the *borei pri ha'adamah* on it would be a regular *birchas hanehenin*, and **יצא מוציא** would not apply. [See *MiPninei HaRav*, 2001 ed., pp. 89-90.]

The common practice regarding the eating of *karpas* is, as mentioned, not to follow the *Rambam's* opinion that one should eat a *kazayis* of *karpas*. Rather, we follow the *middas chassidus* of the *Maharil* and specifically eat less than a *kazayis* of *karpas*.

SHAVUOS:

KEVI'US OF THE YOM TOV

I. *Sefirah* of Days and of Weeks

There are two *parshiyos* in the Torah that mention *sefiras ha'omer*, and there is a significant difference between the description of the *mitzvah* found in these two *parshiyos*. In *Parshas Emor*, the Torah says: וספרתם לכם ממחרת השבת ... תספרו חמשים יום - "You shall count for yourselves from the morrow of the Rest Day ... you shall count fifty **days**" (*Vayikra* 23:15-16). In *Parshas Re'eh*, we read, שבעה שבועות תספר לך - "Seven **weeks** you shall count for yourself" (*Devarim* 16:9). The *Gemara* in *Menachos* (66a), in the name of Abaye, reconciles the difference between the *parshiyos* by stating, מצוה למימני יומי ומצוה למימני שבועי - "It is a *mitzvah* to count days and it is a *mitzvah* to count weeks." The *pessukim* supplement each other to describe the complete *mitzvah*.

The *Gemara* continues that the rabbis of the school of Rav Ashi, following Abaye, counted both the days and the weeks of the *omer*, whereas Ameimar would count only the days of the *omer*, but not the weeks. Ameimar's rationale was that after the destruction of the *Beis HaMikdash*, *sefiras ha'omer* is observed only as a *zecher leMikdash* (remembrance of the *Beis HaMikdash*), and the counting of days is therefore sufficient. The simple explanation of Ameimar's opinion is that we wish to demonstrate that the *mitzvah* is incomplete. *Chazal* wanted people to realize that we are missing the full *mitzvah* because we lack the *Korban Omer*. [See *MiPinei HaRav*, 2001 ed., pp. 227-229.]

The *Rambam* (*Hilchos Temidin U'Mussafin* 7:24) rules like the opinion of Abaye and Rav Ashi, to count both days and weeks, and that according to them *sefiras ha'omer* is *d'oraisa* even nowadays. *Tosfos* (s.v. *zecher leMikdash hu*) disagrees and maintains that all of the opinions in the *Gemara* agree with Ameimar that *sefirah* is *derabbanan*; the *machlokes* was only regarding whether one must count the weeks in addition to the days.

II. The Opinion of Rabbeinu Yerucham

Rabbeinu Yerucham (*nesiv* 5, *chelek* 4, p. 44, column 3) had a different *girsa* (text) in the *Gemara* of Ameimar's statement. He understood that even according to Ameimar, *sefirah* is *d'oraisa*, but there is a distinction between counting days, which is included in the obligation, and counting weeks, which is not included.

We can understand this opinion based on the *Gemara* in *Rosh Hashanah* (6b), which teaches that Shavuos sometimes falls on the fifth, sometimes on the sixth, and sometimes on the seventh of Sivan. The Torah does not give a specific calendar-date of the month on which the Yom Tov of Shavuos falls, as it does for the other Yomim Tovim. Rather, Shavuos is established based on *sefiras ha'omer*, after the conclusion of the forty-nine day count.

The *Gemara* in *Chagigah* (17b) elaborates upon this concept. The *Gemara* derives that Shavuos has a seven-day period – the Yom Tov itself and the subsequent six days – during which its *korbanos*, the *Chagigah* and the *Olas Re'iyah*, may be offered. In the case of Pesach and Sukkos, even though the principle obligation is to offer the *korbanos* on the first day of Yom Tov, they may be brought later as *tashlumin* (compensation), since all of the subsequent days are part of the Yom Tov. Yet, even on Shavuos, when the Yom Tov lasts only one day, there is still *tashlumin* during the six days immediately following the Yom Tov.

Thus, the *Gemara* explains that in a sense, the Yom Tov of Shavuos does extend for seven days, and that is why these additional days are acceptable for the offering of the *korbanos*.

In this context, the *Gemara* cites the *halachah* mentioned above, מצוה לממני יומי ומצוה לממני שבועי. The implication of the *Gemara* is that the purpose of *sefiras ha'omer* is to establish the Yom Tov of Shavuos, and the different units of *sefirah* serve to establish the different elements of the Yom Tov. The count of days establishes Shavuos as a Yom Tov of one day in terms of its *issur melachah* and *Korban Mussaf*. The count of weeks, however, establishes Shavuos as a Yom Tov of an entire week, and this is relevant to the offering of the *Chagigah* and *Olas Re'iyah*.

This *Gemara* forms the basis of Rabbeinu Yerucham's understanding of Ameimar's practice. Ameimar counted only days, and not weeks, not because he held that *sefirah* is only *de-rabbanan* as a *zecher leMikdash*. Rather, Ameimar's *sefirah* is a *mitzvah d'oraissa*, but it is impacted by the current absence of the *Beis HaMikdash*. Without a *Beis HaMikdash*, there is no significance to the establishment of the week-long aspect of the Yom Tov of Shavuos. The relevance of the Yom Tov is only with respect to its *issur melachah*, and a count of days alone will establish this aspect of the Yom Tov. There is no *mitzvah* to count weeks because there is nothing to be gained by the establishment of this aspect of the Yom Tov, as we now lack the ability to offer the *Chagigah* and *Olas Re'iyah*.

III. A *Mitzvah* upon the *Beis Din HaGadol*

Rav Soloveitchik offered an explanation of the rationale behind the practice of Ameimar according to the standard *girsah* of the *Gemara* that Ameimar held that *sefirah* is currently a *zecher leMikdash*. The Rav noted an additional distinction between the two *parshiyos* describing *sefiras ha'omer*, aside from whether the unit of time to be counted is days or weeks. The *parshiyos* also differ in terms of whether the *mitzvah* is directed to *Bnei Yisrael* in the singular or in the plural form. Abaye combines these two *parshiyos*, concluding that these *pessukim* represent two halves

of the single obligation of *sefirah*. Ameimar's opinion, however, is that these *parshiyos* represent two different *mitzvoos*.

We can understand Ameimar's view in light of a *Beraisai* cited in the *Gemara* in *Menachos* (65b), which appears more fully both in the *Sifra* (*Parshas Emor*) and in the *Sifrei* (*Parshas Re'eh*):

שבעה שבועות תספר לך – בבית דין. ומנין לכל אחד ואחד תלמוד לומר
וספרתם לכם – לכל אחד ואחד.

“Seven weeks you shall count for yourself” – in *Beis Din* [*Ha-Gadol*]. And from where do we derive [the obligation of *sefirah*] on each individual? The Torah states, “You shall count for yourselves” – [the *sefirah* must be performed] by each and every individual.

The basis of the distinction that *Chazal* here made between the two *parshiyos* is a rule quoted in the name of the Vilna Gaon (*Divrei Eliyahu*, p. 94). Whenever a *mitzvah* is repeated in the Torah, once in the singular and once in the plural, the singular form is addressed to *Klal Yisrael* as a whole, while the plural form devolves upon the individual. For example, in the context of *yovel*, when the Torah states: “וספרת לך שבע שבתות שנים” – “You shall count for **yourself** seven cycles of sabbatical years” (*Vayikra* 25:8), it refers to an obligation that falls exclusively upon the *Beis Din HaGadol* (the High Court), which is the representative of the single entity of *Klal Yisrael*. It is exclusively the *Beis Din HaGadol* that was commanded to count the forty-nine years leading up to the year of *yovel*.

In the case of *sefiras ha'omer* as well, the *Beis Din HaGadol*, which represents *Klal Yisrael* as a whole, fulfills the obligation upon the single unit of *Klal Yisrael* when it counts the seven weeks from Pesach until Shavuos. A second aspect of the *mitzvah*, reflected in its being repeated in the plural form, is directed to each and every individual, who should also engage in such a count.

This is the basis for one of the arguments that the *Tanna'im* present to prove that the phrase *ממחרת השבת* is a reference to

the second day of Pesach, such that the beginning of the *omer*-count and the offering of the *Korban Omer* begin after the first day of Yom Tov, and not on “the morrow of the Shabbos” (Sunday), as the *Beituseim* maintained. The *Beituseim* contended (*Menachos* 65a-65b):

Moshe our Teacher loved the Jews, and knowing that Shavuot is only one day, arose and fixed it [and thus the offering of the *omer* seven weeks earlier] to always fall after the Shabbos, so that the Jewish People would enjoy two days [of leisure].

Rebbi Eliezer refuted the challenge of the *Beituseim* as follows. The weekly Shabbos is a set day, independent of any input by the *Beis Din HaGadol*. Since the singular form **תספר לך** indicates that the count is dependent on the *Beis Din HaGadol*, the phrase **ממחרת השבת** **must** be a reference to Yom Tov, and not to Shabbos. Only the establishment of Yom Tov requires a decision of the *Beis Din HaGadol*, since that date is determined when the preceding Rosh Chodesh is declared.

The *Bnei Yisaschar* (Nissan 3:2) further notes that this is the reason that the Shabbos that precedes Pesach is called *Shabbos HaGadol*. *Chazal* gave it this name “to remove from the heart of the *Tzeddukim*” (*Yoma* 2a) any credibility to their argument. By referring to this Shabbos as “the Great Shabbos,” we imply that there is also a “small Shabbos” in the upcoming week. This is the Yom Tov of Pesach, which is referred to as “the small Shabbos” because it is endowed with less *kedushah* than Shabbos itself. It is thereby recognized that the phrase **ממחרת השבת** refers to the Yom Tov of Pesach, not to Shabbos. The name *Shabbos HaGadol* thus serves to publicly repudiate the view of the *Beituseim*.

IV. The Function of *Sefirah* of Weeks

Why should one aspect of *sefiras ha'omer* devolve only upon the members of the *Beis Din HaGadol*, and not on each member of *Klal Yisrael*?

The *Ra'avad*, in his commentary on *Toras Kohanim* (*Vayikra* 23:15), explains that this is based on the concept learned from the *Gemaros* in *Rosh Hashanah* and *Chagigah* cited above, that the purpose of *sefiras ha'omer* is to be *kove'a* (establish) the Yom Tov of Shavuos. Since this count establishes the correct day of the Yom Tov of Shavuos, it is part of the more general *mitzvah* of *kevi'as halu'ach* (establishment of the calendar).

The *Sanhedrin* is the entity responsible to fix the calendar by performing *ibbur hashanah* (intercalation of the year) and *kid-dush hachodesh*; establishing the Yom Tov of Shavuos should be no different. That is why *Chazal* teach that one aspect of the *sefirah* is a function of the *Beis Din HaGadol* alone. The innovation of the second *passuk* written in the plural, **וּסְפַרְתֶּם לָכֵן**, is that the *mitzvah* of *sefirah* **also** devolves upon the individual.

[It should be noted that the *Gr"a* emended the text of the *Sifrei* to read, **יָכוֹל בְּבֵית דִּין**, according to which it was only a *havah amina* (supposition) to consider that the *mitzvah* of *sefirah* is only on the *Beis Din*. According to this *girsa*, the conclusion of the *Sifrei* based on the *passuk* **וּסְפַרְתֶּם לָכֵן** is that the *mitzvah* is, indeed, only on the individual, not on the *Beis Din* at all. This, of course, represents an entirely different understanding of the *mitzvah* of *sefirah*. Nevertheless, the *Chizkuni* (*Parshas Behar*) and the *Ra'avad* clearly had the original *girsa* in the *Sifrei*.]

In summary, *Chazal* underscore two different aspects to the *mitzvah* of *sefiras ha'omer*, and they appear in two different *parshiyos* in the Torah. There is the *mitzvah* of *sefirah* of *Parshas Re'eh*, which describes an obligation upon the *Beis Din HaGadol*, and there is the *mitzvah* of *sefirah* of *Parshas Emor*, which describes an obligation upon the individual.

If we place this teaching of *Chazal* in the context of the distinction between the *parshiyos* with which we began, what emerges is that the *Beis Din* counts **weeks** with an eye towards the future, **להבא**, for the purpose of *kevi'as Yom Tov*. This *mitzvah* is not completed until the *Beis Din* counts all seven weeks and

is thereby *kove'a* the subsequent Yom Tov of Shavuos. This is evident from the fact that the *parsha* describing the count of the *Beis Din*, written in the singular, is the one that mentions the counting of weeks, *שבעה שבועות תספר לך*, and not the one that mentions the counting of days.

In contrast, the individual counts **days** from the day that the *Korban Omer* is offered on the second day of Pesach, *לשעבר*. This is not one extended process of counting that is completed when Shavuos is established; the counting of each day completes a discrete *mitzvah* of *sefiras ha'omer*.

Based on this analysis, the Rav explained why the Torah calls the Yom Tov by the name *שבועות* – the “Festival of Weeks” – and not *חג החמישים* – the “Holiday of the Fiftieth Day” (or Pentecost, as the Christians refer to it). It is because the component of *sefirah* that is *kove'a* the Yom Tov is not the counting of days by each individual, but rather the counting of **weeks**, which *Beis Din* performs as part of their mandate to take responsibility for *kevi'as halu'ach*.

Rav Soloveitchik continued to offer a novel explanation of the basis of Ameimar's *din* to count days and not weeks because *sefirah* is performed nowadays as a *zecher leMikdash*. A *mitzvah* that serves as a *zecher leMikdash* requires us to replicate the way that the *mitzvah* was performed when there was a *Beis HaMikdash*. Accordingly, the *zecher leMikdash* would obligate the counting of days as a remembrance of what individuals did during the time of the *Beis HaMikdash*.

However, the *zecher leMikdash* would not require the counting of weeks, because during the time of the *Beis HaMikdash* itself, individuals were never obligated to count weeks. The *mitzvah* to count weeks, *שבעה שבועות תספר לך*, applies only to the *Beis Din*, and there is no reason to obligate individuals to count as a remembrance of what *Beis Din* was obligated to do when there was a *Beis HaMikdash*.

V. Dual Role of the *Beis Din HaGadol*

The *Rambam* includes the counting of days and weeks in the *mitzvah d'oraissa* of *sefirah*, even nowadays. If, as we have seen, the *sefirah* of weeks is a *mitzvah* on the *Beis Din HaGadol*, how could that *sefirah* be *d'oraissa* nowadays, when we lack the presence of a *Beis Din HaGadol*? We can understand the *Rambam's* position in the context of a broader analysis of our ability to establish *Roshei Chodashim* and *Yomim Tovim* nowadays despite the absence of the *Beis Din HaGadol*.

Rav Soloveitchik explained in his first *yahrtzeit drashah* (*Shiurim LeZecher Abba Mari Z"l I*, pp. 129-131, 137-139; *Kovetz Chiddushei Torah*, pp. 52-56) that when the *Rambam* holds that *kiddush hachodesh* requires the authorization of the *Sanhedrin* (*Sefer HaMitzvos, Aseh* 153; *Hilchos Kiddush HaChodesh* 5:1-2), it is not in their capacity as the Supreme Court of the Jewish People, rendering the final legal decision on any halachic question.

The Rav noted that there are two *parshiyos* regarding the *Beis Din HaGadol* in the Torah. One *parsha* describes the role of the *Sanhedrin* as the final legal authority, as decisors of Halachah:

כי יפלא ממך דבר למשפט ... וקמת ועלית אל המקום אשר יבחר ד' אלקיך בו ...
ודרשת והגידו לך את דבר המשפט.

If a matter of judgment is hidden from you ... you shall rise up
and ascend to the place that *Hashem*, your G-d, shall choose ...
You shall inquire and they will tell you the word of judgment.
(*Devarim* 17:8-9)

Another *parsha*, however, describes the capacity of the *Beis Din HaGadol* to act as the representatives of *Klal Yisrael*:

אספה לי שבעים איש מזקני ישראל ... ולקחת אותם אל אהל מועד והתיצבו
שם עמך ... ונשאו אתך במשא העם.

Gather to Me seventy men from the elders of Israel ... take
them to the *Ohel Mo'ed*, and have them stand there with you ...
And they shall bear the burden of the people with you.
(*Bamidbar* 11:16-17)

The Rav explained that *kiddush hachodesh* does not necessarily involve a complicated *psak halachah*, requiring the greatest legal minds of the Jewish Nation. The necessity of the involvement of the *Sanhedrin* in the process of *kiddush hachodesh* is not due to its legal authority. Rather, the requirement of *Beis Din HaGadol* here is due to its second role – that the *Sanhedrin's* decision represents the majority opinion of the Jewish Nation. In this sense, the *Sanhedrin* fills a role akin to that of the Congress in the United States.

The Rav noted the precise wording of the *Rambam* to demonstrate this second role of the *Sanhedrin*. The *Rambam* in *Hilchos Melachim* (5:6) writes that for a conquest to qualify as a *kibbush rabbim* (communal conquest) of Eretz Yisrael, it must be conducted under the auspices of the *Beis Din HaGadol*, עַל פִּי בֵּית דִּין. Yet, in *Hilchos Terumos* (1:2), in describing the same *halachah*, he writes that the conquest must be מְדַעַת רֹב יִשְׂרָאֵל. Both of these descriptions are identical, the Rav explained, because the opinion of the *Sanhedrin* represents the opinion of the *tzibbur* (congregation) as a whole.

The Rav elaborated by explaining that the responsibility of *kevi'as halu'ach* ultimately rests upon the entity of *Klal Yisrael*. When there is a *Beis Din HaGadol*, it performs this task as the representative of *Klal Yisrael*. When a *Beis Din HaGadol* is not available, the *mitzvah* reverts back to *Klal Yisrael* itself. When its members recite *birchas hachodesh* and observe the *dinim* associated with Rosh Chodesh (*Ya'aleh VeYavo*, *Mussaf*, *Hallel*, *se'udah*), they demonstrate that the day is Rosh Chodesh and sanctify it as such. [See *Eretz HaTzvi*, p. 231.]

The *Rambam* claims that there is a *Halachah L'Moshe MiSinai* that in the absence of the *Beis Din HaGadol*, the *mitzvah* is incumbent upon the body of *Klal Yisrael*. The *Ramban* (*Hasagos to Sefer HaMitzvos*, *Aseh* 153) questions this assertion, arguing that such a *Halachah L'Moshe MiSinai* does not appear anywhere in the Talmud. To this, the Brisker Rav (*Kuntres MeiChiddushei*

Maran Ri"z HaLevi al Inyanei Kiddush HaChodesh Yoma V'Sukkah, Hilchos Kiddush HaChodesh 5:1) responds that this is in fact the meaning of the *Gemara's* reference to the סוד העיבור, "the secret of intercalation" (*Rosh Hashanah 20b*, as explained by *Rabbeinu Chananel* in the name of the *Ge'onim*). *Klal Yisrael* has the ability to sanctify the months in place of the *Sanhedrin*.

Thus, the *Beis Din HaGadol* performs *ibbur hashanah* and *kiddush hachodesh* as part of *kevi'as halu'ach*, because this function is really given to *Klal Yisrael*, and the *Beis Din's* role is to serve as the representatives of *Klal Yisrael*. This is how the *Gemara* in *Berachos* (49a) interprets the conclusion of the middle *berachah* of the Yom Tov *Amidah*, מקדש ישראל והזמנים, "Who sanctifies [*Bnei*] *Yisrael* who, in turn, sanctify the Yomim Tovim." We do not recite בית דין הגדול והזמנים because, in fact, it is *Klal Yisrael* that is responsible to be *mekadesh* the Yomim Tovim. The *Beis Din* performs this function acting on behalf of *Klal Yisrael*.

Accordingly, we understand that when the *Beis Din HaGadol* ceases to exist, the responsibility of *kevi'as halu'ach* shifts back to *Klal Yisrael*. This is the basis of the *d'oraisa* obligation, according to the *Rambam*, to count days **and** weeks even though we lack the presence of a *Beis Din HaGadol*. The counting of weeks by *Klal Yisrael* accomplishes the *kevi'as Yom Tov* of *Shavuos* even in the absence of a *Beis Din HaGadol*. [*Ameimar*, who counted days and not weeks, must have been of the opinion that nowadays the *kevi'as Yom Tov* occurs automatically, without the need for a count of weeks to establish the Yom Tov.] [See *Rav Schachter on the Parsha, Parshas Bo*.]

VI. *Berachah* on *Sefiras Ha'Omer*

The *Chizkuni* (*Parshas Behar*) also makes reference to the two *parshiyos* of *sefirah* mentioned above, relating them to the recitation of a *berachah* prior to the performance of the *mitzvah*

of *sefirah*. The *Chizkuni* writes that the *passuk* regarding the counting of the years of *yovel*, וספרת לך שבע שבתות שנים – “You shall count for yourself seven cycles of sabbatical years” (*Vayikra* 25:8), speaks of only a single *sefirah*, which takes place in *Beis Din*. Therefore, no *berachah* is recited on this count.

However, continues the *Chizkuni*, in the case of *sefiras ha’omer*, which is described in the Torah as a double *sefirah* – one in *Parshas Emor* and the other in *Parshas Re’eh*, one for the *Beis Din* and one for the *tzibbur* – a *berachah* is recited. The *Chizkuni*, however, does not elaborate on the reasoning behind the distinction between the count of *yovel* and the count of the *omer* as it relates to the recitation of a *birchas hamitzvah*.

Given the above understanding of the two *parshiyos* of *sefiras ha’omer* and the resultant two-fold *sefirah* obligation, Rav Soloveitchik suggested an explanation of the enigmatic words of the *Chizkuni*.

The *Gemara* in *Menachos* (42b) teaches the principle that the performance of a *mitzvah*-act that constitutes the completion of the *mitzvah*, such as *milah*, requires the recitation of a *berachah*. However, when a *mitzvah*-act does not complete the *mitzvah*, such as the writing of *tefillin*, there is no *berachah*.

According to this rule, it would seem appropriate to abstain from reciting a *berachah* on the *sefirah* of *yovel* and of the *omer* when they are performed by the *Beis Din HaGadol*. The fulfillment of the *mitzvah* by the *Beis Din* in these instances does not take place at the time of each particular *sefirah*, but rather at the conclusion of the entire forty-nine year period, with the sanctification of the *yovel* year, and at the culmination of the forty-nine-day count, which results in *kevi’as Chag HaShavuos*.

The *Chizkuni*, however, distinguishes between the *sefirah* of *yovel* and that of the *omer* in this regard. In the case of *sefirah* of the *omer*, in addition to the count that the members of the *Beis Din* engage in to establish the Yom Tov of Shavuos, they also count in order to fulfill the *mitzvah* incumbent on each

and every individual. That *sefirah* is not להבא, to be completed only at the end of the count with the establishment of Shavuos. It is a *sefirah* לשעבר, wherein each night's count serves as a complete *mitzvah*-act in and of itself. It is this aspect of the *mitzvah*, completed nightly, which justifies the recitation of a *birchas hamitzvah* on *sefiras ha'omer*. This seems to be the intent of the *Chizkuni's* cryptic comment.

Based on this, we can offer an explanation of the ruling of the *Bahag*, as cited by *Tosfos* (*Megillah* 20b, s.v. *kol haleilah*), that one who forgot to count *sefiras ha'omer* at night should count during the following day without a *berachah*. We may suggest that the omission of the *berachah* in this case is not a function of the principle of ספק ברכות להקל, due to the uncertainty of whether a count performed during the daytime is adequate for the fulfillment of the *mitzvah*. It would be unusual that the *Bahag* would propose such a compromise *psak*, to count without a *berachah*. If the *Bahag* maintains that the *sefirah* can be done during the daytime, why would he *pasken* that a *brachah* should not be recited in conjunction with the fulfillment of this *mitzvah*?

Rav Soloveitchik explained that the *psak* of the *Bahag* may be based on an additional distinction between the two *parshiyos* of *sefiras ha'omer*, namely, that the phrase תמימות תהיינה - "they shall be complete" (*Vayikra* 23:15) appears only in *Parshas Emor* in the context of the *sefirah* obligation of the individual, and not in *Parshas Re'eh*. The *Gemara* in *Menachos* (66a) derives from תמימות תהיינה that *sefirah* should be recited at night. This way, the count of the particular day is considered complete, because both the night and the day time-periods have been included in the count.

Therefore, it is really the *sefirah* of the individual, learned from *Parshas Emor*, which must be performed during the night. If someone forgot *sefirah* at night, his *sefirah* as an individual has been forfeited. Nevertheless, the *Bahag* holds that one

should still count during the next day. Perhaps this is in order to fulfill the remaining second *mitzvah* of *sefirah* of *Parshas Re'eh*, the *sefirah* to be *kove'a* Shavuos. The phrase תמימות תהיינה was never said in connection with this *sefirah*, and a *sefirah* during the daytime is thus acceptable for this *mitzvah*.

However, as we noted in the explanation of the *Chizkuni's* position, that future-oriented *sefirah* **never** gets a *berachah*, even if done at night, because it is a *mitzvah*-act that does not accomplish the *mitzvah's* completion. Thus, the *Bahag* ruled that one who forgot to count at night, and has therefore lost the *sefirah* לשעבר, should still count during the day in order to accomplish this second *mitzvah* of *sefirah* להבא, but he should do so without a *berachah*. [See *Eretz HaTzvi*, pp. 9-14.]

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For further reading regarding Shavuos, see also "The Essence of Torah," in *Rav Schachter on the Parsha*, pp. 130-136.

SUKKOS: RECITATION OF *HALLEL*

I. The Days of *Hallel*

The *Gemara* in *Arachin* (10a-10b) cites a *Beraisa* that lists eighteen days of the year on which we recite the full-*Hallel*. They include the eight days of Sukkos (including Shemini Atzeres), the eight days of Chanukah, the first day of Pesach, and Shavuos. [In *chutz la'Aretz*, there are an additional three days due to *Yom Tov Sheini*, one for each of the *Shalosh Regalim*.] The *Gemara* questions why there is a difference between Sukkos, when we recite *Hallel* every day, and Pesach, when we do not. [The *Gemara* is not considering the half-*Hallel* that we recite on the last six days of Pesach and on Rosh Chodesh.]

The *Gemara* answers:

[The days] of Sukkos are חלוקין בקרבנותיהן – different from one another with respect to their *korbanos* [as a different set of *korbanos* is brought on each day of Sukkos for the *Korban Mussaf*]. [The days] of Pesach are not different from one another with respect to their *korbanos* [as the *Korban Mussaf* does not change from one day to the next].

Why should this difference regarding the *Korbanos Mussaf* be at all related to the recitation of *Hallel*, resulting in the observed distinction between Sukkos and Pesach?

The *Gemara* continues to question why *Hallel* is not recited on Shabbos, given that it does have a distinct *Korban Mussaf*. The *Gemara* answers cryptically, “[Shabbos] is never called a

mo'ed (festival) [in *Tanach*]." Only those days that have the status of *mo'ed* require recitation of *Hallel*.

Next, the *Gemara* notes that if the status of *mo'ed* is the necessary criterion to determine when *Hallel* is recited, full-*Hallel* should be said on Rosh Chodesh, which is called a *mo'ed*. Once again, the *Gemara* answers enigmatically, לא איקדיש בעשיית מלאכה - "Rosh Chodesh is not sanctified with respect to the performance of *melachah* (forbidden work)." This statement is difficult to understand, as it suggests that an *issur melachah* is required in order for *Hallel* to be mandatory; yet on Chanukah, we recite *Hallel* even though there is no *issur melachah*.

It is not readily apparent where in *Tanach* Rosh Chodesh is labeled as a *mo'ed*. *Rashi* cites the *Gemara* in *Ta'anis* (29a), which comments on the *passuk*, קרא עלי מועד - "[Hashem] declared a *mo'ed* against me" (*Eichah* 1:15). The *Gemara* interprets that this *passuk* is a reference to the fact that Rosh Chodesh Av was delayed for one day by adding a thirtieth day to Tammuz, with the result that the *churban* occurred on the ninth of Av. This *passuk* thus serves as a source for Rosh Chodesh being called a *mo'ed*.

Rav Soloveitchik felt that a more explicit source is the *passuk* in reference to the *shirah* of the *Levi'im*, cited by the *Tur* (*Orach Chaim, siman* 419) as a source for the *mitzvah* to partake of a *se'udah* in honor of Rosh Chodesh:

וביום שמחתכם ובמועדיכם ובראשי חדשיכם ותקעתם בחצוצרות על עולותיכם ועל זבחי שלמיכם.

On a day of your gladness, and on your Festivals, and on your New Moons, you shall sound the trumpets over your *olah*-offerings and over your *shelamim*-offerings. (*Bamidbar* 10:10)

This *passuk* describes that during the *nisuch hayayin* (wine libation) of *korbanos tzibbur* (communal offerings), the *Levi'im* engaged in *shirah* through singing and musical accompaniment (on weekdays), which included the use of *chatzotzros*. This

indicates that there is an element of *simchah* on Rosh Chodesh, just as there is on the other days mentioned in the *passuk*.

II. A Manifestation of *Simchah*

Rav Soloveitchik advanced an explanation of the different points in the *Gemara* based on a related comment of the *Ramban* (*Hasagos to Sefer HaMitzvos, shoresh rishon, s.v. vehapli'ah*). The *Ramban* believes that the recitation of *Hallel* is a *d'oraisa* obligation. This is in contrast to the *Rambam*, who did not count the recitation of *Hallel* on Yom Tov in the count of *taryag mitzvos* because he held that it is only a *mitzvah derabbanan*. The *Ramban* cites the above *passuk* in reference to the *shirah* of the *Levi'im*, *וביום שמחתכם ובמועדיכם*, and suggests that *Hallel* is a similar obligation to the *shirah* sung during the *avodah* – both of them are manifestations of the *mitzvah* of *simchah*.

Indeed, one of the sources in the *Gemara* (*Arachin* 11a) for the *shirah* of the *Levi'im* is the *passuk* found in the *tochechah*, *תחת אשר לא עבדת את ד' אלקיך בשמחה ובטוב לבב* – “Because you did not serve *Hashem*, your G-d [a reference to *avodah* in the *Beis HaMikdash*] with joy and goodness of heart” (*Devarim* 28:47). *Rashi* adds, “One sings *shirah* only out of a feeling of joy and goodness of heart.”

The *mitzvah* of *simchas Yom Tov* includes more than the offering of a *Korban Shelamim* and the partaking of its meat and of wine. *Simchah* also includes the obligation to provide colored or pressed linen garments for one's wife and to distribute nuts and almonds to one's children (*Pesachim* 109a; *Yerushalmi Pesachim* 10:1). *Simchah* may be fulfilled in more than one form, and one of the manifestations of this *mitzvah* is the singing of praises to *Hashem* in the form of *Hallel*. Thus, according to the *Ramban*, the recitation of *Hallel* on Yom Tov is included within the *mitzvah* of *simchas Yom Tov* – *ושמחת בחגך* (*Devarim* 16:14).

III. The Definition of *Simchah*

The Rav suggested that we can derive a halachic definition of *simchah* from a discussion in the *Gemara* in *Mo'ed Kattan* (14b), which questions how a *metzora* must conduct himself on Yom Tov with regard to the restrictions imposed upon him by his *tzara'as*. Is he forbidden to enter the *machaneh Yisrael* (Israelite desert encampment, corresponding to the Old City of Yerushalayim), cut his hair, launder his clothes, and greet other people over the course of Yom Tov? Or are the restrictions placed upon the *metzora* superseded by the *mitzvah* of *simchah* that exists on Yom Tov?

In this context, the *Gemara* derives from a seemingly superfluous word, והצרוע – “And the person with *tzara'as*” (*Vayikra* 13:45), that even a *Kohen Gadol* is included in the restrictions of *tzara'as*. The *Gemara* then presents an analogy: “The *Kohen Gadol*'s status of the entire year corresponds to the status of all other people on Yom Tov [with regard to mourning].” The *Gemara* thus concludes on the basis of this comparison, that a *metzora* **must** conduct himself on Yom Tov according to the restrictions imposed upon him by his *tzara'as*, just as a *Kohen Gadol* with *tzara'as* must act in accordance with those restrictions all year round.

The Rav proceeded to analyze the *Gemara*'s analogy in light of how the *Rambam* describes the *Kohen Gadol*'s essential function. The *Rambam* (*Hilchos Klei HaMikdash* 5:7) writes, “It is the glory and honor [of the *Kohen Gadol*] to remain in the *Mikdash* all day.” Thus, the *Kohen Gadol*'s role is to serve as a constant presence in the *Beis HaMikdash*, overseeing the *avodah* therein. Since, according to the *Gemara*, every Jew on Yom Tov is compared to the *Kohen Gadol*, we see that the definition of *simchah* on Yom Tov is the state of being in the presence of *Hashem*.

This state, enjoyed by the *Kohen Gadol* the entire year and by all other people on every Yom Tov, is described in the *passuk*, ומחמתם לפני ד' אלקיכם שבעת ימים – “And you shall rejoice **before**

Hashem, your G-d, for a seven-day period [on Sukkos]" (*Vayikra* 23:40). Indeed, whenever the Torah speaks of *simchah*, it connects this emotion with one's appearing before *Hashem*. On the *Shalosh Regalim*, when one is *oleh regel* to the *Beis HaMikdash*, he finds himself *lifnei Hashem*. [See *Nefesh Harav*, 1994 ed., pp. 314-315.]

IV. The Difference Between Shabbos and Yom Tov

The Rav proceeded to distinguish between the *Beis HaMikdash* and a *Beis HaKnesses* to help illustrate the difference between Shabbos and Yom Tov with regard to the *mitzvah* of *simchah*.

The stricter *din* of *mora* (reverence), forbidding even the wearing of shoes, applies to the *Beis HaMikdash*, in contrast to the requirement of *kavod* (respect) that applies to a *Beis HaKnesses*. In defining the nature of this difference, Rav Soloveitchik cited the *Gemara* in *Berachos* (63a), which states that one may not use a *Beis HaKnesses* as a shortcut, just as this activity would not be tolerated in *ביתו* – one's own house. A *Beis HaKnesses* must be treated with the same degree of respect as one's own home. For this reason, the Rav felt that since it was common practice at the time for one to remove his galoshes before entering his house, entering a *Beis HaKnesses* wearing galoshes would be a violation of *kevod Beis HaKnesses*.

Thus, a *Beis Haknesses* is **our** house, to which *Hashem* comes to visit. In contrast, the *Beis HaMikdash* is termed *Beis Hashem*, where we come to visit with Him. This is the reason that the requirements of *mora Mikdash* are more stringent than those of *kevod Beis Haknesses*. In both locations, Man has a "rendezvous" with *Hashem*; the difference between the two locations is whether Man is the visitor or the one being visited. It is in this sense that a *Beis HaKnesses* is classified as a *Mikdash Me'at* – a miniature *Beis HaMikdash* (*Megillah* 29a). [See *Eretz HaTzoi*, p. 89.]

A similar distinction separates Shabbos from Yom Tov. The *Shulchan Aruch* (*Orach Chaim* 529:1), based on the *Talmud Yerushalmi* (*Kiddushin* 1:4), rules that while one may not wear

weekday clothing on either Shabbos or Yom Tov, clothing of Yom Tov should be superior to Shabbos clothing. The Rav explained that this is because on Yom Tov there is an obligation of *simchah*, as we appear *lifnei Hashem* in the *Beis HaMikdash* to fulfill the *mitzvah* of *aliyah laregel*. On Yom Tov, the Jew enters into the domain of *Hashem*, Who welcomes him into **His** home. When visiting the King in His royal palace, a most splendid manner of dress is mandated.

The situation on Shabbos is very different. Shabbos is not at all connected with the *Beis HaMikdash*. Shabbos was given to *Bnei Yisrael* before we were commanded to build a *Beis HaMikdash*. On Shabbos, one does not enter *Hashem's* abode; quite the opposite, *Hashem* places His *Shechinah* in the domain of Man. Just as a host welcomes his guest, we are obligated to go out and greet the *Shechinah* as we sing *לכה דודי* in *Kabbalas Shabbos*. Since *Hashem* comes to visit us in **our** home, we require less regal clothing than on Yom Tov.

The contrast between Shabbos and Yom Tov is most apparent when each of these days comes into conflict with the concept of *aveilus*. On Shabbos, unlike on Yom Tov, *aveilus* is observed privately; Shabbos is included in the seven days of *shiv'ah*. Similarly, Shabbos does not cancel *shiv'ah* or *shloshim* the way Yom Tov does (*Mo'ed Kattan* 19a). *Tosfos* (23b, s.v. *man de'amar*) teaches that it is the element of *simchah* on Yom Tov that cancels *aveilus*, and this *mitzvah* is absent on Shabbos.

The difference between Shabbos and Yom Tov with regard to the *dinim* of *aveilus* can be understood in light of the *Gemara* in *Chagigah* (5b), which teaches, *אין עציבות לפני הקב"ה* – “There is no sadness in the presence of the Holy One, Blessed be He.” The *Gemara's* source is the *passuk*, *הוד והדר לפניו עוז וחדוה במקומו*, – “Glory and majesty are before Him; might and delight are in His place” (*Divrei HaYamim* I 16:27). There is always happiness and rejoicing before *Hashem*, and so there can be no *aveilus* on Yom Tov. *Simchah* and *aveilus* are mutually exclusive, since

being *lifnei Hashem*, in **His** house, is a contradiction to a state of *aveilus*.

Aveilus can exist on Shabbos because although the *mitzvos* of *kibbud* (honor) and *oneg* (enjoyment) were stated in reference to Shabbos (*Yeshayah* 58:13), the *mitzvah* of *simchah* was not. On Shabbos, Man does not stand *lifnei Hashem*. For the duration of Shabbos, *Hashem* dwells with Man in **his** abode; He joins him in his pain. [See *Nefesh Harav*, 1994 ed., p. 157; *Shiurim LeZecher Abba Mari Z"l* I, 1983 ed., pp. 64-68, and II, pp. 188-196.]

[*Tosfos* explains in the name of the *Yerushalmi* that the reason *aveilus* is not observed publicly on Shabbos is that Shabbos is described as a day of *berachah*, ויברך אלקים את יום השביעי – “And G-d blessed the seventh day” (*Bereishis* 2:3), not because Shabbos contains an element of *simchah*.]

The Rav explained that the *Ramban* read the *Gemara* in *Arachin* as an analysis of which days should be included in an expression of *simchah*, manifested through the recitation of *Hallel*. When the *Gemara* excluded Shabbos from *Hallel* recitation because it is not called a *mo'ed*, it was referring to the absence of a *mitzvah* of *simchah* on Shabbos, because it is that *mitzvah* that obligates the recitation of *Hallel*. Even though Shabbos possesses more *kedushah* than Yom Tov does, it lacks the status of *mo'ed* because it lacks a *mitzvah* of *simchah*.

V. *Simchah* on Rosh Chodesh

The subsequent discussion in the *Gemara* in *Arachin* is with regard to Rosh Chodesh, as the *Gemara* questions why this day is not a day of *Hallel* even though it is called *mo'ed*. As Rav Soloveitchik suggested based on the *Ramban*, the *Gemara* is here alluding to the *passuk*, וביום שמחתכם ובמועדיכם ובראשי חדשיכם, which shows that there is an aspect of *simchah* on Rosh Chodesh.

We may now understand the *Gemara's* enigmatic answer, לא איקדיש בעשיית מלאכה. The *Gemara* means to convey that for us, there is no indication of the *kedushas Rosh Chodesh*, because

there is no *issur melachah* (or particular *mitzvah* to be performed) on Rosh Chodesh. The *Chumash* records the *dinim* of the Yomim Tovim in three different *parshiyos*. *Parshas Emor* discusses the *issur melachah* on these days, *Parshas Pinchas* the *Korbanos Mussaf*, and *Parshas Re'eh* the particular *mitzvos* of each Yom Tov. The day of Rosh Chodesh is mentioned only in *Parshas Pinchas* because it contains only one aspect of the three-part *kedushah* shared by the Yomim Tovim.

Thus, the *kedushas hayom* of Rosh Chodesh is only relevant **inside** the *Beis HaMikdash*, with the offering of the *Korban Mussaf*. There is a passive demonstration of *simchah* on Rosh Chodesh, expressed through an *issur ta'anis* (and *hesped*), which seems to be a *d'oraisa* prohibition (*Rosh Hashanah* 19a). However, since there is no positive demonstration of *simchah* on Rosh Chodesh outside of the *Beis HaMikdash*, the *simchah* does not generate an obligation to recite *Hallel* on this day. [See *B'Ikvei HaTzon*, p. 14.]

It may be argued that there **is** *simchah* on Rosh Chodesh inside the *Beis HaMikdash*, just as the *passuk* equates Rosh Chodesh with Yom Tov with regard to the *shiras haLevi'im*. In that context, Rosh Chodesh **is** called *mo'ed*. Since *Hallel* is recited when there is a *mitzvah* of *simchah*, *Hallel* would be obligatory. Indeed, the language of the *Ramban* gives the impression that there is an obligation to recite **full-Hallel**, even on Rosh Chodesh, inside the *Beis HaMikdash*: "Rosh Chodesh has been excluded [from *Hallel*] **outside** of the *Beis HaMikdash*."

The Rav had heard this suggestion, that full-hallel was recited on Rosh Chodesh inside the *Beis HaMikdash*, from his father, Rav Moshe Soloveitchik. This possibility may be relevant to our *minhag* to recite half-hallel on Rosh Chodesh. It may well be that our *minhag* is patterned after the full-hallel recited in the *Beis HaMikdash* on Rosh Chodesh, which was a fulfillment of a *mitzvah d'oraisa* according to the *Ramban*. [This was a common theme in many of the Rav's *shiurim*. He would often

demonstrate how *minhagei Yisrael* have their source in halachic principles and are not mere ceremonial customs.]

Rav Soloveitchik suggested that this may be why the phrase **ישמחו במלכותך** – “They shall rejoice in Your kingship” is used particularly in the *Mussaf Amidah* of Shabbos (in *nusach Ashkenaz*). The *nusach* seems to follow the *drashah* of the *Sifrei* that **וביום שמחתכם** is a reference to Shabbos. Since, as *Tosfos* explained, there is no *mitzvah* of *simchah* on Shabbos, this phrase (and the *drashah* of the *Sifrei*) seem to be out of place.

However, based on the above explanation in reference to Rosh Chodesh, we now understand this phrase as well. In this *Amidah* in particular, we make reference to the offering of the *Korban Mussaf* in the *Beis HaMikdash*. In the same way that on Rosh Chodesh there is a *mitzvah* of *simchah* in the *Beis HaMikdash* specifically in conjunction with its *Korban Mussaf*, it may be that there is an element of *simchah* in connection with the *Korban Mussaf* of Shabbos as well.

VI. Shabbos–Rosh Chodesh

Rav Michoel Forshlager (see *Micho'el B'Achas*, pp. 254-255) published a *dvar Torah* in the name of the *Avnei Nezer*, who asks the following question with regard to Rosh Chodesh that falls on Shabbos.

The *Gemara* explains that we do not recite *Hallel* on Shabbos because Shabbos lacks the status of *mo'ed*, which stems from an obligation of *simchah*. We do not recite full-*Hallel* on Rosh Chodesh for a different reason – namely, that Rosh Chodesh lacks an *issur melachah*, which indicates the absence of a manifestation of *simchah* outside of the *Beis HaMikdash*. Although *simchah* does exist on Rosh Chodesh in a passive sense – requiring us to abstain from *hesped* and *ta'anis*, which contradict *simchah* – we do not recite full-*Hallel* because *simchah* is not relevant outside of the *Beis HaMikdash* in a positive fashion.

When Rosh Chodesh falls on Shabbos, however, the day is a *mo'ed*, due to its Rosh Chodesh aspect, **and** it is sanctified through an *issur melachah*, due to its Shabbos aspect. Thus, asks the *Avnei Nezer*, there should be an obligation to recite full-*Hallel* on Shabbos-Rosh Chodesh!

The *Avnei Nezer* answers that on a Shabbos-Rosh Chodesh, the two *kedushos* do not blend together to create one dual *kedushas hayom*. Rather, each *kedushah* stands alone, yielding a net result that does not obligate a *Hallel* recitation. The Shabbos aspect of the day does not produce a *Hallel* obligation because it is not a *mo'ed*, and the Rosh Chodesh aspect of the day does not produce a *Hallel* obligation because it does not have an *issur melachah*.

However, the *Avnei Nezer's* understanding with regard to the interaction between the two *kedushos* on a Shabbos-Rosh Chodesh is not necessarily correct. It may be argued that when *kedushas Rosh Chodesh* is superimposed onto *kedushas Shabbos*, the two *kedushos* blend together to constitute **one** *kedushas hayom* comprised of the character of both days, and the two *kedushos* do not remain separate and distinct.

Tosfos (*Rosh Hashanah* 8b, s.v. *shehachodesh*) cites an opinion in the name of Rabbeinu Meshulam that on Rosh Hashanah we do not offer the *sa'ir* of Rosh Chodesh (a *Korban Chattas* offered regularly as part of the *Korban Mussaf* on every Rosh Chodesh), despite the fact that this day is also Rosh Chodesh. This is the intent of the *Gemara* (*Rosh Hashanah* 8a) when it describes Rosh Hashanah as the **הג שהחודש מתכסה בו** – “the Yom Tov on which the moon is covered” – that the *Korban Chattas* of Rosh Chodesh is absent on Rosh Hashanah.

Rav Soloveitchik pointed out that if it were true that on every Yom Tov that falls on Shabbos there are two separate *kedushos hayom*, there would be no way to explain the opinion that on Rosh Hashanah we do not offer the *Korban Chattas* of Rosh Chodesh. There should still be a *kedushas Rosh Chodesh* on

the day of Rosh Hashanah, which would require the offering of the entire *Korban Mussaf* of Rosh Chodesh – including the *sa'ir*, just as on every other Rosh Chodesh.

It is clear from the opinion cited in the name of Rabbeinu Meshulam that on a Yom Tov that falls on Shabbos, the two *kedushos* blend together to become one singular *kedushah*. Accordingly, one could entertain the possibility that although the *kedushas Rosh Chodesh* requires a *sa'ir Rosh Chodesh*, on Rosh Chodesh Tishrei, the dual *kedushas Rosh Hashanah-Rosh Chodesh* does **not** obligate the offering of the *sa'ir*.

[*Tosfos* continues that Rabbeinu Meshulam explained, in a response to Rabbeinu Tam, that he never actually said that the *sa'ir* was not offered. His comment was only that on Rosh Hashanah “the moon is covered,” in the sense that the offering of the *sa'ir Rosh Chodesh* is not mentioned explicitly in the Torah. See *MiPinei HaRav*, 2001 ed., pp. 82-83.]

The *Gemara* in *Zevachim* (91a) seems to view the *kedushas hayom* of Shabbos-Rosh Chodesh as a new entity with a fused *kedushah*, not as one *kedushah* superimposed on the other. The *Gemara* attempts to resolve the question of which *korban* takes precedence – one that is more frequent or one that is more sacred – based on the *halachah* that when Rosh Chodesh falls on Shabbos, the *korbanos Mussaf* of Shabbos precede the Rosh Chodesh ones. Although Rosh Chodesh is considered more sacred, the Shabbos *korbanos* are offered first because of their frequency.

The *Gemara* rejects this proof on the following grounds. When Shabbos and Rosh Chodesh coincide, the *korbanos Mussaf* of Shabbos are not considered like regular Shabbos *korbanos*. Rather, they are endowed with the heightened sanctity of Rosh Chodesh *korbanos*. They are therefore classified as *korbanos* that are both frequent **and** sacred. For this reason, they cannot be used as proof for a case in which one *korban* is more frequent and the other is more sacred.

In other words, the *kedushah* of Rosh Chodesh enhances not only its own *Mussaf Rosh Chodesh*, but also the *Mussaf Shabbos*, and that is why the *Shabbos korban* takes precedence. Thus, it is not only on Rosh Hashanah, which **always** falls on Rosh Chodesh, that we assume that the two *kedushos* blend together to form a single *kedushas hayom*. Even on *Shabbos-Rosh Chodesh*, we say that there exists one fused *kedushas hayom*.

VII. Shabbos–Yom Tov

The idea of a new *kedushas hayom* created when Yom Tov falls on *Shabbos* may also be implicit in the discussion regarding the recitation of *Ya'aleh VeYavo* on such a day.

In the *Ya'aleh VeYavo* that we recite on Rosh Chodesh and Yom Tov, we ask that our remembrance be considered before *Hashem*. This is based on the concept of *zikaron* (remembrance) described in the *passuk*:

וביום שמחתכם ובמועדיכם ובראשי חדשיכם ותקעתם בחצוצרות על עולותיכם ועל זבחי שלמיכם והיו לכם לזכרון לפני אלקיכם אני ד' אלקיכם.

On a day of your gladness, and on your festivals, and on your new moons, you shall sound the trumpets over your *olah*-offerings and over your *shelamim*-offerings; and they shall be a **remembrance** for you before your G-d; I am Hashem, your G-d. (*Bamidbar* 10:10)

The *Rama* (*Orach Chaim* 487:3) writes that when Yom Tov falls on *Shabbos*, we must mention the day of *Shabbos* along with Yom Tov in *Ya'aleh VeYavo* in the *Amidah*. His source is the *Maharil*, based on the *minhag* of the Ba'alei HaTosfos. The *Mishnah Berurah* (487:15) writes that we no longer follow the *minhag* of the Ba'alei HaTosfos.

The *Levush* questions the *minhag* cited by the *Rama* based on the fact that the *tefillah* of *Ya'aleh VeYavo* is rooted in the above *passuk*, and the *passuk* only mentions Rosh Chodesh and Yom Tov, and not *Shabbos*. On *Shabbos* there is no sounding of the *chatzotzros*, and there should therefore be no concept of *zikaron*

in relation to Shabbos. Indeed, it is for this reason that we do not recite *Ya'aleh VeYavo* on a regular Shabbos. If so, even when Yom Tov falls on Shabbos, the concept of *zikaron* is not at all related to Shabbos and it should be considered out of place to mention Shabbos in *Ya'aleh VeYavo*.

We may suggest that the Ba'alei HaTosfos maintained that when Yom Tov falls on Shabbos, the two *kedushos* blend together to form a new *kedushas hayom*. It is not that there are two unrelated *kedushos* present on this day, with one *kedushah* superimposed onto the other. Rather, a new type of *kedushas hayom* is formed, which is a **single** *kedushah* of **Shabbos-Yom Tov**. The element of *zikaron* is associated not only with *kedushas Yom Tov*, but also with the combined *kedushas Shabbos-Yom Tov*. Therefore, since there is *zikaron* even in regard to the Shabbos aspect of the day, it is fitting to mention Shabbos in the *tefillah* of *Ya'aleh VeYavo*. [See *Nefesh Harav*, 1994 ed., p. 183.]

There is a *machlokes* between Beis Shammai and Beis Hillel that may be relevant to this question. Beis Shammai is of the opinion that when Yom Tov falls on Shabbos, eight *berachos* should be recited in the *Amidah*. Two middle *berachos* are recited, one concluding *מקדש השבת* and the other *מקדש ישראל והזמנים*. We, of course, follow Beis Hillel's view that we recite just one middle *berachah*, combining the two themes into one *berachah*, concluding the *berachah* as Rebbi did, *מקדש השבת וישראל והזמנים* (*Beitzah* 17a).

It is clear that according to the opinion of Beis Shammai, when Yom Tov falls on Shabbos, there are two distinct *kedushos hayom* that exist on that day. There is a separate *kedushas Shabbos* and a separate *kedushas Yom Tov*. Therefore, in the *Amidah*, two separate middle *berachos* dedicated to the theme of *kedushas hayom* are necessary. The two themes cannot be combined into one *berachah*, because doing so would be a violation of the rule, *אין חותמין בשתיים* - "We do not conclude [one *berachah*] with two distinct [themes]." The *Gemara* explains

that this rule is an example of the more general principle, אין עושין מצוות חבילות חבילות – “We do not perform *mitzvos* in bundles” (*Berachos* 49a).

However, the rationale behind the opinion that we follow, that of Beis Hillel and Rebbi, is not as clear. It is possible that Beis Hillel also holds essentially like Beis Shammai, that there are two distinct *kedushos hayom* on this day, and, in theory, two separate *berachos* should have been recited. We refrain from doing so because of an unrelated consideration – the necessity to have an *Amidah* that conforms to a precedent in *Tanach*.

The *Gemara* in *Berachos* (28b-29a) teaches that when the *Anshei Kenesses HaGedolah* (Men of the Great Assembly) composed an *Amidah*, it was required of them that it be patterned after a source in *Tanach* that contained that precise number of units. A precedent was found that corresponds to a seven-*berachah* *Amidah*, but none to justify an eight-*berachah* *Amidah*. Therefore, it was necessary for Beis Hillel to combine the two *berachos* on the two separate *kedushos hayom* into a single *berachah*.

An alternative understanding of the view of Beis Hillel, however, is that it disagrees fundamentally with that of Beis Shammai. According to Beis Hillel, when Yom Tov falls on Shabbos, it is not the case that there exist two distinct *kedushos hayom* on this day. Rather, the two *kedushos* blend together to become one singular *kedushah*, and it is for this reason that we recite only one *berachah* on the *kedushas hayom*.

These two approaches may be reflected in the different explanations that the *Rishonim* offer for the above *Gemara* in *Berachos* (49a). The *Gemara* presents the *nusach* of the middle *berachah* of the *Amidah*, מקדש השבת וישראל והזמנים, as an exception to the rule of אין חותמין בשתיים. Upon questioning the reason for this exception, the *Gemara* responds with an ambiguous answer, הכא חדא היא – “Here, [the dual conclusion of the *berachah*] is actually one.”

The simple interpretation of the answer is that the two *kedushos hayom* are sufficiently similar that they blend into one. There is one entity known as *kedushas Shabbos*, another of *kedushas Yom Tov*, and a third called *kedushas Shabbos-Yom Tov*, and the double phrase in the *berachah* is thus really an expression of a **single** *kedushas hayom*. Therefore, the combined phrase *מקדש השבת וישראל והזמנים* is not at all a violation of *אין חותמין בשתיים*. This approach is in line with the *nusach* of *Ya'aleh VeYavo* used by the Ba'alei HaTosfos, and implies that Beis Hillel preferred one middle *berachah* in the *Amidah* because that reflects the reality of the new single *kedushas hayom*.

Rav Forshlager sees this concept in the explanation of Rabbeinu Efrayim (HaSefaradi), cited in *Talmidei Rabbeinu Yonah* (36a in *dapei haRif*): "Even though it seems as if [Shabbos and Yom Tov] are two different themes, since the two *kedushos* have come at the same time, they are like a single *kedushah*, and therefore we may conclude [the *berachah*] with both of them." In other words, each of the two *kedushos* are not dependent on each other; the *kedushas Shabbos* is not present because of the Yom Tov and the *kedushas Yom Tov* is not present because of the Shabbos. Yet, since Yom Tov and Shabbos happened to fall on the same day, an expanded *kedushah* is formed from both *kedushos*, which is like a single *kedushah*.

There is, however, a different *girsas* (text) of the answer of the *Gemara*, which Rashi cites in the name of the *Bahag*: *הני תרתי קדושי נינהו* - "These are two *kedushos*." According to the *Bahag*, the *Gemara's* answer is that it is not a violation of *אין חותמין בשתיים* to recite *מקדש השבת וישראל והזמנים* because these two themes are **not** related to each other. It is clear from this *girsas* that when Yom Tov falls on Shabbos, the two *kedushos* that exist on this day remain distinct.

Rav Soloveitchik noted that the above two approaches are reflected in the difference between two *nuscha'os* used in the

middle *berachah* of the *Amidah* when Yom Tov falls on Shabbos. When Shabbos occurs independently, the final paragraph of the middle *berachah* of the *Amidah*, the *berachah* of *kedushas hayom*, begins with *אלקינו ואלקי אבותינו רצה במנוחתנו*. When Yom Tov occurs alone, this paragraph begins with *אלקינו ד' והשיאנו ד'*.

When Yom Tov and Shabbos coincide, the more common *nusach* inserts the request, *אלקינו ואלקי אבותינו רצה במנוחתנו*, into the middle of the paragraph, to reflect the Shabbos quality of the day's *kedushas hayom*. However, the *nusach haGr"a* omits the words *אלקינו ואלקי אבותינו* and adds only the phrase *רצה במנוחתנו*. [Rav Yaakov Emden recorded the *minhag* in Hamburg, which includes *אלקינו ואלקי אבותינו* even when Yom Tov falls on a weekday. This text was later adopted in the Birnbaum *Machzor*.]

The Rav explained that when Yom Tov occurs together with Shabbos, one view is that the two *kedushos* remain distinct. It would have been appropriate to recite two separate *berachos* of *kedushas hayom*, if not for the extraneous consideration of the lack of Scriptural precedent. We seek to highlight this dichotomy by dividing the *berachah* into two parts. This is reflected in the more common *nusach*, in which the phrase *אלקינו ד' והשיאנו ד'* introduces the theme of *kedushas Yom Tov*, whereas the phrase *אלקי אבותינו ואלקי אבותינו* serves to introduce the distinct theme of *kedushas Shabbos*.

However, as we have seen, we may understand the situation very differently - that the two aspects of the day blend together to create a single *kedushas hayom*. If so, only one middle *berachah* is appropriate, not two. This perspective is demonstrated by the *nusach* of the *Gr"a*. The phrase *רצה במנוחתנו* must be added as a request specifically related to Shabbos, but *אלקינו ואלקי אבותינו* should not be said, so that the *berachah* over *kedushas hayom* remains a single entity. [See *MiPninei HaRav*, 2001 ed., pp. 86-88.]

According to the approach that maintains that a new single *kedushas hayom* is created when Yom Tov and Shabbos coincide, we are unable to offer the resolution of the *Avnei Nezer*

that on Shabbos-Rosh Chodesh each *kedushas hayom* alone is insufficient to obligate the recitation of *Hallel* and that the two *kedushos* never blend together. We therefore remain with the question of why we do not recite full-*Hallel* on a Shabbos-Rosh Chodesh.

VIII. The Difference between Pesach and Sukkos

We may now return to the contrast that the *Gemara* draws between Chol HaMo'ed Sukkos, when each day is חלוקין בקרבנותיהן, necessitating a *chiyuv Hallel*, and the last six days of Pesach, which do not have this distinction. The *Gemara* does not mean to emphasize that there are different *korbanos* offered on each day of Sukkos, as much as to underscore the fact that each day is allotted its own separate *parsha* in *Parshas Pinchas* detailing its particular *Korban Mussaf*.

This indicates that each day of Sukkos is endowed with a unique *kedushas hayom*, which in turn calls for its particular set of *korbanos*, in addition to the relevant *mitzvos* and *issur melachah* of the day. Accordingly, the *Gemara* understood that each day possesses a separate *chiyuv simchah*, with a resultant separate *chiyuv Hallel* on each day. Similarly, each day's *chiyuv simchah* obligates one to partake of meat and wine on each day of Sukkos. Obviously, one day's *chiyuv simchah* is not satisfied with the previous day's *Hallel* recitation or consumption of meat and wine, because each day has its own requirement.

This is not the case with regard to the last six days of Pesach, which are not חלוקין בקרבנותיהן. There is only one *parsha* describing the *korbanos* of Pesach, as each day's requirement is identical to that of any other day. This demonstrates that on Pesach, there is **one** *kedushas hayom*, which extends for seven days.

Therefore, there is only one *chiyuv simchah* for the complete seven-day period, with only one resultant *chiyuv Hallel*. It

would seem as well that there would be a requirement to partake of meat and wine only once over the course of the entire Yom Tov of Pesach, as a fulfillment of the single *mitzvas simchah*. Therefore, once one recites *Hallel* on the first day of Yom Tov (and on the second day in *chutz la'Aretz*), the obligation has been discharged, and further recitation of full-*Hallel* is not necessary.

Following this line of reasoning, Rav Moshe Soloveitchik concluded that if one did not recite the full-*Hallel* on the first two days of Yom Tov for whatever reason, he would be obligated to recite a **full-*Hallel*** on one of the days of Chol HaMo'ed. The primary obligation on Pesach is to recite one full-*Hallel* over the course of the entire Yom Tov for the sake of the single *chiyuv simchah* that exists. If one did not fulfill the obligation on the first day, he may still do so on any subsequent day of the Yom Tov. [See *Nefesh Harav*, 1994 ed., pp. 192-195; *B'Ikvei HaTzon*, pp. 80-81.]

In addition to the *Gemara's* explanation for why we do not recite full-*Hallel* on the last days of Pesach, there are two other reasons given.

The *Zohar* (*Raya Meheimna*, *Parshas Emor*, 97a) maintains that it is not proper to recite full-*Hallel* during the period of *sefiras ha'omer*, since this is considered a time of *aveilus*. The *Zohar* explains that when an individual becomes *tamei*, the Torah sometimes requires that he wait seven days to become *tahor*. However, when an entire nation is *tamei*, as was the case with the Jewish People in Mitzrayim, seven **weeks** are required to become *tahor*.

The counting of the seven weeks of *sefiras ha'omer* is thus similar to the counting of *shivo'ah nekiyim* (seven clean days) by a *tamei* individual; it brings about a *taharah* for *Klal Yisrael*. This idea is mentioned in the *tefillah* many people say after counting *sefirah*: אתה צויתנו... לספור ספירת העומר כדי לטהרנו מקלפותינו ומטמאותינו - "You commanded us ... to count the *Omer* Count in order to cleanse us from our encrustations of evil and from our con-

taminations.” [Rav Hirsch in his commentary to *Vayikra* 23:16 makes a similar comment.]

A *tamei* individual may not enter the *Beis HaMikdash*, wherein one experiences *hashra’as haShechinah* and the associated *simchah* of being *lifnei Hashem* – in the presence of *Hashem*. This means that when one is *tamei* and not in a state of *simchah*, he also experiences an aspect of *aveilus*, since *aveilus* and *simchah* are mutually exclusive. *Klal Yisrael* as well experiences a partial *aveilus* during the “*shiv’ah nekiyim*” of *sefiras ha’omer*.

This state of *aveilus* is present on a level of *d’oraisa*, and is unrelated to the death of the *talmidim* of Rebbi Akiva. For this reason, the *minhag* of the *Arizal* is to prohibit taking a haircut throughout the entire seven-week *sefirah* period, and not only during the thirty-three days on which the *talmidim* perished. The *Zohar* contends that it is for this reason that it is inappropriate to recite full-*Hallel* during *sefiras ha’omer*, since *Hallel* is considered to be contradictory to a state of *aveilus*. [Some argued that for this reason it is problematic to recite full-*Hallel* on Yom Ha’Atzmaut and Yom Yerushalayim, which fall within the *sefirah* period.]

The *Shibalei HaLeket*, quoted by the *Beis Yosef* (*Orach Chaim* 490:4), cites a *Midrash* that offers an alternate explanation for why we refrain from reciting full-*Hallel* on Shevi’i shel Pesach. The *Midrash* explains that it would be inappropriate to recite *Hallel* over the *nes* of *krias Yam Suf* due to the following consideration: מעשי ידי טובעים בים ואתם אומרים שירה – “My handiwork is drowning in the sea, and you recite a song of praise?” Instead, we must have the attitude expressed in the *passuk*, בנפול אויבך אל תשמח – “When your foe falls, be not glad” (*Mishlei* 24:17). The *Taz* (490:3) adds that since we do not recite full-*Hallel* on Shevi’i shel Pesach, we do not recite it on the earlier days of Chol HaMo’ed either, so as not to make these days more prominent than a day of Yom Tov.

Rav Soloveitchik explained (also found in *Yeshu'os Ya'akov, Orach Chaim* 490:1) that these additional reasons are necessary because there are, in fact, two distinct elements that generate an obligation to recite *Hallel*. As we have seen, *simchas Yom Tov* serves as a *mechayeiv* of *Hallel*. However, on Chanukah, when there is no *mitzvah* of *simchah*, we still recite *Hallel* as a *zecher l'nes*. Uniquely, on Shevi'i shel Pesach, the recitation of *Hallel* could be justified on the basis of both *mechaivim*. There is a *mitzvah* of *simchah* on Shevi'i shel Pesach because it is a Yom Tov, and this day also serves as a commemoration of the *nes* of *krias Yam Suf*.

The *Gemara* addressed the question of why we refrain from reciting full-*Hallel* on Shevi'i shel Pesach on the basis of *simchas Yom Tov*. The *Zohar* and *Midrash*, on the other hand, offer explanations for why *zecher l'nes* does not call for a recitation of full-*Hallel* on Shevi'i shel Pesach, just as we recite full-*Hallel* in commemoration of the *nes Chanukah*. [See *Nefesh Harav*, 1994 ed., pp. 295-296.]

IX. *Simchah* on Rosh Hashanah and Yom Kippur

The *Gemara* next questions why we do not recite *Hallel* on Rosh Hashanah and Yom Kippur. These days are called *mo'ed* and do have an *issur melachah*, and as such, they should warrant the recitation of *Hallel*. To this question, the *Gemara* recounts the response of *Hashem* to the *mal'achim*, who asked why the Jewish People do not recite *shirah* on Rosh Hashanah and Yom Kippur. *Hashem* answered them, "Is it possible that the King is seated on the Throne of Judgement with the Books of the Living and the Books of the Dead open before Him, and the Jewish People will recite *shirah* before Me?!" It would be inappropriate to sing *Hallel* joyously while the judgement is still pending. Apparently, if not for this consideration, there indeed would have been a *Hallel* recitation on these days, because, in

their essence, they **are** days of *simchah*. What is it about the *Yomim Nora'im* that endows them with an element of *simchah*?

The *Gemara* in *Rosh Hashanah* (26a) teaches that a cow's horn may not be used as a *shofar* for Rosh Hashanah. The *Gemara* explains that using such a *shofar* would be equivalent to the *Kohen Gadol* wearing his golden vestments inside the *Kodesh HaKodashim* on Yom Kippur. Both recall the sin of the *eigel hazahav*, and both are thus prohibited based on the principle, אין קטיגור נעשה סניגור – an “accuser” cannot become a “defender.” According to this rule, which applies only in the *Kodesh HaKodashim*, a *mitzvah*-object can be disqualified even if it itself had never been used for an *aveirah*; being merely associated with an *aveirah* is sufficient grounds to disqualify the *mitzvah*-object.

In explaining the comparison between the *mitzvah* of *shofar* and the *avodah* of the *Kohen Gadol* in the *Kodesh HaKodashim*, the *Gemara* advances a reasoning that also sheds light on the nature of the day of Rosh Hashanah: כיון דלזכרון הוא כבפנים דמי – “Since [blowing the *shofar* on Rosh Hashanah] is for the purpose of remembrance [before *Hashem*], it is equivalent to [an *avodah* performed] inside [the *Kodesh HaKodashim*].”

The concept of standing *lifnei Hashem* on Rosh Hashanah, as if inside the *Kodesh HaKodashim*, is also apparent on Yom Kippur, on which the day's special *mitzvah* of *teshuvah* brings us *lifnei Hashem*. The *passuk* states, עוונותיכם היו מבדילים ביניכם לבין אלקיכם – “Your iniquities have separated between you and your G-d” (*Yeshayah* 59:2). With *teshuvah*, the barrier between Man and *Hashem* is removed, and we return to the state of *lifnei Hashem*.

On the *Yomim Nora'im*, we find ourselves *lifnei Hashem*, and as such, there is a *mitzvah* of *simchah* on Rosh Hashanah and Yom Kippur. Indeed, with regard to *aveilus* as well, these days cancel *shiv'ah* and *shloshim*, just as Yom Tov does (*Yoreh De'ah* 399:6).

When the *Rambam* (*Hilchos Chanukah* 3:6) codifies the *halachah* regarding *Hallel* on Rosh Hashanah and Yom Kippur, he writes that *Hallel* is not recited on these days because they are not days of שמחה יתירה – excessive joy. The implication of the *Rambam*, like the *Ramban* cited above, is that the obligation to recite *Hallel* stems from the *mitzvah* of *simchah*. The *Yomim Nora'im*, because they are *Yemei HaDin*, have a tempered form of *simchah*, and therefore do not qualify for *Hallel* recitation. [See *Eretz HaTzvi*, pp. 19-20.]

X. Chanukah

The *Gemara* in *Arachin* then questions why we recite *Hallel* on Chanukah, given the absence of special *korbanos*, *mo'ed* status, or *issur melachah* on these days. The *Gemara* answers that although, as we explained, the *Hallel* on the *Shalosh Regalim* stems from a *chiyuv simchah*, the *Hallel* of Chanukah is due to a totally different consideration. It is “because of the miracle [that occurred],” as a form of פרסומי ניסא – to publicize the miracle of Chanukah (*Berachos* 14a).

The *Chassam Sofer* (*Teshuvos, Yoreh De'ah* 233; *Orach Chaim* 208) writes that although the observance of the *mitzvos* of Chanukah is only rabbinic in nature, the obligation to recite *Hallel* on Chanukah is a *d'oraisa* obligation. He bases this assertion on the *kal v'chomer* presented in the *Gemara* in *Megillah* (14a) that justifies the institution of *krias haMegillah* on Purim: “If [upon deliverance] from slavery to freedom, [the Jewish People] said a *shirah* [at the time of *krias Yam Suf*], then certainly [we should read the *Megillah* on Purim to commemorate our deliverance] from death to life.” A *kal v'chomer* is one of the principles through which the Torah is expounded, and it therefore provides for a *d'oraisa* obligation to recite *Hallel* on Chanukah.

The *Netziv* (*Ha'amek She'elah, she'ilta* 26) quotes this comment from “*HaGaon vehatzaddik Chassam Sofer*,” with whom he respectfully disagrees, proving from the *Gemara* in *Berachos* (14a)

that the *Hallel* of Chanukah is only *miderabbanan*. The *Gemara* discusses whether one may interrupt his recitation of *Hallel* to greet another person or return a greeting. One side of the argument presented by the *Gemara* is that if one may interrupt *krias Shema*, which is a *d'oraisa*, it should be obvious that one may interrupt *Hallel*, which is only *miderabbanan*.

[In response to the difficulty posed by the *Gemara* in *Berachos*, it has been suggested that even according to the *Chassam Sofer*, one need not recite the **entire** *Hallel* in order to fulfill the *d'oraisa* obligation. Rather, a portion of *Hallel* would suffice. The typical situation of *hefsek* described in the *Gemara* in *Berachos* refers to a case in which a portion of *Hallel* had already been recited. In this situation, the *Gemara* discusses the permissibility of making an interruption in the remainder of the *Hallel*, because that recitation is certainly only rabbinic in nature, even according to the *Chassam Sofer*.]

The *Netziv* explains the *derabbanan* status of the *Hallel* on Chanukah with the following distinction. On the occasion of the *nes* itself, the recitation of *Hallel* would be a *d'oraisa* obligation. This is derived by means of the *kal v'chomer* from the *Az Yashir* recited at the time of *krias Yam Suf*. The *kal v'chomer*, however, cannot obligate us to say *Hallel now* over a miracle that occurred to our forefathers. To recite *Hallel* in later generations, in commemoration of the *nes*, would be only a *derabbanan* obligation, and this is the nature of the *takanah* (enactment) to recite *Hallel* over the *nes Chanukah* in subsequent years.

XI. Yom Ha'Atzmaut

A similar exchange occurred in reference to the suggestion to recite *Hallel* on Yom Ha'Atzmaut. Rav Meshulam Roth (*Teshuvos Kol Mevasser, chelek 1, siman 21:3*) ruled that it is unnecessary for the *Sanhedrin* to make a *takanah* to recite *Hallel* on this day, because reciting *Hallel* after such a salvation is, as the *Chassam Sofer* held, a *d'oraisa* obligation.

Others, such as Rav Moshe Tzvi Neria, following the argument of the *Netziv*, responded that reciting *Hallel* is *d'oraisa* only at the time of the salvation. The recitation of *Hallel* in subsequent years, in commemoration of the salvation, would require a *takanah derabbanan*. The *Rabbanut* in Eretz Yisrael is not considered to have the authority to enact such a *takanah*, and there is therefore no obligation to say *Hallel* on Yom Ha'Atzmaut. [See the correspondence of Rav Neria and Rav Roth in *Me'oros Neria – Yisrael BiMedinaso*, pp. 157-159.]

If there is neither a *d'oraisa* obligation nor a *takanah derabbanan* to recite full-*Hallel* on any given day, it may be prohibited to recite it.

The basis of the *issur* involved is the *Gemara* in *Shabbos* (118b), where Rebbi Yose says, "May my portion be among those who complete the *Hallel* every day." The *Gemara* challenges, "But one who recites the *Hallel* every day is thereby belittling and blaspheming G-d!" *Hallel* is said only on special occasions as an expression of praise to *Hashem* for His performance of miracles. Saying it every day reduces the *Hallel* to a musical song (*Rashi*), and it is tantamount to complaining to *Hashem* for the lack of recent miraculous interventions (*Talmidei Rabbeinu Yonah, Berachos 23a in dapei haRif*). How, then, are we to understand Rebbi Yose's statement?

The *Gemara* resolves the question by distinguishing between *Pesukei DeZimra* and *Hallel HaMitzri*. The "*Hallel*" that Rebbi Yose wished to say every day was *Pesukei DeZimra*, which discusses *Hashem's* involvement in nature; this type of praise is appropriate every day. Only *Hallel HaMitzri*, which praises *Hashem* for His supernatural interventions, may not be said every day, but must rather be reserved for special occasions.

Rav Soloveitchik held, based on this *Gemara*, that whenever we are not obligated to say full-*Hallel*, it would be forbidden to do so; the *issur* is not limited to one who recites *Hallel* every day.

The *Gemara* in *Ta'anis* (28b) recounts that when Rav came to Bavel from Eretz Yisrael, he was unaware of the *minhag* that they had to recite half-*Hallel* on Rosh Chodesh. He was going to interrupt their recitation, but when he noticed that they had skipped certain paragraphs, he understood that they were merely fulfilling a *minhag* to say *Hallel* on that day; they were not reciting an obligatory *Hallel*. Rav Soloveitchik explained that the skipping of certain sections of *Hallel* on Rosh Chodesh is done specifically to avoid the *issur* of reciting *Hallel* when that recitation is merely a *minhag*. This way, the *Hallel* is sufficiently different than a full-*Hallel*, and its recitation is not blasphemous. [See *Talmidei Rabbeinu Yonah, Berachos, 8a in dapei ha-Rif, s.v. v'Rabbeinu.*]

Therefore, since the *Sanhedrin* never instituted a *takanah* requiring *Hallel* recitation on Yom Ha'Atzmaut, the Rav recommended that those who wish to say *Hallel* on that day should say **half-*Hallel***, as on Rosh Chodesh. The Rav further suggested that the *Hallel* be recited at the very conclusion of the *davening*, to demonstrate that it is not part of the obligatory *tefillah*. [See *Nefesh Harav, 1994 ed., p. 96; Divrei HaRav, 2010 ed., p. 175.*]

XII. Purim

The *Gemara* concludes its discussion with the day of Purim, providing three explanations for why a *takanah* was never instituted to recite *Hallel* over the *nes Purim*.

First, since the *nes Purim* occurred in *chutz la'Aretz*, the *Gemara* holds that it is not proper to recite *Hallel* in commemoration of such a *nes*. The *Maharsha* (*Arachin* 10b) explains the significance of a miracle in Eretz Yisrael, in contrast to one in *chutz la'Aretz*. When a *nes* occurs in *chutz la'Aretz*, it is not considered to have been effected directly by the "hand of Hashem," but rather through an intermediary messenger or *mal'ach*. Such a miracle does not warrant the recitation of *Hallel*. We only

recite *Hallel* over a miracle in Eretz Yisrael, where a higher level of *hashgachah pratis* (Divine Providence) and presence of the *Shechinah* is apparent. Thus, we do recite *Hallel* for the *nes Chanukah*, which occurred in Eretz Yisrael.

The *Minchas Chinuch* (*Kometz Minchah, Mitzvah 284*) offers a second explanation. He suggests that the reasoning behind this rule is that the Jews outside of Eretz Yisrael, although they may be numerous, are only considered *yechidim* (individuals). *Hallel* may be enacted only in commemoration of a *nes* that occurs to the *tzibbur* of *Klal Yisrael* as a whole.

The *Minchas Chinuch* derives this from the response of Rebbi to the residents of Ninveh, as recorded in the *Gemara* in *Ta'anis* (14b). The residents of Ninveh needed to pray for rain in the summertime, so they asked Rebbi whether to insert the request in the *berachah* of *Shome'ah Tefillah*, the appropriate place for **personal** requests, or in the *berachah* of *Birchas HaShanim*, the appropriate place for such a **communal** request, since it was an entire city that required rain. Rebbi ruled that the request of the entire city should be compared to an individual's request, since the city was in *chutz la'Aretz*.

This is how the *Minchas Chinuch* understands the *Gemara* in *Ta'anis* (12b), **אין תענית ציבור בבבל** – “There is no public Fast Day in Bavel [with the exception of Tish'a B'Av, that has the stringencies of fasting on the night of the fast and abstaining from the wearing of leather shoes].” This rule is a further manifestation of the principle that the residents of *chutz la'Aretz* have the status of *yechidim*. Therefore, a *nes* in *chutz la'Aretz* is, by definition, a *nes* of *yechidim*, and *Hallel* is not enacted over such a *nes*. [See *The Journal of Halacha and Contemporary Society* XVI, pp. 78-79; *Rav Schachter on the Parsha, Parshas Lech Lecha*.]

The *Gemara* offers a second reason that *Hallel* is not recited on Purim: **קרייתה זו היא הלילא** – “The reading [of the *Megillah* itself] constitutes a [form of] *Hallel*.” When we read the *Megillah*, although we do not mention His Name explicitly, we are

engaging in praise of *Hashem* for the miraculous salvation of Purim, and this is equivalent to reciting *Hallel*. It is precisely because the *nes* of Purim was a hidden miracle that the *chachamim* instituted the recitation of an implicit form of *Hallel* on Purim.

The final explanation of the *Gemara* is that we only recite *Hallel* to commemorate a complete salvation. This was not the case with the *nes Purim*, as אַחַשְׁוֵירוֹשׁ אָנִי – “[After the Purim miracle] we were still servants of Achashveirosh.” Therefore, we are not able to rightfully declare in the *Hallel*, הַלְלוּ עֲבָדֵי ד’ – “Praise [G-d], servants of *Hashem*,” which connotes that only those who are **full** servants of *Hashem* should praise Him.

In the aftermath of the Chanukah miracle, however, an independent Jewish government was established after the successful *Chashmona’i* rebellion. Indeed, the *Rambam* highlights this fact, implying that this was a major element in the entire episode. When the *Rambam* (*Hilchos Chanukah* 3:1) recounts the historical background of the Chanukah miracle, he writes: “[The *Chashmona’im*] appointed a king from the *Kohanim*, and the kingship returned to *Yisrael* for more than two hundred years, until the *churban* of the Second *Beis HaMikdash*.”

Rav Soloveitchik suggested that the *Rambam* may have been alluding to this *Gemara*, which provides the rationale for the recitation of *Hallel* on Chanukah. In sharp contrast to the Chanukah miracle, after the Purim miracle, the Jewish People remained under the subjugation of the non-Jewish government, and such a salvation does not warrant the recitation of *Hallel*.

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For reading regarding Shemini Atzeres-Simchas Torah, see “The Last Eight *Pessukim*,” in *Rav Schachter on the Parsha*, pp. 291-296.

YOMIM NORAIM

MUSSAF AMIDAH OF ROSH HASHANAH

YESODOS OF TESHUVAH

KAPPARAS YOM HAKIPPURIM

AVODAS YOM HAKIPPURIM

MUSSAF AMIDAH OF ROSH HASHANAH

I. *Teki'os al Seder HaBerachos*

The *Mishnah* in *Rosh Hashanah* (4:5) records the *halachah* that we are supposed to blow the *shofar* על סדר הברכות – within the order of the *berachos* of the *Mussaf Amidah*, after *Malchuyos*, after *Zichronos*, and after *Shofaros*. *Rashi*, both in his commentary on the *Mishnah* and on the Torah (*Vayikra* 23:24), seems to imply that this is a *d'oraisa* requirement. In fact, the Torah requires three sets of *shofar*-blowing, each consisting of a *teki'ah*, *teru'ah*, and *teki'ah*, and the three sets correspond to these three themes of the *Mussaf Amidah* – *Malchuyos*, *Zichronos*, and *Shofaros*.

The *Ramban* disagrees, questioning *Rashi's* view based on a *Gemara* in *Rosh Hashanah* (34b) that discusses the case of one presented with the choice of traveling to a city in which he will be able to hear the blowing of the *shofar* but not the recitation of *Mussaf*, or traveling to a different city in which he will be able to listen to the recitation of *Mussaf* but not the blowing of the *shofar*. The *Gemara* considers it obvious that traveling to the city with the *shofar* takes precedence because hearing the *shofar* is a *mitzvah d'oraisa*, whereas the *mitzvah* of reciting *Mussaf* is only *miderabbanan*. Obviously, if *Mussaf* itself is only *miderabbanan*, the *din* of *teki'os al seder haberachos* can only be a *takanah derabbanan*.

Rav Soloveitchik was fond of relating the following explanation in defense of *Rashi* (see *sefer Yom Teru'ah*). *Rashi* only meant that the recitation of *Malchuyos*, *Zichronos*, and *Shofaros* is a *mitzvah d'oraisa* when it comes **in conjunction** with the blowing of the *shofar*. Then, the *mitzvah* of *teki'os al seder haberachos* has been fulfilled. In the situation described above, in which the city with a *shali'ach tzibbur* to recite *Mussaf* will not have *teki'as shofar*, the recitation of *Malchuyos*, *Zichronos*, and *Shofaros* is only *miderabbanan*. However, when one combines *Malchuyos*, *Zichronos*, and *Shofaros* with *teki'as shofar*, he has fulfilled a *d'oraisa* obligation according to *Rashi*.

In fact, the Rav would often caution his *minyán* on Rosh Hashanah to wait to hear the final syllable of the last word of each *berachah* of *chazaras hashatz* from the *chazan*, and only then to answer *amen*. A correct response of *amen* to the *berachos* of *chazaras hashatz* is necessary for the fulfillment of the *mitzvah* of *teki'os al seder haberachos*. This is especially relevant on the *Yomim Nora'im*, when the tune is such that the pronunciation of the final word of each *berachah* is elongated. [See *MiPinei HaRav*, 2001 ed., pp. 127, 128-129; *Eretz HaTzoi*, p. 49.]

Rav Soloveitchik suggested that the idea that there is a unique *mitzvah* when *Malchuyos*, *Zichronos*, and *Shofaros* are recited in conjunction with *teki'as shofar* is based on a *Gemara* in *Rosh Hashanah* (29b), which discusses the reason for the absence of *shofar*-blowing when Rosh Hashanah falls on Shabbos.

At first, the *Gemara* understood that the Torah alludes to this *halachah* in the two *pessukim* that describe Rosh Hashanah: *שבִּתוֹן זְכוֹרוֹן תְּרוּעָה* – “a rest day, a remembrance of *teru'ah* blasts” (*Vayikra* 23:24), and, *יוֹם תְּרוּעָה יִהְיֶה לָכֶם* – “It shall be a day of *teru'ah* blasts for you” (*Bamidbar* 29:1). The first description of Rosh Hashanah implies that the *shofar* must merely be spoken of. This refers to a year in which Rosh Hashanah falls on Shabbos, on which the *shofar*-blast is only mentioned, but the *shofar* is not actually sounded. The second *passuk* refers to a

year in which Rosh Hashanah falls on a weekday, when we are commanded to actually sound the *shofar*.

The *Gemara* proceeds to reject this interpretation of the *pessukim* and concludes that the absence of *shofar*-blowing on Shabbos is merely a rabbinic decree, the *gezeirah d'Rabbah*, instituted lest one carry the *shofar* through a public domain and desecrate Shabbos. The *Gemara* never returns to explain the meaning behind the description of the day of Rosh Hashanah as a זכרון תרועה.

Rav Soloveitchik suggested that once we reach the conclusion of the *Gemara*, that זכרון תרועה is not an allusion to the absence of *shofar*-blowing when Rosh Hashanah falls on the Shabbos, the phrase may have a totally different connotation – *teki'as shofar* in conjunction with *davening*.

Indeed, we find the usage of the word זכרון in connection with *davening* in a different context. The *Gemara* in *Rosh Hashanah* (26a) teaches that a cow's horn may not be used as a *shofar* on Rosh Hashanah. The *Gemara* explains that using such a *shofar* would be equivalent to the *Kohen Gadol* wearing his golden vestments inside the *Kodesh HaKodashim* on Yom Kippur. Both recall the sin of the *eigel hazahav*, and so, both are prohibited based on the principle of אין קטיגור נעשה סניגור – an “accuser” cannot become a “defender.” It is only in the *Kodesh HaKodashim* that we apply this principle, according to which a *mitzvah*-object is disqualified even if it merely belongs to the same category as an object used for an *aveirah*.

In explaining the comparison between the *mitzvah* of *shofar* and the *avodah* of the *Kohen Gadol* inside the *Kodesh HaKodashim*, the *Gemara* advances the reasoning: כיון דלזכרון הוא כבפנים דמי – “Since [blowing the *shofar* on Rosh Hashanah] is for the purpose of remembrance, it is equivalent to [an *avodah* performed] inside [the *Kodesh HaKodashim*].” The connotation of the *Gemara* seems to be that *teki'as shofar* is for the purpose of זכרון – combining with the *davening*, during which one is considered

to be standing in the *Kodesh HaKodashim*. That is why *teki'as shofar* is equivalent to an *avodah* performed inside the *Kodesh HaKodashim*.

The *Gemara's* use of the term זכרון as a reference to *davening* seems to be based on its understanding of the Torah's description of Rosh Hashanah as a זכרון תרועה. The Torah insists that on Rosh Hashanah we are to engage in *tefillah* along with the *teru'ah* of the *shofar*. This *passuk*, then, is *Rashi's* source. It teaches us that if the *shofar* is sounded, then there is also a *d'oraisa* obligation to recite *Malchuyos*, *Zichronos*, and *Shofaros*, to blend the *tefillah* together with the *teru'os*. If the *teru'os* are absent, *Mussaf* is only *miderabbanan*.

In what way can we understand the connection between *shofar-blowing* and *Malchuyos*, *Zichronos*, and *Shofaros*? Indeed, we may ask why the fulfillment of the seemingly extraneous *mitzvah* of *teki'as shofar* is not considered a *hefsek* (interruption) in the middle of the *Shemoneh Esrei*.

[Rav Soloveitchik pointed out a similar situation, the *na'anu'im* (waving) of the *lulav* in the middle of the recitation of *Hallel*. The reason this does not constitute a *hefsek* is that these two *mitzvoos* are integrally connected. The waving of the *lulav* during *Shemoneh Esrei* would be considered a *hefsek*; only in *Hallel* is it not an interruption.

Tosfos in *Sukkah* (37b, s.v. *behodu*) teaches that the *na'anu'im* that are performed during the *Hallel* are a fulfillment of the *passuk*, אז ירננו עצי היער, – “Then, the trees of the forest will sing joyously” (*Divrei HaYamim* I 16:33). We shake the *lulav* to convey the notion that the trees are dancing in front of *Hashem*, and we wave the *lulav* to symbolize that the trees are bowing before *Hashem* (*Orach Chaim* 651:9). We demonstrate that all of nature is engaged in the praise of *Hashem*, together with mankind. Thus, the *na'anu'im* of the *lulav* are not extraneous; quite the contrary, this *mitzvah* blends together with the recitation of *Hallel*.]

II. *Birchas Kohanim* in *Chazaras HaShatz*

Another *mitzvah* performed in the middle of *chazaras hashatz* is that of *Birchas Kohanim*, colloquially referred to as “*duchening*.” The *Gemara* in *Sotah* (38a) derives from the following *passuk* that this *mitzvah* takes place at the conclusion of the offering of the *korbanos tzibbur*:

יִשָּׂא אֶהָרָן אֶת יָדָיו אֶל הָעָם וַיְבָרְכֵם וַיֵּרֵד מֵעֲשׂוֹת הַחֹטֵאת וְהָעוֹלָה וְהַשְּׁלָמִים.

Aharon raised his hands toward the people and blessed them; then he descended from having performed the *chattas*-offering, the *olah*-offering, and the *shelamim*-offering. (*Vayikra* 9:22)

For this reason, Rav Yaakov Emden (*Mor U'Ketzi'ah*) writes that nowadays, the *mitzvah* of *duchening* must be only rabbinic in nature, given the lack of a *Beis HaMikdash* in which to offer *korbanos*.

The *Mishnah Berurah* (in a footnote to *Orach Chaim* 128:44) brings this opinion, but explains based on multiple sources in the *Gemara* and *Midrash* that *duchening* remains a *mitzvah d'oraisa* even nowadays. Similarly, the *Keren Orah* (*Sotah* 38a), quotes his older brother, the *Mishkenos Ya'akov* (*Orach Chaim, Teshuvah* 90), who explains that *duchening* remains a *mitzvah d'oraisa*, despite our inability to offer actual *korbanos tzibbur*.

Rav Soloveitchik expanded upon this theme in light of the *berachah* of *Retzei* in the *Shemoneh Esrei*. *Retzei* immediately follows *Shema Koleinu*, in which we ask that *Hashem* accept our prayers: וְקַבֵּל בְּרַחֲמִים וּבְרַצוֹן אֶת תְּפִילָּתֵנוּ – “and accept, with compassion and favor, our prayer.” What, then, is added by the beginning of the very next *berachah*, רְצֵה ד' אֱלֹקֵינוּ בְּעַמְךָ יִשְׂרָאֵל וּבְתִפְלִתָם – “Be favorable, *Hashem*, our G-d, toward Your people Israel and their prayer,” which seems to be a restatement of our previous request?

Rav Soloveitchik explained that the *berachah* of *Retzei* was recited by the *Kohanim* in the *Beis HaMikdash* after the sprinkling of the blood of the *Korban Tamid*, in order to ensure that

the *korban* would be accepted with favor (*Mishnah Tamid* 5:1). Indeed, the term “*ritzui*” is a technical term that appears in connection with *korbanos* (in the vast majority of its usage in *Tanach*). Examples of this usage are, ונרצה לו לכפר עליו – “and it shall become acceptable for him, to atone for him” (*Vayikra* 1:4), and, פגול הוא לא ירצה – “[If it shall be eaten on the third day] it is rejected; it shall not be accepted” (19:7).

The *Ba'al HaTanya* (*Iggeres HaTeshuvah, perek* 2) explains that the *passuk*, הכוזה יהיה צום אבחרהו ... הלזה תקרא צום ויום רצון לד' – “Can such be the fast I choose ... Do you call this a fast and a **day of favor** to Hashem?” (*Yeshayah* 58:5), uses the term “*ritzui*” in relation to a *ta'anis* because a fast day shares this element with the offering of *korbanos*. This is in line with the *tefillah* that Rav Sheshes added at the conclusion of his *Shemoneh Esrei* when he observed a *ta'anis*: “May it be Your will to consider my fat and blood that have been decreased as if I had offered them before You on the *mizbe'ach*, and **favor me**” (*Berachos* 17a). [See *B'lkvei HaTzon*, p. 82.]

Thus, the innovation of *Retzei* is that in this *berachah* we request that Hashem consider our *tefillas* as if we had brought a *korban*. It is not only that our *tefillas* correspond to the *korbanos*, but that the *tefillas* themselves are considered to be as *korbanos*. The element that serves to convert the *tefillah* into a *korban* is the *berachah* of *Retzei*.

Rav Soloveitchik explained that when one recites *Retzei* in his private *Shemoneh Esrei*, his *tefillah* is accepted by Hashem as if he had brought a *korban yachid* (of an individual). When a *shliach tzibbur* recites *Retzei*, the *chazaras hashatz* is then converted into a *korban tzibbur* (of the community). This is because of the concept of תפילת הציבור, which is distinct from תפילה בציבור. A תפילה בציבור is accomplished when each individual recites his own silent *Shemoneh Esrei* at the same time as the other members of a *minyán*. However, תפילת הציבור is the *chazaras hashatz*, in which the *chazan* serves as the representative of the *tzibbur*

to offer **one tefillah** on behalf of the **entire tzibbur** as a whole. In this way, the *chazan* is comparable to a *Kohen* offering a *korban tzibbur* in the *Beis HaMikdash* – one *korban* on behalf of the entire *tzibbur*.

Rav Shlomo HaKohen (*Binyan Shlomo, siman 1*), *Av Beis Din* of Vilna in the late 1800's and *magi'ah* of the *Vilna Shas*, adds that this is the intent of the *tefillah*, *וּתְעַרְבַּ לְפָנֶיךָ עֵתִירְתֵּנוּ כְּעוֹלָה וּכְקָרְבָן* – “May our entreaty become pleasing before You as an *olah*-offering and as a sacrifice,” which we recite just prior to *Birchas Kohanim* on *Yomim Tovim*. Absent *korbanos tzibbur*, we are unable to engage in *Birchas Kohanim*. This is really the theme of the beginning of the *berachah* of *Retzei* as well; we re-emphasize it in *וּתְעַרְבַּ* because the transformation of our *tefillos* into *korbanos* is indispensable to *Birchas Kohanim*.

We can also understand the requirement for the *Kohen* to ascend to the *duchan* (platform) during the recitation of *Retzei* in particular (*Sotah 38b*), since it is this *berachah* that establishes the *chazaras hashatz* as a *korban tzibbur*, which in turn makes it possible for the *Kohen* to *duchen*.

Thus, when the *shliach tzibbur* recites *Retzei* in the *chazaras hashatz*, the communal *תְּפִילַת הַצִּיְבוּר* is transformed into a *korban tzibbur*. This occurs on the level of *d'oraisa*, allowing for the *Birchas Kohanim* to be *d'oraisa* as well, even nowadays. The *Birchas Kohanim* does, in fact, take place at the conclusion of *korbanos tzibbur*. [The *Mishkenos Ya'akov* adds that although *tefillah* on a daily basis may be only rabbinic in nature (according to the *Ramban*), if it is a *tefillah* with *chazaras hashatz* and *duchening*, that *tefillah* would attain the status of a *d'oraisa*.]

Accordingly, we can well understand the necessity of the placement of *Birchas Kohanim* in the midst of the *chazaras hashatz*. Not only is the *duchening* not a *hefsek*, but it is integrally related to the *chazaras hashatz*. [See *Nefesh Harav*, 1994 ed., pp. 121-122; *Rav Schachter on the Parsha, Parshas Shemini*.]

III. *Teki'as Shofar* to Elevate *Tefillah* to *Ze'akah*

When we blow the *shofar* during *chazaras hashatz* on Rosh Hashanah, the *teki'os* similarly do not constitute a *hefsek*. Rather, these two entities blend together as one. We can better appreciate the intimate connection between *teki'as shofar* and *chazaras hashatz* based on an analysis of the efficacy and acceptance of *tefillah*.

The *Gemara* in *Berachos* (32b) teaches, "From the time that the *Beis HaMikdash* was destroyed, the heavenly gates of prayer were locked." The *Gemara's* source is the *passuk*, in reference to the *churban*, *גם כי אזעק ואשוע שתם תפילתי* – "Though I would cry out and plead, He shut out my prayer" (*Eichah* 3:8). It is based on this *Gemara* that we have the *minhag* to omit the phrase, *ותקבל צלותהון ובעותהון* – "May the prayers and supplications be accepted," from the *kaddish* after *Shacharis* on Tish'a B'Av, since our *tefillos* are not answered to the same extent as they would be if there was a *Beis HaMikdash*.

The reason for the diminished efficacy of *tefillah* after the *churban* is that the *Beis HaMikdash* is not only the place for the offering of *korbanos*; it is also the central location for acceptance of *tefillah*. The *Beis HaMikdash* is termed "*Beis Tefillah*" in the *passuk*, *כי ביתי בית תפילה יקרא לכל העמים*, – "for My House will be called a House of Prayer for all the peoples" (*Yeshayah* 56:7).

Indeed, when Shlomo HaMelech offered his beautiful *tefillah* upon the dedication of the First *Beis HaMikdash*, he made no mention of the offering of *korbanos*, but instead emphasized:

והתחנונו אליך בבית הזה והתפללו.

And [Your people] shall pray and supplicate to You in this House. (*Melachim I* 8:33)

Even when one finds himself at a distant location, he should face the *Beis HaMikdash* when *davening*. In this way, the *tefillah* gains acceptance, as Shlomo HaMelech continued:

והתפללו אליך דרך ארצם אשר נתתה לאבותם העיר אשר בחרת והבית אשר
בנית לשמך.

And they shall pray to You by way of their Land that You gave to their forefathers, and [by way of] the city that You have chosen, and [by way of] the House that I built for Your Name. (8:48)

Nevertheless, the *Gemara* continues, “Even though the gates of *tefillah* have been locked, the gates of tears have not been locked.” If one *davens* with such sincerity that he is brought to tears during his *davening*, that higher form of *tefillah* is answered, even if the *Beis HaMikdash* is in a state of *churban*.

The Targum translates the phrase, *יום תרועה יהיה לכם*, as *יום יבוא יהי לכון* – “it shall be a day of crying for you.” The *shofar*-blasts are described as sounds of crying because *teki’as shofar* can elevate the *tefillah* to one offered with tears, to a level of *תפילה שיש עמה דמעות*. This is what is gained by blowing the *shofar* in conjunction with *Malchuyos*, *Zichronos*, and *Shofaros*, and that is why, according to *Rashi*, joining these two *mitzvos* is a fulfillment of a *mitzvah d’oraisa*. Through this combination, the *tefillah* is elevated to a status of *ze’akah*.

Similarly, the *Rambam* (*Hilchos Ta’anis* 1:1) writes, in reference to *ta’anis tzibbur* during an *eis tzarah* (difficult time), that it is a *mitzvah d’oraisa* *לזעוק ולהריע בחצוצרות* – “to cry and to sound the *chatzotzros*.” The regular, daily obligation of *tefillah* is converted into an obligation of *ze’akah* during an *eis tzarah*. Indeed, the *Ramban* (*Milchamos*, *Rosh Hashanah* 11a in *dapei haRif*) likens the blowing of the *shofar* during *Mussaf* of Rosh Hashanah to the blowing of the *chatzotzros* following each of the additional six *berachos* added to the *chazaras hashatz* on a *ta’anis tzibbur* (*Mishnah*, *Ta’anis* 2:3-5). The *shofar* converts the *tefillah* of Rosh Hashanah into *ze’akah*. This is the intent of the *Gemara* in describing *teki’as shofar* with the phrase, *כיון דלזכרון הוא כבפנים דמי*.

The *Gemara* in *Rosh Hashanah* (26b), which discusses which shape of the *shofar* is optimal, a bent or a straight one, should be understood similarly. The *Gemara* relates this question to the

optimal posture that one should maintain when he *davens* on Rosh Hashanah, because it is through the *shofar* that one beseeches *Hashem*. According to one Tannaitic opinion, the more a person “straightens his mind,” the better. Thus, a straight *shofar* and an erect posture are preferable. We follow the opinion that the more one “bows his mind” the better. Accordingly, a bent *shofar* and a bowed posture should be used to reflect an attitude of submission.

Thus, as in the case of *Birchas Kohanim*, not only is the *shofar*-blowing not a *hefsek* in the middle of *chazaras hashatz*, but it actually enhances the *tefillah*. *Teki'as shofar* combines with the *tefillah*, and together we offer a *ze'akah* on the *eis tzarah* of the *Yom HaDin*.

The concept of a synthesis of *teki'os* with *tefillah* forms the basis of an explanation that Rav Soloveitchik suggested to understand the conclusion of the *Yerushalmi* in reference to *teki'as shofar* on Shabbos.

We mentioned above that the *Bavli* presents a contradiction between the two ways in which the Torah describes the day of Rosh Hashanah, as a *זכרון תרועה* and as a *יום תרועה*. The *hava amina* of the *Gemara* was to explain the *pessukim* by applying the description of *זכרון תרועה* specifically to a year in which Rosh Hashanah falls on Shabbos, on which the *shofar*-blast is only spoken of and not actually sounded.

The *Gemara* rejected this *hava amina* on the strength of two questions posed by Rava. First, if the absence of *shofar*-blowing on Shabbos is a *din d'oraisa*, why should there be a dispensation in the *Beis HaMikdash*, where the *shofar* was blown even on Shabbos? Second, the *Gemara* did not note any *melachah d'oraisa* involved in blowing the *shofar*, which would require abstaining from doing so on Shabbos, but rather only an *issur derabbanan*. The *Bavli* thus proceeds to offer an alternate reason to abstain from blowing the *shofar* on Shabbos, on the level of *derabbanan*.

Notably, the conclusion of the *Yerushalmi* (*Rosh Hashanah* 4:1) is that abstaining from blowing the *shofar* remains a *d'oraisa* consideration, like the *Bavli's hava amina*. The reason we do not blow *shofar* when Rosh Hashanah falls on Shabbos is the *passuk*, זכרון תרועה.

Rav Soloveitchik added that our *nusach hatefillah*, based on *Maseches Sofrim* (19:8), in which we switch from יום תרועה to זכרון תרועה when Rosh Hashanah falls on the Shabbos, seems to follow this opinion of the *Yerushalmi*. [*Nusach hatefillah* must always conform to the language employed in *Tanach*, and the description in *Tanach* of a Rosh Hashanah lacking *teki'as shofar* is זכרון תרועה.]

Rav Soloveitchik proceeded to explain how the *Yerushalmi* would respond to the two questions of Rava cited by the *Bavli*. It seems that the *Yerushalmi* holds that the *d'oraisa* prohibition involved in *shofar*-blowing on Shabbos is the prohibition of offering *techinos* (supplications) on Shabbos. [This *issur* is based on the *passuk*, ודבר דבר – “and speaking words” (*Yeshayah* 58:13), from which the *Gemara* in *Shabbos* (113b) derives that one's speech on the Shabbos should not be like his speech on weekdays. This prohibition is more stringent on Shabbos than on Yom Tov.] Since the blowing of the *shofar* is equivalent to offering a דמעוּת שיש עמה דמעוּת, it is forbidden to blow the *shofar* on Shabbos. Doing so would convert the *tefillah* into a *ze'akah*, and this must be avoided on Shabbos.

If this is the *issur* that the *Yerushalmi* viewed as the reason necessitating avoidance of *teki'as shofar* on Shabbos, an answer to Rava's first question also becomes apparent. The *Yerushalmi* holds that the location of the *Beis HaMikdash* is exempt from the *issur techinah* on Shabbos. This is because the *Beis HaMikdash* is the central location of acceptance of *tefillah*. In the *Beis Tefillah*, one can always offer supplications, even on Shabbos. [See *B'Ikvei HaTzon*, pp. 226-227.]

IV. Structure of the *Mussaf Amidah*

There is a *machlokes* among the *Tanna'im* regarding the proper way to organize the *Mussaf Amidah* of Rosh Hashanah (*Rosh Hashanah* 32a). All the *Tanna'im* work with the premise that the *Amidah* must consist of nine *berachos*. The difficulty is that there are really ten themes to be contained within the *Amidah* – the usual first three and last three *berachos* of every *Amidah*, the *Malchuyos*, *Zichronos*, and *Shofaros* unique to Rosh Hashanah, and an additional *berachah* to describe the *kedushas hayom*, paralleling the middle *berachah* in a Shabbos or Yom Tov *Amidah*.

The *Tanna'im* therefore dispute which two themes must be combined together so that the sum total will be an *Amidah* consisting of nine *berachos*. Rabbi Yochanan ben Nuri combines *Malchuyos* with the third *berachah*, since it concludes with the related idea of *HaMelech HaKadosh*. Rabban Shimon ben Gamli'el holds that *kedushas hayom* should instead be combined with *Zichronos* as the middle (fifth) *berachah*. We follow the opinion of Rabbi Akiva, combining *Malchuyos* with *kedushas hayom* as the fourth *berachah*.

The *Rambam* never rules on this *machlokes*, which led Rav Chaim to conclude that following Rabbi Akiva is simply a matter of proper *nusach*; one would fulfill his obligation if he were to recite the *Amidah* according to one of the other opinions as well. In fact, the *Yerushalmi* (*Rosh Hashanah* 4:6) records that the Galil region of Eretz Yisrael followed the view of Rabbi Yochanan ben Nuri.

Interestingly, the Rav quoted a comment of his uncle, Rav Menachem Krakowski (the author of *Avodas HaMelech*), who offered a suggestion in regard to the additional paragraphs found in the *berachah* of *HaMelech HaKadosh*:

ובכן תן פחדך ... ובכן תן כבוד ... ובכן צדיקים....

And so, instill Your awe [upon all Your works] ... And so, grant honor [to Your people] ... And so, the righteous [will see and be glad]....

Rav Krakowski proposed that these paragraphs are a vestige of the *nusach* of Rebbi Yochanan ben Nuri, which remains acceptable. This *piyut* served as the introduction to *Malchuyos*, which, according to this *nusach*, used to be combined with the *berachah* of *HaMelech HaKadosh*. [See *Nefesh Harav*, 1994 ed., p. 202.]

Rav Soloveitchik pointed out that the *Gemara* never explains why it assumed it was necessary to combine two of the *berachos*. Why did *Chazal* not simply institute an *Amidah* with ten *berachos* for the ten different themes mentioned in the *Amidah* of Rosh Hashanah?

There is a related *machlokes* between *Beis Shammai* and *Beis Hillel* regarding the *Amidah* recited when Yom Tov falls on a Shabbos. *Beis Shammai* holds that we say an eight-*berachah* *Amidah*, consisting of the usual first three and last three *berachos* of every *Amidah* as well as **two** middle *berachos*, one for the *kedushas hayom* of Shabbos and another for the *kedushas hayom* of Yom Tov. We, of course, follow *Beis Hillel*, combining the theme of *kedushas hayom* of Shabbos with that of Yom Tov into one middle *berachah* and concluding *מקדש השבת וישראל והזמנים*, thereby reciting a seven-*berachah* *Amidah* (*Beitzah* 17a). Even though it is not acceptable to conclude a *berachah* with two themes, this case is an exception to the rule (*Berachos* 49a), because the *Amidah* had to consist of seven *berachos*, not eight.

The Rav explained that the *Anshei Knesses HaGedolah* (Men of the Great Assembly), who composed the *nusach* of the *tefillah*, required the precedent of a source in *Tanach* to give them the right to institute a *tefillah* with a particular number of units. This was the case for the weekday eighteen-*berachah* *Shemoneh Esrei*, the later addition of its nineteenth *berachah*, the twenty-four-*berachah* *Amidah* of a *ta'anis tzibbur*, as well as the seven-*berachah* *Amidah* of Shabbos and Yom Tov (*Berachos* 28b-29a). That is why *Beis Hillel* insists on reciting a seven-*berachah* *Amidah* even when Yom Tov falls on the Shabbos – there is no source for an eight-*berachah* *Amidah* in *Tanach*.

With respect to the *Mussaf* of Rosh Hashanah, the *Gemara* cites the *tefillah* of Channah as the source for a nine-*berachah Amidah*, as the name of *Hashem* is mentioned nine times in her *tefillah*. *Chazal* understood from this *tefillah* that it is possible to compose an *Amidah* with nine units. Because there was a precedent for a nine-*berachah Amidah*, but not for one with ten *berachos*, the *Tanna'im* were working with the premise that they would have to fit the necessary ten themes into nine *berachos*. Thus, they debated which two themes should be combined together into one *berachah*.

In the man-made religions of *avodah zarah*, God is visualized as a human being who enjoys flattery and praise. Therefore, their prayer consists only of praise of God. In our religion, the essence of *tefillah* is *bakashas tzarachim*, in which we ask *Hashem* to take care of all of our needs. The core of the *Shemoneh Esrei* is the middle *berachos*; the rest is merely the prologue and the epilogue. *Hashem* does not need our praise, nor our thanks.

In addition, we fully realize that even when we offer *shevach* and *hoda'ah*, those words of praise and thanksgiving are wholly inadequate. *Derech erez* dictates that an introduction of *shevach* before the *bakashas tzarachim* is necessary (*Berachos* 32a), and it is therefore our practice to commence the *Shemoneh Esrei* with *berachos* in which we offer praise of *Hashem*. Similarly, it is proper to conclude with *berachos* that consist of thanksgiving to *Hashem*, but these sections of the *Shemoneh Esrei* are ancillary in nature.

On Shabbos and Yom Tov as well, when we omit the week-day middle section, there is still a section of *bakashos*, but these are spiritual *bakashos*. The concluding paragraph of the middle *berachah* of the *Amidah*, רצה במנוחתנו קדשנו במצותיך ותן חלקנו בתורתך - "May You be pleased with our rest; sanctify us with your commandments and grant our share in Your Torah," is the *bakashas tzarachim*, which constitutes the substance of the *tefillah* (*Igros Moshe, Orach Chaim* 4:63:2). Rav Soloveitchik pointed out

that the same is true in the *Mussaf Amidah* of Rosh Hashanah. The *berachos* of *Malchuyos*, *Zichronos*, and *Shofaros* form the essence of the *tefillah*, and in the concluding paragraphs of each of these sections we request the fulfillment of these concepts.

The structure of each of these three *berachos* includes an opening paragraph, which spells out an *ikar ha'emunah* (Principle of Faith) that we subscribe to. We declare in *Malchuyos* that *Hashem* is the sole Power in the world, in *Zichronos* that there is *hashgachah pratis* (Divine Providence) with an exact system of reward and punishment, and in *Shofaros* that there was a Divine Revelation upon the giving of the Torah, at which time *Hashem* communicated with Man.

In fact, Rav Yosef Albo, in his *Sefer Ha'Ikarim*, takes issue with the *Rambam*, who listed thirteen Principles of Faith. Instead, Rav Albo presents only these three themes as the *ikarei ha'emunah*. These principles were revealed to *Adam HaRishon* on the day of his creation, which we commemorate on Rosh Hashanah.

Following each statement of *emunah* in the opening paragraph, we demonstrate the veracity of these ideas through the citation of three *pessukim* from Torah, *Nevi'im*, and *Kesuvim*, respectively. Throughout the Talmud, *Chazal* employ such a methodology to demonstrate the validity of a particular statement: "This is written in the Torah, repeated a second time in *Nevi'im*, and repeated a third time in *Kesuvim*." Thus, the purpose of quoting these nine *pessukim* is to prove conclusively that the Principle of Faith stated in the opening paragraph of *Malchuyos*, *Zichronos*, and *Shofaros* is an authentic part of our *hashkafah*. We know these foundational principles to be true based on the fact that these *ikarim* appear repeatedly in *Tanach*.

V. The Role of the Tenth *Passuk*

Rav Soloveitchik indicated that the role of the tenth *passuk* is not to serve as part of the proof, demonstrating the truth of the

ikar ha'emunah that we subscribe to. In contrast to the first nine *passukim*, which are part of the *shevach* portion of the *berachah*, this *passuk* is connected with the concluding paragraph, which is when we offer our *bakashah* regarding that particular article of faith.

We request in *Malchuyos*, מלך על כל העולם כולו בכבודך – “Reign over the entire universe in Your glory”; in *Zichronos* we request, זכרנו בזכרון טוב לפניך – “Remember us with a favorable remembrance before You”; and in *Shofaros*, תקע בשופר גדול לחרותנו – “Sound the great *shofar* for our freedom.” These concluding paragraphs are the essence of the *Malchuyos*, *Zichronos*, and *Shofaros*, for they are the *bakashas tzarachim* part of the *tefillah*. The function of the tenth *passuk* is to enhance this *bakashah*, in which we ask *Hashem* to fulfill His promise.

Therefore, in *Zichronos* and *Shofaros*, we recite the tenth *passuk* within the concluding paragraph. In *Malchuyos* as well, although the tenth *passuk*, that of שמע ישראל, appears in the *siddur* as the final words of the preceding paragraph, it is meant to relate primarily to the concluding paragraph. To demonstrate this point, it was the Rav’s practice to have the *chazan* pause between his recitation of the ninth and tenth *passuk*, and then to continue from the tenth *passuk* into the concluding paragraph without pause. Quoting this tenth *passuk* is tantamount to beseeching *Hashem* to fulfill the particular *bakashah* of that *berachah*, as He Himself promised us in the *Chumash*. [See *Nefesh Harav*, 1994 ed., pp. 207-208; *MiPninei HaRav*, 2001 ed., p. 128.]

We find an indication that this is the function of the tenth *passuk* in the *Gemara* in *Rosh Hashanah* (32a). The *Gemara* cites the opinion of Rebbi Yochanan ben Nuri that the *shofar* is not blown upon the conclusion of *Malchuyos*, which, in his view, is combined with the third *berachah* of *HaMelech HaKadosh*. The *shofar*-blowing is reserved for the fourth *berachah* of *kedushas hayom*. To this, Rebbi Akiva responds cryptically, “If one does not blow [the *shofar*] for *Malchuyos*, why does he mention

ten [*pessukim* of *Malchuyos*]? Let him say nine [*pessukim*]. If [*Malchuyos*] is different [in that the *shofar* is not blown for it], it is also different [in regard to the number of *pessukim* recited, and nine *pessukim* should be sufficient].”

What, asked the Rav, is the connection between the blowing of the *shofar* and the recitation of the tenth *passuk*? It is very unclear in the *Gemara* why these should be at all interdependent.

The answer to this question was one of Rav Soloveitchik’s favorite explanations, a beautiful interpretation that he repeated almost yearly. He explained that the role of the tenth *passuk* is identical to the role of the *teki’as shofar*. As we explained earlier, the *teki’as shofar* is meant to intensify our *bakashah*, to elevate it to the level of a תפילה שיש עמה דמעות. The *shofar* converts the *tefillah* into a *ze’akah*. The tenth *passuk* serves the same purpose – to enhance the *bakashah* of the concluding paragraphs of *Malchuyos*, *Zichronos*, and *Shofaros*.

In those concluding paragraphs, we ask *Hashem* to reveal His *Malchus*, to remember us favorably, and to bring about our redemption, for He Himself wrote in the *Chumash* that He will do these things in the future. The previous nine *pessukim* could be recited even without the blowing of the *shofar*, for they are meant to prove the theme developed in the opening paragraph of each section. The final, tenth *passuk*, however – along with the *teki’as shofar* – is meant to strengthen our *bakashah*. Thus, Rebbi Akiva accurately asks, “If one does not blow [the *shofar*] for *Malchuyos*, why does he mention **ten** [*pessukim* of *Malchuyos*]?” [See *Mesorah*, vol. 2, pp. 13-16.]

YESODOS OF TESHUVAH

I. *Bechirah Chofshis*

The *Gemara* in *Pesachim* (54a) teaches that *teshuvah* is one of seven things that *Hashem* prepared prior to the creation of the world. *Hashem* planned to create Man with *bechirah chofshis* (free will), and He knew that sin would be inevitable. *Hashem* therefore wanted to give Man the opportunity to straighten himself out after he sins. In fact, the *Rambam* (*Hilchos Teshuvah* 5:1-2) stresses that *teshuvah* is based on the premise of *bechirah chofshis*.

Rav Soloveitchik pointed out that the *Rambam* uses a noteworthy expression in this regard: רשות לכל אדם נתונה לו – “Every man is given the ability [to sin].” The Rav felt that this phrase has a more inclusive connotation than the expression *bechirah chofshis*. *Bechirah* refers to the option that everyone has to choose from any one of a number of alternatives that he is presented with, similar to the usage of the word *bechirot* (elections) in Modern Hebrew. In contrast, the implication of רשות is that we have the capacity to select a path that is distinctly **different** from any of the alternatives that we are given.

A child raised in a totally religious environment has the ability to become totally secular. A young man whose parents present him with numerous options of secular universities to attend may insist of his own accord that he instead attend a *yeshiva*, an option that was never offered to him. One can choose a different way of life than the ones presented to him,

similar to a prisoner who releases himself from prison. The *Rambam* depicts this stronger form of *bechirah chofshis* as a fundamental principle of *teshuvah*. [See *MiPinei HaRav*, 2001 ed., p. 131.]

Rashi cites the *Midrash* that when *Hashem* formed Adam *HaRishon*, He took *עפר מן האדמה* – “soil from the earth” (*Bereishis* 2:7), from the place about which it is said, *מזבח אדמה תעשה לי* – “An altar of earth shall you make for Me” (*Shemos* 20:21). Man was created in this way as if to say, *הלואי תהיה לו כפרה* – “Would that [the earth of the *mizbe’ach*] serve as atonement for him.” *Chazal* here teach that the ability to do *teshuvah* and acquire *kapparah* was built into Man from the very time of his creation.

This is why in the weekday *Shemoneh Esrei*, the *berachah* regarding *teshuvah*, *השיבנו אבינו לתורתך* – “Bring us back, our Father, to Your Torah,” immediately follows the *berachah* over insight, *אתה חונן לאדם דעת* – “You graciously endow Man with wisdom.” The *tefillah* in regard to *teshuvah* is intimately connected with the singularly unique feature of Man – his intellect.

II. *Hakaras HaCheit*

The first step in the *teshuvah* process is *hakaras hacheit* (recognition of the sin). The natural state of the Jewish *neshamah* is that it seeks to be close to *HaKadosh Baruch Hu*. It is considered an aberration for a person to desire to sin. Thus, *hakaras hacheit* stems from the sinner’s feeling that he is distant from *HaKadosh Baruch Hu*. He wants to return because of the sense of loneliness that he experiences.

The *passuk* says, *או הודע אליו חטאתו אשר חטא* – “If his sin that he committed becomes known to him” (*Vayikra* 4:23, 28), to teach that *yedi’as hacheit* (definite knowledge of the sin) is a necessary prerequisite to bringing a *Korban Chattas*. *Tosfos* (*Shavuos* 4b, s.v. *v’ne’elam*; see *Kovetz He’aros, Yevamos*, 63:4) questions why the Torah had to specify that *yedi’as hacheit* is necessary prior to offering a *Korban Chattas*. This should have been understood from the fact that a *Korban Chattas* may not be

offered voluntarily. This *korban* may only be offered for a *cheit* that one knows he has committed, and it therefore should be obvious that the sinner must know that he sinned before bringing the *korban*.

Tosfos explains that the *passuk* comes to exclude a case in which the individual merely suspects that he may have sinned accidentally and therefore is *mafrish* (sets aside) an animal to be used as a potential *korban* once he ascertains that he did, in fact, commit an *aveirah*. The *passuk* teaches that even if he subsequently comes to the realization that he did sin, he would not be able to use that animal, because it was sanctified as a *korban* prior to definite knowledge that he sinned. The obligation to offer a *Korban Chattas* does not exist prior to *yedi'as hacheit*, just as there is no *chiyuv teshuvah* without *hakaras hacheit* and *yedi'as hacheit*.

Rabbeinu Yonah writes (*Sha'arei Teshuvah* 4:17) that there is a special *mitzvah* of *teshuvah* on Yom Kippur, beyond the constant obligation to repent every day. He bases himself on the *passuk*, לפני ד' תטהרו – “before Hashem shall you be cleansed” (*Vayikra* 16:30), which he understands as a directive to cleanse ourselves on this day. The Rav pointed out a similar statement of the *Rambam* (*Hilchos Teshuvah* 2:7):

יום הכיפורים הוא ... קץ מחילה וסליחה לישראל לפיכך חייבים הכל לעשות תשובה ולהתוודות ביום הכיפורים.

Yom Kippur is ... a specific time of pardoning and forgiveness; therefore, all people are obligated to do *teshuvah* and to confess their *aveiros* on Yom Kippur.

Rav Soloveitchik suggested that the nature of the obligation may be different on Yom Kippur than during the rest of the year, specifically in regard to the requirement of *yedi'as hacheit*. In general, if a person becomes aware of an *aveirah* he committed and thus has *yedi'as hacheit*, he has an obligation to do *teshuvah*. The unique obligation on Yom Kippur is for one to search through all of his actions. In reviewing all his actions,

including those that he believed to be permissible in the past, he may well come to the realization that he had been committing an *aveirah* all along that he did not recognize. He may find a *yedi'as hacheit* he was unaware of until this point, for which he is now able to do *teshuvah*.

The Rav suggested a parallel *halachah* that illustrates this additional requirement. In discussing the destruction of *avodah zarah* specifically in Eretz Yisrael, the Torah commands:

אבד תאבדון את כל המקומות אשר עבדו שם הגוים ... את אלהיהם ... ואבדתם את שמם מן המקום ההוא.

You shall utterly destroy all the places where the nations worshipped ... their gods ... and you shall obliterate their names from that place. (*Devarim* 12:2-3)

Based on this, the *Rambam* (*Hilchos Avodas Kochavim* 7:1) rules, בארץ ישראל מצוה לרדוף אחריה עד שנאבד אותה מכל ארצינו – “In Eretz Yisrael, there is a *mitzvah* to chase after [*avodah zarah*] until we destroy it from our entire land.” In *chutz la’Aretz*, no such requirement exists; the *chiyuv* only applies to *avodah zarah* that we know about in an area that we occupy. The additional *teshuvah* obligation on Yom Kippur is thus similar to the increased obligation to destroy *avodah zarah* in Eretz Yisrael. [See *MiPninei HaRav*, 2001 ed., p. 320.]

III. Necessity for *Vidui*

Another *yesod* of *teshuvah* relates to the *Rambam's* requirement of *vidui* (confession), which he holds is a *d'oraisa* obligation (*Hilchos Teshuvah* 1:1). [The view of the *Yere'im* (*siman* 263) is that only the *Kohen Gadol's* *vidui* is *mid'oraisa*, and this was expanded rabbinically to every man and woman.] A person must speak to *Hashem* about the *aveirah* in order to fulfill his obligation of *teshuvah*.

The ability to speak is the distinguishing characteristic of Man. The *Targum* on the *passuk* describing the formation of Man,

ויהי האדם לנפש חיה – “and Man became a living being” (*Bereishis* 2:7), translates: והות באדם לרוח ממללא – “and Man became a **speaking** being.” In the Middle Ages, when it was common to classify all of Creation into four categories – דומם צומח חי ומדבר – minerals, vegetables, living beings, and speaking beings – it was the capacity of speech and the power of communication that was considered synonymous with the uniqueness of Man.

Similarly, commenting on the *passuk* describing Chava as אימ כל חי – “the mother of all the living” (*Bereishis* 3:20), Rav Sa’adyah Gaon writes that Chava was “the mother of all the living beings **that speak.**” It is as if the phrase read אימ כל חי (as in לחיות – to express), interchanging the *yud* and *vav*. The *Gemara* in *Sanhedrin* (99b) understands the *passuk*, כי אדם לעמל יולד – “For Man is born for toil” (*Iyov* 5:7), as referring to עמל פה – the verbal toil of Torah study, not to the toil of physical labor, in which animals participate as well.

Oftentimes, in interpersonal relationships between spouses or between parents and children, lack of verbal communication can be a source of much frustration. Emotions that remain pent up within a person, failing to be expressed through *dibbur*, can have a negative psychological effect. *Tefillah*, although referred to as *avodah shebalev* (service of the heart), similarly requires the enunciation of one’s thoughts. Likewise, when a person is *chozer b’teshuvah*, he is obligated to speak to *Hashem*. He must communicate in words that he regrets his past actions and resolves to improve his ways, and he must verbally request of *Hashem* that He forgive him.

The *Mishnah* in *Avos* (2:8) teaches:

אם למדת תורה הרבה אל תחזיק טובה לעצמך כי לכך נוצרת.

If you have studied much Torah, do not take credit for yourself, because that is what you were created to do.

A person should not feel arrogant just because he has learned much Torah and is very observant of the *mitzvos*. Indeed, even those who have amassed Torah and *mitzvos* should not

“depend” on them. *Rashi* (*Devarim* 3:23) cites the interpretation of *Chazal* on the word וְאִתְּחַן, in the context of Moshe’s request to enter Eretz Yisrael, explaining that this term has the connotation of *matnas chinam* (a free gift). Although *tzaddikim* have great merit due to all the *mitzvos* that they perform, they beseech *Hashem* to be kind to them, not as a reward for their good deeds, but as an **undeserved** favor. They do not feel justified in making requests of *Hashem*.

The *Likuttim* on the side of this *Mishnah* in *Avos* cites a quotation in the name of the *Rambam*. Apparently, in the time of the *Rambam*, a very religious man protested reciting *vidui* on the grounds that it would be untruthful for him to confess performing the sinful acts described in the *vidui* that he knew he had never committed. It is reported that the *Rambam* responded harshly, claiming that the man would be held accountable for what he had said. If he truly realized how stringent and exacting the service of *Hashem* is, he would recognize that no day goes by on which he does not violate **every** *aveirah* mentioned in the *vidui*.

The *Rambam* continued that every person is judged according to his level of insight, and it is by that measure that he must be cognizant of his *aveiros*. For this reason, Dovid HaMelech was accused: את אוריה החתי הכיתי בחרב ואת אשתו לקחת לך לאשה – “You struck Uriyah HaChitti with the sword and took his wife [Batsheva] unto yourself for a wife” (*Shmuel II* 12:9). The *navi* seems to charge Dovid with murder and with adultery.

Yet, the *Gemara* in *Shabbos* (56a) explains that, in fact, Uriyah was subject to the death penalty because he was a *moreid b’malchus* (a rebel against the monarchy). The *navi* rebuked Dovid only because he should have had Uriyah judged by the *Sanhedrin* for his act of rebellion. Likewise, Dovid’s relationship with Batsheva was not adulterous, because the warriors of Dovid’s army wrote conditional *gittin* for their wives that would take effect retroactively if they died in battle.

Nevertheless, even though Dovid HaMelech's *aveiros* were technically not violations of *eishes ish* or *retzichah*, since he was on such a high level, the *navi* considered it as if he violated those *aveiros*.

A person is judged in proportion to his *madreigah*. For simpler people, the *dinim* of the Torah can be understood on one level. Those people who are on a higher level of *yiras Shamayim* are expected to be more punctilious in the observance of the *mitzvos haTorah*.

Rav Soloveitchik offered a similar explanation of the above *Gemara's* statement, *כל האומר דוד חטא אינו אלא טועה* – "Whoever says that Dovid sinned is simply mistaken." The *Gemara* means that **Dovid**, when viewed as a private individual, did not violate the *aveirah*. Dovid **HaMelech**, however, when viewed from the vantage point of his exalted position, definitely did sin, and the *navi* reprimanded him severely for this *aveirah*. [See *MiPinei HaRav*, 2001 ed., pp. 55-56.]

Moshe Rabbeinu was punished for a certain *cheit* at Mei Merivah. The *Ohr HaChaim* (*Bamidbar* 20:8) cites ten different explanations trying to identify the exact nature of the *cheit*. Even after all the ten *peshatim*, however, we are still left wondering what the *aveirah* was. Indeed, on the level of a regular person, it would not have been considered an *aveirah*; only on the level of Moshe was it considered an *aveirah*.

What emerges from these sources is that there are many *mitzvos* that have a primary connotation, but which also have secondary and tertiary levels of meaning. The *Gemara* (*Arachin* 30b) describes that aside from the *issur shevi'is* (agricultural work during *shemittah*), there is *avak shevi'is* – literally, dust of *shemittah* (commerce in *shemittah* produce), which is considered a lesser prohibition of *shemittah* law. There is *issur ribbis* (prearranged interest) and *avak ribbis* (secondary interest; *Bava Metzia* 61b), *lashon hara* and *avak lashon hara* (*Bava Basra* 165a).

Thus, while it may be true that one has never violated the actual *issur* of *eishes ish*, he very well may have violated an *abizraithu* (ancillary regulation; *Sanhedrin* 74b) of this *issur*. Every person on his *madreigah* should be able to have a genuine *hakaras hacheit* and realize that he is guilty of many *aveiros*.

There is a *machlokes Tanna'im* (*Yoma* 86b) regarding *aveiros* that a person violated in previous years, over which he has already done *teshuvah* and has recited *vidui* in the past. The ruling of the *Shulchan Aruch* (*Orach Chaim* 607:4) is that even if he has not repeated those earlier *aveiros*, he still should include them in his *vidui* on subsequent Yom Kippurs.

The *meshgiach*, Rav Yaakov Lessin *zt"l*, explained the rationale for this *psak* based on the idea that a person does not constantly remain on the same *madreigah*. *Serafim*, because they lack *bechirah chofshis*, are considered to constantly "stand" in the same position (see *Yeshayah* 6:2). A human, in contrast, is characterized as one who is constantly moving, as described in the *passuk*, ונתתי לך מהלכים בין העומדים האלה – "I will grant you strides among these [angels] who stand here" (*Zecharyah* 3:7). Therefore, if a person presently finds himself on a higher *madreigah*, he should come to a greater degree of *hakaras hacheit* over the *aveirah* that he previously confessed to. The *aveirah* was much greater and deeper than he previously thought, and this new *hakaras hacheit* obligates him in a new *chiyuv teshuvah*.

The *Gemara* in *Rosh Hashanah* (16b) mentions certain *aveiros* that are מזכירן עוונותיו של אדם – "cause a person's sins to be recalled [by the Heavenly court]." One of the *aveiros* listed is *iyun tefillah* – expecting one's prayer to be answered favorably. *Tosfos* (s.v. *v'iyun*) explains that this person believes that he *davens* so well that he deserves whatever he requests. The cause of his overly confident attitude, which leads to *iyun tefillah*, is arrogance, which is really at the root of all *aveiros*. Many people feel this way. They underestimate their *aveiros*

and feel that compared to other people they are *tzaddikim gemurim*. When they say *ashamnu bagadnu* – stated in the plural, collective form – they really have their neighbor in mind, not themselves.

We hold so highly of ourselves that we feel that we deserve a good year. If we would realize that specifically because we are *bnei Torah*, more is expected of us, we would see that we really did violate an *avak* of *avodah zarah*, *gilui arayos*, *shefichas damim*, *gezel*, and many other *aveiros*, even if we did not violate the actual *aveiros* themselves.

IV. *Tzedakah*

The *Mishnah* in *Sotah* (1:7) teaches: במידה שאדם מודד בה מודדין לו – “According to the standard in which one behaves, so he is dealt with.” The way a person treats others is the way he will be treated *min haShamayim*. That is why *tzedakah* is an important principle in the process of *teshuvah* (*Rosh Hashanah* 16b). If one is kind to others to whom he has no obligation, *min haShamayim*, the Heavenly court will be kind to him even though he is undeserving.

The *Gemara* in *Kesubos* (50a) states, המזבז אל יזבז יותר מחומש – “One who lavishes money [on charity] should not lavish more than a fifth [of his total savings].” [The *Rambam* (*Iggeres Teiman*, *perek* 4) wrote in his letter of guidance to the Jews of Teiman that one of the proofs that the individual claiming to be *Mashiach* there was, in fact, a false Messiah was his ordering the Jews to violate this *halachah* and donate excessively to the poor.]

The *Ba'al HaTanya* (*Iggeres HaTeshuvah* 3) writes, however, that there are exceptions to this rule. If a person were to be in desperate need of an operation to save his life, he would be willing to spend his **entire** savings for this purpose. As the *passuk* says, וכל אשר לאיש יתן בעד נפשו – “Whatever a man has he would give up for the sake of his life” (*Iyov* 2:4). Thus, *Tosfos*

(*Kesubos* 52a, s.v. *vehayu*) maintains that the rule that one may not ransom captives for more than their value (*Gittin* 45a) applies to other people, but not if one is redeeming himself or his wife.

Similarly, explains the *Ba'al HaTanya*, if the motivation behind one's desire to give *tzedakah* in excess of one-fifth of his savings is not merely to fulfill the *mitzvah* of *tzedakah*, but is part of his process of *teshuvah* in order to redeem his soul and achieve *kapparah*, it **would** be appropriate. The *tzedakah* given to those less fortunate will cause *Hashem* to be kind to the benefactor.

With regard to a *mitzvah* the purpose of which is *pirsumei nissa* (publicizing of a miracle), such as *neiros Chanukah* and *daled kosos* at the *seder*, the *halachah* not to spend more than one-fifth of one's savings is suspended (*Orach Chaim* 472:13, 671:1). Even an indigent person who is supported from *tzedakah* must purchase these items, although he would not be obligated to purchase *tefillin* or a *lulav*. Why is this so?

Rav Soloveitchik explained that when a *mitzvah* of *pirsumei nissa* is fulfilled, we demonstrate that *Hashem* suspended the laws of *teva* (nature) in order to perform *nissim* for our forefathers. When we fulfill these *mitzvos*, it is as if we also offer an implicit *tefillah* that *Hashem* should once again perform *nissim* for us today. If one were to act according to the prescribed guidelines set forth by the *din*, *המבזבז אל יבזבז יותר מחומש*, could he possibly expect that *Hashem* would change the rules of nature for him? In order to make this implied request of *Hashem* to break *teva*, we must be prepared to go over-and-above the usual requirement as well. Thus, one must be willing to spend more than one-fifth of his savings to fulfill these *mitzvos* in particular. [See *MiPninei HaRav*, 2001 ed., p. 146.]

The same is true with respect to *tzedakah* that one gives as part of his process of *teshuvah*. Giving a much greater amount of *tzedakah* at this time of year serves as an implicit *tefillah*, in keeping with the rule, *במידה שאדם מודד בה מודדין לו*.

V. *LeMa'alah min HaZman*

The Midrash (*Yalkut Shimoni, Tehillim 702*; also *Yerushalmi, Makkos 2:6*) records a famous comment:

שאלו לחכמה: חוטא מהו עונשו? אמרה להם: חטאים תרדף רעה. שאלו לנבואה: חוטא מהו עונשו? אמרה להם: הנפש החוטאת היא תמות. שאלו לתורה: חוטא מהו עונשו? אמרה להם: יביא אשם ויתכפר לו. שאלו להקב"ה: חוטא מהו עונשו? אמר להם: יעשה תשובה ויתכפר לו.

They asked the *Kesuvim*, "What is the punishment of the sinner?" She replied, "Evil pursues sinners" (*Mishlei 13:21*). They asked the *Nevi'im*, "What is the punishment of the sinner?" She replied, "The soul that sins, it shall die" (*Yechezkel 18:20*). They asked the Torah, "What is the punishment of the sinner?" She replied, "He shall offer a *Korban Asham* and will achieve atonement." They asked the Holy One, Blessed be He, "What is the punishment of the sinner?" He replied, "He shall do *teshuvah* and will achieve atonement."

Chazal here teach that there is no source in Torah, *Nevi'im*, or *Kesuvim* that *teshuvah* alone can achieve *kapparah*. For this, the sinner must rely solely on *Hashem* himself.

In a similar vein, the *Gemara* in *Yoma* (86a) teaches us that "Great is repentance, for it reaches unto the Divine Throne of Glory." The *Rambam* (*Hilchos Teshuvah 7:6-7*) similarly describes the process of *teshuvah*. Prior to his doing *teshuvah*, the state of the sinner is portrayed in the *passuk*, "עוונותיכם היו מברילים ביניכם לבין אלקיכם" (*Yeshayah 59:2*). Once he repents, the *ba'al teshuvah* becomes close to the *Shechinah*, cleaving to It such that his *tefillos* are answered immediately. What is the significance of these comments, meant to illustrate the power of *teshuvah*?

Rav Yosef Engel (*Otzros Yosef, drush 30*) explains that reaching the *kisei hakavod* signifies the idea that the *ba'al teshuvah*, by nearing the *Shechinah*, attains a level that is *lema'alah min hazman* (above time), similar to *Hashem* Himself. In this mode of existence, the present is able to have an effect on the past. It is as if the regret that the *ba'al teshuvah* currently feels was

present at the actual time of the *aveirah*, and not at a later time. Thus, the sinful act can be rendered just that – an act without any will or intent, similar to an accident.

This is how *teshuvah* works to uproot the *aveirah* retroactively. *Teshuvah* is really a supernatural phenomenon that does not follow the natural principle of causation, and for this reason it is a concept not found in Torah, *Nevi'im*, or *Kesuvim*. [Rav Engel differentiates between this *teshuvah* and that of a non-Jew, who is not able to reach the *Shechinah* and thereby erase his former sins in this way.]

VI. *Teshuvah* of a Jew

There is therefore a significant difference between Rosh Hashanah and Yom Kippur. Rosh Hashanah is relevant to all of humanity. There is a tradition from the time of Adam HaRishon that this day is a *Yom HaDin*. This was the day on which Adam HaRishon was created, and it was on that day that he was commanded not to eat from the *etz hada'as*. Of course, he violated this command; he was judged and punished on that very day, and he was informed that all of his descendants in all future generations would be similarly judged on Rosh Hashanah. As the *Mishnah* in *Rosh Hashanah* (1:2) teaches, בראש השנה כל באי העולם עוברין לפניו כבני מרון – “On Rosh Hashanah, all who walk the earth pass before Him like young sheep.”

Yom Kippur, in contrast, is specific to the Jewish People, because its historic precedent is the giving of the second *luchos* (*Ta'anis* 30b), which was to *Klal Yisrael* in particular. The status of Yom Kippur as a day of *selichah* and *kapparah* is related to the fact that the Torah, in the form of the second *luchos*, was given on this day. Thus, we declare in the *Amidah* of Yom Yippur that *Hashem* is מלך מוחל וסולח לעוונותינו ולעוונות עמו בית ישראל – “the King Who pardons and forgives our iniquities and the iniquities of His people, the House of Israel.”

The Vilna Gaon (*Siddur Ishei Yisrael, Avnei Eliyahu*) notes this connection in reference to the *berachah* in the *Shemoneh Esrei*, *והחזירנו בתשובה שלימה לפניך – השיבנו אבינו לתורתך ...* – “Bring us back, **our Father, to Your Torah** ... and influence us to return in perfect repentance before You.” In contrast to *Hashem’s* status as King over all of humanity, there is a special relationship between *Hashem* and *Bnei Yisrael* – the relationship between a Father and His children. This relationship is based on His giving the Torah to the Jewish People. The Vilna Gaon writes that one who delves into the study of Torah is compared to a son who has all the keys to his father’s treasure house in his hand.

For this reason, *Bnei Yisrael* are referred to as *banim laMakom* – “children of the Omnipresent” (*Avos* 3:14), a reference to a deeper degree of *tzelem Elokim* (the image of G-d) than that possessed by non-Jews. Just as children possess the genes of their parents, *Bnei Yisrael* have innate spiritual qualities from *Hashem* Himself. The *middos Elokus* (characteristics of G-dliness), as “spiritual DNA,” are ingrained within our *neshamos* from birth.

In fact, each Jew’s connection to the Torah begins before his birth, when a *mal’ach* teaches him the entirety of the Torah while he is in his mother’s womb (*Niddah* 30b). The *Ba’al HaTanya* (*Likutei Amarim, perek* 15) explains that this is done in order to instill within each Jew a hidden love, an *אהבה המסתורת* for *Hashem*, a desire to become close to Him. Since the Torah is, in its essence, a description of *Elokus* (G-dliness), a fetus is introduced to *Hashem’s* “personality” through the teaching of the *mal’ach*. That is why, deep within every Jew’s personality, he possesses a natural feeling of love towards *Hashem*.

Rav Soloveitchik elaborated on this principle articulated by the *Tanya*, explaining that it forms the basis of a statement of the *Rambam*. Basing himself on the *passuk*, *ושבת עד ד’ אלקיך* – “And you will return unto *Hashem*, your G-d” (*Devarim* 30:2), the *Rambam* (*Hilchos Teshuvah* 7:5) writes:

וכבר הבטיחה תורה שסוף ישראל לעשות תשובה.

The Torah has already promised that *Klal Yisrael* will, in the end, do *teshuvah*.

How can there be such a promise if we have a Principle of Faith that guarantees Man *bechirah chafshis*? Are the Jewish People not free to choose evil rather than good?

The answer must be that innately, the Jew does not want to sin. Doing *aveiros* runs contrary to his true nature. Sin is in the category of *mikreh* (happenstance) for a Jew (*Michtevei Marom*, by Rav Yaakov Moshe Charlap, *perek* 41). Therefore, the natural course of events is such that the Jew, even though he has the full ability to exercise his free will, will eventually return to his root nature. When a person acts in an abnormal fashion, this atypical situation will not continue indefinitely. This inner nature of the Jew reflects the *מהות* gleaned from the Torah study experienced even before birth.

This is why it is easier for us to do *teshuvah* than it is for the nations of the world; our natural desire is to be close to *Hashem*. Accordingly, there is a guarantee that the Jewish People will ultimately return to its natural state and do *teshuvah*. [See *Nefesh Harav*, 1994 ed., pp. 72-74; Rav Schachter on the *Parsha*, *Parshas Metzora*.]

In the passage of *Hayom Haras Olam*, recited in *Chazaras HaShatz* of *Mussaf* on Rosh Hashanah, we say:

היום יעמיד במשפט כל יצורי עולמים – אם כבנים אם כעבדים. אם כבנים
רחמנו כרחם אב על בנים ואם כעבדים עינינו לך תלויות עד שתחננו ותוציא
כאור משפטנו איום קדוש.

Today all creatures of the world stand in judgement – whether as children [of G-d] or as servants. If as children, be merciful with us as the mercy of a father for children. If as servants, our eyes [look toward and] depend upon You, until You be gracious to us and release our verdict [clear and pure] as light, O Awesome and Holy One.

It is much less challenging for *Klal Yisrael* to do *teshuvah*, because we approach *Hashem* as children, for whom a father naturally has compassion and mercy.

Of course, there is an institution of *teshuvah* extended to the nations of the world, and the thirteen Divine Attributes of Mercy apply universally (see *Yonah* 4:2). However, the nations of the world approach *Hashem* as servants, and this entails the request, “our eyes [look toward and] depend upon You, until You be gracious to us,” because it is not at all guaranteed that He will grant that request and pardon their misdeeds. The *teshuvah* of the nations of the world does not come instinctively, because they lack an *אהבה המסותרת* for *Hashem*. Indeed, they are correct in the assertion that the *neshamah* of a non-Jewish baby is born as a *tabula rasa*. The *kapparah* that *Hashem* grants them is similarly less natural.

The concept of *geulah* reflects the return of something to its original state. There is an institution of *geulas sados* or *geulas batim*, through which one’s ancestral field or house is returned to him, as well as *geulas avadim*, whereby a slave returns to the natural state of his being a free man. Similarly, there is a *geulas hanefesh* on Rosh Hashanah, which is the natural desire of every Jewish *neshamah*. The *Zohar* (*Hakdamah*, 13b) comments that the blowing of the *shofar* is a sign of the freeing of *avadim*, comparable to the *teki’os* sounded during *Yovel*.

A Jewish *neshamah* yearns to be free in the spirit of the famous teaching of *Chazal*: תורה בתלמוד תורה – אין לך בן חורין אלא מי שעוסק בתלמוד תורה – “There is no freer man than one who engages in the study of Torah” (*Avos* 6:2). In a similar vein, in *Hallel*, we recite the *passuk*, פתחת למוסרי ... אנה ד' כי אני עבדך – “Please *Hashem*, for I am Your servant ... You have released my bonds” (*Tehillim* 116:16), emphasizing that through becoming an *eved* to *Hashem*, one actually becomes free. The *neshamah* has indentured itself as a result of *aveiros*, and this unnatural state is rectified when the *shofar* is blown on Rosh Hashanah. This is one of the important *kavanos* to have in mind at the time of the *teki’os*.

The *neshamah* is *min ha'elyonim* (from the celestial heights) and as such, וגם הנפש לא תמלא – “Yet, the soul’s wants are never

satisfied" (*Koheles* 6:7). It finds no contentment in physical pleasures; the *neshamah* is looking for **spiritual** gratification.

The *Mesilas Yescharim* (*perek* 1) likens the relationship between the *neshamah* and earthly pleasures to that of a city dweller who marries a princess. Even if he buys for her everything in the world, it would mean nothing to her, by virtue of her being a king's daughter. He does not have any idea what will make his wife happy. This is a *mashal* of the *neshamah*, which gains no enjoyment from the delights of the world because they represent a totally incongruous realm of pleasure. The *neshamah* searches only for the happiness of being close to *Hashem*.

VII. Torah Learning

Based on the above, the most important method through which a person can come to do *teshuvah* is by increasing his *limud haTorah*. **לְתוֹרָה אָבִינוּ הַשִּׁבְנוּ** means that returning to *Hashem* as a consequence of our being *banim laMakom*, relating to *Hashem* as our Father, is solely through the **Torah** that was ingrained in our *neshamos*. First, one must gain closeness to *Hashem* through *limud haTorah*. Only then is he able to ask **וְהַחֲזִירנוּ בְּתוֹבָה שְׁלִימָה לְפָנֶיךָ**, because the closeness that Torah achieves will bring him to *teshuvah*.

It is true that one is obligated to learn Torah only when he has free time, and that the time one spends earning a livelihood is not free. Indeed, we must work to support ourselves and our families. But there is a certain limit to the amount of work one must engage in. If a person can live comfortably on a smaller income, and it is possible for him to reduce his work time and maintain his position, he should do so and endeavor to use his newfound free time for *limud haTorah*.

One should not feel that he should adopt this plan only if he is able to learn *Gemara be'iyun* for an extended period of time. If he uses the extra time to learn lighter subjects, such as *Tanach*, *Ein Ya'akov*, or *Kitzur Shulchan Aruch*, this *limud* is also most

praiseworthy. There are many people in our communities who have succeeded in doing this, and just as they have been successful, others can be as well. There will be a *teviyah* (complaint) on those who could have done so and did not, as the *Gemara* describes regarding the financial state of Hillel and of Rebbi Elazar ben Charsom (*Yoma* 35b).

One should not think that working harder now will allow him the opportunity of an early retirement, at which time he will be able to devote significant time to *limud haTorah*. The *Mishnah* tells us that this attitude, though popular, is in fact based on an incorrect calculation: אל תאמר לכשאפנה אשנה שמא לא תפנה – “Do not say, ‘When I am free I will study,’ for perhaps you will not become free” (*Avos* 2:4).

We should also not feel that it is too difficult for us to change. כי קרוב אליך הדבר מאד בפיך ובלבבך לעשותו – “Rather, the matter is very near to you – in your mouth and in your heart – to perform it” (*Devarim* 30:14). We live in an *olam hasheker* (world of falsity), filled with so much superficiality, and this leads us to be embarrassed by what others will think. We must remember that this world is so dark that it is compared to night (*Bava Metzia* 83b); only with the light of Torah, through which *Hashem* gives us illumination, can a person know what is right and what is wrong.

There was a *kabbalas haTorah* on Rosh Hashanah, as it was on this day that *Hashem* taught Adam HaRishon the Noachide laws (*Sanhedrin* 56b). That is why the phrase לדוד ד' אורי – “By Dovid; *Hashem* is my light” (*Tehillim* 27:1) is a reference to Rosh Hashanah (*Midrash Shocheh Tov, Tehillim; Vayikra Rabbah* 21:4). The beginning of the illumination of Torah was that which *Hashem* taught to Adam on this day.

Would we worry about what others think if we were making a great deal of money in an unusual business venture? The *Shulchan Aruch* (*Rema, Orach Chaim* 1:1) begins with the pronouncement: ולא יתבייש מפני בני אדם המלעיגים עליו בעבודת השם יתברך – “One

should not be embarrassed before people who ridicule him regarding the service of *Hashem*." These are crucial changes that we should make in our *avodas Hashem*, and if one knows that it is the right thing to do, he should do so despite any societal pressure to the contrary. We should strive to learn more Torah and thereby to lead enlightened lives.

VIII. Changing Times

Some children have a very healthy attitude – they feel awkward acting as if they are more religious than their parents. When it concerns an actual *halachah*, of course, we should meticulously follow the *din* in the *Shulchan Aruch* regardless of what earlier generations did. However, it is a proper outlook to not try to outdo our parents' level of *yir'as Shamayim*. *Halevai* that we should be on their *madreigah* of *yir'as Shamayim*!

We live in changing times. There is a constant *milchemes hayetzer*, and the *yetzer hara* uses new tactics in every generation to subvert our *avodas Hashem*. Rav Yisrael Salanter would give the *mashal* of a city that was once besieged, and the inhabitants of the city were able to successfully defend themselves by strengthening the fortified wall around the city. Years later, when the city was preparing for a new attack, one of the propositions to plan for a defense was to engage in the same tactic. Others responded that the situation was now very different. Now, the enemy was using airplanes to attack! A fortified wall would be of absolutely no use!

The same applies to the struggle that the Jewish People engage in against the *yetzer hara*. Our parents fought a *milchemes hayetzer* years ago and worked out a system whereby they would be successful in raising a new generation of *ovdei Hashem*. The *yetzer hara*, however, will reinvent himself; he does not attempt to fight the same way in this generation. "A person's *yetzer hara* strengthens itself against him every day" (*Sukkah* 52a).

The stringencies that earlier generations were especially careful about do not necessarily need to be stressed in our times, nor should we necessarily rely on the leniencies that our parents employed. The *dinei haTorah* do not change, but in a different set of circumstances, the *sheilah* is a different *sheilah*. Different tactics may need to be employed in order to be successful in the different situations.

If the circumstances have changed, performing the same act that was practiced in earlier generations is not necessarily considered following the same tradition. Yehoshua bin Nun was most certainly a loyal student of Moshe Rabbeinu. Upon conquering Yericho, he placed a *cherem* (ban) upon the spoils captured in that battle, just as his teacher Moshe had done earlier after his battles. When Achan violated the *issur* of the *cherem*, the punishment for which was the defeat of the Jewish army in Ai, *Hashem* chastised Yehoshua, saying, "You caused [this calamity to befall] them" (*Sanhedrin* 44a).

The *Acharonim* wonder about Yehoshua's guilt in this regard, as he apparently was simply following the tradition of his teacher. The *Maharsha* explains that by the time of Yehoshua, circumstances had changed. Once *Bnei Yisrael* had crossed the Yarden, the *din* of *arvus* (guarantorship) had become operational, placing blame upon the entire community even if an individual were to violate the *cherem*. In the current situation, even Moshe, Yehoshua's teacher, would not have placed such a *cherem*. Although Yehoshua had intended to duplicate the exact practice of his great teacher, he was, in fact, deemed responsible for deviating from the proper procedure, given the current reality. [See *B'Ikvei HaTzon, Pesichah*, pp. 1-2; *Rav Schachter on the Parsha, Parshas Toldos*.]

This goes in both directions; sometimes our current situation calls for a more stringent approach and sometimes for a more lenient one. We must present these *sheilos* to qualified *poskim*.

A certain Conservative rabbi wrote a critique of Rav Soloveitchik's philosophy. He commented that after studying the Rav's works, he came to the realization that Rav Soloveitchik was "deceiving" us all along. He conveyed his ideas using modern terminology, but "he did not write anything that his grandfather [Rav Chaim] would be embarrassed to say." Of course, this is absolutely correct! [See *Nefesh HaRav*, 1994 ed., pp. 21-22.]

It was the same *hashkafah*, but the different times called for a different presentation. It is the same Torah and the same *dinim*, but the application may be somewhat modified. We should not fool ourselves into believing that if our parents were successful in their *milchemes hayetzer* using certain tactics, we too will be successful if we do the same. The *yetzar hara* has a new approach now, and we therefore must sometimes develop a new approach as well.

Perhaps because of the fact that almost all of us learn in *yeshiva* until early adulthood, we have developed an attitude that we are all qualified to *pasken* for ourselves. We have the impression that all rabbis who have earned the same *semichah* degree are equally qualified to render halachic rulings. This is a big mistake. There is a difference between one who is a *ben Torah* and one who is a *moreh hora'ah*. Instead of taking it upon ourselves to *pasken* our *sheilos*, we should be accustomed to observing the dictum of *Chazal*: עשה לך רב - "Make a teacher for yourself" (*Avos* 1:16).

Being *machmir* without asking a *sheilah* will oftentimes lead to an incorrect practice. A *rav* should be consulted in every situation of doubt in order to fulfill the next phrase in the *Mishnah*, והסתלק מן הספק - "and remove yourself from uncertainty" (*Ru'ach Chaim*).

In addition, a measure of consistency is required when engaging in asking *sheilos*. One who collects the unique *pesakim* of a variety of *poskim* and acts in accordance with the combination thereof has, in fact, made none of these *poskim* his teacher;

instead, he is following his own, oftentimes misguided, *psak halachah*.

Similarly, it is wrong to seek a *rav* from whom one can always expect a lenient ruling, or even a stringent ruling. One should consistently consult one *rav* with whom he shares a similar *hashkafas ha'olam* (worldview), and then accept each of his *pesakim* upon himself.

KAPPARAS YOM HAKIPPURIM

I. *Kapparas HaYachid* and *Kapparas HaTzibbur*

The *Rambam* (*Hilchos Teshuvah* 2:7) states:

יום הכיפורים הוא זמן תשובה לכל ליחיד ולרבים והוא קץ מחילה וסליחה לישראל.

Yom HaKippurim is the time of *teshuvah* for all, for the individual and for the many, and it is the time for forgiveness and pardoning for Israel.

Rav Soloveitchik (*Al HaTeshuvah*, pp. 78-79) pointed out that the text of the *Rambam* implies two distinct elements. The last word of the first phrase, “the time of *teshuvah* for all, for the individual and for the **many**,” refers to many individuals. The second phrase, “the time for forgiveness and pardoning for **Israel**,” connotes something different. There is an aspect of Yom Kippur that addresses not the individual, nor many individuals, but rather *Klal Yisrael* as a single entity.

The Rav saw another allusion to the double *kapparah* of Yom Kippur in the *nusach* of the middle *berachah* of the *Yom Kippur Amidah*, that of *kedushas hayom*. We conclude the *berachah*, ... ברוך אתה ד' מלך מוחל וסולח לעוונותינו ולעוונות עמו בית ישראל – “Blessed are You, *Hashem*, the King Who pardons and forgives our iniquities and the iniquities of His people, the House of Israel....” “Our iniquities” refers to the *aveiros* of *yechidim* (individuals), whereas “the iniquities of His people” refers to the *aveiros* of the *tzibbur* (the community). There are two categories of *kapparah* on Yom Kippur. One *kapparah* is individual, specific

to each and every Jew. Additionally, *Klal Yisrael* as a whole, as an independent entity, achieves forgiveness through a collective *kapparah*.

It seems that the communal nature of the *kapparah* that the *Rambam* highlights is derived from the historical background of the *kapparah* of this day. On Yom Kippur, *Hashem* declared, *סלחתי כדברך* – “I have forgiven because of your word” (*Bamidbar* 14:20), forgiving *Bnei Yisrael* for the *chet ha’egel* (*Rashi, Devarim* 9:18; *Tosfos, Bava Kamma* 82a, s.v. *kedei*), which was an *aveirah* of *avodah zarah*.

Avodah zarah is a unique *aveirah* in that individual violations can combine to be considered a communal *aveirah*. The residents of an *ir hanidachas*, in which the majority of the inhabitants of a city in Eretz Yisrael worship *avodah zarah*, are punished differently than individuals who worship *avodah zarah*. The city with all its property must be destroyed, the city may never be rebuilt, and the guilty are executed by the sword. The *Ohr Same’ach (Hilchos Avodas Kochavim* 4:1) explains that the nature of these *dinim* is that the guilty are not treated as *yechidim*. When the majority of the residents of a city worship *avodah zarah*, the *aveirah* becomes an *aveirah* of the *tzibbur*.

Therefore, the original *kapparah* of Yom Kippur addressed an *aveirah* of the *tzibbur*. This is why the *Rambam* understood that Yom Kippur is an auspicious time not only for an individual to do *teshuvah* for his *aveiros*, but for the *tzibbur* to do *teshuvah* for its *aveiros* as well.

There is a common *minhag* to pledge *tzedakah* in memory of the deceased on Yom Kippur. That is why we recite *Yizkor*, in which we mention the deceased, on Yom Kippur; Yom Kippur can even achieve *kapparah* for the dead (*Rama, Orach Chaim* 621:6). Likewise, the day is referred to as *Yom HaKippurim* – the Day of **Atonements**, in plural, because of the double *kapparah*, for the living and for the dead (*Mishnah Berurah* 621:18, citing *Mahari Va’il*).

Similarly, as part of the *eglah arufah* procedure, the *Kohanim* recite, 'כפר לעמך ישראל אשר פדית ד' – "Atone for Your nation Israel that You have redeemed, Hashem" (*Devarim* 21:8). The *Gemara* in *Horayos* (6a) comments, "This atonement is fit to atone even for [the generation] that left Mitzrayim, for it is written, 'that you have redeemed' [meaning, from Mitzrayim]." We hereby achieve a *kapparah* on behalf of those who are dead, and not only for those alive at the time.

The difficulty with these practices is that there is a rule, אין כפרה למתים – "there is no atonement for the dead" (*Zevachim* 9b). If a person set aside an animal as a *Korban Chattas* for an unintentional transgression and then passed away, the *korban* may not be offered posthumously on his behalf (*Me'ilah* 10b).

This principle is extended to all forms of atonement. For example, *kofer*, the money paid by the owner of an ox that killed a person, serves the purpose of *kapparah*; it is not considered a monetary restitution for the loss caused by the ox. In this context, *Tosfos* (*Bava Kamma* 43a, s.v. *mai*) points out a number of differences between a payment that is categorized as "*kapparah*" (atonement) and one considered "*momona*" (monetary payment). One of the differences is that *beis din* will not collect *kofer* from the *yorshim* (heirs) of the owner of the ox, because there is no *kapparah* for the deceased.

If there is no atonement for the dead, how are we to understand the plural form in the term *Yom HaKippurim* or the fact that the *eglah arufah* achieves *kapparah* for the sins of earlier generations?

The *Maharsham* (*Mishpat Shalom*, *siman* 212) explains the operative principle in the case of *eglah arufah* by distinguishing between a *kapparas hayachid* and a *kapparas hatzibbur*. An individual who pays *kofer* or who offers a *Korban Chattas* achieves only a *kapparah* for himself, and such an individual *kapparah* cannot help the dead. However, when it comes to a *kapparas hatzibbur*, as in the case of *eglah arufah*, once *kapparah* is achieved

for the people who are alive, the *kapparah* extends to those who are deceased as well.

With this principle, we can explain a *Beraisa* in *Makkos* (11b). If a *rotze'ach beshogeg* (accidental murderer) exiled to an *ir miklat* (City of Refuge) dies, he must be buried in the *ir miklat*. Once the *Kohen Gadol* dies and the *rotze'ach* attains his *kapparah*, his remains may be exhumed and reburied in his ancestral burial grounds outside the *ir miklat*. Here too, since the death of the *Kohen Gadol* accomplishes a *kapparah* for the entire group of accidental murderers, we hold **יש כפרה למתים**, that even the deceased *rotze'ach* achieves *kapparah*. This is because the dead combine with the living to form one *tzibbur*, to which *kapparah* is granted. [See *B'Ikvei HaTzon*, p. 32.]

Rav Soloveitchik (*Al HaTeshuvah*, pp. 81-84) applied the above analysis of the dual nature of the *kapparah* of Yom Kippur to the *machlokes Tanna'im* (*Yoma* 85b, *Shavuos* 13a) about whether Yom Kippur atones even if the sinner does not do *teshuvah*. According to Rebbi, the *kapparah* of Yom Kippur is not predicated upon each individual doing *teshuvah*; the essence of the day itself is *mechaper*.

[One might ask why the *Tanna'im* would need to debate a matter that is dependant on the *Beis Din shel Ma'alah* (Heavenly Court), which has no relevance to us *halachah l'ma'aseh*. We may suggest that this *machlokes* does have practical significance, for one who is under an obligation to offer a *Korban Asham Taluy* (brought for an unintentional *kares*-bearing *aveirah* that one is uncertain if he violated). The *Mishnah* in *Kereisos* (6:4) teaches that those liable to bring *asham taluy* offerings are exempt from bringing them once Yom Kippur has passed, because Yom Kippur effects the necessary atonement. Therefore, the *Tanna'im* dealt with the question of whether Yom Kippur is *mechaper* without *teshuvah*, since it is relevant to one's being exempt from an *asham taluy*.]

How are we to understand the Yom Kippur of Rebbi, a Yom Kippur without *teshuvah*, without *vidui*, without *ta'anis*? Why does this sinner achieve *kapparah* if he remains in his state of rebellion even on Yom Kippur? The *Tosfos Yeshanim* (Yoma 85b, s.v. *teshuvah*) asks the question in this way: Why was the *Beis HaMikdash* destroyed because of our *aveiros* if, with the arrival of Yom Kippur, those *aveiros* were automatically erased?

The *Tosfos Yeshanim* answers that even according to Rebbi, there is no “*kapparah gemurah*” – full *kapparah* – without *teshuvah*, only a partial *kapparah*. In attempting to define the nature of this partial *kapparah*, the Rav employed the concept of the double *kapparah* of Yom Kippur discussed above. In other words, Rebbi’s words relate only to **one** of the two aspects of *kapparah* of Yom Kippur.

Rebbi’s position is that the essence of the day of Yom Kippur grants a *kapparas hatzibbur*; every *yachid* has a portion in the collective *kapparah* of Yom Kippur. Even a person who does not repent is included within the *tzibbur*, and he therefore also achieves a *kapparah*, albeit a partial one. However, even Rebbi would agree that the sinner must engage in *teshuvah*, *vidui*, and *ta'anis* on Yom Kippur for the sake of the *kapparas hayachid*. This element of the *kapparah* of Yom Kippur is not granted without *teshuvah*. No *mechaper* – neither a *korban* nor Yom Kippur – can bring full *kapparah* to the *yachid* without *teshuvah*.

The *psak* of the *Rambam* (*Hilchos Teshuvah* 1:3), though, follows the view of the *Chachamim*, who argued that there is no *kapparah* without *teshuvah* even on Yom Kippur. The Rav explained this position as follows. If the *kapparah* of Yom Kippur were only to consist of a *kapparas hatzibbur*, the *teshuvah* of the *yachid* would be dispensable. Indeed, the *Rambam* writes in the previous *halachah* that the *kapparas hatzibbur* of the *sa'ir hamishtale'ach* achieves *kapparah* even without *teshuvah* (except for *aveiros* punishable by *misas beis din* or *kares*).

However, as we have seen, a *kapparas hayachid* appears alongside a *kapparas hatzibbur* on Yom Kippur. Since the *kapparas hayachid* is contingent on *teshuvah*, even though the *yachid* is part of the *tzibbur*, he will not be included in the *kapparas hatzibbur* without *teshuvah*. Yom Kippur fuses the two elements of *kapparah* together as one; each aspect cannot exist independently. Either a person merits a double *kapparah*, as a *yachid* and as part of the *tzibbur*, or, if he neglects to do *teshuvah*, he fails to achieve either aspect of *kapparah*.

Thus, according to our *psak*, even the *kapparah* of Yom Kippur is contingent upon each individual doing *teshuvah*. Nevertheless, once an individual satisfies the condition of doing *teshuvah*, he acquires not only a *kapparas yachid*, but also a portion of the *kapparas tzibbur* given to the entire Jewish Nation as well. From its very inception, in the aftermath of *chet ha'egel*, Yom Kippur has served as a *kapparas hatzibbur* on the collective unit of *Klal Yisrael*.

This is how we can speak of *kapparah* afforded to the deceased as well as to the living – the complete *tzibbur* of *Klal Yisrael* – on a day referred to as *Yom HaKippurim*. Through the recitation of *Yizkor*, we include in the *kapparah* of Yom Kippur all the generations that were and that will be, the timeless entity of *Klal Yisrael*, from Avraham Avinu until the *Melech HaMashiach*.

II. The Concept of *Klal Yisrael*

Rav Soloveitchik, in the name of *Ba'alei Drush*, elaborated on the source of this concept that the Jewish Nation is not merely a group of individual people, but is rather a separate meta-physical entity, one which is much greater than the arithmetic sum of its component parts.

The *Mishnayos* in *Shekalim* describe the requirement of each adult male to donate a half-*shekel* to pay for the *korbanos tzibbur* (communal *korbanos*) offered in the *Beis HaMikdash* throughout

the year. Through this process, all of *Klal Yisrael* participated in the funding of the *korbanos tzibbur*. In this context, the *Mishnah* (1:4) records:

הכהנים דורשים מקרא זה לעצמן: כל מנחת כהן כליל תהיה לא תאכל. הואיל ועומר ושתי הלחם ולחם הפנים שלנו היאך נאכלים.

The *Kohanim* expounded the following *passuk* for their own benefit: "Every *minchah*-offering of a *Kohen* shall be entirely burnt; it may not be eaten" (*Vayikra* 6:16). If the *omer*-offering, the *shte'i halechem* [two loaves on *Shavuot*], and the *lechem hapanim* [twelve loaves placed on the *shulchan* on *Shabbos*] are ours, how may they be eaten?

A *Korban Minchah* of a *Kohen* must be entirely burnt on the *mizbe'ach*. The *Kohanim* reasoned that through their participation in the *machatzis hashekel*, each of the communal offerings mentioned in the *Mishnah* would be deemed a *korban shutfim* (*korban* of partners) between *Kohanim* and non-*Kohanim*, and would thus have to be entirely burnt due to the *Kohen's* partial ownership. Since those *korbanos* are **not** offered in this manner, it should be inappropriate for *Kohanim* to participate in the *machatzis hashekel*.

The *Mishnah* teaches, however, that Rabban Yochanan ben Zakai ruled that the argument of the *Kohanim* was flawed. He declared, "Any *Kohen* who does **not** contribute [the half-*shekel*] has sinned." However, the *Mishnah* does not give the reason that their reasoning was erroneous.

Rav Soloveitchik (also found in *Avnei Nezer, Choshen Mishpat, siman* 63) explained that their error lies in the distinction between a *korban shutfim* and a *korban tzibbur*. If a *Kohen* participates in the offering of a *Korban Minchah* as a partner along with others, each individual is considered a *ba'al hakorban* (owner of the *korban*), and the *Kohen's* portion of the *korban* would indeed require the entire *korban* to be offered on the *mizbe'ach*, as if he were the sole owner of the *korban*.

A *korban tzibbur*, however, is **not** offered on behalf of each individual. Each individual is not a *ba'al hakorban*. The *korban*

tzibbur is offered on behalf of *Klal Yisrael*, which we view as a separate entity, as its own metaphysical unit. Here, the “owner” is not a *Kohen*, even if a number of the contributors to the *terumas halishkah* fund from which the *korban* was purchased were themselves *Kohanim*. The “owner” is *Klal Yisrael*, and *Klal Yisrael* is neither a *Kohen* nor a *Yisrael*. [See *Nefesh Harav*, 1994 ed., p. 51.]

The *Ramban* (*Vayikra* 1:2) also expresses such a concept, differentiating in several ways between a *korban shutfim* and a *korban tzibbur* (see *Chiddushei Maran Ri”z HaLevi al haTorah*). If a *korban* is purchased with communal funds, it is considered a *korban tzibbur* of the entity of *Klal Yisrael*, not merely a *korban shutfim* offered on behalf of many individual partners.

As such, there is no requirement of *semichah* (leaning of the hands) of the owner upon the head of the animal before its *shechitah* (*Menachos* 92a). Also, the *nesachim* (libations) associated with such a *korban* are not paid for by the donors, but are taken from general public funds. Finally, such a *korban* may only be an animal-*Korban Olah*, since a bird-*Korban Olah* or a *Korban Shelamim* (as *nedavos* – free-will offerings) may not be brought as a communal *korban*.

There is a general rule, transmitted as a *Halachah L’Moshe MiSinai*, that a *Korban Chattas* whose owner has died is one of the five categories of *chattas*-offerings that may not be offered, but must be left to die. The *Gemara* in *Horayos* (6b) teaches that this disqualification does not apply in the case of a communal *Korban Chattas*. Even if the entire congregation that sinned has died, the animal designated as its *Korban Chattas* is not left to die. The *Gemara* explains that one cannot speak of “a *chattas* whose owners have died” in regard to a communal *korban*. With respect to its *chattas* offering, אין ציבור מתים – “a congregation does not die.”

The reasoning behind this *halachah* is that the “owner” of a *korban tzibbur* is not the many individuals on whose behalf it is offered, but rather the entity of “the *tzibbur*.” This new entity

called *Klal Yisrael* consists of all of the members of *Klal Yisrael*, past, present and future, **including** those who have passed away. That is why אין ציבור מתים. The *kapparah* of the *eglah arufah* and of *Yom HaKippurim* is to be understood in this way as well. The *kapparah* extends to the deceased as well as it does to the living. Both groups are equally part of the **timeless entity** of *Klal Yisrael*.

Rav Soloveitchik (*Al HaTeshuvah*, pp. 80-81) added a similar explanation of a perplexing *halachah* in the *Rambam* (*Hilchos Teshuvah* 1:1-2). As mentioned, the *Rambam* rules that Yom Kippur does not afford *kapparah* without *teshuvah*. In fact, the *Rambam* extends this principle to any method of *kapparah*, including a *Korban Chattas* brought for an accidental sin, *misah* (capital punishment) or *malkus* (lashes) meted out by *beis din* as punishment for an intentional *aveirah*, and monetary payment for assault and damages. Indeed, *beis din* administered *vidui* (verbal confession) to a condemned person prior to his execution (*Sanhedrin* 43b).

The *Pnei Yehoshua* expressed a similar notion regarding the *kapparah* gained by being buried in Eretz Yisrael (*Kesubos* 111a) based on the *passuk*, וכפר אדמתו עמו – “And His Land shall atone for His Nation” (*Devarim* 32:43). The *Minchas Elazar* (*chelek* 5, *siman* 12), the primary anti-Zionist Hungarian Rebbe, declared that the Zionists who feel that all their *aveiros* will be forgiven in the merit of their living in Eretz Yisrael are mistaken. He quoted his ancestor, the *Pnei Yehoshua*, who explained that living in Eretz Yisrael only affords *kapparah* **with** *teshuvah*, and so the anti-religious settlers would not be afforded the *kapparah* of Eretz Yisrael without doing *teshuvah*.

Thus, *teshuvah* is a necessary prerequisite for every form of *kapparah*. Yet, surprisingly, the *Rambam* writes that the *sa'ir hamishtale'ach* (the goat sent to *Azazel* in the *midbar*) on Yom Kippur is the one exception to this rule. The *sa'ir* is such a powerful *mechaper* that it atones even **without** *teshuvah*, at least

for transgressions that are not punishable with *kares* or *misas beis din*. Why is the *sa'ir hamishtale'ach* different from all other *mechaprims*? Furthermore, if the *sa'ir* is effective even without *teshuvah*, why does this efficacy not extend to *aveiros* associated with capital punishment, for which the *sa'ir* is *mechaper* **only** if the sinner has done *teshuvah*?

The Rav explained that regarding a private *korban* offered for an *aveirah*, if the owner has not done *teshuvah*, he is labeled as a *rasha*. His *korban* is therefore disqualified based on the *passuk*, זבח רשעים תועבה – “The offering of the wicked is an abomination” (*Mishlei* 21:27), and it does not achieve *kapparah*. That is why there is no *kapparah* without *teshuvah* in regard to a *korban yachid*.

The *sa'ir hamishtale'ach*, however, does not represent a *kapparas hayachid*. In the case of the *sa'ir*, the owner of the *korban* is not a particular person, but rather the *tzibbur* of *Klal Yisrael* as a whole. The entity of *Klal Yisrael* can never be classified as a “*rasha*,” and so its *korban* cannot be invalidated as a זבח רשעים. Thus, the *korban tzibbur* atones for each Jew as long as he is attached to *Klal Yisrael* and is included in the *tzibbur*, even if he has not done *teshuvah*. Regarding a *korban tzibbur*, *teshuvah* is not indispensable.

The Rav continued to explain that the reason that the *sa'ir* does not atone for every *aveirah*, such as those associated with capital punishment (*kares* or *misas beis din*), is not because of the principle זבח רשעים תועבה. It is because the Jew who violated such a severe *aveirah* has uprooted himself from the midst of *Klal Yisrael*. The *passuk* describes the result of an *aveirah* punishable with *kares*: ונכרתה הנפש ההיא מתוך הקהל – “that person shall be cut off from the midst of the Congregation” (*Bamidbar* 19:20). An *aveirah* punishable with *misas beis din* is considered even more severe. The *kapparas hatzibbur* is not dependent on *teshuvah*; it is this sinner’s displacement from the *tzibbur*, not his lack of *teshuvah*, which prevents the *kapparas hatzibbur* of the *sa'ir hamishtale'ach* from benefiting him.

III. Conditions of the *Bris Avos*

It is important to note that not everyone who was born Jewish is automatically a member of the entity of *Klal Yisrael*. The status of *kedushas Yisrael* and membership in the *אומה הישראלית*, the Jewish Nation, are two different concepts. How can we better define these two categories?

Rav Soloveitchik explained on many occasions that *Hashem* made two *brisos* (covenants) with the Jewish People. He made a *bris Avos* with Avraham, Yitzchok, and Yaakov, and He made a second *bris* at Har Sinai. Even after the *bris Sinai*, the *bris Avos* remains in effect.

We find many *pessukim* in the Torah that demonstrate that the *bris Avos* was never replaced or superseded by the *bris Sinai*. For example, the Torah states (*Vayikra* 26:42):

וזכרתי את בריתי יעקוב ואף את בריתי יצחק ואף את בריתי אברהם אזכור
והארץ אזכור.

I will remember My Covenant with Yaakov and also My Covenant with Yitzchak, and also My Covenant with Avraham will I remember, and I will remember the Land.

Hashem alludes to the earlier *bris* even after the larger *bris Sinai*, apparently because there are unique features to the enduring *bris Avos*.

Klal Yisrael was established when *Hashem* made the *bris Avos* with Avraham, Yitzchak, and Yaakov based on the acceptance of certain principles – the *mitzvos* that had been given at that time. These principles are considered to be the terms of the *krisas bris Avos*, the conditions necessary to enable one to be included in the *אומה הישראלית*. Although the *bris Sinai* consists of the full weight of the *taryag mitzvos*, the *bris Avos* is more limited in the scope of its requirements. It is not necessary to meet the specifications that make up the balance of the *taryag mitzvos* in order to qualify to be a member of the Jewish Nation that was formed through the *bris Avos*. What are those principles, adherence to which is necessary for inclusion in the Jewish Nation?

There was a popular opinion in the days of the *Ge'onim* (*Even Ha'Ezer* 157:4) that a *meshumad* (an apostate) loses his *kedushas Yisrael* and is not even considered Jewish. According to this opinion, such a *yavam* would not bind his *yevamah* and prevent her from being able to marry. Likewise, a *meshumad* would have to go through a process of *geirus* (conversion) to regain his Jewish status. However, this opinion has not been accepted. [The *Rama* (*Yoreh De'ah* 268:12), quoting from *Avos DeRebbi Nassan*, does require a *tevillah miderabbanan* upon his return to the Jewish faith.]

Nevertheless, although the state of *shmad* does not affect one's personal *kedushas Yisrael* status, it does impact on his membership in the *אומה הישראלית*. In the 1950's, Brother Daniel (Rufeisen) applied for Israeli citizenship under the Law of Return, claiming that he was Jewish, having been born to a Jewish mother. The Israeli government denied his request on the grounds that he had converted to Christianity. They held that even though he was Jewish, he should not be considered a member of *Klal Yisrael*.

Indeed, when the *Rambam* (*Peirush HaMishnayos, Sanhedrin, Hakdamah to Perek Chelek*) postulates the thirteen *ikarei ha'emunah* (Principles of Faith), he writes that anyone who denies any of those principles is not a member of *Klal Yisrael*, even if he did not go so far as to convert to a different religion. This individual, termed an *apikores*, retains his *kedushas Yisrael* according to the principle *אף על פי שחטא ישראל הוא* – "Even though he sinned, he is a *Yisrael*" (*Sanhedrin* 44a), such that if he is *mekadesh* a woman, it is a bona fide *kiddushin*. However, he does not join with the rest of *Bnei Yisrael* in the entity of *Klal Yisrael*. He is no longer a member of the Jewish Nation.

This distinction formed the basis of the explanation that Rav Soloveitchik gave regarding the *Gemara* in *Shavuos* (13a) mentioned earlier. The *Gemara* posits that even according to Rebbi, who maintains that *Yom HaKippurim* atones for those who do

not do *teshuvah*, it does not atone for some individuals: one who throws off the yoke of *Hashem* by denying His existence, one who speaks with insolence about the words of the Torah, and one who violates the *bris* of the flesh (*bris milah*). Why should these sinners be different than others for whom Yom Kippur does atone?

The Rav explained that Yom Kippur does not merely serve as a *kapparah* for *yechidim* (individuals), like a private *korban* or the payment of *kofer*. It is called *Yom HaKippurim*, in the plural form, because from its very inception it has served as a *kapparas hatzibbur* of the collective unit of *Klal Yisrael*. That is the reason that these *apikursim* are not afforded its *kapparah*.

Although they possess personal *kedushas Yisrael*, they are not part of the *tzibbur* of *Klal Yisrael*, and the *kapparas hatzibbur* therefore does not relate to them. Thus, acceptance of all of the *ikarei ha'emunah* – which were transmitted to Avraham, Yitzchak, and Yaakov – is crucial in order to be granted membership in the *אומה הישראלית* through being included in the *bris Avos*.

In addition to subscribing to the *ikarei ha'emunah*, there are further specifications that need to be fulfilled for inclusion in the *bris Avos*. At a *bris milah*, in the *berachah* אשר קידש ידך מבוטן, we include the following phrase: צוה להציל ידידות שארינו משחת – “Give the command to rescue the beloved of our flesh from destruction.” *Rashi* (*Shabbos* 137b, s.v. *tzavei*) cites the *passuk*, גם את בדם בריתך שלחתי אסיריך מבור אין מים בו – “Also you, through the blood of your covenant I have released your prisoners from the pit in which there is no water” (*Zecharyah* 9:11), as the source of the concept that all Jews who underwent a *bris milah* are spared from *Gehinnom*.

Similarly, the *Gemara* in *Eiruvin* (19a) teaches regarding those condemned to *Gehinnom*:

Avraham our forefather comes, brings them up, and receives them, with the exception of a Jew who cohabited with the

daughter of an idolator, because she draws his foreskin [hiding his *milah*], and he [Avraham] does not recognize him [as a Jew (Rashi)].

This *Gemara* should be understood along the lines of the *passuk*, להיות לך לאלקים ולזרעך אחרך – “to be a G-d to you and to your offspring after you” (*Bereishis* 17:7). The *Gemara* in *Yevamos* (100b) interprets this *passuk* to mean that *Hashem* instructed Avraham not to marry a non-Jew or slavewoman, so that his offspring would not follow her genealogical status. Instead, by marrying a Jewish woman, זרעו מיוחס אחריו – his offspring would follow his lineage.

The very next *passuk* speaks of the granting of Eretz Yisrael to the Jewish People:

ונתתי לך ולזרעך אחרך את ארץ מגורך את כל ארץ כנען לאחוזת עולם.

And I will give to you and to your offspring after you the land of your sojourns – the whole of the land of Cana’an – as an everlasting possession.

Rav Soloveitchik explained that Yishmael and Eisav, who did marry non-Jewish women, were not included in this *bris*, and therefore were not given rights to Eretz Yisrael.

We see that the *Gemara* understands that adherence to four conditions is essential to be included in the *bris Avos* and to be considered a member of *Klal Yisrael*. The terms of the *bris* include – belief in all of the *ikarei ha’emunah*, fulfillment of the *mitzvah* of *milah*, restriction against marrying a non-Jew, and the conviction that Eretz Yisrael is the National Homeland of the Jewish People. [See *Eretz HaTzvi*, pp. 121-124.]

IV. Recitation of *Boruch Shem*

The author of the *Nesivos*, Rav Yaakov MiLisa (*Nachlas Ya’akov*, *Parshas Vayechi*, s.v. *he’asfu*), explains the reasoning behind the ancient *minhag* to recite שם כבוד מלכותו לעולם ועד – “Blessed

is the Name of His glorious kingdom for all eternity” - out loud on Yom Kippur, but quietly during the rest of the year.

The *Gemara* in *Pesachim* (56a) teaches that before his death, Yaakov gathered his children, wishing to reveal to them the date that *Hashem* will destroy the enemies of the Jewish People and return them from their exile. At that time, the *Shechinah* (Divine Presence) departed from Yaakov and he was unable to reveal that date.

Yaakov feared that the reason for his inability to transmit the *nevu'ah* (prophecy) was that, perhaps, one of his sons was lacking in *emunah* and therefore was not worthy of receiving it. Thereupon, the *shevatim* reassured him with a statement that was addressed to Yaakov, who was also named Yisrael: אחד 'אלקינו ד' - “Hear, **Yisrael**, *Hashem* is our G-d, *Hashem* is One” (*Devarim* 6:4). In reaction to their affirmation, Yaakov joyously exclaimed, ברוך שם כבוד מלכותו לעולם ועד. He understood that the reason that he was prevented from revealing the time of the arrival of *Mashiach* was not because any of his sons was unworthy, but simply that the information was not meant to be known.

The *Nesivos* notes that at the time of the above interaction between Yaakov and his children, there were very few *mitzvos* to observe. The enthusiastic response of Yaakov was due to the fact that from the pronouncement of *Shema Yisrael* by the *shevatim*, Yaakov understood that they were completely observant of all the *mitzvos* that applied then.

From our perspective, however, now that the entire Torah has been given, the observance of only those few *mitzvos* and the pronouncement of *Shema Yisrael* would not be a cause of joy and excitement. Now, *Shema Yisrael* alone is insufficient; the observance of **all** of *taryag mitzvos*, the *bris Sinai*, is necessary in order to be considered a *shomer mitzvos*. That is why *Hashem* did not instruct Moshe to include the phrase *Baruch Shem* in the

Torah. Therefore, we cannot respond *Baruch Shem* with great enthusiasm in an audible fashion.

On the other hand, we recognize that *Shema Yisrael* alone still has significance, for it was able to be a cause of glorification of *Hashem's* kingdom at the time of Yaakov. We can still share in at least some of the joy of Yaakov Avinu. Even nowadays, a person who accepts *Hashem's* kingship by reciting *Shema Yisrael* is a member of *Klal Yisrael* because he has, at least, included himself in the *bris Avos*. Therefore, after *Shema Yisrael*, we do recite the statement *Baruch Shem*, albeit quietly. It is appropriate to request of *Hashem* that His kingship be blessed and recognized on the strength of our recitation of *Shema Yisrael* alone.

If this is the reasoning behind the recitation of *Baruch Shem* in a quiet fashion during the rest of the year, why do we change our usual practice and recite it aloud on Yom Kippur?

On Yom Kippur, *Hashem* grants more than a *kapparas hayachid*, like the offering of a *korban* or the paying of *kofer*. Those who do *teshuvah* attain *kapparah* on Yom Kippur not as individuals, but as members of *Klal Yisrael*. As we have seen, membership in *Klal Yisrael* is contingent upon acceptance of the *bris Avos*. Thus, what was required in the days of the *Avos* to define who was a member of the *bris* is the same as what is required nowadays for the *kapparas hatzibbur* of Yom Kippur. It is sufficient for the one seeking *kapparah* that he subscribe to the four conditions that are the terms of the *bris Avos*.

Thus, even if a person unfortunately does not keep *kashrus* or does not observe Shabbos, he may still acquire a *kapparah* on Yom Kippur, as long as he is part of the *tzibbur* of *Klal Yisrael*. On Yom Kippur, we proclaim *Baruch Shem* loudly, in full voice, because we wish to emphasize this concept – that *Hashem* grants *kapparas Yom HaKippurim* to all those who are included in the *bris Avos*, represented by the recitation of *Shema Yisrael*. On Yom Kippur, we are certain that *Hashem* will forgive our *aveiros* on the strength of the declaration of *Shema Yisrael* alone.

V. *LeMa'alah Min HaZman*

Rav Soloveitchik would often point out (see *Halakhic Man* 2:3-4; *Reflections of the Rav II*, pp. 15-23) that because the Jewish People join together to create the entity of *Klal Yisrael*, which is comprised of all the generations of Jews, we also have a different conception of time. In the natural course of history, things that have occurred in the past can affect the present, and things that occur in the present can affect the future. There is a principle of causation that imposes the rule of cause and effect, and which precludes the possibility of a future occurrence affecting the past and present retroactively.

However, Jewish history does not abide by that principle. Our perspective of time is such that past, present, and future all blend together. The Jewish People were granted the institution of *teshuvah*, and the foundation of *teshuvah* is that the future dominates the past.

We read *Maftir Yonah* on Yom Kippur to proclaim that the thirteen Divine Attributes of Mercy apply universally (*Yonah* 4:2); non-Jews are also afforded mercy and forgiveness when they repent. This was not only promised to the Jewish Nation, but to the nations of the world as well. However, there is something unique that was promised to the Jew who does *teshuvah*. The *passuk* זכרתי את בריתי יעקוב, stated at the conclusion of the *tochechah*, teaches that the *teshuvah* of the Jew will be accepted because he is embraced by the *bris Avos*. Apparently, there is something extraordinary in the *teshuvah* of the Jewish People based on the *bris Avos*.

In addition, there seems to be an added aspect of *teshuvah* connected to Eretz Yisrael, והארץ אזכור. In describing the *mitzvah* of *vidui* as a prerequisite to *teshuvah*, the *Midrash (Bamidbar Rabbah* 8:5; *Sifrei Zuta, Bamidbar* 5:5, cited by the *Rambam in Sefer HaMitzvos, Aseh* 73), considers a most remarkable *hava amina*:

אין במשמע וידוי אלא בארץ. ומנין אף בגלות וידוי אמרת והתודו את עוונם ואת עון אבותם.

The *mitzvah* of *vidui* certainly applies in Eretz Yisrael. From where do we derive that it applies in *galus* [outside of Eretz Yisrael]? From the *passuk* [at the conclusion of the *tochechah*] “Then they will confess their sin and the sin of their forefathers” (*Vayikra* 26:40).

The *Tanna'im* conclude that, in fact, *vidui* and *teshuvah* do apply in *chutz la'Aretz*. Yet, we may wonder, if *teshuvah* applies to non-Jews because it is a universal principle applicable to all human beings, why would the *Tanna'im* even entertain the possibility that it is limited only to those who live in Eretz Yisrael?

The answer is that there must be two aspects of *teshuvah*. The first aspect applies to any human being who does *teshuvah*; *Hashem* will pardon him and withhold punishment from him. A Jew's *teshuvah* however contains additional elements, as well.

The *Gemara* in *Yoma* (86b) teaches that remarkably when a Jew engages in *teshuvah miyir'ah* (repentance motivated by fear), *גדולה תשובה שזדונות נעשות לו כשגגות* – “Great is repentance, for because of it willful transgressions are accounted as inadvertent errors.” Moreover, when a Jew undertakes *teshuvah me'ahavah* (repentance motivated by love of *Hashem*), *זדונות נעשות לו כזכויות* – “Willful transgressions are accounted as merits.” With such a deep level of *teshuvah*, it turns out that the *aveiros* that he once did give him the impetus to perform more *mitzvos* in the future. Because they brought him to greater heights in *yir'as Shamayim*, they are reckoned as *mitzvos*.

The added feature of *teshuvah* offered to members of *Klal Yisrael* is that it alone has the ability to **rewrite history**. This concept that the future can affect the past, that the principle of causation is suspended, applies only to people who are *lema'alah min hazman* (above time). Being bound by the rules of time is one of the phenomena of nature, but the Jewish Nation, because of its closeness to *Hashem*, is *lema'alah min hateva* (supernatural), like He is.

There was a popular medieval adage, attributed to R' Yedaiyah HaPenini: עין וההווה כהרף עין – “The past has already gone by, the future not yet nigh, the present, the blink of an eye.”

The Rav, however, felt that the Jewish People never believed in that expression. We do not only live in the present; we live simultaneously with the past and with the future. There is a living past, and there is a future already in existence. Each influences and is influenced by the other. The demarcations between past, present, and future are blurred for the Jewish People. It is because of our *lema'alah min hazman* existence that it is possible for our *teshuvah* to rewrite the history of the *ba'al teshuvah*.

Just as *Hashem* created the world with physical principles of biology, chemistry, mathematics, astronomy, and physics, He also instituted rules and regulations of history. If one possessed great historical insight, he would be able to predict future events without the gift of prophecy.

For example, William Mitchell wrote a report (published in 1925 as the book *Winged Defense*), based on his assessment of Japanese expansionism and effective air attack strategy, that predicted future war with Japan. Mitchell foretold that the conflict would begin with a surprise attack by Japanese forces on Pearl Harbor on Sunday, December 7, 1941, at 7:30 am. [Mitchell's estimate, made 15 years in advance, was off by only 25 minutes!] The historical rules and regulations are called *mazal* and are operative when considering world history. The nations of the world are תחת שליטת כוכבים ומזלות – under the system that governs all natural phenomena.

However, in reference to the Jewish Nation, we are taught אין מזל לישראל – “The celestial signs have no influence over *Yisrael*” (*Shabbos* 156a-156b). The Jewish People do not function based on the natural system of the world. *Klal Yisrael's* history is *lema'alah min hateva* (see *Ramban, Bereishis* 17:1, *Devarim* 18:9).

When we observe the *mitzvos*, we are rewarded, and when we violate them, we are punished. Is it natural that the rains come in their proper time only if we serve *Hashem* properly? Does it follow logically that if we violate the laws of *shemittah*, we will be exiled from the Land?

The explanation is that Jewish history is **not** subject to the rules and regulations that *Hashem* instituted at the time of Creation. The Rav noted that if one were to draw a chart outlining the history of any given nation, it would be characterized by a predictable rise and fall, domination followed by utter demise. The Jewish Nation's history, however, would be represented by a zig-zagged course, with multiple cycles of peaks and troughs, depending on the level of observance of *Bnei Yisrael*. [See TorahWeb.org, *Parshas Bo*, 2002, "Jewish History: Stranger than Fiction"; Rav Schachter on the *Parsha*, *Parshas Vayeitzei*.]

Therefore, the *Tanna'im* entertained the possibility that the special notion of *teshuvah*, over and above the *teshuvoah* that is universally applicable, may only apply to the Jewish Nation when it is in Eretz Yisrael. There is a greater level of *hashgachah pratis* (Divine Providence) in Eretz Yisrael, as the *passuk* tells us, עיני ד' אלקיך בה מראשית השנה ועד אחרית שנה – "The eyes of *Hashem*, your G-d, are always upon it, from the beginning of the year to year's end" (*Devarim* 11:12). Just as there are many aspects of a *lema'alah min hateva* existence in Eretz Yisrael, so too, this second aspect of *teshuvoah*, based on a *lema'alah min hazman* capacity, should only apply in Eretz Yisrael.

The conclusion of the *Tanna'im*, however, is that the principle of אין מזל לישראל applies to the Jewish People even if they are located outside of Eretz Yisrael. **All** of Jewish history is *lema'alah min hateva*, even if it unfolds in *chutz la'Aretz*. Indeed, *Hashem* rewrites history for *Klal Yisrael*.

This is why we have an old custom to recite *Kol Nidrei*, which is really a public *hataras nedarim*, immediately before Yom Kippur begins, in order to annul vows taken since the previous Yom Kippur. The *Zohar* (*Raya Meheimna*, *Parshas Pinchas*, 255a) draws

a parallel between *hataras nedarim* and the annulment of one's *gezar din*. Just as a *beis din*, through *hataras nedarim*, uproots a *neder* retroactively, so too through *teshuvah* a person's impending *gezar din* can be uprooted and it will be as if he never committed the *aveiros* that he was being judged for.

The *Gemara* in *Yoma* (86a) comments on the power of *teshuvah*, גדולה תשובה שמגעת עד כסא הכבוד – “Great is repentance, for it reaches unto the Divine Throne of Glory.” Similarly, the *Rambam* (*Hilchos Teshuvah* 7:6-7) describes the state prior to one's doing *teshuvah*, עוונותיכם היו מבדילים ביניכם לבין אלקיכם – “Your iniquities have separated between you and your G-d” (*Yeshayah* 59:2). However, once one becomes a *ba'al teshuvah*, he becomes close to the *Shechinah*, cleaving to It, such that his *tefillos* are answered immediately. What is the significance of this observation, and how does this state relate to the *teshuvah* process?

Rav Yosef Engel (*Otzros Yosef, drush* 30) explains that reaching the *kisei hakavod* signifies the idea that the *ba'al teshuvah* who nears the *Shechinah* attains a state of *lema'alah min hazman*, similar to *Hashem* Himself. Therefore, the regret that the *ba'al teshuvah* now feels over his past misdeeds is considered as if it were present at the time of the *aveirah*. The sinful act is rendered just that – merely an act without any will or intent, as an accident. The *teshuvah* is able to erase the previous *aveirah* because the *ba'al teshuvah* has been able to rise above the principle of causation. [This is not the case regarding the *teshuvah* of a non-Jew, who is not able to reach the *Shechinah* and thereby erase his former sinful acts in this way.]

The *Midrash* (*Yalkut Shimoni, Tehillim* 702; also *Yerushalmi, Makkos* 2:6) records a famous comment:

שאלו לחכמה: חוטא מהו עונשו? אמרה להם: חטאים תרדף רעה. שאלו לנבואה: חוטא מהו עונשו? אמרה להם: הנפש החוטאת היא תמות. שאלו לתורה: חוטא מהו עונשו? אמרה להם: יביא אשם ויתכפר לו. שאלו להקב"ה: חוטא מהו עונשו? אמר להם: יעשה תשובה ויתכפר לו.

They asked the *Kesuvim*, “What is the punishment of the sinner?” She replied, “Evil pursues sinners” (*Mishlei* 13:21).

They asked the *Nevi'im*, "What is the punishment of the sinner?" She replied, "The soul that sins, it shall die" (*Yechezkel* 18:20). They asked the Torah, "What is the punishment of the sinner?" She replied, "He shall offer a *Korban Asham* and will achieve atonement." They asked the Holy One, Blessed be He, "What is the punishment of the sinner?" He replied, "He shall do *teshuvah* and will achieve atonement."

There is a special power that applies only to those who are close to *Hashem* and who are, therefore, *lema'alah min hazman*. Absent this relationship, the past, present, and future make up separate categories. For such people, there is no basis in *Tanach* to allow for present actions to have an effect on past ones. That is why this aspect of *teshuvah*, whereby *aveiros* are uprooted retroactively, is not a natural, intuitive concept.

VI. *Mispar HaDoros Lefanav*

The Rav (*Sacred and Profane*, Gesher 3:1, June 1966) cited the interpretation of Rav Yitzchak Yaakov Reines (*Orah VeSimchah, sha'ar* 3:9), the prominent Lithuanian Mizrachi leader, to explain the following enigmatic *Mishnah* (*Eduyos* 2:9) taught in the name of Rebbi Akiva:

האב זוכה לבן בנוי ובכח ובעושר ובחכמה ובשנים ובמספר הדורות לפניו והוא הקץ שנאמר קורא הדורות מראש. אף על פי שנאמר ועבדום וענו אותם ארבע מאות שנה ונאמר ודור רביעי ישובו הנה.

A father endows his son with comely appearance, with strength, with riches, with wisdom, with longevity, **and with the number of generations before him. And this is [the secret of] the redemption**, as it is stated, "He proclaimed the generations from the beginning" (*Yeshayah* 41:4). Although it is stated [with regard to the bondage in Mitzrayim], "And they will serve them and they will oppress them for four hundred years" (*Bereishis* 15:13), and it is stated, "And the fourth generation shall return here [to Eretz Yisrael]" (*Bereishis* 15:16).

In seeking to understand the obscure phrase *מספר הדורות לפניו*, Rav Reines explained that just as the previous generation affects the physical qualities of the next one in terms of appearance,

strength, and riches, so too does it make an impression on it regarding spiritual qualities. Rabbi Akiva teaches that each generation must look back at “the number of generations before him,” to walk in their path and to add to their service, in order to reach the complete state that will bring the redemption. Indeed, the generation in which the *geulah* will come will not merit that *geulah* only in the merit of its own actions, but on the strength of the *avodah* of **all** the previous generations.

Rav Reines continued to explain that the second *passuk* cited in the Mishnah in reference to the bondage in Mitzrayim is actually a response to the implication of the first *passuk*. [This is based on his emendation of the text of the *Mishnah* to read “it is stated,” instead of “and it is stated.”] Thus, the *Mishnah* here is posing the same contradiction found in the *Yalkut Shimoni* (Bo, 210): At the *Bris Bein HaBesarim*, Hashem told Avraham, *ויעבדום וענו אותם ארבע מאות שנה* – “And they will serve them and they will oppress them for four hundred years.” Yet, the *passuk* also says, *ודור רביעי ישובו הנה* – “And the fourth generation shall return here [to Eretz Yisrael].” How can we reconcile these two *passukim*, as four generations is a much shorter period of time than four hundred years?

The *Midrash* quotes Rabbi, who provides a resolution to the contradiction: “If they do *teshuvah*, I will redeem them [according to] generations; if not, I will redeem them [according to] years.” Thus, if the Jewish People will merit it, the *galus* will be brief and *geulah* will occur after four generations; if not, the *galus* will be lengthened to a period of four hundred years. The primary objective is for the Jewish People to merit a *geulah* based on “generations.” Only if the generations do not succeed will the *geulah* arrive based on the count of “years.” [The *Magen Avraham’s* commentary on *Yalkut Shimoni*, *Zayis Ra’anani*, also seems to suggest this interpretation of the *Mishnah* in *Eduyos*.]

The Rav elaborated on the lesson of this *Mishnah*, the theme of which is ensuring an enduring commitment to the *Masorah*.

“Rebbi Akiva ... was setting forth the premise of Jewish survival, namely, the ability of parents to transmit to their children the secret of uniting with past generations, of whatever number, dating back to antiquity” (*Reflections of the Rav II*, p. 17).

We must never do away with the traditions that we have received from previous generations. We must not lead our lives as if we are making a fresh start. If the Jewish People reject their past, there is no *bris Avos*. As the Rav put it (*Gesher 3:1*, p. 21):

The Jew of the *Masorah* has a different conception of Time. Revelation and Tradition erase the bounds of time ... Upon this phenomenon of an historical continuum was founded the strength of *Masorah*, conceived as an historic stream of Jewish spirit whose tributaries of past, present, and future merged in each other.

We must feel attached to the past, remaining linked to Avraham, Yitzchak, and Yaakov. If there exists such a connection between the generations, identifying with our ancestors is possible. In fact, the only way to be *metzura*f (connected) as *Klal Yisrael* is to span the generations and subscribe to the *Masorah* of the *Avos*.

Furthermore, Rebbi Akiva emphasizes the idea that the “generation-awareness” of the Jewish People, the attitude of *מספר הדורות לפני*, is a major factor in bringing about the *geulah*. If the Jewish People can “proclaim [an identity with] the generations from the beginning,” they will be linked to the *bris Avos*. Then, *Hashem* will remember the *bris Avos* and hasten the *geulah*. The metaphysical entity of *Klal Yisrael* and its historical destiny will both be realized. *והוא הקץ* – this is the secret that will lead to the Messianic redemption. [See *Nefesh HaRav*, 1994 ed., pp. 48-51.]

This lesson is very relevant to the *kapparas hatzibbur* of Yom Kippur. Rav Soloveitchik would point out that in order to acquire a *kapparas hatzibbur*, one must be prepared to connect himself to the *tzibbur*. Commensurate to his connection to the *tzibbur* will be the *kapparah* he receives through the *tzibbur*.

The Rav spoke of two levels of combining with the *tzibbur*. First, one must be a member of the present community in the way described in the *piyut* that we recite after the *avodah* on Yom Kippur. Here, the *paitan* describes the day of Yom Kippur as, יום שימת אהבה וריעות יום עזיבת קנאה ותחרות – “A day of instituting love and friendship, a day of forsaking jealousy and competition.”

Second, one must join with the *tzibbur* in the sense of linking to the entity of *Klal Yisrael*, by connecting with the earlier generations and embracing our rich tradition. The *Midrash (Tanna D’Vei Eliyahu Rabba, perek 25)* teaches that each person is obligated to ask himself, יצחק ויעקב – “When will my actions reach the actions of my forefathers, Avraham, Yitzchak, and Yaakov?”

The *Sfas Emes (Bamidbar 5631, s.v. aa”z; 5634, s.v. ish; Pesach, Likutei Yehudah, s.v. vehigatem)* explains that the word יגיעו does not mean to “reach” (as in להגיע), as if we actually expect to attain their level. It means to “touch” them (as in נגיעה) – that one’s *avodah* should be considered a *hemshech* (continuation) of that of the earlier generations. Similarly, if the *ba’al teshuvah* has linked the past, present, and future generations together, thereby making himself part of the *bris Avos*, he will merit to be included in the *kapparos hatzibbur* of Yom Kippur.

The *Midrash on V’zos Haberachah (Devarim Rabbah 11:1)* teaches a similar lesson. There was a certain tradition in reference to the method of bestowing *berachah* that was passed down through the generations, whereby each *mevarech* began from the point at which the former left off.

Avraham bequeathed his *berachah* to Yitzchak with the words, ויתן אברהם את כל אשר לו ליצחק – “Avraham gave all that he had to Yitzchak” (*Bereishis* 25:5), and thus Yitzchak blessed Yaakov, ויתן לך האלקים – “And may G-d give you” (27:28). Yitzchak concluded with, ויקרא יצחק אל יעקב ויברך אותו – “Yitzchak summoned Yaakov and blessed him” (28:1), and Yaakov began

his *berachah* to the *shevatim* in this way, ויקרא יעקב אל בניו - "Then Yaakov summoned his sons" (49:1). Yaakov closed with the phrase, וזאת אשר דבר להם אביהם - "And this is what their father spoke to them" (49:28), and Moshe commenced with, וזאת הברכה - "And this is the blessing" (*Devarim* 33:1). The *Yalkut Shimoni* (*Vayechi* 161) adds that Moshe concluded with, אשריך ישראל - "Fortunate are you *Yisrael*" (33:29), and Dovid began *Tehillim* (1:1) with, אשרי האיש - "Fortunate is the man."

Each *mevarech* offered a different text in his *berachah* because each generation possesses a unique perspective and a specific role. One father did not bless his children with the exact *nusach* through which he had been blessed by his father. Each generation must adapt somewhat, because situations constantly change and society evolves.

Yet, there must be a sense of tradition, so that each generation is careful to begin from the point at which its predecessor left off. Each subsequent generation must "touch" the *berachah* of the former one. Continuing the *Masorah* of our predecessors will make us worthy of the *berachos* and the promises associated with the *bris Avos*, and will allow us to achieve the *kapparas hatzibbur* of Yom Kippur. [See *B'lkvei HaTzon, Pesichah*, pp. 1-2.]

AVODAS YOM HAKIPPURIM

I. Torah SheBe'al Peh

The Torah describes *avodas Yom HaKippurim* as being divided into three units. The *Kohen Gadol* begins the *avodah* while wearing the usual *bigdei zahav* (golden vestments), changes into the *bigdei lavan* (white, linen vestments) that he wears only on Yom Kippur, and then completes the *avodah* while wearing the *bigdei zahav*. However, there is an enigmatic teaching of the *Gemara* in *Yoma* (32a), cited by *Rashi* on the *passuk*, וּבֹא אַהֲרֹן אֶל אוֹהֶל מוֹעֵד – “Aharon shall come to the *Ohel Mo'ed*” (*Vayikra* 16:23): “The entire *parsha* is stated according to the order [in which the Yom Kippur service was performed] except for this ‘coming.’”

The *Gemara* records a tradition, a *Halachah L'Moshe MiSinai*, that the *Kohen Gadol* must immerse himself five times on Yom Kippur, prior to each change of garments, and also that each *tevillah* involves two *kiddushin* (sanctifications) of the hands and feet, for a total of ten *kiddushin* – חֲמֵשׁ טְבִילוֹת וְעִשְׂרֵי קִידוּשֵׁי טוֹבָל – כֹּהֵן גָּדוֹל וּמְקַדֵּשׁ בּוֹ בַיּוֹם. Therefore, says the *Gemara*, the ‘coming’ in this *passuk* must be an exception to the usual order of *avodah* as delineated in the *parsha*. The ‘coming’ is a reference to the re-entry of the *Kohen Gadol* into the *Kodesh HaKodashim* to remove the *kaf* (ladle) and the *machtah* (coal-pan) which had been left there after the *avodah* of the *ketores*, part of the second unit of *avodah*.

If the entire *parsha* were understood as being stated in order, there would be only three sets of *avodah* with three changes of

garments as described in the Torah, not the requisite five units as described by the *Halachah L'Moshe MiSinai*. If, however, the second unit of *avodah* is divided into two parts, separating the removal of the ladle and coal-pan from the *Kodesh HaKodashim* from the other special *avodos* of Yom Kippur, there are a total of **five** sets of *avodah*, alternating between *bigdei zahav* and *bigdei lavan*.

The Brisker Rav (*Chiddushei Maran Ri"z HaLevi al Inyanei Kiddush HaChodesh Yoma VeSuccah*, pp. 16a-16b), based on a comment in *Chiddushei HaRamban* (*Yoma* 70a), understands that if the *avodah* would be performed in three units, as the Torah describes, it would be *kasher*, as that is the *seder* written in the *parsha*. Only the separate fulfillment of the *Halachah L'Moshe MiSinai* requiring five *tevillos* and ten *kiddushin* would not be satisfied.

Even if this is the case, however, there is an obvious question. Why did the Torah not record the above *passuk* in its rightful location, teaching the entire *seder avodah* in the correct sequence? The *passuk* should have been placed in its proper place, so that performing the *avodah* according to that sequence would result in a fulfillment of the *Halachah L'Moshe MiSinai* in addition to being compliant with the order of the *Torah SheBichsav!*

Rav Soloveitchik offered an answer to this question based on a *drashah* of his great-grandfather, the *Beis HaLevi* (*drush* 18, in *Teshuvos Beis HaLevi*). The *Beis HaLevi* notes that we celebrate two separate Yomim Tovim commemorating *Mattan Torah* – Shavuos and Yom Kippur. The *Gemara* in *Ta'anis* (30b) tells us, "The Jewish People had no days as festive as the fifteenth of Av and Yom Kippur ... Yom Kippur [is considered an especially festive day] because ... it was the day on which the second *luchos* were given." Two Yomim Tovim are necessary because Shavuos commemorates receiving the first *luchos*, whereas Yom Kippur celebrates receiving the second *luchos*.

There was a major difference between the first *luchos* and the second *luchos*. The first time that Moshe ascended to receive the *luchos*, he did not take any material with him. The *passuk* says, והלוחות מעשה אלקים המה והמכתב מכתב אלקים הוא – “The tablets were Hashem’s handiwork, and the script was the script of Hashem” (*Shemos* 32:16). The *luchos* are described as being made of stone, but they were formed from heavenly material.

However, regarding the second *luchos*, Hashem said to Moshe, פסל לך שני לוחות אבנים כראשונים וכתבתי על הלוחות את הדברים אשר היו על הלוחות הראשונים אשר שברת – “Carve for yourself two stone tablets like the first ones, and I shall inscribe on the tablets the words that were on the first tablets, which you shattered” (34:1). Moshe was to ascend with stone *luchos* from this world, to serve as the substance upon which Hashem would engrave the *Aseres HaDibros*.

The *Beis HaLevi* expands upon this difference, citing *Midrashim* that explain that not only the *Aseres HaDibros*, but *kol haTorah kulah* – the **entire** Torah, including what is now *Torah SheBe’al Peh*, was miraculously engraved on the first *luchos*. The engraved script of the second *luchos*, however, included only the *Aseres HaDibros* themselves. [Notably, the only mention (in *Shemos* 34:28 and *Devarim* 10:4) of the writing of the *Aseres HaDibros* on the *luchos* is in connection with the **second** set, not the first.]

The *passuk* cited above, וכתבתי על הלוחות את הדברים אשר היו על הלוחות הראשונים אשר שברת, is interpreted to mean, “I shall inscribe onto the second *luchos* only those words that were on the first *luchos* **at the time you shattered them.**” The additional letters and words on the first *luchos*, which comprised the **entire** corpus of Torah, “flew” into the air as a result of the *chet ha’egel*. All that remained on the *luchos* at the time they were smashed were the letters of the *Aseres HaDibros*, and only these letters were later engraved on the second *luchos*.

The *Beis HaLevi* provides the rationale for the above differences between the first *luchos* and the second *luchos*.

Hashem's original plan was to have the entire body of the Torah written on the first *luchos* since, at that point, there was no need to divide the Torah into *Torah SheBichsav* and *Torah SheBe'al Peh*. This changed after the *chet ha'egel*, when *Hashem* decreed that *galus* and the subjugation of *Bnei Yisrael* would be a future possibility. This post-*chet ha'egel* reality necessitated the division of the Torah into its current two sections, with the *Mishnah*, *Gemara*, and *Aggadah* remaining in an oral form, and this division was reflected in the second *luchos*.

Why did the possibility of *galus* make an oral Torah necessary? *Tosfos* (*Gittin* 60b, s.v. *atmuhi*) quotes a *Midrash Rabbah* that cites the *passuk*, *אכתב לו רובי תורתי כמו זר נחשבו* – “I have written for him [*Bnei Yisrael*] the major parts of My Torah; they have been regarded as foreign” (*Hoshe'a* 8:12). The *Midrash* explains that when *Hashem* taught Moshe the Torah on Har Sinai, Moshe asked if he should put all of it in writing.

Hashem replied that there would come a time when the nations of the world would have dominion over *Bnei Yisrael* and take as their own whatever is in written form. Those nations would then be able to claim, as the Christians have done, that **they** are the true *Am HaNivchar*, the Chosen Nation. If the majority of the Torah would have been in written form, the text being available to all nations, the Jewish Nation would have lost its uniqueness.

However, an oral transmission from *rebbe* to *talmid* bars access of the nations of the world to this section of Torah. The institution of a *Torah SheBe'al Peh* thus ensured that the Jewish Nation would have a heritage uniquely its own, which clearly demonstrates that **it** is the true *Am HaNivchar*. Thus, *Chazal* interpret the *passuk*, *כי על פי הדברים האלה כרתתי אתך ברית* – “For on the basis of these words, I have established a covenant with you” (*Shemos* 34:27), to mean that *Hashem* sealed His covenant with *Bnei Yisrael* specifically through the *Torah SheBe'al Peh* (*Gittin* 60b). Notably, this *passuk* was stated in connection with the **second** *luchos*.

Since *kol haTorah kulah* was engraved on the first *luchos*, the entire Torah was *Torah SheBichsav* at that point. In contrast, the oral section of Torah was **not** engraved on the second *luchos*, as it was on the first, but was left out of *Torah SheBichsav* in order to be transmitted *ba'al peh*. Thus, Yom Kippur is the day of the creation of the entire institution of *Torah SheBe'al Peh*, and the giving of the second *luchos* on Yom Kippur is synonymous with the giving of the *Torah SheBe'al Peh*. It is the receiving of this aspect of Torah that we celebrate on this day. Thus, two Yomim Tovim are necessary because Shavuot commemorates the giving of the Torah *SheBichsav*, whereas Yom Kippur celebrates the giving of the *Torah SheBe'al Peh*.

The Rav explained that specifically because Yom Kippur celebrates the receipt of *Torah SheBe'al Peh*, the *Torah SheBichsav* was purposely vague regarding the precise order of the *avodah* of this day. If we were to only follow the *Torah SheBichsav*, the *avodah* would not be done properly. The pristine *avodah* requires the Oral Torah's *Halachah L'Moshe MiSinai* to properly elucidate its correct order. The *Torah SheBe'al Peh* teaches us **not** to follow the three-unit *sefer avodah* described in the *Torah SheBichsav*, but to instead divide the *avodah* into five units. [See *Nefesh HaRav*, 1994 ed., p. 293-294; *Rav Schachter on the Parsha, Parshas Ki Sisa*.]

We have an old custom to recite *Kol Nidrei* on the night of Yom Kippur. This is really a public *hataras nedarim* (annulment of vows), annulling the *nedarim* that we took during the course of the year since the last Yom Kippur. [Rabbeinu Tam, quoted in *Ran (Nedarim 23b)*, emended the text to serve as a declaration in advance, stating that any future *nedarim* should be null and void.] The standard explanation of this custom is based on a comparison found in the *Zohar*. Just as in the case of *hataras nedarim* the *beis din* serves to uproot the *neder* retroactively, making it into something that was never binding at all, so too, through powerful *teshuvah*, our

aveiros will be uprooted from their source, as if they never occurred.

However, some historians suggest an additional reasoning. Apparently, in Alexandria, there was a practice for the Orthodox Jews, in opposition to the many *Kara'im* there, to hold a parade on Yom Kippur in support of *Torah SheBe'al Peh*. Interestingly, this may be related to the *minhag* of *Kol Nidrei*.

The institution of *hataras nedarim* is not mentioned in the *Torah SheBichsav*; it is only known through the *Torah SheBe'al Peh*. *Chazal* state: *היתר נדרים פורחין באויר ואין להם על מה שיסמכו* – “[The laws regarding] annulment of vows hover in the air and have no [Scriptural] support” (*Mishnah Chagigah* 1:8). *Hataras nedarim* is purely an oral tradition, with no way to use the *הן מידות שהתורה נדרשת בהן* (exegetical principles through which the Torah is expounded) to have this *din* read “in between the lines” of the *Torah SheBichsav*. As a result, the *Kara'im* never practiced *hataras nedarim*, since they only followed “*Mikra*” and their own interpretations of the *Tanach*, not the traditions of the *Torah SheBe'al Peh*.

Thus, with the recitation of *Kol Nidrei*, we seek to emphasize our commitment to *Torah SheBe'al Peh* on Yom Kippur, the day on which we celebrate the giving of this aspect of Torah. We therefore begin the day with a public demonstration of *hataras nedarim*, which is **pure** *Torah SheBe'al Peh*, not rooted at all in the *Torah SheBichsav*. [See *Divrei Sofrim* by Rav Schachter, Introduction.]

II. אָנָא בְּשֵׁם

The *vidui* (confession) of the *Kohen Gadol* reads as follows: ... לחטאים... – “I beg of You, Hashem, I have erred ... I beg of You with Your Name Hashem, forgive now the errors...” *Tosfos* (*Yoma* 35b, s.v. *ana*) cites the *Yerushalmi* that the second explicit mention of the *Shem Ha-Meforash* should be said in the form of **בְּשֵׁם**, not **הַשֵּׁם** as in the first

phrase. However, the meaning of the phrase **אָנא בּשֵׁם כּפּר נָא** – “I beg of You with Your Name *Hashem*, forgive now” – is very unclear.

Rav Soloveitchik thought that a comma should be placed in the sentence after the word **אָנא** and that the *vidui* be read with a pause at that point: **אָנא, בּשֵׁם כּפּר נָא** – “I beg of You, with Your Name *Hashem* forgive now.” The meaning of this phrase, then, is that the *kapparah* for our *aveiros* is effected by means of the *shem Hashem* itself. This is also the intent of the *passuk* in reference to Yom Kippur, **לפני ד' תטהרו** – “Before *Hashem* shall you be purified” (*Vayikra* 16:30). The *taharah* is generated through the unique *hashra'as haShechinah* (Divine Presence) that rests on the Jewish People on the day of Yom Kippur. [See *Nefesh HaRav*, 1994 ed., pp. 213-214.]

Because the *Shechinah* has been so near to us on Yom Kippur, at the close of the day, we recite, **ד' הוא האלקים** – “*Hashem*, He is the G-d” (*Melachim I* 18:39) seven times, to bid farewell to the *Shechinah* as it ascends, in step-wise fashion, returning to above the seventh heaven (*Tosfos, Berachos* 34a, s.v. *amar*).

This idea is the basis for one of the explanations of the *shofar*-blowing at the conclusion of Yom Kippur. Just as the sounding of the *shofar* at the conclusion of *ma'amad Har Sinai* signified that the *Shechinah* had departed and entry to the mountain was now permitted, this *shofar*-blowing similarly indicates that the *Shechinah* has just left us. The *Shechinah*, which had been intimately present for the duration of the day, now ascends amid the *shofar*-blast, as described by the *passuk* in *Tehillim* (47:6): **עלה אלקים בתרועה** – “G-d has ascended with the *teru'ah*” (*Beis Yosef* quoting *Sma"g, Orach Chaim* 624:2). [See *Ginas Egoz*, p. 46.]

We can understand the benefit of being near to the *Shechinah* in the following way. When one wishes to remove a stain on his clothing, he must rub the stain out after applying the detergent. The *navi* compares the effect of an *aveirah* on one's *neshamah* to a stain on one's garment, and accordingly

the way to purify the *neshamah* is similar to the cleansing of a garment: 'א כי אם תכבסי בנתר ותרבי לך בורית נכתם עוונך לפני נאם ד' א' – "Even if you were to wash with natron and use much soap, your iniquity has become a stain before Me – the Word of my L-rd, Hashem" (Yirmiyah 2:22).

On Yom Kippur, we "rub" against the *Shechinah* itself; the "detergent" of Yom Kippur is having our *neshamos* come into close contact with the *Ribbono Shel Olam*. This, the Rav explained, is the meaning of the *vidui*, נא כפר נא – "with Your Name Hashem forgive now." It is through the power of the *Shem HaMeforash* that the *kapparah* is given. We beseech the *Ribbono Shel Olam* that our closeness with the *Shechinah* should bring about forgiveness of our sins.

It is for this reason that there is a custom amongst *anshei ma'aseh* (pious people) to call Yom Kippur by the term "Yom HaKadosh," not referring to the day by its actual name (*Bnei Yissaschar, Tishrei, ma'amar* 8:2). In this way, we treat the day with the respect that we accord the *Shem HaMeforash* itself, which is not directly articulated. This is because the source of the *kapparah* of the day is the fact that the *Shechinah* descends into our midst and that we encounter It. Thus, expressing the name "Yom Kippur" is somewhat similar to mentioning the *Shem HaMeforash*. It is as if the entire essence of the day is the attendant *hashra'as haShechinah*.

Rav Soloveitchik suggested that this may also explain the *minhag* to recite *Kol Nidrei*, convening a *beis din* for the purpose of *hataras nedarim* at the onset of Yom Kippur. Based on the *passuk*, אלקים נצב בעדת קל – "G-d stands in the Divine assembly" (*Tehillim* 82:1), we understand that the *Shechinah* descends to join and assist every *beis din*. Thus, convening a *beis din* serves to bring the *Shechinah* down to us. It remains in our midst for the duration of the day, until the *teki'ah* at the day's conclusion, which signifies that the *Shechinah* has departed. [See *Nefesh Harav*, 1994 ed., pp. 25-26.]

III. והשתחוה ויצא

One who studies *Mishnayos Tamid* (*perakim* 6-7) will observe the repetition of a refrain that is mentioned after the completion of the *avodah* of each *Kohen* who participates in the offering of the *Korban Tamid*: והשתחוה ויצא – “and he prostrated himself and exited.” It is cited in the name of the Vilna Gaon (*Aderes Eliyahu, Parshas Ki Savo*) that the source of this practice is the *passuk* referring to the bringing of *bikkurim*, אלקיך לפני ד’ – “and you shall prostrate yourself before Hashem, your G-d” (*Devarim* 26:10). This is not a *mitzvah* specifically related to the bringing of *bikkurim*, but is actually a general rule. Just as a farmer who enters the *azarah* to offer his *bikkurim* performs *hishtachava’ah* before he exits, so too, any *Kohen* who enters the *azarah* to engage in any *avodah* must do so.

Rav Soloveitchik pointed out that it is quite astounding that throughout the entire *sefer avodah* of Yom Kippur, which includes all of the details of the *Kohen Gadol*’s service, there is no mention of *hishtachava’ah*. [In fact, this is one of the differences between the *nusach Ashkenaz* and the *nusach Sefard* renditions of the *avodah*; in the latter *nusach*, there is a mention of *hishtachava’ah*.]

Working with the assumption that the *Kohen Gadol* did not engage in any *hishtachava’ah* on Yom Kippur, Rav Soloveitchik (*Kovetz Chiddushei Torah*, pp. 145-147; *Kuntres B’Inyan Avodas Yom HaKippurim*, pp. 46-47, 51) presented the following explanation. Perhaps the general requirement of *hishtachava’ah* upon anyone who enters the *azarah* does not apply to the *Kohen Gadol* on this day.

On every other day of the year, the Halachah dictates how particular *avodos* must be performed in the *Beis HaMikdash*, but does not mandate the mode of transport of the *Kohen* to get to the location in which the *avodah* is performed. It is completely acceptable for the *Kohen* to descend from the ceiling, or climb

in through a trap door in the floor, or enter through a window, as long as he performs the *avodah* in the proper location.

The Rav explained that in contrast to *avodah* during the rest of the year, on Yom Kippur, every step of the way, literally, is proscribed by the Halachah. The *pessukim* in *Parshas Acharei Mos* delineate the entering, the exiting, as well as the walking from one *avodah* to the next: "ויצא אל המזבח אשר לפני ד" – "He shall go out to the altar that is before Hashem" (*Vayikra* 16:18); "ובא אהרן אל אוהל מועד" (16:23); "ואת עולתו ואת עולת העם" (16:24). Each step is described in the *Chumash*, making it part of the *seder hayom* and the *ma'aseh Yom HaKippurim*.

The Rav brought support for this notion from the *Gemara* in *Chullin* (10b), which discusses whether the *Kohen's* walking backwards out of a house with *tzara'as* is a halachically acceptable fulfillment of the *passuk*, "ויצא הכהן מן הבית" – "And the *Kohen* shall exit from the house" (*Vayikra* 14:38). The *Gemara* concludes that the *Kohen* may exit the house in this manner, which enables him to be in constant view of the *nega* (lesion), not having to rely on a *chazakah* that the *nega* remained in its state after it disappeared from his view.

The *Gemara* proves that walking backwards is acceptable from the way that the *Kohen Gadol* exited the *Kodesh HaKodashim* on Yom Kippur, leaving backwards out of respect. Apparently, this form of exiting does meet the requirement of "ויצא" (16:24). Rav Soloveitchik argued that if the *Kohen's* exiting the *Kodesh HaKodashim* was merely a practical necessity, we could not derive any *halachah* from his mode of exit. This *Gemara* seems to imply that the *Kohen Gadol* needed to fulfill the requirement of "ויצא", and that the **exiting itself** was also part of the *seder hayom*.

Another proof that the movement of the *Kohen Gadol* is part of the *seder hayom* may be brought from the *Gemara* in *Yoma*

(44a), which discusses the *passuk*, וְכָל אָדָם לֹא יִהְיֶה בְּאוֹהֶל מוֹעֵד – “No person shall be in the Tent of Meeting when he comes to provide atonement in the Sanctuary until his departure” (*Vayikra* 16:17). This *halachah* is applicable throughout the year as well; no other *Kohen* is permitted to be in the *Heichal* at the time the *Kohen* is engaged in the daily offering of the *ketores*. The *Malbushei Yom Tov* (*Yoreh De’ah*, *siman* 25:1) questions that this *halachah* seems to contradict the *Mishnah* in *Tamid* (6:3), which describes that a friend or relative of the *Kohen* who won the privilege of the *ketores*-service would accompany him into the *Heichal* and assist him until he was ready to offer the *ketores*.

A simple answer would seem to be that the *halachah* that applied throughout the year was only in reference to the period of time that the actual *avodah* was performed. The added requirement – that no one was allowed in the *Heichal* from the time of the *Kohen Gadol*’s entry until the time of his exit, and not only during the period of actual *avodah* – applied exclusively on Yom Kippur.

The reason that the restriction is expanded on Yom Kippur is a function of the principle presented above. Only on Yom Kippur is the *kenisah* (entry), the *yeti’ah* (exit), and literally every step of the walking of the *Kohen Gadol* a part of the *sefer hayom*. During the rest of the year, there could not be an expanded restriction forbidding another’s presence from the *Kohen*’s entry until his exit, because the entry and exit of the *Kohen* who performs the *avodah* is not at all part of the *sefer hayom*. Only the *avodah* itself is mandated, and it is therefore only during the time of the actual burning of the *ketores* that a restriction could apply forbidding the presence of another *Kohen* in the *Heichal*.

This is how the Rav explained the absence of *hishtachava’ah* from the *nusach* of the *sefer avodah* of Yom Kippur. Since on Yom Kippur each step is charted out in *Parshas Acharei Mos*,

nothing at all may be added. Introducing a *hishtachava'ah* that does not appear in the *parsha* at the conclusion of the *avodah* would be considered a deviation from the exact *sefer hayom*. Therefore, the *Kohen Gadol* **could not** perform the usual *mitzvah* of *hishtachava'ah* that applied year-round. [This explanation was part of the *chiddushei Torah* that Rav Soloveitchik sent to his father from Berlin, that Rav Moshe printed in the name of the Rav (*HaPardes*, 1931, 4:10, pp. 12-13).]

Rav Soloveitchik continued that this *chiddush* could also explain why the *Kohen Gadol* had to wait in the *Kodesh HaKodashim* after placing the *ketores* upon the burning coals, until עשן כולו עשן – “the whole chamber filled with smoke” (*Mishnah, Yoma* 5:1). The tarrying of the *Kohen Gadol* is required here based on the *passuk*, את הכפורת ענן הקטורת – “so that the cloud of the incense shall blanket the ark-cover” (*Vayikra* 16:13). This *halachah* may also be a reflection of the proscribed entry into and exit from the *Kodesh HaKodashim*, which, in this analysis, includes a certain amount of waiting in that location as well.

[The Rav sent these words of *chiddushei Torah* to his uncle, the Brisker Rav, whose letter in response is appended to the end of *Chiddushei Maran Ri"z HaLevi al HaRambam*, dated 3 Elul 5681. The letter begins ... והנה חזיתי ליקירי שמפרש – “Behold, I have seen [a letter of] my precious [nephew, Rav Soloveitchik], who explains ...” and proceeds to outline a whole different understanding of the nature of this *halachah*, which we will discuss in the next section.]

IV. ושלח ביד איש עתי

There are many Chassidic communities that observe a *minhag* to schedule a one-hour long break after *Mussaf* on Yom Kippur, prior to the *krias haTorah* of *Mincha*. This is done as a *zecher leMikdash*, a remembrance of the approximately one-hour long

pause that the *Kohen Gadol* observed after sending the *sa'ir hamishtale'ach* with the *ish itti* (Designated Man), thereby fulfilling the *passuk*, *ושלח ביד איש עתי המדברה* – “and [Aharon] shall send [the he-goat] with a Designated Man to the desert” (*Vayikra* 16:21).

Only after this pause did the *Kohen Gadol* proceed to the next step in the *avodah*, his *krias haTorah* in the *ezras nashim*. The *Kohen Gadol* had to remain in the *azarah* wearing his requisite eight *bigdei Kehunah*, in the standing position, because “sitting is not permitted in the *azarah* except for kings of the Davidic dynasty” (*Yoma* 25a), until he was informed, *הגיע שעייר למדבר* – “The he-goat [with the *ish itti*] has reached the [beginning of the] *midbar*, [a three-mil distance]” (*Mishnah Yoma* 6:8).

Rav Soloveitchik (*Kovetz Chiddushei Torah*, pp. 120-122; *Kuntres B'Inyan Avodas Yom HaKippurim*, pp. 82-83; *Heideinu* 1933, 9:1, pp. 37-38), in conjunction with his uncle, the Brisker Rav, developed the following explanation of this *halachah*. A *Kohen* in the *Beis HaMikdash* must stand in the location necessary for a particular *avodah* when he performs that *avodah*. He may not, for example, stand outside the *azarah* and sprinkle the blood of a *korban* from that location onto the *mizbe'ach*. Similarly, on Yom Kippur, when certain *avodos* must be done in the *Kodesh HaKodashim*, the *Kohen Gadol* may not stand in the *Heichal* and extend his arms into the *Kodesh HaKodashim* while he does the *avodah*; he must stand in the *Kodesh HaKodashim* itself.

Furthermore, it would seem that the Halachah requires that a *Kohen* must stand in the proper location of an *avodah* that he performs not only at the time he performs his act of *avodah*, but also for the entire duration of time required for the *avodah* to be completed. If, for example, the *Kohen* would sprinkle blood towards the *mizbe'ach*, and then would quickly exit the *azarah* before the blood landed on the *mizbe'ach*, it would be an invalid *zerikah*.

This is in line with the *Gemara* in *Zevachim* (15a), which discusses the case of a *Kohen* who had just sprinkled the blood of a *korban* when his hand was suddenly cut off. The *zerikah* is disqualified because he was rendered a *ba'al mum* before the blood reached the airspace of the *mizbe'ach*, even though he was in a *kasher* state at the time of his *ma'aseh avodah* (act of *avodah*). The *Kohen* must remain in a *kasher* state from the beginning of his *ma'aseh avodah* until the end of the *kiyum avodah* (fulfillment of the *avodah*). Presumably, this requirement includes remaining in the location that is *kasher* for that *avodah* as well.

The Brisker Rav, in the above cited letter, noted that the *Kohen Gadol* had to wait in the *Kodesh HaKodashim* after placing the *ketores* upon the burning coals, until נתמלא כל הבית כולו עשן – “the whole chamber filled with smoke” (*Mishnah, Yoma* 5:1; *Rambam, Hilchos Avodas Yom HaKippurim* 4:1). The explanation of this *halachah* is based on a principle that the Brisker Rav heard from Rav Simcha Zelig Rieger, the *Dayan* of Brisk.

In order for the *mitzvah* of the burning of the *ketores* in the *Heichal* throughout the year to be complete, it was sufficient to dash the *ketores* onto burning coals so that a column of smoke rose up. However, on Yom Kippur in the *Kodesh HaKodashim*, much more was required. Here, we learn from the *passuk*, וְכִסָּה עֲנַן הַקְּטוֹרֶת אֶת הַכַּפֹּוֹרֶת – “so that the cloud of the incense shall blanket the Ark-cover” (*Vayikra* 16:13), that filling the room with smoke is part of the *mitzvah*. Therefore, the *Kohen Gadol* had to remain in the *Kodesh HaKodashim* not only for his *ma'aseh haktarah*, but also until the *kiyum avodah*, which was the state of נתמלא כל הבית כולו עשן.

Rav Soloveitchik adopted the above explanation of his uncle as the basis for the reason the *Kohen Gadol* had to remain in the *azarah* until the *sa'ir hamishtale'ach* reached the *midbar*.

The *Gemara* in *Yoma* (66b) learns, עֲתִי אֶפִּילוּ בַטּוֹמֵאָה – the Designated Man [enters the *azarah* to receive the *sa'ir hamish-*

tale'ach from the *Kohen Gadol*] even if he is ritually unclean." The *Shittah Mekubetzes* (*Kereisos* 14a, *Hashmatos* after the *Maseches*, note 12) raises the following question. Why was it necessary for the *ish itti* to enter the *azarah* in a state of *tum'ah*? Would it not be preferable for the *sa'ir* to have been brought out to him by an intermediary, from the *Kohen Gadol* in the *azarah*?

Apparently, the Rav pointed out, it is the *Kohen Gadol's* *avodah* to send the *sa'ir* to the *midbar*, as the *passuk* describes, ושלח ביד איש עתי המדברה ... וסמך אהרן - "And Aharon shall lean ... and [Aharon] shall send [the he-goat] with a Designated Man to the desert" (*Vayikra* 16:21). Furthermore, the *avodah* of ושלח ביד איש עתי must be done by the *Kohen Gadol* from **inside** the *azarah*. Therefore, if the *Kohen Gadol* himself would not directly give over the *sa'ir* to the *ish itti* in the *azarah*, the *avodah* would not be valid.

Although the *Kohen Gadol* discharges his obligation through the *shlichus* (agency) of the *ish itti*, nevertheless, the *ma'aseh avodah* of ושלח, **handing** the *sa'ir* to the *ish itti*, must be done by the *Kohen Gadol* himself from inside the *azarah*. Since the *kiyum avodah* is completed only when the *sa'ir* reaches the *midbar*, the *Kohen Gadol* must be in the *azarah* from the time of his *ma'aseh avodah* until he is informed, הגיע שיעיר למדבר, that the *kiyum* of his *avodah* has been accomplished. The subsequent *avodah*, that of *dechiyah latzuk* (pushing the *sa'ir* off the precipice), is not the *Kohen Gadol's* *avodah*, but that of the *ish itti*, and the *Kohen Gadol* thus need not remain in the *azarah* in his *kasher* state for that to be done.

V. והכהנים והעם העומדים בעזרה

Rav Soloveitchik related that, in his recollection, when he grew up in Lithuania the women did not practice *hishtachava'ah* during their recitation of the Yom Kippur *avodah*. He witnessed this practice for the first time in Berlin, at which time he gave

consideration as to the possible reason for the custom he had observed previously. This was a common theme in many of his *shiurim* – explaining how a particular *minhag* is not merely a ceremonial act, but a fulfillment of a halachic norm. [See *Nefesh Harav*, 1994 ed., pp. 24-26.]

We learn from the *passuk*, כִּי שֵׁם ד' אֶקְרָא הִבּו גּוֹדֵל לְאַלְקֵינוּ – “When I call out the Name of *Hashem*, ascribe greatness to our G-d” (*Devarim* 32:3), that when the *Kohen Gadol* pronounces the *Shem HaMeforash*, those present should praise *Hashem*. There are two forms of praise to be offered on that occasion – prostration and the declaration of בְּרוּךְ שֵׁם כְּבוֹד מַלְכוּתוֹ לְעוֹלָם וָעֶד – “Blessed is the Name of His glorious kingdom for all eternity.”

Tosfos in *Sotah* (40b, s.v. *vechol*) cites the *Yerushalmi*, which teaches that it was the “*kerovim*” (near ones) who did *hishtachava’ah*, while the “*rechokim*” (those at a distance) would proclaim בְּרוּךְ שֵׁם. [*Tosfos* explains that the *kerovim* actually did *hishtachava’ah* as well as proclaim בְּרוּךְ שֵׁם.] However, it is unclear exactly how to differentiate between the locations of the two groups. Rav Yeshayah Berlin (*Nimukei HaGri”v* in the *siddur Otzar HaTefillos*) writes that the *kerovim* were those who could hear the *Shem HaMeforash* emanate from the *Kohen Gadol*, at which point they prostrated themselves. The *rechokim*, those who could not hear the *Shem HaMeforash*, would proclaim בְּרוּךְ שֵׁם when they saw the *hishtachava’ah* of the *kerovim*.

Rav Soloveitchik, however, understood, as implied by the language in the *machzor*, וְהִכְנִיָּם וְהָעָם הָעוֹמְדִים בְּעִזְרָה (*Mishnah*, *Yoma* 6:2), that the *kerovim* were those **inside** the *azarah*, while *rechokim* refers to those **outside** the *azarah*. The reason for this differentiation is that we derive *hishtachava’ah* from the *passuk* about *bikkurim* (*Devarim* 26:10), – “and you shall prostrate yourself **before Hashem, your G-d**” (*Aderes Eliyahu*, *Parshas Ki Savo*). The language of the *passuk* implies that *hishtachava’ah* is only a *kiyum mitzvah* when performed **inside** the *azarah*, not outside. The *hishtachava’ah* that we engage in during our recitation of the Yom Kippur *avodah* is

merely done as a *zecher leMikdash*, as a remembrance of that which was done in the *Beis HaMikdash*.

Therefore, the Rav concluded that women did not participate in the *hishtachava'ah* in the *Beis HaMikdash*, because they were located in the *ezras nashim*, not in the *azarah*. As seen from the *Yerushalmi*, there is only a fulfillment of *hishtachava'ah* when performed in the *azarah*, and the *ezras nashim* was not endowed with the same *kedushah* as the *azarah*. [It would seem that the reason the *ezras nashim* was sanctified with only the *kedushah* of the *Har HaBayis*, but not with that of the *azarah*, was to allow the women the leniency of being able to sit in that location, because "sitting is not permitted in the *azarah* except for kings of the Davidic dynasty" (*Yoma* 25a).]

This explains the *minhag* that the Rav was familiar with. There would not be any reason for women to do *hishtachava'ah* nowadays as a *zecher leMikdash* during their recitation of the Yom Kippur *avodah*. Even during the time of the *Beis HaMikdash*, women, being in the category of *rechokim* because of their placement outside of the *azarah*, would not engage in *hishtachava'ah*. Therefore, it is not plausible to make a *zecher leMikdash* by having women do *hishtachava'ah* in the *ezras nashim*, something that they did not engage in during the time of the *Beis HaMikdash* itself. [See *Eretz HaTzvi*, pp. 94-95; *Nefesh HaRav*, 1994 ed., pp. 214-215.]

YOMIM TOVIM DERABBANAN

CELEBRATING THE FUTURE ON CHANUKAH
PURIM AS *ASCHALTA D'GEULAH*

CELEBRATING THE FUTURE ON CHANUKAH

I. *Eilu Va'Eilu*

When one asks a *sheilah* to a *rav* and receives a *psak*, that *psak* is binding because we assume that the *rav* was correct in his ruling. This assumption is based on the *passuk*, לִירְאִי – “The secret of Hashem is [revealed] to those who fear Him” (*Tehillim* 25:14). This *passuk* is quoted by the *Gemara* (*Sotah* 4b, *Sanhedrin* 48b, *Chagigah* 3b, *Niddah* 20b) in this context, to demonstrate that Hashem reveals the correct solution to a halachic question to those who fear Him. Accordingly, we must ask our *sheilos* to a *rav* who possesses *yir'as Shamayim*; the promise of the *passuk* only applies to those who are described as “לִירְאִי.”

Of course, aside from this requirement, the *rav* must be knowledgeable. If he is not sufficiently familiar with the relevant sources that pertain to the *sheilah* at hand, we cannot expect that Hashem will perform a miracle to enable the *rav* to figure out the correct *din*.

If the principle of לִירְאִי serves as the basis of our reliance upon the *psak* of a *rav*, how do we understand the existence of *machlokes* in Halachah? If each *rav* has a measure of Divine assistance to enable him to issue the correct *psak*, how can there ever exist disparate rulings? The *Gemara* answers this question with the phrase: אֱלוֹ וְאֵלוּ דְּבַרֵי אֱלֹקִים חַיִּים – “These and those are the words of the living G-d” (*Eiruvin* 13b). With respect to

the many disputes between *Beis Shammai* and *Beis Hillel*, for example, we assume that both sides of the *machlokes* have validity.

This does not mean that one has the option to follow either opinion; the *halachah* is (usually) in accordance with the opinion of *Beis Hillel*. What it does mean is that when we study the opinion of *Beis Shammai*, it is considered a fulfillment of the *mitzvah* of *talmud Torah*, because this opinion has legitimacy as well. As long as both sides of the *machlokes* arrive at their positions by working with the *מדות שהתורה נדרשת בהן* (exegetical principles through which the Torah is expounded), each is considered to have a bona fide point of view, and each opinion constitutes a *cheftza shel Torah* (an “object” of Torah), even though in practice we follow the majority opinion. [See *B’Ikvei HaTzon*, p. 259; See *Nefesh Harav*, 1994 ed., p. 41.]

In expanding upon this concept, the *Ritva* (*Eiruvin* 13b, s.v. *eilu*) explains that when *Hashem* taught the six hundred and thirteen *mitzvos* to Moshe, he asked, “What is the *din* in this case?” *Hashem* responded, “That is *assur* (forbidden).” Moshe then asked, “What is the *din* in a different case?” to which *Hashem* responded, “That is *muttar* (permitted).”

Moshe continued, “And what of an intermediate case?” This time *Hashem* responded, “That case is a gray area of *Halachah*, for it has elements of *issur* and elements of *hetter*, and I leave it to the discretion of the qualified *chachamim* of each generation to rule based on their perspective of *kol haTorah kulah* – the complete corpus of Torah knowledge.” Each of the *pesakim* is correct; in such cases, whether the elements of *issur* outweigh the elements of *hetter* or the reverse is a matter of the *chacham’s* perspective. This is how we should view a *machlokes* as to the correct *psak halachah* in any given *sheilah*.

The *Gemara* in *Menachos* (29b) tells of the additional *tagin* (crowns) attached by *Hashem* onto the letters of the Torah so that centuries later, Rebbi Akiva would be able to “expound

upon each and every point [of the *tagin* attached to certain letters] heaps and heaps of *halachos*." Remarkably, we have no record of any of these derived laws, apparently because the Halachah did not accept Rabbi Akiva's teachings in these cases. *Hashem* was interested in placing the *tagin* onto these letters to allow for the possibility of Rabbi Akiva's future expositions, even though they would not bear any practical significance. There is more than one correct approach to Halachah, and Rabbi Akiva's methodology, necessitating the additional *tagin*, was a sound one, even though we did not accept his opinion in practice.

The *Gemara* (*Zevachim* 61b) describes that the *mizbe'ach* was expanded in the Second *Beis HaMikdash* to cover the hole that led to the *shissin* (subterranean cavities). The *nisuch hayayin* and *nisuch hamayim* (wine and water libations) could be performed by pouring these liquids into cavities that were made in the *mizbe'ach*; the liquids would then flow **through** the *mizbe'ach* into the *shissin* below.

The *chachamim* at the time of the Second *Beis HaMikdash* expounded the relevant *pessukim* differently than had been understood earlier and ruled that the *nesachim* should be performed in this manner. They held that the *mizbe'ach*'s "drinking" must be the same as its "eating," that just as the *mizbe'ach* "eats" the *korbanos*, so it must "drink" the *nisuchim*. Therefore, the libations must be absorbed into the body of the *mizbe'ach*, and not merely flow down the side of the *mizbe'ach* into the hole in the ground that led to the *shissin*, as had been done in the First *Beis HaMikdash*. Thus, the manner in which *nisuch hayayin* and *nisuch hamayim* were performed in the Second *Beis HaMikdash* was different than in the First *Beis HaMikdash*.

The *Sfas Emes* questions how it could be that the people living during the entire period of the First *Beis HaMikdash* were

deficient in their performance of the *nesachim* because it was never done according to the *din*.

The simple answer is that both approaches were valid, based on the concept of *אלו ואלו דברי אלקים חיים*. During the period of the First *Beis HaMikdash*, the *nisuch* was performed correctly, because it was done in accordance with the accepted *psak* of the time. During the period of the Second *Beis HaMikdash*, when the *chachamim* of the time expounded the *pesukim* differently, the *din* changed, and so did the proper method of *nisuch hayayin*. [See *Divrei Sofrim* by Rav Schachter, ch. 5; *Ginas Egoz*, pp. 7, 158.]

The concept of *אלו ואלו דברי אלקים חיים* is particularly relevant to the Yom Tov of Chanukah. The *Gemara* in *Shabbos* (21b) discusses the origin of Chanukah:

שכשנכנסו יוונים להיכל טמאו כל השמנים שבהיכל וכשגברה מלכות בית חשמונאי ונצחום בדקו ולא מצאו אלא פך אחד של שמן שהיה מונח בחותמו של כהן גדול ולא היה בו אלא להדליק יום אחד נעשה בו נס והדליקו ממנו שמונה ימים.

When the Greeks entered the *Heichal*, they rendered *tamei* all of the flasks of oil that were in the *Heichal*. When the royal *Beis Chashmona'i* gained the upper hand and vanquished them, they searched and found only one flask of oil with the *Kohen Gadol's* seal still intact, and it contained only enough to kindle [the *menorah*] for one day. A miracle occurred with this oil, and they kindled [the *menorah*] with it for eight days.

Hashem is generally not interested in changing the rules of nature that He established at the time of Creation. The *Rambam* (*Hilchos Chanukah* 3:2) writes that the eight-day miracle was necessary because this was the amount of time necessary to manufacture and transport additional *tahor*-oil.

The *Acharonim* (*Mor U'Ketziyah*, *Orach Chaim*, *siman* 670; *Beis Yitzchak*, *Orach Chaim*, *siman* 110; *Sho'el U'Meishiv*, *mahadurah* 1, 3:42) ask a most basic question regarding the disqualification of the *tamei*-oil. The *Gemara* in *Pesachim* (16a) teaches that there is a *machlokes Tanna'im* regarding whether beverages contract *tum'ah* on a *d'oraisa* level or only on a *derabbanan* level.

The accepted opinion, based on a testimony of Yosi ben Yo'ezer of Tzereidah (cited in *Eduyos* 8:4), is that beverages are susceptible to *tum'ah* only rabbinically, and that this rabbinic enactment was never instituted regarding beverages of the *Beis HaMikdash*. משקי בי מדבחיא דכן – “The beverages [offered upon] the *mizbe'ach* (blood, water, wine, and oil) are *tahor*.” Thus, the *halachah* is that the oil of the *Beis HaMikdash* does not contract *tum'ah*. Accordingly, the entire Chanukah miracle was unnecessary. *Tamei*-oil does not exist in the *Beis HaMikdash*!

Acharonim explain that the *halachah* that oil of the *Beis HaMikdash* always remains *tahor* was in fact a subject of debate over several generations. It is true that if the Chanukah episode would have occurred one hundred years later in the time of Yosi ben Yo'ezer, *Hashem* would not have performed the miracle, because according to the accepted ruling at that time, the oil could not contract *tum'ah* and there would have been no need for the *nes*. Nevertheless, in the era in which the Chanukah episode actually took place, the consensus of the *rabbonim* was that the oil in the *Beis HaMikdash* **could** contract *tum'ah*, and *Hashem* thus performed the miracle because of their *psak*. This ruling was later reversed when the majority opinion shifted and their view was outvoted.

It turns out that the whole story of Chanukah is truly fantastic. Remarkably, *Hashem* changed the rules of nature in deference to the principle of **אלו ואלו דברי אלקים חיים**. This is a rule that applies uniquely to *Torah SheBe'al Peh*. In the realm of *Torah SheBichsav*, there is, of course, only one text, with no possibility for multiplicity of opinions. Only in *Torah SheBe'al Peh* can there be two equally legitimate opposing opinions as to how to interpret the *Torah SheBichsav*. Since in the generation of the *Chashmona'im*, the *psak hamekubal* was that oil is *mekabel tum'ah*, the miracle was necessary. The *nes Chanukah* is thus intimately related to *Torah SheBe'al Peh*.

II. *Nes Chanukah* in the Era of *Torah SheBe'al Peh*

Shlomo HaMelech, realizing that the First *Beis HaMikdash* was destined to be destroyed, wrote the following, by means of *ruach hakodesh*, regarding the endurance of the Second *Beis HaMikdash*:

אם חומה היא נבנה עליה טירת כסף ואם דלת היא נצור עליה לוח ארז.

If she be a wall, let us build on her a silver crown; and if she be a door, let us enclose her with cedar panel. (*Shir HaShirim* 8:9)

The *Gemara* in *Yoma* (9b) expounds, “Had you [*Bnei Yisrael*] made yourself like a wall and gone up all together in the days of Ezra, you would have been comparable to silver [metal], which is not subject to decay.” This has a double meaning; the Second *Beis HaMikdash* would have been everlasting, never to be destroyed, and *Bnei Yisrael* would have continued to produce *nevi'im*.

The *Gemara* continues: “Now that you have ascended only partially, you are comparable to cedar wood, which is subject to decay.” *Hashem* was disappointed with *Bnei Yisrael* as a result of their weak *aliyah*, which consisted of only some forty-two thousand people (*Ezra* 2:64), despite the fact that the non-Jewish government granted permission to return to Eretz Yisrael. Since the reality of the *aliyah* at the time of the Second *Beis HaMikdash* followed the latter possibility presented in the *passuk*, Ezra certainly understood from the outset that this *Beis HaMikdash* would be destroyed (*Sfas Emes*, *Yoma* 9b) and that *Bnei Yisrael* would no longer merit the guidance of *nevi'im*.

This is the basis of the opinion of the *Ra'avad* (*Hilchos Beis HaBechirah* 6:14) that one who enters the area of the *Beis HaMikdash* nowadays is not subject to *kares*. The *Ra'avad* maintains that both Shlomo and Ezra realized that the *Batei Mikdash* they sanctified would later be destroyed, and each *Beis HaMikdash* was therefore sanctified only temporarily. [See *Rav Schachter on the Parsha*, *Parshas Bechukosai*.]

Nevertheless, *nevu'ah* still played a role in the building of the Second *Beis HaMikdash*. The *Gemara* in *Zevachim* (62a) tells us, "Three *nevi'im* [Chaggai, Zecharyah, and Malachi] ascended with them from the [Babylonian] exile." Despite the fact that *Hashem* was disappointed with this *aliyah*, and although *nevu'ah* would be withdrawn from *Bnei Yisrael* in the future, these three *nevi'im* **had** to be sent at this time because a *Beis HaMikdash* cannot be built without the express authorization of a *navi*.

We derive this requirement from the *passuk*, *לשכנו תדרשו* – "you shall seek out His Presence" (*Devarim* 12:5), on which the *Sifrei* expounds, *דרוש על פי נביא* – "seek [the details of the construction] from the instruction of a *navi*." Thus, a *navi* is necessary for the construction of a *Beis HaMikdash*, even if the precise location of the *Beis HaMikdash* and of the *mizbe'ach* could be correctly ascertained archaeologically. [See *B'Ikvei HaTzon*, pp. 114-115.]

This point formed the basis of the response of Rav Yaakov Ettlinger (*Binyan Tziyon*, *siman* 1) to Rav Tzvi Hirsch Kalisher, a student of Rebbi Akiva Eiger. Rav Kalisher wrote *Drishas Tziyon*, in which he advocated the building of a *mizbe'ach* in the *makom haMikdash* in order to bring *korbanos*. He published an open letter to Baron Rothschild urging him to support this cause, mentioning that if he would be instrumental in bringing the enterprise to fruition, the Baron might end up being the *Melech HaMashiach*. Rav Ettlinger responded to Rav Kalisher that the building of a *mizbe'ach* and a *Beis HaMikdash* were an impossibility due to the requirement that they be constructed under the auspices of a *navi*. [See *Rav Schachter on the Parsha*, *Parshas Pekudei*.]

Thus, the period of *nevu'ah*, and therefore of *Torah SheBichsav*, came to a close with Chaggai, Zecharyah, and Malachi, and the era of *Torah SheBe'al Peh* commenced with the advent of the *Anshei Knesses HaGedolah*.

This era was ushered in by a communal rededication to the Torah in the aftermath of *nes Purim*, one in which *Bnei Yisrael* specifically accepted the *Torah SheBe'al Peh*. This is derived from the *passuk*, קימו וקבלו היהודים - "The Jews established and accepted" (*Ester* 9:27), in which *Chazal* see a second level of interpretation: קיימו מה שקיבלו כבר - "They established [in the days of Achashveirosh] that which they had already accepted [in the days of Moshe]" (*Shabbos* 88a). [See the essay on Purim, section VII, for more on this topic.]

Seder Olam Rabba (*perek* 30) similarly records: "Up until this point [the days of Ezra and the Second *Beis HaMikdash*], the *nevi'im* prophesied with *ruach hakodesh*; from now on, הט אזנך ושמע דברי חכמים - 'Incline your ear and hear the words of the *chachamim*' (*Mishlei* 22:17) [who transmit the *Torah SheBe'al Peh*]."

Chazal express this idea of a new era of *Torah SheBe'al Peh* in reference to the *passuk*, גם כי יתנו בגוים עתה אקבצם - "Although they pay tribute to the nations, now I will gather them" (*Hoshea* 8:10). The *Midrash* (*Vayikra Rabbah* 7:3; see *Bava Basra* 8a), understanding the word יתנו as being related to the Aramaic word מתניתין, interprets that the exiles will be gathered only in the merit of studying *mishnayos*. We now live in a period in which study of *Torah SheBe'al Peh* in particular should be emphasized.

Indeed, the *Gemara* in *Yoma* (29a) understands that the recounting of the Chanukah miracle does not belong in the *Kisvei HaKodesh*, because it occurred after the era of the *nevi'im* and in the era of *Torah SheBe'al Peh*:

למה נמשלה אסתר לשחר לומר לך מה שחר סוף כל הלילה אף אסתר סוף כל הנסים. והא איכא חנוכה ניתנה לכתוב קא אמרינן.

Why is Ester compared with the morning [in the *passuk* (*Tehillim* 22:1), למנצח על אילת השחר - "For the conductor, about the morning hind"]? To tell you that just as the morning is the end of the entire night, so too, [the redemption through] Ester is the end of all the miracles. But there is the miracle of Chanukah [which occurred subsequently]? We meant to say that Purim is

the last miracle allowed to be recorded [in written form, as part of *Kisvei HaKodesh*].

There was no longer any *nevu'ah* by the time of the Chanukah miracle. The entire episode of Chanukah is thus found exclusively in *Torah SheBe'al Peh*.

The *Magen Avraham* (*Orach Chaim*, *siman* 670) describes a *minhag* of collecting *tzedakah* on Chanukah. The original *minhag* seems to have been for parents to give Chanukah-gelt to their children to be given as a gift to the *melamed*. This reflects the fact that Chanukah is a Yom Tov celebrating the primacy of *Torah SheBe'al Peh* and the critical role of *talmidei chachamim*. As we noted earlier, *Hashem* performed the miracle of Chanukah because the prevalent *psak* of the *rabbonim* of that generation was that the oil was *tamei*, even though subsequently the *psak* would be reversed. The fundamental concept of *אלו ואלו דברי אלקים חיים* was emphasized at this juncture because Chanukah is the Yom Tov of *Torah SheBe'al Peh*.

III. Yomim Tovim in *Megillas Ta'anis*

The *Gemara* in *Rosh Hashanah* (18b-19b) discusses *Megillas Ta'anis*, a work listing many additional Yomim Tovim introduced by the *chachamim* during the period of the Second *Beis HaMikdash*. These days commemorated various miraculous salvations and were considered minor Yomim Tovim, on which fasting and, in some cases, delivering a *hesped* (eulogy) were prohibited.

The basis for the establishment of these Yomim Tovim is discussed in a comment of the *Ramban*, both in his commentary to *Parshas Naso* (*Bamidbar* 7:13-17) and in his *Hasagos* to *Sefer HaMitzvos* (*shoresh shlishi*, s.v. *aval*). In the context of the seven days of *milu'im* that preceded the inauguration of the *Mishkan* and the subsequent twelve days on which the *Nesi'im* offered special *korbanos* in celebration of that event, the *Ramban* writes

that in his opinion, this represents one of the *taryag mitzvos* for all generations – to celebrate the dedication of a *Mishkan* or *Beis HaMikdash* on the occasion of the completion of its construction.

Just as *Bnei Yisrael* celebrated the conclusion of the building of the *Mishkan*, Shlomo HaMelech celebrated the completion of the building of the First *Beis HaMikdash* (*Melachim I* 8:65).

The *Gemara* in *Mo'ed Katan* (9a) relates that when Shlomo dedicated the *Beis HaMikdash*, *Bnei Yisrael* celebrated for fourteen days and did not observe Yom Kippur that year. They expounded a *kal vachomer* to derive this leniency: At the dedication of the *Mishkan*, whose sanctity was not everlasting, the *avodah* consisted of only the private *korbanos* of the *Nesi'im*, but it nevertheless superseded the Shabbos, the violation of which is punishable by *skilah*. *Kal vachomer* that the *avodah* of the dedication of the *Beis HaMikdash*, whose sanctity is everlasting and which consisted of the communal *korbanos* of the *tzibbur*, should certainly override Yom Kippur, whose punishment is only *kares*.

The application of this *kal vachomer* exposition to *chanukas Beis HaMikdash* is in line with the above position of the *Ramban* that the *chanukas haMishkan* in the days of Moshe was not merely a *hora'as sha'ah* (temporary ruling). If it were, we could not use that instance as a legal precedent from which to extend a leniency to the dedication of the *Beis HaMikdash*. It must be that the *chanukas haMishkan* represented a *mitzvah* for all generations, whose scope was expanded through the use of the principle of *kal vachomer* for the *chanukas haBayis* in the time of Shlomo.

Similarly, after the Second *Beis HaMikdash* was completed, Ezra celebrated for three weeks with special *korbanos* (*Ezra* 6:16-17), and *Yechezkel* speaks of over a six-month celebration when the Third *Beis HaMikdash* will be built, extending from Rosh Chodesh Nissan to Sukkos (*Yechezkel* 45:18-25; see commentary of *Malbim*).

Rav Dovid'l Nevardoker (*Galya Masechta, chelek drush*, p. 23b) suggests that the same applies to the conclusion of the construction of a *Beis HaKnesses* or *Beis HaMedrash*, which are called *mikdash me'at* – a miniature *Beis HaMikdash* (*Yechezkel* 11:16; see *Megillah* 29a). Since the *mitzvah* to celebrate *chanukas haMikdash* applies to a *mikdash me'at* as well, at the *chanukas habayis* of a *Beis HaKnesses*, perhaps the *rav* should deliver a *drashah* on the topic of the *Korban Todah*, as these *korbanos* were offered when a *Beis HaMikdash* was dedicated. [Perhaps it is for this reason that the Noviminsker Rebbe spoke about the topic of *Korban Todah* at the dedication of the Breuer's *Beis HaMedrash* in Washington Heights.]

[Although the *Ran* (*Megillah* 8a in *dapei haRif*) writes that the comparison between the *kedushah* of a *Beis HaKnesses* to that of the *Beis HaMikdash* is only an *asmachta* (a Scriptural allusion to a rabbinic *mitzvah*), the *Sefer Yere'im* (*siman* 394) maintains that this represents a *d'oraisa* exposition. The *Chayei Adam* (17:6) rules that we should follow the opinion of the *Yere'im* that a *Beis HaKnesses* possesses a *kedushah d'oraisa*. We should therefore be stringent to abstain from non-*mitzvah* functions within a *Beis HaKnesses* even in a situation of *safek*, since *safek d'oraisa lechumra* (we rule stringently in cases of doubt regarding Biblical law).]

The concept of the institution of a celebration upon the completion of a *Beis HaMikdash* is alluded to in a *nevu'ah* of Zecharyah. When he was asked whether the custom to observe Tishah B'Av as a fast day, which had been in place during the seventy years of *galus Bavel*, should continue to be practiced after the Second *Beis HaMikdash* had been built, Zecharyah responded:

כה אמר ד' צבקות צום הרביעי וצום החמישי וצום השביעי וצום העשירי יהיה לבית יהודה לששון ולשמחה ולמועדים טובים.

Thus said *Hashem*, Master of Legions: "The fast of the fourth [month, Shivah Asar B'Tammuz], the fast of the fifth [Tishah B'Av], the fast of the seventh [Tzom Gedalyah], and the fast of

the tenth [Asarah B'Teves] will be to the House of Yehudah for joy and for gladness and for happy festivals." (*Zecharyah* 8:19)

Just as it is appropriate to establish days of mourning in connection with the destruction of the *Beis HaMikdash*, it is appropriate to establish days of joy and happiness in relation to the building of the *Beis HaMikdash*, apart from the Yomim Tovim fixed by the Torah. That is, at the time the construction of a new *Beis HaMikdash* is actually completed, there is a *mitzvah chiyuvis* (obligatory *mitzvah*) to celebrate the *chanukas haBayis*. In addition, there would be an optional *mitzvah kiyumis* (fulfillment of a *mitzvah*), without an obligation, to establish a Yom Tov as a yearly celebration in commemoration of that completion.

Similarly, it would seem that there exists a *mitzvah kiyumis* to celebrate whenever an improvement in the functioning of the *Beis HaMikdash* has been achieved. It is with this understanding that all of the Yomim Tovim enumerated in *Megillas Ta'anis* were established, for they all revolved about the preservation or fortification of the *Beis HaMikdash*, the *avodah* therein, or its institutions, the *Kehunah* and the *Sanhedrin*.

Indeed, the *Gemara* in *Rosh Hashanah* (18b) makes the following comparison: והנך נמי כי הני – "those [days listed in *Megillas Ta'anis*] are also [to be treated] like these [fast days that were transformed into Yomim Tovim upon *binyan haBayis*]." This *Gemara* implies that the basis of the establishment of the Yomim Tovim in *Megillas Ta'anis* is that they serve as a form of *chanukas haBayis*.

For example, one of the days recorded in *Megillas Ta'anis* is the Yom Tov of Chanukah. In the aftermath of the Chanukah miracle, there was a rededication of the *Beis HaMikdash*, which until that time had been used for *avodah zarah* purposes. That rededication was tantamount to preservation of the *Beis HaMikdash*, and the establishment of the Yom Tov of Chanukah was therefore justified. The Yom Tov of Chanukah was estab-

lished not because of the miracles that had transpired, but due to the consequent improvement in *avodas Beis HaMikdash*.

Similarly, a Yom Tov was established whenever the *Chashmona'im* were victorious in battle, because that victory, in essence, defended the *Beis HaMikdash* from destruction or defilement at the hands of our enemies. In contrast, we would not be justified in enacting a Yom Tov every time *Tzahal* is victorious. The situation under which the *Chashmona'im* fought was quite different, as their victory enabled the *Beis HaMikdash* to continue to function. The enemy sought to destroy the *Beis HaMikdash*, and their victory served to protect the *Beis HaMikdash*.

The *Gemara* in *Ta'anis* (17b) describes periods of time in which the *Tzeddukim* were in charge of the *avodah* in the *Beis HaMikdash*, and they would bring the *Korban Omer* on the Sunday following the Yom Tov of Pesach and the *korbanos* of *Shavuos* seven weeks later. After years of this incorrect practice, the *Perushim* gained the upper hand and began to offer the *Korban Omer* at the proper time, on the first day of *Chol HaMo'ed Pesach*. A Yom Tov was added to *Megillas Ta'anis* due to this enhancement of *avodah*.

Likewise, when there was an improvement to the *Kehunah Gedolah* or the *Sanhedrin*, the institutions of the *Beis HaMikdash*, a Yom Tov was added. The *Gemara* in *Rosh Hashanah* (18b) tells of an improper practice instituted by the *Chashmona'im* to mention the Name of *Hashem* in secular documents. They would write: *בשנת כך וכך ליוחנן כהן גדול לקל עליון* - "In the year so-and-so of *Yochanan Kohen Gadol* to the Supreme G-d." When the *chachamim* were successful in discontinuing this practice, in which the position of the *Kohen Gadol* was associated with a defamation of the Name of *Hashem*, they instituted a Yom Tov.

The *Gemara* in *Bava Basra* (115b) teaches, "Whoever says that a daughter [of the deceased] inherits together with a daughter of the son [of the deceased, if the son is not alive], even if he is a *Nasi Yisrael*, we do not listen to him, because this is nothing

but a practice of the *Tzeddukim*." The implication of this statement is that there were times in which the *Tzeddukim* were in control of the *Sanhedrin* and caused a distortion of the *Halachah*. Here too, when the *Perushim* succeeded in reinstating the proper order of *yerushah* (inheritance) according to Torah law, they instituted a *Yom Tov* to commemorate this advancement of the *Sanhedrin*.

These rabbinic *Yomim Tovim* were patterned after the *mitzvah chiyuvis* of celebrating the dedication of a *Beis HaMikdash* that the *Ramban* discussed. They were instituted in recognition of an improvement in the functioning of the *Beis HaMikdash* and its institutions, and as such served as a fulfillment of a *mitzvah kiyumis*. If these additional *Yomim Tovim* would not have played this role, their enactment would have been a violation of *bal tosif*, adding onto the *mitzvos* of the Torah. We do not have the right to establish a new *Yom Tov* for all of *Klal Yisrael* unless it conforms to the rules and regulations of *Megillas Ta'anis* – namely, that the *Yom Tov* celebrates ***binyan Beis HaMikdash***.

This is the position of the *Pri Chadash* (*Orach Chaim* 496:14), cited by the *Chassam Sofer* (*Yoreh De'ah* 233 and *Orach Chaim* 191) with regard to the widespread celebration that takes place in Meron on Lag B'omer. This celebration has no connection to the establishment of the *Beis HaMikdash*, and it therefore falls under the category of *bal tosif*. [If a *Yom Tov* is celebrated merely by a particular family or a particular community, such as the Frankfurt Purim, it would not be a violation of *bal tosif* (*Maharam Alshaker*, cited by *Magen Avraham*, *Orach Chaim* 686; *Chayei Adam*, end of *Hilchos Megillah*; *Malbim*, *Ester* 9:19).] [See *B'Ikvei HaTzon*, pp. 108-111.]

This leads to a fundamental question. According to the Talmudic tradition that Purim occurred toward the end of the seventy years of *galus Bavel*, Purim was established as a *Yom Tov* **before** the Second *Beis HaMikdash* was even built. If Purim was established before the construction of the *Beis HaMikdash*,

how did the *chachamim* of that generation have the right to institute this Yom Tov? It should have been considered a violation of the *issur of bal tosif!*

The *Nesivos* in *Megillas Setarim* (9:19) explains that the *chachamim* of that generation must have perceived the *nes Purim* as an *aschalta d'geulah* – **onset** of the Redemption. They sensed that the event would **lead** to the building of the Second *Beis HaMikdash*. This event was not a perpetuation of an existing *Beis HaMikdash*; rather, the future expectation associated with *nes Purim* is what justified its establishment as a Yom Tov. Similar to the observance of the Yomim Tovim in *Megillas Ta'anis*, which marked the preservation of an existing *Beis HaMikdash*, there is a *mitzvah kiyumis* to celebrate a Yom Tov in **anticipation** of the building of a new *Beis HaMikdash*. [See *B'Ikvei HaTzon*, pp. 113-114, 218-220.]

IV. *Neiros D'Zecharyah*

In the *nevu'ah* known as *Neiros D'Zecharyah* (*Zecharyah* 4:1-14), which we read on *Shabbos Chanukah*, Zecharyah was shown a vision of two olive trees, with two clusters of olives next to two golden presses. Golden oil flowed miraculously through forty-nine ducts, seven ducts for each of the seven lamps of a golden *menorah*. The two trees represented two “anointed men” (4:14), the *Kohen Gadol* and the king of the *malchus Beis Dovid*, both of whom are to be anointed with olive oil. Thus, the vision alluded to a Golden Era of the *Beis HaMikdash*.

The *navi* could not understand this vision, because it simply did not correspond to reality. The Second *Beis HaMikdash* period during which Zecharyah lived was not graced by a Davidic King; there was no Jewish sovereignty until the time of the *Chashmona'im*. The *Kohanim Gedolim* were elevated to their position by wearing the special garments associated with *Kehunah Gedolah*, not through anointing, as the *shemen hamishchah*

(anointing oil) had been hidden earlier by King Yoshiyahu. Furthermore, the Second *Beis HaMikdash* period was plagued by yearly replacements of the *Kohen Gadol* and by arguments between the *Perushim* and *Tzeddukim* – hardly a Golden Era of Divine Presence!

This is how the *Gemara* understands the *passuk*, in reference to the construction of the Second *Beis HaMikdash*, *וּאֶרְצָה בּוֹ וְאֶכְבְּדָהּ* – “I will be pleased with it and I will be honored” (*Chaggai* 1:8). Although the last word of the *passuk* is read as *וּאֶכְבְּדָהּ*, it is written *וּאֶכְבֵּד*, without the letter “ה.” The absence of this letter is an allusion to five major things that the Second *Beis HaMikdash* was lacking: the *aron* with its *kapores* and *keruvim*, the fire that descended from heaven, the *Shechinah*, *ru’ach hakodesh*, and the *urim v’tumim* (*Yoma* 21b). There was so much missing, in fact, that Chaggai asked, “Who is left among you who remembers this Temple in its original glory, and how do you view it now? Is it not like nothing in your eyes?” (*Chaggai* 2:3).

Ezra similarly describes, “Many of the elder *Kohanim*, *Levi’im*, and heads of families, who had beheld the First Temple on its foundation, wept loudly [when] this Temple was before their eyes; while many [who had not seen the First Temple] raised their voices in shouting for joy. The people did not notice the sound of the joyful shouting because of the sound of the people’s weeping!” (*Ezra* 3:12-13). This feeling of disappointment was the basis of the question asked of Zecharyah HaNavi – whether the fast of Tishah B’Av should continue to be observed at that time, despite the fact that the *Beis HaMikdash* had recently been rebuilt (*Zecharyah* 7:3).

Thus, Zecharyah records the following interchange between himself and a *mal’ach*:

מה אלה אדני ויען המלאך הדובר בי ויאמר אלי הלוא ידעת מה המה אלה
ואומר לא אדני.

“What are these, my lord?” The *mal’ach* who was speaking to me spoke up and said to me, “Do you not know what they are?” And I said, “No, my lord.” (4:4-5)

In response, the *mal'ach* explained with the cryptic words:

לא בחיל ולא בכח כי אם ברוחי אמר ד' צבקות.

Not through armies and not through might, but through My spirit, says *Hashem*, Master of Legions. (4:6)

Rav Soloveitchik (also found in *Nivei Zahav* by Rav Ze'ev Gold, pp. 163-164), quoting Rav Chaim (*Chiddushei HaGri"z MiPi HaShmu'ah al haTorah, siman 121*), explained the *mal'ach's* answer based on a statement of the *Rambam* (*Hilchos Beis HaBechirah 6:16*) regarding *kedushas Eretz Yisrael*.

The *Rambam* writes that Yehoshua's *kiddush* (sanctification) of Eretz Yisrael was accomplished through *kibbush* (conquest), while the second *kiddush* of Ezra was accomplished through *chazakah* (settlement). This difference manifests itself in the following way. Since the *kiddush* of Yehoshua was based on *kibbush*, once the Babylonian armies conquered Eretz Yisrael from the hands of the Jews at the time of the destruction of the First *Beis HaMikdash*, the *kiddush* vanished, since the conquest was undone. In contrast, the second *kiddush* based on *chazakah* in the time of Ezra is everlasting; this type of *kiddush* cannot be nullified.

That is how Rav Chaim explained the words of the *mal'ach*. Ezra's *kiddush* was "not through armies and not through might, but through My spirit" – that is, the desire of *Hashem* to rest His *Shechinah* on the Land. This type of *kiddush* could not be nullified, and this *kiddush* will therefore remain in effect until the time of *binyan Bayis HaShlishi* and beyond.

Thus, Zecharyah's vision was in essence a representation of the *hashra'as haShechinah* (Divine Presence) that will accompany the **Third *Beis HaMikdash***. *Hashem* showed this vision to Zecharyah at this juncture because the vision referred to the truly glorious Third *Beis HaMikdash* Era, which really began with the building of the Second *Beis HaMikdash*. The wondrous and splendid description of a Golden Era of *Beis HaMikdash*, *malchus Beis Dovid*, and *Kehunah Gedolah*, did, in fact, apply to

this Second *Beis HaMikdash*, in the sense that it began a continuum that will conclude in the Third *Beis HaMikdash* era.

Rav Soloveitchik added that perhaps this is the meaning of the next *passuk*, in which the *navi* describes the Second *Beis HaMikdash*: והוציא את האבן הראשה – “He will bring out the cornerstone” (*Zecharyah* 4:7). This does not merely refer to the placement of the cornerstone of the Second *Beis HaMikdash* at the time of *Zecharyah*, but perhaps also connotes the fact that the entire enterprise of the building of the Second *Beis HaMikdash* was to serve as the foundation of the Third *Beis HaMikdash*. The Second *Beis HaMikdash* itself was the cornerstone of the Third *Beis HaMikdash*. [See *B’Ikvei HaTzon*, pp. 115-116; *Nefesh Harav*, 1994 ed., pp. 76-77; *Rav Schachter on the Parsha, Parshas Shemos*.]

V. Kiddush Eretz Yisrael

The transition into a time period in which *Torah SheBe’al Peh* became the primary focus of Torah learning has relevance to *kedushas Eretz Yisrael* as well. As part of a *Yahrzeit Shiur* (*Shiurim LeZecher Abba Mari Z”l I*, 1983 ed., pp. 169-178), Rav Soloveitchik discussed the source of *kedushas ha’Aretz*.

The *Gemara* in *Megillah* (26b) divides all religious articles into two categories: those that are תשמישי קדושה (accessories to sacred items) and those that are תשמישי מצוה (objects used for the performance of a *mitzvah*). Objects in the former category, such as *sefer Torah* mantles and *tefillin* bags, must be buried in *genizah* (an archive) when they become unfit for use, since their *kedushah* remains intact. In contrast, objects in the latter category, such as a *lulav*, *shofar*, or *tzitzis*, may be discarded when they become unusable, since the object’s *kedushah* no longer exists.

Rav Chaim Volozhiner (*Nefesh HaChaim, sha’ar 4, perek 30*) explains that the criterion to determine which category a religious article belongs to is whether it contains or services

written words of Torah. This is because the root source of all *kedushah* is *Hashem* Himself, and the words of Torah are considered to be a description of His Divine Essence. For this reason, a *sefer Torah* has more *kedushah* than *tefillin*, and *tefillin* has more *kedushah* than a *mezuzah*; the object with the greater amount of written Torah has a greater degree of *kedushah*. Even within the category of *tefillin*, the *shel rosh* has more *kedushah* than the *shel yad*, as it contains the additional letter “ש” on the outside of its *bayis*.

Rav Soloveitchik expanded upon the principle that the status of *kedushah* may only be attained through the incorporation of words of Torah in analyzing the source of the *kedushah* of the *Beis HaMikdash*. He explained that the *kedushah* of the *Beis HaMikdash* flowed from the words of Torah written upon the *luchos* that were inside the *aron*. Therefore, the *Mishkan* was called **מִשְׁכַּן הָעֵדוּת**, because it contained the **לְיוֹחוֹת הָעֵדוּת**.

This is why the *Rambam* (*Hilchos Beis HaBechirah* 4:1) adopted the opinion that during the time of the Second *Beis HaMikdash*, the *aron* with the *luchos* remained situated within the *Beis HaMikdash*, albeit in an underground vault originally designated by Shlomo HaMelech for this purpose. The *Rambam* apparently maintained that the Tannaitic dispute on this matter was not simply a matter of historical interest, but one with halachic ramifications. If the *luchos* would not have been housed within the *Beis HaMikdash*, *kedushas Beis HaMikdash* could not have rested upon it. [See *Eretz HaTzvi*, pp. 89-92; *Rav Schachter on the Parsha, Parshas Terumah*.]

Rav Soloveitchik similarly noted this point in the context of his discussion of the source of *kedushas Eretz Yisrael*. He asked, if the source of all *kedushah* is words of Torah, were there words of Torah written on the trees and mountains of *Eretz Yisrael*?

The Rav explained that although the first *kiddush* was effected in the days of Yehoshua after the seven years of

kibbush and the seven years of *chiluk* (division) of the land, we should not make the mistake of thinking that it was the Jewish army that conquered the land, thereby enabling its sanctification. The *pessukim* are clear that it was the *aron habris* that served to conquer the land. If so, it was the words of Torah engraved upon the *luchos* inside the *aron* that endowed the land with its *kedushah*.

As noted above, the *Rambam* states that while Yehoshua's *kiddush* of Eretz Yisrael was accomplished through *kibbush* (and subsequent *chiluk*) of Eretz Yisrael, the second *kiddush* in the days of Ezra was accomplished through *chazakah*. There was no Jewish conquest of Eretz Yisrael in the days of Ezra. There did not exist an independent Jewish government until the days of the *Chashmona'im*, in the middle of the Second Temple period over two hundred years later.

The *Rambam* continues to explain that at the time of the destruction of the First *Beis HaMikdash*, once the Babylonian armies conquered Eretz Yisrael from the hands of the Jews, the *kiddush* of Yehoshua vanished, since his conquest was undone. However, Ezra's *kiddush*, which was based on *chazakah*, without conquest, is enduring; this type of *kiddush* cannot be nullified.

We may now ask a fundamental question. According to the principle that *kedushah* is attained only through words of Torah, through which words of Torah was the land endowed with *kedushah* in the days of Ezra? Furthermore, the *Gemara* tells us, ירושה ראשונה ושניה יש להן ושלישית אין להן - "The [Jewish People] have a first and second conquest (sanctification of the Land), but there will be no third conquest" (*Yevamos* 82b). As the *Rambam* rules, the second *kiddush* did not terminate when the Roman armies conquered Eretz Yisrael and sent the Jewish People into *galus*, the way the first *kiddush* vanished with the first *churban*. Why is it that the second *kedushah* was stronger than the first?

Rav Soloveitchik suggested that while the first *mekadesh* of Eretz Yisrael was the *Torah SheBichsav*, as represented by the *luchos* inside the *aron* which accomplished the *kibbush*, the second *mekadesh* was the *Torah SheBe'al Peh*. This is based on the rabbinic tradition that the Purim miracle occurred shortly before the return of Ezra and his consequent resanctification of Eretz Yisrael and rebuilding of the Second *Beis HaMikdash*.

As we will explain in the essay on Purim (section VII), there was a communal rededication to the Torah in the aftermath of *nes Purim*, specifically an acceptance of *Torah SheBe'al Peh*. Only after the willing declaration signified by *קימו וקבלו* (Ester 9:27) was it possible for Ezra to be *mekadesh* Eretz Yisrael through the force of *Torah SheBe'al Peh*, something that could not have been accomplished at any earlier time period. [See Rav Schachter on the *Parsha*, *Parshas Chayei Sarah*.]

The difference between the two *mekadshim* of Eretz Yisrael could be the determining factor in whether *kedushas ha'Aretz* is susceptible to nullification after the land has been conquered by a foreign power.

The first *kiddush* had its source in the *Torah SheBichsav*, the words of the *Aseres HaDibros* on the *luchos* in the *aron*. *Torah SheBichsav* is something that is tangible; it is comprised of words written on *klaf* (parchment) with *deyo* (ink), or engraved on the *luchos*. Its material nature renders it susceptible to destruction. Such was the fate of the first *kedushas ha'Aretz*, which was nullified with *churban Bayis Rishon*.

In contrast to *Torah SheBichsav*, *Torah SheBe'al Peh* has no physical form. It has no text *al pi din*, but belongs to the world of ideas. It is comprised of abstract concepts that exist forever and that are not subject to any form of destruction. In much the same way, the second *kiddush*, through the medium of *Torah SheBe'al Peh*, is enduring, even after *churban*, and it is that *kiddush* which invested the Land with its current and everlasting *kedushah*. In this sense, the Second *Beis HaMikdash* served as

the foundation of the Third *Beis HaMikdash*. [See *MiPinei HaRav*, 2001 ed., pp. 335-339; *B'Ikvei HaTzon*, p. 139.]

VI. Future Orientation

In response to the prevalent feeling of disappointment over *Bayis Sheini*, Chaggai's *nevu'ah* provided encouragement:

ועתה חזק וזרבבל ... וחזק יהושע בן יהוצדק הכהן הגדול וחזק כל עם הארץ ...
 כי אני אתכם נאום ד' ... כי כה אמר ד' צבקות עוד אחת מעט היא ואני מרעיש
 את השמים ואת הארץ ואת הים ואת החרבה ... ומלאתי את הבית הזה כבוד
 אמר ד' צבקות ... גדול יהיה כבוד הבית הזה האחרון מן הראשון....

So now, be strong, Zerubbavel ... and be strong, Yehoshua son of Yehotzadak, the *Kohen Gadol*, and be strong, the entire people of the land ... for I am with you – the word of *Hashem* ... For thus said *Hashem*, Master of Legions: “There will be one more; it is a small one. I will shake the heavens and the earth and the sea and the dry land ... and I will fill this Temple with glory,” said *Hashem*, Master of Legions ... “The glory of this latter Temple will be greater than [that of] the first....” (*Chaggai* 2:4-9)

Rashi explains that here Chaggai prophesied that one more nation, the Greeks, would subdue *Bnei Yisrael* after the Persian rule came to a close, but their domination would be brief. During the Greek rule, *Hashem* would cause a major upheaval in Eretz Yisrael – the occurrence of the Chanukah miracles for the *Chashmona'im* – which would demonstrate that there is a *hashra'as haShechinah* in this *Beis HaMikdash*.

Despite the multiple elements that were lacking in this *Beis HaMikdash*, the fact that *nevu'ah* would not continue during the coming period, and the fact that the *Beis HaMikdash* would eventually be destroyed, Chaggai's *nevu'ah* foretold that the day will come that *Hashem* would break the laws of nature and perform a very obvious miracle in the Second *Beis HaMikdash*. The purpose of the *nes* would be to indicate that there **was** a *hashra'as haShechinah* in that *Beis HaMikdash*, to demonstrate that that *Beis HaMikdash* was indeed filled with great glory even though it was not yet noticeable.

Furthermore, the *nes* would be a sign that that *Beis HaMikdash* was the **beginning** of a long process, which would culminate with the days of *Mashiach* and the *Bayis HaShlishi*, its continuation. Thus, *Hashem* assured us through the *nes Chanukah* that although there was no *gilui Shechinah* (Divine Revelation) in the Second *Beis HaMikdash*, there was a hidden, latent *hashra'as haShechinah* (Divine Presence) in it, and that concealed *hashra'as haShechinah* will become apparent and obvious when the Third *Beis HaMikdash* will be built.

The *Gemara* in *Bava Basra* (3a) suggests two simple explanations of the final *passuk* of the above-mentioned *nevu'ah* of Chaggai, גדול יהיה כבוד הבית הזה האחרון מן הראשון. First, the *Gemara* explains that the height of the edifice of the Second *Beis HaMikdash* exceeded that of the first one. Second, the Second *Beis HaMikdash* endured ten years longer than the first.

However, Rav Matisyahu Strashun (the son of the *Rashash*; see the notes printed in the back of the *Vilna Shas*, *Bava Basra* 3a), basing himself on the *Zohar*, offers a different interpretation. The *passuk* should be read as if *הזה* and *האחרון* are hyphenated, הבית הזה-האחרון. The word *הזה* refers to the Second *Beis HaMikdash*, and *האחרון* refers to the Third *Beis HaMikdash*.

Thus, the *navi* was saying that the Second *Beis HaMikdash* was considered the beginning of the Third *Beis HaMikdash*, representing its cornerstone and foundation. The *kedushah* of the Third *Beis HaMikdash* will not be created anew, but will be a continuation of the *kedushas Bayis Sheini*, which was never nullified. The uplifting message of Chaggai, like the *nevu'ah* of Zechariah we discussed earlier, was that the glory of the **Second-Third *Beis HaMikdash***, with the third viewed as an extension of the second, will outshine that of the First *Beis HaMikdash*.

As we mentioned above in the name of the *Nesivos*, Purim was instituted because it was viewed as an *aschalta d'geulah* in relation to the future construction of the Second *Beis Ha-*

Mikdash. We are able to continue celebrating Purim today, even after the destruction of the Second *Beis HaMikdash*, because the Third *Beis HaMikdash* is a continuation of the Second *Beis HaMikdash*. If so, Purim could be seen as a preparatory step towards the building of the **Third *Beis HaMikdash*** as well.

This is why the *passuk* declares explicitly:

וימי הפורים האלה לא יעברו מתוך היהודים וזכרם לא יסוף מזרעם.

And these days of Purim should never cease from among the Jews, nor shall their remembrance perish from their descendants. (*Ester* 9:28)

Purim will always be celebrated, even after *churban Bayis Sheini*, because Purim was established originally as a celebration of *aschalta d'geulah*, and it continues to function in that capacity.

We may advance a similar explanation in regard to Chanukah. Chanukah was originally established in the middle of the period of the *Bayis Sheini* to celebrate the great improvement in the *avodah* of the *Beis HaMikdash*, once it was successfully cleared of *avodah zarah* and a new *mizbe'ach* and *menorah* were dedicated. During the final two-hundred-and-ten years of the *Bayis Sheini* period, Chanukah was celebrated **על שם העבר**, because of these **previous** events. However, now that the Second *Beis HaMikdash* has been destroyed, we continue to celebrate Chanukah for a different reason.

We understand from the *nevu'os* of Chaggai and Zecharyah that the events of *nes Chanukah* served to demonstrate to *Bnei Yisrael* that not only was there a *hashra'as haShechinah* during the Second *Beis HaMikdash*, but that there will be a full *gilui Shechinah* in the Third *Beis HaMikdash*. We now celebrate **על שם העתיד**, in **anticipation** of the Third *Beis HaMikdash*, which will be resplendent with a full measure of visible *gilui Shechinah*. Thus, Chanukah, like Purim, is also an *aschalta d'geulah* regarding the future Third *Beis HaMikdash*.

We may suggest that this is the intent of the *Gemara* in its answer to another question: Why does Chanukah remain in

effect after the *churban Bayis Sheini*, despite the cancellation of all the other Yomim Tovim in *Megillas Ta'anis*? The *Gemara* answers cryptically, שאני חנוכה דמיפרסם ניסא – “Chanukah is different [from the other Yomim Tovim listed in *Megillas Ta'anis*] because the *nes* has become publicized” (*Rosh Hashanah* 18b).

Perhaps the *Gemara* means that the purpose of the *nes* was to serve as a sign, to declare that there will be a *Bayis HaShlishi* and to publicize its future construction. Accordingly, we well understand that the Yom Tov was not abolished upon destruction of the *Bayis Sheini*, because, in its essence, it is not a Yom Tov celebrating *avodah* in the *Bayis Sheini*, but a Yom Tov that anticipates the future building of the *Bayis HaShlishi*.

This idea is also expressed in *sifrei Chassidus*, that see an allusion to the Yom Tov of Chanukah in the *passuk* in *Tehillim* (132:17), ערכתני נר למשיחי – “I have prepared a lamp for My anointed” (see *Me'or Einayim*, *Mikeitz*, s.v. *zman*). The *nes Chanukah*, and the related *neiros Chanukah*, are thus viewed as a preparation for the days of *Mashiach* (also see *Rashi*, *Zecharyah* 4:3).

The *Sfas Emes* (*Chanukah* 5644, s.v. *b'inyan*) makes a similar point, questioning the *passuk*, שיר חנוכת הבית לדוד – “A psalm, a song for the inauguration of the *Beis HaMikdash*, by Dovid” (*Tehillim* 30:1). In this *passuk*, the dedication of the *Beis HaMikdash* is attributed to Dovid, and not to Shlomo, who in fact was the one who dedicated it. The *Sfas Emes* explains that this *mizmor* was penned by Dovid, since “the building of a *Beis HaMikdash* informs and bestows *berachah* upon those before it and after it.”

Hashem told Dovid that he could not build the *Beis HaMikdash* because דם לרוב שפכת – “You have shed much blood” (*Diorei HaYamim* I 22:8), and the *Beis HaMikdash* must be a place of peace. Nevertheless, Dovid eagerly awaited the building of the First *Beis HaMikdash* and sought to prepare for its dedication in the future. Whenever Dovid was successful in battle, he sanctified the precious metals he seized for future use in building the *Beis HaMikdash* (*Yerushalmi Pe'ah* 4:2).

In the words of the *Sfas Emes*: “The earlier generations were enlightened by the [future] *Beis HaMikdash*, due to the great longing with which they anticipated its construction.” Therefore, Dovid, not Shlomo, is here credited with the dedication of the *Beis HaMikdash* in the future. The events of Chanukah are also viewed as preparatory steps towards the building of a future *Beis HaMikdash*, and the Yom Tov was enacted with this future-oriented intention.

The *nes Chanukah* occurred during the era of *Torah SheBe'al Peh*, and the underlying principle of *Torah SheBe'al Peh*, **אלו ואלו דברי אלקים חיים**, caused the *nes* to be necessary. As we have seen, *Torah SheBe'al Peh* was the cornerstone of the *kiddush ha'Aretz* of Ezra, and that *kiddush* is an everlasting one which will extend to the period of the *Bayis HaShlishi* and beyond. Thus, the essence of the Yom Tov of Chanukah is a celebration of *Torah SheBe'al Peh*, and the Yom Tov is still observed today in anticipation of the building of the *Bayis HaShlishi* in the future. [See *B'Ikvei HaTzon*, pp. 114-117.]

PURIM AS ASCHALTA D'GEULAH

I. *Megillas Ta'anis*

As we discussed in the previous essay, the *chachamim* during the period of the Second *Beis HaMikdash* introduced many additional Yomim Tovim beyond those found in the *Chumash*. These days were recorded in *Megillas Ta'anis*. They commemorated various miraculous salvations and were considered minor Yomim Tovim, on which fasting and, on some, delivering a *hesped* (eulogy) were prohibited.

The *Gemara* in *Rosh Hashanah* (18b-19b) records a *machlokes*, which lasted well into the days of the *Amora'im*, as to whether בטלה מגילת תענית – whether the holidays listed in *Megillas Ta'anis* were annulled after the destruction of the Second *Beis HaMikdash*. The *Gemara* concludes that בטלה מגילת תענית, but notes that there were two exceptions – the days of Chanukah and Purim continue to be observed.

The reason that the other Yomim Tovim were canceled was **not** because the particular salvations that they commemorated were forgotten. This is evident from a *Gemara* that discusses the possibility of enacting a new Yom Tov in commemoration of a salvation from a particular Roman decree. The *Gemara* explains that it would not be appropriate to institute a new Yom Tov, arguing: קמייתא בטול אחרנייתא מוסיפין – “If the first [Yomim Tovim instituted during the time of the *Beis HaMikdash*] had already been annulled, would they proceed to add further ones [after the *Beis HaMikdash* had been destroyed]?”

Had the reason for the annulment of the first Yomim Tovim been that the events that they celebrated were no longer remembered, this limitation should not have precluded the introduction of a **new** Yom Tov, whose background would have been well-recognized at the time. Rather, it seems from the *Gemara* that there was a **halachic** reason for the *bitul* – that it was forbidden to celebrate the minor Yomim Tovim in *Megillas Ta’anis* after the destruction of the *Beis HaMikdash*. This is the opinion of the *Pri Chadash* (*Orach Chaim* 496:14), quoted by the *Chassam Sofer* (*Yoreh De’ah* 233 and *Orach Chaim* 191), who writes that their observance would be a violation of *bal tosif* (adding to the *mitzvos* of the Torah).

II. *Sheilah* to Zecharyah HaNavi

The halachic basis of the *Gemara’s* conclusion, namely that **בטלה מגילת תענית**, may be understood in light of a three-part *psak* of Zecharyah HaNavi issued in response to a *sheilah*.

In 1948, after *hakamas haMedinah*, some questioned whether we should continue to observe Tishah B’Av. The *rabbonim* at the time responded that despite the fact that there now exists a Jewish government in control of Eretz Yisrael, since we continue to lack the *Beis HaMikdash*, we must still observe the fast day. In a similar vein, after the Second *Beis HaMikdash* had been built, the *balabatim* sent a *sheilah* to the *nevi’im*, asking whether the custom to observe Tishah B’Av as a fast day, which had been in place during the seventy years of *galus Bavel*, should continue:

האבכה בחודש החמישי הנזר כאשר עשיתי זה כמה שנים.

Should I weep in the fifth month [of Av], abstaining [from pleasures], as I have been doing for many years [since the destruction of the First *Beis HaMikdash*]? (Zecharyah 7:3)

Before analyzing the response of Zecharyah, we may question the basis of the *sheilah* that was posed. Why would the

people entertain the possibility of fasting on Tishah B'Av after the *Beis HaMikdash* was rebuilt?

We may better understand this question once we place the status of the Second *Beis HaMikdash* in proper context. The *Gemara* in *Yoma* (9b) teaches that Shlomo HaMelech knew through *ruach hakodesh* that if most of *Klal Yisrael* would not return from *Galus Bavel*, the Second *Beis HaMikdash* would eventually be destroyed and *Klal Yisrael* would no longer merit the guidance of *nevi'im* (see *Shir HaShirim* 8:9). Since most of the nation remained in Bavel, people realized from the beginning of the Second Temple period that the consequences foretold by Shlomo HaMelech would become a reality.

Similarly, the *Gemara* in *Yoma* (21b) teaches that there were other significant elements of the *Beis HaMikdash* and its *avodah* that were lacking in the Second *Beis HaMikdash* – the *aron* with the *kapores* and *keruvim*, the fire that descended from heaven, the *Shechinah*, *ru'ach hakodesh*, and the *urim v'tumim*. As the *passuk* in *Ezra* (3:12-13) indicates, the older Jews who still remembered the First *Beis HaMikdash* cried upon seeing the rebuilt *Beis HaMikdash* for this reason. This feeling of disappointment was the basis of the question asked of Zecharyah HaNavi – whether the fast of Tishah B'Av should continue to be observed, despite the fact that the *Beis HaMikdash* had recently been rebuilt. “Should I weep in the fifth month [of Av], abstaining [from pleasures], as I have been doing for many years?”

III. Three-Part *Psak* of the *Navi*

Zecharyah began his answer with words of admonishment:

כי צמתם וספוד בחמישי ובשביעי וזה שבעים שנה הצום צמתני אני וכי תאכלו
וכי תשתו הלוא אתם האוכלים ואתם השותים.

When you fasted and mourned in the fifth [month] and in the seventh for these seventy years, was the fasting that you fasted for My honor? [Was it] for Me? And when you eat and when

you drink, is it not you who are the eaters and you who are the drinkers? (*Zechariah* 7:5-6)

As the *Mahari Kara* explains, the *navi* relayed in the name of *Hashem*: “You have not faithfully listened to My *mitzvos* and have neglected to perform acts of kindness and mercy towards one another, and so, in relation to these days as well, you may act on them in whichever way you prefer. You may do as you wish. I have commanded you neither to fast nor to eat.”

Zechariah continued his response with a very unclear *psak*, one which required the elucidation of *Chazal*:

כה אמר ד' צבקות צום הרביעי וצום החמישי וצום השביעי וצום העשירי יהיה לבית יהודה לששון ולשמחה ולמועדים טובים.

Thus said *Hashem*, Master of Legions: “The fast of the fourth [month, Shivah Asar B'Tammuz], the fast of the fifth [Tishah B'Av], the fast of the seventh [Tzom Gedalyah], and the fast of the tenth [Asarah B'Teves] will be to the House of *Yehudah* for joy and for gladness and for happy festivals.” (*Zechariah* 8:19)

Chazal interpret the cryptic response of *Zechariah* as a *psak* consisting of three parts: First, קרי להו צום – “the *passuk* refers to these days as **obligatory** fast days.” Until this point, fasting on these days was merely a *minhag*, but from then on, the obligation was elevated to that of *divrei kabbalah* (a rabbinic enactment that has had the approval of *ruach hakodesh*), having been mentioned in *Kisvei HaKodesh*. Second, קרי להו ששון ושמחה – “these days are called days of joy and happiness” – *Yomim Tovim*, on which it is **forbidden** to fast. Finally, the *navi* considers these days as **optional** fast days: רצו מתענין רצו אין מתענין – “if they want, they fast, and if they do not want, they do not fast” (*Rosh Hashanah* 18b).

The *Gemara* provides guidelines for the application of this three-part *psak*. At a time of peace and the presence of the *Beis HaMikdash*, the former fast days will be **Yomim Tovim**, for joy and happiness.

At a time when there exists a governmental decree to persecute the Jewish People, they are **obligatory fast days**. Indeed,

during the Holocaust, the *rabbonim* in Europe (based on *Bi'ur HaGr''a*, *Orach Chaim* 550:2, citing *Ramban*) ruled that all four fast days took on the stringencies of our observance of Tishah B'Av, including a prohibition of all five categories of *innuyim* (affliction) – eating and drinking, bathing, anointing, wearing leather shoes, and marital relations. Additionally, the fasts lasted twenty-four hours, starting from the previous evening. [See *Nefesh Harav*, 1994 ed., p. 197.]

Finally, there is a middle category in which there is neither open persecution nor the presence of a *Beis HaMikdash*. In this state, the one in which we currently find ourselves, these days become **optional fast days**.

In reference to the three fast days, Shivah Asar B'Tammuz, Tzom Gedalyah, and Asarah B'Teves, *Tosfos* (*Megillah* 5b, s.v. *verachatz*) rules that *Klal Yisrael* has accepted upon itself as a *minhag* to fast on these days. However, regarding Tishah B'Av, the *Gemara* states that even nowadays, even though it is not a time of persecution, Tishah B'Av is still **obligatory** because of the repeated tragedies that occurred on that day.

The *Taz* (*Orach Chaim* 554:4), basing himself on this *Gemara* differentiating between Tishah B'Av and the other fast days, rules that Tishah B'Av has the status of a fast day *midivrei kabbalah*, and therefore only a *חולה שיש בו סכנה* (sick person whose life is in a possible state of danger) may eat on this fast.

The *Avnei Nezer* (*Orach Chaim* 427:5, 429:1) explains that the *Taz* did not have access to the commentary of the *Rashba* on *Maseches Megillah*. The *Rashba* (*Megillah* 5b, s.v. *ubikesh*) comments that it was merely a subsequent *takkanah derabbanan* to make Tishah B'Av a mandatory fast day with all its stringencies, as the *pessukim* above do not differentiate between Tishah B'Av and the other fast days. On the level of *divrei kabbalah*, Tishah B'Av remains an optional fast day, just like the other fast days. Accordingly, even a *חולה שאין בו סכנה* may eat on Tishah B'Av. [See *B'Ikvei HaTzon*, p. 54.]

The *Gemara's* conclusion in reference to the Yomim Tovim in *Megillas Ta'anis*, that בטלה מגילת תענית, is based on the response of Zecharyah. The *navi* had said that the former fast days were declared Yomim Tovim during the time of the Second *Beis HaMikdash*. Yet, these Yomim Tovim were annulled once the *Beis HaMikdash* was destroyed. The *Gemara* reasons that the Yomim Tovim listed in *Megillas Ta'anis* should be treated the same way – והקך נמי כי הני – After the *churban*, the Yom Tov status of these days was also canceled. [See *B' Ikvei HaTzon*, pp. 108-111.]

IV. Establishment of Purim as a Yom Tov

In our essay on Chanukah (section III), we explained that we do not have the right to establish a new Yom Tov for all of *Klal Yisrael* unless it conforms to the rules and regulations of *Megillas Ta'anis* – namely, that the Yom Tov celebrates *binyan Beis HaMikdash*. Indeed, all the Yomim Tovim in *Megillas Ta'anis* revolved around events critical to the preservation and functioning of the *Beis HaMikdash* and its related institutions.

The status of these Yomim Tovim, with the exception of Chanukah and Purim, changed after the *Beis HaMikdash* was destroyed. Now, it is proper to observe *aveilus* and mourn over the loss of the *Beis HaMikdash*, not to celebrate Yomim Tovim that commemorate improvements in the *Beis HaMikdash*. There is no *mitzva* to celebrate the dedication of a *Beis HaMikdash* after its *churban*. This is the rationale for the *Gemara's* conclusion that בטלה מגילת תענית.

Furthermore, the *Gemara* considers it obvious that a new Yom Tov may not be enacted after the *churban Beis HaMikdash*, even in commemoration of a salvation from a particular Roman decree: קמייתא בטול אחרנייתא מוסיפין – “If the first [Yomim Tovim listed in *Megillas Ta'anis*] had already been annulled, would they proceed to add further ones?” As mentioned ear-

lier in the name of the *Pri Chadash*, establishing a new Yom Tov that is not connected to *binyan Beis HaMikdash* would constitute a violation of *bal tosif*.

Based on this, a number of *Acharonim* question how the establishment of Purim corresponds to the rules and regulations of *Megillas Ta'anis*. According to the Talmudic tradition, the story of Purim occurred during the seventy years of *galus Bavel*, **prior** to the return of Ezra and the building of the Second *Beis HaMikdash*. Indeed, when Achashveirosh offered Ester, *עד חצי המלכות וינתן לך* - "Even if it be half the kingdom, [your petition] shall be granted you" (*Ester* 5:3), *Rashi* explains that he was making reference to the *Beis HaMikdash*, which was located in the middle of his 127-country empire. Achashveirosh was willing to accede to any request Ester might have except for a request to rebuild the *Beis HaMikdash*, which was in a state of ruin at the time.

How were the *chachamim* of the time justified in establishing the Yom Tov of Purim in commemoration of the miracle that they experienced, if this historical event lacked any connection to *binyan Beis HaMikdash*? Why would this additional Yom Tov not be considered a violation of the *issur* of *bal tosif*?

The *Nesivos*, in his commentary to *Megillas Ester* (*Megillas Setarim* 9:19), explains that the *chachamim* of that generation must have perceived the *nes Purim* as an *aschalta d'geulah*, the onset of the redemption - that the event would **lead** to the building of the Second *Beis HaMikdash*. This event was not related to an existing *Beis HaMikdash*. Rather, the future expectation associated with *nes Purim* is what justified its establishment as a Yom Tov. Similar to the observance of the Yomim Tovim in *Megillas Ta'anis*, which marked the preservation of an existing *Beis HaMikdash*, there is a *mitzvah kiyumis* to celebrate a Yom Tov for the sake of a *Beis HaMikdash* to be built in the future.

Many Hungarian *rabbonim* were upset with Rav Kook, insisting that he invented the concept of *aschalta d'geulah*. They argued that there are only two stages, *galus* and *geulah*, not the intermediate stage that he spoke of. In fact, however, this is a Talmudic term, appearing more commonly throughout the *Zohar*, and the *Acharonim* did attach significance to it.

The *Gemara* teaches that מלחמה נמי אתחלתא דגאולה היא – “War is also considered the beginning of the redemption” (*Megillah* 17b). *Rashi* in *Sanhedrin* (97a) explains that this refers to wars between Jews and non-Jews, presumably relating to control over Eretz Yisrael. We readily understand why this would be called *aschalta d'geulah*, since after a victorious conclusion to this war, a Jewish government would be able to be established in Eretz Yisrael.

The *Chassam Sofer* in his diary (*Sefer HaZikaron*), quoted by the *Minchas Elazar* (4:5), assumed that other wars are also included in the category of *aschalta d'geulah*. They therefore ruled that since it is prohibited to slow down the process of *geulah*, it is prohibited to *daven* that any war should conclude. [See *B'Ikvei HaTzon*, pp. 113-114, 218-220.]

V. The Definition of *Aschalta D'Geulah*

If we understand what *geulah* means, we will be able to better appreciate the concept of *aschalta d'geulah*.

The *Ramban*, in his introduction to *Chumash Shemos*, comments that the overall theme of this *Sefer* is the *galus* in Mitzrayim and the *geulah* therefrom. Even though *Bnei Yisrael* did not enter Eretz Yisrael at the conclusion of the *Sefer*, the *Ramban* claims that *Chumash Shemos* is still considered to include the *geulah*.

The *Ramban* explains that the primary tragedy of *galus* is not that *Bnei Yisrael* dwell outside of Eretz Yisrael per se. Rather, the tragedy is that we no longer experience *hashra'as haShechinah*

(Divine Presence). In the days of the *Avos*, paraphrasing the *passuk* in *Iyov* (29:4), Avraham, Yitzchak, and Yaakov experienced a state of סוד אלוך עלי אהליהם – “the counsel of *Hashem* above their tents.” The *Avos* experienced a continuous *hashra'as haShechinah*, and that departed upon *Bnei Yisrael's* descent to *Mitzrayim*.

Once the *Mishkan* was built, though, the *Shechinah* returned, as we read in the concluding passages of *Sefer Shemos* (40:34-38):

ויכס הענן את אהל מועד וכבוד ד' מלא את המשכן ... כי ענן ד' על המשכן.

The cloud covered the *Ohel Mo'ed*, and the glory of *Hashem* filled the *Mishkan* ... For the cloud of *Hashem* would be on the *Mishkan*.

In that sense, *Bnei Yisrael* attained their *geulah*, and it is with this that *Chumash Shemos* closes.

Thus, the definition of *geulah* is – **the building of the *Beis HaMikdash* with *hashra'as haShechinah***, and *Bnei Yisrael* were therefore able to experience *geulah* even without entry into *Eretz Yisrael*. The converse is also true. Although we have today returned to *Eretz Yisrael* and the *Yishuv* grows larger and larger, absent a *Beis HaMikdash*, we have not yet experienced *geulah*. [See essay on *Yom Ha'Atzmaut*, section III.]

Utilizing the definition of the *Ramban* that *geulah* means the building of the *Beis HaMikdash*, the *Gemara's* term *aschalta d'geulah* must refer to an event that will lead towards the building of the *Beis HaMikdash*. [See *B'Ikvei HaTzon*, p. 211.]

What are the essential steps in the redemptive process that will culminate in the building of the *Beis HaMikdash*? The *Gemara* in *Sanhedrin* (20b) cites the following *Beraisa*:

שלוש מצוות נצטוו ישראל בכניסתן לארץ להעמיד להם מלך ולהכרית זרעו של עמלק ולבנות להם בית הבחירה.

[The nation of] *Israel* was commanded to perform three *mitzvoos* upon their entrance into the Land: to appoint upon themselves a king, and to eradicate the offspring of *Amalek*, and to build for themselves the *Beis HaMikdash*.

The *Gemara* proves that this series of *mitzvos* must be accomplished in this specific sequence, beginning with the *mitzvah* to establish a Jewish government in Eretz Yisrael.

The *mitzvah* of *להם מלך* requires that we establish a government in Eretz Yisrael and not satisfy ourselves with residing in the Land while it remains under non-Jewish sovereignty. In the words of the *Ramban* (*Hasagos HaRamban Le-Sefer HaMitzvos, Hashmatos Mitzvos Aseh, mitzvah 4*), “we must not leave it in the hands of other nations.”

The next *mitzvah* in the *geulah* process is *להכרית זרעו של עמלק*. This *mitzvah* must be fulfilled by way of formal *milchamah* through the *machaneh Yisrael* (Jewish army encampment), not as a private enterprise. The halachic definition of *milchamah* requires that a Jewish army sponsored by a Jewish government in Eretz Yisrael wage a war (*Chazon Ish, Eiruvin 17b*). [See essay on Yom Ha’Atzmaut, section IV.]

Therefore, the sequence of the three *mitzvos* must be understood as follows. First, there must exist a Jewish government in Eretz Yisrael that sponsors a Jewish army. Then, that army must wage war against Amalek and eradicate it, providing a state of peace and security in Eretz Yisrael. The following series of *pessukim* can then be fulfilled:

וישבתם בארץ אשר ד' אלקיכם מנחיל אתכם והניח לכם מכל אויביכם מסביב
וישבתם בטח והיה המקום אשר יבחר ד' אלקיכם בו לשכן שמו שם שמה
תביאו את כל אשר אנכי מצוה אתכם.

And you shall settle in the Land that *Hashem*, your G-d, causes you to inherit, and He will give you rest from all your enemies all around, and you will dwell securely. It shall be that the place where *Hashem*, your G-d, will choose to rest His Name – there shall you bring everything that I command you. (*Devarim* 12:10-11)

After completion of the first two introductory steps in the *geulah* process, labeled *aschalta d'geulah*, there is a *mitzvah* to build a *Beis HaMikdash* and offer *korbanos*, which is synonymous with *geulah* itself. [See *B'Ikvei HaTzon*, p. 211-214; *Rav Schachter on the Parsha, Parshas Pekudei*.]

VI. The Role of the Purim Miracle

As we mentioned earlier, the *Nesivos* writes that on the occasion of the *nes Purim*, the *chachamim* of that generation perceived that this episode would, in some way, serve as an *aschalta d'geulah*, leading to the building of the Second *Beis HaMikdash*. In anticipation of its future role in the *binyan haBayis*, Purim could be established already in its time as a Yom Tov, just as the other Yomim Tovim in *Megillas Ta'anis* were enacted due to their role in the improvement and preservation of the *Beis HaMikdash*.

The *Nesivos* suggests (as does the *Sfas Emes*, *Purim* 5643, s.v. *inyan*) that the *chachamim* felt that Purim was an *aschalta d'geulah* because the eradication of the descendants of Amalek, the stage immediately prior to *binyan Beis HaMikdash*, was accomplished through the downfall of Haman Ha'Agagi and his sons. [The *Yerushalmi* in *Yevamos* (2:6), however, cites an opinion that Haman is described in the *Megillah* as "ben Hamdasa" (the name of the son of Agag, king of Amalek) not because Haman was an actual descendant of Amalek, but rather because he was similarly an enemy of the Jews.]

The *Nesivos* describes that at some later point, the *chachamim* felt that they had initially misjudged the situation; the episode of Purim would, in fact, **not** lead to the Second *Beis HaMikdash*. They therefore curtailed the observance of the Yom Tov. Although the original enactment of Purim was meant to include an *issur melachah*, as implied by the phrase *שמחה ומשתה ויום טוב* (*Ester* 9:19), the final enactment only included *משתה ושמחה* (9:22), and not an *issur melachah* (*Megillah* 5b). In other words, when at first it was thought that the miracle of Purim represented an *aschalta d'geulah*, the *chachamim* had the right to institute a new Yom Tov with an *issur melachah*. Once the *chachamim* realized that the miracle did **not** represent an *aschalta d'geula*, they abolished the *issur melachah* in order not to violate *bal tosif*.

This additional comment of the *Nesivos* appears to be problematic, as it would seem that the *issur melachah* was removed for a different reason. Just as a rabbinic *gezeirah* (a decree to safeguard against a *d'oraisa* violation) cannot be enacted if the majority of the populace cannot abide by it (*Horayos* 3b), a rabbinic *takanah* (enactment) similarly requires the approval of the *tzibbur*. In this case, the *takanah* forbidding *melachah* on Purim was simply not accepted by the *tzibbur*; the removal of the *issur melachah* was not due to a *bal tosif* consideration. Furthermore, if, indeed, the *chachamim* felt that the *binyan Beis HaMikdash* would not come to fruition as a result of the Purim miracle, they would not have had the right to establish **any** Yom Tov – even one like Chanukah, which does not entail an *issur melachah*.

Instead, it would seem that the miracle of Purim **was** viewed as a preparatory step towards the building of the Second *Beis HaMikdash*, like the initial suggestion of the *Nesivos*. As such, Purim **did** conform to the rules and regulations of *Megillas Ta'anis*, and therefore, the *issur* of *bal tosif* did not apply to it.

We may suggest that it was from a political point of view that the *chachamim* viewed the events of Purim as an *aschalta d'geulah*. They felt that having Ester in the palace would facilitate the rebuilding of the *Beis HaMikdash*. In fact, *Rashi* (*Chaggai* 1:1) comments that the son of Achashveirosh and Ester was Daryaveish (Darius), who succeeded his father and granted permission to the Jews to resume building the *Beis HaMikdash* (*Ezra* 4:24).

Furthermore, the *navi* recounts an incident in which *Nechemyah*, the cup-bearer in the Persian royal court, appeared downcast before King Artachshasta (identified as Daryaveish), distressed over the news he received about the state of ruin of Yerushalayim. The king acted benevolently towards *Nechemyah*, sending him to go and rebuild Yerushalayim. At this encounter, the king is described with the phrase, *והשגל יושבת אצלו* – “with the queen sitting beside him” (*Nechemyah* 2:6). The

Malbim interprets this unclear expression as a reference to the Queen **Mother**, Ester, who must have interceded on behalf of the Jewish People at this time.

This suggestion explains why this non-Jewish king would be interested in supporting, both politically and financially, the enterprise of rebuilding the *Beis HaMikdash*. Ester must have persuaded her son, due to their Jewish roots, to support this cause, and that is why the king acquiesced.

Indeed, the *Gemara* in *Rosh Hashanah* (3b) understands that the fact that he was a Jewish king ruling over Eretz Yisrael did have meaning to Daryaveish. The *Gemara*, in discussing which month to use to mark the new year of Daryaveish's reign, considers his kingship a *malchus Yisrael*, and therefore counts from the month of Nissan. Only later, after he "spoiled," is his reign reckoned like that of non-Jewish kings, from the month of Tishrei. Presumably, this occurred after Ester had already passed away and his government became so secularized that he no longer identified himself as a Jewish king ruling over Eretz Yisrael.

Purim was viewed by the *chachamim* as an *aschalta d'geulah*, but not because it involved a defeat of Amalek. After all, the defeat was not through the waging of a *milchamah* by the Jewish army sponsored by a Jewish government, and it was therefore not actually a fulfillment of *להכרית זרעו של עמלק*.

Rather, it was seen as an *aschalta d'geulah* because the Jewish Queen Ester would have the political power to assist in the rebuilding of the *Beis HaMikdash*, and it seems that Ester did indeed enable the *binyan haBayis* through her son, Achashveirosh's successor. *Chazal* were able to perceive that this event was an *aschalta d'geulah* despite its otherwise tragic consequences – that Ester was forced to marry the non-Jewish Achashveirosh and remain with him after the conclusion of the Purim episode. As such, they declared the day as a Yom Tov. [See *B'Ikvei HaTzon*, pp. 113-114, 218-221; *The Journal of Halacha and Contemporary Society* XVI, pp. 81-85, 91-92.]

VII. *Kabbalas Torah SheBe'al Peh*

Yirmiyahu HaNavi chastised *Bnei Yisrael*, telling them that *Hashem* gave them Eretz Yisrael with the understanding that they would abide by the *bris* of the Torah. Since *Bnei Yisrael* violated the *bris*, there would have to be a *churban Beis HaMikdash* and *galus*, after which a new *bris* would be sealed with *Bnei Yisrael*:

הנה ימים באים נאום ד' וכרתי את בית ישראל ואת בית יהודה ברית חדשה לא כברית אשר כרתי את אבותם ביום החזיקי בידם להוציאם מארץ מצרים אשר המה הפרו את בריתי ... כי זאת הברית אשר אכרות את בית ישראל ... נתתי את תורתי בקרבם ועל לבם אכתבנה.

Behold, days are coming, the word of *Hashem*, when I will seal a new covenant with the House of *Yisrael* and with the House of *Yehudah*; not like the covenant that I sealed with their forefathers on the day that I took hold of their hand to take them out of the Land of *Mitzrayim*, for they annulled My covenant ... For this is the covenant that I shall seal with the House of *Yisrael* ... I will place My Torah within them and I will write it onto their heart. (*Yirmiyah* 31:30-32)

This *bris* would be one that is engraved on the hearts of *Bnei Yisrael*, never able to be annulled, and this everlasting *bris* would enable their return to Eretz Yisrael.

The *nevu'ah* of the ברית חדשה by Yirmiyahu refers to a future event described in *Nechemyah* (10:1):

אנחנו כורתים אמנה וכותבים ועל החתום שרינו לוינו כהנינו.

We are sealing a lasting covenant – an *amanah* – and inscribing it, and upon the sealed portion are our officers, our *Levi'im*, and our *Kohanim*.

The leaders of the people, representing their constituents, gathered in the *Beis HaMikdash* to seal this *amanah* (contract), serving as signatories on a pact committing themselves to observe the *mitzvos* of the Torah.

The origin of the new covenant sealed in the *Beis HaMikdash* was an earlier reacceptance of the Torah that occurred shortly beforehand, in the aftermath of the Purim miracle. The *Gemara* in *Shabbos* (88a), basing itself on the *passuk*, הָהָרַר – וַיִּתְּצֵבוּ בַתְּחִתִּית הָהָרַר –

“they stood at the foot of [literally, in the bottom of] the mountain” (*Shemos* 19:17), teaches that the Holy One, Blessed be He, covered them with the mountain as if it were a barrel – כפה הקדוש ברוך הוא עליהם את ההר כגיית – threatening them, “If you do not accept the Torah, your burial will be there.”

The *Gemara* continues that despite the element of coercion regarding that original acceptance of the Torah, centuries later in the days of Achashveirosh, the Jewish People willingly reaccepted the Torah out of their love for *Hashem* engendered by the Purim miracle. This is derived from the *passuk*, קימו וקבלו היהודים – “The Jews established and accepted” (*Ester* 9:27), which *Chazal* interpret to mean: קיימו מה שקיבלו כבר – “They established [in the days of Achashveirosh] that which they had already accepted [in the days of Moshe].” Apparently, this second *kabbalas haTorah* was necessary because the original one at Har Sinai was done under duress.

Tosfos (s.v. *kafah*) questions why it was necessary to force *Bnei Yisrael* to accept the Torah if they had already willingly declared, נעשה ונשמע – “We will do and we will hear!” (*Shemos* 24:7).

The *Midrash Tanchuma* (*Parshas Noach*, 3) addresses this question with the following distinction. The willing acceptance of *Bnei Yisrael* at Har Sinai was limited to the *Torah SheBichsav*, whereas the reluctance at that time, which necessitated compulsion, was in reference to the assumption of the additional obligations found in the *Torah SheBe'al Peh*. The extreme effort and discipline involved in the study and observance of *Torah SheBe'al Peh* were felt to be too onerous, and coercion was therefore necessary.

Thus, when the *Gemara* teaches that *Bnei Yisrael* reaccepted the Torah anew in the days of Achashveirosh, it refers specifically to the *Torah SheBe'al Peh*. Due to the love for *Hashem* aroused by the miracle of Purim, the *Bnei Yisrael* were now inspired to perform a volitional *kabbalas Torah SheBe'al Peh*. This *kabbalas Torah SheBe'al Peh* began after the Purim miracle and

was concretized in the official *amanah* in the *Beis HaMikdash* soon after. This was the fulfillment of the *nevu'ah* of Yirmiyahu foretelling the sealing of a ברית החדשה that would be “written onto the hearts” of the Jewish People.

This description, of course, is a reference to a *bris* specifically through *Torah SheBe'al Peh*. *Torah SheBichsav* is written on parchment, and just as a physical *sefer Torah* can be abandoned, a *bris* through *Torah SheBichsav* can be forfeited. Indeed, the violation of this first *bris* led to the destruction of the First *Beis HaMikdash*. However, a *bris* based on oral transmission from *rebbe* to *talmid* cannot be undone. Thus, Yirmiyahu's *nevu'ah* was that this second *bris* engraved on the heart cannot be forfeited. *Bnei Yisrael* can never reject this *bris*; it will always remain with them. This new *bris* signified a new phase in the transmission of *Torah*.

In the *Hakdamah* to his *Sefer HaMitzvos*, the *Rambam* writes that for the sake of brevity, “I will not quote each statement in the name of the particular *rebbe* who said it, as in, ‘these are the words of Rabbi so-and-so, or Rabbi so-and-so said.’ Rather, I will list, as a general mention in the beginning of the work, the *chachamim* of the *Mishnah* and *Gemara*, and I will say that all the *dinim* of the *Torah*, namely the *Torah SheBe'al Peh*, have been received from so-and-so and from so-and-so עד עזרא עד משה רבינו.”

Notably, the *Rambam* uses this phrase instead of the common expression, איש מפי איש עד משה רבינו, because the period of Ezra and the *Anshei Knesses HaGedolah* (Men of the Great Assembly) was a new stage in the *Masorah* of *Torah*. This is based on the rabbinic tradition that the Purim miracle occurred shortly before the return of Ezra to Eretz Yisrael.

We find a similar comment in *Seder Olam Rabba* (*perek* 30): “Up until this point [the days of Ezra and the Second *Beis HaMikdash*], the *nevi'im* prophesied with *ruach hakodesh*; from now on, הט אזנך ושמע דברי חכמים – ‘Incline your ear and hear

the words of the *chachamim*' (Mishlei 22:17) [who transmit the *Torah SheBe'al Peh*]."

The *Gemara* in *Yoma* (29a) as well echoes the notion of the advent of a new era of *Torah SheBe'al Peh*:

למה נמשלה אסתר לשחר לומר לך מה שחר סוף כל הלילה אף אסתר סוף כל הנסים. והא איכא חנוכה ניתנה לכתוב קא אמרינן.

Why is Ester compared with the morning [in the *passuk* (*Tehillim* 22:1), *למנצח על אילת השחר* – "For the conductor, about the morning hind"]? To tell you that just as the morning is the end of the entire night, so too, [the redemption through] Ester is the end of all the miracles. But there is the miracle of Chanukah [which occurred subsequently]? We meant to say that Purim is the last miracle allowed to be recorded [in written form, as part of *kisvei hakodesh*].

That is why, historically, the main development of the *Torah SheBe'al Peh* took place after the miracle of Purim – in the merit of the *קימו וקבלו*. We have very few recorded *derashos* of the *Torah SheBe'al Peh*, expounding the *Torah SheBichsav* by means of the application of the *מדות שהתורה נדרשת בהן* (exegetical principles), prior to the period of the *Anshei Knesses HaGedolah*. It was at this time that we find a flourishing of Tannaitic expositions and derivations, as the Oral Torah was now being developed.

The *Gemara* in *Pesachim* (68b) teaches that there is a *machlokes Tanna'im* regarding how a Yom Tov should be observed with regard to spiritual pursuits and physical pleasures. Rabbi Eliezer's view is that the day should be devoted either exclusively to *Hashem* or exclusively to oneself, while according to Rabbi Yehoshua, it should be divided, devoting half to *Hashem* and half to oneself. The *Gemara* continues that on Shavuot, both *Tanna'im* concede that everyone is required to partake of physical delights, for "it is the day on which the Torah was given." By feasting on Shavuot, we demonstrate that we rejoice over having received the Torah.

The *Gemara* proceeds with a statement about Purim. Since Purim is described as “days of feasting and rejoicing” (*Ester* 9:22), it represents another exception to the rule; the obligation of *se’udah* on Purim is similar to the obligation of feasting on Shavuos. The *She’iltos* (*siman* 67), however, cites the *girsas* of the *Ge’onim* explaining why Purim is exceptional: “It is as a day on which the Torah was given.” The *Netziv* (*Ha’amek She’elah*, 6) explains that the source of this statement is the *kabbalas haTorah* described in the *Gemara* in *Shabbos* cited earlier. Indeed, the theme of Purim serving as a new *kabbalas haTorah*, specifically of *Torah SheBe’al Peh*, should be the focus of our thoughts on this most serious day of Yom Tov, just as *kabbalas haTorah* is our focus on Shavuos.

The *Gemara* in *Sanhedrin* (21b) teaches that Ezra would have been worthy of presenting the Torah to *Bnei Yisrael* had Moshe not preceded him. Furthermore, continues the *Gemara*, although the Torah was not given through Ezra, the script of the Torah was changed through him – from *ksav libuna’ah* (similar to the script used in the Code of Hammurabi) to the *ksav ashuris* currently used. This was to demonstrate that there was a new *kabbalas haTorah* in the days of Ezra and that, in this sense, Ezra occupied a role similar to that of Moshe.

The implication of the *Gemara* is that a *kabbalas haTorah* was necessary in the days of Moshe before the first entry into the Land, and a similar *kabbalas haTorah*, the *ברית החדשה*, was necessary prior to the second entry in Ezra’s time. This was accomplished with the *kabbalas Torah SheBe’al Peh* that occurred in the aftermath of the Purim miracle. Thus, the Purim miracle did, indeed, play a pivotal role in *binyan HaBayis*. Through its attendant *kabbalas haTorah*, Purim prompted the second entry into the Land, which, of course, was the precursor to the Second *Beis HaMikdash* (*Sfas Emes*, Purim 5638, s.v. *mah*).

This is the **primary** reason that we feel *nes Purim* was seen as an *aschalta d’geulah*, more so than the destruction of Amalek

upon Haman's downfall or the political advantage of Ester's position in the government. The *nes Purim* inspired the acceptance of the *ברית החדישה*, which ultimately enabled the building of the Second *Beis HaMikdash*. The *chachamim* of the generation were therefore most justified in establishing the day of Purim as a Yom Tov as a function of its role as *aschalta d'geulah*. [See *B'lkvei HaTzon*, pp. 113-114.]

VIII. *Megillas Ester* as *Sefer HaBris*

The *Gemara* in *Megillah* (19a) teaches that one who reads for the *tzibbur* from a *Megillah* that was written together with the other *Kesuvim* in one scroll, not in its own separate scroll, has not fulfilled the obligation of *krias haMegillah*. How are we to understand the nature of this *halachah*?

There is a related *halachah* in reference to *krias haTorah*, that *chumashim* – scrolls containing only one of the *Chamishah Chumshei Torah* – are unacceptable for public use, out of respect for the *tzibbur* (*Gittin* 60a).

The explanation of this *halachah* seems to be based on the description of the *sefer Torah* as a *Sefer HaBris*: ויקח ספר הברית – “He [Moshe] took the Book of the Covenant and read it in earshot of the people” (*Shemos* 24:7). The *kabbalas haTorah* on the occasion of *ma'amad Har Sinai* was a *kerisas bris*, and it therefore required a *Sefer HaBris*. The *sefer Torah* was the *Sefer HaBris*, the contract representing the sealing of the covenant between *Hashem* and *Klal Yisrael*. That *krisas bris* at Har Sinai was a communal one, a *kabbalas haTorah* of the entire *tzibbur*. Therefore, when the *chachamim* enacted *krias haTorah b'tzibbur*, which they patterned after *ma'amad Har Sinai*, they stipulated that only a “*Sefer HaBris*” is acceptable for use.

In describing the completion of the writing of the *sefer Torah*, the *passuk* states:

ויהי ככלות משה לכתוב את דברי התורה הזאת על ספר עד תמם ויצו משה את הלויים ... לקוח את ספר התורה הזה ושמתם אותו מצד ארון ברית ד' אלקיכם והיה שם בך לעד.

And it was that when Moshe finished writing the words of this Torah onto a book, **until their conclusion**, Moshe commanded the *Levi'im* ... "Take this book of the Torah and place it at the side of the *aron* of the Covenant of *Hashem*, your G-d, and it shall be there for you as **a witness**." (*Devarim* 31:24-26)

The implication of the *passuk* is that only a complete *sefer Torah* attains the status of "witness." Only then is it representative of the contract sealed at Har Sinai. Therefore, a *chumash*, despite the fact that it is acceptable for private Torah learning, is unacceptable for *krias haTorah b'tzibbur*; it does not have the status of *Sefer HaBris*.

The statement of *קימו וקבלו* after the Purim miracle represented a new *kabbalas haTorah* of the entire *tzibbur*, and another *Sefer HaBris* thus became necessary. It would serve as the contract between *Hashem* and *Klal Yisrael* regarding the *ברית החדשה*. This new *Sefer HaBris* was none other than *Megillas Ester*.

That is why *Megillas Ester* enjoys a unique status amongst the other *sefarim* of *Nevi'im* and *Kesuvim*. The *Rambam* (*Hilchos Megillah* 2:18) rules that in the time of *Mashiach*, *Megillas Ester* will be the only *sefer* of *Nevi'im* and *Kesuvim* that will retain its *kedushah* and remain part of *kisvei hakodesh*, along with the *Chamishah Chumshei Torah*.

Although the *Ra'avad* disagrees and maintains that all of the twenty-four *sefarim* of *kisvei hakodesh* will retain their status, *Megillas Ester* is still singled out as *דברי שלום ואמת* - "words of peace and truth" (*Ester* 9:30). The *Yerushalmi* (*Megillah* 1:1) understands this phrase to connote that the *Megillah* was given to interpretation through the *מדות שהתורה נדרשת בהן*, just as these principles may be applied to the actual *Chamishah Chumshei Torah*. This is not the case regarding the other *sifrei Nevi'im* and *Kesuvim*.

The *Rambam* (*Hilchos Sefer Torah* 7:16) writes that if a *sefer Torah* is joined into one scroll with other *sefarim*, such as *Yehoshua* or *Yeshayah*, it loses its *kedushas sefer Torah*. It is lowered to the status of a *chumash*, which may be used for

Torah study individually, but not for *krias haTorah b'tzibbur*. Thus, it would seem that a *Megillah* written together with other *Kesuvim* would have a similar *halachah*. The reason for its unacceptability is that it cannot be called a *Sefer HaBris*. If there are other *sefarim* bound into one scroll with this *Megillah*, and those *sefarim* are not *Sifrei HaBris*, this *Megillah* loses that status.

An individual seeking to fulfill his private obligation of *krias haMegillah* would be able to use this scroll, because it would be considered a valid *kriah* מתוך הכתב – from a written format, and not an oral one. However, such a *Megillah* may not be used for the communal *Megillah* reading. Since it was the *tzibbur* that sealed the ברית החדשה, the *chachamim* required that *krias Ha-Megillah b'tzibbur* be performed using a *sefer* that has the distinction of being a *Sefer HaBris*. When we hear the *Megillah* being read on Purim, we should have in mind that we are listening to a *Sefer HaBris* being read, just as the *Bnei Yisrael* listened to Moshe read the *Sefer HaBris* on the occasion of *ma'amad Har Sinai*.

The nature of the *Sefer HaBris* that the *Megillah* represents must be viewed in light of the specific *kabbalas haTorah* at the time of Purim, an acceptance of *Torah SheBe'al Peh*. There was an ongoing *machlokes* regarding whether *Megillas Ester* is part of *kisvei hakodesh*, the last *sefer* to be canonized as one of the *sefarim* of *Tanach*. This fact may explain why *Megillas Ester* was not discovered along with the other twenty-three *sefarim* in the Qumran caves, as that community may have adopted the view that the *Megillah* is not part of *kisvei hakodesh*. The *Gemara's* conclusion is that *Megillas Ester* does belong in the body of *Torah SheBichsav*, that אסתר מטמאה את הידים – touching a scroll of *Ester* does render one's hands *tamei*, as in the case of all the other *kisvei hakodesh* (*Megillah* 7a).

Yet, the *Gemara* in *Megillah* (19a) teaches that the *Megillah* has, in fact, an **intermediate** status between *Torah SheBichsav* and *Torah SheBe'al Peh*. מגילה נקראת ספר ונקראת אגרת – “The

Megillah is called 'a book' [which implies that it must meet the requirements of a Torah scroll], and it is called 'a letter' [which implies that it need not meet those requirements]." Therefore, the *Gemara* concludes that the *dinim* regarding the *Megillah* differ from those of a *sefer Torah*.

If a *Megillah* was stitched with only three strands of sinew, it is valid, whereas a Torah scroll must be stitched along the entire edge of a section of parchment. Furthermore, if the *sofer* omitted letters or *pessukim* from a *Megillah* and the *ba'al korei* recites them from memory, as long as the majority of the text is written properly, the obligation has been fulfilled (*Megillah* 18b). Finally, mistakes of pronunciation made during the *Megillah* reading, such as יהודיים instead of יהודים, do not invalidate it, as long as they do not affect the meaning of the *passuk* (*Yerushalmi, Megillah* 2:2).

These leniencies all seem to be due to the fact that the *Megillah* is labeled an *iggeres*; it therefore need not comply with the strict requirements of a *sefer* with regard to its stitching, its writing, and its recitation. Thus, despite the fact that according to the *Gemara's* tradition, *Megillas Ester* was written with *ruach hakodesh* like the other *sefarim* of *Tanach*, it does not have the full status of *kisvei hakodesh* of *Torah SheBichsav*.

The essential purpose of the writing of *Megillas Ester* was in order to serve as a written contract on behalf of the covenant that was sealed over *Torah SheBe'al Peh* at that time. Therefore, it would have been very logical **not** to include the *Megillah* in the set of *kisvei hakodesh* that make up *Torah SheBichsav*. This explains why there was an opinion that *Megillas Ester* is not included among the *kisvei hakodesh*. Since the result of the Purim miracle was the reacceptance of *Torah SheBe'al Peh* in particular, the *Megillah* that recounts the Purim episode should remain in the form of Oral Torah.

The accepted opinion, however, is that the *Megillah* does belong in the body of *Torah SheBichsav*, that אסתר מטמאה את הידים,

because a **written** contract was necessary in order to seal the new covenant, a *Sefer HaBris*. Nevertheless, the *Megillah* does not have the full status of *Torah SheBichsav*, since, after all, it represents a *kabbalas Torah SheBe'al Peh*. Thus, *Megillas Ester* remains part-*Torah SheBe'al Peh* – נקראת ספר ונקראת אגרת.

IX. *Torah Taolin*

Zecharyah (5:8) presents the following obscure *nevu'ah*:

ויאמר זאת הרשעה וישלך אותה אל תוך האיפה וישלך את אבן העופרת אל פיה.

And he said, "This is the Evil One." And he cast it into the *ephah*, and he cast the lead stone on its mouth.

Chazal (*Yoma* 69b) had a tradition that this *nevu'ah* refers to the *Anshei Kenesses HaGedolah* at the beginning of the Second *Beis HaMikdash* period, who were successful in their prayer to eradicate the *yetzer hara* for *avodah zarah*. For this reason, the tremendous desire to worship *avodah zarah* that existed for so many generations simply does not exist nowadays.

Indeed, the *Gemara* in *Sanhedrin* (102b) relates that after Rav Ashi disparagingly referred to Yerovam, Achav, and Menashe, the idolatrous kings of Israel, as "our colleagues," Menashe visited him in a dream. Menashe said to him, "Had you been [living in my times], you would have lifted the bottom of your garment and run after me [to worship idols]!"

After witnessing their success in eradicating that *yetzer hara*, the *chachamim* prayed to eradicate the *yetzer hara* for *gilui arayos* (forbidden relations) as well. Again, their prayers were answered – to the point that a freshly laid egg was not to be found throughout Eretz Yisrael. The elimination of this *yetzer hara* had caused a complete halt to the impulse for procreation in both males and females, animal and human. Since without procreation the world would become desolate, the *chachamim* withdrew their original prayer, only "blinding the eyes" of the *yetzer hara*, thereby minimizing the drive for incestuous relationships.

Chazal seem to imply that after one of the major aspects of the *yetzer hara* had been subdued, a new *yetzer hara* came into being. At this time, a wave of *apikorsus*, or *minus* (heresy), descended upon the world.

The *Mishnah* in *Berachos* (9:5) teaches that when the *Tzeddukim* (Sadducees) or *minim* (heretics) corrupted the faith by declaring that there is only one world, the *chachamim* instituted the addition of the phrase, **ברוך ד' אלקי ישראל מן העולם ועד העולם** – “Blessed is Hashem, G-d of *Yisrael*, from the World until the World,” into the text of every *berachah* recited in the *Beis HaMikdash*, thereby fortifying belief in the existence of *Olam HaBa*. It seems that this insertion was instituted precisely during this time period, after the elimination of the *yetzer hara* for *avodah zarah*, at the start of the Second *Beis HaMikdash* (*Maharitz Chayes*, *Berachos* 54a).

Indeed, the entire Second *Beis HaMikdash* era was fraught with arguments between the *Perushim* and *Tzeddukim*. The *Rambam* (*Hilchos Avodas Yom HaKippurim* 1:7), in the course of discussing the necessity of the oath taken by the *Kohen Gadol* to properly place the *ketores* upon the burning coals only inside the *Kodesh HaKodashim*, depicts the days of the Second *Beis HaMikdash* as a time of the flourishing of *minus* and of the *Tzeddukim*, who lacked faith in the *Torah SheBe'al Peh*.

The *Gemara* in *Kiddushin* (30b) states that *HaKadosh Baruch Hu* says to the Jewish People:

בני בראתי יצר הרע ובראתי לו תורה תבלין ואם אתם עוסקים בתורה אין אתם נמסרים בידו.

My sons, I have created the *yetzer hara*, and I have created Torah as its antidote. If you involve yourselves in Torah, you will not be delivered into its hand.

We may therefore suggest that there needed to be a transition in the primary method of Torah learning along with the shift in the *yetzer hara* from *avodah zarah* to *minus*. *Nevu'ah* and *Torah SheBichsav* served as the antidote to counter the *yetzer hara*

of *avodah zarah*. However, a different antidote was needed in the Second *Beis HaMikdash* period – namely the study of *Torah SheBe'al Peh*. A new era began after the Purim miracle, when *Torah SheBe'al Peh* was finally accepted willingly. [See *B'Ikvei HaTzon*, pp. 136-139; *Rav Schachter on the Parsha, Parshas Vayeishev*.]

ERETZ YISRAEL

YOM HA'ATZMAUT: CELEBRATING ASCHALTA D'GEULAH

YOM YERUSHALAYIM: UNIQUENESS OF YERUSHALAYIM

YOM HA'ATZMAUT: CELEBRATING ASCHALTA D'GEULAH

I. Proper Perspective

The usual conclusion of Shabbos *havdalah* is המבדיל בין קודש לחול – “Who separates between holy and mundane.” In contrast, in the special *havdalah* recited when Yom Tov immediately follows Shabbos (known by the acronym *yaknehaz*), we conclude the *berachah* with the phrase המבדיל בין קודש לקודש – “Who distinguishes between holiness and holiness.” We highlight the fact that Shabbos possesses a higher level of *kedushah* than Yom Tov.

The *Avudraham* (*Seder HaHaggadah U'Peirushah*) explains that the source in *Tanach* for the concept of differentiating between *kodesh chamur* and *kodesh kal* (stricter and lighter *kedushah*) is the *paroches* in the *Mishkan*. The *passuk* describes the purpose of the *paroches* as, והבדילה הפרוכת לכם בין הקודש ובין קודש הקדשים – “and the partition shall separate for you between the Holy and the Holy of Holies” (*Shemos* 26:33).

The *Gemara* in *Yoma* (23a) recounts a tragic incident that occurred during the period of the Second *Beis HaMikdash* that illustrates the consequence of not differentiating between more important and less important ideals. On one occasion, two *Kohanim* were running up the ramp of the *mizbe'ach* to win the privilege of performing the *avodah*. When one of them neared the *mizbe'ach*, thereby winning the race, the second one took a

knife and stabbed his colleague in the heart, killing him. The father of the slain boy, who found his son on the floor, declared that since his son was still alive writhing on the floor, the knife did not become *tamei*.

The *Gemara* comments on the distortion of values depicted in the story: “[This serves] to teach you that they regarded the *taharah* of the *klei shares* (vessels used for *avodah*) more seriously than murder.” The *Gemara* proceeds to clarify the exact nature of their mistaken value system. Was it that they underemphasized the importance of human life and became desensitized to murder, whereas their attitude towards *taharas keilim* remained as before? Or had their attitude towards murder remained consistent, while they had exaggerated the importance of *taharas keilim*?

The fact is that both mistakes are really one and the same. We must keep all the *mitzvos haTorah* in their proper perspective, assigning the appropriate **relative** value to different ideals. We must not mistakenly prioritize one *mitzvah* over others. Thus, in reciting *המבדיל בין קודש לקודש*, we declare that while Shabbos is *kodesh* and Yom Tov is *kodesh*, not all *kodesh* is on the same level.

This concept also emerges from the *Gemara* in *Gittin* (59b), which teaches that in the event that no *Kohen* is present to be given the first *aliyah* of the *krias haTorah*, *נתפרדה חבילה* – “the bundle is unraveled.” *Rashi* offers two interpretations of this phrase. The second explanation is that the *Levi* need not be accorded precedence over the *Yisrael* and the *aliyah* may be given to either one, without regard to lineage. *Rashi*’s first explanation, however, is that in this situation the *Levi* **may not** be given an *aliyah* at all; the *Levi* has lost the *kavod* of receiving an *aliyah*.

The rationale of *Rashi*’s second *pshat*, which is the one accepted *lehalachah*, is readily apparent. Since the *takanas chachamim* to give the *Kohen* the first *aliyah* will not be fulfilled, there is nothing gained by calling up a *Levi* for the *aliyah*. The first *pshat*,

though, requires some elaboration. Why should it be forbidden to call up a *Levi* to receive his *aliyah* if there is no *Kohen* present?

Rav Soloveitchik suggested that the explanation is based on the importance of distinguishing between levels of *kedushah*. The above *Gemara* cites the *passuk* stated in reference to *Kohanim*, וקדשתו - "And you shall sanctify him" (*Vayikra* 21:8), as the source that the *Kohen* takes precedence for every matter of *kedushah*, "to open [every assemblage with the] first [address], to recite the *berachah* first [at a meal], and to take a preferred portion first." Included in the *din* that we must respect the *Kohen* is that we must not accord the *Levi* an equal measure of respect. Doing so in effect nullifies the honor given similarly to the *Kohen* and causes a blurring of the boundaries of lineage in the Jewish Nation.

Thus, it is implicit in the *mitzvah* of וקדשתו, to show *kavod* to the *Kohen*, **not** to give the first *aliyah* to a *Levi*, honoring him as much as we honor the *Kohen*. Of course, since the first *aliyah* must be given to someone, giving it to a *Yisrael* in no way lessens the honor of the *Kohen*. However, conspicuously giving the *Kohen's* *aliyah* to this non-*Kohen*, by virtue of the fact that he is a *Levi*, is viewed as a lack of *kavod* to the *Kohen*. [See *Nefesh HaRav*, 1994 ed., pp. 130, 295.]

The philosopher Blaise Pascal wrote that although each of his individual ideas may have appeared in the writings of earlier philosophers, his innovation was in the arrangement in which he presented them. Just as the same words in a different order form different thoughts, the same thoughts organized differently form a different discourse. Pascal compared this to a game of tennis. "When we play tennis, we both play with the same ball, but one of us places it better" (*Thoughts* 1:22).

For example, if two people agree to two principles, but one believes that A is the rule and B is the exception to the rule, and the second believes that B is the rule and that A is the exception to the rule, they have totally different perspectives. Similarly, even though two people subscribe to rule A and to rule B,

if they arrange the importance of these ideas differently, their outlooks are vastly different. This notion is similar to what *Rashi* advances in his first interpretation regarding the *kavod* owed to *Kohanim*.

This principle, the need for proper perspective, is necessary in the realm of *mitzvah* observance as well. All Orthodox Jews subscribe to all of the six hundred and thirteen *mitzvos* and endeavor to fulfill each and every one in a complete fashion. Yet, clearly, we must know which *mitzvos* were given *ledoros* and which were only intended *lesha'ah*, and which are the rule and which are the exceptions to the rule.

Similarly, it is very important to recognize what the hierarchy of *mitzvos* is, and it requires a great deal of Torah learning to attain such a level of knowledge. Some *mitzvos* are more critical than others; having a sense of their relative value will allow us to give priority to certain ones. At times, people are drawn to one *mitzvah* so strongly that they are prepared to sacrifice other, more crucial ones. We have seen this in regard to the *mitzvos* related to Eretz Yisrael. The *mitzvos* of *yishuv ha'Aretz* and *kibbush ha'Aretz* are indeed very significant, but their fulfillment does not justify the violation of the other *mitzvos*.

The same is true in the realm of Yomim Tovim. Some Yomim Tovim are *d'oraisa* – Pesach, Shavuos, and Sukkos – and some Yomim Tovim are *derabbanan*. The latter have different *halachos* because they are, relatively speaking, “minor holidays.” The same analysis should be used when considering how to celebrate Yom Ha'Atzmaut. Is it the case that Yom Ha'Atzmaut should be celebrated as the “highest” holiday of all the holidays? Clearly not. The *Medinah* definitely has its place within the *taryag mitzvos*, but we should realize that it is not the most important value that the Jewish People have, on par with Shabbos, *kashrus*, and *taharas hamishpachah*. [See *Nefesh HaRav*, 1994 ed., pp. 86-87.]

II. *Hetter* to Celebrate

The *navi* Yeshayah (26:15) tells us, יספת לגוי ד' יספת לגוי נכבדת – “You have exalted [Your] nation, *Hashem*; You have exalted the nation by whom You are honored.” The *Yalkut Shimoni* (430) interprets this *passuk* as a reference to the addition of Yomim Tovim observed by the Jewish People. The *Midrash* comments: “When You increase holidays for the idolatrous nations, they celebrate by eating and drinking recklessly, and enter the theatres and circuses and anger You with their ways and actions. The Jewish People, in contrast, eat and drink and celebrate, and gather in *Batei Keneisiyos* and *Batei Medrashos* and offer extra *tefillos* and *korbanos*.”

Thus, according to the *Midrash*, the end of the *passuk* indicates that *Hashem* is honored by the observance of additional Yomim Tovim. However, this seems to contradict *Chazal's* conclusion elsewhere.

Commenting on the *passuk*, אלה המצוות – “These are the commandments” (*Vayikra* 27:34), *Chazal* derive the principle, אין נביא רשאי לחדש דבר מעתה – “a *navi* is not permitted to introduce anything new from now on” (*Megillah* 2b). This prohibition includes the observance of additional Yomim Tovim if they are meant to be celebrated by all Jews all over the world. Such a practice would be a violation of *bal tosif*, adding on to the *mitzvos* of the Torah (see *Pri Chadash*, *Orach Chaim* 496:14, quoted by the *Chassam Sofer*, *Yorah De'ah* 233 and *Orach Chaim* 191). In fact, the *Yerushalmi* (*Megillah* 1:5) teaches that following *nes Purim*, the response of the *chachamim* to the request of Mordechai and Ester to institute the Yom Tov of Purim was that this is not permitted, based on the above *derashah*.

What, then, is meant by the words of the *navi* Yeshayah? Furthermore, what was the ultimate justification allowing for the institution of Purim?

[If the Yom Tov is a private one, such as the commemoration of a salvation of a particular family or community, it

would not be included in this *issur* (*Maharam Alshaker*, cited by *Magen Avraham*, *Orach Chaim* 686; *Chayei Adam*, end of *Hilchos Megillah*; *Malbim*, *Ester* 9:19).]

As we discussed previously, there is a *mitzvah* to celebrate the building of a *Beis HaMikdash*. The *Ramban* develops this idea in his commentary to the Torah (*Bamidbar* 7:13-17), as well as in his *Hasagos* to *Sefer HaMitzvos* (*shoresh shlishi*, s.v. *aval*). Although this *mitzvah* was only relevant a few times in history, the *Galya Masechta* (*chelek drush*, p. 23b) extends this obligation to a much more common occurrence, writing that there is a *mitzvah* to celebrate the construction of a *Beis HaKnesses* or *Beis HaMedrash*, since these are referred to as *Mikdash Me'at* (miniature *Beis HaMikdash*) in *Yechezkel* (11:16).

Not only is there a *mitzvah chiyuvis* (obligatory *mitzvah*) to celebrate when a *Beis HaMikdash* is initially built, there is a *mitzvah kiyumis* (optional *mitzvah*) to celebrate every year in commemoration of that event, and therefore doing so is not a violation of *bal tosif*. Similarly, it would be permissible, as a *mitzvah kiyumis*, to celebrate when something occurs that is viewed as leading to the building of a *Beis HaMikdash* in the future. The celebration would be permitted to continue annually in anticipation of and in preparation for the building of the *Beis HaMikdash*. [See essays on Chanukah, section III, and Purim, section IV.]

Thus, the *mitzvah kiyumis* is predicated upon the concept of *aschalta d'geulah* – the onset of the redemption. This concept is not a political construct coined in the twentieth century by the pioneers of the Zionist movement. *Aschalta d'geulah* is a term used by the *Gemara*, and this halachic term carries with it two practical ramifications, one of which is that it provides us with a *hetter* to celebrate. [See *B'Ikvei HaTzon*, pp. 109-111, 218-220.]

III. The Definition of *Geulah*

If we understand what *geulah* means, then we will be able to better appreciate the concept of *aschalta d'geulah*. The *Ramban*,

in his introduction to *Chumash Shemos*, comments that the overall theme of this *Sefer* is the *galus* in Mitzrayim and the *geulah* therefrom. Even though *Bnei Yisrael* did not enter Eretz Yisrael at the conclusion of the *Sefer*, the *Ramban* claims that *Chumash Shemos* is still considered to include the *geulah*.

The *Ramban* explains that the primary tragedy of *galus* is not that *Bnei Yisrael* dwell outside of Eretz Yisrael per se. Rather, the tragedy is that we no longer experience *hashra'as haShechinah* (Divine Presence). In the days of the *Avos*, paraphrasing the *passuk* in *Iyov* (29:4), Avraham, Yitzchak, and Yaakov experienced a state of *סוד אלוך עלי אהליהם* – “the counsel of *Hashem* above their tents.” The *Midrash Rabbah* comments similarly on the *passuk*, *ויכל לדבר אתו ויעל אלקים מעל אברהם*, – “And when He had finished speaking with him, *Hashem* ascended from upon Avraham” (*Bereishis* 17:22): *האבות הן הן המרכבה* – “the *Avos*, they themselves were the Divine chariot.” The *Avos* experienced a continuous *hashra'as haShechinah*, and that departed upon *Bnei Yisrael's* descent to Mitzrayim.

Once the *Mishkan* was built, however, the *Shechinah* returned, as described in the concluding *pesukim* of *Sefer Shemos* (40:34-38):

ויכס הענן את אהל מועד וכבוד ד' מלא את המשכן ... כי ענן ד' על המשכן.

The cloud covered the *Ohel Mo'ed*, and the glory of *Hashem* filled the *Mishkan* ... For the cloud of *Hashem* would be on the *Mishkan*.

In that sense, *Bnei Yisrael* attained their *geulah*, and it is with this that *Chumash Shemos* closes.

Thus, the definition of *geulah* is **the building of the *Beis HaMikdash* with *hashra'as haShechinah***. In the *midbar*, *Bnei Yisrael* were therefore able to experience *geulah* even without entry into Eretz Yisrael. The converse is also true. Although we have today returned to Eretz Yisrael and the *Yishuv* grows larger and larger, absent a *Beis HaMikdash*, we have not yet experienced *geulah*.

After the establishment of the State of Israel, the *Chazon Ish* was quoted as saying, “This is the *sof hagalus*, but it is not yet

the *geulah*." The *Chazon Ish* was presumably using the *Ramban's* terminology. It is the conclusion of the *galus* because we are now free to reside in Eretz Yisrael, but it is not yet the *geulah*, as we lack *hashra'as haShechinah*.

The *Gemara* in *Rosh Hashanah* (11a) famously tells us that בניסן נגאלו בניסן עתידין ליגאל – "In Nissan, they were redeemed; in Nissan, they are destined to be redeemed." It seems that the first statement is not as much based on the fact that *yetzi'as Mitzrayim* occurred in Nissan as it is based on the dedication of the *Mishkan* in Nissan one year later. Similarly, the second statement of *Chazal* is based on the *pessukim* in *Yechezkel* (45: 18-25), which describe the special *korbanos* that will be brought for the *chinuch* of the Third *Beis HaMikdash* for more than six months – from Rosh Chodesh Nissan, when its construction will be completed, until the middle of the following Tishrei. The future "geulah in Nissan" corresponds to the completion of the building of the Third *Beis HaMikdash* at that time.

Utilizing the definition of the *Ramban* that *geulah* means the building of the *Beis HaMikdash*, the *Gemara's* term *aschalta d'geulah* must refer to an event which will **lead towards** the building of the *Beis HaMikdash*. [See *B'Ikvei HaTzon*, p. 211; *Rav Schachter on the Parsha, Parshas Pekudei*.]

IV. The Steps Leading to *Binyan Beis HaMikdash*

What are the essential steps in the redemptive process that will culminate in the building of the *Beis HaMikdash*? The *Gemara* in *Sanhedrin* (20b) cites the following *Beraisa*:

שלש מצוות נצטוו ישראל בכניסתן לארץ להעמיד להם מלך ולהכרית זרעו של עמלק ולבנות להם בית הבחירה.

[The nation of] Israel was commanded to perform three *mitzvoos* upon their entrance into the Land: to appoint upon themselves a king, and to eradicate the offspring of Amalek, and to build for themselves the *Beis HaMikdash*.

The *Gemara* proves that this series of *mitzvos* must be accomplished in this specific sequence, beginning with the *mitzvah* to establish a Jewish government in Eretz Yisrael.

There are those who mistakenly thought that the *Ramban* alone espouses the view that there is a *mitzvah* of *kibbush ha'Aretz* (conquest of the Land), whereas the *Rambam* denies the existence of such a *mitzvah*. According to this approach, the *mitzvah* to take possession of Eretz Yisrael only applied in the time of Moshe, Yehoshua, and Dovid, and will apply again with the coming of *Mashiach*, but it is not currently in effect (*Megillas Ester*). This is not a correct approach, as the *Ramban* clearly **does** count the *mitzvah* להעמיד להם מלך (*Mitzvos Asei* 173), and it would appear that this *mitzvah* is identical with the *mitzvah* to take possession of Eretz Yisrael.

The thrust of the famous “*mitzvah daled*” (*Hasagos HaRamban LeSefer HaMitzvos, Hashmatos Mitzvos Aseh*), in which the *Ramban* takes issue with the *Rambam*'s deletion of a *mitzvah*, does not refer to the *mitzvah* of *kibbush ha'Aretz*, i.e. להעמיד להם מלך, but to the *mitzvah* of *yishuv ha'Aretz* – settling the Land.

The *Ramban*'s source for both of these *mitzvos* is the *passuk*, והורשתם את הארץ וישבתם בה – “You shall take possession of the Land and you shall settle in it” (*Bamidbar* 33:53). The first part of the *passuk* is a *mitzvah* both according to the *Ramban* and the *Rambam*; both subscribe to “Zionism.” It is the **second** part of the *passuk* that is subject to debate and which has given rise to a vast literature trying to account for the *Rambam*'s failure to count *yishuv Eretz Yisrael* in his *minyán hamitzvos* (see *Avnei Nezer, Yoreh De'ah* 454:6).

The *mitzvah* of *kibbush ha'Aretz*, i.e. להעמיד להם מלך, requires that we establish a government in Eretz Yisrael and not satisfy ourselves with residing in the Land while it remains under non-Jewish sovereignty. In the words of the *Ramban*, “we must not leave it in the hands of other nations.” The *mitzvah* does not refer specifically to the appointment of a king per se; it may also be

accomplished through the establishment of a democratic Jewish government in Eretz Yisrael, such as *Medinas Yisrael*.

The Ramban (*Vayikra* 16:21) writes, "If *Am Yisrael* had desired [seeing the *Beis HaMikdash* built] and had bestirred themselves about it from the beginning, it would have been accomplished during the days of one of the *Shoftim*." Rav Moshe Tzvi Neria (*Torah SheBe'al Peh*, vol. 11, p. 106) pointed out that the Ramban envisions such a possibility, despite the *Beraisa's* requirement of **מלך להם** **prior to** **בית הבחירה להם**. Apparently, the requirement of **מלך** may be fulfilled with the presence of a Jewish government, such as the one that existed in the days of the *Shoftim*.

Similarly, the *Yerushalmi* (*Ma'aser Sheini* 5:2) proves that the *Beis HaMikdash* will be built **prior to** *malchus Beis Dovid*, again in contradiction to the *Beraisa's* required sequence. The explanation must be that the prerequisite of **מלך להם** will be fulfilled through a Jewish **government** that will precede **בית הבחירה להם**. The return of *malchus Beis Dovid*, according to the *Yerushalmi*, will be a subsequent development.

Likewise, the Ramban mentions (*Hasagos LeSefer HaMitzvos*, end of *Hashmatos Mitzvos Lo Sa'aseh*, s.v. *v'ata*) that the *mitzvah* to consult with the *urim v'tumim* before going to battle devolves upon the king, *shofet*, or the one in control of the populace. Again, the requirement of **מלך** is met by one who leads the government, not necessarily by means of a monarch.

David Ben-Gurion, though he claimed he was an atheist, would constantly quote *pessukim* from *Tanach*. It meant something to him that he presided over a Jewish government in Eretz Yisrael. That alone should have conferred on his government a status of *malchus Yisrael*. Indeed, there were kings described in *Tanach*, such as Ach'av, who caused the Jewish People to worship *avodah zarah*, but their kingships were still considered to be *malchus Yisrael*. The *Mishnah* in *Rosh Hashanah* (1:1), in counting the new year of the reign of a king of *malchus Yisrael* as

beginning in Nissan, does not differentiate between a king who observed the *mitzvos* and Ach'av HaRasha.

As much as religious Jews complain about the Israeli government, it is obvious that this government is a Jewish one, a *malchus Yisrael*. This is the perception of the entire world, which is why there is so much opposition towards this government by our enemies.

The next *mitzvah* in the *geulah* process is להכרית זרעו של עמלק. This *mitzvah* must be fulfilled by way of formal *milchamah* through the *machaneh Yisrael* (Jewish army encampment), not as a private enterprise. The Rambam (*Hilchos Melachim* 5:4) writes that the *mitzvah* of החרם תחרימם - "you shall utterly destroy them" (*Devarim* 20:17) - applies to every individual who has it in his power to kill any member of the *shivah amemim* (seven Canaanite nations). In contrast, the מלחמה לד' בעמלק applies only to a Jewish army sponsored by a Jewish government in Eretz Yisrael, charged to eradicate the nation of Amalek through *milchamah*.

Before the building of the Third *Beis HaMikdash*, there will be a nation whose policy it is to destroy the Jewish Nation, and this nation will be defined as Amalek. Rav Soloveitchik said in the name of his grandfather, Rav Chaim, that even if this nation is not made up of the biological descendants of the original Amalekim, it would have the status of Amalek, and it will be incumbent upon the Jewish government to organize an army to wipe out that nation.

The Queen of England's claim that she is a descendant of *malchus Beis Dovid* does not make the British Army into a *machaneh Yisrael*. The halachic definition of *milchamah* requires that a Jewish army sponsored by a Jewish government in Eretz Yisrael wage a war (*Chazon Ish, Eiruvin* 17b). Accordingly, the *Irgun*, for example, which was engaged in fighting in order to first establish a Jewish government, would likewise have been excluded from the halachic status of *machaneh Yisrael*.

Accordingly, the sequence of the three *mitzvos* must be understood as follows. First, a Jewish government must be established in Eretz Yisrael, which then organizes a Jewish army. Then, that army must wage war against Amalek and eradicate it. The following series of *pessukim* in *Devarim* (12:10-11) can then be fulfilled:

וישבתם בארץ אשר ד' אלקיכם מנחיל אתכם והניח לכם מכל אויביכם מסביב
וישבתם בטח והיה המקום אשר יבחר ד' אלקיכם בו לשכון שמו שם שמה
תביאו את כל אשר אנכי מצוה אתכם.

And you shall settle in the Land that *Hashem*, your G-d, causes you to inherit, and He will give you rest from all your enemies all around, and you will dwell securely. It shall be that the place where *Hashem*, your G-d, will choose to rest His Name - there shall you bring everything that I command you.

In 1967, after the Six-Day War (*Milchemet Sheishet HaYamim*), when finally **הר הבית בידינו** - "the Temple Mount [became] under our control," some felt that we had an obligation to build the *Beis HaMikdash* and start bringing *korbanos*. Rav Soloveitchik said at the time that there was no such obligation because of the ongoing security issues in Eretz Yisrael, which continues to be surrounded by her enemies to this day. Only after the government wages war against Amalek and the land is secure would such an obligation begin. The third step in the process, the building of the *Beis HaMikdash*, only becomes obligatory once it is absolutely peaceful in Eretz Yisrael. [See *Nefesh HaRav*, 1994 ed., pp. 96-97.]

After completion of the first two introductory steps in the *geulah* process, labeled *aschalta d'geulah*, there is a *mitzvah* to build a *Beis HaMikdash* and offer *korbanos*, which is synonymous with *geulah* itself. [See *B'Ikvei HaTzon*, p. 211-214.]

In fact, we do not have permission to establish a government in Eretz Yisrael if we do not plan to build a *Beis HaMikdash*. If our interest is merely to have a secular state, the non-Jews are correct in their assertion that we are not entitled to Eretz Yisrael.

We learn this from the *Gemara* in *Megillah* (31b), which describes the dialogue between Avraham and *Hashem* on the occasion of the *bris bein habesarim* (*Bereishis* 15:8-9):

ויאמר ד' אלקים במה אדע כי אירשנה. אמר אברהם לפני הקב"ה רבש"ע שמא ח"ו ישראל חוטאים לפניך ואתה עושה להם כדור המבול וכדור הפלגה אמר לו לאו אמר לפניו רבש"ע במה אדע אמר לו קחה לי עגלה משולשת ועז משולשת ואיל משולש ותור וגוזל.

And he said, "*Hashem*, G-d. Whereby shall I know that I am to inherit [Eretz Yisrael]?" Avraham said before *HaKadosh Boruch Hu*: "Master of the Universe! Perhaps, Heaven forbid, Israel will sin before You, and You will do to them as to the generation of the *mabul* and the generation of the Dispersion." [*Hashem*] said, "No!" [Avraham] said before Him, "Master of the Universe! Whereby shall I know?" [*Hashem*] said to him: "Take to Me three calves, three goats, three rams, a turtledove, and a young dove."

The *Gemara* interprets that *Hashem* answered Avraham that his descendants would have a right to Eretz Yisrael because of the *korbanos* that he was about to offer and because of the *korbanos* in the *Beis HaMikdash* that *Hashem* would later institute as a means of *kapparah* for his children.

Rav Yerucham Gorelick pointed out that this interpretation is clear from the *Targum Unkelos* on this *passuk* as well. The *Targum* translates "וגוזל" as בר יונא, the only species of fowl (aside from turtledoves) acceptable as a bird-*korban*, implying that the *bris* ensuring Jewish control of Eretz Yisrael was sealed only in the merit of *korbanos*.

Thus, *Hashem* stated that He gives the Jewish Nation sovereignty over Eretz Yisrael with the expectation that the establishment of the Jewish government will lead to the building of a *Beis HaMikdash*. In other words, we are entitled to the first steps of the *geulah* only if we plan to complete the process of *geulah*. According to the process enumerated above, the first two steps constitute the *aschalta d'geulah* and the third step is the *geulah* itself. [See *B'Ikvei HaTzon*, pp. 211-213.]

V. Halachic Ramifications of *Aschalta D'Geulah*

Now that we have clarified the concept of *aschalta d'geulah*, we can begin to discuss its halachic relevance. The *Gemara* in *Megillah* (17b) makes the following observation in reference to *aschalta d'geulah*: מלחמה נמי אתחלתא דגאולה היא – “War is also considered the beginning of the redemption.” *Rashi* (*Sanhedrin* 97a, s.v. *milchamos*) explains that this refers to wars between Jews and non-Jews, presumably relating to control over Eretz Yisrael. We readily understand why this would be called *aschalta d'geulah*, since after a victorious conclusion to this war, a Jewish government would be able to be established, forming the first stage in the three-part process mentioned above, leading up to the building of the Third *Beis HaMikdash*.

The *Chassam Sofer* in his diary (*Sefer HaZikaron*), quoted by the *Minchas Elazar* (4:5), assumed that other wars are also considered to be *aschalta d'geulah*. They therefore ruled that since it is prohibited to slow down the process of *geulah*, it is prohibited to *daven* that these wars of *aschalta d'geulah* should conclude. Such an act would be tantamount to preventing the arrival of the *geulah*.

The *Rambam* (*Peirush HaMishnayos, Sanhedrin, Perek Chelek, yesod* 12, Rav Yosef Kapach translation) writes that we are obligated to *daven* to *Hashem* for the coming of *Mashiach*, because we must do all we can to hasten the *geulah*. It is for this reason that we include את צמח דוד עבדך מהרה תצמיח – “The offspring of Your servant Dovid may You speedily cause to flourish” – in our daily *Shemoneh Esrei*. We certainly may not do anything to delay the *geulah*.

The *Nesivos*, in his commentary to *Megillas Ester* (*Megillas Setarim* 9:19), discusses a second *halachah* related to *aschalta d'geulah*. As previously mentioned, we do not have the right to establish a new rabbinic Yom Tov; this would be considered a violation of *bal tosif* according to the *Pri Chadash*. The only exception to this rule seems to be a Yom Tov that is related to

geulah, defined as *hashra'as haShechinah* in the *Beis HaMikdash*. This is based on the idea that the *Ramban* developed, that there is a *mitzvah* to celebrate the building of a *Beis HaMikdash*.

The *Gemara* in *Rosh Hashanah* (18b-19b) discusses *Megillas Ta'anis*, a scroll that lists many days of Yom Tov added by the *chachamim* of the Second *Beis HaMikdash* period, on which fasting and, on some, eulogizing were prohibited. The *Gemara* explains that the days listed all revolved about protecting or fortifying the *Beis HaMikdash*, the *avodah* therein, or its institutions, such as the *Sanhedrin* and the *Kehunah*. These days of Yom Tov could be established without being considered a violation of *bal tosif* because they are subsumed under the *mitzvah* that the *Ramban* discussed – to celebrate the building of the *Beis HaMikdash*.

The *Nesivos* wonders how the *chachamim* were justified in adding the Yom Tov of Purim, since, according to Talmudic tradition, the miracle of Purim occurred prior to the Second *Beis HaMikdash* period, during the seventy years of *galus Bavel*, and does not seem to be related to the *Beis HaMikdash*. It must be, the *Nesivos* explains, that the *chachamim* of that generation felt that the miracle of Purim would in some way serve as an *aschalta d'geulah*, **leading** to the building of the Second *Beis HaMikdash*. He suggests (as does the *Sfas Emes*, Purim 5643, s.v. *inyan*) that they may have felt this way because the destruction of the descendants of Amalek, the stage immediately prior to the building of the *Beis HaMikdash*, was accomplished through the execution of Haman and his sons.

It is interesting that the *Nesivos* assumes that it was permissible for the *rabbonim* to establish a Yom Tov merely because they **thought** that it represented an *aschalta d'geulah*, even though their conclusion was not reached through *ruach hakodesh*. Indeed, the *Nesivos* argues that at a later time, the *rabbonim* revised their original assessment, concluding that it was erroneous. We see that the determination of whether a historical event is to be judged as an *aschalta d'geulah* does not

require a *navi* or *ruach hakodesh*, but only that the event be one that possesses a reasonable probability of bringing a future *geulah*. If it turns out that the assessment of the *rabbonim* was incorrect, they would then be *mevatal* the Yom Tov.

We may add that the Purim miracle did, in the final analysis, enable the building of the Second *Beis HaMikdash*. From a political perspective, the Persian King Daryavesh (Darius, son of Ester and Achashveirosh) granted permission to continue the building of the *Beis HaMikdash* (Ezra 4:24). Moreover, from a religious perspective, the renewed acceptance of *Torah SheBe'al Peh* engendered by the Purim miracle was a necessary prerequisite for Ezra's entry into Eretz Yisrael and the *geulah*, the building of the Second *Beis HaMikdash* (*Sfas Emes*, Purim 5638, s.v. *mah*; see essay on Purim, sections VI-VII).

Thus, in addition to the Yomim Tovim that appear in the Torah, we are able to institute additional Yomim Tovim that conform to the above-mentioned rules and regulations of *Megillas Ta'anis*. An event labeled as *aschalta d'geulah* would fit within those rules because such an event is related to the future building of the *Beis HaMikdash*. If the event signifies one of the steps in the three-step process that will lead to the building of the *Beis HaMikdash*, it may be celebrated as an *aschalta d'geulah*. [See *B'Ikvei HaTzon*, pp. 113-114, 211, 218-219.]

VI. Has *Aschalta D'Geulah* Begun?

The only way *hakamas haMedinah* in 1948 would not be viewed as *aschalta d'geulah*, the first step in the chain of events leading up to the building of the *Beis HaMikdash*, is if we would entertain the possibility that the current *Medinah* will fail. If, *chas vechalilah*, the Jewish People are forced to return the Land to the Arabs and the government is disbanded, a different *hakamas haMedinah* would have to take place in the future, and the establishment of that government would be *aschalta d'geulah*, not the establishment of the current government. How do we

know that **this *Medinah*** will lead to the building of the *Beis HaMikdash*?

The *Ramban* addresses this point, both in his commentary to *Vayikra* (26:16) and in his *Sefer Hageulah* (*sha'ar rishon*). He writes that the two *tochechos* in the Torah correspond to the two *churbanos*; the *tochechah* in *Bechukosei* represents the *churban* that led to *galus Bavel*, while the *tochechah* in *Ki Savo* represents the *churban* that caused our present *galus*.

The *Ramban* notes that the *tochechah* in *Ki Savo*, in contrast to that in *Bechukosei*, never mentions the destruction of a *Beis HaMikdash* per se. He feels that this is because the Second *Beis HaMikdash* lacked significant components that existed in the *Bayis Rishon*. In fact, those who were present at the start of the Second *Beis HaMikdash* entertained the possibility that it was still necessary to observe *Tishah B'Av* over the destruction of the First *Beis HaMikdash* (*Zecharyah* 7:3). There never was a *re'ach nicho'ach* (satisfying aroma) from the *avodah* of the Second *Beis HaMikdash*, and fire did not descend from heaven and consume the *korbanos* in the Second *Beis HaMikdash*, as it had in the First (*Yoma* 21b).

Since the Second *Beis HaMikdash* was deficient in so many elements of Divine Revelation, its destruction was not the major theme of this *tochechah*. Rather, the essence of the second *tochechah* refers to the *churban haMedinah* experienced at that time.

The *navi* has assured us, **ולא ינתשו עוד מעל אדמתם אשר נתתי להם** – “and they will never again be uprooted from their land that I have given them” (*Amos* 9:15). This does not only mean that there will never be a third *churban Beis HaMikdash*. As mentioned, the second, and final, *tochechah* only speaks of a *churban haMedinah*, and never even mentions a *churban Beis HaMikdash*. Rather, the promise of the *navi* is that there will never be a third *churban haMedinah*, *chalilah*. [This point was a common theme in many of the *drashos* of Rav Yitzchak Herzog (*Masu'ah LeYitzchak*, pp. 28, 93, 191, 297).]

The *Ramban* concludes, “[The effect of] all these allusions [in the *bris* of *Sefer Devarim*] makes it as if [the Torah] mentions explicitly the idea of our present *galus* and our *geulah* from it. And the *geulah* promised in that **second** *bris* will be a complete redemption, greater than all the others.”

[It should be noted that there exists no guarantee of a *navi* that a part of Eretz Yisrael will not undergo *churban*. Despite the conquest of the *Ir Ha’Atikah* in 1967, it is possible that this part of Eretz Yisrael will not remain under Jewish control, *chalilah*. It is not definite, therefore, that the conquest of Yerushalayim was an *aschalta d’geulah*, because it may not serve as a step towards the building of the *Beis HaMikdash*. It may become necessary to relinquish Jewish sovereignty over Yerushalayim and to reconquer it in the future in order to build the *Beis HaMikdash* in it. For this reason, the establishment of Yom Yerushalayim as a Yom Tov may be questioned.]

Certainly, in the period immediately following *hakamas haMedinah* in 1948, it was unclear whether that event was an *aschalta d’geulah*. If the establishment of the *Medinah* would have been undone at that early stage, it would have been viewed historically in the same way as the Bar Kochba revolt. Bar Kochba minted coins and declared himself king around sixty years after *churban Bayis Sheini*, only to have his “government” collapse soon after. That event, though, cannot be viewed as a third *churban haMedinah*, because his “attempted government” is regarded historically merely as “the Bar Kochba rebellion” against Roman authority, not as a bona fide government. The promise of the *nevi'im* did not apply in that situation.

The same cannot be said regarding the current *Medinas Yisrael*. It is not merely an “attempt” at the establishment of a Jewish government; the *Medinah* today is recognized by the world community as a legitimate government. If, *chalilah*, the Arabs were to succeed in destroying the *Medinah*, or if the Jews were to return the Land and dissolve the government, or if the government would become so secular so as not to be consi-

dered a *malchus Yisrael* any longer, that would not be viewed as the quelching of the "Jewish revolt of 1948." Such a loss of Jewish sovereignty over Eretz Yisrael would be considered a *churban haMedinah*, and this type of *churban* is exactly what the *navi* guaranteed would never occur again.

The above-mentioned assurance of the *navi*, that there will not be a third *churban*, would apply to the current *Medinas Yisrael* once it is labeled to be "*bevinyanah*," in a "built" state. This classification has already been defined in Halachah with regard to the obligation to tear *keri'ah* upon witnessing cities of Yehudah in a state of *churban*. The *Magen Avraham (Orach Chaim 561:1)* rules that one tears *keri'ah* even if the city is inhabited by Jews, as long as it is ruled by non-Jews. If that is the definition of "*churban*" of cities of Yehudah, it follows that "*binyan*" is defined as being under the jurisdiction of a Jewish government. If Eretz Yisrael is currently in a state of "*binyan*" and will never again experience *churban*, *hakamas haMedinah* can rightfully be termed *aschalta d'geulah*. [See *B'Ikvei HaTzon*, pp. 214-215.]

VII. Signs of *Aschalta D'Geulah*

There are those who argued that the natural process of *hakamas haMedinah* cannot constitute *aschalta d'geulah*, which they understood to consist of a supernatural process. Rav Yisachar Teichtal addressed this argument in *Eim Habanim Semeichah* (chapter 2:2), citing the *Gemara* in *Sanhedrin* (98a), which distinguishes between two ways in which *Mashiach* can arrive.

Commenting on the *passuk*, בעתה אחישנה 'אני ד' - "I, Hashem, in its time I will hasten it" (*Yeshayah* 60:22), the *Gemara* expounds that if the Jews are deserving, *Hashem* will hasten the redemption, but if they are not deserving, it will come in its preordained time. Furthermore, if the Jewish People are worthy of redemption, the *Gemara* says that the arrival of *Mashiach* will be supernatural and swift, עם ענני שמיא - "with the clouds

of Heaven" (*Daniel* 7:13); if they are not deserving, he will come as עני ורוכב על חמור – "a humble man, riding on a donkey" (*Zechariah* 9:9), in a slow and natural process.

Rav Teichtal similarly brings the interesting comment of the *Ohr HaChaim*, who saw this lesson in the *passuk*, דרך כוכב מיעקב – "A star has issued from Yaakov and a scepter-bearer has risen from *Yisrael*" (*Bamidbar* 24:17). If the *geulah* comes due to the merit of *Bnei Yisrael*, *Mashiach* will appear as a wondrous miracle, shining forth from Heaven like a כוכב, a shooting star. If not, the Redeemer will come sluggishly as a שבט, a scepter-bearer, in the form of a government like all others.

Even though the Israeli government has been guilty of scandalous things, and even though many of its founders and leaders have been irreligious, we may still view the founding of the State as an *aschalta d'geulah*. The fact that Ester was forced to serve as Achashveirosh's queen was also a terrible tragedy. Yet, the *chachamim* of that generation saw through the tragedy and felt that those events represented an *aschalta d'geulah*, and, on that basis, had the right to institute a new Yom Tov. Likewise, we should be able to label the events we have witnessed in Eretz *Yisrael* as *aschalta d'geulah*, despite the lack of definite knowledge through *nevu'ah* or *ruach hakodesh* declaring it as such.

Rav Mallen Galinsky, formerly of Yeshivat Sha'alvim, once recounted that he was shown a manuscript by a descendant of a Chassidic *rebbe* who lived two-hundred years ago. The *rebbe* described that when the *dor hamidbar* went to *shamayim*, they were punished because they rejected Eretz *Yisrael*. They pleaded with *Hashem* to be sent back to this world to correct that *aveirah*. Finally, *Hashem* acquiesced with the stipulation that they could return to this world on the condition that they would perform only **one** *mitzvah* – building the *Medinah* in Eretz *Yisrael*.

It is hard to imagine how anyone living two-hundred years ago could envision such a scenario. Yet, that is exactly what we

experienced with *apikorsim* like Ben-Gurion and the other leaders who were so far from religious observance. They wanted to establish the *Medinah* to replace the religion. It is unbelievable how very far they were from *emunah*, but they accomplished that one *mitzvah*.

All the years that *Bnei Yisrael* were in *galus* before *hakamas haMedinah*, all the years that the Land was in the hands of the non-Jews, we witnessed the fulfillment of the *passuk* in the *tochechah*: – והשימותי אני את הארץ ושממו עליה אויביכם היושבים בה – “I will make the Land desolate and your foes who dwell upon it will be desolate” (*Vayikra* 26:32). Nothing grew in the Land and it remained a desolate, inhospitable country until the Jewish People took hold of it. The clear implication of this *passuk* is that the halachic state of *churban ha'Aretz*, the absence of Jewish sovereignty, is related to a physical state of desolation of the Land.

All that changes when the Jewish People return to Eretz Yisrael. Yechezkel, in his prophecy about the final *geulah*, addresses the mountains:

ואתם הרי ישראל ענפכם תתנו ופריכם תשאו לעמי ישראל כי קרבו לבוא כי הנני אליכם ופניתי אליכם ונעבדתם ונזרעתם ... ונושבו הערים והחרבות תבניה ... והולכתי עליכם אדם את עמי ישראל וירשוך והיית להם לנחלה ולא תוסיף עוד לשכלם.

And you, mountains of Israel, will give forth your branch and bear your fruit for My people Yisrael, for they are close to returning. For behold, I am with you; and I will turn [My attention] to you, and you will be tilled and you will be sown ... the cities will be inhabited and the ruins will be rebuilt ... I will cause man to walk upon you – My people Yisrael – and they will inherit you. Then you will be theirs for a possession, and you will no longer be bereaved of them. (*Yechezkel* 36:8-12)

Regarding this agricultural revival, the *Gemara* in *Sanhedrin* (98a) comments, “There is no clearer indication of the End than this.” That is, when the Land is no longer in a desolate state physically, that itself is the greatest sign that the Land will be in a state of *binyan* under Jewish sovereignty. To this state, the assur-

ance of the *nevi'im* will apply – there will not be another *churban Ha'Aretz*, so that “you will no longer be bereaved of them.”

Because it first speaks of a reversal of the state of desolation and then of the returning of our people, this same *passuk* is used as the source of the placement of the *berachah* of the Ingathering of the Exiles – *מקבץ נדחי עמו ישראל* – immediately after the *berachah* of *Parnassah* – *מברך השנים* – in the *Shemoneh Esrei* (*Megillah* 17b). Indeed, we have witnessed this exact historical process over the last seventy years – the renewed flourishing of the Land after a lengthy period of physical desolation, followed by the return of the exiles with a large influx of Jews into the Land. Thus, it is obvious, according to the promise of the *navi*, *ולא ינתשו עוד מעל אדמתם*, that there will never be a third *churban haMedinah*.

In summary, in light of the three-step process of *geulah* described in the *Beraisa* in *Sanhedrin*, in combination with the promises of the *nevi'im* assuring that the state of *binyan ha'Aretz* will never again be reversed, it is reasonable to maintain that the *hakamas haMedinah* of 1948 is the very one that represents the first step leading towards building the *Beis HaMikdash*.

Given the ramifications of *geulah* and *aschalta d'geulah* described earlier, we are led to the conclusion that it is within our right to establish the day of Yom Ha'Atzmaut as a Yom Tov to celebrate this *aschalta d'geulah*. This would be a *mitzvah kiyumis*, a fulfillment of the *mitzvah* that the *Ramban* spoke of to celebrate at the time of *chanukas Beis HaMikdash*. Just as the Yomim Tovim in *Megillas Ta'anis* commemorated victories that preserved the *Beis HaMikdash*, we may similarly enact a Yom Tov to commemorate an *aschalta d'geulah* in preparation for a future *Beis HaMikdash*. [See *B'Ikvei HaTzon*, pp. 215, 217, 220.]

VIII. Fighting the War of *Aschalta D'Geulah*

The *Neturei Karta* advertise in the newspapers that they are following in the footsteps of the *Tanna'im*. When Yerushalayim

was under seige by the Romans, Rabban Yochanan ben Zakai surrendered the *Beis HaMikdash* and Yerushalayim to Vespasian in order to try to preserve Jewish lives (*Gittin* 56b). Why, the Neturei Karta ask, does the Israeli government not do the same? They should surrender the *Medinah* and not continue to fight!

The answer to this important question is very simple. The Halachah only requires of us to wage war if we think in advance that we will be victorious. There is no *mitzvah* to fight a losing battle. In the situation that Rabban Yochanan ben Zakai dealt with, it was clear that the Jewish government would not be able to withstand the Roman attack. If they were to continue to fight, the only result would be that more Jews would lose their lives. The situation was the same at Masada, where it was a group of Essenes that continued to fight, refusing to surrender. Had they consulted the *chachamim* at that time, they would have been told that if it is obvious that they will lose, they should not continue to fight.

The current situation, however, is very different. The Jewish government is winning the war, not losing it. We are being victorious in maintaining Jewish sovereignty over Eretz Yisrael. When the Jewish People are proving to be successful in their battle that is an *aschalta d'geulah*, they must continue fighting and hasten the final *geulah*.

Of course, in fighting this war, lives will be lost. Are we obligated to fight despite this eventuality? A possible loss of life usually takes precedence over the fulfillment of Torah law, with the three cardinal sins being the only exceptions to the rule. If so, should we not abstain from risking Jewish lives for the sake of the *mitzvah* of *hakamas haMedinah*?

The *Minchas Chinuch* (*mitzvah* 425) explains that it must be that the principle of *piku'ach nefesh* is suspended when we are engaged in the *mitzvah* of waging war. It is obvious that in the normal course of events, war is associated with a potential loss of life. The Torah does not rely on a miraculous course of events. Thus, during wartime, the Halachah declares that we

must ignore the *sakanas nefashos* of the individuals involved in battle and accept the risk of loss of life. [See *Nefesh HaRav*, 1994 ed., pp. 97-98.]

If we were to consider the current situation in Eretz Yisrael as representing a state of peace, then the principle of *piku'ach nefesh* would take precedence and would disallow future fighting. The question thus becomes whether we should consider the *Medinah* to be in a state of war or a state of peace at this time.

It seems obvious that the correct way to view the situation is that the original war of 1948 is ongoing. The enemies of *Medinas Yisrael* (with the exception of Egypt and Jordan) continue to refuse to sign peace treaties with her, still avowing to destroy the State and to drive the Jews into the sea. Thus, the state of war continues despite the appearance of a ceasefire at this time.

This was the approach of Rav Yaakov Kamenetsky *zt"l* during the 1970 Arab hijacking of two airplanes traveling from Eretz Yisrael to America. When it became known that Rav Yitzchok Hutner *zt"l* was one of the captives, a group of his *talmidim* were interested in raising a large sum of money to ransom their *rebbe*.

The *Gemara* in *Gittin* (45a) rules that one may not ransom captives for more than their market value, so as not to encourage the capture of more people. Nevertheless, there were *rabbonim* who felt that it would be permissible (and therefore required) to ransom Rav Hutner based on the comment of *Tosfos* (s.v. *delo ligrevu*) that if the captive is an eminent Torah scholar, no limits are set on his ransom. Such a person's worth to the community far exceeds his market value.

Rav Kamenetsky ruled that the comment of *Tosfos* was not relevant in that situation. The obligation of *pidyon shevuyim* (ransoming of captives) only applies in a time of peace. In such a setting, if there are private pirateers ransoming a prisoner, we might apply the exception that *Tosfos* mentions and allow for

the payment of an exorbitant price for an outstanding *talmid chacham*. However, in the midst of a war, when the enemy has abducted captives, the payment of such a ransom would subvert the entire war effort. If a vast sum of money is delivered to the enemy, that will only serve to strengthen their war effort. The war must be fought without regard to individual loss of life, and the *mitzvah* of *pidyon shevuyim* does not apply at this time.

Although the State of Israel was not actively engaged in a war in 1970, Rav Kamenetsky reasoned that it was still considered to be in the midst of war. All of the wars and attacks since 1948 are really a continuation of the first war, the War of Independence (*Milchemet HaShichrur*). During wartime, it is forbidden to transfer money to the enemy, even for *pidyon shevuyim*.

Similarly, since Eretz Yisrael is currently in a state of war, we cannot consider the possible loss of life of individuals when waging such a war. Furthermore, according to the *Chassam Sofer* and the *Minchas Elazar* cited earlier, it is forbidden to interrupt or slow down the war effort so as not to delay the final *geulah*. [See *B'Ikvei HaTzon*, pp. 205-208.]

IX. The Fifth of Iyar

Many questioned the *Rabbanut's* decision to establish the fifth of Iyar as Yom Ha'Atzmaut, thinking that it would be more appropriate to celebrate the day that the *Milchemet HaShichrur* was won. [In practical terms, we cannot yet celebrate the conclusion of the war, because the war has still not ended, as mentioned above. We are still in a state of war, for there is no peace treaty with many of the nations surrounding Eretz Yisrael.]

The answer to this question is based on the *Gemara* in *Megillah* cited above: "War is also considered the beginning of the redemption." The simple explanation of this *Gemara* is that

the war referred to is the final war that will take place in Eretz Yisrael close to the time of the arrival of *Mashiach*. It would seem obvious that the War of Independence, which broke out immediately after *hakamas haMedinah*, is the war that the *Gemara* was referring to. Indeed, the fact that the outbreak of the war and the declaration of independence occurred simultaneously serves as a sign that the *hakamas haMedinah* itself was truly an *aschalta d'geulah*. If a Jewish government is established and this leads to the outbreak of a war with enemies of the Jewish Nation, it is the beginning of the war that is the *aschalta d'geulah*.

The celebration of the Chashmona'i victories recorded in *Megillas Ta'anis* did not commemorate the victories per se. The *Chashmona'im* celebrated when they were victorious in battle because there was a *Beis HaMikdash* in existence at that time, and their victory served to preserve the *Beis HaMikdash* and spare it from destruction or defilement. Therefore, it was logical to celebrate the Yom Tov on the day of the victorious conclusion of the battle.

In contrast, if the Israeli Army is victorious over the Arab nations, though it would be appropriate to celebrate with *se'udas hoda'ah* and the recitation of *Hallel* on that occasion, we should not establish a Yom Tov that entails annual observance, since the victory did not preserve a *Beis HaMikdash*. The reason to establish a Yom Tov is to mark the historical event of the *aschalta d'geulah*. Therefore, it was appropriate to institute the Yom Tov of Yom Ha'Atzmaut on the date of the outbreak of the War of Independence, as that day marks the *hakamas haMedinah*, which was the *aschalta d'geulah*. [See *B'Ikvei HaTzon*, pp. 220-221; *The Journal of Halacha and Contemporary Society* XVI, pp. 81-95.]

In 1948, when the *Medinah* was established, the fifth of Iyar was a Friday and the British Mandate was to conclude at midnight. Therefore, legally, it was only possible to establish the *Medinah* on Shabbos, the sixth of Iyar. Because some of

those who signed the Declaration of Independence were *shomer Shabbos*, they signed the statement of *hakamas haMedinah* on Friday, the fifth of Iyar, although the documents became legally binding only on the sixth of Iyar.

At that time, one of the *tzaddikim* of Yerushalayim, Rav Yaakov Moshe Charlap, was dancing from joy, exclaiming that he finally understood why these dates are alluded to in the *sefer Kol HaTor* (5:1; also see 2:2). This *sefer*, the theme of which is the concept of *Mashiach ben Yosef*, was written by one of the *talmidim* of the Vilna Gaon, Rav Hillel of Shklov. Although *Mashiach ben Yosef* is mentioned in only one place in *Shas* (*Sukkah* 52a), the idea is discussed at length in the *Zohar*. In fact, the Vilna Gaon is quoted as having said that the insights he developed on the concept of *Mashiach ben Yosef* were his most important contributions in Torah.

The *sefer* singles out the twentieth day of *sefiras ha'omer* as being very important in the process of the final *geulah*, referring to it as "*yesod d'tiferes derech malchus*." The *sefer* reports that in 1812 (תקע"ב), on the twentieth day of the *omer*, known as *yesod sheb'tiferes*, the students of the *Gr"a* laid the foundation of "*Beis Medrash Eliyahu*" in Yerushalayim. It appeared to them that this re-establishment of the *yishuv* in Yerushalayim was the first step in the removal of the "iron partition" that was present since the *churban haBayis*. Now Rav Charlap understood how these two days mentioned in the *Kol HaTor* represent a major step leading towards the *geulah* – the fifth of Iyar corresponds to the twentieth day of *sefirah*, *yesod sheb'tiferes*, and the sixth of Iyar to *malchus sheb'tiferes*.

[The *Kol HaTor* was reprinted by Rav Menachem Kasher. Some claimed that the *sefer* was a forgery and that he added in the dates mentioned above after *hakamas haMedinah*. However, we have reports that these days were recognized by the *talmidei haGr"a* who settled in Eretz Yisrael long before *hakamas haMedinah*.]

The *Shulchan Aruch* (*Orach Chaim* 602:1) rules that a *beis din* should avoid issuing a *cherem* (ban) or administering a *shevu'ah* (oath) between Rosh Hashanah and Yom Kippur. The *Mekubbalim* provide a longer list of such dates, when there is a severe punishment for taking even a truthful *shevu'ah*. Although the significance of these dates is unknown, it is noteworthy that one of the days mentioned is the fifth of Iyar (*Orchos Chaim*, Spinka). Apparently, centuries before 1948, *Mekubbalim* saw that there is something special about the fifth of Iyar.

Just as a *chilul Shabbos* consideration at the time of the establishment of the *Medinah* prompted the signing of the Declaration of Independence on the fifth of Iyar, the *Rabbanut HaRashit* (Chief Rabbinate) has established that the observance of Yom Ha'Atzmaut is delayed one day if the fifth of Iyar falls on a Sunday (or Monday, because Yom HaZikaron is observed on Sunday) due to a similar concern.

It does not necessarily follow that this ruling of the *Rabbanut* must be followed in other parts of the world, where such a consideration may not exist. The opening *Mishnah* in *Maseches Megillah* discusses how different communities could read the *Megillah* on different days.

Rav Shlomo HaKohen explains in the name of his brother, Rav Betzalel HaKohen (*Mar'eh Kohen*, found in the back of the *Vilna Shas*), that we would not expect to find differing days of observance in regard to a *din d'oraisa*. This is because the *passuk*, תורה אחת ומשפט אחד יהיה לכם – “One teaching and one judgement shall be for you” (*Bamidbar* 15:16), demands conformity with regard to *mitzvah* observance.

However, the *Anshei Knesses HaGedolah* (Men of the Great Assembly) most appropriately divided the rabbinic *mitzvah* of *mikra Megillah* into different days, precisely to demonstrate that it is not identical to a *d'oraisa* obligation. The same should be true with regard to observing Yom Ha'Atzmaut on the fifth of Iyar, even if it is celebrated on the sixth of Iyar in Eretz Yisrael in a given year.

X. Mode of Celebration

Religious Jews do not celebrate Yom Ha'Atzmaut or Yom Yerushalayim the same way that Americans celebrate Independence Day – as a secular holiday. The gaining of independence in and of itself does not have any religious significance. We celebrate the day of the establishment of *Medinas Yisrael* because we feel that it will ultimately lead to the building of the *Beis HaMikdash*. As implied by the *navi* Yeshayah quoted earlier (section II), *יספת לגוי ד' יספת לגוי נכבדת*, we celebrate by gathering in *Batei Keneisiyos* and *Batei Medrashos* to give *shevach* and *hoda'ah* to *Hashem* and to offer *tefillos* for the future. We celebrate these days as religious holidays because we feel that the establishment of the *Medinah* is the *aschalta d'geulah*.

I think that Rav Soloveitchik was upset with some of the modes of celebration of Yom Ha'Atzmaut because he felt that the day was being secularized. In addition, he was opposed to the new religious expressions on this day, such as the *Rabbanut's* introduction of the recitation of sections of *Kabbalas Shabbos* and *Pesukei DeZimra* of Shabbos and Yom Tov.

The recitation of *Kabbalas Shabbos* is a fulfillment of the *mitzvah* of *kevod Shabbos*, which involves making preparations before Shabbos in honor of Shabbos (*Bi'ur HaGr'a, Orach Chaim* 529:5). One of the forms of this *mitzvah* is waiting in anticipation to accept Shabbos as one would go out to greet the king (*Rambam, Hilchos Shabbos* 30:2). The *mitzvah* of *kibbud* does not apply on Chol HaMo'ed, nor on Chanukah and Purim, and certainly not on Yom Ha'Atzmaut.

Similarly, the *Pesukei DeZimra* of Shabbos and Yom Tov should be recited only on those particular days, just as it is not recited on Chanukah and Purim. Yom Ha'Atzmaut should not be made into a Yom Tov like the *Shalosh Regalim*; it falls under the same category as the holidays of *Megillas Ta'anis*, like Chanukah and Purim.

The Rav was similarly incensed over the introduction of reading a *haftorah* on this day, something that is not done on Chanukah and Purim. It is as if we are trying to show, in the words of the Steipler (*Kiryana D'Igresa* 3:816), that even the Jewish religion has to bow down to the *Medinah*, that the most important value in the Jewish religion is the *Medinah*. [See Rabbi David Holzer, *The Rav Thinking Aloud*, pp. 171-174, 195-212.]

The *Rabbanut* also introduced that the *shofar* be blown on Yom Ha'Atzmaut. The Rav would regularly complain of the "ceremonialization" of the Jewish religion, and, in the context of Yom Ha'Atzmaut, he felt that it was ridiculous to borrow any possible ceremony from any other day and apply it to Yom Ha'Atzmaut.

The Rav emphasized that in our religion we do not have any ceremonies, only *mitzvos*. Every *minhag* must be a fulfillment of one *mitzvah* or another. The introduction of new *minhagim* as mere ceremonies, devoid of a halachic fulfillment of a *mitzvah*, is improper and has no meaning or significance. [In contrast, when Rav Shlomo Goren blew the *shofar* during the 1967 war for the liberation of Yerushalayim, it was a fulfillment of the *mitzvah* (*Bamidbar* 10:9) that when Jews go out to battle, they should blow *chatzotzros* to assure their victory (*With Might and Strength: An Autobiography*, p. 326).]

We recite *Hallel* on Yom Tov due to the *mitzvah* of *simchas Yom Tov* (*Ramban, Hasagos to Sefer HaMitzvos, shresh rishon, s.v. vehapli'ah*). This type of *Hallel* has no relevance to Yom Ha'Atzmaut, when there is no such *mitzvah*. On Chanukah, we recite *Hallel* to commemorate the salvation that the Jewish People experienced at that time. At the time of the *yeshuah* itself, it seems that the recitation of *Hallel* is a *din d'oraisa* (*Netziv, Ha'amek She'elah, she'ilta* 26), but in subsequent years, as a *zecher lenes* or *zecher leyeshuah*, there would have to be a *takanas chachamim* to institute such a recitation. On Yom Ha'Atzmaut or Yom Yerushalayim, there never was a *takanas*

chachamim to do so, and Rav Soloveitchik therefore felt that it was not proper to recite full-*Hallel* on those days.

The Rav understood the *Gemara* in *Shabbos* (118b), "One who recites the *Hallel* every day is thereby belittling and blaspheming G-d," to apply whenever one recites full-*Hallel* without an obligation to do so. For this reason, on Rosh Chodesh and Chol HaMo'ed Pesach, when we recite *Hallel* only due to a *minhag*, only half-*Hallel* may be said. Accordingly, the Rav recommended that those who wish to say *Hallel* on Yom Ha'Atzmaut should say half-*Hallel*. [See *Nefesh HaRav*, 1994 ed., pp. 94-96; *Divrei HaRav*, 2010 ed., pp. 175-176].

Hakamas haMedinah was unbelievable, absolutely miraculous. Rav Chaim Ozer Grodzinsky, who was known to be very politically astute, told Rav Soloveitchik (who visited him regularly in Vilna during his years of study in Berlin) that when "hair will grow from the palm of my hand, there will be a *Medinah*." In the early part of the 20th century, it was the furthest thing from anyone's mind that the establishment of *Medinas Yisrael* was really going to happen.

In fact, the partition plan vote was the only United Nations resolution regarding which the United States and Russia concurred approvingly. Indeed, Rav Soloveitchik said that this was the only valuable contribution of the United Nations to the world. The military victory of *Milchemet HaShichrur* was similarly unbelievable. *Hakamas haMedinah* was truly *lema'alah min hateva* (supernatural).

We do not celebrate Yom Ha'Atzmaut as an Independence Day, because it is the day of the establishment of the *Medinah*. We celebrate it because we feel it is clear that the establishment of the *Medinah* is going to lead to the building of the Third *Beis HaMikdash*. There is much to celebrate on this day, but we should celebrate in a religious sense and not secularize the significance of the day.

YOM YERUSHALAYIM: UNIQUENESS OF YERUSHALAYIM

I. The Twenty-Eighth of Iyar

Rav Hillel of Shklov, a talmid of the *Gr"a*, authored the *sefer Kol HaTor* to explain the Vilna Gaon's teachings regarding *Mashiach ben Yosef*. In the *sefer* (5:1; also see 2:2), Rav Hillel reports that in 1812 (תקע"ב), the students of the *Gr"a*, who had ardently encouraged their *aliyah*, laid the foundation of *Beis Medrash Eliyahu* in Yerushalayim on the twentieth day of the *omer*, corresponding to the *sefirah yesod sheb'tiferes*. It appeared to them that this re-establishment of the *yishuv* in Yerushalayim was the first step in the removal of the "iron partition" that had been present since the *churban haBayis*.

The *sefer Doresh LeTziyon* (*Midrash Shlomo, siman 16*), a collection of *derashos* of the students of the Vilna Gaon, echoes this idea. In an 1866 (תרכ"ו) *derashah*, Rav Yosef Rivlin (a great-grandson of Rav Hillel) notes that two days of *sefiras ha'omer* are singled out as special days of Divine mercy, not susceptible to the dominion of the *klipah*. Those days are the twentieth day of *sefirah, yesod d'tiferes*, and the forty-second day of *sefirah, malchus d'yesod*.

These days correspond to the fifth of Iyar, later declared as Yom Ha'Atzmaut, and the 27th of Iyar, the first of the two days of battle that, in 1967, resulted in the reunification of Yerushalayim, which we celebrate on the second of those days. It is

reported that when the *Medinah* was declared on the fifth of Iyar, Rav Yaakov Moshe Charlap was dancing for joy, declaring that he now understood the reference to this date in *Kol HaTor*, but that he had yet to understand the significance of the second date mentioned. He did not live long enough to see the realization of that second date, that of Yom Yerushalayim, in 1967.

It is interesting that in the *sefer Shem HaGedolim* (under the heading of Rav Ovadyah MiBartenura), the *Chida* writes that the *Rambam* celebrated a yearly holiday on the 28th of Iyar. In the time of the *Rambam*, there were two traditions regarding the designation of the *pesuchos* and *setumos* paragraphs of a *sefer Torah*, that of Ben Asher and that of Ben Naftali. The *Rambam* writes (*Hilchos Sefer Torah* 8:4) that we accept the tradition of Ben Asher, and this is the *masorah* currently followed.

The *Chida* discovered the background to this assertion of the *Rambam* in a *chumash* printed in Amsterdam. Apparently, after the *Rambam* recorded the *pesuchos* and *setumos* according to the tradition found in a well-known *sefer* (comprised of the twenty-four *kisvei hakodesh*) in Egypt, he heard of the existence of a *sefer Torah* manuscript written by Ezra HaSofer. The *Rambam* traveled to "Burgonia" to check that *sefer Torah*, and he was overjoyed to find that the old manuscript exactly matched what he had recorded.

After he copied from that *sefer* all of the missing and extra letters, as well as the letters that were written in larger or smaller form, the *Rambam* accepted upon himself to observe the twenty-eighth day of Iyar as an annual holiday, as what he had written according to the tradition of Ben Asher was corroborated on that day. He returned home and wrote a *sefer Torah* in accordance with the traditions of that manuscript, and that *Torah* was later used as a template for the writing of other *sifrei Torah*.

When the *Medinah* was established in 1948, the response of the Catholic church was one of extreme opposition. According to their tradition, our rejection of *Oso Halsh* was tantamount to murdering him, and as a result, the Jews were condemned to

exile, forfeiting their right to Eretz Yisrael. The church claimed that the Jews lost their status as the *Am HaNivchar* (Chosen Nation) and thereby lost their right to the *Eretz HaNivcheres* (Chosen Land).

Since the Catholic religion bases itself on the assumption that the Jews are damned for eternity, the church had to give some sort of explanation when the State of Israel was founded. It explained that although the Jewish government was created, the Jews still did not possess the “real” sections of the Land, the Temple Mount and Chevron. It is for this reason that ever since 1967, when we took control of the *makom haMikdash*, the church has been a proponent of internationalizing Yerushalayim. That way, the Jewish People would not be considered to be possessing Eretz Yisrael.

Furthermore, when the *Medinah* was established, it was not at all obvious that this *hakamas haMedinah* could be classified as an *aschalta d'geulah*, a step leading to the eventual building of the Third *Beis HaMikdash*. [See essay on Yom Ha'Atzmaut, sections III-IV.] It was very unclear whether *Medinas Yisrael* would turn out to be a religious country interested in building a *Beis HaMikdash*. The conquest of Yerushalayim in 1967 clarified the nature of the *hakamas haMedinah*, providing us with the reasonable expectation that we are in the midst of the process of *geulah*.

Therefore, in a certain sense, the celebration of Yom Yerushalayim is similar to the celebration that the *Rambam* observed. Just as his discovery of the manuscript on the 28th of Iyar verified that the tradition he had accepted regarding the writing of a *sefer Torah* was authentic, when the Jews returned to the *makom haMikdash* after the victory in 1967, it proved retroactively that the *hakamas haMedinah* and the subsequent War of Independence (*Milchemet HaShichrur*) represented the onset of the *geulah* that we had been anticipating for centuries. The arguments of the Catholic church were refuted and we felt that the *aschalta d'geulah* was finally underway.

There was a tremendous *yeshu'ah* in 1967. So many graves had been prepared in advance under the assumption that there would be many casualties. We in America who were listening to the news were first told that the oil refineries in Tel Aviv were bombed and the city was eliminated. Every day the news got worse and worse, and everyone had the impression that the entire *Medinah* was destroyed. After the war was over, the truth came out that all of the Arab propaganda was false and that it was a smashing victory for the Jewish People.

The whole war was *nisim venifla'os!* No one expected at the time that there would be such a resounding victory. When it was announced over the radio, הר הבית בידינו – “The Temple Mount is in our hands,” no one could believe it. Who ever thought that that was going to happen? It was unbelievable. *Kibbush Yerushalayim* was truly *lema'alah min hateva* (supernatural).

After 1967, there was a monumental *hisorerus* (awakening) for *teshuvah*. We are familiar with the well-known picture of the soldiers standing *b'gilui rosh* (bare-headed) crying at the *Kosel HaMa'aravi*. Of course they were crying; they knew in their hearts that they were in a *makom mekudash* (sanctified place). It was then authenticated that the *Medinah* was the first step in the *geulah* process, that it was not going to be a mere secular country.

Although Israel is still not the religious state that we would like it to be, it is clear from the fact that there was such a *hisorerus* for *teshuvah* after the Six-Day War and from the increasing *kibbutz galiyos* (ingathering of the exiles) over the years, that the words of Yechezkel HaNavi are being fulfilled: הרי ישראל ענפכם תתנו – “And you, mountains of Israel, will give forth your branch” (36:8).

The words of the *navi*, ולא ינתשו עוד מעל אדמתם – “And they will never again be uprooted from their land” (*Amos* 9:15) will also be fulfilled. The celebration of Yom Yerushalayim is a *simchah* over the fact that it was then revealed to us that everything we had thought from the very beginning was correct.

There was a retroactive validation of our hopes that this *hakamas haMedinah* will be the *aschalta d'geulah*, and that it will eventually lead to *binyan Bayis HaShlishi*. [See essay on Yom Ha'Atzmaut, sections VI-VII.]

II. Yerushalayim's Double Status

In the days of Dovid and Shlomo, the Biblical obligation of *Birchas HaMazon* expanded to include a third *berachah*, in addition to the first two *berachos* in which we thank *Hashem* for the food we ate and for giving us Eretz Yisrael. When Dovid HaMelech conquered Yerushalayim and established it as his capital, he composed the first section of the third *berachah*, and after Shlomo HaMelech built the *Beis HaMikdash*, he added the second half of the third *berachah* (see *Ramban*, cited in *Beis Yosef, Orach Chaim* 187:1).

[Now that the *Beis HaMikdash* has been destroyed and, absent the *malchus Beis Dovid*, Yerushalayim has lost its status as the capital of Eretz Yisrael, the text of the third *berachah* has been modified to contain a *tefillah*. We ask of *Hashem* to have mercy on these two institutions and to return them to us: – רחם (נא) ד' אלקינו ... ועל ירושלים עירך ... ועל הבית הגדול והקדוש – “Have mercy *Hashem*, our G-d ... and on Yerushalayim, Your city ... and on the great and holy House” (*Tur, Orach Chaim* 188:1). It would seem, therefore, that the third *berachah* as we have it is only a rabbinic obligation. Only when we have the *Beis HaMikdash* in Yerushalayim are we obligated on a *d'oraisa* level to thank *Hashem* for these institutions.]

The two halves of this third *berachah* correspond to two aspects of the uniqueness of Yerushalayim. In *Lechah Dodi*, we describe Yerushalayim in two ways. First, Yerushalayim is called **מקדש מלך** – the **Sanctuary** of the King. Yerushalayim is endowed with a lower level of *kedushas Beis HaMikdash*. In addition, it is referred to as **עיר מלוכה**, the **Royal City**.

Yerushalayim is the official capital of Eretz Yisrael. This is its status *al pi din*, regardless of whether the United Nations recognizes it as such.

In fact, all of Eretz Yisrael is considered the *פלטין של מלך* – royal palace (Rabbeinu Bechaye, *Devarim* 32:43). The *Zohar* (*Parshas Lech Lecha*, 95b) interprets the *passuk*, *אשריך ארץ שמלכך בן חורים*, – “Fortunate are you, O land, whose king is a free man” (*Koheles* 10:17), as a reference to Eretz Yisrael, since *Hashem* is the official king of Eretz Yisrael, and He provides freedom for *avodim* in the *yovel* year. That is why one who does *aveiros* in Eretz Yisrael is more guilty than one who sins in *chutz la’Aretz*; the former is compared to one who is *moreid b’malchus* (rebels against the monarchy) in the palace of the king (*Kolbo*, *siman* 127).

Based on this understanding, the *Avnei Nezer* (*Yorah De’ah*, *siman* 454:23-25) explains the *Gemara* in *Berachos* (57a) in which Rabbi Zeira states that he did not ascend from Bavel to Eretz Yisrael until he saw the favorable sign of barley in a dream. The *Gemara* explains that barley is an auspicious sign because the Hebrew word for barley, *se’orin*, represents an allusion to the first two words of the phrase, *וסר עוונך וחטאתך תכופר*, – “Your iniquity has left and your sin shall be atoned for” (*Yeshayah* 6:7).

Rabbi Zeira was waiting to receive a sign of his righteousness before moving because the transgression of *aveiros* in Eretz Yisrael is considered more severe, as it is tantamount to committing a rebellion against the king in the royal palace itself. Only after he saw the sign that he had achieved a certain level of purity did Rabbi Zeira feel worthy of living in Eretz Yisrael. [See *The Journal of Halacha and Contemporary Society* VIII, pp. 20-22.]

The uniqueness of Yerushalayim is that only this city is referred to as *קרית מלך רב* – “the city of the great King” (*Tehillim* 48:3) – and as *כסא ד’* – “the throne of *Hashem*” (*Yirmiyah* 3:17). Yerushalayim has therefore been established as the capital city of the kingdom of *Hashem* in Eretz Yisrael. [See *B’Ikvei Hatzon*, pp. 221-222.]

III. Yerushalayim as the *Mikdash Melech*

Yerushalayim possesses a lower level of *kedushas Beis HaMikdash*. This is what allows for the consumption of *kodshim kallim* (less-sanctified *korbanos*, such as *Korban Shelamim*) in its environs. [*Kodshei kodshim* (more-sanctified *korbanos*, such as *Korban Chattas*) may never leave the *azarah* (courtyard) of the *Beis HaMikdash* proper.]

Rav Soloveitchik pointed out that we find the phrase 'לפני ד' used in the Torah in different contexts with three different connotations.

In the *passuk*, 'ושחט את בן הבקר לפני ד' – "He shall slaughter the bull before Hashem" (*Vayikra* 1:5), 'לפני ד' means that *shechitah* of a *korban* must be performed in the *azarah* of the *Beis HaMikdash*.

Next, the *passuk*, 'בחצוצרות וקול שופר הריעו לפני המלך ד' – "With trumpets and the sound of a *shofar*, blow a *teru'ah* in the presence of the King, Hashem" (*Tehillim* 98:6), teaches that on Rosh Hashanah and on a *ta'anis tzibbur*, we require the simultaneous blowing of the *chatzotzros* and the *shofar* 'לפני ד', in the area of the *Beis HaMikdash* and *Har HaBayis* (Temple Mount) (*Rosh Hashanah* 27a). [See *Minchas Chinuch*, *mitzvah* 324 and 606.]

And finally, the *passuk* commands: 'ואכלת לפני ד' אלקיך במקום: אשר יבחר לשכן שמו שם מעשר דגנך תירושך ויצהרך ובכורות בקרך וצאנך – "And you shall eat before Hashem, your G-d, in the place that He will choose to rest His Name there – the tithe of your grain, your wine, and your oil, and the firstborn of your cattle and your flocks" (*Devarim* 14:23).

Here, 'לפני ד' refers to the entire city of Yerushalayim, in which *kodshim kallim* and *ma'aser sheini* may be consumed. [See Rav Yaakov Ettlinger in *Bikurei Ya'akov* (658:1), for a practical application of this idea in reference to taking the *arba'ah minim* inside the *Ir Ha'Atika* on Sukkos, as a fulfillment of the *passuk*, 'ושמחתם לפני ד' אלקיכם שבעת ימים – "and you shall rejoice before Hashem, your G-d, for a seven-day period" (*Vayikra* 23:40).]

The resolution of this apparent discrepancy is that *לפני ד'* refers to a place that is sanctified with *kedushas Beis HaMikdash*, because the *Beis HaMikdash* itself is considered to be the *Beis Hashem*, the House of *Hashem*. Thus, the Torah in these *pesukim* refers to three different levels of *kedushas Beis HaMikdash*. The *azarah* contains the principle *kedushas haMikdash*, the *Har HaBayis* possesses a somewhat lower *kedushas haMikdash*, and Yerushalayim has an even lower *kedushas haMikdash*. [See *B'Ikvei HaTzon*, p. 107.]

IV. Yerushalayim as the *Ir Meluchah*

The *Rambam* (*Hilchos Melachim* 1:10) rules that only a king of *malchus Beis Dovid* has the right to use Yerushalayim as his capital and establish his government offices there. This *halachah* is based on the combination of two premises.

First, this *halachah* reflects the fact that *malchus Beis Dovid* has a special halachic status. *Hashem* authorizes only such a king, of the *malchus hanivocheres* (chosen monarchy), to serve as the human representative of the kingdom of *Hashem* in His land (see *Chiddushei Maran Ri"z HaLevi al haTorah, Parshas Shoftim*). In addition, we see that Yerushalayim has been halachically declared the official capital of the Jewish government in Eretz Yisrael. The official capital is reserved for the official government of Eretz Yisrael, and that is the *malchus Beis Dovid* in particular.

Both of these principles are reflected in a requirement of the *berachah* of *Boneh Yerushalayim* in *Birchas HaMazon*. We must include thanks regarding *malchus Beis Dovid* within this *berachah* of thanks to *Hashem* for Yerushalayim: "Whoever did not say 'the kingdom of the House of Dovid' in the *berachah* of *Boneh Yerushalayim*, has not discharged his obligation" (*Berachos* 48b). This may be a requirement even on a level of *d'oraisa* (*Bi'ur Halachah, Orach Chaim* 187:4). The establishment

of this kingdom, the *malchus hanivcheres*, is necessary for Yerushalayim to be considered complete, in a state of *binyan*.

Similarly, the *Tosefta* in *Berachos* (3:25) states that one has the option of reciting two *berachos* in the *Shemoneh Esrei*, *Velirushalayim Ircha* and *Es Tzemach Dovid*, in combination or individually. The *berachah* requesting the rebuilding of Yerushalayim and the *berachah* requesting the re-establishment of *malchus Beis Dovid* are interconnected. Indeed, the *Tosfos Ri" d* (*Ta'anis* 13b) writes that the custom followed in Eretz Yisrael was to combine these two themes into a single *berachah*. That is why the *krovetz* of Purim contains a *piyyut* for every *berachah* of *Shemoneh Esrei* except *Es Tzemach*; the *paitan* did not have *Es Tzemach* as a separate *berachah*.

The *Tosfos Ri" d* explains that this is why we refer to the weekday *Amidah* as "*Shemoneh Esrei*" even though we recite nineteen *berachos*. These two *berachos* were merged into one in many communities until the Middle Ages. Even according to our *nusach*, in which the *berachah* of *Es Tzemach* is recited separately, we continue to include the phrase, *וכסא דוד מהרה לתוכה תכין* – "and may You speedily establish the throne of Dovid within it," in *Velirushalayim Ircha* because the concept of *malchus Beis Dovid* is integral to the complete building of Yerushalayim. [See *B'Ikvei HaTzon*, p. 222.]

Meforshim note that Dovid HaMelech was anointed three times, (*Shmuel I* 16:13, *Shmuel II* 2:4, and *Shmuel II* 5:3). The second, public *meshichah* was necessary because the first was merely a private anointing in the presence of Shmuel and Dovid's family. The third one was necessary because it was in anticipation of Dovid's relocating the seat of his government from Chevron to Yerushalayim; only then was his kingdom complete.

V. *Ma'aser Sheini* in Yerushalayim

We may explain an interesting position of the *Ritva* in light of the concept that Yerushalayim represents the *Ir Meluchah*.

The *Gemara* in *Pesachim* (85b) teaches that when the Jews ate the *Korban Pesach* in Yerushalayim, they had to do so on the ground-floor, and not on the second level of a house, because גגין ועליות לא נתקדשו – “The rooftops and the upper stories [of Yerushalayim and the *azarah* of the *Beis HaMikdash*] were not consecrated.”

The *Gemara* describes that the *Korban Pesach* had to be eaten in shifts to make room for everyone to eat the *korban* on the ground-floors of their houses. In the words of Rebbi Chiya, כזיתא פסחא והלילא פקע איגרא – “A *kazayis* of the *Pesach* [would be consumed by each registrant], and [the sound of] the *Hallel* would crack the roof!” After partaking of the *korban*, the first shift would ascend to the rooftop to complete its *seder* and to make room for the next one to partake of the *korban*. It would seem as though the roofs of Yerushalayim were breaking due to the passionate recitation of *Hallel* being sung after eating the *Pesach*.

The *Gemara* never mentions explicitly whether the ground-floor requirement applies to other things that must be eaten within Yerushalayim, such as other *kodshim kallim* or *ma'aser sheini*.

The *Gemara* in *Makkos* (12a) discusses the case of someone sitting on a branch of a tree on the border of the city limits of Yerushalayim while eating *ma'aser sheini*. If the trunk of the tree and its branches are in separate areas, the *Gemara* seeks to clarify whether each part of the tree is classified separately according to its actual location inside or outside the wall of Yerushalayim, or whether the status of the entire tree is determined by the location of its branches.

Tosfos (s.v. *ilan*) is troubled by the following question. Even if the person was within the halachic city limits, since גגין ועליות לא נתקדשו, only the ground level is sanctified; his location in the air-space of Yerushalayim should not be acceptable.

Tosfos answers by distinguishing between the second floor of a building and the branch of a tree, if the width of the branch

does not create a floor-space of four-by-four *tefachim*. In the former case, we rule that *kedushas Yerushalayim* does not extend to the upper level because that story forms a *reshus* unto itself. However, the branch of a tree is not considered a new ground level like the second story of a building, and *kedushas Yerushalayim* does extend to this air-space. Thus, *Tosfos* assumes that the *kedushas Yerushalayim* required for the consumption of the *Korban Pesach* is the identical *kedushah* required for the consumption of other *kodshim kallim* and *ma'aser sheini*.

The *Ritva* (s.v. *veha d'amrinan*), however, distinguishes between the eating of *korbanos* and of *ma'aser sheini*. The full *kedushah* of the ground level of Yerushalayim is necessary only for *korbanos*, but not for *ma'aser sheini*. *Korbanos* may only be consumed in an area classified as "*Beis HaMikdash*." Thus, *kodshai kodshim* must be eaten in the *Beis HaMikdash* proper, in the *azarah*, while *kodshim kallim* may be eaten in the entire city of Yerushalayim, as it too possesses a partial *kedushas Beis HaMikdash*. Since the nature of *kedushas Beis HaMikdash* itself is a *kedushah* circumscribed by *mechitzos* (walls and partitions), we similarly differentiate within the *kedushas Beis HaMikdash* of Yerushalayim and limit that *kedushah* to the ground level of Yerushalayim.

With regard to eating *ma'aser sheini*, however, the airspace of Yerushalayim is endowed with sufficient *kedushah*. The basis of this distinction would seem to be that *ma'aser sheini* must be eaten in a location endowed with a heightened level of *kedushas Eretz Yisrael*, and not necessarily an area that possesses a partial *kedushas Beis HaMikdash*. *Ma'aser sheini* is not a *korban* and has no connection to the *Beis HaMikdash*. Therefore, there is no need to eat *ma'aser sheini* in a location that contains a lower level of *kedushas HaMikdash*. Rather, it must be eaten in that part of Eretz Yisrael that has the highest level of *kedushas ha'Aretz*.

Of course, all of Eretz Yisrael has *kedushas ha'Aretz* with respect to the agricultural *mitzvos*; that *kedushah* is unrelated

to the concept of *kedushas Beis HaMikdash*. The city of Yerushalayim, however, apparently possesses a more enhanced level of *kedushas ha'Aretz*, and it is this additional *kedushah* that allows for the consumption of *ma'aser sheini* within its city limits. *Kedushas ha'Aretz* is not defined by *mechitzos*, and there is therefore no distinction between an upper story or a ground-floor in respect to this facet of *kedushas Yerushalayim*. All of Yerushalayim was sanctified with this exalted form of *kedushas ha'Aretz*.

Why should Yerushalayim have a higher level of *kedushas ha'Aretz* than the rest of Eretz Yisrael? It may be that the elevated level of *kedushas Eretz Yisrael* that Yerushalayim possesses is based on the fact that Yerushalayim is the *Ir Meluchah*, the **capital city** of Eretz Yisrael. [See *B'Ikvei HaTzon*, pp. 225-226.]

This distinction of Yerushalayim as the *Ir Meluchah* enables us to understand why the *Mishnah* in *Kesubos* (13:11) teaches that if one spouse wishes to relocate to Yerushalayim from another location in Eretz Yisrael and the other spouse refuses, the latter is considered to be at fault regarding the dissolution of the marriage. [This point has relevance to the requirement to pay the *kesubah* upon the couple's divorce.] Apparently, there is a greater *mitzvah* of *yishuv Eretz Yisrael* to live in Yerushalayim than to live in the rest of Eretz Yisrael (*Chassam Sofer, Yoreh De'ah*, 233-234). Since Yerushalayim is the capital of Eretz Yisrael, it is considered a greater *mitzvah* to live there and develop that city than to live in the rest of the country.

VI. An Incomplete Yerushalayim

Commenting on the *passuk*, דור דור מדור דור, כי יד על כס קה מלחמה לד' בעמלק מדור דור – “For G-d has placed His hand on His Throne [and has sworn to] maintain a war against Amalek, from generation to generation” (*Shemos* 17:16), *Rashi* cites a comment of *Chazal* in order to explain why the words **כסא** and **יקוק** are spelled incompletely:

“The Holy One, Blessed be He, swore that His Name is not whole, nor is His Throne whole, until the name of Amalek will be completely eradicated.”

Amalek represents the presence of all evil in the world, and the continued existence of Amalek is the symbol of the success of the ways of *resha'im*. Seeing *tzaddikim* suffer and *resha'im* prosper gives the false impression that *Hashem* is powerless, that He is not the King of the world. If there were a second Supreme Being, or if G-d did not have complete control over His world, or if He was not omniscient and merciful, *chalilah*, we could well understand the situation of *צדיק ורע לו רשע וטוב לו*. But we, who believe that there is no secondary power, but only one G-d who is All-Powerful, Omniscient, and Merciful, are left with the crushing question of *צדיק ורע לו*.

As long as the question of *צדיק ורע לו* remains with us, His Name and His “Throne” are incomplete, for it seems as if He does not have full control of the goings-on in the world. We have the perception that inequality exists and tragedies occur.

The *Tzlach* (*Berachos* 58a) adds that this is the reason that *ירושלים* is written in the *chasser* (incomplete) form, without a *yud*, as *ירושלם*, in almost every instance of its appearance in *Tanach*. The *passuk* in *Yirmiyah* (3:17) refers to Yerushalayim as *כסא ד'* - “the Throne of *Hashem*” - because *Hashem* is the official King over Eretz Yisrael and Yerushalayim serves as the capital of His Kingdom. The human king of *malchus Beis Dovid* merely serves as the representative of *Hashem*, who is the true King over Eretz Yisrael. The *כסא ד'*, Yerushalayim, is as yet incomplete as long as the problem of evil exists in the world.

[Rav Yitzchak Herzog wrote a *teshuvah* (*Heichal Yitzchak, Even Ha'Ezer* 2:57) in which he discusses the correct way to spell the name Yerushalayim in a *get*. As mentioned, the name Yerushalayim is almost always written in the *chasser* form, but it is usually pronounced as the *malei* (full) form. This should give the word Yerushalayim the *din* of a *kri uchsiv*, a word in *Tanach* that is written one way and pronounced differently.

Rav Herzog continues that it is only with respect to the special rules of writing *kisvei hakodesh* that such a word is written differently than the way it is pronounced. The writing of a *get* or *kesubah* is unrelated to those *halachos*, and one could have argued that we should follow the *kri*. Nevertheless, Rav Herzog concludes that the *minhag* always was that Yerushalayim was written in the *chasser* form and we should continue that practice.]

The *Cheshek Shlomo* (found in the back of the *Vilna Shas, Hashmatah*, beginning of *Sukkah*) makes a similar point in reference to the word סוכה. This word also represents the *Malchus* of *Hashem*, as in the *passuk*, היום ההוא אקים את סכת דויד הנופלת – “On that day I will raise up the fallen *sukkah* of Dovid” (*Amos* 9:11). In all of *Tanach*, the word סוכה appears in the *chasser* form, סכה, except for one time: ויהי בשלם סוכו ומעוונתו בציון – “Then His *sukkah* will be in Yerushalayim and His dwelling in Tziyon” (*Tehillim* 76:3). That *passuk* refers to the time in the future when His Name and His Throne will be complete, בשלם, because at that time the memory and worldview of Amalek will be eradicated. [See *B’Ikvei HaTzon*, pp. 224-225; *Rav Schachter on the Parsha, Parshas Tazria*.]

VII. The Division of Yerushalayim

The twofold nature of Yerushalayim’s uniqueness is the basis for the *halachah* that the city had to be divided between *shevet Binyamin* and *shevet Yehudah*. The *Gemara* in *Sanhedrin* (111b) cites a *machlokes Amora’im* regarding whether, at the time of the original division of Eretz Yisrael among the *shevatim* in the days of Yehoshua, it was permissible to draw the boundary line between the portions of two *shevatim* through an existing city. They argued as to whether we may divide one city between two *shevatim* or whether we must adjust the boundary line so that the entire city falls within the portion of a single *shevet*.

It is therefore most surprising that according to both opinions, this is precisely what was done with the city of Yeru-

shalayim. *Tosfos Yeshanim* (Yoma 12a) writes that the fact that the division of Yerushalayim was an exception, according to one opinion, must have been known through Divine decree.

The *Gemara* in *Zevachim* (53b) teaches that the southeast corner of the *mizbe'ach* had no *yesod* (base). This was because there was a strip of land that projected out from *Yehudah's* portion into that of *Binyamin*, as the boundary between the territories of *shevet Yehudah* and *shevet Binyamin* cut across the *azarah* of the *Beis HaMikdash* at that exact spot. No area of the *mizbe'ach* could be in *Yehudah's* portion; the offering of *korbanos* was assigned to *Binyamin's* portion. The section of *shevet Yehudah*, in contrast, was reserved for the government's official buildings. Thus, the half of Yerushalayim of *shevet Binyamin* serves as the *Mikdash Melech*, while the half of *shevet Yehudah* serves as the *Ir Meluchah*.

The *Maharsha* (*Chiddushei Aggados*) explains the reason for this rule. The crown of royalty is connected to *Beis Dovid*, which descends from *shevet Yehudah*. There must be a separation between the institution of the government, the *kesser malchus*, and the *avodah* in the *Beis HaMikdash*, the *kesser kehunah*, which must function independently, without being under the control of the king. [There is another application of this division of Yerushalayim. The *Gemara* in *Sanhedrin* (11b) teaches that *ibbur hashanah* (intercalation of the year) should be performed within the portion of *Yehudah*, since "any matter that you investigate should be only at *Hashem's* dwelling place."] [See *Rav Schachter on the Parsha, Parshas Re'eh*.]

This understanding of the dual role of Yerushalayim may provide the basis for an answer to a question raised by the *Chassam Sofer* (*Orach Chaim, siman 29; Yoreh De'ah, simanim 233, 234*). The *Gemara* in *Zevachim* (54b) recounts how *Dovid Ha-Melech* and *Shmuel HaNavi* were "residing in *Ramah* and working on the adornment of the world," attempting to determine, based on *pessukim*, the correct site on which to build the *Beis HaMikdash*.

If it was understood that a parcel of land close to Yerushalayim, in *Yehudah*, was worth far more than one distant from Yerushalayim, in the *Galil* (*Bava Basra* 122a), how could there have been any doubt regarding the placement of the *Beis HaMikdash* within Yerushalayim? Additionally, if Yerushalayim was never divided among the *shevatim* in the days of Yehoshua, such that “one could not charge rent for houses in Yerushalayim” (*Yoma* 12a), the uniqueness of Yerushalayim should have already been well recognized.

We may suggest the following explanation. Indeed, it had been recognized for centuries that Yerushalayim was unique in terms of property value and monetary ownership, but it was thought that these differences were due to Yerushalayim’s status as the **capital** of Eretz Yisrael. The *Ir Meluchah* was not apportioned between the *shevatim*, in the same way that the capital of the United States, Washington, D.C., is not part of the neighboring states, Maryland or Virginia, but is an entity to itself, the District of Columbia. However, it might have been that there would be a **different** city that would house the *Beis HaMikdash*. Thus, the true location of the *Mikdash Melech* still had to be ascertained through the efforts of Dovid and Shmuel. [See *B’Ikvei HaTzon*, pp. 221-224.]

VIII. *Halanas HaMes*

The *Gemara* in *Bava Kamma* (82b) states: אין מלינין בה את המת – “We do not keep a corpse overnight in it [Yerushalayim].” The source for this *din* is גמרא – “an oral tradition [passed down to us].” The Torah requires burial on the day of death, based on the *passuk*, לא תלין נבלתו על העץ כי קבור תקברנו ביום ההוא – “You shall not leave his body overnight on the gallows; rather, you shall surely bury him on that day” (*Devarim* 21:23). The reason for this requirement is the Torah’s concern for *kvod haberiyos* (human dignity). However, for the purpose of honoring the

deceased, so that a greater number of people can attend the funeral, the burial may be delayed (*Sanhedrin* 46b-47a).

The oral tradition cited in the *Gemara* teaches that in Yerushalayim, such delay is not permitted, and the burial must be done before the morning following the death. However, the nature of the oral tradition is unclear, as it may be due to either one of the two aforementioned unique characteristics of Yerushalayim.

One approach is that the added restriction in Yerushalayim is because of the partial *kedushas haMikdash* that this city possesses. Keeping the dead body overnight would fall under the prohibition against defiling the *Beis HaMikdash* itself (see *Sotah* 20a).

A second possibility is that the restriction is a function of the enhanced level of *kedushas ha'Aretz* that Yerushalayim possesses, which may, in turn, be related to its status as the *Ir HaBirah* of Eretz Yisrael. Eretz Yisrael in its entirety has a stringency in regard to the burial of the dead. The *Ramban* elaborates on this prohibition, explaining that the end of the above *passuk*, *וְלֹא תִטְמֵא אֶת אֶרֶץ*, – “and you shall not contaminate your Land,” represents a separate commandment against leaving the body of even a **non-Jew** unburied in Eretz Yisrael. This prohibition may apply in a stricter form in Yerushalayim, the centerpoint of Eretz Yisrael, where leaving a corpse overnight may be deemed a violation of *tum'as ha'Aretz*.

A difference between the two approaches would present itself in the case of leaving the body overnight (for the honor of the deceased) on a rooftop or upper story of a building in Yerushalayim. [The corpse could be removed without passing through the ground level of the city if, for example, the upper story was adjacent to the wall of the city or the corpse would be transported out of the city by air.] If the *issur* of *halanas hames* is due to the partial *kedushas haMikdash* of Yerushalayim, it should be permitted to leave the body unburied, because with regard to this *kedushah*, “the rooftops and the upper stories were not con-

secrated." This type of *halanas hames* should not be considered a form of defilement of the *Beis HaMikdash*.

On the other hand, if the *issur* of *halanas hames* is due to the enhanced *kedushas ha'Aretz* of Yerushalayim, included in *תך אדם את אדם*, ולא תטמא את אדם, leaving the body overnight on an upper story may carry the same prohibition as doing so on the ground level. According to the *Ritva* in *Makkos*, the upper stories of Yerushalayim were also sanctified with that enhanced *kedushas ha'Aretz*. Thus, even this type of *halanas hames* may be prohibited out of a concern for *tum'as ha'Aretz*. [See *B'Ikvei HaTzon*, p. 226.]

IX. Sections Added onto Yerushalayim

Since the days of the *Beis HaMikdash*, we have added many sections onto the city of Yerushalayim, especially in the last 150 years, when there has been vast expansion outside of the walls of the Old City. Whether those areas have the status of Yerushalayim should depend on which aspect of Yerushalayim is being considered.

The *passuk* states regarding the construction of the *Mishkan*, ככל אשר אני מראה אותך את תבנית המשכן ואת תבנית כל כליו וכן תעשו – "According to all that I am showing you, the form of the *Mishkan* and the form of all its utensils, and so shall you do" (*Shemos* 25:8-9). The *Gemara* in *Shavuos* (14b-15a) derives from here that in future generations, when we build or expand the *Beis HaMikdash*, we must follow the same procedures employed in the consecration of the *Mishkan*. Therefore, additions to the city of Yerushalayim (and the *Beis HaMikdash* courtyards) cannot be effected absent the consent of the *melech*, a *navi*, the *urim v'tumim*, and the *Sanhedrin*, along with two *todah*-offerings and song. These requirements apply with respect to the *din* that Yerushalayim possesses a partial *kedushas ha-Mikdash*.

However, these requirements are not relevant in relation to conferring the political status of *Ir HaBirah* onto a new section

of Yerushalayim. The *Gemara* in *Shavuos* (16a) teaches that the status of *Ir HaBirah* was, in fact, bestowed upon a certain area just outside Yerushalayim **without** giving it the sanctity of the *Mikdash Melech*.

The *Gemara* records that there were two marshes on the slope of Har HaMishchah. The upper one was added to the city of Yerushalayim during the Second *Beis HaMikdash* period, but its *kedushah* was not complete, since some of the requirements for sanctifying Yerushalayim (*melech* and *urim v'tumim*) were not available by this time. Yerushalayim was expanded to include this section for security purposes only, as soldiers would defend the new area more vigorously (*Tosfos*, s.v. *ela*) if it were given the political status of the capital city of Eretz Yisrael. Although *kodshim kallim* or *ma'aser sheini* could not be consumed in this section, it still was labeled as *Ir Habirah*. The same should apply to the current sections that have been added to the city. [See *B'Ikvei HaTzon*, p. 223.]

This distinction may have relevance to the prohibition of *halanas hames* (if it is done for the honor of the deceased). If the additional restriction of *halanas hames* in Yerushalayim is due to the *Mikdash Melech* aspect of Yerushalayim, since these additional areas were not sanctified with *kedushas haMikdash*, no prohibition would exist in these sections. If, on the other hand, *halanas hames* is a function of the status of Yerushalayim as the *Ir HaBirah*, the prohibition may exist even in these expanded sections.

X. *Keri'ah* over Yerushalayim

Following the *churban Beis HaMikdash*, the *Tanna'im* instituted three *dinim* of *keri'ah*. One who sees the *Beis HaMikdash* in a state of *churban*, one who sees Yerushalayim (the *Ir Ha'Atikah*) in such a state, and one who sees cities of Yehudah in such a state are obligated to tear *keri'ah* (*Mo'ed Kattan* 26a).

Regarding the state of *churban* of the cities of Yehudah, the *Magen Avraham* (*Orach Chaim* 561:1) rules that one tears *keri'ah*

even if the city is inhabited by Jews, as long as it is ruled by non-Jews. The definition of “*churban*” in relation to cities of Yehudah is that these cities are no longer under Jewish control. Therefore, after the Six-Day War, we no longer tear *keri’ah* over the cities of Yehudah.

In contrast, it seems obvious that in regard to the *din* of “*bechurbano*” in relation to the *Beis HaMikdash*, the determining factor is not whether the Temple Mount is under Jewish control, but whether the *Beis HaMikdash* itself is in a state of destruction. Thus, we do tear *keri’ah* nowadays upon seeing the *makom haMikdash*.

In regard to Yerushalayim “*bechurbanah*,” however, it is unclear whether the *takanah* (enactment) to tear *keri’ah* depends on the political situation, under whose jurisdiction the city is, or whether it depends on the state of the *Beis HaMikdash*. These possibilities correspond to the two unique aspects that characterize Yerushalayim – its status as the political capital of the Jewish government in Eretz Yisrael and its being endowed with partial *kedushas HaMikdash*.

Rav Soloveitchik was convinced that tearing *keri’ah* over Yerushalayim *bechurbanah* is a demonstration of mourning over the destruction of the *Beis HaMikdash*. The uniqueness of Yerushalayim is that it was sanctified with a partial *kedushas haMikdash*. The *azarah* was sanctified with a *kedushah* corresponding to *machaneh Shechinah*, the *Har HaBayis* with *kedushas machaneh Leviyah*, and Yerushalayim with *kedushas machaneh Yisrael*. *Kedushas machaneh Yisrael* stems from *kedushas machaneh Shechinah*, and that is why Yerushalayim contains a lower level of *kedushas haMikdash*.

Therefore, when the *Beis HaMikdash* is in a state of destruction, even if the *Ir Ha’Atikah* is under Jewish sovereignty and Jewish presence in the city continues to increase, Yerushalayim is still halachically considered to be in a state of *churban*. Thus, the *takanah* to tear *keri’ah* over Yerushalayim *bechurbanah* still applies.

Likewise, the Rav did not see fit to celebrate Yom Yerushalayim with the recitation of *Hallel*, because he felt that the city remains in a state of destruction if the *Beis HaMikdash* is in such a state. In terms of Halachah, nothing of significance occurred on the day of the city's inclusion under Jewish sovereignty.

The Rav's view is considered to be the minority opinion. The prevalent practice is that we do **not** tear *keri'ah* over Yerushalayim at this time, now that Yerushalayim is under Jewish sovereignty. We assume that when the *chachamim* instituted the *din* of *keri'ah* over the destruction of Yerushalayim, it was to mourn the fact that it could no longer function as the capital of the Jewish government. We do consider it halachically significant that, since 1967, Yerushalayim can once again serve as the *Ir HaBirah* in a political sense. The Jewish control of Yerushalayim is a considerable cause for celebration.

[Since there is a *machlokes* regarding whether *keri'ah* should be performed, we do not tear *keri'ah*. First, there is a general rule that in a case of *machlokes* in *hilchos aveilus*, the *halachah* is in accordance with the lenient opinion. The *takanah* of *keri'ah* over Yerushalayim *bechurbanah* would presumably be governed by this principle, since this *keri'ah* is an expression of *aveilus*. Second, whenever the *mitzvah* of *keri'ah* does not apply, the act of *keri'ah* would be included in the prohibition of *bal tashchis* (destroying usable items) (*Pischei Teshuvah*, *Yoreh De'ah* 340:1). Therefore, *keri'ah* should only be performed when there is a definite obligation to do so.] [See *B'Ikvei HaTzon*, pp. 106-108; *Nefesh HaRav*, 1994 ed., pp. 78-79; *Divrei HaRav*, 2010 ed., pp. 175-176.]

XI. A Partial *Kedushas HaMikdash*

The *Sifrei Zuta*, in its first gloss to *Sefer Bamidbar* (5:2), discusses the *mitzvah* to send the *temei'im* outside the various *machanos* (camps), stating: עשר קדושות הן – “There are ten levels of sanctity.” The *Mishnayos* in *Masaches Keilim* (1:6-10) similarly list

these ten levels in ascending order of *kedushah*, starting with Eretz Yisrael and concluding with the *Kodesh HaKodashim*.

Rav Soloveitchik was fond of discussing the first level of *kedushah* listed in the *Mishnah* – that of Eretz Yisrael:

Eretz Yisrael is holier than all other lands. And what constitutes its holiness? That we bring from it the [barley used for the] *omer*-offering, the [first fruits offered as] *bikkurim*, and the [wheat used for the] *shte halechem* [two loaves on Shavuot], which we do not bring from all other lands.

It seems strange that of all the *dinim* that make Eretz Yisrael unique – the מצוות התלויות בארץ, agricultural *mitzvos* dependent upon the land (*terumah, ma'aser, shemittah, yovel, leket, shichechah, pe'ah, challah*) – specifically these three obscure *dinim* are the ones chosen to express the uniqueness of Eretz Yisrael.

Rav Menachem Ziemba *Hy"d* (*Otzar HaSifrei*) and Rav Soloveitchik explained that the *Sifrei Zuta* and *Mishnah* are not merely outlining the special *kedushah* of Eretz Yisrael per se. Of course, there exists a concept of *kedushas Eretz Yisrael*, which gives rise to the long list of מצוות התלויות בארץ. In this context, however, *Chazal* express the notion that there are ten levels of *kedushas haMikdash*. The core of *kedushas Beis HaMikdash*, its most intense degree, is found in the *Kodesh HaKodashim*. The *kedushah* then spills over to the other areas in descending levels of *kedushah*, until it fills the boundaries of Eretz Yisrael itself, which possesses the tenth level of *kedushas haMikdash*.

Chazal seek to prove that Eretz Yisrael, apart from its own *kedushas ha'Aretz*, is endowed with a lower level of *kedushas haMikdash*. This cannot be demonstrated from the group of מצוות התלויות בארץ, as they are dependent solely upon *kedushas ha'Aretz*. The three *dinim* that can demonstrate a *kedushah* in the form of *kedushas haMikdash* are those regarding the *omer*, the *bikkurim*, and the *shte halechem*.

These *dinim* indicate that there is a requirement that the barley for the *omer*, the fruits of *bikkurim*, and the wheat for the *shte halechem* grow within the “*Beis HaMikdash*.” The *Beis HaMikdash*

proper, of course, is not used for agricultural purposes; this requirement is fulfilled by using items grown in Eretz Yisrael, which contains, on some level, an element of *kedushas Beis HaMikdash*. Thus, all of Eretz Yisrael possesses a partial *kedushas haMikdash*, albeit to a lesser degree than the *kedushas haMikdash* found in the city of Yerushalayim. [See *Nefesh HaRav*, 1994 ed., pp. 77-78; *Eretz HaTzoi*, p. 97; *Rav Schachter on the Parsha, Parshas Nasso*.]

XII. *Kedushas Eretz Yisrael*

The *kedushas ha'Aretz* aspect of Eretz Yisrael is essentially unrelated to *kedushas HaMikdash*. These are two different concepts that can exist independently. For example, during the days of the *Mishkan* in the *midbar*, there was a *kedushas haMikdash* in *chutz la'Aretz*, at a time that there was no *kedushas ha'Aretz*. Conversely, during the four hundred and eighty years of the *Shoftim* before the *Beis HaMikdash* was built, there was a *kedushas ha'Aretz* without a *kedushas Beis HaMikdash*. It is possible however, that at the time of the building of the Second *Beis HaMikdash*, when Eretz Yisrael was sanctified anew, the investing of the *kedushah sheniyah* of Eretz Yisrael was connected to the *kedushas haMikdash*.

The *Rambam* (*Hilchos Beis HaBechirah* 6:16) writes that the original *kedushas Eretz Yisrael*, endowed by Yehoshua bin Nun, was nullified when the Babylonian armies conquered Eretz Yisrael at the time of the first *churban*. The *Rambam* explains that this was because the original *kedushah* was a result of the *kibbush* (conquest) of the land, and this was undone upon the subsequent Babylonian conquest.

However, the *kedushah sheniyah*, the *kedushas Eretz Yisrael* that was effected by Ezra when the Jewish People returned from *galus Bavel*, was everlasting, never to be undone. The *Rambam* formulates a reason for this difference based on the fact that the *kedushah sheniyah* did not depend on *kibbush ha'Aretz*. In fact, there was no *kibbush* at this time. An independent Jewish gov-

ernment in Eretz Yisrael was not established until the days of the *Chashmona'im* in the middle of the Second Temple period, two hundred years later. Instead of *kedushas ha'Aretz* resting on the conquest of the land, it rested on "*chazakah*" – settlement, a term coined by the *Rambam* himself.

Why is this a valid explanation of the difference between *kedushah rishonah* and *kedushah sheniyah*? The Jewish occupation of the land was undone at the time of *churban Bayis Sheini* when the Jews were exiled by the Romans, and the *kedushah* that depended on *chazakah* should have been nullified, just as the Babylonian conquest nullified Yehoshua's *kiddush*!

One of the suggestions that Rav Soloveitchik offered to answer this question is based on the observation that this formulation of the *Rambam* in reference to the *kedushah sheniyah* of Eretz Yisrael appears along with another ruling of the *Rambam* regarding the *kedushah* of the *makom haMikdash*.

When Shlomo HaMelech first built the *Beis HaMikdash*, he not only endowed the structure of the *Beis HaMikdash* itself with *kedushah*, but he also sanctified its geographic location – that particular latitude and longitude on the globe. The *Rambam's* opinion is that this *kedushas makom* is an everlasting one. The edifice of the *Beis HaMikdash*, along with the vessels therein, may have been stripped of their *kedushah* based on the *passuk*, וּבָאוּ בָהּ פְּרִיצִים וְחִילְלוּהָ – "And lawless people came into [the Sanctuary] and profaned it" (*Yechezkel* 7:22). Indeed, the *Gemara* in *Avodah Zarah* (52b) applies this principle to the stones of the *mizbe'ach*, which were defiled by the Greeks when they seized control of the *Beis HaMikdash*. Yet, the *kedushas makom* of the *makom haMikdash* endures.

To account for the eternal nature of the *kedushah* of the *makom haMikdash*, the *Rambam* offers his famous explanation:

לפי שקדושת המקדש וירושלים מפני השכינה ושכינה אינה בטלה.

Because the *kedushah* of the *Mikdash* and *Yerushalayim* is based on the [fact that, in that place, Hashem settled His] *Shechinah*, and the *Shechinah* is not able to be nullified.

The *passuk* states, *זאת מנוחתי עדי עד פה אשב כי אייתיה* – “This is My resting place forever and ever; here I will dwell, for I have desired it” (*Tehillim* 132:14). The *Shechinah* was unaffected by enemy conquest; it always remained in the *makom haMikdash*. Therefore, the *kedushah* of the *makom haMikdash* – and of Yerushalayim as an extension of *kedushas haMikdash* – remains intact.

The *Rambam*, in juxtaposing these two *halachos* – Shlomo’s *kiddush* of the *makom haMikdash* and Ezra’s *kiddush* of Eretz Yisrael – implies perhaps that the reason the *kedushah sheniyah* of Eretz Yisrael endures is related to the everlasting nature of the *kedushas HaMikdash*.

The Rav explained that there was a major difference between the settlement of Eretz Yisrael in the *kedushah sheniyah* as opposed to that during the *kedushah rishonah*. The First *Beis HaMikdash* was built many years after the conquest of Yehoshua. For this reason, Yehoshua first endowed all of Eretz Yisrael with its *kedushah*, and Shlomo, at a later time, endowed the *Beis HaMikdash* with its *kedushah*. Therefore, we understand that *Kedushas Eretz Yisrael* and *kedushas HaMikdash* are two distinct *kedushos*.

However, just the reverse was true in the days of Ezra. First the *Beis HaMikdash* was erected, and only then did the people settle around the *Beis HaMikdash*. The *yishuv* began in Yerushalayim and then extended further outward. Therefore, the second *kiddush* of Eretz Yisrael was really an expansion of the *kedushas haMikdash*. This form of settlement is what the *Rambam* meant with his application of the term “*chazakah*” to the *kedushah sheniyah* of Ezra, and this is why that *kedushah* was not nullified by the Roman occupation of Eretz Yisrael. Just as the *kedushas HaMikdash*, based on *hashra’as haShechinah*, remains even after the *churban haBayis*, so too, the *kedushas ha’Aretz* of Ezra, an extension of that *kedushas HaMikdash*, is everlasting. [See *Nefesh HaRav*, 1994 ed., pp. 76-77.]

XIII. The Center of *Tefillah* and Torah

Many have the impression that the main function of the *Beis HaMikdash* is in order to offer *korbanos*. However, when Shlomo HaMelech offered his famous *tefillah* upon the dedication of the *Beis HaMikdash*, he did not mention the offering of *korbanos*. He described the *Beis HaMikdash* as the *makom tefillah*, that everyone, Jews and non-Jews alike, should come to *daven* to *Hashem* in this place: הזה – “And they will pray and supplicate to You in this Temple” (*Melachim I* 8:33). All prayer is supposed to be directed towards the *Beis HaMikdash*. This is the “office” in which the prayers may be accepted.

Yeshayah (56:7) also referred to the *Beis HaMikdash* in this way when he said, כי ביתי בית תפילה יקרא לכל העמים – “for My House will be called a House of Prayer for all the peoples.” That is why, as a result of *churban HaBayis*, our situation is described by the *passuk* תפילתי, ואשוע שתם תפילתי, גם כי אזעק ואשוע שתם תפילתי – “Though I would cry out and plead, He shut out my prayer” (*Eichah* 3:8).

Furthermore, the central location of Torah is considered to be the *Beis HaMikdash*. The *Gemara* in *Yoma* (52b) tells us that towards the end of the period of the First *Beis HaMikdash*, Yoshiyahu HaMelech hid the *luchos* in a special vault beneath the Temple Mount, constructed for this purpose by Shlomo HaMelech. The *Gemara* (53b-54a) brings a dispute among the *Tanna'im* as to whether the *luchos* remained in this location during the period of the Second *Beis HaMikdash* or whether they were removed and taken to *Bavel*. The *Rambam* (*Hilchos Beis HaBechirah* 4:1) cites the first opinion as to the current location of the *luchos*.

Rav Soloveitchik noted that the very fact that the *Rambam* rendered a ruling regarding this *machlokes* indicates that he viewed it not merely as a historical issue, but as one that has halachic significance. The *machlokes* revolves around the question of whether it is possible to have a *Beis HaMikdash* without the presence of the *luchos*.

The accepted opinion maintains that in order for the *Beis HaMikdash* to be invested with *kedushah*, it must function as a *Mishkan Ha'Edus*, housing the *luchos ha'edus*. As such, the Second *Beis HaMikdash*, by definition, must have housed the *luchos*, albeit in an underground vault, which is considered an acceptable, secondary location for the *aron hakodesh* and *luchos*. Thus, the essence of the *kedushas haMikdash* rested on the fact that the Torah, in the form of the *luchos*, always remained within the *Beis HaMikdash*. [See *Rav Schachter on the Parsha, Parshas Chayei Sarah* and *Parshas Terumah*.]

The *Kuzari* (2:14) writes that Eretz Yisrael, and the location of the *Beis HaMikdash* in particular, is the *makom nevu'ah*. The *nevi'im* were granted their *nevu'ah* here because *nevu'ah* stems from the *ruach hakodesh* (Divine Inspiration) connected to the *hashra'as haShechinah* inside the *Beis HaMikdash*. The *Yerushalmi* in *Sukkah* (5:1), cited by *Tosfos* (*Sukkah* 50b, s.v. *chad*), teaches that Yonah ben Amitai was among the *olei regel* who attended the *simchas beis hasho'eivah* in the *Beis HaMikdash* on Sukkos. This caused *ru'ach hakodesh* to rest upon him; that is when he first became a *navi*.

The *Kuzari* similarly writes (2:28) that the source of all *chochmah* is the *aron*, in the *luchos* contained therein and in the *sefer Torah* adjacent to it. From there, two forms of wisdom emerge to the leaders of the nation, the wisdom of Torah to the *talmidei chachamim* and the wisdom of *nevu'ah* to the *nevi'im*.

The *Sifrei* discusses a situation in which a doubt arose regarding whether the first word in the *passuk*, *מְעוֹנָה אֱלֹקֵי קָדָם* – “The abode of G-d immemorial” (*Devarim* 33:27), should be spelled *מְעוֹנָה* or *מְעוֹן*. The *Tanna'im* resolved the question by checking the three *sifrei Torah* that were in the *azarah* of the *Beis HaMikdash*. They determined the correct *masorah* of the *passuk* based on the *rov* (majority), as two of the three *sifrei Torah* spelled the word *מְעוֹנָה*. Why was the *rov* determined by these *sifrei Torah*, and not by the *rov* of all the *sifrei Torah* in the world?

Apparently, there is a special halachic status attributed to the *sifrei Torah* in the *azarah*. Only the *sifrei Torah* of the *Beis HaMikdash* serve the role of maintaining the *masorah* of the text of the *Torah SheBichsav*. Similarly, the *Midrash Rabbah* (*Devarim*, *parsha* 9) teaches that Moshe was very concerned about misrepresentation of the *Torah*, and he therefore wrote thirteen *sifrei Torah* on the day that he was to die, one for each of the twelve *shevatim* and one to be placed in the *aron*. This *sefer Torah* of the *Beis HaMikdash* would be used to protect the authentic text of the *Torah*, to disprove anyone who seeks to falsify it. [See *MiPinei HaRav*, 2001 ed., p. 193.]

The *Beis HaMikdash* was also the central location of *Torah SheBe'al Peh* because it was the official meeting place of the *Beis Din HaGadol* (Supreme Court). The *Sanhedrin* was seated in the *lishkas hagazis* in the *Beis HaMikdash*, *המקום אשר יבחר ד' אלקיך בו* – “the place that *Hashem*, your G-d, shall choose” (*Devarim* 17:8).

One explanation of the placement of the *Sanhedrin* in the *lishkas hagazis* is that this requirement is a *halachah* in the nature of *Sanhedrin*. If it is outside of its official location, it does not retain its status as *Sanhedrin*. That is why if a *zakein mamrei* (rebellious sage) rebelled against a ruling that was issued by the *Sanhedrin* in a place other than its official location, his rebellion does not carry the death penalty (*Sotah* 45a).

However, there seems to be an additional consideration involved in the placement of the *Sanhedrin*. The *Mishnah* in *Sotah* (9:11) teaches: “From the time the *Sanhedrin* ceased to function, song was abolished from the wine-feasts.” Although it was still forty years before the *churban Beis HaMikdash*, when the members of the *Beis Din HaGadol* resigned from their positions and went into a self-imposed *galus*, the *chachamim* instituted certain aspects of *aveilus* over the destruction of the *Beis HaMikdash* itself.

Therefore, it would seem that the positioning of the *Sanhedrin* in the *Beis HaMikdash* is also a *halachah* in the nature

of the *Beis HaMikdash*. In other words, the *Beis HaMikdash* in its complete form is supposed to house the Chief Rabbinate.

This is because, as the *Rambam* (*Hilchos Mamrim* 1:1) explains, the primary function of the *Beis Din HaGadol* is to serve as the “international kollel” of *Klal Yisrael*, described as עיקר תורה שבעל פה – “the primary [repositors of] the Oral Torah” – and as עמודי ההוראה – “the pillars of teaching.” The main purpose of the *Beis Din HaGadol* is to preserve the *Masorah* of the *Torah SheBe’al Peh* and transmit it to the next generation. The requirement that the *Beis HaMikdash* serve as the center of Torah, both of *Torah SheBichsav* and of *Torah SheBe’al Peh*, makes it necessary for the *Sanhedrin* to be seated within it. That is why the *galus haSanhedrin* was considered a partial *churban haBayis*. [See *MiPineei HaRav*, 2001 ed., p. 116-117.]

We can now understand the intent of the יהי רצון we recite after *Shemoneh Esrei*, which includes a request for two seemingly unrelated things: שיבנה בית המקדש במהרה בימינו ותן חלקנו בתורתך – “that the Holy Temple be rebuilt, speedily in our days, and grant us our share in Your Torah.” Since the *Beis HaMikdash* is the primary *makom Torah*, we ask for our portion in Torah together with a plea to rebuild the *Beis HaMikdash*.

XIV. Torah Learning in Yerushalayim

Another manifestation of the *Beis HaMikdash*’s role as the seat of the *Sanhedrin* regards sounding the *shofar* on Rosh Hashanah. Although according to Torah law we are required to sound the *shofar* even when Rosh Hashanah falls on Shabbos, this was forbidden rabbinically lest one violate the Shabbos by carrying the *shofar* in a public domain.

However, this *gezeirah derabbanan* was never enacted in the *Beis HaMikdash*; there, the *shofar* was blown even when Rosh Hashanah fell on Shabbos. The *Rambam* (*Peirush HaMishnayos*, *Rosh Hashanah* 4:1) is of the opinion that this exclusion actually

applied to the entire city of Yerushalayim. In fact, following the Six-Day War in 1967, when Rosh Hashanah occurred on Shabbos, there was a discussion as to whether the *Rambam's* opinion should be followed to permit blowing the *shofar* on Shabbos in the *Ir Ha'Atikah*.

Rav Soloveitchik commented that it was obvious from the *sugya* in the fourth *perek* of *Rosh Hashanah* that this suggestion was not acceptable. The leniency discussed in the *Gemara* to blow the *shofar* in the *Beis HaMikdash* on Shabbos was not due to the status of *Beis HaMikdash* per se, but was rather a function of the presence of the *Sanhedrin* in the *Beis HaMikdash*. That is why Rabban Yochanan ben Zakai made an enactment extending this leniency to Yavneh and to any place where there would be a *Beis Din HaGadol*; the people's reverence for the rabbis in such locations would prevent any potential *chillul Shabbos*. Therefore, in our times, even if we were to follow the *Rambam's* opinion, we could not permit sounding the *shofar* on Shabbos in the *Ir Ha'Atikah* in the absence of the *Sanhedrin*. [See *Nefesh HaRav*, 1994 ed., p. 96.]

The basis of the *Rambam's* opinion is that the official location of the *Beis Din HaGadol* is really the entire city of Yerushalayim. Regarding the *passuk* in reference to the binding nature of the decisions of the *Sanhedrin*, וקמת ועלית אל המקום – “[If a matter of judgement is hidden from you ...] you shall rise up and ascend to the place” (*Devarim* 17:8), *Chazal* comment, מלמד שהמקום גורם – “This teaches that the **place** causes [a ruling of the *Sanhedrin* to be subject to ‘rebellion’ by a *zakein mamrei*]” (*Sotah* 45a).

The *Gemara* explains that the *psak* of the *Beis Din HaGadol* is not binding on all of *Klal Yisrael* if it was issued from *Beis Pagi*, a reference to any location on the outskirts of Yerushalayim. It does not seem that we insist that the ruling be issued specifically in the *lishkas hagazis* inside the *Beis HaMikdash*. The “place” that the *passuk* mentions refers to the entire city of Yerushalayim. We see from here that although the primary location of the *Beis Din*

HaGadol is inside the *Beis HaMikdash*, the entire city of Yerushalayim is also considered to be its proper location.

While it is true that we have not been able to begin the building of the *Beis HaMikdash* since 1967, we recognize that preparations for its construction are underway. There are certain specific *mitzvos* that will hasten the coming of *Mashiach*. One of the *mitzvos* that is especially effective is *talmud Torah*, and specifically the learning of *Mishnayos*.

The *Midrash (Vayikra Rabbah 7:3; see Bava Basra 8a)* interprets the *passuk*, עתה אקבצם גם כי יתנו בגוים - "Although they pay tribute to the nations, now I will gather them" (*Hoshe'a 8:10*), as a reference to the study of *Mishnayos* (understanding the word יתנו as related to the Aramaic word מתניתין). Thus, *Chazal* teach that the exiled will be gathered only in the merit of studying *Mishnayos*. We live in a time in which the study of *Torah SheBe'al Peh* in particular should be emphasized.

We therefore have a right to celebrate the victory in 1967 because this event clearly led to an increase in Torah learning. There are many *yeshivos* that have been established in the *Ir Ha'Atikah*, and the fact that there is so much more Torah being learned than ever before, especially in the Old City, serves as a *hachanah* for the building of the *Beis HaMikdash*. As we saw earlier, the *Beis HaMikdash*, in addition to being the *makom hakravas korbanos*, the *makom hatefillah*, and the *makom hanevu'ah*, is also the primary *makom limud haTorah*. We celebrate the day of Yom Yerushalayim as an *aschalta d'geulah* because we believe that the events that this day commemorates will lead to the return of Torah to the *Beis HaMikdash* itself, the essence of which is to serve as a *Mishkan Ha'Edus*.

XV. Our Dreams about Yerushalayim

In the *Shir Ha'Ma'alos* recited before *Birchas HaMazon*, we say, בשוב ד' את שיבת ציון היינו כחולמים - "When Hashem will return

the captivity of Tzion, we will be like dreamers.” Rav Zelo Schussheim recounted the following interpretation in the name of Rav Soloveitchik. When children are growing up, they have many dreams about their future, whom they will marry, what their life will be like, etc. As the years go by, though, most of those dreams are not realized. In contrast, here, in reference to the *geulah*, the *navi* assures us through *ru'ach hakodesh* that everything will be fulfilled, exactly as we had dreamed about Yerushalayim throughout our long *galus*.

The Rav said at that time that, unfortunately, the secular government of Ben-Gurion was not at all the *Medinas Yisrael* we were dreaming about. We were dreaming for something much greater. *Hashem's* promise of *Shivas Tziyon* has not yet been fulfilled. This is not yet the *geulah*; it is only a *haschalah* (beginning).

We are supposed to have dreams about Yerushalayim. We should continue to dream about Yerushalayim, and we should pray to *HaKadosh Baruch Hu* that we merit seeing **all** of our dreams completely fulfilled. [See *Nefesh HaRav*, 1994 ed., p. 93.]

