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MA'ASER KESAFIM

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Rabbi - Kehilas Zichron Mordechai

When Yaakov Avinu, while running away from his brother Eisav, awakens after dreaming about the Malachim ascending and descending the ladder, he davens to Hashem, and vows that if Hashem will provide for his needs and see that he will return safely to his father's home, he will give Hashem one tenth of whatever he has (Bereishit 28:20-22). In the Da'as Zekeinim MiBa'alei HaTosafos (20 s.v. *im*), a Midrash is cited which indicates that Yaakov at that time instituted that one should give away one tenth of one's money to Tzedakah. Although the Torah itself clearly presents elsewhere the Mitzvah to support the poor by giving Tzedakah (Vayikra 25:35, Devarim 15:7-8), no guidelines are given as to specifically how much money or what percentage of one's income must be given to Tzedakah in order to properly fulfill this Mitzvah. The idea of giving one tenth of one's agricultural produce to the poor is indeed documented in the Torah (Devarim 26:12); this is known as Ma'aser Ani, which was given in years three and six of seven year Shemithah cycle. No other mention, however, of a requirement to give specifically one tenth of anything to the poor is found in the Torah.

Based upon a Posuk in Mishlei (3:9), however, the Yerushalmi in Peiah (1:1 3b) implies that one is required to give Ma'aser Ani, a tithe of one tenth to the poor, from all of one's possessions, not just from agricultural produce. This view is cited by the Mordechai, in his commentary on the Gemara in Bava Kamma (53b Siman 192), where it is presented as a source for the Mitzvah to give Ma'aser Kesafim. Another source is found in the commentary of Tosafos on the Gemara in Taanis (9a) which expounds upon a Posuk later in the Torah (Devarim 14:22) that contains the seemingly extraneous double use of a word in relationship to tithes (*Aser T'aser*). Tosafos (s.v. *aser*) cites a statement in the Sifrei (which is not found in our current standard editions) that extrapolates from this entire expression that there are indeed two tithes which must actually be given. The first is the one tenth to be separated from one's agricultural produce, the second is the one tenth to be given to the poor from any other potential source of income, such as business or other capital gains that one may have. This too, then, is a source for the Mitzvah of Ma'aser Kesafim. It is worth noting that this same idea appears in the Yalkut Shimoni, in Parshas Re'eih (Remez 893) and in the Midrash

Tanchuma (os 18), where it is mentioned that this gift of one tenth of one's business income should be given specifically to those who are involved in Torah study.

The implication of the above sources is that the obligation to give Ma'aser Kesafim to the poor is rooted in the Torah, a view which seems to be accepted by the Shaloh (Shnei Luchos Habris, Maseches Megillah – Inyan Tzedakah Uma'aser, s.v. *umikol makom*), among others. Most other Poskim, however, do not consider this to be a Torah based obligation. The Maharil, for example (Shut Maharil, siman 54, 56), writes clearly that the Mitzvah of Ma'aser Kesafim is MideRabbanan, and he consequently allows for certain leniencies in this obligation. The Chavos Yair too (Shut Chavos Yair siman 224), in a lengthy Teshuvah where he discusses, among other things, what exactly is considered income and how to treat business expenses in this regard, likewise quotes an opinion that the obligation of Ma'aser Kesafim is MideRabbanan, and that the Pesukim mentioned above are just a *remez*, a hint to the idea in the Torah. He notes there as well that the aforementioned Yalkut Shimoni writes specifically that the Posuk in the Torah is only *aremez*. The Aruch HaShulchan (Yoreh Deah 249:2) likewise writes that the requirement to give one tenth of one's money to the poor is only MideRabbanan, and it is merely hinted at by the Posuk in this Parsha referred to above; the Ma'aser actually required by the Torah relates only to one's agricultural products, and is given to the poor only once every three years.

Still other authorities rule that giving Ma'aser Kesafim to the poor is required neither by the Torah nor by the Rabbanan, but is rather a Minhag, a proper custom. This position is articulated by the Bach, in his commentary on the Tur (Yoreh Deah 331 s.v. *av*), when he discusses what type of Tzedakah may be given with Ma'aser Kesafim money, as opposed to Ma'aser Ani money, and is agreed to by Rav Yaakov Emden (Shut Sha'ailos Ya'avetz vol. 1 Siman 6), who, quoting the above cited Posuk in this Parsha, writes that giving Ma'aser money to the poor is a *middas chasidus*, an act of piety learned from Yaakov Avinu; he then proves that there is no actual obligation, even on the level of a Mitzvah MideRabbanan. In an earlier Teshuvah (Siman 1), Rav Yaakov Emden quotes from his father the Chacham Tzvi that the Bach's position is correct, and he himself brings proofs to his father's view in a subsequent Teshuvah (Siman 3). The Chavos Yair, in the aforementioned Teshuvah, agrees to this position himself as well; this seems to be the majority view. The Pischei Teshuvah (Yoreh Deah s.k. 12) notes that this position that giving Ma'aser Kesafim is only a Minhag was actually presented much earlier by the Maharam of Rothenburg. He then adds, however, that some hold that although it is only a Minhag, once one has observed the Minhag, he shouldn't stop doing so

except in a situation of great need. Some of the above quoted Poskim discuss how many times one must observe this practice before it is considered that he has permanently adopted the Minhag.

One of the issues which depends upon whether giving Ma'aser Kesafim is an actual Mitzvah (from the Torah or from the Rabbanan) or whether it is simply a Minhag is the question of to whom one is required to give Ma'aser Kesafim money. The Shulchan Aruch (Yoreh Deah 249:1) writes that one must support the poor by giving them as much as they need, keeping in mind how much he can afford; giving one tenth is considered the average contribution, while one who wishes to be generous should give one fifth, as suggested by the Gemara in Kesubos (50a). The Ramo adds, though, that Ma'aser Kesafim money must be used specifically to be given to the poor, and not for any other Mitzvah or to assist any other worthwhile cause. The Shach quotes those who disagree and say that expenses for a Mitzvah which one otherwise would not have done may be paid for with one's Ma'aser money. The view of the Ramo is most likely based on there being a strong connection between Ma'aser Kesafim and Ma'aser Ani; the latter had to be given to poor people and not used even for Mitzvos. The view of the other Poskim probably is that since giving Ma'aser Kesafim is simply a Minhag, its rules do not necessarily parallel those of the Mitzvah to give Ma'aser Ani. The Chasam Sofer (Shut Chasam Sofer, Yoreh Deah Siman 232) makes this very distinction; in his previous Teshuvah (Siman 231) he suggests that if when one first decides to undertake the practice of giving Ma'aser Kesafim, one has in mind specifically that he would like to use the money to pay for other Mitzvos or to support other charitable causes and not just give it to the poor, he may do so.

CLARITY FROM WITHIN: THE REALIZATION OF YAAKOV

David Tanner (18)

When Yaakov woke up from his sleep and realized that he was in the *makom haMikdash*, he declares an oath to Hashem:

וידר יעקב נדר לאמר אם יהיה אלקים עמדי ושמרני בדרך
הזה אשר אנכי הולך...ושבתי בשלום אל-בית אבי והיה ה'
לי לאלקים. והאבן הזאת אשר-שמתי מצבה יהיה בית
אלקים וכל אשר תתן-לי עשר אעשרנו לך.

"And Jacob vowed a vow, saying: If God will be with me, and He will keep me on this way on which I go...and I return in peace to my father's house, and the Lord will be a God for me, then this stone which I have set up as a pillar will be the house of God and all that You give me will I tenth to You." (Genesis 28:20-22)

The Keli Yakar asks: what was Yaakov thinking? "If God will be with me" (Ibid.)? How could Yaakov have had any doubt that Hashem was with him at all times, watching over him and protecting him from all harm, especially considering that Hashem had just appeared to him in a dream and promised him "*ushmarticha bekhlo asher-teleikh*, I will guard you wherever you go" and "*ki lo e'avzavka*, for I will not forsake you" (Genesis 28:15)?

The Keli Yakar explains, that in fact, Yaakov completely trusted that Hashem would take care of his physical needs. Rather, he explains (as does Rashi) that Yaakov's request for God to "be with [him]" refers not to protection from physical danger but rather a spiritual one. Yaakov was afraid that in his extended time in Charan, he would pick up bad habits from being around Lavan. The *gemara* in Sukkah 56b has the well-known expression "*oy larasha oy lishkheino*," "woe is to the evil one and woe is to his neighbor," because through no fault of their own good people are influenced by their negative surroundings.

Continues the Keli Yakar, why did Yaakov need to use the words "*anokhi*" and "*hazeh*," "and He will keep me on this way on which I go"? It seems a bit wordy; "keep me on my way" seems sufficient! The Keli Yakar beautifully explains that Yaakov meant "this" in the way of someone who is pointing with his finger at something in front of him. *Lehavdil*, someone in a restaurant in a foreign country may not be able to read the menu, but when he sees a fragrant, steaming dish coming out of the kitchen, he can point and say "this! This is what I want!" In the same way, Yaakov was declaring his allegiance to Hashem. Similar to *kerias yam suf*, where *Kelal Yisrael* declared "*zeh keili ve'anveihu*, this is my G-d and I will glorify Him," (Exodus 15:2) Yaakov said 'the same God whose *Beis Hamikdash* will stand in this place, Him I want to follow. This is my path. Save me, Hashem, from learning from Lavan.'

The necessity of the word "*anochi*" also becomes clear. Being committed to Hashem cannot come from without, but rather within. It is impossible to stay an *eved Hashem* unless it starts from *anochi* - from within oneself.

Yaakov teaches us an important lesson. Though often in life we face confusion and mess, there are certain moments when we feel everything makes sense and everything is clear, and we know why we're here on earth - to serve Hashem. When those moments come, the way to keep it lasting is to declare: 'this is who I am. This is who I want to be.' When such a desire to be close with Hashem expresses itself clearly, from within, grasp ahold of it - and never let go.

בשת שלום!



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