

From the Pages of
Or HaMizrach:
An English Compendium

Published by:

The Religious Zionists of America

Mizrachi-Hapoel HaMizrachi

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This compendium is published with the support
of the Center for Religious Affairs in the
Diaspora – World Zionist Organization, and
The Louis and Etta Schiff Foundation

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New York, N.Y. 10001
(212) 465-9234
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ISBN: 0-9788561-1-2

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EDITOR'S NOTE

In the fall of 2002, we were approached by Rabbi Simcha Krauss, then President of the Religious Zionists of America, to serve as co-editors of the Torah journal *Or HaMizrach*, whose publication had ceased with the passing of its long-time editor, Rabbi Israel Schepansky z"l, in 1998. With deep reverence for the mission entrusted to us, we began the task of reviving the journal – soliciting and editing scholarly material from an array of *talmidei chakhamim* in Israel and the Diaspora on diverse topics spanning classical *lomdut*, *halakhah*, *aggadah*, *Tanakh* etc. In keeping with the tradition of *Or HaMizrach*, priority was given to articles devoted to *Eretz Yisrael*-related themes as well as to timely essays relating to the *yamim tovim* that coincided with each issue's publication.

Be'siyata de'Shmaya, six issues have appeared thus far under our editorship, featuring one hundred scholarly articles by renowned rabbinic figures across the spectrum of the Torah world as well as by a host of younger scholars. The niche of Torah scholarship filled by *Or HaMizrach* has long been recognized by *rabonim*, *talmidei chakhamim* and *yod'ei sefer*, and continues to find expression in the feedback that we have received from our readership in the form of written and oral communication.

In conjunction with the release of our seventh issue, we are pleased to present this compendium featuring English renditions of five articles drawn from past issues and the current one. This project would not have taken shape without the initiative of RZA Chairman, Mr. Martin Oliner, and its President, Rabbi Yosef Blau, and we thank them for their ongoing encouragement and guidance. Special thanks are also due the translators, Rabbis David Strauss (essays 2, 3, 4 and 5) and Joshua Hoffman (essay 1). It is our hope that this companion volume will succeed in imparting to the broader English-speaking public a small taste of the caliber of Torah scholarship and intellectual creativity that are hallmarks of *Or HaMizrach*.

On a bittersweet note, with the publication of our seventh issue and this English compendium, we conclude our tenure as co-editors of *Or HaMizrach*. It has been an honor to help in adding a link to the golden chain of *harbatzat Torah* under the aegis of the RZA. We trust that this *mesorah* will be continued in the years ahead.

Elchanan Adler

Nathaniel Helfgot

Past issues of *Or HaMizrach*:

Vol. 48 (3-4) Nissan 5763

Vol. 49 (1-2) Tishrei 5764

Vol. 49 (3-4) Nissan 5764

Vol. 50 (1-2) Tishrei 5765

Vol. 50 (3-4) Nissan 5765

Vol. 51 (1-2) Tishrei 5766

Vol. 51 (3-4) Nissan 5766

are available for purchase
through the RZA

7 Penn Plaza, Suite 205

New York, N.Y. 10001

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Rabbi Aaron Soloveichik zt"l

**SETTLING ERETZ YISRAEL
AND
MILCHMET MITZVAH
IN CONTEMPORARY TIMES**

**"YOU SHALL TAKE POSSESSION OF IT":
AN ASPIRATION OR A COMMAND?**

The Ramban in his list of omissions appended to the *Sefer HaMitzvot* of the Rambam (positive commandments, no. 4), criticizes the Rambam for not having counted the *mitzvah* of settling *Eretz Yisrael* among the six hundred thirteen *mitzvot*. In other words, according to the Ramban there exists a Biblically mandated *mitzvah* to possess and dwell in *Eretz Yisrael*. This *mitzvah* according to the Ramban emanates from the verse, "... and you shall dispossess the inhabitants of the land and dwell in it" (*Bamidbar*, 33:53). The Ramban says that this is a positive *mitzvah*, not an aspiration or promise, and his proof for this is that which the verse says in the matter of the spies, "... go up and take possession, as the Lord ... has spoken ... do not fear and do not lose resolve" (*Devarim*, 1:21). It also says, "and when the Lord sent you from Kadesh-barnea saying, 'Go up and take possession of the land I gave you'" (*Devarim*, 9: 23). And when they did not want to go up through this statement, it is written, "then you rebelled against the word of the Lord" (*ibid*). The Ramban says that the statement of the Talmud (*Sotah*), "the battle of Yehoshua to conquer (*Eretz*) is a *milchemet mitzvah* according to everyone," is not limited to war against the seven nations alone. Rather, it refers to all battles to capture *Eretz Yisrael* from the hands of the nations. The Ramban also says that the *mitzvah* to dwell in *Eretz Yisrael*, even in the present time, is included in the *mitzvah* of "and you shall possess the land," and he cites words of the *Sifrei* that dwelling in *Eretz Yisrael* is as weighty as the entire Torah.

The question posed by the Ramban is, why didn't the Rambam count the *mitzvah* of possessing and dwelling in *Eretz Yisrael* in his enumeration of the *mitzvot*? Doesn't the *Sifrei* say that dwelling in *Eretz Yisrael* is as weighty as all of the Torah? In addition to this, we find a conclusive proof from the *Yerushalmi* in *Sotah* (8:9) that the *mitzvah* of dwelling in *Eretz Yisrael* is a positive *mitzvah* from the Torah. In connection with the verse in the Torah, "who is the man who has built a new house and has not inaugurated it? Let him go and return to his house" (*Devarim*, 20:5), the *Yerushalmi* says, "Perhaps one who builds a house outside the land shall return? We learn 'and did not inaugurate it,' he who is commanded to inaugurate, which excludes he who is not commanded to inaugurate it," This *halakhah* is codified by the Rambam in *Hilkhot Melachim*, 7:14. We see from this that the inauguration of a house in *Eretz Yisrael* is a positive *mitzvah* from the Torah, and, therefore, the question against the Rambam stands, why didn't he count this *mitzvah* in his enumeration of the *mitzvot*? This is the first question, and it is directed towards the position of the Rambam.

The second question relates to the position of the *Tosafot*. The Talmud in *Ketuvot*, 110b, says, "he says to go up and she says not to go up, they force her to go up. She says to go up and he says not to go up, they force him to go up." In *Tosafot*, s.v. "*Hu omeir la'alot*," it is written, "It is not practiced today, because there is danger on the roads. Rabbeinu Chaim Kohen used to say that nowadays one is not commanded to dwell in *Eretz Yisrael* because there are many *mitzvot* dependent (on the land) and many punishments which we cannot be careful about and resist them." It is thus explained in *Tosafot* that according to Rabbeinu Chaim Kohen there is no *mitzvah* to dwell in *Eretz Yisrael* in our time, and, therefore, even if there is no danger on the road in our time a man cannot force his wife to go up to *Eretz Yisrael*. However, the *Mordechai*, at the end of *Ketuvot*, says: "'He says to go up and she says not to go up, we force her to go up' – Rabbeinu Chaim Kohen wrote that this applied in their days, when there was peace on the roads. However, now, when the roads are in bad condition, he is not able to force her, because it is like taking her to a place of gangs of beasts and robbers." It is thus clear in the words

of Rabbeinu Chaim Kohen, as they are mentioned in the Mordechai, that the entire reason why in our time a man cannot force his wife to go up to *Eretz Yisrael* is that there is danger on the roads but in essence there is a law of forcing to ascend to *Eretz Yisrael* even in our times. This is in contrast to the words of Rabbeinu Chaim Kohen as they are mentioned in *Tosafot*, that today there is no *mitzvah* to live in *Eretz Yisrael*, even without (the factor of) danger on the roads. In order to resolve these questions, we need to delve into one expression which the Ramban employs in his notes on the Rambam.

MITZVAH KIYUMIT OR MITZVAH CHYUVIT?

The Ramban, in his omissions to the *Sefer HaMitzvot* of the Rambam, after he mentions many verses from which he proves that conquest of the land must be counted in the enumeration of the *mitzvot*, uses the expression, “an indication that it is a *mitzvah*, not a ‘*yeud*’ (aspiration’) or ‘*havtachah*’ (promise).” I think that with this expression, the Ramban is telling us that for the Rambam the verses in the Torah which deal with the conquest of the land such as “and you shall take possession of it,” and similar ones, express only an aspiration and promise, not a command. The meaning of ‘*yeud*’ is that this is only a ‘*mitzvah kiyumit*,’ an act that constitutes a *mitzvah* upon its fulfillment. A ‘*yeud*’ is something lofty that we aspire to, and for whose realization we are hoping. If so, there is no difficulty with the opinion of the Ramban. The Rambam does not count conquest of the land in his enumeration of the *mitzvot* because the Rambam counts only obligatory mitvot, not fulfillment-based *mitzvot*, and the *mitzvah* of “and you shall possess it” is a fulfillment-based *mitzvah*, not an obligatory *mitzvah*. However, even though it is a fulfillment-based *mitzvah*, still, it is a Biblical *mitzvah*, and it is as weighty as the entire Torah. Therefore, the Yerushalmi says that one who builds a house outside the land and has not inaugurated it is not exempt from going out to war, because only the building of a house whose inauguration represents the fulfillment of a Biblical *mitzvah* exempts him from war, and not the building of a house outside the land, which does not represent the fulfillment of a *mitzvah* at all.

Now we can return to the second question, against *Tosafot*. The question was that *Tosafot* mention in the name of Rabbeinu Chaim Kohen that nowadays there is no *mitzvah* to dwell in *Eretz Yisrael* because we are unable to fulfill the *mitzvot* that are dependent on the land, and the Mordechai explains (that according to Rabbeinu Chaim Kohen) if there would be no danger on the roads then the law of forcing (to ascend to *Eretz Yisrael*) is in effect. We can resolve this contradiction. It emerges from the words of Rabbeinu Chaim Kohen that the obligation to dwell in *Eretz Yisrael* is not an obligation in its own right. Rather, the obligation is based on the possibility of fulfilling the *mitzvot* that are dependent on the land.

The source for the obligation of *aliyah* to *Eretz Yisrael* in order to fulfill the *mitzvot* that are dependent on the land is a Midrash which the *Da'at Zekenim MiBa'alei Tosafot* mentions in connection with the verse in *Shemot*, 23:10. The verse says "six years you shall sow your land and gather in its crop." The *Da'at Zekenim* says concerning this, "It is stated in the Midrash that even if a person has only one ruin in his garden he is obligated to work it every day. It appears to Rabbi Moshe that this is only in *Eretz Yisrael*, in order to increase the separation of *terumot* and *ma'asrot*." This Midrash teaches us that there is a Biblical obligation to dwell in *Eretz Yisrael* and to work the land in order to make the *mitzvot* that are dependent on the land possible. The verse "and you shall gather in its crop" represents a *mitzvah* and an obligation from the viewpoint of *mitzvot* that are dependent on the land. However, there is a *mitzvah* of dwelling in *Eretz Yisrael* because of the verse "and you shall take possession of it," and as the *Sifrei* says in connection with this verse, the *mitzvah* of dwelling in *Eretz Yisrael* is as weighty as the entire Torah. Rabbeinu Chaim Kohen cannot argue with the *Sifrei*. The *mitzvah* of "and you shall possess it" is not based on the *mitzvot* that are dependent on the land. Rather, it represents a *mitzvah* in its own right, and therefore the *mitzvah* "and you shall take possession of it" is in effect even in the current time even though there is no possibility of fulfilling the land-dependent *mitzvot*. However, Rabbeinu Chaim Kohen says that nowadays there is no obligatory *mitzvah* to dwell in *Eretz Yisrael* because the obligatory *mitzvah* of dwelling in *Eretz Yisrael* is based on

the possibility of fulfillment of the *mitzvot* dependent on the land, and in this time we are not able to fulfill all of the *mitzvot* that are dependent on the land. However, there is a *mitzvah kiyumit* even in the current time, on the score of the verse “and you shall possess it.”

The wording of *Tosafot* is: “Rabbeinu Chaim Kohen used to say that today it is not a *mitzvah* to dwell in *Eretz Yisrael* because there are many *mitzvot* dependent on the land and many punishments that we are unable to be careful about and fulfill.” We are accustomed to read the word ‘m-z-v-h’ with a ‘chirik’ under the ‘mem’ and a ‘sheva’ under the ‘tzadi,’ rendering ‘*mitzvah*.’ However, this is a mistake. If this was the intention of *Tosafot*, then they should have said that today ‘*einena mitzvah*’ (so that there is gender agreement with the feminine word ‘*mitzvah*’). However, *Tosafot* use the expression ‘*eino* (masculine form) m-z-v-h.’ Therefore, the word ‘m-z-v-h’ certainly must be read with a *sheva* under the ‘mem’ and a ‘kubuts’ under the ‘tzadi,’ rendering ‘*metzuveh*,’ meaning ‘commanded. Therefore, *Tosafot* use the expression ‘*eino metzuveh*,’ not ‘*eino mitzvah*,’ thus saying that in this time there is no obligatory *mitzvah* to dwell in *Eretz Yisrael*, but there is a *mitzvah kiyumit* on the score of the verse “and you shall possess it,” and this *mitzvah* is applicable even in the current time when we are unable to fulfill the *mitzvot* that are dependent on the land. On the score of the *mitzvah* of “and you shall possess it” there is also a rule of coercion on the part of the husband on his wife and on the part of the wife on her husband. However, when there is a fear of danger on the roads then there is no coercion, but if there will not be any danger in the roads then there will be a rule of coercion based on the verse “and take possession of it.” Therefore, the Mordechai says that in the current time in which there is danger on the roads there is no rule of coercion. Now there is no contradiction in the words of *Tosafot* between the way they are cited in *Tosafot* and the way they are cited in the Mordechai.

**MILCHEMET MITZVAH BASED ON THE RULE OF
'SOMEONE WHO COMES TO KILL YOU'**

One can ask, according to what we said – that the Rambam admits that conquest of the land is a Biblical *mitzvah*, except that it is a *mitzvah kiyumit*, not an obligatory *mitzvah* – if so, why doesn't the Rambam mention in *Hilkhot Melachim* that a war of Israel to capture *Eretz Yisrael* from the hands of the nations is a *milchemet mitzvah*, while the Rambam mentions in connection with *milchemet mitzvah* only war against the seven nations, against Amalek, and a war to deliver Israel from the hand of an enemy that has attacked them.

It appears that this question can be answered through examination of another question. The Rambam omits the Talmudic statement in *Ketuvot* 111b, that God imposed an oath on Israel not go up as a wall, which means to say, that they should not conquer *Eretz Yisrael* through force of arms. We need to understand why the Rambam omits this. The Rambam, in *Hilkhot Melakhim*, 5:1, lists wars to deliver Israel from the hand of an enemy that has risen up against them among the obligatory wars that the nation of Israel (must) fight. Some have asked, doesn't the Talmud in *Sotah* 44b say that (the status of) a war to diminish the heathens so that they do not march against them depends upon a dispute between R. Yehudah and the Rabbanan, and according to the Rabbanan this is not a *milchemet mitzvah*, but rather an optional war (*milchemet hareshut*), and it is clear from the Rambam's *Commentary to the Mishnah* on *Sotah* that the *halakhah* is like the Rabbanan. The *Keren Orah* on *Sotah* already answered that according to the Rambam the dispute between the Rabbanan and R. Yehudah deals with a war against a nation that is planning an attack against Israel but hasn't yet attacked. However, if a certain nation already attacked Israel or is prepared to attack Israel then the Rabbanan will also admit that it is a *milchemet mitzvah*.

One can ask, what is the source for this law of the Rambam that a war to save Israel from an oppressor that comes against them is a *milchemet mitzvah*? It appears that the source of this *halakhah* is the *Midrash Tanchuma* in *parshat Pinchas* to the verse, "Vex the Midyanites ... for they vex you" (*Bamidbar*, 25:27); from here the Sages said, "someone who comes to kill you, rise first and kill him." See Rashi to

Berakhot, 58a, who writes that the Torah wrote the rule of “someone who comes to kill you, rise first and kill him” in connection with a burglar who comes through a *machteret* (underground passage). It appears that there are two halakhot of “someone who comes to kill you rise first and kill him.” The section of *machteret* teaches us the rule of “someone who comes to kill you rise first and kill him” on an individual level, and the section of “vex the Midyanites because they vex you” teaches us the rule of “someone who comes to kill you rise first and kill him” on a collective level. If a thief comes through a tunnel then it is permissible for the householder to kill the robber because it is the latter’s intention to kill the householder if the householder will stand up against him and not allow the thief to take his money. Therefore, the robber has the status of an individual pursuer (*rodeif*) even though the thief would not kill the householder if the home owner would allow the thief to take his money. This *halakhah* represents the rule of the pursuer and “someone who comes to kill you” on an individual level.

According to this, if a certain nation from among the heathens attacks Israel and is prepared to kill Jewish people if the Jewish community will not allow the non-Jews to take *Eretz Yisrael* or part of *Eretz Yisrael*, then there devolves upon the non-Jewish nation the status of a pursuer on a collective level, and the Jewish community has the obligation to fight against the nation that is attacking Israel on the score of the rule of “someone who comes to kill you rise first and kill him” on a collective level which emanates from the section of “vex the Midyanites for they vex you.” Had God not imposed an oath upon Israel not to go up in force then we would be obligated to fight against the heathens to capture *Eretz Yisrael* on the score of the *halakhah* of deliverance of Israel from an enemy that has attacked them, which is based on the rule of “someone who comes to kill you, rise first and kill him,” since *Eretz Yisrael* is in our possession from our ancestors, and the non-Jews are holding it through theft. Certainly, if someone has already stolen a field from his friend, and the one robbed knows that if he would enter his stolen house to live there the thief would kill him, then the one robbed is permitted to enter his house and kill the thief if the thief will stand up against him,

just as it is permissible for the householder to kill the thief who comes through the underground passage. If so, why should the rule of “one who comes to kill you rise first and kill him” in respect to the collective, which emanates from the section of “vex the Midyanites for they vex you” be different from the rule of “one who comes to kill you rise first and kill him” on an individual level?

THE OATH NOT TO GO UP BY FORCE

This is, however, how it should have been were it not for the oath that God imposed upon Israel not to go up by force. However, since God imposed an oath on Israel not to go up by force, we do not have permission to fight against the nations, and, therefore, there is no obligation of *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them that devolves upon them, as long as the heathens do not attack us. However, the oath that God imposed upon Israel not to go up by force obligates Israel only as long as the nations do not make their yoke on the Jews heavier than necessary, since the Talmud in *Ketuvot* says that God imposed upon Israel and the nations corresponding oaths, and just as God imposed an oath upon Israel that they should not capture *Eretz Yisrael* from the nations by force of arms, so too did God impose an oath upon the nations of the world that they should not attack Israel. According to this, if the heathens attack Israel, then there devolves upon Israel the obligation to fight a *milchemet mitzvah* against them on the score of a war of deliverance of Israel from an enemy that has attacked them.

Now we are able to resolve the question that we asked against the Rambam, why he omitted the *halakhah* that capturing *Eretz Yisrael* from the hands of the nations is a fulfillment of a *milchemet mitzvah* (*milchemet mitzvah kiyumit*). The Rambam did not need to mention the *halakhah* that the capture of *Eretz Yisrael* is a *milchemet mitzvah kiyumit* because this point is superfluous, either way you look at it. If the nations do not attack Israel, then there is no permission for Israel to fight a war of conquest against the nations because of the oath that God imposed upon Israel not to go up by force, and if the nations do, in fact, attack Israel, then certainly the war to conquer is

an obligatory *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them, which flows from the verse, "vex the Midyanites." If so, the Rambam could not have mentioned the rule that a law of conquest is a *milchemet mitzvah kiyumit* on the score of the *mitzvah* of "and you shall possess the land" since in such a case a war of conquest is an obligatory war on the score of the rule of deliverance of Israel from an enemy that has come up against it. However, we need to understand why the Rambam omitted the oath that God imposed upon Israel not to go up by force.

It appears that the oath not to go up by force does not represent an independent prohibition, but that this is included in the prohibition that emanates from the section of "before Elazar the *kohen* he shall stand, and he shall inquire of him the judgment of the *Urim* before God.....he and all of the children of Israel with him and the entire assembly" (*Bamidbar*, 27:21), i.e., the prohibition of fighting a *milchemet hareshut*, which is any war outside of a war against the seven nations, against Amalek, and a war to deliver Israel from an enemy that has attacked them without the permission of the Supreme *Beit Din* and without the permission of the *Urim* and *Tumim*, as it is explained in the *Sefer HaMitzvot* of the Rambam and in the *Yad HaChazakah*, *Hilkhot Klei HaMikdash*, 10:12, and *Hilkhot Melacim*, 5:2. Were it not for the oath that God imposed upon Israel not to conquer *Eretz Yisrael* through force, then the conquest of *Eretz Yisrael* through force would have been included in the category of a war to deliver Israel from an enemy that has attacked it, and we would not have had to procure permission from the Supreme *Beit Din* and the *Urim* and *Tumim*. However, since we were sworn by God not to capture it by force, obviously this kind of conquest is not included in the category of *milchemet mitzvah* on the score of deliverance of Israel from an enemy that has attacked them, and, as a result, it is prohibited for us to wage a war of conquest without the permission of the *Urim* and *Tumim* and the Supreme *Beit Din*, on the score of the prohibition of "and before Elazar Hakohen he shall stand." However, when the heathens attack Israel, then the oath does not obligate us, and then the conquest of the land, even through force, is included in the category of deliverance of Israel from an enemy that has attacked them, and, obviously, it is an obligatory war.

I think that for this reason the Rambam wrote to the sages of Marseilles, “this was the sin of our ancestors, that they did not occupy themselves with the conquest of the land.” There were times in Jewish history during which the Jews had the opportunity to conquer *Eretz Yisrael* on the occasion of an attack, and even so they refrained from capturing *Eretz Yisrael*, and this was the sin of our ancestors.

THE CONNECTION BETWEEN *AM YISRAEL* AND *ERETZ YISRAEL*

However, in order to understand the opinion of the Rambam, we must delve deeply into the viewpoint of the Rambam in regard to the connection between *Am Yisrael* (the nation of Israel) and *Eretz Yisrael*. The Ramban, in his omissions to the *Sefer HaMitzvot* of the Rambam points out that the verse “and they rebelled against the word of God” which was said in the Torah in connection to the spies proves that the *mitzvah* of “and you shall possess the land” is a command, not a mere aspiration and promise. In truth, this comment presents a great argument against the Rambam, for if we assume that taking possession of the land is only a *mitzvah kiyumit* and aspiration, then the spies only faltered in that they did not fulfill the *mitzvah* of taking possession of the land, but there is no rebellion here, so why was the sin of the spies so great?

It is possible to suggest that the sin of the spies expressed itself in the fact that since they had been allowed by God to conquer the land of Cana’an and the oath not to go up by force was not intended for them, consequently, the conquest of the land, for them, was a matter of deliverance of Israel from an enemy that has attacked them. The rebellion of the spies stood out in that they transgressed the obligation of participating in the *milchemet mitzvah* of deliverance of Israel from an enemy that has attacked them. However, if this is correct, then the spies sinned mainly against *Am Yisrael*, but from the verse in *Tehilim* it is apparent that they sinned mainly against the land, as it says, “they despised the coveted land” (*Tehilim* 106:24). The question is, according to the opinion of the Rambam, why is the sin of the spies considered a great sin against the land? Doesn’t the

conquest of the land, in its own right, represent only a *mitzvah kiyumit*, and not a *mitzvah chiyuvit*? Rather, we are forced to say that even according to the Rambam there are incumbent upon *Am Yisrael* obligations toward *Eretz Yisrael*, and these obligations do not emanate from the *mitzvah* of “and you shall take possession.”

The *mitzvah* of “and you shall take possession” is only a *mitzvah kiyumit*, and it applies to the individual and to the collective. However, the obligations that are incumbent upon the nation Israel emanate from the covenant that God made with Israel in connection with *Eretz Yisrael*. In connection with the verse, “I will remember My covenant with Ya’akov, and also My covenant with Yitzchak, and also My covenant with Avraham will I remember, and I will remember the land” (*Vayikra* 26:42) the *Sifra* says, “this teaches (us) that a covenant is made with the land.” Certainly the covenant that is made with the land was not made between God and *Eretz Yisrael*. The land itself is not a legal personality that can be a partner to a covenant. The covenant that is made with the land is made between God and *Am Yisrael*. The meaning of the covenant with the land is an agreement or a contract between God and *Am Yisrael* in connection with *Eretz Yisrael*, and which places mutual obligations on the two parties to the covenant, who are God and the Jewish nation. Through the covenant with the land, God promised *Knesset Israel* (the collective of the Jewish people) of all generations that they will possess and rule *Eretz Yisrael*. However, the commitment in the covenant with the land is not unilateral, but bilateral. God is faithful in fulfilling His promises to Israel, in connection with *Eretz Yisrael*, and we are all today witnesses to the faithfulness of God.

We have seen this in the War for Independence and in the Six-Day War. However, the fulfillment of God’s promise is dependent upon the fulfillment and implementation of the commitments that were placed upon Israel through the covenant of the land. What are the commitments that were imposed upon Israel by the covenant of the land? The covenant of the land imposed upon Israel the obligation to relate to *Eretz Yisrael* as a coveted land. We are able to reach this conclusion from the wording of the verse in *Tehilim* 106:24 in connection with the spies. There it says, “they despised the coveted

land.” This expression teaches us that the sin of the spies was expressed in that they did not relate to the land of Canaan as a coveted land, and by this they broke the obligation that was imposed upon them through the covenant of the land.

THE MEANING OF “ERETZ CHEMDAH” (A COVETED LAND)

What is the meaning of a “coveted land”? In order to understand the proper answer to this question we must note the halakhic contrast between the prohibition of “do not covet” and the prohibition of “do not desire.” In the first version of the Decalogue (in parshat *Yitro*) it states “do not covet,” and in the later version of the Decalogue (in parshat *Vaetchanan*) it says “do not desire.” The prohibition of “do not covet” and the prohibition of “do not desire” constitute separate prohibitions, as the Rambam explains in the *Sefer HaMitzvot* (negative commandment 266) and in the first chapter of *Hilkhot Gezeilah VeAveidah*. The prohibition of “do not desire” deals with a case of someone who desires the possessions of his friend and in his heart there beats a desire to acquire those possessions but he does not use any means to realize the desire. The prohibition of “do not covet” deals with a case in which someone not only desires his friend’s possessions, but uses means, through urging and pressure, to attain the possessions. According to this, we arrive at the conclusion that ‘*ta’avah*’ is desire for a certain object realization and implementation, while ‘*chimud*’ expresses a desire so great and strong that it necessarily is destined to be realized and implemented.

The sin of the spies was that they related to the land as to an object of desire. The spies felt in their hearts a love for *Eretz Yisrael*, but only in their hearts. They were not prepared to fight for *Eretz Yisrael* and to dedicate their time and their money for *Eretz Yisrael*. They despised the coveted land and through this they violated their obligation that the covenant of the land imposed upon them. The Rambam holds the opinion that the *mitzvah* of “you shall take possession of the land” is only a *mitzvah kiyumit*, but the Rambam admits that the nation of Israel as a collective is obligated to be so devoted and dedicated in its relationship and its coveting for *Eretz*

Yisrael to the point that no difficulty, toil, pressure and burden can halt the realization of the delight (*chemdah*) of the nation of Israel for *Eretz Yisrael*.

The Rambam does not count the *mitzvah* of conquering *Eretz Yisrael* in his enumeration of the *mitzvot* because in relation to the *mitzvah* that is implied in the verse "and you shall take possession of the land" there is only a *mitzvah kiyumit* and the Rambam does not count *mitzvot kiyumiot* in his enumeration of the *mitzvot*. In connection with the commitments that emanate from the covenant of the land, the Rambam does not count covenants in his enumeration of the *mitzvot*.

However, in order to understand well what the commitments of the nation as a collective are, on the score of the covenant of the land, we need to understand what the covenant of the land is. The covenant of the land was first made between God and Avraham our forefather during the vision of the covenant between the pieces, and this covenant between the pieces was repeated to Yitzchak, as it was said to Yitzchak, "and I will perform the oath that I swore to Avraham your father" (*Bereishit*, 26:3), and trebled to Ya'akov, as Yitzchak said to Ya'akov, "and He shall give you the blessing of Avraham, to you and to your seed with you, to inherit the land of your dwelling that God gave to Avraham" (*Bereishit*, 28:4).

However, this covenant of the land that God made with the forefathers was established anew between God and *Am Yisrael* as a collective through Moshe *Rabbeinu* in his role as their agent, and through this *Am Yisrael* in all the generations became a party to the covenant of the land in connection with all of the commitments and the privileges that are tied up and incorporated in it. The first time that this covenant of the land between God and *Am Yisrael* was established occurred at the revelation of the (burning) bush and that covenant and oath was repeated in the beginning of *parshat Vaerah*. When the *Sifra* says in connection with the expression, "and I will remember the land" – "this teaches that a covenant is made with the land," the *Sifra* is not referring to the covenant between the pieces alone, because the fact that God made a covenant of the land with Avraham our forefather is explicit in the Torah, in *parshat Lekh Lekha*, and we do not need to learn this from the expression "and I will

remember the land” because it is already mentioned in the beginning of the verse in the expression, “I will remember My covenant with Ya’akov, and also My covenant with Yitzchak, and also My covenant with Avraham will I remember.” When it says, “this teaches that a covenant is made with the land,” the *Sifra* is referring to the covenant of the land that was established between God and the nation of Israel in the vision of the bush and in the beginning of *parshat Vaerah* in the place where the Torah says, “and I will bring you into the land which I swore to give to Avraham to Yitzchak and to Ya’akov; and I will give it to you as a heritage; I am the Lord” (*Shemot*, 6:8).

Rabbeinu Bachya in his commentary to the Torah to this verse points out that the Torah here uses the expression of ‘*morasha*’ (heritage) in contrast to ‘*yerusha*’ (inheritance), and so in *parshat Vezot Haberakhah* in connection to the Torah itself, the Torah uses the same expression: “The Torah that Moshe commanded us is the heritage of the congregation of Ya’akov” (*Devarim*, 33:4). Inheritance is something that is taken possession of in a passive manner, without toil, without (exertion of) energy, and without planning on the part of the children. However, heritage expresses an acquisition that is transmitted from fathers to sons only through co-operative effort, co-operative planning and co-operative toil between fathers and sons. God swore to Israel that *Am Yisrael* would possess and rule over *Eretz Yisrael*. God promised Israel that the Torah would be the acquisition of Israel; but God wants *Am Yisrael* to relate to the Torah as to an acquisition of a heritage, not as to an acquisition of an inheritance, and God wants *Am Yisrael* to relate to *Eretz Yisrael* as to an acquisition of a heritage and not as to an acquisition of an inheritance.

**“SUSTAIN ME WITH DAINTY CAKES”
THE FIRE OF THE BUSH AND THE FIRE OF MORIAH**

Only a Jew who dedicates himself and all of his abilities to the study of Torah, and only a Jew who ‘sacrifices himself’ in the tent of Torah, can acquire the Torah, but (as the Talmud says) “you have not toiled and you have found, don’t believe.” In the same way, God wants *Am Yisrael* to dedicate its abilities, wealth, and energies toward

the building of the land, and if *Am Yisrael* in any generation fulfills this task, then certainly God will fulfill His promises to us, as he has done for us in our generation through His bringing about that *Am Yisrael* possesses and rules over *Eretz Yisrael*. In order to know how *Am Yisrael* needs to fulfill its task and its commitments to *Eretz Yisrael*, we need to delve deeply into the vision of the bush, in which there is hidden the outlook of the Jewish nation on its encounter with the nations of the world in the course of the generations together with *Eretz Yisrael*.

The Midrash in *Shir HaShirim* says, in connection with the verse "*samkhuni ba'ashishot*" – "sustain me with dainty cakes" (*Shir HaShirim*, 2:5), that the word '*ba'ashishot*' implies two fires (*eish*): the fire of the bush and the fire of *Moriah*. The meaning of this statement is that a Jew needs to be, on the one hand, energetic and enflamed with the flame of enthusiasm, aspiration and love toward *Am Yisrael* and *Eretz Yisrael*, and, on the other hand, a Jew must be energetic and enflamed with the flame of enthusiasm, aspiration and love towards God and His Torah. The fire of the bush symbolizes the flame of love toward *Eretz Yisrael*, and the fire of *Moriah* symbolizes the flame of love toward God. Therefore let us concentrate on the details of the vision of the bush. The Torah tells us that an angel of the Lord of hosts appeared to Moshe in the flame of the fire within the bush, and Moshe saw that the fire burned and the bush was not consumed.

In connection with the identity of the angel, the *Midrash Rabbah* (*Shemot*, 2:8) mentions that R. Yochanan says it was Michael, and R. Chanina says it was Gavriel. Michael is the symbol of patience, or tolerance. The meaning of Michael is "who is like God"? ("*mi ka-keil*"). The Sages said, in connection with the verse "Who is like You, Lord, among the strong ones (*eilim*)"? (*Shemot*, 14:11), "Who is like You, Lord, among the silent (*ilmim*)"? meaning, who is patient, or tolerant, like God? Michael is the angel to whom there is always given a mission of patience. Michael is the angel to whom was given the mission to announce to Sarah that she would yet give birth to a son. On the other hand, Gavriel is the symbol of might. The meaning of Gavriel is '*gevurot*,' the might of God. Gavriel is the angel to whom

a mission of might is always assigned. Gavriel is the angel to whom there was given the mission to overturn Sodom and Amorah.

The question was raised among our Sages, which character traits does *Am Yisrael* need to use in its encounter with the nations? In relation to *Eretz Yisrael*, we need to use the character traits that the angel Michael symbolizes, meaning the traits of patience, peace, concession, forbearance and restraint. R. Chaninah says that, at times, we must use the character traits that the angel Gavriel symbolizes, meaning the traits of might, defense and battle with those who attack us.

“Both these and those are certainly the words of the living God.” In general, the angel Michael must be our agent and our symbol. As long as the nations do not make their yoke too heavy, as long as the nations do not attack us, we are sworn by God not to rebel against the nations and not to go up by force. As long as the nations of the world treat us with dignity we must use the means of peace, patience, love and restraint. However, R. Chaninah says that there are times when the need of the hour forces us to appoint and designate the angel Gavriel as our agent. If the nations of the world violate their oath and make their yoke too heavy, if the nations attack us, than we need to use the means of might and defense for our lives, our land and our honor.

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THE OFFERING OF THE MUSAF SACRIFICES IN THE WILDERNESS

**In memory of my revered teacher,
Rav Yehudah HaLevi Potok, zt"l**

Rav Yehudah HaLevi Potok, zt"l, was born in Bendin, Poland, a descendant of Rav Natan Shapira, author of *Megaleh Amukot* and *Av Bet Din* of Cracow, and Rav David Oppenheim, *Av Bet Din* of Prague. Rav Potok was ordained by Rav Shalom Mordekhai Shvadron, *Av Bet Din* of Bresen and author of *Responsa ha-Maharsham*.

Rav Potok was the foremost teacher in the "Ahavas Torah" school in Leipzig, Germany, which had been founded by Rav David Feldman, author of *Ir David* on the *Kitzur Shulchan Aurkh*, *Shimushah shel Torah*, *Lev David*, *Responsa* and other works. Rav Potok had many students. In 1937, when I first began to study Gemara, I was privileged to have had Rav Potok as my teacher. Rav Potok had a great influence upon me. I remember that when we left the city in 1939 and I visited him in his house to receive his blessings, he blessed me and instructed me to study Torah with diligence and promised that, with God's help, I would succeed in my studies.

I left Leipzig about four months before the outbreak of World War II, and for many years I had thought that Rav Potok had remained in Leipzig and was killed by the Nazis. This year, however, I received a copy of his book, *Ginat ha-Bitan*, that had been published in Manchester, England, and then I learned that, with God's help, Rav Potok had survived the war. After a number of harrowing experiences in Germany, he managed to reach Manchester, and published his book in 1944. The book received the approbation of leading Torah scholars – Rav Yechezkel Abramski, Rav Moshe Yitzchak Segel, Rav David Feldman, Rav Moshe Eliyahu Rogoznitzki, and others. They all praised the work for the precious pearls of Torah wisdom contained within it.

Rav Feldman had left Leipzig in 1934 to serve as the rabbi of Congregation Machazikei HaDat in Manchester. In 1938, he returned to Leipzig for a short visit, at which time he also visited the yeshiva. During his visit, he discussed Torah issues with Rav Potok. I remember them discussing the question whether or not *Musaf* offerings were brought in the wilderness, but I was too young to understand a word of what they were saying. Interestingly, when I opened the book, *Ginat ha-Bitan*, I immediately found a short article dealing with the issue. I am almost sure that this was the topic that the two great rabbis had been discussing back in 1938, and I thank God that after 67 years, He has finally allowed me to understand what my revered teacher had said so many years ago.

May his memory be for a blessing. And may his soul be bound in the bond of life.

* * *

The Ramban in *Parashat Emor* on the verse, “The feasts of the Lord, which you shall proclaim to be holy gatherings, these are my feasts” (*Vayikra* 23:2), writes: “And He says at the end of the passage: ‘These are the feasts of the Lord, which you shall proclaim to be holy gatherings, to offer an offering made by fire to the Lord, a burnt offering, and a meal offering, a sacrifice, and drink offerings’ (*ibid.* v. 37). But He does not explain the *Musaf* offerings at length, because He did not want them to bring them in the wilderness. However, after He counted those who would enter the Land in the book of *Bamidbar*, and He commanded: ‘To these the land shall be divided’ (*Bamidbar* 28:53), He explained all the *Musaf* offerings in *Parashat Pinchas*, that they should bring them in the land, immediately and in future generations.” And similarly, in *Parashat Pinchas* on the verse, “Command the children of Israel, and say to them, My offering, the provision of My sacrifices made by fire” (*Bamidbar* 28:2), the Ramban writes that the *Musaf* offerings were not brought in the wilderness.

Many have raised an objection from what the Gemara says in *Menachot* (45b) that Rabbi Shimon said that the law is in accordance with Ben Nanas that whatever is stated in the book of *Bamidbar* was offered in the wilderness. Thus, the Gemara is explicitly against the view of the Ramban. An objection was also raised against the Ramban’s position from the Gemara in *Zevachim* (101b) which states

that on the eighth day of the consecration of the *Mishkan* – which fell out on *Rosh Chodesh Nisan* – a *Rosh Chodesh* goat offering was brought. Thus, we see that *Musaf* offerings were indeed brought in the wilderness, against the position of Ramban.

Rav Yehudah HaLevi Potok, *zt"l*, in his book *Ginat ha-Bitan*, tries to explain the position of the Ramban, based on what the *Acharonim* say that the laws of ritual impurity regarding the Sanctuary and its sacred articles did not apply in the wilderness. For it says in *Pirkei de-Rabbi Eliezer* (chapter 44) that during the forty years of Israel's sojourn in the wilderness, whenever a person contracted ritual impurity, the Pillar of Cloud would immediately eject him out of the camp of Israel. Now, since the *Musaf* offerings come to atone for ritual impurity regarding the Sanctuary and its sacred articles, as is stated in *Shevu'ot* (2b), we can well understand why they would not have been brought in the wilderness. So too there was no eating of sacrificial meat in a state of ritual impurity outside the camp, for outside the camp, the consecrated meat would already have become disqualified as "*yotze*," for having left the confines of the camp. According to what Rav Potok says, it may be suggested that the *Rosh Chodesh* goat offering was different, for it is stated in *Shevu'ot* (9a) that God said that this goat offering should serve as atonement for Him for having diminished the moon in size. It may, therefore, be argued that even if all the other *Musaf* offerings which come to atone for the defilement of the Sanctuary and its sacred articles were not brought in the wilderness, the *Rosh Chodesh* goat offering may still have been brought there, because it atones also for the diminishment of the moon. (I later saw that the argument put forward by the *Ginat ha-Bitan* is also found in the commentary *Ambuha de-Sifrei* on *Sifrei Zuta* in *Parashat Pinchas*.)

In my humble opinion, however, the *Musaf* offering is an obligation of the day of *Shabbat*, *Yom Tov*, or *Rosh Chodesh* that is binding even when the Sanctuary and its sacred articles could not possibly have become defiled. For it is the day itself which obligates a *Musaf* offering, and the sin of defiling the Sanctuary or its sacred articles is not a condition for that obligation. While it is true that if a *Musaf* offering is brought because of the obligation generated by the day, it atones for the sin of defiling the Sanctuary or its sacred

articles, nevertheless the primary obligation comes into being because of the day of *Shabbat*, *Yom Tov*, or *Rosh Chodesh*. It is only the sin-offering of an individual about which we can say that it is the sin that obligates the bringing of the sacrifice.

Returning to the position of the Ramban, we find a disagreement between R. Elazar ben Azaryah and the Sages in *Berakhot* (30a). R. Elazar maintains that the *Musaf* prayer is only recited with a “*chever ir*.” Rashi understands this to mean that the *Musaf* prayer was enacted only for a congregation, but not for an individual. The Sages disagree and say that the *Musaf* is recited both with and without a congregation. R. Elazar ben Azaryah might understand that since the *Musaf* prayer was enacted in correspondence with the *Musaf* offering, as stated by the Rambam (*Hilkhot Tefilah* 1:4), and the *Musaf* offering is a communal offering, therefore the *Musaf* service requires a congregation. A similar idea is put forward by the *Penei Yehoshua*, who argues that the other prayer services are recited even by an individual, because the other services were enacted by the Patriarchs, as stated in *Berakhot* (26b). It was only by way of an *asmakhta* that the Sages associated the other prayer services to the sacrificial order in the Temple. This is not true regarding the *Musaf* service, which was enacted solely in correspondence to the *Musaf* offering brought in the Temple. The *Musaf* prayer is, therefore, only recited by a congregation, for the *Musaf* offering was a communal offering. See also the *Meiri* (*ad loc.*) who writes that the *Musaf* service whose obligation stems from the community was imposed only upon the community, i.e., upon the congregation.

If what we have said is correct, then we can understand the Ramban’s position that the *Musaf* offering was not brought in the wilderness. The Maharal of Prague says that the mutual responsibility (*arevut*) that all of Israel accepted upon themselves when they crossed the Jordan and entered *Eretz Yisrael* was due to the sanctity of the land. Since the land was especially designated for Israel, it had the capacity to turn all of its inhabitants into a single entity. The *Avnei Nezer* (*Orach Chayyim*, no. 314) explains that the Gemara in *Horayot* (3a) alludes to this when it says that “these are called a ‘congregation,’ but these are not called a ‘congregation,’” for all those who dwell outside *Eretz Yisrael* are treated as individuals.

See also *Yerushalmi, Bava Kama* (7,9), regarding the verse, “Jerusalem, built as a city that is compact together” (*Tehilim* 122:3) – “a city that joins Israel one to the other.” So too writes the Rambam (*Hilkhot Shegagot* 13:2), that we are not concerned about those who reside outside of *Eretz Yisrael*, because the term “*kahal*” (congregation) applies only to those who dwell in *Eretz Yisrael*. See also Meiri who writes that if the majority of the residents of *Eretz Yisrael* acted in accordance with the court’s ruling, even if they constituted only a single tribe, and the majority of the people lived outside *Eretz Yisrael*, they are governed by the law of a communal sin-offering, for those living outside the *Eretz Yisrael* are not included in the congregation. See also Ramban, cited by *Maggid Mishneh*, chap. 3 of *Hilkhot Ta’anuyot*, that there is no *Nasi* outside *Eretz Yisrael*, and therefore any decree accepted there is regarded as a decree of laymen, and therefore they are like individuals. (See also *Shitat Ribav* on the Rif, *Berakhot* [30a in Alfasi].)

The *Tzofnat Pa’ane’ach* has already written that the concept of “*tzibbur*” (community) exists only in *Eretz Yisrael*; only there are the people regarded as a single entity and treated as a congregation. Outside *Eretz Yisrael*, even that which is performed by many people is not considered as the act of a *tzibbur*, but rather as the act of many individuals working together in partnership. See *Berakhot* (58a), where it is stated that there is no “*ukhlusa*” in Babylonia. According to the *Tzofnat Pa’ane’ach*, this means that only in *Eretz Yisrael* do individuals coalesce into a single entity, so that they may be treated as a community. See also *Tosafot, Avodah Zarah* (21a), that outside of Israel, even the conquest of 600,000 people is considered like the conquest of a private individual.

This is also the implication of what the Rambam says in his commentary to *Bekhorot* (4:3) that the residents of *Eretz Yisrael* can appoint a *Rosh Yeshivah*, because the residents of *Eretz Yisrael* are called a “congregation,” and God refers to them as “the entire congregation.” Even if there are only ten individuals living in *Eretz Yisrael*, those living outside *Eretz Yisrael* are not taken into consideration at all. This is also the implication of what the Rambam says in *Sefer ha-Mitzvot* (precept 153) that if, God forbid, there would no longer be any Jews living in *Eretz Yisrael*, the calculation of the

intercalation of the years and the sanctification of months would no longer be valid. It is only because there is always a “congregation” in *Eretz Yisrael*, and the Torah refers to them as “the entire congregation,” that the fixed calendar governing the sanctification of the months and the intercalation of the months is maintained.

Now we can understand why the Ramban says that the *Musaf* offerings were not brought in the wilderness. For prior to Israel’s entry into *Eretz Yisrael*, the category of “congregation” and “*tzibbur*” did not apply to them. Therefore, they could not offer the *Musaf* opening in the wilderness because the law of “congregation” is a condition for the obligation. That which it says in *Menachot* (45b) that whatever was stated in the book of *Bamidbar* was offered in the wilderness may follow the position of the Sages who maintain (*Berakhot* 30a) that a congregation is not needed for the *Musaf* service, and similarly the obligation of the *Musaf* offering does not require a congregation. See the *Tur* (*Orach Chayyim* 186), who says that the law follows this position.

[The *Ginat ha-Bitan* himself tried to resolve the objection raised by the *Acharonim* from *Zevachim* (101b) based on the Ibn Ezra’s comments in *Parashat Tetzaveh* (29:42): “For Israel remained in a desert land and in the waste howling wilderness for about thirty eight years. From where did they have every day a half *hin* of olive oil, and the same measure of wine? And how did they take with them about fourteen thousand *hin*? And from where did they have every day two lambs of the first year, and additional animals on *Shabbat* and *Yom Tov*? And there is no answer from the words ‘we and our cattle’ (*Bamidbar* 20:4), for they were [then] in Kadesh, and they could have made purchases in the inhabited area, and that year they took spoil from Midyan and the land of Sichon and Og, and they all had a great number of cattle.” The *Ginat ha-Bitan* suggests that this argument underlies the position of the Ramban: *Musaf* offerings were not brought in the wilderness, because the Israelites did not have sufficient animals. If this is correct, the objection raised from the Gemara in *Zevachim* (101b) falls away, for during their first year in the wilderness, the Israelites still had lambs, from which they could have brought a *Musaf* offering on the eighth day of the consecration of the *Mishkan*.]

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THE RAMBAM'S POSITION REGARDING PESACH SHENI

THE DIFFICULTIES WITH THE RAMBAM'S POSITION

The Gemara records a disagreement (*Pesachim* 93a) whether *Pesach Sheni* is based on a law of *tashlumin* – compensation for failure to observe *Pesach Rishon* – or whether it is regarded as a festival in its own right. The Rambam rules (*Hilkhot Korban Pesach* 5:1) that while this obligation does not apply to one who has already fulfilled the *mitzvah* of *korban Pesach* on *Pesach Rishon* (nor even to a minor who was merely appended to the fulfillment of the *mitzvah*; *halakhah* 7), *Pesach Sheni* is regarded as a festival in its own right for anyone who is obligated to observe it. For this reason, the Rambam rules that *Pesach Sheni* sets aside *Shabbat*, its violation is punishable by *karet* (excision) (5:1), and it applies also to a proselyte who had converted to Judaism and to a minor who had reached majority between *Pesach Rishon* and *Pesach Sheni* (5:7). And for this reason, the Rambam (*Sefer ha-Mitzvot*, positive precept 57) counts *Pesach Sheni* as a separate commandment in his count of the 613 *mitzvot*.¹

The matter, however, is not so simple, for the Rambam connects the liability for *karet* on *Pesach Sheni* to the circumstances of the person's failure to fulfill the *mitzvah* on *Pesach Rishon*. If *Pesach Sheni* is an absolutely independent festival, what difference should it make why the person did not fulfill the *mitzvah* on *Pesach Rishon*?

¹ Examine carefully the comments of R. Daniel ha-Bavli and R. Avraham son of the Rambam on this issue (cited in the Frankel ed. of *Mishneh Torah* from *Ma'ase Nissim*, no. 4).

And furthermore, according to the Rambam (5:2), someone who intentionally failed to bring a *korban Pesach* on *Pesach Rishon* can exempt himself from *karet* by fulfilling the *mitzvah* of *Pesach Sheni*. [On this point, the Rambam disagrees with several *Rishonim* and even with his own position in *Sefer ha-Mitzvot*, positive precept 57.] Apparently, then, there is a connection between the two. See Ri Korkus who had difficulty with this issue, and commented that the Rambam means that *Pesach Sheni* is a festival in its own right in that it imposes liability for *karet* on a person who inadvertently or for reasons beyond his control failed to bring a *korban Pesach* on *Pesach Rishon*, and then intentionally did not bring the offering on *Pesach Sheni*. It should be noted that the Rambam appears to have purposely omitted the case of intentional failure to bring the *korban Pesach* on *Pesach Rishon* when he formulated his position that *Pesach Sheni* is a festival in its own right (in *halakha* 1).

However, the Rambam's entire position regarding *Pesach Sheni* requires clarification. The Rambam appears to distinguish between three situations regarding the scope of the law of *Pesach Sheni*. According to him (5:2): (1) if someone intentionally failed to bring a *korban Pesach* on *Pesach Rishon*, *Pesach Sheni* can serve as a *tashlumin* to exempt him from the punishment of *karet*. Therefore, even if he failed to bring his *korban Pesach* on *Pesach Sheni* for reasons beyond his control, he is still liable for *karet*, because he had never been released from his original liability for *karet*. This is consistent with a precise reading of the Rambam, who writes that in such a case he is liable for *karet* "because he did not bring God's offering at its time, and he acted intentionally." (2) If someone inadvertently or for reasons beyond his control failed to bring a *korban Pesach* on *Pesach Rishon* – such a person being exempt from *karet* – he is obligated to bring a *korban Pesach* on *Pesach Sheni*. He can become liable for *karet* because of *Pesach Sheni*, but only if he intentionally fails to bring an offering. (3) The Rambam, however, maintains the novel position that someone who on *Pesach Rishon* had been ritually unclean or on a distant journey and is therefore obligated in *Pesach Sheni*, is not liable for *karet*, even if his failure to bring an offering on *Pesach Sheni* is intentional. Already the Ra'avad raised the question why does the

Rambam make this distinction between someone who had been ritually unclean or on a distant journey on *Pesach Rishon*, and others who had inadvertently or for reasons beyond their control failed to bring a *korban Pesach* on *Pesach Rishon*. Both sets are exempt from *karet* for *Pesach Rishon*, but, according to the Rambam, only the latter become liable for *karet* for intentional failure to bring an offering on the later date.

**THE DISTINCTION BETWEEN
THE EXEMPTION OF
CIRCUMSTANCES BEYOND A PERSON'S CONTROL
AND THE EXEMPTION OF
RITUAL UNCLEANNESS OR A DISTANT JOURNEY**

It seems that the Rambam maintains that the law regarding a ritually unclean person or one who is on a distant journey, which is explicitly stated in the Torah (*Bamidbar* 9:13) is entirely different than the exemption granted to a person who inadvertently or for reasons beyond his control fails to bring a *korban Pesach*. According to him, the former are not merely exempt from the punishment of *karet*, but rather from the very outset they are removed from the obligation of *korban Pesach*, which is a positive precept that carries the punishment of *karet* for its non-observance. This distinction is implied by the words of the Rambam himself, for regarding one who inadvertently or for reasons beyond his control fails to bring a *korban Pesach*, the Rambam writes "who failed to bring an offering on [*Pesach*] *Rishon*," whereas regarding one who is ritually unclean or on a distant journey, the Rambam emphasizes "for he was already exempted from *Pesach Rishon* of *karet*."

This also follows from a precise reading of the Rambam's commentary to the Mishnah. The Rambam explains there (*Pesachim* 9:1) that one who is ritually unclean or on a distant journey is exempt from *karet* even if he fails to bring a *korban Pesach* on *Pesach Sheni*, "for he was already exempted from *Pesach Rishon*, where *karet* is mentioned, and pushed off to *Pesach Sheni*, regarding which *karet* is not mentioned." In the continuation, the Rambam explains that if

someone inadvertently or for reasons beyond his control failed to bring a *korban Pesach*, he is liable for *karet* on *Pesach Sheni*, “because it is stated in the Torah that anybody who was not ritually unclean or on a distant journey, but failed altogether to bring a *korban Pesach*, is liable for *karet*... And this is the meaning of (Mishnah, beginning of the ninth chapter of *Pesachim*): ‘These are exempt from *karet*, and these are liable.’” At first glance, the Rambam’s words are puzzling, for one who is prevented from bringing a *korban Pesach* because of circumstances beyond his control is also exempt from *karet* on *Pesach Rishon*! Clearly, the Rambam means to say that such a person is included in the obligation of *Pesach Rishon* and in the *karet* that it carries, even though he is exempt from the punishment, and this is what allows him to become liable for *karet* on *Pesach Sheni*.

In fact the Rambam understood the words of the Mishnah which distinguishes between one who is ritually unclean or on a distant journey, on the one hand, and one who inadvertently or because of circumstances beyond his control fails to bring the *korban Pesach*, on the other (“If so, why does it say ‘ritually unclean or on a distant journey’”) – “that these are exempt from *karet* and these are liable for *karet*” – in a double sense: Since someone who inadvertently or for reasons beyond his control failed to bring a *korban Pesach* is fundamentally included in the *karet* of *Pesach Rishon*, despite his exemption from the actual punishment, it is therefore possible that he should become actually liable for *karet* on *Pesach Sheni* provided that his failure to bring a *korban Pesach* at that time is intentional.²

It is possible that this distinction between an ordinary case of unavoidable circumstances or inadvertence and the case of someone who on *Pesach Rishon* is ritually unclean or on a distant journey is based on the wording of Scripture. First of all, the Rambam (based on the Mishnah) was impressed by the fact that the verse specifies one who is on a distant journey or ritually unclean, rather than speak in

² This explanation fits in very well with the wording of the Mishnah, but not with the continuation of the Gemara on p. 92b, as was noted already by the *Rishonim* and the Rambam’s commentators.

general terms about one who is prevented from bringing a *korban Pesach* because of circumstances beyond his control. It should, however, be noted that the Torah uses a very rare formulation when it emphasizes that liability for *karet* relates to one who “abstained [*chadal*] from bringing a *Pesach*” (*Bamidbar* 9:13).³

The Rambam apparently understood that the Torah used this special formulation – “abstained,” *chadal* – in order to establish that if one is not in the vicinity of the Temple (i.e., on a distant journey), or if he is in a state in which he is fundamentally incapable of being present in the Temple (i.e., ritually unclean), he is totally removed from the obligation of *korban Pesach*, because he is not in the category of one who “abstained from bringing a *Pesach*.” This status which imposes *karet* only applies to someone who is fundamentally capable of bringing the *korban Pesach*, but abstained from doing so. However, in addition to this special law, there is a general exemption applicable to one who inadvertently or for reasons beyond his control fails to bring a *korban Pesach*. Practically speaking, such a person is not liable for the punishment of *karet*, even though he was never removed from the obligation of *Pesach Rishon*. However, because in actual fact “he abstained from bringing a *Pesach*,” his liability for *karet* is transferred to *Pesach Sheni*.

THE DOUBLE STATUS OF PESACH SHENI

According to what was stated above, there is a novelty in the Rambam’s position. We have already noted that regarding someone who intentionally failed to bring a *korban Pesach* on *Pesach Rishon*, *Pesach Sheni* serves as a sort of *tashlumin*, and then even if he fails to bring a *korban Pesach* on *Pesach Sheni* on account of circumstances beyond his control, he is liable for *karet* because of *Pesach Rishon*. We also noted that the Rambam does not mention this situation in the context of the law that establishes that *Pesach Sheni* is a festival in its own right. It should, however, be noted that the Rambam does in fact

³ After having proposed this explanation, I found a similar explanation in the digest of explanations found in the Frankel ed. of *Mishneh Torah*.

emphasize that the liability for *karet* for someone who inadvertently or for reasons beyond his control failed to bring a *korban Pesach* on *Pesach Rishon* and then intentionally failed to bring the offering on *Pesach Sheni* is one of the practical ramifications of the ruling that *Pesach Sheni* constitutes a festival in its own right. A precise reading of the verses in *Bamidbar*, however, indicates that this festival came into being in response to the request of those who were ritually unclean or on a distant journey, who, according to the Rambam, are entirely removed from *karet* for *Pesach Rishon* and *Pesach Sheni*. The Rambam as well emphasizes this point when he begins his discussion regarding *Pesach Sheni* with the case of one who was ritually unclean or on a distant journey. Thus, clarification is needed regarding the connection between liability for *karet* on *Pesach Sheni* for one who inadvertently or for reasons beyond his control failed to bring the offering on *Pesach Rishon*, and *Pesach Sheni's* status as a festival in its own right.

It seems, therefore, that *Pesach Sheni* was originally established as a festival in its own right because it was intended for those who were entirely removed from the positive precept, the violation of which is punishable by *karet*, of *Pesach Rishon*. But only because of the day's important and independent standing which expresses itself with respect to one who was ritually unclean or on a distant journey could it serve also as a final opportunity to fulfill the *mitzvah* of *korban Pesach* that has *karet* for those who did not transgress, but also did not fulfill this obligation which indeed was binding upon them at the time. From this perspective, *Pesach Sheni* for one who inadvertently or for reasons beyond his control failed to bring his offering on *Pesach Rishon* is not a law of *tashlumin*, that is to say, a final opportunity to save himself from the punishment of *karet* (as it is for someone who intentionally failed to bring an offering on *Pesach Rishon*), for he had never been liable for that punishment. Rather, it is a time of obligation and fulfillment of a *korban Pesach* that bears liability for *karet*. Thus, everything depends on whether the person fails to bring the offering intentionally or because of reasons beyond his control. Had *Pesach Sheni* not been connected from the outset to one who was ritually unclean or on a distant journey, but was only a day of *tashlumin*, the day would not have the standing to

create liability for *karet* for one who had inadvertently or for reasons beyond his control failed to bring his offering on *Pesach Rishon* and then intentionally failed to bring his offering on *Pesach Sheni*. We see then that the status of *Pesach Sheni* is complex: It is a festival in its own right that came into being at the initiative of those who were entirely exempt and removed from the positive precept that bears liability for *karet* of *Pesach Rishon*. But precisely in that capacity it serves as a time that can obligate and allow for the fulfillment of *Pesach Rishon* for one who had inadvertently or for reasons beyond his control failed to bring the offering earlier.⁴

⁴ See Rambam, *Hilkhot Korban Pesach* 5:8, that women who were set aside from *Pesach Rishon*, whether because of a distant journey or ritual uncleanness, or because of inadvertence or circumstances beyond their control, are not obligated to bring a *Pesach Sheni*, but have the option to do so. We can understand why they are not included in the law governing one who was ritually unclean or on a distant journey, for that is entirely separate from the *karet* of *Pesach Rishon*. But regarding a woman who inadvertently or for reasons beyond her control failed to bring a *korban Pesach* on *Pesach Rishon*, why should she not be obligated on *Pesach Sheni* to bring a *korban Pesach* in compensation for her failure on *Pesach Rishon*? This seems to support our argument that were it not for the independent obligation of *Pesach Sheni* and its standing as a festival in its own right, *Pesach Sheni* would not be able to serve as compensation for the obligation and fulfillment of *karet* of *Pesach Rishon*. A careful reading of the Rambam implies that a woman who intentionally failed to bring a *korban Pesach* on *Pesach Rishon* is in fact obligated to bring an offering on *Pesach Sheni*. This too is very reasonable, for as we have already noted, the Rambam omitted this law when he established that *Pesach Sheni* is a festival in its own right. If *Pesach Sheni* serves as *tashlumin* for those who intentionally failed to bring a *korban Pesach* on *Pesach Rishon*, this should apply to women as well. See, however, *Minchat Chinukh* (precept 380, letter 5), who argues that in any event we do not slaughter a *Pesach Sheni* exclusively for women on *Shabbat*, even if they intentionally failed to bring an offering on *Pesach Sheni*, despite the fact that they can release themselves from their liability for *karet* for *Pesach Rishon* by bringing a *Pesach Sheni* together with men. This too stands to reason, for it follows from the Rambam that the allowance to desecrate *Shabbat* depends on the independent status of *Pesach Sheni*, which goes beyond the exemption from *karet* by way of *tashlumin*.

R. Daniel ha-Bavli and R. Avraham son of the Rambam discuss the Rambam's position in his *Sefer ha-Mitzvot*, where he counts *Pesach Sheni* as an independent *mitzvah*, but he does not count separately all the obligations that apply to that day. R. Daniel ha-Bavli assumed that, according to the Rambam, *Pesach Sheni* is essentially an independent day of liability for *karet*, just like *Pesach Rishon*. For this reason, he had difficulty understanding why the Rambam does not count the other obligations as he did with respect to *Pesach Rishon*.

R. Daniel ha-Bavli had a further difficulty: if indeed the two days are connected, and *Pesach Sheni* is a festival in its own right only for the purpose that a proselyte who converted to Judaism or a minor who reached majority between the two dates is obligated to bring a *korban Pesach* on *Pesach Sheni*, why then did the Rambam count *Pesach Sheni* as a separate *mitzvah*? He argues that the status of *Pesach Sheni* may be likened to that of the seven days of Sukkot according to R. Osha'aya (*Chagiga* 9a), that all the days are regarded as *tashlumin* one for the other, so that even if he was unfit on the first day, he may be fit on the second day, and nobody ever considered counting each of the seven days as a separate *mitzvah*. However, if we understand that *Pesach Sheni* is a complex day, as we have explained, and that it was originally established on the initiative of those who were ritually unclean or on a distant journey as a day that does not bear liability for *karet*, but in this capacity it turned into a day of liability and fulfillment of *karet* for one who was obligated on *Pesach Rishon*, all of his questions can be answered. Indeed, R. Avraham the son of the Rambam rejected R. Daniel's comparison to the position of R. Osha'aya, and proposed that *Pesach Sheni* is more similar to *Shemini Atzeret* which in fact is a festival in its own right. But the truth is that according to the Rambam, *Pesach Sheni* is unique, different both from the seven days of Sukkot and from *Shemini Atzeret*, as we have explained.

**THE RAMBAM'S POSITION REGARDING
THE EXEMPTION OF ONE WHO IS ON A DISTANT JOURNEY**

In light of what has been said above, we can understand the well-known position of the Rambam (*Hilkhot Pesach* 5:9) that “a distant journey” is defined in terms of the beginning of the time of obligation. According to the Rambam, anybody who is unable to reach the Temple courtyard from the morning of the fourteenth to midday is not included in the obligation of *korban Pesach*. This stands in contrast to the position of most *Rishonim* that whoever is able to arrive by the end of the time of slaughtering the *korban Pesach* is included in the obligation. If ritual uncleanness and on a journey are merely exemptions from punishment and examples of circumstances beyond a person's control, it stands to reason to rule like the other *Rishonim* that the critical point in time is the end of the period of obligation, for there is no reason to exempt a person who is capable of fulfilling the *mitzvah*. The Rambam, however, is consistent with his own position, for he maintains that the obligation of *korban Pesach* that carries the punishment of *karet* never applied to one who is ritually unclean or on a distant journey, and this is established at the beginning of the period of obligation and fulfillment. His conclusion that we measure distance from the morning of the fourteenth is also consistent with his own position, for already in the morning the day is considered the day and time of obligation of *korban Pesach*, even though practically speaking the time to fulfill the *mitzvah* only begins at noon.⁵

See, however, the *Minchat Chinukh* who raises a question regarding a person who would not have arrived on time had he traveled at a leisurely pace, but because he rushed his trip he arrived before the critical moment for determining a distant journey. Is such a person obligated in *korban Pesach*, and if not, is his offering accepted on his behalf, if he went ahead and brought it? The *Minchat Chinukh*

⁵ I have demonstrated at length that this is the position of the Rambam in “The Rambam's Position Regarding a *Korban Pesach* that was Slaughtered Outside,” *Kol Tzvi*, vol. 5-6 (5763-4), pp. 300-318 (Hebrew).

concludes that such a person appears to be exempt and excluded because of the scriptural decree regarding an unclean person and one who is on a distant journey. But he has a difficulty with the position of the Rambam that the critical time is noon: how is it possible that a person should arrive in the Temple before the time of slaughtering the *korban Pesach* and yet be exempt from obligation? It seems however that we can say precisely the opposite. According to most *Rishonim*, a ritually unclean person and one who is on a journey are merely categories of circumstances beyond a person's control and exemptions from *karet*. And according to them, the definition of a distant journey depends on the end of the period of slaughter. Therefore, if in fact he arrived during the time that slaughter is still possible, he should be obligated to bring a *korban Pesach*. According to the Rambam, however, one who is on a distant journey is removed from the obligation altogether, and therefore this definition is established already in the morning if he is not likely to arrive traveling at a leisurely pace by noon. Thus, it stands to reason that one who is defined as on a distant journey and therefore entirely removed from the law, not only is he not obligated to bring the *korban Pesach*, but if he brings it, it should not be accepted on his behalf.

Now, the Rambam rules (*Hilkhot Korban Pesach* 5:3) in accordance with Rav Sheshet (*Pesachim* 92b) that if a *korban Pesach* was slaughtered and its blood was sprinkled on behalf of someone who was on a distant journey, the offering is not accepted on his behalf and he is required to bring another sacrifice on *Pesach Sheni*. The Ramban (*Bamidbar* 9:10, and see *Minchat Chinukh*, precept 380) disagrees and rules in accordance with Rav Nachman who maintains that the offering is accepted on his behalf. The Ri Korkus and the *Kesef Mishneh* understand that the Rambam's ruling is based on the principle that the law follows Rav Sheshet in matters of ritual law. The *Lekhem Mishneh* (*halakha* 2), however, raises many objections against this ruling based on a number of talmudic passages.

In any event, it is noteworthy that the Rambam mentions this detail immediately at the beginning of his discussion regarding the basis of the obligation of *Pesach Sheni* and those who are exempt from *Pesach Rishon*. The *Lekhem Mishneh* concludes that the Rambam ruled

in accordance with Rav Sheshet based on the logical argument that since he is unfit to eat of the offering at the time that it is slaughtered, then even if someone else slaughtered it, it is not accepted on his behalf. We can expand this argument in light of the Rambam's position that someone on a distant journey is not merely exempt from punishment. Just as such a person is entirely removed from the liability for *karet* and from the obligation of *Pesach Rishon*, so too he is removed from the possibility that the offering should be accepted on his behalf. For this reason, the Rambam joined this law to the distinction between one who was ritually unclean or on a distant journey, on the one hand, and someone who inadvertently or for reasons beyond his control failed to bring a *korban Pesach*. Acceptance would apparently be relevant to one who inadvertently or for reasons beyond his control failed to bring a *korban Pesach* but someone else slaughtered an offering on his behalf.

**SOMEONE WHO REACHES MAJORITY
OR CONVERTS TO JUDAISM
BETWEEN PESACH RISHON AND PESACH SHENI:
IS HE LIABLE FOR KARET IF HE INTENTIONALLY
FAILED TO BRING A KORBAN PESACH ON PESACH SHENI?**

Since *Pesach Sheni* is a festival in its own right, a minor who reaches majority or a proselyte who converts to Judaism between *Pesach Rishon* and *Pesach Sheni* is obligated to bring a *korban Pesach* on *Pesach Sheni*. The *Acharonim*, however, are in doubt regarding a minor or a proselyte who intentionally fails to bring a *korban Pesach* on *Pesach Sheni* – is he liable for *karet* like one who inadvertently or for reasons beyond his control failed to bring a *korban Pesach* on *Pesach Rishon*, or is he exempt like one who was then ritually unclean or on a distant journey. The *Minchat Chinukh* concludes that it would seem that minors and proselytes are liable for *karet*, because only a ritually unclean person and one on a distant journey are exempt because of a scriptural decree.

According to our understanding of the Rambam, however, the uniqueness of a ritually unclean person and one who is on a

distant journey is that they are removed from the positive precept bearing liability for *karet* of *korban Pesach*, and *Pesach Sheni* was established at their initiative as a festival in its own right without liability for *karet*. According to this, *karet* for *Pesach Sheni* applies only to one who had been under obligation on *Pesach Rishon*, e.g. one who had inadvertently or for reasons beyond his control failed to bring a *korban Pesach*. Clearly, then, the law governing a minor and a proselyte should parallel the law regarding one who is ritually unclean or on a distant journey who is totally removed from the liability for *karet* on *Pesach Rishon* that is based on one who “abstained from bringing a *Pesach*.” Thus, they too should not be included in the *karet* of *Pesach Sheni*.⁶

DOES PESACH SHENI SET ASIDE THE POSITIVE PRECEPT OF “HASHLAMA”

The *Rishonim* disagree (*Tosafot*, *Yoma* 29a, s.v. *ela*; *Tosafot*, *Menachot* 49a, s.v. *talmud lomar*; and see *Mishneh le-Melekh*, *Hilkhot Korban Pesach* 1:4) whether *Pesach Sheni* is brought after the daily sacrifice brought in the afternoon as is *Pesach Rishon*, or whether the general law of “*aleha hashlem*” – the obligation to bring all other sacrifices before afternoon *tamid* – applies to this sacrifice.⁷ The *Acharonim* discuss whether it is possible to say regarding *Pesach Sheni* that the positive precept of *korban Pesach* which bears liability for *karet* sets aside the positive precept of *hashlamah* (*Pesachim* 59a), in which case a person should still bring his *korban Pesach* following the

⁶ There is room to distinguish here between a minor and a proselyte, because a minor may be appended to a *korban Pesach* on *Pesach Rishon*, in which case he is exempt from *Pesach Sheni*. (See *Minchat Chinukh*, precept 380, letter 6, and *Chiddushei Rabbeinu Chaim haLevi* on *Hilkhot Korban Pesach* 5:4).

⁷ A similar question arises regarding the status of *Pesach Sheni* in contrast to that of *Pesach Rishon* with respect to slaughter outside the Temple and the prohibition of improvised altars, but this is not the forum to deal with this issue.

afternoon offering, even if ideally speaking he is obligated to bring it before that offering. The *Minchat Chinukh* (precept 380, letter a) raises a question in light of the position of the Rambam who distinguishes between one who is ritually unclean or on a distant journey, who can never come to liability for *karet* on *Pesach Sheni*, and one who inadvertently or for reasons beyond his control failed to bring the *korban Pesach* on *Pesach Rishon* who is liable for *karet* if he intentionally fails to bring the offering on *Pesach Sheni*. In the continuation, he proposes that even the *Pesach Sheni* of one who is ritually unclean or on a distant journey sets aside the positive precept of *hashlamah*, because the *korban* itself is a sacrifice that bears liability for *karet*.

According to our understanding, however, there is room to disagree and propose the very opposite. For *Pesach Sheni* was established as a festival in its own right because of those who were ritually unclean or on a distant journey, and by nature it is a sacrifice that does not bear liability for *karet*. It was only on account of its being a festival in its own right that it was established as a time to fulfill the *mitzvah* of *Pesach Rishon* for those who inadvertently or for reasons beyond their control failed to bring the *korban Pesach*. If so, the status of a sacrifice that has liability for *karet* certainly does not apply with respect to those who are ritually unclean or on a distant journey, and there is room to question whether this standing applies even to those who inadvertently or for reasons beyond their control failed to bring a *korban Pesach* on *Pesach Rishon*.

THE ELEVATED STATUS OF PESACH SHENI AS "A PESACH FOR GOD"

The Torah (*Shemot* 12:12, 27, 48; *Bamidbar* 9:10, 13, 14) uses a unique term regarding the *korban Pesach*, referring to it as a "*Pesach for God*." See *Mekhilta* (*Shemot* 12:48) and *Sifrei* (*Bamidbar* 9:14), which raises the possibility that a proselyte should be obligated to bring a *korban Pesach* even not at its designated time as part of his conversion process or as an obligation that falls upon him immediately after acquiring the sanctity of Israel. It should be noted that this formulation appears also in the middle of the request put forward to

Moshe by the ritually unclean that he should establish *Pesach Sheni* as an opportunity to fulfill the *mitzvah* of *korban Pesach*. They were sensitive to the special status of this sacrifice as a “*Pesach* for God,” and as something that is essential for the solidarity of Israel as a nation. This sensitivity was reflected in their seeing the absence of the fulfillment of this *mitzvah* as a spiritual blemish, which moved them to ask, “Why are we kept back, that we may not offer an offering of the Lord at its appointed season among the children of Israel?” (*Bamidbar* 9:7).

What is even more striking is that those who initiated this request (the ritually unclean), and those on account of whom the day and obligation were established (even for those on a distant journey) had been entirely exempt and even removed from the obligation and punishment. It is possible that the fact that it was they who initiated this request (and who saw it not as a mere obligation, but as a special opportunity to serve God) – and not those who had intentionally failed to bring the *korban Pesach* on *Pesach Rishon*, and not even those who inadvertently or for reasons beyond their control failed to bring the *korban Pesach* at that time and were merely exempt from punishment – contributed to the fact that *Pesach Sheni* also merited the elevated status of “*Pesach* for God” (9:13). And it is perhaps for this reason that *Pesach Sheni* which had been established as a festival in its own right could serve as a time to fulfill the *mitzvah* of *Pesach Rishon* that carries the punishment of *karet* for those who had inadvertently or for reasons beyond their control failed to bring the *korban Pesach*, and even as *tashlumin* for those who had intentionally failed to bring it (according to the Rambam).

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LOOKING UP AN ADDRESS IN A TELEPHONE BOOK ON *SHABBAT*

I. INTRODUCTION

It occasionally happens that a person wishing to visit friends or consult with a doctor on *Shabbat* realizes that he does not remember the address of the person to which he is headed. The question arises whether it is permissible on *Shabbat* to look up the address in a telephone book. The issue that must be considered is whether a phone book is governed by the laws of *muktzah*, the unnecessary handling and moving of objects not intended for *Shabbat* use.

A telephone book is used primarily and most frequently to look up telephone numbers. What is distinctive about a phone book is that its use in and of itself does not constitute an activity that is forbidden on *Shabbat*. We must therefore clarify whether it is possible to say that despite the fact that no forbidden activity is performed with the book itself, it is nevertheless regarded as a *keli she-melakhto le-issur* — an object that is used for performing an activity that is forbidden on *Shabbat*. Even if we conclude that a phone book is indeed regarded as a *keli she-melakhto le-issur*, we must examine the law governing an object that is used also for permitted activity, in our case, to find an address.

II. DEFINITION OF A *KELI SHE-MELAKHTO LE-ISSUR*

We must first define the concepts of *keli she-melakhto le-issur* and *keli she-melakhto le-issur u-le-heter*, an object that is used for both forbidden and permitted activities.

1. *Keli she-melakhto le-issur*: an object that is used for performing an activity that is forbidden on *Shabbat*, even if the prohibition is only by rabbinic law.¹
2. *Keli she-melakhto le-issur u-le-heter*: an object used for both forbidden and permitted activities.

Regarding an object that is used with equal frequency in the performance of forbidden and permitted activities, the *Magen Avraham*, the *Mishnah Berurah* and the *Arukh ha-Shulchan* all write that the object is regarded as a *keli she-melakhto le-heter* – an object that is used for performing an activity that is permitted on *Shabbat*. Since the object is frequently used for a permitted activity, a person does not mentally exclude it from use on *Shabbat*.

Based on the Gemara in *Shabbat* (124a), the *Shulchan Arukh* (*Orach Chayyim* 308:4) rules that a *keli she-melakhto le-heter* may be handled whether it is required or it is not required. That is to say, the object may be handled whether it is required – either for a permitted activity (*le-tzorekh gufo*) or to make use of the place which it occupies (*le-tzorekh mekomo*) – or even if it is not required for use, e.g., if a person wishes to move the object out of the sun and into the shade.

If, however, the object is used more often than not for performing a forbidden activity, the *Peri Megadim* (cited by the *Mishnah Berurah*, 308, no. 20) writes that it is regarded as a *keli she-melakhto le-issur*. Therefore, if a pot is used most often for a prohibited activity, e.g., for cooking, and less often for a permitted activity, e.g., for storing food or water, it is regarded as a *keli she-melakhto le-issur*.

¹ For an expanded discussion of this category, see *Be'ur Halakhah* (308, s.v. *keli she-melakhto le-issur*), who brings this in the name of the *Sefer Mitzvot ha-Gadol*.

According to this, there are two conditions that define an object as a *keli she-melakhto le-issur*: 1) if its primary function involves an activity that is forbidden on *Shabbat*, that is to say, if it is designated for that function. 2) if it is used most frequently for an activity that is forbidden on *Shabbat*.

The *Be'ur Halakhah* (*ibid.*, *s.v. kardom*) disagrees with the *Peri Megadim*. He writes as follow: "In my humble opinion, this applies only if essentially the object is used exclusively for a forbidden activity, and only occasionally is it used for a permitted activity. Proof to this may be brought from the status of a pot, for the Rashba implies that it is a *keli she-melakhto le-issur* because essentially it is made for cooking. But if the object is such that it is used for both [forbidden and permitted activities], and it is only that it is used more frequently for forbidden activities – how do we know that a person mentally excludes it [from use on *Shabbat*]? Surely, it is made for a permitted activity as well! The matter requires further clarification."

The *Mishnah Berurah* seems to rule that both of the aforementioned criteria are necessary. That is, the object's essential function must involve an activity that is forbidden on *Shabbat*, and it must be used most frequently in that manner. This is implied in what he says (308, no. 10): "That is to say, it is designated for an activity that is forbidden on *Shabbat*, and even if only most of its use is for a forbidden activity, it is included in this category." The *Mishnah Berurah* stresses this point again later (308, no. 20): "A pot whose [primary] function is for cooking, and only occasionally is it used also for water and fruit, falls into the category of a *keli she-melakhto le-issur*." The fact that the *Mishnah Berurah* does not say that a pot that is used most frequently for a forbidden activity is a *keli she-melakhto le-issur*, implies that the other criterion must be met as well, that is to say, the primary function of the object must involve a forbidden activity. According to this, we must say that when the *Be'ur Halakhah* concludes that the matter requires further clarification, he does not mean to imply that he is in doubt about the law, for surely he

maintains that the two criteria mentioned above must be met. That is to say, an object is forbidden for use, if it is most frequently used for forbidden activity, and provided that its primary function involves a forbidden activity. Rather, he means that further clarification is required regarding the words of the *Peri Megadim*, who was imprecise in his formulation.²

The *Shemirat Shabbat ke-Hilkhatah* (20:6), however, rules that an object that is more often than not used for performing a forbidden activity is a *keli she-melakhto le-issur*, even if its essential function does not necessarily involve a forbidden activity.

Thus, there is a practical difference between the position of the *Mishnah Berurah*, according to our understanding above, and the position of the *Shemirat Shabbat ke-Hilkhatah* regarding people who use regular telephone books primarily to search for addresses, and personal phone indices or the memory in the phone itself to search for phone numbers.

According to the *Shemirat Shabbat ke-Hilkhatah*, the regular telephone book would be defined as a *keli she-melakhto le-issur*, whereas according to the *Mishnah Berurah*, it would be a *keli she-melakhto le-heter*. For in order for an object to be defined as a *keli she-melakhto le-issur*, two criteria must be met: it must be used most frequently for a prohibited activity and it must be primarily designed for that purpose.

My revered teacher, HaRav Rabinowitz, *shelita*, told me that a telephone book is not a *keli she-melakhto le-issur*, because one cannot make a phone call from a phone book, and the book itself is not used for a prohibited activity. Perhaps, however, there is room for concern based on the prohibition of reading "secular documents" (*shetari hedyotot*) on *Shabbat*, as will be explained below.

² The *Peri Megadim* bases his position on that of the Rashba; see also the introduction to *Shalmei Yehudah* (note 14), where a similar position is voiced.

III. THE LAW GOVERNING A KELI SHE-MELAKHTO LE-ISSUR

The Mishna in *Shabbat* (124a) states: "All utensils may be handled whether required or not required. R. Nechemya says: They may be handled only when required." And the Gemara explains (*ibid.*): "What does 'required' and 'not required' mean? Abaye³ said: 'Required' – an article whose function is for a permitted purpose [may be moved] when required itself [*le-tzorekh gufo*]; 'not required' – an article whose function is for a permitted purpose [may be moved] when its place is required [*le-tzorekh mekomo*]; but an article whose function is for a forbidden purpose may [be handled] only when required itself, but not when its place is required. Whereupon R. Nechemya comes to say that even an article whose function is for a permitted purpose [may be handled] only when required itself, but not when its place [alone] is required. Rava said to him: If its place is required – do you call it 'not required'? Rather Rava said: 'Required' – an article whose function is for a permitted purpose [may be handled] whether required itself or its place is required; 'not required' [means] even from the sun to the shade; whereas an article whose function is for a forbidden purpose [may be moved] only when required itself or its place is required, but not from the sun to the shade."

The Halakhah has been decided in accordance with the first Tanna, according to Rava. Therefore, one is permitted to handle a *keli she-melakhto le-issur* when it is required for a permitted activity or to make use of the place which it occupies, but not to move it from the sun to the shade (to protect the object). So rules the *Shulchan Arukh* (308:3): "A *keli she-melakhto le-issur* may be moved... both *le-tzorech gufo*, e.g., a hammer⁴ of goldsmiths or blacksmiths to crack open

³ This is the reading of the Rif and the Rosh.

⁴ This is the example found in the Gemara (*Shabbat* 122b): "A person may take a hammer to crack open nuts."

nuts..., or *le-tzorekh mekomo*, i.e., he needs to use the place that the object occupies, and he may take it from there and put it down wherever he wants. But [moving it] from the sun to the shade, that is, where he only has to move it because he fears that it will be broken or stolen where it is, is forbidden.”

**IV. IS ONE PERMITTED TO USE A
KELI SHE-MELAKHTO LE-ISSUR
WHEN AN OBJECT WHOSE USE IS NOT RESTRICTED
IS AVAILABLE?**

The *Mishnah Berurah* (308, no. 12) writes that the allowance to handle a *keli she-melakhto le-issur* either *le-tzorekh gufo* or *le-tzorekh mekomo* only applies “where he does not have a permitted utensil for this function, but when this is not the case, one may not use the [restricted] utensil.” See *Sha’ar Tziyyon* (*ibid.*), where he infers this from a precise reading of the Gemara.

This is also the position of the *Kaf ha-Chayyim* (308, letter 22), who writes as follows: “An object that is used for both forbidden and permitted activities – may be moved from the sun to the shade. For we read in chapter *Kol ha-kelim* as follows... But if it is fit for a permitted activity, but not designated for it, it is called a *keli she-melakhto le-issur*... And if it is possible with another object, he should not move the *keli she-melakhto le-issur* if it is required for a permitted activity or for its place. Thus write the *Acharonim*.”

The *Ketzot ha-Shulchan* (108)⁵ writes that the allowance to move a *keli she-melakhto le-issur* for a permitted activity or because its place is required is an absolute allowance.⁶ It is therefore unnecessary

⁵ Thus writes *Baddei ha-Shulchan* (308, no. 14), and *Responsa Tefilah le-Moshe* (p. 14).

⁶ Regarding the *Mishnah Berurah*'s proof from R. Elazar, who does not permit a person to move sticks when he can perform his activity without them, in which case moving the sticks would be regarded as being

to prefer a utensil whose use is not restricted. And it goes without saying that if it would require great effort to use a utensil whose use is not restricted, it is preferable to use a *keli she-melakhto le-issur*, so that one not exert oneself on *Shabbat*.

R. Moshe Feinstein (*Responsa Iggerot Moshe, Orach Chayyim*, pt. 5, 21, 2) combines the positions of the *Mishnah Berurah* and the *Ketzot ha-Shulchan*. The *Iggerot Moshe* writes that a person must make a certain effort to use a utensil whose use is not restricted rather than a *keli she-melakhto le-issur*. But he should not exert himself greatly in order to obtain a utensil whose use is not restricted. According to the *Iggerot Moshe*, when the unrestricted utensil is readily available, and a person can take it and use it with little effort, it is preferable to use that utensil. However, he is not required to make a great effort to obtain a utensil whose use is not restricted.

In light of what has been said thus far, it may be argued that according to the *Mishnah Berurah* if a person can easily obtain the desired address in some other manner, rather than through the telephone book (e.g., from a neighbor), he should do so. If, however, this would involve great effort, and he would have to go from place to place or else “turn over the house” to find the address, it would seem that even the *Mishnah Berurah* would agree with the *Ketzot ha-Shulchan* that a person may use a telephone book (according to the principles of *keli she-melakhto le-issur*). According to the *Ketzot ha-*

performed for no need whatsoever – in such a case all agree that this involves moving something for no need whatsoever, since the activity can be performed even without moving the sticks. In such a case, even using a *keli she-melakhto le-heter* is forbidden. Therefore, if a person has almonds that he can crack open with his hands, he is nonetheless permitted to use a nutcracker, i.e., a utensil that is designated for that purpose, for in such a case the person is not regarded as moving a utensil for no purpose at all.

The *Maharsham* in his *Da'at Torah* (3) in the name of *Torat ha-Shelanim* also permits the handling of a *keli she-melakhto le-issur* if it is required for a permitted activity or to make use of the place which it occupies, even if he could use an object whose use is not restricted.

Shulchan, however, a person may use a telephone book *lekhatchila*, when it is required for a permitted activity or its place is required, and there is no need to try to obtain the address in some permitted manner, even if he can do so without significant effort.

The *Yalkut Yosef* (p. 412) rules in accordance with the *Mishnah Berurah*: “Some [authorities] say that the allowance to move a *keli she-melakhto le-issur* when the utensil itself is required for a permitted activity only applies when there is no utensil whose use is not restricted available for the same function. But if there exists such a utensil whose use is not restricted, it is forbidden. And there are some [authorities] who disagree. And the second opinion appears to be more correct.” The *Piskei Teshuvot* on the *Mishnah Berurah*⁷ writes that if a person will have to exert himself more if he uses a utensil the use of which is unrestricted, then it stands to reason that even the *Mishnah Berurah* would agree that it is preferable to use a *keli she-melakhto le-issur*, and thus reduce exertion on *Shabbat*.

V. A PHONE BOOK AS A KELI SHE-MELAKHTO LE-ISSUR

The *Shemirat Shabbat ke-Hilkhatah* (ch. 20, par. 17; and see also ch. 28, par. 14) writes that a telephone book is a *keli she-melakhto le-issur*, which may not be handled on *Shabbat*. It is, however, permissible to look up an address if it is required on *Shabbat*.

The *Shemirat Shabbat ke-Hilkhatah* writes in a note (*ibid.*) that since a telephone book is used primarily for looking up phone numbers, it is regarded as a *keli she-melakhto le-issur*. However, in chap. 28, note 35, the *Shemirat Shabbat ke-Hilkhatah* writes that “it is

⁷ The *Piskei Teshuvot* brings in a note the words of *Responsa Cheshev ha-Efod* (pt. 3, no. 80), who writes that a person need not practice stringency in this matter, and that even if his need for the *keli she-melakhto le-issur* is a minor one, he may be lenient.

similar to a ladder, which is considered *muktzah* because it is used to go up to the roof for plastering.”

The words of the *Shemirat Shabbat ke-Hilkhatah* require clarification, for a person is forbidden to use a loft-ladder, because people might say that he went up to plaster his roof, and not because the ladder is used for roof plastering (*Mishnah Berurah* 308, no. 78). It is for this reason that only a loft-ladder is forbidden. Rabbenu Tam writes that there are two types of ladders, a loft-ladder and a household ladder, which people regularly move from one side of the room to the other. The *Acharonim* write in the name of the *Shiltei Gibborim* that even though a household ladder is sometimes used for a forbidden activity, it is regarded as a *keli she-melakhto le-heter*. This follows from what was stated above that an object that is used for both forbidden and permitted activities is treated as a *keli she-melakhto le-heter*.

The *Shevut Yitzchak* (pt. 2, no. 74, letter 4) writes that a telephone book is a *keli she-melakhto le-issur*. Even though its use does not in and of itself constitute a prohibited act, it is nevertheless prohibited, because it is most frequently used for the sake of a forbidden activity, i.e., to place a telephone call. The *Shevut Yitzchak* adds that he heard this from Rav Yosef Shalom Elyashiv, *shelita*, and so too is it recorded in *Shalmei Yehudah* (vol. 12, no. 74, letter 15): “A telephone book is a *keli she-melakhto le-issur*. Therefore, one is permitted to use it to find an address (in the name of R. Elyashiv).” And he adds in the name of R. Elyashiv (p. 180) that even if a ladder is designated on weekdays for activities that are forbidden on *Shabbat*, if it sometimes used during the week for activities that are permitted on *Shabbat*, it may be moved on *Shabbat*.

It is, therefore, permissible to use a household ladder whether it is required for a permitted purpose – e.g., to remove something high up in a closet, or to reach a book sitting on an upper shelf – or to make use of the place which it occupies. According to our analysis, the same should apply to a telephone book, which should be permitted if it is required for a permitted purpose or else to make use of the place that it occupies, and in our case, to find an address.

It may be suggested⁸ that a telephone book is regarded as a *keli she-melakhto le-issur*, because by reading the telephone book (and similarly, an instruction sheet how to operate a utensil used for a forbidden activity), the prohibited activity becomes possible. Without reading the telephone book, the prohibited activity cannot be performed. I have, however, already mentioned above the position of my revered teacher Rav Rabinowitz, *shelita*, that a telephone book does not fall into the category of a *keli she-melakhto le-issur*.

Another possible reason to forbid the use of a telephone book is that it is used primarily to find a phone number in order to place a call, and therefore looking up a number may fall into the category of *mimtzo cheftzekha* – pursuing weekday affairs. Therefore, if a person must open a phone book on *Shabbat* in order to locate an address or study a map found therein in order to know how to reach a certain destination, it should be permissible to do so, provided that the person needs the information on *Shabbat*. But if the person does not need the information on *Shabbat*, using the phone book is forbidden, at least on account of *mimtzo cheftzekha*. This additional reason is important, because, as we have seen earlier, there are those who maintain that a phone book is regarded as a *keli she-melakhto le-heter*, because two conditions must be met in order to categorize an object as a *keli she-melakhto le-issur*.

The *Shemirat Shabbat ke-Hilkhatah* (pt. 3, on chap. 28, note 35) writes that even if we say that a phone book is different than a ladder, so that there is no prohibition of *muktzah*⁹ because of *keli she-melakhto le-issur*, “nevertheless, it is a weekday activity.” So too writes the

⁸ See *Shalmei Yehonatan* (p. 26) who makes this suggestion.

⁹ It may be inferred from a careful reading of the Rashba that a telephone book is not *muktzah*. The Rashba writes (*Shabbat* 122b) that a candleholder is not a *keli she-melakhto le-issur*, “because it is not used for a forbidden activity, but rather it supports the oil and the wick.” So too writes R. Akiva Eiger (*Orach Chayyim* 279, 1). According to this, a telephone book should certainly not be considered *muktzah*. The law, however, does not follow this position of the Rashba.

Shulchan Shelomo (pt. 2, p. 58, note 70): “So too a hammer seems to be a weekday activity, but nevertheless its use is permitted if it itself is required for a permitted activity or to make use of the place which it occupies. But an act of measuring or weighing is forbidden, because the act itself is a weekday activity.” So too he writes in the continuation (*ibid.*): “Mere handling looks like a weekday activity, but not when he wishes to check an address where someone lives, or the like.”

In light of the three aforementioned reasons, it seems that if a person needs to ascertain an address on *Shabbat*, he may look it up in a phone book. There is, however, room for stringency, if he can find the address some other way without significant effort.

Even if we say that a phone book is not a *keli she-melakhto le-issur*, its use may still involve a halakhic problem, i.e., reading “*shetarei hedyotot*” (secular documents) on *Shabbat*. In his letter of approbation to Rav Yehonatan Ben Tzur’s “*Lu’ach ha-Muktzah*,” Rav Karlitz writes: “I wish to note regarding a telephone book that it seems to me that it also involves [the prohibition of] *shetarei hedyotot*.” According to this, it should be forbidden to look up an address in a telephone book, for such a search is considered reading *shetarei hedyotot*. Similarly, the *Lu’ach ha-Muktzah* (note 763) writes that this depends on the question whether the prohibition of reading *shetarei hedyotot* is because of a decree lest a person come to write or because of *mimtzo cheftzekha*. If the prohibition is based on *mimtzo cheftzekha*, it should be permissible to look up an address that is needed on *Shabbat*, as mentioned above. If, however, the prohibition is based on a decree lest a person come to write, the allowance of “needed for *Shabbat*” should not help.¹⁰

¹⁰ Thus rules the *Shulchan Arukh* (307:13): “*Shetarei hedyotot*, that is, commercial papers, accounts, and personal letters may not be read [on *Shabbat*], nor even perused without being read.” See the *Mishnah Berurah* (*id.*, no. 54) who cites the position of the *Beit Yosef* permitting the reading of a letter if he does not know its contents “in a manner that does not involve

The *Shalmei Yehudah*, after citing the position of R. Y. S. Elyashiv (see above), adds: "The Gaon Rav B. Zilber writes about this: 'A telephone book is not *muktzah* because of a forbidden activity, for no forbidden activity is performed with it, and something that serves a forbidden activity is not treated as something used for a forbidden activity. Perhaps, however, because a person is forbidden to look up a telephone number for the following night, owing to the prohibition of *mimtzo cheftzekha*, and this may be considered clearly evident, therefore it is like something that is *muktzah* because of a forbidden activity. However, since it is sometimes used to find an address, it may perhaps be regarded as not clearly evident. It may also be forbidden, lest he come to read *shetarei hedyotot* (*Orach Chayyim* 307:14). It seems that it is similar to par. 17, namely, that it is similar to science books, regarding which only particularly pious people must be stringent. In any event, there is no room for stringency regarding handling. Nevertheless, one should be stringent not to move it if not because it is required for a permitted activity or to make use of the place which it occupies, for the reason stated above, even though there are grounds for allowance."

VI. SUMMARY

Even if a telephone book is a *keli she-melakhto le-issur*, one is permitted to look up an address, for a *keli she-melakhto le-issur* may be handled if it is required for a permitted activity or to make use of the place which it occupies, as we saw in the words of Rava in the Gemara, and has been codified in the *Shulchan Arukh*.

The *Mishnah Berurah* writes, however, that the allowance of *letzorekh gufo* only applies when one does not have available an article whose use is not restricted. Therefore, if a person can obtain the

reading, but mere perusal, for with mere perusal, there are those who permit *shetarei hedyotot*."

desired address in some other way without significant effort, he should do so, for all agree that that is permitted.

It seems, however, that we are not dealing here with a *keli she-melakhto le-issur*, for in and of itself using a phone book is not a forbidden act. Using a phone book is forbidden either because it is considered a weekday activity or because of *metzo cheftzekha*, and these prohibitions do not apply when the activity is needed for *Shabbat*.

Therefore, the entire concern regarding using a phone book on *Shabbat* is based on the prohibition of reading *shetarei heyotot*. Since there does not seem to be any real concern that a person will come to write, there is room for leniency. If a person is unable to find the desired address in any other manner, he is certainly permitted to look it up in a phone book.

If, however, a person does not need the address on *Shabbat*, he should not look it up in a phone book. Obviously, our entire discussion is predicated on the assumption that we are not dealing with a case of *piku'ach nefesh* (life-threatening situation), for which a person needs a phone number or address. In such a case, using a phone book is obviously permitted, both because using a *keli she-melakhto le-issur* is permitted if it is required for a permitted activity or to make use of the place which it occupies, and because all Torah prohibitions are set aside by *piku'ach nefesh*, as the Gemara states (*Yoma* 85b): “‘That he may live by them’ – and not die by them.”

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THE RELATIONSHIP BETWEEN EIN KELOKEINU AND PITTUM HA-KETORET

- I -

THE REMA'S POSITION REGARDING THE CUSTOM OF RECITING EIN KELOKEINU AND PITTUM HAKETORET

The Rema writes (*Orach Chayyim* 132:2): "*Pittum ha-Ketoret* should be recited in the evening and in the morning following the prayer service, and prior to it, we recite *Ein Kelokeinu*, etc." His wording implies that *Ein Kelokeinu* must be recited not only in the morning, but also in the evening prior to *Pittum ha-Ketoret*. It seems then that *Ein Kelokeinu* is drawn after *Pittum ha-Ketoret*: Whenever *Pittum ha-Ketoret* is recited, whether in the morning or in the evening (that is, corresponding to the incense burned in the morning and in the afternoon), it must be preceded by *Ein Kelokeinu*.¹

¹ It is not clear from the wording of the Rema when the evening *Pittum ha-Ketoret* should be recited, following *Minchah* or after *Ma'ariv*. The *Tur* (133) states explicitly that it is recited at the end of the *Ma'ariv* service, and so it seems that when the Rema writes "following the prayer," he too means after the *Ma'ariv* service. The *Magen Avraham* (no. 3), however, brings in the name of the Ari z"l that *Pittum ha-Ketoret* should not be recited at night, and therefore he explains that the Rema means that *Pittum ha-Ketoret* should be recited "after the *Minchah* service or before it." The *Mishnah Berurah* (no. 13) also understands the Rema in this manner, and proves it from the fact that incense was not burned at night. The *Mishnah Berurah's* position requires clarification, for he himself writes in no. 14 in the name of

This seems to follow also from what the Rema says in the continuation that the common custom is not to recite *Pittum ha-Ketoret* during the week, because everybody is in a rush to go off to work and we are concerned that in his haste a person might leave out one of the ingredients of the incense (and *Pittum ha-Ketoret* is recited in place of the burning of the incense in the Temple, and the law is that one who omits one of the ingredients of the incense is liable for death). So too writes the Rema in his *Darkhei Moshe* (133, no. 4) that the custom in these lands follows Mahari not to recite *Pittum ha-Ketoret* during the week for the aforementioned reason. The question arises why should we not at least recite *Ein Kelokeinu* every day (as was asked by *Likutei Maharich*). From here it follows that *Ein Kelokeinu* is drawn entirely after *Pittum ha-Ketoret*, so that whenever *Pittum ha-Ketoret* is not recited, there is no reason to recite *Ein Kelokeinu* on its own.

THE POSITION OF THE TUR REGARDING THE CUSTOM OF RECITING EIN KELOKEINU AND PITTUM HA-KETORET

The *Tur* writes as follows (133): “And in the *Siddur* of Rav Amram Gaon it is written that after the prayer leader concludes ‘*Oseh shalom*,’ it is customary to recite *Ein Kelokeinu*, etc. until ‘You are our Deliverer. You are He to whom our fathers offered the fragrant incense.’ *Pittum ha-Ketoret*.... And similarly in the evening, following

the *Magen Avraham* that the reason for reciting *Pittum ha-Ketoret* after *Musaf* is either to cause the *kelipot* to flee or else to end the service with words of Torah rather than with a prayer that comes in place of a sacrifice (“*veneshalmah parim sefatenu*”). These reasons could be applied to the recitation of *Pittum ha-Ketoret* at night as well. What then is the significance of the fact that incense was not burned at night? Perhaps the *Mishnah Berurah* maintains that these reasons were offered only as additional reasons to permit pushing off the recitation of *Pittum ha-Ketoret* until after *Musaf*, rather than reciting it immediately following *Shacharit*, even though its recitation corresponds to the incense burned in the morning. But these reasons do not justify reciting *Pittum ha-Ketoret* at night, at which time there was no burning of incense whatsoever.

the evening service, it is customary to recite *Pittum ha-Ketoret...*" The *Tur*, whose words are taken from the *Siddur* of Rav Amram Gaon, does not say that *Ein Kelokeinu* is recited prior to *Pittum ha-Ketoret* in the evening (as is implied by the Rema). The lack of a clear statement to the contrary implies that, according to the *Tur*, *Ein Kelokeinu* is recited only in the morning. However, even if we understand that this is the *Tur's* intention, in which case we find an instance of *Pittum ha-Ketoret* that is not preceded by *Ein Kelokeinu* (i.e., in the evening), nevertheless, we do not find an instance of the reverse situation, i.e., where *Ein Kelokeinu* is recited without *Pittum ha-Ketoret*. Thus, from the very fact that *Pittum ha-Ketoret* is recited whenever *Ein Kelokeinu* is recited (and immediately after it), it may be inferred that the two must be related in a fundamental way.

**THE POSITION OF THE RISHONIM THAT
EIN KELOKEINU SERVES TO COMPLETE THE COUNT
OF A HUNDRED BLESSINGS**

The *Rishonim* propose another explanation for the customary practice to recite *Ein Kelokeinu* only on *Shabbat* and *Yom Tov*, based on what is stated in (*Menachot* 43b): "It was taught [in a Baraita]: A person is obligated to recite one hundred blessings daily, as it is written: "And now, Israel, what [*ma*] does the Lord your God ask of you" (*Devarim* 10:12) [Rashi: "Read it as *me'a* (one hundred)"; see also *Tosafot* for other explanations]. It is also stated there: "On *Shabbat* and *Yom Tov*, Rav Chiyya the son of R. Ivya would trouble himself and fill in [the hundred blessings] with fragrances and delicacies." We learn from this Gemara that on *Shabbat* and *Yom Tov*, when there are fewer blessings in the *Amidah* prayers, one should make up the shortfall by indulging in delicacies and fragrances that require blessings.²

² So too rules the Rambam in the fourth chapter of *Hilkhot Tefilah*, and also the *Shulchan Arukh* (290). The Rambam's position requires clarification in that he mentions only fruit and omits spices. The *Shulchan Arukh* omits spices in the heading of the section, but in par. 1 mentions both fruit and

Based on this, some *Rishonim* suggested that *Ein Kelokeinu* is recited on *Shabbat* and *Yom Tov* in order to complete the required count of one hundred blessings, from which it follows that there is no reason to recite it during the week.³

There are two approaches in the *Rishonim* regarding the calculation of the missing blessings on *Shabbat* and the manner in which the shortfall is made up through the recitation of *Ein Kelokeinu*. The first approach is that of Rashi in *Sefer ha-Pardes* (no. 5), cited also in *Machzor Vitry* (pt. 1, beginning of the book and no. 134), *Shibbolei ha-Leket* (no. 83), *Roke'ach* (no. 319), and elsewhere. The gist of what they say is that since the weekday *Amidah* is composed of nineteen blessings, whereas the *Amidah* of *Shabbat* and *Yom Tov* is composed of only seven blessings, twelve blessings are missing from each prayer service on those days. Corresponding to these twelve missing blessings, *Ein Kelokeinu* alludes to the number twelve in connection to *Amen*. That is to say, in the line *Ein kelokeinu ... ein kemoshi'enu*, the letter *alef* appears four times as the initial letter of the word *ein*; in the line *Mi kelokeinu ... mi kemoshi'enu*, the letter *mem* appears four times as the initial letter of the word *mi*; and in the line *Nodeh lelokeinu ... nodeh lemoshi'enu*, the letter *nun* appears four times as the initial letter of the word *nodeh* – three sets of four, coming to a total of twelve. The word *barukh* is then recited four times (*Barukh elokeinu ... barukh moshi'enu*), and then the word *atah* is recited four times (*Atah hu*

spices. See also *Shulchan Arukh* 284:3, where the suggestion is made to make up the missing blessings on *Shabbat* and *Yom Tov* by listening to the blessings recited by those called up to the Torah and for the *haftarah* and answering *Amen* (this suggestion is taken from the *Rosh*, *Berakhot*, chap. 9, no. 24). As for the details concerning the calculation of the hundred blessings, there are many different opinions in the *Rishonim* and *Acharonim*. See *Responsa Ateret Paz*, no. 1, who deals at length with the obligation of reciting a hundred blessings and all that follows from it.

³ *Sefer Minhagei Yisra'el* (pt. 2, pp. 174-176) points out that the three verses appearing in the *Siddur* before *Ein Kelokeinu* also contain a hundred letters. The suggestion is made there that perhaps this alludes to what the *Rishonim* posit that *Ein Kelokeinu* is recited to complete the count of a hundred blessings.

elokeinu ... atah hu moshi'enu). The two words, *barukh* and *atah*, join the word *amen* (*alef, mem, nun*) alluded to by the initial letters in the previous lines, and together they are regarded as compensation for the twelve missing blessings.⁴

Another way to understand how *Ein Kelokein* compensates for the missing blessings is found in the *Kolbo* (no. 37, s.v. *yesh mekomot*) and the *Orchot Chayyim*. They suggest counting the number of blessings in the weekday *Amidah* as eighteen (rather than nineteen). Thus, between the evening, morning and afternoon services of *Shabbat*, there is a total shortfall of thirty-three blessings (eleven for each service). Now, seven blessings are made up through the *Musaf* service, and another six blessings are made up through the third meal eaten on *Shabbat* (*al netilat yadayim, ha-motzi*, and the four blessings of *birkat ha-mazon*). Thus, only twenty blessings are missing, and these are made up by the twenty segments of *Ein Kelokein* (each of the five lines is composed of four segments – four times *ein*, four times *mi*, four times *nodeh*, four times *barukh*, and four times *atah* – for a total of twenty).⁵

⁴ This allusion is based on the assumption that the passage begins with the words "*Ein kelokein*," and then continues with "*Mi kelokein*," as it appears in the standard prayer books. In the *Siddur* of Rav Amram Gaon, however, the passage opens with "*Mi kelokein*," and then continues with "*Ein kelokein*," and the *Machzor Vitry* (no. 134) prefers this version. (When the *Tur* brings from the *Siddur* of Rav Amram Gaon to recite *Ein Kelokein*, he must mean to take from Rav Amram Gaon the basic custom of reciting the passage, but the order of the lines he brings in accordance with his own version.) The text found in the *Siddur* of Rav Amram Gaon differs from our text in other ways as well, for he puts "*Barukh elokeinu*" before "*Nodeh lelokein*." According to him, then, the order is: *Mi, Ein, Barukh, Nodeh, Atah*. The *Abudraham*, however, cites the order *Ein, Mi, Nodeh, Barukh, Atah*, and even brings the mnemonic device: *Amen Barukh Atah*, so that we should not make a mistake and recite the various lines in incorrect order.

⁵ This requires further clarification, for while on *Shabbat* there is a *mitzvah* to eat three meals, on *Yom Tov* only two meals are eaten, and so there are still 6 blessings missing. It may perhaps be argued that *Ein Kelokein* was instituted in order to make up the entire shortfall of blessings on *Shabbat*,

**THE DIFFICULTY WITH THE POSITION OF
THE AFOREMENTIONED RISHONIM**

Obviously, this proposal to make up the shortfall in the recitation of one hundred blessings by reciting *Ein Kelokein* requires explanation on several counts – how can expressions of praise substitute for blessings, and how do we calculate the compensation for the missing blessings, according to each of the two approaches. Some *Rishonim* reject the whole idea – see, for example, *Machzor Vitry* (no. 134), who argues that since we do not find in *Ein Kelokein* any mention of God's kingship as is found in all other blessings, we cannot regard its recitation as a blessing. And furthermore, the Gemara in *Menachot* implies that the only way to make up the shortfall of blessings is through fragrances and delicacies that require additional blessings. See also *Sefer ha-Manhig* (beginning of the book), who sharply objects to what the French scholars said that the missing blessings can be made up through the recitation of *Ein Kelokein*. He writes: "In my opinion, there is no basis or grounds for this practice."

Though we certainly have no direct knowledge to this effect, it seems that Rashi and his school had a tradition that *Ein Kelokein* does in fact complete the count of one hundred blessings through the allusions explained above. This is notwithstanding the fact that the lines of *Ein Kelokein* do not have the form of regular blessings. If the *Rishonim* had such a tradition, we have no alternative but to accept it.

**DOES THIS POSITION
MAINTAIN THAT THERE IS NO CONNECTION
BETWEEN EIN KELOKEINU AND PITUM HA-KETORET?**

According to the aforementioned *Rishonim*, *Ein Kelokein* appears to constitute a separate entity, totally unconnected to *Pittum*

whereas on *Yom Tov* it is still necessary to make up part of the shortfall with blessings recited over fragrances and delicacies.

ha-Ketoret. This, however, is not a necessary conclusion. First, it may well be argued that even though the *Rishonim* said that one can make up the shortfall of blessings with *Ein Kelokein*, they did not mean to deny that it is also recited as an introduction to *Pittum ha-Ketoret*. This seems to be implied by the *Kolbo* who cites the idea of compensating for the hundred blessings by reciting *Ein Kelokein*, even though he brings the custom of reciting *Ein Kelokein* every day of the week. And so too he cites (no. 41) the custom practiced in certain places of reciting *Ein Kelokein* and *Pittum ha-Ketoret* at the conclusion of *Shabbat* as a good omen. Thus we see that he maintains that there is room to recite *Ein Kelokein* even when there is no need to make up for missing blessings. This is stated even more explicitly in the *Siddur* of the *Roke'ach*: "Since we do not recite as many blessings on *Shabbat* as during the week, for we do not recite an *Amidah* prayer of eighteen blessings, therefore, [the Sages] established that we should say, *Amen, barukh, atah hu*. **Even though it should be recited every day, for the incense is burned every day, nevertheless we are accustomed to recite it every *Shabbat* and *Yom Tov*.**" It is clear from his formulation that there are two aspects to *Ein Kelokein* – first, that it is recited as an introduction to *Pittum ha-Ketoret*, and this applies every day (as he writes: "For the incense is burned every day"); and second, that it is recited as compensation for the missing blessings, and for this reason it is more commonly recited on *Shabbat* and *Yom Tov*.

Moreover, even if we assume that *Ein Kelokein* was instituted only in order to make up for the missing blessings, and that it was instituted from the outset to be recited only on *Shabbat* and *Yom Tov* (and not as implied by the *Roke'ach*), we may still infer that it is related in some way to *Pittum ha-Ketoret*, for otherwise, why was it inserted into the liturgy precisely before *Pittum ha-Ketoret*, and why is it never recited independently without *Pittum ha-Ketoret*? Thus, we are forced to the conclusion that some connection between these two elements of the prayer service must exist.

**“YOU ARE HE TO WHOM
OUR FATHERS OFFERED THE FRAGRANT INCENSE”**

More than anything else, what teaches us that *Ein Kelokeinu* is in some way connected to *Pittum ha-Ketoret* is the line at the end of the *Ein Kelokeinu* passage – “You are He to whom our fathers offered the fragrant incense.” This line, which serves as a transition between the last line of *Ein Kelokeinu* (each segment beginning with the words “*Atah hu*,” “You are He”) and the *Baraita* of *Pittum ha-Ketoret*, testifies in striking manner to a relationship between these two portions of prayer.⁶

A question may be raised, however, whether this line actually belongs to the *Ein Kelokeinu* passage that precedes it, or perhaps it merely introduces the *Pittum ha-Ketoret* and is unconnected to what comes before. See *Siddur Avodat Yisra’el* of R. Seligman Baer (p. 245) and the critical notes of R. Y. Maltzan (author of *Shevitat ha-Shabbat*) on *Siddur ha-Gra Ishei Yisra’el*, where the assumption is made that the line is connected to what follows and is not part of *Ein Kelokeinu*.⁷

It seems, however, that even if we say that the line is connected to what follows, we can still prove that there is a connection between the two passages. For it must still be explained

⁶ The line, “*Atah hu she-hiktiru*,” appears in *Machzor Vitry*, the *Abudraham*, and all the Ashkenazi *Siddurim*. (In the *Siddur* of Rav Amram Gaon, the line reads, “*she-hikrivu*,” instead of “*she-hiktiru*”). On the other hand, the *Siddurim* of the Rambam and the Ramak and a number of Sefardi *Siddurim* have instead the verses, “You will arise, and have mercy upon Zion, etc.” In the *Siddur* of the *Ba’al ha-Tanya*, we find both, the verses “You will arise, and have mercy upon Zion, etc.,” followed by “*Atah hu she-hiktiru*.”

⁷ This may depend upon the variant readings, for *Likutei Maharich* notes that the reading in the *Siddur* of R. Shabbetai Sofer is: “*Atah hu Ha-Shem Elokeinu she-hiktiru*,” instead of “*Atah hu she-hiktiru*.” If the line is connected to the previous passage, it is more reasonable to say, “*Atah hu she-hiktiru*,” parallel to the formulation found in the preceding lines. If, however, the line is connected to the passage that follows, “*Atah hu Ha-Shem Elokeinu she-hiktiru*” seems to be preferable, for it is more indicative of a new beginning.

why it was decided to introduce *Pittum ha-Ketoret* with a line starting with the words “*Atah hu.*” Clearly this was done in order to open the second passage with the same words with which the previous passage had closed – “*Atah hu she-hiktiru*” paralleling “*Atah hu moshi’enu*” (so is it argued in *Responsa Noda Bihuda, Orach Chayyim*, first series, no. 10). This fact in and of itself – that a portion of the liturgy opens with the same formulation with which the previous portion had concluded – serves as sufficient indication that the two passages are related.

**THE RAMBAM’S POSITION THAT
THERE IS NO CONNECTION
BETWEEN *EIN KELOKEINU* AND *PITTUM HA-KETORET***

In contrast to everything that has been said thus far to prove that *Ein Kelokeinu* and *Pittum ha-Ketoret* are connected, it would appear from the Rambam’s *Siddur* (which is found at the end of *Sefer Ahavah*) that he thought otherwise. The Rambam mentions *Ein Kelokeinu* as part of the supplications that were customarily recited after the *Amidah*. Following the words, “*Atah hu moshi’enu*” – “You are our Deliverer,” he continues with the following verses: “You will arise, and have mercy upon Zion; for it is time to favor her; for the set time is come” (*Tehilim* 102:14); “Surely the righteous shall give thanks to Your name: the upright shall dwell in Your presence” (*Tehilim* 140:14); “And they that know Your name will put their trust in You: for you, Lord, have not forsaken those who seek You” (*Tehilim* 9:11); and “For let all people walk everyone in the name of his god, and we will walk in the name of the Lord our God for ever and ever” (*Michah* 4:5). The Rambam makes no mention whatsoever of the line “*Atah hu she-hiktiru*” or of *Pittum ha-Ketoret*. He clearly maintains that *Ein Kelokeinu* has independent standing unconnected to the incense.⁸

⁸ It should be noted that while the *Siddur* of Rav Amram Gaon brings *Ein Kelokeinu* at the end of the prayer service together with “*Atah hu she-hikrivu, etc.,*” and *Pittum ha-Ketoret* (all of which is indicative of a connection between *Ein Kelokeinu* and *Pittum ha-Ketoret*, as explained

So too it may be demonstrated that the Rambam disagrees with those *Rishonim* who see *Ein Kelokeinu* as a way of making up for missing blessings. First of all, the Rambam does not distinguish between *Shabbat* and weekdays, and were such a distinction to exist, he should have mentioned it. And furthermore, the wording of the Rambam implies that his version of *Ein Kelokeinu* did not have the line beginning with the words, “*Barukh elokeinu*” (for he cites all the lines, beginning with “*Ein kelokeinu*” until “*nodeh le-moshi’enu*”, and then he continues with “*Atah hu elokeinu... atah hu moshi’enu*”). Thus, he is missing that part of the allusion of *Ein Kelokeinu* that is based on the words “*Barukh atah*” (cited by the *Pardes*), and four of the twenty allusions to God (according to the *Kolbo*).

RECITING EIN KELOKEINU ON TISH'A BE-AV

This disagreement seems to have a practical ramification regarding *Tish'a be-Av*. The Rema writes (*Orach Chayyim* 559:4) that

above), in his *Seder Ma'amadot* (which is brought in his *Siddur* after the *Shacharit* service), *Pittum ha-Ketoret* is brought at the beginning, whereas *Ein Kelokeinu* is brought close to the end, and there we find the verses, “You will arise, and have mercy upon Zion, etc.” in place of “*Atah hu she-hikrivu*.” It should also be noted that there are two other differences between the two places in the *Siddur* of Rav Amram Gaon: a) At the end of the morning service, the passage opens with “*Mi kelokeinu*” (and the second line reads “*Ein kelokeinu*,” whereas in the *Seder Ma'amadot*, it opens with “*Ein kelokeinu*”; b) In the *Seder Ma'amadot*, an additional line is found, “*Atah toshi'enu*,” following “*Atah moshi'enu*,” whereas at the end of the morning service, there is no mention of such a line. (See also *Abudraham*, end of the weekday *Shacharit* service, where he writes: “And one recites *Ein Kelokeinu*, etc. until “*Atah toshi'einu, atah hu she-hiktiru avoteinu*, etc.” We see then that the words “*Atah toshi'einu*” are found also in the *Abudraham's* reading. It is hard to decide from the words of the *Abudraham* whether “*Atah toshi'einu*” come in place of “*Atah hu moshi'enu*,” found in the standard reading, or whether those words are recited after “*Atah hu moshi'enu*,” as is implied by Rav Amram Gaon in the aforementioned *Seder Ma'amadot*.

Pittum ha-Ketoret should not be recited on *Tish'a be-Av*,⁹ and the *Levush* adds that *Ein Kelokeinu* should also not be recited on that day. Granted if we say that *Ein Kelokeinu* is drawn after *Pittum ha-Ketoret*, we understand why *Ein Kelokeinu* should not be recited on *Tish'a be-Av*. According to the Rambam, however, that there is no connection between *Ein Kelokeinu* and *Pittum ha-Ketoret*, it stands to reason that *Ein Kelokeinu* should be recited on *Tish'a be-Av*, as on any other day.

[It might, perhaps, be argued that even according to the Rambam *Ein Kelokeinu* should not be recited on *Tish'a be-Av*, because it is inappropriate to add prayers of praise at the end of the service of a bitter and unhappy day like *Tish'a be-Av*. This may be likened to what is stated in *Megilah* 31b that we do not break the Torah reading in the middle of the section of curses, so as not to recite a blessing over a calamity. See *Tosafot*, *ad loc.*, *s.v. ein mafsikin*, who cite from tractate *Soferim*: "I have said: 'I am with them in their troubles,' and so it is not right that My children should bless Me for their troubles." Support for this argument may be brought from what the *Magen Avraham* says (554, no. 6) regarding the recitation of *Shir ha-Yichud* on *Tish'a be-Av* (for those who are accustomed to recite it every day at the conclusion of the prayer service). He cites the *Levush* who says that it should not be recited on *Tish'a be-Av*, and instead it should be recited on the next day together with the next day's portion. (The *Magen Avraham* himself writes that it is customary to recite *Shir ha-Yichud* on *Tish'a be-Av* at *Minchah*.) The matter requires further clarification.]¹⁰

⁹ The *Levush* explains that this is because there is no incense on this day. The *Mishnah Berurah* writes (no. 2) that this is because it is not considered part of the daily ritual, since it is not said by everybody. There is a practical difference between these two explanations regarding one who is accustomed to recite *Pittum ha-Ketoret* every day – see *Sefer Ishei Yisra'el* (p. 501, no. 167).

¹⁰ Regarding the recitation of *Ein Kelokeinu* on *Yom Kippur*, the Rema writes (622:1): "*Ein Kelokeinu* is not recited on *Yom Kippur* (*minhagim*).” The *Magen Avraham* (no. 1) suggests that the reason is that *Ein Kelokeinu* corresponds to the eighteen blessings of the weekday *Amidah*, and on *Yom Kippur* we already recite the *piyyut* "*Ahalekha be-kol ram Elokei Avraham*," which

- II -

**RECITING EIN KELOKEINU TO AFFIRM THAT
THE WEALTH ASSOCIATED WITH THE INCENSE
COMES FROM GOD**

We have seen that according to many *Rishonim* with the exception of the Rambam, there is a connection between *Ein Kelokeinu* and *Pittum ha-Ketoret*. This connection seems to be very obscure and begs explanation.

See *Responsa Noda Bihuda* (first series, end of no. 10), who understands that *Ein Kelokeinu* precedes *Pittum ha-Ketoret* in order to provide us with moral instruction. He writes as follows: "As for the custom to recite these lines [of *Ein Kelokeinu*] before [*Pittum ha-Ketoret*], that is because it makes a person rich [i.e., the incense burned in the Temple makes a person rich, as is stated in *Yoma* 26a]. Therefore, we say *Ein Kelokeinu*, so that we should not say that 'my power and the might of my hand have gotten me this wealth.' Rather, it was all given to us by God, and it is fitting to bless Him for the wealth." The words of the *Noda Bihuda* are cited also by the *Sha'arei Teshuvah* (*Orach Chayyim* 132).

corresponds to those eighteen blessings. (He also brings another explanation, that *Ein Kelokeinu* corresponds to the sacrifices, and on *Yom Kippur* there are many sacrifices. This explanation requires clarification.) The *Magen Avraham* concludes that according to this, *Pittum ha-Ketoret* should be recited. See *Mishnah Berurah* (no. 5) who writes that *Ein Kelokeinu* is not recited "because on *Shabbat* it is recited in order to fill in what is missing from the hundred blessings recited every day, and on *Yom Kippur* there are many praises." It is not clear why the *Mishnah Berurah* veered from the words of the *Maharil* cited by the *Magen Avraham* that *Ein Kelokeinu* is not recited because we already recited the *piyyut* "*Ahalelkha be-khol yom*," and not because on *Yom Kippur* "there are many praises" in general. (Regarding *Pittum ha-Ketoret* on *Yom Kippur*, the *Mishnah Berurah* concludes that according to the strict law it need not be recited, for it is included in the sacrificial order spelled out in detail in the *Musaf* service. It is, however, good to be stringent and recite it privately.)

Support for the words of the *Noda Bihuda* may be found in “*Perush ha-Tefilot ve-ha-Berakhot*” (of R. Yehuda bar Yakar, one of the Ramban’s teachers), which states (pt. 1, p. 125): “In order that a person should not mistakenly say that the power of the incense is without any other power, we come to the allusion of ‘The Lord makes poor, and makes rich’ (I *Shemu’el* 2:7). And therefore we have started to say by way of praise that the incense does not make rich by its own power, for You, O Lord, make poor and make rich. And therefore we first say *Ein kelokeinu, mi kelokeinu, atah hu elokeinu she-hiktiru lefanekha*, which means, From you comes the power of the incense.”¹¹

According to both R. Yehudah bar Yakar and the *Noda Bihuda*, *Ein Kelokeinu* is recited before *Pittum ha-Ketoret* so that a person should recognize that the cause of wealth is God. The difference between them is that according to the *Noda Bihuda* a person should testify that his wealth came to him from God so that he not come to think that he acquired his wealth by way of his own talents and through “his power and the strength of his hand.” According to R. Yehudah bar Yakar, on the other hand, he should make that proclamation so that he not come to assign incense some kind of natural power to produce riches that is independent of God.¹²

¹¹ R. Yehudah bar Yakar’s concluding words imply that the line, “*Atah hu she-hiktiru*,” is connected to the preceding passage, and not as was suggested above by the author of *Siddur Avodat Yisra’el*, and not as we suggested there in a note that it may depend upon the variant readings, for he reads “*Atah hu Elokeinu she-hiktiru*,” but nevertheless connects the line to the preceding passage.

¹² On the homiletical plain, it may be added that regarding the incense we find that special care is taken to attribute its burning to God. As we find regarding Nadav and Avihu that they died when they “offered a strange fire before the Lord, which He commanded them not” (*Vayikra* 10:1). According to this, it may be suggested that wealth coming to a person in the wake of the incense, which he does not attribute to God, may turn into “wealth reserved for its owner for his detriment,” out of which no blessing will arise.

**MAN'S RECOGNITION THAT ALL IS FROM GOD
HELPS TO BRING DOWN THE DIVINE BOUNTY FROM ABOVE**

It may be added that the benefit derived from the recognition that "there is none like our God," lies not only in the negation of the idea that God is not the cause of wealth. Rather, this recognition and its full-mouthed expression actually help to bring down wealth and blessing from God.

This idea may be understood in light of the famous words of the *Sefer Chinukh* regarding *birkat ha-mazon* (precept 430), who explains at length the idea of blessing God. He writes there: "Out of this good arousal of our spirit and the focusing of our thought to gratefully acknowledge to Him that all good favors are contained in Him and He rules over them to send them wherever He wishes, we merit through this good deed to draw [down] of His blessing upon us... Consequently, according to the premise of this reason, the term 'blessed' is an adjective – in other words, an avowal to Him that He contains all blessings... This, then, is the meaning of 'yitbarakh' [in the reflexive tense], i.e., 'May it be Your will that all mankind shall ascribe blessing to You, and avow that from You does it radiate to everything.' With everyone's acknowledgement of this, His blessing will abide in the world, and His desire will be achieved – this being the desire to bestow good, as we stated." See also the words of Rabbenu Bachya in *Kad ha-Kemach*, s.v. *berakhah*, who offers a similar explanation regarding *birkat ha-mazon*: "The idea is that one who recites a blessing over his food draws the power of wealth to ... the lower world, and with this the world becomes satiated with favor and replete with God's blessing."

Thus it may be argued that by offering testimony that is based on the profound recognition that "there is none like our God," we prepare our souls to merit God's blessing, as stated by the *Chinukh*, and we also open the heavenly channel through which we can draw down upon us the richness concealed in the incense and bring it down to the lower world, as stated by Rabbenu Bachya.

**THE CONNECTION TO A HUNDRED BLESSINGS:
THE NUMBER HUNDRED ALLUDES TO
WEALTH COMING FROM GOD**

We can now expand upon the connection between *Ein Kelokeinu* and *Pittum ha-Ketoret* in light of what some of the *Rishonim* say that *Ein Kelokeinu* is recited in order to make up the shortfall in the recitation of one hundred blessings on *Shabbat* and *Yom Tov*.

The obligation to recite a hundred blessings every day is derived from the verse, "What does the Lord your God ask of You but to fear, etc." (*Devarim* 10:12), which speaks of the *mitzvah* to fear God. This is because the purpose of the obligation to recite a hundred blessings is to bring a person to clearly understand that he stands before God in every situation in which he finds himself: "I set God before me at all times" (*Tehilim* 16:8). And, furthermore, it is explained in kabbalistic texts that the hundred blessings are directed at the hundred channels through which the bounty of blessing descends into the world. According to this, the idea underlying the obligation to recite a hundred blessings that is alluded to in the recitation of *Ein Kelokeinu* is precisely what qualifies a person to merit the blessing of God and wealth that comes in the wake of the burning of the incense, as explained above.

This idea may be clarified by what the Maharal says in *Netivot Olam* (*Netiv ha-Osher*, chap. 2) in connection with the Tannaitic controversy in *Shabbat* (25b) regarding who is called a wealthy man. R' Tarfon maintains that a wealthy man is "anyone who has a hundred vineyards and a hundred fields and a hundred slaves working them." Maharal explains the allusion of the number hundred as follows: "It is fitting that his wealth should be from God, for if a person's wealth is not from God it is not a blessing, for there is wealth reserved for its owner that is to his detriment.... Thus, his wealth must have the blessing of God, and this is true wealth. Therefore he speaks of a hundred fields, a hundred vineyards, and a hundred slaves. This is a sign that his wealth is from God, blessed be He, as it is written in connection with Yitzchak, "And he received in the same year a hundredfold, for the Lord blessed him" (*Bereishit* 26:12) ... And you will understand this from a person's obligation to

recited a hundred blessings daily.” The Maharal clearly states that the number hundred alludes to wealth coming from God, and that all this is also alluded to in the count of a hundred blessings. This fits in well with all that we have said above.

**EIN KELOKEINU AS TESTIMONY
THAT GOD IS ALL-POWERFUL,
THIS BEING THE MYSTERY OF THE INCENSE
THAT OFFERS PROTECTION FROM ALL INJURY**

Another explanation of the connection between *Ein Kelokein* and *Pittum ha-Ketoret* is offered by Rabbi Aharon David Goldberg in his book, *Shirat David* on the *Siddur*. He refers to what is stated in the *Zohar* (*Parashat Vayakhel*) that the incense is endowed with the special power to cancel magical spells, bad things and the powers of the *Sitra Achra* (Other Side), and that whoever looks at and reads the passage about the incense every day will be saved from all these things and not suffer injury all day long (as cited in *Kaf ha-Chayyim* 132, no. 18). Now the Gemara in *Chullin* (7b) expounds the verse, “To you it was shown, that you might know that the Lord He is God; there is none else beside Him” (*Devarim* 6:35), as coming to include “even magical spells.” The *Nefesh ha-Chayyim* (pt. 3, chap. 12) explains that even though magical spells deny the heavenly retinue, nevertheless they do not have the power to change the order of the actions of the holy chariot, for they do not have any independent power, and without God, they are as nothing. In the continuation, the *Nefesh ha-Chayyim* writes the following: “And truly it is a great thing and a wonderful remedy, to remove and nullify all the judgments and other wills so that they not be able to control him or leave any impression upon him whatsoever. When a person states in his heart, Surely the Lord is the true God, and there is no other power beside Him, blessed be He, in this world or in all the worlds, and everything is filled exclusively with His simple unity, blessed be His name; and he totally nullifies in his heart, and cares not about any other power or will in the world; and he submits and conjoins the purity of his thought exclusively to the one Master, blessed be He – then the Blessed One will bring about

that all the powers and wills in the worlds will be nullified regarding him, so that they will not be able to have any impact upon him whatsoever."

Based on this, the author of *Shirat David* explains that we recite *Ein Kelokeinu* before *Pittum ha-Ketoret* in order "to give oral expression and implant this belief in our hearts that the Holy One, blessed be He, possesses all the powers in all the worlds, and through Him we will be saved from all the evil powers of the *Sitra Achra*, and there is no other power in the world that can stand up to him, God forbid." For this is the very idea alluded to by the incense that offers protection from magical spells, as was stated above.

THE GREAT VIRTUE OF RECITING *EIN KELOKEINU*

In connection with what was stated above, note should be taken of the wonderful words of R. Moshe ben Yehudah Makhir (contemporary of the Ari z"l) in the book "*Seder ha-Yom*" regarding the great virtue of reciting *Ein Kelokeinu*: "And he should say *Ein Kelokeinu*, etc. It is fittingly praiseworthy to read it with precision, word by word. Each element appears four times, alluding to the Divine name of four letters, each in its special place, similar to the four passages in the *Tefilin*. It is fitting that one should concentrate on each element, according to its place and its content, both regarding one of four, and regarding all of them, each one above the other, all being the same thing and going to a single place to acclaim the oneness of the name of our God, blessed be His name. Fortunate is he and fortunate is the lot of he who merits this each and every day."

REGARDING THE POWER OF THE HUNDRED BLESSINGS AND THE INCENSE TO STOP A PLAGUE

This may be further elucidated in light of the position of the *Rishonim* that *Ein Kelokeinu* is recited in order to complete the count of a hundred blessings on *Shabbat* and *Yom Tov*. It was explained earlier

that the purpose of reciting a hundred blessings is to allow a person to reach the full recognition of the fear of God, as in “I set God before me at all times.” It follows then that to the extent that a person strengthens this recognition, so will all the powers of evil and the *Sitra Achara* be nullified, as is accomplished by the incense.

This idea may be taken a step further. The incense has the power to stop a plague, as is related in *Parashat Korach* that a plague began to strike at the nation, and Moshe goaded Aharon into taking a censer of incense for atonement. And it says there in the continuation: “And he stood between the dead and the living; and the plague was stayed” (*Bamidbar* 17:13). *Chazal* attribute the very same power to the hundred blessings. See *Midrash Rabba* (*Korach, parashah* 18; and so too *Tanchuma, ad loc.*), where they expound the verse “And the man who was raised up on high said” (II *Shemu’el* 23:1): “‘Raised up on high’ (*al’*) – corresponding to the hundred blessings [the *gematria* of *al’* is one hundred], for every day a hundred men of Israel would die. Came David and enacted for them a hundred blessings. When he enacted them, the plague was stayed.”¹³

¹³ The *Rishonim* took note of the fact that *Chazal* attribute the enactment regarding a hundred daily blessings to King David, despite the fact that the prayers and blessings were only formulated by the *Anshei Keneset ha-Gedolah*. Moreover, the Gemara in *Menachot* says that it was Rabbi Meir who derived the obligation to recite a hundred blessings every day from the verse, “What does the Lord your God ask of you.” Several *Rishonim* suggest that while the enactment regarding a hundred blessings originated with King David, it was forgotten and then later reinstated by the *Anshei Keneset ha-Gedolah* or by the *Tannaim* or *Amoraim*. See *Machzor Vitry* (no. 1), *Siddur Rashi, Shibbolei ha-Leket*, and *Tanya Rabbati* (who states: “It was forgotten because of the poverty and great servitude of the exile until the *Tannaim* and *Amoraim* came and instituted them for us in their place”). See *Ben Ish Chai, Parashat Balak*, who writes that before the time of the *Anshei Keneset ha-Gedolah*, each individual would formulate his own blessings, and the *Anshei Keneset ha-Gedolah* instituted fixed formulas for all of Israel. And prior to David, people were not careful to recite a hundred blessings every day, but rather each individual would recite his blessings as needed, and it was David who instituted that a hundred blessings should be recited every day, even though the fixed formulas of the blessings were

A similar idea is brought by the *Tur* (46) in the name of Rav Natronai Gaon, along with an explanation: "For every day a hundred souls of Israel would die, and they did not know why they were dying, until he [David] examined [the matter] and understood through the holy spirit, and he enacted for Israel a hundred blessings." The same is found in *Machzor Vitry*. (It is a little puzzling that no mention is made in the *Tur* that the source for this idea is the *Midrash*.)

We see then that King David had originally enacted the hundred blessings in order to stay a plague. The *Bach* (46) states explicitly that even in our time we are saved from the plague by the hundred blessings that are recited daily and serve as a shield against calamities. He says as follows: "For the danger exists that a hundred members of Israel will die every day, as was the case before David enacted these blessings." (In this way he explains what is implied by the *Tur* that every person should be careful to recite the hundred blessings himself, rather than rely on answering "Amen" to blessings recited by another person.)

The power of the hundred blessings to stay a plague, just like that of the incense, may be understood according to what is stated in *Shirat David*, based on the words of the *Nefesh ha-Chayyim*. For the more that we strengthen ourselves with the full recognition of the fear of God and that there is none other like Him, the more all the powers of injury and evil will be removed from us. This may be part

only established later by the *Anshei Keneset ha-Gedolah*. See also the *Perishah* who says that the number hundred contains a great mystery known to the kabbalists. David passed this esoteric lore to the *Sanhedrin* and to the Sages of his generation, that they should establish the blessings with their fixed formulas. A new idea concerning the hundred blessings is put forward by R. Ya'akov bar Chananel Skali, disciple of the Rashba, in his book of homilies, "*Torat ha-Minchah*," in the homily for *Parashat Be-ha'alotekha* (pt. II, p. 511, 5760, ed. *Ahavat Shalom*). He writes that the hundred blessings enacted by David allude to the *magrefa* (a type of musical instrument) in the Temple which had ten holes, each hole producing ten different types of sounds, as stated in *Arakhin* (11a). King David instituted this instrument, and corresponding to it *Chazal* instituted a hundred daily blessings.

and parcel of the custom to recite *Ein Kelokein* – which, according to some *Rishonim*, comes to complete the count of a hundred blessings – in conjunction with *Pittum ha-Ketoret*, as was explained above.

- III -

**THE CONNECTION BETWEEN BLESSING AND INCENSE:
“THE BLESSINGS OF ISRAEL ARE LIKE INCENSE BEFORE ME”**

In the first part of this article, we demonstrated that according to many *Rishonim* with the exception of the Rambam there exists a certain relationship between *Ein Kelokein* and *Pittum ha-Ketoret*. In the next section we proposed several approaches to understanding the nature of this relationship. We also added certain embellishments in light of the position of the *Rishonim* who drew a connection between *Ein Kelokein* and the obligation to recite a hundred blessings daily. Between the lines arises the idea that the relationship between *Ein Kelokein* and *Pittum ha-Ketoret* indicates a general connection between “blessing” and “incense.”

To complete the discussion, I wish to point out an amazing phrase found in *Responsa Min ha-Shamayim* (of the Tosafist Rabbenu Ya’akov of Marvege), which is instructive regarding the connection between blessing and incense. The question raised there (no. 40) deals with the recitation of *Hallel* on *Rosh Chodesh* and *Chol ha-Mo’ed*, whether or not the common custom to recite a blessing is a fitting one. This question is answered as follows: “I have told you that **the blessings of Israel are like incense before Me**, and we have learned: ‘Whether one does much or little [they are equally worthy], provided one directs his heart to heaven, etc.’”

**AN ALLUSION IN THE VERSE
“ONE SPOON OF TEN GOLD COINS, FULL OF INCENSE”
TO PAYMENT FOR A BLESSING**

The source for this formulation seems to be the verse, “One spoon of ten gold coins, full of incense” (*Bamidbar* 7:14), in the biblical passage describing the dedication of the altar by the princes of the tribes of Israel. By way of introduction, let us take note of a talmudic passage in *Chullin* (87a) which discusses a person who goes ahead and covers the blood of an animal slaughtered by another person, thus depriving that other person of the opportunity to fulfill the *mitzvah* of covering the blood and reciting a blessing over it. Rabban Gamliel rules that the “thief” must pay the other person ten gold coins. The Gemara raises the question whether this sum represents payment for the *mitzvah* or payment for the blessing (this question has practical ramifications regarding one who steals *birkat ha-mazon* from another person, which is composed of four blessings, or one who steals a *mitzvah* over which no blessing is recited). The Gemara concludes that the sum represents payment for the blessing. It is explicitly stated then that “payment for a blessing” is worth ten gold coins.¹⁴

¹⁴ See *Bava Kama* 91b, where this *Baraita* is brought in connection with a different story. There the implication is that the ten gold coins constitute “payment for the *mitzvah*.” See Rambam, *Hilkhot Chovel u-Mazik* 4:14, and *Choshen Mishpat* 382, and *Shakh*, *ad loc*. The *Rishonim* and the *Posekim* discuss various aspects of this issue at length: is the sum of ten gold coins fixed or subject to judicial discretion; is this sum due by right or as a penalty; can the “thief” exempt himself from payment by giving the “victim” a different blessing; does the obligation apply even where the “victim” answered Amen to the blessing, since we maintain that responding Amen is even greater than reciting a blessing. The *Rishonim* also discuss whether this obligation exists even with respect to blessings that don’t belong specifically to the individual who performs the *mitzvah*, because the *mitzvah* belongs to all of Israel, e.g. blessings recited over Torah reading or circumcision. The *Rishonim* write that today we do not collect the ten golds, certainly if it is a penalty, but even if it is by right,

The *Orchot Chayyim* (no. 4) brings an allusion to this idea that payment for a blessing is ten gold coins from the verse “one spoon of ten gold coins,” saying: “And even though there is no proof, there is an allusion, for it is stated: ‘One spoon [*kaf*] of ten gold coins,’ i.e., one of the *kaf* [= a hundred]¹⁵ blessings that a person must recite every day is worth ten gold coins.” Similarly it is explained in the *Kolbo* (no. 108, *s.v. bameh mekhasin*): “We find an allusion that every blessing is worth ten coins, for it is stated: ‘One spoon of ten gold coins.’ From here they brought support that every blessing is worth ten gold coins from the verse itself, for we know that a person is obligated to recited a hundred blessings every day, and this is what the verse states: ‘One of *kaf* [= a hundred] blessings is ten gold coins.’” (See also *Moshav Zekenim* of the Tosafists and the book “*Shulchan shel Arba*” of Rabbenu Bachya who also bring this allusion.)

How appropriate then is the end of the verse, “full of incense”! The verse draws an analogy between a blessing that is worth ten gold coins and the incense – as if to say that the reason that the weight of a spoon of incense was the weight of ten gold coins is that incense is like a blessing. We have then a marvelous source for the aforementioned phrase appearing in *Responsa Min ha-Shamayim* – “that the blessings of Israel are like incense before Me.”

With God’s help, I found a very similar formulation in the *Or Zaru’a* (*Hilkhot Kissui ha-Dam*, no. 399): “He also brings that a blessing is worth ten gold coins from the verse: ‘He that kills an ox is like one who slays a man; that sacrifices a lamb, is like one who breaks a dog’s neck; that offers a meal offering, like one who offers pig’s blood; that burns incense, like one who blesses an idol’ (*Yeshaya* 66:3). This means: Instead of the killing of an ox, the slaying of a man. And so too all of them until instead of burning incense, blessing an idol. But if he didn’t bless an idol, he would be acting well. This implies that a

since it does not involve a financial loss. See also *Yam shel Shelomo*, *Bava Kama*, who before he addresses some of these points, writes that the 10 gold coins involves a hidden mystery. See also *Responsa Yachin u-Bo’az*, II, no. 16, who deals at length with this issue of payment for a blessing.

¹⁵ I.e., the numerical value of the letters comprising the word *kaf* is a hundred (*kaf* = 20, *pe* = 80).

blessing is equivalent to the burning of incense. And it is written in *Parashat Naso*: 'One spoon of ten gold coins, full of incense.' Why ten? Rather, because the incense is important [*'chashuvah'*; or perhaps this should read 'is considered like a blessing' (*'chashuvah ki-berakhah'*), and a blessing is worth ten gold coins, therefore also the spoon of incense must be of ten gold coins. Thus I received from the holy mouth of Rabbi Yehudah he-Chasid."

**ANOTHER ALLUSION TO A HUNDRED BLESSINGS
IN THE VERSE
"ONE SPOON OF TEN GOLD COINS, FULL OF INCENSE"**

Since we are already discussing the comparison between a blessing and incense alluded to in the aforementioned verse, mention should be made of a wonderful idea that I saw in the book "*Ma'ayan Beit ha-Sho'evah*" of Rabbi S. Schwab, *zt"l*, in explanation of the *gematriya* brought by Rashi on this verse, that *ketoret* is equivalent to 613, if we substitute the letter *dalet* for the letter *kof*, by using the method of *at bash gar* [*alef* = *taf*; *bet* = *shin*; *gimmel* = *resh*, etc.]. R. Schwab asks: "What connection does the letter *kof* which equals a hundred have to the letter *dalet* which equals four? He answers that replacing the *kof* with a *dalet* alludes to the one hundred blessings, for the Torah wishes to allude that the source of the hundred blessings is included in the number four. This has two aspects. First, that while most blessings are of rabbinic origin, there are, however, four types of blessings that are by Torah law: *birkat ha-mazon* (which is derived from the verse, "When you have eaten, and are satisfied, you shall bless" [*Devarim* 8:10]); the blessing recited over the Torah (which is derived from the verse, "When I will call on the name of the Lord, ascribe greatness to our God" [*Devarim* 32:3]); the blessing over the separation of tithes (which is derived from the verse, "I have not transgressed your commandments, neither have I forgotten them" [*Devarim* 26:13], as is explained in the *Sifrei*); and the blessings of prayer (for prayer is by Torah law, as it is stated, "And to serve Him with all your heart" [*Devarim* 10:12]). And second, every blessing includes four Torah *mitzvot*: the love of God, the fear of God, serving

God with all one's heart, and cleaving to God. Each of the hundred blessings includes these four elements. So argues R. Schwab.

We may add another point in light of what was stated earlier. How amazing it is that the Torah chose the word *ketoret* to teach us the matter of the hundred blessings through a replacement of the letter *kof* with the letter *dalet* (besides what Rashi says that with the substitution the word *ketoret* is equivalent to 613)! For it has already been explained that there is a common aspect to the mystery of the hundred blessings and the mystery of the incense, as we have demonstrated that they both have the power to stay a plague and to bring down blessing and wealth, and that the blessings of Israel are regarded as incense. (And perhaps for this reason the word *ketoret* begins with a *kof*, so as to allude to the hundred blessings which are similar to the *ketoret*).

ANOTHER ALLUSION TO THE TEN GOLD COINS AND TO THE RELATIONSHIP BETWEEN BLESSING AND INCENSE

The *Or Zaru'a*, at the beginning of the passage cited above, brings another allusion to the idea that a blessing is worth ten gold coins from what is stated in the biblical passage regarding the mission of Eliezer: "And the man took... and two bracelets for her hands of ten shekels weight of gold" (*Bereishit* 24:22). He says as follows: "This is difficult, for what is [the meaning of] this wording? It should have said: 'And he placed the ring upon her nose,' as it says below: 'And I put the ring upon her nose, and the bracelets upon her hands' (v. 47). Rather, this teaches you that his intention was not [to give her the rings] as a present, but rather the servant said in his heart: She has caused that in the future I will bless God, as it is written: 'And he said, Blessed be the Lord God of my master Avraham' (v. 27). Therefore I must give her ten gold coins, for thus have I received from my master Avraham that a blessing is worth ten gold coins. Know that this is true, for below it is written: 'And I placed [*va'asim*] the ring upon her nose,' the word *va'asim* spelled

defectively without the letter *yod*. This teaches you that this placement was not as a present, but payment for a blessing."¹⁶

It seems that from the *Or Zaru'a's* allusion as well, it is possible to appreciate the comparison between a blessing and incense, for besides the two bracelets weighing ten shekels of gold that Eliezer gave to Rivkah because of the blessing, he also gave her a ring for her nose, as it is stated later in the story (v. 47), "And I placed a ring upon her nose." The words "upon her nose" allude to the incense, as it is written: "They shall put incense before Your presence [literally, 'Your nostrils']" (*Devarim* 33:10), for incense is indicative of the sense of smell which pertains to the nose.

Deep within this comparison between blessing and incense there undoubtedly lie profound esoteric mysteries of the Torah. What we have suggested here does not reach the essence of the matter, but only the surface level. *Chazal*, however, have taught us that even the mundane conversations of Torah scholars require study. All the more so are the allusions cited by the *Rishonim* included in this rule and therefore they must be studied. May God show us the wonders of His Torah.¹⁷

¹⁶ A similar allusion is brought in Rabbenu Bachya's *Shulchan shel Arba*. See also *Torat Chayyim*, *Bava Kama* 91b and *Ben Yehoyada*, *Chullin* 87a. (There he explains that she caused him to recite a blessing over the water.)

¹⁷ It should be noted that while the connection between incense and blessings seems to apply to every type of blessing (the formulation comparing a blessing to incense in *Responsa Min ha-Shamayim* relates to the blessings of *Hallel*), the wording of Rabbenu Bachya in his *Kad ha-Kemach* (s.v. *berakhah*) implies that there is a special relationship between the incense and the blessings associated with a meal.