

The YU|LAM|DAN

The Wilf Campus Torah Journal

APRIL 2014 • PESACH 5774

Volume III Issue III

Inyana D'yoma

A Fifth Cup of Wine at the Seder?

RABBI YOSEF BLAU

There is a rabbinic obligation at the Pesach seder to drink four cups of wine. The Talmud Yerushalmi gives a few reasons for the choice of four cups. They parallel the four redemptions that Hashem promised the Jews in Egypt (Shemot 6); they parallel the four references to Pharaoh's goblet (Bereshit 40); they parallel the four kingdoms that have had or will have dominion over the Jews in exile; or, they parallel the four "cups of retribution" that the Jews' oppressors will drink at the end of days.

In our texts of the Talmud (*Pesachim* 118a) there is no mention of an additional cup of wine. However, the text of the Rif mentions a fifth cup. The Rambam's (8,10) view is more complex. He writes: "after, one washes and recites Birkat ha-Mazon on the third cup and drinks it; after, he pours the fourth cup and completes Hallel on it, and recites Birkat ha-Shir (*yehaleukha Hashem kol ma'asekha*), recites the blessing on wine, and tastes nothing more that night except water. He may pour a fifth cup and recite Hallel ha-Gadol (*hodu la-Hashem ki tov until al naharot bavel*), but this cup is not obligatory like the first four."

What does the Rambam mean that the fifth cup is not obligatory like the first four? The Ran suggests two possibilities: that it is optional, or that it is for those who want to do the mitzvah in a better way. Interestingly, the Mehaber in the Shulhan Arukh does not mention a fifth cup, while the Rama quotes a view that if one is thirsty one may drink a fifth cup as long as one recites Hallel ha-Gadol before drinking it. Essentially this opinion considers it permissible, with the recital needed as a condition for permission. (I do not have an explanation for why the Mehaber rules like the Rosh, who rejects a fifth cup, against the views of both the Rif and Rambam; this contradicts his introduction, where he says that he rules according to the majority of the three authorities.)

On the surface the sources quoted by the Yerushalmi do not allow for drinking an additional cup of wine. The recital of Hallel ha-Gadol, which mentions the miracles of *yetsiat Mitsrayim* within a broader framework of Hashem's miracles starting with creation, needs to be understood as well.

The dispute about *Birkat ha-Shir*, with one view that it is (or includes) Nishmat, may be the key. Nishmat reflects

Ephraim Meth
Elchanan Poupko
Shlomo Zuckier
Editors

Meir Goodman
Managing Editor

Jeremy Perlow
Associate Editor

The Lamdan Staff wishes a heartfelt Mazal Tov to the new Musmakhim of Yeshiva. "Shetizku Lahagdil Torah U'l'haadira!"

The submission deadline for our Shavuot issue is May 1st. For submissions or questions email: TheLamdan@gmail.com

S  **Y-JSC**
Student Organization of Yeshiva - Jewish Studies Council

Visit us online:
www.thelamdan.com

a broadening of praise to Hashem for all the miracles of life. At this point in the Seder we move beyond focusing on *yetsiat Mitsrayim* to praising Hashem for all the miracles done for the Jewish people throughout history. The fifth cup places *yetsiat Mitsrayim* in a larger context. This is not obligatory, as the night's primary mitzvah is *sippur yetsiat Mitsrayim*, but it may be an enhanced mitzvah according to one understanding of the Rambam.

The Rabad connects this fifth cup with *ve-Heveti*, an apparent fifth term of redemption that somehow was not mentioned by the Yerushalmi.

There are three explanations why *ve-Heveti* is not counted as a fifth term of redemption. The Ramban in his introduction to Shemot writes that the redemption

was completed by the building of the Mishkan and was not dependent on coming to Israel. Since *ve-Heveti* refers to Hashem's bringing us to Israel, it is a post-redemption term, not a term of redemption itself. Second, the generation that left Egypt did not merit entering the land. Alternately what is different is that the four terms of redemption refer to actions by Hashem for the Jewish people, without their need to participate; coming to Israel, however, required an active role by the Jews.

All three fit into the idea that the mitzvah of *sippur yetsiat mitsrayim* ends with the drinking of four cups but the full relationship of the Jews and Hashem and the total redemption incorporates a voluntary fifth cup.

HALAKHICALLY INCLINED: WOMEN AND THE MITZVA OF HASEIBA

RABBI SIMON BASALELY

The Gemara in Masechet Pesachim (108a) clearly delineates the requirement of *haseiba* (leaning) for the eating of Matza and at least two of the four cups of wine at the *Seder Leil HaPesach*¹. The Gemara then continues to discuss how the *haseiba* is done and if there are any people who are exempt from it. Amongst the list of those who are obligated and excluded from *haseiba* is the following line, which has led to much Halakhic discussion regarding its scope and contemporary application: "A woman who is in the presence of her husband does not require *haseiba*. However if she is an important woman (*isha hashuva*) she would lean." This statement raises a number of questions, which I hope we will cover over the course of this discussion:

What is the address basis of this distinction between women and men regarding *haseiba*? The Gemara (Pesachim 108a-108b) clearly obligates women in drinking the four cups of wine because of their parallel (or perhaps primary²) involvement in the miracle that the holiday commemorates³, why would *haseiba* be any different?

Is this exemption limited to married woman or would unmarried women be included in this dispensation?

How do we define an important woman (*isha chashuva*)?

How does this Halakha manifest itself in contemporary times?

Two Explanations Regarding Why Women are not Obligated in Haseiba

Regarding the first question, why a woman would be

different than a man regarding the Mitzvah of leaning at the Seder, Rashbam (Pesachim 108a DH Isha) gives two reasons. First, he states, because of her awe of her husband and her subservience to him. Why would that exempt her from the Mitzva of *haseiba*? *Haseiba* is supposed to be an expression of freedom and as such only makes sense if it is natural. It is unnatural to recline in the presence of her husband as it is inappropriate, hence doing so would in effect not be an expression of freedom. We can also suggest a simpler interpretation, namely, that the value of respecting her husband outweighs the value of the expression of freedom that is accomplished through *haseiba*. Rashbam cites a second answer from the Sheiltot that it is not the way of women to drink wine (presumably in a leaning fashion). The Rosh (Pesachim 10:20), while analyzing these two reasons given in Rashbam, answers our second question as well. He points out that according to the first answer – that women do not lean because of fear of their husbands – presumably the rule would not apply to a divorced or widowed woman (and seemingly for that matter a woman who was never married). According to the second answer – that women do not lean because it is not part of their normal behavior – this dispensation would apply equally to all women, irrespective of their marriage status⁴. The Aruch HaShulkhan (472:6) points out that it would seem that the Sheiltot did not have the *girsas* of "*Isha Etzel Baalah*" as appears in our texts, rather "*Isha*." This seems to also have been the *girsas* of Rif (Pesachim 23a BeDapei HaRif) and Rambam (Chametz U'Matzah 7:8). It's interesting to note that Rashbam him-

self, although he first cites an interpretation which applies the law specifically to married women, also has the *girsā* of “*Isha*,” implying that the *girsā* is not incompatible with the first interpretation of Rashbam. Either way, from the simple language of the Rif, Rambam, Shulhan Arukh (472:4) and the Mishna Berurah (472:12), it would seem that this exemption would apply equally to all women irrespective of their marriage status (as long as they are not *Isha Chashuva*, as to be discussed below).

The Concept of *Isha Chashuva*

As mentioned above, the Gemara states that if a woman is an *Isha Chashuva* – a woman of great status – she is obligated to lean at the Pesach Seder. It is interesting to note that the Bet Yosef (472:4) quotes both Rabbenu Yerucham and the Mordekhai who record the opinion of the Baalei HaTosafot that all women today have the status of an *isha chashuva*, thus obligating all women today to lean at the *seder*. The Rema (472:3) codifies the opinion of these Rishonim (although his opinion regarding actual practice differs as we will see below). Unfortunately, none of these sources seem to define what makes a woman an *isha chashuva*. Rabbenu Manoach (Chametz UMatzah 7:8) provides three possible explanations as to what is considered an *isha chashuva*: (1) She does not have a husband and therefore serves as the head of her household. (2) She descends from great Torah scholars and contains all the praises described in *Eshet Hail*. (3) The reason why a woman is exempt from leaning is that she is very busy with preparations for the meal. Hence, an *Isha Chashuva*, has a staff of servants at her disposal making her available to fulfill the Mitzvah of leaning.

The first two explanations do not seem to be applicable to all women and therefore unlikely to have been the reason of Mordekhai and Rabbenu Yerucham. The third one could have been the intention of the Baalei Hatosafot, and leaves one to wonder as to the domestic help available for women in medieval France and Germany. Another interpretation of *isha chashuva* which I heard in the name of Rav Soloveitchik⁵ is that the woman plays a significant role in the decision making process of the home. This would be a more palatable explanation of why all women should have attained the status of an *isha chashuva*. Another explanation, which seems to be accepted *lehalacha* by the Kaf HaChaim (472:26), is that of the Rokeach, who writes that since it is no longer the way of husbands to be very particular about their wives leaning, all women today attain the status of *chashuvot*.

The Rema and Contemporary Ashkenazic Practice

Despite Rema’s codification of the opinion of the Baalei Hatosafot that all women today have the status of an *isha chashuva*, Rema actually concludes that women do not have the custom to lean at the *seder* because they rely on the opinion of the Raavyah who holds that since leaning is not normally practiced during regular meals anymore it no longer has the status of an expression of freedom and therefore is no longer necessary. Although the Bet Yosef (472:4) points out that this opinion has already been rejected, nevertheless, Rema felt that this was a sufficient basis to explain the custom of Ashkenazic women not to lean at the Seder.

In light of this opinion of Rema, may Acharonim deal with the following question: why would only women rely on the opinion of the Raavya, and is there another way to explain this custom of women not to lean?

R’ Dovid Feinstein in Hagadat Kol Dodi, as well as R’ Asher Weiss in his Hagaddah, suggest an alternative way to explain the custom. Perhaps women don’t actually fall into the category of *isha chashuva* as previously suggested. This would fit appropriately well in light of the aforementioned fact that the three reasons mentioned above by Rabbenu Manoach are not universally applicable. However, if this reason was true, there should at least be some women who have the status of *Isha Chashuva* and don’t lean.

Rabbi Mordechai Willig (Am Mordekhai), based on several sources, demonstrates that there are two reasons why we recline at the Seder. One is as a commemoration of the miracle and the second is as an expression of our freedom as form of a public display of the miracle. Rabbi Willig quotes from Rav Soloveitchik that the precept of “*Af Hen Hayu BeOto HaNes*” only obligates women in *mitzvot* which are public displays of miracles, not in those which serve only as a commemoration of them. Since our leaning today is no longer a true expression of freedom (as per the comments of the Raavyah), the mitzvah of leaning serves only as commemoration of the miracle, which women are not obligated in.

Rav Shlomo Zalman Auerbach (cited in Hagadat Minchat Asher) suggests that since leaning is no longer considered to be an expression of freedom, our leaning today is only a function of custom, perpetuating our forefather’s practice of learning while eating and drinking. Since women in those days generally did not lean, as the status of *isha chashuva* was on an individual rather than collective basis, if women were to perpetuate the practice of their foremothers, they would still not lean.

The Sephardic Practice

Although the Shulchan Arukh makes no mention of this idea that all women are considered “Nashim Chashuvot” and the concept is only introduced by the Rema, the Sephardic practice seems to follow the opinion of Baalei HaTosafot requiring women to lean at the seder (See Yalkut Yosef, Moadim, p. 385). In explanation of this practice, the Kaf HaChaim (472:4) cites the Rokeach as mentioned above. This is also the reason favored in Shu”t Chazon Ovadya (Siman 14). This explanation of the contemporary Sephardic practice is difficult in that, as we showed above, the primary reason why women are not obligated to lean seems to be that of the Sheiltot, who writes that it is not the *Derekh* for women to lean. (This actually seems to be the opinion of Kaf Hachaim himself (472:24)). If so, the reasoning of the Rokeach, that husbands aren’t particular about their wives leaning, doesn’t seem to be relevant to the opinion of Baalei HaTosafot.

Perhaps the Sephardic custom for women to lean is based on another explanation giving by the Chida (Birkei Yosef 472:3). As we just mentioned, women generally don’t lean at the seder because it is not the *Derekh* of women to lean. But, as we also established above – it is not the *Derekh* of anyone to lean! Nevertheless, we do it as part of our Seder experience and expression of freedom. Therefore,

today, when leaning is unusual for everyone, not only women, there is no reason to distinguish between women and men. Hence, the change in custom for women to lean is not a function of the change in status of women, rather of the change in behavior of men⁶.

1 The Gemara concludes very famously that due to the uncertainty as to which two cups one must lean for the accepted practice it to lean for all four out of doubt. This is codified by Rambam (Hametz UMatzah, 7:8) and Shulchan Arukh (473:2, 479, 480).

2 See Rashbam and Tosafot beginning of 108b)

3 The obligation of women to drink the four cups of wine is also codified by Rambam (Hametz UMatzah, 7:7) and Shulchan Arukh (472:14).

4 An interesting third possibility suggested by Rav Shlomo Zalman Aurbach (Chidushim to Pesachim 108a) is that really the reason for not leaning is related to married women and their husbands, but once the Chachamim didn’t institute the mitzvah of leaning for such a large portion of the female population they did not institute it for any women.

5 I heard this explanation third hand. When I asked Rav Herschel Schachter if he had ever heard this explanation from Rav Soloveitchik, he responded that he had never heard it from Rav Soloveitchik, however, he thought it made sense.

6 It is interesting to note that this explanation is similar to that of Rav Shlomo Zalman Auerbach mentioned above, in that it presupposes that men and women lean today only out of custom, however, its conclusion is the opposite.

THE OPPURTUNITY OF YOM TOV

YISRAEL APFEL

The Rambam,¹ based on the *pasuk* in Yeshayahu of ‘*ve-karata la-Shabbat oneg li-kedosh Hashem mekhubad*,’ writes that on Shabbat we have mitsvot of Kevod and Oneg Shabbat. The Rambam defines the Mitsvah of Kevod Shabbat as including those things which a person does during the week in preparation for Shabbat such as bathing and wearing special, clean clothes in honor of Shabbat. Additionally, refraining from eating a large meal on Friday and being involved in the purchase and cooking of food for Shabbat is included, as well.² The Mitsvah of Oneg Shabbat includes those things which a person does on Shabbat itself out of enjoyment, such as having three meals with two loaves of bread and eating meat and wine.³

In Hilkhot Yom Tov,⁴ Rambam writes that the Mitsvot of Kavod and Oneg apply to all the Yamim Tovim as well. He writes that the same way there are Mitsvot of ‘Kavod’ and ‘Oneg’ on Shabbat, similarly they exist for all Yamim Tovim. As an example of ‘Kevod Yom Tov,’ Rambam rules that one should not eat a meal Erev Yom Tov after Minhah in order to have a good appetite on Yom Tov.

Does Rambam mean to include Hol ha-Moed as requiring Kevod and Oneg Yom Tov?

R. Akiva Eiger rules⁵ that the Rambam does not include Hol ha-Moed in the Mitsvot of Kevod and Oneg Yom Tov. He infers this from the fact that in the above Halakha, Rambam specifically does not mention Hol ha-Moed, and only introduces Hol ha-Moed in the following Halakha, where he writes that it is forbidden to eulogize and fast for all 7 days of Pesach and Sukkot along with the other Yamim Tovim since there is a Mitsvah of Simhah on Yom Tov.⁶ The implication is that the Mitsvot of Kevod, Oneg, and Simhah all apply to Yom Tov but only the Mitsvah of Simhah applies to Hol ha-Moed.

R. Akiva Eiger was dealing with the case of one who forgets to say ‘Yaaleh veYavo’ during Birkat ha-Mazon on Hol ha-Moed. The Gemara⁷ tells us that on a day when a person had an obligation to eat a meal with bread such as Shabbat or Yom Tov, he would have to repeat *bentching* if he forgot to say it, but on a day where there is no obligation to eat a meal, such as Rosh Hodesh, he would not

have to go back. What about Hol ha-Moed? R. Akiva Eiger writes that since the Mitzvah to eat a meal with bread on Shabbat stems from the Mitzvah of Oneg Shabbat, therefore on Hol ha-Moed, where there is no Mitzvah of Oneg Yom Tov, one would not be obligated to repeat Birkat ha-Mazon since there is no obligation to eat a meal.⁸

The Torah (Shemot 34:17-18) juxtaposes the prohibition of making idols with the positive Mitzvah of keeping the Yom Tov of Pesach and eating Matsah for seven days. Why are these two Mitzvot put next to each other? The Gemara (Pesachim 118a) explains that this teaches us that anyone who disparages (*mevazze*) the Moadot, it is as if he worships Avodah Zarah. The severity of being '*mevazze* the Moadot' is echoed again in Avot, where the Mishnah tells us one who is '*mevazze* the Moadot, even if he has Torah and good deeds, he does not have a share in the world to come.⁹ Rambam codifies this after defining the mitsvot of Kevod and Oneg Yom tov.

What does it mean to be *mevazze* the Moadot? On a basic level it seems to mean that one who does not uphold the Mitzvot of Kevod and Oneg on Yom Tov is disparaging the Yom Tov. Rashbam explains that the Gemara is referring to one who does *melakhah* on Hol ha-Moed. The Gemara (*Hagiga* 18a) learns out from the same Mitzvah in Shemot which teaches us to observe seven days of Pesach that there is a prohibition of doing *melakhah* on Hol ha-Moed. Tosafos (ibid, DH Holo) infers from Rashbam in Pesachim that he understands the prohibition of doing *melakhah* on Hol ha-Moed to be on a level of an Issur Deoraita. Tosafot themselves adduce proofs to reject this understanding and instead hold that the status of doing *melakhah* on Hol ha-Moed is mi-deRabbanan. Tosafot learn that the *pasuk* the Gemara quotes is simply an *asmakhta*. Rabbeinu Yonah and Rashi¹⁰ also explain this phrase as referring to one who does *melakhah* on Hol ha-Moed, with Rashi adding that it also includes eating on Hol ha-Moed in a weekday manner.

Why should doing work on Hol Ha-Moed be considered tantamount to idol worship? We can explain this based on the words of Rabbeinu Yonah in his Shaarei Teshuvah.¹¹ He explains that a person who is *mevazze* the Moadot is doing so because he does not view the prohibition of doing work on Hol Ha-Moed as binding since it is not explicitly stated in the Torah. A person who implicitly denies the Mitzvot that are taught to us through Hazal and only adheres to the ones written clearly in the Torah is equated to an oved Avodah Zarah. Hashem desires that we treat the Mitzvot written in the Torah and the Mitzvot learned out through the Oral Law similarly. Denying any

law of oral provenance goes against Hashem's will.

However, Rambam does not understand this Gemara as referring to Hol ha-Moed, but rather to one who mistreats Yom Tov itself, which is written explicitly in the Torah. To explain why mistreating Yom Tov is equivalent to serving Avodah Zarah, Maharal¹² describes what our experience on Yom Tov is supposed to be. The term Moadot is related to the words that Hashem uses to tell Moshe that He will communicate with Moshe from on top the Aron ha-Kodesh of 've-Noadi Lekha.'¹³ Hashem was telling Moshe that they will have their Moed, or their coming together, by the Aron ha-Kodesh. Hashem designated Yamim Tovim to be special meeting times between Him and Kelal Yisrael. For this reason, the Gemara in Yoma says that when Kelal Yisrael would go up to the Beit ha-Mikdash on Yom Tov, the Kohanim would lift up the Parokhet showing the two Keruvim on the Aron embracing each other. This embrace between the two Keruvim symbolized Hashem embracing Kelal Yisrael at this special time of Yom Tov. A person who does not observe Kavod and Oneg is implicitly denying the uniqueness of this day as a special time for rendezvous with Hashem. This person shows he is not interested in making the connection with Hashem and does not wish to meet Him.

1 Hil. Shabbat 30:1

2 Ibid. 30:2-6

3 Ibid 30:7,9,10

4 6:16

5 Teshuvot 1:1.

6 See Halakha 22, where Rambam writes explicitly that one is obligated in the Mitzvah of Simhah on Hol ha-Moed .

7 Berakhot 49b.

8 R. Akiva Eiger brings support for his ruling from the pesak of the *Shulchan Arukh* (188:7) who also rules that Hol ha-Moed has the same status as Rosh Hodesh regarding one who forgot Yaaleh ve-Yavo.

9 Avot 3:11.

10 Commentary to Avot ibid.

11 Shaar 3:146.

12 Hiddushei Aggadot to *Makkot* 23a.

13 Shemot 25:22.

FROM MATZAH TO MEDICINE

YITZ RADNER

Upon feeling hungry, we may run to the local supermarket to purchase the widely consumed Red Delicious apples. We recite a *berakha* and take a bite out of the apple, chewing it slowly, feeling the crunchiness on our palate as it becomes softer and smaller. Our mastication allows for the release of the sweet. We chew until the piece of apple is small and soft enough to swallow. The apple glides into the esophagus, giving us a pleasurable sensation, and continues to be digested as it travels to the stomach. A moment later, the hunger has been somewhat alleviated. *Mah Rabbu Ma'asekha HaShem!*

The question we must ask ourselves is whether the apple-eating experience described above is paradigmatic of what the Torah calls “*Akhalah*,” eating. To elaborate, let us entertain a few more questions: If I placed a piece of bacon upon my tongue to taste, but did not chew or swallow the bacon, did I violate the prohibition against eating bacon? Or, if I chewed the bacon, but expectorated it before swallowing anything, can it *now* be said that I ate bacon? What if I swallowed a vitamin made from liver? Am I now *fleshy*, and cannot eat cheese for six hours? Additionally, if I am totally replete from the multi-course *se'udah* that finished only an hour earlier, can I satisfy the *Mitsvah* to eat *Shalosh Se'udot* if the tuna fish sandwich I plan to eat now will not alleviate any hunger or provide me with an enjoyable experience? Or, am I truly held responsible for eating shrimp if the shrimp was force-fed to me? Similarly, does the Torah prohibit eating oysters if consumed them only because of their health benefits but not for physical enjoyment? What about ingesting food without chewing, tasting, and swallowing? For example, is it accurate to term ingesting via a feeding-tube as *eating*? To sum up our questions, is “eating” defined simply by the act of putting food into the body (regardless of the ingesting method or sensations involved), by the purpose for putting things into the body (nutrition, well being, etc.), or, by the particular experiences and sensations associated with ingesting food (hunger alleviation, enjoyment of taste, chewing, swallowing, etc.)?

But let us take one step further. How are we to define “food”? Given our apple-eating experience, must “food” have all the qualities that an apple has to offer? Must “food” be something consumed by the masses, regardless of its inherent qualities? Must it offer a pleasant taste, be chewable, provide the pleasing sensation experienced

when swallowing, alleviate hunger, be digestible, be beneficial for the body and *neshamah*, and not interfere with Halakhah? Would chocolate-covered pickles, poisonous watermelon, meatballs too hot to be chewed, unhealthy French fries, and lobster all qualify as “food” for the Jewish diet?

While a full analysis of all these issues is beyond the scope of this article, perhaps we can grapple with a few perspectives we find in the Rishonim, Aharonim, and Posekim with regard to “eating” and “food.” The *Shulhan Arukh* (O”C 475:3) rules that (while not recommended,) one can satisfy the obligation of “eating” *matsah* on Pesach by simply swallowing *matsah* without chewing. Thus, the Mehaber seems to hold that swallowing alone constitutes “eating.” However, in the very same breath, the *Shulhan Arukh paskens* that swallowing *maror* without chewing does not satisfy the obligation to “eat” *maror* on Pesach. Asks R. Mordechai Yaffe (*Levush*, O”C 475:3), how can swallowing qualify as “eating” only with regard to *matsah*, but not *maror*? R. Yaffe answers that the Torah underscores that the purpose for eating *maror* on Pesach is to commemorate the bitterness of our slavery in Egypt. Therefore, ingesting *maror* without chewing/tasting lacks the critical experience of bitterness. However, since *matsah* serves to commemorate the bread of our affliction – bread fed to slaves to fill their stomachs economically – swallowing *matsah* without actually tasting or chewing it suffices. And, in fact, R. Yechezkel Landau (*Shu”t Noda be-Yehudah* I Y”D 35) rules based on this that since swallowing alone constitutes “eating,” Biblically prohibited foods may not be ingested for medicinal purposes even if no chewing or tasting is involved.

However, the *Levush* adds that while the sensation of tasting *matsah* is not critical to “eating,” flavor *is* critical to the nature of a food. In other words, while the act of “eating” *matsah* may not depend on the sensation of tasting, *matsah* ingested must be able to offer flavor to be considered “food”; it is for this reason that *matsah brai* cannot be used for the *Mitsvah* of *matsah*, as it lost its once rich flavor of *matsah* via the cooking done after the *matsah* was baked.

There is a fascinating discussion amongst the Rishonim regarding the permissibility to eat *hamets* on Pesach when the *hamets* is unfit for human consumption. For example, suppose I retrieve the completely incinerated bagel from

the pail in which I performed *Bi'ur Hamets*? Am I to be held liable for eating *hamets* on Pesach if I consume the bagel? While the *Ba'al ha-Maor*, Ran, and Meiri maintain that there is nothing wrong with eating the incinerated bagel on Pesach, the Rosh (*Pesachim* 2:2) argues that consuming the bagel is prohibited. And, in fact, the *Shulkhan Arukh* (O" C 442:9) follows the opinion of the Rosh! But how could there be liability for eating *hamets* if the item ingested could hardly be served for dinner? The Aharonim explain the Rosh to hold that the act of consumption upgrades the consumed item to constitute food. In other words, the Rosh would seem to hold that the act of putting anything into our bodies constitutes eating, regardless of the properties of the ingested item.

However, we must wonder whether any method of ingestion can serve to upgrade the incinerated bagel, or whether such actions to upgrade the inedible are limited to the quintessential form of eating – such as chewing. And this leads us to the question the Posekim address regarding the intake of pills containing starch on Pesach. Interesting is the fact that the *Hazon Ish*, R. Moshe Feinstein, R. Ovadiah Yosef, and R. Shlomo Zalman Aurbach all conclude to permit the intake of such pills on Pesach. However, the nuances within each approach must be appreciated to recognize their more fundamental understandings of “eating” and “food.” At first, R. Ovadiah Yosef (*Shu"t Yehavveh Da'at* 2:60) argues to permit ingesting pills containing *hamets* unfit for (typical) consumption, as “the palate cannot enjoy them because of their unpleasant taste.” However, in light of the aforementioned Rosh (that ingesting upgrades inedible items), R. Ovadiah Yosef refers to the logic of the *Hazon Ish* (116:8) and R. Moshe Feinstein (O" C 2:92) who posit that the act of putting food into the body does not constitute “eating” if

done for medicinal purposes. In other words, both the *Hazon Ish* and R. Moshe seem to hold that, while swallowing alone can potentially upgrade a typically non-food item and ultimately engender an act of *akhilah*, the purpose for ingesting can override the upgrade; thus, it can be said that standard for food is not necessarily objective; rather, the nature of food can shift as per the nature of the act of ingesting. R. Shlomo Zalman (*Minhat Shlomo* 17), on the other hand, contends that swallowing alone (without chewing or tasting) cannot constitute “eating” if the item ingested is not edible and not typically consumed by healthy people; therefore, while one would be liable for swallowing pork, one would not necessarily be accountable for swallowing bitter pills reserved for the ill. In other words, R. Shlomo Zalman seems to hold that the act of eating and the inherent nature of the item consumed are interconnected; to be considered “eating,” the item ingested must be considered “food”; but the nature of “food” is dependent upon what healthy people typically consume.

In conclusion, we find that ingesting can connote a relationship between the consumer and the item consumed. However, we also find that the purpose of ingesting can affect the nature of that relationship – as R. Moshe and the *Hazon Ish* hold that consuming for medicinal purposes does not constitute “eating.” Moreover, “eating” is dependent upon the manner in which the ingestion is accomplished (such as, swallowing) and upon the nature of the item ingested – as *matsah* must be able to avail its consumer of *matsah* flavor, and (as R. Shlomo Zalman maintains) that “eating” can depend upon the nature of the “food.” And still, we find that the definition of “eating” can be local, as we must taste *maror* to satisfy the obligation to “eat” *maror*.

FEEDING DEPENDENTS AND THE OBLIGATION BETWEEN G-D AND THE JEWS

YITZCHAK FRIED

Pesach teaches the idea that the Jewish nation is *indebted* to G-d. This indebtedness is the source of our responsibility to keep G-d's commandments, and to devote ourselves to Him. The *pasuk* in Behar¹ invokes this concept as a reason why it is forbidden to oppress an *eved ivri*. Ultimately a Jew is G-d's slave, not that of his fellow Jew. One sees that the Torah refers to the relationship between Jew and G-d as that of master and slave. In other words, besides for the relationship between Creator and creation that all mankind share, Jews have a unique rela-

tionship with G-d of slave to master, since G-d's kindness, as experienced through the redemptive process, put them eternally in His debt.

A Halachik *sugya* provides insight that concretizes this idea. The topic of the obligation to feed dependents, in its multiple manifestations, demonstrates how a relationship of “possession” is incurred in the Torah's view, and, more importantly, what effects such a relationship has. For our discussion we will focus on three examples: one's obligation to feed his animals, a husband's obligation to feed his

wife, and a Jew's obligation to feed the wife of his *eved ivri*.

Let us start with the master's obligation to feed the wife of an *eved ivri*. The *pasuk* in *Mishpatim*² states that if an *eved ivri* is married, his wife should go free with him at the end of his six-year service. This is a strange law. The enslavement of the *eved ivri* does not extend to his wife as well. If the wife is not a slave, why then does the Torah need to command the master to set her free? *Chazal* understand that the *posuk* really implies that during the term of slavery the master must feed his slave's wife. At the end of the slavery, she leaves the master's "domain." We see then that as a result of the fact that a master supports his slave's wife, the Torah views her as in his "domain."

The Ramban on that *pasuk* makes the Torah's language even more striking. He suggests that since the master is feeding his slave's wife, he should take ownership of her handiwork; similar to the way a husband owns his wife's handiwork as a result of the fact that he feeds her. This is not simply an act of compensation. It reflects the fact that the recipient of livelihood is in the "domain" of his or her benefactor.

A similar example of this principle can be seen in the *Gemara* Nedarim 73b. The *Mishna* there discusses the right of a husband to annul his wife's vows. This is a reflection of the fact that the wife is viewed as in the husband's "domain". The *Mishna* discusses a case where a couple has performed *kiddushin* (the first stage of the marriage ceremony), but has not yet performed *nisuin* (the final stage). The right to annul vows is normally only a product of *nisuin*, a complete marriage. However, the *Mishna* states that according to R' Eliezer a husband has the right to annul his wife's vows once 12 months have passed since *kiddushin*. This is because after 12 months a husband is obligated to *feed* his wife-to-be. At first glance, this is strange. The obligation to feed a wife-to-be after 12 months is only rabbinic in nature; how can this be the basis for the right to annul vows, which is a Torah law dependent on *scriptural* categories of marriage?

The *Gemara* first connects R' Eliezer's opinion to a different *Mishna*, which states that 12 months after a *kohen* performed *kiddushin* he may begin feeding his wife *terumah*. This connection is also strange. The prohibition for a husband to feed his wife-to-be *terumah* (a non-*kohenet*) is only rabbinic in nature – it is based on a concern that the marriage may end up being annulled if the husband discovers previously unknown information about his wife. Because of this concern, which would make the marriage null-and-void, *Chazal* prohibited feeding a

non-*kohenet terumah* until 12 months post-*kiddushin*, at which point it's assumed that the husband has thoroughly investigated his wife-to-be's background.

Why then does the *heter* to feed a non-*kohenet terumah* after twelve months also imply an ability to annul vows? The Ran³ explains that even though the concern regarding *teruma* is only rabbinic, since *Chazal* decreed that a woman post *kiddushin* is not yet "married" in regard to *terumah*, they would not lift this decree unless it could be shown that some new phase of marriage had *objectively* begun (i.e. on a scriptural level). If the *Mishna* states that the decree lifted after twelve months it *must* be that a new stage of the marriage, i.e., the husband's right to annul vows, has been created. What causes this new stage of marriage? The fact that the husband *has begun feeding his wife*. This rabbinic obligation *creates* a new level of marriage; the wife-to-be is considered within her husband's "domain" on a level that entitles him to annul her vows.

The above *sugyot* have shown how the dependence of one party on another places the dependent party in its benefactor's "domain". By virtue of the dependent party's fundamental indebtedness to the "giver" the giver is granted authority over his/her dependent. A final example of this will help us understand that this is not a one-way cause and effect, but rather a cycle. Supporting another gives you authority over that other; having authority over another makes you responsible to support them. This gets to the core of the relationship that exists between G-d and us.

The Torah obligates⁴ a man to feed his animals. On Shabbat and Yom Tov, this requirement comes into conflict with a Rabbinic prohibition against excessive labor. Feeding animals that are not one's dependents would certainly be considered unnecessary labor. In the case of animals that are one's dependents, however *Chazal* made an exception. Tosafot on Shabbat 106B explain that the *heter* to feed animals in one's ownership only applies to animals to which there is no longer any possibility of trapping *mid'oraysa* – i.e., to an animal that is already significantly trapped. What is the connection between trapping and an obligation to feed your animals? Tosafot write: animals that are trapped to such an extent carry a *greater responsibility to feed*. Only for such animals did *Chazal* dispense with the prohibition against excessive labor. Thus, having greater authority and control over a party creates a greater responsibility to care for them.

The reverse dynamic is also true. As shown, taking care of a party by making him/her your dependent, creates a

level of authority and control. The Gemara in Beitza 24A states that the reason why there is no transgression of trapping with regards to domesticated chickens and geese is because, although they run wild during the day, they return to their coops at night. Although doves of a dove-cote also return to their roosts at night, one is forbidden to trap them on Shabbat and Yom Tov because they are *not dependent on their owner for food*. Thus, the fact that chickens and geese depend on their owner for food makes them more in his “domain.” It is for this reason that catching them does not involve a transgression; it is as if they are already trapped! To reiterate: not only does feeding an animal or another party place that party in its benefactor’s “domain,” having a party in one’s “domain” makes one further responsible to care for that party.

I think this adds a new layer of depth to our role as servants of G-d. The fact that G-d took the Jewish people

out of Egypt and that our national existence continues to depend on Him places us in His domain and under His authority. Thus, we are his slaves by virtue of the fact that he took us from Egypt. This relationship also implies that G-d is responsible for providing us with continued care and support, in line with the Halachic cycle demonstrated above. A benefactor becomes a master, and a master is responsible to be a benefactor.

1 25:42

2 21:3

3 *Ad loc.*

4 Truthfully, it is not so clear that this is an “obligation” as much as a *minhag chassidut*. See Rambam Hilchot Avadim 9:8. For our purposes let’s use the term broadly – it is certainly something recommended.

From the Masechta

HOW NOT TO PREPARE FOR THE COMING WEEK

EPHRAIM METH

Preparing on Shabbat for weekdays (*hakhanah*) is prohibited. The scope of this prohibition, however, is ambiguous for three reasons. First, the Talmud (*Shabbat* 113a, 118a) only gives three examples of *hakhanah*: washing dishes, making beds, and folding clothes. Second, the Talmud (150a) permits many types of weekday preparations on Shabbat and does not clearly specify what types of preparation are forbidden and what types are permitted. Third, the Talmud (113a-b, 139b) mentions many other prohibitions (*mi-metso heftsekha, dabber davar, uvadin de-Hol*, etc.) that overlap with *hakhanah*, to the point where *hakhanah* almost seems redundant.

It therefore seems that *hakhanah* is a composite prohibition, a prohibition that exists where four or five prohibitions overlap, and hence one that is more restrictive than any of those prohibitions would be on its own. Conversely, the absence of any element of paradigmatic *hakhanah* should lighten or remove the entire prohibition. For instance, two elements of *hakhanah* are *mahshevet hol* (anxiety about unfinished work; see MB 303,39) and *zilzul Shabbat* (acting in a manner that causes people to think that one has insufficient respect for Shabbat; see MB 290,4). *Mahshevet hol* and *zilzul Shabbat* are discouraged but not strictly forbidden outside the context of *hakha-*

nah. When one performs *hakhanah* by rote, such as by inserting a bookmark to save him time when finding his place during the week, both of these elements are absent. For this reason, R. Shlomo Zalman Auerbach (*Minhat Shlomo* 2,36) permits all rote *hakhanot*.

When one deceives himself into thinking that his activity is being performed for the honor of Shabbat, such as rationalizing clearing the table of non-perishables after Seudah Shelishit “because Shabbat is enhanced when the table is clear,” the *mahshevet hol* is absent. In some communities, where such rationalization is widespread, *zilzul Shabbat* is absent as well. However, in communities where many families abstain from clearing after Seudah Shelishit, clearing the table might be viewed as *zilzul Shabbat*.

A third element of *hakhanah* is *tikkun mana* (fixing an object). Out of the context of *hakhanah*, only highly significant changes to an object are forbidden. Within the context of *hakhanah*, even less significant changes are forbidden. However, walking and talking, which do not involve any objects external to the actor himself, are permitted, since they lack the *tikkun mana* element of *hakhanah* (150a). Similarly, changing the location of an object in preparation for weekdays (*hakhanah kallah*) is permitted under extenuating circumstances (see MB 667,5). Such

changes, while more similar to *tikkun mana* than changes not involving an object at all, nonetheless differ significantly from paradigmatic *tikkun mana*, which involves changing an object's form. Along similar lines, R. Shlomo Zalman Auerbach (ibid.) permits cleansing dishes of lightly adhering dirt, but forbids cleansing them of tightly adhering dirt. When the dirt only lightly adheres, its removal cannot be viewed as a significant improvement in the dishes' status. When it tightly adheres, its removal is akin to fixing the dishes. Finally, the Talmud (118a, 113a) permits one to wash ten dishes even if he only needs one, as long as he needs that one for Shabbat itself. However, if one needs neatly creased clothing for Shabbat itself, under some circumstances he may fold the clothing that he needs, but no more. The *Orhot Shabbat* (p. 401, fn. 237) explains that folding clothing alters the clothing's form, like laundering, and hence is closer to *tikkun mana*; in contrast, washing dishes merely separates the dishes from

the dirt, and we treat it more leniently since it less resembles paradigmatic *tikkun mana*.

A fourth potential element of hakhanah is *tirha*, misdirected expenditure of energy. It seems to me that the permissible hakhanot do not involve great expenditures of energy, and, should they require excessive exertion, they would cease to be permitted.

The fifth element of hakhanah is *uvdin de-Hol*, performance of routine, weekday chores. For this reason, poskim write that one may not skim the butter off milk or the fat off soup even to prevent significant loss (in the olden days, soup fat was quite expensive and sought after; see MB 319,2, 364,43). Such skimming is usually part of the weekday routine. In contrast, one may sometimes move property away from a fire to prevent significant loss (117b), since fires are not routine occurrences, and therefore saving property from fires cannot be classified as a routine weekday chore.

CHATZI SHIUR

MOSHE ABRAMS

The Gemara¹ records R' Yochanan's opinion that *chatzi shiur* is *assur*. The reason given for this *issur* is a *derasha*: the words “*kol chelev*”² include even *chatzi shiur*.³ The context of that Gemara is *issur achila* on *Yom Kippur*. The question may be asked, does the *issur* of *chatzi shiur* apply to areas of halacha beyond *issurei achilah*? Many *rishonim* prohibit *chatzi shiur* of *melachos shabbos*. Rashi⁴ says explicitly that *chatzi shiur* is *assur* on Shabbos, and not just in *issurei achila*. Likewise, Ra'avya⁵, Mordechai,⁶ Hagahos Ashri⁷ and the Tur⁸ all hold that *chatzi shiur* is *assur deoraysa* in *melachos shabbos*. It is clear that these *rishonim* understood that R' Yochanan's *issur* applies to even to other areas of halacha. On the other hand, Rashbam⁹ says that anything less than a full size *shiur* in the *melacha* of *hotza'ah* does not fulfill the requirement of “*melaches machashoves*”. R' Menachem Zemba¹⁰ extrapolates this statement of Rashbam to all other *melachos*, and says that Rashbam holds that there is no *issur* of *chatzi shiur* in *melachos shabbos*.

However, to say unequivocally that if *hotza'ah* on less than a *shiur* is not a *melacha* then the *issur* of *chatzi shiur* does not apply to *issurei shabbos* is seriously problematic. Rashi himself says just the same as Rashbam, that doing *hotza'ah* on less than a *shiur* is not a *melacha*¹¹. According to R' Menachem Zemba, Rashi contradicts himself! In one place he says that *chatzi shiur* is

assur on shabbos, and with regard to *hotza'ah* he says that less than a full *shiur* is not even a *melacha*. There must be some reason specific to *hotza'ah* which indicates that *hotza'ah* of less than a *shiur* is not a *melacha* but less than a *shiur* of any other *melacha* is *assur* because of the prohibition of *chatzi shiur*.

To answer this question, we need to describe why *hotza'ah* is different than all other *melachos*. In contrast to all other *melachos*, *hotza'ah* has its own *pasuk*¹² to tell us that it is *assur*. Likewise, all of the *toldos* of *hotza'ah* need to have been done in the Mishkan, as opposed to all other *melachos* where it is enough that the *toldah* is similar in some significant way to what was done in the Mishkan¹³. The *Rishonim*¹⁴ tell us that this is because *hotza'ah* is a “*melachah gerua'h*”, meaning that without the *pasuk* to indicate that *hotza'ah* is a *melacha*, we would never have said that it is. The reasons given for this are the following: moving something from one *reshus* to another has not changed the object that has been moved in any way¹⁵, as opposed to other *melachos* where it has. Another reason given is that the action of movement from *reshus ha'yachid* to *reshus harabim* is not significantly different from movement within *reshus ha'yachid*¹⁶ or between two *reshuyos ha'yachid*¹⁷, which is permitted. Be that as it may, once the *pasuk* as has included *hotza'ah*, we now know that it is a *melacha*. The question may be asked,

does *hotza'ah's* new status as a *melacha* mean that it is no longer a *melacha gerua'ah*? Or maybe, once *hotza'ah* is given the status of a *melacha*, the fact that we would have said it wasn't a *melacha* is irrelevant.

If it is irrelevant that before the the *derasha hotza'ah* would not have been a *melacha*, there is no reason to differentiate between it and any other *melacha*. If all other *melachos* have an *issur de'orysa* of *chatzi shiur*, so should *hotza'ah*. This is the opinion of Ra'avya, Mordechai, Hagahos Ashri and Tur. However, if *hotza'ah* retains the fact that it is *geru'ah*, even though the Torah included *hotza'ah* as a *melachah*, nonetheless, the actions of the *motzi* have not accomplished much. The object, in fact, is the same as it was before it was removed to another *reshus*. The *motzi* has not done any action that is significantly different from *muttar* actions. If, added on to these detriments, the *motzi* did not even remove anything significant to a different *reshus*, Rashi would say that the Torah did not include this type of *hotza'ah* as a *melachah*. The *motzi*, in this case, has not done anything significant to anything significant. This can be contrasted with the cases that Rashi explicitly says that *chatzi shiur* applies to: *bishul* and *borer*. In both of these cases, the actions *in and of themselves* are significant. If the action is *by definition* significant, it is *assur de'oraysa* regardless of the amount, because of *chatzi shiur*. If the action is only based on context, such as *hotza'ah*, in order to be significant it needs to be of significant *result*. If the result is that nothing significant changed location, Rashi would say that nothing significant has been accomplished. The *motzi* has not done a *melachah*, and he has not even in-

tended to do a *melachah*. Being that the Rashbam says this in *hotza'ah* specifically, there can be no extrapolation to other *melachos*. Certainly Rashi and the Ra'avya, Hagahos Ashri and Mordechai argue, but it cannot be said definitively that Rashbam and Rashi argue.

- 1 Yoma 74a
- 2 Vayikra 7:23
- 3 There is actually another reason given in the Gemara, namely that smaller *shiurim* can add up to a larger *shiur*. Tosafos and the Ritva say that the main reason is the *derasha*.
- 4 Shabbos 74a
- 5 224
- 6 Shabbos, 370
- 7 end of klal gadol and beginning of ha'motzi
- 8 Tur Orach Chaim 348
- 9 Bava Basra 55b Sv ve'kadayik
- 10 Totzaos Chaim 8
- 11 Shabbos 75b sv *ein*, 91a sv *batlah*, Zevachim 47a sv *u'va, milaches machashoves*
- 12 Shemos 36:6. This is the *pasuk* that all *rishonim* agree is a *mekor* for *hotza'ah*. However, Tosafos to Shabbos 2a sv Pashat, Eruvin 17b sv *lav*, Pesachim 85b sv *Hotza'ah* are of the opinion that two *pesukim* are needed, the other *pasuk* being Shemos 16:29.
- 13 Shabbos 96b, "that which was in the Mishkon is significant and called an 'av melacha', that which was not in the Mishkon is not significant and called a 'tolda'." This is our *girsas* of the Gemara. The Ramban and Rashba have the following *girsas*: "that which was in the Mishkon **and** significant is an 'av', that which was not in the Mishkon **and** significant is a 'tolda'."
- 14 Tos' 2a sv Pashat, Ramban, Rashba Ran ibid, Ritva 96b, Tos' Ha'Rid ibid, Meiri in both, Rambam in *Perush haMishnayos*, Rambam Hilchos Shabbos 12:8.
- 15 Or Zaruh Hilchos Shabbos 82
- 16 Ramban, Rashba, Sabbos 2a
- 17 Tos' 2a sv Pashat

The YU Ethicist

DOES KINDNESS HAVE A PRICE?

ELCHANAN POUPKO

One of the greatest blessings of the modern day Jewish community structure is the emergence of organizational Judaism. In an unprecedented way the Jewish community has produced some of the most outstanding communal structures that accomplish goals that were unfathomable in the past. An abundance of community organizers can be found feeding the hungry, clothing the poor, promoting the study of Torah, and many other important causes, all doing an excellent job addressing fundamental communal needs.

This, however, comes at a great cost. Not the expen-

diture of financial resources which, although not being vast, are directed at noble and worthy causes; but rather a personal and spiritual expense. Having others take the responsibility for every possible aspect of charity, kindness, hospitality, volunteerism, and political activism can come at a painful cost to our own opportunities to engage in these essentials of Jewish observance.

The Rambam (in his commentary to Pirkei Avot 3:15) addresses the following moral dilemma. If a person has a sum of money designated for charity and has the option of giving a large amount to one poor person or many small,

less significant, contributions to many people in need, how should one distribute his or her money? Should the money be given in a way that will be meaningful for one person and help them towards significant relief or should a small sum be given to many people helping many people yet in a far less significant way?

The Rambam suggests that one should give many small amounts rather than give one person the large amount. The Rambam explains that since the Torah's ultimate goal is not just to create a better society but rather a better individual, and since the mitzvot of the Torah seek to ultimately make us into better people (Vayikra Rabba 12, see Maharal Tiferet Yisrael chapter), we must maximize the effect of this opportunity. The Torah wants us to strive to be similar to G-d, *imitatio dei*. Therefore we must make the most of the mitzvot to follow in that path.

This being the case, since when giving charity we are not only having an impact on the life of the recipient but are also having a more profound and transformative impact on ourselves, it is important take full advantage of this aspect of giving. We must give many times and to many people even if it is just a small amount, so that we become as giving and as kind hearted as possible¹. Needless to say that if someone is able to give a large amount to many people that would be even more preferable.

Following this ruling of the Rambam, it is important to note that as we delegate effective kindness to communal mediums we are very much compromising an equally important aspect of kinds -- our own self-improvement.

Aspects of personal activism and kindness are greatly diminished with the emergence of the broad and vast systems of communal welfare systems we are so familiar with. While we support so many institutions that address needs that do need to be taken care of we must ask ourselves, what expense is this incurring? When was the last time we fed someone who is really needy and hungry in our own kitchens? When is the last time we opened our homes not just to a friend who came to visit us but also to someone who would not have had a place to sleep otherwise? When is the last time we helped someone in dire financial condition ourselves and not through a communal charity? All these are questions that are just as essential to our Judaism as other aspects of observance which we assume to be so necessary (see Bereishit 18:19, Yishayahu 58:7, Hoshea 5:6, Mishlay 3:3 and many more). We must be able to answer them with pride, affirmation, and in a way that would not force us to look away as our ancestors remind us of how they practiced kindness in a very

personal way.

There is no question that the level of structure and organization in the Jewish community has achieved in its quest to address issues of *chessed*, *talmud Torah* and *areyvut* are a historic achievement in which we can take great pride. At the same time we must make sure that these very same acts of kindness do not lead us away and astray of personal kindness, goodness, and spiritual growth.

¹ It is important to note that this position of the Rambam is not unanimous. The Yaavetz and Maharal both argue that it is better to give one person a large amount. This, however, is not a contradiction to the above application because although the Yaavetz argues with Rambam's final ruling he does not argue with the rationale. It is giving the large amount that is preferred, argues Yaavetz, not only because it will be of more substantial help to the poor person but because it will allow the giver to force himself to give a large amount at once and to thereby become a greater giver. The Chafetz Chaim (Ahavath Chessed Vol II chapter 13) rules like the Rambam that it is better to give to the many, and Achronim cite the Magen Avraham (OC 561:16) as being of the same position. Cf Mikhat Yitzkhak Vol VI siman 102.