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קול תורה

Parashat Tzav

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CREATING CONTINUOUS CONTROL by Rabbi Grossman

This Shabbat, the one preceding Pesach, is known as Shabbat HaGadol. There are a variety of opinions regarding how this Shabbat received its name. The Shulchan Aruch (530:1) states rather ambiguously that this name was received because of the miracle which occurred on this Shabbat. The Mishnah Berurah (530:1) explains that the tenth day of Nissan was a Shabbat in the year in which the Jews lefts Mitzrayim. On that Shabbat, the Jewish people took sheep, animals which were considered gods by the Egyptians, and tied them to their bed posts. When the Egyptians saw this and were furious, the Jews explained that they were fulfilling Hashem's commandment by slaughtering the sheep for the Pesach sacrifice. Since the Egyptians experienced this utter denigration of their god and did not harm the Jews, it was considered to be a great miracle, and thus, this Shabbat was called Shabbat HaGadol, The Great Shabbat.

Rav Moshe Feinstein offers a different explanation as to how this Shabbat received its name. He explains that Shabbat represents that Hashem created the world in six days and rested from creation on the seventh day. Pesach is a continuation of this theme in that it represents Hashem's continued presence and control over this world. Not only did Hashem create the world, but he still plays an active role in this world. When Par'oh saw the plagues that Hashem casted upon Egypt, he understood that Hashem was the true ruler of the universe. We see how great (Gadol) Shabbat is for our belief in Hashem. That is the reason why Shabbat is listed amongst the holidays of the (VaYikra 23:3). Without Shabbat, believing the concept of the holidays, that Hashem runs the world, is deficient. Therefore, the Shabbat before Pesach, which connects Shabbat and Pesach, is called Shabbat HaGadol, since we learn this great message that Hashem both created the world and continues to run the world.

The Gemara (Rosh HaShanah 10b) states, "In Nissan we were redeemed, and in Nissan the future redemption will come." It is by recognizing and understanding the theme of Pesach, by realizing that Hashem is our King, Creator and Ruler, that we can merit the redemption. Let this year be the Nissan in which Mashi'ach comes, and let us be alive to witness the greatest manifestation of Hashem's rule of the earth by bringing our final redemption.

PRESCIENT MOURNING by Alexander Kalb (15)

In this week's Parashah, the Torah states, "UPetach Ohel Mo'eid Teishvu Yomam VaLaylah Shiv'at Yamim UShemartem Et Mishmeret Hashem," "At the entrance of the Tent of Meeting shall you dwell day and night for seven days, and you shall keep the watch of Hashem"

(VaYikra 8:35). Moshe Rabbeinu commands Bnei Aharon to remain at the entrance of the Mishkan throughout the seven days of the inauguration period. Ramban explains that this Mitzvah is directed not only at Bnei Aharon of that time, but to all generations of Kohanim who would serve in the Beit HaMikdash. A Kohein is never allowed to abandon the Mishkan or Beit HaMikdash in the middle of his service. To the Bnei Aharon at the time of the inauguration, this refers to their service during those seven days; to future generations, this refers to any of the services in the Beit HaMikdash.

However, the Pardeis Yosef points out that the Ramban cannot be referring to the service that Bnei Aharon performed, because during the seven inauguration days, Moshe served only in the Mishkan; the Kohanim did not begin their service until the eighth day. The Pardeis Yosef explains that Bnei Aharon's Mitzvah was not to participate in the service, but rather, to watch carefully as it was being performed by Moshe. In this way, they learned how to perform the service properly for the time when they would perform these tasks. Since their role at that time was to learn the service from Moshe Rabbeinu, it was forbidden for them to leave both "Yomam VaLaylah," "during the day and at night" (ibid.). The daytime service is described here in detail, while the nighttime service consists of watching that which was burning on the Mizbei'ach from the daytime Korban. When the services completed, they were free to leave until the next service begins.

Rabbeinu Bachya, citing the Midrash Tanchuma, offers another reason for these special instructions to Bnei Aharon. As we will see in next week's Parashah, Nadav and Avidu, two of Aharon's four sons, die on the eighth day of the inauguration. At that time, Aharon's two remaining sons, El'azar and Itamar, were forbidden from expressing signs of mourning, so as not to detract from the celebration of the inauguration of the Mishkan. Hashem, who obviously knows future events, decided that instead of mourning after the deaths of their brothers, El'azar and Itamar would remain the Mishkan for seven days and unknowingly mourn their brothers' untimely passing. The Midrash explains that normally, a person cannot mourn for the dead before they have died, because he does not know the time at which death will occur. However, Hashem, Who knows when every death will occur, can arrange for someone to mourn even before the death. Similarly, Hashem waited an extra seven days before bringing the Mabul as a mourning period for the world which was to be destroyed.

Kohelet (9:12) states, "Ki Gam Lo Yeida HaAdam Et Ito," "For a man does not even know his hour." This Pasuk is a reminder that a man never knows when his time will come, for death or downfall can come suddenly at any time.

Rav Zalman Sorotzkin, based on the Midrash, adds a powerful insight to these words: The Midrash relates that the seven days during which the four sons of Aharon stayed at the entrance of the Mishkan, in preparation for the inauguration of the Mishkan, were in reality days of mourning that Hashem commanded them to keep for the coming death of Nadav and Avihu. The Midrash concludes that

they were keeping watch, but they did not know the true purpose of their watch.

Take a moment to consider the following parallel: four people are chosen from the entire nation to serve as Kohanim for the House of Hashem. They are dressed in the Bigdei Kehunah and positioned in a place of honor at the entrance to the Mishkan for seven days to inaugurate their new, privileged, position. At the end of the seven days, it becomes clear that the entire time they were actually mourning. Elazar and Itamar were mourning the loss of their brothers, while Nadav and Avihu were mourning their own deaths! Rav Sorotzkin comments that not only does a man not know when tragedy may befall him in the future, but a man does not even know his hour. Even as he is sitting at the peak of success, he may actually, at that very time, be in a terrible.

The Chafetz Chayim used to advise people not to rely on their children to bring merit to their souls by saying Kaddish and learning Mishnayot when they are gone, for a person never knows what tomorrow will bring. Instead, one should learn for his own soul while he is alive, and strive to sanctify Hashem during his own life. This will be a true merit for his soul when his time comes.

This is a practical lesson that we can learn from the Midrash. Nadav and Avihu did not leave any children to pray for their souls. However, they were fortunate enough to be granted time to memorialize their own souls by living an elevated life for seven days and nights before their death, near the presence of Hashem. A person does not know when he will be called to his fate; therefore, one should always behave in the way of Nadav and Avihu: stand fast in keeping the watch of Hashem. We should keep a constant connection with the House of Hashem, as the Mishnah (Avot 2:10) states “*VeShuv Yom Echad Lifnei Mitatcha*,” “Repent one day before your death.” In doing so, we can ensure our maintained connection with Hashem.

IRRELEVANT YET IMPORTANT

by Yehuda Koslowe ('17)

Parashat Tzav deals primarily with the nuances of the Mishkan and the objects and tasks which would be performed daily in it. The Parashah begins with Hashem's commandment to Moshe to tell Aharon the many Halachot regarding the different Korbanot, the first of which is the Korban Olah. Hashem instructs Moshe Rabbeinu, “*Tzav Et Aharon VeEt Banav Leimor Zot Torat HaOlah*,” “Command Aharon and his sons saying ‘this is the law of the Olah offering’” (VaYikra 6:2). Rashi (ad. loc. s.v. Tzav Et Aharon) addresses the rare usage of the word *Tzav*, meaning command, instead of the more common *Dabeir*, meaning speak. He quotes the Gemara (Kiddushin 29a) and explains that the word *Tzav* implies an urgency in the commandment, and it teaches us that the commandment will be performed for future generations.

Rashi's explanation that the word *Tzav* teaches us that the commandment applies to all times implies that the Korban Olah (and probably all Korbanot) will be performed after the third Beit HaMikdash is built. Rashi would be of the opinion that in theory, Korbanot should apply even nowadays, but we

cannot give Korbanot due to our level of Tum'ah. However, Rambam seems to disagree with the implications of Rashi's statement. He writes (Moreh Nevuchim 3:32) that Korbanot are not ideal, but rather, they were instituted because animal sacrifices were common during ancient times. Hashem understood that it would have been nearly impossible for Bnei Yisrael to completely abandon the worldwide practice of animal sacrifices, so he instituted all of the laws of Korbanot, so that Bnei Yisrael would turn a practice that was used for Avodah Zarah into a practice which would be used for Avodat Hashem. This comment of the Rambam implies that Korbanot are not obligatory, and in fact, they might not even be ideal. Therefore, we would assume that in our current society, in which animal sacrifices are rarely performed, Korbanot would not apply. In addition, after the building of the third Beit HaMikdash, assuming that animal sacrifices do not suddenly become mainstream, it seems that the Rambam would believe that animals would not be offered on the Mizbei'ach.

Perhaps, we could resolve this apparent conflict between Rashi and Rambam by reading the text of the Parashah very carefully. Moshe was told to command Aharon about the “Torat HaOlah,” the laws of the Olah offering” (6:2), and Rashi commented that this commandment applies to all future generations. Hashem did not command Aharon to give the Korban Olah, but rather, He commanded him about all of the different laws which pertained to the Korban Olah. Perhaps, even though we might not offer Korbanot after the building of the third Beit HaMikdash, the laws which pertain to them will still apply forever.

It might seem counterintuitive that the laws of Korbanot would apply after the building of the third Beit HaMikdash, even though Korbanot themselves would not apply. However, this can be compared to the laws of Ben Soreir UMoreh, the rebellious son. The Gemara in Sanhedrin begins the eighth Perek with the laws of a Ben Soreir UMoreh, yet the Gemara (Sanhedrin 71a) records that there never was and never will be a case of a Ben Sorer UMoreh. The Gemara asks why we must learn all of the nuanced Halachot regarding Ben Sorer UMoreh if they will never be applied. The Gemara answers, “*Derosh VeKabeil Sechar*,” “Learn them (the Halachot of Ben Soreir UMoreh) and receive reward.” This Gemara teaches us that even though we may sometimes learn Halachot which seem to give us no benefit, there is an intrinsic beauty and relevance in all Halachot, even if they do not apply to us.

Similarly, Rashi might be of the opinion that the laws of Korbanot apply for all generations, even though Korbanot may not be brought for all generations. Even if the Halachot appear to be irrelevant, it is not so. Every single aspect of the Torah should impact our lives, regardless whether or not they seem to directly affect us. We should take this lesson to heart and it will hopefully intensify our appreciation for the Torah.

THE TZEFAT GET of 5774 – PART FOUR

by Rabbi Chaim Jachter

Last week we presented part three of our discussion of the Halachic basis for the Tzefat Beit Din in their highly controversial ruling of 5774 permitting a woman whose husband is in a permanent vegetative state to remarry without her husband handing her a Get. We saw that many Posekim (Chatam Sofer, Rav Eliashiv and Rav Waldenburg) in extraordinary circumstances employ the Zachin rule

and permit a Shaliach to deliver a Get on behalf of a husband who previously authorized the writing of a Get. We have seen some Posekim (Rav Meir Arik, Rav Klatzkin, Teshuvot Chavatzelet HaSharon and Rav Moshe Feinstein) who, applying the Zachin principle, even permit the writing and delivery of a Get on behalf of a husband who authorized the writing of a Get but did not appoint that particular individual to write that specific Get, as is done in a conventional situation. What remains to be seen this week as we conclude our discussion of this topic is whether there is ever a situation where Halachah permits writing a Get on behalf of a husband who never expressed interest in divorce but the Beit Din determines that it is beneficial to act on his behalf to do so, as done by the Tzefat Beit Din in 5774. We conclude our discussion this week of the Tzefat Beit Din's ruling.

Writing a Get without a Husband's Authorization

The idea for administering a Get in such a manner is raised by Rav Eliyahu Klatzkin (Teshuvot number 44) but roundly rejected by Rav Yitzchak Herzog (Teshuvot Heichal Yitzchak Even HaEzer 2:64) who writes in capital letters that God forbid to follow this opinion of Rav Eliyahu Klatzkin. Rav Yechiel Yaakov Weinberg (Teshuvot Seridei Eish 2:25) and Rav Hershel Schachter (B'Ikvei Hatzon 30) also reject Rav Klatzkin's approach. Rav Zvi Pesach Frank (Teshuvot Har Zvi E.H. 98), however, applies Rav Klatzkin's approach as a secondary (or tertiary) support in the following case: A British soldier stationed in Eretz Yisrael (during the period of the British mandate) converted for the sake of marriage and married a Jewish woman. Soon after the marriage he reverted to living as a non-Jew and abandoned his wife. All attempts to establish contact with the soldier through the British military in order to obtain a Get from him were unsuccessful.

Rav Frank permitted the woman to remarry without receiving a Get from the soldier, primarily due to dramatic flaws in the manner in which his conversion was conducted. One problem was there was serious doubt if he was given a proper Berit Milah. Another was that the conversion ceremony was conducted entirely in Hebrew (on the day of the wedding!) and the soldier understood none of the proceedings. The lack of Kabbalat Mitzvot, commitment to observe Mitzvot, is sufficient to invalidate the conversion (see Gray Matter 4:40-49)¹.

Rav Frank, though, adds:

To be on the safe side, the Beit Din should administer a Get – a Sofer should write a Get on behalf of the husband utilizing the principle of Zachin, witnesses should sign the Get following the Zachin rule and a Shali'ach should deliver a Get to the wife acting though Zachin on behalf of the husband.

The Tzefat Beit Din Ruling

We finally arrive at the second prong of the Tzefat Beit Din's permitting the remarriage of a woman whose husband was in a permanent vegetative state for seven years. We outlined the first prong of possibly applying the principle of Ada'ata DeHachi Lo

Kidsha Atzmah, she had no intention to marry with this outcome in mind. This possibility, argues the Tzefat Beit Din, does not alone permit the wife to marry but places her in the position of only Safeik Eishet Ish, only possibly married, thus reducing her level of obligations towards her husband.

The Tzefat Beit Din puts forth the argument from Rav Zalman Nechemiah Goldberg that the only impediment to writing a Get utilizing the principle of Zachin LeAdam Shelo BeFanav without the husband's authorization is the concern that the Get is not a Zechut for the husband. The Tzefat Beit Din argues that Chazal, Rishonim and classic Acharonim never raise the possibility of writing a Get for a husband without his expression of a desire to divorce, because in prior generations there never was a situation where one could assume that it is a Zechut to for a husband to divorce.

Only with the technological advances of very recent decades that have created the reality of individuals living in a permanent vegetative state for an extended period of time are we faced with a situation where writing a Get involves no loss for the husband. A PVS patient in an Israeli hospital has his medical expenses paid for by the government and receives all the care necessary to maintain his life as guaranteed by Israeli law. The Tzefat Beit Din argues that the wife contributes absolutely nothing to the quality of care and the quality of care to the husband. Moreover, since she is only Safeik Eishet Ish, he benefits little from a woman whose obligations to him, such as Aveilut after his demise, are greatly diminished.

Therefore they argue that in such a case, as a second lenient consideration to permit the wife to remarry, the Beit Din may write, sign and deliver the Get acting on behalf of the husband utilizing the principle of Zachin LeAdam Shelo BeFanav. The Tzefat Beit Din cites respected Dayan Rav Shlomo Dichovsky supporting their claim citing the Sifri (at the end of Parashat Shofetim) that even the dead require merits and Kaparah².

"We see that even after death one needs to accumulate extra merit for protection from punishment for sins committed during one's life. How much more so, even when one is in a permanent vegetative state he requires great merits, perhaps Hashem may on this basis restore his health. There is no greater merit than releasing his wife from her state of Igun (inability to marry)."

Severe Criticism of the Tzefat Beit Din Decision

Many great Posekim have rejected the Tzefat Beit Din decision in the strongest terms possible. Rav Moshe Shternbuch, in a scathing critique, makes the following point. Rav Shternbuch argues³

"It is certainly to the benefit of the husband that his wife inquires about him and visits him. The couple lived peacefully for five years and after his illness she visits him and inquires after him which is in his interest. It is certainly not a Zechut for him to be divorced from his caring wife".

Rav Uriel Lavi, the Av Beit Din (chief justice) of the Tzefat Beit Din, defended the ruling on behalf of the court. He responds that the Beit Din appointed an attorney to act as an executor on behalf of the husband and he concluded that the husband

¹ Rav Frank also mentions, as a consideration for permitting the woman to remarry, the aforementioned opinion of the Maharam of Rothenburg regarding when a woman requires Yibbum from a man who converted to another religion, where he believes we may invoke the rule of "she had no intention to marry with this outcome in mind."

² The Ashkenazic practice of donating money to Tzedakah during Yizkor to elevate the Neshamot of the departed is based on this idea, see Shulchan Aruch Orach Chaim 621:6.

³ As does Rav Yitzchak Yosef

receives no benefit from remaining married to his wife. This argument depends on whether someone in a PVS state benefits from care other than basic medical care to sustain life. It appears impossible to determine with any degree of certainty what transpires in the mind of a PVS patient, whether he is aware of visits and care from relatives. Thus, it is difficult if not impossible to conclude whether Rav Shternbuch or Rav Lavi is correct about this matter.

Rav Shternbuch expresses another criticism noting that Rav Weinberg (in the aforementioned Teshuvot Seridei Eish) rejected applying the principle of Zachin and writing a Get on behalf of husbands who converted to Islam and remained in Yemen whose wives had arrived in Eretz Yisrael in the 1950's and that his ruling was accepted.

Rav Lavi, responds though, arguing that the cases are incomparable. Rav Lavi writes that he agrees that one cannot apply the principle of Zachin and write a Get for a husband if the husband rejects writing a Get on his behalf. In the Yemenite case, the husbands were outraged at their wives for leaving for Israel and not converting to Islam. Rav Lavi stresses that no matter how unjustified the objection, Zachin cannot be employed if the husband refuses to give a Get. In a case of a PVS husband, he obviously does not register any objection to the procedure and therefore we presume, he argues, that we act in his best spiritual interest by granting a Get to his wife on his behalf.

Rav Shternbuch similarly expresses concern for a slippery slope effect, since the Tzefat Get sets a very dangerous precedent. He is concerned that unscrupulous individuals will cite the ruling as a precedent to grant a Get on behalf of a recalcitrant husband who refuses to give his wife a Get. Rav Lavi responds that for this reason he states explicitly that the ruling does not establish precedent for such a case.

Rav Shternbuch adds that the Tzefat Beit Din ruling represents an insult to the rabbis of generation upon generation who never released an Agunah on this basis. Rav Lavi responds that husbands in a permanent vegetative state are a new phenomenon unknown to prior generations.

Rav Moshe Farbstein seeks to disprove the idea of writing a Get on behalf of the husband without his authorization from the Omeir Imru case where the husband instructed someone to tell another individual to write a Get on his behalf. The Shulchan Aruch (E.H. 120:4) disqualifies this authorization and a Get written on this basis is invalid. Rav Farbstein argues that if we cannot write a Get in this case even though we are certain of the husband's desire to divorce his wife, how can we fathom writing a Get on behalf of a husband without his authorization altogether⁴.

Rav Lavi responds that a direct appointment of a Sofer to write a Get applies only in conventional cases where a direct appointment is necessary to overcome the presumption that a husband does not wish to divorce his wife due to the disadvantages inherent in doing so. Only in such cases does the Mishnah (Gittin 7:2) apply that a Sofer and witnesses must receive instructions from the husband, otherwise a Get is invalid. In a case of a husband in a permanent vegetative state the Zechut for this husband is obvious, Rav Lavi argues, and no appointment is necessary.

Rav Farbstein also cites Teshuvot Seridei Eish who recoils from writing a Get on behalf of a husband without any authorization whatsoever, due to the absence in any precedent in the Mishnah,

Gemara and Rishonim for doing so. The starkest example is the Mishnah (Yevamot 14:1) which states that a mentally incompetent individual (Shoteh) can never divorce his wife. Rav Lavi responds that the silence of these sources is due to the fact that only modern technology has created a situation where it is a pure Zechut with no disadvantage to the man to execute a Get on behalf of a husband. The Mishnah in Yevamot, argues Rav Lavi, applies only to an ordinary Shoteh such as a patient with advanced Alzheimer's disease who benefits greatly from spousal care. One could respond to Rav Lavi that the Gemara and Rishonim present countless instances of precedent for new phenomena created by technological advances. The fact that an explicit precedent does not exist for writing a Get on behalf of a PVS patient might very well prove that Halachah does not provide for this option.

Conclusion

The Tzefat Beit Din acted boldly when it permitted a wife of a PVS patient to remarry without her husband authorizing a Get. Although it might be difficult to conclude whether the Tzefat Beit Din or its critics are correct, one may commend the Tzefat Beit Din for a conducting this Get in a fair manner. They did not rush to judgment⁵ (Hevu Metunim BaDin; Avot 1:2), they visited the husband in the hospital twice to learn of the situation first-hand (Eiredah V'Ereh; Rashi to Bereishit 18:21), they thoroughly⁶ explained the basis for their ruling in writing (Sanhedrin 31b and Teshuvot Mishpatei Uzziel Choshen Mishpat 1) and they received the approval of two leading authorities before they issued their ruling (as recommended by Aruch HaShulchan E.H. 17:255 when permitting an Agunah to remarry). Time will tell as to whether the decision will be accepted or rejected by the consensus of Halachic opinion.

⁵ The ruling mentions that the Get was delivered on Ta'anit Esther of 5774 and that the ruling was submitted to Rav Ovadia Yosef for review in Elul 5773. Clearly, the Beit Din deliberated on this case for a considerable amount of time and did not act impetuously.

⁶ The breadth of sources cited in the ruling is stunning.

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⁴ Rav Yitzchak Yosef makes the same argument.