



**TORAH ACADEMY**  
of Bergen County

# קול תורה

**Parashat VaYakheil-Pekudei**

**23 Adar 5775**

**March 14, 2015**

**Vol. 24 No. 24**

## FUNDRAISING PHENOMENA

by *Rabbi Josh Kahn*

One of the greatest challenges an individual in charge of raising money might face is, in fact, raising money. "100% participation! It's the thought that counts!" Both of these sayings are rarely successful in getting people to contribute as much as they can. This is the reality of fundraising campaigns. Yet, when Moshe asked for donations for the Mishkan, all of Bnei Yisrael donated—even to the point that there was a surplus of funds being given. While fundraisers may feel it is the thought that counts, the reality of the situation is that the bigger the gift, the more attention and publicity it is given by the organization. Yet, with the Mishkan, it really was the thought that mattered most. What about the Mishkan made the fundraising campaign so unique?

Over the last month, we have read about two occasions when Bnei Yisrael reached a sense of complete unity. In Parashat Yitro, Bnei Yisrael are described as one unit in preparation for Matan Torah. In Parashat VaYakheil, Moshe Rabbeinu is overwhelmed with gifts, due to the generosity of each person. The common denominator between Matan Torah and the Mishkan is that all of Bnei Yisrael unite in order to bring Kedushah to the world. Why is this true?

Rav Baruch Simon suggests that each person must recognize that they have a role in introducing Kedushah into the world. Each individual's role is indispensable. It is not just about accumulating the necessary funds in order to build the Mishkan; rather, each person has to contribute. The Ohr Hachaim goes a step further and suggests that even though enough money had been raised, Hashem found more uses for the extra donations to ensure that each person's contribution would be used.

In describing the donations of Bnei Yisrael, the Torah writes, "*VeChol Chacham Leiv Bachem Yavo'u VeYa'asu Eit Kol Asher Tzivah Hashem,*" "And every wise-hearted man among you shall come and make all that Hashem has commanded" (Shemot 35:10). The word choice and grammatical structure of the word Bachem (in you) is curious. If it is meant to mean the wise donors from among Bnei Yisrael, it should have said Mikem, not Bachem. Bachem, from you, means from each of you. For this reason, Chassidic thinkers suggest that each person must look inside of himself and see in what way his contribution could best help the construction of the Mishkan. It is not about how much one donates, but the intent that is driving the donation that matters. The donations would be utilized with that mentality in mind. Those donations which were given completely LeSheim

Shamayim would earn the most prestigious roles. In the area of spirituality, it is certainly appropriate that intent and authenticity should play such an integral role. Desire to do right, supported by the action of donating an item is critical to creating Kedushah, and rightfully earns a prominent place in the Mishkan.

As we continue to bring Kedushah to all of our endeavors, let us consider the lessons of the Mishkan. We must emphasize unity and each person's unique and irreplaceable contribution, as well as the importance of intent and thoughtfulness in our actions.

## FIRE: Why Now?

by *Leiby Deutsch ('15)*

Last Shabbat, in Parashat Ki Tisa, we read about the mysterious and rebellious sin of the Cheit HaEigel. Many Sefarim and commentaries have tried, in one way or another, to explain how a nation that had just been introduced into an eternal religious covenant violated it in a mere 38 days. The gravity of the situation notwithstanding, Hashem forgave Bnei Yisrael for the Eigel, and in its aftermath, Bnei Yisrael built the Mishkan. Parashat Ki Tisa concludes with the culmination of the aftermath of the Cheit HaEigel: Moshe presenting the second set of Luchot. The very first thing that the Torah records following the Eigel, in the beginning of Parashat VaYakheil, is the prohibition against lighting a fire on Shabbat. Usually, something that is said or done in the aftermath of a crisis is meant to respond to what had just occurred, often to prevent it from happening again. However, in this case, there is seemingly no connection between the prohibition against lighting fires on Shabbat and the Cheit HaEigel that preceded it. What is the point of the prohibition emerging in the aftermath of Bnei Yisrael's terrible sin?

An understanding of how fire is used throughout Tanach sheds light on this question. Fire is used both times Bnei Yisrael accepted the Torah, at Har Sinai, and at Har HaKarmel during the time of Eliyahu HaNavi. At Har Sinai, Hashem's pyrotechnics were used in order to reveal Hashem's power and his dominance over the natural elements to Bnei Yisrael. To some extent, it was also meant to scare Bnei Yisrael. According to Tosafot (Shabbat 88a), the fire scared Bnei Yisrael so much that Hashem had to hold Har Sinai directly above the heads of Bnei Yisrael and threaten to drop it on them if they did not take the Torah. At Har HaKarmel, Hashem sent a fire down onto a water-soaked Mizbei'ach in order to prove that the Nevi'ei HaBa'al were wrong to worship the Ba'al, which made them afraid to the point that they immediately declared, "Hashem Hu HaElokim" (I Melachim 18:39). Throughout Tanach, fire is a symbol of revelation and seems to result in fear.

Based on a Pasuk in this week's Parashah, we learn that one can use fire on Yom Tov, if lit from an existing flame. Do our

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Biblical findings about fire in Tanach imply that one should be fearful of our daily lives on Yom Tov? Do we not have the Mitzvah of VeSamachta BeChagecha, to be happy on holidays, and the Pasuk, "Ivdu Et Hashem BeSimchah," "Serve Hashem with happiness" (Tehillim 100:2)? We understand that special Korbanot, offerings, which required fire as part of the procedure for their preparation, were brought in response to certain events. The Korban Chat'at was brought by someone who committed certain Aveirot. The Todah and the Shelamim were brought during times of happiness, and the Korban Mussaf was sacrificed on Yom Tov, something that is controlled by mankind as the day of the Yom Tov is dependent on the declaration of Rosh Chodesh that month. Fire also represents a person's actions. It is used when acknowledging something important and achieving success in an endeavor.

What is the true meaning behind the message of fire? Fire has an inherent trait of being scary, harmful, and destructive. On the other hand, fire also has the ability to fascinate and mesmerize, giving pleasure to those who look at it. What determines which element of fire's nature one sees is not dictated by the flame, but by the person's perspective of the flame. Rav Yosef Dov Soloveitchik once said that when overcoming grief, the question considered should not be, "Why did this happen?" for the answer will always be eternally evasive to those who do not understand Hashem's ways. The question that should be considered is, "What course of action should I take next? How should I respond?"

Hashem commanded in response to the Cheit HaEigel, "Lo Teva'aru Eish," "You shall not kindle fire" (Shemot 35:3). Hashem is trying to tell Bnei Yisrael that things in the future may be frightening. It is at that point that Bnei Yisrael will have to make a decision between two fires. One fire will be the fire of fear, the fire that will make them wonder, "Why us?" That fire will compel them to do nothing but be engrossed in their own tragedy and fear. This fire is regarded as "Teva'aru," "You will kindle," meaning, "You will let it burn until it consumes you." Hashem is telling Bnei Yisrael not to let that fire burn on Shabbat. The other fire is the fire that responds to a person's actions and a person's successes. That fire is the fire that burns on Yom Tov. One should let that fire burn brightly within, because when one takes action, he will achieve what he tries to do. This is the fire that ultimately will lead a person back to where he once was, a place of happiness.

Last week, we celebrated Purim, which was based on evil plots that were planned throughout the storyline the Megillah. One may ask how it is possible that we were victorious, with such odds against us. The importance of Esther HaMalkah in the victory cannot be overlooked. When the Jews learn of Haman's decree, all of the Jews, even Mordechai himself, begin to mourn. They all wallow in the wickedness of the decree. However, there is one person who does not resign to the situation. Esther realizes that not all is lost. Esther understands what she needs to do to save the Jews, not what the Jews stand to lose. It is because of her that we were able to set ourselves onto the track to end Galut Bavel. May it be with our actions that we merit sharing in each other's happiness, the happiness of success and redemption.

## IS MOSHE MASSIVE, OR THE MISHKAN A MIRACLE?

by Yehuda Feman ('15)

Parashat Pekudei concludes the Torah's account of the Mishkan's construction. The Torah states, "*VaTeichel Kol Avodat Mishkan...VaYavi'u Et HaMishkan El Moshe*," "All the work of the Mishkan was completed...And they [Bnei Yisrael] brought the Mishkan to Moshe" (Shemot 39:32-33) Rashi (39:33 s.v. VaYavi'u Et HaMishkan) records that the Mishkan was brought to Moshe Rabbeinu because Bnei Yisrael were unable to erect it themselves due to the excessive weight of the beams. Moshe, who had not yet been involved in the physical construction of the Mishkan, was instructed by Hashem to complete its construction. Rashi concludes by quoting the Midrash (Tanchuma 11) which relates that the Mishkan would miraculously erect itself and it would only appear as if Moshe was erecting the Mishkan. Moshe is present merely to facilitate the miracle, perhaps to make it more of a hidden miracle than an open miracle.

The Be'eir BaSadeh, Rav Meir Danon's nineteenth century commentary on Rashi, poses a stunningly obvious question on Rashi's interpretation. While it is understandable that one person could not lift the beams, how could it be that a group of people could not use their combined strength to lift each beam? He suggests that perhaps in order for the beams to stand up straight, a central main beam needed to be inserted first. Since this central beam needed to bend around corners, all of the builders of the Mishkan were unable to calculate a way to insert this beam. It is the erection of this central beam which constituted the true miracle of the Mishkan.

There is yet another question posed by the Nachalat Ya'akov on Rashi's interpretation of the Pasuk. The Gemara (Nedarim 38a) states that Moshe was ten Amot tall (approximately fifteen feet). It seems that Rashi rejects this Gemara as Moshe should be able to lift the beams which themselves are ten Amot tall (Shemot 26:15). From the fact that Rashi believes the final erection of the Mishkan is accomplished via a miracle, it is apparent that Moshe is not ten Amot tall.

The Lubavitcher Rebbe, though, explains why Rashi does not cite this Gemara based on a more careful reading of the text. The clearest answer is that the Torah makes no mention of Moshe's astonishing height. The Torah often quotes the miraculous physical features of its characters, especially if that feature is connected to a recorded action of that character, such as in this case of Moshe erecting the Mishkan. Secondly, if we look at one of the first stories regarding Moshe in the Torah, perhaps we see that he is not ten Amot tall. After running away from Mitzrayim to Midyan, Moshe saves Yitro's daughters from shepherds by the well. When describing their savior, Yitro's daughters relate to Yitro, "*Ish Mitzri Hitzilanu MiYad HaRo'im*," "An Egyptian man saved us from the shepherds" (2:19). Certainly it would have been more natural for the daughters to describe Moshe based on his unique height rather than common nationality. Implicitly, the Lubavitcher Rebbe points out, it must be that Moshe was not ten Amot tall. Due to these textual proofs, Rashi opts to follow the Tanchuma's rendering of the story rather than the potential explanation of the Nachalat Ya'akov. It is clear, nevertheless, according to either explanation that the final erection of the Mishkan is done by miracle. The need to erect the Mishkan via a

miracle teaches us a very important lesson. Although the Mishkan is constructed in order to enable Bnei Yisrael to more easily connect to Hashem, it is ultimately Hashem who must help them reach this level. We must work on ourselves to have a relationship with Hashem, although we must also recognize that we need Hashem to ultimately offer us His help to ultimately succeed.

## THE TZEFAT GET OF 5774 – PART TWO

by Rabbi Chaim Jachter

*Last week we began to present the first prong of the Halachic basis for the Tzefat Beit Din in their highly controversial ruling in 5774 permitting a woman whose husband is in a permanent vegetative state to remarry without her husband handing her a Get. We continue this week with presenting the second prong of the Tzefat Beit Din's ruling.*

### *The Second Prong – Zachin LeAdam Shelo Befanav*

The second prong of the Tzefat Beit Din is based on the idea of Zachin LeAdam Shelo Befanav, that one may confer a benefit to someone even without their consent and awareness. Chazal apply this principle even to one who is not mentally competent. For example, the Gemara (Ketubot 11a) presents the rule that a minor can be converted by a Beit Din even though the child does not consent to the conversion. Even if a child expresses his or her consent, the consent is not meaningful due to the child's immaturity; see, for example, Mishnah Machshirin 6:1.

Tosafot (ad. loc. s.v. Matbilin) pose a very basic question on the entire concept of converting a minor. Assuming that the principle of Zachin operates based on viewing the one conferring the benefit as the presumptive Sheli'ach (agent) of the beneficiary,<sup>1</sup> how can Beit Din confer a Zechut on a child if the institution of Shelichut (agency) does not apply to a minor (Bava Metzia 71b)?

Tosafot's final answer (also see Tosafot Sanhedrin 68b s.v. Katan for further discussion) is that the exclusion of a minor from Shelichut applies only where it is somewhat questionable as to whether one is truly conferring a benefit. However, bestowing Jewish identity is a pure and unadulterated benefit (Zechut Gamur).

Similarly, the Shulchan Aruch (Choshen Mishpat 243:16 and Sema ad. loc. number 30) rules, following Rambam Hilchot Zechuyah UMatanah 4:7, that the rule of Zachin LeAdam Shelo Befanav applies to a Shoteh (mentally incompetent individual). The Ketzot HaChoshen (ad. loc. number 6), though, raises the possibility to limit this ruling to a Shoteh who at times is mentally competent (Itim Chalim) similar to a Katan who will eventually become a Gadol (mentally competent adult). However, none of the other major commentaries such as the Shach, Sema and Vilna Gaon set forth this limitation. Moreover, the Aruch HaShulchan (C.M. 243:18) rejects the Ketzot's suggestion and rules that the

<sup>1</sup> There is considerable discussion as to whether Zachin operates through the principle of Shelichut or constitutes a principle separate from Shelichut which follows its own particular set of regulations. See Tosafot Nedarim 36b s.v. Mi, Tosafot Gittin 64b s.v. Shani, Ran (Kiddushin 16b in the Rif's pages) and Ketzot HaChoshen 105:1.

rule of Zachin LeAdam Shelo Befanav applies to every Shoteh—even if he is expected to recover.

This expansion of the Zachin rule is most compelling since the source for the concept of Zachin LeAdam Shelo Befanav is the head of each tribe acting on behalf of tribe members in the distribution of their respective shares in Eretz Yisrael (Kiddushin 42a citing Bemidbar 34:18). The tribal leaders acquired land on behalf of all members of the Sheivet including those who were mentally incompetent including Ketanim and Shotim (and even permanently incompetent individuals).

The Tzefat Beit Din, in a monumental assertion, argues that since it is a Zechut for a husband in a permanent vegetative state to divorce his wife, the Beit Din may act on the husband's behalf and write a Get for him using the principle of Zachin LeAdam Shelo Befanav. The Beit Din bases this ruling on the Shach (Nekudot HaKesef Yoreh Dei'ah 305:10) that a Beit Din may act on behalf of a Bechor (first born son) and perform a Pidyon HaBen on the baby's behalf if the father is not available to redeem his son.<sup>2</sup>

### *Zachin LeAdam vs. Zachin MeiAdam*

One may object, however, that in the cases of Zachin we have cited – benefitting an incompetent individual by conferring with conversion, Pidyon HaBen or a share in Eretz Yisrael – one acquires something on behalf of the beneficiary. However, in the Tzefat case the Beit Din is benefitting the husband by taking away his wife. Does the rule of Zachin apply even when conferring the benefit involves taking away something from the beneficiary?

There is a well-known dispute among the Acharonim about this matter. The basis of the dispute relates to the nature of Zachin. The aforementioned Tosafot (Ketubot 11a) explains that Zachin is rooted in the law of Shelichut, agency. Since this action is for the other person's clear benefit, you are considered a "self-appointed" agent. Therefore, the same way you can be an agent to acquire for someone's benefit (Shulchan Aruch C.M. 243:1), you can also serve as a "self-appointed" agent to sell for the owner's benefit. The Rama rules, on this basis, that a Jewish maid can separate Challah from the dough if the lady of the house is not available. (Yoreh Deiah 328:3).

Ketzot HaChoshen (243:7-8), however, maintains that a person cannot be considered an agent unless appointed by the owner. He understands Zachin as a separate law that relates only to acquiring on behalf of someone, but not to other legal transactions. This distinction is referred to by Torah scholars as Zachin LeAdam, acquiring for a person; not Zachin MeiAdam, acquiring from a person (this phrase was coined by the Mirkevet HaMishneh, Hilchot Gerushin 6:3 who agrees with the Ketzot).

Most authorities rule, though, that whenever there is an unequivocal benefit for the owner, it is possible to act on his behalf when he not accessible, even if in the process one takes something from him without his consent (Teshuvot

<sup>2</sup> Although the Taz (Y.D. 305:11) disagrees, the Aruch HaShulchan (Y.D. 305:14) rules in accordance with the Shach and believes that common practice is in accordance with the Shach.

Chatam Sofer 1:11 and 2:43, Teshuvot Berit Avraham 101, Rav Yitzchak Elchanan in Teshuvot Ein Yitzchak E.H. 51:3 and Teshuvot Be'air Yitzchak 1:1, Teshuvot Maharsham 2:103 and Teshuvot Achiezer E.H. 28).

#### *Applications of Zachin MeiAdam*

Rabbanim apply the expanded principle of Zachin MeiAdam in many contexts. For example, most Poskim permit a Rav to sell Chametz on behalf of someone who has authorized the Rav to sell his Chametz if it is not possible to contact him (Piskei Teshuvot O.C. 448:21). For example, a Ba'al Teshuvah who lives in Eretz Yisrael once contacted me before Pesach with the following problem. His non-observant parents had just told him that they had purchased a large quantity of dried oatmeal for them to bring to his children when they would visit soon after Pesach. This poses an enormous problem since it is forbidden to eat or even derive benefit from Chametz SheAvar Alav Et HaPesach (Chametz owned by a Jew during Pesach; Mishnah, Pesachim 2:2). The parents, however, do not sell the Chametz and it would be very uncomfortable to ask his parents to sell their Chametz. My response was to include the oatmeal in my Mechirat Chametz without informing the parents.<sup>3</sup>

Pitchei Teshuva Y.D. 320:6 presents a situation of a Jew's animal about to give birth for the first time which is customarily sold in part to a non-Jew to avoid the offspring having the status of Bechor with the attendant Halachot.<sup>4</sup> In this specific case the mother of the animal owner sold the animal to a non-Jew without consulting her son. He cites the Teshuvot Panim Me'iroi (2:52) who confirms the validity of the sale due to the principle of Zachin LeAdam Shelo Befanav, even though this involves selling the beneficiary's property without his consent.

Similarly, Teshuvot Mishpat Kohein (150) presents the text of the document of sale of Israeli farmland to avoid the restrictions of the Shemittah year conducted by Eretz Yisrael's Chief Rabbinate in 1930 which was signed by Rav Kook and Rav Zvi Pesach Frank. The document specifically states that the sale includes the land of non-observant Israeli Jews who did not authorize the Rabbinate to sell their land, utilizing the principle of Zachin LeAdam Shelo Befanav, to spare them from violating the prohibitions of Shemittah. The document concludes "as long as these field owners do not protest<sup>5</sup> their inclusion in the sale,<sup>6</sup> the sale conducted on their behalf is fully effective."

Finally, Teshuvot Sheivet HaLevi (7:218) permits a Ba'al Teshuvah to write a Pruzbul on behalf of his non-observant parent who loaned money to various individuals. The Pruzbul is a document composed by Hillel in which a lender transfers the right to collect the loan debts to a Beit Din in order to be able to receive payment of the loan even after the end of the Shemittah year (Mishnah, Shevi'it 10:3-4). Writing a Pruzbul on behalf of the lender spares him from violating the prohibition to demand

<sup>3</sup> The parents would be pleased with the sale conducted without their consent since it enables their grandchildren to enjoy the oatmeal.

<sup>4</sup> Shulchan Aruch Y.D. 320:6

<sup>5</sup> Most authorities believe that Zachin does not apply if the intended beneficiary objects to the conferral of the benefit (Pitchei Teshuvah E.H. 140:7; see though Avnei Milu'im 1:10:5, Teshuvot Ein Yitzchak E.H. 1:1 and Teshuvot Igrot Moshe E.H. 1:2 and 4:4).

<sup>6</sup> This presumably refers to those observant Jews who do not accept the controversial Heteir Mechirah, sale of Israeli land prior to Shemittah.

payment of the loans after the end of the Shemittah year. Shemittah Kesafim KeHilchata page 77 records that the Chazon Ish concurred with this ruling, that one may write a Pruzbul without the consent of the lender, even though the process of conferring the benefit involves taking away from the lender (transferring the right to collect the loans to Beit Din) in order to benefit him.<sup>7</sup>

Thus, there is sufficient evidence that we do not distinguish between Zachin LeAdam and Zachin MeiAdam. Moreover, Rav Moshe Feinstein (Teshuvot Igrot Moshe E.H. 1:117) argues that even the Ketzot and Mirkevot Hamishneh would agree that Zachin applies to writing a Get for the husband since the concept of Zachin MeiAdam is not relevant to marriage. Rav Moshe explains

"Marriage is not an actual acquisition of the wife by the husband (and therefore divorce is not transferring property away), and the proof of this is that the only reason that an attempt to marry an already-married woman is not effective is the principle that marriage cannot take effect when there is a Biblical prohibition involving a punishment of Kareit or worse prohibiting intimacy between the parties, as is explicit at the end of Kiddushin 67, and not because she already belongs to another. Rather, certainly marriage is not comparable to a financial benefit, rather the marriage and divorce are a mere matter of prohibition and permission, and therefore we can apply here the mechanism of Zechiyah as agency."<sup>8</sup>

However, applying the principle of Zachin LeAdam Shelo Befanav to writing a Get without the consent of the husband seems to contradict the Mishnah (Gittin 7:2) that states that a Get is invalid unless the husband orders the scribe to write the Get and witnesses to sign the Get. Nonetheless, various leading authorities in recent centuries have sanctioned utilizing the concept of Zachin to deliver a Get as we shall outline in *iy"H and b"n* in our next issue.

<sup>7</sup> The Chazon Ish (E.H. 49:10) presents a number of proofs that Halacha does not distinguish between Zachin LeAdam and Zachin MeiAdam.

<sup>8</sup> A similar idea is expressed in Teshuvot Avnei Neizer E.H. 123:9 and Teshuvot Chelkat Yoav 1 E.H. 4.

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