

Toronto Torah

Yeshiva University Torah MiTzion Beit Midrash Zichron Dov

Parshat Ki Tetze

14 Elul, 5776/September 17, 2016

Vol. 8 Num. 4

This issue is sponsored by the Goldman Family in memory of Mr. Jeffrey Goldman z"l,

לעילוי נשמת ר' יעקב זאב בן ר' ארי' צבי הכהן ז"ל זי"ע

Shiluach HaKein—A lesson in what, exactly?

Adam Friedmann

This week's parshah includes the mitzvah of *shiluach hakein*, the sending away of the mother bird. The Torah tells us that if one encounters a nest of eggs or chicks which he desires to take, he must first send away the mother bird, if she is present. Midrash Rabbah records that this mitzvah exemplifies the merciful ways of G-d. "Just as G-d's mercy devolves upon man, so too does His mercy devolve upon animals... And just as G-d has granted mercy to animals, so too is He filled with mercy for birds as it is said, 'When you encounter the nest of a bird before you.'" (Devarim Rabbah 6:1)

This assertion of the midrash is echoed by many medieval commentators, though they provide a range of explanations for it. Rambam (Moreh Nevuchim 3:48) suggests that the Jew is being engaged as an agent of G-d's mercy towards the bird, while Ramban (to Devarim *ibid.*) argues that the mitzvah teaches the Jew to be merciful himself (Ramban to Devarim *ibid.*).

This midrash's perspective, however, is at odds with a mishnah in Berachot (5:3) which states: "The one who [leads the prayer service and] says 'Your mercy reaches even to the bird's nest' is silenced." Seemingly, the prayer mentioned in the mishnah expresses precisely the same sentiment as the midrash quoted above. Why then is its speaker silenced? The Talmud (Berachot 33b) cites two explanations of this halachah. One *amora* holds this prayer is inappropriate because "it arouses jealousy amongst the creatures of the world"; another posits that "it makes the commandments (see

Rashi s.v. *midotav*) of G-d seem like [they are based in] mercy when in fact they are simply decrees." Rambam (Commentary to the Mishnah Berachot 5:3) implies that we follow the latter explanation, notwithstanding what he wrote in the Moreh Nevuchim above.

Thus, a contradiction arises between a midrash and a mishnah. Several answers have been suggested. Some deny that this midrash presents a complete perspective (see *Hon Ashir* to Berachot 5:3). Others argue that this midrash is operating only within the other view in the gemara, that speaking this way is problematic because it would arouse jealousy amongst other creatures of the world, which does not deny the accuracy of the mercy explanation (see Moreh Nevuchim, *ibid.*).

Perhaps this contradiction is indicative of a certain approach to identifying the reasons which underlie mitzvot. In *The Halakhic Mind* (pages 91-94), Rabbi Soloveitchik outlines the pitfalls of asserting exhaustive reasons for various mitzvot as the Rambam attempts to do in the Moreh Nevuchim. Instead, citing other writings of the Rambam, he suggests it is more effective to assume that at their core the mitzvot remain inscrutable, and that we observe them because they are Divine decrees. However, the subjective experience engendered by actually doing the mitzvot also gives rise to new understandings about their purpose. These "hints" may not lay claim to being the absolute reason behind a mitzvah, but they are certainly part of its purpose.

Rabbi Soloveitchik's distinction allows us to make our own with regards to *shiluach hakein*. At its core, all agree that mitzvah's purpose cannot be known. The text of the Amidah was authored by our Sages to be precise and accurate. Therefore, implying, in the course of tefillah, the incorrect notion that *shiluach hakein* is essentially about mercy is not appropriate. This does not mean that the mitzvah, as experienced through learning its laws and performing them, does not teach us new lessons about being merciful. These "hints" are valid and very real parts of the Torah's educational goals for us. It is this latter facet of the mitzvah which is reflected in the midrash.

Rabbi Soloveitchik's distinction can also be readily applied in our respective and collective quests for religious growth. We are encouraged to consider carefully our own encounters with the mitzvot, and the meaning and messages they impart upon ourselves and communities. At the same time, these lessons need not form the core of our commitment to a halachic lifestyle. We can recognize that at a basic level we are simply bound by Divine decree.

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Hebrew: אל תשלח ידך אל הנער
English: Out of the Depths
Rabbi Yisrael Meir Lau
Sterling (English 2011)

The Book

Rabbi Yisrael Meir Lau was Israel's Ashkenazi Chief Rabbi from 1993-2003; today, he is the Chief Rabbi of Tel Aviv, as well as the Chairman of Yad VaShem. He was awarded the Israel Prize in 2005.

The original Hebrew edition of *Out of the Depths* was written for the sixtieth anniversary of the liberation of Buchenwald. It is autobiographical, depicting Rabbi Lau's childhood in the shadow of the Holocaust: his birth on the way to Buchenwald, his life in the camp, and his journey to Israel. The latter part of the book includes stories from Rabbi Lau's adult life, demonstrating the influence of his childhood experiences.

The Hebrew Title

The name of the Hebrew edition, "Do not send your hand against the child", comes from the story of *Akeidat Yitzchak*. Avraham is holding the blade, and at the last moment he hears the *malach* of G-d call out with those

words, commanding him not to slaughter Yitzchak. Rabbi Lau chose this name to reflect a time when everyone stood in the shadow of death. Lulik, as Rabbi Lau was known as a child, sensed that he was always beneath the blade, as people around him disappeared and were killed. Thank G-d, he survived, and he identified his experience with Yitzchak's last-minute rescue. Of course, these experiences scar the spirit, and their influence upon the author's life, as a father and a rabbi, was deep.

The goal of the book

Rabbi Lau's goal is to express the story of the Jewish people as he lived it, and through this to both move and educate the reader. He turns to the reader's feelings, with the story of little Lulik, lost in the great world and under attack. At the same time, he attempts to teach the lessons he learned as an adult, light-years from his place of birth.

Rabbi Lau tries to offer a unique angle on the Holocaust – not only the war, and not only the massacre of the Jewish people, but the lives of Jews themselves. He wants the reader to

understand the religious Jewish experience of that time. The book touches on family issues and religious issues which only indirectly tie in to the Holocaust. Some of these passages will be foreign to people who do not live as part of the religious community, but Rabbi Lau's flowing, clear language will enable any reader to connect.

The impact of the book

In my humble opinion, the success and impact of this book has extended to the broader community, and not only observant Jews, or people with knowledge of the Holocaust. Rabbi Lau successfully introduces the reader to observant Jewish life and the religious experience, enabling everyone to connect. This exceptionally moving book, with its many life lessons, is written in a clear, easy to read style; it is highly recommended, and not only for Yom haShoah.

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Israel's Rabbis: Rabbi She'ar Yashuv Cohen

Rabbi Mordechai Torczyner

Rabbi Eliyahu Yosef She'ar Yashuv Cohen
B. Jerusalem, 1927 / D. Haifa, 2016
Ashkenazi Chief Rabbi of Haifa, 1975-2011

Biography

Rabbi Eliyahu Yosef She'ar Yashuv Cohen was born to illustrious parents: his father, the "Nazir of Jerusalem", was a 17th generation rabbi and close student of Rabbi Avraham Yitzchak Kook, and his mother, Sarah Etkin, was a founder of the forerunner of the Emunah organization. It is said that young Eliyahu Cohen would play violin for Rabbi Kook when he visited.

Rabbi Cohen was raised with the practices of a nazir. As a student at Yeshivat Mercaz haRav, he joined the resistance against the British Mandate, with the approval of his teachers. At this time, he was released from the nazir's prohibition against cutting his hair, reportedly to facilitate his Resistance activities. He continued to abstain from wine, though, and he was a vocal vegetarian.

During the War of Independence, Rabbi Cohen defended Jerusalem and Gush Etzion; he was severely wounded, and imprisoned by the Jordanians. After his liberation, he served seven more years, and then went on to hold various positions in the IDF rabbinate, including Chief Rabbi of the Air Force.

In the 1960's, Rabbi Cohen served as Deputy Mayor of Jerusalem. In 1975, he was appointed Chief Rabbi of Haifa; he also headed the Harry Fischel Institute for Talmudic Research and Torah Law. He served three consecutive terms on the Board of Governors of the University of Haifa. Rabbi Cohen was known for interfaith dialogue, as a delegate

to the Vatican and Islamic agencies. In 2008, he lectured before the International Catholic Church Synod in Rome.

Legacy

Rabbi Cohen represented the philosophical school of Rabbi Kook, and its *dati leumi* blending of Judaism and nationalism. He was a staunch Zionist, even wearing his IDF uniform for his wedding, and he led an institute promoting study of the Jerusalem Talmud as the Talmud of Eretz Yisrael. A vocal opponent of the 2005 Disengagement, Rabbi Cohen declared that its engineers would never be forgiven, not in this world and not in the next.

Rabbi Cohen was a major link to the great Torah sages of the early State; he studied under Rabbi Zvi Yehudah Kook, Rabbi Yaakov Moshe Charlap, Rabbi Yitzchak Herzog, and Rabbi Isser Yehudah Unterman. He was also one of the inspirations for Yeshivot Hesder, which blend yeshiva study with military service. At the same time, Rabbi Cohen was driven to connect with all Jews; in a 1975 editorial, he wrote, "To be an effective spiritual leader in this generation the rabbi must possess three qualities: the ability to enlighten and to make oneself heard, and warmth of spirit." Yona Yahav, mayor of Haifa, said, "He knew how to turn religion into a bridge between different segments of the population, Jews and non-Jews as one."

An English translation of Rabbi Cohen's biography is set to be published in 2017 ("Between War and Peace"). Recordings of his classes are available at <http://bit.ly/2c89sjN>.

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Biography

Rabbi Yaakov Emden

Rabbi Yair Manas

Rabbi Yaakov Emden, son of Rabbi Tzvi Ashkenazi (Chacham Tzvi), was born on June 4, 1697, in Altona. Altona, located in present-day Germany, was then a Danish harbour town. Jews were not permitted to live in Hamburg, Germany, and they instead settled in Altona. Rabbi Emden passed away in 1776.

Rabbi Emden studied Talmud with his father until he married, and he became expert in philosophy, kabbalah, and grammar. Other than serving as Rabbi of Emden, Germany for a short period, Rabbi Emden did not work professionally as a rabbi; he dealt in jewelry, and later in life he operated a printing press.

Rabbi Emden is known for the more than thirty books he wrote and published, including the *She'elat Yaavetz* collection of responsa, and *Mor U'Ktziah* on Shulchan Aruch. Beyond his writing, though, Rabbi Emden is known for his controversies. Among Rabbi Emden's more controversial opinions are claims that Maimonides did not write the Guide for the Perplexed - because of seemingly heretical ideas contained therein - and that the Zohar was a forgery. Also, Rabbi Emden's opponents accused him of deviating from the common text in the siddur that he published.

Arguably, Rabbi Emden is best known for his conflict with Rabbi Yehonatan Eybeschutz, in which he accused Rabbi Eybeschutz of following the false messiah, Shabbtai Zvi, a charge that has been much debated without any definitive conclusion.

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Torah and Translation

Drinking in a Coffee House

Rabbi Yaakov Emden, *She'elat Yaavetz* 2:142

Translated by Rabbi Jonathan Ziring

והריני עומד וצווח שאני נצוח ואין לי אלא
ההודות על האמת שיצא בזה דבר שאינו
מתוקן מתחת ידי, ואנא דעבידנא לגרמי
הוא דעבדי והתלמידים הבאים לא ישתו.
ואשר ראו ממני לא יעשו כמוני. כי
נתחרטתי מעיקרא עקב רוח אחרת עמי
כעת.

שנכון הדבר לאסור לגמרי שתייתו בבית גוי
רק על האופן שנתבאר בי"ד סימן קי"ד גבי
שכר, עם שהיינו יודעים בבירור גמור
שנעשה בלי שום תערובת דבר אחר. דהא
שיכרא נמי אסרינן משום שימצא דשימצא.
וכן פסק בש"ע לאסור שתייתו בביתם דרך
קביעות אפילו בזמן הזה, וביותר במקום
שמקילין בסתם יינם, מטעמו של הרשב"א
ז"ל שם.

וזה דיננו ממש אף שיש לחלק קצת בין
הנושאים, דשכר הוא מידי דמשכר ושם
גרים. ויש לאומר שיאמר דמשום הכי חששו
לו ג"כ דשייך נמי בגזירת בנותיהם. משא"כ
בקאפיע שאדברא להפיג היין הוא עשוי,
ומיצל צייל לחמרא דרויא.

מכל מקום יותר נראה דלא פלוג בהו ובחד
מחיתא מחתינהו לאיסורייהו דכולהו
משקין דאפילו בפת ושלקות גזרי מהאי
טעמא, ולא בטלי לגזרתייהו אם לא בשעת
הדחק, אף על גב דשכרות ואבזרהא לא
מישך שייכא בהו. ואם בזמניהם כך החמירו
על עצמם בגזירה לגזירה, משום "לך
אמרינן נזירא," אנו בדורותינו דפשיטא לא
אכשור דרי על אחת כמה וכמה שיש לנו
להרבות בגזרות כאלו לגדור הפרץ שלא
יתלו עיניהם בבנות הארץ על כן מעתה
הדבר ברור בעיני שראוי והגון להחמיר
עליהם בכל ביוצא בזה. והוא מדינא
דתלמודא כאמור.

[A response after being challenged for drinking in a coffee house in London]

I hereby stand and cry out that I have been defeated and all I can do is admit the truth - that something imperfect has come out from my hands. What I did, I did for myself, and future students shall not drink. And those who saw what I did should not do like me. I regret what happened originally, because of a different spirit that is in me now.

For it is proper to completely forbid drinking [coffee] in the non-Jew's store, as in Yoreh Deah 114 regarding beer. This is even where we clearly know that it was made without mixing in anything else, for beer was also forbidden because of the remotest concern [lest one drink the non-Jew's wine]. And Shulchan Aruch ruled accordingly, forbidding drink in their houses with regularity, even nowadays, and especially in places where they are lenient about non-Jewish wine, as per Rashba there.

This is exactly our case, even though one could distinguish slightly between [beer and coffee], as "*shechar* is *meshaker* [alcohol intoxicates]" - as the name implies. And one could say that it was because of this that they were worried, as it relates to the decrees [meant to dissuade marrying] their daughters. However, this is not the case with coffee - which is the opposite - as it is made to weaken the effects of wine. It clears one's mind from the drunkenness of wine.

Nevertheless, it is more likely that they did not distinguish [between coffee and beer], and the prohibitions were lumped together, forbidding all drinks - even bread and cooked foods were forbidden for this reason, and their decrees are not cancelled except under extenuating circumstances, even when drunkenness and its related problems are not relevant. And if in their times they were stringent even for second-order decrees, because we tell the Nazirite, "Go away", then in our generation, as it is obvious that the generations have not improved, how much more do we need to increase decrees like this, to fence in the breach, so that they won't turn their eyes to the daughters of the land. Therefore, from now on it is clear in my eyes that it would be proper and correct to be stringent on them for all similar things. And this is Talmudic law.

Devarim 22:1 commands, “You shall not see your brother’s straying ox or sheep and ignore them; you shall return them to your brother.” The Torah continues to spell out the procedure for returning lost property; Sefer haChinuch counts the mitzvah of restoring property as Mitzvah 538, and the prohibition against abandoning it as Mitzvah 539.

One may keep an item which he finds after the owner has already abandoned hope of its return. (Shulchan Aruch Choshen Mishpat 262:5) However, where government regulations require returning the item, one must still return it. (Rama Choshen Mishpat 259:7) Further, there is merit to returning lost property beyond one’s legal obligations, as a matter of generosity. (Choshen Mishpat 259:5) Also, one is required to return lost property where failure to return it

would disgrace the Name of G-d. (Biur haGra Choshen Mishpat 388:77)

One who can either save his own property or save that of someone else is entitled to choose his own property. However, it would be better to extend one’s self for others first, where that is affordable. (Shulchan Aruch Choshen Mishpat 263:1)

The mitzvah of restoring lost property extends beyond physical items, to include medical care. Therefore, a doctor or nurse who is providing medical treatment is exempt from other mitzvot, such as prayer, at that moment. (Nishmat Avraham Orach Chaim 38:6)

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Weekly Highlights: Sept 17 – Sept 23 / 14 Elul – 20 Elul

Time	Speaker	Topic	Location	Special Notes
Sept. 17				
BAYT Mini-Shabbaton: 5776 - The Year That Was				
8:50 AM	R' Mordechai Torczyner	Transgender Rights?	BAYT	<i>Turk Beis Medrash</i>
9:30 AM	Adam Friedmann	The Conversion Debate	BAYT	<i>Rabbi's Classroom</i>
5:30 PM	Elliezra Perez	Prayer Under Attack	BAYT	<i>For Women</i>
5:30 PM	Yaron Perez	Shai Dromi's Law	BAYT	<i>Hebrew</i>
5:45 PM	R' Jonathan Ziring	Daf Yomi	BAYT	<i>Rabbi's Classroom</i>
6:30 PM	Adam Friedmann	Pirkei Avot: Failed States	BAYT	<i>Main shul</i>
After minchah	R' Mordechai Torczyner	Gemara Avodah Zarah: A Markolis Summary	BAYT	<i>Simcha Suite</i>
Sun. Sept. 18				
9:15 AM	R' Shalom Krell	Book of Shemuel	Associated North	<i>Hebrew</i>
<p>6 AM to Midnight—The Eighteen Hour Shiur! Participate live at 159 Almore Ave, or watch on-line at www.torontotorah.com/eighteen There is no charge; Roster of shiurim at www.torontotorah.com/eighteen</p>				
Mon. Sept. 19				
8:30 PM	R' Mordechai Torczyner	Tefillah, Emunah, Rosh HaShanah Week 2: The Art of Piyut	Shomrai Shabbos	<i>For men only</i>
Tue. Sept. 20				
1:30 PM	R' Mordechai Torczyner	The Poetry of Rosh HaShanah, Week 2	Shaarei Shomayim	
8:00 PM	R' Jonathan Ziring	The Infinite Emotions of a Wordless Sound	BAYT	
Wed. Sept. 21				
10:00 AM	R' Mordechai Torczyner	Prophets of Sin & Redemption Week 3: Chanah	Beth Emeth	<i>There is a fee info@torontotorah.com</i>
2:30 PM	R' Jonathan Ziring	Narratives of Exodus	Location: Contact carolleser@rogers.com	<i>For women</i>
Thu. Sept. 22				
1:30 PM	R' Mordechai Torczyner	Shoftim: Devorah's Song	49 Michael Ct.	<i>For women</i>
Fri. Sept. 23				
10:30 AM	R' Jonathan Ziring	Bava Metzia, Perek 4 Issues in Onaah	Yeshivat Or Chaim	<i>Advanced</i>