

קונטרס
על ההר הזה
על עניני פסח

Kuntres
Al Hahar Haze
on Pesach



Denver Community Kollel
TORAH ASSOCIATION

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**נתנדב ע"י משפחת היימן
לעילוי נשמת
ר' בן ציון בן אהרן היימן**

**Dedicated by Joshua
and Melissa Close
in honor of
their chavrusos at the Kollel**

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Introduction הקדמה

Moshe stood at the Burning Bush arguing with Hashem for seven days. During the course of these arguments, Moshe asks two questions: Who am I to go before Pharaoh? And what merit do the Jewish People have to be redeemed from Egypt? (see Shemos 3:11 and Rashi ibid.)

Hashem replies that Moshe is not going on his own before Pharaoh; he is going as Hashem's messenger. As for the merit of the Jewish people to leave, Hashem replies "בהוציאך את העם ממצרים תעבדון את האלוקים על ההר הזה" "When you will take the nation out from Egypt you will serve G-d upon this mountain" (Shemos 3:12). The mountain is Mt. Sinai, and Hashem is referring to the Giving of the Torah. Rashi, in one approach, explains that the Jewish People would be able leave Egypt – despite Moshe's claim that they lacked the merits to do so – because of a future event, the Giving of the Torah.

This needs explanation, for this is an event that has not yet occurred; how could something in the future be a credit to the person right now?

One approach is as follows: At the beginning of Parshas Va'era, Hashem tells Moshe, "וארא אל אברהם אל יצחק ואל יעקב באל שקי ושמי יקוק לא, נודעתי להם" "And I appeared to Avraham, to Yitzchak and to Yaakov with [the Divine name of] *Keil Shakkai*, but My name of *Havaya* (the Tetragrammaton) I did not make known to them." (Shemos 6:3) There is a great deal of discussion among the commentators as to the meaning of this cryptic verse. Rabbi Avraham ibn Ezra explains that the name *Keil Shakkai* is the name by which one can relate to Hashem through the natural world. This was the way the Patriarchs built their relationship with Hashem – through the natural world, they came to recognize their Creator. Even the miracles they experienced were still within a framework of the natural world, not by its being torn asunder.

However, the Tetragrammaton is unique among the names of Hashem, for while the other names of Hashem are indicative of a particular mode of how Hashem is relating and interacting with Creation, the name

Havayeh is the name that is beyond and unconnected with Creation – *Havayeh* symbolizes *haya, hoveh, viyiyeh*, He was, He is, and He always will be – as opposed to Creation, which has limits. While this name was revealed to the Patriarchs, they never experienced Hashem beyond Creation, only through it.

At this point, as the redemption from Egypt neared, a cataclysmic shift was occurring. The world would move from one in which Hashem revealed Himself only through nature to a world where one could relate to Him beyond the confines of the natural world.

Rabbi Dov Schwartzman explains that in the natural world, things change and shift; one is judged based on his deeds and merits, and even if a decree was issued to bestow a person with goodness, one could lose the promised bounty if he failed to live up to the level required to receive that goodness. Hence, we find Yaakov praying to Hashem in terror that Eisav will harm him, despite Hashem's promise that He would protect him; Rashi tells us Yaakov feared he had been sullied by sin and had forfeited the promise Hashem had made.

In a world of *Havayeh*, a world of absolute *emes*, however, nothing changes. A promise will be kept, come what may, and Hashem has a promise to the Patriarchs that He will redeem their descendants so that they become His nation. The fact that the Jewish People lack the spiritual power to be redeemed is of no consequence; Hashem has revealed a new mode of conduct that will not necessarily take the realities of the natural into account, and anything that fits into that approach must happen.

Where does this new world order begin? At the *Sneh*, the Burning Bush. In the natural world, bushes have no merits through which they are spared of fire. The only explanation for the fire-resistant nature of the *Sneh* is that there is nothing natural anymore. And, says Hashem to Moshe, just as the bush is not harmed because it is carrying out My will, so you, too, will go unharmed; for even if you yourself are unworthy, you are working for Me, and the laws of nature cease to exist (see Rashi, Shemos 3:12).

But that is not all. The culmination of the new reality occurs at Mt. Sinai, as Hashem gives the Torah to his Chosen Nation. Torah precedes the world, it is not of this world, but it is sent down to this world. Through studying it and living it, we can connect to Hashem at a level unconstrained by this world. The name *Havayah* is realized through Torah. And therefore, says Hashem, the Jewish People don't need to earn their salvation now. The fact that they are the nation who will bring the name *Havayah* into the world through the Torah allows them to exist on a higher plane, a world where the promise to the Patriarchs will be fulfilled no matter what - a promise that will realize its ultimate fulfillment at Sinai.

The Giving of the Torah at Sinai is not the merit the Jewish People needed to leave Egypt. Rather, it reflected a reality that did not require said merits. It was the climax of the shift of Hashem's presence in the world that began with the process of the Ten Plagues and the Exodus, a process of the dissolution of the natural world and a reconstruction of Creation to reflect that Hashem exists and relates without any natural constraints (see Ramban at the end of Parshas Bo). The Jewish People moved into this new reality, and could thus be redeemed despite their lack of merits.

The more things change, the more they stay the same. 3 ½ score and seven years ago, a new century began on the Jewish calendar, a time shrouded in darkness, death, and destruction. Many people despaired of a future for Torah Jewry, yet the few and the determined persevered, against all odds, and rebuilt what has become today a flourishing Torah community across the world. Naturally, they should have failed. Naturally, Torah-observant Jewry should have faded into oblivion. What was the secret of the success of those who struggled mightily against the pessimism, the skeptics, the naysayers, who forged ahead and succeeded?

They knew the secret that Hashem told Moshe: Torah. Torah places us in a different world, on a different level, where statistics, assessments and predictions have no place – a world beyond ours. Those giants of the spirit knew that Torah would survive, rebuild, and flourish. Just as the Jewish

People left Egypt on the Torah bandwagon millennia ago, the Jewish People arose from the ashes clinging tenaciously to that Tree of Life.

In 1941, the great Rabbi Aharon Kotler opened a small yeshiva in a sleepy New Jersey town called Lakewood. Most people thought he was crazy. But he ignored everyone, and, with the help of a small group of supporters, he succeeded. Torah and its People would defy the odds – they always have, and they always will. Today, Beth Medrash Govoha of Lakewood is the largest yeshiva in America, with over 8,000 students. Dozens, if not hundreds, of other yeshivos have been founded by alumni. And tens of community kollelim have been sent forth from the hallowed halls of the Lakewood Yeshiva.

These kollelim have had a profound impact on the landscape of the towns and cities where they operate. When Torah arrives, it lifts everyone up and moves them to a new place, a place not of this world. As they spread Torah and its message far and wide, the Kollel scholars and their families have raised Jewish communities to new, unimagined levels of commitment to Torah and Judaism. Levels its residents thought impossible. But nothing is impossible if the power of Torah is unleashed.

In Denver, Colorado, the Denver Community Kollel opened its doors 19 years ago to bring Torah learning, Torah teaching and Torah living to Denver Jewry. Countless Jews have been impacted by the Kollel, and the Kollel's *harbotzas Torah* continues to increase with each passing year. New frontiers are opened, new people introduced, new families enchanted and changed by Torah and its timeless message.

As we celebrate Pesach, *zman cheiruseinu*, the holiday of our freedom from physical and spiritual bondage, let us celebrate the power that allowed the Exodus to happen: the power of Torah. The Denver Community Kollel proudly presents *Kuntres Al Hahar Hazeh*, a compendium of Torah thoughts and discussions related to Pesach. The name, *Al Hahar Hazeh*, is taken from the verse mentioned earlier; it is a reference to Mt. Sinai and the Torah that was given upon it. Simultaneously, it refers to the study and impact of the Torah in Denver,

the Mile High City situated at the foot of the majestic Rocky Mountains. We hope these *divrei Torah* will take your appreciation of this special time to new levels as you celebrate along with the entire Jewish Nation.

Egypt: The Iron Crucible

by Rabbi Shachne Sommers, Rosh Kollel

Hashem... took you out of the iron crucible, of Egypt, to be for Him a nation of heritage as today. (Devarim 4:20).

“Crucible” is the utensil in which gold is purified. (Rashi ibid.)

One of the crucial points that we need to understand about the Egyptian exile and the subsequent redemption is that the experience of exile and slavery in Egypt was a purification process. It was the crucible of the Egypt experience that forged us into “pure gold,” a people worthy to be the nation of G-d.

There are many aspects of this purification process. Let us explore one of them.

One could find an indication as to the nature of this purification when analyzing the words of Hashem when He appeared to Moshe in the Burning Bush and introduced His plan for the redemption.

...I have seen the pain of my nation in Egypt, and their cries I have heard from before its oppressors... (Shemos 3:7)

If one looks carefully at the text one notices a peculiar grammatical inconsistency. The Jewish People are sometimes referred to in the plural (referring to the many individuals comprising the nation) and sometimes in the singular (referring to the nation as a single unit). In this verse, the Torah switches in the very same phrase. When referring to their cries, the plural form is used: *their* cries. When referring to the nation’s oppressors the singular form is used: *its* oppressors. What is the meaning of this discrepancy?

Rabbi Meir Simcha of Dvinsk in his classic work *Meshech Chochma* offers the following illuminating insight. If the Torah would use the plural form throughout: “they cried... their oppressors,” that would indicate that the multitude of individual Jews were crying, each one due to his or her own oppression. But now the Torah is telling us something else. “They cried,”

the multitude of individual Jews cried, not because of their own private pain, but rather because of “its oppressors,” because the Jewish People as a whole were suffering.

Hashem was telling Moshe why the Jews were ready for redemption. The Jewish people had reached the point of transcending their personal pain and crying for the pain of the nation as a whole.

The purification that was necessary was the ability of the individual Jews to identify with the Jewish People as a whole, single entity - Hashem’s People. And they achieved it. “*They* cried because of *its* oppressors.” The crucible had done its job.

If we look back at the beginning of the account of the Egyptian slavery (beginning with Shemos 1:9), we again find the same grammatical discrepancy mentioned before. At the beginning of the account, the singular form for the Jewish Nation is used repeatedly. Pharaoh refers to the Jewish people as “...the nation of the children of Israel...” “Let us be wise regarding *it* (the nation), lest *it* grow...” Continues the Torah, “And they placed upon *it* tax officers and *it* built... they pained *it*... *it* increased...”

But then the Torah switches to plural. “And Egypt made *the children of Israel* do back-breaking work. And they embittered *their* lives... they made *them* work...”

Following the approach of the Meshech Chochma, we can suggest the following. Pharaoh recognized that the strength of the Jews was their unity. His plan was to destroy their unity by making them so absorbed in their own pain that there would be no room in their hearts for others. “Let us deal wisely with ‘it’ by dividing ‘it.’” At first Pharaoh did not succeed and they remained a single entity despite the slavery and the pain.

But when the slavery was taken to a new level, “back breaking labor,” the first cracks in the unity of the nation appeared. They were no longer “the *nation* of the children of Israel,” the single entity, but rather the plural

“children of Israel.” The bitterness of the individuals’ lot precluded their ability to see beyond the personal and they were unable to sufficiently feel their unity with the Jewish People as a whole.

This was the crux of the spiritual struggle that the Jews faced in Egypt. And this is what the “iron crucible” ultimately purified.

In order to understand how this purification came about, we must recognize one fundamental point. Growth comes from overcoming challenges. When circumstances challenge our ability to see beyond our own problems, and yet we overcome our tendency for self-absorption and see and feel for others, that is when we have truly changed and become purified.

This was the challenge and the struggle that the Jewish People faced for many decades. But at a certain point, they overcame. They rose above their personal suffering and felt the suffering of the entire people.

The catalyst through which this was achieved could be appreciated by looking at yet another source in the Torah where we find the above-mentioned grammatical discrepancy.

In Parshas Va’eschanan (Devarim 4:29), the Torah describes the Jewish People seeking Hashem in their future exile. Says the Torah: “And you [plural] will seek from there Hashem your G-d and you [singular] will find, because you seek with all your heart and all your soul.”

Explains the Meshech Chochma, the unity of the Jewish People derives from their attachment to Hashem, as the individual spokes of a wheel are unified by their shared connection to the center.

In exile, when the Jews’ connection to Hashem is weakened, and they are searching to reconnect, the Jews are not unified, they are individual spokes, and hence, the plural is used. And you [plural] will seek.”

But at the moment that the Jews find Hashem, the spokes reconnect to the center point, and suddenly they find themselves unified with the Jewish People, “...and you [singular] will find...”

After decades of terrible slavery in Egypt, the bonds between the Jews and Hashem were weak. Until a certain point. And then the Jewish People cried out and “their cries ascended to Hashem” (Shemos 2:23). They found the connection to Hashem that they were seeking. They had reconnected to the source of Jewish unity and were suddenly crying for much more than their personal pain but rather for the Jewish People as a whole.

At that point, Hashem said, “I have heard their cries because of its oppressors.” The purification process is done. The time has come to take them out of the “iron crucible” and make them the “nation of My heritage.”

The Matzah Inoculation

by Rabbi Aron Yehuda Schwab, Rosh Kollel

The transformational power of the Seder event is achieved through weeks of physical and spiritual preparations. The loftiness of that night is seared into the memories of our youth; the message of our nation engraved upon their hearts.

However, as the days of Pesach progress, the spiritually-attuned can sense a feeling of emptiness. How do we maintain the loftiness of the Seder? After the Seder, we have no other unique Pesach mitzvos, such as those of Sukkos. Aside from enjoying the holiday celebrations, what should we be focusing on in order to continue the spiritual levels attained at the Seder?

In addition to beginning the forty-nine-day spiritual climb towards Shavuot, there is a unique Pesach mitzvah that, through a deeper understanding and better focus, can transform the remainder of Pesach to be as uplifting as its lofty beginnings.

This much-ignored and undiscovered mitzvah will come as a surprise to many. It is the mitzvah¹ of eating matzah for the remainder of Pesach.

The Ramchal² writes that in addition to refraining from chametz the entire Pesach because of its connection to the *yetzer hara*³, we are commanded to eat matzah⁴, the staple that lacks any aspects of *yetzer hara*. Consumption of this food that is connected only to the *yetzer tov*

¹ A *mitzvah kiyumis* according to the Vilna Gaon; one is not obligated to eat matzah for the remainder of Pesach, but one fulfills a mitzvah by doing so.

² Maamar Hachochma and Derech Hashem 4:8:1

³ See Brachos 17a and Rashi *ibid.* s.v. *se'or shebi'isa*. The *yetzer hara* is associated with *chametz*. Common explanation is because it causes a person to become inflated and egotistical, while matzah is associated with humility. The Ramchal explains that *chametz* signifies food that is enjoyable and indulgent, but matzah signifies food that is removed from indulgence.

⁴ Refraining from *chametz* is *sur me'ra*, pulling away from evil, and eating matzah is *asei tov*, do good.

for a full week at the beginning of the Jewish years⁵, strengthens the *yetzer tov* and inoculates us from succumbing to the forces of the *yetzer hara* throughout the year. In fact, the Zohar (Shemos 183b) teaches us that matzah is the bread of [spiritual] healing.

We are eating plenty of matzah anyway; if we were only to put thought into our consumption, we would realize the magnitude of its hidden power to purify us from the contamination of indulgence that leads us to sin⁶.

After the glow of the Seder fades, with proper focus and intent, we can perform the mitzvah of inoculating ourselves from the impurities brought upon us through our indulgences in sensuous pleasures. Only after a week of this medicinal food can we reenter our year-long engagement with all the aspects of this world, protected from the spiritual dangers that lurk within. We can condition ourselves to put into proper perspective our involvement with this world's blandishments and bring upon ourselves the spirit of *kedusha*, holiness, when engaging the physical world.

Over the past few decades, Pesach menus and ingredients have transformed from sparse into lacking nothing and sometimes even indulgent and decadent. This undoubtedly began as an effort to better observe the mitzvah of *Simchas Yom Tov*, fully rejoicing in the holiday⁷. I

⁵ See introduction to the Haggada of Rabbi Yitzchak Eizik Chaver, where he says, "הוא זמן לידה והגילוי למעלת ישראל", "This is the time of the birth and the revelation for the virtue of the Jewish People." Rabbi Shimshon Pincus explains that a baby at the time of birth is very susceptible to contamination.

ועי' פלא יועץ (אות פ' פסח) שלא איסור חמץ בלבד הוא חמור מאד בימי הפסח, אלא כל דבר פשע חמור מאד ופוגם ועושה רושם בפסח יותר ויותר משאר ימות השנה.

⁶ See Mesilas Yesharim Perek 13, אחריו, "כי הנה אין לך תענוג עולמי אשר לא ימשוך אחריו, איזה חטא בעקבו" "For, behold, you do not have any worldly pleasure that does not draw sin in its wake."

⁷ See Rambam Hilchos Shevisas Yom Tov 6:17, "הקטנים, נותן להם קליות ואגוזים, ומגדנות; והנשים, קונה להן בגדים ותכשיט כפי ממונו; והאנשים, אוכלין בשר ושותין יין..." "Children, one gives them roasted grain kernels, nuts and sweet fruits;

would argue, however, that we have gone too far. A study of the purpose of eating matzah and refraining from *chametz* may inspire us to consider swinging the pendulum back to achieve a healthier balance between decadent holiday indulgence and asceticism. Even if simplifying our consumption is not realistic, we can attain untold levels of purity and inoculation through focused mitzvah-eating, and at the same time, we will inspire the entire Pesach, long after taste of the *Afikoman* fades away.

women, one purchases for them clothing and jewelry according to his means; men, they eat meat and drink wine...”

Moshe Rabbeinu as Leader of Klal Yisrael

by Rabbi Moshe Heyman, Menahel HaKollel

Parsha Shemos introduces us to the great leader of the Jewish People, Moshe Rabbeinu. Rabbi Aharon Kotler brings a Medrash on the verse “*vayar bisivlosam*,” “and he saw their burdens,” (Shemos 2:11) which states that this was Moshe’s defining moment as a leader. The Medrash writes, “What did Moshe see? He saw the Jews suffering and cried, and he said, ‘There is no harder work than working with cement,’ so he put it on his shoulder and he helped each and every one.” Moshe sees his people suffering and he reacts by carrying their burden, both literally and figuratively. A leader is someone who feels for others’ suffering through and through. Rav Aharon goes on to explain that included in the mitzvah of *vihalachta bidrachov*, going in Hashem’s ways, is the concept to feel for others, for Hashem Himself says, “*Imcha anochi bitzara*,” “I am with you in the suffering.” Hashem showed this to Moshe by appearing to him in a thorn bush, to display, as it were, that Hashem is in pain along with Klal Yisrael. The Medrash states that this is comparable to twins who are very close with each other; if one has a headache, the twin feels the pain.

Rav Aharon continues and says that a person who ignores the plight of Klal Yisrael and does not feel for the suffering of Klal Yisrael causes *chilul Hashem*, for they are ignoring Hashem’s pain also. We thus see the greatness of being *nosei b’ol*, of feeling for other people’s suffering, and also the terrible reality of not feeling others’ pain.

I recently read a story of a father who invited a last-minute guest to stay overnight at his house. His son was not too happy giving up his bed, yet the father felt it was an important lesson for the son to learn, and had him sleep on the floor. The son resented what his father had done, thinking his father was sleeping comfortably in his bed. Only later on in life did that child learn that his father, after making him sleep on his floor, spent that night on the floor in his room, as well.

How do we deal with all the suffering that occurs among the Jewish People? We would not make it through the day if we tried to bear

everyone's pain! I asked this question to Rabbi Matisyahu Salomon, Mashgiach Ruchni of Beth Medrash Govoha of Lakewood, after seeing him deal with numerous tragedies in a matter of a few hours. Rabbi Salomon explained to me that I was making a mistake in my approach toward the suffering of others. When we hear about a tragedy, he explained, we automatically feel bad because we think about how we would feel if that were to happen to us. When one hears about a young father passing away, one's thoughts tend to be - if that would happen to my family, how terrible that would be.

Being *nosei b'ol*, said Rabbi Salomon, is not thinking how pained I would feel, but, rather, thinking about how I can help this person's family, how can I help the widow move on with her life, how can I bring some comfort to the orphans. The Medrash tells us that Moshe went out and saw the suffering and acted upon what he saw by shouldering the burden. If that is our approach to people's suffering, then we do not get down or depressed by the tragedy but, on the contrary, we will feel like we are doing something to make it better.

How do you become a leader who shoulders the burden of an entire nation? What is the *middah* that needs to be refined to accomplish leadership? The Torah, in describing our greatest leader Moshe, says he was the most humble of all men. The Kli Yakar (Shemos 3:11) explains that Moshe told Hashem, "Who am I to go in front of Pharaoh, and who am I to take out Klal Yisrael from Egypt?" Moshe, in his humility, is saying, I am not great enough to go in front of Pharaoh, and who am I to be the leader of such an exalted people, Klal Yisrael. On these points Hashem answers Moshe, "*Ki eh'yeh imcha*," for I will be with you, since you are humble. When you go in front of Pharaoh and Klal Yisrael, you will be the *kli*, the vessel, through which I will speak. Hashem's response to Moshe is that indeed, you would be right if you feel that it is you alone going to Pharaoh and taking out Klal Yisrael; then you are not qualified. But when you introduce Hashem as part of the equation, then you qualify as a true leader. The humbler the vessel, the more Hashem can express Himself

through the vessel. Hence, Moshe, who was the humblest of all men, was our greatest leader.

The Kli Yakar (Shemos 3:5) notes then when Hashem appears to Moshe at the Burning Bush, Hashem tells Moshe to remove both of his shoes, yet his student Yehoshua bin Nun, when confronted by an angel decades later, is told to remove only one shoe (see Yehoshua 5:15). The Kli Yakar discusses the discrepancy and explains that the shoe represents *gashmius*, physicality, and the removal of shoes is akin to removal from one's physical self, something essential to prophecy. The concept of shoes on your feet is a physical representation of the relationship of the *guf*, the body, to the *neshamah*, the soul. A *neshamah* is a chain that begins from under Hashem's throne and devolves down to a body. The *guf* encases the lowest point of the *neshamah* like the shoe encasing the foot. The Torah is attesting that Moshe can reach the greatest level of prophecy of any human, manifested by the removal of both shoes. Yehoshua, great as he was, did not reach the same heights as his teacher.

There is a wonderful story of a newly-religious yeshiva *bachur* who was at the Kosel when he noticed a commotion. He asked an elderly gentleman what was going on, and the man explained there was a meeting of great sages from all over the world and the American sages had come to the Kosel. The gentleman continued and asked the *bachur* if he would like to meet and get a *bracha* from one of the great sages. The *bachur* was introduced to the great and saintly-looking Rosh Yeshiva of Yeshivas Rabbi Chaim Berlin, Rabbi Aharon Schechter, who gave him a warm blessing.

That Friday night, the *bachur* excitedly told the story to his host and about the *bracha* he received. His host asked him if he had met the great Rabbi Shmuel Kamenetsky, to which he replied no, he had met Rabbi Schechter. The next day, the scene repeated itself the Shabbos day *seudah* with the same question as to whether he met Rav Shmuel. The *bachur* again replied in the negative, but, in curiosity, he asked to be shown a picture of Rav Shmuel. To the *bachur's* amazement, lo and behold, the kind gentleman who had introduced him to Rabbi Schechter was none other

than Rabbi Shmuel Kamenetsky himself! It is no wonder that, following in the footsteps of his great father Rabbi Yaakov Kamenetsky, he is the leader of American Jewry.

Rabbi Gedalya Schorr quotes the Chasam Sofer who explains that Moshe's great humility is actually represented in his name. Moshe comes from the term "drawn from the water." (see Shemos 2:10) Water represents the physical, and Moshe was drawn from all that is physical. Moshe's greatness is in the words *venachnu mah* (Shemos 16:7), "...and we, what are we?" that he expressed to the Jewish People in the desert; these words display his total and complete self-abnegation. His greatness is due precisely to his deep understanding that everything is Hashem.

The name Moshe comprises the Hebrew letters *mem*, *shin*, and *heh*. *Mem* and *heh* spell the word *mah*, "what?" and thus represent the *middah* of *mah*, the concept of humility. The letter *shin* actually consists of two letters, a *tes* and a *zayin*. The letter *tes*, says the Gemara (see Bava Kamma 55a), represents *tov*, good. It thus represents Moshe's complete goodness. (In fact, one of Moshe's names was Tuvia, derived from *tov*.) Yet an effective leader, humble as he might be, needs to have *gevurah*, strength, which is alluded to by the letter *zayin*. *Zayin* is the symbol for strength; *zayin* means weaponry. The name Moshe is the perfect recipe for greatness – humility, goodness, and strength. May we learn from the *middos* of Moshe what true greatness entails and merit the coming of Mashiach in our time.

Pesach, Shabbos and the Thirty-Nine *Melachos*

by Rabbi Shmuel Halpern

The Gemara in Pesachim (117b) rules that one is obligated to mention the Exodus from Egypt in the Shabbos night kiddush. At first glance, this seems obscure; what is the connection between Shabbos and the Exodus? Tosafos address this question by bringing a fascinating and puzzling Medrash. The Medrash tells us that the Egyptians subjugated the Jews with thirty-nine forms of labor; therefore, when Hashem redeemed the Jews, He commanded that they refrain from thirty-nine forms of labor on Shabbos. We now understand that somehow, the Egyptian bondage and Shabbos are connected through the number thirty-nine, but we are still left wondering: What is the meaning of this connection?

In order to understand this, let us take a deeper look at the significance of the thirty-nine forbidden labors. Rabbi Yisrael of Shklov writes an incredible idea in the name of the Vilna Gaon. Hashem created the Universe in six days and rested on the seventh; we are therefore commanded to refrain from working on Shabbos. When we rest on Shabbos, we declare that all of our accomplishments belong to Hashem, creator of Heaven and Earth. The Vilna Gaon explains that Hashem created the Universe using thirty-nine forms of labor, so our refraining from those thirty-nine forms of labor on Shabbos is a direct testament to Hashem having created all of existence.

But how, asks the Vilna Gaon, are we to know which forms of labor Hashem used to create the world? The answer lies in the construction of an edifice, the Mishkan, meant to be a microcosm of the universe. The Mishkan contains aspects that represent each and every facet of creation. We can thus infer from the construction of the Mishkan what labors were used in the creation of the world. We refrain from the labors that were used to build the Mishkan as those were the labors used to create Heaven and Earth.

In our lives, we have two opportunities to infuse the world with holiness. One is active, the other passive. In actively fulfilling the mitzvos of the

Torah, and acting as productive members of society in accordance with Hashem's will, we actively bring G-dliness to the world. When we refrain from transgressing His will, we do so in a passive way. We find representation of these two aspects in the Mishkan: the building of the Mishkan infuses the thirty-nine aspects of Creation with holiness in an active way. When the Jewish People paused their construction in honor of Shabbos, they infused these thirty-nine aspects with holiness in a passive way.

Which brings us back to our original discussion. The Egyptians were well aware of the role of the Jews in bringing G-dliness to the world. They attempted to subjugate them, forcing them to perform the thirty-nine forms of labor as the slaves of Pharaoh; their spiritual abilities would be used for Egypt instead of for bringing Hashem into Creation. When Hashem freed them, He gave them the opportunity to infuse the world with holiness via these thirty-nine forms of labor through refraining from working on Shabbos and by actively fulfilling the Torah and mitzvos.

Pesach, Matzah & Maror

by Rabbi Avraham Dovid Karnowsky

Rabban Gamliel tells us: Whoever doesn't say these three things on Pesach has not fulfilled his obligation: Pesach, matzah and *maror*. Clearly, these must be three fundamentals, ideas that one cannot leave the Seder without grasping. Let us explore the depths of these important concepts.

Pesach: If one studies the words of the Haggada carefully, one will notice an interesting observation. It states, "The Pesach that our forefathers used to eat." For all other sacrifices, the main rectification came about through the act of sacrificing the animal upon the Altar. If the meat that was to be eaten became impure prior to the sprinkling of the blood, it would not render the sacrifice unfit or void. However, by the *Korban Pesach*, the Gemara (Pesachim 78a) states that if the meat meant to be eaten became impure prior to the sprinkling of the blood, it is invalidated. It is thus clear that the eating was a critical and vital component. How do we explain this?

Rabbi Yitzchok Eizik Chaver, (who, as a student of Rabbi Menachem Mendel MiShklov, himself a student of the Vilna Gaon, was known as the third mouth of the Vilna Gaon) explains the uniqueness of the *Korban Pesach*. The tenth plague, death of the Egyptian firstborn, contained within it a second awesome wonder, that none of the Jewish firstborn perished. Bringing about the death of all firstborn is a feat unto itself, but differentiating and discerning between one firstborn and the next, sparing this one while taking that one, takes the miracle to an entirely new level.

What, indeed, was the means of our means of survival of the Jewish firstborn? The eating of the *Korban Pesach*! The inherent holiness inside this *korban* was so great that ingesting it into the body provided the antidote to save the Jewish firstborn from death.

This is a wonderful idea, but why is this relevant today as we sit at the Seder? Rabbi Chaver reveals that every single year at the time of Pesach, the same spiritual energies that came about then are revisited. Which

means that the same danger the firstborn found themselves in then reoccurs yearly. (This would explain the custom that firstborns fast on Erev Pesach; it is due to the danger they are in.) Even though we don't have the actual antidote of eating the *Korban Pesach*, Rabban Gamliel teaches us that by reading and discussing the Pesach, we can inject the holiness inside us and save ourselves once again. Hence, the importance of discussing the *Korban Pesach* at the Seder.

Matzah: The entire difference between *chametz* and matzah is whether or not the dough began to ferment and rise. What is so vital in the mitzvah to eat matzah that it is one of the three fundamental items discussed at the Seder?

The Sfas Emes reveals to us an incredibly simple yet profound idea. He bases his words on the cryptic words of the Zohar in Parshas Pinchas. The Zohar points out that there is very little difference between the letters of the חמץ and the word מצה . They both have the letters מ and צ ; they differentiate only in that one has a ה and the other a ח . Looking closely, the letters ה and ח are also very similar. If one just adds a dot and extends the leg of the ה - itself basically a mere dot - to the top, then it becomes a ח !

Explains the Sfas Emes, the dot that comprises the leg of the ה symbolizes the inner spark of holiness which is contained inside every Jew. However, one has to remember that the holiness is attributed solely to G-d. As soon as one draws the spark towards oneself, and feels that as a person, he deserves credit independent of G-d, that transforms ה into ח - מצה into חמץ . Matzah is bread in its simplest, purest form. As soon as it starts to rise and puff up, it becomes chametz. This is the lesson the Torah is stressing to us, that we have within us holiness of the purest form, bestowed directly from Hashem. But as soon as we start to rise and puff our chests, attributing our success to ourselves, as if the holiness is our own credit and creation – that is chametz and is totally forbidden.

Rabbi Chaver points out that if one studies the question of the wise son and the wicked son, they are very similar. The only difference is that the

wise son mentions G-d in his question, while the wicked son omits any mention of G-d. Which means that the wicked son is not who we think he is. He may be extremely wise and knowledgeable and know the entire Torah. However, he omits G-d from the equation, he attributes the greatness to himself; he draws the \aleph into a η , he transforms the wise son into the wicked son, he changes the matzah into *chametz*!

Maror: The third of the fundamentals is to remember and discuss the bitterness and pain that our forefathers suffered in Egypt through the *maror*. One wonders – bad enough that we suffered then, but do we really need to remind ourselves of the bitterness every year, so much so that we can't leave the Seder table without discussing (and ingesting) it?

Once again, the Sfas Emes reveals the secret to us. The seed of redemption is sown by tasting the bitterness that one is in! To merit redemption, one must first come to the realization that the current situation is bitter. This is the deeper meaning to the verse "I will remove from upon you the burdens of Egypt" (Shemos 6:6) – it was precisely because they understood that they were burdened that Hashem said He would remove those burdens.

We sometimes get so caught up in the world we live in that we start getting too content. Yes, it's wonderful that we are able to openly practice our Judaism and keep mitzvos, but we need to contemplate that the spiritual state of the world is far from where it should be. G-d's light is so hidden from us; only a small fraction of it shines through all the barriers. *Maror* is the seed of our redemption. We need to loudly proclaim at the Seder table that we are not content with the level of closeness to G-d we have today; the evil that exists in the world truly upsets us! Internalizing this concept will hasten the final and ultimate redemption, may it come speedily in our days!

The Purpose and Message of *Ha Lachma Anya*

by *Rabbi Eli Mozes*

The Haggada opens with a paragraph, *Ha Lachma Ania*, which says: *This is the bread of affliction that our fathers ate in the land Egypt. Whoever is hungry, let him come and eat; whoever is in need, let him come and join in the Pesach offering. This year we are here, next year may we be in the Land of Israel! This year - slaves, next year - free men!*

Rabbi Yaakov Lorberbaum, in his Haggada *Ma'aseh Nisim* (published in 1801), addresses a number of questions regarding this passage, six of which we will discuss: 1) Why is this paragraph recited in Aramaic? 2) Why do we extend this invitation to the needy on Pesach more than on other holidays? 3) This invitation should be made outside the house, not inside while sitting at the table; furthermore, why isn't it done at the beginning of the Seder, before kiddush? 4) Why is the matzah called "bread of affliction?" 5) Why do we say "that our fathers ate in the land Egypt," didn't they only eat it after they left Egypt? 6) Why was this only instituted after the destruction of the Temple (as can be inferred from Maimonides, Laws of Chametz and Matzah)?

To answer these questions, Rabbi Lorberbaum starts with three points:

- 1) True joy is expansive; when one experiences it, one wants to include everybody.
- 2) The Jews didn't eat matzah only after they left Egypt; they also ate it while they were enslaved. The reason for this is that as slaves, they never had the time to allow their dough to rise before they were rushed to their next task.
- 3) When one goes from slavery to freedom, it is understandable that one ought to be overtaken with joy and even establish a holiday to commemorate the day of one's freedom. However, if the person is subsequently re-enslaved and continues to celebrate the day of his freedom wouldn't that raise eyebrows? Imagine someone locked up in prison. One day, the fellow successfully escapes. Every year on the day of

his jailbreak, he celebrates his freedom. Some years later, he is recaptured and sent to a maximum security facility. Would he continue to celebrate the day he escaped from prison?

When the Jews went into exile after the destruction of the Temple, this very question could be asked. How could they continue to celebrate the Exodus when they found themselves in an exile, at times arguably worse than Egypt; an exile full of pogroms, inquisitions, libels and holocausts? It is to answer this question that *Ha Lachma Anya* was instituted. When we say, "This is the bread of affliction that our fathers ate in the land of Egypt," we are raising the question, how can we celebrate when we find ourselves eating the very same bread of affliction as we dwell subordinated in exile? The answer is that although we are currently in exile, we know that "next year in Jerusalem!" Hashem will redeem us from our current exile. The source for our assurance is the original Exodus from Egypt. At that time, Hashem took us unto Him as a nation (Exodus 6:7) and even if we are not deserving, he will redeem us for His sake from this exile, as well.

We therefore say that even though we still eat the bread of affliction, our joy on this night knows no bounds, because we know, "Next year in Jerusalem." The invitation to the needy isn't an actual invitation, but, rather, a way of expressing the expansiveness of our joy, which is overflowing, and we want to share it with others. During Temple times there was no need for such a statement; it was only after the Jews were exiled that *Ha Lachma Anya* was composed, to answer the question that the exile created. To show that the *Ha Lachma Anya* wasn't part of the original text, the composer chose to write it in a different language, Aramaic, the language of the exile.

The Mitzvah of Korech

by Rabbi Mordechai Fleisher, Senior Educator

Section I

1. The Gemara (Pesachim 115a) discusses whether one can eat matzah and *maror* simultaneously and fulfill both mitzvos. The issue is that when one eats two items, they nullify each other. The Gemara cites an opinion that two mitzvah foods would not nullify each other; another opinion says they would.

Even according to the opinion that they would not nullify each other, that is true only if they both have the same mitzvah-status – they must both be *d'Oraisa* or both be *d'Rabanan*. If one is *d'Rabanan* and one *d'Oraisa*, the *d'Rabanan* would not be considered a mitzvah vis-à-vis the *d'Oraisa* and would nullify it.

Because of this, says the Gemara, one cannot eat the matzah and the *maror* together, even according to the opinion that mitzvos do not nullify each other. Since today, with no *Korban Pesach*, *maror* is only *d'Rabanan*, while matzah is still *d'Oraisa*, the *maror* would nullify the matzah.

The Gemara wonders which tanna holds that mitzvos don't nullify each other, and replies that it is Hillel, who, in the time of the Bais Hamikdash, would wrap matzah and *maror* together and eat them, as it is stated: "They shall eat it [the *Korban Pesach*] with matzos and *maror*" (Bamidbar 9:11). We see that, according to Hillel, the mitzvos do not nullify each other.

Rabbi Yochanan says that others argue on Hillel. A *b'raisa* is brought to back this up. It cites the same verse, "They shall eat it with matzos and *maror*." From the superfluous "it" (for we already know the verse is discussing the Pesach) we infer that they may be eaten separately. The Gemara understands this to mean that they must be eaten separately, ostensibly because if they are eaten together, they will nullify each other, contrary to Hillel's assertion that mitzvos don't nullify each other.

Rav Ashi disagrees with this interpretation of the *b'raisa* due to its wording, and therefore understands it differently. He explains the *b'raisa* as saying that while one may eat them together, one can fulfill the obligation even when they are eaten separately. Thus, even the *b'raisa* holds mitzvos do not nullify each other.

The Gemara concludes that since we don't have a clear ruling in this *machlokes*, one should first make a *bracha* on the matzah and eat it, then make a *bracha* on the *maror* and eat it, then eat the matzah and *maror* together without a *bracha* and say, "*Zecher l'Mikdash k'Hillel*," a commemoration to the Bais Hamikdash like Hillel.

2. There are a number of approaches to understanding Rav Ashi's interpretation of the *b'raisa* and the Gemara's final ruling. The Rashbam explains that indeed, the *b'raisa* is not arguing on Hillel's position regarding mitzvos nullifying each other. On the contrary, this is Hillel's position, but it is adding that *b'dieved*, one has fulfilled the mitzvah even if the items were eaten separately. Rabbi Yochanan's claim that others disagree with Hillel is based on a tradition he had received that there are those who disagreed with Hillel, and the Gemara was attempting to source that opinion in this *b'raisa*. The Ba'al Hama'or takes this approach, as well.

The Gemara's conclusion regarding what one should do at the Seder in post-Bais Hamikdash times is explained by the Ba'al Hama'or as follows: Hillel is of the opinion that when there is a *Korban Pesach*, it should be eaten together with the matzah and *maror*. However, according to the Rabbanan cited by Rabbi Yochanan from a tradition that mitzvos do nullify each other, one cannot fulfill the mitzvah of matzah or *maror* if they are eaten together. We are unsure whom the halacha follows.

If the halacha would follow those who argue on Hillel, one would simply eat a *kezayis* of matzah followed by a *kezayis* of *maror*. If the halacha follows Hillel, things are more complicated. Since matzah is today a *d'Oraisa* obligation while *maror* is only *d'Rabanan*, eating them together would be problematic, for the *maror* would nullify the matzah. However,

the matzah, having a stronger mitzvah status, would not nullify the *maror*. Therefore, according to Hillel, one would first eat a *kezayis* of matzah by itself, followed by a *kezayis* of matzah together with *maror* to fulfill the *d'Rabanan* of *maror* while also fulfilling the *zecher l'Mikdash* of wrapping the items together.

However, because the final halacha is inconclusive, we must be concerned with others who argue on Hillel; according to them, one has not fulfilled the *maror* obligation when it's eaten with matzah, for they hold that mitzvos nullify each other. To cover all the bases, one must eat a *kezayis* of matzah, followed by a *kezayis* of *maror*, followed by a *kezayis* of both together as a *zecher l'Mikdash*¹.

3. The Ramban (in *Milchamos Hashem*), Rabbeinu Dovid and others pose a number of difficulties with the approach of the Rashbam and the Ba'al Hama'or and therefore explain the Gemara differently. They posit that Rabbi Yochanan himself was the one bringing the *b'raisa* as proof, and Rav Ashi did not refute the proof from the *b'raisa* that there is an opinion contrary to Hillel's.

However, Rav Ashi revises the understanding of what Hillel and the tanna of the *b'raisa* disagreed upon. Initially, the Gemara thought they disagreed upon whether mitzvos nullify each other. Rav Ashi asserts that everyone agrees that mitzvos do not nullify each other. The *machlokes* between Hillel and the *b'raisa* is that Hillel holds that one must eat the Pesach, matzah and *maror* together, but the Rabbanan say that there is no need to eat them together, though one may and they will not nullify each other².

¹ It is important to note that according to Hillel, even when there is a *Korban Pesach*, it is not necessary to eat the matzah and *maror* together to fulfill those two obligations; it is only necessary for the fulfillment of eating of the *Korban Pesach*. When there is no *Korban Pesach*, there is no need to eat the matzah and *maror* together except as a *zecher l'Mikdash*.

² From the Ramban and the Ran, it would seem that according to Hillel, one cannot fulfill the mitzvah of *Korban Pesach* without eating it together with matzah and *maror*. Rabbeinu Dovid, though, mentions that it is possible that

According to the Ramban, the practical halacha the Gemara mentions is as follows: Both Hillel and the Rabbanan agree that mitzvos do not nullify each other. Nonetheless, *maror*, as a *d'Rabanan*, would nullify the matzah. Therefore, matzah is eaten by itself. Technically, one could fulfill *maror* by eating it with the matzah, and it would be unnecessary to consume it on its own. However, according to the *b'raisa*, the matzah eaten with the *maror* is completely unnecessary and has no mitzvah status; it would therefore nullify the *maror*! Therefore, the *maror* must be eaten separately, followed by the matzah and *maror* together.

A number of the Rishonim who subscribe to the Ramban's approach raise the following question: From the Gemara it is clear that only due to the doubt of whose opinion to follow is it necessary to eat matzah, then *maror*, then both together. It would seem, though, that according to Hillel himself one must do all this, for since one has already fulfilled the mitzvah of matzah beforehand, the matzah eaten together with the *maror* is no longer a mitzvah, and it ought to nullify the *maror*! These Rishonim answer that since eating matzah and *maror* together is enacted as a *zecher l'Mikdash* in accordance with Hillel, *zecher l'Mikdash* is also a mitzvah, and the matzah, too, has mitzvah-status and would not nullify the *maror*.

4. It is interesting to note that only those Rishonim who take the Ramban's approach raise this issue; the Ba'al Hama'or and others state that according to Hillel, one must eat matzah first to avoid its nullification by the *maror*, but seem perfectly fine saying one will fulfill the *maror* obligation when eating it with the matzah, with no further explanation³.

Hillel would agree that while *l'chatchila*, they should be eaten together, *b'dieved*, one has fulfilled the mitzvah if they were eaten separately. See Section II for further discussion.

³ The Ramban himself does not raise the issue, but the Ramban is known to be terse, especially in his Milchamos Hashem commentary. Even regarding the Ba'al Hama'or himself one could argue that he is being terse and not discussing the issue. However, the Sefer Hashlama and the Meiri (who, while mentioning the approaches of both the Ba'al Hama'or and the Ramban, seems to prefer the Ba'al Hama'or's view) both state that by eating the matzah and *maror* together, one

It behooves us to understand why these Rishonim saw no need to discuss this problem.

Let us analyze the requirement that the Pesach be eaten with matzah and *maror*. Is the matzah and *maror* mandated the same matzah and *maror* one is obligated to eat on Pesach night as mitzvos in their own right? This would mean that the Torah has simply taken that matzah and *maror* and required that they be eaten together with the Pesach. Or, perhaps this matzah and *maror* are a new, separate obligation from the mitzvos of matzah and *maror* that are to be eaten on Pesach night; this is a special *Korban Pesach*-related obligation that one must eat matzah and *maror* along with the *Korban Pesach*.

Rabbi Yaakov Yitzchak Rabinowitz of Ponovezh (known as Reb Itzele Ponovezher) is quoted in the sefer *Mekor Baruch* as having posited (as a means of resolving a question unrelated to our discussion) that these are in fact a new, separate obligation, unrelated to the basic mitzvos of matzah and *maror*. Reb Itzele goes further, stating that the matzah eating with the *Korban Pesach* need not fulfill the many conditions (such as not being *matzah ashira* [“rich matzah,” i.e., matzah made with other liquids], being permissible to eat in all locations, etc.) that matzah used for the mitzvah must meet. To be sure, one could theoretically fulfill the basic mitzvah of matzah and *maror* while eating them with the *Korban Pesach* according to Hillel, but those would be separate mitzvos, unrelated to the consumption of the *Korban Pesach*.

5. If we take Reb Itzele’s view, it would emerge that the question posed by the Rishonim never begins, for the question is predicated upon the fact that the mitzvah of matzah has already been fulfilled, rendering the matzah being eaten with the *maror* optional. According to Reb Itzele, this matzah has nothing to do with that matzah! This matzah is a new obligation of eating matzah and *maror* as part of the *Korban Pesach*

would not fulfill matzah but would fulfill *maror* according to Hillel; it is difficult to say they would not address the issue if they needed to introduce the novel idea that *zecher l’Mikdash* has equal mitzvah status to *maror*.

consumption, and we eat them as a commemoration of Hillel's sandwich, sans *Korban Pesach*. It is plainly obvious according to Reb Itzele that both the matzah and the *maror* of Korech are a mitzvah in their own right; it so happens that the *maror* fulfills an additional Rabbinic mitzvah to eat *maror*, as well.

It is logical to presume that those Rishonim who asked the question of why the matzah does not nullify the *maror* and introduced the idea that *zecher l'Mikdash* is also a mitzvah did not subscribe to this answer; we can suppose that they do not agree to Reb Itzele's assessment and subscribe to the view that, in fact, the matzah and *maror* of the *Korban Pesach* are the very same matzah of *maror* of the Pesach night mitzvos. In fact, Rabbeinu Dovid (who takes the view of the Ramban and does pose the question) says this explicitly: "From the Torah we have learned thus, that separate mitzvos are commanded to be eaten together."

6. We are now left to figure out why this dispute appears to split down party lines, with the two possibilities of how to view the matzah and *maror* of the *Korban Pesach* lining up with the two approaches to the Gemara with which we began. Let us attempt to resolve why this is so.

Rabbeinu Dovid asks, what is the proof that Hillel indeed holds mitzvos do not nullify each other? One can argue that this is a unique situation, for nullification is a non-issue, as that is the mitzvah – to eat multiple items simultaneously. However, to consume two different mitzvah items simultaneously would run into the problem of one mitzvah nullifying the other.

Rabbeinu Dovid answers that since the mitzvah of matzah can be fulfilled independently of the *Korban Pesach*, as evidenced by the fact that matzah applies today *mid'Oraisa* even in the absence of the *Korban Pesach*, we see that it is in fact a separate mitzvah that is being placed together with another; the Torah thus teaches us that multiple mitzvos do not nullify each other. Rabbeinu Dovid continues that according to the Rabbanan of the *b'raisa*, the proof that mitzvos do not nullify each other is even stronger, for according to them, one need not eat them together,

yet they learn from the verse that one is allowed to – clearly teaching us that mitzvos do not nullify each other⁴.

7. This answer of Rabbeinu Dovid is incompatible with the view of the Ba'al Hama'or, for according to the Ba'al Hama'or, we have postulated that the matzah and *maror* are a new mitzvah tied to the Korban Pesach! How, then, will the Ba'al Hama'or answer Rabbeinu Dovid's question?

Tosafos advance another explanation of the Gemara's proof: Hillel understands that the verse is requiring the Pesach to be eaten with matzah and *maror*. How can Hillel assume this is a requirement; perhaps the Torah is simply stating one may eat them together, and that nullification is not an issue? One must conclude that according to Hillel, nullification was a non-issue to begin with; the verse is therefore coming to create a requirement.

It emerges that while Rabbeinu Dovid assumes that this verse is the *siba*, the cause and source of Hillel's ruling that mitzvos do not nullify each other, Tosafos is saying that Hillel's opinion on nullification of mitzvos is not predicated upon this verse; Hillel's understanding of the verse is a *siman*, a sign, that proves that his position is that mitzvos do not nullify each other. We can apply Tosafos' approach to the Ba'al Hama'or, as well.

8. The Ramban and others, as mentioned earlier, posed a number of difficulties with the approach of the Ba'al Hama'or and Rashbam and therefore rejected their approach to the Gemara. While many of their questions are not irrefutable, it does make one wonder why the Ba'al

⁴ This raises a separate difficulty: Why does the Gemara state that Hillel is the one who holds mitzvos do not nullify each other? The Rabbanan of the *b'raisa* hold this way, even more conclusively than Hillel! See the Ran and Rabbeinu Dovid for a solution.

⁵ Tosafos has a third approach to understanding the Gemara; I have simply used this part of his view for our discussion.

Hama'or and the Rashbam chose the more difficult approach to the Gemara⁶.

I believe, based on the positions staked out earlier, that the Ba'al Hama'or could not take the approach of the Ramban. According to the Ramban, Rav Ashi understood the *b'raisa* as arguing on Hillel's position that the Pesach must be eaten with matzah and *maror*; the tanna of the *b'raisa* inferred from the superfluous word "it" of "They shall eat it with matzos and *maror*" that the Pesach may be eaten by itself. Even this tanna, though, agrees that one has the option of eating them together, since the rest of the verse states they shall be eaten with matzos and *maror*; if it is not required, it is at least teaching us that it is permitted and that mitzvos do not nullify each other.

According to the Ba'al Hama'or, however, the verse is not coming to teach us that mitzvos do not nullify each other. As discussed earlier, the Ba'al Hama'or's view that the matzah and *maror* of the *Korban Pesach* are a new obligation tied to the Pesach means he must hold that Hillel already knew that mitzvos do not nullify each other, and this merely proves his position. That being the case, once the Rabbanan of the *b'raisa* state, according to the Ramban's view of Rav Ashi's opinion, that there is no such requirement to eat them together at all, what is the function of the verse? It is not teaching us that mitzvos do not nullify each other, nor does it teach that one should eat the Pesach with matzah and *maror*. The Ramban's approach is thus incompatible with the Ba'al Hama'or.

Instead, the Ba'al Hama'or takes the approach that the tanna of the *b'raisa* is Hillel, the verse is requiring that the Pesach be eaten with matzah and *maror*, and the *b'raisa* is inferring from the superfluous "it"

⁶ There is, in fact, a textual dispute among the Rishonim. The text of the Ba'al Hama'or would seem to force him to adopt this view. However, the Ramban makes clear that there is another text that was available at that time, and it appears the Ba'al Hama'or rejected it. Generally, rejection of a text by a Rishon is based on a separate issue, and not just the text itself, as is evident from numerous discussions by Rishonim surrounding the merits of one textual version over another.

that *b'dieved*, one has fulfilled the mitzvah of Pesach even without the matzah and *maror*.

Section II

1. The Rambam (Hilchos Chametz U'matzah 8:6-8) states: "And after (making *hamotzi*), one wraps the matzah and the *maror* as one, dips in *charoses*, and makes a blessing, 'Blessed are you, Hashem... upon the eating of matzos and *merorim*,' and he eats them. And if one eats the matzah by itself and the *maror* by itself, he makes a blessing on this one by itself and on this one by itself... And afterward, one makes a blessing, 'Blessed are you, Hashem... upon the eating of the Pesach,' and eats from the actual Pesach... Today, when there is no *korban*, after one makes the blessing of *hamotzi lechem*, he goes back and makes a blessing of 'upon the eating of matzah,' and dips the matzah in *charoses* and eats. He then goes back and makes a blessing, 'upon the eating of *maror*,' dips the *maror* in *charoses* and eats it... and he then goes back and wraps matzah and *maror* and dips in *charoses* and eats them without a blessing as a commemoration for the Mikdash."

The Ra'avad, in his glosses on the Rambam, on the words "and after (making *hamotzi*) he takes the matzah and the *maror* and dips them together," comments, "This is in accordance with Hillel, but in any event, this order is inexact."

The Maggid Mishna states that the Ra'avad's reasoning is unclear, but the Lechem Mishna says that the Ra'avad's issue is that the Rambam leaves the Pesach out of the wrap; only the matzah and *maror* get in, and the Pesach is eaten separately!

2. Let us analyze the position of the Rambam. The Lechem Mishna points out that the Rambam states that when there is a *Korban Pesach*, it is sufficient for one to eat the matzah and *maror* together. But according to those who disagree with Hillel, one must eat them separately!

The simple answer would appear that the Rambam takes the view of the Ramban that everyone agrees that mitzvos don't nullify each other. But this raises a difficulty, for the Ramban hold that Hillel invalidates the Pesach if the matzah and *maror* are not eaten together. Yet the Rambam discusses what *bracha* is made if the matzah and *maror* are eaten separately. True, the Rambam seems to say that the preferred method is to eat the matzah and *maror* together⁷, but it is clear that even if they are separate, the mitzvah has been fulfilled, but that is the opinion of the Ba'al Hama'or, who states that the *b'raisa* is in accordance with Hillel and validates the Pesach *b'dieved* if they were eaten separately.

One answer to this question is that the Rambam follows the approach of Rabbeinu Dovid, who, while taking the view of the Ramban, entertains the possibility that Hillel would validate the Pesach *b'dieved*. But this itself is not a clear position; if the verse requires that they be eaten together, and Hillel does not expound the superfluous "it" as the tanna of the *b'raisa* does, why would it be valid *b'dieved*?

3. Previously, we have discussed whether the matzah and *maror* of the Pesach are a new obligation or the same mitzvos that simply must be eaten together with the Pesach. From the Rambam, it appears that he holds this is the same matzah and *maror* one is obligated to eat on the night of Pesach. For the Rambam states that if one ate them together, a *bracha* including both together is made. Why would Chazal enact a single *bracha* for two distinct mitzvos? It only makes sense if those two mitzvos are meant to be fulfilled simultaneously, which means the Rambam must hold that the original mitzvos of matzah and *maror* are meant to be fulfilled together.

Let us now analyze this approach a step further: When the Torah mandated that the mitzvos of matzah and *maror* be fulfilled together, did

⁷ Due to the fact that he discusses eating the matzah and *maror* together in the future tense, indicating this is the *l'chatchila*, while discussing what *bracha* to make if they are eaten separately in the past tense, an indication that this is *b'dieved*

that fundamentally change the nature of these two mitzvos, in that they themselves contain a new obligation to be consumed together? Or is the Torah simply commanding that the way to eat the *Korban Pesach* is together with the mitzvos of matzah and *maror*? The fact that, as mentioned, the Rambam merges the two *brachos* into one indicates that this is a new law that changes the nature of the mitzvos of matzah and *maror*.

Which leads to another conclusion: The *Korban Pesach* does not have a specific condition to have matzah and *maror* eaten with it; rather, matzah and *maror* now have a requirement that they be eaten with the *Korban Pesach*. To be sure, the Torah did not remove the possibility of fulfilling matzah and *maror* independently, it simply created a new obligation that these two mitzvos should be fulfilled together as part of the process of eating the *Korban Pesach*.

Based on this understanding, we can explain Rabbeinu Dovid's statement that perhaps Hillel holds that *b'dieved*, one has fulfilled the mitzvah of *Korban Pesach* without eating matzah and *maror* together. The Torah never required that the *Korban Pesach* be eaten with matzah and *maror*; the Torah required that the matzah and *maror* be eaten with the *Korban Pesach*!

Once we understand the Rambam's position, we can understand why he holds that only matzah and *maror* need to be eaten together, without the *Korban Pesach*. Truth be told, the verse reads much better if one only requires matzah and *maror* to be eaten together: "Over matzos and *merorim*, they shall eat it." The Torah lumps the matzah and *maror* together, and says they shall be eaten over the Pesach – not together with it. Why is this understanding not taken by the other Rishonim? Because they understand that this is a *Korban Pesach*-related obligation; one must eat the *Korban Pesach* with matzah and *maror*. It is difficult to swallow that the Torah would create a new requirement of eating the mitzvah items simultaneously as part of the mitzvah of eating of the *Korban Pesach*, but leave the *Korban Pesach* itself out of the actual wrap.

But once we say that the Torah is creating new guidelines for the mitzvos of matzah and *maror*, that they be eaten together, and also as part of the process of the eating of the *Korban Pesach* – that makes perfect sense!

4. We can thus conclude that the Rambam holds that Korech is actually a condition in the eating of matzah and *maror*, not the *Korban Pesach*. Rabbeinu Dovid considers the possibility, even though he maintains that the *Korban Pesach* must be eaten together with the matzah and *maror*. The Ramban and others who do not mention this possibility maintain that it is a *Korban Pesach*-related obligation to fulfill the mitzvah of matzah and *maror* simultaneously with the eating of the *Korban Pesach*. The Ba'al Hama'or and the Rashbam, meanwhile, view the matzah and *maror* of the *Korban Pesach* as a new mitzvah unrelated to the other mitzvos of matzah and *maror*.

A Bar Mitzvah during Sefira

by Rabbi Chaim Yeshia Freeman

Counting comes up in a number of places in halacha. One example is conceptual; when a boy turns thirteen he becomes a *bar mitzvah* and can be counted as part of a *minyan*. The second is more literal; every year, beginning with the second night of Pesach, we begin counting the *omer*.

A halachic question arises when the two events coincide. A boy becomes a *bar mitzvah* during the period of *sefiras haomer*.

The controversy is based upon the ruling of the Shulchan Aruch (Orach Chaim 499:8) that according to some opinions, there is a requirement to count all forty-nine days of the *omer* consecutively, without missing even one day. One who misses a day may no longer count with a *bracha* (though one should continue to count, as there are those who say every day is a separate obligation every day of the *omer*).

A boy who became a bar mitzvah during this period was initially a minor, and thus obligated to count *sefira* only on a Rabbinical level as part of his *chinuch*. It is therefore questionable whether the initial counting as a minor allows him to continue counting after he becomes *bar mitzvah*; is he regarded as having counted until this point or not?

An important addendum to the aforementioned question: There is debate as to whether the Scriptural mitzvah of *sefira* applies when there is no Bais Hamikdash; some say it does, while others say it is only Rabbinic today. Nonetheless, this dilemma still applies, for the minor's obligation is predicated upon two Rabbinic enactments, the *chinuch* obligation coupled with the Rabbinic mitzvah of *sefira*, and is not directly due to the Rabbinic obligation of counting *sefira*.

To resolve this dilemma, we must take a look into the Rishonim and Acharonim and examine the roots of the controversy. There are six arguments that can be made to allow this young adult to continue to count *sefira* with a *bracha*.

Approach #1: Let us examine the background of Shulchan Aruch's aforementioned that if someone missed even one day he no longer can recite a *bracha* when counting. The source of this ruling is found in the Rishonim quoting a Bahag who says that the Torah uses the term "complete" (Vayikra 23:15) when discussing the counting of the *omer*. (Interestingly, this is not found in our editions of the Bahag).

The Rosh (Pesachim 10:41) quotes the Ri who argues with the Bahag and says that each day is a separate mitzvah. But how does the Ri explain the requirement of "complete" stated by the Torah?

The Bi'ur Halacha (499:8) brings three answers. Rav Hai Gaon states that the requirement of having the counting complete is only regarding the counting of the weeks, not the days for the verse says "seven complete weeks." Alternatively, says Rav Hai Gaon, one can mention the forgotten day the next time he counts. Most Rishonim, though, explain that the requirement of "complete" refers to each day, that one should count at the beginning of the night so he has counted a complete day.

Although the ruling of the Shulchan Aruch is in accordance with the Bahag when dealing with the question of a missed day, and one has lost the completeness of the entire counting, we can use the opinions of the other Rishonim toward allowing this boy to continue counting with a *bracha*.

Approach #2: Let us reanalyze the Bahag's opinion. At first glance, it appears that he is saying that the entire *sefira* is considered one mitzvah and, therefore, missing one day is a lack of completeness. However, the Pri Megadim (Eishel Avraham 499:13) is bothered by this assumption. He asks, if *sefira* is one big mitzvah, why do we recite a *bracha* every day? Secondly, how can one recite a *bracha* at all if there is a real possibility that a day may be missed, leaving the person without the mitzvah and rendering the *brachos* of all the previous days as *brachos levatala*?

There are two ways to resolve these problems. One can say that indeed, the entire *sefira* is considered one big mitzvah, but each day is an individual *mitzvah* that is also part of an overarching *mitzvah* of all seven weeks. Alternatively, each day is its own *mitzvah*, but there is a separate

issue that each day must be part of the process of counting to forty-nine days/seven weeks, and without, for example, a day 8 there can be no day nine; missing a day ruins the ability to count further.

According to the latter approach, that every day is an individual obligation with the condition that it be part of the broader count of forty-nine days/seven weeks, even the counting of a minor would be sufficient, as he has counted regardless of the level of his obligation.

Approach #3: The *Minchas Chinuch* (Mitzvah 306) brings a Mordechai in *Maseches Megilah* (siman 798) who says that if someone accepted Shabbos prior to sunset, making him only Rabbinically obligated to observe Shabbos, he still can fulfill the Scriptural obligation of reciting *kiddush*, for he will eventually incur the Torah obligation later. Based on this, the *Minchas Chinuch* concludes that the same is true with the counting of a minor; his Rabbinical obligation allows him to continue counting after he becomes a bar mitzvah since he was destined to become Scripturally obligated later. While the *Minchas Chinuch* is writing in accordance with the opinion that *sefira* is a Scriptural obligation, the same idea can certainly be applied according to the opinions that *sefira* is only a Rabbinic obligation today, and the counting of a minor whose obligation is based on two Rabbinic enactments allows him to continue his single Rabbinic obligation after he becomes bar mitzvah.

The *Minchas Chinuch's* application of the Mordechai is debatable, however. The *Magen Avraham* (Orach Chaim 267) notes that a minor cannot exempt an adult of a Scriptural obligation to recite a blessing. According to this Mordechai that a Rabbinical obligation destined to become Scriptural fulfills the Scriptural obligation, asks the *Magen Avraham*, why can't the minor's recital work for the adult? The *Chochmas Shlomo* (Rabbi Shlomo Kluger) explains that there's a difference between someone who accepts Shabbos early will shortly thereafter enter the full Scriptural obligation, as opposed to a minor who won't enter the Torah obligation until after quite some time. According to this approach, the words of the Mordechai are not relevant to our discussion of a minor.

A second approach to the Magen Avraham's difficulty is found in Kuntrisei Shuirim (Rabbi Yisroel Gustman) Kiddushin Siman 34, who writes that it is difficult to comprehend why a future obligation would affect a current non-obligation. He explains that when discussing fulfillment of a mitzvah, there are two requirements: the obligation of the mitzvah and the performance of the mitzvah. Normally, one cannot perform the act of the mitzvah prior to its proper time. However, for recital of *kiddush*, the act can occur even before nightfall due to the Rabbinical obligation. The Mordechai is coming to resolve the lack of obligation, and he is saying that although the actual time of the obligation has not yet arrived, the fact that this person will, with the passage of time, be obligated is sufficient to render him "obligated" right now. Rabbi Gustman concludes that while this Mordechai is true for an adult who is accepting early Shabbos, his approach would not make a difference for a minor who has not yet reached the level of obligation at all. Accordingly, the Mordechai would not be relevant to our discussion.

Approach #4: The Torah Temima (Vayikra 23:15) writes that even if the minor was totally exempt, his counting should still allow him to continue when he becomes a bar mitzvah. This is based on a passage in Yevamos (62a) that says that if a non-Jew has children and then converts to Judaism, he has fulfilled the requirement of the Torah to be fruitful and multiply; this indicates one can fulfill an obligation before actually being obligated. However, the Minchas Chinuch (Mitzvah 306) argues with this proof, since fulfillment of the mitzvah to be fruitful and multiply is through the existence of children; as a Jew, this convert has children and thus fulfills his obligation. However, when a mitzvah is fulfilled through an act, such as counting, one must be obligated in order to fulfill the mitzvah.

Approach #5: Tosafos (Megillah 20b s.v. *kol halaila*) writes that only by *sefiras ha'omer* do we find that after one performs the *mitzvah*, a statement about the rebuilding of the Bais Hamikdash is recited, since nowadays, the obligation to count is in commemoration of the obligation of Bais Hamikdash times. Rabbi Yosef Engel in Tziyunim LiTorah (pg. 14)

states that therefore, a minor would not have a problem continuing to recite a *bracha*, for the main focus is not the counting, but the commemoration of the Bais Hamikdash. So long as a counting that serves as a commemoration has taken place, regardless of level of obligation, a *bracha* may be recited.

We can deepen our understanding of this approach with an idea of Rabbi Yitzchak Zev Soloveitchik, the Brisker Rav. He points out that there are a number of Rabbinic obligations which were enacted to commemorate an obligation that existed when the Bais Hamikdash stood, yet Tosafos states that only *sefira* is a commemoration. The Brisker Rav cites a passage in Menachos (66a) that relates that Ameimar only counted the days of *sefira*, not the weeks, due to the fact that *sefira* is only a commemoration of the Bais Hamikdash. The Brisker Rav explains that it is not merely that *Chazal* reinstated the obligation to count *sefira* to resemble the counting of Bais Hamikdash times. Rather, it is a new requirement to count *sefira* as a means of commemorating the Bais Hamikdash. It is thus very understandable that as long as a count that serves as a commemoration is taking place, the fact that the beginning of the count was without obligation is of no consequence, as stated by Rabbi Yosef Engel.

Approach #6: The Tzitz Eliezer (Rabbi Eliezer Waldenberg) (14:55) cites the responsa of the Chesed Le'Avraham (Tinyana, Orach Chaim 56) that concludes that someone who converts during *sefira* is allowed to continue counting with a *bracha*, since the requirement of having consecutive days is only when there was already an obligation to count. Based on this, the Tzitz Eliezer concludes that the same is true with a minor. Because he did not have the same level of obligation before his bar mitzvah, he may continue counting with a *bracha* even if he never counted at all as a minor.

Based on the numerous reasons given, it seems safe to conclude that when a minor counted *sefira* every day before his bar mitzvah, he may continue counting with a *bracha* after his bar mitzvah. This is the indeed the ruling of the Aruch Hashulchan (Orach Chaim 489:15). However, it is

worth mentioning that Rabbi Ovadia Yosef (Yabia Omer Orach Chaim 3:27) argues that this boy may not continue counting with a *bracha*.

History and Halacha: *Mechiras Chametz*¹

by Rabbi Yaakov Zions

One of the famous components of the Pesach holiday season is the sale of *chametz*. This is generally performed by a rabbi acting as the agent to transfer ownership of one's *chametz* to a non-Jew for the duration of the Pesach holiday. Let us examine some of the history behind this sale and the halachic issues it presents.

Historically, the sale of *chametz* was not as universally widespread as it is today. This was due to many factors, including the lack of many of our common *chametz* items. One would simply take caution to finish all bread and similar items before Erev Pesach. (Let's remember there were no freezers yet; all bread was made and consumed fresh!) It is for this reason that the details of selling *chametz* comprise only one *se'if* (sub-chapter; Orach Chaim 448:3) of the tens of *simanim* (chapters) dealing with the laws of Pesach (Orach Chaim 431-491). Later, as circumstances changed, an explosion of halachic literature dealing with the issues of the sale of *chametz* began. (The Mishna Berurah on the aforementioned *se'if* comprises *seven pages*!) One primary area of change was the proliferation of fermented grain products (such as whiskey) in the 16th century². This soon became a source of income for many Jews and getting rid of the expensive stock without incurring a tremendous loss was an important need³.

¹ Much information was gleaned from *Mechiras Chametz KeHilchaso*, by Rabbi S.E. Stern, Bnei Brak 1989.

The purpose of this article is to inform and educate, rather than question or cast aspersions upon existing customs.

² It is very notable that while Tur and Shulchan Aruch never mention drinks made with whiskey or brandy (ש"י), their commentaries mention them hundreds of times!

³ הא דיי"ש נחשב כחמץ אינו מוסכם, ע' שע"ת תמ"ב סק"ב דאולי נחשב כזיעה בעלמא. ושמעתי שהנהגת הגר"מ פיינשטיין זצ"ל הי' שלא לסמוך על מכירת חמץ מלבד ליי"ש (ע' ישרון חי"ד עמ' תרפ"ה, לצילום שטר מכירת חמצו), ומטעם זה דיש סוברים שאינו אלא זיעה בעלמא.

Originally, the sale of *chametz* was done on an individual basis; any Jew with *chametz* in their possession would find a non-Jew and sell it to him or her. As the need increased, the Rabbinat of each city began assuming responsibility for assuring everything was done in a halachically-acceptable manner⁴. However, there were still various ways that this was accomplished. Some communities had the rabbi or another appointed individual acquire all the *chametz* from the individuals; they would then sell all the acquired *chametz* to a non-Jew. Many others, however, opted for the currently practiced method; the rabbi acts as the agent to sell everyone's *chametz* to a non-Jew on their behalf⁵.

The current practice of everyone selling their *chametz* as a matter of rite (including those who are unaware of any *chametz* in their possession), is of relatively recent origin⁶.

ע' שו"ת נאות דשא בסופו, בתשובה מהגר"ש קלוגר שהצדיק המנהג שנהגו אז מחדש 4 לסדר מכירה כללית, נגד אלו שעירערו ע"ז, וכתב שע"ז מונעים מכשולים רבים, עיי"ש. ע' קונטרס זר זהב ועמודי כסף (לבעל מסגרת השולחן על קש"ע), בפתיחה להלכות 5 מכירת חמץ, וז"ל, הם (אותם שקונים כל החמץ לעצמם) מכניסים עצמם בפירצה דחוקה ללא צורך וכו', דמה לו להכניס עצמו כל כך לקנות כל עצמם החמץ והשמרים ולסמוך על זה שמוכר אח"כ לנכרי, ואולי קנין שלו הוא יותר טוב משל הנכרי ונמצא כל האיסור לא יראה ולא ימצא נשאר עליו, עכ"ל.

ע' ספר מכירת חמץ כהלכתו עמ' ז' ושמ"ט, ויש להעיר (בדרך פלפול בעלמא) דאף 6 דאיכא בזה תקנה לכמה בנ"א, עדיין יל"ע במי שבדק וביער כדין למה לו למכור חמצו, ואי משום שחושש שמא ימצא תוך היו"ט ויעבור בב"י וב"י במה שהיה ברשותו בלי ידיעתו, לאו מילתא דפשיטא הוא כלל, ע' רש"י (ו. ד"ה דעתו, ומהרש"א שם) דמשמע דאינו עובר בב"י וב"י בכה"ג, וכ"כ בתוס' (כא. ד"ה ואי) וכן מבוב' בר"ן, אמנם ע' רא"ש (פ"ק סי' ט') דס"ל דעובר ובק"נ (שם), וע' בפר"ח (סי' תל"א) מה שהק' עליו [ונחלקו האחרונים בשי' הטור בעי"ז, ע' במג"א סי' תל"ד סק"ה, וט"ז שם סק"ג], ואף בשעה שימצא החמץ לא יעבור עליו, שה"ה משהה חמץ ע"מ לבערו, דס"ל לתוס' (כט: סוד"ה ר' אשי בשם הר"י) דאינו עובר [וע' במג"א סי' תמ"ו סק"ב דלשי' התוס' אם מצא חמץ ביו"ט, אף אם לא ביטל חמצו לא יבערו אז כיון שאינו עובר עליו, וזהו דלא כרש"י ו. ד"ה כופה, ונמצא דרש"י ס"ל דאפי' משהה חמץ ע"מ לבערו עובר עליו, אבל במקו"ח, בביאורים בהקדמה לסי' תל"א חולק על המג"א, דדוקא בעוסק בביעור אינו עובר עליו, ולפי"ז אף רש"י מצי ס"ל כתוס' הנ"ל, אבל לפי"ד אם ימצא חמץ ביו"ט יעבור עכ"פ עד מוצאי יו"ט, ודוקא מדרבנן כיון שכבר ביטל], ובכל אופן ה"ה בגדר אונס, כיון שקיים מה שחייבו אותו חז"ל, ולשמא ימצא גלוסקא יפה וישהה לבער (ע' פסחים ו:), ג"כ לא שייך לנו לגזור מעצמינו, כיון שבדק וביער כדין, ולאידך גיסא, ע"י מה שמוכר כל חמץ שיש לו, ה"ה מבטל מצות השבתת שאור לכמה ראשונים, ערש"י (ד:), וע' בב"י (סי' תל"ו ד"ה ומה שטען) דמבואר דס"ל דאין המפקיר חמצו מקיים מצות עשה זו, וצ"ע.

Many of the Acharonim critically analyze various details of the sale. Let's examine some of their difficulties:

1. The sale must be halachically valid in order to avoid the *issurim* associated with owning *chametz* on Pesach. According to the opinion of Rashi⁷, a non-Jew acquires movable items from a Jew with monetary payment. Rabbeinu Tam⁸ and most halachic authorities, however, rule that this can only be accomplished through *meshicha*: the buyer "pulls" the item toward himself, thus acquiring it. This would be difficult for individuals to do with their personal *chametz*, and virtually impossible to do at a communal *chametz* sale. We must therefore rely on Rashi, or find other acceptable methods of acquisition. For a synopsis of the methods involved and their halachic status, see Mishna Berurah 448:17.
2. Some question that the sale seems to be a *ha'arama*, or trick. This issue was famously raised by the Bechor Shor⁹ and was heavily debated in the subsequent centuries. The Bechor Shor did not intend to invalidate our sale of *chametz* due to the issue of *ha'arama*. Rather, he was of the opinion that *ha'arama* is valid on a *d'Rabanan* (Rabbinical) level only, and can therefore be utilized to avoid *issurim d'Rabanan* (Rabbinical prohibitions) exclusively. Since one nullifies all *chametz* in his possession before Pesach, it remains only an issue of an *issur d'Rabanan*¹⁰ and the sale is therefore effective. He was concerned, however, with another commonly practiced custom of his time, the sale of livestock. As most of the cattle feed was *chametz*¹¹, the custom

⁷ Kiddushin 14b

⁸ *Ibid.*

⁹ Pesachim 21a, by Rabbi Alexander Sender Shur, author of *Tevu'os Shor* (died 1737).

¹⁰ See Pesachim 4b

¹¹ It seems that the cattle were fed draff, the residue of husks after fermentation of the grain. It is forbidden to derive any benefit from *chametz* on Pesach. This

developed to sell the animals to a non-Jew for the duration of Pesach. The Bechor Shor argued that since animals are obviously not included in the *chametz* nullification, they require a sale that would be valid for *d'Oraisa* (Scriptural) purposes. Our sale of *chametz* is a *ha'arama*, posits the Bechor Shor, and therefore invalid for this purpose¹².

Many Acharonim took exception to the Bechor Shor's position. They argued primarily on two of his points, from opposite ends of the spectrum. Some¹³ argued that a sale done with halachically valid methods cannot be invalidated due to *ha'arama*. Just because we know subconsciously that the sale is done only as a temporary fix¹⁴ is not reason enough to invalidate it. Others argued that one can't sell and nullify the same *chametz* items; if it's sold, it's no longer his to nullify, and he thus cannot do *bitul*. Conversely, to the extent that the *bitul* is valid, that would indicate the *chametz* is still his to nullify and the sale never really happened¹⁵. The very fact that he sold the *chametz* means that

includes allowing one's animals or pets to consume *chametz*. See Mishnah Berurah 443:6.

¹² See Mishnah Berurah 448:33 for a practical discussion of this matter. It is notable that Sharei T'shuvah, quoted there in Shar Hatziyun as forbidding this practice, was authored by a grandson of the Bechor Shor, Rabbi C.M. Margolis.

¹³ Including Mekor Chaim (by the author of Nesivos Hamishpat) 448:11

¹⁴ There are various proofs from the Gemara as to the validity of an acquisition done in a manner of *ha'arama* which are beyond the scope of this article. Also notable is the role this issue plays in other halachic areas. These include selling a Jewish-owned business to a non-Jew to allow it to function on Shabbos and selling land in *Eretz Yisrael* to a non-Jew for the *Shemita* year.

¹⁵ ע' ר"ן (ריש פסחים) היאך מהני הביטול, ותוכ"ד הוא דאע"ג דאינו מפקיר ממש, כיון דחמץ הוי אינו ברשותו והתורה עשאה ברשותו, מהני גילוי דעתו שאינו רוצה לקיימו ברשותו, ולפי"ד יש מקום לומר דאין הביטול מועיל עד שעת איסורו ממש או רגע קודם ולא בשעה שאומר הביטול, וראיתי מיישבים עפי"ז דברי הבכור שור, דהקשו עליו כמה אחרונים דאין הביטול מועיל על מה שימכר אח"כ, שהרי הוא חוזר וזוכה בו כדי למכרו להנכרי, וע"פ דברי הר"ן הנ"ל ניחא, דבשעת האיסור ה"ה מבטל כל החמץ שיש לו עכ"פ מדאורייתא, אמנם שמעתי להק' ע"ז דמדברי הרמ"א (סי' תל"ד ס"ב) מב' דהביטול חל כשמבטלו, שכ' שאין לבטל ביום אלא אחר ששרף חמצו כדי לקיים שריפה בחמץ שלו,

his nullification won't include those items. Additionally¹⁶, if one sells his *chametz* before he nullifies, how can the sale be halachically valid? According to the Bechor Shor, his sale was valid only on a *d'Rabanan* level, independently insufficient to avoid the prohibition of possessing *chametz*. Later, when he nullifies the *chametz*, how can we possibly resuscitate the *d'Rabanan*-strength sale so that it can be fully effective?¹⁷ Therefore, they argued, if the Bechor Shor is correct in assuming that *ha'arama* isn't valid for *d'Oraisa* purposes, it shouldn't be valid for our sale of *chametz* either. Most of those who argued with the Bechor Shor maintained that the sale is valid even for *d'Oraisa* purposes; a minority view¹⁸ maintained that the sale is problematic due to the *ha'arama* involved.

The above is but a sampling of the intricacies of this sale. The laws of *Mechiras Chametz* are complex, coupled with various customs based on the historical circumstances which shaped them. May we merit to observe all of the laws of Pesach properly!

ואפי' נימא דהרמ"א סותם בזה דלא כהר"ן (ולהר"ן אה"נ דחייל בשעת איסורו) עדיין צ"ע למימר דהבכ"ש הוא דלא כהרמ"א ודוק.

¹⁶ This question was raised by Chasam Sofer, Shu"t Orach Chaim 62.

¹⁷ It is noteworthy that the Bechor Shor's position was supported by his famous grandson, Rabbi Efraim Zalman Margolis, author of Bais Efraim (and brother of Rabbi C.M. Margolis mentioned above), in a large treatise entitled *Kuntres Ha'arama* where he defends his grandfather's position against all questions raised by the Mekor Chaim. The abovementioned response of Chasam Sofer, was written to Rabbi Margolis in rebuttal of his defense.

¹⁸ See *Mechiras Chametz KeHilchaso* page 6. This seems to be the view of Vilna Gaon (*Ma'aseh Rav* 180) who allowed the sale of *chametz* only if it was an unconditional sale. It may be, however, that he was rejecting a sale done specifically for a specified time (*mechirah lizman* or *al minas lihachzir*).



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