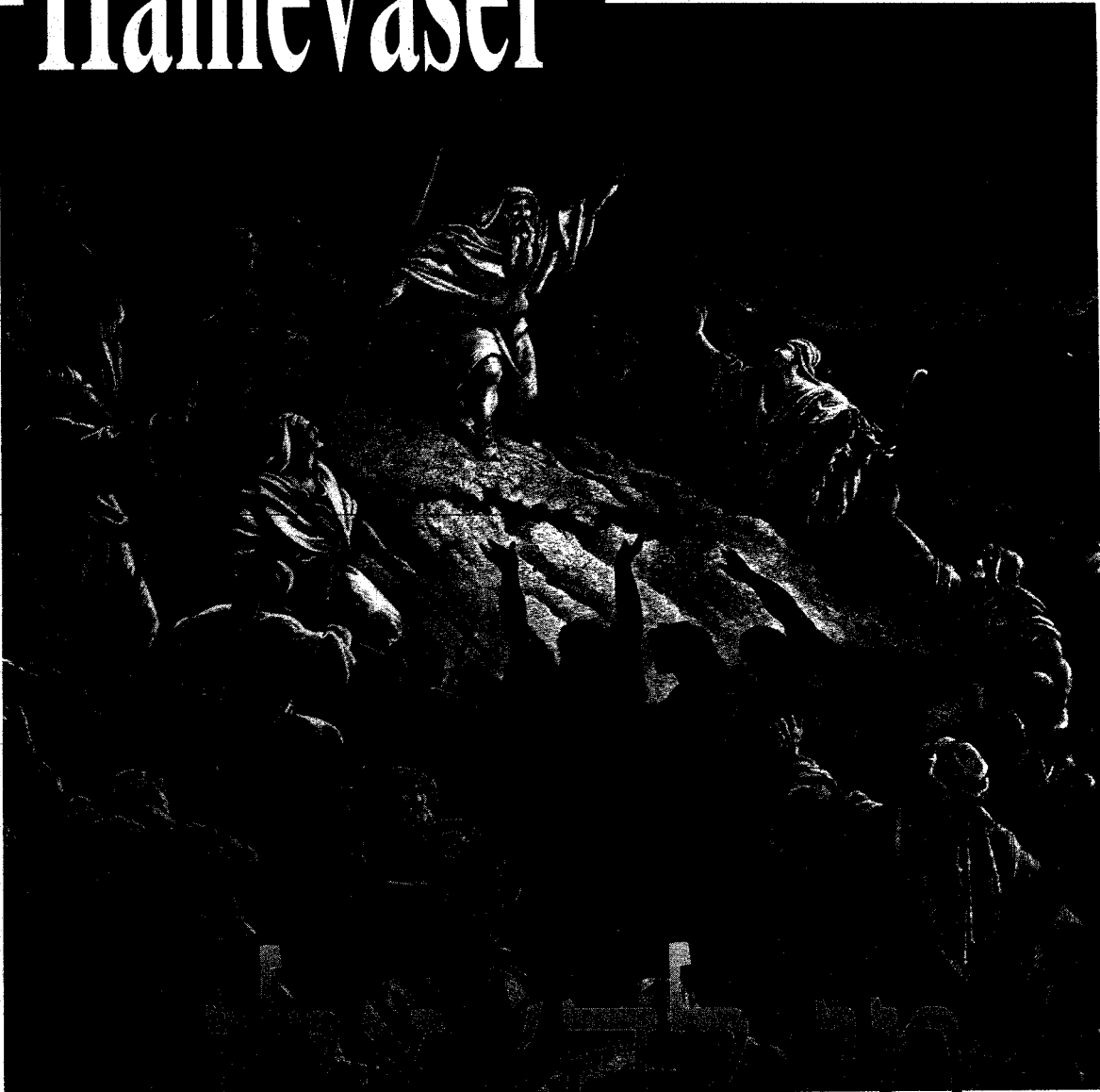


המבשר

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on their recent marriages

Mail Call

An Unhappy Camper

To the Editor,

It was disturbing to find in your long awaited first issue of the year a number of inaccuracies and fallacies with regard to *shemittah*. Ms. Dinewitz in her "Heter Mechirah: A Blessing in Disguise" cites Rav Kook out of context in his introduction to *Shabbat Ha'aretz* as justifying the *heter mechirah* as a "circumvention of a test of faith" for the farmers in *Eretz Yisra'el*. A more accurate reading of Rav Kook's words would reveal that this is not at all Rav Kook's basis for his work; Rav Kook sought to justify the *heter mechirah* on the grounds that observance of *shemittah* without the *heter* was viewed by many as an insurpassable hurdle and detracted from the vision of *shivat tziyyon* as a viable option. To quote the very words cited by Ms. Dinewitz, "And it is also to fortify many of our brothers who are scattered in the Diaspora who yearn to come and settle in the desirable land...but they are apprehensive about stopping work...." One wonders how Ms. Dinewitz could derive support for her thesis from these words?

Leaving the technical misquote aside, Ms. Dinewitz' argument is flawed by its very nature. The issue of relying on the *heter mechirah* because of difficult circumstances is a question which has been addressed by many *posekim* in light of *Sanhedrin* 26a, e.g. R. Tukeshinsky in *Sefer HaShemittah* p. 65, *Shabbat Ha'aretz* of R. Kook chpt. 14. One does not arrive at any conclusion of this matter by a loose comparison to laws of returning stolen objects or *prozbul*, which have no *halachic* bearing on the issue at hand. While it may be appealing to view R. Kook as a modern day Hillel, one can only wonder at the value of this personification in *halachic* discourse.

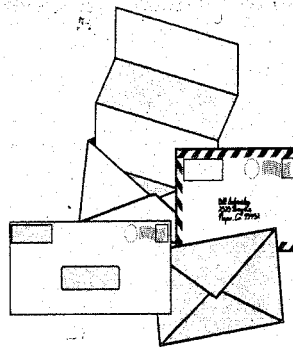
Similarly, Mr. Weiss in "Kedushat Ha'aretz: Partnership Between Man and God" correctly cites R. Chaim Brisker as defining *kedushat ha'aretz* as being dependent on "bi'at kulchem." (Mr. Weiss might have noted that this definition is applicable only to the *Rambam* but does not hold true for *Ra'avad*). Mr. Weiss relates this *chiddush* to *kedushat ha'aretz* being a function of man's sanctification and proceeds to conclude, "The more Jews living in *Eretz Yisra'el*, the greater amount of *kedushah*." The impression one is left with is that *kedushat ha'aretz* is some algebraic function of the Israeli census! R. Chaim Brisker in *Hilchot Terumot* (1:10) points out that the *halachah* of *bi'at kulchem* is measured once at the time of return to *Eretz Yisra'el* and is fixed, while the *halachah* of "yosheveha 'aleha" is static; thus, writes R. Chaim at the time of *kedushat Ezra* the lack of *bi'at kulchem* prevented the total *kiddush ha'aretz* which could not be changed at a later date. More Jews does not mean more *kedushah*!

It should also be noted that Mr. Weiss' argument that R. Chaim's *chiddush* assumes *kedushat ha'aretz* is a function of man is by no means conclusive. Perhaps R. Chaim meant

that *bi'at kulchem* is a necessary condition in preparing us for sanctification by God, but not the force which itself sanctifies the land? R. Chaim merely states that *kedushat ha'aretz* is dependent on *bi'at kulchem*; the correlation does not prove a causation. Although Mr. Weiss' sources are intriguing, he in no way proves to the reader that they must be assumed in the understanding of R. Chaim's *chiddush*.

Chaim Brown
RIETS

Ms. Dinewitz Responds: In his letter, Mr. Brown objects to my depiction of *shemittah* as a "circumvention of a test of faith." However, he does not clarify exactly why he objects to this description. Mr. Brown states that, according to Rav Kook, *shemittah* is "an insurpassable hurdle that detract[s] from the vision of *shivat tziyon*." Rav Kook, however, does not view *shemittah* as a hurdle, but rather as a "holy and beloved *mitzvah*" (Mishpat Kohen, Chap. 63). Furthermore, Rav Kook does not view *shemittah* as "insurpassable." Rav Kook states: "It is our duty to seek out all opportunities the Almighty affords us and which enable our brethren who have settled in the Holy Land to observe *shemittah* fully without having to resort to the *heter mechirah*. And any part of the Holy Land, be it ever so small, where Jewish settlers keep the *mitzvah* of *shemittah* in its entirety should be a cause of jubilation for us as if we had discovered the greatest treasure" (Mishpat Kohen, Chap. 63). From his own words, it becomes obvious that Rav Kook sees the *heter mechirah* as a circumvention of an important *mitzvah*, and not as an ideal.



In addition, Rav Kook certainly views *shemittah* as a test of faith. Rav Kook writes in his introduction to *Shabbat Ha'aretz*: "Whomever the Lord has given a pure heart and sufficient courage and self-confidence to keep and observe the whole matter of *shemittah* according to its *halacha*, may he be blessed by the Lord who dwells in Zion, Who desires the delightful land and the holiness of its *mitzvot* that are dependent on it, in which there is hidden a store of latent forces, and the root of everlasting redemption for a holy people in a holy land." While Rav Kook does agree that the Jews are not yet on the level to fulfill *shemittah*, he does not regard this important *mitzvah* as "detracting from the vision of *shivat tziyon*." Rather, he believes that if the Jews could be on the level to fulfill this *mitzvah*, it would enhance the vision of *shivat tziyon*, and perhaps bring the actual redemption closer. Rav Kook values the settling of *Eretz Yisra'el*, and he is willing to be lenient on many matters in order to accomplish this goal; however, he never loses sight of *kedushat Eretz Yisroel* and the tremendous importance of observing the *mitzvot* related to it. Rav Kook would have greatly objected to the depiction of *shemittah* as an "insurpassable hurdle."

Mr. Brown's second objection reveals that he misunderstood the purpose of my article. Mr. Brown states that my comparison of *shemittah* to *prozbul* or to the laws of returning stolen objects "has no *halachic* bearing on the issue at hand." I fully agree with Mr. Brown on this point. As I stated in my article, my purpose was to explain "why Rav Kook and other Rabbinical authorities were willing to issue a *heter* that is so incompatible with the *spirit* of the law." Whether or not the *heter mechirah* is *halachically* valid is completely beyond the scope of my article. Apparently, Mr. Brown believed that my intention was "to view Rav Kook as a modern day Hillel." This was not my intention at all. My purpose was to explain that Rav Kook's *heter mechirah* follows Jewish tradition, and is not incompatible with the attitudes of our forefathers. In issuing the *heter mechirah*, Rav Kook

Continued on page 4

"God, You Light Up My Life"

by Craig Berkowitz

Jewish holidays not only remind us of past events, but link us to them, enhancing our spirituality by developing within us a sensitivity to Jewish ideals. *Pesach*, for example, underscores the concepts of freedom and meaningful existence, forcing us to internalize those ideas and apply them to our daily lives. By comprehending the rationale behind each festival, we can transform a taxing ritual into an instrument of religious growth.

Yet when we approach *Chanukkah*, we encounter only triviality, seemingly devoid of any personal element. The *Talmud's* explanation of *Chanukkah* (*Shabbat* 21b), that we remember the miracle of the *pach hashemen*, does not suffice to justify *Chazal's* immortalizing it in our tradition by enacting a *chag*. This miracle, while impressive, did not deter a tragedy. The *halachah* of "ones *rachmana patre*" would have allowed for extraneous factors, such as the Judeans' state of *tum'ah* that prevented them from producing their own oil, to justify foregoing the obligation to light the Menorah every day.

In addition, other evidence provides differing bases for *Chanukkah*: The aforementioned *gemara* in *Shabbat* attributes *Chanukkah* to the miracle of the replenishing oil; the *mitzvah* of *hadlakat nerot* also attests to this. On the other hand, *tefillat "al hanissim"* emphasizes the military victory, mentioning only the miraculous Judean triumph over a stronger, more formidable Greek foe. This prayer mentions the Menorah only briefly, and completely ignores the eight day miracle. *Rambam's* formulation in the beginning of *Hilchot Chanukkah* reflects this confusion: he asserts that the miracle of the Menorah was the rationale behind the festival, yet precludes this contention with a summary of the war and its background. Since the *Mishneh Torah* codifies law, and does not relate Jewish history, the *Rambam's* mention of the military victory must reveal something about its conceptual character.

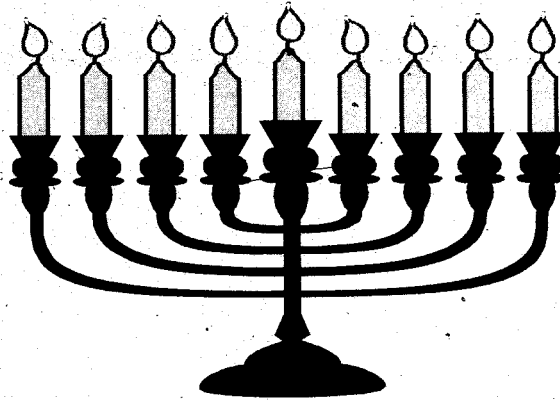
Chanukkah's unconventionality extends to its *halachot* as well. The prohibition against using the candles' light for personal benefit parallels no other *mitzvah*. The *Shibbole Haleket* (*Chanukkah* 185), so confounded by this apparent anomaly, globalizes the concept, prohibiting personal use of any *cheftza shel mitzvah*, such as *lulav* or *shofar*. *Rashi*, on the other hand, limits it to *Chanukkah*, introducing a subjective element into *nerot Chanukkah*, that "it will be recognized that they are candles designated for a *mitzvah*." The *Ba'al Ha'itur* (*Orach Chayyim* 773:1) extends this theme, permitting use of the candles' light for religious purposes, such as learning Torah. Considering that this *mitzvah* recalls the miracle which occurred in the *Bet Hamikdash*, this element of subjectivity appears unwarranted.

Aharon and the Menorah - a Puzzling Midrash

In order to properly assess the meaning of *Chanukkah*, we should analyze the Torah's commending evaluation of the Menorah. *Midrash Tanchuma*, in the beginning of *Parashat Beha'alotcha*, asks: "Why is the *parashah* of the Menorah connected to the *parashah* of *korbanot nesi'im*? Because when Aharon saw the dedication (of the *Mishkan*) by the *nesi'im*, he was disturbed, because he was not involved in the dedication, neither him nor his tribe. God told him: Your duty is greater than theirs, because you light the Menorah."

Ostensibly, this *midrashic* answer poorly resolves its original problem. While linking the two *parshiyot* in an ancillary fashion, it does not reveal a fundamental conjunction.

Ramban points to a number of difficulties in this *midrash*. Firstly, what disturbed Aharon so much? The *kohanim* brought *korbanot* every day, and generally contributed much more than any other tribe to the *Bet Hamikdash*. Furthermore, why did God console him only with the Menorah - the *Torah* lists many tasks that only Aharon or his tribe could fulfill, such as the *ketoret* or "*avodat Yom Hakippurim*?"



Chanukat Hamibeach and the Menorah: God- You're Welcome Anytime!

Perhaps we can reexamine this *Midrash*, viewing it from a broader perspective, interpreting it according to the context of the *pesukim*. *Parashat Naso* concludes with a detailed description of the *korbanot* of each *nasi*, the head of the tribe, who contributed to the *chanukat hamibeach*, to the dedication of the *mishkan*. But their offerings transcend simple formality. *Rashi* (7:1), once again quoting the *Tanchuma* (20), compares *Kelal Yisra'el's* completion of the *mishkan* to "a bride entering the *chupah*."

Moshe, on the nation's behalf, communicates with God, fulfilling the *pasuk*, "And they shall erect for me a sanctuary (*mikdash*), and I will dwell within them." It is the *mishkan*, the *ohel mo'ed*, the meeting point between God and *Kelal Yisra'el*, which breaks the barriers of finitude, uniting the Jewish people with their Eternal Father.

And, it was the *chanukat hamibeach* which initiated this relationship, leading to the verse at the conclusion of the *parashah*: "And when Moshe came to *ohel mo'ed* to speak with Him, and he heard the [Divine] Voice speaking to him from....the Testimonial Aron, and He spoke to him."

The *chanukat hamibeach* not only initiated, but facilitated this bond. The *nesi'im*, on behalf of their tribes, offered sacrifices to God. No communion with God can begin, no relationship can emerge, if *Kelal Yisra'el* does not commit itself to this union. Only through *korbanot*, through monetary expense, long hours, and detail, insuring proper *halachic* performance and timely execution of a large, complex *korban*, can *Kelal Yisra'el* expect Divine reciprocation. God desires a committed people who refuse to abdicate, their responsibilities during the slightest difficulties. The *chanukat hamibeach* symbolized Israel's unbending loyalty to their Savior.

Aharon, upon seeing this, felt neglected, banned from this once in a lifetime opportunity,

unable to contribute to the inauguration of the *mishkan*. True, the *kohanim* handled the crucial, technical details of the *mishkan*, but Aharon felt that God denied his tribe the chance to participate in such a monumental event, to assist in bringing the *Shechinah* down to earth.

God informed him otherwise: "Your duty is greater than theirs, because you light the Menorah." Sacrifice, dedication, and commitment, though indispensable for *hashra'at Shechinah*, do not alone accomplish the task. Mere display of conviction provides impetus, but not continuity. The Menorah's light symbolizes a second level, an ambience of *kedushah*, an atmosphere that welcomes the *Shechinah* to the *mishkan*. Any person inside a dark house feels lost, unable to accomplish anything efficiently and constantly miscommunicating with other occupants. (See *Shabbat* 22b, which asserts that lack of light in a house inhibits *shalom bayyit*).

The *korbanot* may demonstrate the willingness of *Bene Yisra'el* to connect with the Almighty, but the Menorah enhances the bond itself, providing the *mishkan* with an aura of hospitality that welcomes the Almighty into our mundane lives. Without Aharon and his *kohanim* lighting the Menorah, the *nesi'im* would have accomplished nothing, allowing this opportunity to slip from their grip.

A Spiritual Reawakening: The Lessons of Chanukkah

The Judeans, after suffering spiritually and emotionally under imperialistic Greek rule and Hellenistic influence, decided to challenge the *halachically* unacceptable status quo, and overthrow the oppressive, tyrannical Antiochus. They underwent tremendous sacrifice, toiling to organize a successful revolution and losing many lives in the process. They anticipated renewing their faith, abandoning their Hellenistic past and reneating the precious bond they once shared with the God. With Divine assistance, they succeeded in regaining control and establishing, for the first time since *Bayyit Rishon*, Jewish sovereignty in *Eretz Yisra'el*. Their subsequent march to *Bet Hamikdash* elicited excitement, as they envisioned fulfilling what they had fought so valiantly for, to end their estrangement and distance from God.

But, upon arrival, they only found minimal oil for the Menorah, incapable of burning longer than one day. Their inability to light until their *taharah* eight days later - to welcome the *Shechinah* back into their lives - dashed their optimism, dooming their entire enterprise to a tragic failure. Imagine their horror, as they envisioned all their precious efforts disintegrating. The eight day miracle salvaged them spiritually, allowing the Menorah to illuminate and sanctify *ohel mo'ed*.

The story of *Chanukkah* relates a spiritual reawakening, where God, through assisting us in the battlefield, facilitated a rebirth in our commitment. Therefore, in our *tefillot*, we thank Him for allowing a weak nation to defeat the most formidable legions of the time, enabling us to practice *halachah* freely and reunite with Him. But, without the Menorah, without the eight crucial days, we would have lost all we had gained: our sacrifice and sweat would have crumbled. We light the *nerot* every day to commemorate the Menorah's effect upon the military victory; the latter never even begins without the former.

This approach may also solve the *Bet Yosef's*

Chanukkah - Continued from page 3

famous question: why do we celebrate eight days - and not seven - being that the *pach hashemen* contained sufficient oil for the first day? We do not celebrate the miracle per se; rather, we commemorate the opportunity for the continuation of the war's objective, for the eight days needed to link the initial commitment to the actual encounter with *Hakadosh Baruch Hu*. The first day's burning, though not miraculous, would have failed to provide this continuity had the oil

ceased burning thereafter: only the eight days as a unit preserved this crucial link.

Thus, one who lights the menorah according to law, but uses the candles for his own benefit, misses their intrinsic value and fails to understand their message. The lights of the menorah no longer signify preparation for God's presence, rather, they relate only to man's momentary needs.

With this in mind, we can assess the opinion of the *Ba'al Ha'ittur*. If a Jew uses the lights to learn Torah, he surely creates an atmosphere of *kedushah*, conducive to *hashra'at Shechinah*, thereby maintaining the theme and internalizing the message of the *nerot*.

On *Chanukkah*, we not only commemorate the past, but aspire to learn from it. While during the

Yamim Nora'im, we rededicate our lives to God, enduring fasting and other deprivations, crying our hearts out, and promising to start fresh, with a clean slate, this only ignites the change. The menorah, as it did during the *chanukat hamizbeah*, reminds us, when we succeed in finding God, to insure that our actions, speech, comportment, and general attitude provide an inviting atmosphere for the *Shechinah*. When we gaze upon the menorah, we protect ourselves from *Yitzchak's* criticism of the *Pelishtim*, that "there is no fear of God in this place," thus deeming them untrustworthy and suspect of adultery and murder. Instead, we strive to be like *Aharon*, to "love peace and pursue peace, love people and draw them close to Torah," always creating an environment where *Shechinah* feels welcome.

Mail Call - Continued from page 2

expresses the same philosophical attitudes as the Rambam and Hillel, who also viewed their own *heterim* as circumventions of a test of faith. In other words, Jewish tradition allows for the circumventions of certain *mitzvo*t which the Jewish people are not spiritually capable of observing.

No Appointment Needed

To the Editor,

In the last issue of *Hamevaser*, Lavi Greenspan, president of S.O.Y., argued for the appointment of a *Rosh Yeshivah*. Many issues raised in the article are significant, and I would assume that our administration is deeply concerned with them. Our generation is the first without the Rav, and *Yeshiva* suffers greatly from the loss of so spectacular a leader.

Yet, there is a practical dimension to every theoretical discussion. The author of the article contends that when the Rav was here, "there was little debate or confusion surrounding the views of the *yeshivah*." This is contrasted to the situation today, where we find an "almost chaotic" atmosphere, one where each classroom is its "own little *yeshivah*." It is suggested that a *Rosh Yeshivah* would once again bring unity among the *shi'urim*, and provide one consolidated view of what "the *yeshivah*" thinks.

There are two major flaws with this line of reasoning. First, what we have here is an overglorification of *Yeshiva's* past. When the Rav was *Rosh Yeshivah*, did all the other *maggidei shi'ur* agree with him? Were all students devoted to every word that he said? Most *talmidim* at *Yeshiva* were not in the Rav's *shi'ur*, and those students rarely heard the Rav, who commuted between his home in Boston and his *shi'ur*. Moreover, students in other *shi'urim* most certainly did hear views far different from those of the Rav. One of my father's *maggidei shi'ur* tirelessly tried to persuade his students to leave Y.U. and go to a "proper" *yeshivah*. The suggestion in the article, that *Yeshiva* was more unified then because "so many *Roshei Yeshivah* were themselves *talmidim* of the Rav," is unsatisfactory; in fact, nearly all *Roshei Yeshivah* today were students of the Rav: Then, many more were not. If we do feel confusion, it should not stem from the current lack of unity among *shi'urim*. But anyway, why are we so certain that we really are more perplexed than students of previ-

ous generations?

Try asking the Rav's *talmidim* what the Rav's *hashkafah* was. Of the over 2000 *musmachim* of the Rav, we find rabbis with all sorts of *hashkofot*, and most will quote the Rav in support of their own views. This is not unlike the current situation, and, in my opinion, this is to the credit of Y.U.--the Rav trained and inspired independent, thinking *talmidei chachamim* varied enough to cater to large parts of the community.

The article's second flaw is its proposed solution. Would the appointment of a *Rosh Yeshivah* unite our *yeshivah*? Would other *maggidei shi'ur* alter their *hashkofot* in deference to anybody, no matter how great, with the title of *Rosh Yeshivah*? The expectation of such a unity, for teachers and for students, is both false and undesirable.

Yet, I agree with Lavi. We should have a *Rosh Yeshivah*. A *Rosh Yeshivah* stands for his institution, adding both expert guidance and a steadfast presence for students. Our *Rosh Yeshivah* would raise a new generation of confident Y.U. graduates--living models of *Torah U'Madda*, who know that their way of life is worthy. One of the inherent problems at *Yeshiva* is that the authentic voice of the Rav is becoming dimmer. There already exists a battle within our own walls as to what the Rav said on many issues, including his opinions of *Yeshiva University*. Add that to the fact that several of our *Roshei Yeshivah* openly oppose the philosophy of this institution. We need a living model, one who continues in the Rav's path while also innovating his own methods of *hadrachah* for the *talmidim*. We need someone with enough *gadlut* to give students at *Yeshiva* self-esteem and a stronger sense of identity, someone great enough to teach and inspire independent, thinking

talmidei chachamim with all types of *hashkafic* inclinations.

But such a leader needs no special designation. Neither appointments nor titles make greatness; only greatness does.

Hayyim Angel

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The New Nature of Religiosity

by Mali Adler

On November 30 and December 1, Dr. Haym Soloveitchik, professor of Jewish History and Literature at the Bernard Revel Graduate School, delivered a two-part lecture entitled "Transformations in Contemporary Orthodoxy." This presentation, part of BRGS's ongoing lecture series in cooperation with the Rabbi Gilbert Klaperman Symposium Fund, was an outgrowth of Dr. Soloveitchik's current work on the Fundamentalism Project of the American Academy of Arts and Sciences.

A Shift to a Text Culture and its Consequences

Dr. Soloveitchik described his remarks as an attempt to understand the "swing to the right" in contemporary orthodoxy, which has replaced the orthodoxy of the previous generation. The impact of this shift is more pronounced in the *charedi* world, and thus that community provides a productive basis for this study. Dr. Soloveitchik pointed out that the ideological positions of orthodoxy have not shifted - positions on secular studies and Zionism remain the same; what has changed is the nature of religiosity.

Dr. Soloveitchik posited that this change is grounded in the new centrality of texts in religious life. Traditionally, religious observance was guided by two sources - the written *halachic* corpus, as well as observation of societal behavior "at home and on the street." Thus, a 19th century *halachist* will struggle to justify a common behavioral pattern on *halachic* grounds, despite the fact that this practice may seem to contradict the written sources, on the assumption that since this behavior is common, it **must be permissible**. This notion that practice is as valid an expression of *halachic* truth as the law of the written sources is documented in the writings of the Tosafists. However, towards the end of the nineteenth century, this approach to *pesak* begins to break down, as can be seen in the writings of the *Chafetz Chayyim* in the *Mishnah Berurah*, who does not display confidence in the inherent validity of common practice. In the contemporary religious community, common practice has come under scrutiny and a zealous effort is made to correct practices that do not conform to the law as expressed in the *halachic* corpus.

The recent shift to a text orientation manifests itself in two recent developments: the proliferation of a new type of literature - practical handbooks for observance of specific *mitzvot* such as *sefirat ha'omer* and *tefillin*, and the new preoccupation with appropriate "*shi'urim*," which are judged by increasingly stringent standards, as opposed to the previous practice of conducting one's self as one's parents did.

This change can be viewed in the context of *Ashkenazi* history. Traditionally, in Central and Eastern Europe, Jews of different geographic areas and cultures lived very distinctly, each group with its own inevitable and unchangeable code of conduct. Change began when traditional life was assaulted by modern, secular ideas such as communism and socialism. Waves of immigrants arrived in a strange country which had no traditional lifestyle on which to rely. Traditional behavior, instead of being inevitable, became "orthodox," conscious and voluntary. Ritual practices shifted from reflexive cultural behavior to acts of faith and belief. Such an act must be done accurately. And if accuracy is sought, it must be grounded in the text. In a new country, habit

ceases to be a trustworthy measuring stick. Habit approximates details - people are not aware of the minute details of practices which have become second nature - and thus habit, which cannot claim precision and accuracy, loses credibility as a *halachic* standard.

When accuracy is sought, positions of compromise are not perceived as reasonable courses of action. And when one is concerned with accuracy, given a range of opinions, it is only logical to follow a policy of maximum position implementation. Thus the rise of "*chumrah*."

Therefore, what has evolved is a religiosity that is not a replica of what one has seen, but rather an application of what one knows. Behavior becomes a living application of an idea. Yet there is always a tension between the intellectual *conceptualization* of an idea, which will inherently possess multiple possibilities, and the concrete *manifestation* of that idea, which must be reduced to one expression. This tension lies at the heart of modern spirituality.

What led to this modern phenomenon? Immigrants, through acculturation (unconscious absorption of one's environment), adopted some of the values of modern culture, particularly the concept of the pursuit of happiness. Styles of dress improve, the nuclear family increasingly replaces the extended family, and the divorce rate rises. A strict demarcation between Jew and Gentile erodes. One way to reestablish this division is to increase the level of observance. Increased observance sharpens the external distinction between Jew and Gentile, and serves as a reminder for those in whom the internal difference is eroding.

The Text Culture in its Immediate and Larger Historical Context

The second lecture demonstrated how this Orthodox response was one of multiple reactions of American Jewry as a whole to a specific time period. It also placed the Orthodox response within the larger history of Jewish spirituality. Dr. Soloveitchik discussed the new role of the *yeshivah*, which is now called upon to take the place of the "home and the street" in instilling religious observance, and the rise of the "*da'as Torah*" phenomenon.

Turning to the text is the response of third generation American Jews. This third generation came of age during the sixties as the so called "WASP" establishment lost its hold on society and the community broke loose from the patterns of their parents. They questioned authority in politics, culture, civil rights, etc. This atmosphere enabled the third generation to reject their parents' approach to religious practice and turn to the text for more authoritative guidance.

While the Orthodox community's response was one of increased observance, there was another reaction, parallel but opposite, within the broader Jewish community - further dissociation from the Jewish tradition in the form of radically increased levels of assimilation. Another response to this era

was the growing centrality of Holocaust awareness within the generation who did not share their parents' complicity of silence. The Holocaust provided a way for Jews to feel unique in a time when they were otherwise indistinguishable.

Viewing this modern phenomenon within the history of Jewish spirituality, Dr. Soloveitchik noted the disappearance of the ascetic ideal in recent Jewish literature. Traditionally, Jewish works distrusted the body and discouraged what was considered inappropriate indulgence. However, modern thought impacted to the extent that one finds very few references to the ascetic ideal in 20th century Musar literature. What is preached is "plain living and high thinking," and not the tension between the sinful body and the soul which must overcome it. The physical instinct has become legitimized by modern movements such as Zionism, socialism, and the Enlightenment. While a traditional society could afford to concentrate on

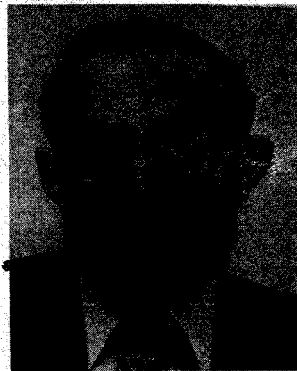
the conflict from within, an open society must focus on deflecting the impulse from without. In a search for purity of outlook instead of personal spirituality, texts will be turned to, as they are not contaminated by outside society.

Another trend that fits into this general framework is the tendency of *charedi* society to reconstruct its past to mirror the emerging present. The past left no history, because history records change, and in a traditional society, nothing ever changes. This makes it easier for people to perceive history as they imagine it to be.

The children of the immigrants were also distinguished from their fathers by their ways of knowing. In the past, study was engaged in for its own sake; the process itself was the goal. With the turn towards books as a source of information, a whole new genre arose - the work of Torah as a topical presentation. These books appear in English or modern Hebrew, whereas in the past all religious works were necessarily written in traditional Hebrew. Histories and biographies, totally foreign to the past era which had no sense of historicity, begin to emerge.

The Increased Importance of Yeshivot and the Emergence of "Da'as Torah"

Another result of the decline of the home's and street's ability to impart Jewish identity is the shift of this burden to the school. For example, the time a child spends



Dr. Haym Soloveitchik

Balancing Ach'av

A Response to Hayyim Angel

by David Silverberg

How is Ach'av a Benoni?

In his article entitled "Ach'av- the Role Model From Hell?" (*Hamevaser*, Cheshvan 5754), Hayyim Angel examines the virtuous side of one of *Tanach's* most infamous personalities, King Ach'av. Mr. Angel analyzes this rather obscure character comprehensively, and thoroughly documents Chazal's startling defense of, and even words of praise for Ach'av.

Mr. Angel introduces his piece with a series of verses and *midrashim* sharply criticizing the king. We would probably point to *Melachim* I 16:30-31 as the harshest condemnation of Ach'av. There he is said to have been worse than any of his predecessors, to the extent that even Yarov'am's sins were considered light matters in comparison to Ach'av's transgressions. The article shifts to Chazal's vindication of Ach'av in various statements in the *gemara* and the *midrash*, one even calling Ach'av "shakul," balanced. The section concludes with a *midrash* which portrays Ach'av as "one who has reached a moral equilibrium." Mr. Angel continues by supporting these *midrashim* with various features in the text which, he believes, indicate a positive facet in Ach'av's character.

After demonstrating the existence of a dispute between two *midrashim* as to the sincerity of Ach'av's repentance (toward the end of *Melachim* I 21), Mr. Angel proceeds to depict Ach'av as a "role model of *teshuvah*." He compares the "balanced" Ach'av to Rambam's "benoni" on *Yom Kippur* (*Hilchot Teshuvah* 3:1-2). Ach'av's success in his quest for atonement earns him the distinction of serving as an example for us.

Unfortunately, Mr. Angel's analysis fails to reconcile the *midrashim* which feature a favorable attitude toward Ach'av with perhaps the most authoritative source in Chazal: the *mishna* in *Sanhedrin* (90a) which includes Ach'av in its list of those without a share in the World to Come. (In this regard Ach'av finds himself in rather unappealing company, as he burns together with Yarov'am, Menasheh, and Bil'am.) Furthermore, if we are to take the *gemara* at face value and consider Ach'av a *benoni* in the literal sense, why does the *Tanach* itself condemn him so bitterly? Perhaps even more troubling is the concluding thought of the article: Ach'av is just like us--he is a person with faults as well as redeeming qualities. Shouldn't we be insulted by this equation?

The textual sources of righteous elements in Ach'av's character are also hardly compelling. Mr. Angel writes, "In *Sanhedrin* 39b, it is suggested that Ach'av brought 'Ovadyahu into his household because of the latter's merits...Such a realization [that God-fearing people bring blessing] indicates that Ach'av's religious sensitivities were far from a complete denial of God's providence." The *gemara* he refers to relates a meeting between the king and 'Ovadyah in which Ach'av ridicules his advisor for his failure to generate material success in the palace through his piety. Ach'av's comments clearly suggest that his motivation in inviting 'Ovadyah to the palace grew purely out of practical concerns. Perhaps more significantly, *Maharsha* claims that this *aggadah* intends to emphasize Ach'av's wickedness--he was so evil that even the presence of a God-fearing employee didn't succeed in bringing about prosperity, as Ya'akov and Yosef spawned success in the homes of Lavan and Potiphar. And finally, even if Ach'av had originally believed that God would grant him prosperity on account of 'Ovadyah's presence, his trust quickly dissipated after his experiencing economic trouble. In any case, this *gemara* is a far cry from a source of justification for Ach'av.

Mr. Angel's vindication of Ach'av continues with proofs that the king "listens to the true prophets." Mr. Angel brings three examples. The first is Ach'av's obeying Eliyahu's order to assemble the prophets of Ba'al to the showdown at Mount Carmel, and the second is his silence during the slaughter of the prophets after Eliyahu emerges victorious. Finally, Ach'av "impresses" us when he heeds Michayahu's warning when preparing for war against Aram and takes certain precautions.

Here too, it is clear that these actions did not result from any religious sensitivities on the part of Ach'av. Did he have a choice? Could he have refused to accept Eliyahu's challenge to determine the true *nevi'im*? Wouldn't a refusal have constituted a confession on the king's part that Eliyahu was right all along, and that Ach'av had erred in his acceptance of Ba'al worship? And after the dramatic events at Mount Carmel, when the entire nation recognized Eliyahu as the true prophet and were no longer "wavering between the two faiths," was Ach'av in any sort of position to intervene? *Radak* (18:40) states explicitly that after the miraculous demonstration the nation's support immediately transferred to Eliyahu's side, leaving Ach'av powerless. Regarding Ach'av's decision to exchange his garb with Yehoshafat as they prepared for war with Aram, there seems to be a dispute among the commentators whether or not this tactic arose out of consideration

for Michayahu's prophecy that Ach'av would be killed during battle. *Rashi* and *Radak* strongly imply that this was a standard, practical military strategy, while *Ralbag* and *Malbim* adopt Mr. Angel's interpretation, that Ach'av was frightened as a result of Michayahu's foretelling. Even so, does this render Ach'av worthy of Mr. Angel's flattering evaluation, "he always seemed to follow [the true prophets'] direction and guidance?" Not only did Michayahu not direct or guide Ach'av to swap uniforms with Yehoshafat, he instructed Ach'av not to wage this war at all. How could we consider Ach'av's behavior as anything short of an outright violation of the prophet's words?

Moreover, Mr. Angel's sources, even given his understanding of them, do not succeed in proving his thesis. One cannot conclude from several deeds approaching the level of "admirable" that Ach'av was a *benoni*. Yet, Mr. Angel is right about the unusual perspective apparent in rabbinic interpretation. Chazal do clearly refer to Ach'av as *shakul*, and Rambam (*Hilchot Rotzeach* 4:9), as Mr. Angel accurately quotes, asserts that until Navot's execution Ach'av's judgement was balanced and undecided. Thus, Chazal's assertion that Ach'av was balanced requires further elucidation. How could this be? What merits did this exceptionally iniquitous king possess?

Bein Adam Lemakom vs. Bein Adam Lechaveiro

Rav Yaakov Medan articulated a more compelling approach in *shi'urim* delivered in *Yeshivat Har Etzion* (*Adar-Sivan* 5752). Without any question, Ach'av contributed to the spiritual decline of the Jewish nation in an unprecedented manner. His marriage to Izevel, the princess of Tzidon, marked the introduction into Israel of a foreign culture characterized by the worship of Ba'al. However, hatred and contempt for God and His Torah were not motivating factors in Ach'av's decision to initiate political and cultural ties with Tzidon. A passionate love for the Jewish people motivated him. Upon his ascension to the throne, Ach'av faced a constituency in turmoil. From its outset, the Northern Kingdom suffered from a perpetual state of warfare. Its first king, Yarov'am, was in constant conflict with the King Rechav'am of Yehudah (14:30). Then King Ba'sha, after implementing a successful coup d'etat against Nadav, led Israel into a disastrous encounter with Yehudah's King Asa and Aram's Ben-Hadad (15:20). After his death, the kingdom endured a series of civil wars, indicating widespread political and perhaps economic disorder throughout the country. Then came Ach'av.

The *midrashim* are replete with detailed descriptions of the Northern Kingdom's wealth as well as political and military prowess during Ach'av's reign. Although Ach'av's success is not explicit in the text, in 18:10 we learn that Ach'av had enough power over all kingdoms in the region to make them swear that they had not seen Eliyahu. (In fact, the Septuagint records that Ach'av set fire to any kingdom which denied Eliyahu's presence in their land.) Indeed, in *Ester Rabbah* (1:1), Ach'av's authority is said to have extended over two hundred and fifty-two kingdoms, and the *beraita* in *Megillah* (11a) and *Pirke Derabbi Eli'ezer* (11) names Ach'av to its roster of kings who ruled from one end of the world to the other. What is more, Ach'av was so wealthy that the *gemara* (*Berachot* 61b) says that the entire *olam haze* was created for Ach'av (see *Rashi* s.v.



lirsha'ei gemurei). His popularity among the populace is evident from the gemara's illustration of his elaborate funeral and the intense mourning that followed. (See Megillah 3a, Mo'ed Katan 28b, Ba Kamma 17a, Targum to Zechariah 12:11.)

Such was Ach'av's balance. He scores an ugly F on his *ben adam lamakom* report card, but regarding *ben adam lachavero* he's earned his A. He was the first ruler in the Northern Kingdom to restore to his country the power, success and glory that had been lost after the time of Solomon. He felt that the adoption of the Canaanite culture was justified as it effectively brought his nation into a new age of military might and economic expansion. The *Tanach* emphasizes *Eliyahu's* (i.e., the correct) perspective, that under no circumstances may one sacrifice commitment to Torah for the sake of prosperity.

Perhaps now we can decipher the perplexing *midrash* cited by Mr. Angel, which vindicates Ach'av on the basis that he was incited to do evil by Izevel (*Yerushalmi Sanhedrin* 10:2). We may speculate that Chazal are not merely shifting the blame from the king to the queen. Rather, the *midrash* notes that Ach'av's iniquity resulted from his alliance to Tzidon, which was initiated out of noble considerations. After Rabbi Levi came to this realization, he spent six months praising Ach'av, for he respected Ach'av's commitment to the welfare of *'Am Yisra'el*.

Mr. Angel also quotes the *midrash* that Ach'av respected the Torah (*Shemot Rabbah* 3:8, *Yalkut Shim'oni* 219). The *midrash* derives this positive quality from Ach'av's refusal to allow Ben-Hadad's soldiers to seize the *sefer Torah* (20:9). Rav Medan insists that Ach'av was by no means a fervent defender of the Torah's honor. Mr. Angel himself notes the discrepancy between this *midrash* and the one which records Ach'av's replacing all of God's names in the Torah with the word, "Ba'al" (*Sanhedrin* 102b). Rather, Ach'av's "respect" for Torah lies in his recognition of the Torah as the cultural symbol of the Jewish people. This he was unwilling to relinquish to Aram. His sensitivities for *Benei Yisra'el's* national identity forbade such an act.

Significance of Kerem Navot

Now we can proceed to resolve the difficulty which Mr. Angel left unanswered: why, if Ach'av was a *benoni*, did he not merit a share in *'Olam Habba*? The solution lies in Rambam's comment about the significance of the *kerem Navot* incident. This sin went beyond simply tilting the scales to one side: it revealed that Ach'av failed even in affairs *ben adam lachavero*. Ach'av coveted Navot's vineyard, allowed his wife to order Navot's execution, and, adding insult to injury, seized the dead man's garden. Ach'av's act demonstrated that ultimately he was not committed to the welfare of his subjects. He was defeated by the principle "power corrupts." This violation of human rights didn't just add another check to the list of Ach'av's wrongdoings; it eliminated his defense. Once his attorneys in the heavenly court can no longer employ Ach'av's concern for *Benei Yisra'el* as a legal defense, he has lost the case. Now he will be held accountable for all his

iniquities, earning his reputation as perhaps the most sinful character in *Tanach*.

Don't Learn From Ach'av!

Thus far, we have not taken issue with Mr. Angel's identifying Ach'av as a *benoni*. However, Mr. Angel's claim toward the end of his article that Ach'av serves as our role model for *teshuvah* is unthinkable. Would it be overly ambitious to demand a share in the World to Come as a prerequisite for our role model of *teshuvah*? Furthermore, how sincere was Ach'av's *teshuvah*? Mr. Angel suggests that according to the view in *Pirke Derabbi Eli'ezer* (43) that Ach'av had Yehoshafat whip him, Ach'av's *teshuvah* was sincere. If this were true, why in the very next *perek* does the "spirit of Navot" condemn Ach'av to death at the hands of Aram (see *Rashi* 22:21)? Moreover, God tells *Eliyahu* that as a result of Ach'av's repentance the destruction of his family will take place after he dies. The decree was delayed, not annulled, and indeed his entire family was later eliminated by Yehu (*Melachim* II 9).

Rav Medan distinguishes between complete *teshuvah* and *hachna'ah*, a mere recognition of one's wrongdoing. While the former has the unique ability to reverse a sentence, the latter only gives the "ba'al *teshuvah*" a second chance. How did Ach'av repent? He rent his clothes, donned sackcloth, fasted, and walked barefoot. Rav Medan notes that the return of Navot's vineyard to his inheritors is suspiciously missing from this verse. He fails to reverse the effects of the murder; God refuses to reverse his sentence.

A careful reading of *Pirke Derabbi Eli'ezer* 43 strongly supports this approach. The chapter discusses the magnitude of the power of *teshuvah*, but it states explicitly, "*Teshuvah* is great for it hinders calamity." This *perek* is about "grade B" *teshuvah*, the type that can only postpone or mitigate disaster. This renders Ach'av a prime example, and indeed he is the first mentioned in the *perek*.

Thus, although Ach'av, as we have seen, can be considered "balanced," we must not look to him for inspiration to do *teshuvah*. Sure, we can learn a lot about the power of *teshuvah* from Ach'av. But at the same time, we must understand that his *teshuvah* was incomplete. Let's keep Ach'av as a role model of the bad king, and look to other *Tanach* personalities as role models of *teshuvah*.

A Rejoinder--by Hayyim Angel

David Silverberg argues cogently and effectively against my analysis of Ach'av. It is exciting when an article generates further thought and discussion, thus broadening our understanding of the subject of debate.

One general note of clarification about my article: I do not assert that Ach'av is a role model of repentance; rather, I contend that Ach'av (before Navot) had the status of a *benoni*, as we must see ourselves. The final two paragraphs in my article may confuse this point, and Mr. Silverberg's comments are a solid reminder that I must express my ideas more clearly. Other than that, Mr. Silverberg's arguments against my positions seem inconclusive, and his alternate resolution of the enigmatic *midrashim* appears inadequate.

First, I am aware of the fact that Ach'av wound up in "hell." Hence the title of my article. But the *midrashim* which praise Ach'av do not contradict

this fact at all. According to Rambam (*Hilchot Rotzeach* 4:9), Ach'av would not have lost his share in the World to Come had the Navot incident not occurred. The *midrashic* treatment of the wicked king before he lost that share in the World to Come (i.e., that he was a *benoni* despite his idolatrous lifestyle) is fascinating, and this is what I deal with in my article. Indeed, it is precisely from the *pesukim* which so bitterly condemn Ach'av for his idolatry that we see the brilliant insight of the *midrashim* on Ach'av. Despite the denunciation of the king in *peshat*, Chazal were alert to subtle aspects of Ach'av, penetrating far beneath the surface of the text.

I do not believe that Ach'av's peculiar actions in the text (retaining *Ovadyahu*, listening to the true prophets) make him righteous. I simply demonstrate that Ach'av's staunch worship of Ba'al and his aggressive denial of God as portrayed by the simple reading of the text are not as one-sided as one might have thought. Even if he were powerless to stop the slaughter of his prophets, as Radak suggests, Ach'av could have punished *Eliyahu* in a subsequent confrontation (after all, Izevel was responsible for the murders of all the other prophets; Ach'av could have sent his henchmen after *Eliyahu* as well). Only one ambivalent in his faith in Ba'al would have remained silent even after the hype on the mountain (contrast *Shofetim* 6:30-31, where the townspeople zealously want to kill *Gid'on* for the destruction of the Ba'al statue).

Did *Michayahu* instruct Ach'av not to wage war, or did he say that Ach'av would be killed if he did go to war (there is a significant difference here)? Ach'av, thinking that he could cleverly avoid his fate, swapped garb with *Yehoshafat*. Thus, he did believe *Michayahu*, and acted to protect himself against the prophecy. Although Ach'av had less than righteous motivations for the prophets and for retaining *Ovadyahu*, it is evident that he took them seriously. One who fully rejects a religious system does not heed its representatives at all.

Now, to the alternate solution proposed by Mr. Silverberg. It is tenuous to say that Ach'av scored an A in *ben adam lachavero* just because he promoted the interests of his kingdom. Even the worst *ben adam lachavero* violator would prefer his nation to be dominant and wealthy than to be oppressed and impoverished. It is difficult to imagine that Ach'av's political prowess would counterbalance his *ben adam lamakom* record to the point where Chazal would call him a *benoni*.

I therefore maintain, from the *midrashic* evidence pertaining to Ach'av, that there is a lot more going on behind the scenes. The complex personality that emerges from *midrashic* analysis has much to teach us about ourselves and our own delicately balanced spiritual states, even though we hopefully will not follow in Ach'av's footsteps--neither in our actions, nor in our *teshuvah*. (Rav Medan's analysis of "grade B" *teshuvah* is great. I would love to see the notes.) But, as one who parallels our own status as *benonim*, as a strong personality who walks a tightrope in his religious life, Ach'av still remains for us, sure enough, a role model from "hell."



Torah U'Economics:

A Review of Rabbi Aaron Levine's *Economic Public Policy and Jewish Law*

by Leon M. Metzger

Hamevaser · Tevet 5754 · December 1993 · Page 8

One marvels at how Rabbi Dr. Aaron Levine's latest book, *Economic Public Policy and Jewish Law* (Ktav Publishing House, Inc. and Yeshiva University Press), integrates the two disciplines of *halachah* and economics. In fact, in his foreword to the book, Rabbi Dr. Norman Lamm writes, "our author continues to explore the interface between economics and Jewish tradition."

This book is a collection of responses on topics like minimum wage; advertising; trading on insider information; resale price maintenance; unauthorized copying; and the conflict between full employment and price stability. Each chapter examines the underlying facts and analyzes the issues pertaining to its theme.

Rabbi Levine, ordained at Rabbi Jacob Joseph School, and a Ph.D. in economics, is eminently qualified to determine a *pesak halachah* in each of these matters. He displays his outstanding technical grasp of the *metzi'ut*, the essential facts, and applies his erudite knowledge of Torah to tell us what the *halachah* is in each case. He demonstrates through his writings the need for proficiency and insight into the complex *realia* of the contemporary world in order to render the correct *halachic* ruling.

In his overview of economic public policy in the Torah society, Rabbi Levine develops his thesis that *imitatio Dei*, imitation of God, is the guidepost for that policy. *Imitatio Dei* is a behavioral imperative, one of the 613 precepts according to Maimonides, consisting of man's duty to emulate God's attributes of mercy in his interpersonal conduct. Moreover, the author says that "*imitatio Dei* is a mandate for government too, and government can accomplish much in this area."

Implementation of a government economic policy can conflict with a policy not chosen. For example, the tradeoff between full employment and price stability leads to such conflicts. Historically, if everyone who seeks work is able to find it, the economy overheats, and price inflation results. However, just as promoting jobs for all is a God-like character, so is price stability.

To classify Rabbi Levine in general

Leon M. Metzger, a former adjunct assistant professor of economics at Yeshiva College and currently a vice president and chief economist at Paloma Partners Management Company, advisors to securities trading partnerships, frequently turns to Rabbi Levine for *halachic* guidance on business matters.

as being either *machmir* or *meikil* is inappropriate—he interprets *imitatio Dei* in a strict sense. At times, his interpretation of *imitatio Dei* will be pro-consumer and anti-producer while at other times it will be the reverse. Rabbi Levine cites examples where *halachah* differs from United States law. He consistently demonstrates that *halachah* sides with *imitatio Dei*. For example, while United States law allows an advertiser to employ puffery in representing his product or service, Rabbi Levine argues that this activity is not permitted by Jewish law.

The following story demonstrates why people in all walks of life, not just those in business, need to read the book. A charity, hoping to receive donations in return, recently sent a costly gift to its more generous contributors. Enclosed with the gift was a letter that stated that the gift had been sponsored by a friend of the charity in memory of the children who perished in the Holocaust. However, that statement was patently, but not transparently, false. When the charity's

executive director was questioned about why his organization would lie, he responded that the president was concerned that donors would be upset if they knew that the charity had paid for the gifts out of operating funds. He also added that this behavior is common in fund-raising. Had he read Rabbi Levine's book, however, he would have realized that the organization and he had violated the *genevat da'at* interdiction when they acted this way.

There is much to praise about the book and one must search hard to find any criticism. The only complaints, albeit minor ones, that one may have about this book are about sins not of commission but of omission. For example, one may feel that Rabbi Levine's chapter on copyrights should have covered unauthorized copying of software. Although one may infer from the chapter that this behavior is wrong, given the prevalence of this practice, it would have been timely to see a discussion of the issue. For example, if one purchases spreadsheet software, the license specifically permitting the user to copy the software to only one machine at any time, and the user copies it to his or her office and home computers, but both machines are never used simultaneously, has the user violated *halachah*? How would Rabbi Levine analyze those facts? When the user purchases the software for, say, \$695, has he or she purchased a diskette which has an intrinsic value of slightly more than a *perutah*, say, 29 cents, and a right to use the software's logic at any one time on an

unlimited number of machines (but the software is never used simultaneously) for \$694.71, or is the disk worth the full \$695 price (I have ignored assigning a value to the manual as well as telephone technical support for this example) and can be used on one machine only (when the machine is not being used, neither can the software)? The reader may have benefitted had Rabbi Levine included such a discussion in his book. When questioned why he omitted this item, Rabbi Levine, in his modesty, responded that he had not felt comfortable enough with the facts to write about it.

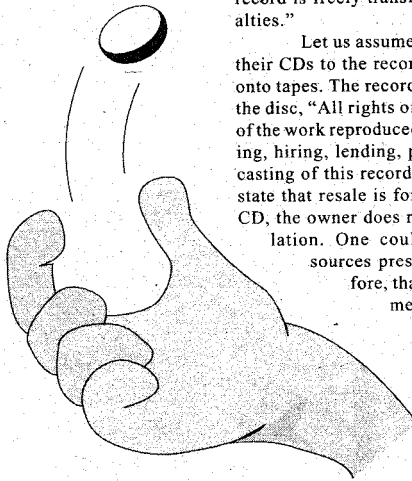
Rabbi Levine's book is marked by its utilitarian quality as demonstrated by, for example, the chapter on unauthorized copying and dubbing. Recently, several periodicals have devoted editorial space to the controversy over the practice of selling used compact discs. Simply stated, the major recording labels withdrew co-op (subsidized) advertising from stores that buy or sell used CDs. These companies had claimed that sales of used CDs eat away those of new ones. Furthermore, *Stereo Review* (December 1993) says that the labels "point to the law prohibiting CD rentals and argue that buying and selling used CDs is merely rental in disguise," insist that employees and customers are encouraged to steal CDs, and claim that unscrupulous merchants buy used CDs and return them to distributors for full credit.

The stores have responded that the labels only own the copyright to the recording but not the physical disk. Furthermore, *Stereo Review* points to the law: "The Copyright Act contains a first sale doctrine that says mechanical royalties must be paid only the first time an album is sold; after that, the record is freely transferable without additional royalties."

Let us assume that those who sell or trade-in their CDs to the record stores have not copied them onto tapes. The recording company usually prints on the disc, "All rights of the producer and of the owner of the work reproduced reserved—unauthorized copying, hiring, lending, public performance and broadcasting of this record prohibited." Nowhere does it state that resale is forbidden. Thus, by reselling his CD, the owner does not disregard an owner's stipulation. One could conclude, based upon the sources presented by Rabbi Levine, therefore, that *halachah* would side with the merchants and not the labels. (One who wishes to analyze whether or not the recording companies have the right to restrain trade by threatening to withdraw advertising subsidies should read Rabbi Levine's earlier book, *Free Enterprise and Jewish Law: Aspects of Jewish Eth-*

ics, Ktav and YU Press.)

Some readers will be disappointed while others will be surprised by Rabbi Levine's conclusions. For example, he writes that *halachah* rejects the idea of comparable worth. According to the book, comparable worth is the doctrine that every job has an intrinsic value, independent of labor supply and demand, and that jobs with equal intrinsic values should be compensated equally. Rabbi Levine concludes that within certain professions, women "are bloating supply and keeping their own wage low"—it is not discrimination that bifurcates the wage scale. His reasoning makes perfect sense. The nature of



female-dominated professions affords job mobility and flexibility to one who chooses that profession. Because relative scarcity determines price in the market, and in our society women more often than men want that flexibility, women's earnings, in general, are depressed relative to men's. Rabbi Levine writes that *halachah* concurs with this result. However, he takes pains to demonstrate that *halachah* is not biased against women.

However, that chapter indirectly justifies *halachah's* attitude towards *yeshivot* that pay married male religious-studies teachers more than single female secular-studies instructors. What is the *din* with regard to comparable worth within the same profession? Are teachers within the status of *po'el*, day-laborer hired for a specific period of time or required, to work at fixed hours, or would *hilchot tzedakah*, laws of charity, apply a different result? Rabbi Levine writes, "In respect to one segment of the internal labor market, *Halachah* specifically mandates a discriminatory wage scale. Compensation for a religious functionary hired by the community must be in accordance with his need. Need takes into account both family size and the cost of living."

Yet a discriminatory wage scale violates U.S. law. Would not such a violation violate the Jewish principle of *dina demalchuta dina* publicity, the law of the land must be obeyed? According to Rabbi Levine, this would not be a case of discriminatory wage scale. He writes: "In *Hodgson v. Robert Hall Inc.*, the employer was paying male salespersons a higher wage than female salespersons who were performing equal work. The court ruled that the wage discrimination did not violate the Equal Pay Act. Merit was found in Robert Hall's contention that the differential was justified on the basis of the greater economic value of male salespersons. Specifically, the men's clothing department had a greater average sales volume and profit per salesperson than the women's department."

Rabbi Levine will say that a *yeshiva* is organized primarily to provide religious instruction. Because the economic value of religious instruction is far greater than the value of secular education to the school, the religious teacher is more valuable to the institution, and, therefore, it will pay him a higher wage.

In connection with the chapter about Resale Price Maintenance, a friend and I disagreed over what Rabbi Levine's opinion would be in the following hypothetical case: I want to buy a new car. Based upon my reading of publications and talking to car owners, I have narrowed the choice to two candidates.

My friend thought that I may test-drive these models at a dealer and then talk to a new-car broker. I argued that because the car broker carried no inventory, by definition he was the "low-cost producer" and the dealer could never meet the broker's true cost.

Accordingly, how could I shop at the dealer knowing that since the broker's cost was less, it is extremely unlikely that I would purchase it from him. And if I would not buy it from him, is it not *genavat da'at*, conduct designed to deceive or create a false impression, and a violation of *ona'at devarim*, causing someone needless mental anguish, to test drive the car.

In his section on Resale Price Maintenance, Rabbi Levine writes: "Customers who make inquiries at the full-support dealers but plan all along to make their purchases at the discount mail order store violate the *ona'at devarim* ~~infract~~. Since the consumer elicits the expertise of the salesperson at the full-support store with a closed mind in respect to making a purchase there, the disappointment the salesperson experiences when the inquiry does not culminate in a sale is fully the responsibility of the insincere consumer."

My friend countered that Rabbi Levine would allow me to test drive the cars because the dealer could always be given the opportunity to match the broker's price notwithstanding the broker's having no financing costs.

That this chapter provokes such a debate is to Rabbi Levine's credit. He has prodded us to think about issues to which we may not have been as sensitive before we read his book.

Those who have hesitated to buy State of Israel Bonds because of concerns about *halachah's* prohibition of *ribbit*, interest payments, may change their minds after they read Rabbi Levine's note 7 to chapter 9. He says that State of Israel "government debt can be viewed as a mechanism to bring together land, labor, capital, and technology in a cooperative effort to fulfill the *mitzvah* of settling the land of Israel."

However, that note raises further questions. For example, may individuals who lend money to institutions of Torah that take that money to invest in speculative activities like mergers and acquisitions be entitled to receive interest on their loans? Again, this is a timely issue, particularly in the so-called Torah world, in light of the poor performance of the economy and its impact on charitable gift-giving.

Although it is easy to rationalize some of our questionable actions, once we are provided with the framework of *imitatio Dei*, that rationalization becomes much more difficult. And for this alone, it is worth reading the entire book.

Unquestionably, I highly recommend that one who is interested in a *halachic* approach to resolving economic and business questions should acquire the book. And, the public should encourage the author to publish more on this highly relevant and intellectually stimulating topic.



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Soloveitchik - Continued from page 5

in school lengthens greatly. Chasidish and mitnagdish cultures merge and result in institutions that venerate learning, headed by a strong central leader. The yeshivah is an institution set apart from society that attempts to realize the values of that society. Thus, the yeshivah has won wide-spread support because it is a necessary avenue for religious growth.

The influence of the educator, the rosh yeshivah, increases radically, especially since he is also the expert on the text. Concomitantly (but not causally), the role of the local rav decreases. The rosh yeshivah finds himself playing a role he never did in the past, dictating social and political policy. As a society lost confidence in its own instincts, they naturally turned to the person who embodies the values they are seeking, i.e. knowledge of the written text, which is after all the Divine mandate, to navigate them in all aspects of life. The authority that

was once divided between the home, the synagogue, and the bet midrash is now concentrated in the figure representing the house of study, as that is the only area left untouched by modern society. The search for the unblemished truth, a truth that will dictate and mandate religious behavioral norms, is the hallmark of contemporary religiosity.

Note - This presentation of Dr. Soloveitchik's lecture was reconstructed from personal notes. Dr. Soloveitchik's paper is due to be published within the year.

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Gideon Avinu?

Comparing Gideon to Avraham

by Shoshana Aviva Goldstein-Mayer

Who was Gideon? Few scrutinize the relatively uneventful account of a judge whose fame is comparable to that of Zachary Taylor's. Gideon arises as a military savior of the Israelites, as do all the judges. He also initiates spiritual improvement, smashing his father's statue of *Ba'al* and encouraging the people to worship God. He dies quietly at home, and his influence is quickly forgotten (Jud 8:33-35). Unfortunately, his impact on many students who study this narrative is equally transitory.

A comparison of Gideon and *Avraham* would likely be greeted with suspicion. Gideon, one of the lower-level judges, perhaps not even a *tzaddik* at all (Zohar 1:254b), is not usually associated with *Avraham*. Yet, a close examination of Judges 6-8 reveals some striking parallels between Gideon and *Avraham*. These similarities broaden our image of Gideon, and enable us to better understand him and the entire period of the judges.

When an angel appears to Gideon (Jud 6:11 ff.), Gideon treats him like a human visitor. He calls the angel *adoni*, a term used for addressing humans (6:13, *Radak ad loc.*). Gideon believes the angel's claim of supernaturality only when his guest ascends in a heavenly fire (verse 22). *Avraham* also offers food and washing accommodations to his guests as he would to any wayfarer (Gen 18:2-8, see *Bava Metzi'a 86, Rashi on 18:4*). Both feed their guest(s) elaborate meals under a tree (Gen 18:6-8, Jud 6:19), and receive remarkable predictions from their visitors (the birth of *Yitzchak*, the downfall of *Midyan*). The *midrash* provides an additional link--both these events occurred on *Pesach* (*Rashi on Gen 18:10 from Seder 'Olam 5; Yalkut Shim'oni 62 from Yelammedenu*).

Chapter six of Judges relates that Gideon's father worships *Ba'al*, yet Gideon smashes his father's statue of that idol (6:27). His affront to this graven image imperils his life, provoking the townspeople to want to kill him (6:30). Although we do not detect such references to *Avraham* in the text of *Beresheet*, the *midrash* describes *Avraham*'s risking his life by shattering his father's idols (*Beresheet Rabbah 38:13*). Through the eyes of this *midrash*, we find that our forefather's fortitude was similar to that of Gideon.

Additionally, both *Avraham* and Gideon vanquish enormous armies with the assistance of fewer than 319 men. *Avraham* defeats the four armies with 318 soldiers (Gen 14:14-15), and Gideon destroys the Midyanite camp with a mere 300 (Jud 7:8-25). Both organize their already meager forces into divisions, and employ the same battle tactics, assaulting their adversaries from all sides.

Gideon's name change is unique among the judges. After Gideon demolishes the statue in his father's house, his father renames him *Yerubba'al* (6:32). *Avraham* also has his name altered, from *Avram* to *Avraham* (Gen 17:5).

There are two significant literary parallels between Gideon and *Avraham*. In his final plea on behalf of Sodom, *Avraham* says, "*al na yichar lashem va'adaberah ach hapa'am*" (Gen 18:32). Similarly, requesting a final sign from God that he will indeed defeat *Midyan*, Gideon says, "*al yichar appecha bi va-adaberah ach ha-pa'am*" (Jud 6:39). Both realize that they are being "pushy" with God, and ask Him not to become angered by their persistence. The second similarity between the two characterizes their deaths; both die *besevah tovah*, at a ripe old age (Gen

25:8, Jud 8:32). It is clear, then, that major segments of Gideon's life closely parallel *Avraham*'s.

Similar, But Quite Different

Just as many similarities exist between the two personalities, significant disparities distinguish them. Indeed, *precisely* these correspondences highlight the differences between Gideon and *Avraham*.

In his first encounter with the angel, Gideon doubts Divine Providence. "If the Lord be with us, why then has all this befallen us? And where are all His miracles which our fathers told us of...but now the Lord has forsaken us, and delivered us into the hands of *Midyan*" (Jud 6:13). He obliges the angel to verify his angelic nature (6:17), and continually asks God for signs, despite recurring assurances of salvation (see, for example, 6:37-40; 7:10). On the other hand, *Avraham*, a model of resolute faith, proves himself time and again in God's trials. While God tests *Avraham*, Gideon tests God.

Avraham and Gideon both defeat large armies. Yet, while *Avraham* immediately arises to rescue his nephew, Gideon stalls, asking for several indications of God's support. While *Avraham* never took more than his 318 men, Gideon first amasses a large army of 32,000 (7:3), which decreases to 300 only after God dismisses most of them. Again, the two manifest clear differences in their levels of faith.

We find a significant difference in the literary parallel mentioned above; *Avraham*'s plea for Sodom; and Gideon's request of another sign from God. *Avraham* uses aggressiveness towards God in order to save a city--to show the world that God is Just. Gideon's plea on the other hand, arises from *his own doubts* in God's Providence.

Avraham actively wins adherents to monotheism (Gen 12:5, see *Rashi ad loc.*). Gideon, after finishing the great battle with *Midyan*, goes home, and retires to a quiet family life (Jud 8:29). Of all the judges, the text emphasizes this only with Gideon. As a result of his withdrawal from public life, the Israelites relapse into idolatry. In fact, Gideon's *efod*, originally erected as a monument to God, becomes an object of worship (8:27). The *midrash* notes that *Avraham* lived to a ripe old age (*sevah tovah*) which was fitting, whereas Gideon lived to an old age (*sevah tovah*) which, because of the *efod*, was unfitting (*Beresheet Rabbah 62:2*).

Finally, *Avraham* has one son from his main wife, *Sarah*, and many sons from his concubines (Gen 25:1-6). *Yitzchak* replaces his father, providing a proper succession of leadership for the fledgling nation. In contrast, Gideon has seventy sons from his regular wives, and only one--*Avimelech*--from a concubine (8:30-31). Yet, that one son of a concubine, arguably the worst of the judges, succeeds Gideon. This marked contrast indicates that in the time of the judges, the "wrong" people were entering positions of leadership. The Israelites faced an unpredictable succession, never assured whom their savior would be. This state spelled spiritual disaster in the time of the judges (see Jud 17:6, 18:1, 19:1, 21:25).

Thus, Gideon serves as a model of the period of the judges. People doubted God's Providence in his time. The leadership did not actively serve the public; on the contrary, many *midrashim* fault *Pinechas*, the *Sanhedrin*, and other leaders of the era of the judges for their passivity in rebuking the people (see, for example, *Beresheet Rabbah 60:3; Eliyahu Rabbah 11*). And lastly, the people never

knew who was to be their next savior, causing nationwide panic and religious decline.

In *Pirke Avot* (5:22) we find a different contrast to *Avraham*--the wicked prophet *Bil'am*. "Whoever possesses these three qualities belongs to the disciples of our father *Avraham*: a generous eye, a humble spirit, and a meek soul. But he who possesses the three opposite qualities: an evil eye, a proud spirit, and a haughty soul, is of the disciples of the wicked *Bil'am*."

Using the criteria enumerated in this *Mishnah*, we find that Gideon himself lived up to *Avraham*'s standards. Gideon had a generous eye: according to some sources, Gideon's concern for his father and his speaking on behalf of Israel made him worthy of saving the nation (*Yalkut Shim'oni 62, from Yelammedenu; Ginzei Schechter 1:132; Zohar 1:254b*). Gideon's humble spirit and meek soul are clearly evidenced when he is told by the angel that he will be the savior of Israel. Gideon responds: "With what shall I save Israel? Behold, my family is poorest in *Menasheh*, and I am the youngest in my father's house" (6:15).

Gideon himself passes the test of *Avot*. Yet, the Gideon narrative submits us to a more refined and exacting trial: We may paraphrase the distinctions between Gideon and *Avraham* using the *Mishnah* in *Avot* as a model. "Whoever possesses these three qualities belongs to the disciples of our father *Avraham*: confidence in God's Providence, active outreach, and providing proper leadership for the next generation. But he who possesses the three opposite qualities: doubt of God's Providence, staying home, and not providing proper leadership for the next generation, is of the disciples of Gideon." Gideon, while being a disciple of *Avraham* as far as *Avot* is concerned, still falls short of *Avraham*'s full greatness.

By contrasting Gideon with *Avraham*, we find that the former challenges us. The distinction between *Avraham* and Gideon is incomparably subtler than that between our great forefather and *Bil'am*. *Ma'aseh avot siman lebanim*. But who will be our true "forefather," *Avraham* or Gideon?

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**Hamevaser - You Don't Know
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Dateline - Continued from page 16

The bulk of the refugees were from the *Mirrer Yeshiva*, and turned to their *mashgiach*, Rav Yechezkel Levenstein, for guidance. "Reb Chutzkel" telegraphed the problem to the *Mirrer Rosh Yeshiva*, Rav Eliezer Yehudah Finkel, who had already settled in *Eretz Yisra'el*. Rav Finkel turned to Rav Avrohom Yeshayah Karelitz of Bnei Brak, the famed *Chazon Ish*, whose vast knowledge of Torah and understanding of science was slowly becoming known to the European Yeshiva world.

The *Chazon Ish* ruled that Japan was not six hours ahead of *Eretz Yisra'el*, but rather eighteen hours behind. The secular International Date Line was useless in terms of *halachah*, and the Japanese Sunday was *halachically* Saturday. The *Mirrer* students were instructed to keep *shabbat* on Sunday.

Another group of refugees in Kobe were from *Yeshivat*

Chachmei Lublin. They independently telegraphed Rav Avrohom Mordechai Alter, the *Gerrer Rebbe*, in *Yerushalayim*. Being unfamiliar with the *Chazon Ish*, the *Gerrer Rebbe* referred the question to Rav Yechiel Michel Toketzinsky. Rav Toketzinsky, the author of *Gesher Hachayyim*, was an expert in calendrical *halachah* and compiled the yearly *luach* of *Yerushalayim*. Rav Toketzinsky ruled contrary to the *Chazon Ish*, establishing the Japanese Saturday as the *halachic* Saturday. The students from *Chachmei Lublin* began to rely on his opinion.

Rav Toketzinsky debated the matter with the *Chazon Ish*, and clung to his original decision in a short work titled *Hayomam B'kadur Ha'aretz*. This pamphlet was in very limited distribution in Bnei Brak, and copies are exceedingly rare nowadays. In response, the *Chazon Ish* wrote a lengthy essay, *Kuntres Yud Chet Sha'ot* (currently printed in the *Chazon Ish's* commentary to *Seder Zera'im*), clarifying his ruling and claiming that all of the *rishonim* who discuss the IDL matter support his position.

The *Chazon Ish* based his ruling on those *rishonim* who cite *Rosh Hashanah* 20b as a specific Talmudic reference to the date line. The *gemara* states that in order for a particular day to be declared *rosh chodesh* by the *bet din*, the new moon, or *molad*, must appear before *chatzot hayom*, the *halachic* midday. When the *molad* is sighted after *chatzot*, the *bet din* must establish the following day as *rosh chodesh*.

According to *Rashi* and some *rishonim*, this *gemara* is irrelevant to our discussion. However, the *Ba'al HaMa'or* (Rav Zerachya Halevi), as well as several other *rishonim*, perceive this *halachah* to be referring to a date line. In his introduction to the *sugyah*, the *Ba'al HaMa'or* describes a world divided into four longitudinal sections, each one six hours travel for the sun. The first section extends

chodesh, in effect, while that day is still unborn somewhere in the world.

Many *rishonim* agree with the aforementioned understanding of the *sugyah* stated by the *Ba'al HaMa'or*. The *Chazon Ish* stressed that even those *rishonim* who have different interpretations of the *sugyah* are merely arguing with the application of the dateline to this particular *gemara*, and not with the dateline itself. No evidence exists that any *rishonim* disagree with the dateline established by the *Ba'al HaMa'or*.

Rav Toketzinsky ruled that *Eretz Yisra'el* is the center of the "flat" world. Thus, the date line is antipodal and is to be found 180 degrees around the globe. In the Greenwich system, that is 145 degrees west longitude, approximately 6,250 miles east of the *Chazon Ish's* meridian. This line is east of the secular IDL as well as Hawaii and most of Alaska, including Anchorage. *Shabbat* would *halachically*

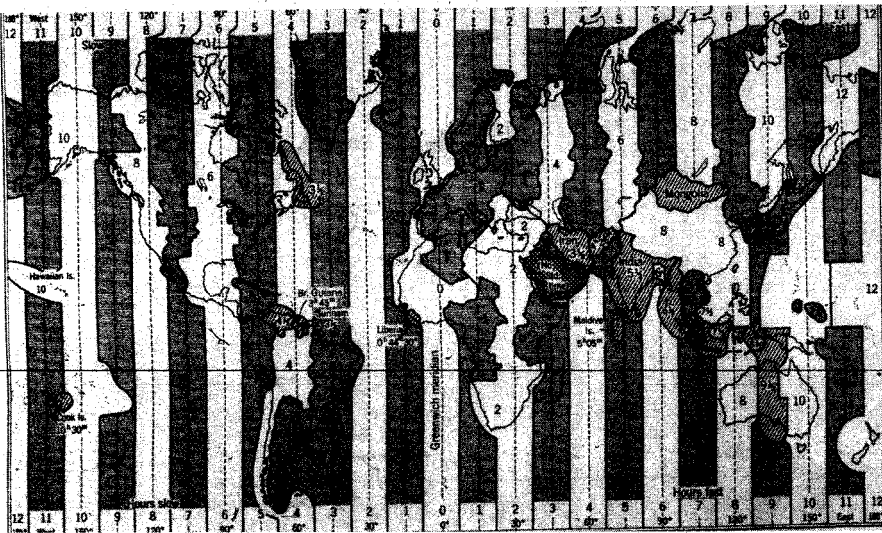
be kept on Friday in those places! However reasonable Rav Toketzinsky's opinion may sound, it is inconsistent with a majority of the *rishonim*.

Even if the dateline of the *Ba'al HaMa'or*, 125 degrees east longitude, is accepted as the *halachic* dateline, a debate still remains. The *Brisker Rav* perceived an absolute demarcation, even though this line cuts through the land of Russia, China, and Australia. Therefore, Jews are required to keep a Sunday *shabbat* in most of Siberia, Manchuria, and in the populated

sections of Australia. According to this opinion, a land traveler in these areas can walk "into" or "out of" *shabbat* by merely crossing the line, and thereby jumping a full day forward or backward. It can happen that two houses within eyeshot of one another are twenty-four hours apart!

The *Chazon Ish's* approach is more palatable; 125 degrees east is merely a guide in defining the eastern edge of creation. He applied the concept of "ein mechalkin beyabashah" ("we cannot divide terra firma"), and envisioned a date line which bends around the eastern edge of landmasses emerging from west of the line, such as Asia and Australia. Therefore, Jews in Siberia, Manchuria, and all of Australia are to keep *shabbat* on Saturday with the rest of the world. However, Japan and New Zealand are islands laying completely east of the date line, and Jews dwelling in those places must keep *shabbat* on the secular Sunday.

As we have already noted, the position of the *halachic* date line has a profound effect on the proper observance of *shabbat*, *yom tov*, fast days, *davening*, *sefirat ha'omer*, and many other *halachot*. The importance of consulting a competent *moreh hora'ah* when traveling in the Far East cannot be understated.



from *Eretz Yisra'el* to a point six hours to the east. This part of the world is the first to welcome a new day. Its easternmost edge is therefore the *halachic* dateline. Since the line is a distance of six hours from *Eretz Yisra'el*, it is 90 degrees to the east of *Eretz Yisra'el*, and 125 degrees east longitude in the Greenwich system. The *Ba'al HaMa'or* uses this concept to explain our *sugyah*: *rosh chodesh* cannot be established by the *bet din* unless there is someplace in the world where that day has not yet begun, as we shall explain.

According to Jewish law, a day begins at sunset. One hour after sunset in *Eretz Yisra'el*, the sun is setting in Warsaw and the day begins for people there. Seven hours after sunset in *Eretz Yisra'el*, the sun sets in New York. After another three hours, the same day begins in Los Angeles. This cycle will eventually stop when sunset reaches the date line. At that point, the day has begun everywhere in the world. We know that the date line is six hours to the east of *Eretz Yisra'el*, and therefore eighteen hours to its west. Therefore, the latest a day can start in the world is eighteen hours after it started in *Eretz Yisra'el*. Eighteen hours after sunset it is already *chatzot hayom* in *Yerushalayim*. As the *halachah* states, a *molad* must occur before *chatzot* in *Eretz Yisra'el* for that day to be declared *rosh*

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Re'uven and the Duda'im: What's the Point?

by Zvi David Romm

Re'uven went during the wheat harvest and found *duda'im* in the field. He brought them to his mother *Le'ah*. *Rachel* said to *Le'ah*, "Please give me some of your son's *duda'im*." She said to her, "Is it such a little thing that you took my husband, that you will now take my son's *duda'im*?" *Rachel* said, "Therefore, [*Ya'akov*] will lie with you tonight, in return for your son's *duda'im*" (*Bereshit* 30:14-16).

The story of the *duda'im* abruptly interrupts that of the births of *Ya'akov's* sons, which just as quickly resumes at the close of the narrative. Short though it is, the narrative of the *duda'im* raises numerous questions: What did the *duda'im* accomplish? What importance did the matriarchs attribute to them? Moreover, what was the Torah's intent in including this seemingly insignificant story? What lesson does it contain for us?

Re'uven's Goal

Before addressing the purpose of the story, we must first understand it on the level of *peshat*. What does *Re'uven* seek to accomplish by bringing *Leah* the *duda'im*? *Seforno*, representing the conventional wisdom, suggests that the *duda'im* enhanced fertility. However, this is not the view of all of the *Rishonim*. *Ibn 'Ezra* writes, "I do not know why [the *duda'im*] would bring about pregnancy" (30:14). *Ramban* elaborates: "The correct explanation is that [*Rachel*] wanted them in order to derive pleasure from their scent, for [ultimately] *Rachel* was remembered [by God and granted a son] through prayer and not through medicine. *Re'uven* had brought the branches of the *duda'im* and its fruit, which had a good scent like apples, but the root...he did not bring. It is the root about which people say that it brings about pregnancy. If this is true, it does so as a *segulah*, not naturally....Some explain that the *duda'im* are an herb that gives women desire."

Whatever the immediate purpose of the *duda'im*, we have yet to understand the significance of the story as a whole.

The Point of the Story

Seforno focuses on the matriarchs' seemingly unbecoming behavior: "Through this story which seems distasteful to those who misinterpret the Torah, we are taught that the notion of procreation for the patriarchs was similar to that of *Adam* and his wife before he sinned, for they did not intend to derive any personal pleasure from the act, but rather to produce offspring for the honor of their Master and for His worship." Rather than portraying *Rachel* and *Le'ah's* anxiety over who would "win" *Ya'akov* in a bad light, the Torah actually demonstrates their pure desire to bring forth the *shivte Kah*, the twelve tribes of Israel.

The *Alshich* focuses on a different *musar* *haskel*: "The Holy Torah teaches us a fundamental point of faith, that one should flee from relying on natural solutions, but rather rely on God alone. Then His healing will quickly sprout forth....*Re'uven* had brought his mother *duda'im* because he saw that she had stopped giving birth, and *Rachel*, out of a desire to give birth, asked for some of them, for she needed them more. *Le'ah* did not depend on natural solutions, so she gave her all of them, to show that all her trust was in God. *Rachel*, who depended on them,

was answered only after *Le'ah* had given birth to another two sons and a daughter."

The *Talmud* (*Sanhedrin* 99b) recounts *Menasheh ben Chizkiyyah's* questioning the need for certain verses in the Torah: "Did *Moshe* have nothing better to write than 'the sister of *Lotan* was *Timna*' or '*Re'uven* went during the wheat harvest'?" After castigating *Menasheh* for his flippant attitude, the *Talmud* goes on to address his question: "*Re'uven* went during the wheat harvest": *Rava ben R. Yitzchak* said in the name of *Rav*: We see from here that the righteous do not take stolen property."

The narrative, according to *Rav*, demonstrates the piety of *Re'uven*, who was careful to avoid stealing and instead opted for the *duda'im* which were *hefker*, unowned property. How this is evident in the verses is not clear. The *midrash*, in a parallel passage (*Bereshit Rabbah* 72:2), explains somewhat more at length. The *Talmud* and *midrash* both record a dispute as to the exact identity of the *duda'im*; the word is either translated as barley or some sort of wild-growing root. If *Re'uven* brought barley back to his mother, it must have been ownerless, since the barley harvest had already long passed without these particular sheaves having been claimed. (The barley harvest is several weeks before the wheat harvest.) If, on the other hand, the *duda'im* were wild roots, they were presumably ownerless weeds. Thus, it is evident that *Re'uven* went out of his way to acquire only ownerless property.

It is noteworthy that this *midrash* ascribes no special qualities to the *duda'im*; if the *duda'im* did indeed harbor some hidden power, why does the *midrash* praise *Re'uven* for avoiding the other produce in the field? After all, he was only interested in the power the *duda'im* contained. Even more puzzling, though, is the *gemara's* assertion about the message of the story—do we really need the Torah to teach us that *tzaddikim* observe the prohibition *lo tignovu*?

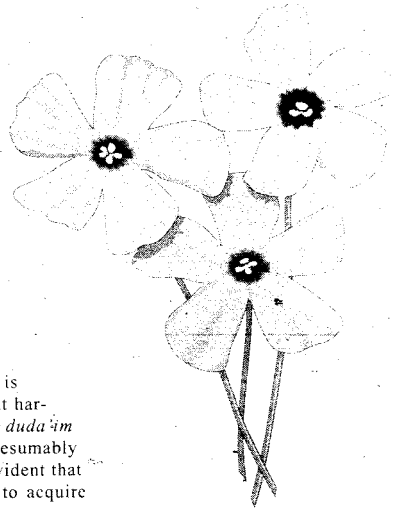
A Mysterious Midrash

The *midrash*, in a difficult passage, describes the outcome of the episode in a way which may open the door to a better understanding of the story of the *duda'im*: "*R. El'azar* said: Each one lost and each one gained. *Le'ah* lost the *duda'im*, but gained two tribes and the birthright, while *Rachel* gained the *duda'im*, but lost the tribes and the birthright" (*Bereshit Rabbah* 72:3). The "two tribes gained" were those of *Yissachar* and *Zevulun*, which came about as a result of the story, and the gain of the *duda'im* we understand. But what does the "birthright" refer to?

Rabbi Zev Wolf Einhorn, in his commentary to the *midrash* (*ibid.*), refers to a parallel *midrash* (*Shir Hashirim Rabbah* 7:14) which reads "*Le'ah* lost the birthright." This, he claims, should be the reading here. What does the new version mean? The Torah recounts later on: "When *Yisra'el* lived in that land, *Re'uven* went and lay with *Bilhah* the concu-

bine of his father, and *Yisra'el* heard... (*Bereshit* 35:22)". The rabbis, in a famous passage in the *Talmud* (*Shabbat* 54b), understand this to mean that *Re'uven* switched his father's bed from *Bilhah's* tent to *Le'ah's*. This ultimately led *Ya'akov* to transfer the birthright from *Re'uven* to *Yosef*. Since *Re'uven*, albeit unintentionally, brought about a change in his father's relations with his wives in the *duda'im* episode as well, it is counted here as the ultimate cause of his—and thus *Le'ah's*—loss of the birthright.

Parallels to 'Esav'



Perhaps, though, we can retain the text of the *midrash* as we have it, by calling attention to a striking similarity between two biblical stories. We have already seen the *Talmud's* statement praising *Re'uven* for abstaining from stolen property. This echoes *Yitzchak's* instructions to 'Esav, when the former is

readying himself to bless his firstborn with the blessings of the birthright: "Now ready your equipment" — that you not feed me stolen property (*Bereshit Rabbah* 65:13). The *midrash* further describes how 'Esav left his father with the intention of bringing back food from whichever source he could find. Contrast this with *Re'uven's* strict adherence to *halachah* when he brings the *duda'im* to *Le'ah*.

Chazal describe 'Esav as a role model in his observance of *kibbud av*, as exemplified by his preparing the repast and bringing it to his father. *Re'uven* is also portrayed as displaying honor toward his mother: "He brought them to *Le'ah* his mother" — this shows how much he respected his mother, that he refrained from tasting them until he brought them to his mother. (*Bereshit Rabbah* 72:2).

We now see before us two examples of first-born sons bringing food to a parent as an act of filial respect. Only *Re'uven*, however, makes sure to bring from *hefker*. The intent of *Rav's* statement, then, is not to inform us that *tzaddikim* do not steal—we know that already—but to tell us that *Re'uven* the *tzaddik* is to be contrasted with his uncle 'Esav.

Continued on page 15

All For the Money- Ma'aser Kesafim

by Chaim
Brown

Ma'aser kesafim, the practice of separating a tenth of one's income and donating it to charity, has a history which begins not with the *Rishonim* and *Acharonim*, but with the *Avot* in *Sefer Bereshit*. *Rambam* (*Hilchot Melachim* 9:1) writes that the innovator of this *mitzvah* was *Yitzchak*. This assertion seems to be based on *Bereshit Rabbah* (24:6) which recounts *Yitzchak's* separation of *ma'aser* after his harvest. *Ra'avad*, however, disagrees, presumably assuming that *Avraham's* conferring of the spoils of war (*Bereshit* 14:20-24) to *Malki Tzedek* initiated the *ma'aser* practice.

In defense of *Rambam*, *Kesef Mishnah* distinguishes between the donations of *Avraham* and *Yitzchok*. *Avraham's* act may have been a one time charitable response to a deliverance from the danger of war, while *Yitzchak's ma'aser* clearly resulted from his income. The Rogatzover Gaon (*Tzofnat Pa'aneah, Matenot Aniyim* 7:5) expands this idea by connecting this dispute to a well known debate between *Rambam* and the *Behag* in *Sefer HaMitzvot (shoresh 3)*. *Rambam* writes, that *mitzvot* which were practiced for a limited period of time (such as *Avraham's* donation) may not be counted among the "613 commandments." *Rambam*, therefore, rejects *Avraham's* meritorious deed, a one time performance by its very nature, as a source for the *mitzvah* of *ma'aser*. *Ra'avad* on the other hand, adopts

Behag's position that such *mitzvot* may be included, and therefore accepts it.

Da'at Zekenim MiBa'ale HaTosefot cites *Midrash (Bereshit Rabbah 28:22)* which may serve as an additional source for *ma'aser kesafim*. According to the *midrash*, *Ya'akov* instituted *ma'aser kesafim* and *Levi* was actually sanctified because he counted as *Ya'akov's* tenth child!

Ma'aser Kesafim as a Separate Obligation - the Sifri

Although the concept of *ma'aser kesafim* may be firmly rooted in the *Midrash* as a laudable practice of the *Avot*, its nature is not at all defined in Talmudic literature as being obligatory, much less as a Biblical requirement. The only source which absolutely identifies *ma'aser kesafim* as a Biblical obligation is the *Sefer Chasidim* (cited by the *Chida* in his work *Berit Olam*).

Tosafot (Ta'anit 9a) cites a *Sifri (Devarim 14:22)* which derives *ma'aser kesafim* from the extra word "kol" (all) in the verse "et kol tevu'at zar'acha." *Tosafot* implies that this is a real *derashah* from which one may derive a Biblical obligation. Indeed, this *Sifri* may stand behind the argument of *Taz (Yoreh De'ah 331:32)* against *Bach*, who claims that there is no obligation of *ma'aser kesafim* whatsoever. Similarly, *R. Dovid Oppenheim* (see *Shu"t Chavot Ya'ir 224*) clearly understands

Tosafot in this way.

However, the vast majority of *Acharonim* understand the *Sifri* cited by *Tosafot* merely as an *asmachta*, referring to a rabbinic obligation (*Shevut Ya'akov* II, 85; *R. Akiva Eiger, Pe'ah* 1:1). Even the opinion of the *Taz*, has been understood by *Rabbi Eliezer Waldenberg (Tzitz Eli'ezer 9:1)* as referring to a Rabbinic duty (compare to *'Aruch Hashulchan Y.D. 249:5* who disagrees).

Despite the reference by *Tosafot* to an explicit *Sifri*, this source is not quoted by any other *Rishonim*. This leads the *Shevut Ya'akov* to conclude in accordance with the *Bach* (above) that *ma'aser kesafim* is not at all obligatory. Further support for such an opinion may be derived from *Ramban's* comments to *Devarim* (14:22), in which he implies that *ma'aser* is only applicable to *dagan, tirosh, and yitshor*, (grain, wine, and oil) which would exclude *ma'aser kesafim (Bet Me'ir Y.D. 331)*.

Rambam's Opinion

Some authorities cite *Rambam* in *Matenot Aniyim* (7:5) as a source for an obligation of *ma'aser kesafim*. *Rambam* writes that when one is approached by a poor person in need, ideally ("min hamuvchar"), he should give twenty percent of his capital. He who contributes with ten percent is considered average ("benoni"), while

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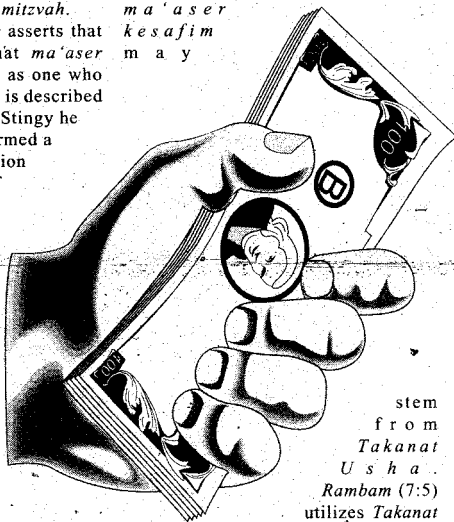
he who contributes ten percent is considered stingy ("ayin ra'ah"). Also, *Rambam* adds, one should minimally give a third of a *shekel* every year to *tzedakah*. Neglecting to do so constitutes failure to fulfill the *mitzvah*.

Yet, *Shevut Ya'akov* asserts that this *Rambam* proves that *ma'aser kesafim* is not obligatory, as one who gives less than ten percent is described as stingy ("ayin ra'ah"). Stingy he may be - but he has performed a *mitzvah*! *Rambam's* opinion closely resembles that of *Bet Yosef* and *Tur* who view these percentages as functions of the *mitzvah* of *tzedakah*, and not indicative of a new *mitzvah* of *ma'aser kesafim*.

R. Ya'akov Emden (*Shu't Ya'avetz* 1) posits that this is also the position of *Bach* (above). *Chavot Ya'ir* similarly argues that since the *halachah* states that supporting one's self takes precedence over these charitable contributions (Y.D. 251), it is impossible to view *ma'aser kesafim* as an obligatory *mitzvah*. (One could counter this argument by claiming that the *mitzvah* of *ma'aser kesafim* is only incumbent upon one who has the means of self sustenance.)

Takanat Usha

A final, potential source for an obligation of *ma'aser kesafim* may be



stem from *Takanat Usha*

Rambam (7:5) utilizes *Takanat Usha* as the source for his famous declaration that donating twenty percent of one's income is the greatest level of charity.

The *Mishnah* (Pe'ah 1:1) records that *gemilut-chasadim* is a *mitzvah* "she'en lahem shi'ur..." with

no limit. Yet the *Talmud Yerushalmi* notes that this is true with regard to *gemilut-chasadim* performed with one's body (physically), but with regard to one's money a limit of twenty percent was set in *Usha*. This twenty percent is calculated from one's principal the first year and from one's profits gleaned yearly for all successive years. The *Bavli* provides a source for *Takanat Usha* from "*aser a'asrenu*" (*Bereshit* 28:22).

However, the *Bavli* (*Ketubot* 50a) and the *Yerushalmi* (Pe'ah 1:1) debate the nature of *Takanat Usha*. The *Yerushalmi* understands it as an obligation, while the *Bavli* views it as a maximum. (i.e. one may spend more than one fifth of one's income on positive *mitzvot*).

Rambam, (*Hilchot Matenot Aniyyim*), citing the *Yerushalmi*, insists that donating twenty percent of one's income is the highest level of *tzedakah*. This position may be contrasted with *Rambam's* discussion in *Perush Hamishnayot* (Pe'ah 1:1), where he applies the *Yerushalmi's* statement to pressing needs such as redemption of captives, and the *Bavli's* statement to the ordinary obligation of *tzedakah*. Many *Acharonim* discuss whether these two citations are contradictory.

Reshash adopts a more extreme approach than the *Rambam*, and claims that the *Yerushalmi* only refers to a

suggested measure of *tzedakah*, but not a real obligation of *ma'aser kesafim*. This contention is not borne out by any of the other *Rishonim*.

Rif (*Ketubot* *ibid.*) cites the *Bavli's halachah* without mentioning the *Yerushalmi*. *Tosafot* in *Ketubot* (50a) even records the *Yerushalmi's* text as being equivalent with the *Bavli*.

It is interesting to note that the practice of *ma'aser kesafim*, in spite of the above discussion, may indeed be obligatory as a function of *minhag hamakom*. This is the opinion of the *Rama* (Y.D. 177:22; 256).

Ma'aser kesafim as a *minhag* is certainly viewed in *halachic* literature as a laudable practice, whether of its own nature or as an extension of the more general obligation of *tzedakah*. As for *ma'aser kesafim* being a *halachic* requirement, the conclusion of the *Tzitz Eli'ezer* seems to be an appropriate generalization: *ma'aser kesafim* is at best a rabbinic *mitzvah* if if at all obligatory.

Duda'im - Continued from page 13

The sequence of events which surrounds the giving of the birthright to *Ya'akov* repeats itself in the *duda'im* story. In the case of *Esa*, this process was supposed to lead to his claiming of the birthright. Might *Rachel* have seen *Re'uven's* gift of the *duda'im* as part of a similar progression? If so, this would explain her frantic drive to get possession of the *duda'im* and interrupt whatever process was unfolding. After all, prior history had shown that the possessor of the birthright is the sole heir of the blessings of *Avraham*, with the loser (i.e., *Yishma'el* and *Esa*) doomed to be written out of the *am Hashem*. Who was to say that this would not be the fate of the sons of *Rachel* as well?

But *Rocheb* had the birthright. *Charaf* say of *Ya'akov* that *minat sheleimah*, all of his sons were worthy of forming the Jewish people. If so, *Rocheb's* assumption that some sons would be chosen and others rejected was erroneous. It was *Ya'akov* who set the way to gain the birthright, as *Esa* as many sons as possible through *Ya'akov*. Thus she gained the birthright through *tzedakah*, who was destined to become king over Israel.

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What Day is it Anyway?

An Introduction to the Date Line Concept in Jewish Law

by Stephen M. Tolany

Our first task is to define a "date line" and the perennial need for one. We all know that since California is west of New York, Los Angeles is in a time zone which is three hours "behind" Washington Heights. Most would also agree that since *Eretz Yisra'el* is east of New York, *Yerushalayim* is seven hours "ahead" of Washington Heights. However, going the long way around, *Eretz Yisra'el* might be seen as being west of New York, placing *Yerushalayim* a full seventeen hours "behind" Washington Heights.

This question is more than semantic. Since the earth rotates from west to east, a typical midnight is commonly thought to occur in *Yerushalayim* before it begins in Washington Heights. At midnight on a Sunday night, Monday begins in *Yerushalayim* seven hours before it begins here in New York. Unfortunately, this thinking creates an obvious problem. Perhaps we are ahead, and it will take seventeen hours for Monday to reach *Yerushalayim* after it begins in New York, since *Eretz Yisra'el* is to our west!

Logic dictates the existence of an arbitrary point at which midnight stops heralding Monday and suddenly begins to introduce Tuesday. In more exact terms, this point is where west ends and east begins. Its location is not a natural phenomenon; it cannot be seen with a telescope or picked up by radar. It is a convention which humanity has imposed on a spinning planet which cares little for calendars and dating systems. Had the world been created flat this distinction would be unnecessary. We are, *de facto*, flattening our planet by determining its end-points.

The date point should not depend on one's north-south position, and must, therefore be a *line*, or meridian, stretching from the North Pole to the South Pole at a certain longitude. Where is it? Although educated people have known for many years that the earth is round, they did not have to cope with

that reality until the modern era. Before then, world travel was restricted and the Pacific Ocean relatively unexplored. Until Magellan circumnavigated the Earth, one could almost think of himself as living in a flat world.

The secular establishment finally established a date line at the International Meridian Conference of 1884. Those present at the conference legalized a system of longitude within which Greenwich, England was to be seen as "the center of the world" at 0 degrees longitude. The International Date Line (IDL) was positioned exactly on the opposite side of the planet at 180 degrees. This line, passing through uninhabited areas was, not unintentionally, politically convenient. It was bent through the Bering Strait to the west of the Aleutian Islands (U.S.A) and to the east of a chunk of Siberia, keeping each country in a uniform time zone. The tip of Alaska became a full twenty-four hours behind the extremities of the former Soviet Union.

What does the *Torah* say about the date line? Does the *Torah* even say anything about a date line? One does not need to remind an observant Jew of the myriad matters dependent on the date, such as *shabbat* and *yom tov, sefirah*, - and wedding invitations! Certainly, the *Torah* must have something to say about something as fundamental and consequential as what day of the week it is! It is also clear that political considerations should have no bearing on this *halachah*. However, as Jews did not stray far east or west of *Eretz Yisra'el*, the question remained hypothetical for centuries.

The Land of the Rising Sun

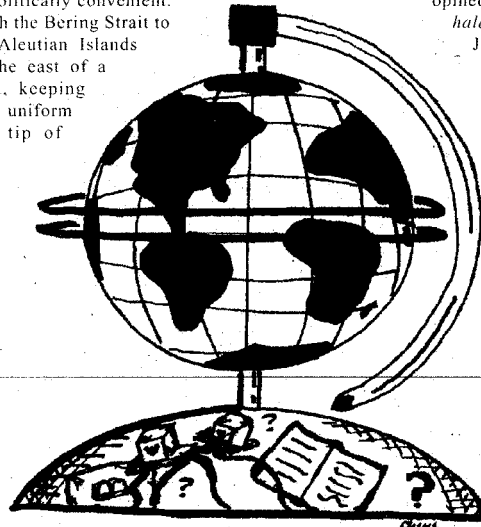
Japan is popularly perceived as one of the first land masses to welcome a new morning. This is certainly true according to the IDL, which places Japan at practically the eastern edge of our "flat" world. However, one may argue that Japan should be seen as being as far west as one can go, and therefore east of the *halachic* date line.

During World War I, approximately one thousand Jews came to Japan as refugees. In what seems to be the first practical *pesak* regarding the *halachic* date line, Rav Moshe Aharon Kislav, of Manchuria, in his *She'elot U-teshuvot Mishbere Yam*, opined that Jews had not crossed the *halachic* date line in travelling to Japan. He ruled that a Japanese Saturday according to the IDL was also a Saturday according to the *Torah*, and therefore *shabbat*. The matter was not raised again for some time.

In 1941 hundreds of students from the heart of the European Yeshivah world fled from Poland and Lithuania to Kobe, Japan. The vast majority of this group eventually went to Shanghai, remaining there for most of the war, but the short stay in Japan presented a problem. Many claimed that the yeshivah students had crossed the *halachic* date line in their travels, and were therefore required to keep *shabbat* on the day

the secular world called Sunday. As a result of the confusion, some of the travelers began keeping two days of *shabbat* (Saturday and Sunday). An approaching *Yom Kippur* further complicated the situation; many were planning to fast for two days!

Continued on page 12



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