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## Inyana D'yoma

### Ad De'lo Yada and Shiras Ha'azinu

RABBI ELCHANAN ADLER

#### The Enigma of Ad De'lo Yada

One of the most enigmatic practices cited in Shulchan Aruch is the Talmudic dictum known as "*ad de'lo yada*:" "*Chayav inish le'vasumei be'puraya ad de'lo yada bein arur Haman le'baruch Mordechai*," "One must become intoxicated on Purim until he can no longer distinguish between 'Cursed be Haman' and 'Blessed be Mordechai' (Megilla 7b), which, taken at face value, requires one to imbibe until becoming "stone-drunk." The Rama (Orach Chaim 695:2), in apparent deference to the potentially devastating consequences inherent in a literal compliance with the aforementioned halacha, cites a view that the obligation may be discharged by drinking more than one is accustomed and falling asleep. The Mishna Berura, citing the Pri Megadim, recommends that Rama's protocol be adopted as standard practice.

Notwithstanding the Rama's "scaled down" approach to fulfilling *ad de'lo yada*, the underlying rationale for this halacha remains elusive. The requirement to imbibe and engage in a degree of inebriation is starkly at odds with the Torah's ubiquitous calls for restraint and moderation within the realm of physical pleasures. Similarly, the purposeful diminution of one's conscious waking faculties for no apparent reason other than simply producing a state of slumbers seems, as a matter of religious imperative, equally incongruous.

Commentaries over the ages have grappled with these questions and have suggested several possible explanations. These include the following:

1. Many of the pivotal events in the Purim narrative were associated with lavish feasts accompanied by drink (i.e. the banquets of Achashveirosh, Vashti, and Esther). Consequently, "partying" on Purim carries within it an element of *pirsumei nisa* (publicizing the miracle).

2. Unlike Chanuka, where the Jews encountered religious persecution, Haman's attempt at genocide posed a solely physical threat. Accordingly, the Purim commemoration stresses elements that are distinctly physical.

Perhaps we might suggest another, somewhat novel, interpretation for *ad de'lo yada* based on an insight into *Shiras Ha'azinu* (the Song of Ha'azinu), the poetic exultation which Moshe Rabbeinu was instructed to teach B'nei Yisrael as one of his final tasks before departing the world.

#### Shiras Ha'azinu: An Overview

The backdrop for *Shiras Ha'azinu* can be found in the following verses that appear toward the conclusion of *Parshas VaYeilech*:

*"Hashem said to Moshe: Behold you will lie with your*

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forefathers, but this people will rise up and stray after the gods of the foreigners of the Land, in whose midst it is coming, and it will forsake Me and annul My covenant that I have sealed with it. My anger will flare against it on that day and I will forsake them; and I will conceal My face from them and they will become prey, and many evils and distresses will encounter it. It will say on that day, 'Is it not because my G-d is not in my midst that these evils have come upon me?' But I will surely have concealed My face on that day because of all the evil that it did for it had turned to gods of others. So now, write this song for yourselves, and teach it to the Children of Israel, place it in their mouth, so that this song shall be for Me a witness against the Children of Israel. For I shall bring them to the Land that I swore to their forefathers, which flows with milk and honey, but it will eat, be sated, and grow fat, and turn to gods of others and serve them, it will provoke Me and annul My covenant. It shall be that when many evils and distresses come upon it, then this song shall speak up before it as a witness, for it shall not be forgotten from the mouth of its offspring, for I know its inclination, what it does today before I bring them to the Land that I have sworn." (Devarim 31: 16-21)

These verses depict a dark chapter of Jewish history replete with intense suffering ("Raos rabos ve'tzaros" "Many evils and distresses" – v. 17) and characterized by *hester panim*, the concealment of the Divine Countenance (v. 17-18). The state of *hester panim* is described as being a direct consequence of the nation's turn to idolatry, which was preceded by overindulgence in material pleasures ("Ve'achal ve'sava ve'dashain" "It will eat, be sated, and grow fat" – v. 20). All of this would be borne out in the testimony of *Shiras Ha'azinu*, which Hashem commanded Moshe Rabbeinu to record and teach B'nei Yisrael as a lesson for posterity.

The chain of events recounted in this series of verses form a distinct theme within *Shiras Ha'azinu* that can be readily discerned in a cursory reading. After extolling Hashem's love for B'nei Yisrael, as demonstrated by His providing for their every need and comfort, the *shira* foretells how the Jewish nation's exposure to material pleasure would eventually lead them to rebel ("Va'yishman Yeshurun va'yivat", "Jeshurun became fat and kicked" - Devarim 32:15) and substitute their allegiance to Hashem for the worship of alien gods. The *shira* goes on to recount how the Jews' embrace of idolatry would cause G-d to hide His countenance ("Va'yomer astira fanai me'heim", "And He said, 'I will hide My face from them'" - v. 20). This state of *hester panim* would be accompanied by great suffering entailing dreadful consequences for both young and old (v. 21-26).

### The "Unconditional Guarantee" of *Shiras Ha'azinu*

Despite its harsh tone, *Shiras Ha'azinu* concludes on a positive note not explicitly spelled out in *Parshas Va'Yeilech* —namely,

Hashem's subsequent defense of his people as manifested by His wreaking vengeance upon Israel's enemies for spilling the blood of His servants (v. 35-43). The Ramban, in his closing comments to *Shiras Ha'azinu*, notes that this divine gesture appears to be unconditional - unrelated to, and independent of, the possibility of Israel's repentance. It is a natural response to Israel's state of utter helplessness coupled with the specter of *chilul Hashem* (desecration of Hashem's name).

Indeed, the Ramban explains, the lasting legacy of *Shiras Ha'azinu* lies in its guarantee that despite the Jewish people's lowly spiritual state and the cycle of suffering generated in its wake, Israel will nonetheless survive, due retribution will be meted out to her foes, and atonement will be attained "*le'maan shemo*" for the sake of G-d's holy name." This comforting message, concludes the Ramban, serves as a profound and powerful testament to the future redemption:

"Now, there is no stipulation in this song regarding repentance or service of G-d; rather, it is a testimonial document that we will commit evils and emerge whole, and that the Blessed One will act toward us with wrathful rebukes, but will not obliterate our memory, and He turn back and relent and exact retribution from the enemies with His harsh, great and mighty sword, and He will atone for our sins for His Name's sake. Hence, this song is an explicit assurance of the future redemption despite the wishes of the heretics."

### Purim and *Shiras Ha'azinu*

The Purim narrative, in fact, closely shadows the theme of *Shiras Ha'azinu*. The story is set in the Persian Diaspora during a period characterized by *hester panim*, which, as foretold in *Shiras Ha'azinu*, was a direct consequence of the Jews' endemic embrace of idolatry during their stay in the land of Israel. The parallel between the *hester panim* described in *Shiras Ha'azinu* and that of the Purim story is implicit in the Talmudic statement which finds scriptural allusion to Esther's name in the verse "*ve'anochi haster astir panai*", And I will surely have concealed My face from them" (Devarim 31:18; Chullin 139b) which, as noted, refers to the events recounted in *Ha'azinu*. Additionally, the verse, "*amarti af'eihem ashbisa me'enosh zichram*", "I had said, 'I will scatter them, I will cause their memory to cease from Man'" (Devarim 32:26), found in *Shiras Ha'azinu*, may well be a reference to the danger of physical oblivion that loomed over the Jewish people in the wake of the decree of Achashveirosh. Understood in this light, the sudden and miraculous turn of events in the Purim narrative, culminating in the Jews' taking revenge against their enemies, represents not a divine deliverance in response to sincere repentance, but rather a fulfillment of the testimony of *Shiras Ha'azinu* that when all else fails, G-d ultimately intervenes on behalf of His people, saves them from the brink of annihilation, and ensures that justice is meted out against Israel's foes.

### Overindulgence and the “Slippery Slope”

The striking parallel between Purim and *Shiras Ha'azinu* may lie at the heart of the “partying” nature of Purim and its jarring inconsistency with mainstream Torah sensitivities. Inasmuch as *Shiras Ha'azinu* specifically identifies indulging in physical pleasures as being the initial stage of a potential “slippery slope” leading to *hester panim* and the grave troubles generated in its wake, it is perhaps ironically appropriate that Purim, whose very essence serves as validation of the testimony of *Shiras Ha'azinu*, entails an obligation to engage—for this one day—in atypical revelry, in order to symbolically affirm that although such tendencies normally pave a dangerous path of *hester panim* fraught with calamity, suffering, and despair, the testimony of *Shiras Ha'azinu* forever stands as a guarantee of divine protection. In a similar vein, the Rama's advocating slumber precipitated by drink as an enactment of *ad de'lo yada* conveys the symbolic message that even when the Jewish people find themselves “asleep” and hence, most vulnerable, they may rest assured that “*hinei lo yanum ve'lo yishan shomer yisrael*,” “The Guardian of Israel neither sleeps nor slumbers” (Tehillim 121:4), as expressed in the testimony of *Shiras Ha'azinu*.

### Purim and Yom Kippur: Two Models for the Eradication of Evil

This analysis may shed light on the seemingly farfetched observation of the Arizal highlighting an association between Purim and Yom Kippurim, the latter of which can be constructed to read “Yom Ki-Purim” “a day like Purim.” Although these

two days could seemingly not be further apart, they share a common symbolic theme of “vanquishing evil,” as expressed in overcoming the *yetzer hara* (the Evil inclination) in the case of Yom Kippur and the victory over Haman, descendant of Amalek, on Purim. Consequently, the polar tendencies that characterize *Yom Kippur* and Purim—the former marked by self-denial and increased vigilance, the latter by levity and letting down one's guard—may perhaps be reflected in the two sections in the Torah that speak of the eradication for Amalek, the personification of evil. In *Parshas Ki Seitzei* (Devarim 25:19) the Torah instructs: “*Timche es zeicher Amalek*,” “You shall erase the name of Amalek,” placing the onus upon the Jewish nation. By contrast, in *Parshas BeShalach* (Shemos 17:14), the Torah emphasizes “*Macho emche es zeicher Amalek*,” “I shall obliterate the name of Amalek.” The model of *Yom Kippur*, on the one hand, corresponds to “*Timche es zeicher Amalek*,” which demands ongoing vigilance in the struggle against evil. This approach is clearly in sync with the dominant Torah norm of limiting and controlling excesses. The Purim model, on the other hand, is patterned after that of “*Macho emche es zeicher Amalek*,” symbolizing periods when the Jewish people find themselves “asleep,” helplessly mired in sin and trapped in the clutches of evil with no recourse of defense. At times like these, the guarantee of *Shiras Ha'azinu* emerges in the form of divine intervention to overcome the forces of evil.

## The YU Ethicist

# Can Google Change the Halacha?

ELCHANAN POUPKO

One of the greatest developments of this Millennium if not the greatest of them all is the revolutionary change in the field of information. Information that in years past would have required years and decades of training to acquire in the past is now easily available on the Internet. This abundance of information is a great blessing in many ways, as it enables and benefits people in ways that spare them precious time and resources. The downside of this excess of information, however, is that it avails a great amount of information that should not be accessible. The Torah strictly prohibits us not only from relaying negative information about another person—whether true or not—but also from listening to and accepting negative information about another person.

This vast availability of knowledge poses a unique challenge to the observant Jew. While trying to maintain high standards of integrity and observing the scriptural prohibitions against

telling or accepting *lashon ha-ra* (lit. evil speech, a term that includes both gossip and slander) we are challenged by the fact that so much negative information is easily accessible to anyone and everyone. Is the fact that this information is accessible change the halakha and permit the discussion and public acknowledgment of negative information or must one bury their head in the ground and ignore this information despite its publicity? After all— if the purpose of the prohibition against *lashon ha-ra* is to protect the person who is being discussed what relevance does this law have once it is already common knowledge?

Some, advocating the permissibility of relaying negative information that has become accepted public knowledge, cite the opinion of the Rambam. The Rambam (Hilchot Deot 7:7) states:

“*[The statements] of people who relate matters which,*

*when passed from one person to another, will cause harm to a man's person or to his property or will even [merely] annoy him or frighten him are considered as lashon ha-ra. If such statements were made in the presence of three people, [one may assume that] the matter has already become public knowledge. Thus, if one of the three relates the matter a second time, it is not considered lashon ha-ra, provided his intention was not to spread the matter further and publicize it."*

This passage clearly indicates that once something has become public knowledge it is permissible to repeat it as long as one has no negative intentions and is not attempting to further spread the negative information. What would be the rationale for such an exception of the severe laws of lashon ha-ra? How is it that this severe prohibition - so serious that it is equated to the three cardinal sins (Talmud Yerushalmi Peah Chapter one)- is suddenly permitted once it has been transgressed in the presence of three people?

As the essence of Lashon Ha-ra is the infliction of damage, intimidation, or a diminished social status on one's fellow by divulging negative information-even if it is true (Rambam ibid.)- it would seem compelling to suggest that the rationale for the leniency of relating negative information that has been explicated in the presence of three is its assumed publicity and thus the inconsequentiality of relating it again. This reading is supported by Rambam's explicit reasoning who reasons "If such statements were made in the presence of three people [since the matter] has already become public knowledge." It is at this point that we must wonder if indeed the Rambam meant to codify a leniency that is based on the notion permitting knowledge that has already become public why is it that he limits it to cases of first hand knowledge and modifies it only to instances that the person relating the information has no negative intentions?

Rabbi Yisrael Meir Ha-kohen of Radin, in his magnum opus Chafets Chaim (lashon ha-ra klal 2 ft. 3), suggests a fascinating and compelling understanding of the essence of the prohibition of lashon ha-ra. While it is clear that the foundation of the prohibition is the protection of the victim from the detrimental impacts of the negative or damaging information told about him, there is another key component to this severe prohibition, namely the protection of the person telling the lashon ha-ra. Negative speech impacts not only the person who is the subject of the negative information, but also damages and diminishes the character of the person telling the lashon ha-ra. While discussing information that is well known to many people may lack the potential to cause any further damage to the subject of the discussion, it is still replete with implications for the person relating this negative information.

The Chafets Chaim therefore strongly opposes relying on this passage in the Rambam, even if one already satisfies the other two conditions stipulated by the Rambam: requiring firsthand knowledge of the negative information and the full absence of negative intentions. These complications render the Rambam's position almost completely inapplicable.

The Internet and its abundance of information have brought humankind great progress, benefits, and advancement. Like any significant human development this can be used for good or for bad. We must ensure that this advent of information is kept a blessing, and is used to enhance and better people's lives and not the opposite. Creating a culture in which people feel safe, appreciated, and valued is essential for spiritual growth, creativity, and fulfillment and is what the Torah intends to create with its strong safeguards against lashon ha-ra.

Cf Hammayan January 2014 who argues on the position taken in Tchumin vol 33 p136. See also Sheilot u-Teshuvot Sheilat Aharon (Rabbi Aharon Felder) Siman 20

## ***Predictive Marriage: Genetic Testing in Halacha***

**MATTHEW KREITMAN**

A genetic test may take on one of several possible forms, depending on whether the prospective parents or the fetus is tested, and is therefore best defined in the context of when it takes place. Premarital genetic testing on prospective parents can take the form of a simple blood test, which can identify health risks for their prospective children. This article will first present some general scientific information, which is needed to understand the first stages of genetic testing. With this background, the article will then present and explain a Teshuva that deals with this issue.

The first step in understanding premarital genetic testing is to find out what the test accomplishes. In almost every cell of a healthy human, there are 23 pairs of chromosomes that carry DNA, which encodes the physical makeup of that person's body. A mutation (or change) in the DNA sequence can

possibly cause disease by coding for the wrong materials or not coding for the right materials. If both chromosomes in a pair contain a certain harmful mutation, the patient is considered homozygous for that disease, which makes it most likely to appear in the patient's body. A person who is heterozygous for a disease has only one chromosome in each pair with the mutation; if the mutation is dominant, even one mutated chromosome will cause the disease, while if the mutation is recessive, both chromosomes are required to cause the disease and a heterozygous person will not be directly affected. Such a person, who has a single chromosome with a recessive mutation, is called a "carrier," and will not have the disease. But if two carriers for the same recessive mutation have children, 25% of them will inherit both mutated chromosomes, and show the mutation that was "hidden" in the parents. This 25% risk of disease

in each child is extremely high compared to other pregnancy risks, and some of these diseases are very dangerous or harmful, as discussed below in more detail.

One who is homozygous for a recessive mutation or heterozygous for a dominant mutation may have the corresponding disease that accompanies the mutation. Therefore, most tests are exclusively for recessive disorders, especially lethal ones. Thus, a premarital genetic test only tells whether or not a person carries certain genes, not whether or not that person will actually express the external symptoms of any diseases. Premarital genetic testing comes in two forms: open testing and anonymous testing. In open testing, the genetic results are sent to the testers, who may then reveal their carrier status to whomever they are dating. In anonymous testing, each tester receives a number that is entered into a database along with other numbers corresponding to testers. Instead of sharing genetic information, the couple exchanges numbers and calls in to the testing company to see if they both carry the same recessive disease.

Given this background information, several Halachic issues can be raised. First of all, should young men and women use this technology and make an effort to find out their possible carrier statuses? If so, should the testing be done publicly or privately? And finally, should people get tested when they are young or when it comes time to begin dating? Rav Moshe Feinstein zt"l<sup>1</sup> answers these questions in a Teshuva discussing the issue of checking for Tay-Sachs disease before marriage. Rav Moshe begins by providing relevant scientific background information. He points out that Tay-Sachs disease is fatal, leading to death of the child before age 6, and he also notes that it is recessive, and will only affect the children if both parents carry the gene. Therefore, a carrier will make sure to marry someone who is not a carrier in order to prevent Tay-Sachs from appearing in their children.

In answering the first question (whether or not to get tested), Rav Feinstein begins by quoting Devarim 18:13, "tamim tihyeh im hashem elokheka" – a positive commandment that serves as an overarching principle for trusting Hashem instead of violating the various negative commandments against sorcery described in the previous psukim. Rashi explains: "walk purely with Him and trust Him and do not investigate future

events." Although one might say that this positive mitzvah prohibits genetic testing, Rav Feinstein still rules that one should be tested. Since the disease is so painful yet so easy to check, it would be like closing one's eyes if a person decided not to get tested. Therefore, one must get tested and need not be concerned that a genetic test is a lack of trust in Hashem.

In answering the question of whether to test publicly or privately, Rav Moshe holds that genetic testing services should be publicized in newspapers and other media. However, the testing itself should be done privately, not in large gatherings like in Yeshivas and schools because, although doctors can testify to the fact that a single parent carrying Tay-Sachs is inconsequential, many people will not believe or understand this scientific detail and instead will see carrier status as a blemish on the family that may prevent shidduchim. Genetic testing should thus be done privately in order to prevent this stigma.

Regarding when to get tested, Rav Moshe begins by describing the nervous mindset of many people, especially Americans, who tend to exaggerate problems like these. Since this panic is unnecessary, one should not talk about genetic testing to their children, since most do not think about marriage until they are twenty years old. Issues of privacy and timing intersect here: since it is difficult for young children to keep a secret, they can damage themselves and others if provided with premature genetic information. Even girls, who may marry early, should not have genetic testing until at least eighteen years old.

The question remains: how much does this pesak on Tay-Sachs apply to genetic conditions that are less severe or have a later onset? The answer<sup>2</sup> is that any disorder that would cause the child to die at a young age or even require the child to undergo multiple surgeries would be better off prevented by detection through a genetic test. Since many disorders in genetic tests are in fact similar to Tay-Sachs in their severity, similar Halachic rulings would apply. With these guidelines in mind, as well as resort to a well-informed personal posek, Hashem should help us find the balance of trust, timing, and health regarding genetic tests.

<sup>1</sup> Igros Moshe, Even ha-Ezer helek 4 Siman 10.

<sup>2</sup> As told to the author by Rav Moshe Tendler.

## From the Masechta

### *To Write a Wrong: Anomalies is Melechet Kotev*

EPHRAIM METH

Letters are the best of symbols and the worst of symbols. Letters are incredibly versatile, and can be combined to symbolize a vast range of ideas. Their names and shapes symbolize profound concepts, as the Talmud (104a) writes: "Gimmel Daled, gemol dalim (help the poor become self-sufficient). Why is Daled's leg stretched out towards Gimmel? To teach that Daled

should make himself available (and not cause Gimmel to exert himself. Why is Daled's face turned away from Gimmel? To teach that Gimmel should give discreetly." Yet the concepts symbolized by letters are not self-evident. Superficially, letters only symbolize phonemes, which in turn symbolize ideas. Hence, letters are poor symbols, because they only indirectly

symbolize the ideas they seek to convey.

To assert that attaching ink to paper is necessary for writing would be simplistic and erroneous. Chiseling letters into stone and ripping letters out of paper are both biblically considered kotev. These laws paved the way for the Bakh (340), who rules that removing ink, glue, or wax from atop a letter (or scratching the gold sheen from a scratch-and-win ticket) is considered kotev. Although this removal involves neither attaching ink to paper nor creation of new symbols, the Bach deems it kotev because it makes symbols more accessible.

Along similar lines, the Talmud (Gitin 19a) writes that tracing over red ink with black ink is considered kotev. Black ink is considered superior to red ink (either because most people think it looks nicer or more clear, or because the color black lends a subtle symbolic superiority to the idea it represents). Therefore, despite the fact that no new symbol was created, no new idea was represented, because someone upgraded an existing symbol, he is liable for kotev.

While not going as far as the Bakh, the Magen Avraham (340) nevertheless presents scenarios of kotev that do not involve attaching ink to paper. The Magen Avraham rules that moving two detached half-letters (such as those stamped opposite the spine of library books) next to one another is kotev, as is ripping two letters from the center of a cardboard box and placing them next to one another. Unlike the Bakh, the Magen Avraham's scenarios both involve creating a new symbol; like the Bach, however, they do not involve attaching ink to paper, i.e. creating a new symbol *ex nihilo*.

Interestingly, the Magen Avraham does not always deem moving two letters next to one another to be kotev. In fact, moving two detached letters (such as scrabble or rummikub pieces) is not kotev, unless one permanently affixes them to the surface upon which they lie (such as by glue, tape, and perhaps magnet). The contrast between library-book spines and scrabble pieces suggests that an action, to be considered kotev, must

bring about a significant change in the clarity-of-meaning or permanence of symbols; any change that is not significant cannot be considered kotev.

R. Shlomo Zalman Auerbach ruled that attaching puzzle pieces to one another is a violation of kotev. He believed that this attachment constituted a significant change in the clarity-of-meaning and permanence of the symbols on the puzzle's surface, since two pieces form a more complete and meaningful image than one piece, and the connection between pieces will not deteriorate if left alone. However, the Rama (Teshuvot 119) writes that when two halves of an image are *omdim le-Chibbur* (destined to be connected, perhaps imminently), the act of connecting them cannot be considered kotev. When combining pre-existing shapes to form a symbol, only innovative, surprising, unanticipated combinations are deemed significant. (Based on this, the Rama rules against the Magen Avraham and permits closing library books with writing opposite their spines.)

The Mishna (104b) writes that when writing by affixing ink to a surface, one is only biblically liable for affixing permanent ink to a permanent surface. At first glance, the Mishna seems to require one to form a symbol capable of lasting forever in order to be liable for kotev. However, the Rambam rules that affixing ink (a permanent ink) to skin (a permanent surface) is kotev, even though sweat will imminently erase the ink. Obviously, even formation of a symbol fated for destruction is kotev, so long as the materiel used in its formation were durable. But if durable materiel are not required for the sake of ensuring that the symbol they comprise endures, why then are they required? Perhaps, even when creating a symbol *ex nihilo*, only symbols formed with permanent materiel are considered powerful and significant. In contrast, when one forms symbols with impermanent materiel, he has not significantly improved the state of representation of ideas in the world, as such weak symbols are hardly better than no symbols at all.

## When Halacha Has a Cow: Milking on Shabbos

JOSH WERNICK

The Gemara in Shabbos (95a) asks why milking (*choleiv*) on Shabbos is forbidden. One answer brought by Rav Nachman bar Guria is that one who is *choleiv* is liable because of *choleiv* itself. However, this is rejected and *choleiv* is found to be liable based on the *av* of *mefareik*.

On *daf* 73b, there are various opinions as to what *mefareik* refers to. Rabbeinu Tam argues and explains that *mefareik* is liable because of the *malacha* of *memacheik*, but according to Rashi (73b, 95a), *mefareik* refers to the *malacha* of *dash*.

Within *dash*, there is a *machlokes*. The Gemara in Kesuvos (6a) discusses a case of squeezing a cloth saturated with wine on Shabbos. The Gemara explains that this is an issue of *sechitah*. Tosfos address the question of what *scheitah* is a *toldah* of. Rabbeinu Tam explains that *sechitah* might refer to *dash*,

since it involves squeezing liquid out of things. Rabbeinu Tam notes that this is a case where the liquid will be "*holech l'ibud*," since it will be spilled on the floor when the cloth is squeezed. The Ramban, though, writes that when it is "*holech l'ibud*," it is not considered a *malacha* at all. The *pashut* reading of the Rabbeinu Tam indicates that since the liquid is falling on the floor, it is going to be destroyed, but it is still considered a *malacha*. According to the Rambam, this act would not even be considered a *malacha*.

The Ramban bases his opinion from the Gemara in Shabbos (145b) which explains that if a liquid is squeezed into a food, it is considered food. Where the liquid lands defines what it is, even if the liquid is in the air for a split-second. According to Ramban, based off of this Gemara, if the liquid will end up be-

ing destroyed, it is as if one didn't extract the liquid.

According to the Gemara in Shabbos (185a), one may squeeze a pickle on Shabbos in order to dry out the pickle. According to Tosfos (73b) and our Ramban, this is not assur miDeoraisa since if one is squeezing without the intention to benefit from the liquid, it is not considered a malacha. Hence, one can milk a cow on Shabbos into food, or in a way that would destroy the milk, since wherever the milk lands will define the status of the liquid.

The Drisha (320,18) adds that if the substance where the liquid lands is considered a liquid, then even if he wishes to transfer the liquid to ochel, the ochel would not change its status and the liquid would still be defined as a liquid. We see that the liquid doesn't go based on one's intentions. Even if he has the intention to pour the liquid onto ochel, the status of the liquid is still a liquid since wherever the liquid lands defines what it is.

If a cow is milked by machine, then Shabbos clocks can be used. According to the Chazon Ish (38:4), the machine must be connected to the cow before it is turned on. If it is connected after it was turned on, it will be considered as if he milked the cow and the liquid would retain its status.

According to Shemiras Shabbos K'Hilchaso (27:171), there was a mesorah that if one connects the machine to the cow, and, afterwards, another person places the pail underneath, it is muttar. When the pail was missing, the milk would have been milked onto the ground and destroyed. Therefore, according to mesorah, this was muttar.

According to Rav Shlomo Zalman Auerbach, though, this would be assur. If the pail is placed so quickly that no milk is lost, than it is not considered "holech l'ibud" and is considered as if he was choleiv, since his later actions prove his earlier intention to keep the milk and retain its liquid status. Hence, one must intend to destroy the milk and one must actually destroy at least some of it in order for milking to be permitted. Rav Shlomo Zalman also explains that if one connects the machine to the cow on Shabbos, it would be considered as if the milking was done through his koach. He suggests that if he does connect it, it should be done in a way where the first flow of milk is lost in order that he doesn't show his intention to keep the milk.

According to the Gemara in Kesuvos (60a), if a cow is in pain on Shabbos, one is allowed to nurse it with his mouth. This is muttar since handless milking is considered k'lachar yad, and k'lachar yad or other issurim deRabanan may be permitted to prevent tzar baalei chayim. Similarly, the Gemara in Shabbos (128b) permits one to put muktzah on a kli and create a case where one cannot move the object to prevent tzar baalei chayim. The Rosh quotes the Maharam Mey'Rotenberg, who explains that we see from this Gemara that if a cow is in pain because it has too much milk, one can ask a goy to milk the cow because tzar baalei chayim would be docheh the issur drabanan. The Shulchan Aruch (305,20) codifies this heiter to milk cows on Shabbos by asking a goy to do so to prevent such tzar.

## The Blessing for a Meal Made in Heaven

YITZY RADNER

The Gemara (Brachos 48b) describes the progression of Birkas Ha'Mazon's formulation. Moshe Rabbeinu instituted the very first bracha, "Birkas Ha'Zan", upon the manna's descent; Yehoshua introduced the second bracha, "Birkas Ha'Aretz", upon entering Eretz Yisrael; and Dovid Ha'Melech and Shlomo Ha'Melech jointly devised the third bracha. But wait a second! Why was there any need for Moshe Rabbeinu to institute Birkas Ha'Mazon if Klal Yisrael's source of nourishment was the manna? We know that only foods derived from the five grains (wheat, barley, oats, rye, and spelt) necessitate the recitation of Birkas Ha'Mazon. So how could the manna, a singular creation that fell from the heavens, call for a bracha unique to foods comprised of the five grains?

Now, perhaps one may dismissively point to the Midrash that the flavor of the manna catered to the consumer's wishes, and, thus, could taste like bread. But this Midrash fails to resolve our query, as flavor alone cannot warrant the recitation of a bracha. To substantiate his point, R. Yosef Engel points to Tosfos (Brachos 38a) who explain that we do not recite a "Mezonos" on barley-based beer (and, instead recite a "She'haKol") because the flavor of the five grains is not sufficient to require a "Mezonos", as the brachos that Chazal instituted for the five grains were reserved for foods that offer the flavor and physical mass of those unique grains.

R. Yosef Engel refers to a Gemara in Yoma (75a) to address our question. The passuk in Sefer BaMidbar (11:5) records that the Jews complained to Moshe Rabbeinu, reflecting nostalgically on the foods they once enjoyed in Egypt: cucumbers, melons, leeks, onions, and garlic. So the Gemara in Yoma wonders why the Jews sniveled about a limited menu if the manna could mimic any food. The Gemara offers two possible resolutions: 1) The manna's flavor could mimic that of any food except for the ones mentioned in the passuk in BaMidbar, and Rashi explains that these foods were hazardous for pregnant women, 2) The manna generally, not only imitated the flavor of a desired food, but could assume the physical character – the consistency – of a given food. In other words, the manna could not only taste like pizza, for example, but could provide the consumer with a pizza-eating experience. However, there were five foods that the manna could not fully impersonate, and could mimic only their flavor – the items listed in Sefer BaMidbar, about which the Jewish people complained.

Given the latter suggestion offered by the Gemara in Yoma, R. Yosef Engel explains that the institution for the recitation of Birkas Ha'Mazon upon consuming manna is justified; for, the manna could not only provide the Jews with the flavor of a five-grain-based bread, but could simulate bread's physical composition.

# Is It Really the Thought That Counts?

SHMUEL KRESCH

The Gemara in Brachos 11a presents us with the obligation to recite Birchas Ha'torah. The Gemara concludes that one should recite the bracha before beginning to learn all forms of Torah (Mikra, Mishna, Talmud, etc.).

What the Gemara does not discuss is whether the only time one must recite a bracha is when one learns verbally or even if one is writing or thinking Torah. The Shulchan Aruch (Orach Chaiim 47:3) quotes the Abudraham that writing divrei Torah requires a bracha. However, the Shulchan Aruch (Orach Chaiim 47:4) also quotes the Agur who claims that "hirhur," thinking alone, does not necessitate a bracha.

At first glance these two halachos are difficult to understand. Why should writing be any more meaningful than thinking? Seemingly, any lack of verbal reiteration should be enough to absolve one from the requirement to make a blessing? The Taz asks this question and leaves it unanswered. The Mishna Berurah, on the other hand, offers two possibilities to differentiate between writing and thinking. He first explains that while writing involves an action, therefore making it similar to verbal enunciation and necessitating a bracha, thought lacks any concrete action, thereby absolving one of any need to recite Birkas Ha'torah. The Mishna Berurah's second approach is that when one writes, it is reasonable to suspect that one will come to enunciate the words and therefore one should recite a beracha before writing, whereas by thinking this possibility is unlikely.

However, the Gra points out a blaring issue with the opinion of the Mechaber. He quotes several psukim that use the term "hegyon", thought, regarding learning Torah. The Gra therefore concludes that thinking Torah should require a blessing as well.<sup>1</sup>

In defense of the Mechaber, I would like to suggest that although thinking Torah is certainly considered learning, in order to recite Birkat Ha'torah there is a higher standard. To qualify for a bracha, the Torah which will be learned is required to have more significance.

A proof to such a suggestion could be found in the aforementioned Gemara. The Gemara brings a debate between the Amoraim regarding what level of learning requires a bracha. Some of the Amoraim claim there is no need to make a bracha at all on Mishna or Talmud. If the Gemara is understood according to its simple reading, the dispute would be over whether Mishna and Talmud are part of Torah. However, accepting the possibility that some Amoraim do not view Mishna and Talmud as part of Talmud Torah is preposterous! Thus, it appears that although Mishna and Talmud are certainly included in Talmud Torah, there might be reason to exclude them from the obligation to recite Birkas Ha'torah.

A related effect of this concept lies later in the Shulchan Aruch (Orach Chaiim 47:8). The Beis Yosef quotes a Yerushalmi that states that one can fulfill one's requirement of Birchas

Ha'torah by reciting the bracha of Ahava Rabba. Nonetheless, the Yerushalmi requires one to learn immediately after reciting the bracha: "ve'hu she'shana al assar." The Beis Yosef asks why the Yerushalmi requires one to learn after completing Ahava Raba if Krias Shema, which is intrinsically Torah, directly follows Ahava Raba already. The Beis Yosef provides two answers. First, the minhag in the place referred to in the Yerushalmi was to recite Krias Shema before Ahava Rabba rather than after it. Second, Krias Shema is insufficient to be considered learning Torah since it is only recited as part of Tefilla. The Lekutei Chaver Ben Chaim asks a fundamental question regarding the second answer. The Gemara in Nedarim (8a) clearly states that an am ha'aretz is able to fulfill his obligation of Limud Torah by reciting the Shema in the morning and the night. If that is so, how could the Beis Yosef claim that Krias Shema will not fulfill one's requirement for Limud Torah? Once again, the answer to this question may be found through analyzing the nature of the requirement to recite birchas Ha'torah. Krias Shema is certainly considered Talmud Torah. However, since it is part of tefila, it would not qualify as Talmud Torah according to the Yerushalmi which requires the Limud Torah following Ahava Rabbah to be for the sole purpose of Talmud Torah. This is another example illustrating that the Torah necessary to require one to recite Birchas Ha'torah has a higher standard than the Torah one must learn in order to fulfill the mitzvah of Talmud Torah.

In conclusion, according to the Shulchan Aruch, the only time one has to make a bracha when learning is when one enunciates words of Torah. Thus, the Maharal explains in his introduction to Tiferes Yisrael that the bracha "la'asok bi'divrei Torah" is specifically referring to Torah that is expressed verbally. Hence, Torah which is limited to thought is not included in this bracha. Writing, on the other hand, is included in "la'asok" because of the action involved, following the principle of the first answer of the Mishna Berura.<sup>2</sup> Therefore, in accordance with the Shulchan Aruch's long-standing psak, there should be no issue to "think in learning" before reciting Birchas Hatorah.

<sup>1</sup> See Mishnah Berurah (Orach Chaiim 47:7) who therefore forbids one from thinking in learning before reciting Birkat Ha'torah.

<sup>2</sup> See Aruch Hashulchan(47:10) for an alternative approach that explains the significance of verbal expression and writing in a more fundamental way, which might very well be congruent with the understanding of birchas hatorah in this essay.



# Ha-Oved Me-Ahavah U-MiYirah<sup>1</sup>

SHLOMO ZUCKIER

Idolatry is the subject of one of the most severe prohibitions in the Torah, incurring the death penalty. The *avodah zarah* prohibition is triggered in one of two ways – either by worshipping an idol in the way it is generally worshipped (*ke-darkah*) or by worshipping it through one of four *avodos* that we generally reserve for Hashem – bowing down, offering incense, slaughtering an animal, and pouring libations. But what happens when someone worships an *avodah zarah* not in the standard scenario, but out of some emotion of love or fear? The Gemara (*Shabbat* 72b, *Sanhedrin* 61b) discusses the question of *ha-oved me-ahavah u-miYirah*, where Rava (the position followed in Halakha) rules that one is exempt from punishment – he is only *hayyav* when he accepts the deity as a god – while Abaye holds such a person liable – because he did bow down.

However, we have to ask what precisely this case entails – what exactly does it mean for one to worship idolatry “out of love or fear”? Rashi, followed by many Rishonim, explains that we are talking about *ahavas adam vi-yiras adam*, that out of one’s affection for or fear of a fellow person he chooses to worship idolatry. The Ran discusses Rashi’s position, offering three variations of the degree of fear necessary to qualify for our case – one position argues that only if there is fear for one’s life is such worship not punishable, while another opinion holds that fear of monetary loss or even fear of social consequences are sufficient to exempt one from punishment. One complicating issue for Rashi’s position, which we will not enter here at length, is dual: how can Abaye claim this act is punishable, if it is a case of coercion, *ones* (especially for the position that the person fears for his life), which is usually exempt from punishment? On the flipside, how could Rava exempt the worshipper in this case, given that idolatry is one of the three severe sins that require one to sacrifice his life! If so, shouldn’t one who fails to do so receive the death penalty?<sup>2</sup>

Tosafos (*San.* 61b, DH Rava, followed by some other Rishonim) offer an alternative explanation of what *avodah me-ahavah u-miYirah* might mean. Noting the problem with Rashi cited immediately above, that one should be required to give their life in order to not perform idolatry, they understand that this must be a different sort of case. This is not a normal *avodah zarah* that happens to be worshipped with a particular intention, rather the case of an *avodah zarah* itself that is worshipped solely out of people’s love and fear; no one ever worships it in a non-*ahavah ve-yirah* fashion. In other words, the dispute between Rava and Abaye hinges on whether this deity qualifies as a real idol at all.

Rambam (*Avodah Zarah* 3:6), presenting a unique position not accepted by later *mefarshim*,<sup>3</sup> understands *me-ahavah u-miYirah* completely differently. He explains *ahavah* as meaning that “one who loves this ([idol] because its craftsmanship is most beautiful,” while *yirah* refers to one’s “fear of it [the idol]

lest it punish him.” For Rava, argues Rambam, this would be sufficient to exempt one from punishment.

Rambam’s position is attacked from a number of different directions. Rabad asks that the Rambam mentions only *ahavah*, not *yirah*, deviating from the Gemara. Although it appears (as the *Kesef Mishneh* notes, among others,) that Rabad had a different *girsah* than ours, his question against Rambam still points to a complication in Rambam’s position. While Rashi’s definition of *ahavah* and *yirah* are parallel, in that both refer to love/fear of a person, here the Rambam’s definition is somewhat uneven, as it is love of the beauty of the idol’s form, but fear of what it may do to those who do not follow it.

Two related arguments emanate from the Ran, Meiri, and Rivash’s positions on this *sugya*. The Ran (*Sanhedrin* 61b) asks that, even if one only isn’t fully worshipping the idol, but thinks that it has the capacity to punish people who do not accept it, should that not still be sufficient to make one *hayyav mitah*? The Meiri (*Sanhedrin* 61b) and Rivash (*Teshuva* 110) take this a step further, denying the very distinction between any idol and Rambam’s *avodah mi-yirah* case: all idolaters only worship their deity because they wish to attain reward and avoid punishment! How, then, could we *pasken* that *avodah mi-yirah* on Rambam’s definition is exempt? If so, there is no such case of idolatry where one is liable?

It is possible to offer several answers to this question, but each has either been rejected by Rishonim or has a significant flaw. The *Kesef Mishneh* (*Avodah Zarah* 3:6) argues that we must understand the Rambam by projecting the position of Tosafos onto him; in other words, Rambam also holds that one is exempt from *avodah mi-yirah* only if the deity being worshipped is always venerated for reasons of fear. However, Rambam gives no indication that he agrees with Tosafos’ position, and thus it is hard to sustain the *Kesef Mishneh*’s reading.

Similarly, Ramban (*Shabbat* 72b) argues that there is no essential difference between the positions of Rashi and Rambam on the issue – the point is that one does not accept the deity as a true god, for whatever reason. However, this position begs the question: are we sure that Rambam and Rashi consider each other’s cases to equally result in a *petur* for Rava? And, to reiterate the question we have been asking, what exactly is the difference between seeing the deity as punishing and rewarding and counting it as a “real” god?<sup>4</sup>

Rivash (*siman* 110) rejects another proposed distinction, one that would punish those who worship idols as the primary god but would absolve them of punishment if they worshipped a god as a subsidiary to Hashem. He notes that most idolaters accept a system wherein the deities are subsidiary to a higher power, as they worship lower forces with the power to punish and reward. Are we to say that this is not to be considered full idolatry?

It appears that the most promising approach to answering the enigma of Rambam's position is based on a distinction between different types of idolatry, such that both are prohibited, but one qualifies as *me-ahavah u-miYirah* and does not incur punishment, while the other qualifies as *avodah zarah de jure* and does incur the death penalty.<sup>5</sup> We will study two formulations of the approach that draws this distinction, turning to a somewhat novel option for explaining Rambam's position.<sup>6</sup> Throughout his writings, Rambam discusses the category of one who worships an idol itself as distinct from one who worships an idol as a way of channeling his worship of a divine being – whether an angel, planet, star, or element.<sup>7</sup> He writes (A.Z. 1:2):

*“All amei ha-arets and women and children only knew the form of the tree or rock or edifice, to which they were educated from their youth to bow to and worship and swear in its name. And the wise men among them, like the priests and the like, imagined that there (in the form) was no avodah zarah; rather the stars and planets [were avodah zarah], which had idols made in their form and image.”*

Thus we find two categories – worship of cosmic beings through a representation, as the masses believe, and worship of the representation itself, which only the elite accept. It would seem that, for the Rambam, only the latter form should be labeled as “pure” *avodah zarah*, one punishable by *karet*, while the formal category is prohibited but not punishable.<sup>8</sup> While at first glance this seems puzzling, a deeper understanding of the prohibition against idolatry can shed light on the position.<sup>9</sup> It would seem that, for the Rambam, the baser form of worshipping idols is not as problematic – people saw this worship as a form of a *quid pro quo* relationship, where the idol has to be mollified. This is not a serious challenge to belief in Hashem. However, once people reach a level where they are worshipping not a piece of stone or wood but a significant power within the world,<sup>10</sup> this is a real violation of *avodah zarah*,<sup>11</sup> one that deserves the penalty of *kares*.<sup>12</sup>

Thus, for Rambam, the utilitarian, base and therefore less meaningful worship of idols for emotional reasons – *ahavah* and *yirah* – are prohibited but not punishable, while the higher form of idolatry, a more philosophical and altruistic form, is prohibited to the fullest extent of the law.

<sup>1</sup> I wish to express my thanks to my *haverim* Ariel Rosensweig, Motti Neuberger, and Eli Wiesenfeld, each of whom helped shape my understanding of this *sugya*

<sup>2</sup> One answer, provided by Tosafos (*San.* 61b, DH Rava) is that, despite the requirement to give one's life, the act is still classified as *ones*, and one does not receive punishment for his action.

<sup>3</sup> Despite the tepid reception that this position receives from later commentators, it does appear in other commentators who preceded the Rambam. Rav Hai Gaon (cited in the *Arukh* entry AHB), as well as Rabbenu Hananel (*Shabbat* 72b) following him, explain that *ha-oved me-ahavah u-mi-yirah* refers to a certain love for the deity in question.

It is possible that Rambam was aware of Rav Hai's position and was following it here.

<sup>4</sup> It actually makes a fair amount of sense that Rambam offers this explanation. It is well known that Rambam allows for significant metaphysical powers in the world outside of Hashem, whether through Samael (*Ramban Vayikra* 16:8), *shedim* (*Ramban Vayikra* 17:7), *kishuf* (*Ramban Devarim* 18:10-13) and *mazzal* (*Ramban Vayikra* 18:22-23, *Devarim* 4:19-20). Rambam justifies the existence of these powers on the basis of their being subsidiary to Hashem (see all of the above, and especially *Vayikra* 16:8). Thus, it is easier for Rambam to imagine a distinction between worshipping an idol out of fear and accepting it as a God.

<sup>5</sup> The *Mirkevet ha-Mishneh* (*helek* 2) on this Rambam notes this difference between treating the *avodah zarah* as a real god or just as a being possessing power.

<sup>6</sup> I wish to thank my friend Eli Wiesenfeld, who both developed this idea at length and shared it with me.

<sup>7</sup> This includes multiple times in his history of idolatry appearing in *Avodah Zarah perek* 1 and in the *Perush Mishnayot* to *Avodah Zarah*, 3:1,3,4. In each of these latter cases he notes that an idol is merely a representation of some cosmic force. Another case that evinces this distinction is Rambam's fifth principle of faith, where he lists the four cosmic powers and adds “and what is comprised out of them.”

<sup>8</sup> We must note here the caveat that we are speaking only of worship in this manner; however, if one accepts an idol as a real god (such as by saying *eli atta*), then he receives the death penalty. (See Rambam A.Z. 3:4.) This is presumably because in this case, the person has somehow raised the object to the status of a true god. Rambam formulates this law with the word *afilu*, even a brick can be made a god, because it was not obvious given the theory we have been developing here.

<sup>9</sup> Although Rivash (*siman* 110, above) and Meiri (*San.* 71b) appear to reject this approach, arguing that all idolaters utilize “insincere” worship of this type, and it therefore should still be punishable, they presumably do so because they do not accept Rambam's distinction between two types of idolatry.

<sup>10</sup> It would seem that Rambam's prohibition applies to those serving such powers both in cases where they are recognized as inferior to Hashem (i.e. the sin of Enosh) and when they are seen as independent. See Rambam A.Z. 1:1 and 2:1.

<sup>11</sup> Given Rambam's formulation in his fifth principle of faith that “their actions have no law and no choice,” it would seem that the relevant factor is whether these forces are accorded independence of choice and action or free will. Thus, for Rambam, if a being is accorded free will to act outside of God, it is considered to be like an idol.

<sup>12</sup> The *Gilyonei ha-Shas* appears to go in this direction, with the caveat that he notes this distinction only as regards the act of worshipping the *avodah zarah*. He maintains that the belief in this deity is still deeply problematic, a form of *kefirah*. Within Rambam's position, one could argue that belief in this deity is also relatively less problematic. It also may be possible to distinguish in another direction, that one worshipping an idol in its normal way (*ke-darkah*) *me-ahavah u-miYirah* will be punished, because one has accepted the deity, while one worshipping it with one of the *avodos penim* will be exempt, because such a minor object of worship fails to rise to a level of competing with Hashem in the mere practice of forms of worship reserved for Him. Such an understanding would say that there are two different fundamental problems with these two types of idolatry, with *ke-darkah* focused on worshipping the idol and *avodas penim* focused on rejection of Hashem.