

Rosh Hashanah Musings

A selection of stimulating essays on a variety of topics, as published on TorahMusings.com

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TRAPPED BY THE SERMON

By R. Gil Student

Many rabbis use the High Holiday sermons as an opportunity to showcase their talents and to highlight crucial ideas and themes. Considering the large crowd, rabbis may spend months preparing just the right combination of information and inspiration. In other words, it's a big deal. Some congregants enjoy the sermon. Others flee the room. Some envy those who escape and feel trapped themselves.

Rav Yaakov Reischer (*Shevus Ya'akov* 1:28) addressed a question by someone who felt trapped. One Rosh Hashanah morning, an elderly man felt a bit ill. His family encouraged him to hear the *shofar* at home early, make *kiddush*, eat and then go to *shul* (we can leave for a different time the question of whether you may eat before hearing *shofar* — this man would not). However, this man refused and even vowed not to eat until after shul was over.

Unfortunately, that year the rabbi spoke at the very end of services and extended his sermon for almost two hours. Was the old man required by his vow to wait for all that extra time or could he slip out to make *kiddush* and eat?

Of course, health trumps all other considerations. But if that is not a concern, Rav Reischer concludes that the time for shul continues until it ends completely, including any extended speech by the rabbi. Rav Reischer quotes *Rosh Hashanah* (28b) that a *kohen* is never done with blessing people even after he finishes the three blessings because if another congregation needs him, he must recite another three blessings. Rather, a *zeman mitzvah*, its time, continues throughout the eligible time even if the act has finished as long as something can be added. From there he deduces that the *zeman* for *shul* continues even after the usual fare concludes because if the rabbi decides to add a sermon at the end, he extends the mitzvah.

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AVRAHAM'S LONG PATH TO KNOWLEDGE OF HASHEM

by R. Gidon Rothstein

'Akedat Yitzchak by R. Yitzchak Arama, Sixteenth Sha'ar

Avraham's Non-Traditional Path

Noach was good, Avraham was better [one strand of traditional thought assumes—I personally feel Noach deserves more respect, but we're here to learn from R. Arama]. Noach followed tradition as given him, without advancing it. Avraham, who had no tradition (his ancestors were idolaters), had to reason his way past the erroneous ideas of the societies he inhabited, as the stories about his smashing his father's idols show.

On his own, he went as far as he could, and then left the path of analysis [a dig, I believe, at people of R.

Arama's time, who cannot imagine any other path to knowledge or wisdom than the intellect], and arrived at the kind of faith Noach inherited. His efforts brought him to a faithful acceptance of Gd, farther down the road of belief than Noach, with some grasp of all the central ideas R. Arama mentioned above.

His mix of finding his way on his own and accepting what he could not figure out led *Bereshit* 15:6 to describe Avraham as believing in Hashem, is why Hashem could tell him, as part of the command to circumcise himself and his family, to walk before Hashem and be *tamim*. Noach was also *tamim*, pure or perfect, Avraham at a higher level of it.

Avraham's advantages over Noach show themselves in *Bereshit* 18;19, where Hashem "decides" to tell Avraham about the imminent end of Sodom. The verse gives Hashem's reason, as it were, as that Hashem has "known" Avraham in order that he command his children to follow the path of Hashem.

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In this responsum, Rav Reischer does not discuss the importance of the rabbi's sermon. Elsewhere, he emphasizes the importance of gathering to hear Torah. The Gemara (*Chagigah* 3a) explains why the Torah (Deut. 31:11) explicitly commands men, women and children to come to Jerusalem to hear the Torah reading of *Hakhel*. Men come to learn; women come to hear. Why do children come? To give reward to those who bring them. In his *Iyun Ya'akov* commentary to *Ein Ya'akov*, Rav Reischer notes the Talmud Yerushalmi's version has, "Rather, to give reward to those who bring them." The word "rather" implies a rejection of the prior interpretation.

In other words, explains Rav Reischer, all people — men, women and children — come to *Hakhel* not primarily to learn but to join with others. They can stay home and learn Torah. They come to Jerusalem for *Hakhel* in order to join with others in learning Torah together, as a community, in a public setting. The same idea applies to the rabbi's sermon, when the community gathers together to learn as a unit. Even if we can learn Torah better at home, we join together with our community to learn Torah as a group.

The midrash *Yalkut Shimoni* (*Vayakhel* 408) says that Moshe was commanded to gather the nation for a lecture as a lesson to future generations that they too should gather for lectures every Shabbos. Rav Chaim Palaggi (*Tochachas Chaim, Vayakhel*) explains that Moshe's lecture in *Vayakhel* (Ex. 35) begins with the laws of Shabbos. The *midrash* deduces from this that Shabbos — when people are free from work — is the proper time for a Torah lecture.

In an unusually long comment, Rashi (*Shabbos* 115a s.v. *bein she-ein*) explains that, in the times of the Gemara, there would be Torah lectures for the community. Because people are busy during the week, they use Shabbos to attend Torah classes. It is better to attend a lecture, Rashi says, than to learn Torah on your own.

The Gemara (*Yoma* 87b) says that you are allowed to travel on Yom Kippur through water up to your neck in order to hear the rabbi's lecture, his sermon. The Gemara continues that Rafram challenged Ravina why he missed Rav Nosson's lecture on Shabbos. Ravina explained that he was sick. Otherwise, he would have been obligated to attend the Shabbos lecture. Rav Chaim Palaggi deduces from this

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R. Arama thinks the path, which the Torah describes as to act justly and righteously, means to act in ways we can only understand as valuable based on Divine guidance. It is also why the verse says it was to bring reward to Avraham; human intellect would not reason its way to the idea of reward for acting nonintuitively.

The Blank Space of Avraham's Biography

The distinction between what a person figures out on his/her own and what Hashem tells us to do explains to R. Arama the Torah's omitting any stories of Avraham's early life. In his view, the Torah praises or denigrates people for how they respond to prophetic commands, in areas the human intellect does not reach.

The Torah did tell us Avraham was born with brothers in Ur Kasdim, one brother died in his father's lifetime, and Terach decided to leave for Canaan. R. Arama thinks the summary sufficed for *Chazal* to infer the whole background we know, Avraham getting into fights with the idolaters around him, Nimrod threatening to throw him in the fire, Haran choosing to go in after Avraham was saved and not meriting a miracle, and Terach then having some kind of prophetic instinct to leave. He reads *Beresheet* 15:7, where Hashem introduces Himself to Avraham as "Hashem, Who took you out of Ur Kasdim," to refer to *Terach's* decision to leave. Hashem inspired Terach in a proto-prophetic way.

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episode that not only are congregants obligated to attend their rabbi's Shabbos sermon, Torah scholars are required to attend as well. In addition to the above-mentioned aspect of joining together as a group to learn Torah, attending is a display of respect for the Torah and the speaker when anyone, particularly a Torah scholar, attends a lecture.

Staying for the rabbi's sermon serves to unite the community in an act of Torah study. It also offers the opportunity to show honor to the Torah by attending and listening carefully to the speaker.

CONFESSIONAL MEMOIRS

by R. Gil Student

We live in a time of first-person confessionals, when people openly publish their intimate thoughts, challenges and failures. Readers sympathize and cheer, as they peer into someone's life and see both the frailty of humanity and its greatness in our ability to overcome obstacles. Is it proper for writers to reveal their failings in this way? Assuming they avoid *lashon ha-ra* by refraining from defaming their

family and friends, they still have to take care in what they reveal about themselves.

I. Concealing Sins

Rav Meir Eisenstadt (18th century Austria) was asked whether someone who is attempting to do teshuvah and wants to publicly confess his sin may do so (*Panim Me'iros*, vol. 2 no. 178). Rav Eisenstadt quotes the Gemara in *Sotah* (32b) which asks why we pray quietly. R. Yochanan quotes R. Shimon Bar Yochai who explains that the Sages enacted quiet prayer so as not to embarrass the sinners who confess during prayer. The Sages prove this concept from the fact that the *chatas* and *asham* are sacrificed at the same place in the Temple so that onlookers cannot tell whether the person bringing the sacrifice actively sinned. The only time it is obvious that someone is bringing a *chatas* is with the sacrifice for idolatry, which includes a goat. Anyone bringing the goat obviously committed idolatry. The ensuing embarrassment is part of the atonement for idolatry. From this, Rav Eisenstadt infers that the Torah prefers a sinner's silence except for someone who committed idolatry. However, this only proves that a sinner is not required to reveal his sin. What if he wants to confess publicly?

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[He does not go further with this, but he surely knew Rambam held only people of certain character and wisdom could ever have prophecy. He has just staked out a broader ground for prophecy.]

Avraham Grows in Knowledge of Hashem

It is all part of the long arc of Avraham's development, says R. Arama. From his start as a believer in astrology, he came to recognize Hashem's existence, and that Hashem deserves to be called Master of the Universe. The insight led him to argue with his contemporaries, to become a contentious person, to the point where he preferred death to conceding a falsehood, which R. Arama thinks is true of all who love truth for its own sake.

[I want to stress two of his points. First, he implies Avraham *changed in personality* as he grew in his recognition of Hashem. He had been an ordinary, collegial person and became argumentative, felt forced to repeatedly disagree with those around him, enough of a thorn in their side to throw him in a furnace. I grew up thinking Nimrod became annoyed by Avraham's impact on the idolatry to which he was

devoted; R. Arama reads it more as Avraham having made himself too much of a nuisance.

I think the idea of Hashem's service calling/forcing us to change who we are applies in other contexts as well, and was fascinated to see R. Arama find it here.

Second, we might attribute Avraham's adamance or even pushiness to a personality trait, quirk, or (Gd forbid) disorder; R. Arama thinks it would or should be true of anyone who cares about the truth for its own sake. To value truth means to be unable to tolerate falsehood, I read him as saying.]

Hashem saves Avraham from the furnace, showing providence, teaching Hashem's ability/ willingness to intervene in the world. Avraham did not yet know whether Hashem intervenes other than where issues of awareness of Hashem are at stake, however. To prevent his being burned for declaring Hashem's existence and oneness merited direct providence, Avraham now knew; would that be true of more ordinary human concerns?

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The Gemara in *Yoma* (86b) contrasts two verses: “Happy is he whose transgression is forgiven, whose sin is covered” (Ps. 32:1); “He who covers his sins will not succeed” (Prov. 28:13). Is it proper to conceal your sins or reveal them? The Gemara offers two possible resolutions. It could be that one verse is discussing sins committed publicly; those should not be hidden because people already know about them. The other verse refers to private sins which should remain private. The other possible explanation is that interpersonal sins should be revealed in order to obtain forgiveness from those who were wronged; sins between man and G-d should be kept private.

Rav Eisenstadt points out that the Gemara does not suggest that one verse speaks about idolatry, which should be publicized, while the other verse refers to other sins. He explains that even idolatry is only publicized via the different sacrifice. Beyond that, it should be kept private. In fact, Rav Eisenstadt argues, you are required to keep those sins private. Perhaps, I suggest, the Torah is concerned about creating an environment in which sin becomes normal and even expected (see *Semak* 225).

II. Embarrassed Over Failings

The Gemara (*Sotah* 7b) describes the process of the *sotah*, the woman warned and accused of adultery. The *beis din* encourages her to admit guilt to forestall the process. They tell her that Yehudah and Reuven confessed publicly to their sins and received reward in the World-to-Come. The Gemara asks why they confessed publicly, since Rav Sheishes says that someone who lists his sins publicly lacks shame. The Gemara explains that Yehudah did so to save Tamar’s life and Reuven did so in order to prevent his brothers from being suspected of the sin he committed. They only confessed publicly to save others.

Rav Eisenstadt sees here a general prohibition against confessing your sins publicly. You should be embarrassed of your misdeeds, not proud of them. If you need to obtain forgiveness from individuals, reach out to them directly if possible. Rav Ephraim Zalman Margoliyos (*Sha’arei Teshuvah* 607:2) adds that you may confess to remove suspicion from innocent people. That was Reuven’s justification for his own confession. But other than that, you should

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Avraham Learns the Extent of Providence

His uncertainty of how broadly providence affected his life explains his conduct in his early days in Canaan, where he went from place to place, speaking about Hashem, calling out in Hashem’s Name, yet also employing ordinary human strategies to avoid troubles.

(R. Arama means such as asking Sarah to say she was his sister. I have long thought Avraham was not sure he *deserved* special interventions and therefore employed more mundane strategies; R. Arama is saying Avraham did not yet know of the *possibility* of Hashem intervening for such minor matters as to save his life, where saving him had no impact on questions of knowledge of Hashem in the world. His idea also dispenses with Ramban’s view of Avraham as having sinned by putting Sarah in peril, and negates his view the exile to Egypt was punishment for the sin, as R. Arama mentions later in the *sha’ar*.)

Avraham’s view of providence explains why he does not pray, as Ya’akov did on his way out of Be’ersheva and on his return (later in the *sha’ar*, R. Arama notes Hashem tells Avimelech to ask Avraham to pray for him. The experience of *milah*

and of arguing on behalf of Sodom had taught Avraham the possibility of prayer’s efficacy).

He does not pray now, for R. Arama, because he still held on to philosophy and astrology. He had accepted the strange idea of a Creator Who brought the world into existence from complete nothingness, did not yet realize the Creator retained the ability to do anything necessary, including respond to the needs, concerns, or desires of those who feared Hashem. (Note how he inserts philosophy—he means Avraham was still committed to the highest science of his day, astrology. R. Arama is so aware of philosophy as the highest form of knowledge, as considered in his time, he cannot but be sure it was true in Avraham’s time as well. Today, we might say physics.)

Being saved from Par’oh and Avimelech expanded Avraham’s awareness of how Hashem does and can impact the world.

The Promise of Yitzchak

Knowing Hashem saves from trouble does not yet teach Hashem can improve or fix personal problems. After Hashem helped him win the war against the four kings, visited him in a vision to promise to be

keep your misdeeds private. (See also *Mishnah Berurah, Sha'ar Ha-Tziyun* 607:3.)

III. New Trends

Rav Eisenstadt says that in his day, a new practice developed of confessing your sins publicly. He rejects that practice as improper and emerging from a foreign origin. The same could be said about today's confessional fad.

However, if you are writing about your challenges and not your sins, the reason to refrain no longer applies. According to Rav Eisenstadt and Rav Margoliyos, the problem lies in revealing your misdeeds. If you avoid *lashon ha-ra* and discussing your religious failings, and instead discuss the difficult circumstances of your life, perhaps you are encouraged to reveal your story. The first source we discussed above, *Sotah* (32b), notes that someone struck with *tzara'as* must call out "impure, impure" (Lev. 13:45), telling the world about his affliction. The Gemara explains that he announces his pain to the public so people will pray for mercy on his behalf.

Perhaps we can suggest that, similarly, when people write about the challenges they face in their daily

lives, readers will pray for their success. If that is the case, then this kind of writing would benefit the writer with the help of others and offer readers the opportunity to pray for someone experiencing difficulties. If that is the goal, and the method achieves it, then it seems to fulfill this Talmudic model of confession to inspire prayer for mercy. And if the writing does not fall into either category of confessing sins or describing challenges, it is neither forbidden nor encouraged. Rather, it depends on the sensibility of the individual and on other, non-halakhic considerations.

BE NORMAL

by R. Gil Student

I. Average

Often, we are rightly told to strive for greatness. But that doesn't mean we have to act like we are better than everyone else. If anything, it means we must strive for normalcy in order to achieve greatness. Rav Ya'akov Kamenetsky used to say that it's a mitzvah

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Avraham's shield, Avraham brings up his lack of an heir. R. Arama points out Avraham does not *ask* for an heir, he states it, as a complaint or concern, because Avraham does not believe Hashem can do anything about it!

When Hashem corrects his misimpression, Avraham concedes and accepts the new idea, Hashem can override the astrologically predicted future (a huge step, R. Arama wants us to know—just as *his* audience struggled to accept any truths of Torah the philosophy of their day denied, as people of our time struggle to reject anything scientists say with confidence, Hashem challenged Avraham to relinquish the certainties of his time. *And he did.*). *Bereshit* 15:6 pauses to applaud him for it, saying he believed in Hashem, which Hashem counted as *atzedakah*, a great righteousness, and Hashem promises him offspring, success, and a peaceful end to his life (all in that same Covenant Between the Pieces, the *Berit ben Ha-Betarim*).

The crowning act of dedication was the *'Akedah*, which no rational person would accept. It showed his complete submission, his acceptance Hashem asks/ commands certain acts we cannot understand, his awareness he had to follow where Hashem led.

HASHEM DOES NOT WITHDRAW FREEWILL

by R. Gidon Rothstein

'Akedat Yitzchak by R. Yitzchak Arama, Thirty-Sixth Sha'ar

Hashem Is Just and Is the Source of Justice

R. Arama starts by rejecting Rambam's famous claim Hashem withdrew Par'oh's freewill over the course of the plagues (Ramban had two ways to read what was happening with Par'oh; the first agreed with Rambam, based on the Torah's changing its phrasing of Par'oh's experience. In the earlier plagues, the Torah spoke of Par'oh's heart "being hardened," whereas after the fifth plague, the Torah began saying Hashem hardened Par'oh's heart).

R. Arama cannot accept Hashem would act in a way he is sure is unjust. Hashem is the source of human beings' ability to perform justice, which must mean

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to be normal — of course, without compromising on *halakhah*. Which mitzvah did he mean?

The biblical Chanah prayed that her son Shmuel, who became a great prophet, would be “*zera anashim*, the seed of man” (1 Sam. 1:11). The Gemara (*Berakhos* 31b) offers multiple interpretations of this strange phrase. One is that Chanah prayed that her son would be *muvla ba-anashim*, inconspicuous among men. She asked for a son who is neither tall nor short, neither fat nor skinny, neither smart nor stupid. She wanted an average boy, whom she would dedicate to the service of G-d.

II. Balance

This request seems strange. Who doesn’t want an extraordinary child? One explanation, given by Rav Ya’akov Reischer (*Iyun Ya’akov*, ad loc.), focuses on the importance in life of balance. In many places, Rambam adapts Aristotle’s doctrine of the mean in advocating a middle approach to life. Rambam writes (*Mishneh Torah, Hilkhos Dei’os* 1:4):

The straight path: This [means adopting] the midpoint temperament of each and every trait that man possesses [within his personality.] This

refers to the trait which is equidistant from either of the extremes, without being close to either of them. Therefore, the early Sages instructed a man to evaluate his traits, to calculate them and to direct them along the middle path, so that he will be sound of body.

For example: he should not be wrathful, easily angered; nor be like the dead, without feeling, rather he should [adopt] an intermediate course; i.e., he should display anger only when the matter is serious enough to warrant it, in order to prevent the matter from recurring...

He should not be overly stingy nor spread his money about, but he should give charity according to his capacity and lend to the needy as is fitting. He should not be overly elated and laugh [excessively], nor be sad and depressed in spirit. Rather, he should be quietly happy at all times, with a friendly countenance. The same applies with regard to his other traits.

This path is the path of the wise. Every man whose traits are intermediate and equally balanced can be called a “wise man.”¹

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Hashem would never contravene justice. For example, King Shlomo’s skill at deciding which of two prostitutes was the true mother of a baby came from Hashem; Avraham objected to news of Sodom’s impending doom because Hashem is the source of all justice, could not do anything as unjust as wipe out any righteous in Sodom along with evildoers. If so—and especially since Moshe Rabbenu speaks of Hashem as *Ha-Tzur tamim po’alo*, the Rock, His actions are whole—human beings must always know Hashem acts correctly and well.

Respectful Searching

When some of Hashem’s acts appear out of line with such an assessment, people have the right to seek the explanation which will reveal the true justice in the situation, but not to question or criticize. Yirmiyahu says as much in his book, 12:1, when he declares his certainty of Hashem’s righteousness before raising the topic of the success of evildoers. For R. Arama, his opening laid the groundwork for his coming questions, made clear they were a search for understanding rather than a denial of Hashem’s justice.

*Granted Hashem is just, how can evildoers be allowed the success Yirmiyahu saw, was what Yirmiyahu said. (R. Arama uses a Talmudic phrase which captures the idea well, *Torah hi u-lilmod ani tzarich*, it is Torah and I need to learn it; in the Talmudic contexts, scholars defended seemingly intrusive acts with the phrase. The search for knowledge can justify some otherwise inappropriate choices).*

Proper motivation guarantees a search will not end empty-handed, says R. Arama. Should a searcher be dissatisfied with the results, s/he should look inward, realize s/he has flaws of character or beliefs which mark him/her as more a skeptic than a searching believer.

Reasons for the Exile to Egypt

R. Arama plans to raise questions about some of Hashem’s actions, and reminds us he follows the footsteps of Yirmiyahu, fully accepts Hashem’s righteousness, seeks *understanding*, without any doubt of there being a valid explanation. His search matters to him also because it will help him better explain Hashem to others [the comment hints his

The Gemara (*Sotah* 10a) lists five people who were born with great gifts that served as their downfall. Among them are Shimshon and his strength, Shaul and his tall neck, and others. We think that unusual gifts offer an advantage but those gifts present challenges that must be overcome. The average person, created with balanced features and character, is more set for greatness than the exceptional person.

III. Acting Normal

Moreover, those who achieve greatness recognize their limitations and act with humility. They try to avoid the limelight. Even if they have reached a level where additional religious practices are appropriate, they keep those practices private. The Gemara (*Shabbos* 10a) says that R. Zeira criticized R. Yirmiyah for stopping his Torah learning to pray. R. Yirmiyah was someone for whom Torah was his occupation, *Torasom umnasom*, and his learning takes priority over prayer. Rav Eliyahu ben Chaim (Ra'anach; *Ha-Nosen Imrei Shefer*, Tzav) explains that R. Yirmiyah knew the law but did not want to hold himself up as a great person. He felt that he should act like everyone else.

Similarly, the Gemara (*Bava Metzi'a* 67b) says that Ravina would eat the fruits from a property whose mortgage he owned, reducing the mortgage accordingly. Tosafos (ad loc., s.v. Ravina) ask how Ravina could do that when the Gemara says that a Torah scholar should avoid the practice. Rabbeinu Tam answers that Ravina did not wish to adopt the mantle of a Torah scholar. He saw himself as a regular Jew and behaved accordingly.

The Mishnah (*Berachos* 16b) records a debate whether a groom on his wedding night, who is exempt from reciting Shema (although nowadays we do not follow this), may say the prayer anyway. The Sages say yes while R. Shimon ben Gamliel says that "not everyone who desires to take up the name [of Hashem] may do so." The Gemara (ibid., 17b) concludes that all agree that you should not appear to act more conspicuously pious than everyone else. The debate only occurs in specific cases where it isn't clear whether the practice is conspicuous.

IV. Act According to Your Position

Some people, due to their public positions, need to act differently. The Gemara (*Shabbos* 145b) says that the Torah scholars in Bavel wore special clothes to

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audience had continuing questions about Divine justice, separate from the history of the Exodus].

He starts with the descent to Egypt. The Torah does not tell us any sin by Ya'akov or his family which would incur the punishment of exile and slavery in Egypt. Ramban to *Bereshit* 12:10 said Avraham sinned by telling Par'oh his wife was his sister, leaving her to be taken by Par'oh and possibly abused. Ramban thought Hashem punished Avraham by sentencing his descendants to exile; R. Arama thinks the punishment too far outweighs the crime to be the answer [Ramban named another factor, Avraham's leaving Israel in the face of the famine, when he should have trusted Hashem to help him. R. Arama does not address the idea].

He is more open to the claim in *Shabbat* 10b, reported by Rava b. Mechasya, who heard it from R. Chama b. Gurya in Rav's name, the brothers' selling Yosef was punished by the exile in Egypt. He sees a match between the sin and the punishment.

Still, were the explanation correct, Ephraim, Menashe, and Binyamin should have been exempt, since they were not involved in Yosef's sale. More, tradition claims the tribe of Levi was not enslaved,

although they descended from one of the chief actors in the sale. Finally, the Torah never says the brothers sinned [this seems to me a technicality; the *Torah* never says they sinned, but the brothers themselves declare their guilt], certainly does not link the exile to their actions.

The idea of Egypt as punishment for the sale founders further when we notice *Shabbat* 89b, where R. Chiyya b. Abba reports R. Yochanan's assumption Ya'akov Avinu was destined to be dragged to Egypt in chains, and Hashem did him the favor of "dragging" him with the "chains" of his love for Yosef.

Choices Have Consequences

R. Arama therefore argues the sale led to exile in Egypt, a consequence rather than a punishment. He gives the analogy of lighting a loose fire in a house; when the house burns down, we would not say it was punishment for lighting the fire. The Torah never says Hashem sent the Jews to Egypt, either; for example, when Moshe asks Edom to allow the Jews to pass through, *Bamidbar* 20:15, he has the messengers say our forefathers went down to Egypt.

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signify their stature. Rashi explains that otherwise people would not accord them respect. Their communal positions required acting differently. People in those positions still must maintain balance in their lives but their position requires standing out in certain ways. But balance remains the ideal, the goal for everyone.

This attitude of balance and humility, Rambam (ibid. 1:5) tells us, emerges from the mitzvah to walk in Hashem's ways, *ve-halakhta bi-drakhav*. This is the mitzvah to be normal, to meet all religious obligations but in a way that does not stick out, that blends in with people. Exceptionalism breeds arrogance. Through balanced character and practices, we achieve holiness.

SIYUM, CHAZAK AND YASHAR KOACH

by R. Gil Student

I. Strong Finish

As we finish reading Devarim on Simchas Torah, we can take the time to ask why the congregation says "*Chazak, chazak ve-nischazek* (alt: *ve-nischazak*)"

Similarly, Yehoshu'a reviews the people's history before he passes away—as part of his adjuration in Hashem's Name to rededicate themselves to Hashem's service. He also says Ya'akov and his sons went down to Egypt. The phrasing there particularly makes the point, because Yehoshu'a speaks in Hashem's name, and Hashem took credit for all the parts of the story until then (I took Avraham from the other side of the river, I had him travel him throughout Canaan, I gave him Yitzchak, etc. Only when the story reaches Ya'akov and his sons going down to Egypt does the voice switch to saying *they* did it rather than Hashem).

With that perspective, he now can say *Bereshit* 15:13 had Hashem *predict* Avraham's descendants would be strangers in a land which does not belong to them, not decree it. [R. Arama moves on to Par'oh's supposed loss of freewill, because he is focused on that piece of the puzzle. I want to pause and point out how much he has changed our view of early Jewish history. In his world, Hashem never doomed Avraham's descendants to four hundred years of wandering and slavery, Hashem only saw it coming, and reassured Avraham He, Hashem, would take care of them through the ordeal, which they *brought on*

after completing the reading of one of the five books of Moshe. Literally, the words mean, "Strong, strong and we will become strong." The implication is that after we finish studying a book of the Bible, we pray or bless ourselves to continue growing religiously. What is this about?

In 15th century Worms, one time a community experienced a quarrel over who should be called to the Torah for the final aliyah on the Shabbos of Vayakhel-Pekudei. After the sixth *aliyah*, two men argued for two hours over the honor as the Torah scroll lay on the table. Finally, most of the community left the synagogue and went to a nearby school where they completed the Torah reading.

The community asked Rav Moshe (Maharam) Mintz (Responsa, no. 85) what to do the next week. Since in the synagogue, the Torah reading had never been completed, should they repeat Vayakhel-Pekudei and then continue through Vayikra? Or does the reading in the school satisfy the community's requirement.

II. Vayakhel-Pekudei-Vayikra?

It is true that if a community does not read the weekly portion one week, it should read two portions the next (*Or Zaru'a, Shabbos*, no. 45). However, for

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themselves by choosing, *of their own freewill*, to sell Yosef.

There are details he does not work out, such as *Shabbat* 89b's certainty Ya'akov had to go to Egypt one way or other. I am more impressed by his commitment to freewill, and his readiness to therefore shift the "blame" for that difficult era in our national history to the Jews themselves. Were we to adopt his perspective, we would likely find other tragedies which are consequences of our actions rather than punishments from Hashem.]

Hashem Would Never Suspend Par'oh's Freewill

His certainty of the injustice of revoking freewill forces him to confront the Torah's apparently saying otherwise. Hashem repeatedly tells Moshe He will or has hardened Par'oh's heart, and his servants', to allow the plagues to continue and demonstrate Hashem's Presence and power.

R. Arama cannot see why Hashem would ever reject sincere repentance. No just Gd, worthy of our praise and exaltation, would boast ahead of time of a plan to suspend a man or nation's freewill, then multiply their punishments and sufferings.

a number of reasons, Maharam Mintz concludes that the community should just read Vayikra. The Gemara (*Rosh Hashanah* 34b) says that if you hear the shofar blasts at different times of the day, you fulfill your obligation. Similarly, Maharam Mintz argues, the community heard the complete Torah reading, even if it was at two times and in two places.

Additionally, even if they had failed to complete the reading, they cannot repeat two Torah portions plus a third. The *Or Zaru'a* only said to read two at a time if you missed one week. He did not say to read multiple portions in order to catch up. That would create an undue burden on a small community. Rather, says Maharam Mintz, since sometimes we read two portions based on the calendar, we can impose on a community that misses one week to read two portions the next. But in this case, they missed a double portion and would have to read three the next week. We do not see such an obligation on the community.

Additionally, whenever two portions are read jointly, we make sure that during a single *aliyah* reading we connect the two. One person receives the end of one portion and the beginning of the other, without interruption. This unifies the Torah reading of the

day. However, Maharam Mintz points out that at the end of Pekudei, the community would have to say “*Chazak*” and then continue reading into Vayikra within the same *aliyah*. The “*Chazak*” would serve as an interruption. Therefore, we cannot read from two different books of the Torah on a Shabbos morning.

III. Strength to Return and to Move On

Maharam Mintz takes this opportunity to explain why we say “*Chazak*” after we finish reading a book of the Torah. He offers two possible interpretations. First he compares “*Chazak*” to the “*Hadran*” recited at a *siyum* celebration of the conclusion of studying a sacred text, such as a tractate of Talmud. A *siyum*, which Maharam Mintz details in another responsum (no. 119), consists of a mitzvah meal that even a mourner may attend. During the Nine Days, when Ashkenazim — and to a limited extent Sephardim — do not eat meat, we may eat meat at a *siyum* because of the mitzvah celebration.

At a *siyum*, the rabbi or leader recites the *Hadran*, which begins with a statement to the text, “I will return to you and you will return to me.” Maharam Mintz explains that we are warned not to forget the Torah we learn (Deut. 4:9). It says in *Avos* (4:10):

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Rambam’s idea Par’oh forfeited his freewill convinced many, but R. Arama harps on Hashem’s having predicted it ahead of time, when all prophets made clear Hashem never desires or rejoices in the downfall of evildoers—Hashem *wants* repentance.

To treat Par’oh so differently sets him apart from the greatest sinners of Jewish history. Hashem tells Kayin he can repent for killing his brother and (*I Melachim* 21;29) accepts Achav’s distress over his announced punishment as enough of a step to withhold the punishment during his lifetime. Menasheh might have been worse than Achav, is described by *II Melachim* 21;16 as having followed the abominations of the surrounding nations and spilled much innocent blood, yet *II Divrei Ha-Yamim* 33;12 tells us he eventually called out to Hashem, submitted greatly, prayed, and Hashem returned him to Jerusalem.

In another chapter, Rambam himself trumpeted the possibility of repentance for the most terrible sinners. Regarding Par’oh, he said only we cannot know how Hashem decides to withhold the possibility from some sinners in some situations. R. Arama refuses the idea, and his full-throated insistence sounds to me

like he was aiming his words at the members of his own generation, who might have despaired in the face of persecutions and expulsion from Spain.

Devarim 4;30-31 records Hashem’s promise to accept our repentance when our troubles bring us to realize we need to repair our relationship with Hashem. [Those verses are not necessarily relevant to Par’oh, they are Hashem’s promise to *us*, His people. R. Arama assumes Hashem had to leave the same opening for Par’oh, else Hashem would be unjust].

You Have to Really Want Repentance

Ramban offered another possibility which appeals more to R. Arama. Par’oh never wanted to repent or submit to Hashem; the plagues made life too uncomfortable to stand, which would have forced him to yield. The hardening or strengthening of Par’oh’s heart was how Hashem “helped” Par’oh hold steady on the path he really wanted.

Repentance involves a change of heart, where the plagues forced words out of Par’oh’s mouth. Hashem forced Par’oh to act externally as he intended internally (itself a bit of a punishment, a stricter standard for being released from consequences than we assume in other situations).

“Whoever forgets one word of his study, scripture accounts it to him as if he were mortally guilty.” Rabbeinu Yonah (ad loc.) explains that if you forget Torah, you will make mistakes in practice. Rashbatz (*Magen Avos*, ad loc.) suggests it refers even to cases unrelated to practice. If we forget the Torah we learned, we lose the merit of protection from that Torah. Either way, we must return to the text and review it so that we do not forget it. Similarly, when we finish reading a book of the Torah, we say *Chazak* to imply that we must return to this text to be strengthened, to review and remember it.

Alternatively, Maharam Mintz suggests that *Chazak* is similar to the practice to say “*Yashar koach*” to someone who performs a mitzvah. (Technically, the phrase should be pronounced “*Yishar kochakha*.”) Maharam Mintz explains that this phrase congratulates someone on completing a mitzvah and blessing him that he should perform other *mitzvos*. Similarly, when we complete a book for the Torah, we wish each other strength to move on to, and complete, another book of the Torah.

Rashi makes a similar point in explaining *Shemot* 7:3’s example of Hashem saying He will harden Par’oh’s heart. Rashi says Hashem told Moshe it is clear nations other than Israel take no pleasure in repentance, do not put their full hearts into it.

Although R. Arama seems to reject the idea—he does not see why Hashem would be such a stickler for sincerity in the first stages of repentance—and offers a different answer, I think he will come back to this one, Par’oh never achieved the kind of repentance which might have saved him.

BALANCE IN THE INTELLECTUALISM

by R. Gidon Rothstein

‘*Akedat Yitzchak* by R. Yitzchak Arama,
Parashat Bereshit

**Balance in the Intellectualism with Which
Humans Build Gd’s World**

THE ORIGINAL AMEN PARTY

by R. Gil Student

I. Amen’s Limited Impact

In the mid-1500’s, a Rabbi Yisrael in Adrianople initiated a new synagogue practice. On arrival in shul in early morning, a group of men would alternate reciting the morning blessings, the *Birkos Ha-Shachar*. One man would recite all the blessings while the others answered Amen. Then another man would recite the blessings while everyone recited Amen. And so on, as everyone received a turn and all the men answered Amen to many blessings. In this way, they hoped to recite, or answer to, 100 blessings before sunrise. Rabbi Yisrael actively encouraged the spread of this practice, which invited scrutiny from the great rabbis of the day.

Rav Moshe di Trani (Mabit), who studied in Adrianople before moving to Tzefas, published a responsum critical of the practice (*Responsa Mabit*, vol. 1 no. 117). Rabbi Yisrael published a booklet defending the practice, to which Mabit responded as well (*ibid.*, no. 180). Mabit objects that answering Amen only counts as a blessing, and fulfills the

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Parshat Bereshit takes up more than a tenth of ‘*Akedat Yitzchak*. We already paused once in his exposition, after the four *she’arim* which gave his view of the seven days of Creation. I will briefly summarize what we said then, and then see what the next seven *she’arim* added.

Hashem’s Role

He thought the causality of nature points us unavoidably to Hashem’s existence and continued involvement in sustaining the world. The Torah shows us creation in the stages in which it unfolded, the creation of light meaning also the creation of the angels, who would play a role in running the world from then on.

During the rest of the six days, Hashem put the building blocks in place, the necessary materials for a continuing world. The seventh day, when Hashem “rested,” meant He stepped back, leaving the angels to (mostly) run it according to regular patterns, where life unfolds and develops in ways we experience as natural. People are a bridge between the purely physical and metaphysical, are supposed to foster the world’s growth and improvement, within the parameters Hashem wanted.

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Talmudic statements about its importance, when you are obligated to recite a blessing and someone says it for you. The Amen of your response counts as a blessing. Similarly, your Amen to the blessings of someone called to the Torah counts because the Torah reading is a communal responsibility. However, when your friend recites his personal blessings out loud, your Amen does not count. If it did, there would be no need to stretch to find one hundred blessings on holidays when the prayers have fewer blessings.

Additionally, if one person says the blessings and everyone answers Amen, the listeners fulfill their obligations. They only can recite the blessings themselves if, while listening and answering, they specifically have in mind not to fulfill their obligation — they have *kavanah* not to be *yotzei*. However, it is best for one person to recite the blessings for everyone. When multiple people praise G-d together, their joint praise is better than individual praise — *be-rov am hadras melekh*. When these men have intent not to fulfill their obligation and then recite the blessings themselves individually, they are forsaking this additional level of joint, public praise.

By assigning them this role, R. Arama takes an explicit position on a longstanding philosophical question, how much people matter to and in the world. He thinks verses point clearly to human beings' centrality to the endeavor, and spends much of these *she'arim* trying to understand how they can best fulfill their purpose.

Intellect and Soul

R. Arama repeatedly stresses the importance of people's intellects, the element of the soul which he understands to be what separates them from animals. In his view, the ability to weigh the long term against the short captures the essential power of our intellectual soul, is what we have to contribute to the world. [For the week of Chanukah, I digressed to see how he wrote about the holiday; there too, R. Arama focused on the intellect's ability to find Hashem. The eight days of the holiday were a time to put our intellectual realizations about Hashem into action, to commemorate what the Hashmonaim had done back then.]

Consistent adherence to good long-term choices develops character and intellect. It also builds on itself, to take the person to new spiritual heights, to

II. Unnecessary Blessing

Rav Shmuel de Modena (Maharshdam; Responsa, *Orach Chaim* no. 1) published a similar responsum against this practice. Maharshdam quotes the Gemara (*Yoma* 70a) that the *kohen gadol*, on Yom Kippur in the Temple in Jerusalem, would read multiple passages in a Torah scroll. He would read one of those passages by heart, because it was far away within the scroll. One opinion in the Gemara is that, due to the time required to roll the scroll to the passage, the *kohen gadol* would have had to recite a new blessing on the reading. Rather than say an unnecessary blessing, he would recite the passage by heart. Maharshdam points out that it is better to read a Torah passage by heart, which is otherwise forbidden, than to recite an extra blessing. And yet here we find people reciting many extra blessings rather than fulfill their obligation from the prayer leader.

Mabit quotes a different Gemara as a proof. The Gemara (*Berachos* 53a) says that if people are studying Torah in a *beis midrash* after Shabbos and someone brings a Havdalah candle, Beis Shammai says that everyone should recite their own blessing

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earn infusions of the divine spirit, leading some people all the way to prophecy [this continues the idea of unfolding and development R. Arama had seen in the original six days of Creation.]

The people who make proper long-term choices, develop their intellects, do a favor for the world at large, since R. Arama understands the Talmud to say such individuals can justify the continuation of all of existence.

Balancing Our Desires and the Tree of Knowledge

R. Arama's interest in choices shapes his view of what happened with the Tree of Knowledge. First, we should remember he reads the stories of *Bereshit* as true historical experiences as well as accurate symbolisms of the human condition. For example, the four rivers which flowed out of Eden, in his view, symbolized money, all other bodily needs, the intellect, and ordinary morality.

The Torah portrays indulging in ordinary mortality as eating of the Tree of Knowledge. R. Arama innovatively never prohibited *tasting* of the Tree, thought people were always allowed to be *somewhat* involved in questions of ordinary morality. Their partaking of the Tree had to be restrained, however,

on the light while Beis Hillel says that one person should say the blessing for everyone. The Gemara continues that Beis Hillel's reason is that joint praise is better. Beis Shammai agrees in principle but believes that the potential lost Torah study for the joint blessing overrides the preference for the joint praise. Absent the concern for lost Torah study, everyone agrees that it is better for one person to recite the blessing for all the listeners.

Mabit and Maharshdam have to explain why anyone prays rather than just listening and answering to the prayer leader. Why do people say their own blessings on *tallis* and *tefillin*? Why do the *kohanim* when they *dukhen* each say their own blessing rather than one kohen saying it and the rest answering? Mabit and Maharshdam argue that when a blessing is long or requires people to be ready at the same time then everyone says it individually. We cannot expect too much coordinated effort and attention. Many people cannot focus on the leader's prayer and therefore everyone prays on their own. People need to put on their *tallis* and *tefillin* right after the blessing, which is unlikely with a group. The *kohanim* need to be prepared to recite the biblical passages and might get confused if they have to follow a leader's blessing. Similarly, when counting the *Omer*, people might get

confused if they have to count right after the leader's blessing. The cases where we recite blessings individually while we stand together as a group are the exceptions. As a rule, we prefer one person to recite the blessing for everyone.

III. Permissive Rulings

However, Mabit's colleague in Tzefas, Rav Yosef Karo, disagrees with the above arguments in his *Shulchan Arukh (Orach Chaim 6:4)*. Rav Karo says that there is no need to protest what was then a new practice, as long as people have the proper intent regarding fulfilling and not fulfilling their obligations. In his *Beis Yosef* (ad loc.), Rav Karo quotes the Maharil's citation of a practice for people to recite for each other in synagogue the blessing on washing your hands in the morning. Rav Karo saw this as a limited precedent for the more extensive practice he permitted. Similarly, their younger contemporary, Rav Menachem Azariah of Fano (*Responsa*, no. 109), praises this new practice.

Regarding the specific argument about an unnecessary blessing, Rav Chaim Yosef David Azulai (Chida; *Birkei Yosef, Orach Chaim 295:5*) argues that if you are obligated to recite a blessing, it

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lest it overwhelm their more important endeavors, learning as much about Hashem as they could from the world and from human nature.

Chavah had not been able to learn the balance, had thought it better to stay away from questions of good and evil completely (which R. Arama translated into avoiding philosophy totally). When the serpent showed her philosophy had necessary lessons to teach and learn, she and Adam went the other way, eating of the Tree, making it the focus of all their efforts.

Loss of Balance and the Road to Burdens

R. Arama lobbies for a similar focus on proportionality when he discusses the three parts of the human being, which he calls alternately the serpent, woman, and man, or the woman, man, and higher man. Terms aside, R. Arama thinks people are made up of an imagination which hankers after pleasures, good and bad, a physical side, and an intellectual side.

Each have their role, if they're willing to accept it (as Kayin, unfortunately, was not). The physical needs to control and reign in the imagination, is in turn to be controlled and reined in by the intellect.

With the correct balance, people can reach great heights, can infuse the world with Hashem's spirit, can become conduits for bringing existence to its fruition.

The Different Kinds of Human Knowledge

To make the best strides towards such a world, however, we must account for the subdivisions within our intellects as well, must realize not all of what passes for intellectual activity expresses humanity's noblest sides. The naming talent Adam demonstrates—which is how Hashem shows the angels humans have more knowledge—becomes, for R. Arama, a sort of parlor trick, a function of our sensory abilities, which allows us to name a common characteristic among examples of a species.

Such knowledge does not necessarily have great value, nor do many of the professions we might need for our physical survival. R. Arama gives the example of knowing how to plow a straight furrow in a field; it's vital for growing food, no more.

We would be wrong to ignore our physical or imaginative sides, he is clear. However, we are more likely to do the opposite, indulge that side of

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is not considered unnecessary if you say it. That is the obligation! If you have the opportunity to hear someone else say it but choose to say it yourself, you are merely fulfilling your obligation. Rather, says the Chida, everyone is free to follow this practice of multiple people taking turns reciting the morning blessings and answering Amen.

In 1814, Rav Elazar Flekles of Prague was informed of a community that instituted the controversial practice discussed above. A correspondent severely criticized this practice but Rav Flekles (*Teshuvah Me-Ahavah*, vol. 2 no. 212) upheld it. Since the standard practice is for everyone to recite their own blessings, there is no unnecessary blessing in doing so even if you also hear it from someone else — if you keep in mind that you want to say it yourself. However, Rav Flekles cautions, this has to be done in a way that does not disturb other attendees in the synagogue. If every person trying to pray has to constantly stop and answer Amen, they will not be able to focus properly.

ourselves excessively, since the rewards are more immediate and more immediately pleasurable. Because Hashem recognizes the temptation, He delayed punishing the generations before the Flood—and, later, responded less harshly to the sins of the generation of the Exodus than justice would have allowed—because humans are drawn to immediate pleasures, have a hard time foregoing the immediate for the long-term.

It All Has to be Part of the Picture

R. Arama best expresses his insistence on a multi-faceted tapestry of human life in his distaste for the two wives' system of the men of the generation of the Flood. They would marry one for pleasure (physical and intellectual), another for procreation. Bothered by the injustice to the procreative wife, who was neglected other than when needed for childbearing, he seems equally put off by the fundamental error of the men: a woman is not *either* an intellectual/physical partner *or* a mother, she is and should be both.

As should men be all of what they are, imaginative, physical, moral, and more abstractly intellectual, seeking understanding of Hashem and Hashem's

IS LEISURE KOSHER?

by R. Gil Student

The Jewish attitude to leisure is complex and reveals a fundamental divide over religion. A few years ago, the New York Times reported that a Chasidic camp had ceased sports activities. If taken at face value, the article implies that Judaism, or at least the Satmar approach, forbids any leisure activity. Is this an accurate depiction of Jewish thought?

I'm not sure I fully believe the article's description. It also says that the boys learn "a total of more than six hours throughout the day." While that is a lot of time, it does not constitute a full day. It sounds like a learning camp, where the boys learn Torah more than most other camps but still have plenty of recreational activities. They may not play sports but they clearly do many other fun things when they are not learning.

Be that as it may, this article offers us an opportunity to discuss leisure and fun in the Jewish tradition. When discussing leisure, we do not mean idleness, laziness and mischievous play—all of which have been denounced (*batalah, atzlus, sechok*). We mean down time, a break from serious, productive activity.

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world. All in their right measure, as evaluated through the lens of an intellect taking a good long-term look at one's best courses of action.

Examples of which we will see in the coming *parashiyot*, as humans make choices good and bad, and receive Hashem's continuing guidance on how to develop further, their basic purpose and goal.

CHATAM SOFER ON PERSONAL OR GENERAL MISFORTUNES

by R. Gidon Rothstein

Chatam Sofer 5; Choshen Mishpat 161, from 18 Shevat 5588 (1828), asks us to consider who should bear the brunt of a misfortune which was not anyone's fault.

Farming the Meat Tax

The specific instance was a community which had levied a meat-tax, taken from each animal slaughtered for food. A group of investors had pre-paid the tax, at a discount, expecting to profit as the

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I am not sure whether such a concept existed in pre-modern times but a similar question is whether one may take an afternoon nap, as we will discuss.

A Jewish man is required to spend all his free time studying Torah (see *Shulchan Arukh, Yoreh Deah* 246:25). All time engaged in unnecessary activities is wasted, *bitul Torah*. However, no one can concentrate continuously. Constant study is unattainable. We need breaks, down time, naps, leisure—all kosher, of course, both in spirit and in content. In contemporary Judaism, I see three main attitudes toward leisure.

Constructive Leisure

The first is leisure as an opportunity for personal development. Rav Norman Lamm wrote an essay titled “A Jewish Ethics of Leisure” (in *Faith & Doubt: Studies in Traditional Jewish Thought*) in which he advances the idea that leisure is a time for expanding one’s personality. It is a time of creativity, expression, discovery and transformation. If I may take liberty in expanding his presentation, people exercise different aspects of their brain during leisure, often arriving at intellectual and emotional discoveries by indirect means. Additionally, leisure

includes the arts, which spark ideas and contemplation. In this sense, leisure is a form of non-traditional study and self-development.

Furthermore, leisure includes exercise, which is important for health (see *Mishneh Torah, Hilkhos Dei’os* ch. 4). Sports, hiking and working out are important avenues for maintaining and improving health. It is this aspect that is similar to a nap. A nap can improve some people’s health, depending on their situation. For them, naps are a form of medicine and therefore a mitzvah.

Hiking adds to exercise the dimension of appreciating nature, G-d’s creation. This can increase our belief in and awe of G-d. In all these senses, leisure is a mitzvah.

Distractive Leisure

But leisure is much more, or rather much less, than that. I have read a few stories about famous rabbis who, at some point in their lives, were ordered by doctors to spend extensive time without thinking deeply. Apparently, they had overexerted themselves in their studies and suffered from some sort of nervous breakdown. Because of such a personal experience, Rav Yisrael Meir Kagan (the Chafetz

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butchers paid animal by animal. The tax authority was happy to have the money up front [it did not count as a loan at interest, since there was no loan], the butchers paid only what they owed anyway, and the investors were set to make a profit. Everyone wins, in theory.

The plan ran into problems when a plague struck the local livestock. To calm the markets, a local nobleman sold enough of his flock to make up for the shortage. With his animals exempt from the meat-tax (since he was not part of the Jewish community), the investors were in danger of losing their money. They wanted to cancel the deal for a refund, dump the struggle with reduced revenue on the community.

When No One Deserves to Lose

Chatam Sofer refers to a similar case ruled on by Maharam Padua, where people purchased the right to lend money at interest (to non-Jews). Later, the king required all new borrowers to provide collateral. The higher bar for loans depressed demand, reducing the value of the moneylending concession.

The local judges compared it to *Baba Metzi’a* 103b, where a man rented a field or tree for a fixed price, expecting to profit at harvest. Then the water source

dried up, or the tree was cut down, leaving us with a loss we have no criteria for how to assign.

[We might think to default to equal split among the parties. *Halachah* does prefer compromise to strict justice, but legal systems must have answers for such questions, especially since some people legitimately cannot afford to bear losses not legally theirs.]

The Talmud hinges the answer on the spread of the misfortune. Disasters which affect the whole region are considered the owner’s problem, since it would have happened to his field regardless of who was in legal possession at the time. Were the problem to be restricted to this one field, the owner can insist it was directed at the renter.

The Assumption of Providence

At a surface level, renters have no guarantee they will be able to use property they lease (the renter might fall ill, for example). Still, extraordinary events [“acts of G-d” in today’s legal parlance, even though today’s lawyers clearly do not mean it literally] are not the renter’s problem—he did not agree to indemnify the owner for all possible disasters.

Chaim) reportedly would blow out the candles (turn out the lights) in his yeshiva's study hall at night to force the students to go to bed and take a break.

Life is full of different kinds of pressures and everyone responds differently to them. Leisure provides a much needed occasional relief from these pressures. Like a nap relieves exhaustion, a break relieves pressure. On this aspect, the *Shulchan Arukh* (*Orach Chaim* 231:1) rules that if you need a nap in order to learn Torah, you may take one. Even though a nap is *bitul Torah* (Rashi, *Sukah* 26a sv. *lishon*), it is permissible if it furthers the study of Torah. Similarly, a break that helps you study Torah afterward is also permissible.

The key, writes the *Shulchan Arukh*, is the following verse: "In all your ways acknowledge Him" (Prov. 3:6). The Sages (see *Berakhos* 63a) explains this verse to mean that everything you do, whether specifically a mitzvah or not, should be intended for the sake of a mitzvah. As long as you intend your actions — eating, sleeping, discussing — as a form of worship, as a religious activity, then it constitutes a mitzvah.

Chovos Ha-Levavos (*Avodah*, ch. 4) offers a classic explanation of this concept that serves as a

foundation of modern thought. Most people see things in this world in three categories: required (mitzvah), forbidden (*issur*) and neutral (*reshus*). However, this is incorrect. Something neutral that is done for the sake of Heaven becomes a mitzvah while if done for other reasons is part of *issur*. Even the aspects of life that do not fall under direct commandment are still subject to religious evaluation based on intention.

With this in mind, we can confidently say that leisure *le-sheim Shamayim*, for positive religious purposes, is a mitzvah, even if not in the technical sense of fulfilling a commandment. If it gives you a much-needed break, provides some balance in your life and relieves some of your pressure, then it is a mitzvah.

But when leisure becomes a goal in itself, it is improper. Just like an unnecessary nap is forbidden, so too is an unnecessary break. Fun must be for the sake of a break (*she-lo li-shmah*), and not for the sake of fun. It must be a means to a religious end and not an end in itself.

Excessive leisure is not a break but a goal. For this reason, I believe, Rav Shlomo Aviner only approves of a little standup comedy (with kosher content) and

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In reverse, when the problem happens only to the property the renter leased, there's more of a legal reason to see it as part of what happened to him.

[Although not raised here, the Jewish belief in providence explains the ruling well. When a "natural" disaster strikes a whole area, we have no reason to think the issue was the renter, so the owner turns out to have been unable to provide the item promised.

Where the event happened to this property, the owner can insist it is the renter's problem, as if he had taken ill or his crop affected by any disaster happening to this one field. Those seem more the bad fortune of the renter.]

Applying that to Education

Chatam Sofer notes a responsum of Maharam cited in *Mordechai*, which used this same rubric for a man whom local authorities ruled could not teach. The ruling came down only after he had been hired, forcing a decision about who would bear the loss. Maharam said if the authorities' rule applied to a group which included this man, the community

would bear the loss; if they singled him out as unfit to teach, the problem was his.

Netivot haMishpat [commonly known as *Nesivos*] thought we needed to remember tradition preferred Jews teach Torah for free in order to understand Maharam's ruling. In *Devarim* 4;5, Mosheh Rabbenu tells the Jews he has taught them laws and statutes as G-d commanded him; in many places, including *Nedarim* 37a, the Gemara infers Moshe was telling later Jews to teach for free, as Hashem did, as Moshe did. *Nesivos* said *halachic* tradition had always seen teachers as doing so for free, their pay constituting *sechar shimur*, the cost of watching the children, like glorified babysitting.

The government in Maharam's case hadn't prohibited babysitting, which was why the parents had to pay the teacher. He could still perform the services for which he was originally going to be paid, meaning the problem was theirs.

Chatam Sofer disagrees, first because he thinks the way *halachah* allowed paying teachers was by deciding they are paid for *pisuk te'amim*, for teaching the students non-required aspects of Torah (how to punctuate words and the proper tune to chant when

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not too much. Similarly, Rav Yisrael Lifschitz (*Tiferes Yisrael*, Avos ch. 6 n. 84, quoted in *Piskei Teshuvos* 155:4) allows for a little shmoozing, because it relaxes the soul. Levity, joy, fun is part of a healthy personality. When used for religious purposes, it is itself a religious tool. Otherwise, it is forbidden.

Disruptive Leisure

There is a third attitude I see in contemporary Judaism that I find troubling. Some see Judaism as a series of ritual behaviors, with the time in between unguided by religion. They may consider Judaism to be a very encompassing religion, with many daily activities. However, other than the rituals, everything else is non-religious (barring explicit prohibitions). Therefore, as long as they pray with a *minyan*, wear *tefillin*, learn some Torah, recite blessings, etc. — all praiseworthy — they can spend their free time as they wish.

If so, there is no question about leisure. If it isn't forbidden and doesn't interfere with other religious obligations, why should Judaism object? You have fulfilled all your obligations to G-d!

I do not believe this is a legitimate view. Going back to *Chovos Ha-Levavos* and *Shulchan Arukh*, everything we do has to involve G-d. Judaism is an all-encompassing religion. Everything is either religiously positive or negative. There is no neutral territory. Certainly, room exists for personal tastes and judgments, for decisions on how to allocate one's time. But if done for the wrong intentions, these judgmental areas are not neutral but negative.

Leisure is not a gift but an opportunity. An opportunity to expand our horizons, to grow our understanding of ourselves and the world, and to relax and recharge our batteries. When used as a tool to become better Jews, leisure is a religiously positive activity. But when abused or overused, leisure becomes a religious trap. I have no doubt that too many people consume too much popular entertainment, using it as an end rather than as a

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reading). That aside, since *Nesivos* brought up watching the children, Chatam Sofer shares his view of proper supervision.

Watching Children Minimally or Maximally

Several commentators take the idea most simply, keeping children from harm. Rashi adds a step, thinks the idea includes ensuring the children do not waste time on frivolous or silly matters. Rosh thought the teacher had to be sure students did not wander in public areas, where they might come to harm and/or learn inappropriate ways of acting.

(Before we review Chatam Sofer's innovative view, let's notice all the views we've seen until now sound as if they focused purely on prevention and protection, making sure the child comes to no harm either physically, by wasting his time, or by learning how to sell drugs (for example). I wonder whether those *rishonim* might have also seen a positive element to it as well, expecting or hoping the teacher would impart a whole sense of how to live, what to do with one's time, how to invest one's energies, none of which is so specifically laid out in Torah to be required to teach for free. *Sechar shimur* might be limited to babysitting, or we can take it—I suggest—

as watching over them in the sense of fostering and growing their best selves (similar to how G-d tells Adam to work the Garden *u-le-shomrah*, to keep it, which my teacher and master, R. Aharon Lichtenstein, *zt"l*, stressed included more than just avoiding harm).)

Chatam Sofer goes in a different direction, and gives insight into the process of teaching Torah in specific. Free teaching of Torah only means the teacher would learn out loud, allowing whoever wanted to listen to do so, and answer any questions they raised [as *mori ve-rabi* R. Herschel Schachter used to do in Tannersville in the summers].

To tailor a curriculum to students—to teach what they need instead of what he is up to in his own personal curriculum— and, even more so, to tailor his presentation to maximize its utility for them, to speak entertainingly and enthrallingly instead of purely informatively, none of that needs to be for free, says Chatam Sofer. Since all of those latter elements are what we see as crucial to education today, Chatam Sofer has just blown open a way for teachers to be paid not only a living wage, but one which accords with the time, effort, dedication, and expertise they bring to their project.

means. In our affluent society, this is perhaps among our biggest challenges, distracting us from true religiosity through dulling entertainment. Together, we must all shift our attitudes and learn to use our time wisely.

G-D'S ROLE IN EARTHQUAKES

by R. Gil Student

I. Responding to Disaster

When a natural disaster hits an area — destroying property, taking lives and affecting many people — people often struggle to understand the religious implications of the devastation. For some, questions such as “what sin caused this disaster?” flow naturally, even as they make many people uncomfortable. Some — even rabbis — respond that we cannot attribute a natural disaster to divine punishment or that we dare not imply that the victims are guilty while those saved are innocent. On a social level, these objections correctly note the danger of blaming people in the midst of their suffering but fail to engage with — or even acknowledge — the age-old dialogue about theodicy. When religious leaders

give up on the role of G-d in life, what future lies ahead for their flock?

The theological task in the wake of a natural disaster, difficult as it is, grows in complexity as our scientific understanding of natural disasters grows. What room is left for G-d if science explains how everything happens? The question applies broadly but here we will discuss earthquakes specifically and the Jewish responses to this question. This dilemma did not arise with twentieth century discoveries. The question has been posed for at least half a millennium. A similar question — why are some innocent people impacted and guilty people saved? — has likewise been asked over millennia with a vast literature that deserves separate discussion.¹ The upshot, though, is that attribution of specific sins to an earthquake does not imply that everyone affected was guilty of that sin.

The Talmud Yerushalmi (*Berakhos* 9:2) attributes earthquakes to a variety of spiritual causes. R. Nehorai says they happen because people fail to separate *terumos* and *ma'asros*, the portions of produce that must be given to *Kohanim* and *Levi'im*. R. Acha says that they are due to homosexual activity. Other rabbis say that they are due to *machlokes*, disunity. Another view is that

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Although this last piece was perhaps more immediately relevant to my life (and perhaps yours), remember the responsum as a whole was about the broad and recurring question of when a loss happens through no one's fault, with the answer depending on what the scope of the loss shows about who was the object of its occurrence.

INCLUDING NON-RELIGIOUS JEWS IN A MINYAN, AND ITS DISCONTENTS

by R. Gidon Rothstein

On the 11th of Shevat, 5712 (1952), R. Yitzchak Herzog, z"l, the first Ashkenazic Chief Rabbi of the State of Israel, wrote *Shu"t Heichal Yitschak Orach Chayim* 2, to R. Nathan Bamberger. R. Bamberger was one of the Jews whom local Danes had ferried to Sweden in fishing boats to avoid Nazi deportation and later returned to Copenhagen to serve as a rabbi. He later moved to the United States, served for decades as a rabbi in the Bronx (where I came to know him), and published a book about Danish

Jewry (*The Viking Jews*) as well as one about the Kingsbridge Heights Jewish Center, *A Bronx Palace of Torah*.

In 1952, in his late twenties, he wrote R. Herzog about the propriety of counting a non-religious Jew towards the ten for a *minyan*. A man in the community had bequeathed an endowment for a synagogue in what had been his home. The *minyan* had dwindled, and the only way to keep it going would be to hire non-religious Jews to fill out the ten.

Are Non-Religious Jews Eligible to Count Towards a *Minyan*?

To start, there's real question as to whether non-religious Jews *can* count towards a *minyan*. In several contexts, *halachah* considers those who violate Shabbat in public equivalent to those who worship powers other than Hashem, excluding them from being part of a *minyan* to engage in public worship.

R. Herzog will agree with the current common view, public Sabbath violation sends a different message today than in Talmudic times. As we watch him reason his way to the conclusion we all assume, we

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earthquakes come when G-d sees theaters and circuses operating peacefully while the Temple in Jerusalem lies in ruins.² Oddly, if a contemporary rabbi attempts to attribute natural disasters to spiritual causes he will be swiftly condemned by liberal rabbis because he is not a prophet. In reality, he is following the model of the Sages of the Talmud (who were not prophets), often invoking their very attributions. The problem should be less what he says but the context in which he says it.

II. Unnatural Earthquakes

In 1570, a series of earthquakes hit the Italian city of Ferrara. R. Azariah De Rossi, a highly controversial Jewish scholar, survived the disaster and wrote about it in an essay titled *Kol Elokim*. He surveys the scientific literature of his time about the natural causes of earthquakes and then quotes a variety of passages in rabbinic literature about the spiritual causes of earthquakes. He then asks how they can both be correct. If earthquakes are natural, how can they serve as divine punishment?

R. De Rossi reconciles the two approaches by distinguishing between nature and divine intervention. G-d created the world and designed the

course of nature. Within this creation, earthquakes will happen for natural reasons. However, G-d also intervenes in nature to reward and punish people. Some earthquakes are natural while others are the result of divine intervention. R. De Rossi quotes the *Kuzari* (5:20) who says that sometimes people die by divine providence and sometimes by happenstance, due to natural reasons (including war). Similarly, sometimes an earthquake is caused by divine providence and sometimes by nature. Regardless of its cause, R. De Rossi says that both Jewish and gentile scholars agree that an earthquake should spawn introspection and repentance.

Interestingly, just a few years earlier Rav Shmuel Yaffe Ashkenazi, author of the famous *Yefeh To'ar* commentary on Midrash Rabbah, offered a similar answer. In his *Yefeh Mareh* commentary on the Talmud Yerushalmi (*Berakhos* 9:14), published in 1567, Rav Ashkenazi asks similarly how the Sages could offer spiritual reasons for earthquakes when their causes can be explained scientifically? He answers that the Sages were referring to earthquakes that lack natural causes, miraculously spawned by divine intervention.

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will be reminded it is neither intuitive nor obvious. *Halachah* might as easily have decided public Shabbat violation excludes a Jew from participation in communal worship.

R Herzog starts with evidence they could not count. Rambam in *Hilchot Ma'aseh haKorbanot* 3;4 says the *Beit Ha-Mikdash* would not accept such a sinner's sacrifices. A Jew who violated Shabbat publicly would not be able to offer any sacrifices, to atone for other sins or to serve Hashem in some other way.

We often assume prayers substitute for sacrifices, which might lead us to extrapolate Rambam's rule for sacrifices to prayer. Just as the Temple would reject such a Jew's sacrifices, we should assume Hashem rejects his prayers, and he therefore cannot be part of a *minyan*. [Keep reading!]

It's Not So Easy To Exclude Jews from a *Minyan*

R. Herzog agrees about Hashem's rejection of the prayers until such a Jew repents, but does think it blocks the Jew from counting towards a *minyan*. He assumes non-religious Jews will be the minority, which means they do not set the *minyan*'s character, and therefore can count. Note the assumption,

however, which I am not sure we all keep in mind today, the *minyan* can only include a minority of such Jews. Were they the majority, he implies, the *minyan* would indeed have a problem.

R. Herzog stresses they are still Jews, and so should count, but again notes evidence to the contrary. For example, R. Yehudai Gaon ruled no *chalitzah* (the ceremony to free the widow of a childless man from having to marry one of his brothers) was needed where the only living brother(s) had abandoned Jewish observance. R. Herzog says R. Yehudai Gaon inferred his idea from Biblical verses particular to *chalitzah*, which does not necessarily contradict the general principle *af' al pi she-chata, Yisrael hu, a Jew is a Jew, no matter how much s/he sins*.

R. Herzog similarly insists each source which characterizes Jews who have abandoned the religion as equivalent to non-Jews as being the result of a specific and limited Biblical statement or rabbinic decision. For example, R. Herzog insisted the *minyan* question was unaffected by the authorities who ruled a non-observant Jew's marriage would be invalid according to Torah law, because the verses which taught them the idea were specific to marriage.

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III. The Impact of Earthquakes

The devastating 1755 earthquake in Lisbon received discussion among Enlightenment philosophers, most notable in Voltaire's *Candide*. Rav Pinchas Horowitz of Vilna published in 1797 an influential book that combined Torah and science, titled *Sefer Ha-Bris*. This book served as a science textbook for many Torah scholars. In his discussion of earthquakes (vol. 1, ch. 10, sec. 1), Rav Horowitz praises R. De Rossi's scientific explanation of earthquakes (now considered antiquated). Rav Horowitz proves that earthquakes are natural from the fact that they sometimes occur in empty deserts, lacking human inhabitants who can be punished.

If earthquakes are part of nature, how can they carry messages of divine punishment? Rav Horowitz explains that whenever natural disasters affect people, they must be guided by divine providence. Earthquakes normally serve as a divine tool for punishment, which is a good purpose. And if an earthquake risks the safety of someone undeserving of punishment, which would be a bad result, G-d can protect him from harm. Note the emphasis that earthquakes are good, which responds to the implicit

question why G-d would create a world in which such extreme bad exists. Rav Horowitz responds that really earthquakes serve a good purpose — divine punishment.

Where does punishment fit into a natural phenomenon? Nature causes earthquakes but G-d determines how any individual will feel its impact. Someone could be in a safe place when the earthquake hits, or his home could remain standing despite the shock. He could be out of town when everything happens. He could have moved all his money into a distant investment that wasn't impacted. There are many ways in which G-d can protect someone from harm or refrain from protecting him. This is the divine punishment aspect of the natural disaster.

According to the first view, G-d lies in the unpredictable earthquakes. Effectively, what we understand and can predict — that is nature. Everything else is G-d. The danger with this "G-d of the gaps" theory is that as science progresses, as predictions become more accurate and comprehensive, the gaps may be filled completely leaving no more room for G-d. According to the second view, G-d lies in the individual impact, which

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Although We Do Exclude Some Jews

He does note cases where we exclude even mostly observant Jews from a *minyan*, such as *nidui*, early-stage excommunication. To put a person in *nidui* cut him/her off from the community, to some extent, because those empowered to declare it—Torah scholars and courts—decided certain egregious behavior necessitated public response.

[It's more rarely used today, since Jews ignore it, either because communities refuse to act on rabbis' or courts' rulings, or because the person could exit, the community in question or the religion generally. When it still worked, it was an effective way to enforce communal standards of behavior and participation. Once each individual has full autonomy to decide what s/he thinks is right, we have the situation we have today, bemoaned already in the Book of Judges, everyone does what s/he thinks right, despite the obvious fact most of us have no clue.]

A person in *nidui* could not join a *minyan*, a person outside of observance would seem worse. Not so, says R. Herzog says, since *nidui* aimed to rehabilitate. A Jew who might take communal

discipline to heart would be temporarily excluded, to show him/her where s/he had erred, and to encourage improvement and restoration of status (another reason to stop the practice, since so few people experienced it as desired). For the *mumar*, the Jew who had abandoned religion completely (or who was violating Shabbat in public), rehabilitation was a pipe dream.

We Don't Make *Mumars* Like We Used To

R. Herzog then offers what by now have become common lines of reasoning to distinguish between contemporary public Sabbath violation and in Talmudic times. He starts with *Shach* in *Shulchan 'Aruch Yoreh Deah* 119, where *Shulchan 'Aruch* said a Jewish idolater renders non-cooked wine unacceptable for drinking— just as a non-Jewish idolater does. *Shach* raised the possibility the rule would not apply to someone who worships idols for motives external to the worship itself (such as converting to idolatry for the business connections, or for the jokes).

Similarly, some authorities differentiated Jews for whom public Sabbath violation was a symptom of more general lack of observance (the case in

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cannot be changed with scientific progress unless we reach a point where cities are earthquake-proof. I'm not sure that is even theoretically possible.³

IV. Preparing for an Earthquake

Historically, Turkey has suffered many earthquakes because of its situation between continents. In 1850, scientists predicted a massive earthquake centered in Izmir, Turkey. In response, Rav Chaim Palaggi organized among the Izmir Jewish community intense spiritual strengthening, with extra prayers, fast days and calls for repentance from a variety of sins. The community committed to refrain from theft, pay workers on time, fulfill the community's financial obligations and more (*Tokhachas Chaim, Ki Sissa*).

Rav Palaggi sought additional misdeeds that could lead to earthquakes, continuing the Talmudic exegetical exercise in combination with a realistic look at his community. In particular, he identified weakened Shabbos observance and the adoption of gentile haircuts as spiritual weaknesses that needed strengthening. After months of intense spiritual awakening, a series of relatively small earthquakes hit Izmir rather than one large earthquake. Rav

Palaggi attributed this weakened impact to the success of the city's spiritual response.

Ramban (*Sha'ar Ha-Gemul in Kisvei Ha-Ramban*, vol. 2 p. 281) considers exploring the spiritual causes of disasters to be part of the mitzvah of *tziduk ha-din*, understanding G-d's ways. Even more than that, attributing natural disasters to an act of G-d can spur people to improve their ways. When explored in that context, the spiritual causes of natural disasters offer meaning in a confusing world. The scoffers will mock any time G-d is invoked because they see no room for G-d in their lives. That is not the Jewish tradition of dealing with natural disasters.

1. See, for example, Rav Yosef Albo, *Sefer Ha-Ikkarim* 4:12-15.
2. See also *Berakhos* 59a; *Shemos Rabbah* 29:9; *Yalkut Shimoni, Va-eschanan* 836.
3. I can conceive of additional theological approaches to earthquakes but I restricted this essay to explicit discussions in rabbinic literature of reconciling the scientific and spiritual causes of earthquakes.

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Talmudic times) from those who remain observant in other ways, such as by wearing *tefillin* daily, praying, and keeping kosher—they violate Shabbat only for what they think of as necessities of business (R. Bamberger's case). Other authorities thought if most Jews in a place are nonobservant, public Sabbath violation does not bespeak a rejection of communal standards and therefore does not exclude the Jew from communal participation.

R. Herzog thinks the opprobrium attached to public desecration of Shabbat stems from the Jew's implied denial of G-d's having created the world. Shabbat is an *ot*, a sign, of faith; where Jews regularly violate Shabbat, an individual's added violation does not make any obvious statement about faith or its lack, since the Jew is doing what lots of other Jews do.

[I note R. Herzog seems to imply if a Jew were to clearly and explicitly deny Creation, in some sense in six days, as the Torah has it—as I've known even Orthodox Jews to do—then, certainly, we would have to treat such a person as a full *mumar*, even today.]

But Why Include Them?

After working to prove they *could* be included, R. Herzog does a striking about-face. Without retracting any of what he had said, he questions the value of keeping a *minyan* going when it means paying nonobservant Jews to join. He thinks the man who passed away would *obviously* [a notable word in this context] prefer his funds be used to foster services populated by Torah-observant Jews. He therefore encourages (he calls it a *mitzvah*) shutting down the *minyan* and diverting the funds to a stronger *shul*—including, perhaps, endowing a new set of Torah study classes in the deceased's memory.

I am struck by his certainty. Based on people I know, I can imagine the deceased being adamant he left his money for a *minyan* in his house, no matter who attended [Whether or not we agree with the priorities R. Herzog assumed, it's another matter to be sure the deceased would have been convinced by them]. R. Herzog is not only certain he is right to prefer the established *minyan*, he is certain the deceased would have agreed. Because, in his view, including a non-observant Jew in a *minyan* comes with spiritual costs.

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THE HERESY OF THE TEN COMMANDMENTS

by R. Gil Student

I. It's All Good

What is the most important passage in the Torah? The debate over a common custom teaches that answering this question opens the door to claims that other passages are unimportant. Consider Rambam's statement in his eighth fundamental principle, based on *Sanhedrin* (99b), that the entire text of the Pentateuch was written by G-d, even seemingly mundane verses like "And the sister of Lotan was Timna" (Gen. 36:22). When we give precedence to one verse, another verse might lose value in people's eyes. We can see an echo of this concern in the Talmudic statement regarding the Oral Torah (*Eruvin* 64a): "Whoever says 'this teaching is good' or 'this teaching is not good' destroys the treasure of Torah." Even preferring one passage implies a rejection of others.

This exercise is not theoretical but a result of historical experience. At one point, some Jews had a

custom of reciting the Ten Commandments as part of their daily prayers. Sectarrians claimed this practice showed a preference for this passage and rejection of others as emerging from human rather than divine hands. In Israel during the third century, in the time of R. Shmuel Bar Nachman, this practice was rejected because of the concern of this sectarian argument against the sanctity of the Torah (*Yerushalmi, Berakhos* 1:5). In Babylonia in the same century, in the time of Shmuel, they likewise discontinued this practice because of the sectarians (*Berakhos* 12a). The Babylonian passage also quotes R. Nosson, of the second century in Israel, as rejecting the practice because of the sectarians.

Who were these sectarians (*minim*) who believed that the Ten Commandments came from G-d but not the rest of the Torah? The historian Geza Vermes¹ suggests that these are Jewish Gnostics. Another scholar suggested to me that these are Marcionites (an early Christian sect), who rejected the Hebrew Bible.

II. Keeping the Faith

Even in later centuries, after the Jewish Gnostics and the Marcionites were merely a footnote in history,

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MILKMAN ON SHABBAT

by R. Gidon Rothstein

To stand for something—anything—you must stand against some other things. Whatever the value you wish to uphold, when other people or factors work to deny the value in question, those who support it must either act or see their supposed value fall by the wayside. *Shu"t Mishpetei Uzziel* 3; *Orach Chayyim* 39, dated 17 Kislev 5706 (1945), gives us an example.

When a Member Violates Group Standards

HaPoel HaMizrachi, a predecessor of the National Religious Party, conditioned membership on *halachic* observance, codified in their charter. Its Rishon Le-Tzion branch had a problem with one of its members, a milkman who did his rounds on Shabbat, although on foot rather than with his usual bicycle. They wanted R. Uzziel to advise them as to whether his practice constituted Shabbat violation, to the point they needed to expel him.

[Already, we see the complications of the interaction—he clearly was trying to respect Shabbat in some sense, although he felt he had to deliver the milk; if R. Uzziel decides he is violating Shabbat, and no compromise is found, he would be expelled from the group while still feeling, from his perspective, he had done the best he could. Groups face the recurring challenge of making decisions on questions of fact and policy where others will disagree with them on both.]

Broad Picture Issues of Shabbat

R. Uzziel reminds them Shabbat is a day of *kedushah* and *menuchah*, terms he will define more fully below. Here, as a start, he says they are intertwined (without *kedushah*, there can be no *menuchah*, and vice versa), and consist of more than avoiding *melachah*, prohibited Shabbat actions. Similarly, the Torah commands *zachor* and *shamor*, remembering and keeping, linking them to tell us neither is complete without the other.

The combination of these values led to the obligation to walk differently on Shabbat than on a weekday, an *halachah* R. Uzziel takes to require a Jew to keep some reminder of Shabbat with him/her throughout

this prohibition remained in effect. Rav Shlomo Ben Aderes (Rashba), in thirteenth century Spain, invoked this concern in response to a proposal to recite the Ten Commandments daily in synagogue (Responsa 1:184). Similarly, Rambam, in twelfth century Egypt, forbade those who normally sit during the Torah reading to stand specifically for the reading of the Ten Commandments (Responsa, ed. Freiman, no. 46).

Yet, today many have the custom of standing during the Torah reading of the Ten Commandments. Is this custom acceptable or should it be discontinued? Rav Shmuel Abohab, in seventeenth century Venice, distinguishes between daily recitation, which the Talmud forbids, and standing when the Torah reading happens to be the Ten Commandments (*Devar Shmuel* 276). In the latter, we reenact, to a degree, the original event. The Jews received G-d's great presence and responded by rising out of respect. When we read that passage in synagogue, we respond similarly. Rav Chaim Yosef David Azulai (Chida), in eighteenth century Israel, also differentiates between regular and special Torah readings (*Kisei Rachamim to Masekhes Soferim* 12:5; *Tov Ayin*, no. 11).

III. Recent Authorities

However, after quoting these sources and more, Rav Ovadiah Yosef (*Yechaveh Da'as* 1:29) defers to Rambam's prohibitive ruling. He argues that those who permitted were unaware of Rambam's responsum. Had they known, they would have followed his precedent. Therefore, Rav Yosef concludes that we should actively discourage those who stand specifically for the Ten Commandments in the Torah reading.

Rav Moshe Feinstein (*Iggeros Moshe, Orach Chaim* 4:22) upholds the custom to stand. Like Rav Shmuel Abohab, Rav Feinstein distinguishes between daily recitation and standing for the Torah reading. He points out that those who stand specifically for the Ten Commandments also stand for other readings, such as the Song of the Sea and the conclusion of each book. Also, they stand for the entire reading, which consists of more than just the Ten Commandments.

Other recent authorities rule strictly. Rav Yosef Shalom Eliashiv forbids standing specifically during the Ten Commandments (*Mevakshei Torah*, no. 52 p. 66; *Va-Yishma Moshe*, vol. 2 p. 66). Rav Shlomo Zalman Auerbach did not stand up for the reading of the Ten Commandments (*Ve-Aleihu Lo Yibol*, vol. 1

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the day. *Chazal* in *Shabbat* 113 derived the idea from *Yeshayahu* 58:13, *ve-khibadto me-asot derachecha*, and honor it [Shabbat] by not going your own way.

They define *kavod* as wearing different clothing, walking and talking differently than on ordinary days. R. Uzziel terms these rules *gufei Torah*, essential Torah ideas, I think to preclude anyone's dismissing them as rabbinic add-ons to "real" Shabbat observance. These rules, whatever their origin, make a point of how the *kedushah* of Shabbat frees Jews from the monotonous mundane (the Hebrew is *ha-chiloniyut ha-monotonit*, which translates more strictly as "the monotonous secular," but I like the alliteration) of the day to day, which eats away at our bodies and souls.

Shabbat lifts us spiritually, clears our minds and opens us to happiness and joy, lets us cleave to Hashem. Changing our clothing concretizes our shucking of the secular, shows how we leave behind our day to day activities, along with the loss of perspective and suppression of our spirit which comes with it. We instead put on our *neshamah yeteirah*, the extra element of ourselves Shabbat brings out.

Those are the elements of Shabbat which R. Uzziel thinks Hashem blessed and sanctified, which Yeshayahu (earlier in the verse we saw above) adjured us to call an *oneg*, a day of pleasure, to honor the day Hashem had sanctified, and which *Chazal* then codified into law [a vital point: many people think, imply, or say *Chazal made up* rules to shape Shabbat as they saw best. There's room to defend their doing so; R. Uzziel wants us to see how, in this instance, their legislation put details onto values already clearly expressed in the Torah and by Yeshayahu].

Another Problem for Our Milkman

His discussion of Shabbat makes clear the milkman has a problem, since he conducts his usual weekday business on Shabbat [R. Uzziel uses the phrase *minnekudat hashkafah yesodit zot*, from this fundamental point of view, a reminder the word *hashkafah*, sometimes treated as if it means "Jewish thought," really means point of view, the perspective we are to bring to the world].

In addition, he runs afoul of the *halachic* concept of *uvdin de-chol*. *Beitzah* 29b gave the example of

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p. 100). Rav Chaim David Ha-Levi (*Aseih Lekha Rav* 6:21) prefers sitting during the reading but does not insist on discontinuing the practice of standing. Rav Moshe Sternbuch (*Teshuvos Ve-Hanhagos* 1:144) permits the practice of standing during the reading of the Ten Commandments, as does Rav Ovadiah Hedaya (*Yaskil Avdi* 2:1). (The sources in this paragraph are quoted by Rav Mordechai Tzion in an editorial note to Rav Shlomo Aviner, *Piskei Shlomo*, vol. 2 p. 237).

IV. What This Means To Us

Some might object to the strict rulings that there is no apparent reason to continue this ancient objection to sectarians who no longer exist. I reject this claim for substantive reasons, not just procedural concerns. I find it very meaningful to remember the heresies which our Sages actively opposed through communal ordinances. First, it is important to remember the theological battles of our past for the sake of knowing where we came from. Second, if we forget the heresies of the past, we are condemned to repeat them. This specific view, that some passages of the Torah come from G-d and some do not, compare in certain ways to the views of one of the great Conservative thinkers of the twentieth century, Louis

Jacobs.² The recurrence of this heresy in new clothes should strengthen our resolve to continue the practices and beliefs of our Sages.

1. "The Decalogue and the Minim" in *In Memoriam Paul Kahle* (Berlin, 1968), pp. 232-240.
2. I discuss Jacobs' view at length in a paper to be published in a book on Torah From Heaven.

transporting jugs of wine on a holiday, and prohibited doing it as one would during the week. *Shulchan Aruch Orach Chayyim* 323 records Ran's view of the problem, we are not supposed to carry out our ordinary weekday activities act on Shabbat (or holidays).

The rule in the Gemara told us to avoid giving the *impression* we were pursuing our weekday business on Shabbat, where the milkman is *actually* conducting his ordinary business. R. Uzziel dismisses the change from bicycle to foot delivery as insufficient, because altering how one performs an act (the Mishnah's recommendation) only works for actions similar to the weekday one, not when the Jew is doing the *exact* weekday activity. [Clearly, he assumes, we cannot perform weekday business activities, regardless of whether their component actions run afoul of some rule].

In his view, knowingly performing *uvdin de-chol*, one's usual business (again, I stress, regardless of whether a particular *halachah* disallows it) renders the person a Sabbath violator.

Measuring the Milk and Creating the Danger of Writing

A final problem comes at the moment of delivery, where the milkman would pour from his large container into the smaller jugs of the homeowner. *Orach Chayyim* 323;1 allows a buyer to ask a seller to fill a container s/he is going to take home. But the seller may not fill a measuring jug from which to pour into the buyer's container (measuring is a problem on Shabbat).

R. Uzziel wonders why this should be allowed; if the seller *always* or regularly pours directly into the buyer's container, it seems a full-fledged *uvdin de-chol*. He cannot imagine *Shulchan Aruch* would have allowed people to keep their stores open, have customers bring containers and sell whatever foodstuffs on Shabbat, regardless of whether they take money then.

Our milkman is worse, since he goes from house to house pouring out milk. R. Uzziel finds this too similar to *Orach Chayyim* 307;1, which recorded the prohibition against lending an item on Shabbat while using the word "lend," because the two parties might forget the day and write down the loan. Since the milkman's customers take different amounts of milk (and seem not to always take the same amount each

day), he, too, might forget and record what he gave to whom.

Writing is a full-fledged violation of Shabbat, and R. Uzziel thinks *Chazal's* protective rules come where there's a high probability of a problem, similar to *Shabbat* 12b's rule not to read by candlelight lest one tip the candle (causing the oil to burn faster commits *hav'arah*, burning a fire, which the Torah singles out as a violation). The Gemara there tells us of R. Yishma'el b. Elisha, who was confident he would never make such an error, then became engrossed in his reading and either came close to doing so or actually did so.

The milkman's decision to ignore the rule also makes him a Sabbath violator, R. Uzziel says.

Leading Jews Astray

As if we did not have enough problems with his conduct, he sold non-pasteurized milk, which meant many of his customers were going to heat the milk that day, so he was materially helping them violate Shabbat, a problem of *lifnei iver lo titein michshol*, do not put a stumbling block before the blind.

I'm skipping some of R. Uzziel's discussion of the parameters of *lifnei iver*, but one relevant factor is Rishon le-Tzion's having only Jews, which means any other milkman these customers would patronize would be Jews as well. In Rishon, there's no permissible way to get a Shabbat delivery of milk, so this milkman is providing what he should not, and fostering his customers' Shabbat violations.

Once we know he is violating Shabbat, and thus also *HaPoel HaMizrachi's* rules for members, the group has to decide how to react. R. Uzziel reminds them *Chazal* advised us (*Sotah* 47a) to push people away with our left and bring them closer with our right, meaning we should try hard to avoid ruptures based on needed discipline.

On the other hand, not everyone knows the *halachic* issues involved. Should they see a member of *HaPoel HaMizrachi* act as he is, they will assume he has found a Shabbat-acceptable way to ply his trade. R. Uzziel is opposed to that outcome as well.

He hopes that this milkman has been acting thus far out of ignorance (as suggested by his decision not to ride his bicycle for his rounds), and might make a better choice if he is informed of the issues gently and pleasantly. He recommends they reassure the milkman Hashem can provide him a livelihood even if he gives up his Shabbat business (it seems people bought milk day to day, not a subscription that

required Shabbat delivery; this milkman was unwilling to forego the money he made on Shabbat. The question would get more complicated if there were no way for him to make *any* living unless he delivered on Shabbat. R. Uzziel does not discuss that scenario).

He hopes they can convince him to forego his Shabbat rounds, take the short term economic hit, and rely on the Sanctifier of Shabbat to make up for this loss and more. He closes with the confidence their sincere words will convince this milkman, who will return to full observance. [He does not spell out the obverse, what needs to happen should the milkman refuse, another set of issues we'll have to leave for some other time].

TIME OF DEATH, BRAIN DEATH, AND ORGAN TRANSPLANTS

by R. Gidon Rothstein

In *Shu"t Minchat Shelomo Tinyana* (2-3) 86, R. Shlomo Zalman Auerbach (RSZA) gathered several short responsa into one chapter, with different pieces carrying different dates. One is dated 4 Marcheshvan 5753 (1992), giving us the opportunity to learn some more from this great Torah scholar (as it happens, as I am publishing this, last week's responsum was also by RSZA, but as far as I can tell, that's coincidence; out of 460 responsa in this series, I only used eight of RSZA's).

The first part of this responsum is my 2 Nisan entry in this series; we're up to number five of the responsa in the chapter, which was dated RH Adar 5728 (1968), about how we establish death for the purposes of taking a part of a corpse for use in a live patient. RSZA says he is only commenting on the issue, not ruling, leaving his correspondent free to choose whichever answer seems best to him (a reminder that we must follow *rulings* we receive from a *posek*; RSZA means to limit his comments to advice, freeing the questioner to take another view).

Dead Bodies Must Be Used to Save Lives If Possible

His correspondent apparently thought our need for caution in determining death should make it impossible to remove body parts for transplantation anywhere near soon enough to be workable. RSZA disagrees; *Chatam Sofer* allowed burying a person as

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soon as we had established s/he was no longer breathing, which must mean we would also allow taking body parts to save another life. He also rejects the need for consent, by the deceased and/or relatives, since they have no right to deny a life-saving body part when they can make no use of it.

In contrast, a *goses*, a person in the throes of dying, is still making use of his/her body parts; to take them would hasten this person's death, which is not allowed. [We cannot take the body part too early, because we'll be killing the person, but once the person has passed away, we must take it, regardless of the family's feelings on the issue.]

His insistence on taking and using body parts runs into the challenge of deciding when the person has passed away. *Chatam Sofer* spoke about cessation of breathing, whereas Rema implies the need for better evidence. *Orach Chayyim* 330;5 required Jews to violate Shabbat to perform a Caesarean on a mother who died in childbirth, to save the baby. Rema said Ashkenazic Jews no longer do this, for fear of mistaking her condition, deciding she passed away before she had.

RSZA's questioner thought Rema meant the breathing standard was unreliable. RSZA again disagrees, says Rema worried about a second issue, *'iluf*, a sort of fainting, where the patient *seems* dead, might stop breathing for what seems to us too long to still be alive, but then resumes breathing [stories of deathbeds, and movie or TV representations, make clear some dying people stop breathing for long enough to make those around them think they've passed away, and then return to breathing].

Chatam Sofer did not dispute Rema, RSZA thinks, he would agree we have to wait for breathing to stop long enough to be certain of death (*Chatam Sofer* did not speak about it, because he was discussing burial, the preparation for which took much longer than that anyway). The time needed to be sure breathing has fully stopped is too long for a fetus to survive, which is what Rema meant.

When Medical Facts Change

Time of death has become more complicated, RSZA says, given advances in medicine. In a general note to few people remember, RSZA says whenever the Gemara makes a rule that depends on certain facts, as those facts change, the rule changes, too. Some might decry what seems a move to change *halachah*, where RSZA is saying it's the appropriate response to changed circumstances.

For example, the Gemara unequivocally negated the possibility a baby born after eight months of pregnancy could live, and therefore prohibits violating Shabbat to try to save it. Today, when some five or six month preemies can live, despite their lacking the hair or fingernails the Gemara said were necessary to be possibly viable, RSZA says the Gemara's rule clearly no longer applies. Since our ability to save these lives has advanced, our right to violate Shabbat for them has changed as well.

His discussion of advances in saving babies leads him to an interesting parenthetical speculation about premature animals. The Gemara said they cannot be kosher meat, since they cannot live (so they are like *terefot*, unfit for slaughter and consumption). Once we are able to save such animals, and they'll live full lives, he's not sure whether we can also decide they are not *terefot*.

The issue matters also for our *halachic* consideration of murder of a mortally wounded person. Courts would not put such a murderer to death, since the victim was going to die anyway [it's still murder, but not the kind the court punishes with the formal death penalty]. Rambam makes clear, however, that the definition of a mortal wound depends on contemporary medicine, not the Gemara's view of which wounds heal. [As opposed to animal's wounds, where Rambam *did* take the Gemara's list of what renders an animal inedible as a *terefah* to be set, unaffected by medical advances].

Death Is Still Cessation of Breathing

Applied to our question, death is defined by that which contemporary medicine sees as irreversible. People the Gemara saw as doomed, such as someone trapped in the rubble of a building collapse who had no pulse or respiration, are today eminently revivable, so *halachah* allows violating Shabbat to extract and save them. Similarly, we would be committing something akin to murder if we insisted on burying a person who stopped breathing, rather than perform mouth to mouth resuscitation.

For RSZA, as long as medicine might be able to revive someone, we must treat the patient, deceased as s/he might seem (or *be*, barring an intervention), as in a state of *'iluf*, where continued life is possible. He's careful to say he does not mean *Chazal* were wrong about what constitutes death. Breathing *does* define life, as they said, medicine has given us more ways to restore breathing. What used to be final now turns out to be pauses we've figured out how [or, which Hashem has shown doctors how] to interrupt

before they cascade into death, like the *'iluf* the Gemara knew.

On the other hand, if efforts to resuscitate the patient are unsuccessful, RSZA thinks death came with the original cessation of breath. Otherwise, Rema's ruling doesn't work, since we should bring the knife to open the deceased mother at whatever point we're confident she's passed on. If we can say she had *iluf* for a while and then passed, the baby might still be living. That Rema says we'll clearly have to wait long enough that the baby cannot live means that once the mother doesn't resume breathing, we retroactively realize the original stoppage was the moment of death.

As RSZA notes, his view sees the time after cessation of breath as an uncertain one. Were successful medical care to be administered, we would realize the patient was in a state of *'iluf*. Barring such care, we would say the moment of death was when the breathing stopped [dramatic depictions of such scenes have doctors declare the time of death when they've despaired of success in their efforts, whereas RSZA says *halachah* would see their failure as proof death happened earlier, when the patient's breathing first stopped. The question matters for other issues as well, since time of death affects inheritances, or *yibum*, etc.]

Brain Death and the Push to Transplantation

By 4 Marcheshvan 5753 (1992), the date we wanted, the field of medicine had settled on brain death as a legitimate determinant of death [this continues to be a hotly debated *halachic* topic, and I am not weighing in at all, nor should my selection of this responsum imply anything about any view I may or may not have. We are here to learn from a great Torah scholar, and I never mean these studies to indicate what we should do in practice. Although one could do a whole lot worse than following RSZA's views on *halachah*, on almost every if not every occasion]. RSZA this time responded to an accuser who said he was indifferent to saving lives when he ruled against accepting the brain death criterion.

RSZA reminds him, gently, of the seriousness of killing, including shortening the life of a *goses*. We want to save all the lives we can, as long as we do not commit murder to do it.

The Value of Medical Assessments

The questioner had pointed to a Mishnah on *Sanhedrin* 78a, which holds an assailant liable for murder if s/he strikes another Jew in a way the doctors declared lethal, even if the victim rallied but

then worsened and died. The doctors' evaluation shapes our view of the patient's prospects [which implies we should accept doctors' declarations of a person to be dead as well].

RSZA points out the questioner has exaggerated *halachah's* reliance on the doctors. Were we to fully trust their assessment of the blow as fatal, we would immediately try and punish the attacker. Instead, if the victim gets better and leaves the hospital, the attacker only has to pay for the damages. In the case of brain death, as well, the doctors' confidence the patient will die cannot be enough to justify our immediately removing organs from the person, since s/he might *currently* still be alive.

Nor would consent help, since a living person has no right to forfeit vital organs, regardless of how little time s/he still has to use them.

What We See Matters

Along the way in the responsum, RSZA reveals some of what troubles him about brain death. First, he is bothered by tradition's never mentioning it as a possibility. He seems to me to have focused more, however, on the lack of visible evidence of it. Death should leave some external sign as well as whatever is going on inside the person.

We might take that as a naïve statement, since we today assume much of importance to our health takes place solely internally, with no outward signs until far along in the process. I wonder whether he might have been saying something deeper about how *halachah* treats these kinds of issues. Since *halachah* tells us how to act and construct the world around us, I think he was saying we react largely only to the observable.

I can't be sure that's what he meant, but—skipping long other parts of this collected responsum—that's what RSZA gave us this day, a vigorous endorsement of transplanting body parts from the deceased if that will save lives, balanced by significant caution as to how we determine death, especially in the face of medical advances that expand our ability to save and/or restore life.