

This edition of Hemdat Yamim is
dedicated to the memory of
**R' Meir ben Yechezkel Shraga
Brachfeld**

o.b.m

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This week.....

- **The Need for Isolation**- A Glimpse from the Parasha
- **Promoting vegetarianism and veganism** - Ask the Rabbi
- **The Elusive Inheritance of Personality Traits**- from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l
- **Is Severance Pay Part of Salary?** - P'ninat Mishpat
- **We Will Return to you Masechet Baba Kama**- Studies in Choshen Mishpat Related to the Daily D

The Need for Isolation

After discussing all of the conditions that could make a person a *metzora* (loosely, a leper), the Torah prescribes for him several obligations: his clothes must be ripped (*parum*); his head must be wild (*paruah*- grow his hair long); he covers his lip (understood by many as not speaking); he must call out, "*Tameh*" (impure); he lives outside the encampment (Vayikra 13: 45-46). The first two elements are reminiscent of death, as a mourner rips his clothes and does not cut his hair. Indeed, the *gemara* (Moed Katan 15) compares and contrasts the halachot of a mourner and that of a *metzora* and (Avoda Zara 5a) lists a leper as one of those who is considered as if he is dead. So he is, in effect, mourning for himself. Support is brought from the prayer that Moshe said for Miriam when the latter was afflicted by *tzara'at*: "Let she not be like a dead person."

Mourning the dead and mourning one's affliction with *tzara'at* are quite different. A dead person has died permanently (until *techiyat hameitim*, which is a new existence). In stark contrast, a *metzora* is expected to heal. This difference may be able to be explained by a halachic distinction between types of *metzoraim*: a *musgar* (quarantined until further determination) and a *muchlat* (one with a definite status of a full *metzora*). The difference between the two is that only a *muchlat* wears the ripped clothes and lets his hair grow (Megilla 8b). We can suggest that a *muchlat* is considered to be a permanent *metzora* in a way that makes him as one who died. The person, who is separated from society, has ceased to exist as we once knew him. Any recovery contains elements of rebirth.

This bold suggestion can explain another interesting halachic phenomenon. Using the same roots found in our *pasuk*, the Torah says that a *kohen gadol* must not rip his clothes or have his hair grow long, even if he is mourning the closest relatives. Yet, the *gemara* (Mo'ed Katan 15a) deduces from the *pasuk* "and the *metzora*" (Vayikra 13:45) that even a *kohen gadol* rips his clothes and grows his hair as if he is a *metzora*. The Malbim says that this is an application of the rule that fulfillment of a positive commandment (for a *metzora* to rip his clothes) pushes off a negative commandment (of a *kohen gadol* not doing so). In other words, while the prohibition is, in theory, in full force, the positive *mitzva* overcomes it. However, the *pasuk* could be telling us that while the *kohen gadol*, as a symbol of what is right and needed in the nation, cannot be disheveled, he loses his ability to impact positively when he has *tzara'at*. Thus, the negative commandment is not so applicable to this case.

To maintain our dignity and vitality we should avoid pitfalls in dealing with others. Even in times without *tzara'at*, inability to interact properly with society has similarities with death.

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Question: The attached literature explains why we feel Jewish leaders, including rabbis, should take a leading role in promoting vegetarianism and veganism (not using animal products, including milk and eggs). We await your comments and feedback, as the rabbinic community is relatively silent on the matter.

[We very briefly summarize the issues the question included. Readers are invited to learn more at www.JewishVeg.com (a site that was referenced) and react.] The billions of farmed animals produce more greenhouse gases than human transportation, contributing to the looming world ecological disaster, including flooding, heat waves, and droughts in places such as Israel. These animals require enormous amounts of water and animal feed, much of which could feed starving people. Wasting resources in this way violates *bal tashchit* (the prohibition to waste). Jews are not filling their leadership role of *tikkun olam* (improving the world). Also, most farming of animals is done in a cruel manner (*tza'ar ba'alei chayim*).

Answer: The scientific consensus seems to agree with your basic premises. However, we lack the expertise to confirm or reject the definitive picture you paint of the danger's extent and the most effective ways to act. For this reason, many rabbis are uncomfortable speaking out. Because we agree that waiting until all the facts are crystal clear may doom us, we are responding to you in an abridged and theoretical manner to do our part to advance dialogue within the Jewish community.

Few, if any, of us can make a significant impact on world ecology. Thus, when each of us decides about diet, the matter can be equated to the following situation. A person has a serious medical condition. He can decrease the chances of tragedy by a tiny amount if he undergoes a difficult treatment. While it might be wise for him to take the steps, he is not halachically required to do so. Otherwise, anyone with a serious illness would have to spend all of his money to hire the biggest (most expensive) expert in the field to heal him (as our mentor, Rav Z.N. Goldberg, has argued is not so). On the Jewish, national level, if the world would follow our lead, we might have a national obligation to make a significant difference, but we do not think that this is presently the case. However, we still feel it is noble to try to advance ecological concerns along the lines of the Rabbis' words, "It is not for you to finish the job, but neither are you free to be idle from it."

There are various steps we can take to improve the situation, of which vegetarianism/veganism is but one. These include: supporting (when it does not conflict with bigger concerns) "green-minded" candidates for office; spending money on fuel efficiency (efficient cars, home insulation, etc.); investing in companies that research and develop environmentally friendly technology; reducing consumption of animal products and fuels (adjust thermostat, walk and take public transportation more); speak to friends and/or write about such steps.

We reject the claim that raising livestock is *bal tachshit*. *Bal tachshit* refers to acts that are directly destructive, such as ripping and chopping down without positive gain (see Rambam, Melachim 6:10). Allocating resources for a desired result in a less than ideal manner or where there are side effects does not violate the prohibition.

Regarding cruelty to animals, although it is unclear what the exact parameters of proper conditions are, it is clear that there are many instances of abuse. We encourage efforts to "clean up the industry." While veganism is a noble means to limit abuses, by causing there to be fewer animals born to suffer, it does not eradicate the problem and is not required. We support boycotting companies who are known to cause definite *tza'ar ba'alei chayim*.

In summary, we encourage people to take steps to reduce dependence on animal farming and improving world ecology. However, this does not mean one needs to be a vegan or a vegetarian.

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The Elusive Inheritance of Personality Traits

(based on Ein Ayah, Berachot 1:144)

Gemara: Rabbi Yochanan said in the name of Rabbi Yossi ben Zimra: Whoever attributes merit to himself, will have the successful outcome attributed to the merit of another. Whoever attributes the merit to others, will have the successful outcome attributed to his merit. Moshe attributed the merit to others, as it says: "Remember Avraham, Yitzchak, and Yisrael, your servants" (Shemot 32:13). The success of his prayers was attributed to him: "[Hashem] said that they would be destroyed, if it were not for Moshe, his chosen, who stood in the breach to deflect His anger from destroying" (Tehillim 106:23). Chizkiya attributed the merit to himself, as it says: "Please remember that I walked before You" (Yeshaya 38:3). The success was attributed to others, as it says: "I will defend this city to save it for My sake and for the sake of My servant, David" (Melachim II, 19:34).

Ein Ayah: There are people who are naturally blessed with good qualities and who do not have to work hard to follow good paths. A person like that will not attribute his *shleimut* (completeness) to himself but will attribute it to his forefathers, who passed on these traits to him. Someone whose qualities are not naturally the finest but who worked hard to acquire good attributes will normally attribute the traits to himself, for he toiled until he arrived at his proper state. However, the truth is that one who was born with less than ideal characteristics still must have inborn strength, hidden from earlier generations, which enable him to overcome his bad traits. This is along the lines of the Kuzari, who says that a special quality can disappear in a *rasha's* (a wicked person's) personality and reappear in the *rasha's* righteous son's personality. Therefore, in that case, one can still attribute his success to others. In contrast, someone who was born with precious qualities still will usually apply himself to follow the ways of Hashem by doing good deeds beyond those for which he was naturally prepared.

Chizkiya attributed the merit to himself because he was the son of a *rasha* and, therefore, he did not think he could attribute his acquisition of *shleimut* to inheritance from his forefathers. In truth, the success could be attributed to others, as Chizkiya was told that he had a lot of help in overcome shortcomings from the hidden special qualities that could be traced back all the way to David. These positive qualities remained inactive in his father, Achaz, but reappeared in Chizkiya. This idea finds expression in the *gemara's* previous statement that Chizkiya saw in the Divine Spirit that bad offspring would come from him. This is because he was concerned with bad attributes that he was born with and saw how these attributes were actually going to play out.

Moshe attributed the merit to others because he was born with good and holy qualities from holy, pious parents in an unbroken chain from the "fathers of the world." His success was attributed to him because he exceeded drastically the expectations from the attributes with which he was born. That which people say that he was born with exceptional qualities is contradicted by Chazal and the simple reading of the *pasuk*, "She saw that he was good," and from straight logic. Certainly the greatest person ever created had very fine natural attributes, but he still added on a tremendous amount of *shleimut* above and beyond what he naturally received.

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Is Severance Pay Part of Salary?

(based on Halacha Psuka 56- a condensation of Piskei Din Rabbaniim, vol. XVIII, pp. 346-353)

Case: The defendant (=def) divorced his wife, the plaintiff (=pl). They signed a settlement according to which def would pay pl \$500 a month. There was a stipulation that if his income would go down, def's payments would go down in a manner that considers the needs of both sides. Some time later, pl was fired from his job and, as a result, received severance pay. Pl wants to receive a percentage of the severance pay, as if it were regular salary. Def says that severance pay is like a present and that, in any case, pl does not deserve bigger payments because, during the time his salary was going down, pl was affluent enough to afford buying a new car.

Ruling: In discussing the *ha'anaka* (parting gift) that a Jewish servant receives upon going free, the Sefer Hachinuch (#482) says that although the *mitzva* applies only at the time of *yovel*, we can still learn from the practice and expect that anyone who employed a compatriot will give him a parting gift when his employment ends. Some *poskim* view this as the source for the *minhag* that turned into the law of the land to give severance pay when one is fired.

The S'ma (86:2) says that *shibuda d'Rabbi Natan*, whereby if A owes B and B owes C that C can extract payment from A, does not apply to an obligation of *ha'anaka*. This is because *ha'anaka* is not a true obligation but is a merciful present. If this is the way we view severance pay, pl would not be entitled to a part of def's severance pay. However, since nowadays, severance pay is part and parcel of employment conditions upon which an agreement is based, it is akin to salary, and there is basis for pl's claim. This seems true when one considers that severance pay is figured out on the basis of one month's salary for every year of work.

The settlement sets the alimony payment at \$500, based on def's salary. It makes no difference what constitutes def's salary. The \$500 that def paid includes any amount due from the severance pay, and pl is not entitled to an additional percentage of that payment.

The settlement reads that if def's income goes down dramatically, alimony will go down according to the "needs of the two sides." *Beit din* does not accept def's claim that the amount be reduced because pl bought a new car. The needs are what must be addressed, not the amount of money the sides have. If pl has a car and an apartment, she has significant expenses. Rather, we should look at the alimony payments as a percentage of def's earnings. At the time the agreement was made, they were one sixth of def's income. He should continue paying at that percentage rate.

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Baba Kama 112-118

We Will Return to you Masechet Baba Kama

This coming Sunday, B"H, we will complete Masechet Baba Kama. At the completion of a Masechet it is customary to say "Hadran Alach Masechet..."- we will return to you Masechet... It is also customary to say a Dvar Torah on the last passage of the Masechet, and this Dvar Torah is called "Hadran." There are even "Hadran" books containing Divrei Torah on the last passage of many Masechtot. We will follow this custom and write about the last passage in Baba Kama.

The last Halacha in Baba Kama (119b) is "Rav Yehudah said: There is no prohibition of stealing in taking Keshut and Chaziz, and in a place where owners are interested in them, there is a prohibition of stealing." The previous passage in the Gemara deals with things that were given to a craftsman to work on or to fix, and as a result of the work there are some leftovers from the material that were not used or removed. The question is whether the craftsman is allowed to keep these leftovers for himself or must he return them to the owner. The basic rule is that if these leftovers are things that the owner would be interested in them then he must return them, but if not, he may keep them for himself. Rav Yehudah adds that Keshut and Chaziz are things that people are normally not interested in and one may take them from someone else's field, unless this is a place where people are interested in them.

Keshut is a type of weed that grows by attaching itself to another plant, and can thus cause damage to agriculture. Thus, it is understandable why Rav Yehudah defines it as something that one may take. However, Chaziz, Rashi explains this as grain which is not yet fully grown and is still green. It is more difficult to understand why one should be permitted to take unripe grain. The Maharshah (Yam Shel Shlomo Baba Kama 10, 61) suggests that this refers only to grain that grew wildly.

The Maharshah also learns from the general statement of the Gemara that there is no prohibition of stealing, that not only is a worker in the field permitted to take them, but also that any person may take them, since the owner is not interested in them. We find a similar Halacha in the Shulchan Aruch (Choshen Mishpat 359, 2): "It is prohibited to rob even a small amount either from a Jew or from a gentile. However, if it is something that no one is concerned about such as taking a splinter from a package or a fence to pick one's teeth, it is permitted, although the Yerushalmi condemns this as not being exemplary behaviour (Midat Chasidut)." The reasoning of the Yerushalmi (Demai 3, 2) is that if everyone were to take only a splinter from the fence, in the end there would be no fence left, but by Keshut and Chaziz, it appears that even if people will take all the Keshut and Chaziz the owners wouldn't mind and therefore it appears that even the Yerushalmi would not prohibit.

The Masechet ends: "Ravina said: Mata Mechasia is a place where people are concerned." Meaning, in Mata Mechasia people are interested in Keshut and Chaziz and therefore one may not take them from someone else's field. In Mata Mechasia was one of the great Yeshivot of Babel, the Sura Yeshiva which was founded by Rav. The last of the Amoraim, Ravina and Rav Ashi, taught in this Yeshiva, and the yeshiva thrived until the end of the period of the Geonim. We need to try to understand why the people of Mata Mechasia were concerned with these weeds. Rashi explains that the people of Mata Mechasia needed them for grazing their animals. However, from another statement of Ravina it appears that in general the people of Mata Mechasia were concerned about their property.

The Gemara in Yuma (86a) states that it is a Chillul Hashem to take meat from a butcher without paying, on the promise of paying, but in a place where the butchers make sure to follow up and demand their payment this is not Chillul Hashem. Ravina states there that Mata Mechasia is such a place where the butchers make sure to demand payment. Seeing together these two statements of Ravina we can reach the conclusion that the people of Mata Mechasia were concerned with their money and property.

Based on this understanding, we can explain another difficult Gemara. The Gemara in Brachot (17b) claims that the verse in Yeshayahu (46, 12) "Listen to me you stout-hearted, that are far from generosity (Tzedakah)" is referring to the gentiles of Mata Mechasia. The Gemara refers to them as stout-hearted since they see the greatness of Torah learning twice a year (in the months of Adar and Elul there were the great assemblies for Torah learning) but they nevertheless do not convert. This Gemara is confounding at first glance. What is this demand from these gentiles? My Rebbe, Rav Nachum Rabinowitz, explained that the Gemara is actually coming to criticize the Jews of Mata Mechasia. How is it, that despite having this great center of Torah learning, they do not influence the surrounding gentiles? The answer is in the conclusion of the verse - "far from generosity." Because the people of Mata Mechasia were concerned with their money and did not do enough Tzedakah, even though the Torah learning was in full capacity, since they did not apply the Torah to the realms of charity and generosity, it was not able to radiate and impress the surrounding gentiles.

Let us pray that our Torah learning will be one of Torat-Chesed and will shine also to people who are still far from Torah. We will return to you Masechet Baba Kama.

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