

S·E·P·H·A·R·D·I·C HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha

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A TRAIL OF TWO CITIES

Tefillat HaDerech in Suburban Driving

Adapted from a shiur by Rabbi Ari Stauber

When the lonely road gets crowded.

Hachamim instituted a prayer, *Tefillat HaDerech*, to be recited by travelers for protection from the dangerous conditions inherent in travel.

To say it, one must first be a traveler. A traveler is one who has departed his city. A person traveling within his city never says *Tefillat HaDerech*.

Even if he is leaving the city and thus qualifies as a traveler, only one who is exposed to the dangers of the road says *Tefillat HaDerech*. The twin dangers to which *Hachamim* addressed the *Tefilla* are bandits and wild animals. Because both types of creatures fear large groupings of people, they tend to avoid population centers. The *Rosh* explains that *Hachamim* identified the distance from cities at which *Listim* – robbers, and *Hayot Ra'ot* – dangerous animals, become an issue as one “*Parsa*”, which Rav Moshe Feinstein converts to 2.7 miles.

Because the *Parsa* is only a measure of danger, a place that is *Muhzak B'Sakana* – assumed to be dangerous – has no distance requirement. For example, soldiers on patrol outside city gates in wartime are vulnerable travelers the moment they step outside the gates, and they must say *Tefillat HaDerech*. Traveling in a heavy snowstorm qualifies as well.

The *Bi'ur Halacha* considers the question of one who is traveling the requisite *Parsa* from

his city, but the road to his destination is dotted with other settlements. Because the entire stretch of road is within a *Parsa* of one town or another, none of it is suitable for *Listim* or *Hayot Ra'ot* infestation, so there is no danger that would mandate the *Tefilla*. But perhaps we ought to apply a “*Lo Ploug*” – the general principle that *Hachamim* don't differentiate in the application of their enactments among situations, even where the underlying reason doesn't pertain.

The picture the *Bi'ur Halacha* paints is representative of most metropolitan areas today. In the New York suburbs, one would be hard-pressed to find a spot that isn't within a 2.7-mile radius of any settled area, so a jaunt from Monsey or Brooklyn to Lakewood, for example, would be subject to the *Bi'ur Halacha's* dilemma. So why do people say *Tefillat HaDerech* on these trips? Given that *Safek Berachot L'Hakel*, shouldn't we refrain?

Hacham Ovadia Yosef is of the opinion that as long as one rides for the duration of a *Parsa* (72 minutes) between two cities, even if the road is dotted with settlements and towns, one should recite a complete *Tefillat HaDerech* with Hashem's name. If, however, one rides between two cities for less than that amount, then one should recite *Tefillat HaDerech* without Hashem's name.

However, according to Hacham Ben Tziyon Abba Shaul, this is only if it is a remote road when cars often drive alone or are poorly lit, in which there is a greater danger, then Hashem's name is recited.

It is interesting to note that Rav Yaakov Kamenetzky distinguishes between the *Berachot* of *Tefilla* and other *Berachot*.

In *Tefilla*, it is preferable that one pray by himself rather than listen

(continued on back)



By Dayan Shlomo Cohen

TRADING IN FUTURES

In this week's Parasha we read about the selling of the firstborn rights by Esav to Yaakov.

Our Sages debate whether one can sell something that doesn't exist, and will only come to existence in the future (*Davar SheLo Ba La'Olam*). According to Ribbi Akiva this is possible, whereas according to *Hachamim* it is not.

There is a discussion whether the problem with purchasing a nonexistent item is because one cannot possibly have fully informed consent at the time of the transaction or is it because one can simply not exercise a transaction on something that doesn't exist (although, if one did sell a future product and it came into being, if the customer took it to himself, we assume that the seller would be interested in keeping his word and the buyer may keep it).

The *Rivash* asks how was Yaakov able to buy the firstborn rights if they didn't exist yet. He answers that this was possible because the Torah wasn't given yet. However, according to

spotlight

Did you know that the Bet HaVaad Kehilla Division has an active center in the Midwest? Under the leadership of Rabbi Dovid Aron Gross, shlit'a, a prominent community rav in Cleveland, the Midwest division fills a gaping void in the area of business Halacha and Halachic conflict resolution. In the few short months since its inauguration, the Midwest center has responded to countless requests for assistance.

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GENERAL HALACHA

Jews & Money: A Match Made in Heaven

By Rabbi Tzvi Price



There is no way out of it. For better or for worse, correctly or incorrectly, Jews have always been associated with wealth. In truth, Judaism and wealth go back a long way. The first Jew, Avraham Avinu, was fabulously wealthy. As the *Pasuk* states (*Bereshit* 13,2): "And Avram was very heavy with livestock, silver and gold."

In this week's *Parasha*, we read about Yitzhak Avinu's wealth. The *Pasuk* states (*Bereshit* 26, 12-14): "And Yitzhak planted in that land and he found in that year a hundred-fold harvest and Hashem blessed him. And the man [Yitzhak] became great and continually increased [in wealth] until he was very great. And he had flocks of sheep, and herds of cattle, and many enterprises, and the Pelishtim envied him."

As we will see in next week's *Parasha* with regard to Yaakov Avinu as well, the *Pasuk* states, "And the man [Yaakov] became exceedingly prosperous, and he had flocks of fertile sheep, and maid-servants, and man-servants, and camels and donkeys."

The *Avot* (Patriarchs) succeeded in bringing the *Shechina*, the Divine Presence,

into the world. They lived lives of unimaginable piety and saintliness. Yet, they had more money than you could ever imagine. What did they need all that money for? Surely, the *Avot* were no less ascetic than the holy Ribbi Hanina ben Dosa who was happy to survive on a small measure of carobs from one *Shabbat* until the next. Make no mistake about it. The *Avot* did not amass their wealth for their own needs, nor for the needs of their family. They weren't just 'making a living.' For that, they and their families would have been happy to plant some carob trees.

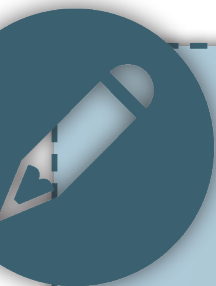
The seeming contradiction between 'living with nothing' and 'living with everything' is made obvious by the following two statements by *Hachamim*. On the one hand, Ben Zoma famously says (*Pirke Avot* 3,1): "Who is rich? One who is happy with is lot." However, there a lesser known statement made by Ribbi Tarfon (*Shabbat* 25b) that asks the same question and answers, "Someone who has a hundred vineyards, a hundred fields, and a hundred servants to work them." Quite correct, but hardly the answer one would expect from a saintly rabbi.

The key to reconciling these two statements comes from the *Mahara"l*. He points out that Ribbi Tarfon's description of wealth has a faint echo of Yitzhak Avinu's 'one-hundred fold harvest' described in this week's *Parasha*. The *Mahara"l* (*Netivot Olam, Netiv Ha'Osher*) explains that, indeed, the number 100 is deeply connected to the Jewish definition of wealth. One hundred is the number which represents Hashem's blessing (thus, in response to the blessings He gives us, we are required to make one hundred *Berachot* every day). One hundred is the number ten times itself: the ultimate and complete expression of the concept of 'ten.' In Judaism, the number ten always refers to the manifestation of G-d's Will in this world (Ten Commandments, Ten Plagues, Ten Declarations of Creation, Ten Tests of Avraham,

Ten Kabbalistic *Sefirot*, Ten Martyrs). Thus, one hundred can be understood as 'Hashem's Will Openly and Completely Revealed'.

According to the *Mahara"l*, Ribbi Tarfon is not saying that the Jewish concept of wealth is someone who is fabulously rich. Rather, Ribbi Tarfon is saying that a rich man is someone who sees Hashem's Will in everything that happens to him. He sees 'hundreds' wherever he goes (not necessarily the green paper kind...). He may or may not be rich under the dollars and cents criterion, but if he sees the entire world as Hashem's revealed blessing to him, then he is truly wealthy. Of course, this type of wealth can only be acquired by someone who is happy with the portion that Hashem has given him. Only by seeing the blessing that lies in one's portion can one be happy with it, and if one is not happy with one's portion, then seeing the blessing in it is impossible. Ben Zoma's statement and Ribbi Tarfon's are really two sides of the same coin!

From the words of the *Mahara"l*, we can begin to understand why the *Avot* were blessed with such material wealth. 'One hundred fields' is not just to be taken figuratively (Yitzhak Avinu really had a one hundred-fold harvest). Rather, it is the inevitable outcome of being a person who is a '100-man' -completely dedicated to the fullest revelation of Hashem's Will in this physical world. What is that Will? The *Mishna* in *Pirke Avot* (6,11) states: "Everything that Hashem, the Holy One, Blessed be He, created in His world, He created in His honor..." The Ultimate Will of Hashem is that the entire physical world be used to honor Him. The blessing of wealth that Hashem bestowed on the *Avot* was simply a fulfillment of that Will. The *Avot* honored Hashem by being totally dedicated to Him- in every thought, in every word and in every step. Therefore, Hashem gave them the riches of the physical world to be used for His honor.



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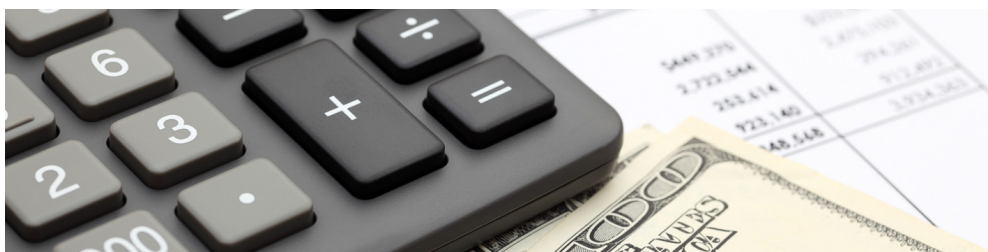
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MATTERS OF INTEREST

Avissar Family Ribbit Awareness Initiative Overview of the Laws of Ribbit

The Torah commands us to lend money to a fellow Jew in need. Since all Jews are brothers, we are commanded to extend this loan without charging interest. Charging interest on a loan may violate numerous Biblical and rabbinical prohibitions. All parties involved in the loan/transaction can also be in violation of the above transgression. Hence the borrower also transgresses the law of interest. The witnesses, scribe, and others who facilitate such a loan can be in violation as well.

Ribbit Ketutzta: Biblical Ribbit (*Ribbit*



Ketzutza) is violated primarily through a loan of money or goods, when the interest was fixed at the time of the loan or loan extension. "*Ketzitza*" – setting a fixed interest amount – is forbidden regardless if payment was actually made. Furthermore, even if the borrower is fully willing to pay the interest in order to receive the loan, it is still prohibited. Conditional loans are possible exceptions, although they are forbidden rabbinically. (Credit and penalty arrangements can also present Biblical or rabbinic *Ribbit* concerns.)

Avak Ribbit: Rabbinical *Ribbit* (*Avak Ribbit*) is even when a commitment to pay interest did not take place at the time of the loan or loan extension; rather, the borrower offered a gift to the lender of his own volition, or the interest was generated through a purchase (*Ribbit B'Derech Mekah U'Memkar*).

Ribbit Mukdemet/Me'uharet: Pre-loan gifts (*Ribbit Mukdemet*) or Post-payment gifts (*Ribbit Me'uharet*) are also rabbinically prohibited (see further on for a detailed analysis of these concepts).

HALACHOT OF DAILY LIVING

Bal Tashchit: Do Not Waste - Part II

Topics From The Gerald & Karin Feldhamer OU
Kosher Halacha Yomis



To what extent does Bal Tashchit apply to leftovers at the end of a meal? Can I throw away leftover bread? What about all the uneaten food that my children put on their plates? What about the leftover food in the pans?

As noted in our previous segment, food that will not be eaten and no longer serves any purpose may be discarded. It therefore follows that food that was leftover on someone's plate may be discarded, since it cannot be served again. Children should be taught not to take more on their plate than they will eat, since this is wasteful.

Bread that can still be reused, may not be discarded if the pieces are larger than a *K'Zayit* (size of an olive, approximately one ounce). However, pieces of bread that are smaller than a *K'Zayit*, no longer have any importance and may be thrown away (see *Shulhan Aruch*, OH 180:3).

Rav Yitzchak Zilberstein (*Tzohar* Vol. 1 pg. 68) points out that one may not throw away a whole cracker or biscuit even though it is smaller than a *K'Zayit*. In this case, since the food is completely intact, it does not lose its importance, even though it is less than a *K'Zayit*. In regards to other foods, the criterion is not a *K'Zayit* but rather its degree of importance. For example, a whole piece of chicken, that can be served again, may not be thrown away.

The *Hinuch* (*Mitzvah* 529) writes that it is the practice of very righteous people not to waste anything, even a grain of mustard. Presumably, this is because everything created by Hashem has potential value and significance. Though the formal prohibition of *Bal Tashchit* does not apply to such small items, this level of sensitivity is something we should strive to achieve.



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1 Concise Shiur Per Parasha

Contemporary Halachic Issues Related to Every Parasha



(continued from front pg.)

to the Hazzan and employ *Shomea' K'Oneh* (hearing the *Beracha* is like reciting it yourself). If one has the ability, one doesn't even have a choice: *Hazarat HaShatz* was established only for people unable to pray on their own, because everyone should develop a personal relationship with his Creator. Not so with other *Berachot*, which anyone can hear from another.

Therefore, in the case of a *Tefilla* we don't say *Safek Berachot L'Hakel*. One who is unsure if he said *Ya'aleh V'Yavo* in his *Yom Tov* prayers, must pray again, as Ribbi Yohanan says (*Berachot 21a*): "If only a man would pray all day long..."

Accordingly, just like with the *Shemone Esre*, if one knows how to recite *Tefillat HaDerech*,

he shouldn't rely on someone else's recitation, and there would be no problem of reciting it out of doubt.

The *Hazon Ish* maintains that this is not an issue regardless: The *Parsa distance* doesn't apply at all to automobile travel, because riding in a vehicle is inherently dangerous due to the risk of collision. In his opinion, as long as one is driving outside the city, he must say *Tefillat HaDerech*. He is challenged by the Brisker Rav and Rav Shlomo Zalman Auerbach, who argue that only dangers that existed in the times of *Hachamim* can create an obligation to recite *Tefillat HaDerech*.

May we always reach our destinations L'Hayim, L'Simcha, Ul'Shalom!

(continued from front pg.)



our previous reasons for this law it would seem that it doesn't depend

on Torah law but is rather a logical law.

The *Ketzot HaHoshen* suggests that it wasn't a real transaction, but rather Esav "removed" himself from the firstborn rights ("Siluk"), which works even on a nonexistent item.

Some suggests that it functions as a *Situmta* – a customary transaction – meaning, that if merchants have a custom to conduct business a certain way and trade in certain entities, even if according to basic *Halacha* the trans-

action shouldn't work, nevertheless, it works as per the merchants' custom. [This concept seems to prove that the problem with buying nonexistent property is only that there is no consent, and not because it is impossible.]

A modern-day example of a *Situmta* – customary transaction – is the custom of the Antwerp diamond dealers to exclaim "*Mazal U'Bracha*" to seal a deal. This would constitute a binding transfer of ownership in such a scenario.

Accordingly, the *Hattam Sofer* writes that if the custom in the marketplace is to buy future merchandise, as is the reality today, it works also in *Halacha*. Similarly, although



מסכת מנחות

This Week's Topics

RAV ARYEH FINKEL

- דף צ"א Libations in Limbo
- דף צ"ב Semicha Studies
- דף צ"ג Confessing the Sins of Others
- דף צ"ד The Shulchan & It's Accessories
- דף צ"ה Desert Departure Time
- דף צ"ו The Shulchan on Display
- דף צ"ז Assembly Required: the Shulchan on Shabbos

copyrights and trade names etc. are abstract things which have no value in *Halacha*, nevertheless, since in our day they are traded, they are considered to be a valid transaction of *Situmta*.

FROM THE BET HAVAAD HOTLINE

Interesting questions* from our halacha hotline

Our father passed away recently leaving a valuable gold seder plate for all five of us. It is sold in the stores as a seder plate for approximately \$12,000, but the gold dealers will only pay us around \$7,000 for the value in gold. One of our brothers wants to buy it off the rest of us for \$7,000 and he will give the money now. However, another brother wants to pay \$12,000 but he will pay it in installments.

What should we do?

* identifying details changed



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