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**Parashat VaYakheil**

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## **DON'T PLAY WITH FIRE – AT LEAST NOT ALWAYS**

*by Rabbi Raphi Mandelstam*

In the beginning of Parashat VaYakheil (Shemot 35:1), we are told of what must have been quite an exciting scene. It's the day after Yom Kippur (Rashi ad loc. s.v. VaYakheil Moshe), Moshe has descended from Har Sinai, and the Cheit HaEigel drama is finally over; we are now ready to return to the building of the Mishkan. However, for some reason, when Moshe Rabbeinu gathers the people, instead of jumping into the Mishkan details, he begins with the commandment to not violate Shabbat (Shemot 35:2-3). Why does Moshe teach us about Shabbat here? After all, we've already learned about Shabbat several times in Sefer Shemot?

Whenever a Mitzvah is repeated in the Torah, there are usually two helpful clues as to why: either the repetition adds new laws or details, or the repetition is in a different context which adds a new dimension of understanding. Here, the prohibition against doing Melachah on Shabbat is followed by the specific prohibition against Hav'arah, lighting a fire on Shabbat: "*Lo Teva'aru Eish BeChol Moshevoteichem BeYom HaShabbat*," "You shall not kindle fire in any of your dwelling places on Shabbat" (35:3). Why is this Melachah singled out? Is it not included in the overall category of Melachah which was already mentioned?

There are many Halachic explanations offered for this question. For example, there is a debate between Rebbi Natan and Rebbi Yossi as to whether Hav'arah is treated less severely than the other Melachot (Talmud Bavli Mesechet Shabbat 70a). Another answer, offered by Ramban (Shemot 35:3 s.v. Lo Teva'aru Eish BeChol Moshevoteichem BeYom HaShabbat), is that unlike Yom Tov, in which Hav'arah is allowed for Ochel Nefesh, Hav'arah is forbidden on Shabbat in all cases. Either way, we still need to explain why the Torah would wait until here to make these points, considering that it could have done so earlier.

Our answer begins by noting another strange aspect of the prohibition against Hav'arah. Unlike the general prohibition against doing Melachah on Shabbat, the Torah states that kindling a flame cannot be done "*BeChol Moshevoteichem*," "in all of your dwellings" (Shemot 35:3). What does this phrase come to teach us? Are there places in which we can light a fire on Shabbat?!

Chizkuni (ad loc. s.v. Lo Teva'aru Eish) explains that the phrase "*BeChol Moshevoteichem*" teaches that while the prohibition of Hav'arah exists in our communities, it does not exist in the Mishkan in the context of performing the Avodah. In other words, the phrase "*BeChol Moshevoteichem*" appears in our Pasuk simply to contrast the Mishkan with all other places. This could not have been stated before, since the concept of the Mishkan was not yet introduced to Bnei Yisrael. With the Chizkuni's

Halachic contrast of the Mishkan and our dwellings in terms of the prohibition of Hav'arah, a very deep message emerges, especially when we remember that these Pesukim appear right after the Cheit HaEigel.

Many Meforashim (such as Ramban and the Kuzari) explain that the motivation behind the Cheit HaEigel was not to replace Hashem, but rather to replace Moshe. Until now, Bnei Yisrael had viewed Moshe as more than just a leader – he was an intermediary between them and Hashem. When the people thought Moshe was gone, they became desperate to find an alternative way of serving Hashem, for they felt that direct communication with Hashem was beyond them, and they therefore needed a tangible and physical way of connecting with Him. As much as those intentions seem proper, the obvious problem is that the Torah explicitly forbids the creation of such images, regardless of the intentions. And, as the Beit HaLeivi explains, the message we all need to learn from the Cheit HaEigel is that despite our intentions, the service of Hashem must be done on His terms, not ours.

I think that this is precisely the message that "*Lo Teva'aru Eish BeChol Moshevoteichem*" is meant to teach us, especially as it comes right after the Cheit HaEigel. While we may have a genuine passion and desire for spirituality, as symbolized by fire, the Torah tells us that we can't light that fire "*BeChol Moshevoteichem*," in any place or way which we desire. Rather, that fire and passion needs to be channeled through the Mishkan, using its light to guide us. And, just as the Aron HaKodesh is at its center, Torah needs to be at the heart and center of our lives, guiding our decisions, making us unlike the people who sinned by the Cheit HaEigel who relied solely on themselves. While in no way should we as a people lose our fire and passion to connect with Hashem, we must remember that what we do is on His terms.

## **REBUILDING FROM CHEIT HAEIGEL**

*by Zachary Ottenstein ('17)*

Parashat VaYakheil appears immediately after the Cheit HaEigel, the sin of the Golden Calf. The Children of Israel had just experienced the low point in their history, so we can easily question how Bnei Yisrael were able to rebuild their community and restore moral order after this disgraceful, abominable act that they committed? Was it even possible for them to do so, or was it too late? The answer to this question lies in the very first word of this week's Parashah, namely "*VaYakheil*," "and he assembled" (Shemot 35:1).

Rav Lord Jonathan Sacks, former Chief Rabbi of the United Kingdom, poses a similar question. To discover the answer to our question, Rav Sacks presents the ideas of two contemporary thinkers to help us further understand why the word VaYakheil is so important. He presents the story of Charles Darwin, the founder of modern evolution, and that of political thinker and author of *Democracy in America*, Alexis de Tocqueville. Darwin writes in his *The Descent of Man* about the concept of natural selection. This well-

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known theory states that creatures must compete with each other for a share of limited resources, and only those that fight successfully for what they need will survive. If this were true, ruthlessness would be the guiding influence in every creature's life, and altruism would not exist. Altruism is a value upon which many societies, especially those that are based on faith and religion, place an extreme emphasis. Altruism promotes the practice of making an individual sacrifice on behalf of others. This reveals a major flaw in the opinion of Darwin. Darwin goes beyond suggesting the concept of survival of the fittest but even writes that altruists and those willing to sacrifice "would on average perish in larger number than other men."<sup>1</sup> Charles Darwin answers his own question, but the answer contradicts the premise of natural selection. Darwin explains that at the individual level, survival of the fittest is the guiding force in a human. When that same man forms a community or a civilization, his "survival of the fittest" instincts change from only caring about his own survival to caring about the collective survival. It is possible to change man's instincts from selfishness to selflessness, from serving one's self to serving one's community.

Approximately during the same time that Darwin was developing his theory, Alexis de Tocqueville was writing about how communities function in the newly created United States of America. Relative to the Americans, the French were not so committed to their religion. Tocqueville wanted to understand the role of religion in American society. Logically, since there was a separation between church and state, religion had no power in the political sphere; however, in contrast to what Tocqueville assumed, religion had a major influence on American life. Tocqueville even wrote, "There is no country in the world where the Christian religion retains greater influence over the souls of men than in America."<sup>2</sup>

After asking various clergymen why religion and politics don't commingle, Tocqueville came to the following answer: Politics are divisive. The goal of religion is to improve the individual and unite the individuals into a community in which they can further improve their morals and character. The opposite effect would be achieved if religion and politics were combined.

Individualism, as explained by Darwin, is the greatest threat to a society. What protects any society from the dangers of rugged individualism is the formation of religious communities. In a religious community, members are more likely to give charity and give thought to the needs of others. Survey data from Harvard sociologist Robert Putnam suggests that frequent synagogue or church goers are more inclined to give charity than other people<sup>3</sup>. This inclination towards giving is not due to religious belief, but rather due to the influence that a community has on the individual. According to Putnam, an atheist who went to a communal gathering regularly would still give more to

charity than one who didn't. Religion creates a community, a community will lead to altruism, and altruism will lead people away from self-interest and lead them toward the common good.

What Moshe Rabbeinu had to do after the Golden Calf was turn the Jewish People from just a religious group into a community – "VaYakheil." Moshe accomplished this in multiple ways. When Moshe returns from Har Sinai, the Torah writes that the Children of Israel were "Faruah," "disorderly and chaotic" (Shemot 32:25). Moshe restores order and is able to settle the wild people. Moshe then proceeds to remind the people of the laws of Shabbat and the Mishkan, because both Shabbat and the Mishkan are Mitzvot based on community. Rav Sacks writes in his *The Home We Build Together* that the best way to strengthen a community is to build a communal structure together; therefore, Moshe commands Bnei Yisrael to build the Mishkan (editor's note – this approach fits with Rashi's assertion that the Mishkan serves as a Kapparah for Cheit HaEigel). Additionally, Moshe commands the Jews about Shabbat, because Shabbat is a time in which self-interest is put aside and people come together to pray, eat and rejoice. Rambam writes in Hilchot Teshuvah (3:11) that "One who separates himself from the community, even if he doesn't commit any sins, but stands apart from the Children of Israel, has no share in Olam HaBa."

Community has the power to improve the world, a society within that world, or even an individual person. Moshe Rabbeinu saw the need to improve every aspect of the Jewish People, and it is for that reason that he commanded them to build the Mishkan and guard the Shabbat. It was through this command that Moshe was able to restore order to an unruly mob of idol worshippers and turn them into a community based on charity, respect and love. With the help of Hashem, we can all participate in the establishment of a stronger Jewish community and also be able to improve our individual character traits. If we accomplish this, we will hopefully be Zocheh to seeing the coming of Mashiach.

## MEANINGFUL REPETITION

by Jacob Reinitz ('18)

This week's Parashah, Parashat VaYakheil, seems somewhat commonplace and mundane in relation to the Parashiyot that precede it. In VaYakheil (Shemot 38:26), Moshe asks for a Machatzit HaShekel, a half-shekel, from all of Bnei Yisrael to build the Mishkan and its vessels. The Torah describes every painstaking detail involved in the construction of the Mishkan, despite the fact that many of these details have already been mentioned in Parashiyot Terumah and Tetzaveh. What does this seemingly meaningless repetition intend to teach us?

The Sifri (Naso 45) teaches that the Nesi'im, the princes of the tribes of Bnei Yisrael, planned to donate for the cause of the Mishkan only after the community finished giving its funds for the construction of the Mishkan, in order to gift to the Mishkan the items that remained after this initial communal "drive." However, these princes underestimated Bnei Yisrael's generosity and enthusiasm, for by the time they stepped in to donate, the only

<sup>1</sup> Charles Darwin, *The Descent of Man*, Princeton University Press 1981, 84

<sup>2</sup> Alexis de Tocqueville, *Democracy in America*, abridged with an introduction by Thomas Bender, New York, Modern Library, 1981, 182

<sup>3</sup> Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon and Schuster, 2000

things left were the precious gems needed for the Kohen Gadol's breastplate and garments. These gems were not readily available in the desert, and so the gift was delayed. As an afterthought, the Gemara (Yoma 75a) derives from the verse "VeHeim Heivi'u Eilav Od Nedavah BaBoker BaBoker," "And they brought him another gift every day," that the man, described as also falling "every day" (Shemot 36:3), eventually brought the gems to the camp of Bnei Yisrael, and the princes finally brought these gems as their gift. However, since the princes were remiss in their enthusiasm and efforts to dedicate to the Mishkan, they were punished by having the word "VeHaNesi'im", "and the Princes," written in the Torah without a "Yud" (BeMidbar Rabbah 12:15). Although the value of the princes' gifts surpassed that of all the other gifts, as their gifts offered were the gems, the Nesi'im were still admonished. It was not the cost that counted in this case, for Hashem did not need the Nesi'im to give Him gifts, such as gems, for his Mishkan. Rather, the true gift was the effort and enthusiasm that went into the gifts of the rest of Bnei Yisrael.

It was for this reason that all the gifts were specifically typified as "Asher Yidevenu Libo," "[What each person] donates from the heart" (Shemot 25:2). Had the people been lethargic in granting their gifts to fund the Mishkan, their donations would have been chore-like, which was not the point of this donation from the heart.

Similarly, we see this point expressed in Parashat Pekudei (39:33). There, the Torah relates how the components of the Mishkan were brought to Moshe by the people. The Midrash Tanchuma (Pekudei 11) tells us that since Moshe hadn't donated anything to the Mishkan, Hashem wanted to honor him by letting him erect the Mishkan by himself. After comprehending that no human being could raise such a heavy structure by himself, Moshe turned to Hashem, who told him to just make the effort, and the Mishkan would raise itself up, just as the concluding verse of the section (40:17) says "Hukam HaMishkan" – the Mishkan was erected by an external force, not by Moshe Rabbeinu.

The Torah here teaches this same lesson. Even someone as great as Moshe Rabbeinu did not gain honor in the accomplishment itself, as he did not affect it. The true honor bestowed upon Moshe was the opportunity he was granted to expend effort in erecting the Mishkan, to glorify the process and not the product.

Living in the extremely result-oriented society in which we live, this is an important principle to remember. We desire the rich-tasting cup of coffee without all the grinding and brewing. We strive for a toned physique, yet attempt to get it with the least amount of exertion as possible. We wish that we could accomplish our goals, even spiritual ones, in an easier way, circumventing all the challenges and difficulties inherent to the goal, which is a grave mistake. In Sefer Iyov (5:7), we are made privy to the musing that "Adam LeAmal Yulad," "Man was born for hard work." The purpose of our existence as human beings is to rise to meet the challenges and difficulties. Without these impediments, the goals themselves would be meaningless, similar to how working a crossword puzzle with all the answers already given is an aimless achievement.

<sup>4</sup> Halachah considers a child a Mamzeir only if he is the result of a relationship that is punishable by Kareit (Mishnah, Yevamot 4:13). An exception to this rule is a child born from a woman with the status of a Niddah. Unlike other law systems, LeHavdil, the Halachah does not consider a child born from an unmarried man and unmarried woman as illegitimate, so long as the relationship was not incestuous or

The Torah thus finds it necessary to repeat all the details in the collection of the monies and construction of the Mishkan to inform us that the attitude and drive with which we go about fulfilling all the details is more important than donating all that was required in this case.

## MORALITY AND MAMZEIRUT – PART ONE

by Rabbi Chaim Jachter

It seems so unfair. Just because one's parents engaged in illicit relations<sup>4</sup>, why should the child suffer to the extent that he or she is forbidden to marry most members of the Jewish community? Even the Midrash presents the Mamzeir as legitimately complaining to Hashem about his status, which was brought about due to no sin of his own.

This striking Midrash (VaYikra Rabbah 32:8) sees a reference to the anguish of the Mamzeir in a Pasuk in Kohelet (4:1) which describes the tears of the oppressed. Interestingly, the Midrash sees the Sanhedrin as the 'oppressors,' because they follow the Torah's commandment of "Lo Yavo Mamzeir BiKehal Hashem" (Devarim 23:3). The Midrash continues, 'What is this person's sin and why should his father's actions concern him? And yet the Mamzeir has no one to comfort him.' God proclaims: 'I will comfort him. It is only in this world that he is disqualified. In the world of truth, it will be different. I am with him in his suffering here and I will be with him then as well.'"

Unlike other areas of Halachah, where the Gemara (Sanhedrin 71a) records opinions that were never followed in practice<sup>5</sup>, it is clear that there were and continue to be people assigned the status of a Mamzeir. For example, the Mishnah (Yevamot 4:13) records Rabi Shimon ben Azai as testifying, "I discovered the genealogy lists (Megillat Yuchasin) of Jerusalem which record 'so and so is a Mamzeir from a married woman [who had a child from another man].'"

This issue is not merely of theoretical concern to this author. As an active Dayan on the Beth Din of Elizabeth, I have dealt with a number of cases of potential Mamzeirut, working with Rav Gedalia Schwartz (Av Beit Din, chief justice, of the Beth Din of America and Chicago Rabbinical Council) for potential resolutions. Moreover, I have worked tirelessly (with Hashem's help) and invested great efforts since 1992, as do many other Get administrators throughout the world, to avoid having Mamzeirut issues arise by facilitating Gittin for all Jewish couples who are divorcing.

In this chapter, we will first present the issue using the philosophical framework set forth by Rav Dr. Walter Wurzbürger. Then we shall present samples of how Chazal dealt with Mamzeirut in practice and how Rav

adulterous. Questions arise regarding Mamzeirut in our times most frequently regarding children of a woman's second marriage who remarried without obtaining a valid Get (Halachic divorce) from her previous husband.

<sup>5</sup> Such as Bein Soreir UMoreh and Ir HaNidachat.

Moshe Feinstein, Rav Ovadia Yosef, Rav Gedalia Schwartz, Rav Shlomo Amar and Rav Asher Weiss have dealt with Mamzeirut challenges in practice.

*Morality and Halachah – Rav Dr. Wurzbarger’s Ethics of Responsibility*

For anyone who is interested or troubled by the role of ethics in the Halachic process, Rav Wurzbarger’s *Ethics of Responsibility* is a must read. This relatively brief, but very important, book is authored by a Rav who is eminently qualified to grapple with this awesome issue. Rav Wurzbarger was a fine Talmid Chacham who was a close Talmid of Rav Soloveitchik and served as Rav of Congregation Shaaray Tefila in Lawrence, New York, for many years. He also earned a doctorate in philosophy at Harvard University, served as a professor of philosophy at Yeshiva University for decades, and for many years edited “Tradition,” the prestigious journal of Modern Orthodox thought. An insightful and thorough review of this work authored by Dr. David Shatz appears in Tradition (Spring 1996 pp. 74-95)<sup>6</sup>.

*Hashem Always Acts Morally*

Rav Wurzbarger echoes the celebrated contention associated with Plato that an action is not right because God commands it, but rather God commands it because it is right. This Platonic idea is undoubtedly congruent with Torah thought, as evidenced by the verse recited thrice daily by Jews, “Tzadik Hashem BeChol Derachav,” “Hashem is righteous in all His ways” (Tehillim 145:17). A Tzadik is one who chooses to act properly and fairly. Categorizing Hashem as a Tzadik means that He chooses to act only in fair ways. Hashem can act in any manner, but He chooses to act in the fairest way possible.

Devarim 32:4 proves Rav Wurzbarger’s point as well: “*HaTzur Tamim Pa’olo, Ki Chol Derachav Mishpat, Keil Emunah VeEin Avel, Tzadik VeYashar Hu,*” The Rock, His work is perfect; for all His ways are justice; a God of faithfulness and without iniquity, just and right is He.” Finally, Avraham Avinu supports his argument to Hashem to spare Sedom, provided it contains righteous people, by asking “*HaShofeit Kol HaAretz Lo Ya’aseh Mishpat,*” “shall not the Judge of all the earth do justly” (BeReishit 18:25).

*Our Obligation to Intuit the “Right and the Good in the Eyes of Hashem”*

The central thesis of *Ethics of Responsibility*, though, is best expressed in a comment that Rav Wurzbarger presents from Rav Soloveitchik: “Halachah is not a ceiling, but a floor” (p. 32). Rav Wurzbarger writes:

Jewish piety involves more than meticulous adherence to the various rules and norms of religious law; it also demands the cultivation of an ethical personality. . . . We are commanded to engage in a never-ending quest for moral perfection, which transcends the requirements of an

“ethics of obedience”. [The] halakhic system serves merely as the foundation of Jewish piety (page 3).

Rav Wurzbarger marshals a wide variety of classic authorities who articulate the need for moral intuition, including Rav Nissim Gaon (in his introduction to the Talmud Bavli), Ramban (Devarim 6:18), Maggid Mishneh (commentary to Rambam’s Hilchot Shecheinim 14:5), Rav Yosef Albo (3:23), Maharal (Netivot Olam volume 2), Netziv (introduction to Sefer BeReishit and Shemot 19:6), Meshech Chochmah (Devarim 13:4) and Rav Kook (Orot HaKodesh 1:1-35).

Ramban (Devarim 6:18) most famously explains the Torah’s command “To do the right and the good in the eyes of Hashem”:

The intention of this verse is to teach that while we must keep God’s specific laws, we must also institute what is “the good and straight” in those areas for which God did not issue any specific rules. This is a great matter because it is impossible for the Torah to regulate every area of human behavior on both an individual level and a communal level. After the Torah presents a number of general ethical commands, such as not to gossip and not to take revenge, it commands us to do good and right in all areas.

Chazal assign great value to moral intuitions. The Gemara (Bava Metzia 30b) stresses the importance of a Beit Din ruling Lifnim MiShurat HaDin (beyond the letter of the law), suggesting that Jerusalem was destroyed because its courts ruled according only to strict justice and not Lifnim MiShurat HaDin<sup>7</sup>. In fact, the Gemara (Berachot 7a) states that God prays that He should act Lifnim MiShurat HaDin<sup>8</sup>. Similarly, the Mishnah (Shevi’it 10:9) lauds those who act beyond the letter of the law, as “Ruach Chachamim Nocheh Heimenu,” “the spirit of the rabbis is pleased with him.”

*Conclusion*

In next week’s issue, we will continue our discussion of inherent morality and set forth a framework of how to reconcile differences between our perceived notion of morality and the morality projected by the Torah, specifically in Mamzeirut cases.

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<sup>6</sup> Dr. Shatz’ review is available at <http://traditionarchive.org/news/originals/Volume%2030/No.%202/Beyond%20Obedience.pdf>

<sup>7</sup> The Semak (Mitzvah 49) even includes the Mitzvah to act Lifnim MiShurat HaDin in his list of 613 Mitzvot.

<sup>8</sup> The Gemara (Bava Metzia 83a) records a classic application of Lifnim Mishurat HaDin:

Some porters [negligently (see Rashi and Maharsha)] broke a barrel of wine belonging to Rabbah bar bar Channah. He seized

their garments [as a form of payment], so they went and complained to Rav. Rav told [Rabbah bar bar Channah], “Return their garments.” [Rabbah] asked, “Is that the law?” Rav replied, “Yes, [as it says in Mishlei 2:20], ‘You shall walk in the way of good people.’” So [Rabbah] returned their garments. They further claimed [to Rav], “We are poor men, have worked all day, and are hungry. Are we to get nothing?” Rav ordered [Rabbah], “Go and pay them.” He asked, “Is that the law?” [Rav] responded, “Yes, [as the same verse continues], ‘And keep the path of the righteous.’”