



TORAH ACADEMY
of Bergen County

קול תורה

Parashat Emor

Iyar 13 5776

May 21, 2016

Vol. 25 No. 32

A HISTORY of COMMUNAL CONTROVERSY

by *Rabbi Nosson Rich*

The days of Yom HaAtzma'ut, Yom HaSho'ah, and Yom Yerushalayim are all observed during the period of Sefirat HaOmer. Upon initial reflection, this convergence of dates would seem coincidental. After all, two of these dates mark specific events in recent history, and we celebrate their anniversaries respectively. As we have witnessed, the degree to which these days have been observed, if at all, is the subject of an ongoing debate within the Jewish community. For some, the observance of Yom HaAtzma'ut includes the recitation of Hallel with a Berachah, and yet for others, the Berachah is omitted. Some communities enjoy an elaborate service consisting of an expanded Pesukei DeZimra and a Haftarah, while others do not. Similarly, Yom HaSho'ah has become a sacred day of remembrance for some, and yet others hesitate to participate in public displays of mourning during the month of Nissan, while others insist that we should not establish new days of mourning during any point during the year.

Remarkably, controversy regarding practice and ritual during Sefirah is nothing new. The span from Pesach through Shavuot has always been marked with strains of contention. For centuries, communities throughout the world engaged in debate as to whether Av HaRachamim should be recited on the Shabbat preceding Rosh Chodesh Iyar and Sivan. As we know, the very time period during which the mourning of Sefirah is observed has also been subject to ancient debate. Whether one observes the "first half" or the "second half" (or any one of the many other variant customs), it seems that controversy and debate loom throughout.

Rav Mordechai Machlis of Yerushalayim has suggested that this phenomenon is, in fact, no coincidence at all. Our Rabbis teach us (Yevamot 62b) that this time of year marks the tragic and untimely death of 24,000 of Rabi Akiva's students, whose tragic demise came as a result of their failure to demonstrate proper respect towards each other. Despite their access and proximity to one of the most distinguished sages in our people's history, they were not immune to the challenges which constantly threaten one's ability to remain proper and straight through one's interpersonal dealings. It has been suggested that in the case of the students of Rabi Akiva, it was their very Torah knowledge and their meticulous observance of a Torah lifestyle that ultimately compromised their ability to demonstrate proper respect for each other. Despite their sincere quest to attach themselves to the divine, they forgot to not step on each other along the way. Their motivations were undoubtedly focused and pure, but unfortunately, their judgment was skewed. We are charged to remain sensitive and concerned for the needs of others even (if not especially) as we strive to walk with Hashem.

Perhaps, therefore, the controversy and debate which is constant throughout this time period is nothing less than a test which has been sent our way. How do *we* react and respond to different practices and traditions within the community? Have we learned from mistakes of the past and have we internalized the message of the Aveilut of Sefirah? Do we claim (or even think) that our traditions, views, and practices automatically exclude the possibility of another? Is my approach the only acceptable view, thereby eliminating the need to even consider a different one? It is no coincidence that from Pesach until Shavu'ot, the Jewish calendar is studded with controversy. Our method of response and our means of reaction to differing views are being carefully observed from on high. Rabi Akiva's students lost their lives "MiShum SheLo Nahagu Kavod Zeh LaZah," because they did not have proper respect for one another. Have we learned the lessons of the past? Are we any more worthy of compassion than they

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were? We must remember that Rabi Akiva's students were fully engaged in their Avodat Hashem and still failed to show adequate respect towards each other. Let us make every attempt to learn from the past and strive for excellence as we are Nohagim Kavod Zeh LaZeh.

CONSISTENCY

by Dovid Pearlman ('19)

Parashat Emor begins, "*VaYomer Hashem El Moshe Emor El HaKohanim Benei Aharon VeAmarta Aleihem LeNefesh Lo Yitama BeAmav,*" "And Hashem said to Moshe: Speak to the Kohanim, the sons of Aharon, and say to them: Let none of you defile himself for a dead person among his people" (VaYikra 21:1). The Midrash Rabbah explains that in this Pasuk, the future of Kelal Yisrael is revealed to Moshe Rabbeinu through a prism. Moshe is shown that there will be good people, bad people, smart people, and leaders; and that the king of Israel, the great King Shaul, will die by the sword. Moshe asks in bewilderment, "How could such an amazing king die by the sword?" Hashem tells Moshe, "go and ask the Kohanim."

Let's analyze the story of King Shaul to have a better understanding of this confusing way to learn this Pasuk.

When David HaMelech was running away from King Shaul, he took refuge in Nov (Shmuel I 21:2). The people of Nov opened their hearts and homes to David, and gave him food, clothing, and shelter. How were they repaid? When King Shaul found out about the townspeople's assisting a "fugitive," he killed 80 of the town's Kohanim. He had no right to do this, yet he carried it out anyway.

When Shaul was instructed by Hashem to kill every single man, woman, and child from the nation of Amaleik, he actually spared the most evil of the nation – Agag, the king of Amaleik (15:8-9)! Here, he was given a job to kill every Amaleiki, yet he did not carry it out. Shmuel HaNavi ended up doing the job of the king later

on, by once and for all killing Agag, but not before a descendant of Agag was conceived.

Hashem must have understood from Shaul's actions that he was inconsistent – he killed innocent Jews for no reason and spared the life of a Rasha when he wasn't allowed to do so. When Hashem saw this, He decided that Shaul no longer deserved the kingship. From here we can learn that in order for Hashem to be happy with us, we must be consistent.

Recently I approached HaRav Moshe Meir Weiss Shlit'a with an intense and lingering question about life that had been bothering me for quite a while. I asked, "Rebbi, I feel that life is moving too fast and that life is short and I want to feel accomplished, but I'm not feeling much true accomplishment. I want to make my days on Earth feel long and accomplished and not short and brief fleeting moments."

Quick to answer, Rabbi Weiss explained: "Consistency. Consistency is key to accomplishment and reaching great levels. That's why we have Mishnah Yomi and Daf Yomi, to motivate us to learn and grow on a consistent basis!"

After these very meaningful words of Chizuk were given to me, I decided to participate in the "Daf Yomi." After all, the only way to grow is to instill into oneself a habit, and to be consistent!

As my late uncle who passed away 10 years ago at the young age of 19 once said: "Life is short; don't waste time!"

Should Yeshivah Students Serve in the Israeli Army? – PART TWO

by Rabbi Chayim Jachter

Introduction

In last week's issue, we began our discussion concerning a Yeshivah student's obligation to serve in the army, and we mentioned the differences between a Milchemet Reshut and a Milchemet Mitzvah. We continue that discussion in this week's issue. This series is dedicated L'Ilui Nishmat our beloved and honored Moreinu V'Rabbeinu HaRav Aharon Lichtenstein zt"l on the occasion of his first Yahrtzeit.

HaOseik BeMitzvah Patur Min HaMitzvah

The Talmud (Berachot 11a and Sukkah 25a) posits the rule of HaOseik BeMitzvah Patur Min HaMitzvah - while one is involved in the performance of one Mitzvah, he is excused from performing

another one. The Ra'ah and Ritva (Sukkah 25a) assert that not only is the one involved in performing a Mitzvah excused from other mitzvot, but he is forbidden to perform them. Accordingly, some argue that Yeshivah students engage in constant Torah study, so they may not abandon their learning to serve in the Israeli army. This suggestion is somewhat problematic, because we generally assumed that HaOseik BeMitzvah Patur Min HaMitzvah does not apply to Torah study. The Gemara (Mo'eid Katan 9a-9b) explains that if others are not able to perform a specific Mitzvah, the student must interrupt his studies to perform that Mitzvah. This being the case, Torah scholars should be obligated to serve in the Israeli army as long as the army needs them.

Rav Zalman Melamed (Techumin 7:330-334) argues, however, that the Israeli army (in 1986) can function without the service of every man in the country. If he is correct, Torah study could exempt Torah scholars based on HaOseik BeMitzvah Patur Min HaMitzvah, as others perform the Mitzvah to defend Israel. Furthermore, the democratically elected government of Israel releases those who study in Yeshivah from the army (albeit due to political considerations). Rav Moshe Feinstein (Teshuvot Igrot Moshe, Yoreh Dei'ah 4:33) writes that this governmental exemption constitutes recognition that those who sincerely study Torah deserve a draft exemption. He consequently rules that one who has a strong desire to learn Torah and strives to become great in Torah scholarship should study in Yeshivah and avoid the draft. This idea may be especially true if the army itself does not desire to draft Yeshivah student. Writing in 1986, Rav Avraham Sherman (Techumin 7:343) notes that many in the army's top brass do not believe that it will benefit the army to draft those Yeshivah students who want exemptions.

Rabbanan Lo Tzrichei Netiruta

Rav Yechiel Michel Tukachinsky (*HaTorah VeHaMedinah*, reprinted in *Betzomet HaTorah VeHamMedinah* 3:212-213) exempts Yeshivah students from the Israeli army based on the Gemara's statement that rabbis need not contribute towards the construction of a protective wall around their town (Bava Batra 8a). The Gemara explains that this exemption exists since "rabbis do not require protection" ("Rabbanan Lo Tzrichei Netiruta"). Similarly, argues Rav Tukachinsky, rabbis need not serve in the army, as they do not require protection.

Rav Yehudah Shaviv (Techumin 1:37) cites the Chatam Sofer's opinion that the Gemara excuses rabbis from paying only communal taxes, but they still must fight in defensive wars. Rav Aharon Lichtenstein (Techumin 7:314-329 and Tradition 19:199-217) also asserts that one would have to reach a very high spiritual level to fall into the category of those who do not require protection.

The aforementioned Gemara also exempts rabbis from actively participating in communal construction projects. Rav Tukachinsky bases the exemption of Yeshivah students on this Halachah as well. Rav Shaviv, however, claims that the Rambam cites this Halachah (Hilchot Talmud Torah 6:10), yet he never compares communal construction projects to military service. Hence, Rav Shaviv argues, Torah scholars are not exempt from military service.

Regarding the Israeli army today, one might suggest that Rav Tukachinsky and Rav Shaviv's debate depends upon the type of unit in which one would serve. Combat units involve directly defending the people of Israel, so their soldiers do more than just routine community service. However, those soldiers who have profiles numbering lower than 72 generally may not serve in combat units. These soldiers (colloquially known as "jobnikim") perform all kinds of activities, ranging from gathering intelligence information (which may directly save lives) to mowing the lawn at army bases. Those "jobnikim" who would do the latter type of jobs might have a stronger claim that their work is a communal contribution which has little to do with fighting Milchamot Mitzvah. As such, studying Torah should exempt them from service.

Aggadic Statements

A number of Aggadic (non-legal) statements appear in the Talmud that are commonly cited to support exempting Torah scholars from army service.

Rav Eliezer Waldenberg (Hilchot Medinah 3:3:4) cites an Aggadic statement from the Gemara (Makkot

10a) to prove that Yeshivah students do not have to serve in the army. The Gemara states:

What is the meaning of the [Psalmist's] words "Our feet stood within thy gates, oh Jerusalem"? [It is this:] What enabled us to "stand" in war? The gates of Jerusalem - the place where students engaged in the study of Torah.

Rav Waldenberg and many others explain this text to mean that Yeshivah students do not have to serve in the army, because their study enables the soldiers to succeed. One could argue, however, that if this were truly the case, there would be an unambiguous halachic source exempting Yeshivah students from military service. Rather, perhaps the Talmud is referring to the studies of those people who cannot serve in the army due to illness or age.

Another frequently cited source supporting military exemption appears in Masechet Nedarim (32a):

Rabi Avahu said in the name of Rabi Elazar, "Why was our father Avraham punished by having his descendants pressed into Egyptian servitude for two hundred and ten years? Because he coerced Torah scholars into serving in his army."

A similar idea appears in Sotah (10a), explaining why King Asa was stricken with illness at the end of his life. The Gemara suggests that he was punished for using Torah scholars in his army. It is important to note that Rabi Elazar's opinion is only one of several possible causes that the Gemara cites for the enslavement in Egypt, and the other opinions might disagree with his idea. Furthermore, Rav Lichtenstein asserts that, at most, these texts contend that the Israeli Government should not coerce Yeshivah students into army service. They do not necessarily serve as a basis for the Yeshivah students' lack of initiative to serve.

Other Considerations

Rav Lichtenstein writes that serving in the Israeli army constitutes an act of great kindness. It also fulfills the Torah's command, "Do not stand idly by your brother's blood" ("Lo Ta'amod Al Dam Rei'echa" - VaYikra 19:16). In addition, these

students are performing the great Mitzvah of yishuv Eretz Yisrael - settling and developing the Land of Israel. On the other hand, those who opt to learn in Yeshivah and avoid military service believe that they contribute toward the spiritual development of the Land of Israel. They also feel that their Torah study helps ensure that God protects the people of Israel physically. Furthermore, Rav Avraham Sherman (Techumin 7:336-350) reports that, during his tenure as an army chaplain, he witnessed many observant Jews who abandoned Torah and Mitzvot after their experiences in the IDF influenced them negatively.

Conclusion

There does seem to be a strong Halachic basis for claiming that there is a Mitzvah to serve in the IDF, as it defends the Jewish people. Nonetheless, many rabbis argue that service in the Israel Defense Forces is a Mitzvah that others, who do not study full-time, are able to perform. However, there are prominent rabbis, such as Rav Aharon Lichtenstein, who view army service for Yeshivah students as a moral imperative.

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Questions, comments? Contact us at:

Kol Torah
c/o Torah Academy of Bergen County
1600 Queen Anne Road
Teaneck, NJ 07666
Phone: (201) 837-7696
koltorah@koltorah.org

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