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THE EARLY LIFE OF ISRAEL'S SAVIOR

by *Rabbi David Nachibar*

A common strand unites the three incidents recorded in the Torah from Moshe's early life prior to Hashem's visit to him at the burning bush. In the first instance, Moshe sees an Egyptian taskmaster oppressing a Jewish slave, prompting Moshe to kill the Egyptian and conceal his body. The following day, Moshe observes two Jews quarreling, triggering Moshe's rebuke of one Jew for his physical assault of the other. In the final instance, Moshe acts as savior toward the seven daughters of Yitro, saving them from the Midianite shepherds who attempt to banish them and their sheep from the water troughs (Shemot 2:11-17). In each of these instances, Moshe observes an aggrieved party who suffers at the hands of another, and he proactively intercedes on behalf of the victim with heroic action and speech.

Despite the common strand that weaves the three narratives together, important differences also distinguish the three cases from one another. Nechama Leibowitz (New Studies in Shemot, pg. 40) captures this point in the following manner: "Each of these represents an archetype. First, [Moses] intervenes in a clash between a Jew and non-Jew, second, between two Jews, and third, between two non-Jews. In all three cases, Moses championed the just cause."

The distinguishing features of the three events can also be cast in different categories. In the first instance, Moshe intervenes in order to assist the victim of sexual manipulation and abuse. Rashi (Shemot 2:11 s.v. Makkeh) provides context for understanding the Egyptian taskmaster's violent blows that are recorded in the text. Rashi, based on the Midrash, identifies the Egyptian taskmaster's physical attraction toward the Jewish slave's wife as the ultimate impetus for his oppressive actions. The Egyptian taskmaster deceptively lured the Jewish slave from his home one night and posed as the woman's husband in the slave's absence. Upon returning to his home following the fraudulent intimate encounter between his wife and the Egyptian impostor, the Jewish slave immediately detected the Egyptian taskmaster's deception and manipulation of his wife. The slave's detection earned him the punishing blows he receives in the field the following day.

In the second instance, Moshe witnesses the imminent physical assault of a fellow Jew, sparking his moralizing message of "Lamah Takkeh Rei'echa?" "Why do you hit your fellow?" (Shemot 2:13). In this case, Moshe intervenes on behalf of a victim of physical assault and abuse.

In the final episode, Moshe intercedes on behalf of Yitro's seven daughters who are shepherding their father's sheep. The underlying motive behind the shepherds' objection to Yitro's daughters filling the water troughs is not recorded in the text; the Torah simply writes, "The shepherds came and drove them away." Ramban (Shemot 2:16-19 s.v. VaTavona) explains that the shepherds had priority on a daily basis to feed and draw water for their own sheep first, prior to Yitro's daughters. On this particular day, though, Yitro's daughters arrive early to the well and figure that they can successfully feed and draw water for their own sheep prior to the shepherds' arrival. After the daughters fill the water troughs, though, the shepherds suddenly

appear on the scene and proceed to drive the women away, ensuring the preservation of the proper sequence. Moshe, who witnesses the shepherds' thuggery, realizes that the water in the troughs rightfully belongs to Yitro's daughters, and as a result, he feels compelled to protest this act of Chamas (thievery). Financial corruption and theft, then, impel Moshe to act in this final instance.

Moshe's spirit of justice, his impulse to defend the victim, Jew and non-Jew alike, and his fight against sexual, physical, and financial abuses are the defining qualities that the Torah seeks to highlight in the future savior of Israel prior to his selection. In truth, this very quality was embedded in Moshe's name from infancy, a name that portended his future character and role as savior of the Jewish people. Pharaoh's daughter (or Yocheved, according to the Chizkuni) bestowed the name "Moshe" on the young baby on account of the fact "that I drew him out of the water" (Shemot 2:10). Several commentators note, though, that Moshe's name should have been "Mashuy," "drawn," rather than "Moshe," "drawing." Chizkuni (Shemot 2:10 s.v. VaTikra) and Seforno (ad loc.) both explain that the name "Moshe" was given instead to foretell that just as Moshe was drawn out of a situation of crisis, so too will he "Memalet UMoshe Et Acheirim MiTzarah," "spare and draw others out of distress."

Moshe's sensitivity, principled spirit of justice, and impulse to act on behalf of the aggrieved distinguishes him as the most suitable leader and savior for the Jewish people. Hashem appears to Moshe in the next chapter in the form of the burning "Seneh," an image that invokes Hashem's lowering of himself to a low-lying bush, as if to say, "Imo Anochi BeTzarah," "I am with him in his distress" (Rashi, Shemot 3:2 s.v. MiToch, based on Tehillim 91:15). Recognition of and sensitivity toward the needs of other human beings are the first steps in the process of relief and redemption. In that image and with that message, Hashem initiates His communication with the future savior of the Jewish people. It is an image and message that surely resonates with Moshe, given the defining characteristics that the initial recorded episodes of his life depict.

THE ECONOMIC CATALYST OF SHI'ABUD MITZRAYIM

by *Tani Greengart ('18)*

Sefer Shemot is the Sefer HaGe'ulah, the book of redemption, the book that tells the story of Bnei Yisrael's exodus from Shi'abud Mitzrayim (servitude in Egypt). But why were Bnei Yisrael slaves in Egypt in the first place? The concise answer given in Shemot 1:10 is that Pharaoh feared that the massive nation of Bnei Yisrael would revolt against Egypt. But as we shall see, the cause of the servitude runs much deeper than this, and its seeds were planted decades earlier, by the Pharaoh in the days of Yosef.

Before going any further, it must be noted that Egyptian society in Biblical times was racially prejudiced against "Ivrim," people who come from the east (lit. "people from the other side"), including Bnei Yisrael. The Torah testifies that it was considered a "To'eivah," "abomination," for Egyptians to eat with Ivrim (BeReishit 43:32), and when the wife of Potifar accuses Yosef of attempting to rape her, she calls him an "Ivri," implying a negative connotation (BeReishit 39:14). This racism certainly affects the enslavement of Bnei Yisrael, but there are economic factors that need to be taken into consideration as well.

Back in Parashat MiKeitz, the Pharaoh has a dichotomous dream in which seven skinny cows devour seven fat cows, and seven thin stalks of wheat consume seven healthy stalks. Yosef is brought out of

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jail to interpret the dream, and he predicts that Egypt will witness seven years of plenty followed by seven years of famine. He suggests that Pharaoh appoint a man to tax the Egyptian people (“Chimeish Et Eretz Mitzrayim”; cf. 41:34) during the seven plentiful years and store the grain for the coming famine, a job that Pharaoh grants Yosef (41:1-40).

Rashbam (41:34 s.v. VeYafkeid Pekidim VeChimeish) interprets the line “Chimeish Et Eretz Mitzrayim” as “he should divide the land of Egypt into fifths,” meaning that that Yosef’s proposed grain tax rate is 20%, 1/5 of the wealth of Egypt. Rashbam further notes that this 20% tax is twice the customary tax rate of 10%. For example, when Shmuel HaNavi warns the Jews about the consequences of having a king, he tells them that a king can take 10% of their produce (I Shmuel 8:15). There are numerous other instances in Tanach of one person giving a tenth of his wealth to another person as a form of patronage: Avraham gives a tithe to Malki-Tzedek (BeReishit 14:20), Yaakov promises a tithe to God (BeReishit 28:22), and the Jews are commanded to give a tithe to the Leviyim (BeMidbar 18:21). It seems that 10% is the standard tax rate in the time of the Torah, yet Yosef’s tax is twice this.

During the seven years of plenty, Yosef collects a massive amount of grain and stores it in cities (BeReishit 41:48). When the famine hits, he sells the grain on behalf of Pharaoh, eventually acquiring all of Egypt’s money (47:14), livestock (47:17), and land (47:20), as well as plenty of money from neighboring countries (41:57). He also acquires all the people of Egypt as slaves to Pharaoh, relocating them to cities and requiring them to work the fields and give 20% of their crop to Pharaoh (47:24). Yosef establishes the 20% tax for posterity (47:26).

It is important to note that Yosef does all this not of his own volition but because Pharaoh commands him to do so. We know this because in the thirteen Pesukim that describe Yosef’s actions during the famine (47:14-26), Pharaoh’s name is mentioned a whopping *eleven* times. Everything Yosef does, he does on behalf of Pharaoh. But this is not how the Egyptians, especially Egyptians of subsequent generations who do not personally know Yosef, see it.¹ Yosef is a convenient scapegoat upon whom to blame all the hardships of the famine. He was the one who foresaw the famine, he was the one who collected high taxes, and he was the one who bought all of Egypt as slaves.

The result of this is that by the time the new king comes to power in Egypt, Yosef’s only remaining legacy in the minds of the Egyptian people is the high taxes and slavery that were established under his rule, whether they were truly his fault or not.²

The Pharaoh of Yosef’s days is sly; he appears to embrace Yosef and his family with open arms, even offering Yosef’s brothers positions in the government as royal shepherds (BeReishit 47:6), but he sets them up for failure in the minds of the Egyptian public.

The next king, a populist,³ takes advantage of the popular sentiment and molds it to fit his desires.

He begins with a seemingly reasonable proposition: the family of Yosef has become so large that their numbers

threaten to take over Egypt. And he suggests a seemingly reasonable solution: treat the family of Yosef the same way that Yosef treated the Egyptians in his day.

The new king’s first decree upon Bnei Yisrael is to make them slaves, just as Yosef made all of Egypt slaves to Pharaoh. The structures that the New King forces his newly-acquired Jewish slaves to build are “Arei Miskenot,” translated by Rashi and Ibn Ezra as “storage cities” (1:11), cities akin to the ones in which Yosef stored the grain he taxed from Egypt (BeReishit 41:48). And just as the priests of Egypt were spared from slavery to Yosef (BeReishit 47:22), the Midrash attests that Shevet Levi, which later becomes Bnei Yisrael’s priestly tribe, is *not* enslaved (Rashi Shemot 5:4 s.v. Lechu LeSivloteichem). It seems that the New King is trying his best to treat Bnei Yisrael “Midah KeNeged Midah” to how he perceived Yosef treated the Egyptians.

However, as we mentioned earlier, the suffering of the Egyptians under Yosef’s rule was not Yosef’s fault—it was decreed by the then-Pharaoh, who appointed Yosef as his proxy in order to deflect blame onto an outsider.

Thus, we return to where we began—anti-Semitism. Ultimately, though the immediate catalyst of Shi’abud Mitzrayim, or at least the excuse for it, was the economic situation in Egypt, the root cause of it was racial prejudice against Bnei Yisrael. This was not the first time in Jewish history that anti-Semitism reared its ugly head,⁴ nor was it the last time. We must be continually vigilant to limit its consequences now and in the future of Am Yisrael.

THE MISSING YEARS⁵

by Yehoshua Kanarek (‘19)

In Parashat Shemot, we are introduced to Moshe Rabbeinu, who leads Bnei Yisrael throughout the majority of the latter four Sefarim of the Torah. Like any good hero, Moshe has an origin story. The Torah provides us with a detailed description of his birth, followed by his youth in Pharaoh’s palace. Despite being raised in the royal palace, Moshe seemingly knows of his Jewish heritage; when he encounters a fellow Jew suffering at the hands of an Egyptian taskmaster, he kills the taskmaster and then flees Egypt (Shemot 2:11-15). After escaping Egypt, Moshe runs to Midyan, rescues the daughters of Yitro, and then marries Tziporah (Shemot 2:15-21). However, something peculiar happens. The Torah seems to skip a large chapter of Moshe’s life, as the story resumes with Moshe encountering Hashem in the burning bush, by which time Moshe is already eighty years old. Despite all of the details the Torah gives in telling Moshe’s story, it skips about sixty years of his life! While the Torah is not a history textbook, nor is it a biography of Moshe, it would still seem necessary to clarify what happened during the missing sixty years of this great Jewish leader’s life.

There are many tales the Midrash assigns to this time gap. The most famous story is the one cited in the lost book of Divrei HaYamim Shel Moshe Rabbeinu, the Chronicles of Moshe. It is the story of how Moshe becomes a king for forty years after suppressing a rebellion led by Bil’am. However, the Ibn Ezra HeAroch (Shemot 4:20 s.v. VaYikach) says that the Chronicles of Moshe should not be trusted as a historical document.

The simplest way of interpreting this time gap is that Moshe Rabbeinu was in Midyan the entire time. However, the Torah’s description of Moshe’s time spent there is very vague. The Torah relates, “VaYo’el Moshe Lashevet Et HaIsh,” “Moshe agreed (lit. swore) to stay with [Yitro]” (Shemot 2:21). However, what exactly he swears is very unclear.

We propose a possible answer to this question based on the Yalkut Shimoni. When Moshe names his son Gershom, he explains that he gives this name because “Geir Hayiti BeEretz Nochriyah,” “I

¹ This, I believe, is what is meant when the Pasuk says that the new king of Egypt “does not know Yosef” (Shemot 1:8).

² A careful examination of Yosef’s proposed 20% tax reveals exactly how much was Yosef’s fault and how much was Pharaoh’s plan. When Yosef interprets Pharaoh’s dream, he suggests a 20% tax to be enforced only during the seven years of plenty. The extension of this tax into the years of famine and beyond is done only because Pharaoh commands it.

³ We know that the new king is a populist because he consults with the Egyptian people on his plan to enslave the Jews (Shemot 1:9) and later delegates the job of throwing Jewish baby boys in the river to the people (1:22). By contrast, the Pharaoh of Yosef’s time never consulted with the people or relied on them to do his work; if he wanted something done, like the creation of a massive grain storage, he had one of his own men do it.

⁴ The Pelishtim’s actions towards Yitzchak Avinu during his sojourn in Gerar (BeReishit 27:14-27) come to mind as an example of anti-Jewish prejudice prior to Sefer Shemot.

⁵ This article is adapted from a shiur by Rav Yair Kahn.

was an alien in a foreign land” (Shemot 2:22). The Yalkut Shimoni (Siman 169) comments on the last two words. It states, shockingly, that Moshe swears to consign his son to idolatry in order to receive Tziporah’s hand in marriage. What is the reason for this seemingly baseless accusation? Looking closer at the text with regard to Moshe’s sons, something seems strange. Moshe names Gershom for being a stranger in a foreign land and names his next son Eliezer because Hashem saved Moshe from Pharaoh. This seems out of order, as Moshe is first saved from Pharaoh and only afterward is a stranger in a foreign land.

Perhaps the order of these two names conveys the state of mind of Moshe at the time. Initially, Moshe views himself as a mere fugitive and views the events that forced him to leave Egypt as a forced exile. He has to flee to escape execution by Pharaoh, in whose house he previously lived. He is cut off not only from the court of Pharaoh but from his Jewish brethren as well. He has no one; he is all alone. But then Yitro agrees to take him in, and in return Moshe agrees to raise his son in Yitro’s religion. For the next sixty years, Moshe is convinced that he is cut off from the Jewish people.

Suddenly, at the end of those sixty years, everything changes. Moshe Rabbeinu comes across the burning bush, from which God’s voice calls out to tell Moshe that He was the God of Moshe’s forefathers and that Moshe’s brethren in Egypt are suffering. Moshe has been chosen to save them. Moshe is no longer that same stranger in a foreign land; instead, he is now firmly re-rooted and connected back to the Jewish people. He will be the one to free the Jewish people from slavery.

Not only does this give Moshe something to look forward to in the future, but it also gives him new insight into past events. After encountering Hashem in the burning bush, Moshe is able to look back and say, “For the Lord of my father was my aid, and he saved me from the sword of Pharaoh” (Shemot 18:4).

The question still remains: did Moshe truly dedicate his son to idolatry? The answer is not so simple, as there are indications from the idolatrous behavior of Gershom’s son, mentioned elsewhere in Tanach (e.g. Shofetim 18:30), that Moshe may have actually made that vow. However, the Yalkut Shimoni more likely refers allegorically to Moshe’s outlook on his own life. He is, after all, a stranger in a foreign land where everyone else serves idols. While he may not serve idols himself, Moshe does not necessarily predispose his children, born in this environment, to Jewish practices. We can corroborate this from the later story where Moshe and family enter an inn and Moshe is attacked by a snake sent by Hashem until Tziporah circumcises her son (Shemot 4:24-26). It is clear from this story that Moshe has not yet circumcised one of his sons, which hints at Moshe’s lack of hope and faith in G-d during his time of despair in Midvan. But once Moshe encounters Hashem, he turns his life around, and this feat testifies to the greatness of Moshe Rabbeinu.

RESOLVING A FINANCIAL DISPUTE BETWEEN ROOMMATES—PART ONE

by Rabbi Chaim Jachter

For the fifteenth consecutive year, Torah Academy of Bergen County conducted a well-attended post-finals learning program led by this author. While we focused on a Sefer of Tanach in previous years, this year we decided to focus on practical Halachic issues. One of the days was devoted to delving into decisions issued by the Beth Din of America about resolving financial disputes between parties. We share our thoughts on the ruling issued regarding a dispute between roommates that we shared with our readers last week in Kol Torah.

The students commented that this decision was intelligent, well-crafted and nuanced. We proceed to note the specific aspects of the decision that caught their attention. This week, we will focus our analysis on the procedural aspects of the case, while in next week’s issue, we will address the substance of the decision.

Incorporation of Civil Law in the Decision

We noted that the decision extensively cited not only the Shulchan Aruch but also civil law. One might be rightfully puzzled at this—after all, a Beit Din is supposed to rule in accordance with Halachah. What role could civil law have in Beit Din? There are, however, three portals through which Halachah potentially incorporates civil law. The first is that in regards to financial matters, Dina DeMalchuta Dina—Halachah obligates us to honor the laws of the country in which we reside. However, there is considerable difference of opinion in regard to the scope of the applicability of this rule. Moreover, Poskim are most reluctant to eviscerate Halachah by too liberal an application of Dina DeMalchuta Dina.

Many Dayanim (rabbinic judges) are more comfortable with a different portal, Minhag HaMedinah, the common commercial practice of a particular locale. The Mishnah and Gemara quite often apply Minhag HaMedinah even when it is not identical to Halachic practice. Work hours are a classic example. Although Halachah expects employees to work from dawn to dusk, the common commercial practice of fewer working hours overrides the Halachah. It is important to note that Dina DeMalchuta Dina often determines and creates the Minhag HaMedinah.

In fact, the rules and procedures of the Beth Din of America (available at www.bethdin.org) state that its Dayanim will incorporate common commercial practice in their rulings “to the fullest extent permitted by Jewish Law.” A contemporary example is building codes. A Beit Din will not, for the most part, adjudicate a dispute between a homeowner and a building contractor based on the standards for buildings articulated by the Gemara. Instead, compliance with contemporary building codes is the basis, for the most part, of the decision. Indeed, the parties to a building agreement expect contemporary building codes to serve as the benchmark for proper fulfillment of their contract. Thus, civil building codes create a Minhag HaMedinah and are incorporated into the Halachah.

A more controversial portal is the contractual agreement for a Beit Din to adjudicate disputes between the parties in accordance with the civil law of a specific jurisdiction as of the day of the signing of the contract. The Beth Din of America will, generally speaking, honor such agreements. They reason that Halachah follows Rabi Yehudah, who permits structuring financial affairs in any manner provided that it is honest, consensual, and does not violate ritual law (such as the prohibition of Ribbit, charging interest).

Other Batei Din, however, view such agreements as a violation of the prohibition to adjudicate in civil court. They reason that Halachah forbids submitting to the authority of a non-Jewish court and to non-Jewish law. The Beth Din of America, however, argues that one submits to the authority of the civil law only if the contract calls for the Beit Din to rule in accordance with the civil law as of the date of the adjudication of the future dispute.

Indeed, the prenuptial agreement promoted by the Rabbinical Council of America and the Beth Din of America (and approved by Rav Ovadia Yosef, Rav Zalman Nechemia Goldberg, and Rav Asher Weiss) offers the option for couples to submit to the jurisdiction of the Beth Din of America for adjudication of any financial dispute emerging from divorce, based on civil equitable distribution laws or community property laws. Of course, the agreement calls for the Beit Din to apply these civil laws as they apply on the day of the couple’s signing of the prenuptial agreement.

Considering that Halachah incorporates some aspects of civil law, most often a case will include at least one Dayan who is an expert in the civil law of the specific matter that is being adjudicated by the Beit Din. Some of the Dayanim who serve

on the Beth Din of America have a law degree. Indeed, the lone Dayan who sat on our case has a law degree.

One Dayan

The students noted that only one Dayan sat on this case. They found this surprising, since the first Mishnah of Masechet Sanhedrin teaches that a Beit Din of three is required for adjudication of commercial disputes. However, Halachah permits parties to choose one Dayan to judge their dispute. As we mentioned earlier, Halachah grants us great flexibility in regards to financial matters. The advantage to choosing one judge is that the matter can be resolved more quickly since time is not needed for the judges to agree upon a ruling. Moreover, the expense of paying more than one Dayan is avoided.

The advantage of a Beit Din of three Dayanim is that there will be much more grappling with the issues involved. Most likely, a better decision will be reached since more perspectives are involved at arriving at a decision. Pirkei Avot specifically advises rabbis to refrain from resolving monetary disputes alone without the benefit of two additional Dayanim sitting on the case.

It is especially recommended to use a Beit Din of three Dayanim if the matter is under serious dispute and emotions are running high. In such cases, creating/restoring peaceful relationships is a major goal of a Din Torah (Beit Din litigation). There is a much greater chance of achieving Shalom when three Dayanim decide a case. The losing party is much more likely to reconcile himself to a decision of three experts rather than only one. A rational individual who is convinced of his stance in a dispute will relent when three respected figures believe otherwise.

However, the Rules and Procedures of the Beth Din of America (page six) state: "If the Submission or contractual provision pursuant to which arbitration is initiated does not specify the number of arbitrators (Dayanim), the dispute shall be heard and determined by one arbitrator (Dayan) if the amount in controversy is less than \$10,000, unless the parties, by mutual agreement ... direct that the dispute be heard and determined by a panel of three arbitrators (Dayanim)." Since our case involved less than \$1,000, only one Dayan heard the case.⁶

Sources Cited – A Partial Remedy to the Unpredictability Concern

It is no secret that many attorneys, including Orthodox attorneys, are not yet comfortable recommending Beit Din as a forum to adjudicate financial disputes. To a great extent, this is due to a lack of predictability of the decisions issued in Batei Din. The Beth Din of America has published eight of their decisions in order to address this concern.⁷ One common denominator of each decision is that the articles only quote the most major and predictable sources, such as the Shulchan Aruch and the Teshuvot Igrot Moshe of Rav Moshe Feinstein.⁸ Teshuvot Shevut Yaakov, cited in regard to reducing the award by one third due to Pesharah (equity considerations), is also a very widely-accepted, commonly-applied ruling of Batei Din. By limiting the citations to only the most prominent authorities and not applying lesser-known rulings, one makes it easier to predict Beit Din rulings.

An Example of a Rational "Pesharah Kerovah LeDin" Decision

As surprising as it sounds, there is a choice of law in Beit Din. While every Beit Din judges based on Jewish Law, Halachah offers three options regarding the methodology of decision-making to be employed by the Beit Din. One option is Din, the strict application of

the Halachah. Another is Pesharah, which can mean either compromise or equity (Batei Din vary in their understanding of the term Pesharah). The third option is Pesharah Kerovah LeDin, which is a blend of Din and Pesharah.

While the Beth Din of America used to offer the choice of pure Din in their rules and procedures, in recent years it has offered only Pesharah and Pesharah Kerovah LeDin options.

Both the Gemara and the Shulchan Aruch strongly discourage applying strict Din in practice. In fact, many Batei Din today regard a litigant who insists on a Din judgment as Mesareiv LeDin (in contempt of rabbinic court). Such is the extent of the avoidance of conducting a Din Torah in accordance with strict Din.

The preferred method is Pesharah Kerovah LeDin since pure Pesharah often appears to be arbitrary. Indeed, Batei Din will apply Pesharah only if the parties specifically request a pure Pesharah. Pesharah Kerovah LeDin is the preferred method of conflict resolution since on the one hand, it hews for the most part to the rules set forth in the Shulchan Aruch, but on the other hand, it offers some flexibility to consider equity and fairness in decision-making.

One would think that a plaintiff would prefer Din since this would allow collection of all he is owed without compromise. However, a plaintiff might prefer Pesharah since the rules of evidence are somewhat relaxed in such case, and therefore, it may be easier for him to prove his case to the Beit Din. In addition, some Batei Din will not excuse Gerama (indirect damage) if ruling in accordance with Pesharah, unlike pure Halachah, which does not obligate one to pay for damage done indirectly. Thus, there are potential advantages and disadvantages to both plaintiff and defendant in regards to choosing either Din, Pesharah or Pesharah Kerovah LeDin.

The choice of Din, Pesharah, or Pesharah Kerovah LeDin is spelled out in the Shtar Beirurin, binding arbitration agreement, signed by the litigants appearing before Beit Din. Litigants should also ask for written clarification of the Beit Din's understanding and application of Pesharah (is it compromise or equity?) and Pesharah Kerovah L'Din (is it inclined more to Pesharah or to Din?). The Beth Din of America explains their standards regarding Pesharah and Pesharah Kerovah LeDin in their rules and procedures, available at www.bethdin.org.

In our case, the litigants agreed to a Pesharah Kerovah LeDin decision, and the TABC Hands-on Halachah Kollel students were impressed by how the Dayan adeptly blended Halachah and civil law in a rational and reasonable manner.

Conclusion

Next week, we will, iy"H, discuss substantive aspects of the decision.

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⁶ It seems that the Dayan was a Rebbe of the litigants who adjudicated the matter free of charge. Otherwise, it would have been foolish for the litigants to spend a significant sum on Dayan fees, which would eliminate whatever award was issued by the Dayan.

⁷ Many more published decisions are needed to better address the unpredictability concern, especially in the area of adjudicating divorce disputes (though it is difficult to obtain the parties' permission to print such decisions).

⁸ By contrast, the Piskei Din Rabbaniyim, the decisions of the State of Israel's Rabbinic Courts, cite many more sources, including authorities that Torah scholars would agree are not the most prominent.