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# קול תורה

**Parashat Emor**

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## TEACHING by EXAMPLE

by *Rabbi Joel Grossman*

This week's Parashah begins with the Pasuk, "VaYomer HaShem El Moshe, Emor El HaKohanim Bnei Aharon VeAmarta Aleihem", "Hashem said to Moshe, say to the Kohanim the sons of Aharon and tell them" (VaYikra 21:1). The Gemara (Yevamot 114a) raises a question on this Pasuk: Why does HaShem say both "Emor" and "VeAmarta," seemingly repetitive language? Rashi (Yevamot 114a s.v. *Emor El HaKohanim Bnei Aharon VeAmarta*) answers that HaShem was warning the adult Kohanim to make sure their children don't become impure. Rav Moshe Feinstein ZT'L raises an interesting point against Rashi in his *Sefer Darash Moshe*: Both expressions are speaking about adult Kohanim, so where is there an allusion to children? Rav Feinstein brilliantly answers that when it comes to educating children, phrases such as, "This is allowed and that is forbidden" are worthless. A child must see with his own eyes in order to realize that what his parents instruct truly means something to them, and should mean something to him as well. Many years ago, I was hired to help out a ten year old boy who was having difficulty in Judaic Studies. The first time we met, the boy said to me, "I don't know why this is so important to my father, as I never see him open a Sefer." After the hour-long lesson, I asked the father to learn with me for the next three weeks instead of the son. The father was very surprised, yet he agreed. Never again did I need to tutor the child.

If children are constantly hearing positive things from their parents such as, "it is not difficult to keep the Torah," and, "Mitzvot are wonderful," the child's education has a great chance of being affected positively.

Now we understand why Hashem commands Moshe with "Emor" and "VeAmarta", for he was first to teach the basics of these Mitzvot and then explain to the Kohanim why they should feel the sweetness and uniqueness of the Mitzvot: through observing these Mitzvot wholeheartedly, their children will be growing up in the proper atmosphere.

Later in Parashat Emor, the Torah introduces the Yamim Tovim, beginning with Shabbat (VaYikra 23:3). Shabbat itself is not a Yom Tov, so what motivated HaShem to start with it? Rashi (ibid s.v. *Sheishet Yamim*) explains that one who violates Yom Tov is compared to someone who violates Shabbat, and one who keeps Yom Tov is considered as if he keeps Shabbat. If one decides he wants to keep only Shabbat or he only wants to keep the Yamim Tovim, both are egregious sins, as half-hearted faith is no faith at all. Shabbat is a constant reminder that Hashem created the world, while Yom Tov is a constant reminder that Hashem continues to run the world. Rav Moshe Feinstein writes, "Now we can understand why the Mitzvah of Shabbat is next to Yom Tov, since these fundamentals of faith are interchangeable and essential to being an observant Jew."

Now we can bring these two ideas together. Just as adult Kohanim must teach their children by example, so too, each and every one of us must fulfill our special Mitzvot of Shabbat and Yom Tov with immense happiness so our children will learn to enjoy observing Shabbat and Yom Tov. This will illustrate to them that Hashem both created the world and continues to run it, and the children's Simcha and Shemirat HaMitzvot will carry over to the fulfillment of Kol HaTorah Kulah.

As we count the Omer and prepare for the holiday of Shavuot, we must realize that Hashem took us out of Mitzrayim in order to not only receive the Torah on Har Sinai, but to keep the Torah strong in our daily lives as we practice it constantly.

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## MINHAGEI AVEILUT DURING THE OMER:

### ASHKENAZ VS. SEFARAD

by Yaakov Zinberg ('18)

*Editor's note: The following article is adapted from a chapter in Daniel Sperber's "Minhagei Yisrael".*

For most, Lag Ba'Omer marks the end of the Minhagei Aveilut associated with the Omer, particularly in terms of getting haircuts. The Shulchan Aruch (Orach Chaim 493:2) writes: "It is customary not to get haircuts until Lag Ba'Omer, since it is said that that is when they [the students of Rabi Akiva] stopped dying." In the next Se'if, the Shulchan Aruch cites what he feels to be the mistaken Minhag of getting haircuts on Rosh Chodesh Iyar, and here the Rama comments: "However, in many places it is customary to get haircuts until Rosh Chodesh Iyar, and these people do not get haircuts from Lag Ba'Omer and onwards [until after Shavu'ot]..." What accounts for this divergence of Minhagim between Sefaradim (as cited by the Mechaber) and Ashkenazim (brought down by the Rama)?

The source for any Minhagei Aveilut during the period of Sefirat Ha'Omer is the Gemara in Yevamot (62b), which reports that Rabi Akiva's 24,000 students died during the time between Pesach and Shavu'ot, because they did not respect one another. Mourning for this tragedy during the same seven-week period must have begun after the completion of the Talmud, since Ge'onim such as Rav Natruna'i Ga'on and Rav Hai Ga'on wrote that one should not marry from Pesach until Shavu'ot because of the death of Rabi Akiva's students. Yet the significance of Lag Ba'Omer as the end of Minhagei Aveilut was not recorded until the turn of the 13th century. Rabi Avraham Ben Natan HaYareichi, in his work "Sefer HaManhig," wrote, "Yet there is a Minhag in France and Provence to begin marrying from Lag Ba'Omer and onwards. And I heard in the name of Rabi Zerachia of Girona who found an old manuscript from Sefarad, [which said that the students of Rabi Akiva] 'died from Pesach until Pros Ha'Atzeret.' What is "Pros?" Half of a month<sup>1</sup>, 15 days before Shavu'ot. And this is Lag Ba'Omer<sup>2</sup>." Evidently, there was a Sefaradi tradition that

Rabi Akiva's students stopped dying on the 33rd day of the counting of the Omer, and, over time, the Minhagei Aveilut were applied only to these first 33 days. When the prohibition against getting haircuts developed, it went into effect only until Lag Ba'Omer, as cited by the Shulchan Aruch.

And where does the Ashkenazi Minhag of practicing Minhagei Aveilut from Rosh Chodesh Iyar until Shavu'ot come from? Maharam MiRutenberg reports that starting from Rosh Chodesh Iyar, many Ashkenazi communities would say special Kinot every Shabbat. The Rama, in a similar vein, writes that all the communities in the Rhineland (area in Western Germany) would say "Av HaRachamim" on the last Shabbat before Shavu'ot in memory of the martyrs of the Rhineland massacres. Many Jewish communities were massacred as part of the People's Crusade in the spring of 1096, and it is for these massacres that the Minhagim cited by the Maharam MiRutenberg and the Rama developed. Several Jewish communities of the Rhineland were attacked during the time period from Rosh Chodesh Iyar. The Jewish communities in Shapira, Vurmiza, and Magentza all came under attack during this five-week period. Since Minhagei Aveilut were already being practiced during this general timepan, the focus was shifted away from the first two weeks of the Omer, and instead the emphasis was placed on the much more recent tragedies in the Rhineland, and away from the death of Rabi Akiva's students. Since the Sefaradi communities were not at all subject to these massacres, they did not institute any practices commemorating them.

While the reasons for many Minhagim might be unclear, it is important to realize that almost all of them have some basis. In this case, the divergence in Minhagei Aveilut during the Omer between Ashkenazi and Sefaradi communities resulted from a unique Sefaradi tradition and historical circumstances that applied only to Ashkenazi communities.

## A CONVERSATION WITH RAV SHLOMO AMAR ABOUT A KOHEIN MARRYING A DAUGHTER OF A JEWISH WOMAN AND A NON-JEWISH MAN

by: Rabbi Chaim Jachter

### Introduction to the Case

Rav Shlomo Amar (the Rav Rashi of Jerusalem) was involved in a case of a Kohein marrying the daughter of a Jewish woman and a non-Jewish man. The district Beit Din

<sup>1</sup> The phrase "Pros Ha'Atzeret" first appears in Masechet Shekalim 3:1 and Bechorot 9:5, and means 15 days before Shavu'ot in both cases.

<sup>2</sup> Since 15 days before Shavu'ot is actually the 34th day of the Omer, many Sephardic Jews hold that one should continue practicing Minhagei Aveilut through the morning of the 34th, since "Miktzat Hayom Kekulo."

of Rehovot ruled strictly, but Rav Amar, while sitting on the State of Israel Supreme Rabbinic Court of Appeals, overturned their decision, and ruled leniently due to a unique circumstance.

#### *Gemara*

The Gemara (Yevamot 45b) establishes that the child of a non-Jewish man and a Jewish woman is Halachically Jewish and considered legitimate. No mention is made, however, of the daughter's possible ineligibility to marry a Kohein.

#### *Rishonim and Shulchan Aruch*

Various Rishonim debate how to interpret the Gemara's silence regarding the daughter's disqualification to marry a Kohein. The Rambam (Hilchot Issurei Biah 15:3) permits the daughter to marry a Kohein, the Rosh (Yevamot 4:30) forbids her to marry a Kohein, and the Rif (Yevamot 15a) is inconclusive. The Ramban (Yevamot 45a) is similarly uncertain, but adds that if a Kohein marries such a woman, they are not required to divorce.

The Shulchan Aruch (E.H. 4:5 and 7:17) rules that the daughter may not marry a Kohein, in accordance with the view of the Rosh. However, the two premier commentaries on the Even Ha'Ezer section of the Shulchan Aruch, the Beit Shemuel (4:2 and 7:39) and the Chelkat Mechokeik (7:26), rule in accordance with the Ramban that if the couple is already married, we do not require that they divorce.

#### *Acharonim*

The Acharonim debate whether the strict opinions in the Machloket cited above believe that it is an Issur De'Oraita (biblical prohibition) or an Issur DeRabanan (rabbinic prohibition) for a Kohein to marry such a woman. The Mishneh LaMelech (Hilchot Issurei Biah 17:7) and Sha'ar HaMelech (Hilchot Issurei Biah 15:3) believe that it is an Issur De'Oraita. But the Chelkat Mechokeik (ad. loc.), Rabi Akiva Eiger (Teshuvot Rabi Akiva Eiger no. 91), the Maharshal (Teshuvot Maharshal n. 17), the Beit Meir (4:5), and the Rama MiPano (Teshuvot Rama MiPano no. 124) rule that the prohibition is rabbinic in nature. Among twentieth-century authorities, Rav Moshe Feinstein (Teshuvot Igrot Moshe E.H. 1:5) rules that it is an Issur De'Oraita, while Rav Ovadia Yosef (Teshuvot Yabia Omer 7 E.H. 9) and Rav Shalom Mesass (Teshuvot Shemesh UMagein 3 E.H. 58) rule that it is an Issur DeRabanan.

This debate carries serious ramifications, as it impacts whether one should be lenient or strict regarding the implementation of this Halachah. The opinion that it is only

an Issur DeRabanan is supported by the opinion that that we do not force such a couple to divorce. Since it is a mere Issur DeRabanan, we do not impose the hardship of separating a couple that is already married.

#### *Civil Marriage*

One ramification of this dispute is the debate between Rav Moshe Feinstein and Rav Mesass as to whether a rabbi may officiate at a wedding of a Kohein to a daughter of a Jewish woman and a non-Jewish man, if the couple already had been married civilly and lived together for an extended period of time. Rav Moshe (ad loc.) forbids a rabbi to conduct such a ceremony, whereas Rav Mesass permits it.

This question depends on whether the Ramban's ruling allows them to remain together given their circumstances. Rav Moshe's based his approach on the overwhelming consensus of rabbinic opinions regarding a couple that is married in a civil ceremony as unmarried according to Halachah. Since the couple is not Halachically married, Rav Moshe forbids a rabbi to conduct a ceremony that will facilitate a sinful marriage.

Rav Mesass, on the other hand, believes that since only a Issur DeRabanan is involved, Halachah does not require the husband and wife to undergo the difficult process of separation. He understands the Ramban's ruling as permission to allow the couple to remain together if separation is too difficult. Rav Mesass even permits a rabbi to officiate at the wedding if the couple is already living together in sin, and they have not married civilly. Rav Ovadia Yosef (Teshuvot Yabia Omer 10 E.H. 10:14) later in life upheld a ruling from Rav Messas in similar case. Rav Shlomo Amar, rules (Teshuvot Shema Shlomo 5 E.H. 8) in accordance with Rav Mesass and Rav Yosef.

#### *The Rehovot Beit Din vs. Rav Amar the Appeals Beit Din*

In 2006, a Kohein wished to marry a woman whose mother was Jewish but whose father was not Jewish. The couple had been living together (in sin) for approximately one and a half years. The district Beit Din of Rehovot denied the couple a marriage license, in accordance with the ruling of Rav Moshe Feinstein. Rav Amar, however, sitting on the Supreme Rabbinic Court of Appeals overturned the ruling and permitted the couple to marry.

#### *Defending Rav Amar from Rav Bleich's Criticism*

Rav J. David Bleich concludes (Tradition Summer 2007) that the ruling of the Court of Appeals "strikes this writer as an abuse of appellate power," since it ruled simply that Rav Mesass and Rav Amar's rulings should be followed



instead of Rav Moshe's. He writes that Halachah "bars exercise of purely subjective discretion in choosing one set of precedents over another" as considerations for a higher authority to reverse a decision of a lower authority.

Torah Academy of Bergen County alumnus Rav Avi Levinson defends Rav Amar. He reasons that presumably the couple in this case was Sephardic; hence, there is no compelling reason for them to abandon the rulings of the leading contemporary Sephardic rabbis in favor of that of Rav Moshe.

#### *Conversation with Rav Amar on Shabbat Nachamu 5777*

I asked Rav Amar during his visit to Congregation Shaarei Orah, the Sephardic Congregation of Teaneck, if Rav Avi Levinson was correct in his assumption that in this case the husband was Sephardic. Rav Amar confirmed that indeed this was the case. He added that it is most appropriate for a Beit Din to issue rulings for a Sephardic Jew in accordance with the rulings of the leading Sephardic authorities, such as Rav Yosef and Rav Messas. Rav Amar explained that he maintains the highest level of respect for Rav Moshe Feinstein, but that most Acharonim disagree with him and rule that a Kohein marrying a daughter of a Jewish woman and non-Jewish man is violating only an Issur DeRabanan.

Rav Amar gave me a most precious gift - an inscribed volume of his most recent collection of Teshuvot on marriage topics entitled Melechet Shlomo . In responsum number 45, Rav Amar considers the possibility of permitting a marriage of a Kohein who is merely engaged to a daughter of a Jewish woman and non-Jewish man. Even though Rav Messas permits a couple that is already civilly married and even if they are merely living together, Rav Amar is willing to consider extending his permissive ruling even if the couple is only engaged<sup>3</sup>. He is cautious, though, and refrains from issuing permission to marry, in his role as Jerusalem's chief rabbi. He writes that a Beit Din must carefully investigate the situation, and determine whether it is appropriate to apply his lenient approach in each specific circumstance<sup>4</sup>.

<sup>3</sup> Rav Ovadia and Rav Messas already raised this possibility in the aforementioned responsum that appears in Teshuvot Yabia Omer, although in that case there was an additional factor permitting the marriage.

<sup>4</sup> One would imagine that the Beit Din would investigate if the couple knew way in advance of their Halachically questionable situation and became engaged simply to create a situation wherein rabbis would feel compelled to rule leniently. Such an approach disrespects Halacha and a lenient ruling in such a case constitutes a breach of the integrity of the

#### *Conclusion - Rav Amar: A Balanced Posek*

One should not receive the impression that Rav Amar is a hyper lenient Posek. Indeed, in many of the rulings he issued to me during his visit to Teaneck, he adopted a firm stance and felt that one should not readily "cave," even in a challenging circumstance. For example, Rav Amar declined to permit a patient who was discharged from a hospital on Shabbat or Yom Tov, to ask a non-Jew to drive him home (to avoid the need to remain in the hospital lobby for the duration of the Shabbat or Chag).

I put forth the argument that hospitals host many infections and that recently released patients are frail and susceptible to these infections and therefore there is significant need to justify the Issur DeRabanan to ask a non-Jew to drive the released patient home. Rav Amar felt that it was not permitted even if the patient is elderly! Rav Amar in this and other instances explained that it is important to hold firm and not injudiciously issue lenient rulings.

This made abundantly clear that Rav Amar adopts a wise and balanced approach to Halachah. In the case of the daughter of a Jewish mother and non-Jewish father, the need to rule leniently is most compelling. In less dire situations, we must steadfastly cling to the precious norms of Halacha, and not be too quick to rush to adopt a lenient approach.

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Halachic system. Performing a wedding in such a situation cannot be sanctioned.