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Different but Equal

by Rabbi Ben Krinsky

In Parashat VaEira (Shemot 6:14-25), the Torah lays out Moshe Rabbeinu's family tree over the course of a substantial amount of Pesukim. At the end of the section, the Pesukim explain that the purpose of the listing of the family is to specifically identify Moshe and Aharon; the Torah tells us "*Hu Aharon U'Moshe, Asher Amar Hashem Lahem Hotzi'u Et B'nei Yisrael MeiEretz Mitzrayim*", "These are Aharon and Moshe, to whom Hashem said: Bring B'nei Yisrael out of Egypt" (6:26). In order to make sure that we grasp the message, the next Pasuk tells us "*Heim HaMedabrim El Par'oh Melech Mitzrayim LeHotzi Et B'nei Yisrael MeiEretz Mitzrayim; Hu Moshe VeAharon*", "They are the ones who spoke to Par'oh, king of Egypt, asking him to let B'nei Yisrael out of Egypt; *these are the same Moshe and Aharon.*" Interestingly, the second time the brothers' names are mentioned their order is reversed. At first Aharon's name is first and Moshe's is second, while later Moshe's name is first and Aharon's is second. Rashi (6:26 s.v. *Hu Aharon U'Moshe*) is bothered by the switch in the order. The source of Rashi's confusion is a well-known principle in Chazal -- lists are always in order of importance. If this is in fact the case, then the same person should always be mentioned first; however, we would need to know who was more important -- Aharon or Moshe? Rashi, again drawing on Chazal, explains that in fact neither was more important, and in truth they were equal. The Torah switches the order to demonstrate that Moshe was not more important than Aharon, and Aharon was not more important than Moshe.

Rav Moshe Feinstein, in his classic work *Darash Moshe*, is bothered by the obvious difficulty with Rashi's explanation: How can Rashi claim that Moshe and Aharon were equal? Indeed, Aharon was a great man, and because of his righteousness he was appointed as the first Kohein Gadol. Furthermore, due to his stellar Middot, Chazal point to him as a role model in *Pirkei Avot* (1:12) when they advise "*Hevei MiTalmidav Shel Aharon; Oheiv Shalom VeRodeif Shalom*", "Be among the students of Aharon; love peace and pursue peace." But even so, he was not as great as Moshe Rabbeinu. Moshe, and not Aharon was the one chosen to lead the Jewish people out of Egypt, and Moshe, not Aharon was chosen to be the one to deliver the Torah to the Jewish people. Moshe, and not Aharon is the one described by Hashem as "*BeChol Beiti Ne'eman Hu*", "In all of my house he is trustworthy" (*Bamidbar* 12:7), the greatest Navi to ever live. We must not belittle the accomplishments of Aharon HaKohein in any way, but he was not as great as Moshe Rabbeinu. So how can it be that Aharon was considered equal to Moshe?

The answer to this question can be found, by way of example, by looking at any sports team. Every team has many different

groups of players: There are star players, and there are role players. The star players are the ones who do the heavy lifting; they score the most points and are the leaders of the team. However, there are no star players who can win a game by themselves. Every star player needs contributions from their other teammates, as it is impossible for one person to win a game on his own, and in the end of the day, we consider everyone's contribution important.

Rav Moshe Feinstein explains our Rashi by employing the same basic idea. Even though Moshe was greater than Aharon, Moshe could not have succeeded without his older brother. As described in Parashat Shemot (4:10), Moshe did not feel comfortable enough with his speaking ability to speak to Par'oh by himself. Enter Aharon, who was to serve as Moshe's mouthpiece (4:11-15.) Later in Parashat VaEira, we find that Aharon was not merely a mouthpiece—he even performed the first three of the ten Makkot by himself (7:8-8:15), without Moshe. Even though Moshe was certainly the most important person in the bringing about of the Exodus from Egypt, Aharon's contributions were vital. Without Aharon, Moshe would never have been able to communicate with Par'oh and the nation, and Yetzi'at Mitzrayim as we know it would never have happened.

We can learn a valuable lesson from the Torah's presentation of Moshe and Aharon. Despite Moshe's greater role, the Torah regards them as equals. In the eyes of Hashem everyone's contribution is valuable and important. No matter if we are the driving force or just a side player, we must always try to remember that everyone's contribution is just as crucial and just as critical to the end goal.

VAY'AAMINU: THEY BELIEVED

by Mark Gotesman ('18)

When reviewing Parashat BeShallah, a fascinating Pasuk jumps out as ripe for interpretation. Right before B'nei Yisrael launch into the Shirah, the Torah tells us "*VaYir'u HaAm Et Hashem, VaYa'aminu BaHashem UVMoshe Avdo*," "The nation feared God, and they believed in God and in Moshe His servant (Shemot 14:31). Even at a simple level, to fully understand this Pasuk is tricky. What does it mean that B'nei Yisrael now "believe in God and in Moshe"? First of all, B'nei Yisrael just bore witness to months upon months of miraculous, nature-defying plagues—does the one miracle at Yam Suf really make that great of a difference to their belief? Additionally, the Torah already established within the earlier episode of Moshe coming to the people with God's message that "*VaYa'amein HaAm*," "the nation believed (4:31). Apparently, a basic belief in the legitimacy of God and his messenger Moshe was already present. What, then, is the new Emunah generated at Keri'at Yam Suf?

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Various approaches to this question can be found amongst the commentators. Targum Onkelos, for example, offers an explanation in his translation of the Pasuk: “VeHeiminu BeMeimra DeHashem UViNvi’ut Moshe Avdeih,” “They believed in the word of God and in the prophecy of Moshe His servant (14:31). With his additions, Onkelos provides a simple way of answering our question: B’nei Yisrael, after finally seeing *all* the words of God come to fruition with the destruction of the Egyptians, now believed in the truth of God’s word, and, by extension, the method through which those words had been conveyed to them (i.e. the prophecy of Moshe).

I, however, would like to suggest a different answer, one which is rooted in the mindset of B’nei Yisrael prior to Keri’at Yam Suf.

Before the whole episode of Yezi’at Mitzrayim, B’nei Yisrael were slaves for over 200 years—generations upon generations were forced to look toward the Egyptians as their masters. In this sense, B’nei Yisrael developed a deep-rooted mentality of *man* as the master, and they could not conceptualize the existence of any other type of master-servant relationship. Even though they lived through the Makkot, when the heat is on and the Egyptians come chasing, B’nei Yisrael immediately revert back to their mentality as slaves. They come to Moshe in a panic and exclaim, “*HaLo Zeh HaDavar Asher Dibarnu Eilecha BeMitzrayim Leimor, ‘Chadal Mimenu VeNa’avdah Et Mitzrayim?’*” “Isn’t this the thing about which we spoke to you in Egypt, ‘Leave us alone, and we will serve the Egyptians?’” (14:12). At their core, B’nei Yisrael understand only that they are slaves to the Egyptians; when pressed, that is what they revert to.

Moshe Rabbeinu’s response to their outcry is critical: “*VaYomer Moshe El HaAm, ‘Al Tira’u; Hityatzevu UR’u Et Yeshua’at Hashem ... Hashem Yilacheim Lachem, VeAtem Tacharishun,*” “Moshe said to the people, ‘Don’t be afraid! Stand firm and see God’s salvation ... God will fight for you, and you shall remain silent’” (14:13-14). Moshe remains unflinching; he impresses upon the people a firm belief that God will bring aid, even if by all laws of man, none should come. While B’nei Yisrael’s fear indicates that they are still servants of man, Moshe Rabbeinu’s steadfast faith shows him to be a true servant of God.

And what happens? The Emunah that springs from Moshe’s devotion is perfectly carried out: B’nei Yisrael walk through the Yam Suf on dry land, while the waters crash down behind them onto the Egyptians.

Perhaps, then, we can understand the Emunah that B’nei Yisrael develop at the Keri’at Yam Suf. It is not some general belief or faith in the word of God; rather, what B’nei Yisrael develop is Emunah in the conceptual model of man-God relationship known as “Eved Hashem.” The events surrounding Keri’at Yam Suf, specifically Moshe’s steadfast devotion to God, open the eyes of B’nei Yisrael to a state of being that was totally foreign to them, namely, that of a servant to God. The Jews were totally immersed in physical slavery, where their master was always a human, and they could then only understand the dominance of a mortal power. When their physically-dominant Egyptians masters come chasing after them, they ultimately succumb to the fear and to their instinctive understanding of slavery.¹ Yet Moshe shows them a new way to live: putting faith not in a physical

master but rather in some higher and greater Adon. I think this interpretation fits the words of the Pasuk, “*Vaya’aminu ... BeMoshe Avdo*” (14:31)—B’nei Yisrael come to believe in the lifestyle of Moshe, in the idea that one can live as “Avdo” to God.

This approach, albeit unorthodox, to B’nei Yisrael’s realization at the Yam can then provide a better understanding of some surrounding details.

First of all, I think it clarifies a famous Midrash regarding Kriat Yam Suf: “*R’atah Shifchah Al HaYam Mah SheLo Ra’u HaNevi’im,*” “A maidservant saw at the sea what all the prophets did not” (quoted by Rashi 15:2 s.v. Zeh Keili). Perhaps, in light of my approach, the choice of the Midrash to highlight the perception of the Shifchah is core to its meaning: even those most “enslaved” at Keri’at Yam Suf (i.e. the Shifchah) achieve profound insight into God, as everyone who bears witness to the events fundamentally understands that the only true servant-master relationship is one of man-God, not man-man.

Second, I think my approach can explain a detail about the route that B’nei Yisrael take through the Midbar prior to Keri’at Yam Suf. The very first Pasuk of the Parashah describes Hashem’s reasoning for not taking B’nei Yisrael along the Derech Eretz Pelishtim: “*Amar Elokim, ‘Pen Yinacheim HaAm BiR’otam Milchamah VeShavu Mitzrayimah,*” “God said, ‘Lest the people reconsider when they see war and return to Egypt’” (13:17). Yet, almost immediately after Keri’at Yam Suf, when B’nei Yisrael begin on their supposedly war-free path, they are attacked by Amalek and forced into war! If Hashem’s concern is war, why does He lead B’nei Yisrael towards the Yam Suf and war with Amalek?²

I think my approach provides a convincing response: Hashem has no qualms about leading B’nei Yisrael towards Amalek because B’nei Yisrael will first experience Keri’at Yam Suf, the experience that makes them believe in the notion of an “Eved Hashem.” So, when Amalek attacks, all Moshe has to do is raise his arms heavensward, and “*VaY’hi Yadav Emunah,*” “his hands were like a faith” (17:12). Had B’nei Yisrael gone Derech Eretz Pelishitm, they would still only know servitude to man, and once they saw that their physical strength could not overpower the enemy, they would have fled. But now that B’nei Yisrael have gone through the Yam Suf, have seen Moshe act as the paragon of an Eved Hashem, they need only to look to him to be reminded of the reality that they exist not as Ovdei Adam but as Ovdei Elokim and that it is their Tefillot that will win them the war, not any human strength.

Ultimately, I think this lesson is one even for the modern day. Though not slaves, we still remain servants to man and materialism, in one form or another. It is our duty, then, to truly recognize the truth in serving only God—to be Ma’amin BaHashem UVMoshe Avdo.

BRINGING GLORY TO HASHEM

by *Akiva Sturm* (‘19)

Parashat BeShallah contains the famous poem Az Yashir, which is recited during Tefillah every single day. The text of the Az Yashir and that of the other Biblical Shirot is written differently than the rest of the Torah. Usually, the words start at the beginning of the line and continue until the end. However, poems are written “*Ariach Al Gabei Leveinah,*” “Organized like stacks of bricks” (Megillah 16b). The lines of Biblical poems alternate between two different structures. One line is written starting with text, then a large break, and then text at the end of

¹ Though B’nei Yisrael do *initially* cry out to God (see 14:10), it seems that terror eventually overcomes them, and they approach Moshe in a frenzy in the very next Pasuk.

² More traditional approaches to this question can be found within the commentators; see, for example, Ramban

the line. The next line will be structured in the opposite manner; it will start with a space, then text, and then more space.

Why are these Shirot written differently than the prose of the Torah? Rav Ahron Soloveichik suggested that all of the requisite information to understand prose is given in the text. With regards to poetry, the author deliberately leaves out some of the information, leaving the reader to speculate about what the author had in mind when writing the poem. This idea may apply to the Torah as well. The blank spaces in the text suggest there is room for interpretation.

Rav Yosef Adler, Rosh Yeshiva of TABC, suggested an example of how we can fill in these “blank spaces.” Rav Adler explained that the phrase “Zeh Keili VeAnveihu,” “This is my God and I will glorify him,” (Shemot 15:2) has three possible interpretations. Firstly, the Gemara teaches us that the phrase is the source for Hiddur Mitzvah, the Mitzvah to beautify other Mitzvot. By completing Mitzvot in a more beautiful manner, one accomplishes the goal of glorifying Hashem. Another opinion is that the word VeAnveihu is a contraction of the words Ani and Hu (I and He). The Pasuk is alluding to the many ways we can emulate Hashem, such as “Mah Hu Rofei Cholim, Af Ani Rofei Cholim” and “Mah Hu Rachum, Af Ani Rachum.” Just like Hashem heals the sick and is very merciful, so too everyone should try to help the sick and be merciful, among many other attributes. This is the first source in the Torah for trying to emulate Hashem. The last interpretation of the Pasuk is offered by the Targum. He translates the Pasuk as “VeEvnei Lei Makdesha Elaha,” “I will build Him a Divine home” (ibid.). According to Targum, this phrase is the source for the Mitzvah to build a Beit HaMikdash.

While these three interpretations may seem incongruous, they may actually be teaching the same idea. They all highlight the importance of conducting oneself in such a manner that everybody will recognize Hashem as the true God. The connection of the final interpretation is obvious; people will see the glorious Temple and recognize that it belongs to Hashem. The first two opinions set guidelines for how we should conduct ourselves. The concept of Ani VeHu dictates that our Bein Adam LaChaveiro actions (interpersonal relationships) must emulate the ways that Hashem behaves. God is the Rofei Cholim, so you must help the sick. God is Rachum, so you must be merciful. God is Malbish Arumim, so you must give clothes to those that need. These actions will publicize the way of Hashem to others. Another way to raise awareness of Hashem is by engaging in Hiddur Mitzvah; you should not just do the bare minimum required for a Mitzvah. If you just do a little, it will make it seem like you think that the Mitzvah is a burden. When you do the Mitzvah in the best possible way, in a way that is not necessary, you are exemplifying that Hashem is watching. You perform the Mitzvah in a way that is not required in order to please Hashem.

When Moshe first sang the words of Az Yashir, he and B'nei Yisrael were praising Hashem for freeing them from slavery. For them, the words had a clear and direct meaning as they emerged from the Yam Suf. The words “Zeh Keili VeAnveihu” were a praise of Hashem for the great miracle they had just witnessed. Today, as we hear the poetic words of Az Yashir ring out during Keriyat HaTorah, we have to internalize the message of “Zeh Keili VeAnveihu” that applies today. These words are not just a praise of the great miracles that Hashem did in the past; they serve as a reminder to bring glory to the name of Hashem. We must constantly emulate Hashem in our everyday conduct so that everybody will recognize the greatness of Hashem.

RESOLVING A FINANCIAL DISPUTE BETWEEN ROOMMATES—PART TWO

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 past 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 (BDA) 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 the BDA's decision was intelligent, well-crafted and nuanced. We proceed to note the specific aspects of the decision that caught their attention. In our previous issue we focused our analysis on the procedural aspects of the case, while in this week's issue we will address the substance of the decision.

Although the sum of money involved in the issue is relatively small, there are quite a number of issues in need of resolution. The primary concern is whether the young man who did not move in is liable for the rent from December 2009 through June 2010 when another roommate was finally found. However, two other issues were involved -- the dispute about whether the December rent was paid and the question as to whether the absentee roommate should pay his share of utilities, since he did not live in the apartment and add to the utility bill.

Balancing Pure Halacha and Minhag HaMedinah in the Decision

Pure Halacha is fairly clear about matter under dispute. The Shulchan Aruch (Choshen Mishpat 316:2) states:

If two people rented a house in partnership to share a residence, one cannot substitute another family of renters even if the substitutes are fewer in number. The other party is entitled to claim that they are comfortable sharing a home with the original partner but are not comfortable with the substitute.

Although the Rema notes that there are those who disagree with this approach, the Aruch HaShulchan (C.M. 316:3,9) rules in full accordance with the Shulchan Aruch.

The Be'er HaGolah presents the Tur's citation of the Teshuvot HaRosh as the source for this ruling. The Teshuvot HaRosh reasons:

People are uncomfortable accepting just any family to share a home. Some find certain families to be too prominent for them, others too undignified, and others too contentious and may not trust the substitute family.

This ruling was issued at a time when the level of Halachic observance was relatively homogenous so a difference in levels of observance was not presented as a reason to reject a substitute. However, in our times this may certainly be added to the list of concerns people may raise about potential housemates.

The Minhag HaMedinah (common commercial practice), however, considerably differs from Halacha. The Minhag HaMedinah³ is to tolerate a substitute roommate. The

³ Minhag HaMedinah is taken into account by Halacha because it sheds light on the mindset of the parties at the time of the agreement. The Halacha assumes that unless stipulated otherwise, the parties entered their agreement with the presumption that the



individual who decided not to move in is not held responsible for his share of the rent after a reasonable time has passed to create an opportunity to find a substitute renter⁴.

A Potential Resolution to the Contradiction

One could distinguish, though, between the situations and argue that there is no tension between the Shulchan Aruch and the current common commercial practice. The Shulchan Aruch addresses a situation of families sharing the same house. The current common practice to readily find a substitute is in regard to single individuals sharing an apartment. The Shulchan Aruch's situation is a much more challenging and invasive one, thus lending itself for people to be far more particular regarding the choice of their house mates than a situation with single apartment mates.

Moreover, since the dispute occurred in a community where hundreds of relatively religiously homogenous Modern Orthodox singles reside and apartments are not always simple to find, such as the Washington Heights section of New York City, a reasonably acceptable substitute should have been relatively easy to find. Thus, one could argue that the Shulchan Aruch's codification of the Teshuvot HaRosh's ruling is entirely irrelevant to the ruling. One could have potentially ruled that the remaining roommates were too particular about the substitute and should have found a replacement roommate much earlier than he did and absolve the roommate who backed out from any payment.

The Dayan's Approach to Resolving the Dispute

The Dayan who sat on the situation decided, however, to blend the Teshuvot HaRosh with the current Minhag HaMedinah. He rules that the Halachic right to decline roommates applies fundamentally applies even in the current situation⁵. Thus, the Dayan utilizes Minhag HaMedinah only to discount the rent obligation by a third as an equity consideration. Had he viewed the Minhag HaMedinah as primary he would have obligated the renter who backed out to pay only a third of the rent as a nod to the ruling of the Teshuvot HaRosh and Shulchan Aruch.

Additionally, the Dayan very wisely marshaled the Minhag HaMedinah to excuse the renter who backed out from both utilities and the rent payment for the months of April and May. This is certainly most appropriate considering that one could argue that the ruling of the Shulchan Aruch does not apply in the current milieu⁶.

normal commercial practices of their community would be followed. Accordingly, the Minhag HaMedinah must incorporate the Minhag of the Modern Orthodox community, as the litigants discussed in this case appear to have been. Modern Orthodox Jews enter, as would be expected, into a renter's agreement based on the normal practices of the Modern Orthodox community in this regard.

⁴ Interestingly, the Dayan in this case cites civil judicial decisions as part of his decision. At first this seems to contradict the Sema (369:21) who cites the Teshuvot HaRashba that Dina D'Malchuta Dina (the requirement to respect the local civil law) applies only to the edicts and decisions of the rulers but not of the courts. However, one could argue that in the United States the judiciary is part of the legislative process. More to the point, though, is that the civil judicial rulings are cited by the Dayan simply to corroborate and clarify the Minhag Hamedinah.

⁵ In fact, the most widely recognized and accepted contemporary Halachic work, the Pitchei Choshen (Hilchot Sechirut 4:10), presents the Shulchan Aruch's codification of the Teshuvot HaRosh as Halacha without dissent. Presumably, the Dayan in our case is following in the path of the most prominent contemporary authority on this topic. There are many reasons for doing so, including the desire to provide some predictability for Beit Din's rulings, as we discussed in our previous essay.

⁶ It is both most interesting and instructive that the Dayan essentially followed the pure Halacha in regards to January, February and March but applied Minhag HaMedinah to April and May.

The Disputed December Rent

Regarding the disputed payment of the December rent, the Dayan writes that "Defendant's assertions that he paid in full for this period are credible." The Dayan, however, is not clear why he arrived at this conclusion. Moreover, he concludes that "Plaintiff's claim is subject to the rule of Hamotzi MeiChaveiro Alav HaRa'ayah (the burden of proof is on the claimant), the burden of which was not met".

The reader is left wondering as to whether the issue of the payment of the December rent was explored to the fullest extent within reason. In today's day and age, with transactions and exchanges having electronic records (except, of course, for cash payment), it would seem reasonable for the Beit Din to demand from one who claims he paid a debt to present evidence such as a record of a canceled check. It would seem that the rule of Hamotzi MeiChaveiro Alav HaRa'ayah applies only to a situation where there is no viable option exists to verify a financial dispute⁷. I presume that the Dayan either conducted such an investigation during the Din Torah (hearing) or he reasoned that it was the responsibility of the claimant to issue a demand to see evidence of payment and the claimant failed to do so.

Conclusion

Although it is a very brief responsum, the Dayan's discussion of this issue is informative, educational and stirs interest to further explore the issues involved. Most importantly, this measured decision instills confidence that contemporary Rabbanim continue to effectively grapple with the financial dilemmas that arise today. We are thankful to Hashem that He provides us with capable Dayanim who are able to issue highly intelligent and sophisticated resolutions to the financial disputes of our time.

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⁷ The cases presented in the Mishna, Bava Metzia 8:4, are examples of dubious situations for which there is no reasonable manner to resolve a dispute, in which case we follow the opinion of the Rabbanan (as opposed to Sumchus) and apply the principle of Hamotzi MeiChaveiro Alav HaRa'ayah.