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Parashat VaYitzei

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Olim VeYoredim

by: Rabbi Yosef Adler

In the initial episode of Parashat VaYitzei, the Torah describes Yaakov's journey from Eretz Cana'an to Charan. When he stops for the night in Beit Eil, he famously dreams of angels ascending and descending a ladder that extends from the ground into the Heavens. Rashi (Bereishit 28:12) comments that Yaakov was constantly escorted by heavenly angels when he traveled. He had designated angels that escorted him in Eretz Canaan, and they were replaced with the Chutz La'Aretz angels as he approached the border.

Ramban (*ibid.*), however, argues that there was only one set of angels. The angels only ascended to the Heavens to ask Hashem if they had any additional responsibilities once they finished accompanying Yaakov to the border, because no angel can engage in any earthly activity without receiving the express permission of the Ribono Shel Olam. They were then instructed to continue to guard Yaakov as he traveled through Chutz La'Aretz. The vision served as a demonstration of Hashem's supremacy over the Heavenly bodies.

I would like to share with you another idea developed by the Rav, HaRav Yosef Dov Soloveitchik. HaKadosh Baruch Hu has an expectation for each person that he creates. Everyone has natural talent, but they must also take advantage of opportunities that present themselves. As a teenager, when I played football, I was always the wide receiver. No matter how hard I tried, my lack of NFL caliber talents precluded from reaching the level of one of my favorite players, Del Shofner (a star Giants player of the 1960s). Furthermore, even if I had the talent, many other conditions would need to be met before I could achieve my goal. I would need to be well trained, accepted to a college with a strong football program, and be recognized by an NFL scout. This process also applies to how we develop as a human being. We must implement our natural talents, take advantage of given opportunities to improve society, and not focus on what is completely unrealistic. From time to time, HaKadosh Baruch Hu checks to see if we have grown as Bnei Torah, as Talmidei

CChachamim, or as members of society. The angels that are Olim VeYoredim represented God's inquiry into Yaakov's development. The angels had to survey Yaakov, and report if Yaakov had fulfilled Hashem's dream of emerging as the third of the Avot. After finalizing their report, they are Olim, and return to Hashem.

Each and everyone of us experience similar episodes during our lives. Hopefully, we are cognizant of this and recognize the challenge of trying to regularly improve ourselves, and our designated angel will be delighted to be Olim V'Yoredim on our behalf.

IN PURSUIT OF PEACE

by: Eitan Mermelstein

In this week's Parashah, Parashat VaYitzei, we read that Rachel stole her father Lavan's *Terafim*. Most authorities explain that she stole idols that belonged to her father, so that he would cease to worship them. This seemingly noble act is undermined, however, by Yaakov's categorical denial that anyone of his party stole these idols, once Lavan reached him (Bereishit 31:32). He even seems repulsed that Lavan would accuse his family of doing such a thing. Furthermore, once given permission to search their belongings, Lavan approaches Rachel, who attempts to deny Lavan any chance to search her tent (31:35). If what Rachel did was such a noble act as preventing idolatry, then why did she deny it?

To illustrate how nobly Rachel was acting, Rabbeinu Chananel (31:39) states that she stole the idols to force her father confront her, which would afford her an opportunity to tell him that idols have no power. If these idols did have any power, they would have stopped Rachel from stealing them; as they did nothing, Rachel could clearly show their powerlessness. According to Rabbeinu Chananel, Rachel's act was extremely reminiscent of what the Midrash attributes to Avraham Avinu when he first discovered Hashem (Bereishit Rabbah 38:13): Avraham smashes all of his father's idols to show his father that these idols had no power. Furthermore, the Da'at Zekenim (31:19 s.v. *VaTignov Rachel Et HaTerafim*) states that Rachel also used this opportunity to destroy Lavan's idols, exactly mirroring Avraham's act. If so, why was Ya'akov so scandalized by Lavan's accusation?

There is a telling difference, however, between these two stories: Avraham confronts his father, telling Terach why he acted in such a way, while Rachel dodges Lavan's accusations entirely. Rachel had similar intentions to those of a person with a friend who has an addiction. He will try to steal a pack of cigarettes from his addicted friend in order to confront him.

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However, if his addicted friend inquires about the missing pack of cigarettes and he denies ever taking them, nothing has been accomplished. The addicted individual will just buy another pack. In the same way, by stealing the idols, Rachel is setting up a confrontation to attempt to stop Lavan's idolatrous ways. But by denying that she had taken the idols, Rachel had accomplished absolutely nothing. Lavan would simply buy additional idols as soon as he left them. Why did Rachel not confront Lavan?

The Rashbam offers one possible answer (31:19 s.v. *VaTignov Rachel Et HaTerafim*): Rachel's noble act was not done to prevent Lavan from serving idols. Rather, Lavan had used these idols to practice magic and divination. When Rachel stole the idols, Lavan could not use magic to find Yaakov's family, increasing their chances of successful escape. Thus, Rachel's strange behavior when Lavan confronted her was indeed logical; once he had found them, having the idols was of no advantage any longer, but was rather an act of blatant thievery. Ramban (*ibid.*) and Chizkuni (*ibid.*) also agree with the Rashbam, saying that although some of the *Terafim* were idols, some of *Terafim* that Rachel stole were used to divinate and see the future.

The Seforim offers another potential answer to our question (31:30 s.v. *Lamah Ganavta Et Elohai*). He explains that when Lavan asks Yaakov why he stole his idols, Lavan is really stating, "Your leaving is not a reason to steal my idols." Therefore, it is clear that Lavan does not and will not understand why idolatry is wrong. His point of view, however, is clear; he believes that Yaakov is a thief, and does not consider Rachel's action to be justified. When Lavan confronts her, she understands that nothing she could say would impact Lavan's opinion, and remains silent to avoid incriminating her family. Ultimately, it would only cause a Chillul Hashem.

Therefore, Rachel embodies Hillel's famous words in Pirkei Avot (1:12) to chase peace and love peace. She wants to initiate peace, even if nothing can be done to stop Lavan's idolatry. She shows that sometimes there is nothing that can be done to help people, but it is our role to insure peace, rather than needless quarrel, when confronted with such people. As Rashi (11:9) states, "*Lamadta SheSanui HaMachloket VeGadol HaShalom*", "[We] learn that quarrel is hated [before G-d] and peace is great".

COUNTING A KATAN TO A MINYAN AND ZIMMUN - SEPHARDIC AND ASHKENAZIC APPROACHES

by Rabbi Chaim Jachter

Introduction: An Incident at Shaarei Orah

In 2000, on a Sunday morning soon after I was privileged to assume the position of Rav at Congregation Shaarei Orah, the Sephardic Congregation of Teaneck,

there were nine men and a boy the age of eleven. Could we count the boy as part of the Minyan if he were to hold a Torah or a Chumash? Jack Varon, a veteran leader at Shaarei Orah, immediately noted that Sephardic Jews do not count a Katan (minor) in a Minyan.

It turns out that Jack was correct. Maran Rav Yosef Karo (*Shulchan Aruch* 55:4) notes that some are lenient about this issue, but that the great Poskim rejected this view. Rav Ovadia Yosef (*Teshuvot Yabia Omer* 4: O.C. 9) strongly endorses Maran's view. He adamantly rejects counting a Katan to a Minyan even in an extreme situation such as a community where only nine men resided in a particular community, and the only way to create a Minyan was to count a minor. Cacham Ovadia even rules that if one is present at a Sephardic Minyan that is about to rely on the lenient view, he should walk out so that the Minyan does not conduct a Minyan, a violation of Halachah¹. Thus, at Shaarei Orah we never count a Katan to a Minyan even if he is holding a Chumash.

The Ashkenazic Approach

The Rama, however, records that there are those who are lenient in a case of great need, and only if the Katan holds a Chumash. There is a rich and varied approach amongst Ashkenazic Jews as to whether this approach is a feasible course of action. This question has never fully been resolved.

The Mishnah Berurah (55:24) cites the Levush and Magen Avraham, who disagree as to whether this constitutes a viable opinion which may be followed even in a case of pressing need. The Mishnah Berurah concludes that in our time, even though many Acharonim object, in a case of great need, a Katan can be included in a Minyan if he holds a Chumash. The Aruch HaShulchan (O.C. 55:10), though, believes that a Katan many never be included in a Minyan.

Amongst twentieth century Ashkenazic Poskim, Rav Yaakov Breisch (*Teshuvot Helkat Yaakov* 28), Rav Moshe Feinstein² (*Teshuvot Igrot Moshe* O.C. 2:18) and Rav Yosef Dov Soloveitchik³ permitted relying on the lenient approach in case of great need. *Teshuvot Melamed LeHo'il* (O.C. No. 4) and *Teshuvot BeTeil HaHochmah* (4:33) both object to the communal implementation of the lenient approach.

Early twenty first century Ashkenazic Rabbanim continue to debate the issue. Rav Aharon Lichtenstein told me that in case of pressing need, one may rely on the lenient opinion. Rav Gedalia Schwartz, on the other hand, stated during a speech at a convention of the Rabbinical Council of America that if there are Jews who live in the area but unfortunately choose not to attend

¹ Rav Ovadia rules that it is not necessary to engage in such a protest if an Ashkenazic Minyan counts a minor as the tenth to a Minyan.

² Rav Moshe believes that the Katan must hold an actual Sefer Torah.

³ Cited by Rav Hershel Schachter, as noted in Rav Aryeh Lebowitz' *Sefer HaKoneh Olamo* pp. 293-294.

the Minyan, the lenient view may not be followed even in case of great need.,

Background - Berachot 47b-48a

The Gemara (Berachot 47b-48a) in a long and winding discussion, discusses this very issue⁴: "On the subject of completing a Zimmun, R. Yehoshua ben Levi said: Nine Jews and a slave join together to form a Zimmun of ten. The Gemara raises an objection: There was an incident involving R. Eliezer, who entered a synagogue and did not find a quorum of ten, and he liberated his slave and he completed the quorum of ten. From this we may infer that if he freed his slave, yes, he may join the quorum of ten, but if he did not free him, no, he may not join the quorum of ten. The Gemara responds: In that case, two were required to complete the quorum; R. Eliezer freed one and fulfilled his obligation with another one, who completed the quorum of ten without being freed.

With regard to this incident, the Gemara asks: How did he do that? Didn't R. Yehuda say: Anyone who frees his Canaanite slave violates a positive Mitzvah, as it is stated with regard to Canaanite slaves: "You will keep them as an inheritance for your children after you, to hold as a possession; they will serve as bondsmen for you forever" (Leviticus 25:46)? How, then, could R. Eliezer have freed his slave? The Gemara answers: The case of a Mitzvah is different. The Gemara asks: It is a Mitzvah that comes through a transgression, and a Mitzvah fulfilled in that manner is inherently flawed! The Gemara responds: A Mitzvah that benefits the many is different, and one may free his slave for that purpose.

In praise of a quorum of ten, the Gemara states that R. Yehoshua ben Levi said: One should always rise early to go to the synagogue in order to have the privilege and be counted among the first ten to complete the quorum, as even if one hundred people arrive after him, he receives the reward of them all, as they are all joining that initial quorum. The Gemara is perplexed: Does it enter your mind that he receives the reward of them all? Why should he take away their reward? Rather, emend the statement and say: He receives a reward equivalent to the reward of them all.

With regard to the laws of joining a quorum, R. Huna said: Nine plus an ark in which the Torah scrolls are stored join to form a quorum of ten. R. Nachman said to him: Is an ark a man, that it may be counted in the quorum of ten? Rather, R. Huna said: Nine who appear like ten may join together. There was disagreement over this: Some said this Halachah as follows: Nine appear like ten when they are gathered. And some said this Halachah as follows: Nine appear like ten when they are scattered, the disagreement being which formation creates the impression of a greater number of individuals.

Similarly, R. Ami said: Two people and Shabbat join to form a Zimmun. R. Nachman said to him: Is Shabbat a person, that it may be counted in a Zimmun? Rather, Rav Ami said: Two Torah scholars who hone each other's intellect in Halachic discourse join

together and are considered three. The Gemara relates: R. Chisda pointed to an example of two such Torah scholars who hone each other's intellect: For example, Rav Sheshet and I. Similarly, Rav Sheshet pointed: For example, R. Chisda and I.

With regard to a minor's inclusion in a Zimmun, R. Yochanan said: A mature minor, i.e., one who is still a minor in terms of age, but is displaying signs of puberty, is included in a Zimmun. That opinion was also taught in a Baraita: A minor who grew two pubic hairs, a sign of puberty, is included in a Zimmun; and one who did not grow two hairs is not included in a Zimmun. And one is not exacting with regard to a minor. The Gemara comments: This Baraita itself is difficult. You said that a minor who grew two hairs, yes, he is included, one who did not grow two hairs, no, he is not included, and then it taught that one is not exacting with regard to a minor. What does this last clause come to include? Is it not to include a mature minor? Explain the Baraita as follows: A minor who grew two hairs is included in a Zimmun, and we are not exacting with regard to a minor to ascertain whether or not he has reached the age of maturity.

The Gemara concludes: The Halacha is not in accordance with all of these statements. Rather, the Halachah is in accordance with the statement that R. Nachman said: A minor who knows to Whom one recites a blessing is included in a Zimmun.

The Gemara relates that Abaye and Rava, when they were children, were seated before Rabba. Rabba said to them: To whom does one recite blessings? They said to him: To God, the All-Merciful. Rabba asked them: And where does the All-Merciful reside? Rava pointed to the ceiling. Abaye went outside and pointed toward the heaven. Rabba said to them: You will both become Sages. It is as the popular saying goes: A cucumber can be recognized from its blooming stage. Similarly, a great person can be recognized even from a young age."

The Rishonim's Debate - Rambam, Rabbeinu Tam, the Ri, the Rosh and the Tur

The Rambam (Hilchot Berachot 5:7) rules in accordance with the straightforward reading of the Gemara. The entire discussion is dismissed except for R. Nachman who permits counting a Katan who is aware of the One we bless, to join a Zimmun. The implication is that we count a Katan as a third or tenth for a Zimmun, but not for a Minyan (Hilchot Tefillah 8:4) since the view of R. Yehoshua ben Levi is rejected by the conclusion of the Gemara. The Shulchan Aruch (O.C. 199:10) rules in accordance with this opinion. Although the Shulchan Aruch does not permit counting a Katan as the tenth to a Minyan, he is lenient regarding a Zimmun. Biur Halacha (55:4 s.v. V'Lo Nirin Divreihem) explains that regarding *Davar SheBeKedushah*, the portions of Tefillah which require a Minyan, Rav Yosef Karo adopts a stricter approach.

⁴ Elucidated translation adapted from Sefaria.org.

The Shulchan Aruch permits including a Katan from “Onat HaPe’utot” as the third or tenth for a Zimmun. The Ben Ish Chai (Yr. 1 Korach 11) rules that this refers to the age of nine. Rav Ovadia Yosef (Teshuvot Yechave Da’at 4:13 and Teshuvot Yabia Omer 9: O.C. 91:8:3), though, rules forcefully that a Katan is permitted to join from age six. The story regarding Rava and Abaye, which seems to be presented by the Gemara to show an example of children who recognize Hashem and may be counted to a Zimmun, seems to be fit more with a child the age of six rather than with a child aged nine. Thus, I advise congregants at Shaarei Orah to follow CChacham Ovadia’s opinion.

Rabbeinu Tam (cited in Tosafot Berachot 48a s.v. V’Leit) believes that the Gemara in its conclusion does not reject the opinion of R. Yehoshua Ben Levi presented at the beginning of the Sugya. Rather, it rejects only the discussion beginning with the idea of counting an Aron or Shabbat as an adjunct to a Minyan. Rabbeinu Tam notes that the Gemara equates Zimmun with Tefillah in its earliest stages. Thus, Rabbeinu Tam surprisingly permits counting a Katan as a third or tenth to a Zimmun and as a tenth to a Minyan.

Tosafot cite the practice of some to count a Katan as the tenth if he holds a Chumash. Rabbeinu Tam dismisses this practice as a “Minhag Shetut” (foolish), just as the Gemara dismisses attempts to argue that an Aron or Shabbat may be counted to a Minyan.

The Ri, however, is cited by Tosafot who reports that Rabbeinu Tam never relied on his view in practice. The Ri, based on a report recorded in the Talmud Yerushalmi, rejects the idea of counting a Katan to either a Minyan or a Zimmun. The Rosh (Berachot 7:20) and the Tur (O.C. 55) embrace this view. Thus, the Rama rules that a Katan cannot serve as either the tenth or third to a Zimmun. He notes that this is the accepted practice among Ashkenazim, and rules that Ashkenazim should not deviate from this Minhag.

Even though that in a case of great need, the Rama permits the counting of a Katan as the tenth in a Minyan if he holds a Chumash, he rules out the possibility of counting a Katan as the tenth for a Zimmun. The Rama’s reasoning might be that there is never truly a pressing need to conduct a Zimmun, as there is for a community to conduct a Minyan.

Although R. Nachman seems to permit counting a Katan to a Zimmun if he recognizes to Whom we recite Birkat HaMazon, R. Nachman might be understood as referring only to a Katan who exhibits signs of physical maturity (Shetei Sa’arot) as well.

Conclusion

Sephardic Jews never count a Katan to a Minyan, but will count a child beginning from the age of six (as long as he recognizes Hashem) as the third or tenth to a Zimmun. Ashkenazic Jews never count a Katan to a Zimmun, but might count a Katan holding a Chumash as the tenth to a Minyan in case of pressing need.

Postscript - the Moroccan Approach to Counting a Katan to a Minyan

Rav Mordechai Lebhar (Magen Avot O.C. 55:4) notes that many Moroccan communities relied on the lenient opinion to

count a Katan holding a Chumash to a Minyan, but Rav Shalom Messas (Teshuvot Shemesh U’Magein 4:17) was vehemently opposed to this practice. Rav Messas was told that the Minhag in his hometown of Meknes was to include a Katan in a case of great need. Ribi Shalom, in turn, resolutely responded that this is “Sheker Muchlat”, absolutely false. He recounted that in the forty years he spent in Meknes, there were a number of occasions when a Minyan could have completed with a Katan, yet the Katan was not included.

Shaarei Orah member Naftali Melloul (a native of Morocco) recalls occasions in Morocco when a Katan holding a Chumash would be counted to a Minyan. Shaarei Orah member Dr. Michael Benhamu recounts that his father, the well respected Rav Yehuda Benhamu of Florida, once counted his older brother (Rav Avraham) to a Minyan (while holding a Chumash) when the latter was just short of thirteen years old. This occurred when Rav Benhamu served as a Rav in Bogota, Columbia, in the days when it was exceedingly difficult to find a Minyan there at Mincha of Shabbat afternoon.

Rav Lebhar does not explain the basis of those Moroccan Jews who count a Katan as the tenth to a Minyan in case of extenuating circumstances. Rav Yosef Karo seems to reject this opinion; how could they follow the lenient approach even in case of a pressing need? Perhaps the fact that Maran Rav Karo notes that there are those who are lenient about this issue, opens the possibility of relying upon the lenient opinion in case of enormous need. Rav Ovadia Yosef, though, argues that Maran cites this opinion only as a means to express his rejection of this view. This would echo the Mishnah (Eiduyot 1:6) that the reason why we sometimes cite the minority view against the majority approach, is in order to communicate that the minority view is rejected.

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