



Yesodos m' ha Sedra

LESSONS IN HASHKAFKA & HALACHA FROM THE PARSHA

In memory of R' Shmuel Shmelka ben HaRav Moshe Kizelnik z"l

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DAAS TORAH AND RATZON HASHEM

When Yisro came, he saw that his esteemed son-in-law was standing the entire day resolving disputes and solving dilemmas of the Jewish people. Worried that Moshe was being overworked, Yisro recommended instituting a system of multiple levels of judges to preside over the B'nei Yisroel, and that Moshe should only occupy himself with resolving the more difficult cases. At first Moshe was reluctant to accept Yisro's advice, but after consulting with the Ribono shel Olam, Moshe followed his father-in-law's advice and legislated Yisro's suggestion into action.

Yisro might have given good advice, but it is hard to imagine how this newcomer to Judaism could realize the inherent problems with a system with which he is not yet familiar. This is aside from the fact that Moshe Rabeinu and moreover, the Ribono shel Olam seemed to fail to realize. How are we to understand all of this?

HaRav Uziel Milevsky zt"l explains that ultimately, the original system where everyone would come to Moshe directly, was just what was in order. Only he, the greatest teacher who ever lived, could truly educate the masses as to what is truly the ratzon Hashem. Indeed, when Yisro initially approached Moshe to recommend his new ideas, Moshe dismissed him and explained that the people were seeking the word of G-d and he was therefore mistaken. True, Moshe explained, Yisro's recommendation was the most viable for a system of courts and adjudication. However, since the B'nei Yisroel search for daas Torah, which is something much higher, the best place to go, is to the top. Although Yisro initially accepted his answer, as he began to circulate among the people, he discovered that many of them were agitated while waiting in line. If these people are seeking truth, Yisro surmised, it shouldn't bother them to have to wait their turn. Yisro appreciated the pursuit of emes, and understood that this wasn't the true motivation of most of those who sought Moshe's counsel, and so, he returned to Moshe to relate his new findings. Not convinced that this was the case, Moshe turned to the Ribono shel Olam Who confirmed that Yisro's assessment was indeed correct.

There are many lessons to be learnt. Pursuit of truth requires patience and sometimes going to the top. This is also true. However, ultimately this is what is expected of us as Jews. Both Moshe Rabeinu and Hakadosh Boruch Hu thought so and only after Yisro asserted that we fell below this expectation, were adjustment made to the system in place. We live in somewhat of a spoiled generation when "who can I sue for this?" is almost a knee-jerk reaction. Instead of fighting in pursuit of what is right, we argue that we are right. We have lost sight of pursuit of emes and replaced it with molding the Torah to further our own agendas. This causes us to lose patience with others, with the system, and with ourselves. A yid must always ask himself 'what does Hashem expect of me?'. If we do so at every juncture, we can attain the level that was expected of us when we received the Torah at Har Sinai.

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*From the desk of
the Rosh Kollel...*

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As of recent the Yesodos, presents two changes,: First, we have renamed the Halachic discussion “Sugyas ha’Sedra” and we hope to publish past discussions as a sefer on the parsha this summer BSD. Dedication opportunities for the project are available. Also, we have added a section called “I’maaseh” - a story of inspiration or hashgacha pratis which somehow connects to the parsha. We hope you will enjoy this addition.

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- Rabbi David Lewin

Sugyas ha’ Sedra

CHUMROS OF A SAFEIK BERACHA

The gemara (Berachos 33a) tells us that one who recites an unnecessary beracha is guilty of taking Hashem’s name in vain. While many Rishonim (Rif, and seemingly the Rambam) understand this literally, others (Rabanei Tzarfes as quoted by Talmidei Rabeinu Yonah, Rosh) understand that it is a rabbinic enactment and the derasha is merely an asmachta, using the posuk for support. In order to understand why this may be so, let us examine a beracha l’vatala which is a greater prohibition: If, for example, one says birkas ha’mazon without having eaten anything, his beracha is completely unwarranted and is akin to swearing falsely. However (explains the S’dei Chemed) one who praises Hashem for the apple that he is about to eat, might be doing so unnecessarily because he already made a beracha on the grapes he ate, hasn’t done anything like swearing falsely, he just praised Hashem in the form of a beracha where Chazal didn’t mandate it. Although it is common Ashkenazi practice to refrain from using Hashem’s name in ordinary conversation (especially in lashon Hakodesh, like saying “todah l’keil” - thank G-d) and even in zemiros, this is just because we are extra cautious and really praising Hashem is a good thing to do, except that it should be in the format of a beracha unless mandated by Chazal. This is not to minimize the care one should have in kavana when saying Hashem’s name. See, for example, the Chayei Adam in K’lal 5 where he cites a frightening story about someone who appeared to his friend in a dream after he died telling him how he was judged for not expressing enough awe and respect in saying Hashem’s name during davening and berachos. Perhaps this is why Chazal supported this halacha with the Torah prohibition of taking Hashem’s name in vain, despite the fact that his intention is to praise and thank the Ribono Shel Olam.

By extension, one should only say a beracha he is required to. Otherwise, such as in a case of doubt, we have a rule that safeik berachos l’hakeil - we rule leniently and don’t say the beracha. The exception to this of course is where the beracha is a Torah obligation such as birkas ha’mazon. While according to many opinions birkas ha’Torah are also d’Oraisah, the poskim have several other ways of dealing with the case of a safeik. Even when it comes to bentching, some recommend that a yarei shomayim should wash again, eat more bread and then bentch [again].

Regarding all other berachos, if one is unsure if he already said a beracha or if he is required to, the general rule of ‘safeik berachos l’hakeil should apply’ and theoretically, one may eat without a beracha. However, there are two point to consider: First, some rishonim and later poskim contend that this might be true with regards to an after beracha like borei nefashos or a beracha said before performing mitzvos like sitting in the succah. However, when it comes to eating, there is generally another option which is not to eat the food. This is especially arguably so since it is prohibited to eat without making a beracha and the gemara compares him to a thief on several counts. Although this is not the mainstream p’sak halacha for the general tzibur, it behooves us to attempt to find a better way.

Furthermore, it is important to understand that a mitzvah without a beracha is not the same as one performed with a beracha. The



L' maaseh...

Someone had an urgent shaila of a sensitive nature (but not an emergency) and was told that R' Moshe Feinstein was the best one to ask. The man hesitated because it was already late at night and so another Rav tried to coordinate his visit. R' Moshe sent a message that he should come when he can, and even if finds that he is already in bed, he should stand outside his room and cough, and if he doesn't come out, he should return at 4 :30 am when R' Moshe rises for the day.

Once, as happened often, someone came to ask R' Moshe to test him and give him semicha. After asking several questions, the Rosh Yeshiva realized that this student was missing a lot of basic concepts and understandings and no amount of review of the material would have helped. Instead of dismissing the man or directing him elsewhere, R' Moshe offered to learn privately with him every day, which he did for several months, until the talmid was competent enough to lead a kehilah as its rav, which he did.

rishonim write that Chazal mandated berachos over mitzvos not only so that we should have intention to fulfill the mitzvah, but that it infuses the mitzvah with a certain power and kedusha which we cannot fathom or understand. This is evident from the fact that the rishonim at the beginning of meseches Berachos go to great lengths to find a beracha for someone who repeats krias shema after davening maariv early. Some poskim go as far as recommending doing a mitzvah in a less than preferable way rather than forgoing a beracha. (For example, Rav Elyashiv zt"l ruled that it is better to read Megillah by oneself rather than hear it with the tzibur if he missed the berachos.)

Because of these considerations, the poskim propose several solutions for one who isn't sure whether or not he should make a beracha. Of course, if one can find someone else who is making this beracha for himself and can include him, while he answers amen, this is probably the best solution. Often however, this is not a viable solution.

Some (Pnei Yehoshua, Aruch Hashulchan, and others) suggest saying the beracha in Aramaic, saying "brich Rachmana" in place of 'boruch atah Hashem'. They understand that doing so cannot possibly constitute saying Hashem's name unnecessarily, because he isn't. Others however take issue with this approach and claim that doing so is indeed considered potentially taking Hashem's name in vain. (Pri Megadim, Igros Moshe, Steiplot).

Others (R' Akiva Eiger, Pri Megadim) recommend either thinking through the beracha without saying the words, or say most of the beracha, but only think Hashem's names (Hashem & Elokeinu). This is because according to many, hirhur (thought) is tantamount to dibur (speech). However, not all authorities agree that this is the case. There is no risk involved though since clearly saying Hashem's name in vain can only be violated if one says it.

The Rivash recommends saying the beracha, but replacing Hashem's name by saying "HASHEIM" (exactly as we have written it here) because the reference is clearly to the Ribono shel Olam, but only means "the name" and one can't be considered to have said His name unnecessarily. Although the mainstream poskim don't cite this opinion, it is reported that when Rav Scheinberg zt"l was asked about utilizing this option, he recommended combining it with hirhur, meaning to say "Hasheim" and think yud-kay-vav-kay. (See Sefer Taarich Yisroel)

The Chasam sofer records that when a certain gadol names R' Dovid Katz was appointed as rav of the community, he was uncertain whether or not he should say shehecheyanu and so before he addressed the kehillah, he said "Boruch Dovid es Hashem l'einei kol ha'kahal vayomer Dovid Boruch atah Hashem Elokei Yisroel Avinu m'olam v'ad olam" which is a full posuk (Divrei Hayamim 1 29:10) and then added "shehecheyanu..." Although the Chasam Sofer implies that he only did so because his name was Dovid, the poskim understand that anyone could employ this avenue, or another posuk which contains the words "boruch atah Hashem".

Of course, the best thing is to avoid cases of doubt as much as possible and reciting berachos out loud not only helps with kavana for the beracha itself, but creates a mark on ones memory that he will be more likely to remember having said it.

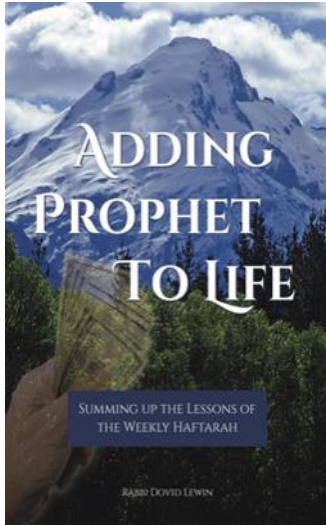
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DIVREI HA'NAVI - ADDING PROPHET TO LIFE

In every shemoneh esrei, we say “Atah kadosh v'shimcha kadosh, u'kedoshim yehalelucha” - [Hashem] You are holy and your name is holy, and holy ones will praise You. Who are these kedoshim who praise Hashem? This is actually a machlokes. According to some it refers to the malachim, but others (Avudraham, R' Avraham ben haGra) it refers to k'lal Yisroel who are also called kedoshim.

The Gemara (Chullin 91b) tells us that Hakadosh Boruch Hu cherishes k'lal Yisroel more than the malachei ha'shareis for several reasons: First, we sing shira to Him at all times, and the malachim sing only once a day, or, according to some, once a week, or once a month, once a year, or once every seven or even 50 years, and some say only once of their entire existence. Second of all, the malachim can only say Hashem's name after three words - “kadosh, kadosh, kadosh Hashem Tzevakos”. We however, say Hashem's name immediately after the two words 'shema Yisroel'.

It seems that according to the gemara, one group says 'kadosh', another says 'kadosh kadosh' and the third says the posuk in its entirety. The Ben Yehoyada questions of what value is the shira sung by the first two groups? Seemingly 'kadosh' or 'kadosh kadosh' don't really express too much. He explains that since there is perfect love and respect, no jealousy among the malachim, the each shira connects to the other and they each access the power of the full posuk. Contrast this to k'lal Yisroel who must come together as a minyan in order to recite these words at all.

Finally, the gemara says that k'lal Yisroel is greater in that the malachim recite shira until k'lal Yisroel says shira first. But is this true? We begin kedusha with the words “ekadeish es shimcha ba'olam k'sheim shemakdishim oso b'shmei marom” (let us sanctify Your name in this world just as the malachim do above) which seems to indicate otherwise.

The gemara goes on to question how the malachim can recite “boruch k'vod Hashem mimkomo” if only two words precede His name, and answers that this posuk is recited by the Ofanim. According to Rashi and Tosfos, these were malachim of a higher caliber than the malachei ha'shareis and were therefore entitled to mention Hashem's name sooner, but it could possibly mean that once the malachim had already recited their full shira, the Ofanim were permitted to say 'boruch k'vod Hashem'. (See Maharasha.)

Although the gemara gives the impression that there are several opinions as to how often a malach would sing shira, many meforshim reject this and explain that some malachim sang shira every day, and others less often, while some only once during their entire existence. Tosfos (Chagiga 13a) suggests that this was because a malach was supposed to wait for the other malachim to sing shira and some malachim weren't aware of this rule - or perhaps at some point were careless about it - and rushed to praise Hashem before their colleagues, which made them no longer deserving a continued existence. This, Tosfos explains, is the basis of what we say 'v'nosnim reshus zeh la'zeh' - that the malachim have to give each other permission.

K'lal Yisroel however, can sing shira all the time. Yet our shira, is “shema Yisroel” when we declare Hashem's unity. What exactly though, are the malachim singing when they say 'kadosh kadosh kadosh'? The Malbim explains that this is a formula that resembles 'melech malchei hamelachim' - king, king of the kings, meaning that Hashem is holy, the holiest of the holiest. The malachim focus on Hashem's kedusha, but we focus on His unity which has a much greater potential.

Rashi explains that when Yisro came and found Moshe sitting all day long as the masses came to him with their queries, Yisro admonished him for belittling the honor due to the Jewish people. Yisro appreciated the kedusha of k'lal Yisroel and felt that it was inappropriate to sit. Moshe answered him, that they were coming 'lidrosh Elokim' - that their focus was only on finding Hashem which is a much higher level and there's no reason to be concerned.

Seemingly, and the Ben Yehoyada confirms this, the malachim recite Hashem's name -yud-kei-vav-kei as it is written. We do not, and so in some ways, the shira of the malachim is greater. However, this is only usually the case. In the beis HaMikdash, the kohanim would recite it as written in birkas kohanim, as derived from the posuk at the end of our parsha (“b'kol makom asher askir es shmi, avo elecha u'beirachticha”), and even from the second word. The malachim however, are limited in this and while their state of perfection in many ways makes them greater than us, ultimately, we have the potential to rise higher than the highest of the angels.