

# למודי משה

במדבר - גליון קע"ב

## Insights Into Halachah

### Siamese Twins in Halachah

This week's *parsha* starts with one of the many censuses conducted in Klal Yisroel. Hashem commands: **שאו את ראש כל עדת בני ישראל למשפחתם לבית אבתם במספר שמות כל זכר לגלגלתם** of the children of Yisroel, by families following their fathers' houses; a head count of every male according to the number of their names" (*Bamidbar* 1:2). Throughout this census the Torah repeatedly stresses the counting should be done by a head count. Later on, in the census of *shevet* Levi, there is no such emphasis. The *Chasam Sofer* mentions an explanation he heard from Rabbi Shmuel of Krakow:

The Gemara in *Menachos* (37a) rules that a two-headed firstborn male must be redeemed with ten *seloim* [a silver coin] instead of the standard five. (One Torah-shekel was worth one *sela*). This is derived from a *pasuk* in this week's *parsha*: **ולקחת חמשת שקלים לגלגלת** - "You shall take five shekels per head" (*Bamidbar* 3:47). If this had been written with regard to *shevet* Levi, a two-headed one-month old baby would have been counted as two people. Therefore, in the *shevet* Levi census there is no mention of head counting. But with the rest of the nation, since they were counted only from 20 and up, and a two-headed person would not have lived till the age of 20, we do find the mention of a headcount because there is no fear of counting a two-headed person as two people.

The *Chasam Sofer* argues with Rabbi Shmuel of Krakow on this point – in his opinion a two-headed human can reach the age of 20. Therefore, he explains, according to this explanation, when the Jewish nation was in the desert there was a two-headed person, for whom the Torah had to instruct to specifically conduct a headcount. Hence, Siamese twins are counted as two separate people. Amongst the *shevet* of Levi, though, there were no Siamese twins.

In light of the above, we will discuss these intriguing cases in light of halachah.

### **Siamese Twins in the Gemara**

The Gemara in *Menachos* (37a) describes an interesting case that was presented to the Sages:

Rabbi Peleimu raised a dilemma before Rabbi Yehuda HaNasi: In the case of one who has two heads, on which of them does he don *tefillin*? Rabbi Yehuda HaNasi said to him: Either leave and exile yourself from here, or accept upon yourself excommunication for asking such a ridiculous question. In the meantime, a certain man arrived and said to Rabbi Yehuda HaNasi: A firstborn child has been born to me who has two heads. How much money must I give to the *kohen* for *pidyon haben* [redemption of the firstborn]? An elder came and taught him: You are obligated to give him ten *seloim*, five for each head.

The man who came to ask about his newborn twins served as a heavenly hint to Rabbi Yehuda HaNasi not to be upset with his *talmid* because the question was a legitimate one that required a decision. The Gemara, however, does not provide details of the answer to the question he asked – on which head do Siamese twins lay *tefillin*.

Interestingly, *Tosfos* in *Chullin* (6a) notes that when the Gemara writes "a certain elder" it is always Eliyohu Hanavi. He appeared in the *beis hamedrash* to teach the halachah of Siamese twins as it appears in this week's *parsha*: "You shall take five shekels per head" – for every head one must pay the *kohen* five shekels, or *seloim*.

### **Inheritance**

*Tosfos* (*Menachos* 37a) writes, that while humans in this world do not have two heads, outside of this world there are creatures that do. *Tosfos* cites a Medrash:

Ashmedai, the king of the *sheidim* [ghosts] presented Shlomo HaMelech with a two-headed human from an underground land called Tevel. This person remained in Eretz Yisroel, married a regular woman, and had children. Some of them were two-headed like him, and some were normal, like his wife. His wealth prospered, and after his death, the sons came to Shlomo HaMelech to determine how to divide their inheritance – is it divided by the head, in which case the two-headed ones would inherit double, or should it go by the body?

*Tosfos* doesn't mention what Shlomo HaMelech's ruling was, but the *Shitah Mekubetzes* quotes the story as it appears in the Medrash – Shlomo HaMelech ordered boiling water poured on one of the heads and the second head began shouting. This was proof enough that they possessed one nervous system and were actually one person. As a result, they only received one portion of the inheritance.

### One Person or Two

In light of Shlomo HaMelech's ruling it would seem that Siamese twins are one person with two heads. (This also explains why the two-headed man could marry and his wife was not considered married to two people.)

Rabbi Chaim Soloveitchik (*Chiddushei HaGrach, Menachos 37a*) proves that a head without a body is exempted from the obligation of *pidyon haben* and a two-headed child is essentially one firstborn, not two. However, since the Torah determines that the *kohen* must be paid five *seloim* for every head, if the firstborn has two skulls, his father must pay for each of them separately. (Rashi explains that they are two firstborns since they entered the world at exactly the same moment.)

The *Shevus Ya'akov* (1:4), however, maintains that a two-headed person is considered two people for all Torah-related purposes. He adds various details and explains why they should not be permitted to marry. We will bring his position below.

### Two-Headed Man – Siamese Twins?

The *Keren Orah* (*Menachos 37a*) explains that although there was such a person in Shlomo HaMelech's time, he was brought from the netherworld and therefore not considered human. This kind of creature cannot exist in our world, as *Tosfos* explains. The *Sefas Emes* writes that two-headed babies seen today are actually twins who due to faulty cell division were joined during pregnancy. The second skull is inviable and whatever life he has is received from the body of the first. The only reason one must pay the *kohen* double for redeeming this kind of firstborn child is because there is a *gezeiras hakasuv* [a ruling of the *pasuk*] that every skull requires redemption of 5 *seloim*.

This seems to indicate that there are two distinct creatures: the two-headed man mentioned in the Medrash does not exist in this world, although there is an indication that it exists in other worlds. This creature, according to the *Keren Orah*, is not obligated to perform *mitzvos* and is not considered human. The case of Siamese twins, though, which although rare, is not unheard of, may be considered two separate humans, and each case must be judged separately.

### Survival Rates

As we mentioned, R' Shmuel of Krakow and the *Chasam Sofer* disagreed about a two-headed baby's survival prospects. Rabbi Shmuel ruled that this baby is a *treifah* (a living being that cannot live for 12 months) which can be proven from the *halachos* of animal *kashrus* – the rule is that every animal that has an additional limb – if removal of that limb would render the animal *treif*, especially if it is a vital organ, the animal is a *treifah* even before removal of the organ or limb. A person who is born with an additional finger, for example, since without the finger he is not *treif*, the additional finger does not render him *treif*. However, one who has an additional heart, or even ventricle – since if he would not have a heart or any ventricle, he would not have been able to live, the additional heart or ventricle renders him a *treifah*. Therefore, a baby with an additional head – since the head is a vital organ whose general removal would end life – is considered *treif*.

Therefore, explains R' Shmuel, while among the *shevet* of Levi, Siamese twins were possible because they were counted from the age of one month, amongst the rest of the nation, who were counted from age 20, it was impossible that there were living Siamese twins.

However, according to the *Chasam Sofer*, while a two-headed human is considered *treifah*, the Rashba opines that the *treifah* ruling mentioned above refers to all *treifos* except additional limbs. Although there is a rule that an additional limb is counted as if it is missing and it is *treif*, the animal can live a long life.

In addition, the *Maharshah* writes that while a regular *treifah* does not live more than 12 months, there are exceptions who live longer.

Therefore, the *Chasam Sofer* asserts that while a two headed person has the status of a *treifah*, he may live a long life. The *poskim* record having seen such cases, and although their chances of survival are slim, they do exist, and some survive for longer periods of time.

## Getting Married

The *Shevus Ya'akov* (1:4) has a *Teshuva* where he says that they brought in front of him two non-Jewish babies who were attached together by the head. He writes that they were two separate babies, each one containing separate limbs, they ate and drank separately, they were merely attached by the head. From the back it looked like one big head, however, from the front you could see two faces, two mouths, two noses etc. they did however share ears. The person who brought the twins to the *Shevus Ya'akov* wanted to know what would be if they were Jewish?

The *Shevus Ya'akov* starts his *Teshuvah* with the aforementioned Gemara in *Menachos* and brings *Tosfos* who says that although in this world it can't happen outside of this world it can. Then he writes whether there can be one child with two heads or whether there can't, Siamese twins can certainly happen. He then says that in halachah they are considered two different people. He brings a proof from a *pasuk* in *Chumash*. The *pasuk* says by *ma'aseh bereishis*: אִתָּם זָכָר וּנְקֵבָה בָּרָא אֱתָם – “Male and female He created them.” We know that Adam and Chavah were created stuck together (שְׁנֵי פְּרָצוּפִין), the same as Siamese twins, yet they are referred to as ‘THEM’, we see that Siamese twins are considered two people.

Consequently, says the *Shevus Ya'akov*, they are considered as two people and both need to wear *tefillin*, and when it comes to inheritance each one gets a separate portion. The *Shevus Ya'akov* adds that if someone gives birth to such a child and half is a boy and the other half a girl, he has fulfilled the mitzvah of *peru u'revu* in one shot. Although normally if one has a child who can't have children such as a *s'ris* or *aylonis* (both are unable to produce children) he hasn't fulfilled the mitzvah, and here as well we will explain shortly that they are unable to get married and so it should be one hasn't fulfilled the mitzvah. The *Shevus Ya'akov* says our case is different, as theoretically they are able to produce children, it's just there is a halachah that they can't get married - there is a technical issue in the way. Therefore, one has fulfilled the mitzvah of *peru u'revu* in such a case.

As we mentioned, the *Shevus Ya'akov* rules that Siamese twins are unable to get married. The *Shevus Ya'akov* explains, the reason they can't get married is because if they are both boys and if one of them gets married and does *tashmish* with his wife, the second one will have to be there, and it's likely he will want to do *tashmish* as well and he may end up transgressing on the *issur* of *eshes ish* [living with someone else's wife]. To avoid this problem neither one of the Siamese twins should get married.

Similarly he says, one shouldn't marry Siamese twins even if they are girls and he is in a place that permits one two marry two women (e.g. Sephardim), because even though technically a man can marry two women, it's still problematic as one is not allowed to do *tashmish* in front of another person, and in a such case there will inevitably always be a second person there. This reason applies to Siamese twins that are both boys, girls, or even one boy and one girl, therefore, it's forbidden for someone to marry a Siamese twin.

## The Shevus Ya'akov is a *Pela!*

The above underlined statement is very difficult to understand and all the *poskim* are bothered by it. Even if one is in a place which allows marrying two women, how can the *Shevus Ya'akov* say that one can marry two sisters?

Some say the *Shevus Ya'akov* doesn't mean to marry both, he means to marry one of them. The problem is, if this is what he means then why does he say “In a place that permits one two marry two women”. R' Akiva Eiger was very bothered by this question. The *Pardes Yosef* in *Parshas Bereishis* cites an interesting story, he writes that in

a city called Lusk there was a copy of the *Shevus Ya'akov* in the *Beis HaMedresh* and R' Akiva Eiger came to town and opened up the *sefer* and wrote in the *gilyan* [margin] of the *sefer "tzorich iyun"* [the matter needs clarification].

### Answering Up the *Shevus Ya'akov*

R' Yosef Shaul HaLevi Natanson (the author of the *Shoel U'Meishiv*) in his *hakdomah* to the *Shevus Ya'akov* suggests an answer. R' Natanson praises the *sefer*, however, he says that he doesn't understand what the *Shevus Ya'akov* is talking about in *siman* 4. Then he brings an answer. The halachah is that when a person marries a woman her sister becomes an *ervah* [forbidden in marriage] to him. There is a difference between this *ervah* and all other forms of *ervah*. By all other *ervah's*, once they are forbidden they remain forbidden forever. For example, if someone marries Rochel, Rochel's mother-in-law is forbidden to him forever, even if *chas v'shalom* they get divorced or his wife dies. A sister-in-law, however, is only forbidden if the first sister is alive, if *chas v'shalom* his wife dies, he is allowed to marry his original wife's sister.

The *Pischei Teshuva* (*Even Ha'Ezer*, *siman* 15) brings a *Teshuvus Maggid Me'Reishis* who is *mechadesh* that if a person gets married to a woman and unfortunately she develops a brain tumor, this woman now gets the status of a *treifah*, and the halachah is *treifah eini chayoh*, someone who becomes a *treifah* is already considered dead. Since this woman is already considered dead, her husband is already allowed to marry his sister-in-law.

The Gemara in *Menochas* (37a) brings that someone with two heads is a *treifah* and is going to die. R' Yosef Shaul HaLevi Natanson therefore suggests, that perhaps Siamese twins is the same thing. Since they are going to die soon, it is already considered like they are dead, therefore, one man is able to marry both of them, even if they are sisters.

This is very hard to except as, 1) They are both currently alive and kicking, 2) His proof from *Menochas* is questionable, as the Gemara in *Menachos* is talking about one person with two heads, Siamese twins however, are two people with two heads and it may be different. 3) To say Siamese twins are a *treifah* and are considered already dead, seemingly depends on the *machlokes* between Rabbi Shmuel of Krakow and the *Chasam Sofer*, and the *Chasam Sofer* maintains even if they are considered a *treifah*, they can still live.

The *Beis Yitzchok* brings a more straightforward answer. If we look at the case of the *Shevus Ya'akov*, someone brought to the *Shevus Ya'akov* a non-Jewish baby that was a Siamese twin, and they asked what would be if they were Jewish. In such a case in order for them to be Jewish they would have to become *gerim* [converts]. The halachah is that, גר שנתגייר כקטן שנולד – "A non-Jew who becomes Jewish is like a newborn", therefore, it comes out that they are no longer related. Since they are no longer related, if it wouldn't be for the problem of performing *tashmish* in front of another living person, one person would be able to marry both of them, provided he is in a place that allows one to marry two wives.

### One at the Expense of the Other

Most Siamese twins born today would not survive without being surgically separated. Most cases allow for only one of the twins to remain alive and leading *halachic* authorities have been consulted on the matter – which one should be saved. The basic question still remains – is it permissible at all to sacrifice one life to save another, or is this an act of direct murder?

R' Moshe Feinstein *zt"l* was presented with a complex case of Siamese twins fused from the shoulder down who shared one six-chambered heart. All physicians called in to evaluate them agreed that both would die unless separated while one could be viable if the other would be killed during surgery. R' Moshe Feinstein was closeted in his home for nearly two weeks exclusively dealing with this question. At the end he concluded that the smaller baby whose chances of survival upon separation were non-existent was ruled as a *rodef* [pursuer] of the larger baby, and the family went through with the surgery.

R' Moshe Feinstein chose not to publish his reasoning for this ruling, and it is not included in his *Igros Moshe*, perhaps intentionally – so no one would be able to learn from this case to other cases due to the intricacy of the ruling process and the chances of mistakes.

R' Moshe Tendler has a *Teshuvah* where he discusses the above *shailah*, and offers various reasons for R' Moshe's pesak. In his discussion he brings that this case can perhaps be compared to two men who jump from a burning airplane. The second man's parachute does not open and as he falls past the first man, he grabs his legs. If the first man's parachute cannot support both men, can he kick off the second man in order to save his own life? The answer is yes, because the second man is considered a *rodef* [pursuer] whose actions will result in killing the first man. According to halachah, a pursuer can be killed in order to save the life of the pursued.

This debate could have had practical ramifications in the horrible tragedy in Meron if one live person was pinned down by a dying person on top of him – if he would have moved the upper person he had hope of surviving, but he might have caused him to die in the process. Although the higher person was lying on top of him due to no fault of his own, he was in a situation that may categorize him as a *rodef* of the people below him, in which case the lower people could do anything they had to do to save themselves, including killing people atop of them.

Obviously judging the situation is impossible, but for the theoretic *halachic* discussion, see a discussion written by R' Shlomo Za'arani in *Ohr Torah* (Teves-Shevat, 5766, chapter 35) where he explains Rabbi Moshe Feinstein's possible reasoning.

To complete the discussion, we will mention the eye-witness account of the Halachos Ketanos who saw twins in Italy fused at the chest and abdomen (*Halachos Ketanos* 1:245). While one twin lived for 25 years, his twin was attached to him like a lifeless appendage. He had a smaller head and legs, but his limbs didn't atrophy because of the life it received from the body of the larger twin. The *Halachos Ketanos* debates if it would be permitted to kill the smaller twin and if the smaller twin needed to have a bris or not. He rules that the smaller twin has the status of a *goses* (a person in his death throes) and it is forbidden to kill him, despite his lack of feelings. (This does not contradict his possible status of *rodef*. It's only a source for the prohibition to kill him if we would not have the *heter* of *rodef*, despite his lack of a nervous system.)

### ***Berachah***

The *Shevus Ya'akov* (1:4) writes that he saw Siamese twins and recited the *berachah* of *meshane habriyos*. The *Halachos Ketanos* (1:245) disagrees and rules that one should not recite *meshane habriyos* but *dayan ha'emes* because the second twin is in his death throes. (When seeing a congenital birth defect the *berachah* of *meshane habriyos* should be recited, while for a defect that occurred later the correct *berachah* is *dayan ha'emes*.) Seemingly, the *Halachos Ketanos* was of the opinion that the failing twin was not a birth defect, and only when his development began deteriorating he received the status of a defect.

While the *Shevus Ya'akov* ends his *Teshuvah* with the words "Hashem should save us from such strange creatures", the *Halachos Ketanos* recounts that he saw another freak of nature in Verona – two chicks connected on their side. Each had a separate body, and each ate and drank on its own. In this case, he ruled that should this chick survive 12 months it would graduate the *treifah* status and could be *shechted* [slaughtered] together as one, without waiting between them. Seemingly, he saw this case as one creature. He adds that this may be how the original creation looked – Adam and Chava were created connected. Perhaps, he writes, other creatures were created in a similar fashion.

Practically, the correct *berachah* upon seeing a strange creature such as Siamese twins is *meshane habriyos*. This opinion appears in *Piskei Teshuvos* (*Orach Chaim* 225:20).

Rabbi Yitzchok Zilberstein (*Chashukei Chemed, Eruvin* 18a) disagrees with the *Halachos Ketanos* who permits *shechting* both chicks at the same time. He writes that for Adam and Chava, who were male and female, their connectedness was a virtue and they be considered one creature. However, Siamese twins, where two fetuses fuse into one, are two defective bodies.

### **Interesting Sefiras Ha'Omer Shailah**

We are getting nearer and nearer to the end of *sefiras ha'omer*, and by now I am sure you are familiar with the famous *shitta* [opinion] of the *BeHag*. The *BeHag* maintains that by *sefiras ha'omer* one has to count *שבע שבתות* – "seven complete weeks", and in order to fulfill this requirement one must count every single day. If one misses out even one day, he can no longer fulfill the mitzvah and there is no longer any point continuing to count.

*Tosfos* in *Menachos* (66a) and many other *Rishonim* disagree with the *BeHag*. However, although many argue we are *choshesh* [worry] for the opinion of the *BeHag*, consequently, the *Shulchan Aruch* (*Orach Chaim* 489:8) rules: "If one forgot to count on one of the days, whether it is the first or one of the later days, he should count the rest of the days of the *omer* without a *berachah*. However, if he is in doubt if he has missed out a day or not, he may continue to count with a *berachah*."

What is the halachah if a woman counts the *omer* with her young child (for *chinuch* purposes) without a *berachah*, with intention to count later with a *berachah*, however, in the end she forgets to count again with a *berachah*. Is she allowed to continue counting the *omer*?

Similarly, what's the halachah if Reuven is asked what night of the *sefirah* it is, and he answers "tonight is such and such a day" and in the end he forgets to count again that night. Is he allowed to continue counting the next day with a *berachah*?

The underlying question, is, if someone who counts *sefiras ha'omer* without any intention to fulfill the mitzvah can rely on the counting to continue counting in the future. This question seemingly depends on how to understand a halachah mentioned in *Orach Chaim* 489:4.

The *Mechaber* writes: "ש שואל אותו חבירו בה"ש כמה ימי ספירה בזה הלילה יאמר לו אתמול היה כך וכך שאם יאמר לו "One who asks his friend from twilight and on, 'what night of *sefirah* is it tonight?' his friend should reply, 'last night was night such and such'. The reason being, if the friend replies, 'today is such and such' he can no longer count with a *berachah*, however, before twilight since it is not the time to count there is no problem".

### **Surely Mitzvos Tzrichos Kavonah [Mitzvos Require Positive Intention]?**

The *Achronim* ask on the above halachah, that it seems to contradict another halachah in *Shulchan Aruch* in *Hilchos Krias Shema*. The *Shulchan Aruch* (60:4) writes: "אין מצות צריכות כוונה וי"א שצריכות כוונה לצאת בעשיית אותה מצוה וכן הלכה – "When it comes to the performance of a mitzvah one doesn't need to have positive intention, some say one does need to have positive intention and this is the halachah". The *Shulchan Aruch* rules that *mitzvos tzrichos kavonah*, if so, why when one replies to his friend "today is such and such a day" without intention of fulfilling the mitzvah of *sefirah*, must he refrain from counting with a *berachah*?

The *Pri Megodim* (*Mishbetzos Zahav* 7) explains, that the *Mechaber* is in doubt as to whether *mitzvos tzrichos kavonah* or not and he rules stringently in both places. In *Hilchos Krias Shema*, the *Mechaber* says that if one reads *shema* without *kavonah* he has to repeat as perhaps *mitzvos tzrichos kavonah*, and by *Hilchos Sefiras Ha'omer* the *Mechaber* is stringent and is worried that perhaps *mitzvos* don't need *kavonah* and therefore rules that one should count again without a *berachah*.

The *Biur Halachah* disagrees with the above and says that it can't be that the *Mechaber* was not in doubt as he clearly writes: "וי"א שצריכות כוונה לצאת בעשיית אותה מצוה וכן הלכה" and this is the halachah", clearly indicating that he maintains *mitzvos tzrichos kavonah*. The *Biur Halachah*, therefore, offers a different answer to the contradiction. The *Biur Halachah* answers: "אלא דמשום חומרא" – "the prohibition of saying a *berachah* in vain is very stringent, therefore, we are overly stringent and refrain from counting with a *berachah*".

### **Sfek Sfeika [Double Doubt]**

It is well known, that we *pasken* that if one skips out a day he should no longer continue to count with a *berachah*. This is because we are *choshesh* [worried] for the opinion of the *BeHag* that the entire *sefirah* is one big mitzvah and if one misses out even one night, he misses out on the mitzvah. Although most *Rishonim* disagree, nonetheless, since the rule is *sofek berachos l'hokel* [when it comes to doubts in *Hilchos Berachos* we avoid making another *berachah*] the halachah is if one misses out a day he should continue counting without a *berachah*. However, since the reason one shouldn't make a *berachah* is because of *sofek berachos l'hokel*, if one has an additional *sofek*, and so now has a *sfek sfeika*, he can continue to count with a *berachah*. Consequently, the *Mechaber* (489:8) *paskens*: "אבל אם הוא מסופק אם דיילג יום אחד ולא סיפר יספור בשאר ימים בברכה" – "if one is in doubt if he missed out a day, he can continue to count with a *berachah*". Since there is now a *sfek sfeika*, 1) Do

we follow the *BeHag* or other *Rishonim*, and 2) Perhaps one actually counted, one can continue to count with a *berachah* (see *Mishnah Berurah* 38).

### **Back to Our Original *Shailah***

According to the *Pri Megodim* who understands that the *Mechaber* is in doubt as to whether *mitzvos tzrichos kavonah* or not, in a case when one counts unintentionally, we still have a *sfek sfeika*, 1) Perhaps we don't *pasken* like the *BeHag* and each day is a separate mitzvah and even if one missed counting altogether he can continue, 2) Perhaps *mitzvos* don't require *kavonah* and if one doesn't have *kavonah* he fulfills the mitzvah. According to the *Pri Megodim*, since we have a *sfek sfeika* one should be able to continue counting with a *berachah*.

However, according to the *Biur Halachah*, who understands that the *Mechaber paskens mitzvos tzrichos kavonah*, and due to the severity of *berachah levatolah* if one counts without *kavonah* he should refrain from counting that night with a *berachah*. In our case, there is no *sfek sfeika*, we only have one *sofek* of whether we *pasken* like the *BeHag* or not, and it would therefore come out, that for the rest of the *omer* he should count without a *berachah*.

Being that our *shailah* seems to depend on how to understand the halachah mentioned in 489:4 and it's a *machlokes* between the *Pri Megodim* and *Biur Halachah*, presumably we would apply the rule of *sofek berachos l'hokel* and one should continue to count the rest of the *omer* without a *berachah*.

### **A Twist from R' Asher Weiss**

However, I saw in a *Teshuvah* from R' Asher Weiss a twist to the above which allows one to continue with a *berachah*. He writes, that to allow one to continue counting *sefirah* with a *berachah* we add into the picture even weak reasoning's (צירוף קלוש). He explains, that most *Rishonim* argue on the *BeHag*, however, because of the greatness of the *BeHag* and because of *sofek berachos l'hokel* we take his opinion into consideration. However, if there is a reason (even a weak one) to allow one to continue counting with a *berachah*, we allow him to.

For example, the *Shoel U'Meishiv* (3:127) says an incredible *chiddush*, he says, one only stops counting with a *berachah* if he forgot to count altogether. If however, one counted *sefirah*, even if he counted the wrong day, he can continue counting and is not lacking *temimus* [a complete *sefirah*] as the fact that he counted something is as enough of a *zecher leMikdash*. Similarly, the *Shu"t Tuv Ta'am V'Da'as* (1:173) writes, if one counted five instead of four he fulfills his obligation, as *yesh bichalal mosaim moneh* [included in 200 is 100], however, if one counted three instead of four, he doesn't fulfill his obligation. Both of the above *chiddushim* are very difficult to understand, however, it seems that since most *Rishonim* argue on the *BeHag*, if one has even a weak reasoning to allow him to continue counting that's enough.

Accordingly, R' Asher Weiss suggests, in a case where someone counted with *kavonah*, and he wants to continue counting with a *berachah* one may, however, it would better not to.

## ***Divrei Torah* for the Shabbos Table**

### ***Bitachon* in a Desert**

*Sefer Bamidbar* starts with the *pasuk*: וידבר ה' אל משה במדבר סיני באהל מועד – "Hashem spoke to Moshe in the Sinai Desert, in the Tent of Meeting" (*Bamidbar* 1:1). The question is, why did this conversation have to place in the desert?

The Medrash asks why this *pasuk* has to state specifically that Hashem spoke to them in the Sinai Desert. It seems to have been a very important fact that it had to be mentioned. The Medrash answers, this is coming to tell us that the Torah was given specifically in the desert. One who studies Torah has to make himself just like a desert.

Rav Ya'akov Neiman in his *sefer Darchei Mussar* remarked that the *pasuk* is subtly hinting to us that a basic prerequisite of Torah is that one must feel himself in a desert. He is totally alone and has nowhere to turn for his needs except to Hakodosh Boruch Hu. He must develop perfect and absolute *bitachon*. Then the Torah will be given to him as a gift. This is the *tefillah* we say every morning in *ahava rabbah*: "Because of our fathers who

trusted in You and You taught them the statutes of life. So too grant us and teach us.” This teaches us a very important principle that *bitachon* brings to understanding the Torah.

We can compare this to one who spends a lot of time in the company of an illustrious wise man. He eventually becomes a part of the household and dines with him. In the course of time, he will hear many words of wisdom. This was the situation of Klal Yisroel in the desert. They dined on the table of the Ribbono Shel Olam (they ate the *mann*). And in the course of 40 years, they learned the entire Torah. Thus, each and every one of us, according to his personal abilities the amount of his trust in Hashem, becomes a member of the Heavenly household. Thus he will walk away with a phenomenal amount of wisdom.

The *Chofetz Chaim* used to say over the parable of a child who went to learn in *cheider*, but forgot to take his lunch. Is there any doubt in his mind that when his parents realize this they will let him go hungry? Certainly, they will do everything to ensure that their child gets fed. So too one who learns to the utmost of his ability is ensured that Hakodosh Boruch Hu will worry about providing him all his needs.

“I saw this myself,” Rav Neiman recounted. “We suddenly suffered a terrible scarcity of food and prices became very expensive. I was struck with fear that we wouldn’t have enough money to buy food for the *yeshiva* for the *bochurim*. The *yeshiva* was saved by a miracle. Not only were we spared during the shortage, but our financial standing improved and became firmer specifically because of the hard times.”

We see from this that in order to succeed in learning one must develop a very strong *bitachon*. *Bitachon* is the reason for one’s success in learning Torah.

Rav Neiman continues that his Rebbe, Rav Moshe Rosenstein *zt”l*, the mashgiach of the Lomzha *Yeshiva*, once derived this from the *pasuk* (*Devorim* 32:10), “He encompassed them and bestowed understanding upon them; He protected them as the pupil of His eye.” When does a person merit “He encompassed them and bestowed understanding upon them; He protected them as the pupil of His eye?” This is when he fulfills the first part of the *pasuk*, “He found them in a desert land, and in a desolate, howling wasteland.” When a person is stranded in the desert, he suffers from overbearing loneliness and realizes that he has no one to rely upon besides his Father in Heaven. So too each and every one of us should feel that Hakodosh Boruch Hu is watching over us and protecting us. Dovid HaMelech said, “I am a stranger (גר – a ger, a convert) in the land” (*Tehillim* 119:19). I am like a *ger* who has no relatives; he is a stranger whom no one knows. He has only Hashem Yisborach. One should not be like that proverbial farmer who declared in his *davening*, “If You don’t help me, I’ll go to my rich uncle.” Then Hashem won’t help him because He doesn’t help those who trust in others.

The Torah was given in a desert to teach us that *bitachon* is a precondition to success.

The Midbar teaches us something else also. A desert is empty of people. There is no one there to rob you and deprive you of anything. So too, even when surrounded by people you have nothing to worry about. The will of Hashem is what will prevail and only Hashem has the ability to take from you, or to give you.

Why is it that when a horse is standing by the riverbank and wants to drink it starts kicking with its feet? As it lowers its head to the water to drink, the horse sees the image of another horse trying to steal its water. Therefore, she starts kicking with her feet to scare it away. In the meanwhile the water gets full of dirt and becomes undrinkable. This is man. When he fears his neighbor is going to deprive him of something, he makes all the efforts in the world to stop him and even take away what rightfully belongs to this other fellow. In doing so, he loses even what is coming to himself. But one who trusts in Hashem and knows that there is no one who can hurt him, will never lose anything. (R’ Eliezer Parkoff)

### **Every Jew is Important**

This week’s *parsha* starts with a counting of Klal Yisroel: שאו את ראש כל עדת בני ישראל – “Hashem said to Moshe in the Sinai Dessert ... count the entire nation of Bnei Yisroel” (*Bamidbar* 1:2). In English *Sefer Bamidbar* is called the Book of Numbers, however, its real name is חומש הפקודים, The Book of



Counting. *Sefer Bamidbar* discusses many things that happened to the Jewish nation as they traveled through the desert for forty years. Why is so significant about the counting that an entire *sefer* of *Chumash* is named for it? Some answer, the counting expresses the value of every Jew. It shows that each Jew is significant, and valuable. As Rashi writes, "Because Hashem loves them, He counts them all the time. When they left Mitzrayim, He counted them. When people died after the eigel [Golden Calf] he counted them to know how many remained. When He was going to rest His Shechinah on them, He counted them." The counting expresses our specialness to Hashem, and therefore the entire *Chumash* is called, חומש הפקודים, The Book of Counting.

*Parshas Bamidbar* is read on the Shabbos before Shavuos. Reb Moshe Feinstein *zt"l* explained, on Shavuos we receive the Torah, but there are people who feel very distant from Torah. They don't feel important; they don't see themselves as somebody who's worthy to study Torah or to keep its *mitzvos*. Therefore, we read *Bamidbar*, thereby proclaiming that every Jew is precious and special to Hashem. Every Jew is Hashem's beloved child. When one thinks about this, he will Have, שאו את ראש – "a raised head". He will not lower his head in shame; he will lift his head and proclaim that he is also Hashem's servant. He will consider himself worthy for this position, because Hashem counts him and loves him.

### What is Gained from Counting?

The *Chiddushei HaRim zt"l* (*Likutei HaRim, Bamidbar*) explains that it is truly phenomenal that the tiny Jewish nation has survived until today. Why didn't we become בטל ברוב - lost among the multitudes, among the myriads of other nations? Why didn't we disappear into the dustbin of history?

The answer is, this count saved them. As the *Chiddushei HaRim zt"l* writes, "Hakodosh Boruch Hu didn't want us to become בטל ברוב among the *goyim chas veshalom*. That is why He counted us, because something that is counted doesn't become *botul*, not even in a thousand (see *Beitzah 3b*)."

When Rabbi Samson Rafael Hirsch was asked why he left the largest rabbinic position in Europe to join nine struggling families in Frankfurt Germany he is reputed to have answered, "G-d doesn't count Jews. He weighs them!" (R' Elimelech Biderman)

### Sometimes It's Up To Us To Start the Family *Yichus* [Lineage]

Towards the beginning of this week's *parsha* the *pasuk* says: ואתכם יהיו איש איש למטה איש ראש לבית אבתיו הוא - "And with you shall be one man from each tribe, a man who is a leader of his father's household" (*Bamidbar* 1:4). The *Sefer Imrei Shammai* offers an encouraging insight on this *pasuk*. He comments that every person has the opportunity to be a leader of his family.

He then goes on to cite a cute story: A Jew who was an *am ha'aretz* [ignoramus] approached another Jew who was a *talmid chocham* and started bragging about his lineage: "You should know my '*yichus*'. I come from a line of great people! However, you do not come from anyone of importance." The *am ha'aretz* was obviously jealous of the *talmid chocham*. He had only one thing going for himself – his great ancestors – so he bragged about his *yichus*'. The *talmid chocham* answered him sharply, "The difference between us is that your '*yichus*' ends with you. In my case, my '*yichus*' begins with me."

This capacity – to begin a distinguished family lineage from oneself – is hinted at in the above quoted *pasuk*. Every person (*ish, ish*), no matter from where he comes, has the ability to become the head of his own family (*rosh l'beis avosav, hu*) – meaning the beginning of an illustrious chain in his own family that will henceforth trace its origin to him.

No person should feel discouraged because he comes from humble beginnings. On the contrary – '*yichus*' has to start somewhere. If it hasn't started from one's ancestors, let a person make every effort to insure that great lineage begins with him.

A Chassidic tale is told involving the *Maggid* of Mezrich. When the *Maggid* of Mezrich was five years old, a fire burned down his house. His mother sat in front of the rubble crying. She explained to her son that she was not crying because she had lost her house. The cause of her great grief was that a family tree (*shtar yuchsin*) going back many many generations was lost in the fire. Tradition has it that the five year old, future *Maggid* of Mezrich, consoled his mother with the words, "Don't worry mommy. I am going to start a new '*yichus*'."

He in fact became the start of a great line of Chassidic leaders. Today if someone can show that he traces his ancestry back to the *Maggid* of Mezrich, he is considered to be a person of great lineage. Every person has the ability to become the “head of the lineage of his household.” Some people have the fate of being the “end of the line” of the ‘*yichus*’ of their family. Others are able to begin a new line of ‘*yichus*,’ from themselves forward. (R’ Frand)

### **How to Ensure Effectivity When Receiving a *Berachah* from a *Tzaddik***

The Ramban (1:45) in this week’s *parsha* cites a Medrash that Hashem told Moshe that when the heads of households would pass in front of him during the census he should behave regally and not engage them in conversation, and they, for their part, should conduct themselves with awe and respect. Why did they have to behave with awe and respect?

The Ramban says that when the Jews passed in front of Moshe and Aharon, Moshe and Aharon *davened* for them. Rav Dessler explains that that is why they had to pass in front of them with awe and respect, because the blessing of a *tzaddik* is only effective if he feels that the person being blessed has a connection with him. Hence, the Jews who were receiving *berachos* as they were being counted had to behave with awe and respect, because if someone behaves lightheartedly in the presence of a *tzaddik* his *berachah* can have no effect.

### **What’s In a Name**

In this week’s *parsha*, The Torah lists (*Perek 2*) the names of the princes of the *shevotim* [tribes]. There are two names in the list that are rather curious. “The princes of the children of Osher is Pagiel son of Ochron” (2:27) The word “*ocher*” implies one who perverts, who makes trouble. Ochron is a strange name to give a child. Then we find “and the prince of the tribe of Naftoli is Achira the son of Enan” (2:28). *Achi-ra* means the bad brother. Again here we can ask why such a name was given to an eight day old child at his bris. What is the meaning of these names?

Rabbeinu Ephraim, who was one of the *Ba’alei haTosfos*, offers a very interesting idea. The camp of Klal Yisroel was arranged in a way that there was a *degel* [banner] consisting of three *shevotim* in each of the four directions. Osher and Naftoli were under the banner *shevet* Don. When they left Mitzrayim, *shevet* Don took out an idol with them. This idol accompanied them through the wilderness. It crossed the Yarden with them. When they came into the Eretz Yisroel, *shevet* Don had an active House of Idolatry in their midst in which this idol was worshipped! This idol, which is known in *sefer Shoftim* as “*Pesel Michah*”, was a cause of trouble.

*Shevet* Osher and Naftoli were upset that they were stuck traveling with the wicked people from *shevet* Don who were idol worshippers. Rabbeinu Ephraim writes that Pagiel ben Ochron was not his given name at birth. It was a name he created for himself later in life. It meant “*Pagah be Kel*” (Hashem has given me a punishment). What was the punishment? He stuck me with *shevet* Don. His assumed name Ochron [sinner] did not allude to his father, it referred to his travel companions – the *shevet* of Don. Similarly, Naftoli’s prince assumed the name Achira. Now the name fits beautifully: My brother is evil – it refers to the brother of Naftoli – Don and his clan. The name Enan is also not the actual father of the prince of Naftoli, but it is an assumed name to allude to the fact that the Cloud (*anan*) pushed aside the *shevet* of Don, since they traveled together with an idol.

Why did they do this? Why did they take such names? They did it for a very good reason. A person is invariably influenced by his society, by those around him. Osher and Naftoli knew that they had a very hard road to hoe. Their first reaction when they found out they would have to be travelling with Don was “Oy this is going to be terrible! What are we going to do! What are we going to do?” But what happens to people — and this is both the biggest blessing and the biggest curse at the same time — is that we get used to everything. In the beginning, they were appalled. They knew that with the passage of time they would get used to it. *Avodah zorah!*? Yeah, that’s just the way it is.

When Jews first came to America from Europe at the turn of the last century, there were some Jews who fainted when they saw the rampant *chillul* Shabbos that took place within the Jewish community. We no longer faint when we see Jews driving down the street on Shabbos. We take it in stride – “There are observant Jews and there are non-observant Jews. That’s the way it is.”

These leaders asked themselves: How are we going to ensure that we do not make peace with the idols in our midst? How are we going to make sure that we don't get used to it? The plan was to change their name, to give themselves names that described the revulsion they originally felt when they realized that this was their lot (to be travel companions of idolaters). Just as a person's name remains with them forever, they wanted this feeling of revulsion towards idolatry to remain with them forever.

This can be a valuable lesson to us. Sometimes we find ourselves in environments that are not to our standards and not to our liking and we have no choice in the matter. We need to try to quantify our original feelings and make sure that those feelings do not dissipate. (R' Frand)

### **Bas Torah**

The males of all the *shevotim* were counted from age 20 upwards, but the members of *shevet* Levi were different. As soon as a boy was 30 days' old, at which age it is presumed that he will stay alive they were already included in the count (see *Vayikra* 3:15 with Rashi). As with any royalty, the next generation has to be inducted into their obligations from an early age, and be taught that they are obligated to serve in Hashem's army. Similarly, anyone who wants his son to grow up to be a ben Torah must start educating him from the earliest possible age, and inculcate the message that being a ben Torah calls for a great degree of self-sacrifice and dedication.

In the case of girls too, if a father wants to ensure that his daughter marries a *talmid chochom* he must instill in her a love of Torah from the youngest age. Rav Dessler would call girls who want to marry a *ben* Torah "*bnos* Torah", and would bewail the fact that many *bnei* Torah did not succeed because they married girls who were willing to marry a ben Torah but were not *bnos* Torah themselves yearning with *mesirus nefesh* for their husbands to be immersed in Torah.

In order to reach the level of a *bas* Torah, girls have to be educated from the earliest possible age to a life suffused with *ahavas haTorah* and that there is no greater happiness than having a husband sitting and learning, and nothing in the world should be greater in their eyes that they should want to give up their husband's Torah for it. (R' Moshe Sternbuch)

### **A Thought for Going into Shavuos**

The following is a typical *shmooze*, that anyone he went to *yeshiva* would have heard in the lead up to Shavuos. However, unfortunately not everyone merited to go to *yeshiva*, and even for those who did, sometimes it's good to have a reminder of what we were told in our good old *yeshiva* days.

Everyone is aware that the period between Rosh Hashanah and Yom Kippur is a period of judgment. However, not everyone is aware that the Arizal and the *Shlah HaKodosh* write that there is judgment on Shavuos as well. The judgment of Shavuos affects each and every one of us. On Shavuos there is Heavenly Judgment that determines the degree of success each of us will have in pursuing our Torah studies during the coming year. Just as the amount of material sustenance each of us will receive for the next 12 months is determined on Rosh Hashanah, the Day of Judgment, so too the amount of spiritual sustenance each of us will receive from our Torah study during the next twelve months is determined on the Day of the Giving of the Torah.

We know how to prepare for Rosh Hashanah. We know we are to *daven*, we know we are to do *mitzvos*. These things determine the nature of the Judgment we receive on the Yomim Noraim. What are we supposed to do on Shavuos in order that Hashem will say "if this is how he acts then he deserves to be given a year of success in his learning endeavors?"

The *seforim* say that a person's judgment in this matter is dependent on his *cheshek* [desire] to learn. The more he wants it, the more he shows the Ribbono Shel Olam somehow that this is important to him and he wants success in his learning endeavors, the more he will receive it. It is this "*cheshek* to learn" that determines the extent to which Hashem will allot him success in learning.

This is what we have to demonstrate over the next few days leading up to Shavuos – our desire to learn! One develops a '*cheshek*' if one comes to an appreciation of what Torah is and of how important Torah is to his life. Somehow, in these next few days, especially over the *shalosh yemei hagbolah*, we must spend time thinking of the role Torah plays in our lives, the importance that it has. In this way, we can sincerely express to the Ribbono Shel Olam our desire to grow in learning.

There are different ways to demonstrate '*cheshek*'. I recently heard (from R' Frand) a story about a *yid* from Manchester, who was a *mohel*. He went to Ukraine to perform *bris milah* for Jewish Russian babies. The *mohel* was met by a Rav from Monsey who was visiting Ukraine. The Rav asked him to describe his most memorable experience from Ukraine.

The *mohel* related that he once went to perform a *milah* in some off-the-beaten-track little town in Ukraine. At one time – many years ago – Ukraine was a vibrant center of Jewish life and Jewish living. It was a country of Chassidim and men of action. Today, there is very little Jewish life and in this town there was next to nothing. The *mohel* found out that the *bris* was supposed to be in the *shul*. He located the *shul* and walked into the building, where he saw a number of people gathered. He asked them: What time are you *davening* here? When is the *minyana*?

They looked at him curiously and asked “*daven*? We do not *daven*. No one here knows how to *daven*.” The *mohel* asked “If you do not know how to *daven*, what are all these people doing in *shul*?” The person he asked explained. “There are two different things. There is *davening* and there is coming to *shul*. We do not know how to *daven*, but still a Jew must come to *shul*!”

So morning and evening, these Jews who did not know which way was up in a *siddur*, came to *shul* because that is what Jews are supposed to do. They sit there, they schmooze, they do not *daven* but they come to *shul*! They might not achieve “Level B” – *davening*, but at least they have achieved “Level A” – coming to *shul*.

I wonder how Hashem looks at this. People do not know how to *daven*. They know they are supposed to *daven* and they feel bad that they are unable to *daven*, but at least they demonstrate to the Ribbono Shel Olam their desire to come to *shul*. It would seem that such behavior gives much “pleasure” (*nachas ruach*) to the Ribbono Shel Olam.

This is an example of how one demonstrates “*cheshek*” – the desire to become closer to the Ribbono Shel Olam. We have to likewise demonstrate our desire for learning Torah and for having success in our learning. We need to feel and demonstrate that “this is our life and the length of our days”.

In the *berachah* of *ahavah rabbah* we recite every morning, we beseech “instill in our hearts to understand and elucidate, to listen, learn, teach, safeguard, perform and fulfill all the words of Your Torah’s teaching with love. Enlighten our eyes in Your Torah. Attach our hearts to Your commandments”. If one stops and thinks for a minute about what he is saying, and says these words with *kavonah* he demonstrates to the Ribbono Shel Olam what is important to him.

When it comes to asking, ברך עלינו את השנה הזאת ואת כל מיני תבואתה לטובה, “bestow upon us Hashem our G-d this year all its kinds of crops for the best”, we are able to ask sincerely for material sustenance. Similarly, when it comes to asking Hashem to heal those who are ill, again many of us manage to concentrate. We are good at putting in requests for all of our personal needs of a financial, social, and material nature. We need to focus on improving our *kavonah* in *berachos* that plead for help in *ruchniyus* matters as well.

The *Chazon Ish* says that the *berachah* of אתה חונן לאדם דעת, “you bestow upon man understanding”, is the *berachah* where a person should *daven* for *siyata dishmayah* in his learning. In this *berachah*, in the *berachah* of *ahava rabbah* in the morning, and in the *berachah* of *ahavas olam* in the evening (a facsimile of *ahava rabbah*) – these are the places where our focus and sincerity will be able to demonstrate how seriously we are asking for *siyata dishmayah* in being able to learn and attach ourselves to Hashem’s Torah.

כי הם חיינו ואורך ימינו, “For this is our life and the length of our days”, should not merely be lip service. It is the reason for our very existence, the reason for our lives. Let us hope we will all merit *siyata dishmayah* in our learning. May we have an elevation this Shavuos and this coming year, may we merit an increase in our level of Torah, *yiras Shomayim*, and performance of *mitzvos*.

### **Introducing for the Very First Time...**

Although *boruch* Hashem I have brought out over 170 weekly *parsha* sheets and 12 booklets for the different Yomim Tovim, for some reason I have never brought one out for Shavuos. I hope to put this to an end, and hope to bring out a booklet for the upcoming Yom Tov of Shavuos, containing lots of exciting *halachic* topics and *divrei* Torah on Shavuos and *Megilas Rus*. Please help me distribute as many copies as possible by visiting: <https://thechesedfund.com/limudaymoshe/shavuosbooklet> or by calling: +1-518-323-0376, Campaign ID: 30449. *Tizku Lemitzvos* and have a wonderful Shavuos.

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