

TORAH MUSINGS DIGEST

8 DECEMBER, 2017 | A WINDOW INTO THE INTELLECTUAL WORLD OF ORTHODOX JUDAISM | EDITED BY: RABBI GIL STUDENT

Competing Rabbis

by R. Gidon Rothstein

20 Kislev: *Chatam Sofer* on Competing Rabbis

Capitalist countries assume that competition challenges people to do their best, leading to improved products at cheaper prices. True as that is in many areas, *halachah* did not see it as an unmitigated good, and developed the idea of *hassagat gevul*, encroaching boundaries, occasions when it's unacceptable to compete with the person already filling a certain niche.

Shu"t Chatam Sofer 5; *Choshen Mishpat* 163, dated 20 Kislev 5565 (1804), discusses a case of two rabbis who struggled with this. In Volume 6, *Likkutim* (Collected Responsa) 55, on 20 Kislev 5595, he takes up a very similar case [I think it's actually the same case, although some of the details are different; for that to be true, one of the responsa would have to be misdated, from 5565 to 5595 or vice versa. It's only one letter, so it's possible. If that's not true, these stories happened thirty years apart].

Freelancing as a Rabbi and Decisor

The first responsum responds to letters from two rabbis, one old and wise, the other younger. They had each sent him a letter, differing in some details, but with enough agreement that *Chatam Sofer* could identify the central issue, whether someone who was ordained could rule on *halachic* issues even without having been hired to do so. It seems that the younger man had moved into a certain town and started ruling on *halachah*, with no portfolio to do so.

Chatam Sofer thinks he obviously may judge litigations and/or rule on Torah law, since that's not a function of being a hired rabbi. *Terumat HaDeshen*, responsa 126-8, allowed that even where the local rabbi was a greater Torah scholar, for reasons similar to the capitalist one, that competition in Torah leads to more and better Torah.

For civil cases and for choosing a *mesader kiddushin*, a rabbi to conduct a wedding, he offered the added reason that we don't force representatives on people—these are personal events, and the participants should be able to choose who will handle it. He puts in parentheses that this is only if it will not interfere with the local rabbi's livelihood, but I don't see how he can be so confident it will not.

The Rabbi's Prerogatives

Perhaps it's because of the next line, where he says that any matter that affects the community, such as internal or external taxes (paid to the community or to the non-Jewish government), or paying for communal services such as the bathhouse, should be brought to the hired rabbi. The

members of the community itself cannot judge such taxes, since they are affected by the outcome and are therefore *noge'im ba-davar* (if so and so pays less, each member will have to pay more).

The rabbi's salary is a fixed amount that comes out of the general fund, so he is financially unaffected by how the taxes are assessed [at least theoretically; since these are the people who pay his salary, there's room to argue he is affected, especially if he has to rule for or against a prominent financial supporter of the community].

To avoid any hint of improper influence, some communities brought in outside judges. The unhired Torah scholar who resides in the town clearly may not serve in that case, since the practice to go outside the community shows they don't trust their rabbis to be sufficiently objective, let alone a man who has to pay taxes himself.

Defining Ordination

Since he has accepted that a certified rabbi can rule even though there's a local rabbi, he pauses to explain the nature of this ordination. It goes back to Mahari and Mahari Weil, but *Chatam Sofer* did not have a good tradition as to what it meant. His teacher, R. Natan Adler, thought that Mahari Weil said that the title of rabbi (which he referred to as *semichat moreinu*, certification to be a teacher) could only be conferred by a scholar who conducted a *yeshiva* [meaning more than a rabbi, someone who had at least ten students at a time, I think that's because he was a more recognized scholar and could better evaluate who was qualified for sensitive matters].

Chatam Sofer inferred that the title was taken so seriously because of the expectation that people who received this title might arrange weddings and divorces [which is serious for many reasons, but especially because, done wrong, it can lead to permanent *mamzerut*, *halachic* illegitimacy].

Those strict standards—where a rabbinic candidate had to qualify both in his knowledge and personal conduct, as evaluated by a fairly high level Torah scholar—were lost over time. People began to purchase ordinations by contributing to a Torah scholar's funds (or helped him find business opportunities to support himself, or hired him to teach their children).

In gratitude, the scholars would give them the title of *chaver*, which implied that this person conducted himself well religiously, an attestation that was not always based in fact. The ability to purchase such titles (cheaply, *Chatam Sofer* bemoans) means we cannot trust even ordinations conferred by someone who in fact has a *yeshiva*, since even such people can be bought (in his time, obviously; I am not in any way implying this could still be true today).

He cuts the letter short there, not wanting to further malign the Jewish people, but makes clear that for all that worthy Torah scholars indeed could rule on *halachah* even if they were not the local rabbi, such people

need to be well-certified, which was very difficult at the time.

Tyranny of the Majority

The second letter discusses a town that had hired a student of *Chatam Sofer's* as their rabbi, but a minority of the town did not want him because he was too young (!). [I won't repeat this, but if this is the same case as above, it seems that the two rabbis in competition had written relatively circumspect letters to *Chatam Sofer*, posing a theoretical question of whether an unhired rabbi could function in rabbinic ways, and what constituted proper qualifications. Here, we see the raging controversy underneath the surface of those letters. Or it happened very similarly thirty years later, on the same day and month].

This minority wanted to hire a more established rabbi, and let this young R. Zeligman serve as a judge on their local court, and assured all parties they had the financial wherewithal to support this plan. [The discussion assumes that the needs of the minority must be taken into account; in our days, that's not always recognized in *shuls*, communities, or countries, and majorities often allow themselves to run roughshod over minorities, however large].

R. Zeligman had agreed to terminate his employment as rabbi as of Cheshvan 5695 (1834), and included in that agreement a *cherem*, a ban of excommunication should he continue after that. However, once he stepped down, the majority of the community hired him back, and they claim the *cherem* should no longer apply (since he did step down).

Chatam Sofer points out that there are two issues here, whether R. Zeligman deserves to be a rabbi yet or he needs more seasoning and, second,

whether his having accepted *acherem* because enough people didn't want him obligated him not to accept the job.

R. Zeligman, A Complicated Fellow

As for the first, *Chatam Sofer* verifies he had tested him himself, and that he was a worthy Torah scholar, knowledgeable in *halachah* and *Aggadah* (*Chatam Sofer* identifies that as valuable for more popular talks, to audiences that would not be interested in technical *halachah*). He's also known him from his youth, and can attest to his character as one who strives to serve Hashem, which is why he ordained him to teach Torah and judge Torah matters.

That's not the same as supporting his taking a position by force. Nor is *Chatam Sofer* willing to assume that those who are protesting his appointment have misplaced motives. Since they know that Hashem would punish them should they do that, he finds it unlikely that anyone would.

He cannot fully judge from afar, however, so he rules that within thirty days the two sides must find three judges to hear their claims and test the two candidate rabbis. He warns his student, R. Zeligman, not to issue any rulings in the meantime, and everyone involved not to bring the non-Jewish authorities into the matter.

He asks to have this letter read and explained to everyone in the community, so that they know not to let this blow up any further, so that they can litigate it and then restore the peace.

This was *Chatam Sofer's* way of helping one or two communities deal with when rabbis find themselves in competition, which is not always good for everyone involved.

How to Tell When Your Tefillin Need Adjustment

by R. Daniel Mann

[Periodically, we re-issue our discussion on the proper position of tefillin shel rosh. Many people motion to their friends to straighten their tefillin, which is rarely a problem, and do not realize that tefillin extending too far forward is a far more severe problem. In Living the Halachic Process, I:G-1, we develop the halacha that the end of the tefillin must not go beyond the roots of the hair of the hairline.]

Upon visiting different shuls, from various elements of society, it pains me to see great numbers of fine Jews who are definitely donning their tefillin wrong and many others about whom it is hard to tell, especially when they have receding hairlines. Since even some talmidei chachamim get it wrong, I assume that knowing how to apply the halacha to one's head is a big problem. We will focus here on techniques to figure this out.]

Question: How can one tell when his *tefillin shel rosh* needs adjustment?

Answer: Firstly, an adult who has not adjusted his *tefillin shel rosh's* knot

in several years almost certainly needs an adjustment. *Tefillin* straps stretch slowly as we apply pressure to them (some more than others) when fastening the *tefillin* on our head. If one's hairline has not receded, he can easily check (see above).

Now, a little review of the anatomy of a normal human head. The skull is highest towards the back of the head; it then gradually slopes down. Near the front of the head, the slope increases, and then turns into a "cliff" (i.e., the forehead). The hairline ends at the end of the gradual or the midst of the increased slope. No hair (except eyebrows) is rooted in the forehead.

Based on the above, the following are signs of misplaced *tefillin*. If the end of the *tefillin* looks like it is "hanging off a cliff," it is certainly much too far forward, as a line drawn down from the end of the *tefillin* would hit the forehead or even the nose. Because of the increased slope, there may be a little space between the bottom of the *tefillin* and the head. However, if there is too much room (i.e., a finger fits in comfortably), it is very likely not in the right place.

Another sign is the *tefillin's* angle. The angle is determined primarily by where the *tefillin* are fastened to the head by the straps - at the back of the *tefillin*. Generally, *tefillin* in the right place will be upright with a slight downward slant. If the *tefillin* has a serious downward-facing angle, it is

generally (unless one has a rounder head than most) too far forward, so that its rear is where its forward part should be (at the beginning of the steeper slope). Thus the *tefillin*'s front will be too far forward, unless the *tefillin* are very small.

A final sign is the *kippa*. With average size *kippot* and *tefillin*, there should be little or no room between the two. One with a particularly large *kippa* or who wears it on the top of the head (as opposed to part top/part back) will have to move the *kippa* back.

When I look around many of the *shuls* I regularly *daven* in or visit, I see many too many people with apparent (or definite) problems in this regard. Among older people, I would estimate that the problems apply to well **over 50%**. As I HATE correcting people (and most hate being corrected), I

am torn as to when the rectifiable problem is clear enough to halachically/morally require me to do the uncomfortable. The following *limud zechut* decreases the problem. Most people put the *tefillin* at a certain position and push it forward in the process of fastening. Thus, some of those who keep the *tefillin* too far forward had it in the right place for a few moments after the *beracha* (so that it was not *l'vatala*) before the fastening was complete, and thereby may have fulfilled the *mitzva* for that short time.

More people should learn how to shorten the circumference of the head strap, which is necessary for the *tefillin* to stay in the right place. You are invited to visit me or ask a *sofer*. It may be easier to search for demonstrations search "youtube tefillin head adjust." Then, you can help yourself and your friends.

Holiday Parties

by R. Gil Student

I've often heard rabbis speak about office holiday parties as if they are obviously and unequivocally forbidden and it's troubled me. I'm not quite sure what the big deal is but I'm also not certain that all rabbis understand the varying circumstances.

For some people, missing a holiday has no career impact. For others, it might. I once had a senior executive (my boss' boss) personally ask me whether my wife and I were attending the holiday party, and when I said "No" he told me "Wrong answer." And what if you are a senior executive or even a CEO? It is almost impossible to consistently miss your own company's holiday party. This shouldn't be enough to permit the forbidden but it should be taken into account when there is room for judgment.

I'm going to try to explain why I think that there is room for different opinions but I want to be clear that this is just my thinking out loud and is not to be taken as any sort of halakhic ruling. Please ask your rabbi about this issue and do not reach any conclusion from just this discussion.

I. The Problem

The main issue is a very explicit Gemara. The Gemara (*Avodah Zarah* 8a) states that Jews in the Diaspora worship idolatry in purity. What does this mean? When a Gentile makes a personal celebration (like a wedding for his child), he invites Jews to the party and they attend. Even though they eat their own kosher food, the Torah considers it as if they are eating idolatrous sacrifices. As it says, "Lest you make a covenant with the inhabitants of the land, and they prostitute themselves to their gods and sacrifice to their gods, and one of them invites you and you eat of his sacrifice" (Ex. 34:15). The end of the verse implies that you may not accept an invitation from an idolater and, if you do, it is as if you are eating from his idolatrous sacrifice.

This law is quoted in the *Shulchan Arukh* (*Yoreh De'ah* 152:1). However, there is a debate between the *Taz* and *Shakh* about it. The *Taz* writes that this is an actual biblical prohibition based on the verse quoted above. The

Shakh (in his *Nekudos Ha-Kesef*) disagrees and argues that it is only a rabbinic prohibition. The concern is that the Jew attending this party will lead the host to thank his god, an idolatrous act that is indirectly caused by the Jew. This concern underlies other laws, as we will discuss.

This dispute between the *Taz* and the *Shakh* has a very practical ramification. What if the idolater will be offended by the Jew's rejection of the invitation (i.e. there is *eivah*)? If the prohibition is biblical then there is nothing the Jew can do unless his life is in danger. However, if the prohibition is rabbinic then we have ample precedent for this type of rabbinic prohibition to be overrode to avoid offending Gentiles.

Another practical ramification is if we know that the Gentile is non-religious and will definitely not thank any sort of god if the Jew attends. According to the *Taz* this makes no difference, but according to the *Shakh* this relieves the prohibition.

Which approach do we follow? Rav Menasheh Klein (*Mishneh Halakhos* 7:118) argues that the *Taz* is correct and therefore there is no way to permit attending any such party, including office parties, which he mentions specifically.

Let me explain why I think it is clear that there is room to follow the *Shakh*.

II. Doing Business

The first Mishnah in *Avodah Zarah* states that we do not do business with an idolater within three days of his holidays. The main reason offered for this rabbinic prohibition is that if he conducts good business he will inevitably thank his god, and we do not want to be the cause of mentioning, thanking or worshipping an idol.

Tosafos (*Avodah Zarah* 2a sv. *assur*) ask why the practice in Medieval France was to do business with Gentiles, not only within three days of their holidays but on the holidays themselves. How can we justify ignoring this talmudic prohibition?

Tosafos offer three possible explanations for the contemporary practice. The first is that there is *eivah*, offense, and therefore this rabbinic prohibi-

tion is overridden. This is rejected because the proof that *eivah* could override this prohibition is not airtight and because a Jew could simply say that he's not interested in doing business (others object that if a Jew says that every single year, the Gentiles will notice the pattern and become offended).

Tosafos then suggest that since we know that these Gentiles do not worship idolatry, the prohibition no longer applies. There is talmudic evidence that this law was never intended as a blanket prohibition but rather only when we are concerned with the thanking of idols. The Gemara (7b) quotes opinions that this rule only applies one day before Gentile holidays or only the holidays themselves, because the reality in the different places was that only business on those days would lead to thanking idols. If today, meaning Medieval France, conducting business on their holidays would not lead to thanking idols, then this prohibition does not apply at all.

The third answer is based on a ruling in the Talmud Yerushalmi (*Avodah Zarah* 1:1). The Yerushalmi states that if a Jew arrives at a town during a Gentile holiday when everyone is celebrating, then he may join their celebration because he is *machanif*. *Tosafos* seem to explain the word "*machanif*" as meaning that they know that he isn't really celebrating and is just trying to be friendly with his business colleagues. While this is the way *Tosafos* understand "*machanif*", it is clear that other *rishonim* (Rosh, Ran) understand it as meaning that there is *eivah*. If you come to a celebration then you join in so you don't offend anyone, even if it is on a Gentile holiday.

III. Offending

Clearly, this Yerushalmi that *Tosafos* utilize is significant for our discussion. It explicitly permits joining an idolatrous Gentile celebration — according to *Tosafos* when it is clear that you are doing it for business reasons and according to the Rosh when you do it so as not to offend. Significantly, the Tur and Rema in *Shulchan Arukh* (*Yoreh De'ah* 158:12) rule according to this Yerushalmi.

If that is the *halakhah*, then let us look at contemporary holiday parties.

- They aren't religious celebrations. Most large companies nowadays try to accommodate people of all religions and do not have explicitly religious celebrations. These are "holiday" parties and are entirely secular. If something even remotely religious happens, like singing Christmas carols or someone entering dressed as Santa Claus, I would personally leave, although I'm not convinced that either of the two examples I mentioned are actually religious. But really we are just talking about a neutral holiday party.
- Gentiles today do not worship idolatry and, even if they do, they do not thank their god that a Jew who works in their legal department attended a mandatory business party (reason 2 of *Tosafos*).
- People get very offended if Jews as a group, or even religious Jews as a group, refuse to go to the company's holiday party. The company spends a lot of money on what they consider to be a morale booster and if you refuse to participate, especially after they make certain that there is nothing religiously offensive and glatt kosher food is available, you are undermining company morale and offending executives (reason 1 of *Tosafos* and reason 3, according to the Rosh).
- It is clear that people are there because they have to be. You don't normally make parties and invite everyone in the company. This is a mandatory company event, which you are attending for business purposes (reason 3 of *Tosafos*).

IV. Parties

The ruling of the Rema about arriving at a town and finding a celebration seems to me to be a proof against the *Taz*, who claims that there is a special prohibition against attending a Gentile celebration. How can "*machanif*", however you define it, override a biblical prohibition? I assume that the *Taz* would say that the case of the Yerushalmi, that the Rema quotes, is when you aren't invited. But if you are invited, then it is biblically prohibited. I find this to be an unconvincing distinction.

Another possible distinction is between a personal party and a communal party. Perhaps the *Taz* would say that there is a biblical prohibition against attending an idolater's personal party (such as a wedding he makes for his son) but a communal holiday celebration does not fall under the biblical prohibition. It is only rabbinically forbidden and may be overrode for "*machanif*" concerns.

Notably, the *Levush* explicitly rules that *eivah* overrides the prohibition against attending a Gentile party (to which the *Taz* objects). This is significant because it contradicts the *Taz*'s rationale. More recently, Rav Moshe Feinstein (*Iggeros Moshe, Yoreh De'ah* 2:117) ruled similarly — against the *Taz*.

V. Other Concerns

I know that some might object that the Gemara (*Megillah* 12a) condemns the Jews of Persia in the time of Purim for attending the banquet of Achashverosh. But you have to remember that Achashverosh was an idolater. It could very well be that he performed idolatry at the (very long) party. It is almost certain that there was debauchery and, according to some midrashim, it seems that there was nudity.

Which brings us to an important sidepoint. Even if it is permissible to attend a party, there might be things going on at that party that are highly inappropriate. On this, it varies greatly from company to company. Some have parties where there is no alcohol. Others have alcohol and mixed dancing. Some, I am told, can get even more inappropriate.

Rav Hershel Schachter once told me that it is forbidden to be in a room where mixed dancing is going on. As he said, the Gemara comments on the first verse in Tehillim that you shouldn't walk with sinners because that could lead to standing with them, which could lead to sitting with them. So, of course, you can't sit with them while they are sinning. I later found a responsum by the Maharam Schick (*Orach Chaim*, no. 71) in which he also rules that you are not allowed to be in a room where people are sinning (in his case, praying without a *mechitzah*; see also Baruch Levine, *Sanctity of the Synagogue* (NY, 1962), p. 192ff.).

However, a few years ago, the newsletter *Halachically Speaking* had an is-

sue on *mechitzah* and quoted the *Halikhos Bas Yisrael* (ch. 7 n. 35) as ruling that you are allowed to remain in a room where people are mixed dancing. Or, at least, there is no inherent prohibition to being in such a position but you have to be very careful not to see the dancing. So, if there is mixed dancing at the party, according to Rav Schachter you must leave the room but according to the *Halikhos Bas Yisrael* you should but you don't have to (although you may not see it so you must turn your back to it).

In general, though, a little common sense and sense of propriety should get you through the ordeal. It is important to know when to say that you are uncomfortable and want to step out, and when to simply turn your back and not look at certain activities. When there are questions of alcohol, inappropriate circumstances or Christmas celebrations, it is always best to behave strictly.

(adapted from a Dec '08 essay)

Some of the Complications of Family

by R. Gidon Rothstein

Full Sons, Full Wives?

Early on in *Vayeshev*, 37;2, the verse describes Yosef as a *na'ar*, a boy, with the sons of Bilhah and Zilpah. Ramban says Ya'akov tasked these sons with watching the younger Yosef, who repaid the favor by talebearing on them (Rashi had said he told on the sons of Leah, but Ramban thinks that would leave no reason for these brothers to hate him, as they clearly do).

Leah's sons had more than enough cause for hatred in Ya'akov's favoritism of Yosef. The maidservants' sons would not be threatened by that, since they were not in the running for top position in the family anyway.

Ramban follows Rashi and *Chazal* in assuming that Bilhah and Zilpah remained in an inferior position within the family, as did their sons, despite evidence to the contrary. Ramban does comment on one piece of such evidence, that this verse refers to Bilhah and Zilpah as *neshei aviv*, his father's wives. True, in last *parshah*, they were called *shefachot*, maids, when Ya'akov put them and their sons before Rachel and Leah when they were about to meet Esav. So which is it—were they elevated to full wife status, or permanently seen as maids?

Ramban first answers that context matters. Since these two had started out as maids to Rachel and Leah, they are always treated that way in their mistresses' presence. At the end of the comment, he makes a complementary or independent suggestion, that once those two passed away, Ya'akov fully married them, which is why they are referred to as wives.

In between those two parts of the comment, he notes that when the Torah discusses Reuven's sin with Bilhah, it calls her his father's concubine; Ramban says that implies Reuven would never have done what he did

with one of his father's full wives.

He does not bring the discussion to a clear conclusion, but he seems to feel that Bilhah and Zilpah start out with one status, and slowly become more fully accepted, as do their sons.

Learning About Murder

When Yehudah convinces his brothers to sell Yosef rather than leave him in a pit, he says there's no profit in killing Yosef and covering his blood (37;26). Ramban cannot take that last phrase literally, since there wasn't going to be any blood. Rashi said that "covering up blood" refers to all actions taken to hide a death. Ramban thinks he can get closer to the simple sense of the words, that Yehudah was telling his brothers that bringing about Yosef's death, in whatever way, would be tantamount to killing him and covering his blood.

His next idea was what led me to share this comment here. He says Reuven had taught the brothers that it was better to throw Yosef in a pit than to kill him themselves, that indirect causation is not exactly the same as direct action [a distinction people struggle within our times as well; I've seen people argue that they're the exact same, that if one is going to do something indirectly, they might as well do it directly].

Yehudah took the morality lesson a step further; Ramban says, to remind the brothers that it was nonetheless a form of murder (as David is told in *II Shemuel* 12;9, about his causation of the death of Uriah, Batsheva's husband), and they should therefore avoid it.

Ramban says both were true and leaves it at that, but he has claimed that issues of morality we take for granted were not so obvious to the sons of Ya'akov. [Who were going to become the progenitors of the Jewish people, we should always remember. I am not questioning their stature, I am pointing out that Ramban is clear that what has been known for thousands of years can come to seem so obvious that we forget a time when it was not, when upstanding, even exceptional, people would not have understood these basic moral truths].

When a murderous rage overcomes someone, a first step is to realize that indirect action is less evil than direct. The next step is to remember that it's still evil, and to talk oneself down from there as well. As Yehudah did for his brothers.

An Early *Yibum*

Yehudah's first son, Er, dies without children. Yehudah encourages Onan, 38;8, to be *meyabem* Tamar, to perform levirate marriage on Onan's widow. [I looked it up: levir is from the Latin for a husband's brother, so levirate marriage is to marry a husband's brother. While English uses the word brother in law for siblings and the husbands of siblings, one's own and one's spouses, levir was specific to a husband's brother].

Ramban's comment has long fascinated me, since I think he was groping towards the set of ideas that science later called genetics. The problem stems from Yehudah's telling Onan to "establish seed," provide some sort of continuity, for his deceased brother. Rashi thought their first child would be called after the deceased, which Ramban understands to mean they'd give the baby that name [there might be other ways to read that Rashi, but we'll leave that].

That's not how levirate marriage worked, Ramban objected; there's no requirement to name the child a particular way. Nor do Boaz and Rut name their first child Machlon, although the book calls that marriage a form of *yibum* (even though it's with a more distant relative, a fact Ramban will discuss). Another weakness in Rashi's reading is that the verse here says Onan knew the child would not be his (Ramban thinks the verse uses that verb to indicate that Onan was correct, that the child would in fact not have been his in some way), and that that bothered him so much that he refused to impregnate Tamar (earning himself a word in the English language that is lastingly derogatory).

If all he had to do was name the child Machlon, why would he care, especially when relatives are usually thrilled and touched to name a child after a deceased relative?

The Child Won't Be His and a Nascent Genetics

Ramban's view calls the answer a "great secret of the secrets of the Torah in the creation of generations of humans," but then says it's easily recognized by all those to whom Hashem gave eyes to see and ears to hear. In fact, prior to the Torah, ancient wise men knew levirate marriage provided a great service, and that if no brother was available, other relatives could serve as well (the closer the relative, the better—he relates this to inheritance, which also proceeds from closer to more distant relatives, but we don't have space to take up that aspect of it).

[He doesn't say more, but he has said enough for me to think I have understood. Something about how people produce offspring was both secret

yet obvious to those who look and listen carefully enough. To me, he means that parents shape their children's physical characteristics, but that relatives share many of these characteristics.

We have words for this today, that relatives share a gene pool, and that gene pool translates into our physical and psychological profiles. Again, he doesn't say it, but I think Ramban saw *yibum* as a way to produce the child the deceased brother never had the chance to. Hashem manipulates this brother's genes so that the child conceived is a genetic match for the one the deceased would have produced with this wife. In that sense, Onan knew the child would literally not be his.]

Ramban says this works best with brothers, which fits genetics as well, since brothers are the closest match. It makes sense that a brother is best set up to give Hashem the least supernatural way to produce such a child.

Happy to Help or Resenting Being a Tool of Someone Else's Continuity

Bereshit Rabbah 85;5 says that Yehudah started the idea of *yibum*; when he learned this secret from his forefathers (that even after the tragedy of a man passing away without children, we can continue that relative's legacy), he was anxious to bring it to fruition. That's why Hashem made it a mitzvah in the Torah, where marrying a brother's wife in every other situation is one of the *arayot*, one of the capitally prohibited sexual relationships.

That, too, explains why the Torah sees it as so cruel of a brother to refuse a *yibum* [he again does not go further, but I believe he means that the brother has the opportunity to bring into the world the child his deceased brother did not get the chance to, and he's refusing, a terrible cruelty.

I note also that for historical reasons we need not elaborate, Ashkenazic Jews came to prefer *chalitzah*, the ceremony that frees the widow to marry someone else. But the Torah sees that as an inferior choice, and my audio shiur on ou.org, *A Responsum a Day* for Rosh Chodesh Sivan, will, Gd willing, review a responsum of R. Ovadya Yosef's where he vigorously defends the right of Sephardic Jews to perform *yibum* in our times.]

The Torah only established it for brothers, but Ramban says the wise men of the Jewish people saw that it works, to some extent, even for more distant relatives, which is why Naomi and Boaz were so invested in finding Rut a husband from within the family.

More so even than most of the other *parashiyot* in *Bereshit*, the Ramban's we reviewed show the complications of building mixed families. Multiple wives, jealousy and hatred among brothers, and the ability to help deceased brothers leave a posterity are just some of the issues Ramban taught us about in *Parshat Vayeshev*.

Chanukah Lights: How Long?

by R. Gil Student

Often, when social circumstances change significantly from the past, some people automatically assume that Jewish law must change. Others summarily dismiss the suggestion that the law will ever change. Both approaches are incorrect. Rather, these matters require careful and sensitive analysis by the leading scholars to determine the nature of the law

and whether the change in circumstances requires a change in law.

I. Changing Times

We publicize the miracle of Chanukah each night of the holiday by lighting oil or candles at the beginning of the night. For how long must those lights last? The answer must take into account the dramatic differences in life between Talmudic times and today.

The Gemara (*Shabbos* 21b) says that we light as the sun sets until foot traffic in the street ends, as defined by the time that wood merchants return home from work. The wood merchants were the last people in the marketplace to go home, waiting for people who found themselves lacking wood for their evening fires. Authorities throughout the ages have followed the Rambam (*Mishneh Torah, Hilkhos Chanukah* 4:5) that this time span for Chanukah lights lasts approximately half an hour. That means that we must light our Chanukah candles not later than half an hour after the onset of night and keep them lit for the whole half hour period.

However, today people are less dependent on sunset. With the advent of electric lights, we work later and travel for other purposes well into the night. The occupation of wood merchant no longer experiences the prominence it once had. Must we light candles that can remain lit until 11pm or later, depending on the neighborhood?

II. Different Places

Additionally, the Gemara (*ibid.*) says that the proper practice is to light outside, so everyone can see. However, the Gemara adds, during times of danger you can light indoors. According to Rashi (*ad loc.*, s.v. *ha-sakkanah*) and Ri (*Tosafos, ad loc.*, s.v. *u-vi-sh'as*), the danger is that members of the Zoroastrian majority may extinguish Jewish flames. According to Tosafos elsewhere (*Shabbos* 45a s.v. *mekamei*), the intent here is actual physical danger, a government decree forbidding Chanukah lights.

Throughout the Diaspora, people light inside their homes. Where the danger is neighborhood mischief, i.e. extinguishing the lights, people light near their windows. Where the danger is more ominous, people light in an inner room far from the view of outsiders.

When people light indoors, for how long must the lights remain? The concern for people walking in the streets seems irrelevant because they cannot see the lights anyway. Is it sufficient for people to light for a brief moment and then extinguish the candles. Those living in fear of government persecution may welcome this possibility.

Rav David Brofsky (*Hilkhos Moadim*, pp. 345-346) quotes two views on the proper practice today in Israel, where people light outdoors. Rav Yitzchak Ze'ev Soloveitchik (known as the Brisker Rav) and Rav Shlomo Zalman Auerbach used enough oil to keep their Chanukah lights going late into the night. In contrast, Rav Avraham Yeshayahu Karelitz (known as the Chazon Ish) extinguished his lights a half hour after the latest measure of nightfall. Even in the Diaspora, where people light indoors, Rav

Shmuel Kamenetsky (*Kovetz Halakhos, Chanukah* 3:2) rules that people need light for only half an hour. Rav Daniel Kleinman, Rav Kamenetsky's editor, offers an interesting historical proof to this view (*ibid.*, n. 2).

III. Consistent Requirement

To understand this proof, we have to recognize the different interpretations of the beginning of the time to light on Chanukah. Three main views exist: the beginning of sunset (*Bi'ur Ha-Gra, Orach Chaim* 672:1, following Rambam and Mordekhai), the end of sunset (Ran and Rashba, quote in *Bi'ur Ha-Gra*) or dusk (*Shulchan Arukh, Orach Chaim* 672:1, following Rabbenu Tam and the Rosh). Throughout the centuries continuing to today, we find different authorities locating the ideal lighting at these times, although they allow later lighting if necessary. Additionally, we find that they all require lights to remain for at least half an hour, the Talmudic measure of when the wood merchants return home.

How can it be, asks Rav Kleinman, that these authorities living in different times across different centuries, who believe candle lighting begins at different times, converged regarding when wood merchants return from the market. Are we supposed to believe that in Rambam's Egypt and Mordekhai's Germany, wood merchants returned home half an hour after sunset begins, while in Rabbenu Tam's France and Rosh's Germany they return half an hour after dusk, and in Ran's and Rashba's Spain they returned half an hour after sunset finishes? This defies plausibility. It seems more likely that the Talmud had a set time of half an hour in mind and associated it with the time when wood merchants return. Regardless of when merchants return in your locale, the minimum time for Chanukah lights remains half an hour.

Rav Moshe Sternbuch (*Mo'adim U-Zemanim*, vol. 2, no. 141) offers a different proof. He points out that the minimum of half an hour applies also to the Friday and Saturday nights of Chanukah. However, on Friday nights the wood merchants certainly would return home earlier because of the onset of Shabbos. On Saturdays they did not work. On neither day the wood merchants returned home half an hour after sunset (or dusk). Apparently, the half hour minimum applies regardless of when wood merchants actually return home on any given day or in any specific place. Similarly, whether you light indoors or outside, the same minimum should apply.

Times have changed but the new social circumstances may not affect all laws equally. Regarding the time to light, some authorities allow for greater leeway due to the later street presence. Rav Sternbuch (*ibid.*) allows people to light outdoors with a blessing until most people return home from work, which he estimates (in South Africa a few decades ago) is about two hours after sunset. Rav Kamenetsky only allows a blessing within half an hour of the latest time to light for those who light outdoors. But if you light indoors, you can light with a blessing as long as people are awake. Regarding the length of time for which the lights must remain, many authorities believe that the changed circumstances do not impact the rule.