



SHABBAT PARSHAT NITZAVIM-VAYELECH · 25 ELUL 5773 - AUG. 31, 2013 · VOL. 20 NO. 50

PARSHA INSIGHTS

UNDERSTANDING AND COMPREHENSION

"It will be when all these things come upon you, the blessing and the curse that I have presented before you, then you will take it to your heart... and you will return to the L-rd, your G-d and listen to His voice..." (30:1)

The human mind is like a machine that has many modes. There is a mode that perceives through ears like microphones and eyes like cameras; it senses movement through the inner ears and the skin; it senses heat and cold. The mind can understand what it is seeing/hearing/feeling. It can piece together a sufficiently accurate picture of reality to act with confidence. It may not be right all the time, but it's right enough of the time to steer the body through decades of existence.

There's another part to the mind, however, a part that takes individual pieces of information and processes them into a comprehensive whole – that converts understanding into comprehension.

The history of the Jewish People is written with our blood. We are a byword for exile and suffering. "The wandering Jew" "ghetto" and "genocide" are all words that have entered the *lingua franca* of the world, courtesy of the Jewish People.

When you read the Torah's dire warnings of what befalls us when we break its eternal laws and compare that to our

blood-stained history, chills run down your spine.

On the other hand, the periods of the great blessing of prosperity that Jewish People enjoyed in our Holy Land before the exiles must not be forgotten. Distant as they may seem to us, those were days of incomparable spiritual and physical bounty.

"It will be when all these things come upon you, the blessing and the curse that I have presented before you, then you will take it to your heart... and you will return to the L-rd, your G-d and listen to His voice..."

What we know today, our comprehension of both the blessings and the curses of over three thousand of years of Jewish history, will eventually lead to a true return to belief and trust in G-d.

For the incontrovertible evidence of our anti-historical survival, that perspective of thousands of years of history viewed through the reflection of the heart, yields a true perception of destiny.

• Source: Adapted from Rabbi Shimson Rafael Hirsch

Remembering Rav Weinbach

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PARSHA OVERVIEW

Nitzavim

On the last day of his life, Moshe gathers all the people, young and old, lowly and exalted, men and women, in a final initiation. The covenant includes not only those who are present, but even those generations yet unborn. Moshe admonishes the people again to be extremely vigilant against idol worship because, in spite of having witnessed the abominations of Egypt, there will always be the temptation to experiment with foreign philosophies as a pretext for immorality. Moshe describes the desolation of the Land of Israel which will result from failure to heed G-d's *mitzvot*. Descendants of that generation and foreigners alike will remark on the singular desolation of the Land and its apparent inability to be sown or to produce crops. The conclusion will be apparent to all — the Jewish People have forsaken the One who protects them in favor of powerless idols. Moshe promises, however, that the people will eventually repent after both the blessings and the curses have been fulfilled. However assimilated they will have become among the nations, eventually G-d will bring them back to *Eretz Yisrael*. Moshe tells the people to remember that fulfilling the Torah is not an impossibility; rather it's within the grasp of every Jew. The *parsha* dramatically concludes with Moshe comparing the Jewish People's choice to follow the Torah to a choice between life and death. Moshe exhorts the people to choose life.

Vayelech

On the last day of his life, Moshe goes from tent to tent bidding farewell to his people, encouraging them to “keep the faith.” Moshe tells them that whether he is among them or not, G-d is with them. He summons Yehoshua, and, in front of all the people, exhorts him to be strong and courageous as leader of the Jewish People. Thus, he strengthens Yehoshua's status. Moshe teaches the mitzvah of *hakhel*: Every seven years on the first of the intermediate days of Succot, the entire nation, including small children, is to gather at the Temple to hear the king read from the Book of Devarim. The sections read deal with faithfulness to G-d, the covenant and reward and punishment. G-d tells Moshe that his end is near, and he should summon Yehoshua to stand with him in the *Mishkan*, where G-d will teach Yehoshua. G-d tells Moshe and Yehoshua that after entering the Land the people will be unfaithful and worship other gods. G-d will then completely “hide His face”, so that it will seem that the Jewish People are at the mercy of fate, hunted by all. G-d instructs Moshe and Yehoshua to write down a song — *Ha'azinu* — which will serve as “witness” against the Jewish People when they sin. Moshe records the song in writing and teaches it to *Bnei Yisrael*. Moshe completes his transcription of the Torah and instructs the *levi'im* to place it to the side of the Holy Ark, so that no one will ever write a new Torah Scroll different from the original, for there will always be a reference copy.

LOVE OF THE LAND

Selections from classical Torah sources which express the special relationship between the People of Israel and Eretz Yisrael

RABBI OVADIA OF BARTENURA

“All who strive with the community should do it for the sake of Heaven, for the merit of their forefathers helps them succeed and their righteousness is everlasting; and you will be rewarded as if you did it by yourselves” — Rabban Gamliel, the son of Rabbi Yehuda Hanassi. (Avot 2:2)

Those who mobilize a community to perform a mitz-



vah, such as giving charity or ransoming captives, should do so only for the sake of Heaven and not for any personal honor. If they have proper intentions, the merit of the community's forefathers will help them reach whatever goal they set, even if it is a great sum of money. The righteousness achieved by the community will last forever, and all who have worked to motivate it will be regarded as if they had done it with their own funds.

OHRNET magazine is published by OHR SOMAYACH Tanenbaum College

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PARSHA Q&A ?

Nitzavim

1. Why did Moshe gather the Jewish People together on the day of his death?
2. Who are the wood-cutters and water-drawers mentioned in verse 29:10?
3. How do two parties “pass” into a covenant?
4. What is the connection between the verse “*Atem nitzavim*” and the curses in the previous parsha?
5. Why can't G-d disassociate himself from the Jewish People?
6. How many curses were listed in *Parshat Ki Tavo*?
7. Which two leaders followed Moshe's example and assembled the people at the end of their rule?
8. With whom did Moshe make the covenant and oath?
9. Why did the Jewish People see only idols of wood and stone in Egypt?
10. What is meant by the punishment of “adding drunkenness to thirst (29:18)”?

Vayelech

1. How old was Moshe when he died?
2. Why was Moshe unable “to go out and come in” (31:2)?
3. What happened to Moshe's Torah knowledge on the day of his death?
4. How did Moshe foresee the relationship between Yehoshua and the Elders?
5. What did G-d tell Yehoshua concerning his relationship with the Elders?
6. How often does the *hakhel* (assembly of the Jewish People) take place?
7. Why does the Torah call the year of the *hakhel* the “*shemita* year”?
8. What sections of the Torah does the king read at the *hakhel*?
9. In what physical location does the king read at the *hakhel*?
10. Why were the men commanded to come to the gathering?

PARSHA Q&A!

Answers to This Week's Questions!

All references are to the verses and Rashi's commentary unless otherwise stated.

Nitzavim

1. 29:9 - To initiate them into the covenant with G-d.
2. 29:10 - Canaanites who came to join the Jewish People.
3. 29:11 - The two parties place objects in two parallel lines and pass between them.
4. 29:12 - The Jewish People asked, “Who can survive such curses?” Moshe comforted them, saying, “You've done a lot to anger G-d, and yet — ‘*Atem nitzavim*’ — G-d didn't destroy you ...you're still standing before Him.”
5. 29:12 - Because He told them He wouldn't and because He swore to the *Avot* (Patriarchs) that the Jewish People would always remain His nation.
6. 29:12 - Ninety-eight.
7. 29:12 - Yehoshua and Shmuel.
8. 29:14 - With the people standing before him and all future generations.
9. 29:16 - Because these were exposed openly. The idols of gold and silver, however, were locked away by their owners for fear of theft.
10. 29:18 - Even unintentional sins will be considered by

G-d as if they were committed intentionally.

“Drunkenness” refers to sins committed unintentionally. “Thirst” refers to sins committed intentionally.

Vayelech

1. 31:2 - Exactly 120.
2. 31:2 - G-d did not let him because the power of leadership was being transferred to Yehoshua.
3. 31:2 - The well-springs of knowledge were closed up for him.
4. 31:7 - He foresaw that they would work in partnership.
5. 31:7 - That he alone would be the leader — for there can only be one leader in each generation.
6. 31:10 - Once every seven years, in the first year of the new *shemita* period.
7. 31:10 - Because the laws of *shemita* still applied to the harvest.
8. 31:11 - From Devarim: 1:1-6:9; 11:13-21; and 14:22-28:69.
9. 31:11 - On a wooden platform erected in the *azara*.
10. 31:12 - In order to learn.

לעילוי נשמות
מרת אסתר בשה בת ר' משה יחזקאל ע"ה
אשה יראת ה' ובעלת חסד
גלבי"ע ד' מנחם אב תשע"ג
ת.ג.צ.ב.ה

PESACHIM 72 - 78

“The same way it goes in, so too that is the way it goes out.”

Rabba stated this well-known rule of *kashrut* and *kashering* utensils to a specific case in our *gemara*. He permits meat that is broiled with other unsalted meat stuffed inside it, although the inner meat contains blood that is forbidden to eat. Rabba explains that although the outer meat absorbs the blood that comes out from the inner piece of meat when heated in the fire, that same blood comes out from the outer piece of meat through the same manner of being broiled by the fire — and all of the meat is therefore kosher.

• Pesachim 74a

“The Torah mitzvah to ‘love your fellow person like yourself’ (Vayikra 19:18) teaches that the court must choose a dignified manner when applying capital punishment.”

Rav Nachman teaches this on our *daf* to explain why one of the death penalties stated in the Torah — “*sereifa*” (burning) — should not be done by pouring boiling water on or into the person to be executed by the Sanhedrin. “Loving one’s fellow man” is a mitzvah that extends even to someone who has willfully transgressed a capital crime, and although he deserves to die he should be put to death in a dignified and humane manner.

• Pesachim 75a

OHRNET *Special*

Abarbanel

ON PARSHAT NITZAVIM-VAYELECH

By Rabbi Pinchas Kasnett

Parshat Nitzavim

This section of the Torah begins with the renewal of the covenant between G-d and the Jewish people which first took place at Mount Sinai 40 years earlier. Here Moshe emphasizes that the entire nation is gathered together for that renewal: “...the heads of your tribes, your elders and your officers...all the men of Israel, your small children, your women and your proselytes...from the hewer of your wood to the drawer of your water.” By contrast, in the description of the first covenant, the Torah states that “the people” accepted the covenant, but individual groups are not specified.

The difference can be explained as follows: In Nitzavim, Moshe is reminding them that they have seen a wide variety of idolatries in Egypt, Midian, Moav and the kingdoms of Sichon and Og. They have encountered individuals of great wisdom and understanding. As a result he cautions them, “There may be among you individuals who, deep inside, have been influenced by these experiences, contacts and ideas, and may have doubts about your commitment to the Torah.” Moshe did not want these issues to fester in private. Rather, he wanted them

to be aired in public so that he could remove these doubts from their minds.

The first words of this Parsha are: “You are standing today, all of you, before G-d.” The Hebrew for standing — *nitzavim* — connotes a gathering for debate, discussion and argument. The same word is used several other times in the Torah with the same connotation. Moshe’s intent was clear. Everyone, regardless of age, status or level of learning, was encouraged to voice his or her opinions and doubts publicly, before G-d and Moshe. Moshe was eager to listen, respond, and convince them of the truth. Moshe knew that there were doubts and issues. He did not want the people to feel that they were coerced into accepting the covenant. He wanted them to choose it freely after having had their doubts addressed properly.

If Moshe was concerned about the doubts of a nation that had just experienced 40 years of direct Providential guidance, and he encouraged debate and discussion, how much more relevant is his insight in today’s world where the truth and relevance of the Torah is under unremitting assault.

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TWO-FACED TESHUVA

From: Yehuda

Dear Rabbi,
I know it's Elul, and that this is the time to do teshuva in preparation for Rosh Hashana. But I also know that to do proper teshuva that is accepted by G-d, a person has to: 1. verbally express his transgressions, 2. feel regret for having done them, and 3. accept upon himself not to do them again.

It's this last condition of teshuva that I am having difficulty with. There are some things which I'm nearly certain that I'll lapse into again at some point. The proof is that I did "teshuva" on them last year, and here I'm confronted with them again this year. So to do teshuva on them this year seems hypocritical. How can I do teshuva on things which, no matter how bad I feel about them now, I know I'll probably do again at some point? On what basis can I claim that I'll not do them again? So what's the point of doing teshuva on them?

Dear Yehuda,

I fully understand your perplexity. Since a condition for teshuva to be accepted is one's commitment not to do it again, if he "knows" he'll do it, there seems to be no point in doing teshuva, and what's more, doing so would seem to be hypocritical.

Although this is a very good point, there is a slight inaccuracy in your perception which makes a world of difference.

The condition is not that you never do it again, but that

you accept upon yourself not to do it again. The difference is that a person has to make a firm resolve not to transgress this prohibition again, and to proactively design strategies to prevent himself from even being challenged by the option.

If he sincerely does this, he has done teshuva, which is accepted by G-d.

Now, as time passes, if a person is caught by surprise, lets down his guard, or even slip-slides back into that transgression, that doesn't undermine the initial teshuva that was accepted. True, he'll have to do teshuva for whatever responsibly he has in having transgressed again, but this is a new reckoning which is independent of his prior teshuva.

So even if a person relapses onto what he firmly resolved not to do any more, if he truly accepted in his heart of hearts (and G-d knows our hearts) that he regrets having done this and truly doesn't want to do it ever again, that's teshuva.

Since this is true after the fact, it is also true before the fact. A person must not be discouraged from doing teshuva because he anticipates falling again. The main thing is to work very hard on expressing and internalizing the regret for having done it, and the sincere desire and intention, together with a practical plan, not to do it again.

Another point to consider is that with this approach, even if one does lapse into his "old ways", he probably won't actually go back to doing the same thing again. By which I mean that, more likely than not, he won't transgress with the same frequency and intensity as before. This is because his teshuva will probably limit how often he does it, and his guilt will limit his enjoyment of it. This is also teshuva, even if only partial, which, if he's persistent and consistent, will eventually enable him to overcome the challenge.

@ OHR Profiles of Ohr Somayach Alumni and Students

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The Center Program - 2005 & 2006

More to a Cake than Icing

"The best decision I ever made was marrying my wife," says Ariel Weber, "but the next best decision was choosing the Center program." Even though Ariel grew up observant, he felt that he was living a superficial, automated version of Judaism. "People enjoy their Judaism and practice it with a smile, but going through Center and having exposure to *talmidei chachamim* (Torah scholars) — you get to



the real part of the cake, not just the icing." Two years in Ohr Somayach plunged him into a lifetime of meaning and spiritual depth.

Today Ariel runs a real estate investment fund while holding up a solid Torah study schedule: Talmud six times a week, study partners with young boys, and a once a week focus on Jewish law over the phone with his brother who studies Torah in a large yeshiva in Israel.

Since the day Ariel got back to South Africa he has been involved with a Jewish outreach organization. So far, he has led eight trips to Israel and two trips to the United States, totaling almost 2,000 participants. Ariel says he wants to inspire people in the same way he was inspired, to find the cake that their icing is missing.

By Shimon O'Heron

NEW!

ROSH HASHANA

“A Remembrance of the First Day of Creation”

“This is the day - Rosh Hashana - the beginning of Your (G-d's) works, a remembrance of the first day (of Creation).” (*Mussaf prayer for Rosh Hashana*)

Since Rosh Hashana does not actually coincide with the first day of Creation, but rather with the sixth day - when God created man - why is it referred to as the beginning of G-d's works and a remembrance of the first day?

A story:

There once was a king with an only daughter whom he loved dearly. For her wedding, items were brought in from around the world, and special delicacies and decorations were custom-made. All the citizens of the land were invited to join in the celebration.

The wedding night finally arrived. With everyone seated, the groom anxiously awaited the arrival of his lovely bride, the princess.

One of the guests asked, “Where is the bride? She should be here already!”

The bride sat teary-eyed, afraid to leave her room.

“What's wrong, my dear?” asked the king. “Do you not want to marry him? If you don't want to, I'll tell everyone to go home and send everything back to where it came from.”

The bride thought for a second and then replied, “He's the man I want to marry; I'm just nervous.”

After some time, the princess stood up and announced, “I'm ready to go now.”

As the princess entered the wedding hall, accompanied by

the king, all the guests rose in amazement. The guest turned and whispered to her friend, “Finally, the wedding can begin.”

Although everything else in Creation was in place, the world was incomplete without Man. His arrival therefore marks the real beginning of Creation.

A Day of Judgment

From the above we see that Rosh Hashana is a celebration that commemorates Man's creation, like a birthday. Accordingly one may ask why the day is so serious. Where did all the fun go?

We are taught, “On Rosh Hashana all who come to the world (i.e., Mankind) pass before G-d to be judged.” But why is Rosh Hashana a day of judgment? Furthermore, what is the nature of this judgment?

Although Man was originally created to live eternally, after the First Sin G-d decreed death upon Mankind. Since the day of Man's creation is also the day he sinned, it became a day in which life was both given and taken from Man. Therefore, each year the same cycle repeats itself and Man is judged on Rosh Hashana, just as Adam was judged on this day for the very first time.

Ultimately, Man was judged with mercy and therefore granted long life. G-d told Adam, “Just as you were judged on this day and came out with mercy, so too your children will be judged on this day and come out with mercy”. So as we turn to G-d in prayer and *teshuvah* may we all merit a long, healthy and prosperous life — Amen.

Abarbanel ON PARSHAT NETZAVIM-VAYELECH *continued from page four***Parshat Vayelech**

As the time of Moshe's death approaches, G-d says to him, “...the people will rise up and stray after the gods of the foreigners of the land... and they will forsake Me and annul My covenant...I will conceal My face from them...and many evils and distresses will befall them.” Then G-d tells him that the people will repent and will say, “Is it not because my G-d is not in my midst that these evils have come upon me?” But, strangely enough, even after they have repented G-d says that they will not be forgiven — “But I will surely conceal My face on that day because of all the evil that they did, for they had turned to gods of others.”

All the commentators are puzzled by G-d's refusal to accept the repentance of the nation. Abarbanel offers a unique insight into the behavior of the people that is certainly relevant today as well. He says that the people were guilty of two transgressions:

1. The idolatrous practice of serving other gods.
2. Drifting away from the covenant and their essential connection to G-d.

When the nation was punished as a result of these transgressions, they repented by reaffirming their connection to G-d and the covenant but did not give up their idolatrous practices. They felt that they could serve G-d in a manner of a ‘partnership’ with idolatrous practices. However, G-d makes it clear that this misconception is even more egregious than moving away from their covenant with G-d in the first place. Therefore, G-d says that he will *surely* conceal His face from them.

This misconception has been repeated throughout Jewish history. One cannot separate commitment, belief and attachment from specific behavior. One's attachment to G-d and Torah cannot be in ‘partnership’ with practices that are antithetical to the Torah.

VACCINATIONS & HALACHA

by Rabbi Yitzchak Breitowitz

One of the greatest advances in public health over the past hundred years has been the development of vaccines that trigger immunity to a whole host of infectious diseases that formerly produced epidemics that wiped out thousands of people a year.

As a result, in most industrialized countries including the United States and Israel, children cannot be admitted to school unless they have received inoculations against a whole host of diseases. Most parents comply with these requirements with no questions asked. However, some parents do not and their numbers are growing. The reasons for noncompliance vary. Some parents are simply careless and inattentive, others harbor deep sinister conspiracy fears about any government-mandated program, but the most common reason is health concern. Over the past several decades some researchers and organizations have advocated the idea that vaccinations are actually dangerous to children, not only making them susceptible to virulent forms of the very disease from which they are supposed to be protected but in some cases causing other devastating conditions such as autism. The internet has spread and magnified these fears, and many parents have responded accordingly. The overwhelming consensus of medical research worldwide is that these fears are groundless. Indeed, the researcher who advocated the vaccination/autism link has been censured for intentional fraud in the presentation of his data and has actually lost his license to practice medicine. It is safe to say that most vaccinations do not have any significant negative effects on children other than temporary pain and swelling which can be avoided by a skillful nurse.

The question is, are vaccinations halachically mandatory? To fully understand this question, a bit more factual background is necessary.

Failure to Vaccinate Creates Risks for the Non-vaccinated Child

In a world without vaccinations, it is clear that many children would suffer polio, meningitis, rubella, whooping cough, various

forms of hepatitis, debilitating conditions that formerly resulted in death, brain damage, paralysis and other severe disabilities. As a result of widespread vaccinations many of these diseases are virtually extinct. Children have developed immunities and children who would have been infected escape unharmed. It is fairly obvious that a world with vaccinations is safer than a world without them.

However, it is less obvious that an individual child who is vaccinated is tangibly benefitting. If a non-vaccinated child is in a population of vaccinated children, it is highly unlikely that he will be exposed to the disease since these diseases are predominantly spread by human carriers, of which there are none (other than the non-vaccinated child himself!). As such, the argument can be made that as long as everyone else vaccinates their children, my child is safe no matter what I do. In economics, this is known as the “free rider” phenomenon. In epidemiology, it is “herd immunity”.

Where the percentage of vaccinated persons reaches a certain level, the risks to the non-vaccinated population sharply drop as well. (To achieve herd immunity the vaccination rate must be at least 75-90% - depending on the disease and its virulence). Nevertheless, even in a herd immunity scenario a vaccinated child faces less risk than a non-vaccinated one.

Failure to Vaccinate Creates Risks for Other Vaccinated Children

It is important to note that failure to vaccinate a child may not only create risks for the child but, by enabling him to be the carrier and transmitter of an infectious disease, may put other children at risk, including children who themselves have been vaccinated. One might well wonder how this can be so since vaccination presumably creates immunity; but the answer is

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VACCINATIONS AND HALACHA *continued from page seven*

that even the best quality vaccinations have a certain percentage rate of failure due either to product defect or the individual body's idiosyncratic response. As such, enlarging the pool of available carriers can actually endanger even vaccinated children. Thus, whatever authority parents may have to make decisions for their children surely cannot justify placing other people's children at risk.

Basic Halachic Principles

There are two related halachic principles that on their face would make vaccination mandatory. The first is that is forbidden for a Jew to place his life or health in unreasonable danger. The Talmud and the Codes mention a wide variety of activities that must be curtailed or avoided. These include: 1) putting one's mouth directly on a pipe in order to drink water; 2) drinking water drawn from a river at night when one is unable to inspect for parasites; 3) drinking liquids that have been left exposed and unattended where there is a possibility, albeit remote, that a snake may have deposited venom; 4) eating food that might be tainted or poisoned etc. It is similarly forbidden to wound or injure oneself. See Rambam, Hilchot Rotzeach, chapters 11-12 and Shulchan Aruch Choshen Mishpat, chapter 426.

In a classic article Rabbi Shlomo Yosef Zevin discusses the halachic enforceability of Shylock's agreement with Antonio in *The Merchant of Venice*. It will be recalled that Shylock stipulates that if Antonio does not pay his debt on time Shylock will be entitled to a pound of Antonio's flesh. Rabbi Zevin demonstrates that such a clause would be absolutely unenforceable under Jewish law because (quoting Rabbi Shneur Zalman of Liadi, the 'Alter Rebbe') "our bodies are not our own; they are the property of HaKadosh Baruch Hu." In effect, the Torah teaches us that our bodies are not our own property but belong to G-d to be used in His service and to be protected and preserved until such time as He chooses to reclaim it. This is in sharp contrast to modern medical ethics and political theory which posit autonomy and self-determination as supreme values, and enshrine the attitude that "it is my body and I can do with it what I will" — including reckless endangerment. It is of course obvious that if I do not have the right to endanger myself, I certainly do not have the right to endanger my children.

The second focuses on the duty that is owed to others. Just as we are commanded to preserve and protect our own lives, we are similarly commanded to remove impediments or stumbling blocks that cause dangers to others. This is derived from the mitzvah of erecting fences around flat roofs so that people who climb the roof should not fall down. Moreover, even if I am not the source of the danger I have a duty to do what I can to rescue someone from whatever peril they may be in, such as rescue someone from drowning etc. "Do not stand by idly over

your friend's blood" (Leviticus 19:16). Thus, we have duties owed to G-d not to expose ourselves, our children or others to hazards, risks or dangers. Since failure to vaccinate endangers both my children and the children of others, both obligations would lead to same result - a duty to minimize danger.

Definition of Unreasonable Risk

The matter becomes more complicated, however, when we consider the obvious fact that halacha certainly does not intend to compel the avoidance of any potential danger. If that would be true we would not be allowed to fly on an airplane, drive a car, take a bus or even cross the street (particularly in Jerusalem!). Everything we do contains some element of risk and yet the Torah does not require that we become hermits permanently ensconced in our homes (and even that would not be totally safe).

The laws against danger become triggered only when the dangers to be avoided are unreasonable, excessive and unnecessary for ordinary life. Behaviors must reach a certain magnitude of risk before they become prohibited. When that threshold is crossed is not precisely defined. From the very examples Chazal gave, such as not drinking from uncovered water because of snake venom, it might be inferred that even risks that are highly unlikely must be avoided, and indeed Rabbi Moshe Feinstein so concluded. Yet it might be argued that some of these rules represent discrete rabbinic legislation for specific problems and are not necessarily suggestive of a general principle. After all, it is not prohibited to drive, even though the risk of an accident is probably higher than the risk of snake venom in liquid.

Application to Vaccination - Rabbi Auerbach

This is the crux of the vaccination question. Given the empirical reality that the vast majority of the school population does vaccinate, producing the phenomenon of 'herd immunity', the particular risk to any given unvaccinated child is relatively small. While the risk is indeed much greater than it would be for the vaccinated child, in absolute terms it is still small. This of course would change if more parents did not vaccinate, but as long as the system functions at a 90%-plus compliance rate the increase in risk for the 10% may be halachically insignificant. Indeed, it is reported that Rabbi Shlomo Zalman Auerbach ruled, precisely for this reason, that parents do not have a halachic obligation to vaccinate their children as long as a large majority of the population is doing so. (See *Nishmat Avraham* C.M. 427:3; 5). It must be noted, however, that even Rabbi Auerbach considered such vaccination as prudent and proper preventive care and urged physicians to persuade their patients to comply. While he was not willing to rule that vaccination was

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VACCINATIONS AND HALACHA *continued from page eight*

an absolute obligation, he did characterize it as a highly desirable course of action. Moreover, it is quite possible that Rabbi Auerbach would support the right of a school or parent body to exclude a non-vaccinated student because of the risks he poses to *others*. The halachic permissibility of imposing small risks on myself and my family may not justify my imposing them on others.

Application to Vaccination – Rabbi Elyashiv

A second and stricter approach was taken by Rabbi Yosef Shalom Elyashiv. His basic analysis is that risks are characterized as “reasonable and permitted” or “unreasonable and forbidden” based on society’s general assessment of what is deemed responsible behavior. An activity that is considered normal and acceptable by a majority of people is deemed to be safe notwithstanding a certain level of risk. This would include activities like driving, flying or crossing the street (although even here there may be some objective level of danger that may be so high that it would not be justified no matter how many people did it!). By contrast, activities or behaviors that society labels as irresponsible, reckless and dangerous definitionally become such even when the absolute risk level is relatively low. Since vaccinations are commonly accepted as a normal standard precautionary measure, one who fails to take such a measure is recklessly endangering his children and others. Such precautions become mandatory — not just recommended — because society as a whole considers them necessary.

Rabbi Akiva Tatz MD summarizes this ruling well: [According to Rabbi Elyashiv] “failure to immunize would amount to negligence...refusing childhood immunizations on the basis of unsubstantiated fears of vaccine side-effects is irresponsible...the danger of precipitating epidemics of measles, poliomyelitis and other diseases with potentially devastating complications is far more real than the dangers attributed to vaccines on the basis of anecdotal claims. Until objective evidence to the contrary accrues, the halachically correct approach is to do what is normal.” (Tatz, *Dangerous Disease and Dangerous Therapy*, p.48).

In a subsequent addendum Rabbi Elyashiv stated that parents of vaccinated students have the absolute right to insist that all other classmates be vaccinated in order to minimize the risks to their own children due to vaccination failure. As noted, Rabbi Auerbach may well have agreed.

At the end of the day the differences between Rabbi Auerbach and Rabbi Elyashiv are small:

1) Both agree that parents should be encouraged to vaccinate their children because the benefits far outweigh the risks.

2) Both agree that schools and parents of vaccinated children

can legitimately exclude non-vaccinated children from the classroom to minimize the dangers to their own children.

3) They disagree on whether vaccination is an absolute parental obligation (Rabbi Elyashiv) or “merely” a highly desirable thing to do (Rabbi Auerbach).

From the perspective of a Jew who seeks to do the will of G-d, both positions will lead to the same result.

Special Note on the Polio Inoculation Program in Israel

Due to the discovery of the polio virus in some sewage found in Ashdod and Beer Sheva the Israeli government has implemented a nationwide polio booster program, inoculating children with a live attenuated virus delivered orally. This program has been challenged in the Israeli Supreme Court and a decision is expected shortly. Unfortunately, the complexities of the program are such that one cannot issue any halachic opinion without a more definitive resolution of the medical issues. First, the use of live virus rather than dead strain carries distinct dangers and risks. That is why Israel discontinued the use of live virus in 2005. Second, the purpose of the program is not to benefit the inoculated children who have already received regular polio shots of dead virus, but to provide protection to non-inoculated adults through a complicated mechanism of the live attenuated virus spreading to these people and giving them the equivalent of a vaccine. Using children as protective shields for adults raises issues beyond the scope of this article.

A number of years ago, an adolescent boy in Israel needed a kidney transplant. The only compatible donor was a sibling who had not reached the age of 13 and was therefore a minor. The sibling desired to donate a kidney and the parents were obviously in agreement as well. Notwithstanding the fact that the child could survive with one kidney the halachic ruling was that a minor cannot be an organ donor even voluntarily. Since donation of a kidney puts the donor at increased risk for renal failure it requires informed consent, which a minor is not halachically or legally capable of granting. Nor will parental consent suffice. While parents undoubtedly have authority to make medical decisions based on the best interests of the child, they cannot impose risks on one child solely for the benefit of another child. The tragic ending is that the adolescent died. The correctness of this particular decision is debatable - one could, after all, argue that preserving the life of a sibling is not only a benefit to the recipient but a significant benefit to the donor as well and is in his own best interests - but the principle of the decision is sound: one may not impose risks on children and certainly babies solely for the protection of others. The critical question is whether the oral ingestion of live virus into children who have already received inoculations of dead virus puts them at risk.