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Dov Ber שיחי Boudjnah

On the occasion of his 5th birthday, 8 Elul, 5779
AND IN HONOR OF HIS BROTHERS AND SISTERS שיחי

May they merit to be a source of Chassidic pride
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LIKKUTEI SICHOS

AN ANTHOLOGY OF TALKS

by the
Lubavitcher Rebbe
Rabbi Menachem M. Schneerson

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Shagalov
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 Reb **Dovid Asniel** ben Reb **Eliyahu** ע"ה
Ekman
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 Passed away on the 24th day of Shevat, 5769
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 DEDICATED BY
 Rabbi & Mrs. **Yosef Y.** and **Gittel Rochel** שיחיו
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IN LOVING MEMORY OF OUR DEAR BROTHER
 Reb **Avrohom Zelig** ben Reb **Tzvi Hersh** ע"ה **Goldstein**
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ת. נ. צ. ב. ה.

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LIKKUTEI SICHOT

AN ANTHOLOGY OF TALKS

RELATING TO THE WEEKLY SECTIONS OF THE TORAH AND
SPECIAL OCCASIONS IN THE JEWISH CALENDAR

by the
Lubavitcher Rebbe
Rabbi Menachem M. Schneerson

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Volume X: *Devarim*

•

In English rendition
by
Rabbi Eliyahu Touger

KI SEITZEI

WHEN SHOULD ONE DIVORCE?

The *Talmud* mentions¹ several opinions regarding when it is appropriate for a man to divorce his wife:

The School of Shammai say: "A man should not divorce his wife unless he discovers immodest conduct...."

The School of Hillel say: "[He may divorce her] even if she [intentionally]² spoiled his food."

Rabbi Akiva says: "[He may divorce her] even if he finds another one who is more attractive, as it is written:³ 'If she does not find favor in his eyes...'"

Although there are some exceptions,⁴ the School of Hillel generally rule more leniently than the School of Shammai. For the souls of the School of Shammai stem from the attribute of judgment, which tends toward stringency and view many things as unable to be elevated. Therefore they may not be used in our Divine service.

The souls of the School of Hillel, by contrast, stem from the attribute of kindness, which seeks to find that spark of

payment for all our accomplishments and work.

* * *

We know that "Action is the main thing"¹⁵ and therefore we publicize everywhere that we stand at the conclusion of our accomplishments and work ("when you go out to war against your enemies"). We are now at the beginning of the period of the payment of the reward, "payment of the reward of the righteous" ("when you come to the land... and you inherit it and you will dwell upon it"). Accordingly, one's work also has to be connected to the days of Moshiach, beginning with learning the Torah concerning Moshiach, Redemption and the Temple. This should be done with tranquillity, joy and a gladdened heart, especially through arranging gatherings of joy. [Such an approach has] particular relevance to the celebration of a wedding and the seven days of feasting (including also strengthening "the custom of Israel" to arrange a meal for the poor). This is all a preparation for the promise that "then (in the time to come) our mouths will be filled with laughter."¹⁶ For the leader of this generation, my sainted father-in-law, whose second name "Yitzchak," which means laughter and rejoicing, is the eighth ("Az" (then) in gematria is eight) leader from the Baal Shem Tov. Therefore, in this generation, we will make it so that "our mouths will be filled with laughter" (not in the future tense, "then," but) in the language of the **present**.

(From the talk of Shabbos Parshas Teitzei, 14 Elul 5751)

1. *Gittin* 90a.
 2. The bracketed additions are based on the *Tur* (*Even HaEzer*, ch. 119) and the commentary of the *Meiri* to *Gittin*, *loc. cit.*
 3. *Devarim* 24:1.
 4. As annotated in the *Mishnah*, *Ediyos*, chs. 4 and 5.

15. *Avos* 1:17 - which we learn on this Shabbos.
 16. *Psalms* 126:2. See *Brochos* 31a.

Chassidus **temimah**."⁸ The learning of the inner aspect of the Torah, with intellectual comprehension, moreover, resembles and is a preparation for the situation of the days of Moshiach, when "Israel will be extremely wise and know the hidden things and comprehend the knowledge of their creator, etc."⁹

These students are therefore called "**the soldiers of the house of David**" who overcome the position of those who "revile the footsteps of your anointed." Their work reveals and brings Moshiach ben David in a way that "Blessed is G-d forever Amen and Amen."¹⁰

This period (described at the conclusion of this Psalm) has already reached a conclusion after the accomplishments and work during the forty years since the *histalkus*¹¹ of my sainted father-in-law, the Previous Rebbe, the leader of our generation. We have spread the wellsprings outward in such a way that "G-d gives to you a heart to understand and eyes to see and ears to hear,"¹² and we stand now in a period connected to Psalm 90,¹³ that concludes with the verse "May the pleasantness of the L-rd our G-d be upon us... and the work of our hands establish it." This means "the Divine Presence dwells in the work of their hands,"¹⁴ which represents the

good in every entity that allows it to be elevated to the realm of holiness.⁵

On one hand, permission to divorce one's wife is a leniency. Nevertheless, it is not an expression of the attribute of kindness. Divorce stems from rigor and severity, and leads to distance and division.⁶ The attribute of kindness, by contrast, is identified with love and opposes divorce. Why then does the School of Hillel make the process of divorce more accessible than the School of Shammai?

A similar question can be asked with regard to Rabbi Akiva. He is also identified with kindness, as reflected in his efforts to seek the merit of the Jewish people.⁷ Why does he allow for divorce even when a husband finds another woman more attractive than his wife?

These questions become even stronger when we consider that the relationship between men and women is an analogy for the relationship between G-d and the Jews.⁸ The opinions of the School of Shammai, the School of Hillel, and Rabbi Akiva thus have implications in our people's relationship with G-d.⁹

With regard to the spiritual counterpart of divorce, the willingness to countenance such a drastic measure is surely an expression of the attribute of judgment. Why then do the School of Hillel rule more stringently than the School of Shammai? And why does Rabbi Akiva, who seeks the merit of the Jewish people, rule that even when there are no short-

8. The Talk of Simchas Torah 5659 - "*HaTamim*" section 1, page 25.

9. Rambam at the conclusion of his work, *Mishneh Torah*.

10. This follows the words of the Rebbe Rashab in the well-known Talk of Simchas Torah 5661 (printed in *Likkutei Diburim* vol. 4, 787:2 ff.) [*Psalm 89, which refers in the conclusion to those who "revile the footsteps of your anointed." Translator's note.*]

11. [*The word "histalkus" literally means elevation and is used to refer to the day of departure of a tzadik from this world. Translator's note.*]

12. *Tavo* 29:3.

13. [*The year 5751 was the year the Rebbe entered his 90th year. According to Chassidic tradition, it is customary to recite the Psalm that corresponds to that year. Translator's note.*]

14. The explanation of Rashi on this verse.

5. *Zohar*, Vol. III, p. 245a; *Taamei HaMitzvos* by Rav Chayim Vital, *Parshas Ki Seitzei; Shaar HaGilgulim, Hakdamah* 36; *Tanya, Iggeres HaKodesh*, Epistle 13; *Likkutei Torah, Shir HaShirim*, p. 40a, 45c.

6. See *Bava Basra* 160b.

7. *Rashi, Sanhedrin* 110b, entry *Shavkinen*.

8. As reflected in the interpretations of *Shir HaShirim*. See the *sichah* to *Parshas Metzora* in this series, which speaks of this concept.

9. For example, the prophet Yeshayahu employs the metaphor of divorce, asking (50:1): "Where is your mother's bill of divorce?" See also the *maamar* entitled *Eichah*, 5670 (printed in *Reshimos al Megilas Eichah*, p. 52).

comings in a woman's (i.e. a Jew's) conduct, her husband (G-d) may divorce her if He so chooses?

FULFILLING ONE'S PERSONAL MISSION

The relationship between men and women serves as an analogy, not only for the bond between G-d and the Jewish people, but also for the relationship between the body and soul. The soul is "an actual part of G-d"¹⁰ and therefore is referred to as "a man," while the body — and by extension, a person's mission in the world at large — is referred to as a woman.¹¹

Every soul has a mission which it was charged to fulfill in this world.¹² And "the steps of man are ordered by G-d."¹³ Wherever a Jew is found, he must realize that he was sent by Divine Providence as part of his or her mission to make the world a dwelling for G-d.

Even when confronted with difficulties in his path of Divine service, including some that make it appear that another path will enable him to achieve more, a person should not necessarily abandon his original course. It is the path which Divine Providence has granted him; this is his mission.

As mentioned above, a soul and its mission can be described using the analogy of a husband and a wife. On this basis, we can explain the differences of opinion between the

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10. *Iyov* 31:2, as cited by *Tanya*, ch. 2, which adds the word *mamash* ("actual"). See the introduction to *Shefa Tal*.
 11. See *Zohar*, Vol. I, p. 122b ff.; the commentary of Rabbeinu Bachaye to *Bereishis* 3:21. See also the *sichah* entitled *Kol HaYotzei l'Milchemes Beis David* [(Likkutei Diburim, Vol. IV, p. 1578) English Translation: *With Light and With Might*.]
 12. This brings about the union between the *Kadosh Baruch Hu* (the aspect of G-d associated with the level of *Za'er Anpin*) and the *Shechinah* (the aspect of G-d associated with the level of *Malchus*). A lack of Divine service causes the opposite: the spiritual counterpart of divorce. This reflects the connection between this interpretation and the preceding one.
 13. *Tehillim* 37:23. See *HaYom Yom*, entry Tammuz 10.

BESURAS HAGEULO

The Announcement Of The Redemption

38

All of the above¹ receives particular emphasis in the month of Elul of the year Hey-Tuf-Nun-Sin-Aleph,² the first letter of which also forms the word "**Tinasay**," which has the dual meaning of "you shall be exalted" and "you shall be married" in command form. This³ is relevant both to the revelation and coming of Moshiach, who "shall be **exalted**... very high"⁴ and to the **marriage**⁵ of the Jewish people and G-d that will take place in the days of Moshiach. In the language of the *Yalkut Shimoni*: "The year in which Melech HaMoshiach will be revealed... he will stand on the roof of the Temple and say, Humble ones, the time of your Redemption has arrived."⁶

* * *

The students of the Yeshiva are called "**Temimim**"⁷ because they learn "the Torah of G-d, the revealed Torah and the Torah of

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1. [This passage occurs in a discussion about the month of Elul as the last month of the year, and therefore the time for an honest accounting (soul-searching) and completion of the "marriage" between G-d and the Jewish people. The latter concept is raised because the name of the month - Elul - is a Hebrew acronym for "I am for my beloved and my beloved is mine." These two ideas are related to the times and the impossibility of a delay in the fulfillment of the promise that Moshiach's coming is imminent. Translator's note.]
 2. [The letters used to designate the year in which this is said also form the word "Tinasay," which means to raise up or elevate. Translator's note.]
 3. ["This" refers to the two concepts mentioned in note a. Translator's note.]
 4. *Yeshayahu* (52:13).
 5. [The word for marriage in Hebrew, "ni-su-in" is etymologically related to "tinasay," meaning to elevate. Translator's note.]
 6. *Yeshayahu*, *remez* 499.
 7. [The word "temimah" has the meanings of whole, perfect, innocent, upright, etc. By learning both the revealed aspects of Torah as well as its inner dimension, Torah study is itself whole, perfect, etc. Translator's note.]

Following this pattern, it can be explained that proper intent is not necessary when performing a *mitzvah* because every Jew shares a connection to his spiritual core. Therefore even when he performs a *mitzvah* without proper intent, he is giving over his inner will to G-d and establishing a connection between Him and his body.

To state the most cosmic expressions of this motif: At present, we are consecrated to G-d. This bond will have a continuing effect, leading to the ultimate marriage, the fulfillment of the prophecy:⁶⁴ “On that day... you shall say ‘My Man,’ and you will no longer say ‘My Master,’” with the coming of *Mashiach* in the immediate future.

(Adapted from *Sichos Chof Daled Teves*, 5723)



64. *Hoshea* 2:18. This level represents an advantage over *Yeshayahu* 54:5 which states: “Your Creator is your Husband,” which describes the first stage of the marriage (see *Shmos Rabbah*, the conclusion of ch. 15). *Kesubos* 71b explains the verse from *Hoshea* with the analogy of a bride in her father-in-law’s home when familiarity with her husband has already been established.

Sages mentioned above. The question is: When should one abandon — divorce — one’s mission to refine one’s portion of the world and accept another mission?¹⁴

The School of Shammai maintains that “a person should not divorce his wife unless he discovers immodest conduct...” Regardless of the obstacles he faces, one may not abandon the path of Divine service with which he has been charged. He should not be troubled by the obstacles he faces, for if he perseveres, he will ultimately succeed.

When should he change? When there is “immodest conduct” — a clear directive from the *Shulchan Aruch* that he is forbidden to continue in this path of Divine service (just as when a woman acts immodestly, her husband is forbidden to remain married to her). In such an instance, one must find a different path of service.

(His previous path of service will then be allotted to another soul. This is also alluded to in the Torah, which states¹⁵ that the divorced woman “will become the wife of another man.”)

The School of Hillel are more lenient, allowing a person to pick a new path of Divine service when “his food is spoiled.” The implication is that not only is the person not successful in his mission to refine his portion of the world, but “his food,” the spiritual attainments of the soul, have become spoiled. In such an instance, one may accept another path of Divine service.

Rabbi Akiva maintains that divorce is possible “even if he finds another one who is more attractive.” Even when there is no lack in a person’s service, nor a deficiency in his internal powers, if his path of Divine service “no longer finds favor in his eyes,” i.e., he has lost his zeal for it, he may accept

14. For divorce is connected with remarriage, since a man who divorces his wife is obliged to marry another woman.

15. *Devarim* 24:2.

another. (חן, translated as favor, relates to the attribute of pleasure, and refers to a person's encompassing powers.¹⁶)

Rabbi Akiva's rationale is that a Jew must carry out his Divine service with joy.¹⁷ Therefore when he lacks zeal, he can exchange his previous path for one which he finds more attractive.

BEYOND THE MEASURE OF THE LAW

The *halachah* follows the opinion of the School of Hillel.¹⁸ This means that when a person's Divine service does not lack anything, but he has lost his zeal for it, he may not abandon his path. But if "his food is spoiled," and his previous attainments are being marred, the law allows him to seek another path.

This, however, reflects merely the letter of the law. Our Sages state:¹⁹ "Whenever a man divorces his first wife, even the altar sheds tears for him," and²⁰ "How difficult is divorce!" The implication is that a person should persevere in the path of Divine service with which he was charged²¹ to the limit of his endurance.

16. There are differences between חן translated as "favor," and יפי, translated as "beauty." Beauty refers to a person's outward appearance and physical form (see *Rashi's* interpretation of *Bereishis* 29:17: "Of beautiful form and appearance." See also the interpretation of that verse in *Torah Or*). It thus relates to a person's internal powers.

Favor, by contrast, relates to a person's encompassing powers. (See *Sotah* 47a which states: "There are three types of favor..." and the *Maamar* entitled *Vayihi Omen*, 5627.) Rabbi Akiva maintains that even when the only thing the soul lacks is the influence of its encompassing powers, it may seek a new path of Divine service.

17. *Rambam, Mishneh Torah*, the conclusion of *Hilchos Lulav*; *Tanya*, ch. 26.

18. *Tur and Shulchan Aruch (Even HaEzer*, ch. 119:3).

19. *Gittin* 90b.

20. *Sanhedrin* 22a.

21. In particular, this applies with regard to the first path of Divine service (his "first wife"), which his soul was assigned when it descended to this earth.

Why, however, is a person whose general approach is not to accept G-d's will considered to have fulfilled a *mitzvah* when he performed the deed without any such intent? Seemingly, it is inappropriate to say that his underlying intent is to fulfill G-d's will.

Such a perspective fails to recognize the true nature of a Jew. The inner desire of every Jew is to do good.⁶⁰ Although this desire may be hidden in the subconscious, it still motivates the person's conduct.⁶¹ Therefore, the motif described above with regard to the consecration of a woman can be said to apply here as well.

To cite an example: When a priest offers a sacrifice without the proper intent, the sacrifice is acceptable because "the heart of the court has their intent in mind."⁶² Since every Jew shares a connection to the court and its rulings, the intent of the court is sufficient, and it is considered as if the priests had this intent themselves.⁶³

60. *Rambam, Mishneh Torah, Hilchos Geirushin* 2:20.

61. The *Rambam* explains that when a person merely says "I desire" while being compelled by the court, his inner desire rises to the surface, and he is considered to have divorced willingly. When, however, he is compelled to act against the Torah's law, although he says "I desire," he is not considered to have divorced willingly.

62. *Zevachim* 6b. See *Rashi*, entry *korbanos*, who states that this applies even if the priest who slaughters the sacrifices "does not know what they were intended for." The *Rambam's* Commentary to the *Mishnah (Zevachim* 1:1; see also the commentary of Rav Ovadiah of Bartenura) adds a further leniency, saying that this law applies even when the priests sacrificed with the wrong intent in mind.

This concept is questioned by *Menachos* 78b. See also the *Panim Meiros, Chok Nosan*, and other commentaries to *Zevachim*.

63. In certain matters, the person must make (even under coercion) a statement of intent, and in others, there is a need to rely on the intent of the court, while in other matters his inner will is expressed through his deed alone. The difference is dependent on the nature of the *mitzvah*. For example, there are some *mitzvos*, e.g., prayer, where proper intent is necessary, even after the fact. And there are some *mitzvos*, e.g., the *mitzvos* of faith in G-d or love of G-d, which are "obligations of the heart," and dependent totally on our hearts' intent.

leading him away from sin all day. For this reason, an unintentional act cannot be considered a sin. To cite a parallel: Even those opinions which maintain that after the fact it is not necessary to have the intention of performing a *mitzvah* agree that if one has the opposite intent — i.e., if one intends to *not* perform the *mitzvah* while in fact performing it — one has not fulfilled his obligation.⁵⁸

To apply the above concept with regard to a transgression: The commitment to serve G-d made at the beginning of the day continues throughout the day. Thus if one unintentionally transgresses, it is not considered a sin, because the underlying intent of all one's actions is to serve G-d.

OF UNIVERSAL RELEVANCE

A question, however, arises: The laws that state that by performing the deed, one is considered to have fulfilled a *mitzvah* even though one did not intend to do so, and that one is not liable for a transgression which is performed unintentionally apply to all Jews, even those who do not begin their day by making a commitment to serve G-d. How can we explain the difference between *mitzvos* and transgressions for such individuals?

We can understand why such a person is not liable for performing a transgression unintentionally. Although his general approach is that of rejecting the yoke of G-d's *mitzvos*, that underlying approach is not considered to motivate any particular act (as explained above with regard to the consecration of a woman). For there is no unity in the realm of *kelipah*, and every action is considered isolated from every other.⁵⁹

58. *Shulchan Aruch HaRav* 489:12.

59. See the *maamar* entitled *U'Reisem*, 5666, which states that the desires of the animal soul are separate from each other. Therefore one desire weakens and nullifies another. In contrast, the desires of the G-dly soul are complementary, and each reinforces the other.

Even if he has divorced his wife (that is, if he abandoned his previous path of Divine service) he should remarry her, returning to take up his burden again.²²

Moreover, even if “he discovered immodest conduct,” it is not fitting for him to hurry to divorce his first wife.²³ Instead, he should investigate the matter thoroughly to see whether or not there was in fact immodest conduct.

In the analog, this means that even if it appears to him that Torah law requires him to abandon his previous path of Divine service, he should not make the decision hastily. Perhaps he is being influenced by self-love, and it only appears to him that another path of Divine service would be easier. When he investigates the matter, he may realize that it is preferable for him to persevere. And when he dedicates himself to the matter with all the powers of his soul, then as a result — “when a man and a woman merit, the Divine Presence will rest between them,”²⁴ in the analog, the soul will merit the consummation of its service, the establishment of a dwelling for G-d in this world.

(Adapted from *Sichos Chof Menachem Av*, 5719)

AN INSIGHT INTO THE ALTER REBBE'S SHULCHAN ARUCH

Parshas Ki Seitzei also contains the command:²⁵ “Do not muzzle an ox while it is threshing,” which prohibits pre-

22. As it is fitting for a person to remarry his former wife (*Sefer HaChinuch*, *mitzvah* 580).

23. *Rambam*, *Mishneh Torah*, *Hilchos Geirushin* 10:21. It appears that this applies even if he discovered immodest conduct, as stated by the *Chelkas Mechokeik* 119:2. Note, however, the interpretations of the *Bayis Chadash* to the *Tur* (*Even HaEzer*, ch. 119), and the gloss of the *Beis Shmuel* 119:3.

24. *Sotah* 17a.

25. *Devarim* 25:4.

venting an ox — or any other animal²⁶ — from eating the grain it is threshing.

The Alter Rebbe's *Shulchan Aruch* (printed by the Mittler Rebbe and his brothers) spells out the laws involved in this prohibition. The last law states:

When cows are passing over grain while taking a shortcut [to another field], a person does not transgress the prohibition "Do not muzzle" if he muzzles them. Although as a matter of course, the grain is threshed as they pass over it, since this is not his intent, [no prohibition is involved]. The same applies in other similar instances.

As mentioned on several occasions, the wording used by the Alter Rebbe in his *Shulchan Aruch* is very precise. By carefully analyzing his phrasing, it is possible to gain new insights.

The source for the Alter Rebbe's ruling is a teaching of the *Rambam* which states:²⁷ "When cows are passing over grain while taking a shortcut, a person does not transgress the prohibition 'Do not muzzle' [if he muzzles them]." The Alter Rebbe, however, makes several measured additions to the *Rambam's* wording.

a) The phrase "although as a matter of course, the grain is threshed as they pass over it" is not found in the *Rambam's* words. The reason for the addition can be explained as follows: It is possible to interpret the *Rambam's* words as meaning that the leniency is granted only when the cows do not thresh as they passed over the grain.²⁸ (Even this would be considered a leniency; since the cattle are going to thresh in another field, one might think that passing through this

26. *Bava Kamma* 54b; *Shulchan Aruch HaRav, Choshen Mishpat, Hilchos Shaaleh U'Sechiros VeChasimah*, law 22.

27. *Mishneh Torah, Hilchos Sechirus* 13:4.

28. See the *Shitah Mekubetztes* (in the name of the *Ritba*), *Bava Metziah* 89b; *Minchas Chinuch, mitzvah* 596.

so that one can almost say entirely — entirely evil.⁵⁵ Thus the body and material existence are closer to evil than to good.

It would appear that to separate material entities from G-dliness is far easier than to establish a connection with Him. Why is it that to create separation an intent is necessary, while a connection with G-d can be established without having any intention?

This question is resolved by the Alter Rebbe's words at the beginning of the *Shulchan Aruch*: "The Laws of Rising in the Morning: Be bold as a leopard... to carry out the will of your Father in heaven." When a Jew begins his day by reciting *Modeh Ani* and thus establishing a connection with G-d, he causes that connection to encompass the entire day. Therefore even if he does not intend to perform a *mitzvah* at another time during the day, the bond with G-d established through the performance of the *mitzvah* is effected by the commitment he made at the beginning of the day.

To cite a parallel: Before consecrating a woman, a man must declare his intent, telling her that he is consecrating her by giving her a coin (or an article worth money). If, however, a man and a woman were discussing marriage before he gave her the coin, and he gave it to her without making an explicit statement, the consecration is effective.⁵⁶ We assume that his act is an expression of the statements made previously.

This motif does not apply with regard to transgressions. As long as a person does not intend to perform the transgression, he is not considered to have sinned. Firstly, his deed lacks the intent that causes it to be considered a sin; it is like a body without a soul.⁵⁷

Moreover, since the person began his day by saying *Modeh Ani* or the like, there is a subconscious motivation

55. *Tanya*, ch. 7.

56. *Kiddushin* 6a.

57. Note a similar concept explained in *Derech Mitzvosecha, Mitzvos Vidui U'Teshuvah*.

There is a difference of opinion among our Sages as to whether having the proper intention when fulfilling *mitzvos* is an absolute imperative, or if it is acceptable, after the fact, that *mitzvos* are fulfilled without the proper intent.⁵⁰

According to most authorities,⁵¹ there are certain types of *mitzvos* which — after the fact — do not require⁵² an intention to fulfill the *mitzvah*.⁵³ Furthermore, there are some *mitzvos* which a person fulfills even when compelled to perform them against his will.

This indicates that there is a fundamental difference between a *mitzvah* and a transgression. When a person violates a prohibition unintentionally, he is not considered to have transgressed, while when he performs a *mitzvah* unintentionally, he is still considered to have fulfilled the *mitzvah*.

Why is there a difference? Moreover, if a difference exists, one would think that the opposite would be true. *Mitzvos* are acts of connection to G-d, binding both the person who fulfills them and the physical objects employed. A transgression, by contrast, separates the person and the objects involved from G-d.

Physical entities — and the body and animal soul of a Jew⁵⁴ — are under the dominion of *kelipas nogah*, the spiritual gestalt dominating our world, which is primarily — so much

50. See *Shulchan Aruch HaRav*, the conclusion of sec. 65. See the conclusion of *Ateres Rosh* for an explanation of both views according to the teachings of *Chassidus*.

51. See *S'dei Chemed*, *Klallim*, *Maareches Mem*, sec. 61ff.

52. This indicates that even when it is necessary for a person to have the proper intent, the reason intent is necessary is because that particular *mitzvah* has some unique characteristic.

53. See the *Shulchan Aruch HaRav* (*loc. cit.*) which states that “not requiring intent” includes “performing the deed without the intent of fulfilling one’s obligation, but rather without any intent at all, or with an intent other than that of fulfilling the *mitzvah*.”

54. See the notes of the Rebbe Rashab to *Tanya*, ch. 7.

field would also be considered part of the task of threshing, and it would be forbidden to muzzle them.) The Alter Rebbe makes the above addition²⁹ to make it clear that the leniency includes even an instance when grain is threshed as they pass.

b) The rationale the Alter Rebbe gives — “since this is not his intent” — is not mentioned by the *halachic* authorities of previous generations. For example, the *Ramban*³⁰ quotes the *Jerusalem Talmud*,³¹ which states that the prohibition applies “while ‘threshing,’ and not while passing through.” It appears that the Alter Rebbe considers the prohibition, not as a “Scriptural decree,” but as a teaching motivated by a rationale, “since this is not his intent.”

c) The Alter Rebbe concludes with the phrase: “The same applies in other similar instances.” Apparently, these words come to complement the concept mentioned previously: that the leniency does not come about because of a “Scriptural decree,” but because the person acted unintentionally. And so, the Alter Rebbe continues, whenever a person acts unintentionally, he is not held liable.

This concept is a matter of debate among the *halachic* authorities. The *Sheiltos D’Rav Achai Gaon* states³² that only with regard to the laws of *Shabbos* is a person not held liable for committing a transgression unintentionally. With regard to the *Shabbos* laws, we find the principle:³³ “It is thoughtful labor which the Torah prohibited.” When a person performs an act unintentionally, he has not performed “thoughtful labor,” and therefore is not held liable.³⁴ With regard to other prohibitions, by contrast, even when a person does not

29. See the *Mishneh LiMelech*, who offers a similar interpretation.

30. In his commentary to *Bava Metziah*, quoted by the *Maggid Mishneh* to *Hilchos Sechirus*, *loc. cit.*

31. *Terumos* 9:1.

32. *Sheilta* 105.

33. *Beitzah* 13b; *Chagigah* 10b.

34. *Tosafos*, entry *Talmud, Shabbos* 110b.

perform an act with the intent of violating a Torah prohibition, if such a violation occurs, he is held liable.

Most *halachic* authorities maintain that even when a person violates other prohibitions unintentionally, he is not liable. This is the intent of the Alter Rebbe's phrase "The same applies in other similar instances."

WHAT CONSTITUTES AN UNINTENTIONAL ACTIVITY

A person is not held liable for an action performed unintentionally only when that action does not necessarily cause the prohibition to be performed. When, however, he intentionally performs an act which will *inevitably* cause a prohibition to be transgressed, he is held liable. To cite the classic example employed by the *Talmud*:³⁵ It is forbidden to slaughter an animal on the *Shabbos*. Even when one does not desire to slaughter a chicken, but wants to cut off its head for another reason, one is liable for slaughter. For when its head is cut off, it will surely die. It thus cannot be said that it was slaughtered unintentionally.

According to this principle, a difficulty arises. In the instance cited by the Alter Rebbe, although the person who causes the cows to pass over the field did not intend that they thresh the grain, it is inevitable that the grain will be threshed. Should he not therefore be held liable for muzzling his cows?

This leads to a redefinition of the above concept. When is a person who does something that inevitably leads to a violation of the law liable? When the activity *he himself* performs causes the violation. For example, when a person drags heavy furniture over the ground, it will surely leave a groove. Although he did not *intend* to dig that groove, it is inevitable

35. *Shabbos* 75a.

The word "discover" implies that a person will receive incomparably more than he invests. For a discovery cannot be attained through effort. Instead, "a discovery comes when one's attention is diverted."⁴⁴

Indeed, the Torah will then be granted to the person as a present, and become his eternally. In this vein, we find a teaching of our Sages:⁴⁵ Before G-d gave Moshe the Torah as a present, he would forget. Once He granted him the Torah as a present, however, he did not forget.

TYING THE END TO THE BEGINNING

It is Jewish custom to connect the end of a Torah text⁴⁶ with its beginning.⁴⁷ The Alter Rebbe's *Shulchan Aruch* begins with the laws of rising in the morning, stating:⁴⁸

Yehudah ben Teima says:⁴⁹ "Be bold as a leopard, light as an eagle... to carry out the will of your Father in Heaven."

Herein lies a connection to the conclusion of the Alter Rebbe's *Shulchan Aruch*. As mentioned above, the last words, the phrase "the same applies in other similar instances," teaches that a person's freedom from liability for an unintentional violation is not a Scriptural decree applying only to muzzling an animal, or only with regard to the laws of *Shabbos*, but rather is a general principle applying to all Torah prohibitions.

44. *Sanhedrin* 97a.

45. *Nedarim* 38a.

46. This *sichah* was delivered by the Rebbe on Teves 24, the Alter Rebbe's *yahrzeit*, as a *Hadran*, concluding address, on the Alter Rebbe's *Shulchan Aruch*.

47. Perhaps the motivating principle for this relates to the concept (*Likkutei Torah, Shir HaShirim*, p. 1c): "The end is rooted in the beginning, and the beginning in the end."

48. This is the beginning of the revision (*Mahadura Tenyana*) of the Alter Rebbe's *Shulchan Aruch*. The original text also begins in a similar fashion.

49. *Avos* 5:20.

applies depends on whether the cows were muzzled before they tread on the grain or afterwards.

THE ADVANTAGE OF ANALYTIC STUDY

As mentioned above, we must study the Alter Rebbe's *Shulchan Aruch* in detail, thinking deeply about the wording he uses⁴² and assessing the meaning of his phrasing. This will lead to many new insights both regarding the *halachah* at hand and other related — and seemingly unrelated — concepts. For example, in the law mentioned above, the Alter Rebbe conveys several concepts in the measured words he chose:

- a) The person does not transgress the prohibition despite the fact that the grain is threshed.
- b) The reason he is not liable is because the act was performed unintentionally.
- c) He is not liable only when it is not inevitable that the grain will be threshed.
- d) The concept that one is not liable for a transgression violated unintentionally applies, not only with regard to the laws of *Shabbos* (as stated in the *Sheiltos*), but also with regard to all the prohibitions in the Torah.

May G-d grant that we study the Alter Rebbe's *Shulchan Aruch* and the *Tanya* in depth, particularly in the present year, the 150th anniversary of his passing. This applies to the study of *Nigleh*, the revealed dimension of Torah law, and *Chassidus*. May we labor in Torah study, employing our three intellectual faculties: *Chochmah*, *Binah*, and *Daas*. And then we will merit the fulfillment of our Sages' promise:⁴³ "If you labor, you will discover."

42. See *Likkutei Dibburim*, p. 789.

43. *Megillah* 6b.

that the activity will cause the groove to be dug, so it is considered as if the groove was dug intentionally.³⁶

Similar concepts apply to other prohibitions. For example, it is forbidden for a person afflicted by *tzaraas*³⁷ to remove a mark of that malady. If such a person has such a mark on his shoulder, and carries a rod which will *certainly* remove that mark, one might think that he is liable, even though he did not *intend* to remove the mark. Therefore a special teaching is necessary³⁸ to tell us that carrying a rod is permitted in such an instance. Although his intention was not to remove the mark, since carrying the rod would inevitably bring about the mark's removal, it cannot be said that he did not intentionally remove it.

A distinction can thus be made with regard to the muzzling of cows mentioned above. In this instance, the activity which will inevitably be performed does not involve muzzling (which constitutes the prohibition), but rather threshing. The threshing itself is permitted; the Torah merely tells us not to muzzle an animal *while* it is threshing. Since the threshing itself is not prohibited, the conception of an inevitable activity does not apply, and the threshing is considered unintentional. Therefore the prohibition against muzzling is not violated.³⁹

36. *Shulchan Aruch HaRav* 337:1.

37. [A physical affliction mentioned in the Torah which some identify with leprosy.]

38. See *Shabbos* 133a, which derives this concept from the exegesis of a verse from the Torah.

39. The above principle can be explained in several ways. Among them:

a) It is sufficient to posit that the intent of one act — e.g., cutting off a chicken's head — will be extended to include the inevitable consequence of that activity. It cannot be extended to involve a third matter.

To cite a parallel: There is a difference between *כחו* (the direct result of a person's activity) and *כח* (an indirect result). [Thus in the above instance, the intent could be extended to involve threshing, but threshing in and of itself is not forbidden.]

b) In order for an activity (e.g., killing a chicken) to relate to the intent with which another deed is performed (cutting off its head), the first act must be of consequence. To cite a parallel: We find the expression (see *Bechoros*

The above leads to a new definition of the Alter Rebbe's words. To explain: Just as there is a prohibition: "Do not muzzle an ox while threshing," there is also a prohibition: "Do not thresh with a muzzled ox."⁴⁰ Based on the above, it would appear that only when a person muzzles his cows as they are passing over grain is he not liable for threshing with a muzzled cow, because the cows are passing over the grain

10a): "The prohibition caused it to be considered of consequence." [In the above instance, since the threshing is not forbidden, it is not considered of consequence, and therefore is not considered intentional.]

c) For an activity (e.g., killing a chicken) to be considered as having been performed intentionally, and thus be considered as a transgression, the prohibition must have a direct connection to the person who performed it. In the instance at hand, the person's intent (that the cows pass through the field) and the inevitable result (that the grain is threshed) are both permitted.

The hypothesis advanced above — that the threshing is not forbidden although it is inevitable that it will take place — applies only to the direct result of the act; it is not challenged by the following teaching (*Machshirin* 4:1):

When a person bends over to drink [from a stream], [if] the water that remains on his mouth and mustache [later come into contact with produce, the contact is considered] intentional.

Rabbeinu Asher explains the rationale for this ruling as follows: since it is impossible for a person to drink if the water does not reach his mustache..., [it is considered as if the water was placed there intentionally,] for every consequence that is inevitable is considered as if it was performed intentionally.

Rabbeinu Asher is saying that the person's intent to drink the water which enters his mouth applies to the water on his mustache as well, although he had no intention that the water on his mustache be lifted [from the stream]. One might think that this does not follow the principle mentioned above, because the produce does not become fit to contract ritual impurity until it comes in contact with the water, and that contact is not a direct result of his drinking.

A distinction can, nevertheless, be made. When water is removed from the stream, it becomes considered as water which can make an object subject to ritual impurity. This status is conveyed upon the water at once (although it does not have any effect until the water actually comes into contact with produce). As such, the inevitable act (that water was lifted up on his mustache) is directly connected to the status it receives (that it can cause produce to become susceptible to ritual impurity).

With regard to the instance mentioned above, by contrast, threshing and muzzling are two separate acts, and the threshing itself is not forbidden. It is only when one threshes *intentionally* that it is forbidden to muzzle an ox.

40. *Bava Metzia* 90b; *Shulchan Aruch, Choshen Mishpat* 338:3.

without an intention to thresh it. For then the cows are walking on their own initiative, [it is not he who is causing them to walk]. But if he muzzled the cows beforehand, and *then* caused them to walk over grain, it is inevitable that a forbidden activity will be performed. Therefore one commits the transgression even though one had no intention to thresh.

One might ask: why doesn't the Alter Rebbe spell this concept out explicitly? Why doesn't he say that it is only when one muzzles the cows afterwards that one is not liable?

It is possible to explain that in his *Shulchan Aruch*, the Alter Rebbe follows the pattern established by the *Rambam* in the *Mishneh Torah*. Rarely — except in the relatively few instances which he states "It appears to me" — does the *Rambam* mention laws at which he arrived through his own deductive reasoning. It is true that the Alter Rebbe, unlike the *Rambam*, adds the motivating principles for the laws, and this allows for several new laws to be derived. He does not, however, mention those new laws explicitly.

For this reason, he does not explicitly state the implications of muzzling cows before they start walking or afterwards;⁴¹ he merely states the reason one is not liable — because one's act is performed unintentionally.

Together with the motivating principle, the Alter Rebbe also adds the phrase: "The same applies in other similar instances," teaching that whenever one violates a transgression unintentionally, one is not liable. This statement allows for inferences to be drawn in both directions. Just as it teaches that a person who unintentionally violates other transgressions is not liable, it implies that the definitions of unintentional activity as applied to other prohibitions also apply to the prohibition against muzzling oxen. And thus we can understand that whether or not the prohibition

41. It is possible to say, however, that this concept is alluded to in the wording used by the Alter Rebbe: "When cows are passing over grain." Seemingly, the intent is that they are already in the process of passing over.