

תורה מציון Torah MiTzion

RELIGIOUS ZIONIST KOLLELS כוללים ציוניים בתפוצות

Shabbat Shalom from Torah MiTzion

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In this week's issue:

- 1) **The Beit Midrash of Shem & Ever, Rav Shlomo Sobol**
- 2) **From the Diaspora to Israel: Injurious Employment Throughout the Ages, Simon M. Jackson**
- 3) **Family Learning, Parshat Vayetze, Bluma Zalcman**
- 4) **Looking Back: Ha'Mizrachi**

The Beit Midrash of Shem & Ever Rav Shlomo Sobol, former Rosh Kollel, Detroit

At the end of last week's Parasha Rivka orders her son Yaakov to travel to Charan, to reside with her brother Lavan and to wait there until Eisav is no longer angry and vengeful at losing the birthright and its blessing to Yaakov.

This week's Parasha opens with the words "Yaakov departed from Beer-Sheva and went to Charan." (Bereishit 28:10) Although it appears from the verses that Yaakov immediately followed his mother's command, when we calculate the days of Yaakov's life we find that before Yaakov went to Charan he settled in the house of Eiver for fourteen years, where he studied Torah, and only then went to Charan. (Rashi according to Megilla 17a)

Why did Yaakov, at this point in his life, decide to go and learn Torah for such a long period of time?

Before answering this question we should note that the Gemara in Masechet Megilla 16b teaches that Yaakov was not punished for those years that he spent learning Torah even though by doing so he disobeyed his mother's command. So, it appears, his decision was a correct one. The question still is why did Yaakov decide at that particular time in his life, to spend so much time learning Torah?

Many times, in the Midrashim, the Yeshivot of Shem and Eiver are presented as the places to which one goes to commune with God and to learn Torah. (see: Rashi on Berieshit 25: 22 and 27) What is the difference between the Beit Midrash of Shem and the Beit-Midrash of Eiver and why does the Gemara mention the Beit-Midrash of Eiver as the place Yaakov chooses to learn Torah before leaving for Charan?

It appears that the answer is that the Beit-Midrash of Shem is the place that one went to learn about Hashem – the creator of the world. The Beit-Midrash of Eiver was the Beit-Midrash that prepared one for to live in the broader society, based on the Hebrew word Ma'avar – transition. The learning in the Beit-Midrash of Eiver was one that facilitated a transition from the world of study to the world outside of the Beit-Midrash.

Yaakov, before leaving for Charan, understands that now he is forced to leave the protection of the environment in which he grew, the home of his righteous parents, and the holy Land of Israel to a place far from holy, to Charan and the house of Lavan. Yaakov is apprehensive, not only in the face of the physical challenges, but mostly in the face of the spiritual dangers this journey entailed. Therefore, before leaving for Charan he enters the Beit-Midrash of Eiver, where he knew he could learn the type of Torah that would prepare him for the complicated tasks awaiting him. Only after years of preparation does Yaakov feel ready. Indeed, as we learn in this week's Parasha, Yaakov lives up to his title as one of our righteous forefathers, even after many years in a foreign land.

We too, living in a modern world full of spiritual dangers, need to fill ourselves with Torat Chaim, the type of Torah learning that prepares us for the complexities of life. Only then are we ready to venture forth to reveal the name Hashem to the world.

**NEW FEATURE ON WWW.TORAHMITZION.ORG:
From Around The World To Gush Katif - And Beyond...**

Throughout our lives, we will likely move several times, to a new home, a new city, or even a new country. There are many reasons why people move and many places they choose to live. But for Jews around the world, one particular destination beckons throughout their lives. Over the last few decades, a number of those who chose to answer that call and make aliyah settled specifically in the cozy towns and sprawling fields of Gush Katif. Other olim, primarily those from non-Western speaking countries, were brought to Gush Katif by the Israeli government, which placed many new immigrants outside of the country's pre-1967 borders, areas with room to absorb new residents and in which the State sought to increase its Jewish presence.

In August of 2005, this olim minority, along with their Israeli-born neighbors in the Jewish communities of Gaza and the Northern Shomron, were compelled to move once again. But this move was spurred not by financial need, marriage, or the desire for a change of scenery, but by a decision of the State of Israel to disassociate – “disengage” – from this land and hand it over to the Palestinian Authority. The reactions of the evacuees have been, and continue to be, varied. Some have turned inward, bereft with a sense of betrayal and bitterness that may never be allayed. Most are taking “one day at a time,” coping with each new challenge as it arises, attempting to remain positive. Their stories – “before, during, and after” – the disengagement are not only their own, but are the story of Gush Katif, the story of olim to Israel, the story of the State of Israel itself.

Read the full article by Yael Ehrenpreis-Meyer at www.torahmitzion.org

From the Diaspora to Israel: Injurious Employment Throughout the Ages
Simon M. Jackson, Legal Advisor to Torah MiTzion

Can injurious terms and conditions of employment constitute grounds to annul an employment contract or at the very least to force the employer to agree to more fitting terms and conditions?

The great 15th century Ashkenazi halachic authority, R. Yisrael MiBrona, was questioned about the halacha that applied to a "woman or young girl whose employer sent her on errands to the marketplace and non-Jewish houses by herself." The servant argued that she was hired to serve "according to the manner of servants in the home" only and not in the public arena.

Mahari MiBrona's ruling (Siman 241) left no room for doubt:

"The employer cannot force her to enter non-Jewish houses alone... This applies even where the public are accustomed to entering such areas. While **no prohibition is involved**, he is nonetheless unable to force her, because **some women...** act modestly or are afraid..."

The interesting point to note about *Mahari MiBrona's* ruling is that he does not take account of solely **objective** factors, in making his decision, but also – and perhaps only – **subjective** considerations. The fact that the specific worker in question is concerned that her honor and dignity may be slighted suffices to prevent her employer from forcing upon her injurious terms and conditions of employment. Assuming this test is not misused by the *employee* (which is theoretically possible, though practically not usually the case), this ruling provides a counterbalance to the natural sense of power ordinarily enjoyed by the employer.

Two centuries later, R. Yair Haim Bakhrach was presented with a difficult case of injurious employment (*Shut Havot Yair*, 106):

"Concerning a certain woman known to his Excellency for her name and deeds as an angry and pedantic person, who behaves like a vulture and a heron [two of the impure birds of prey, deemed an abomination in Vayikra 11:14 and 19], **and for this reason no one was able to bear her**, and she was without a servant for many years, and at the beginning of this winter, fed up with all the housekeeping work, she hired an unmarried girl as her servant; and her oppressive treatment beyond what is customary, **according to the words of the girl**, together with the constant concealment of bread in a chest, led to struggles between the mistress and the servant..."

In order to terrify the servant and to realize her rights, the mistress held back the Sabbath clothes of the fleeing maidservant and hired an alternative servant to fill her place at a higher wage. The mistress would also deduct money from the servant's salary for any breakage or damage caused by her in the house.

From the detailed description of the question, it can be inferred that the servant was deprived of food by her employer and was subject to degradation and maltreatment at her hands, as a result of which she was forced to flee and to seek work in another house, without pay, in return for her food only. Noteworthy is the caution with which the *Havot Yair* formulates his words ("according to the words of the girl") not having heard the other

party's side. Indeed, throughout his response, the *Havot Yair* cautions against passing an opinion on something without first hearing the facts from both parties and first-hand.

As with many other Poskim, the *Havot Yair* attributes great weight to the "customary practice" on this matter. He determines that the question whether a particular hardship is acceptable depends on the **clear norm** which is conventional in that society. Anything which falls short of the clear norm applicable to similar women in her position is forbidden, e.g. hiding the bread under lock and key. This applies even if her own children suffer in this manner, for "just because they suffer [or have got used to the situation], why should she have to suffer?" Where the norm is not clear-cut, even though the employer has the upper hand in such a situation, he rules that the law should be decided in favor of the employee by virtue of the great principle of Jewish law: "For the Children of Israel are *My* slaves – and not slaves to other slaves," which enables a worker to "withdraw from his employment contract even in the middle of the day" (see Bava Metzia 10a).

As to the mistress' practice of deducting money as compensation for breakages of household items, strictly speaking, the mistress has the upper hand according to the Halacha in this regard, because the servant has the same law as a paid guardian (*Shomer Sachar*) who is responsible for thefts and breakages other than those caused in the course of her work. While the majority of women do not care about small losses, others do, and the Halacha states that in monetary matters we do not follow the majority. However, concludes the *Havot Yair*, if only one or two women from that town are so exacting it would appear that their opinion is not taken into consideration, being that it is held by an extremely small number of misers, in which case it is not regarded as even a minority opinion!

Intriguingly, the *Havot Yair* notes that on many occasions a homeowner and a servant came before him, and at times the former retracted his complaint against his servant's lateness on several occasions..."but I never litigated between them; I simply invested great effort until I had uncovered the reason behind the complaint."

In our last column, we described the case of Jerusalem SuperPharm drugstore chain cashiers forced to stand on their feet all day long without resting even for a short period of time. Adv. Yuval Elbashan, founder and director of the Hebrew University's Legal Education Center for Human Rights, recalled the incident a month later in November 2004, from the podium of the Sderot Conference on Society held annually in the southern development town as a counter to the annual Caesarian Conference of Israel's economic elite. His comments, reported in the Israeli press, made waves: a public campaign developed against cashiers' harmful work conditions, demonstrations were held outside SuperPharm branches, a counter-campaign was initiated by the chain's management and a compromise was reached.

A few weeks later, the drug chain, fearing a widening consumer boycott, changed its policy. Cashiers would still stand, but SuperPharm improved their conditions by increasing the number of breaks they could take during an eight-hour shift, and provided orthopedic rugs in cashiers' booths to ease the strain on their legs, as well as medical counseling on care for their feet and backs. The campaign has since led Supersol's management to allow cashiers at its Universe Club branches to work while sitting, as do cashiers at the supermarket chain's other stores. But these improvements are the exception rather than the rule.

Ironically, it is precisely those employees who are the weaker members of society and whose interests are most in need of protection who suffer the most. A proposal for a law

against "harmful" patterns of employment (including non-compliance with wage and safety laws, harassment of workers, humiliation, insult and more) was presented to the Knesset in February 2005. However, even if this becomes law it arguably does not go far enough. *As long as the public does not pay the price of the lost honor of the workers who serve it – for example by taking its business elsewhere, as happened with Adv. Elbasha in the SuperPharm example – employers will continue to relate to their employees as if they are essentially invisible.* According to one social activist who opposed the compromise on orthopedic mats, the SuperPharm cashiers' conditions have improved *but their status has been damaged*: From now on they are no longer able to demand more than the minimum wage for a long shift on their feet and a tiny break.

Next Column:

New Series: The Extradition of Jewish Offenders to Non-Jewish Authorities

Family Learning: Bluma Zalzman

- 1) What is the "place" referred to in passuk yud aleph?
- 2) What was HaShem's promise to Ya'akov in his dream? (28:13-15)
- 3) Why did Lavan hug, kiss and embrace Ya'akov?
- 4) How did Rachel help Leah on her wedding night? (Rashi- 29:22-25)
- 5) Why did Leah only thank HaShem after Yehudah was born? (Rashi- 29:35)

Answers follow below

Looking Back: Ha'Mizrachi

The Mizrachi movement is a religious, Zionistic, political movement that was founded in the year 1902. The name Mizrachi stands for "Merkaz Ruchani", which means spiritual center.

After a decision made by the Zionist Congress that the Zionists should push secular, Zionistic education, a group of religious Zionists led by Rav Yitzchak Ya'akov Reines and Rav Shmuel Mohaliver, decided that only by keeping Torah and mitzvot will the nature of the Jewish people be preserved. The group decided to continue to be a part of the Zionist movement but to act according to their own principals and beliefs.

Even though the reason for founding of the Mizrachi was so that the Orthodox community could identify with Zionism, the Orthodox community was very critical towards the movement. Their two claims against the Mizrachi were:

- 1) Instead of bringing the geula closer, they were pushing it off even more.
- 2) They were cooperating with transgressors.

Rav Reines answered the two claims. To the first one he said that they were not trying to bring the Geula, they were trying to save Jewish lives. Jews were always being prosecuted and Rav Reines saw Israel as a way to save Jews and get them away from anti-Semitic Europe. To the second claim he responded that they were not really working cooperating with the secular Zionists but the cooperation was practical; to help the religious Zionism.

This "apology" was an important factor in establishing the doctrine of the Mizrachi, that was further developed by Rav Kook. The ideology which was developed by the Mizrachi was "Am Yisrael b'Eretz Yisrael al pi Torat Yisrael" which translates "the nation of Israel in the land of Israel (living) according to the Torah of Israel."

In 1929, the Mizrachi founded a youth movement called Bnei Akiva. It is now active in 37 countries and considered the largest Jewish youth movement in Israel. The youth movement was started by a nineteen year old boy by the name of Yechiel Aliash in Jerusalem. Rabbi Neriyah soon became the Rav of the movement and as a result of his influence Bnei Akiva adopted the Rav Kook's ideology.

Later on, the Mizrachi became part of the Mafdal, which is a religious, Zionistic political party. The Mizrachi is still active today, and played a major role in spreading the message of religious Zionism throughout the country.

Torah MiTzion establishes Religious Zionist Kollels (centers of Jewish learning and outreach) in Diaspora Jewish communities to strengthen the study of Torah, Jewish identity, the unity of the Jewish people, and the connection between Torah study and Israel.

The Kollels, led by a Rosh Kollel, are comprised of Israeli shlichim (emissaries) - married men and their wives, and single young men, graduates of Yeshivot Hesder in Israel - who serve in the communities for a period of one-three years.

Torah MiTzion is also proud to be a partner of the "**Jewish Learning Initiative**" program on college campuses: www.jli.co.il

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For support and sponsoring options, please visit our website.

Answers, family Learning

- 1) Har HaMoriyah
- 2) That he would be with him and make him into a great nation.
- 3) He wanted to see if Yaakov was hiding any jewels or gold.
- 4) She told her the signs she made with Yaakov, so he wouldn't know it was Leah and then she would be embarrassed.
- 5) According to her calculations, Leah realized that each mother should have 3 children, when she had her fourth, Yehuda, she realized that this was truly a gift from HaShem.