

# HEMDAT YAMIM

PARASHAT LECH LECHA

10 CHESHVAN 5769

*This week.....*

•“The Woman Was Taken to Paroh’s House” – Up or Down?

A Glimpse from the Parasha

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• Admissibility of Testimony by a Hired Private Investigator

(based on Halacha P’suka 46, a condensation of a ruling of the Supreme Rabbinical Court)

This edition of Hemdat Yamim is dedicated to the memory of **George Weinstein**

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As well as

**R' Meir ben Yechezkel Shraga Brachfeld**

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## “The Woman Was Taken to Paroh’s House” – Up or Down?

Harav Yosef Carmel

The moral implications of Avraham’s descent to Egypt and Sarah’s being taken by Paroh trouble all. Rashi says that Avraham’s journey was a test passed – he did not complain about being exiled from *Eretz Yisrael* soon after arriving. Rashi does not comment on Sarah’s being taken after Avraham said she was his sister. The P’nei Yehoshua (Ketubot 61a) rejects the face value understanding of the comment that Avraham received presents for his acquiescence. The Ramban takes Avraham to task for his role. Fear should not have caused him to leave *Eretz Yisrael* or allow Sarah to be compromised; Hashem can save in any situation. The Ramban says that Avraham’s behavior brought on his descendants’ painful exile in Egypt.

We will try to chart a course between the extreme positions above. We have explained that the patriarchs were not just heads of a family but were “political” heads of a large constituency of many thousands. Avraham’s followers converted to belief in monotheism. He negotiated and interacted on high levels with local kings and superpowers and led his followers to victory in battle over major armies.

Throughout *Tanach*, the following assumption appears in the background of stories. Marriage between monarchical families was used to forge ties between kingdoms. The more powerful side often took the daughter of the weaker king. This is behind Shlomo’s marrying of Paroh’s daughter and the *midrash* that Avraham’s servant/concubine, Hagar, was Paroh’s daughter. (See also Daniel 11:6.)

Avraham referred to Sarah as *achoti*, which usually means a biological sister. However, we find that an *achot* can refer to a more intimate male-female relationship (see Shir Hashirim 4:10). Some scholars have claimed that Sarah’s transition from Avraham’s wife to his *achot* indicates a divorce of sorts. (The Mishneh Halachot (VI, 263) independently cites from the Gaon of Ostravska that Avraham had indeed formally divorced Sarah so as not to cause her and Paroh to violate adultery.)

Avraham was forced by famine to bring his group to Egypt and to capitulate to Paroh regarding the terms of their stay. Paroh demanded to be able to take one of the women in his entourage as a wife, and as Avraham feared that he might take Sarah, he formally divorced her and made her an *achot*. That is why the difficult *midrash* (Tanchuma, Bechukotai 3) said that she was elevated in status when she was taken by Paroh to be a wife. At the end, miracles forced Paroh to admit that Avraham was the more prominent leader, as the teacher of monotheism, and gave over his daughter to be a servant in his household (Bereishit Rabba 45).

Let us pray that the world will understand that the real dominion is Hashem’s and all will want to attach themselves to His Kingdom.

Let us pray that the world will understand that the real dominion is Hashem’s and all will want to attach themselves to His Kingdom. **Eretz Hemdah** is the premier institution for training young rabbis to take the Israeli Rabbinat's rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities

**Question:** If one travels over the course of more than one day, does he make the *beracha* of *tefillat haderech* (prayer for the traveler) once or more and, if so, when?

**Answer:** The Kolbo (87) cites the Maharam MiRutenberg, saying that one says *tefillat haderech* only once during the day even if he stops along the way for some time. The Kolbo infers that if one planned to stop overnight at that point and then changed his mind, he would recite it again. The Shulchan Aruch (Orach Chayim 110:5) accepts both rulings. Thus, there is a concept that a trip, as originally planned, creates a unit regarding *tefillat haderech*.

However, several *Acharonim* (Bach, Taz ad loc.) infer from these sources that each day is also a relevant unit, and that one who continues his trip on a second day must recite *tefillat haderech* again. (The Pri Chadash (OC 110:5) says that a trip receives only one *tefillat haderech* even over several days; his opinion is not accepted). While this would seem to answer your question, there is discussion as to what constitutes a new day in this regard. The Radvaz (2176) is inclined to believe that since *tefillat haderech* is a stopgap replacement for *tefilla*, it is always appropriate when a new day of *tefilla* arrives. (The Piskei Teshuvot 110:6 attributes this opinion to the Bach and Taz, but this respondent feels that this is a misreading of the sources.) However, the Radvaz was not willing to rely on his position and said that if the traveler does not stop in a place of inhabitation, he would say *tefillat haderech* again only without an ending as a *beracha*.

Most *poskim* require some type of break in between days for the new day's travel to be considered a new unit worthy of another *beracha*. The Bach and Perisha mention sleeping in an inn or in a city in order to require a new *tefillat haderech* the next day, as does the Mishna Berura (110:26). The latter points out (Sha'ar Hatziyun 110:26) that the passing of the day by itself should not suffice, as even regarding the daily *Birkat Hatorah*, if one did not sleep at all during the night, many say that he does not make a new *Birkat Hatorah* in the morning.

Not everyone agrees that sleep per se is the issue, but rather the breaking up of the trip that normally accompanies serious sleep. There is a *machloket* regarding those who sleep in a serious manner on the roadside. Rav S.Z. Orbach is cited as requiring a new *beracha* if he got out of the car (Halichot Shlomo 21:2); Ishei Yisrael (50:4) says that one would have to sleep in a proper inn to say *tefillat haderech* as a *beracha*. The same *machloket* should apply to one who sleeps on an airport bench during a long stopover. When one sleeps in a boat or plane, where the trip fully continues as he sleeps, there is more agreement that a new *tefillat haderech* would not be needed.

The question of a new day versus a new leg of a trip also impacts on the timing of another *tefillat haderech*. The Biur Halacha (to 110:5) is unsure as to what to do if one breaks for the night in a hotel yet wakes up pre-dawn (*alot hashachar* is the beginning of the halachic day) for the next leg of the trip. Should he recite *tefillat haderech* immediately after leaving town or should he wait until the new day. He suggests to be cautious and wait, yet says that if the trip will finish before morning, then he should recite it while it is still night.

Let us point out that regarding this general issue, if one is unsure whether or not to say *tefillat haderech*, he can do so without its ending. As such, it is a non-*beracha* and not problematic even though it still contains Hashem's Name (in a *tefilla*, not a *beracha* context). Some also suggest incorporating this prayer for road safety into the *beracha* of *Shema Koleinu* in *Shemoneh Esrei*, where personal requests can be inserted (Halichot Shlomo ibid; Shulchan Hatahor (Sender) 110:5.).

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# Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

## Excerpts from the Introduction to Ein Ayah – part VII

The wide opening to the broadening of Torah ethics, the great wellspring that emerges from the house of Hashem, is *Chazal's* words of *aggada*. They enable us to extract pearls from the depths of *Tanach* and the wisdom of the soul which Hashem imbued in mankind when he blew His Spirit during our creation. Therefore, I have sought to uncover the wisdom of the Rabbis as they relate to matters of the broad field of ethics.

It is well known that there have been, over the generations, major disagreements as to the matter of the discipline of philosophy and beliefs. Some used the field of philosophy to expound on matters of ethics and *aggada*. Others made efforts to distance any idea that did not emerge from the Torah, but expanded the ideas of *aggada* based on the teachings of Kabbala and its many approaches filled with Divine, holy concepts. Others were concerned with expanding on *Chazal's* words in either way and took a more purist approach. They expanded things only according to simple ideas of belief and fear of Hashem that can be taken from explicit statements of *Chazal* and ideas the pure soul sees in the words of *Tanach*.

Each one of the schools of thought has brought us much good, and we are fortunate in our generation to joyfully harvest that which our predecessors sowed with tears. After all, when each ethical concept started to spread among the nation of Hashem, it was not possible to predict how it would impact on the hearts. We find that sometimes there is a facet of a philosophical approach that has elements related to the duties of the heart that can cause mistakes for one who is not sufficiently trained in these matters. After all, "one does not become set in the ways of Torah unless he stumbled in them" (Gittin 43a). Therefore, we have found Torah giants who are concerned that the stumbling could widen to the point that the gain from the approach would be overshadowed by the loss. They would then oppose those things in which we can actually find pleasing and wise ideas. We should be thankful to those pure of spirit because their opposition, which comes from the walls of a pure heart really caused the ideas to be refined to remove impurities so that it stands clear and pure like refined gold.

We have undergone a bitter exile and dispersion, have lost our spiritual center, and have a reduction in the advisors and judges our nation needs to light the path of Hashem before us. This has caused us to feel the fulfillment of the curse, "And you shall be feeling in the daytime like a blind man feels in the darkness" (Devarim 28:29). Therefore only with great toil and despair and by following a harrowing path did we arrive at the intellectual achievements of widening the wisdom of ethics. It is impossible in the downtrodden state of our nation for the matters to be arranged properly and that there should be grain without chaff, as it was when the light of Hashem was upon us through prophecy and *ruach hakodesh* and holy people who are included in Hashem's secret. Therefore the light from which we benefit nowadays comes with pain. Only after generations of experience do we know that the ideas of the *sefarim* of the great *tzaddikim* of Israel are good and true, good saplings in Hashem's vineyard. They have survived as a blessing, and all of Israel attest to their veracity and holiness. The proof in the test of time allows us to use them as moral and ethical guides, as works that have succeeded in bringing the heart of Israel closer to their Father in the Heaven.

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# P'ninat Mishpat

## Admissibility of Testimony by a Hired Private Investigator

(based on Halacha Psuka, vol. 48 - A Condensation of Piskei Din Rabbaniim, vol. V, pp. 3-8)

**Case:** A couple is in divorce proceedings. The husband, claiming infidelity, presented *beit din* with a private investigator he hired to attest to the matter. Is his testimony (*eidut*) admissible?

**Ruling:** The *gemara* (Bava Batra 44b) discusses the case of Reuven who sold a field to Shimon without responsibility to reimburse him if the field is taken away from him because of Reuven. Levi claims that Reuven had stolen the field. The *gemara* says that Reuven cannot testify that the field was his because he benefits from the field being in Shimon's possession because his creditors can use the field for payment. If he would have had to reimburse Shimon, he would have no advantage to testify because if his creditor would take the field, he would have to likewise reimburse Shimon. Only in this case, he is influenced by the need to avoid being a borrower who does not return the money. The Ri Migash (see Ramban, ad loc.) asks how one would be more influenced by the moral need to return a loan than by the prohibition not to testify falsely. He gives two answers: 1) One who is unfit because of connection to the case (*nogei'ah*) is not suspected of lying but is like a relative who is unfit regardless. 2) The blemish of testifying falsely is not known to the public, as the failure to return a loan is. The answers differ as to whether there is a fear of lying regarding one with interests in a case.

The *mishna* (Bechorot 29a) says that the *eidut* of one who received money to testify is unfit (*pasul*). The *Rishonim* say that this is a rabbinic penalty for one who charged money to do a *mitzva*. If we say that a *nogei'ah* is *pasul* like a relative, then one who receives money but is not a party to the case is *pasul* only rabbinically, as the payment is external. If a *nogei'ah* is *pasul* due to fear of false *eidut*, this applies also to the one who was paid to testify, and the *p'sul* would be from the Torah. It is rabbinic only when both sides pay the witness equally. The Netivot (34:10) accepts the latter approach, making the *p'sul* from the Torah.

The Masat Binyamin (98) says that if one is paid only if his *eidut* helped win the case, it is invalid from the Torah; otherwise, it is rabbinic. The Rashba (III, 11) says that one who is not obligated to testify (i.e. the event did not yet occur) and is paid to come witness something to testify about it, it is fit. Thus, a private investigator is not *pasul* for receiving money to collect information, and the matter depends on if they are paid to come to court or to win.

What about the impact of professional reputation? The Ra'avad and Tur (CM 37) posit that one does not lie now because of the possibility that in new circumstances the testimony could be helpful. Thus, in case like ours that there is only a chance that helping the client will improve his reputation to his benefit, he is not *pasul*.

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