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WHETHER VAIN: THE STORY OF TU B'AV

Adapted from the writings of Dayan Yitzhak Grossman

The Mishnah relates:

Rabban Shimon ben Gamliel said: There were no days as joyous for the Jewish people as the fifteenth of Av and Yom Kippur, on which the daughters of Jerusalem would go out...and dance in the vineyards. And what would they say? "Young man, please lift up your eyes and see what you choose for yourself for a wife. Do not set your eyes toward beauty, but set your eyes toward family, as it states: 'Grace is deceitful and beauty is vain, but a woman who fears G-d, she shall be praised.'"²

The *beraisa* elaborates:

What would the beautiful women among them say? Set your eyes toward beauty, as a wife is only for her beauty. What would those of distinguished lineage among them say? Set your eyes toward family, as a wife is only for children. What would the ugly ones among them say? Acquire your purchase for the sake of Heaven, provided that you adorn us with golden jewelry.³

Evidently in Talmudic times, the day of Tu B'Av (along with Yom Kippur!) was devoted to courtship, and marked by women dancing before a male audience. (The poskim explain that the men were certainly not lasciviously ogling the women, but were viewing them with pure intentions, in order to marry those that they found suitable, in accordance with Chazal's imperative for a man to view a woman before marrying her.⁴

It is noteworthy that while in the Mishnah's account, the women (apparently unanimously) dismiss the value of feminine beauty out of hand, according to the *beraisa*, the beautiful women do encourage the men to take their charms into account.⁵ Elsewhere, the Gemara declares the proposition that "a wife is only for her beauty" to be the subject of dispute, with the Mishnah there rejecting it.⁶ In this article we consider various perspectives in our Mesorah on

⁴ Yam Shel Shlomo Gittin perek 1 siman 18; Shu"t Binyamin Ze'ev siman 305 s.v. Alufim Mesubalim. Maharshal also asserts that the men viewed the women "from a distance," although based on the context—a condemnation of the practice of mixed dancing—it is unclear whether he means anything more than that they were not dancing together.

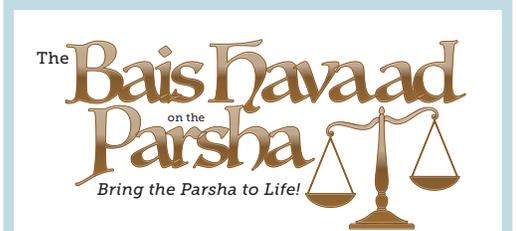
⁵ This apparent contradiction is discussed by R' Moshe Tzuril in the appendix to his article *Segulah L'Leidas Banim She'ainam Hagunim*.

⁶ Kesubos 59b.

(continued on page 2)

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Excerpted and adapted from a shiur by Rav Moshe Zev Granek

PARSHAS EIKEV FREQUENCY MODULATION

...And to serve Him with all your heart and with all your soul.

Devarim 10:13

The Rambam (Sefer Hamitzvos, *Asei 5* and *Hil. Tefilah 1:1*) writes that the words "and to serve Him with all your heart" are the source for the mitzvah to daven every day, as the Gemara (*Ta'anis 2a*) states that *avodah shebaleiv* refers to *tefilah*. The Ramban (*Hasagos to Sefer Hamitzvos*) holds that the Biblical mitzvah applies only during an *eis tzarah* (emergency).

It is unclear how the Rambam derived that the one must daven every day *mid'Oreisa*, as this is not explicit in the *pesukim* he cites. The Seder Hamishnah suggests the following general principle: Whenever the Torah does not specify how often a mitzvah should be performed, it means it must be done once a day. One of the proofs he cites is the mitzvah of tefillin.

However, this proof is questionable, because the Tur and Shulchan Aruch write that the mitzvah of tefillin in principle applies during the entire day, though

(continued on page 2)

¹ Mishlei 31:30.
² Taanis 26b. The Gemara (30b-31a) provides a number of reasons for the joyousness of the day.
³ Ibid. 31a.

Q&A from the
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Smoke Alarm

Q My neighbor has been making weekly barbecues in his backyard for several summers. My family is greatly bothered by the smoke, which forces us to close our windows. When we finally asked him to stop, he replied that since we didn't protest for several years, our silence served as tacit approval, and we cannot renege now. Is he right?

(continued on page 2)

this question.

YAAKOV AND RACHEL

The Torah relates: "...Rachel was beautiful of form and beautiful of appearance. Yaakov loved Rachel..."⁷ The Radak assumes the obvious interpretation of this, that "Yaakov Avinu chose Rachel because she was very beautiful," and wonders why a tzaddik like Yaakov (whose goal in marriage, after all, was procreation) would care about his wife's physical appearance. He offers several explanations, including the idea that beautiful forms gladden the heart. Hashem desires that man be happy in this world, and He therefore provides tzaddikim beautiful wives to facilitate their happiness.⁸

The Shevus Yaakov also argues that the Torah text makes it clear that Yaakov married Rachel due to her beauty, and proves from this that Chazal's criticism of marrying for money⁹ or beauty¹⁰ only applies when that is the sole motivation, but not where there is also a nobler intention alongside it.¹¹

A somewhat similar view is expressed by the Gra (in his interpretation of the position of the Orchos Chaim): marrying for money is acceptable, but only if one would have married the woman in question anyway.¹² In a similar vein, he explains that "grace is deceitful and beauty is vain" only in the absence of fear of Heaven, but "a woman who fears G-d, she shall be praised" for her beauty as well, as indeed our Matriarchs were by the Torah.¹³

The Aruch Hashulchan, however, rules that it is permissible to marry a woman for money (or, presumably, beauty) even if absent that consideration one would choose someone else, and on the contrary, this is indeed what a *talmid chacham* should do, in order to avoid the necessity of being heavily involved in worldly matters.¹⁴

7 Bereishis 29:17-18.

8 Radak *ibid*. See also Ralbag *ibid*. *Biur HaParashah* and *Toeles* #10.

9 *Kiddushin* 70a.

10 The *Gemara* cited in the previous footnote makes no mention of marrying for beauty. I do not know whether the *Shevus Yaakov* is simply assuming that marrying for money and marrying for beauty are equivalent or he is referring to a different statement of Chazal (which I have not been able to identify).

11 *Shu"t Shevus Yaakov cheilek 3 siman 135*.

12 *Biur HaGra E.H. siman 2 os 7*.

13 *Kol Eliyahu Bereishis ibid. (os 30)*. The same interpretation of the verse is given by *Pelleh Yo'etz, erech Yofi*. (Cf. *Bein Yofi Penimi Lyofi Chitzoni - Iyun B'Parashas Hoshavua al Pi HaGra MiVilna*.)

14 *Aruch Hashulchan E.H. 21*. Cf. *R' Yitzchok Isaac Halevi Fisher, Hanosei Ishah L'shem Mamon, Kovetz He'aros Uviurim #1027*.

COSMETIC CONCERNS

R' Yisrael Yehoshua of Kutna discusses a man whose fiancée's face became disfigured by the "pox" (presumably smallpox) during their engagement. The man wished to break the engagement because he now found her "revolting." R' Yisrael Yehoshua rules that although as a matter of *din* he may do so, it is morally wrong for him to break his troth and and humiliate an innocent woman. Although her beauty has been ravaged, "beauty is vain and grace is deceitful," and it is appropriate for him to marry her "for the sake of Heaven."¹⁵ (It does not necessarily follow, though, that he would encourage a man not yet engaged to ignore a prospective spouse's physical disfigurement.)

COSMETIC SURGERY

R' Yitzchak Isaac Liebes adduces the (disputed, as previously noted) assertion that "a wife (or 'woman') is only for her beauty" in support of his position that physical beauty is so important to a woman that plastic surgery to correct a cosmetic flaw is just as legitimate as medical treatment for actual ailments, since the psychological distress suffered by a woman who considers herself unattractive is just as serious as the physical distress caused by actual ailments.¹⁶ R' Eliezer Yehuda Waldenberg, however, rejects similar arguments from "various midrashim that praise feminine beauty" as "ridiculous" and not worthy of response.¹⁷

But while Rav Waldenberg is fundamentally opposed to cosmetic surgery, arguing that Hashem is the peerless Artist Who creates everyone exactly as He sees fit, and we are not authorized to alter His handiwork, this stance is an outlier. Many *poskim* do allow cosmetic surgery, and even those who do not are generally primarily concerned about what they consider to be the unacceptable level of risk involved, but I am unaware of any other *posek* who shares Rav Waldenberg's intrinsically hostile view toward cosmetic surgery.¹⁸

15 *Shu"t Yeshuos Malko E.H. siman 46*.

16 *Shu"t Beis Avi cheilek 2 siman 152 os 3*.

17 *Shu"t Tzitz Eliezer cheilek 11 end of siman 41 os 9*. Rav Waldenberg dismisses such arguments as having "no place whatsoever in halacha," as they are even less legitimate than proofs from *aggadah* which are out of bounds in *halachic* discourse. This is a somewhat puzzling claim, since the discussion of "a woman is only for her beauty" in *Kesubos* occurs in an entirely *halachic* context!

18 See *Shu"t Igras Moshe C.M. cheilek 2 siman 66*; *Shu"t Sheivet Halevi cheilek 6 siman 198* and *cheilek 10 siman 292*; *Shu"t Minchas Shlomo tinyana siman 86 os 3*; *Shu"t Minchas Yitzchak cheilek 6 siman 105 os 2*; *Shu"t Mishnei Halachos cheilek 4 simanim 246-47*; *Shu"t Chelkas Yaakov C.M. siman 31*; *Shu"t Yabia Omer cheilek 8 C.M. siman 12*; *Shu"t*

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(continued from page 1)

A The Shulchan Aruch (C.M. 175:35) rules that if someone is using his property in a way that is disturbing or damaging to his neighbors, and the neighbors do not protest right away, their silence is understood as a waiver for all future damage, and the damager acquires the right to continue the harm. The Shulchan Aruch goes on to say that the smells of sewage and smoke are excepted, because no one forgives the physical discomfort these produce, but he limits that principle to constant smoke, like that emanating from a baker's oven. According to most *poskim*, the occasional smoke from a regular household oven cannot be protested at all.



HARAV CHAIM WEG

It would therefore seem at first glance that if your neighbor would barbecue all day, you could protest even after many years of silence, but since it occurs only once a week, even an immediate protest could not have terminated the practice.

Upon further examination, though, both these conclusions are incorrect. Many *poskim* explain that the reason one cannot object to intermittent smoke from a regular oven is because the *mazik* (tortfeasor) has no choice but to cook and eat. Therefore, since barbecues are not necessary for living, a protest against the smoke damage would be effective, even years late. And in your case, even if he would barbecue constantly, you wouldn't be able to object years later, because you complain not of smoke damage but of the inconvenience of having to keep your windows closed on summer evenings, perhaps because it makes your home uncomfortably stuffy or because it forces you to pay to use the air conditioning. Either way, these torts are not among the Shulchan Aruch's exceptions, so the usual rule that your initial silent acquiescence constitutes a permanent waiver would apply.

(continued from page 1)



today we are lenient due to the difficulty involved in maintaining a *guf naki* (clean

body) and avoiding *hesech hada'as* (loss of concentration). (See *Pri Megadim*, *Aishel Avraham* 37:2, who discusses this.)

In addition, it seems that the P'nei Yehoshua (*Berachos* 21a) did not accept this principle,

as he interprets the *Gemara* as entertaining the notion that one must daven whenever possible, if not for a *pasuk* that limits it to three times a day.



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