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PARSHA ENCOUNTERS

6 Tammuz 5767 / June 22, 2007

Parshas Chukas ✍️ Rabbi Dovid Rifkind

Saved by the Crowd

In Parshas Chukas we find the enigmatic episode of the *Mei Meriva*. After the death of Miriam, the *be'er* (well), which had been given to Bnei Yisroel in the *zechus* (merit) of Miriam to provide them with water all during their years in the midbar, ceased to operate. The Bnei Yisroel complained to Moshe, and Moshe brought their complaint to Hashem. Hashem responded to Moshe, "Take the *mateh* (stick) and gather together the *eida* (congregation), you and Aharon your brother, and speak to the rock before their eyes and it shall give it's waters." (Bamidbar 20:8) Moshe took the *mateh* and gathered the Bnei Yisroel. Moshe and Aharon gathered the *kahal* before the rock and he said to them "Listen now o' rebels shall we bring forth water for you from this rock? Then Moshe raised his hand and struck the rock with his *mateh* twice. Abundant water came forth and the *eidah* and their animals drank." (Bamidbar 20:10-11)

As a result of their actions Moshe and Aharon were told by Hashem that they were to die in the midbar for they had lost the opportunity of leading the Bnei Yisroel into Eretz Canaan. The meforshim all grapple with the question of defining what *aveira* (sin) Moshe and Aharon committed by their actions. Rashi's opinion, that the *aveira* was hitting the rock in lieu of speaking to it, is known to all, yet the Ohr Hachaim brings no less than ten peshatim to explain what their *aveira* was. The Rambam in Shemoneh Perakim understands that Moshe's *aveira* wasn't hitting the rock but rather using the phrase "*shimu nah hamorim*"- Listen now o' rebels." Referring to the Bnei Yisroel as rebels showed a trace of anger on Moshe Rabbeinu's part and gave the indication to the Bnei Yisroel that Hashem was angry at them which, according to the Rambam, wasn't the case. This seemingly minor infraction, when done by people on the level of Moshe and Aharon, was sufficient to disqualify them from leading the Bnei Yisroel into Eretz Canaan.

The Ran (Drasha #1) explains in a similar vein as the Rambam, but he adds one important distinction. He explains that in truth, those individuals who complained about the lack of water de-

served the title "*Morim*"- "rebels". The mistake Moshe made was in applying this term to the entire *tzibbur*. The phrase "the total is greater than the sum of it's parts" very aptly describes the power of being part of a *tzibbur*. Even those who individually deserve the title, "*Morim*" can elevate themselves by connecting to the *tzibbur* and being judged along with the *tzibbur*.

A *moshal* (*parable*) for this concept, explains the Ran, is found in the ingredients of the *Ketores*, the incense which was burned daily in the Beis Hamikdash and whose aroma was so powerfully good that it precluded the necessity of woman in Yerushalayim to wear perfume. One ingredient in the *ketores* was *chelbanah*, a spice which on it's own exuded a very unpleasant aroma. However, without this spice, the *ketores* was incomplete. So too says the Ran, not only are sinners elevated by connecting to a *tzibbur*, but the *avodah* of the *tzibbur* itself is not complete if it excludes, and does no outreach to those Jews which are not yet at it's level. We must work to find means of connecting to all Jews, despite their level of knowledge and bring them closer to Torah and *Avodas Hashem*. In this way, we will not only be enhancing their *Avodas Hashem* but rather the *Avoda* of all of *klal Yisroel*.

Rabbi Rifkind a *rebbe* at Arie crown, is the *rosh chaburah* at kollel boker.

RABBI YAKOV HOROWITZ

THIS SHABBOS!

PROGRAM:

Oneg Shabbos 9:30 p.m.-

at M/M Bruce Leon - 2949 W. Fitch

Shiur on Shabbos 5:00 p.m. -

at M/M Dennis Ruben - 6519 North Central Park

Shalosh Seudos after 7:30 p.m. Mincha -

at the Kollel- 6506 N California

HALACHA ENCOUNTERS

Using a Child for a Minyan

Rabbi Hensch Plotnik

One of the fundamentals of a Torah Jew's daily regimen is t'fillah b'tzibur, davening three times daily with a minyan. Scrupulous individuals have gone to great lengths to ensure their ability to fulfill this mitzvah properly. (See Mishneh B'rurah 90:29 where he quotes the Eliyahu Rabba that people who are negligent in t'fillah l'tzivur should be fined despite their busy work or learning schedules).

Unfortunately, the situation may arise when a complete minyan is unavailable, as is sometimes the case in small shuls or changing neighborhoods, where a minyan may be frequently hard to muster. The question is if the halacha allows for the use of a minor below the age of bar mitzvah to be used to complete a minyan. Some readers may recall a common sight in the 1960's when the communities on their last leg would desperately do what they could to hold a minyan together, often calling upon a child to hold a chumash as a tenth man. It should be noted that despite the narrow room for leniency that may follow in these lines, the situation needs to be decided by a responsible and sensitive halachic authority, as some objective "shikul hada'as" needs to be applied in every circumstance. Furthermore, even when sanctioned, no more than one child can be utilized for any given circumstance. (See the Mordechai in Brochos concerning using an *eved* (servant) or woman for a minyan- l'halacha everyone agrees this is forbidden).

The discussion of this topic begins with a sugya in Brochos (47b) that proposes a number of options to replace a tenth person in a minyan or a third one in a mezuman. The Gemara concludes that the only variation acceptable is a "child who knows to Whom he is reciting a blessing to. He may be used for a mezuman. Additionally, a child who is beyond 12 years old may be used according to some opinions". Rabbeinu Tam quoted in Tosfos maintains that this is a stringency only in the status of a mezuman. When it comes to a minyan, we can be even more lenient and use even a child under the age of 12, following the simple interpretation of the opinion of R' Yehoshua ben Levi in the gemara. Despite a midrash that clearly limits R' Yehoshua ben Levi's leniency to mezuman, Tosfos maintains that the inference from the Gemara overrides the midrash and carries the day allowing for the leniency. Rabbeinu Tam branded the custom that some had to have the child hold a

chumash as a "minhag shtus" (a foolish practice), because a chumash is not a person, just as the gemara dismisses the idea that an Aron Kodosh counts for a minyan. The only time we even find a remotely similar concept of using a chumash is when Beis Din convened to declare a leap year, where a genuine Sefer Torah could be used to complete a quorum. There is no mention there of a child holding it nor any sanctioning of a chumash. Tosfos though quotes the Ri, that in practice, Rabbeinu Tam never actually employed this leniency.

The Shulchan Aruch (55:4) acknowledges Rabbeinu Tam (although see the Bi'ur Halacha that feels the Shulchan Aruch is really a slight variation of Rabbeinu Tam) and dismisses it in favor of "Gedolei Haposkim". The Ramo does recognize that there are those accustomed to be lenient in an emergency. The Magen Avrohom maintains this leniency is followed by the child holding a chumash but only to allow the obligatory kaddeishim in the davening (as opposed to after Aleinu) and Borchu. The Mishneh Brurah seems to side with the stringent opinion.

In Igros Moshe (O.C. vol. 2 #18) Rav Moshe Zt"l strongly discourages the shut down of any minyan, if for no other reason than the Rav's shiurim might be more appealing to the membership than that of a neighboring shul aside from the obvious considerations such as inconvenience for some mispallelim who cannot walk to another minyan. Recognizing that the disagreement amongst the latter authorities is impossible to solve, R' Moshe maintains that the question at hand is a rabbinic one in nature (based on a Ran in Ms' Megillah and a subsequent Pri Megadim) and allows us to be lenient. This, despite the majority of opinions that are stringent- for we may rely on even a minority opinion by issurei d'rabonnon. Rav Moshe does require though that the child be at least 12 and hold a Torah because even those who sanctioned a chumash were only discussing those written on scrolls. (Bach)

It is important to realize that this teshuva was addressing the plight of a shul on the verge of collapse. Mere convenience for an extra minyan was never under discussion. Even a dire circumstance like the above requires serious consideration if the need is indeed great enough. Rav Shlomo Zalman Auerbach Zt"l (quoted in *Ishe Yisroel*) disagreed even in extreme emergencies and did not ever allow using a child for a minyan. As stated at the outset, the question belongs in the hands of qualified poskim exclusively.

Rabbi Plotnik, rav of Beis Tefillah, is an alumnus of the kollel.