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Yeshivat Ateret Yerushalayim

IN THE HEART OF THE OLD CITY OF JERUSALEM

## From the Teachings of Ha-Rav Shlomo Aviner

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Simchat Torah - Bereshit 5769

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Would you like to ask Rav Aviner a question? E-mail [mororly@bezeqint.net](mailto:mororly@bezeqint.net) and the answer will come from Rav Aviner in 1 of 3 ways: 1. Drawn from his published material. 2. From my own notes of Ha-Rav's answers to questions. 3. If the question has not, to my knowledge, been answered in either of these sources, I will ask the question directly from the Rav.

### Driver, Do Not Murder

[From "Ma'ayanei Ha-Yeshua"]

Driver, do not murder, since it is known that according to the Torah, one who accidentally murders is also called a murderer (Bamidbar 35).

Someone who drives without proper caution and contrary to the law violates the prohibition of "you shall surely safeguard your souls" (Devarim 4:15). The Rambam brings many examples of such forbidden acts, such as "Do not stab a knife into an etrog or radish lest a person fall on the sharp edge and die" (Hilchot Rotzeach Ve-Shemirat Nefesh 12:6) or "do not drink from rivers or lakes at night lest one may swallow a leech without realizing" (ibid. 11:6). The danger involved with these acts is minimal compared with the danger of driving without proper caution.

Violating the Torah prohibition of "you shall surely safeguard" only applies in the case that it is certain that he will be killed or there exists a greater possibility that he will be killed than not, since we follow the majority. But if there is an equal possibility, i.e. 50% chance, it is a doubt regarding a Torah mitzvah and it is also forbidden. It is possible, however, that a prevalent minority is also a Torah prohibition (Mitzvat Re'eiyah, Orach Chaim 3, 17). Some explain that a prevalent minority is 10%. But our Sages made degrees against an even extremely slight risk, as we have seen in the cases of the etrog and the leech, since, as is known, the Halachah is stricter regarding danger than a prohibition. Our Sages did not make many decrees regarding prohibitions, since they did not want to suffocate life, but they were very strict regarding safeguarding life.

But driving without proper caution is not a minimal danger. Every year 500-600 people are killed in car accidents in the State of Israel. This means that four times as many people have been killed in car accidents than all of those killed in the wars and terrorist acts since the beginning of the return to Israel. A Rabbi once wrote an article with the following title: "The Number Two Enemy of the State of Israel," and he explained that the number one enemy is car accidents. Furthermore, there are approximately 20,000 serious injuries each year. The definition of "serious injuries" is that one cannot resume normal life even with a prosthetic.

Truth be told, one who drives above the speed limit or crosses a white line and injures or kills another person is not an accidental murderer but an accidental murderer who is close to a willful murderer. A willful murderer is obviously one who intends to murder. An accidental murder is one who is not cautious and this is also severe. An accidental murderer who is close to a willful murderer is someone who acts with negligent disdain toward the lives of others, even though his intention is not to murder. This is similar to one who throws a rock into a public domain where people are walking. This is why the Rambam rules: "And there is one who murders accidentally and he is an accidental murderer who is close to a willful murderer. This is in a case such as negligence, where he should have been careful and he was not. His sentence is that he is not exiled [to a city of refuge] since his transgression is severe. Exile does not atone for him and the cities of refuge do not absorb him, since they only absorb someone who is liable for exile. Therefore, if the blood avenger finds him anywhere and kills him, he is exempt [from punishment]" (Hilchot Rotzeach U-Shemirat Nefesh 6:3).

Thus, an accidental murder is also called a murderer, since he sinned by "lacking caution" (Aruch Ha-Shulchan, Choshen Mishpat 422:2) and a blood avenger may kill him. Perhaps you will say: This is a cruel law. On the contrary, failing to mete out harsh treatment to drivers who are not cautious is cruelty to the innocent who are killed and injured. If the law of the blood avenger applied today and a driver who was not cautious paid for murdering someone with his life, we could be assured that all drivers would drive according to the law from now on. As is known in such matters, fear of punishment is more effective than exalted ideals. Speed traps prove this point, since they drastically reduce the amount of accidents. In Tzahal, the yearly average of those killed by vehicular accidents went from 60 to 2 on account of severe punishment for every incident. It happened once that an officer was driving without a seat belt, and he was demoted and removed from Tzahal.

And even more severe is the law of a driver who is an accidental murderer who is close to a willful murderer. Our great Sages rule that he does not have the option to enter a city of refuge (Ha-Gaon Ha-Rav Yitzchak Yaakov Weiss in Shut Minchat Yitzchak 8:141 and Ha-Gaon Ha-Rav Ovadiah Yosef in Shut Yechaveh Da'at 5:16), and he will die from fear before the blood avenger kills him. They also rule that he has the law of a "rodef" (literally "pursuer" - a case in which one is permitted to kill a pursuer so that the pursued person is saved from harm - Shut Minchat Yitzchak ibid.). This obviously does not mean that we should shoot someone who drives over the speed limit or crosses a solid white line, but it is to point out the severity of this act. And even though he does not intend to murder, he is nonetheless considered by Halachah as a "rodef without intention." It is certainly proper to revoke his driver's license for life, fine him heavily, confiscate his vehicle and put him in jail. We should act this way not only toward a driver who murders, but towards anyone who drives dangerously, whether he causes an accident or not, because while no one was killed, it was not on account of his merit, but because of Hashem's kindness.

Similarly, Maran (our revered teacher) Ha-Rav Kook said that if there was a Sanhedrin, perhaps they would forbid traveling by car for trips and would only allow it for pressing, essential needs. Even though travel by car improves living conditions, it is impossible to accomplish this at the expense of other people's lives (Likutei Ha-Re'eiyah vol. 2, p. 42). And during Maran Ha-Rav's time, cars still traveled quite slowly.

Perhaps it is proper to catch every driver who transgresses the traffic laws and send him to community service at Beit Levinstein, which is a rehabilitation center for those injured in car accidents. It will serve as an ethical lesson for him.

Dear driver, when you enter your vehicle, it is an opportunity to fulfill many mitzvot: "You shall certainly guard your soul," "love your neighbor as yourself" and other proper character traits.

And who is strong? One who overcomes his vehicle (play on Pirkei Avot 4:1).



### **Text Message Responsa**

Ha-Rav answers hundreds of text message questions a week. Some appear in the parashah sheets "Ma'ayanei Ha-Yeshu'ah" and "Olam Ha-Katan." Here's a sample:

Q: Is it permissible to sleep in the sukkah on an air mattress on Shabbat and Yom Tov?

A: There is no problem.

Q: What kind of writing is permissible on Chol Ha-Moed? Writing on a computer? Sending a text message on a cell phone?

A: There are many details regarding writing on Chol Ha-Moed – see Shemirat Shabbat Ke-Hilchata vol. 2. It is permissible to type on a computer and send a text message.

Q: Which is preferable on Shabbat – to go to shul and pray without much "kavana" (proper intent) or pray at home with a lot of "kavana"?

A: Go to shul and exert effort.

Q: My father is Sefardic and in my school they daven "Nusach Ashkenaz" which I usually pray. Which should I follow?

A: You should follow your father's nusach, but one may temporarily follow the school's if it is necessary.

Q: A friend told me that it is forbidden to put shoes on the ground with the soles facing up because it is disrespectful to G-d. Is this true?

A: There is no problem.

Q: Is it permissible to get a second earring in my ear?

A: It is permissible if it is not eye-fetching.

Q: My uncle is not religious and he hugs me when he visits once a year. It is hard to explain that it is forbidden. What should I do?

A: Tell him that your Rabbi says it is forbidden.

Q: It is preferable for a woman to daven Shacharit late or Minchah on time?

A: Minchah on time with the morning blessings.

Q: Is it permissible to speak "lashon ha-ra" to a friend about someone he does not know?

A: If your friend does not know him, some permit it and others prohibit it.

Q: Is it permissible to bring dairy food to a non-observant Jew when he may have eaten meat?

A: It is permissible, since it is a doubt and we do not apply "do not place a stumbling block before the blind." Incidentally, there is also a question regard the blessing.

Q: Is it permissible to throw a parashah sheet of Chabad Messiahists in the garbage?

A: G-d forbid. It contains divrei Torah which require a "geniza." In general, we may not shame others because we do not agree with them.

## Stories of Rabbenu – Our Rabbi

Ha-Rav Tzvi Yehudah Ha-Cohain Kook

Maran (our revered teacher) Ha-Rav Kook – Part 5

Who is the host?

Maran Ha-Rav would occasionally travel from the city of Zoimel, where he was the Rav, to visit his parents in his hometown of Geriva. On the way to Geriva, he would pass through Dvinsk, where the Torah giant of the generation, Rabbi Meir Simcha, the author of the "Or Sameach," was the Rav.

Maran Ha-Rav would say that the "Or Sameach" was the central Torah giant of the generation since he not only knew Torah, but he created Torah. When Maran Ha-Rav passed through Dvinsk, he would visit the house of Rabbi Meir Simcha in order to discuss Torah. He once visited Rabbi Meir Simcha and found him standing up and learning Torah with many books open before him and he was looking in the Rambam.

They greeted one another and immediately began discussing Torah which continued for an extended period – the entire time standing up! When the flood of Torah ceased, Rabbi Meir Simcha realized that he did not invite his guest to sit. He rectified the situation at once and invited him to sit and they both sat. Rabbi Meir Simcha began to tell a story: Franz Joseph the Second, the Kaiser of Austria-Hungary, was known as a kind king and loved to periodically travel around like one of the commoners without any royal trappings so that no one would know who he was. The King once went on one of his travels and entered the National Library in Vienna and despite all of his efforts to hide himself everyone recognized him and stood in his honor, except for one person. This man remained seated in his place while deeply looking at the book in front of him. It was the brilliant author of "Yad Ha-Melech," the Rabbi of Brody in Galicia.

The King took notice of the man who was reading, but he did not take his eyes off of the book. He knew that the man meant no disrespect, but he was so engrossed in the book that he did not notice anything around him. The King approached him and began a conversation, while all of the people were shocked as to what was occurring.

The King asked him: "Who are you?"

He responded: "I am the Rabbi of Brody."

The King said: "If I come to Brody, may I visit your home?"

The "Yad Ha-Melech" said: "Certainly, it would be my great honor!"

Time passed and the incident was nearly forgotten. The King, however, remembered it. Years passed and one day the King suddenly entered the house of the Rabbi of Brody. At that moment, the Rabbi was standing next to his bookshelf engrossed in a book. Just like the first time, the King approached him. The Rabbi was surprised – and thus forgot to ask the guest to sit...and they began talking standing.

The King asked: "Rabbi of Brody, is the custom of receiving guests while standing based on the Talmud and the customs of Israel?" The question was challenging, but the Rabbi answered immediately: "G-d forbid! We follow the path of our forefathers who taught us that 'welcoming guests is greater than receiving the Divine Presence,' but our proper etiquette is that the host asks the guest to sit, and the King, wherever he is – is the host!"

This is how the great "Or Sameach" appeased the young Rabbi of Zoimel whom he did not ask to sit, by referring to him as the King! Our Rabbi, Ha-Rav Tzvi Yehudah, added that Maran Ha-Rav would tell this story on Purim in his later years, but on account of his great humility, he did not relate all of the details of the story. He did not say to whom the "Or Sameach" told the story and did not relate the name of the guest. Only after Maran Ha-Rav passed away did this detail become known: it was Maran Ha-Rav himself who Rabbi Meir Simcha appeased. (Ha-Rav Yitzchak Dadon, Nishkafa Kemo Shachar, pp. 47-49)



### **Shut She'eilat Shlomo - Questions of Jewish Law**

#### Removing Talit in a hot shul

Question: If it is very hot in shul, i.e. there is no air conditioning, and I am wearing tzitzit, may I remove my Talit?

Answer: Yes, you may.

Special thank you to Fred Casden for editing the Ateret Yerushalayim Parshah Sheet