Parshas Toldos 5784 Vol. XXVII No. 2 בס"ד

HALOCHOSCOPE

This week's question: [Halochoscope VIII:30 reproduced by request with additional content.] **Someone followed the custom of reciting *Mashiv haruach* ninety or one hndred times on *Shemini Atzeress*. He then caught himself omitting it during *shemone esrai* a few days later. If, at a later time he has some doubt after finishing *shemone esrai* about whether he mentioned it, does he need to presume that he omitted it? Or may he assume that he recited it from habit? In a similar case, one did not use the 90/100 times formula, but he was careful to insert it for thirty days. After thirty days, he caught himself omitting it. May he assume in cases of doubt that he did develop the new habit?**

The issues:

A) Mashiv haruach umorid hageshem

B) Repeating *shemone esrai* if one has a doubt about omitting it

C) The 'trick' or reciting ninety times

D) Our situations

A) Mashiv haruach umorid hageshem

This praise to Hashem is about His power to dispense rain. The subjects mentioned in the second *brocha* of *shemone esrai* are considered Hashem's "powers" due to the futility of human intervention. The Talmud says, rain is one of four things that Hashem keeps the "keys" to Himself. This indicates a more direct divine hand than with other laws of nature. Some say that there are times by which rain is expected, but the advent of the rains themselves is not predictable. Rain is indispensable for the food supply and is critical for sustaining life. Thus, it is included in the *brocha* about Hashem's life-giving.

This part of *shemone esrai* varies by season. During summer we refrain from mentioning rain. During winter we must mention it. It is inserted at *musaf* on *Shemini Atzeress*, and is included until *musaf* on the first day of *Pesach*. The choice of dates is actually debated in the Talmud. *Tishrei* is the beginning of the rainy season. We do not mention rains during *Sukos*. Doing so would indicate that rain then is desirable. Since people wish to sit in the *sukah*, we do not want rain during this time. [Rain causes one to be *mitzta'er*, excessively uncomfortable. The *mitzvah* demands that one live in the *sukah* as he would live in his home for the rest of the year. One would not tolerate a rainy home. Therefore, rain on *Sukos* is taken as a sign that Hashem rejects our service.] *Shemini Atzeress* is the first opportunity in the month to mention it as a seasonal praise. Later, once the pilgrims have returned home, we also plead for rain by saying *vesain tal umatar*. [If we asked for it while people were traveling home, we would *davening* for rain while they were getting waterlogged on the highways.]

Rain after Nissan is considered a curse. It does nothing for winter crop growth and can spoil what is ready to harvest. *Pesach* is meant to occur during *aviv*, the barley ripen-

ing season. This must be preceded by the *tekufah*, vernal equinox. At this time we would not want to mention the rains.

Logically, we should begin mentioning or omitting it at *maariv*. We wait until *musaf* because at *maariv* not everyone is present. Consequently, some will now about the change, while others will follow their old habit. This divides the Jewish people. Ideally, we should all serve Hashem uniformly. At *shacharis*, it could be mentioned, but those who were not at *maariv* might think that the others had begun the night before. The following year, they would begin at *maariv*, raising the aforementioned problem. Furthermore, at *musaf* the *gabbai* is permitted to speak before the silent *tefillah* begins, warning everyone of the upcoming change in the *tefilah*. At *shacharis*, one may not interrupt between the *geula* preceding the beginning of *shemone esrai* and the beginning. [See Taanis 2a-5a, Poskim. Tur, Sh Ar YD 114:1 etc., commentaries.]

B) Doubt about omitting it

If one omitted the mention of *mashiv haruach umorid hageshem* in *shemone esrai* during winter, he must repeat *shemone esrai*. If he caught himself before he finished the *brocha*, he should mention it right then. In a minority view, he should return to the part of the *brocha* where it is meant to be mentioned. If one already finished the *brocha*, but did not yet begin the next *brocha*, he must mention it right then without adding anything from the preceding *brocha*. If he began the next *brocha* or *kedusha*, he must go back to the beginning of *shemone esrai*. It is not good enough to go back to the second *brocha*. The first three *brochos* must be treated as one with regard to their repetition, so the beginning of *shemone esrai* is the beginning of this extended *brocha*.

One who is in doubt about mentioning it must assume that he followed his habit- he said what he was used to saying. Thus, if one is in the habit of saying it already, he may assume that he did so. If he was still in the habit of omitting it, he must have omitted it. The Talmud determines changing this habit to depend on the same transition period for everyone. This is the first thirty days. Before thirty days are up, one is assumed to have persisted in his old habit. He must repeat *shemone esrai* if in doubt. [See Taanis 3a-b Yerushalmi 1:1, Poskim. Tur Sh Ar OC 114:4-8, commentaries.

C) Saying it 90/100 times

The poskim debate the reason for the thirty day transition period. Some say that it takes this long to change a habit. In reality, if one was not a hundred percent sure that he omitted it, he would not be allowed to repeat *shemone esrai* or even one *brocha* out of doubt. This involves many times uttering Hashem's name, possibly in vain. If there is genuine doubt one refrains from uttering it. The *brocha* is a Rabbinical obligation. Uttering the Name in vain is Scripturally forbidden. Before this time period one is safe in assuming that he did not yet change his habit. This is known as *chazakah*, presumption of no change. *Chazakah* allows one to utter the Name even though he has a doubt. He may treat it as though there is no true doubt. After this period, there is reasonable doubt, and one may not repeat *shemone esrai*.

Others maintain that the amount of times it is repeated is what really determines a habit. Accordingly, if it was repeated the number of times one says it in the thirty days, the habit may be changed earlier. This is ninety times, assuming one says *shemone esrai*

three times a day. It excludes *musaf* on *Yomtov*, *Chol Hamoed*, *Shabbos* and *Rosh Chodesh*. Thus, if one repeats the section of *shemone esrai* including the preceding and following words ninety times on *Shemini Atzeress*, he has changed his old habit. There is reasonable doubt, and he lost his *chazakah*. One posek adds a vignette: the Talmud says that one who reviews his studies one hundred and one times will not forget them easily. In the Diaspora, there are eight days of *Pesach*. Beginning on the first day at *musaf*, one has three *tefilos* a day for thirty days, eight *musafin* for *Pesach*, an additional three for *Shabbos*, two for *Rosh chodesh*, and subtract two for *maariv* and *shacharis* on the first day of *Pesach*, and you have one hundred and one! Therefore, he maintains one should repeat if one hundred and one times. Having already said it at *musaf*, this leaves 100.

If one who changes his habit gradually by repeating something over a thirty day period, he should certainly be able to do so in a shorter period. This is learned from a discussion in the Talmud about an ox that develops a habit of goring. To be liable as a *muad*, warned, and pay in full, the ox must gore on three consecutive days. One view treats the ox as *muad* if it gores three times on the same day, based on the above logic. The first opinion cited does not agree. We know that the Talmud does not follow this opinion regarding the *muad* ox. The other poskim counter by saying that the Talmud only rejects it based on the possibility that the ox had a bad day, or that this ox is different. In practice, the majority conclude that one who repeated it ninety times may not repeat *shemone esrai*. He has lost his *chazakah*.

D) Our situations

In our first case, he person has repeated it ninety times. He should no longer have a *chazakah* to omit it. However, he caught himself omitting it. He did check himself, but does this not reveal that he has not changed his habit? Our second case seems more stark. He found himself omitting it even after thirty days!

One could argue that people always make mistakes in their *tefilah*, even forty or fifty days after changing. One mistake does not mean that he has not changed his habit. The Talmud assumes that everyone changes habits based on the repetition theory. Therefore, these people must assume that they also changed.

On the other hand, this might depend on how the entire issue is viewed. The *chazakah* is needed to determine whether one may repeat *shemone esrai* due to doubt. With no *chazakah*, there is true doubt. Accordingly, any chance of the loss of the *chazakah* should preclude repetition of *shemone esrai*. However, it is possible that in the absence of a contrary new habit *chazakah*, the initial *chazakah* is presumed. In another area of *halacha*, certain physiological patterns or cycles are presumed until a new pattern uproots the old one. If the old one lapses three times, but a new one does not take its place, the old pattern is put on hold. If one reverts to it one time, it is assumed to have returned. Assuming speech patterns are the same if the Talmud presumes that after thirty days a new *chazakah* takes the place of the old one, reverting to the old habit one time does nothing. However, if the old one has just lapsed and is simply on hold (not having the power to permit mentioning Hashem's name), reverting to it one time might restore it.

The Yerushalmi gives no direct indication that a new *chazakah* is established after thirty days. Nonetheless, it seems logical based on a number of factors. According to the

view that one does not forget after repeating one hundred and one times, the implication is that the object is to establish a new *chazakah.* A *chazakah* that one did not forget. This is especially so if one compares this to *muad,* where the object is to establish a pattern of behavior. Furthermore, at some point one does indeed establish the new practice as a *chazakah.* This is the *chazakah* in place at the next seasonal change. At which point is the new *chazakah* established? It is reasonable to say that this Yerushalmi holds it to be after thirty days, or after repeating the section that amount of times. Moreover, the terminology used by the poskim leaves no doubt that in their view a new *chazakah* is indeed established. Accordingly, in our cases, one may not repeat *shemone esrai.*

However, a few rulings seem to cast doubt on this line of reasoning. One ruling involves someone who made a mistake during the first thirty days. The question is whether to fully change the automatic habit and remove the old *chazakah* one must have a continuous thirty days. If it is interrupted, it does not work. There are three view: one view maintains that this does not disturb the trend. A second view maintains that he loses one day, and must add another day after the thirty days. A third view maintains that he needs to begin again. Those who require a new count clearly believe that this is a change in *chazakah* and compare it to a *muad.* The others, however, do not seem to consider it establishing a new *chazakah,* but removing the certainty and introducing doubt.

A second ruling deals with one who can assert that he knows that he changes his habits sooner than thirty days. Some poskim say that he may follow this assumption. Similarly, they say that in our second case, where he knows after thirty days he has not yet changed habits, he must repeat. This seems to follow the reasoning that one need not establish a new *chazakah,* but sow doubt in the old one. However, the majority of poskim disagree with the last ruling. By the same reasoning, they disagree with the ruling about one who changes his habit before thirty days are up. Accordingly, a new *chazakah* is required, and once it is set up, mistakes do not change it. [See Yerushalmi Taanis 1:1 Baba Kama 23b-24b 37a, Poskim. Tur Sh Ar OC 114:8-9 [Kaf Hachaim 52], commentaries.]

In conclusion, the consensus seems to be that in our cases, the person has established a new chazakah for cases of doubt. He should not repeat *shemone esrai.*

On the parsha ... *May E-lokim give you of the dew of the heavens, the fats of the earth and abundant grain and wine. Nations will serve you ... [27:28-29,* Yitzchok's *brocha* to Yaakov] *Behold of the fats of the earth will be your dwellings and of he dew of the heavens from above. You will live by your sword; you will serve your brother; when you rebel, you will throw of his yoke from your neck. [27:39-40.* Yitzchok's *brocha* to Eisav] The differences between the *brochos* include whether the blessings will come from Hashem (Yaakov) or by his own hands (Eisav) [see *Kli Yakar* etc.] In both cases, dew will be sufficient without rain [*Sforno*]. In reality, Hashem controls dew. The *brocha* for Yaakov is that he will acknowledge that, daven, and gain a relationship with Hashem. Eisav will think it is all 'natural' and nothing to pray for. Worse, he will believe that it is all in his hands, including the ability to win by the sword. He will be blessed, but will not even realize it.

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