

NOT IN HEAVEN!

by Rabbi Eliyahu Hoffmann

The parshios of Tazria and Metzora discuss the laws of tzaraas, a physical ailment seen by our Sages as being a result of laxity in Torah observance, particularly the sin of lashon hara (gossip). Its identifying mark was a white patch or patches appearing on the skin of the victim. In order for the spot to indicate tzaraas, the white patch of skin has to have caused at least two hairs in its area to turn white. Thus, if the hairs had turned white prior to the appearance of the white patch of skin, they were not "caused" by the tzaraas, and the person is tahor (pure). If the white patch preceded the white hairs, he is tamei (impure - i.e. this is a full-fledged tzaraas affliction).

What if there is doubt as to which came first? Regarding this case, there is a most fascinating passage in the Gemara which records the following debate:

It was debated in the Heavenly Academy: The Holy One, Blessed be He, said: It is pure. The entire Heavenly Academy, however, said it is impure.

"Who shall decide the matter for us?" they asked. "Rabbah bar Nachmeini," for Rabbah bar Nachmeini used to say, "There is none like me in [knowledge of] the laws of tzaraas."

A messenger was dispatched to bring him [to heaven]. As his soul was leaving him, he said, "Tahor, tahor (pure, pure)!" [Bava Metzia 86a]

The Rambam, writes in Mishneh Torah (Laws of Tzaraas: Chapter 2, Halacha 9): "If there is doubt as to which came first, the white hairs or the white patch of skin, he is tamei (impure)." This is puzzling: How can the Rambam rule tamei contrary to the ruling of Rabbah bar Nachmeini, who was "unequaled in the laws of tzaraas?"

Kesef Mishneh (commentary on Rambam, *ibid.*) answers that there is a well known rule that, "the Torah is not in Heaven (Lo BaShamayim Hu)," (see Bava Metzia 59b). Namely, although the Torah is Hashem's, He endowed it to the Jews, at which point He "lost control" over the final outcome of halacha (Jewish law). When there is a matter of halachic dispute, Hashem, so to speak, has no say in the matter. All decisions are to be rendered by the Jewish Beis Din (court), even if they rule contrary to Hashem's own intent, to the extent that the Gemara concludes that even were a Heavenly voice to state that the halacha is according to a certain opinion, this would not change our outlook on the matter. (Indeed, it is this same principle that allows the "Heavenly Academy" to debate the matter with the Almighty, and which ultimately forced them to give over the final decision to Rabbah bar

Nachmeini.)

However, writes the Kesef Mishnah, this very principle also disqualifies the ruling of Rabbah bar Nachmeini. Since the words, "Tahor, tahor," were uttered at the time of "his neshamah's (soul's) departure," at which point he was, so to speak, more "there" than "here", such a ruling can not be relied upon as having emanated from "this world," and thus the Rambam is justified in ruling to the contrary.

Chasam Sofer (Sha'alos ve-Teshuvos Chasam Sofer, Orach Chaim n. 208) takes exception to the Kesef Mishnah. If so, he argues, all rulings that were delivered close to any Sage's death should be disqualified, for perhaps he uttered his ruling when he was already "more there than here!" To entertain such a thought is preposterous!

Rather, explains the Chasam Sofer, we must say the following: It appears from the Gemara that no one was present at the time of Rabbah bar Nachmeini's death (the Gemara *ibid.*) says that a note later fell from Heaven informing the Jews of Pumbedisa that he had died.) And even were someone present at the time of his death, how could they have known regarding what he was stating "Tahor, tahor?" We must conclude that this story only became known either by means of the same note that fell from Heaven, or by means of a "Heavenly voice," or perhaps Eliyahu haNavi revealed the matter to the Sages of the Gemara.

Since knowledge of Rabbah's ruling came only through such unusual means, it falls under the category of "Lo BaShamayim Hu - The Torah is not in Heaven," and can not be accepted as the basis for halachic ruling. Thus the Rambam is justified in ruling to the contrary.

In relation to the above, I was thinking: Do we really appreciate what it means that Hashem gave us the Torah? His most prized possession - the blueprint of the universe and all its complexities - lies in our hands. Hashem relinquished His dominion over the Torah by handing it over to us. The trust implicit in this is enormous.

Jews in exile are compared to a metzora (tzaraas inflicted individual). Like us, the metzora too was banished from his home. Perhaps, homiletically we can find expression of this wonder in the opening words of parshas Metzora - "Zos Toras haMetzora - This is the Torah of the Metzora." The exiled Jew, robbed of all material goodness, still possesses the most valuable item of all - the Torah.

As the Gemara states (Kiddushin 66a), "The Torah sits bound up alone in a corner; whomever wants may come and study her!" May we truly merit to comprehend its value, and to occupy our days exploring its riches!

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