

VALID PRESUMPTIONS

by Rabbi Berel Wein

All halacha, or for that matter all systems of law in the world, is based on the concept of reasonable presumptions. In Jewish law this is called the concept of chazaka - the presumption that what was, still is. Thus halacha presumes that a husband is still alive even if he has somehow disappeared from sight. It presumes that things found in a certain place were at that place before and were not dragged there. It presumes that if there are no known faults in a person's pedigree then that person's pedigree is deemed to be faultless. There are many other examples of how chazaka works as an operating principle in Jewish law. In fact, the Talmud exclaims: "gedolah chazaka" - chazaka is a great and overriding principle of law. The basis for this halachic reliance on chazaka is found in this week's Torah reading.

One of the negaim described in this week's Torah reading is a type of nega that infects one's house. The kohein that inspects the house to determine if the nega has spread has to decide the issue upon the inspection of the premises. The Talmud asks that perhaps the nega spread or shrunk in the few seconds that it took the kohein to leave the house, for only then is he to render his opinion regarding the nega. Thus, any decision that he may make regarding the impurity or purity of the nega is not really provable in fact. The Talmud therefore resorts to the idea of chazaka - the presumption that whatever size the nega was an instant ago when the kohein inspected it is still the same size when he departs from the house.

Presumptions in life are valid. People are judged on their past behavior, on family history, on pedigree and on past experiences. It is foolish to ignore presumptions that are based on legitimate grounds. One cannot ignore the realities that stare one in the face even if those realities do not conform to one's ideology or wishful view of life. This applies in all areas of personal and national life. One cannot presume that one's child will turn out all right if he or she is not given the basis of a strong Torah education. There is a chazaka that speaks against such wishful thinking.

One cannot wish one's enemies away and become convinced that the tiger is no longer carnivorous. But the main lesson of chazaka is to be aware that human nature does not easily change and that what was is most likely what will be now as well. The lessons of Jewish history, of what works and what fails, form a strong presumption - gedolah chazaka. All of the "newness" of ideas in today's Jewish society has, in reality, existed before and failed to contribute to Jewish continuity and national strength and security. The past is a hard taskmaster and a coercive instructor with regard to current choices and where decisions are concerned. Ignoring the past and its chazaka is a perilous

course, one that certainly should be avoided at all costs.

Shabat shalom.

Rabbi Berel Wein Text Copyright © 2006 by [Rabbi Berel Wein](#) and **[Torah.org](#)**