YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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***Bein Adam Le-Chavero*: Ethics of Interpersonal Conduct**

**By Rav Binyamin Zimmerman**

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This week’s shiurim are dedicated by Carole S. Daman of Scarsdale in memory of Tzvi Hersh ben David Arye z”l – Harlan Daman

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**Shiur #06: Difference in Obligation of *Bein* *Adam* *Le-chavero*
and *Bein Adam La-Makom***

**The Two Basic Categories of *Mitzvot:***

In last week’s lesson we pointed out that although many interpersonal *mitzvot* are rational, God chooses to command their performance, essentially making them *mitzvot bein adam la-Makom* (commandments dealing with one’s relationship with God)*.* If so, one might ask, what makes these interpersonal directives, these *mitzvot* *bein adam le-chavero* (commandments dealing with man and his fellow man) unique? Are they for all intents and purposes really *mitzvot bein adam la-Makom*, with the only singularity being that their fulfillment involves another, or are they fundamentally different in nature?

While one may think that all *mitzvot* have similar foundations, there are essential differences between *mitzvot* *bein adam le-chavero* and *mitzvot bein adam la-Makom*. When we analyze the scope of *mitzvot* and contrast these two categories of *mitzvot*, we can see that they have differences that go beyond the foci of the action. By developing an understanding of the distinctions between these two types of *mitzvot*, we will hopefully reveal the unique nature of interpersonal directives.

We will attempt to draw a number of conclusions based on the differences between *mitzvot bein adam la-Makom* and *mitzvot bein adam le-chavero* on three levels, namely:

1. The discrepancy in essential obligation.
2. The divergent methods of rectifying violations of these commandments.
3. The varying requirements for a *birkat ha-mitzva*, a blessing made prior to the performance of the commandment.

**The Discrepancy in Essential Obligation:**

In general, understanding a mitzva requires identifying its specific obligation. Though the Torah instructs us to perform numerous *mitzvot*, analysis of the nature of various laws indicates that not all *mitzvot* are created equal. One can speak of at least three types of obligations. Some *mitzvot* are result- based, focusing on achieving the result the Torah desires through the mitzva’s performance. Other *mitzvot* are characterized by a focus on the outward action, the *maaseh,* the mechanical act required by the Torah. There seems to exist a third category as well, which combines the importance of a mechanical act (*maaseh*) with a specific long-reaching aim or purpose; merged, these two elements achieve and fulfill the essence of the commandment.

While each mitzva should be analyzed independently, one does find a striking bifurcation in the corpus of *mitzvot*, separating most *mitzvot* *bein adam la-Makom* from their counterparts, *mitzvot* *bein adam le-chavero*.

To better understand this distinction, let us begin by discussing the need for *kavana*, the proper intent to perform a mitzva in order to fulfill a divine decree. The importance of possessing *kavan*a in order to properly execute certain *mitzvot* seems to underscore the significance of the mindset accompanying the act, as opposed to the result of the action. The mitzva is not only a mere physical act, but an act performed with a mitzva-directed frame of mind.

The Talmud, in a number of places, raises the issue of whether *mitzvot* require *kavana*; i.e., is a commandment only considered to be fulfilled if accompanied by the proper intent? The Mishna Berura (*OC* 60, *Beiur Halakha*, s.v. *Yesh*) asserts that this debate only deals with the necessity of *kavana* for themitzva*,* intent to perform the act as a commandment; however, there is no doubt that one must have a certain type of *kavana*: the proper intent for physical action. One who manages to act out a mitzva without any thought whatsoever has the halakhic status of *mitasek*, so this person is certainly not to be viewed as fulfilling a mitzva, as the Mishna Berura explains. The question discussed in the Talmud is whether the intent to perform an action without contemplating divine intent leaves one remiss in performing his or her duty.

This focus on the necessity of *kavana* seems to indicate that at least some *mitzvot* are not merely designed to achieve a certain result. After all, even if the desired result is achieved through one’s action, the act is insignificant if one lacks proper intention and mindset. However, the Talmud does not stop there. In at least two places, the Talmud indicates that the intent to perform a mitzva, even without an actual execution, can be viewed as akin to the genuine performance of the mitzva.

The Talmud *(Berakhot* 6a*)* expounds the verse in Malakhi 3:16: “And it is written before Him… for those who think of His name” that one who conceives of and intends to perform a mitzva but is unable to do so due to circumstances beyond his control is considered to have performed the mitzva.

In *Kiddushin* (40a), the Talmud refers to God as joining the good thought to the unrealized act, so that one is rewarded as if one had performed the mitzva.

The idea that *kavana* plays a role in our favor, that the intent to perform a mitzva is almost as good as doing it, is based on God’s omniscience. He takes them into account when He reviews our deeds, whether they have been completed or have been left undone because we were unable to perform them fully.

While this concept does not justify rearranging our lives to focus solely on intent rather than action, it does teach us that when we perform *mitzvot*, *kavana* serves a central role. This idea seems to be expressed concisely in the Talmudic dictum *(Sanhedrin* 106b)“God desires the heart (*libba*).”

However, alternative sources seem to indicate that the heart being in the right place is no substitute for the successful completion of a *mitzva*. The Mishna in *Pirkei Avot* (3:15) statesthat one is judged according to the sum of one’s deeds. There is no mention of an individual’s desires to perform more.

This contradiction gives rise to a rather important question. Are our successes in the spiritual realm judged by output or input? Is our intent more important than our achievement of the desired goal, or is the reverse true? The Chafetz Chayim explains this by examining the statement made in *Berakhot* (28b), recited as part of the *Hadran* prayer upon concluding a major unit of Torah, that those who study Torah toil and receive a reward, while other do not: clearly all people are rewarded for their hard work, but only a Jew is rewarded even without the successful completion of his or her attempted goal. The Jew’s input, intent, and planning are viewed as meritorious even if success is not the ultimate result. Is it really so simple that we are judged by our heart, *libba,* and not by our action, *maaseh?*

One explanation offered for the apparent inconsistency between these two statements is that while G-d in fact desires the intent of the heart more than action, the only way to prove whether in fact the heart is in the right place is to see what actions it motivates the person to do.

Analyzing the sources we are about to see might point in another direction as well: one might venture to say that these two statements refer to two different categories of *mitzvot*. *Mitzvot bein adam la-Makom* seem to be the model of the *mitzvot* we have been discussing until now, in which the heart takes priority. These seem to be *mitzvot* which have an essential component of intent, and if a person is under duress, intent may even be sufficient to be viewed as accomplishment. *Mitzvot* *bein adam le-chavero*, on the other hand, seem to be focused on the result. It is not enough for a person to intend to be good to his or her friend; one’s actions are judged only by the bottom line: has a person succeeded in doing good? In fact, the sources seem to go one step further. Not only is a person not judged by intent, but the motivation may in fact be unnecessary for fulfilling the commandment. In addition, one may violate certain prohibitions between man and his fellow man even if one’s heart is in the right place.

What is the source of our contention that *mitzvot bein adam le-chavero* are results-based? First let us take a look at the Torah itself, where we find a fascinating mitzva*.* Regarding interpersonal *mitzvot*, there is already a biblical source indicating that a person can perform a mitzva without any intent whatsoever*:* the mitzvaof *shikhcha* (literally, forgetfulness), leaving one’s bundles in the field for the poor. One who, during the process of harvesting his field, forgets a bundle there is bidden to leave the produce there for the poor, and the farmer fulfills a *mitzva* even without having acted intentionally. “When you reap the harvest in your field and you forget a bundle in the field, you shall not turn back to take it; it shall be for the stranger, the orphan, and the widow” (*Devarim* 24:19). When the orphan and widow take the forgotten bundle, the owner of the field fulfills the mitzva of *shikhcha*, even if he is unaware that the bundle has been taken*.*

The Midrash does not limit this fascinating novelty to *shikhcha*, but applies it to *tzedaka,* charity, as well. Some authorities go further and express this element as a component of all *mitzvot bein adam le-chavero,* as we shall currently see.

Yalkut Shimoni (Torah 937) learns from the verse regarding the forgotten bundle, that “if an individual loses a coin which is subsequently found by a poor man who uses it to feed his family, the Torah considers it as if the one who dropped the coin has provided for the indigent.”

Unlike the sources which we quoted earlier, which speak of the importance of desire and proper intent of the heart, here the Torah is crediting an unknowing individual, who may be wondering about the whereabouts of the money that fell from his pocket, with having supported the needy because his lost money was found by a pauper. In fact, not only is it clear that the *mitzva* has been fulfilled here without requiring *kavana* for the action of giving *tzedaka,* it has been fulfilled without any intentional action at all! Clearly, the individual did not intend to lose his money; he would thus fall into the category of *mitasek*. Without ever having intent for his action at all, he is viewed as fulfilling a divine command.

Certainly this is not meant to belittle the importance of proper intent in the fulfillment of *mitzvot* involving one’s fellow man, as the Yalkut Shimoni itself concludes: “If the Torah rewards one who has no intent, how much more so must the one who intends to give to the poor be regarded highly!”

Nevertheless, the intent seems to give a person extra credit only. At the same time, the best intentions do not seem to be viewed with much approbation if they do not culminate in an achievement.

While one might want to limit this phenomena of unknowingly performing *mitzvot* to giving charity alone, which of course bears a striking resemblance to *shikhcha*, it is clear that some authorities assume otherwise. They understand the *shikhcha* phenomenon not as a deviation from the norm, but as an expression of the nature of all *mitzvot bein adam le-chavero*.

Rav Elchanan Wasserman (*Kovetz Shiurim* II, 23:6) points out that there are two general categories of *mitzvot*: those which focus on man’s action and those which focus on the result (and therefore, instead of requiring *kavana*, require a proper execution of the act). The same distinction, he explains, is found in negative *mitzvot*. Some prohibitions may be violated only by one who has malicious intent, while others may be violated if an individual’s actions bring about an undesired outcome. The examples Rav Elchanan brings for results-centered *mitzvot* are primarily *mitzvot* between persons.

Rav Yosef Engel, in his work *Atvan De-Oraita* (13), expresses this distinction even more clearly. He explains that the fundamental distinction between *mitzvot bein adam le-chavero* and *mitzvot bein adam la-Makom* is in this area. *Mitzvot bein adam la-Makom* are, as the name indicates, obligations of man towards God; man is bidden to prove his desire to fulfill G-d’s will. As long as the proper attempt has been made, the failure to actually execute the *mitzva* is irrelevant. On the other hand, *mitzvot bein adam le-chavero* are results-based. The Torah wants man to be beneficent to his fellow; therefore, the *mitzva* is judged by the upshot, by the metric of success. (Rav Engel indicates that there are some *mitzvot bein adam la-Makom* which are also results-based, but he refers to them as *mitzvot bein adam le-chavero*. This idea is also expressed in *Yabbia Omer EH* 1:3 and many other sources.)

The implications of this distinction are vast. God’s directive to man to serve Him focuses on intent, while the instructions regarding how to treat one’s fellow man seek to ensure that the otheractually accrues the benefits God desires for him. Rav Chayim Shmuelevitz (*Sichot Musar* 74) explains that the directive of the Torah to remember that which happened to Miriam in the desert after she spoke ill of her brother (Deuteronomy 24:9) is supposed to be a daily reminder that when it comes to one’s fellow man, righteous intentions do not save one from punishment if the resulting actions bring about damage. Miriam only intended well in her speaking about her brother, Moshe, but damaging speech cannot be permitted no matter how well-meaning the speaker is.

Rav Shmuelevitz goes on to explain that this is the meaning behind the statement of the Talmud (*Bava Batra* 16a) that despite the fact that Peninna, the wife of Elkana who was blessed with ten children, intended well when she prodded her childless co-wife Channa, she was still punished (*I Shemuel* 1-2). The proper mindset and even righteous intent offer no protection against the punishment due for the hurt caused to another. Peninna may have intended to stimulate Channa to pray more strongly; in fact, she succeeded in doing this. Nevertheless, Peninna hurt Channa in the process, and she was punished severely by the death of her own children. In *mitzvot bein adam le-chavero*, the ends do not justify the hurtful means. (See *Sichot Musar* loc. cit., where he brings a number of other examples that bear out this point.)

In fact, one might explain the Mishna’s statement in *Pirkei Avot* (5:2) that an ignoramus cannot be a kind individual in the following way: not only must one who strives for righteousness be knowledgeable in the law, but he must also be knowledgeable in human nature. All too often, we see individuals with the best of intentions who unknowingly and unintentionally damage others, such as one who organizes a *tzedaka* campaign for a friend without realizing that the friend does not want public charity.

With this in mind, we can start to understand how the distinction between these two categories of *mitzvot* indicates that the address of the action is not their only disparity. These are in fact two alternative categories, one of divine mandates aimed at man showing his desire to fulfill the will of G-d through action, and a second of divine mandates aimed at actually achieving the results of creating a more loving, giving society and averting damage and hurt from one’s fellow man.

In fact, the laws of these two disparate categories seem to further bear out this distinction in an enlightening manner.

**Rectifying Violations of *Mitzvot Bein Adam La-Makom* and *Bein Adam Le-chavero*:**

In the process of *teshuva* (repentance), one seeks to repair the damage of sinful behavior. There are two main distinctions between *mitzvot bein adam la-Makom* and *mitzvot bein adam le-chavero* when it comes to the *teshuva* process: the requirements of *ritzui* (appeasing the injured party) and public confession. These disparities further establish the importance of the results-based focus of *mitzvot bein adam le-chavero*.

The Rambam (*Hilkhot Teshuva* 2:9; see Mishna *Yoma* 8:9) indicates that Yom Kippur, as well as the standard process of repentance throughout the year, only serve to absolve a person of sins between him and God, but not of those between him and his fellow man. In order to atone for sins against one’s fellow, an individual must first right the wrong by either making restitution for the loss or fixing the damage caused, and then one may proceed to obtain verbal forgiveness from his fellow. The Rambam even uses the term *ritzui*, a word denoting a re­creation of comity and unity, not only a willingness to forgive as part of the *teshuva* process. Only after the damage has been rectified and unity re-created can an individual then attempt to continue his *teshuva* process for violating a *mitzva bein adam le-chavero* vis-à-vis God Himself.

According to our understanding that *mitzvot* *bein adam le-chavero* are results-oriented, we may clearly explain the necessity of righting a wrong done to one’s friend and obtaining his forgiveness. Even if one has seen the error of his ways and wants to repent, as long as the damage is still there, creating a distance between two Jews in place of the camaraderie the Torah desires, then the prohibition is still being violated. Only a reversal of the damage can open the gates for an individual to cleanse himself from the sin to his fellow.

This idea is further expressed in the Rambam’s understanding of the need for public confession of one’s sins. He writes (*Hilkhot Teshuva* 2:5) that it is proper that one who violates interpersonal commandments confess publicly, while one who violates obligations *bein adam la-Makom* needs to confess privately only. The explanation of the distinction seems to be based on the premise which we have discussed. Sins against one’s fellow damage not only the victim; the harm is magnified by the way it is seen by the public. An act of apology and confession that does not rectify the public harm done to the wronged individual is deficient. In contrast, *mitzvot bein adam* *le-Mako*m, with their intent-oriented focus, are meant to remain between man and G-d. (In the upcoming lesson, we will elaborate regarding the process of forgiveness for interpersonal violations.)

**The Lack of a *Berakha* for *Mitzvot Bein Adam Le-chavero*:**

With this in mind, let us conclude our discussion by examining a final discrepancy between *mitzvot bein adam la-Makom* and *mitzvot bein adam le-chavero*: the need for a *berakha* (blessing) prior to the fulfillment of most of the former type. This is what we refer to as *birkat ha-mitzva,* the blessing made over a commandment, which usually consists of the standard opening, followed by the phrase “*asher kiddeshanu be-mitzvotav ve-tzivanu,” “*Who has sanctified us with His commandments and commanded us”, concluding with the title or action of the *mitzva.* While many *mitzvot bein adam la-Makom* require a *birkat ha-mitzva*, no *mitzva bein adam le-chavero* does. In fact, the Rambam (*Hilkhot Berakhot* 11:2) only mentions the concept of a *birkat ha-mitzva* in conjunction with *mitzvot* *bein adam la-Makom*, as if to say there is no room for a *berakha* on interpersonal *mitzvot*. Why not?

We noted in the previous lecture that even though human beings may have a natural sense of morality, God sees it fit to command us to perform *mitzvot* *bein adam le-chavero.* It would seem that an individual should make a *berakha* prior to their performance, just as one does with most *mitzvot*. However, this is not the case, and the commentators discuss this seeming anomaly. While a complete understanding of this issue would require a more clear definition of the purpose of a *birkat ha-mitzva*, our earlier discussion will shed light on the topic. We will focus on three primary explanations; that of the Rashba, who focuses on the significance of the results; that of the Or Zarua, who expounds the significance of limitations in applicability; and that of the commentators who focus on the uniqueness of the commandment for these *mitzvot*.

The lack of a *birkat ha-mitzva* for *mitzvot bein adam le-chavero* is already discussed in a responsum of the Rashba (I, 18), who explains:

One does not make a blessing on an action that is not completely in the hands of the performer because it is possible that the one on whose behalf the action is being performed may reject it, thus negating it. This includes gifts to the poor, loans, charity, etc.

The Rashba’s explanation is clearly understood in the context of our premise. Actions done on behalf of one’s fellow man are results-based. In order to warrant a *berakha* prior to its performance, a mitzva’s successful realization must be exclusively in the hands of the person doing it. The performance of a *mitzva bein adam la-Makom* is completely in the hands of the doer, because it focuses on the intent of the one taking action to follow the will of God. In contrast, *mitzvot bein adam le-chavero*, such as giving charity and making loans, do not reach their fulfillment unless they are accepted by the recipient. Therefore, a *birkat ha-mitzva* is not applicable to them. The Rashba’s distinction seems to be a source from the Rishonim for our understanding that the successful completion of *mitzvot* between man and his fellow are dependent on the intended recipient’s acceptance of the doer’s action.

While the explanation of the Rashba seems to confirm our distinction between the two types of *mitzvot* quite clearly, other answers provided by commentators on this subject seem to open the door for next lesson’s discussion. This is because of the unique way in which they underscore the singularity of *mitzvot bein adam le-chavero.*

The Or Zarua (*Hilkhot Birkat Hamotzi* 140) writes that one does not make a *birkat ha-mitzva* for any obligation which is unceasing and constant. He includes within his list the *mitzvot* of *chesed*.

The Or Zarua seems to be explaining that a *birkat ha-mitzva* is necessary when an individual stops what he is doing to discharge an obligation which arises at that given moment. In contrast, *chesed* is ubiquitous and perpetual. A *birkat ha-mitzva* indicates that the mitzva’s setting is limited, so a *berakha* cannot be made for a constant mitzvasuch as *chesed.* We aren’t supposed to switch on the “be nice” button when it suits us – kindness is supposed to be a constant endeavor. Accordingly, we should not say that *mitzvot bein adam le-chavero* do not deserve a *berakha*; rather, making a *berakh*a would almost demean them by implying that the time for kindness is a particular moment, rather than always.

A number of other commentaries focus on the inapplicability of the text of the standard *birkat ha-mitzva*, particularly the word *“ve-tzivanu*”, for a variety of reasons.

The 16th-century scholar Rav Binyamin Ben Matitya (*Responsa* *Binyamin Ze’e*v 169) explains that the universal nature of *mitzvot bein adam le-chavero* is what precludes us from saying a *berakha* before performing them. The text of a *berakha* specifies the uniqueness of the *mitzva* to the Jewish people (“*ve*-*tzivanu*” — “and commanded us”), but *mitzvot* of kindness and the like performed on behalf of one’s fellow man are applicable worldwide; therefore, they do not deserve a *birkat ha-mitzva* celebrating our uniqueness. (A similar idea is mentioned by the Torah Temima, *Shemot* 24:30.)

In a slightly different way, the Arukh Ha-shulchan (*CM* 427:10) explains that while our obligation in *mitzvot bein adam le-chavero* is indeed unique in its breadth and scope, the universal applicability hides the sanctity in these *mitzvot*; therefore, they are not accompanied by a *berakha*. Our *chesed* may not be the same as kindness amongst the nations, but since that is not readily apparent, we do not make a *berakha.*

While these explanations seem to focus on the lack of uniqueness in our system of *mitzvot bein adam le-chavero*, a second look may indicate quite the opposite. There is a universal appeal and applicability to kindness, but as the Arukh Ha-shulchan formulates it, this only serves to conceal the uniquely Jewish nature of *chesed*. God chooses to order us to fulfill these *mitzvot* despite the fact that we could figure many of them out on our own. The divine command actually serves to differentiate our *mitzvot bein adam le-chavero* from the moral codes of the rest of the world, as it simultaneously makes the singularity of the *mitzvot bein adam le-chavero* less readily apparent.

Why does God choose to command us and sanctify us through His commandments in the form of *mitzvot* that we might have decided to do without a divine command?

Rav Yechiel Yaakov Weinberg’s comments on this issue may shed light on this peculiarity. He writes (*Responsa* *Seridei Eish* I:61) that the rationale for not being able to make a *birkat ha-mitzva* and to say “*ve-tzivanu”* is not the lack of uniqueness of the directive; rather, it is because we are required to perform the commandment with an inner desire, not out of compulsion. One should not give charity begrudgingly, simply because it is demanded of us, but out of an honest feeling of wanting to provide for one’s fellow and to achieve the desired result that the mitzva sets out to accomplish.

With this in mind, we have seemingly come full circle. Despite the natural, universal application of the results-oriented *mitzvot bein adam le-chavero*, there is clearly a unique expression provided by the divine command to the Jew. Its uniqueness might be hidden to the outsider, but only an in-depth study of the *halakhic* requirements involved in each *mitzva* will serve to reveal its true nature and purpose. The divine imperative seems to express the uniqueness of the Jewish social ideal; simultaneously it lends an aspect of *mitzvot bein adam la-Makom* to every *mitzva* *bein adam le-chavero*.

In fact, regarding our discussion of repentance, the fact that one must also perform *teshuva* before God (see *Hilkhot Teshuva* 1:1 and 2:11) for a violation of a *mitzva bein adam le-chavero* seems to indicate that there is an element of divine will within the very *mitzva*, an aspect of *bein adam la-Makom*. Why is this necessary, and what does it mean? We shall see in the next lesson.

In the upcoming *shiur* we will address these questions while further developing an understanding of a third type of mitzva, *mitzvot bein adam le-atzmo* (intrapersonal commandments). I will attempt to show how all *mitzvot* *bein adam le-chavero* carry within them elements of all three types of *mitzvot*. I hope to further define these three types of *mitzvot* and delineate the various aspects of each *mitzva*.