**S.A.L.T. PARASHAT PINCHAS**

**By Rav David Silverberg**

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**This week's SALT shiurim are dedicated in memory of my grandfather   
Rav Yehuda Leib Silverberg z"l, whose yahrzeit is  
Thursday 22 Tamuz, July 5**.

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Motzaei Shabbat

The Torah in Parashat Pinchas tells of the request made by five orphaned sisters – the daughters of Tzelofchad, a deceased man from the tribe of Menashe – to inherit the territory in *Eretz Yisrael* that had been allocated for their father. The law granting inheritance rights to daughters when there are sons had not yet been established, and so these women approached Moshe and Elazar (the *kohen gadol*) to request this right. God instructed Moshe that Tzelofchad’s daughters were indeed correct and should receive their father’s intended property.

In relating this story, the Torah tells that the sisters “stood before Moshe and before Elazar, and before the tribal leaders and before the entire congregation” (27:2). The Gemara in Masekhet Bava Batra (119b), as cited by Rashi, brings two views among the *Tanna’im* in interpreting this verse. Both views agreed that the verse cannot be understood sequentially, to mean that the women first approached Moshe, and then, when he did not have the answer, turned to Elazar, and afterward to the tribal leaders and finally to the rest of the nation. It is inconceivable that the women would approach lower level authorities if Moshe himself did not know the answer to their question. Therefore, one view explains that the verse should be read in reverse – meaning, the women first asked around the people, then approached the tribal leaders, and afterward Elazar, and finally Moshe. The second view explains simply that everyone was congregated together when these sisters approached, and they presented their question to all the scholars simultaneously.

The Gemara explains that these two *Tanna’im* are in disagreement regarding the issue of “*cholkin kavod le-talmid bi-fnei ha-rav*” – should students be accorded respect in their teacher’s presence. The first *Tanna* maintains that approaching a rabbi and his students and presenting a question to them together infringes upon the rabbi’s honor. He therefore explains that Tzelofchad’s daughters first brought their question to the “students” before finally approaching Moshe. According to the second view, a rabbi actually receives honor when his students are treated with great respect, and thus there is nothing inappropriate about presenting a question to a rabbi and his students when they are together. Thus, we may accept the simple reading of the text and explain that these women approached all the scholars at the same time.

The Gemara concludes that the *halakha* regarding this issue depends on the circumstances. If it is known that the rabbi himself gives honor to his students, then it is appropriate to show them honor in his presence; otherwise, one should not show the students honor in his presence. The Rashbam, in his commentary to the Gemara, writes that the Gemara here sides with the second reading of the verse regarding Tzelofchad’s daughters. Moshe accorded great honor to his underlings, and so it was entirely permissible for the women to show his students honor by addressing their question to them and Moshe at the same time.

*Chatam Sofer* comments that *Chazal* reached this conclusion based on the example set by the Almighty Himself. We are commanded to show respect to Torah scholars – an obligation listed by the Rambam among the 613 Biblical commands (*mitzvat asei* 209; see also *Sefer Ha-chinukh*, 257). As God is present throughout the world, whenever we show respect to Torah scholars we do so in the presence of their “Rabbi” – the Almighty. The reason we do this, of course, is because God Himself commanded us to show scholars respect. *Chazal* thus concluded that when a rabbi shows that he wishes to give honor to his students, others should show his students honor in his presence, as they give honor to the rabbi by honoring his disciples. (It would thus follow, seemingly, that rabbis should show interest in their students receiving honor, in accordance with God’s example.)

Sunday

Yesterday, we noted the Gemara’s discussion (Bava Batra 119b) concerning the story told in Parashat Pinchas of five sisters who sought to inherit their deceased father’s allotted share in the Land of Israel. The Torah tells that these women brought their request “before Moshe and before Elazar, and before the tribal leaders and before the entire congregation” (27:2). The simple meaning of this verse is that Moshe, Elazar, the leaders and other scholars were assembled together at the time, and these five women approached and presented their question to them all. This is, indeed, how one view interprets the verse. The other view, however, disagrees, claiming it would have been disrespectful to Moshe to present a question to him and his students together. This second view therefore adopts a somewhat strained reading of the verse, explaining that the women first approached the lower-level scholars, and when they did not know the answer, they brought the question to Moshe.

Many writers addressed the question of why the Gemara brings this discussion of the verse here in Parashat Pinchas, but not in reference to a similar verse earlier in Sefer Bamidbar, in Parashat Behaalotekha (9:6). There we read of the *temei’im*, the group of people who were unable to bring the *pesach* sacrifice due to their state of impurity, and came “before Moshe and before Aharon” to ask permission to offer the sacrifice despite their halakhic state. Seemingly, the same question arises in this context, as to whether the *temei’im* approached Moshe and Aharon together – as the simple reading of the verse suggests – or if they first approached Aharon and then, when he did not have an answer, Moshe. The Gemara brings no such debate concerning the question posed by the *temei’im*, indicating that all *Tanna’im* accepted the straightforward reading, that Moshe and Aharon sat together when the question was posed. Why would everyone agree concerning that incident, but not in the story of the Tzelofchad’s daughters who asked for their father’s portion of *Eretz Yisrael*?

The *Torat Chayim* commentary to Masekhet Bava Batra, as well as the *Panim Me’irot* (2:29), answer this question by distinguishing between different areas of *Halakha* – ritual law, and monetary law. When it comes to ritual law, they explain, it is forbidden to bring complex halakhic questions to a student if his rabbi lives in the city and is available, as this constitutes an infringement upon the teacher’s honor. Therefore, all *Tanna’im* agree that the *teme’im* brought their question directly to Moshe, who was obviously the leading sage of the time, and not to Aharon, who was considered Moshe’s “disciple.” When it comes to matters of civil law, however, Moshe himself established a hierarchical network of courts to resolve civil disputes, as we read in Sefer Shemot (18:25) and Sefer Devarim (1:15). As he himself authorized lower-level scholars to adjudicate civil matters, it was obviously acceptable to bring civil cases to these judges. Therefore, it was only in regard to the question posed by Tzelofchad’s daughters – which concerned the inheritance of property – that the Sages considered the possibility that the question was brought to the lower-level scholars before finally reaching Moshe.

This distinction between ritual law and civil disputes was drawn also by the Maharik (169), in a different context. The Gemara in Masekhet Sanhedrin (23a) makes a certain comment about the courts of two *Amora’im* – Rav Huna and Rav Chisda – and Rashi explains that these two courts were in the same city. Tosefot dispute Rashi’s explanation of the Gemara, noting that the Gemara elsewhere (Eiruvin 62b) describes Rav Chisda as viewing himself subordinate to Rav Huna, and refusing to issue any halachic rulings in Rav Huna’s city. If so, Tosefot ask, then how could Rav Chisda have established a court in the same city as Rav Huna’s court? The Maharik defends Rashi’s comment by distinguishing between ritual law and civil law. Even though questions involving ritual halakhic matters may not be answered when one’s rabbi is available, a competent scholar may convene a court to resolve civil disputes even in his rabbi’s town, in accordance with the precedent established by Moshe, who assigned lower-level judges to assist him so he would not have to single-handedly arbitrate all the nation’s disputes.

We should add that Chida, in his *Petach Einayim* (Bava Batra), notes that the *Sifrei* indeed brings the aforementioned dispute among the *Tanna’im* in reference to the question posed by the *temei’im*, thus undermining the question discussed above and obviating the need to distinguish between different areas of *Halakha* in this regard.

Monday

As we have seen in our last two installments, the Gemara in Masekhet Bava Batra (119b), amidst its discussion of the story of Tzelofchad’s daughters presenting their request to Moshe, addresses the manner in which this question was posed. One view maintains that the women first brought their question to lower-level scholars, and only later, after these scholars could not answer the question, they approached Moshe. According to the other view, Moshe and the other scholars were sitting together, and the five women posed the question to everyone assembled. The Gemara explained that the first view did not accept this possibility because it is disrespectful to accord a rabbi’s disciples honor in his presence, which Tzelofchad’s daughters would have done had they presented their question to everyone together. In its conclusion, the Gemara establishes that if a rabbi has expressed a desire to give honor to his disciples, then it is permissible to show his disciples honor in his presence, as this in effect gives honor to the rabbi.

The Chida, in his *Birkei Yosef* (Y.D. 244:1), references the Gemara’s conclusion amidst his discussion of the question of whether one should rise from this seat during prayers in the synagogue if a Torah scholar enters the room. He cites a responsum from a certain scholar whom he does not name, claiming that one should not interrupt prayers in order to give honor to a Torah scholar, as it is disrespectful to compromise the honor of the Almighty in order to give honor to a mortal human being. This unnamed scholar points to the example of Yaakov, who, as Rashi (Bereishit 46:29) cites from the Midrash, did not kiss Yosef at the time of their reunion after over twenty years of separation, because he was reciting *Shema* at that moment. Yaakov refused to interrupt his recitation of *Shema* to show respect and affection to Yosef, seemingly proving that it is inappropriate to disrupt one’s prayers for the sake of showing respect to a human being, even to a prominent and distinguished individual.

The Chida strongly disputes this position, pointing to, among other sources, the Gemara’s aforementioned conclusion in Masekhet Bava Batra. The Gemara explicitly establishes that if a teacher accords honor to his students, then others may accord honor to his students in his presence, because this gives the teacher gratification. Therefore, once God commanded us in the Torah to give honor to Torah scholars, He clearly expressed interest in according honor to His “students,” and thus it is certainly appropriate to accord honor to a scholar even in God’s “presence,” so-to-speak – meaning, during prayer. As for Yaakov’s delaying his display of affection for his son while reciting *Shema*, the Chida contends that *Chazal* likely meant that Yaakov was reciting the first verse of *Shema*, a recitation which requires special concentration and during which no interruptions are allowed. At other points of the prayer service, however, rising in honor of a scholar is appropriate. In fact, as the Chida adds, the Mishna in Masekhet Berakhot (2:1) famously allows greeting somebody whom one respects during certain points of *Shema* and its blessings (though the precise details are subject to debate). The Chida also cites a hand-written responsum of the Radbaz ruling explicitly that the requirement to stand in honor of a Torah scholar applies even in the synagogue.

Similarly, Rav Yosef Chaim Sonenfeld is cited as responding to this question by noting that just as God commanded us to read the *Shema* and recite the prayers, He also commanded us to show honor to Torah scholars. Therefore, there is no infringement whatsoever on God’s honor by standing out of respect for a Torah sage in the synagogue during prayers. This is also [the ruling of Rav Ovadya Yosef](http://halachayomit.co.il/he/default.aspx?HalachaID=263).

Tuesday

The Torah in Parashat Pinchas tells of the request made by the five daughters of Tzelofchad to receive the portion of *Eretz Yisrael* that had been allotted to their deceased father (27:3-4). Moshe brought their question to God, who instructed that indeed, when a man dies without sons, his daughters inherit his estate, and thus Tzelofchad’s daughters were entitled to the portion of land that was to have been given to Tzelofchad.

The Gemara in Masekhet Bava Batra (119b) tells that the five women posed a halakhic argument to support their claim. They argued that if daughters are equivalent to sons with regard to inheritance, then their father’s estate should, quite obviously, be awarded to them. And if daughters are not legally equivalent to sons with respect to inheritance laws, they reasoned, then their mother should have the status of a *yevama* – a widow whose husband died without producing any heirs. In such a case, the Torah commands the deceased’s brother to marry the widow in order to produce a child who would be considered the deceased’s offspring (Devarim 25:5-6). Hence, Tzelofchad’s daughters claimed that if they were not halakhically considered their father’s inheritors, then one of their uncles – a brother of Tzelofchad – should be required to marry their mother, and then he would inherit the deceased’s estate (as established in Yevamot 24a).

The *Chatam Sofer* (6:56) addresses the question of whether this account may be reconciled with the view of Rabbi Akiva cited by the Gemara elsewhere (Shabbat 96b) identifying Tzelofchad as the *mekosheish eitzim* – the individual found desecrating the Shabbat, as told earlier in Sefer Bamidbar (15:32). According to the view of the *Mordekhai* (to Yevamot 39), the death of a *mumar* – apostate – does not engender the *yibum* obligation. Meaning, if such a person dies without children, his brother is not required to marry the widow (or to perform the *chalitza* ritual, which may be performed instead of *yibum*). The *Chatam Sofer* cites a Midrashic account of the *mekosheish eitzim* flagrantly carrying the wood he collected in a bag on his shoulder in public even after he was found desecrating Shabbat. Public, flagrant Shabbat violators are treated by *Halakha* as a *mumar*, and thus, if we combine Rabbi Akiva’s view identifying Tzelofchad as the *mekosheish eitzim*, with the view of the *Mordekhai* that *yibum* is not performed upon the death of a *mumar*, we must seemingly conclude that the law of *yibum* was inapplicable in Tzelofchad’s case. The question arises whether we must indeed reach this conclusion, or if we can perhaps find a reason why *yibum* would be relevant to Tzelofchad’s case even if he was a public Shabbat violator.

The *Chatam Sofer* offers several possibilities, including the possibility that the *mekosheish eitzim* did not publicly violate Shabbat. The Gemara in Masekhet Shabbat (96b) cites different views as to which precise prohibition the *mekosheish* transgressed, only one of which claims that he violated the prohibition of carrying in a public domain – which is clearly the view followed by the aforementioned Midrashic source describing the *mekosheish*’s flagrantly carrying his bags through the public domain. As such, the other two views do not accept this account, and thus quite possibly they understood that the *mekosheish* did not commit a public act of Shabbat desecration. It thus turns out that according to the majority opinion, the *mekosheish* did not qualify as a *mumar*, and this explains why his widow would, theoretically, be eligible for *yibum*.

The *Chatam Sofer* adds that the *mekosheish eitzim* quite possibly confessed his wrongdoing and repented before his execution, in which case he erased his *mumar* status. The *Shakh* (Y.D. 345:5), as the *Chatam Sofer* cites, rules that although certain types of criminals and habitual sinners are not mourned after their death, they are mourned if they confessed in their final moments. Therefore, even if the *mekosheish eitzim* indeed had the status of “*mumar*,” he perhaps lost this status in his final moments when he confessed his wrongdoing, such that the law of *yibum* could apply.

The one who posed this question to the *Chatam Sofer* suggested answering it based on the well-known Midrashic tradition (cited by Tosefot there in Bava Batra) that the *mekosheish eitzim* committed his act of Shabbat desecration with noble intentions. After the sin of the spies, which resulted in God’s decree that the adult generation would perish in the wilderness, the *mekosheish* feared that the people might see the Torah’s laws as no longer binding. He therefore decided to surrender his life by committing a capital offense for which he would be punished, sending a clear message that the Torah’s laws still applied. The scholar who wrote to the *Chatam Sofer* thus proposed that although public Shabbat desecration normally renders one a *mumar*, the case of the *mekosheish* may have marked an exception, given the noble intentions that led him to commit this act.

Interestingly, the *Chatam Sofer* dismisses this argument, noting that a sinner’s motives are significant with respect to how God judges such a person, but cannot be taken into account in the halakhic process. Just as a *Beit Din* punishes a violator who knowingly committed an offense even if he convincingly claims that his intentions were noble, likewise, a public Shabbat violator is considered a *mumar* regardless of his intentions. This factor, then, cannot be taken into account in determining the status of the *mekosheish eitzim* vis-à-vis *yibum*.

Wednesday

When Tzelofchad’s five daughters approached Moshe to ask to receive their deceased father’s allotted portion in the Land of Israel, they emphasized that Tzelofchad had not participated in Korach’s revolt against Moshe, but rather “*be-chet’o meit*” – “he died on account of his sin” (27:3). The Gemara in Masekhet Shabbat (96b) cites Rabbi Akiva as explaining this to mean that Tzelofchad was the *mekosheish eitzim* – the man who was found violating Shabbat and subsequently punished, an incident related earlier in Sefer Bamidbar (15:32).

Rabbi Yehuda ben Beteira, as the Gemara tells, reacted angrily to Rabbi Akiva’s identification of Tzelofchad as the *mekosheish eitzim*, warning his colleague that will be called to task for postulating such a theory (“*ata atid litein et ha-din*”). Even if this theory is true, Rabbi Yehuda argued, it was wrong for Rabbi Akiva to publicize Tzelofchad’s misdeed, which the Torah specifically chose to conceal. And if this theory is incorrect, Rabbi Yehuda said, then Rabbi Akiva was guilty of “defaming that righteous person.” Rabbi Yehuda ben Beteira proceeded to assert that Tzelofchad’s sin was not flagrantly violating Shabbat, but rather participating in the movement of the “*ma’apilim*” – those who insisted on trying to conquer *Eretz Yisrael* after God decreed that *Benei Yisrael* would remain in the wilderness for forty years. As we read in Parashat Shelach (14:40-45), there was a group who decided after hearing God’s decree that they could reverse the edict by reversing their mindset, by now trusting their ability to conquer the land, as opposed to the fear and despair with which they reacted to the spies’ frightening report. Moshe warned them that their military campaign would fail, because God was not assisting them and had condemned them to remain in the wilderness. Tragically, this group refused to listen, and they were all killed. According to Rabbi Yehuda ben Beteira, Tzelofchad belonged to this group, and this is the sin of which his daughters spoke when presenting their case to Moshe. Rashi explains that the sin of the *ma’apilim* was less severe than an act of flagrant Shabbat desecration, and thus Rabbi Yehuda preferred identifying this as Tzelofchad’s misdeed, rather the Shabbat violation. We might speculate that the sin of the *ma’apilim* was less grievous because it was the result of the people’s confusion in the wake of the sin of the spies, and a misguided attempt at repentance, as opposed to an intentional violation of an explicit Torah command.

Some have wondered why Rabbi Yehuda ben Beteira reacted so fiercely to Rabbi Akiva’s opinion. Rather than simply question Rabbi Akiva’s view, Rabbi Yehuda sharply condemned his colleague, even warning that he might be punished for saying such a thing. How might we explain the tension and emotion that appears to have accompanied this rabbinic exchange?

A fascinating theory is advanced by Rav Dr. Shimon Federbush, in an article in the journal *Or Ha-mizrach* (Tevet, 5718) that seeks to explain several of Rabbi Akiva’s debates with his colleagues off the background of Rabbi Akiva’s controversial, enthusiastic support of the Bar-Kokhba uprising. One of the decrees enacted by the Roman authorities as part of their campaign of persecution against the Jews was a ban on Shabbat observance, and thus Rabbi Akiva perhaps sought to emphasize the great importance of Shabbat in his efforts to encourage the people to resist the Roman occupation of Judea. He therefore publicized Tzelofchad’s punishment for Shabbat desecration, in an attempt to underscore to the Jews of his time the severity of this offense. Rabbi Yehuda ben Beteira vehemently argued, and contended that Tzelofchad was guilty of participating in the campaign of the *ma’apilim* – an illegitimate war waged by *Benei Yisrael* against enemy nations, which failed because it was not mandated by God. Referencing the *ma’apilim* in his retort to Rabbi Akiva may have served the purpose of pointing to that tragedy as an instructive precedent for the Jews’ struggle against the Romans. In Rabbi Yehuda’s mind, the tragedy of the *ma’apilim* taught that the Jews should not take up arms against enemy nations unless they are specifically mandated to do so, in direct contrast to the view of Rabbi Akiva, who lent his support to Bar-Kokhba’s military campaign. If so, then this debate was not just about the interpretation of the phrase “*be-chet’o meit*” that was said about Tzelofchad, but rather about the critical question that faced the Jews of Rabbi Akiva’s time, of whether or not they should militarily resist the Roman occupation.

Thursday

Amidst the Gemara’s discussion in Masekhet Bava Batra (119b) of the story of Tzelofchad’s daughters, it comments that these five women were “*chakhmaniyot*” – which could mean “wise,” “scholarly” or “clever.” The Gemara proceeds to explain that the five sisters heard that the scholars were studying together with Moshe the subject of *yibum* – the requirement that the brother of a deceased, childless man marry the widow (or perform the *chalitza* ritual instead). Upon hearing the scholars discuss this law, the five women presented their argument for why they should receive the territory in *Eretz Yisrael* that had been allotted to their now deceased father. They explained that if daughters are not considered legal inheritors, then their father was, from a strict, halakhic perspective, “childless” when he died, such that his brother should now marry the widow and inherit Tzelofchad’s territory. Otherwise, they must be regarded as full legal inheritors of their father’s share.

It is commonly explained that the Gemara describes the five sisters as “*chakhmaniyot*” either because of their sharp insight in conceiving this compelling argument, or because they cleverly found a way to bring up the subject in a manner that connected to what the scholars were studying. However, the Tashbatz, in his *Magen Avot* commentary to *Pirkei Avot* (5:7), focuses on a different element. He understands the Gemara’s remark in light of the Mishna in Avot that lists several defining characteristics of a wise scholar, one of which is “*sho’el ke-inyan*” – asking on-topic questions. A truly wise scholar does not ask irrelevant questions, or questions that distract the teacher and the class from the material currently being studied, but rather stays on topic. The full phrase in the Mishna is “*sho’el ke-inyan u-meishiv ka-halakha*,” which the Tashbatz (and others) explains to mean that by asking only relevant questions, a student ensures that he will receive an accurate response. If a student asks a question that has no relevance to the subject matter currently being taught, the teacher might likely give an impulsive, off-the-cuff response which will be incorrect. According to the Tashbatz, the special “wisdom” of Tzelofchad’s daughters was that they found an opportune moment to pose their question – a moment when Moshe and his disciples were studying a subject relevant to their issue. In order to ensure that they would receive an accurate response, they presented their question “*ke-inyan*,” at a time when it was relevant to the topic being taught.

True wisdom is not manifest in the ability to catch a scholar off-guard, to outwit one’s colleagues or to “stump” them. Wise people don’t try to outdo each other, but to bring out the best in one another so they can work together to reach correct conclusions. The sign of a truly wise scholar is the genuine pursuit of accuracy and truth, as opposed to the use of scholarship to pursue prestige or other self-serving interests. And thus Tzelofchad’s daughters were “*chakhmaniyot*” in that they found the best way to ensure an accurate response, rather than the best way to get the response they wanted. The Tashbatz points to this story as an example of intellectual integrity and commitment to truth, the desire to find true answers and not the most convenient and self-serving answers.

Friday

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We read in Parashat Pinchas of Moshe’s request before his death that God appoint his successor to ensure that *Benei Yisrael* will have capable leadership after his passing. God responded by instructing Moshe to formally appoint his primary disciple, Yehoshua, as his successor.

In making this request, Moshe turned to God and asked that “*Elokei ha-ruchot le-khol basar*” (literally, “the God of the spirits of all flesh”) should appoint a leader (27:16). Rashi famously cites a meaningful interpretation of the phrase “*Elokei ha-ruchot*” from the *Midrash Tanchuma*, explaining that Moshe said to the Almighty, “Master of the world! It is revealed and known to You the mind of each person, that they are not similar to one another. Appoint over them a leader who will tolerate each person according to his mind!” According to the *Midrash Tanchuma*, Moshe here demanded that God appoint a leader who understood that different people think differently and have different personalities, and who would thus be sympathetic and sensitive to these differences in governing the nation.

Rav Levi Yitzchak of Berditchev added that there is also great significance to the word “*basar*” (“flesh”) which Moshe used here in asking for the appointment of a competent leader. This term is commonly associated with the lowest, basest elements of the human being, the physical needs and drives that all people naturally seek to fulfill. God imposes demands upon us and has high expectations, but at the same time He recognizes that we are “*basar*” – frail human beings whose physical needs make spiritual excellence difficult to achieve. The reference to God as “*Elokei ha-ruchot le-khol basar*” speaks of God’s compassionate understanding of human nature, the way He takes our human weaknesses into account in assessing the quality of our service to Him. He, more than anyone, knows how challenging religious commitment is, and thus He balances His strict demands and high expectations with a recognition of the difficult struggle that religious achievement so often entails.

Rav Levi Yitzchak thus suggests that Moshe petitioned God to appoint a leader who would follow this example of sensitivity. He wanted his successor to be a person who, like “*Elokei ha-ruchot le-khol basar*,” would take into account human frailty and the natural drives and inclinations that can so easily draw people away from spiritual devotion.

Combining these comments of the *Midrash Tanchuma* of Rav Levi Yitzchak, we might say that Moshe wanted a leader who understood that each person faces his or her unique spiritual challenges. No two people are exactly alike, and this is true of human frailties, as well. One person’s area of strength is another person’s area of weakness. A skill or ability that comes naturally or easily to one person is a difficult challenge for another. A negative tendency against which one person mightily struggles does not exist at all within another person. We are all “*basar*” – plagued by weaknesses and faults – but no two people’s weaknesses and faults are identical. Moshe’s plea reminds us of the need for sensitivity to other people’s individual needs and struggles, to realize before rushing to judge that we never truly know the full extent of the challenges that other people confront, as they are, very often, so drastically different from our own.

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