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ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of  
HaRav Yosef Grossman zt"l

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## DEAD SEA: IS A PERSON LOST IN WATER PRESUMED DECEASED?

Adapted from the writings of Dayan Yitzhak Grossman

The AP reports:

A Chinese woman who was swept out to sea while swimming at a Japanese beach was rescued 37 hours later after drifting in an inflatable swim ring more than 80 kilometers (50 miles) in the Pacific Ocean, officials said Thursday...

She was likely swept out to sea by a current and an evening seaward wind from the mountains, and her swim ring made it more difficult to move against the wind...

The woman was spotted by a cargo ship early Wednesday, about 36 hours after she disappeared off the southern tip of Boso Peninsula, the coast guard said.

The cargo ship asked a passing LPG tanker, the Kakuwa Maru No. 8, to help. Two of its crew members jumped into the sea and rescued the woman, officials said. She was airlifted by a coast guard helicopter to land...

The coast guard said she had drifted more than 80 kilometers (50 miles) and was lucky

to have survived despite the danger of heat stroke, hypothermia at night, or being hit by a ship in the dark.

Hidetoshi Saito, a senior member of the Society of Water Rescue and Survival Research, said in a televised interview that the woman's survival was like "a miracle."

How great are the words of the Chachamim:

The *Rabanan* taught in a *breisa*: If a man fell into water and did not emerge, whether it is water that has an end or water that has no end, his wife is forbidden to remarry; these are the words of R' Meir. But the Chachamim say: If it is water that has an end, his wife is permitted to remarry; if it is water that has no end (*mayim she'ein lahem sof*), his wife is forbidden to remarry...

It was taught in a *breisa*: Rabban Gamliel said, once I was traveling on a ship, and I saw a ship that was shattered, and I was

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1Mari Yamaguchi. Woman swept to sea while swimming at a Japanese beach rescued 37 hours later and 50 miles away. AP News. <https://apnews.com/article/japan-swimmer-swept-to-sea-rescued-a85550612d729dfc2a5718197d34fb72>.



### PARSHAS PINCHAS

#### PRAISE WORTHY

Excerpted and adapted from a *shiur* by HaRav Chaim Weg

You shall offer a fire-offering, an olah-offering to Hashem: two young bulls, one ram, seven male lambs in their first year...Like these you shall make each day of the seven-day period...

Bemidbar 28:19, 24

The *korban* Musaf on Sukkos, unlike on Pesach, is different on each day of the holiday. The Gemara (Arachin 10a) says that this is the reason that the full Hallel is recited each day of Sukkos but only on the first day of Pesach (the first two days in *chutz la'aretz*), because any day that a new *korban* is prescribed warrants the full Hallel.

On the seventh day of Pesach, the Mitzri'im drowned in the sea. The Bais Yosef (O.C. 590) cites from the Shibalei Haleket that the full Hallel is not said then (our reciting half Hallel is only a *minhag*), because it says in Mishlei 24:17, "*Binfol oyivcha al tismach* (When your enemy falls, be not glad)." Why does the Shibalei Haleket give a different reason from that of the Gemara?

The Yeshuos Yaakov and R' Aharon Kotler say that both answers are necessary, because there are two factors that can each create an obligation to recite Hallel: *mo'ed* and *neis*. The Gemara says *mo'ed* doesn't apply when the *korban* Musaf is the same, but it doesn't explain why the *neis* of *kriyas yam suf* doesn't require full Hallel, and that is what the Shibalei Haleket addresses.

The Taz (O.C. 590) says that according to the Shibalei Haleket, we ought to say the full Hallel on Chol Hamo'ed Pesach, but we don't, in order that

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Q&A from the  
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### Hands Off

Q My child woke up in the morning and touched food before washing *netilas yadayim*. May the food be eaten?

A Because the *neshamah* partially departs from the body during sleep, a *ruach ra'ah* (bad spirit) rests on the hands after waking from a night's sleep (Chayei Adam 2:1), and *netilas yadayim* removes it. Before washing, one should avoid touching food, because the *ruach ra'ah* will transfer to the food.

Some say that eating such food is spiritually harmful, so eating it is forbidden, but the Chayei  
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pained about a *talmid* chacham who was on it. And who was it? R' Akiva. But when I came up onto dry land, R' Akiva came and sat and deliberated before me in a matter of halacha! I said to him: My son, who raised you up? He said to me: A board from the ship appeared before me and I took hold of it, and before every wave that came upon me, I bowed my head, and it passed over me...At that time I said, how great are the words of the Chachamim, who said: If it is water that has an end, his wife is permitted to remarry; if it is water that has no end, his wife is forbidden to remarry. (R' Akiva's survival demonstrates that if a person is lost in water that has no end, we cannot be certain of his death.)

It was taught in a *breisa*: R' Akiva said, once I was traveling on a ship, and I saw a ship that was sinking into the sea, and I was pained about a *talmid* chacham that was on it. And who was it? R' Meir. But when I came up onto the land of Cappadocia, R' Meir came and sat and deliberated before me in a matter of halacha! I said to him: My son, who raised you up? He said to me: One wave swept me on to its fellow, and its fellow on to its fellow, until the sea spat me out onto dry land. At that time I said, how great are the words of the Chachamim, who said: If it is water that has an end, his wife is permitted to remarry; if it is water that has no end, his wife is forbidden to remarry.<sup>2</sup>

The Chachamim do implicitly acknowledge that one who fell into *mayim she'ein lahem sof* is presumptively dead, and the prohibition against his wife remarrying is a mere (apparently Rabbinic) stringency. This is evident from the following Gemara:

There was that idolater that was going about saying, "Who is here from the household of Chasa? Chasa has drowned." Rav Nachman said, "By G-d! The fish have eaten Chasa." On the basis of Rav Nachman's words, Chasa's wife went and remarried, and they didn't say anything to her.

Rav Ashi said: Learn from here that that which the *Rabanan* said that if it is water that has no end, his wife is forbidden to remarry, this pertains only *lechat'chilah* (ab initio), but if someone did marry her, we do not take her away from him.<sup>3</sup>

The permission for the wife of a man who fell into *mayim she'ein lahem sof* who remarried to remain with her new husband, and the fact that Rav Nachman swore (by Hashem's Name!)

that Chasa had been eaten, clearly indicate that we actually *are* convinced that the man is dead, and that the prohibition for the wife to remarry *lechat'chilah* is only a stringency, as R' Meir ben Baruch (Maharam) of Rothenburg explains:

Do not wonder about Rav Nachman, who swore that the fish have eaten Chasa, how could he have so sworn? Since we say that his wife is prohibited, we see that we are uncertain whether he died or not! For one may answer that most people who fall into *mayim she'ein lahem sof* are not saved, so Rav Nachman swore properly. For even in cases of capital punishment we follow the majority, but with regard to *arayos* (forbidden unions) we are stringent and say that *lechat'chilah* she may not marry, even though most are not saved...<sup>4</sup>

The Rambam, too, says that the stringency of not presuming a man who fell into *mayim she'ein lahem sof* to be dead is limited to the prohibition against his wife remarrying, as opposed to other halachic contexts:

One who drowned in water that has no end, and witnesses testify that he drowned in their presence and all traces of him were lost, even though his wife may *lechat'chilah* not marry, his heirs may inherit him on the basis of their testimony...

For I say that they were stringent in these matters only because it concerns a prohibition subject to *kareis* (spiritual excision). But with regard to money, if witnesses testify to events that can be presumed to lead to death, saying that they saw these things, and all traces of the person are lost, and afterward it is heard that he died, they may inherit on this basis. This is followed on an everyday basis in all courts of law, and we have not heard anyone disputing this.<sup>5</sup>

While the Maharam and the Rambam do not explicitly say that the stringency about the wife remarrying is Rabbinic, numerous *Acharonim* interpret the Rambam's view that way,<sup>6</sup> and it is this writer's impression that this is a ubiquitous assumption in *teshuvos* on the topic of agunah. One early source that is explicit on this point is R' Avraham ben Moshe of Regensburg (a correspondent of R' Eliezer ben Yoel Halevi, the Ra'aviah):

<sup>4</sup>Shu"t Maharam (Cremona edition) end of siman 194 (also in Teshuvos Maimoniyos Nashim siman 11 and elsewhere). Cf. Tosfos ibid. 36b s.v. *Ha lo shaha*, Bava Metzia 20b s.v. *Isura*, Avodah Zarah 40b s.v. *Rashbag omer*, and *Bechoros* 20b s.v. *Chalav poter*.  
<sup>5</sup>Hilchos Nachalos 73.  
<sup>6</sup>Shu"t Darchei No'am E.H. siman 63 p. 165a; Shu"t Noda Bihudah kama E.H. siman 29 (s.v. *Ve'achar kol hahatzas ha'eileh*), 32 (s.v. *Vehinei haRambam*), and 46 (s.v. *Umeiatoh omer an*); and see *Sefer Hamatteich* to the Rambam (Frankel edition) ibid. for additional sources. (The Noda Bihudah is focusing not on *mayim she'ein lahem sof* but on some of the other scenarios mentioned by the Rambam that we omitted in our citation, but his understanding of the Rambam's view would certainly seem to extend to the case of *mayim she'ein lahem sof* as well.)

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Adam (ibid. 2:2) rules that *bedieved*, after it was touched, the food may be eaten without concern. The Mishnah Brurah (4:14) follows his ruling but requires that the food be washed three times to remove the *ruach ra'ah*. (This only applies to washable items; absorbent foods like bread or cake cannot be fixed.)



RAV ARYEH FINKEL

If water is not available or if the food might be ruined by it, an alternate solution is to remove the outer layer. But that only works for foods whose outer layer is normally eaten, like an apple. If a food's outer layer is normally removed, like an orange, it cannot be rectified in this way, because the *ruach ra'ah* is inside the food (Ishei Yisrael 2 footnote 25).

*Poskim* strongly urge that *netilas yadayim* be introduced at a very young age, because a child's spiritual development will be improved by it (see Teshuvos Vehanhagos 2:1). They disagree about when to start; some even recommend beginning in infancy. Still, food touched by a small child may be eaten without washing it. From the age of *chinuch* (about six), food that the child touched without *netilah* should be washed (Shulchan Aruch HaRav, Second Ed. II 4:2).

Because a woman whose husband has fallen into *mayim she'ein lahem sof* and subsequently remarried is permitted to remain with her new husband after the fact (*bedieved*), it is evident that the prohibition here is only *deRabanan*, and because of this she is permitted *bedieved*. For if we would consider this to be a matter of doubt on a *de'Oreisa* level, then we would say that she must leave her new husband...And the reason for this is that we maintain that most of those that fall into the water...end up dying.<sup>7</sup>

<sup>7</sup>Sefer Ra'aviah (Yerushalayim 5725) Vol. 4 siman 901 p. 138. For discussion of the precise circumstances under which someone who fell into *mayim she'ein lahem sof* may be presumed dead, see Otzar Haposkim E.H. Vol. 7 pp. 96a-109a, and *Sefer Hamatteich* ibid. Cf. *Chevel Nachalaso* 256:4, here, and here.

<sup>2</sup>Veavamos 12a.  
<sup>3</sup>Ibid. 121b.

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Chol Hamo'ed not appear holier than the seventh day of Yom Tov. He appears to understand that the Shibalai Haleket's reason that

it ought to have been recited on the seventh day of Pesach would apply equally to Chol Hamo'ed. But according to the Yeshuos Yaakov and R' Aharon, who understand that the Shibalai Haleket's reason that there

should have been full Hallel on the seventh day of Pesach is because of the *neis*, no explanation is needed for not saying it on Chol Hamo'ed, when there wasn't a *neis*.

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