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HEMDAT YAMIM

חֵמְדַּת יָמִימִים

PARASHAT HASHAVUAH

Shoftim, Elul 7, 5772

Choose Your Fear

Harav Shaul Yisraeli – based on Siach Shaul, pp. 518-9

“[The king] shall read from [his personal *sefer Torah*] all the days of his life, so that he shall learn to fear Hashem” (Devarim 17:19). There is no amount of time after which we can say that we have learned enough Torah. It requires a concentration of all our time – all our life – no less. Study of how to fear Hashem is a course that requires a lifetime, not just for people on a low level, but even for people on the highest level.

There are two types of fear, both of which appear in our *parasha*: one is desirable, the other is undesirable. The fear of Hashem that comes with study of Torah throughout life is obviously desirable. Later on we read about the man “who is fearful and has a soft heart,” who has to “go and return to his house” (ibid. 20:8), instead of taking part in the nation’s battle. Just as one has to toil to create the desirable fear, so must one toil to rid himself of the undesirable fear. Furthermore, the two fears are opposed and contradictory – when one possesses the proper fear, it destroys the improper one.

Yeshaya asks: “Who are you that you fear a person who is destined to die?” (Yeshaya 51:12). Fear is present not only at times of war but even in times of peace. Most of our actions and our energies are actually motivated by mundane fears. We are afraid of what we will have to eat tomorrow and into the future. It seems to be the work of the Satan that a person wants to make shoes that will last him for seven years when he is not sure that he will live more than seven days, so that the Satan can then laugh at us. We are afraid of those who are far away from us and those who are close to us, lest they encroach on our space and take that which we were wanted for ourselves. Why do we work so hard for things that we do not need but are there just to glorify us, such as nice clothes and fancy drapes? All that hard work, which is motivated by a fear of what others will think, is a fear of people who are destined to die.

The Torah teaches us not to bow to pressure, but to realize what it means to be a free person. The Torah says about the king: “He shall learn to fear Hashem,” and the Rabbis point out that this is referring to the king who has no one above him other than Hashem (Horiyot 11a). Let us remember that, in essence, all of Israel are the sons of kings (Bava Metzia 113b). If someone lacks fear of Hashem then he will have the fear of every leaf that falls off the tree. Only the significant, positive fear will straighten our spine; lowering our posture before Hashem can straighten our stature when it comes to other people.

The soldier who is fearful and soft of heart, say Chazal, is “one who is fearful because of the sins in his hand” (Mishna, Sota 8:5). This is the one who ‘shoots arrows up at Hashem,’ and kicks with a callous heart everything that is holy and pure, with the chutzpa of one who says that he has no Master. He does not know that when he denies his one Master, he is really creating for himself hundreds of thousands of human masters to fear.

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Ask the Rabbi

by Rav Daniel Mann

Question: There is no local *minyan* where I can *daven* and still get to work on time. Can I travel to the area of my job to *daven* there with a *minyan*, considering that the Shulchan Aruch (Orach Chayim 89:3) says that one is not allowed to travel before *davening*? Could it be that it is better to *daven* without a *minyan* before traveling?

Answer: There are a few things that one is to avoid before *davening*. The main ones are eating, drinking, doing work, traveling (ibid.), and greeting people (ibid. 2). Each one has its rules and exceptions, either because of need (e.g., someone is weak) or because a certain activity is not a significant activity (e.g., drinking water). It seems, though, that regarding traveling, the rule is intrinsically more limited. If we understood the prohibition too broadly, the *halachot* would end up being inconsistent, as we shall explain.

How bad is to travel before *davening*? If one has two *shuls* in town, there is a preference to go to the one that is farther away so that he can get reward for the extra traveling (Mishna Berura 90:37). Furthermore, consider the following. If one has a shul within eighteen minutes from his house, he is expected to go there to *daven* with a *minyan*, but he is not required to do so if it is farther away than that (Shulchan Aruch, OC 90:16). We have never heard that, if the *shul* is more than eighteen minutes away, it is required or even preferable to *daven* at home because of the prohibition to travel before *davening*. So it would seem that your traveling to *shul*, even if in a different town or part of town, is permitted.

One might claim that there is a distinction: it is fine to travel if the point of the traveling is to go to *shul*, but if the traveling is intended to get to the place one wants to go, just that there is also a *shul* there, then it is a problem. If so, we would have to consider how to categorize our case. On one hand, you need to travel to the area irrespective of *davening*. On the other hand, the reason that you would travel at that time is in order to get a *minyan*.

One can ostensibly prove that in this complex scenario, the traveling is not a problem. We mentioned that one only has to travel eighteen minutes to be able to *daven* with a *minyan*. However, if the *minyan* is located along a path one is traveling anyway, then he has to travel up to 72 minutes for the *minyan* (ibid.). So we see that an hour-plus of traveling before *davening* is preferable to *davening* first without a *minyan*, even though one is traveling along a route that is necessary for his personal, non-*davening* purposes. According to Ohr L'tziyon (II:7:6) one might be able to deflect the proof, as he says that the problem of traveling is only for trips of more than 72 minutes. However, assuming your commute is less than that, he would permit and likely require you to travel to the *minyan* in any case.

Therefore, our analysis indicates that traveling to another area before *Shacharit* so that one will be able to join a *minyan* is permitted and proper even if that is not the only reason he is traveling. This is also the practice of many.

The only authoritative source we found on a similar case is the Shevet Halevi (VIII:19). He discusses a case where one can *daven* with a *minyan* near his home, but he is concerned that if he travels later, he will have significantly more traffic. In that case, he recommends first reciting *Birchot Hashachar* before traveling, as the Rama (OC 89:3) brings an opinion that the prohibition on travel does not apply after doing so. Although the Rama says that it is "good to act stringently in the matter," the Shevet Halevi reasons that one can be lenient in a case of need. In our case, the ability to *daven* with a *minyan* would certainly be a valid need. While we argued that in our case (where there is no option of a *minyan* before traveling), one should be able to be lenient on fundamental grounds, it does not hurt to recite *Birchot Hashachar* before going, and, therefore, there is a slight preference to do so.

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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Missing Something Because It Will Return

(condensed from Ein Ayah, Berachot 9:123)

Gemara: Rav said: The deceased is not forgotten from the heart until twelve months go by, as the *pasuk* says: "I was forgotten from the heart like a dead person; I was like a lost utensil" (Tehillim 31:13). (Rashi- the halacha is that we do not assume that one gives up hope to recover his lost object until twelve months go by).

Ein Ayah: Anything that is, in general, entrenched in the heart must have a foundation in the world, from the perspective of the past, present, and future. If death represented irretrievable damage, then it would not have been human nature for the wound in the heart of the surviving loved ones to be so deep. If one has a cherished utensil that has been lost, he does not give up on it right away because that would make it less likely for him to make the efforts that could bring to his finding it. Similarly, if there were no way of recovering the deceased, the strong memory would not linger on as long as it does. Thus the twelve months it takes for the deceased to be forgotten from the heart is a sign that there is a way to get back the deceased.

However, the way for the deceased to return is distant, and we have little experience with it. It requires Hashem to "open up the graves" (see Yechezkel 37:13) so that resurrection can occur. Because this eventuality exists, the loss does not have permanence in the heart but resembles, in a couple of ways, a utensil that one still hopes to retrieve. The object is lost to its owner but remains in the world. Secondly, even after a person does give up hope of finding it, it is still possible to find it. Nothing fundamental changes after twelve months, as we know that, generations later, treasures are dug up from different eras. So too, the state of one's mind that continues to long for the lost loved one proves that there is hope of fulfillment of the *pasuk*: "Your dead will live, your corpse will arise" (Yeshaya 26:19).

The Appearance of Lack of Order

(condensed from Ein Ayah, Berachot 9:125)

Gemara: On thunder, lightning, and strong winds, one makes the blessing: "Blessed ... whose power fills the world."

Ein Ayah: When a person looks at the existence of the world, he will find it to be good and proper, with everything being in the right place. The beauty of order demonstrates that Hashem put things in order with His wisdom, goodness, and grandeur. The sun, when it appears on the horizon in all its splendor, the stars as they shine in their constellations, and the moon, which proceeds so majestically, all make life more pleasant for those who notice them.

However, sometimes natural sights and sounds (e.g., thunder, lightning, and great winds) disturb the soul and give a feeling of dread and lack of order. A person should realize that he sees only a small portion of the creation. All of the wonderful, orderly things that he does see, full of the light of life that bring him enjoyment, should suffice for him. The sights and sounds that are upsetting are related to the fact that he is able to perceive only a small amount in comparison to the great extent of Hashem's presence in the world. He should realize upon experiencing these phenomena and express within the blessing that in His world, that which looks out of place and upsetting is actually part of a wonderful picture, deserving of our highest regard.

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P'ninat Mishpat

Access to a Sold but Illegal Storage Area

(condensed from Hemdat Mishpat, rulings of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) lives in an apartment building in which the defendant (=def) owns one floor of commercial establishments and an underground parking lot. Pl bought a large storage room from def, located among the parking places, which she uses for clothes that she sells out of her house. At the time of the sale, the parking lot was open to the public, and this enabled pl to have deliveries made to the storage room. Now, def has closed off the parking lot and has told pl that if she wants to have vehicles enter, she has to rent a parking space. Def argues that pl cannot have rights to allow unloading of deliveries because the area of her storage room is slated by the municipality for parking and not for commercial storage. Def acknowledges that when they sold the area to pl, the area already had walls and a door that made its presumed use that of a storage room, not a parking space.

Ruling: From a legal perspective, one must distinguish between rights between pl in relation to the public and between pl in relation to def. The erection of a structure against the law does not generally provide the 'owner' with rights in it, since the authorities do not have to allow it to remain. On the other hand, in respect to the relationship between the seller and buyer of the illegal structure, the seller cannot withhold rights from the buyer based on the claim that the buyer does not have legal rights. After all, the seller received payment for the structure despite the legal limitations, and, therefore, he has to give it over appropriately, from his perspective, as if it were the sale of a legal structure. Thus, pl's rights are not more limited, in relation to def, than that of a 'legal' buyer. The question is: does one who buys an area, for which he must traverse through the seller's area, receive rights just for traversal by foot or even with vehicles.

Rabbi Akiva and the Chachamim dispute (Bava Batra 64a) cases where there is a doubt as to what rights the buyer received, including a case where someone bought a water hole in the midst of his friend's field. Rabbi Akiva said that he bought the right to go in freely to take the water. The Chachamim state that he has to buy rights to a path to the hole because it was not included in the sale of the hole. The gemara (ibid. 64b) explains that they disagree on whether one who sells something is assumed to sell with 'a generous eye' or not. The Shulchan Aruch (Choshen Mishpat 214:1) rules that we assume that one sells with a generous eye. What that means in each case depends on the particulars of what is bought (see Shut Torah Chayim I, 31).

In our case, where the storage room was fitting and appropriate for commercial use, this should be assumed to extend to delivery by vehicle. If def wants to claim that the permission was limited to access by foot only, he has to prove this.

Thus, the ruling is that pl must be given access for delivery by automobiles.

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