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PARASHAT HASHAVUA

Ki Tavo, 18 Elul 5773

“Your Nation Are All Righteous”

Harav Yosef Carmel

In this week's *haftara*, we find a famous and optimistic appraisal of our nation, which deserves a look as to what brings us such praise and what needs to be done to maintain it. “Your nation are all righteous; forever they will inherit the land” (Yeshaya 60:21). We will also look at it in connection with the once again, unfortunately, relevant issue of Anti-Semitic opposition to *brit mila*.

This phenomenon reminds us of another famous *pasuk* – this one, from the end of *Parashat Ki Teitzei*: “Remember what Amalek did to you ... he attacked from behind the *necheshalim* (stragglers)” (Devarim 25:17-18). There are two approaches in *Chazal* (Medrash Tannaim) as to who these stragglers were: those who strayed from the path of Hashem and were not under the protection of the divine cloud; those who had reservations about Hashem's providence. The Tanchuma (Ki Teitzei 14) is more specific about the latter group and what befell them: Amalek would cut off the foreskins or Israel and throw them up to the sky, while saying: “Here is what you chose.”

There are two important lessons to learn from these statements of *Chazal*: 1) The commandment to fight Amalek stems from the attack they made against Jews who were spiritually weak. 2) Whoever is not included in the *mitzva* of *mila* separates himself from the “divine cloud” – the protection of the Divine Presence.

Thank G-d, the great majority of the Jewish community circumcises its baby boys. Even those who do not educate their children to consistently follow all the laws of the Torah do not want to give up the merit of being a full-fledged member of the Nation of Israel – *Bnei Brit* (Sons of the Covenant). The *mitzva* of *mila* has special significance as far as our covenantal connection with Hashem. This covenant is not just hinged on the individual's proper actions: “the covenant of the fathers does not cease.” On the eighth day of a child's life, well before he is able to choose between good and bad deeds, he joins the community begun by Avraham, which gives a person a special status about which the *navi* says: “Your nation are all righteous.” Opponents of *brit mila* are thus opponents of our right to have this special connection to Hashem (It is not surprising that leaders in this area, in the past and the present, are Germans.)

The Zohar (Vol. I, Lech Lecha 93a) wonders about this *pasuk*: Isn't it clear that many Jews are not righteous and in fact violate the Torah's prohibitions regularly? Its answer is that still they have special merit in that they take part in a special sacrifice, which, when circumcising their children, makes them be able to be called righteous.

There is another element to *mila*. It is a reminder of the need for limits in relations between the genders, without which a basic Jewish lifestyle cannot exist. It is not surprising that many of the curses mentioned in our *parasha* (see Devarim 27:15-26) refer to those who violate rules in this area. In our days, when the boundaries in these areas are being broken in a dangerous way, strengthening the *mitzva* of *mila* is more important than ever. Let us pray that opponents will fail and we will continue to live by the legacy of “your nation are all righteous.”

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Ask the Rabbi

by Rav Daniel Mann

Priorities in Last Minute *Shacharit* for Women

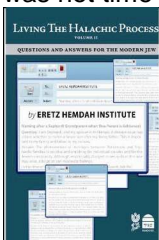
Question: During vacation, my teenage daughter is willing to get up to *daven* by *sof z'man tefilla* (the end of the proper time for *Shemoneh Esrei*), but she does not always leave enough time to say everything and still get to *Shemoneh Esrei* on time. What should she do?

Answer: We will leave the educational part of the question to you and address the halachic elements.

All agree that women are obligated in *tefilla* (Berachot 20b). There is a minority opinion that it is enough for them to minimally fulfill the Torah obligation by making any request of Hashem during the day (see Magen Avraham 106:2). However, most assume that there is a rabbinic obligation that mirrors a man's core obligation, which requires saying *Shemoneh Esrei*, at least at *Shacharit* (Mishna Berura 106:4). According to the approach that the woman's obligation is patterned after the man's, she too should recite *Shemoneh Esrei* by the end of the fourth hour (a third of daylight), although, if need be, she can do so until astronomical midday, as a man can (see Halichot Bat Yisrael 2:11). Because of the opinions that women have a lesser obligation, it is not uncommon for women to be more lenient.

Women are, strictly speaking, exempt from reciting *Kri'at Shema*, which is a time-based *mitzva* (Berachot 21b), but it is recommended that they make a point of accepting the principles of faith included therein by reciting at least part of it (Shulchan Aruch, Orach Chayim 70:1). Opinions range greatly regarding *Birkot Kri'at Shema* for women. Since they are not required to say *Kri'at Shema*, they ostensibly should not be required to say "their *berachot*" either, and this is the Magen Avraham's (70:1) opinion. On the other hand, these *berachot* possess an element of *tefilla*, as we see from the fact that they are recited after *sof z'man Kri'at Shema*, as long as it is still the time of *tefilla* (see Shut Harashba 1:69; Shulchan Aruch, OC 58:6). There are opinions that not only is a woman not required to recite *Birkot Kri'at Shema*, but that for Sephardim, who generally say that women may not voluntarily recite a *beracha* on a *mitzva* they are exempt from (see Shulchan Aruch and Rama, OC 17:2), they may not do so here either. Some say that the rule that Sephardi women may not voluntarily recite a *beracha* does not apply here because the problem is generally the word "*v'tzivanu*" (He commanded us), which is not recited here or in general regarding *berachot* of praise (see Ohr L'tzion II:6:10). This seems to be the more prevalent *minhag*. On other hand, Rav O. Yosef (Yabia Omer II, OC 6) says that Sephardi women may not recite *Birkot Kri'at Shema* or even *P'sukei D'zimra* with Hashem's Name.

While women (certainly, Ashkenazi ones) are encouraged to recite as much of *davening* as they can, the aforementioned opinions are important in helping to set priorities. *P'sukei D'zimra* and *Kri'at Shema* and its *berachot* should not be cause that *Shemoneh Esrei* not be said by its proper time (even though the severity of that time is less than it is for men – see Halichot Bat Yisrael 2:11). The next most important thing is *Emet V'yatziv*, which contains the *mitzva* of mentioning the Exodus from Egypt, which women are likely to be obligated in (Magen Avraham 70:1) and finishes with "*ga'al Yisrael*," which is an important introduction into *Shemoneh Esrei* (Berachot 9b). Since saying at least the beginning of *Shema* does not take much time, that should precede *Emet V'yatziv* despite a woman's technical exemption. The next priority is *P'sukei D'zimra*, at least a shortened version, which would be at least *Ashrei*, and, if possible, *Baruch She'amar* and *Yishtabach*, as it is possible that women are obligated in it (see Mishna Berura 70:2). If there is more time, a full *Kri'at Shema* and its *berachot* would be appropriate, followed by a longer *P'sukei D'zimra* (see Halichot Bat Yisrael 2:(7)). *Birkot Hashachar* can be said after *davening* and after *z'man tefilla* if there was not time to recite them before, but one should try to recite *Birkot Hatorah* before (see Halichot Bat Yisrael 2:6).



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Ein Ayah

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

The Sanctity of the Torah is Linked to the Nation in the Land

(condensed from Ein Ayah, Berachot 9:326-7)

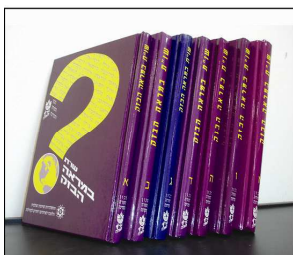
Gemara: When Chananya the nephew of R. Yehoshua left for the Diaspora, he would set leap years and decide on new months. [The Rabbis of *Eretz Yisrael*] sent two scholars, Rabbi Yossi ben Kipper and the grandson of Zecharia ben Kabutal, [to protest this practice]. When Chananya saw them, he asked: "Why did you come?" They answered: "We came to study Torah." Chananya announced about them: "These men are leaders of the generation, and their forefathers served in the *Beit Hamikdash*." They started [discussing Torah]. Chananya ruled that something was impure, and they ruled it was pure. He would say something was forbidden, and they would say it was permitted. Chananya announced about them: "These are men of falsehood and void." They said to him: "You have already built; you are not able to undo. You have already erected fences; you cannot dismantle them." [Chananya asked them why they were arguing for no apparent reason]. They said to him: "Because you are setting leap years and deciding on new months outside of *Eretz Yisrael*." He said to them: "Didn't Akiva, son of Yosef, do that?" They said to him: "Leave Rabbi Akiva out of it, for he left no peers in *Eretz Yisrael*."

Ein Ayah: Every detail of Torah is sacred. Praiseworthy is one who is careful to perform each of them precisely and with love, and woe onto one who disregards even one detail of a "light" *mitzva*. However, the root of the sanctity of individual details must be recognizable because details branch out from the *klal* (all-encompassing precepts). The *klal* upon which all the Torah rests is the existence of Hashem's nation with all its characteristics and its completeness, and this is possible only in *Eretz Yisrael*.

The sanctity of time is the basic foundation of the fulfillment of the Torah and its principles. Showing that the Torah is eternal and that it rules over time, whereas time does not rule over it, needs to be done specifically in *Eretz Yisrael*. This demonstrates that it is impossible to view the Torah as a religion that is not innately linked to the purpose of causing a nation to exist and thrive. Then sanctity can flow from the *klal* to the details. In contrast, the foundation and the element of Torah that demonstrates its eternity must not be removed from the Desired Land to the Diaspora. That would give the false impression that the Torah is not linked to a nation close to Hashem in the Land He specified for them, where details draw their power and sanctity.

That is what the two scholars demonstrated to Chananya by taking the one-time measure of making fallacious halachic rulings despite the Torah's immeasurable sanctity. This demonstrated that its sanctity cannot be separated from the power of nationhood, as finds expression specifically in the Land of Israel.

It is a foundation of the Torah to know the Torah's basic purpose is to have the nation exist and flourish in *Eretz Yisrael* based on holiness and power that are a heritage of the Assembly of Yaakov. At the same time, the eternal role of the Torah and its fulfillment can never be fully linked to the Land. Even when times dictate that the nation must wander among the nations in a long and painful exile, Hashem's Torah is still with them. The major parts of the Torah can be kept in the Diaspora. If this were not so, then even if the world's greatest scholar were outside of *Eretz Yisrael*, central matters such as setting the calendar could be done abroad. In truth, though, the Torah remains functional even in the Diaspora, to a great extent because we are promised that we will ultimately return to our special Land and be there a special nation. Therefore, it must be possible for central elements of the Torah to be done outside the Land, although only in a way that it is clear that the Torah should relate to *Eretz Yisrael* as much as possible.



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Presumption of Ownership of a Sefer Torah

(based around Shut HaMaharik 70)

[We are starting a new feature in this column. We will look into a classical responsa on a topic related to matters of beit din in a condensed form, spoken through the eyes of the posek, along with very brief biographical information and references to later works who applied the rulings to their times.]

[The Maharik, Rav Yosef Kolon, was born in France in 1420 and served in several rabbinate, primarily in Italy. He died in Padua, Italy in 1480. One of the later Rishonim, he is quoted often by the Beit Yosef, especially from his work of responsa. He was influenced by the author of the Terumat Hadeshen and was the teacher of Rav Ovadia MiBartenura.]

I will respond to your request to tell you what to do about a *sefer Torah* that is under dispute between R. Yisrael and the community. First determine if it is known that the *sefer Torah* was once owned by R. Yisrael's father or someone else from whom he inherited. If so, even though the *sefer Torah* has been found in the community *shul* for a long time, the community does not have a *chazaka* (a presumption of ownership awarded to the one in whose possession or last-known ownership it is found) on it. This is because it is normal for a *sefer Torah* owner to lend it to the community to be read from publicly on a regular basis and stored there until the owner reclaims it.

I understand that you have written that a leader in the community asserts strongly that he heard from a respected person that R. Yisrael's paternal uncle donated it to the *shul*. Similarly someone testified that he heard from his saintly mother the same account. However, Rabbi Moshe (Rambam, Eidut 17:1) says that even if one heard the account of many people who are great in wisdom and fear of Hashem that they saw someone commit a sin or borrow money, he may not testify unless he saw the matter himself. This is even more so in a case where the sources are a single witness and that of a woman, whose testimony is not halachically valid even if she is as righteous as our matriarch Sarah.

Furthermore, the witnesses who relay the information are affected by the outcome of their testimony, since they are members of the community. Even if they are willing to divest of their monetary rights, this does not work regarding a *sefer Torah* because all in the community need it, unless there is another *sefer Torah* that is as precise and *kosher* as this one.

Therefore, my brothers, even though I see from your letter that you have the good intention of protecting the money of the religious needs of the community, you must be equally careful to not deprive a poor person of his money. Hashem hates stolen property that is used for religious purposes. Therefore, if he has proof that the *sefer Torah* belonged to his family and you do not find valid proof that it was donated, return it to him.

[This responsum is the basis of the Shulchan Aruch, Orach Chayim 153:20 and is cited in a ruling found in Piskei Din Rabbanim IV, pp. 183-192 regarding one who wants to claim back a *sefer Torah* which he handed over to a *shul* with the claim that it was only given for the time that the owner's brother lived there.]



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