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HEMDAT YAMIM

PARASHAT HASHAVUA

Matot, 21 Tamuz 5774

The East Bank's Big Four

Harav Yosef Carmel

The latter portions of *Sefer Bamidbar* deal significantly with the beginning of the Israelite inhabitation of the areas east of the Jordan River, including the regions of the Gilad and the Bashan (these regions are today in North West Jordan, Southern Syria and the Golan Heights). These lands were home to, in addition to the interspersed cities of Kohanim and Levi'im, significant populations of four tribes: Menashe, Binyamin, Ephrayim, and Yehuda (Reuven and Gad were to the south). Three of these tribes are mentioned together with the Gilad in Tehillim (60:9): "To me (David) is Gilad and to me is Menashe; and Ephrayim is the strength of my head; Yehuda is my lawgiver." Our claim of significant representations from these four tribes in these regions emerges from a study of several references throughout Tanach, which we will now explore.

Although the request to receive the land to the east of the Jordan was attributed to Reuven and Gad, not Menashe, the Torah tells that the result was that sections were given to half of the Tribe of Menashe, as well (Bamidbar 32:31-33). (In *Hemdat Yamim-Hebrew*, Devarim 5762 we dealt with the question of how this happened). The Chizkuni says that since Yosef, Menashe's father, caused his brothers to rip their clothes, when they believed that Binyamin was to be enslaved, their portion of the Land was "ripped" into two parts.

In *Divrei Hayamim* (I, 7:6-15) it says that sons of Binyamin married daughters of Machir, from the Tribe of Menashe, and settled in the Menashe region of the East. In *Sefer Yehoshua*, we see that the Tribe of Ephrayim received its portion in the Shomron, in the middle of the main Land of Israel, west of the Jordan. Yet, we find them appearing elsewhere. The warrior/leader Yiftach, who came from Gilad, quarreled with the members of Ephrayim, and 42,000 defeated members of Ephrayim tried to flee across the Jordan, but were trapped and killed. We see from this whole episode that there was a large contingent of Ephrayimites living in the Gilad region. In *Shmuel* (II, 18:6) we find that David fled across the Jordan to the eastern side and was pursued by his rebellious son, Avshalom. The sides waged battle in a place called the Forest of Ephrayim. This is further evidence of a serious inhabitation of Ephrayim in this region.

A final tribe we discover in this region is Yehuda. Chetzron, the oldest son of Peretz, the son of Yehuda, married the daughter of Machir, from Menashe. One of their grandchildren was Yair, who established 23 cities in the Gilad (*Divrei Hayamim* I, 2:21-22).

While most of this region is now outside the borders of the State of Israel, we should be aware that not only in Biblical times, but in the course of many more recent generations, there were active Jewish communities in these regions to the east of the Jordan and the Kinneret.

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Ask the Rabbi

by Rav Daniel Mann

Buying Land for Shemitta

Question: A group is giving the opportunity to buy agricultural land in Israel for the *Shemitta* year. Is that worthwhile?

Answer: We start with an overview of the agricultural *mitzvot* of *Shemitta* along with a brief analysis of the significance of obtaining land ownership.

The Rambam (Lo Ta'aseh 220-223) lists four such negative commandments, about: 1) working the land; 2) tending to the trees; 3) reaping the produce in the normal way; 4) harvesting fruit of the trees in the normal way. The prohibition of working the land applies even to one who does not own the land. There is a *machloket* whether there is a Torah prohibition on harvesting someone else's field (Chazon Ish, Shvi'it 12:5 is lenient; Rav Auerbach, Ma'adanei Eretz 7:4 is stringent). In any case, the reward for refraining from *aveirot* is a function of the availability of and the temptation toward the *aveira* (see Kiddushin 39b with Rashi). One who owns a distant, small piece of land is not tempted to work it. Just as we would not suggest buying a donkey and bull to refrain from plowing with them together, the above is not a reason to obtain land before *Shemitta*.

The positive *mitzvot* are more pertinent. There is a *machloket Rishonim* whether the positive state of cessation from working the land (Rambam, Aseh 135) is a function of an individual's work irrespective of ownership (Rambam Shvi'it 1:1) or whether it is a landowner's responsibility to ensure his field is not worked (Ritva, Avoda Zara 15b). A third approach holds Jews responsible to save the land from being worked, including by redeeming it from non-Jews who may work it (Netziv, Vayikra 25:4). According to the Rambam, obtaining land is not a factor in creating this positive fulfillment (one who takes a sabbatical from his job as a farm worker would fulfill the *mitzva*). According to the Ritva, buying creates an opportunity to fulfill the *mitzva*. According to the Netziv (whose opinion is considered somewhat extreme), the *mitzva* entails obtaining land that would otherwise be worked.

There is also a *mitzva* to deal properly with the fruit of one's field that were planted before *Shemitta* or grew on trees, including treating it as ownerless (Aseh 134). While according to Rav Auerbach (above), elements of this *mitzva* can also be fulfilled by non-landowners in Israel, buying a field certainly enables one to fulfill this *mitzva*.

Another gain of buying land is helping farmers keep *Shemitta* properly. Rav Kook (see his introduction to Shabbat Ha'aretz) and all other *poskim* who supported the *heter mechira*, did not do so for those who were willing and able (without extreme financial hardship) to keep the *mitzva*. This is both in order to not uproot the *mitzva* and to avoid the great halachic problems involved in the *heter mechira*. Thus, helping interested farmers survive without selling their fields to non-Jews is similar to giving *ma'ot chitim* to one who cannot afford *mehadrin* Pesach provisions or donating to improve a *mikveh* according to the request of the local rabbi. (A member of the camp that rejects the *heter mechira* would view it as saving people from sin.)

If one purchases the field at its value (including the overhead of arranging the sale), he should not use *ma'aser kesafim*, as he should not for buying an *etrog* (see Tzedaka U'mishpat 6:1). A donation (without buying land or the part of the price that is beyond the purchase's value) to an organization that helps farmers may be taken from *ma'aser* money (see *ibid.* 10).

We discovered that those who provide individuals with the land/*mitzva* opportunity include people who also plan to earn a lot of money (unfortunately, not all approbations of important rabbis relate to this element). *Baruch Hashem*, there are also those who are dedicated to helping farmers as well as providing a *mitzva* opportunity. While we will not rate groups publicly, we recommend to the wise *mitzva* consumer to check, not only the sale's authenticity, but also the appropriateness of the price per area and the number of farmers who will be benefitting from the project.

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Torah vs. Tefilla – Part I

(condensed from Ein Ayah, Shabbat 1:6)

Gemara: Rava saw that Rav Hamnuna was *davening* for a long time. Rava said: They abandon eternal life and occupy themselves with transient life. Rav Hamnuna reasoned: The time of *tefilla* is independent from the time of Torah.

Ein Ayah: The Torah gives one knowledge that flows from the springs of truth. This is eternal life, as truth is eternal. Prayer, in contrast, is not a matter of enrichment with new truths to feed the mind, but is an application of old spiritual knowledge to impact the soul. Sometimes the less pure vision excites the emotion because it is a product of material. For that reason it was permitted to use in *tefilla* descriptions of Hashem that are appropriate for the realm of emotion. Intellect does not require the deepening of the impression, just a widening of the knowledge itself. Only because the body weighs on the intellect is there a need to internalize. Because Torah relates more to eternal truths and *tefilla* relates more to the body, it is wrong to abandon Torah for the more transient *tefilla*.

Rav Hamnuna based his thesis – that the time for the two holy activities are independent – on the idea that one should learn where his heart tells him to because one's internal inclination is a reliable indicator of what will best assist his spirit. The same is true in the choice of balance between Torah and *tefilla*. The intellect is not proficient at deciding to what extent it should be sustained by pure Torah and intellect and to what extent it needs to be seasoned by emotion. Therefore, a person's inner inclination should lead him. Some people will be drawn to the treasures of the Torah, which is the mainstay of the individual and the collective. However, when he feels that at a certain time he is emotionally drawn to pour out his soul before Hashem, it is a sign that this is his most urgent need, even more than the loftier Torah. Indeed, the time for Torah and for *tefilla* are independent, even though the general rules of when *tefilla* is appropriate are set based on the needs of the community.

Torah vs. Tefilla – Part II

(condensed from Ein Ayah, Shabbat 1:7)

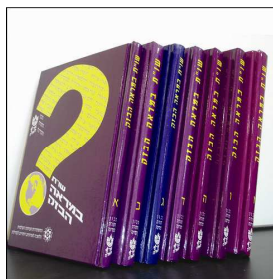
Gemara: Rav Yirmiya was sitting before Rav Zeira, and they were involved in Torah study. It was getting late to *daven*, and Rav Yirmiya was anxious to leave. Rabbi Zeira attributed the following *pasuk* to him: "He who removes his ear from hearing Torah, his *tefilla* will also be an abomination" (Mishlei 28:9).

Ein Ayah: A person is naturally drawn to holy emotions, and he requires *tefilla* to quiet, complete, and express them. However, mistakes can be made because, along with holy emotions, he has many and varied other emotions and desires for physical things. Clearly, one's desires for the physical should be guided by the rules and wisdom of Torah, which find the straight path for man, and without which he will fall into a path of destruction.

One is liable to think that regarding spiritual desires, including love of Hashem and enjoying His glory, he does not need the guidance of Torah but can allow his spirit to soar, yearn, and sing as it sees fit. If so, when the time for *tefilla* comes, he should abandon Torah and cling to *tefilla*. Therefore, Shlomo Hamelech taught us that with an abandonment of Torah, even the loftiest emotions can go beyond boundaries. That is why Rav Zeira considered it a mistake to hurry to leave the setting of Torah to go to *tefilla*. He reinforced the message that even the lofty needs to be guided by the intellect of Torah. Not only could his physical desires turn into an abomination, but even his *tefilla* could become one.

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P'ninat Mishpat

Commitment to Pay in Exchange for a Cherem

(based around Shut Beit Yitzchak, Choshen Mishpat 28)

[In the times of Chazal and beyond, there were many situations in which a person would make an oath of Torah or of Rabbinic origin. There was also a concept of accepting a cherem, whereby the one who accepts the cherem does not swear but accepts a curse of sorts upon himself if that which he asserts is false. Nowadays, batei din do not administer oaths and to the best of my knowledge, charamot are not generally used. As we see here, 140 years ago in Eastern Europe, at least one beit din was dealing with an interesting question related to the use of charamot.]

[Reuven claimed that Shimon owed Reuven's father 800 rubles, as Reuven's father announced in front of two witnesses, and now that Reuven's father has died, Reuven is to receive the money. Shimon said that he owes only 300 rubles, and that he had informed Reuven of this fact during his father's lifetime. In fact, said Shimon, if Reuven will accept a cherem denying that Shimon had told Reuven as above, he (Shimon) would pay the entire 800 rubles. They signed a document confirming the challenge and strengthened it with a kinyan sudar. The question is whether this arrangement is binding, as Shimon now wants to get out of it. The local rav/dayan posited that since a cherem is basically a form of oath, one cannot create a binding cherem on a claim that does not have intrinsic significance. Specifically, even if Reuven were to admit that Shimon had denied the oath during his father's life, that would not have exempted Shimon from paying (there was no claim that Reuven or his father had admitted that Shimon was correct). Therefore, giving credence to such a cherem is "making a condition that contradicts the Torah" law of not making valueless oaths. The local rav asked the author of Beit Yitzchak for his opinion on the matter.]

The fact that the cherem is on a point that does not have a natural impact on the case is not relevant. A sh'vuat shav (a frivolous oath), which is forbidden, exists in cases where the oath is trivial because the subject is obvious, not because it does not include a legal ramification (see Rambam, Sh'vuot 1). It is true that dayanim would never have instituted the cherem as Shimon did, but if Shimon proposed it, it is not forbidden for him to accept the cherem. Therefore, a monetary condition that is dependent on it need not be invalid.

The question is whether the conditional self-obligation Shimon accepted is an asmachta (an exceptional conditional obligation that one accepts because he does not expect the situation will transpire). One thing that makes the obligation binding is that Shimon handed over the money to a third party to be given if and when the cherem is accepted. Furthermore, this is not a full asmachta, a concept that the Ramban promotes regarding one who accepts to pay based on the testimony of a relative of one of the litigants. The Ramban says that while this acceptance contains elements of asmachta, which make a kinyan necessary, this limitation can be overcome by a regular kinyan sudar because it is not a full asmachta. The same is true in this case [where it is not a full asmachta because they just alter the rules by whose means a dispute will be decided].



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As the families of the three kidnapped and murdered boys conclude the shiva period, they begin the painful transition to life without their sons. The entire Jewish nation has shared in their pain and has had them in their thoughts during this difficult period.

We must continue to be with these families and show them that we care about them and are constantly thinking about them. The families have expressed how genuinely comforting it is to know that the entire Jewish world is impacted by the tragedy and how it has been experienced by the Jewish world together.

Therefore, an opportunity has been created for Jewish people in all parts of the world to connect to these families and show them that they care. An email has been created where those who wish to write the families may do so. The letters that are sent to the email will be delivered to the families at the end of this week. The email is lettersoflove3@gmail.com. Please indicate from where you are writing so the families can see that world Jewry cares about them. In addition, please spread this to as many people as you can in order to allow more people to be involved in this special opportunity.

**May Hashem see the tremendous love that Klal Yisroel has for each other
and turn these days of mourning in to the ultimate days of simcha.**

Tizku L'mitzvot!

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