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המדת ימים

PARASHAT HASHAVUA

Eikev, 20 Av 5774

What Is “Borrowed” of You and You?

Harav Moshe Ehrenreich

This week's *parasha* contains one of the Torah's most enigmatic *p'sukim*: “Now, Israel, what does Hashem, your G-d, ask (*shoel*) from you, but only to fear Hashem, your G-d, to follow all His ways and to love Him, and to serve Hashem, your G-d, with all your heart and all your soul, to follow the commandments of Hashem and His statutes that I am commanding you today, for your good” (Devarim 10:12-13).

The apparent incongruousness of the minimalistic opening to such a long list of demands has drawn much comment. The Midrash (Shocheh Tov, Tehillim 36) reports that Hashem questioned David for saying “One thing I ask from Hashem” and then seemingly asking for three things, to which David responded that Hashem seemed to do the same thing in our *pasuk*. *Chazal* were, in other words, bothered that the list of broad demands upon us seems to leave little left, so why is it presented as “but only”?

The Noam Elimelech posits that we have translated the word “*shoel*” incorrectly. It does not mean here to ask or demand but to borrow (see Shemot 22:13). He presents a parable to illustrate the deep meaning. Someone wanted to give a present of oil and honey to his friend, but he did not have appropriate vessels with which to transfer them, so he asked the recipient to lend him vessels in order to facilitate the gift.

The application of the parable is as follows. Hashem wants to bestow upon us the spiritual beauty of a relationship with Him, which is made possible when we serve him in the manner the *pasuk* describes. Hashem borrows us – the vessels to hold His light – in order to give that light to us as a present. This, as the *pasuk* concludes, is for our good.

The Netziv explains that the various instructions are each focused on different elements of society. The leaders of the nation – since they are liable to use their power for their own enjoyment, Hashem's warning is that they must fear Hashem and realize that despite their lofty position, there is One who is high above the high. The Torah scholars – Hashem urges them to love Hashem and to follow His path by emulating His characteristics and acting as role models. The Rambam gives specific instructions as to how a *talmid chacham* should stand out in his daily life. Those who toil for a living – the Torah urges them to make sure they busy themselves only to the extent that they still have the opportunity to fulfill all of Hashem's *mitzvot*. The children and those who join the nation – the Torah says “for your good,” i.e., they should cause the world to be good.

We pray that we will always merit leaders, political and spiritual, who are role models of how to forge a relationship with Hashem and turn each person into a vessel to hold His light.

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by Rav Daniel Mann

Eating Contests

Question: Please state your opinion on whether eating contests violate any prohibitions such as *bal tashchit*? (I am a reporter writing an article.) Is there a difference between contests of volume (e.g., tens of hot dogs in ten minutes) and of speed (e.g., eating three hot dogs fastest)?

Answer: Presumably, one with a Torah-based mindset will react negatively to such contests (with good reason). However, we do not believe in using words like “forbidden” without honestly weighing halachic issues.

We start with the issue you raised – *bal tashchit* (not destroying). This prohibition, beyond the Torah context of destroying trees, is hard to pin down. The Rambam (Melachim 6:10) describes it as applying not to wasting but to destroying things, including “*me’abed ma’achalot derech hashchata*” (destroying food in a destructive way). The stress of a destructive manner opens the door for allowing arguably wasteful usage of objects of value for such purposes as recreation (see Etz Hasadeh (Shtesman) 11:2). The fact that, after all, we are discussing eating makes it harder to claim the ingestion of the food is destructive. Rav Zilberstein (in Tzohar, 5758) claims that Rashi would consider stuffing oneself *bal tashchit*. In discussing one who is bloated eating more, the *gemara* (Yoma 80b) describes the action as “not eating” but “damaging,” and Rashi (ad loc.) says he damages the food and himself. If it is called damaging the food, it is likely *bal tashchit*. However, it would seem that since the context there is the parameters of forbidden eating (e.g., Yom Kippur, non-kosher food) and not *bal tashchit*, it is hard to know what Rashi would say in our context.

Another, related (see Rashi, Ta’anit 20b) issue is *bizuy ochlin* (disgrace of food). Halacha distinguishes between foods (see Shulchan Aruch, Orach Chayim 171:1). Most foods are disgraced only when they are soiled and made unappetizing prior to eating. It is hard to apply that to eating, even if in a not natural way. Bread, though, may not be handled disrespectfully (e.g., throwing it) even when it is unaffected. Thus, while it is hard to consider over-eating an objective *bizuy ochlin* for most foods, it is reasonable to consider stuffing bread (including hot dog buns) down one’s throat in the context of extreme over-eating forbidden situational *bizuy*.

Safety concerns are also questionable. A small number of people have died (mainly from choking) at eating contests, and it is not wonderful for one’s digestive system. We find in *Chazal* particular concern for not eating in a dangerous or even not healthy manner (speaking while eating – Ta’anit 5b; eating standing – Gittin 70a). On the other hand, in addition to our reluctance to taking stands on medical matters, we do not want to be hypocritical by outright forbidding eating contests on health grounds when so many people eat very unhealthily.

There are a few semi-halachic, semi-philosophical areas about which people can argue, but we will skip to an issue that we believe at least eating contests of volume clearly violate – *bal teshaktzu*. A secondary application of Vayikra 11:43 is that one should not put his body in a situation in which he feels disgusted. Classic examples include holding in a strong need to eliminate and eating in a manner that disgusts him (Makkot 16b). It is true that *poskim* allow such situations for certain needs (e.g., one is in public without access to a bathroom – Mishna Berura 3:17; a sick person who needs to ingest a medicine that disgusts him – see Pri Megadim, Sifte Da’at 81:3). However, the anyway dubious practice of an eating contest is not adequate justification.

Regarding an eating “sprint” of three hot dogs, we lack the expertise to determine whether contestants necessarily disgust themselves or whether fast swallowing is just a technical skill of swallowing a normal amount of food unusually fast. The food can certainly be used by the body in a normal manner. Therefore, objections to such a contest would be based more on philosophical/ethical grounds than halachic ones.

Dedicated in memory of R' Shmuel Shemesh z"l, Eretz Hemdah's Board Member, who passed away 18 Sivan, 5774



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Ein Ayah

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

Avoiding Damaging, Exaggerated Spiritually

(condensed from Ein Ayah, Shabbat 1:12)

Gemara: [After implying that the later one has his first full meal of the day, the more likely he is to be a cultured, responsible, and spiritual person, the gemara then discourages one from abstaining from eating too long.] After [the sixth hour (i.e., midday)], it is like throwing a rock into a flask. Abaye said: This was said only if he did not eat anything in the morning, but if he ate a little in the morning, it is not a problem.

Ein Ayah: Natural powers are very much in line with their ethical goals. Therefore, it is a mistake to overly limit one's physical side in favor of his spiritual side. That is why divine wisdom created a natural punishment for one who waited too long in providing the necessities of his physical needs.

It is praiseworthy to wait to eat long enough to demonstrate sensitivity to culture, ethics, needs, hard work, and spirituality [explained in the previous piece, which we did not translate]. However, any further delay is a sign of bad and skewed hatred of life and impatience regarding the efforts one has to exert throughout his life. It will then not be easy to fix that which he ruined by not sustaining his body. There are natural powers that are set with a certain boundary, and when the boundary is even indirectly crossed, the type of damage that is hard to fix sets in.

Additional delay may not cause additional damage other than general weakness and can be fixed by eating at night, unless the body is afflicted by a special disease. However, that is true when the body is following a proper natural regimen. Indeed, when one eats something during the course of the morning, it shows that the delay in having a meal does not stem from a hatred of life but from various specific factors. Under those circumstances, the "natural punishment" preventing effective remedying of the situation by eating later does not apply.

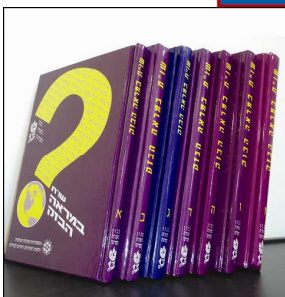
Let us look at the natural side of the phenomenon. When food enters the body, it impacts the body by awakening the digestive system. The digestive system's beginning to work is healthy for the body, as it turns food into usable sustenance for the body. If one waits too long, then neither the food nor the body will do its job properly. The food will be like a rock, which is not able to awaken the body or provide nourishment. The digestive system will not be fit to do its job and will hold that which is put in statically like a flask, which does nothing to use the rock that is placed in it. This is as opposed to the natural state, in which food comes at the right time, when there is a harmonious interaction between the food and the body in which there is no need for external pressure to unite the two. When the body is already harmed by the delay, there is a need for something external to try to create the connection. This is hinted at by the gemara's choice of the word "throwing" the rock into the flask. Natural interactions do not require harsh steps such as throwing, as "all the ways of Hashem are kindness and truth" (Tehillim 25:10).

All these problems come about when one holds back natural processes beyond that which is called for by nature and ethics. However, when one starts the process, by allowing food to begin the bodily functions, a subsequent modest delay is not problematic.

May Hashem avenge the death of the kidnapped boys
Yaakov Naftali Frenkel, Gil-Ad Michael Schaer and Eyal Yifrah o.b.m
And for all those that fell in the war for our homeland.

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P'ninat Mishpat

How to Protect "Copyright" of Torah Books

(based around Beit Yitzchak (Shmelkes), Choshen Mishpat 80)

[While intellectual property rights is a contemporary "hot topic", the matter has been discussed for centuries, including in the following responsum. We have shared some applications of our opinion on the matter with the public in *Living the Halachic Process*, vol. II, J-1 and in *Techumin*, vol. XXXII, p. 233. The responsum was written to Rav Feivel Schreir of Brodshin. The only published book of his that I have found is an annotated edition of *Ezer Mikodesh on Hilchot Gittin*.]

You assume in your letter that you can obviously forbid the reprinting of books you have published and sold, but the matter requires much contemplation. It is true that the great rabbi of Lvov [Rav Shmelkes would, years later, hold that position] writes (Shoel U'meshiv I:1:54) that an author's original Torah thoughts are his and are protected from copying even if his work does not have *haskamot* and *charamot*. [Many seforim were introduced with letters of approbation that not only praised the book/author but also declared the prohibition to steal his rights.] However, I have written in Beit Yitzchak (Yoreh Deah II;75) that when one has already taught and sold his books, we should assume he gave over his Torah broadly. Chazal tell us that Moshe was generous with his Torah, and this is the assumed approach. That is why authors procure *haskamot* to forbid others to reprint, for without one, there is no prohibition.

You are incorrect in assuming that if a publisher added something to an existing book, no one else may publish it in the same manner and that if non-Jews enforce such rules for their books, we certainly should. To the contrary, Torah is not supposed to be used for profit. Even if it is permitted to take money for teaching Torah on topics of a Rabbinical origin (see Rama, Yoreh Deah 246), that is only to be paid for effort or for refraining from engaging in other work. Permission to receive money does not mean that one creates a prohibition on others. Even regarding non-Jews, I am aware that they forbid reprinting only if the government licensed the original work.

Although those who printed the Tzelach (R. Y. Landau's 18th century masterpiece) received permission from his son, that was only to be on the safe side. The works of Rav Yaakov of Lissa were reprinted many times without his sons' permission, which allowed them to be sold at a low price.

The law of the land does apply to this matter. The Chatam Sofer (Choshen Mishpat 44) says that on a matter that benefits a group of professionals, the law of the land is binding, and this applies to authors. However, the law of the land in your place does not preclude those who live in a different country to reprint. On the other hand, there may be international cooperation on intellectual property rights. While I did not see a *haskama* in your book, I do not want to take a stand, as it is possible that there is a Torah law or a *minhag* to protect your rights.

You have asked me to forbid publishers in Warsaw from printing until they come to a *din Torah* here. However, the place of adjudication follows the defendant. While it is not clear who the defendant is (he who wants to publish or to prevent it), but it is likely that the one who initiates *beit din's* intervention is the plaintiff. Therefore, I cannot force the Warsaw publisher to come here.



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