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HEMDAT YAMIM

PARASHAT HASHAVUA

Nitzavim Vayelech, 25 Elul 5774

“All of You Before Hashem”

Harav Yosef Carmel

Our *parasha* opens with a declaration: “You are all standing (*nitzavim*) before Hashem, your G-d, today – your heads of tribes, your elders, your officers, every man in Israel. Your children, your wives, and the foreigners who are in the midst of your encampment, from your woodchoppers to your water drawers” (Devarim 29:9-10).

We have, in the past, demonstrated that the word *nitzavim* is a reference to a setting of revelation of Divine Presence and that the unity of different elements of society described there is a condition for that Presence. The idea of “all of you,” along with the widely diverse elements of society, is a sign of the importance that the Torah gives to social justice. Whatever people’s roles and status in society in general, all are equal in their ability to take part in the holy convocation with Hashem.

In many societies, the right to be involved in spiritual affairs, to learn and benefit from such experiences, was reserved for the elite within society. Here the idea is the opposite. In order for anyone to benefit from the status of the “chosen nation,” the nation has to give every member of the nation the right to be included and to open the window of spirituality before them. The leadership and the “elite” in society, mentioned in the beginning of the *pasuk*, must ensure that this is the case.

Every coin has two sides, and in this case, the opportunity afforded to all also places the yoke of responsibility upon all. The entire nation was “passed through the covenant” (ibid. 11). The covenant requires the powerful to include everyone in it and thereby create a whole nation that is responsible for the conditions of the covenant. The covenant was not limited to that generation, but all future generations were included as well – as the Torah writes, “Those who are with us here and now, and those who are not... (ibid. 13-14).

We call upon the leadership of the country who are responsible for spreading the spiritual treasures of our nation, such as the Chief Rabbis and the Minister of Education, to help all the citizens of Israel gain access to as much truth and spirituality as they possibly can. All should be invited to take part in our national legacy. This call is especially important on the doorstep of a new year. Without allowing all to taste the good we have, we will not succeed in calling all to take part in the obligations of the covenant. As Rav Kook has taught us, the love of religion and respect for it must precede the observance of the religion.

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Ask the Rabbi

by Rav Daniel Mann

Tallit and Tefillin During Selichot

Question: I say *selichot* before my normal *Shacharit minyan*. Should I put on my *tallit* and *tefillin* before *Selichot*?

Answer: Classically, people did not wear *tallit* and *tefillin* during *Selichot* – for a simple reason. The times for *Selichot* are after midnight or very early in the morning (see Shulchan Aruch, Orach Chayim 581:1), both times when one cannot put on *tefillin*. (We have written in the past about when it is preferred and permitted to recite *Selichot*.) Therefore, wearing *tallit* and *tefillin* could not be part and parcel of the *halachot* of *Selichot*, even when done after it is light in the morning. It is not proper, then, to miss some of the *Selichot* while putting them on first.

However, it is a good question whether it is a positive thing to try to have *tallit* and *tefillin* on for *Selichot* when possible. *Selichot* are a certain type of set of *tefillot* (see Rosh Hashana 17b), which overlap (especially for those who say *Yud Gimmel Middot* daily) with elements of our daily *tefilla*. Is there a connection between *tefilla* and *tallit* and *tefillin*? Let us take one at a time.

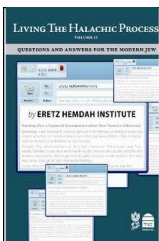
Married men wear a *tallit* at *Shacharit*. We have discussed in the past (it will soon be published in Living the Halachic Process vol. III, F-7) the reasons to wear a *tallit* at *Shacharit* considering that we already are wearing *tzitzit* and why these reasons are not important enough to have single men do so. One approach is that it is good to make sure we are wearing valid *tzitzit* (our “*tzitzit*” garment might be too small), which has special significance at *Shacharit* when we recite the Torah section on *tzitzit* (see Darchei Moshe 8:3). According to this, *Selichot*, in which we do not mention *tzitzit*, is not a time when a *tallit* is needed. Another possibility is that it is a good thing to cover one’s head with the *tallit*. According to this, perhaps there is a preference to have a *tallit* to cover one’s head during *Selichot*. On the other hand, why should this be more called for at *Selichot* than at *Mincha*, where we do not wear a *tallit*, unless we argue that since one is going to have it on for *Shacharit*, he might as well put it on prior to *Selichot*.

The Taz (OC 581:2) discusses the *minhag* for the *chazan* for *Selichot* to wear a *tallit* and the way to do it without needing a *beracha*, which one is not allowed to make at night. Since we recite the *Yud Gimmel Middot*, there is cause for the *chazan* to be properly cloaked, especially in light of the *gemara* (ibid.) that Moshe saw Hashem wrap Himself like a *chazan* when he taught Moshe how to do the *Yud Gimmel Middot*. Others discuss whether this is worthwhile, considering kabbalistic reasons not to put on *tzitzit* at night (see Beit David (Solonica) OC 9). All seem to assume that people other than the *chazan* do not wear a *tallit*. One could, on the other hand, argue that it is because of the problems of a *tallit* at night.

Shacharit is the chosen time for *tefillin* both because we need to wear them during the day in a state of cleanliness and pure thought and because they are mentioned in *Kri’at Shema* (see Berachot 14b). There is a connection, but a weak one, to *tefilla* (see Shulchan Aruch, OC 37:2). While one could say that the connection should apply to *Selichot*, we again note that it would not appear to be more important than at *Mincha* (there is an opinion that it is good to don *tefillin* at *Mincha* as well – see Be’ur Halacha 37:2, but that is clearly not common practice). Again, it is possible to argue that if we are putting *tefillin* on soon anyway, we might as well put them on for *Selichot* (as opposed to making one bring his *tefillin* with him for *Mincha* and put them on specially).

In summary, we have seen that it is not important to have *tallit* and *tefillin* on during *Selichot*. However, we raised the possibility, without succeeding to confirm or contradict, that there is some value in putting them on before *Selichot*. Therefore, whatever works practically for a person (including time and concentration considerations) is fine.

In memory of our beloved mother and grandmother
Rivka bat Yissachar Dov Schonfeld a”h on her 4th Yahrzeit on Elul 29th.
Judith Munk and family



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Ein Ayah

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

When the Sacred Should Be Supreme and When Not

(condensed from Ein Ayah, Shabbat 1:25)

Gemara: Rava bar Mechasia said, in the name of Rav Chama bar Guria, in the name of Rav: Any city in which there are roofs higher than the shul will eventually be in ruins, as the *pasuk* says: "... to exalt the house of our G-d and to restore its ruins" (Ezra 9:9). The above is true regarding houses, but regarding *kishkushei* and *avrurei* (Rashi – various towers that have only an aesthetic value) this is not an issue.

Ein Ayah: The world is supported by having the true belief system entrenched within society. One such basic belief is that the loftiest focal point of life is the sanctity of life that is dedicated to Hashem, as *Chazal* taught: "All your actions shall be for the sake of Heaven" (Avot 2:12). This type of outlook places matters connected to focusing one's life on Hashem in the highest place.

The Jewish nation's entire existence and special standing within the world as a unique nation connected to Hashem is predicated on the fact that the way we act proclaims prominently the name of Hashem. One of the clear expressions of this display of connection to Hashem is the existence of houses of prayer, which serve as miniature temples even as we live in exile. If secular matters are elevated in people's hearts so much that they are more central than our aspirations for sanctity that emanate from our covenant with Hashem, we have removed the foundation that maintains our nation's G-dly vitality and have trampled truth.

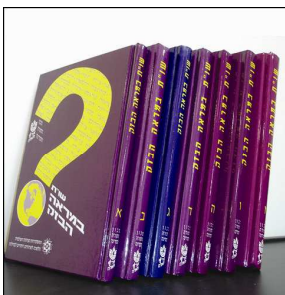
The idea that a city whose roofs are higher than its *shul* will become in ruins teaches that the goal of the *shul*, which is for service of Hashem, is the highest one in our life. People should realize that their private lives should be focused on that pursuit, which elevates every element of their lives as being molded by sanctity and justice. Things that are built, literally and figuratively, by such people will remain forever, like sanctity itself (see Sanhedrin 92a and Yeshaya 4:3).

That which shows the prominence of service of Hashem must be prominent in the right way. We should show that it is high innately, and it is not just that we enjoy externally embellishing our spiritual lives. There are nations and sects that physically glorify religious symbols from a cultural, superficial perspective. Doing so would be horribly dangerous for us, as for us sanctity must be the basis for a life of following the laws of the Torah. External embellishment, which focuses on symbols, can only have a sporadic impact. That is why when considering what must be lower than the *shuls*, we discount towers whose purposes are only aesthetic. We want to show that houses of worship are not in the same realm as those towers, and therefore it is not important if they are taller than the *shul*. The *shuls* are rather compared to houses in which one lives and functions.

The Torah is relevant to the minutest details of life. Hashem is like a doctor who prescribes a course of action that relates to every detail. It is not like some type of instructor in charge of teaching manners to youngsters.

It is dangerous to equate a *shul* to a tower made for beauty. It is true that there is a positive element of adorning our holy places. However, that is just to inspire appreciation for the matters of essence, such as loving Hashem, knowing His paths, and following His Torah. The difference between the different focuses on beauty is comparable to the difference between the taste of a food, which is nice but not crucial, and its ability to sustain a person.

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P'ninat Mishpat

Backing Out of the Sale of Wine Due to Non-Payment

(based on Shut Shoel U'Meishiv I:I:213)

[*Reuven bought from Shimon ten barrels of wine for 300 rubles. The deal was documented in writing and the two shook hands on the matter (which by accepted convention serves as a kinyan). In the course of eight days Reuven did not pay despite the fact that Shimon asked him to pay a few times a day. Finally, Shimon decided to sell the wine to Levi, who agreed to pay 40 rubles more for it. Now, Reuven is ready to pay, and the question is whether Reuven's purchase still stands, or whether it was voided due to late payment.*]

Even when a valid *kinyan* is performed, if the payment is not made right away despite the seller's repeated request, the sale is not complete (Bava Metzia 78a). On the other hand, the *gemara* says that if the seller sold something that he has an interest to get off his hands quickly, the sale is not voided even if the seller was aggressive about receiving payment. The Shvut Yaakov (II:148) says that wine is a commodity which we assume a seller feels pressure to sell quickly because of the possibility that it will begin turning into vinegar.

This appraisal of wine might be contradicted by the *gemara* (ibid. 77b), which talks about one who bought *chamra* and paid almost all its price but aggressively pursued that which was left. The *gemara* concludes that even if he pursued only the small remainder, it invalidates the sale. The question is what *chamra* is, as that Aramaic word means donkey and means wine. Rashi says it is a donkey but some others say it is wine, and according to the latter, we see that wine is treated like any other commodity, whereby the sale can be voided under the said circumstances.

However, one can deflect the proof, since the discussion there is about a case in which there is only a small amount of money that was unpaid. Under such circumstances, since very little could be returned, one would not be concerned about it starting to spoil, and the regular rules would apply to the wine even if it would not normally do so.

In any case, the Shvut Yaakov is difficult because he was talking about a case where the wine was already transferred into the buyer's barrels. In such a case we say that the buyer cannot complain about the wine souring as it is possible that his vessels caused the spoilage (see Bava Batra 97b-98a). Therefore, the seller should not be nervous about the buyer being able to back out.

In the final analysis, since the buyer did not pay and the seller was aggressively seeking payment, the seller can back out. He thus had the right to sell the wine to the second buyer.



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