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HEMDAT YAMIM

PARASHAT HASHAVUA

Yitro, 18 Shvat 5775

A Decision on a Different Plane by a Nation Fit for It

Harav Shaul Yisraeli – based on Siach Shaul, p. 239-241

As the Ramban (Intro. To Shemot) explains, the giving of the Torah is the climax of *Sefer Shemot*. Indeed it was the event for which Hashem did the exodus, as the *pasuk* says: "... when you take the nation out of Egypt, you shall serve Hashem on this mountain" (Shemot 3:12). This was the completion of the liberation, which gives perspective to the envisioned process of enslavement and liberation which Hashem foretold Avraham at the Brit Bein Habetarim.

Everything having to do with Israel develops in an unconventional and fantastic way. That is the way the nation was born and the way we received the Torah, the blueprint for our national lives as an independent nation in its land. We became a nation in the difficult exile of Egypt (Devarim 26:5), as slaves, unlike other nations who become a nation while living in their own land in tranquility.

We were destined to remain unusual throughout our national existence, and this is part of the meaning of the description as an *am segula*. As the Seforno explains, while every human being, who is created in Hashem's *tzelem* (roughly, form), is special to Him, Bnei Yisrael was chosen to be special among the nations. He appointed us as a "kingdom of priests and a holy nation" (Shemot 19:5), and we required the Torah to plot a path for this special task.

The young nation was still without a land and without a state – a group of nomads in the desert, alternating between "they traveled" and "they encamped." They were divorced from a normal existence, eating bread that fell from the sky and drinking water that was extracted from a rock. What did they know about the land in which they were to live as a nation? What experience did they have in agriculture which they needed to develop? What did they know about the economic and strategic challenges awaiting them? Under such conditions, how could they accept to take off every Shabbat from work, or one year out of seven, or forgo repayment of loans under certain conditions?

For the nation that left Egypt, these questions did not exist! They arrived at Sinai "like one man with one heart" (see *ibid.* 19:1-2, with *Mechilta*, Yitro 1). They settled "under the mountain," ready for the coercion represented by *Chazal* by a mountain held over their heads. They were taught by their traumatic past that they would always exist beyond any natural order. Even if they were ostensibly free and independent, they were always dependent on Hashem's miracles. The rules of nature did not dictate what they needed in order to survive. Rather, the decree that they would live and be maintained as a nation dictated what elements of nature would remain normal and which would be altered.

How appropriate was it that *Chazal* picked up on the words, "On this day they came to the Sinai Desert," as opposed to "on that day." We learn that we should view every new day like the one on which the Torah was first given (*Tanchuma*, Yitro 7). The words of Torah do not become old. We are not under the rule of time in the standard way, but we impact life. The Torah is nourished by the spring of eternity. This is how we too should view the Torah that we have.

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by Rav Daniel Mann

Beracha on a Newly Renovated Home

Question: If I did major renovations in my home, do I recite *Shehecheyanu* on it?


Answer: The *mishna* (Berachot 54a) says that one who builds a new house or buys new “utensils” recites *Shehecheyanu*. While the *gemara* (ibid. 59b-60a) cites an opinion that this *beracha* is only for the first such acquisition, which would exclude the possibility of a *beracha* on renovations, we follow the opinion that it applies even if one built a second house (Shulchan Aruch, Orach Chayim 223:3).

But are renovations comparable to a new house? The *gemara* in Sota (*mishna*, 43a; *gemara*, 44a) discusses the halacha that one who builds a new house that he has not inaugurated returns from the battlefield. The first opinion identifies building projects on his property that do not qualify as building a house. Rabbi Yehuda says that even if one rebuilds the house on its previous site, he does not return from battle. However, the *gemara* posits that extending the house's height does qualify. The Mishna Berura (223:12) says that this serves as a halachic precedent for *Shehecheyanu* as well. Contemporary *poskim* (see Halichot Shlomo 23:14 in the name of Rav S.Z. Auerbach and V'zot Haberacha, p. 166 in the name of Rav M. Eliyahu) assume the same is true for any significant extension of the house, even without acquiring new land. However, renovations that do not include expansion, but just improvement of the house's appearance or functionality, are not comparable to building or buying and do not warrant a *beracha* (ibid.). The time for the *beracha* is when the new area is ready to be used, which coincides with the time for attaching a *mezuza* (V'zot Haberacha ibid.). (We are not relating to the new furniture that often accompanies renovations, which itself likely warrants a *beracha*.)

A few factors could raise questions about the *beracha*. The first is that there is a *minhag* cited by several Sephardi *poskim* to not make a *beracha* on a new house. It is hard to determine this *minhag's* exact origin, reason, and extent. The Pri Megadim (223, Mishbetzot Zahav 4), who is Ashkenazi, suggests that there is a *minhag* to not make *Shehecheyanu* on clothes and utensils, and he suggests that these people must rely on the opinion that *Shehecheyanu* for such events is merely optional. The Ben Ish Chai (I, R'ei 5-6) is not impressed by this logic, but he confirms the *minhag* concerning a new house. He recommends solving the problem by following a different *minhag*. One makes a *chanukat habayit* upon entering the house, at which point he wears a new garment and recites *Shehecheyanu* with intention for the house in addition to the garment. I do not know if there is such a *minhag* of a *chanukat habayit* for renovations. However, those who want to follow the *minhag*, as opposed to the established halacha to make the *beracha* (Yalkut Yosef 223:2 and Birkat Hashem 2:57 do not believe the *minhag* should uproot it), can solve the issue with a new garment.

Rav Chayim Palagi and the Kaf Hachayim (OC 223:18) say that one who bought a house on credit does not make a *beracha* because of the trouble he may have paying up and the possibility he might have to return it to the seller. Besides the strong questions on the basic opinion (see Birkat Hashem 2:(250)), the situation is uncommon regarding renovations, as even one who takes loans for that purpose rarely is nervous about his ability to pay, and the renovations will not be “returned”.

Is *Shehecheyanu* the correct *beracha*? The rule is that for acquisitions that benefit more than one person, *Shehecheyanu* is replaced by *Hatov V'hameitiv* (Shulchan Aruch, ibid. 5). The *gemara* talks about buying a house with a partner, but this also applies to family members (see Shulchan Aruch ibid. and Be'ur Halacha to 223:3). If there is a question of doubt between the two *berachot*, *Shehecheyanu* is the safer one, as it can work even when *Hatov V'hameitiv* is appropriate (Be'ur Halacha to 223:5). This is apparent from those (including above) who suggest using the *beracha* on new clothes to cover the *beracha* on a new house.



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Ein Ayah

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

Joy and Pleasure

(condensed from Ein Ayah, Shabbat 1:76-77)

Gemara: Hillel said to Shamai: “Why is it that [you rule that] we are to harvest grapes in purity and not olives in purity?” Shamai answered: “If you give me a hard time, I will decree impurity even on the harvest of olives.”

Ein Ayah: The foundation of the laws of purity is primarily in regard to the Temple, as the Rambam wrote in Moreh Nevuchim (III:47) that this elevates the value of the Temple, entrenching in the souls that it is the center of the lives of the nation and the individual.

The enjoyments of life can be broken into two: *simcha* (joy) and *ta’anug* (pleasure). The classic substance that brings joy is wine, as the *pasuk* says: “Wine brings joy to the heart of man” (Tehillim 104:15). The classic substance that brings pleasure is oil, as the Rabbis say that smearing oil is like drinking, based on the *pasuk*: “Like oil in his bones” (ibid. 109:18). Applying oil brings a softening and an indulging feeling of pleasure. This is why its use is especially prominent for kings, like the six months for the women brought before King Achashveirosh (see Esther 2:13; Shabbat 111a).

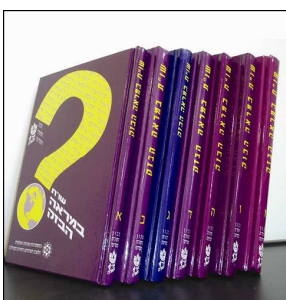
One cannot expect a whole nation to be pious to the extent that all their joy and pleasure will involve pure vessels. This is not just because of the tendency toward lowly materialism but because of the special level that the Temple must occupy. In order to sanctify Israel from amongst the nations, our holy Rabbis decided to entrench in our hearts the idea that acts of enjoyment should be only for *mitzvot*. In general, a Jew’s nature should be to not get carried away with playing and dancing just for empty fun like the nations do. In contrast, pleasure, such as eating and drinking, is something the nation will not be on a level to limit to the context of *mitzvot*.

Why should there be a difference between these two natural experiences, and why then should dealing with wine have to be in purity [according to Shamai]? It is possible to expect the wine of joy to be only for a high purpose but not that oil of pleasure will be such for the masses. One might think that the Torah should not make its yoke too heavy and not impose laws of purity on the harvest of grapes. By extension, Hillel suggested that man has too much tendency toward desiring exuberant joy to limit it for those who do not find extreme joy in spirituality.

However, [Shamai responded] that if Hillel would give him a hard time, he would extend the decree to oil. There is a big difference between joy and pleasure. Pleasure is limited to the body that receives it. It is feasible to direct every individual to a high level of sanctity. However, joy expresses itself specifically in the presence of many people, in which case there is good reason to want to keep that setting a holy one. If one equates the experiences of joy and pleasure and suggests that neither require purity, then he will not see the difference between Israel and the other nations or between regular days and sacred days. In that case, he will not see the dangers of wine and other alcoholic beverages, or of silliness. If so, there is logic to raise the limitations on pleasure to that which will specifically bring sanctity and other good things.

There is a big difference between the two matters. The public as a unit can reach the level of not engaging in frivolous activities like the nations in public outside the context of *mitzvot*. On joy we put limitations, on pleasure not (see Shabbat 62b). Joy is a power of the spirit. When it is applied nicely, with purity and sanctity, it can bring him to such a level that an individual will choose to use even his pleasures in the same way and to also harvest olives in purity.

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P'ninat Mishpat

A Guarantor on a Loan/Investment

(based on Shoel U'meishiv II:IV:114)

Case: Reuven gave money to Shimon to use for business, with the plan to share profits according to the terms of a normal *heter iska*. Based on the *heter iska*, some of the money was given as an interest-free loan and some was given for Shimon to deal with on behalf of Reuven, so that Shimon would give set envisioned profits to Reuven unless he could demonstrate that there were less profits than expected. Levi signed as an *arev* (guarantor), so that if Shimon did not pay according to the agreement, Levi would pay Reuven in Shimon's place. The question arose whether Levi was responsible only for the principal of the loan/investment, or for the profits as well.

Ruling: The Shach (Choshen Mishpat 129:12) rules that the *arvut* in relation to the obligation from profits is like one who becomes an *arev* at a time other than the time the money is lent, which is binding only if a special *kinyan* is made. The K'tzot Hachoshen (129:2) argues, saying that since the money of the profits was accrued on behalf of the investor, it is considered his money, so that the *arev* is like one who becomes an *arev* at the time it is considered principal. The sharp-thinking *dayan*, R. Chayim Yosef Ellinberg, raised the following issue. Since it is unknown whether Shimon will earn money from the investment, how can Levi obligate himself to something unknown, as such a commitment is equivalent to accepting *arev* status not at the time of the loan? However, this idea is incorrect because, if and when there is profit, at the time that the profit enters Shimon's possession and Levi has not rescinded his willingness to be an *arev*, it is considered becoming an *arev* at the time of loan.

I have discussed in my *sefer* *Yad Shaul* the statement of the Rashba, which can be understood as referring to the *arev* obligating himself on future profits. I wrote that the Rashba should be understood regarding past profits, whereas once the profits are realized, it is considered binding. It is surprising that the Shach did not cite this opinion of the Rashba.

The aforementioned K'tzot Hachoshen says that the *arev* becomes obligated when the profit is known. Rav Ellinberg deduced from this that in a case where the *arev* does not know if there was profit, he should be like a potentially obligated person who claims that he does not know if he ever became obligated. Such a person is indeed exempt even if the plaintiff presents a definite claim. However, it is a mistake to view the claims from the perspective of the *arev* (Levi) but from the perspective of the recipient (Shimon), as Levi is obligated to pay whenever it is that Shimon is deemed obligated to pay. We cannot say that Shimon himself is able to say that he is unsure whether there was gain because according to the terms of the *heter iska*, he has to swear that indeed there was no profit.



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