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דִּינֵּתָן Parashat HaShavua

Haazinu, 13 Tishrei 5776

Societal Improvement, Clouds, and Canopies

Harav Yosef Carmel

In our *d'var Torah* for Yom Kippur, we dealt with the *mishna* (Taanit 4:8) about the women going out to be seen by the men on Tu B'Av and Yom Kippur in simple white garments so as not to embarrass those of lesser means. We claimed that the men also went out in white clothes for the same reason and that in general a major focus of the day was on matters between man and his fellow man. Part of the idea was that in this merit, the *Kohen Gadol*, who was also dressed in white on this day, would succeed in bringing atonement. After all, atonement on Yom Kippur is conditional on fixing our sins between man and man. Our thesis also explains why the *mishna* includes words in the masculine grammatical form in that context.

Now we want to put the ideas behind that *mishna* in the context of Sukkot. The women would urge the men to not notice physical beauty but to consider such things as the family in which the young woman grew up. They cited the *pasuk*: "Charm is false, and beauty is void of meaning; a woman who is G-d-fearing should be praised" (Mishlei 31:30). They also cited the *pasuk* in Shir Hashirim (3:11) about seeing the crown of King Shlomo which his mother made for him on the day of his marriage (referring to the giving of the Torah) and the day of his heart's happiness (referring to the building of the *Beit Hamikdash*).

Let us apply the matter as follows. On Yom Kippur, we cast aside physical needs and focus on fixing society. On *Sukkot*, we abandon another basic physical need – the house which brings us stability and security – and go out to live in the *sukka*. This helps us receive forgiveness and atonement, represented by the possibility to dwell in the proximity of the Divine Presence.

The idea of the *Kohen Gadol* entering the place of the cloud (see Vayikra 16:2), in the Holy of Holies on Yom Kippur, has a broader application on *Sukkot*. It is not just the *Kohen Gadol* who enters the *sukka* and the shade of Hashem that it represents. The idea of unity that arises on *Sukkot* (e.g., the motifs of *lulav* and *etrog*, the idea of sharing one *sukka*) is something that facilitates the presence of the Divine Presence in the *Mikdash* throughout the year. This unity was also critical in the giving of the Torah, which occurred when the people became "like one person with one heart" (Rashi, Shemot 19:2).

As the *mishna* equates the two, the individual equivalent to the national giving of the Torah and building of the *Mikdash* is one's wedding. In the meeting place to encourage Jewish marriages, people reminded each other that the idea behind marriage is building a relationship that is based on fear of Hashem. That is the idea of "if [the couple] succeeds, the Divine Presence will be between them."

We want to relive the days of meriting special clouds – like the ones that hovered over the tents of the patriarchs and matriarchs and those that their offspring merited in the desert. We want a taste of the clouds that were in the *Beit Hamikdash* during its inauguration and those that were seen every Yom Kippur. The *sukka*, which reminds us of the enveloping cloud, represents all of these ideas. As we wish each young couple, we hope that these clouds of glory will enrich and accompany the couple wherever they go.

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by Rav Daniel Mann

Obtaining *Arba'ah Minim* for the *Sukkot* after *Shemitta*

Question: How does the consumer approach buying a *lulav* and *etrog* set this year?

Answer: *Lulav* – Classically, it is edible produce that has *kedushat shvi'it* (sanctity of *Shemitta*- see below), as the *pasuk* says “The resting of the land shall be for you for eating” (*Vayikra* 25:6). However the *gemara* (*Sukka* 40a) derives from “for you” that branches that are intended for a use in which the benefit comes before they are destroyed (*hana'ato u'buro shaveh*), also have *kedushat shvi'it*. This is as opposed to wood for burning, where the wood burns before one enjoys its heat. The *gemara* implies that *lulav* has *kedushat shvi'it*, and some *Rishonim* (see *Rashi*, ad loc.) explain that it is because it is sometimes used as a broom. Others (see *Ran*, ad loc.) say that it does not have *kedusha*. Since people no longer use palm branches for brooms or the like, we posit that a *lulav* does not have *kedushat shvi'it* (*Minchat Shlomo* I:51.23).

Hadasim – Much of the above analysis applies to *hadasim*, which can be used for their fragrance. Practically, the assumption is that *hadasim* too are not cultivated for this purpose, and use for the *mitzva* of *arba'ah minim* is not considered worldly benefit, which would create *kedushat shvi'it*.

Aravot – Not only are they not a food, but *aravot* do not have any benefit that could be cause for *kedushat shvi'it*.

While it is possible to discuss whether these three *minim* could become forbidden if they were grown in violation of *Shemitta*, the practical and/or halachic assumptions are that there are no restrictions in obtaining them this year.

Etrog – An *etrog*, as an edible fruit, certainly has *kedushat shvi'it*, if it is a product of the *Shemitta* year. There is significant discussion from the *Tana'im* to our day, whether an *etrog*'s status follows the time of its budding (*chanata*), like other fruits, or its harvest (*l'kita*) because it is watered similarly to vegetables (*Kiddushin* 3a). According to the latter opinion, if an *etrog* was picked off the tree after *Rosh Hashana*, it would not have *kedushat shvi'it*. While the *Rambam* (*Shvi'it* 4:12) follows *l'kita*, many (or most – see *Shabbat Ha'aretz* 4:12) say it follows when it grows. While last year extra care was taken to harvest *etrogim* before *Shemitta*, we assume that an *etrog* that grew during *Shemitta* has *kedushat shvi'it* even if it was harvested after *Rosh Hashana*.

The main complication regarding an *etrog* with *kedushat shvi'it* is paying for it, especially that we do not want the sanctity of *Shemitta* to be transferred to the money paid for it (a broad topic beyond our scope). (Consumers do not weigh *etrogim*, so that is not a problem). There are three basic, valid approaches to deal with this issue. One is to buy the *etrog b'havla'ah*, i.e., the price of the *etrog* is swallowed up (even if it is more expensive) by being combined with the price of another commodity, perhaps one of the other *minim*. The *mishna* (*Sukka* 39a) actually talks about buying a *lulav* and getting the *etrog* along with it as a present.

Those who rely on the *heter mechira* can do so regarding an *etrog* as well, if there is a *hashgacha* that confirms that the given orchard was indeed sold. The *otzar beit din* system is fine for an *etrog* as well. Under this system, a *beit din* (rabbinical court) supervises the handling of the orchard and sets the price of the fruit according to the cost of expenses (including permitted labor), not according to the fruit's value to the consumer. While it is best, according to this system, for all *etrogim* to have the same price, there are legitimate leniencies to allow the *beit din* to follow a selection process according to quality and attach different prices to the categories (see *Shemitta* (*Burstein*), p. 424)). After *Sukkot*, one should either eat the *etrog*, make jam from it, or dispose of it in the way he does for *kedushat shvi'it* produce.

One should always buy an *etrog* with rabbinical confirmation of its validity. This year, how *Shemitta* was handled becomes a major component.



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Ein Ayah

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

Who Is Rich?

(condensed from Ein Ayah, Shabbat 2:70-72)

Gemara: Our Rabbis learned: Who is rich? Whoever has *nachat* (a good feeling) from his wealth – these are the words of Rabbi Meir. Rabbi Tarfon says: He who has 100 vineyards, 100 fields, and 100 servants. Rabbi Akiva says: Whoever has a wife whose actions are pleasing.

Ein Ayah:

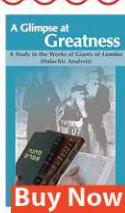
Regarding Rabbi Meir's statement (2:70) – Because all people run after wealth based on the inner inclination that most people have, it is necessary to define the true concept of wealth. Why does that phenomenon exist in the world? The very existence of riches is a cause of a broadening of the mind and a calmness of the spirit. These allow one to deal with intellectual matters – with Torah and wisdom and all good things. So the real purpose of wealth is the calmness of the spirit that it brings. Therefore, if the wealth causes a person to have confusion, concerns, and a lack of concentration for his spirit, then the point of the wealth is lost. After all, the goal of the riches is the spiritual state, not the riches in and of themselves. [That is why *nachat* is the true measure of wealth.]

Regarding Rabbi Tarfon's statement (2:71) – There is another goal of wealth besides the impact on one's calmness. It is good for people to desire wealth for the purpose of the welfare of society as a whole. When there is a central source of resources, many people can benefit from associating with the possessor of the riches and by working for him. It is good for a person to have an inclination toward being the one who acts and influences others and benefits the masses through his wealth. That is why Hashem put this tendency into mankind. However, then the wealth should be arranged in a way that others are indeed able to benefit. Rabbi Tarfon's example is that this happens through many vineyards, fields, and servants. In contrast, one who accumulates a lot of gold and silver and places them in storehouses does not create the type of goodness for which wealth was intended.

Regarding Rabbi Akiva's statement (2:72) – It is possible to explain a person's natural desire for wealth even in regard to things that are not classically owned by a person but relate to him in a less absolute manner. This expansion of the inclination toward seeking wealth is worthwhile because it can cause a person to try to bring to himself things that are of real value.

One such "acquisition" is having a good wife, whose value exceeds that of fine pearls (see Mishlei 31:10). Since a person's desire for valuable acquisitions is engrained within him, the desire was expanded further than its original goal. However, it is best if a person can limit the desire to that which is of value at its root, in other words where it brings real benefit and not just imagined benefit, and causes true, not fake results. [Such an example is a wife with good actions.]

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P'ninat Mishpat

What to Do with Abandoned Jewelry

(based on Shut Chatam Sofer, Choshen Mishpat 122)

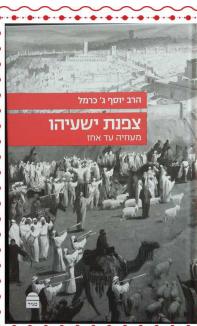
Case: A long time ago a young woman (Sarah) hired herself out as a housekeeper at Reuven's house. She placed gold jewelry by him as a guarantee that she would do the job, but she did not arrive on the job or reclaim the jewelry. Reuven wants to know what the moral thing to do with this jewelry is. Some people in town claim that Reuven did not act properly. They claim that Sarah wanted to back out of the employment, and Reuven refused and withheld the jewelry, and that he is inquiring out of embarrassment (as a worker is allowed to quit a job, and it is wrong to withhold a poor woman's jewelry). They claim he is a thief whose obligation to return the object is pressing.

Ruling: Actually, if Sarah left the jewelry in the context of Reuven trying to stop her from quitting, then we actually can assume that she was *mochelet* (relinquished her rights) to receive them back. Although usually not claiming one's property that is being watched or that is collateral in someone else's possession is not a sign of *mechilla*, it is different if Sarah asked for them and Reuven refused. If this occurred in a place where she could have easily gone to complain in *beit din* or to someone else and she did not do so, we can assume *mechilla*.

One should not claim that even if there was *mechilla*, it was *b'taut* (based on mistaken notions), i.e., perhaps Sarah thought that Reuven had a right to keep the jewelry as collateral when she did not keep her commitment. This is because even when one can back out, it is not always moral to do so, and therefore it is reasonable to appease Reuven by allowing him to keep the jewelry. In that way she would be protecting her professional reputation. Therefore, while there could have been *ta'ut*, we will not assume it without further indication (see Tosafot, Bava Metzia 67a).

If the above were not the circumstances of Sarah's behavior, we need to consider the possibility that she did not come for her things because she died, in which case ownership would have been transferred to her inheritors. The Shach (Choshen Mishpat 285:7) brings an opinion that if the identity of the inheritor is not known, one takes the property away from the one holding it and gives it to a special guardian. However, this opinion is incorrect, especially when we did not know during her lifetime who her relatives are. We treat the situation as one where no one has a personal claim, even though theoretically one can come forward. Therefore, the possessor can do what he wants with the property, just that it is an act of piety to do something that can bring merit to the deceased.

However, it is not likely that she died and is more likely that she was prevented by circumstances from assuming her position. If so, she did nothing wrong and deserves, from legal and moral perspectives, her jewelry back. Since she may not know this, Reuven has to make serious efforts to return the jewelry to Sarah like any other lost object. Nowadays, we can accomplish this by putting an advertisement in a newspaper. Assuming there is nothing special about the jewelry, it is best to have them evaluated and then rent them out so that their value will not be lost to their owner in the meantime. Although one can argue with this suggestion, since there is some logic to say that Reuven can keep the jewelry, it is certainly reasonable to rent them out in a way that Sarah may end up gaining.



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