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Parashat HaShavua

Vayeitzei, 7 Kislev 5778

Beit El is the Place

Harav Yosef Carmel

The Torah tells us that Yaakov spent a momentous night in the *makom* (place) (Bereishit 28:11). A few years ago, we explained that this word, especially when it also appears with the word *shem* (name), refers to a Divine Presence at the place. So what special place was it at which Yaakov had his dream and revelation?

Targum Yonatan says that it was the place of the *Beit Hamikdash*, and Rashi follows, saying that it was Mt. Moriah, about which the Torah writes earlier: "[Avraham] saw the *makom* from a distance." Chizkuni explains the words, "from the stones of the *makom*," from the stones of the altar on which Yitzchak was bound. Ba'al Haturim says that the mention of *makom* three times in one *pasuk* is a hint at the three times a year that the population would go for the *regalim* (pilgrim holidays). In contrast, the Rashbam and Radak say that this *makom* was a non-descript place.

Ibn Ezra reasons that since Yaakov named the site Beit El (Bereishit 28:19) and since Hashem told Yaakov upon return from Aram to make an altar in Beit El to the G-d who appeared to him when he was fleeing Eisav (Bereishit 35:1) that the *makom* was Beit El. Another indication is that, in alluding to the life of Yaakov, the prophet Hoshea (12:4-5) mentions Hashem speaking "to us" (Hoshea and Amos) in Beit El in a way that indicates that this was a place where He had spoken prominently in the past.

Let us try to put the Ibn Ezra's approach in perspective. According to the Targum, Rashi, the Chizkuni, and the Ba'al Haturim, the Temple Mount was set aside as a special place of worship of Hashem already from the time of the forefathers. Ibn Ezra teaches us that even though Beit El, not Yerushalayim, was a central place at the time of the forefathers, once Yerushalayim was chosen at the time of David, all other places were disqualified from the service of sacrifices.

When Yeravam split from the House of David, even though David had been chosen for generations, Yeravam also disputed the choice of Yerushalayim as the center of service of Hashem. For that reason, he established an alternative site in, of all places, Beit El. The true prophets of the time came out strongly against this action of Yeravam, starting with the "man of G-d" who Chazal identified as Ido Hanavi (see Melachim I, ch. 12-13). Eliyahu later struggled against Chiel of Beit El, who was apparently a high-level "religious" leader in Beit El, who drew the people toward the service of the Ba'al (Melachim I, ch. 16-17). Amos also struggled with Amatzia of Beit El (see Amos 7:7-17). The aforementioned *p'sukim* in Hoshea connect between the history of Yaakov and the prominence of Beit El, which according to Ibn Ezra, was part of the criticism of the problematic religious establishment of Beit El.

Let us pray that the connection of all segments of our nation with Yerushalayim will grow and strengthen. Yerushalayim has the power to unify all of *Am Yisrael*.

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Ask the Rabbi

by Rav Daniel Mann

To What Does *Havdala* Relate?

Question: This is more of a philosophical than halachic question, but is *Havdala* a *mitzva* of Shabbat or a *mitzva* of *chol* (weekday)?

Answer: The Rambam (Shabbat 29:1; Sefer Hamitzvot, Aseh 155) is clear on the matter, as he views *Kiddush* and *Havdala* as equivalent “bookends”: “It is a positive *mitzva* from the Torah to sanctify Shabbat with words, as it says, “Remember the day of Shabbat to sanctify it” (Shemot 20:7); in other words, remember it as a remembrance of praise and sanctification. One needs to remember it as it enters and as it leaves: as it enters with *Kiddush*, and as it leaves with *Havdala*.”

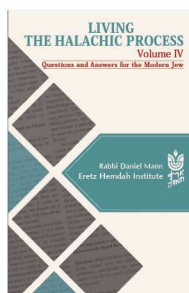
Yet, there are notable distinctions between *Kiddush* and *Havdala*. *Kiddush* is done on Shabbat; *Havdala* is done after Shabbat. *Kiddush* focuses on Shabbat alone; *Havdala* distinguishes between Shabbat and *chol*. Indeed, one *gemara* (Sh’vuot 18b) seems to put the focus of *Havdala* on the distinction between Shabbat and *chol*, rather than viewing it as an appropriate time to praise Shabbat. It cites the *pasuk*, “To distinguish between the sacred and the mundane” (Vayikra 10:10) as the source for *Havdala*. One can also argue that *Havdala* is a way to usher in the weekday, as Shabbat continues (on some level) until *Havdala* ends it (see Tosafot, Berachot 27b).

Perhaps, whether *Havdala* relates more to Shabbat or to *chol* is the basis of a practical question, which *Rishonim* dispute (both opinions are cited in the Shulchan Aruch/Rama, Orach Chayim 296:8) – are women obligated in *Havdala*? Women are obligated in *Kiddush* of Shabbat. Even though it is a time-based *mitzva*, the positive (*zachor*) and negative (*shamor*) *mitzvot* of Shabbat are linked so that whoever is commanded to refrain from *melacha* is obligated in *Kiddush* (Berachot 20b). If *Havdala* is part of *zachor*, as the Rambam indicates, women can be obligated from the Torah in *Havdala*, or even if *Havdala* is of Rabbinic origin, *Chazal* could have modeled it after *Kiddush* (Maggid Mishneh, Shabbat 29:1). The Orchot Chayim (Havdala 18) says that women are exempt from *Havdala* because it is not linked to the negative element of Shabbat, as the Rabbis only artificially connected it to that *pasuk*. The Pri Megadim (MZ 296:7) adds on to the Orchot Chayim’s argument that *Havdala* is done on *chol*, and therefore it is missing the Shabbat linkage.

One could read into this approach that women are exempt from *Havdala* because it is a *mitzva* of *chol*. The *mitzva* could be to allow *melacha* on *chol*, as it is prohibited to do *melacha* (all or some – see opinions in Shulchan Aruch, OC 299:10) before a declaration of *Havdala* (even without wine). However, that seems overstated. The Orchot Chayim probably just means that the *chiddush* that women are obligated in *Kiddush* despite it being time-based does not extend to *Havdala* because *Havdala* is not as connected to “*zachor-shamor*” as *Kiddush* is. All seem to agree that the main point is to stress, as *chol* begins, how special Shabbat is. Why then is *melacha* forbidden? One possibility is that until *Havdala*, it is still, on some level, Shabbat (Mishna Berura 299:33). Another possibility is that one is not allowed to go about normal life before he has fulfilled the *mitzva* of parting from Shabbat (see Aruch Hashulchan, Tzitz Eliezer XI:34).

Another telling point is the *gemara* (Berachot 27b) that seems to say (so rules the Shulchan Aruch, OC 293:3) that *Havdala* can be made on Shabbat (from *plag hamincha*). Rav Moshe Feinstein (Igrot Moshe, OC IV:49) says that this is because the Rambam is right that *Havdala* is a *mitzva* of Shabbat, even if we usually do it after Shabbat is over. This proof seems refutable (in addition to the fact that early *Havdala* is only for unusual circumstances) as follows. We find elsewhere that *mitzvot* that relate to the night can be done (at least according to some opinions) from *plag hamincha*. Therefore, a declaration of ushering in *chol* can begin then, even if *melacha* will certainly be forbidden until nightfall.

Unquestionably, though, the Rambam’s approach, that it is a *mitzva* of Shabbat, is the most straightforward and accepted one.



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Ein Ayah

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

Misusing the Negative

(condensed from Ein Ayah, Shabbat 5:69)

Gemara: Rav Yehuda said in the name of Rav: When David said to Mefiboshet, "You and Tziva [*who spoke false lashon hara about Mefiboshet, alleging lack of loyalty to David*] will divide the field," a heavenly voice emerged, saying: "Rechavam and Yeravam will divide the kingdom."

Ein Ayah: The general preparations for leadership have to include all of the human powers, even those that are very bad and difficult. The leadership will be successful only when the dangerous powers are used in a manner that is for the good. If the person develops a tendency toward being impacted too much by the negative power, then the leadership will not develop correctly. By necessity, the broad gamut of powers will include those that have elements of weakness and damage, which can interfere with many important areas of physical and spiritual life.

If and when this occurs, there becomes a need to divide the apparatus. In that way, each section of the nation will develop with a unique style that prevents a certain power from being an obstacle for that section's vulnerability, as seen through past problems.

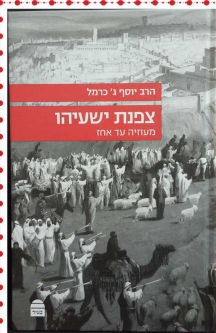
It was necessary for powers that are connected to evil for the individual to be present in the great and broad spirit of the offspring of Yishai, which is the source of the Davidic dynasty. When all was well, it was not necessary for there to be a division – as long as those powers did not exceed their proper boundaries. However, once it went even one step beyond the point of safety, the general spirit of the national leadership was already susceptible to spiritual disease by means of which certain powers had negative effects on certain groups. In fact, many necessary powers are generally what *Chazal* call "a life-giving drug for those who 'go to the right' and a deadly poison for those who 'go to the left.'"

There are two sides to the internal and external national leadership. There is a side of sanctity, which is related to Bnei Yisrael's status as Hashem's kingdom and a kingdom of *kohanim*, whose foundation is rooted in the Davidic kingdom. There is also a more general universal element of leadership with developed political considerations, as applies to all nations. At a time of completeness, both elements stem from one source and are closely connected, and there is neither contradiction nor danger from the interaction of the two elements. This is because the kingdom of the House of David was so broad and complete that even the most negative power could be used for a good purpose and with godly sanctity that can elevate everything.

Such a basic negative power is accepting *lashon hara*. However, once accepting *lashon hara* was abused [by punishing Mefiboshet without his being guilty of anything] by even a small degree beyond the proper limits, the contradictory part of negative powers surfaced. This was a major problem for a kingdom that was supposed to combine both the sacred and the mundane, with each one having many forms and styles. The differences between the two continued to be more and more at odds with each other. Finally, there was a need to fix matters for the sake of the future, and Hashem decided to make the painful split between the different parts of the kingdom. The tension that led to this began already from the time that David decided to accept Tziva's slanderous description of Mefiboshet's behavior. As a result, the divine voice announced the future splitting of the kingdom of Israel.

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Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Not Hiring Someone After Causing Him to Quit Job – part I

(based on ruling 76077 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) worked in a senior position in a store and wanted to switch jobs to work at the defendant's (=def) store in the same field. After general agreement on salary (10,500 shekels a month) and other conditions (including use of a company car), def asked pl to start working on Jan, 1, 2016. In order to not anger his present employer, from whom he hoped to receive severance pay, pl agreed to stay on a little longer. Def pressured pl to give him a set day, and pl met with his employer and they decided on Feb. 1; this gave def only a few days warning. Def was going abroad but started a process of having pl meet workers and take a graphology test, and he started working on a contract, but the process stalled, and def decided not to hire pl. It took pl a few months to find another job, in a different field with similar pay but worse conditions. He is suing for lost income and future earning power (he reduced his claim to 33,000 shekels on technical grounds). Def claims that he rejected pl because pl made a bad impression on several workers by improper actions, which confirmed the graphologist's warning. He never formally hired pl, as they did not sign a contract, and so pl was silly to quit his previous job. In any case, he could have fired pl with minimal notice.

Ruling: The first question is whether def has responsibility to pay for not following through with his stated intention to hire pl. Even if one only asked a worker to work and he did not start, if he would have been working for someone else if not for the offer and now he cannot find a replacement job, he has to pay (Shulchan Aruch, Choshen Mishpat 333:1-2). According to most, this is a special type of damage payment (see S'ma 333:8; K'tzot Hachoshen 333:2). However, this is only when there was full agreement that he would be working, which def denies existed here.

In *beit din*, def stated that even though he wanted pl to meet the staff and take a graphology to meet him, the job offer was final. The graphologist was needed to determine which position he should be given. Although there was a disagreement as to which branch of the chain pl would work at (pl did not want to work near his old employer) and his exact job description, these were not deal-breakers. Contrary to def's claims, there is no law of the land and certainly no halacha that a commitment cannot be complete without a contract.

Def pressured pl to bring his employment to its final stages, and it is unreasonable to expect him to receive an exact date for leaving while maintaining the ability to stay on. Def said that he did not want to make things fully final before the contract was made and did not want to waste 750 shekels for a lawyer to draft it before he made final preparations. However, it is unreasonable to have pl give up a stable job before his assurance is final. It is also possible that having pl come to get to know other workers was considered the beginning of work, which also obligates def.

Next time we will see how to determine the amount of pay.

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