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HEMDAT YAMIM

Parashat HaShavua

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Fighting a Dangerous Foe – *Chillul Hashem*

Harav Yosef Carmel

The laws of *chillul Hashem* (avoiding desecrating Hashem's Name, which comes in several different forms) hold an important place in our spiritual world. Being careful about them overcomes a lot of other concerns. One source that highlights the seriousness of *chillul Hashem* is: "Any place where there is a *chillul Hashem*, we do not give honor to the teacher." (Note that in the context of that quote in Sanhedrin, the teacher whose honor was pushed aside was none other than *Moshe Rabbeinu*.)

The matter of *chillul Hashem* plays a role in several of the *parshiyot* read this time of year (Ki Tisa, Pekudei, Parah), as we will explain. First in Ki Tisa, after the sin of the Golden Calf, Moshe went up to the mountain and tried to undo the harsh divine judgment against Bnei Yisrael. Moshe argued: "Why should Egypt say: 'He took them out in a situation of evil to kill them in the mountains and to destroy them from off the face of the land'? Return from Your anger and back away from the evil to Your nation" (Shemot 32:12). In other words, if Hashem would destroy Bnei Yisrael, it would be a *chillul Hashem*.

The *haftara* of *Parashat Para* bemoans a different example of *chillul Hashem*. Due to Bnei Yisrael's sins, the nation will be scattered throughout the Diaspora. When their situation is recognized and internalized by the nations, "They will desecrate My Name, as [other nations] will say about them, 'They are the nation of Hashem, and they left His Land.'" Only when they return to the Land will Hashem's Name be sanctified once more. (Yechezkel 39:16-20). Rashi points out, from one of the uses of singular in these *p'sukim*, that Hashem listens to the captors saying that Hashem had no ability to save them. This, of course, is a tremendous *chillul Hashem*.

In this week's *parasha*, we see a serious attempt to eliminate *chillul Hashem*. The Torah gives an exact listing of the gold, silver, etc. that the leaders accumulated in preparing to make the *Mishkan*. Rabbeinu Bachyei explains that Moshe gave an exact accounting so that people would not claim that more was received and syphoned off before being given to the *Mishkan* workers to use. The *midrash* (Shemot Rabba 51:1) attaches this account to a *pasuk* in Mishlei and points out that just as it is important to do what one needs to do in relation to Hashem, so must he fulfill his obligations in relation to, and in the eyes of, people. This is along the lines of the *halacha* that one who went into the office that held the *Mikdash* funds had to go in with no pockets or wallets so that no one would claim that he took coins. This is as the *p'sukim* instruct: "You shall be clean in regard to Hashem and in regard to Israel" (Bamidbar 32:22), and "He shall find grace and good judgment in the eyes of Hashem and man" (Mishlei 3:4).

We have learned that a leader, whether a spiritual or a political one, has to be very careful about *chillul Hashem*, which can occur when there are suspicions of impropriety against him. Let us be careful to sanctify Hashem's Name and merit the fulfillment mentioned in the *haftara* we cited: "They will say, 'This land that was desolate will be like the Garden of Eden,' and the desolate and destroyed cities will be inhabited when they are reinforced" (Yechezkel 36:35).

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Ask the Rabbi

by Rav Daniel Mann

Davening Late with a Minyan

Question: I went for Shabbat for a family *simcha* to a community with one *shul*, which started *tefilla* at 10:00 AM, after *sot z'man tefilla*. Was it better to *daven* with a *minyan* or by myself at the right time?

Answer: There is a *machloket Tannaim* (Berachot 26a) whether the last time to *daven Shacharit* is *chatzot* (astronomical midday) or the end of four "proportional hours," some two hours before. The earlier opinion is accepted (ibid. 27a). Only if one failed to *daven* by that time may he *b'di'eved daven* until *chatzot* (Shulchan Aruch, Orach Chayim 89:1). Thus the *tefilla* was not *bizmana* (at its time).

Tefilla bizmana is important enough to trump several *tefilla* preferences. The Shulchan Aruch (OC 90:10) discusses the prohibition to recite *Shemoneh Esrei* in *shul* before the *tzibbur* does. However, if the *tzibbur* will not be getting up to *Shemoneh Esrei bizmana*, one should go ahead of them. (If he can, he should do so outside *shul*—Mishna Berura ad loc. 36.) This ruling assumes not only that *davening bizmana* overcomes the problem of *davening* before the *tzibbur*, but that *davening* without a *minyan* at the right time is preferable to *davening* with a *minyan* not *bizmana*. There is an opinion (Leket Hakemach (Katz) 89:11) that the Shulchan Aruch refers to a case where they are before *chatzot*, after which one cannot *daven* at all, but that it is better to *daven* with a *minyan* after the fourth hour than alone *bizmana*. However, that is a difficult reading, and the accepted ruling is that *tefilla* before the end of the fourth hour is preferable to a *minyan* (see Mishna Berura 46:32; Ishei Yisrael 13:10; Tefilla K'hilchata 3:(80)).

How important is it to follow this preference? Does waiting cause special problems? If one did not recite *Kri'at Shema bizmana* (by the end of the third hour), he recites it with its *berachot* during the next hour (Shulchan Aruch, OC 58:6). There is a *machloket* whether this applies after the fourth hour. The Rambam (Kri'at Shema 1:13) says that the *berachot* can be recited with *Kri'at Shema* all day; the Rosh (Berachot 1:10) allows the *berachot* only during the fourth hour, when the full effect of *tefilla* is present. The Shulchan Aruch (ibid.) rules like the Rosh. On the other hand, the Biur Halacha cites some *Acharonim* who accept the Rambam's opinion, particularly if the delay was due to extenuating circumstances (see Living the Halachic Process, I:A-9).

One might argue that on Shabbat the matter is much more problematic. The *gemara's* (Berachot 26a) discussion of *davening* after *zman* and *davening tashlumin* (a make-up for a missed *tefilla* during the next *tefilla* period) can be read to equate the two. *Tashlumin* is not done if one purposely, without an excuse, missed the *tefilla* (Shulchan Aruch, OC 108:7), and if one wants to make it up, the make-up *Shemoneh Esrei* must be done as a *nedava* (voluntary *tefilla*). Combining the two, some say that one who purposely waited to do *Shacharit* until after the fourth hour should intend that if a later *Shacharit* it is not called for, it should be a *nedava* (Mishna Berura 89:6). Since *tefillot nedava* cannot be done on Shabbat (Shulchan Aruch, OC 107:1), one could argue that it is forbidden to purposely *daven Shacharit* on Shabbat after the fourth hour. However, this is apparently not true. The main opinion allows *davening* until *chatzot* even when the conditions for *tashlumin* are missing – the idea of intending for a *nedava* if necessary was just a stringency when possible (Ishei Yisrael 13:(15)). Secondly, in this case, you and others *davening* at that time believed it was okay, and one who misses a *tefilla* by mistake can do *tashlumin* (Shulchan Aruch, OC 108:1).

All things being equal, it would have been better for you to *daven* on time without a *minyan*. However, if one lives in a place where the best thing for the community is believed to be to have a late *Shacharit*, one should respect that decision and take part. Likewise, a guest who has a reasonable chance of insulting the host if he does not *daven* with the *shul* also has grounds to follow the *tzibbur*.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.

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The cover of the book "Living the Halachic Process Volume IV: Questions and Answers for the Modern Jew" by Rabbi Daniel Mann. It features a geometric design with triangles in shades of blue and green.	<p>We are happy to present our fourth volume of "Living the Halachic Process".</p> <p>The book offers a compilation of questions and answers from our "Ask the Rabbi" project.</p> <p>Sources for the answers can be downloaded from our website.</p> <p>Special price for Hemdat Yamim readers: \$20</p>
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Ein Ayah

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

The Spiritual Complexity of a “Land-Based” Spirituality

(condensed from Ein Ayah, Shabbat 9:4)

Gemara: R. Chanina ben Akavia said: Why did they say that the boats of the Jordan River are impure? It is because they are loaded on dry land and taken down to the river.

Ein Ayah: [A body of] water is pure and purifies other things; it cannot become impure. Metaphorically, water represents hidden spirituality, divine wisdom that a man’s “hand” and intellectual abilities cannot control. It is as *Chazal* say: “The fish of the sea are covered by water, and evil eye has no impact over them” (Berachot 20a).

Lofty concepts flow from the purity of divine intellect onto a worthy person through his preparing his spirit, improving his actions, thoughts, attributes, and personality so that Hashem’s spirit falls upon him from the divine blessing of the sea of Torah and wisdom. Hidden spirituality joins the spiritual side that a person is aware of, which he incorporates into his thoughts. The two types of spirituality can be compared to dry ground (open) and sea (concealed). The latter is pure and flows from the divine “wellspring,” from which man’s soul originates.

At times, man receives lofty spiritual outlooks not from their direct source but through the world of the physical senses and logic, which are represented metaphorically by the world of mundane, “dry” spirituality. He may take these outlooks into the world of “great waters.” In such a case, vigilance is crucial. Such a “boat of the Jordan River” has contact with dry land, where it is loaded. Even when it is lowered into the water, it has the characteristic of land. Then, limited human logic may meet spiritual intellect because the contents of the “boat” were loaded on land. True, it is now connected to the world of the internal and lofty divine spirit within man’s soul. There is great purity in this boat, as its foundation is built upon divine matters, which Hashem bequeathed to man’s spirit, according to man’s level of preparation to receive it, as *Chazal* said: “One who sanctifies himself below is sanctified from above (Yoma 39a). “They shall throw upon them pure water” (Yechezkel 36:25), and they will be purified.

Not Missing Sudden Inspiration

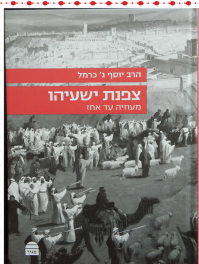
(condensed from Ein Ayah, Shabbat 9:5)

Gemara: A person should never refrain from being in the *beit midrash* (study hall) for even a moment, for this halacha [above] was learned in the *beit midrash* for many years without its reason being revealed until Rav Chanina bar Akavia came and explained it.

Ein Ayah: Some intellectual insights linger on and are available to all those in the area to deal with at any time they want. Yet, there are also “lightning bolts” that appear only at specific times, although they are products of constant diligence. It is just not obvious how they came to be when they did.

For this reason, one should not miss an opportunity to be in the *beit midrash* by reasoning that he can make up the time later. Sometimes a moment of inspiration will cause a spiritual light to be discovered, and one will not be exposed to the greatness at a different time.

As an example, the halacha about the boat of the Jordan had been known for years, but its reason had not been known. To appreciate the reason [see above] about the fact that an idea that comes from a less spiritual source can become defiled is one that could not be appreciated if it had been known all those years. It required a burst of inspiration to realize how the mundane impacts on the sacred in this context. It could be lost by one who was out of the *beit midrash* for even a short time. “Fortunate is he who listens to Me to diligently frequent My doors daily to guard the posts of My opening, for those who find Me find life, and will have Hashem’s good will” (Mishlei 8:34-5).



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

Complicated Employment Agreement – part I

(based on ruling 77021 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=p), an acquaintance of the defendant (=def1), the manager and owner of a business (=def2), told her that he could improve her revenue collection. Pl sent def1 an email stating what he would charge her: 1000 GBP (British pounds) per month – 500 to be paid immediately and 500 when the business could “afford it.” Also, he would obtain a 15% share of def2, which she could buy back whenever she wanted for 10,000 GBP. Def1 did not respond to the email, and no contract was signed, but pl started working in Nov. 2014 and started receiving 500 GBP a month. In March 2015, def1 informed pl that she was discontinuing his work. Pl asked for the 10,000 GBP buyout, agreeing to payment in twelve 750 GBP installments (i.e., he forgave 1,000 GBP). After receiving one such payment, pl agreed to delay other payments due to def2's cash flow problems, but as of January 2016, he is demanding the various back payments. Def1 raised a procedural issue about who the defendant is: she never intended to pay from her pocket, def2 never signed a document, and the payments were made by a front company created by def1's husband. Def1 claims that she did not see pl as an employee to whom she owed money, and she began paying him only to avoid acrimony. She did not respond to the pay scale email because she did not understand it, and thus she did not accept its provisions. In any case, payment should be linked to benefit from pl's services, which were never achieved; that which she already paid was more than enough for his efforts. The extra 500 GBP a month were anyway to be paid only when def2 was profitable, which it never became. Pl points out that in the meantime hundreds of thousands of GBP were paid to other workers.

Ruling: *Is def1 or def2 the defendant?* – One who spoke to a worker about employment is not always the legal employer; it is usually the one on whose behalf the work is done (see Shulchan Aruch, Choshen Mishpat 336:1). All agree that def1 presented herself as she who ran def2. Therefore, when she agreed to pay for work done for def2, the obligation naturally falls on def2. The fact that payments were not (directly) done by def2 is not relevant, as it is clear that the front company was paying on def2's behalf (they were also used for other payments). On the other hand, the 10,000 GBP to buy back rights to def2 are the responsibility of def1. Principal owners of companies buy back rights to the company; the company does not buy itself back.

Claim that pl was never hired – Employment does not have to be finalized by a contract or even by a standard act of *kinyan*; rather, beginning the work after an oral agreement is binding as a *kinyan* (Shulchan Aruch, CM 333:1). Even if def1 never asked pl to be a worker, the fact that she invited him to the office to give advice while knowing that pl understood this as an act of employment is grounds to obligate def1/2 (see Rama, CM 14:5). It is also very strange to argue that serious, ongoing work that pl did on behalf of def2 could be viewed just as a favor.

Next time we will discuss what exact compensation package is binding.

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