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HEMDAT YAMIM

Parashat HaShavua

Shemini, 23 Adar II 5779

Purity and Repentance

Rav Daniel Mann

We begin the reading of two special *maftirs* that remind Bnei Yisrael of the preparations for the upcoming central *mitzva* of the *Korban Pesach* (see Rashi, Megilla 29a). *Parashat Para* discusses the step of those who came in contact with the high level of *tumah* coming from a human corpse, who needed to purify themselves in order to bring the *Korban Pesach*. Next week's *Parashat Hachodesh* reminds people generally about the need to prepare for the *Korban Pesach* with a variety of *halachot* to keep in mind.

Obviously, it has been a very long time since we have had a *para aduma* or have had the privilege of preparing for the *Korban Pesach*. The reading of *Parashat Hachodesh*, talking about the fundamental *mitzva* of Pesach, seems like a very worthwhile endeavor even if we do not end up being able to bring the *korban*. However, the *para aduma* seems to just solve a technical problem of *tumah* for those who happen to need it in a given year. If it is anyway not going to make a difference and we do not understand the *mitzva* (see Rashi, Shemot 15:26), what point does it have?

Of course, one very straightforward answer is that we very much hope – and believe is possible – that by the time Pesach comes this year, the *Mikdash* will indeed be standing and we will be able to do the process of preparing the *para aduma* ashes to purify us and bring the *Korban Pesach*. It is also possible that we treat matters as if we are still in the time when it was practical. However, it is also worthwhile to look at philosophical elements that are as applicable today as always.

The *Akeidat Yitzchak* (Bamidbar 79) explains the *para aduma* as not being a matter just of purification from a technical problem of *tumah* from contact with the dead, but of a moral purification. He explains that the *para* (heifer) is intrinsically a pure animal, but the redness of the special *para aduma* is a representation of sin. The fact that all the hairs must be red represents that if the sin does not take over completely, the *para* can reach personal purification by means of the other colors within it. But if it is fully representative of sin, then the only means of purification is by removing it from the encampment, and, opposite the opening to the *Mikdash*, slaughtering and burning it. When the Yerushalmi (Megilla 3:5) speaks of *para aduma* being about *taharatan shel Yisrael* (the purification of Israel), this is referring to the purification of *teshuva* more than anything else.

It is, though, seemingly strange to equate the *para aduma* process with repentance. After all, unless one is a *kohen*, there is no sin in contact with a corpse. Members of a *chevra kaddisha* would need the *para aduma* ash water sprinkled on them before entering the *Mikdash* or eating a *Korban Pesach*, even though their exposure to corpses is a great *mitzva*! We have written elsewhere that *tumah* is not about sin, but about exposure to something in the physical world that experienced a loss of life-related spiritual power. A human corpse is a physical thing that is to be respected, but it lost the *neshama* (with all the spiritual potential that engenders) that was within it. Such a lowering of potential can connect with a person's inclination toward sin. Therefore, one needs to counter these dangers before proceeding to involvement in the spiritual world. This process can indeed be equated to *teshuva*. Thus, the *para aduma*!

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Ask the Rabbi

by Rav Daniel Mann

Alerting People to Stand

Question: At our *minyan*, we take a *sefer Torah* from a *beit midrash* in which people are learning and return it to there. Sometimes when we return the *sefer Torah*, someone bangs so that everyone will stand up for it. Is this necessary?

Answer: The Torah commands standing for people who deserve our respect, such as elders and scholars (Vayikra 19:32). The *gemara* (Kiddushin 33b) reasons: if one stands for Torah scholars, certainly one stands for the Torah itself. There is some question as to whether the obligation to stand for a *sefer Torah* is a Torah or a Rabbinic law (see Kima V'hidur 13:2). Either way, it is a *mitzvat aseh* to stand for a Torah when it is being moved (Shulchan Aruch, Yoreh Deah 282:2).

At what point does one become obligated in a *mitzva*, such that before that point, the obligation does not apply? The *mitzva* to stand takes effect when there is a certain proximity between the person showing the honor and the subject of his honor. For a regular *talmid chacham*, it is when he enters one's four *amot* (Kiddushin 33a). For a *sefer Torah* it is when it is within sight (Shulchan Aruch *ibid.*) in one's domain (Rama, YD 242:18). Before that point, standing is not even desired, according to several *poskim*, because it is then too early to count as a *mitzva* and when he/it gets closer, one cannot stand up because he is already standing (Shach, YD 224:6; Ben Ish Chai II, Ki Teitzei 13).

Another element is needed to activate the *mitzva*. There must be awareness that the *sefer Torah* is being moved in the room – the Rambam (Talmud Torah 6:6) writes: "one who sees ..." The *gemara* (Kiddushin 33a) says that if one closed his eyes after a *talmid chacham* came close enough as an excuse not to stand, he is a *rasha*. If he closed his eyes before he gets close enough and becomes obligated to stand, he is not as bad, but the *gemara* says he still violates the Torah's words of "*takum v'yareita*" by intentionally trying to extricate himself from the *mitzva*.

Now to your specific question – whether one should inform someone who does not know that the *sefer Torah* is in the room. One reason to do so is if one commits an *aveira* if the *sefer Torah* is in his vicinity and he is sitting. Some positive *mitzvot* provide an opportunity while others include a need to extricate oneself from a spiritually bad situation. Is it only an opportunity to stand or is being seated a bad situation that must be avoided? If the former is true, then there is no requirement to tell the person because without knowledge (or quasi-knowledge if he closed his eyes because the object was approaching) because there is not yet a *mitzva*. If there is a negative element, then while there is no personal culpability, one who knows should remove another from a bad situation (see Shulchan Aruch, YD 303:1).

Sometimes, a *mitzva* is such that one should have done the *mitzva* before the cut-off point; others times, one does the *mitzva* when (i.e., right after) the cut-off point comes. Sometimes, there is a *machloket* what the fundamental *mitzva* is (e.g., is the *mitzva* to burn *chametz* before midday of *Erev Pesach* or after – see *Minchat Chinuch* #9? Must one put on *tzitzit* before he puts the garment on (Rambam, *Tzitzit* 3:10) or after he puts it on (Tosafot, *Yevamot* 90b). The sources that it is better to stand up after the object enters one's domain imply that it is not forbidden for the object to be in one's proximity while he is sitting; we want to positively stand up even if it takes a moment to do so. If so, it is presumably unnecessary to inform one for whom the *mitzva* has not yet begun due to lack of awareness.

On the other hand, the average *shul*-goer is presumably happy to have the opportunity to perform the *mitzva* of standing, so why not tell him (Rabbeinu Mano'ach, cited by the Beit Yosef, YD 282, explains that the *sefer Torah*'s bells are designed to expand the obligation to stand). If, though, someone is better not disturbed, e.g., he is learning in the *beit midrash*, it is not worthwhile to tell him (*Halichot Shlomo* 12:(37)); if he realizes, he will get up.

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Ein Ayah

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

The Lowly People who Cannot Hold on to their Land

(condensed from Ein Ayah, Shabbat 9:11)

Gemara: Rav Acha bar Yaakov said: “Chori” – that represents that they became bereft of their property.

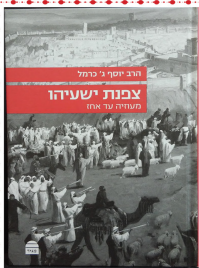
Ein Ayah: [Last time we saw how the Chorites had a special connection to the land that enabled to determine which vegetation grows best in each plot of land. While they had a high level of connection to the Land physically, they were on a low level spiritually and were only an early stage for greater people to come and build on the lower basis they had provided.]

Despite all the connection to the land and the deep understanding of the land that these families of the land possessed, they are not the foundation of keeping the land going in its complete form. Rather, they just serve as agents for the transfer of the Land to more developed people, upon whom spirituality has more impact and, in that way, the second group of people is on a higher level.

Even though the latter are not as able to be as connected to the land, it is the latter who are the “winners.” In fact, the earlier, servants of the land, are thrown out and removed from the Land, and become bereft of or “free from” their property [i.e., no longer servants and no longer with rights]. This is because “the counsel of Hashem will stand” (Tehillim 33:11), and He created man in a higher form with advantages over all other creations. It is critical that man not remain in his inability to get beyond his connection to the land alone. True, there was a need to start with such lowly people in the world, so that the proper use of the land would be reached. However, they would not be the ones to inherit the Land and give it over to the next generation. Rather, they would only provide the lower foundation, upon which the foundations of the more adorned edifice rest.

This is because as a person goes ever higher, his senses will be removed from the connection to the ground and will be ever elevated. He will feel gentle emotions until he reaches the “sanctums of Hashem” (see Tehillim 73:17), which is the highest goal. Specifically because he reached a much higher level, he will inherit the Land, as the *pasuk* says: “I will have you ride on the low places of the Land and I will let you eat from the inheritance of your father Yaakov, for the mouth of Hashem has spoken” (Yeshayahu 58:14). This is a fulfillment of the *pasuk*, “The evil person shall prepare, and the righteous person shall wear” (Iyov 27:17).

Imaginary freedom, which people connected to the material world so that they are entrenched in the land that they believe they have captured, is only the type of freedom that causes exile. In fact, their place will be given to those who will live in the Land in an ideal manner, with power and sanctity. “For Hashem will save Zion and will build the cities of Judea, and they will inhabit it and inherit it. The offspring of His servants will receive it as their lot, and those who love His Name will dwell there” (Tehillim 69: 36-7). “The wicked will be cut off from the Land, and traitors will be removed from it” (Mishlei 2:22). Flawed, lowly freedom turns into a trap for its possessors, and they will lose even the thing to which they are most connected – the Land.



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 (=pl) bought from the defendant (=def), a real estate developer, an apartment “on paper.” Their contract set, among other things, a date for receiving a completed apartment. Def missed the date by a wide margin. [Much of the p’sak deals with compensation for the buyer during the delay]. During August 2014, def sent letters to buyers indicating that the apartments would be ready soon and recommending signing up their children in local schools, which pl did. The apartment was ready only in Oct. 2015. In the meantime two of pl’s three children went to school in the new city while the family remained where they were (16 kms away). Pl demands compensation for the need to buy a second car and the price of transportation. Def argues that such damages are too indirect to obligate, that many of the claimed expenses are exaggerated, and that the legal obligations to compensate a buyer for delays at a high rate for rental is meant to cover side expenses such as these.

Ruling: The Mordechai (Sanhedrin 707, accepted by the Rama, Choshen Mishpat 14:5) says that if Reuven tells Shimon to join him in *beit din* in a distant place and Shimon goes but Reuven does not show, Reuven has to pay all of Shimon’s expenses. Most *poskim* apply this concept to a broad range of cases where one’s instructions turn out to be damaging to the one who carried them out (Pitchei Teshuva ad loc. 15).

An apparent contradiction may help set this matter’s parameters. The Rambam (Zechiya 6:24; also, Shulchan Aruch, Even Ha’ezer 50:3) rules that if a fiancé makes a customary engagement party and his fiancée breaks the engagement, she must pay for the food because she caused him to waste money. The Ra’avad (ad loc.) asks from a *gemara* (Bava Batra 93b) that if one bought defective grain and planted them with no yield, the buyer only gets back the price of the grain, not the costs of planting. The Ra’avad deduces that if the damage came from the buyer’s actions, the seller is exempt even if he encouraged it. The Maggid Mishneh (ad loc.) distinguishes that if one followed the other’s recommendation for his own planned gain, he is not entitled for compensation for the expense. In contrast, the fiancé made the party due to obligation. R. Akiva Eiger (I:134) asks from the Rosh (see Shulchan Aruch, CM 333:8) that if Reuven tells a craftsman that if he makes something he will buy it, Reuven is required to pay for it. R. Akiva Eiger distinguishes between a decision one makes based on a recommendation and one he makes based on an explicit order. No one explicitly told the buyer to plant the seeds.

The Maharik (133) rules that even if the one who acted might have suspected that the other person would not keep his promise, if the assurance was part of a relationship of agreement to cooperate, there is payment. In this case, then, when pl said explicitly that they should sign up their children in the local school and this was done within the framework of def being obligated to provide an apartment, there are grounds for payment.

Next week we will deal with the questions of whether pl’s expense claims were accurate and justified.

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