



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Shelach, 21 Sivan 5780

Judges of Eretz Yisrael / Eretz Hemdah

Harav Yosef Carmel

Dealing with the praise of *Eretz Yisrael*, which was called *Eretz Hemdah* in the context of the spies not appreciating it (Tehillim 106:24), is something that we like to do on *Parashat Shelach*. The happiness with building the Land that was desired by the patriarchs atones for the crying of our unappreciative ancestors in the desert on the tragic night after the spies' return, which made that night a night of crying for generations (Tisha B'Av).

The obligation to establish *batei din* of those who are ordained to serve as religious judges is one that singles out *Eretz Yisrael*. This is the site of the Great Rabbinical Court, the court of 23 and many simple courts of three spread throughout the Land.

What are the characteristics we demand for each *dayan*, a matter that we hammered out with the guidance of Harav Shaul Yisraeli z.t.l.? And how do they find expression in who we invite to join Eretz Hemdah's program, whose participants are trained to serve as *dayanim*?

The Rambam (Sanhedrin 2:1) writes that to be a member of a *Sanhedrin*, men need to be "smart and wise, exceptional in the wisdom of the Torah, possessing great knowledge." It is obvious that in order to be a *dayan*, one needs broad and deep knowledge of Torah, i.e., *Shas* and *poskim*. That is the reason that our program includes the study of all of *Seder Nezikin* and the *Choshen Mishpat* section of Shulchan Aruch, as well as *Seder Nashim* and the corresponding Even Ha'ezer section of the Shulchan Aruch.

However, ability to master these materials is insufficient to be fit to serve as a *dayan* in our understanding. Notice how many adjectives the Rambam (above) uses for the intellectual qualifications of the *dayan*: smart, wise, ...

In describing the investigation that a *kohen* did into a person's *tzara'at*, it twice mentions seeing within the same time frame (see Vaikra 13:3). What is the difference between the two seeings? The Meshech Chochma explains that the first one is to evaluate if the lesion is one that identifies as *tzara'at*. The second one, he argues, is to see if the person is in the situation to be declared a *metzora*. For example, if he is a new groom or if it is a holiday, it is not the opportune time to declare him impure, as it would contravene the concept that the Torah's ways "are ways of pleasantness." The *kohen* must take a good look at the person upon whom he is passing judgement.

The Meshech Chochma's idea is another reminder that book-knowledge is a condition for many things including *dayanut*, but it is not sufficient. One must turn the Torah into a Torah of life by seeing things more deeply and in additional dimensions.

The Rambam continues that the *dayan* needs to know a little about the rest of the areas of knowledge, such as medicine, mathematics, and astronomy. These too are necessary for one to have the title of *Yadin Yadin*. Furthermore, the Rambam mentions that knowing foreign languages is also valuable for the *dayan*. Nowadays, someone who is fluent in English can communicate effectively with most people in Israel who do not speak Hebrew. Since in the Rambam's time there was no such language, he was more stringent and required knowing most of the languages. In any case, a great portion of the Eretz Hemdah's *dayanim* are fluent in a language other than Hebrew and have an academic degree.

We pray that *Eretz Yisrael* and Eretz Hemdah will be praiseworthy for having more and more *dayanim* who sanctify His Name, and can connect heavens and earth through a Torah "whose ways are ways of pleasantness."

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

P'sak Halacha during a Modern Pandemic – Interim View

Question: My own question: What observations can we make about the way halachic rulings were made and disseminated during the first stage of the coronavirus crisis?

Answer: As a “student of the history of the halachic process,” I find breathtaking the difference in the tools available in reaching halachic rulings and sharing them in today’s society from 200 years ago and even 20 years ago. Let me share my perspective after 2-3 months of observing and sharing in Eretz Hemdah’s participation in the process.

On the most basic level, “There is nothing new under the sun.” The halachic rules of *pikuach nefesh* have been discussed in depth for centuries. So have the principles of ruling on standard topics (e.g., Pesach, Shabbat, *tefilla*) in the face of extenuating circumstances. Our medical emergency and related technical difficulties are only examples of many such circumstances.

However, there were real differences in the process. The local rabbi had almost immediate access to the most updated medical guidelines and insights (although, based on the “surprises” Hashem sent us, much science proved inaccurate only days later – not uncommon for novel viruses). This was crucial when having to apply the halachic rules and Jewish values to specific cases. While a rabbi could and often must ask experts about specific cases that arise, the rabbi/posek’s level of scientific sophistication, both regarding general background and keeping current (or a step ahead when being *machmir* in *pikuach nefesh*) concerning COVID-19, is important. If we all made many small but critical decisions about safety in our own houses – when to be health stringent and when it was necessary to “cut a little slack,” a rabbi had a heightened need to be ready for that communally.

The phenomenon of instant collegial contact between large groups of rabbis in which Eretz Hemdah took part (our thanks to Rav R. Taragin) was a powerful tool. A rabbi with a classic “corona question” would present it on a rabbinic group and be sent the latest ruling of Rav Asher Weiss, Rav Rimon, the Chief Rabbinate, etc. within minutes. Pressing questions of this genre (e.g., how to bury a Covid-19 victim, Pesach leniencies, when one can go to the *mikveh* with which precautions) were presented to such *poskim* as Rav Schachter and Rav Willig. Rabbis from different areas deliberated in real-time as to whether and then when to follow the bold, life-saving step of the R.C. of Bergen County to close shuls before public authorities mandated it. Many, led by Rabbi Dr. Aaron Glatt, shared insights of their local health authorities. With an understanding of both the shared danger and the unique circumstances of each community, rabbis had both the obligation to follow the consensus when appropriate and seek unique solutions when the nuances of one’s community mandated it.

Of course, as is generally true of information technology, the power contains risks, and raised questions. Will a local rabbi’s authority be undermined when his congregants can find (and disseminate) dissenting (or ostensibly so) opinions online or from a different shul’s electronic bulletin? Might our article in English about strategies for *laining* as Israeli *minyanim* opened embolden some distant readers to buck their local guidelines, where even “*mirpeset minyanim*” were forbidden? Or could discussion of the scenario be used incorrectly if matters took a change for the worse in the same place? Broadly speaking, the danger of Torah guidance being misapplied has always existed, but gains outweigh losses when done properly. Accuracy and sensitivity to nuance in writing are important in helping, but not eliminating, the problem.

Clearly, in terms of health, employment, and psychological and social stability, technological advances have been very beneficial during the lockdowns and social distancing that were forced upon us. We have briefly illustrated that regarding implementing timeless halachic principles, we can also say that, to an extent, Hashem has “brought a [partial] treatment before the affliction.”

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Ein Ayah

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

Water from the Beginning of History

(condensed from Ein Ayah, Shabbat 12:1)

Gemara: It says [in the Torah's description of the offerings]: on the second [day of Sukkot], "*v'niskeihem*" (with an extra *mem*); on the sixth [day], "*u'nesacheha*" (with an extra *yud*); on the seventh [day], "*k'mishpatam*" (with an extra *mem*); so there is *mem yud mem*, which spells out *mayim* (water). From here there is a hint from the Torah about libations of water.

Ein Ayah: The Holiday of Sukkot, also referred to as the Holiday of Harvest, is the holiday that connects nature with the wondrous power that is beyond nature. This power emerged in the world when Bnei Yisrael appeared on the stage of human history.

The divine wisdom, which put light into the creation of the world for a lofty purpose, places light in all of existence. This wisdom is connected to the existence of a complete world, which is adorned and connected with set rules and stands above all of them. The path that Israel took, in progressing from their liberation from Egypt until entering the Land, was that which soldered together the wonderful parts of the existence of creation into a world that is set upon firm rules of nature.

We need to look well into the past, at the primordial world, when the "spirit of Hashem was hovering over the face of the water" (Bereishit 1:2) and all of the world was water within water. In doing so, we see that even at that early stage, Hashem's "hand" already arranged matters with great wisdom so that creation would progress toward its highest purposes.

Harvest, which comes about through orderly work that fits into the rules of nature, is also connected in our national memory to the unique *sukkot* (booths or miraculous clouds) at the period of time that was so formative in the history of the world (the Exodus). These lit up the darkest parts of the universe with the light of the prophetic vision provided by the God of Truth, and connected that time to that of the beginning of creation [when all was water].

It is true that one cannot tell regular people what happened in creation. However, there can be a hint in the form of letters that refers to the foundation of the world when it started to be created. That is the reason that three words from the description of Sukkot hint at the holiday's connection to the libation done [with the primordial matter – water].


Moshe is the Last Word

(condensed from Ein Ayah, Shabbat 12:4)

Gemara: Is it so [that there was a change in the Torah's letters]? Doesn't the Torah say, "These are the *mitzvot*," from which we learn that a prophet is not allowed to present anything new from that point?

Ein Ayah: The same lofty source from which elevated prophecy comes and from which permanent *mitzvot* come, is the foundation of the knowledge that no new *mitzvot* are going to come in the future. Only the trustworthy shepherd (i.e., Moshe) was chosen from way back in time to gaze into the lit mirror from which permanent *mitzvot* come to the world.

When Moshe's visions were completed, it was no longer possible for new *mitzvot* to be added or to be renewed. The same level of revelation and openness that is found in the Torah as we received it is as special as the hidden divine messages, and they are of the same nature. They cannot therefore appear in revealed form [based on prophecy] after the wondrous and special revelation [to Moshe]. In fact, these are the *mitzvot*, and no prophet can add to them.



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

Paying Community Taxes – part I

(based on ruling 76111 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) is an *aguda* (association) that developed in 2015 from a *kibbutz* association, which had built an expansion for non-*kibbutz* members. The defendants (=def) bought a home in the expansion before 2015 and signed the standard forms obligating themselves to the rules, including paying local taxes/fees. The main claim is about outstanding payments that *def* is claimed to owe *pl*. *Def's* main responses are: they should not be bound by the agreement to *pl* because several of its provisions are *mekape'ach* (unfair or discriminatory); he is not a member of *pl*; and he paid in an alternative manner. They also countersued for being overcharged and having deserved benefits withheld. [We will specify these and other claims as we go.]

Ruling: *Def* claim that they are not required to adjudicate in *beit din* because of the law that a *chozeh achid* (a “uniform” contract which one strong party pressures many weaker parties into signing) is not binding when it is *mekape'ach*. *Beit din* does not accept this claim, since there is nothing unfair about going to *beit din*. Arbitration is a viable alternative that many parties agree to, and the fact that the arbitration is in *beit din* does not make it unfair to any specific party.

Def claim that they are not members of *pl*, as the law does not require them to be, despite owning a home in its area, and therefore they are not bound by its provisions. Although they signed with the *kibbutz* association when they bought the property, that was before *pl* was founded. *Pl* responds that it is a legally founded continuation of the *kibbutz* association to include members of the extension who are not *kibbutz* members. The fact that *def* was a member of committees of *pl* is sufficient evidence that they know they are members. *Def* counters that they used to think they were members of *pl*, but after reading *pl's* by-laws of eligibility for membership, they realized they cannot be. They also recently sent in a letter cancelling membership. *Pl* is correct that these claims are in bad faith. No one has questioned *def's* membership, even if someone could have tried to disqualify them on a technicality, which *pl* is certainly not required to have accepted. The agreement also states that resignation from *pl* goes into effect only after six months pass and only after all debts to *pl* have been paid, neither of which have transpired.

Def showed payments they made to the *kibbutz*, which seem to be beyond what members were generally asked to pay. *Beit din* finds that *pl's* attempt to explain them do not present a coherent picture. Therefore, *pl* is responsible to demand a refund of the money from the *kibbutz*, in which case, *def* is entitled to receive it from *pl*. If *pl* fails to receive the money or a valid explanation, *def* can sue the *kibbutz* for that money (the *kibbutz* is not a party to this adjudication).

We continue next time with other issues.

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