



HEMDAT YAMIM

Parashat Hashavua

Vaetchanan 11 Av 5783

Harav Shaul Israeli zt"l
Founder and President

On Life, the Land, and Eternal Life
Harav Yosef Carmel

In Moshe Rabbeinu's opening speech of *Sefer Devarim*, which the Gra and Rav D.Z. Hoffman posit ends after *perek* 4, Moshe related to a few fundamental aspects of basic philosophy. Let us examine some of them. As Divine Providence arranged it, the reading for Tisha B'av, which falls out before our *parasha*, is taken from this section. We will relate to *p'sukim* from there.

"Now, Israel, listen to the statutes and laws that I am teaching you to do so that you will live and come to and acquire the Land that Hashem is giving you" (Devarim 4:1). Toward the *perek's* end (ibid. 40), it says: "You shall guard the statutes and laws I am commanding you today so that it will be good for you and your sons after you, and so that your days will be long on the Land Hashem is giving you all of the days."

These *p'sukim* teach us the formula of life and *arichut yamim* (lit., long days). Towards the beginning of this section, Moshe demonstrated what shortens life and what enables eternal life. "... for every man who followed Ba'al Pe'or, Hashem destroyed him from your midst" (ibid. 3). This means that when life follows only the material side, certainly in its lowest form, with illicit relations with the daughters of Moav and following their idols, their lives were greatly shortened (see Bamidbar 25:1-3). In contrast, the next *pasuk* in Devarim 4 says: "You are those who cling to Hashem; you are all living today."

Part of Moshe's words focus on distancing people from anthropomorphism (attributing human physical traits to Hashem). The problem is not in limiting Hashem's specialness. It comes to teach something else – Hashem is not part of the material world and His revelation to the nation at Sinai was in many ways a one-time event. Our conclusion should be to not relate anything physical to Hashem, who is the source of life. The only way to merit life is to connect oneself to Him, which requires following His attributes and being involved in Torah, both in study and in actions. When acting as the Torah prescribes, our use of the material world is not involvement in it but in the spiritual world, for which the material is an instrument.

Moshe also pointed out (ibid. 8-15) that Bnei Yisrael's distinction as a great nation is due to the correct laws we follow, which teach us to fear Hashem as we live in the Land. We heard Hashem but did not see Him. Finally we should "be very careful for our souls, for we did not see any picture on the day Hashem spoke to us at Horeb from amidst the fire." This is not to protect Hashem but to teach us that realizing the limitations of the material world enables long life, in this world and the world to come.

The Rabbis took this last *pasuk* out of its simple context, teaching: we must protect our physical lives from danger (see Levush, Yoreh Deah 116:1). Then Moshe warned that following false gods will shorten our lives in the Land (Devarim 4:25-27). Even if Bnei Yisrael must undergo the national tragedy of exile, Hashem will uphold his covenant with them (ibid. 28-30).

Nationally, the physical world can be appropriate if it is in *Eretz Yisrael*, the holiest land. There we can be an eternal nation because the Torah finds ideal expression to the connection to spiritual world. At the end of the *sefer*, Moshe Rabbeinu promised a process of repentance and liberation at the end of days. That will ensure a return to *Eretz Yisrael* and, afterward, full repentance.

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

Ask the Rabbi

by Rav Daniel Mann

Cowbell for Help

Question: Recently my mother had a hip replacement and needs help walking to the bathroom. May she ring a (cow) bell Shabbat night to wake me up? if not and she goes on her own, it is very dangerous.

Answer: The *mishna* (*Beitza* 36b) forbids dancing and clapping on Shabbat, as it could lead to fixing a musical instrument (*gemara* ad loc.). It is certainly forbidden to play a musical instrument, but the question is how far to take that.

The *gemara* (*Eruvin* 104a) relates that Ulla forbade making purposeful sound of any sort with an instrument on Shabbat. Rava said it is forbidden only to make a “sound of song,” (pleasant sounds, even if not musical, are included (see Rashi ad loc.)). Presumably, ringing a cowbell is forbidden according to Ulla and permitted according to Rava. Like whom do we *pasken*?

The Beit Yosef (*Orach Chayim* 338) summarizes as follows. Although the Yerushalmi seems to concur with Ulla’s approach, the Rif and the Rambam (*Shabbat* 23:4) accept the lenient opinion of Rava. The Beit Yosef introduces the Agur’s compromise opinion (based on the Maharil): it is forbidden to make even a non-musical sound with any instrument that is made for the purpose of making sounds, even non-musical instrument. The Beit Yosef is puzzled by this opinion, as it appears too lenient for Ulla and too strigent for Rava.

Although the Shulchan Aruch (*OC* 338:1) does not bring the Agur’s compromise as *halacha*, the Rama (ad loc.) does. Thus, according to the Rama, although one may bang with his fist on a door with the intention to make noise (as long as it is not to a beat), he may not do so with a doorknocker or ring a cowbell, which is made for that purpose. Thus, it is permitted for Sephardim to use a doorknocker (see *Yalkut Yosef* ad loc.:12) and forbidden for Ashkenazim (*Shemirat Shabbat K’hilchata* 28:35). The same is true for a cowbell or the like to get the attention of someone in a different room.

For Ashkenazim, the question is whether need will make it permitted. The Be’ur Halacha (to 338:1) reasons that in the case of a non-musical use, the prohibition for Ashkenazim is based on *uvdin d’chol*, which makes it permissible to use the doorknocker when there is no other way to get into the house to sleep. The Shevet Halevi (*IX:76*) went back to the source of the Agur’s *chumra*, the Maharil (*Shut Chadashot* 38), who categorizes it as *avsha milta* (a weak and somewhat subjective problem - development beyond our scope) and treats the prohibition as a *chumra*, which he was *matir* in a case of mitigating circumstances about which he was asked.

The need of your mother, who is both infirmed and has concern for falling, which indeed is dangerous, is even greater. Therefore, the sources above indicate that she may use a cowbell. On the other hand, the Be’ur Halacha says that it is best done with a *shinuy* (unusual use of the body). He also says that it is permitted only when one neglected to provide a preferable alternative. One alternative that *poskim* raise concerning doorknockers is to use a different one from what he uses during the week (found in the *Mishna Berura* 338:7 and accepted by the *Shemirat Shabbat K’Hilchata* (23:46). You can thus use a different noisemaker for Shabbat. Presumably you could probably find a setup with an object that is not made for making noise (e.g., a metal tray and spoon, if it is loud enough) or obviate the matter by sleeping in the room.

The question is whether you should make efforts to come up with halachically preferable alternatives. The original *gemara* says that in the case in which the noisemaker is forbidden, it is permitted for a sick person (e.g., to help him fall asleep). It is unclear whether the *gemara*’s permission for a *choleh* is only when there is no viable alternative for the *choleh*, or is it that for a *choleh*, the prohibition does not exist. The latter approach is stronger regarding a non-musical instrument, which has a particularly weak basis. Therefore, we do not want to complicate matters or disturb your mother by having her worry about an alternative to the cowbell unless it is simple and as effective.

“Behind the Scenes” Zoom shiur

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Igrot HaRe'aya - Letters of Rav Kook

Seeking the Return of Religious Aliya – #159 – part II

Date and Place: 5667 (1907), Yafo

Recipient: Rabbis in the Diaspora. We only have the first section of the letter, and it is unclear what Rav Kook was advocating. Perhaps it was to increase religious *aliya*; perhaps it was funding for projects in *Eretz Yisrael* to strengthen the religious community. In any case, the beauty of the letter's sentiment and style of writing are too engaging to skip over it.

Body: *The letter began with a description of the holy people who were in the forefront of inspiring early aliya and the unfortunate change to it moving to people who are far from purity.*

We have seen the results of the fact that in the early stages [of the return to Zion], the truly righteous people gave of their splendor to help create the desire to be connected to the holy love for the building of the Holy Land, and the longing to return the captives of the Diaspora to the Land from the lands in which they are scattered. [This spiritual energy] still "nourishes" the holy love that exists to build Zion and implant the root of the salvation of Israel in the Land with truth and justice.

However, over the many years, the true (i.e., religious) builders have had their hands weakened from supporting the strengthening of our Desired Land and the gathering of her sons to her with a true love. Thus, this tremendously important matter is increasingly neglected. This is particularly inappropriate at a time when there is an incredibly elevated, holy obligation to strengthen ourselves and exert ourselves – to establish things and to create appreciation for the love of the building of the Land of Life and to connect the souls of the holy flock to it with a love for sanctity on the most practical level. This requires creating holy communities whose populace consists of people who are complete in their standing as members of the Holy Nation on the holy soil.

There is much to make the heart rejoice and appreciate what the G-d of our salvation, may He be blessed, has done for us. He has shown us "the light that is emerging on the eastern horizon." There are still righteous leaders of Israel who show their love and connect their hearts to their Father in the Heaven, with the sanctity of the love and fear of Hashem, with deep belief in Him and an ability to cling to Him with intellect based on purity and bright light. This comes from the upper source of the soul, which emanates from the sanctity of *Am Yisrael*, which exists in every generation. This includes the last generations, in which the opening of the hope for salvation has started to emerge, albeit with an opening that is only as wide as the eye of a needle. We shall hope that Hashem will shine light upon us so that we will be able to create wide openings like that of a grand hall (see Shir Hashirim Rabba 5:2). Then the path of the righteous will be like the light of the glow that increases until the appointed day has fully come.

Indeed Hashem has inspired one of the most special among special people, one of the holy rabbis, who had the good fortune to be touched by the sanctity of the Holy Land already from the time he was a special youngster. Hashem's light appeared upon him in the form of the secrets of the Torah and the storehouses of the fear of Hashem, in the secret places of light in the Land of Life. I am speaking of ... [*this is the end of the part of the letter that we have*].



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

The Binding Nature of the Tentative Agreement – part II

(based on ruling 82108 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) wanted to sell a house, which he expanded without a building permit. The plaintiff (=pl) agreed in principle to buy it for 3.6 mil. NIS, if def succeeded in legalizing the expansion, a process def had begun. They decided to sign a *zichron devarim* (letter of intent), but pl rejected the first drafted (=zd1) because it was too obligating; pl drew up a weaker one (=zd2), which the sides signed, along with a formal handshake. Pl gave def a check for 10,000 NIS to cash only if the deal would come to fruition. After nine months of failure to receive a building permit, pl agreed to doing the sale “as is,” but def demanded 4 mil. NIS, due to hikes in market prices. Pl demands that def go through with the sale for the original 3.6 mil. NIS, whereas def argues that the agreement did not bind him to a certain price. Pl adds that if *beit din* will not force the sale, def should compensate him for damages pl incurred waiting.

Ruling: [Last time we saw that zd2 is too weak to bind def to go through with the sale, at least at the original price.]

Was the handshake a *kinyan* based on common practice, as it normally is, at least to prevent the raising of the price? Since it was done in the framework of zd2, it works to strengthen only the commitment of good will, including to try to finish the permit process. It also might obligate def to give pl the first chance to buy the apartment at the price at the time it is sold. While the latter explanation is somewhat forced, the possibilities suffice to prevent pl from obligating def based on the handshake.

Chazal prescribed a *mi shepara* (a semi-curse) for those who back out of a sale after payment, where there was no *kinyan* (Shulchan Aruch, Choshen Mishpat 204:1). There are *machlokot* whether this applies to cases without payment but with a *kinyan*-like act like a handshake or *zichron devarim* (see *ibid.* 6; Sha'ar Mishpat ad loc.) and whether it applies to the sale of land (see *Pitchei Teshuva*, CM 204:2). However, *mi shepara* does not apply here because not all of the sale's details were in place (see *Pitchei Choshen*, *Kinyanim* 1:(4)) and because some say that it does not apply regarding real estate when no money (only a check of deposit) was paid (*Achiezer* III:40).

There is a lower-level moral criticism of one who backs out of a deal called *mechusar amana* (Shulchan Aruch *ibid.* 7). There are two possible reasons to say that it does not apply here: 1. The details of the agreement were incomplete (see *Pitchei Choshen* VIII, 1:(4)); 2. The change of heart was because of a significant change in market price (see *machloket* in Rama, CM 204:11; Aruch Hashulchan, CM 204:8; Shevet Halevi IV:206).

Based on all of the above, *beit din* will not require def to go through with the sale at the original price. Regarding pl's claim of losses from waiting, none of the damages are direct enough to require payment. Although our arbitration agreement allows for payment even for indirect damage, we rule that way only with great discretion. In this case, where def did not act in an egregious way and pl also played a role in the delay in finishing the deal, no steps should be taken against def.

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