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HEMDAT YAMIM

המדת ימים

PARASHAT HASHAVUAH

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The Lesson for Moshe and Future Torah Learners

(Harav Shaul Yisraeli - from Siach Shaul, pg. 190-192)

Our *parasha* begins in the middle of a story, with the unfolding liberation in its early and not so fulfilling stages. After Paroh increased the pressure on the Israelites as a result of Moshe's request for freedom, Moshe was as pained as the beaten Jewish taskmasters. Not only the conditions but the difficulty in understanding the people caused him such frustration that he questioned even Hashem.

Hashem's response to Moshe is puzzling. He introduces Himself by the "new Name" of Hashem, the Name of mercy. But where was the mercy in these unbearable conditions? It is not, Heaven forbid, that Hashem is not able to deliver the people without additional pain! Apparently, it was not possible to do so without suffering, which was a necessary lesson for Bnei Yisrael at that formative time.

The *midrash* (Yalkut Shimoni, Kohelet 968) says on the *pasuk* "af my wisdom stood by me" that the Torah that he learned with *af* (hard work) is what brought him success. Learning Torah is not acquired through games and levity. Torah requires seriousness and concentration. So too, the transpiring of events at the time of the liberation, which formed the foundation, in many ways, of the Torah and our relationship with Hashem, could not be acquired without pain. "Fortunate is he whom Hashem afflicts, and from His Torah Hashem teaches him" (Tehillim 94:12).

If we look into the reason behind this idea we will find that the whole essence of Torah is man's never-ending effort to, in all situations, elevate himself. Actually effort is important in all *mitzvot*. One gets reward not only for being in *shul* but in the number of steps one takes to get there (Sota 22a), even when there is a closer *shul*.

It is not that Judaism does not want one to enjoy the world. Rather, a full Torah lifestyle requires that one's thought process reaches the next level, where the enjoyment is in the spiritual realm. The Torah knows that enjoyment in the physical and the spiritual realms do not go together in a manner that would allow one to make the physical world as an independent goal along with the goal of development in greatness in Torah.

This was the lesson for Moshe. Moshe had to know that his ability to lead the people would require preparedness to put up with the many difficulties the people would throw at him. He would have to "stick to his guns" when quarrelsome and scandal-hungry people tried to find fault in him when those faults did not exist (see Kiddushin 33b). Only by standing up to the burden were Moshe and his nation able to witness the Exodus, the splitting of the sea, and the giving of the Torah.

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Ask the Rabbi

Question: I often *lain*, and sometimes my voice is scratchy in the morning, and I feel like I might need to drink water in between *aliyot*. Should I make *Kiddush* before drinking in those circumstances?

Answer: It is a common halacha that one may not eat too much before performing a *mitzva* that is incumbent upon him. However, usually one is allowed to eat fruit and certainly allowed to drink water before doing the *mitzva* (see Shulchan Aruch, Orach Chayim 232:3 and Mishna Berura 431:6). An exception is that before *Kiddush* one may not even drink water (Shulchan Aruch, OC 271:4; *ibid.* 289:1). Thus, your question is a good one.

The Magen Avraham (271:5) and the Mishna Berura (271:13) say that one may rinse his mouth out with water before *Kiddush* because he does not do so for the enjoyment of the taste. The Machatzit Hashekel (*ad loc.*) and Shemirat Shabbat K'hilchata (52:3) say that the same is true of water that one drinks in order to wash down medicine. The precedent, according to the two, is that one who drinks water for medicinal reasons does not make a *beracha* before or after drinking (Biur Halacha to 204:7). The *mishna* (Berachot 44a) says that one who drinks water out of thirst makes a *beracha*, and the *gemara* (*ibid.* 45a) says that this is in contrast to one who drinks because something is caught in his throat. The *poskim* assume that this exemption applies also to using water to wash down medicine. The same should be true if the water is itself the "medicine," as in your case. One can actually claim that dealing with a scratchy voice and with the coughing it can bring on during *laining* is analogous to food caught in his throat. So, if no *beracha* is required in your case, then *Kiddush* is not needed either. If you would need hot tea, that would be a different issue because if one washes down medicine with something that is considered to have a taste, he does make a *beracha* even though his main intention is therapeutic (Shulchan Aruch, OC 204:8). However, regarding water to sooth your throat before or during *laining*, you should not need *Kiddush*.

A possible issue might arise sometimes. If one drinks water in a medicinal setting but also enjoys it due to thirst, he does require a *beracha* even though the main purpose is medicinal (Mishna Berura 204:42). If so, he presumably requires *Kiddush* before it also. One who has drunk nothing or little since waking up is likely to be in that position and would require *Kiddush*.

Is it permitted to make *Kiddush* before *Kri'at Hatorah*? Making *Kiddush* before *Shacharit* without a special reason would seem to be a problem because it is forbidden to eat or drink things other than water (more or less) before *davening*, including the wine or grape juice of *Kiddush* (see Shulchan Aruch, OC 89:3). It is true that the Biur Halacha (to 289:1) says that one who, for reasons of weakness, must eat before *davening* should make *Kiddush* beforehand (see Igrot Moshe, OC II 26, who questions this but does not argue in practice). However, that is not the case when drinking water which is permitted before *Shacharit*, when it is not time for *Kiddush*. Before *Mussaf*, it is permitted to make *Kiddush* and eat a small amount of food (up to a *k'beitza* of any food and a larger amount of light foods (Shulchan Aruch, OC 286:3)). By having a *k'zayit* of cake or an additional cup of wine/ grape juice one can fulfill *Kiddush* and not eat too much (*ibid.* 273:5) and then he is able to drink water even when a *beracha* is required. Although few sources talk about making this *Kiddush* before *Kri'at Hatorah*, it is presumably permitted then too (see Beit Yisrael (Landau) 50). Of course, technically, there is not much time to do this.

Therefore, we suggest a technically easier solution for a case that you think you may be thirsty when you want to drink in between *aliyot*. Since it is permitted to drink water before *davening* (Shulchan Aruch, OC 89:3), drink enough water that you should not be thirsty during *Kri'at Hatorah*, and then *Kiddush* will not be an issue if you need to drink between *aliyot* also.

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When the Physical World Is Positive Spiritually

(condensed from Ein Ayah, Berachot 6:5)

Gemara: Rabbi Levi brought an apparent contradiction between *p'sukim*: It says, "To Hashem does the world and everything within belong" (Tehillim 24:1). Yet, it says: "The heavens belong to Hashem, whereas the earth He gave to mankind" (Tehillim 115:16)? This is not a question. One is speaking before one makes a *beracha* (blessing). The other is talking after one makes a blessing [in which case, Hashem gives it to mankind].

Ein Ayah: One should recognize that all physical things can enable one to advance in his *shleimut* (completeness) in the spiritual realm, at the heart of which is knowledge of Hashem. A person who succeeds realizes that the goal of strengthening his physical side is only according to that which is necessary, without which he could not reach spiritual *shleimut*. We can understand this from the *pasuk*: "To Hashem does the world and everything within belong."

When the *pasuk* says, "The heavens belong to Hashem, whereas the earth He gave to mankind," this teaches that there is a gain from the increase of physical powers, which can be used to acquire property with wisdom and skill. [This seems like a contradiction].

The straight solution is as follows. If one does not weigh the value of his physical attainments and extract the spiritual value that is found in everything physical, then the stress on the physical pulls him in the direction of animalistic tendencies. If, in contrast, he is able to find value in the spiritual side and see how it can be used for justice and true wisdom, which are at the essence of life according to the Torah, then not only will the physical not hold one back from spirituality, but it will give it added strength.

Before making a *beracha*, when one uncovers the spiritual elements, it is worthwhile to realize that "to Hashem does the world and everything within belong," and he should be careful not to overuse the physical. However, after making the *beracha* and realizing the spiritual power of the physical world and what it enables him to do, the *pasuk*, "The heavens belong to Hashem, whereas the earth He gave to mankind" applies. He should view people involved in physical pursuits in a positive light. For this reason, prophecies that deal with the redemption and ideal world of the future are full of glowing predictions about the physical successes of the time. The spiritual situation will be so good that physical blessings will also be of great value. One will not have to avoid any strength because they all will be used for positive.

What Happens When We Abuse Our Blessings?

(condensed from Ein Ayah, Berachot 6:7)

Gemara: Rabbi Chanina bar Pappa brought an apparent contradiction between *p'sukim*. It says: "I will take back my grain at its time" (Hoshea 2:11). Yet, another *pasuk* says: "You will harvest your grain, wine, and oil" (Devarim 11:14)? It is not a question. [The latter] refers to a case where Bnei Yisrael do that which Hashem wants; [the former] refers to a case where Bnei Yisrael do not do what Hashem wants.

Ein Ayah: The purpose of the existence of the world is to give the opportunities for choices to do good and wise things to be actualized, enthusiastically through total free will. However the choices are in the hands of man. Therefore, when people follow the correct path, the whole of the world was worthwhile and its success is considered as if it is owned by man.

In contrast, when man is on a destructive course, existence is problematic, just that Hashem has the ability to bring things back toward the way they should be. However, success that comes in that way is to be attributed to Hashem, not to people, who at that point have not earned that which the world offers. [That is meant by Hashem taking back his grain.]

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The Building of a Balcony Over a Neighbor's Home

(condensed from Shurat Hadin III, pp. 266-268)

Case: A neighbor on a lower floor (=pl) is suing his upstairs neighbor (=def) for building a balcony over his home, which allegedly stole sunlight from him and lowered his apartment's value. Def counters that he built the balcony over the section of additional building that pl built with permission, at which time def built a door, which was obviously intended for that purpose (pl did not complain at the time). He points out that everyone in the building had done the same thing, as expected in a neighborhood where everyone needs *sukkot*. Def adds that pl built a *sukka* that is covered with a fiberglass roof under def's window, which allowed robbers to enter def's apartment, forcing him to spend money on bars for his window. Finally, the loss of light is insignificant since pl's window is close to a mountain and anyway is not open and does not let in significant light. Pl admits that he knew def would build a *sukka* balcony but expected that he would ask permission, at which time pl would have asked for compensation.

Ruling: The Shulchan Aruch (Choshen Mishpat 153:1) says that if Reuven wants to build out a pole from his wall opposite Shimon's window, Shimon can protest because Reuven takes away his privacy when hanging things on the pole. We see from here that, if not for the problem of privacy, when one uses another's airspace without causing him damage, the "violated one" cannot protest.

When one neighbor builds over the joint property of the building, others from the building can protest if: the addition prevents others from building on the joint property, if it lowers the value of the property by preventing people who would buy an apartment from building, or if it takes away sunlight. However, neighbors from a different building, who are not partners, can build if there are no privacy issues, as long as they leave four *amot* of space, even if they thereby lessen light, air, and view (see Pitchei Teshuva, CM 154:23). The idea of leaving four *amot* applies even when one builds on top of his neighbor (Shulchan Aruch, CM 154:23). Here too, though, among joint owners of a building, one has to leave more than four *amot*, if failure to do so would impinge upon a usage or cause loss of value.

What, though, happens if Reuven gives permission to Shimon to build and later Reuven wants to build and Shimon wants to prevent him? The Z'chor L'Avraham says that even if no stipulation was made, we can assume that the permission was on condition that he would receive reciprocal treatment. In our case, as well, we can assume that def's letting pl build was on condition that he too could build under similar circumstances. This is especially true in this case, where def is correct that pl loses little by the building of the *sukka* balcony.

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