

# HEMDAT YAMIM

חֵמְדַּת יָמִיִּם

PARASHAT Vayechi  
This week.....

13 Tivet 5768

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- from the works of Rav Yisraeli zt”l
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This edition of Hemdat Yamim is dedicated in loving memory of  
**R' Meir ben Yechezkel Shraga Brachfeld**  
o.b.m

Hemdat Yamim is endowed by Les & Ethel Sutker of Chicago, Illinois in loving memory of  
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and **Louis and Lillian Klein, z”l.**  
May their memory be a blessing.

## “A Time of Peace and a Time of War”

*Harav Yosef Carmel*

Let us deal with the *haftara*, which discusses David's instructions to his son and successor, Shlomo. David instructed Shlomo to execute Yoav, his top general, for having killed rivals, Avner and Amasa, who had lead troops opposed to David before reconciling with David. David explained that he had “placed the blood of war in peace” (Melachim I, 2:5). What does that phrase mean?

Rashi and the Targum explain that Yoav used trickery to kill the unsuspecting who thought they were at peace with him. This explanation is difficult as it does not seem to be grounds for punishing Yoav. If Avner had deserved death, what difference did it make that he used trickery to accomplish the just outcome? If he did not deserve to be killed, would it have helped to have killed in a straightforward manner? The phraseology of war and peace are also problematic, as these are terms that refer to the relationship between national or factional groupings, whereas Yoav acted against personal rivals?

The *gemara* (Sanhedrin 49a) discusses at length the legal argument between Yoav and Avner before the latter's execution. Apparently Yoav killed him not with the claim that Avner had rebelled against the kingdom but for killing Yoav's brother Asael during the civil war. Asael had chased Avner during battle. Avner warned him to stop pursuing him and, when he refused, killed him. The crux of the debate was whether Avner, who was clearly a superior warrior to the fleet-footed Asael, had needed to kill Asael in order to save his own life. The *gemara* concludes that Avner could have sufficed with injuring him, and thus Yoav had some justification to kill his brother's murderer. Before understanding Yoav's culpability, we need to introduce a new concept.

It is not always clear when a situation of war-like tension and sporadic fighting qualifies as a war. Note, for example, that the fighting in the summer of '06 in Lebanon was not initially considered a war. The bloodshed in the many terrorist attacks over the last two decades and our responses to them have also not been seen to qualify. The differing rules of engagement between peacetime and wartime make these distinctions potentially critical. Does one warn an attacker to put down his weapon or does one just charge the attacker and kill him?

David and Yoav argued a question of this nature in regard to the tensions and battles between the supporters of Shaul's family's claim to the throne and David's. David consistently considered it peace time, in which case, one who could have saved his life without killing another had to do so. Yoav and his brothers reasoned that there was a civil war that warranted killing. Therefore, by Yoav claiming that his brother's death was murder and not death during battle, he was contradicting himself in mixing the concepts of peace and war.

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## Ask the Rabbi

**Question:** What happens if one has an urge to go to the bathroom that arises when he is in the middle of *davening* (*Shemoneh Esrei* or other)? If and when should he go to the bathroom? Does he recite *Asher Yatzar* when he returns? From where does he resume *davening*?

**Answer:** These are important questions, as many people do not know what to do or find it hard to follow these *halachot*, which are a little counterintuitive to some of us.

The *gemara* (Berachot 23a) takes the matter of preparing the body for a clean and respectable *tefilla* very seriously. Accordingly, if one *davens* when he is unable to hold in his need to eliminate (regarding urination the matter is unclear – see Biur Halacha to 92:1) for 72 minutes his *tefilla* is considered an abomination, is disqualified, and needs to be repeated (see Rambam, *Tefilla* 4:10). Even when one can wait 72 minutes, he should properly take care of his needs before *davening* if he feels any real urge to go to the bathroom even if, as a result, he will be unable to *daven* along with the congregation (Mishna Berura 92:5).

If one started when it was forbidden and then thinks the matter over again, he must stop right away no matter where he is in the *tefilla*. However, if he started when he did not need the facilities and then his situation “deteriorated” unusually quickly, the matter depends on where he is in *tefilla* and the severity of the urge. In *Shemoneh Esrei*, where it is forbidden to move under all but the most severe circumstances, he must continue until the end and then go to the bathroom even if he will miss *Kedusha* (Shulchan Aruch, Orach Chayim 92:2 and Mishna Berura 92:8). Only if he reaches the point where restraining himself is considered difficult to the point of being degrading would one be able to leave his place in the midst of *Shemoneh Esrei* (Rama, Orach Chayim 92:2 and Mishna Berura 92:11). Even in that case, if he is *davening* publicly and walking out in the middle will be of significant embarrassment, he may decide to continue *davening* (Mishna Berura, *ibid.*). Regarding *Kri'at Shema*, he may go to the bathroom if he likes or continue if he likes (Mishna Berura 92:9). However, since he may not start *Shemoneh Esrei* in that state, it is best to find one of the relative breaks in *Kri'at Shema* to go to the bathroom (*ibid.*). Regarding *P'sukei D'zimra*, one may go to the bathroom between any of the sections of psalms or before *Yishtabach*. He should not wait until after *Barchu*, which begins the next section of *tefilla* (*ibid.*).

As long as one stopped properly, he can continue upon return to the place in the *tefilla* that he was up to. Even if he should have stopped earlier, that which he said in any part of *tefilla* other than *Shemoneh Esrei* is valid after the fact and therefore he can continue from where he was (*ibid.*:6). The only issue is that if he spent more time in the bathroom than it takes for him to recite the entire section he is in, he must return to the beginning of the section (Biur Halacha to 92:2). If he started *Shemoneh Esrei* when he could not have waited 72 minutes, the *tefilla* was valueless and therefore he must go back to its beginning.

Regarding reciting *Asher Yatzar* upon exiting the bathroom, the matter depends on the place in *tefilla* one finds himself. If he was in the middle of *P'sukei D'zimra*, he would optimally make the *beracha* at the first break between “paragraphs” of *P'sukei D'zimra* (see Mishna Berura 51:8; *Ishei Yisrael* 16:6). If he went to the bathroom during *Kriat Shema* or its *berachot* he should wait to recite *Asher Yatzar* until after *Shemoneh Esrei* (*ibid.* 66:23) (assuming he will not have felt a new urge to go to the bathroom by the time he has the chance to recite it). During *Shemoneh Esrei* certainly one would not be able to recite *Asher Yatzar* and must wait under all circumstances.

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### The Approaches of Chasidut, Hitnagdut, and the Mussar Movement – part III

(from Perakim B'Machshevet Yisrael, pp. 515-531)

[We continue with Rav Yisraeli's survey of the basics of Chasidic thought. We saw last time about the importance, in Chasidic thought, of one's intention in doing mitzvot.]

#### Chasidut (Hasidism) - part III

Because everything is a manifestation of the Divine, there is no room for sadness, an emotion that the Ba'al Shem Tov saw as an impediment to service of Hashem. No event needs to rob a person of his happiness. The famous *pasuk*, "Shiviti Hashem l'negdi tamid," whose simple meaning is that one should always view himself as being before Him, can mean that all events should be equal to a person. Even being sad because of a spiritual lacking is a trick of the Evil Inclination to make one feel that he is in a worse position than he is. One should take comfort that, in whatever position he is, Hashem is with him. Sadness prevents one from using the energy he needs to succeed, just as an energetic wrestler will beat a stronger but lethargic one (Tanya 26). Even if one has a sinful thought during *davening*, it should not depress him but encourage him to concentrate harder on his prayers. The thought need not be the product of a deficient prayer but of a prayer with enough potential to make it a threat to the negative in the world (ibid. 28).

The Ba'al Shem Tov used the following example to explain evil inclinations. A king summoned his friends and used optical illusions to make them see a large palace, when indeed the king was right before them. It took the king's son to assure them that the king was right there. The inclinations are the work of the animalistic spirit; a person must remind himself that this is not his true desire. One should get angry at the Evil Inclination and should try to see Hashem's infinite light in the most palpable manner possible. The Satan does not have any essence that can prevent one from exposure to Hashem. He is referred to in terms of darkness because he can be made irrelevant by adding light (Tanya 29).

Desiring to always be connected to Hashem can remove other thoughts, of permitted or forbidden matters. Not everyone can fulfill *mitzvot* optimally and thereby cling to Hashem. Therefore *Chazal* told us to cling to Torah scholars, which enables one to indirectly cling to Hashem. Every generation includes those who stand above the multitudes and are like the heads and brains of the masses (Tanya 1). The masses of simple people form one entity with the *tzaddikim*. As there are 248 limbs and 365 sinews so are there many parts to a spiritual body. The multitudes comprise the entity's body and the *tzaddik* constitutes its soul. The latter occupies a higher level beyond regular free choice, in a manner that normal people cannot aspire to, whereby they have strong love for Hashem and are reviled by evil (Tanya 14). On one hand, simple people are expected to cling to the *tzaddik*. Conversely, the *tzaddik* is to connect to them. They can realize their potential spiritual heights only through the *tzaddik*, and the *tzaddik* is granted his high level only to serve the role in his congregant's lives. When the multitudes elevate themselves one step, the *tzaddik* is also elevated. This is what happened to Moshe. After Bnei Yisrael were united in their preparation to receive the Torah, they caused "And Moshe went up to G-d." Heaven forbid, the opposite is true as well.

The congregation must listen to the *tzaddik*. On one hand, he is to break their hearts with persuasive words, but then as they turn to repentance he must enable them to attach themselves to him. Both he who preaches and he who accepts should act for the sake of Heaven and create a lofty unity.

The approach of *Chasidut* created a powerful movement in which masses of people joined under a leadership that is beyond doubts or aspersions and thereby all can be elevated.

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# P'ninat Mishpat

## Use of a Refrigerator Without Permission

(from Halacha Psuka, vol. 36 – condensation of a *p'sak* of Beit Din Gazit of Sderot)

**Case:** The defendant (=def) is an organization that arranges Shabbat hospitality. They secured a room for a family in a yeshiva dorm room, in which a student had a personal refrigerator, without his knowledge. After Shabbat, *pl* found the refrigerator to be broken. A technician says the compressor was ruined. *Pl* is suing *def* who is not aware what happened to the refrigerator, instead of suing the family who used, dirtied and perhaps knows what happened to it because he does not want to bother with the family. *Def* is willing to pay if *beit din* says that the family is responsible to pay for the damages.

**Ruling:** The only logical way that the compressor could have been broken by the negligence of the family is if they left the refrigerator open for a very long time, thus over-taxing the motor. However, it is hard to accept that a normal family would have done such a thing, and it is much more likely that the old compressor stopped working due to normal wear and tear. Thus, we cannot consider the family a *mazik* (damager).

There is room to say that the family acted as a *sho'el* (borrower). The Shulchan Aruch (Choshen Mishpat 303:1) rules that a *shomer* (watchman, including a borrower) is obligated to pay for the appropriate losses only after he has done *meshica* (a physical act of *kinyan* by moving the object). Although the refrigerator was not moved, there are grounds to obligate based on the Netivot Hamishpat (340:8), who says that use of the object obligates a *shomer* even without a *kinyan*. If the family is a *sho'el* then one could propose to obligate them even in *ones* (damages for which they were not at fault). However, since the refrigerator was still working when the family left after Shabbat, it is like a case of one who ceased using an object and returned it, which ends his period of obligation, even if he borrowed without permission. Therefore, there is no obligation due to the laws of *sho'el*.

The family certainly was *neheneh* (received benefit) from the use of the refrigerator. The benefit can be estimated at 20 *shekels*, based on the differential in value of accommodations with and without a refrigerator. Had there been no damage because of their use, we would have exempted the *neheneh* from payment because of the rule of *zeh neheneh v'zeh lo chaser* (one benefited and the other did not lose). On one hand, the refrigerator was left dirty and there was added wear and tear because of the usage and when there is much benefit and small damage (even less than a *peruta*) one has to pay for all of the benefit (Tosafot 30b). However, *beit din* determined that since the dirt and extra usage did not affect the refrigerator's value in any noticeable manner, there is not considered to be damage. Therefore, *def* does not have to pay anything.

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