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HEMDAT YAMIM

Parashat HaShavua

Acharei Mot Kedoshim, 8 Iyar 5780

Putting the Season in Perspective – part I

Harav Yosef Carmel

We have experienced Pesach. We burnt the *chametz* and strengthened our humility. We ate *matza* and strengthened our Torah-discussing activity. We came, hopefully with good health, from Pesach to Yom Hashoah, Yom Hazikaron, and Yom Ha'atzmaut. Before us is Lag Ba'omer, Yom Yerushalayim, and finally Shavuot, the holiday of our receiving the Torah, after the period of counting.

It is important for us to understand what it means to be a "free Jew in our Land." What makes us *bonei chorin* (free people)? Leaving Egypt meant that a nation of slaves became a nation of *bonei chorin*. Chazal taught us that we read "*charut al haluchot*" (lit., engraved on the Tablets) (Shemot 32:16) as "*cheirut* (freedom) *al haluchot*," for "only one who is *hogeh* (tries to understand deeply) in Torah is a free man" (Kalla Rabbati 5:3). The Pesikta expands it to "one who occupies himself in Torah is a free man," which makes it less demanding to be included.

The Maharal (intro. to Tiferet Yisrael) explains that one is considered free by occupying himself in words of Torah even if he accidentally learns the *halachot* incorrectly. It is the exercise of being involved in Torah that is liberating. Both agree that leaving Egypt was insufficient to be free; it was necessary to receive the Torah at Sinai.

What is the connection between Torah study and freedom? One can qualify the servitude of an *eved ivri* (a Jewish servant, who is less subservient than an *eved C'na'ani*) as follows. He relinquishes the freedom to choose his work and his mobility. He also is not able to choose who his mate will be. His life (during those years) is dedicated to increasing the prosperity of his master. However, perhaps the most significant thing is that he relinquishes the ability to make decisions that can further his spiritual state. Because his master controls his activities, he gives up on his ability to make his own decisions. (In some cases, that can be positive, because some people became *avadim* because they did not know how to make good decisions.) The situation in Egypt was worse, as they did not have the freedom even to act as normal human beings. So why didn't leaving Egypt make them free?

All of the special presents that we received at Sinai turned us into *bonei chorin*. First, we were given the opportunity to sanctify ourselves. This was actually a condition for receiving the Torah (see Shemot 19:6-19, which uses the root *kadosh* three times). The Torah also connects this sanctity to the process of setting boundaries, literally around Sinai, but more fundamentally in that preparing spiritually to not only receive but also live according to the Torah requires religious and moral boundaries.

But how do all these boundaries included in accepting the Torah cause freedom? We are limited as to where we can go and what we can and must do! We will continue with this theme next week. After Yom Hashoah and Yom Hazikaron, we are better able to understand that the "Work liberates" sign in Auschwitz was the biggest lie and that those who gave their lives so that we could live in our own country taught us about the sanctity of life.

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



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by Rav Daniel Mann

Kri'at HaTorah in the Shadow of Corona

Question: When *minyanim* are taking place with the permission of health authorities under social distancing rules, what should be done to separate “functionaries”?

Answer: [This is being written as small outdoor *minyanim* just became re-permitted in Israel, and little has been written on the topic. Health rules may change by the time the column is read, and/or a rabbinic consensus may have been reached. Therefore, we intend to educate regarding the halachic issues, not to try to give instructions, which local rabbis should do based on the best information at the time.]

Our general rule is that practices that are based on *minhag*, or even accepted *halachot* designed to embellish *tefilla*, while normally desired, should be dropped to be as “*machmir*” as possible regarding safety.

Since we want to avoid passing a *sefer Torah* or having more people than necessary touch it, the *ba'al korei* should multi-task. He can take the *sefer Torah* from the *aron kodesh*, bring it to the *bima*, and return it (*Gadlu, Yehalelu* etc. can be said by the *chazan* even when he is not holding the *sefer Torah*, as is done when the *chazan* cannot carry it). Ashkenazim, who use two interacting people for *hagba* and *gelila*, should use the Sephardi/Hassidic system of returning the *sefer Torah* to the *bima* after *hagba*, and have the *ba'al korei* both lift and dress it.

We usually have two (for Sephardim) or three people at the *bima* (see nice ideas behind it in Shulchan Aruch, Orach Chayim 141:4 and Mishna Berura 141:16). However, the basic *halachot* of *kri'at haTorah* do not depend on them.

The Shulchan Aruch (OC 139:11), based on venerable sources, instructs the *oleh* to hold the *sefer Torah* or handles (see Mishna Berura 139:35) with both hands during the *berachot*. *Poskim* add to hold one throughout the *laining* (see *ibid.*). However, this too is not a fundamental requirement.

The main problem is the *oleh's* position during the *laining*. The Shulchan Aruch (OC 139:3) rules that a blind person may not get an *aliya* because an *oleh* **must** read from the *sefer Torah*. If the *oleh* just listens, his *berachot* are *l'vatala* (Shulchan Aruch, OC 141:2), and reciting without reading it from the *sefer* does not count. Therefore, getting an *aliya* from a distance is a serious halachic problem. Technically, people with good vision, using a large *sefer Torah*, can read from close to two meters, and with masks and the *oleh* facing the *ba'al korei's* back, this seems “relatively safe.” It is even safer if, after seeing the place in the *sefer Torah* (Shulchan Aruch, OC 139:4) and checking the furthest possible distance, he takes another step back for during the *beracha*. (Droplet spreading increases when speaking out loud, and during the *beracha* one anyway does not look in the Torah). Rav Asher Weiss (Corona *Teshuvot* 23) recommended (before shul closures) an enhancement – make six very short *aliyot* and give the *ba'al korei* a very long one. If health experts agree to this, this is optimal.

What if they do not agree and/or your *shul* lacks “eagle-eyes”? This leaves two possibilities. One is to have the *oleh* remain at a “*mehadrin*” distance without being able to read. (This is better (see Rav Asher Weiss, *ibid.* 19) than what many do in *mirpeset minyanim* in which *olim* read without seeing from a different domain.) This is based on the Rama (OC 139:3, arguing, based on the Maharil, on the aforementioned Shulchan Aruch), who allows a blind person to get an *aliya*. They posit that since the *ba'al korei* reads aloud, it is enough (and perhaps better – see Beit Yosef, OC 141, discussing the Zohar) for the *oleh* to listen without reading along. Rav Ovadia Yosef contemplated Sephardim relying on the Maharil when needed (Yalkut Yosef, OC 139:4).

The other possibility is to give the *ba'al korei* all the *aliyot*. The Shulchan Aruch (OC 143:5) allows this when no one else is capable of doing an *aliya* properly. The Mishna Berura 143:33 says that Ashkenazim (Rav Shalom Cohen reportedly agreed for Sephardim) should prefer calling seven *olim* who stand two meters away (see Rav Asher Weiss *ibid.* 19, 21).

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Ein Ayah

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

A More Palatable Sin

(condensed from Ein Ayah, Shabbat 11:6)

Gemara: The *mekoshesh* (the man who desecrated Shabbat in the desert) was Tzelufchad, as it says ... – these are the words of Rabbi Akiva. Rabbi Yehuda ben Beteira said to him: “Akiva, this way or that way, you are destined to receive judgment. If it is as you have said, the Torah covered it up and you are uncovering it; and if not, you are spreading slanderous reports about that righteous person.” So [what was his sin]? He was one of the *ma’apilim* (those who went up toward the Land unauthorized after the sin of the spies).

Ein Ayah: It is true that Rabbi Yehuda ben Beteira was against publicizing the personal sin of a righteous person [mentioned in the Torah] if it did not impact on his whole personality. It would run counter to the proper path of the Torah. Even if the person has sin attributed to him [as Tzelufchad did – see Bamidbar 27:3], we are not allowed to take it from a general statement of sin to specifying the sin that he committed.

However, the *ma’apilim* were a whole group of people and the individual participant is swallowed up in their midst. Associating Tzelufchad with that group is not like giving his personality a specific imprint of a sin, when his sin should have been left as an unsolved mystery.

There is another advantage of his sin being that of the *ma’apilim*. Despite the fact that they sinned, they at least raised their spirits with that of the greatness of the nation. They were moved to go up toward the Land out of a holy connection that impacted upon them. It is true that they acted upon it in a sinful and rebellious way, which is why it did not succeed. However, the general content behind the action, after you remove the impurities from it, is something that remains as a sign of extreme bravery, stemming from a connection to the desired Land deep in the natural Jewish spirit. This is an eternal love that is not extinguished by much water and not washed away by rivers (see Shir Hashirim 8:7).

Since the imprint of the sin is relatively modest, it is better to attach Tzelufchad to the enterprise of the *ma’apilim*, who sinned a temporary sin but were attached to greatness and a holy and internal flame, which is hidden in the Jewish people’s soul. Even when they are in a difficult time, they view their ability to be provided for as in the Hands of Hashem, to Whom Israel sets its hopes. It is an imprint that includes elements of positive power, and in which the element of sin is not as blatant, as it is included in a stature of almost ideal bravery, as the *ma’apilim* demonstrated.



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 seeked 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

Holding Guarantors to their Commitment? – part I

(based on ruling 71055 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) reached a settlement with his wife (=wi) over child support in a *beit din* as part of an agreement to give a *get*. *Wi's* uncle and aunt (=def) obligated themselves in *beit din* that if *wi* would successfully sue to raise the child support, *def* would pay back to *pl* the additional sum she was awarded. *Beit din* gave the obligation the status of a ruling. *Wi* did sue *pl* in court, and *pl* agreed to raise the child support, with the judge giving the agreement the status of a ruling. *Pl* is now suing *def* for 31,200 shekels for a few years of additional payments. *Def* argue that they are exempt for a few reasons: 1. No act of *kinyan* was made to obligate *def*, which is necessary because this is not a normal case of a guarantor (i.e., there is no borrower). 2. There was a lack of realization of the likelihood of obligation (*asmachta*), since *def* did not know that *wi* was not bound by the ruling. 3. Furthermore, according to the Rambam, one cannot obligate himself in an open-ended obligation, and one can claim *kim li* (I follow the minority opinion). 4. The obligation mentions payment in the case where the court rules in *wi's* favor, whereas here *pl* agreed himself to pay.

Ruling: All of the specific halachic complaints about the way the obligation was accepted are to be rejected because the obligation was performed in front of *beit din* as a ruling that upheld a divorce settlement. First of all, there is a rule that *beit din* does not investigate the proceedings of another *beit din* (Bava Batra 138b). Therefore, even if there is no mention of a *kinyan* made in front of the *beit din*, we will assume that the obligation was done in an effective manner, as that *beit din* indicates.

The claims of *asmachta* and a not set amount have to do with a lack of *gemirut da'at* (informed consent). When such an obligation is done in front of a *beit din*, one cannot claim a lack of *gemirut da'at* (see Piskei Din Rabbanim X, p. 365). Furthermore, since *beit din* gave the obligation the status of a ruling, the ruling is now a force that can obligate beyond any basic *gemirut da'at*. Because of the confluence of agreement and ruling, *def* cannot claim *kim li* that open-ended obligations are not valid (see Piskei Din Rabbanim IX, p. 226) because *beit din* does not have to initiate an obligation, since he accepted it himself as a *p'sak*.

One of the ways to accept the obligation is *situmta* – that it is accepted in society that an obligation in court is binding (see Bava Metzia 59a). However, this makes us consider whether the courts would uphold such an agreement, on the grounds that it is immoral or goes against public interest. The issue is that such an agreement may deny a wife the ability to ask for money that it might turn out will have an impact on the couple's children's wellbeing.

[We will continue with the point next week of the impact of public interest.]

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