



HEMDAT YAMIM

Parashat Hashavua

Tzav, 16 Adar II 5782

Is Keeping the Old Going New?

Rav Daniel Mann

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Our *parasha* introduces the idea of an “eternal flame,” which, contrary to what many think, was not on the *menora* but on the larger *mizbe’ach* (altar) upon which most of the *korbanot* were brought (see Vayikra 6:6). The altar actually hosted multiple flames, used for different purposes, including for lighting the *menora* and providing fire for the small *mizbe’ach* for *ketoret* (incense) (Yoma 45a-b). There was also one flame designated as the everlasting flame. Actually, *Chazal* report that the fire that came down from the Heaven when Bnei Yisrael dedicated the *Mishkan* (Vayikra 10:2) lasted until the *Mishkan* was replaced by the *Beit Hamikdash*, several hundred years later (Zevachim 61b).

Thus, there does not seem to have been a need to rekindle a fire on the altar from scratch. What was needed was providing fuel on a regular basis (Rambam, Temidin 2:2 – twice a day) and not extinguishing the existing fire (Vayikra 6:6; see Rashi ad loc.). Certainly, there was not a need to light a new flame before bringing a new *korban* (see Rav S.R. Hirsch to Vayikra 1:7). Yet, in one place (Vayikra 1:7) the Torah describes a specific *korban* as involving a *kohen* bringing fire to the altar for it, and *Chazal* speak about not sufficing with the fire from Above but that there is a *mitzva* to bring normal fire as well (Yoma 53a). The Rambam (Temidin 2:1) seems to understand that this *mitzva* is fulfilled by making the normal efforts to make sure that the fire does not go out, including by running out of fuel. Apparently then, the fire that is described as being brought for a specific, personal *korban* is also referring to using that which is already there.

Rav Hirsch (ibid.) explains that the fire of the *mizbe’ach* represents the Torah, which is referred to as *esh dat* (the teachings of fire) – Devarim 33:2). If this is the case, then we can provide the following philosophical perspective on the matter of different types of fire – divine; normal, existing, new fire; ... and, especially, Torah. (Excuse me as I switch back and forth between the metaphor and the original subject.) The Torah came down from Hashem in a miraculous manner. However, since then, it is preserved, passed on, and in some paradoxical ways enhanced by human intervention. Man is commanded to “add fuel daily” and make sure “not to extinguish the fire” but to “keep it going eternally.” Thus, the Torah is a fire of divine origin, which is later attributed to man as well (*Torah dilei hoo* – Kiddushin 32b). Not only nationally but also individually when we are involved in Torah, we are not only considered keeping the flame/Torah going but like one who lit the fire himself

May we always savor the opportunity to connect ourselves to the eternal flame of the Torah and be considered as lighting it.

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Ask the Rabbi

by Rav Daniel Mann

Batim of Tefillin on the Floor on Shabbat

Question: The “retired” *tefillin batim* (in which the *parshiyot* go) I keep in a closet fell to the floor on Shabbat, inside a flimsy plastic bag. I intuited that it was better to pick them up than to leave them in disgrace on the floor. Was that correct?

Answer: There are ample sources on the premise that certain Rabbinic violations of Shabbat are waived to protect holy articles, including *tefillin*. The *mishna* (Eruvin 95a) says that one who finds *tefillin* in an unprotected place may wear them in order to enable him to bring them to a secure area without carrying. The *gemara* (ibid. 97a) says that if it is not feasible to wear (all of) them, he may carry them in intervals of less than four *amot*. The *gemara* and *poskim* take for granted that *muktzeh* does not preclude such actions.

Tosafot, in explaining the *gemara* that one may send *tefillin* to his friend on *Yom Tov* (Beitza 15a), says it is not *muktzeh* because it is not prohibited to wear *tefillin* on Shabbat and *Yom Tov*, just that it is not a requirement. The Rama (Orach Chayim 308:4), basing himself on the Terumat Hadeshen (l:70), gives *tefillin* the same rules as a *kli shemelachto l'heter* (a standard permissible object), i.e., it is not *muktzeh*. However, the Taz (308:3) and the Magen Avraham (308:11) treat *tefillin* like a *kli shemelachto l'issur* (a utensil whose main uses are for forbidden actions) because we rule (Shulchan Aruch, OC 31:1) that it is forbidden to don *tefillin* on Shabbat. The Mishna Berura (308:24) says that one can rely on the Rama only under extenuating circumstances. Indeed, Halichot Shlomo (Tefilla 4:32) views *tefillin* that fell to the floor, even if they are in their bag, as such an extenuating circumstance and allows picking them and up putting them in the first possible place.

However, these sources are insufficient to have permitted you to pick up the *batim* because you asked about empty *batim*, not *tefillin*. It is true that they were once part of *tefillin*, but when something breaks off from a *kli*, it becomes *muktzeh* (Shulchan Aruch, OC 308:6). Even if the *batim* are not broken but can be used again in the future for *tefillin*, they are not considered a *kli* now since their return to *tefillin* requires an expert (see Chayei Adam 73:13) and also it is forbidden to do so on Shabbat.

Therefore, we must return to the idea that saving *tefillin* from disgrace allows violating certain Rabbinic prohibitions. It is difficult to suffice with the aforementioned *mishna*, as commentators understand that there is concern there for great disgrace (see Rashi, Eiruvin 75a; Dirshu 301:109). Maybe, then, here it is sufficient to cover up the *tefillin* (see Shulchan Aruch, OC 301:42). However, we do find leniency regarding holy things that are on the floor. The contemporary *sefer* Shalmei Yehuda (1:4) cites Rav Elyashiv and Rav Binyamin Zilber as allowing one to pick off the floor even non-useful scraps of paper with Torah writings on them, which are *muktzeh*, to save them from disgrace. *Batim* that were already used for *tefillin* have the *kedusha* at least of *tashmishei kedusha*, as they housed the sacred *tefillin* scrolls, and they require *geniza* (Ginzei Hakodesh 6:6). (The *bayit* of the *tefillin shel rosh* is even more sacred due to the letters *shin* on their sides.) Therefore, if it is permitted to pick up the *geniza*-destined piece of paper when it is *muktzeh*, it should likewise be permitted and proper to lift up the *batim*. This is not a trivial conclusion. One could distinguish between the paper that is directly on the floor and the *batim* that are in the bag. Additionally, some *Acharonim* forbid (see Orchot Chaim 19:(56)) picking up sacred *muktzeh* articles without special grounds for obviating the problem of *muktzeh*.

When considering everything, though, we agree with your intuition to pick them up. In this case, one who wants to be stringent on *muktzeh* is being lenient on disgracing something with sanctity. We will not suggest complicated means of being *machmir* for both with creativity because, generally, this is not something that the *poskim* prescribe in such cases.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.



Igrot HaRe'aya - Letters of Rav Kook

Study of Spirituality – #95 – part II

Date and Place: 8 Tishrei 5668 (1907), Yafo

Recipient: R. Nachum Kahana Shapira and R. Shlomo Rabb, young *rabbanim* or yeshiva students in Jerusalem.

Body: [Rav Kook was in the midst of extolling the virtues of learning the “spiritual” elements of Torah, bemoaning the difficulties of implementing it, but urging the letter’s recipients to embark upon it as they were inclined.]

It may be, in the beginning, a little difficult to embark on such a course of study [of the more moralistic or kabbalistic elements of Torah] because the lack of regularity holds up clean beginnings. However, it will not take long for the “taste” of all spiritual study to turn to sweet as honey, no matter where in the broad sphere of Torah and fear of Hashem it is. Its pleasantness will influence the more practical elements of Torah as well as the health of the body and the soul and one’s inner tranquility, whose aura flows from Hashem’s upper Garden of Eden.

This will emerge gradually, with increasing inspiration on a daily basis. It increases loving connection with friends who also call out in the name of Hashem and who seek to honestly serve Hashem and seek out His name and paths. When such experiences increase and the strength of such servants of Hashem is elevated, gateways of light will open for excellent individuals, who will be able to turn bitter into sweet and dark into light. Then a new movement will begin with a wider podium for the service of Hashem of the scholars in *Eretz Yisrael*.

This will elevate the stature of the Torah and knowledge of Hashem with a wonderful banner. The words of such scholars will shock the “idol worshippers” and the misguided children of the world. The light of repentance will appear from Zion on all who seek it and on all of the Jewish exiles throughout the world. This reawakening will serve as the great *shofar* blast that will bring back those who are lost and distant, whether in Assyria or in Egypt (i.e., wherever the exiles will be) and come to bow down to Hashem on the holy mountain in Jerusalem (see Yeshayahu 27:13).

The strengthening of the general spirit to embrace sanctity and wisdom usually comes with much ado and is difficult to explain simply. However, eventually the flow of wisdom will facilitate an ability to express ideas clearly, and an impressive and broad new form of literature will emerge. It will relate to all elements of life and society. It will be so true and powerful that all will be compelled to respect and be awed by it. Its light of life will be so full of spiritual dew that even other elements of the Torah, including the great works of Halacha and halachic analysis, will pick up the fragrance of the pleasantness of Hashem in a revealed manner (until then, the deep connection to Hashem in these works will be hidden). All of the elements that darkened and caused bitterness to the heart will disappear. Certainly, the joining together of adherents, which is crucial in order to reach the full honor of Torah, will flower with grand bouquets full of sanctity and true rejoicing in the true G-d.

New areas of inquiry will open up and grandly illuminate broad avenues of life. Without a doubt, even the improvement of the physical lot of *Eretz Yisrael’s* scholars and the general population of *Eretz Yisrael* and the Jewish people, depends on these positive developments. In short, we need to seek to know Hashem in truth and justice. “Seek Hashem and His strength, constantly seek His face” (Tehillim 105:4). Everything is included in this.

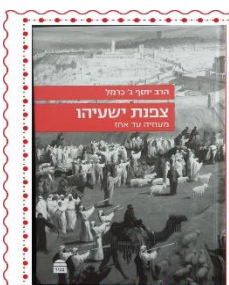
I hope that you will strengthen yourselves in service of Hashem and be diligent in improving in the area that you identified as “speaking to you” (the topic of the letter). May Hashem share with us His light and salvation for His Name, His nation, His Land, and His lot.

We daven for a complete and speedy refuah for:

Nir Rephael ben Rachel Bracha
Yisrael ben Rivka

Rivka Reena bat Gruna Natna
Arye Yitzchak ben Geula Miriam
 Together with all *cholei Yisrael*

Neta bat Malka
Meira bat Esther



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

Receiving One's Due in a Joint Building Project – part II

(based on ruling 80010 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendants (=def) are neighbors who are building a column of reinforced rooms as an extension to their apartments. The ground-floor apartment owner (=sel) signed his agreement to plans presented to the municipal planning board before entering negotiations to sell the apartment. During negotiations to buy sel's apartment, the plaintiff (=pl) demanded that sel renege on his agreement to the plans, which he did. In the meantime, the planning board rejected the plans to build at location A and recommended location B. Pl, now an owner, rejected location B because of its impact on his garden, but agreed in principle to location C, in return for 45,000 NIS for using his ground as the column's base. The sides decided to not hold up the building and signed an agreement for a parallel process of arbitration in *beit din*. Pl is suing for the 45,000 NIS. Def claims that pl may not object to the building since he bought the apartment after sel approved the plans; pl had no right to pressure sel to renege. Def is countersuing, in addition to expenses, for the value of his work to design and promote the project with the planning board, as pl is also benefitting from the new room and having his apartment's building violations rectified. Pl says that he accepted *beit din* just for his own claim and not for def's counterclaim.

Ruling: [Last time we saw that sel/pl were not bound by sel's original commitment and that pl can charge for use of the property, albeit not an exorbitant price like 45,000 NIS.]

Beit din's authority to rule on the counterclaim: First, while the only specific example mentioned in the sides' arbitration clause was about def's possible payment to pl for using his ground, the clause was written in an open-ended manner, including the terms "all claims" and "the sides, one against the other." Therefore, it is wrong to limit the litigation to claims without considering directly related counter-claims. Additionally, our *beit din's* arbitration agreement, which the sides signed later, explicitly includes counterclaims arising from the disagreement, even those which the sides raise as the case proceeds. Therefore, *beit din* has full jurisdiction.

Payment for def's services: Both sides agree that def did work of significant value and that he made no demands for payment before adjudication began. Def explains that as long as pl was also helping the joint effort by providing the ground, he did not make demands, but now, he has the right to counter pl's demands with his own. When one performs services on behalf of another with the latter's knowledge, the recipient needs to pay unless there is proof that he waived such rights (Rama, Choshen Mishpat 264:4). Therefore, pl has to pay, but not as much as def demands because many homeowners in the building benefited, and one cannot make the demand of payment from only one.

Beit din rules based on compromise that is close to *din* that the two obligations should cancel each other out, and neither side pay the other. This is the way the sides should have and hopefully in the future will approach joint projects that include gain and sacrifice for all.

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