



HEMDAT YAMIM

חֵמְדָּה יָמִימִים

Parashat Hashavua

Behar, 13 Iyar 5782

Harav Shaul Israeli zt"l
Founder and President

What Makes *Shemitta* Special?
Harav Yosef Carmel

Our *parasha* introduces the *mitzva* of *Shemitta* (the Sabbatical year, which we are now in the midst of) with the *pasuk*, "Hashem spoke to Moshe on Mt. Sinai," whose last words do not usually appear in the introduction to commandments. The Rabbis note that this stress teaches us that just as the laws of *Shemitta* were presented to Moshe in both general and very specific terms at Sinai, so too this is true of the Torah's other *mitzvot* (Sifra, Behar 1:1).

Chaza'l's statement does not tell us why this lesson is taught specifically in connection to the laws of *Shemitta*. Our answer is that *Shemitta* is special in its requiring great faith in Hashem to fulfill, in essence relying upon a miracle. In general, we believe in miracles, but we do not rely upon their coming when we want them. In this case, if we do not work and sow the land in the seventh year, we should expect to run out of food during the seventh/eighth year. However, this *mitzva* comes with a promise that Hashem will decree a unique blessing in the sixth year to sustain us until the produce of that which is sown in the eighth year is ready for harvest. This is as the Torah writes: "Shall you say: 'What will we eat in the seventh year, for indeed we shall not sow and will not gather our produce?' I will command My blessing to you in the sixth year, and the produce will suffice for the three years" (Vayikra 25:20-21).

Besides the promise of sufficient produce to subsist upon, the Torah also made another promise concerning *Shemitta*: "You shall live in security [in the Land]" (ibid. 19). In contrast, if the people would not observe *Shemitta*, the Torah foretells exile: "Then the Land will claim its sabbaticals all of the days that it will be desolate and you will be in the land of your enemies ... as you did not cease from working the Land during the sabbaticals when you inhabited it" (ibid. 26:34-35).

Since the time of initial exile from *Eretz Yisrael*, more than 2,500 years ago, the obligation to observe the *mitzva* of *Shemitta* has (according to most opinions) been lowered to a Rabbinic level. Certainly, we are careful even regarding Rabbinic commandments and try to keep more severe and even less severe obligations. The problem is that the crucial promise of abundance in the sixth year's produce does not apply when the *mitzva* is not from the Torah.

At the beginning of the era of the return to Zion and the renewal of agriculture in *Eretz Yisrael*, a new opportunity arose to observe the *mitzvot* of the Torah that are linked to the Land. When it came to the *mitzva* of *Shemitta*, the question arose how to fulfill this special *mitzva*. We invite our readership to learn the many *divrei Torah* from the past and especially from our series of *Moreinu* classes, where we present the intricacies and discuss the various ways of dealing with the challenges inherent in *Shemitta* observance. Unfortunately, there is no one ideal approach to fulfilling all the halachic requirements without unfortunate leniencies that have become necessary. May Hashem send us His blessings of living peacefully in the Land in unity, which will be a fitting merit for those who gave their lives making Jewish sovereignty a reality.

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



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Ask the Rabbi

by Rav Daniel Mann

Disposing of Tea Light Leftovers

Question: I read that one should not throw directly into the garbage *mitzva*-related objects. Should I wrap in plastic the leftover shell and wax residue from “tea light” Shabbat candles?

Answer: [We have discussed questions about respect for objects involved in *mitzvot* (*tzitzit*, *netilat yadayim* cups, a “*yad*”), and so relying on electronic access, we will go light on sources. The fact that the question never dawned upon me intrigued and pushed me to seek logical guidelines.]

The *gemara* (Megilla 26b) says that while *tashmishei kedusha* (objects related to holy texts) require *geniza*, *tashmishei mitzva* (used to facilitate *mitzvot*, e.g., *sukka*, *lulav*, *shofar*, and *tzitzit*) may be thrown away. Authorities posit that one may not disgrace the latter (see Orach Chayim 21 regarding *tzitzit*), and sources make gradations in restrictions based on level of linkage to the *mitzva* (e.g., *tzitzit* and *schach* > *tzitzit* garment and *sukka* walls, respectively) and levels of disgrace (use with filth > throwing in the garbage > leaving unattended outside).

Oil left in a Chanuka *ner* sometimes must be burnt without benefit (see Shulchan Aruch, OC 677:4). This limitation is because of *muktzeh* (set aside) for a *mitzva* and does not apply to Shabbat candles, which calls for it being used for human needs (Tosafot, Shabbat 44a). There is a *machloket* among contemporary *poskim* whether Shabbat oil leftovers may be disgraced, including throwing them directly into the garbage, (see opinions cited in Ginzei Hakodesh 19:12). (All the above refers to a significant amount of leftover, not negligible residue, as we distinguish regarding *kedushat shvi'it* leftovers.) We refer to a thesis we raised (this column, Shelach 81) that throwing things in a normal home garbage is not as degrading as throwing into a garbage dump of old.

A tea light shell is not a producer of a *mitzva* flame, but just something that held it. This makes it a *tashmish d'tashmish mitzva*, the lowest of the Pri Megadim's (153, MZ 15) six categories of special objects, for which he provides no *halachot*. Therefore, it is not surprising that regarding a simple glass cup holding oil/candle for Shabbat lights, the standard opinion is that one may discard it as he likes (Ginzei Hakodesh 19:13).

However, Ginzei Hakodesh (16:(16)) cites an interesting principle from Rav Elyashiv. When an object is **clearly** related to a *mitzva* per se (not just a good practice, e.g., a *kipa*), it should be discarded respectfully. Using regular halachic rules, a *chanukiya* or Shabbat candlestick could be more lenient than the glass cup sitting on it, as it is one step further removed from the *mitzva*. But one can (even though it probably is unnecessary) accept this stringency and still not have qualms about the tea lights. On technical grounds, tea lights are used throughout the world for many other purposes than Shabbat candles, so its connection might not be as clear. However, there is a more fundamental distinction. The clear connection to a *mitzva* makes sense not because someone can guess what it was used for (the user is himself aware), but it is a matter of association. We and/or society closely associate certain objects with a *mitzva*. You will find candlesticks/chanukiyot in Jewish museums and kids' *mitzva* games, not oil cups. An object that would cause a nostalgic person to feel loss when throwing out should be disposed of carefully when its nostalgia is connected to a *mitzva*. While higher levels on the *kedusha* “totem pole” follow objective halachic criteria, a *tashmish d'tashmish mitzva* gets special treatment only when it subjectively deserves it. A normal person disposes of flimsy, disposable tea light shells without sentiment, and therefore there are no limitations. The factors that caused me to not think of your question are likely reason for it being permitted

While we are not generally against personal *chumrot*, unnecessary ones involving regular use of plastic are not positive “*chasidut*,” as the Orthodox Jewish community must embrace civic and global environmental responsibility.

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



Igrot HaRe'aya - Letters of Rav Kook

The State of Education in Eretz Yisrael - #98 – part IV

Date and Place: 13 Marcheshvan 5768, Yafo

Recipient: The rabbis of the Secretariat of “Mizrachi of the Western Countries.” They had many questions for Rav Kook about the state of education in *Eretz Yisrael*.

Body: The best place to promote innovative institutions, which are based on a spirit of pure lives, filled with the light of Torah, belief, and sanctity, yet supported by skill in science and craftsmanship, is specifically the New *Yishuv* (the “modern” areas of Jewish settlement), and not Yerushalayim the Holy City. In Yerushalayim, the old style of education must continue. In Yerushalayim, there is not a clear collapse of trustworthy Judaism.

We should also remember that there is a purpose for the approach of abstinence from certain areas of “complete life,” at least from the perspective of the external eye. The purpose is as a sign of our exile and the related affliction of the soul. In Yerushalayim, the impact of our national mourning is very poignant, as we can see the ruins of our Holy Temple, the Sanctuary of our King, before our eyes, and we are in its midst as lowly servants. This situation pierces the heart and brings pain to the soul. It by necessity leaves traces of fear and wariness of broader education and a more open lifestyle, until the time when Hashem shows us signs of relieving our situation.

The New *Yishuv* has a different status. Here, the spirit of live nationalism is increasing and in the air. In fact, the New *Yishuv* has been established by a movement that is based on this spirit of nationalism. The issue is that without a basis of true Judaism, of a sanctification of the truth and the light of eternal life, as the Name of Hashem rests on His nation and heritage, this spirit of nationalism is not worth anything. It would pass like foam on the face of water and would be comparable to a withering blossom. When the nationalism will be based on the work of religious laborers who recognize their obligations and know how to serve Hashem honestly, according to the Torah of life and the light of truth, then their efforts will represent a clear spirit, which will bring dew of reawakening to Israel and the tents of Judea. Only when the power of the peripheral communities will increase will Yerushalayim also be elevated as its center, an event toward which our eyes and heart are focused.

Therefore, we must establish in the heart of the New *Yishuv* an advanced *yeshiva* that will operate according to all of the paths of honor and the best and most embellished life that is attainable. In this type of *yeshiva*, the greater part of the studies must be on the Written Torah and the Oral Torah in an orderly manner, in a way that incorporates all that is worthwhile from the Jewish (philosophical) scholarship of our generation. The spiritual and scientific elements of the Torah in all of their applications need to be studied as independently valuable, just as Talmud and Halacha are studied. The external order in the *yeshiva* needs to be done with good taste, acceptable to everyone who is upright and well-mannered, and this applies to the building, the attire, and the interaction with others.

Secular knowledge needs to have a formal place in the curriculum to be studied in Hebrew, and the students should learn foreign languages, both Western and Eastern. The students should be taught by good instructors and with good books, not including the time of learning in *yeshiva*, which should not be more than eight hours a day. In this way, after six to eight years of study in such a *yeshiva*, the [finished products] will be well-rounded people, who will truly be a tribute to the Jewish People and to *Eretz Yisrael*.

We continue with other elements of Rav Kook’s report next time.

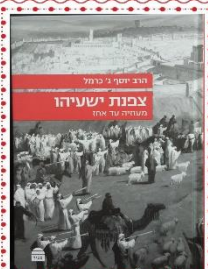
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Together with all cholei Yisrael



**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

Aftermath of a Complex Partnership – part I

(based on ruling 76096 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The sides worked together in marketing other companies' technological products. The defendant (=def1) is the owner of a company (=def2). The plaintiff (=pl1) worked for def2, but took on an increasingly central role, with agreements in 2010 and 2014. In the 2010 agreement, pl1 was appointed vice-chairman of def2 (and was envisioned to run it) and received stock options in it. The 2014 agreement states that because def2's situation makes it difficult to pay pl1, pl1 should open a company (=pl2) to represent some of def2's clients. Pl1 worked for def2 throughout 2015. During 2016, the sides have been in the process of separating between themselves, including settling old accounts. [*We will deal with different claims each time.*] Pl1 demands the 7,000 NIS monthly salary set out in the 2014 agreement for his work in the last six months of 2015 and possibly for the beginning of 2016. Def reply that pl1 did very little work that year and was not successful at what he did but focused primarily on pl2. The value of pl1's work was covered by his use of a company car def2 provided.

Ruling: In the letter of claim and first hearing, pl1 asked for 6 months of salary for 2015 (=42,000 NIS). However, in summations he added on the first three months of 2016, claiming that he did not mention those months previously because he had limited his total claim to 120,000 NIS and was referring only to the amount due for 2015. One is not able to alter the scope of his claims in the midst of a proceeding unless he has a convincing explanation (*amatla*) as to why he changed his claim (Shulchan Aruch, Choshen Mishpat 80:1). Pl1 did not explain why he would have limited his claim to 120,000 NIS if he thought he deserved more or why he would have not bothered to mention the months of 2016. Therefore, the additional claim will not be considered.

Def1 claimed that pl1 should prove that he did sufficient work during 2015 to justify a full salary. While pl1 did provide some documentation of work, it is unclear that it was proof of a great enough amount. However, that is not the issue here. According to the agreement, pl1 was to be paid as a worker for a time period, not as a contractor who gets paid by results. Since no time expectations were stated for pl1 (there was no claim that pl1 was supposed to punch a clock), it is not feasible for him to prove that he did as much as he had to. It was clear that part of pl1's day was going to be spent working on pl2, to which def2 channeled clients, and the same agreement that mandated it also spoke of pl1's salary. Def1 was unable to explain to *beit din* exactly what was expected of pl1.

In cases like this, when one side can know the facts and the other cannot, the one who knows is believed with an oath (Shulchan Aruch, CM 91:3). According to the common practice (and apparently the law), we do not reduce anything from the worker's salary in such a case, which is what we will rule. Therefore, pl1 is to receive 42,000 NIS on this claim.

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