



HEMDAT YAMIM

חֵמְדַת יָמִיִּם

Parashat Hashavua Mishpatim, Shevat 22, 5785

Harav Shaul Israeli zt"l
Founder and President

We Want a Jewish Judicial System Now!

Harav Yosef Carmel

Tzedaka (acts of kindness) and *mishpat* (justice) together form the spine of *Am Yisrael's* public life. A proper legal system and the receiving of the Torah guarantee the ability to lead an entire nation in the path of *Avraham Avinu* – “to guard the path of Hashem to do *tzedaka* and *mishpat*.” *Parashiyot Yitro* and *Mishpatim* are intimately connected to *tzedaka* and *mishpat*.

Yitro starts with Moshe's father-in-law giving advice to Moshe on how to assemble proper judges in a logical system. This topic was generally broached at the end of *Beshalach* (“There He placed for them statutes and justice, and there He tested them” – Shemot 15:25). As Chazal explain, in *Mara*, Hashem gave Bnei Yisrael some Torah laws to be involved in, including principles of monetary law (*Mechilta D'rabbi Yishmael ad loc.*). This involvement got Bnei Yisrael started in the preparation for a proper judicial system.

Later in *Yitro*, four of the Ten Commandments are connected to the judicial system – false oaths, murder, theft/kidnapping, and false testimony. Right after the giving of the Torah, *Mishpatim* details many specific areas of Halacha that are the basis of adjudication in *beit din*. These include the rights of personal freedom, ethics of jurisprudence, and protection of the weak in society. Fields covered include damages, watchmen, loans, and preventing false testimony. Finally, the Torah goes back to the interaction with the Divine Presence at Sinai. This order reinforces the idea that significant Torah-based life depends on a properly functioning judicial system.

Going back thousands of years, it became rare for Jews to have a judicial system, through which to enforce rulings. With the establishment of the State of Israel, Chief Rabbi Herzog's dream of a proper Jewish judicial system was fulfilled only very partially, with limitations that increased over time. Much work was employed to find a way to apply Torah principles in a modern economic society that involves many technologies and globally bound commerce.

Before founding the Eretz Hemdah-Gazit network of *batei din*, we did extensive research and held discussions with leading rabbis of our time, which enabled us to know how to provide up-to-date solutions for these challenges. Actually, the Israeli (and international) Law of Arbitration was helpful in building a fully functional *beit din* system for a democratic Jewish background. The rules of the Law of Arbitration are very in-step with Halacha, and when one follows them, it is relatively easy for litigants to enforce rulings.

In practice, litigants must accept *beit din's* authority regarding their dispute by signing an arbitration agreement. Then *beit din* can hear the claims, listen to witnesses, consider proofs, and, when necessary, make use of experts to clarify complicated technical matters. Some *batei din*, including ours, provide a possibility to appeal decisions, and if there is a problem with enforcement of the ruling, the Israeli government bureau for such matters can be used.

Through the simple act of agreeing to adjudicate in *beit din*, litigants merit taking part in the fulfillment of the prophecy: “Zion will be redeemed through justice, and those who return to it, through *tzedaka*” (*Yeshayahu* 1:27). In times like these, this is especially critical.

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Ask the Rabbi

by Rav Daniel Mann

Halachic Status of Hydroponic Maror

Question: I know that the *beracha* for hydroponically grown vegetables, such as the insect-free romaine lettuce used for Pesach, is *Shehakol* since it is grown in water, not soil. May one use it for the *Seder* as *maror* and, if so, does one say then *Shehakol* or *Borei Pri Ha'adama*?

Answer: I understand that most “insect-free” vegetables are not hydroponically grown but use other methods to minimize the chance of insects. We will discuss the cases of hydroponically grown romaine lettuce, but our main focus will be on the correctness of your assumption that the *beracha* is *Shehakol*.

The Yerushalmi (Kilayim 7:6) questions whether one recites *Hamotzi* on bread made from grain that grew in a flowerpot without holes (*atzit she'eino nakuv = ashn*). Based on this, the Chayei Adam (I, 51:17) instructs to make *Mezonot* on such bread, and *Shehakol* on similarly grown vegetables. The issue is the language of “...*min ha'aretz*” (from the land) and “*pri ha'adama*” (fruit of the soil), which may not be sufficiently accurate in these cases. Regarding fruit of a tree that grew in an *ashn*, he is less sure because perhaps that is still called *pri ha'etz*. Presumably hydroponic produce is less connected to land/soil than that which grows in an *ashn*. (Note that there are always nutrients in the water, and in some systems (aggregate), there are elements present that could arguably make it considered watery soil.)

We can question the Chayei Adam's position based on logic and sources. It is logical to argue that foods are categorized for *berachot* based on the species' characteristics, irrespective of the specific item one is eating. Regarding sources, the conclusion of the Yerushalmi (ibid.) is disputable, and a different Yerushalmi (Berachot 6:1) indicates *Hamotzi* for such bread. It says that whatever food gets *Birkat Hamazon* after it, gets *Hamotzi* before it, and the *gemara* (Berachot 47b) assumes we make *Birkat Hamazon* after bread that originates from an *ashn*. This encourages some (see S'dei Chemed VI, p. 279) to make *Hamotzi* on bread from an *ashn*, as the Rambam (Berachot 3:11) may imply.

How do we *pasken*? The Chayei Adam is more equivocal elsewhere (Nishmat Adam II, 152:(1)). Some contemporary *poskim* instruct to make *Ha'adama* on hydroponic vegetables (Shevet Halevi I:205), even if hydroponics is common, as long as society views it as grown on the ground (Teshuvot V'hanhagot II:149). Others rule to make *Mezonot* for bread and *Shehakol* for vegetables (Machazeh Eliyahu I:25,28; Yechaveh Da'at VI:12 views hydroponics as “worse” than *ashn*). They reason that not only do these *berachot* not mention land but they are also *b'di'eved* catch-all *berachot* making them preferable due to *safek berachot l'hakel* (in doubt, we avoid *berachot* that could be *l'vatala*). Still, Yechaveh Da'at (ibid.) says that if one does not know how a given vegetable was grown, you assume it is from the majority of vegetables, which are grown in the ground. Also, he says that if one made *Ha'adama* on a hydroponic vegetable, he would not say *Shehakol* afterward (as *safek berachot l'hakel* encourages us here to rely on the *beracha* that was already made). While we do not take a strong stand, we note that “*pri ha'adama*” seems a fair description of hydroponic vegetables, even if “*min ha'aretz*” (from the land) is not for such bread (Teshuvot V'hanhagot ibid.)

There is little question regarding Pesach. The lettuce's *maror* status is determined by its qualities; its origin is, at best, relevant for the language of the *beracha* (Cheshev Ha'efod III:9). Indeed, the *gemara* (Pesachim 35b) alludes to kosher *matza* coming from grain grown in an *ashn*. It is conceivable to eat it and recite “*al achilat matza*,” followed by “*Mezonot*” (Tzitz Eliezer IX:12). That paradox does not usually arise for *maror*, which does not get a *birkat hanehenin*, since it is eaten as part of the “meal” (a slight oversimplification – see Living the Halachic Process V, D-14). If one has hydroponic *maror* and no *matza*, he should follow his normal *p'sak* for the *birkat hanehenin*, followed by the *beracha* on *maror*.

“Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in Rabbi Mann's weekly Zoom sessions, analyzing with him the sources and thought process behind past and future responses. Email us at info@erezhemdah.org to sign up (free) or for more information on joining the group.

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

▶ [SEND NOW!](#)



Igrot HaRe'aya - Letters of Rav Kook

Advice on Studying Spirituality – #301

Date and Place: 22 Iyar 5670 (1910), Yafo

Recipient and Background: Rav Zvi Hirsch Weisfish, a prominent rabbi in Yerushalayim, whose milieu was mainly “opponents” of Rav Kook.

Body: Regarding your request for advice about strengthening service of Hashem with joy and strength, it is very difficult to clarify succinctly any element of such pure service. The entire motivation I can give for myself and those like me is to set serious amounts of time for study of all applications of the spiritual parts of the Torah, which must not be relegated to a “quiet corner,” to be read in passing. [If we study it properly,] the light of the soul will shine, and a spirit of joy and strength will be beat in the heart of one who seeks pure truth. I can, though, tell you one major rule, which takes intensive study to understand in its full depth. It also facilitates developing the desire to love Hashem and His holy Torah’s light.

Obviously, if you offer even the lowliest person to do an act of kindness for the entire world, in all its aspects of existence, he would be inspired with joy and strength to do good. Laziness and listlessness come because a person does not believe the level of good for the world that involvement in Torah, *mitzvot*, service of Hashem, and fine characteristics accomplishes. For this reason, Hashem brought light to our eyes through the words of the highest, sacred people, the experts in the true traditions (Kabbala). They removed the covers to inform us of the great impact of service of Hashem and the way to elevate all of existence, as a collective and as individuals.

However, we must relate the matter to intellectual perception to make the encouragement strong and the joy well grounded. This comes with understanding of the unity of spirituality, i.e., the light of every individual’s soul is connected to the all-inclusive soul of the universe, from which every element of existence draws the light of its completeness. Torah wisdom, *mitzvot*, service of Hashem, and good characteristics, which can be done at any time, add light to our souls. At this time, if we concentrate on the idea that we do not care just about ourselves but about all of existence, for “all that Hashem created is for Him” (Mishlei 16:4), we add completeness and life to everything.

This light adds vigor to a righteous person’s service and somewhat “sweetens” the evil of the wicked and gives him thoughts of repentance. Even animals become more refined, to the extent each is capable. Destructive creatures become gentler, due to the added aura of sanctity of the soul that intended to make an impact on the broadest level. Good actions with broad intentions clearly increase the light in the higher levels of souls and all the levels of the spiritual world, which are boundlessly beautiful and grandly holy. [Making this impact] is most proper for all members of the sacred nation. This is all the more so for those who live on sacred soil, especially those who merit to live in Hashem’s city, to which all existence in the physical and spiritual worlds are connected, like branches are attached to the trunk and roots.

I am confident that the positive impact [of such actions/intent] will grow the more this principle is made clear and internalized with intellectual and spiritual depth, which happens best when people learn Torah, especially *Kabbala*, for noble reasons. This is true of the study of works on knowing Hashem, whether based on human intellect or Hashem’s secrets to those who fear Him. This increases in his heart and soul the light of joy and strength in love of Hashem, *mitzvot*, and the Torah’s sanctity.

The full impact on the universe is when members of His holy nation produce the light when they are elevated by living on Hashem’s soil. For this reason, the light of awaiting the ultimate liberation will always be connected to the life of the soul. When a flow [of life] breaks forth from the appropriate holy utterings, at opportune times, a new, pleasant light will appear, which will make harsh judgments “sweeter.” Then, a person can pray broadly for all his desires, mainly the spiritual ones, but also the physical ones in a minor way. Hashem will not hold back good from those who walk in purity. One must be very careful, in natural ways, about the health of the body and spirit and avoid feelings of fear and irritability. He must train himself in the way of vigor and joy, as “Vigor and happiness is in His place” (Divrei Hayamim I, 16:27).

We daven for a complete and speedy *refuah* for:

Itamar Chaim ben Tzipora

Nir Rephael ben Rachel Bracha
 Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
 Tal Shaul ben Yaffa

Neta bat Malka
 Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Used Car with a Faulty Motor

(based on ruling 84020 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought a used car from the defendant (=def) for 51,500 NIS. Pl and def went together to an auto-testing center before the sale and, due to certain engine imperfections the center discovered, several thousand NIS were reduced from the car's catalogue price. On pl's way home from buying the car, the car shook significantly at high speed. Pl called def immediately, and def assured him that the problem had not existed before. Pl's mechanic tried making several changes, but the problem persisted. Pl then took the car to a manufacturer's servicing center, which diagnosed the problem as serious and due to def's neglect. Pl is demanding to declare *mekach ta'ut* (nullified transaction based on misrepresentation), thereby receiving the sales price back, along with payment for expenses for trying to check and then fix the problems. He also asks money for time spent and mental anguish (pl had to get a leave from active reserve duty to arrange for the purchase, as his wife needed a car). Def said that he was unaware of any problems and since they had the car checked at a qualified center, def had the price reduced due to imperfections, and he offered 4,000 NIS toward fixing or replacing the engine, pl can no longer claim *bitul mekach* (nullifying the sale).

Ruling: One question is whether to trust the testing center or the manufacturer's service center. *Beit din* received permission to ask a third, neutral expert to evaluate the findings. It resembled more closely the findings of the service center.

Based on these serious findings, which were unknown to pl at the time of purchase, there are grounds for *bitul mekach* if pl acted on them in a timely fashion (see Shulchan Aruch, Choshen Mishpat 232:6). This is the case here, as pl contacted def right away and after failing in his attempt to fix the problems, asked to return the car and get his money back. The fact that he continued using it, which usually undoes the possibility of *bitul mekach*, is not impactful here because pl did so only because def did not agree to return the money. The expert testimony said that it is highly likely that def experienced similar shaking before he sold it, but *mekach ta'ut* applies even when the seller was unaware (Rama, CM 232:18). Since the matter is not based on fault, it also does not make a difference that a testing center was involved. If the problem was based on things they had discovered, then pl would be deemed to have been *mocheil* on them, but in fact, the serious problems were things that were not likely to be found with a computer-based check.

The expectation that def was aware of "symptoms" about which he did not inform pl is significant in that it makes def liable for the expenses that pl spent on trying to fix the car. This is coupled with the fact that def was uncooperative in the process of adjudication, which is also grounds for his being responsible for paying the cost of *beit din* and a small fee for mental anguish.

Comments or questions regarding articles can be sent to:

info@erezhemdah.org

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