



HEMDAT YAMIM חֵמְדַּת יָמִימִים

Parashat Hashavua

Devarim, Av 8, 5785

Harav Shaul Israeli zt"l
Founder and President

Enlistment in the Time of Yehoshua and David Harav Yosef Carmel

We continue to look at the question of whether Torah study exempts from taking part in wars of *mitzva*, and again we focus on Yehoshua 1:8. The *navi* says: "The Torah scroll shall not move away from your mouth, and you should contemplate it day and night."

The *gemara* (Menachot 99b) brings four opinions of how to fulfill this *pasuk*: Rav Ami – It suffices to learn one "chapter" in the day and at night. According to this, there is no problem spending the rest of the time on worthwhile matters, such as defending the Land and the nation and making a living, etc. Rabbi Shimon bar Yochai – Even reading *Kri'at Shema* in the day and night fulfills the imperative. Rabbi Yishmael – The *pasuk* precludes studying Greek wisdom, as all time is set aside for Torah study. Rav Shmuel bar Nachmani – The *pasuk* is not teaching us an obligation or a *mitzva* but is a blessing that we will merit to always be connected to the Torah. None of these opinions precludes spending time in an army in a *mitzva* context. Even R. Yishmael's stringent opinion only precludes involvement in matters like Greek wisdom.

There are two approaches to explaining the overall concept according to these opinions:

1) Hashem commands Yehoshua that his leadership of the nation should always be aligned with the values of the Torah and service of Hashem. The connection to the Torah scroll means that every member of Bnei Yisrael, and certainly its leaders, must constantly ask themselves – are our decisions in line with the spirit of the Torah? This is the idea behind "The Torah scroll shall not move away from your mouth."

2) There are two *mitzvot*: a) to know what the Torah says in order to know what to do; b) to be involved in the process of Torah study. The *gemara* above deals with the first element (see our responsum, Bemareh Habazak X, 72).

There are opinions among *Chazal* that it is impossible to **complete** the *mitzva* of accumulating Torah knowledge and understanding. The scope of the enterprise depends on a person's level and abilities. Rav Ami and R. Shimon described people with a low capacity; R. Yishmael referred to those who reach a very high bar.

Let us try to understand *Chazal's* use of the term *bitul Torah* (approx., waste of Torah time), which some, unfortunately, use to justify not serving in the army. One explanation is related to the destruction of the *Beit Hamikdash*. The *gemara* (Chagiga 5b) notices in Yirmiyahu 13:17 the mention of three tears, and identifies their causes – the first Temple, the second Temple, and the exile of Bnei Yisrael from their Land. The *gemara* continues to say about the exile: "There is no greater *bitul Torah* than this."

This provides important insight. When *Am Yisrael returns* to *Eretz Yisrael* and establishes a Jewish state, this undoes the *bitul Torah* that started 2,700 years ago, with the exile at the time of the first destruction of the Land. One who serves in the IDF and helps ensure our ability to live in *Eretz Yisrael* takes part in undoing the terrible punishment of exile and its related *bitul Torah*. Therefore, we call on those who learn Torah to strengthen Torah by combining Torah study with army service. We call on the heads of the army and defense establishment to do what is needed to ensure that soldiers' lifestyle and religious practices are carefully preserved.

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R' **Yitzchak Eizik Usdan** z"l ben Yehuda Leib Av 29
Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

The Transition from Shabbat into Tisha B'Av

Question: Could you please explain how to handle the transition from Shabbat into Tisha B'Av (when it falls on *Motzaei Shabbat*) regarding *se'uda shlishit*, *Havdala*, and changing clothes?

Answer: *Se'uda shlishit*: The *baraita*, quoted in Ta'anit 29a says that one may eat as extravagant a meal as he wants on Shabbat even if Tisha B'Av falls on that day or the next. The Tur (Orach Chayim 552) cites customs that one is allowed and would do best to curtail the Shabbat meal. This is especially so at *se'uda shlishit*, which is, in effect, the *se'uda hamafseket*. However, these considerations are countered by the need to avoid displaying mourning on Shabbat. Therefore, there are no real restrictions, even at *se'uda shlishit* (Shulchan Aruch, Orach Chayim 552:10). However, the mood should somewhat reflect the coming of Tisha B'Av, as long as it does not bring on clearly noticeable changes (Mishna Berura 552:23). One important halachic requirement is that one must finish eating before sunset (Rama ad loc.).

Havdala: One says *Havdala* in *Shemoneh Esrei*. *Havdala* over a cup of wine is done after Tisha B'Av (Shulchan Aruch, Orach Chayim 556:1). Despite these facts, if one forgot to mention *Havdala* in *Shemoneh Esrei*, he does not repeat *Shemoneh Esrei*. Rather, the declaration of *HaMavdil*, which enables one to do actions that are forbidden on Shabbat, suffices (Mishna Berura 556:2). Unlike *Havdala* during the Nine Days, where we try to give the wine to a child rather than an adult (Rama, Orach Chayim 551:10), after Tisha B'Av, an adult can freely drink the *Havdala* wine (Mishna Berura 556:3). The *beracha* on *besamim* is not recited this week because it is always recited only on *Motzaei Shabbat*, and on Tisha B'Av it is not appropriate because it is supposed to serve as a pleasure that revives the soul.

The *beracha* on the fire is specific to *Motzaei Shabbat*, is not a pleasure, and does not require a cup. Therefore, the *minhag* is to recite it in *shul* toward the end of *davening*, before the reading of Eicha (Mishna Berura 556:1). There are those who say that a woman should, in general, avoid making *Havdala*. This is because of the doubt whether a woman is obligated in the *beracha* on the fire, which is not directly related to Shabbat and thus is a regular time-related *mitzva*, from which women are exempt (*Bi'ur Halacha* 296:8). Therefore, if one's wife will not be in *shul* at the time of the *beracha*, it is better for the husband not to fulfill the *mitzva* at that time, but to make the *beracha* on the fire at a time that his wife can hear it (Shemirat Shabbat K'hilchata 62:(98)).

Taking off shoes: As we mentioned, one may not do a noticeable act of mourning before Shabbat is over. While finishing to eat before sunset or refraining from washing need not be noticeable, taking off shoes is. There are two *minhagim* as to when to take them off: 1) One waits until after Shabbat is out, says *HaMavdil*, and then changes clothes and goes to *shul*. One can do so a little earlier than the regular time listed for Shabbat being out, which is usually delayed a little bit beyond nightfall to allow for a significant adding on to Shabbat at its end. The exact time is not clear and depends on the latitude of one's location. It is advisable to start *Ma'ariv* a little late in order to allow those who take this approach to make it to *shul* (Shemirat Shabbat K'hilchata 62:40; Torat HaMo'adim 9:1). (If the rabbi has ruled that everyone should take the following approach, all should conform, and there is no need for such a delay). 2) One takes off his shoes after *Barchu* of *Ma'ariv*. One who takes the second approach should bring non-leather footwear and *Eicha/Kinot* books to *shul* before Shabbat to avoid the problem of *hachana* (preparations for after Shabbat). However, if one uses them somewhat in *shul* before Shabbat is out, he can bring *sefarim* with him on Shabbat (Shemirat Shabbat K'hilchata ibid. 41).

“Behind the Scenes” Zoom shiur

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Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

Recognize Your Place

Based on Siach Shaul, Pirkei Machshava V'Hadracha vol. I p. 140

This address commemorates a graduation at the school of K'far Haro'eh (Rav Yisraeli's moshav) and the laying of the cornerstone for its permanent building.

The idea behind an anniversary is that the past, which generally becomes increasingly distant and forgotten, suddenly returns to memory, with all its peaks and nadirs, its lights and shadows, appearing to us as a complete, united entity. This *siyum* marks both a graduation and a *siyum* of sorts of an era in the *moshav's* life – the era of *bereishit*, its creation and temporary existence with wandering even within its set location. How many “exiles” there were, how many uprooting events, how many teachers replaced teachers when they left the school. Different doctrines on the mix of subject matter were tried. Only now are we laying the foundations of the permanent building as our first class graduates. Apparently, their lot was to be educated without sturdy foundations, but with change and new creations.

From one perspective, certainly these wanderings were a sign of weakness in the state of education. After all, one cannot compare studying in an unset, changing place to studying in a modern, organized school. But the past period has something positive we should especially stress.

The experience the children had was the best way for them to appreciate the nature of changing life. They saw how the beginning is difficult, as is the continuation. Those who were handed everything, those who woke up and found everything laid out before them, will not notice how things were prepared; they will see everything they have as natural. Then throughout their lives, they will not search for goals and the fulfillment of ideals, but seek the more comfortable, easier path. Those who reach school age and find their school all prepared will not understand their parents; they will not appreciate the wrinkles on their sweating faces, the graying hair on their heads, and the battered hands that prepared everything.

“Ben Zoma said: 'How much toil did Adam undergo until he had bread to eat? He plowed, sowed, reaped, piled, thrashed, selected, ground, sifted, kneaded, and baked. Only afterward did he eat. And I wake up and find all of these things prepared before me. And how much toil did Adam undergo until he had clothes to wear? He sheared, whitened, beat, spun, weaved, and then he found clothes to wear. And I wake up and find all of these things prepared for me” (Berachot 58a). Ben Zoma was one who knew how to appreciate things in normal life, and this statement became a testament. This implies that most people lacked this sensitivity.

We do not want to raise pampered children. We want to educate our children to know what toil is, to give, and to know how to sacrifice. We are the “Nation of the Book.” It is of **the** book, not **a** book. However, we are also a **nation**, with all the things that come with that. Therefore, we must tell our children who have been tested: “You have seen the great toil that was invested in you to enable and prepare you to be complete Jews. Realize your place! Do not get swept away to foreign camps. Do not seek easy profits! Do not search for comforts that your parents saw in their parents’ homes and ran away from.”

Your parents placed the foundations, you continue to build the building. How much bravery it took to bring you to this point. Some fought hard to come to *Eretz Yisrael*, feeling that their life in the Diaspora appeared steadier than it turned out to be. Many underwent a trying path to learn the way of workers in *Eretz Yisrael*. There was a great burden to carry, requiring stubbornness and belief. All of this had an impact; there is reason for faces to look tired and bodies spent. You are in the morning of your lives; know how to continue what your parents started. You are the guarantee that their toil was not for naught. Be prepared! We are waiting for you, as is the religious settlement movement.

Delve into our sources, and realize that we have the key to the nation’s survival. Only the Torah, which has protected us, can protect us in the future. Preserve simplicity in your lives; do not look for luxuries. Be straight in thought, truthful in speech, and modest in behavior. You are our future!

We daven for a complete and speedy refuah for:

Itamar Chaim ben Tzipora

Nir Rephael ben Rachel Bracha

Arye Yitzchak ben Geula Miriam

Tal Shaul ben Yaffa

Ori Leah bat Chaya Temima

Neta bat Malka

Meira bat Esther

Together with all cholei Yisrael

P'ninat Mishpat

Dividing Returns on Partially Cancelled Trip – part II

(based on ruling 84070 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl), who lives in the US, signed up with and paid \$4,140 to the defendant (=def), an Israeli company, for a trip to a third country (=dest), scheduled for Nov. 2023. The contract called for a 50% refund up to 21 days before the trip and no refund thereafter. After war broke out in Israel, def polled his clients to gauge the trip's viability, and pl did not initially respond; the trip took place with only six participants. Eventually, pl cancelled her participation because the war complicated her travel plans and made her feel it was not the right time for a trip, but it was within 21 days. Def told pl he would try to get some refund from service suppliers (=ss) in dest, and was able to offer pl \$2,610. Pl tried to get her credit card company (=ccc) to cancel her payment to def, by arguing she did not receive the services. Def had requested she not do so, including because if ccc accepted her claim, it would hurt def's standing with ccc. When ccc rejected her claim, pl asked def for the \$2,610, but def rescinded his offer, arguing that she did not deserve his magnanimous gesture after she acted in a manner that could have damaged him.

Ruling: [Last time we saw that pl did not have the right to get a refund from def because of the refund conditions that she agreed to and because she was not prevented from taking part in the trip.]

We do not find that def obligated himself to secure a refund for pl. He acted beyond the call of duty by working to try to return money for def. The initial efforts did not become binding to follow through with returning more than the agreement between the two of them obligated him. Additionally, it is clear from communications between the sides that pl was aware that she was rejecting def's offer and taking an alternate path that was potentially damaging to pl, which also makes the offer meaningless at this point.

On the other hand, we must analyze how to view the money def received from ss. This is along the lines discussed in the Shulchan Aruch (Choshen Mishpat 183:6) of an agent who bought something on behalf of a buyer and received more than expected from the seller. Here too, the clients, including pl, paid money for services to ss, who, through def's involvement, returned money that was not required. The Shulchan Aruch rules that if the price was set, the extra is split between the buyer and the agent, and if it is not set, all goes to the buyer. The Rama comments that if the seller explicitly said he gave it because of the agent, the agent receives the extra. Rashi (Ketubot 98b) explains that the reason to split the extra is because we are unsure because of to whom the seller gave it, thus explaining the Rama about the importance of the seller's statement. The Rif explains that it is split because the agent was able to receive the money only because he had the buyer's money to spend. So too here, def was able to receive the refund that corresponds to pl's payment to ss only because of pl's money, and therefore pl should receive half of it.

Therefore, def must pay pl \$1,305.

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