



HEMDAT YAMIM

המדת ימים

Parashat Hashavua Vaetchanan, Av 15, 5785

Harav Shaul Israeli zt"l
Founder and President

“All Creation Will Know” – part I Harav Yosef Carmel

At the end of our *parasha*, Moshe gives instructions how to change the Land of C'na'an into the Land of Israel. The C'na'anites engaged in very lowly idolatry, which was the total opposite of the message to the world of *Am Yisrael*. The goal of *Am Yisrael* in *Eretz Yisrael* is to be a holy nation, both in service between man and Hashem and man and his fellow man. Everything must be with purity – pure intentions, thoughts, attributes, and actions. This is what turns them into a special nation.

In order to maintain this purity, the Torah commands removing the pagan nations from the Land, not to intermarry with them, and to destroy the signs of their idolatry (Devarim 7:2-6). After this goal is completed, it is possible to move on to the greater goal – to perfect the world by having all accept the dominion of Hashem. This is an undertaking that various prophets took part in. While each one had his own presentation, there are three principles that are joint to all:

1. There is no End of Days without the ingathering of the Jewish exile. For the world to be fixed, *Am Yisrael* must return home. This phenomenon is happening before our excited eyes. It is not just that almost half of the nation has returned to *Eretz Yisrael* but that they have done so as a nation, not as individuals. Jewish nationalism has reemerged, with a Jewish state that extends to almost all of our Land, which is spiritually valuable. The reawakening of nationalism has gone hand-in-hand with our independence. One who does not thank Hashem for this runs the risk of being ungrateful, as it does not make sense to make gratitude conditional on arriving at the end of the process.

2. One of the prophets' signs for the liberation is the “flowering” of *Eretz Yisrael*, which welcomes its children with a “beaming countenance,” like a bride toward her groom. In our times, the words of the prophets take on broader significance than in the past. Not only is there agricultural flowering but it extends to the fields of Torah scholarship, science, medicine, commerce, and satisfaction with life, which allows *chesed* enterprises to deal with all social issues. The Land produces brave sons of unparalleled levels. Belief in Hashem has taken off after the tragedy of Oct. 7.

3. The nations of the world will repent and will serve the Creator along with *Am Yisrael*. They will accept that Hashem chose *Am Yisrael* with love and gave it *Eretz Yisrael*, and that Hashem taught the founder of the first Jewish state, King David, that its spiritual center is Jerusalem and its Temple. The Rambam taught that the beginning of the long, complicated process is the ascent of Christianity and Islam, which fought and uprooted paganism in large parts of the world. The process of expanding belief in one special G-d has already begun. However, history has taught us how painful such a process can be, although in our days, there are improvements in fulfilling the prophets' vision of religious cooperation.

Yeshayahu (2:1-4) foresaw the nations flocking to the Temple in Jerusalem. He continued to describe the emergence of Torah from there to be spread to the world and the beating of swords into plowshares.

Next week, we will discuss what happens to those who do not participate in the process.

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Ask the Rabbi

by Rav Daniel Mann

Giving *Ma'asrot* to the Intended Recipients

Question: I understand that it is not practical to give *teruma* and *terumat ma'aser* to a *kohen* because he cannot use it (see this column, Bamidbar 5778) and we cannot eat *ma'aser sheni* in Yerushalayim with its rules, but shouldn't we give *ma'aser rishon* and *ma'aser ani* to *levi'im* and the poor, respectively?

Answer: The discussion breaks up into two parts. 1) *Ma'asrot* to which *hafrasha* ("taking off" – they are actually described as being set aside but only the *trumot*, not the *ma'asrot* are physically taken off) at processing centers, which is done on a mass scale. In that case, on the one hand, the *mitzva* is significant but on the other hand, it is daunting (one competes in the market with people who will not be taking off close to 20%). 2) *Ma'asrot* from produce that grew in one's garden or was bought in a store that does not take off *ma'asrot*.

1) The major *kashrut* organizations do not require that the *ma'asrot* that were declared were given. Although there is an opinion that *hafrasha* that was done with an intention not to give is invalid, the consensus is that failure to give does not invalidate the *hafrasha*; therefore, that the produce is not *tevel* (Shut Har Tzvi, Zeraim 1:44). Regarding *ma'aser rishon*, going to a *levi*, it has become standard to rely on the idea (Chazon Ish, Shvi'it 5:12) that since the practice is that that we give *aliyot* to *levi'im* just on their word, we do not want a situation in which one has significant financial benefit by claiming he is a *levi*. (It may be relevant, that on the level of spirit of the law, the *mitzva* is intended to compensate members of the tribe for their full-time involvement in the nation's spiritual needs (see Bamidbar 18:31).)

There are obviously poor people who can prove their poverty, and so it is more difficult to not give to them. Presumably, *kashrut* organizations suffice with making the produce permitted to eat, and leave the decision of whether to give *ma'aser ani* (see below a way it can be done) to the farmer, who will also consider his ability to stay profitable.

2) Most produce in Israel undergoes the taking of *trumot* and *ma'asrot* at processing or distribution centers. Therefore, even if one buys at a supermarket without a *hechsher*, it is rarely more than a *safek* whether it needs further tithing. Under those circumstances, one does not have to give the *ma'asrot* he "took off" (see discussion in Mishpetei Eretz, Trumot U'maasrot 17:2).

In regard to that which grows locally or can be traced to a process that does not include *hafrasha*, the situation is as follows. Regarding *ma'aser rishon*, some still rely on the Chazon Ish and do not give. Presumably, it would be wonderful to have a *levi* to give the portion of the produce that correspond to the *ma'aser*, as a *levi* would likely be pleased to give expression to his *levi status*; he could then either keep the produce or gift it back.

Regarding *ma'aser ani*, it is usually not very useful and actually insulting to be designated a recipient of *ma'aser ani* and receive minimal benefit from it. A halachically practical system is to lend money to a poor person of an amount that corresponds to the expected value of all the *ma'aser ani* of that period. The loan works with the condition that it will be paid back only with the *ani's* nominal (non-physical) acceptance (as *ma'aser ani*) and return (as loan payment) of the produce to the giver (Mishpetei Eretz *ibid.* 9). Because arranging all of this is not so simple, fine organizations (that deal with land-based *mitzvot*) arrange everything and have people sign up and pay a set fee, which includes the money for the loan that halachically facilitates the *ma'aser* giving. The same can be done regarding giving to *levi'im*. It can also work for farmers, who would have to give a lot more than a non-producer, but for whom there is also a mechanism that makes it much cheaper than 10% of the market value of his produce (details are beyond our present scope).

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Moreshet Shaul

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

The Fundamentals of Judaism

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 489

What is the foundation of Judaism, from which the details branch out? Hillel encapsulated for the convert – “That which you hate, do not do to your friend” (Shabbat 31a). However, that is only a symbol – what are the foundation stones?

The Unity of Hashem – Things are not by chance, as one guiding hand arranges everything. The Primary Intellect is: nothing is created without a Creator; nothing emerges without something causing it; there is no mansion without the mansion's owner. It requires much haughtiness and coarseness for a man not to recognize this in the world, in the wonders of the enormity of Creation, of life that exists in even the tiniest creatures, millions per millimeter, and, in contrast, the millions of worlds that are spinning with great power in infinite distances in space. “Hashem did all of this, at which they did not look, and the work of His hand they did not see” (Yeshayahu 2:12). We are so used to the wonders of the bodies of the heavens that it does not arouse wonder and contemplation. Only a young child can accept such a simple truth.

Judaism sees a guiding hand in everything, but only one divine hand, not the different powers struggling against each other that early humans believed in: sun/rain, heat/cold, land/sea, day/night, life/death, competing living creatures, man with dominion, followed by death. People saw these things as powerful idols.

What makes one power victorious? Is it when one defeats another? We see in practice the dominion of the powerful, implying that strength is the most important thing. We call this sick way of looking at things – paganism.

When we realize that there is divine unity, then we posit that the world in its essence is not at war. Powers that appear in competition and one thing being built at the expense of another, are just a temporary stage. Everything emanates from one source, and strives to go toward one goal. *Shalom* is Hashem's name (Shabbat 10b), and this must be Creation's goal.

By recognizing unity, we set the foundations of justice and kindness in the world. A Creator who is not lacking and needs nothing can only create a world for kindness. Then, justice will win, being more powerful than power; powerful, evil leaders shall cease.

Reward and punishment: After our conviction that the world was created with intent, the question is what the purpose of the Creation is. No sane person would accept that after Creation, the world would be left to itself. Judaism is based on the concept of Divine Providence, on the stress that although the world enables free actions, the Hand of Providence continues to guide it. Thus, it is impossible that actions will remain without reckoning. It is necessary to determine the criteria for which actions are good and which are bad.

This gives room for natural belief – actions are compared to Hashem's attributes. If we set something as an attribute of kindness of Hashem, it shows that man's parallel actions depend on their level of kindness.

It is as if we could say that although Hashem is perfect and lacks nothing, the one thing He was missing was to be able to grant of His goodness to his creations, and actualize the surplus of good that is found around Him. This teaches man he should emulate his Maker.

Torah of divine origin: If Hashem's attribute of kindness is the main thing, then there must be divine revelation to teach how to get as close as possible to that type of life and guide our every detail and element. This is part of the kindness – He should guide us like a father guides a son. A father will never leave his son in the hands of a teacher without checking the results of his education. This is what Hashem accomplished by providing the Torah. We should view the giving of the Torah as the highest expression of Hashem's kindness and His desire to guide man to his goal.

The goal is to get man to the highest level of kindness and to the nullification of his ego. “One hour of repentance and good deeds in this world is greater than the entire World to Come” (Avot 4:17). That is what Hillel taught the convert.

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P'ninat Mishpat

Using Car that Was Supposed to be Returned

(based on ruling 84065 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought a 2013-make car from the defendant (=def) with 106,000 km. on its odometer for 50,000 NIS in April 2023. Ten months later, while contacting the car dealership, he discovered that well before he bought the car, the odometer had already reached 278,000 km, so that it must have been significantly tampered with. Pl demanded to nullify the sale, as he was not willing to buy a car with so much usage, with a return of the sales price. Def explained that he received the car as payment of a debt from Reuven, and that he never even used the car and did not know about the odometer. In any case, it is not fair that he should return all the money since pl used the car for more than a year.

Compromise and Aftermath: Although *beit din* reasons that pl could nullify the sale and adjust the amount to be returned, the sides made a compromise in which pl would return the car, and *beit din* worked with them on figuring out how much def would pay, by working on price lists. As this was happening, pl continued to use the car (no instructions had been given on that point), and the engine was ruined from cumulative overuse. Def is no longer willing to take the car back at any price.

Ruling: Majority opinion: Since the car was to be returned, pl had no right to continue using it. Although continued use of a sales item after a blemish is discovered usually precludes nullifying the sale due to *mechila* (Rambam, Mechira 15:3), that does not apply here after pl went to the trouble of suing to return it (see Shulchan Aruch, Choshen Mishpat 232:4). Although one who borrows something without permission is like a thief, who has to pay for the stolen object if he is unable to return it intact, for whatever reason, there is a *machloket* whether that is the case when he did not realize he did not have permission to do so (as believed to be the case here). Even so, a borrower has to pay for all damages to the object even if it was not at all his fault unless the object “died as of a result of proper use” (*meita machamat melacha = mmm*). Although our case is *mmm*, the exemption does not apply here based on *mmm*'s logic. One explanation of *mmm* is that it is considered that the borrower was deceived by receiving an object that cannot safely do what it was borrowed for (Ramban). Another is that the lender relinquishes rights to payment when the borrower uses it (Rambam). Neither of those explanations applies to pl who did not even have permission to use it, and therefore he has the full obligation of a borrower for any damage. Therefore, the true value of the car at the time it was improperly borrowed should be reduced from the amount def was supposed to pay pl.

The minority opinion views pl as borrowing with permission, considering that he had bought the car and used it, and def did not ask him to stop. Therefore, he is exempt either due to *mmm* or because until it is returned, he is still considered the owner of the car.

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