



Harav Shaul Israeli zt"l
Founder and President

Independence and a Free Jerusalem before Shavuot

Harav Yosef Carmel

The Torah reading begins with a connection between *Shemitta* and Sinai (see Vayikra 25:1-2, and Sifra and Rashi ad loc.). We are at war to protect our lives in the independent Jewish state, as we await Yom Yerushalayim and Shavuot. What is the value of an independent state and life in our Land?

The only "national meeting" with Hashem in history was the revelation at Sinai. The Torah was given in the desert, and most of its *mitzvot* apply in all places and times, but some *mitzvot* only apply in *Eretz Yisrael*, and it is also the ideal place for fulfilling all the *mitzvot*. Thus, there is an eternal link between Har Sinai and the Holy Land.

The *mitzvot* of *Shemitta* (7-year cycle) and *Yovel* (50-year cycle), which strictly regulate the working of agriculture and commerce, give expression to the Land's sanctity. Even the mundane in *Eretz Yisrael* is holy, and agriculture here is a sacred undertaking. It is as the Chatam Sofer (to Sukka 36a) said: "Included in the *mitzva* of settling *Eretz Yisrael* is to extract its holy fruit, about which the Torah commanded, 'You shall harvest your grain' ... it is as if to say 'I will not put on *tefillin* because I am learning Torah,' so too one should not say, 'I will not harvest my grain because of my involvement in Torah.'" This Torah giant continues, that the same is true for any profession that develops society.

This teaches us a critical lesson. Any involvement that engenders development of the community of *Eretz Yisrael*, from a scientific, economic, manufacturing, or technological perspective, as well as a perspective of transportation or ecology, is connected to this *mitzva*. The Chatam Sofer hinted at the connection between this and the strong sign of the process of liberation: "Oh mountains of Israel: You will develop branches, which will bear fruit for my nation Israel, for they are about to come" (Yechezkel 36:8, see Sanhedrin 98a). This sign applies to all development, not just agricultural. In our times, we are blessed with agricultural and especially technological success.

For the *mitzva* of *yovel*, which is connected to *Shemitta*, there is another element. The assumption behind this *mitzva* is that public economic life is handled according to Torah laws. Such an agrarian reform can only be accomplished with an independent Jewish state, which can regulate such activity, and specifically in *Eretz Yisrael*.

The *gemara* (Sanhedrin 20b) lists the three *mitzvot* that became operative when Bnei Yisrael entered the Land: 1. Appointing a king; 2. Wiping out the offspring of Amalek; 3. Building a Temple. The *gemara* derives that the above is the necessary order of fulfillment. In conceptual and practical terms, creating a state is equivalent to appointing a king. Without stable governance, one cannot build and operate an army and it is needed for a major project like building a Temple. Only when David was well established was he able to start the process of building the *Beit Hamikdash* (see Shmuel II, 6-7).

Yom Yerushalayim is a critical part of the holidays of national reemergence. Hashem arranged matters so that the modern national days fall out between Pesach and Shavuot. Lag Ba'omer too is related to Rabbi Akiva's and Rabbi Shimon's support of the Jewish army. This is a good introductory period before Shavuot.

Hemdat Yamim is dedicated to the memory of Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah:

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R' Leiser Presser ben R' Aharon Yitzhak and Bracha

on the occasion of his yahrzeit, 24 Iyar, and members of his family who perished in the shoah Al Kiddush Hashem.

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



by Rav Daniel Mann

Using a Dog to Do Work on Shabbat

Question: My young grandson found the light on in his room on Shabbat. He got it off with his dog's help. He held food the dog wanted near the light switch, so the dog jumped toward it until he inadvertently shut the light. Was that permitted? [This is a real case!]

Answer: You have a sharp grandchild, and it is a pleasure to see how well he did regarding the laws of Shabbat.

One can violate Shabbat by an animal performance of "*chillul Shabbat*" in two ways. If one causes an animal to do any *melacha* (Shemirat Shabbat K'hilchata 27:2), he violates the prohibition of *mechamer*, as one of the *p'sukim* (Shemot 20:10) that forbids doing *melacha* mentions "and your animal" (Shabbat 153b). While your grandson's (=gs) plan was close, it appears that this line was not crossed because gs only set up a situation in which the dog "decided" to lunge for something, and gs did not physically lead him or command him to do the *melacha* (see Orchos Shabbat 31:(8)).

The other violation is when one allows his own animal to do *melacha* even if he was not involved or even around when it happened (*shevitat beheima = sb*). This is likely derived from Shemot 23:12 – "in order that [your animal] will rest" (see Mechilta ad loc.). While most of the halachic sources deal with the common use of animals, carrying a load (see Shulchan Aruch, Orach Chayim 305), it applies to all *melachot*. So, we need to identify grounds for leniency.

If a person reached for something and accidentally switched off a light, it would be a case of "*mitasek*" in the *melacha* (he did not intend to do the physical action that came out), and is exempt from a *korban* (Kritot 19b). There is a broad discussion over the extent there was an act of violation of Shabbat with reduced consequences, or no act of *melacha* at all (see Shut R. Akiva Eiger, I:8), and so perhaps the dog did not do *melacha*. However, paradoxically, an animal is worse than a human here. Because an animal never acts with *da'at* (halachically recognized intent), there is no exemption of *mitasek* (see Yalkut Yosef XIV, p. 51; Na'ot Mordechai XIII, p. 63). The only consideration is when the human side of a *shevitat beheima* situation was *mitasek* (see *ibid.*), but here gs was aiming for the "*melacha* outcome."

The possible grounds for leniency in gs's trick relate to the rule that when an action is forbidden only Rabbinically, *sb* does not apply to it (Shemirat Shabbat K'hilchata 27:4). Here, it may be Rabbinic for a few reasons. First, our orientation is that turning on and off all but incandescent lights is only a Rabbinic prohibition (analysis is beyond our scope). Second, shutting off a light is not positive benefit from the *melacha* (which exists when we extinguish to use the charcoal produced – see discussion in Yabia Omer, I, OC 31). Therefore, the situation is a *melacha she'eina tzricha l'gufa (=mshetlg)*, which is forbidden only Rabbinically. On the other hand, some Rabbinic prohibitions are forbidden in *sb* (see Mishna Berura 305:43). It is particularly likely that *mshetlg*, which is subjective and related to context more than the action itself, might not weaken the *melacha* enough to eliminate the prohibition of *sb*.

We mentioned that *sb* applies only to one's own animal. It is possible that the dog is owned by gs's father, not gs, even if the dog is for gs' enjoyment (we will not get into the monetary law or the sociology behind this). If so, it would not be gs' violation if the dog did forbidden *melacha*. On the other hand, if the father owns it, it is his responsibility to ensure that the dog does not do *melacha*. Therefore, if the *kulot* above do not work, the father is required to stop his son, whether immediately if he was there, or when he finds out about it, he must tell gs not to create an ongoing phenomenon

In short, there is a fair chance that gs did nothing wrong when he "choreographed" his dog shutting off a light, particularly if the light was not incandescent. We would not, though, recommend making a practice of using what we could call a "Shabbos dog." At the least, it could lead to mistakes.

"Behind the Scenes" Zoom shiur

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Moreshet Shaul

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

Two Elements to Work On – part I

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 332

[This piece is a preface to the rabbinic periodical *Barkai*, which Rav Yisraeli edited in the 1980s.]

Introductory Source: Hashem said to Israel: My sons, I consider it as if today you came into being before Me, as if I created you today as a new creature (Vayikra Rabba 29:12).

During the month of preparation (Elul), between the end of one year and the beginning of another, between sunset and sunrise, we look to the horizon for new ideas and renewals, which is the goal of the holy days of Rosh Hashana and Yom Kippur. During Rosh Hashana's prayers, we will declare that "this is the day of the beginning of Your creations," and with the sound of the shofar we will raise [the memory of] and give life to the great occasion when we merited [to experience when we received the Torah, as] we took our first steps in an "unsown land." We request and pray that we will once again experience Hashem's appearance in all the splendor of His Kingdom, in a manner that "all the world's evil will all cease like smoke." We hope that this year will bring prominently the "redemption of our souls" (the coming of *Mashiach*).

However, we should remember that in order to be fit for "as if I created you today as a new creature," we need to act as if "today you came into being before Me." We need to initiate inspiration in order to merit divinely provided inspiration. In order that He shall open up for us an opening like that of a great hall, we need to at least open up an opening like the eye of a needle.

There are two "burning issues" that stand before the Jewish community and rabbis wherever they may be. The rabbis are the ones who bear the communal responsibility, as the Rabbis said (Sifrei, Devarim 13) on the words "*va'asimem b'rosheichem*" (I will place them as heads over you – Devarim 1:13) – we read it as if it says "*va'ashamam b'rosheichem*" (the [people's] faults are on your (the leaders') heads).

One burning issue is [how to ensure] the continued existence of the nation, lest, Heaven forbid, there be a fulfillment of the *pasuk*, "And you shall be lost among the nations" (Vayikra 26:38). The second issue is the bolstering and providing for the State of Israel [a strong position], including by turning it into a preferred place for the ingathering of the exiles. Actually, the two issues are two sides of the same coin, as when one is solved, the other will also be solved.

It is clear, as those who calculate these matters have said, that when Jews distance themselves from a Jewish lifestyle, which is the heart of the process of spiritual assimilation, it naturally brings on intermarriage with the nations who allow the Jews to live in prosperity. This is the stranglehold for the remnants of the Jewish community that Hashem left for us from the horrible Holocaust. That which the hated enemy did not succeed in destroying, our nation is doing to itself.

It has been proven without a doubt that when homes lack Torah, or Shabbat, or *kashrut* – when there are no *tzitzit* and no *tefillin* – the home becomes exposed from its sides (i.e., vulnerable). Then, it is impossible to survive as a separate national entity within a sea of a foreign nation.

We daven for a complete and speedy refuah for:

Itamar Chaim ben Tzipora
Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Shlomo ben Bila
Arye Yitzchak ben Geula Miriam
Neta bat Malka

Avraham ben Gitel
Tal Shaul ben Yaffa
Meira bat Esther

Together with all *cholei Yisrael*

P'ninat Mishpat

To Whom Do the Payments Go? – part II

(based on ruling 81075 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def), individually owned real estate development businesses, jointly organized a group to win a tender for dozens of apartments. Pl was to be the management company (=mc) for the building stage for 9% of apartments' cost and in charge of the legal work; def was in charge of marketing. Pl and def had originally agreed to divide the profits from the initial investments, 75-25% in favor of def. After winning the tender, many of the group members (=ob) wanted to sell their rights. Def found a large, united group of new buyers (=nb) to take their places, but nb demanded to use a management company of their choice (=mc2). Pl wrote up a contract requiring nb to pay 32,000 NIS and ob to pay 24,000 NIS, to an account under pl's control. In practice, some of nb paid def and most paid pl; none of ob paid anything. Pl is demanding that ob pay him as stated, and for def to pay him 25% of the money he received. Pl argues that def relinquished rights to payment, as finds expression in the new contract, out of fear that the project would collapse. Also, pl claims that 140,000 NIS he gave def was a loan, and so he wants it back. Def demands 75% of what pl collected. Def claims that the 140,000 NIS was given as a first payment for his part. Def also gave pl a receipt for 400,000 NIS that pl promised to give and did not.

Ruling: [Last time, we saw the minority opinion. It gives preference to the written contract, which assigns payments to pl, strengthening his claim to the collected funds. However, it rejects the obligation of the original buyers to pay 24,000 NIS, accepting testimony that the clause was only formal documentation to preserve the tender. It also treats the receipts between the parties as binding, obligating pl to complete the promised 400,000 NIS payment, while still granting him 25% of funds def collected.]

The majority opinion differs in two major ways. First, it finds many indications, including the communications of someone with strong connections to both sides, that pl used its role as the lawyer who crafted the agreements, to write a contract that took nearly all the money for itself without sufficient justification or consent. Pl's dishonesty continued with promising funds to extract valuable receipts from def (which obtain for pl unwarranted tax relief and obligate def taxes for non-existent profit).

While it is impossible for *beit din* to know how much def deserves, it is clear that when they agreed on how much def should receive, this includes pl not extracting 25% from what def received. This is strongly bolstered by the fact that if there was a decision for pl to pay def 540,000 NIS plus VAT, this should be assumed to be after deducting what def owed pl. Otherwise, one would have the illogical situation of moneys going from A to B only to be returned promptly to A (see Ketubot 110a), which is even less logical here because extra tax would have to be paid for the double payment.

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