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PARASHAT HASHAVUA

Naso, 2 Sivan 5774

A Basic Right

Harav Yosef Carmel

Parashat Naso deals with several topics that do not seem related: a description of the jobs of the Levi'im after the census of the nation and the Levi'im (previous *parasha*); the sanctity of the encampment / need to send out the impure; misappropriation of funds; infidelity; the laws of the *nazir*; *Birkat Kohanim*; the erection and inauguration of the *Mishkan*. Let us now proceed to take a look at an important concept that serves to connect and support all these topics.

Bnei Yisrael were counted "according to their families by the house of their fathers" (Bamidbar 1:2). They also encamped "each man by his flag, by the house of their fathers" (ibid. 2:2). The reason the father is stressed here is that every Jewish child has the right to know not only who his mother is but also who his father is. This basic right builds the encampment on the pillars of sanctity and turns *Am Yisrael* into a special nation, which impressed the "prophet of the nations," Bilam, who came to curse but ended up blessing. When he saw the Israelite encampment, he proclaimed: "How good are your tents, Yaakov, your dwellings, Israel" (ibid. 24:5). Rashi, following the lead of the *midrash* (Midrash Aggada, Balak 24), explains that Bilam saw that the opening of one tent was not opposite the opening of the neighboring tent so that one would not see what was happening in the adjacent tent. This is *Chazal's* way of teaching the lesson of preserving the sanctity of the Jewish family in language that allows it to be understood on different levels and for different ages, including young children.

This care for the integrity of the Jewish family is a condition for Hashem's willingness to have His Presence dwell in our encampment and in the *Mishkan*. We see this from *Chazal*, in explaining that we can determine Bilam's intended curse from the opposite blessing that came out. The *gemara* (Sanhedrin 105b) says on the *pasuk* about the tents that Bilam tried to stop the Divine Presence from resting upon the people. This is a topic that is discussed in different forms from the middle of *Sefer Shemot* until *Parashat B'haalotcha*.

Let us return to the order of our *parasha*. The census showed the integrity of the Jewish family, as those who carried it out knew that the apparent father's house was indeed the real father's house. This made it possible to have a *Mishkan*, which in turn made it necessary to describe the tasks of the Levi'im within it. The impure must be sent away because the encampment must remain holy in all ways. Certainly there may not be infidelity, making it necessary to discuss the extreme steps taken to deal with the suspicion of failure in this regard (*sota*). This led to a discussion of other misappropriation: of funds. A famous statement of *Chazal* stresses the connection between suspicion of *sota* and the need for *nezirut*. After it was determined that one can rely on the paternity in the family, it became appropriate to present the *Birkat Kohanim*, which became intertwined in *Klal Yisrael* with the blessing of a father to his children. Finally, the nation was at the point that it could make the preparations to complete the *Mishkan* and welcome in the Divine Presence.

May we merit the fulfillment of the *pasuk*: "I will dwell among the Sons of Israel, and I will be for them a God" (Shemot 29:45).

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Ask the Rabbi

by Rav Daniel Mann

The Timing on the Beracha on Tzitzit After Being Up All Night

Question: Most people, after learning all night on Shavuot, do not make a separate *beracha* on their *tzitzit* but use the *beracha* on their *tallit*, when they start *davening*. Since I do not wear a *tallit*, should I make a *beracha* on my *tzitzit* as soon as it becomes halachically possible?

Answer: We will first discuss the practice of many men to always use the *beracha* on their *tallit* to cover the *tzitzit* they put on earlier.

The Shulchan Aruch (Orach Chayim 8:10) says that one who puts on *tzitzit* when his hands are dirty from the night should recite their *beracha* only later – after purposely handling the *tzitzit* or when he puts on another pair of *tzitzit*. The Darchei Moshe (OC 8:3) relates the *minhag* to make a *beracha* only on the *tallit* he wears at *Shacharit*, which also covers the *tzitzit*. The Mishna Berura (8:24) cites various reasons for the Darchei Moshe's practice. One is that it is wrong to make two interchangeable *berachot* in close proximity, as one could suffice (*beracha she'eina tzricha*). The Darchei Moshe (ibid.) was bothered by the possibility that the *tzitzit* garment will be too small to fulfill the *mitzva* and warrant a *beracha*. The Mishna Berura adds other factors that could make a *beracha* inappropriate for the *tzitzit*.

This practice does raise problems. *Berachot* are supposed to precede a *mitzva's* fulfillment, whereas here the *beracha* on the *tzitzit* comes afterwards. Rabbeinu Yonah (see Beit Yosef, OC 8) says that it is sufficient that the *beracha* precedes part of the performance of the *mitzva*, i.e., the continuation of wearing them. The Taz (8:9) adds that when one cannot make the *beracha* right away because his hands were dirtied during the night, the delay is justified.

You have a different reason not to make a *beracha* when their time comes (app. 50 minutes before sunrise). The Shulchan Aruch and the Rama (ibid. 16) rule that one who wore *tzitzit* all night makes a new *beracha* on them in the morning (as they remain on him) because nighttime, which is not the time of *tzitzit*, is a break in the *mitzva*. However, many *poskim* argue based on *Rishonim* who posit that the *mitzva* continues and there is no need or justification for a new *beracha*. The accepted practice, at least for *Ashekenazim* (Yalkut Yosef, OC 8:49 cites both opinions), is to not make a separate *beracha* due to doubt (Mishna Berura 8:42; *Tzitzit* (Cohen), p. 66)). While there are other possible ways to deal with the doubt, the Mishna Berura recommends the system of using the *beracha* on the *tallit*. What is different in your case is that you do not have a *tallit* to make that *beracha*. On Shavuot night, when many people are together and with the phenomenon of certain *berachot* being said by one on behalf of others, someone usually says his *beracha* on the *tallit* out loud (those with their *tallitot* have no need to be *yotzei* with a central person).

In one way, there is actually an advantage to being *yotzei* with another's *tallit* in comparison to the daily practice of many to having their own *beracha* on the *tallit* go on the *tzitzit*. One should have intention to include the *tzitzit*, which is easy to forget when preparing to put on the *tallit*. While some recommend solving by mentioning the *tzitzit* (Ben Ish Chai, I, Bereishit II) or handling them at that time (see opinion in *Tzitzit*, p. 42), few do so. There are strong grounds to say that *b'dieved*, the intention for the *tzitzit* does not have to be cognitive when it is one's standard practice (ibid., p. 43). In any case, in the ceremonious manner it is done by many on Shavuot morning, people are generally reminded that the recited *beracha* on one person's *tallit* is for the *tzitzit* of all who need it.

Regarding timing, while one could argue to have a *beracha* made as soon as possible, it is easy to justify the *minhag* to wait until it is time to *daven* (Minchat Yitzchak II:4.1). If the daily *minhag* allowing one to actively put on *tzitzit* well before the *beracha* will be made is fine, one who just keeps them on has less problem waiting for the *beracha* (see *Taamei Haminhagim*, p. 8).



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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Accepting a Person's Past Background

(condensed from Ein Ayah, Bikurim 9:35)

Mishna: [Those who greeted the bringers of the *bikurim* would say:] "Our brothers, the residents of the place called Ploni, *bo'achem l'shalom* (your arrival shall be in peace)."

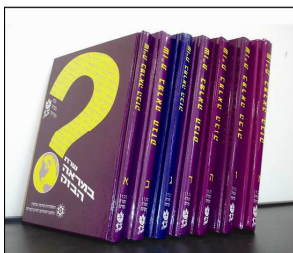
Ein Ayah: Factionalism and unity, when they are intertwined in a proper way, are pillars of happiness and social success. This is true both in the realm of international relations and within a nation, between the different subgroupings within.

Every nation has special qualities, both in the spiritual and in the material realms. There may be a nation that is large and powerful and other nations will be drawn to it. The large nation will do well if it realizes that with all its power, it should not swallow up justice and correct behavior. They should realize that while it is good to unify many powers into one central entity and join under one flag when the flag bearer is spiritually worthy, still all the individual components should preserve their national heritages when their traits are not destructive.

The same phenomenon is true in regard to a metropolitan city, its state's capital and intellectual center, in relation to the surrounding suburbs and agricultural towns, which visit and impact upon the city. It is important for the members of the central city to recognize the residents of the satellite areas with brotherhood and a spirit of partnership. Thereby it is worthwhile for everyone to turn to the central place as a beacon of light and not try to set up competitive centers, which will cause divisions. The respect the city-dwellers give to the visitors does not have to take away from the residents' rights in their own cities, whether in material or spiritual matters. With the right attitude, they will even make allowances for the differing customs and viewpoints of the visitors (see Yerushalmi, Pesachim 4:1). They can see what is special in the spiritual and material characteristics of each town while appreciating the importance of drawing all together in unity.

That is what the people of Yerushalayim did in respect to the bringers of *bikurim*. They referred to them as "our brothers," as those who come with brotherhood to take part in a unifying experience in the central city which also houses the Mountain of Hashem. Despite the element of unity, they referred to them as residents of the place called Ploni, expressing that they have no interest in erasing the significance of their place of origin and recognizing that it is only natural that the visitors take pride in and have affection for their place.

This also serves as practice and a lesson regarding times of world peace, which Israel will yet experience through the Torah whose ways are ways of pleasantness and peace to all nations. The Torah refers to "a foreigner (this *pasuk* is not referring to a convert), and a resident, and one who lives with you" (Vayikra 25:35). Regarding foreigners living in our Land, we are only careful that they remove any destructive behavior and accept the Noahide Laws. We will not be bothered by longings and affection for his nation and the land of his fathers, which is why he is called a "foreigner." Yet he will be considered a resident in *Eretz Yisrael* as far as feeling closeness to him and awarding him full civil rights. He should not be told that if he wants to be a resident, he must remove the elements of a foreigner, as the *pasuk* says that while he is known as a foreigner and a resident, he will live with you. This idea regarding nations is also true regarding cities. The "out-of-towners" are brothers who are closely connected to us even as they remain distinct and connected to their hometown. This is the true and straight peace: "Our brothers, the residents of the place called Ploni, your arrival shall be in peace."



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The Right to Rent in 16th Century Turkey (based around Shut Maharit, Choshen Mishpat 25)

[One of the challenges of learning actual cases that occurred hundreds of years ago is that the situation was often based on circumstances that were common at the time, which are not discussed in the gemara and are not common in our times/places. Such is our case. In the gemara, *chazaka* on land refers to one who inhabited the property for quite some time and claims that he bought it from the previous owner. Apparently, the *chazaka* in this teshuva is the right to use a non-Jew's store in a Jewish area in exchange for rent, with the Jewish community generally able to decide who has the right to do so. The right is not necessarily paid for; its possessor just has to pay rent to the non-Jew.]

Reuven has written testimony that he has the *chazaka* on a certain store. Some time later, Shimon took action on behalf of a set of orphans, who had documentation that they had the *chazaka* based on their father's *chazaka* 30 years previously and had Reuven evicted from the store. Reuven claims that since 10 years passed in which the orphans' family did not occupy the store, they lost their *chazaka*.

There are guidelines regarding one who has abandoned his *chazaka* agreed upon by all the rabbis of Salonika of previous generations and signed in the Salonika Book of *Takanot* by Rabbi Yosef Ibn Lev and his colleagues. [The *Mahari Ibn Lev* was a *dayan* in Salonika, then part of Turkey, before moving to Istanbul]. The cutoff of ten years is for one who has witnesses that he left his *chazaka* under difficult circumstances (e.g., some form of improper coercion). Under those circumstances, he loses the *chazaka* only if the store was totally unoccupied during that time. The time is significantly shorter if one does not have proof that he was forced out, and it is possible that he decided himself to leave or was unable to pay the rent. If he is present in the city, he loses the *chazaka* after three months. If he is out of the country, he loses it after three years. During that time, he can either prove that he was improperly removed or announce publicly that he did not relinquish his *chazaka*.

These guidelines follow the general lines of halacha. It is proper to give the original possessor of the rights the benefit of the doubt even though it was in a non-Jew's hands for years because the logic and rules of *chazaka* do not apply when a non-Jew is squatting (Bava Batra 35b – the original Jewish owners are often intimidated into not protesting against non-Jews). However, in a case where the *machzik* has no claims of ownership but of the right to continue renting the store, the *chazaka* cannot continue indefinitely without his presence.

If the orphans' father, who had the *chazaka* at some point, were alive, he would have to bring proof that he was improperly forced out of the store, which the orphans have not been able to find. Sometimes, we make claims on behalf of orphans because they are not aware of their father's affairs (see Bava Batra 52a). However, that is only in situations where there are indications that they have rights and are missing the knowledge to make claims. However, in this case, we have no indication that the father was forced out, and he would not be believed to make that claim without proof. While there are cases where we credit orphans with claims the father would not have been believed with, that is only to not keep things from being taken from them, not to extract property from others.



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