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PARASHAT HASHAVUA

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Unlinked and Indestructible

Rabbi Daniel Mann

The forefather who is perhaps most linked to the *sukka* is Yaakov, who built *sukkot* upon his return from Aram (Bereishit 33:17). Rav Hutner (Pachad Yitzchak, Sukkot 22) deepens, in his special way, the connection between Yaakov and the holiday and its central mitzva.

While Avraham is linked to the attribute of *ahava* (love) and Yitzchak to *yira* (fear), Yaakov is described as having a more direct connection to Hashem without being linked to the same degree with any single attribute. Rav Hutner cites the Gra's thesis that the special clouds that the *sukka* models are the clouds that left after the sin of the Golden Calf and later returned. These post-Calf clouds are thus linked to the second set of tablets, given after the sin, which had the word *tov* (good) written in them because they would never be destroyed (Bava Kama 55a). Rav Hutner explains that something that is linked to a specific situation or concept is transient, in that when the situation ceases to exist, so does the thing that is linked to it. The idea of the *sukka* is to leave the permanence of the house and create a living that is able to survive even when it is not linked to a person's more natural environs. Just as Yaakov is connected to Hashem without sole reliance on either of the attributes of his forebears, *sukkot* shows the versatility of our service of Hashem and, like the second tablets, the ability to survive eternally.

Let us try to apply these deep ideas. There is no question that during the time before the Golden Calf, Bnei Yisrael were on a higher level than they were after it and that the first *luchot* were more special than the second ones. Similarly, the sanctity we hopefully manage to instill in our house in the course of an entire year surpasses that of a *sukka*, at least according to this part of Rav Hutner's thesis. One can even claim that this is a factor in explaining the halacha that a couple during their *sheva berachot* celebration is, according to Talmudic law (Sukka 25b), exempt from sitting in the *sukka*. While the *gemara* gives technical halachic explanations for the halacha, the halacha might have an additional spiritual element. During the week of *sheva berachot*, the couple is concentrating on building their own home (especially according to the Sephardi approach that full *sheva berachot* is only in the couple's home). It is premature to try to show how well they can manage spiritually outside of that home.

Despite these comments, Rav Hutner's message is eye-opening to contemplate. One should not belittle the contribution of the second tablets. While less miraculous than the first, the fact that they had the ability to survive makes them the proper setting for *tov*. The *sukka* also represents the idea that even a temporary dwelling, necessary while we were wandering in the desert and not yet ready to enter *Eretz Yisrael*, has a message that has echoed throughout Jewish history. Even without our sacred homeland and the Temple in its heart, no matter where we were, we were always able to forge a relationship with Hashem in our temporary homes. We, like Yaakov/Israel, after whom our nation is named, are beyond dependency on any one attribute or setting. We can and must always find the means of seeing Hashem's protection of us and His interest in maintaining a close relationship – no matter the circumstances.

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Ask the Rabbi

by Rav Daniel Mann

A Mourner Serving as *Chatan Torah*

Question: Is an *avel* within 12 months of a parent's death allowed to be the *chatan Torah* on Simchat Torah?

Answer: During *shiva*, an *avel* is not supposed to learn Torah, and therefore he should not get *aliyot*, even on Shabbat, when one should not engage in *aveilut* publicly, because not getting called for an *aliya* is not noticeable (Shulchan Aruch, Yoreh Deah 400:1). However, if one was called for an *aliya* or gets an *aliya* every week, then he should do the *aliya* even on Shabbat during *shiva* because otherwise it would be public *aveilut* (ibid.). After *shiva*, there are generally no restrictions on *aliyot*, including "coveted" *aliyot* (e.g., *Shlishi*).

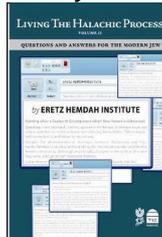
It is proper for an *avel* to be *chazan* during the first 11 months of *aveilut* for parents, thereby bringing merit to the deceased (Rama, YD 376:4). Yet on Shabbat and *Yom Tov* an *avel* does not serve as *chazan* (ibid.) because it is inappropriate for him to lead festive *tefillot*. There is discussion as to whether it might be appropriate for the more somber *tefillot* of *Yamim Noraim*. The Shach (YD 376:14) rules based on the Rama's sources that, unless there is a special need, they should not because they also are largely festive. (Another possible factor regarding *Yamim Noraim* is to avoid having a *chazan* upon whom the attribute of *din* is hovering (Mateh Ephrayim 581:23).)

There are significant opinions that there is no real prohibition for an *avel* to be *chazan* on Shabbat and *Yom Tov*. The Noda B'Yehuda (I, OC 32) says it is a *minhag*, not a full halacha. The Meir Netivim (cited by Pitchei Teshuva, YD 376:8) claims that the halacha is that he is just not instructed to be *chazan* because of his *aveilut* (like during the week) but that one who is regularly a *chazan* on Shabbat does not have to stop during his *aveilut*.

However, according to the mainstream approach, even an intrinsically permitted role in a *mitzva* be improper for an *avel* if its context is festive. Similarly, the Rama (Orach Chaym 660:2) rules that an *avel* (throughout 12 months for a parent) should not encompass the *bima* with a *lulav* on Sukkot (not all agree, and some distinguish between different days of Sukkot – see Gesher Hachayim 23:3.7). Regarding Simchat Torah, *Acharonim* disagree about participation in *Hakafot*. The Gesher Hachayim (ibid.) says he can go around with the *sefer Torah* but not participate in the subsequent dancing.

Most *Acharonim* posit that the *aliya* of *chatan Torah* is too festive to allow for an *avel* (see P'nei Baruch 29:11). However, the uncertainty of this determination and lack of severity of the matter opens room for leniency in certain cases. One such case is when one was appointed or won the right to be *chatan Torah* before becoming an *aveil*, and the question is if he must give it up. The Zera Emet (YD 162) first forbids the *aliya*, then explains why it could be permitted, and finally recommends not doing it. The Yalkut Yosef (Aveilut 22:22) permits it under such circumstances, based on the weakness of the problem, especially after *shiva*. Another factor that is reason to be lenient is the matter of public *aveilut* by refraining, after the *chatan Torah aliya* has been set. However, in cases where nothing is set, it is proper to wait for a year without *aveilut* to honor someone.

One situation in which it may be best to allow an *avel* to have *chatan Torah* is when he receives it every year (in some places, the rabbi). Then, withholding it could be a public display of *aveilut*. On the other hand, there are serious opinions (including the Shach 400:2) that public *aveilut* is forbidden only for practices of first-level *aveilut* (i.e., practices that are just for *shiva*) and not those of minimizing joy (i.e., those that apply all year). Still, avoiding public displays of even year-long *aveilut* is mentioned in many halachic discussions (see Gesher Hachayim ibid., Chazon Ovadia, Aveilut II, p. 365). If, in the final analysis, an *avel* will get *chatan Torah*, it is a good question whether the festivity surrounding his *aliya* should be toned down (see Zera Emet, ibid.).



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Ein Ayah

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

Sukkot

Dreams as a Reaction of the Soul

(condensed from Ein Ayah, Shabbat 1:38)

Gemara: Rav Chama bar Guria said in the name of Rav: A fast in response to a dream is effective like fire for flax. Rav Chisda said: It should be done on that day. Rav Yosef said: Even if it is Shabbat.

Ein Ayah: A person with a healthy body and soul, who didn't dull his feelings, is prepared to sense anything that the Divine Wisdom enabled him to discern when he strays from the proper path even slightly. Dreams are a moral weather vane for a person, which pick up on a person's inclinations towards physicality. Just as the body will react when a foreign object intrudes into a dangerous place (e.g., coughing when food goes down the wrong pipe), the soul reacts to the burgeoning spiritual deficiency. In the physical realm, if a person ignores the signs of problems, he is likely to have to deal later with a problem which has developed into a well-entrenched danger. While initially it could have been dealt with easily, later on it can be very difficult to correct the problem.

The beginning of every moral fall begins in the internal state of the spirit. It finds expression in thoughts and feelings, which lower him from his previous level and cause him to harbor a more animalistic and crude frame of mind. That which starts with problematic thoughts continues into damaging actions.

Hashem gave man the characteristic that he is shaken by bad dreams that are connected to a fall in spirituality. If he is diligent in trying to right his path and stop his fall while only certain inclinations and tendencies are involved, then he has used the dreams in the way that the Creator intended them. Since most of these issues have to do with an increase in urges and physicality and related negative attributes such as anger, arrogance and jealousy, when the dream sets off the appropriate alarm, the person should respond by countering these tendencies. One counters increased physicality by accepting a fast to increase his spirit, which leans toward goodness and sanctity, at the expense of his body. This can destroy the root that set off of the inner alarms that caused the frightening dream and return him to righteousness.

A fast is effective for a dream like fire for flax because it consumes it in a way that leaves no trace. However, the treatment must be carried out before the problem entrenches itself in the person. That is the reason that the fast is fully effective only if it is done on that day.

Shabbat is able to raise the level of sanctity both on a general and on an individual basis. The enjoyment of eating on Shabbat is important as long as one can use the physical nourishment to also enhance the spirit. However, an upsetting dream shows that there is a lack of internal balance, as the physicality is becoming overly and dangerously powerful. In such a case, the pleasant physical feeling of enjoying food on Shabbat is not going to bring a real gain to the person while the spiritual deterioration is taking away from his spiritual happiness. It is therefore worthwhile to fast even on Shabbat and strengthen the spiritual side in a manner that brings the person real joy.

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Bank Notes Lost by Paid Messenger

(from Shoel U'meishiv I:III:23)

[Reuven worked for Shimon, providing whatever services Shimon requested of him on an ongoing basis for three rubles a week. Shimon gave Reuven "depositin" (it seems that it is some type of open bank notes) to deliver to a third party, and they were lost along the way. Shimon is not suspicious that Reuven stole them or that he was negligent with them. Is Reuven responsible for their disappearance?]

There are two possible reasons to obligate Reuven. One is that since the notes were given open (i.e., not in a sealed envelope or bound together), Reuven could arguably have used them and replaced them with an equivalent. In that case, it is considered as if he borrowed the money, in which case he has to pay back what he borrowed even if the original money was lost without his negligence (see Bava Metzia 43a). However, this does not apply to a messenger, as he is to deliver the money as is (see Shulchan Aruch, Yoreh Deah 169:16). There is another distinction, between a money changer and other people who receive money to hold, but it seems, in opposition to what the Shach (Choshen Mishpat 121:35) says, that even a money changer cannot use the coins and replace them if he was given them to deliver. The Beit Shmuel (35:9) says that if Levi is given Yehuda's money by Yehuda's messenger and Levi uses it for *kiddushin*, the *kiddushin* is valid if Yehuda does not particularly mind that it was used in that way. While this seems to indicate that the messenger can use the particular coins as he sits fit and then is obligated to replace them, this is difficult and is contradicted by the Beit Yosef.

However, Reuven is still liable for the loss of the notes because he has the status of a *shomer sachar* (a paid watchman). It is true that Reuven was not paid specifically for doing the courier service with the coins, but rather was paid globally irrespective of that specific responsibility. Nevertheless, we look at things from the perspective of the beginning of his employment, and as such, we see that Reuven was hired to do work, and each piece of work that he did is thus considered for pay (see Choshen Mishpat 182). Only if his job was specified for other tasks and in that framework he agreed to do an additional job of being a messenger can we talk about his not being paid for the work and not being obligated as a *shomer sachar*.

One might want to claim that the notes are considered documents of debt rather than money, of significance because the laws of watchmen's obligations do not apply to documents (Bava Metzia 57b). However, the truth is that these *depositin* are liquid enough to be considered money rather than documents.

In the final analysis, Reuven is obligated to pay for the lost *depositin*.



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