



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

חֶמְדַּת יָמִים

Parashat HaShavua

Ki Teitzei, 14 Elul 5775

Human Dignity – Never to be Forgotten

Harav Yosef Carmel

Our *parasha* is full of halachic topics. We will deal with one which seems to not be applicable in our times, but a significant part of the *mitzva* is extremely relevant now as always.

If one is condemned for death by *beit din*, his corpse is to be hung, but thereafter he must be buried. The Torah warns about failure to do so with the words “and you shall not defile your Land that Hashem, your G-d, has given to you” (Devarim 21:22-23). This is referring to having the body hang for a short time (apparently as part of a process of atonement or warning to others). Even one who is convicted of the most severe crimes is due protection for his human dignity (in fact this is the source for the *mitzva* to bury the deceased, in general). The Torah teaches us that even such a person retains rights to respect that go along with being created in the image of Hashem.

The warning not to defile the Land arises only twice in the Torah. The other place is at the end of *Sefer Bamidbar* (Bamidbar 35:31-34). We are warned not to receive a bribe to spare a murderer of his punishment of death or even to switch his punishment to that of exile. The murderer's remaining alive is a situation that spoils the Land. In some ways this counterweights the commandment in our *parasha*. While one should not overdo the punishment to the murderer or other serious sinner and go as far as to disgrace him unnecessarily, we are also not to be overly forgiving. A murderer's presence in society is a serious matter, and, of course, the murder itself certainly defiles the Land. Obviously, “*lo tirtzach*” is in the Ten Commandments, and it is one of the cardinal prohibitions for which one is to give his life rather than violate. Care in these matters is one of the foundation stones of the Torah of Israel. The Torah's instructions go in both directions and form a balance of how to deal with the perpetration and the perpetrators of serious *aveirot*.

Another time when it is necessary to take a life is when the nation is involved in a just war. Here too, if one does not act forcefully when it is necessary, he is violating Torah law. On the other hand, this does not open the way to disgracing even unavoidable victims, and this too can potentially defile the Land. Specifically in these days, when the Middle East is full of groups of murderers who also grab corpses in order to use them for their purposes or defile them, we should remember that which we were commanded. While Hezbollah, ISIS, Hamas and others have no grasp of the idea of preserving human dignity, we should remember that we believe in it even in regard to our enemies. Baruch Hashem, the IDF is careful on these matters, even if there are cynical attempts to stain its and our reputation in these regards.

Hemdat Yamim is dedicated to the memory of

**Gital Gila
Bat Eliyahu
Michael a"h**
on the occasion of
her *yahrzeit*,
Av 21st

**R' Meir
ben
Yechezkel
Shraga
Brachfeld**
o.b.m

**R' Yaakov ben
Abraham &
Aisha and
Chana bat
Yaish & Simcha
Sebbag, z"l**

Mrs. Sara Wengrowsky
bat R' Moshe Zev a"h,
who passed away
on
10 Tamuz, 5774

**Yitzchak Eliezer
ben Avraham
Mordechai
Jacobson**

Hemdat Yamim is endowed by

Les & Ethel Sutker of Chicago, Illinois. in loving memory of **Max and Mary Sutker & Louis and Lillian Klein, z"l**



Eretz Hemdah

Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
amutah number 580120780

American Friends

of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4265359

www.eretzhemdah.org info@eretzhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

by Rav Daniel Mann

How Can We Say Things of *Minhag* Before *Kiddush*?

Question: The Tur, Shulchan Aruch, Gra, Pri Megadim, etc. (Orach Chayim 271) all mention the need to rush to make *Kiddush* and eat as soon as Shabbat commences. Yet, I have never seen a household that doesn't first sing *Shalom Aleichem* (which contains problematic elements) and *Eishet Chayil*. Also, making *Kiddush* is a *mitzva* (*d'oraita*, for those who did not *daven Ma'ariv*, and *d'rabbanan* for those who did) while the singing is just a very nice (recent) *minhag*. Since when does a *minhag* take precedence over a *mitzva*?! Shouldn't we make *Kiddush* (and *Hamotzi*) first?


Answer: Regarding presenting sources, as we like to do, we have little to add, but we will try to add a little perspective.

The Tur and Shulchan Aruch (OC 271:1) do say: "When one comes to his house, he should hurry to eat right away." Although the idea of hurrying does not seem to be found in the *gemara* or early *Rishonim*, these are still weighty sources. Let us understand the need for hurrying. The Beit Yosef (OC 271) explains that the issue is not the delay per se, and the meal is not the problem. Rather, since *Kiddush* is made to sanctify Shabbat as it enters, it should be close to the beginning of Shabbat (see Pesachim 106a with Rashi). The Taz (271:1) seems to understand it to also hint that one can make *Kiddush* even before nightfall. Thus, *davening* earlier, faster, or at a *shul* that is closer to home is as valuable in this regard as skipping the pre-*Kiddush zemirot*.

There also is no question that one can fulfill the *mitzva* of *Kiddush* any time during the night and, on a certain level, even during the day if he missed it at night (Shulchan Aruch *ibid.* 8; see Shemirat Shabbat K'hilchata 47:(31)). Considering that according to most *Rishonim*, those who have *davened* have already fulfilled the *mitzva* of *Kiddush* from the Torah (see Magen Avraham 271:1), one need not be as pressured by the matter as the simple language of the Shulchan Aruch implies. As one example, the Mishna Berura (271:1) says that if the family does not have much of an appetite when people come home from *shul*, they do not need to make *Kiddush* and eat right away.

I do not claim to understand the full depth of the timing or even content of these *zemirot*, but it does not seem that they are given greater importance than *Kiddush*, but that they are intended to set the tone for the upcoming *Kiddush*. It is similar in that way to the *p'sukim* we say before a *brit mila* or the "*Hineni muchan u'mezuman*" that some say before performing *mitzvot*. Even the detractors of the latter *minhag* (see Noda B'yehuda I, YD 93), do so based on content, not on the issue of delaying the *mitzva*.

After completing the specific, technical part of the question, we will move on to the general, philosophical part, which we believe is the more instructive element of the answer to your question. *Shalom Aleichem* and *Eishet Chayil* were written/instituted for recital on Shabbat evening within the Kabbalistic community of 16th century Tzfat. This is a continuation of the work of that community which introduced to the world *Kabbalat Shabbat*, including *Lecha Dodi*. Not being Kabbalists, we cannot explain to you the full depth of all of these *tefillot*. I cannot explain why it was worthwhile to "fiddle around" with the tried and tested Shabbat *tefillot* or delay the beginning of *Ma'ariv*, *Kiddush*, etc. Who knows?! If we were 16th century rabbis, we might have spoken out against it, using your arguments. However, we are firm believer in the collective wisdom of the rabbinic and serious laity of Bnei Yisrael. As the *gemara* (Pesachim 66a) says: "Leave Israel alone. If they are not prophets, they are the sons of prophets." So, if (almost) all homes do it, it is a *minhag* we accept even without knowing why it is important. (While understanding is worthwhile, it is not necessary.) Making a statement by action or not careful words against an accepted practice (including the one in question) can raise issues of appearing "holier than thou" and sometimes causes *machloket*, and we are sure that this is not your intention.



We are happy to present our third volume of "**Living the Halachic Process**". The book offers a compilation of questions and answers from our "Ask the Rabbi" project. A companion CD containing source sheets for the questions is also available. The volumes can be purchased through our office at the special rate of \$24. **Special offer: buy two out of three for \$37 or, buy all three volumes for \$54**

Have a question? -email us at info@eretzhemdah.org

Ein Ayah

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

Being Drawn Beyond the Confines of the Physical World

(condensed from Ein Ayah, Shabbat 2:59)

Gemara: [The *malach hamavet* (angel of death) needed to take David, who was pushing off his impending death by his involvement in Torah study]. David had an orchard behind his house. The *malach hamavet* went up and shook the trees. David went out to see. He was climbing a ladder. A rung fell out from beneath him. He was silenced, and he died.

Ein Ayah: The external events that transpired in this story were fitting for the inner nature of the great and holy spirit of David at that very special time [of his death].

When a person is involved in conceptions that are limited enough that he can access them well with his senses, he does not feel that he is in a confined place. However, when he elevates himself to higher and broader conceptions in matters of the divine that captivate a holy heart, then he feels his physical location is too constricting. Walls that surround him will make him uncomfortable, and he will want to go out to the free spaces outside a building.

The orchard that was outside David's house was appropriate for contemplation about things that were beyond the boundaries of the senses, just as the house was the correct place to delve into those things that are within the limited boundaries of the senses. When that which occupied David was beyond those confines, he went outside.

In the case at hand, the cause of the need to go outside was the need for David to die an especially uplifting death (known as the death of a kiss). In that context, the *malach hamavet* went up and shook the tree. In order to enable the physical death of the anointed of Hashem, David was caused to focus on such lofty ideas that they required him to leave the confines of his house. That is what is meant by his going out to see that which was "blowing around" in the orchard, i.e., those contemplations for which breadth and the ability to spread out were appropriate.

The *gemara* then describes how David was climbing a ladder, which represents his reaching from one intellectual/spiritual level to the next one. Finally he reached such a point of fullness and divine connection that the weak powers of the body could no longer hold the spirit that desired to leave its physical framework. The spirit felt at that point that the body was just an impediment to its ability to grasp and for his spirit to cling to Hashem's light. That is what the *gemara* means by a rung falling from beneath him. It fell because it was beneath his level, and it was holding him back from further elevation.

At that point, David also felt that the power of speech was too limited to contain all the divine pleasantness that he was able to grasp. That is the reason that he was silenced at death. This is the manner of lofty, holy individuals who "laugh" on their final day. Their spirit leaves their body in a display of holiness, full of pleasantness and a great love of the Creator of the Worlds, their Father in the Heaven.

Hemdat Yamim is dedicated in memory
of those that fell in the war for our homeland.

A Glimpse at
Greatness



Buy Now

NEW BOOK!!

A Glimpse at Greatness

A Study in the Works of Giants of Lomdus (Halachic Analysis).

Including Short Biographies of the Featured Authors

and "An Introduction to Lomdus"

by Rabbi Daniel Mann, Dayan at Beit Din "Eretz Hemdah - Gazit"

The Laws of Bar Metzra on Seats in Shul

(based on Shul Chatam Sofer, Choshen Mishpat 95)

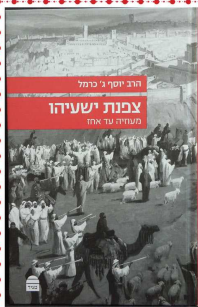
Case: Reuven sold to Shimon, in order to help make a living, two seats in *shul*: one in the men's section and one in the women's section. Levi, who holds the neighboring seat in the men's section, wants to employ the rules of *bar metzra* (the special rule by which the neighbor of property that is sold can pay its price and take the property from a non-neighbor buyer).

Ruling: The querying rabbi suggested that it is possible that *bar metzra* does not apply if Levi is the *bar metzra* only of half of the sale, and in the case of doubt, we should say that Shimon is *muchzak* (is in possession of the property until proven otherwise) and can claim *kim li* (i.e., "I want to follow the minority opinion"). However, it is incorrect to apply the rules of *muchzak* here because in cases where *bar metzra* applies, the buyer is considered as if he is acting on behalf of the neighbor. Thus, according to the opinions that *bar metzra* applies, Levi would actually be the *muchzak*.

He also raised the logic that *bar metzra* does not apply when the seller needs the money for food to eat because then we cannot expect him to consult first with favored buyers. However, in this case, Reuven did not have a short-term shortage of food, just that he wanted to use the proceeds of the sale for business needs. If we would say that such cases are also excluded from *bar metzra*, then we would all but erase the *halachot* of *bar metzra*, as almost all sellers are in similar circumstances to that of Reuven.

The Rivash says (see S'ma 175:99) that when there is a separation between the properties of more than a *tefach*, the laws of *bar metzra* do not apply. However, that is not an issue here, certainly if Levi wants to remove the separation and expand his seat. Even if he wants to keep the separation, he can still say that he wants places in *shul* that are near each other, which is a desirable situation for relatives (see Rama, Choshen Mishpat 175:13).

We should take a better look at the claim that one cannot claim *bar metzra* in a case like this where Levi is a neighbor only of the seat in the men's section. If the *minhag* is that each seat in one section has a corresponding seat in the other section, then it should be considered like one big field, and Levi should be able to make a claim on the pair of seats. However, if they are generally unconnected to each other but were sold in this specific case as one unit, then we should say that Levi cannot claim *bar metzra* rights even on the seat in the men's section (see S'ma 175:22).



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

Buy Now

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.