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HEMDAT YAMIM

Parashat HaShavua

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Rosh Hashana - How Are We Different?

Rav Daniel Mann

There are several holidays that we mark, commemorate, and observe during the course of the year, and we are now entering a month of concentrated *Yamim Tovim*, starting with Rosh Hashana. In most cases, the Torah states the significance of the day(s), and *Chazal* and later rabbis expand. Pesach celebrates liberation; Sukkot celebrates harvest and our survival in the desert. Yom Kippur is the day on which our nation receives atonement (see Vayikra 16:17). Shavuot, on the level of what the Torah writes (which is somewhat limited) is the time of reaping in *Eretz Yisrael*, and there are observances that have to do with the corresponding service in the *Beit Mikdash* (see Shemot 23:16 and Vayikra 22:17-22). *Chazal* teach us (as is somewhat clear from the *p'sukim*) that this is the period of the giving of the Torah.

What about Rosh Hashana? The Torah says nothing specific about the day's significance, other than listing several special *korbanot* (fewer than any other yearly holiday) and the fact that there are some "horn blasts" or related remembrance. *Chazal*, of course, uncover the great significance. Rosh Hashana commemorates the creation of the world, and it is the day on which all of mankind is judged on a yearly basis (Mishna, Rosh Hashana 1:2). Yet, if we think about it again, we should wonder if there is any national element to this important day. All of mankind was created, and all of mankind is judged! Yet, we are the only ones who are commanded to commemorate the day. Do we or do we not have a special connection to the day?

One of the best ways of answering the question is by looking at the special *berachot* of Musaf of Rosh Hashana, which is a text that is paralleled only by the *Haggada* of Pesach in providing a framework for understanding the day. The first *beracha*, *Malchuyot*, is quite universalistic in talking about the need for the whole world to "coronate" Hashem in the broadest sense. Yet, it also discusses how a prominent *Am Yisrael* is a tool to bring this about. The *beracha* concludes "... King over all the land, Who sanctifies Israel and the Day of Remembrance." The second *beracha*, *Zichronot*, is also a mix of the universalistic, invoking the story of Noach, and national, discussing Avraham's binding of Yitzchak and the resulting covenant. It ends off "... He Who remembers the covenant". The third *beracha*, *Shofarot*, is the one which clearly focuses on Israel, as we are the ones who communicate with Hashem with the *shofar*, starting with Hashem using it at Sinai and with our praising Him with it. The *beracha* concludes "... Who hears the sound of the blasts of His nation, Israel, with mercy."

We summarize as follows. Rosh Hashana is important for the whole world. However, the opportunity and obligation to act on it by means of a specific set of commemorations, with the *shofar* standing above all others, is reserved for us. Since the other nations do not have that, they are less likely to gain significantly from the day, which is balanced by the fact but they are not responsible or culpable for failing to do so. "Fortunate is the nation which knows the blasts."

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by Rav Daniel Mann

Hatarat Nedarim by Skype

Question: Around the time of Rosh Hashana, I will not be in the proximity of people who can do *Hatarat Nedarim* for me. Can I do it via Skype?

Answer: While a general *Hatarat Nedarim* (=HN) within days of Rosh Hashana is just a *minhag* (see Chayei Adam 138:8), it is good that you are looking for an opportunity to do it.

There is a *machloket Rishonim* (see Beit Yosef, Yoreh Deah 228 and Ran, Nedarim 8b) whether *hatarat nedarim* (=hn – annulling (a) specific oath(s)) requires the presence of the oath taker (*noder*). The *gemara* (Nedarim 8b) asks whether a husband can be an agent to request his wife's *hn* and concludes that he can. Some say (including R. Shimshon) that others, who are less impacted by it, are certainly effective based on the general rule that agents can carry out halachic processes. The Rambam (Shvuot 6:4), accepted by the Shulchan Aruch (YD 228:16), is among those who require the oath taker's presence.

We must see how absolute this ruling is, on a few levels. The Keren Ora (Nedarim 8b) and Kiryat Melech Rav (on the Rambam *ibid.*) suggest that it is a Rabbinic law, with the latter explaining that we want the *noder* to be self-conscious, to discourage making this a common practice. Rav Auerbach (Minchat Shlomo, Nedarim *ibid.*) suggests that it is to enable effective discussion of the grounds for the *hn*.

Classical *poskim* suggest exceptions. The Rama (YD 228:16, based on the Yerushalmi) says that the *hn* can be done through an interpreter, but the Shach (228:29) and Taz (228:21) say that this is only because the *noder* is present. More significantly, the Taz (228:20) cites the Rashba who says that even those who disqualify an agent allow the *noder* to submit his request to *beit din* in writing. The idea is that the request must be transmitted without using intermediaries, but it works even without formalistic interaction between the *noder* and the *beit din*. The Taz also cites the Rivash (370), who disallows writing. (The Rivash's proof is from the *midrash* about Yiftach's haughty refusal to go to Pinchas to undo his oath, which seems to indicate that a letter would not have sufficed.) The Taz does not take a clear stand on *hn* by letter, and the Pitchei Teshuva (228: 9; see also Kol Nidrei 19:3) allows it in a case of significant need.

Poskim have been discussing the use of telephones for halachic matters. One crucial issue is appointing the facilitators of a *get*. This a more difficult matter than ours because of the need to ascertain identity and for a possibly higher level of connection between the husband and the facilitators (see discussion in Tzitz Eliezer X:47 and article by Rabbi H. Jachter in Techumin XIV). Another area of interest is *berachot* heard via telephone. One cannot fulfill *mitzvat* through such a *beracha*, but leading *poskim* have argued whether one can (Yechaveh Da'at II:68) or cannot (Minchat Shlomo I:9) answer "Amen." *Hn* by phone could follow the same logic, or can be more lenient (if a practical rather than formal connection between the two is enough) or more strict than other applications (if presence is a Torah requirement).

A Skype discussion is no worse than a written request for *hn*. After all, one's written word does not have a special status in this context (proof of this claim is beyond our present scope). Rather, the important thing is to convey the requester's message effectively without another person's intervention. In some ways, Skype is preferable. It allows for give and take between the parties and creates a personal connection that could provide a measure of self-consciousness (see above). In the latter, it might even be a slight improvement over telephone. Audio/video's greater improvement is in regard to cases (arguably, *gittin*) in which authentication is crucial, as it is easier to impersonate a voice than a voice and appearance.

In conclusion, when necessary, one can rely on *hn* by phone (see Shevet Hakehati IV:239) and by Skype. We note briefly that *HN* before Rosh Hashana may require less halachic precision, and therefore leniency is fully acceptable.



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Ein Ayah

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

Tranquil Spirituality Allows for Physicality

(condensed from Ein Ayah, Shabbat 2:68)

Gemara: That which [Yirmiya lamented], "I am separated from goodness" (Eicha 3:17), Rav Abba says is referring to [the lack of] a made bed and an adorned wife for *talmidei chachamim* (Torah scholars).

Ein Ayah: The content of tranquil, complete life is able to accommodate a harmony between the highest spiritual aspirations and natural interests. In such circumstances, even men who are whole-heartedly dedicated to wisdom and sanctity will be able to seamlessly incorporate into a well-designed life all the enjoyment that a person can have within a life of well-measured sanctity. This will not detract from his process of spiritual elevation or his love and dedication to Torah study. This is because when his spirit is in a state of tranquility, it is possible to give every element its proper measure. Then, even those physical desires that arguably detract from spiritual growth actually complement it. That is why all the goodness in the world, with pleasures that excite one's heart, is promised to Israel when they strengthen their sanctity and connection to the true Torah.

It is true that a *talmid chacham* is expected to lovingly study with such diligence as to limit the great desire for sleep. However, in healthy situations, he will want that the little sleep that he has should be in a properly arranged bed. His dealing with abstract truths also will not kill his heart's desire for the type of things that are appropriate for one who is complete in body and spirit. The pleasure that he will have when he spends time with the wife that Hashem granted him will put him in the best frame of mind when she is well dressed and adorned. This reaction is not minimized by his envelopment in Torah wisdom, contrary to popular belief.

All the above is when Israel is settled peacefully in its Land, but when they are in an unsettling state of exile, a complete, healthy spirit is rare. This causes a tendency toward extremes, in which one who is truly dedicated to diligent study cannot be in tune with normal physical life, and the desire for it must leave his heart. If he does want to incorporate this physicality in his life, it will take a great toll on his spiritual development.

When we see this deprivation from the physical good of the *talmidei chachamim*, we will recognize the internal wound that exile has inflicted upon us, especially on the greatest among us. In this unnatural state, spirituality and physical enjoyment indeed do serve as counter forces. Physicality stunts spiritual growth, and spiritual growth removes one from physical enjoyment. This is not fundamental, as the Torah combines the world's pleasures. Rather, exile ruins the workings of healthy life. The poisonous impact of unnatural life that depresses the nation's spirit does not allow gathering together distant elements of life in a proper order. Then, only by distancing physical desires will it be possible to hold on to a remnant of scholars, who will merit being those who toil in Torah and wear its crown, thereby preserving the connection to Torah of the nation.

When looking at that situation, it causes us to bemoan our distance from the Land upon which Hashem's eyes are always focused. The prophet mourns the removal of those who carry the banner of Torah from proper enjoyment of the order of the physical world. Leaving the world of harmony for the world of isolationism, which comes not from the nature of the Torah but from the necessities imposed by exile, is saddening. We are troubled that the men of spirit are no longer interested in the pleasure of seeing the woman with whom he joined in covenant in an adorned state. The fact that he needs to separate himself from physicality because of all the negative that is connected to it is a sign of unhealthy times. If only times were more complete, one engrossed in Torah thought could still use the Torah of truth to allow him to be connected to physical feelings as well. That is why Yirmiya lamented the separation from goodness, in regard to *talmidei chachamim* not having made beds or adorned wives.

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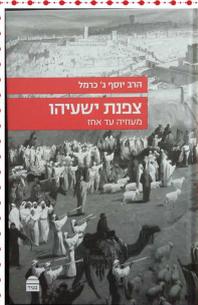
Straying from a Father's Instructions on Supporting Torah Study

(based on Chatam Sofer, Choshen Mishpat 108)

Case: Yaakov instructed that 400 gold coins from the estate he leaves should be given to his son (Reuven), who should use the earnings from the fund to give 20 gold coins a year to be divided among two Torah learners who will learn regularly in his house. Reuven hired three such people, with the intention of splitting up the same 20 coins three ways. Is that a violation of Yaakov's instructions?

Ruling: The concept of *mitzva l'kayem divrei hamet* (it is a *mitzva* to fulfill the instructions of the deceased) applies only if he set aside specific coins (Shulchan Aruch, Choshen Mishpat 252:2). If so, the instructions can only be binding based on the concept of the instructions of a *schiv meira* (one who is on his death bed). Since the profits from the 400-coin fund are not yet in the world at the time of Yaakov's statement, a *kinyan* to the poor or other *tzedaka* is not possible on them (Rama, CM 21:7). While one can obligate himself as an oath even regarding things that do not yet exist, that oath does not take effect on his inheritors.

This is even clearer when Yaakov did not even specify who he wanted the recipients of the grant to be. We find that the Maharik (5) and the Maharit (24) say that an inheritor can make changes in the pledges as he desires. I have written elsewhere that the recipient should just remain one that is considered *mitzva*-related, which will be a help for the soul of the departed. Therefore, even though Yaakov intended that each recipient would get a larger portion, Reuven can change it so that the sum will stay the same and there will be more recipients receiving smaller amounts. In fact, there are sources that it is better to divide *tzedaka* among a greater number of recipients (Magen Avraham 695:12). It is important that when he enlisted the Torah learners, Reuven told them just that they were to learn to elevate the soul of his father and not that he was hiring them according to the instructions that his father left. In the latter case, since Yaakov said that each one would receive 10 gold coins yearly, that is what they should receive. Even though Yaakov said that only 20 coins a year would be given, and in this case 30 will have to be given, it is like a case of someone who told workers to do work for his friend without the friend's authorization. In that case, the authorizer pays the worker and the recipient of the benefit pays him back (Bava Metzia 76a). Thus, Reuven would pay from his own pocket this year, but could reimburse himself from next year's profits from the 400-coin fund. It is okay that this will cause less money to be given in the future as long as there will still be learning for the sake of Yaakov's soul.



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