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HEMDAT YAMIM

Parashat HaShavua

Ki Tavo, 21 Elul 5776

Shema Yisrael – One G-d, Three Contexts Harav Yosef Carmel

The expression “*Shema Yisrael* (Hear, Israel),” which we use morning and night to introduce our acceptance of the yoke of the Heavenly Kingdom, has turned into a symbol of Jewish life. Every Jewish child, from a very young age, knows these words. Many know the heart-wrenching story of Chief Rabbi Herzog [and/or Rav Eliezer Silver and Rav Yosef Kahaneman] who discovered Jewish children whose identities were hidden by nuns after the Holocaust, by singing “*Shema Yisrael*” as the children prepared for sleep, bringing many to remember their parents.

Let us try to determine how the Torah uses these ostensibly introductory words to teach additional spiritual messages. Of course, the most famous usage is with the continuation, “Hashem is our G-d, Hashem is one” (Devarim 6:4). However, it also introduces other Torah statements.

“Hashem called to all of Israel and said to them: ‘Hear Israel, the statutes and the ordinances that I am speaking in your ears today, and you shall teach them and guard them to follow them’” (Devarim 5:1). Another one is: “Hear, Israel, you are passing the Jordan today to replace great nations ... and you should know today that Hashem is He who goes before you; He will destroy them...” (Devarim 9:1-3). Later on in Devarim (20:3-4), the Torah says: “He [the *kohen*] will say to them: ‘Hear, Israel, you are going out to battle today against your enemies; let your hearts not be weak ... for Hashem, your G-d is He who goes before you to fight on your behalf against your enemies to save you.’”

The last appearance of “*Shema Yisrael*” is in our *parasha*: “Moshe and the *kohanim*, the *levi'im*, spoke to all of Israel: ‘Concentrate and hear, Israel: this day you have become a nation to Hashem, your G-d’” (ibid. 27:9).

If we take a look at these four usages of the phrase “*Shema Yisrael*,” we will see that the subject matters in these contexts are the three critically interlocked foundations of our unique relationship with Hashem. The first and most famous context relates to the basis of the Torah of Israel. The next two sources have to do with the importance of the Land of Israel in our national lives. The final one has to do with our unique status as a nation singled out by Hashem. The fact that each of these ideas is introduced in this dramatic manner shows its importance as ideas that are the bases for our whole Jewish belief.

As the Day of Judgment approaches, let us pray that more and more people in our nation will be strengthened in their belief in these principles.

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Ask the Rabbi

Ki Tavo

by Rav Daniel Mann

Garbage Disposal on Shabbat

Question: My neighborhood's garbage is collected on Shabbat. Isn't it a problem having a non-Jew do *melacha* for me on Shabbat? What would the basis for leniency be, if there is any?

Answer: We will start with your assumption – that *melacha* is involved. The workers carry 4 *amot* in a public domain and into a private domain (the truck), which is a *melacha*, but only if there is no *eiruv*. It is possible that no part of the operation of the truck is done specifically for you (it would be a problem if the whole area is Jewish). The Rabbinic violation of *muktzeh* is a problem regarding garbage. While it is often permitted to take out garbage on Shabbat, e.g., leaving it in the home will likely cause a bad smell (see Orchot Shabbat 19:88), it usually need not be a bother in a garbage can outside.

So assuming it is forbidden for a Jew to throw the garbage into the truck on Shabbat, can non-Jewish workers do it for us? The critical factor for leniency is that the Jew does not tell, or, in this case, even care if the non-Jew does the work specifically on Shabbat (Shulchan Aruch, Orach Chayim 247:1). You too presumably do not care if the pickup is specifically on Shabbat. (This might not be true if they have not come in several days, they never work after sunset or on Sunday, and residents would have significant hardship and complaints if they did not come on Saturday.)


However, that leniency helps only if it is halachically considered that the work the crew is doing at that time is for their sake, not for yours. The most common way to fulfill this condition is when the worker is paid per job (*kablan*), so that we consider it that he is doing it for the money he receives (ibid.; see Mishna Berura ad loc. 1). If, though, he is paid by the day or other unit of time (*po'e'l*), he is considered to be paid money to fulfill the Jew's requests, explicitly or implicitly, which is forbidden (ibid., based on Avoda Zara 21b).

The analysis of a sanitation crew's categorization is not simple. They are presumably paid by the day/month (*po'e'l*) and not, for example, by the amount of garbage they remove. On the other hand, maybe we should look at the relationship between the homeowner and the municipality. The homeowner pays (usually with municipal taxes) for a host of services, including garbage disposal, which makes the municipality *kablanim*. The sanitation workers are working for the municipality, not the homeowners, and therefore the worker's pay scheme is not relevant. There is another reason to consider them *kablanim*. The Shulchan Aruch (OC 244:5; see Mishna Berura ad loc. 24) says that if one has a long-term worker whose responsibility is to do one specific job, he is equivalent to a *kablan*. This is provided the Jewish employer does not complain if he takes off days here and there as long as the job gets done.

One can ask that it is forbidden for the non-Jew to work for a Jew on the Jew's property (Shulchan Aruch, OC 252:2), due to *marit ayin* (people will think he is violating Shabbat – see Mishna Berura 252:17). Here, though, people usually put the garbage cans in the public domain before pickup. One might argue that this is a technicality, as the workers are still clearly doing work for the homeowner. However, since everyone knows that the homeowner has no special arrangement with the crew, and the general setup is permitted, *marit ayin* is not a problem (see ibid.). We are also not supposed to have non-Jews take things on Shabbat from a Jew's house even when there is no intrinsic violation (see Shulchan Aruch, OC 252:1). However, this too is due to *marit ayin* issues, which should not apply.

It is permitted to put out the garbage even on Shabbat (when *muktzeh* is not a problem), but there are likely advantages to doing so before Shabbat (beyond our present scope).

There is similar analysis of the topic in Minchat Yitzchak (V:105) and Teshuvot V'hanhagot (I:278). We have also simplified several nuances in these matters. The bottom line is that, in standard cases, it is permitted for the garbage pickup to be on Shabbat.



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**

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Gemara: When our masters entered Kerem B'Yavneh (The Vineyards of Yavneh), Rabbi Yehuda, Rabbi Elazar ben Rabbi Yossi, and Rabbi Shimon were there. They were asked: this affliction (*askara*), why does it start in the intestines and end up in the mouth? Rabbi Yehuda the son of Rabbi Ela'i, the first to speak in every setting, answered: Even though the kidneys give advice, the heart understands, and the tongue enunciates, it is the mouth that finishes.

Learning Lessons from a Disease

(condensed from Ein Ayah, Shabbat 2:250)

Ein Ayah: The purpose of afflictions, whether of the collective or the individual, is that they should help bring ethical improvement, whether in actions, emotions, or beliefs. It is as the *pasuk* says: "You returned man to difficulty and said: 'Repent, people!'" (Tehillim 90:3).

Every phenomenon in creation has many elements to be contemplated, whether regarding its internal workings or how it interacts with the rest of the world. This applies to afflictions as well. Horrible diseases need to be contemplated in order that they can provide their full positive effect. The more an affliction attracts contemplation about its characteristics, the more it can bring ethical change.

Everything in the world is Hashem's doing. It is fitting that people should improve their minds to discern the "word of Hashem" that is contained in each phenomenon, according to its prominence and its ability to improve the world in the most important way – ethically. All wonderful elements of creation must have an internal educational element for the mind and for the development of justice and kindness.

The consequences of *askara*, which was one of the most severe deadly diseases (see Berachot 8a) and impacted people so significantly, must have profound characteristics that deserve attention. *Askara* starts in internal organs and works its way to the outside of the body, finishing in the mouth. This hints that the sin that causes it [*lashon hara* – see last week's piece] starts within a person and finds expression in his external life. In the disease, the parts that precede the mouth are significant. So too, regarding the sin, internal factors that cause the sin to be perpetrated are critical to deal with.

Only great people in the generation who understand life by tapping into Hashem's secrets can uncover the explanations that are capable of "scraping off the honey" from the horrible curse of *askara*. That is why the rabbis of Yavneh were asked the question about the disease, with confidence that they would have insight and help return the nation to the proper path. Why, people wanted to know, does *askara* start at the intestines and end in the mouth?

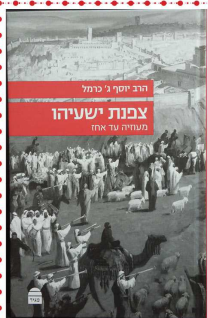
The Point of Practical Damage

(condensed from Ein Ayah, Shabbat 2:252)

Ein Ayah: The great evil of *lashon hara* is that it is hard to accept how damaging it can be. The reason that speech can be so ruthlessly effective in harming the object of slander is that speech is an incredible power of the internal spirit.

It starts with the "advice" that the kidneys give and the understanding of the heart as to how to promote the kidney's idea and prepare the tongue to have the message impact on the one who listens. All of this is carried out with full force by the mouth.

The same is true of the disease that mirrors the sin. The main power of the disease relates to the place at which the main damage is done, in this case, the mouth, just as regarding the sin. Rabbi Yehuda, the expert on practical halacha, stressed to contemplate the point where things occur practically. He mentions the source of the problem but connects it to the final point.



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.

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Faulty Chimney – part II

(based on ruling 74083 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought a fireplace/chimney from the defendant (=def) for 12,450 shekels, with the following breakdown: 8,200 for the fireplace, 2,250 for the chimney, 2,000 for installing the chimney. Two years later, 2.5 meters of the chimney corroded, and after asking def to fix it, pl bought a replacement part and fixed it himself. During the third year, the whole part of the chimney within the house corroded. Def did not respond to pl's demands to replace it, and pl hired a professional to put in a better (complete) chimney for 4,700 shekels. Pl claims that since a chimney should last around a decade, the fact that it corroded so quickly is a sign that it never was an appropriate one. He claims that the fireplace he bought was hotter than def's older models, and that soon after pl's purchase, def switched to a more expensive chimney. Def argues that he buys chimneys from a chimney manufacturer on behalf of his customers and gives service for only a year. He assumes that the damage came from pl using wet wood, which he usually tells customers not to do (because he was in a rush at the time, he did not give def instructions).

Ruling: [Last time we saw that def is obligated to refund pl for the ineffective chimney. However, there are both fundamental and technical questions that need to be addressed in order to determine the amount due.]

Def claimed that there was no need to replace the part of the chimney that was outside the house. Pl said that he had to replace the entire chimney because otherwise the diameters of the parts would not be the same and the new company would refuse to give a warranty. Since we ruled that he was not entitled to the improved chimney, the latter claim is not accepted. However, when a sales item is found unfit due to a problem with an important part of it, we nullify the entire sale and do not just replace that part. That is because mixing and matching parts from different places is not a good idea (see Bava Batra 7a).

One should not claim that since pl changed parts of the chimney himself, we see that he relinquished rights (*mechila*) to payment for it. This is because it was misinformed *mechila* (Shulchan Aruch, Choshen Mishpat 241:2), as if he had known that there would soon be so much additional corrosion, he would not have replaced just certain parts of it.

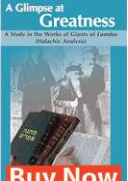
Def claimed that within the 4,250 shekels that were paid for the chimney, 1,250 was for drilling into the wall of the house and 750 was for installation and that he did not charge separately for transport. Due to the small amount of the claim, checking these claims with an expert is not worth the expense to the parties. Since the drilling improved the house for one who wanted to replace the chimney with another one, pl should not get a refund for its expense (see Shulchan Aruch, CM 375:1). Pl did not benefit from the installation in regard to putting a new one in. Therefore, ostensibly, def should have to pay 3,000 shekels.

Pl had one winter of full benefit from the chimney, after which the needs for fixing it made it unusable. Assuming twelve years of expected benefit from the chimney, that year of benefit was worth 250 shekels, which is to be taken off from the payment. Therefore, def must pay pl 2,750 shekels.

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