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HEMDAT YAMIM

Parashat HaShavua

Vaetchanan, 13 Av 5777

Listening while Seeking Face to Face

Harav Yosef Carmel

In our *parasha*, Moshe returns the second generation since the Exodus to the account of the greatest event in the history of mankind – the revelation and giving of the Torah on Sinai. This was the foundation of the status of *Am Yisrael* as Hashem's nation, the only nation to whom Hashem revealed Himself. For that reason, *Chazal* saw the 600,000 plus who stood at the bottom of the mountain as the representatives of all future generations of Bnei Yisrael, as even those who were present only spiritually were included in the covenant. The closeness that was forged at Sinai turned all members into a nation of "prophets and sons of prophets."

We will look at an interesting phenomenon that emerges from this Torah section. "Hear, O Israel (*Shema Yisrael*), the statutes and laws that I am saying in your ears today ..." (Devarim 5:1). The Torah then (ibid. 4) describes the people's level: "Face to face Hashem spoke with you at the mountain from the midst of the fire." This was literally awe-inspiring, as the *pasuk* says: "For you were afraid due to the fire" (ibid. 5).

In the section that follows the repetition of the Ten Commandments, the Torah describes the discussion surrounding Bnei Yisrael's concern about continuing to hear "Hashem's voice" (ibid. 20-25). The section ends off: "You, Israel, shall hear and guard to fulfill so that it be good for you ..." (ibid. 6:3). Directly following this are the beloved words that every Jew says twice a day from the time of his youth: "*Shema Yisrael Hashem Elokeinu Hashem echad*" (ibid. 4).

The level of encountering Hashem "face to face" (Shemot 33:11) is the greatest level of closeness to the divine imaginable. Every individual Jew should strive for such closeness even though he will not succeed in reaching it. Even Moshe – who "spoke to Hashem face to face" (Shemot 33:11) on an ongoing basis – when he asked, "Show me Your glory" (ibid. 18), he was turned down, as it says: "You will not be able to see My face, for man is unable to see Me and live" (ibid. 20). Despite this fact, David did "seek Hashem's face" (Tehillim 27:8).

If this is a goal that cannot be realized, what is the practical solution? "Hear, O Israel (*Shema Yisrael*), the statutes and laws." If we rise to the challenge, then we can take the power of the experience of Sinai and successfully convert it into a serious ongoing relationship of "*Shema Yisrael Hashem Elokeinu Hashem echad*."

We have merited completing the three weeks of mourning for the Temple to arrive at the seven weeks of consolation, during which we read *haftarot* about the great liberation. The Temple was destroyed due to baseless hatred, which is often caused by a failure to listen seriously to the words of another Jew. If we will be more attentive to our brothers' voices, even if we do not always agree with them, we will merit the shining countenance of Hashem, and maybe we will approach the level of "face to face" with Him.

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Ask the Rabbi

by Rav Daniel Mann

Animal Experimentation

Question: I am working for a medical researcher, and a lot of it includes experimentation on rodents. Let's just say that these animals' lives are not always pleasant. Is this permitted, or is it *tza'ar baalei chayim* (causing pain to animals)? How should I feel about my involvement?

Answer: There is a *machloket* in the *gemara* (Bava Metzia 32b) and *poskim* whether *tza'ar baalei chayim* is a Torah law or a Rabbinic one, and it is possible that it is a quasi-Torah law (see Encyclopedia Hilchatit Refuit, VI, p. 525). Many *mitzvot* in the Torah (at least according to some commentators) and Rabbinic laws are based on concern for animals and are to avoid cruelty to them. When and why can this be waived for human purposes?

The simple reading of Tosafot (Avoda Zara 11a) is that *tza'ar baalei chayim* can be waived only to facilitate an important *mitzva*. However, the halachic consensus is along the lines of the following Rama (Even Haezer 5:14, based on the Issur V'heter and Terumat Hadeshen): "Anything that is needed for medicine or for other things does not have a prohibition of *tza'ar baalei chayim*. Therefore, it is permitted to pluck feathers [for quills] from live geese, but the world is careful about that because of cruelty."

There are at least two approaches to why the prohibition falls in the face of human need. One is that the prohibition is only for being needlessly insensitive. We find regarding *bal tachshit* (not destroying things) that "destroying" something for a positive reason is permitted because it is, in context, not destructive. Indeed the two *mitzvot* may be connected as the *gemara* (Chulin 7b) says – killing an animal for no good reason is *ba'al tashchit*, keeping it alive but in pain is *tza'ar baalei chayim*. Thus, if done for a good reason, it is not destructive/cruel.


A second, complimentary approach, is that the Torah teaches us, explicitly and implicitly, that animal rights do not compare to human needs. There are several Torah statements along the line of "Have dominion over the fish ... birds ..." (Bereishit 1:28). Furthermore, we are permitted to take an animal's life simply because we desire to eat meat. We may enslave animals to do hard labor, with some restrictions (not Shabbat, muzzled).

There are a few important possible distinctions. Permissibility may depend on the level of pain to which the animal is subjected. Normal agricultural work is not torturous and is permitted. However, the Rama above calls plucking feathers from a live bird cruelty, and says we do not do such things (see Shvut Yaakov III:71). The level of need is also a variable. Some rule that earning extra money is not an excuse (see opinions cited in Minchat Yitzchak VI:145), and while most authorities say that it is a valid reason, it may depend on how painful it will be for the animal (*ibid.*).

Rav Yaakov Emden (Sheilat Yaavetz I:110) says that *tza'ar baalei chayim* applies only to animals with which man works (e.g., cattle, horses, donkeys) or perhaps relatively highly cognitive animals (dogs, cats), but not to "lower creatures," who experience pain differently. According to these opinions, it does not apply to insects, and likely not to rodents.

Looking for cures and treatments for human illnesses is certainly a very valid reason to allow animal experimentation. As several *poskim* point out, real efforts should be made to ensure the importance of the experimentation, limit the number of animals used, and minimize pain (including using lower species). Suffering animals should be euthanized as promptly as possible. Thankfully many countries have rules to monitor such things, and unfortunately few do a good enough job.

Personally, if you are involved for a short time, it is appropriate to feel somewhat uncomfortable, even if the practice is right (see a scary story about Rabbi Yehuda Hanasi – Bava Metzia 85a). A professional researcher can't be expected to constantly live with guilt, but it is appropriate to seek ways to heighten sensitivity, emulating Hashem, whose mercy is on all of His creations (see Tehillim 145:9).



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Ein Ayah

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

The Value Bridge between the Past and Future

(condensed from Ein Ayah, Shabbat 5:33)

Gemara: [We continue with the significance of the word “tav,” which refers, in Yechezkel 9, to a mark placed on the foreheads of those who received punishment, but also is the name of the last letter in the Hebrew alphabet.] Reish Lakish said: “Tav” is the end of Hashem’s signet, as Rav Chanina said: Hashem’s signet is “emet” (truth).

Ein Ayah: Every period in the life of a person and the nation makes a special impact. When the period’s character is complete, it imprints a unique face on the future according to the good goal that the Master of History prepared in advance. The accumulated imprint from the entire course of the period and all that took place within it, relates specifically to its beginning, its continuation, and its end, which fit each other.

When one period comes along to replace the previous one, those elements of the old that hold back the success of the new period need to be discontinued. However, those elements that can transfer goodness from the old period into the new should continue and help start it off.

The completion of something desirable can be recognized by the viewer of a period of human history as a long string of historical events. This demonstrates the divine interest in that development and gives it life. The divine value that is imbedded within this element connects the significance of the different edges of the matter with its essential part. This is the significance of *emet* (which begins with *aleph*, the first letter of the alphabet, continues with *mem*, a middle letter, and ends with *tav*, the final letter).

Tav represents the end, when one period ends and another is about to begin. That is when an accounting takes place. Those elements that are still fitting and do not hinder the realization of positive divine processes will continue to exist. That which impedes will be removed, for only that which helps complete the goals that are set as a foundation of eternal truth will remain at a time of transition, as the *pasuk* says, “For the lips of truth will be established forever” (Mishlei 12:19).

All Encompassing Application of Torah

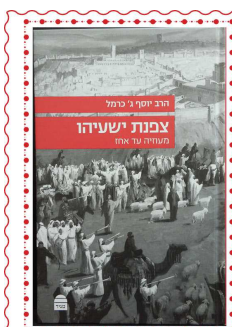
(condensed from Ein Ayah, Shabbat 5:34)

Gemara: [The *tav* is a sign of] those who kept the entire Torah from *aleph* to *tav*.

Ein Ayah: The existence that comes about without self-preparation for the light of Torah and the reasons of the *mitzvot* follows the order of the Torah. A person can fulfill his Maker’s desire only by doing that which the Torah sets forth. He cannot do it through his own ideas based on secrets of perceived truths from a boundless extension of the Torah’s sanctity.

It is different for one who already was elevated to the greatest heights of Torah understanding and knows his Maker and His intent with the Torah in general and the spiritual power found in specific elements of Torah and *mitzvot*. Such a person can use the Torah and *mitzvot* and their hidden meanings as one uses the letters of the alphabet to represent anything in the world. The Torah is part of their essence and shines even on their external faces. For them, the entire Torah is like letters, which include all the expressions, which are created all the time. This is as the *pasuk* says: “For Your statutes are to me like speech” (Tehillim 119:99).

Just as there is an order of letters, there is an order of Torah. Both are gathered into units that create new ideas. Anything that is connected to truth and wisdom stems from the light of Torah and proper observance of *mitzvot*. Scattered ideas constantly combine to create complete ideas that give meaning to everything in the world. These are the people who fulfill the entire Torah from *aleph* to *tav*.



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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P'ninat Mishpat

Unfulfilled Raffle Prize – part III

(based on ruling 76024 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) spent 2,050 shekels on raffle tickets sold by an institution (=def); the first prize was a furnished four-room apartment. The drawing was held in Feb. 2012, and pl won the first prize and was supposed to receive the apartment within six months. However, the apartment was part of a property owned jointly by def and Reuven. They needed to have a redrawing of the property approved and then build an extra room. Due to a dispute between def and Reuven regarding stairs leading to the apartment, municipal permission def received was not usable, and, as of 2015, the apartment is still not completed or transferred to pl's name. Pl demands that def transfer ownership to him and either build another room and provide furniture or pay their costs. Def responds that they are bound only to the raffle's *takanon* (regulations), written before the drawing. Accordingly, if they are unable to complete building the apartment, they need to pay the raffle winner the amount of money they spent on the apartment or perhaps sell their portion of the property and give pl the proceeds after subtracting expenses.

Ruling: [We have seen that the pertinent sub-paragraph of the *takanon* is 5A.]

According to par. 5A, def is to transfer ownership of the apartment to pl, build an extra room refurbish the apartment, and provide furnishings. To what extent is this halachically enforceable, and how should these obligations be implemented?

Transferring ownership to pl – The Netivot Hamishpat 39:17 rules that if one obligated himself to sell an object in his possession, he can be forced to carry that out, even though no *kinyan* took effect on the object yet and he was capable of selling it to a third party. Therefore, def should have to transfer ownership to pl. On the other hand, the *takanon* states that transfer of ownership will not take place until the apartment's status is changed and the renovations are complete.

In theory, then, def could just compensate pl. However, def does not have money and would have to sell the apartment in order to pay. Therefore, it is much more logical to just give the apartment to pl since he wants it as is. Actually, the proper reading of the provision is that until the changes are made, pl still does not own the apartment, but it does not mean that def can decide to not build it and then not give it. That would be against the whole spirit of the raffle offering. Therefore, pl can demand ownership of the apartment as is.

Building and refurbishing – While pl cannot be forced to build, monetary steps are taken against one who promised to work and backed out. The Shach (CM 333:21) and S'ma (333:16) disagree as to whether money can be taken from the worker beyond withholding that which was already earned on the job. In this case, though, there was never supposed to be payment for the building, and so according to the minimalist approach, the obligation would be meaningless. Therefore, def has to pay the price of the construction or have it done themselves.

Providing furnishings – While one cannot sell something that is not in his possession (i.e., the furnishings), one can obligate himself with a *kinyan* to provide such matters (Shulchan Aruch, CM 60:6). While we cannot force def to provide them, they are obligated to pay the value of the envisioned furnishings.

We daven for a complete and speedy *refuah* for:

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Yehoshafat Yecheskel ben Milka

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