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HEMDAT YAMIM

Parashat HaShavua

Sukkot 14 Tishrei 5777

Sukkot and Shabbat – What Type of Happiness?

Rav Daniel Mann

The Vilna Gaon famously pointed out that there are two *mitzvot* that one fulfills with his whole body – living in Israel and living in a *sukka*. Of course this can be a cute physical observation, that there is no specific part of the body to which the *mitzva* applies. However, it is more likely that the intention is that these *mitzvot* apply to one's whole persona.

Others explain how the *mitzva* of *sukka* relates in a very deep way to the whole relationship between the fulfiller of the *mitzva* and his Maker. The Slonimer Rebbe (Netivot Shalom, Sukkot 3) refers to the Mahari Weil, cited by the Baer Heitev (639:1), who says that whoever fulfills the *mitzva* of *sukka* is like one who is a partner with Hashem in the creation of the world. Despite our love for the *sukka*, this seems surprising. *Chazal* have a similar statement – Whoever recites the Torah's account of the "creation of Shabbat" is like one who is His partner in Creation (Shabbat 119b).

The Netivot Shalom explains that both Shabbat and *Yom Tov* are like reunions between the king, and his son who has been distanced from him. The difference is that on Shabbat, the son comes to "visit" the father, and on *Yom Tov* the father comes to visit his son. Of course, this fits as well or better regarding Sukkot, where the Zohar says that the *sukka* itself is infused with a special divine presence.

However, the Slonimer Rebbe takes it a step further in explaining the element of *simcha* that we find both in regard to Shabbat and to Sukkot. Regarding Sukkot, there is a very clear command to be joyful (Devarim 16:14). Regarding Shabbat, we find *Chazal* explaining the *pasuk* in regard to the use of the trumpet (Bamidbar 10:10- see Sifrei ad loc.) that "the day of your joy" refers to Shabbat. The commentaries have trouble with this, considering that there does not seem to be a *mitzva* of *simcha* on Shabbat.

The Slonimer Rebbe posits that the happiness is not referring to the way one is supposed to act on those days but to the essence of the days. Both Shabbat and Sukkot, he demonstrates, are like days of marriage between the Jewish People and Hashem. In fact the Avudraham says that different parts of Shabbat correspond to different stages in the creation of the nuptial union. The night is compared to the *kiddishun* (the betrothal); the morning is compared to the time of engagement during which presents are given; and the afternoon corresponds to the final stage of marriage when they start living together. Similarly, the *sukka* functions as a *chupa* (bridal canopy), so to speak, which makes Sukkot a time of internal happiness in addition to performing acts that create happiness.

As we who take part in these special days form a partnership of "marriage" with Hashem, we become partners in His world. In that way, it is as if one is a partner in the creation of the world, as he is a partner in everything that relates to Hashem.

May we feel the joy of the great relationship we forge with Hashem every Shabbat and, uniquely, on this holiday of Sukkot.

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Ask the Rabbi

by Rav Daniel Mann

Nichum Aveilim on Yom Tov and Chol Hamoed

Question: Can *nichum aveilim* be done on *Yom Tov* and *Chol Hamoed*?

Answer: As is common regarding the laws of *aveilut*, there is a gulf between the *gemara's* principles and current practice, but we will try to make some peace between them.

The *gemara* is clear that one may do *nichum aveilim* not only on *Chol Hamoed* but even on Shabbat and *Yom Tov*. The *gemara* (Shabbat 12a) says that Beit Shammai and Beit Hillel disagreed if it is permitted on Shabbat, and the *halacha* follows Beit Hillel, who permit it. A *baraita* (Sukka 41b) describing a person going from place to place holding a *lulav* and *etrog* mentions one going to *nichum aveilim*. The *gemara* (Moed Katan 20a) even says that since people do *nichum aveilim* on a *mo'ed* (even though *shiva* does not begin until after the *chag*), the number of days of *chag* after the burial are subtracted from the number of days of *nichum aveilim* after the *chag* because of *nichum* on the *chag*. So, for example, if there were three days of *chag* before *shiva* began, only on the first four days of *shiva* are people expected to be *menachem* (see Shulchan Aruch, Yoreh Deah 399:2).

Several relatively recent *Acharonim* point out that the *minhag* in our times is not to do *nichum aveilim* on Shabbat and/or *chag*. The Aruch Hashulchan (Orach Chayim 287:3) and Kaf Hachayim (OC 287:4) say this in regard to Shabbat. Rav Moshe Feinstein (Igrot Moshe, YD II:172) reports that the same is true regarding *Yom Tov* and *Chol Hamoed* and suggests that this is the reason that we now assume that *nichum aveilim* is done during the entire period of *shiva* after *chag* even if the burial was during *Chol Hamoed*.

How did the change in practice come about? The following *gemara* (Shabbat 12b) may be most instructive: "Reluctantly, they permitted on Shabbat to console mourners and visit the sick." Rashi (ad loc.) explains that the problem with *nichum* is that it raises upsetting things, and the Rif (Shabbat 5b) says that the visitor may scream out too strongly for this festive day. (This helps explain the Shulchan Aruch's (OC 287:1) ruling that we use a different formula for *nichum* on Shabbat than during the week, although the Mishna Berura (287:3) also cites an opinion that one can use the regular one.) The Magen Avraham (287:1) expresses displeasure with those who improperly take advantage of "free time" specifically on Shabbat to do such *mitzvot* that are preferably done during the week. The Nimukei Orach Chayim (287:1) says that things have improved in this matter since the *gemara's* time, as people now are careful to be *menachem avel* specifically during the week. He also points out that the *nichum* should be done with the *aveilim* sitting low, which should not be done on Shabbat, as it is public mourning. This finds expression in halachic practice in that we stopped doing this non-ideal *nichum* totally. While he does not discuss *chagim*, much of the same logic applies to it as well.

The Shevet Halevi (IV:53) points out that the factors that the Nimukei Orach Chayim raises existed in the *gemara's* time. The B'tzel Hachochma (II:44) cites many Rishonim who describe *nichum* on Shabbat as a normal thing to do, and therefore says that we should not reject it. He even mentions some positives about it (people have time, are dressed nicely).

The Geshet Hachayim (20:5:2) says that the *minhag* of Ashkenazim is to not do *nichum* on Shabbat or *Yom Tov*, but yes to do it on *Chol Hamoed*. As mentioned, more recent *poskim* (see Igrot Moshe, *ibid.*; Rav Auerbach, cited in Shemirat Shabbat K'hilchata 65:(181)) state that it is not practiced even on *Chol Hamoed*. Sephardic *minhag* (see Yalkut Yosef, Sova Semachot 26:2) is to sanction, even on Shabbat, to be *menachem* in the mourner's house, when this is the only time he can do it. Ashkenazim do no more than mention one's regrets and discuss feelings informally with the *avel* in shul. It seems that the Ashkenazic approach is that coming to an *avel's* home is done only when he is accepting visitors as part of *shiva* (at the hours they set). At other times, only people who are very close would venture in.



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Ein Ayah

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

The Importance of Spiritual Genealogy

(condensed from Ein Ayah, Shabbat 5:54)

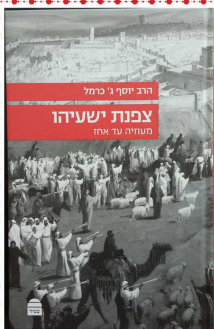
Gemara: Pinchas [the son of Eli] did not sin, as the *pasuk* says: “Achiya son of Achitov, the brother of Iy Kavod, the son of Pinchas, the son of Eli Hakohen” (Shmuel I, 14:3). Is it possible that he sinned, and Scripture mentions him as someone’s forefather?! Doesn’t the *pasuk* say: “Hashem will cut off the person who will do so an *er* and an *oneh* from the tents of Yaakov and one who brings forth an offering to Hashem” (Malachi 2:12). If he is an Israelite, he will not have an *er* among the scholars or an *oneh* among the students. If he is a *kohen*, he will not have a son who brings forth an offering.

Ein Ayah: Lineage has to do with internal powers that flow from earlier to later generations. Everyone possesses valuable traits containing eternal light of life and sanctity that were absorbed over time in the flesh and blood of a family’s generations. They are passed on, unless something defiles one’s seed, and become a reliable part of his spiritual inheritance. Every descendant begins the edifice of his spiritual persona from the place the previous generations reached and tries to further elevate himself.

If a person is aware of the greatness within him, which he has the potential to incorporate in his future generations, his future will indeed develop spiritually, as he sanctifies his own life quantitatively and qualitatively. However, if he brazenly lowered the power within him that was designed for the future, by defiling his own life, the present and the future are also lowered. Then things of sanctity, ethics, and wisdom separate themselves from him. He thereby confuses the way in which future generations can connect to him, for whatever they attain spiritually will not be through him.

Life includes that which exists in practice, that which is already complete, and the preparations for an ever increasing future. Its main point is the power of *er*, that which exists in great sages, who have already turned their potential into wisdom and full justice. The proper preparation for a good future belongs to the students, who make the future better than the present based on what they have received. These two elements work side by side in the nation to spread divine light, as the complete present and the future unite. There is no difference between what exists in the present and in the future, since the preparation for the future already exists. These ideas are encapsulated in a *kohen* who brings an offering. On one hand, it completes that which is necessary from the past and prepares for the future by setting the stage for ongoing service that sanctifies the person.

The *gemara* says that one who committed a severe sin would not be mentioned in the lineage of a good descendant in the future, because he sacrificed the prospects of the future by allowing a spirit of silliness to take him over. Therefore, any success will not be linked to him. Furthermore, if he is an Israelite, whose value is felt on an individual basis, then there is a difference between that which is complete and that which is to prepare for the future. The sinner will not have an *er* among scholars because his spirit will not enable something complete to exist, which can have positive power over a heart that is awake (*er*) and full of life based on wisdom and great action. He will not have an *oneh*, one who can answer the call of another as a student who repeats that which he is taught. If he is a *kohen*, who is supposed to serve in sanctity and bless the people with broad peace, the present and the future are all one. A meal offering can complement an animal sacrifice, to fix the past, or stand alone and represent the beginning of the future. Since Pinchas the son of Eli was mentioned as an ancestor of a *kohen* family, his light and strength must have been transferred to his sons, enabling them to serve Hashem, which shows that he did not sin a terrible sin.



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

New Buildings Blocking View – part III

(based on ruling 71074 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) are a group of residents who built together apartment buildings in a *yishuv* a few years ago. Now, the board of the *yishuv* (=def) is in the midst of building buildings for new residents across from pl's buildings in a manner that pl believe will significantly take away from their view (even though the new buildings are down the slope of a hillside). Pl claim that def promised, while marketing the project, that pl's view would always be protected, which def denies. Def also argues that the purchase contract states that the contract erases any previous understanding between the sides and that pl obligated themselves not to protest further building plans. Pl also claim that def may not build because a certain planning approval (*taba*) was not received yet. Several months ago, pl planned to challenge municipally def's building plans. At a meeting between the sides, an agreement was written (but not signed) stating that the wall of the new building's roof would be no higher than the level of the garden of the lowest set of pl's apartments. Pl claims that they were misinformed when they made that agreement and that, in any case, the rooftop solar heating apparatuses will extend beyond the aforementioned level.

Ruling: Based on what we have already seen, pl have the right to prevent def from building in a manner that significantly harms their view, in accordance with what they were assured beforehand.

In this case, we do not have to decide the exact parameters of what is improper damaging of view because of the agreement arrived at between the sides. At that time, if pl was entitled to further protection, they were *mochel* them (relinquished the rights) in a manner that does not require a *kinyan* to finalize (see Shulchan Aruch, CM 241:2). It is improper for pl to try to extricate themselves from the agreement with the claim that it was based on a mistake or otherwise not binding after def already spent money in implementing it.

The question of the solar heating apparatuses, though, is pertinent, as it is not clear what was agreed, if anything, in this regard. The language of the agreement is indeed inconclusive on this matter. Therefore, it is proper to implement the matter based on the logic of the agreement (see Shulchan Aruch, Choshen Mishpat 220:8), to prevent a certain level of view disruption, and this should apply to the apparatuses as well. It is practical to have the solar panels lie mainly flat on the roof so that they do not affect the view. However, upon reviewing the options for placing the water tanks, the following compromise position is the most that pl can demand. The tanks will be horizontal and will be placed in a direction in which they block the view the least possible. However, since there is no viable way to do it within the original guidelines, they will be allowed to extend 10 centimeters above the walls of the roof.

We daven for a complete and speedy refuah for:

David Chaim ben Rassa

Lillian bat Fortune

Eliezer Yosef ben Chana Liba

Yehoshafat Yechezkel ben Milka

Ro'i Moshe Elchanan ben Gina Devra

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