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HEMDAT YAMIM

Parashat HaShavua

Behar, 20 Iyar 5778

Freedom – For Whose Sake?

Rav Daniel Mann

After the seventh in a series of *Shemitta* cycles, *Bnei Yisrael*, in the time that “all its inhabitants” are in *Eretz Yisrael*, are commanded in the laws of *Yovel* (Vayikra 25:8-13). There are three main *halachot*: Jewish slaves are set free (ibid. 10); the land is not worked, as in the previous *Shemitta* year (ibid. 11); fields that were sold are returned to their original owner (ibid. 13).

There are two ways of looking at these laws, especially when one views all elements as linked (and do not just happen to overlap chronologically). The Sefer Hachinuch (*mitzva* 330) champions the approach that the focus is on heightening our realization that the Creator of the World owns everything, so that none of our personal acquisitions and financial rights are permanent but will get returned to their original state. Our slaves are not ours; we can work our own fields only when and how Hashem allows; fields we acquired cease to be ours. Hashem is everything, and we are His slaves, who lack full ownership of anything. In this way, *Yovel* is a continuation and escalation of *Shemitta*, which it follows. (Abarbanel points out that when refraining from working the land during *Shemitta*, the Torah refers to “your field,” “your vineyard,” whereas during *Yovel* one is not to harvest “its growth.”)

The simpler approach is that *Yovel* focuses on a high level of social equality. One must return the field that he acquired legally from someone else. Usually, this happened when he had to pay debts with the proceeds of the sale, and he became landless. One must allow his legal slave to go free. This also usually happened when poverty pushed one’s fellow man to sell himself or led him to thievery for which he was sold when he couldn’t pay back that which he stole. One must allow these people to go back to their freedom and their field, respectively, with the hope that they learned how to do things in a better way and/or will merit more Divine Assistance than they did the first time around.

One indication that points to the strength of the second approach is the *halacha* that even a Jewish slave who is sold to a non-Jewish buyer goes free during *Yovel* (Rambam, Avadim 2:6). In that case, the Torah has in mind the benefit of the Jewish slave, not his non-Jewish owner. On the other hand, what does the *Shemitta* of the land have to do with people returning hope to the poor?

The simplest and most likely answer is that the two approaches are not contradictory but complementary; elements of both approaches are true. But there is another possibility with fascinating implications. When a slave is set free, he is certainly starting behind others. He needs time to get accustomed to financial responsibilities that he previously failed at. He has not prepared his field for harvest and is likely to fall behind again. Therefore, he is released during *Yovel*, the second straight year of *Shemitta*. He is in the same boat with everyone else, who struggle with the challenges of *Shemitta* and share produce. By year’s end, he and everyone else go back to working their fields and preparing for a brighter future.

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Ask the Rabbi

by Rav Daniel Mann

Dancing at a Wedding during your *Sefira* Period

Question: I was invited to a wedding, during my *sefirat ha'omer* observance period. May I go? If so, may I dance?

Answer: As we have written (see Living the Halachic Process III, D-21), we believe in the legitimacy of the various *minhagim* for which days of *sefira* to observe and that one may choose different ones on different years according to needs. Certainly, then, one should respect someone else's choice. True, it is proper for a community to have set practices that all conform to, including in this matter (Rama, Orach Chayim 493:3). However, in the great majority of contemporary Jewish communities, there is a great mix of people from various places of origin and backgrounds. While in certain areas of halacha, community consensuses have developed, the *poskim* recognize *sefirat ha'omer* as one in which diversity still exists (see Igrot Moshe, Orach Chayim I:159).

One can ask, though: considering the different opinions, is it okay to make a wedding at a time that puts people in a situation of choosing to do things that are ostensibly forbidden for them? The Minchat Yitzchak (IV:84) deals with a wedding of Sephardi boy and an Ashkenazi girl in Buenos Aires which needed to be around Lag Ba'omer. Ashkenazim (in that place, at least) can have weddings on Lag Ba'omer but not after; Sephardim can have weddings after Lag Ba'omer but (probably) not on it. Although the Minchat Yitzchak arrived at a way of doing it which could work for everyone, he posited that participants could not take part in a wedding *seuda* that would go against their *minhag* of *sefira* (the ceremony without lively music would be permitted). The simple reading of the Chatam Sofer (I:142) is similar.

However, Rav Moshe Feinstein (Igrot Moshe, OC I:159) posits that everyone can take part freely in the wedding during such times. His rationale is that once a marriage has taken place, it creates *simcha* obligations that break normal rules. For example, a couple who get married at the end of Nisan are allowed to continue with *sheva berachot* festivities, which should have been forbidden for the other participants. Rav Moshe even claims, based on the end of the Chatam Sofer's *teshuva*, that the latter agrees that people can take part in the wedding.

Rav S.Z. Auerbach (as cited in Halichot Shlomo, Moadim 11:19) similarly posits as a simple matter that if a couple is celebrating a wedding, invitees can take part. (He and Rav Moshe seem to disagree whether one could take part in the celebration if they got married at a time that was not appropriate for their own *minhag*.) It is possible that the Minchat Yitzchak would agree that given the practice that people do get married at times that do not fit all, one could take part *b'di'eved*.

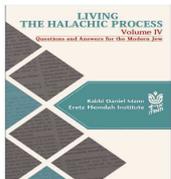
In any case, we prefer the approach of Rabbis Feinstein and Auerbach for several reasons: the approach makes sense; those *poskim* are among those who most impact on our rulings; it is proper to be lenient on *sefira* questions (Chok Yaakov 493:2; Chatam Sofer *ibid.*). Imagine that we would be limited by the *chumrot* of all the *sefira* opinions and consider the not so distant three weeks with no weddings. It turns out that 4 months of weddings are squeezed into just over a month, which in many communities causes problems of hall availability and conflict that can be very stressful (and/or expensive) to couples and their families.

There is one further reason to allow full participation (see Halichot Shlomo *ibid.*). *Seudot mitzva* create all sorts of dispensations regarding national mourning. We know about eating meat at *siyumim* during the Nine Days. For a closer example, according to many (see Dirshu 493:8), there can be dancing at a *hachnasat sefer Torah* during *sefira*. Therefore, music/dancing at a wedding might not be forbidden, as it is an important part of an important *seudat mitzva* (see Rama, OC 338:2). In fact, according to some, the main reason not to get married is that it is a bad omen to get married at such a time (see Shvut Yaakov II:35). Thus, there is an additional reason for dancing at the *seudat mitzva* being fine.

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Ein Ayah

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

The Significance of a Metaphor

(condensed from Ein Ayah, Shabbat 6:50)

Gemara: Why does R. Eliezer say that a sword is an adornment? It is because the *pasuk* says: “Fasten your sword to your waist; it is your glory and splendor” (Tehillim 45:4). But that is a metaphor for the words of Torah! A *pasuk* is not to be totally removed from its simple meaning.

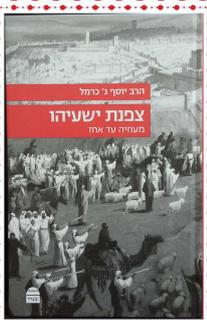
Ein Ayah: Imagination and intellect may seem to be two separate things, and often they are indeed very contradictory. However, they do share elements and are actually of one category of existence.

A person’s internal spiritual side starts the essential development of an idea with imagination. The matter then matures until it reaches the level of a matter of the intellect. It turns out then that the intellect is but a fruit that matured from a seed that started to grow in one’s imagination.

Therefore, the whole wonderful matter of seeking truth is not intended to uproot the existence and influence of the imagination but to find how it is compatible with the intellect in one’s midst. When imagination connects nicely to the intellect, it improves the intellect and makes it more pleasant and brings to the fore great lights and the deepest treasures of the intellect. The completeness of this compatibility is seen in the most complete revelations of the human spirit, the highest of which is Divine Spirit and prophecy. In these spiritual sources, everything comes from all-encompassing completeness. Ideas are taken from the world that includes all matters and are revealed by the light of divine completeness, which appears to those who are capable of grasping divine matters.

The simple meaning of a biblical text can often be a façade that imagination allows to express an internal idea, which is much deeper than that which is displayed. Nevertheless, there will be no discrepancy between them, but there is full and internal compatibility. In the spiritual world, spiritual valor is most completely revealed when it paves a path by removing from its way difficult impediments that darken its light. This includes the impediment of intellectual mistakes that darken the light of the intellect. It also includes coarse animalistic inclinations, which lower and distort the holy desire hidden in the depth of the soul. The pure and gentle internal force, which has sanctity from Above, goes from potential to actual when it defeats the forces that stand up against it. It reaches a higher level than it could have had the path been clear without impediments.

Similarly, the defeat of enemies of Hashem, who oppose goodness and justice, is something that gives a crown of valor that acts as an adornment. The metaphorical use of a sword in spiritual matters does not only represent a practical step but hints at the presence of a human elevation of the spirit. The idea that valor in matters of Torah can be described by fastening a sword to smite spiritual impediments by increasing the light of truth and justice, is linked to the idea that divine spirit values the grandeur of valor. Thus, for this to be a good metaphor, it must be that the sword is viewed as an adornment because we are using it to describe a great thing – complementing that which is seen with the imagination with the high level of that which emerges from the intellect. That is why the metaphor must pass the test of “a *pasuk* is not to be totally removed from its simple meaning.” Even if the generations are improved and internal matters will be the most important thing in the broadest segments of society, there will still be some place and value for lowly imagination, which corresponds to the simple meaning of a *pasuk*.



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 Chizkiyahu.

"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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Obligation to Enable Registering a Purchase – part I

(based on ruling 76084 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) bought an apartment from the defendants (=def) in a project that is handled by a *chevra meshakenet* (= cm; developers who bought rights to the buildings from the government and are responsible for registering the changes in ownership). Pl paid and moved in a few years ago, but def has been unwilling to sign a form requested by cm, which states that the sellers have no further claims against cm regarding the apartment. Due to this, cm has refused to register the apartment in pl's name. In the first hearing, def said they want to sue pl for the damages of delaying payment and informing the authorities of the sale too early. They implied that if paid for damages, they would sign the form. In the second hearing, def claimed that signing the form will damage them, but they failed to coherently explain what the damage the nature and source of the damage. Pl claim that def is required to sign any document needed for transferring ownership, according to par. 7.1 of their contract. The form in question is a standard one, def have never explained their refusal to sign, and it does not make sense that they should have any claims regarding an apartment that they sold years ago. Def say that there is no legal obligation to sign documents that cm presents without justification and now claim that they are part of litigation against cm that has not been resolved. Pl points out that the contract states that there are no outstanding legal matters with the apartment. Def did not follow up after the hearing with documentation about the litigation, as requested. Pl demands 3,000 shekels per day that def refuse to sign the form.

Ruling: The first question to check is whether pl completed the acquisition of ownership of the apartment. The contract states that def are required to transfer rights (par. 2.1) and practical control (par. 2.2) of the apartment to pl. However, the contract does not state at what point this occurs.

There is also a known *machloket* whether a purchase can be final before ownership was recorded in the Land Registry, which did not occur here. Rav S.Z. Auerbach (Ma'adanei Eretz, Shviit 18:2) states that even if the by-laws of cm state that a purchase is not binding until it is accepted by cm, that applies to cm's obligation to recognize the sale. However, from the perspective of the seller, his ability to back out can end before cm recognizes the sale, while the buyer can still back out if he is not able to get cm to recognize the purchase.

In this case, since pl have finished paying for the apartment and have been living in the apartment with permission of def and cm, their acquisition is complete.

Next time, we will continue with other elements of the dispute.

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