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Devarim – The Additional Book

Harav Yosef Carmel

Sefer Bamidbar ends with the *pasuk*: "These are the laws and the statutes that Hashem commanded Moshe to Bnei Yisrael..." We might have thought that at this juncture, with Bnei Yisrael about to enter *Eretz Yisrael*, the Torah would be complete. However, the Lawgiver gave us an "additional" *chumash*, Sefer Devarim, during the last month of the last year in the desert.

Sefer Devarim includes Moshe's "parting speech," a review of many of the Torah's laws, and additional *mitzvot*. We refer to it as "*mishneh Torah*" (whose possible explanations include review and addition). Moshe speaks in the *sefer* in the first person, in contrast to the manner that exists in the rest of the Torah. As we know that this *sefer* is Divinely given just as the others, we wonder why it was presented in a different manner.

The Sifrei (Devarim 1) says that the term "*hadevarim asher diber Moshe*" indicates that they contain Moshe's rebuke. The Midrash Tannaim (Devarim 1:1) says on these words that Moshe's rebuke was dear to Hashem like the Ten Commandments (both are referred to as "*devarim*"). R. Yishmael (ibid.) points out that in some ways Moshe's rebuke was more powerful. Soon after Bnei Yisrael received the Ten Commandments, they sinned with the Golden Calf, whereas Moshe's words kept Bnei Yisrael in a state of clinging to Hashem for a long time. For that reason Moshe was honored to have the words recorded in his name.

Let us explain as follows. The Torah is not a history of mankind or the Jewish People but the story of Hashem's revelation to the world. Bereishit teaches that Hashem created the world and revealed Himself to our forefathers as individuals. The next *sefarim* teach that Hashem's Presence dwelled on a nation, whom He redeemed from Egypt to give the Torah.

How do we know that the events at Sinai have a continuation, that we can accept the Torah in every generation, and that the continuing connection through the prophets strengthens the bond? It is Devarim that connects between that which is presented as classic Torah from Hashem and the Torah that is presented by Moshe in the first person. This paves the way for the presentation of other messages through the auspices of the prophets.

What do we do without prophecy? Along the above lines, we can say that *Torah Sheb'al Peh* (the Oral Law) is a direct outgrowth of the phenomenon of *Mishneh Torah*. Fittingly, the basis of the Oral Law is called *Mishnah*. Devarim is to the first four books as the Six Books of Mishnah are to the whole of *Torah Sheb'al Peh*, all of which are Sinaitic. Moshe taught that an "eternal life he planted within us." We have the power to continue, create, and develop within Torah's framework, each of us according to his abilities.

May we succeed in continuing Moshe's legacy of planting fruit-bearing Torah in Jews' hearts.

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Question: Could you please explain how to handle the transition from Shabbat into *Tisha B'Av* (which falls on *Motza'ei Shabbat*) regarding *Seuda Shlishit*, *Havdalah* and removing shoes?

Answer: *Seuda Shlishit*: The *baraita* (Ta'anit 29b) says that one may eat as extravagant a meal as he wants on Shabbat that falls on the 8th or 9th of Av. The Tur (Orach Chayim 552) cites *minhagim* that one is allowed and would do best to curtail the Shabbat meal. This is especially so at *Seuda Shlishit*, which is, in effect, the *Seuda Hamafseket* (the last meal before *Tisha B'Av*, which usually has special elements of mourning). However, these considerations are countered by the need to avoid displaying mourning on Shabbat. Therefore, there are no real restrictions, even at *Seuda Shlishit* (Shulchan Aruch, OC 552:10). However, the mood should somewhat reflect the coming of *Tisha B'Av*, as long as it does not bring on clearly noticeable changes (Mishna Berura 552:23). One important halachic requirement is that one must finish eating before sunset (Rama, ad loc.).

Havdalah: One says *Havdalah* in *tefilla* or separately in the declaration of "*Baruch Hamavdil...*" which enables him to do actions that are forbidden on Shabbat. *Havdalah* over a cup of wine is done after *Tisha B'Av* (Shulchan Aruch, OC 556:1). If one forgot to mention *Havdalah* in *Shemoneh Esrei*, he does not repeat *Shemoneh Esrei* even though he is not making *Havdalah* over wine until the next day. Rather, he makes the declaration of *Baruch Hamavdil* (Mishna Berura 556:2). Unlike *Havdalah* during the Nine Days, where we try to give the wine to a child (Rama 551:10), after *Tisha B'Av* an adult can freely drink the *Havdalah* wine (Mishna Berura 556:3). The *beracha* on *besamim* (spices) is not said this week because on *Tisha B'Av* it is inappropriate, as it is a "reviving pleasure," and one can make this *beracha* only on *Motza'ei Shabbat*.

The *beracha* on the fire is specific to *Motza'ei Shabbat*, is not a pleasure, and does not require a cup. Therefore, the *minhag* regarding *Borei Me'orei Ha'aish* is to say it in *shul* after *davening*, before the reading of *Eicha* (Mishna Berura 556:1). There are those who say that a woman should, in general, avoid making *Havdalah*. This is because of the doubt whether a woman is obligated in the *beracha* on the fire, which is not directly related to Shabbat and thus is a regular time-related *mitzva*, from which women are exempt (Bior Halacha 296:8). Therefore, if one's wife will not be in *shul* at the time of the *beracha*, it is better for the husband not to fulfill the *mitzva* at that time, but to make the *beracha* on the fire for himself and his wife (Shemirat Shabbat K'hilchata 62:(98)).

Taking off shoes: As we mentioned, one may not do a noticeable act of mourning before Shabbat is over. While finishing to eat before sunset and refraining from washing need not be noticeable, taking off shoes is. There are two *minhagim* as to when to take them off: 1) One waits until after Shabbat is out, says "*Hamavdil*" and then change clothes and goes to *shul*. One can do so a little earlier than the regular time listed for Shabbat being out, which is usually delayed a little bit beyond nightfall to allow for a significant adding on to Shabbat at its end. The exact time is not clear and depends on the latitude of one's location. It is advisable to start *Ma'ariv* a little late in order to allow people to do so and make it to *shul*, unless the rabbi has ruled that everyone should take the following approach (ibid.:40; Torat Hamoadim 9:1). 2) One takes off his shoes after "*Borchu*" of *Ma'ariv*. One who takes the second approach should bring non-leather footwear and *Eicha/Kinot* to *shul* before Shabbat to avoid the problem of *hachana* (preparations for after Shabbat). However, if one uses these *sefarim* a little bit in *shul* before Shabbat is out, he can bring them with him on Shabbat (Shemirat Shabbat K'hilchata ibid.:41).

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Ein Ayah

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

Hashem's Despair Over Bnei Yisrael's State of Exile

(based on Berachot 1:7)

Gemara: Rav Yitzchak bar Shmuel said in the name of Rav: There are three *mishmarot* ("watches"= sections of time) to the night, and for every *mishmar* Hashem sits and roars like a lion, and says: "Woe on the sons that because of their sins I destroyed My house and burnt My hall and exiled My sons among the idol worshippers."

Ein Ayah: [Rav Kook refers to his comments on the previous gemara. The baraita spoke about the connection of different animals to the various *mishmarot* and explained how each hinted at things that are related to the respective animals and are missing in the heavenly sphere. The idea is that deficiencies in the heavens stem from deficiencies in how Bnei Yisrael's serve Hashem.]

We can explain based on our previous ideas. Rav is explaining the *baraita* that explained the noticeable deficiency in each *mishmar* stemming from the realm of practical *mitzvot* and the *shleimut* (completeness) of character traits (*middot*), and from the revealed Torah and the hidden one which is double in wisdom. Rav added to explain that all of the levels are included one in the other, and in each part of them, the deficiency is recognizable.

Note that the *Beit Hamikdash* is called the house of Hashem and the hall of Hashem. It seems that in regard to a human king, there is a difference between a reference to the king's place as the king's house or the king's hall. The difference is that his house refers to matters of the kingdom that are performed there, for the house refers to everything that is included in it, as the matters of the kingdom include also its officers. The hall is specially designated to aggrandize the king's stature, so that all will know the honor of the king by virtue of his sitting in the grand hall.

This is [serves as a metaphor to] the difference between the explicit laws of the Torah and the general good *middot*. The *mitzvot* of the Torah, which are set according to their specifications from Hashem, are the matters of the Kingdom upon which the world runs according to His desire. The good *middot* are that which more fully prepare the heart of man to know Hashem and His honor. The *Beit Hamikdash* was the center of sanctity and through it, great sanctity was enjoyed in Bnei Yisrael's service by means of all of the *mitzvot*. It also instilled purity in the heart and enabled all dear *middot*. From the perspective of the matters of the *mitzvot* and the physical service, it was called the house of Hashem. In regard to the sanctity of a person's attributes, it was called the hall of Hashem. [We will skip over the reference to different animals upon which he expounded in the previous piece.]

[We can now understand why the *gemara* refers to] "I destroyed My house and burned My hall." *Mitzvot* are the root of the soul's clinging to the divine light in the World to Come. *Middot* prepare the soul to cling to Hashem even in this world so that it will be fit for prophecy. The holy *mitzvot* have an impact even without a *Beit Hamikdash*; it is just that the impact is not on the level that it is when the *Beit Hamikdash* stands. However, the pinnacle of *middot*, which is the light of prophecy, has been totally removed. This is what the *pasuk* says in reference to Baruch ben Neriyah in Yirmiyah (45:10): "For that which I have built I am destroying ... and you are seeking greatness?" Therefore in reference to the house, the word *churban* (destruction) is used, implying that its aura is removed but its basis remains. Regarding the hall, though, it says that it is burnt [implying, burnt to ashes]. Afterward it says that "I exiled my sons among the idol worshippers." This refers to the root of the loss of Torah in both elements. This is what *Chazal* said (Chagiga 5b): "Once Israel went into exile from their place, there is no greater loss of Torah than this, for only 'from Zion shall Torah go forth' (Yeshaya 2:3)."

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P'ninat Mishpat

Workers Who Could Not Work Due to Snow – part I (Harav Akiva Kahana)

(based on Halacha Psuka, vol. 43)

Fundamentally, a worker who is unable to show up to work due to a cause that was unexpected to both sides loses his salary (Shulchan Aruch, Choshen Mishpat 334:1). However, sometimes the ruling differs, if the preventing factor is of a general nature (i.e., affect many people). The source for this distinction is the *mishna* in Bava Metzia (105b): "Someone who rents out a field for a set rate of produce and the produce was consumed by locusts or blight, if it was a plague of the region (*makkat medina*), he reduces from the rental fee." In other words, if the reason that the renter is unable to fulfill his responsibility to provide produce is due to a *makkat medina*, he is not fully responsible.

The *gemara* (ibid.) discusses what is broad enough to qualify as a *makkat medina*? Rav Yehuda says that *rubba d'ba'agi* (the majority of the valley region) has to be blighted. Ulla says that it suffices for the fields around the one in question to be affected. Rav Yehuda's opinion was accepted as halacha (Shulchan Aruch, CM 322:2). The *Rishonim* argued how to define *rubba d'ba'agi*. Rashi holds that it is within a certain valley region. The Rambam (Sechirut 8:5) says that it refers to most of the fields of the city. In any case, in regard to snow, it rarely makes a difference, as entire regions are generally covered similarly by snow, making it a *makkat medina*.

The *mishna* (Bava Metzia 103b) says that if a person rented out a field for produce and its wellspring dried up, the renter cannot reduce the amount he owes even though the field is now more difficult to cultivate. The *gemara* says that it is talking about a case that only a small artery in the area's water dried up, and it is not a *makkat medina* because the renter can still bring water to the field by pail. Based on this, the Rama (CM 321:1) says that if one can fix the problem that arose even with difficulty, he does not reduce his obligations.

The Rama (ibid.) brings two opinions as to how to apportion the loss in the case of a *makkat medina*. The first is the Maharam, in regard to a teacher, when the government forbade teaching Torah, who says that the employer absorbs the loss. He cites a second opinion that at that time, the employer can back out of his commitment when the matter becomes known, and the employee gets paid only for what was done until then. The S'ma (ad loc.: 6) says that the Rama brought the Maharam incorrectly, as he meant that the two share the loss equally. The Taz agrees with the Rama, as we say that the employer's "fortune" is that which caused the loss. The Netivot Hamishpat (321:1) accepts the Rama's second opinion. The Avnei Shayish points out that even according to the Maharam, the worker is paid as a *po'el batel* (we subtract for the benefit of having vacation).

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