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HEMDAT YAMIM

Parashat HaShavua

Vayeilech Yom Kippur, 6 Tishrei 5778

Down to the Earth and Up to the Sky

Harav Shaul Yisraeli – Address from 1951

Yom Kippur, the holiest of days, has two diametrically opposed *halachot*. There is a strict requirement to “afflict” ourselves. On the other hand, *Chazal* relate great importance to eating on the day before it.

R. Yehoshua ben Chananya tried to learn from the *pasuk*, “You [Moshe] are going to lie with your fathers, and the nation will get up and act licentiously” (Devarim 31:16) that there is resurrection of the dead (it can be read, with difficulty, that Moshe will get up) and that Hashem knows what will happen in the future. He settles at the end that the *pasuk* proves only the latter, but why would one consider to read the *pasuk* referring to resurrection, which seems to “abuse” the *pasuk*?

[In the next section, Rav Yisraeli takes the people of his generation to task for certain important shortcomings in the national sphere. While this contains important lessons, we will not focus on them at this time.]

The Jewish People has almost unlimited ability to grow spiritually because they can use even that which is mundane in the world for sanctity. When Moshe was on Sinai for 40 days and nights without eating and drinking, it was not that he did not need sustenance, but that the sustenance came from the Divine Presence (see Shemot Rabba 47:7). Man is not sustained by bread alone but on all that comes from Hashem’s ‘mouth’ (see Devarim 8:3), as everything in the world is spiritual. It is just that we are not able to digest in that way, although Moshe was able to.

On Yom Kippur, there is a shadow of Moshe’s level in all of us, as this was the day that Moshe came down from Sinai the final time. The essence of the fast is refraining from physical activity, and we raise ourselves to the level of angels. That is why the *haftara* focuses on fasting, in a manner that discusses increased activity. For it is not a fast of lack of energy but of obtaining power through spiritual means. That is also why stress is placed on eating on Erev Yom Kippur. It is to teach that it is all the same. We can use the spiritual ‘food’ of the fast day the way we used the regular food the day before. Even though we cannot always be sustained in this manner, we must know that from the perspective of what Hashem provides, it is possible.

These ideas also explain why Bnei Yisrael falls steeply at times. We have a great appetite for spiritual food, but when we are not able to find it, we go looking for things that remind us of it. Simple *avoda zara* like other nations do does not suffice for a misguided Jew, as he is looking for more, even if it is in a more dangerous way.

For this reason, when Moshe died and was lost to Israel, the nation got up and adopted licentious tendencies in the broadest sense. The discussion of resurrection of the dead was not about physical death but about spiritual death. They need not stay dead; they can get up. That state is not natural for them, and they will be able to return to spiritual form.

What is needed is “great repentance, which reaches until His glorious throne” (Yoma 6:1). Not partial repentance, but one that transcends boundaries and impediments. We have experienced partial redemption, but that is not enough. We need *geula shleima*, a return to all of our spiritual greatness. This is what we pray for on these holy days.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

Tosefet Yom Kippur

Question: When and how should one accept Yom Kippur?

Answer: We wrote (see Living the Halachic Process III, C-4) that there are two or three elements of *tosefet Shabbat* (adding on to Shabbat). 1) One should cease doing *melacha* before Shabbat begins; 2) If one accepts Shabbat earlier than required, (at least many elements of) Shabbat starts for him. 3) There (may be) a *mitzva* to actively accept Shabbat before it begins itself. We demonstrated that while some sources instruct one to actively accept Shabbat somewhat early (i.e., #3), the main opinions and the *minhag* (at least until relatively recently) are that one need not accept Shabbat orally or by action. It suffices to refrain from doing *melacha* before sunset. Since then, Orchot Shabbat vol. III came out. Its co-authors discuss the matter (pp. 92-94) and conclude that according to the clear majority of authorities, there is no need for an oral acceptance, although they recommend doing so in deference to minority opinions.

Is Yom Kippur any different in this regard? In some ways, *tosefet* is more important on Yom Kippur than on Shabbat. The *gemara* learns *tosefet* from the fact that the Torah (Vayikra 23:32) refers to the fast of Yom Kippur as being from the 9th of the month in the evening, that it begins while it is still the 9th (Yoma 81b). The Rambam omits *tosefet* in regard to Shabbat and mentions it only in regard to fasting, not *melacha*, on Yom Kippur (see *Maggid Mishneh, Shvitat Asor* 1:6). Nevertheless, the majority of *Rishonim* assume there is a *mitzva* from the Torah to refrain from *melacha* before Shabbat as well.

There are a few ways to accept Yom Kippur. (Ashkenazi) women generally accept an upcoming holy day by lighting candles (Rama, Orach Chayim 263:10). One may, for a good reason, stipulate orally or mentally when lighting the candles, that she does not want to accept Yom Kippur at this point (Shemirat Shabbat K'hilchata 44:14). If she recites *Shehecheyanu* at that time, it is too strong an acknowledgment of Yom Kippur for her to stipulate (ibid.). A woman who is going to *shul* can say *Shehecheyanu* with the *tzibbur* instead of when lighting candles. (This has other advantages, which are beyond our scope).

One complication with *tosefet Yom Kippur* is *Kol Nidrei*. As a rule one should not do *hatarat nedarim* on Shabbat (Shulchan Aruch, Yoreh Deah 228:3). The Rama indeed instructs us to do *Kol Nidrei* before Yom Kippur begins (OC 219:1), and we recite *Shehecheyanu* in *shul* only after that. But those of us who recite the beautiful prayer called *Tefilla Zaka* – before *Kol Nidrei* – have a problem because it includes a statement of accepting Yom Kippur. Actually, the Chayei Adam (II, 144:20) presents *Tefilla Zaka* as being done after *Kol Nidrei*, and some suggest leaving out the part of accepting Yom Kippur until later (see *Ishei Yisrael* 46:(35) in the name of Rav Chaim Kaniefsky). Besides conflicting with the normal practice, a technical problem is that *Kol Nidrei* is often not finished until right before or even after sunset.

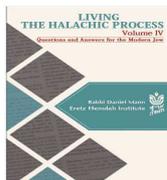
Rav S.Z. Auerbach (cited in *Halichot Shlomo, Mo'adim* II, p. 391) suggested that one can and presumably does (due to *Kol Nidrei*) his early acceptance of Yom Kippur with an implied exclusion of the prohibition against *hatarat nedarim* limiting the acceptance. The *sefer* *Kol Nidrei* (83:4) cites *Rishonim* who say that since there is reason to do *hatarat nedarim* as Yom Kippur starts, this is a matter of special need, in which case it is permitted to do *hatarat nedarim* on Shabbat (see *Shulchan Aruch* ibid.).

We see that one who wants to be *machmir* in all elements of ushering in Yom Kippur is in a bind. If he wants to follow the opinions to make a clear oral acceptance of Yom Kippur before the end of the day, he raises questions about the propriety of *Kol Nidrei*. If he wants to be stringent about *Kol Nidrei* on Yom Kippur, he will be hard-pressed to accept Yom Kippur at a halachically meaningful time. We advise people to follow other good Jews – say *Tefilla Zaka* and *Kol Nidrei* at their normal places and rely on the justifications.

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Ein Ayah

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

Strange Ideas and Danger

(condensed from Ein Ayah, Shabbat 6:111)

Gemara: There is no prohibition of the ways of the Emorites if one puts the stem of a berry or broken glass in a pot so that it will cook faster, but the Rabbis forbade broken glass because of the possibility of danger.

Ein Ayah: Strange ideas of the imagination that do not have a basis in logic confuse a person, since they are connected to the nature of life in a way that takes him away from logic, holiness, and contemplating Hashem. There is therefore logic to distance us from such actions, even though they do work based on nature, because they are strange to people. There is further reason to avoid the tricks the *gemara* mentions, as they are done for a reason that is connected to a bad trait – to cook quickly because one is in a gluttonous mood.

On the other hand, such an action is positive in that it awakens one to try to figure out the ways of nature, and it also saves time that one might have to waste on preparing food. Therefore, overall, such an action is fine.

Nevertheless, one still has to be very careful about an action like putting broken glass in a pot, especially when he will be eating heartily, because of the possibility of danger. This is often a stumbling block for people who act impatiently when in the face of fulfilling a physical desire even when they should be aware of the danger before them. For this reason, the Rabbis forbade putting the glass in the pot. Apparently it is forbidden even if it can be done in a manner that obviates the danger, as the action itself weakens the moral resolve to be careful about one's life in the face of fleeting desires.

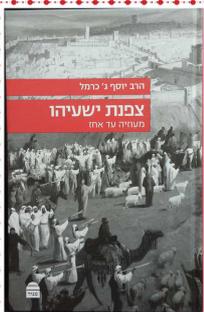
The Wise Must Not Be Hostages of the Silly

(condensed from Ein Ayah, Shabbat 6:112)

Gemara: One may put a clump of salt into an oil lamp so that it will give light and kindle well. One may put mud or pottery under the oil lamp so that it will lessen the light.

Ein Ayah: Sometimes, silliness, which always goes along with evil, connects things that are difficult to grasp to ridiculous ideas. This can happen when a simple mind is confused by something in nature, which is actually set by the wisdom of Hashem. There is some logic to avoid such actions that are bad for the lightheaded. But that is not the way the Rabbis go about things. We will not forbid good things because some people do not understand them.

At a time of happiness, a silly person will be confused if light increases by means of a trick, and many strange ideas may enter his small mind. When it is possible to conserve and have less light, one who is intellectually lazy may think strange thoughts about the means used to do so. But since the actions are good, they are not forbidden. The fact that some make mistakes does not make it forbidden for the wise. It is an important idea that Hashem gave tools to the wise to use the world in the most effective way, for their benefit.



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

The Right to Back Out of a Sale – part I

(based on ruling 76105 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) wanted to buy one of the apartments that the defendant (=def) was building for 650,000 shekels. Pl gave def 15,000 shekels as *d'mei retzinut* (earnest payment) and the sides signed a memorandum stating that if def did not go through with the deal, the money would be returned; if pl would back out, def would keep the money. Subsequently, pl invested money into the apartment, paying def for building changes they requested. Two years after the original agreement, def told pl that he would not sell them the apartment, blaming pl's behavior and lack of cooperation. Pl sued def for breach of contract, a sum of 440,000 shekels, arguing that not only had his investment in the apartment been lost, but that while waiting for the apartment to be ready, home prices went up nationally dramatically. The matter was taken to a different *beit din* (some of the ruling will be discussed below), but the sides agreed that Eretz Hemdah should review it in a binding appeal process according to Eretz Hemdah's appeal rules (we overrule rulings only for mistakes in Halacha or clear mistakes in facts of the case).

Ruling: Def blamed pl for causing the end of the intended sale. He complained that pl secretly recorded some of their conversations and otherwise made him feel suspicious of their behavior, refused to pay the cost of the apartment quickly upon request, and refused to reach a compromise. We reject def's approach, as did the first *beit din*. If one can back out of an agreement due to unsubstantiated suspicions, no agreement holds water. One can also not blame someone buying real estate for not being able to come up with a large sum of money on short notice; financing a home purchase is a long process. Finally, a compromise is by its nature beyond the letter of the law, and one cannot be blamed for wanting to receive his legal rights.

The first *beit din* obligated def to pay 75,000 shekels, in addition to returning the 15,000 shekels, as a penalty for breach of contract. They argued that, while the sale was not complete, def was subject to a *mi shepara* (a semi-curse for backing out of a serious moral obligation when a sale was almost complete but not yet binding). This is not a simple matter considering that the signed memorandum allows the seller (def) to back out with only the requirement to return the *d'mei retzinut*.

It is true that the K'tzot Hachoshen and the Gra say that there can be a *mi shepara* even in a case in which it is known to the sides that it is possible to back out. However, this case is different, in that the memorandum clearly sets up a situation in which there are unequal conditions for backing out, as pl would lose money, whereas def would only have to return money received. This, together with the fact that a relatively small down payment was made, indicate that the payment was no more than *d'mei retzinut*. In other words, the potential buyer was willing to put up money to show that his potential interest in buying deserves to be treated seriously. This does not, though, preclude the seller's right to cancel the deal, if a further stage of agreement is not entered.

We will continue next week.

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