

HEMDAT YAMIM

PARASHAT **Beshalach**

12 Shevet 5768

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R' Meir ben Yechezkel Shraga Brachfeld

o.b.m

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Glory in the Clouds

Harav Yosef Carmel

Even after the great miracles of the Ten Plagues, the Exodus, and the Splitting of the Sea, Bnei Yisrael were yet to reach their final destination of spiritual stability. A month after the Exodus, the complaints began: "Had we only died at the hands of Hashem in Egypt when we were sitting on the pot of meat, when we ate bread to satiation, that you took us to the desert to kill the entire congregation from hunger" (Shemot 16:3). Hashem's answer contains an expression that appears here for the first time in the Torah and seems oddly out of place: "In the evening you will know that Hashem took you out of the Land of Egypt and in the morning you will see the glory of (k'vod) Hashem as he heard your complaints ... They looked to the desert, and the glory of Hashem was seen in the cloud" (ibid.: 6-10).

What is this "glory of Hashem"? We begin with the words of Prof. Nechama Leibovitz, the generation's teacher of *parashat hashavua*: "The visible glory of Hashem- can we know what it is? From the time that Asaf lamented, "There is no longer a prophet in Israel and no one among us knows to what" (Tehillim 74:9), no one among us knows the nature of prophecy or the nature of seeing the visions of Hashem. Only one who merited to be exposed to the Divine Presence will know what its nature is."

Rashi uses the opportunity to teach a moral lesson. Bnei Yisrael would receive at night a realization that Hashem has the ability to fulfill their desires and provide meat. However, since the request of meat was done improperly they would experience it without "a shining face," whereas by day, they would receive bread along with the glory of Hashem, as the bread would fall with love. According to this approach, the glory of Hashem once refers to a sign of love and another time refers to Divine Revelation. But why does the Torah use confusing terminology?

K'vod Hashem appears in several contexts of this era, including Mt. Sinai, the *kohanim's* clothing, and the events in the *Mishkan* (Tabernacle). The Ramban (to Bereishit 18:1) connects between *k'vod Hashem* and Hashem's relationship with those close to Him in regard to His visit of Avraham. Avraham, he says, was not trying to receive prophecy at that moment, yet Hashem appeared to him in a vision. This honored Avraham and showed his stature, just as Hashem's Presence honored Bnei Yisrael at the *Mishkan*, when their efforts to erect it made them so deserving.

According to the Ramban's approach, not only did Hashem find Bnei Yisrael worthy of grace at historically positive times, but even when they had complaints, they deserved grace when they handled themselves properly. Turning the right way, one could see the Presence in the cloud. In these difficult days, which seem to be days of darkness and haze, we should remember that behind the cloud there is always a great light.

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Ask the Rabbi

Question: When I clear plates on Shabbat of leftover food and some of the food has *kedushat shvi'it* (sanctity of *Shemitta*, making it forbidden to dispose of it in a disgraceful manner), is it *borer* (selecting) to separate out that which needs to go into the *pach* (receptacle of) *Shemitta*?

Answer: The three main conditions one needs to fulfill to permit the selecting of one object from another are: 1) One must take the good (*ochel*) from the bad (*p'solet*), as taking *p'solet* from *ochel* is forbidden. 2) One must plan to use the *ochel* in the near future. 3) One may not use a special utensil to facilitate the selecting. #3 is not a problem, as there is no need to use a specific type of utensil. However, since you will not use the separated food soon thereafter, #2 seems to be missing.

To deal with that problem, we have to analyze #1. Is only *p'solet* from *ochel* forbidden and other things are permitted, or is only *ochel* from *p'solet* permitted? What happens if one takes *ochel* from *ochel*, i.e., if one separates two things that will both be used at the same time in the future, but not immediately? On this point, the Pri Megadim is lenient but the Biur Halacha (to 319:3) rejects his opinion and says that if that which is removed will not be used in the short term, it is forbidden. However, our case is one of separating *p'solet* from *p'solet* in a manner that neither will be used in the future, and the Biur Halacha agrees that it is permitted to do so. The reason this case is more lenient has to do with the definition of *borer* as a positive act. When one separates *p'solet* from *ochel*, the act is positive because it leaves an improved *ochel* behind. However, when both elements are thrown out, the fact that they are separated in the process is not significantly positive.

This is one of the bases for permitting pouring an undesired mixture of liquid and solid pieces into the sink even though the liquid goes down the drain and the solid pieces are held back by a sieve-like drain cover. Rav S.Z. Orbach (see *Shemirat Shabbat K'hilchata* 12:16 and *ibid.*:(47)) says that since both things are being discarded, the fact that they are separated in the process does not make it *borer*. One could claim that the same is true in our case, that one's plan to put the two types of leftovers in two different garbage receptacles is not a problem.

Despite the reasonable logic and halachic basis for permitting separating the holy and non-holy unwanted leftovers (see *Orchot Shabbat* 3:44), several contemporary *poskim* did not permit it practically (Rav N. Karelitz and Rav Vozner, cited *ibid.*; Rav Elyashiv, cited in *Ayil Meshulash* 9:24). The matter may depend on the logic behind a *Shemitta* receptacle. Is it that one can throw out *kedushat shvi'it* food but should do so respectfully (see *Katif Shvi'it* 63:7)? Or is it that one has no right to waste *Shemitta* food and so he puts it aside where he can potentially eat it later? If the latter is correct, then removing *kedushat shvi'it* from other food is like selecting *ochel* from *p'solet* for non-immediate use, which is forbidden (see *Ayil Meshulash*, *ibid.*). I heard in the name of Rav H. Schachter that the fact that the food requires a specific halachic process might (he did not render a ruling on the matter) make the selection halachically significant and therefore a problem.

In any case, one should consider the following. According to our mentor, Rav Yisraeli *z.t.l.*, it is sufficient to put *kedushat shvi'it* food in a bag before throwing it in the garbage. Whether one does so or accepts the stringency of having a receptacle where the food is to rot first, one may put non-*Shemitta* garbage along with the *Shemitta* as long as the former is not already decomposing or otherwise disgracing the *Shemitta* food. Therefore, there is no halachic need to separate.

[Update on an unrolled *mezuzah* from Rav Elazar Muskin (LA): "Rav Hershel Schachter (Nefesh Harav, p. 240) states that Rav Soloveitchik *z.l.* felt that a *mezuzah* must be rolled." Thank you!]

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The Approaches of Chasidut, Hitnagdut, and the Mussar Movement – part VII

(from Perakim B'Machshevet Yisrael, pp. 515-531)

Mussar – part II

[We saw last time that mussar's approach is that one should act in a manner that brings him the most benefit. However, people should concentrate more on the significant spiritual benefit in the world to come than on their physical benefit in this world.]

Why does one tend to err and attribute such value to things that are really fleeting in this world? Couldn't the Creator have given us the tendency to choose the good and be repulsed by the bad? Should we not use the tools and instincts that the Creator gave us?

The answer is that, to the contrary, the world was made this way specifically because it is only in this way that a person can reach the height of good and perfection. All matters of the world, whether good or bad, are just tests. Tranquility and happiness lack innate value; poverty and afflictions need not be depressing. They are only means, optical illusions if you will, that a person experiences so that he can overcome them and attain completeness.

"The inclination of a person is bad from his youth" (Bereishit 8:21). Such is nature. Covering it up or ignoring it would be self-deception which would lull one to sleep and keep him from reaching completeness. By necessity, our normal state includes a certain degree of spiritual sickness, so people should not view themselves and others as abnormal. One should not look at the Jewish people in a more positive light either. Inborn tendencies to act properly are not an advantage, for one's task is to fight one's negative inclinations and conquer them. Thus, good tendencies minimize the opportunity to progress. That is why the Rabbis say: "Whoever is greater than his friend has a bigger negative inclination."

Recognition of our moral weakness should not cause despair or make us angry at ourselves because this is the way we were created. Our deficiencies are the key to potential growth and should energize us toward action. We must not be complacent with our present state but must and can overcome it and redirect our personalities. One should not say in this regard that that which Hashem has done cannot be undone. People's tendencies can be conquered and changed. Even animals can be trained by humans. So too, a person can tame and improve himself (based on Ohr Yisrael- Rav Yisrael Salanter).

The point of the study of *mussar* is to expose the camouflaged inclinations that make up the "me" in a person and the tactics that they use to confuse and entice him. *Mussar* helps one reeducate himself in order to change these tendencies. How is this accomplished? Trying to take on such a daunting task by ourselves has little chance of success. The answer is what *Chazal* have taught us: "I have created an evil inclination; I have created the Torah as a remedy." Until a person frees himself from the inclination's dominion, even his intellect is "bribed to the point that it cannot see straight." "The desire and inclination are burning and allow one to purify the *sherez* (impure animal)" (Ohr Yisrael). Only the Torah can cure this. "Do not take your intellect even as a staff to lean on" (Gra).

The primary inner force one can use is fear, an attribute that the *Mussar* Movement openly sought to restore. Torah and *mitzvot* are intended to entrench fear within us ("so that you shall learn to fear"). As bad tendencies are connected to senses, intellect alone cannot curb them. Fear which is related to the senses can keep them in check and clarify the extent to which one's actions are based on self-deception (Even Yisrael). *Mitzvot* are valuable primarily to the extent that they are done through contemplation, seriousness, and focus on their purpose, to heighten fear of Hashem. One cannot leave things to routine but should learn *mussar* every day to check that things are progressing according to the proper plan.

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P'ninat Mishpat

Returning Pre-Payment for a Rental (based on Halacha Psuka, vol. 37 – condensation of a *p'sak* from Piskei Din Rabbaniim, vol. XVII, pp. 69-78)

Case: The defendant (*def*) rented an apartment to the plaintiff (*pl*) for a year and paid in advance along with a security deposit. In the middle of the year, *pl* returned the keys to *def* and left the apartment. In the meantime, *def* rented out the apartment to someone else. *Pl* demands the rental money corresponding to the time when the rental was no longer active. *Def* responds that ending a binding rental requires a *kinyan* (an act of finalization) which never took place, so that *pl* remained the renter even when he stopped living there.

Ruling: The Rivash (#510) discusses the case of a rental that was done with a full *kinyan* after which time the landlord indicated that he wanted to end the rental and the renter acquiesced. When the landlord wanted to return the fee that was already paid, the renter informed him that he decided to hold the landlord to the original agreement. He claimed that although he had agreed before witnesses to abrogate the agreement, he had not done a *kinyan* to undo the previous one. The Rivash ruled that since rental is like a temporary sale, the *kinyan* to activate it must be reversed by a *kinyan*, just as a real sale would require. Similarly in our case, we would say that since no *kinyan* was done to end the rental, *pl* is still considered a renter and would have to pay.

Admittedly several *Acharonim* argue with the Rivash. Furthermore, Sha'ar Mishpat (315:1) says that the Rivash ruled only in a case where the renter made the undoing of the rental contingent on another condition, e.g., returning the pre-paid rental fee. In contrast, when he informs the landlord that he considers the rental over there is *mechila* (relinquishing of rights), which does not require a *kinyan*. Some say that the Rivash agrees that an admission that the rental is over is effective. Finally, the Rivash is based on an assumption that rental is like a temporary sale, which is a hotly disputed contention. Therefore, there should be ample grounds to justify *pl's* contention that the rental was over. However, Kovetz He'arot posits that pre-payment works to make the connection to the property a full albeit temporary acquisition in the body of the property. Therefore, everyone will agree that a *kinyan* is needed to end the rental.

The Rama (CM 315:1) says that a renter can sublet a home as long as it does not harm the property and that a landlord can rent it to someone else if the renter is not living there because it is bad for a property to be unoccupied. The Netivot Hamishpat (315:2) says that if this happens, in a case where the renter could not manage to rent it out, the landlord can keep the new rental fee in addition to the old one. Therefore, *def* did not relinquish his rights to the rent which he received pre-paid, which he can keep.

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