

HEMDAT YAMIM

PARASHAT NITZAVIM

27 ELUL 5768

Hemdat Yamim of this week is dedicated in memory of a beloved friend of Eretz Hemdah
Doris (Doba) Moinester
whos Yahrzeit is 23rd of Elul
as well as

R' Meir ben Yechezkel Shraga Brachfeld
o.b.m

Hemdat Yamim is endowed by Les & Ethel Sutker of Chicago, Illinois in loving memory of
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This week.....

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(based on Halacha P'suka 46, a condensation of a ruling of the Supreme Rabbinical Court)

The Blessing That Fits One's Background

One of our *parasha's* major themes is *teshuva* (repentance). It is of limited value to make improvements and soon thereafter revert to one's old undesired ways. The Meshech Chochma has interesting, arguably counterintuitive, advice for the *ba'al teshuva* (one who repents).

Included in the blessings the Torah foresees for a *ba'al teshuva* is: "Hashem will give you abundance in all of your hands' work, in the produce of your stomach ... your animals and ... your land..." (Devarim 30:9). The Meshech Chochma noted that almost identical wording is used in the last *parasha* (ibid. 28:11) regarding one who deserves blessing, with the exception of "all of your hands' work." Why should that phrase appear in one context and not the other?

The Meshech Chochma refers us to the famous disagreement between R. Shimon Bar Yochai and R. Yishmael. The latter says that when one is blessed, he will have a lot of produce to harvest ... and will harvest it. R. Shimon says that this is not the *beracha* of a real *tzaddik*, who should be dedicating his life to Torah rather than working the field. Rather, for the real *tzaddik*, others who are less devoted will do the work while he learns.

The Meshech Chochma says that the previous *parasha's pasuk* refers to the blessing of a R. Shimon type of *tzaddik*. "All of your hands' work" is omitted because his hands do not work. Our *parasha* refers to a R. Yishmael style *tzaddik*, who does work with his own hands. Why should there be a difference? He explains that since our *parasha* is talking about one who had sinned and needed repentance, it would be a mistake for him to take R. Shimon's extreme spirituality approach, as the *mishna* (Avot 2:2) says that physical labor is important to make sins be forgotten. Only one who had always been righteous and may have no sins that need forgetting, can dedicate himself exclusively to Torah.

The problem with this fascinating suggestion is that one would expect specifically the *ba'al teshuva* to adopt the approach of extreme spirituality. After all, the Rambam (Intro. to Avot, ch. 4) says that although one should seek the golden mean, when he has strayed to the extreme in one area, it may pay to right himself by taking the opposite extreme until reaching equilibrium. Why then should the one who needed repentance, and thus lacked spirituality, not follow, at least for a significant amount of time, a course of extreme spirituality?

The answer is that the sinner may not have lacked spirituality but the healthy approach to life's challenges. His remedy is to meticulously follow the Torah's guidelines for man, including a balance between Torah study and a normal life of labor. The normal path (including much more Torah than most are used to) gives the best prospects for concretizing the spiritual growth and maintaining a healthy balance to keep him away from sin.

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Question: Should we pass over the seemingly most appropriate candidate for blowing shofar when he is able to blow only on the left side of his mouth?

Answer: The Rama (Orach Chayim 585:2) cites the *minhag* (found in Sefer Haminhagim, Tirna) that it is proper to blow the shofar on the right side of the mouth. (Most Sephardic poskim also seem to have adopted the *minhag*.) His reason is that the *satan* is on the right side, and, through the shofar blowing, we counter and confuse him (see also the Minhagim of the Maharil). (The connection between the shofar and the *satan* is a major theme with various ramifications, and we should not belittle its importance, as shofar is a *mitzva* whose whole nature revolves around hidden messages.) The Biur Halacha (ad loc.) notes that regarding Gideon's men's blowing of shofar at the time of war, we find that they held the shofars on the right side. That being said, the *poskim*, starting with the Rama, presented the idea of blowing on the right side as a preference, not a requirement. Let's investigate different factors that may impact on the matter.

Some of the people who are able to blow only on the left side are lefties. The Magen Avraham (585:4) says that a lefty should blow on the left side. He bases himself on the sources that explain the *minhag* by saying that the left side does not need the shofar's help because *tefillin* are put on that side. He, therefore, suggests that a lefty, who puts *tefillin* on his right arm, should blow on the left. However, the Aruch Hashulchan (Orach Chayim 585:6) counters that we are not interested in the *ba'al tokeiah's* personal *tefillin* but those of the majority of people, at least those of the congregation. Most *poskim* say that even a lefty should blow on the right side (Sha'ar Hatziyun 585:18). The Levush (585:2) claims that according to Kabbalah, it is better for all to blow on the left side. Although the "pro-left" opinions are not accepted, they further weaken our resolve to insist that the *ba'al tokei'ah* blow on the right side of his mouth.

When it comes to priorities of picking a *ba'al tokei'ah*, the Maharam Shick (Orach Chayim 294) says that one should prefer one who is learned and G-d fearing but can blow only on the left side to a relatively ignorant person who blows on the right side. This follows the general guidelines regarding those who lead services on Rosh Hashana (Rama, Orach Chayim 581:1). Yalkut Yosef (Moadim, p. 41) concurs. The same should be true regarding the quality of the blowing. While a congregation will usually fulfill its *mitzva* by listening to one who struggles through the *tekiot* with mistakes and delays, this situation has several regrettable elements: it is not honorable for the *mitzva*; sometimes people, especially those who are not able to be there the whole time, may not hear enough proper blasts to fulfill the *mitzva*; people are so taken by the drama of whether and when the *ba'al tokei'ah* will make it through his duties that they neglect to concentrate on the proper things (including repentance and accepting Hashem's dominion); people may talk, even *lashon hara*, and act in a not dignified manner.

The Maharam Shick (ibid.) invokes another factor, which we cannot stress enough. All of these decisions should be taken with sensitivity and a strong desire to avoid discord, which is always appropriate and certainly on the High Holy Days. Another general consideration is that one who leads the services should be acceptable in the eyes of the congregation (Rama, OC 581:1).

Many of the factors we have mentioned are not ones that have yes or no answers. Proficiency and righteousness are relative terms, and the likelihood of discord is hard to determine. Therefore, making this type of decision is among the (many) difficult tasks that earn a rabbi or a *gabbai* his keep.

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Have a question?..... e-mail us at info@eretzhemdah.org

Ein Ayah

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

Excerpts from the Introduction to Ein Ayah – part II

[After jumping in and getting a taste of Ein Ayah over the last few months, we decided to return to where we arguably should have started, Rav Kook's introduction to the work. In it, he presents his logic for explaining Chazal's aggadic writings in a manner that goes beyond the simple meaning of their words.]

The two words for those who elucidate the depths of *Tanach* and the works of the Rabbis, *mefarshim* and *meva'arim*, hint at different elements of commentary, as we will explain. The words of the Rabbis, and all the more so, the words of *Tanach*, must be concise so that a little contains a lot. This requires others to come along and explain their intentions. One would expect that the job of the commentator is one of questionable success: did the commentator decipher the meaning of the original source correctly? It is depressing to consider that whoever missed the real intention was wasting his time. Yet we are told: "Expound and receive reward," which implies that the reward is unconditional. There must, then, be something positive in the process of expounding per se, a matter that, we will see, is connected to the foundation of the belief in Hashem's incredible providence over us and the dominion of true unity.

In the physical world, creatures all find the things that are beneficial to them, whether they were created that way or were produced for use. Just as Hashem's providence ensures that necessary physical things can be obtained, so too Hashem provides in different ways intellectual matters that man needs for his development. The blessing that we make on fire on *Motzaei Shabbat*, as we try to extend Shabbat's sanctity to the days of activity, teaches us that everything new in the world, even that which man develops through great G-d given ingenuity, is considered to be created by Hashem. Everything was Divinely prepared so that it would be discovered or invented at just the right time. Of all of the events that coincided to enable these developments, the most important ones are those that influenced the discoverer's intellect.

Within the intellectual world, we all know that Hashem wanted the Torah to be expounded upon and widened, which increases the spirit of sanctity and purity within Israel. Every discovery in the realm of Torah adds fuel to the spirituality of the nation as a whole. Torah is expanded by taking that which is known and clarifying and expanding its message. The world of ideas is like a great ocean whose water awaits being drawn. There are two ways to do this. One is the *peirush*, which explains correctly and fundamentally the original Torah statement. It is an expansion because the statement's content is like a wrinkled fabric; ironing it uncovers areas and the visible size increases.

However, there is another element to commentary on a Torah text or statement. The ideas of the statement itself are able to impact on other ideas that are related to the original statement by the rules of logical extension. This ability to impact on other areas and the details of the expansion are included in the original statement. This is not so innately but is an outcome of the Divine greatness, which arranged the intellectual world with all its needs and prepared ideas for eternal expansion. This is why we refer to a Torah scholar as an increasing wellspring and an unending river. This is the upper level of elucidating a Torah text, which we call *bi'ur*, which is related to the word *b'er* (a well). In this manner, new living water flows out of every uttering and idea of truthful knowledge that we inherited from previous generations of scholars and holy ancestors. The *bi'ur* is not taken only from the content of the specific statement, but from the Divine involvement within it, which paved the path in many ways for us to reach true success and happiness, to light our souls with full spiritual sustenance.

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P'ninat Mishpat

A Beit Din's Withdrawal from a Case Due to Bad Relations with Legal Counsel (based on Halacha P'suka 46, a condensation of a ruling of the Supreme Rabbinical Court)

Case: A couple was involved in adjudication regarding questions of divorce and related monetary matters. One litigant hired a *to'en rabbani* (the equivalent of a lawyer for the rabbinical court system) to represent him. Within the framework of trying to promote his client's legal prospects, the *to'en rabbani* was interviewed by a newspaper. The resulting article contained false information about the case and harsh criticism of the *beit din*. The *to'en rabbani* claimed in his interview that he had conformed to all of the requests with which *beit din* had presented him and that *beit din* was delaying the arrangement of the *get* in order to ruin his reputation. *Beit din* considered a few options. One was to disqualify the *to'en rabbani* from serving as legal counsel in this case. Another possibility was to reclude themselves from hearing the case and set a panel comprised of different *dayanim* who had a more positive relationship with this *to'en rabbani*.

Ruling: The by-laws of the Rabbinical Courts system (#51) determine that a *beit din* may disqualify legal counsel from representing a litigant before their court if his continued participation hinders the possibility of coming to a just ruling or if the counsel treats the court disrespectfully. Both of these conditions are met in this case, and therefore, *beit din* is capable of removing the *to'en rabbani* from the case.

Beit din pointed out that even though the *dayanim* already wrote down their decisions regarding the case, the ruling is not finalized until at least a majority of the *dayanim* sign on the ruling. Even at this relatively late time in the process, the matter of the damaging newspaper interview could affect the objectivity of the *dayanim* and their ability to finalize a truthful decision.

In this case, the matter of whether to continue their participation in the case is of major significance because changing the panel of *dayanim* would delay the rendering of the ruling further. This is particularly damaging in a case like the one at hand where timely intervention is needed. Nevertheless, *beit din* decided to withdraw from the case and not disqualify the *to'en rabbani*. This is because the litigant and the *to'en rabbani* are closely connected for a long time. Thus, the litigant would view the removal of the *to'en rabbani* as a step taken against him personally. Additionally, such a decision would be liable to serve as "ammunition" for organizations with an interest to compromise the standing of the *beit din*.

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Tel: (02) 538-2710 beitdin@eretzhemdah.org Fax: (02) 537-9626

Founder and President: Harav Shaul Israeli zt"l Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
ERETZ HEMDAH 5 Ha-Mem Gimmel St. P.O.B 36236 Jerusalem 91360

Tel: 972-2-537-1485 Fax: 972-2-537-9626

Email: info@eretzhemdah.org **Web:** <http://www.eretzhemdah.org>