

HEMDAT YAMIM

PARASHAT BEREISHIT

26 TISHRI 5769

Hemdat Yamim of this week
is dedicated in memory of a
**R' Meir ben Yechezkel Shraga
Brachfeld**

o.b.m

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This week.....

- **Magnificent and Multifaceted Light- A Glimpse from the Parasha**
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- **Excerpts from the Introduction to Ein Ayah – part V - from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l**
- **The Rabbanut Court System as a Set Court**
(based on Halacha P'suka 46, a condensation of a ruling of the Supreme Rabbinical Court)

Magnificent and Multifaceted Light

The first creation that our *parasha* mentions is light. Many sources point out that since the sun and stars were not created until later, this must be a different type of light, a very special one that we do not have access to any more in this world. Sefer Habahir (attributed to the *tanna*, R. Nechunia ben Hakaneh) claims that this very special spiritual light was hidden in the Torah Sheb'al Peh (the Oral Law). Indeed a famous *pasuk* (Mishlei 6:23) and many statements of *Chazal* equate or compare light with Torah.

Harav Chaim Y. Goldvicht (Asufot Ma'archot, Bereishit 6) connects this idea with the opinions of Beit Shammai and Beit Hillel regarding the *beracha* on light, which we recite after Shabbat. Beit Shammai's text refers to a single light, whereas Beit Hillel's mentions "*meorei ha'eish*" (the lights of the fire). The Gra (Shenot Eliyahu, Berachot, ch. 8) says that all agree about the facts. Light was created as one light, but as it is produced by man when burning fuel, it comes in different shades. The question is what type of fire we refer to when making the *beracha*. We accept the opinion of Beit Hillel that we bless Hashem not only for the original light but for that which we use and create on a regular basis.

Following the connection between the light and the Torah, we can see that the idea of different shades exists also in regard to *berachot* on the Torah. *Torah Shebichtav* (the Written Law) is a set text, which Hashem presented to us as is. In order to apply it to our lives, it is necessary to employ *Torah Sheb'al Peh* to elucidate and expand the Torah to its endless concepts and applications. We recite a blessing daily on the great gift of Torah. The *gemara* (Berachot 11b) brings different opinions as to what type of Torah study must be preceded by the *beracha*. The minimalist position is that it is only for *Torah Shebichtav*. However, we accept the opinion that the *beracha* applies to all the different forms of extrapolation from the Torah and discussions thereof.

Indeed we find in regard to some of the most important *berachot* that we thank Hashem not just for that which he gave us directly. Rather, we thank Him for the kernel of goodness that He gave us and enabled us to grow it into a fruit and further refine it to make it useable for us. This is the case, literally, regarding the most important *berachot* on food. Before and after eating bread, we thank Hashem for giving the bread. In fact, we planted the kernel, which Hashem guided to turn into many kernels of grains, and then we made the bread ourselves. The idea is that we recognize Hashem as the partner in everything we do. This follows the philosophy of Beit Hillel regarding light: that which we make with Hashem's help, with all of its variations, is *beracha*-worthy. This is very much true regarding the special light, which Hashem hid in *Torah Sheb'al Peh* and commanded and enabled us to uncover.

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Question: After washing one's hands for *netillat yadayim* (=ny) before eating bread, is it permitted to dry one's hands with an electric (blow) hand dryer instead of a towel?

Answer: Your assumption that there is a need for *niguv* (drying of the hands) is basically correct, but the reason behind it will impact on the requirements for this *niguv*.

One of the rationales that Tosafot (Pesachim 7b) gives for the practice of making a *beracha* on *ny* after the washing occurs (usually the *beracha* precedes the *mitzva*) is that *ny* is not finished until after the *niguv*. This seems to give a halachic status to the practice, but Tosafot does not explain why this is so. One suggestion has to do with the fact that the water one uses for *ny* can become *tameh* (impure) after the first washing and steps need to be taken to remove it. The main solution is to wash a second time, but some understand that *niguv* is a final part of the removal process (see Beit Yosef, Orach Chayim 158).

The *gemara* (Sota 4b) discusses how to make sure that water of *ny* should not pick up impurity and then return to make the hands impure. The *gemara* then says: "Whoever eats bread without drying his hands is like eating impure bread." It brings a *pasuk* that talks about impure hands, and according to Rashi, we see from it that matters of *mi'us* (unsightliness) can be called impure. The simple understanding, then, is that *niguv* is a matter of manners (wet hands make bread soggy) which, in this case, Torah sources equate with impurity.

However, it is difficult to say that *mi'us* is the only issue. The Tosefta (Yadayim 2:1) says that *niguv* is required only after *ny*, not *tevillat yadayim* (immersing hands). If the issue is *tumah*, the matter is understandable, as after immersion, all the water is pure. However, according to the approach of *mi'us*, why should there be a difference between moisture from washing or immersing? (The Taz (158:13) rejects the possibility that the *gemara* argues on the Tosefta).

Therefore, a third approach is suggested (Taz *ibid.*, based on the Maharshal), which includes elements of the first two. The heart of the problem is *mi'us*, but the Rabbis instituted that their rabbinic mechanism of *ny* would be incomplete until *niguv* is done. However, in regard to *tevillat yadayim*, which is a throwback to the Torah laws of *tevilla*, the need for *niguv* was not formalized.

A difference between the approach of removing *tumah* and that of a formal requirement related to *mi'us* is in regard to one who does *ny* with at least a *revi'it* (3-4 ounces) of water for the first washing. The Shulchan Aruch (OC 158:13) says that since in that case, there is no impure water, *niguv* is unnecessary. The Maharshal says that since there is an issue of *mi'us* that is under the framework of *netilla*, *niguv* is required. Since the latter approach is more accepted (Mishna Berura 158:46), even after *ny* with a lot of water (which is now commonplace), *niguv* is needed.

The Levush (OC 158:13) makes a claim that is pertinent to our question. He says that the Tosefta never denied a need for dry hands after immersing, but meant only that it need not be done in a formal, halachically effective drying, using something absorbent. Rather, after *tevilla*, one can allow the hands to dry by themselves in order to avoid *mi'us*. In contrast, in order to remove *tameh* water, an absorbent material must be used. Several *poskim* (see Shulchan Aruch Harav, OC 158:17; Kaf Hachayim, OC 158:87) accept the Levush's stringency (the Chazon Ish, OC 25:10 does not). In all probability, using an electric dryer is considered a means of speeding up the natural process of hands drying themselves and would not suffice according to the Levush. However, if a *revi'it* of water was used on the first washing and the issue is only *mi'us*, the Levush's concern does not apply and all would agree that an electric dryer is fine (B'tzel Hachochma IV, 141).

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Ein Ayah

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

Excerpts from the Introduction to Ein Ayah – part V

While I expanded on the ideas of *Chazal* in my commentary, I did not take them too far from their simple meaning, especially in regard to things that touch upon the foundations of Torah and ethics. This is because the right result will emerge only when we have the open (expanded) and closed (literal) elements of a statement complement each other. We can find the open statement only when the closed statement finds its rightful place, which is a result of the general and specific form of the words of *Chazal* and of the Torah.

Closed statements teach practical Torah regarding the different *mitzvot* and statutes. Only when these are observed literally can we open the gates of enlightening, expanded ideas of the open statement. Unfortunately, our people have become guilty of closing the open and opening the closed, which renders each invalid. Many wayward people in our nation have raised a hand against the practice of Torah, claiming that the important thing is only the beautiful general spirit of the Torah, thus breaking open the closed. The deterioration of the actions drags along a philosophical deterioration. Once those who “damage the vineyards” break open the “fences of the world” their spirit will no longer reach the level to appreciate the holy value of the statements of the Torah and the Rabbis, including the open statement, which is wider and deeper than the sea. This is because only one who is sanctified in the holiness of good actions, behavior, and beliefs can elevate his spirit to properly view the value of the words of a Living G-d. Only those who fear Hashem and value His Name understand “the actions of Hashem and the work of His Hands,” referring to *aggadot* (Yalkut Shimoni, Tehillim 708).

There is a fascinating statement of *Chazal*, which the Radak cites on the *pasuk*, “*I’marbeh hamisrah*” (to he who adds dominion - Yeshaya 9:6), which refers to the coming of *mashiach*. The letter *mem* in the middle of the second word is closed (as a *mem* normally appears at the end of a word). There is an open *mem* at the end of a word in the *pasuk* “in the walls of Jerusalem that are breached” (Nehemia 2:13), where we would expect a closed *mem*. The *midrash* says that the two *p’sukim* correspond to each other as follows. When the breached walls of Jerusalem are sealed, the closed dominion of the House of David will be opened. This hints something about the opposite order, regarding the closure of the open statement and the breaching of the closed statement, which causes the deterioration of our nation, which sits in darkness until Hashem will be our light. Our philosophical views can be profound and our intellect can be complete regarding mastering sciences and liberal arts, which enable discoveries in the realm of the open statement. Yet, we must remember that the word always must end with a closed *mem*. This represents the idea that Kohelet concludes with: “At the end of the matter, when all is heard, fear Hashem and observe His *mitzvot* for this is all of man.” The closed statement, referring to observance, must be upheld with all strength, even and especially, when the open statement is being expanded.

This is irrespective of the outlook one takes, whether it be from a vantage point of human logic and great involvement in the new sciences or whether in the realm of approaches to Torah and its secrets, including the rationale of *mitzvot*. One should not reduce but should add great efforts for sanctity and purity, with diligence and vigilance in all the practical details of *mitzvot*. This will bring, in one’s private life and in the nation’s existence as a special nation, uniqueness in the sanctity of Torah with the greatness of Hashem, the G-d of Israel. The foundations of Jewish belief are included in the closed statement, which comes at the end of a word. The open statement is effective in expanding and glorifying the Torah when it comes in the middle of the word.

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P'ninat Mishpat

The Rabbanut Court System as a Set Court

(based on Halacha Psuka, vol. 47- A Condensation of a *P'sak* by the Supreme Rabbinical Court, from Shurat Hadin VII, pp. 461-2)

Case: One of the litigants, who lives in Beit Shemesh, wants a matter adjudicated at the Eidah Chareidis of Jerusalem's court. The other litigant wants to adjudicate in the Rabbanut Regional Court of Jerusalem (Beit Shemesh is within the Rabbanut's Jerusalem region). It is hard to tell from the initial presentation of the sides who is considered the plaintiff and who is considered the defendant.

Ruling: In this case, it is irrelevant who is the plaintiff and who is the defendant based on the following source (Shulchan Aruch, Choshen Mishpat 3:1): "Three can judge a person against his will ... if the defendant refuses to appear before the court or does not want to adjudicate in their city. However, if he wants to adjudicate in their city but does not want the three judges that the plaintiff chose, then each one chooses one judge." The Rama adds: "It seems to me that this is true only when the *dayanim* are not set, but if there are set *dayanim* in the city, one cannot say: 'I will not adjudicate before them but I want to choose one.' And this is the practice in our town." We see from the Rama that when there is a set *beit din* in the city, that *beit din* should be used.

The next question is what constitutes a *beit din kavua* (set court). The Supreme Rabbinical Court ruled that specifically the regional courts under the Israeli government's auspices qualify. Outside of Israel, the bodies that choose the *batei din* do not necessarily consist of religious representatives. However, in Israel the law mandates that a panel that picks *dayanim* is comprised of a predominant majority of religious people. Therefore, the Rabbinat's chosen panels are considered like "the authority of the place."

It is true that *beit din* allows a defendant to say that he belongs to a certain local subgroup within the Jewish community. However, this is when it is clear that his request is not based on ulterior motives. In our case, the situation is different for two reasons. 1) The Eidah Charedis constitutes a separate subgroup only in Jerusalem, which is based on a situation that existed already at the time of the British Mandate. Every other place in the country has only one community, with one religious council and one local rabbi [Ed. note – it is not clear that this is still the situation]. Since the litigant who requested the Eidah Charedis court is a resident of Beit Shemesh, it is clear that he does not belong to the Eidah Charedis of Jerusalem. 2) Since the litigant who requests to adjudicate before the Eidah Charedis holds a rabbinical position within the regular religious council, it is absolutely clear that he does not belong to the Eidah Charedis.

Therefore, the case shall be heard in the Regional Rabbinical Court of the Jerusalem region.

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