

This edition of Hemdat Yamim is
dedicated to the memory of
**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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and **Louis and Lillian Klein, z"l.**

This week.....

- **The Boiling Point- A Glimpse from the Parasha**
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- **Moshe's Fear of Seeing a Divine Revelation – Good or Bad?**
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- **A Seller's Responsibility for the Deterioration of the Product After the Sale_ P'ninat Mishpat**

The Boiling Point

We tend to look at Yosef's dreams as one matter that caused his brothers to hate him. However, we will mention some of the many differences between the dreams, and how the reactions followed.

The brothers are first said to hate Yosef in context of Yaakov's special love for him (Bereishit 37:4). The situation deteriorated, as the Torah describes: "Yosef dreamed a dream and told his brothers, and they increased their hatred of him. Yosef said to them: 'Hear now this dream that I have dreamt'" (ibid.:5-6). Toldot Yaakov Yosef infers that first Yosef just told them he had a dream without revealing its contents. Why did this anger his brothers? Rav Hirsch suggests that the words (ibid.:5), "*v'lo yachlu dab'ro l'shalom*" (usually translated as: they were unable to speak to him in peace) mean that they rejected Yosef's words of peace to them. The latter *pasuk* would follow suit. Even the idea of Yosef confiding in his brothers as if they were friends upset them. Yet, their reaction was still only internal.

After Yosef shared his first dream's contents, that his brothers' sheaths would bow down to his, they protested against Yosef's apparent presumption that he would have dominion over them and increasingly hated him. At this point, the word for hatred is replaced with the root *kanoh*. We usually translate *kinah* as jealousy, a feeling of being disturbed that someone else has something that we desire and lack. That seems more appropriate at the beginning of the process, when Yaakov favored Yosef, which was not necessarily Yosef's fault. As Yosef, though, continued not only to dream egocentric dreams but to share them freely, hatred seems more understandable. Why is the seemingly weaker *kinah* introduced?

Throughout the Torah, use of *kanoh* exceeds what we call jealousy to introduce an imminent, strong action. Pinchas' *kinah* was the precursor of violent action (Bamidbar 25:11). Rachel's jealousy brought her to accuse Yaakov of negligence regarding her barrenness (Bereishit 30:1). Other occurrences support this thesis. The second dream already brought the brothers to contemplate action (see Rashi 37:12), but why?

Firstly, the second dream involved Yaakov, both in content and in the fact that Yosef shared it uncensored to him, indicating that Yosef's ambitions knew no boundaries. Even Eisav took his father's feelings into account when feuding with his brother. Secondly, Yosef's and the brothers' sheaves of the first dream could represent Yosef's accomplishments outshining theirs. However, here heavenly bodies representing his entire immediate family were bowing down to Yosef himself, from the heaven to the earth as Yaakov stressed ("*artzva*" – ibid.:10). This represented to the brothers Yosef's readiness to make their spiritual state subservient to his earthly desire for dominion. This was already something that pushed them to action, albeit a grossly unjust one.

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Question: Should I light my *chanukiya* inside or outside?

Answer: [We share this response with the public hesitantly because it is far from clear that one who strives to be *machmir* would be acting appropriately to change his *minhag*. However, we do not want to hide our eyes from a topic that is already discussed publicly.]

Two pertinent points are clear. First, the standard Talmudic practice was to light *chanukiyot* outside (Shabbat 21b). (If one lived in a attic, he puts it in the window facing the street.) Second, the longstanding practice in most Jewish communities has been to light inside (see Ohr Zarua, II, 323:2; Rama, Orach Chayim 671:7). How do we explain this and decide how to act nowadays?

The *gemara* (ibid.) says that in a time of danger, one lights on his table. The *Itur* says that once the practice developed, based on danger, to light inside, the practice continued. Many say (ibid.; see Mikraei Kodesh (Frank), Chanuka 16) that it is better to light outside if possible (Igrot Moshe, OC IV 125) assumed that it was not possible in the US in 1975). Rav Shternbach (Moadim U'zemanim II, 140) strengthens the impact of the historical danger on proper practice. He suggests that when there is danger to some people, everyone should light inside because we don't want people taking risks under pressure to keep up with other Jew's who are able to light outside.

Other historical explanations are given. The Aruch Hashulchan (OC 671:24) suggests that since Jews moved to windy, rainy places and the "aquariums" (glass encasements) needed to protect the *chanukiya* detract from the light's visibility and are not always feasible or affordable, the *minhag* became to light indoors. The assumption that things have changed markedly in this regard, which is far from simple, would indicate a difference between Israel and other places.

It would still seem that those who can light outside in aquariums should do so. However, other factors should be considered. At the time we light the *chanukiya*, it should be able to burn for a half hour (see Shulchan Aruch, OC 675:2). If people open the side of the aquarium to light and need to close it quickly before the wind blows out the candles, shouldn't this be considered a situation that the *chanukiya*, as lit, would not last a half hour? Although there are answers to this question (see Mikraei Kodesh ibid. 17), some say that if one cannot light the candles in a manner that keeps the wind out from the outset, it is better to light inside (see Torat Hamoadim, Chanuka 3:3).

Another problem with lighting outside, especially regarding those who live in apartment buildings, is that it is not always clear where one should light. Is it at the opening of one's apartment to the stairwell, or at the opening of the building, or at the edge of the sidewalk of the street, etc.? Is living on a higher floor considered like being in an attic? (See Torat Hamoadim ibid.:2). While halachic research can give reasonable answers to most cases, it may be another reason to continue lighting inside as we did growing up. Especially if we light in the window facing the street (see Igrot Moshe, OC IV, 125, based on Magen Avraham 671:8), publicizing the miracle is performed well (on lower floors) and the *chumra* of lighting outside may be a dubious gain.

We would summarize as follows. There is an apparent gain in lighting outside. However, since there are strong reasons to not require it, we would discourage one from doing so in a place where this is not an accepted practice or could cause vandalism or anti-Semitism. In a place where both practices are prevalent (especially certain communities in Israel), one who can light outside in a manner that does not have significant doubts might prefer to do so but should not feel obligated to change his former family practice.

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Ein Ayah

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

Moshe's Fear of Seeing a Divine Revelation – Good or Bad?

(based on Ein Ayah, Berachot 1:75)

Gemara: “Hashem said to Moshe: ‘You will not be able to see My face’” (Shemot 33:20). It was said in the name of Rabbi Yehoshua ben Korcha: The following is what Hashem was saying to Moshe: “When I wanted [at the burning bush], you did not [as Moshe covered his face]; now that you want, I do not want.” This argues on Rav Shmuel bar Nachmeini in the name of Rabbi Yonatan, who said: as reward for three actions, he merited three things. As reward for “Moshe covered his face,” he merited a glowing countenance...

Ein Ayah: It appears that they [Rabbi Yehoshua ben Korcha and Rav Shmuel bar Nachmeini] are arguing about the center of human completeness. Is the center the intellect, as the Rambam says that everything relates to knowledge, or are ethics and service the center, as the Chovot Halevavot posits?

Rabbi Yehoshua ben Korcha believes that the pinnacle of good fortune is grasping knowledge of Hashem. Therefore, it is a shortcoming to lack sufficient interest to look into the mystery of Hashem's presence. Rav Shmuel bar Nachmeini held that the purpose of all elements of knowledge is to promote ethical behavior, which stems from complete knowledge. Therefore, if one limits his knowledge as he broadens his ethical behavior, this should be seen as praiseworthy. That is why: “as reward for ‘Moshe covered his face,’ he merited a glowing countenance.”

The Perception of Hashem and His Tefillin

(based on Ein Ayah, Berachot 1:76)

Gemara: “I will remove My hand, and you will see My back” (Shemot 33:23). This teaches us that Hashem showed Moshe a knot of *tefillin*.

Ein Ayah: Regarding abstract intellectual attainments, especially relating to the Divine, there are two elements of truth to investigate: 1) the true innate essence of the matter, as we do for all sense-based investigation; 2) the truth as it relates to the value of the matter in the conception of the one who perceives it.

In truth, the entire Torah is presented according to the ability of its recipients to perceive it. This is because all of the ethical good flows only from perceiving this relative truth. The abstract absolute truth goes beyond the intellectual capabilities of the one who investigates the matter and is thus unperceivable. This is what Hashem meant when he told Moshe: “For man cannot see Me and live” (ibid.:20).

This is why *Chazal* used the metaphor of Hashem's *tefillin*. They contain matters of wisdom, the words of the Living G-d. However, they do not relate to man by themselves. Rather, it is the knot of the *tefillin* that enables the *tefillin* to impact on man. Thus, the abstract concept is referred to as *tefillin* or *totafot*. The conception that is attainable to human intellect is represented by the knot. One should go deeper into the matter and realize that the abstract conceptions certainly have a known value for their truth from their own perspective along with their truth in relation to the perceiver. The special level of Moshe Rabbeinu of blessed memory was that Hashem informed him even regarding the relation and connection that these levels of conceptions have to each other, and how they are arranged one next to the other. However, the actual abstract conception of objective Divine truth was not able to be grasped even by Moshe, as the *pasuk* said: “My face shall not be seen” (ibid.:23).

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P'ninat Mishpat

A Seller's Responsibility for the Deterioration of the Product After the Sale

(based on Halacha Psuka, vol. 49- A Condensation of a Psak by the Beit Din Mishpat V'Halacha B'Yisrael)

Case: The plaintiff (=pl) sold the defendant (def) a commercial shipment of dates. After the sale, def asked pl how to store them. The dates became wormy before def was able to sell them, and he refuses to pay pl for them.

Ruling: Ability to void a sale: One can void a sale if the root problem existed in a hidden form prior to the sale, e.g. an animal was *treif* (Chulin 50b). In that case, if we do not know if the *treifa* occurred before or after the sale, the one who wants to extract money must bring proof (ibid.). The Shulchan Aruch (CM 232:11) rules that even if the buyer did not yet pay, he must do so unless he brings proof the blemish had already existed. Since the blemish was found in the buyer's auspices, this is where we attribute it to have arisen. On the other hand, the Shulchan Aruch (ibid.:16), as the S'ma (232:34) understands him, says that if one bought cheese, which turned out after three days to be spoiled, we do not make him pay if he did not already do so. The distinction is that it is common for cheese to be predisposed to spoilage (ibid.). We cannot apply the latter logic to our case because the distinction is not clearly accepted and because in this case, there is no claim that the worming already began.

Responsibility for bad advice: Although pl and def disagree as to what advice pl gave, an expert said that even the advice pl claimed to give was faulty. The *gemara* (Bava Kama 99b) says that a non-expert who gives bad advice regarding accepting coins that another relies upon is obligated to pay. Although pl is not an expert, it is, for two reasons, difficult to obligate him. First, the semi-direct damage of giving bad advice obligates payment (as *garmi*) when the damage is basically immediate and certain. In this case, an expert determined that had def sold the dates within a reasonable amount of time, they probably would not have developed worms despite the advice.

Furthermore, the *gemara* (ibid. 100a) says that only if the advice's recipient told its source that he was going to rely upon it does he pay. Although there is a dispute how explicit one has to be (see Shulchan Aruch, CM 306:6), in our case it is clear enough that def was relying upon pl. However, def did not prove that he actually followed pl's instructions. If def anyway did what he wanted, the damage would have occurred even if pl would have given correct instructions. Pl may even have stored the dates in a worse manner than pl instructed, thereby causing the damage.

Therefore, according to the strict law def must pay the full amount. However, since pl signed the arbitration agreement that allows compromise to be included, *beit din* gave some weight to the element of indirect damage that pl apparently caused and reduced the sum that def had to pay.

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