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HEMDAT YAMIM

Parashat HaShavua

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Jew – Speak Hebrew!

Harav Yosef Carmel

We will continue to explain the great obligation to thank Hashem for the miracles we have seen, as Hashem and *Am Yisrael* have returned to Zion and we have merited the establishment of State of Israel, the beginning of the growth of our liberation.

The “Torah World” and Torah study in general has flourished throughout large sections of the nation since the establishment of the State, and especially in more recent years. This phenomenon is closely linked to another one – the renewal of the Hebrew language as a living, spoken language. It has really been a “resurrection of the dead.”

The *mishna* in Avot (2:1) instructs us to be careful with a “light *mitzva*” like with a severe one. The Rambam gives, as one of the examples of a light *mitzva*, speaking the “holy language.” So he counts speaking Hebrew as a light *mitzva* (I don’t know if all *olim* agree that it is light and easy). There are many indications that already in the middle of the Second Temple period, many Jews, even in *Eretz Yisrael*, started speaking foreign languages instead of Hebrew. Once the Jewish community of *Eretz Yisrael* was destroyed and the great majority of Jews were dispersed throughout the Diaspora, Hebrew stopped being used as a spoken language. True, many Jews *davened* and learned in Hebrew, but few people understood what the Rabbinic texts that were written in Hebrew meant. A small group of *talmidei chachamim* continued to produce written works in Hebrew (although even some Torah works were written in foreign languages – most of the Rambam’s *sefarim* were written in Arabic). In any case, those who learned the Hebrew *sefarim* had to first translate them in their minds to their spoken language.

When the words of Torah were learned through translation, much of the meaning and nuance of the works were lost. It became impossible for many to connect one source to another based on the words used, which is most impactful in the study of Tanach. We will illustrate with the help of the first *pasuk* of our *parasha*. The words “*emor*,” “*kohanim*,” “*I’nefesh*,” “*yitama*,” and “*b’amav*” can all be understood in different ways. *Kohanim* is a great example. At first glance, a *kohen* is always a descendant of Aharon through the male side. However, we find in *Tanach*: “the sons of David were *kohanim*” (Shmuel II, 8:18) even though they obviously were not descendants of Aharon and did not receive portions given to *kohanim*. Rather, it means that they served in David’s government, as is clear from context and from Divrei Hayamim (I, 27:32-34).

This generation’s high level of Torah scholarship is aided by the fact that Hebrew is now a spoken language, so that people understand the sources directly. (Learners should be careful not to assume that every use of a word in a classical source is the same as people use it in our times). So this cultural miracle can be seen as part of the fulfillment of the dry bones being brought to life (Yechezkel 37).

In conclusion, we point out that the great amount of translations that exist for classical sources, on the one hand, lets non-Hebrew-speakers “off-the-hook” from learning Hebrew, but on the other hand opens up much Torah to easier access. Let us pray that we will merit seeing to an even fuller degree: “For from Zion Torah will come forth, and the word of Hashem from Jerusalem” (Yeshayahu 2:3).

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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

Sitting Next to Someone Who Is Davening on the Bus

Question: I was sitting next to my wife on a bus, and she was *davening*. Was I allowed to remain seated when she got up to *Shemoneh Esrei*?

Answer: There are two similar *halachot* having to do with the 4 *amot* around one who is *davening Shemoneh Esrei*, which people often confuse, but their parameters and reasoning could be important here. One is not walking in front of one who is *davening Shemoneh Esrei* (Shulchan Aruch, Orach Chayim 102:4-5). The other is our issue of sitting within the 4 *amot* of one who is *davening Shemoneh Esrei* (ibid. 1-3).

The source of the latter halacha is the *gemara* (Berachot 31b), which in discussing how Eili Hakohen was near Chana who was standing in prayer, derives that he was not sitting too close to her. The main reasons given for this *halacha* are: 1. It looks as if the one who is sitting does not relate respectfully and thus believe in the *davening* around him (Tur, OC 102). 2. When one *davens*, he creates "holy ground" around him, and it is forbidden to take that area lightly by sitting down in it. (Taz, OC 102:3). This differs from the way most explain the former halacha – that walking in front of one who is *davening* disturbs his concentration.

There are two areas in which to consider leniency. One is based on the difficulty or inappropriateness of standing up. The Shulchan Aruch (OC 102:2) says that if the *davener's* neighbor is weak, he may sit. The Mishna Berura (102:10) explains that the logic of looking like one does not agree does not apply when people can tell he is weak. Similarly, since, due to needs of comfort and safety, people avoid standing on a bus, the same leniency applies. Also, the Shulchan Aruch (ibid. 3) says that if one is sitting before his friend starts *davening* next to him, he is not responsible to get up, at least when the setting is not a *shul* (Mishna Berura 102:13). However, this latter point is not too helpful in your case. The reason one does not have to get up is because we blame the *davener*, who should have picked a different place (ibid. 12). Especially here, where the matter is less on the negative impact on the *davener* but in disgracing Hashem, that would mean that your wife would be at fault for the situation, which you do not want.

Another point is that perhaps it is not problematic to sit next to someone *davening* if they themselves are sitting. While the K'tzot Hashulchan (20:(26) posits simply that there is no difference, some suggest (see Tzitz Eliezer IX:7) that if the *halacha* is based on not looking like he respects, it is not a problem if they are both sitting. If it has to do with "holy ground," then it should not make a difference. While the *gemara* does not hint at a distinction, the Rambam (Tefilla 5:6) can be read as limiting the halacha to the case of a standing *davener*. The Meiri, who says that the reason not to sit is to not disturb the *davener*, is clearer that it applies only when the *davener* is standing. The Tzitz Eliezer (ibid.) suggests another idea. Sitting for *Shemoneh Esrei* is on a lower level than standing, to the extent that the Shulchan Aruch (OC 94:9) says that if one had to *daven* sitting and then has the opportunity to stand, he should *daven* again. Although we do not follow this (Mishna Berura 94:27), the basic premise is agreed upon. Therefore, maybe the level of holy ground is missing if one sits.

While it is not great to *daven* on a bus (for the above reason and others), many women are so time-pressed, so that there is little choice but to do so. It seems weird to suggest that such a woman's husband should not sit next to her, stand, or move away. It is anyway likely that someone will just take his place. As we have seen, there are strong grounds for leniency. There is, though, a win-win idea for a husband in this situation. Some say that if the *davener's* neighbor is learning Torah during his *Shemoneh Esrei*, he does not have to stand (Shulchan Aruch, OC 102:1). So learning would be a good thing, on multiple levels, to do at that time.

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Ein Ayah

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

The Right Objective and Subjective Time

(condensed from Ein Ayah, Shabbat 9:19-20)

Gemara: [We saw the disagreement as to whether the Torah was given on the sixth or seventh of Sivan.] Everyone agrees that the Torah was given on Shabbat. It says [in the Ten Commandments], “Remember the day of Shabbat to sanctify it” (Shemot 20:7), and it says [at the time of the Exodus] “Remember this day on which you left Egypt” (ibid. 13:3). Just like there (at the Exodus), it took place on the very day described, so too here it took place on the very day [to which it applies – Shabbat]. What do they disagree about? About the day that was set as the beginning of the month.

Ein Ayah: The imprint of the spiritual elevation that stems from the divine source of sanctity, which all great ideas and lofty feelings flow from, shines forth with powerful light at its set time, which renews itself, as we see in day-to-day life. The source of this holy light must be at its full peak and glory when the matter it spurs on begins.

The light of liberation, which is relived with light and life every Pesach since the original one, increasing the liberty of every Jew, takes its power from the divine utterings that were said on the very day of the liberation. From that point, streams of this power flow forth to give life to a great nation for all generations. That is the reason that the statement of “Remember this day on which you left Egypt,” which was to carry the power of the event to all future times and generations, was said on the day that it occurred.

This idea was carried out not only in regard to the liberation, in the spiritual sense that removed the shackles that tied the people to evil and impurity. Rather, it also applies to the liberation that came from the divine revelation from the lofty Heavens, which leads a person to a goal of holy rest, which bases the whole world in a stable grandeur. That is the reason that the Torah was given on Shabbat, the day that is the source of rest and proper indulgence. The command to “remember the day of Shabbat to sanctify it” would not have had the same spiritual impact on the world had it not been pronounced at a time which has the power to provide its light of life to the world. This eternal sign of covenant between Hashem and His nation, which is the essence of the entire Torah and leads the world toward the days of the World to Come (days that are infused with a complete state of Shabbat) must have been given on Shabbat, at the time of the light. That is why all agree that the Torah was given on Shabbat.

The dispute regarding the time of the giving of the Torah was about which day was set as the beginning of the month. There is a display of sanctity that is set and orderly. It keeps to its job, acts independently, and does not change. That is the sanctity of Shabbat, which is the light-producing force that is eternal, set, and unchanging. It provides eternal life for the souls of every generation. In contrast, there is another display that renews itself, but represents that which changes in the eternal “storage house” of special times and events in the world. This is the foundation of the sanctity of time, i.e., the holidays, which depend on man’s setting of the month.

When it comes to the Torah’s relationship with the basis of its power, there is no room for disagreement. The different opinions can relate only to matters that change with time, such as when the temporary sanctity that accompanies the question of when the beginning of the month will fall. That explains why there is agreement that the Torah was given on Shabbat but there was not agreement what day of the month that ended up being on.



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

Poor Job of Setting Up an Internet Site? – part I

(based on ruling 76109 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: An NPO (=pl) hired the defendant (=def) to help set up an internet site for fundraising use. Def identified three stages in developing the site, which was the basis for a contract to pay def for the first stage, including a functional specification document and other groundwork. During that time, they would negotiate the terms for work on the other stages. Def's salary was 12,000 shekel plus 4% of revenue raised for a certain time. After presenting the functional specification, def helped pl choose a site developing software company (=SC) to do the next stage and negotiated their fee. Pl decided to hire a programmer (=RP) to replace def. RP reported to pl that def was responsible for many flaws in the planning, and pl also held def responsible for difficulties working with SC, including that SC was promised too much pay and was not sufficiently held responsible. Pl stopped paying def the promised percentage of profits and demands a return of some of the money already paid. Def is countersuing with the claim that pl did not do enough to utilize the opportunity, and he only agreed to a low salary because the percentage of the income was promised to him. The sides also dispute if the 4% is of the revenue produced specifically through the site, or whether it is for all of pl's revenues during the period.

Ruling: Beit din's appointed expert found that def's own work was up to standard. As far as his work in hiring and working with SC, the expert believed he did not have enough evidence to decide conclusively. The site was left operational. While there were many things that needed to be fixed, such things are usually fixed in the next stage. It is unclear how much work would have been needed for this and whether the situation falls under the standard range.

Let us analyze the *halacha* according to the possibility that def did not work up to par. There is a *machloket Tannaim* (Bava Kama 100b) about work not done according to instructions, which is *paskened* in the Shulchan Aruch (Choshen Mishpat 306:3) as follows. The worker does not get the price he was promised but rather no more than the benefit that was accrued from his work. This is so even if the change was done accidentally, unless something happened that was beyond the worker's control (ibid. 305:9).

It was clear that at the time that the first stage was completed, the system, if operational, would have problems that would need to be worked out. Def urged pl to begin using it in order to be able to fix those that arose, and also offered to stay on to help his replacement understand the strengths and weaknesses of the system, but pl refused. In such a case, we apply the rule that if one sold a flawed product to a buyer and the buyer used it after knowing about the flaw, the buyer can no longer void the sale based on the flaw (ibid. 232:3). The Maggid Mishneh (Mechira 15:3) adds that this also applies if the buyer could have uncovered the problem right away. According to some (Mishneh Lamelech ad loc.) this is only if used the object was used without being checked.

Therefore, we conclude that pl should have checked the status of the system before ending def's work on it. We will continue with other elements of the case.

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