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HEMDAT YAMIM

Parashat HaShavua

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On Bonfires, Zionism, Torah Learning, and IDF Service

Harav Yosef Carmel

Shemitta, with which our *parasha* opens, is one of the land-based *mitzvot*, which give expression to the sanctity of the Land of Israel in comparison to other lands. Rav Kook (Shabbat Ha'aretz, intro. to ch. 15) cited the Radbaz's question: If the pre-*Shemitta* sale of the land to non-Jews eliminates the Land's sanctity in regard to *Shemitta*, how can one fulfill the *mitzva* of living in the Land? Rav Kook answered that the Land's sanctity is not a result of the possibility to fulfill the *mitzvot* related to it. Rather, the *kedusha* of the Land and the *mitzva* to live in it exist even when laws such as *Shemitta* do not apply. The *gemara* (Chagiga 5a) posits that exile of the Nation of Israel from its Land caused the greatest undoing of the Torah. Just as with the greatness of Torah, the basic level exists independently of the ability to fulfill the *mitzvot* commanded in it, so too the Land of Israel maintains its core value even if certain of its *mitzvot* are not in force.

We will soon commemorate Lag Ba'omer, which according to many, highlights the bravery of the *talmidim* of Rabbi Akiva – who were the fighters of Bar Kochva – who were apparently killed in their battle against the Roman Empire (because they did not treat each other with respect). Their fight was done as part of a heroic effort to restore independence to Israel. Lag Ba'omer also commemorates the sanctity of the Torah, especially in light of the revealing of its inner elements by Rabbi Shimon Bar Yochai and his disciples over the generations. The flame of sanctity of Bar Yochai, commemorated with the symbolic lighting in Meiron, has only a weak connection to the "culture" of pollution and dangerous bonfires that are lit throughout the country.

The revealing of secrets of the Torah was strengthened tremendously from the time that Rav Yosef Karo and his colleagues, and finally the Arizal and his students, returned to *Eretz Yisrael* and settled in Safed. Rav Shlomo Alkabetz, the student and friend of Rav Yosef Karo regarding matters of Torah secrets, left for the Jewish people his beautiful poem, "Lecha Dodi," which deals with longings for liberation from both a political and internal, spiritual perspective. This combination is based on the idea that the book and the sword came down together.

The pioneer "sword-holders" of our times (most of whom had little to do with our holy books), came to Israel as part of an attempt to build an independent Jewish state in *Eretz Yisrael*. They adopted the theme of bonfires with a feeling of connection to Bar Kochva's fighters, but without a connection to Bar Yochai and his disciples.

We have to look at the connection between the bonfires and *kumzitzes* of the Israeli pioneers, captured in the famous poem by Chaim Cheffer, "Dudu," and between the holy fire of the study of Torah. We will continue next week. In the meantime we will try to strengthen our approach of connecting the sword and the book – which represents our attempt to strengthen the State of Israel from both a national and a spiritual, Torah-based perspective.

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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

Lying to Avoid Embarrassment

Question: If someone asks you a tactless, unnecessary question, the answer to which is embarrassing, and refusing to answer is like admitting the truth, is it permitted to lie?

Answer: The broadest of the Torah prohibitions against lying (even without language of oaths) is “*mid’var sheker tirchak*” (distance yourself from a matter of falsehood) (Shemot 23:7). Philosophically, we abhor dishonesty. We are to emulate Hashem, about Whom it is said: “Hashem’s signet is truth” (Sanhedrin 64a).

Yet, *gemarot* spell out cases in which one may and/or even should lie. One *gemara* (Yevamot 65b) says that one may lie to preserve peace. One precedent it cites is that Hashem inaccurately related to Avraham what Sarah had said about their chance of having a baby at an advanced age. Another (Bava Metzia 23b) lists three things about which it is appropriate for a scholar to lie. The third example is not to publicize that one’s host was very welcoming, if it will cause unwanted guests to flock to him (see Rashi ad loc.).

In all of these cases, the untruth was said to protect someone else, unlike in your question. However, the above sources include cases of self-protection. The first *gemara* also gives the example of Yosef’s brothers trying to ward off his enmity with a lie. Another example in Bava Metzia is lying about what one is learning/has learned. Rashi explains it as minimizing one’s scholarship out of humility; the Lechem Mishneh’s understands the Rambam (Aveida 14:13) as avoiding people testing him on a weak topic to avoid embarrassment. This last source is equivalent to your question. But even Rashi’s case makes us think why one can do an ostensible *aveira* for humility’s sake!

The simplest answer is that the prohibition of lying refers to different types of cases. The *pasuk’s* context is *beit din* proceedings, in which the pursuit of truth is at a premium. The Yereim (*mitzva* 235), while extending the *mitzva* somewhat, limits it to lies which harm someone. This matter seems to depend on the *machloket* between Beit Shammai and Beit Hillel (Ketubot 17a). Beit Hillel encourages singing the praises of a bride, even when they are untrue. Beit Shammai argues that this violates “*midevar sheker tirchak*.” Beit Hillel makes a moral argument based on concern for the feelings of others, but, how does that sentiment dispose of Beit Shammai’s *pasuk*? Apparently, the argument is whether the Yereim is correct, and we *pasken* like Beit Hillel (see Rav Perlow on Rasag’s Sefer Hamitzvot, Aseh 22). The other possibility is that even if lying about something innocuous is forbidden from the Torah, *Chazal* understood, perhaps based on the precedents in *Tanach*, that in the case of important counter-factors, it is waived.

We have dealt (Living the Halachic Process V, H-2) with *poskim’s* permission to stage a fake *pidyon haben* if needed to save a couple from embarrassment about the wife previous pregnancy. *K’vod haberiyot* (human dignity) justifies significant halachic leniency (Berachot 19b), which far exceed some of the factors that, we have seen, justify lying.

Do note that regarding *k’vod haberiyot*, the degree of breach of human dignity helps determine the level of leniency (Tosafot, Shvuot 30b), so that there is no blanket permission. Furthermore, even when speaking untruthfully is permitted, it is noble to raise one’s level of honesty to the point that he lies or even distorts (as Yaakov did to receive Yitzchak’s blessings) only when it is clearly morally called for. Sometimes, a little embarrassment from answering a tactless question honestly is not so bad, and sometimes the truth will actually teach the person a lesson. Sometimes the insult to the tactless person (some of whom may have problems) of refusing to answer itself compromises *shalom*. There are far too many circumstances and factors to address in a general presentation. However, the basic conclusion is that a “white lie” to protect one’s own dignity is often permitted, but, on the other hand, should be weighed carefully.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.

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Ein Ayah

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

The Right Way to Prepare for a Big Day

(condensed from Ein Ayah, Shabbat 9:22-23)

Gemara: [We are still learning about the timing of events from the arrival at Sinai until the giving of the Torah.] On Sunday, the month [of Sivan] was set, but Hashem did not tell them anything because they were tired from the journey. On Monday, He said to them: “You shall be for Me a kingdom of priests” (Shemot 19:6).

Ein Ayah: The highest level of sanctity is the expression of complete life to its fullest degree. Tiredness, similar to sadness, disturbs the lofty and pure expansion of sanctity. Particularly lofty thoughts and deep feelings, which cannot be held back within boundaries, cannot expand with full impact when one’s spirit is tired. Being tired and weary strengthens the “teeth” of the spiritual Amalek, which does not fear Hashem (based on Devarim 25:18).

It is better for impactful, sacred events to be delayed slightly until the tired regain strength and the weak say, “I am strong now.” One should feel his power, starting with the power of the flesh and blood, upon which the strength of the spirit and the soul can rest.

During the time of weakness, an event’s imprint may provide a false message, making people believe that Hashem prefers weakness and life without initiative. Therefore, one should wait until the point that the strength of the body and spirit return to their secure path. Then, the spiritual event will be received like raindrops on grass on the blessed “young vegetation.” For this reason, during the first day of the week, which is clouded by weakness, Hashem did not say anything to the people because of their weariness from the road.

By the time Monday came, the people were ready to receive the promise of *segula* (a special status as a unique nation). This crucial status of *segula*, which was a basic goal of the emerging nation, was ready to be bestowed when the preparations were complete. However, even before this happened, the potential for *segula* already existed. Therefore, already on Monday, before all the steps that the nation took [to prepare for the receiving of the Torah] to be ready for the great light and when they took control of life, the proclamation of the nation’s imminent *segula* status was already announced.

The goal of the *segula* and lofty sanctity found expression on the national level, first and foremost, as the *pasuk* says: “You shall be for Me a kingdom of priests.” This means that they should be teachers and special guides for the whole world. This requires them to be holy in their external and internal lives, both on an individual and a national level. They would reach the greatest of these statuses only at a later time, and Hashem’s providence focuses upon guiding the world until it He has led it to that point. The final actuality is rooted in the initial thought, even though in order to realize it, one has to traverse complex roads. Both positive and negative preparatory experiences are needed to bring it about.

Dispute and *gehinom* (purgatory) were created on the second day (Bereishit Rabba 4:6). These are two rungs upon which one has to tread in order to make it to the summit of the goal. But “Hashem’s word shall stand forever” (Yeshayahu 40:8). Before we even performed the matters of preparation and action, we were already promised what would happen at the End of Days. The potential for these spiritual attainments were the *segulot* that were there from the outset. “You shall be for Me a kingdom of priests” was said on Monday.



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 II

(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 demanded a return of some of the money already paid. Def is countersuing with the claim that pl did not do enough to maximize profits, and he only agreed to a low salary because he was promised a percentage of the income. 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: Last time we saw that pl does not have sufficient grounds to withhold def's fee.

The contract states that def will receive 4% of the funds that are raised through the "ma'arechet" (system). If there is a doubt whether this refers to the internet site or to their income producing system in general, the benefit of the doubt goes to pl for a few reasons: 1. The one who wants to use a document to produce rights has to prove that they are included in the document (Shulchan Aruch, CM 42:8). 2. We sometimes apply the idea that the one who wrote the document (in this case, def) is held accountable for lack of clarity, for he had reason to spell out his rights clearly. 3. Elsewhere in the document, "ma'arechet" refers to the internet site.

Even though pl used the promise of a percentage of profits to justify def's low base salary, def has a right to influence how pl will have to work in producing profits only if he has the status of a partner. In this case, def was hired as a consultant, did not invest any money in the operation, and was not granted decision-making power. Therefore, there are no signs of partnership, and def cannot sue for pl's lack of profit production.

Def is also not entitled to compensation for late payment. Since there was a valid question as to whether def had his full salary coming to him, it was legitimate for pl to withhold payment until this point was clarified.

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