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PARASHAT HASHAVUA

Kedoshim, 26 Nissan 5774

Holy and Separate

Harav Shaul Yisraeli – based on Siach Shaul, p. 335

“You shall be holy” (Vayikra 19:2) – you shall separate yourselves (Sifra, Kedoshim 1). Sanctity requires separation; it does not come from nature itself. This goal is the essence of Judaism. Our aspiration to reach the greatest heights does not include an outlook of ignoring reality and does not cover up that which exists. Rather, we are to try to “uproot the weeds” that are damaging before the time comes to “plant the saplings of blessing.”

Israel said “We will do and hear” and also experienced the mountain hung over their heads. There is no contradiction between the two. Both powers exist in man: the natural good side with special inborn qualities; and the side which is corrupt and caustic. Along with the good action that Israel performed (accepting the Torah enthusiastically), they also needed to accept upon themselves the element of “stay away from evil,” the uprooting of the weeds. They could not ignore them or cover them up but had to hang a mountain above them to force them to do that which was incumbent upon them. Only when that was done was it possible for the positive action of saying “We will do and hear” to have its true positive impact.

Therefore, every generation must reaccept the Torah. For that reason every year there must be a reacceptance of the Torah, and every day it should be to one as new.

The refinement of one’s personal nature must come through man, and doing so for himself brings along an improvement in all of nature. All the world, as we know it, depends upon man – it is elevated when man elevates himself, and it is lowered when man lowers himself. “If not for My covenant, day and night, the rules of the heavens and the earth I would not have installed” (Yirmiya 33:25). If you do not accept the Torah, the corruption of nature will multiply and magnify, and you will be “buried alive” from a moral perspective.

We now also understand the statement of the *mishna* in Kiddushin (4:14): “Neither poverty nor affluence is a result of one’s profession; rather everything depends on one’s merits.” This is difficult, asks Tosafot (Kiddushin 82a), as the *gemara* (Moed Katan 28a) says that children, life, and livelihood are not based on merit but based on *mazal* (predetermined fate). On the other hand, there is no *mazal* for Israel (Shabbat 156a).

The explanation is that *mazal* is a combination of natural causes. However, there is also a possibility of going beyond natural factors, and this happens if one realizes that riches and poverty do not come from one’s profession. While things such as children, life, and sustenance depend on *mazal*, merit can change the *mazal*. This is because when one fixes nature, then *mazal*, which is a foundation of “blind nature” within the world, is also changed and fixed.

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Ask the Rabbi

by Rav Daniel Mann

Counting Sefira with a Beracha When One Expects to Miss a Day

Question: I rarely succeed in counting all 49 days of *sefirat ha'omer*. Considering that I seem to always discontinue making a *beracha* at some point, should I refrain from making one from the outset?

Answer: Your idea to not say the *beracha* from the outset is based on the thesis that *sefirat ha'omer* is one long "all-or-nothing" *mitzva*; i.e., if you miss a day, you will not have fulfilled any *mitzva*, retroactively rendering your *berachot l'vatala*. We will build up this reasonable conclusion (before rejecting it).

Tosafot (Ketubot 72a) asks why a *zava* does not make a *beracha* upon counting seven days toward purification and answers that it is because "if she sees, the count will be undone." In contrast, regarding *sefirat ha'omer* and *beit din's* counting of 50 years toward *yovel*, there is nothing to stop the count. Some *Acharonim* infer from this that it is forbidden to make a *beracha* on a *mitzva* when there is real concern it will later turn out that it was irrelevant. In our context, the Chida (Avodat Hakodesh, Moreh B'etzba 217) warns people to take precautions not to forget a day of *sefira*, for if they do, their *berachot* will retroactively be *l'vatala*.

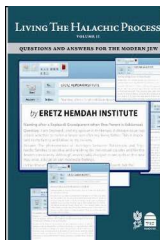
Nevertheless, there are several reasons to allow counting with a *beracha* until one misses, even if we were certain he will be unable to finish with a *beracha*. (B'tzel Hachochma V:45 discusses a man who was told he had only a few days to live; Shraga Hameir VI:31 discusses someone scheduled for surgery that would incapacitate him for an entire day.) First, we note that the ruling that one cannot continue with a *beracha* after missing a day (the Behag's opinion) is far from unanimous (see Tur, Orach Chayim 489). The Shulchan Aruch (OC 489:8) accepts it only out of doubt and says that if one is not sure if he missed a day, he should continue with a *beracha* due to a double doubt (maybe he didn't miss; maybe it does not disqualify the *mitzva*- Mishna Berura 489:38).

Second, even if one may not continue with a *beracha*, it does not necessarily mean the count was worthless. While some explain this approach as positing that the 49 countings constitute a single *mitzva*, this may be an overstatement. One indication (not a proof) is the fact that we make a *berachot* 49 times. Rav Soloveitchik (Mesorah, ed. III, p. 35) explains that the Behag agrees there is a *mitzva* every day, just that the counting must be consecutive in order to fulfill the *mitzva*. Therefore the *mitzva* ceases to be operative only after one misses a day.

Third, the Rav Pealim (III, OC 32) suggest that the fact that we recite the *beracha* on *sefirat haomer* without an assurance we will succeed in completing the *mitzva* shows that the value of a partial fulfillment of a *mitzva* prevents the *berachot* from being retroactively *l'vatala*. Why then does Tosafot say that concern of non-completion precludes a *beracha* on a *zava's* count? Some say the Behag does not agree with Tosafot. Some distinguish between a nominal value of a partial *sefirat ha'omer* as opposed to no value for a suspended count for a *zava*. Still others say that a future problem does not retroactively invalidate *berachot*, and Tosafot was only explaining that the Rabbis chose not to institute a *beracha* for a *mitzva* that lends itself to suspension (see discussion in Yabia Omer I, YD 21).

There are also philosophical arguments to reject consideration of the assumptions in almost all scenarios. How can one decide he will not survive to the end of the count or when surgery will incapacitate him? Certainly, how can one not recite the *beracha* in which the Rabbis obligated him if nothing prevents from success (especially if he can adopt practices, e.g., davening with a *minyan* every night, that mitigate the concern)?

Practically, there is a clear consensus among *poskim* and in *minhag* for men (see Mishna Berura 489:3) to start saying *sefirat haomer* with a *beracha*. Even the Chida, the most prominent apparent naysayer, did not write to start without a *beracha*; he just warned not to miss a day (see B'tzel Hachochma *ibid.* who distinguishes).



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Ein Ayah

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

Proudly Not Cosmopolitan

(condensed from Ein Ayah, Bikurim 9:27)

Mishna: How would they bring the *bikurim* (first fruit) to Yerushalayim? All of the towns in a *ma'amad* region (where pious people would come together in a rotation to say special prayers and be the representatives of the populace of the country in relation to the service in the Temple) would go to the town of the *ma'amad* and sleep in the town square and not enter houses. To those who woke up early, the appointed person would say: "Let us rise and go up to Zion, to the house of Hashem, our G-d."

Ein Ayah: It is accepted among the nations that a nation whose activity is all focused around agriculture and is not involved in commerce and the connected field of industry will lower its level of social development. Agriculture breeds isolationism, which prevents the society from absorbing the new spirit, knowledge, and attributes from other nations.

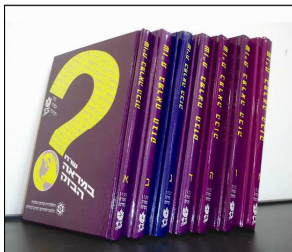
However, Israel is intended to be the Nation of Hashem. It is supposed to be a wise nation (see Devarim 4:5), with the most developed and pure knowledge and intellect. On the other hand, Hashem wanted them to be entrenched in their Land, enjoying its bounty, and uninterested in pursuing livelihood beyond it, as the latter causes the people of a nation to be spread among various nations for the purpose of commercial dealings. Hashem gave Israel the power to improve its intellectual/cultural level from within.

For other nations, commerce fosters social cohesiveness, as merchants have to interconnect to succeed. Farmers are less in need of cohesiveness on pragmatic grounds. It is appropriate that the connection that there is between the people of Israel should be based on spiritual cohesiveness that is unrelated to personal gain. They are to be united in love of Hashem and His Torah, which is based on an internal national connection.

Bikurim represent this idea of the nation's special love for agriculture and the notion that our culture improves specifically when we are nationally insular and united in spiritual joint activity. That is why specifically as part of the *bikurim* procedure, people would join together from a whole region into the town of the *ma'amad*, unlike the other nations who come together in commercial centers. They slept in the square to show their love of nature and the related working in the fields. They stayed away from houses where being under one roof causes the spread of impurity, which impedes pure natural life. Fortunate is the nation that chooses a life of natural purity, avoiding a fall into primitive life and embracing wisdom and culture, all of whose elements are to be found within its own society. The people just need to concentrate on developing these holy capabilities without searching in "foreign vineyards."

This is why the appointee announced the journey to the house of our G-d. The nations refer to the *Beit Hamikdash* as a mountain (see Yeshaya 2:3), as did Avraham (see Bereishit 22:14). This refers to the light of Israel that is open for the nations to see raised before them. However, Yaakov referred to the holy site as a house (Bereishit 28:19), for by his time, the Jews had already entered the period in which they were unique and separate from the nations. Therefore, Zion was the "house of Hashem," defined by walls and protected from those without. No foreign influence should get in and impact on our culture. Our complete Torah is fully capable of making us a lofty nation and giving us the ability to possess every form of wisdom. Foreign cultural domination corrupts Israel, as we know from experience.

The nations will recognize the Divine Spirit that engulfs Israel and will absorb some of it, turning the *Mikdash* into a mountain. However, when we discuss *bikurim*, which celebrates the isolationist and internally focused element of Israel, we take a different approach. We see Zion as the place where Hashem revealed Himself to make an imprint upon us of a life of holy actions, wisdom, and good attributes. Then we can focus on a connection with our compatriots based on spiritual enrichment rather than material benefit. In this context, we must give to other nations and not receive from them. For these spiritual gains we go up to Yerushalayim, to the house of Hashem.



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P'ninat Mishpat

A Donation That "Destroys" a Shul

(based around Shut Maharam Padova 65)

[Reuven owned/ran a small shul in his house. As he was on his deathbed, he wrote a will that stated that after his death, all the shul's furniture should be transferred to the big shul in town. After his death, his inheritors (not children, as he had none) said that they want to continue operating the shul and that giving away all the furniture will effectively close down the shul. There is reason to believe that had Reuven known that the shul was going to continue to exist, he would not have made the provision to donate the furniture to the big shul, especially because it is forbidden to uproot a shul. There is also one witness, based on whose testimony the inheritors would retain rights to the furniture.]

It is difficult to dismiss the will based on the assumption that it is forbidden to uproot things from a *shul*, since it is not clear that this applies to removing movable objects and because not everyone is aware of the halacha that it is forbidden to do so. Regarding the assumption that his foremost interest was the future of his own *shul*, if it could be preserved, that is not necessarily correct. It is possible that Reuven thought that it is a bigger *mitzva* or a better memorial for him (considering he died without children) to leave his *shul* furniture in the main *shul*.

However, the existence of the witness is significant. It is not a simple question whether the big *shul*, which is the recipient of the will, or the halachic inheritors are considered *muchzakim* (in possession until proven otherwise). If the inheritors are *muchzakim*, then with the one witness, they prevail without the need for an oath. Since a witness creates the obligation of an oath on a defendant, it is certainly able to come in lieu of an oath to exempt the defendant, who is *muchzak*, from an oath. If the big *shul* is *muchzak*, then the witness only obligates them to swear, and in this case, they are exempt from swearing because they are not expected to know what Reuven's intention was. However, it seems clear that the will does not turn the big *shul* into a *muchzak*. Since property is always assumed to go to its inheritor until proven otherwise, it would seem that the inheritors are *muchzakim*.

It is also possible that Reuven was not even considered the owner of the *shul* furniture, but that it belonged to *tzedaka*, and Reuven's rights to control the property are not the type of thing that can be transferred to an inheritor or given to the big *shul* after his death. If that is the case, which is probable, then the furniture would stay where it is in the small *shul*.

Another claim to nullify the will's validity is that it was done only through the non-Jewish courts and without a proper *kinyan*. If, as you said, Reuven was a *shchiv meira* (on his deathbed) and the document includes mention of death, then it works according to the special rules of *matnat shchiv meira* and is effective even if done only in the non-Jewish courts.



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