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HEMDAT YAMIM

חמדת ימים

Parashat HaShavua

Miketz, 1 Tevet 5776

Years of Sheva and Sava

Harav Yosef Carmel

Hundreds of years before Bnei Yisrael received the Torah on Mt. Sinai, including the laws of *Shemitta*, the story of Yosef and Paroh's dream, which is told in *Parashat Miketz* (which is always read on Chanuka), occurred. We will try to find the connection between all of these matters.

The word *sheva* (seven) has an extremely prominent place in Paroh's dreams. There were two sets of seven cows and two sets of seven stalks. Each time, one set looked healthy and the other looked weak (Bereishit 41:2-7). In Yosef's interpretation of the dream (ibid. 26-30), the seven objects turn into seven years. Additionally, the same letters are used for another word – *sava* (plenty). The Egyptians had the ability to survive the subsequent years of famine and turn them into *sava*, by selling their supplies at great profit. However, this depended on their readiness to believe and act on Yosef's instructions, which were introduced by Yosef's invoking Hashem's Name before Paroh.

Rav Kook, in his sermons, explained in great depth, the connection between the dispute between Yosef and his brothers and the miracle of Chanuka. We will just mention the part of his thesis that is connected to the "seventh year."

Every seven years, Bnei Yisrael are commanded to believe in Hashem that the flow of blessing that was given in the sixth year will suffice for the following, seventh year (*shnat hashveva*). Furthermore, the concepts of *sava* and lacking take on different significance in the year of *sheva*. The extra involvement in spirituality during this year corresponds to such involvement during the seventh day of the week. The willingness to relinquish the profits of that day serves as a proclamation of a different set of priorities, in which the pinnacle is spiritual values rather than stocks and commodities. In order for the laws of *Shemitta* to exist on the level of Torah law, Bnei Yisrael have to be inhabiting their Land according to their tribal plots. In other words, a condition for this high level is internal peace, responsibility of one for the other, and inter-fraternal tranquility.

Mazal tov to Shemaya Yehuda Heller on the occasion of his bar mitzvah.
Mazal tov also to his parents, Rabbi Ari and Aviva Heller
and grandparents, George & Riki Freudenstein (proofreader of Hemdat Yamim)



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Ask the Rabbi

by Rav Daniel Mann

Lighting Chanuka Lights at a Chanuka Party

Question: It is popular to light Chanuka candles in public gatherings. My extended family (about 40 people) will be getting together on a night of Chanuka in a small hall. Should/can we light with a *beracha*? (We expect all to have already lit at home.)

Answer: Chanuka candle lighting is tied to specific places to light, primarily a house that relates to the person (Shulchan Aruch, Orach Chayim 671:5-8). There is a precedent for public fulfillment of the *mitzva*, with a *beracha* – in a *beit kneset* (ibid. 7). We can gain insight from the discussion of this post-Talmudic practice, which has two parts: Why was it started? What is the justification for making a *beracha*?


The Beit Yosef (OC 671) cites a few reasons for the *minhag*. 1) The lighting is due to guests who lack a home to light in, similar to *Kiddush in shul*. 2) That public setting is appropriate for *pirsumei nisa* (publicizing the miracle). 3) It compensates for the fact that we no longer light outside (i.e., publicly) as was originally instituted (see Rivash 111). In the Shulchan Aruch, he cites *pirsumei nisa* without further explanation. 4) Some explain that a *beit kneset*, as a “mini-*mikdash*,” has special significance for commemorating a *Beit Hamikdash* miracle (see Kolbo 44).

Reasons #1 and #4 are linked to a *beit kneset*, whereas #2 and #3, which the Shulchan Aruch seems to accept, could arguably be applied to any large gathering (a *minyan* being a likely minimum - see Bemareh Habazak IV:64, regarding lighting in a *shul* without a *minyan*). We have never heard talk of a requirement to light out of the house, nor of real objections to lighting without a *beracha*. Therefore, the question boils down to whether the case for lighting in a public place is strong enough and/or similar enough to the *minhag* in a *shul* to justify a *beracha*.

The question of how one can make a *beracha* in *shul* without a Talmudic source is acute for the Shulchan Aruch who does not allow *berachot* for post-Talmudic *minhagim*, e.g., Hallel on Rosh Chodesh (OC 422:2). Rav O. Yosef (Yabia Omer VII, OC 57) presents several ideas. 1) A *minhag* that extends an existing *mitzva* receives a *beracha* (i.e., Hallel on *seder* night). 2) An important *minhag* justifies a *beracha*. 3) A *minhag* that was instituted by rabbis to strengthen observance has a *beracha*, whereas a grass-roots *minhag* does not.

Most contemporary *poskim* oppose making a *beracha* on Chanuka lighting in public places that are not *shuls* (see several quoted in Yabia Omer *ibid.*). Yet, some important *poskim* either encourage it or at least support the growing practice's validity *post facto*. Rav Ovadia says that those who do it have what to rely upon, basing himself on the enthusiasm of Rav Rozental (Mishnat Yaakov, Zemanim p. 260 about settings in which there is better *pirsumei nisa* than in *shuls*). Az Nidberu (V:37) also feels it is the right thing, at least when it is in an outdoor, very public location. *Davening Mincha/Maa'riv* there strengthens the case (see Yalkut Yosef, Moadim p. 204).

Our analysis leads to the following compromise. One of the Kolbo's (*ibid.*) reasons for the practice in *shul* is that it helps those who do not know or do not care enough about the *mitzva* to do it properly. This is very relevant for a large part of the Jewish community, in Israel and abroad. Not only does involving them in an authentic lighting (i.e., *berachot* sung traditionally, albeit not by one's home) is not only generally important but is specifically in line with the *pirsumei nisa* that is so prominently part of this *mitzva*. Therefore, broad public lightings are important, with a *beracha*. There are both technical (Rav E. Melamed makes one such claim) and educational preferences to having one who does not usually perform *mitzvot* but respects them perform the lighting (sometimes an inspiring rabbi is a better idea). In your case, there is little need to light. All light at home; it is a private gathering in a private place (even if you don't fit in a house). So even if there is a *minyan*, we do not believe a *beracha* is justified.



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The Light of the Soul Surviving Through History

(condensed from Ein Ayah, Shabbat 2:12)

Gemara: When the Household of the Chashmonaim defeated [the Greeks], they checked and found only one flask with a seal of the *Kohen Gadol*, and there was only enough to light for one day. A miracle occurred with it, and they lit from it for seven days.

Ein Ayah: The contamination of the oil represents the harming of the characteristics and philosophies, the most extreme calamity that affected the essence of the Jewish nation, which befell it when the Greeks ruled. The Greeks weakened the belief in such basics as the unity of Hashem. However, just as a *kohen's* status indicates that he is to teach the laws of the Torah and sanctity to the nation, so too every Jew has an element of *kehuna* within him, as a member of the "kingdom of priests." The inclination for a life of sanctity, Torah knowledge, and its fulfillment is hidden in the depths of the Jewish heart. We have explained that the idea behind the owner eating *ma'aser sheni* in holy surroundings is the idea of inspiring every Jew to find his soul's priestly element.

The element of *kehuna* that encompasses a Jew's activities throughout life was susceptible to being defiled by the Greeks. However, deeper in the heart dwells the light of the Jewish soul, which connects to the basic belief in Hashem, the G-d of Israel, and the strong desire to cling to the vestiges of his religion despite all pressure. This sacred part of the Jewish soul is parallel to the *Kohen Gadol's* entrance into the Holy of Holies to serve on the holy day on which we are separated from the physical world. That small flask with the *Kohen Gadol's* seal was impervious to Greek impurity. In other words, the most powerful men could not uproot from Israel their inner connection to Hashem, as is written (Shir Hashirim 8:7): "Great waters could not extinguish the love, and rivers could not wash it away."

However, when the flask is small, i.e., when the belief is hidden well and does not exhibit its existence in regard to one's practical life, it is difficult for it to survive. After all, life has gone in a direction that is contradictory to this belief. Thus, the flame could be extinguished under the pile of burnt out materials that prevent it from spreading. This is the wonder of the special concealed light. Even when it encounters a lifestyle and philosophies that are antithetical to it and the person is unaware of the light within him, it is not extinguished. Hashem will arrange a reawakening of the nation that He chose and the spark will lead a process that will uproot the foreign influences that threatened to choke and extinguish it. The growing flame will spread among the hearts of Bnei Yisrael and return them to their Father in Heaven. This will prevail until the powers of practical life, which already are following a Torah lifestyle, will revive Israel and return the people's light until the present era ends and a new light will shine over Zion, through the *geula shleima*.

At the time of the great confusion caused by the Greeks, whose lifestyle spread throughout *Eretz Yisrael*, leaving just a spark deep in the hearts of Israel, the flask of oil characterized the situation. Indeed, there was oil that survived, pure with the *kohen gadol's* seal. The question was whether that oil would be able to provide light, when it was not supported by enough other oil, i.e., proper Jewish lifestyles. Ostensibly the oil could only last for one day, i.e., for the direct period in which the reawakening had occurred. Without a connection to practical observance, it would certainly die down. However, there was a miracle, and the light of belief in Hashem did not leave His people. Even without preparation for strong observance, it lasted for eight days. This hints at the long period until that future day when knowledge of Hashem will fill the world like the waters cover the ocean bed (see Yeshaya 11:9).

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P'ninat Mishpat

Miketz

How Do Time-Share Partners Deal with Damage to Property?

(based on Shut Chatam Sofer, Choshen Mishpat 179)

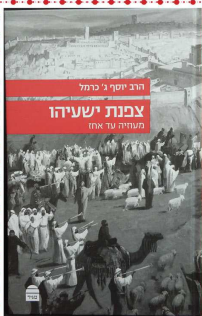
Case: Reuven and Shimon jointly owned a house with an upper level and a lower level. They divided their rights in such a way that they switched use of levels every two years. A fire has made the upper level unusable. Who has to pay for the losses caused by the fire?

Ruling: The *gemara* discusses in several places the situation of a partnership that turns into “time-sharing.” One (Bava Batra 13a) is about brothers who inherited a servant or a non-kosher animal (they both cannot be divided physically). If one brother is the firstborn, he gets to use the inherited matter two days per every day of the other brother. The Ri Migash learns from this that whenever it is not possible or not desired to divide the property or to offer that one should buy it and reimburse the other one, the division is based on time-sharing.

The agreement to share time is a full-fledged division of the property and, once implemented, it is considered a *kinyan* (an enforceable transaction). According to the opinions that there is *bereira* (retroactive determination), after they split it up, it is considered as if these were always the mutual rights. According to the opinion that there is no *bereira*, it is considered that they sold each other their equal ownership rights in a manner that created time-based rights of *peiros* (practical ownership), even as they maintain equal fundamental ownership (*kinyan haguf*). The Ran says that one is able to transfer rights to a property for a certain amount of time, and during the time of each, it is his, along the lines of one who receives something with the stipulation of “my property goes to you, followed by someone else.”

The *gemara* (Gittin 42a) says that if a person with the status of half servant/half free man was damaged, if it occurred on a day when he works for himself, he receives the money, and if on a day in which he works for his master, the master receives it. In contrast, if he was killed, so that there is total loss, the special payment is split between his inheritors and his master, regardless of what day this occurred.

Let us apply these principles to our case. Regarding the state of the ownership and refurbishing of the house, which is a matter that is classified as “total loss,” we look at Reuven and Shimon as partners and say that they have to join together to pay for damages. Regarding the temporary division of time to use the house, everyone loses according to the time that was theirs. In other words, they keep to their schedule of time-sharing, even if one will lose more time than the other. This is simple, even though it contradicts the S'ma, who raises theories as to assumptions between parties who exchange objects for time.



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