

# HEMDAT YAMIM

PARASHAT R'EI

29 AV 5768

*This week.....*

- **Ending Things Off Right- A Glimpse from the Parasha**
- **One in a Wheelchair Serving as Chazan - Ask the Rabbi**
- **Hashem's Preferences in Performing Miracles, What Happens Spiritually During Sleep - from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l**
- **Workers Who Missed Work Due to Illness – part II (Harav Akiva Kahana)- from the world of Jewish Jurisprudence**

Hemdat Yamim of this week is dedicated in memory of **Yitzchak Eizik Ben Yehuda Leib a"h**, whose Yahrzeit is the 29th of Av as well as

**R' Meir ben Yechezkel Shraga Brachfeld**

o.b.m

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## Ending Things Off Right

Among the *mitzvot* discussed in our *parasha* is one that is soon to apply (albeit, rabbinically): the releasing of debts at the end of *Shemitta*. "At the end of seven years shall you make a *shemitta*" (Devarim 15:1). What is the connection between this element of *Shemitta* and those we know better?

This *mitzva* fits in well with *Shemitta's* element of social justice and "leveling the playing field." Just as all share the fruit that grows that year, so too the creditors can no longer hang the loans over the poor borrowers' heads. However, the Sifrei learns from our *pasuk* that the *shemitta* of loans takes place only at the *Shemitta* year's end. Wouldn't we expect the social justice to be felt during the year? Why is the impact here only after *Shemitta* is completed? The Rosh (Gittin 4:18) does say that during *Shemitta* a creditor cannot demand payment, and at the end of the year the debt is permanently absolved. However, almost all authorities say that one can collect loans normally during *Shemitta*. So what is the logic of the timing?

One possibility is that, in this way, the poor are also challenged by the *mitzvot* of *Shemitta*. The poor are likely not to own agricultural land, in regard to which Jews are so challengingly affected during *Shemitta*. In fact, a poor man gains from *Shemitta*, as he can partake for free of fruit of another's field. He might have the idea, with a creditor pressuring him during the final year of loan payment, to use the *Shemitta* fields to pay off debts. The Torah says, "No." He can use the produce only for consumption and not for paying off debt (Avoda Zara 62a; Rambam, Shemittin 6:10).

An additional possibility connects us with another *mitzva* that is chronologically connected to *Shemitta* in an uncertain manner: *hakhel* (the *mitzva* for the entire nation to gather on the Sukkot following *Shemitta* to read from the Torah). The Ramban speaks at length about deriving the time of one from the other. Let us connect them philosophically, as well. *Shemitta* is a time of sharing resources within society. At the end of the year the status of creditor and borrower is erased. As these lessons are fresh and the feeling of hope and equality is in the air, the time has come to channel the feelings in a further positive direction. All join together for *hakhel* as equals before Hashem: equal in rights and in responsibilities to their Maker. If the borrower was noble and fortunate, he succeeded in the previous year (in a permitted manner) to clean the slate by paying his creditor before the Torah cleaned the slate. In any case, by the time the giving of the Torah was relived at *hakhel*, the excuses of the poor for why they may not be able to "pay their debts" to Hashem were removed.

As our hopefully successful *Shemitta* experience winds down, we should try to be full of resolve to use our resources and abilities to implement the Torah fully in national unity.

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**Question:** Is a person in a wheelchair allowed to be a *chazan*?

**Answer:** There are two main issues to discuss in this regard.

The Magen Avraham (53:8), in discussing the qualification of a person to be a *chazan*, cites the Maharshal who says that one who is a *ba'al mum* (one who has a physical blemish) is qualified to serve as a *chazan*. However, the Magen Avraham cites the Zohar as saying that a *ba'al mum* should not serve as a *chazan*, and the Magen Avraham relates to this the concept that one would not make a presentation before a king in a manner that looks blemished. He compares the situation to the prohibition of a *kohen* who is a *ba'al mum* doing service in the *Beit Hamikdash*. We note that in that context, even if the blemish is a passing one, he may not serve (Rambam, Bi'at Hamikdash 6:1). As far as accepted halacha, the Mishna Berura (53:13) prefers the opinion that a *ba'al mum* may serve as a *chazan*, saying only that it might be preferable if someone else can do so (see also *Ishei Yisrael* 14:6).

An important distinction likely applies. The Binyan Tzion (5) points out that the Shulchan Aruch (Orach Chayim 53:14) allows a blind person to be a *chazan*, even though he is certainly a *ba'al mum*. He says that the Magen Avraham was likely talking about appointing a permanent *chazan*, whereas the Shulchan Aruch was discussing having a blind man daven occasionally. (This distinction runs through a large part of the laws of a *chazan*.)

Another issue is that one is required to stand during significant sections of *tefilla*, most prominently, *Shemoneh Esrei* (Shulchan Aruch, OC 94:4). The halacha is that one who is incapable at the moment to stand can *daven* seated (*ibid.*). One can look at it in two manners. One is that this is not an ideal *tefilla* but that *davening* seated is better than not *davening* at all. The other possibility is that since the issue is to act in a manner that shows and/or contributes to standing in awe before Hashem (see Taz, OC 94:4), one who is doing his best is fine in this regard (Rav Batzri, Techumin, vol. IV). According to the second approach, the fact that the one who is *davening* on behalf of the congregation is doing his best means that there is no problem for the community even though they could have found a *chazan* who could have stood (*ibid.*).

The Rambam (Megilla 2:7) says that one can read Megillat Esther seated but should not do so when reading for the public because of their honor (*k'vod hatzibbur*). Rav Batzri (*ibid.*) says that in our case also, the congregation has the right to say that it is beneath their dignity to have a *chazan* who is not able to stand, as is normal and preferred. However, he says that they would be sinning if they took such a stand toward someone whose feeling they should have compassion, as Hashem does.

Let us now translate the halachic indications into general instructions. If one has been injured and will be in a wheelchair for a matter of weeks or months, he and the *gabbaim* would probably do well to wait until he recuperates to return him into the rotation of *chazanim*. Although physical impediments, such as getting a *sefer Torah* to and from the *bimah*, can be easily overcome, the preferences we have seen above and the regrettable possibility that people may stare or comment make it better to wait for a more opportune time. On the other hand, if a *yahrtzeit* or *aveilut* comes up they should not be excluded when halacha allows them to be *chazan*. If they are permanently (or for a long time) in need of a wheelchair, people should get used to including them in all activities that make them feel included in a normal life, as their personalities demand and halacha allows. They should be allowed to be *chazanim* under these circumstances, certainly, as is almost always the case, when we are talking about one who is not a full-time *chazan* (or was previously appointed as *chazan*- see *Ishei Yisrael*, *ibid.*).

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# Ein Ayah

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

## 1. Hashem's Preferences in Performing Miracles (based on Berachot 1:38)

**Gemara:** [The gemara tells how Rav Huna was punished for a mildly improper business dealing, when 400 barrels of his wine turned into vinegar. After he repented and rectified the situation, he was rewarded.] "There are those who say that the vinegar returned to being wine. There are those who say that the price of vinegar rose to be the same as the price of wine."

**Ein Ayah:** It is simple that Hashem does not perform miracles without a need because Hashem wants nature to continue to operate. Therefore when there is a need for a miracle on behalf of one who fears Hashem, it is best if the miracle can be kept as small as possible. [The two opinions in the *gemara*] differ how it is best to limit the miracle. Is it better to reduce the miracle qualitatively even though that will cause a need to increase it quantitatively, or is it preferable to reduce it quantitatively in a manner that it will have to be increased qualitatively?

Certainly [of the two possibilities raised in the *gemara*] returning the vinegar to wine is a qualitatively greater miracle, as it is not at all within the framework of nature. However, it is small in quantitative scope as it does not extend beyond the righteous man's 400 barrels of vinegar in question. In contrast, the rise in the price of vinegar to that of wine is a qualitatively small miracle, as it follows the path of nature. However, it is a big miracle quantitatively as it had to spread to many matters until the price of vinegar becomes as that of wine. The second opinion believed that it is better to limit the miracle qualitatively even though it makes the miracle greater as far as quantity is concerned.

## 2. What Happens Spiritually During Sleep? (based on Berachot 1:39)

**Gemara:** It is stated in a *baraita*: Abba Binyamin said: I went to great trouble throughout my life to ... [The first is that] I would pray soon before going to sleep.

**Ein Ayah:** [The significance of the matter is based on the following.] When a person sleeps he is steeped in physicality because the intellectual side of his desires leaves him, and only the *ko'ach hemedameh* (roughly, the imagination) functions. Therefore, a spirit of impurity dwells on his body to the extent that he has to remove it by washing his hands. Even though it is possible for those on a level of *sheleimut* (completeness) to maintain their intellectual side and reach very great attainments during sleep, as is known to have happened to many holy people who merited this, that is only from the side of the soul. However, the soul does not impact on the body during the time of sleep.

Now the difference between the way the Torah works and the way *tefilla* works on a person is as follows. The Torah elevates a person's intellect and the body becomes purified by itself as a result. However, the main element of *tefilla* is to elevate the *ko'ach hamedameh*, which is the power of the body, and it is set up so that it can elevate the desire of the body for holy and lofty matters. Therefore, it is fitting that one should desire that one's *tefilla* will be as chronologically close as possible to going to sleep. This is because it allows the *tefilla* to fix that which is missing in the body from the perspective of the nature of sleep. Since the main part of *tefilla* is to fix the holiness of the body, it is therefore called "temporary life" [as one's body is of fleeting existence.]

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# P'ninat Mishpat

## Workers Who Missed Work Due to Illness – part II (Harav Akiva Kahana)

(based on Halacha Psuka, vol. 42)

[Last time we saw that while all agree that an *eved ivri* who was sick for up to three years does not have to make up time missed, a *machloket Rishonim* exists regarding a regular worker who is paid for a certain amount of time and missed a significant part of it due to illness. The *Tashbetz* distinguished between one who works for a long time, in which case, the employer has to expect some illness, to which he apparently relinquishes his claims if he did not stipulate, and a short-term worker.]

Everything we have discussed to this point is according to the halacha as set down in the *gemara*. However, even the *Tashbetz* would agree that the matter is affected in our time and place (Israel) by the corresponding legislation on the matter, i.e., The Law of the Payment for Illness. Unless we know otherwise, we can assume that one who hires a worker has in mind to follow the law of the land in this regard and, therefore, he would be required to pay for sick days as the law subscribes, or alternatively as it is customary in a certain place of work. However, in a place where there is apparently no clear practice, it is logical that the parties should follow the law as set down in the Torah sources. The *Rosh* would presumably agree that when one works in a structured place of work that usually gives sick days, the situation would be one where the employer and employee obligated themselves in this regard as is written in the law or as is customary.

A significant matter of halacha arises in a case where the employer paid in advance. The *Rama* (*Choshen Mishpat* 333:5) says that if the employer paid the worker in advance he cannot reduce the salary and thereby demand the worker to return some of the salary. *Rav Binyamin Rabinowitz* (*Hatorah V'hamedinah* IX) explains that the difference of whether or not there was advance payment stems from it being a sign of a different type of business agreement. When he pays in advance, it is as if he obtained the body of the worker, making him similar to an *eved ivri*. Regarding an *eved*, the employer is the one who is impacted by the inability of his "property" to be productive. Therefore, if he became ill, the employer cannot demand back his salary. In contrast, when the employer pays after the work is done, the worker's body is not in any manner considered acquired. Then even if he was already been paid in full (after the work), the employer can demand back that which he mistakenly paid corresponding to time that the worker did not work due to illness.

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