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HEMDAT YAMIM

Parashat HaShavua

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The Rambam, Rav Yisraeli, *Bentching*, and *Aliya*

Rav Daniel Mann

Yes, the title will make sense by the end of this discussion ... and it will even be connected to the *parasha*. The Ramban famously explains why there is a *mitzva* from the Torah to acquire land and live in *Eretz Yisrael*. He does it in his work on the Rambam's Sefer Hamitzvot, in noting *mitzvot* that the Rambam "forgot" to list. The big question is why the Rambam did not agree with the Ramban's sources that there is such a *mitzva*. The Megillat Esther posited that the Rambam excluded it because it does not apply in all times due to "Satmar reasons." This is contradicted by many *halachot* in the Rambam's Mishneh Torah that are predicated on there being a very positive matter (i.e., *mitzva*) to live in *Eretz Yisrael* in all generations.

Rav Yisraeli (*Eretz Hemdah* I:I:5) has a fascinating explanation – that the Rambam included the *mitzva* in another one, found in *Parashat Eikev*. The Torah speaks with great enthusiasm of the blessings of *Eretz Yisrael* – a land of wheat and dates, hills and wellsprings, copper and iron (*Devarim* 8:7-9). Then, it concludes: "You shall eat and be satiated, and you shall thank Hashem for the good Land that He gave you" (*ibid.* 10). This *pasuk*, of course, is the source for *Birkat Hamazon* (*bentching*).

Rav Yisraeli points out the obvious question: during *Birkat Hamazon* we thank Hashem for the food whether it was grown/raised in *Eretz Yisrael* or elsewhere, so what does it have to do with the Land? If one looks at the *berachot* of *bentching*, we see that the first *beracha* stresses our thanks to Hashem for the sustenance, whatever its source; the second *beracha* stresses the Land as a place from where the food classically comes; and the third *beracha* is focused on Yerushalayim and what makes it great (*Mikdash*, Davidic dynasty) (see *Berachot* 48b).

Rav Yisraeli views this *mitzva* as a *mitzva* of *hakarat hatov* for the two, only tangentially related things that are mentioned in this *pasuk* – food (from wherever) and *Eretz Yisrael* as a place to live. We show our gratitude for the food by reciting *Birkat Hamazon*. The way to show appreciation for the Land Hashem gave us is first and foremost by living there. Not living there is a way of making a joke of our claim of appreciation. (One could argue that you show appreciation for the food by eating it, but even those who do not appreciate Hashem's bounty can eat quite well.) Therefore, says Rav Yisraeli, the *mitzva* of living in *Eretz Yisrael* does not need to be listed as a separate *mitzva* to be considered a *mitzva* from the Torah. It is subsumed under the *mitzva* to appreciate *Eretz Yisrael*.

One can ask several questions about whether this idea is THE explanation of the Rambam's omission of this central *mitzva* (this is not my point). However, the ideas are a great opportunity to think about it while *bentching*. There is a special interaction between being thankful for the food and the Land (especially for those of us who merit eating the fruits of the Land while enjoying living here). Those who can make *aliya* and do not should consider the appropriate tension between being thankful for the present of the Land and not having serious *aliya* plans or at least hopes. I remember hearing Rav Druckman wonder out loud how fine Jews in *galut* can pray with apparent *kavana* for the ingathering of the exile and still not consider making *aliya* themselves. Some people may have answers; the best answer is ... *aliya*.

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Ask the Rabbi

by Rav Daniel Mann

Electronic Communication before *Davening*

Question: Is it permitted to email, WhatsApp, and use social media before *davening*?

Answer: Emailing and other forms of electronic communication have two broad purposes – social interaction; technical/business-related. Each can be a problem before *davening*, but their parameters differ somewhat. We will deal with them separately before touching on “policy.” (We leave out the important issue of such activity causing one to be late for *tefilla*.)

The *gemara* (Berachot 14a) forbids greeting people with “Shalom” before *Shacharit* but clarifies that the problem is when you go to another’s place to greet. Rashi (ad loc.; also, Shulchan Aruch, Orach Chayim 89:2) describes the permitted case as “meeting him along the way.” Contemporary *Acharonim* discuss, in this context, calling by phone. *Ishei Yisrael* 13:(40) cites Rav B. Stern and Az Nidberu, who say that this is not like going to another’s house. Rav Elyashiv (P’ninei Tefilla, p. 59) considers it like going to his house, which makes it forbidden if the call’s purpose was the greeting. It likely depends if one views the problem as giving a special standing to your friend (before giving to Hashem) by going to his house to greet him or that initiating greetings is a problem. (See also our Ask the Rabbi, Vayishlach 5779). Rav Melamed’s compromise, that it is permitted when there is a real need, is logical.

Some electronic communication has advantages over a phone – specifically, those where one does not engage in direct conversation, giving a person prominence, but leaves a message for him/them to see at some time. Also, for written messages, halacha does not always equate writing with speaking (also, beyond our scope). Responding to a message is arguably like responding to a greeting, which is permitted (Shulchan Aruch *ibid.*). However, there is a difference because, as opposed to normal greeting, it is usually unnecessary to answer messages immediately (i.e., before *davening*). In short, this element is not a major problem, especially if one first says *Birchot Hashachar* and avoids the word “Shalom.”

Personal needs: One must not “deal with his needs” before *Shacharit* (*ibid.* 3), which some of the activity in question may be. If needed for a *mitzva* (e.g., helping parents), this is “Hashem’s needs” and permitted (Mishna Berura 89:36). How major an undertaking is considered “dealing with needs” (or *melacha*, which *poskim* discuss – see Tosafot, Berachot 5b)? The Eshel Avraham (Butchatch, to 89:3) permits simple things one may do on Chol Hamo’ed. The Shulchan Aruch (*ibid.* 2) assumes one may “go to see some *eisek*”; the Mishna Berura clarifies: “to see but not to be really involved.” *Tefilla K’hilchata* (6:(36)) cites Rav S.Z. Auerbach as permitting a quick look at a newspaper or throwing clothes into a washing machine. A quick session with an electronic communication tool to take in some information or send out an instruction to a colleague, etc. need not be forbidden on these grounds. Steps to keep the process short are important (see Mishna Berura 89:16).

Personal Policy: The following is clear from various *halachot* (see OC 89 & 93). When one wakes up, he should focus on encountering Hashem at *Shacharit*. Things that show that a different priority, misdirect his mind frame, or might make him forget, unduly delay, or rush his *tefilla* are against the spirit and/or letter of the law. Initiating unnecessary interaction before *davening* is far from ideal for the average person. Many people are involved in pressing matters that can change overnight and some “cannot wait” until after *davening*. Doing the minimum necessary is the proper thing. Some people are regrettably so worried/curious before “checking in” that it hinders their *kavana*. But many are unnecessarily and unhealthily attached to their devices and refuse to go a waking hour off social media, which sometimes includes during *davening*. Avoiding such devices until after *davening* is part of weaning themselves or taking steps not to deteriorate and is a great step in their *avodat Hashem* and personal wellbeing.

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Ein Ayah

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

The Day of Firsts – part I

(condensed from Ein Ayah, Shabbat 9:57)

Gemara: [The first day of the month of Nisan of the second year in the desert] took ten crowns for itself, as the first in the following regards: 1. of the days of creation (i.e., Sunday); 2. for the tribal princes (who brought special sacrifices for the inauguration of the *Mishkan* (Tabernacle) starting that day); 3. for the functioning of the *kohanim*; 4. for the service [in the *Mishkan*]; 5. for fire coming down [from the heaven]; 6. for eating the meat of sacrifices [in a specific place]; 7. for the dwelling of the Divine Presence; 8. to bless Israel [via the *kohanim*]; 9. for the prohibition to sacrifice anywhere but in the *Mishkan*; 10. for the months [of the Jewish year].

Ein Ayah: Israel, as the essence of mankind and of creation, is “collected” to be centered in such a way that it elevates everything. When it appears [on the “stage of history”] in its most complete form, there is gathering together of light that includes all that is special. This includes the areas of the personal, the societal, the historical, and the cosmic. [We will now go through the ten firsts.]

1. There is a connection between the grandest level of establishment of the nationhood of Israel and the inauguration of the entire universe. This was highlighted by the great day of that 1st of Nisan being on the first day of the week, corresponding to the beginning of creation.

2. The national order is not nurtured from a lean source or from interest in mundane and animalistic desires or fleeting matters. Rather, it comes from a divine source, from the Leader of Yaakov, who created the world. From this, the national order of the holy nation was set, which included the prominence of the princes of the tribes.

3. Once the national order was developed, the nation’s spiritual form was also set, and its leaders, who were bestowed with an innate spirituality from the outset, were elevated. Thus, this was the day that the *kohanim* began to function.

4. The *kohanim* already on their first day began using their religious leadership status in a way fitting for those who did not need to show their power or their support by the people but need to follow the will of Hashem. Hashem wanted the proper actions to be done as service in the *Mishkan* by the most chosen people. This was the first day of service.

5. Hashem showed in a miraculous manner that the power of the specific actions to be done in the *Mishkan*, which are beyond human intellect to fully fathom, are divinely desired. He did this by having a fire come down from Heaven to consume the sacrifices. This shows that the building and adornment of the world comes about based on Hashem’s plan when man carries them out according to His exact instructions.

[We will continue next time with the latter five matters that were special on that unique day.]



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

Aftermath of a Rental that Almost Was

(based on ruling 71002 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: Defendant #2 (=def2), a real estate agent, showed defendant #1's (=def1) apartment in a kibbutz to the plaintiff (=pl). Pl gave def2 a 1,000 shekel down payment for his services and a 2,000 shekel check which def1 could use for home repair that pl had asked for (it would count toward the first rental payment). Pl signed notes stipulating these sums were non-refundable. Def1 sent pl to the kibbutz acceptance committee, which caused a delay because of the latter's vacation, and finally pl had to go on the day of her sister's wedding. The next day, def1 informed pl that he would not go through with the deal. Pl is suing for a total of 8,700 shekels because the false expectations caused various damages, including the inability to rent out her own apartment and wasted trips. She also wants back the deposit checks, as pl was not the one who backed out. Def2 returned the 2,000 shekel check in *beit din* but refuses to return the nonrefundable realtor's pay, claiming that he did a lot of work to bring the sides to an agreement, and pl knew that nothing was final until she passed the kibbutz's board. Def1 says that he cannot be obligated in anything since he did not sign any rental contract with pl. The fact that he agreed with def2 to do repairs has nothing to do with pl, as it would have had to have been done no matter who would rent.

Ruling: Def1 is correct that no act of *kinyan* was done here (the rules of *kinyan* are the same for renting and buying land – Shulchan Aruch, Choshen Mishpat 190:1). Since pl did not pay money, there also is no semi-curse of *mi shepara* for backing out. However, even one who backs out of an oral commitment to sell or rent can be liable for Rabbinical displeasure (ibid. 7).

In this case, def1 clearly backed out of an understanding, and the reason was that a friend told him that pl would not pass the board and def1 could lose the opportunity to rent out at that time. These words were likely *lashon hara* and were in any case not grounds for def1 to back out of a commitment. Therefore, based on our authority to rule not only according to *din* but also according to compromise, we obligate def1 in direct expenses such as traveling to arrange the rental and the *beit din* fee (total of 600 shekels). We are not convinced that the other claims relate to definite damage. Regarding the down payment of 1,000 shekels to def2 for agency fee, this must be returned. Agents are paid only when a binding agreement was reached, and only then can they keep money even if one side broke the agreement. But here there was never a binding agreement, just a moral obligation (this is true according to halacha and obviously true according to Israel's "Law of Real Estate Agents"). Agents who get a percentage of the sales price do not get paid for effort but for results. One cannot read the contract as making payment nonrefundable for cases where there was never an agreement.

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