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HEMDAT YAMIM

Parashat HaShavua

Emor, 15 Iyar 5780

Putting the Season in Perspective – part II

Harav Yosef Carmel

We have experienced Pesach. We burnt the *chametz* and strengthened our humility. We ate *matza* and strengthened our Torah-discussing activity. We came, hopefully with good health, from Pesach to Yom Hashoah, Yom Hazikaron, and Yom Ha'atzmaut. Before us is Lag Ba'omer, Yom Yerushalayim, and finally Shavuot, the holiday of our receiving the Torah, after the period of counting.

It is important for us to understand what it means to be a "free Jew in our Land." What makes us *bnei chorin* (free people)? Leaving Egypt meant that a nation of slaves became a nation of *bnei chorin*. *Chazal* taught us that we read "*charut al haluchot*" (lit., engraved on the Tablets) (Shemot 32:16) as "*cheirut* (freedom) *al haluchot*," for "only one who is *hogeh* (tries to understand deeply) in Torah is a free man" (Kalla Rabbati 5:3). The *Pesikta* expands it to "one who occupies himself in Torah is a free man," which makes it less demanding to be included.

The *Maharal* (intro. to *Tiferet Yisrael*) explains that one is considered free by occupying himself in words of Torah even if he accidentally learns the *halachot* incorrectly. It is the exercise of being involved in Torah that is liberating. Both agree that leaving Egypt was insufficient to be free; it was necessary to receive the Torah at Sinai.

What is the connection between Torah study and freedom? One can qualify the servitude of an *eved ivri* (a Jewish servant, who is less subservient than an *eved C'na'ani*) as follows. He relinquishes the freedom to choose his work and his mobility. He also is not able to choose who his mate will be. His life (during those years) is dedicated to increasing the prosperity of his master. However, perhaps the most significant thing is that he relinquishes the ability to make decisions that can further his spiritual state. Because his master controls his activities, he gives up on his ability to make his own decisions. (In some cases, that can be positive, because some people became *avadim* because they did not know how to make good decisions.) The situation in Egypt was worse, as they did not have the freedom even to act as normal human beings. So why didn't leaving Egypt make them free?

All of the special presents that we received at Sinai turned us into *bnei chorin*. First, we were given the opportunity to sanctify ourselves. This was actually a condition for receiving the Torah (see Shemot 19:6-19, which uses the root *kadosh* three times). The Torah also connects this sanctity to the process of setting boundaries, literally around Sinai, but more fundamentally in that preparing spiritually to not only receive but also live according to the Torah requires religious and moral boundaries.

But how do all these boundaries included in accepting the Torah cause freedom? We are limited as to where we can go and what we can and must do! We will continue with this theme next week. After Yom Hashoah and Yom Hazikaron, we are better able to understand that the "Work liberates" sign in Auschwitz was the biggest lie and that those who gave their lives so that we could live in our own country taught us about the sanctity of life.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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by Rav Daniel Mann

How to Time *Vatikin*?

Question: When *minyanim* closed, I started *davening vatikin* (starting *Shemoneh Esrei* (=SE) at *hanetz hachama* (sunrise=*netz*)). If I do not know precisely when *netz* is, is it better to err on the side of starting SE before or after *netz*?

Answer: That is a noble approach (see Living the Halachic Process II, A-5 on whether *vatikin* or a *minyan* has a greater impact). The *gemara* (Berachot 9b, see Tosafot ad loc.) considered it a rare feat to do *vatikin* precisely. While we have clocks and sunrise tables, it is still difficult because: most round to the minute; there are *machlokot* how to determine sunrise when there are topographical differences between one's locale and the horizon or between his location and the one in the city used for the table. For this reason, Rav Moshe Feinstein (cited by Tefilla K'hilchata 3:(34)) prefers *tefilla* with a *minyan* to an attempted *tefilla k'vatikin*.

There are many levels of preference for morning *Kri'at Shema* (=KS) and SE. The consensus of *poskim* (see Shulchan Aruch, Orach Chayim 58:1) is that *vatikin* as practiced is an ideal way to *daven* and succeeding in being precise is a bonus (see above). (It is unclear what is considered precise and close enough to be *vatikin*, respectively.) Beyond that, the gradations are, for KS (from best to worst) – after *misheyakir* (50-60 minutes before *netz*) (Shulchan Aruch, OC 58:1-3); between *netz* and *sof z'man KS*; soon after *alot hashachar*. Regarding *tefilla* – clearly after *netz* before *sof z'man tefilla*; clearly before *netz*; soon after *alot hashachar*; after four hours into the day.

Ostensibly, if one tries for *vatikin* and misses by a few minutes, this will make KS or SE, respectively not of the highest non-*vatikin* level. Which is our main goal and/or concern?

The *gemara* (Berachot 9b) praises *vatikin* because “they would finish [KS and its *berachot*] with sunrise, so that they would have the *beracha* of *geula* next to *tefilla* and their *tefilla* ends up in the day.” It continues that this fulfills “they will fear You with the sun” (Tehillim 72:5). Most commentaries (including Rabbeinu Yona) understand that this puts stress on *tefilla* being soon after the sun appears, and this is the main reason to finish KS at that time. Furthermore, the *gemara* in Yoma (37a) tells that when the sun made the chandelier in the *Beit Hamikdash* courtyard sparkle, the masses of people knew it was time for KS. Tosafot (Berachot 9b) says that this refers to those who did not know how to time *vatikin*. Rabbeinu Tam (Tosafot, Yoma 37b), though, learns from here that the best time for KS is actually right after *netz*, to be followed by SE, and that “*vatikin*” is less preferred. He views the *pasuk* in Tehillim as going on KS. We do not *pasken* like Rabbeinu Tam. Tosafot (ibid.) posits that it is better for one who cannot implement *vatikin* to do KS and SE after *netz*, as *vatikin*'s proponents agree that KS is fully acceptable then.

Furthermore, the Shulchan Aruch (OC 89:8) views SE before *netz* as before its time and not justified without a good reason (see Be'ur Halacha to 89:1). The Pri Chadash (ad loc.) argues that if one misses the special level of *vatikin*, there is no difference between *tefilla* before and after *netz*. The Shulchan Aruch's opinion is more accepted, and there is much discussion as to whether it is better do *daven* with a *minyan* before *netz* or without one after *netz* (see Piskei Teshuvot 89:4).

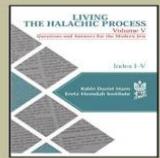
Finally, while there may be some value in reciting *birchot KS* at the time of KS (see Mishna Berura 58:1), it is not critical (see Rama, OC 46:9; Mishna Berura 46:31). This is especially so if one has almost finished them and is waiting near “... *ga'al Yisrael*,” which connects to SE (see Tefilla K'hilchata 3:24; Yisrael V'hazemanim II, 7). Therefore, if you are just a couple minutes late, KS was said at its best time.

Based on the above, when one has a choice, it is better to be off by being late than earlier than the precise *vatikin*. However, the *minhag* is to follow one's best information without worrying that it might be an inexact *vatikin*, which likely counts as *vatikin*.

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Ein Ayah

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

Lacking in the Physical or the Spiritual

(condensed from Ein Ayah, Shabbat 11:7)

Gemara: [We continue with the idea of Rabbi Akiva revealing sinning beyond what is explicit in the Torah and the criticism he received from a colleague.] Similarly, regarding what the Torah said, “Hashem was angry at them and he went” (Bamidbar 12:9), Rabbi Akiva says that this teaches that Aharon [in addition to Miriam] became afflicted by leprosy.

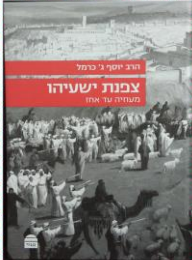
Ein Ayah: The comparison [to the sin of Tzelufchad] is of things that are not on the same level. How can you compare the individual matter of the identity of the one who violated Shabbat to the public matter related to Aharon, who was uniquely holy to Hashem? The matter at hand is also unique, as Moshe’s siblings, in questioning whether Moshe’s status as a prophet was qualitatively different from theirs, touches on a foundation of the Torah – that Moshe was the master of all prophets. This principle was reinforced by the story of Hashem’s reaction to Aharon and Miriam, making the details of the event especially important.

Rabbi Akiva had a consistent approach, which finds expression regarding the Torah’s hiding facts due to this special person’s (Aharon) honor. Rabbi Akiva was one who uncovered secrets and learned from every crown attached to the Torah’s letters. He always yearned to spread Hashem’s light until he ended his life calling Hashem “one.” All the details were interwoven so that there was nothing hidden from his perspective, as a small hint created great light for him. It is regarding the normal person who receives Torah knowledge that there is a clear difference between what is known and not known.

It was a major event when Miriam and Aharon spoke about Moshe in a way that equated him to other prophets. Hashem had to appear and thereby notify them and all generations that there is a great difference between them. The difference between Moshe and all others must be predicated both on physical and spiritual causes. The physical one must include that with all their sanctity, Miriam and Aharon were missing something in their constitution that precluded them from gazing onto the highest levels of perception and realizing the total superiority of Moshe, the source of all prophecies. This physical lacking caused a minor lack of clarity, which caused them to say: “Did Hashem speak only to Moshe? Did He not speak to us as well?”

Certainly, when both physical and spiritual factors impact on something, it is worthwhile to know which one is mainly responsible for the result. Is the physical impacting on the spiritual, or is the spiritual impacting on the physical? Since a punishment was inflicted on the body of the righteous Miriam, we know that her lacking in understanding was prompted by a deficiency in her physical constitution.

Miriam’s punishment of leprosy brought a great light to the world in that it publicized the unique greatness of Moshe. Rabbi Akiva posited that Aharon was also physically punished, but his punishment was not as much a function of a lacking on the physical side, and therefore the Torah publicized Miriam’s physical punishment and not Aharon’s. Aharon’s punishment was fleeting while Miriam’s lingered over a period of time. However, R. Akiva did clarify that there was some physical punishment for Aharon as well.



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

Holding Guarantors to their Commitment? – part II

(based on ruling 71055 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) reached a settlement with his wife (=wi) over child support in a *beit din* as part of an agreement to give a *get*. *Wi*'s uncle and aunt (=def) obligated themselves in *beit din* that if the wife would successfully sue to raise the child support, *def* would pay back to *pl* the additional sum she was awarded. *Beit din* gave the obligation the status of a ruling. *Wi* did sue *pl* in court, and *pl* agreed to raise the child support, with the judge giving the agreement the status of a ruling. *Pl* is now suing *def* for 31,200 shekels for a few years of additional payments. *Def* argue that they are exempt for a few reasons: 1. No act of *kinyan* was made to obligate *def*, which is necessary because this is not a normal case of a guarantor (i.e., there is no borrower). 2. There was a lack of realization of the likelihood of obligation (*asmachta*), since *def* did not know that *wi* was not bound by the ruling. 3. Furthermore, according to the Rambam, one cannot obligate himself in an open-ended obligation, and one can claim *kim li* (I follow the minority opinion). 4. The obligation mentions payment in the case where the court rules in *wi*'s favor, whereas here *pl* agreed himself to pay.

Ruling: [We were in the midst of discussing whether *def*'s obligation is valid according to the law of the land, considering that it is arguably against the public interest.]

Par. 30 of the Law of Contracts states that a contract whose purpose or content is illegal, immoral, or contradicts public welfare is null. There have been varied rulings in the courts over whether an agreement to compensate a husband whose wife sues for higher child support contradicts public welfare. A summary can be found in Justice Benzion Greenberger's ruling (BMS 24590/98). He concludes that the assumption is that it damages the welfare of the children, but if the father can prove that it does not negatively affect them, it is valid. In general, if the wife's obligation is void because of its impact on the children, the guarantors' obligation should not apply.

In this case, we do not believe that the *def*'s paying has a negative impact on the couple's one daughter or on the public, as we will explain. The obligation to reimburse is not upon *wi*; if *def* pay, they will not be able to recoup their losses from her. Therefore, *wi* will not be deterred from suing for child support, and *def*'s payment will not deprive the daughter of needed funds.

One can argue that indirectly, if an ex-wife knows that her close relatives will have to pay, she will not sue for increased child support. In general, the courts do not factor in indirect effects. Also, this must be weighed against the grave damage caused if we easily strike down agreements made in divorce settlements. First, there is a public interest in agreements being kept. Second, if those negotiating a divorce settlement know that the settlement will not be kept, husbands are less likely to give a *get* when called for. Also, in this case, specifically, the amount agreed upon for child support, while somewhat low, is not extremely low.

[We will finish off next time with a look at whether the conditions for payment were met.]

We daven for a complete and speedy *refuah* for:

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