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PARASHAT HASHAVUAH

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Learning from Ancient Political Mistakes

Harav Yosef Carmel

The Arab state of Syria is situated approximately where the ancient nation of Aram once stood. This nation had a major impact on its Israelite neighbors until the two were exiled by the Assyrian Kingdom.

The international relations of Aram and Israel began as follows. Yaakov secretly ran away from Lavan, who pursued him until they met at Mt. Gilad. There they made a peace treaty at a stone monument named Galeid. They also set the boundary between the two at that place. This treaty was broken many times, for which the prophet, Amos, chides Aram (Amos 1: 3,5).

Let us look at another element of the relationship between the nations. Ba'asha, the king of the northern Kingdom of Israel laid a siege on the Kingdom of Judea, led by King Assa. The latter's idea to extricate himself was by emptying out the treasure houses of the Temple and sending it to Aram to convince them to break their treaty with Israel and attack them, so that the siege would be lifted. At first glance the scheme succeeded (Melachim I, 15: 18-20). However, the prophet criticized Assa for relying upon Aram and not on Hashem and said that because of that, "the king of Aram escaped from his [Assa's] hands" (Divrei Hayamim II, 16:7). We would have expected it to say that Ba'asha, who was the enemy at the time, escaped Assa's hands. Apparently, the intention is that since Assa used the enemy of the Jewish people to kill other Jews to save himself, he lost the opportunity to take back the land that the Aramites had taken from the Land of Israel. The situation went from bad to worse, as Assa punished the prophet, the people protested, and Assa attacked the protestors (ibid.:10).

The mistaken political solution that Assa came up with caused great damage in several ways. It hurt the international standing of the Kingdom of Judea and weakened its internal resolve and the harmony between segments within the nation. Let us pray that Hashem, who can control the hearts of the kings and officers, will give wisdom to our leaders, so that they learn from the mistakes of the past and lead our nation and our state in a manner that will find favor in the eyes of G-d and man.

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Ask the Rabbi

Question: Regarding the *machloket* between the Magen Avraham (= MA) and the Gra on the times of the day, why are we lenient like the Gra in regard to questions of *d'oryata* (Torah-level laws) such as *sof z'man Kri'at Shema* (=szks)?

Answer: Before discussing the *machloket* between the Gra and the MA, let us see what is agreed upon. Daytime begins at *alot hashachar* (=alot), over an hour before sunrise (*henetz hachama* = *netz*); night and the new halachic day begin at *tzeit hakochavim* (=tzeit; when the stars come out) (Megilla 20b). In Talmudic times, daytime hours were counted from 1 to 12, as people determined the time by looking at the sun's angle. In the middle of those 12 hours, the sun is directly above head (on the east-west axis) (Pesachim 11b), meaning there must be astronomical symmetry between the beginning and end points of the count. The *gemara* (Pesachim 94a) says that there are 4 *mil* (the time it takes to walk app. 4 kilometers) in between *alot* and *netz* and also between *shki'at hachama* (= *shki'a* - sunset) and *tzeit*.

The basic difference between the opinions is as follows. The MA (see 58:1; 233:2) starts and ends all calculation from the halachic bookends of day and night, *alot* and *tzeit*, which adds 4 *mil* on either end of sunrise-sunset. Therefore, *szks* (= the end of the 3rd hour of the day), is well before the sun is at 45 degrees above the horizon (1/4 of the time the sun is visible). The Gra calculates from sunrise to sunset, and therefore *szks* is at 45 degrees. It is indeed astronomically logical that people did not count the progress of the sun from or until a time when it was well beneath the horizon.

While each approach has advantages and disadvantages, it cannot be decided in a vacuum because the *machloket* is linked to an even more important one (see Am Mordechai, Berachot 2). Days (including Shabbat) lasts until *sheki'a*, enter a period of halachic doubt known as *bein hashemashot*, followed by definite night at *tzeit* (Shabbat 34a). We rule that *bein hashemashot* is 3/4 of a *mil* (appr. 15 minutes) long (Shulchan Aruch, Orach Chayim 261:2). Since daytime begins 4 *mil* before *netz*, there is a lack of symmetry (of 3 1/4 *mil*) between the beginning and end of daytime in relation to the appearance and disappearance of the sun. Rabbeinu Tam (Shabbat 35a) explains that "*sheki'a*" is not what we call sunset but is around an hour later, until which time it is still definitely day. (His idea of the sun finishing travelling the "thickness of the earth" fits an ancient astronomical conception but certainly not a modern one). Thus Shabbat does not begin or end until more than an hour after sunset. The Gra (OC 261) posits that *sheki'a* is the visible sunset and after around a quarter of an hour (in Talmudic latitudes) it is definite night. This *machloket* is linked to the aforementioned MA (who accepts Rabbeinu Tam) and Gra as follows. According to the MA, sunset, like sunrise, is not a halachic time. According to the Gra, *tzeit* cannot be a bookend, because it does not mirror *alot hashachar* and thus we use *neitz* and *sheki'a*.

Whose opinion is accepted? The *gemara* (Shabbat 35a) says that Shabbat is fully over by the time three medium stars are visible (without "light pollution"). Thus, the Gra's argument that keeping Shabbat at least 72 minutes after sunset is "contradicted by our sight" is powerful. The Gra's impact (as well as the Rambam and the Ba'al Hatanya) on the greater "Lithuanian" world, the difficulty (including scientific evidence) of Rabbeinu Tam's approach, and the difficulty of finishing Shabbat so late in northern latitudes probably contributed to the fact that historically most communities accepted the Gra's basic approach regarding the night. (See a variation in Igrot Moshe, OC I, 24.) This is despite the fact that the Shulchan Aruch (ibid.) and most *Rishonim* agree with Rabbeinu Tam (see sources in Yabia Omer II, OC 21).

Some people have decided to adopt the MA for *szks*, which is not so difficult; others keep Shabbat until late due to its severity (not all are aware of the linkage). All of these practices are legitimate.

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Ein Ayah

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

The Positive Elements of Death and Poverty

(based on Berachot 3:1)

Gemara: One should not walk in a cemetery with *tefillin* on his head and a *sefer Torah* in his arm and read. If he did so, the following *pasuk* applies to him: “One who scoffs at the poor blasphemes his Maker” (Mishlei 17:5).

Ein Ayah: The basis of belief is to know that there is nothing in existence that is totally lacking. Any lacking that we see, although it appears from our personal perspective as something lacking, is actually not negative but something advantageous that is a good preparation for the improvement of the whole.

A good example of this concept is poverty. On one hand, it is a lacking from the personal perspective. However, whoever “scoffs at the poor” and thinks poverty has no positive purpose for the greater community “blasphemes his Maker.” We know this is so because if good things did not come from poverty, then poverty would not have been allowed to exist by the Blessed Elevated Leader, whose plans are great.

Rather, one should know that the existence of poverty contributes in a few ways to the general existence of the world. One is that it enables those who give to the poor to be saved from the judgment in *gehennom* and in fact to add to moral *shleimut* (completeness) by making the doing of good and kind actions exist. Also, there are several areas of work that are difficult or beneath the dignity of most people, and were there not poverty, no one would be willing to take on these jobs. There are certainly other ways in which poverty helps the world, just that we are too limited intellectually to comprehend them.

Thus, if one is able to understand that poverty, which is the biggest problem in the human condition, is not valueless, then his attitude gives respect to He who made all. In contrast, one who scoffs, and in that way says that there is no gain from the existence of poverty but that it is an extraneous element of existence and a matter of absolute bad, blasphemes his Maker.

The same principle applies to the matter of life and death. We view life as good and the complete actions that life brings us as things that fill our hearts with light and grandeur. However, one should not think that there is no point for death and that it is a total lacking of goodness, since it is missing the elements of completeness that we are familiar with in life. This is not the case, for He who made everything, made everything to be very good and would not make anything that is only bad. Therefore, we should be wise enough to understand that even death has a purpose and is a goal of sorts. Regarding this idea, *Chazal* said: “And indeed it is very good” (Bereishit 1:31) – this is death. Thus, there is room in the existence of the world for the reality whereby cessation of the activities of life, even the most complete of activities of the most complete people, like the fulfillment of *mitzvot* and study of Torah, is also a matter of *shleimut*.

Due to all of this, when one stands in a cemetery he should not be involved in Torah and *mitzvot*. This is our way of indicating that there is a place where *shleimut* is met in a different manner that is out of our life experience and which we are unable to fully grasp. If one refuses to refrain from Torah and *mitzvot* in that place, he is demonstrating that death must be something that is absolutely bad and that there is no possibility that the cessation of the activities of life could be a positive development. That is why he is in effect blaspheming his Maker. For we are supposed to show that Hashem is complete in all types of phenomena within the world, even if we do not understand how, since His ways and His thoughts are higher than ours.

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P'ninat Mishpat

Firing Teachers – part I

(based on Eit Ladun – Rav Nir Vargon - Halacha Psuka, vol. 31)

The *gemara* (Bava Batra 21a) deals with a case where a better Torah teacher than the present one is found: “One who teaches Torah to children, but there is one who teaches better than he, he is not removed, lest he be negligent. Rav Dimi from Naharda’a said: all the more so that he will teach better, for the jealousy among scholars increases wisdom.” Rashi explains that the first opinion’s concern about negligence is based on the assumption that the newly appointed teacher will be so confident about his security that he will not dedicate himself sufficiently. The second opinion posits that since he replaced someone, the new teacher will be nervous that the removed teacher might embarrass him if he fails to do the job properly.

The Rosh (Bava Metzia 2:9) rules like Rav Dimi that the first teacher may be removed if a better alternative is found, and the Shulchan Aruch (Choshen Mishpat, Yoreh Deah 245:18) says that this is so even if he was not negligent in any way.

The Aruch Hashulchan (YD 245:19) and Chazon Ish (Bava Kama 23:2) understand that the firing in discussion is within the time of the employment agreement. If the contract had already expired, there would be no reason for anyone to require the employer to extend the agreement. Under this assumption, the Aruch Hashulchan found it odd that the teacher could be fired and have the moneys promised to him withheld without his having done anything wrong. He answers that indeed, if he would be fired under those circumstances, the employer would have to pay him for the entire time of the agreement as a *po’el batel* (i.e., we would deduct from the full salary the amount that it is worth for him to be on vacation). The permission to fire the teacher relates to removing him from the job, which is not allowed regarding other kinds of workers just to replace them with more qualified workers.

However, the Rosh (*Shut* 104:4) contradicts these *Acharonim*. He says that the teacher could not be removed without fault during the period of the employment agreement. The problem is that the Rosh in his *p’sakim* says that he can be fired. The Aruch Hashulchan and the Chazon Ish apparently preferred the latter source as the basis of the halacha.

Rav Yitzchak Kolitz (the late chief rabbi of Yerushalayim) says that the teacher has two statuses: as an employee and as a teacher. The *gemara* is talking about a case where the employment period is over and thus his status as an employee is over without the need to justify lack of rehiring. Only regarding his status as a teacher is there a need for a reason to not continue the employment, but when there is a benefit in hiring someone else, this may be done (see *Shurat Hadin* IX, p. 386 and on). This is in contrast to the Aruch Hashulchan’s approach that after the end of the employment period, the employer has no obligation of any sort to continue employing the teacher.

Mishpetei Shaul

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Hemdat HaDaf HaYomi

Studies in Choshen Mishpat Related to the Daily Daf

Kislev 5- 11, Baba Batra 93-99

The Keruvim (Cherubs) (99a)

Rav Ofer Livnat

This week we will deviate from our regular format and deal with a non-Halachic passage from the Daf Hayomi. This passage is unique in that even Rishonim who usually comment only on the Halachic passages, address this passage. The Gemara (99a) deals with the way the Keruvim (cherubs) were placed in the Mishkan and in the Beit Hamikdash. The Gemara quotes two verses that seem to contradict each other. From one verse (Shemot 25, 20) it appears that the Keruvim were placed facing each other, while from another verse (Divrei Hayamim 2 3, 13) it appears that they were facing the interior of the Beit Hamikdash and not each other. Although at first glance there doesn't appear to be a contradiction, since the first verse deals with the original Keruvim which were placed on the Ark, while the second verse deals with additional Keruvim made by Shlomo for the Beit Hamikdash, the Rashbam (d"h haktiv) explains that the question of the Gemara is that both pairs of Keruvim should be placed in the same way.

The Gemara suggests two resolutions to this contradiction. The first is that the Keruvim were placed at an angle so that they were both facing each other and the interior of the Beit Hamikdash. The second answer is that, when Israel fulfilled Hashem's will, then the Keruvim faced each other, and when they did not, then the Keruvim did not face each other. According to this explanation the Keruvim reflect the relationship between Hashem and Am Yisrael.

The R"l Migash (d"h keitzad) quotes another Gemara from which it appears that the Keruvim were placed in a third fashion. The Gemara in Yuma (54a) states:

"When the people of Israel came to the Beit Hamikdash on the Regalim (three holidays- Pesach, Shavuot and Sukkoth), they used to open the Parochet and show them the Keruvim hugging each other and they said to them: 'see how beloved you are to Hashem like the love of a man and a woman.'"

According to this Gemara it appears that the Keruvim were placed hugging each other. The R"l Migash quotes the Rif who explained that this was a special miracle that Hashem did during the Regalim to show Am Yisrael how much he loves them. However, the Gemara (ibid b) continues that there was another time when the Keruvim were found hugging:

"When the gentiles entered the Temple they saw the Keruvim hugging each other. They took the Keruvim out to the marketplace and stated: 'these people of Israel, whose blessing is a blessing and whose curse is a curse, are occupied with this kind of thing (they were claiming that the positioning of the Keruvim was immodest)?!' They immediately despised them, as it is stated (Eicha 1, 8): 'all that honored her despised her because they have seen her nakedness.'"

This second statement is very puzzling, since the time of the destruction of the Beit Hamikdash was certainly a time of great anger from Hashem towards Am Yisrael, so why were the Keruvim hugging then?

The R"l Migash quotes two answers given by the Rif. The first is that Hashem wanted to show the gentiles the love that previously existed towards Am Yisrael. The second answer is that this was done so that the gentiles would despise Am Yisrael, as indeed happened, and this would be considered a further punishment.

The Bnei Yissachar (chodesh tamuz av, mamar 3, ot 1) writes another explanation given by the Magid Memezritch. When two lovers know that they are going to be separated for a long time, at the moment of separation the love between them increases. So too, at the time of the destruction of the Beit Hamikdash, since Hashem knew that there would be a separation for a long exile, this was a moment of great love between Hashem and Am Yisrael, and this was reflected in the Keruvim hugging each other.

We pray that Hashem will once again show his love towards us and that we will see the rebuilding of the Beit Hamikdash in our times.

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