



HEMDAT YAMIM

Parashat Hashavua

Pekudei, 2 Adar II 5782

Mishkan – The Great Travel Guide?

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The second half of *Sefer Shemot*, which we conclude this week, is focused on the *Mishkan* – the place where Hashem's Presence dwelled and where we were able to serve Him in the most powerful way. The last section of our *parasha/sefer* deals with actually putting the elements of the *Mishkan* in place and includes the momentous *pasuk*, "Moshe completed all of the work" (Shemot 40:33). The next *pasuk* is perhaps even more special: "The cloud covered the *Ohel Moed*, and the Glory of Hashem filled the *Mishkan*," fulfilling its great goal of "*v'shachanti b'tocham*" (ibid. 25:8). The next *pasuk* says that the intensity of sanctity was such that even Moshe could not enter.

However, the *sefer* ends with the final three *p'sukim* that discuss another element of the cloud and the *Mishkan* – that the cloud stayed on top of the *Mishkan* until it was time for Bnei Yisrael to move, so that the removal of the cloud signaled the start of the next sojourn. At first glance, this looks anticlimactic and inappropriate for our *sefer*. The movement of the cloud as a sign to travel is discussed at length, where it "should be" – in *Sefer Bamidbar* in discussing all of the characteristics of the encampment and the travels (specifically, Bamidbar 9:15-23). In what way does this seemingly technical usage of the divine cloud teach us something fundamental about the *Mishkan*, which would make it appropriate to conclude the discussion?

The Seforno's following observation gives us an opening to a solution. We do not find that there was a special cloud over the *Mishkan* during its many years in *Eretz Yisrael*, most prominently in Shiloh, nor over the *Beit Hamikdash*. The Kli Yakar makes another observation. Moshe was able to enter divine clouds (see Shemot 24:18). The reason he could not enter the *Mishkan* due to the Divine Presence was that the Divine Presence was separated from the cloud – the cloud was on top of the *Mishkan*; the Divine Presence was inside the *Mishkan*. Thus, in its "uncovered" form, Moshe could not be together with the Divine Presence. But why was there separation, and why only in the *Mishkan* in the desert?

Now perhaps we can see a special element of the Temple that existed only in the *Mishkan*. The *Mishkan* in the desert was not just a place for Hashem's Presence to dwell, for the *kohanim* to do their service, and for other Jews to come for service and inspiration on occasion. The *Mishkan* in the encampment was a daily focal point of the personal and national life of the people. There was not a day in which there was no visible sign of this Presence – one lifted his eyes and looked to the middle of the encampment, and there was the divine cloud hovering over it. (This is parallel to a daily portion of divine bread that fell.) When it was time to travel, the message was again brought home. If the divine cloud is going elsewhere, then that is the place that the nation needed to be, because the nature of the people's spiritual life was focused on the *Mishkan*. This is indeed a climactic element of the *Mishkan*!

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



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Ask the Rabbi

by Rav Daniel Mann

Age to Begin Wearing *Tefillin*

Question: My son is almost twelve. When is it best for him to start putting on *tefillin* (he is a responsible, religiously eager child)? We are *ba'alei teshuva* (without family *minhagim*).

Answer: We will start with sources in the *gemara*. The *mishna* (Berachot 20a-b) lists *tefillin* among *mitzvot* that women and children are exempt from. On the other hand, a *baraita* (cited in Sukkot 42a and Arachin 2b) lists *tefillin* among *mitzvot* that a *katan* is trained in at the appropriate age. Notably, while the description of readiness for the other *mitzvot* involves the ability to fully perform the *mitzva*, the age by *tefillin* is defined according to his ability to protect the *tefillin*. *Rishonim* raise three required protections: from entering the bathroom, from sleeping, and from releasing gas. They broadly assume that this comes at a later age than for other *mitzvot* and after the child can effectively fasten the *tefillin* to his arm and head.

Most *Rishonim* and the Shulchan Aruch (Orach Chayim 37:3) posit that the *baraita* refers to a child under bar mitzva and seem to view the age determination as dependent on the individual child (see Yechaveh Da'at II:4). Some Sephardi *poskim* (see Darchei David, OC 7) encourage it for mature children as young as 10. Yalkut Yosef (OC 37:3.1) mentions a year or two before bar mitzva as reasonable.

The Itur (Tefillin 61b) is in the small minority (Rashi, Berachot 20b might agree) who understand that the *katan* who wears *tefillin* is a thirteen year old (who still must pass the carefulness test). Surprisingly, the Rama (OC 37:3) reports and strongly supports the *minhag* to wait until the child is thirteen to don *tefillin*. There are two ways to view the essential denial of *chinuch* (i.e., starting a *mitzva* before bar mitzva) for *tefillin*. It may be a fundamental ruling – no *mitzva* of pre-bar mitzva *tefillin* donning was instituted. It might be just a practically conservative approach to determining when children are ready (which some *poskim* use to explain the *minhag* in old Sephardi communities to wait until bar mitzva – see Yechaveh Da'at *ibid.*). Some practical differences follow.

The Magen Avraham (37:4) reports his time's prevalent *minhag* to start two or three months before bar mitzva, and he and the Mishna Berura (37:12) seems to support it. The latter also cites the Bach's opinion that a learned child can don *tefillin* at age 12 (Be'ur Halacha, *ad loc.*) (There was also a controversial *minhag* that orphans started at age 12 – see Teshuvot V'hanhagot I:53.) Many understand the Magen Avraham to fundamentally accept the Rama, just modifying it to start a little earlier to build up experience before the bar mitzva (see Tzitz Eliezer XIII:10). As some saw the Itur/Rama as fundamental, many (see Even Sh'ti'ah 14, Tzvi Latzaddik 23) raise the question if a child during his practice period should make a *beracha* on putting on the *tefillin*. However, almost all *poskim* accept, for a wide variety of reasons, the *minhag* that whenever a child starts putting on *tefillin*, it is with a *beracha*.

The most prevalent *minhag* nowadays (the Aruch Hashulchan, OC 37:4 already mentioned it) among non-Chasidic Ashkenazim is to start a month before the bar mitzva. Tzitz Eliezer (*ibid.*) presents two of the conjectures of the significance of a month (a known time for learning a topic – Pesachim 6a; since many who are born in Adar and have a bar mitzva in a leap year start with *tefillin* in Adar I (see Living the Halachic Process II, H-12) everyone starts a month early). The explanations are less important than the fact the *minhag* is along the lines of the Magen Avraham and is reasonable.

There are different planes of explanation (see Divrei Yatziv, OC I:11) for the Chasidic *minhag* to wait until bar mitzva – halachic, spiritual (sanctity of *tefillin*), practical (people might think he already is a *gadol*), and educational (reinforcing the need to respect *tefillin*'s sanctity is crucial *chinuch*).

Our practical advice for a non-Chasidic Ashkenazi is a month and for a Sephardi in a Sephardi community is to follow local practice.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.



Igrot HaRe'aya - Letters of Rav Kook

The Relationship between Good and Bad Traits - #93 (part II)

Date and Place: 9 Tishrei 5766 (1905), Yafo

Recipient: A young Moshe Zeidel. A close disciple of Rav Kook, from their time in Boisk, he asked Rav Kook many philosophical questions. He would become Dr. Zeidel, a philologist philosopher, and educator.

Body: I will explain to you what I meant in a previous letter (#20): "Every matter of greatness is connected to parallel shortcomings." This is related to the idea that Hashem does not allow a human inclination to exist only for good and not for bad (see Yoma 69a regarding the attraction between men and women). All powers were created in their totalities. It is the sacred obligation of man to develop an approach whereby the general power will be used for good and not for bad.

The early thinkers long ago pointed out that a phenomenal memory allows a person to remember all of the wisdom and the good that he saw, but also all the vanity and the evil. This phenomenon is true of all of man's skills and attributes. Therefore, shortcomings always cling to positive attributes. Thus, the greatest elements of knowledge and the dearest attributes are by necessity connected to correspondingly great shortcomings.

Only when one reaches a high level, when he sees divine truth openly, then he need not be afraid of evil. This is because evil and the unseemly are not found with truth except to the extent that the divine light is hidden from those who grasp or feel it. When Hashem will be the source of light and grandeur, then we will be able to say, "Your nation consists only of the righteous" (see Yeshayahu 60:19-21).

In order to reach such a level one needs internal preparation and personal refinement, to the point that his strongest interests in life will coincide with the divine interest. Then there is no Satan, no spiritual danger, and no need to restrict any human power and interest from expanding. There is also no need for difficulties, which exist to prepare the world to check the powers of evil, and therefore these difficulties will cease to exist. When we take each step toward Hashem's desire for the world, we elevate life and prepare ever better for the purpose of complete good.

In the world, we primarily need nations to act as opposed to individuals. That is why when we elevate ourselves, we do so from the perspective of our part in the Assemblage of Israel, to elevate and strengthen it. On the one hand, we need to say that "the world was created for me" (Sanhedrin 4:5) and wonder when our actions will reach the levels of the actions of our forefathers, Avraham, Yitzchak, and Yaakov (see Tanna D'bei Eliyahu Rabba 25). Their greatness lay in their ability to elevate their actions to that of the nation that would come from them even while that nation was in potential rather than actuality. This can apply in our days, as well. Although there is already a Nation of Israel to which we are connected, we are also connected to the situation of the forefathers, i.e., to look forward to what will be in the future. We do this with a connection to the nation as a whole, which ignores the value of the individual and even a single generation and focuses on the connection to the nation in the broadest sense. This is reminiscent of the large revolution around the sun in relation to the individual planets.

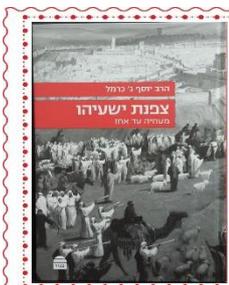
Anything that focuses on potential must be connected to something with a lacking. Of all the nations, Israel is the most focused on the potential that has not yet come in practice, as this is part of our name and the content of all of our special qualities. Therefore, we must be affected by major shortcomings. On the other hand, they are all great levels of attainment when they are handled properly. "He did not look toward iniquity in Yaakov and did not see spiritual decadence in Israel; Hashem, its G-d, was with it, and the friendship of the King was within it" (Bamidbar 23:21).

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

Nir Rephael ben Rachel Bracha
 Yisrael ben Rivka

Rivka Reena bat Gruna Natna
 Arye Yitzchak ben Geula Miriam
 Together with all *cholei* Yisrael

Neta bat Malka
 Meira bat Esther



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

Making Up for Unpaid Employment Benefits – part IV

(based on ruling 79137 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) is an NPO that runs various educational institutions, including the one that the plaintiff (=pl) started to head in 5769. Soon after pl started, def ran into financial difficulties, and in a meeting of heads of def's programs, many heads agreed to cuts in salary to keep institutions open. Pl is now, after a few years, suing for the following matters: 1. The reduction in salary, which def forced on pl. 2. D'mei havra'ah (recreational payment) for 3 years, part of which def agrees to. 3. Loss of special rights that pl had with a pension fund, which he lost when def delayed payment to the fund, which def had promised, and despite warning. 4. A percentage of the fundraising sums pl raised on trips abroad, which def promised pl he would receive but did not give him (22,868 NIS).

Ruling: We have discussed all of the claims of the suit. Now we will examine def's offsetting claim of hityashnut (statute of limitation), that too many years have gone by since the events that caused the obligations. Def claims that this is a sign that the claims are untrue and that Israeli law does not allow such claims to be presented to court.

Def agreed to pay part of the d'mei havra'ah and is not employing hityashnut regarding the basic obligation and therefore it does not apply to the sum that is beyond what def admits either. Hityashnut, then, is pertinent here only regarding damage to pl's pension.

When there are grounds for payment, we do not say that the passing time without a claim is a proof of mechila and that beit din must be suspicious about the fact that the claim was raised late unless the suspicion has specific merit (Shulchan Aruch, Choshen Mishpat 98:1-2). Thus, Halacha does not fundamentally recognize hityashnut. The likely difference in this matter between Halacha and secular law is that Halacha is more concerned with justice than with "proper procedure" (one should make his claim promptly and allow the obligated to "move on") (Mishpetei Uziel IV:28). Beit din need not be suspicious of the claim regarding the pension because def agrees with the claim's factual basis.

Some poskim entertain the possibility of hityashnut entering Halacha based on accepted practice (see Pitchei Choshen, Halva'ah 2:(72)). Our beit din accepts this approach when there is such a minhag, including when it developed because of the law. However, this applies to obligations that are created due to agreement between the parties, not in a case like ours when it is based on damages, when def caused pl to rely upon him and failed to follow through.

Additional reasons that hityashnut does not apply here: Israeli law views hityashnut as a matter of court procedure, not of the forfeit of the obligation. Additionally, while the law applies to arbitration, religious courts were excluded from the law (because they are entitled to their own procedures). Finally, the law requires a litigant to invoke hityashnut at the first opportunity. Def did not do so at the first hearing, but only in later written submissions.

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