



HEMDAT YAMIM

חֵמְדָּה יָמִימִים

Parashat Hashavua

Chukat, Tamuz 7 5784

Harav Shaul Israeli zt"l
Founder and President

Inside and Outside

Harav Yosef Carmel

The *parasha* starts with the laws of *para aduma* (the red heifer) specifically and the laws of *tuma* and *tahara* (ritual purity) in general. *Chazal* view these *halachot* as not having understandable reasons (*chok*), but there is still much we can learn from these *halachot*.

One of the rules of *tuma* is that objects become capable of becoming *tameh* when they are made by man into useful utensils. Sometimes this means that if they are exposed to *tuma*, they become *tameh*, and sometimes this means that in order to use it (for food), one must first immerse it in a *mikveh*. Some utensils, like *p'shutei kli etz* (wood utensils that do not have a receptacle in which things can be stored) always remain pure (Tosefta, Chulin 1:21).

Our *parasha* (Bamidbar 19:15) teaches that an open earthenware utensil (*kli cheres*) can become *tameh* but not a sealed one. The rule is that a *kli cheres* becomes *tameh* only from within. Homiletically, we can learn that what is important is the internal nature of things, not the external nature.

Let us apply this idea to another subject that the *parasha* deals with. Bnei Yisrael complained about their disgust with their main food in the desert, the *manna* (ibid. 21:5). This is surprising considering the wonderful qualities the Torah ascribes to it (see Shemot 16:31) and which *Chazal* expanded upon. (The most famous quality, although far from the only one, is that the *manna* tasted like whatever one wanted it to taste – see Yoma 75a).

It is logical to conjecture that what disturbed the people was that it did not look like food. It is well known that part of a food's appeal is connected to its appearance, not just its taste. The *manna* lacked the appearance that would stimulate the people's appetite. (We should add, parenthetically, that a Jew should eat to satiate himself, so that he should have strength to serve Hashem, not because of a craving for the food. This is as it says in Mishlei (13:25): "A righteous person eats for the satiation of his spirit.")

The *manna* that Hashem gave us to eat in the wilderness indeed sent home the opposite message from what the people's prejudice was. One should not look at the external but at the internal. The idea that the fruit of the Tree of Knowledge was a cause of "desire to the eyes" (Bereishit 3:6) was part of the background of the sin. The fact that the snake pushed to Adam and Chava the idea of importance of the fruit's appearance explains why snakes were involved in punishing the people who complained about the *manna* and thereby gave unwarranted value to the food's appearance.

Certainly, due to technological and economic factors, the world of marketing has an ever-expanding impact on mankind's choices, for people of all ages. From a young age, even children are exposed to the elevating of the role of externals and of self-promotion, for the most part in a negative manner. These factors cause great deterioration of society, leading up to and including murder. We will continue to work to give prominence to the internal, which requires overcoming many technologies and social factors that preach the opposite.

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Ask the Rabbi

by Rav Daniel Mann

Barchu Later than the Normal End of Tefilla

Question: One night, the person saying *Kaddish* at the end of *Ma'ariv* forgot to say *Barchu* afterward (*Barchu Batra* =*BB*), and the *chazan* started leading *Tehillim* (for the war). Could we have done *BB* after the *Tehillim* and *Mi Sheberach* we say?

Answer: *BB*, which most *batei kneset* in Israel recite at the end of *Shacharit* and *Ma'ariv* (a minority of *Ashkenazim* do so abroad) grew out of the concept of *poress al Shema* (=paS), which is found already in a *mishna* (Megilla 24a). *Barchu* was instituted as an introduction to the *berachot* of *Kri'at Shema*, which leads into *Shemoneh Esrei* (see Rivash 334). *PaS* allows those who missed this process to join the *tzibbur* and salvage what they can. The Shulchan Aruch (Orach Chayim 69:1) presents, as the classic case, those who *davened* without a *minyan*; *paS* enables them to take part in *Kaddish*, *Barchu*, and a repeat of the first *beracha* of *Kri'at Shema*, which, in the morning, includes a *Kedusha*. In contrast, the Rama points out that the mode of *paS* practiced in his time/place did not include the first *beracha* of *Kri'at Shema*. The Mishna Berura (69:1) cites important *poskim* who say that *paS*, even for just doing *Barchu*, is only for those who did not yet *daven*.

BB is a few steps removed from the above. *BB* is done at the end of *tefilla*, whereas *paS* is not necessarily done then (see Mishna Berura, intro. to *siman* 69). A more major difference is what need triggers saying *Barchu*. Classic *paS* is when someone missed something, either by not hearing *Barchu* at all, or hearing it not before *Birchot Kri'at Shema* (which he is now up to). In contrast, *BB* is done even if no one is known to have missed, because it is possible that such a person is present (Rama, OC 131:1).

The origins of this *minhag* are not fully clear. Massechet Sofrim (10:6) speaks of saying *Barchu* right before or after *Shemoneh Esrei* because of concern for “those who come and those who leave.” The Rivash (Shut 334) sees this as a source for *BB*, while pointing out that the Rambam and Tur do not cite it and that there is opposition to it on the grounds that *Barchu* needs to be an introduction to a *beracha*. (The likely answer is that the response of “*Baruch Hashem Hamevorach ...*” itself can be that *beracha*.) There are indications that various *Rishonim* had differing texts and/or understandings of Massechet Sofrim. The Rivash does not like doing *BB* when it is known that no one missed *Barchu*.

The Shulchan Aruch (OC 133:1) is sensitive to the idea that one cannot say *BB* anytime, but only when it fits the need. He rules that one does not say *BB* after Shabbat morning *davening* because people are not expected to be late enough to justify it. This is either because they will not be up to *Birchot Kri'at Shema* when *Mussaf* is over (see Rivash) or because we expect that they heard *Barchu* in *Kri'at Hatorah*. The difference between the approaches is the *minhag* of *Nusach Ashkenaz* of Israel to omit it on Mondays/Thursdays because of *Barchu* in *Kri'at Hatorah*. The Kaf Hachayim (OC 133:1) explains the Sephardi *minhag* to do *BB* at every *Shacharit* and *Ma'ariv* based on *Kabbala* – the second *Barchu* supplements spiritual elements not covered by the first one.

The exact timing of *BB* is likely important. The Chazon Ish is cited as saying that since it is for latecomers, we should wait as long as possible (see application in Dirshu 133:1). However, it apparently must be connected to *Shacharit* or *Ma'ariv* (see Si'ach Tefilla 16:5 in Rav Elyashiv's name). When does *tefilla* end when *shuls* say *Tehillim* due to the war after *davening*? Does *Tehillim* extend the *tefilla*, like *Shir Shel Yom* or *Pitum Haketoret* do? Or is it just a logical time to say *Tehillim*? My guess is the latter, and therefore one can logically say that we should not further expand the *chiddush* of *BB* when it has been delayed. We present two possible compromise ideas: 1. Do the standard *BB* after the *Tehillim* only if someone missed *Barchu*; 2. Add a *Kaddish* after the *Tehillim*, and then say *Barchu* (there are strong indications that *BB* is connected to *Kaddish*, including that one who said *Kaddish* does *BB*).

“Behind the Scenes” Zoom shiur

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



Igrot HaRe'aya - Letters of Rav Kook

Allow Farmers to Not Work during *Shemitta* – #236, #241

1. Date and Place: 23 Marcheshvan 5670 (1909), Yafo

Recipient: Mr. Zvi Henri Frank, one of the lead administrators of the Jewish Colonization Association, which was the conduit for Baron Edmond De Rothschild's support for the development of the *Yishuv* in *Eretz Yisrael*. Mr. Frank was mentioned in past letters as one who was involved in implementing the *Heter Mechira* over the fields the Baron owned.

Body: I received a telegram from Safed, saying that the administration is forcing farmers from Yesod Hama'ala and Mishmar Hayarden to work the land this year, despite it being the year of *Shemitta* and that they thereby are arousing great acrimony between brothers and lack of ease in the whole area. I already asked your honor to please instruct the officers who are within your domain that they should allow each person to do what he wants to do. Let us not subjugate anyone to act against his religious convictions.

Realize that the accepted leniency (the *Heter Mechira*) is a leniency allowed only because of the pressures that make it necessary, and whoever wants not to work the land at all is to be praised. Religious coercion weakens the whole basis of the *Heter Mechira*, as it was adopted with the understanding that no one would intervene in [individual farmers'] decisions, but rather everyone would act as his heart tells him to act. He who wants to act leniently, will act leniently; he who wants to act stringently, will act stringently.

I request very, very much of your honor that you will fulfill my request. If there is a need for us to speak in person, I will not trouble you to come to me. Rather, if you will give me a time frame in which I can come to you, I will do so because of the great importance of the matter of removing the coercion on matters of religion and life in *Eretz Yisrael*.

2. Date and Place: 2 Kislev 5670 (1909), Yafo

Recipient: The Council of Ekron (presently, Mazkeret Batya).

Body: I have the honor to inform you [my opinion] on the matter of those who are keeping *Shemitta*. Justice, rectitude, and the law of the holy Torah require us to act in this matter with honor and serenity.

Although we must never question the right of our brethren who are compelled to follow the accepted leniency based on selling the land, still we need to know that it is a great and holy thing for some to observe *Shemitta* according to the *halachot*. They thereby sanctify Heaven's Name and cause to be recognizable the Land's sanctity and the affection for that which is sacred to grow. Therefore, beloved brothers you must not, Heaven forbid, create additional difficulties for those who are keeping *Shemitta*. Only those damages that will be caused to you by those who are observing *Shemitta* should come for a hearing in a rabbinical court. Certainly, no favorites shall be played there, and if those who are keeping *Shemitta* will be causing you damage, they shall suffer for it, and they should give in advance a document of debt as a guarantee.

The matter of how to arrange the voting rights should also be decided by a rabbinical court. [They will determine] if the manner of calculation that is used by the government will be such that those who refuse to work will cause more payment than if they had worked.

I hope that you will all know how to preserve your dignity and the dignity of the Holy Land. You should act with love and friendship, and there should not be any jealousy or tension between you on this matter, as it says: "Your nation are all holy" (Yeshayahu 60:21).

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

Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Tal Shaul ben Yaffa
Together with all *cholei* Yisrael

Neta bat Malka
Meira bat Esther

P'ninat Mishpat

Damages of Movers

(based on ruling 84023 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) moved the contents of the plaintiff's (=pl) home. Pl is suing def for the following damages: 1) Several items are lost; 2) Several items were damaged; some can be fixed, others cannot. Def responds that everything that was put in the moving truck was brought to pl's new home. Def is willing to fix items as feasible. Also, def claims that some of the items were broken because they are too old to survive a move, which should exempt him.

Ruling: Since def is a paid service provider, his obligation to pay for loss/damage is like a *shomer sachar* (paid watchman), who is obligated when the object is lost or stolen (Shulchan Aruch, Choshen Mishpat 306:1). However, that is when it is accepted that it was lost or stolen, whereas here, def claimed he returned everything for which he had taken responsibility.

The *gemara* (Bava Batra 45b) rules that a *shomer* is believed to say that he returned the object even if he received it with witnesses. On the other hand, if he received the object with a document, he is not believed to say he returned it (ibid. 70a). That is because of the assumption that if he had returned the object mentioned in the document, he would have taken back the document. If the watchman is willing to take an oath that he returned it, he is believed due to a *migo* – he should be believed because had he wanted to lie, he could have claimed that it was lost under extenuating circumstances (Shulchan Aruch, CM 296:2). In this case, while there is a written agreement about taking responsibility for the contents of the house, it is not the type of document that is returned after the watching is over. Therefore def should be believed that he returned what he received.

The problem with def's claim of return is that he does not really know what he returned but only that he believes that he must have returned everything he received. However, the *gemara* (Shvuot 42b) posits that if a watchman received a collection of objects without knowing exactly what they were, his claim that he gave back the entire contents is considered a complete claim that he returned all. The Rama (CM 298:2) rules that this is so even if the *shomer* says that he does not know if anything was stolen.

On the other hand, here def admits that he has to pay for some of the items he watched due to the damages, and a partial admission makes it necessary to swear on that which he denies, as long as they are part of one claim (see Shulchan Aruch, CM 88:12). In lieu of the oath, which we do not administer in our times, *batei din* rule based on compromise.

Beit din does not accept the claim that def is exempt due to the furniture's age. This is because the damages are unrelated to age and because def knew what he was moving and did not demand an exemption in advance.

Although usually one can fix what he damaged, here def had an opportunity to do so and did not take advantage of it. Even if def gave a reasonable explanation as to why he did not fix it yet, pl is still not required to wait long, as he has a right to expect to get his objects in working order.

Based on compromise, *beit din* obligated def to pay pl 3,000 NIS.

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