



HEMDAT YAMIM

חֵמְדָּה יָמִימִים

Parashat Hashavua

Eikev, Av 20 5784

Harav Shaul Israeli zt"l
Founder and President

Areivut, Arvut, and Aravot – part I

Harav Yosef Carmel

We start with the Tiferet Shlomo's (Rav Shlomo Rabinowitz, b. 1801) deep ideas on *parshiyot* Miketz and Vayigash: Yehuda represents the element of *malchut* (kingdom) in Israel. In the Heavenly world, *malchut* is found in the sphere of *aravot* (one of Heaven's spheres). For that reason, Yaakov instituted *Arvit* (*Ma'ariv*), which is a hint that it is connected to *arvut*, guarantorship. For *tefilla* to be accepted properly, one must pray not just for himself but for others as well. This fits with the words of the first *beracha* of *Ma'ariv*, "*Hamaariv aravim*," which can be connected not just to night but also to the idea of mutual responsibility. This is why when Reuven tried to convince Yaakov to trust him by offering to have his sons killed if Reuven did not succeed (Bereishit 42:37), Yaakov rejected it, and when Yehuda presented the idea of *arvut* (ibid. 43:9), it inspired Yaakov to bless them with the belief that Hashem would give them mercy (ibid. 14). It gave Yaakov the confidence that Hashem would send salvation from the failings of the sale of Yosef. Indeed, when Yehuda explained his connection to Binyamin by telling Yosef he was the guarantor (ibid. 44:32), Yosef could no longer hold back (ibid. 45:1). This was the sign that the problem created by his sale was fixed. It was also a harbinger of the ultimate redemption, which will also come about due to the emerging unity of the Jewish People and their *arvut* one for the other. This summarizes the Tiferet Shlomo's ideas, which are fit to have been written specifically for our times.

Rav Rabinowitz was close to the great Chasidic leaders of his days, the *Tzaddik* from Peshischa, and the "*Chozeh*" from Lublin. He sought to learn from them how our prayers, especially to speed up our redemption could be accepted, so that the dream of an independent Jewish state in *Eretz Yisrael* would be realized. His explanation is based on the following assumptions: Yehuda's essence is to be ordained for kingdom, and kingdom finds expression in the Heavens in the *aravot*.

We must know that *Chazal* saw the Heavens as made up of different spheres. Reish Lakish posited that there are seven spheres – the seventh is *aravot*. It is the seat of righteousness, law, charity, the storehouses of life, peace, blessing, the souls of the righteous, the spirits that will be created in the future, and the dew with which Hashem will return the dead back to life (Chagiga 12b). In the *gemara*, a *pasuk* is brought that relates to each level of Heaven. *Aravot* is mentioned in Tehillim (68:5), and according to its description, it appears to be a very special place. Rav Baruch of Magentza also gave tribute to this "seventh Heaven" in his *zimra* of Shabbat, *Baruch Kel Elyon* – "He Who rides in *aravot*, the **King** of all the worlds, He had His nation cease from work, with nice things, with pleasant (**areivot**) foods ..."

The connection between the seventh Heaven and kingdom is in line with the Kabbalistic idea that *malchut* is the seventh desired attribute. It is also interesting that **aravot** are taken on the seventh day of Sukkot, the day in which our "guest" is King David, who personifies the attribute of *malchut*.

We must remember that mutual responsibility is the basis of the Jewish State.

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Ask the Rabbi

by Rav Daniel Mann

Davening and Putting on Tefillin after Passing Date Line

Question: I am traveling from New York westward to Japan (flight XX YY), leaving early Monday afternoon and arriving Tuesday afternoon. What do I do about *davening* and *tefillin*?

Answer: Your flight (passing 11 time zones in a 13-hour flight) will not enter nighttime or morning. We need to review the *halachot* of the international date line (see Bemareh Habazak V:29). We must determine regarding regions far from *Eretz Yisrael*, whether their days begin before or after Israel's. The Chazon Ish, based on the Ba'al Hamaor, says that the line is 90° east of Yerushalayim (in eastern China, but since the line must not break a land mass, it begins on Asia's Pacific shore). Many posited that it is 180° from Yerushalayim (in the middle of the Pacific). A third approach (see Har Tzvi Orach Chayim I:138) reasons that it depends how the population considers themselves. According to the latter two approaches and the primary assumption of most (the biggest issues are Shabbat and Yom Tov, which we will not get into here), you indeed will arrive on "halachic Tuesday."

You will be able to *daven Mincha* relatively soon after takeoff (check relevant apps), which we recommend you do. Without an astronomical nightfall or morning, there is no way to *daven Ma'ariv* or *Shacharit*, despite the long flight, so one can view it as your missing the first *tefillot* of *Yom Shlishi*. Do you *daven Mincha* upon arrival in Japan, considering that there it is Tuesday afternoon, whose *Mincha* you did not *daven*? Or can one not have a new obligation of *Mincha*, when he was not in a place in which halachic nightfall ushered in a new day since he last *davened Mincha*? (In the Polar Regions, there are no "sunrises and sunsets" for weeks on end but there are sun positions that are halachically equivalent (beyond our present scope) to nightfall and daybreak.)

A *sefer* on time-zone-related questions, Ta'arich Yisrael (*siman* 4) cites many contemporary *poskim* on our conceptual dilemma, regarding various *mitzvot*. Are *mitzvot* generated by the calendric day (in which case, *Yom Shlishi* deserves a *Mincha* despite the lack of a nightfall since your last one)? Alternatively, does the individual Jew's (daily) *mitzva* depend on the day he experiences astronomically (in which case, your flight took only part of an afternoon, and you would not repeat *Mincha*)?

Both approaches are well represented. Rav Chaim Scheinberg and Rav Yechezkel Roth hold that one needs exactly one of each *tefilla* for each calendar day, in which case you need to *daven Mincha* on Japan's *Yom Shlishi*. B'tzel Hachochma (V,103) and Rav Gestetner posit that daily *mitzvot* depend on the day the individual experiences. According to them, you do not need another *Mincha* (on the way back, you may have extra *tefilla/ot* on the same calendar date, due to the sun's "fast movement"). One might invoke the Rambam's opinion that there is a Torah-level *mitzva* to *daven* every day (and you will be missing *Yom Shlishi's Ma'ariv* and *Shacharit*). However, these opinions disagree what that "day" means. (Also, for the Torah-level *mitzva*, any request of Hashem should suffice – see Magen Avraham 106:2.) I intuit that you are not obligated in another *Mincha*, and this is strengthened by the doubt (see above) of whether it is really Japan's *Yom Shlishi*. Still, I agree with Ta'arich Yisrael's contention that due to doubt, it is worthwhile to *daven Mincha* again, **on condition** that if it is unnecessarily, it counts as a voluntary *Shemoneh Esrei* (see Shulchan Aruch, OC 107:1). (This would not work for *Shacharit's* and *Ma'ariv's* other *berachot*.)

You will not need *tefillat tashlumin* (makeup) for *Shacharit* because you will not have been obligated in it (see Shulchan Aruch, Yoreh Deah 341:2). Although *Birchot Hashachar* can be recited all day, you cannot do them voluntarily; therefore, doubt requires that you not recite them. It is proper to put on *tefillin* on Tuesday, as some say the *mitzva* goes by the day (see Pri Megadim, EA 77:2), and one can put them on with *berachot* multiple times a day, when separated by a break (Shulchan Aruch, OC 25:12).

"Behind the Scenes" Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann's weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at info@eretzhemdah.org to sign up (free) or for more information on joining the group.

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



Igrot HaRe'aya - Letters of Rav Kook

Plowing to Prevent Loss during *Shemitta* – #260-264

Date and Place: 3 Shevat – 7 Shevat 5670 (1910), Yafo

Recipient: Letters to Mr. Brill, a supervisor of *moshavot* at the International Colonization Association and to the Council of Ekron, where a minority of farmers wanted to keep *Shemitta* fully. [There was a dispute about the danger to the *moshava* if some fields were left fallow (it raised the possibility that local non-Jews might be able to claim the unworked fields). These letters deal with a halachic compromise to solve this problem.]

Body: 1. To Mr. Brill.

I have the honor to inform you that I found out that even if those refraining from work (=refrainers) in Ekron will plow after all the farmers who are working the land (=workers) finish sowing, this will also prevent all possible damage. This is because throughout the time of sowing, no non-Jew will come to graze on the land, as people will always be around doing their work. According to Halacha, it is very proper that the plowing will be after the time of sowing. Therefore, I request of you to also agree to this, so that the workers will be certain that the refrainers will keep to what we have said and will plow right after the sowing to protect [the land].

2. To the Council of Ekron

I am happy to explain to your honors that the refrainers' time of plowing for protection will begin after the last workers will sow. We will gain by this that it will be clear that the plowing is not for cultivation, and it will be clear that there is a Sabbatical for the Holy Land. Regarding concern of damage, I rely, with Hashem's help, that as long as people are in the fields, no non-Jew will decide to come there. I trust that you will keep all that I have said. He who chooses our Desired Land shall spread a canopy of His peace and decree His blessing on all that relates to you.

3. To the Council of Ekron

I refer to the prevention of damage that is liable to come due to refraining from work, to protect workers from the loss of land. We have already discussed multiple times that it will be accomplished by plowing. I now inform you that I will be able to demand expenses of the plowing from the refrainers only once. Therefore, if workers will demand that the refrainers plow at the time that all are plowing, then if there will be a need for another plowing, the expenses will fall on the workers. It is a good idea for the workers to relent and have the plowing around a month later, so that one plowing will suffice for the necessary protection. Clearly, under no circumstances in the world will someone else be permitted to sow the refrainers' fields.

I request extremely strongly that this will put an end to this dispute, which is causing me so much emotional pain. The Savior of Israel shall bless you with His goodness and peace on the holy soil.

4. To the Council of Ekron

I hereby inform you that it is strictly forbidden to sow the refrainers' land. Heaven forbid taking action in a field whose owners do not want to negate the sanctity of *Shemitta* by uprooting it [through sale]. Be careful not to bring "the sword that takes revenge for the covenant" (see Vayikra 26:25) on those who wantonly belittle the sanctity of *Shemitta*. Those who listen to me will dwell in tranquility without fear of bad things. [Rav Kook reviewed the matter of one payment for plowing.] A non-Jew will do the plowing in an unusual manner. I repeat my warning, invoking the strength of the holy Torah, as a strict prohibition and a rabbinic curse against anyone who dares to sow the refrainers' fields in contradiction of my ruling. I trust the fineness of your spirits, dear brothers, that you will not violate what I have said and you will listen to the advice of your teacher, who loves you best and wants, with all of his heart and soul, your success and blessing in the Holy Land.

5. [Rav Kook updated Mr. Brill on his communications with Ekron and asked him to confirm that this was also his organization's policy.]

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

Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Who Pays for an Unexpected Tax? – part III

(based on ruling 83095 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) was interested in buying the plaintiff's (=pl) house, but the sale could not be completed because def was not yet a member of the yishuv in which the property is found. Def moved into the house under a rental agreement, which was replaced by a sales contract months later, when the yishuv approved def. After the second contract was signed, it became known that a recent change in urban planning rules made it possible to add three rather than two housing units to the house. This fact added significantly to the *mas hashbacha* (betterment tax at the time of sale), which pl lowered by negotiation to 72,672 NIS. Pl argues that for all practical purposes, the sale took place **before** the tax was levied, and it is unfair that this tax, which was levied due to a technicality caused by def, should fall on pl when only def will benefit from the regulation change. Def responds that since the original arrangement was indeed a rental, the tax falls on pl, and, in any case, there is no reason for a buyer to pay a sales tax. Def adds that he does not plan to build the extra unit and might not have bought the house if it required reimbursing pl this extra amount. Def also points out that the contract says that the seller will pay the *mas hashbacha* and that pl should have been aware of the apartment's legal status.

Ruling: [Last time we saw that there are grounds to either nullify the sale or demand return of the excess value of the extra building rights. Now we will investigate factors that can prevent pl from getting back the amount of tax paid.]

Provision in the contract: While the contract states that the seller will pay the *mas hashbacha*, that is a standard clause that refers to the tax based on the expected situation, not an amount of *mas hashbacha* there was not reason to suspect. Even if one would want to extend the clause to unexpected amounts, since pl can claim *mekach ta'ut* on the house's value, which is much more money, if he waives that right in favor of the smaller amount of the tax, def is required to do so.

Pl's obligation to be aware: We do find a concept that a buyer who should have checked for easily noticeable blemishes loses his right to complain about them (Maggid Mishneh, Mechira 15:3). However, that applies to a blemish for which a **buyer** is expected to check, as is standard procedure. A **seller**, in contrast, assumes that he knows his property's characteristics, and therefore his lack of checking is not a sign that he waives rights or of recklessness. Also, pl asked community representatives about changes in zoning and was told that it should not affect him, which turned out to be wrong. It was also his lawyer's job to check the taxation element, and the lawyer's failure does not make the seller considered one who waived rights he did not know about.

Buyer's claim that he might not have bought the property: There is no reason to believe that the relatively (compared to the sales price) small change would cause def not to buy. However, since paying the significant added amount requires def's planning, we allow def, based on compromise, to pay in 24 installments.

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