



HEMDAT YAMIM

חֲמַדַּת יָמִים

Parashat Hashavua Nitzavim Vayeilech, Elul 25 5784

Harav Shaul Israeli zt"l
Founder and President

As If You Bound Yourselfes

Harav Shaul Yisraeli – from Aroch Siach, p. 68 – and address from 1941

The *gemara* (Rosh Hashana 16a) states: "Blow the shofar before Me so that I will remember the binding of Yitzchak, the son of Avraham, and I will consider it for you as if you bound yourselves."

Why does Hashem, who does not forget things, need a reminder? Also, couldn't we mention the bindings (i.e., those who have been killed for being Jews) from those times until and including these days, in which case we could tell of those who were not only willing to give their lives (like Yitzchak), but actually did give their lives? Jewish blood is treated as worthless – no one cares what happens to us. The entire nation lies "bound to the altar." In fact, we are not just being bound but being killed in practice. Hashem swore in His own Name "if it is not with a strong hand, an outstretched arm, and a flowing rage that I will rule over you" (Yechezkel 20:33).

However, it is not Hashem's will [to act so harshly], rather just that we should be **prepared** to "bind ourselves." That is Hashem's intention. He wants that our love of Hashem that is burning within us should be such that we disregard and belittle the world's apparatuses to take Jewish lives.

On this day of Rosh Hashana, we should blow the shofar, to remind **us** about the binding of Yitzchak. This was a binding that came willfully, where the participants gave up their own being, on behalf of the effort to sanctify Hashem's Name. It is that **we** need to remember. From Hashem's perspective, he suffices with considering it as if we "bound ourselves." In other words, all the many victims should be considered as if the victims gave their lives of their own will. If so, the merit would definitely increase, the power of the Satan would automatically wane, and the kingdom of evil would pass like smoke from the land.

We should view ourselves as being found in the same hell that our brothers in the field of battle are, in the camps of detention, captivity, and suffering, as well as in the hospitals (ed. note – the world did not yet know about extermination camps). Let us join in, out of will, in the same feeling of anguish and excruciating pain, which is abnormal for human beings, as our brethren who are sanctifying Hashem's Name. Let us consider the horrible feeling of the skies closing their gateways, as the *pasuk* says: "You covered Yourself with a cloud so that the prayers will not reach You" (Eicha 3:44). Let us force open the heavens with the strength of dedication and willingness to give.

We are indeed representatives. We are representatives of the community of the Nation of Israel, including those who are homeless, those who are forced to hear the blasts of war, whether those who are fighting in battles or those who are rotting away in jails. We must bring this great pain and sighing into the sound of the shofar blasts.

Chazal teach us: "A year that is poor in its beginning brings riches in its end" (Rosh Hashana 16b, based on the spelling of Devarim 11:12). May this year see the end of our troubles and the beginning of our liberation!

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Eretz Hemdah
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
amutah number 580120780

American Friends
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www.erezhemdah.org info@erezhemdah.org

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Ask the Rabbi

by Rav Daniel Mann

Crying in Rosh Hashana *Davening*

Question: One of our *chazanim* and a minority of our congregants cry/encourage crying during our *tefillot* on the *Yamim Nora'im*. I understand this on Yom Kippur, but I was taught that Rosh Hashana is a happy day on which we coronate Hashem. I am not much of a natural crier. Should I try to cry or not?

Answer: Yom Kippur has a complex character in regard to crying. It is the most important day of *teshuva*, which includes crying (see Rambam, *Teshuva* 2:4 & 5:2), but it is also a wonderful day, in that we receive much *kapara* (atonement) (*Vayikra* 16:30). In fact, if fasting were not needed as part of the *teshuva/kapara* process, it would likely be a *mitzva* to have a feast on Yom Kippur to celebrate the positive (see Ritva, *Rosh Hashana* 9a).

Rosh Hashana is more complex. The Torah tells us little about the nature of the day, but it is presented as equivalent to the three *regalim* and Yom Kippur. *Chazal* tell us that mankind is judged on Rosh Hashana (*Rosh Hashana* 16a), and due to the real possibility of an unfavorable judgment, we do not recite *Hallel* on the *Yamim Nora'im* (*Arachin* 10b). On the other hand, there are powerful, happy things going on, e.g., “coronating” Hashem, hopefully good judgment. The themes associated with the various *shofar* sounds also conjure up hopeful and foreboding thoughts.

How do these mixed indications of the day’s nature and mood factor into halachic practice? A *pasuk* in *Nechemia* (8:10), speaking about a powerful event that occurred on Rosh Hashana, instructs the people not to cry or be sad but to feast on that special day. We indeed *pasken* along these lines: “We eat and drink and are happy, and we do not fast on Rosh Hashana” (*Shulchan Aruch*, *Orach Chayim* 597:1). The *Shulchan Aruch* does conclude that we should not to eat in a manner that causes lightheadedness, but we should maintain fear of Hashem.

The Gra (see *Ma’aseh Rav* 207) posits that the above *pasuk* is a precedent that one should not cry on Rosh Hashana, apparently even during *davening*. Rav Ovadia Yosef cites others who rule this way and concurs, although he justifies those whose emotions during *tefilla* bring them to tears (see *Yabia Omer* IX:51). It is not clear from *Nechemia* that at no point in Rosh Hashana, including some heart wrenching moments, is one allowed to cry. We note that while the Gra (*ibid.*) says not to say the powerful *tefilla* of *Avinu Malkeinu*, our *minhag* is to recite it on Rosh Hashana, except when it falls on Shabbat (*Rama*, *OC* 584:1).

Indeed, many *Acharonim*, including the *Ba’er Heitev* 584:3 and *Mateh Ephrayim* 582:28, cite the *Arizal* that one **should** cry on Rosh Hashana and that there is something wrong with the *neshama* of one who does not. *Elef Hamagen* (582:45) even cites those who say that one who has difficulty crying should at least make crying-like sounds. Some understand the Gra to oppose crying only out of fear and not of emotion due to the magnitude of the day and Hashem’s greatness (see citations in *Dirshu* 582:30).

Multiple sources confirm that the accepted practice is not like the Gra, and most seem to understand that the crying is out of fear of what could happen during the year. Granted, plenty of people do not cry, but realistically, few of those are holding themselves back due to the discipline the Gra promoted (the Gra was famously a highly demanding spiritual person). Rather, some people are not emotionally demonstrative, and some are apathetic to or skeptical about the idea of being judged for the year and how this is critical for their life, an approach that no *poskim* promote.

Therefore, we assume that those who cry at appropriate junctures enhance their Rosh Hashana and set a good tone for their environs. We strongly discourage faking or artificially amplifying his crying, which in our time and places, is likely and understandably to be scoffed at. Last Rosh Hashana, I was thinking how young people enjoying “smooth” lives have trouble feeling “fear of judgment.” Tragically, we have lost many dear people of all ages since then, and it should be easier to feel and demonstrate emotion this Rosh Hashana.

“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@erezhemdah.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

Maintaining a Friendship of the Spirit – #266 – part IV

Date and Place: 11 Shevat 5670, Yafo

Recipient: Rav Pinchas Hakohen Lintop, the rabbi of a Chassidic community in Lithuania. He had learned *Kabbala* with Rav Kook when Rav Kook was in Boisk. The two were very deep and like-minded thinkers. We have previously seen a letter between them (#184), written a year earlier.

Body: [*The discussion had just turned to philosophical matters. In the background, Rav Lintop apparently critiqued Rav Kook's recent article, "Derech Hatechiya"*]

The feeling of belief in Hashem, which is so strong, comes first. We need to strengthen it specifically at this time to make it as broad, general, and all-encompassing as can be. Afterward, we can begin clarifying concepts that have developed to the left and to the right. This requires extracting the impurities that lost their efficacy when they strayed too far. It also requires removing internal chaff from the estate of Jacob, the pure man who is missing nothing. It even has the substance that “draws out the undesirable parts of a pot of food, which it absorbed during cooking.” It is worthwhile to maintain the nation's honor and present its impurities to it in privacy, so that it can maintain its ability to march forward with valor, using its spirit, which knows its purity and truthfulness.

However, why should I speak in this venue (i.e., his recent article) about the difference between humanity in general and the unique nation and between the collective and its individuals. All of these points are special subsets of the overall enquiry; they are very appropriate when the time comes for details, but they have no special place when one first just looks into basic, broad ideas. The specific distinctions melt away when the overarching generalities shine in bright light. It is not that the individuals melt away or that “existence” gets any closer to earth, as Hashem is “a sun and a protector” (Tehillim 84:12), and Hashem “created the world to be inhabited, not to be void” (Yeshayahu 45:18).

However, the contrasting differences are responsible for a situation whereby every individual interferes with his peer, every piece of logic contradicts another, each group has a certain enmity toward a different group, and each individual has the attitude of “I alone shall rule.” This form of void can be fixed by shining objectivity [at the misconceivers]. The divisive people who damage the world and commit iniquities cannot look at all-inclusive light and are broken by the power of their own destructiveness.

We must present many high-quality introductions before we make the world capable of understanding how special Hashem's revelations through miracles are. The divine good, stands strongly in the heart of the only nation which, from its inception, carries Hashem's banner and prepares the world to recognize the phenomenon of miracles. It is a pity that there should be a spiritual leader whose soul is not connected to the light of Hashem's wonders that were done in the past and does not look forward to see their light in the future.

[We should understand] the gradual manner in which the spirit of life will return to the heart of our nation, which is fainting with a thirst for the clearly pronounced word of Hashem. It is through the straightening of the path of the wellspring of life which flows through the nature of the Jewish soul. This is connected to the belief, from the nation's infancy, in unfathomable miracles, which can exist even during historical developments that hide the light of Hashem. These too are revelations of Hashem in the physical and spiritual world, as the world progresses in straightforward and complex ways. We must constantly have the inclination to appreciate goodness. The divine goodness that is revealed through harsh judgment will, in the future, appear with lightning bolts of glowing light more powerful than the superficial good that is revealed from sentimental love that will not conquer the paths of life or lead human society in all the ways of its life.

We continue next time.

We daven for a complete and speedy refuah for:

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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

A Flawed Used Car – part II

(based on ruling 82171 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought a car from the defendant (=def). Def reported shortcomings of the car and sold it for less than the catalogue price. Pl did not have it checked out professionally. On the trip home from the purchase, pl noticed noises from the back of the car during sharp turns and also claimed problems with the shock absorbers. Within a short time, pl reported them to def. Pl wanted to return the car for a full refund, which def rejected. Pl's garage says the problem is with the differential, which needs to be replaced (it costs 4,500 NIS to put in a used one.) Def claims that he did not hear the noises described, and therefore he surmises it is a new problem. He also argues that if there were noises, pl should have heard them during his test drive, and since he did not, he cannot back out of the purchase now.

Ruling: [We saw last time that the basic requirements for *mekach ta'ut* (nullifying the sale) exist.]

Does pl lose the right to claim *mekach ta'ut* because he should have spotted the problem? The Maggid Mishneh (Mechira 15:3) cites an opinion that if the buyer could have checked for the blemish and did not, he cannot claim *mekach ta'ut*. The S'ma (232:10) cites this opinion and explains that we assume in such a case that he was aware of and not bothered by the blemish and changed his mind later. The Mishneh Lamelech (Mechira 15:3) rejects the possibility that the Rambam and Rif hold this way, and explains that the requirement to check for problems exists only in regard to mispricing, not blemishes.

It is not clear which opinion is accepted (see Nochach Hashulchan, Choshen Mishpat 15). Some say that the requirement to check is only regarding common problems (Chochmat Shlomo 232:3). Others distinguish between a claim of *mekach ta'ut* before and after the buyer's using it (Netivot Hamishpat 232:1).

The Israeli Law of Sales (par. 13-15) limits somewhat the buyer's right to nullify the sale along these lines. This law is the type that is not halachically binding. However, several *poskim* (including Shut Maharsham V:45) rule that when there is a *machloket* between halachic opinions on a matter, we can decide the practical ruling based on the local law, and this is even clearer when this conclusion is usually one that does not allow extracting payments. Therefore, we will accept the Magid Mishneh's opinion limiting the claim of *mekach ta'ut* when the buyer could have been expected to check. However, according to the Kesef Hakodashim (232:3) if a check would require an outlay of money, it is not considered easily able to be checked.

In our case, it is not considered possible to be easily checked for multiple reasons. 1) The seller admits that he did not discern the problem; 2) One of the problems could only be felt on the highway and the other one was discernable during sharp turns.

Therefore, pl has the ability to claim *mekach ta'ut*. [We will not summarize the discussion on how to compensate for the *mekach ta'ut* in this case.]

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