



HEMDAT YAMIM

חמדת ימים

Parashat Hashavua Vayeira, Cheshvan 16, 5785

Harav Shaul Israeli zt"l
Founder and President

Why Have the Attribute of Mercy, Judgment, and Again Mercy? Harav Yosef Carmel

All the commentaries are bothered by the fact that the promise of the *parasha's* first words, "Hashem appeared to [Avraham]" seems to be unkept: we do not find out anything about this direct encounter between Avraham and the Divine Presence!

Rashi explains that Hashem came to inquire about his healing process. According to him, the Divine revelation was just a special form of *bikkur cholim*. Rashi's grandson, the Rashbam, says that the Divine revelation was the arrival of the three angels. Ibn Ezra suggests that Avraham received a prophecy at that time, just that the Torah text does not reveal it. The Ramban discusses the approach of the Rambam in Moreh Nevuchim that the visit of three angels was a prophetic vision rather than an actual visit. The Ramban rejects that approach and suggests other angles.

The existence of so many explanations is a sign that there is real difficulty. With the readers' indulgence, I will introduce an approach that goes hand-in-hand with the presentation of the events' sequential order. Yitzchak's birth stretches out over Lech Lecha and Vayeira. Different messages in this context are distinguished from each other, in that in some Hashem is described with His Name according to the attribute of mercy (Hashem) and in others with the Name connected to the attribute of judgment (Elokim). Let us now take a look and analyze each revelation on these grounds.

A. Bereishit 17:1-2 – Hashem appeared to Avraham with the attribute of mercy, when he was 99 years old. The purpose was to present Avraham with a covenant promising him many offspring and charging Avraham to be *tamim* (unblemished).

B. Ibid. 17:9-14 – This was at the same time period and was done with the attribute of judgment. Again there was a covenant about plentiful offspring, and this time there was a command to fulfill the *mitzva of brit mila*. At the end, Hashem also revealed that Sarah was to give birth to a son for Avraham, whose name would be Yitzchak.

C. Ibid. 18:10-15 – This revelation uses the Name of mercy, and He repeated that Sarah would bear Avraham a son.

D. Ibid. 18:16 – 19:29 – The revelation with the attribute of mercy was about the destruction of S'dom. We can now explain based on the concept that Hashem can "speak" in such a complex manner that multiple things are said at one time, but people are unable to absorb it in that manner (see Tehillim 62:12). The general framework is one of mercy, although the covenant is said in a manner that includes both attributes. Mercy is more directly involved in the command to be unblemished. Judgment is connected to the command of doing *brit mila*, which involves blood, pain, and crying. We posit, then, that the same revelation has different aspects that are recorded in neighboring sections. Therefore, there is no question of what was revealed, as it appears elsewhere.

We finish with another *chiddush*. The prophecy about the destruction of S'dom was given with the attribute of mercy. Indeed, it was mercy for all the good people whom S'dom abused (see Bereishit 18:20). Similarly, the modern "inheritors" of the Sodomites, the Gazans, acted with such cruelty that their destruction can only be seen as mercy. It is forbidden to be forgiving to the cruel!

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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.
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**American Friends
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Ask the Rabbi

by Rav Daniel Mann

Not Hearing Morning Kiddush

Question: At a *shul Kiddush*, I wasn't able to hear the *beracha* but answered *amen* when I heard others answer. Was I *yotzei*? What should I have done?

Answer: The answer to your question depends on two issues – how morning *Kiddush* works; the status of one who knows a *beracha* was made but did not hear it.

At nighttime *Kiddush*, the main *beracha* is *Mekadesh Hashabbat. Borei Pri Hagafen*, whose point is to make it permitted to drink the wine of *Kiddush* (and similarly, of *Havdala*) is of minor importance (see Living the Halachic Process VII, C-16). Therefore, if one did not hear *Borei Pri Hagafen*, he is *yotzei* anyway (see Shulchan Aruch, OC 271:4; Mishna Berura 296:33).

The problem is that the morning *Kiddush* consists only of *Borei Pri Hagafen* (see Pesachim 106a). The *p'sukim* we recite are a late and not required addition (see Mishna Berura 289:2). So if one did not hear *Borei Pri Hagafen*, in what way did he take part in *Kiddush*?

There are two approaches in the *Rishonim* as to the nature of this abbreviated *Kiddush* that does not even need to mention Shabbat. The Ran (Pesachim 22b of Rif's pages) suggests that it connects to the night's full *Kiddush*, and posits that its *beracha* functions along the same lines as *Kiddush* of the night. Rabbeinu David (Pesachim 106a) says that given its content, it cannot serve as a real *Kiddush*; rather, its function is to elevate the meal's stature via the wine. Therefore, the drinking is more important than the *beracha*, which just permits the drinking.

If the drinking is the important thing, why don't we all have to drink the required amount? Many quote the Brisker Rav as requiring everyone to drink at the morning *Kiddush*. However, this position encounters difficulties with classical sources (see Tosafot, Pesachim 106a) and contemporary *minhag* (see Shemirat Shabbat K'hilchata 50:9). The Netziv (Ha'amek She'ala 54:4) explains that others connect to the drinking of the one who drinks the requisite amounts, who sets the proper tone for the joint "meal." Based on this, we might argue that since the "meal" you attended was elevated, missing *Borei Pri Hagafen* did not preclude your fulfilling *Kiddush*. On the other hand, the Ran's approach appears to be more accepted (this column, Bechukotai 5784).

Let us now look at your connection to the *beracha* to which you answered *amen*. It is forbidden to recite an *amen yetoma* (Berachot 47a), e.g., answering without hearing the *beracha* (Rashi ad loc.). On the other hand, the *mishna* (Sukka 51b) tells about the *davening* in the amphitheater in Alexandria, in which they raised flags to prompt people to answer *amen*. The two main distinctions raised (see Beit Yosef, OC 124) to reconcile the sources are as follows: 1. If one plans to be *yotzei* with a *beracha*, he must hear it and must not answer if he does not, but he may answer a *beracha* he does need to "use for himself" (one answer in the Rosh, Berachot 7:17). 2. The problem is when one does not know which specific *beracha* was recited, but if he knows, he may answer even if he did not hear it (Rashi & Tosafot, Berachot 47a). The Beit Yosef implies that the two answers are separate – it is not that either factor suffices or that both factors are needed; rather there is one deciding point, with a *machloket* about which is correct. According to #2, your *amen* was fine because you knew to what *beracha* you were answering, and you apparently were even *yotzei*. According to #1, your *amen* was an *amen yetoma* if you intended to be *yotzei*, and so the *beracha* could not be *motzi* you. The Shulchan Aruch (OC 124:8) rules like #1 (admittedly, this is not a unanimous ruling – see Rama and Be'ur Halacha ad loc.).

The best idea was to make your own *Kiddush*, after first speaking (to ensure *Borei Pri Hagefen* was necessary). Under extenuating circumstances (e.g., insufficient wine or insulting to the *mekadesh*, and it was important to eat), there is room for leniency to eat based on the *Kiddush* (we have to leave out a lot of sources/analysis). If so, *Kiddush* before your meal at home would be called for, whatever your regular *minhag*.

"Behind the Scenes" Zoom shiur

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Igrot HaRe'aya - Letters of Rav Kook

The State of Religion in Eretz Yisrael – #277 – part II

Date and Place: 9 Adar I 5670 (1910), Yafo

Recipient and Background: Rav Meir Lerner, Rabbi of Altona (Germany). Rav Lerner had meant to share a public pronouncement about religious improvement, which Rav Kook did not receive. He also asked Rav Kook about the state and needs regarding Judaism in the “colonies” of Eretz Yisrael. Rav Kook broke issues into sections. We will not elaborate on Rav Kook’s approach on the issues that we have featured in recent weeks.

Body: It is impossible to generalize about the religious situation in the settlements, whether about the various *moshavot* or the different people in each *moshava*. Thank G-d, every settlement has many people who fear Hashem and keep Torah and *mitzvot* with all their details. Even among those people who have been caught up in the destructive flow of our times, many of them are still careful not to stray publicly from the religious consensus, due to respect and a desire for peace.

On the other hand, there is no “pile of grain without some straw in it,” especially at a time like this when a flood of young people with bad philosophies and those who violate basic Torah prohibitions have come here, and we lack the power to protest against it. This is especially true now, when the (Ottoman) government has removed the power of the religious communities to enforce religion. We can only shine the light of Torah with a generous spirit, accurate speech, and a brave heart. This can reawaken holy emotions and knowledge of Hashem even among the weak people in the nation whose spirit has fallen asleep. This is possible because they are from the seed of Yaakov and therefore will yet return to the proper path. I will now present the main areas in which we need improvement:

1. Education (*greatly shortened*) – there is a need for religious educators to teach in a manner that includes life skills, which students have been forced to receive from irreligious teachers.
2. Religious literature – We need a Hebrew-language (the primary language in the *yishuv*) literary stage which will strengthen the resolve of those who gather behind the banner of light of Hashem in the Holy Land throughout the New Yishuv. For a start, we need a “Rabbinic newspaper,” to be published under our supervision, with the help of like-minded friends, with true fear of Hashem, talent and experience in the practical world. We must arrange material and spiritual means. Specifically, we need a sum of money to ensure the paper publication for at least the first year, after which we can hope that it will support itself. Writers and spiritual helpers with good taste, of whom each is a real expert in his field, will take responsibility for their respective fields. If it is difficult in the beginning to have a regular paper, daily or weekly, we can begin with a monthly paper, featuring the happenings of the month in all endeavors in Eretz Yisrael, especially in the New Yishuv. It should contain proper advice about improvement of everything that requires it. It should contain advice on waging a defensive war against those who are destroying religion, insights into all elements of Judaism, including land-based laws and matters connected to them. Obviously, such a publication will not leave out any subject that affects people’s lives, even if they are not directly related to holy religion. Everything joins together to strengthen the connection between the spirit of Hashem and His nation and lot, with all being done in holy purity and a pure spirit that is trustworthy to Hashem and His Torah.
3. Community rabbis – We must try to ensure that every *moshava* will appoint a local rabbi, who is great in Torah and fear of Heaven. He must love the settlement of the Land and have affection for agriculture in the Holy Land, when it is done in an honest, desirable manner. He must be a talented speaker, who will talk periodically about practical ethics filled with wisdom and emotion for that which is holy in a manner that will attract hearts with his gentle speech to the path of Hashem.

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P'ninat Mishpat

Proof Needed to Remove a Squatter – part II

(based on ruling 81116 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl), an educational organization that has a *kollel*, have been operating for many years out of a property (=prp) owned by a municipality (=mun). In 2021, they rented out part of prp to the defendant (=def), a yeshiva, for a year, for 20,000 NIS a month. Toward the end of the year, pl informed def that the rental would not be renewed and that they must vacate prp. When def refused to leave, pl placed locks on the doors to keep def's students out. Def asked *beit din* for a restraining order to remove the locks and allow def in. *Beit din* rejected this request, yet def ignored the ruling and got in. Pl asked *beit din* to have def removed and make them pay the unpaid portions of their rental and, looking forward, 1,000 NIS for every day they do not vacate. Def claim that pl has no right to remove them or demand money because pl are neither the owners nor the organization that was given control of the property, which was org2. Pl say that since org2 were unable to finance building on prp and operating there, they gave pl, who paid substantially, all such rights.

Ruling: [This week we will look at whether a squatter who admits he has no rights in a property can be removed from it by one who claims but has not proven that he has rights.]

First, note that one who has been in a property for years but does not claim that he formally acquired rights, cannot use the rights of *chazaka* (Bava Batra 41a). However, the Shulchan Aruch (Choshen Mishpat 146:9) *paskens* like the *Rishonim* who say that only one who can prove that he has valid claims of ownership can remove the squatter. On the other hand, there are apparently contradictory passages in the Shulchan Aruch, as CM 146:22 implies that others cannot remove the one who is in the property only if the latter makes a clear claim of rights to it. The latter approach is also in line with the Rama (CM 222:4) who rules that if one admits to having sold his field but does not remember to whom, he can be removed by anyone who claims he bought it. We will cite some opinions on how to reconcile the sources.

1. Knesset Hagedola – The squatter's right to stay until someone brings proof applies only when the squatter has been on the property for three years. 2. Aruch Hashulchan – the squatter has a right only when it is possible that he has acquired it from *hefker*. 3. Netivot Hamishpat, Kehillot Yaakov – the squatter cannot stay if he entered the property after the one making claims started his claims. The major sources seem to agree that one's entering the field must have been in a manner that does not have indications of impropriety in order that he can stay.

In our case, def entered prp after pl had demonstrated their claims of control; def were also there for less than three years and do not have a claim that they may have received it from *hefker*. Therefore, def cannot stay in prp even until pl proves that their claims are true. Def's claim is further weakened by the fact that their commitment in writing to pay pl for using prp only strengthens pl's right to exercise their rights in relation to def.

We continue next time with other elements of the ruling.

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