HEMDAT YAMIM חמדת ימים

Parashat Hashavua

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Harav Shaul Israeli zt"l
Founder and President

The Significance of Repeated Famine

Harav Yosef Carmel

Our *parasha* tells about a famine in the time of Yitzchak, which was "in addition to the one that was in the days of Avraham" (Bereishit 26:1). There was also a famine in the time of Yaakov and Yosef, which was preceded by Paroh's dreams about it and was detailed prominently in the Torah (Bereishit 41:54-57).

The latter famine is connected to the grave responsibility Yehuda took over the life of Binyamin. "I will be his guarantor; you may request him from me" (ibid. 43:9). When it appeared that Binyamin was indeed in danger, Yehuda cried out: "How can I go back to my father without the youngster with me, lest I see the bad that will find my father?" (ibid. 44:34).

Why are famines so prominent in Bereishit?

Pesikta Zutrata (on Bereishit 26:1) says that the second famine came because Avraham died. It brings the *pasuk* (Yeshayahu 57:1) that bemoans the situation where a righteous person dies and people do not realize the tragedy or realize that he died because of evil in the world. The *midrash* reads the *pasuk* in a manner that the righteous one died before the problems came. In other words, while Avraham was alive, he protected the world from famine. What is difficult is why Yitzchak's righteousness did not protect the world.

We will present another *midrash* (Midrash Shmuel 28:2): "Why were the forefathers tempered with famine? So that their offspring would merit Torah." The *midrash* goes on to bring *p'sukim* on the famines that Avraham, Yitzchak, and Yaakov experienced. It concludes with the three-year famine at the time of David (Shmuel II, 21:1).

This *midrash* contains two major novel ideas. One is that the famines had a positive impact, in relation to Torah. [This is a good time to point out that Avraham, Yaakov, and David stood up militarily to their enemies, so we should learn from them the virtue of "the book and the sword."] It is also instructive that David, the founder of the first Jewish state, is considered like a forefather and is thus listed along with the other three. According to this approach, David's desire, discussed in the *gemara* (Sanhedrin 107a), was largely fulfilled, as he asked why in our daily prayers we turn to the G-d of Avraham, Yitzchak, and Yaakov" and not to the "G-d of David." We also point out that the only other name found in *Shemoneh Esrei* is David, who appears twice ("*Et tzemach David…"*; "*… v'chisei David …*"). The *pasuk* that introduces *Shemoneh Esrei* was also penned by David, in his psalm on his repentance (Tehillim 51:17).

On the coattails of *Chazal*, we can say that famine is one of the means that Hashem uses to connect Hashem's creations to Him. It can serve as the background for a test, as it did for Avraham, a sign that a righteous person has passed, as it did in the times of Yitzchak, and a test to the extent he could continue his father's legacy. Famine was also a prod to display responsibility toward others, as in the time of Yaakov, or to accumulate merit, as the *midrash* presented.

We conclude that we must act and pray that all the factions in Israel will be strengthened in showing responsibility for others in the nation. In this merit, may we be blessed with rain, strengthened Torah study, and other wonderful blessings.

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by Rav Daniel Mann

Dealing with a Ripping *Tzitzit*

Question: My *tzitzit* [garment] is starting to rip around the neck, extending downward. Since I bought my *tzitzit* to be the minimum *shiur* required by standard *poskim*, is it now *pasul*? How do I fix it, and is it permitted to wear it before then?

Answer: It is far from clear that the garment is *pasul* now. First, there are many opinions on the *tzitzit* garment's *shiur*, including 1 X 1 *amah*, .75 X .75 *amah*, and different opinions on the size of an *amah* (see Mishna Berura 16:4). So, a small rip of the *tzitzit* you bought may fulfill the *shiur* according to legitimate opinions. Secondly, some add the length of the *tzitzit* on both sides of the head opening to arrive at the *shiur*, which would give you more than enough (the Mishna Berura ibid. is stringent). Finally, a standard rip (minority of the garment; material still present) is analogous to a slit in the fabric beneath the neck line, which some count toward the *shiur* (see Chazon Ish, OC 3:19).

If the *tzitzit* is or may be *pasul*, you can and likely should fix it by sewing it up (see Shulchan Aruch, Orach Chayim 15:4). Admittedly, there is logic to require retying the strings because of the rule of *ta'aseh v'lo min he'asuy* (=*tvlmh*). This means that something, like *tzitzit*, that the Torah says to make, must be turned into a halachic entity by a direct action, not by an indirectly created situation. For example, when one attaches three sets of *tzitzit* to a three-cornered garment (which is not obligated in *tzitzit*) and later form a fourth corner, we view the existing strings as having been turned into "*tzitzit*" indirectly and require them to be retied (Shulchan Aruch, OC 10:5).

However, in a case where the strings were attached properly and later the garment lost its *tzitzit* obligation, e.g., the garment was severed, with each side maintaining *tzitzit* and enough fabric to be kosher, the Shulchan Aruch (OC 15:3) says that *tvlmh* is not a problem here. The Magen Avraham (15:4) sees that as a broad rule that when at the time of a *mitzva* object's formation (e.g., *tzitzit*, *schach*, *mezuza* – see Yabia Omer, V, OC 55 at length) it was properly formed, when the *mitzva* status lapses (e.g., the garment lost its *tzitzit* obligation) and then returns, there is no problem of *tvlmh*. The Taz (OC 15:3), though, reasons that once the status is lost, *tvlmh* applies and the halachic element (e.g., *tzitzit* strings; *schach*) cannot return to *kashrut* just by the obligation returning to its "base" (e.g., garment, *sukka*). This strict view only accepts as an exception a case where the lost status was minor and/or external (e.g., a sheet was placed over the *schach* and then was removed – see Shut Ktav Sofer, Yoreh Deah 139).

The lenient position is seen as stronger and more practiced here (see Yabia Omer ibid.), but many *poskim* say we should try to conform with the stricter one (ibid.; Mishna Berura 15:7-8), which would seem to require your undoing and retying the strings. However, this is almost definitely not a problem here. First of all, as above, there is a strong possibility that in your case, the *tzitzit* remained kosher the whole time, and in the case of an added reason for leniency, many are not concerned about the Taz's stringency (Yabia Omer ibid.). Furthermore, when the rip does not remove fabric but separates the sides from each other in a minor way, it is very likely that the Taz agrees that there is no *tvlmh* (see Piskei Teshuvot 15:4).

Until you have a chance to fix or replace the *tzitzit,* it could have minimal value to wear the likely invalid *tzitzit* garment with kosher strings. There is no prohibition to wear such a garment with *tzitzit* as long as you do not make a *beracha* on it. Rather, you have it in mind when making the *beracha* on the *tallit* (Mishna Berura 15:4), as is the *minhag* for *tallit* wearers because of our general lack of confidence about our *tzitzit* garments' size (Mishna Berura 8:24). It is theoretically possible, that after mending the garment and returning its *tzitzit* obligation, if *tvlmh* applies (against what we said above), it is forbidden to wear the garment.

"Behind the Scenes" Zoom shiur

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Moreshet Shaul
(from the works of Hagaon Harav Shaul Yisraeli zt"l)

An Interview about HaTorah V'haMedina – part IV

based on Siach Shaul, Pirkei Machshava V'Hadracha p. 107

[*We continue in an interview with Rav Yisraeli about the halachic periodical he edited, HaTorah V'HaMedina. We have discussed how they approach halachic inquiries about the operation of the State of Israel. We are in the middle of discussing some of the topics that have been covered in the periodical in the recent past.*]

Q: What is the main content of the articles that have been published?
A: Several articles were dedicated to the question of the Sanhedrin and its reconstitution, which has inspired lively disputes within religious Judaism. Once again, that which is special about these articles, is that they do not approach the topics from the perspective of personal or political inclinations, but things come from the perspective of Halacha.

With *Shemitta* in 5712, there were important articles about the question of the known leniency of selling the fields to non-Jews, and a different approach to the topic was illuminated. Other questions include inheritance and the place of women in Israeli society, taxes and their being levied in a just manner, and medical problems in relation to autopsies, against the backdrop of the work in the Knesset of legislating in these fields. There are a host of other questions, each of which is important and is a blessing in its own right, which have found their way to be clarified in the pages of these volumes.

Q: What is the forecast for the future?
A: In the future as well, we plan to maintain the same direction, both in regard to the kind of topics and in regard to the approach of clarifying the halachic status of each matter. Every question that rises to the surface of our communal and political lives will be a topic that is worthwhile of discussion, and the mode of discussion will be the path of deep analytical inquiry.

Along with this, we hope to open a section for elucidating halachic questions in the realm of agriculture. In this field as well, there is a lot of confusion. It is important that authorized opinions will be heard, which will enable progression toward summarizing [the main principles]. In this way, we hope that gradually a new type of Torah literature, whose task it is to cover all of the problems of the State and to shed Torah light upon them, will be created.

Conclusion: When we took our first steps on the project, it seemed to us that our work was too late – that we should have done the work before the State began. Unfortunately, as things have developed to this point, it can appear to us that we have presented our conclusions too early, as the situation is that the relevant people are not listening to what we are discussing and deciding. In any case, we will not be afraid to continue with hope that eventually the recognition that only in the Torah can we find the quarried stones upon which our public and political life is based in the most permanent way. May these ideas penetrate the minds of wide segments of society.

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

Itamar Chaim ben Tzippora
Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima
Arye Yitzchak ben Geula Miriam
Neta bat Malka
Tal Shaul ben Yaffa
Avraham ben Gitel
Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Does the "Seller" Have Standing? – part I

(based on ruling 84141 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=*pl*) obtained, as a trustee for a silent investor (=*si*), partial rights in a property in 2009, giving ownership and control over future building on its roof. *Pl* sold for *si* the rights to the defendant (=*def*) for 310,000 NIS. *Def* paid only 160,000 NIS and later claimed that there was misrepresentation of the property, and sued in a different *beit din* (=*bd1*) to nullify the sale. *BD1* ruled in favor of *def*, but *pl/si* never returned the money. The rights in the Tabu remained in *pl*'s name. In 2022, *def* arranged for *pl* to sell the rights to the roof to a buyer (=*byr*), officially for 300,000 NIS, and *def* lied to *pl* about the amount that was agreed upon (*byr* actually paid *def* 400,000 NIS). *Pl* signed an agreement with *def* that they would conclude the matter with *def* paying 140,000 NIS. *Pl* wants to receive the difference between the real sales price and the 160,000 NIS *def* already paid. *Def* claims that by not returning the 160,000 NIS, *pl* did not carry out the nullification of the sale and therefore *def* is the owner, who therefore keeps the 400,000 NIS. *Def* further claims that *pl* has no standing in *beit din* because he is only a trustee and *si* did not choose to sue. *Pl* responds that he has documents that show that due to *si*'s debts to him, *si* transferred his rights to *pl*. The most important document in this debate is a contract between *pl* and *si* stating that *pl* has the option to acquire the property for himself or sell it to someone else, in lieu of *si*'s paying his debt to *pl*.

Ruling: It is a fundamental question whether *def*'s purchase of the roof remains after a ruling to nullify the sale that was not implemented. However, since *si* decided not to be a party to this adjudication and did not request of *pl* to represent him, there is no need to investigate the claim if *pl* is definitely not its owner, as he would lack standing.

We will break our discussion into analyzing various claims of each side:

The option contract was forged (*def*): It is possible to make the claim of forgery with a certain claim (*bari*), but it is not accepted when the claim is only that it is possible (*shema*). While it is a dispute among *Rishonim*, we accept the opinion that *beit din* will accept the claim of forgery on behalf of one who bought from a party whose rights are corroborated by a contract which we do not know is authentic, without the buyer's definite claim (Shulchan Aruch, Choshen Mishpat 106:2 and Shach ad loc.). It is a further dispute if the one who obligates himself in the contract admits that its content is true, and this affects a third party, but we rule that the claim is still accepted (Shach, CM 106:6). However, in this context, *def*'s standing does not allow him to benefit from the claim of forgery. After all, looking into *pl*'s standing is only relevant according to the possibility that *def* was not the owner of the property at the critical moment. If he is not, then we will not make a claim that *pl* forged the document, and will therefore accept the contract as presumptively valid. The same is true about the possibility that *si* paid off *pl* in a different way.

We will continue with more next time.

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