



Harav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat Hashavua

Sukkot, Tishrei 15, 5787

Happiness for the Right Reasons

Harav Moshe Ehrenreich zt"l

[With painful longing, we share these divrei Torah from our co-Rosh Kollel for close to 40 years, Harav Moshe Ehrenreich zt"l.]

In *Parashat R'ei*, the Torah commands us in regard to the holiday of Sukkot: "You shall be happy on your festival, you and your son and daughter, your male and female servants, and the Levite and convert, and the orphan and widow in your courtyards" (Devarim 16:13-14). The matter of joy comes up also in the section on bringing the *bikkurim* (first fruits): "You shall be happy with all the good" that Hashem gave you (ibid. 26:11).

The verb form of "v'samachta" (you shall be happy) fits with either a commandment or a promise. Which is it? Toward the end of the rebuke, national calamity is explained as follows: "In return for your not serving Hashem with happiness and a good heart from an abundance of everything" (ibid. 28:47). This indicates that there is a command to be happy with the blessing. Let us try to understand this imperative.

Rashi/Chazal learn from here that the mention of *simcha* next to *bikkurim* teaches that the full *mitzva*, with the *bikkurim* recitation, is done only during the season of joy, between Shavuot and Sukkot, when farmers harvest their produce. (Between Sukkot and Chanuka one can bring *bikkurim* without the recitation.)

Ibn Ezra stresses a different connection within the *pasuk*. Those who do not have their own fields to harvest, the Levite and the convert, must be included in the happiness, by sharing one's produce. Concern for the weak in society is a foundation of service of Hashem.

The Meshech Chochma characteristically took matters in additional directions. Even when Bnei Yisrael are in times of distress or exile, they must serve Hashem with joy, in two ways:

1. Our happiness should not focus on the "abundance of everything" but on the fact that what we have is what Hashem decided to give us. The joy is for the privilege of being connected to the Creator. "You shall be happy with all the good that Hashem your G-d gave to you." The fact that He gave does not only identify what we are thankful for, but that is the heart of our thankfulness.
2. The "*meirot kol*," which we translated as an abundance of everything, is not only when we are blessed with what we would call an abundance of good, but even when we are in a difficult exile. We still are privileged to have been gifted a great intellectual and spiritual treasure, as available in every generation through the words of Torah.

We will conclude with a call to our spiritual leaders to facilitate a situation in which our whole nation, those who consider themselves Torah observant and those who still do not, internalizes that service of Hashem must go hand in hand with joy (see Radak to Tehillim 100:2). When an approach turns service of Hashem into a "burden," it is liable to make people fail the test of not serving Hashem "in joy and a good heart." Included in such approaches is when rulings are unnecessarily stringent, as our commitment should remain "the pleasantness of the yoke of *mitzvot*."

We will continue encouraging an approach of love of religion and respect of religion, which will unite us for service of Hashem with joy and thereby bring us closer to the full redemption.

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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

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Ask the Rabbi

Sukkot

by Rav Daniel Mann

Are the Four *Minim Muktzeh* on Shabbat?

Question: If someone forgot to find a good place for his four *minim* before Sukkot, which starts this year on Shabbat, can he move them on Shabbat?

Answer: Since it is forbidden to do the *mitzva* of the four *minim* on Shabbat (Sukka 42b), the *lulav* is purposeless and *muktzeh* (Rama, Orach Chayim 658:2). The Rama calls it “like wood.” In other words, unlike a shofar, which is a *kli shemelachto l’issur* (Rama, OC 588:5), which can be moved if it is getting in the way, a *lulav* (and *aravot*) has no usage other than a *mitzva* that does not exist on Shabbat. As *muktzeh machmat gufo*, it cannot be moved to use it or to get it out of the way. (The Taz 658:3 is a minority opinion that a *lulav* too is a *kli shemelachto l’issur*.)

However, the Rama (OC 658:2) rules that an *etrog* is not *muktzeh* on Shabbat because it can be used for smell. The *gemara* (Sukka 37b) interestingly asserts that although objects used for *mitzva* become forbidden to use for other things, only the main non-*mitzva* usage is forbidden. For *hadasim*, *muktzeh l’mitzvato* forbids smell; for *etrog*, it forbids eating, but smell remains permitted. The usage for smell keeps an *etrog* non-*muktzeh*. (See Magen Avraham 268:1 for explanations of how we avoid the problem that we generally should not make a *beracha* on smelling an *etrog* on Sukkot.)

In contemporary times, several *poskim* view the Rama’s leniency as functionally inapplicable. Shemirat Shabbat K’hilchata (22:(55)) cites Rav Shlomo Zalman Auerbach, and *Dirshu* (658:5) cites Rav Elyashiv, as holding that modern owners are uniquely meticulous with their *etrogim*. Consequently, the *etrog* becomes *muktzeh machamat chisaron kis*—a severe type of *muktzeh*. The Aruch HaShulchan (OC 308:17) already implies a similar viewpoint. This presents a conceptual difficulty: while this assessment seems to accurately reflect contemporary reality, it is hard to assume that historical *etrogim*, which were far scarcer and relatively more valuable, were handled less sparingly. Rather than dismissing the applicability of earlier precedent based on modern assumptions, some suggest deferring to the Rama’s lenient assessment of the *etrog*’s status (see Be’er Moshe 8:73). On the other hand, it is somewhat difficult for *poskim* to defer to a **lenient** assumption which they do not see as accurate in their own times.

It is actually not fully clear to what extent Shabbat changes the overall *muktzeh* status of the four *minim*. The Yerushalmi (Sukka 3:11) says that even on a regular *Yom Tov*, once one has finished doing the *mitzva* and has put down the *lulav*, he can no longer pick it up. Many *poskim*, including the Rama (Darchei Moshe, OC 652:1), assume we do not follow the Yerushalmi, based on the concept of “there is no *muktzeh* for half of Shabbat” (Beitza 26b) or the fact that if one wanted to, there may be value in extra holding of the four *minim* (see discussion in Mishneh Halachot VIII:242 about the *minhag* in Yerushalayim of carrying the *lulav* around throughout the day (Sukka 41b)). One way or the other, *halacha l’ma’aseh* we assume that only on Shabbat are they *muktzeh*. (The fascinating discussion – see Teshuvot V’hanhagot V:212 – about why it would not be a problem to move the *lulav* before daybreak (the beginning of the *mitzva*) is beyond our scope.)

In most ways, there is not a difference in this regard whether the first day is on Shabbat or any other day. However, it is possible that being on the first day could make the matter more lenient. At least part of the *muktzeh* problem stems from the fact that the *minim* are set aside for the *mitzva* and the *mitzva* does not exist on Shabbat. However, until the *mitzva* has been carried out once, the *mitzva* preparations are called “*hazmana*” and are not halachically impactful (see Rama, OC 638:1). Although *lulav* and *aravot* are anyway not unusable, since *hadasim* can be used for smell, they are very possibly not *muktzeh* on Shabbat this year (Shoneh Halachot 568:3).

“Behind the Scenes” Zoom shiur

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Hashem Is your Shadow – part II

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 420 – an address from 1941

[We saw last time that it is difficult for people busy with daily life in a moshav to make a *cheshbon* (moral accounting) when they do not feel like they control their own destiny.]

The mistake [of the one who is reluctant to make a *cheshbon*] is that he switches the cause and the effect. He does not realize that the reason it seems difficult to make *cheshbonot* is that he is not used to making them and that if he made one, it would beneficially impact his life. He is like the person who is afraid and has a weak heart (in the face of battle); he does not realize that it is not because of his uncertainty of his prospects of winning that he has a weak heart (i.e., fear). Rather it is because of the fear that he indeed will not be and cannot be victorious.

This is like the story of the tailor, whose parents argued when he was a child whether he should become a shoemaker or a tailor. He was thankful to Hashem that he listened to his mother and became a tailor, because he would have been penniless as a shoemaker. The proof – during his decades of working, no one ever brought him shoes to be fixed. In this very way, we get confused between the cause and the effect, and forget that we cannot fix things because we do not think we can. If we leave behind the thought of fear and a weak heart and decide we will win, then we surely will.

The Rabbis commented on the *pasuk*, “Hashem is your shadow” (Tehillim 121:5) – Just like a shadow, when you show it a hand, it shows you a hand, so too Hashem is your shadow. If we do not see the kindness of Hashem, it is because we do not believe in Hashem’s kindness. Someone who honestly and truly wants to see Hashem’s kindness and believes that there is what to see, will indeed see it. One who does not believe in it, will not see it. That’s how things work.

When Bnei Yisrael entered the sea, they entered totally based on belief in and reliance on Hashem. When R. Chanina ben Dosa lit oil, it is because he would say: “He who told the oil to light will tell the vinegar to light” (Ta’anit 25a). Someone should not say: How can I rely on Hashem, as the only way I received things from Him is by toiling greatly, so that if I do not toil, I will not receive.” One who says that forgets that to the contrary, feeling the need to toil is responsible for not receiving it more easily. It is as the Chovot Halevavot states (section 4) – one who relies upon anything other than Hashem will not receive Hashem’s help. This is as the *pasuk* says: “Blessed is the one who relies on Hashem” (Yirmiyahu 17:7), which triggers the continuation of the *pasuk*, “... and Hashem will be his reliable One.”

In practice, the whole idea of Zionism and pioneering is based on a rebellion against the situation that existed before, which had been based on belief, that everything is in the Hands of Hashem. We reject that rebellion. We know that “If Hashem does not build a house, its builders toiled on it for naught” (Tehillim 127:1). We do know that “Everything is in the Hands of Heaven except fear of Heaven” (Berachot 33b). If we receive everything that we can from Heaven, then we have Hashem as our shadow. Then everything is again in our hands. We do this in a different way than the secular way of thinking, that everything depends on one’s willpower. That is a total mistake! Our rivals also have willpower, so how can we know whose desire will win out. We believe in our desires working through “pipes” in which the desires of our rivals do not have any power.

Our belief in our abilities should give us freedom to be powerful people who make *cheshbonot* properly and change our personal way of life significantly. This belief should also be a building block of our life in the *moshav*. This is the only way our whole nation can make a *cheshbon* and set our path in life.

We daven for a complete and speedy refuah for:

Itamar Chaim ben Tzipora
 Nir Rephael ben Rachel Bracha
 Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
 Neta bat Malka

Avraham ben Gittel
 Tal Shaul ben Yaffa
 Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

A Non-Contractor in Changing Times – part II

(based on ruling 85128 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendants (=def), *yishuv* residents of modest means, employed the plaintiff (=pl), a builder, to do renovations. Their contract portrayed pl as a building inspector, receiving a fee based on a percentage of money spent, and def as their own contractor. In actuality, pl was the contractor, and the formulation was done to eliminate a contractor's usual level of responsibility. At some point in the middle of the work, war broke out, so that pl went to reserve duty and his Arab workers were banned from the *yishuv*. Eventually, pl returned to work, but had great difficulty finding workers. He unilaterally changed the mode of pay for the work he did, to a paid worker (1,500 NIS a day). In a third stage, after def looked unsuccessfully for another contractor, def agreed to pl's new mode of pay. This lasted until pl finished the job, with much of his own work and some of workers. [The sides argued on different elements of the pricing; it will be presented in installments.] Def does not want to accept pl's report of the hours/days he put into the work. Def complains that pl promised them an exemption from VAT for a large part of the money due, for payment in cash, but at some point pl decided he did not want to risk legal trouble and is demanding VAT.

Ruling: Change in pay mode: It is logical that the old pay scale became somewhat unfeasible and we do not expect that pl's continued work would be for free (Shulchan Aruch, Choshen Mishpat 264:4). However, when a worker starts working (or in this case, continues under new circumstances) and the sides did not discuss how much he would be paid, he is paid according to the lowest salary within the accepted range (see Bava Metzia 76a; K'tzot Hachoshen 332:3). However, in this case, once def agreed before the third stage to accept that price, it does not make sense to not extend that agreement retroactively to the second stage.

Calculations of pl: In the general interactions between the sides, the reporting of pl was accepted as reliable. Therefore, for def to claim that in a certain instance, they are not willing to accept a claim would require them to provide a reasonable level of proof. On the other hand, regarding pl's late claim that he did not receive payment for his work on air conditioners, since pl's exact accounting did not list that as a missing payment, we will not accept that as an oversight without proof.

VAT: Our *beit din* follows the rule that the law of the land must be kept, certainly when it comes to taxes. Therefore, VAT is to be paid. Regarding whether that should be on the account of pl or def, we accept pl's claims for two reasons. For one, the prices that were specified were not including VAT, and therefore that should not be reduced from pl's earnings. Second, the matter of giving a VAT reduction was an oral pledge and not a binding condition to use a different (and illegal) system. Therefore, if pl decided to stop using that system, it is not binding.

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