HEMDAT YAMIM חמדת ימים

Parashat Hashavua

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Harav Shaul Israeli zt"l
Founder and President

Not Every Treaty is the Abraham Accords

Harav Yosef Carmel

Two leaders of large groups of people with the ability to fight as a mini-army – our forefather Yaakov, the grandson of Avraham, and Lavan the Aramean, the grandson of Avraham's brother Nachor – proclaim a covenant between them at the end of our *parasha* (Bereishit 31:44-53). Notably, Lavan did this only after being warned by Hashem not to cause any kind of trouble for Yaakov. What happened between them in the course of history? Is this peace treaty mentioned again?

Investigating the relationship between *Am Yisrael* and the Arameans reveals that the treaty was not upheld. In fact, during the course of many generations, the Arameans joined forces with the enemies of Israel. For example, when David was starting out, the Arameans joined the Amonites, trying to ambush David's soldiers (Shmuel II 10:6-14). Hundreds of years later, at the time of King Yehoachaz of Yehuda, the king of Aram decimated the Jewish forces (Melachim II, 13:7; Amos 1:3). We also point out that the only time some of Bnei Yisrael consider making a treaty with the Arameans is when the Assyrians become a major power, threatening these nations.

So what happened to the covenant? In the context of the warring between the two kingdoms of which Am Yisrael consisted during much of the time of "The Kings," Bahsha, King of Israel, attacked Assa, King of Yehuda. Assa took all of the reserves of gold and silver in the Temple and sent it to the King of Aram with the following message: "May there be a covenant between me and you, between my father and your father. Behold I have sent you a bribe of silver and gold. Go and break the covenant with Bahsha the King of Israel, so that he will leave me" (Melachim I, 15:17-19).

The reference to a covenant between fathers (Assa was a great-grandson of Shlomo) is a mystery, as this is not documented. To the contrary, David fought multiple times against the Arameans (see Shmuel II, 8-10; Tehillim 60). Even Shlomo fought them and had serious tension with their leaders (Melachim I, 11:23-25)! We find no change by the middle generations of Rechavam and Aviya. *Chazal* and classical commentators do not help on this point. R. Yehuda Kil in Da'at Mikra has a surprising suggestion. Assa was not saying that there **was** a covenant between their respective "fathers" but that he wished that there **would have been** one, and therefore, "Let us make one now." However, there is no hint for this in the text.

Let us propose that Assa was trying to rejuvenate the historic treaty between Yaakov and Lavan. The language of the two portions is very similar. Connecting the two episodes also implies that just as the attempt to subvert Aram against the Kingdom of Israel was deplorable, so the covenant between Yaakov and Lavan was unreliable and not worthy of building on.

We end with the following incontrovertible idea. In the days of Achaz, King of Yehuda, the Aramean Empire was destroyed by the Assyrians, and their king, R'tzin, was killed. The huge Aramean nation was exiled among the nations and their footprints have disappeared. In contrast, *Am Yisrael*, the descendants of Yaakov, have returned to our Land and established one of the most wonderful states in the world. The more united and responsible we will be toward each other, the brighter our future will be.

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by Rav Daniel Mann

Kiddush With a Delayed *Seuda*

Question: As a rabbi in a *kiruv* setting, I make *Kiddush* after *Musaf* and drink a *revi'it* of wine, and people start eating. I, on the other hand, am too busy talking to people to eat, for around an hour. Does this lack of eating compromise the *Kiddush* for me or, retroactively, for the community?

Answer: The simplest good news for you is that the *revi'it* of wine you drink itself suffices as a "*seuda*" to validate the *Kiddush* (Shulchan Aruch, Orach Chayim 273:5). But even if you had not eaten/drunk enough immediately, the delay might not be as harmful as it seems. True, the Rama (OC 273:3) instructs that one must eat "*l'altar*" (generally translated as right away) and that failure to do so can disqualify the *kiddush*.

On the other hand, the Rama tempers the need for immediacy by saying that if one had in mind to eat right away, the *Kiddush* is valid even if the eating was delayed. You can try to analyze whether you qualify for this leniency. Do you decide not to eat until the congregants leave, or does it depend on that week's social dynamics?

Also, many *poskim* say that *l'altar* in this context is quite a while. The Tzitz Eliezer (XI:26) cites opinions that the cut-off point to eat is the same as how long one has to make a *beracha acharona* on food eaten, which is normally 72 minutes. The Ginat Veradim (OC 3:20) says that as long as one eats in the same place, even a longer wait than that does not disqualify the *Kiddush*. His proof is from the *Seder*, which starts with *Kiddush* even though the meal is much later. The Tzitz Eliezer hereby deflects the proof – at the *Seder*, one immediately starts a framework of practices that includes the meal, so that is considered right away in that unique situation. Nevertheless, he gives prominence to those who rule that one is *yotzei* even if he ate at the place of the *seuda* only after an hour or two, all the more so in regard to daytime *Kiddush*, which is only of Rabbinic origin.

Let us consider situations where it is unclear if you fulfilled *Kiddush*'s *seuda* requirements, including if you are not certain which opinion you want to follow. Since daytime *Kiddush* does not requires only a *beracha* of *Borei Pri Hagafen* and since many people have the *minhag* to anyway repeat *Kiddush* before they start their main meal, you have little reason not to repeat the *Kiddush* if there is any doubt. The only question would be if you are eating in the same place you had the *Kiddush* and you had planned to drink more wine, as in such cases another *Borei Pri Hagafen* is not mandated (see Living the Halacha Process II, B-4). (If you made a *beracha acharona* on the wine, as likely prudent (see ibid.), then it is quite clear you can make another *Borei Pri Hagafen* – details beyond our present scope). According to many (see this column, Vayeira 5785), though, the main part of daytime *Kiddush* is to drink wine in the context of the meal, so drinking again without the *beracha* could be significant.

It is important to point out that even if you would not have fulfilled *Kiddush*, this does not affect the *Kiddush* of the community, who indeed were *yotzei* with you. The Shulchan Aruch (OC 273:4) states clearly that one who is not going to be eating in the place of the *Kiddush* can make *Kiddush* on behalf of those who will eat there. The Rama (ad loc.) says that this applies even in the day, when the only *beracha* made is on the wine. (See Living the Halachic Process III, C-3 regarding a case where the one making *Kiddush* before nightfall has not yet accepted Shabbat.) Admittedly, the Shulchan Aruch (ibid.) says that one is supposed to do this only if the people he is doing it for are not capable of making *Kiddush* themselves, which makes your system look questionable. However, not all agree with this limitation, and it is quite accepted that it is only a matter of preferability, as *b'di'eved* it works either way (Mishna Berura ad loc. 20). In your setting, probably many people would have trouble making *Kiddush*, and it is traditional for the *rav* to make the *Kiddush*.

In summary, the way you make *Kiddush* is fine on multiple grounds.

"Behind the Scenes" Zoom shiur

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

The Long Yet Shorter Path

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 182

[*Rav Yisraeli left detailed notes for many of the addresses he delivered. This piece on fundamentals of the world of education is based primarily on "bullet-style" notes. We will present it with some filling in of the implied blanks.*]

A. A primary principle of education is for the educator to believe himself, and dedicate himself to convincing his students or other charges, that a person has two opposing forces. These are the good inclination and the evil inclination, as finds expression in the Torah's description of the creation of man – "… soil from the ground; and He blew into [Adam's] nostrils …" (Bereishit 2:7). Based on this, it is possible to evaluate every action and every thought, as if by standing from the side so that he can judge it properly.

B. There is a long path that is short and a short path that is long regarding the feeling of self-fulfillment. While the evil inclination tries to convince one to take an ostensibly short path that is really longer, the good inclination presents a long path that is in truth shorter. The purpose of the Torah is to lead us to reach the right type of satisfaction and to keep distance from the temptation of the short path that is really long.

Stealing, drugs, and promiscuity are examples of the short path that is actually long, as we can see clearly how much damage they cause. In contrast, a life of integrity, polite eating rather than gluttony, modesty, and the mutual trustworthiness of proper family life – these are all palpable examples of the long path that is shorter. Taste [the correct path] and you will see [that it is true].

So far, we have spoken about distancing ourselves from evil, but now we should turn to "doing good."

C. "Doing good" starts in the home. It includes helping one's mother handle the responsibilities of the home, including assisting siblings with their homework, with entertaining them, and making peace when there is tension between the children. It can include sharing in chores, designing the house, and helping with the growth of the flowers. Importantly, all of this should be done with a calm demeanor. One should provide a good example for the other children in his approach to Shabbat and holidays.

D. One of the educational themes that needs to be reinforced is that there is a distinction between Israel and the nations. It should be stressed that the matter of interpersonal relationships and responsibility is a major part of the difference. This finds expression in the biblical interactions, such as that between Avraham and Efron and between Yaakov and Eisav, among other examples. Our youth should realize that cinema, television, and lowly works of literature are fed by the evil inclination and, in turn, feed it. The new mechanisms for strengthening the evil inclination are damaging.

E. Fear of Heaven is to be seen as a force that encourages and enables the increase in the vitality of the good inclination. "It is just that there is no fear of G-d in this place, and they will kill me on account of my wife" (Bereishit 20:11). Fear of Heaven gives one the strength to overcome personal crises. "Even when I walk in the valley of the shadow of death, I shall not fear evil, for You are with me" (Tehillim 23:4).

On the topic of Divine Providence, there is much to be learned from the lives of Yitzchak and Rivka, Yosef and Yaakov. Yosef was separated from his father in order to provide sustenance for Yaakov's whole family.

F. It is important to have a correct outlook on the place of Israel among the nations of the world. There is an eternal hatred for the eternal nation. Israel still remains forever. There was a Holocaust, and it was followed by the establishment of the State. There are problems in the State because of the insufficient adherence to the Torah. In this regard, every individual is capable of making a real contribution to the proper building of a proper society.

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P'ninat Mishpat

Does the "Seller" Have Standing? – part II

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

Case: The plaintiff (=*pl*) obtained partial rights in a property in 2009, as a trustee for a silent investor (=*si*), giving ownership and control over any future building on its roof. *Pl* sold the rights for *si* 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 *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 he lied to *pl* about the amount he sold it for and thereby signed an agreement with *pl* that they would conclude the matter with *def* paying 140,000 NIS. In actuality, *byr* paid *def* 400,000 NIS. *Pl* wants to receive the difference between the 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 *si*'s 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*, making him the owner. 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 payment of *si*'s debt to *pl*.

Ruling: *We continue with discussion of pl's standing in this matter, which depends on his acquiring rights from si as payment for si's debts to him.*

Status of the options contract: *Pl* claims that the contract creates a purchase of the property from the time of the contract, retroactively as of *pl*'s decision to activate it. *Pl* claims that this works for contracts signed by the parties (Shulchan Aruch, Choshen Mishpat 191:1). This, though, does not fit with the concept of an option to acquire and is also more difficult when there is no date in the contract, from which to learn (see Gittin 72a). It is possible that the sale was in the future but that it could be activated at the time *pl* decided to do it, which can work when the *kinyan* being used is a contract rather than a *kinyan chalipin* (see K'tzot Hachoshen 206:1). Yet, the contract's language indicates that the sale will be done later. The realization of the option requires an act of *kinyan* according to Halacha. Although one could say that nowadays, options sales are binding in practice, that should work only when it is done in writing (as the law requires), without which there is no common practice.

It is possible to claim that *pl*'s signing off on the sale to *byr* fulfilled the option to sell to someone else. However, since *pl* was not active in the sale to *byr* but simply allowed a cautionary note to be written on the property and because *pl* would have had to have paid *si* in the process, which he did not, if *pl* did not own the property previously, this would not have given him the ownership.

We will continue next time with the question of whether pl could have become owner of the roof.

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