**S.A.L.T. – PARASHAT DEVARIM**

**By Rav David Silverberg**

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**IN LOVING MEMORY OF**

**Jeffrey Paul Friedman**

**August 15, 1968 – July 29, 2012**

**לע"נ**

**יהודה פנחס בן הרב שרגא פייוועל**

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**ת.נ.צ.ב.ה**

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Motzaei Shabbat

 Towards the beginning of Parashat Devarim, Moshe recalls the time when he recognized the need to appoint judges to help him settle all the nation’s disputes. He exclaimed, “How can I bear alone all your troubles, burdens and disputes!” (1:12). Rashi, based on the *Sifrei*,explains this cry as lamenting not just the sheer number of cases that required legal resolution, but also the gall shown by the people. Specifically, litigants would prolong trials by constantly adding more evidence and witnesses, and wild rumors and suspicions would often circulate about Moshe’s personal life or of nefarious schemes that he was devising against the people.

 Rashi’s comments become remarkable in light his comments several verses later, in reference to Moshe’s appointment of judges. Moshe tells the people, “I took the leaders of your tribes” (1:15), and Rashi explains this to mean that Moshe persuaded the eligible candidates for the role of judge to accept the appointment. Again citing from the *Sifrei*, Rashi writes, “I drew them with words: ‘Fortunate are you! Over whom have you come to be appointed – over the children of Avraham, Yitzchak and Yaakov, on people who are called ‘brothers’ and ‘friends’…and all expressions of love!’” Moshe emphasized to the judges the great privilege they were given to serve the great Nation of Israel. Even at the time when Moshe found himself buckling under the pressure and angst of the people’s “troubles, burdens and disputes,” he never lost sight of the people’s special stature of greatness. The people made life very difficult and unpleasant for him at times, but he still managed to perceive them as God’s treasured nation, and to respect them, despite their many faults and shortcomings. Rashi’s comments teach us to try to recognize and appreciate the fine qualities of each and every one of our fellow Jews, including those against whom we have valid grievances. Even when we endure “troubles and burdens” imposed by others, we are still capable of identifying and appreciating their admirable qualities and respecting them as children of Avraham, Yitzchak and Yaakov, and as members of God’s treasured nation.

Sunday

 The opening verse of Parashat Devarim provides the geographic context of Moshe’s final series of addresses to *Benei Yisrael*, specifying the precise location where he spoke to them. The Midrash (*Yalkut Shimoni* 793) explains the purpose of this detailed information by way of an analogy to an elderly man who, realizing that his end is drawing near, summons a scribe to write his last will and testament. Before the scribe begins writing, he asks the elderly man, at the inheritors’ behest, a number of questions to ascertain proper mental functioning. He asked him to identify his children in the room and the geographic location of his home, and once the man answered the questions correctly, the scribe felt confident that his client’s instructions were issued with a clear mind and with his mental faculties fully intact.

 Similarly, the Midrash explains, as Moshe prepared to deliver these addresses to *Benei Yisrael*, which include sharp criticism for the mistakes they made over the course of the forty years of travel through the wilderness, he first needed to affirm his state of mental clarity. He therefore identified the details of where the people were situated, and the time it took to journey from Egypt to their current location, making it clear that his mental faculties were fully functioning.

 It has been suggested that on a deeper level, the Midrash’s comments convey an important lesson about criticism and critical commentary. Namely, one is qualified to offer criticism only if he is certain that he properly understands the situation which he addresses, as well as the broader context. Just as Moshe could not begin criticizing the people until he demonstrated detailed knowledge of where they were and how they got there, similarly, we should not offer criticism of people or communities before ensuring that we properly understand their situation and background. Moshe, who led the people in Egypt and throughout their sojourn through the wilderness until their encampment on the banks of the Jordan River, had thorough knowledge of their situation, and was thus qualified to express criticism. We, however, often feel impelled to offer criticism without extensive knowledge or a proper understanding of the situation we wish to address. The Midrash perhaps seeks to alert us to the need to reserve judgment and withhold critical remarks until we are certain that we know all the facts and clearly understand the broader framework of that of which we disapprove. Until we can be certain of our accurate knowledge and understanding, we are not qualified to offer criticism, and any such remarks would be not only unhelpful, but damaging and detrimental.

Monday

 Moshe recalls in Parashat Devarim the time when he appointed judges to help him govern the nation, realizing that he could not handle all the people’s problems by himself. He lamented, “How can I bear alone all your troubles, burdens and disputes!” (1:12), expressing his frustration over the large number of dilemmas and disputes that required his personal involvement. Several verses earlier, Moshe began by noting *Benei Yisrael*’s exceptionally large population, which made it very difficult for him to lead them alone: “The Lord your God has blessed you, and behold, you are now today as numerous as the stars in the sky” (1:10).

 A number of *darshanim* found it significant that Moshe here uses specifically the analogy of the stars, as opposed to the other common analogy used to describe *Benei Yisrael*’s large size – the sand of the seashore. The stars are large, grand and majestic, but entirely separate and apart from one another. Each shines brightly, but is situated very distant from all other stars, and thus the stars do not combine to produce significant illumination. The particles of sand, by contrast, are independently insignificant, but they bond together to create a powerful force capable of blocking the ocean waters. It has thus been suggested that Moshe chose the comparison to the stars when expressing his difficulties in leading *Benei Yisrael* in order to emphasize the lack of unity among the people. Indeed, they were all great and worthy of admiration. They all “shone” very brightly, but they were separate and apart from one another, a situation which gave rise to numerous arguments and disputes that required Moshe’s intervention. It would have been far easier, he laments, if they had been like the sand of the seashore – not particularly impressive, but able and willing to work together and bond with one another. The need to appoint a network of judges was borne out of the fact that the people all shone very brightly, but failed to work harmoniously together.

 In different contexts, we are compared to either the stars or the sand. Our challenge is for each of us to shine brightly and independently achieve greatness, while still managing to work together with our peers and form a cohesive unit like the sand along the seashore.

(See Rav Asher Weiss’ [“*Kokhevei Ha-shamayim U-ke’chol Ha-yam*”](http://www.torahbase.org/%D7%9B%D7%95%D7%9B%D7%91%D7%99-%D7%94%D7%A9%D7%9E%D7%99%D7%9D-%D7%95%D7%9B%D7%97%D7%95%D7%9C-%D7%94%D7%99%D7%9D/))

Tuesday

 We read in Parashat Devarim of Moshe’s appointment of judges. Rashi (1:15), citing the *Sifrei*, writes that Moshe persuaded the selected judges to accept this role, noting the great privilege they were given to serve *Am Yisrael*. Moshe recalls, “I drew them with words: ‘Fortunate are you! Over whom have you come to be appointed – over the children of Avraham, Yitzchak and Yaakov, over people who are called ‘brothers’ and ‘friends’…and all expressions of love!’”

 The clear implication of Rashi’s comments is that the selected individuals initially refused, or were reluctant, to assume the role of judge, or that Moshe anticipated their refusal or ambivalence. The likely reason for this is found in Rashi’s comments to the next verse (1:16), where he writes that Moshe told the newly-appointed judges, “Now it is not like in the past. In the past, you were in possession of yourselves; now, you are subservient to the public.” Moshe set a very high standard of public service, demanding nothing less than subservience, and a loss of freedom. Understandably, then, the men chosen for the role of judge likely hesitated, or perhaps even definitively declined, before being persuaded to accept the position.

 Many of the goals and projects that we take on entail a degree of “subservience,” and present us with a great deal of difficulty and pressure. Rashi’s comments teach us of the need to regularly remind ourselves that serving our community or nation, and caring for other people, is a great privilege. Even as Moshe bemoaned the immense burden that leadership placed upon his shoulders, and which he bore constantly, each day of his life, he recognized that this difficult work was an honor and privilege that should be joyfully embraced. He thereby teaches us to recognize the privilege involved in helping the Jewish Nation in any way we can, as this appreciation will help us undertake important goals and tasks with joy and enthusiasm despite the “subservience” that they entail.

Wednesday

 Parashat Devarim consists of Moshe’s review of some of the events which occurred from the time *Benei Yisrael* left Mount Sinai until the conquest of the territory of Sichon and Og, east of the Jordan River. The clear thrust of this discourse is reinforcing the people’s faith in God’s ability to lead them to victory against the powerful nations of Canaan. This is evidenced by the fact that the two main sections of this speech are the account of the sin of the spies, and the account of the miraculous victory over the kingdoms of Sichon and Og. Moshe seeks to warn the people of the consequences of failing to believe in God’s power – as in the tragic story of the spies – and to emphasize that the process of capturing the land had already begun with the conquest of the territories of Sichon and Og. His primary concern at this point is to avoid another *cheit ha-meragelim*, to ensure that the people will not repeat the mistake of refusing to cross into *Eretz Yisrael* out of fear.

 One account that appears out of place in this parasha is the story of the appointment of judges. Moshe recalls how, just before the people left Sinai towards the Land of Israel, he recognized that he could no longer govern and judge the people alone. He cried in exasperation, “How can I bear alone all your troubles, burdens and disputes!” (1:12). Moshe therefore established a large network of judges who handled the people’s disputes. Why is this incident mentioned here amid Moshe’s review of the nation’s experiences? What is so significant about this event that it earned the “distinction” of being included in the small list of incidents that Moshe chooses to recall in this discourse?

 Seforno answers this question by noting that this account is presented immediately after Moshe’s recollection of God’s promise, “See, I have given you the land” (1:8). After the nation had remained encamped at Mount Sinai for nearly a year, God told Moshe that the time had come to disembark and to proceed to *Eretz Yisrael*, promising that they would capture it with ease. In the very next verse, Moshe recalls how he first found it necessary to appoint judges before leading the people from Sinai to *Eretz Yisrael*. Seforno explains that despite hearing God’s promise of a miraculous conquest, the people were still preoccupied with their petty financial disputes. The news of their imminent arrival into the Land of Israel, and of the supernatural assistance that God would provide, should have placed all their arguments and conflicts into proper perspective. The fact that so many legal cases required adjudication demonstrated a sore lack of proportion, that the people were preoccupied with trivial matters after hearing information that should have caused them to feel elated and should have thus rendered all their petty financial grievances insignificant.

 Seforno’s comments remind us that we can avoid fighting and arguments by maintaining a proper perspective on life. When we consider the countless blessings God performs for us each day, and the lofty goals we ought to be pursuing and for which we have been brought into this world, offenses and insults that might otherwise exercise us become far less significant. If we remain cognizant and appreciative of the privileges we have been granted, we will not be bothered by privileges we have been denied or by perceived injustices. The way to overcome pettiness is to remain focused on our true goals in life and the ideals we need to pursue during our limited time on earth, and to appreciate all that God has given us to enable us to achieve these lofty objectives.

Thursday

 When the ninth of Av falls on Shabbat, such that the fast of Tisha B’Av is observed after Shabbat through Sunday, it is customary to delay the recitation of *havdala* until the conclusion of the fast Sunday night. Since *havdala* requires a cup of wine, and one obviously cannot drink after Shabbat due to the fast, *havdala* is delayed until Sunday night. *Havdala* is recited before breaking the fast, because irrespective of Tisha B’Av, *Halakha* forbids eating and drinking after Shabbat until the recitation of *havdala*. For the same reason, if a person is ill and thus exempt from fasting, he must recite *havdala* before eating on Tisha B’Av.

 An interesting question arises in the case of a woman who is ill and must eat on Tisha B’Av. Regarding *havdala* generally, the Rama (O.C. 296:8) rules that women should not recite *havdala*, and should instead listen to a man recite *havdala*, due to the debate among the halakhic authorities as to whether women are included in the *havdala* obligation. The *Bach* and *Magen Avraham*, as cited by the *Mishna Berura* (296:35), dispute the Rama’s ruling, though the *Mishna Berura* interprets the *Magen Avraham*’s comments as referring specifically to a case where a woman is not able to hear a man’s recitation of *havdala*. In such a case, she should recite the *berakha*, but in general, it is preferable for a woman not to recite *havdala* for herself. The question then becomes, in the situation of a wife who is unable to fast on Tisha B’Av which is delayed until Sunday, should she recite *havdala* before eating? Or, should her husband – who is fasting – recite *havdala* for her, and she would then drink the wine?

 At first glance, the latter option would seem preferable. After all, as mentioned, the Rama rules that a woman should not recite *havdala* for herself, and the *Shulchan Arukh* elsewhere (271:14) rules that the person who recites *kiddush* does not have to drink any wine, and can instead give it to one of the people at the table to drink. This ruling is generally assumed to apply to *havdala*, as well. Therefore, the preferred solution would seem to be for the husband to recite *havdala* on Tisha B’Av and then give the cup to his wife to drink.

 One might, however, challenge this conclusion in light of the ruling of the *Shulchan Arukh Ha-Rav* (285:1) that if the one who recites *kiddush* or *havdala* prefers not to drink the wine, it must be drunk by somebody who fulfilled his *kiddush* or *havdala* requirement through his recitation. This means that the cup cannot be drunk by anybody who happens to be present, but specifically by somebody who had listened to the recitation for the purpose of fulfilling the *mitzva*. By the same token, it may not be given to a young child who has not yet reached the age of *chinukh* (training in *mitzva* observance), as he has no *mitzva* to fulfill, and thus his drinking the wine is of no halakhic significance. As such, one might argue that in the case of a wife who is not fasting on Tisha B’Av, the husband should not recite *havdala* on her behalf, since he cannot drink the wine, and it is uncertain whether she bears an obligation to hear *havdala*. According to the view among the *Rishonim* that women are exempt from the *havdala* obligation (the position of *Tosefot*, Berakhot 20b), the husband’s *havdala* in this case would constitute a *berakha le-vatala* (blessing recited in vain), as nobody included in the *havdala* obligation drinks the wine. In light of this concern, one might contend that it is preferable for the woman to recite *havdala* by herself in such a case, rather than for her to hear it recited by a man and then drink the wine.

 It should be noted that even according to this argument, a preferable solution would be to give the wine to a child who has reached the age of *chinukh* but is not yet old enough to fast (such as a child around the age of seven or eight). Even the *Shulchan Arukh Ha-Rav* concedes that the *havdala* wine may be drunk by a minor who has reached the age of *chinukh* and fulfills his *chinukh* obligation by hearing the recitation of *havdala*. This, then, would be the preferred solution in such a case. If, however, no such child is present, then it would seem, according to the *Shulchan Arukh Ha-Rav*, that the woman should recite *havdala* by herself.

 [Rav Asher Weiss](http://www.torahbase.org/%D7%AA%D7%A9%D7%A2%D7%94-%D7%91%D7%90%D7%91-%D7%A0%D7%93%D7%97%D7%94-%D7%AA%D7%A9%D7%A2%D7%94/), however, rejects this conclusion, as he disagrees with the *Shulchan Arukh Ha-Rav*’s position. He cites several sources indicating that the person who drinks the wine does not have to be somebody who fulfilled the *kiddush* or *havdala* obligation by listening to the recitation, but rather somebody who had heard the *berakha* over the wine which he or she now drinks. (Specifically, Rav Weiss cites the commentaries of the Rashba and Ritva to Masekhet Eiruvin, 40.) Therefore, returning to our case, even if the wife is exempt from the obligation of *havdala*, the husband’s recitation suffices to fulfill his *havdala* obligation, since his wife hears the *berakha* of “*borei peri ha-gefen*” over the wine and then drinks. Rav Weiss thus rules that the preferred solution is for the husband to recite *havdala* for his wife, and then she drinks the wine, unless there is a child present who has reached the age of *chinukh* but is not fasting, in which case that child should drink. This is preferable to the wife reciting *havdala* for herself, Rav Weiss asserts, due to the Rama’s ruling mentioned earlier that when possible, women should hear *havdala* recited by a man rather than recite it themselves.

Friday

 Yesterday, we addressed the interesting question that arises when Tisha B’Av falls on Shabbat and its observance is thus delayed until Sunday, and a woman is ill and thus exempt from the fast. Generally, one may not eat after Shabbat until reciting or listening to *havdala*, and thus the woman must first recite or hear *havdala* before eating on Tisha B’Av. However, the Rama (O.C. 296:8) rules that women should not recite *havdala* for themselves, since there is a dispute among the *Rishonim* as to whether they are included in the *havdala* obligation. According to the view that women are exempt from *havdala*, their recitation of *havdala* would constitute a *berakha le-vatala* (blessing recited in vain), and therefore, the Rama writes, women should hear *havdala* recited by a man, rather than recite it themselves. The *Mishna Berura* comments, however, that if no man is available to recite *havdala*, a woman can and should recite *havdala* for herself.The question thus arises in the case of an ill woman when Tisha B’Av is observed on Sunday, is it preferable for the woman to recite *havdala* for herself, or for her to have a man recite *havdala* for her and she then drinks the wine?

 Rav Asher Weiss, in his [essay on this topic](http://www.torahbase.org/%D7%AA%D7%A9%D7%A2%D7%94-%D7%91%D7%90%D7%91-%D7%A0%D7%93%D7%97%D7%94-%D7%AA%D7%A9%D7%A2%D7%94/), cites the ruling of Rav Yosef Shalom Elyashiv that the woman should recite *havdala* for herself in such a case. The basis for Rav Elyashiv’s ruling is the question of how to view the *havdala* obligation in the case when Tisha B’Av is observed on Sunday. Intuitively, we might assume that in such a case, we are all, fundamentally, required to recite *havdala* immediately upon the conclusion of Shabbat, just as we are every other week when Shabbat ends. As a practical matter, we are forced to delay *havdala* until Sunday night because we cannot drink wine until then. Essentially, however, we bear the obligation of *havdala* immediately once Shabbat ends, just as we do every week. Rav Elyashiv, however, contended that this is not the case. Since the Tisha B’Av fast begins immediately with the conclusion of Shabbat, the *havdala* obligation cannot take effect when Shabbat ends as it does every other week. In such a case, we are fundamentally exempt from the *havdala* obligation until drinking becomes permissible. In the case of an ill patient, the patient bears an obligation to recite *havdala* the moment he becomes absolved from the fast (which, depending on the nature and severity of the condition, occurs either immediately with the onset of Tisha B’Av, or when he becomes weak from fasting). Everybody else, however, does not yet bear an obligation to recite *havdala*, as this obligation cannot take effect while one is required to fast. Therefore, if a wife is ill and needs to eat on Tisha B’Av, but her husband is healthy and thus fasting, she bears the requirement to recite *havdala*, but he does not. Hence, Rav Elyashiv claims, the husband cannot recite *havdala* for his wife in this case, as he is not included in the *havdala* obligation at that point. In such a case, then, the wife must recite *havdala* for herself.

 Rav Weiss, however, disputes this line of reasoning. He argues that even those who fast on Tisha B’Av when it is observed on Sunday are, technically, obligated to recite *havdala*, even though the recitation is, as a practical matter, delayed until Sunday night. Rav Weiss draws proof to this perspective from the ruling of the Chida, in *Birkei Yosef* (556:3), that a healthy person who fasts on Tisha B’Av can fulfill his obligation of *havdala* on Tisha B’Av by hearing it recited by an ill patient who needs to eat. The healthy person in this case would not then be required to recite *havdala* on Sunday night, when Tisha B’Av ends, because he has fulfilled his *havdala* obligation by listening to its recitation earlier, during the fast. This ruling clearly reflects the view that even those capable of fasting on Tisha B’Av are, fundamentally, required to recite *havdala* even during the fast. As such, a husband who is fasting is able to recite *havdala* for his ill wife who needs to eat, as long as she (or a child who has reached the age of *chinukh*) drinks the wine. As we saw yesterday, Rav Weiss maintains that this is preferable to the wife’s reciting *havdala* on her own.

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