YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**War in Halakha**

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**Shiur #22: Designating a Place and Using a Trowel**

In the Torah passage dealing with the laws of the camp (discussed in the previous *shiur*), two *mitzvot* stand out as being unlike any others – the commandments of designating a place for defecation and of keeping a trowel among the soldier's weapons:

You shall designate a place (lit. “have a *yad*”)outside the camp where you may relieve yourself (lit. “and you will go out there, outside”). And you shall have a trowel among your gear; and it shall be, when you relieve yourself (lit. “sit”) outside, you shall dig a hole with it, and shall turn back and cover up your excrement. (*Devarim* 23:13-14)

First, we must inquire whether we are talking about one commandment or two. At first glance, these verses seem to contain two distinct injunctions, and perhaps even three. First, in verse 13, we are told to set aside a place outside the camp for defecation, as the *Sifrei* explains:

"You shall have a *yad* outside the camp" – the term *yad* refers to a place, as it is stated: "He is setting him up a place (*yad*)" (I *Shmuel* 9:12), and as it is stated: "Every man in his place (*yado*), by their banners" (*Bamidbar* 2:17).(*Sifrei* *Devarim* 257)

Then, in verse 14, the Torah commands two additional things: the obligation to carry a trowel and the obligation to cover one's excrement. Nevertheless, some authorities see the various obligations as a single mitzva; for instance, the *Sefer Mitzvot Gadol* writes:

There is a positive commandment to designate a certain place outside the camp where the people of the camp can defecate (see Rambam, *Hilkhot Melakhim* 6:14), so that the camp will remain clean… And each and every one must have a trowel among his weapons, with which he will go to that place and dig a hole in which to defecate and then cover the excrement… *This entire matter is one positive commandment*. (*Semag*, positive commandment 119)

This also seems to be the understanding of Rabbi Saadya Gaon, according to Rabbi Y. F. Perlow (*Shishim ve-Chamesh Parashiyot*, *parasha* 6) – that all the commandments regarding the camp constitute one general mitzvaof maintaining the sanctity of the camp – and of the *Yerei'im* (*mitzva* 434), who includes the two commandments in one mitzva*.* However, there are also those who count these elements as two separate commandments: one involves the preparation of the place, and the other involves the trowel and its use for covering the excrement. This is the view of the Rambam (*Sefer ha-Mitzvot*, positive commandments 192-193), as well as the *Sefer ha-Chinukh* (*mitzvot* 566-567).

The question of whether we are dealing with one or two *mitzvot* may have practical ramifications, both regarding the details of the laws – whether there are practical distinctions between the mitzva of the place and the mitzva of the trowel – and regarding a more general question: Is the essence of the mitzva the *result* that preserves the sanctity of the camp (in which case, it stands to reason that we are dealing with details of one general mitzva), or is the essence of the mitzvathe *act* (and we are dealing with two different acts, one related to the location and one related to a person’s conduct surrounding defecation). We will expand on this below.

**The reason for these commandments**

Several approaches have been suggested regarding the reason for the mitzvato cover bodily waste.

**Cleanliness**

The *Sefer Mitzvot Gadol* (positive commandment 119) and the *Sefer ha-Chinukh* both understand the essence of the mitzvato be a matter of the cleanliness of the camp. As we saw in the *Chinukh* in the previous *shiur*:

It is of the roots of the commandment [that it is] like what is written in the Torah passage: "For the Lord your God walks in the midst of your camp… therefore your camp shall be holy," which is to say that the souls of Israel always cling to the *Shekhina*, and all the more so in the camp, as they are all of clean souls – for anyone who was afraid on account of his sins had already left and returned to his home, and there remained [only] the good ones, in whom the spirit of God dwelled. And it is appropriate for them to stand in cleanliness, as it is known and publicized that cleanliness is among the good traits that bring one to *ruach ha-kodesh* (the holy spirit), as was expounded by Rabbi Pinchas ben Yair in the first chapter of *Avoda Zara* (20b). There is also praise to the nation in this, when gentile messengers come and see that their camp is holy and clean of any filth. (*Sefer ha-Chinukh*, *mitzva* 566)

A precise reading of the words of the *Chinukh* indicates that cleanliness has two meanings: on the physical level, it demonstrates the glory of the camp, both to the Jewish soldiers and to the gentiles[[1]](#footnote-1); and on the spiritual level, filth impairs the spiritual sanctity of the camp – and conversely, cleanliness serves as a step on the path to *ruach ha-kodesh*.

The spiritual dimension is also emphasized at the end of the *Chinukh*’s words:

And one who transgresses this and did not set up a place for himself outside of the camp, but dirties the area of the camps, has neglected this positive commandment. And his punishment is very great, since he causes the *Shekhina* to depart from the camp of Israel. As it is written: "He shall not see *ervat davar* (nakedness, indecency ofany thing) among you, and turn away from you" (*Devarim* 23:15) – that is to say: when you are within filth, you will distance yourself from the good. (*Sefer ha-Chinukh*, ibid.)

**Torah study**

The Gemara cites our verses as part of its discussion of the prohibition of engaging in Torah study in a place with filth. It learns from the two different verses that there is a difference between the distance one must keep from urine and that required from feces:

For Rav Hamnuna said: The Torah forbade [reciting the *Shema*] only facing a stream [of urine]. And this is as [taught by] Rabbi Yonatan, for Rabbi Yonatan contrasted two texts: it is written, "You shall designate a place outside the camp where you may relieve yourself"; and it is written, "And you shall have a trowel among your gear… and cover up your excrement." How so? The one speaks of feces, the other of urine. Accordingly, the Torah only forbade [reciting the *Shema*] when facing a stream [of urine]. (*Berakhot* 25a)

The Gemara understands from one verse that one must distance himself when he relieves himself, whereas the second verse also requires that he cover the waste. Therefore, it distinguishes between urination, where the prohibition of Torah study is only during the act itself, and defecation, where the prohibition is in effect until the excrement is covered. Rabbeinu Yona explains the reason for this distinction:

Two verses are written: One deals with excrement, namely, "And you shall have a trowel among your gear… and cover up your excrement." That is to say, that even though he is outside the camp, he needs to cover the excrement, because sometimes they speak words of Torah there, when they would go outside. But when it cautions regarding urine in another verse, it is written: "And you shall have a trowel among your gear; and it shall be, when you relieve yourself outside." It does not require covering, but only that one should urinate outside the camp, because in the camp they speak words of Torah all the time, and if one urinated there, it would be forbidden to speak words of Torah during the flow of urine, and therefore it is forbidden, but outside there is no need for covering, because after the flow of urine, it is not forbidden if they speak words of Torah and there is urine there. (Rabbeinu Yona, *Berakhot* 16b in the Alfasi pages)

His words imply that the Torah commanded the covering of excrement (and perhaps also the exiting of the camp) in order to enable Torah study in the camp. Presumably, however, Torah study is applicable everywhere; if the Torah taught about cleanliness specifically in the camp, it may be that there is a lesson here that there is a special mitzva to study Torah even in an army camp – and therefore, there is a special need to caution about the cleanliness of the place.

**Impact on the hearts of the soldiers**

We noted the Rambam’s view of the reason for these *mitzvot* (or, this mitzva) in the previous *shiur*. Here is a more complete excerpt:

And this commandment also fortifies, by means of the action it enjoins, the certainty of the combatants that the *Shekhina* rests among them, as it is explained in the reason given for it: "For the Lord your God walks in the midst of your camp." It has also included another notion, saying: "He shall not see *ervat davar* among you, and turn away from you," this being against that which, as is well known, is widespread among soldiers in a camp after they have stayed for a long time away from their homes. Accordingly, He commanded us to perform actions that remind us that the *Shekhina* rests among us, so that we will be preserved from those deeds, and has said: "Therefore your camp shall be holy; He shall not see *ervat davar* among you," to the point that He commanded that a man who experienced a seminal emission by night should go out of the camp until the sun sets, and afterwards he may come into the camp. That it should be in everyone’s heart that the camp is like the sanctuary of the Lord and not, like the camps of the gentiles, [intended] to destroy and to do wrong and to harm others and to rob them of their property, and nothing else. Our purpose is instead to direct people to serve God, and to introduce order into their circumstances. (*Guide for the Perplexed* III, 41)

These words of the Rambam suggest that the purpose of the mitzvato cover excrement is to impact on the heart of the person, to help him remember that the war is being waged for good, humane, and moral purposes, to sanctify the name of God who watches over the combatants. The camp and its soldiers should appear and behave accordingly, as a clean, orderly, and well-regulated place.

There is a big difference between the Rambam's reason and the two previous reasons: with the two previous reasons, the emphasis is on the *result* of the mitzva – that the camp remains clean and one can say words of Torah there – while according to the Rambam's understanding, the main effect of the mitzva is on the *action* of the person who goes out and who covers his excrement.

Another possible difference between the reasons relates to the question of whether women are obligated in this mitzva*.* If the mitzvais part of the laws of war, as the Rambam implies in his *Guide*, then it may be that it applies only to men, as women are not commanded to fight in a war. The *Chinukh* (566) takes this position, but the *Minchat Chinukh* disagrees and maintains that the obligation pertains to women as well:

Regarding what the author of the *Chinukh* writes, that it applies only to men… in truth, these positive commandments apply even in a *milchemet mitzva*, and in a *milchemet mitzva*,everyone goes out to fight, even a bride, as stated in the Rambam, *Hilkhot Melakhim* 7:1, and therefore it applies to women as well. (*Minchat Chinukh*, *mitzva* 566)

On the simple level, the dispute between the *Chinukh* and the *Minchat Chinukh* is over the obligation of women in war, but it can also be understood in another way. Rabbi Yosef Dov Soloveitchik suggests that women’s obligation is not based on the laws of war but stems from the law of "utter destruction" that applies to the seven Canaanite nations:

Regarding women, even though they are removed from the laws of war, nevertheless, they are subject to the law of conscription to war based on the obligation itself of utter destruction and eradication, for which the king can compel them to go out to war. Therefore, since women are removed from the laws of war even in the case of a *milchemet mitzva*, it is well that the *Chinukh* maintains that the mitzva of designating a place for defecation, which is a law of war… does not apply to women… since regarding the laws of war, they are exempt even from a *milchemet mitzva*.[[2]](#footnote-2)

According to Rabbi Soloveitchik, there are indeed situations in which a woman would be obligated to fight, but she is not part of the broad "laws of war" that include several related *mitzvot*, including the *mitzvot* of designating a place for defecation and of using a trowel. There is room to question this determination – whether our commandment is part of the general system of war-related commandments or not. It may that the question of whether the *mitzvot* of a place and a trowel apply to women depends on the reason for the mitzva: If it is a matter of Torah study or the cleanliness of the camp, then it should apply to women too, while if it is a spiritual matter within the definition and shaping of the war camp, then it may be argued that this is a detail of “the laws of war” and does not apply to women, who may be obligated to fight but who are not subject to the laws of war.

**The mitzva of covering excrement in our day**

This practical question hinges on a number of halakhic questions.

Some *Rishonim* hang the obligation of this mitzvaonthe presence of the ark in the camp (*Yerei'im* 232; this also seems to be the view of the *Rishonim* on the Torah, as explained in the previous *shiur*). According to this view, it is clear that in our day, when there is no ark, the mitzva does not apply. However, the Rambam in *Hilkhot Melakhim* (6:15) states explicitly that the mitzva applies even when there is no ark.

Another potential limitation on when the mitzva appliesis found in the words of the *Chinukh*:

And it is observed *at the time of the Temple*, by males, since they are the fighters, and not the females. (*Chinukh*, mitzva566)

However, there does not seem to be any other explicit mention of such a distinction, and we must try to understand the *Chinukh's* claim. It may be that this is related to the view of the *Yerei'im* and others who maintain that this mitzva is dependent on the sanctity of the ark, except that for the *Chinukh*, the very existence of the Temple adds sanctity and the presence of the *Shekhina* to the camp. This, however, is a major innovation and is not easy to understand; why should the existence of the Temple affect the sanctity of the camp?!

Another possible way to understand the novel position of the *Chinukh* is based on the words of the Tosefta:

One who goes out to a *milchemet reshut* digs and sits, digs and covers, as it is stated: "[When you relieve yourself outside,] you shall dig a hole with it, and shall turn back [and cover up your excrement]." (Tosefta *Megilla* 3:15)

The Tosefta seems to indicate that the mitzva applies only in the case of a *milchemet reshut.* As we saw at the outset of the series, a *milchemet reshut* is possible only when the Temple is standing and there is a king, a Sanhedrin, and the *Urim* and *Tummim*; therefore, in the absence of the Temple the mitzva cannot be observed. Thus, the words of the *Chinukh* can be understood based not on a matter of principle, but on a technicality.[[3]](#footnote-3)

But there is a difficulty with the Tosefta itself: Why should the *mitzvot* of designating a place for defecation and using a trowel only apply in a *milchemet reshut* and not in a *milchemet mitzva*? The *Tzitz Eliezer* (*Hilkhot Milchama*, part II, gate 2, chap. 4) suggests that the Tosefta is based on the principle that one who is engaged in one mitzva is exempt from another mitzva: these *mitzvot* would not apply in a *milchemet mitzva* because the combatants are already engaged in another mitzva. This is a very novel idea, for these *mitzvot* seem to be part of the Torah's directives for conducting a war, not a self-standing matter that might conflict with the very mitzva of fighting a war. Another approach to understanding the Tosefta is found in the commentary of the *Minchat Bikkurim* (in his commentary on the Tosefta, ad loc.), that its point is not to exclude a *milchemet mitzva*, but rather to include a *milchemet reshut* and teach that these laws apply even in such a war. One might have thought the resting of the *Shekhina* is less relevant in a *milchemet reshut*, and the Tosefta comes to say that even in such a case, these *mitzvot* apply. And in fact, the Rambam does not mention the law of “only in a *milchemet reshut*” ormake any distinction in the matter, and this is also the view of the majority of the *Rishonim*. In any event, it seems difficult to base the *Chinukh's* position on the Tosefta.

The *Chinukh's* novel position may be based on a different foundation. The *Chazon Ish* suggests that the Torah's definition of a camp applies only in a war in which the entire nation participates:

And it may be that the four exemptions in an army camp apply only in a war fought by all of Israel – a *milchemet mitzva* or *milchemet reshut* ordered by the king and the Sanhedrin. But if a foreign army attacked a city, and the people of that city went out to fight and rescue, then even though their war is a *milchemet mitzva*, nevertheless, the exemptions of an army camp do not apply… It seems that there are two conditions for the law of a camp: first, that it be a war of Israel… namely, that Israel be taken out to war. (*Chazon Ish*, *Likkutim* to *Eiruvin*, *Orach Chaim* 114, 6)

In light of this, we might suggest that according to the *Chinukh*,a war can only be considered as one fought by the entire nation of Israel when the Temple is standing.[[4]](#footnote-4)

In any case, however we understand the *Chinukh*’s position, his view is that these *mitzvot* do not apply in our time.

To summarize: both the *Sefer ha-Chinukh* and the *Yerei'im* maintain that these *mitzvot* are not applicable in our day; the Rambam, on the other hand, does not make these distinctions, and, according to him, the *mitzvot* are applicable even in our time.

**Urination and defecation**

We saw above the Gemara’s distinction (*Berakhot* 25a) between urine and feces regarding the mitzvaof covering. We must now discuss whether this distinction also exists with regard to the mitzvaof designating a place for relieving oneself.

Logically, it seems reasonable to distinguish between defecation and urination, as we saw regarding the obligation to distance oneself from bodily wastes while studying Torah; however, there is strong evidence to the contrary: *Targum Yonatan* (*Devarim* 23:13) states explicitly that the law applies even to urination, as do the *Tosafot* in *Bekhorot* (44b, s.v. *mei-eimatai*), who adduce proof from the same Gemara in *Berakhot.* The Rambam does not address the issue explicitly, and there is an extensive discussion of his position, but the term he uses – *le-hafnot*, "to relieve oneself" – seems to include both forms of waste.

The *Sefer Chareidim* goes as far as to say that there are two distinct *mitzvot*: one regarding urine, which is to designate a place, and one regarding feces, which involves use of a trowel:

According to the Rambam and Rabbeinu Yonah, these *mitzvot* apply only in a military camp, and they are two: a designated place for urine, which need not be covered, and a trowel for feces, which must be covered. (*Sefer Chareidim*,positive commandment 1)

And thus writes the Rashbatz:

And so it is stated there: "You shall designate a place outside the camp" – this is for urine… But "You shall have a trowel" is for feces, which must be covered by Torah law. (Rashbatz, no. 67)

It follows straightforwardly from the position of the Rambam and those in his camp that there is a distinction between the two *mitzvot*, and that while the mitzvaof going out to a designated place applies also (or perhaps, only) to urination, the mitzvaof using a trowel and covering applies only to defecation.

**The difference between designating a place and using a trowel**

In the laws of designating a place for relieving oneself and using a trowel, we find several details which, at first glance, are very puzzling.

According to the *Sifrei*, a special derivation is needed to teach that there is no need for two trowels, one for digging and another for covering:

"You shall dig a hole with it, and shall turn back and cover up your excrement" – I might understand that he must dig with one [trowel] and cover with another. Therefore, the verse states: "You shall dig a hole *with it*." (*Sifrei* *Devarim* 257)

There are several difficult points in the words of the *Sifrei*: first, the idea that we would think the mitzvarequires the use of two different trowels; and second, the importance the *Sifrei* attaches to the digging, and that one cannot cover one's feces with other things (as the plain meaning of the verse seems to indicate: "you shall dig a hole with it… and cover up your excrement").

To these, we may add two further questions: Must the mitzva of covering and digging be fulfilled specifically with a trowel, as stated in the verse, or can one dig the hole with other things? And the biggest question of all – what is the definition of the mitzva: covering the excrement or taking the trowel?

On the face of it, the answer is simple: clearly, the essence and main act of the mitzva is the covering of the feces, and the trowel is merely an object used to reach that end. As for the plain sense of the verses, it can be argued that the trowel and the digging are of no consequence and the Torah merely spoke in terms of how it would typically be done. Yet, the *midrashim* indicate otherwise; it would seem that the trowel and the digging do have significance in the performance of the mitzva, and we must try to understand why that is so.

In addition, according to the Rambam, the essence of the mitzva is indeed the carrying of the trowel and not the digging. Thus he writes in *Sefer ha-Mitzvot*:

That He commanded us that there be a digging tool hanging with the other tools of war, with each of the soldiers, so as to dig with it in the place that he defecates on that path that is designated for this. And he then covers the feces afterwards, such that feces will not be seen upon the ground at all in the war camp. (*Sefer ha-Mitzvot*,positive commandment 193)

And in *Hilkhot Melakhim*,he writes:

Similarly, it is a positive commandment for every single [soldier] to have a trowel hanging together with his weapons. And he shall go out on that path, dig with it, relieve himself, and cover his excrement, as it is stated: "You shall have a trowel among your gear." (*Hilkhot Melakhim* 6:15)

In both passages, it sounds as if the mitzva is the carrying of the trowel, while the covering of the excrement is secondary. And so too it seems from the wording of the Rambam in his brief list of the *mitzvot* there, where he defines the mitzvaas simply carrying. The *Sifrei* also emphasizes the location of the trowel:

"You shall have a trowel among your gear [*azeinekha*]" – the word *azeinekha* refers to the place of your weapons [*ziyunekha*]. (*Sifrei* *Devarim* 257; quoted by Rambam in *Sefer ha-Mitzvot*, ibid.)

We might even understand the Rambamas saying that carrying a trowel is a mitzvaeven if there is no defecation at all! At first glance, this is difficult, for the essence of the mitzva seems to be the covering, not the carrying of the trowel.

In order to explain the importance of the details of the act of covering, and the fact that carrying the trowel is a mitzvaeven without covering any excrement, we will turn to a novel insight of Rabbi Y. Sh. Elyashiv in a response to Rabbi Yitzchak Shilat during the Yom Kippur War:

It would seem that this *halakha*, to establish a special place outside the camp, falls upon the community, and then it is certainly forbidden for the individual to relieve himself inside the camp. But in a case where they did not provide for them a special place outside the camp, and each individual chooses a place within the camp – in such a case it would seem that there is no difference for the individual, for after all, this mitzva is cancelled.[[5]](#footnote-5) (Rabbi Yosef Shalom Elyashiv, *Kovetz Teshuvot*, part 1, no. 243)

Apart from the novel practical ramifications of Rav Elyashiv’s words, they imply that the essence of the mitzva is not defecation outside the camp, but the designation of the place – in other words, not the attainment of the result of the distancing of the filth, but the very act of taking care of the cleanliness of the camp. Based on this foundation, it may be argued that the primary mitzva is the carrying of the trowel and defining it as a tool for digging a hole for defecation, not the actual covering of the excrement. Indeed, this is implied by the plain meaning of the verses that command and detail the laws of the trowel. It is also in keeping with the Rambam's reasoning in his *Guide*, that these *mitzvot* are intended to influence the hearts of the soldiers. According to this understanding, the essence of the mitzvalies not in the removal of the bodily wastes, but in the soldiers’ internalization of the fact that they are fighting God's wars and that they are not like other combatants. If this is the purpose of the mitzva, it would seem that the continual carrying of the covering tools and the designation of a place outside the camp, even if they are never used, are the essence of the mitzva, since they constantly remind and awaken the soldier's heart to the purpose of the war.

**Summary**

This *shiur* examined the mitzva relating to the cleanliness that must be maintained while performing one's bodily functions. This mitzvawas given in the context of the laws of warfare, and we saw a discussion regarding the extent to which it is part of the general laws of warfare, and thus its scope would be limited to the people and times when they go out to war, as opposed to the possibility that it presents an independent value of cleanliness as enabling engagement with sacred matters. We went on to discuss several additional distinctions and details of the mitzva, some of which led us to the conclusion that a significant part of the mitzva is the very act of attending to these matters and being scrupulous about cleanliness and respectful human behavior. It may even be that the mitzvais not incumbent on each individual soldier, but on the community as a whole, which must ensure that its army camps are worthy of the promise, "And your camp shall be holy."

(Translated by David Strauss; edited by Sarah Rudolph)

1. Similarly, the Rambam writes in the first reason in his *Guide for the Perplexed* (III, 41): "This book also includes the commandment to prepare a place for defecation and a trowel. For among the intents of this law, as I have made known to you, is cleanliness and avoidance of dirt and disgusting things, and that a person should not be like the animals." [↑](#footnote-ref-1)
2. In his article, "*Kevod Chakhamim*," in *Sefer ha-Yovel le-Rav Leventhal.* [↑](#footnote-ref-2)
3. Proof that the *Sefer ha-Chinukh* follows the Tosefta can be brought from his discussion of the roots of the mitzva, where he writes that those who are fearful and faint-hearted have already returned to their homes; according to many opinions, this law applies only in a *milchemet reshut* and not in a *milchemet mitzva* (as we discussed in earlier *shiurim*). [↑](#footnote-ref-3)
4. It should be noted that the words of the *Chazon Ish* relate to various Rabbinic laws that apply in a military camp, but according to him this requirement does not apply to the *mitzvot* of designating a place for defecation and using a trowel. But it is possible that this principle of "the camp of the entire nation of Israel" was expanded by the *Chinukh* to other *mitzvot* relating to war. [↑](#footnote-ref-4)
5. It seems there is a difference between the mitzva of designating a place for defecation, which falls upon the community, and the mitzva of using a trowel, which is incumbent upon each individual. This distinction is reasonable based on the position of the Rambam that will be cited below. [↑](#footnote-ref-5)