

## Shabbat Shalom from Torah MiTzion

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Rabbi Ephrayim Beck , former Rosh Kollel, Caracas

Picture the Parasha

### “We Shall Do and We Shall Hear”

At the end of parshat Mishpatim we find the famous declaration by Bnei Yisrael, “We shall do and we shall hear”, expressing readiness to perform whatever God commands even before hearing what this might entail.

Attention should be paid to the context of this declaration:

“Moshe came and told the nation all that God had said, and all the laws, and the entire nation answered with a single voice and said, “All the things that God has spoken – we shall do.” And Moshe wrote down all that God had said. Then he got up early in the morning and built an altar at the foot of the mountain, with twelve pillars for the twelve tribes of Israel... And he took the book of the Covenant and read to the nation, and they said: “All that God has spoken – we shall do and we shall hear.” (Shemot 24:3-7)

From these verses it is clear that Bnei Yisrael had already heard what God had to say, and their declaration, “We shall do and we shall hear”, seems inappropriate: their fulfillment of God’s commandments will come after their having heard them! This understanding is further strengthened by the fact that their first declaration, “We shall do”, makes no mention of “We shall hear” – apparently because they had already heard which actions were involved.

What, then, was Bnei Yisrael’s intention in declaring, “We shall do and we shall hear”?

In order to understand this we must investigate which “doing” is referred to here, and what its purpose is. The action that Bnei Yisrael accepted upon themselves was the performance of the commandments. The generally-accepted perception of the commandments is that they not only guide the practical level of proper human behavior towards those around us, but also include a spiritual dimension that influences the

person intellectually. The spiritual influence finds expression in the formation of a certain human character, in inculcation of opinions and views. The spiritual influence is created through actions, out of habitual repetition of these actions.

Bnei Yisrael had, admittedly, heard about the actions – but merely hearing about them is not enough. The actions must be internalized; a person must come to recognize the ideas that lie behind the physical performance of the mitzvot. One would think that a person who knows and understands God’s intentions and the spiritual world has no need for the mitzvot. This explains Bnei Yisrael’s intention in declaring, “We shall do and we shall hear”: we will perform the mitzvot without always knowing the purpose of those actions; only as a second stage will we come to recognize the depth of meaning within them. This is an expression of great faith in God: it represents an acceptance of the Covenant and the commandments that it entails with the faith that these actions contain meaning that is far greater and more profound than what appears at first glance.

This idea is also reflected in the transition from parshat Yitro to parshat Mishpatim. From the awesome Revelation at Sinai, the Torah moves directly on to a discussion of the laws, the actions, themselves: the laws pertaining to an indentured Hebrew servant, and the laws of damages. This transition teaches us the importance of the everyday, physical actions which, the Torah insists, are of paramount importance. God reveals Himself to Bnei Yisrael and then teaches them not lofty spiritual philosophies or ethereal religious concepts, but rather the physical actions themselves. It is through these very actions that the Divine philosophy and worldview is revealed. ◉



#### Shabbat Times

	Local	Jerusalem
In		16:51
Out		18:05

# From Smoke to Smoking: Environmental Pollutants and Health

Simon Jackson, Legal Advisor to Torah Mitzion

Jewish legal authorities have considered whether it is prohibited to smoke in places where the smoke might bother others. One authority who absolutely prohibited smoking in public places was R. Moshe Feinstein, the spiritual leader of American Orthodoxy and leading authority on Halacha in the past century. It is his opinion that even if smoking were irritating only to those who are hypersensitive, it would nevertheless be prohibited to smoke in public places (Igrot Moshe, C.M. II:18). As precedent for this, Rav Moshe cites the talmudic case of R. Yosef, who was hypersensitive to noise (Bava Batra 23a).

## Smoking and the Hypersensitive

In Bava Batra 23a, the Gemara tells the story of Rav Yosef who had a grove of small date palms, in the shade of which bloodletters would sit (in their own property) while they drew blood. Ravens came and were attracted to the blood, so the bloodletters shooed them away. As a result, the ravens flew into the branches of the palm trees, and ruined the dates by smearing them with blood, whereupon Rav Yosef said to them, "Get these croakers [noisy birds] out of here for me!"

Abaye then said to Rav Yosef, "But the bloodletters are committing no more than incidental damage, which is permitted by the Mishnah?!" Rav Yosef replied, "Thus says Rav Tuvi bar Matnah: The Mishnah informs us that even activities that cause damage indirectly are forbidden" (even though one is not required to pay for incidental damage that results from one's actions). Accordingly, the bloodletters were required to move away.

"But," continued Abaye, "surely you allowed them to work there (since you raised no objection to their bloodletting for the past three years)?" Rav Nachman said in the name of Rabba bar Abuha – "There is no chazakah for things which cause damage."

"But," Abaye persisted, "surely it was only with regard to smoke and an outhouse that Rav Nachman's teaching holds true (but in all other sources of damage a chazakah can be established)?" Rav Yosef replied to Abaye: "since I am sensitive, these [noises/damages] are like smoke or a toilet to me."

*Rav Yosef was a highly sensitive individual who could not bear the thought of using bloodstained dates. He therefore argued that just as there is no chazakah for a smoke or a toilet (to which a neighbor would never relinquish his right to object), there could be no chazakah for bloodletting under his palm trees.*

If, based on this Gemara, it is possible to restrain particular actions on the basis of hypersensitivity, R. Feinstein reasons, *it is certainly possible to do so where there is pain or injury.*

**Thus, where smoking is harmful to others, it is certainly prohibited.**

## Smoking and Torah Scholars

On the halachic plane, Rav Feinstein writes as follows:

"[A]s I wrote . . . it is prohibited for smokers to smoke in the

study hall if even one person is present who is discomforted from it, even if he is not injured and made ill, *certainly if the possibility of illness and injury exists*, even if the time lost from Torah study would be greater if the smokers would be prohibited from smoking, as the smokers are forbidden to smoke in the study hall and in any place (in general) where non-smokers are found who protest that the (smoke) injures them, or even if the smoke discomforts them."

And on the hashkafic level, Rav Zvi Yehudah Kook, the then Rosh Yeshiva of Yeshivat Mercaz Harav, wrote the following letter "to all our brothers and friends in the Beit Midrash and Library" on the second day of Selichot 5737 (1977):

"The request and most pressing need in these holy days of Selichot and Teshuva, days of sincere integrity between man and God and between man and his fellow, is to wean oneself away from and to avoid the habit of smoking leaves of the tobacco plant in our mouths and holy lips as we embark on promoting the splendour of the Torah and the closeness of those who study it.

Praiseworthy is the person who hastens, and who exerts his will power, to do this, to enhance the diligence of Torah and its purity and the display of pleasantness to fellow human beings... Talmidei Chachamim in Eretz Yisrael are called 'pleasant' because they have pleasant demeanours and actions... and in this manner bring strength and mutual success to learning, with the help of Heaven, for a Kiddush Hashem and the public good."

## Smoking in Israel Today

Smoking constitutes a serious environmental pollutant and danger to health. Public awareness of this problem has led to legislation against smoking in public places.

In 1983, the Israeli Knesset enacted the Restriction of Smoking in Public Places Law, which was supplemented in 1994 by an executive order signed by the Minister of Health. The executive order confines smoking in the workplace to specially designated areas where there are no non-smokers, where there is adequate ventilation, and where smoking does not cause a nuisance to other parts of the workplace. The law barring smoking in the last of public places where it had been permitted - shopping malls, schools, airports and lecture halls, as well as restaurants and cafes where a completely separate smoking room is unavailable – went into effect at the end of 2001.

The anti-smoker complains, though, that there is little enforcement of the anti-smoking laws in Israel. Fewer than 1,000 fines for smoking in public places have been issued around the country in the past year by municipal inspectors and police, according to the Israel Cancer Association and the Israel Council for the Prevention of Smoking. All this is despite the reality that 76% of Israelis do not smoke. The organizations are not only demanding an increase to the current NIS 310 fines, but also significant financial penalties for owners of public places where the law is broken.

## “After the Majority”

Courtesy of Yeshivat Ateret Yerushalayim's website

### Minority and Majority Opinion

**Question:** The Torah scholars and great authorities of Israel who support the position of Gush Emunim (the movement to settle all of the historical Land of Israel) are the minority of Rabbis in contrast to those who are opposed. If so, shouldn't we follow the general principle of Jewish Law that majority rules?

**Answer:** I will deal with the essence of the question without discussing whether it is in fact the reality. After all, our Rabbi, Ha-Rav Tzvi Yehudah, was well known for his declaration that the majority of the world's Torah giants did not oppose Zionism. Once, one of the students at the Yeshiva said that he would not dare make such a statement in the vicinity of the Holy Ark. The student's words made their way to the ears of our Rabbi. Our Rabbi immediately ran to the Yeshiva, opened up the Holy Ark containing the Torah Scrolls and said, "Whoever says that the majority of Torah giants opposed Zionism is a liar. The truth should be told that Zionism was a new movement, and most of the leading Rabbis were uncertain as to how to relate to it. Most of those who did take a stand were actually in favor of Zionism."

The halachic authorities have written that the principle that we follow the majority only applies if all authorities sit together and there is give-and-take between them, and not if each one of them states his opinion on his own and we count up their opinions. The reasoning here is that, perhaps, if the majority heard the opinion of the minority and had give-and-take with them, they would be convinced (Shut Ha-Rashba quoted in Beit Yosef, Choshen Mishpat, end of chap. 13). "Because we do not say majority rules except when a majority of them argue face-to-face" (Sedei Chemed, vol. 3, pg. 149), "When all of the judges are gathered together in one place like the Sanhedrin" (Get Pashut, kelali, klal #1, and see Shut She'eilat David in Makor Beit Av - ma'amar #2, Mishnat Hora'ah by Mahartz Chayot chap. 4-5, Sdei Chemed - kelalim ma'arechet yud klal #35, Minchat Chinuch, mitzvah 78 #1 and Chazon Ish - Kilayim siman 1).

Despite this idea, the authorities mention the issue of deciding based on "the majority of wisdom" (i.e. greater knowledge and expertise in a particular area of Halachah), and there are even those who say that we follow a "majority of wisdom" over a "majority of number" (Likutei Ha-Ramban, Sanhedrin chap. 4 in the name of the Rahag). One must distinguish between "the majority of wisdom" for each authority based on his area of expertise: there are Rabbis whose expertise is monetary laws,

and there are Rabbis whose expertise is in Kashrut, etc... Maran Ha-Rav Avraham Yitzhak Ha-Cohain Kook's expertise was in the area of the workings of Klal Yisrael relating the rebuilding of our Nation and our Land, the beginning of the Redemption, and in understanding the Master of the Universe's direction of our history. He investigated, clarified, arranged, and constructed a complete method of understanding, whose scope and depth is far above all of the Sages of the generation of Acharonim (later authorities).

For example, Ha-Rav Joseph Soloveitchik, with all of his brilliance, did not construct an all-compassing method of understanding, and all of his teachings were, in essence, about the phenomenon of the religious individual. He did not present a philosophy of communal faith: The Rav only discussed the religious experience of the individual as opposed to the communal religious experience, which includes understanding Hashem's role in guiding the history of the Nation of Israel. All that was said above is equally applicable in relation to students who did not sufficiently learn Torah, and came to create all sorts of lies about Maran Ha-Rav Kook. They forged documents in his name, and placed in his mouth the opposite of what he said. The proper way to understand his teachings is through his son, our Rabbi, Ha-Rav Tzvi Yehudah, who even in his youth, his father said of him, "...with gratitude of G-d, he is nearly one with me, he who is accustomed to remain faithful to my opinion and hears the conversation of my soul (Igrot Ha-Re'eyah vol. 1, p. 121).

Based on the decisions of Rabbi Akiva as to the Messianism of Bar Kochba, the Rambam ruled, "He and all the Sages of his generation considered him to be the Messianic King" (Rambam, Hilchot Melachim 11:3), even though we find Sages who disagreed with his position (Sanhedrin 93b and see Jerusalem Talmud Ta'anit 4:5, Eichah Rabbah 2:2). How then did the Rambam write: "Rabbi Akiva and all the Sages of his generation"? Rather it was clear to him, that in all matters pertaining to the vision of Redemption and the resurrection of Israel and its Land, Rabbi Akiva was the expert; that is, he possessed "the majority of wisdom." Therefore, even though the majority disagreed with him, he was defined by Halachah as "all the Sages of his generation" (see Rambam, Hilchot Ta'anit 5:3 where there is a similar understanding. ◻)

[Sefer Am Ve-Artzo vol. 1, #11]

## Tu Bishvat

### Learning from the Flowers

Picking wildflowers used to be a popular pastime, with some even sold commercially. In the mid-1960s, however, the Nature Reserves Authority, with the help of the Society for the Protection of Nature, published a list of protected wildflowers and launched a vigorous education campaign. The public was urged: "Don't pick! Don't uproot! Don't buy! And don't sell!"

The effort saved Israel's wildflowers, and three decades later it is considered the most successful nature protection campaign conducted in the country. If the public becomes an equally active enforcer of the anti-smoking laws in public places against transgressors, there is no reason why the same result cannot be achieved in the sphere of environmental protection. ◻

## Rabbi David Ha-Levi Segal

This day in History - Died 26 of Shevat 5428

**Rabbi David Ha-Levi Segal** (c. 1586 – 20 February 1667), also known as the **Turei Zahav** (abbreviated **Taz**) after the title of his significant *halakhic* commentary on the *Shulchan Aruch*, was one of the greatest Polish rabbinical authorities.

### Biography

Born in Ludmir, Volhynia, Segal was the son of Samuel ha-Levi Segal. His chief Torah teacher was his older brother, Isaac. He became a reputed Talmudic scholar, and married the daughter of Rabbi Joel Sirkis of Brest, whom he frequently quoted in his works.

After residing with his father-in-law and continuing his Torah studies for several years, Segal and his family moved to Kraków. He was then appointed chief rabbi of Potelych (Polish Potylicz), near Rava, where he lived in great poverty. Later he went to Poznań, where he remained for several years.

Around 1641 he became rabbi of the old community of Ostrog, in Volhynia. There Segal established a famous yeshiva, and was soon recognized as one of the great halakhic authorities of his time. In Ostrog, Segal wrote a commentary on Joseph Caro's *Shulchan Aruch* (*Yoreh De'ah*), which he published in Lublin in 1646. This commentary, known as the *Turei Zahav* ("Rows of Gold"), was accepted as one of the highest authorities on Jewish law. Thereafter, Segal became known by the acronym of his work, the *TaZ*.

Two years after the publication of his commentary, Segal and his family had to flee the massacres of the Cossack insurrection under Bogdan Chmielnicki in 1648–1649. Segal went to Steinitz near Ostrau, Moravia, where he remained for some time. Not happy in Moravia, he returned to Poland as soon as order was restored, settling in Lemberg, where he remained for the rest of his life.

In Lemberg, Segal was appointed Av Beit Din (head of the rabbinical court). When Rabbi Meir Sack, chief rabbi of Lemberg, died in 1653, he succeeded him in this position as well.

Segal's last days were saddened by the death of his two sons, Mordechai and Solomon, who were killed in the riots occurring in Lemberg in the spring of 1664. His wife had died long before; now Segal married the widow of her brother, Samuel Hirz, Rav of Pińczów. His third son from his first marriage, Isaiah, and his stepson, Aryeh Löb, were the two Polish scholars who were sent — probably by Segal, or at least with his consent — to Turkey in 1666 to investigate the claims of the pseudo-Messiah, Shabbetai Tzvi. The two returned with a pre-

sent for Segal from Shabbetai Tzvi — a white silk robe, along with a letter in which the latter promised to avenge the wrongs of the Jews of Poland.

Segal's descendants were the Russian rabbinical family Paltrowitch, which produced 33 rabbis over several generations; American actress Gwyneth Paltrow and Congresswoman Gabrielle Giffords descend from said family.

### Works

Most of Segal's works were published long after his death. The *Turei Zahav* ("Rows of Gold"), an indispensable commentary on *Shulchan Aruch* (*Orach Chayim*), was published by Shabbethai Bass in Dyhernfurth in 1692, together with the *Magen Abraham* by Abraham Abele Gumbiner. The title *Turei Zahav* is a play on the similar-sounding *turei zahav*, "towers of gold", in *Song of Songs* 1:11. The title is abbreviated as *Taz*, and subtitled *Magen David* ("Shield of David", after Segal's first name) in many editions. Both commentaries (*Taz* and *Magen Abraham*), together with the main text, the *Shulchan Aruch*, were republished frequently with several other commentaries, and still hold first rank among halakhic authorities.

Two years before the publication of this work, Judel of Kovli, in Volhynia, a kabbalist and Talmudic scholar who wrote a commentary on *Orach Chaim*, gave money to have it published together with the *Taz*. His wishes were never carried out, and his money was used to publish another of Segal's works, *Divrei David* ("The Words of David"), a supercommentary on *Rashi* (*Dyhernfurth*, 1690). Part of the *Taz* on *Shulchan Aruch* (*Chosen Mishpat*) appeared separately in Hamburg in the same year, with notes by Tzvi Ashkenazi. The other half, in spite of various attempts and general demand, did not appear until about seventy years later (Berlin, 1761). The *Taz* on *Shulchan Aruch* (*Eben ha-Ezer*), which was utilized in manuscript by Samuel ben Phoebus, the author of *Bet Shemuel* on the same part of the *Shulchan Aruch*, was first printed in Zolkiev in 1754.

Segal also authored *responsa* which, though sometimes quoted from the manuscripts, were never published. He and Shabbethai Kohen (the *ShaK*) are among the greatest halakhic authorities among the *Acharonim*. In 1683, the Council of Four Lands declared that the authority of the *Taz* should be considered greater than that of the *ShaK*, but later the *ShaK* gained more and more in authority. ■

After reading, please be sure to place this Torah Sheet in a Geniza (Sheimus)

**Torah MiTzion** establishes Religious Zionist Kollels (centers of Jewish learning and outreach) in Diaspora Jewish communities to strengthen the study of Torah, Jewish identity, the unity of the Jewish people, and the connection between Torah study and Israel.

The Kolllels, led by a *Rosh Kollel*, are comprised of Israeli shlichim (emissaries) - married men and their wives, or young single men, graduates of Yeshivot Hesder in Israel - who serve in the communities for a period of one-three years.

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