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Founder and President

HEMDAT YAMIM

Parashat HaShavua

Behar Bechukotai, 24 Iyar 5777

The Book and Sword Wrapped Together, Given from Heaven

Harav Yosef Carmel

"If you follow my statutes ... I will send rain in its time... and you will live securely in the Land" (Vayikra 26:3-5).

The Midrash commenting on this *pasuk* explains that fulfilling the statutes brings a person to the World to Come. The *pasuk* (Yeshayahu 4:3) states: "Those who remain in Zion and are left in Jerusalem, all who are inscribed for life in Jerusalem shall be called holy." This refers to one who delves into Torah, which is the tree of life as it says: "It is the tree of life for those who cleave to it" (Mishlei 3:18). Rav Elazar commented: The sword and the book were given wrapped together from Heaven. Hashem said: "If you keep what is written in this book, you will be spared from the sword, but if not, you will be killed." This is learned from: "He drove man out and stationed the cherubim east of the Garden of Eden, the fiery ever turning sword, to guard the way to the tree of life" (Bereishit 3:24). The way refers to *derech erez* and the tree refers to Torah (Vayikra Raba, 35:6).

Let us understand this midrash in the context of Lag Ba'omer. The day's major personalities are Rabbi Akiva, his students (who fought for Bar Kochba), and another student, Rabbi Shimon Bar Yochai.

Do we actually strengthen these great *chachamim's* legacy on Lag Ba'omer? The many bonfires preoccupy the youth since Pesach. Does gathering woods (some of which is stolen or wasted) strengthen their fear of Heaven? Do they connect more with Rabbi Akiva's and Rabbi Shimon's Torah? Do polluting the air and causing injuries add to our spirituality enough to be worth the price?

Rabbi Akiva encouraged his students to fight for Jewish independence in our Land. They were prepared to give their life in the tent of Torah and in keeping the *mitzvot*, and also in physical battle against those who opposed Israeli independence.

May I be bold enough to make alternative suggestions for next year? The Torah community can spend the night delving into these topics. We should place on a pedestal the great heroes of the past who synthesized fighting for Torah and against our enemies, such as Yehoshua, David Hamelech, Rabbi Akiva, and the followers of each.

Rabbi Shimon Bar Yochai taught *Am Yisrael* to delve into a Torah learning of faith and Jewish philosophy. Let us encourage the study of such topics along with learning practical halacha, especially on this special day.

The students of Rabi Akiva died (likely, in battle against the Romans) because they did not give respect to each other, i.e., a lack of *derech erez*. During *Sefirat Ha'omer*, we adopt practices of mourning because of this national spiritual calamity. The sacrifices of Rabbi Akiva and his wife Rachel (who was responsible for his scholarship) was nearly obliterated due to fighting and baseless hatred, which also destroyed the Beit Hamikdash decades earlier. Specifically on this day, it is fitting to open the *beit midrash* doors to "extinguish the fire of dispute" that still engulfs us. This way we will follow our opening Midrash – we will guard the living Torah and merit the many blessing with which our *parasha* begins.

Let us all pray that we merit seeing the removal of the reasons for the destruction of the *Beit Hamikdash* and see its rebuilding soon in our days.

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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.
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Ask the Rabbi

by Rav Daniel Mann

Use of a Fat Separator on Shabbat

Question: Is it permitted to use a fat separator on Shabbat?

Answer: [A fat separator is a regular container with a spout, except that the spout comes out from near its bottom. When one pours stock or gravy into it, forces of nature (lighter parts of a liquid mixture rise) cause the fat to rise to the top. By pouring the stock out **from the bottom**, the defatted part comes out first, and one stops pouring before getting to the fatty layer, which he later discards. Some models have a spout stopper, which traps air so that, until ready to pour out, the gravy with its fat stays out of the spout, so that all the fat remains in the container. (An on-line picture or demonstration may be helpful.)]

The *baraita* (cited in Shabbat 74a; see Tosafot ad loc.) mentions cryptically that selecting (*borer*) food from other types of food is sometimes forbidden and sometimes permitted. The following conditions for permissibility it brings to explain are accepted by the Shulchan Aruch (Orach Chayim 319:1-2). 1) The selection is done by hand, not by a utensil whose purpose is selection. 2) The food which one wants to eat is removed from that which he does not want now. 3) The food that is removed will be used in the short term. Only if all three are satisfied is the selecting not a violation of *borer*.

Let us analyze the fat separator. Most selecting takes place in one stage, either directly, by removing things from the mixture, or by putting something into a utensil that separates (e.g., a strainer) and removes immediately or one where the selection and removal occur when one shakes the mixture (e.g., a sifter). A fat separator, in contrast, employs two separate stages. The separation takes place over a few minutes after the gravy is poured in, and the removal of the defatted part occurs when one decides to pour it out. Let us first analyze each stage.

The first-stage separation happens naturally and is not significantly changed by the person's action of pouring the gravy into the separator; the forces of gravity would perform the task in a pot or pan as well. Therefore, this cannot be prohibited.

The question is when one pours out the defatted part of the gravy and leaves the fat. There is enough intermingling between the parts of the stock to make it a question of *borer*. However, here you take the desired from the undesired (assuming one is interested in the defatted part, not the fat), which is good. (If there is some fat on the top of the spout in the beginning, do not throw it out alone.) Indeed, one should do this only if he plans to use the desired part shortly after removal.

The question is whether this is considered selecting that uses a (special) utensil. If we look at the whole process as one, then you are indeed using a utensil for it, and it would be forbidden *borer*. However, I am convinced one should look at it as two separate events: 1) natural separation; 2) removal of the good with a simple spout that does no separating. Besides an intuitive halachic conviction, a factor that indicates there are two separate stages is the fact that the second stage, which can come much later, occurs only if and when one decides to do it.

Therefore, pouring out only the part you want is not worse than pouring out some broth without vegetables from a soup pot, which is permitted if one does not use a pot cover etc. to hold back the vegetables. Indeed, one may pour from a utensil that which he wants and stop before getting to the unwanted material (see Shemirat Shabbat K'hilchata 3:47, who permits more severe cases). One could argue that a fat separator is worse because the pouring is effective only because this special utensil enables it. However, when discussing *borer* with utensils, the utensil is always involved in the separation, not in simple removal of that which was separated.

One could argue that the spout stopper is involved in separation, as it keeps fat out of the spout, and using it should be forbidden. However, this is wrong, as the air pressure does not hold back specifically fat but the entire mixture of gravy.



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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

The Nature of *Tzniut*

(condensed from Ein Ayah, Shabbat 5:6)

Gemara: The Rabbis taught: it once happened that a man married a woman who was missing one hand and did not notice this until the day of her death. Rav said: How *tznu'ah* (modest) this woman was, in that her husband did not notice this. Rav Chiya said: This was natural for her. Rather, how *tzanua* was this man, who did not notice this about his wife.

Ein Ayah: The more a person is able to fill his internal perceptions with beauty and splendor, the more he and his imagination, which is the base of his intellect, become elevated. It becomes holy and refined until he is able to receive moral and intellectual splendor. The opposite is similarly true. The perceptions of disgusting things that cause distress to the natural beauty of the spirit, which Hashem created in an upright manner, weaken a person's imagination and blur his moral and intellectual understanding.

All of Hashem's creations are fully beautiful and splendid, for they all come from a source of splendor, eternity, and glory. However, although this is true, this completeness is only perceptible if a person would be able to incorporate in his understanding all of creation, from beginning till the end. Only then would he be able to understand the beauty and place of everything in creation, and everything would have honor and grace. However we have limited vision and understanding, and therefore there is a great difference between what has splendor and what is unsightly. Not everything one sees in this limited scope will create a vision of splendor, for there are things that will bring disgust to a person, even though in their truest sense, they are really good.

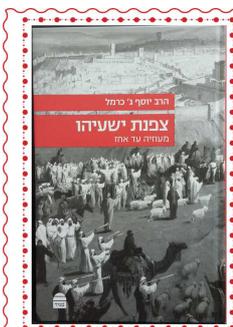
Therefore a person who must nourish his soul, with that which is fitting and healthy for it, must relate to his surroundings with care and caution, letting only the things that will impact him in a positive way be seen by his eyes. He must distance himself from lowly sights that will lessen his soul, so that only the good and the splendid remain in his mind.

When a person fills his soul with grace until it becomes part of his natural makeup, his eyes naturally see only that which is splendid and not that which is disgusting to him considering his limited perspective. This is true both for things which he notices with his physical senses and those he notices with his intellect. For this, the trait of *tzniut* helps a person focus only on the good and splendid and distance him from the unsightly. It is not that the good that he cannot see disappears, but it is covered from his sight. This is the purpose of the trait of *tzniut*.

A woman's attribute of *tzniut* is to not allow that which should not be seen to be visible. A man's *tzniut* is to not let the eye see that which will not bring splendor to his perception. When a person's *tzniut* is all encompassing, it extends to removing the unsightly in the realm of the intellectual and moral as well. When he has a more technical reason to remove something from sight, the phenomenon can sometimes cause a weakening of the spirit. Then, while being correct, it is not fully elevating and is not the depth of *tzniut*, which emanates from a pure inclination. Technical *tzniut* will not last forever. Therefore, Rav was impressed with the woman's *tzniut*, in that her husband never came to notice it.

The depth of *tzniut* is to look just at the good and advantageous so that he is beyond that which causes negativity in a person. A person possessing such a nature will not notice that which is a blemish, even if it is right before him. He will notice the good that is visible to one who sees a broad picture of the grand existence of the world. This was the *tzniut* of the husband who did not discern any blemish in his wife.

We daven for a complete and speedy refuah for
Yehoshafat Yechezkel ben Milka
Ro'i Moshe Elchanan ben Gina Devra and
Margalit bat Miriam
Together with all cholei yisrael



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

Buy Now

Calculating Late Penalty According to Contract or Law – part I

(based on ruling 75030 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought property from a building company (=def), which was supposed to complete construction to by 20.06.2014. After negotiations, the contract included a penalty of 2,800 shekels a month against def for lateness, starting from two months after the target date. Pl received the apartment more than 18 months late. According to a new law, a buyer is compensated for more than 60 days of lateness (retroactively from the beginning) according to the following schedule – 150% of the apartment's rental value for the first 8 months; 125% of the value after that. Buyers cannot waive their legal rights. Pl claims that the apartment's value is 4,200 shekels and claims 105,275 shekels. Def claims the payment should be drastically reduced on two general grounds. Since the contract included an arbitration agreement to *beit din*, halacha, which recognizes the sides' agreement, rather than the law, should be binding. Therefore: 1. The monthly rate is 2,800. 2. Payments start only after two months. 3. The contract gives a two month extension for the buyer's requesting building change, which pl made. Furthermore, the following delays, which were beyond def's control, push off the target date: 4. (Arab) workers could not come to the site during the fighting in the summer of 2014. 5. The water authority illegitimately delayed connecting the water supply, which delayed by months receipt of a *Tofes 4*, needed for legal occupancy. 6. The fire department improperly delayed approval for several weeks. 7. Pl refused to receive control of the apartment for two months after it was ready.

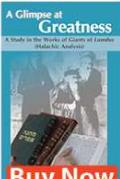
Ruling: We start with a discussion on whether to follow the contract or the law. The written policy of our *beit din* is to accept the law of the land when it is one that if brought before us, we would accept it. One factor that helps us want to accept a law is when it has a basis in a Torah principle. Another is when logic dictates that it improves society. Areas in which we are less likely to accept the laws are when they set down general rules of justice, for which we prefer the Torah's justice. In cases where the reason to accept the law is that it represents standard practice, the existence of a contract overrides standard practice.

There is a *machloket* among contemporary *dayanim* on the validity of a law's provision that the sides cannot waive it. Ateret Devora (CM II:48) proves from the halacha that the members of a city can enforce rates for employment (Tosefta, Bava Metzia 11:23) that laws work even when the sides agree to something else. In this case, the drafters of the law correctly realized that building companies will force provisions upon buyers in set contracts written in their own favor. Therefore, if they did not make these provisions irrevocable, the law would be rendered useless by the companies' lawyers. Additionally, they reasoned that the builder has the experience to set the time schedule in a way that he will not lose unreasonably. Therefore, we accept the *Law of Sales* (Homes).

Next time, we will look at and apply the law's provisions to this case.

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