



HaRav Shaul Israeli zt"l  
Founder and President

# HEMDAT YAMIM

## Parashat HaShavua

Devarim, 6 Av 5777

### Tofel

Harav Yosef Carmel

The *parasha* and *sefer* start with an introduction to Moshe's address to Bnei Yisrael, consisting of an apparent list of places: "the other side of the Jordan, in the plain, in the desert, opposite Suf, between Paran and Tofel, and Lavan, and Chatzeirot, and Di Zahav" (Devarim 1:1). The simplest explanation is that of Rabbi Yossi ben Dormaskit, who said that these are not all names of places but are references to events that occurred (Sifrei, Devarim 1). Rabbi Yehuda (ibid.) sees these as rebuke regarding ten improper actions of Bnei Yisrael, including the matters of the spies, the Golden Calf, and the *slav*.

A *Baraita* (Avot D'Rabbi Natan 34), taking this basic approach, explains Tofel as a reference to the words of *tiflut* (inanity) that Bnei Yisrael employed when complaining about the *manna*. We humbly suggest a different explanation, with a contemporary application, for the expressions, specifically, *tofel*, without deciding between the opinions above.

*Tofel* is a major part of the name of David's advisor, Achitofel Hagiloni. Achitofel was the father or Eliam (Shmuel II, 23:34), who in turn was the father of Bat Sheva (ibid. 11:3). Eliam is also called Amiel (Divrei Hayamim I,3:5). Both versions of the name contain the same two elements, which were made famous by David's progenitor, Ruth, who said "Amech *ami veylokayich eloka*" (your nation is my nation, and your G-d is my G-d) (Ruth 1:16). Ruth joined the nation both from a spiritual perspective, by accepting the *mitzvot*, and from a national perspective. (See Rav Yisraeli's beautiful presentation of the role of *beit din* in conversion (Chavot Binyamin 67) – to both ensure the serious acceptance of the *mitzvot* and to represent the nation, who must decide to accept him or her into the fold.)

Achitofel's name strongly hints that he was a convert, as the name likely means that he is now a brother (*achi*), and that he left *tofel* (i.e., the silliness that surrounds idol worship). There is another hint from Achitofel's death (after having betrayed David). On the one hand, Achitofel's father's name is never mentioned in *Tanach*, which makes sense for a convert, who is not halachically related to his biological father. On the other hand, after Achitofel committed suicide, he was buried in his father's burial plot. According to the thesis that he was a convert, this makes sense, as he was not buried in a Jewish cemetery, as he had committed suicide, but with his non-Jewish father.

We now understand that *tofel* was seen by *Chazal* as those who say inane things about Hashem (Midrash Aggada, Devarim 1). This can refer to the sin of idol worship, the realm of those of pagan religions from whom converts like Achitofel came. We should make sure to treat our converts like *Achi-tofel*, our brothers who, *baruch Hashem*, abandoned *tofel*, as those who have passed the test of *Amech ami veylokayich elokai*. May we strengthen ourselves during these nine days, in our own acceptance of *mitzvot* and our acceptance into our midst of converts. The Torah was so keenly aware how easy it is to mistreat them.

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**Those who fell in wars for our homeland. May Hashem avenge their blood!**



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# Ask the Rabbi

by Rav Daniel Mann

## Sending Packages on Shabbat or Yom Tov

**Question:** I often send packages with UPS. May I have them do a pick up on Shabbat or *Yom Tov*, when everything was done from beforehand, and they take it without my involvement?

**Answer:** There are two main issues to deal with: whether they are considered doing work on your behalf; whether there is a problem of *marit ayin*.

In this case, UPS is doing *melacha* on your behalf, at least in regard to driving to the pick-up point and perhaps other matters. (It might be somewhat of a lenient case since you do not interact with the person who is doing the work – see Mishna Berura 307:24.) It is generally permitted to have a non-Jew do work for you on Shabbat if they are doing it for their own purposes. When one pays the non-Jew to do work that the Jew wants, the major distinction is as follows. If the non-Jew is paid by time, it is considered doing work for the Jew; if he is paid per the job, it is considered that he is working on his own behalf (for the pay) (Shulchan Aruch, Orach Chayim 247:1). UPS obviously gets paid for the job, which is good. On the other hand, even in that case, if one instructs him, explicitly or implicitly, to do the work specifically on Shabbat or Yom Tov, it is forbidden (*ibid.*).

Therefore, you would have to give them a time for pick-up that would not necessarily be on Shabbat or Yom Tov (i.e., they have time before or after). From a look at their site, it seems that one's request can be made for anytime (24/7). On the other hand, in a response to my written question (I cannot gauge the expertise of the specific customer service worker), pickups are generally done from 9 AM to 7 PM. Accordingly, during some of the year, if you allowed them to come all day, it would not necessarily be on Shabbat/Yom Tov and at other times, it would be on the same halachic day. The halacha is that it is not enough to provide them a theoretical alternative to work on Shabbat, but it must be practical (Mishna Berura 307:15). (You could ostensibly give them a two-day window to come on, but your question implies that you have a reason for it to be on one specific day and not the day after. The day before would also be fine.)

An interesting consideration arises with two days of *Yom Tov*. Is it permitted to tell them to come, say, anytime on Monday, when Monday is the first day of *Yom Tov* and Monday evening starts the second? This should be fine for any *Yom Tov* other than Rosh Hashana. That is because we treat each day as a mutually exclusive doubt. Namely, if the first day is holy, the second is not. If the second is holy, the first is not (Shulchan Aruch, OC 513:5). So if they have all day and part of the night of Monday, they have the opportunity to pick up on *chol*. Rosh Hashana, in contrast, is treated as two definite days of *Yom Tov* (*ibid.*).

There is still a problem, due to the *halacha* that one is not allowed to have a non-Jew take an object from a Jew's home on Shabbat, unless he took it unexpectedly (Shabbat 19a). All explain that it has to do with *marit ayin*, but differ as to what people will think. The Shulchan Aruch (246:2) says that one will think that the Jew told him to carry it out for the Jew's benefit into the public domain. If that is the case, then if the non-Jew lives within the same *eiruv* as the Jew's home, there would be no problem, and it is possible that the same would be true of at least some cases on *Yom Tov* even without an *eiruv* (Taz 246:3). The Rambam (Shabbat 6:19) says that people will think that the Jew improperly sold or the like to the non-Jew on Shabbat. In that case, it applies even within an *eiruv* (Magen Avraham 246:6; see Sha'ar Hatziyun 246:7). In this case, it would seem that according to everyone there should be *marit ayin* because one who sees the non-Jew taking it on Shabbat or *Yom Tov* will not realize that he did not tell him to come specifically on the holy day (see Mishna Berura 252:17). Therefore, if you want the pick-up, in addition to including a possibility of *chol* pick up, you should also have it picked up from a non-Jewish neighbor's house.



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# Ein Ayah

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

## The Difference a Letter Makes

(condensed from Ein Ayah, Shabbat 5:30)

**Gemara:** [We saw last time how a mark was placed on the foreheads of different levels of people slated for tragedy due to the sins of some and the lack of protest of others. Now we will look at the significance of the word for this mark – “tav” – which is also the name of the last letter of the Hebrew alphabet.] What is unique about a tav? Tav [is used in] “*tichyeh*” (you shall live); tav [is used in] “*tamut*” (you shall die).

**Ein Ayah:** Individuals, from whom the whole is consisted, are always divided in the spirit of a person between good and evil. The difference between good and evil cannot be built on individual occurrences. Sometimes an evil person will do something good and righteous, and sometimes a righteous person will stumble into a sin. If we want to say that we should determine the matter based on the majority of his actions, it is hard to factor in the value of each sin and each merit.

The main factor is whether a person’s existence is beneficial to the world and he thus has merit that justifies his life, or whether his existence causes damage, and he has lost his right to exist. This is something that can be determined only by calculating all of his strengths and weaknesses together. If, in the sum total of all his inclinations and strengths, one leans to the side of good and righteousness, then he is fit for survival. If it is to the side of evil, he is slated for death.

The sign provided by the last letter of the alphabet is that which determines the outcome of the entire “building.” The way this system works, the final decision is not based on something that occurs at that time. Rather, it just gathers all the varied indications from the person’s life and displays them in one “folder.” When they are all in one unit, then if the whole picture is one which warrants life, the weighing system indicates that the decision is to be made for life. If the inclination is toward evil, then there is an indication of death. All that the decision process did is to take the root situation and attach an element that makes it ready to be carried out.

In the case of the *tav*, if all the actions and emotions the person possesses make him one fitting for life, then the *tav* is added to “life” and indicates “you shall live.” In the opposite situation, the *tav* joins with “death” and the result is “you shall die.”

It is not at the time of crucial decisions, when there is anger and despair in the world and people’s fates are determined one way or the other, that a person can start putting together his portfolio of value. Rather, the basis is that which he compiled at quiet times, during his normal life. It is just that at the time of ruckus and danger that the operative decision will be made to finish off the process. It is like the *tav* in these words, which serves just as an addition to the root that determines how it will be used.



### 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.

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# P'ninat Mishpat

## Unfulfilled Raffle Prize – part II

(based on ruling 76024 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=p) spent 2,050 shekels on raffle tickets sold by an institution (=def); the first prize was a furnished four-room apartment. The drawing was held in Feb. 2012, and p won the first prize and was supposed to receive the apartment within six months. However, the apartment was part of a property owned jointly by def and Reuven. They needed to have a redrawing of the property approved and then build an extra room. Due to a dispute between def and Reuven regarding stairs leading to the apartment, municipal permission def received was not usable, and as of 2015, the apartment is still not completed or transferred to p's name. P demands that def transfer ownership to him and either build another room and provide furniture or pay their costs. Def responds that they are bound only to the raffle's *takanon* (regulations), written before the drawing. Accordingly, if they are unable to complete building the apartment, they need to pay the raffle winner the amount of money they spent on the apartment or perhaps sell their portion of the property and give p the proceeds after subtracting expenses.

**Ruling:** [Last time, we saw that the *takanon* can limit p's rights even though he did not see it. Now we will analyze what is included in the *takanon*.]

The agreement between def and Reuven is not directly relevant because the *takanon* preceded the agreement and does not refer to it.

The *takanon* foresaw possible problems in the redrawing of the property. Par. 5A states that the winner will not receive the apartment until the redrawing is approved. Par. 5B says that if it cannot be redrawn, the apartment will be sold, and the winner will receive the proceeds minus expenses. Par. 5D states that if a building permit to finish the apartment is not received within 30 months of the holding of the raffle, the winner will receive the price of the apartment as is recorded in the purchase contract.

Sub-par. B&D are apparently written to protect def if they are unable to fulfill their commitment to provide the apartment as advertised. There is an apparent contradiction between them as to what the raffle winner receives in lieu of the apartment. In general the halacha is to give precedence to the final appearance. However *beit din* accepts the following reconciliation of the provisions, which is better than to choose one of the two provisions and reject the other (Shulchan Aruch, Choshen Mishpat 42:5). B is referring to a case where the attempt is rejected, in which case, the property is sold; D is referring to one in which the process is delayed, giving def a possibility of avoiding legal complaints by paying the apartment's value.

In this case, the redrawing was accepted by the municipality. The problem is that due to a dispute with Reuven, Reuven appealed it, but his appeal was rejected, even though the exact legal outcome has not been worked out. In such a case, par. 5A, which authorizes the transfer of ownership to p, is the pertinent one. Def should not be spared of doing it by the problematic agreement with Reuven which they made after the raffle *takanon* was approved.

*We continue next time with the implementation of the sale.*

.....  
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