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HEMDAT YAMIM

Parashat HaShavua

Pesach, 15 Nissan 5778

See and Sanctify

Harav Shaul Yisraeli – based on Shirat Hageula, p. 5-6

"This month is for you the 'head' of months, the first of the months of the year it shall be for you" (Shemot 12:2). The Mechilta (Bo 1) comments on this: Moshe had trouble telling when the new month was considered to have come ... until Hashem showed him the moon as it was renewed and said to him: "See the moon when it is like this and sanctify it."

The nations of the world count from Tishrei; Israel counts from Nissan. We have a tradition that Nissan is the month of liberation: "In Nissan they were liberated; in Nissan, they are destined to be liberated" (Rosh Hashana 11a).

"Keep the month of spring" (Devarim 16:1). If we delve deep into what makes *Am Yisrael* unique, we will find that it is its proclivity toward renewal. If and when there are falls in their level, they are never permanent. It is like the cold and bareness of winter, which prepare for a new flowering. Failure is never the final word.

Egypt was the metal caldron from which a new nation emerged. The exile in Babylonia was the place where the evil inclination toward idol worship was destroyed. 2,000 years of exile were also not able to cease the continuity of the nation, but rather it gave us a new desire for national life, with a new grasping of our place in the Land of our Fathers.

From where does the constant power of renewal come? What is the secret of our survival? What is our secret weapon? It is not tanks or our fighting spirit. The nations of the world have plenty of that. This is what confounded Moshe, and Hashem answered him: "See it and sanctify it." The ability to renew comes from the ability to sanctify.

Where is the wellspring from which our forefathers drew water? "I am a wall" – this refers to Torah; "and my breasts are like towers" – this refers to *shuls* and study halls (Pesachim 87a). Even when we were in exile in foreign lands and we appeared to be totally enslaved, we guarded our independence and our uniqueness. There, in those *shuls*, when we got together in those spiritual fortresses, we dreamed the dream of the return to Zion, the dream of the return of the Kingdom of Israel. We kept the month of the spring; we preserved in our memories the hope of liberation. We knew that even if the day was distant, it would certainly come. "If it is delayed – wait for it."

The light of morning has begun to shine forth. Just when we thought that our nation was finished, there is the beginning of a new flowering and a new spring. On the other hand, the danger has not passed. Even as we stand on the cusp of emerging liberation, we must remember what the Torah commanded: "See it in this way and sanctify." When you see things in renewal, call upon it the name of Hashem. Do not see it as a chance occurrence – go and sanctify it.

Sometimes we hear people saying: "What is this work for you?" These people may be making the mistake of thinking that keeping *mitzvot* was needed only in the distant exile, to help prevent assimilation and that this danger does not exist in Israel. Some think that here a Jew is someone who sees himself as a Jew. However, this is not so, and those living here still need to know: "Drag along and take for yourself" (a play of words based on Shemot 12:21).

What is contained in the idea of Pesach? Two matters together. There is the idea that one *pesach* sacrifice can be used for all of Israel (Pesachim 78b), which hints at Jewish unity. On the other hand, when we are all together, we need to declare: "This is the feast of Pesach for Hashem" (Shemot 12:27).

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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

Alternative Afikoman

Question: In some years, my kids have been aggressive about hiding the *afikoman*. They have hid it in places where it broke into several pieces. When I have not found it, they have “negotiated” its return for more than I think is proper. In such a case, can I just use a different piece of *matza*? And when it has been broken into pieces, is it better to use a new piece or to use the original?

Answer: The *minhag* of the *afikoman* being taken (some oppose the word “stolen”) is at least several hundreds of years old and might even be referred to by the Rambam (Chametz U’*matza* 7:3) or even the *gemara* (Pesachim 109a) (Chok Yaakov 472:2). It is meant to keep the children’s interest and usually does its job. Therefore, most of us put up with the little problems (some great rabbis did not allow the practice in their homes – see Dirshu 473:70).

It is certainly possible to fulfill the *mitzva/minhag* of *afikoman* with a *matza* other than the one broken during *yachatz* (Rama, Orach Chayim 477:2). Even the ostensibly arguing opinions (see Beit Yosef (OC 477)) seem to be talking about cases where only three *matzot* were baked with intent to be used for the *mitzva* of *matza*, whereas all of our *shemura matza* has been.

The question is when the *afikoman* is not lost but one has an interest in replacing it. The *gemara* (Shabbat 22a) says that one may remove *tzitzit* from one garment and place them on another obligated garment. However, we *pasken* (Shulchan Aruch, OC 15:1) that it is forbidden to remove them and not use them for another garment. The Taz (ad loc. 2) says this is *bizuy* (a disgrace) for the *tallit* and/or the *tzitzit* (depending on the case – see Pri Megadim ad loc.), which one is removing from their involvement in a *mitzva*. Likewise, if you take the *matza* that is the *afikoman* and replace it, this is ostensibly a problem.

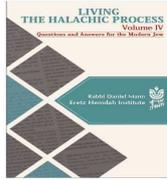
However, this does not apply to our case because the *afikoman* has never been used for the *mitzva*. We hold that *hazmana lav milta* – the preparations one makes to use something as a *mitzva* do not give it the level of an object that was already used for the *mitzva*. The Beit Yosef (Yoreh Deah 259) cites the Mordechai that the concept that a *shul’s* candelabrum should not be switched to another purpose is so only if it has already been used. Has our *afikoman* already been used? It has been part of the act of *yachatz* and some even have, by the time the kids grab it, carried out the old *minhag* to carry it over their shoulder in remembering the *matza* taken out of Egypt (see Kolbo 50). However, the halachic part of the *afikoman* is to eat it, and for that, the *matza* has had merely been put aside. Therefore, *bizuy mitzva* does not apply.

One might also distinguish and say that here we are not actively replacing anything, just that we are taking out another *matza* to use. However, passing over (even without removing) one object to be used as a *mitzva* instead of another can also be a problem, which we call: *ein ma’avirin al hamitzvot*. While much of the discussion is about doing one *mitzva* before a different *mitzva*, it also applies to not passing over one place or object that is slated to be used for a given *mitzva* in place of another (Tosafot, Megilla 6b). However, that should only apply if the object is before us and we skip over it. In this case, the *matza* in question is in an unknown hiding place and, from your perspective, is not being passed over at all, but rather replaced in abstentia. (Note also that at most *sedarim*, the *matza* set aside for *afikoman* is only part of what will be eaten as *afikoman*).

Regarding the case where the *matza* gets broken into several pieces, this is not a halachic problem. When *challa* or *matza* needs to be whole at the time of a *beracha*, its being broken is a problem. However, since the *afikoman* is supposed to be a broken piece, it is not a problem that it is broken up further earlier than expected. While it is not clear it is forbidden (see discussion above) to remove it after opening it and seeing its state, it would seem preferable to keep the multi-piece *matza* than to replace it.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.





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Ein Ayah

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

Maror and Korech

(condensed from Olat Re'iyah, Rav Kook's Commentary on the *Haggada*)

Matza is a remembrance of freedom and serves as a reminder that all the ways of Hashem are reliable results that follow the true general nature of the Nation of Israel. True freedom is to develop according to the nation's internal nature, without allowing the intermingling of foreign elements that disturb matters.

Besides that which affects the essential spirit, there are also spiritual impurities that stuck on to us that do not allow the pure Jewish nature to express itself. For this reason, it is necessary for a Jew to accept upon himself a certain type of pleasant servitude, in which we are servants to Hashem, Who created us from the time we were in our mothers' wombs to be His servants. The servitude to Egypt actually enabled us to acquire this ability to act as servants, so that when all the unwanted forms of servitude fall off, we will be left with the good type, which enables a person to put up with difficulties with love. This is the idea behind *maror* – to accept with love the bitterness of life, when he knows that there is a lofty reason that necessitates it. That is the reason that *maror* follows *matza*.

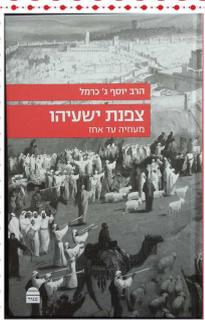
We mention before eating the *matza* and *maror* together that it is a remembrance of the *Beit Hamikdash* like Hillel. Hillel's attribute was to love and pursue peace, love other people, and draw them closer to the Torah, which is what keeps the nation attached to sanctity. Peace is something that must extend to Jews in all areas of dispersion and despite all sorts of philosophical disputes. The light of liberation that accompanies the remembrance of Pesach and *matza* sweetens for us the imprint of the bitterness and pain of exile and the physical and spiritual pains that *maror* represents. May we merit the complete liberation, in which a canopy of peace and the light of truth will engulf us soon.

[There is great depth to the joining together of *matza* and *maror* after they were eaten separately.] We must understand that the power of servitude and the power of freedom are not two disconnected forces with each one reserved for one element of life. Rather these concepts are interconnected and complement each other.

The power of freedom symbolized by *matza* shows the internal uniqueness of Israel, which enables them to naturally love Hashem and love His Torah and *mitzvot*. This also gives strength to an individual to overcome individual tendencies, which cause a person to lag behind the highest level that is destined for the nation. While they appear to be at odds with the good and pleasant way, when the strength of freedom is victorious, its special character will be displayed wonderfully.

There is thus much to be gained from each power being dominant and even unopposed by its counter power in the realm in which it is appropriate. Where freedom belongs, servitude should not be present to hold it back. Conversely, in a realm where the good type of servitude is appropriate, the desire for freedom should not intrude. That is why *matza* and *maror* should be eaten separately.

However, the above is true only on the level of the individual. The ultimate goal will be realized only when there is a recognition that freedom and servitude are not really conflicting but are actually connected in a manner that gives the world the highest type of freedom – one which is clear only when it has along with it the crown of lofty servitude, i.e., servitude to Hashem, which is actually the most complete freedom. That is the reason that complete freedom comes when it is "rolled up together" with servitude. Then man will find full dominion in a manner that is fitting for a truly free person, who rules over even the greatest of powers, i.e., the power of freedom itself.



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.

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P'ninat Mishpat

Disputes Between Neighbors over Rights in a Building – part II

(based on ruling 70056 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=p) bought an apartment on the second floor of a building in which the defendants (=def) previously bought a ground-floor apartment. The courtyard on the left side of the apartment is of interest to both p/ and def but to no other neighbors. There are three basic disputes between the parties about their mutual rights. Each will be discussed for one installment.

Dispute #2: Pl claims that the courtyard is, as appears in the Tabu (Land Registry), joint property, and def's using it as if the front part is personal property is illegal. Def responds that already when he bought his apartment, a physical separation had been installed, which gave his seller ownership to that section, as such a step is an act of *kinyan*. Since this arrangement was known to have existed for years, they benefit both from *chazaka* and from the legal statute of limitation. Since this took place before he was an owner, he does not need to provide details about the transaction that transferred that part of the courtyard to be an extension of the property that is now his.

Ruling: The Shulchan Aruch (Choshen Mishpat 194:2) rules that if the king requires a document for the sale of real estate, the other *kinyanim* do not suffice without a document. Since the government requires listing a real estate transaction (including changes in distribution of joint areas) in the Tabu, whatever def's seller did was not halachically binding. Since there was not even a written contract about a transfer, p/ does not have to agree to make changes in the Tabu. See the ruling along these lines by Rav Nissim, Rav Elyashiv, and Rav Zolti in Piskei Din Rabbaniim, vol. VI, p. 376.

Although the Chazon Ish (CM 16) says that there can be a valid *kinyan* without the Tabu, there need to be two valid witnesses who took part in the transaction, which def has not presented. Although def claims that his *chazaka* is evidence in lieu of witnesses, here *chazaka* doesn't work because he has been using property in which he is at least a partner, so that neighbors do not need to protest to maintain the presumption of continued ownership (Shulchan Aruch, CM 179).

Def's argument that he does not require evidence because the transaction occurred at the time of his seller is not a valid claim because the existence of the Tabu is like evidence against his claim. We would point out that the fact that the courtyard is divided in an inequitable manner also makes it difficult to believe that there had been a formal agreement.

Statute of limitation, in addition to the fact that it does not have a place in Halacha, is not applicable for another reason. The law does not apply to real estate ownership.

Therefore, neither p/ nor def have the right to use the courtyard for nonstandard personal uses without permission from the other. Def thus cannot keep their dog in the courtyard and must remove the large container they use for various purposes unless they get permission from p/ to keep it there.

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