



HaRav Shaul Israeli zt"l
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HEMDAT YAMIM

Parashat HaShavua

Naso, 12 Sivan 5778

Lift and Count

Harav Yosef Carmel

The period of time between Pesach and Shavuot is one of uplifting. Historically, the Jewish nation went from the lowly level of 49 “gates” of impurity in Egypt to 49 “gates” of sanctity, leading to the giving of the Torah at Sinai. So too in each generation, this time is available for uplifting experiences.

In the most recent generations, this period corresponds to another area of uplifting – on a national level. We have gone from destruction to rebuilding, and from enslavement to independence and national success. We went from a partition plan with borders that “choked” us in 1947 to the great victories of 1967 and 1973. We went from a situation where in 1948 seven countries mercilessly attacked the only Jewish state in the world to the point where many of those nations no longer threaten us.

There are two terms that accompany us in the beginning of *Sefer Bamidbar*. *Parashat Bamidbar* is always read before Shavuot, and *Parashat Naso* is always read after it. These two *parshiyot* are replete with the terms “*pakod*” and “*naso*.” On one level, each of the words means to count, and this is very appropriate for a *sefer* that *Chazal* called “*Sefer Hapekudim*,” the Book of Countings.

These terms also are important between Pesach and Shavuot. *Bamidbar* starts with the command: “Raise the heads of the entire congregation of Israel.” The terms “*p’kod*” (count) and “raise their heads,” which are basically synonyms, are brought together several times (see *Bamidbar* 1:49).

In addition to “raising the head” referring to counting, it also can mean to appoint to a position of power, as happened to the *sar hamashkim* in Egypt (see *Bereishit* 40:20 with *Unkelus* and *Rashi*). The root *pakod* can also refer, in addition to counting, to the appointment of officers, as *Yosef* did for the Land of Egypt (*Bereishit* 41:34). It can also refer to selecting a punishment, as *Hashem* said he would do over history due to the sin of the Golden Calf (*Shemot* 32:34). Yet the same word *pakod* is used to announce the liberation (*Bereishit* 50:24).

Naso is used also as an expression of forgiveness and atonement (“*noseh avon vafesha*” – *Shemot* 34:7). On the other hand, *Hoshea* (1:6) uses the root to say that He will stop forgiving and start punishing them. *Rashi* explains that He will distribute to them that which is coming to them, in this case, for the negative. *Radak* explains it, that *Hashem* will lift up the enemies to bring them upon us.

Indeed, the idea of counting also has a two-edged sword. It can be an uplifting event in preparation for the entrance into *Eretz Yisrael*. If it is done in the wrong way and/or for the wrong reason, it can be the cause of a plague (*Shemot* 30:12).

Let us pray that we will experience *pekida* and *nesi’at rosh* in the positive senses of the terms. May we be elevated day-by-day until we are ready to fulfill our special standing in regard to our Torah and our Land.

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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

Receiving Fish from Shabbat Fishing

Question: A Jewish friend sometimes fishes on Shabbat and brings me some of his (kosher) catch after Shabbat. Is it permitted for him to give me some and for me to accept them?

Answer: There are three opinions among the Tannaim (see Ketubot 34a) about the extent of the prohibition of *ma'aseh Shabbat* (receiving the main benefit of a *melacha* done on Shabbat – see Rama, Orach Chayim 318:1; Mishna Berura 318:4). The most accepted opinion (see Shulchan Aruch, OC 318:1) is Rabbi Yehuda's: if the violation was *b'meizid* (on purpose), the violator may never use the result; other people may use it after Shabbat. For a violation *b'shogeg* (by mistake), the violator and others may use the result, but only after Shabbat. You are talking about *b'meizid*. (*Poskim* primarily agree that although we generally consider one who was brought up not Shabbat observant as a *tinok shenishba*, that is regarding possible sanctions against him. His actions in ignoring the laws of Shabbat, though, are considered *b'meizid*.)

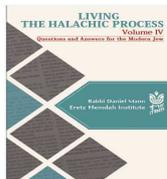
Therefore, your friend is forbidden to eat the fish. The Mishna Berura (318:4) rules that he is allowed to sell them (the Ktav Sofer, OC 50 says that when selling was the violator's original intention, the benefit of selling is forbidden). Therefore, he is certainly allowed to give them away as a present, and ostensibly you would be allowed to eat them.

We, though, must discuss a complication. The Shulchan Aruch (Yoreh Deah 99:5) rules that if one purposely mixes non-kosher food with enough kosher food for *bitul*, the "mixer" is forbidden to eat the mixture, but others are permitted. It is also forbidden for a person on whose behalf the mixer acted. The Magen Avraham (318:2) states that logically the same thing should apply to *ma'aseh Shabbat*, i.e., the result should be forbidden forever not only to the violator but also for one on whose behalf he desecrated Shabbat. However, the Magen Avraham concludes that the Beit Yosef's logic regarding *bitul* does not apply here. There, we are stringent because it is likely that one would improperly do *bitul* for a friend's benefit since doing *bitul* is a weak *aveira*; Since Shabbat is a serious *aveira*, *Chazal* were not as worried that people would violate it on someone else behalf. On the other hand, the Ktav Sofer (*ibid.*) says that a *mechallel Shabbat* on a regular basis is willing to do so even for others. Whether or not we accept this Ktav Sofer is not a simple matter (see discussion in Bemareh Habazak I:31).

There are additional reasons for leniency. The Maharshal and Taz (YD 99:10) say that the prohibition on the beneficiary of *bitul* is only if he was aware and/or happy about the perpetration. If the recipient was not in favor of it, he may benefit. The Pri Chadash (YD 99:13) argues. The *machloket* appears to be whether the penalty is to discourage from sin the perpetrator or the recipient. The lenient opinions seem to apply to your case, as well, as you do not want him to desecrate Shabbat. Furthermore, here your friend presumably fished primarily for himself (and perhaps more for the sport than for the fish), not for you. Indeed, we find regarding a non-Jew who did work for himself and for others, Halacha views it as the main intention being for himself (Shulchan Aruch, OC 276:2). For a combination of the reasons above, it is not prohibited for you to accept the fish. It is better to not eat the fish until Sunday, so as not to benefit from the fact that he fished on Shabbat (see Pri Megadim, EA 325:22; Orchot Shabbat 25:7; Bemareh Habazak I:31 for discussions of this complex matter). This being said, taking the fish, certainly on an ongoing basis, is an affront to the spirit of our outlook on Shabbat and other Jews. While we do not scream "Shabbos!!" at non-Shabbat observant friends, we do not want to give any impression that we subscribe to the following approach: "To each his own; I will go to shul and pray for both of us; you fish and provide for both of us." According to the Maharshal (above), doing so could make the fish forbidden according to the letter of the law.

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.)

Torah Intellectuality and Light

(condensed from Ein Ayah, Shabbat 6:56)

Gemara: [We continue with the gemara's homiletical analysis of a pasuk in Tehillim (45:5). The simple context of the pasuk is in praising the king. The close-to-literal translation of the very poetic pasuk is: "Your grandeur (vahadarcha) you shall succeed and ride on the matter of truth, humility, and justice, and your right hand shall fearsomely shoot arrows."] When two Torah scholars sharpen each other in matters of Halacha, Hashem will grant them success, as the pasuk says (in a modified manner): "you will sharpen (vachadadcha) and succeed. Furthermore, they will rise to prominence, as the pasuk says, "you shall succeed and ride." ... If they do this they will merit Torah, which was given with the right, as it says "your Torah (likely, a homiletical reading of "v'torcha") is fearsome with Your right."

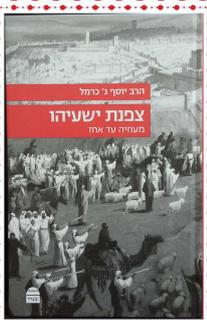
Ein Ayah: It is true that the external eye sees that the primary foundations of the Torah are its clear, helpful truths, such as the rules of kindness, goodness, morality, and honesty, which everyone sees as important. This is also true of the roots of fear and love of Hashem, sanctity, and modesty. These are broad areas of proper behavior, which one does not need to get into details and intricacies to discern their value. These are the main points of the Torah.

One can, then, ask: Why should we toil so much to uncover the exact halachot in specific cases and delve into sharp intricacies? Who says such activity helps develop the primary parts of the Torah? Perhaps, to the contrary, they even prevent the clear light of Torah from shining on one's heart because instead of focusing on the principles, one gets bogged down in the technical analysis of the details!

However, the deep truth is not that way. The inner light of the broad totality of Torah is hidden deep within the existence of every situation and the intricate halachic analysis that relates to it in even the most remote manner. The exact delineation of every detail of a halacha in its different permutations impacts deeply, through its force, on the spirit and intellect from the broad light of the Torah. These detailed truths are uncovered specifically by the most intense investigation of the intricacies and logic of the halacha. This light would not penetrate as deeply into the spirit if the person seeking it had not investigated, to the extent that he is capable, the nature of all of the actions the Torah prescribes. The intense study is a special means to allow anyone who studies in that manner for sincere reasons to increase the light of morality (based on kindness and goodness) that is in the essence of the Torah. The boundaries of the spirit widen as intellect is connected to intellect.

One might have mistakenly thought that the furthest reaches of analytical endeavor would not be connected to the light that is the foundation of the internal philosophical focus of the Torah. However, this is wrong as long as one studies Torah with sincere motivation. Then, one's interest in sanctity, kindness, and morality, shines over his intellectual striving. Thereby, the actions the Torah requires have their proper impact on the depths of one's goodness, which is included in the Torah.

This is the Torah of the right, which is the Torah of kindness. The light that illuminates one's emotions and thoughts is activated specifically by the intellect, as it analyzes the actions of the Torah. All of the details stem from one wellspring, which is the Torah of the right side. The greater the involvement in analysis and the more one deals with all the practical applications of a halachic principle, the greater the glow of the higher parts of the Torah, which is the Torah's right side. Such activity bears fruit for many generations.



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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Turning to the Municipality to Stop Renovations

(based on ruling 69006 of the Gazit Rabbinical Courts)

Case: The plaintiff (=pl) sued the defendant (=def) to stop expansion/renovation work in his home, which he claims are illegal, starting with the request of a temporary restraining order. Initially, the sides agreed that only the work needed to prevent water damage would continue. Pl now claims that def has not kept to their agreement and wants to protest the action with the municipal authorities before def creates facts on the ground. Is turning to the authorities without a ruling by *beit din* permitted, and how does it affect the proceedings in *beit din*?

Ruling: As long as the complaint is still being investigated by the municipality, it is not appropriate to continue *beit din's* deliberations on the same matters. Afterward, *beit din* can adjudicate on matters not decided in court if the two sides sign an arbitration agreement.

Let us now deal with *def's* complaint about the fact that *pl* went to the municipality in the first place. In matters of claims of damage of one neighbor against another, as regarding other damages, one may take extra-judicial steps to protect himself when *beit din* is unable to enforce his rights. One example is the use of the authorities to enforce judgments after a ruling has been made. Before a ruling, as well, one may take steps, certainly to prevent loss (Shulchan Aruch, Choshen Mishpat 4:1). The Rama (ad loc.) does say that one should not bring another Jew to a non-Jewish court for this purpose. However, this does not apply to going to a Jewish municipality.

The Maharik (191) says that the people of a town can ask of the nobleman to prevent another Jew from moving in (the Maharashdam (407) concurs). The Beit Yosef (addendum to CM 4) disagrees, saying that one cannot make use of such an authority without *beit din's* ruling on the specific complaints (the Mabit (III:31) concurs). The Rama (CM 157:7) rules like the Maharik, but the Pitchei Teshuva (ad loc.) says that this is because he did not see the Beit Yosef's addendums. The Kesef Hakodashim (ad loc.) says that the *machloket* is whether one can prevent loss by using non-Jewish courts and suggests also that the sides are actually talking about different cases; i.e., it is permitted to bar someone's entry and forbidden to remove him once he is there.

The Avnei Nezer (Orach Chayim 36) discusses an existing *shul* preventing a new *shul* from opening by lobbying against the granting of a governmental license for the *shul*. The Avnei Nezer says it is permitted to object because the legitimate law of the land is that the government must approve all places of prayer. Convincing them that this is not worthwhile is only withholding a gain from someone else and not considered damaging him. He does not see this matter as depending on the *machloket* between the Maharik and the Beit Yosef. In our case, as well, the municipality must approve of all building changes, and therefore their decisions are not considered adjudication, which are problematic.

Furthermore, we grant halachic status to the procedures of the people of a city even when they are more exacting than Torah law (Shut Beit Yitzchak, CM 78). These actually shape *minhag hamakom*, which are critical to Halacha on such matters. Just as this is so regarding demanding expenses from neighbors (see Pitchei Choshen, Nezikin, p. 445), so it is regarding renovations that impact on neighbors.

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