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HEMDAT YAMIM

Parashat HaShavua

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On Nationalism and Sanctity— part II

Harav Yosef Carmel

Last week we started discussing the two linked stories at the end of Shmuel – the improper census by David and the ensuing plague, as well as the obtaining of the silo of Aravna the Yevusi, which became the Temple Mount. We now continue that which will be a long series.

In both Shmuel (II, 24:1) and Divrei Hayamim (I, 21:1), the story of the census is introduced (in only slightly different language) with the idea that Hashem incited David to count Bnei Yisrael because of His anger. It is not clear why Hashem was angry and why David was incited from Above to do something wrong.

Chazal (Berachot 62b) explain that David was punished in coming to the mistake of an improper census because of what he said when he infiltrated “Shaul’s circle” and took Shaul’s sword and water flask (see Shmuel I, 26). David then addressed Shaul (from a distance) and tried to convince Shaul that he had no reason to distrust David. David suggested reasons that Shaul suspected him of rebelling. The second reason was that cursed people told him that David was out to rebel. The first possibility David raised, though, was actually that Hashem incited Shaul (ibid. 19).

The gemara (ibid.) inserts Hashem’s response into the conversation: “David, you called me an inciter?! I am going to cause you to make a damaging mistake that even schoolchildren know about.” That was that one can count only by each person giving a half-coin to receive atonement (see Shemot 30:13). That is what the pasuk means by saying that Hashem was angry and incited David. Thus, David’s insulting terminology when referring to Hashem during his appeal to Shaul caused the later sin.

It is difficult to see how this answers our basic question on the level of p’shat (simple reading). How can it be that because David was not careful in his speech, this would lead to the death of 70,000 Jews in a plague? It also does not seem to give insight into the connection between this story and the discovery of the place for the altar on what was Aravna’s silo. Therefore it is easier to view the midrash as one stressing the importance of careful speech rather than the source of the sin involved.

Mahari Kera cited a different midrash (P’sikta Rabbati 43:1), which points out that the end of the previous section of the navi lists Uriya HaChiti (Batsheva’s husband) as one of David’s choice warriors. According to this, the anger had to do with David’s sin with Uriya’s wife, Batsheva. The Ralbag suggests that it had to do with Shaul’s killing of the Givonim nation, which earlier brought drought and later joined with David’s new sin about the counting. Both of these explanations, though, do not explain the punishment to the nation because of the sin of their leader.

It is possible to give a general answer – that the nation does pay for the mistakes of its leader even according to divine rules of justice. However, we will try, in future pieces, to find fault in the nation, as well.

Specifically in these pre-election days, let us increase our prayers that we will merit worthy leaders, who will lead the nation to physical and spiritual achievements.

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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

Definition of *Davar Gush*

Question: I have learned that a hot solid piece of food, such as a chunk of meat or a potato, has special *halachot* because it holds in the heat. How do we consider something like vegetable soup, which has both significant broth and solid pieces of vegetables?

Answer: The concept that you refer to, known as *davar gush*, has two major areas of impact. 1) When something is hot and is found in the utensil in which it was heated (*kli rishon*) it can cause transfer of taste from it to another food or utensil. This is less likely if it has been transferred to another utensil (*kli sheni*) (see opinions in Shulchan Aruch, Yoreh Deah 105:2). If the hot food is a *davar gush*, then according to the Maharshah, cited in and accepted by the Shach (Yoreh Deah 105:8), we assume that it retains enough heat to be considered food in a *kli rishon*. The Rama (YD 94:7) disagrees. 2) Cooking on Shabbat takes place in a *kli rishon*, but not in a *kli sheni* (Shabbat 40b). But if the hot, *kli sheni* food is a *davar gush*, some say it is able to cook food put on top of it like a *kli rishon* does. The Mishna Berura (318:118) concludes that we treat the matter as a doubt. Some *poskim* (including Issur V'heter 36:7) posit that a *davar gush* is only able to transfer taste but not to cook. Your question can apply to either area of Halacha, which also makes it possible to look for sources from either

The K'tav Sofer (Chulin 104b) comments on the *gemara's* search for a case in which one might come to cook meat and milk together at the table considering that one does not usually bring food in *kli rishon* utensils there. He wonders why the case is not when milk is in contact with a hot chunk of meat. He answers that if the meat is dry, there is no Torah prohibition of *basar b'chalav* with *tzli* (dry heat). If there is liquid, then the stringent status of *davar gush* would not apply for the following reason. Tosafot (Shabbat 40b) says that the reason *kli sheni* does not cook is that its cold walls lower the heat. Therefore, says the Issur V'heter (*ibid.*), since *davar gush* does not cling to the *kli's* walls, it does not become a *kli sheni*. Therefore, says the K'tav Sofer (the Minchat Solet 23:7 agrees), the liquid in a pot with a *davar gush* would be impacted by the walls and then impact the food. Therefore, the K'tav Sofer would clearly treat the soup in question as a *kli sheni*.

On the other hand, the Yad Yehuda (105:14) argues that the somewhat hot broth keeps the *davar gush* hotter than if it is sitting alone in cool air. He therefore says that according to the Maharshah's camp, a *davar gush* in liquid in a *kli sheni* halachically remains a *davar gush*. Ostensibly then he would treat your soup as a *davar gush*. However, we will illustrate, with the help of a well-known *halacha* that the general assumption is not this way.

There is a *machloket* whether it is permitted to put bread into hot soup on Shabbat, as it is possible that cooking significantly changes the previously baked bread (see Shulchan Aruch/Rama, Orach Chayim 318:5). The Mishna Berura (*ad loc.* 45) permits putting bread in soup that went into a ladle and then into a bowl (in which case it might be a *kli shlishi* – see Mishna Berura 318:87). This compromise ruling is cited and accepted by many *poskim* (see Shemirat Shabbat K'hiachata 1:59; Orchot Shabbat 1:42). The Mishna Berura (whose language is unclear) and those who adopt his ruling do not warn us that this is not permitted if there are vegetables in the soup out of concern that *davar gush* prevents the soup from being considered a *kli shlishi*.

This can be due to the K'tav Sofer. However, the consensus on this point may be due to the following thesis. The impact that a "complex" warm food has is measured by its "average qualitative heat" rather than the highest level of any of its components. In summary, a *kli sheni* has lower level heat than a *kli rishon* and while some say a *davar gush* is an exception, that exception is applied only when the *davar gush* interacts with another food by itself (Orchot Shabbat 1:142 leans in this direction).

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Ein Ayah

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

The Least Individualistic Individual

(condensed from Ein Ayah, Shabbat 9:117-118)

Gemara: [We saw last time that Hashem sent the Satan to Moshe when the former was looking for the Torah in the land. Moshe had said that he was not fit to have it, and Hashem had seemed upset with Moshe's "untruthful" answer.] Moshe said: "Master of the Universe, You have a hidden, desired treasure, with which You enjoy yourself every day; I should take credit for myself [in its regard]?" Hashem said to Moshe: "Since you reduced your [importance in reference to your connection to the Torah], it will be called on your name, as the *pasuk* says: 'Remember the Torah of my servant Moshe' (Malachi 3:22)."

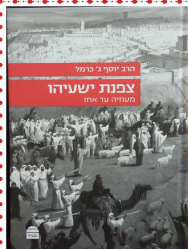
Ein Ayah: It is impossible for the spiritual eye of a creation to reach to the depths of the hidden part of the most desired thing in the world (the Torah). The fact that it is so desired and the fact that it is so hidden are connected, because all of this upper light is above the human ability to recognize and above all wisdom and cleverness to fully grasp. This desired thing must be hidden because it relates only to godly matters; it is all-inclusive and the source of all. Because of the depth of its being hidden, it has no relationship with that which is limited, by nature of it being a created thing and lacking in recognition.

However, there is also an element that the delving into the ideals behind the Torah is a "pastime" of Hashem, which connects it to the seal of the ultimate goal of the goodness that is hidden away. This, in turn, is connected to the highest element of the content of all of existence from beginning to end. From this perspective, there is an element of revelation of [divine matters] that can be recognized by means of the special light that makes up the Torah.

Since that which makes the Torah so unfathomably special and so critical in the cosmic sacred realm is so hidden, Moshe did not feel that he was able to take credit for having any part of individual connection, as individualism is a limiting factor, [which is so antithetical to the limitless element at the heart of the Torah].

Indeed, since the Torah is so all-encompassing and able to light up every element of existence, the ability to recognize it as relating to someone or something must be beyond the individual in the classic sense. Therefore, when it comes to its connection to people, the only type of person who can be closely related to Torah is one who has the highest level of humility. This was the level that Moshe, the man of G-d, to whom the Torah was to be given, reached. In that way, his individualism was already nullified because of the glow of the lofty and powerful.

On the other hand, if there were not an element of individualism, there could be no recognition of the Torah in the world of humans, and the Torah would remain unrevealed. That is why it has to be related to a special gift of humility so that just as the person limits his individuality, so he is able to be a conduit for the limiting of the Torah by bringing it into this world. That is the reason that the fact that Moshe limited himself by denying that he was capable of being a true conduit actually made him fit to have the Torah called after him, "the Torah of Moshe."



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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Expanding One's Claims

(based on ruling 77044 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) sent a *k'tav tvi'ah* (claim sheet) to *beit din*, who sent it to the defendant (=def), on 13/02/17. Pl sent an updated *k'tav tvi'ah* on 23/04/17, with a few additions. The first hearing was on 08/06/17. At the second hearing, on 30/10/17, def complained that the claims had been changed, arguing that this may not be done.

Ruling: The authority of an arbitrator (including a rabbinic one, like our *beit din*) is a product of the agreement of the sides. In this case, the sides had a contract whose adjudication clause stated that they would go to a rabbi for all disputes and he would not be limited by Israeli law, neither regarding content nor procedure. When the sides decided on our *beit din*, they signed our arbitration agreement. One of the clauses of that agreement gives *beit din* the ability to adjudicate

on all elements of the dispute, including those that will arise during the course of the adjudication. Therefore, *beit din* has the authority to incorporate claims that were not found in the opening *k'tav tvi'ah*.

What does Halacha have to say about changing claims? If a litigant justified his position with a certain claim that ostensibly is one with which he can win the judgment, he can switch to another claim which also can win the judgment (Shulchan Aruch, Choshen Mishpat 80:1). If the first claim would cause him to lose the judgment, he cannot switch from it to another, winning claim. In the former case, he does not have to explain why he changed his claim, and he can even make the change after leaving *beit din*. However, this change is possible only if the claims were presented orally, but if either the litigant or *beit din* wrote them down, he cannot switch to a different claim (Rama ad loc. 2). The logic behind the distinction is that one is more careful in being exact when the claim is being committed to writing (Rashba, Bava Batra 31a). Therefore, it appears likely that the newly claimed facts are false.

While the last point seems to support def, it actually does not because pl did not retract one set of claimed facts and replace it with another. Rather, he added additional arguments and increased the monetary claims based on the original facts that he had presented. Halacha does not preclude this.

We are not bound by civil law on this point, but we will demonstrate that allowing the new *k'tav tvi'ah* is not included in the restrictions on *harchavat chazit* (lit., the broadening of the battlefield). *Seder Din Ezrachi*, provisions 91-92, allows adding onto the claims presented in the *k'tav tvi'ah* only with the approval of the court or the permission of the other litigant. However, legal literature indicates that this is on technical grounds because changing or adding onto the claims impairs the other litigant's ability to prepare his defense. In this case, the new *k'tav tvi'ah* was presented well before the first hearing, so that there was plenty of time for def to prepare. Secondly, the changes do not alter the story significantly, but were mainly just a request for more money and actions based on the same basic set of facts.

We daven for a complete and speedy *refuah* for:

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