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HEMDAT YAMIM

Parashat HaShavua

Vayetzei, 12 Kislev 5781

A Deal for the Firstborn, a Restaurant Serving, or Holy Real Estate? – part II

Harav Yosef Carmel

Last time we saw that Yaakov receiving the beracha to inherit Eretz C'na'an, which would become Eretz Yisrael, was connected to the fact that Eisav left the Land for the Land of Edom.

The disagreement between Rivka and Yitzchak as to who was the "chosen son" was not put to rest in *Parashat Toldot* with the *berachot*. Rather, a compromise was reached. On the one hand, Yitzchak, after mistakenly blessing Yaakov, now blessed him again. The blessing foresaw Yaakov as becoming a nation and receiving the "blessing of Avraham" for generations, "to inherit the Land that Hashem had given Avraham" (Bereishit 28:4). This means that Yaakov was chosen to be the son who inherited Avraham's legacy.

On the other hand, Rivka and Yitzchak agreed that, presently, Yaakov would have to leave that Land and spend time with the family of his other grandfather, Betuel. That was not necessarily a bad sign, as he had important "business" there, to marry one of his cousins, instead of a girl from C'na'an (ibid. 2 & 6), a similar step as was done for Yitzchak.

If we are "keeping score," while Yaakov left the Land and married a more appropriate wife for family legacy, Eisav took, as a third wife, a granddaughter of Avraham (ibid. 9). However, the final decision on who had the upper hand occurred at Yaakov's famous dream in the beginning of our *parasha* (ibid. 13-15). As Hashem set the rules and expectations of Yaakov's return to the Land, his leaving the Land is framed as temporary and is not a sign of losing his hold on the inheritance of it. It is interesting that Hashem's words of reassurance are similar to the promise He made to Avraham (compare Bereishit 12:2-3 with ibid. 28:13-15).

Hashem's promise meant that even if he had to live in exile for decades, raise his family there, and deal with a deceitful father-in-law, Hashem eventually told him to return to the Land of C'na'an (see ibid. 31:13). After Hashem revealed Himself to Yaakov, Yaakov consulted with his wives and prepared to return. He was excited to tell Yitzchak that Hashem had, in Yaakov's prophetic vision, confirmed Yitzchak's blessings. (We point out that throughout history, in exile, Jews always followed Yaakov's lead and awaited the time they would return to the Land, as we have in the last generations.)

The Torah does not discuss explicitly how Eisav acted in Yaakov's absence. Did he take the opportunity to strengthen his claim to *Eretz C'na'an*? Did he try to fit into the role of a descendant of Avraham to earn that *beracha*? We do know that before Yaakov returned, Eisav already could be found in Se'ir, in the region of Edom, where his descendants would rule – outside of the Holy Land. So, to finish off what we started last week, the request of the red soup, which got him the name Edom, turned into Eisav's agreement to settle outside the Land and not continue the legacy of Avraham, which is connected to the Land.

We pray that the realization that our nation and our Land are tightly interconnected will be fully recognized, as this is a basic premise of *Tanach*, the book whose *kedusha* a large part of the world accepts. Our connection is also a simple historical truth, and any blatant falsehoods that deny it should be utterly rejected.

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



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Ask the Rabbi

A Kohen Serving Others

Question: I am a *kohen* who likes to fit in with others. When I lend a helping hand, occasionally someone tells me that I need not or should not because I am a *kohen*. Should I listen to them?

Answer: The Torah (Vayikra 21:8) writes about a *kohen* “*v’kidashto*” (you shall sanctify him), from which Chazal learn to treat a *kohen* as an honored person (Gittin 59b). Examples include giving a *kohen* the first *aliya* or first choice of food being served. The Yerushalmi (Berachot 8:5) writes: “One who uses a *kohen* is like one who misappropriates objects in the *Beit Hamikdash*.” Having a *kohen* serve another in various ways seems to contradict his elevated status. While here there is only a positive commandment to honor, this is reminiscent of the *mitzva* of respect for parents (see Kiddushin 31b), which has a positive element of *kavod* and an avoidance of disrespect (*mora*).

There are indications that sometimes a *kohen* may “serve” others. The Hagahot Mordechai (Gittin, 461) tells a story of a *kohen* pouring water on Rabbeinu Tam’s hands (a classic act of reverence/subservience – see Melachim II, 3:11). Upon being questioned, Rabbeinu Tam explained that *kohanim* nowadays lack the *kedusha* they had when they served in the *Beit Hamikdash* (see Zevachim 17b). It is left unanswered how he reconciled the clear fact that the *halachot* of a *kohen* still apply. Rabbeinu Peter (ibid.) answered that it was permitted because the *kohen* was *mochel* (relinquished his rights to) his *kavod*. Another proof of leeway is the *gemara* (Kiddushin 21b) that assumes a *kohen* can be an *eved ivri* (the Semag, Aseh 83, explains that the *kohen* is not restricted when he acts with a financial incentive).

The Sefer Hachinuch (*mitzva* 269) does not allow a *kohen* to be *mochel* on his *kavod*, because Hashem’s honor is at stake, as He chose the *kohanim* to serve Him in the Temple. The Taz (OC 128:39) argues that it is no different from other elements of the *kohen*’s sanctity (e.g., not marrying a divorcee) that he may not waive. The Levush (OC 128:45) sees it differently – honoring the *kohen* is the *kohen*’s counterparts’ responsibility, not the *kohen*’s, so nothing stops the *kohen* from waiving his honor, and when he decides to serve others, there is no problem for others to be beneficiaries.

Another factor that could have impacted the Rabbeinu Tam story is that since it is also a *mitzva* for someone to honor his *rebbe* (Avot 4:12) or a great rabbi who is revered by all, it is appropriate for the *kohen* to serve him (see Yabia Omer, VI, Orach Chayim 22). Similarly, the Taz (ibid.) says that it must have been “enjoyable” for the *kohen* to wash Rabbeinu Tam’s hands, in which case, no *mechila* was needed.

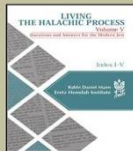
The Rama (OC 128:45) forbids “using” a *kohen* even in our days, but says that *mechila* solves the issue. The Mishna Berura (128:175) does cite the opinion that *mechila* does not help and concludes that it is good to be *machmir* if one can and that one certainly should not use a *kohen* for disgraceful matters.

Let us look at your situation. It is healthy for you to prefer normal treatment other than privileges regarding *aliyot*, *zimun*, etc. The fact that your *mechila* is sincere and complete bodes well for others. On the other hand, those who want to “spare you” are supported by some sources. Additionally, even when *mechila* works, if one gives the honor anyway, he receives a *mitzva* (compare to Ketubot 67b). While even if you prevail, he gets credit for trying to honor you (see Kiddushin 40a), he might get more if you refrained from serving him.

Many of us grew up with the good societal norm that all people are created equal. That is not precise in Judaism. Like it or not (Korach did not, but we should), Hashem selected *kohanim* to be special, and it is correct for us to give this expression. If I were a *kohen*, I would also be embarrassed if I were treated too specially and would be wary of negative reaction. However, when someone sincerely wants to respect your beloved “tribe” (likely, more than you, personally) it is positive to try to accommodate him in moderation.

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.)

Connection in Blood

(based on Ein Ayah, Shabbat 14:4)

Gemara: [We continue with the story of Rav moving from Eretz Yisrael to Bavel (a critical event that changed the balance between the two communities). We are in the midst of Karna's questioning of Rav, at Shmuel's behest.] How do you know that blood (regarding *nida*) is red? It is as it says: "Moav saw opposite them that the water appeared red like blood" (Melachim II, 3:22).

Ein Ayah: Karna wanted to hint that *Eretz Yisrael* is beloved. Not only is it very holy so that the Torah can only cling to pure material in the Holy Land, but Karna also wanted to remind Rav of the natural love that the nation has for the Land. This finds expression in the spilling of the blood of the brave soldiers of Israel over the generations. They did this with great zealotry in battles when the enemy wanted to destroy, take the Land, and expel the Jews from it.

This red blood demonstrates the natural clinging to the Land due to eternal love for it, which causes the willingness to sacrifice one's life. This connects one to the covenant regarding the Land, to the extent that nothing can break the holy bond.

It is cause for concern when the circumstances cause a weakening of the connection between the Land and the nation, so much so that the generation's greatest scholar was forced to leave the Land. That is why Karna stressed the connection to the Land of our Heritage, both on the level of sanctity and of natural feeling toward it. Therefore he asked how we know that blood is red and creates the powerful and unbreakable connection between the nation and the Land.


The Right Place for the *Mila*

(based on Ein Ayah, Shabbat 14:5)

Gemara: How do we know that the *mila* is done on the sexual organ? It says here "*orlato*" (his foreskin – Vayikra 12:3), and it says later (regarding fruit in the tree's first three years – *ibid.* 19:23) "*orlato*." Just like there it is a thing that gives fruit, so too here it is an organ that gives fruit. Maybe it is his heart, as it says "I will cut off the *orla* of your heart" (Devarim 10:16)? Maybe it is his ear, as it says: "Alas, it is the *orla* of their ear" (Yirmiyahu 6:10)? We learn from where it says *orla* in a complete way, not an incomplete way (i.e., not "*orla* of X").

Ein Ayah: It is an important, deep principle that the foundation of the spiritual sanctity must be connected to the material world. This is in line with the whole idea of the soul coming down to the world to do its work within a material body specifically. Along similar lines, the special spiritual attributes of Israel had to be connected specifically to the material side of *Eretz Yisrael*.

[Karna wanted to point out] the holy value of the *brit* (covenant) which was engraved in our flesh. Hashem ensured that our special character would remain for generations by connecting it to our physical flesh. It cannot be accomplished by doing a *mila* on something spiritual like the heart, even though it is so wonderfully connected to a person's morality. It also does not help to do a *mila* of the ear, representing preparing a person to hear and accept lofty matters. These things can be significant only after there is a *mila* in the very material flesh in a manner that impacts upon all generations. When the *orla* is removed from flesh by doing the eternal *brit*, then it is also possible to remove extraneous things from the heart and ear. The *mila* is in the place that "produces fruit." That flesh is elevated by the "partial *mila*." That is why we learn the place of the *mila* from the place of *orla* fruit.



**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

Losses from Financially (and Morally) Bad Loans – part II

(based on ruling 75001 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) were the primary players in a business (=bus) that provided large, high-risk, high-interest loans (=bor); pl ran the business, and def was the silent owner. Bus advanced cash at interest rates of up to 8% monthly in return for much higher post-dated checks. After its own initial investment of funds, bus received cash from another business (=sup) to whom they gave those checks for a lower rate (2.1%) of interest (bus's profits were from the margin); pl and/or def served as cosigners to sup. Pl got some borrowers to give cash instead of honoring the checks, even when their checks were already given to sup. Several of the borrowers have defaulted, bus has closed, and pl and def now owe sup and other investors many hundreds of thousands of NIS. Pl demands the following: 1. To be released from debts as a cosigner to sup (441,000 NIS) and Mr. P. (400,000 NIS), because he was improperly pressured. 2. To have money he and his mother invested (350,000 NIS) and expenses he outlaid for bus (149,000 NIS) returned. 3. Back-pay for months of work. Def claims that pl caused great losses by surpassing the amount of credit def agreed to, especially for some very large loans. Pl admitted in discussion with Mr. P, who mediated, that he should pay for much of the losses (1.25M NIS plus interest). Def claims to have not promised pl a salary, just 15% of profits.

Ruling: [Last time we criticized the taking of high interest and determined that pl can be held responsible for unauthorized lending and was deserving of salary.]

During the mediation attempts of Mr. P., who invested 900,000 NIS in bus, pl took responsibility for 600,000 NIS of losses. In general, when one singles out witnesses for an admission or it is done in a serious setting such as a *beit din*, he is held to it (see Shulchan Aruch, Choshen Mishpat 81). There is a *machloket Rishonim* whether admission in front of one is also valid. The Shulchan Aruch (ibid. 10) rules that it is valid, but the Shach (ad loc. 22) says that one can prevent extraction of money based on the other opinion (*kim li*). Thus, while there is not a full status of admission, that which was said before Mr. P., which was also recorded, is significant.

Pl claims that his openness to obligation was based on a mistake. In general, admission is fully impactful regarding facts, but when the actual obligation depends on not simple legal/ halachic considerations, the admitter is not assumed to necessarily know the *halacha*. In general, if one can demonstrate that his admission was based on a mistake, he is not bound by it (Shulchan Aruch ibid. 20). In this case, pl says that had he known the extent to which def was aware of all the loans and took steps to cover himself by working on liens for some of the big loans, he would not have seen himself as responsible. Therefore, we will take the facts agreed upon with Mr. P. as accepted, but not fully accept as binding all responsibility pl accepted then.

We conclude next time.

We daven for a complete and speedy refuah for:

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Rivka Reena bat Gruna Natna

Vicki Victoria bat Daisy

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