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Founder and President

HEMDAT YAMIM

ח'מ'ת'מ'ח

Parashat HaShavua

Shemini, 28 Nisan 5781

Make Sure your Head Is Straight

Rav Daniel Mann

In the aftermath of the death of two of Aharon's sons, who brought "a foreign fire" (Vayikra 10:1), the Torah commands *kohanim* not to drink wine or other intoxicating drinks before entering or serving in the holy sanctum (ibid. 9). The Torah goes on: "... and to make rulings for Bnei Yisrael on all of the statutes that Hashem spoke to them by Moshe's hand" (ibid. 11).

Chazal understood that in addition to entering the sanctum, it is forbidden for anyone to make halachic rulings under the influence of alcohol (Sifra, Shemini 1). Those who count the *mitzvot* (see Rambam, Lo Taaseh 73, Sefer Hachinuch 152) include the two as one *mitzva*, even though the violations come while doing very different actions: entering a holy place; rendering a ruling. What the prohibitions share is what was done previously that makes the subsequent important actions inappropriate.

Is the logic behind the two even the same? I would have thought that the matter of entrance/service in a state of intoxication is a matter of respect and comportment (although it is forbidden even if one drank only a few ounces). Who comes before the king in a state that can make him light-headed or worse? The matter of rendering rulings is ostensibly an intellectual matter. If you are not "at the top of your game," you may overlook something, equate between matters that are not similar enough, etc. It does not seem to be a matter of behavior but of expected results. So why lump them together?

Maybe the comparison teaches us something in each direction. First, let us learn from rulings to the *Mishkan*. One might think that the most important thing in working or visiting the inner sanctums is enthusiasm and positive emotion. Perhaps then a little wine is just the thing to "light a holy fire." On Purim, many people use a state of at least partial intoxication to experience what many report to be great spiritual highs. Indeed, there may be important elements of *avodat Hashem* in which the level of excitement and "letting go" spiritually may be positive. But one needs to know that there are limits! There are places that are just too holy to try to get by with emotion. You have to be sure that every step one takes and action he perform will be exactly as it should. Thus, wine is forbidden at that time.

In the other direction, let us learn from the sanctity of the *Mishkan* to the realm of rendering halachic decisions. Maybe rendering decisions is not just about intellect. One who teaches and certainly one who renders halachic decisions must strive (even if we cannot all succeed to the extent we would like) to "resemble an angel" (Moed Katan 17a). If he has allowed himself to be in a situation in which he is liable to either not behave with the utmost dignity or summon up all of his intellectual capabilities, he should not take the responsibility upon himself. Expecting to get things right intellectually is insufficient.

Let us do our best to be at our best, including our most disciplined, when we do holy things. This year (again) not everyone will be at an intergenerational *Seder*, not because of a lack of familial harmony, but to protect each other. In that way, we will declare that we are all sons of Hashem. In that merit, may He once again liberate us from darkness to great light!

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Ask the Rabbi

by Rav Daniel Mann

Benefitting from Child's Violation during *Bein Hashemashot*

Question: We forgot to plug in our hot plate, and so we asked our child (9 years old) to plug it in 11 minutes after sunset. We second-guessed ourselves in the morning. Was it permitted? If not, could we have used the hot plate then and benefitted from the food that was on it?

Answer: Some things are forbidden on Shabbat but permitted during *bein hashemashot* (= *bhsh*), which is treated like a *safek* (doubt) of night/Shabbat, including asking a non-Jew to do *melacha* for Shabbat needs, e.g., lighting a candle (Shulchan Aruch, Orach Chayim 261:1; *ibid.* 342:1 expands it a little more). Since some *poskim* and communities (see Be'ur Halacha to 343:1) allow children to do things on Shabbat that adults may not, we understand your idea of using a child during *bhsh* (after the community accepts Shabbat, leniency is harder – see Piskei Teshuvot 343:4). However, since plugging in a hot plate, with its very hot filaments, is a Torah-level *melacha*, it is also forbidden by Torah law to encourage a child to do so (Mishna Berura 343:4). Since *bhsh* is a *safek* of Shabbat, asking a child to do a full *melacha* is a *safek* Torah prohibition, and facilitating a *mitzva* (a Shabbat meal) would not be sufficient justification.

During the first 13 minutes after sunset, there is arguably a double doubt: 1. *Bhsh* is a *safek*; 2. Maybe Rabbeinu Tam is correct that *bhsh* begins only an hour or so after sunset (see Be'ur Halacha to 261:1). However, most *poskim* say that since our communities' clear *minhag* is to discount Rabbeinu Tam's opinion (i.e., on Saturday we do *melacha* some 35 minutes after sunset), we should not consider this a reason to be more lenient than the regular *halachot* of *bhsh* (Orchot Shabbat, 25:(78); Dirshu 261:14).

On our presumption that you erred, what is the *halacha b'di'eved*? We rule that one may not benefit from violations done during *bhsh* (Mishna Berura 261:6, against Zayit Ra'anani II:5). When a child violates Shabbat, benefit is forbidden if he did it on behalf of others (Magen Avraham 325:22).


However, perhaps eating the food is permitted even if done by an adult on Shabbat proper. If the food was nominally cooked, then even if plugging in the hot plate caused it to become fully cooked and heated a cooled-off liquid, benefit is permitted. This is based on the rule that when there are serious opinions to permit something, as in these cases (see Shulchan Aruch, OC 318:4 and Be'ur Halacha *ad loc.*), benefit *b'di'eved* is permitted even for those who rule stringently *l'chatchila* (Mishna Berura 318:2). There is also room for leniency based on the fact that the work was done *b'shogeg* (based on a mistake, including a halachic one). Of the three opinions in Ketubot 34a, we generally accept the middle opinion, which forbids benefit on Shabbat even *b'shogeg* (Shulchan Aruch *ibid.* 1), but in case of need many rely on the lenient opinion (Mishna Berura *ad loc.* 7, based on the Gra *ad loc.*).

Regarding the food on the hot plate, there is a complication. The plugging in created a new situation of food being on a heat source when it was not when Shabbat started (like *hachzara*). This is often forbidden because one might stoke the coals or because it looks like cooking (Mishna Berura 318:98). If one makes a mistake on these matters, the food is forbidden in benefit (Shabbat 38a). Here you did the equivalent of actually stoking the coals, but paradoxically, the reason we are stringent is because people are lax because they don't think the possibility of stoking the coals is a big deal. Here the main mistake was about doing a *melacha*, which people do take seriously, and there is no need for extra stringency *b'shogeg*. There are too many permutations to address as far as whether you also violated *hachzara*, but if you follow the opinions to take food directly from the refrigerator to a hot plates, you should not be impacted here.

As far as using the hot plate if and when you become aware of the mistake, it is permitted only according to the Gra (above), as a clear Shabbat violation created its heat.

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





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Igrot HaRe'aya – Letters of Rav Kook

The Need to Be Connected to our Past – Letter #18 – part IV

Date and Place: Adar 5665 (1905), the holy city of Yafo

Recipient: An open letter

Summary of previous parts: *We are in the midst of Rav Kook's public rebuke of the editor of the Hashkafa periodical (Eliezer Ben Yehuda). He had written that the Zionists for Zion who accused the Ugandists of turning their back on their pasts were hypocrites because all Jews, except the extreme religious, turned their backs on their past, and he is proud of that.*

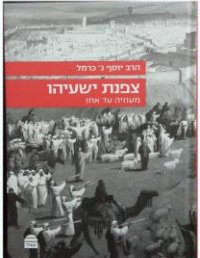
Body: Let me return to my purpose. Although I love to learn and teach the foundations of our beliefs, it is far from me to demand control over the opinions of any person. In our days, this is something that is not accepted. If the editor of "Hashkafa" had presented his ideas in his own name, it would not occur to me to argue with him. But now he emerged as speaking in the name of the whole community, and he refers primarily to the young people here in *Eretz Yisrael*. Therefore, it is impossible to let the matter pass quietly.

This event should remind us of the following story, found in the *aggadic* section of the last chapter of Berachot (63a-b). At the moment that Rabbi Chanina the nephew of Rabbi Yehoshua desired to set leap years and to set the monthly calendar in the Diaspora, messengers from *Eretz Yisrael* announced to the whole nation: "If you do not listen to us [to stop Rabbi Chanina from usurping the authority of the community of *Eretz Yisrael*], you will all be committing blasphemy and be saying that you do not have a portion in the G-d of Israel." They answered back: "Heaven forbid! We have a portion in the G-d of Israel."

So I hope that all of you will answer in open protest of this lowly accusation that the editor of *Hashkafa* made against you. He spoke for you about what is within your conscience without knowing the soul of the people in whose name he spoke. You shall answer and say: "Heaven forbid that we should turn our back on our past, in whose shadow we have lived and continue to live." In the face of those who blaspheme the ranks of the living G-d (like Goliath did), you will say with full conviction before the whole world that you do have a portion in the G-d of Israel.

With pride and a bold spirit, my dear brothers, let us carry the flag of our Torah and of our nation, and let us support (*nidgol* - using a play on the word for flag) the Name of our G-d and our nation. "The Eternal One of Israel will not lie and will not regret, and His good word will not come back empty." "You will not now be embarrassed, Yaakov, nor will your face turn white when seeing his children whom he produced within his midst. They will sanctify Hashem's Name and they will sanctify the Holy One of Yaakov, and the G-d of Israel they will extol" (Yeshayahu 29:22-23).

Sign Off: I am the servant (of the nation) who looks forward to the joy of our nation as we will rejoice with the Land of our Heritage, Avraham Yitzchak Hakohen Kook, a servant of the holy nation in the Holy Land, here in the holy city of Yafo and the surrounding settlements, may they be built up speedily in our times, Amen.



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

Preserving the Management Company's Security – part I

(based on ruling 77009 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) are the sixty families of a *kevutzat rechisha* (a group that buys land and builds a housing project together), organized by a management company (=def2). Pl all signed two agreements: 1) A management agreement between them and def2; 2) A partnership agreement, signed by all of pl, in which their obligations as partners are spelled out. At the time of adjudication, pl were close to completing, after many years, the project. Def2 claimed outstanding fees (approximately 2.5 million shekels) from pl, and pl are planning a major countersuit against def2 for mismanagement. Pl are trying to receive outside funding to continue the project, which is now unfeasible because their lawyer (=def1) created a *he'arat azhara* (=he'az; an encumbrance) on behalf of def2, preventing pl from taking legal actions on their property, including putting a lien on it to a financial institution. Def2 is willing to remove the he'az only if pl put in escrow the amount of money def2 is suing for. Pl argue that def1 did not have a right to create the he'az for def2, as it was authorized only to be in def1's name, as pl's lawyer looking out for their interests against the possibilities of a partner not fulfilling his obligations to them.

Ruling: [The first part of the presentation focuses on jurisdiction. The agreements specify that adjudication of disputes is at Eretz Hemdah. However, pl plan to sue def1 and def3 (owner and CEO of def2) personally and since they have personal liability insurance and their insurance companies are not included in the arbitration clause, def1 and def3 say that if they demand personal liability, that part should be in civil court. This prompted pl to say that under this circumstance, they want to adjudicate with def2 as well in civil court and only deal with lifting he'az in *beit din*. Def2 wants everything related to it adjudicated in *beit din*. Originally, def1 also wanted to keep the he'az until his legal fees were paid or guaranteed, but pl and def1 reached a compromise based on a formula the sides had arrived at a year earlier.]

The present adjudication, on the he'az, needs to be taken care of swiftly, whereas the rest of the adjudication is highly complex, the countersuit is not yet complete, and there is a disagreement about the venue of the adjudication [*ed. note* – it was later decided by court ruling]. Yet, the two adjudications are connected. Def2's claim to rights for the security of a he'az or an escrow are stronger if there is already a finding that they are owed the money. Since pl demands that this be done immediately and separately, the only way for us to rule on the he'az is if we work with the worst-case-scenario assumption for pl. In other words, can we force def2 to give up the he'az even if pl collectively owe def2 the full amount def2 demands?

We will see the answer to that question next time.

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Nir Rephael ben Rachel Bracha
Yisrael ben Rivka
Rivka Reena bat Gruna Natna
Arye Yitzchak ben Geula Miriam
Neta bat Malka
Meira bat Esther

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