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HEMDAT YAMIM

Parashat HaShavua

Chukat, 7 Tamuz 5777

The King's Clothes ...

Harav Yosef Carmel

The significance of the passing of Aharon's clothes to Elazar, before the former's death, of which we read this week, represents passing on his job and the authority of the *Kohen Gadol* from father to son. We have explained in the past that when Melachim begins with David's lack of benefit from the warming powers of his clothes, it means that he had a problem passing on his kingdom to his heir apparent. That is why *Chazal* understood that David was criticized for cutting off the edge of Shaul's garment when hiding in a cave as Shaul pursued him (Shmuel I, 24:4-5). It is not simple that he should be criticized, considering that he could have killed Shaul instead. According to what we have said, the matter is clear. Kingdom is something that one needs to receive, not take. By cutting off the piece of the garment, he was demonstrating taking it by force from Shaul, and this was wrong even as a symbolic act.

Yonatan acted in a very different way. After David killed Goliath and thereby saved the nation and was brought before his father, Shaul, Yonatan understood that David would receive his father's crown instead of Yonatan. Yonatan could have tried to fight destiny, remove David, and restore his own status. Instead, Yonatan removed his cloak and his arms and gave them to David (ibid. 18:1-4). That was Yonatan's way of showing David that he actively accepted the passing of the status of heir to David.

Let us see another example of clothes as a sign of status. Eliyahu had three identifying elements as a prophet: his hair, a belt on his waist (Melachim II, 1:8) and a special *aderet* (cloak).

Eliyahu had two primary disciples: Elisha and Yonah ben Amittai (the son of the Tzorfatit, whom Eliyahu had brought back to life). He could not pass on his hair, but Eliyahu did pass on his *aderet* to Elisha, once temporarily as a sign that Elisha should follow him (Melachim I, 19:19) and once when he was taken up to the heaven (Melachim II, 2:4). Elisha apparently passed on his belt to Yonah, as *Chazal* tell us that he was the "son of the prophet" who was asked to carry out Eliyahu's instructions to Elisha, which included girding his loins (see ibid. 9:1).

We see similar phenomena in regard to non-Jewish kings and their Jewish associates. Paroh gave his signet to Yosef and clothed him with special royal clothes to signify his appointment as viceroy (Bereishit 41:42). More than a thousand years later, Achashverosh presented Mordechai with special royal garments (Esther 8:15). So we see that clothes were always a part of transferring authority.

Finally, we should point out that Moshe did not pass on any clothing to Yehoshua when he "left the stage" of history. Apparently, Moshe was on such a high spiritual level that it was not possible to express leadership transfer in such a manner. Rather he passed on *hod* (some sort of spiritual glow) to Yehoshua (Bamidbar 27:18-20). May we merit leadership that strives for such levels.

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



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Ask the Rabbi

Chukat

by Rav Daniel Mann

Stopping Kohen Before Second Aliya

Question: The *gabbai* did not realize that a *levi* was present in *shul* and called on the *kohen* to have a second *aliya*. As the *kohen* was about to start, the *levi* made his presence known. Was the *levi* supposed to replace the *kohen* in that case?

Answer: The halacha is that it depends. The Shulchan Aruch (Orach Chayim 135:6-7) discusses two parallel cases in which the incorrect person is set to do the *aliya*. One is when it was not known that a *kohen* was present, and a *yisrael* was called for the *aliya*. The second is your case, when a *kohen* was called for a second *aliya* and it turns out that there was a *levi* present. The halacha in both cases is that if the person called started the *beracha*, he continues it, but if he had not started, then we switch to the correct person.

The logic of switching is two-fold in the respective cases. Giving a second *aliya* is an exceptional act (needed to protect the reputation of the *kohen* – see Shulchan Aruch *ibid.* 8 and Mishna Berura *ad loc.* 28), as is giving a first *aliya* to a non-*kohen* (Shulchan Aruch *ibid.* 4). Therefore, this is to be avoided when there is no important reason. We are also not hurting the person who is being asked to step aside for the following reasons. The *kohen* who has already had an *aliya* is just being held back from doing a second one, which no one else can have, and it cannot be construed as questioning his standing as a *kohen*. The *yisrael* who is passed up for a *kohen* never had claims to the first *aliya*, and, to not insult him, we keep him at the *bima* until his time comes to get the third *aliya*, which is the first available to a *yisrael* (Shulchan Aruch, *ibid.* 6).

In the case that the *beracha* has already been begun and we stick with the “wrong person,” we cannot stop him because of the problem of *beracha l'vatala* (Beit Yosef, Orach Chayim 135, in the name of the Avudraham; Mishna Berura 135:20). While *beracha l'vatala* is a serious problem, the concern that, when a *yisrael* was called up instead of a *kohen*, people will think there is something wrong with the *kohen*'s lineage, is not severe. People can understand that a mistake occurred (*ibid.*). We do not call up the *kohen* afterward because that would actively be making him look like a non-*kohen*, as a *kohen* does not get the second *aliya* if a *yisrael* got the first one (*ibid.*).

A not simple point becomes evident from the case of the *kohen* not being replaced after starting his second *aliya*. That is that even in the case that he really should not have received this exceptional second *aliya*, that second *aliya* still counts toward the number of required *aliyot*.

What is considered having started the *aliya* is noteworthy. The Shulchan Aruch (*ibid.* 6) rules that *Barchu* is not considered the beginning, so that the correct person can switch with him after *Barchu*. That is because if one commands the *tzibbur* to bless Hashem (which is *Barchu*'s role) and they do so (“*Baruch Hashem Hamevorach...*”), this is something of value in and of itself (Mishna Berura 135:21). According to most, the correct person who takes over repeats *Barchu* before his *aliya* (*ibid.*). Although some say this is unnecessary (including Aruch Hashulchan, OC 135:15), it is not a problem to do an arguably extra *Barchu* (Kaf Hachayim, OC 135:39).

Regarding the opening *beracha* itself, the Magen Avraham (135:8) says that until one has said Hashem's name (third word), it is still permitted and correct to stop the *beracha*. Once he says Hashem's name, he continues. Although there is a remedy to end a *beracha* at that point by turning the *beracha* into the *pasuk* “*Baruch ato Hashem lamdeini chookecha*” (Tehillim 119:12), this remedy is not perfect and is not justified in a case like this, so the one who started the *beracha* continues. There is an opinion that the above is true only when the correct person just came in, but if he was there but was not noticed, we would stop the *beracha* after three words and add “*lamdeini chookecha*” (Be'er Moshe IV:18). However, the consensus of *poskim* is to not make such a distinction.



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Ein Ayah

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

What Spiritual Leaders Can Do While Lacking Strong Leadership

(condensed from Ein Ayah, Shabbat 5:15)

Gemara: Those from the House of the Exilarch are held responsible for the whole world, as Rabbi Chanina learned: That which it says, "Hashem will come in judgment with the elders of His nation and its officers" (Yeshaya 3:14) is explained as follows. If the officers sinned, how did the elders sin? Rather, the blame of the elders is that they did not protest the actions of the officers.

Ein Ayah: It is most appropriate when the essential dominion is in the hands of the most ethical people in society. However, times come when mankind deteriorates due to bad moral choices, and they cannot be led in a manner that emanates solely from a pure source. This is because they need a certain energy of life which, on their low level, seems like strong life, to take care of their social needs. Quiet ethical life will not fulfill all the tendencies of society, which has already deteriorated to the point that it is too unsettled for such leadership. This will continue until the Days to Come, when Hashem will bring a spirit of purity, sanctity and tranquility. Until then, while the leadership will be somewhat influenced by divine morality, their spirit will be more in line with that of the populace and their shortcomings.

The influence of morality must be present, even if the leaders with power will be lacking it. There must be protests against the more extreme evil tendencies of the political leaders. These protests will nudge society upwards and prevent its slide into more dangerous depths. Even though the protests are not directly effective, when they are missing, it takes away from the positive glow of the world. That would allow deterioration to continue unchecked and hamper the hope of improvement in the next generations. Therefore, it is tragic when those who have the moral standing to protest, even while lacking the practical power, fail to do so.

That is why there were complaints about the elders who were connected to the House of the Exilarch. While not possessing the power to force others to act properly, because society is often too lowly to conform, this is not an excuse to be silent. One must stand up without compromises when there is a disgrace to the honor of proper values. When these moral leaders do their part, then Hashem, who knows all the thoughts of the present and the unfolding of the future, will enable moral improvements to occur when their time comes. In any case, though, the calling out of encouragement and voicing of protest against improper things must always be present according to the depths of truth of the Torah of truth.

Therefore, if the officers separate themselves from the elders and the elders lack the power to lead because people demand physically oriented leadership as opposed to pure-minded leadership, protesting improper behavior is still the "light of the world." It puts checks on the actions of the evil in the present and creates a string of pleasantness to be emulated in the future, when things improve. Hashem will judge those elders who do not protest against the officers, as they could have painted a picture of goodness and moral rectitude. This is supposed to help hasten a time when the ultimate leader, *Mashiach*, will lead us in righteousness and spirituality (see Yeshaya 11).

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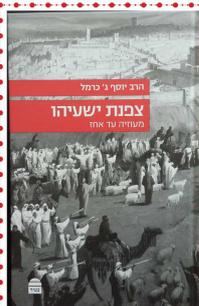
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Tzofnat Yeshayahu- Rabbi Yosef Carmel

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

Unauthorized Building by an Apartment Owner

(based on ruling 71106 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) and the plaintiff (=pl) own apartments in a six-story building. Years ago, def unilaterally built an apartment on top of his own, and more recently another apartment on top of that one, which he rents out to others. Recently he bought an apartment on the top floor and has built an apartment on top of it (on the building's roof). Def does not have a building permit for any of these additions, and everything was built on areas that are under joint ownership of the building's owners. Pl demands that def destroy the rooftop apartment and not allow renters in the other two apartments because of the added noise and strain on the building's infrastructure. Def responds that since pl did not protest the building project right away, he waived any rights to stop it, and that since the building is a storefront, the addition of another few people does not make a significant difference.

Ruling: According to the law, unless otherwise specified, all the owners of an apartment are partners according to the percentage of their apartment within the building. Def's building without pl's permission on significant parts of the building is thus stealing from pl. Def's claim that some of the neighbors do not mind and he only built on a permitted percentage of the building's space, which is coming to him as a partner who wants to cash in on his part, is incorrect. A partner can unilaterally demand to take full ownership over a percentage of the property only if it is a property that lends itself to division into appropriate plots (Bava Batra 11a). According to the law, we view apartment buildings as property that cannot be unilaterally divided, and while it is possible to be done with the permission of a certain percentage of the owners, def did not secure such a percentage. Therefore, the rooftop apartment can be destroyed, as pl demanded. While pl could probably have demanded this for all three unauthorized apartments, he did so for only one, and therefore *beit din* rules only regarding that one. Pl filed a grievance against def before construction was complete, and so it cannot be said that he was silent in a manner that is considered waiving rights.

The *gemara* (Bava Batra 60a) says that one neighbor can prevent another from opening up a courtyard to a public thoroughfare because it increases traffic. While def claims that the addition of families is insignificant, that claim is true in certain regards but untrue in others. The visitors to the storefront affect only the entrance to the building and do not affect the elevators and noise and mess in joint areas in the top floors of the building. Therefore, pl's demand that renters not occupy the other unauthorized areas has merit.

Since def has a lot to lose from these preliminary rulings and pl does not gain that much by their implementation, we suggest the two work on a compromise that both can live with.

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