

# HEMDAT YAMIM

PARASHAT **Acharei Mot**

14 Nisan 5768

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## Four Who Are One

Harav Yosef Carmel

In the past, we have discussed the “four sons” of the *sefer* based on the passages in the Torah that relate to them. We explained that the *rasha* asks about the *Korban Pesach's* relevance because he is unwilling to renew the covenant with Hashem. The *chacham* is an intellectual, who investigates everything with his logic and is willing to accept only that which makes sense to him. He is only one step above the *rasha*. The meaning of *tam* in the Torah is of one with complete righteousness. Yet even the *tam* has questions about the redemption of the first-born donkey. The greatest *tzaddik* is he who does not ask at all. Even he has to open his mouth to eat *matza*, known as *lechem ohni*, the bread upon which much is said. All four sons are invited to our *sefer*.

Let us take a look at a new approach based on the above principles. One of the concepts related to the *Korban Pesach* is the partnership and unity that surround it. From the fact that everyone is described as *shechting* it we learn that one's agent is considered as if the appointer did the action (Rashi to Shemot 12:6). The *Pesach* is also eaten within a group setting known as a *chabura*, which is big enough to finish the animal in one night.

On the other hand, any attempt to blur the differences between different Jews is artificial and harms the richness that flows from the distinctions. The following approach allows us to “have our *matza* and eat it too.” It is possible that every Jew includes within him all of the four sons. Everyone has some type of inkling of a doubt or question on some matter of belief. The road to full and unquestioned belief is a long one, which has emotional difficulties along the way. The theoretical thought of lack of belief is something that everyone has dealt with, meaning that there is some *rasha* in all of us. Every Jew is required to use healthy logic to analyze his steps in life. At the end of the process we realize that we need to rely on *Chazal* to provide ultimate guidance, but “only to a drunk does the world seem straight.” Everyone sometimes acts with unquestioned faith. The question is only how frequently. He overcomes his physical weaknesses and brings expression to the fact that he is created in Hashem's image. His *tam* element, even if often dormant, is always present. On rare occasions one can even serve Hashem with a “lofty silence” or a “thunderous noiselessness,” thus reaching the level of one who does not know to ask.

If all Jews have all of these elements then we are all connected in a real unity despite our apparent differences. Only if we actualize a strong unity in the style of “go assemble all of the Jews” (Esther 4:16), as we read thirty days before Pesach, is it possible to celebrate the festival properly. Let us hope that this message will help increase unity and a meeting of the hearts this coming *sefer* night.

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## Ask the Rabbi

**Question:** What do you suggest we do on *Erev Pesach* this year, which is on Shabbat, regarding when and what to eat?

**Answer:** People must determine the most practical solutions among the valid solutions to the challenges of *Erev Pesach* on Shabbat, according to the halachic possibilities their rabbis present. One practical assumption is that people will use only *Pesachdik* and/or disposable utensils, keeping remaining *chametz* separate. Some form of bread is needed for the first two Shabbat meals and is preferred for *seuda shlishit* (Shulchan Aruch, OC 291:5), which should be held in the afternoon (ibid.:2). Since the prohibition to eat *chametz* begins after “four hours” (around two hours before halachic midday- consult a local calendar) something must give. Let’s take a meal-by-meal look.

Friday night meal - Halachically, almost anything goes. Those who don’t want to worry about keeping *chametz* around can eat *matza* according to most *poskim*. If one has the *minhag* not to eat *matza* from the beginning of Nisan, *matza ashira*, often called “egg *matza*,” is an alternative.

Shabbat morning meal - If one finishes eating the *chametz* part of the meal by the end of the 4<sup>th</sup> hour, accomplished by *davening* early, matters are halachically simple. (How to get rid of crumbs or leftovers by the end of the 5<sup>th</sup> hour is beyond our present scope.) *Matza* is desirable for situations when it is hard or nerve-racking to deal with *chametz*. However, *Chazal* forbade eating *matza* on *Erev Pesach*, according to most, from the beginning of the morning, so that when we eat it at the *sefer*, it will be clear that it is for the *mitzva* (see Rambam, Chametz U’matza 6:12). However, one may eat *matza* that cannot be used for the *mitzva* (Shulchan Aruch 471:2), primarily, *matza ashira*, which is kneaded with liquids other than water (see Pesachim 35a). If it contains no water, most *Rishonim* rule that it cannot become *chametz*, and one would seemingly not need to rush.

Yet there are two issues. Firstly, as Ashkenazim are stringent to treat *matza ashira* as possible *chametz* and are permitted to eat it on Pesach only in cases of great need (Rama 462:4), the time issue reawakens. (Some *poskim* rely on the Noda B’yehuda (I, OC 21) that it is sufficient to be wary of *matza ashira* only after midday of *Erev Pesach*). Secondly, *matza ashira* may have a status of *pat haba’ah b’kisnin*, similar to cake, making it a questionable substitute for *challa*. (Igrot Moshe OC I, 155 explains that this is not a problem on Shabbat but still seems to prefer *challa* when convenient. To see Rav O. Yosef’s preferred solution, see Yechave Da’at I, 91).

Seuda shlishit (ss)- Two preferred opinions about how normally to perform ss conflict this Shabbat. One is to eat bread at ss. The other is to have ss after midday, at which time *chametz* and *matza* are forbidden, and *matza ashira* is problematic for Ashkenazim. The Rama (444:1) says that we eat other foods such as fruit or meat at this ss. The Mishna Berura (444:8) cites another solution: divide the morning meal into two so that one can fulfill ss on *challah* or *matza ashira* at that time. He requires a break between the two meals to avoid a problem of an unnecessary *beracha*, but he does not say how long it should be. Opinions range from a few minutes to half an hour; some suggest taking a short walk in between (see Piskei Teshuvot 444:6). One who is not usually careful to have *challa* at ss throughout the year need not consider this idea. He can eat a normal ss for him (no bread) in the afternoon, preferably earlier than usual to leave a good appetite for the *sefer*. Even those who are stringent about ss may follow the Rama over the Mishna Berura’s suggestion, which is somewhat counter-intuitive and not without halachic problems. Sephardim, who can use *matza ashira*, must do so before three hours before sunset (Shulchan Aruch, OC 471:2).

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**Ownership on Foods That Are Assur B'hana'ah – part II**

(from Sha'arei Shaul, Pesachim 13)

[We saw last time reasons why one cannot use things that are assur b'hana'ah for kiddushin even if it is theoretically possible to halachically benefit from them. They include the possibility that there is insufficient value, that a step is missing before it is permitted, and that it is a mekach ta'ut to receive only abnormal hana'ah for kiddushin.]

However, these technical answers do not explain the *gemara* in Pesachim, that once *chametz* is *assur b'hana'ah*, one cannot do *bitul* on it. After all, an owner can do *bitul* on something that is not worth a *peruta*. The matter of *mekach ta'ut* is certainly not related to the possibility of *bitul*.

The Sha'ar Hamelech deals with conflicting indications as to whether it is permitted *mid'rabbanan* to benefit from *issurei hana'ah* in an unusual manner. On one hand, Tosafot says that there is no *kiddushin* with *issurei hana'ah* even though one could use them in an unusual way but only when there is not a *shaveh peruta* of value. This indicates that it is permitted to receive whatever unusual benefit one can. On the other hand, the *gemara* (Pesachim 21b) says that one may not benefit from the burning of *chametz* even though it seems to be unusual benefit. The answer seems to be that since *chametz* requires burning, benefit that comes as a result of that burning is considered normal benefit under the circumstances. Most *issurei hana'ah* that require burning can have it done after time. Therefore, any unusual benefit in the meantime is considered halachically unusual and is permitted. However, regarding *chametz*, which requires immediate burning, any benefit that is received during that process is forbidden as usual *hana'ah*. What is usual benefit always depends on the present circumstances. That is why the *gemara* (Temurah 33b) says that the ashes of *issurei hana'ah* that are to be buried and do not need to be burnt are *assur b'hana'ah*. One can ask why we don't consider benefit from ashes as unusual. The answer is that, focusing on something that is presently ashes, such benefit is normal (for ashes).

We now understand why Tosafot assumed that *chametz* is considered not of value despite the fact that one can burn it and then benefit from its ashes. The explanation is that at this time it is slated for burning and thus to be ashes, at which point unusual uses will be considered normal *hana'ah*. Therefore, it is immediately normal *hana'ah* to keep it for himself for that purpose. If we had said that one could get a *peruta* of *hana'ah* in this form, then it would have been possible to use the *issur hana'ah* for *kiddushin*.

The Ritva has a simple explanation as to why a woman is not married when she is given something that is *assur b'hana'ah* considering that she should be able to benefit in an unusual manner. He posits that it is forbidden rabbinically to benefit even in an unusual manner. That which the *gemara* (Pesachim 24b) allows people to smear the extract of oil of *orlah* on the body of someone who is sick, he explains, is only because of the needs of a sick person. (Tosafot apparently felt that it would be permitted for anyone.) Even if the bride were sick, in which case the *issur hana'ah* would be of value to her, the *kiddushin* would not work. This is because it would be forbidden for the groom to benefit even in an unusual way, and therefore it would be considered that he was giving something to her for his benefit. (It would work if he married her with the benefit he caused her by giving her the *issur hana'ah* but if he is marrying her with the object that is *assur b'hana'ah*, the object itself has to be considered of value to him, as well.) The Ritva says that the same is true when one gives an *issur hana'ah* to a *cholah sheyeish ba sakanah*. Specifically, although she may receive any type of *hana'ah*, it is not considered that the groom is giving anything of value from his perspective.

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# P'ninat Mishpat

## Claim That a Side to a Contract Did Not Understand It

(based on Halacha Psuka, vol. 42 - A Condensation of a Psak by the Beit Din of the Rabbanut of Yerushalayim II, pp. 225-226)

**Case:** The plaintiff rented an apartment from the defendant and paid in advance for a long period of rental. The contract states that the plaintiff is responsible for repairs of the apartment, which is in poor condition. The plaintiff says that given that she paid so much for the apartment in advance, she would not have agreed to pay for all repairs (she is prepared to pay half). She claims to have signed the contract as is because she is illiterate. The defendant counters that she received three days to show the contract to an advisor and, therefore, she is responsible for signing it.

**Ruling:** The Shulchan Aruch (Choshen Mishpat 45:3) rules: "If one admitted with his signature and the document was written in the script of non-Jews, it is clear that he did not know how to read it and there are witnesses that he signed without reading it, he is still obligated by everything that is written in it." In another place (ibid. 61:13), it says: "Someone who claimed about his wife's *ketuba* that he did not understand when the *chazzan* read the *ketuba* and the *tena'im*, we do not listen to him. Rama - the same is true regarding other intricacies that one can imply from the document, and we do not say that the person was not so careful about the wording." According to these sources it seems clear that the plaintiff's claim should be rejected.

However, the matter is not clear. The S'ma (61:53) explains that the reason that the signature is binding despite the possible claim that he did not understand is that he should have said in the first place that he didn't understand and that he needs it to be explained. In this case, in fact, the plaintiff did ask that the contract be explained to her, in which case we should assume that her signature was based on that which she was told. *Beit din* determined that the advisor did not read and explain the contract, but only gave general advice as to whether the contract was written normally. Since the contract did not mention the matter of paying far in advance, the matter of payment for repairs was not an unreasonable condition. Had he known about the early payment, he would not have advised her to sign the contract as is with the plaintiff's obligation to pay for repairs. Because the explanation did not properly capture the content of the document, the signature is not binding.

[*Editor's note – It seems that one can argue on the logic of this p'sak din for the following reason. Just as one should have asked for a translation of a document if he was signing it, so should the plaintiff have asked her helper to explain its details, not just give general advice. Even if advice was sufficient, she should have given him the pertinent information upon which to base his advice.*]

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