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HEMDAT YAMIM

Parashat HaShavua

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In Search of the Place of Matza

Rav Daniel Mann

The preparations for Pesach intensify with Rosh Chodesh falling out on Shabbat and the reading of *Parashat Hachodesh*. *Parashat Hachodesh* is the first mention in the Torah of eating *matza* in connection to Pesach. *Matza* is presented as a food that is eaten along with the *Korban Pesach* and that is eaten throughout the duration of the seven-day festival. We also find that one must remove *chametz* on the "first day" because it is forbidden to eat *chametz* all seven days (Shemot 12:15).

Chametz and *matza* are strongly related as opposites. If you let the ingredients rise, it becomes *chametz*. If you bake it before it has a chance to rise, it is *matza*. In fact, if the ingredients cannot turn into *chametz*, the "*matza*" is invalid *matza* (Pesachim 35a). This seems so counter-intuitive based on the approach to *mitzvot* that we are used to. If something is as strictly forbidden as *chametz* is, then we would have expected to be required to avoid anything that could become *chametz*!

I would like to raise what we call in the *beit midrash* a *chakira* (an analytical dilemma) about *chametz* and *matza*: If the two are indeed related, which is the beginning of the "equation" and which is the result? Is it: 1. There is a *mitzva* to eat *matza* on Pesach, as it reminds us of the manner in which Hashem took us out of Egypt (with *chipazon* – Devarim 16:3). It is not wrong to eat, say, potatoes instead of *matza*. However, one must not eat *chametz* because it is the antithesis of *matza*, countering the impact of remembrance that one would have had with *matza*. 2. The Torah does not want us to eat *chametz* throughout Pesach, whether for the above reason, because *chametz* represents the *yetzer hara* (see Berachot 17a with Rashi), or for some other reason. When the Torah says that Pesach (what the Torah calls *Chag Hamatzot*) is a festival of eating *matza* for seven days, it means that if one eats something that can be either *chametz* or *matza*, it better be *matza*!

The simpler reading of the *p'sukim* throughout the Torah (we do not have room to elaborate) is that the stress on *matza* being a positive commemoration is part of the basic definition of the holiday. It is then worthwhile to contemplate why *chametz*, being the opposite of *matza*, is such a big problem, especially according to the more accepted opinion that there isn't even a *mitzva* to eat *matza* throughout the seven days. (We dealt with the famous *machloket* if there is anything positive about eating *matza* after the first night of Pesach in *Living the Halachic Process*, vol. III, D-18.)

Let us consider the following suggestion. When a nation emerges (which we celebrate on Pesach), it receives tools to do significant things that it did not have previously. One might think that if these tools are used well, good, and if not done exactly right, it is no big deal, as the nation can always get it right the next time. Perhaps the newly formed dough teaches a different lesson. If one handles it correctly and promptly, that is good. If one does it wrong or even tarries, the result is dangerous! *Mitzva haba'ah l'yodcha al tachmitzena* – when you have the possibility to do a *mitzva*, do not miss the opportunity; it will turn into "*chametz*"!

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Ask the Rabbi

by Rav Daniel Mann

Temporary Markings in a Sefer Torah

Question: Is it permissible to mark a place in a *sefer Torah* with a “post-it” or the like to know where a reading starts?

Answer: The *gemara* (Menachot 32b) says that a *mezuzah* that is written like an *iggeret* (letter) is *pasul*, and Rashi includes in the possible problems, extra letters. The Shulchan Aruch (Yoreh Deah 288:15, based on the Rosh, Mezuzah 18), says that adding anything, even non-letter markings, to a *mezuzah* is forbidden because it makes it look like an amulet for good luck. In the laws of *sefer Torah* (ibid. 274:7), he *pasuls* a *sefer Torah* that includes vowels, even if they are later removed, or signs to show where a *pasuk* ends. *Rishonim* explain simply that we are supposed to leave the *sefer Torah* the way it was given at Sinai.

There is a fundamental *machloket Acharonim* about the extent of these disqualifications. The Maharshah (Shut 73) posits that extra letters disqualify anywhere on the scroll, whereas the Noda B’Yehuda (I, YD 74) says that extra writing only disqualifies when it is positioned in such a way that it is read with the text. Many disagree with the Noda B’Yehuda (see Igrot Moshe, YD II 140), but his opinion is, as usual, taken seriously (see Tzitz Eliezer XIX, 6).

The Rambam (Mezuzah 5:3) says that the writing of one of Hashem’s names, according to an old *minhag*, on the *mezuzah* is okay because it is on the back. Our case would seem to be better, as the notation is not on the scroll at all; it is only on something that is sitting on top of the *sefer Torah*, albeit with a little adhesion so it can stay for a while or until one easily removes it.

We were asked (see Bemareh Habazak III:13) about developing a see-through sheet with punctuation and *trop* to put on top of a *sefer Torah* to simplify its reading. We rejected it not only because of the major change in *minhag*, but also because it effectively changes reading from the Torah from the way it was intended – purposely without punctuation and *trop*. These are supposed to be learned from another source (and, one might add, at another time). However, our case is different in that one is not reading the Torah with the help of a marking. Rather, it gets us to the right place; we *lain* normally several seconds later (after the *berachot*).

There is another issue. The *sefer Torah* scroll is holy and must not be used for *chol* purposes (see Magen Avraham 42:6). Therefore, *poskim* (Minchat Yitzchak II:15; Tzitz Eliezer ibid.) forbid writing even on the bottom or the back of a scroll, even when it is does not disqualify it. Likewise one should not stick notes to a *sefer Torah*.

On the other hand, context is critical. *Sofrim* and those sending corrections do mark (in pencil or with post-its) scrolls because it is to promote the *sefer’s kashrut*. While we may not put less holy things on top of a *sefer Torah* (Shulchan Aruch, YD 282:19), we do cover it when leaving it unused because this is for the *sefer Torah’s* honor.

Is what you are inquiring about for the *sefer Torah’s* “well-being”? If someone can find the place to put a post-it, he can likewise just make sure that the Torah will be opened to the right column. *Ba’alei kri’ah* have access to a *tikun l’korim*, to which almost all *sifrei Torah* these days are lined up. The *ba’al korei* knows the *p’sukim* of the *laining*. So how much of a need is there for a marker? Thus, putting the marker there not only does not seem necessary for the *laining* and/or honoring the *sefer Torah*, but gives the impression that no one took the time to familiarize himself with the *sefer Torah* (see a similar idea in Berachot 20b). Therefore, the presence of the note seems to be an improper appendage to the *sefer Torah* and forbidden (see Tzitz Eliezer ibid. who objects on these grounds regarding a more important need).

If your case includes circumstances we have not anticipated, get back to us. If such a system were necessary enough to justify, we would have to discuss if, on Shabbat, it would be better to remove the note before reading or leave it there (see Shemirat Shabbat K’hilchata, 5770 ed. 28:8; Minchat Asher II:39).

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.)

Don't Allow the Pain to become Permanent

(condensed from Ein Ayah, Shabbat 9:13)

Gemara: How do we know that we should wash the wound of *mila* (circumcision) on the third day even if it is on Shabbat? It is based on the *pasuk*, "It was on the third day [since the circumcisions of the people of Shechem], as they were in pain" (Bereishit 34:25).

Ein Ayah: The set impression on the nature and on one's spirit is the one that emerges from the repetition of impactful matters, until the point that they become fit to be considered permanent. We find both in the Torah and in the natural world that triple repetition is that which gives the status of permanence, progressing through the three stages of occurrence: existence, chance, permanence. Something that occurs once just indicates that it is found. Once it happens a second time, "an arm is outstretched to record the chance event in a way that the occurrence is known." This accompanies the matter but also leaves the scene quickly.

A third appearance is already a step toward permanence, and the impression it leaves strengthens in every case. If the occurrence is the existence of sickness, three days of pain, with the experience of three time periods passing in a painful manner, this makes an impression on a person as being under the power of illness coming to a head. The state of good health, which is the normal state Hashem provided for life, becomes opposed by a feeling of affliction. On the third day, the height of the pain comes, but then it starts receding, as it says in the *pasuk*: "It was on the third day, as they were in pain."

Clearing the Red from the Head

(condensed from Ein Ayah, Shabbat 9:14)

Gemara: How do we know that they would tie a strip of bright red fabric to the head of the *sa'ir hamishtale'ach* (the goat that was sent to the desert)? It is in line with the *pasuk*: "If their sins will be like scarlet, they will be whitened like snow" (Yeshayahu 1:18).

Ein Ayah: When one internally strengthens his spirit with divine-based purity, this creates a life of sanctity and goodness. The agitation that is related to blood, which can overpower the purity of the soul and pollute to the point that its nature is affected, colors the spirit with a foreign color, a red stain, so that its natural color is not recognizable in life. The *sa'ir hamishtale'ach* specifically corresponds to the sins that are innately against the nature of the natural spirit of the Jew. It is only the foreign color of animal blood that colored one's life in such a blood-like color. This color of the active foreign influence makes one comparable to a goat, which is the image of something that damages others spiritually. This finds its place after the polluting takes place, in the thoughts of the brain, which is found in the head (where the red strip is attached). It becomes clear that these thoughts are the source of the polluting blood. They are not natural human thoughts, which are lofty and connected to the special soul, which comes from the light of the living G-d. The brain itself is that which brings forth the repentance and the mending of the deep spirit. For this reason, we tie a strip of bright red fabric to the head of the *sa'ir hamishtale'ach* as the *pasuk* says: "If their sins will be like scarlet, they will be whitened like snow."



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

Damages of Delay in Home Construction – part II

(based on ruling 76070 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought from the defendant (=def), a real estate developer, an apartment “on paper.” Their contract set, among other things, a date for receiving a completed apartment. Def missed the date by a wide margin. [Much of the p'sak deals with compensation for the buyer during the delay]. During August 2014, def sent letters to buyers indicating that the apartments would be ready soon and recommending signing up their children in local schools, which pl did. The apartment was ready only in Oct. 2015. In the meantime, two of pl's three children went to school in the new city while the family remained where they were (16 kms away). Pl demands compensation for the need to buy a second car and the price of transportation. Def argues that such damages are too indirect to obligate, that many of the claimed expenses are exaggerated, and that the legal obligations to compensate a buyer for delays at a high rate for rental is meant to cover side expenses such as these.

Ruling: [Last time we saw that there are generally grounds for payment. Now we will see the extent to which the claims were justified without going into the details.]

Def claimed that if there were great expenses, pl should have returned their children to local schools. However, pl's claim that it is not reasonable to switch young children back and forth is logical. This is especially true because throughout this time, it was unclear how long the delay would be.

On the other hand, before the school year began, pl was (or should have been) aware that there would be a significant delay in moving into the apartment. Thus, misinformation received from def did not force them into the schooling decisions. In such a case, one cannot extract money from the one who put them into a position of possible loss that they should have gotten out of (see Rambam, Zechiya 6:24).

However, we must look at the damages within the framework of def's professional obligations toward pl, based on the following sources. If one hired someone to work and the work became impossible to carry out, if it was the employer alone who should have been aware of the situation, then he has to pay the employee (Bava Metzia 77a). We see that not informing the other side to the agreement of what he needs to know is held against the one who had the knowledge. This is also required by the legal requirement of honesty in business dealings. Therefore, we will obligate def in some of the losses that resulted from decisions pl took without the benefit of the information def was obligated to provide.

One basic rule of determining the amount of such expenses is that they need to be proven (Rambam ibid.; Rama, Choshen Mishpat 14:5). When the level of expense is unproven, we are to estimate conservatively (Pitchei Teshuva, CM 14:16). Beit din also has to confirm that the circumstances justified that level of expense (Shach 14:16).

Based on these principles, beit din did calculations and applied compromise as appropriate.

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