



HEMDAT YAMIM

Parashat Hashavua

Tazria, 1 Nissan 5782

Harav Shaul Israeli zt"l
Founder and President

Ketoret, Tzara'at, and Uziya
Harav Yosef Carmel

Our *parasha* is focused on *tzara'at* (roughly, leprocy), as is the next, and they form a bridge between the two *parshiyot* that discuss the death of Aharon's sons, Nadav and Avihu. Last week we saw that the sin of the Golden Calf was made possible by the sin, generations before, of the sale of Yosef. We learned from this that being careful about sins in the interpersonal realm precedes carefulness regarding the realm of *mitzvot* between man and his Maker. We will try to prove now that *tzara'at* is also the result of lacking between man and his fellow man.

At first glance, this is almost a trivial task, as *Chazal* teach us that the main cause of *tzara'at* is *lashon hara*, one of the most basic interpersonal sins (Arachin 16b). We can sharpen the picture, though, by looking at the life of King Uziya, one of history's most prominent lepers. Uziya entered the *Beit Hamikdash* to offer *ketoret* (incense) on the altar, which was forbidden for him as a non-*kohen*, despite rebuke from the *kohanim* (Divrei Hayamim II, 26:19). This also hints at a connection to Nadav and Avihu, whose story bookends the *parasha* of *tzara'at*, in that they each brought *ketoret* improperly and were severely punished. The *parasha* that follows *tzara'at* deals with the service of the *kohen gadol*. Prominent among his tasks was bringing *ketoret*, and Uziya did not give sufficient deference to him.

The period of Uziya was one of the brightest points in our history, in some ways seeming like the days of *Mashiach*. It included the following elements of success (see Tzofnat Yeshayahu, p. 162-4). 1) The service of Hashem was largely kept in the palace and among the people; 2) All of the Jewish people were living in *Eretz Yisrael*; 3) The king was from the House of David; 4) The king won all the battles he fought; 5) The boundaries of *Eretz Yisrael* were fully in the hands of Bnei Yisrael (albeit broken up among two kingdoms); 6) *Eretz Yisrael* was blooming from an agricultural perspective; 7) *Am Yisrael* was respected throughout the world; 8) The *Beit Hamikdash* was standing.

So why, in these ideal times, was King Uziya afflicted with *tzara'at*? The ills of this time are discussed by two prophets: Amos, throughout his *sefer*, and Yeshayahu in ch. 1-6, as *Chazal* tell us that the *sefer* begins at the time that Uziya was stricken.

Both prophets describe social corruption that festered and spread throughout the nation, from north to south. This corruption had a corrosive effect, both in Judea and in the Northern Kingdom. In the midst of a period of plenty, the wealthy were not satiated but were hungry for more and more, including by taking the little that was left in the hands of the weak. The judicial system was also compromised, and by and large, it supported the powerful and the "elite" against the weak and lowly. The judges, officers, and the rich, buoyed by the support of the intellectual elite, were responsible for this corruption (see Yeshayahu 1:23). This, then, is the reason that Uziya was punished with *tzara'at*, the punishment of the sins between man and his fellow man.

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Ask the Rabbi

by Rav Daniel Mann

Weak Prohibition Vs. *Beracha L'vatala*

Question: If someone makes a *beracha* on a *milchig* food and then realizes that he is *fleishig*, should he eat a little of it to avoid a *beracha l'vatala*?

Answer: The dilemma of choosing the lesser of two evils arises in many cases.

The *gemara* (Shabbat 4a) rules that one who sticks dough to a hot oven's wall on Shabbat should scrape it off (usually a Rabbinic prohibition) to save himself from the bigger *aveira* of *chillul Shabbat*, whether he placed it there purposely or by mistake (Mishna Berura 254:39). Thus, if *beracha l'vatala* is a bigger *aveira* than not waiting six hours between meat and milk, perhaps one should eat a little of the *milchig* food. (In Shabbat 4a, the baking is continuing during inaction.) The Rama (Orach Chayim 271:5) indeed rules that if one made a *beracha* on food before *Havdala*, he should eat.

On the other hand, if a *kohen* puts *teruma* into his mouth and finds out it is forbidden food, he must spit it out (Rambam, Terumot 10:13, based on *mishna*, Terumot 8:2). Some say it is referring even to cases in which the *teruma* is only Rabbinically forbidden and even when he made a *beracha* and did not eat yet (see Michtav L'chizkiyahu 1:5, regarding one who accepted upon himself not to eat before learning and made a *beracha*). After all, it is difficult to mandate positively doing a forbidden action to fix a problematic action already done accidentally (Michtav L'chizkiyahu *ibid.*). We could then learn that one may not eat even a little of Rabbinically forbidden food to avoid a *beracha l'vatala* (*ibid.*).

How serious is a *beracha l'vatala*? The Rambam (Berachot 1:15, cited by the Shulchan Aruch, OC 215:4) describes it as a Torah prohibition of saying Hashem's Name in vain. Tosafot (Rosh Hashana 33a) posits that it is Rabbinic (praising Hashem any time, any way, is not in vain), and many concur. It is not, then, clear that *beracha l'vatala* is worse than the forbidden eating. Also, the Rama relates to a case where the food is permitted, just one must wait until after *Kiddush* or *Havdala*, which may make it more lenient (see Tosafot, Pesachim 106b). Milk after meat is tricky to define. On the one hand, the *milchig* food is permitted. On the other hand, the prohibition is based on treating it like eating milk and meat mixed together i.e., a forbidden food, (Yechaveh Da'at IV:41).

For another reason, eating some of the food might not help. One may not make a *beracha* on forbidden food (Shulchan Aruch, OC 196:1), so even if one ate the food, it may still be a *beracha l'vatala*. While the Rama felt it helped regarding eating before *Havdala*, the above distinction is relevant. Perhaps the *beracha* is not *l'vatala* on a permitted food before *Havdala*, but is *l'vatala* for Rabbinic meat-milk (Yechaveh Da'at *ibid.*). Even regarding a time-based *minhag* like *fleishig* food in the Nine Days, some opinions forbid eating even after the *beracha* was made (Yechaveh Da'at *ibid.*).

However, our case has mitigating factors. It is far from a Torah-level prohibition since the foods are not cooked together and especially if the *fleishig* is poultry. Even Rabbinically, eating *milchig* after *fleishig* is forbidden explicitly only at the same meal (Chulin 105a). The strongest reason to be lenient (see Yechaveh Da'at *ibid.*) is that after an hour has passed, we are not even sure eating *milchig* is forbidden at all (see Rama, Yoreh Deah 89:1). Note that while one may not feed forbidden food to small children, the consensus is that waiting an hour after meat is enough.

We found no one recommending using the *beracha* for a permitted food. Many rule that if one made a *beracha* on a food and it got lost before eating, he can use the *beracha* for another food, but only if it is the same type of food and it was before them during the *beracha* (Rama, OC 206:6; Mishna Berura 206:26). It is interesting that leniency on broadening the efficacy of the *beracha* is not the best alternative.

In conclusion, we recommend that if an hour passed from eating meat, one should eat a little of the *milchig* food; within an hour, one should just recite "*Baruch shem ...*"

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



Igrot HaRe'aya - Letters of Rav Kook

The Power of the Scholars of Eretz Yisrael – #96 – part II

Date and Place: 5668 (1907-8), Yafo

Recipient: The organization “Beit Va’ad Lachachamim,” dedicated to the advancement of Torah study in Yerushalayim. They apparently asked Rav Kook for an article on a specific halachic matter, which he did not have time to prepare (he related to the matter briefly). However, he focused the letter on his envisioned goals and encouragement for such a group.

Body: [Last time Rav Kook wrote of the extra power Torah scholarship has in Eretz Yisrael, with the help of special Divine Spirit.]

The foundation of our status of being in exile and the lowliness that has resulted in the world from this comes just from the fact that we do not pronounce [sufficiently] the value of *Eretz Yisrael* and the wisdom [it promotes]. In that way, we do not remedy the Sin of the Spies who spoke negatively about the Land, while we have the opportunity to do *teshuvat hamishkal* (especially effective repentance by acting correctly in a situation similar to the one in which the sin occurred).

It thus behooves us to inform the whole world of the grandeur, sanctity, and honor of *Eretz Yisrael*. Even if one might consider what we say exaggerations, we would be lucky to express even one out of ten thousand of the desirability of the Desired Land, the splendor of the light of its Torah, and the light of the wisdom and the Divine Spirit that abounds in its midst.

In any matter of spirituality and, likewise, mundane matters, there are different levels. While each person has “what to be jealous about with his counterpart’s wedding” (Bava Batra 75a), when one compares the warmth of the light and the delicateness of the sanctity that a Torah scholar who is seeking Hashem finds in *Eretz Yisrael*, there is nothing at all comparable in the Diaspora. I am hereby a witness to this matter, even if on my low level.

The foundation of the help *Eretz Yisrael* gives in enabling scholars to analyze and arrive at new ideas, even in matters of Halacha (apparently, it is more obvious in the realm of spirituality/mysticism) is built on the very depth of the spirituality that the Master of the Universe desires. This special spirituality is concentrated in the Torah and shines light on every *mitzva* and specific Halacha, up to the smallest detail, to the extent that these matters of Torah are as happy (i.e., full of positive energy) as they were when they were given at Sinai (Vayikra Rabba 16:4).

In the Diaspora, one needs to [feel his way] in the dark by dealing with the externals and comparing one thing to another, whereas the essence of the matter whose source is in the depth of the sanctity of divinity itself, one cannot grasp. Clearly, we are degraded by leaving behind [our potential] and not sufficiently grasping our self-worth, by allowing the “mistress” to be degraded before her maidservant (i.e., a lesser nation), while [our nation] is still cloaked in the mantle of a G-d-fearer, despite how Hashem looks at it. We have unfortunately allowed the honor of the Desired Land and the place where the Divine Presence has rested, to be trampled.

All of these things have caused [divine truths and light] to be dimmed. Torah scholars in *Eretz Yisrael* are once again humbled and abandon their strength, thinking that they were created only to chew bones of the scholars of the Diaspora and mimic lower forms of scholarship, which emanate from darkness. In these matters, the scholars of *Eretz Yisrael* are actually weak because they were created for higher callings. If they place themselves on a higher pedestal, they will succeed in everything, because “100 is included within 200.” Excellence in the realms of wisdom, fear of Hashem, belief in and service of Hashem, development of study of ethics and social wisdom, along with the depth of the Torah and its greatness in the style of true brilliance, is and must be very different in *Eretz Yisrael* in comparison to the Diaspora.

We continue next time.

We daven for a complete and speedy refuah for:

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P'ninat Mishpat

Financial Security for a Partner/Worker? – part II

(based on ruling 72092 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) wanted to start a business with the significant funds at her disposal. She enlisted the plaintiff (=pl), a divorcee whom she had dated briefly, to help her. Def first paid pl's consulting firm for his time. Later, pl quit his job to work with/for def. This gave pl greater work flexibility so he could manage child custody, and he received a minority stake in the LLC he opened for her (registered in Delaware). Pl started working for def on Apr. 1, 2012. They seemed to be in the midst of finalizing an "employment agreement," which had not yet been signed, when def informed pl, on June 10, that she would no longer pursue his proposed course of action and that their "partnership" was over. Pl is suing for: \$20,000 for work before Apr. 1; \$29,110 for salary from Apr. 1-June 10 (prorated from a \$150,000 yearly salary); \$18,500 for expenses; \$150,000 for severance pay; \$7,900 in worker's benefits. Def responds that she never hired pl; he was a partner in a business venture that never saw profits. The term "employment" that she did not oppose in the proposed contract was just to convince custody court that def had financial stability. Def denies that pl worked seriously for her and demands the return of \$52,100 she gave him as a loan (until there would be profits). (*Much of our information comes from extensive emailing between the sides.*)

Ruling: [We saw last time that pl was a salaried worker in addition to a partner.]

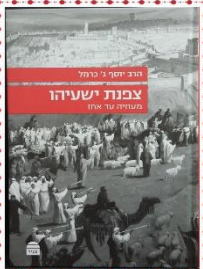
The idea of pl returning the money already given based on its being a loan is to be summarily rejected. There is no documentation or hint of these payments being a loan, except for one line in an email by pl to def, which is clear by context to be a sarcastic joke. Also, a sizable part of def's payments were given soon after the firing, which would make no sense if that which was given has to be returned. The post-firing payment is also proof that def did not believe that pl had embezzled significant funds from her.

From the detailed logs that pl sent def before she fired him, which she never effectively questioned, it is clear that pl did significant work on behalf of their joint venture. *Beit din* cannot know if pl's work fully lived up to expectations in quantity or quality, but no evidence was provided to make us believe that pl did not deserve full pay for the time of his employment, before and after Apr. 1.

The weakness in pl's claims is that he did not bring evidence that def reached a point of *gemirut da'at* (a firm decision) of the extent of her financial commitments to him. Perhaps he made a mistake by not demanding that def sign a contract before he started work, as she might have agreed to do so, or it could have been that she would have balked at the prospect of commitment. These conjectures are only of moral significance, as legally the issue is that there was no commitment to specific terms other than that he would be paid for his work.

Next time we need to calculate how much pl deserves without a signed contract.

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Rabbi Yosef Carmel**

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