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# HEMDAT YAMIM

המדת ימים

## PARASHAT HASHAVUA

Korach, 30 Sivan 5773

### Aviram Lives on and Dies Again

Harav Yosef Carmel

One of the main partners in the crime of Korach, in the attack on the leadership of Moshe, was Aviram (counterpart, actually brother, of Datan). Besides the Torah narrative, Aviram also receives mention in Tehillim (106:16-17): "They were jealous against Moshe in the encampment, about Aharon, Hashem's holy one. The earth opened and swallowed Datan, and it covered up the congregation of (*adat*) Aviram." The term "*adat* Aviram" is interesting, in comparison to the more famous term from the *Chumash*, "*adat* Korach" (see Bamidbar 26:9; Bamidbar 27:3).

Let us return to the building of Yericho, which we discussed last week. Chiel rebuilt Yericho despite the curse of Yehoshua and paid a serious price: in the beginning of the process his elder son **Aviram** died, and his younger son Seguv died later, as Yehoshua had predestined (Melachim I 16:34). The next *pasuk* in the *navi* begins the story of a decree that Eliyahu made that there would be rain in Israel only when Eliyahu decreed it, which was followed by a long drought. The *gemara* (Sanhedrin 113a) tells a fascinating story, combining the two stories.

King Achav was a close friend of Chiel, and he went with Eliyahu to visit Chiel (either for the consecration of Yericho or for *nichum aveilim*- Rashi). Achav cynically questioned the effectiveness of Yehoshua's curse regarding the building of Yericho. When Eliyahu confirmed his belief in Yehoshua's curse, Achav said scornfully: "The curses of Yehoshua's master, Moshe, did not come true, as Moshe said that if the people will worship idolatry, Hashem will hold back rain. We worshipped," Achav said, "and the rain continued. Therefore, there is no reason to believe that Yehoshua's curses have any effect." In response, Eliyahu asked Hashem for the "keys to rain" and withheld rain from Achav's kingdom.

Based on the above, we can propose the following further background for the story. Yeravam ben Nevat, after rebelling against Shlomo, built calves for illegal worship, against the explicit commandment of Moshe. This same Yeravam called his son Nadav, the same name as the son of Aharon who died because he challenged Moshe's authority by making rulings in his presence. Yeravam was trying to indicate that he was the moral continuation of Aharon who had also erected a calf for worship. Another person who used the naming of a son as a means of creating a historical connection to someone who challenged Moshe was Chiel. He called his son Aviram, thus trying to continue the legacy of opposing Moshe, and he and Achav scoffed at what Moshe and his disciple, Yehoshua, stood for. Chiel built Yericho based on Achav's claim that Moshe's threats were meaningless, making light of Yehoshua, his disciple. Indeed, Chiel paid the price, as his son died for this brazenness – one Aviram like the other.

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# Ask the Rabbi

by Rav Daniel Mann

## Tasting Non-Kosher Wine

**Question:** I will be touring France, and our group will be doing wine tasting with wine that has no *hashgacha*. It is permitted to taste the wine if I spit it out thereafter?

**Answer:** We must deal with a few issues.

Some of the main *kashrut* concerns in Israel, Land-based *mitzvot* (e.g., *teruma* and *ma'aser*, *Shemitta*, *orla*) are of little concern outside of Israel, but *stam yeinam* is a major remaining issue. *Stam yeinam* is wine that was handled by non-Jews from the time the grapes are squeezed, and even after it is produced (until it has been *mevushal* (literally cooked) – the parameters are beyond our scope). Unsupervised wine made by non-Jews is therefore certainly forbidden as *stam yeinam*, a rabbinic prohibition of a complex nature, which we will briefly highlight.

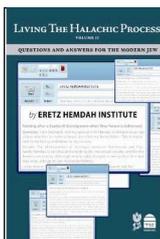
One part of the prohibition of *stam yeinam* is that it is forbidden to drink the wine, out of concern that such behavior could lead (down the line) to intermarriage (Avoda Zara 36b). (This concern finds expression in similar prohibitions, e.g., *bishul akum*). If the wine was actually involved in idol worship, it could become *yayin nesech*, which is forbidden on the level of Torah law even in benefit other than drinking. Because these two prohibitions can be confused with each other, the Rabbis added a rabbinic prohibition on benefit from *stam yeinam* (Avoda Zara 29b; see Beit Yosef, Yoreh Deah 123).

There are sources that show leniency regarding the rabbinic prohibition on benefit from *stam yeinam*. The Shulchan Aruch (YD 124:7) rules that the wine of a non-Jew who is not involved in idol worship is forbidden only to drink, not in benefit, but it is not clear what category members of various religions fall under. The Rama (YD 123:1) says that since it is not common for non-Jews to use wine for libations, not all agree that there is a prohibition in benefit and that one can receive benefit if needed to avoid a loss of money (e.g., when it is the main available asset of a non-Jewish debtor). Wine tasting, even if one spits the wine out, is benefit due to the taste, and therefore it is forbidden if there is no loss. Not taking part in wine tasting is not a loss of money, and the loss of a pleasant opportunity does not count in this context. (Even being precluded from doing commerce in non-kosher wine is just a lost opportunity and forbidden- *ibid.*).

If *stam yeinam* were only forbidden to be drunk, we would have to check the status of putting food in the mouth and spitting it out. [For those who are unaware, it is cultured to spit out wine into a spittoon at wine-tasting events, allowing one to sample many wines and drive home.] According to the great majority of sources, it is forbidden to taste foods one is forbidden to eat (see Pitchei Teshuva, YD 98:1). One of the main sources for this concept is the *gemara's* halachic advice for someone who is unsure if a mixture of kosher and non-kosher foods is permissible (discernable taste of the non-kosher minority element makes it forbidden). The *gemara* (Chulin 97a) says that one should give it to a non-Jew to taste, implying that a Jew may not taste it even if he plans to spit it out. On the other hand, *Rishonim* (see Beit Yosef, YD 42) allow a Jew to taste a piece of liver to see if the animal had a hidden gallbladder (important for the laws of *tereifot*), even though if they discover it is missing, the meat is forbidden.

Several possible distinctions are raised: 1. Tasting without swallowing is permitted when it is not clear that there is forbidden food, but one needs to swallow to rule out the presence of non-kosher taste (Taz, YD 98:2). 2. One may only stick out his tongue to taste but may not put the liver in his mouth (see Pitchei Teshuva *ibid.*). 3. If it is almost always kosher, it is permitted to taste to make sure (Shach, YD 42:4). However, the consensus is that it is forbidden to taste even a rabbinically prohibited, fully edible food by putting it into the mouth. This is even clearer if one is tasting it in order to enjoy the taste.

Therefore, for two reasons, you may not taste the non-kosher wine.



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# Ein Ayah

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

## Fit to Teach the Masses

(condensed from Ein Ayah, Berachot 9:288)

**Gemara:** “The man was, at the time of Shaul, an elder, who came with people” (Shmuel I:17:12). This is Yishai the father of David, who would go out with an *ochlusa* (a very large group), would enter with an *ochlusa*, and would teach with an *ochlusa*.

**Ein Ayah:** The great man who is fit to serve as a pillar of his nation is, by his nature, a communal person. Therefore, when he impacts on those who are out of his inner circle, it should influence a very large group, so that he helps the whole nation take the actions that they should. In the realm of thoughts, too, his ideas will be sought by many because he is not able to limit himself to small groups. It is appropriate that one whose offspring would form a dynasty of kings of Israel would be particularly focused on the communal/national and would cast light on the glorious nation as a whole.

The going out of Yishai refers to influence on others, the entering refers to impact on actions, and the teaching refers to the sharing of ideas that connect him to the lot of the nation, its happiness, and spiritual flourishing. This is the “came with people” to which the *pasuk* refers.

However, there is a condition. Such an influential person should be “an elder who came with people.” In other words, it is someone who already acquired much life experience and controls his various emotions. When youngsters, who still need to teach themselves morality, express opinions for the whole nation, this is potentially damaging. That is why “I will make youngsters your officers” (Yeshaya 3:4) is a curse. Only one with experience in addition to wisdom is fit to come among the masses and teach them.

## The Requirements for a Holy Convocation

(condensed from Ein Ayah, Berachot 9:289)

**Gemara:** We have learned: There is no *ochlusa* [upon which one makes the *beracha* of “*Baruch chacham harazim*”] in Bavel. We have learned: There is no *ochlusa* of less than 600,000 people.

**Ein Ayah:** In order to have an element of *klal* (communal) on the highest level, there need to be all the elements that turn a community into a full nation. In the case of Hashem’s nation, a specific Land and number of people are needed to be a great and holy nation.

The Land must be special in its holiness, its historical value, and its physical characteristics for its inhabitants to form an *ochlusa*. In Bavel, where the Jews are in exile, under foreign rule, they cannot form a nation. Communal affairs do not take on a national characteristic. The grandeur that accompanies nationhood and makes it appropriate to bless on the harmony between complementary elements of the different thoughts of the mass of people is thus missing in Bavel.

Even if there is an assembly in the Land, if there are not enough people to create a national context, it is not an *ochlusa*, which demonstrates Hashem’s greatness. 600,000 is the number that was needed to create a nation when we came out of Egypt. The requirements for nationhood remain over the generations, as there is always a requirement that Hashem’s Name be called upon us. There must be enough opinions and subgroups for the national identity to exist. With less than that, we lack the unique status to stand up with scorn to all our opponents.

When the number is present in *Eretz Yisrael*, then the stature of the House of Jacob can grow and we will be fit to receive and carry out the Torah as a nation before Hashem.



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## The Return of Equipment that Was Given or Lent – part I

(from rulings of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff's (=pl) daughter-in-law (=dil) worked in a preschool run by the defendant (=def). Over the years, pl presented the school with thousands of shekels of equipment. After several years, dil left the school and the field of early childhood, after which pl demanded return of the equipment. Def objected, as she viewed the equipment as a donation, based on which she had thrown out old but usable equipment. Pl insists that she told def before the donations began and over the years that it was just on loan. At some point, pl threatened def that she would bring workers to take the equipment, relenting only when def agreed to sign a letter acknowledging the equipment was a loan that would be returned if and when a close relative of pl would start a preschool. A year later, pl's daughter planned to open a preschool. Def sent some equipment in a manner that pl describes as too late (allegedly contributing to the inability of the daughter to open the pre-school), partial, and damaged. Pl now demands payment for the lent materials, which she thinks are no longer in good enough condition to take back.

**Ruling:** Def insists that pl did not clearly state before giving the equipment that it was a loan during dil's employment. She does not preclude the possibility that this was pl's intention, at some point. She acknowledges that pl's son said that pl made it clear to him at some point that this was her intention, and def admits he is very honest.

There is a general rule that *devarim shebalev* (thoughts one did not stipulate) are not impactful in interactions with others (Kiddushin 49b). The question is whether that is because the other side can deny he had that intention or whether an intention alone is valueless even if it can be proved that it existed. This is relevant here if def believes pl's son about his mother's intention. This point is the subject of a *machloket* between *Rishonim* (see Mordechai, Ketubot 254) and *Acharonim* (see Chelkat Mechokek 42:4 and Chacham Tzvi 115). The more accepted opinion is that *devarim shebalev* do not impact an agreement even if they existed. In this case, pl's case is strengthened by the opinion cited in the Rama (Choshen Mishpat 207:4) that regarding presents, *devarim shebalev* count. Furthermore, def does not dismiss the possibility that pl expressed her intentions, just that it was in a manner that she either did not hear or did not internalize. Furthermore, it is not clear that our case is one of *devarim shebalev*, which is usually employed to undo a transaction that occurred under certain circumstances. In this case, according to pl, there never was a present.

While it would be difficult for pl to extract money based on her claimed but unproven intentions, def's written admission is pertinent. One is not able to claim that a signed, written admission is invalid based on different claims that it was not sincere (Shulchan Aruch, CM 81:17). Therefore, *beit din* holds def to the contents of the admission (that the equipment was borrowed) according to its conditions (that the lending period was until pl's close relative opens a pre-school).

[We will continue next week with other elements of the case.]



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