



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Vayigash, 9 Tevet 5777

More on MtDNA

Harav Yosef Carmel

Last week we surveyed the scientific background of how mtDNA can be used to indicate a matrilineal descent from the Jewish women from whom a large part of Ashkenazi Jewry descends. This week we want to outline the halachic analysis on the extent to which this can be a tool in trying to rule on the Jewish status of a person who lacks full proof without it. (Those who want more information can request it by writing to us at info@eretzhemdah.org.)

The Shulchan Aruch (Even Haezer 17) says that, Rabbinically, we are not able to rely on *rov* (indication based on majority) as proof of a husband's death so that his wife can remarry. For example, one who was known to have been on a ship that sunk in water "whose ends cannot be seen" and was not found thereafter cannot be presumed dead, even though a majority of people who are in such a situation and are not heard from are dead (see Yevamot 121a). However, it is possible to rely on a *siman muvhak* (a particularly convincing sign) to permit the wife. For example, if an otherwise unrecognizable body was found on shore near the shipwreck with six fingers on its hand, when the husband had six fingers, we can permit the presumed widow to remarry (Shulchan Aruch ibid. 24). Most contemporary *poskim* rule that one can rely on identification based on DNA of a deceased who was found, a fact that was used in permitting some of the widows of the Twin Towers.

Regarding determining one's status as a Jew, it is possible to rely on *rov* (see Pesachim 3b and Yevamot 47a and Tosafot ad loc.). Thus, by comparison, it is clear that one is allowed to rely on a *siman muvhak* for determining Jewish status. If it is possible to say that the mtDNA test is a reliable indicator of matrilineal Jewish descent or at least a strong *rov*, then it would be possible to halachically rely upon it, if the check is done by a reputable genealogical laboratory.

We have been working hard, in partnership with an important *beit din* in the F.S.U. and with leading scientists, to research the evidence on this matter intensively and responsibly. If we determine that the answer is affirmative, we will call upon leading halachic authorities and the Chief Rabbinate of Israel to call upon the Israeli government to turn the implementation of this research into a national project. As stated, this would be able to help many (from within a group of 300,000 to 500,000) with no other evidence, or at least with some but insufficient, halachically recognized evidence of their Jewishness.

Let us pray that we will be successful in helping in this painful issue.

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Ask the Rabbi

by Rav Daniel Mann

Serving as *Chazan* on the Shabbat Before a *Yahrtzeit*

Question: How important is it for someone to be *chazan* on the Shabbat before a *yahrtzeit*? Is it just for parents, or also grandparents/in laws? Some people in my [the rabbi] shul feel that people use it as an excuse to “grab the *amud*.”

Answer: Although many shuls have this issue, the best solution differs based on resources, personalities, and character and needs of the shul. While we will provide sources and generic advice, local wisdom and sensitivity is crucial.

Reciting *Kaddish* and serving as *chazan* are a merit for the deceased, who cannot create his own merits but gets them through his descendants (see Divrei Sofrim, Aveilut I, p. 340-342 at length). During the first year after death, the deceased needs the most help. *Yahrtzeit* is both a time of potential improvement of his status (Arizal, cited in Gesher Hachayim I, p. 341) and a potentially difficult day for surviving children (Levush, Yoreh Deah 402:2). Due to the first reason, the logic of *davening* is the same as during *aveilut*, and one with a *yahrtzeit* for a parent is a relatively high-level *chiyuv* (Rama, YD 376:5).


The sources on serving as *chazan* the Shabbat before a *yahrtzeit* are more recent (there are earlier sources about *aliyot*). The *minhag* is cited in important works of the last century (Kaf Hachayim, Orach Chayim 53:23, regarding *Kaddish*; Gesher Hachayim 32:2; Kol Bo Al Aveilut, p. 401). One reason given is that every Shabbat the *neshama* is elevated, and the merit of the *mitzva* on its behalf may keep it in that state until the upcoming *yahrtzeit*. However, the Gesher Hachayim writes that this *minhag* is superseded by other *chiyuvim*. There are also different opinions whether it applies just to *Musaf* and *Maariv* of *Motzaei Shabbat* or to all *tefillot* (see P’nei Baruch 39:2). There is a value for a grandson or a son-in-law to stand in for the deceased if no son is doing so, but the level of their “*chiyuv*” is lower (Pitchei Teshuva, YD 376:7). Thus the *chazanut* “rights” on Shabbat before *yahrtzeit* vary, depending on the case, from moderately low to very low.

Even regarding full *chiyuvim*, a community has the right to decide that concern for the quality of *tefillot* warrants not having non-mourners serve as *chazanim* even during the week (Mishna Berura 53:60). This, of course, should be done for the right reasons with a fair and clear process, and this is not standard practice during the week (see *ibid.*).

In an ideal community with perfectly understanding people, an upcoming *yahrtzeit* would justify timing the turns of an “accepted *chazan*” on such Shabbatot. It might also justify allowing borderline candidates one or two Shabbat *tefillot* annually. It should not be something one can automatically demand. While mild pressuring for the opportunity to serve as *chazan* is not as severe one who “takes the *amud* by force” (see Rama, OC 53:22), it is frowned upon even with reasonable intentions (Mishna Berura 53:65). An upcoming *yahrtzeit* does not at all justify pressuring a *gabbai*.

Nevertheless, there are important halachically recognized concessions to accommodate the feelings of one who wants to honor/aid a relative’s *neshama*. Our issue should not be an exception. While the congregation’s desire for a better *chazan* is legitimate and sometimes important, these preferences are not usually critical in nature and do not erase the importance of another’s feelings. How does it feel to not only be regularly passed over when choosing a *chazan* (people often consider themselves better *chazanim* than others do), but to get the message that: “You aren’t even good enough to be *chazan* before *yahrtzeit*”? The rabbi/*gabbai*’s job is to strike the best possible balance regarding the needs of all.

We suggest a few generic pointers. 1. Consistent rules (e.g., a maximum of one *tefilla* per Shabbat) make things easier. 2. Absolute consistency might be counterproductive. We suggest one possible system. Every member gives in a list of *kibbudim* requests for the year rated according to priority for him. The *gabbai* should decide how to come closest to accommodating him.



We are happy to present our third volume of "**Living the Halachic Process**". The book offers a compilation of questions and answers from our "Ask the Rabbi" project. A companion CD containing source sheets for the questions is also available. The volumes can be purchased through our office at the special rate of \$24. **Special offer: buy two out of three for \$37 or, buy all three volumes for \$54**

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Ein Ayah

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

Vayigash

Internal Recognition of Purity and Impurity

(condensed from Ein Ayah, Shabbat 2:288)

Gemara: Rabbi Shimon asked: "Is there something that needs to be remedied?" They said to him: "There is a place where there is a *safek* (question whether there is a halachic problem) of *tumah* (impurity), and it causes the *kohanim* distress to detour around it." Rabbi Shimon said: "Is there anyone who determined places of purity here?" An old man said: "Ben Zakkai (a great rabbi who was a *kohen*) did agricultural work with a *turmos* fruit of *teruma*." Rabbi Shimon did the same thing [*he did something with a turmos, although there are different opinions exactly what*]. Everywhere that the earth was hard, he pronounced as pure, and everywhere that was soft, he marked [as impure because the grave that was there rose].

Ein Ayah: The external course of affairs needs to correspond to that which is internally desired. The internal goal at the time [that Rabbi Shimon left the cave] was to restore the stature of the generation, which had been lowered, until it reached at least the level that existed in the previous generation of Ben Zakkai. For that reason, Rabbi Shimon performed an action that resembled that which Rabbi Yochanan ben Zakkai had done.

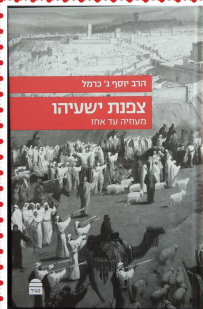
The action was taken in order to have the generation elevated to the point of increased light where it was not necessary to enter into toil in order to deal with questions of halachic doubt (see Ein Ayah, Shabbat 2:286). Rather, the light would make it appropriate to focus the light of Torah on a path of certainty and clarification. The attempt to embark on such a course of removing doubt needs a lot of work to implement because of the presence of people for whom it is foreign, who cannot appreciate the depth of the strength of the new light. They may think that the goal of the ruling is to be lenient for the purpose of allowing something which was assumed to have been forbidden. This could cause people to take lightly the notion of careful concern for *mitzvot*.

The unique *turmos* fruit was thus a good metaphor for the idea being applied. *Turmos* requires more preparation and cooking than all other fruits. After this is accomplished, the bitter turns into sweet, and it can be served as a desert that leaves an especially good taste.

The way that the spirit of Hashem, which flows to those who fear Him, elevates the soul does not require a great quantity of miracles or philosophical inquiry. The important thing is the quality of that which is perceived with tremendous belief in the hearts of the upright upon whom Hashem's light shines. The same inquiry that leaves in doubt one who lacks a strong spirit, will be understood clearly as correct by a man of G-d. "The path of the righteous is like the light that radiates, and it will continuously give light until the day is at its brightest" (Mishlei 4:18).

This situation of light is not only connected to logical intellectual and abstract recognition. Rather, it is connected to all ways of life and to the physical body and the spirit to the point that it brings the greatest closeness to Hashem that is humanly possible. It is so powerful to the extent that it gives the *tzaddik* the ability to make decrees and have them come true (see Iyov 22:28). A simple miracle is enough to demonstrate this point.

Therefore, whatever place in the ground was hard was pure, and every place that became soft he marked as impure because it connected to the quality of the internal recognition that cannot be identified with external signs. Such a state of affairs already brings about wondrous things as "the King's word is dominion" (see Kohelet 8:4). "Fortunate is the one whose strength comes from You" (Tehillim 84:6).



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

Sub-Par Guest House Experience? – part I

(based on ruling 73030 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) runs a guesthouse, which hosted a group of students in a program organized by an informal education resource organization (=def). Def's representative #1 (later replaced by rep. #2), who had stayed at the guesthouse before, negotiated after receiving a brochure about pl's services. The group came for Shabbat with approximately 40 people for a price of 4,500 shekels for lodgings and 2,500 shekels for food, after giving a 3,500 shekel down payment. The group came closer to Shabbat than envisioned, without the group's leader, and complaints were raised about lack of room. Some students were supposed to sleep on mattresses, and bedding was available, but many did not find them and slept without bedding or on the floor. The same is true of disposable utensils. Food was available for seuda shlishit as well, but the group did not take it. A representative of pl testified that on Friday, he showed a school staff member where all provisions were. Another major complaint was that pl did not have a kashrut certificate. (Some of the staff and of the girls did not eat pl's food for that reason or because they did not like it). On Motzaei Shabbat, def refused to pay the fee's balance (3,500 shekels) due to the things they claimed were missing (some will be mentioned in the ruling). Def is countersuing for 6,500 shekels – for return of the down payment and for the cost for an apartment that a staff member took for his family when he saw there was no room for them. While there were issues to be worked out between the school and def, they were not brought before beit din.

Ruling: We will begin with two points that explain a major cause of the confusion that existed over Shabbat. The representative who made the reservation, discussed details, and had experienced the guest house, did not make the final arrangements. Second, def did not send a representative to smooth out any issues before and during Shabbat, but relied on the school to handle things with pl, between whom there had been no previous discussions. Therefore, there were conflicting expectations, and they were not handled openly or effectively.

There are two general criteria for what a service provider must live up to: 1. that which was agreed to explicitly; 2. in the absence of agreement, normal standards within the society in question.

Kashrut certificate – when the proprietor is an unquestionably religious person, not always is there a demand that he have a formal kashrut certificate. No one claimed that they personally asked pl whether he had one or that he had said he did. He only said that the food is kosher. When the issue arose between the school and pl, he showed them the packages of the packaged food, and indeed they all were kosher supervised, and he claimed to have done all the cooking. The rabbi of the group said that under the circumstances, it was permitted to eat, and therefore, whoever did not eat cannot blame it on pl. There were no indications that the food was not edible to a reasonable degree.

We continue with further discussion next week.

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