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# HEMDAT YAMIM

## Parashat HaShavua

Beshalach, 15 Shevat 5777

### More on the Price of Disunity

Harav Yosef Carmel

Last week, we introduced the idea that the lack of full cooperation between Yosef and Yehuda prevented the early Exodus from Egypt. We continue with this basic theme this week.

*Chazal* (see Sota 36b) tell us that at the critical moment, right before the splitting of the Sea, the various tribes were in competitive mode. Rabbi Meir relates the following, based on his understanding of Tehillim 68:28. When Bnei Yisrael stood by the sea, each tribe claimed that they were going to jump in first. The Tribe of Binyamin went in first, and the Tribe of Yehuda stoned them. That is why Binyamin merited hosting the Divine Presence in the *Beit Hamikdash*. Rabbi Yehuda had a different version. Each tribe was trying to avoid going in. Since Nachshon, head of the Tribe of Yehuda, was the first, they merited having dominion in Israel, as it says: "Yehuda was for His holiness, Israel was for His kingdom" (Tehillim 114:2). Why did Yehuda have this kingdom? Because the "sea saw and fled" (ibid. 3).

We see, in this *midrash*, two disagreements. The first is between the sons of Leah, represented by Yehuda, and the sons of Rachel, represented by Binyamin, as to who would rule. The second is a disagreement among *Tannaim* as to who received the leadership. The correct situation is as we discussed last week – the descendants of the two should lead in partnership. Let us illustrate the importance of such partnership with the help of *Sefer Shoftim*, from which this week's *haftara* is taken.

Almost everyone agrees that the era of the Judges was a low point in the history of *Bnei Yisrael*. One can see a spiritual deterioration throughout, with a central characteristic being the lack of unifying leadership. *Shoftim* begins (see *Shoftim* 1:27) where Yehoshua ends off (see *Yehoshua* 14:12) – with the failure of the tribes to capture the entire Land which Hashem gave to them. In this context (*Shoftim* 1:1), Hashem answered the question as to who should lead the battle to liberate the land with "Yehuda shall go up." The Sons of Yehuda asked the Sons of Shimon to accompany them; they did not ask a tribe descending from Rachel. In that way, they continued the mistake that started in *Sefer Bereishit*, where enmity toward Yosef led to his selling.

The Sons of Yosef also made mistakes in this realm. The Tribes of Menashe and Ephrayim went to fight the enemies (ibid. 22) without inviting the descendants of Leah to take part. Kalev and the Tribe of Yehuda captured Chevron, and the question is why Yehoshua Bin Nun, the leader of the nation and of the Tribe of Ephrayim, was not involved in helping his old partner, with whom he had worked against the other spies. The answer seems, again, to be a lack of unity.

At this time of international attempts to harm the standing of the State of Israel and of terrorists to carry out hideous crimes against men, women, and children, let us recall that unity that stems from a willingness for joint leadership always brings good outcomes.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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# Ask the Rabbi

Beshalach

by Rav Daniel Mann

## Kashrut of a Tea Bag Holder

**Question:** I have a porcelain tea bag holder (small saucer on which you put a tea bag after removing it from the tea). May I use it alternately for *pareve* tea served in both *milchig* (e.g., used for coffee with milk) and *fleishig* cups (e.g., used for chicken soup)?

**Answer:** Let us analyze your question. If a tea bag becomes *fleishig* in a *fleishig* cup, perhaps it makes the holder *fleishig*. Then, possibly, another tea bag could similarly become *milchig*, and *treif* up the holder and/or have the holder make the tea bag *treif*. It would then presumably be forbidden to reuse the tea bag. (We will skirt the issue of whether it is a problem of cooking *basar b'chalah* even if not reusing the tea bag, which should not be a problem here - see *Pri Megadim*, Siftef Da'at 87:19).


We start by analyzing the status of *pareve* tea that is used in a *fleishig* (or *milchig*) tea cup. In general, the tea can pick up *fleishig* taste on the level of *nat bar nat* (twice removed taste, e.g., from the chicken soup into the cup, then from the cup into the tea). The *gemara* (Chulin 111b) cites a *machloket* whether hot fish that was placed on a *fleishig* plate may be eaten with *milchig* sauce. While many "know" this to be a *machloket* between Ashkenazim (stringent) and Sephardim (lenient), this is inaccurate. All actually agree that in the *gemara's* case, the fish may be eaten with *milchig* food (Shulchan Aruch, Yoreh Deah 95:1). The stringency of the Rama (YD 95:2)/Ashkenazim is when the *pareve* food was cooked or roasted in a *fleishig* pot. In that case, a more powerful taste is transferred than when hot fish is put on a *fleishig* utensil, where no flame is present. Our case is equivalent to that of the *gemara*, as putting hot water into a *fleishig* cup will extract no more than *nat bar nat* taste, which all agree remains *pareve*.

However, the matter is not that simple. Many say that even according to the Shulchan Aruch, who says that *pareve* food with *nat bar nat fleishig* taste can be mixed with milk, that is only once the *nat bar nat* food exists. However, one should not purposely put hot *pareve* food in a *fleishig* utensil if he plans to eat it with milk, (see *Pri Chadash* 95:1; *Kaf Hachayim*, YD 95:1; *Yalkut Yosef* is lenient). The idea is that we do not rely on *nat bar nat* on a *l'chatchila* level. In your case, you are ostensibly asking whether you can use the holder *l'chatchila* in a way that the foods will remain kosher only because of *nat bar nat*, raising this problem.

One could claim this depends on the following *machloket* among *Acharonim*. Ashkenazim are allowed to put "meat-equipment" *pareve* food, which they may not eat with milk, into a *milchig* utensil (Rama, YD 95:2). If you know you in advance you want to put a *pareve* food into an empty *milchig* utensil, may you cook it first in a *fleishig* pot, or is that using *nat bar nat l'chatchila*? The *Pri Megadim* (MZ 95:4) and *Badei Hashulchan* (95:30) rule stringently, and the *Bach* and *Igrot Moshe* (YD III:10) are lenient. Your case sounds the same – you want to use *nat bar nat* to allow a hot food to be exposed both to *fleishig* and *milchig* utensils.

Still, **there is no problem** for the following reason. The stringent *poskim* discussed cases where the *milchig* and *fleishig* utensils were truly that. In contrast, the holder always remains *pareve* because all tea bags put on it were previously *nat bar nat*. Therefore, all should agree that one can even set up the situation *l'chatchila*, by using the same holder.

There are further possible grounds for leniency, especially the fact that the heat sources that might transfer taste from cups to tea bag and between tea bag and holder are once or more removed from a flame. Water poured into the cup is *iruy mikli rishon*, the tea bag often enters at the point of *kli sheni* and the hot tea bag is removed from the *kli sheni* before going to the holder. There is much to discuss on these topics, but the matter is permitted fundamentally anyway. (If the holder lost its *pareve* status by direct contact with *milchig* or *fleishig* food, these issues could be relevant.)



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# Ein Ayah

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

## Avoiding Direct Disagreement

(condensed from Ein Ayah, Shabbat 3:1)

**Gemara:** Rav Zeira was avoiding Rav Yehuda because he wanted to move to *Eretz Yisrael* [which Rav Yehuda opposed].

**Ein Ayah:** There are, in a person's soul, truths that he can acquire only by study and deep investigation. There are also truths that are imbedded in the depths of the soul that are more exalted than anything that can be studied or taught.

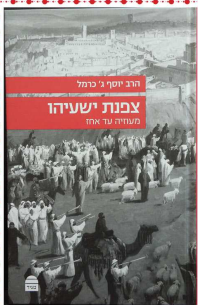
The important relationship between a teacher and a student relates to the category of truths that are acquired through study. There are other elements of wisdom, which a person acquires in a manner that makes them set in his heart and soul through the nature which Hashem put in his spirit. This ability comes from a person possessing some of the sanctity of Avraham Avinu, who learned without having a teacher. *Chazal* tell us that Hashem "made his two kidneys like two teachers, and they taught him wisdom."

When one comes to this high level and needs to make a personal decision, he finds himself equipped with a rare power to reach truth. At that point, he is on a higher level than he can receive from a teacher or mentor because his spirit is lit with a divine light, which is the source of wisdom. Even so, the great person who is inspired in this way has the obligation to consider the possibility that the truth that is beyond that which he can learn in classic ways, may be one which is appropriate only for him personally. In that case, the general approach, which most people are to follow, is the one that is taught in the normal way by his teachers, with the student acting in a humble manner in which he accepts the authority of his teacher.

Indeed the great Rav Zeira possessed the flame of holy desire to move to *Eretz Yisrael*. His spirit was already at its peak and had made the holy internal decision that emanated from the depths of his heart. The divine voice had already called out powerfully to him, so that he was above the place at which he should accept the opinion of his teacher, Rav Yehuda. He was prepared to move to *Eretz Yisrael* against Rav Yehuda's opinion. However, Rav Zeira never forgot the obligation to give the proper respect for his teacher, which is the foundation of the world, in all generations and all times, for all people and regarding all matters.

That is why he arranged things in a manner that it would be clear that he very much respected the great opinion of his teacher. He wanted to be careful not to violate Rav Yehuda's words, even though the desire to move to *Eretz Yisrael* had become the center of his life in the present and for eternity and was the source of his lofty inclination. He, therefore, avoided Rav Yehuda so that it should not seem that he was acting in a rebellious manner toward him. Rav Zeira knew that there was significant place for Rav Yehuda's opinion and that this was even a more generally correct approach than the one he found right for himself personally.

By avoiding Rav Yehuda, he was able to avoid facing him in a "narrow passageway" in a manner that he was contradicting his teacher's words due to what he saw as a divine decree to personally act to move to *Eretz Yisrael*. Therefore, while Rav Zeira need not and could not listen to Rav Yehuda, he wanted Rav Yehuda's protest to remain general and not be directed specifically toward him. In that case, Rav Zeira was removed from the group of regular people and above them. "In love for her [*Eretz Yisrael*] will you always be occupied" (see *Mishlei* 5:19).



### 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 Chizkiyahu.

"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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## Suing for a Car Accident in Beit Din or in Secular Court

(based on ruling 75073 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) sued the defendant (=def) in *beit din* for causing a traffic accident that damaged his car. *Def* says that he is not a party to adjudication, as *pl* can sue his insurance company, who accepts responsibility for damages, but *pl* wants to sue *def* personally. *Def* complains that since the insurance company rejects adjudication in *beit din*, any award made in *beit din* will have to come personally from him.

**Ruling:** Should *pl* have wanted to sue the insurance company, who see themselves as the defendants in such cases, directly in secular court, he would be allowed to do so because these companies consistently refuse to adjudicate in *beit din* (see Kesef Hakodashim 26:1). After *pl* sued *def* directly in *beit din*, can *def* deflect *pl* to the insurance company and thus to secular court? While we understand *def*'s desire to not lose insurance coverage, is that grounds to prevent *pl* from suing him in *beit din*?

Our position is that *def* has a right to pass the obligation over to the insurance company for the following reasons. First, the intention of everyone who uses the road is that in a case of an accident, the damager can involve his insurance company. This is the custom of society including G-d-fearing people.

Does this custom have halachic validity, considering that a custom to go to a non-Jewish court is invalid (Shulchan Aruch, Choshen Mishpat 26:3)? The S'ma (ad loc.) points out in that context that according to the Rosh, if sides made a *kinyan* obligating themselves to go to non-Jewish court and there are rights that one can receive only there, it is permitted to go. Our case of an agreement with the insurance company is similar, despite the distinction that the agreement is not between the litigants. Other *Acharonim* differ whether to accept the S'ma (Netivot Hamishpat 26:10) or not (Taz, Aruch Hashulchan) or whether it depends if the *kinyan* was made before or after the dispute arose. While generally we would not rule based on this S'ma, we can use it to justify the *minhag*.

The Maharshach (II:229) similarly justified the *minhag* to adjudicate before arbitrators of a professional group because the sides interacted based on that assumption. While there is a difference in that there, the adjudication is a result of an existing agreement between the sides and here the nature of the adjudication is about independent damage payments, the principle is still applicable.

The existence of insurance to cover people who lack the ability to make large payments without financial collapse is positive. If religious people would be prevented from using them due to a prohibition to go to secular court, this would cause great damage to the community. This will change only when there will be insurance companies that allow adjudication in *beit din*.

Furthermore, a reason given for the prohibition of going to secular court is that it gives it seniority over *beit din* (see Rashi, Shemot 21:1). This does not apply to *def*, who would adjudicate in *beit din* if it would not cause him great loss. This is similar to the *gemara*'s (Gittin 44a) permission to go to non-Jewish court to avoid great loss (see also, Rav E. Bazri in Orayta 17).

Therefore, we cannot require *def* to adjudicate in *beit din*. *Pl* may receive from the insurance company any award made by the court, since the company accepted upon themselves to pay under such circumstances (see Darchei Hora'ah, vol. V & VI).

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