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HEMDAT YAMIM

Parashat HaShavua

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Brit Bein Hab'tarim to Kriat Yam Suf – The Connection to Yom Ha'atzmaut (part 2)

Harav Yosef Carmel

Last week we illustrated the similar language the Torah used to describe *Kriat Yam Suf* and the *Brit Bein Hab'tarim* with *Avraham Avinu*. *Chazal*, who saw this connection, instituted in Ma'ariv the following *nusach* to describe *Kriat Yam Suf*: "He who passed his children through the strips of *Yam Suf*". *Chazal* used the word (*gezarim*) that is connected to *Brit Bein Hab'tarim*. Furthermore, we saw an explicit *pasuk* connecting these two events by describing the sojourn in Egypt for a period of four hundred thirty years, which was counted from *Brit Bein Hab'tarim*.

After Hashem promised Avraham that he would inherit the land, Avraham asked: "How will I know that I will inherit it?" (Bereishit 15:8). The Torah commands to settle *Eretz Yisrael* as a positive commandment according to the Ramban. "And you shall conquer the Land and dwell in it, for I have given the Land to you to inherit it" (Bamidbar 33:53). The Ramban writes: "In my opinion this is a Torah commandment. He commanded that they live in the Land and inherit it, for Hashem gave it to them, and they should not despise it. If they contemplated to conquer the Land of Shinar or Assyria, a land not belonging to them, they would be transgressing a positive commandment...and this *mitzva* repeats itself numerous times, as it says: "Come and inherit the Land" (Devarim 1:8). But Rashi explained the *pasuk*: If you are able to remove its dwellers from there, then you will be able to settle it; but if you do not, you will not be able to settle it."

Why did the Ramban prefer his explanation to Rashi's? We suggest the following. At the time of *Brit Bein Hab'tarim*, Avraham was an important person in the Land and even conquered the four kings to free his nephew Lot. Nevertheless the true ruler of the Land was Pharaoh of Egypt, and local kings were his vassals, as is recorded in the letters of Tel el Amarana. Pharaoh even judged between kings when there was a dispute and protected them from foreign enemies.

Therefore Avraham asked Hashem: Even if my children dwell in this Land, they will still be subject to the Egyptian empire, with all its implications, meaning that a critical ingredient of national life will still be lacking. When will *Am Yisrael* finally be free to fulfill the *mitzva* of settling the Land in its full sense? When and how will they get an independent state?

Hashem answered Avraham that only after four hundred years from the time of the beginning of the covenant regarding progeny (i.e., Yitzchak's birth), the *brit* will be re-enacted on a national level when *Am Yisrael* would walk between the strips of *Yam Suf* and the connection to Egypt would finally be severed. Until Pharaoh's army was drowned, complete freedom was still in doubt.

The Ramban's explanation may be based on the connection between the words "*Irashena, Vhorashtem, Lareshet*" and the *pasuk* after the giving of the Torah at Sinai where it is stated, "Come and *reshu* the Land that I promised to your forefathers" What was promised at *Brit Bein Hab'tarim*? This is the deeper spiritual connection between the seventh day of Pesach and Yom Haatzmaut, which is already hinted to in the "*at bash*" alphabetical code.

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Ask the Rabbi

by Rav Daniel Mann

Missing the Beginning of *Havdala*

Question: This week, I did not hear the *beracha* of *Borei Pri Hagafen* during *Havdala*. Was I required to hear *Havdala* again?

Answer: Clearly the most important *beracha* of *Havdala* is the final one of *Hamavdil*, which contains its basic content. The *berachot* on *besamim* and on fire are not crucial obligations (Shulchan Aruch, Orach Chayim 297:1; *ibid.* 298:1), and while they are preferably attached to *Havdala*, they can be said at other times as well (Rama, Orach Chayim 298:1). Thus, if one did not hear those *berachot*, it does not affect *Havdala* (Mishna Berura 298:3), but he should make the *berachot* when he is able to during the course of the night.


In contrast, the cup of wine that one uses for *Havdala* is part and parcel of the *mitzva* on a Rabbinic level. Realize that normally we have already fulfilled the Torah-level *mitzva* of *Havdala* previously, during *Ma'ariv*. We recite *Havdala* again in order that the second time it will be with wine. In your case, on the one hand, you heard the *beracha* of *Havdala* recited by one holding a cup of wine. On the other hand, you did not hear the *beracha* of *Borei Pri Hagafen* on that wine. Is that lacking enough to prevent you from fulfilling the *mitzva* of *Havdala*?

The Magen Avraham (296:10; see Pri Megadim ad loc.) discusses one who heard a complete *Havdala* but had in mind to include himself in the *beracha* of *Hamavdil* but not of *Borei Pri Hagafen*. He says that such a person fulfilled the *mitzva* of *Havdala*, just that he cannot drink the *Havdala* wine without making a new *beracha*. The Mishna Berura (296:33) explains that whereas *Hamavdil* is the essential *beracha* of *Havdala*, *Borei Pri Hagafen* is needed only to enable one to drink the wine.

Several *Acharonim* (including Shulchan Aruch Harav, OC 172:(2); Igrot Moshe, OC III:45; Chelkat Yaakov I:91) demonstrate the extent of this distinction's cogency by comparing the *beracha* structure to that of the parallel *mitzva* of a holy declaration performed on Shabbat over a cup of wine – *Kiddush*. The Shulchan Aruch (OC 271:4) posits that one who was in the midst of a meal in which he had already made a *beracha* on wine when Shabbat began makes *Kiddush* without reciting *Borei Pri Hagafen*. Admittedly, regarding *Havdala* during *seuda shlishit* that included wine, there are two opinions in the Shulchan Aruch (OC 299:3) whether one recites *Borei Pri Hagafen*. However, the stronger opinion is that he does not need to (see Mishna Berura ad loc. 10). In any case the issue is whether *Havdala* is considered part of the meal (*ibid.*), and not whether *Havdala* counts without *Borei Pri Hagafen*, which it clearly does.

Your case, when *Borei Pri Hagafen* was said but you did not hear it, is no worse. There is even a question whether *Borei Pri Hagafen* is crucial for the one who makes *Havdala* and is not in the midst of the meal. Rav Moshe Feinstein (*ibid.*), based on the rule learned from the aforementioned Shulchan Aruch that the *beracha* is only important to allow one to drink, posits that if one mistakenly recited *Shehakol* on *Havdala* wine, he fulfills *Havdala*, as he is able to drink. He further proposes that even if one forgot to make any *beracha* but already drank the *Havdala* wine, he fulfilled the *mitzva*. (If one did not drink a sufficient amount of wine, there is uncertainty about whether he has fulfilled *Havdala* (see Shulchan Aruch Harav, OC 190:4; Shemirat Shabbat K'hilchata 30:36)).

Shemirat Shabbat K'hilchata (vol. III, notes to 60:(91)) cites Rav Auerbach as saying that since one needs to drink the wine and needs the *beracha* for that, *Borei Pri Hagafen* is a part of *Havdala* that listeners need to take seriously. However, concerning after the fact for one who missed it, Shemirat Shabbat K'hilchata (60:30) agrees that there is no need to hear *Havdala* again, and he cites several *poskim* who agree. This covers cases of one who came in after *Borei Pri Hagafen* was said, or he did not hear it or concentrate on it. While you would have needed a *beracha* before drinking the wine, there was, of course, no need for you to do so.



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Ein Ayah

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

The Miracles and Earning a Living!

(condensed from Ein Ayah Shabbat 5:4,5)

Gemara: It once happened that a man's wife died and left a baby who needed to be nursed. He did not have the funds to hire a nursemaid. A miracle happened, and he grew breasts and nursed his son. Rav Yehuda said: come and see how difficult it is to earn a living. For this person had a miracle done for him (by growing breasts), instead of receiving money in a miraculous way.

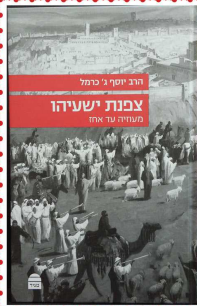
Ein Ayah: Hashem allows miracles to take place regarding specific areas that do not encompass all of life, for the way Hashem leads the world is through the law of nature – and this is of the highest order. We need to clarify whether something is more specific in its orientation, whereby miracles can be applied, or whether it is more general in its orientation and not appropriate for miracles to be applied. Specific issues that relate to a segmented part of reality can be adjusted at times with miracles.

The way Hashem created the world is with a need and drive for people to earn a living. This encompasses and impacts all of our lives and is built on a natural system that branches out and touches many facets of life. If this natural order would be nullified, life itself would be altered dramatically, and this would even impact on the vision and goal itself.

Hence earning a living has to be, by definition, difficult and intricate, involving many facets and aspects. The creation of wealth without these facets would cause a ripple effect on thousands of matters in the natural order. This would by necessity stray from the narrow road where a miracle can occur regarding a specific event or person. Therefore it would be more correct that Hashem do a miracle (such as a man growing breasts) and change his specific life rather than alter the ways of earning a living, which effects many lofty orders that are already correct in Hashem's design.

Besides the fact that earning a living is intricately connected to many general facets of life, additionally we need to understand that the concept of working for a living has moral and ethical underpinnings. The fact that one has to engage with all of his faculties, which are unique to themselves, in order to make a living highlights the connection to the goal and vision of justice and morality that Hashem tasked humanity with. Therefore, it is very unlikely that Hashem would use miracles to mingle in things that are fundamentally connected to free choice and morality. This, in essence, is why it would be easier for a miracle to occur and change the human anatomy rather than alter things that connect to the very purpose of creation.

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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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Independent-Minded Architect – part II

(based on ruling 74039 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) hired the defendant (=def), an architect, to draw up plans to add a floor to his house and get municipal approval. Def gave an estimate of 9,500 shekels, based on 30 hours to accomplish the tasks. They signed a contract along these lines, adding that the price can change according to the work needed. Def quickly exceeded the estimate, and pl initiated non-judicial arbitration. The arbitrator (=arb) made a compromise about the past, and set a price (4,176 shekels) for all future work until pl would receive his permit or pl would approve extra work. Def started a major new element of the job without consultation and charged pl 12,180 shekels for it before the permit was received. Pl went back to arb, who approved 8,000 shekels of the charge. Matters with the municipality became more complicated, and def asked for more money to deal with it. When pl refused, def stopped working, and the municipality closed the file. As a result, pl fired def and demanded a refund, claiming that def had failed to get the permit and made unreasonable financial demands. Def argues that pl's intervention in conferring with municipality officials undermined his efforts and that pl acknowledged that if the need for work increased, he deserved more.

Ruling: We must now determine who is to blame for def's stopping to work. Arb's second ruling states that def was to continue with no further charge unless pl was to agree to new responsibilities, which is one valid way to set employment rules for an architect. Therefore, def did not have a right to stop working.

Nevertheless according to *dayan* #1, def can keep the additional money he already received because pl contributed to the situation by being very uncooperative in def's work, which increased the time needed. Also, pl benefited from def's added work, as it clarified what further steps will be needed to complete the job. Halacha recognizes payment for incomplete benefit provided (see Shulchan Aruch, Choshen Mishpat 264:4). Since it is unfeasible to estimate, the best compromise is for def to keep the money paid (around 21,000 shekels).

Dayan #2 posited that while incorrect, def's reading of arb's unclearly written rulings was reasonable. Therefore, pl's unilateral cessation of def's employment was wrong. While in theory it would be best for def to resume work, this is impractical based on the sides' present relationship. Based on an estimation of the value of the work (details beyond our scope), def must return 5,000 shekels and will thereby be exempted from obtaining a permit for pl.

According to *dayan* #3, since the two sides agreed to arb's second ruling, it was unreasonable for def to have yet again created unauthorized charges and then breach his obligation by stopping to work until being paid more. In order for an individual to fire a worker, his shortcomings must have been repeated, be after warning, or cause damage (see Rama, CM 306:8). In this case, def failed all tests. It also cannot be proved that def's work will bring benefit when pl hires another architect to continue. Therefore, def should return everything except for what arb awarded him for past work in the first ruling.

Based on the overlapping of a majority of *dayanim*, the ruling of *dayan* #2 is accepted. When you shop at AmazonSmile, Amazon donates 0.5% of the purchase price to American Friends of Eretz Hemdah Inc.

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