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# HEMDAT YAMIM

## Parashat HaShavua

Vayeitzei, 9 Kislev 5779

### Who Could Yaakov's Brothers Be?

Harav Yosef Carmel

Last week we looked into the dangers of Jews becoming overly socially connected to the members of other nations. The issue comes to the fore again in this week's *parasha*.

After the confrontation and conciliation between Yaakov and Lavan, a feast took place between the two sides. The Torah tells us that Yaakov "called to his brothers to eat bread," which they did before retiring on the mountain (Bereishit 31:54). The question that the Rabbis ask is: who were these brothers of Yaakov? Different answers are presented.

According to the Midrash Zuta (Kohelet 9:11), it refers to the closest of Yaakov's relatives – his sons. To explain why his sons would be called his brothers, the *midrash* posits that since they were approaching his height, he referred to him as brothers. This explanation is difficult for two reasons. 1. The great age difference seems much more significant than the height similarity. 2. The Torah continues that they retired on the mountain and Lavan got up in the morning, which implies that there was some sort of connection between the two subjects of the story on this point, which there is not if it refers to Yaakov's sons.

The Midrash Sechel Tov (Vayeitzei 31:54) states that Yaakov's "brothers" were Lavan and his family, who were Yaakov's in-laws. This approach certainly does not have the difficulties that we raised on the Midrash Zuta's approach. But why does the Midrash Zuta prefer its explanation, despite its difficulties, to that of the Midrash Sechel Tov?

Apparently they could not accept the possibility that Yaakov would call members of Lavan's family, who were idol worshippers and cheats, his brothers. There would be a concern that such an act of drawing close would allow in negative influences (as we saw last week regarding Eisav's marriages to daughters of Chet).

Rashi managed to take the approach of the Sechel Tov and still avoid the problem that we raised. He says that the brothers were the members of Lavan's family who had developed a good relationship with Yaakov. Apparently, they were compelled to chase Yaakov along with Lavan, but they were good, honest people. Very possibly, they were influenced by Yaakov and were monotheistic. Therefore he could call them brothers. The Ramban posits like the Sechel Tov. The Radak explains that once they had made a treaty, he could refer to all of them warmly. We can discern in the different opinions clear approaches as to whom one can draw close to and perhaps when one can make treaties with members of other nations. We will continue this theme next week, based on a question which arose in the time of David Hamelech.

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# Ask the Rabbi

by Rav Daniel Mann

## Do the *Chatan* and *Kalla* Need to Eat at *Sheva Berachot*?

**Question:** Must the *chatan* and *kalla* eat (bread) at *Sheva Berachot* (upper case for the week and the meal; lower case for the *berachot* recited) in order to recite the *berachot*? (Sometimes one does not feel well and eats little or nothing.)

**Answer:** There are several issues, which we will only be able to touch upon, that lack a consensus among classical *poskim*.

Two overlapping but distinct halachic elements of the *Sheva Berachot* period (usually a week) are pertinent to our question. One is an obligation of *simcha* (a week if it is a first marriage for the *kalla*, three days if she was previously married), in which the *chatan* must not work but focus on making the *kalla* happy. The other is that during these days, *sheva berachot* are to be recited when applicable.

A *minyan* is required to recite *sheva berachot* (Ketubot 8a). It is done specifically following *Birkat Hamazon* of a meal done in celebration of the marriage (Shulchan Aruch, Even Haezer 62:4). There are different opinions as to how many of the participants have to have eaten bread, which necessitates the *Birkat Hamazon* after the meal – the most prevalent opinion is seven (see Yabia Omer III, EH 11; Nitei Gavriel, Nisuin 102:2).

Does the couple have to be among those who had a full halachic meal? Several *Acharonim* discuss the matter. Rav Shlomo Kluger (Haelef Lecha Shlomo, Orach Chayim 93) posits that even at the wedding, if the *chatan* does not *bentch* with the others, *sheva berachot* cannot be recited. The logic is that the celebration (including the *seudat mitzva*) must include the *chatan* for the *berachot* to be relevant. This is not unanimously held. The Radbaz (Shut IV:249) justifies a *minhag* that the *chatan* would not eat during the wedding, but would do so with the waiters after the wedding and that *sheva berachot* would be recited at both meals. Nevertheless, most *Acharonim* (see Tzitz Eliezer XIII:99) accept Rav Shlomo Kluger's ruling.

What is not as clear is whether this applies to the *kalla* as well. Rav Kluger (and the Tzitz Eliezer *ibid.* and Hillel Omer, OC 63, who cite him) writes not to make a *beracha* if the *chatan* did not eat bread, but does not mention if the *kalla*'s not eating would cause the same result. If the *kalla* is equivalent, we can still ask: is one eating enough or are both required? Let us search elsewhere.

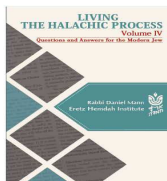
The couple's presence is needed, even if eating is not. The Ritva (Ketubot 8a) says that *chatan/kalla* must both be present at the celebration to recite *sheva berachot*. The Ran (Sukka 25b) writes that it suffices for the *chatan* or the *kalla* to be present at the place where the *sheva berachot* are recited. Neither distinguishes between the *chatan* and *kalla*. Rav Ovadia Yosef (Yabia Omer *ibid.*) assumes there is no reason to distinguish and posits that it is critical for both of them to eat bread (Nitei Gavriel *ibid.* 5; Hanisuin K'hilchatam 14:86 concur). The Maharam Shick (EH 90) does distinguish, saying that the *berachot* relate to the *mitzva* of marriage, which is incumbent specifically on the *chatan*. Note that while the *simcha* element is for the *kalla*'s benefit (see Rama, EH 64:2; Chelkat Mechokek 64:1), the *sheva berachot* relate more to the *chatan* (*ibid.*).

It is undoubtedly proper policy for the *chatan* and *kalla* to eat bread at *Sheva Berachot*. However, we see that it is not unanimous that this is absolutely required. Considering the possibility that the *kalla* is not critical in this regard and that her feelings are to be respected (always, but especially this week), if she does not feel up to eating bread, she should not be coerced to do so. (In most cases, refusing to recite *sheva berachot* would be embarrassing and, effectively, coercion). Even regarding a *chatan* who did not wash when the *kalla* did, we would not recommend "protesting" if people are planning to recite the *sheva berachot* anyway (see Sova Semachot 1:(100)).

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# Ein Ayah

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

## The Importance of the Desire to Understand the World

(condensed from Ein Ayah, Shabbat 6:12)

**Gemara:** One who knows how to calculate the seasons and track the constellations and does not do so – it is forbidden to speak with him.

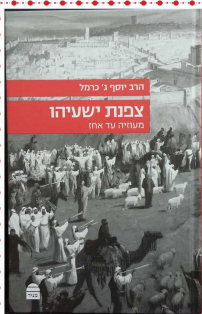
**Ein Ayah:** The spiritual desire to adorn the human soul with crowning glory engraves in a person the seal of the divine form and gives the human spirit its unique character. This continues until the point that speech that breaks forth from the flow of the spirit will contain sparks of light and personal insights that display a glow that represents the person. When a person has the means through which to bring these desires to fruition, it will inspire him to have his spiritual vision take form in the physical world. This can happen as long as his spirit has not been ruined and his emotional stability is still intact.

A person's initial push to broaden his cognitive powers gives breadth to the spirit and enhances the mind. This shows him that his true and special natural domain is that of the knowledge of science and recognizing the secrets of the universe with all its power. This will bring him from strength to strength and from light to light. The glow of his divine form will increase its rays of light, which burst forth on a consistent basis.

On the other hand, when one's spirit sinks and the desire for the broadest possible scientific knowledge will not fill his heart with emotion, his situation will be significantly diminished. After all, those desires give basis for the senses and for the feelings of grandeur to function along with intellectual recognitions to rise to the peaks of observation and to find complete life in the treasure houses of recognition. These are things that it is a shame to not acquire.

This is the situation of one who knows how to calculate the seasons and track the constellations, knowing their paths, their tasks, their nature, and their position, and does not do so. He does not realize or sufficiently care that these represent the grand general universal form, which is full of the glory and light of He who lives forever, which is revealed through the workings of the heavens. If one does not care, it is a sign that the nature of his spirit has strayed significantly from its proper position and his spirit has become connected to desire for poverty, evil, and coarse materialism. If this is what his spirit develops, he will just pollute the grandeur of the spirit and dim the light of the soul, the beauty of intellectual pursuit, and the desire to see what is nice in the world. This is opposed to the natural tendency, which is part of a human's wise heart and soul, to seek out that which is connected to a good life and lofty matters.

It is important to stay away from such a person and from his influence. Although he has developed skills, [as indeed he is capable of making the astronomical calculations,] there is a danger of being damaged by his cold spirit. After all, his abilities did not succeed in having him extricate himself from the bonds of lowly desires that put him to sleep. Therefore, one should not speak to one who does not bother to make the astronomical calculations that he is capable of doing.



### 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

## Firing a Lawyer before He Finishes the Job

(based on ruling 77010 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) was suing a leasing company and hired the plaintiff (=pl), a lawyer, to help. After negotiating the fee, they came to an agreement that pl would receive the higher between, 20% of the total ruling, and between 100% of the part of the award that exceeded 40,000 shekels plus VAT. Def received 67,049 shekels and pl is demanding his portion of the ruling. Def rejects the claim, because he has not yet been able to extract payment from his litigant, arguing that the portion for pl should come from money received. Additionally, def claims that he fired pl before the ruling was rendered, and so pl is not entitled to any pay.

**Ruling:** While there was no written contract, the emails that went back and forth between the parties serve as a proof of what was agreed upon. In an email sent on 11.10.15, pl wrote that the percentage he would receive would be of that which was awarded, not necessarily that which was received as payment from his litigant. The email ends off: "Please confirm acceptance of my proposal." An email received half an hour later says that "Mr. X confirms the matter." Def's claim, that the email was a trap and that he had not noticed that element of the offer, is not acceptable (see Shulchan Aruch, Choshen Mishpat 45:3).

Regarding the claim that pl did not finish the job, it is indeed the case that def had been dissatisfied with pl's work and initiated a process of firing him. However, the sides met, and pl explained the way he was working in a manner that calmed def. We do not find any proof that pl was let go (certainly no one fully took his place).

In any case, an employer is not allowed to fire a worker who had been hired for a set job once a *kinyan* had been made to hire him (Shulchan Aruch, CM 334:1). The Pitchei Teshuva (ad loc. 2) cites opinions that this is the case even if there is only a written contract, even if it is not signed. It seems to us that an agreement communicated by email similarly counts as a *kinyan*. Thus, it would require pl's agreement to stop working for him, and there has not been proof of that.

Furthermore, def's claim is that pl's employment was terminated 5 months after it began and two months before the ruling was rendered. It is therefore not reasonable (as opposed to a reasonable but halachically incorrect claim) for def to not have offered pl significant payment for the work he did (even if we were to accept def's claim that the agreement for payment was only after the receipt of payment by def's litigant). Therefore, in addition to full payment, def will also have to pay pl's legal fees related to this adjudication, as he did not act in good faith.

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