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# HEMDAT YAMIM

## Parashat HaShavua

Chukat, 3 Tammuz 5779

### Why to Be Afraid or Not Be Afraid of Og – part I

Harav Yosef Carmel

Moshe was threatened by Og, the King of Bashan, and his army and was successful in conquering. Before this happened, though, Hashem reassured Moshe: "Do not fear for I have given him over to your hand ..." (Bamidbar 21:34). Considering all of the great challenges that Moshe overcame before this, why did Moshe require such emotional support? We will take a look at the historical phenomenon of which Og was a part, from the time of Avraham until the time of David.

The Tanchuma (Chukat 25) raises three possibilities as to the reason Moshe was afraid of Og: 1. Moshe was concerned that they might have acted improperly in the previous battle, against Sichon, whether in being too harsh, or perhaps in involvement in some other type of sin in the process. 2. Og was the most fearsome of the giants who lived, a remnant of the great warriors who survived from the era of the War of the Four and Five Kings (see Devarim 3:11 and Bereishit 14). 3. Moshe reasoned that if Moshe was "only" 120 and Og lived to be more than 500 years old, he must have some great virtue that protected him.

According to the first opinion, the concern was about the degree of merit of Bnei Yisrael. According to the second, it was the physical prowess of Og. According to the third, the matter was the merit of Og, as expressed through his longevity. Rashi took the third approach and identified Og's merit as having helped Avraham by telling him that Lot had been captured by the four kings. The lesson from this is that one can never know how great the merit of a single action can be, and how it could have impact even after many years. The Ramban took the first approach, which teaches us that one can never fully rely on oneself and should continue to *daven* for Divine Assistance. The Rosh accepts the second approach, which teaches us that even one who is used to having miracles done for him should consider the natural prospects even if he is one who has *bitachon* (reliance on Hashem). This is part of one's need to put in efforts to succeed, and it is even more clear regarding one who is not used to having miracles done for him.

We would like to add the following idea, which we will continue to develop next week. *Anakim* (giants) are mentioned several times throughout *Tanach*. We find seven names to describe this unique group of people: *eimim*, *refa'im*, *gibborim*, *zamzumim*, *anakim*, *avim*, and *nefilim* (Bereishit Rabba 26:7). This is a sign that they had great significance at that time. We also find that an important demarcation in Yerushalayim in ancient days, Emek Refa'im, was named for them. This valley, mentioned several times in *Tanach*, was, at one point in its span, a border between the tribes of Yehuda and Binyamin (Yehoshua 15:8). It is also connected to Nachal Sorek, which means that it connected the Land of the Plishtim to Yerushalayim. Therefore, the wars against the *anakim* held a central part in the process of acquiring *Eretz Yisrael* for *Am Yisrael*, as we will develop next week.

Let us pray that we too will overcome our enemies. Let us think about those of us (including graduates of ours) who live in the area around Aza, which overlaps with the ancient Land of Plishtim. May they have days of quiet and tranquility, so that they can serve Hashem with happiness and a pure heart.

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



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# Ask the Rabbi

by Rav Daniel Mann

## Fulfilling *Kiddush* from One Who Did Not Eat

**Question:** If the person making *Kiddush* in *shul* does not eat after *Kiddush*, is his *Kiddush* valid?

**Answer:** We must distinguish between a valid *Kiddush* for the person who made *Kiddush* and for those who listened to *Kiddush* and then ate.

We accept Shmuel's opinion (Pesachim 101a) that *Kiddush* is valid only in the place of a meal (Shulchan Aruch, Orach Chayim 273:3). Therefore, if *Kiddush* is made and no one eats, the *Kiddush* is in vain.

According to the great majority of *poskim* (see Sha'arei Teshuva 273:7; Pri Megadim, MZ 273:1; Living the Halachic Process II, C:3), if some eat the food required for a *seuda* and others do not, only those who ate are *yotzei* with *Kiddush*. Thus, at first glance, the person making *Kiddush* was not *yotzei*. Therefore, although the *mekadesh* is usually advised to drink a *m'lo lugmav* (app. 2 ounces) (Shulchan Aruch, OC 271:14), if he will not eat afterward, he must not drink from the wine, if he has not yet made his own *Kiddush* (Shulchan Aruch *ibid.* 4). On the other, if he is willing to drink a *revi'it* (a little more than 3 oz.), this counts as his meal according to most authorities (see Shulchan Aruch *ibid.* 5; Mishna Berura 273:22, 27).

In certain contexts, it is common for the one making *Kiddush* to not eat anything. For example, a rabbi at a hospital may go from ward to ward making *Kiddush* without eating in each place. An older practice is of one making *Kiddush* in *shul* even though he is going to eat only at home (see Shulchan Aruch, OC 279:1). The *gemara* (Pesachim 101a) already mentions this practice and asks how it is possible considering that the person who makes *Kiddush* does not eat in *shul*. The *gemara* answers that it was instituted to fulfill the *mitzva* of *Kiddush* on behalf of guests who eat and sleep in the *shul*. Many *Rishonim* (see Tur and Beit Yosef, OC 279) are bothered by the situation in which there are clearly no such guests and we continue to make an ostensibly pointless *Kiddush*. However, when there are indeed such people who want to be *yotzei* with the person making *Kiddush* in *shul*, all assume there is no problem for the *Kiddush* to be done by one who is not eating on behalf of one who is eating. Therefore, it is not surprising that the Shemirat Shabbat K'hilchata 54:6, citing the Pri Megadim (*ibid.*), says that in the case you describe, the people listening to *Kiddush* and then eating fulfill the *mitzva* of *Kiddush*, while the one making *Kiddush* but is not eating does not fulfill it.

The possibility to do the *mitzva* for others while not fulfilling the *mitzva* oneself is a straightforward application of the rule of *arvut* (responsibility for others) in *mitzvot*. The more famous application is when one has already fulfilled a *mitzva* and wants to do it a second time for one who has not yet fulfilled the *mitzva* (Rosh Hashana 29a). The Dagul Me'reveva does raise the possibility, based on a surprising line in the Rosh (Berachot 3:13), that a man cannot do so on behalf of a woman. However, Rabbi Akiva Eiger (Shut I,7) convincingly argues that there is no difference between men and women in regards to *arvut* (he reads the Rosh differently). The Mishna Berura (Sha'ar Hatziyun 271:9) posits that Rabbi Akiva Eiger is correct.

Generally, *arvut* applies only to *mitzvot* and their *berachot*, which are obligations for the one who is in need of fulfillment and not to *berachot* on food, which the person is not required to eat (Rosh Hashana *ibid.*). However, the *gemara* concludes (*ibid.* 29b) that when the *beracha* on food is itself a *mitzva* (e.g., the wine for *Kiddush*) then *arvut* applies to it as well. Therefore, it is not required that the *mekadesh* drink the wine of *Kiddush*, as long as someone else is drinking the required amount (Shulchan Aruch, OC 271:14 – there is a question whether the *m'lo lugmav* can be reached by adding up what more than one person drank). This is even possible when others are drinking from a different cup of wine (Mishna Berura 271:77), although it is normally best for the one making *Kiddush* to drink the proper amount from the *Kiddush* cup (Shemirat Shabbat K'hilchata 48:14).

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# Ein Ayah

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

## Different Types of Constructive Destruction

(condensed from Ein Ayah, Shabbat 9:45)

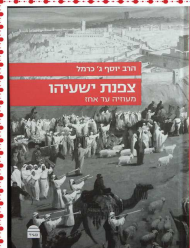
**Gemara:** [One of the things that Moshe decided on his own and Hashem gave His approval for was that Moshe broke the *luchot* (Tablets).] How do we know that Hashem agreed to what Moshe did? It is from that which the Torah says [in the context of the second *luchot* that Moshe was commanded to arrange, in which Hashem referred to the first ones as] “*asher shibarta*” (which you broke). Reish Lakish learned it as if it said “*yishar [kochacha] sheshibarta*” (you should be blessed with strength for the fact that you broke it).

**Ein Ayah:** There is one type of destruction for the purpose of fixing in which there is no way to get to the improved state without going through the destruction. The fact that there is no other way to do it is a limitation that relates to what is fitting from the perspective of the person who is to receive the matter, not from the perspective of the Creator, who has no limitations in what He can do.

When man performs an act of destruction in order to fix matters, it is proper that the improvement is at least as great as the destruction that preceded it. Still, if the destruction is one that only is done because there is no other choice, then Hashem would not give His explicit agreement to the action. After all, it stems from human incapacity! Even though the person did the proper thing according to his level and situation, it is not proper to attribute that to Hashem directly.

On the other hand, there is a type of apparent destruction that only looks to us as destruction, but it actually is just a great act of improvement. It is not just that there is no way to avoid the destruction but that there is a realization that, at the deepest level, it is an improvement, which can be viewed as the will of Hashem. The official confirmation of Hashem will never come on something that is bad and destructive, for Hashem’s Name is not placed upon evil and darkness.

In this case, we see the confirmation of “*asher shibarta*” in the context of the exciting time of the giving of the second set of *luchot*. This showed that the breaking of the first Tablets had not been a necessary destructive act but an absolute act of goodness, which was only cloaked in a facade of evil and destruction. This is what we learn from the fact that Hashem explicitly acquiesced, as seen from His blessing to Moshe – that Moshe should merit increased strength as a result of his action – and the way it was presented.



### 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 Contractor – part V**

(based on ruling 75104.1 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** Plaintiff 2 (=p12) was the contractor for major renovations of the defendant's (=def) home; plaintiff 1 (=p1) was the supervisor. P12 was well behind schedule and was fired by def. [*Over the last installments, we presented that def had the right to fire p12, determined how to appraise the amount p12 should receive for the work already done, and discussed a variety of damages. We continue with more damages.*] Def claims that the waterproofing on the roof was done improperly. P11 and P12 refute that claim. Def claims that there are major flaws in the electrical system, including that p12 did not sufficiently expand the amperage capacity and that the electrical box is out of room for adding lines. P12 claims that the latter is because def added too many electrical sockets. There is also a need to figure out how much p11 should receive for his supervisory work.

**Ruling:** *Beit din* hired an expert on waterproofing, who concluded that the work was clearly deficient and that it had to be totally undone because the roof was not sloped properly [to ensure water runoff]. The work became more expensive because def installed solar water heaters, which p12 said they were not initially designed to do. However, it is clear from the list of features in the building that they did know. Since p11 and p12 told def that the roof was fine, the extra cost due to the need to undo the solar water system is their responsibility. Because the expert's findings were so clearly against what p11 and p12 claimed, we hold them responsible for the need to hire the expert, and they must pay that whole expense.

An expert *beit din* hired to check the electric system found that there was a need for over 12,000 shekels of repair. He also determined that a house expanded to such a size, including a new housing unit, should have 120 amperes. The expense to pay the Electric Company to raise the capacity is not to be paid since def would have incurred it anyway if p12 would have carried it out. Since the contract says that the electric box should be a third bigger than the initial needs, the defendants are responsible for it being full already. The expert did not see an unreasonable number of sockets. Because def made a larger claim than was approved by the expert, we conclude that both sides were responsible for the need for an expert, and they will share his expense.

P11 deserves to be paid for the benefit he provided, which can be estimated by a percentage of the value of the work done minus the value of the damages and deficiencies for which p11 and p12 have to pay. Plus, since the job of a supervisor is to reduce headaches for the homeowner, something that p11 did not do properly, his salary should be reduced somewhat more than the apparent percentage. (We will not get into the detailed calculations.)

.....  
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