



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Toldot, 5 Kislev 5781

A Deal for the Firstborn, a Restaurant Serving, or Holy Real Estate? – part I

Harav Yosef Carmel

There are foundational events that appear in the beginning of our *parasha*. Yitzchak and Rivka were blessed with her pregnancy after years of anticipation. This “opened the door” for the fulfillment of Hashem’s promise to Avraham: “Listen to everything that Sarah tells you, for within Yitzchak it will be called for you an offspring” (Bereishit 21:12). *Chazal* deduced from this *pasuk* that not all of Yitzchak’s offspring would be called the progeny of Avraham, and this would exclude Eisav (Sanhedrin 59b). During the course of Rivka’s pregnancy, she was presented with the word of Hashem that she has two children, representing two nations, in her womb and that the more prominent one would be the younger twin (Bereishit 25:23). Several things in the firstborn’s early life point in the direction of the root *edom* (red). He was born red (ibid 25), he demanded of Yaakov to feed him red lentil soup and, based on this request, he was called *Edom*. In response to this demand for the food, Yaakov had Eisav swear to sell his rights as a firstborn to Yaakov (ibid. 30-33). Thus, the nations emanating from these two brothers were the Sons of Jacob/Israel and the Sons of Edom.

Avraham was promised two main things. Hashem promised him that he would be the father of a multitude of nations and kings (ibid. 17:4-6). He was also promised that his offspring would receive the land in which he lived, C’na’an (ibid. 8). While many nations are traced to Avraham, only one was given the Land promised to him as its own.

The fact that Yaakov bought the status of firstborn from the red Eisav for the red lentil soup ensured that Eisav became Edom and that *Eretz C’na’an/Israel* would go only to Yaakov’s family. Eisav would painfully be separated from the legacy of the family of Yitzchak the son of Avraham. In that way, he was like Yishmael (see similarities in Bereishit 21:20 and ibid. 25:27) upon whom it was decreed that he would not inherit along with his brother Yitzchak. It was a bigger *chiddush* in regard to Eisav, because unlike Yishmael, Eisav came from the same mother, in addition to father, that Yaakov came from. It also was not originally clear which brother would be separated, as Yitzchak preferred Eisav, while Rivka preferred Yaakov.

Another part of the Yitzchak story in the *parasha* relates that Yitzchak stayed in C’na’an even during a famine, when he would have been expected to go to the more stable Egypt. Hashem told him that staying in the Land made him worthy of the promise of the Land made to Avraham for his offspring (ibid. 26:1-3). Similarly, among Yitzchak’s sons, the one who was chosen to continue the special legacy of Avraham and inherit the Land was Yaakov, the one who stayed in C’na’an, whereas Eisav moved to Edom. However, at the end of this *parasha*, we see that matters became very complex, as it is Yaakov who left C’na’an first. (We will discuss that more next time.)

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Ask the Rabbi

Tefillin Prepared by Children under Bar Mitzva

Question: Several years ago, when I was 11, my (Orthodox) *shul* brought in a person who makes *tefillin batim* (boxes) and guided several friends and me to more or less make our own *tefillin*. Someone questioned me as to whether the *tefillin* are kosher because I was not yet bar mitzva. I would rather not ask my rabbi, who brought him in. Are my *tefillin* kosher?

Answer: The *gemara* (Gittin 45b) derives from the proximity of the commandments to write Torah texts (*mezuzah*) and to attach them (*tefillin*) to the arm (Devarim 11:18-20) that only one who is obligated to and fulfills the *mitzva* of *tefillin* can write them. The Rambam (Tefillin 3:16) extends this rule to making *batim*, as does the Shulchan Aruch (Orach Chayim 39:2). Children are not obligated in *tefillin* on the level of Torah law, and thus the *tefillin* they make before bar mitzva may not be used after they are fully obligated. *Poskim* discuss which actions suffice with adult coaching (*gadol omed al gabav*) to provide proper intent (*lishma*) and which a *katan* cannot do at all (see Bi'ur Halacha ad loc.).

Therefore, if a *tefillin*-making workshop leader knows how to do his job properly, he can involve children significantly and still have an adult do the halachically required parts of the process. A few years ago, we at Eretz Hemdah were among those who approved and wrote specific guidelines for such a person. If you were led by him, we are fully confident your *tefillin* were made kosher. Since *tefillin* need to remain kosher, we remind you to not overly expose them to heat and avoid dampness and pressure. You should also periodically ascertain that it remains in good repair (e.g., the surfaces remain straight).

Since you did not tell us who led your workshop or who your rabbi is/was, on a certain level, we cannot fully attest your *tefillin's* *kashrut*. But we urge people to follow an important rule – a member of a respectable Orthodox community should trust his rabbi's judgment and communal standards. If one cannot do that, he has major problems in various areas. *Baruch Hashem*, rabbis in the United States have earned their communities' trust.

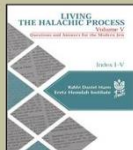
Now a word to our readers – the *tefillin* owner who asked is not among them.

The operation which Eretz Hemdah approved (information can be given to individuals who approach us) teaches pre-bar mitzva boys many *halachot* they would otherwise not learn or remember and has developed an inspiring curriculum. He correctly teaches that *ketanim* may not do the most critical steps themselves. This young man might have forgotten that over the years, or perhaps the person who led his workshop did not make it as clear as he might have. The rationale of having the children "make the *tefillin* themselves," when that is not exactly the case, is that the involvement creates a greater connection to this important *mitzva*. In some cases, this can make the difference between their being life-time *tefillin* wearers or not. One can argue that as long as the *tefillin* are kosher, the kids don't need to know that is only because they were helped. That is a tenable approach, but one we would not advocate under normal circumstances.

Batim made in such workshops could not be *gassot* (from a large animal, which requires serious equipment), but *dakkot* (hopefully, not *peshutot*). We will skip the intricacies, but *gassot* have advantages, especially their excellent longevity in good, kosher condition without needing renovation or replacement. The best (and most expensive) *tefillin* on the market are *gassot*. The *tefillin* produced in the operation we approved are higher quality than "inexpensive" ones, but are not of the highest "quality" echelon. A rabbi or educator who would bring in such a workshop must weigh the pluses and minuses and determine (and/or discuss with parents) what is best for **his** bar mitzva boys. Having two pairs or donating the one he made to a good cause might be a nice option for those who can afford it, as the opportunity is educationally powerful even for those who will anyway be life-long *tefillin* wearers.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.





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Ein Ayah

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

Torah in a Pure Setting

(based on Ein Ayah, Shabbat 14:3)

Gemara: [We saw last time that Rav arrived in Bavel from *Eretz Yisrael*, and Shmuel sent Karna to get an impression of Rav's greatness.] He went and found Rav and said to him: How do we know that *tefillin* can be written only on the hide of a kosher animal? Rav answered: For it is written: "So that the Torah of Hashem will be in your mouth" (Shemot 13:9), which teaches that it must be [written] on something that you are allowed to put in your mouth.

Ein Ayah: The most spiritually elite among the Jew's of Bavel were connected to the love of *Eretz Yisrael* with all their hearts. These people always wanted to express that they appreciate the Holy Land. Discussion of the great value of the sanctity of *Eretz Yisrael* is a recurring theme, which we see appearing, scattered in many sections of the Babylonian Talmud. This goes together with the recognition that living in the Diaspora is a negative thing even if the situation there is ostensibly good, whether it be in relation to the Jewish community's physical welfare or its spiritual level.

At the end of the story, that which sustains the nation is the Land, and exile, with its impure ground, must by necessity, harm the light of the Torah's sanctity and all of the highest spiritual levels that exist within the nation. When the Holy Land is given the opportunity to sustain the nation, it will possess the light of sanctity.

The sign for these concepts is the hide upon which matters of sanctity are written. They must not be written on impure hide even if they are prepared in a very pleasing way, because sanctity cannot connect to an impure material. Similarly, the sanctity of the soul, connected to the light of the Jewish nation, cannot be connected properly with a community of people who are living in an impure land. [Karna was] hinting that only a very pressing situation could have caused the departure of someone like Rav from *Eretz Yisrael* in favor of Bavel. One must posit that there is an eternal advantage of living in *Eretz Yisrael*, the Holy Land, the place of the highest sanctity and purity.

Rav also responded in a similar vein. He said the reason that *tefillin* must be written on the hide of a kosher animal is that the Torah must be written on something that is permitted to put in one's mouth. Even though the Torah portions are written on parchment, which is not a part of the animal that one eats, still the material that is the base for the words of Torah must be pure. So too, the land to which the sanctity can be connected to the Jewish people must be a holy land, a land which was given to us to eat its fruit and be satiated from it. In that manner, both the body and the spirit are nourished, as both elements are connected in the chain of the light of Torah, which shines only in the place that Hashem desires to dwell. This is not true in a land of darkness, where the light is not powerful enough to properly sustain the Jewish nation in exile. This is true even in a time when the Jewish people need to be in the Diaspora until the appointed time.



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

Losses from Financially (and Morally) Bad Loans – part I

(based on ruling 75001 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) were the primary players in a business (=bus) that provided large high-risk, high-interest loans to individuals (=bor); pl ran the business, and def was the silent owner. Bus advanced cash to individuals at interest rates of up to 8% monthly in return for much higher post-dated checks. After its own initial investment of funds, bus received cash from another business (=sup) to whom they gave those checks for a lower rate (2.1%) of interest (bus's profits were from the margin); pl and/or def served as cosigners to sup. Pl got some borrowers to give cash instead of honoring the checks, even when their checks were by sup. Several of the borrowers have defaulted, bus has closed, and pl and def now owe sup and other investors many hundreds of thousands of NIS. Pl demands the following: 1. To be released from debts as a cosigner to sup (441,000 NIS) and Mr. P. (400,000 NIS), because he was improperly pressured. 2. To have money he and his mother invested (350,000 NIS) and expenses he outlaid for bus (149,000 NIS) returned. 3. Back-pay for months of work. Def claims that pl caused great losses by surpassing the amount of credit def agreed to, especially for some very large loans. Pl admitted in discussion with Mr. P, who mediated, that he should pay for much of the losses (1.25M NIS plus interest). Def claims to have not promised pl a salary, just 15% of profits.

Ruling: First we express our disgust with bus. The Torah strictly forbids taking interest on loans. Although many people legitimately rely on the *heter iska* to reframe loans so that the lender can be compensated for putting out money, this should not cover cases of ridiculously high interest, to individuals in need or businesses. Chazal say that one who lends with interest can expect his finances to crumble.

The first issue to decide is whether pl is a worker or a partner and whether that makes a difference. Pl says that he was just a worker and therefore is not responsible for losses and should not be a cosigner, whereas def says that he was a partner. Regarding purposeful mismanagement, i.e., giving more credit than he was allowed, it does not make a difference, as a worker who takes the business' money without permission is responsible for it. Nevertheless, the determination will have some impact on certain points.

It is not accurate to call pl a simple worker. He was bus's main active person, the business was known publicly as his, and he received 15% of net profits. Therefore, he can be seen as a partner on some level.

Nevertheless, pl is entitled to a salary, even for the final months during which there were not profits. First of all, the type of relationship, in which the business is essentially owned by def, makes it appropriate that pl would receive a salary, and the reason this was not initially done in a classic set payment was on technical grounds (not one that pl should be proud of). Furthermore, in the mediation paper prepared by Mr. P., there is a large sum earmarked for pl's salary, and it is apparently marked with a check by def. We do not accept def's convoluted explanation for agreeing to salary payment.

We daven for a complete and speedy *refuah* for:

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Rivka Reena bat Gruna Natna

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Yishai ben Tamar

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