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# HEMDAT YAMIM

## Parashat HaShavua

Ki Tisa, 18 Adar 5780

### On Nationalism and Sanctity— part VII

Harav Yosef Carmel

For several weeks we have been discussing the connection between David's census and the punishment for it, and the buying of the silo of Aravna the Yevusi as the place of *Har Habayit*. There is a perplexing *pasuk* (Divrei Hayamim I, 21:30) in this context: "David could not walk forward to inquire of Hashem because he was startled by the sword of the angel of Hashem [which was hovering between heavens and earth]." What is this trying to teach us?

The idea of a drawn sword between heavens and earth and the command of David to build an altar take us back thousands of years. Adam had built an altar in the Garden of Eden and then was banished from it. The *midrash* (Rabba 14:8) says that the earth from which Adam was born is connected to the idea of an altar of earth that we are supposed to erect (Shemot 20:20). The idea behind this connection is that Hashem was thereby saying that He was creating man from the place from which he could receive atonement. Similarly, the Yerushalmi (Nazir 7:2) says in this context that since man was created from the place of the altar, he will have the "ability to stand." The other connection to Adam is, of course, the angel with the sword, which, in Adam's case, made sure that he did not get back into the Garden (Bereishit 3:24). The significance of this situation is that when David was able to build the altar and the angel returned the sword to its sheath, there is an indication that for the second time in history it became possible to return to the situation of Adam in the Garden of Eden before the sin.

When the time came for Shlomo to build the *Beit Hamikdash* at this place, he used matters that are reminiscent of Eden in different ways. This includes a great deal of gold, precious stones, and cherubim, along with other things (see Rav Chaim of Volozhin's development of that subject in *Nefesh Hachaim* I:6, in the context of the receiving of the Torah returning the people to this lofty level).

We have seen that the Rambam (Beit Habechira 2) connects many historical events to the place of the altar in the *Beit Hamikdash*. He says that the place of the altar cannot be moved because this is the place that Yitzchak was bound, that Noach built an altar when he exited the ark, that Kayin and Hevel brought their sacrifices, and that Adam built his altar when he was created at that place. Thus, the building of the *Beit Hamikdash* was a continuation of the positive actions of Adam and of the pinnacle of Avraham's achievements. It is David who merited finding out these connections, through the Divine revelation at the silo of Aravna.

Specifically, when we read *Parashat Ki Tisa* and the story of the Golden Calf, which caused us to crash down from our previous spiritual high, let us strive to reach the spiritual level of Adam before the sin, and of Bnei Yisrael at Sinai before their sin.

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



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by Rav Daniel Mann

## Drinking during *Davening*

**Question:** I showed my surprise to a serious young man who was drinking coffee during *Shacharit*. He said it helps him *daven* and is permitted. Can that be correct?

**Answer:** We are not discussing one with special physical/medical needs.

It is forbidden to eat before *davening Shacharit* (Berachot 10b), as derived (although it is probably Rabbinic) from “Do not eat on the blood” (Vayikra 19:26) – i.e., before you have prayed for your blood (=life). It is considered haughty to indulge in food before addressing Hashem, and therefore drinking water, which is not indulging, is permitted (Shulchan Aruch, Orach Chayim 89:3). Many *Acharonim* permit drinking coffee and tea, specifically when one needs it to concentrate on *davening*; adding flavor enhancers is questionable (see Mishna Berura 89:22).

*Tefilla* is supposed to be done with reverence and awe. Many *halachot* govern how one’s body, clothes, and surroundings must be at that time (see Shulchan Aruch, OC *simanim* 97-99). The height of *tefilla* is considered “standing before the *shechina*” (Rambam, *Tefilla* 4:16). Eating and drinking when in close contact with Hashem is considered a big *chutzpa* (see Shemot 24:11). Since this is antithetical to *tefilla* and a *beit kneset* is set aside for *tefilla*, it is forbidden to eat there (Shulchan Aruch, OC 151:1). The incongruity between eating and *davening* is behind the *halacha* of not eating even before *davening*. It seems obvious that eating in the midst of *davening* is worse than eating before. Therefore, even if one *davens* in a place where he may eat, e.g., at home, in a *beit midrash* (Rama ad loc.) or he follows the lenient *minhag* (see Be’ur Halacha ad loc.), he should not drink during *davening*.

One can deflect these conclusions. If drinking coffee is permitted before *davening*, then it is not halachic eating, and who says the *halacha* is stricter during *davening* than before? (The counter-argument is that it is only permitted before due to need, and if one can drink before *davening*, why let him drink during it?) Also, assuming it is forbidden during *Shemoneh Esrei*, who says *P’sukei D’zimra*’s lesser level of “meeting Hashem,” as a preparatory/introductory stage, carries the same weight (Rama, OC 89:3 may equate them)? Indeed, many of the *halachot* of *tefilla* refer only to *Shemoneh Esrei* (see Mishna Berura 97:3).

What do the sources say? There are many sources on drinking before *davening*; I did not find classical sources on this question. Why would there not be much discussion of the matter? It is either because: A) It is obvious that it shares the same *halacha* as eating before *davening*; B) It is obviously permitted; C) It is obviously forbidden; or D) Few people were interested in doing such a thing, for sociological or convenience reasons. Intuitively, I find A and B implausible. C seems logical (Chevel Nachalato 17:3 cites Rav Y. Ariel as saying it is forbidden). D is a possibility. It is very possible to combine C and D. Perhaps there is not a full-fledged *issur*, but sensitivity to *shul* and *tefilla* made it taboo. I spoke to many (Ashkenazi) decades-long *shul* attenders, none of whom can recall until recently healthy people drinking during *P’sukei D’zimra* and later. Those who need coffee, drink before *davening*. Then they enter *shul*, put on *tefillin*, and DAVEN ONLY. That is a very appropriate *minhag* even IF arguably not fully required. There are signs that some in the new generation view things differently. While they can be wonderful Jews and *daveners*, they would be pulling things in the wrong direction, according to several *rabbanim* (and non-*rabbanim*) I have discussed the topic with. Drinking while *davening* degrades the atmosphere of the *shul* in our eyes.

In some Sephardic communities, it has been more common for at least decades to continue, during *P’sukei D’zimra*, drinking coffee begun earlier. The Yalkut Yosef (OC 51:3), while preferring to avoid on the grounds of possible *hefsek* (even if the *beracha* was done before), does not mention fundamental grounds. I pray that the Ashkenazi *minhag* of full opposition will survive.

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# Ein Ayah

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

## Self-rebuke by Comparing Oneself with the Forefathers

(condensed from Ein Ayah, Shabbat 9:132-133)

**Gemara:** Rava expounded: That which the *pasuk* (Yeshaya 1:18) says, “Go now and we will argue, Hashem will say” – instead of “Go,” it should have said, “Come”! Instead of “Hashem will say,” it should have said, “Hashem said”! [The explanation is that] in the future, Hashem will say to Israel: “Go to your forefathers, and they will rebuke you.”

**Ein Ayah:** The argument with Hashem, which the prophet uses to arouse the nation, is certainly a reason to draw closer to Hashem. Therefore, it is ostensibly more appropriate to write “come,” which indicates closeness, than “go,” which indicates distancing oneself from Hashem.

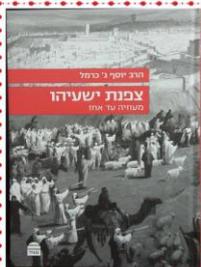
The presentation of a dispute between Hashem and Bnei Yisrael is absolutely not a scenario that exists on a consistent basis. Therefore, it does not seem justified to use the future tense for something which primarily occurred in the past, as the future indicates a continuous phenomenon, as it says, “This is what Iyov would do” (Iyov 1:5). It is appropriate that the way Hashem proceeds with His chosen nation is proceeding with affection, admiration, and love. Therefore, argument is a phenomenon which should remain an exceptional situation, which does not warrant the use of the future tense. This is in line with the *pasuk*, “With a flash of anger I hid My eyes for a moment from you, and with eternal kindness I will have mercy on you” (Yeshayahu 54:8). Therefore, it should have said, “Hashem said to you,” which refers to the action at the time it occurred.

Therefore, there is an indication that the prophet is trying to describe a special characteristic that encompasses all of the steps that Bnei Yisrael experienced with great strength until the end of times. This shows the wisdom of Hashem’s righteousness and His grace to the House of Israel.

Indeed, the explanation is that in the future, Hashem will tell Israel to go to the forefathers for rebuke. When a person aligns himself with a foundation of sanctity, it is based on his free choice to follow his inclination to attach himself to that which is lofty. However, the most fundamental basis that allows a person’s choice to develop nicely in the direction of the elevated is the innate element of the nature of the spirit. Within Israel, this is an eternal legacy stemming from the sanctity of the forefathers, which has a strong connection with the entire nation.

Therefore, when over time the nation experienced a reduction in the success of its spiritual acquisitions, and the content of the inclinations towards holiness in actions and attributes was ruined, they would need something that fixes their state. Returning to their root of sanctity can occur by embracing their connection to the forefathers, which is the foundation of the national legacy of sanctity.

This is the idea of “Look at the rock from which you were hewn” (Yeshayahu 51:1). This will naturally create wonders in the mind, the emotions, and the personal characteristics. That is why Hashem recommends to them in the future to go to the forefathers. One should take a deep look at the forefathers’ natural sanctity, which infused their bodies and spirits. Then one can see how their rectitude is the model of proper behavior and compare their present actions to those of the forefathers. This will have a good impact on the spirit, as this will be a fundamental rebuke based on this connection with the forefathers, to whom the nation is attached as an eternal legacy. This form of rebuke will be successful in providing an effective remedy to all of our afflictions.



### 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

## Return of “Borrowed” Pre-School Items – part I

(based on ruling 71104 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) runs a religious pre-school program in an Israeli town and started employing the plaintiff's (=pl) daughter-in-law (=dil) a few years ago. Shortly thereafter, pl gave several thousand shekels worth of pre-school accessories (tables, books, toys, etc.) in a few installments. A year ago, dil stopped working at the pre-school, of her own accord. Pl demanded the items back, claiming that she had stated it was a loan. Def refused but wrote a letter acknowledging the items belong to pl with the promise to return it to her if a relative of pl opens a pre-school program. Months later, pl told def that pl's daughter is doing so, and def sent her some of the items. Pl claimed it was too little, too late (because of the lack of materials, her daughter stopped her plans), and many of the items have been seriously damaged. Pl now wants 30,000 shekels rather than a return of the materials. Def contends that pl did not stipulate that she might want the materials back; if she would have, def would not have taken them because it caused her to throw out old, still usable materials. She had every reason to believe it was a donation to an altruistic religious organization close to pl's heart. The letter admitting the items were pl's was due to a threat, right before the beginning of the school year, that pl would come to take them.

**Ruling:** Given the factual disagreement (and def's lack of certainty in the details) whether there was a stipulation early on about the materials being a loan, what would the halacha be if pl intended for a loan without sufficiently verbalizing? The general rule is that *devarim shebalev* (transactions done without a spoken intention) are treated as unconditional transactions (Kiddushin 49b).

There is a *machloket* among *Rishonim* and *Acharonim* as to whether the reason that *devarim shebalev* do not count is that he is not believed that he intended something that went unspoken, or whether such an intention is fundamentally unimpactful for the transaction even if there was such an intention. The more accepted opinion is like the *Chelkat Mechokek* (42:4) that even if we believe the person harboring the thoughts, it does not change the matter. However, the *S'ma* (207:4) is among the many who posit that the above is regarding a sale, but regarding a present, we follow the thought process of the one giving.

In this case, def says that she trusts pl's son (dil's husband), and he says that pl told him relatively soon after giving the items that they were just on loan. On the other hand, since there was an expectation that dil would be staying at the job for a long time, there is some logic to assume that if indeed pl did not say anything to def at the time of the presentation, it was a full present. Based on this situation of doubt, strict justice would not allow taking money or property from def.

*We will continue next time with other elements of the dispute.*

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