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HEMDAT YAMIM

חֶמְדַּת יָמִימִם

Parashat HaShavua

Korach, 2 Tamuz 5781

To "Go Up" or Not Go Up, and the Land of Milk and Honey

Harav Yosef Carmel

Central recurring terms come up in this week's *parasha* as they did in last – "*Na'aleh*" (we shall go up) and "*Lo na'aleh*" (we shall not go up). Each time there is a group in favor and a group against. Kalev and Yehoshua strongly recommended to go up to the Land, whereas the other ten spies warned not to go up. Then the *ma'aplim* insisted to go up to the Land when Hashem forbade it, and Moshe said "do not go up."

In this week's *parasha*, Moshe invited those inciting against him to a discussion with him. Datan and Aviram said: "*Lo na'aleh*" (Bamidbar 16:12). They continued: "Is it not enough that you brought us up from a land that is flowing with milk and honey to kill us in the desert? ... and you did not bring us to a land flowing with milk and honey" (ibid. 13-14).

Another critical term is – "a land flowing with milk and honey." This is how Hashem referred to the future *Eretz Yisrael* from the time of the burning bush (Shemot 3:8). (Most commentaries explain that the honey is the oozing sweetness of the fruit.) In their *chutzpa*, Datan and Aviram used the term to refer to Egypt, thus connecting themselves to the ten evil spies.

What is the significance of *Eretz Yisrael* being called flowing with milk and honey? Yeshayahu used milk and honey as a sign of great bounty for the survivors of the destruction by the Assyrians at the time of Chizkiyahu (Yeshayahu 7: 14-22). This is the sign of agricultural blossoming in *Eretz Yisrael*. Many other prophets used similar imagery (see Yoel 4:18; Amos 9:13-14; Yirmiyahu 31:4-7; Yechezkel 36:8-10). Based on such prophecies, *Chazal* taught that successful agriculture in the Land is the greatest sign of the approaching times of Mashiach (Sanhedrin 98a). Therefore, Datan and Aviram not only raised complaints against Moshe's leadership but also against the prophecies of liberation about the nation's populace sitting under grape vines and fig trees, and the return to a productive *Eretz Yisrael* after a period of exile.

Our generations have merited to counteract the sin of the spies and of Datan and Aviram. *Am Yisrael* has returned to *Eretz Yisrael*, which has greeted us with its milk and honey. The connection between *Am Yisrael* and *Eretz Yisrael* is supernatural. While from an intellectual, rational perspective, the ten spies and Datan and Aviram might have been right, we are believers, who follow the approaches of Moshe Rabbeinu and his disciples, Yehoshua and Kalev. With all the wonder and divine kindness involved, the situation on "the ground" supports these beliefs and prophecies.

Let us give two of many examples. 1. His time's greatest Jewish demographer, Shimon Dubnow, predicted in 1898 that in 1998 there would be about half a million Jews in *Eretz Yisrael*, without a state that would be internationally recognized or having their national aspirations fulfilled, and they would live only with the help of Diaspora Jews. Obviously he was far off. 2. Seth Siegel, the American expert on world water supply, wrote more recently that Israeli technologies in the field of water and irrigation are the key to improving the lives of 4 billion people worldwide. Indeed, more than 150 countries use Israeli technologies.

In summary, Moshe is truthful and his Torah is truthful. "Let us go up."

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



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Ask the Rabbi

The Logic Behind *Marit Ayin*

Question: I don't see consistency in how *marit ayin* is applied. There are cases that are forbidden where the likelihood of mistake seems remote, while cases I view as more problematic are permitted. Can you explain why that is?

Answer: We will attempt a partial overview of the concept *marit ayin*, focusing on elements that help understand the phenomenon that troubles you.

The laws of *marit [ha]ayin* forbid "Reuven" from doing otherwise permitted action A when people may think he did the similar B, when B is forbidden. *Marit ayin* is based on two concerns: 1. People who know B is forbidden may suspect that Reuven sinned. One must avoid *chashad* (people believing he sinned), as the Torah says: "You shall be 'clean' [in the eyes] of Hashem and Israel" (Bamidbar 32:22, as understood by *mishna*, Shekalim 3:2). 2. People will think that if Reuven did B, it must be permitted. Rashi in some places (including Keritut 21b) cites #1 as the reason and in others (including Avoda Zara 12a) cites #2.

Rashi's dichotomy is among the indications that the two reasons complement each other. In some cases, *Chazal* may have felt that one of the reasons did not apply but the other did. For example, people do not often suspect a large group of people of openly sinning (see Rosh Hashana 24b). Regarding a *marit ayin* prohibition on something that looks like bowing down to an idol (Avoda Zara 12a), it is unlikely someone would think it is permitted to do so.

So when should we say *marit ayin*? If one thinks it is very likely his actions will be misunderstood, creating violations or *chashad*, he should refrain from the action. However, what if there is only a modest chance? For such cases, we look to *Chazal* and *poskim* for guidance. *Chazal* forbade a few dozen cases due to *marit ayin*. Subsequently, it remains forbidden even when in a particular case the chance of mistake and/or *chashad* is small (e.g., one lives in a very religious, knowledgeable, and trusting community). If the whole basis for the prohibition disappears, we generally suspend the prohibition. For example, the *gemara* (Avoda Zara 20b) says that one must not rent out his bathhouse to a non-Jew to operate on Shabbat because usually a bathhouse's workers were wage-earning employees (forbidden on Shabbat). However, in a society in which they are commonly profit-sharers, it is permitted (Shulchan Aruch, Orach Chayim 243:2). A minority of *poskim* equate *marit ayin* more closely to other Rabbinic prohibitions in regard to the prohibition continuing after the reason no longer applies (Pleiti 12:2).


There is a fundamental *machloket*, crucial to your question, as to whether post-Talmudic *poskim* can create a *marit ayin* prohibition in the type of case in which *Chazal* likely would have. The Kneset Hagedola forbids using *matza* meal to coat food because it looks like it is made with flour (he knew of a case of incorrect "copying"). The Pri Chadash (OC 461:2) argues that we cannot make our own Rabbinical prohibitions (and that isolated mistakes cannot be avoided).

We do find some post-Talmudic *marit ayin* prohibitions, but many of them follow a common construct. The *gemara* (Kritut 21b) forbids eating collected fish "blood" because it resembles forbidden (animal) blood. The Rashba (III:257) extends this concept (as opposed to creating a new *marit ayin* prohibition) to not combining mother's milk with meat. *Poskim* extend the idea of confusing types of food to not putting "almond milk" into meat (see Rama YD 87:3 and Shach ad loc. 6 about whether it applies to poultry, which is only "Rabbinic meat"). Regarding these extensions of a Talmudic *marit ayin* prohibition, we care about what is and is not confusing in our times/places. Therefore, Rav Ovadia Yosef (Yabia Omer VI, YD 8) says that synthetic milk is common enough for it not to be suspicious to serve it with coffee after a meat meal; we do the same with *pareve* ice cream.

In summary, the main reason *marit ayin* is not always applied according to our logic is because we usually do so by comparison to Talmudic precedents and not just contemporary society.

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





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Encouraging Torah Writers – #27 – part III

Date and Place: Undated, the holy city of Yafo

Recipient: An open letter to our young, beloved brethren, students of Torah, living in the Holy Land

Summary of previous parts: In these difficult times, it is critical for young Torah scholars to use their talents for writing with energy. The Torah that we have been given is a powerful tool that we just need to learn how to share.

Body: Especially for yeshiva students, whose whole life is set in the tent of Torah (which was often literally the case in the small *Old Yishuv*), who do not have the yoke of rendering halachic rulings or have to deal with the toil of the community, but their goal is just to be involved in Torah, it certainly should not make a difference which Torah discipline they are involved in. Therefore, they have a greater obligation to give honor to Hashem and to the holy city of Jerusalem by setting, as one of their subjects of study, something that touches on a broad knowledge of Hashem.

This way, when many students will join together, from the group will emerge for us authors, innovators, and thinkers of helpful thoughts for the Jewish people, its Torah, and its Land. As time goes on, then, the entire nation, who are very thirsty for the word of Hashem, will know that Torah and light emanates from Zion (see Yeshayahu 2:3). Before we get to the point of author of books, we will have writers of good, proper articles. When these people have contact with each other, they will sharpen each other's abilities and encourage each other.

In these teachings of the matters of the heart, which include all of the disciplines of Jewish philosophy, which is now a captive in the hands of difficult masters (irreligious academics), we have an obligation to break the iron bonds and remove the discipline from its prison. We must not, Heaven forbid, lose our bearings and distance ourselves from life. We must work with life and for life, in order to sanctify life, elevate it, and make it more appealing. We must not think depressing thoughts, which make the heart coarse and the spirit dark. These only come from fleeting learning and superficial understanding, whereas serious study, with aspirations of acquiring ever-increasing knowledge, especially in the great field of Torah thought, should always encourage the spirit and bring joy to the heart.

"Such a person is called a beloved friend, one who loves Hashem, one who loves people, one who brings joy to Hashem and to people" (Avot 6:1).

Hopefully these few words, which have emanated from my churning and burning heart, will enter the heart [of those who read my words] and bear fruit. We will suffice with a small start; we will speak, invigorate, write – every day a song (Sanhedrin 99b). "Water will wear away a stone" (Iyov 14:19). Give us hearts and the hidden light, and we will say to Zion: "Arise, give your light, for your light has come, and the glory of Hashem will shine upon you" (Yeshayahu 60:1). "Those who know Your Name will rely upon You, for You have not abandoned those who seek You" (Tehillim 9:11). "Hashem desires, because of His righteousness, to increase Torah and make it great" (Yeshayahu 42:21). "For Torah will emerge from Zion and the word of Hashem from Jerusalem" (Yeshayahu 2:3). "For Hashem will not abandon His nation, because of His great Name, for Hashem has set about to make you a nation for Him" (Shmuel I, 12:22).

Sign Off: I am your servant, hopeful about the honor of Zion and its inhabitants, who prays for the peace of those who study the ways of Hashem, and the sons and builders of Zion,
Avraham Yitzchak Hakohen Kook, a servant to the holy nation, in the holy land



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

Valid Excuses to Not Pay Rent?

(based on ruling 79135 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) rented out his apartment to the defendant (=def) for twelve months for 3,400 NIS a month. Def provided pl with 12 post-dated checks – 6 were cashed, and 6 were either cancelled by def or not honored due to insufficient funds. Pl demands payment (20,400 NIS) with interest for late payment. Def counters that they have the right to withhold most of the money for the following matters: 1. Def did a few fixing jobs for the apartment instead of pl paying for them (1,500 NIS). 2. Def paid for *arnona* (municipal tax), electricity, and water for other tenants in pl's complex of apartments (5,800 NIS). 3. Pl asked def to do work for pl's friend with the promise that pl would pay def for it, which he did not (1,600 NIS). 4. Def paid in cash for one of the checks that bounced. Pl responds (by item): 1. He is unaware that these were done, and if yes, he should have been notified. 2. It is not def's place to pay other people's bills and charge pl, even if he did prove he paid (which pl denies). 3. Def did 300 NIS worth of work, and was paid the full sum. 4. Def paid nothing in cash.

Ruling: It is an agreed and verifiable fact that there was a rental with a valid contract, based on which there are grounds for full payment. The basic *halacha* is that a renter after the rent has already been due is believed to say that he paid the rent (Bava Metziah 102b). The Shulchan Aruch (Choshen Mishpat 317:1) adds that this is so even if there is a valid rental agreement. In this case, though, def is not believed to make this claim because: A. The checks serve as a means of guaranteeing rental payment, so that were one to pay for a month's rental in a different way, he is to demand back the corresponding check. B. The giving of a check is viewed as giving the landlord who holds the check the standing of one who is to be believed over the claim of payment (see Chiddushei R. Chaim, Shvuot 41a). This is augmented by the law of the land regarding using checks to force payment (see Tumim 69:8).

Once the payment is viewed as a definite obligation, we view the counterclaims to get out of it as a new demand for payment. Def's claims of expenses are definite claims (*bari*) versus pl's claim of "maybe" (*shema*), but this is insufficient to award money to def (Shulchan Aruch, CM 75:9). There is no basis for compromise based on "redeeming" the obligation to make an oath because def did not claim that pl was aware of the work. This is augmented by the fact that def is supposed to inform pl and allow him to take care of it as he chooses (responsibly).

Regarding the claim of how much pl owed def for the work he did for a friend and whether he paid, there is a basis for a Rabbinic oath (of *kofer hakol*) and therefore for compromise. The majority of *dayanim* did not want to grant partial payment because def brought up the claim at a late stage in the process, which weakens its credibility.

The payments def might have made on behalf of other tenants is irrelevant toward pl. These would have been other people's obligation, and it is not deductible from payment to pl.

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

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Yisrael ben Rivka
Rivka Reena bat Gruna Natna
Arye Yitzchak ben Geula Miriam
Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

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