



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Tetzave, 11 Adar I 5779

Down to the Earth and Up to the Sky

Harav Shaul Yisraeli – Address in America, 1952

In describing the dwelling of the *Shechina* (Divine Presence) in the *Mishkan*, our *parasha* says: "I shall dwell in the midst of Bnei Yisrael ... I took you out of the Land of Egypt to have My Presence dwell in your midst" (Shemot 29:45-6). Rashi says that Hashem took Bnei Yisrael out on condition that He would have His *Shechina* among them, and the Ramban adds that this dwelling of the *Shechina* is for Hashem's benefit.

It is not possible to fully appreciate words of Torah without having made a mistake about them. We recognize light only through the experience of darkness. We do not feel the extent of our connection to *Eretz Yisrael* and the extent of the connection of the Jews of the Diaspora to *Eretz Yisrael* without visiting *chutz la'aretz*.

Here, *Eretz Yisrael* represents a grand aspiration for a full Jewish life that a Jew in the Diaspora does not believe he can bring to fruition. When one is abroad, *Eretz Yisrael* is like a *mikdash*. Whatever exists in Israel is not evaluated according to its material aspect, but it is elevated to spiritual values.

Even if Jews abroad have freedom and feel totally secure and steeped in plenty, even if they have authentic Torah and *yeshivot*, it is not the same thing. It is true that the *Shechina* goes to the place where Bnei Yisrael are sent into exile (Bamidbar Rabba 7:10), as they experienced in Egypt, where *yeshivot* were set up (ibid. 95:3), but it is still different.

The main thing that is missing here in *chutz la'aretz* is not the element of the *Shechina* that is for the purposes of man. The bigger problem is that which is missing as far as the dwelling of the *Shechina* for the purposes of Hashem – the idea of "Israel, that in you I [Hashem] will be glorified" (Yeshayahu 49:3). It is the situation in which a holy nation lives as a self-sustaining country, and puts the forms of government in place. Their nation is built not around the competition of athletes, taking journeys, or having a comfortable life. Rather they live as a nation in order to implement justice, seek the spiritual side of life, have the *Shechina* dwell, and thereby coronate Hashem in the world. The task of life, which is engrained in the blood of every Jew and makes him strive for such excellence, makes him want to connect himself to *Eretz Yisrael*.

Sometimes, due to the daily struggles, this matter is forgotten. That is why there is a value to hear from those who are coming from the outside and be reminded how special life in Israel is. We do not want this Land because of its material advantages. We want it because we feel that the content of our life is not complete without it. This we should remember even when things are trying.

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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

Trying on *Tefillin* at Night

Question: May one try on *tefillin* at night, or does that fall under the category of not putting on *tefillin* at night?

Answer: I have not found this exact question in the *poskim*, so we will extrapolate based on the principles and similar cases,

The *gemara* (Menachot 36b and several other places) cites a *machloket* between *Tannaim* whether the night and/or Shabbat and *Yom Tov* are times during which one wears *tefillin*. Much depends on the *pasuk* (Shemot 13:10), ending off the section of “*Kadesh li*,” referring to *mitzvot* commemorating *yetziat Mitzrayim*, including *tefillin*: “You shall guard this statute at its time from days to days.” Some understand it to indicate that there are times of the day (daylight) and certain days (not Shabbat) in which *tefillin* is worn, and others not. Some *Amoraim* (*ibid.*) say that one who dons *tefillin* at night violates a Torah prohibition, either a positive one and or even a negative one. The Rambam (Tefillin 4:10) accepts the latter opinion.

However, most *Rishonim* (see Beit Yosef, Orach Chayim 30) and the Shulchan Aruch (OC 30:2) follow what the *gemara* apparently learns from a story about Rav Ashi, that he posited that fundamentally one can fulfill the *mitzva* of *tefillin* at night. The *gemara* does conclude that we do not teach people to do this. Rashi (Menachot 36b) and many others explain that there is a concern that if one wears *tefillin* at night, he might fall asleep with them on, which is forbidden lest one pass gas (Sukka 26a).

The *gemara* (Eruvin 95a, Menachot 36b, Beitza 15a) discusses the possibility of wearing *tefillin* under non-standard circumstances and intentions at night and/or on Shabbat/*Yom Tov*. The main case is when it is required to bring the *tefillin* to a safe place. It seems to be permitted whether or not these times are fundamentally slated for *tefillin* to be donned (Eruvin 95b). Even the Rambam (*ibid.* 12) can allow a potential Torah violation either because he does not intend to wear them for the purpose of a *mitzva* or because he is only keeping them on rather than putting them on (see Shaagat Aryeh 43).

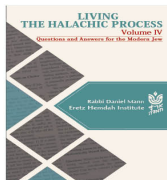
The leniencies of not intending to fulfill the *mitzva* and only keeping them on actually do not seem to apply according to the approach that the reason we don't wear *tefillin* at night is only Rabbinic. After all, that does not reduce the chances of falling asleep. Therefore, the logic behind permission to wear *tefillin* to protect them is connected to the need to protect holy articles from loss or disgrace, which is often a halachic factor (see Shabbat 115a). The *gemara* (Menachot 36a) does also allow one who is leaving his house too early for *tefillin* to put them on and make the *beracha* when the right time comes. Another important factor seems to play a role – this is his only viable way of fulfilling the *mitzva* (see Mishna Berura 30:10).

However, many (including Shulchan Aruch, OC 30:3) identify another factor, which we should consider in our case. We are referring to one who has woken up for the day (albeit, early), and therefore, we do not need to be concerned that he will fall back asleep. Similarly, one might argue that one who is just trying on *tefillin* should not be concerned he will forget about them until he falls asleep, at least if it is not late at night. However, this apparently is not sufficient to allow putting on *tefillin* for this reason. *Chazal* and classical *poskim* set the parameters for when one has to be concerned about sleep. The Shulchan Aruch (*ibid.* 5), for example, says that if one has already *davened Maariv* before nightfall, it is forbidden to put on *tefillin* because it is halachically night. The Mishneh Sachir (1:13) remarks that the halachic categorization of night is the factor, not the likelihood of sleep. Therefore, it is difficult to argue that the fact one plans to take off the *tefillin* quickly makes a difference. However, it is **conceivable** that one would give a lenient ruling if it is crucial for him to do so specifically at night (e.g., it is the only time someone is available to adjust the *tefillin* for a *bar mitzva* boy).

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Ein Ayah

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

Share Secrets Carefully

(condensed from Ein Ayah, Shabbat 8:45)

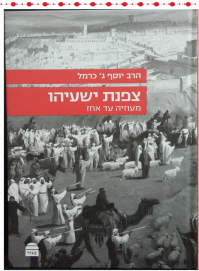
Gemara: A scholar from the Galil was asked to expound upon the *ma'aseh merkava* (the description of Hashem and His Heavenly abode). He said to them: "I will expound to you according to the way Rabbi Nechemia did to his friends." A hornet came out of the wall, bit him on his forehead, and he died. They said: "It was from him that it came to him."

Ein Ayah: Regarding inquiring about lofty divine matters, which are at the heights of the philosophies of hidden ideas, as long as they are not at the point to be revealed to the uninitiated, it is uncommon that this would cause damage to those who think straight and guard their thinking. The difficult thing in this realm of deep matters is the question of how to reveal matters of this type.

When one arranges the "storage rooms" of knowledge in a methodical way, there can sometimes be a hidden "poisonous fly," which represents a deadly false piece of knowledge. It can attack the place where the deep matter begins to become revealed. This is represented by the forehead, which is the area that covers the root of thought in the brain.

It is not the essence of the holy thoughts that are at fault for this tragedy, but the matter depends solely on the one who is doing the revealing. When he leaves the realm of how it was accepted and reveals such matters and strives to come up with his own new ideas, specifically then would the "edifice" become a place that harbors "deadly flies." If, on the other hand, the inquirer of divine, lofty matters uses the content and the language of the "fathers of wisdom," who speak with a near prophetic spirit of holiness, to be his guiding light, he will be protected from stumbling blocks.

That is why he said to him: "It was from him that it came to him." In other words, it was the fact that there were new ideas that came from him. If it could happen to such a *tzaddik*, who made but a small mistake, that there could be such a great stumbling block, it could only be because of the concept that "Hashem is exacting with the actions of those who are close to Him to the breadth of a strand of hair" (Yevamot 121b). Even such a stumbling block did not come from the depths of the knowledge itself, but in the way it was explained and revealed. Any such matter requires great care in accordance with the value that the expounding relates to. It is according to the way the *gemara* (Chagiga 13a) adapts the *pasuk* (Mishlei 27:26) of "your clothes will be *kevasim* (lit., be made from sheep/wool, but is taken in the following way)": those things that are about the secret matters of the world should remain under your clothing (i.e., concealed).



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

Fallout from Underground Encroachment – part II

(based on ruling 71018 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: Defendant #1 (=def1) built a house next to the lot owned by defendant #2 (=def2). His sewer pipe went partially under def2's property. In 1998, def1 and def2 signed an agreement whereby they would exchange property so that def1 would get the land over the pipe, but the agreement was never taken to the land authority for implementation. The plaintiff (=pl) bought def2's plot and built a house on it not along the lines of the property exchange. As pl's house was being built, in 2004, the parties made a basic agreement by which pl would do landscaping as he likes on top of most of the pipe. Pl claims that the presence of the pipe raised the cost of his development. Additionally, the sewer is faulty and has more than once gotten clogged and leaked, giving off horrible smells; this causes his property to devalue. Pl demands the removal of the pipe and/or compensation for various elements of more than 200,000 shekels. Def1 claims that the land exchange was binding and that def2 asked as a favor not to report it right away to the authorities and that pl was told about the situation before buying the lot. Def2 says that he changed his mind on the land transfer the day after signing that agreement and that it is probably not possible to carry it out legally. He told pl about the problem and demands that pl finish payment for the house and adjudicate with def1. Pl responds that since the contract states that the property is free of the existence of any other parties in it, def2 is in breach of contract and does not yet deserve the final payment.

Ruling: Last time we saw that the 1998 agreement was not binding.

The relevant question that remains is whether the fact that def1 has been using the land of def2/pl for most of the time without active opposition creates a *chezkat tashmishin* (the right to continue using another's property based on tacit approval). The Rambam (Sh'cheinim 8:1) rules that even a short time of usage of another's property without complaint allows the user to continue even if he did not claim to have made a transaction to obtain rights. Others require that the user has a claim of receiving permission. The Shulchan Aruch (Choshen Mishpat 153:2) rules like the Rambam. There are apparent contradictions about what the Rama's opinion is. The S'ma (153:32) answers based on distinctions between different acts of *chazaka*. The Netivot Hamishpat (113:13) distinguishes that if the user is doing things in his own area, just that it affects his neighbor's property, he can continue to do so. If he wants to continue using his friend's property, he must have some proof.

Here, in all agreements and understandings, it was assumed that def1 would not be required to move the pipes; the question was about the "price" he would have to pay. Pl even acted on that assumption by developing the land on top of the pipes, which would not have made sense if their presence was temporary. Although sales are final only if a price has been set for them and in 2004, it does not seem to have been clear what the "price" would be, it was clear enough that the situation would continue to give def1 a *chazaka*.

The question that now remains is how to determine the proper compensation.

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

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Yair Menachem ben Yehudit Chana / David Chaim ben Rassa
Netanel Ilan ben Sheina Tzipora / Netanel ben Sarah Zehava
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