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# HEMDAT YAMIM

## Parashat HaShavua

Noach, 4 Cheshvan 5780

### The Jewish Way is Not Noach's Way

Harav Shaul Yisraeli – a talk with students at Kfar HaRo'eh – from Si'ach Shaul p. 17-18

The *navi* calls the *mabul* (Great Flood), "the waters of Noach." The Zohar explains that he was thereby blamed somewhat for not asking for Hashem's mercy for the generation. The *midrash* (Yalkut Shimoni V'Zot Haberacha 951) tells the story of a disagreement attributed to Noach and Moshe. Noach said: I am greater than you, for I was saved from the generation of the *mabul*. Moshe responded: You saved yourself and did not have the strength to save your generation. But I was able to be responsible for: "Hashem regretted the bad plans that He said He would do to His nation." This is like the case of two ships in the sea – in one case, the captain saved himself, and in the other, the captain saved himself and the ship.

The righteous person in Judaism does not suffice with someone staying in his "comfort zone" and saving himself. Moshe said: "Moshe and a hundred like him can die, and let not one person from Israel be hurt in his fingernail" (Devarim Rabba Ki Tavo 10). Moshe knew his worth and importance to Bnei Yisrael and still was not concerned about his own safety, spiritual or physical, if he had the opportunity to help others.

There was a horrible occurrence recently that shakes one who hears about it. In one of the agricultural communities in the Sharon region, a *sefer Torah* was brazenly defiled. It makes us think: how is it possible for a Jew to stoop so low? On second thought, it makes one think if we are not also to blame. Maybe we also do not respect a *sefer Torah* sufficiently, which is what allows someone else to take the matter so far as to do what this person did.

Life is made up of introduction after introduction. Even Simchat Torah, with all of its varieties of excitement, is a preparation for the days of action – the days of learning in *yeshiva*, with the hope of elevating ourselves. "They shall draw water in happiness" (Yeshayahu 12:3). We should not be satisfied with what we have. Rather, we should always strive for further elevation. If one does not go up, he goes down, and, in fact, even remaining stationary is a fall, considering one's potential.

We are standing before the "days of actions" of your second year in *yeshiva*. You achieved a lot in your first year, but you can achieve even more in this second year. After all, you have grown and have more of a basis of knowledge. You are no longer those youngsters who had trouble with the *gemara's* text. There are greater demands, because there is greater responsibility.

An individual who learns not only impacts himself, which is also something of great value, but rather the whole world benefits from him. The influence of those who learn Torah on their friends is great, and you have responsibility to provide that influence.

There is Torah, and there is the approach to Torah. Greater is one who serves a Torah scholar than one who learns Torah (Berachot 7b) [because he can learn from the scholar's actions]. Therefore everyone has to be careful about his behavior toward others and strengthen the social fabric of the *yeshiva*. Help, encourage each other, etc. This is your task now.

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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

## Personal Requests on Shabbat

**Question:** What types of requests are prohibited on Shabbat? Is *davening* for peace and tranquility in one's own words permitted?

**Answer:** It would appear that there are contradictory approaches on the idea of withholding requests on Shabbat. The Yerushalmi (Shabbat 15:3) says that one is not allowed to "demand his needs" on Shabbat. In Berachot (5:2), it explains that *Havdala* in *Shemoneh Esrei* is at the very beginning of the request section because requests are inappropriate before ending Shabbat. The *gemara* (Berachot 21a), though, rules that if one began one of the middle *berachot* on Shabbat, he completes that *beracha*, as the middle *berachot* are appropriate and are withheld only to avoid *tircha* (extra toil) on Shabbat for *daveners*. So it seems to be a *machloket* whether the content of requests is appropriate on Shabbat. (Some *Rishonim* (see Beit Yosef, Orach Chayim 268) say that only the first *beracha* can be done if started by mistake, because asking for wisdom is a spiritual request. The Shulchan Aruch (OC 268:2) rejects this distinction.)

However, a distinction in the first Yerushalmi allows the sources to coexist. It raises the question of whether the parts of the third *beracha* of *Birkat Hamazon* that contain requests can be recited on Shabbat. Its answer is that it can since it is a *tofes* (set form of the) *beracha*. In other words, special requests are problematic, not ones that are part of the normal text. Thus, *Chazal* did not have to remove *Shemoneh Esrei's* middle *berachot* but decided to do so because of *tircha* (Aruch Hashulchan, OC 268:3). Therefore, if one accidentally slips into the set *Shemoneh Esrei* mode, he may finish it. The Midrash Tanchuma (Vayeira 1) does give a different reason for omitting the middle *berachot* – thinking about the needs addressed in these *berachot* can remind one of his problems and make him unduly sad.

We might suggest that requests of the masses are permitted, as they are in the first and last three *berachot* of *Shemoneh Esrei* (Shulchan Aruch, OC 112:1). However, the Rivash (512) proves from the fact that the requests in *Birkat Hamazon*, which apply to the masses (Yerushalayim etc.), would have been forbidden if they had not been part of the set text, that this does not solve the Shabbat problem.

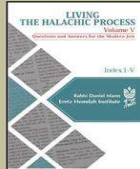
It is unclear the extent to which being set helps. On the one hand, the Rivash explains that *Zocherenu L'chayim* can be said during Shabbat of *Aseret Y'mei Teshuva* because it is a set part of *Shemoneh Esrei* throughout that period. The Ohr Zarua (II:89) similarly justifies *Elokai Netzor* (full of requests) on Shabbat on these grounds. This is not obvious when one considers that it is somewhat after the *Amida* and *Chazal* did not institute it as a required text (Berachot 17a cites it as one *Amora's* personal prayer). He says that it is permitted now only because it has become widely accepted, implying that an individual's set addition would be a problem.

The Rivash (ibid.) discusses *Avinu Malkeinu*, reasoning that since it is separate from regular *tefilla*, it should be improper on Shabbat. (On the other hand, he justifies all of the several *minhagim* on the matter, saying that the halachic issues are not serious enough to change a community *minhag*.) We should also note that almost all communities recite public requests (e.g., *Yekum Purkan*), specifically on Shabbat, as well as *Mi Shebeirach* for the sick (we do add, "*Shabbat hi milizok*").

In short, while it is difficult to explain every element of our *minhagim* on public prayers on Shabbat, the individual should not add his own requests, other than in a case of acute need that cannot be delayed. Your question about peace presents a wonderful opportunity to point out that we have many opportunities. *Sim Shalom*, which remains in the Shabbat *Amida*, is a request for peace. Nothing prevents us from taking a little extra time to contemplate ideas that abound in our standard text and cognitively relate them to matters that are on our mind. One should just avoid doing it a manner that makes him sad on Shabbat.

**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.)

## Starting from the Top

(condensed from Ein Ayah, Shabbat 9:77)

**Gemara:** “Like a *tapuach* (which may or may not be an apple tree, and it is not clear which variety) among the trees of the forest, so is my beloved among the young men ...” (Shir Hashirim 2:3). Why is Israel compared to an apple tree? It is to teach you that just as an apple tree has its fruit begin to grow before its leaves, so too Israel said “we will do” before “we will hear.”

**Ein Ayah:** Lower levels in the realm of the physical and spiritual are arranged opposite the higher levels in two manners.

Sometimes higher levels develop through the lower levels, which requires the latter to exist before the former. There are also times that the higher levels appear from the fundamental light, without need to be preceded by the more basic levels. Even in that case, the lower levels are important, and they come along and protect and strengthen the higher levels and allow for connections between practical life and the higher levels.

Proper actions make up the upper portion of the spiritual apparatus and are the manifestation of the Torah within life, leaving its insignia of sanctity on the world. It is not that the actions remind us of some idea to recognize and remember. Rather, proper actions are the high content according to the way Hashem set the world. They become partners in Creation and improve existence. This is the special ability Israel was given by receiving a Torah full of holy actions that exceed any halachic or moral ideas alone.

The higher “fruit” do not come from the levels beneath them, even the highest preparatory level, which is hearing. This is the idea of the fruit coming before the leaves. From the idea of basing the existence on the source of the life of the world, there also flows a light of wisdom that includes hearing and listening. This adorns, strengthens, and broadens the revelation of the higher level of action, even though they come afterward. That is how Israel resembles the apple tree.

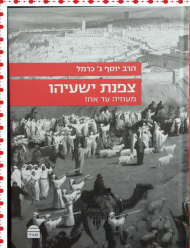
## Natural Spiritual Simplicity

(condensed from Ein Ayah, Shabbat 9:78)

**Gemara:** A heretic saw that Rav was involved in halachic research and had his toe under his foot, pressing it until it bled. He said: You are a hasty nation, who put your mouth before your ears (i.e., said “We will do and hear”), and you continue with your hastiness. First you should have heard; if you could accept it, you would accept it; if not, you would not accept it. Rav answered: For us, for whom it was enough to go on trust, the *pasuk* says: “The simplicity of the upright guides them” (Mishlei 11:3). About those people who prefer tricks, it says: “The deviousness of the unfaithful will devastate them” (ibid.).

**Ein Ayah:** When one sees the highest focus on the spiritual overcome all of the physical feelings, to the point that it cancels them out, he can view that show of strength in two ways. It could be a foreign matter that breaks the natural manner of a person’s life. If so, one should be careful that it not go beyond a reasonable degree, so that it not ruin his physical life. The other way is for the spiritual to complete the physical, so that the physical joins in with the spiritual and in that way loses its separate identity. In such a healthy manner, life is safe from related dangers. To the contrary, it must, by nature, add strength by returning the physical to its foundation and source.

Upright people feel that their natures are supplemented by increased spirituality, which comes from the sanctity of Torah in its highest form. That is why the simplicity of being accepting is a guide. Those who are repelled by such a nature, which could have been in their souls, are like those who betray the potential to be upright.



### 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**

## **Deceptive Developer**

(based on ruling 76058 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) is a developer who built apartments on land that he owned for the plaintiffs (=pl), a group of 16 households who bought apartments. Pl presented a list of repairs that def did not fix during the allotted time. Also, def promised that each buyer would receive a parking spot in front of the building, but it turns out that the only spots being provided are open to the public. Def accepted the legitimacy of the list of repairs (in what turned into a partial ruling of *beit din*) and took upon himself to fix them within 30 days. However, many of the elements were not fixed even long after the 30 days. Regarding the parking spots, pl says that zoning laws prevent them from making private parking places.

**Ruling:** The Beit Yosef (Choshen Mishpat 14) says that the defendant must pay all the expenses that are accrued in compelling him to carry out the ruling against him. Since an engineer estimated the price of carrying out the repairs at 41,965 shekels, def will have to pay pl this sum, and the residents will hire a person of their choice to carry it out. They need not wait any longer for def to do what he was required to and failed to do.

The claim that the zoning laws do not allow private parking places is largely irrelevant. In the purchase contract, it is mentioned in two places that each apartment would have a parking spot (and their details are even specified). Therefore, if it is indeed against zoning laws, then def intentionally misled pl and sold them something that def did not own. The result is that since a parking place has a value and is included in the price of a property, that part of the apartment price was based on a fraud. Def's apologetics about the meaning of these provisions in the contract are implausible.

*Beit din* hired an engineer to see if there is a way of building a parking area within the property, but he found that it is not a practical option. *Beit din* hired an appraiser to determine the price of a parking place for a building of this level and location. He determined it is 4,000 shekels a piece. Pl questioned how it could be so low and requested to have the expert's credentials checked. *Beit din* reviewed his credentials and found that they are fine, and asked of the expert to carefully explain his rationale. It turns out that the price of a parking place on the street in front of the building (which is what was promised) depends on the availability of parking in the area. In this area, there is good availability, and the appraiser used publicly approved guidelines. He claimed that the range of opinions would be around 10% above or below 4,000 shekels. Appraisal of land is classically done by three experts (Shulchan Aruch, CM 103:1-3). However, the price of hiring such experts would exceed the possible savings/earnings of either side. Therefore, *beit din* will exercise its authority to rule based on compromise when it is for the welfare of the litigants and follow what the one expert appraiser presented.

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