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HEMDAT YAMIM

Parashat HaShavua

Nitzavim Vayeilech, 23 Elul 5780

Between *Nitzavim* and *Matzeiva*

Harav Yosef Carmel

The root *natzov* implies that the *Shechina* (Divine Presence) is involved, along the lines of the *pasuk*: "Seek Hashem when He is found, call Him when He is near" (Yeshayahu 55:6). See development of this idea in our Hebrew column of Nitzavim 5762. The opening *pasuk* of our *parasha* refers to *nitzavim* in the context of the joining together of a whole list of members of vastly different elements of the Israelite nation, and starts with the assertion that *kulchem* (all of you) are assembled (Devarim 29:9-10). In other words, it is the unity that is critical in attracting the *Shechina* to dwell among us in the most complete manner.

In discussing Avshalom's death and his own preparation for it, the root *natzov* is found three times in one *pasuk* (Shmuel II, 18:18) and once in the previous *pasuk*. The main context is in Avshalom's erecting a *matzeva*, which most translate (see Rashi ad loc.) as a monument for himself called *Yad Avshalom*. The Radak explains that it was a grave which had a conspicuous headstone serving as a monument. We prefer to go in the direction suggested by the Targum Yonatan, that it was a *kamata*, which is the type of *matzeva* discussed by the Torah – a large stone which was once used for service of Hashem for libations of wine or oil. *Matzevot* became forbidden when they were adopted as part of the service of idolatry. The Sifrei (Shoftim 144) pointed out that such *matzevot* had been permitted at the time of the patriarchs only to become forbidden by the time the Torah had been given.

We have explained in the past that Avshalom had fomented the emotions of the people against David, who, in advancing the plan to build the *Beit Hamikdash* had thereby set into motion the prohibiting of sacrificing on private and local *bamot* (altars). It is possible that along the same lines, Avshalom had opposed the limiting of possibilities to serve Hashem by means of such once-beloved actions as libations on *matzevot*. In other words, he championed the idea of pluralism and individuality in the service of Hashem. For that reason, Avshalom erected a *matzeva* in a prominent place around Yerushalayim to attract those who wanted to use it in their individual manner of service of Hashem. Thus, this *matzeva* was not a monument or grave for Avshalom but was a statement of his support of ritual liberalism based on past practice. This summed up his life mission as a *ben sorer u'moreh* – by rebelling against his father, David, and his Father in the Heaven, who gave the Torah with all of its instructions and restrictions.

Let us pray that in our generation we will witness the full return of the Divine Presence, as represented by the root *natzov* and occurring in the merit of the unity of *Klal Yisrael*. We should not need to resort to manipulations of the divine desire like Avshalom promoted in order to excite the people who seek to serve Hashem.

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Ask the Rabbi

Backing Out of a Pledge to a Jewish School

Question: May one to decide not to go through with his donation pledge to a Jewish school? If so, must he take steps such as *hatarat nedarim*?

Answer: Your question is general, as will be the focus of our answer. Realize that details can make a big difference.

Pledges of a gift can obligate on various tracks. One follows rules of monetary laws: Only after a *kinyan* (act of finalization) to obligate himself or transfer an item can the gift be enforced. However, if one asserts that he will give his friend a modest present, he has a halachically recognized moral obligation to do so (Bava Metzia 49a). When the intended recipient is poor, the moral obligation exists even for a significant present (Rama, Choshen Mishpat 243:2). In that case, the basis of the moral obligation is “religious,” under the laws of oaths (*nedarim*) (Yerushalmi, Bava Metzia 4:2; Shut Harama 47). Indeed the idea of *nidrei tzedaka* is derived (Nedarim 7a) from a *pasuk* on oaths (Devarim 23:24). Jewish schools that promote Torah values and observance are considered a proper recipient of *tzedaka* funds (see our article of Va’eira 80).

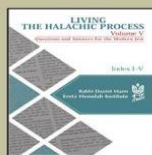
Each element has rules as to when it applies and why a pledge might not be binding. When one becomes obligated based on *neder*, he can often (see one of the exceptions in Shulchan Aruch, Yoreh Deah 228:21) remove the *neder* with *hatarat nedarim* – he professes regret about having made the oath, and the assembled “court” can uproot it. The *neder* part of a pledge to *tzedaka* can similarly be undone (Shulchan Aruch, Yoreh Deah 258:6); the process is called *sh’eila*. However, the fact that this *neder* is for the direct benefit of the worthy recipient, and thus backing out erases his rights, impacts in a few ways. For one, once the donation reaches the *gabbai*, the pledge cannot be undone (ibid. see Arachin 6a). This largely parallels the rules of *kinyan*, as the *gabbai* is considered “the hands of the poor” (see Tosafot ad loc.; Bava Kama 36b). Also, while *sh’eila* can work if done, *poskim* warn not to agree to nullify the pledge (Shut Haradbaz IV:134; Pitchei Teshuva, YD 258:8). However, this idea does not totally shut the door to undoing the vow. In the parallel discussion of *nidrei hekdesch*, the Shulchan Aruch and Rama (YD 203:4) say that one should do *hatarat nedarim* only in the case of *dochak* (roughly, pressure or difficulty). Therefore, for example, if a rich person pledged a large donation and before giving it, he lost his wealth to the point that it is not feasible to follow through, there are grounds for *sh’eila*.

Another scenario in which a pledge does not have to be fulfilled is when it was based on a mistake (*ta’ut* or *shegaga*). The concept that *ta’ut* nullifies obligations/agreements applies both to monetary matters and to *nedarim* (see Shulchan Aruch, YD 232:6). In such cases, *hatara* is not even necessary. It is not always clear when the mistake is definite or significant enough to void the obligations. One of the cases in the Rama (ibid.) is a slip of the tongue regarding currency (e.g., stated \$1,000 when he meant 1,000 NIS). The Chatam Sofer (Shut YD 237) talks about a more subtle case – the donor thought the recipient’s needs were well beyond their true level. The Shvut Yaakov (I:72) discusses one who promised to support a group of ostensibly righteous Torah learners, and it turned out that that many of them were far from righteous. He demonstrates that in principle this is a *ta’ut*, but in practice one should be cautious before renegeing. The two latter sources both suggested being on the safe side by doing *hatara* even in cases in which they should not need it. *Tzedaka U’mishpat* 4:76 discusses at length cases of ongoing commitments in which over time things changed for the recipient (e.g., became rich, died) that change the rationale for the donation.

In summary, a pledge to a Jewish school is generally binding, but practically there may be reasons why it is not. In an actual case, one should carefully discuss the specific merits with a rabbi who can help put the facts and the halacha in proper perspective.

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.)

The Elements of Avraham's Broad Impact

(based on Ein Ayah, Shabbat 12:52)

Gemara: Rabbi Yehuda said in the name of Rabbi Yossi ben Zimra: How do we know that *notrikon* (reading words with each of their letters representing a word that begins with that letter) is from the Torah? It says in the Torah “*Ki av hamon goyim netaticha*” (I have made you [Avraham] a father for many nations) (Bereishit 17:5). From *aleph* of *av*, we learn: I made you [Avraham] a father for the nations. From *bet* of *av*, we learn: I made you the choice among the nations. From *heh* of *hamon*, we learn: I made you very beloved among the nations. From *mem* of *hamon*, we learn: I made you a king among the nations. From *vav* of *hamon*, we learn: I have made you venerable among the nations. From *nun* of *hamon*, we learn: I have made you a trustee for the nations.

Ein Ayah: *Notrikon* show that in addition to that which is written in the Torah explicitly, there is also a wealth of great ideas that flow from that which is not written in full. It is like the idea of *notrikon* itself – one word is written and from there we can figure out the part of the word that is not written.

In order to express this point, the Torah chooses a *pasuk* involving Avraham Avinu, which was said at the time that his name was changed from Avram to Avraham. Within Avraham's essential being, the basis is the sanctity of Israel, as all of the forefathers including Avraham, are called Israel. However, part of Avraham's being extends beyond the Nation of Israel and impacts, by means of his being, on all the world's nations.

The impact can be separated into six elements. The first element is at the root, as every element of sanctity, theological truths, morality, and truth and justice that have always existed in the world's nations are linked to Avraham, as their founding father as well. He was the groundbreaking spiritual leader who started teaching true belief in Hashem. This is hinted at in Avraham being the father of many nations.

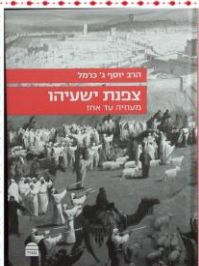
The second part of Avraham's influence was in his being consistently in a special compartment among the multitude of currents running within the nations. This is a unique characteristic of not mixing in with improper thoughts that the nations cling to. This is hinted at by the second letter – he was choice among the nations.

The third element is Avraham's impact on knowledge of Hashem and the ways of justice that stem from the purity of belief. This is a swaying power within many people who feel great fondness towards ideals, for upright ideals are persuasive. In this vein, the *gemara* learns that Avraham was beloved among the nations.

The fourth part is the leadership role that was revealed through the sanctity of divine truth. This was the special lot of Avraham, who fought for truth against those in the world who dwelled within darkness and defeated them with the greatness of his truth. That is what is meant by being a king among the nations.

The fifth part is the content that impacts the actions and attributes and straightens them with the sanctity of philosophical truths. The spark that came from the light of Avraham had a moral impact on the world. It limited evil and drew the general life of the nations toward justice and true goodness. This is what is hinted at by Avraham being venerable.

The sixth element is the power of belief, which was a trait of Avraham, about whom it says: “He believed in Hashem, and [Hashem] considered it righteousness” (Bereishit 15:6). The power of belief that others experienced was an offshoot of Avraham's internal strength, and it impacted on many generations, which kept the spark of belief within the nations going. It started with a general positive belief and turned into to a pure belief in Hashem. In this regard, the *gemara* says that Avraham was *neeman* [which can mean trusted or related to belief].



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

Proper Return of Rented Apartment

(based on ruling 76097 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) rented out his apartment over decades to two educational institutions, first to the defendant (=def), then for a long time to the previous renter (=pr), and for the last two years to def again. Def told pl on June 10 that they were leaving on June 30 and paid rent until then. Originally, the apartment had been for families, and changes were made to transform them for dormitories (e.g., extra showers instead of a bath). Def entered into pr's rental agreement without a new contract. Pl claims that he told def that they must return it to a family apartment at rental's end. Def denies there was such a commitment and started doing only minor repairs. Pl was unhappy with def's workers and did renovations over the summer. Pl demands rent for three months from the end of the renovations, because that is the required period of notification by law for vacating an apartment. Def argues that since they were working without a contract, a month's notice was sufficient. Pl also demands payment for the renovations (47,718 NIS). Def acknowledges responsibility only for the minimal changes they made (admittedly, without permission), which they already fixed. Pl is skeptical that def didn't change anything else and says that they anyway accepted pr's obligations.

Ruling: Even according to pl's account about their stipulation, it was to "return the property to a normal state," and since it had been a dorm for decades, that would not indicate acceptance of a major renovation. Under such circumstances, he lacks the ability to extract money. Although pl claims that the apartment was overall in bad repair, since pl knowingly rented out the apartment for decades as a dormitory, this is the expected state to find it.

As far as the claims that def made many changes, *beit din* inquired of pr, who confirmed that it was already used as a dorm when they were renters. While they did not remember details, it strengthens def's claims that they changed little upon starting to rent, and pl has not proven his case for their payment. Because it is unclear if def did enough to restore the apartment to its proper state and it is wasteful to hire an expert, we will have def pay 1,000 NIS toward renovations.

As far as notification, the standard halacha is that if there was no set time to finish the rental, both sides need to give a month's notice in a small city and 12 months in a central city (Shulchan Aruch, Choshen Mishpat 312:7-8). If a renter leaves earlier, he must continue paying. By Israeli law, one must give three months' notice, and this is the local practice as well. The payment could be either because leaving without proper notification causes damage or because it is an assumed acceptance of responsibility. In this case, though, since pl decided to take the opportunity to make serious renovations over a few months, at which time he could not rent out to another nor could def go back to using it even if he were to pay, it is not a real loss for which payment is appropriate.

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