



HEMDAT YAMIM

Parashat Hashavua

Vayeitzei, 9 Kislev 5782

Harav Shaul Israeli zt"l
Founder and President

Why Specifically a *Matzeva* (Monument)?

Harav Yosef Carmel

At the beginning of Yaakov's long journey, he stopped in Beit El, where he slept, dreamt, and erected a monument (the first of two in our *parasha*). At that place, he swore that if he would return in peace to his father's house, he would make the place of the monument a "house of G-d" (Bereishit 28:21-22).

At his last meeting with Lavan, after he embarked upon his return to Canaan, Yaakov again took a rock and turned it into a monument, related to the non-belligerence treaty he made with Lavan (ibid. 31:45-53). Upon his return to the Land, Yaakov kept his promise and placed a monument at the place of his dream and called it Beit El (ibid. 35:14-15). Unfortunately, not much later, he had to erect another *matzeva*, at the burial plot of Rachel (ibid. 19-20).

Opposite the *matzeva* that Yaakov erected, made so Yaakov could pour libations to Hashem, Lavan's relatives put together a pile of stones, which could serve for idol worship (see ibid. 31:46, which we understand as Yaakov telling not his "brothers" but Lavan's, as we find the syntax regarding Paroh and Yosef's brothers – ibid. 47:3).

Rabbeinu Bachyei connects between the story of Rachel's stealing of her father's *terafim*, to rid him of his idol worship, and the pile of stones that also symbolized idol worship. The agreement between Yaakov and Lavan therefore ended with Lavan swearing in the name of Nachor's god and Yaakov swearing in the name of the G-d of Yitzchak, who had been bound to the altar as part of his dedication to belief in the one G-d (see also Abarbanel ad loc.). Upon this backdrop, we can suggest the following explanation.

Yaakov understood the deep significance of his flight to his uncle, Lavan's, home, considering that the latter was a known idol worshipper. This was a very spiritually dangerous step. When he erected the *matzeva* in Beit El and made the promise about his return, he was proclaiming that even in Charan he would serve only the G-d of his father and his grandfather, who fought against all forms of idol worship. Yaakov's placing of the rival monuments was also a declaration that there was a gulf between his approach and that of Lavan. Along those lines, he renewed his dedication to Hashem upon returning to Beit El. It is possible that Yaakov did not find out about Rachel's stealing of her father's *terafim*, and his curse of the thief was involved in her premature death. Even so, when Yaakov put a *matzeva* by her grave, this too was part of his creating a spiritual center, which stood as a lesson to the surrounding population of the approach of Avraham and Yitzchak, as the service of Hashem on a single rock was unique to them at that time.

It is true that after the giving of the Torah, a *matzeva* became forbidden, and an altar had to be built out of stones, which represented the idea of the members of the nation from their multiple tribes, joining together for service of Hashem through justice and charity (see Bereishit 18:19). May we succeed in building our state and society based on these ideals.

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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

V'ten Tal U'matar for those Returning Abroad in the Fall

Question: I am in my second year in Israel but have to go back permanently soon, before Dec 4. I started saying "v'ten tal u'matar" (=vtum) on 7 [Mar]Cheshvan. Should I have? Should I stop now, when I get back to *chutz la'aretz*, or not at all?

Answer: The saying of *vtum* was instituted by the Rabbis according to the needs for rain of their time's major Jewish communities. The whole Diaspora follows Bavel's needs, which comes out on Dec. 4th or 5th. The Rosh (*Shut* 4:10) felt that regions that require rain at other times should be able to add *vtum* as appropriate. The Shulchan Aruch (Orach Chayim 117:2 – see *Beit Yosef* ad loc.) agrees in principle, but not in practice because of *minhag*. Therefore, someone from a place that needs rain earlier should not ask for rain, but if he does, it is unclear if he must repeat *Shemoneh Esrei* (see Shulchan Aruch and Rama *ibid.*). Probably, your home abroad can use rain all year long, in which case saying it is not so bad.

The Mishna Berura (117:5) cites two opinions on the questions of a *ben Eretz Yisrael* visiting abroad and a *ben chutz la'aretz* visiting Israel asking for rain in the interim period. In broad terms, the Birkei Yosef (OC 117:5) says that one follows the practice of the place he is at; the Pri Chadash (OC 117:2) says that one who is returning that year should follow his home. Regarding an Israeli abroad at this time, we wrote (*Living the Halachic Process*, II, A-11; see sources there) that it is, in most cases, safest to ask for rain in *Shomeiah Tefilla* (cited in the name of Rav Auerbach and Rav Elyashiv and recommended in *Yalkut Yosef*). The fundamentally stronger position is to start reciting abroad based on his needs during the year.

Regarding our case, it would follow that while the Birkei Yosef would have you start *vtum*, the Pri Chadash, as the Pri Megadim (MZ 1) and Mishna Berura (*ibid.*) understand, would not have because you will not feel the effects of the fall's rain at home.

However, some point out that the Pri Chadash mentioned only an Israeli abroad, and perhaps the Pri Chadash could endorse you starting on 7 Cheshvan. B'tzel Hachochma (I:62) argues that visitors can also benefit from early-season rain, as expectations for a future good crop can lower prices now. The Birkei Yosef (*ibid.*), in explaining why a *ben chutz la'aretz* in *Eretz Yisrael* should start early, argues there are short-term water needs besides crops. (It is questionable whether this applies nowadays, when there are rarely immediate water shortages affected by November rain.) Furthermore, argues B'tzel Hachochma, if the rainy season in Israel is even a few weeks late, special prayers and fasts can be called; since visitors should take part, *vtum* is appropriate. According to this approach, a variety of combination of needs and connection to Israeli rain make it appropriate to pray for it – a *ben Eretz Yisrael* abroad, due to later benefit; or a *ben chutz la'aretz* presently in Israel, based on minor present benefit. One can suggest that you are a little more fit to say *vtum* than the average visitor since your status quo in regards to rain is like that of a *ben Eretz Yisrael*, based on last year, until you leave. The counter-claim is that this status lapses over the summer.

On the other hand, Be'er Moshe (VII, p. 196-202) argues against someone like you starting, based on the following factor. The Birkei Yosef (*ibid.* 6), who usually goes by where one is, says that an Israeli who started asking for rain before his trip should continue because stopping looks ridiculous. Here, since the consensus is that once you leave, you, as a *ben chutz la'aretz* in *chutz la'aretz*, should not recite until Dec. 4. Therefore, you should not have started based on weak need only to distastefully stop. On the other hand, once you did start, with some logic, you should continue.

In short, we would have suggested for you to start saying *vtum* in *Shomeiah Tefilla*, which is safe according to all approaches (as then you ask, but informally). What you did was reasonable, and you can continue until you leave.

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



Igrot HaRe'aya - Letters of Rav Kook

Encouraging Prognosis for the Development of Eretz Yisrael

Date and Place: 5 Nisan 5767 (1907)

Recipient: Rabbi Altar Noach Hakohen, the great kabbalist. (Apparently, this is Rabbi Alter Noach Michlensky (Kaiser), who was known as a healer of the sick. He lived and had a following in *chutz la'aretz* but also had an interest in *Eretz Yisrael*. He sent some of his family to *Eretz Yisrael*, some of whom were involved in one of the biggest controversies in pre-state Israel.)

Body: [Ed. note - *The letter is written beautifully with many hinted Torah messages to which I cannot do justice in translation in this forum.*] Your letter, which was written by your trusted assistant, Rav Y.M. Cohen, as well as two sums of money, have been received.

My heart is joyous, with thanks to Hashem, Who is good, because it appears that the "light of Israel" has begun to shine through our darkness. May the love and desire to build the Holy Land that has started to beat in your heart, my dear friend, be in the hearts of many members of our holy nation, including those who are devoted to your leadership. This will invigorate the effort to increase and strengthen the Jewish community of our eternally desirable Land. This must be accompanied by the sanctity of the flame of Hashem, the light of Israel. I hope to stand by your side concerning all the details of your plans.


It is worthwhile to buy vineyards that are already planted in the area surrounding the holy city (ed. note - perhaps Rav Kook means Yerushalayim, or perhaps Yafo, which he also refers to as a holy city, and was more developed agriculturally). We may be able to bring righteous people together and make a winery of strictly kosher wine from the Holy Land, which would enable planting new vineyards and buying important sections of land. Concerning other elements of settling the Holy Land, there are many opportunities before holy *tzaddikim* in our nation to do great things.

You are fortunate to have been chosen by Divine Providence, based on various things that have transpired, including the hardships that are meant for the righteous, to be an agent for important building and glorification of the Land. I hope that the merit of *Eretz Yisrael* will provide you with a holy crown, eternity, and grandeur for the head of a righteous man such as you. May you be elevated by the divine source of blessings and the fragrance of blessing, honor, and life. May you and all who are close to you and who you teach knowledge of Hashem, bask in light, happiness, and closeness to the true, eternal G-d.

We thank Hashem for all the good we have received. May the merit of *Eretz Yisrael*, the Torah, and service of the G-d of our forefathers, the great leaders of Israel, stand by us, so that we will merit enjoying Hashem's goodness in the land of life and special spiritual light.

Our nation's situation in the Holy Land is increasingly positive. We see clearly the coming of the time of divine good will. The once desolate land is being built. The holy city of Jerusalem is becoming more beautiful as Jewish communities are being built and Jews visit and inquire about its wellbeing. The "buds of the fruit" can be seen in the land (see Shir Hashirim 2:12). We need to awaken the power of the holy light, internally and externally, to bring more of Hashem's beloved nation to His Desired Land. The nation's sanctity lights up the hills like the rising sun, as the glow of the beautiful land shines on the people and hastens the nation's time of consolation and mercy that was until recently missing. Instead of not being seen as His nation, they will be called the sons of the living G-d (see Hoshea 2:1). The time has come for all of Hashem's servants to comfort Israel, bringing joy to the distressed by consoling Zion and starting the liberation, which is revealed when the Land is built.

May Hashem enable my illustrious friend to establish a lovely place in Zion, which will take its part among steps that glorify the holy mountains and make the Land eternally prominent, as the prophet foretold, "The watchman says, 'Morning is coming'" (Yeshayahu 21:12).



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.

Buy Now

P'ninat Mishpat

Reservation of an I-pad Game – part II

(based on ruling 81025 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def), a school within the broader Charedi community, reserved from the plaintiff (=pl) a navigation game for 100 girls to play in a forest, which includes *madrichot*, an app that needs to be installed on iPads, and riddles. The price was 3,500 NIS for the game and 1,200 NIS for renting the iPads. The arrangements were discussed by phone and WhatsApp between def's secretary and social coordinator and pl's secretary, who sent a contract to def. The contract states that if there is a cancellation within 36 hours of the event, the client has to pay 3,500 NIS and has to pay 10% of the order per month of late payment. Def's principal asked about the appropriateness of the riddles for the girls and was assured that pl is religious, the riddles are appropriate, and the iPads will have only the game. Def's secretary signed the agreement the day before the planned activity and def were told to go quickly to pick up the iPads by 6:00 PM. It turned out that the iPads had other apps, but pl told def they could be blocked. The principal thought it was okay, but checked with the supervisor, who rejected that idea, and def canceled the order before 6 PM. Def refused to pay, and so pl is suing for 3,500 NIS for the cancellation and 7,700 NIS for paying 22 months late. Def counters that a school is obligated by a contract only if they attached a seal in addition to a signature, and the former was missing. Also, def claimed that they were given until 6 PM to confirm or cancel and that the iPads were not the type they could use.

Ruling: [We saw last time that def was bound by their agreement and cannot renege based on misinformed consent. Now we discuss how much to pay.]

Since 3,500 NIS was the basic price for the game and in this case def did not get to benefit from it, paying that amount turns out to be a penalty, and possibly an *asmachta* (an obligation one never expected to be actualized), which is not binding (Choshen Mishpat 207). However, in this case, the sum is not exaggerated, due to pl's loss of income (see Bava Metzia 104a), as work was done and def backed out at the last moment. This is strengthened by the fact that this type of clauses are standard in many present-day contracts. Therefore, the cancellation fee of 3,500 NIS is binding.

There are two issues regarding the late fee of 7,700 NIS – *asmachta*, and *ribbit*. First, considering that the initial payment in this case is itself only a penalty, to attach such a steep appreciation is exaggerated and therefore a problematic *asmachta*.

Regarding *ribbit*, the Shulchan Aruch (Yoreh Deah 177:14) rules that if one obligates himself to pay a certain amount for late payment, it is forbidden because of *ribbit*. We have found a very novel idea by Rav Shlomo Zalman Auerbach that when one pays extra after not paying, it can be considered paying for his treachery rather than *ribbit* if he was not given permission to pay late. Others argued on Rav Auerbach based on the Rashba (Shut I:651). Therefore one cannot extract this late money when it is not clear that def is obligated. Because def's delaying was wrong (as even they admit), def will have to pay the full *beit din* fee.

Comments or questions regarding articles can be sent to: info@erezhemdah.org

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