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HEMDAT YAMIM

Parashat HaShavua

Nitzavim, 28 Elul 5779

The Time of Kingdom Recognition – part I

Harav Yosef Carmel

The opening of our *parasha* discusses how the whole nation stood behind Hashem and joined in a covenant with Him. We can sum up this relationship with a couple of biblical statements: “Hashem is the Lord (*HaElokim*)” (Devarim 4:35) and “Hashem is our King” (Yeshayahu 33:22).

“Elohim” in *Tanach* can also refer to a human king or another powerful person, as we see in the *pasuk*, “Do not curse an “*Elohim*,” and a prince in your nation do not curse” (Shemot 22:27).

The recognition and acceptance of Hashem’s Kingdom over Israel and the entire world is one of the main themes of the day of Rosh Hashana, as we say in the *davening*, “His Kingdom rules over all.” We end the Ten Days of Repentance, which begin the year, with the words, “Hashem is the Lord,” right before we blow the *shofar* at the end of Yom Kippur.

While there is unquestionably a tremendous difference between the kingdom of a human and that of Hashem, we do find that this time of the year is also one in which human kingdom is explored. When Shmuel, who anointed Shaul, died and Shaul was significantly weakened, the question of who was then king arose. On the one hand, it was clear to David that since he was anointed king by Shmuel, it was his turn to become king. On the other hand, Naval, who was a descendant of Chetzron, son of Peretz, and of Kalev and Miriam (or as known by her other name, Efrat), reasoned that he had the most impressive lineage in all of Israel (see Yerushalmi Sanhedrin 2:3), and he should be king. As a result of these differing appraisals of the political situation, David asked for taxes from Naval for protecting him, and Naval referred to David as one who rebelled against his master (see Shmuel I, 25). Chazal teach us, based on key words in the narrative, that the encounter, which ended with Naval’s death of “natural” causes that Hashem brought upon him, took place between Rosh Hashana and Yom Kippur (see Rosh Hashana 18a; the matter will be discussed in length in our upcoming *sefer*, Tzofnat Shmuel). The reason that David was worthy was his humility (see Tehillim 22:7) and his willingness to be a mere representative of the real King, Hashem.

While the hints in the *p’sukim* are not conclusive, Chazal are teaching us that the question of who merits being a human king is also one that applies during the special days between Rosh Hashana and Yom Kippur. In order to make it to Sukkot and live under the protection of the shadow of the Divine Presence, it is necessary to first call out: “Hashem is the Lord.”

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Ask the Rabbi

by Rav Daniel Mann

An Avel as a Chazan for Yamim Noraim

Question: Is it permitted for an *avel* (mourner) to serve as a *chazan* for *Yamim Noraim* (Rosh Hashana and Yom Kippur)? Whose decision is it – the *shul's* or the *avel's*?

Answer: The classical source on the topic is the Maharil (15th century, Ashkenaz), based on the Maharam. In contrast to the rabbi who asked him the question, the Maharil (Shut 128) states that the *minhag* is that an *avel* does not serve as a *chazan* on Shabbat and Yom Tov or on Rosh Hashana and Yom Kippur. The Rama (Yoreh Deah 376:4) cites this *minhag* in regards to Shabbat and Yom Tov and adds on "... even though there is no prohibition in the matter." The Shach (ad loc. 14) and Pitchei Teshuva (ad loc. 8) posit that the rule is the same for the *Yamim Noraim*.

The Meir Netivim (80) posits that there is no problem with an *avel* being a *chazan* on special days. What the sources are saying is that as opposed to a regular weekday, when an *avel* makes a point of being the *chazan*, the *minhag* is that they do not make an effort on Shabbat, etc. However, if it works out for the *avel* to do so, there is no reason to stop him.

However, the great majority of *Acharonim* understand that we do not allow an *avel* to be the *chazan* on these days. The Rama only means that it is not a classic prohibition but a bad idea which we do not choose to allow (see Noda B'Yehuda I, OC 32). The Maharil implies that the problem is that all of these days are happy days (in varying degrees and aspects). It is possible to explain either that it is not appropriate for an *avel* to expose himself to the happy *tefilla* as a *chazan* (Shut Maharam Shick, OC 183) or that the *avel* is insufficiently capable of giving the *tzibbur's tefilla* the level of festivity it deserves (see Zera Emet III, 164).

There is another approach to the reason for the *avel* not to be *chazan* on special days. The Pri Megadim (Eshel Avraham 581:4) invokes the idea (see Taz, OC 660:2) that during *aveilut*, there is an element of *din* (strict judgment) that hangs over the *avel*. Therefore, it is unwise for the community to be represented by one who is more likely than usual to attract negative judgment. According to this approach, even if the *avel* decides that he wants to be *chazan*, it is appropriate for the *tzibbur* to refuse. The Pri Megadim raises another ramification of this approach. Although the onset of Rosh Hashana after completion of *shiva* removes the halachic status of *avel* from a mourner for a relative other than a parent, the spiritual situation of the effect of *din* continues until thirty days have passed. Therefore, even such a person should not be a *chazan* at that point.

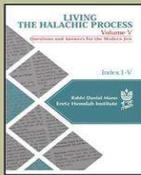
The Maharil (ibid.) says that if there is no viable alternative to the *avel* as *chazan*, then he is allowed to serve. The biggest difference in practice between different communities is in determining what is and is not an alternative. According to some (see opinions Divrei Sofrim, YD 376:92), it is enough that the *chazan* serves on a yearly basis so that it not look as if he is being *chazan* because he is in *aveilut*. The Afarkasta D'anania (I:156) explains that we don't want it to look like the deceased is wicked, as others do not need protection on special days. He also suggests that having been *chazan* once before is enough (once may create *chazaka* rights – Shaarei Teshuva 581:7). The Mateh Ephrayim (581:24) says that it is permitted as long as the *avel* is clearly more qualified (on cantorial or religious grounds) to the alternative. If the *avel* receives payment that is financially significant for him, this is reason for leniency (ibid.).

In a past discussion, about an *avel* as *chazan* on Rosh Chodesh, we explored the topic of whose decision it should be to allow the *avel* to serve as *chazan*; the findings were not conclusive. This is true here as well, and much depends on the reasons given above. It is best if a decision is made based on consultation between the rabbi and the *chazan*, and it is best if all involved explore the matter with flexibility and sensitivity. Certainly, a congregant should not make a fuss over the matter (see Meir Netivim ibid.).

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Ein Ayah

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

The Decision that Provided the Purpose to Preserve the World

(condensed from Ein Ayah, Shabbat 9:71)

Gemara: Why was the world fearful (see Tehillim 76:9) [before Bnei Yisrael accepted the Torah]? It is as Reish Lakish said: The *pasuk* says, “It was evening and it was morning, the sixth day” (with an extra letter *heh*, standing for an extra word “the” which is unneeded in Hebrew grammar). The extra *heh* teaches that Hashem made a condition with creation, saying: “If Israel will accept the Torah, you will exist, and if not, I will return you to primordial void and emptiness.”

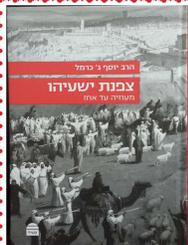
Ein Ayah: There are progressions that discreetly proceed along levels from the greatest depths to the highest levels.

The divine idea, which encompasses all of existence, its value, essence, and power, soars through the world and flows, and acts through all elements of existence. Everything is connected; everything in the depths is connected to things at the peaks. The highest creation is the spirit of a great person, who can reach great levels of sanctity when connected to Hashem’s strength. This is the foundation of the worlds.

Everything is built around the revelation of the divine power. It gives every being an important value, and everything shines as it fulfills its role grandly. However, not always will all be grand. Spiritual potential may not be maximized, especially when Israel does not use its special spiritual abilities to connect itself to the divine world through the treasure of Torah. Then everything is sealed off and lost, as the world slips into a slumber of death. The Divine Spirit creates all the worlds, and He created the physical world we know by using the letter *heh* (Menachot 29b). The flow of life proceeds as connected to the higher form that embraces and gives life to everything – the glow of the world that is found in the spirit of man, which is complete in the living G-d’s light, which in turn is connected to the divine absolute desire, which finds expression in the Torah.

There can be doubt that can wallow in the gloom of the impossibility to reveal that which depends on the freedom of positive choice, which is above the power of life. This is before the word of Hashem was clearly expressed in a manner that created a covenant between Hashem and Israel. At that point, the mystery of doubt was lifted. At first, the world was fearful and even had doubt about the very existence of everything in life and all related powers. From the center of existence, which is focused on the Nation of Israel, there was a flowing force of the essence of life. A voice came forth that connected man’s soul to Hashem, the source of the life of the world. This gave life to the entire universe, to general cosmic matters and to each individual creation, and put the world in a pattern of eternal life. All of the elements of creation, the mysteries of existence, nature, and that which is above it, in the past and the future, depends on one condition. If Israel will accept the Torah, everything will acquire purpose, which hovers over everything. Then, everything in the world can exist because it is part of something with a purpose. The future holds the promise of being endlessly broad and full of greatness.

The great letter *heh* fills the whole creation with this condition. That day of accepting the Torah is the key to existence. Retroactively, everything that was created turns out to be fit to continue. There is security and purpose, and the fundamental power rules over everything. If Israel did not accept the Torah, everything would return to void. From the depths of nothingness, a new world would take shape, in which the Divine Spirit would provide the purpose and pull along the whole world. Israel took the proper step and displayed its special character, thereby giving a place for the world as we know it. It rescued the world from destruction and lack of purpose. They did charity for the world by accepting Hashem’s Torah.



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

Firing with Insufficient Warning? – part II

(based on ruling 75033 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) worked for the defendant (=def), an NPO, in 2012-2013, doing work on their website. In 2014, def asked pl to return in a different and expanded role to help def out of financial woes. Pl explained that he needed work stability and wrote a contract that required def to give him 60 days warning before terminating employment. Toward the beginning of pl's tenure, def had their director replaced. Since pl worked closely with him, he met with the head of def (=hdef) and asked about his future. Hdef assured pl that he would not be fired. As time went on and pl felt excluded from decisions, he asked to meet with the new director (=ndir), but this took weeks to happen. Finally, on 29.12.14, during pl's first 6 months of employment, ndir fired pl and told him he might not get paid for that month. Pl is suing for salary for 60 days after the notification, for travel expenses over the whole period per the contract, and lawyer's fee. Def said that the contract is to be read that the need for 60 days' notice is only if pl makes it past the six-month trial period. Also, pl does not deserve to get paid for days at the end when he did not work. Regarding travel expenses, pl did not give in his hours until the end of the period, and def would not have had him travel so much had they known the expense.

Ruling: [Last time we saw that def was required to give 60 days' notice. Now we must determine which specific charges are due and how they are to be calculated.]

There is evidence that pl did do some work after the time he received the letter of termination. In any case, since ndir had indicated that pl might not get paid for the period even if he did work, pl is due the salary until what should have been the 60-day notice, as he was not required to work at all under such circumstances.

Regarding the pay for travel, def did not explain how they would have reduced pl's travel had they known how much it was amounting to. They certainly could not have reduced it enough to justify their broad withholding of compensation (even for part of the first three months, during which they had no complaints). Thus, it appears that def are just trying to extricate themselves from an agreed upon charge. If def wanted to limit pl's traveling, they should have told him so in advance. The outstanding amount due for travel expenses is 5,400 shekels.

Concerning legal expenses, although usually each side pays for his own, in a case like this, in which *beit din* views def as acting in bad faith, they are obligated to pay pl's expenses. However, the claim of 5,000 shekels expenses has not been substantiated and seems exaggerated. Based on our right to obligate for indirect damage and based on compromise, we obligate def in 2,500 shekels of legal fees.

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We daven for a complete and speedy refuah for:

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