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# HEMDAT YAMIM

## Parashat HaShavua

Haazinu, 13 Tishrei 5780

### When Was this Song Written?!

Harav Shaul Yisraeli – from Siach Shaul, p. 550-551

Once again, we listen to the lofty, eternal song (*Shirat Ha'azinu*) which bursts forth from the ancient Torah scrolls, and our ears will never have heard it too many times. We again pick up with embarrassment and guilt the echo that the eternal witnesses, the heavens and the earth, send us in response to these words. They are exposed, after all, to the past and the future; they heard at its time when Hashem originally said these words and saw how both the blessing and the curse came true, how the warning was connected to the punishment.

Slowly we are approaching the end of the Torah scrolls. At the same time, the life of Moshe, the greatest of the prophets, who had no peer before him or after him, is being “rolled until its end.” When we read the *parshiyot* of parting from Moshe, we see that he was not so concerned about dying but that he was not seeing his life task to its end. The Land to which he strove to lead his nation was now within reach, but he would not be allowed to enter. “For from opposite it you will see the Land, and there you will not go, to the Land that I am giving to Bnei Yisrael” (Devarim 32:52).

It was not easy for him to leave his flock. He knew there were great challenges before them. The contact with the indigenous peoples of the Land, so many of whom were steeped in idol worship, would create spiritual challenges. It is, after all, easier to serve a god that does not make moral demands on its followers but just goes along with what one’s evil inclination tells him. Moshe could prophetically see how his great efforts would be partially destroyed and people would stray from Hashem and embrace foreign gods. How could the nation forget its grand role in the world? What Moshe was unable to carry out in practice at the time he tried to put into words before his death to leave with the people. For one last time, he collected the people and gave unparalleled, strong expressions of truths. These truths, which will never fade, were presented with the introduction: “Listen, o heavens, and I will speak, and the land shall hear the utterings of my mouth” (ibid. 1).

When were these words said? Was it really thousands of years ago?! Doesn’t it seem that it was just yesterday?! The ideas are so fresh and accurate for our own times! We read the warnings. While they could be blurred by the pass of times, they also foresaw the future with the confidence of the past: “Yeshurun (Israel) became fattened and kicked” (ibid. 15). We see how this happened in the times of the kings and the Later Prophets, who saw it and warned about it without real success. The *p’sukim* that describe impending doom and destruction are thunderous (see ibid. 22, 26). They make us picture the flames of destruction and our predecessors walking, chained, into exile.

Yet we read also words of encouragement and comfort, which always allowed us to look toward the future with hope and belief in the End of Days. Even if it has been delayed, it will indeed come. “Let the nations sing the praise of His nation, as the blood of His servants he will take vengeance. Revenge will come to His enemies, and His Land will atone for His nation” (ibid. 43).

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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

## The Time and Place for *Netilat Lulav*

**Question:** Is it better to do *netilat lulav* (=nl) in the *sukka* before one goes to *shul* or during *tefilla* (before *Hallel*)?

**Answer:** The Shulchan Aruch (Orach Chayim 644:1) describes *nl* as being done before *Hallel*. One could have claimed that this is due to time concerns. Although *b'di'eved* one can fulfill *nl* from *alot hashachar*, it, like other *mitzvot* of daytime, should be done after sunrise (ibid. 652:1). Since it is best to do *Shacharit* as *vatikin*, one will be in between *Kri'at Shema* and *Shemoneh Esrei* at that point (ibid. 58:1) and cannot stop for other things. However, in 652:1, he explains it positively: the main *mitzva* of *nl* is at the time of *Hallel*. The Mishna Berura (652:4) explains that it is connected to the *na'anuim* (shaking) done at points within *Hallel*. (It might therefore be correct not to talk between the *beracha* on *nl* and *Hallel* so that the *beracha* will go on those *na'anuim* without interruption (see discussion in Mikraei Kodesh (Frank) Sukkot II:16.)

*Acharonim* cite the Arizal as saying that one should make the *beracha* on an earlier *nl* before *shul*. However, different presentations stress different elements of the practice. The Shelah, cited by the Magen Avraham (652:3), mentions specifically that it is done in the *sukka*, and the Seder Hayom (Seder Netilat Lulav) mentions those who would *daven* at home to maximize the spiritual power the *sukka* provides for other elements of the day. We do not have insights into the Kabbalistic connection between *sukka* and *lulav*, but Talmudic indications of a connection also exist (see Sukka 36b). The Seder Hayom rejects not going to *shul* but says that if the *tzibbur* is going slowly and it is already after sunrise, it is good to get *nl* in early to be diligent. The Bikurei Yaakov (644:1) prefers the Arizal's approach, also on the grounds of diligence.

Diligence is a two-edged sword, as several *Acharonim* raise the issue that more common *mitzvot* should precede less common ones, and *Kri'at Shema* and *tefilla* are more regular than *nl*. This can be another reason to prefer the Shulchan Aruch's approach to that of the Arizal (Rav Moshe Feinstein, cited in Az Nidberu IV:48; this is also Rav Ovadia's *minhag* – see Chazon Ovadia, Sukkot p. 371-6). Different ideas are raised to justify the Arizal's approach, as *lulav* might have special sanctity, and doing it in the *sukka* and/or as early as possible may be worth it.

Some attempt to get the best of both worlds. The Kaf Hachayim (OC 644:3) praises the *minhag* to have a *sukka* near *shul* so people can go to do *nl* there before *Hallel*. Ostensibly, those who take the time advantage approach would do best by *davening vatikin*, as *Kri'at Shema* is done before it is proper to do *nl*, and *nl* will be only a few minutes after its earliest time. Nobody says that these ideas are required.

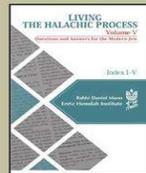
Let us put this background into practice. Most people have a family *minhag*, which they should continue to keep under normal circumstances. (The various *minhagim* do not seem to create *lo titgodedu* problems.). The *minhag* to do *nl* in the *sukka* is not an absolute obligation. Therefore, if doing so will cause one to be (significantly) late to the *minyán* he is going to (people should be sensitive to the problems of coming late), he should pass on *nl* in the *sukka*. While some time should be given for people to get out their *lulav* and *etrog* before *Hallel* plus a little time for people to perform *nl* then, it is an unreasonable *tircha d'tzibbura* to wait for people to go to the *shul's sukka* to fulfill the "in *sukka* during *davening*" approach. Of course, if a *shul* has many people with that *minhag* and decide to make that standard, that is the *tzibbur's* prerogative.

For those who do *nl* in the *sukka* before *shul*, the Bikurei Yaakov (ibid.) instructs that one should do *birkat haTorah* first. Many cogently argue that this is unnecessary, but on the other hand, one does not lose by doing so. While there is some logic to recite *Kri'at Shema* first (see above), there is also good reason not to, and I did not find any *posek* to suggest doing so.

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# Ein Ayah

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

[We continue to deal with the special crowns that were given to Bnei Yisrael after saying “na’aseh v’nishmah” and which were taken away when they sinned with the Golden Calf.]

## A Great Person Picking Up the Returning Light

(condensed from Ein Ayah, Shabbat 9:74)

**Gemara:** Moshe merited to receive all of the [crowns], for it says right after [the matter of removal of the jewels]: “Moshe would take the tent ...” Shemot 33:7).

**Ein Ayah:** Spiritual “colors” that spread in the souls of man differ in clarity according to the level of every individual who is prepared to have such a flow of light reveal itself. In regard to the lofty level accorded to those who accepted the Torah, everything emerged from the great light of Hashem’s lofty wisdom, which dwelled in the great soul of the master of prophets, the teacher of all of Israel (Moshe).

The highest quality is the light that reaches its deepest root and remains concealed. Its nature and value are inestimable. These were the types of colors in the heart and soul of every individual in Bnei Yisrael. The colors appeared as branches extending from the source of the light. They could not have received their colors in the high place that the choicest person was able to.

When this light was withdrawn due to sin, the light did not disappear; it actually returned to its source. This brought about a situation in which there was an increased recognition, desire, and energy that exceeds that which the nature of a normal person can imagine. This increase needed to be in the soul of the greatest prophet to compensate for the lacking that came to the world and the light that dimmed. The branches that were separated from the places to which they spread returned to their place. Since there was such an abundance of available light, it entered Moshe’s soul for safekeeping until Hashem’s light will be able to blossom and flower in Israel (see Yeshayahu 27:6). As the *gemara* said, Moshe merited and received the crowns.

## Light in Hiding

(condensed from Ein Ayah, Shabbat 9:75)

**Gemara:** Hashem will return all [of the crowns] to us, as it says: “Those redeemed by Hashem will return and come to Zion with joy, with eternal happiness on their heads. Rejoicing and happiness will they achieve, and torment and disappointment will flee” (Yeshayahu 35:10) – the happiness of the distant past is on their heads (i.e., the crowns).

**Ein Ayah:** That which is embedded deep in the essential nature of a matter will not be eradicated as long as the matter has staying power. The internal, natural essence of Israel is the light of Hashem in their souls. Eternal happiness is the delicate internal sanctity that comes from the divine glow and the appearance of the highest manifestations of Hashem that man can grasp and use to strengthen him. This holy element within Israel was singularly defined and noticeable in Moshe, whereas throughout the generations, individuals in Israel had to develop and cultivate it. Undoubtedly, we cannot lose our natural positive content permanently; rather, it just hides for an extended period of time. The many waves that pass over our heads, the persecution, and dangers are special national learning experiences that will cause a grand transformation at the End of Days. They will join together to return us to our natural qualities and enable us to embrace the light of repentance. The high level we reached when we said “na’aseh v’nishmah” will return to us when Hashem’s nation will be rebuilt to bring light to the world and be Hashem’s glory. This return is the happiness of old on their heads.



### 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

## Dissatisfaction with the Quality of a Sefer Torah – Part I

(based on ruling 77036 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) hired his friend, the defendant (=def), a part-time *sofer*, to write a *sefer Torah*. The contract states a price of 130,000 shekels plus VAT and says that the writing will be *mehudar*. It also states that pl saw samples of def's writing and that pl has the right to demand the switching of sections of lower levels of quality without charge, as long as Rabbi X agrees this is appropriate. Toward the end of the writing, after pl paid 113,780 shekels, pl experienced financial problems, looked to sell the *sefer Torah*, and asked for two sections to show to merchants. Several experts told him that the *sefer* would be worth, when finished, 70-80,000 shekels. Def presented a letter, from an expert with whom he is connected, saying that the writing is proper. Pl also sent def an email during the process in which he praised def's work. Originally, pl asked either: 1) receiving a completed kosher *sefer* and a return of the money above the 80,000 shekel it is worth, or 2) employing *mekach ta'ut* (invalid purchase) and a return of all the money. Def argues that the *sefer Torah* is fine and worth the price and that, in any case, any kosher *sefer* is defined as *mehudar*. Also, since pl saw the work before agreeing and could have had the written sections checked all along, it is too late to claim *mekach ta'ut*. Also, a major reason that pl chose def is that he considers def a *tzaddik*, and this has not changed.

**Ruling:** In order to preserve the relationship between the two friends, *beit din* recommended the following compromise. Pl would receive the incomplete *sefer Torah*, have someone finish it (including checks and fixing), and let def keep 77,000 shekels plus VAT. Def rejected the offer.

There are two ways to have a *mekach ta'ut* – 1) the quality is beneath that which was promised (Shulchan Aruch, Choshen Mishpat 232); 2) there was major overpricing (ibid. 227:4). *Beit din* hired an expert to decide between the experts each side brought. Our expert specified letters that were written poorly and pointed out several elements of the writing that lowered its quality. He estimated the retail value of the *sefer Torah*, after its finishing, checking, and fixing mistakes, at 90,000 shekels. He said that while it could be made kosher, it would not be considered *mehudar*.

Since the parlance of the average person distinguishes between a kosher *sefer Torah* and a *mehudar* one, this is like a case of claiming to sell good produce and giving bad produce, in which case there is *mekach ta'ut*. This is apparent from the contract as well, which talks about replacing sections that are not considered *mehudar*, which is obvious if not *mehudar* means not kosher.

Additionally, since the expert estimated the value at 90,000 shekels, which is more than a sixth off of the 130,000 that def was promised and still demands, the mispricing is also grounds for *mekach ta'ut* (Shulchan Aruch ibid.).

*Next time we will look at the question of pl's acceptance of the quality.*

.....  
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