



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Toldot, 2 Kislev 5780

Chevron or Yerushalayim? – Part II

Harav Yosef Carmel

Last week, we cited the claims of the people of Chevron, who claimed that Chevron is greater than Yerushalayim: the forefathers chose to live in Chevron; Yehoshua occupied Chevron and not Yerushalayim; the opening to *Gan Eden* is in Chevron; it contains the first place bought by a forefather; David started his kingdom there.

Rav Kook (Letters, vol. 1:39) strongly criticized the people of Chevron. He argued that according to kabbalistic sources, after the *Beit Hamikdash* was built in Yerushalayim, *Me'arat Hamachpela* moved to the Temple Mount. Thus, the sanctity of Yerushalayim includes the special quantities of Chevron. Rav Kook warned that preferring any other place to Yerushalayim is tantamount to sacrificing on an unauthorized altar, which is a sin that is related to idol worship.

Why was Chevron special, especially to start with? According to many commentaries, Avraham came to *Eretz Yisrael* twice (not including his return from Egypt). The first time, mentioned in the end of *Parashat Noach*, Avraham and family left Ur Kasdim to move to *Eretz Yisrael* and stayed there for several years. The high point of this stay occurred in Chevron: the *Brit Bein Hebetarim* was made there when Avraham was 70 years old. Because of a combination of factors, the family had to leave the country, and they went to Charan, which is not far from Ur Kasdim, near the present [volatile] border of Syria and Turkey.

The second move to the Land, described in the beginning of *Lech Lecha*, was when Avraham was 75 years old. The high point of this stay in the Land was the *Akeidat Yitzchak*, the great test of Avraham's fortitude, which took place on Mt. Moriah, later to become Yerushalayim.

There are two spiritual pillars of the Jewish People's connection to *Eretz Yisrael* – the covenant of the forefathers, and the merit of the forefathers. The covenant gives expression to the innate, automatic connection (*segula*) of every Jew, wherever he is, to *Eretz Yisrael*. The merit is based on the free choice (*bechira*) and the performance of *mitzvot*, which creates a connection.

Segula precedes *bechira*. It is the strong basis that does not depend on actions or merit. Chevron represents this *segula*. *Bechira* is the "second floor" of the building of spiritual levels and is represented by Yerushalayim, which is the city of choice upon which the *Beit Habechira* (the Temple) was built. Therefore, Chevron came before Yerushalayim. Now we know why the opening of *Gan Eden* is in Chevron, as Adam was put there not because he chose it but because it was the naturally appointed place. *Gehinom* is a place that one gets based on his choices, and thus belongs near Yerushalayim, the place of choice.

When Avraham came twice, he paved the way for his offspring, both those who are connected based on *segula* and those who are connected based on *bechira*. We can refer to the first group as those who go to *Eretz Yisrael*, and the latter as those who go to the Holy Land, based on its innate level. It is best when one can come due to both elements.

Hemdat Yamim is dedicated to the memory of:

Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah

| | | | | | | |
|---|---|--|--|--|--|--|
| Rav Shlomo Merzel z"l Iyar 10, 5771 | Rav Reuven Aberman z"l Tishrei 9, 5776 | Mr. Shmuel Shemesh z"l Sivan 17, 5774 | Rav Asher Wasserteil z"l, Kislev 9, 5769 | Mrs. Sara Wengrowsky bat R' Moshe Zev a"h, 10 Tamuz, 5774 | | |
| Hemdat Yamim is endowed by Les & Ethel Sutker of Chicago, Illinois. in loving memory of Max and Mary Sutker & Louis and Lillian Klein , z"l | R' Yaakov ben Abraham & Aisha and Chana bat Yaish & Simcha Sebbag , z"l | Rav Yisrael Rozen z"l Cheshvan 13, 5778 | R' Benzion Grossman z"l, Tamuz 23, 5777 | R' Meir ben Yechezkel Shraga Brachfeld z"l | R' Eliyahu Carmel z"l Rav Carmel's father Iyar 8, 5776 | |

Rav **Moshe Zvi (Milton) Polin** z"l Tammuz 19, 5778
Rabbi **Yosef Mordechai Simcha ben Bina Stern** z"l Adar I 21, 5774
R' **Abraham Klein** z"l Iyar 18 5779

Those who fell in wars for our homeland. May Hashem avenge their blood!



Eretz Hemdah
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
amutah number 580120780

American Friends
of **Eretz Hemdah Institutions**
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4263359

www.erezhemdah.org info@erezhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

Ask the Rabbi

by Rav Daniel Mann

Bankruptcy in Halacha – part II

Question: I have \$30,000 of credit debt (in the US). I lost my job, and my new job pays less. I do not see how I can pay the debt. What does Jewish law say about filing for bankruptcy?

Answer: [We responded to the querier regarding his situation but are broadening (in brevity) the discussion. Last time we saw reasons for and against accepting the discharge of debt even though the original halacha disallows it. This time, we will explore practical issues including distinctions between cases. We cannot cover all elements and cases.]

Poskim are quite lenient regarding debts owed by corporations. The *Pitchei Choshen* (Halva'ah 2:(63)) says that all agree that in doing business with a corporation, which are defined by corporate laws, people expect that the law of the land will govern, even if the owners and officers are religious Jews. This obviously applies to investors in a corporation, but it also should apply to suppliers and even workers. When an individual owes money to a financial institution (e.g., banks, credit card companies), the laws of bankruptcy apply. After all, they plan based on the expectation that a percentage of their debtors will go bankrupt, and they factor this in when setting interest rates. Bankruptcy is valid in regard to corporate as well as non-Jewish creditors, since the governing law in their regard is the law of the land.

The matter is more complicated when an individual Jew lends money to another Jew, especially based on the latter's need (see more on this distinction in *Chelkat Yaakov*, Choshen Mishpat 32) supplies goods to him on credit, or employs him. (When a creditor has a connection to the debtor or is a charitable person and can afford it, he could decide to forgive the money and count it as *tzedaka*, but that is his decision. We should also remember that the idea of forgiving debt is not foreign to Judaism, as according to Torah law, every seven years, debt is forgiven. When this is practically applicable is beyond our present scope.) If the one who is owed money did not make actuarial calculations and reasonably believed the debtor felt obligated to pay his debt, the matter of acting based on local practice is not so applicable. It is also unclear if the law, whose rationale is most societally compelling for growing the economy, is justified to contradict Torah law regarding personal consumer debt. Also, often a debtor knows he will be able to pay, just with difficulty. It is possible that the hardship of paying is not much greater than the hardship of loss to the creditor, and there are not moral grounds to not fulfill one's obligation. If an individual debtor fully regains his ability to pay, it is morally correct to pay his fellow individual even if bankruptcy law does not require it.

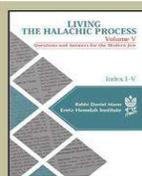
Bankruptcy applies in regard to all of one's creditors. During the process, one is forbidden to pay creditors selectively; the court dictates payment. Therefore, if one has a moral right to file for bankruptcy due to corporate debt, the loss to the individual creditor is a necessary casualty, at least initially. However, nothing legally prevents the debtor, after the receiver takes assets as instructed by the court, from paying those to whom he feels a higher moral obligation, which he should do as possible. (It can be difficult to deal with a case in which there are multiple such creditors and insufficient funds for them all.)

Bankruptcy is an important tool of survival for an honest debtor. Unfortunately, some abuse the right, sometimes illegally by deceiving the court in a variety of ways. Even without deception, not every bankruptcy filing is halachically or ethically proper, and this can often create a *chillul Hashem* as well. These factors should play a major role in determining whether bankruptcy is called for. Therefore, one who is considering filing should not only consider its impact on his financial future and discuss legality and process with a competent and ethical lawyer, but it is proper to also discuss the details with a rabbi or other moral advisor.

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

▶ SEND NOW!

**Ask ? ?
The
? Rabbi**



**WE ARE HAPPY TO PRESENT OUR FIFTH VOLUME OF
"LIVING THE HALACHIC PROCESS".**

The book offers a compilation of questions and answers from our "Ask the Rabbi" project. Sources for the answers can be downloaded from our website.

Special price for Hemdat Yamim readers: \$20

Ein Ayah

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

Constriction and Freedom

(condensed from Ein Ayah, Shabbat 9:88)

Gemara: We interpret the *pasuk*, “A bundle of *mor* (a spice) my beloved is for me; between my breasts he lies” (Shir Hashirim 1:13), as follows: Israel said before Hashem: “Master of the Universe, even though my beloved was harsh (lit., put me into a constricted place), he still dwelled between my breasts” (Rashi – a reference to the two posts which were attached to the ark, which protruded through the curtain of the Holy of Holies).

Ein Ayah: There are two situations that bring a pleasant feeling to the human spirit when they are present, and when they are missing (and certainly if the opposite situation is present), it can cause him great distress.

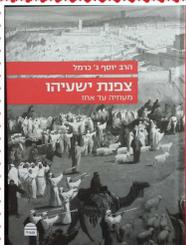
One situation is that of the ability to spread out. This can exist in regard to the breadth of his heart, and to spread out his essence, to increase his desires, and seek to go as high as high can be. He wants to be unrestricted in what he can seek and what he can imagine. When he has the freedom to have space of all sorts, he feels that he is prominent and is internally happy. When, in contrast, he is lead into a situation of restrictions, which constrict him, he feels incarcerated, abused, and lowered. He lacks the breadth of his heart and his light is dimmed, causing him to feel depressed.

The second situation is suitability and harmony. When a person’s desires, feelings, and surroundings all fit his internal life values, he feels pleasantness and internal smoothness. It is like a pleasing taste or a melodious sound. It is representative of a characteristic of compatibility between that which is felt and the one who is feeling it. In contrast, when elements of a person’s being are complicated and contradictory, it causes pain and bitterness, which can be shocking to a person. It can feel like elements of hell, which cause pain to the spirit and body.

The flame of sanctity of the love of Hashem, which is like intellectual perfume, is the most penetrating emotion of the soul. It is generally present in members of the Jewish people, and this is true in an all-encompassing manner in special people. This love of Hashem sweetens all the sources of bitterness. The light of freedom turns all of the constricted areas to breadth and freedom, which bring great love and fulfillment to those who merit it. The connection to Hashem through love based on achievement, which is built upon the basic connection to Hashem of all in the nation, is connected to the power to cause growth which has existed throughout the generations.

Breasts are the guarantee of sustenance. Raising up new generations and providing them with the vitality of life is represented by the mother who gives birth and raises the child, which she can do with the help of the father who fertilizes.

The internal sweetness of the love found in the Jewish people surpasses all boundaries. The power of the spirit can enter the constricted places and in response to the pressure, stand strong to the challenge. That is what the *gemara* means by saying that even though my beloved was harsh and constricting, still he lied between my breasts. The love of the powerful overcomes all, and the tight places actually increase the eternal freedom. The bitter enhances the power of taste and enables the impact of the sweet.



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

The Extent of an Inspector's Responsibility – part II

(based on ruling 78036 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) hired the defendant (=def) to serve as the *mefake'ach* (building inspector) for the house he was building along with his wife (they are now divorced). There was no contract, and his expected work hours and responsibilities were not set. The building plans called for a concrete supporting wall 12 meters wide by 6 meters high. Pl asked def for his recommendation about the *kablan's* (contractor) idea to make a wall out of large stones instead. Def answered that a stone wall is just as strong, and so pl allowed the *kablan* to do so, after receiving instructions from def. The *kablan* used smaller stones than he should have, and so after some time, the wall collapsed. It cost 160,000 shekels to remove the stone wall and build a concrete wall. Because pl is unable to sue the *kablan*, an Arab from "over the Green line," pl is suing for his part (separate from his ex-wife) in the expenses – 80,000 shekels. Def claims that the decision to build the wall was fine, just that the *kablan* did not follow instructions, and so pl should sue the *kablan* if anyone. Pl's wife also could have pressured the *kablan* to fix the wall while he was still working on neighbors' homes. Def was not present when the bottom stones were placed, and when he came, they were covered with earth. Def was concerned that if he forced the *kablan* to dig out the foundation for inspection, the *kablan* might have quit, which would have caused losses. Therefore, he thought it was worth the small risk to not check. Additionally, def should not have to pay the cost of a cement wall, as pl could have fixed the stone wall for a small fraction of the price.

Ruling: [Last time we saw that a *mefake'ach* can be liable for his advice, but that the advice here was not the problem but the lack of inspection. We saw that a guardian does not have to check with *beit din* when he makes a judgment call.]

It would seem that even the Rosh, who does require a guardian to check with *beit din*, would not do so here because a court-appointed guardian has special obligations. This case is also better in that def did not cause damage; he just didn't stop it. Also, the Tur and the Rama (Choshen Mishpat 290:13) say that a guardian needs permission only before he is officially appointed.

On the other hand, there are two reasons why def might be more obligated than a guardian. Here, it is natural to ask pl what he wants def to do (although it is likely that he would have made the same decision). Furthermore, def is not sure if he told the *kablan* not to cover the foundation, in which case he may have been negligent in that regard. In the final analysis, it is hard to categorically hold def responsible, but a compromise is in place – 50% of pl's 50% stake (his divorcee has not sued) in the damage.

Beit din agrees with def that he can be charged only for the price of returning the stone wall to a sound state and fixing the floor that was damaged when the wall collapsed.

.....
We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha / Eliezer Yosef ben Chana Liba
Yair Menachem ben Yehudit Chana
Netanel Ilan ben Sheina Tzipora / Netanel ben Sarah Zehava
/ Ro'i Moshe Elchanan ben Gina Devra
Meira bat Esther / Rivka Reena bat Gruna Natna
Bracha bat Miriam Rachel
Lillian bat Fortune / Yafa bat Rachel Yente
Refael Yitzchak ben Chana
Together with all *cholei* Yisrael

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

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.