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# HEMDAT YAMIM

## Parashat HaShavua

Matot Masei, 27 Tamuz 5780

### More on the Role of the "Moshlim"

Harav Yosef Carmel

When the Torah tells of the rights to the land (on the eastern side of the Jordan) and peace of Moav and Amon, which Bnei Yisrael were not to disturb (Devarim 2:19-21), it mentions other occupants of their lands. These included fearsome giants, who were called names such as *Refa'im*, *Eimim*, and *Zamzumim*. The Torah concludes this section: "A great and numerous nation and lofty like the giants – Hashem destroyed them because of [the Amonites], and they inherited them and lived in their place." What is the significance of writing about the giants in the context of the prohibition for Bnei Yisrael to harm the Amonites and Moavites?

It is important that it was Hashem, with particular Divine Providence, who gave Amon and Moav, the nations descended from Lot, their lands in the first place. Let us note the historical context. In the days of Avraham, the kings of Mesopotamia traveled westward to fight the kings of the area southeast of the main part of *Eretz Yisrael*. Indeed they conquered the *Refa'im*, *Eimim*, and *Zuzim* (Bereishit 14:5). While K'dorlaomer (the leading king) thought they were doing this for their own benefit, they were actually paving the way for Avraham's family, as we will see.

The four kings had destroyed the strongest armies in the region, and Avraham saved Lot along with the kings of Sodom and the neighboring region, who were in turn later destroyed by Hashem. Therefore, Lot's family had an easier than expected time in taking control of the region. However, Sichon, a remaining giant, took land from the first king of Moav. These were actually sections of the land that the sons of Lot never "deserved." Later on, Moshe took from Sichon the same lands that the latter had taken from Moav and Amon, thus "*kashering*" these lands for Bnei Yisrael (see Chulin 60b).

If one looks at the complicated song of the *Moshlim* (Bamidbar 21:26-30), he will see that this history of the region is described in poetic form. Balak, the king of Moav, saw Bnei Yisrael gaining a foothold in the region and tried to change the outcome envisioned by the *Moshlim* by hiring Bilam to curse Bnei Yisrael. He thought that this would enable him to retrieve that which had been lost to Sichon. Balak did not realize that Bilam did not have any prophetic powers that could change situations; he just could receive prophecies that Hashem wanted to send him. In order to change things, Bilam employed *kesamim*, charms of different types (see Yehoshua 13:22), which work in the world of impurity, against which Hashem protected Bnei Yisrael.

The source of blessing is Hashem, and he shares His Divine Presence only with those who go on the path of purity, which brings to sanctity, which brings to divine inspiration. Bilam knew this, as well, and knew that he could not change the song of the *Moshlim*. To the contrary, his prophesy revealed that in the future, Bnei Yisrael would be allowed to capture from Moav even those sections that they were forbidden to capture in the time of Moshe (see Bamidbar 23:24 and 24:17).

Let us pray that the Jewish people will recognize that only on the path of purity and sanctity will it reach its potential and help improve mankind as a whole.

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# Ask the Rabbi

by Rav Daniel Mann

## Geniza for Parts of a Pasuk

**Question:** I received a bar mitzva invitation containing the words “*Vayehi David maskil*” (in Hebrew). Since this is part of a *pasuk*, does the invitation require *geniza*? (This phenomenon exists in various contexts, so please broaden the picture.)

**Answer:** A crucial source regarding respect for *p’sukim* excerpts is found in the context of *sirtut* (etching lines in a writing surface to help one write straight). The *gemara* (Gittin 6b) tells of one who, in a letter, criticized a situation as comparable to part of a *pasuk* in *Tanach*. The *gemara* indicates that the writer should have done *sirtut* and cites two opinions as to whether the requirement is for a minimum of three or of four words. The Shulchan Aruch (Yoreh Deah 284:2) *paskens* that three words require *sirtut*. *Poskim* posit that the guidelines for what is holy enough to require *sirtut* apply to what must not be disgraced and must be discarded in *geniza* (see *Ginzei Hakodesh* 9:3). So, it might appear that the three words you refer to require *geniza*.

But we will look deeper. First, while the words are reminiscent of and inspired by a *pasuk* (Shmuel I, 18:14), the *navi* uses two words that are missing in the invitation (between David and “*maskil*”). *Tosafot* (Gittin 6b) posits that only when the words are in the order found in the *pasuk* do they require *sirtut*, and certainly then if words are skipped it is not a *pasuk* segment. Even if one put in “...” to indicate that words are missing, still there is an insufficient section of the *pasuk* to be significant. This is logically so even according to those (Shut Harashbash 482) who say that three words is not the determinant, as two words that create a whole idea (e.g., “*Lo tirtzach*”) count while three words that do not form an idea (e.g., “*el Moshe v’el*”) do not. Some also say that when one leaves out a letter from the word, it is as if the word does not exist, although this is less clear when this is the normal way of writing, e.g. if one writes *yud yud* or *heh* instead of Hashem’s Name (see *machloket* cited in *Ginzei Hakodesh* 9:(23)).

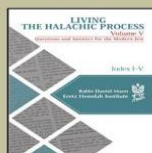
There is another reason that the invitation does not require *geniza* based on these words. *Tosafot* (*ibid.*), accepted by the Shulchan Aruch (*ibid.*), rule that when the words of a *pasuk* are borrowed as a crisp way of expressing an idea, it is not considered a *pasuk*. This is even stronger when the context differs greatly from that of the *pasuk*, as this case illustrates. The *pasuk* refers to David Hamelech’s great success and/or wisdom; the invitation refers to a regular thirteen-year-old named David.

The exact line between a direct reference to a *pasuk* and using *Tanach*’s language to express other ideas (rabbis do this a lot) is difficult to determine. One phenomenon is using a phrase from the weekly *parasha* along with the day of the week to signify a letter’s date. (One could argue that this practice is justified because such letters usually contain real *divrei Torah*, so that they anyway require *geniza*, but that is unlikely to be the reason – see *Ginzei Hakodesh* 9:(25)). It is more problematic for an organization to put on its letterhead a *pasuk* or a statement of *Chazal* that captures their philosophy/activity because there they do want you to think about the message behind the *pasuk* (similar to the use in Gittin 6b above). Sometimes a *pasuk* turns into more of a well-known general idea than a quotation of a *pasuk* (e.g., *mipnei seiva takum* on Israeli buses). The use of quotation marks or citing the statement’s location are liable to make borderline cases more problematic.

In your case, there is clearly no requirement for *geniza*. In general, since it is forbidden to write *p’sukim* in places where they are likely to get disgraced (Shut Harambam 268), one should be careful before using them in invitations, solicitation letters, and various bulletins, which are likely to be thrown out. This is a counterweight to our healthy desire for Torah to be present in our daily lives – left, right and center. If they are used, one has to develop an approach to how to deal with borderline/low-level “*sheimos*.”

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# Ein Ayah

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

[We continue with lessons to be learned from pairs of letters from the aleph bet.]

## Bend Over, Then Straighten Up

(condensed from Ein Ayah, Shabbat 12:20)

**Gemara:** A hunched *nun* and a straight *nun* – someone trustworthy and hunched; someone trustworthy and erect.

**Ein Ayah:** Dedication to the world's goal, for which Hashem created everything that exists, is noticeable in a person in two ways. One relates to the most basic moral approach, in which a person minimizes his value in his own eyes. He does not rely on his own perceived positive characteristics, for they are as nothing, and they did not come from him but from Hashem, the sole possessor of strength, wisdom, and dominion.

Next, after one internalizes his full humility, he gets to an approach of higher morality. It clarifies his own greatness, his soul's purity, and the ability Hashem bequeathed him to grasp reality and recognize Hashem. Then he is elevated and "extended to full height" over the whole world. This recognition comes after humility has had its impact and allows him to fulfill his calling on a higher level.

The two situations together create a great foundation of holiness and create the light of the world that comes from its reliance on man's greatness (see Yeshayahu 25:1). This is symbolized by the hunched, humble *nun*, followed by the long, straight, proud *nun*.

## Methods to Remember and Internalize Torah

(condensed from Ein Ayah, Shabbat 12:22)

**Gemara:** *Samech* and *ayin* teach to make *simanim* (pneumonics) for Torah and acquire it.

**Ein Ayah:** You should always engrave on your heart the great value of acquiring Torah as part of your heart and mind. Use whatever tricks you can to permanently acquire the Torah within you. Then, the Torah will leave an impression on the essence of your life.

It is good but insufficient to spend a lot of time reviewing that which you learned. You should spend energy arriving at tricks to remember the Torah learned, out of a palpable fear that normal efforts will not prevent you from forgetting. When you have these great efforts and great fear of forgetting, because you are aware of Torah's great sanctity, you will acquire Torah and make it yours forever and part of your essence, thus making you strong and lofty.

## Speech and Silence

(condensed from Ein Ayah, Shabbat 12:23)

**Gemara:** The hunched *peh* and straight *peh* represent the open mouth (*peh*) and closed mouth.

**Ein Ayah:** Speech and silence serve as co-foundations of the world. When the mouth is open to speak about that for which speech was created (e.g., spreading Torah and wisdom) and bring special light to the world's dark places, one builds a supporting pillar for the world.

In contrast, regarding holy silence, whether to withhold damaging speech or even to not spread too much light when inappropriate, such as when it is too deep and pure for the listener to contain, silence makes existence grand. So the open mouth and the close mouth both build Hashem's palace above and below, so that there is eternal sanctity throughout the world. Openness is appropriate by lowlier (hunched) things, and silence is more likely proper for matters of the highest levels. In that way, "To You silence is praise" (Tehillim 65:2).



### 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

## Compensating for a Breach of Exclusivity Agreement

(based on appeal ruling 75029 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=p) received exclusive distribution rights to a book from the book's publisher (=def). But def sold 1,000 copies of an abridged version of the book, which, pl claimed, caused them losses. The original *beit din* levied only a modest payment of 4,000 shekels because they viewed the breach of contract only from the perspective of preventing gains. The reviewer of the ruling accepted the right to appeal because they should have looked at the matter as *gerama* (indirect loss, i.e., devaluation of the book's value), for which our *batei din* receive authorization to obligate. The reviewer reasoned that *beit din* should have hired an appraiser to determine the devaluation of the full-length book due to the existence of an abridged version.

**Ruling:** It is very difficult to quantify the damage to the value of the book. It might be wrong to see the immediate lower value and multiply by the number of unsold books because it is likely worthwhile to refrain from selling the books at the lower price but to wait for the price to rise.

*Beit din* asked pl to ask people who understand the field to help him quantify what his loss is. All of the people agreed there was damage, but there was a great divergence about the amount and the way to calculate it.

Def claim that since they sold the abridged version only to yeshiva students, this does not affect the price for non-yeshiva students, and it would only slightly delay how long it will take pl to sell out. However, it was already decided by the first *beit din* that this was not the case, and we did not find flaws in their reasoning on this matter.

When there are three different evaluations of a price, the Shulchan Aruch (Choshen Mishpat 103:2) rules that *beit din* is supposed to select the price that is half-way between the high and the low. The commentators (ad loc.) rule that one follows the middle estimate. In a case like ours, when each estimate is based on different logic, it is not reasonable to treat any of the possibilities as the likely correct one. In such cases, Rav Zalman Nechemia Goldberg reasoned that a compromise arrived at by *beit din* is preferable, especially because it saves money by not hiring appraisers. This is even truer in our case in which the damage is not direct.

One of the factors that should impact *beit din*'s compromise is that, given that def acted with full knowledge that they were violating the agreement in a meaningful way, there is logic to prevent def from gaining by means of their violation. Therefore, since def earned 10,000 shekels in selling the abridged version, this is the amount that def will have to pay, which is 6,000 shekels more than the first *beit din* obligated them.

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