



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

המדה ימים

Parashat HaShavua

Behar Bechukotai, 26 Iyar 5781

Different Types of Respite

Harav Yosef Carmel

Sefer Vayikra was given during Bnei Yisrael's period in the desert. It is therefore telling that the Torah already relates as a given fact the situation in which they are working the fields of *Eretz Yisrael*, suspending work during *Shemitta* and *Yovel*, and following the rules of transactions regarding real estate in the Land among other financial matters. There is already a description of an army that protects the nation's borders, which can prevent foreign armies, even those not threatening the nation, from passing through.

We just marked Lag BaOmer, which focuses on the Torah of Rabbi Akiva and his disciples, including Rabbi Shimon Bar Yochai. They took part in the struggle to renew Jewish sovereignty under Bar Kochva's leadership. We will soon mark the anniversary of the Six Day War, which reached its peak with the liberation of Yerushalayim. This extricated us from dangerously narrow borders and ushered in a period of great development, concretizing and strengthening the State of Israel. Finally, we will reach the holiday of the giving of the Torah.

Yerushalayim is the political capital of the State of Israel and as such of the entire *Am Yisrael*. It is the spiritual center and the focus of *Am Yisrael's* longings. The process of establishing the State was significantly advanced on 5 Iyar 5708, but also was significantly strengthened on 28 Iyar 5727. The State of Israel without Yerushalayim as its official and practical capital is like a body without a soul. We can demonstrate this from King David as well (David ben Gurion followed his lead).

The Torah sets an interesting time for the building of the *Beit Hamikdash*, which turned Yerushalayim into the dwelling place of the Divine Presence, which initially benefitted *Am Yisrael* but eventually (as Yeshayahu prophesied) the entire world. The Torah writes as a precursor for choosing the *Beit Hamikdash's* location as follows: "You shall cross the Jordan and inhabit the Land that Hashem your G-d is giving you as an inheritance, and He will give you respite from all of your enemies around you and you will live securely" (Devarim 12:10). Similarly, Shmuel (II, 7) in an introduction to David's efforts to build the *Beit Hamikdash*, writes of Hashem giving respite from all of his surrounding enemies, and the prophet Natan agrees with him in principle that this was the time for the project of making Yerushalayim the spiritual center of the nation to commence. It is difficult that the ensuing section of Shmuel (ch. 8-10) provides extensive details of additional wars. So why did David and Natan think that the time for building the Temple had come?

We suggest that respite from enemies does not mean an end to all fighting (which will occur only in the times of *Mashiach*). Rather the fact that David enjoyed full autonomy and the world viewed Israel as such in his times (see ch. 5) provide sufficient respite, allowing Yerushalayim to be the nation's political and spiritual center. Then David moved to bring the Holy Ark to the city (ch. 6) and began planning the *Beit Hamikdash* and dwelling place of the Divine Presence.

Let us pray that the process of our return to national glory will continue from Lag BaOmer to Yom Yerushalayim and finally to Shavuot. May the State of Israel be not only a political anchor for world Jewry but also a place for Hashem's Presence, which comes when the people willingly accept the Torah.

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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

Giving Ma'aser Years Later

Question: Over the years, I have received cash gifts for birthdays, bar mitzva, etc. and never gave *ma'aser kesafim* (=mk) from them. I would like to do so now but do not remember the exact amounts I received. What should I do?

Answer: Indeed, the standard ruling is that in most cases, cash gifts are subject to giving *mk* (see Tzedaka U'mishpat 5:5).

The basic question, whether one maintains a responsibility to take *mk* on "income" from which he did not take at the appropriate time, arises in different ways. For one who never gave *ma'aser*, the Shulchan Aruch (Yoreh Deah 249:1, based on Yerushalmi Peah 1:1) prescribes: "The first year, from the principle, subsequently ... from what he earned every year." (The Shulchan Aruch discusses a fifth, the maximum rate of giving *tzedaka*, but the same is true for those who give the "average rate" of *mk* (Shach ad loc. 2).) Thus, whatever remains in liquid accounts, no matter how he received the funds, would be tithed with the principle, and what was spent is "water under the bridge."

This is not a full proof that we do not look back to the past, especially if we consider the likely origin of *mk*. While some view it as a Torah-level law (see Tosafot, Ta'anit 9a), most hold that it is only a Rabbinic requirement and, more likely, non-binding advice on how to properly fulfill the *mitzva* of giving *tzedaka* (see Pitchei Teshuva, YD 331:12). When one accepts the practice, it becomes an obligation (ibid.), and it makes sense that it starts with the aforementioned clean-slate system.

What happens if one who was already practicing *mk* failed to tithe some income? The Tashbetz (II:131), focusing on money that had been spent, compares this to one who ate food slated to be given to a *kohen* or the poor. The *gemara* (Chulin 130b) says that in such a case, he is not required to pay because there is no specific recipient with rights, and it is only an act of the righteous to do so. Here too, once the money is spent, one need not donate money in its place.

The K'tzot Hachoshen (212:6) views *mk* differently. He argues that unlike produce to be donated, which applies to specific objects, *mk* is a matter of accounting how much to give, from any asset. The obligation cannot be "eaten," and there seems no reason for it to disappear over time.

Tzedaka U'mishpat (5:14) cites both opinions without a clear preference. It is difficult to understand the Tashbetz's logic, as indeed: why should the obligation disappear? Also, when would this occur? Perhaps, one question answers the other.

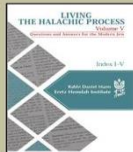
Poskim discuss making *mk* calculations at given intervals, which is important according to our ruling that expenses and losses are deducted from profits (Chavot Yair 224). So one needs a cutoff point to know which losses can be deducted from which profits (ibid.). The Noda B'yehuda (II, YD 198) demonstrates that the relevant *pasuk* and the *halacha* we cited from the Shulchan Aruch (YD 249:1) hint at a year as a likely *mk*-calculation period, and the Chavot Yair (ibid.) posits that *erev Rosh Hashana* is a logical time to do so. Once there is an idea of a periodic accounting, the Tashbetz can view whatever was passed over at that time as relegated to history.

Still, there are several reasons for you to give *mk* on the past: The K'tzot Hachoshen is likely correct. The Tashbetz says it is praiseworthy to give and you seem interested to do so. If you have not yet spent the money, the Tashbetz might not apply.

As far as estimating amounts, halachic logic would have it that it suffices to give only that which you know you "owe" (Shevet Halevi V:133 disagrees). After all, *mk* is likely Rabbinic or less and when you accepted upon yourself, you may/should have considered (which is impactful - see Shut Chatam Sofer, YD 231) that you would sometimes forget income and do not want to be liable for what you do not remember. (Many are also more stringent in the system of calculating than may be necessary.) On the other hand, those who can afford to give *tzedaka* generously are promised reward (see Ta'anit 9a).

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





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Improving Education in Yafo – Letter #21

Date and Place 10 Menachem Av 5665 (1905), Rechovot

Recipient: Not specified.

Body: The general situation regarding education and especially that of religious studies teachers, requires fixing. There is a lot of work to be done, and there is a need for much good council and valor, with Hashem's help. Therefore, I am very happy about the spirit of purity and grandeur that was awakened in the hearts of special individuals in the Holy Land, to call for a meeting of all the religious studies teachers of the holy city of Yafo and the surrounding agricultural settlements (of which Rav Kook was then the rabbi), may they be built firmly, to arrive at wise ideas to raise the situation of education and educators. I pray that Hashem will ensure that this meeting will be a good start in the effort to set proper systems and standards in the approach to education. This will give honor and a good reputation to Torah and Torah education in Israel. May Hashem give success to our actions with great power, to create a proper and honorable stature for the education of our children by teachers who fear Hashem and give proper regard to His Name. They should be fit to stand in the breaches and fix the fences in Yehuda (i.e., deal with religious challenges in society - see Yechezkel 13:5) to raise the status of fear of Hashem in the Holy Land. Therefore, I agree with all my might to take part in what the distinguished organizers want me to do, and I am prepared *bli neder* to take part in this distinguished meeting.

The Need to Take Steps to Keep the Rabbi – Letter #22

Date and Place 12 Iyar 5665 (1905), the holy city of Yafo

Recipient: The respected council of Ekron (the first agricultural settlement financed by Baron Benjamin Rothschild, founded by religious new immigrants in 1882; its name was later changed to Mazkeret Batya. Presumably, Ekron was within Rav Kook's regional jurisdiction).

Greeting: My beloved brothers ...

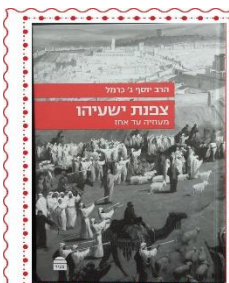
Body: I have been told that the honorable rabbi and illustrious head of your rabbinical court, may he live, is leaving you to return to his original place, the holy city of Jerusalem, may it be built firmly. I also heard that the reason is that he lacks proper lodging in the settlement.

It is superfluous for me to write at length about the importance of the holy *mitzva* and benefit of having a rabbi and a giant in Torah and fear of Hashem living in every Jewish community, especially in the Land of Israel. This is especially true if he is a great and important rabbi, who is truly a beloved man to a rare degree.

I am certain that the feelings of love of Hashem and of the holy Torah in the midst of your pure hearts will be aroused by the situation and that you will try as well as you can to remove this impediment and exert yourselves so that your congregation's crown and pride not move away from you. Hashem should assist you, as Chazal's promise, "Subsequent to [having a] Torah scholar in your midst comes a blessing" (Berachot 42a), should help, so that your stature will be raised and you will be successful. "Whoever gives honor to the Torah will be honored by others" (Avot 4:6). You shall see good coming from your actions, and your honor should be great. I am confident that the force of your reliable spirit toward Hashem and His Torah will succeed in providing much honor to Torah and lively love in your midst.

I hope that my short words will suffice to bring you to the necessary actions, so that your community will not backtrack in the sanctity that it worthily attained, i.e., having a great rabbi live permanently among you, to adjudicate and rule on matters of Hashem's laws for Israel.

Sign Off: I sign with a blessing and with great love, Avraham Yitzchak HaKohen Kook, rabbi and head of the rabbinical court of the holy city of Yafo and the settlements.



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

Dispute on the Manner in which a Rental Ended

(based on ruling 71077 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) rented out his apartment to the defendant (=def) during the course of three years based on a contract that was renewed orally. After def left the apartment, pl complained that he received it back in a condition that required a thorough cleaning (which cost 2,000 NIS in labor and materials) before it could be used. It also needed to be painted, and certain things needed fixing. Because of the deficiencies, the next planned renter, who had signed a contract, backed out, which caused a delay of a month until a new renter started paying, for which pl is suing for 3,500 NIS. Def responds that he gave back the apartment in a manner equivalent to how he received it, and thus he owes nothing. Also, def refused to return the key to the apartment, which pl claims required him to have a new cylinder installed at a cost of 450 NIS. Def counters that withholding the key was justified because pl owed him money, and that there was no need to change the cylinder because he is an upstanding person who would never break into an apartment to steal or damage.

Ruling: The contract states that def must pay for damages that he causes to the apartment by means of poor or exaggerated usage. There was no evidence or strong claim that the alleged damages were caused in a manner in which def was culpable. Therefore, this charge is rejected.

While many rental agreements call for the renters to return the apartment freshly painted, that is because the contract states such. In this case, the contract does not mention such a requirement, and therefore def is not required to paint.

Clause 5 of the contract requires def to return the apartment "in good condition similar to when he received the apartment." Unless pl signed an admission that the apartment was given to def when it was in poor condition, accepting the apartment as is, counts as an admission by def that it was in reasonable condition. On the other hand, pl does admit that the apartment was not in great condition when he gave it to def, although he claims that he paid for certain helpful items such as paint and an exterminator. The fact that def did not do anything about his complaints about the apartment's condition when he received it until after he left it somewhat weakens the strength of his claims. Considering the varied indications, we use our authority to rule based on various forms of compromise to obligate def a sum of 600 NIS.

Regarding the claim that pl's prospective renter backed out of his agreement due to def, we have seen the new contract, and it includes a penalty for backing out. [Considering that pl cleaned the apartment promptly before the new rental was to begin, the new renter did not have grounds to back out.] Pl may not waive enforcement of his contract to be nice to the new renter at the expense of def by trying to make def pay for the new renter's breach of contract.

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

Nir Rephael ben Rachel Bracha
Yisrael ben Rivka
Rivka Reena bat Gruna Natna
Arye Yitzchak ben Geula Miriam
Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

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