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# HEMDAT YAMIM

## ח'מ'תמחמ

### Parashat HaShavua

Beha'alotcha, 18 Sivan 5781

### It's Good to Be Second or Small

Harav Yosef Carmel

Our *parasha* deals with the lot of those who lost the opportunity to offer the *Korban Pesach* on time. The Torah describes these people as having been impure due to "*nefesh adam*" (the spirit of a person) (Bamidbar 9:6). Hashem's solution was that these people should offer the *Korban Pesach* a month later (ibid. 11-12). This set for generations the *halachot* of *Pesach Sheini* (the second Pesach).

*Chazal* discuss what these people, who were exposed to the deceased, had been doing. R. Akiva said that they were the people who took Nadav and Avihu out of the *Mishkan*. R. Yossi Hagelili said they were those who carried Yosef's coffin out of Egypt. In this context, the term *nefesh adam* may have something to teach us.

We have explained in the past that Nadav and Avihu's death was connected in some way to the punishment for the sale of Yosef by his brothers. In that case, both opinions connect this impurity to Yosef. *Chazal* teach us that Yosef was called *adam*, as is apparent in Tehillim 78:60. The *midrash* (Shemot Rabba 20:19) says that in the merit of Yosef, Bnei Yisrael would do a *Pesach katan* (a small Pesach). This alternative name for *Pesach Sheini* is likely no coincidence if it relates to Yosef, as Yosef was called "the (*katan*) small one among the tribes." Yosef is also connected to the idea of being second, as his chariot was the called *mirkevet hamishneh* (the chariot of the number two) (Bereishit 41:43).

Yosef and Yehuda both received a blessing of leadership from their father, Yaakov. However, the order of leadership had Yehuda first and Yosef second. The two tribes could have supplemented each other in a unified manner had the partnership between David and Yonatan the son of Shaul come to fruition, but tragically, Yonatan fell in battle. The second opportunity was at the time of Yeravam, who had divided the kingdom, which had been unified under the dynasty of David and Shlomo. Hashem offered Yeravam that if he relinquished his kingdom, Hashem would allow him to "stroll in Gan Eden with Him and the son of David," and he refused when he was told that the son of David would walk in front of him (Sanhedrin 102a). Yeravam wanted to be the big one, not the small one, the first and not the second. As a result, the division of the kingdoms became permanent, and the road was paved toward the eventual destruction of the First Temple. Yeravam did not understand the lesson of the *Pesach Sheini*, the small Pesach in the month of Iyar. Instead, he made up his own unauthorized second Sukkot in the month of Cheshvan (Melachim I, 12:33). What a shame!

The person of true stature is one who knows how to limit his stature, which actually makes him big. *Pesach Sheini* = *Pesach Katan* comes to teach us that there is a special value in being #2, in being "small," in being humble. Humility is the key to unity between Jewish leaders and between all the parts of the nation, who are descendants of Yaakov Avinu.

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



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# Ask the Rabbi

## "Baruch Hu U'varuch Shemo" in Zimun

**Question:** It is unclear to me whether one is supposed to say "*Baruch hu u'varuch shemo*" at the end of *zimun* and if so, who is supposed to recite it. What is proper?

**Answer:** The first halachic code that mentions the phrase *Baruch hu u'varuch shemo* (meaning that we "bless" Hashem and His Name) is the Tur in two places. It is not found in the *gemara* or the halachic works based on it (Rambam, Rif, Rosh). In Orach Chayim 124, the Tur cites an oral statement of his father (the Rosh) to recite the phrase upon hearing all *berachot*, in line with the statement that Moshe taught Bnei Yisrael to praise Hashem whenever he mentioned His Name (Yoma 37a based on Devarim 32:3). The Shulchan Aruch (OC 124:5) brings this as the *halacha*. (It is not a full obligation, and therefore it should not be said when it would harm a *beracha* - Mishna Berura 124:22.)

The second place the Tur mentions *Baruch hu u'varuch shemo* is regarding *zimun* (OC 192), as part of his text at the end of the *mezamen's* final recitation. The Maharshal (see Taz 192:1) considers it a misprint, and Rav Yosef Karo ignores it in both the Beit Yosef and the Shulchan Aruch. However, other of the Tur's commentaries (Bach and Perisha) find earlier sources (Rokeach and Avudrohom (with a different text)).

We found three explanations for the rationale to recite *Baruch hu u'varuch shemo* in *zimun*. The Bach views it as an extension of the Rosh/Tur's idea of blessing Hashem upon hearing His Name in a *beracha*. Therefore, he reasons, it applies only in a *zimun* of ten, when His Name (i.e., *Elokeinu*) is used. The Bach adds that this formulation is particularly appropriate here because the same *pasuk* (Devarim 32:3) is a source for saying *Baruch hu u'varuch shemo* and for the requirement of *zimun* in general (Berachot 45a).

The Darchei Moshe (OC 192:2) posits that the Tur intended that it create a desirable break between the *zimun* and *Birkat Hamazon* (the basic idea and different opinions about a short recitation between *beracha* groups is found in Shulchan Aruch and Rama, OC 215:1). The Eliya Rabba (192:2, see also Pri Megadim 192, MZ 1) connects this with a *minhag* which very few people practice today – that the *zimun* responders answer *Amen* to the *mezamen's* "*Baruch she'achalnu ...*" (see opinions in Magen Avraham, introduction to *siman* 192). *Amen* is their break; the *mezamen's* break is *Baruch hu u'varuch shemo*. According to this, since we do not answer *Amen*, the responders might want to say *Baruch hu u'varuch shemo* as well.

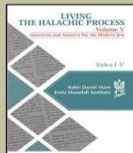
The Perisha (OC 192:2) and the Maharal (Netivot Olam, Netiv Ha'avoda 18) connect *Baruch hu u'varuch shemo* to the idea of adding on to one's counterpart's blessing (see Taz, Yoreh Deah 242:5). Here, every time the response switches sides, something should be added – the responders add "... *u'v'tuvo chayinu*"; the *mezamen* adds "*Baruch hu u'varuch shemo*." If so, of course it would be only the *mezamen* who recites it, as it sounds from the language of the Tur.

In addition to the Shulchan Aruch not bringing the *minhag* of saying *Baruch hu u'varuch shemo*, the Rama (despite his suggested explanation in Darchei Moshe) does not believe it is worthwhile, nor does the Taz (OC 192:1). The Magen Avraham (ibid.) and the Mishna Berura (192:4) cite both the practice of saying and of not saying, and view the former as more prevalent. It is hard for me to say which is more common today. For Sephardim, the Yalkut Yosef does not mention *Baruch hu u'varuch shemo* regarding *zimun*. The Kaf Hachayim (OC 192:8) discusses the counter indications and says that due to lack of clarity, it is better to refrain. The reason to not welcome additional nice words could be out of opposition to post-Talmudic additions. It is also possible that, between *zimun* and *Birkat Hamazon*, it is forbidden to break for unnecessary things (see dilemma of K'tzot Hashulchan 45:(35)).

In conclusion, if one does not have a *minhag* one way or another, the stronger option is to not recite *Baruch hu u'varuch shemo*, at least if there are not ten for the *zimun*.

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





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## Encouraging Torah Writers – #27 – part I

**Date and Place** Undated, the holy city of Yafo

**Recipient:** An open letter to our young, beloved brethren, students of Torah, living in the Holy Land

**Opening:** Peace to you.

**Body:** I am writing not because I have the strength to write but rather because I already lack the strength to remain silent.

Our (religious) situation is so horrible and painful that it does not leave respite for the heart. Every thought and idea must be brought forward, whether orally or in writing. May the spirit of Hashem lead us (Yeshayahu 63:14), and we shall breathe the spirit of life. We must discuss now matters that are very powerful and great, even though we are so downtrodden and weak and it seems to us as if we, of all people, are superfluous in the world, and everyone is pointing at us and shaking their heads in disbelief.

Within our inner beings, do we have spirit? Does power dwell within us? Why do we walk so bent over, wrinkled, crawling, and trembling? In truth, we should and must be full of courage and cloaked in bravery, for there is no power like the Torah.

The world, even the Hebrew one (primarily, secular Zionists), despite its lowly state, due to our great sins, still possesses movement and life. It is just we (the religious inhabitants of *Eretz Yisrael*, or "the Old Yishuv") who are incapable of lifting a finger and displaying a sign of reawakening.

One might say: "We do not have to be jealous of powerful people's ability to act. Just like they do not try to compete with us in our undertakings, so too we need not try to compete with theirs." [However, that is incorrect.]

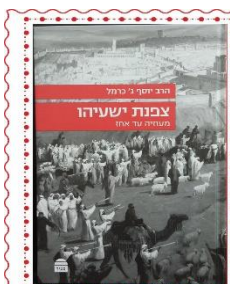
The brave of spirit (secular Zionists) stand up against us with an uncovered arm and with a scepter of fearful fire ... The pen has captured the world, ruling over its thoughts, its emotions, and even people's actions. It proceeds with confidence, with sharp arrows and penetrating swords, which it calmly sends forth.

Is it conceivable that we are permitted to be silent and not acquire for ourselves this modern form of weapon? The pen is like a body of water that swells from within (Shabbat 65b). It receives its strength from the reservoir of thought, and fruitful thought comes from deep investigation. This follows broad knowledge and is a product of exposure to material and its analysis, as they join together with emotion and life.

Why shouldn't we (students of Torah) also acquire pens (i.e., publish impressive works of Torah scholarship and thought)? Have our minds dried up, Heaven forbid? Our minds should be like dew, full of the logic of truth and the knowledge of the sacred. Are we finished with all of the thoughts from the depths of our hearts?

Thank G-d, we occupy ourselves with Torah study, with essential halachic rulings. We must note that these are also gateways to inner thoughts and the hidden treasure of a storehouse of pure fear of Hashem, which is the beginning of knowledge and the source of wisdom.

*We will continue next week.*



### 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**

## **Pay for Contractor who Left the Job under Protest – part I**

(based on ruling 76072 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendants (=def) hired an engineer (=eng) to plan and supervise expansion of their home, and eng recommended hiring the plaintiff (=pl) as the contractor. Def and pl signed a detailed contract, and pl did much of the work and received much of the payment for the job (285,000 out of a total of 378,000 NIS specified in the contract) before stopping due to financial disputes. Eng and pl engaged in negotiations over mutual grievances (poor quality, especially of aluminum, and insufficient funding, respectively), some of which is electronically documented in oral and written communication. As a result, def paid pl an additional 10,000 NIS, but soon thereafter pl demanded an additional sum and did not return to work due to eng/def's refusal. Pl finished the job by hiring subcontractors. Pl is demanding money he claims is due him for what he did and because he should have been allowed to finish. Def is demanding return of some of the money for overpaying and for their demand that the aluminum be replaced. [As is common for building disputes, there are numerous detailed disputes, over 68 pages of two rulings. We will highlight some of the major disputes.]

**Ruling:** In response to pl's claim that he had been justified to pause the work due to underpaying, def showed that the contract states that eng is the sole authority about when and how much payment is due and he is to arbitrate any disagreement. Pl responded that eng was lying about the money due in order to find favor in the eyes of def, his employers.

Def are correct in this matter. The Shulchan Aruch (Choshen Mishpat 71:1) rules that if an agreement is made between the sides that the lender will be believed about whether payments were made, he can continue to get paid based on his word without an oath, unless witnesses testify that there were additional payments. This is even though the lender is obviously biased, because the borrower was aware of that from the outset. Here too, pl was aware of the relationship between def and eng and still accepted eng as the final word. Therefore, pl was not justified to boycott his job over a financial dispute, against eng's decision. At this point, of course, beit din has the authority to overrule eng's decision if it can be proven to have been erroneous. However, in this case, pl has not even been able to explain how he arrived at the sum that he is demanding, which only weakens his position.

Regarding pl's claim that he should have had the opportunity to continue the work, the contract states that not keeping to the work schedule is considered a "fundamental violation" of the agreement. Since the deadline for completing the work was 60 days, an unwarranted boycott of several days with no return date at hand is an abrogation of pl's obligation and allows def to move on.

*We will discuss other elements of the dispute next time.*

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

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**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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