



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

חֶמְדַּת יָמִימִם

Parashat HaShavua

Shelach, 25 Sivan 5781

What Does a Jewish State Entail?

Harav Yosef Carmel

Our *parasha* refers to the different reactions of three groups. Yehoshua and Kalev returned from their mission to *Eretz Yisrael* with reinforced belief in Hashem that He who had taken them out of Egypt would help them establish an independent Jewish state. The ten spies returned confused and lacking in belief. They created skepticism about the chance of success. The *ma'apilim* tried to reach *Eretz Yisrael* after Hashem had commanded them not to. We try to follow Yehoshua and Kalev. We believe the goal is attainable because Hashem promised it to our forefathers.

This week we commemorate the 26th *yahrtzeit* of our mentor, Rav Shaul Yisraeli z.t.l., Eretz Hemdah's founding president. He was a trailblazer in the field of how a Jewish state functions halachically, including writing and editing many articles and publications. One of the main questions that occupied *talmidei chachamim* was: What is the place of a Jewish and democratic State of Israel, which was established by a general public that primarily did not consist of those who observe all *mitzvo*? How does one view a government, with executive and legislative branches, most of whose members are not dedicated to keeping the Shulchan Aruch, and a legislative branch that is sometimes is hostile to it?

Here too there are three approaches: 1. People of belief in the divine promise to return *Am Yisrael* to *Eretz Yisrael* and reestablish a Jewish state, as a symbol of a refined state in which Yeshayahu's visions can be realized. It would be a state to which gentile pilgrims would come to study in its capital, Jerusalem, and a state that bases itself on charity and justice. 2. Those who do not believe in the Written and/or Oral Law, or do not believe the state can be a vessel for the fulfillment of the Prophets' prophecies. 3. Those who lost their patience and are willing to hasten the redemption even in manners that are against the Torah.

Rav Yisraeli was one of the first group's leading teachers and guides, with an ability to navigate complex matters. We will take a quick look at one of the dilemmas he dealt with – an apparent contradiction between a national or spiritual obligation and the rights of the individual.

Rav S.Y. Zevin wrote an article about the "trial of Shylock." He opines that a person has no ownership over his body. Both body and soul belong to Hashem. Rav Yisraeli disagreed and said that man has ownership over his own body, just that Halacha limits the scope of the ownership and forbids one to commit suicide, put his life in danger, or damage his body.

A related practical issue is organ sale by a poor person to improve his financial situation. Rav Yisraeli posited that fundamentally it is permitted, but that the state is required to legislate a prohibition on such "organ commerce" to prevent the rich from taking advantage of the poor. Rav Yisraeli viewed organ donation as a great *voluntary mitzva* if done altruistically, with the donor a hero from a Torah perspective. In the merit of Rav Yisraeli's ruling and the incredible life work of Rav Yeshaya Heber z.t.l., the State of Israel has become a beacon of light for the world, of healing people with true mercy. This is an uplifting application of the idea of "Torah and State," following the footsteps of Yehoshua and Kalev and other believers in a noble Jewish state. May we be successful in continuing to spread the teachings of Rav Yisraeli robustly and pleasantly.

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



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Ask the Rabbi

Throwing Out Leftovers

Question: It pains me to throw out leftovers. Often, after a few days, it is clear that no one will eat any more (although they are still edible), and my family wants me to throw them out. We asked a rabbi, who told us to put them in a bag before throwing into the garbage. My family thought this was strange. Must that be done?

Answer: First we will discuss *bal tashchit*, the prohibition to destroy things that should be used. The classical formulation (Rambam, Melachim 6:10) is of a destructive action, but cases of wasting a usable resource, e.g., throwing out a salvageable cup of wine (Shulchan Aruch, Orach Chayim 170:22) are included. But the *halacha*, even regarding the most severe case of *bal tashchit*, cutting down fruit trees, is very balanced and practical – certain things are just not worthwhile to keep (see Bava Kama 91b; Living the Halachic Process VI, G-13).

It is inappropriate and arguably forbidden to make ridiculous amounts of food and throw out the leftovers at meal's end. However, making a little extra on purpose (appropriate for a mother or hostess) and sometimes having more leftovers than expected so that you do not succeed in finishing it, is not wasteful or forbidden. (Feeling compelled to finish to the point of eating unhealthily is certainly misguided.) Norms in society or segments therein and circumstances likely impact on what is considered illegitimately wasteful. Therefore while some view it is *bal tashchit* for a caterer to throw out large amounts of food at the end of an affair (Shevet Halevi IV:225), we agree with the approach that when there is no reasonably easy alternative (we encourage positive planning), it is not forbidden (Etz Hasadeh 35:(14) in the name of Rav Elyashiv).

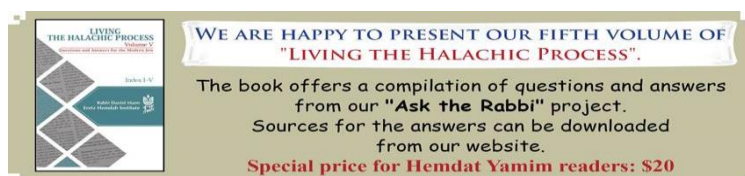
It is standard practice to protect "foods" with *kedusha* before placing them in a garbage. Examples include: *teruma* (see Derech Emunah, Terumot 2:(399)); *hafrashat challa* (see Minchat Yitzchak IV:13; *kedushat shvi'it* (see Yalkut Yosef, Shvi'it 15:13). Regular foods do not have "*kedusha*." *K'zayit*-sized pieces of bread do not have *kedusha* per se, but their "higher status" makes it forbidden to "disgrace it" even if it does not cause "damage," which does not apply to other foods (Berachot 50b).

Some claim that throwing food in the garbage is doing something active to make it unfit to eat, and therefore one should not do so even if he will clearly anyway not be eating it or giving to another. In some ways, it is more stringent than *teruma* or *challa*, where we have an interest in prompt disposal to prevent someone from mistakenly eating it. Here it is possible to wait for it to deteriorate until it is inedible. (Indeed, Mishneh Halachot 15:64 says that putting food in a bag is not enough because the bag will not hold up in the garbage truck.) But this is not the *minhag*.

Etz Hasadeh (35:(13)) cites a few contemporary *poskim* who require or recommend putting the food in a bag before throwing it into the garbage. But this too would be a **new stringent practice**, representing a big jump from arrangements to avoid marginal *bizuy*, which in the past were reserved for holy objects. It is best if we can provide logic and precedent to support the very broad *minhag* to throw leftovers directly into a garbage. The main idea is that normal practices of civilized people are not a disgrace. For example, while it is a disgrace to rub food on the skin instead of eating it, when it is normal (e.g., olive oil), it is permitted (Be'ur Halacha to 171:1). It is not that the need overcomes the problem, but that the fact that it is normal precludes its being disgraceful (ibid.). Also, we do put bags in our kitchen garbages, and the contents are mainly leftover food and used disposables, which are removed before decomposing occurs. Therefore, when there are not unseemly things inside, it is quite redundant (and a waste of non-biodegradable bags) to put each set of leftovers in a separate bag.

You, however, received a *p'sak* with a basis (even though we view it as overly *machmir*), and you are bound by it (Rama, Yoreh Deah 242:31).

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



Encouraging Torah Writers – #27 – part II

Date and Place Undated, the holy city of Yafo and the agricultural settlements.

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

Summary of Part I: In these difficult times, it is critical for young Torah scholars to use their talents by writing with energy, as these tools cannot be left to the secular Zionist alone.

Body: Our great progenitors bequeathed a great treasure into our hearts and souls. It is like a well that is continuously dug and added to in every generation. We are just making use of that which is readily available, from the leftovers of the leftovers (i.e., not the full depth of Torah teachings). We do not even need to recall everything that was said, and we certainly are not being called upon to add anything new or broader than existed before. We need only to present the thoughts of our heart in a manner that can be understood.

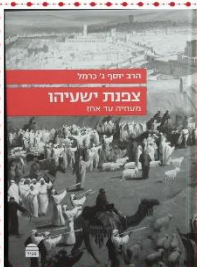
It is an old complaint, but it must be renewed like a new royal edict. The Divine Spirit cries out: "The students of Torah do not know me" (Yirmiyahu 2:8), therefore the Torah will lapse. "The wisdom of the scholars will spoil, and the people of the land will decrease" (Sota 49b). No one will speak [words of truth], and no one holds the hand of the other. This is not the time to sit with folded arms; we are the ones who carry the weapons of Hashem (Torah ideas). We have powerful tools in our hands, thanks to He who dwells in Zion, who brought us to the Desired Land, the valley in which visions are seen, which brings souls to light and whose air makes people wise. It gives wisdom, life, and a soul to the nation who lives in it. [Therefore, we have the ability to succeed.]

We need to wake up a little and to notice the sound of Hashem knocking (Shir Hashirim 5:2), in our midst, deep within our hearts. It is time to act for Hashem (Tehillim 119:126). We need to embark on the path that will enable us to acquire the pen. This will reserve for us a healthy standing in set, proper, and constant literary [settings], and have a swelling of shades [of modes of expression] so that we can truly sanctify the Name of Hashem and give honor to the Torah. Glory to the Land we so cherish and splendor to Jerusalem, our Holy City.

The pen is the son of thought, and thought is the child of study. Therefore, we all need to be encouraged by the strength and vigor, with confidence and internal bravery, and give proper attention to the important subject of matters of the heart and thought (i.e., spiritual philosophy), as it is connected to all the teachings of philosophy in the Torah. This must extend from the most basic, simple study of ethics, to the greatest heights of the most elevated study of Jewish philosophy, to the summit of holy discussion of the loftiest secrets of the Torah.

However, we must be very very careful about the order in which we progress, as we must not skip even a small step. Rather, everything in its proper order, with a clear mind and greatness of the spirit, with diligence and patience, an order that will bring us to say what we must say in a clear, attractive, and precise manner. Hashem shall give knowledge, wisdom, and insight from His mouth (based on Mishlei 2:6).

A great part of the matter is dealt with every day, but only partially. Indeed, the four cubits of Halacha study is the foundation and provides the main life force upon which everything is built. It too must grow and bloom, be strengthened and fresh, according to the rejuvenation of thought that powerfully demands its role according to the spiritual level of the good treasure chest, the treasure chest of the fear of Hashem and true knowledge of Him. The dormant powers will awaken, and thought will once again live. The pen and the engraved letters will return with the help of Hashem, our savior. The pen will cause wonders through Hashem's powerful right hand to give greatness to the Name of Hashem the G-d of Israel, on behalf of those who love Hashem and study His Torah.



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

Pay for Contractor who Left the Job under Protest – part II

(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 because he wants the aluminum to 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: Last time, we saw that pl was wrong in leaving the work and lost his right to finish the job.

Pl claims that even if he was wrong for leaving the job, his fee should be reduced only according to the prorated cost of the work needed to be finished. The contract states that if pl fails to keep to the time schedule or does not fix flaws within ten days, def can replace him, after warning. This grants def the right to have the same work done, even at a higher fee (def must present proof of payment). The warning does not need to be about an imminent hiring of someone else, but just that he make demands about what is expected of pl, which it is documented that he did.

The written specification of the aluminum work requires "Belgian style," which pl did not provide, and therefore def wants them replaced. The problem was detected before installation, and the sides decided to install what was ordered and compensate monetarily as needed. Now, def claims that the aluminum is of unreasonably low quality. Pl denies ever receiving the specification sheet for the aluminum and that they therefore ordered "standard" aluminum. Pl also claims that eng agreed to the aluminum, which eng denies.

Beit din concludes that it is unreasonable for pl to have received exact specifications for everything except the aluminum and to nevertheless set a price for it, especially because we are unaware of any "standard" product. There are also indications that pl received the information and acknowledged he made a mistake in the order. The rule is that when a litigant quotes a third party and the third party denies what was said in his name, the litigant is not believed. Since both sides gave special trust to eng, pl's claims in this matter are rejected. However, beit din's expert finds that the aluminum installed is of reasonable quality and since def allowed it to be installed, the aluminum need not be replaced. Pl will have to return a significant amount of money for the downgrade.

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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