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# HEMDAT YAMIM

## חֶמְדַּת יָמִימִם

### Parashat HaShavua

Chukat, 9 Tamuz 5781

### Holy Talk is Not Cheap

Harav Yosef Carmel

One of the questions that troubled the Rabbis throughout history is: why did Moshe not merit to enter *Eretz Yisrael*? Considering that the Torah says the reason is Moshe's misstep by hitting the rock to have its waters flow (Bamidbar 20:12), another way to present the question is: what was so bad about hitting the rock? After all, in *Parashat Beshalach* Moshe was commanded to hit the rock to have the waters flow forth, which was certainly seen as a miracle (Shemot 17:6). So why at the place known as "The Waters of Quarreling" is Moshe scolded and punished sternly to the point of being excluded from entering the Land, despite his supplications, for the same action?

Simply speaking the answer is that you need to fulfill Hashem's commandments – the right action at the right time and place. But still, we have the right to ask: why was there a difference in the commandment from one time to another?

The commandment to hit the rock in *Beshalach* involved the use of Moshe's staff. Earlier in the *sefer*, we are introduced to the use of Moshe's staff: "This staff you shall take in your hand, with which you shall do the *otot* (signs, miracles)" (Shemot 4:17). If we look at the use of the word *ot/otot* in the Torah, we may come up with a solution.

There are a few *mitzvot* that the Torah calls an *ot*: 1. *Brit mila* – "You shall cut the flesh of your foreskin, and it shall be as an *ot* between Me and you" (Bereishit 17:11). 2. At the burning bush – "Alas, the bush was burning in the flame, and the bush was not consumed ... And He said: For I shall be with you and this is the *ot* that I will be with you" (Shemot 3:3,12). 3. *Tefillin* – "It shall be an *ot* on your hand and a remembrance between your eyes ..." (Shemot 13:9). 4. Shabbat (which was first given in Egypt or at least in Mara (pre-Sinai)) – "But you must observe My Shabbat, for it is an *ot* between Me and you for all generations, to know that I am Hashem Who sanctifies you" (Shemot 31:13). 5. Marking the doorposts in Egypt with the *Korban Pesach* – "And the blood shall be an *ot* for the houses, and I will see the blood and pass over you" (Shemot 12:13).

What this whole list has in common is that they are connected to the period before the giving of the Torah. *Chazal* referred to this period as "before the speech" (see Chagiga 6a), i.e., the hearing of the word of G-d at the revelation at Sinai. Now we have a point to develop. The use of the staff for getting water from the rock was appropriate in *Parashat Beshalach*, which is before Sinai, and therefore it was the right system at the right time. After Sinai, Moshe is no longer to use the staff, as it is the time to use speech and only to use speech.

At another time, we will broaden our look at the power of speech.

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## Birkat Kohanim by Non-Kohanim

**Question:** Is it clear that a non-*kohen* (=zar) may bless his children or others with the blessings of *Birkat Kohanim* (=BK)?

**Answer:** This is a good question, conceptually. Concerning practice, we do not reject broadly followed *minhagim*, certainly when practiced by righteous and knowledgeable people. However, it is fine to inquire about the justification.

First, let us see the basis for your question. The *gemara* (Ketubot 24b), in discussing whether the fact one does *nesiat kapayim* (BK) is proof that he is a *kohen*, posits that an *issur aseih* (prohibition derived from a positive statement) precludes a non-*kohen* from doing BK. Rashi learns this from, "So shall you bless Bnei Yisrael" (Bamidbar 6:23) – "you (*kohanim*) and not *zarim*." On the other hand, a *gemara* (Shabbat 118b) tells of R. Yossi who said that even though he was not a *kohen*, he would listen to his friends if they told him to go up with the *kohanim*. Tosafot (ad loc.) comments that a *zar* does not seem prohibited to do BK, except for the matter of an unwarranted *beracha*.

The Rama/Darchei Moshe (Orach Chayim 128:1) suggests the following reconciliation between the sources. A *zar* may not do BK without *kohanim* but is permitted to join them. This approach is not widely accepted (Mishna Berura 128:6).

*Acharonim* (including Be'ur Halacha to 128:1) ask how may a *zar* bless his children or friends with the same words of BK, as you asked. We will survey the major answers given.

The Magen Avraham (128:1) and Taz (128:2) suggest another way to understand the *derasha* excluding non-*kohanim* – it is not that a *zar* may not give these blessings, but that he is not required to do so (the matter depends on two opinions in Ketubot 24b). The Pnei Yehoshua (Ketubot 24b) posits that a *zar* is forbidden to do BK only in the *Beit Hamikdash*. There are significant questions on this approach (see Keren L'David, OC 24).

Most of the answers recognize the potential of a problem but limit it. The Bach (OC 128) posits that BK is forbidden for a *zar* only if he raises his hands during it, as *kohanim* must do to fulfill BK (Sota 38a based on Vayikra 9:22). Otherwise, the *zar* is not acting like the *kohen* is supposed to. Is it then okay to bless our children with our hands extended to their heads? The Torah Temima (Bamidbar 6:131) relates that the Gra would only put one hand on the recipient of the *beracha* so as not to violate the prohibition for the *zar*, which is with two hands. Rav Yaakov Emden (Siddur Beit Yaakov, p. 153a) says that there is nothing wrong with using two hands. It is unclear if extending hands to the head of the recipient, which was done generally for blessing people (see Bereishit 48:14; Bamidbar 27:23), counts as *nesiat kapayim* (see Beit Baruch 32:8).

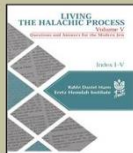
Some say (see Dirshu 128:10) that since *Birkat Kohanim* is supposed to be done as part of *tefilla* (Sota 38b), there is no prohibition if *zarim* do it in a different context. The Be'ur Halacha (ibid.) does not believe that this helps. Since the prohibition for the *zar* is from the Torah and the requirement of *tefilla* for BK is only Rabbinic, the prohibition must exist independent of *tefilla*.

The Magen Gibborim (Shiltei Gibborim 128:2) says that a *zar* violates this prohibition only if he intends to do so as a fulfillment of the *mitzva* of BK, not if he does it because these are nice blessings to bestow on a child or friend. (This is more likely if one needs intent to fulfill a *mitzva* (Ktav Sofer, OC 14; Be'ur Halacha ibid.)). As long as the one blessing does not make a *beracha* prior to reciting the *p'sukim* of BK, it should be quite clear that he is doing it independent of the *mitzva* of BK, just wishing well to someone he cares about (Kaf Hachayim, OC 128:14).

One might want to be *machmir* and use one hand for blessing his child (there may be kabbalistic preferences one way or the other – beyond our scope) or have in mind explicitly that he is not doing it as a *mitzva* of BK. However, I plan to use two hands, like most fathers and as I have always received and given, and feel that my intention is clear enough.

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





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*Translator's announcement: Until now, I have been as literal as I could be in my translation. The main purpose was that the writing style is part of the biographical and historical content of the letters and their writer. How he writes to his family and his colleagues, his use of sources, poetry, and metaphors, ... are significant. While not abandoning that approach totally, I believe that much of the lesson has already been learned, and from here on, I will cut back on the translation of every detail and nuance, especially in the opening and closing sections and the apparently repetitive matters. This week will be a slight exception to the new rule, in honor of the first letter we have to his son, Tzvi Yehuda.*

## An Interested Father – #28

**Date and Place:** Cheshvan 5666 (1905), Yafo

**Recipient:** Tzvi Yehuda Hakohen Kook (Rav Kook's only son and eventual "spiritual inheritor"; he had four daughters, two of whom predeceased him. Tzvi Yehuda was 14 at the time of the letter.)

**Opening:** My dear son, *shlita* (the next letter has a longer greeting).

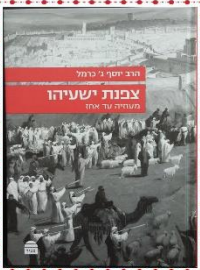
**Body:** You made me happy with your pleasant and dear words, may your strength be straight.

I very much desired to write to you at length regarding several details, especially concerning things having to do with proper behavior. However, you know of my work and the matters that preoccupy me, along with the lack of speed due to my health situation, may Hashem strengthen me and give me the ability to advance my Torah and service of Hashem.

I am very happy about what appears from your letter that you have already agreed to settle at this time in the holy city of Yerushalayim. May you have strength! Just exert yourself, my dear son, in good attributes and fear of Hashem and love of Him, in diligence in Torah study, to cover ground and delve into the topics, and to review well so that the words of Torah will be fluent and clear in your mouth (Kiddushin 30b). Develop as much as possible in all types of matters that will improve you and elevate you, and learn things that make a person more glorious. No fine attribute, as minor as it might appear, should be too small in your eyes for you to pursue. Also, no lacking, no matter how small, in your approach, your attributes, or your behavior should be too small in your eyes to have to fix and improve. Always be full of desire, and lean more in the direction of happiness and a positive outlook. Connect yourself to those who fear Hashem and who excel in Torah, those who have clean ideas and are scrupulously honest. Treat your discussions with them as something to learn from even after you applied the matters to your conceptions and intellect.

Please write to us, my dear son, about all of the details of your daily life, in the most minute details, because you cannot imagine how interested we are in knowing about everything that you are involved in. Literally, how you sit and how you get up. At what time do you eat breakfast, and what do you eat? When do you eat lunch and supper, and when do you go to sleep? Have you become accustomed to reciting Kri'at Shema upon going to sleep (with added prayers and recitations) properly? When do you get up, and in what room do you generally sleep? Are you far from the window, as it is sometimes very cold in Yerushalayim?

**Sign Off:** I end off with a blessing, my beloved son, and you should have great peace, as is the will of Hashem and the will of your father, who hugs and kisses you, Avraham Yitzchak Hakohen Kook. (Regards to your honored teacher (Rav Zerach Epstein) with great love.)



**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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## Stopping Rental due to Corona

(based on ruling 80107 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiffs (=pl) rented out an apartment to the defendant (=def), with a detailed contract, for 4,700 NIS per month for a year and renewed it for 4,900 NIS a month for a second year, ending on 31.07.20. Def rented it for his brother to use for his work as a *sofer*. On 1.4.20, def informed pl that due to reduced sales because of the pandemic, he can no longer justify renting the apartment. Def tried to find a replacement renter but did not succeed. Def paid for April and May and claims to be exempt for June and July because the sides had agreed that two months warning is sufficient and because he was forced to stop renting due to Corona. Pl claim that def is bound to the rental until the end of the contract unless someone takes his place.

**Ruling:** The language of the relevant clause in the contract is poorly drafted, but it appears to say that def needs both to give two-months' notice and also find a replacement renter to pl's liking. (The fact that the clause says the notice must be in writing is less of an issue, considering that it is a technical consideration to prevent situations in which there is dispute over whether there was notification, and here there is agreement.) Even if def understood that he could cancel the rental with notification alone, that is a "matter of the heart" that is inconsequential (see Shulchan Aruch, Choshen Mishpat 207:4).

Par. 25:(13) of the Law of Rental and Borrowing states that a contract that allows the landlord to back out under circumstances in which the renter cannot is not binding. However, that just means that in such cases, the landlord can also not back out, not that the renter can back out. Therefore, the law does not help def's claim.

The impact of the pandemic will also not help def. There was not a clear stipulation that the apartment was being rented just for def's brother's work, and he could have kept the apartment for living quarters as well. Additionally, not all *sofrim* were affected by Corona to the extent that they suspended their jobs.

The most complicated matter is that of finding a replacement renter. There were initially several people who looked into renting. According to def, the rental fee was too high, and he claimed to have offered to pay some of the rent to pl to make up the difference, but that pl refused. According to the contract, the replacement renters had to be to pl's liking. Admittedly, any refusals by pl had to be in good faith and reasonable. Therefore, we must consider the situation. At the time of the *din Torah*, def's rental is almost over and pl have still not found renters at the price of 4,900 NIS, so it appears likely that they will have to lower the price. Therefore, based on compromise (see Divrei Malkiel II:133), it appears that while the demand not to change the rental rate was initially reasonable, over time it became unreasonable. Therefore, based on compromise, def has to pay 75% of the rental price and only up to 15.07.20.

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**Rivka Reena bat Gruna Natna**  
**Arye Yitzchak ben Geula Miriam**  
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