



HEMDAT YAMIM

Parashat Hashavua

Ki Tetzei, 13 Elul 5781

Harav Shaul Israeli zt"l
Founder and President

Two Levels of Struggle
 Harav Shaul Yisraeli – from Siach Shaul p. 524-525

The war against Amalek can take place on two planes – a maximalistic plane and a minimalistic plane.

The maximalistic plan is to destroy Amalek “from beneath the heavens.” This is a war to the end against the international foundation of Amalek, an actual battle with the power of the sword and the fist. This battle ends when the coveted world peace has been obtained, when we get to the end of days, and “no nation will lift up its sword against the other nation nor will they learn anymore to wage war” (Yeshayahu 2:4). But this was a battle that could not be waged right away. As the *gemara* (Sanhedrin 20b) said, Bnei Yisrael were commanded three *mitzvot* upon their entry into the Land: appointing a king, uprooting Amalek, and building the *Beit Hamikdash*. So the first condition for erasing the memory of Amalek was having a monarchy in Israel.

But even in the times of exile, when the dominion is in the hands of foreign nations, there is a minimalistic form of erasing the memory of Amalek, in the form of fighting the elements of Amalek that are in our own midst. The main ability of Amalek to be a dangerous enemy of ours was related by the Torah before its account of the episode of Amalek's attack. Our nation asked: “Is Hashem in our midst or is He not?” (Shemot 17:7). After all, in all times, just as there is an external Amalek that rises up, there is a seed of Amalek in our midst which causes us to question whether Hashem is in our midst. Overcoming that doubt is an important feat. The salvation of sorts that it brings, even if it is subtle, is considered a miracle that is fit for the times of exile. That is how the Rabbis viewed the holiday of Purim, which was celebrated even when we were still servants of Achashveirosh and were given to the whims of the ruler. But that too is something that is of value and leads to a final great goal.

We still commemorate Purim, whereas there is no holiday for Yehoshua's victorious battle against Amalek or for Shaul's victory against them. The commemoration of the victory against Amalek is for the one that took place in exile. This was a partial redemption, which serves as the nucleus of the future redemption. It gives us great power to destroy the element of Amalek in our own midst. “Just as when the month of Av enters, we reduce joy, so too when Adar enters, we increase joy” (Ta'anit 29a).

That is what happened with the miracle of Purim. No Jewish king was installed. But there was a central figure around whom people rallied. Even those who took part in Achashveirosh's feast and those who bowed down to idols rallied around him. They saw the power of the Torah and the power of its leaders to lead and bring “the tossed ship of Israel” to safety.

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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

Air Conditioner Drain Pipe during *Shemitta*

Question: In preparation for the upcoming *Shemitta* year, should I reroute my air conditioner drain pipe so that it does not drip in an area around vegetation?

Answer: While watering is not one of the four *melachot* that are forbidden by the Torah on *Shemitta* (planting/sewing, pruning, reaping, and harvesting), watering is forbidden Rabbinically (Mo'ed Katan 3a).

Let us first see what the *halacha* would be if this watering were happening on Shabbat. While one is allowed to do action A to get the permitted result A even if it **might** unintentionally cause forbidden result B, it is forbidden from the Torah if action A will certainly cause result B (*p'sik reishai* – Shabbat 75a). On the other hand, there is an important *machloket* about whether *p'sik reishai* is forbidden even if one has no interest in the result (*lo nicha lei*) and the prohibition is only Rabbinic. The Terumat Hadeshen (64) is lenient and the Magen Avraham (314:5), it is forbidden. While some *poskim* rule leniently (Yabia Omer V, OC 28), the standard ruling is to be stringent (Mishna Berura 314:11). However, here there are additional reasons to be lenient. One is that the fact that the water comes out of the pipe at a distance from the place of the main activity. *Shemirat Shabbat K'hilchata* (12:51) posits that this is considered the equivalent of *gerama* (indirect causation) and be permitted even in a *p'sik reishai*.

There are various reasons to be more lenient regarding *Shemitta*. The simplest is that we can throw in an additional reason that there is no Torah prohibition involved, and that is because we usually assume that *Shemitta* in our days is only Rabbinic in any case (Rav Kook, introduction to Shabbat Ha'aretz; Chazon Ish, Shvi'it 3:8). This is not infrequently used as the rationale for **relatively** lenient rulings on matters of *Shemitta*.

The more fundamental question is whether *Shemitta* should be forbidden at all when there is no intention for agricultural gain by one's action. Let us start with the *gemara* in Sanhedrin (26a). Reish Lakish saw one cutting off a branch from a grapevine and criticized him for pruning. Others responded that perhaps he just needed a vine branch for tying something down. Tosafot (ad loc.) asks what difference did it make what his intentions were if he did an act of pruning and answers that it was talking about a case in which it was not beneficial. The simple reading of Tosafot implies that the intention for something else would not help when the action is agriculturally positive. The Aruch Hashulchan He'atid (*Shemitta* 19:22) assumes this approach.

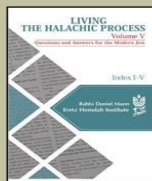
The Chazon Ish (Shvi'it 19:14) posits that regarding a case of no intention whatsoever for improvement, there is no fundamental violation of *Shemitta*, and if done in a manner in which this is clear, it is permitted. Therefore, in a case like putting on an air-conditioner, where it is absolutely clear that his action's intent is unrelated to watering plants outside, it is permitted. The logic can be as Rav Yisraeli (Eretz Hemdah I, additional pieces to Shaar II:2) presents to explain the Rambam's leniency about doing work in a field that is not his own. The nature of the prohibitions on *Shemitta* are not innate but require one to refrain from actions that show his dominion over his land. Therefore, even if a *melacha* was technically performed, if it was in a way that is unrelated to treating his agricultural land as his own, it is permitted.

Rav Chaim Kanievsky (*Derech Emunah*, Shvi'it 1:2:(18)) cites Rav Elyashiv as forbidding having the air-conditioner drip on an area with vegetation, which apparently rejects all of the leniencies above as well as the confluence of all of them. However, we agree with Minchat Asher (Shvi'it p. 25) who says that one need not be concerned about the air conditioner drip. (He adds that the way the water drips, often from well above on one spot could even be not good for whatever is growing below.) He also reports a discussion with Rav Kanievsky, in which he too agreed to be lenient when one's intention is not to thereby water the garden.

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Igrot HaRe'aya - Letters of Rav Kook

Come Home, Dear Brother

Date and Place: 16 Kislev 5667 (1906), Yafo

Recipient: Rabbi Douber Hakohen Kook, Rav Kook's younger brother. After serving as a rabbi in Russia, he made aliya in 1925, became the rabbi of Afula, and the founder of the Harry Fischel Institute.

Body: *[This letter's background is the wave of pogroms in Russia, where Rav Kook's brother still lived and the community in Eretz Yisrael's flourishing during the Second Aliya.]*

You can imagine the emotions upon receiving your letter and how our hearts are focused on you and all our brethren under the pressure of the enemy in the land of darkness, where wild beasts roam. My heart cries out: "Hashem, save Your nation, the remnant of Israel. Bring them from the depths of the sea to the good mountain. Let them flourish in the mountains of Israel. May the nation soon live in the pastures of peace and tranquil abodes" (a mix of many *p'sukim*).

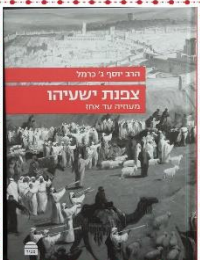
We have reason for increasing hope that our nation will find salvation from the oppression it is experiencing. Good, pleasant signs of life are sprouting up before us in the beloved, pleasant Holy Land, the love of flesh, spirit, and soul. The voice of our Beloved is knocking (Shir Hashirim 5:2). A spirit of life is hovering. May Hashem open the hearts of the distant.

With a second version, and with greater vigor, depth, and sanctity, we are close to renewing all of the spirituality of the beginnings of Chibat Tzion (the late 19th century aliya movement). Then it lived in the hearts of the holy men who cultivated it, e.g., Rav Zvi Kalisher, Rav Eliyahu Griditz and their followers before their "vessels broke and their light fell in the depths of evil." Like the hidden spiritual elements of the creation of heaven and earth, we must retrieve them from the depths and return all the sparks of spirituality (a central kabbalistic idea) that fell, were lost, and became material that was defiled by unclean hands (irreligious Zionism) and return them to sanctity and blessing.

These matters will be heard with greater feeling when spoken properly. The thunder storms (hardship) have "straightened a lot of the curvature of the heart." It is now a necessity, based on both the physical and spiritual situation of the broad nation, to return to the Holy Land any way we can, as individuals or groups. We must reestablish the ruins of our once desolate Land with buildings, commerce, population, material and spirit – whatever gives it more activity and life. It all builds toward the future and creates hope. Everything paves the road toward the ultimate redemption, which can come with a "sudden jump" in Hashem's historical plans – "The one we have been requesting will come to his palace suddenly" (Malachi 3:1).

Let me know ... if the great rabbis are dealing with ideas to reinvigorate our nation and the Torah in the Diaspora. We must elevate ourselves in truth and sanctity at least as much as the secular community has increased its energy. They are (spiritually) like a clump of material waiting for a living soul. Just as they are damaging and defiling when on their own, they can purify and sanctify, bring light and life when the light of the world (Torah) will become their soul. We have to be vociferous and bold, using vitality and belief to grasp the Torah's soul. Nothing can prevent Hashem from saving with His great grace. We can be liberated and rise from the dirt. Hashem will have mercy and give the Torah scholars the desire and strength to deal with the inner teachings of the Torah and explain it clearly (to the uninspired) with every possible literary tool, to make the light of Israel's holiness shine clearly.

Certainly the first efforts should be on the physical/emotional side, which has been very neglected by Torah scholars, based on misconceptions in the realm of inner wisdom. "Springtime has come"! We are able to hasten the redemption and time of goodwill if we truly want it.



**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

Was the Store Already Bought? – part II

(based on ruling 73109 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) bought the rights to a store from the seller (=sel). The location of the store (=st) is owned by the landlord (=ldld), who rented it to sel. Sel did own equipment and merchandise. The plaintiff (=pl) claims to have, a few months earlier, bought st from sel for 400,000 NIS, including the equipment and merchandise, and demands control of the store and its content. The contract between sel and pl contains provisions that sel would continue to operate the store as pl's employee for 15,000 NIS per month and that sel could buy back st for 401,000 NIS during the course of a year, which sel did not do. It lists equipment included but does not mention merchandise. Def counters that the many peculiarities of the alleged deal (including the low price) point to the conclusion that pl lent sel 400,000 for a year and used the store as collateral. Since it was not officially registered as collateral, sel was able to sell st to def. Additionally, sel could not sell st to pl because sel did not have the right to sublet without ldld's permission. Ldld was not involved in the sale to pl; he was regarding def. Finally, since def did not know about any deal between sel and pl, for which there were no public signs, def should be able to keep the store and its contents based on "takanat hashuk" (protection of unaware buyers) as long as pl gets back his 400,000 NIS investment.

Ruling: We saw last time that sel did not sell/rent the physical store, which he was not authorized to do, and was not able to sell the monitin (value of the operation).

Regarding the sale of equipment, standard physical kinyanim were not done. Kinyanim in conjunction with the real estate could have worked had the store been transferred, but it was not. The contract could have worked due to accepted practice (situmta), but two things prevent that. Since according to the law of the land, the whole contract is viewed as supporting a loan agreement, it cannot create a kinyan based on convention for the equipment. Also, since the contract did not work regarding the store and the monitin, it probably does not work regarding the equipment. There is in general a machloket on whether a kinyan regarding different things can work for some and not for others, especially when no distinction is made between one part and another. Therefore, def can hold on to the equipment presently under his control based on those opinions.

There is a machloket among Rishonim whether giving the key can be a kinyan for the contents of the store. The opinions that it works are based on situmta, but we are not aware of such a practice in our days. Pl is not entitled to st's inventory because it is not explicitly mentioned in the contract and he has no proof to include it.

Although it is not needed in this case, takanat hashuk apparently would apply because pl had no way of knowing that def had bought anything from sel. Pl went through all the legal processes and while he showed concern not to lose out due to sel's dealings, it is likely not because he knew of a sale but because he knew that sel was in debt.

Therefore, pl cannot take away st and its content from def's control.

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