



HEMDAT YAMIM

יְמֵי חֵמְדָּה

Parashat Hashavua

Ki Tavo, 20 Elul 5781

Harav Shaul Israeli zt"l
Founder and President

The Right Order: Home, Vineyard, or Wife?

Harav Yosef Carmel

The list of those who return from the battlelines is found in *Parashat Shoftim*, and the same people come up in *Parashat Ki Tavo*. In the former, the nation went out to battle, and the following group of soldiers were told to go home: he who built a new home and did not occupy it, who planted a vineyard and did not get to eat from its fruit, and who betrothed a woman and did not marry her. Also, he who was afraid was to go home, so as not to harm the valor of the other soldiers (Devarim 20:1-9). The battle involved is one which the nation decides to undertake confidently.

The same "characters" appear in this week's *parasha*, but in a foreboding manner. The betrothed man dies before marrying, the one who builds the house dies before occupying it, and the planter of the vineyard dies before eating from it. All of these occur because of the curses that the nation had coming to them due to their sins (ibid. 28:29-30).

The differences between the cases are clear. The order of the people is different, with, in the latter case, the one who betroths a woman going before those who accumulated wealth. There is also no mention of the one who is afraid. Bnei Yisrael do not choose their soldiers, as they are being pursued.

First, let us explain the order. The Tosefta (Sota 7:20) says that *Parashat Shoftim* teaches the proper order of things: first one worries about his livelihood by building a house and cultivating his field, and then he proceeds to marry. The matter of going back from battle is in increasing level of urgency. If someone who has just started to accumulate wealth can go back home, certainly one who is in the process of marriage should return.

What is the connection between these people and the one who is afraid? There is a difference of opinion on the matter. R. Akiva said that he is indeed simply afraid. R. Yossi Hagellili said that he is afraid because of his sins, and in fact the reason that the others return from battle is to not make the sinner stand out for his sins. According to R. Akiva, there is no connection between the two sets of returnees. According to R. Yossi, one serves the other. As Rav DZ Hoffman wrote, otherwise he would be embarrassed that they would say that he was not willing to give his life to protect his nation and country. We see, then, that specifically it is the G-d-fearers who are expected to be at the head of the fighting forces.

Let us suggest another explanation. Before going to battle, it is necessary to be sure that one is willing to risk his life for the Torah, the nation, and the Land, without condition. If he is concerned that he will be distracted by personal things that will make him fearful, then he must be released immediately. He will not have the privilege of taking part in the important *mitzva* of protecting the land and the nation. While serving in the army is an obligation, it is mainly a privilege. The matter of the fearful is not merely a list of people to be freed but explains why one who cannot concentrate on the task at hand will not be able to take part in the *mitzva*.

Let us hope that at the head of every military unit, we will have men of the highest spiritual and moral standing. Let us pray that students of Torah will enlist and volunteer specifically to combat units.

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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

Buying Land for *Shemitta*

Question: A group provides the opportunity to buy agricultural land in Israel for the *Shemitta* year. Is that worthwhile?

Answer: We start with an overview of the agricultural *mitzvot* of *Shemitta* along with a brief analysis of the significance of obtaining land ownership.

The Rambam (Lo Ta'aseh 220-223) lists four such negative commandments, about: 1) working the land; 2) tending to the trees; 3) reaping the produce in the normal way; 4) harvesting fruit of the trees in the normal way. The prohibition of working the land applies even to one who does not own the land. There is a *machloket* whether there is a Torah prohibition on harvesting someone else's field (Chazon Ish, Shvi'it 12:5 is lenient; Rav Auerbach, Ma'adanei Eretz 7:4 is stringent). In any case, the reward for refraining from *aveirot* is a function of the availability of and the temptation toward the *aveira* (see Kiddushin 39b with Rashi). One who owns a distant, small piece of land is not tempted to work it. Just as we would not suggest buying a donkey and bull to refrain from plowing with them together, the above is not a reason to obtain land before *Shemitta*.

The positive *mitzvot* are more pertinent. There is a *machloket Rishonim* whether the positive state of cessation from working the land (Rambam, Aseh 135) is a function of an individual's work irrespective of ownership (Rambam, *Shemitta* 1:1) or whether it is a landowner's responsibility to ensure his field is not worked (Ritva, Avoda Zara 15b). A third approach holds Jews responsible to save the land from being worked, including by redeeming it from non-Jews who may work it (Netziv, Vayikra 25:4). According to the Rambam, obtaining land is not a factor in creating the positive fulfillment. According to the Ritva, buying creates an opportunity to fulfill the *mitzva*. According to the Netziv (whose opinion is not standard), the *mitzva* entails obtaining land that would otherwise be worked.

There is also a *mitzva* to deal properly with the fruit of trees and other things planted before *Shemitta*, including treating them as ownerless (Aseh 134). While certain elements of the *halachot* of what to do with the fruit can also be fulfilled by non-landowners in Israel (beyond out present scope), buying a field certainly enhances the buyer's ability to fulfill this *mitzva*.

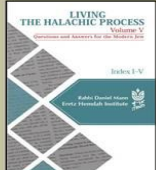
Another gain of buying land is helping farmers keep *Shemitta* properly. Rav Kook (see his introduction to Shabbat Ha'aretz) and all other *poskim* who supported the *heter mechira*, did so for those who were unwilling or unable (without extreme financial hardship) to keep the *mitzva* as designed. Thus buying land from them helps interested farmers survive without needing to rely on the reluctantly provided leniencies. This is similar to giving *ma'ot chitim* to one who cannot afford *mehadrin* Pesach provisions or donating to "halachically improve" a *mikveh*. (One who rejects the *heter mechira* would view it as saving people from actual sin.) If the farmer would anyway not work the land, but with financial difficulty, buying from him is supporting a deserving person.

If one purchases the field at its value (including overhead), it is proper to not use *ma'aser kesafim* money, which is not for personal *mitzvot* one can afford (see Tzedaka U'mishpat 6:1). A donation (without buying land, or the part of the price that is beyond the land's value) to an organization that helps farmers may be taken from *ma'aser* money (see *ibid.* 10).

While there are wonderful organizations to help with all sorts of *tzedaka* and *mitzva* needs, sometimes there are people "in the field" who plan to earn a lot of money in the process of providing a "quick *mitzva* fix." We therefore recommend that one check that he is either paying a modest fee for land ownership, if those elements speak to him, or better yet, joining up with known organizations that help farmers and enhance the observance of *Shemitta*, with or without technically buying a small plot of land.

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





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Igrot HaRe'aya - Letters of Rav Kook

Letter to the Family of Shlomo Buber – Letter #49

Date and Place: 27 Tevet 5667 (1907)

Recipient: Bereaved family of Shlomo Buber. Shlomo Buber was an Orthodox scholar, who studied Torah and especially Midrashim with a modern, scholarly approach. Although he worked as a banker, he put out several volumes of Midrashim, annotated and edited in a scholarly manner. He was also active in the Jewish community of Lemberg (L'vov). Many know him as the grandfather of Martin Buber.

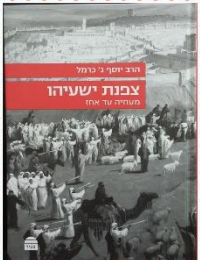
Opening: May He Who consoles Zion and Jerusalem console the respected and illustrious family, the family of the honorable, great man in Israel, the rabbi and great scholar, a giant and the glory of our nation and our literature, Mr. Shlomo Buber, zt"l, may his soul be bound in the bundle of life.

Body: Exalted and glorious family, it was like experiencing a frightening thunder clap when we heard recently the great tragedy that befell you, when the crown of your glory and the glory of the House of Israel was taken from you.

Your loss, dear masters, is the loss of the masses. The pain in your hearts has touched the entire community. When the great rabbi in our nation, of blessed memory, died, we lost a tremendous, dynamic force for the special elements of our holy [texts] and the beloved storehouses that have been hidden from ancient times. Woe, who will provide for us a replacement, such a great writer in Israel, who "counts letters" in the words of our early Torah giants, shining such a special light on their works and presenting them in a pure vessel, pleasant and adorned, for all those who love Torah and wisdom, ethics, and knowledge in Israel. Our pain is as great as the sea.

Only in the following matter will we all find consolation, and you too should be comforted, respected mourners. Whatever the power of a human being could accomplish, with diligence, throughout the years of his life, the great deceased one did in a trustworthy manner and with self-sacrifice. His achievements will stand for many generations. The words of the wise are like embedded nails (see Kohelet 12:11). They are stronger than all the grand pillars and monuments. The wisdom of Shlomo (double entendre on King Solomon, the wisest of all men, and of course, the deceased being eulogized) lives, and it will live forever in Israel. His memory will be like the wine of Lebanon (Hoshea 14:8) until those who lie in the earth will get up and give praise (see Yeshayahu 26:19).

May Hashem grant you and all of Israel consolation along with the consolation of Zion and Jerusalem. I write from a connection between your honored spirits and the spirit of one who greatly values the work, name, and memory of your respected, deceased father, of blessed memory. I am writing with a broken heart, as one waiting for salvation and comfort,
Avraham Yitzchak Hakohen Kook, a servant to the holy nation in the Holy Land, here in 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.

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P'ninat Mishpat

Paying for an Unwanted Rental

(based on ruling 80014 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) rented an apartment from the plaintiff (=pl) for 4,100 NIS a month for 10 months and left monthly checks, starting from 1.10.19. On 4.10.19, def informed pl that he would not be taking the apartment, and pl did not succeed in finding a tenant until 5.11.19 (that tenant pays 4,200 NIS a month). Def justifies his changing his mind in the following ways: 1) The sewage works with a pumping system, which makes it forbidden on Shabbat. Pl responds that the pumping system is permitted according to some poskim, and in any case, he installed a big enough underground tank that if one drains it before Shabbat, he can shut off the pump on Shabbat. 2) Def has the right to an *arnona* (municipal tax) exemption, but he cannot get it for this apartment. 3) Not all of def's furniture fits into the apartment. 3) Criminals threatened def, making it necessary to rent an apartment quickly, but actually he cannot afford such an apartment. Def adds that they had agreed, after the conflict arose, that paying 1,000 NIS would cover pl's grievance.

Ruling: One cannot claim *mekach ta'ut* (misinformed consent) to things that he was or should have been aware of when making his agreement. This applies to the price, the *arnona* exemption, and the ability to fit in the furniture.

Regarding the sewage pump, the previous tenant confirms that it is possible to operate it in a manner that avoids all halachic questions. Def claims that he was unaware of this; pl claims he told him. It does not make sense that pl would invest in a system that enables strict Shabbat observance and not tell a renter who had made an issue of it.

Regarding the pressure due to the criminals, this is not a proper use of the concept of pressure for a transaction. This is because there was not pressure placed on def specifically to rent the apartment. Rather, the criminals put pressure on def, and def's solution to his problem was to rent an apartment to get away from them. This is called "one's own duress" and is not grounds to nullify an agreement (Shulchan Aruch, Choshen Mishpat 205:12).

Regarding the claim of agreement on partial payment, first, def contradicted himself on the amount they agreed to, and pl denies it totally. Also, it makes sense that if there were such an agreement, it was on the condition that def pay promptly, and to this point, def has not paid anything.

It is arguable whether def should have to pay for the loss of rental for the days the apartment was not rented or for the amount pl lost over the 10 months of the agreed rental. The latter is less money because for the remainder of the time, the new renter is paying a higher rent than def agreed to. Since the two agreed to a compromise that includes def's financial difficulties, we definitely choose the latter system. Because of the sides' special compromise request, we lower the sum even lower to 2,500 NIS on condition that def pay within two months. If he does not pay on time, he will have to pay 3700 NIS (without the special compromise) plus the *beit din* fee.

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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