



HEMDAT YAMIM

Parashat Hashavua Haazinu, 18 Tishrei 5782

Harav Shaul Israeli zt"l
Founder and President

Hashem, Our Protector
Rabbi Daniel Mann

This year, *Parashat Ha'azinu* comes out a couple of days before Sukkot, and it is instructive to look for themes that are common to the two.

The Torah tells us, in the haunting song that makes up most of the *parasha*, to "remember the days of history, contemplate the years of generation after generation," which, it continues, can best be done when you "ask your father and he will tell you, your elders and they will say to you" (Devarim 32:7). The Torah continues to discuss the creation of the special connection between Hashem and Bnei Yisrael. It says that Hashem found us in a desert, in a place of danger and surrounded us with protection in the most devoted way (ibid. 10). Rashi explains that the surrounding was with the miraculous clouds, which is, according to one opinion (Sukka 11b), that which we commemorate on Sukkot.

One way or another, a *sukka* is consistently a sign of divine protection. In the psalm we are in the midst of saying for close to two months (Tehillim 27), David speaks about Hashem hiding him in His *sukka* on a difficult day (27:5). Yeshayahu (4:6) refers to the *sukka* as protection from the sun and from rain, as a metaphor for Hashem's protection over Bnei Yisrael in a more glorious future.

But a *sukka*, a simple booth, is a strange metaphor for divine protection, which we expect to be the strongest possible. Yaakov Avinu and family, after escaping danger from Eisav, traveled to a place where he built a house for his family and a *sukka* for his flock (Bereishit 33:17). Yes, people prefer houses, and a *sukka* is only a temporary dwelling. But interestingly, Yaakov named that place not for the house that he built but for the *sukkot* he built, calling it Sukkot.

The Zohar famously calls our stay in the *sukka* as being in the shadow of belief. Therefore, we can explain that we do not want to think about divine protection in terms of a house. We specifically want to feel the physical vulnerability, with the ultimate protection and confidence coming from our relationship with Hashem.

Sukkot is meant to celebrate the protection of Hashem that can often be forgotten. While the first two of the *shalosh regalim* celebrate historically momentous events with great miracles, the Exodus and the revelation of Hashem and giving of the Torah at Sinai, Sukkot commemorates the 40 years of survival in the desert. One way of looking at it is that nothing miraculous happened then; we just survived. But that is very far from the truth. Instead of incredible one-time miracles, the people were sustained by relatively subtle but miraculous and critical daily miracles, from the *manna* to the well to the protective clouds. This should remind us more accurately of the "miracles that are with us every day." We can fail to notice that we are surrounded and protected by the Master of the Universe, but when we are in the shadow of belief, we know that we are indeed protected by Divine Providence.

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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

Chalaka (Upsherin) on Chol Hamo'ed

Question: My family's custom is to first cut a child's hair on his third birthday. Our grandson was born on *Chol Hamo'ed Sukkot*. The other set of grandparents live in *chutz la'aretz* and will be visiting for Sukkot, without time for a *chalaka* before or after *chag*. May we do the hair cutting on *Chol Hamo'ed*?

Answer: We must look at two things: 1. whether there is a prohibition on the hair cutting and, if so, its nature/extent; 2. whether the circumstances justify a dispensation.

Based on the basic laws of *Chol Hamo'ed*, haircuts should have been permitted, as *melacha* is permitted for needs (Shulchan Aruch, Orach Chayim 532:1). However, since the Rabbis wanted people to get haircuts/shave before the *chag*, they forbade doing so on the *chag* (Moed Katan 14a) unless one had certain special reasons he could not do so beforehand (ibid. 13b). The *gemara* (ibid. 14a-b) permits cutting the hair of a child, and the Shulchan Aruch (OC 531:6) rules that this is true not only for a newborn child (who had no chance before *chag*), but also for other children. The main explanation is that since children are not obligated in grooming themselves before *Yom Tov*, they are not subject to the special prohibition (Mishna Berura 571:15). However, the Magen Avraham (531:8) accepts the opinion in *Rishonim* that it is permitted only when the child has a real need for the haircutting (see also Aruch Hashulchan, OC 571:6). So, does having the *chalaka* on *Chol Hamo'ed* qualify as such a need?

Let us take a quick look at the centuries-old *minhag* of *chalaka* (mentioned already in the 16th century – see Radbaz II:608). The basic idea is that, when cutting the hair for the first time, one is careful that the *payot* are left prominently intact, based on the Torah's commandment (Vayikra 19:27). Some connect this specifically to the age of 3, corresponding to the age of a tree when its fruits can first be used (see Taz, Yoreh Deah 245:3 regarding the related *minhag* of some of starting to teach the *aleph bet* at age 3 (Rama, YD 245:8)). Some view doing the *upsheerin* on or near the birthday as important; others feel that the approximate age is fine or factor in other considerations, e.g., doing it on Lag Ba'omer and/or at Meiron or Shmuel Hanavi's grave (see Nitei Gavriel, Upsheerin 2:2).

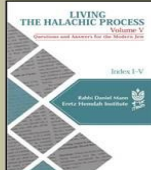
If one is ambivalent about the whole practice or the timing, then it is questionable to pick *Chol Hamo'ed* for the haircutting. But you indicate that your *minhag* (implying your children's as well) is to do it on the birthday. Most *poskim* posit that if the birthday is on *Chol Hamo'ed*, this is sufficient justification on its own (see Sha'arei Teshuva 531:7; Dirshu 531:14). Therefore, for you, there is no problem.

Regarding delaying it to *Chol Hamo'ed* to make it nicer, there is a *machloket* (Sha'arei Teshuva ibid. and Peulat Tzadik III:248 permit it; Be'er Moshe VII:20 forbids it). We want to point out (for whom and when it applies) that the idea of accommodating your in-laws would have been a more significant reason than just making a "nicer" event. The *minhag* applies to the child's parents. They have a *mitzva* of *kibbud av va'em* towards their parents, who generally value taking part fully, for their own sake and for the child's sake, in their grandchildren's life-cycle events. While a *chalaka* is by no means a *brit* or a wedding, for many who have the *minhag*, it is significant. Also when young couples contemplate *aliya*, being away from family is often a major obstacle. Therefore, legitimate, measured leniency in matters that keep the family close is appropriate when it encourages *aliya* and helps make it work. (The interplay of *kibbud av va'em* and making *aliya* is interesting but not for now – see Rav Yisraeli in Amud HaYemini 22).

On *Chol Hamo'ed*, often a *melacha* is permitted, but it is forbidden to pay a Jew to do the work, unless he is really impoverished (Shulchan Aruch, OC 542:2). Assuming it is hard to find such a barber, it is **at least** recommended to have only "volunteers" do the cutting on *Chol Hamo'ed* (Kaf Hachayim, OC 531:30).

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

Arrangements with a *Mashgiach* – #58,60

Date and Place: Two letters, on the same matter, a week apart in Shevat 5667 (1907), Yafo

Recipient: Mr. Zev Gluskin, one of the founders of the Carmel Wine Company

Body: I am again reminding your honor that it is necessary to pay the *mashgiach* (*kashrut* supervisor), R. Shneur, his past salary. Regarding the arrangement in the future, the relevant people need to seek out a *beit din* or work out for themselves, how to divide the payment between them.

In regard to the *kashrut* certificate, I must not connect the matter to the financial disputes about the *mashgiach's* salary. I am officially demanding that R. Shneur stay on at his post, so that the vineyards of the land of our forefathers not be left in a manner that there will be suspicion of the prohibition of *orla* (fruit within the first three years of growth) – which is forbidden even in benefit. This would be disturbing to all of the nation, for whom Hashem's Torah and *mitzvot* are as dear as their lives. I cannot allow this blemish to exist even for a short time in "Hashem's estate," in the Holy Land. If the *mashgiach* will stop doing his job because he is not being paid, especially during the upcoming season, as Pesach approaches, when it becomes necessary to start to remove the *orla* and determine what is what, horrible confusion could come about.

You should notice that I am writing these words with my full emotions, and I would hope that you will care to calm my stormy and pained spirit by sending a worthy response that will put my spirit at ease.

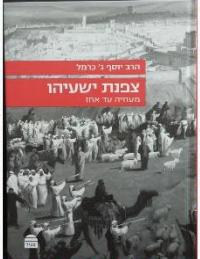
Letter #2

May blessings rest on your head for calming me with your distinguished letter about the supervision over the issue of *orla*. Indeed, I was agitated and pained, and with a real basis for it. It was correct of me to think that on a matter of *kashrut* it is proper to consult also with me before making a decision. Thank G-d, I am very protective of the money of Jews, and if I can find a way to make the burden lighter, I certainly would not make the burden heavier for the masses in order to do a favor for an individual.

It might be possible to arrange separate *mashgichim* for each settlement. However, I do not know if there will be a lot gained by doing so. The salary that will go to the set individual will have to be given to many individuals. Concerning the matter of being careful, it is definitely better for there to be a *mashgiach* whose main profession is being a *mashgiach*. Even if we could appoint private *mashgichim*, it would require a lot of preparation.

But first of all, I stand behind R. Shneur, for if he is removed to save money, he should be no worse off than any worker who is fired, who is given a sum of money as severance pay. One who is involved in holy work and upon whom a business is dependent from a material perspective as well, is certainly no worse than other fired workers.

Secondly, R. Shneur will have to give over his notebook (about when different orchards were planted), for only in this way will it be possible to safely supervise the matter of *orla*. Then each private *mashgiach* will have to make up his own list and get used to the work of *hashgacha* in his own way. Until it will become clear to me that there are such *mashgichim* that I know I can trust, I will not be able to agree to remove R. Shneur [and still give my approval to the *kashrut*]. Therefore, I look forward to meeting with you when you have time to honor me with your visit, and we will clarify matters in the best possible way, as both of us are looking for the same positive result.



**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

Compensation for Questionable Firing

(based on ruling 81036 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def), the agricultural company that operates within a *moshav* (=msv), hired the plaintiff (=pl), who grew up in but had left *msv*, to do an administrative position. After some time at the job, def fired pl, even though all agree he did his job very well, because “family politics” within *msv* made pl unwanted. Pl demands to be returned to his job and demands (in addition to the bonus def gave pl at the time of the firing): 50,000 NIS for legal fees fighting def and *msv* prior to coming to *beit din*; 10,500 NIS to make up for the raises he had been promised; 20,000 for mental distress. Def claims that with great regret, it was not feasible for them to go against the strong currents within *msv* that opposed pl's employment.

Ruling: The contract between def and pl states: “Either side may inform the other of his desire to stop the working relationship whenever he wants based on the Law of Warning about Firings (2001).” Halachically, agreements on monetary matters are binding (Shulchan Aruch, CM 225:5), and therefore def had the right to fire pl. Pl's claim that the firing was done against the law was not substantiated. It was not based on improper discrimination, regarding which the law lists such things as race, orientation, gender, etc. Regarding the law that there must be a pre-firing hearing, such a meeting took place. Although the reason for the firing was not raised, as regulations require, this is irrelevant formalism considering that all the parties knew precisely what the reason for the firing was.

According to the contract, pl was hired as a level 3 director, which is a beginner position, and not the level that pl claims he was promised. There was some sort of understanding that pl was being groomed for more, but that does not create a promise, and even if he was promised, since he could be fired from his job, there was no security toward the future. Therefore, there is no additional payment on those grounds.

Pl complained understandably about possible impact on his professional and social reputation. We are pleased that the sides agreed to a letter that def sent to all of *msv*'s institutions clearing pl's name of any complaints.

Pl does not have grounds for financial claims against def concerning his hiring a lawyer to fight his firing, which is a step he did not have to take. This is even more so considering we concluded that the firing was legal.

Despite all of the above, *beit din* agrees that for whatever reason, pl was treated unfairly and was harmed without fault by steps taken against him from within *msv*, of which def is a part. Before coming to *beit din*, def had offered pl 36,000 NIS compensation, which pl had rejected. *Beit din* appealed to def to increase that offer. Def agreed to pay 50,000 NIS, and that agreement was adopted as the ruling.

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

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