



HEMDAT YAMIM

Parashat Hashavua Vayishlach, 16 Kislev 5783

Harav Shaul Israeli zt"l
Founder and President

Not Leaving the Fathers by Themselves

Harav Shaul Yisraeli – from Siach Shaul pp. 106-7

[These words are part of an address, within a rabbinical conference held at K'far Haroeh in 5705 (1944), commemorating the Yeshiva of Volozhin.]

With a trembling of happiness and pain, we open this conference with the words of Yaakov Avinu from this week's *parasha* – "I am small in relation to all of the kindnesses ... now I make up two encampments" (Bereishit 32:11). The small group of members who came to a barren location and started weeding out the wild grass did not dream that in such a small amount of time, this place would turn into a center to which people look. We are now two encampments – an agricultural village and a *yeshiva*.

However, we remember the factor that brought this whole group here [to commemorate], for there has not passed a special amount of time from the close of Volozhin. What is new is that until now, the continuation of Volozhin was living in the form of various *yeshivot* in Israel and in the Diaspora. But now, when we are missing all of those *yeshivot* (in the midst of the Holocaust), we feel a need to recall and eternalize the memory of that great house, which gave us so much.

We read in the *parasha*: "Yaakov was left alone, and a man struggled with him until the break of dawn" (ibid. 25). On the verge of entering *Eretz Yisrael*, there was an unavoidable encounter between opposing forces, Yaakov and Eisav. As much as Yaakov tried to avoid it, taking a circuitous route and side roads, the time of the meeting came. The encounter was between the *tzaddik*, who was always ready to compromise and allowed himself to be pushed to the side, and between the haughty *rasha*, who acted with spite and animosity. The struggle was necessary for both of them, as only through it did the angel of Eisav arrive at the goal of his life: "Let me go, for dawn has broken," which *Chazal* say meant that this was the first time that he was called to sing praises to Hashem (Chulin 91b). Similarly, it is only at this encounter that Yaakov Avinu received his name, which our nation has adopted, Yisrael. In Hashem's secret world plan, there is a task for evil to perform, with all of its disgustingness and haughtiness, to agitate goodness and turn it into a fighter, even a vengeance-seeking power, brazen in its opposition to evil.

It is so tragic that specifically at this critical moment in time, for which Yaakov was preparing his whole life, after having trained his sons, and especially his closest son, Yosef the *Tzaddik*, who was uniquely empowered to fight the negative spiritual side of Eisav, that Yaakov was left alone without the help of his children. He was involved in retrieving small vessels that were left behind. On the one hand, the righteous can be proud of their material possessions, as they are all things that were obtained without theft (Psikta Zutrata 32:33), but they are still things that look trivial at a moment of eternal importance. Indeed, that is why Yaakov had to come out of this encounter limping.

In regard to the competition between powerful forces at the era leading up to the coming of *Mashiach*, the intention of the Yeshiva of Volozhin was to prepare the forces for this critical time. Its goal was to strengthen the young generation so that the old generation would not have to stand alone in its struggle against evil. Rather, the sons would also be able to add their part to the battle.

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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

Making Sure your Check Is Cashed

Question: I owed someone (=Reuven) 2,000 NIS, and he asked to give him an “open check” (i.e., payee left open), which he would give to someone else (=Shimon). I do not know whom or why. A couple of months have gone by, and the check has not been cashed. I believe that if Reuven, with whom I have a great relationship, had lost it, he would have told me. Assuming he already got his value from it, must I find out why Shimon has not cashed it, remind him, and/or replace the check, or, after paying my debt to Reuven’s satisfaction, Shimon is not my concern?

Answer: There are three approaches to how to view to the halachic significance of giving a check. 1) Since it is generally forbidden to cancel a check, a check is like money (Igrot Moshe, Choshen Mishpat II:15). 2) A check is a self-obligation of the check writer (drawer), to the payee or to anyone if it is an open check (Minchat Yitzchak V:119); 3) The check is no more than an order that the drawer gives to a financial institution to give money to the payee (Shevet Halevi VII:222). The starkest difference between #2 and #3 is whether, if the drawer cancels the check, the obligation to pay still exists. (From a technical perspective, banks usually allow one to cancel the check, but the legal system needs to be convinced he was justified to do so.) #3 is definitely the direct meaning of the check. As they are used in today’s society, the more accepted approach is #2, that it is not considered money, but that the drawer obligates himself to pay whoever uses it legally (see Pitchei Choshen, Halva’ah 10:(21); Shirat Devora II, CM 23).

(Almost) all agree that if one gave a check to one whom he owed and it got destroyed, he has to replace it. Even if one conceptually views a check like money, it is significantly different from real money in this context. If Levi pays Yehuda with cash, the payment is immediately usable, whereas a check needs to be cashed or transferred first. More significantly, if Levi feels bad and wants to pay money again, it will be an outright loss for him. But if Levi writes Yehuda a personal check and it was destroyed, the money was never drawn from Levi’s bank account as planned, and Levi is no worse off than he planned (except the price of a check) if he writes another one. So, if Reuven did not transfer the check to Shimon, you should enable him to do so.

If Reuven already gave the check to Shimon, you could argue that since you do not owe Shimon, it is not your responsibility to make sure he receives the money. However, this is apparently wrong. The *mitzva* to return a lost object is not limited to physical objects but applies broadly to help someone out regarding his property (Shulchan Aruch, CM 259:9), and therefore enabling Shimon to use the check he received should be included. While it is true that one does not have to lose money returning a lost object (see Shulchan Aruch Harav, Aveida 33), and here you will be “out” 2,000 NIS, having money you were obligated to give taken from your account is not a loss (see Tosafot, Bava Kama 58a).

Even if we did not view a check as creating an obligation, if Reuven owed Shimon, then through a rule called *shibudda d’Rabbi Natan*, you, who owed Reuven, would be considered as owing Shimon (Shulchan Aruch, CM 86:1). Although the application here is complicated (see *ibid.* 2), it is wrong for you to divorce yourself from this obligation.

There is a *machloket* (K’tzot Hachoshen 104:2 and Netivot Hamishpat 104:1) whether the *mitzva* to pay a debt starts when the debt is due, or only when the creditor requests payment. However, this refers to the timing of payment and does not allow one to try to benefit from the creditor’s oversight. Therefore, while you need not act quickly (especially because someone will probably cash the check), at some point you would have to inquire with Reuven if you need to do anything to ensure everyone gets what they deserve. (We are not addressing how to defend your right to make sure you do not end up paying twice or the rules of when it is legal to give open checks.)

“Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann’s weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at info@erezhemdah.org to sign up (free) or for more information on joining the group.

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

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P'ninat Mishpat

Remarks on a Yom Kippur Machzor – #135

Date and Place: 7 Iyar 5668 (1908), Yafo

Recipient: Rabbi Yaakov Yitzchaki, former Chief Rabbi of Dagestan, who moved to Yerushalayim and founded the village that is now called Be'er Yaakov. He was a *talmid chacham* and a historian of the Jews of his region, with fascinating theories. He was also an expert on the liturgy of his community (Sephardim of the Caucasus region) and published the *machzor* "Ohalei Yaakov," which he sent to Rav Kook for his approbation and comments.

Body: I received your dear letter along with the precious *machzor* with your wonderful commentary, "Ohalei Yaakov." It brought me great joy, breadth, and song in the heart to see the grand "work of your hand." This will bring great goodness for the House of Israel and the Sephardic community, may they be well, as you shined dear light on all of the holy liturgical poems, which are storehouses of light and true sanctity from earlier times. It is such a good storehouse, to gather together the songs of early holy noblemen, which used to be scattered in different places, and now you bring them to "one table," which is full of the blessing of Hashem, ready to be accessed by all who desire to draw out pearls from the depths. The merit of the masses will be attributable to you forever.

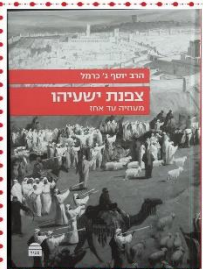
That which you asked for an approbation on your dear commentary, I am much too small to do such a thing. After all, all of your holy words are dear, and indicate that he who wrote them has a pure heart and broad knowledge in all areas of Torah scholarship. In contrast, I am young and lowly. What power do I have to praise the type of praise that such writing deserves, as it is full of light and divine glow and intensity, which draw the human soul to them?

Let me just end off with a blessing that Hashem will give you a long and pleasant life and that you should be able to share with us other sweet fruit of your intellect to provide light for the masses. May our eyes see when the redeemer comes back to Zion, when the *kohen gadol* will wear the *urim v'tumim*, and the holy songs will be sung in Hashem's House. May humble people rejoice in Hashem and may needy people rejoice with happiness on the holy mountain. I send these blessings to you as one who feels love for you and who shares his blessing from the depth of the heart.

I want to share with you a few comments, but I am too preoccupied to go over all of your holy words. [*We will share only some of those comments.*]

In Rav Moshe Ibn Ezra's "*Kamti B'ashmoret*," it says "*nafshi shcharchoret*" (my soul is blackened). You wrote that this means that sins blemish the soul. This is certainly true, but as far as what the words mean in context, I see it differently. It is a simple metaphor for a person whose spirit is saddened, and he is in a blackened state of depression, like one who wears black clothing. This expresses that the person regrets his sins, which is one of the major elements of repentance according to Rabbeinu Yonah's Sha'arei Teshuva (I:10).

"He washed and purified himself" – I want to complete the idea you presented. The theme is that we are talking about something that is easy to do and the reward is great. By means of the simple process of washing, he will attain full healing. So too, repentance is very accessible and easy, as the Torah says, "For the matter is very close to you" (Devarim 30:14). The great benefit is a full recovery of the body and the spirit and actually for the whole world. It is as is written in Sha'arei Teshuva (I:2), regarding those who were arrested by the kingdom due to a sin. They were left an open escape route, and the authorities were upset at those who did not try to escape. If they saw the escape route, they should have realized that the king wanted them to be able to escape, as the king desires good for his people.



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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Igrot HaRe'aya - Letters of Rav Kook

Is Continuing to Work in a Different Capacity Like Being Fired?

(based on ruling 82052 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) worked for a vocational *yeshiva* (=def) since 2019, working his way up to teacher/director. Tensions arose between pl and the *rosh yeshiva* (ry), due to which pl stopped working in Dec. 2021. During *beit din* proceedings, def offered pl to return to a lower-level position, with less contact with ry, at his regular salary; pl rejected the offer. The sides disagree on how to legally view various points. Def considers the end of work as pl quitting, whereas pl claims he was fired. Pl did not have an Education Ministry funded position as a teacher but is an independent worker, like others in the *yeshiva*. Therefore it is disputed whether he can be fired in the middle of a school year.

Ruling: According to the majority of *dayanim*, since the two sides had agreed (and it appeared as such on his pay stub) that pl did not have a position as a teacher, he is not protected by the government-recognized agreement not to fire teachers in the middle of the year. Although the sides agreed that pl's general work conditions are like a teacher and that he would work for a full year, def have the right to switch his job, which one cannot do for a teacher. From analysis of def's words during the hearing, it is clear that they initiated pl's removal, and therefore they are considered to having fired him.

Even though def was able to fire pl, since it was in the midst of an employment period of a year, they have to continue paying until the end of the period (Bava Metzia 76b). However, the employer does not necessarily have to pay in full when we can assume that the worker benefits from the time off (*ibid.*). A standard amount to reduce the salary in such a case is 50% (Taz, Choshen Mishpat 333:2). However, this is just a point of departure, and it is affected by factors such as the positive impact of activity on the body (see Bava Metzia 77a and Rambam, Sechirut 9:7). The Rosh (Bava Metzia 6:3) rules that teachers should not get a reduction for time off because idleness causes forgetfulness and "heavy limbs." The Rama (Shut 50) distinguishes between different types of teachers. In our days, it is possible to receive some guidance from the fact that Bituach Leumi and insurance companies give those who are prevented from working 75% of their salary, which is what we will do here.

One who is hired for one task cannot simply force to do a different task for his employer (Tosefta, Bava Metzia 7:5), even if the latter is not harder work (Ritva, BM 77a). This is because worker satisfaction is part of the formula. However, when the intended work becomes unfeasible (including due to employer dissatisfaction with the worker's skill - Aruch Hashulchan, CM 335:1), the employer can reassign the worker (Shulchan Aruch, CM 335:1). In this case, all agree that pl could not work with ry, and pl's "solution" that def fire ry is not to be taken seriously in this context. Therefore, from the time that pl rejected def's offer to receive pay for other responsibilities, pl is no longer entitled to pay.

Comments or questions regarding articles can be sent to: info@eretzhemdah.org

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Yisrael ben Rivka

Arye Yitzchak ben Geula Miriam
Yerachmiel ben Zlotta Rivka

Neta bat Malka
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