



# HEMDAT YAMIM

## Parashat Hashavua

Yitro, 20 Shevat 5783

Harav Shaul Israeli zt"l  
Founder and President

**We Will Do and Hear – An Address to a Bar Mitzva - 1947**  
Harav Shaul Yisraeli – from Siach Shaul pp. 247-8

There are two parallel powers that are ingrained in a person – the power of emotion and the power of the intellect. The power of emotion is that which drives a person without prior thought. A person's development of his personal qualities pushes him to act according to what he feels. The power of abstract thought is that which gives man his main advantage over the animal world.

Both of these powers can be used for the better or for the worse. Emotion is that which produces the feeling of love of justice, acting with kindness, mercy, and compassion. However, it is also the root of anger, cruelty, vengefulness, and stinginess. It is behind the animalistic desires, which push a person toward spiritual ruin and death. Intellect as well can lead to both correct decisions, and also can be used for bad – to cheat, deceive, and make evil plans to hurt others.

It is our mandate to "enslave" these powers to the service of Hashem. This is in line with what our forefathers said at Sinai – "We will do" (corresponding to emotion) and "We will hear" (corresponding to intellect).

We had the tragic opportunity (referring to the Holocaust) to see what emotion that is not funneled toward Hashem can lead to. We saw cruelty running wild, as man removed the restraints of his lowest desires, giving full freedom to the lust for power, haughtiness, and sadism. We saw the intellect in its most disgusting applications, seeing how one can devise ways to act on these emotions in the most wicked manner.

Bnei Yisrael said "We will do" before "We will hear." When we put on *tefillin*, we also put on first the *tefilla* that corresponds to action (on the arm) before the one that corresponds to intellect (on the head). We do not arrive at *emuna* (belief) by means of intellect, but rather through *emuna* we will come to intellect. We first inculcate a youngster with simple belief, which is used to rein in his wildest desires, so that he can grow in a healthy manner. When he becomes of age, he has to fulfill the mandate of "We will hear," to understand and delve into matters, so that the next time he acts, it will be performed with greater significance.

This idea, that proper action must precede understanding is the secret of the angels, who are referred to as "Those who do His bidding, to hear His voice" (Tehillim 103:20). Their original action gives them the ability to "hear His voice."

Although "there is no free man like one who is involved in Torah" (Avot 6:2), such people are still "My servants" (Vayikra 25:42). Following Hashem's commands is servitude and so is accepting of His dominion and agreeing to nullify one's own interests, both in practice and in conception. Bending one's back to bear the load and bending over with the ear to hear that which Hashem commands, without first analyzing if he wants to do what is requested, is the servitude that is the only means of reaching freedom. If one does not except divine dominion, he will forever remain a slave to other slaves and will never be free.

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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

## Putting on Tallit and Tefillin in Early Morning

**Question:** During certain times of the year, I have to *daven* significantly before sunrise. What should I do about putting on *tallit* and *tefillin* (=t & t), as I start *davening* before the time for those *mitzvot*?

**Answer:** The starting time for *Kri'at Shema* (Orach Chayim 58), *tzitzit/tallit* (OC 18), and *tefillin* (OC 30), is called *misheyakir* (the time it is light enough to recognize certain things). There are many opinions as to how long before sunrise this is. The extreme opinions are as little as 30 and as much as 60+ minutes before sunrise; the most common opinions range from 40 to 50 minutes before. Because light depends on the angle of the sun under the horizon, many posit that latitude and season affect this time. Therefore, people need to rely on local calendars or some website, which will not represent unanimous truths (most of such resources are close to the general consensus).

*Kri'at Shema* starts at *misheyakir* apparently because this is when serious numbers of people start getting up (see Magen Avraham 58:6). Regarding *tzitzit*, the *gemara* (Menachot 43a) exempts “night clothing” from *tzitzit* because the Torah describes seeing the *tzitzit*. There are two pertinent *machlokot* on this matter. According to the Rambam (Tzitzit 3:7-8), the exemption refers to the time of the day, and it begins at *misheyakir*, which relates to the ability to see. Some (Rosh, Tzitzit 1) say that daytime clothing is obligated in *tzitzit* even at night, and others (Mordechai, Megilla 801) say that the starting time is *alot hashachar* (at least 72 minutes before sunrise). Because we view the first question as a *safek*, we wear *tzitzit* at night but without a *beracha* (Shulchan Aruch, OC 18:1), and while the Rama (OC 18:3) allows making a *beracha* from *alot hashachar*, this is not broadly accepted (see Mishna Berura 18:10).

Most *Rishonim* (see Beit Yosef, OC 30; the Rambam, Tefillin 4:10 is an exception) posit that the *mitzva* of *tefillin* applies at night, fundamentally. However, we must not put on *tefillin* at night (even without a *beracha*) out of a concern we may fall asleep and release gas with them on (Rashi, Menachot 36b). One who has already woken up and needs to put them on may do so early, in which case, when the time comes (*misheyakir* – Shulchan Aruch, OC 30:1), he handles the *tefillin* and then makes the *beracha* (Menachot 36a). We also find the idea of handling before the *beracha* regarding *tzitzit* that were put on early (Rama, OC 18:3).

There are two valid options: to wait to put on the *t & t* until their time comes or to put them both on at the regular juncture and make the *beracha* later (Mishna Berura 89:40), and the point to do it is between *Yishtabach* and *Kaddish*, not during *P'sukei D'zimra* (Rama, OC 54:3). If *misheyakir* comes before *Baruch She'amar*, which is more likely if one decides to use (this time of year) the order of *Nusach Sephard*, that is optimal. How many opinions one should satisfy and what to do about a *safek* whether *misheyakir* has come is debatable (see Piskei Teshuvot 30:(4)).

The halachic differences between waiting to put on and waiting for the *beracha* are small. Assuming *misheyakir* comes before *Barchu* (or there are other problems – see Shulchan Aruch, OC 58:3 and Mishna Berura ad loc. 17), the point to put them on and/or make the *berachot* is between *Yishtabach* and *Kaddish*. The main problem at that time, *hefsek*, relates to speaking, and either way the *berachot* are said then. There is only a slight advantage of having *t & t* on early in *tefilla*, and it is not much of a problem to have them on before their *berachot* for a good reason (see Shulchan Aruch, OC 8:10).

Let us examine practicalities. For one *davening* at home, a deciding factor might be which system is more likely to cause a mistake – forgetting to make the *beracha* at all or forgetting to put on *t & t* at the right time (if he remembered later, see Shulchan Aruch, OC 66:2). In a *shul*, friends' actions may remind others. The rabbi has to decide whether to seek uniformity or have everyone decide for himself. If the former, there are various considerations to weigh.

### “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](mailto: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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# Igrot HaRe'aya - Letters of Rav Kook

## Our National Sleep – part II – #140

**Date and Place:** 27 Iyar 5668 (1908), Yafo

**Recipient:** Rabbi Shmuel Alexandrov. Alexandrov was a *yeshiva*-trained scholar, who was an autodidact in languages, philosophy, and science. He was a very independent thinker who at times angered the *Maskilim* and at times angered traditional rabbis. He was a member of the Mizrachi movement and tried, over the years, to recruit Rav Kook to take a leadership role within that movement. This is one of many correspondences between the two on matters of Jewish philosophy.

**Body:** [We are in the middle of a discussion focused around the metaphor of sleep to represent the state of the nation during exile and how Rav Kook saw his period as one of the nation beginning to awaken from the sleep.]

Now, with open eyes, we will do a reckoning, one which is always going to be in our favor. The oldest of nations will awaken and jump into action, remembering its Land, strength, and honor. It will remember the flow of life it did and will share with many others; it will return to its work of reestablishing that which was destroyed.

Along with its methodical development, the nation will also have its own unique internal, lofty, and sudden shining of light. This is not along the lines of what it shares with other nations, but based on its separate essence. No other nation in the world has the pristine good of lofty light embedded in its essence and the root of its soul, as it is in Israel. There are holy people and scholarly people among the nations, but these are individuals. In contrast, the principle that there is no other “righteous nation” in the land like Israel pervades the whole nation.

Most of those Jews who have drifted far from us have done so because they are searching for the foundation of absolute justice, which cannot be found. A person may think that the fact that this cannot be found in Israel [demonstrates that it is not worthwhile to embrace the ways of Jews]. This reaction is because they do not look at the nation’s actions in light of the world as a whole. They do not realize that the lacking is not because of our inner spirit but due to a lack of means within which to act properly. We have lost the Land and the kingdom. We in fact are striving to return to the path that befits us to regain.

The scholarly individuals among our nation are often afflicted with real physical weakness, which causes emotional weakness. However, they are not imprinted with the “mud” of materialism, which causes the loss of lofty sanctity, as the spiritual people of the other nations are. For that reason, we can give new life to those with depressed hearts, and console them from the pain of the broken and tortured. However, we also possess lofty life, which is powerful and eternal.

We certainly need to increase the glow of wisdom, which is now primarily focused on understanding ourselves. We also must strengthen the neglected material side, which can weaken us in the interim period, between “sleep” and “full awakening.” New difficulties may and likely will transpire, but they will all pass and turn into good. The obstacles, which will take a great toll, will be instructive. We do not need to attach the point of life to any special matter, but we need to concentrate [on what is important].

The Land of Israel will remain the basis of everything, and Mt. Zion will be the place of light. The many movements will make an impact in every place they are active. We need to increase the center [of the community in Israel] quantitatively and qualitatively, and all good fortune will accompany that process. Scattered ideas will join and form one apparatus. This is true in the spiritual sense as in the material one. The “barren woman (*Eretz Yisrael*) will rejoice as her sons gather within her in joy.” Amen, may this be His will.



### 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

## How Much Left to Pay Contractor?

(based on ruling 79140 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendants (=def) hired the plaintiff (=pl) to do major renovations in their home for 250,000 NIS. There was no contract or even itemized list relayed orally. Rather, along with the general discussion of what would be done, pl, who had a trusting relationship with def, promised def that he would make their home “fancy.” Def paid around half of the fee and moved in. They found things done not well and hired an engineer to make a list of things that needed to be fixed or were missing. Pl agreed to take care of certain things but refused other things, and did not do a good job on part of the fixing. Beit din brought in its own engineer, who confirmed most of what def’s engineer found, based on which pl was not to fix anything else, but it was to be given to other contractor. There was also a disagreement between the sides on how much def had already paid.

**Ruling:** Pl claims he received 127,780 NIS. Throughout the deliberations, def claimed to have paid 140,000 NIS. When both sides were requested by beit din to itemize the payments, def changed their claim to 163,000 NIS. The rule is that once one has made a claim that obligates him, he cannot change it to one that exempts him/obligates him less (Shulchan Aruch, Choshen Mishpat 80:1). Therefore, we accept only their claim of 140,000 NIS, but that will be accepted because pl is trying to extract money without proof. Def were able to prove many of their payments and, due to the degree to which the sides trusted each other and the fact that some payments were indirect by paying other parties, we believe def. Def is not required to make an oath of *modeh b’miktzat* (after admitting part of the money demanded) because according to their final claim, they were not obligated and the fact that they are paying is only because they were not believed (see Shulchan Aruch, CM 87:7).

In a situation like this, in which the sides trusted each other enough to not itemize what was to be included in the renovation, it appears that def left it to pl’s discretion. While both agree that pl promised “fancy,” this is a term that can cover a broad range of possibilities. We also take into consideration that contractors are in the practice of describing their work as higher quality than what it really is. Beit din’s expert finds that the list of what pl included is reasonable for the description (the problem was in the quality of work). For example, although def’s engineer thought that def had a right to a three-phase electric box, we will not require that the standard one that pl installed be replaced. In our ruling, we will distinguish between those problems that are normally fixed, in which case, def will be compensated for having to pay for them to be fixed, and those things which are not usually fixed, in which case the compensation will relate to the reduced value.

After beit din went through 48 alleged problems with the work, accepting most, rejecting some, and compromising on others, the amount to be reduced from pl’s account is 103,933 NIS. Since 250,000 NIS had been coming to pl, def paid 140,000 NIS, and 103,933 NIS was to be reduced, the balance for payment is 6,067 NIS plus V.A.T.

Comments or questions regarding articles can be sent to: [info@erezhemdah.org](mailto:info@erezhemdah.org)

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Nir Rephael ben Rachel Bracha  
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam  
Yerachmiel ben Zlotta Rivka  
Together with all *cholei* Yisrael

Neta bat Malka  
Meira bat Esther

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