



HEMDAT YAMIM

Parashat Hashavua

Vayakhel Pekudei
25 Adar 5783

Harav Shaul Israeli zt"l
Founder and President

What Was the Point of the *Mechonot*?

Harav Yosef Carmel

The *Mishkan* was Bnei Yisrael's central venue of worship for hundreds of years, and was the prototype of the *Beit Hamikdash*, which *Shlomo Hamelech* erected thereafter. However, there were notable differences between the two holy edifices. The *haftara* teaches us about one of the new items, the ten *mechonot*, special bases for washing utensils (Melachim I, 7:27-37). The *mechonot* were made of shiny copper and had, engraved in their sides, images of animals as well as special wheels at their bases. These characteristics are reminiscent of the *merkava*, the chariot upon which Hashem sits and moves, *ka'v'yachol*, as described in the most sublime prophecies of the prophets.

In the past we explained that Shlomo wanted everyone who would visit the *Beit Hamikdash* to know that the Divine Presence dwelled there, having gone down from the Heavens to the chosen place on Earth. When the special copper shined in the sun, it looked like chariots of fire had landed in the *Beit Hamikdash's* courtyard, where they remained permanently, along with the Divine Presence.

We will now suggest another explanation. Shlomo wanted the visitors to the *Beit Hamikdash* to return to the status of Adam before his sin or Bnei Yisrael before their sin of the Golden Calf (see Nefesh Hachayim 1:6). As such, each one could be blessed with a revelation of the Divine Presence, making each one a prophet of sorts. At the revelation at Sinai, indeed everyone had reached such a state, as they heard at least the first two commandments directly from Hashem, giving them their own "sighting of the *ma'aseh merkava* (Divine Chariot)."

Let us put things in perspective. *Ma'aseh merkava* is a nickname for the few places in *Tanach* in which there is a description of a direct, to the extent possible, meeting with the Divine Presence. One can see the Chariot, not its Rider. The first such description was at Sinai (see Shemot 24:10-11). We next find it at the prophecy of Michayhu ben Yimla, a contemporary of Eliyahu, who said: "I saw Hashem sitting on His throne, and all of the beings of the Heaven were standing to His right and to His left" (Melachim I, 22:19). More than a hundred years later, Yeshayahu pronounced that he saw "Hashem sitting on a lofty throne and His bottom part filled the Temple" (Yeshayahu 6:1). More than a hundred years after that, Yechezkel told, "The Heaven was opened, and I saw divine sights" (Yechezkel 1:1; see also 10:1; 43:2-3, for more detailed descriptions).

Comparing the *merkava* with the *mechonot*, we conclude that Shlomo aimed to give every person who visited the *Beit Hamikdash* the feeling of "gazing at the pleasantness of Hashem and visiting His Temple" (Tehillim 27:4). This was facilitated by the special shining of the *mechonot's* copper. On a deeper level, Shlomo went a step further than David, in Tehillim, and tried to give simpler people than the great prophets an experience that seemed somewhat parallel. On the one hand, this can elevate them spiritually. On the other hand, those who reach levels that are arguably too high for them, could be spiritually damaged (see Chagiga 14b). May we all merit being on the level that *David Hamelech* strove for.

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Ask the Rabbi

by Rav Daniel Mann

Nefilat Apayim without a Sefer Torah

Question: What are the rules of when one does and does not do *nefilat apayim* (putting one's head down and partially covering it) during *Tachanun*?

Answer: The sources and depth of discussion regarding this question are underwhelming, but the background is fascinating.

Although no *mishna* mandates doing *nefilat apayim* in *davening*, several *gemarot* (including Megilla 22b and Bava Metzia 59b) refer to it as a known entity. Some used to do it as a more elaborate prostration than now practiced (see Megilla 22b).

The idea of not doing *nefilat apayim* without a *sefer Torah* comes from a short statement in the Rokeach (Tefilla 324), who cites as inspiration a *pasuk* regarding Yehoshua, who in a time of need, fell on his face and beseeched Hashem “before Hashem’s ark” (Yehoshua 7:6). The Beit Yosef (Orach Chayim 131) is unimpressed with the Rokeach’s assertion’s halachic basis. Although he does say, “If it is an accepted tradition, we will accept it,” he does not cite the Rokeach in the Shulchan Aruch. The Rama (OC 131:2), though, does cite this requirement.

Concerning details, the Rama (ibid.) says that people *davening* in a courtyard that is open to a *shul* do *nefilat apayim*, as does an individual at home reciting *Tachanun* at the same time as the *shul*. We will not go into the details and permutations of these mainly uncommon occurrences (see Mishna Berura 131:13-14).

One common question is what needs to be present. The Rama writes that there should be an *aron* with a *sefer Torah* in it. While the *pasuk* mentions the *aron* of Hashem, the Rokeach mentions only a *sefer Torah* as being required, and the Mishna Berura (131:11) says the *sefer Torah* is the determinant. Igrot Moshe (OC, IV:21) refers positively to a case where the *sefer Torah* is kept in the room in a more secure place than the *aron kodesh*. Ishei Yisrael (25:(36)) cites Rav S.Z. Auerbach as positing that an empty *aron kodesh* that houses a *sefer Torah* only on days it is used suffices, apparently even if the *sefer Torah* is in a different room on this day.

The Mishna Berura (ibid.) brings a *machloket Acharonim* on whether *sifrei kodesh* other than Torah scrolls justify doing *nefilat apayim*. Some say that *sefarim* are enough if it is the people’s regular place to *daven* (see Igrot Moshe, OC, V:20; Beit Avi IV:85), and/or if the *sefarim* are permanently there (Dirshu 131:17), perhaps in a bookcase (Halichot Shlomo, Tefilla 11:(37)).

The *minhag* is that Yerushalayim provides enough “before Hashem” sanctity to do *nefilat apayim* without any *sefarim* (see Siddur Olat Re’iya; Igrot Moshe, Yoreh Deah III:129). It is logically questionable whether and why this should apply outside the Old City (see Halichot Shlomo ibid. 11).

Should one do *nefilat apayim* in a case of *safek/machloket* whether it is called for? One would think the stakes are low – What could be wrong with doing it when not called for? Is it a big deal to do *Tachanun* without it? However, study of the sources of *nefilat apayim* (including *gemarot*, Rambam (Tefilla 9:5), and Shulchan Aruch (OC 131)) demonstrates that the *raison d’etre* of *nefilat apayim* is the body position, whereas the specific words of supplication (which we call *Tachanun*) to be used are an afterthought (explaining lack of focus and greatly varied texts among *eidot*). On the other hand, *nefilat apayim* is not a “why not?” practice. One may not to do it at night (Shulchan Aruch ibid. 3), even though *Tachanun* may be recited then (Mishna Berura 131:16). Although the Shulchan Aruch mandates *nefilat apayim*, in recent times, most Sephardim say *Tachanun* without *nefilat apayim* because of kabbalistically-based fear for one’s life if he does it improperly (see Yalkut Yosef, OC 131:16).

Like the 13 Middot (the two are often paired), *nefilat apayim* makes for very powerful prayer (see story in Bava Metzia 59b). But it is viewed as a “nuclear option,” which needs the right conditions (see Shulchan Aruch ibid. 8). Therefore, it is appropriate to take a moderate approach (not overly lenient or stringent) in deciding between opinions.

“Behind the Scenes” Zoom shiur

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Igrot HaRe'aya - Letters of Rav Kook

Why *Moshavot* Do Not Appoint Rabbis – #146 – part II

Date and Place: 17 Sivan 5668 (1908), Yafo

Recipient: We continue presenting the letter to Rav Yitzchak Isaac Halevi. We have featured letters to him several times before.

Body: Regarding your suggestion about changing the lifestyle in the *Old Yishuv*, without damaging basic things, this is impossible, except very incrementally, over a long time. In the meantime, the situation is pressing.

Therefore, I have decided that it is impossible to make this major improvement, which is extremely important to the Jewish world of the *New Yishuv*, and which significantly affects the *Old Yishuv*, as the two groups are mutually impactful. Therefore, we must establish a *yeshiva* here in the center of the *New Yishuv*. Here (Yafo) life is essentially similar to life in the *moshavot* (agricultural settlements). With the necessary Divine Assistance and the good talents we have in the Holy Land, along with those who want to come from the Diaspora, which is ever increasing, we can have talented people come out of such an institution.

They just must do their job properly, with diligence and hard work in their Torah studies, learning analytically, covering material, and learning how to render rulings in depth, so that they will be able to be accepted in the midst of the *New Yishuv* and consistently raise the stature of Judaism there. It is impossible for me to do this fully based on my influence from a distance. I only get to meet people from the *moshavot* that are in close proximity, and only from time to time. That is why I have said that the top priority of the *yeshiva* will be that the most accomplished of the disciples can be rabbis in the *moshavot*.

I will now deal with your concern that the founding of such a *yeshiva* in Yafo will, Heaven forbid, harm *yeshivot* in Yerushalayim. This concern is based on the contention that the greatest lacking in Yerushalmi *yeshivot* is the lack of “ulterior motives” i.e., they do not strive to become among the generation’s great scholars, great rabbis, and leaders of the generation. If a *yeshiva* with a new approach will be established in Yafo, producing rabbis for the cities of *Eretz Yisrael*, the *yeshivot* of Yerushalayim will lose a lot more of their level, because the talented ones will go to Yafo.

You should know that while it is true that there is some lacking in the healthy factor of competition in life, which is cloaked by “ulterior motives” (mainly, money), in regard to the *yeshivot* in Yerushalayim, we anyway now lack the ability to remedy the problem. The potential for rabbinical positions in the *moshavot* is at most 20 positions. You obviously cannot count the smallest *moshavot*, which do not even have ten families. This number will not remedy the issue of lack of material gain in the Torah study in *Eretz Yisrael*. The aspiration to claim the minor position of rabbi of a *moshava* is unlikely to give much strength to students. Such positions do not innately make their holders great rabbis or leaders of the generation, just as such rabbinic positions in small towns in the Diaspora do not.

This is especially true nowadays, when the *moshava* does not pay the rabbinical salary, which comes from the the *yeshivot*’s coffers, and it is only slightly higher than the stipend of one who does not have the burden of the rabbinate. This difference is insufficient to change one’s thinking and be enthusiastic about a very difficult rabbinate. This comes from the fact that the members of the *moshavot* have for years been accustomed to avoid financial or spiritual responsibility for a rabbinate in their midst.

Add to this that already now it is unlikely that trainees of established *yeshivot* will be appointed to these positions unless they have a special spirit that can bring them closer to life in the *New Yishuv*. Therefore, concern of harming the *yeshivot* of Yerushalayim should not be a reason not to open a *yeshiva* in Yafo.

We will continue the letter next time.



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 seeked 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

Was There a Sale to Renege on? – part II

(based on ruling 81138 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl), a real estate investor, negotiated with the defendant (=def) about apartments to be built in a building under Tama 38 (strengthening and expansion of buildings). They agreed (on some level) that pl would buy three apartments for 3 million NIS. The two then signed a handwritten document titled “Summary of Loan + Purchase Agreement of Apartments.” Later, they agreed that pl would buy a fourth apartment for 600,000 NIS. Under the guidance of a lawyer (=lyr), who discussed the legal challenges, they reached an agreement of principles. Later pl signed an agreement to lend 1.5 million NIS each to a company that def owns and to a company which def owns in partnership with another person (=prtn). Lyr testified that the reason the payment was presented as a loan, with interest and guarantees, rather than a purchase, was due to tax issues. Eventually it was supposed to have led to purchase contracts and erasure of the interest. The sides progressed close to a final agreement and payment. However, after some disagreements, and a couple of months later, def returned the “loan money” with an additional sum for interest, as written in the original agreement. Pl claims that the money given in relation to the loan agreement was purchase money. Pl brought several proofs from documents that indicate that there was really a sale, not a loan, and that their agreement is no less than a *zichron devarim* (memorandum of understanding). Pl wants to go through with the purchase of the four apartments. If that cannot be done, he demands a fine of 10% as written in the agreement of principles. Def argues that there were only advanced negotiations about the purchase, and the loan was just one stage in the process. He raised different indications (including that the agreement of principles is unsigned) that the sale had not been finalized. Def also claims that prtn approved only the loan agreement. Prtn did not agree for *beit din* to adjudicate.

Ruling: [Last time we saw that the “loan” was payment for a purchase, but there is no innate mechanism for either sale or obligation to sell that overcomes problems such as *davar shelo ba la'olam =dshlbi*.]

To enforce a sale or obligation to sell based on *dina d'malchuta*/common practice, one must deal with the law that real estate agreements need a written component, which is lacking here.

When money is given on the sale of a movable object but there is no valid *kinyan*, one who backs out is sanctioned with a *mi shepara*. The Pitchei Teshuva (Choshen Mishpat 204:2) says that most agree that this applies even to real estate (where money is a *kinyan*) where there is an impediment to efficacy. However, the Beit Yosef (CM 204) says this is the case only when the sale works based on Torah law, which is not the case here since the apartments are a *dshlbi*. There is a *machloket* whether *mechusar amana*, a lower level of sanction for one who reneges (Bava Metzia 49a), applies to a *dshlbi*; Mishpat Shalom (209:3) says that most agree it does. The *machloket* whether it applies if one backed out due to a change in the item's price (see Rama, CM 204:1, Shach ad loc.) should not make a difference, because here the price change was expected and factored in. This is only bolstered by the fact that quasi-*kinyan* actions were taken (*mechusar amana* is usually based on oral commitment alone).

Next time we will end the discussion with the practical ruling.

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