



Harav Shaul Israeli zt"l
Founder and President

The Challenges of Time and Unity – A Frank Discussion

Rav Daniel Mann

Over the 23 years I have been putting out Eretz Hemdah's Hemdat Yamim, my preferred choice of a *dvar Torah* for *parashat hashavua* has been to translate our co-Rosh Kollel, Rav Yosef Carmel's, *dvar Torah*. This was the only overlap between the Hebrew and English versions of Hemdat Yamim.

Eventually, technical considerations (stemming from the English language publication needing to come out earlier than the Hebrew version) dictated a change. The editorial ploy I developed was to usually translate the *dvar Torah* of the same *parasha* from the previous year of the Hebrew publication. Two phenomena create problems with this system. One is the occurrence of leap years, like this year. For one, last year had one *dvar Torah* for Vayakhel/Pekudei, whereas this year, Vayakhel and Pekudei are spread over two weeks. Therefore, for example, last week I translated a *dvar Torah* from our mentor, Rav Shaul Yisraeli zt"l. Furthermore, last year Rav Carmel, wrote a paragraph on Pekudei and the rest on Parashat Hachodesh; this year, Parashat Hachodesh is in a few weeks. Another problem is that Rav Carmel often applies eternal Torah concepts to current events, but last year's current events are often forgotten or stale news this year for our readers.

Interestingly, this second element has proven very instructive for me. The dominant current event last year was judicial reform. While most writers on this topic focused on arguments for this approach or that one, Rav Carmel focused almost entirely, week after week, on a simple concept – unity is (among) the most important of national goals, and the price of disunity resulting from the conflict was too great and dangerous, including by emboldening our enemies. Of course, the current focus by many in the nation on unity, which hopefully will prove to be "better late than never," has borne out the truths he articulated last year.

Last year, on this *parasha* and Parashat Hachodesh, Rav Carmel highlighted the moon as the basis of our calendar, Rav Carmel cited two historical Rabbinic disputes about the calendar and how crucial it was that the "losing side" understood that he had to concede defeat (even if he was right), in the interest of national unity.

Exactness in our calendar is crucial. Judaism always put a premium on keeping to our joint calendar. In *chutz la'aretz*, we add five days of *Yom Tov* to avoid the remote chance of making *Yom Tov* on the wrong day (see Beitza 4b). On the other hand, two days are artificially (i.e., often out of synch with the new moon) removed from the days that most holidays can fall on due to pragmatic considerations (so *Yom Kippur* will never fall out on Friday or Sunday because of the human toll, regarding food and funerals (Rosh Hashana 20a)). Although usually the months alternate between 29 and 30 days (as a lunar month is almost exactly 29.5 days), this year, we had three short months and later two long months in a row. This is illogical from a purist perspective, and it is due to practical calendric considerations.

We end with some conclusions from the above. Exactness is divine, but accommodating important human needs overcomes that value. Fighting for what is right is sometimes worthwhile, but pursuit of unity is often more important.

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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

Baruch Shem ... at the Wrong Time

Question: Putting on *tefillin*, I (an Ashkenazi), after reciting "... *l'haniach tefillin*" and fastening the *shel yad*, recited "*Baruch shem k'vod malchuto l'olam va'ed*" (=bskmlv) instead of after putting on the *shel rosh*. What should I have done at that point?

Answer: The *gemara* (Menachot 36a) states that one makes one *beracha* on *tefillin* but makes two if he talks between putting on the *shel yad* and *shel rosh*. One approach in *Rishonim*, accepted by Sephardim (see Shulchan Aruch, Orach Chayim 25:6) is that these numbers are total *berachot* for the two *tefillin*. One normally recites only *l'haniach* before fastening the *shel yad*. If he talks, *al mitzvat tefillin* is added for the *shel rosh*. The opinion that Ashkenazim accept (see Rama ad loc.) is that one always recites *al mitzvat* on the *shel rosh*. One who spoke also repeats *l'haniach* before the *shel rosh*.

Therefore, if saying *bskmlv* when you did is a full *hefsek*, you should have recited both *berachot* on the *shel rosh* (Shulchan Aruch ibid. 9). The Mishna Berura (ad loc. 32) adds that one should move the *shel yad* from its place and back and tighten the strap right before reciting *l'haniach*.

The Mishna Berura (25:21) cautions not to recite *bskmlv* before **securing** the *shel rosh* in its proper position and says that reciting it early creates a *beracha l'vatola*, requiring repeating the *beracha*. As he treats *bskmlv* at the wrong time as a *hefsek* even *b'di'eved*, it follows that you, as an Ashkenazi, should have made the two *berachot* before putting on the *shel rosh*.

A few things trouble me about this Mishna Berura's contention (Rav Y.S. Klein (not famous) also raised these issues.) 1. If the early *bskmlv* is like talking, both *berachot* should be repeated, yet his language implies that only *al mitzvat tefillin* is repeated! If he means only one *beracha*, why, and what would it mean for our case? 2. The Mishna Berura's source (Pri Megadim, EA 25:10) says that early *bskmlv* is a *hefsek*, but he does not say whether one must repeat the *beracha*. The Shulchan Aruch (OC 167:6) says that although one should not say anything between *Hamotzi* and eating the bread, if it was related to improving the meal, the *beracha* need not be repeated. One would think that *bskmlv* said a little early is related enough to not disqualify!

There are other reasons why a mistimed *bskmlv* might not disqualify. The reason for *bskmlv* after *al mitzvat tefillin* is the possibility that it is *l'vatola* (see Magen Avraham 25:10). This is based on the Yerushalmi (Berachot 6:1, accepted by Shulchan Aruch, OC 206:6) that the affront of desecrating Hashem's Name with a *beracha l'vatola* is mitigated by using the *beracha* as a prompt for *bskmlv*. This makes it **similar** to saying *baruch hu u'varuch shmo* (= *bhuvsh*; see Shulchan Aruch, OC 124:5) after hearing His Name in a *beracha*. There is a *machloket* (see Mishna Berura 124:21) whether the *beracha* of one who says *bhuvsh* when he should not have is disqualified. Ma'aseh Rokeiach (Berachot 1:11) assumes that even if the one making the *beracha* inserts *bhuvsh* into his *beracha*, it is not *l'vatola*. It makes sense that a misplaced *bskmlv* would be subject to the same *machloket*.

There is logic that reciting something one thought was appropriate for the *beracha* but **was mistaken** (like here) is not a *hefsek b'di'eved*. It even seems to have a clear source – if one recites on whiskey, "... *melech ha'olam borei pri hagafen shehakol n'hiya b'dvaro*," the mistaken words are not a *hefsek b'di'eved* (Shulchan Aruch, OC 209:2). Rav Preil (Rav of Elizabeth; Hamaor, vol. I, 12) says it is because the mistaken part was said with the intention of it being right (see Shemirat Shabbat K'hilchata 47:(218)). Rav Kook (Orach Mishpat 127) argued, saying it is because he "erased" the mistaken words.

In summary, I am torn between "pulls" – 1. Follow the Mishna Berura's apparent opinion to make two *berachot* on the *shel rosh*. 2. Consider the Shulchan Aruch's ruling (to which the Rama is sensitive) that after talking, one makes one *beracha* plus our suggestion that *bskmlv* is better than talking and apply *safek berachot l'hakel*.

"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.



Igrot HaRe'aya - Letters of Rav Kook

Date and Place: 15 Iyar 5669, Yafo

1. Hoping to Create a Kosher Ship to Palestine – #197

Recipient: Yekutiel Menkowitz, a wealthy Jew from Vilna, who had great love for the Yishuv in *Eretz Yisrael* and was in touch with many of its leaders.

Body: I received long ago your dear letter about the idea of making one of the [European] ships kosher. I “knocked on several doors” on the matter looking for supporters and helpers. Unfortunately, “the gates” have not yet opened for me, as each one exaggerates and says it is impossible. I personally have not given up hope and am prepared to act on this matter as best I can.

I have just given letters to a rabbinic emissary to take to the council in Odessa and the Russian [shipping] agency there. We will see what Hashem will have come of it. I share your conviction that this would increase the number of wealthy Jews and Jewish leaders to come to the Holy Land. On the heels of such people, who are blessed in Hashem’s eyes, there will be a blessing to the Holy Land and a great strengthening of the emerging liberation of Israel, with Hashem’s help.

2. No to Attempt to Broaden the *Heter Mechira* – #198

Recipient: Moshe Leib Lilienblum, a writer and member of the Haskala Movement.

Body: You know that the Yishuv is my soul’s life. I knew, before I publicized the rules of the *Heter Mechira*, how the matter needs to work, both regarding the needs of the farmers and of the workers. I was well aware that some believe in extreme leniency in these matters, but this is not my inclination. After all, just as we need a Land, so we need a religion. We also need to entrench the idea that the nation must not forget the institution of *Shemitta*, just as its memory and our affection for it is alive in our souls.


Every Jew must know that *Eretz Yisrael* is not only superior to other lands regarding his body, but also concerning his eternal soul. This is the only way to elevate the flame of the love of Zion in practice and continue it for generations.

The matter you raise does not greatly impact agricultural workers. There are four Torah-level elements of work (Rav Kook required that these be done by non-Jews) – sowing, harvesting fruit, harvesting grains, and pruning. As it is, almost all sowing is done by non-Jewish workers, and no tragedy will befall the Yishuv if the “Shabbat of the Land” will be recognizable by means of some change in a minority of places. Regarding harvesting and pruning, I have already made provisions for leniency, just that farmers should not apply them themselves but must get a ruling from a rabbinic authority. The same thing is true of plowing. Regarding planting saplings, I only forbade it when this is done for patches that are for beautification and expansion and for crops that are not important economically.

I never thought that the Council wanted to get involved in such questions. Therefore, I request that you suggest to the Council to sign the sales authorization without delay. Realize that I received from Paris a form signed personally by the Baron.

Please know that the farmers are very happy with the arrangements with the *Heter*, and they know the situation better than those who are concerned for them from a distance. I also do not understand what the question of how lenient to be regarding work has to do with not signing the authorization, which, either way, must be done.

That which you wrote that Rav Shlomo Mohilever o.b.m. did not require a sale to permit Rabbinically forbidden work, I do not agree with this approach at all, and Yiftach in his generation has the authority of Shmuel in his generation (Rosh Hashana 25b).



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 z”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 to Take Payment from A Guarantor – part III

(based on ruling 83023 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) hired the plaintiff (=pl) to start a girls' high school. Her responsibilities included recruiting to open the school and then serving as the principal. Towards the end of the school's first year, def fired pl. [We will deal with various elements of the dispute separately.] Pl demands 80,000 NIS for improper firing without a hearing and the emotional distress it caused, especially from the fact that def introduced pl's replacement behind her back before keeping the joint promise to agree on how to inform the students. Def responds that he offered pl a hearing and that he fired pl because she was planning to start a competing school. Def countersued pl for 150,000 NIS for violating her commitment to be loyal to the school by planning to start competition, and 50,000 NIS for abuse that bordered on sexual abuse by pl's demanding compliments from him.

Ruling: Pl and def's partnership took a turn for the worse when def decided that his daughter would become the school secretary, and pl refused because it would stymie her freedom to run the school. Pl started to make demands, via email, of steps needed to bolster her standing, and after a few weeks, def demanded a hearing with pl. Pl refused to participate in a hearing and demanded agreement on her terms via email. After several days of each applying pressure via email, def fired pl via email, effective the end of the school year.

Def had the right to not rehire pl, as her contract was explicitly a one-year commitment. There is no need for a hearing, and here, in any case, def invited pl clearly for one, and she refused.

Regarding informing the students and parents, pl has a grievance, as the two had agreed not to act unilaterally, and def did not keep his word, which caused pl embarrassment. Def's claim that he had to act to preempt pl's "stealing the school" was not substantiated. *Beit din* does not have grounds to levy a formal payment for the personal affront (def did not defame her), but they recommend that def pay pl an extra half-month of salary along with an apology as moral amends.

Pl denies she worked on making a new school. She admits only to a single inquiry if someone would back the present school if def pulled out financial backing. After the firing, pl did look into the possibility of claiming that the school was hers rather than def's, as she formed it, and a witness testified that pl might have taken such a course if the witness had not supported def. However, there are no grounds for obligating money for contemplations that did not bring on concrete steps or damage.

Most of pl and def's interaction was via email. While there were emotional emails in which pl shared her frustration and one set of emails in which she complained that def did not show appreciation for her contributions, nothing rose to the level of abuse. She also seriously apologized a few times for strong messages, and def accepted the apologies. Def never gave any form of pl's abuse as a reason for firing her, and he even offered a raise in salary after the exchanges took place. Therefore, this accusation by def is inappropriate and defamatory; it appears that he made the claims to intimidate or counter pl's monetary claims, which is wrong. Therefore, def must pay pl 12,000 NIS toward her legal expenses.

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

We daven for a complete and speedy *refuah* for:

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Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Yerachmiel ben Zlotta Rivka

Neta bat Malka
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