



HEMDAT YAMIM

יְמֵי חֶמְדָּה

Parashat Hashavua

Vayigash, Tevet 4, 5785

Harav Shaul Israeli zt"l
Founder and President

A Yeshiva and a Community Go Together

Harav Yosef Carmel

Our *parasha* contains an important, difficult-to-translate passage: “[Yaakov] sent Yehuda before him to Yosef to show the way (*l’horot*) before him to Goshen” (Bereishit 46:28). Why did Yaakov send Yehuda ahead during the family’s trip to Egypt and the meeting with Yosef?

Midrash Sechel Tov (ad loc.) says that Yehuda was sent because he was the leader among the brothers. The Midrash Hagadol (ad loc.) posits that it is a good sign for the family/nation when Yehuda and Yosef interact closely (based on Zecharia 10:6 & Yechezkel 37:16, regarding the final redemption). According to Midrash Hagadol, then, Yaakov’s choice was to send a message of unity between the sons of Leah and those of Rachel. This partnership, highlighted in the blessings to Rut and Boaz (Rut 4:11), is a condition for the ultimate redemption.

Why does the Torah stress that Yehuda was sent “before him”? Midrash Sechel Tov attributes it to manners – to let Yosef know that his father would be coming soon, as it is proper etiquette whenever an important person comes to visit. As part of the effort to build unity, etiquette and sensitivity play roles.

The Rabbis over the generations understood differently the meaning of “*l’horot* before him to Goshen.” One approach (held by Unkelos, Rashi, and others) puts stress on “to Goshen.” Yaakov sent Yehuda as a scout to find the best way to get to Goshen and find the best setup there. It was a priority that it not be too centrally located within Egypt, so that the local environs would not introduce serious spiritual problems. Along these lines, an opinion in Midrash Hagadol says, “to create a place to live.”

The second approach focuses on *l’horot* and gives it a spiritual connotation. Rav Chama (in Midrash Hagadol) says that it was to prepare a meeting place for Torah. Rashi explains similarly – to establish a center of Torah study, from which rulings (*hora’a*) would emerge. Also in Midrash Rabba (Bereishit 95) – they would teach Torah to all of the tribes. Midrash Sechel Tov proposes a hint – *l’horot* is like *l’orot*, which has the *gematria* of 613. It goes on to say that Yosef established a *yeshiva* in Goshen that dealt with the wisdom of Torah before it was given. Rabbi Avraham, son of the Rambam, points out that the way *horot* is written gives it the same *gematria* as Torah.

All approaches teach important spiritual principles. In order to ensure the perpetuation of Jewish life, even in exile, it is necessary to establish a Torah-based center to spiritually provide for the Jewish population. This principle has been demonstrated repeatedly throughout history. Second, the center must be an intrinsic part of the community (in Hebrew, *yeshiva* and *yishuv* (community) are closely linked). Torah that is divorced from the needs of the community loses much of its effect as a “Torah of life.” Connection to the nation is a basis of spirituality. It is self-evident that it is not possible to influence a broad cross section of society without taking part in helping protect that society (Based on this, Rav Yisraeli decided that only those who have served in the army are eligible to be *avrechim* at Eretz Hemdah.)

May our hopeful success in fostering unity help us finally emerge victorious in our just war against horrible perpetrators.

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Ask the Rabbi

by Rav Daniel Mann

Right Pronunciation of *Shehakol*

Question: I pronounce the second-to-last word of *Shehakol* as “*nehiya*” (with a *kamatz* at the end). Someone told me it must be “*nehiyeh*” (with a *segol*), which is in the present tense, because we want to say that Hashem provides everything for us today, not only in the past. My *dikduk* is not good enough to have an opinion. Is he right? If he is right, have I not been *yotzei* all these years?

Answer: We will try to keep the *dikduk* as simple as we can. Indeed, in third person singular (he/him), *nehiya* is past (all **came** to be by His word) (see Devarim 4:32), and *nehiyeh* is present (all **comes** to be ...). (In first person plural (we), *nehiyeh* is future (we will be)). The question is whether we want to use the language of past or present

We can seek precedent from other *berachot*. The *gemarot* regarding *Hamotzi* (Berachot 38a) and *Borei Meorei Ha'esh* (ibid. 52b) assume that we want these *berachot* to focus on the past. Rashi explains – the bread we are about to eat was already extracted from the soil. One can say the same thing about *Shehakol* – the chicken or candy I am eating was produced in the past. Rav Yaakov Emden (Mor U'ktzia, OC 167) goes a step further, claiming that the “all” that *Shehakol* refers to is broad, and that generally things came into existence at Creation, even if the specific food we will eat is relatively recent. Indeed, a majority of *poskim* (see Shaarei Teshuva 204:20) and of practice (survey of sources, *siddurim* and people) is as you have done – “*nehiya*.”

However, significant logic and a sizable minority of sources support “*nehiyeh*.” The Chochmat Manoach (Berachot 38a; cited by the Magen Avraham 167:8) points out that most *berachot* employ a present tense verb (see below) at the end of almost all *berachot* (even those that focus mainly on the past). Take *birkat hatorah* as one of many examples. We speak of *bachar banu ... v'natan lanu* (past tense references to *matan Torah*) but end off “... *noten hatorah* (*noten* is present tense – gives/is giving). Therefore, he and the Me'il Tzedaka (42) advocate saying *nehiyeh*. The Me'il Tzedaka's and Magen Avraham's final positions are not clear. One can also take issue with Rav Yaakov Emden's *chiddush* that *Shehakol* focuses on Creation. Why should all other *birchot hanehenin* focus on the specific food and this one focus on Creation? It is more likely that we use general terminology for specific foods that do not fit into a specific category. Regarding Talmudic precedent, the Magen Avraham also cites a Yerushalmi (Berachot 8:5) that one should not learn from *Borei Meorei Ha'esh* because the language should be appropriate for commemorating the original creation of fire. Regarding *Hamotzi*, the Beit Yosef (OC 167) knew a version of the *gemara* that *Hamotzi* is in the present, and the Me'il Tzedaka explains our text as just wanting to avoid future tense, but these positions are of a small minority.

What do we do with the *gemara's* contention that *Hamotzi* uses past tense? Don't we know from “*Dikduk 101*” that *hotzi* is past, ***motzi* is present**, and *yotzi* is future?! The answer is that “*Hamotzi*,” and “*Borei*,” ... in various *berachot* are not verbs but nouns. We are giving Hashem the title of “the extractor” of bread, “the creator” of foods, ... In Hebrew, the noun/title is formed by using a present verb form. Now, one can earn a title by what he did in the past, is doing in the present, or will do in the future (or any combination of them). The *gemara* posits that the title must be compatible with the past tense. In contrast, in *Shehakol*, “*nehiya*” is not a title but a real verb. Therefore, if one uses the present tense, he is stressing the present (much more than *borei* does), which the *gemara* seems to object to.

One is *yotzei* the *beracha* with either form he uses. In *kriat hatorah*, subtle meaning changes are problematic, but regarding *berachot*, the deciding factor is the basic idea. While the *gemara* (Berachot 40b) cites an opinion that changing a *beracha's* formulation disqualifies it, that is for major changes. Shulchan Aruch, Orach Chayim 167:10 shows how far one can be off and be *yotzei*.

“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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Igrot HaRe'aya - Letters of Rav Kook

A Public Letter on Observance of *Shemitta* – #287 – part II

Date and Place: 4 Nisan 5670 (1910), Yafo

Recipient and Background: This public letter was apparently published in “Hacherut” on 4 Nisan 5670 (in the midst of the *Shemitta* year). Rav Kook became aware of farmers who “took liberties” that his rulings forbade and was concerned this would continue or increase over the spring/summer.

Body: [Last time we started Rav Kook’s explanation of the damage of those who did more during *Shemitta* than the heter mechira permitted and compromised the heter mechira’s viability.]

Dear brothers, I call out to you from my heart’s emotions – have mercy on your lives and the holy Yishuv’s life, survival and honor! Do not go beyond the limits of the leniency, which was founded as an exceptional step to improve the Yishuv when the rabbinic leaders see that it is necessary to employ it, according to its parameters and special methods. In our situation, it is the “straight path” that is a matter of pride for those who do it and before people.

Beware not to do any agricultural act that is normally forbidden by Torah law during *Shemitta*, e.g., new planting, replanting shoots, and grafting. All of these require one to ask an expert rabbi, who will consider the level of loss and extenuating circumstances. All the more so, regarding land not included in the sale, one must not be lenient without an explicit ruling, especially in cities and suburbs, which are not dependent on agriculture, whose questions concern patches of land around homes for beautification. The sanctity of *Shemitta* applies there without any leniency, and permissibility is possible only according to straightforward *halacha* following rabbis’ rulings. This should make the Shabbat of the Land recognizable on the holy soil, which gives comfort to the heart of those who love Hashem and revere His Name and will give one grace in the eyes of Hashem and mankind.

It should not even occur to you, dear brothers, that if Jews do not perform Torah-level prohibitions that the Yishuv will be damaged because of the impact on Jewish agricultural workers (who are not landowners). Actually, there are few agricultural actions that are forbidden by Torah law, and for most of them, there are ways that are not too difficult to turn something with a potential Torah prohibition into something forbidden only Rabbinically.

This is not the place to explain the details of this approach to a ruling, as these require full awareness of the situation. But in general, only plowing, sowing, and harvesting of various produce and pruning for trees have the potential of being from the Torah. And for all of these, an expert rabbi can find ways to do them [in a manner that can be permitted] when there are extenuating circumstances, related to the welfare of the Yishuv and the agricultural needs of the community or workers who are dependent on their work. The only work for which one cannot find any leniency whatsoever for a Jew is sowing. For the rest of the actions, when the question comes before a rabbi, he will look into the matter seriously and try to reconcile his ruling with the Torah – sometimes the answer will be to be stringent and sometimes, to be lenient. Heaven forbid, we cannot allow everyone to take the Torah into their own hands, certainly on a matter like this, where real experts and great sensitivity are needed to arrive at the correct answer. Making one’s own decision would be frivolous and a desecration of the Torah.

I am confident, dear brothers, in your holy souls, the straightness of your hearts, and your concern for our holy Land and proud Yishuv, which is our great desire. Therefore, I am sure you will accept my words with positive understanding and respect and safeguard them.

May Hashem bless us and give us success in the Desired Land, so that we will soon see our nation’s redemption in the Land of our Temple. May we see the return of Israel to its place to live in tranquility and happiness. May we fulfill all of Hashem’s commandments, especially those connected to the Holy Land’s soil, when Hashem returns the exiles quickly in our days.

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

Itamar Chaim ben Tzipora

Nir Rephael ben Rachel Bracha

Arye Yitzchak ben Geula Miriam

Neta bat Malka

Ori Leah bat Chaya Temima

Tal Shaul ben Yaffa

Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Who Has Rights in the Courtyard?

(based on ruling 81059 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) are neighbors in a building with three owners; each received their apartment from their parents. Pl complain that def do not let them use the courtyard, which def claim is all theirs and have built on it a housing unit and a pergola. Pl demand that all structures in the courtyard be destroyed and that *beit din* issue a declaration that everyone owns the courtyard equally, as listed in the land registry (Tabu). Def claims that their parents made an agreement in 1971 to receive ownership of the courtyard, with the owner of what is now pl's apartment getting to build on the roof (which they did), and the third owner receiving monetary compensation. They do not have documentation of the agreement, but claim that it was common knowledge for decades, acknowledged even by pl until their relations soured. No one made changes in Tabu, a practice many in the area followed because that process causes significant expenses, and people trusted their neighbors' honesty.

Ruling: Assuming there was an agreement, acts of *kinyan* finalized it. However, the question we must ask is whether one can halachically acquire rights to extra parts of a property without Tabu, which Israeli law (*Chok Hamekarka'in* par. 7b) requires for finalization. Some *poskim* (including Mahari Basan, Igrot Moshe) say that the law negates otherwise halachic acquisition because this falls under the concept of *dina d'malchuta*. Others (including the Chazon Ish and Rav Z.N. Goldberg) posit that *dina d'malchuta* cannot undo Torah-level *kinyanim* in this manner. Our *beit din's* approach is that the law is binding, but only in cases where it is necessary to protect the rights of one who bought land in reliance on Tabu.

In our case, according to the first approach, it suffices that def had control of the courtyard for three years to prove there was a binding agreement. Even according to the second approach, this case is different from the classic case of missing Tabu, because the apartments are indeed registered properly. Therefore, no third party has the power to come in and remove from the property occupants claiming ownership. Even the Israeli courts recognize ownership without Tabu in cases they deem to be exceptional enough. Since in the area of this building, it is standard to make internal agreements without official documentation, the agreement is binding.

Regarding who has to prove if there was full agreement, there is an apparent contradiction in the Rambam. The Knesset Hagedola distinguishes between cases in which the one acting like the owner did so openly, which def did. According to *Netivot Hamishpat*, the one who acts on ownership does not need proof regarding damages, but to obtain positive rights, he requires proof that the previous owner saw and relinquished rights. In this case, this would seem to support pl. However, in this case, there is enough evidence that pl and his predecessors in the apartment went along for decades with def's control.

[*Beit din* went into depth to show from testimony of others and proofs from documented interactions between the sides that def acquired ownership of the courtyard, as pl had on the roof.]

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