



# HEMDAT YAMIM

חֵמְדָּה יָמִימִים

## Parashat Hashavua

Bamidbar, Sivan 4, 5785

Harav Shaul Israeli zt"l  
Founder and President

### Land, Heaven, Place, and Yerushalayim

Harav Yosef Carmel

It is 58 years since the freeing and reunification of Yerushalayim. "The built-up Jerusalem, the city that was connected together" (Tehillim 122:3). The proclamation of the freeing of the capital of the State of Israel caused the hearts of so many around the Jewish world to skip a beat.

In the prophecy of Yirmiyahu, there is an allusion to the connection to Yerushalayim already from their post-Exodus period in the desert. "Go and call out in the ears of **Yerushalayim**: So says Hashem, I remember for you the kindness of your youth, the love of your nuptials, as you followed Me in the desert, in an uncultivated land" (2:2). The Vilna Gaon taught that this is a reference to "Jerusalem on high," whose *gematria* equals "*Knesset Yisrael*" (the full community of Israel).

Along these lines, we will try to understand the *pasuk* in Tehillim about Yerushalayim connectiveness. What does it connect? The Vilna Gaon teaches that *Am Yisrael* exists on two levels – the sum total of individuals who exist at any given time, in the physical world; a higher, spiritual element, called *Knesset Yisrael*, which remains, based in the Heavens, unchanged from generation to generation.

We proceed after the following introduction. After Bnei Yisrael entered the Land, for more than 400 years, it was unknown where is the "**place** that Hashem will choose," about which it says, "... for His presence you shall seek and shall come there" (Devarim 12:5). The answer, though, is already hinted at in Bereishit (22:2,4). He was to go to the Land of Moriah, and on the way, he "saw the **place** from a distance."

The person who revealed the place, after great effort and sleepless nights, was King David (see a description of these efforts in Tehillim 132:1-5). In Divrei Hayamim (I, 21:15-28) it tells how Bnei Yisrael were subjugated to a plague of pestilence, which was depicted by a destructive angel with a sword outstretched over Yerushalayim. To prevent further death, the *navi* received instruction from an angel that David should make an altar and sacrifice at the place of the silo of Ornan. After this stopped the plague, David was convinced that this was the **place** for service of Hashem.

This event taught not only where the exact place of the *Mikdash* needed to be, but also that this is the place of connection between the Heaven and the earth, between the spiritual and the physical, between Hashem and *Knesset Yisrael*, and between Yerushalayim on high and earthly Yerushalayim. This is the point of contact between true existence (the spiritual world) and lack of existence (the physical world). From this point on, the term Heaven and the term *makom* (place) became overlapping. (Notably, at a house of mourning, Ashkenazim bless that the *Makom* shall bring comfort, and Sephardim bless that comfort shall come from the Heaven.)

The descendants of Avraham, Yitzchak, and Yaakov pray every day that we should merit to gain from the connection between the spiritual and physical worlds, in the place where Avraham bound Yitzchak. This is stressed by the *pasuk* that identifies the place of the *Mikdash* as Mt. Moriah (Divrei Hayamim II, 3:1).

#### Hemdat Yamim is dedicated to the memory of Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah:

Rav Shlomo Merzel z"l Iyar 10, 5771	Rav Yisrael Rozen z"l Cheshvan 13, 5778	Mr. Moshe Wasserzug z"l Tishrei 20, 5781	Rav Reuven & Chaya Leah Aberman z"l Tishrei 9, 5776 / Tishrei 20, 5782	Prof. Yisrael Aharoni z"l Kislev 14, 5773
R' Yaakov ben Abraham & Aisha and Chana bat Yaish & Simcha Sebbag z"l	R' Yitzchak Zev & Naomi Tarshansky z"l Adar 28, 5781/ Adar II 14, 5784	Mr. Shmuel & Rivka Brandman z"l Tevet 16 5783/ Iyar 8, 5781	R' Meir ben Yechezkel Shraga Brachfeld z"l & Mrs. Sara Brachfeld z"l Tevet 16, 5780	
Rabbi Dr. Jerry Hochbaum z"l Adar II 17, 5782	Rav Asher & Susan Wasserteil z"l Kislev 9 / Elul 5780	R' Abraham & Gitta Klein z"l Iyar 18 / Av 4	R' Benzion Grossman z"l Tamuz 23, 5777	
R' Eliyahu Carmel z"l Rav Carmel's father Iyar 8, 5776	Mr. Shmuel & Esther Shemesh z"l Sivan 17 / Av 20	Mrs. Leah Meyer z"l Nisan 27, 5782	Mrs. Julia Koschitzky z"l Adar II 18, 5782	Rav Moshe Zvi (Milton) Polin z"l Tammuz 19, 5778
Mr. Zelig & Mrs. Sara Wengrowsky z"l Tevet 25 5782 / Tamuz 10 5774	Harav Moshe Ehrenreich zt"l Nissan 1, 5785	Nina Moinester, z"l, Nechama Osna bat Yitzhak Aharon & Doba z"l Av 30, 5781		

Hemdat Yamim is endowed by Les z"l & Ethel Sutker of Chicago, Illinois,  
in loving memory of Max and Mary Sutker & Louis and Lillian Klein z"l

Those who fell in wars for our homeland. May Hashem avenge their blood!



**Eretz Hemdah**  
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich  
2 Bruria St. corner of Rav Chiya St.  
POB 8178 Jerusalem 91080  
Tel: 972-2-5371485 Fax: 972-2-5379626.  
amutah number: 580120780

**American Friends  
of Eretz Hemdah Institutions**  
c/o Olympian, 8 South Michigan Ave.,  
Ste. 605, Chicago, IL 60603, USA  
Our Taxpayer ID #: 36-4265359

[www.erezhemdah.org](http://www.erezhemdah.org) [info@erezhemdah.org](mailto:info@erezhemdah.org)  
Donations are tax deductible according to section 46 of the Israeli tax code

# Ask the Rabbi

by Rav Daniel Mann

## Ice Cream on Hot Cake on Shabbat

**Question:** For Shabbat dessert, my hosts served very hot cake on a plate next to a scoop of *pareve* ice cream. Was it permitted for me to put the ice cream on top of the cake or is that *bishul* (cooking)?

**Answer:** We will start by analyzing the issue you raise – *bishul*. One is forbidden to put even already edible food near enough to a fire that it would cook if left there, despite his intention to remove it before that point (Shulchan Aruch and Rama, Orach Chayim 318:14). It is difficult to confidently assume that a given *pareve* ice cream is halachically already cooked.

Is the cake (if it is *yad soledet bo* => 45° C) a problematic heat source? Usually, the cake is removed from its heat source and put onto a plate, which makes it a *kli sheini*, where the **rule** is that *bishul* does not occur (Shabbat 40b). However, the cake is a solid food (*davar gush*), which **might** “cook” other foods even in a *kli sheini* (Mishna Berura 318:65) and it is also hard to know which foods are exceptional foods that can be cooked in a *kli sheini* (see *ibid.* 39). Therefore, we must find other grounds for leniency.

*Bishul* for solid foods is contingent on significant change (*ma'achal ben drusa'i*), which is unfathomable in this case. For liquids, it is forbidden to bring them to *yad soledet bo* (Shulchan Aruch *ibid.*). Is ice cream that will melt solid or liquid? The Magen Avraham (318:40) and Taz (318:20) debate the status of congealed food which the heat will melt regarding reheating cooked food, which is forbidden for liquids, and the simple ruling is lenient (Mishna Berura 318:100). Besides the fact that some are *machmir* (see sources in Piskei Teshuvot 318:32), it is not obvious that it is correct to follow only the starting state regarding uncooked foods (beyond our scope; see Mishna Acharona 318:149.) In any case, the cake is probably not hot enough to get significant amounts of ice cream to *yad soledet bo*.

There is an issue you did not raise, known as *molad*, i.e., causing the change from solid to liquid. It is forbidden to smash ice to turn it into water (Shabbat 51b). While many understand that it is a problem only when it is accomplished by a direct action (see variations in Rashi *ad loc.* and Rambam, Shabbat 21:13), the Sefer Hateruma (335) views it as more result oriented and forbids putting the solid near a fire to melt. The Shulchan Aruch does not cite the Sefer Hateruma's stringency; the Rama (OC 318:16) cites both opinions and accepts leniency when there is need.

While some understand the Sefer Hateruma as treating the melted matter as objective *muktzeh*, it is more likely (see Shut Panim Meiroi I:84) that the prohibition relates to a problematic semi-direct act of changing the phase (see Orchos Shabbat, vol. I, pp. 203-5). Therefore, it is not surprising that the context of the melting process can make a difference even according to the stringent opinion. After this introduction, we will see reasons for leniency by which even the *machmirim* regarding *molad* can allow putting ice cream on warm cake.

According to most, the problem of *molad* relates to putting something near a recognized heat source and not, for example, a warm room (see Orchos Shabbat 4:44, Shevet Halevi VII:40). If the cake is warm rather than really hot, it may not pass muster. A corollary of this idea is that intention in putting it in a place where it will melt will help determine whether it is an “act” of melting (see Mishna Acharona 318:153). In our case, most people prefer ice cream frozen and only would put it on the cake to more easily combine the tastes. Also, Shemirat Shabbat K'hilchata (10:(24)) posits that *molad* does not apply to ice cream because its function does not change whether it is frozen or melted. Finally, *molad* is forbidden only with significant amounts of melting (Mishna Berura 318:105), and one who eats the ice cream quickly may do so without reaching that amount.

In summary, in most cases, it is permitted to put the ice cream on the hot piece of cake. (Our presentation shows that certain permutations are more likely to be problematic than others.)

### “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@eretzhemdah.org](mailto:info@eretzhemdah.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.**

► [SEND NOW!](#)



# Igrot HaRe'aya - Letters of Rav Kook

## Informing a Friend he Is Not Insulted – #320

**Date and Place:** 5 Menachem Av 5670 (1910), Rechovot (probably)

**Recipient and Background:** Rav Yaakov Moshe Charlop, prominent rabbi in Yerushalayim, later to be a close disciple of Rav Kook. This letter, which was a response to an open letter by Rav Charlop, was published in the newspaper, "*Hacheirut*."

**Body:** I received today your open letter, and I am very sorry about your dear soul's pain, for thinking I would harbor resentment towards you, Heaven forbid. I know that all your actions, distinguished Torah scholar, are for Heaven's sake. So, how can I resent you, even if you did something against me. Especially, we should consider that the matter relates to strengthening the Rabbinical Court of Yerushalayim, which is very important. If I could, I would be one of the first to protest against those who stood up to denigrate the members of the court. What is the connection between differences of opinion on Halacha and denigration? It causes me great pain that the matter left its proper arena.

Regarding me, I am, thank G-d, happy with any matter of insult, even from those who intend to anger me, especially since this "heavy" ruling (of leniency on *Shemitta*) is like a fast for a bad dream on Shabbat and other cases where even the correct ruling includes element of sin, which need atonement. Although the *mitzva* is far greater, in my opinion, than the sin that is involved (uprooting *Shemitta*, relying on leniency), there is still an element of sin requiring atonement. May it be His will that this emotional distress will atone, and the strength of the *mitzva* to expand the Jewish settlement of the Holy Land, at this auspicious time of the blossoming of the prospect of salvation for Hashem's nation, will give its light and sanctity. Hashem is in the midst of protecting his whole holy nation with His strength, blessing everything they do on holy soil, as He speedily raises the hope of salvation.

Generally, I ask my respected dear friend not to cause himself any emotional pain and certainly no damage, by publicizing our emotional bond and trustworthy love, when I, unfortunately have many opponents. "Your love is better than wine" (Shir Hashirim 1:2) – but speech is bad for wine (Kritot 6a). May the Rock of Israel speedily reveal the light of His redemption and joy of His sanctity. May we all be comforted with Yerushalayim, as Hashem speaks in peace to His nation and His pious people.

## Discussing Hebrew Word with Ben Yehuda – #324

**Date and Place:** 16 Menachem Av 5670 (1910), Rechovot

**Recipient and Background:** Eliezer Ben Yehuda, the famous philologist, generally considered the father of Modern Hebrew. As Ben Yehuda tried to base Modern Hebrew on biblical and rabbinic Hebrew over Jewish history, Rav Kook was one of the scholars from whom he sought insight.

**Summary:** Ben Yehuda asked Rav Kook for the source of "*hechsher*" meaning rabbinic certification of *kashrut*. (In Talmudic contexts, it refers to a liquid preparing food to become impure or generally facilitating halachically significant matters).

"*Ktav hechsher*" is used for certification in the Chayei Adam (127:3) and Shaarei Teshuva. "*Ktav*" alone is found in the Responsa of Mahari Anzel, Torat Chesed (Lublin), Pri Etz Hadar, and Rav Shlomo Kluger and rabbis of his generation. It is also found regarding the suitability of *etrogim*. (Rav Kook could not guarantee where exactly in each work it was found, as he did not have access to all of the works.) It is also found regarding *ribbit* (usury) in many Sephardic works, including the Mabit, Kneset Hagedola, Birkei Yosef, and Maharashdam.

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

Itamar Chaim ben Tzipora

Nir Rephael ben Rachel Bracha

Arye Yitzchak ben Geula Miriam

Tal Shaul ben Yaffa

Ori Leah bat Chaya Temima

Neta bat Malka

Meira bat Esther

Together with all *cholei* Yisrael

# P'ninat Mishpat

## Amounts and Conditions of Payment to an Architect – part I

(based on ruling 83061 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl), an architect, did work on two projects for the defendant (=def). Regarding each, they dispute the amount due and/or the payment's timing. In the first project, def paid pl 18,000 NIS, per the contract. Two clauses dealt with possible future work. For one, pay is an additional 18,000 NIS; for the other, pl gets 250 NIS per hour. Toward the end of the first project, def asked pl to present updated plans, which he did. Pl says he is to receive 18,000 NIS; def says that he told pl he would receive the hourly rate and brought a witness to that effect.

**Ruling:** The first topic to decide is whether pl's witness, a building inspector, is a valid witness, considering that he had worked for pl at the time. Although he no longer works for pl, def is concerned he might plan to work for him in the future. The Ri Migash (Shut 162) rules that a worker is considered like a friend or an enemy of the employer, which does not disqualify him from testifying (he may not be a dayan). However, the Radbaz (Shut I:312) warns that the dayan should investigate whether the worker might benefit from testifying for his employer's gain (see Rambam, Eidut 16:4). In this case, the witness no longer works for pl and denies having positive or negative feelings about him. *Beit din* was impressed by his testimony's candor and therefore accepted his testimony.

On the other hand, he is only one witness, who says that def stated he expected to pay by the hour and that pl agreed. The rule is that one witness is impactful only in regard to court-administered oaths. When a witness testifies that a debt that is found in a contract was already paid, the one who wants to extract money needs to swear, based on a Rabbinical law, that he has not received that payment (Ketubot 87a). While the witness claimed that the extra work fit the description of that which should be paid on an hourly basis per the contract, *beit din's* expert disagreed, saying that it was equivalent to a new set of plans, for which the contract calls for 18,000 NIS (although the amount of work was less than for the first round).

Thus, the claim the witness supports is that pl waived his rights to full payment (*mechila*). Not every claim of a witness requires an oath to counter, as the Rambam says (see Shulchan Aruch, Choshen Mishpat 84:5) that if he testifies that a debt was paid early, the holder of the debt contract receives payment without an oath. The Ktzot Hachoshen (84:4) explains that since the oath for one who is collecting with a contract is an exceptional rabbinic rule, it was not instituted regarding all claims. The claim of *mechila* is weaker than that of payment, and there is a *machloket* (in a similar case) whether it can trigger an oath (see two opinions in Shulchan Aruch, CM 82:10), and the stronger opinion is that it does not. The Nachal Yitzchak applies it to a case like ours, although the Sha'ar Mishpat (84:7) disagrees. Our case of *mechila* is also better than usual because it is *mechila* which if done, occurred **before** the obligation began.

*We will present application of the above halachic basis in the next installment.*

Comments or questions regarding articles can be sent to:

[info@erezhemdah.org](mailto:info@erezhemdah.org)

**Eretz Hemdah** is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.