



# HEMDAT YAMIM חֶמְדַּת יָמִים

## Parashat Hashavua

Nitzavim, Elul 27, 5785

Harav Shaul Israeli zt"l  
Founder and President

### Nitzavim in the Parasha and by Yam Suf

Harav Yosef Carmel

We have discussed several times that the word *nitzavim* not only means standing but is used in the context of a revelation or dwelling in the Divine Presence.

Right before Bnei Yisrael left Egypt and before the splitting of *Yam Suf*, Moshe exclaimed; "Do not fear; *hityatzvu* (command of *nitzavim*) and see the salvation of Hashem that He will do for you today" (Shemot 14:13). Our *parasha* (Devarim 29:9) uses the term to describe how all were standing before Hashem.

Before David, the first king who tried to establish an independent kingdom in the Promised Land, was chosen, Shmuel, who was equal to Moshe and Aharon, also used the term, twice: "Now, *hityatzvu* ... also now *hityatzvu* and see the great thing that Hashem is doing today before your eyes" (Shmuel I, 12:7-16).

Before the splitting of the sea there were four groups with very different plans: 1) To enter the sea; 2) To return to Egypt; 3) To fight the Egyptians; 4) To scream as the Egyptians would approach (Yerushalmi, Ta'anit 2:5). It seemed like there would be no way to reconcile their differences. Yet, the *midrash* (Mechoila D'Rashbi Shemot 14:13) says that Moshe spent time trying to appease the masses of each group. The result was "*Vayitatzvu*," which the *Pesikta* translates as they got closer to each other – all this, with Moshe's guidance.

The *pasuk* indicates that the people at *Yam Suf* wanted a solution "today," i.e., immediately. The *midrash* explains how Moshe's wisdom enabled him to appease the whole population. It cites the *pasuk* of "*Hityatzvu and see*" ("*hityatzvu and see the salvation of Hashem that He will do for you today*") to show that the Divine Presence accompanied Moshe, as it compares the *pasuk* to the *pasuk* in Shmuel (I, 3:10), "Hashem came and was *mityatzev* and called." This, says the *midrash*, teaches that Hashem opened the people's eyes so that they saw Hashem's many angels. They felt that there were more on their side than on the other (compare to Melachim II, 6:16). They were also relieved by the fact that it said that the salvation would come that day.

The year before the war was one that will be remembered for harsh national arguments with unnecessarily biting rhetoric. Extreme factions drew the public into an atmosphere of baseless hatred. Simchat Torah is, in some ways, the first day of the year (among other days). On Simchat Torah of 5784, *Am Yisrael* was hit with a horrendous blow, which took a serious toll of blood and anguish from those who have lost loved ones, have been injured, or are or have relatives in cruel captivity. Despite this, the gains that we have made regarding national unity, while under pressure, still have been crucial. The miracles that Hashem has shown us in many arenas of difficult fighting, should and hopefully will remain in our consciousness for many years.

We must remember to be *mityatzeiv* – on the level of unity and understanding people who think very differently than us, and to join in practical service for the security of the nation. May these accomplishments help bring the "salvation of Hashem," which we need so dearly and "*hayom*," as quickly as possible. This is what we can think when the Torah reading begins: "You are *nitzavim* today, all of you."

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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

## Shehecheyanu on a New Shofar for Rosh Hashana

**Question:** I hope to buy a new shofar for Rosh Hashana. Can I make *Shehecheyanu* on it? If so, as the *ba'al tokeiah*, can that count for the *Shehecheyanu* of blowing the shofar on the second day of Rosh Hashana? Is this affected by whether I use it on the first day or to practice before Rosh Hashana?

**Answer:** Among the times we recite *Shehecheyanu* are for performing a *mitzva* that comes up cyclically (including shofar) and for acquiring a significant object that makes one happy (Shulchan Aruch, Orach Chayim 223:4; Mishna Berura 223:13). It is a *machloket* whether to make *Shehecheyanu* on an object whose importance is only because of the *mitzva*, as *mitzvot* are not considered to have worldly benefit (ibid.). The Shulchan Aruch (OC 22:1) says that one makes *Shehecheyanu* on the garment of *tzitzit* because it is clothes with importance, but not on *tefillin*. One can ask whether we look at a shofar as a musical instrument, which is important to a buyer like you (albeit because of the *mitzva*), like *tzitzit*, or whether we view it only as an article of *mitzva*, like *tefillin*, in which case there is a *machloket* and one would refrain out of doubt. Another factor is that many (see Piskei Teshuvot 223:6), especially Sephardim (see Yalkut Yosef, OC 223:3), have the *minhag* not to make *Shehecheyanu* on objects other than fruit and clothes. In cases of *safek*, *poskim* often recommend reciting *Shehecheyanu* by connecting first use of the object in question to *Shehecheyanu* on something that definitely requires it (Be'ur Halacha 22:1). This likely applies to *shofar*, and for you, when blowing on the first day could be a great time (see below).

Regarding reciting *Shehecheyanu* specifically on the second day, the situation differs for Ashkenazim and Sephardim. Sephardim do not recite *Shehecheyanu* on the second day if it was recited on the first (Shulchan Aruch, OC 600:3), and there is no *minhag* to "create" a need for it.

Ashkenazim always recite *Shehecheyanu* on the second day's blowing (Rama ad loc.) even without help from a new object. However, some *Acharonim* (see Mishna Berura 600:7) express a preference for the *ba'al tokeiah* to wear new clothing on the second day to strengthen the *beracha's* justification, like is done at *Kiddush*. If you were not going to be *machmir*, the good chance that the new shofar warrants *Shehecheyanu* only helps. However, if you use the shofar instead of the new clothes you would have worn, then there is a chance you are weakening the case for *Shehecheyanu*. However, concern for that is somewhat extreme, considering the Rama's ruling and the good chance that your excitement over a new shofar (specifically if you do not often buy new ones) warrants *Shehecheyanu*.

The final question is your point about the shofar being used before. The Rama regarding *Shehecheyanu* on a *tallit* (22:1) says that if it is not recited when attaching the *tzitzit*, it should be recited during the first wearing. While some *Acharonim* claim that it does not have to be the first wearing (see Be'ur Halacha ad loc.), contemporary *poskim* generally agree that one can make *Shehecheyanu* on a new garment as long as he has not removed it, but he cannot do so for a second wearing (see Mishneh Halachot VI:42; V'zot Haberacha p. 167). By extension, if you use it on the first day, it is no longer new enough for *Shehecheyanu* on the second day. (One could also ask about the propriety of using it on the first day, when *Shehecheyanu* is said due to the *mitzva*, and having in mind that it should not also go on the shofar.) If you will not use the new shofar on the first day but use it for practice during Elul, it is logical to distinguish between the type of practice usage. Just practicing at home a few times to check the alignment of the shofar and the lips is like trying on a garment for size or alterations, which does not preclude *Shehecheyanu* for the first real wearing (V'zot Haberacha ibid.). However, using the shofar in *shul* at the end of *Shacharit* or for extensive practice, should preclude *Shehecheyanu* thereafter.

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**Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.**

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# Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

## Fortunate is the King Who Is Thus Praised in His House

Based on Aroch Siach, Yamim Noraim p. 87

[This drasha was from the first Rosh Hashana of the State of Israel]

The *gemara* says: "When Israel would enter *shuls* and study halls and respond 'Let His great name be blessed,' Hashem would nod his head and say: 'Fortunate is the King who is thus praised in His house. Why would the Father want to exile His sons? Woe to the sons who were exiled from their Father's table'" (Berachot 3a).

During the 2,000 years of exile, when we would gather during Rosh Hashana to coronate the King of the World with prayer and the blowing of the *shofar*, Hashem would nod His head.

Yes, we were scattered among the nations, disgraced and scorned, and dependent on their mercy and whims. In fact, when we gathered in *shuls* with the fear of the kingdoms upon us, although we should have blown the *shofar* in *Shacharit*, we did so in *Musaf* because of this fear. What point was there to coronate the King when we ourselves were slaves to slaves, who could not fend for ourselves? "Why would the Father want to exile His sons?" When we would say in the prayers, "About the nations it will be said [regarding their judgment]...", the intention was for all of the nations of the world except the nation of the King of kings. What type of a coronation was this?

Now we have been blessed to return to "the house of the King." We have been blessed to be free of the status of slaves to slaves. When we say in Rosh Hashana prayers, the King, it has much more meaning. Now when we say we are coronating Hashem, it can mean by establishing a kingdom [of our own] where divine judgment is employed. We could have a kingdom that would be an example to the world with its laws and court system. It could be a kingdom in which all who see it would be forced to admit, "What a wise and great nation! How lofty is the divine strength that caused this kingdom to rise!"

To a certain extent we can now fulfill the idea of "Fortunate is the King who is thus praised in His house." This was definitely the intention of the Divine Providence whose mercy brought us to this point. The blowing of the *shofar* now has a new meaning.

However, at these holy moments, a feeling arises in the heart – how great this moment could be if only the Satan had not intervened and strove to wedge a barrier between us and our Father in the Heavens. This is the Satan that has confused the hearts of so many of our dear Jewish brothers, who are not gathering in *shuls*, whose eyes have not yet been opened, and whose ears are still sealed from hearing and seeing the Hand of Hashem and His strong voice. It is so hurtful to feel that the Kingdom of Israel that is being established is still not the kingdom of Hashem – the laws of Hashem and His teachings are still not the laws of our state.

Our prayer and request of the G-d of the Heaven is to "tear the Satan." Tear him and confuse him as he dances in a manner that creates stupidity and silliness. Tear the Satan that causes fraternal strife. Tear the Satan of jealousy and lack of generosity of the spirit. Tear the Satan of love of bribery and money.

"Fill our eyes with light" – may the light of the Torah penetrate the darkened hearts. May it bring light to tens of thousands of members of Your Nation of Israel, who were caught without knowledge of Your Great Name.

May the blowing of the *shofar* arouse You to blow Your great *shofar*, which will beckon those who are lost and the scattered Jews who have forgotten who they are and who You are.

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

Itamar Chaim ben Tzipora

Nir Raphael ben Rachel Bracha  
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam  
Neta bat Malka

Tal Shaul ben Yaffa  
Meira bat Esther

Together with all *cholei* Yisrael

# P'ninat Mishpat

## Return of Down Payment Due to War – part III

(based on ruling 84044 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiffs (=p/) ordered catering services by the defendant (=def) for their son's *Shabbat Sheva Berachot* (=SSB). The wedding was to take place on Oct. 9, 2023. A party planner (=pp) found def and interacted between def and p/, but p/ paid def directly a down payment of 7,537 NIS. Due to the war, the wedding was delayed. P/ cancelled def's order and demanded that the down payment be returned. Def agreed to give a credit of 7,500 NIS, but only if p/ would hire him for an event of at least 23,000 NIS. Due to safety considerations, SSB was moved to Jerusalem, to a hotel that did not allow outside catering. Def claimed that the down payment covers supplies that he already bought and prepared and that p/ had him give the food to soldiers, according to p/'s instructions. P/ responded that they said that def could give them the prepared food and p/ would give it to soldiers. A clause in the contract called for a return of the down payment in case the event had to be cancelled because of Corona or war, but def says that this is when war makes it impossible to have it, whereas here events could be held with up to 50 people.

**Ruling:** If it were plausible to read the contract as not allowing for refund in this case, then we would employ the rule that "one who needs the contract has the lower hand" (Shulchan Aruch, Choshen Mishpat 54:5) to say that since p/ is trying to use the clause to extract money from def, they cannot do so. However, in this case, it is implausible. The contract states that the minimum number of people at the Shabbat is 80, and the event was described as an SSB. Since more than 50 people could not gather and since the wedding was postponed, the event as ordered is impossible. Therefore, p/ have a contractual right to a refund.

While p/ agreed to settle for a credit rather than a return of money, there is no indication that p/ agreed to the strict conditions def imposed on the refund. Since the two have not agreed on an event that is acceptable to both, that proposal does not erase the right to the refund.

It is still a question whether def can take off for expenses he incurred in providing for p/'s event. If def is seen as working for p/, then he deserves to be paid for the expenses he incurred on p/'s behalf (Rama, CM 91:3). If, though, def was in effect selling food and services, then the expenses he incurred were his own, and this seems the stronger way of viewing the matter. Also, def was asked to provide receipts and detailed claims over what he spent the claimed money on, and what he produced was very unconvincing. Also, p/ cancelled a week before the SSB, and although def claimed he cooked a tremendous amount in advance and froze it, this is strange for a high-level caterer to do for a small event. Finally, the videos of def's feeding the soldiers show him barbecuing on the spot, i.e, it wasn't cooked previously. Therefore, the great majority of def's defenses were rejected and he had to return almost all of the down payment.

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