



# HEMDAT YAMIM

המדת ימים

## Parashat Hashavua Vayishlach, Kislev 16, 5786

Harav Shaul Israeli zt"l  
Founder and President

### “Kings Will Descend from You”

Harav Yosef Carmel

With the birth of Binyamin, the “construction” of Yaakov’s unblemished family was complete. It then became critical that the family/nation maintain unity.

I will share an important story about unity that involves distinguished Torah scholars from several generations ago. The story is connected to the *pasuk* from the *parasha* that is this piece’s title.

Two brilliant Torah scholars lived in Lublin more than 200 years ago. They came from different schools of thought, and their followers consistently felt tension between them. The older of the two was the “Chozeh of Lublin” (Rav Yaakov Horowitz, 1745-1815), a student of Rav Elimelech of Lizhensk and a prominent Chassidic leader. He received his nickname because of his followers’ claim that he could see from one end of the world to the other and/or into people’s thoughts. The other, Rabbi Azriel Horowitz (b. 1757) followed the approach of the Vilna Gaon, and was the rabbi of the official community of Lublin (the Chassidim formed a separate community). He was nicknamed the “Iron Head” because of his brilliance.

Rabbi Avraham Levi, the rabbi of a neighboring town, would *daven vatikin* (early, preferable time for *Shacharit*) in his town and then travel to Lublin to be a study partner of the Iron Head, returning to his town before sunset. One Friday, heavy snow prevented his return for Shabbat. He was adamant about *davening vatikin* on Shabbat, but a towns person told him that the only such *minyana* was at the rival Chozeh’s *shul*; it would be “inappropriate” for a non-Chassid to *daven* there. Rav Levi went anyway, and when he entered, the Chozeh told his *gabbai* to give him the sixth *aliya*, which Chassidim reserve for their Rebbe. In response to the *gabbai*’s protest, the Chozeh explained that the fifth *aliya* ends with “kings will descend from you” (Bereishit 35:11) and that the *gabbai* would see those “kings.” Years later, the Chozeh’s *gabbai* moved to *Eretz Yisrael*.

All of Rabbi Avraham’s five sons served in the rabbinate in the Lublin region. Something happened in the family that prompted three of them to move to *Eretz Yisrael* and strengthen its Jewish community, especially in Yerushalayim. The community was very happy about their arrival, and the Chozeh’s *gabbai* understood that these were the kings the Chozeh had seen coming from Rabbi Avraham (great rabbis are compared to kings – Gittin 62a).

The oldest of the Levi sons, Rabbi Yaakov, was a head of the city’s rabbinical court, founded the Kollel Polin, and was one of the founders and leaders of Meah Shearim. (Chief Rabbi Avraham Shapira was a descendant of his, as am I). Rabbi Asher Levi replaced him on the rabbinical court after his death. Rabbi Nachum Levi is the antecedent of the distinguished Baharan family.

The lesson of this story is that when warm connections arise between people of different approaches and philosophies, good things can happen. The *aliya* of these three brothers turned them into “kings,” as men who built the Land spiritually and physically. The Chozeh’s *beracha*, along with the merits of the *Mitnaged* study partner of the Iron Head, brought together by a joint *tefilla*, brought benefit to all of *Am Yisrael*.

Let us pray for peace between us. May we all pull together in national responsibility with sensitivity for the needs of each element of society.

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

by Rav Daniel Mann

## Transporting Children before or after *Shacharit*?

**Question:** I need to take our kids to daycare in the morning. I can do it either before *davening* or after a pre-*netz minyan*. Which is better?

**Answer:** Personal concerns can significantly affect the best choice for you. These include the impact on your wife's morning, your sleep needs, and the subjective quality of your *tefilla*. Since you do not raise these issues, we will focus on the generic halachic issues, starting with the issue of *davening* before *netz* (sunrise).

The optimal time to *daven Shacharit* is "as *vatikin*" – starting *Shemoneh Esrei* as the sun rises (Shulchan Aruch, Orach Chayim 89:1). One can fulfill the *mitzva* as early as *alot hashachar* (72 minutes or more before sunrise), but this is on the level of *b'di'eved* and is recommended only for those in extenuating circumstances, e.g., they must be on the road at the optimal time (ibid. 8). Soon after *alot hashachar*, there is also a problem that it is, under normal circumstance, too early to recite *Kri'at Shema* and its *berachot* (ibid. 58:1,3), which is to precede *Shemoneh Esrei*. The starting time for *Kri'at Shema* is called *misheyakir*, some 50 minutes before *netz* (with variations due to various opinions and geographical adjustments). What is less clear (see Igrot Moshe, OC IV, 6; Minchat Yitzchak IX, 10) is whether *davening* at any time before *netz* is only *b'di'eved* (see Yalkut Yosef, OC 89:14) or is after *misheyakir fine*, and it is just less preferable than *vatikin* (Shut Pri Yitzchak I, 2). "Fine" can come in different gradations (see *Ishei Yisrael* 13:2).

The next question is whether and/or to what degree it is objectionable to get involved in an activity like taking children to daycare before *Shacharit*. Among the things that are forbidden before *Shacharit* is "involvement in one's affairs" and traveling (Berachot 14a; Shulchan Aruch, OC 89:3). Arguably, taking children to daycare is both. However, there are possible leniencies.

Taking care of children, intrinsically, and as help to one's wife, is likely an involvement of *mitzva* (see Halichot Shlomo, Tefilla 2:5; Living the Halachic Process, VII, H-1), which is permitted before *davening* (see Mishna Berura 89:36). This may apply to taking to good daycare. Also, there are indications that short trips are not considered traveling (see Living the Halachic Process VI, A-1). On the other hand, while simple help in the house with children might not be involved enough to qualify as **involvement** in affairs, presumably taking children to daycare is usually a formal and serious enough chore to be considered involvement. The Rama OC 89:3 cites an opinion that if one recites *Birchot Hashachar* beforehand, it is permitted to do tasks and travel. While we avoid relying on this alone (ibid.), *poskim* factor in reciting *Birchot Hashachar* first regarding borderline cases of activity (see *Ishei Yisrael* 13:23-24). There is also a possibility that if one has a set time for a *minyan*, then fitting in tasks before that time is permitted (Halichot Shlomo, Tefilla 2:(8)).

Putting our findings into perspective, neither *davening* between *misheyakir* and *netz* nor taking kids to daycare before *davening* is ideal, nor highly objectionable. It is often difficult to find sources and decide between two *b'di'eved* situations. (That said, if one must do real work early, he should first *daven* even before *netz* (Tefilla K'hilchata 3:(63)).) It is logical to consider subjective factors to help decide, and you can change schedules from day to day according to need. It may be worthwhile to consider how likely you are to come late to *minyan* if you take the kids first, or have to leave a little early if you take them later.

After weighing the factors, we suggest the following. If your community is like many, where main *minyanim* are in the pre-*netz* time slot (but *Shemoneh Esrei* is after *misheyakir*), at least during much of the year, and you sometimes attend such a *minyan* for convenience, it seems better to start the day by *davening* first with a clear mind. If you have set as a priority not to *daven* before *netz*, then take the kids first.

### "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](mailto: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.**

▶ SEND NOW!



# Moreshet Shaul

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

## What Connects Us as a Nation – part II

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 704

[These ideas are from a letter of greeting to the author of a book. Last time, we saw about the Zionist movement's reliance on Jewish nationalism and the dangers that arise when this is not values based.]

We can clearly conclude that the feeling of nationalism did invigorate the youth of the Zionist movement, in its earlier days, motivating them to come to the Land, settle it, build, and reach [the achievements that have been accomplished]. However, this nationalism is not as strong in our present times. The Knesset (Israeli parliament) is not the same assembly of Israel that it once was. It includes non-Jews who live in the Land, which is natural according to the accepted rules of states. However, is this going to be the "face of the State"? Doesn't this weaken Jewish nationalism, and that which makes the nation unique and bound up in destiny?

The author strengthens our belief in the eternity of Israel. Our becoming a nation was not like the process of other nations, whose image was formed by its land, which developed its national characteristics. Indeed, the concept of democracy requires investigation, as efforts are required to preserve our recognition of uniqueness. Rav Shimshon Raphael Hirsch stressed the point that distinguishes between the emergence of Israel and that of other nations.

However, this is the end of the comparison. The need for the existence of an independent nation does not fit with this outlook. Rav Hirsch writes that in practice, the purpose of the nation is more profound in the Diaspora than in its own Land. We find some statements of this type in our days as well. In contrast, our author maintains the approach that the nation's social and political structure must be subservient to the laws of the Torah, which is impossible in any place other than our own land and state.

The author also analyzes those who look at nationalism from the perspective of secular nationalism. [A famous example] is Ben Gurion, who identified that which is unique in the Jewish People as contained in the prophets' focus on moral behavior. The author stresses the fact that these people do not find these prophecies to be binding on them, [as they generally do not view the Torah as obligating them to act according to it]. These people are apt to ask themselves – why do we need a state and all of its problems, as well as the very need to guard the essence of these moral imperatives?

The connection to the Land, even when it exists, morphs into an outlook that nullifies the significance of a connection to the Jews of the world. It also encourages a feeling of connection and closeness with those who live in the Land, irrespective of their background and nationality. This can create a new nation that resembles the nations that were "conceived and born" from the conditions that existed in the place they found themselves.

The outlook that is connected to historical development proves the correctness of the Torah philosophy. It strengthens the mutual connections, the feeling of obligation to the past, and the possibility and even the emotional strength to plan the future according to the framework of the past. It is based on the recognition that it is critical to connect the individual to the welfare of the broader national community and, indeed, the interests of the international community.

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

**Itamar Chaim ben Tzipora**

**Nir Rephael 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



## Late and Flawed Apartment

(based on ruling 82174 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiffs (=pl) bought an apartment “on paper” from the defendant (=def), a building company. Def handed over the apartment to pl seven months late, and the handover protocol listed many flaws, to some of which def signed, and to others it objected. Def fixed some of the flaws; some pl had fixed; some remained unfixed. The sides dispute whether certain issues are flaws that def is obligated to remedy, and *beit din* used the sides’ contract and an expert to appraise the situation. [These are too detailed to survey here.] Def claims that it is not bound by the handover protocol, as many items it ostensibly agreed to fix were voluntary, and pl should be grateful it fixed most of them, and def is not bound to the remaining ones that are unnecessary. Def also argues that when something needs to be fixed, def has the right to do it, and that the charges pl presented are too high. Pl also claim that the penalty for late handover was underpaid. By law, there is a formula to calculate from the apartment’s value as a rental. Pl claims that def’s appraisal was done before the date it should have, so that it did not include the relevant appreciation, and that the appraisal related to a less desirable apartment. So, while def’s estimate was 7,000 NIS a month, pl claim 12,500 NIS. Def responded that it was not responsible for much of the delay, which was impacted by the Covid pandemic, and that pl did not lose from the level of compensation, as it covered the rent pl paid.

**Ruling:** A handover protocol is an official document used as standard procedure and is also mentioned in the contract. It is thus binding. The fact that def recorded disagreement on certain items also shows that when it signed on others, it admitted that they had merit. Therefore, def is unable to take back its acceptance unless it proves that it made an understandable mistake about something it agreed to.

Def is correct, based on Halacha, common practice, and the sides’ contract, that it has the right to do the necessary repairs itself. However, when long enough went by without def accepting responsibility and fixing it, pl had a right to have some of the work done and deserves compensation. [The details of which flaws and how much compensation are beyond this presentation.]

Regarding the payment for delay, the complaint of inaccuracies (time, type of apartment) that pl complain about have basis, but the alternative amount that pl presented is also inaccurate and is based on the high range of the market. One of the appraisers pl brought is unacceptable because of her interest in the matter, and another lacks professional qualifications. *Beit din* concludes that the basis for the calculation should have been 9,000 NIS a month. The claim that def was not responsible for the delay is unproven, and in any case, the apartment was due before the pandemic began. If def really believed it was exempt, it would not have paid. Even if pl did not lose from the delay, this is irrelevant because the payment for late handover is not a damage payment but based on agreement between the sides, mandate of the law, and it is found in the contract.

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