



HaRav Shaul Israeli zt"l  
Founder and President

# HEMDAT YAMIM

## Parashat HaShavua

Masei, 2 Av 5776

### Quick Review, Long-Term Memories

Harav Shaul Yisraeli – based on Siach Shaul, p. 464-466

Our *parasha* not only ends *Sefer Bamidbar* but also summarizes it. Close to 40 years in the desert, which were crucial in setting the nature of *Am Yisrael* from then and on, pass before us as if by a blink of the eye. "They travelled and they encamped ..." over and over again. Hearing all the names of places read, the congregation is (almost) bored. In actuality, we are reviewing times that included highly important and prototypical events, from which we are to learn for generations. How appropriate are R. Tanchuma's words (cited in Rashi, Bamdibar 33:1), comparing it to one who took his son on a trip to a distant doctor to heal him. When they came back after a successful treatment, they reminisced about the different stages they were at in different locations. Memories! Some happy and hopeful, some sad and depressing. However, they all are enriching in their own way in building a set of experiences with an eye toward the future.

Moshe Rabbeinu stood on the threshold of the Promised Land at the end of the long trek. A lot had changed. A new generation had replaced the one that left Egypt, and they were ready to complete the historical process that the Exodus started. What would they learn from the past? Moshe reviewed with them, with mere hints, but it was enough.

The first *pasuk* on the matter: "They travelled from Pi Hachiroth, and they passed in the midst of the sea to the desert" (ibid. 8). It is written without details or apparent emotion. But it hints at such a wondrous event, which turned the world of nature on its head. Afterward, they move on to the desert, which our *haftara* describes so poignantly as a scary and dangerous place (Yirmiya 2:6). After the large step forward, events crop up from every angle in what looks like an artificial manner.

Hashem did not lead the nation by the coastal road, despite and actually because it was too close (Shemot 13:17). The voyage from Egypt to the Promised Land cannot appear close. It is not just a geographic move; it is a change in mindset. The Land of Canaan, which turns into the Land of Israel, must be a total contrast to the land and the culture of Egypt. The route has to change and instead of a straight line, they have to go through the sea to the desert.

In the desert, a new generation blossoms, one which is disconnected from the culture and abominations of Egypt. Through the ups and downs and steps forward and backward in the desert, the process of Exodus is completed. 42 segments of the journey all dedicated to finishing the Exodus and preparing to enter the Land.

While the Torah portion focuses on the above elements, the *haftara*, set for the Three Weeks, deals with the collapse of the nation, culminating in the exodus from Yerushalayim. The prophet painfully rebukes the people for forgetting that they had left Egypt for good: "What interest do you have in the way to Egypt and Assyria?" (based on Yirmiya 2:18).

May it be His will that these two important historical stations – leaving Egypt and leaving Yerushalayim – can serve for us as well as a roadmap to deal with the changing challenges that we experience in our time. *Chazak chazak v'nitchazeik!*

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by Rav Daniel Mann

## Altering a *Neder* Made at a Time of Need

**Question:** Your recent article about *hatarat nedarim* reminded me about my related question. I was recently in a dangerous situation involving an Arab mob. At the time, I decided that if we would make it through safely, I would stop situation X. [Ed. Note – we decided not to share with the public the specific matter.] *Baruch Hashem*, no one sustained worse than minor injury, and I am happy to show my thanks to Hashem. However, X contains three elements – A and B are harmless, positive, and important to me. It is C about which I have had misgivings for some time. Had I had more time to think clearly, I would have committed to refraining just from C, but under pressure, X in general came to mind. I am willing to live up to any obligation, but may I do *hatarat nedarim* or otherwise switch the *neder* to something more practical or just refrain from C?

**Answer:** We are glad you are well, *b'chasdei Hashem*. We praise your spiritual instincts under pressure and your attitude now, which are signs of a *yerei'at shamayim*. Although generally we frown upon making *nedarim*, an *eit tzara* (time of acute need) is likely different (see Tosafot, Chulin 2b).

The Rama (Yoreh Deah 228:45) rules that one may not do *hatarat nedarim* on an oath taken with the hope of extricating himself from an *eit tzara* (not all agree – see Shut Maharam Mintz 79). He accepts (see Shut HaRama 103) the explanation of Shut Binyamin Ze'ev (266) that it is based on the rule that one must not do *hatarat nedarim* on a *neder* he made to receive a favor from another person (Rama, *ibid.* 20, which is the main issue in our recent article (Korach 5776)). In other words, one cannot ask someone for a favor with a promise to “pay” by a *neder* commitment and then back out after getting what he wants, including or especially if the someone is Hashem. (One could have argued that, as opposed to one's friend, Hashem can always take back what He gave. Some indeed say that, irrespective of permitted/forbidden, it is dangerous to “play games” with Hashem by undoing such oaths – R. Yehuda Hachasid, quoted by Yam Shel Shlomo, Gittin 4:40 and others).

The Rama (*ibid.*) and others do permit *hatarat nedarim* on *nidrei eit tzara* when necessary to facilitate a *mitzva* or when there is great need. However, for most people, X does not qualify as either.

The major factor for leniency is that you apparently did not verbalize a *neder* but just thought about it. In most cases, *nedarim* are effective only when verbalized, with *tzedaka* being an exception according to many (Rama, YD 258:13). A strong majority of *poskim* say that thoughts do not create a *neder* obligation for other *mitzvot* (see Aruch Hashulchan, YD 258:39; Kol Nidrei 59:1). In your case, refraining from A and B is not a *mitzva*.

There is an opinion (Nishal David, YD 17) that a *neder* by thought takes effect during an *eit tzara*, based on a *pasuk* (Daniel 10:12) that Hashem already responds to a plea when it is in one's heart. However, the opinion that it is not halachically binding until verbalization (Yehuda Ya'aleh I:333, also based on *p'sukim*) is more convincing. Even according to the stringent opinion, the thought must be clear and final (Aruch Hashulchan, *ibid.*). Most discussions of *eit tzara* refer to drawn out situations, like illness. In contrast, you, while faced by a dangerous mob, thought fleetingly about X but, given a moment to gather your thoughts, would have specified C. Therefore, all should agree that thought alone is not binding regarding X.

While there is room to be lenient fully, it seems the proper Jewish thing is to keep what you really intended – eliminate C, which you believed is right and appropriate when asking mercy from Hashem. If A and B are positive parts of your life, keep them. *Hatarat nedarim* on them is worthwhile (the Rama, YD 228:45 says it works even when it should not be done; the Shach 228:108 argues). Adding tangible thanks to Hashem, like accepting (*bli neder*) a different, practical good thing or giving extra *tzedaka* (see Kol Nidrei 7:12), is also positive.

May your prayers always be answered.



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## Blessing for Those Who Know How to Appreciate the Future

(condensed from Ein Ayah, Shabbat 2:226)

**Gemara:** Due to the sin of not giving *terumot* and *ma'asrot* (tithes to *kohanim* and *levi'im*, respectively), the skies are prevented from giving rain and dew ... If they give, they are blessed, as the *pasuk* says: "Bring the *ma'aser* to the storehouse, and it shall be food in My house, and test Me in this ... if I will not open up the skylights of the heavens and pour out limitless blessing" (Malachi 3:10) – until your lips get worn out saying "enough."

**Ein Ayah:** A person's affection for a *mitzva* is affected by his understanding of its purpose, which increases with his knowledge of the depths of the Torah and the ways of Hashem. This can be lacking in the realm of general lack of connection to Torah or in a more localized manner that relates to a specific *mitzva*, making him lax in fulfilling it.

The general deterioration is more serious, as it represents a darkening of the divine light in the world. The specific lacking for a *mitzva* is less severe, but while it does not indicate a cursed status, it does not represent blessing. To fully appreciate a *mitzva*, the nation's spiritual status must be excellent, and the general populous must be able to recognize the positive impact of holy people. When the proper outlook is strong, life improves dramatically.

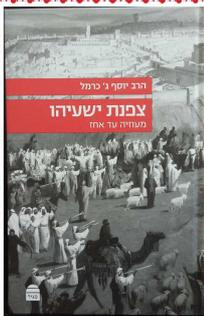
Before a dangerous deterioration of people not giving *ma'asrot*, first a lack of appreciation of the impact of holy people and of the covenant of *kehuna* may weaken their enthusiasm to give. Even if a person does not reach the level at which he denies *kohanim's* status, he might say that in his time it is not of value, as it will be obvious only in the Days to Come. So while he does not violate the laws, he looks for loopholes to obviate the need to give, a phenomenon the *gemara* bemoans (see Berachot 35b).

While this is not very destructive, as people follow the rules, it is far from a situation of blessing. Such a generation does not fully appreciate the true values of life and how the eternal spiritual needs (i.e., the place of *kohanim* and *levi'im*) transcend the situation in any specific era. The general level is a product of the cumulative service of many generations, which build "palaces" in the heaven and on earth based on embracing Torah and *mitzvot* in full vigor. It is not enough for people to comply with divine commands without sensing their greatness, the divine grace they contain, and their responsibility for the world's development.

With a limited outlook, man can never have full satisfaction or success. How can an external blessing be valuable if he does not see the purpose of life? When life is not firmly settled, true blessing cannot take hold in the world. Each generation must elevate itself to a broad outlook that sees how the power of life must be cumulative over generations, and, in that way, emulate Hashem, Who is from the outset and is also with those of later generations (see Yeshaya 41:4). Then, even if the *kohanim* are not making an obvious impact in the present generation, they are still crucial due to their assured crucial role in the Time to Come, based on the connection built in the past, present, and future.

When things are viewed correctly, life deserves internal blessing, which can find expression in physical things as well. Not violating the *mitzvot* of *ma'asrot* is not enough; one must make the effort to actually give with intention and love. The resulting blessing is wonderful. On one hand, it is in the physical world, while its foundation is general and internal. The blessing brings one to realize that life is intrinsically good even when it requires hard work.

Then man is ready for a blessing in which one continually says "enough." One can never have such satisfaction when his life is only focused on the present, as he will never be satisfied with what Hashem gave him. When received properly, the blessing fills one's spirit, so that enthusiasm breaks forth externally (lips) as well, as an expression of internal emotion.



### 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.

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# P'ninat Mishpat

## A Loan or a Gift? – part III

(ruling 74052 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** A few years ago, Shimon wanted to buy a home and asked his brother, Levi, for help. Levi gave 60,000 shekels and then later another 100,000. Levi has put Shimon on notice that he wants Shimon to repay him the 100,000 shekels, which was a loan, when he has the ability. Shimon asked *beit din* to make a declaratory ruling that the money had been a gift. This, he says, is evidenced by the fact that there was no loan contract and is in line with the many gifts Levi had given Shimon over the years. Something had just caused Levi to “change his tune.” Levi says that originally Shimon had asked him for a loan for the entire cost of the home, but that he had agreed only to a more modest gift plus a loan. Levi described a discussion before the loan in which he had said that he was unable to give the 100,000 as a gift. Shimon says that occurred well after the money was given, and that, in any case, Levi had previously pledged the money as a present, without which Shimon would not have bought the home.

**Ruling:** [We have seen different opinions in the poskim on whether the claim that money was given as a gift is believed without a migo, and that even relatives do not usually give large presents.]

It is likely that Levi expressed to Shimon, in a way that was not strong enough for Shimon to have allowed himself to internalize, that eventually he wanted the 100,000 shekels returned.

What would be if Levi wanted the money returned, which *beit din* is convinced was the case, but did not take the opportunity, for whatever reason, to tell Shimon explicitly? Generally, we have a rule that “matters one kept in his heart do not play a halachic role.” However, there are opinions, and the Rama (Choshen Mishpat 207:4) cites them, that the rule is said only regarding sales and the like, in which it is unfair for someone who is giving as well as receiving, to have conditions that he was not told about affect the transaction. In contrast, these opinions hold, if one giving a present had unspoken intentions, they are valid (see S’ma ad loc. 10). These opinions should also be factored in. There is also a general rule that it is not proper to benefit from someone else in a manner that is not fair and just, and this applies to receiving the favor of a loan and refusing to repay because a stipulation might not have been verbalized.

It is possible that the halacha should be that Shimon should swear that he received the money as a gift and be exempt from repaying. Nowadays, we do not make or allow litigants to swear, and a minority of the money is given instead of the oath. However, in deciding the portion of the money that is given instead of the oath, *beit din* may and should factor in, within the framework of a compromise that is close to the *din*, circumstantial evidence or their educated or instinctive belief on who is telling the truth. In this case, for a variety of reasons, *beit din* tends to believe Levi over Shimon, and this impacts the ruling. The members of *beit din* disagreed whether Shimon should be required to pay a significant minority or a majority of the 100,000 shekels.

*Next week, in our final installment, we will discuss what should be decided at this time, considering that no one claims that Shimon has the money to pay now.*

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