



# HEMDAT YAMIM

Parashat Hashavua

Bamidbar, 27 Iyar 5782

## Count on the Versatility of “Pakod”

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One of the names that is given to the fourth *sefer* of the Torah, which we start to read this week, is *Sefer Hapekudim*. In this context, the root refers to counting, as indeed the nation was counted at this time, in order to arrive at the number of men in each tribe and the number in the entire nation. Rashi adds another idea. Hashem had them counted as often as He did (upon leaving Egypt, when they inaugurated the *Mishkan*, when they prepared to enter the Land) to show His love for them.

There is an opposite use of *pakod*, where it means to note not who is there but who is missing. We find it in Bamidbar 31:49, regarding no one being missing at the end of the battle, and Shmuel I, 20:18. regarding David being missing from King Shaul's table.

The Ramban explains *pakod* differently. It is to remember and/or to give attention to some matter. This applies to Hashem being *poked* Sarah (Bereishit 21:1 - recalling that she needed a child and acting on it) and a *pikadon* (Vayikra 5:23 - an object that is given over to be guarded).

The term is used three times in the beginning of *Parashat Ki Tisa*, where the rules of counting Bnei Yisrael are taught (Shemot 30:12). The first time is in proximity to “when you raise the heads ...” which is to show the love involved in the count. The second time, the *pekida* refers to the count itself. The third time, it is to show the special Divine Providence to which Bnei Yisrael are entitled in this context.

There is a less pleasant side to Divine Providence. When Hashem is “more discerning,” then when we sin, there is also more accountability. This finds expression after the sin of the Golden Calf, as Hashem informed Bnei Yisrael that on the day of *pokdi* (My accounting), I will be *poked* on them (i.e., make them pay for) their sin (Shemot 32:34). Rashi (ad loc.) comments that whenever Hashem decides to punish the nation for their sins, there is a portion of it that is for the sin of the Golden Calf. On the one hand, because of Hashem's love for them, He did not destroy the nation for that sin. On the other hand, He does not forgive that sin, without making them accountable at the proper times and manners. Similarly, *pakod* is used in the thirteen attributes of Hashem concerning His acting on a person's sins for three or four generations of offspring (ibid. 34:7).

After Yaakov died and Yosef was about to die in Egypt, he told his brothers that Hashem would certainly be *poked* them, this time in a recollection that leads to liberation. Not only did *pakod* refer to liberation but it was also given as a code-word for the liberator to prove his authenticity (Midrash Hagadol to Shemot 3:16). The secret was kept by the elderly Serach daughter of Asher, as it was passed down by the previous generation.

Let us pray for a full redemption to get to the point that Hoshea speaks of in this week's *haftara*: Bnei Yisrael should be “as many as the granules of sand by the sea, which cannot be counted” (Hoshea 2:1).

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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

## Birkat Kohanim in a Shiva House

**Question:** I was surprised to find, in a *shiva minyan*, an *avel* who did *Birkat Kohanim*. I didn't know whether to tell him that I had never seen this before. Was it okay that he did so?

**Answer:** Generally, an *avel* is obligated in all the *mitzvot*, with a prominent exception being not wearing *tefillin* on the first day of *aveilut* because he is not fit to connect with the grandeur of *tefillin* (Berachot 11a). So, ostensibly there would have to be a good reason to deprive an *avel* who is a *kohen* from doing *Birkat Kohanim*, and there is no explicit source in *Chazal* that this is the case.

The Mordechai (Megilla 817), in discussing that a *kohen* who will not do *Birkat Kohanim* must not be in *shul* when the *kohanim* are called, which obligates him to go up, mentions an *avel* during the 12 months for his parents as one who does not *duchen*, according to the *minhag*. The Beit Yosef (Orach Chayim 128) wonders what the logic of the *minhag* could be, but he cites a *Shibolei Haleket* that there is a need for a *kohen* to be in a state of *simcha* in order to do *Birkat Kohanim*. This is also the logic behind the Ashkenazi *minhag* to do *Birkat Kohanim* only on Yom Tov (Rama, OC 128:44; see more on the topic in Living the Halachic Process III, A-17). There is even a related Ashkenazi *minhag* that single men do not *duchen* because they do not “dwell in happiness” (see *ibid.*) The Shulchan Aruch (*ad loc.*) does not accept either of these *minhagim* (Ashkenazim accept the former), but regarding *shiva*, he does instruct the *avel* to leave the place of *davening* before the *kohanim* are called (i.e., before they start *R'tzei* - Be'ur Halacha *ad loc.*).

The Shiyarei Knesset Hagedola compares the *avel* during *shiva* to the situation of all on Tisha B'av, where according to some (including *minhag Yerushalayim*) there is no *Birkat Kohanim* in *Shacharit*, because the first part of Tisha B'av is the antithesis of happiness (not all agree; see opinions in Eliya Rabba 559:13; R. Akiva Eiger to Magen Avraham 131:10). Some distinguish because on Tisha B'av the *mitzva* is only delayed until the afternoon and because the entire congregation is in *aveilut* (see Yabia Omer IV, Yoreh Deah 32). The Radbaz (I:1) does not see any reason for the *avel* to give up his *mitzva*.

Based on the idea that the *avel* sets the tone for the entire *minyan*, the *minhag* in many places is that no one does *Birkat Kohanim* and, according to some, the *chazan* does not recite *Elokeinu vei'lokei...* in a *shiva* house (Ishei Yisrael 24:50). However, many refer to a *minhag Yerushalayim* to do *Birkat Kohanim* there (*ibid.*; Gesher Hachayim, vol. I, p. 205). According to this *minhag*, even the *avel* can and likely should do so himself. After all, since it is only a *minhag* for a *kohen* to refrain and it is a Torah-level obligation for a *kohen* to *duchen*, it is problematic for a *kohen/avel* to not take part. We have seen that the *kohen* should walk out before *R'tzei*, but this tension makes it understandable if he takes part himself. (It is not clear why he must walk out considering that our *minhag* is to not call *kohanim* until right before the *Birkat Kohanim*, which is too late for them to go up (see Shulchan Aruch *ibid.* 8), but this is apparently the *minhag*). Therefore, whether the *shiva* house in question was in Yerushalayim, so that the *avel* may have been right, or elsewhere, since fundamentally he did nothing wrong, there is no need to get involved. (If you feared that he will be embarrassed if “corrected” on another day, you could have mentioned to him after *davening* that there are different opinions and asked whether he received a ruling.)

If the *avel* follows the standard *minhag* (i.e., does not do *Birkat Kohanim*), what does he do about walking out if he is the *chazan*? There is a major question (which we wrote about in this column, Vayeira 5780) whether a *kohen* who is a *chazan* should ever do *Birkat Kohanim*; he certainly should not if he might get confused (see Shulchan Aruch, OC 128:20 with commentators). Therefore, the *avel/chazan* need not leave whether or not other *kohanim* are reciting *Birkat Kohanim*.

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



# Igrot HaRe'aya - Letters of Rav Kook

## More on Rav Kook's *Yeshiva* Planning - #102

**Date and Place:** 7 Tevet 5668 (1907), Yafo

**Recipient:** R. Binyamin Moshe Levine, a young protégé of Rav Kook. We have seen warm letters to him in the past.

**Body:** I haven't had enough time to write a complete letter to you. Thank G-d, I can almost fulfill my obligation with the letter that my son (Rav Tzvi Yehuda Kook, 18 years old at the time) wrote, as he is basically the one person who is used to my way of thinking and is able to listen to the speech of my soul. He, thank G-d, has a pure and gentle spirit, and he carries the fragrance of many good and enlightening ideas, which will be a blessing for him and for the world.

You know the conceptual goal behind the *yeshiva* [I am planning], which is to save exceptional individuals who are being wasted due to the horrible neglect of the inner side of the Torah, which is the light of life, hidden in the Torah and in the root of the nation's soul. We will do this by setting organized study, from the bottom up, for all the intellectual currents in the heart of Judaism in the broadest manner. Obviously, the spirit of Hashem must be revealed in this manner, by tapping on the strings of the heart.

Only *Eretz Yisrael* has the correct environment to accomplish this. It is our Desirable Land and the pride of our might. It provides an abundance of spiritual light and life for those who seek to imbibe the bounty it provides, through its soil, stones, air, and sky. It inspires with the recollection of its splendor from way back in history and with its bright hope for the future. It is critical to set a course of study to enable people to realize they should love the Land, which some special individuals are ready to receive, whether they live in *Eretz Yisrael* or the Diaspora.

The *yeshiva's* second goal is to give a new spirit of the "dew of Torah" to the New *Yishuv*, and thereby to remove the darkness and the strangulating spiritual dryness from its root and replace it with the moistness of life, from which to draw for generations to come. Therefore, the *yeshiva* must produce students whose souls are full of the Torah's sanctity and splendor and for whom the love of the nation's development in its Holy Land is a light that leads their lives.

People think it is well-known that only those whose Jewish heartbeat has ceased to give life to their heart (i.e., they are not religious) are the ones who exert themselves in reviving the Land, and that those who act like proper Jews view building the Land as something that is forced upon us that we cannot necessarily overcome. Oh, what an embarrassment such an outlook is!

All the other side reasons for the *yeshiva* emanate from the above two. The *yeshiva* must be founded in a correct and beautiful manner, both internally and externally, whether in regard to the edifice, the students, the teachers, and the conduct of everything related to it. It must be fitting for an orderly nation living securely in its own Land, and not one that is wandering in exile.

So too, the central rabbinate of the New *Yishuv* must prepare [for its role] with elegance and breadth. It must be ready to influence the *Yishuv* by regularly traveling to all parts of the country, whether to Judea or the Galilee. It must regularly put out pamphlets and letters to galvanize and reinvigorate a united front. This will raise the stature of Judaism in a multitude of ways and enable the nation to find in the Holy Land two life-saving elements: its practical side and its spiritual side.

This can forge a real connection between the nation and *Eretz Yisrael*, with the spirit of Hashem which eternally dwells in it. These seem like small things, but one should not disregard such things, and great things can come from them. I have no interest in honor for me or my family, but am motivated by the honor of Israel and its salvation, which is what Hashem truly desires.

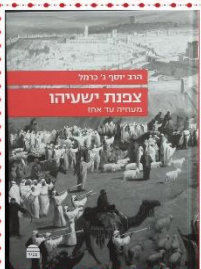
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### Tzofnat Yeshayahu - Rabbi Yosef Carmel

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.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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# P'ninat Mishpat

## **Aftermath of a Complex Partnership – part III**

(based on ruling 76096 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The sides worked together in marketing other companies' technological products. The defendant (=def1) is the owner of a company (=def2). The plaintiff (=p1) worked for def2, but he took on an increasingly central role, with agreements in 2010 and 2014. In the 2010 agreement, p1 was appointed vice-chairman of def2 (and was envisioned to run it) and received stock options in it. The 2014 agreement mentions products received from Company A which were supposed to be sold and have the profits split between def2 and p1. Def2 refuses to pay because they claim that the products were sold after the 2016 split between the parties. The two also disagree if after the 2014 agreement, p1 is still considered a partner with stock options in def2.

**Ruling:** On the matter of the sale of the product, *beit din* fundamentally agrees with p1. The product was received to be sold before the agreement and its profits were earmarked for distribution. Since it is not a matter of being paid for work after the work is over but realizing an anticipated profit, p1 is deserving. However, def2's claims that storage fees are to be reduced from the profits is correct because p1 did not prove that the delay in the sale was done in bad faith.

Regarding the continued profit sharing after the 2014 agreement, it is necessary to analyze p1's claims. First it is noteworthy that p1's options in def2 were in the case that it was sold or p1 was fired. P1 explained that he was interested in separating from def2 because he was unhappy in the way it was being run, and that a process had started by which some of def2's clients were being transferred to p2, a subsidiary owned by p1, and thereby his profits were to be made in that way. Even if, as p1 claimed, he would in the meantime continue to receive operating profits from def2, it would make sense only that this would be as a worker and not as a partner in def2, from which he was separating. This is evidenced by the division of profits not being based on the percentage in stock options. Therefore, p1 would not, after the 2014 agreement, be able to receive half of the value of def2. Even if this understanding were not clear, the burden of proof is on p1. This is because def1 was the original owner of def2, and he is still listed in the company registry as its sole owner. While p1 has an explanation as to why he did not want to be listed, he still has the burden of proof that the agreements should be understood in the manner he claims.

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