



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Devarim, 9 Av 5778

The Time Has Come for *Mishpat Ivri!*

Harav Yosef Carmel

In our *parasha*, Moshe mentioned the appointment of judges. He was looking for "smart, wise, well known in your tribes," and they were to be "put at the head of the people" (Devarim 1:13). The judges were commanded to "hear among your brothers and rule with justice between man and his brother" (ibid. 16).

The appointment of judges is hinted at as early as *Parashat Beshalach* (Shemot 15:23-25), right after *yeti'at Mitzrayim*. The appointment of proper judges is spelled out in the pre-Sinai context of *Parashat Yitro* (ibid. 18:21-22). The commandment "for all generations" to make these appointments is found in *Parashat Shoftim* (Devarim 16:18).

Every organized society must build a system of justice that enforces the society's rules. Because it is so basic, it is included in the system of seven Noahide laws. The more just the society's laws will be, the higher the level of the society. A developed judiciary is also a sign of true spiritual and political independence. It sets the issues of the day from the perspective of values. The ability to enforce court rulings is a sign of complete sovereignty.

In the *Kinot*, which we recite on Tisha B'av, we will mention Rabbi Yehuda ben Bava among the martyrs. We know that he gave his life to preserve the institution of *semicha* (ordination) to serve as a *dayan*. The Roman Empire strove to eliminate it as part of stamping out Jewish nationalism. *Mishpat Ivri* (jurisprudence based on Halacha) without authentic *semicha* is limited. Without the "trick" of serving as agents of those with *semicha* from previous generations, we are almost unable to function at all.

At the time of the Great Revolt (66-70 CE) and at the time of Bar Kochva and R. Akiva, the Jewish people tried to achieve independence by use of the sword. Around 100 years later, R. Yehuda Hanasi did it with a quill. He decided to codify Halacha, including *Mishpat Ivri*, committing *Torah Sheb'al Peh* to writing, in the form of the Mishna. This made it possible to preserve the systems so that the judicial system could be reestablished when the time would come. 1,000 years later, the Rambam renewed the codification process with his Mishneh Torah. In order to solve the problem of a lack of *s'muchim*, he arrived at a wonderful (and controversial) proposal to renew *semicha*, which required a show of rabbinical unity. This would somewhat counteract the destruction, which came as a result of baseless hatred. Some 300 years later, Rav Yosef Karo felt the approach of the Liberation, and therefore he embarked upon another great project of canonization and was joined by Rav Moshe Isserles, in creating the Shulchan Aruch. At the same time, he was among the rabbis of Safed who tried to act on the Rambam's ruling and renew *semicha*. They failed because they did not reach the level of unity in their actions, to make their idea accepted by the rabbis of Jerusalem.

In 1948, the new Knesset established a system of law for the State of Israel based on the Ottoman and British law systems (which were to a great extent created at the time of Rav Yosef Karo). We hope that our continued actions, at Eretz Hemdah, will contribute at least to a small degree toward the reinstatement of *Mishpat Ivri* for the Jewish community. Let us experience the fulfillment of "I shall return your judges as originally and your counsel to the way it was at the outset; afterward it will be called the City of Justice, a trustworthy city" (Yeshaya 1:26). Then we will be fit to be a model of behavior for the entire world (see ibid. 2:2-3).

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Yitzchak Eizik ben Yehuda Leib Usdan a"h, whose Yahrtzeit is the 29th of Av
Rav **Moshe Zvi (Milton) Polin** z"l Tammuz 19, 5778

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



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Ask the Rabbi

by Rav Daniel Mann

Tisha B'Av Pushed Off Until Sunday

Question: What is done differently this year, when Tisha B'Av falls on Shabbat and is pushed off to Sunday?

Answer: Seuda Shlishit: The *baraita* (cited in Ta'anit 29a) says that one may eat an extravagant meal on Shabbat even when Tisha B'Av falls on *Motzaei Shabbat*. The Tur (Orach Chayim 552) cites *minhagim* that one is allowed and would do best to curtail the Shabbat meal. This is especially so at *seuda shlishit*, which is, in effect, the *seuda hamafseket* (the last meal before Tisha B'Av, which usually has strong elements of mourning). However, these considerations are countered by the need to avoid displaying mourning on Shabbat. Therefore, there are no real restrictions, even at *seuda shlishit* (Shulchan Aruch, OC 552:10). However, the mood should somewhat reflect the coming of Tisha B'Av, as long as it does not bring on clearly noticeable changes (Mishna Berura 552:23). One important halachic requirement is that one must finish eating before sunset (Rama, ad loc.).

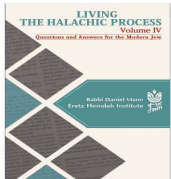
Havdala: One says *Havdala* in *tefilla* or separately with the declaration of "*Baruch Hamavdil...*," which enables him to do actions that are forbidden on Shabbat. *Havdala* over a cup of wine is done after Tisha B'Av (Shulchan Aruch, OC 556:1). If one forgot to mention *Havdala* in *Shemoneh Esrei*, he does not repeat *Shemoneh Esrei* even though he will not make *Havdala* over wine until the next day. Rather, he makes the declaration of *Baruch Hamavdil* (Mishna Berura 556:2). Unlike *Havdala* during the Nine Days, where we try to give the wine to a child (Rama 551:10), after Tisha B'Av an adult can freely drink that wine (Mishna Berura 556:3). The *beracha* on *besamim* is not said this week. On Tisha B'Av, it is not appropriate, because it is a reviving pleasure, and one can make this *beracha* only on *Motzaei Shabbat*. The *beracha* on fire is specific to *Motzaei Shabbat*, is not a pleasure, and does not require a cup. Therefore, we recite the *beracha* on fire in shul after *Ma'ariv*, before reading Eicha (Mishna Berura 556:1). There are those who say that a woman should, in general, avoid making *Havdala*. A major reason is the doubt whether a woman is obligated in the *beracha* on fire, which is not directly related to Shabbat and thus is a regular time-related *mitzva*, from which women are exempt (Be'ur Halacha 296:8). Therefore, it is better for one whose wife will not be in shul at the time of the *beracha* to have in mind not to fulfill the *mitzva* at that time, but to make the *beracha* on the fire together with his wife (Shemirat Shabbat K'hilchata 62:(98)).

Taking off shoes: As mentioned, one may not do a noticeable act of mourning before Shabbat is over. While finishing eating before sunset or refraining from washing need not be noticeable, taking off shoes is. There are two *minhagim* as to when to take them off: 1) One waits until after Shabbat is out, says *Hamavdil*, and then changes clothes and goes to *shul*. One can do so a little earlier than the regular time listed for Shabbat ending, which is usually delayed a little bit beyond nightfall to allow for a significant extension of Shabbat. The exact time is not clear and depends on the latitude of one's location. It is advisable to start *Ma'ariv* a little late in order to allow people to do so and make it to *shul* (ibid.:40; Torat Hamoadim 9:1), unless the rabbi has ruled that everyone should take the following approach. 2) One takes off his shoes after *Barchu* of *Ma'ariv*. One who takes the second approach should bring non-leather footwear and Eicha/Kinot to shul before Shabbat to avoid *hachana* (preparations for after Shabbat). However, if one uses these *sefarim* a little in shul before Shabbat is out, he may bring them on Shabbat (Shemirat Shabbat K'hilchata ibid.:41).

Restrictions after Tisha B'Av: Since much of the *Beit Hamikdash* burned on 10 Av, the *minhag* developed to not eat meat or drink wine on this day. Some are stringent on laundering, bathing, and haircutting until midday of the 10th. On a year like this, only meat and wine are restricted and only at night (Rama, OC ibid.; Mishna Berura ad loc. 4).

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



	<p>We are happy to present our fourth volume of "Living the Halachic Process".</p> <p>The book offers a compilation of questions and answers from our "Ask the Rabbi" project.</p> <p>Sources for the answers can be downloaded from our website.</p> <p>Special price for Hemdat Yamim readers: \$20</p>
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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Two Finger Breadths of Spiritual Light

(condensed from Ein Ayah, Shabbat 6:72)

Gemara: The *tzitz* (one of the vestments of the *kohen gadol*) was a sort of plate of gold, which had a width of the width of two fingers, and it would encompass the forehead from one ear to the other ear [and had written on it, “Holy to Hashem”].

Ein Ayah: The highest level spiritual riches, when they begin to be revealed from the inner sanctums of an elevated soul, based on the light of the divine desire to provide the best, is revealed on the forehead of the holiest man. Its light expands to a physical object that occupies the smallest size measure that the Torah recognizes (a finger width). This is because the physical world cannot contain a large measure of lofty matters, when that which is hidden in the light of the soul becomes revealed.

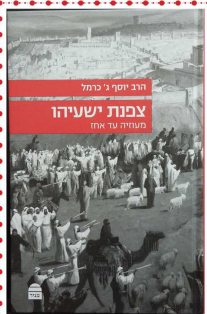
There are two ways for this hidden light to be revealed. One is *hazracha* (shining forth): the inner light comes when the most delicate survey of the soul appears in the physical world. This enables the person to have his characteristics and actions run based on the highest possible values. This spiritual richness can only be compared to refined gold. The second manner is *noga* (glowing): the highest spiritual light accepts inspiration from practical spirituality and all the related emotions, and expands its upper limits.

These two forms of expression of spirituality enable the internal listening to the higher levels from one side to the other side of the essence of a person’s mind. There is a listening of the right side, which makes it possible to “hear” from a distance all the light, the kindness and the delicateness of the highest level of thought. The revelation of the soul’s desire is given to the side of the soul that is able to act in the practical world based on the essence of the spiritual world.

[The process exists in the other direction as well.] The listening that comes from the “distant land” of actions acquires for itself a special content that is not found in the “kingdom of the spirit” alone. In this way, the two worlds are parallel to each other, and each one impacts on the other.

It takes a uniquely elevated person, who is imbued with the loftiest and purest level that a man can reach, to be complete enough to be able to serve as a bridge from one side to the other, and each with its tremendous depth and content. He is able to create great unity of lights in a complete way.

The holy *tzitz*, which the *kohen gadol* wears as a crown, was worn on Aharon’s head as a plate of gold. This represents how there can be a bridging of the gap between the internal riches of spirituality and the external representation of riches through gold. It is two finger-breadths wide and extends from ear to ear to prepare the internal “hearing” from one side of a person’s being to the other, in a special form of unity. It enabled the greatest of men to include within his persona a full world with all its expansions, and made him lofty to the highest levels, until he was able to find “good will before Hashem.”



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

Rescinding School Acceptance

(based on ruling 70063 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) is an eighth-grade student, who is interested in attending the a yeshiva (=def) in the coming year. In the early winter, pl received a letter from def informing him that he was accepted. Sometime after that, the yeshiva informed pl that the yeshiva rescinded its decision. Pl's representative (=rep) has since then been trying to get him reaccepted. Rep states that pl is a good student who very much wants to learn in the yeshiva and is suitable for it. He says that the rescinding of the acceptance was done without enough thought, and def did not bother to speak to the many references who know pl. Pl is happy to bring character witnesses to *beit din*. Pl demands that def agree to accept him. Def argues that pl was accepted before taking their standard test; after a *tiyul* for prospective students, the staff decided that he was not suitable for def. The acceptance was rescinded only three weeks after the acceptance. They are willing to apologize to pl.

Ruling: It seems to us that it was not a good thing to rescind pl's acceptance after it was given. Since pl did not go through the accepted process, it would have been proper to accept him on condition that he did sufficiently well on the tests.

Since def agrees that pl is a child with many fine qualities, including leadership skills and a desire to grow spiritually, there is no need to bring witnesses to confirm that which is already known. Def still clings to the claim that pl would do better elsewhere. *Beit din* will not try to establish if that is true or not, and we are not certain one can give a clear answer on such a question.

What *beit din* asks itself is whether it would even be a good thing to force def to accept pl against its will and after the adjudication that has transpired. It is our opinion that it is not a good idea. The relationship between a student and his teachers must be based on trust and respect. After all that has happened, it is very doubtful whether such a relationship can be properly forged. It is inspiring how important it is to pl to be accepted to the yeshiva, for the right reasons. However, this is one of the times in which we say that just as one gets reward to want to do something good, so one gets reward for ceasing to pursue it when that is the correct course. We are confident that pl will succeed in growing in Torah and good personal attributes in any place that he chooses to study.

Therefore, pl's demand to be accepted as a student is denied. It is appropriate for an administrator of def to personally apologize to pl and with that end the story.

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

Meira bat Esther Rivka Reena bat Gruna Natna
David Chaim ben Rassa Lillian bat Fortune
Yafa bat Rachel Yente Eliezer Yosef ben Chana Liba
Ro'i Moshe Elchanan ben Gina Devra
Together with all *cholei* Yisrael

.....

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