



Parashat HaShavua

Mishpatim, 27 Shevat 5780

On Nationalism and Sanctity-part IV

Haray Yosef Carmel

We have asked, in previous installments, about the connection between David's ill-fated census and the silo of Aravna the Yevusi (i.e., the Temple Mount) as an antidote. We will now look at the significance of David's buying the silo.

In the days of Yehoshua bin Nun, Adoni Tzedek, the King of Yerushalayim, was the head of the treaty of the kings of the south of Eretz C'na'an. He tried to stop Yehoshua's conquests after he took Yericho and Ay and after he made a treaty with the cities of the Givonim. Yehoshua killed Adoni Tzedek and his friends (see Yehoshua, ch. 10); however, it does not say what happened to the city of Yerushalayim.

It is explicit in the beginning of Sefer Shoftim (1:1-8) that after the death of Yehoshua, the Tribe of Yehuda conquered the city and set it afire. It is clear from the context of these sources that the inhabitants of the city were C'na'anite/Emorite. However, in Yehoshua 15:63, it says that Bnei Yehuda were unable to remove the Yevusi inhabitants of Yerushalayim and that they remained there "until this day." From the list of the cities of Binyamin, we see that Yerushalayim was on the border of that tribe (see ibid. 18:28). This tribe, as well, did not remove the Yevusi from the city (Shoftim 1:21). So Judeans and Binyaminites did not enter the city, and while the C'na'anites/Emorites fled when their king was killed, the Yevusis remained.

We also see from the tragic story of pilegesh b'Giva that Jews did not live in that city in the time of the Shoftim. The Levite was travelling northward with his concubine when night was starting to fall. The idea of sleeping in Yerushalayim/Yevus arose, but he said that he did not want to sleep in a non-Jewish city, and therefore they went on to Giva, where atrocity occurred (Shoftim 19:10-12).

The city is not mentioned again until the time of Shaul. After David killed Goliat, we see from the p'sukim, which mention Goliat's head being brought there (Shmuel I, 17:54), that it was clear to David that the city had a place in the era of national renewal that was arising from the throwing off of the yoke of Plishti domination. Even when the navi describes bringing the ark from Chevron to Yerushalayim, the Yevusi inhabitants of the city are mentioned (see Shmuel

At the end of the historical process, Aravna had become a ger toshav (see Avoda Zara 24b), a full ger (Ralbag), an officer (Rashi), or a monarch under David's tutelage (Radak). According to the Radak, Aravna's little kingdom was up there on the mount, as David, who did not yet realize the significance of the place, allowed him to remain there peacefully, until he had fuller understanding.

Next week, we will see how David learned the importance of the place. Hopefully soon we will see it fully rebuilt.

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







by Rav Daniel Mann

Speaking to The Deceased

Question: Is there a proof from the *gemara* in Berachot 18b-19a that when people speak to the deceased in the cemetery, he hears and understands?

Answer: We will peruse some sources in *Chazal* and later authorities and try to arrive at a balanced approach. It is a basic Jewish belief (see Rambam's principles of faith) that a person's soul exists after death. While basically static, receiving reward and punishment (see Ramban's Sha'ar Hagemul), the soul is impacted by the actions of relatives and those doing good things to elevate their souls.

There are old Kabbalistic and other sources that visiting a loved one's grave brings the deceased some sort of positive feeling (see Gesher Hachayim I, 29:1). Various texts (*hashkava*, certain *pirkei Tehillim*) are recommended; we have not found sources that talking to the deceased increases his *nachat*. There is an old *minhag*, followed by <u>some</u> and not others (we respect both groups) of placing a written invitation and/or orally notifying a deceased of an upcoming marriage of a close relative. This is a form of communication, but it is not a pillar of faith to believe or not believe that this makes the deceased happy or more likely to "attend" the wedding.

There is a *halacha* (Yoma 87a; Shulchan Aruch, Orach Chayim 606:2) that seems to include "communication" with a deceased. If one (seriously) insulted someone who subsequently died, he should take ten people to the grave to beg forgiveness. One might claim that this proves that the deceased is aware of the request. However, the recommended language is: "I have sinned to Hashem, and to *Ploni*, whom I damaged." It is unclear whether the deceased or Hashem is the one/One who needs to listen, or whether just making an admission in the deceased's "presence" is the important thing.

The *sugya* to which you refer contains ostensibly instructive elements. The *gemara* contemplates whether the dead are aware of what is happening in the world and tries to prove it from stories in which live people found out information from the deceased during interactions with them. (The Beit Yosef, YD 179 deals with what separates these cases from forbidden practices of attempted communication with the dead, a topic we are not broaching here). This *gemara*, though, is not a proof that one can talk effectively to the deceased. Some commentaries (see Maharasha) understand that the living did not communicate but received information in dreams. Also, "sprinkled" through Rabbinic writings are stories of supernatural events, dealt with differently by various commentaries. In any case, we know not to treat something that happened once as something that happens all the time, so we cannot learn from such *gemarot* of what to expect in our experiences. To the extent that the deceased are able to understand those who visit, it does not necessarily mean that one needs to verbalize to get the message across (their ears do not work, and we are not experts as to the tools their souls use).

A *gemara* (Sota 34a) tells (at least according to the literal reading) how Kalev <u>spoke to</u> the forefathers in Chevron and asked for their help. While some say one should only ask Hashem to help us in the merit of the *tzaddikim* (Mishna Berura 581:27) or use a burial place as a holy setting (Derashot Haran 8), others allow <u>asking</u> the deceased to beseech Hashem on behalf of those who visit and/or love them (see Gesher Hachayim I, 29:9; Pri Megadim, EA 581:16). Many good Jews have done so at *kivrei tzaddikim* and their relatives' graves over the centuries. (One must be VERY CAREFUL NOT to *daven* TO the *tzaddikim*.) One who asks the deceased to pray need not believe that the deceased hear or how. One can "speak" to Avraham Avinu in English or to "Mama Rochel" in Yiddish. It is possible (we do not know) that contemplation and/or set *tefillot* have the same results. (When we enunciate during *tefilla*, it is not because we believe that Hashem needs that to "hear us.") It is important that the experience be healthy for the visitor and respectful to Hashem, who decides everything.

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

SEND NOW!









The Hatred of Those Who Did Not Get a Potential Gift

(condensed from Ein Ayah, Shabbat 9:121)

Gemara: One of the rabbis asked Rav Kahana: "Did you hear what the reason behind the name *Har Sinai* is?" He answered: "The mountain upon which miracles (*nisim*) occurred." "So it should be called *Har Nisai*? Rather, it was the mountain which was a good omen (*siman tov*)." "Then it should have been called *Har Simanai*?" He said to him: Why do you not spend more time with Rav Pappa and Rav Huna the son of Rav Yehoshua, who look into *aggadic* matters, as Rav Chisda and Rabba son of Rav Huna both said: "Why is it called *Har Sinai*? It is because it is based on this mountain that *sina* (hatred) has come to the idol worshippers."

Ein Ayah: There must be a special reason for the fact that Israel received the Torah specifically in the desert at *Har Sinai*, in a place that was open to all, as opposed to in the Land that was specifically set aside for Israel. This shows that the impetus to give the Torah only to Israel was not something that was innate in the physical world but was connected to thought and understanding. Hashem wanted to show that really the Torah is something that is fit and even proper for all of the nations who live on the face of the earth. It is not something that is beyond the reach of a human being, but rather something that is suitable for man. Without the guidance that Torah provides, a person is like an evil beast. Torah is compatible with the spirit of the human being, as all of the elevated elements of the human spirit and all the storehouses of sanctity are hidden within the light of the Torah.

Therefore, it was not stressed at Sinai that Israel has a special characteristic that makes them fit to have dominion over nature and contain the divine light in a manner that other creations do not. And so while special miracles were done for Israel, Sinai does not represent that reality.

One can claim that Israel had a *siman tov*, i.e., special characteristics, which the people of other nations do not have. However, that too is not hinted at in the name of Sinai. If that were the intention, the Torah would have been given in the Land of Israel and likely on the Temple Mount, which would make our lot in the world the sign that the Torah relates to our qualities.

If the very basis of the Torah required that only we could receive the Torah, the nations would have had no basis for hating the Jewish people for keeping the Torah from them. After all, a person cannot be distanced from something to which he could never draw close. Rather, the fact that the Torah was given at Sinai is an indication that the source of the Torah is the fountain of spring water that is appropriate for all of mankind. This is on condition that they are removed from the ways of evil and are not interested in following their tendencies toward evil and destruction. Because the nations harmed their spiritual form, when they distanced themselves from the Torah [by refusing to accept it], their hatred for Israel began at Sinai. That is the reason that Sinai is the mountain's name until the mountain of Hashem will be raised and will spread its glory over the whole world, which will be healed, as it says (Tehillim 68:18): "Hashem will be in their midst; Sinai is in the sanctum."



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

"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 seeked 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.



P'ninat Mishpat

Bad Advice Causing Loss of Mortgage Rights – part II

(based on ruling 78002 of the Eretz Hemdah-Gazit Rabbinical Courts)

<u>Case</u>: The defendants are an organization formed to build a real estate development (=def1) as a kevutzat rechisha (a group of purchasers = kr) and the company that supervises the project (=def2). The plaintiffs (=pl1 and pl2) signed up to join def1 and become owners of apartments with only one spouse signed (for technical reasons), which def1 and def2's employees said was fine. It turns out that this caused pl1 and pl2 to be ineligible for special government mortgage arrangements, and they are demanding payment of the estimated 42,000 shekels apiece over the life of the mortgage this is worth. The defendants argue that they were not obligated to arrange mortgages, that at the time of the advice given, it was not expected that buyers would benefit from government mortgages or that it would make a difference if both spouses were listed as owners. Later on, switching the registry of ownership could have held up the whole group.

Ruling: [Last time we saw that def1 and def2 are not responsible for originally encouraging pl1 and pl2 to sign without their spouses mainly because at the time it was not a mistake.]

As of 2017, it already became evident that many people would benefit from the government mortgages, and still the defendants said it was okay that only one spouse was signed. Also, at this point, *def2* was being paid to represent the members of *def1* (see last week's installment), including *pl1* and *pl2*. However, our inquiries have revealed that even expert mortgage advisers were unaware of the ramifications of the changes in the initial stage.

Furthermore, according to the majority of *dayanim*, *pls* did not prove that at that stage, it was still possible for them to have received the government mortgages. One *dayan* points out that *def2* admitted that they could have received the mortgage, just that they were against it because the change of title likely would hold back the whole group. He also argues that according to the Shulchan Aruch (Choshen Mishpat 306:7), the adviser who caused damage has to prove that he was <u>not</u> at fault. The majority of *dayanim* respond that *def2*'s admission was theoretical; they did not say it was clearly possible to receive the mortgage. Regarding the Shulchan Aruch, it only says that the adviser has to prove he is an expert (as most are not), not that he has to prove every element of faultlessness.

Defs' claim that not receiving the special mortgage is not a loss but the lack of a special gain is not true. Not being able to reduce (financing) costs is indeed a loss. However, their claim that changing title would hold back the project is correct. *Def2* was not hired by any individual but by the group as a whole, and something which is bad for the group is not something he should advocate even if it helps a few individuals. The Shulchan Aruch (CM 176:10) gives partners leeway to act in a way that people deem as advantageous to the joint project.

Def1 and *def2* could be obligated based on contractual obligations, even if there was no objective damage. However, in this case, the contract states that *def2* is not responsible for the financing of the members of the group's property.

We daven for a complete and speedy refuah for:

Nir Rephael ben Rachel Bracha / Eliezer Yosef ben Chana Liba Yair Menachem ben Yehudit Chana Netanel Ilan ben Sheina Tzipora / Netanel ben Sarah Zehava /Ro'i Moshe Elchanan ben Gina Devra Meira bat Esther / Rivka Reena bat Gruna Natna Bracha bat Miriam Rachel Lillian bat Fortune / Yafa bat Rachel Yente Refael Yitzchak ben Chana Esther Michal bat Gitel

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