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# HEMDAT YAMIM

## Parashat HaShavua

Terumah, 4 Adar 5780

### On Nationalism and Sanctity— part V

Harav Yosef Carmel

*We have been looking at the connection between David's ill-fated census and the buying of Aravna's plot of land on Mt. Moriah.*

In order to understand the connection, we will have to compare these events to a not-less-important one – *akeidat Yitzchak*. If we compare the relevant texts, Bereishit 22, dealing with *akeidat Yitzchak*, and Shmuel II, 24 and Divrei Hayamim I, 21, dealing with the purchase from Aravna, we will find many similarities.

In both cases, Hashem sent the “main characters,” Avraham and David, respectively, to build an altar to sacrifice something at a specific place. In Bereishit, it says: “They came to the place that Hashem said, and Avraham built there an altar” (22:9). In Shmuel II, it says: “David built there an altar to Hashem” (24:25). In Bereishit, it says: “He took the ram and brought it as a burnt offering” (22:13). In Shmuel II, it says “He brought burnt offerings” (24:25).

Avraham attributed permanent significance to the place: “Avraham called that place ‘Hashem will see,’ so that it will be said today, ‘On the mountain of Hashem it will be seen’” (Bereishit 22:14). David did a similar thing: “David said: ‘This is the house of Hashem, and this is the altar for burnt offerings for Israel’” (Divrei Hayamim I, 22:1). In Shmuel II, the root of seeing is stressed several times (Shmuel II, 24:13, 17, 22).

The Torah reports that Avraham woke up early (Bereishit 22:3), and the *navi* stresses that David woke up in the morning (Shmuel II, 24:11). Each story talks about a third day and the wood used for the offering. In each context also, an angel plays a central role in the story (see Bereishit 22:11; Shmuel II, 24:16). The city of Be'er Sheva is also mentioned in each parallel chapter.

The most explicit connection between the two places is found when Shlomo Hamelech eventually built the *Beit Hamikdash* on Aravna's mountain. It says that he did this, “in Yerushalayim, on the mountain of Moriah (mentioned in Bereishit), which was shown to his father, David, which he prepared in David's place in the silo of Arnan the Yevusi” (Divrei Hayamim II, 3:1).

The Rambam (Beit Habechira 5:1-2) also strongly stresses the connection between these places: “The altar's place is very exactly located, and it can never be moved from its place, as it says, ‘This is the altar for burnt offerings for Israel.’ And in this place Yitzchak was bound, as it says, ‘... and go to the Land of Moriah.’ And it says in Divrei Hayamim: ‘In Yerushalayim on the mountain of Moriah which was shown to his father, David, which he prepared in David's place in the silo of Arnan the Yevusi.’ There is a tradition that everyone has that the place in which David and Shlomo built the altar in the silo of Aravna was the place at which Avraham built the altar and bound Yitzchak on it.”

*Next week we will go more deeply into the matter and will try to uncover the roots that are hidden in this holy place. With Hashem's help, we will soon merit to see it rebuilt.*

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



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by Rav Daniel Mann

## Kaddish after An'im Zemirot

**Question:** In my *shul*, at the end of *An'im Zemirot*, the *chazan* (child) does not say “*Lecha Hashem hagedula ...*” I understand that it is not permitted to say *Kaddish* after a *shir* (song of praise) without *p'sukim*. Can you provide me with sources to prove this?

**Answer:** To start with, we at Eretz Hemdah basically agree with you. We wrote a *teshuva* (Bemareh Habazak VII:2) about whether it is proper to say a *Kaddish* at all after *An'im Zemirot* in a place where the *minhag* was not to but an *avel* wanted them to change the *minhag*, which he claimed was wrong. In footnote 4, we accepted the thesis to which you subscribe, that it is the *p'sukim* added (they were not in the original) to the end of the *piyut* that justify the saying of *Kaddish*.

In general, it is problematic to recite an unauthorized *Kaddish*. The Mishna Berura (55:1) compares saying too many *Kaddishes* to reciting too many *berachot*. However, we do not generally find in *poskim* discussing doubts about *Kaddish* indications of the same severity of an unnecessary *Kaddish* as we do regarding a questionable *beracha*.

Therefore, while we generally agree with you, we are hesitant to state as a simple fact that your *shul's* (and we understand others as well) *minhag* is wrong. Therefore, we will see if we can be *melamed z'chut* on those who skip the *p'sukim* and recite the *Kaddish*.

We found a *teshuva* by Chief Rabbi David Lau in which he questions the thesis that the *p'sukim* recited at the end are there to justify the *Kaddish*. He points to the standard sources (see Mishna Berura 55:2) that state that for *p'sukim* to justify *Kaddish* there must be three *p'sukim* and that, after *An'im Zemirot*, only two *p'sukim* are recited. One can add to the apparent incongruence according to the Sha'arei Ephrayim (10:44 in a footnote) that the *p'sukim* need to be continuous (the ones after *An'im Zemirot* are from Divrei Hayamim and Tehillim, respectively). Therefore, Rav Lau posits that the reason for the *Kaddish* is that a major part of *An'im Zemirot* is based on adapted or reworded *p'sukim*.

One can claim there is a precedent for saying *Kaddish* after a *shir* without added *p'sukim* in *Aleinu*. *Siddurim* cite *p'sukim* there as well, yet the very broad *minhag* is to ignore them and recite *Kaddish* anyway, and perhaps a *shir* of this type is deserving of *Kaddish* in and of itself.

However, one can argue with these attempts to break the linkage between *p'sukim* recited after a *shir* and *Kaddish*. First, there are opinions that two *p'sukim* is enough (Beit David (Saloniki) 30); Bemareh Habazak *ibid.*; see *Ishei Yisrael* 15:(98)). The claim that the *p'sukim* must be consecutive is apparently not accepted. Regarding *Aleinu*, the Mishna Berura (132:10) points out that it has *p'sukim* mixed into it (three, albeit from different places in *Tanach* and interspersed in *Aleinu*). Therefore, it seems very likely that the *p'sukim* at the end of *An'im Zemirot* were intended to justify the *Kaddish*.

There is another factor which can work (at least if orchestrated well), even according to your assumption, in *shuls* that do not jointly recite “*Lecha Hashem ...*” What if, as is likely, some people in the *shul* do say the *p'sukim* even if the *chazan* does not? We have written about whether *Kaddish* can be recited after *Pitum Haketoret* when there are not ten people who recite it. The basic sources seem to indicate that six reciters justify *Kaddish*, even if the *chazan* did not recite the critical sections (see parallel case in *Shulchan Aruch*, *Orach Chayim* 69:1). While even one suffices when the *Kaddish* is classically required (see *ibid.*; *Pri Megadim*, *OC*, *MZ* 55:3), there is a *machloket* (see *Magen Avraham* 54:9; *Aruch Hashulchan* 55:9) whether a minority of a *minyan* suffices when the *Kaddish* is optional (as the one after *An'im Zemirot* is). So perhaps someone like you and another one or two who still recite the *p'sukim* before *Kaddish* suffice to justify the *Kaddish*.

So while the sources indicate that it is proper for *shuls* to recite the *p'sukim* after *An'im Zemirot*, *shuls* that do not make a point of reciting them also have whom and what to rely upon.

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# Ein Ayah

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

## Too High to be Connected to People on the Ground

(condensed from Ein Ayah, Shabbat 9:128-129)

[After months, we come to the end of the sugya dealing with the giving of the Torah at Sinai.]

**Gemara:** It was called Sinai because from it hatred (*sina*) came down to the idol worshippers. And what is its [real] name? "Chorev." This argues with Rabbi Avahu, who said that its [real] name was Har Sinai and it was called Har Chorev because it was from it that destruction (*churva*) came to the idol worshippers.

**Ein Ayah:** The whole foundation of the improvement of the world, which will occur in the future and whose early stage already exists in the present, due to the great power of the acceptance of the Torah, was prepared by the previous state of destruction. Specifically, the world had been missing the basis for its existence because it was missing the divine light of the sanctity of the Torah, which would later give it light and adornment. From the midst of the world's state of destruction, there developed a desired "edifice" of spirituality that came from the appearance of the Torah.

This would not have been possible if there were a structure in place, even if it was low and lowly, because there would still not be a possibility to have a new edifice appear. The situation, though, is that from the beginning of creation, had it not been for the power of Torah, the world would have been slated for destruction. It is only the light of Torah that gave the characteristic of being able to be built and to stand. After all, all of the special qualities related to the revelation of the Torah impact on the world and make it more adorned. This is based on the idea of building on top of the foundation of that which was previously missing. This was evident from the original name of the mountain that Hashem desired, so that He should give the Torah on it. That name, Chorev, hints at the state of destruction.

The other approach among *Amora'im* is that the real name of the mountain is Sinai, and that Chorev stands for that which happened on the mountain causing destruction to the idol worshippers. The world could have been "built" as a coarsely materialistic edifice. If that were the case, it would actually have been much worse than the fact that it was created in a manner that it is slated for destruction if left on its own. However, in the essence of Har Sinai and the revelation that occurred there, an internal hatred was embedded there. This serves as a strong protest against the way the world was built with a foundation connected to blood and metal, evil and foolishness. It would have been a tragedy if such a negative edifice would have continued.

Rather, Sinai was called Chorev because it brought destruction for idol worshippers. Even though they never became imbued with the powerful obligations of Har Sinai, what occurred there for Israel ensured that there would never be a quiet and stable edifice in a manner that contradicts the divine revelation of the mountain that Hashem desired would take place at Sinai with its sanctity. There needed to be some level of destruction, because of the world's connection to lies and the essence of evil. Eventually, this enables there to be the revelation of a complete world, built on kindness (see Tehillim 89:3).



### 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

## Renovations that Did Not Finish On Time

(based on ruling 71072 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) hired the defendant (=def) to do renovations for 225,000 shekels. Def was to finish by 26/11/2010 and was to compensate pl at a rate of 5,000 shekels a month for delays, in order to cover pl's rent during the renovations. Def did not finish on time; pl asked him to stop working and had someone else finish the work. Pl claims to have paid def for almost all the job and has had to pay others (including for expenses during def's work that def was supposed to cover). Pl also claims 25,000 shekel for the project finishing five months late. Def does not know exactly how late he was but claims it was much less than five months and that the work done at the end did not prevent pl from returning home. Def also claims that the prices pl claimed based on those who finished the job were exaggerated and that pl added building requests of def, not included in the contract, which were not yet paid for.

**Ruling:** At first glance, since pl has a specific claim about how late def was and def admits he was late but does not know by how much, def is a *modeh b'miktzat* (makes a partial admission), who is obligated to pay when he cannot swear on the rest of the claim due to lack of knowledge (Bava Metzia 97b). However, although def admits partially regarding the element of rent compensation, he does not admit that he, overall, owes money to pl because the amount that he claims is due to him for unpaid work exceeds the amount he admits to owe.

In this case, both sides failed in proving their respective cases sufficiently. Pl claimed more payments to def than he has receipts for. Pl's claim that his neighbor paid the floor layer on pl's behalf is contradicted by a letter from the neighbor. Pl did not provide documentation, as requested, from the Dekel price list regarding the standard price of work that he gave to others to do. Pl claims to have paid 2,000 shekels for a door, but the price of a standard door, which is all def promised, is 400 shekels. Pl also did not take pictures of the apartment when def stopped working to show what was missing. When one is capable of providing proofs of relevant matters and does not, this is to be held against him (see Bava Metzia 83a). This is particularly relevant regarding rulings that will include compromise.

On the other hand, def did not document the extra work that he did for pl, and pl agrees to only part of those items that def claimed. Since the amount of matters about which there is factual agreement is small, it does not make sense to spend the litigants' money on an expert to give a price appraisal of these elements.

Since neither side sufficiently corroborated their claims that they are owed more than they owe their counterpart, we will employ the rule of "he who wants to extract money needs to provide proof," and neither side has to pay the other.

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