



HEMDAT YAMIM

Parashat Hashavua

Masei, 2 Av 5782

Harav Shaul Israeli zt"l
Founder and President

"To Be a Free Nation in our Land"
Harav Yosef Carmel

Sefer Bamidbar ends the description of the wandering in the desert and brings us to the cusp of entering *Eretz Yisrael* (*Sefer Devarim* deals primarily with Moshe's address to the people before his death). Therefore, *Parashat Masei* summarizes the sojourns in the desert, final preparations for entering *Eretz Yisrael*, and the beginning of the process of founding an independent state for Bnei Yisrael in *Eretz Yisrael* in set boundaries.

In the last generations, we have been blessed, with Hashem's kindness and through the wonderful dedication and ultimate sacrifices of many Israelis, to establish a Jewish and democratic state in *Eretz Yisrael*, which promises freedom to all its citizens. In the anthem that the Zionist movement adopted and which became the state's anthem, one line has been the subject of much argument, especially in the religious community: "To be a free (*chofshi*) nation in our Land, the Land of Zion and Jerusalem."

The argument was because *chofshi* was used at that time to refer to those who were not careful to fulfill *mitzvot*. On the other hand, this was not the poet's intention. We will use *Parashat Masei* to help understand the root, *chofesh*.

The fight against idol worship was stressed on the eve of the entry to the Land (Bamidbar 33:50-56). It is important to understand the fundamental difference between the privilege to be under the pleasant obligation to do *mitzvot* and being enslaved by idol worship. All idol worship, without exception, creates a situation of enslavement between the adherent and the idol. The idol is viewed as having power, and those who are under its dominion need to appease it and ask for its help to get what they want. Much effort is put into not arousing its anger, for they believe it is powerful. Sacrifices were a major part of this effort. It is impossible to be free without breaking out of that relationship.

Many kings in the ancient world viewed themselves as deities, adding an element of enslavement between them and their subjects. The lowest level was to be such a servant to a servant (i.e., the king is himself a servant). This is the way *Chazal* (see Kiddushin 22b) viewed Bnei Yisrael's status as slaves in Egypt, a place called the "house of slaves" (see Shemot 13:3).

Yirmiyahu set out the conditions for being freed from the "house of slaves." He told the people that when Hashem took our forefathers out of Egypt, he made a covenant with them that they must send their brethren free from bondage according to the Torah's schedule and conditions (see Yirmiyahu 34:13-16). According to the Yerushalmi (Rosh Hashana 3:5), Yirmiyahu was just elaborating on what was found in Shemot 6:13. Elsewhere he told the nation that Hashem did not take the people out in order that He should "receive" offerings but so that He would be their G-d, for their benefit (Yirmiyahu 7:22-23). The point is that we should be a free nation in the higher meaning of the term, and for our own noble good. When one part of the nation subjugates another part, we cannot be a society that is based on doing good.

May we merit to establish a society in Israel in which no one subjugates others. Rather, the government and the populace should be dedicated to doing good for each other.

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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

Family Name as Alternative for a *Ketuba* Witness

Question: Must witnesses on a *ketuba* sign with their father's name (*Ploni ben Ploni*)? Can one instead use his first and last name? This could be valuable for a convert or someone whose father is someone else than what people think and is embarrassed about the truth.

Answer: The discussion about how a witness is to sign is in relation to a sensitive document, a *get*. The *baraita* (Gittin 36a) tells that the Rabbis enacted that the witnesses need to “elucidate their names.” Rashi explains that if the signature does not include his legible name, if its authenticity is challenged, it will be difficult to get information about the witnesses to confirm it.

What did the enactment change? The Rashba (ad loc.) understood that originally it could be signed anonymously, and it became required to write his name, although either one's given name or “son of [his father's name]” suffices if followed by “*eid*” (Gittin 87b). The Tur (Even Haezer 130), as the Beit Yosef (ad loc.) understood, holds that the enactment required writing both the witness' and his father's name, the shorter forms being valid only after the fact; so rules the Shulchan Aruch (EH 130:11). Even the Rashba presumably agrees that the standard *get* signature included name and father's name (see Gittin 87a).

The *gemara* (Gittin 36a) questions the requirement to specify the witness' name from accounts of rabbis who signed with symbols rather than their name. The *gemara* responds that this is valid only for such rabbis whose symbol signatures were well known, but it asks how their signatures could become known if they cannot be used before they were known. The *gemara* answers that they became known by means of *diski'ot* (Rashi - responsa and personal letters). Some cogently prove from this *gemara* that the requirement of a clear name applies to all legal documents, for otherwise the *gemara* could have answered that the symbols became known through other documents (see Yalkut Be'urim ad loc.). The Aruch Hashulchan (Choshen Mishpat 45:2) indeed requires writing the father's name in all documents, which certainly includes a *ketuba*.

We can confidently say that the *ketuba* will be valid *b'di'eved*. First, the first name is enough (with the word *eid* or its equivalent) even for a *get*. Second, according to some (see Rashi, Gittin 97b; Mishpat Haketuba 51:(46)), a family name is what the *mishna* calls a *chanicha*, which is valid (perhaps even *l'chatchila*- see Pitchei Teshuva, EH 129:2). Regarding one who signs his name in Hebrew with his family name on legal documents, the Chatam Sofer (EH II, 21) says this is likely the proper way to sign. Mishpat Haketuba (ibid.) argues that this seems no worse than the rabbis' symbol signatures, and assuming the writing is legible, it should be easy to trace. In fact, family names in our times are important enough that common practice (recommended by Igrot Moshe, OC IV, 40.20) is to regularly add them to the principles' and witnesses' names. The Minchat Pitim (to CM 45:1) leaves it as an open question whether family name works **effectively** as the father's name.

Based on the above, according to straightforward *halacha*, leniency is very reasonable. However, many ancillary factors need to be weighed. For one, rabbinic conventional wisdom rightfully is reluctant to make changes on formal documents (see Chatam Sofer ibid. regarding *get*, which is, admittedly, more severe). Change can also raise eyebrows in the direction of the *mesader kiddushin*, the witness himself, and even the couple (sometimes in evaluating the credentials of a couple or their children, rabbis look to see if their *ketuba* seems like a standard one). Although sometimes we work hard to hide embarrassing information about the bride and groom, they have no choice but to be the subject of the *ketuba*, whereas a witness is rarely compelled to serve as one. On the other hand, a witness' embarrassment can be a strong reason for leniency. Therefore, a rabbi must deal with the circumstances of each specific case, while we have sufficed with mapping out the main factors.

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



Igrot HaRe'aya - Letters of Rav Kook

Questions about Religious Services in Eretz Yisrael – #111 – part II

Date and Place: 2 Adar I 5668 (1908), Yafo

Recipient: Rabbi Yitzchak Isaac Halevi, author of Dorot Harishonim. We have featured various letters to him in the past few months.

Body: I will do my best to answer your questions. First I will quote your question, and then I will answer.

Question #2: “The *avreichim* (older, full-time Torah students) are presumed [by the wider public] to be idle people, for they have never seen any place other than Yerushalayim. Therefore, we need to know whether it is crucial to bring in *avreichim* of a truly exceptional level of Torah scholarship and fear of Hashem from Russia, but those who know how to interact with people with active lives, for maybe they will be able to attract the hearts of the settlers of the Land. On the other hand, is it possible to find the resources in Yerushalayim, as perhaps the welfare of Torah study of the masses in Yerushalayim demands that we take the *avreichim* from there?”

My answer: The “idleness” of Yerushalayim’s *avreichim* is only external idleness. Truthfully, among them there are people of exceeding talents and those who are clever in the ways of the world, in addition to their esteemed stature in Torah and fear of Heaven. The problem is that the “Eastern” mode of dress, which is strange in the eyes of the Europeans, who make up the *New Yishuv*, is what makes them considered idle people. I am confident that our religious brethren in Germany can rectify the situation by creating a fund with which to establish a serious financial incentive that will enable people to support their family nicely, for the future position of rabbis of the *moshavot* (agricultural settlements). What they then need to do is to express their opinion that the attire of the rabbi should be a mixture [between traditional rabbinic garb and modern attire], in a manner that the rabbi would be acceptable to the populace, who are used to European culture. Then there would be nothing preventing [success], and as a result, the presumption of the *avreichim* of Yerushalayim being idle people will be removed, and we will find from among them rabbis who can act effectively to improve the religious situation in the *moshavot*.

A comment of Rabbi Halevy: How can we fix the way Torah is studied in Yerushalayim? I am astounded that not only has the community not produced one of the greatest scholars of the generation, but it has not even produced any exceptional scholars. Certainly, the *avreichim* who are in the tent of Torah focus on simple inferences and do not follow the approach to scholarship that such giants as the Shach, Mishneh Lamelech, Pri Chadash, ... taught.

My answer: The approach to Torah study in Yerushalayim does not need to be fixed. The scholars have all of the analytical skills that the most exceptional minds in the Diaspora have. They know the thought process of the great recent minds, and they are involved deeply in new ideas and analysis, in the same manner that has been learned from the works of the last centuries.

The reason that Yerushalayim has not produced some of the generation’s leading scholars, from the perspective of reputation, has to do with the situation. Someone can become known as a leading scholar if he becomes the rabbi of an important city or by publishing scholarly books. Neither of these is feasible in *Eretz Yisrael* and all the more so in Yerushalayim. There is no room for multiple “crowns” in one city, and in all of *Eretz Yisrael* there are only four known cities. Regarding books, the poverty is so great that there is no thought of publishing. Where will one get the money for it, and who will buy it if it is published? Several of the giants of scholarship in Yerushalayim do not even write down their novel ideas, and this is the way it has always been.

Next time we will continue with the state of scholarship in Yerushalayim and move on to the next question.

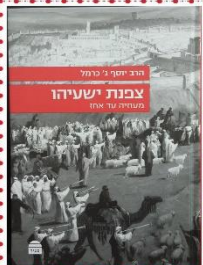
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Together with all *cholei* Yisrael



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

Granting a House to a Neighbor's Son – part IV

(based on ruling 81093 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) is a *yishuv* in the Shomron, which has only three lots slated for single-family homes. The right to build on them is to be raffled off among residents of def. The plaintiff (=pl) rents in the *yishuv*. Pl's widowed mother owns a house adjacent to one of the lots, and pl wants to receive rights to it without a raffle because only if he lives there can he arrange things to best serve his mother's needs. This would exercise his mother's *dina d'bar metzra* (=ddb) rights. Def counters that if someone receives a lot in such a manner, it will cause public accusations and acrimony.

Ruling: [We will now look at some final issues about ddb in this application.]

Since ddb is based on doing that which is "straight and good" for the neighbor (*matzran*), the Rabbis did not want to apply ddb in a manner that harms the seller. The *gemara* (Bava Metzia 108b) gives examples, including: the seller sold many fields to one person; the buyer gave more accepted coins than the *matzran*. The latter is an example of a damage that is not an objective, financial one. In our case, def's concern, that giving one person advantages will cause discontent, appears to be a legitimate damage to them as sellers. A previous ruling (72110) posited that if discontent comes from the populace's ignorance about ddb, this is not called damage, and the people should be taught what the right thing is. We do not accept this as a broad thesis because ddb is a beyond-the-letter-of-the-law enactment with many exceptions and there were communities led by great rabbis who did not employ or limited it (see Maharshdam, Choshen Mishpat 299). Although we are not suggesting to cancel ddb, we are saying that these factors cause us to take seriously the damage to def from the expected acrimony. On the other hand, whereas the acrimony is enough to have def carry out the raffle, it does not prevent pl from successfully suing the one who won the raffle, as then no one can have complaints against def. In this case, there is no concern that people will not enter the raffle because of it, so that def will not lose.

What do we do it when there is doubt whether ddb applies? The Shulchan Aruch and Rama (CM 175:45) rule that in the case of doubt, we do not apply ddb. However, the Rama posits that even in the case of doubt, the seller **should** sell to the one with the status of possible *matzran*. If there is a question between a definite and a possible *matzran*, the definite one is preferred (Sha'ar Mishpat ad loc. 5). In our case, once someone wins the lot in the raffle, it will be a question of after the fact, and a doubtful *matzran* will not be able to remove him.

Therefore, in summary, def as a seller is not bound by ddb, and it is not more than doubtful that pl will have these rights due to his mother alone, if they will live separately. Therefore, pl will not be able to take the lot from the raffle winner. We approve, though, of def's decision that if pl wins any of the lots in the raffle, he should be allowed to choose the one next to his mother.

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