



HEMDAT YAMIM

Parashat Hashavua Vayeira, 11 Cheshvan 5783

Harav Shaul Israeli zt"l
Founder and President

On Strict Law and Mercy; On Fatherhood and Motherhood

Harav Yosef Carmel

The word *tzchok* (laughter) is similar to the words *tzei chok* (rules are out). Therefore, it is not surprising that the central word in the context of the miraculous birth of Yitzchak, with parents of 100 and 90, is *tzchok*.

The news that Yitzchak would be born is found in two nearby sections (Bereishit 17:3-27 and *ibid.* 18:1-15). In certain matters, though, the two sections are very far apart. For one, in the first section, the Torah uses only the Name of *Elokim* (the Name of *din* (strict law)), whereas in the second one, the main Name (*Havaya* – the Name of mercy) is exclusively used. The first section puts the stress on Sarah providing a child for Avraham (see *ibid.* 17:19), whereas the second one focuses on the birth of a child for Sarah (*ibid.* 18:10), which puts things in a different light even when describing the exact same event.

The timing of the birth also shows some small but significant differences. The first section says it would happen “at this time in a different year” (*ibid.* 17:21). The second time it says “*ka’et chaya*” (at this live time). *Et* is a word for time which is not necessarily linked to a time of year and *chaya* is related to the process of birth. In fact it recalls the mother of motherhood, Chava, who was called the “mother of all *chay*.” She and her female descendants ensure the continuation of life and pregnancy, which is the use of the *rechem* (uterus), which shares a root with *rachamim* (mercy); these are two special domains of women. *Brit mila*, a *mitzva* which is connected to males, is a *mitzva* connected to the attribute, not of mercy, but of *din*.

The Torah’s description of Yitzchak’s birth itself is also somewhat repeated (*ibid.* 21:1&2). The first time, the Name of *Havaya* is used, and the second time *Elokim* is used, even though, of course, it was one event being described in two differently nuanced ways. The Name used in the creation of man in the original Creation is also that of *din* (see Bereishit 5:1-2).

We can summarize as follows. Hashem created the world and leads it with *din* to which He brings mercy to accompany it. Avraham and Sarah were granted a son to continue their legacy. Word of this upcoming great event reached them both in terms of *din* and in terms of *rachamim*. It works out perfectly that the section that stresses the father, Avraham, talks in terms of *din*, and the section that speaks in terms of the mother, Sarah, uses terms of *rachamim*. It also is appropriate that when we pray in order to arouse Hashem’s characteristic of *rachamim*, we invoke the person’s mother’s name.

We pray to Hashem that His characteristic of mercy will overpower the characteristic of strict judgment and that Hashem will only accelerate the process of our redemption. We must remember, from our perspective, that the more we employ mercy toward our fellow person the more Hashem will employ His mercy toward us.

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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

Sharing *Kaddish* in a Mourner's House

Question: I am saying *Kaddish* and recently went to a *shiva* house for *tefilla*. After I said a *Kaddish* with the *aveilim*, someone told me only the *aveil(im)* in *shiva* may do so in a *shiva* house. Is he right?

Answer: First we need to understand the stands on the question of whether all *aveilim* recite *Kaddish* or whether only one person is chosen (see rules in Be'ur Halacha, Orach Chayim 132) for each *Kaddish*. Until around 200 years ago, most Ashkenazi communities had one reciter, whereas the long-standing Sephardi *minhag* is for all to recite it. When concerns over quarreling between *aveilim* started changing Ashkenazi *minhag*, some of the *poskim* opposing change wrote *teshuvot* (see Shut Chatam Sofer I:159; Shut Binyan Tzion 122) pointing out the advantages of the old approach. (Their arguably biggest reason – not to change communal *minhagim* – is a non-issue in places where the *minhag* has been changed long ago.)

The main “halachic” reason to leave *Kaddish* to one person is the rule that two voices cannot be heard simultaneously sufficiently clearly (see Rosh Hashana 27a), which is a problem here because the *tzibbur* needs to hear and respond to the *Kaddish* said on behalf of the group (see Tzitz Eliezer XIV, 13). There is much to discuss but it does not affect your question, as it applies equally in a *shul* as in a *beit ha'aveil*.

The relevant question is whether additional reciters take away from the impact of one who would be reciting it alone. If yes, it is logical to argue that it was one thing to provide multiple year-long *aveilim* with parallel rights in the public domain more opportunities to get a lower benefit of saying *Kaddish*, and thereby also avoid quarreling. However, to go into the house of (a) specific *aveil(im)* in *shiva*, with unique, urgent spiritual needs, could be wrong.

We thus need to understand the power of *Kaddish*. There are four main explanations: 1) Leading/prompting the congregation who answer *Kaddish* brings merit to one's deceased parent (Shut Chatam Sofer I:159). 2) Reciting *Kaddish* sanctifies Hashem's Name, which is credited to the reciter's parent (see Tzitz Eliezer ibid.). 3) Acknowledging Hashem's greatness when focused on a death is a *tzidduk hadin* (accepting divine justice), which enables the death to atone for sins and/or fights off the mourner's questioning of Hashem's justice (Gesher Hachayim I:30:4). According to the latter reasons, the joint recitation of others with the *shiva* house *aveil* does not take away from *Kaddish*'s power and benefit. However, according to the Chatam Sofer's reason, if many say *Kaddish* together, why should the main *aveil* be considered the *minyans*' *Kaddish* facilitator? Thus, what you were told makes some sense.

However, the broad *minhag* is to not preclude others from saying *Kaddish* along with the *aveilim*. Therefore, you had a right to say *Kaddish* and not “sacrifice” your deceased's benefit and your obligations toward him or her because of the possibility of taking away from the *shiva* house *aveil*. This is the way a community works in balancing competing needs. The *shiva* house *aveilim* have joined the “brotherhood” of *Kaddish* reciters, in which cooperation and mutual understanding is crucial. They may have their opportunities to continue reciting *Kaddish* in the coming year at other people's *shiva* houses.

This being said, if the mourners themselves made a request, one should follow it. The emotional needs of the people in *shiva* are foremost even if their request is not ideal. You would then be justified to *daven* in a place where you can say *Kaddish*, assuming the *shiva* house will not have *minyans* problems.

In any case, it behooves other *Kaddish* reciters to be sensitive about another point in the Chatam Sofer (ibid.). Possibly the *Kaddish* reciter who is most audible and/or first to saying “*v'imru amen*” gets *Kaddish*'s main benefit. Therefore, it is good *middot* for visiting reciters to tone down the recitation so that it is clear that the *minyans*' main focus is the *shiva* house *aveil*, whether this gives a spiritual or at least a psychological benefit to him.

“Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in Rabbi Mann's weekly Zoom sessions, analyzing with him the sources and thought process behind past and future responses. Email us at info@erezhemdah.org to sign up (free) or for more information on joining the group.

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

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Igrot HaRe'aya - Letters of Rav Kook

The Outlook Toward a Religious Newspaper

1. #128

Date and Place: Adar 5668 (1908), Yafo

Recipient: Editor of Hachavatzelet (religious newspaper in *Eretz Yisrael*)

Body: The good news that Hachavatzelet is progressing [is a sign] that the spirit of new life that is increasingly blowing in the broad Jewish community in the Holy Land is penetrating and becoming an active force within those who hold the banner of sanctity and belief in the Holy Land. This has brought me more than a little joy.

I want to hope that this progress will not just be limited to the quantitative side (i.e., frequency of publication), even though that too is important. Greater than the difference between a newspaper that comes out once a week and one that comes out three times a week is what we want to see in the qualitative level of the new Hachavatzelet, in comparison to the old Hachavatzelet. It should have a spirit of new life, lively ideas, and live things that are all sustained by the dew of the reawakening of the Land of Life. These blow in the hearts of those whose flow of life rests upon the nation from the time that it became a nation in this holy land, from which the *chavatzelet* (lily, a play on words) is blossoming. We are justified to hope that the new Hachavatzelet will have plentiful degrees of these characteristics.

With this pleasant hope, I hereby come to strengthen your hand, my friend, the distinguished editor, in the name of He who had His Name dwell in Zion, that you should be filled with a spirit of wisdom and bravery, a spirit of good ideas, and a spirit of knowledge and fear of Hashem.

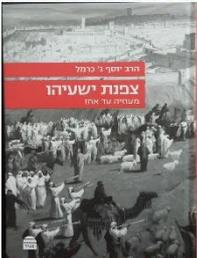
2. #131

Date and Place: 8 Nisan 5668 (1908), Yafo

Recipient: Shmuel Kook, Rav Kook's brother (and helper regarding publications)

Body: Of course, I was late [in writing] because of the matters that occupy/concern me. I was surprised that I did not receive the printed column (ed. note - perhaps, for pre-publication review).

I am including [with this letter] an article [I have written] for Hachavatzelet. In the meantime, my hopes have not been realized regarding the newspaper's progress. However, perhaps we have to support it, because at the end of the day, it is "ours." I would think that your heart might be weak upon seeing the spirit of battle in my article. (From the footnotes of the book – The article was apparently titled "The Flame of Hashem," and it was a very strong call for the awakening of the sanctity of Israel and the unfolding national liberation. It was written in opposition to the weakness of the religious community and the dryness of the spirit of heresy). My dear brother, the wounds of my heart surpass all boundaries. I am compelled to scream, and perhaps Hashem will have mercy, and I will be one who screams and thereby saves.



**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

End of Rental Disputes – part I

(based on ruling 81121 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) rented an apartment from the plaintiff (=pl), with several year-long contracts, during which time he raised the rent from 4,300 to 4,600 NIS monthly. During the last year, def did not make all of the rental payments (how much is owed is disputed). Def justified some of the lack of payment by his claim that pl had promised not to raise the rent. Pl is asking to recover the overdue payments and the money owed to the *va'ad bayit*. He is also demanding that def move out all of his belongings, as when *beit din* instructed him to leave the apartment, he moved into a storage room to live in but left some belongings. Subsequently def moved everything out but did not paint the apartment.

Ruling: Since def admits to owing some money and denies some of the amount demanded, *halacha* requires that def take a Torah-level oath on the remaining amount. For hundreds of years we do not administer oaths but make a compromise based on the *dayanim's* better judgment of partial payment in place of the oath. We decide that in this matter, def pay two thirds of the amount in dispute, a sum of 12,633 NIS.

Regarding the propriety of raising the rent, even if pl had promised not to, it would not be enforceable. That is because pl was not required to renew the rental for additional years. Therefore, if he made a raise in rent a condition of renewed rental and def accepted, that raise becomes binding. *Beit din* rejects def's claim that under his circumstances, def had no choice but to agree to the raise because of the need to continue the rental. This is considered self-coercion (see Bava Batra 47b), as pl did not force def to agree to continue and if his own circumstances made it necessary, that is considered something coming from himself.

Def claimed that pl agreed with def that in exchange for def leaving the apartment, he would be exempt from paying for August. However, this is irrelevant because def did not in fact leave the apartment as promised. Pl's claim of 200 NIS a day for leaving late is based on a clause in the contract. While we do not believe in exaggerated penalties for lateness (see Mishpetei Eretz IV, p. 132), 200 NIS for a day-by-day rental is not exaggerated. However, during the period during which def was no longer living in the apartment but only in the storage area, def should not pay the full amount but only 65 NIS a day. Therefore, for all of the lateness in pay, def owes another 6,575 NIS.

The contract required def to paint the apartment before returning it. Based on an inspection, *beit din* rejects def's claim that he had painted close enough to the return of the apartment. However, 1,200 NIS is sufficient to pay, plus 300 NIS to remove the objects that def left behind.

We continue with other elements of the dispute next time.

Comments or questions regarding articles can be sent to: info@erezhemdah.org

We daven for a complete and speedy refuah for:

Nir Rephael ben Rachel Bracha
Yisrael ben Rivka

Arye Yitzchak ben Geula Miriam
Yerachmiel ben Zlotta Rivka

Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

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