



HEMDAT YAMIM

Parashat Hashavua Lech Lecha, 13 Cheshvan 5784

Harav Shaul Israeli zt"l
Founder and President

A Famine in the Land – What's the Point? Harav Yosef Carmel

A natural disaster in ancient times was, for many reasons, too heavy a burden to manage. Therefore, as Jews who believe in Divine Providence, whenever the Torah tells of something like a difficult famine, we should ask why it happened.

In some cases, the answer is quite clear. We can presume that the famine at the time of Yaakov and his sons, which caused the family to go down to Egypt, was a punishment for the sale of Yosef as a slave to Egypt.

The famine in the beginning of *Megillat Rut* was apparently the outcome of a national sin at that time. We have discussed in the past that under the leadership of Elimelech and his sons, Bnei Yisrael gave up hope of completing the acquisition of the Land and the establishment of a united Jewish state. Thus, they lost hope of liberation and encouraged intermarriage, which endangered the continued existence of *Am Yisrael*.

What was behind the famine at the beginning of Avraham's attempt to establish his home in the Land of C'na'an? A few opinions in the *midrash* posit that it was in order to test Avraham's belief in Hashem. The Radak (to Bereishit 12:10) points out how easy it could have been for Avraham to have questioned Hashem based on His promise – "The families of the Land will be blessed in you" (ibid. 3). Here, after all, as soon as Avraham came to the Land, its inhabitants started suffering tremendously!

Da'at Zekeinim MiBaalei HaTosafot takes a totally different approach. Hashem told Avraham: "You shall be a blessing" (ibid. 2). Da'at Zekeinim saw this as a commandment. Avraham's task was to get people everywhere he went to recognize Hashem and bless Him. Indeed, the Torah tells us that Avraham did this, as it says: "He called out in the Name of Hashem" (ibid. 8). According to this approach, the famine was a punishment to the people of the Land who did not sufficiently adopt Avraham as their mentor, despite Hashem's commandment.

We will take a new approach based on the direction of the Radak and *midrashim*, connecting it all to the divine command in the beginning of the *parasha*: "Leave your land, your birthplace, and your father's house, and go to the land I will show you" (ibid. 1). Rashi (Bereishit 11:28) says that Avraham's brother, Haran, died because of his father. Terach complained to Nimrod about the destruction of his idols, Avraham was defiant, and Haran "sat on the fence," waiting to see if Avraham would survive. When Avraham did, Haran supported him, but he was not deserving of a miracle to save him. When the crisis between Avraham and Nimrod boiled over, Hashem commanded Avraham to leave his father's house and go to a new land, the Land of C'na'an, named for the fourth son of Cham, who was a relative of Nimrod.

The famine, which forced Avraham to Egypt, was a further test for Avraham. Nimrod was the firstborn of Cham's firstborn, Kush. Nimrod, a heretic, was born and bred in Egypt, before moving to Mesopotamia and conquering many lands. Leaving *Eretz C'na'an* and going to the more pagan land of Egypt, made things more difficult for Avraham's attempt to build a community of believers, but he succeeded anyway.

We pray that Hashem will not give us difficult tests. May we fully follow the path of our patriarch Avraham, the father of the believers.

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Ask the Rabbi

by Rav Daniel Mann

Halachic Principles of *Pikuach Nefesh*

Introduction: Over the past few weeks, we have on our minds the precious need to save lives, including by “pushing off” Shabbat to enable this. We will now present some of the halachic and practical underpinnings of the laws that *pikuach nefesh* (saving a life) takes precedence over almost all of the Torah’s *mitzvot* and prohibitions.

Principles: While the *gemara* (Yoma 85a-b) cites several possible derivations that *pikuach nefesh* supersedes Shabbat and by extension other prohibitions, the most accepted one is general: the statutes of the Torah are “to live with them” (Vayikra 18:5) and not to die due to them. The nature of the derivation makes the *halacha* broad, conceptually and practically, including when the need or chance of saving is not definite (ibid.; see Be’ur Halacha to OC 329:4).

The most important thing needed to make a determination of when *pikuach nefesh* allowances apply is expertise in evaluating the danger. Special weight is given to people whose expertise is professionally recognized, e.g., doctors (see Shulchan Aruch, OC 328:10). However, many times a rabbi, parent, or bystander will have to make a determination; knowledge and wisdom are helpful, but it is better that he err on the side of concern for the life.

There are not clear statistical guidelines as to what counts as danger. Rabbi Akiva Eiger (Shut I:60) mentions in passing that a one thousandth chance of death is not halachic danger. Rav Neuwirth (Shemirat Shabbat K’hilchata 32:2) presents an appealing approach in the name of Rav Auerbach. Danger is not measured actuarially. Rather, just as regarding when one is permitted to enter danger, what society considers dangerous is impactful (see Yevamot 72a), so too *pikuach nefesh* applies to situations that normal people consider life-threatening. This approach explains a limitation important *Acharonim* (see Pitchei Teshuva, Yoreh Deah 363:5; Chazon Ish, Ohalot 22:32) put on life-saving needs – danger must be one that is felt in the short-term (there are likely exceptions). The logic is that it is not normal to look well into the future, and therefore it is not justifiable to violate prohibitions over things that people usually ignore.

A major question involves steps one should take to lessen prohibitions, which we find regarding eating on Yom Kippur (Shulchan Aruch, OC 618:7), eating non-kosher foods (ibid. 9) and *melacha* on Shabbat (ibid. 32:15-16). The Kiryat Sefer (Ma’achalot Assurot 14) posits that the requirement to minimize violations is only Rabbinic. Many, not all, agree (see Yechaveh Da’at IV:30; Minchat Shlomo I:7). In any case, the *gemara* (Yoma 84b) limits efforts to minimize violations, saying that saving lives on Shabbat should be carried out by adult Jews, as opposed to having a non-Jew do it. (The latter option is often used when there is great but not life-saving need (see Shulchan Aruch, OC 328:17).) *Rishonim* present two reasons for this exceptional *halacha* (see Beit Yosef, OC 328): 1. Perhaps the non-Jew will not be diligent enough, thus increasing danger. 2. If people get used to looking for a non-Jew, if one is not readily available, they may miss the opportunity to save in time. Despite the *gemara*, the Rama (OC 328:12) cites an opinion that we prefer a non-Jew who will do the job well. The Taz (ad loc. 5) disagrees due to the *gemara*, and the Mishna Berura (328:37) is inconclusive.

Practice (in places such as Sha’arei Tzedek Hospital) is that a Jewish doctor will take overall responsibility for orchestrating and doing the saving, but when there is time for a non-Jew to do simple actions, e.g., turning on lights, that is preferred. The Rama (ibid.) likewise adds that one should try to do what he can *b’shinuy* (in an unusual way), to lessen Shabbat violation. On this point, there is less opposition, which makes sense according to our distinction between the macro and the micro of the efforts to save. The ability to violate Shabbat with a *shinuy* is valuable for encouraging a G-d-fearer who is reticent to violate Shabbat when **he** is not convinced of its pressing nature.

“Behind the Scenes” Zoom shiur

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Igrot HaRe'aya - Letters of Rav Kook

Report on Relations with New Turkish Government – #174

Date and Place: 5 Kislev 5669, Yafo

Recipient: Rav Kook's uncle, R. Yehuda Leib Felman

Body: I rejoiced upon receiving the signed letter that you gave to me (Rav Kook used a play on words with a complex halachic concept), in which you informed us about your satisfactory state and in which you inquired about our welfare. Thank G-d, His kindness continues to grow as He enables us to live in our Coveted Land, which Hashem established to always be holy before Him, above all other lands, from the beginning of time and for eternity.


There is nothing to fear from the news regarding the government, in whose hands Hashem entrusted our Holy Land until it will return (may it happen soon) to its true owners, the offspring of His servants. (The Young Turks movement had taken over the Ottoman Empire, replacing the Sultan with a civilian council.) To the contrary, we see that the Hand of Hashem, which was involved in the matter, acted [as usual] for the good, to cause the "horn of salvation" to flourish.

The draft notices [that they send to Jewish men] can be redeemed by paying 50 Turkish liras, which is worth approximately 400 rubles. Also, any Torah scholar is exempt according to government law. It is even possible that, with Hashem's help, it will be possible to arrange kosher food for our Jewish brethren (presumably for those in the Turkish army in *Eretz Yisrael*) and that they will be given vacation on Shabbat and holidays.

In the other direction (i.e., what can be gained by engaging the new Turkish government), Jews (unclear if this is only those who serve in the army, or in general) will be able to be promoted to all the various levels of the government, even the highest ones. They actually like to have those who believe in Hashem and in our holy Torah [working for them], and respect for the Torah is important to them. In short, there is absolutely nothing to worry about from the change in the government.

Fortunate is he who is blessed with riches and property and settles in the Holy Land. (Rav Kook was certainly not speaking about himself, as he was not rich. Perhaps, Rav Kook's uncle, about whom I did not succeed to find information, was well-off and might have been considering or was open to moving to *Eretz Yisrael*). If he does so, he will be able to see a wonderful spiritual life during his physical life, enjoying the aura of the pleasantness of its sanctity and the beauty of its desirable air, which is pleasant and pure. From the small amount of revealed special qualities, one can peek from between the cracks at the hidden treasures that Hashem [has stored in *Eretz Yisrael*], in the grandeur of the aura of its glory, honor, and splendor. May Hashem make the Land secure very very quickly, with great goodness for the House of Israel.

I also would like to request of you to bring us joy on a regular basis with your dear letters, letting us know about your good life and the peace that you and all of your offspring, from near and far, shall enjoy. May Hashem bless them all with His bountiful blessing and goodness. May you receive herein the prayer of peace and blessing from the eager spirit of your nephew, who loves you with all my heart and soul. We look forward to Hashem's salvation for His nation in the Land of our Heritage, quickly in our days.



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

Compensation for Transfer of Business to One Partner – part II

(based on ruling 78039 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) started a business that provides therapy for children. According to their agreement, def, who has a similar center elsewhere, was responsible for the finances and infrastructure (e.g., payment from parents and *kupat cholim*, paying workers, insurance, purchases, upkeep). Pl was to serve as a therapist, be in charge of day-to-day operations, interact with parents and workers, and plan events. The business and grounds rental were in def's name. Pl and def were supposed to get small salaries and then split profits equally after reaching "the point of balance." After three years, the level of acrimony brought them to separate, and *beit din* oversaw the transfer of the business to pl, with compensation due to def. This installment deals with the validity of the written agreement and the status of pl as a partner.

Ruling: A one-page agreement between the sides maps out the rights and the responsibilities of the two. Pl claims that the document is binding even though it was not signed. Def contradicted himself on the matter at different junctures of the adjudication.

Beit din finds that the document is binding. All agree that that it had been drawn up by def and that there was no other basic written agreement. When, two years into the business, a financial advisor needed to learn about the workings of the business, def showed him this document. Def also used it as a source to learn matters that supported his case, and so def agrees that it was not just passing ideas jotted down.

Such an agreement need not be signed, as no document is necessary. The Rama (Choshen Mishpat 176:3) says that partners for joint work do not need a *kinyan*, and oral agreement is binding. This is all the more so when there was not just commitment to future joint work but rather that the two actually worked together, as beginning work is itself a *kinyan* (Ramban, Bava Batra 9a). According to def, that there is no partnership but that pl is just a senior worker, work agreements are certainly made binding by the beginning of work (Shulchan Aruch, CM 333:1).

According to pl, the two are partners, and therefore pl only has to compensate def for giving her the second half of the business. Def argues that pl cannot be a partner, since everything external was done in def's name, and he made all of the financial investments.

Fundamentally, *beit din* agrees with pl. The facts that the heading of the agreement is "Partnership Agreement" and that the profits were to be split 50-50 are among several indications that the two were partners. There are many different types of partnerships, differing concerning what each one brings to helping the business as well as how they will be rewarded. Since def is in charge of the technical elements, payments, and infrastructure, it is not surprising that all the external contracts are in his name. Regarding investment, the great discount in salary that pl gave to the business is also an investment and risk.

Next time we will see the machloket between dayanim on the extent of the partnership.

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