



# HEMDAT YAMIM

חֵמְדָּה יָמִימִים

## Parashat Hashavua

R'ei, Av 27 5784

Harav Shaul Israeli zt"l  
Founder and President

**“The Blessing – That you Shall Listen”**  
Harav Shaul Yisraeli – from Siach Shaul 500-501 (address from 1940)

“See, I place before you today the blessing and the curse. The blessing – that you shall listen to the commandments of Hashem ...” (Devarim 11:26-27).

In addition to a person's reward in the World to Come for doing *mitzvot*, they also bring him blessing in This World. Clinging to one's Maker negates the concepts of curses. Even when something looks like a curse, when one who clings to Hashem goes through the type of painful times that make others scream with pain and see their lives as totally dark, he has a different experience. He not only does not feel the pain but feels indescribable pleasure. This is the rare level of Rabbi Akiva, who smiled when he saw foxes coming out of the Holy of Holies and was able to say during his cruel execution: “All my days I was concerned about this *pasuk* ‘You shall love Hashem ... with all your life’ – when will I have the opportunity and I will fulfill it” (Berachot 61b). This explains the hope of the incarcerated in the courtyard of Warsaw, who sang: “I want to survive!”

Blessing is not a simple reward, external to the *mitzva*. It is the *mitzva* itself! Listening to the *mitzvot* is a blessing and the greatest feeling, as we should understand our *pasuk*.

As we experience this time of great anguish, when not only Mt. Eival but even Mt. Grizim spews forth only curses, we must not take comfort in the fact that the torment has not reached us [in pre-State *Eretz Yisrael*, as it has the Jews of Europe]. Insensitivity and shielding our faces is not legitimate and is catastrophic. It shows a decay of the soul, which only hastens destruction. Such complacency stemming from a hard heart is strictly forbidden. *Chazal* tell us that during the destruction of Beitar, people on one side of the city were being killed, while people on the other side were involved in feasts (Gittin 57a). When one feels that “I have saved my life,” tragedy can befall the person who is ostensibly at peace.

We are commanded to feel the great pain of the Jews of the exile. When we put bread in our mouths, we should remember the many who are starving. When we walk free, we should remember the thousands in detention camps and urban ghettos. We should carry the yellow star on our clothes and actually in our souls. We must see ourselves as lucky to be standing on Mt. Grizim.

On the other hand, we should know that the joint burden of our brethren and us is not for either of us to bear alone. “Throw your requests on Hashem” (Tehillim 55:23). He has wide “shoulders” and we have upon Whom to throw our burdens and pain. We have a “chest” upon which to cry and call out. We must accept everything with love and belief, as even the curse can turn into a wellspring of life and blessing.

May the days of Elul, the month that “sums up the year,” turn into days of inspiration and contemplation. Let us free ourselves from worrying what will befall us personally and focus on spending time in Torah study. Let us sanctify ourselves with prayer and facilitate mercy for us and the entire House of Israel who are in distress and captivity. We should come increasingly to *shul* for public prayer and be careful regarding the fulfillment of *mitzvot*. May the merit of these matters turn the curses into blessings and usher in a new year successfully – a year of liberation and salvation, speedily in our times.

### Hemdat Yamim is dedicated to the memory of Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah:

Rav <b>Shlomo Merzel</b> z"l Iyar 10, 5771	Rav <b>Yisrael Rozen</b> z"l Cheshvan 13, 5778	Mr. <b>Moshe Wasserzug</b> z"l Tishrei 20, 5781	Rav <b>Reuven &amp; Chaya Leah Aberman</b> z"l Tishrei 9, 5776 / Tishrei 20, 5782	Prof. <b>Yisrael Aharoni</b> z"l Kislev 14, 5773
R' <b>Yaakov</b> ben Abraham & Aisha and <b>Chana</b> bat Yaish & Simcha <b>Sebbag</b> z"l	R' <b>Yitzchak Zev &amp; Naomi Tarshansky</b> z"l Adar 28, 5781/ Adar II 14, 5784	Mr. <b>Shmuel &amp; Rivka Brandman</b> z"l Tevet 16 5783/ Iyar 8, 5781	R' <b>Meir</b> ben Yechezkel Shraga <b>Brachfeld</b> z"l & Mrs. <b>Sara Brachfeld</b> z"l Tevet 16, 5780	
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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

## The Significance of a Sefer Torah's Position

**Question:** I learned that Sephardim *lain* from an erect *sefer Torah* and Ashkenazim *lain* when it is inclined to follow their respective *minhagim* on a *mezuzah's* position. Is that a reason for individuals to hear *kri'at haTorah* according to their *minhag*?

**Answer:** It is not a reason! Some sources compare the positions of a *mezuzah* and a *sefer Torah*, but we should not overextend the comparison.

The *gemara* (Menachot 33a) says that if one places his *mezuzah* like a *nagar* (bolt), it is invalid. Rashi (ad loc.) explains that the *mezuzah* must be placed vertically, not horizontally. Rabbeinu Tam (cited in Tosafot ad loc.) brings sources about things that deserve respect (the *sefer Torah* in the *Mikdash's aron* and buried bodies) are kept horizontally. He reasons that *tefillin's parshiyot* should also lie horizontally in the *batim*. Rabbeinu Tam brings as proof for a horizontal *mezuzah* the fact that the *tzibbur* does not sit when the *sefer Torah* is brought to the *bima* until it is put down (horizontally). Thus, Rabbeinu Tam connects the positions of a *sefer Torah* and a *mezuzah*.

The Shulchan Aruch (Yoreh Deah 289:6) rules like Rashi that *mezuzot* should be attached vertically. However, the Rama (ad loc.) says that in deference to Rabbeinu Tam, we follow the precedent of Rebbe (according to many to Menachot 33a), to put the *mezuzah* diagonally, which all should agree is valid *b'di'eved*. Piskei Tosafot (Menachot 83) and the Bach (YD 289) posit that just like the Ashkenazi *minhag* regarding *mezuzot*, *sifrei Torah* in the *aron kodesh* should be put diagonally.

It appears Ashkenazim do not practice having diagonal *sifrei Torah* in the *aron*. According to many (see Maharil, *Mezuzah* 3; discussion in *Minchat Elazar* I:36), diagonal means close to 45°, which is uncommon for *sifrei Torah*. Rather, we lean the *sifrei Torah* on the *aron's* walls mildly, apparently to prevent their falling. In fact, in *shuls* that have an apparatus to secure the *sifrei Torah*, they are generally erect.

Furthermore, the sources on *sifrei Torah* deal with their position when they are kept, not when reading from them. Even Rabbeinu Tam's proof is not from the fact that we read from a horizontal *sefer*, but that we sit down only when it is put down for reading, which shows that previously, it was not in a natural position of rest. He does not imply that in Rashi's *shul*, they read from a vertical *sefer Torah*. The Gra (YD 289:14) rules to put *mezuzot* vertically because we accept Rashi fully (several *poskim* agree), and to do the same with *sifrei Torah*. Do Gra followers (Ashkenazim) read from a vertical *sefer Torah*?! In any case, the angle of the *bimot* in Ashkenazi *shuls* is not due to deference to both Rashi and Rabbeinu Tam. First, the small slant does not resemble our *mezuzot*, where the *minhag* is anywhere from slightly off vertical to a maximum of 45° from it. Igrot Moshe (Orach Chayim I:38) assumes that we read a *sefer Torah* when it is horizontal. Also, when there is a need to *lain* on a flat table, no one objects on halachic grounds. Consider that according to the linkage your question assumes, we would be **relying** on Rabbeinu Tam's outlier position (the Noda B'yehuda II, OC 4 assumes this in explaining why even people who wear Rabbeinu Tam *tefillin* do not have *tefillin* with horizontal *parshiyot*). So the linkage is not going to work for Ashkenazim.

One can argue that Sephardim prefer to read from an upright *sefer Torah* because they hold like Rashi. On the other hand, many Moroccan *batei kneset* whose *sifrei Torah* are without a case, lay them down, even though their *mezuzot* are like Rashi. It is likely that, given the *sefer's* casing, the position is about practicality. That is what the Igrot Moshe assumes for Ashkenazim. Note that the slant resembles that of conference-hall lecterns around the world.

Even IF the *minhag* were to treat *sifrei Torah* like *mezuzot*, this would be as a matter of proper respect. Whereas the *mezuzah's* position is critical and could affect the *mitzva's* efficacy, an unideal *sefer Torah* position could not logically endanger fulfilling the *mitzva* of *kri'at haTorah* (see *Radbaz* III:530).

### “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](mailto: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.**



# Igrot HaRe'aya - Letters of Rav Kook

## Tuition Must be Paid – #265

**Date and Place:** 7 Shevat 5670 (1910), Yafo

**Recipient:** The secretariat of the Jewish Colonial Association

**Body:** I have the honor to request of the honored secretariat to instruct the schoolteacher not to accept children whose fathers have been sued to pay tuition, until the matter can be worked out under the auspices of the rabbi of the *moshava* Ekron. The adjudication will be before the rabbi of Ekron, to avoid the matter being drawn out if they need to go to Yafo.

## Questions about the *Kashrut* in Hadera – #267, 268

**Date and Place:** 14 Shevat 5670 (1910), 25 Shevat 5670, Yafo

**Recipient:** The council of Hadera and the revered *shochet* of Hadera

**Body:** 1. Mr. S.G. came before me and complained that he was condemned as forbidden to be involved in kosher food production, and presented his excuse [to answer the questions raised against him]. I am very happy about the general matter that Hashem gave your pure spirits [the impetus] to stand in the breach on the matter of *kashrut* and take the necessary, firm steps. Your part in all of this is to be praised. May Hashem strengthen your pure hearts in [other] matters of religion and Judaism, and may you be well known and admired within the Holy Land. May you witness Hashem's salvation of His nation in regard to the Land that is their lot, quickly in our days.

However, regarding Mr. S.G. specific request, that the matter be clarified before us (i.e., rabbinic authorities, especially Rav Kook himself), and that he wants show that he is clear of wrongdoing, he is correct. It is critical that the most important people needed for clarification will come to us. If you see that it will be possible to clarify the matter (i.e., amassing the information) by means of hearing the witnesses according to the laws of the Torah, you can send me the details of the testimony, and we will see what to do about S.G.'s presumption of fitness.

Let me repeat, my dear people, that I bless you for your improvements in the area of the Torah of Hashem, in that you are supervising the *kashrut*. May the pleasantness of Hashem be upon you, and may He bequeath blessing to you forever.

P.S. – The council should definitely include the respected *shochet* and two other Torah-knowledgeable men when you investigate the matter.

2. It has been almost two weeks since I sent you a letter concerning Mr. G, and I am very surprised that I have not been honored with a response to this point.

It is obvious that in order to disqualify a Jew from his presumption of fitness, there must be a serious legal process in front of a rabbinical court that includes rabbis who are experts in rendering rulings. However, it is a very good idea to suspend Mr. G and not grant him reliability as a fully-approved kosher food producer, just as is being done now with the Arab.

However, as time goes on, no more than two weeks from now, it is proper to clarify the matter before me, so that I will be able to know what happened there. Just as we stand in the breach to protect *kashrut* standards, so must we investigate to make sure that one of our brothers is not being improperly pursued, as it could emerge that he did nothing wrong.

In short, be methodical in the matter, dear brothers, and have a ruling of justice emerge. Uphold the standards of sanctity and *kashrut*, together with justice, rectitude, concern for a person's dignity, and love of our brethren. I am hereby waiting to receive your answer, as I bless you with everything good and as I try to strengthen your resolve to uphold Torah and *mitzvot*.

We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha

Arye Yitzchak ben Geula Miriam

Neta bat Malka

Ori Leah bat Chaya Temima

Tal Shaul ben Yaffa

Meira bat Esther

Together with all *cholei* Yisrael

# P'ninat Mishpat

## Incomplete and Imperfect Renovation Job – part I

(based on ruling 83063 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) hired the plaintiff (=pl) to do renovations for 400,000 NIS. Pl completed most of the project, and def paid pl 95% of the fee. Due to disagreements between the sides, pl did not complete the job. Pl sued for the unpaid 23,400 NIS and for additional payment due to claimed extra work. Def countersued for flaws in the work. In an interim ruling, *beit din* required def to allow pl to fix flaws. Pl agreed to do so, whereas def was unwilling for pl to continue working, despite *beit din's* warning of financial repercussions. Def claims to be justified in losing confidence in pl, who all but admitted that he is incapable of completing the job.

**Ruling:** There is little question as to what pl did and did not do, and the main question is whether the sides were allowed to abrogate their parts of the deal before its completion.

The *gemara* (Bava Metzia 75b) states that if a *kablan* (someone paid by the job) starts but decides not to complete a job, he gets paid no more than the amount he was promised for the job minus the amount it will cost the employer to get someone else to finish the job. The Shulchan Aruch (Choshen Mishpat 333:3-4) also rules this way. The Rama (ibid.) adds that if the employer backed out, then the worker receives proportional partial pay for the work he did, even if finishing up the job will exceed the envisioned final price. Regarding the work he did not end up doing, the *gemara* (ibid. 76b) states that the worker gets paid for the work he was promised to be paid for, but we reduce the amount a person normally agrees to in return for the freedom of not having to work (this reduced fee is called *po'el batel*).

The Perisha (333:2) says that if the worker is able to replace that work with another job, he does not get paid for that which he did not yet do. The Netivot Hamishpat (333:7) says that we do not consider whether he could have gotten another job, because for a *kablan* we view it that one job does not preclude another, and therefore he always receives partial payment for what he was not allowed to do. In this case, because *beit din* warned def that he should allow pl to fix what he can and def did not listen, pl should get paid a significant percentage of what he did not do.

The Taz (ad loc.) rules that the reduction of a *po'el batel* is by half of the amount due him on the undone work. While some *Rishonim* are of that opinion, the Rashba and others say to reduce the amount due by less. Many *poskim* say that the specifics of the case, including how hard the work is, can play a role in the determination. In this case, we estimate that two thirds of the fee is correct. In a case of building, one must consider that much of the fee goes toward building supplies and workers (for whom the contractor pays). It is also not clear here that only 5% of the work (= the amount that was not paid) remains, as the end of a job is full of surprises and taxing finishes, while on the other hand, it usually does not require extensive materials.

*We will continue next week.*

Comments or questions regarding articles can be sent to:  
[info@erezhemdah.org](mailto:info@erezhemdah.org)

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