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PARASHAT HASHAVUAH

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Thought-Altering Actions

Rav Shaul Yisraeli, Si'ach Shaul, p. 539

"He [the sinner] will bless himself in his heart, saying, 'I will have peace *ki* in the desires of my heart I shall go'" (Devarim 29:18). The simplest meaning of *ki* in context would be, despite –things will be good even if I do bad. However, that is not one of the word, *ki*'s, meanings. The standard meaning, because, is difficult, as why should following one's heart make one think that he will succeed. It is also difficult why the person's attitude seems to be more troublesome than the bad actions themselves. In fact, later on (ibid.:24) it seems that the punishment comes due to the actions.

Commentaries struggled with the hardening of Pharaoh's heart, as it should have exempted him from punishment. The Rambam (Teshuva 6:3) says that the hardening was part of the punishment. However, it is difficult why he needed the hardening, as there was so much to punish for in his past behavior. The Ramchal (Derech Hashem 5:1) explains that the "image of G-d" that man has means that man can reach levels that are innate to the Divine by wrestling with and subduing the evil inclination. One of the inclination's trick's is to blind the person so that he should not see alternative actions, like a drug addict who stops believing that he can stop being a drug addict. When we infer from the Torah that certain sins pollute the heart, it means that one stops sensing the battle and happily continues to do the sin without noticing the alternatives.

We distinguish between people who act properly and run to good things and those who unfortunately run to bad things (Berachot 28b). One who has developed a proclivity to sin is like one who runs to sin and thereby creates a dependency on sin. The worst thing is for one to become like a robot who can no longer decide on his actions but is almost forced into the actions or like an addict who knows he is destroying himself but cannot stop.

It is actually the performance of sins that makes the person's heart hard, as one sin brings on another until the sinner develops an ideology of sin that denies other approaches. He forgets the idea of being able to strive for being in the "image of G-d." But man is in the image of G-d, as Hashem breathed into us a "soul of life" (Bereishit 2:7). Moshe repeated over and over in Sefer Devarim that we have freedom to choose goodness.

This is what the Torah meant by "because in the desires of my heart I shall go." The sinner says that he will not be punished because there is no alternative to the way he is acting, as he is addicted. The fact that he acted as he wanted pushed him into that position. Therefore, that which infuriates Hashem is the statement that I will follow what I want, for from that point on, there appears to be little hope to do otherwise.

However, hope in the form of *teshuva* (repentance) always exists and, in fact, is close and "in your mouth and heart to do it" (Devarim 30:14). If we can look past the façade that the evil inclination spreads out before us we will see that the path to repentance is much closer than we could see.

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Deans: **Harav Yosef Carmel, Harav Moshe Ehrenreich**
3 Rabbi Chiya Hagadol St. P.O.B 36236 Jerusalem 91360

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Ask the Rabbi

Question: Why does the Shulchan Aruch say that a non-Jew can bury a Jew on the first day of *Yom Tov* (Orach Chayim 526:1) but that a non-Jew may not bury a Jew on Shabbat (ibid.:3)? Also does anyone bury on *Yom Tov* anymore?

Answer: The *gemara* (Beitza 6a) says that if one dies on the first day of *Yom Tov*, when *melacha* (forbidden work) is a Torah level prohibition, he is to be buried by non-Jews on that day. If he dies on the second day (or there was not an opportunity to do it on the first day), Jews do the burial on the second day of *Yom Tov*. The Shulchan Aruch's claim that on Shabbat (and Yom Kippur) Jewish burials are not performed is easier to prove than to explain. The *gemara* (Rosh Hashana 20a) says that one reason to avoid certain calendar arrangements is to avoid Yom Kippur falling right before or right after Shabbat, in which case there would be two days without burial, with the prospect of decay and disgrace to the deceased.

While the laws of Shabbat are significantly stricter than those of *Yom Tov*, when it comes to having the *melacha* done by non-Jews, there does not need to be a difference. Asking a non-Jew to do the work is only a rabbinic prohibition and there are several scenarios, including for the needs of someone who is sick but not dangerously so, that one may ask a non-Jew to do even a Torah level *melacha* (Shulchan Aruch, OC 328:17). Burial is one of the needs that is taken with utmost urgency by halacha (see Berachot 19b). So halachically there could have been room to allow non-Jew's doing the burial even on Shabbat. An early source who gives an explanation is the Ramban (Torat Ha'adam, pg. 80 in Mossad Harav Kook edition). He says that we do not want there to be a disgrace for the deceased in that Shabbat was desecrated for his burial. While one could make the same claim about *Yom Tov*, the Aruch Hashulchan (OC 526:4) explains that on *Yom Tov* there are anyway *melachot* that are permitted, so to permit this type of burial would not "raise eyebrows" in the same way.

On the second day of *Yom Tov*, as mentioned, Jews may do the burial themselves. However, Ashkenazic practice (Rama, OC 526:4) is that non-Jews, if available, do the full-fledged violations of *Yom Tov*. (The details of who does what are beyond our present scope.)

Regarding practice nowadays, there is not unanimity. One of the leading *chevrot kaddisha* in Israel told us they still follow the classic halacha with one caveat. They will perform a first day burial only if they are confident no one will violate *Yom Tov* in order to take part in the funeral. This brings us to the next point.

There are major authorities who oppose doing funerals on either day of *Yom Tov*. Of prominent note, Rav Moshe Feinstein (Igrot Moshe, OC III, 76) says that two things have changed from Talmudic times. One is that there is now refrigeration, which prevents serious decomposition and odors. He claims that had that been the case then, *Chazal* would not have allowed the burials and would have said that it would be disrespectful to the deceased to bury on *Yom Tov*. He admits that once they permitted the matter, it might not make a difference that times have changed. However, he points to another halachic phenomenon that was classically applied sparingly but now may apply more broadly. People from a certain town were forbidden to bury on *Yom Tov* because they were not careful in their Torah observance and thus the permission might be abused (Shabbat 139a). While this approach was not applied broadly in the past (see Tosafot 6a), Rav Feinstein felt that it should be applied in America of his time. As he acknowledged, not all agreed.

One can also point out that nowadays when people come from significant distances to take part in funerals and when, again, refrigeration makes waiting feasible, few people want to do a funeral on *Yom Tov*. Therefore, even if the *gemara*'s and Shulchan Aruch's rules apply theoretically, you are correct that their implementation is uncommon.

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An Oath Tied to the Divine Name Cannot Be Nullified

(condensed from Ein Ayah, Berachot 5:64)

Gemara: [In defense of Bnei Yisrael, when Hashem discussed destroying them after the sin of Golden Calf] Moshe said: “Remember Avraham, Yitzchak, and Yaakov, Your servants, to whom You swore in You” (Shemot 32:13). What does it mean, “in You”? Rav Elazar explained: Moshe said before Hashem: “Master of the Universe, if You had sworn in the heavens and the earth, I would have said that just as the heavens and the earth can cease, so too Your oath’s validity can cease. However, now that You swore in Your great name, just as Your great name is alive and lasts for all of eternity, so too Your oath stands for all eternity.”

Ein Ayah: If Bnei Yisrael’s continued existence depended on some rule of nature, there could, Heaven forbid, have been something that would make them cease to exist. This could occur when the rule would not have its conditions fulfilled or the nation would not be fulfilling its set role within that historical rule of nature. However, Hashem swore in His own name, and their existence does not depend on any natural set target but on the true completeness of His eternal great name, which will increasingly give light in humanity through Israel. Therefore, the oath cannot be nullified.

The Crucial Element of Hashem’s Upholding His Promise

(condensed from Ein Ayah, Berachot 5:66)

Gemara: [This is a continuation of the aforementioned *gemara*.] Moshe was saying to Hashem: “Those things that You told me to tell Bnei Yisrael in Your name, I went and told Bnei Yisrael in Your name. Now what will I tell them?”

Ein Ayah: There is another reason for Bnei Yisrael’s eternal status and the inability for the covenant to be broken. For mankind to reach its potential, the veracity of a Divine promise transmitted by a prophet must be solid and unmovable. Without this, no nation will ever be confident about its choices that are connected to Hashem’s word. At least the special, leading nation needs that confidence so that it can stand up to all of the trials and tribulations of life. That is what Moshe meant. After I told Bnei Yisrael in Your name the promises You told me, if it will not be able to be kept, how will I be able to tell another nation in a way that they will be able to make a strong connection to You? That is why even if man’s decisions and actions are so bad that the Divine promise should be able to be rescinded, Hashem still wants to keep His word. As the *pasuk* says: “Does Hashem say and not do, speak and not fulfill?” (Bamidbar 23:19).

The Moral Importance That People Accept Divine Omnipotence

(condensed from Ein Ayah, Berachot 5:68)

Gemara: [Along the same story line as before:] Moshe said that if Bnei Yisrael are destroyed, people will say that despite Hashem’s previous miracles, He was able to stand up to one king (Pharaoh) but could not stand up to 31 [Canaanite] kings.

Ein Ayah: The false claim that there is a limit to Divine ability ruins much of the foundation of ethics, which is partially based on the understanding that there is no way to rebel against Hashem and that evil that opposes Hashem will not prevail. It is dangerous for people to make the mistake that by banding together, wicked people can “beat Him.” Therefore, despite Hashem’s showing the world His dominion by prevailing against Pharaoh, it was important that they not think that He could not do so against the 31 kings.

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Validity of a Get When a Father's Name Was Incorrect

(condensed from Shurat Hadin, vol. V, pp. 190-192)

Case: A husband (=pl) who divorced his wife (=def) came to *beit din*, saying that his father's name was written incorrectly in the *get*. (The names of the fathers of both spouses are written in the *get* to help identify the parties, similar to our family names, many of which come from fathers' names). Although the name given during preparation of the *get* is the one written in pl's *teudat zehut* (identification papers), pl's brother and others attested (as indicated also in a *shul* memorial plaque) to the fact that pl's father had a Jewish name that was not written. Pl says that he is not willing to give a new, correct *get*, but wants to reconcile with def, which she is unwilling to do.

Ruling: The Rosh (Shut 17:12) talks about one who changed his name from Yoseph ben Shimon to Yosef ben Shmuel when his father apostatized and used the new name in a *get*. The Rosh says the *get* is invalid because one is able to change his own name but not his father's, and those who see the *get* are likely to think that it is talking about a different person. The Shulchan Aruch (Even Haezer 129:10) concurs. This should be the ruling in our case, where evidence is that the name that was used for the father, despite its being in the *teudat zehut*, was actually false.

On the other hand, the Get Pashut (129:43) brings *Rishonim* who say that the father's name need not appear in a *get*, and that if it is incorrect, the *get* is valid anyway. However, while the Pitchei Teshuva (EH 129:21) cites these opinions, he accepts the Shulchan Aruch's ruling. It should be noted that some claim that even according to the stringent opinion, the disqualification is only rabbinic, and the reason is that it is confusing to people.

There are further indications that only when the father's name is known as one thing and another is written there a disqualification because it looks like someone else. In our case, the father was not a "*shul-goer*" and few people knew his Jewish name. He also died several decades ago and even his children only knew his name from their mother. In a case like ours where, additionally, pl's identification papers, which are used in several important contexts, list his father's name as it is in the *get*, there is more reason to say that this is now pl's accepted name in relation to the element of his father's name. Here, then, we have two reasons to validate the *get*: 1) The incorrect name of a father may not ruin the *get*. 2) Even if it does, it could be considered one whose father's name is known as the way it was written, which might also be valid. Therefore, we should validate the *get* based on double doubt.

Since the matter still does not look good, it is proper to require another *get*. If pl is not willing, one should be given by coercion, and if that does not work, def should be allowed to marry.

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Elul 19-25, Avodah Zarah 15-21

One Mitzvah (Avodah Zarah 18a)

Rav Ofer Livnat

This week in the Daf Hayomi, several of the dapim (pages) consist mostly of issues of aggadah. One of the aggadot that the Rishonim deal with is the conversation between Rabbi Chanina ben Tradyon and Rabbi Yossi ben Kisma. At that time, the Roman Empire prohibited the teaching of Torah. Despite the decree, Rabbi Chanina, continued to teach Torah in public. When Rabbi Yossi became sick, Rabbi Chanina came to visit him, and Rabbi Yossi warned him that the Romans will punish him for his actions. Rabbi Chanina asked him if he will be accepted to Olam Haba, the world to come. Rabbi Yossi asked him if there was any special thing that he did. Rabbi Chanina told him of a special case where he gave Tzedakah. Rabbi Yossi responded: "If so, then my share should be like yours, and my fate should be like yours!"

At first glance, Rabbi Yossi's question about a single special act seems puzzling. How can one determine whether a person will receive Olam Haba on the basis of one action? Isn't that determined on the basis of a person's entire actions through the course of his life?

The Rambam (commentary to the Mishna Makkot 3, 16) learns a fundamental idea from this Gemara. He explains that if a person fulfills a Mitzvah in a complete fashion, with the proper intentions, then he merits Olam Haba through that single mitzvah. Rabbi Yossi's question to Rabbi Chanina was if he ever did a Mitzvah in such a complete fashion, without any other intentions. Rabbi Chanina answered that one time he had the opportunity to do the Mitzvah of Tzedakah in such a fashion, and through this act he merited a share in Olam Haba.

With this understanding, the Rambam explains another puzzling statement of Chazal. The Mishna (Makkot 3, 16) states: "Rabbi Chanina ben Akashya said: Hashem wanted to reward Am Yisrael and therefore he gave them many Mitzvot." It seems strange that the abundance of Mitzvot is a reward, since, the more demands there are, the harder it is to fulfill all of them.

The Rambam explains that just the opposite is the case. Since there are so many Mitzvot, it is certain that at least once in his life, a person will fulfill a Mitzvah in a complete fashion, and, through that Mitzvah, merit Olam Haba.

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