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HEMDAT YAMIM

PARASHAT HASHAVUA

Vayeira, 15 Cheshvan 5775

“Which I Neither Commanded, Nor Said, Nor Contemplated”

Harav Yosef Carmel

Much ink has been spilled in an attempt to explain the story of the *Akeida* (Binding of Yitzchak). In our short words this week, we will relate to the painful topic of the sacrifice of children and the lesson from the story of the *Akeida*, while relating to the insight of the Prophets and of the Rabbis.

The episode begins with Hashem apparently commanding Avraham to bring his son as a sacrifice on a certain mountain (Bereishit 22:2). Yet, the Torah elsewhere warns very strongly: “From your offspring do not pass to the Molech” (Vayikra 18:21), a practice, which according to the Ramban, included not just passing near a fire but that the person was burnt to death.

We find in the times of the Judges that Yiftach sacrificed his daughter due to a vow to Hashem to sacrifice the first thing that left his house when he would return successfully from battle. The simple reading of the *navi's* account is that he inexplicably fulfilled this oath literally (see Shoftim 11:30-39), despite the obvious fact that one has neither authority nor the slightest justification to do such a thing.

The main idolatrous deity of Ammon was Molech or Malkom. It is therefore not surprising that King Meisha of the brother nation, Moav, brought his son as a sacrifice as is stated in Melachim (II:3:26-27). The *navi* writes that there was great divine anger at Bnei Yisrael in this context. The Rabbis explain that the anger was due to the fact that there were those in Bnei Yisrael who also acted in this way (see Rashi and Radak, ad loc.). By the end of the period of the First Temple, this practice had grown significantly. The *navi* chided King Menasheh for perpetrating this great sin with his own son (Melachim II:21:6). Yeshayahu (57:5) cried out about those who “slaughter children in the riverbeds”. Menasheh’s grandson and great-grandson also continued this horrible practice. Yirmiyahu (7:31), at the end of the First Temple period, described those who built altars to idolatry in Gei Ben Hinom (outside old Yerushalayim) in which they burnt their sons and daughters.

Three times (including, *ibid.*) Yirmiyahu stresses that this practice was “that which I did not command, and I did not speak, and it did not cross My mind.” *Chazal* (Midrash Tannaim, Devarim 17) explain Yirmiya’s intention: “which I did not command” – in the Torah; “and I did not speak” – in the Ten Commandments; “and it did not cross My mind” – that a man would sacrifice his son on an altar. Another opinion (cited *ibid.*) is that He did not command Yiftach, and did not speak to Meisha, and it did not cross His mind that “Avraham would bring Yitzchak on the altar but it was just a test.”

Let us pray that in the renewed State of Israel, children will be educated to have good characteristics and be worthy of the titles of “the sons of Avraham” and “compassionate, shy, and kind people.” When the task of providing such education will assume its proper place in our priorities, we will know that we are more solid ground.

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by Rav Daniel Mann

Undoing Mistaken Early Acceptance of Shabbat

Question: After *davening* at an early Shabbat *minyan*, I realized that I forgot to deliver a gift to my host (we have no *eiruv*). Can I undo my acceptance of Shabbat and *daven Maariv* again after delivering the gift?

Answer: The *gemara* (Berachot 27b) discusses the concept of an acceptance of Shabbat on false pretenses (*b'ta'ut*), specifically when people *davened Maariv* of Shabbat before the normal time due to darkness caused by heavy clouds. An *amora* allowed doing *melacha* when they discovered the mistake because acceptance of Shabbat *b'ta'ut* is invalid. Regarding a *shul* that similarly *davened Maariv* of *Motzaei Shabbat* early, it says that while we would have expected the *tefilla* to be invalid, there is a special leniency for a community to not have to repeat *Maariv* under these circumstances. Most Rishonim rule that *melacha* is permitted after an acceptance *b'ta'ut* (see Beit Yosef ad loc.). The Shulchan Aruch (Orach Chayim 263:14) cites this opinion, followed by (his understanding of) the Mordechai's opinion that *ta'ut* does not erase acceptance done by the action of lighting Shabbat candles, which is stronger. Therefore, we might think that that if you did not light candles (and the acceptance of early Shabbat was not community-wide – see Shulchan Aruch, OC 263:12), you could have done *melacha* after realizing your mistake.

However, this premise is flawed. First, several *Acharonim* rule that after one has accepted Shabbat with *tefilla*, one can no longer do *melacha* even if it was accepted *b'ta'ut* (Magen Avraham 263:26; Mishna Berura 263:56). Furthermore, your case is very different from the *gemara's* case of *ta'ut*. In the latter, the entire basis for going through the motions of accepting Shabbat was misguided. You, though, did want to accept Shabbat early, just that an unknown factor was a counterbalance to that decision. In the former case, the acceptance was null even if people desired to leave things as is (e.g., an individual who *davened Maariv* early under those circumstances must repeat it). That is appropriate only in cases where the mistake is objective and clear cut.

The Taz (600:2) seems to counter our argument. Concerning a community that accepted Shabbat early on Friday that was the second day of Rosh Hashana, after which a shofar became available, he rules that they should blow shofar even though this is usually inappropriate on Shabbat. He compares their acceptance of Shabbat to a *ta'ut*, even though it was fundamentally done for a real reason, just that it was counteracted by a desire to blow shofar. However, study of the Taz shows that other factors are involved in his ruling, and, more fundamentally, the lack of fulfillment of shofar is an objective factor that applies to all communities in that situation. (The Taz goes as far as to argue that even if people want to accept Shabbat fully, they have no power to undo their mitzva obligation.) Your case, though, is qualitatively incomparable to the sources on *ta'ut*.

What can be considered is being *shoel* (a process of releasing oneself, done before three people) on the acceptance. Some, including the Levush (OC 263:17), compare early acceptance of Shabbat to a *neder* (acceptance of extra halachic obligations) and say that one can be *sho'el*. However, the majority opinion is that one cannot be *shoel* on acceptance of Shabbat (see Mishna Berura 263:65 and presentation in B'tzel Hachochma IV:96). The strongest explanation is that while a *neder* is a halachic reality that is totally created by a person, the Torah mandates accepting Shabbat early, with each person just deciding when that is for him. In your case, undoing Shabbat causes an extra problem in that it would invalidate your *Ma'ariv*.

In short, nullifying acceptance of Shabbat due to a need that arises should be contemplated only if the need is unusually pressing or objective, such as an unfulfilled mitzva, which seems to be missing in your case. (We will not get into other solutions, which ostensibly exist, to have dealt with your situation.)



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Shabbat – Feeding the Internal to the External

(condensed from Ein Ayah, Shabbat 1:42)

Gemara: Rabbi Chanina says: A person is required to examine his clothes [for objects he might come to carry] on Friday evening as night falls. Rav Yosef said: This is a major halacha for Shabbat.

Ein Ayah: One of the foundations of the sanctity of Shabbat is to raise “external life” to a similar level to that of “internal life” with the help of the latter. This is important because the farther the distance between these two elements of a person’s life the worse his situation is and the farther he will be from the character that Hashem, Who desires his success, set for him.

Sanctity, rest, and refinement are special positive contributing factors of a person’s internal life when one engages in them with purity in a complete manner. These elements are apt to be very far from the external lives of those who have complicated their lives with all sorts of agendas that people entertain while forgetting that Hashem created them to be straight (see Kohelet 7:29).

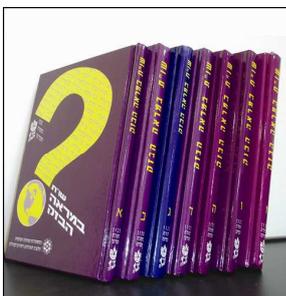
Shabbat comes to deal with these issues. Its sanctity returns the power of the internal life, which was weakened by the opposing external life when the latter exists in a polluted form. Shabbat also has the ability to impact external life and make it much closer to the internal one, by providing it with an infusion of tranquility, sanctity, refinement, and charm.

Therefore, one should be careful to follow Shabbat properly even in regard to external elements of its observance. For this reason, the Rabbis forbade many things because of *marit ayin* (the appearance of impropriety) on Shabbat. Similarly, many matters of external behavior were regulated by the decrees of the prophets. For example, Yeshaya said: “You shall show it [Shabbat] respect” (Yeshaya 58:13), which teaches us that clothes for Shabbat should be nicer than those for weekday. In these matters, external honor and sanctity is more important than the internal essence so that they can impact, by providing a spirit of sanctity and calmness, on one’s external life, which is the part that requires the most improvement.

There are practices that are not essentially spiritual desecrations of Shabbat, but when they exist on a regular basis, they dull its sanctity. Because of Shabbat’s nature, it becomes necessary to be careful about such matters. Fundamentally, if one leaves an object in his clothing, it is not a full desecration of Shabbat, as carrying it into the street is done by means of *mitasek* (an act done without awareness of its ramifications), as Tosafot (Shabbat 11a) says. However, regarding the external element of the action, the intention of one’s heart does not create distinctions, and if one carries even without knowing that he is carrying, the sanctity of Shabbat is still defiled.

Therefore, one is to examine his clothes right before Shabbat to make sure that even the external nature of Shabbat will not be affected. Rav Yosef adds that this is a major halacha of Shabbat because it is part of a general effort to have the sanctity of Shabbat extend, from its lofty internal level, to a person’s external element. This is something that is great both in terms of quantity [of actions] and in terms of quality, which enhances Shabbat and protects its character. It enables one to reach the goal of bringing the sanctity of the external closer to that of the internal life of spiritual intellectuality and morality that a person, as one who was created in the image of Hashem, is capable of reaching.

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P'ninat Mishpat

Relinquishing Rights to a Partnership

(based on Shoel U'Meishiv I:III:111)

[Reuven, Shimon, and Levi acted as partners to incrementally buy forests from the local nobleman in exchange for a certain amount of prepared wood. At some point, Shimon wanted to end his participation in the partnership. Reuven made complicated financial assurances to Levi to encourage him to jointly buy Shimon's share. When Shimon put pressure on Levi to immediately give the money due from the buyout, Levi begged Reuven to make the payment, in exchange for which he would relinquish rights in the partnership. Reuven paid and set terms under which Levi could rejoin the partnership. It turned out that Reuven, who was the active partner, had withheld pertinent information from Levi about the partnership's assets and profits. Levi now wants to cancel his *mechilla* (relinquishing of rights), whereas Reuven says that he cannot undo what was done.]

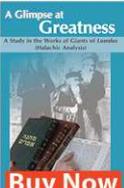
For a few reasons, Levi has not lost his part in the partnership. First, since the partnership was owned by both Reuven and Levi, *mechilla* is insufficient, but rather a *kinyan* is needed (see Choshen Mishpat 199 and S'ma 315:2). *Mechilla* is effective for rights to debts and other less concrete rights, not to ownership. Second, since Levi was not made aware of important information that would have discouraged him from such *mechilla*, the *mechilla* would be invalid due to its being *b'taut* (misinformed).

A third reason why the *mechilla* was not effective is that according to some *poskim* (see S'ma 12:21) oral *mechilla* without an act of *kinyan* does not work when the rights are recorded in a document on behalf of the one who ostensibly relinquished them. In this case, the contract with the nobleman, which Levi possesses, includes his name. Although the Shach (241:4) says that a document does not preclude oral *mechilla*, since there is doubt in the matter, Levi continues his rights due to the status quo.

We will discuss the latter idea a little more, based on the teaching of Rav Chayim Kohen, whose *yahrtzeit* is today [the day the responsum was written]. The reason that *mechilla* may not work when there is a document is that if the *mechilla* were indeed final, the *mochel* would not keep after that point a document that confirms his rights. If so, there are various cases where this logic and thus the halacha does not apply. In the case of a receipt which seems to include *mechilla* but the *mochel* holds the original document, the *mechilla* is valid because the whole point of a receipt is to deal with cases where the document cannot be returned, e.g., when the document is not found.

The *gemara* (Ketubot 104a) says that when a woman has not claimed her *ketuba* for 25 years, we assume there was *mechilla*, and this is even if she still has the document. The reason for this is that the passage of so much time is considered convincing evidence that there has been complete *mechilla*, in which case the existence of a document which just raises questions about the validity of the *mechilla* is ignored, and we continue to assume *mechilla*.

Based on all the reasons stated above, Levi can continue as a partner [if he fulfills the obligations this would entail].



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