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# HEMDAT YAMIM

## PARASHAT HASHAVUA

Vayechi, 12 Tevet 5775

### The Two Sides of Menashe's Legacy

Harav Yosef Carmel

Our *parasha* begins with an eerily familiar scenario. Yaakov, an old, blind patriarch, embarked upon the task of blessing two brothers of his offspring. The decision had to be made as to who would receive the coveted blessing and who would not. This is just the position that Yitzchak had been in a generation before.

However, there is a big difference in the outcome. Yaakov ended up getting the *beracha*, whereas Eisav was rejected. In contrast, Ephrayim received the more prominent *beracha* and status, but Menashe was not rejected and also received a very respectable blessing. He is one of the *ne'arim* who was blessed with the angel looking after him (Bereishit 48:16), and fathers have henceforth blessed their sons to be "like Ephrayim and Menashe" (ibid. 20). Menashe's partial prominence finds expression with Yaakov switching his right hand to Ephrayim's head, while still keeping Menashe opposite his right side, "for Menashe is the firstborn" (ibid. 14). We will try to appreciate this dichotomy with the help of Rav Mordechai Breuer, one of the trailblazers of a new-old approach to learning *Tanach*.

Reuven is the first firstborn to lose his hold on that status, as Yosef becomes the "crown of his brothers" (ibid. 49:26) yet still remain in a prominent place within the family hierarchy. Menashe "follows his uncle's lead." Reuven received a portion on the eastern bank of the Jordan, a much less spiritually choice part of *Eretz Yisrael*, and was joined there by Gad, the firstborn of Zilpah, the maidservant of his mother, Leah. Menashe's land actually comes in two parts, one in the main, western part of *Eretz Yisrael* and the other in the eastern side. This seems to fit his "split legacy." But why?

Menashe had two wives, one who was Jewish and one who was Aramaic, as it says in Divrei Hayamim (I:7:14). The Aramaic wife (whom he married before the Torah was given, obviously) was a princess whom he married to strengthen his royal status in Egypt (see Yerushalmi, Sanhedrin 2:3). This decision was divinely repaid *mida k'neged mida* – instead of this raising his status, it lowered it. His descendants from his Jewish wife received their portion in the Land on the western side. His descendants from the Aramaic wife (Machir, father of Gilad) had to settle for the eastern portion, along with Reuven and Gad.

Menashe's key to familial survival is Yaakov's statement, "Ephrayim and Menashe are to me like Reuven and Shimon." If they are like sons, then Menashe is not a firstborn and does not have the stigma of being cast off from that status. Yosef is like a firstborn and receives a double portion (two tribes). Ephrayim, who is not a firstborn, receives a very large portion in the heartland of *Eretz Yisrael*. Menashe, as a firstborn of Yosef, gets a double portion of sorts, but those of his descendants who are tainted with intermarriage receive an inferior land. This explains the two different treatments that different parts of Menashe's tribe experienced.

As we fight the ravages of intermarriage in our times, the message of the importance of this struggle should be reinforced by the lessons from its ancient roots.

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by Rav Daniel Mann

## Raising Charitable Funds on Shabbat

**Question:** I am one of the organizers of a charity that provides free transportation for a broad spectrum of underprivileged New Yorkers. May I try to drum up support for it among fellow Jews I see on Shabbat?

**Answer:** In general it is forbidden to discuss monetary matters and prohibited activities on Shabbat (Shulchan Aruch, Orach Chayim 306). This is derived from the *pasuk* (Yeshaya 58:13, so that this is a Rabbinic, not a Torah-level, law) about the proper atmosphere of Shabbat, which requires refraining from “*metzo cheftzecha v’daber davar*” (tending to your interests and speaking of [forbidden] matters). However, the *gemara* (Shabbat 150a) derived that only “your interests” are forbidden, whereas “interests of heaven” are permitted. It is thus permitted to discuss money and other actions forbidden on Shabbat in the context of plans for *mitzvot*. Generally, *mitzva* opportunities do not override Rabbinic prohibitions. Rather, *metzo cheftzecha* and *daber davar* are lesser prohibitions (see Shulchan Aruch Harav, OC 306:12). Furthermore, there is likely a more sweeping distinction. *Metzo cheftzecha* and *daber davar* are context-oriented, rather than objective Rabbinical prohibitions, so that if the activity is for the sake of a *mitzva*, the context is appropriate for Shabbat.

Among the *mitzvot* that are explicitly mentioned as justifying discussing money (Shabbat 150a, Shulchan Aruch, OC 306:6) is pledging money for *tzedaka*. The Ran (Shabbat, ad loc.) is surprised by this application of the *heter* of interests of heaven. After all, the *mishna* (Beitza 36b) says that it is forbidden to be *makdish* (donate to the *Beit Hamikdash*) on Shabbat because this can be confused with commercial activity. Ostensibly, this should also apply to pledging to charity. The Ran answers that the prohibition of making *hekdesh* refers to specific objects, whose transfer to *hekdesh* is more similar to a monetary transaction than a pledge to charity is. The Beit Yosef (OC 306) extends the distinction and points out that even pledging an object to a *shul* or the like is different from *hekdesh*, for in the latter the pledge takes effect immediately.

There are times when one may get involved in semi-commercial discussion but is not allowed to mention a sum of money (see Shulchan Aruch *ibid.*, Rama *ibid.* 3). However, in regard to *tzedaka* pledges, the pledges may include specific amounts (Rama *ibid.* 6; Mishna Berura 306:33; Shemirat Shabbat K’hilchata 29:55). Of course, if one is allowed to make pledges, then it is also permitted to try to interest people in doing so.

The non-profit organization you are, *baruch Hashem*, involved in serves a cross-section of the New York population. One might think that raising money on Shabbat might be permitted only if the recipient is a Jew, who keeps the laws of Shabbat. However, this is not so (see the Magen Avraham 306:21). As long as the money is for a valid *tzedaka* cause it is under the category of the interests of heaven. Giving *tzedaka* to any human being, Jew or gentile, is a *mitzva*, as the *baraita* (Gittin 61a) states, and the Rambam (Melachim 10:12) so beautifully formulates. This is the case not only when the charity is given to a cross-section of society, which applies to Jews and non-Jews alike, but even if the charity would be for non-Jews exclusively (Shach, Yoreh Deah 251:2). Money that is raised for *tzedaka*, including from *ma’aser* funds, can be used for Jews and non-Jews alike. Therefore, your organization is worthy of the special dispensation to allow raising interest in it on Shabbat and even to receive specific **oral** pledges.

Of course, our general focus on Shabbat should be on activities that are special for Shabbat. However, you do not seem to be describing anything of the nature of “a day at the office,” which would be troublesome even if involved in a fine charitable enterprise. So if you are talking about mentioning your fine activities in a way that interests others or even an occasional concerted effort, this is permitted and appropriate.



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# Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

## The Order of the Study of Torah Disciplines

(condensed from Ein Ayah, Shabbat 1:55)

**Gemara:** There was a case of a certain student who studied much [*Mishna*], read much (*mikra* = *Tanach*), and spent much time in *shimush talmidei chachamim* ("serving" Torah scholars), yet he died at half of life expectancy.

**Ein Ayah:** The normal order of advancing in Torah study when one starts as a young child is *Tanach*, followed by *Mishna*, followed by Talmud, which is, in effect, *shimush talmidei chachamim*.

There are three areas in which one has to build himself through Torah study: 1) emotions of the heart, which listens and gravitates towards goodness, sanctity, and fear of Hashem; 2) practical knowledge, which enables bringing the good emotions to fruition by leading a Torah lifestyle; 3) development of the intellect in analysis of deep ideas, whether they be in practical matters that require analysis or in abstract philosophical matters.

If a young child does not start with *mikra*, there is no point to learn *Mishna*. He is unable to understand the practical system of living life according to the rules, for he is unaware of life's details and complications, which require one to learn what to do in a disciplined manner. Only when one encounters "darkness" does he feel the need for the light of Hashem to guide him. A child, who is still naïve, cannot contemplate life's complexity, as his enthusiastic worldview makes everything look like a well-lit plain full of truths. He is unprepared, before his intellect is more developed, to deal with many detailed rules that govern daily life.

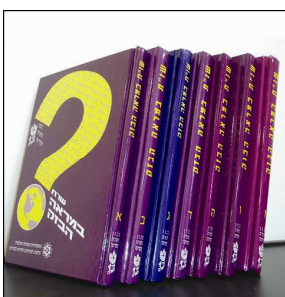
A child is more prepared for emotions of sanctity, whose light his pure heart can absorb. That is why *Tanach* is most appropriate for him in the first stage. This awakens good emotions, such as a feeling of closeness to Hashem and a sense of His mercy, providence, and the love and concern for His creations, especially Israel, the nation closest to Him. The ethics taught by the prophets and the praises of Hashem that are found in *Tanach* awaken the natural holy emotions within man and lead him on a straight and holy path.

Later on, when the maturing person becomes more involved in life's intricacies, he needs to be guided by specific rules, found in the study of *Mishna*. Finally, armed with a basis of both emotions and knowledge of what actions he needs to take, he is prepared to develop an analytical intellect.

If one embarks upon the study of Torah as an adult who already feels the "yoke of life," it behooves him to begin with practical matters before he tries to enhance the splendor of a proper emotional approach. At this point, challenges of life may make it difficult to achieve the feelings espoused by the Torah and the Prophets. Therefore, a later learner should switch the natural order of a child and begin with *Mishna* before *mikra*. That is why the *gemara* stressed that the student did a lot of *Mishna*, and then a lot of *mikra*, and then a lot of *shimush talmidei chachamim*.

*Shimush talmidei chachamim* is a well-known name for the analytical elements of Torah study. This teaches us that included in these high-level studies are matters that cannot be transmitted by word of mouth, for they are beyond language. This applies to areas that touch on the highest levels of contemplating godliness and also to matters of ethics that emanate from the depths of the soul. In these cases, when one spends time observing *talmidei chachamim*, seeing physical actions conveys the sense of how their hearts work. This enables him to understand the analytical part that cannot be expressed through words of the mouth or the pen. Rather, it is engraved on the understanding heart of the wise and enables the perceiver to "cling to Hashem" by clinging to *talmidei chachamim* (see Devarim 30:20 and Sifrei to Devarim 11:22). In these cases, words are limited, and the essence of the holy lifestyle is found in the life of the scholars. The means of arriving at that deep understanding is by spending time with them.

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# P'ninat Mishpat

## Returning the Rent for a Store that Burned Down

(based on Shoel U'meishiv II:III:129)

**Case:** Shimon rented to Reuven a *sklad* (I could not find this word in a Yiddish dictionary, but I believe, based on context, that it was an area of a large building that was used for commercial activity; I will refer to it as a store). The store and all its merchandise was burned, as was some but not all of other parts of the building. (No one is being blamed for the fire.) The question is whether Reuven can demand back the rent he paid in advance for which he did not receive usage.

**Ruling:** The main halachic sources revolve around the Rama (Choshen Mishpat 312:17) in the context of the Shulchan Aruch's discussion of various permutations when someone rented a house, which subsequently fell down. The Rama says that if a house burned down, it is like a house that fell down. The Rama continues that if the whole city burned down, it is a *makat medina* (plague to a broad area), and the landlord has to therefore return the rent for the time not used.

The S'ma (312:34) raises the point that this seems to contradict the previous passage, which implies that even without a *makat medina*, the renter does not have to pay for time he did not use. The Netivot Hamishpat (312:13) says that it depends on what object was rented. In general, if we take the approach that renting is like buying for the duration of the rental, then just as one who buys a house which later burns down has no claims on the seller, so too a renter cannot demand money back if the house burned down during the time he "owned it." In contrast, when one rents a donkey for transport and the donkey dies, the carcass is at the disposal of the renter to sell and use the money to rent another one. Since there is a continuing obligation toward the needs of the renter, one cannot compare the rental to a sale with no further responsibility. Regarding a house, there is no such ongoing responsibility, and therefore we can compare it to a sale, where the buyer does not get a refund.

The Machaneh Ephrayim says that when the renter pays the rent in advance, we certainly consider that he has "bought" the rights for the whole period and cannot have complaints about lack of satisfaction for which the "seller" is not guilty. Another distinction raised is between cases of rental that become unfeasible in the middle but the renter received some benefit from the rental, and between cases where the rental proved valueless. For example, when one rents a boat and it sinks in the middle of the journey, he has gained nothing. In this case, though, even though much of the merchandise was destroyed, significant sales had already transpired. The Mordechai says that there is special reason not to return any of the rental fee in cases where the landlord has also lost in the process. That situation certainly applies here.

The querier also suggested that since several of the building's rooms that Reuven did not rent were also destroyed, it was a *makat medina* and Reuven should get a refund. However, since several rooms were not burned, it is still possible to attribute the loss to Reuven's bad fortune.

Therefore, it would seem that Reuven cannot demand a refund of the rent he paid, certainly considering that he is the one who is trying to extract payment.



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