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HEMDAT YAMIM

Parashat HaShavua

Behaalotcha, 19 Sivan 5775

The Menora of Wisdom

Harav Shaul Yisraeli – excerpts from Siach Shaul, p. 371-3

[This is part of a d'var Torah addressed to a bar mitzva boy.]

"When you raise up the lights, toward the face of the *menora* shall the seven lamps give light" (Bamidbar 8:2). There are seven lamps in the *menora*, and the commentators explain that this corresponds to the seven wisdoms in the world. A condition for the proper use of these wisdoms is that they all give their light toward the face of the *menora*, which is their sole purpose. The *gemara* (Shabbat 22b) tells us that this refers to "the western light, from which they would start and they would finish." [This light hints at the light of Torah, and it served as a testament, as the same amount of oil placed in that lamp would last all day, while the others did not – see Rashi ad loc. and Ein Ayah, Shabbat 2:17.]

There is another condition in reference to the *menora*. "Its knobs and its flowers shall be from it" (Shemot 25:31). Our wisdom is unlike that of the Greeks, which Rabbi Yehuda Halevi described as having flowers but no fruit. Rather, the knobs and the flowers will all be fundamentally linked to each other. The development of aesthetics, of morality, and of science must all stem from one whole piece.

"From its base to its flower" (Bamidbar 8:4). The flower on the top must form one piece with the base. The previous generations serve as a base for us, who are only additional pieces added to the vessel that our predecessors created and built. They are the proper basis for our development, our behavior, and our world view. It is true that society has changed, but we must not look at ourselves as the generation that started things from scratch. Those who taught the generation of "*sabras*" in Israel to think that they began the new Jewish history are now bitterly disappointed by the sour fruit that their theories brought forth. "Look at the rock from which you were quarried and to the chasm from which you were chiseled. Look at your father Avraham and at Sarah, who bore you" (Yeshaya 51:1-2). We have deep roots in the past; we have an old trunk, which is well entrenched due to its roots, and we are nothing but a direct continuation of them.

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by Rav Daniel Mann

Working in a Non-Kosher Establishment

Question: Is it permitted for a religious Jew to work (e.g., as a waiter) in a non-kosher restaurant or café where most of the food is not kosher?

Answer: The question is general/(theoretical?), so we will not ask clarifying questions. The issue of providing non-kosher food for Jewish customers is beyond our scope.

Most non-kosher foods are permitted in benefit. Some notable exceptions are *chametz*, wine with a concern of use for idolatry, and beef and milk that were cooked together. In such cases, one may not earn money from dealing with them, even if he does not own the food or get direct physical benefit from it (see Taz, Orach Chayim 150:6). However, it is not common for these foods to be forbidden in benefit according to all opinions. Regarding wine, many are lenient about benefit in times (like ours) where libations for idolatry are rare (see Shulchan Aruch, Yoreh Deah 124:6; Rama, YD 123:1). Regarding meat and milk, many combinations are permitted in benefit (e.g., poultry, meat from a non-kosher animal, combined without cooking – learn Yoreh Deah 87). It is thus possible that one could work in a non-Jewish restaurant without violating a prohibition of benefiting from forbidden foods (see more in Tzitz Eliezer XVII:33).

Another issue is working professionally with food that is forbidden to eat. The *gemara* (Pesachim 23a) derives that even concerning forbidden foods from which one may benefit, one may not seek to obtain them for commercial purposes (*sechora*), just that he can sell that which came his way. According to most *Rishonim* (see Shut Chatam Sofer, YD 104-106, 108), this is a Torah-level law, although significant opinions among *Rishonim* and *Acharonim* say it is Rabbinic (see Noda B'Yehuda II, YD 62).

The Rashba (Shut III, 223) says that the prohibition's rationale is that one who does commerce with food might eat it. Indeed, the prohibition applies only to things that are slated for eating (e.g., animals such as pigs, not horses). However, most (see Chatam Sofer *ibid.*) posit that the prohibition applies even if an owner is not in a position to eat the food.

Your question is the opposite case – someone who does not own the food but is in a situation where he is liable to eat it. The Pitchei Teshuva (YD 117:6) assumes that if the prohibition of *sechora* is to distance one from eating the food, we should follow that logic for stringency and not allow one to work with non-kosher food even without owning it. On the other hand, many *poskim* (including Sho'el U'meishiv I,III:122; Igrot Moshe, YD I:51) do not extend the prohibition to such a worker.

There are often additional grounds for leniency. *Sechora* is forbidden only regarding food forbidden by Torah law (Shulchan Aruch, YD 117:1). In many dairy eateries, the food is primarily forbidden Rabbinically, at least according to many opinions (again, beyond our scope). When the commerce is mainly not in the context of the prohibition of *sechora*, even if some is problematic, it is likely not forbidden (see Shut Chatam Sofer, YD 108). The classic example is one who raises animals for kosher meat and sells the forbidden parts of the animal to non-Jews.

Even when the prohibition of *sechora* does not apply, it might still be halachically required to refrain from situations where one could easily come to eat non-kosher food (see a variety of opinions in Yabia Omer IV: YD 6). One interesting source is the Maharsha on Rashi, Chulin 106a, who discusses one who, after separating the non-kosher parts of an animal, would cook them before selling them to non-Jews. The issue of the practical concern of eating may be influenced greatly by the type of contact with the food and the extent to which one has permission to eat freely from the food with which he is working (see Yabia Omer *ibid.*).

Some *poskim* were reluctantly lenient in cases of great need to allow people to work in non-kosher settings. However, the severity of the issues and the level of need vary greatly from case to case, and each case requires its own evaluation.



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Ein Ayah

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

Adding to the *Beracha* of the More Broadly Prepared

(condensed from Ein Ayah, Shabbat 2:30)

Gemara: Rav Huna used to pass by the entrance of the house of Rabbi Avin the Carpenter and saw many Shabbat candles lit. He said: "Two great men will come from here." Rav Idi bar Avin and Rav Chiya bar Avin came from them. Rav Chisda used to pass by the entrance to the house of Rav Shizbi's father and saw many Shabbat candles lit. He said: "A great man will come from here." Rav Shizbi came from them.

Ein Ayah: The inner desire to create significant sacred light can expand based on an act of a related *mitzva* such as Shabbat candles to add vitality to the spirit in a way that enables it to produce light of Torah in the world and thereby light up dark places. This spiritual power from the *mitzva* can emerge by one's child being a *talmid chacham* who lights up the world's darkness.

The extent to which the *mitzva* impacts spiritually depends on the preparation of the person who performs the *mitzva* to receive the good result. In general, the light of Torah can be divided into the practical and the theoretical, which, for example, is behind the distinction between halacha and the Torah's philosophical elements. Some are oriented toward the practical and focus on it, whereas others focus on the theoretical.

In general, the human mind is divided into these two categories. It is worthwhile for a person to have capabilities in both realms, but it is common for a person who is great in one realm to be lacking in the other. There are some unique people who have in their spirit double capabilities; their theoretical side does not impinge on their practical side and they are able to reach achievement in both. In fact, with these two areas of capability, they are able to accomplish things that give added power to each specific realm.

The activities in which a person is involved often indicate his inner strengths. If one is wise, it is a sign that he possesses the ability to be wise. If one is a craftsman, he must have natural abilities in that realm. Being a *talmid chacham* requires theoretical, conceptual wisdom, as even the practical side of Torah is based on conceptual depth. Ability in craftsmanship is certainly related to the practical side, which is also called a form of wisdom (see the *p'sukim*, such as Shemot 35:31-33, regarding the artisans who constructed the *Mishkan* and its vessels).

When Hashem's blessing and the spiritual result of his *mitzva* take hold on one who performs it by finding positive expression in his son, it usually takes effect within the bounds of ability that the father passed on to his son. The storehouse of the father's strengths transferred to his son, whether or not the father maximized them, usually relates to either the practical or the theoretical realm. However, when someone, in addition to being a *talmid chacham*, is also an artisan, this is a sign that he possesses strength in both realms. The greatest blessing is that the twin tendencies will find positive expression in his sons, enabling them to reach full greatness.

Rabbi Avin the Carpenter possessed both practical and theoretical strengths, as his name indicated. Therefore, Rav Huna expected his inclination toward light to result in two sons who are *talmidei chachamim* reaching full greatness. Rav Chisda, in contrast, did not see double strength in Rav Shizbi's father. He was thus concerned that if he would spread the blessing over multiple offspring, the blessing would be weakened, as happens when greatness is limited to one realm. He reasoned that high quality in one person was preferable to quantity that is more modest. Under such circumstances, he preferred a person specializing in one field, as we find *Levi'im* who either tend to the gates or to singing, and as we find one who is a king or a *kohen* but not both.

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Recording Testimony in a Non-Jewish Court

(based on Shut Chatam Sofer, Choshen Mishpat 3)

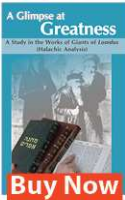
Case: Reuven had lent money to Shimon. Shimon wrote a will in German, which was confirmed in the non-Jewish courts, in which he instructed his survivors in various matters, but he left out his obligation to Reuven. A day before he died, Shimon told his wife in front of valid witnesses that she should pay Reuven. Reuven is concerned that the witnesses will forget this over time. It is a problem to present the testimony before *beit din* because of the opinion (Shulchan Aruch, Choshen Mishpat 110:9) that *beit din* cannot accept testimony of an oral will that obligates minor orphans even in front of their legal guardian. Reuven wants to record the testimony in an official manner, in front of a non-Jewish court, so that the information will not be forgotten. Is this a violation of the prohibition on going before non-Jewish courts?

Ruling: The *gemara* (Gittin 44a) says that if a non-Jew seizes a Jew's field and the latter is unable to recover it in either Jewish or non-Jewish court, he can receive payment for it and have the matter recorded in the non-Jewish court in order to save his money. Rashi says that this refers only to the signing of a document before the courts, and still special permission is required. On the other hand, Tosafot (ad loc.) demonstrates that there are ample sources permitting signing documents before the courts, and the only issue that required permission there is that the action finalizes the sale. Rashi's opinion seems difficult and self-contradictory, as in Avoda Zara (13a) he allows using the courts for transactions between a Jew and a non-Jew, with the only issue being the proximity to pagan holidays.

It is therefore clear that the problem Rashi in Gittin was concerned with was selling land in *Eretz Yisrael* to a non-Jew, which is usually forbidden. Even when it had already been seized, we would think it is forbidden to confirm a non-Jewish court's sovereignty over land in *Eretz Yisrael*. This was permitted only to help one whose land was seized.

The *gemara* (Gittin 8b) makes a special dispensation to allow a Jew to acquire land in *Eretz Yisrael* from a non-Jew and have a non-Jew make a contract before the non-Jewish court on Shabbat because it only compromises a Rabbinic violation that is twice removed from a Torah prohibition. The *gemara* discussed only Rabbinic violations of Shabbat and says nothing about the Torah-level law not to go before non-Jewish courts. The reason is that those courts' involvement in an acquisition of land via contract is permitted, as it is not adjudication. Even the first *gemara* cited indicates that if the court was helping return the land to Jewish control it would have been permitted, and removing land in *Eretz Yisrael* from Jewish control is what raises the issues.

In the final analysis, it is permitted to have non-Jewish courts formalize the aforementioned testimony, even without formal permission from *beit din* (with such permission, they may even adjudicate – Choshen Mishpat 26). In this case, one does not give precedence to a non-Jewish court in regard to adjudication. The procedure is of a technical nature – to record information. When the orphans grow up, *beit din* will decide if and how to use the "testimony" as some form of evidence should there be a dispute. However, our expectation is that the orphans will agree to pay their father's debt from the estate he left, and the information will just help convince them that Reuven's claim is credible.



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