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Founder and President

HEMDAT YAMIM

דִּין הַתְּעֻמָּה Parashat HaShavua

Matot Masei, 2 Av 5775

Our Type of *Badad*

Harav Shaul Yisraeli – based on Siach Shaul, p. 457-8 (an address from 1938)

Hashem commanded Moshe: "Take the retribution of Bnei Yisrael from the Midianites, and then you will pass away" (Bamidbar 31:2). Before Moshe was to die and leave the nation, he was to carry out revenge for the actions surrounding Ba'al Peor. What was Moshe's strength that made his participation important?

The *midrash* (Midrash Tannaim to Devarim 33:28) says: "It is not like the *badad* (alone) that Bilam said – "They are a nation that dwells alone" (Bamidbar 23:9) and not like the *badad* that Yirmiya said – "Alone I sat" (Yirmiya 15:17), but like that which Moshe said – "Hashem will lead them alone" (Devarim 32:12).

Bilam came with a claim and explained the Israelite exclusionism as follows: "Among the nations, they will not be considered." The nations stay away from Bnei Yisrael. If the nations embrace them, they will lose their uniqueness. It is not like Yirmiya's aloneness either. "Because of Your hand [against me], I sat alone" (Yirmiya 15:17). We do not want an aloneness that is rooted in sadness and depression.

It was necessary to show the Midianites that we also have the ability to use strength. The behavior that the nations display and we do not is not because we are incapable but because we do not wish to act that way. However, we have no choice but to respond with force to those who rise up against us with treachery. This is the idea that Moshe wanted to entrench within the mindset of the nation.

The same was true in regard to Amalek. They came upon us in combat, and we were commanded to "to erase the memory of Amalek" (Devarim 25:19). However, this was only when our ability to use power was intact. After the Temple was destroyed, we only mention Hashem's promise that He will erase them (Shemot 17:14). When we do not have the ability to act ourselves, we leave it up to Hashem. We realize that in the final analysis, it is Hashem's vengeance that needs to be taken. Rabbi Chanina ben Tradyon said before his death: "If I were burnt by myself, it would be hard for me; now that I was burnt along with a *sefer Torah*, He who will take issue with the disgrace of the Torah, will take issue with my disgrace" (Avoda Zara 18a).

In the *haftara*, we read: "Sacred is Israel to Hashem, the beginning of His produce; he who devours them will be blamed" (Yirmiya 2:3). Even tithes (which *reishit* – the beginning – hints at) that are defiled are still considered holy, and non-*kohanim* who eat them are guilty. We live with this realization. If Moshe warned "and among the nations you will not find tranquility" (Devarim 28:65), Yirmiya said: "Going toward tranquility for Israel" (31:1). Indeed we are a "nation that is a survivor of the sword" (ibid.). Every day the sword devours, and every day has its sacrifice and its torment. But as a nation, we are survivors. "From a distance Hashem was seen to me, yet an eternal love I have loved you" (Ibid. 2). It is from a distance – the distant past and the distant future, but we survive because of the strength we extract from these distant times.

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by Rav Daniel Mann

Protecting *Sefarim* But Aiding Terrorists

Question: I read a news report that ISIS has looted rare Jewish artifacts, such as old scrolls of various *sefarim*, to help finance their operations. Is appropriate to save the *sefarim*, or is it forbidden to support ISIS?

Answer: As a practical question, this hinges on many issues that are beyond our strategic-political expertise. Although one's first response is that one obviously may not do anything that would help murderers such as ISIS, that may be simplistic. Consider that one who follows that approach to its end would have to get rid of his car because ISIS is financed significantly by oil sales, and usage affects the market. Since we have no idea to what extent such ISIS Jewish artifact sales are an issue, this response is a theoretical analysis.

First we ask: is there a *mitzva* to save these artifacts? There are two possible *mitzva* reasons to "redeem" them. One is to save holy articles from disgrace. Another is to save Torah information for the Jewish people. Often, people buy such things for a personal reason – the desire to own coveted Judaica – it is hard to consider that a *mitzva*.

Saving holy scrolls from disgrace is recognized as something for which it is worthwhile to pay a halachic price. It is permitted to violate certain Rabbinic laws of Shabbat in order to save holy writings with enough sanctity to require *geniza*, whether halachic *sifrei Torah*, remainders thereof, or even any Torah writings (Shulchan Aruch, Orach Chayim 334:12, Mishna Berura 334:39 and Rama, OC 334:17). On the other hand, we do not find sweeping leniencies or an obligation to seek out such items to save.

The element of saving vital information comes up in the following context. The *mishna* (Gittin 45a) says that despite the great *mitzva* of *pidyon shvuyim* (paying ransom to free captives), the Rabbis prohibited paying more than the captive's "market value." The apparently accepted explanation is that it encourages the taking of captives. Tosafot (ad loc.) asks how it was permitted for R. Yehoshua ben Chananya to pay an exorbitant price to free a youngster who showed great Torah promise (Gittin 58a). One of Tosafot's answers, which the Shulchan Aruch (Yoreh Deah 252:4) accepts, is that it is permitted to pay a high price for someone with the potential to make great Torah contributions. The same logic should also apply to redeeming a valuable Torah work.

Yet, "redeeming" Torah works is apparently not included in formal *pidyon shvuyim*, which applies to alleviating human suffering (see Bava Batra 8b). In fact, one may sell a *sefer Torah* to afford *pidyon shvuyim* (Tosafot, ad loc.). In some ways, this may lessen the *mitzva* to redeem them. On the other hand, if *sefarim* are not within formal *pidyon shvuyim*, they are not within the formal Rabbinic prohibition of overpaying. Thus, if one wanted to extend the prohibition to paying any especially dangerous "seizer of Torah scrolls," we would say it formally does not apply either. The lack of a formal prohibition, though, does not mean that one should not use common moral sense.

Often, the price people are willing to pay for valuable Judaica has little to do with its practical importance for Torah information, but due to its historical, sentimental, or even artistic value. In the case of a terrorist organization, it seems inexcusable to pay even the "going rate" for them if it means helping an "organization" like ISIS, which perpetrates atrocities.

Let us put things in perspective. Sometimes the Rabbis forbade commerce which may be used to further sinful activity (see Avoda Zara 2a). On the other hand, the Rabbis were careful not to forbid more than society is able to handle, and there is a limit to how many things we can boycott (remember the comment about cars). In a case as stark as the one you raised, the spirit of the law suffices to preclude buying even important holy objects in a manner where there is a rational fear that it would put people in mortal danger. Only in exceptional cases might one contemplate that the cost-benefit comparison makes redemption moral.



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Ein Ayah

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

The Eternal King as a Positive Influence

(condensed from Ein Ayah, Shabbat 2:47)

Gemara: [When the gates of the *Beit Hamikdash* opened after Shlomo invoked David's merit], the whole nation and all of Israel knew that Hashem forgave him for that sin [of Batsheva].

Ein Ayah: The Nation of Israel is so elevated that it is fit to be an eternal nation. This elevation must be in a manner that even every individual has a respectable level. The nation's impact should not be only by means of the nation as a whole but even by means of its individuals. This element is hinted at in the *pasuk*: "Hashem will count when the nations are written, this one was born there" (*Tehillim* 87:6).

Therefore, the one who merited being the cornerstone of the Kingdom of Israel for all generations must have an influence of sanctity, full of ethics and justice forever, whether for the individual or the nation as a whole. This point was stressed at the time that the eternity of the nation was connected to the sanctity of the Torah. This found expression in the Holy of Holies [where the ark was kept] and showed the eternity of the Kingdom of the House of David. Therefore, it is important that at the time this became known, the people should know that the anointed king had been purified from his sin. It is not only that David's repentance had a positive impact upon him in that his internal essence had been rectified and the bad elements had been turned into good. Additionally, his influence on others, whether individuals or the collective, had to be complete, including that he was able to serve as a role model for the power of repentance.

That is why it says that the "whole nation," i.e., all the individuals, and "all of Israel," i.e., the nation as a unit, should be influenced in their essence as a holy nation by the king who was anointed with the holy anointing oil. Thus, people should realize on all levels that David's sin was forgiven.

Only the Dead Are Eternal

(condensed from Ein Ayah, Shabbat 2:48)

Gemara: [About the fact that David was recognized as having been forgiven, it is said:] Isn't it correct that which Shlomo said: "I praise the dead who already died."

Ein Ayah: There is a wonderful lesson here. The past, when it is wonderful and holy, impacts on the flow of time in the present and the future to a degree that the present could not reach had they not drawn great value from the past. As history extends over time, treasures "hidden" by the great past, through the actions of great people who were sent by Divine Providence to be cherished by all generations, are uncovered.

We see with our own eyes the extent to which the short reign (in historical terms) of King David impacted on the nation by means of the sanctity of the anointed of the G-d of Yaakov. It is specifically with the perspective of the eras after David, as a person, was gone that we became able to see the great eternal value of his actions and his standing as "David the King of Israel is alive and remaining." The longevity of his specific kingdom's impact, well after the practical impact of the person's actions were gone, is part of what makes it clear how important he is to the nation. During his lifetime it was harder to sense that his standing was eternal.

That is what his son Shlomo meant by praising the dead, for only when they are dead do we feel that they will live forever.

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P'ninat Mishpat

A Document with Unfit Witnesses and the Party's Signature

(based on Shut Chatam Sofer, Choshen Mishpat 40)

Case: Reuven wrote a will in which he granted many gifts “for the benefit of his soul” to different needy recipients. He used the system of a gift of a healthy person that begins at the time it is granted and is completed after death. The will said that he performed a *kinyan* to finalize the gifts. The two signed witnesses are *pasul* to be witnesses for the will (one is Reuven’s relative, and one has an interest in the fulfillment of the will). On the other hand, the language of the will is that Reuven accepts the witnesses as kosher to effectively perform the *kinyan* and that anyone’s attempt to disqualify the document should be null. Reuven is signed on the will above the witnesses’ signatures.

Ruling: The querying rabbi suggested that Reuven’s signature affixed to the provisions of the will should be considered accepting upon himself unfit witnesses counting to obligate him as kosher ones (see Shulchan Aruch, Choshen Mishpat 22:1). Although accepting two different disqualifications could be seen as making double allowances for witnesses (classically, one *pasul* witness in place of two kosher ones), which usually does not work (Rama ad loc.), here it may not be considered two allowances. Additionally, the problem is overcome by making a *kinyan*, and according to some, even the party’s signature attesting to the *kinyan* suffices.

However, this approach is not correct here for two reasons. One is that Reuven signed above the witnesses, and therefore it is not evident that his acceptance of the witnesses relates to those who signed after him. Perhaps his plans were that kosher witnesses would sign and then these two signed in their places. We have a similar concept regarding one who signed a loan contract as a guarantor after the signatures of the witnesses, in which case we say that the witnesses do not relate to the guarantor. The Nachalat Shiva raises the question on the *minhag* in some places that the groom signs the *ketuba* in addition to the witnesses – what does his signature add? The querying rabbi suggested that it is to cover a case where the witnesses turn out to be *pasul*, as the groom can thereby accept them anyway. However, based on what we said, this will not work as the *minhag* is that the witnesses sign after the groom, and additionally the problematic status of the witnesses was not known at that time.

Secondly, Reuven’s acceptance would work only if Reuven were a litigant who was trying to get out of payment. In this case, Reuven is dead, and the litigants are Reuven’s inheritors, who raised questions about the authenticity of the will. The Shulchan Aruch (CM 108:18) says that if one accepts to make payment of a debt from more desirable than necessary property, it is binding only on him and not on his inheritors unless he obligated them explicitly. In this case, there was no such provision.

Therefore, the inheritors do not have to accept the validity of the will.



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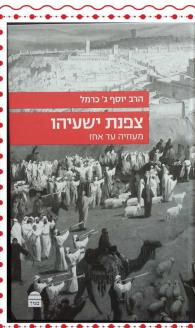
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