



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Vaetchanan, 16 Av 5775

Our Wisdom ... in Our Eyes?

Harav Shaul Yisraeli – based on Siach Shaul, p. 483-4

“And you shall observe and do, for it is your knowledge and your wisdom in the eyes of the nations” (Devarim 4:6). The *sefer Torah* was always the book of knowledge and wisdom. Different cultures and all sorts of different books entered the world sphere, and yet our book remains the Book of Books, the holiest and most important of all books. There is practically no language in the world, from the most distant land, that the Torah has not been translated into and where it is not sold. Our land, which was promised to us, is also held in great esteem by the nations as the “Holy Land.” They consider it sacred and worthy of admiration. Nations even hold us to be a special nation, and our scholars have often been revered. All who were in contact with us realized that we have something special. Even in the time that we were subjugated by the Romans, there was a movement of Romans who wanted to convert to Judaism.

The problem is that we do not always see the greatness within ourselves. At times, the Holy Book is not at all holy in the eyes of part of the youngsters. Instead of “our knowledge and our wisdom,” they want to learn the wisdom of other nations. There is no greater *chillul Hashem* than this. “They came among the nations ... and they desecrated the Name of Hashem, when it was said of them, ‘They are nation of Hashem ...’” (Yechezkel 36:20). Moshe Rabbeinu did not merit entering *Eretz Yisrael* because he caused a *chillul Hashem*, but the level of his wrongdoing was very minute, and that was enough to cost him.

From the place where we are at, how much must we toil to have Hashem’s Name sanctified by our actions? How does one do it? *Chazal* tell us that one should be a person who is deeply involved in Torah and speak in a calm way with people, so that they will say: “Fortunate is the one who taught him Torah.” Making Hashem who gave us the Torah beloved based on our actions is a *kiddush Hashem*. The opposite is a *chillul Hashem* (Yoma 86a).

If one is responsible for creating a *kiddush Hashem* or a *chillul Hashem*, respectively, among the nations, then certainly we must be careful how our fellow Jews view things. After all, we find within the *halachot* of not violating the Torah under duress that public desecration is referring to doing so in front of a group of Jews (see Sanhedrin 74b).

We need to try to be at our best in our actions, our mode of behavior, our speech, and our thoughts. In that way, all will be able to recognize that we are members of the nation that Hashem blessed. Everyone should sanctify himself regarding his pure thought and being careful about how his time is spent and with what energy level we spend it, so that we will act to increase the power of *mitzvot* and the pleasantness of the Torah.

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by Rav Daniel Mann

A Lawyer's Obligation to Get Involved in Sticky Cases

Question: I am a lawyer. A potential client asked me to help sue someone who is known to be part of the underworld. Should I agree based on the commandment of *lo taguru* ("Do not be afraid of a man" - Devarim 1:17), or is it okay for me to pass?

Answer: The formal prohibition of *lo taguru* does not apply here for a few reasons. First it only applies to *dayanim*, as is evident not only from the context of the *pasuk* but also the context in which it comes up in classical sources (the Sefer Hachinuch #415 is explicit on this point; see Minchat Chinuch, ad loc.). There are some sources that extend *lo taguru* somewhat further (Sanhedrin 6b regarding assistants to *dayanim*; inference of the Meiri, Sanhedrin 89b regarding one who withholds prophecy out of fear). However, applying it to require a lawyer, who does not have a halachically formal part in the judicial process, to take a case is too much of a stretch. Secondly, even for a *dayan*, the prohibition applies only if he has heard the case to the extent that he has a feeling what the ruling should be (Sanhedrin 6b).


In general it is problematic to take sides in adjudication (Avot 1:8). While there is an opinion that this warning is only to a *dayan* (Shiltei Giborim, cited by Shach, CM 66:82), most *poskim* posit that no one should take sides without a reason (see Sha'ar Mishpat 17:5). What are grounds for taking sides? The *gemara* (Ketubot 86a) says that it is proper to advise a litigant if he is a relative, invoking a *pasuk* (Yeshaya 58:7), as long as the advisor is not an important person. The Maharshal (Shut 24) applies this approach to helping a widow who is a litigant. Logic dictates that this permission applies to fighting hardened criminals (see Yeshaya ibid:6), a task that a simple individual cannot handle alone.

In cases where giving advice is appropriate, is there an obligation or *mitzva* to help out as a lawyer? When the lawyer is (honestly) convinced that his client is correct, there should be a *mitzva* of *hashavat aveida* to help him win his case (see part of the breadth of the *mitzva* in Bava Kama 81b) and thus in the cases it is permitted to get involved, it should likewise be included in that *mitzva*.

However, the *mitzva* of *hashavat aveida* does not require one to put himself in a position of loss or hardship to save money for another (Bava Metzia 30a). This is all the more clear if there are any number of other people who can do the job, making the individual lawyer less specifically obligated than one who found a lost item (see one of many applications of this distinction in Bemareh Habazak I:32).

Returning to the case of the fearful *dayan*, the Shulchan Aruch (CM 12:1) rules that a *dayan* who has a set public role is required to hear the case when others would not. While the Radbaz (Sanhedrin 22:1) and Bach (CM 12) explain that it is because the public will help him, the Beit Yosef (ad loc.) seems to understand that one with responsibility cannot shirk it even in the face of reasonable concern. That logic would seem to apply to a lawyer with a role of district attorney, for example. We also find, in a parallel case, that the Tzitz Eliezer (IX:17) allows and encourages a doctor to expose himself to patients with infectious diseases as part of his job. That being said, the job description of an average lawyer does not necessarily include angering dangerous criminals, in which case he should not have to feel obligated to do so. When he decides he wants to, there is generally permission for someone to put himself into at least moderate danger as part of his pursuit of livelihood (Bava Metzia 112a).

In summary, a lawyer need not feel an obligation to take on a case in which he will have to go against a dangerous opposing litigant. He may choose to do so, preferably after discussing the matter with his family. This is a noble step if he has a unique opportunity to help someone who needs and deserves it.



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Ein Ayah

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

When Bad Can Bring Good

(condensed from Ein Ayah, Shabbat 2:51)

Gemara: [At the inauguration of the *Beit Hamikdash*, the people were happy] “for all the good that Hashem did for His servant David” (Melachim I, 8:66) – that David was forgiven for that sin [of Batsheva] – “and for His nation, Israel” – that He forgave them for the sin of Yom Kippur (as they ate during the festivities of the inauguration).

Ein Ayah: [This piece includes difficult concepts that are liable to be misunderstood.]

Taking everything into consideration, one will see that the distinction between good and bad exists only in regard to the specific: whether person, time, or situation. Regarding the general, though, *Chazal* already said: “Just as the praise of Hashem emerges from the righteous, so does it emerge from the wicked” (Nidda 45b). That which things that are innately bad bring bad to their perpetrators is because they act as individuals, while bad can actually be the cause of good in the future. Therefore, the above was rightfully made clear at the inauguration of the *Beit Hamikdash*, which demonstrates the sanctity of Hashem’s unity and the scope of Divine Providence.

Chazal tell us that Hashem allowed David to sin in order to teach the efficacy of *teshuva* (repentance). This is related to the idea that bad can be turned into good and even produce results that could not have been reached through good alone. The uniquely elevated time of the inauguration was fit to teach this concept by showing that David’s sin had been forgiven, which impacted on the treatment of his offspring. While showing the workings of *teshuva* has some practical elements, it is related to the following outlook that cannot be grasped practically. On a certain level, sin and the loss it causes do not exist. This is because even the bad that is done by evil people is part of the overall plan that will ultimately perfect the world. This should not encourage immorality because the individual is required to follow the “path of the straight.”

The above idea also raises the image of justice, which is appreciated when one realizes that even evil is good, from a certain perspective, and was included in the creation of the world. Just as the world is improved when good befalls those good people, so is it improved when bad befalls sinners. Thus the element of sin that is related to loss and deterioration applies only to the individual sinner, not to the world in general.

Therefore at the great moment of inauguration, the epitome of the communal and eternal, the above ideas also had to be brought to the fore. Therefore, Yom Kippur was not practiced as usual. This showed that the exalted, holy, and eternal institution of the *Beit Hamikdash* combines within it all the inclusive matters that have been, are, and will be. On that level, we do not relate to the loss caused by sin, and there is, therefore, no need for *kapara* (atonement). The above is only on a philosophical level, as practically we need *kapara*, which has an important standing, as the individual receives it, and the collective is thus impacted. However, curtailing Yom Kippur’s practices (i.e., permitting eating) demonstrates that through the strength of Hashem’s unity we will see the triumph of absolute good, as the *pasuk* says: “I will erase your sins for My sake, and I will not recall your sins” (Yeshaya 43:25). That is why Hashem forgave Bnei Yisrael for the “sin” of curtailing Yom Kippur. This showed Hashem’s confidence in the eternal choice of Israel as His nation, which made it unnecessary to fear that individual moral mistakes will extinguish the flame, which even great waters cannot do (see Shir Hashirim 8:7).

Thus, it will be seen that there are no absolute evils; all is relative to time and place, and over eternity all will work out for the best, as Hashem has plans for Israel’s welfare. That is why at the time of the development of the relationship with Hashem, with the *Beit Hamikdash*, Hashem demonstrated His willingness to forgive the people.

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P'ninat Mishpat

Adding Relatives to Recipients of Posthumous Tzedaka Fund

(based on Shut Chatam Sofer, Choshen Mishpat 49)

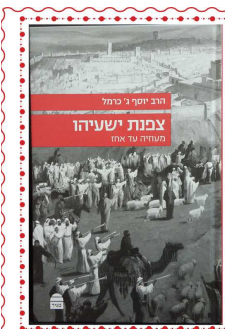
Case: Reuven, a rich man on his deathbed, had a will made, which included creating a *tzedaka* fund. Afterward, his brother-in-law Shimon reminded him that some of his relatives are poor, especially one of Reuven's brothers. Shimon wrote down, with permission, sums of money to be put aside for these relatives from the *tzedaka* funds (four gold coins a week), and that if this is not enough money for his brother, two gold coins should be added for him. Reuven did not sign the will, but his wife and oldest son did, followed by two witnesses, who confirmed the former signatures and orally heard the wife and son's confirmation of Reuven's addendum to the will. Shimon held on to the addendum for three years without telling the brother, at which time the brother found out. When he asked the widow and orphans for back money, they said that the addendum is not binding because all the information came from them, and they were so distraught at Reuven's illness that they agreed to things without understanding what was going on.

Ruling: The claim that the wife and son did not know what was going on is not accepted, since they signed and admitted the correctness of the addendum before witnesses. Their claim is no better than the claim that one did not understand the language of the document they authorized, which is not admissible (see Shulchan Aruch, CM 61:13).

Yet it seems to me that they are exempt for a different reason. Regarding the money that is to be taken from the *tzedaka* fund, once the money was set aside, money can only be diverted from it for other purposes if the mortally ill person backs out of the gift. That would have required Reuven to go through such a procedure in front of kosher witnesses. In this case, the direct witnesses (wife, son) are relatives of Reuven, and they are invalid to testify against the *tzedaka* fund.

Regarding the provision that if the set amount is not enough, then more will be added, the language implies that this is to be taken from the family, not the *tzedaka* fund. Thus, perhaps the family admitted that they are obligated in this amount from the estate to the brother and are obligated to give back pay. However, the signatories are only the widow and one son, while the inheritors include four sons. Therefore, only the son who is signed obligated himself by means of his admission and has to pay one fourth of the amount that is ostensibly coming to the brother.

On the other hand, there are also difficulties with the language of the document. Since the other brothers have since grown up, we entered into an effort to come to a compromise between the inheritors and their poor uncle. The uncle agreed to drop the retroactive payments, and instead the estate will pay him four gold coins weekly.



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