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HEMDAT YAMIM

Parashat HaShavua

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The Land of Canaan or the Land of Israel?

Harav Yosef Carmel

At the end of *Parashat Noach* we find Avram and his family making a momentous decision: to leave Ur Kasdim and move to the Land of Canaan. This decision came in the aftermath of the fierce confrontation between Avram and the all-powerful emperor Nimrod. Avram, who represented monotheism, ethics, and justice, stood up alone against Nimrod, who represented blasphemy, wickedness, and aggression. Avram won the spiritual and the physical battles because of Hashem's direct intervention, as He Himself saved Avram from a great furnace.

The Midrash (*Shemot Rabba*, Bo 18) reports that the angels Michael and Gavriel wanted to save Avram from the furnace, but Hashem argued with them, saying that since Avram was acting to glorify His name and not theirs, He should go Himself to save Avram. This open miracle strengthened the belief of many, who followed Avram's leadership and joined a group of tens of thousands of monotheists (Rambam).

Why, at this point, would Avram go to the Land of Canaan of all places, as we would think that this was a place he should avoid? After all, Nimrod was a son of Kush, the oldest son of Cham, Noach's wicked son (see *Bereishit* 10:6-8 and *Divrei Hayamim* I, I:8-10). Canaan was Cham's younger son. Why would one "switch a cow with a donkey"? Why run away from a prominent son of Cham and go to the land of the descendants of the son of Cham who was a direct participant in his father's great sin against his father, Noach? Note that Canaan's involvement is the reason that Noach invoked the name of Canaan when cursing Cham (*Bereishit* 9:22-27). It was for rejecting Cham's actions that Shem, Avram's progenitor, was so rewarded (*ibid.*).

When we look at the results, we do not find, at that point in history, any significant results of Noach's blessing and curse. The all-powerful strongman in the world was Nimrod, Cham's grandson. Canaan's family was firmly in control of the Promised Land. Their conquests were at the expense of Shem's descendants, who should have been the blessed ones who inherited the Land (see Rashi to *Bereishit* 14:18, who talks of Malkitzedek (=Shem) as the theoretical king of the region but not the actual one).

Avram and his family decided to move to the Land of Canaan to support Malkitzedek. In other words, he decided to move the battleground of the spiritual fight against the heretics to the Land of Israel, which was still called the Land of Canaan. This was the beginning of a long struggle for the Land, for which the saying "The Land of Israel is acquired through pain" is very appropriate.

We have merited in our generation to take an active role in the *mitzva* to settle *Eretz Yisrael*. "The Land of Israel is pure and its *mikvaot* are pure" – it is a merit to turn the Land of Canaan into the Land of Israel. Let us pray that we will merit being the followers of Avraham Avinu in all aspects.

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Ask the Rabbi

by Rav Daniel Mann

Automatic Payment on Shabbat or Yom Tov

Question: When I get a credit card bill (in the US), one payment option is for it to be taken from my bank account on the bill's due date. May I let that happen when that day is Saturday or Yom Tov?

Answer: Much of this answer is developed at length in a *teshuva* that will appear in Bemareh Habazak IX:10. We will add points that apply to this case.

There are two halachic issues to consider: commerce on Shabbat and *amira l'nochri* (requesting a non-Jew to do work on Shabbat).

Rashi (Beitza 36b) gives two possible reasons for the prohibition on commerce on Shabbat: it is against the *navi's* instructions to refrain from mundane activities; it may bring one to writing. Simple logic dictates that when the Jew's involvement took place before Shabbat and matters are finished up by others or automatically, the prohibition should not apply. However, Rabbi Akiva Eiger (Shut I:159) extends the prohibition to cases in which the interaction was during the week but it was to take effect on Shabbat. So arguably, regardless of when you arranged it, the payment of your debt (which is also commerce – Rama, Orach Chayim 307:11) on Shabbat is forbidden.

One does not need to be concerned by this opinion for (a combination of) two reasons. 1. It is far from clear that we accept R. Akiva Eiger's opinion (see opinions in referenced *teshuva*). After all, even doing full *melachot* before Shabbat that finish by themselves on Shabbat are permitted. Furthermore, the best answer for R. Akiva Eiger from sources (including Shulchan Aruch, OC 307:4) that a Jew can have a non-Jew acquire something on his behalf on Shabbat is that a transaction finished off by a non-Jew is permitted even if one that finished by itself is forbidden. If so, there would not be a problem in this case.

Regarding *amira l'nochri*, the main solution is technical. Our research indicates that there is no need for human intervention at the time of the transfer. Since it can be finished before Shabbat, even if the non-Jew chooses to do it on Shabbat, the Jew has no halachic problem (see Shulchan Aruch, OC 247:1). If the bank takes a set fee per transfer (*katzatz*), we consider it that they are doing it for themselves (ibid. 247:1), and the permissibility is even clearer. Granted, even regarding *katzatz*, the Jew may not tell the non-Jew to do it specifically on Shabbat. However, even if *melacha* would have been needed at the time of the transfer, it likely could be done after nightfall (in today's global financial institutions) or probably even a day earlier (with the account charged later) or later.

We could stop here, but we do not want to imply that there is no other logic for leniency. One should be aware that *amira l'nochri* is among the most complicated areas of *hilchot Shabbat*, and people should become accustomed to asking, as there could be more room for leniency or stringency than one might expect.

We should consider whether the bank is working for you when making the transfer. One might be able to look at the transaction between the bank and the credit card company as being done primarily on behalf of the credit card company. They are the ones who initiate the payment on a monthly basis, when the time comes, and they receive the money. Perhaps we should view your instructions to the bank as acquiescing in advance to the payment (albeit if it was not worth your while, you wouldn't do it). These analyses may differ from case to similar-sounding case.

It is also possible that giving the order during the week to pay on a date that usually falls during the week, is not considered *amira l'nochri* even if, down the line, it happens to fall out on Shabbat or Yom Tov. There are several precedents (e.g., Mishna Berura 247:10 and Mishbetzot Zahav, OC 307:2) of the idea that statements that cause the non-Jew's work on Shabbat may still not be considered direct enough to be *amira l'nochri*. However, it is very tricky to apply such a concept.

The bottom line is that you can allow these bank transfers arrangement to continue no matter when they fall out.



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Ein Ayah

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

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The Level to Welcome in the Impure

(condensed from Ein Ayah, Shabbat 2:78)

Gemara: What was the status (pure or impure) of the *tachash* (the animal whose skins were used in covering the *Mishkan*) at the time of Moshe?

Ein Ayah: Pure and impure relates to good and bad in the world. However, those are relative terms, for all that Hashem does is for good, and therefore there is nothing in the world that does not have an ultimate purpose for good.

Still, in the realm of ethics and fear of Hashem, there is a clear need to distinguish between good and bad. This is despite the fact that it is fundamental to philosophy to realize that there is nothing that is divorced from a connection in some way to a general good.

Mitzvot are designed to help people recognize the right path in life and the goodness in their hearts. This requires one to hate and degrade that which is bad and destructive to ethics, which must be unaffected by the theoretical knowledge that even bad has a purpose for good. Ethics requires a person to have a very palpable feeling of loathing evil and loving goodness. That is the reason that impure things cannot be used in "heavenly work," as *mitzvot* were made to purify one's being.

However, these rules are true in regard to one's personal ethics and even to communal ethics in regard to the spiritual needs of the present time. Even though the present is a step toward the future, [when absolute truth will be accessible,] the present must still operate according to the rule that evil is to be cast off.

The generation of the Israelites in the desert was different, though, as it had rolled into it, all the essence of the future generations. After all, it was through their acceptance of the Torah on behalf of all generations, until now and beyond, that we have the standing that we have. This includes the people of the time when everything, including things that in the past were seen as belonging only to evil, will be turned into good. In erecting the holy *Mishkan*, which includes all the good in the broadest sense and the element of the Divine Providence that prepares the world for its great future, there may perhaps be room to view things more broadly. At least in regard to the cover of the *techashim*, which is the *Mishkan's* most external element, in which there is a broad incorporation of many colors, representing many powers of good, it is conceivable that the skins of an impure animal could be included.

On the other hand, even in the *Mishkan*, if we give any room for the power of evil to seep into the world of ethics, it can bring an atmosphere of compromise, which is the beginning of all deterioration. Therefore, it is important that there should be no let-up in the approach of the casting off evil, certainly in the place that represents the greatest sanctity that the generation of the desert, led by Moshe Rabbeinu, reached.

However, it is possible that in such a setting it must be possible to leave some room for the important philosophical realization that there is good in everything that Hashem created. This shows how the Torah and the infinite "dominion of light" are eternal and that even that which seems antithetical to godliness can indeed serve Hashem's causes.

This complexity is what allows the *gemara* to not conclude clearly if the *tachash* was a pure or an impure animal.

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A Partner in Crime's Part in Returning Stolen Property

(based on Shut Chatam Sofer, Choshen Mishpat 133)

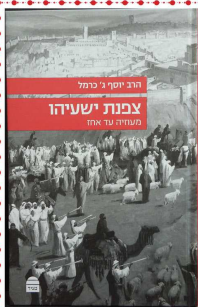
Case: Reuven came forward and admitted that he and Shimon stole a bundle of wool from Levi due to their poverty. Now that his financial status has improved, Reuven wants to pay Levi the value of half the bundle. Shimon also admits to the theft but says that he does not have money from which to pay. Levi wants Reuven, who can afford to pay for the entire theft, to do so.

Ruling: We should consider who actually took the wool from Levi's possession, which is relevant even if Reuven and Shimon generally acted together and later divided up the wool between them. Since there is no *shelichut* (agency) for sins, whoever took it out is the lone thief. If they both held it together at the critical point that is considered the theft, they are obligated as partners, and if they then divided the spoils, each one is obligated only for the part that he received and not for his friend's part.

In the case where one stole and then gave to his friend before the victim gave up hope, the halacha is that the victim can demand payment from either the thief or the one who possesses the stolen item. Therefore, if Reuven stole the wool and gave part to Shimon, then Levi has a right to make demands on Reuven even for Shimon's part.

On the other hand, a thief's practical obligation is only if the object is intact or the thief has benefitted from it or from that which was exchanged for it. In contrast, if the object was lost or wasted, even if it was through the thief's negligence, then we apply the special exemption for a thief from having to pay in order to not discourage people from repenting from their ways of crime (see Shulchan Aruch, Choshen Mishpat 366). In such a case, the thief would only have a moral obligation, which is not enforceable. Only if Reuven was holding on to Shimon's part of the theft when something happened to it, then Reuven would be obligated as a watchman.

If Reuven and Shimon cannot agree on the pertinent facts, then Reuven will pay his half and Levi will place a *cherem* against whoever is withholding the second part improperly. Shimon is not believed as one witness to testify that Reuven took it (and would have to pay Levi), even though he is obligated in theory to pay either Reuven or Levi if and when he has what to pay from. That is because Shimon is likely to have a preference to owe Reuven, his partner in crime, than to have an obligation to Levi, who is more likely to embarrass him. (The *gemara* (Bava Batra 45a) says that one is disqualified from testifying about a sale he made to a friend when he does not have other property from which to pay because he has an interest that he will have property from which his creditors can make payment. Tosafot explains that we are not concerned that it will make a difference because of the prospect that he will be rich enough to pay. The explanation is that when he has only a modest amount of money, if he wanted to avoid payment he could hide his resources. Although it is possible that he will become so well-off that he is not capable of hiding his money, that prospect is uncommon for a presently impoverished person.)



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