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HEMDAT YAMIM

Parashat HaShavua

Vayishlach, 16 Kislev 5780

A Working *Malach* – part II

Harav Yosef Carmel

Last week we presented the idea that the word *malach* (angel) is related to the word *melacha* (work) and that one who works with honesty and in accordance with Hashem's will is considered a *malach* of sorts.

Yaakov reached this level because he worked with honesty for his father-in-law, even though the latter tried to trick him several times and was sometimes successful at it. His name (Lavan Ha'arami) hints at his moral level. The letters of Lavan also spell out *naval* (disgusting person), and of Arami also spell out *ramai* (cheat). Yet Yaakov described how hard he worked both in the day and at night (Bereishit 31:38-40). On his way back from Aram, Yaakov met *malachim* and called the place of meeting, Machanayim. All commentaries agree that these angels helped him in his struggle against his brother, Eisav.

Moving forward a few hundred years, we look at David. Even before he became king, David worked with great dedication to prevent plundering of the flocks of the inhabitants of the greater Chevron area. The workers of Naval (reminiscent of Lavan) were disturbed that Naval did not show appreciation to David for his contribution to Naval's prosperity (Shmuel I, 25:15-16). They mentioned how David worked hard in the day and the night, pushing off sleep.

The matters of the hard work in the day and the night and the lack of the recipient's appreciation connect the stories of Yaakov and David. Both of them were like *malachim* who sanctified Hashem's name with their comportment. Therefore, it is not surprising that in three different places in Shmuel (I, 29:9; II, 14:17; II, 14:20) those who interacted with David said that he resembled a *malach*.

Another connection between Yaakov and David is the mention of Machanayim (see last week regarding Yaakov, and Shmuel II, 17:24 regarding David). In David's case, he was assisted by three "*malachim*," kind people, some Jewish and some not, who supplied David with necessities when he was fleeing from the rebellion of his son Avshalom and Avshalom's large entourage. These are reminiscent of the angels that helped Yaakov, who was preparing for the arrival of his hostile brother. David, just like Yaakov, broke up his encampment into three groups. Also, one of the situations in which David did not allow himself to sleep because of the great task before him was in finding the place of and making preparations for the *Beit Hamikdash* (see Tehillim 132:3-4).

While the question has been discussed many times as to why David did not make it into the list of all-time leaders of the nation, with the forefathers, we see that the Torah hints at significant overlap between him and at least one of them.

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Ask the Rabbi

by Rav Daniel Mann

Heating Pad on Shabbat

Question: I have muscle pain in my back, which sometimes becomes severe. Going to bed with a heating pad has made a big difference sometimes. May I use it on Shabbat, or is it a problem of *muktzeh*?

Answer: There are a few issues of *muktzeh* involved here. One is whether to consider a heating pad a *kli shemelachto l'issur* or a *kli shemelachto l'heter*. On the one hand, in order to use it, one must put it on, which it is forbidden on Shabbat. On the other hand, if one prepared it before Shabbat (by keeping it on or setting a Shabbat clock), then further use does not include *melacha*. (We are not delving into issues of medical activity on Shabbat. While not a trivial question, with the level of need involved, there are ample grounds to permit it – see The Halachos of Refuah on Shabbos, p. 26.) Rav Moshe Feinstein (Igrot Moshe, Orach Chayim III:49, regarding an electric fan) treats such items as *kli shemelachto l'issur*. However, regarding a case very similar to ours, an electric blanket, he raises the serious possibility that it is a *kli shemelachto l'heter*. This is also the opinion of Rav S.Z. Auerbach (Minchat Shlomo I:9) and Rav Asher Weiss (Shut Minchat Asher I:33), although none of them was willing to rely on this *heter* alone. In any case, it is permitted to use a *kli shemelachto l'issur* for a permitted use (*l'tzorech gufo*) (Shulchan Aruch, OC 308:3) and this would be a classic example.

A further problem is the fact that the heating pad has a filament that becomes glowing hot. In certain areas of *halacha*, this is considered like fire (see Shemirat Shabbat K'hilchata 43:4 regarding using an incandescent light for *hadlakat neiros Shabbat* in a case of need). We find that a lit *ner* (oil cup) is full *muktzeh*, which cannot even be moved for a permitted use (Shabbat 47a). This is because the flame is *muktzeh* (more than a *kli shemelachto l'issur*), and the oil and cup are a *bassis l'davar ha'asur* (something which is supporting that which is *muktzeh*). So ostensibly, the whole pad is a *bassis* for the heat-emitting electrical wires, which are the heart of the device (Orchot Shabbat 19:(246)).

We must understand why the *gemara* posits that a flame is *muktzeh*. One answer in the Chazon Ish (OC 41:16) is that the fact that one does not move a flame on Shabbat (since it can go out) makes it *muktzeh*. Another answer he suggests is that the flame is considered *nolad*, something that did not exist before, as the flame is constantly renewing. Rav Asher Weiss (in a letter to Zomet) says that it is because a flame is a separate unit that does not fit into one of the categories that would make it not *muktzeh* (i.e., food, a utensil).

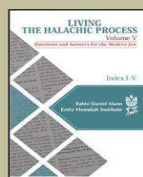
Even according to the Chazon Ish's explanations, the heat-producing electricity might not be like a flame (see Minchat Shlomo I:14, who analyzes this Chazon Ish). In any case, several contemporary *poskim* posit (including Igrot Moshe, OC III:50), mainly in the context of an electric blanket, that we do not view the heated wires and the electricity therein as a separate unit like a flame is. Rather, it is subsumed under the overall utensil of the blanket, which is either a *kli shemelachto l'heter* or *kli shemelachto l'issur* (see above), but, either way, it can be moved as part of its use. Rav Ovadia Yosef (Yechaveh Da'at V:28; see also Chelkat Yaakov, OC 118) adds also that the electricity in the wires are not comparable to a flame because the results are not visible. However, many, including Rav S.Z. Auerbach (Minchat Shlomo I:14), permit to move even lamps whose electricity gives off a noticeable light. In the final analysis, then, it is permitted to use the heating pad.

Rav Moshe Feinstein (Igrot Moshe *ibid.*) required attaching a reminder to the controls and the wall socket so that one not change the setting or unplug it. Rav Ovadia (Yechaveh Da'at *ibid.*) considers that a new *gezeira* and therefore unnecessary, although he also wrote that it does not hurt to be stringent. All agree that one does not have to be concerned lest he inadvertently pull it out of the wall, against his intention.

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Ein Ayah

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

Receivers' Advantages over Doers

(condensed from Ein Ayah, Shabbat 9:93)

Gemara: When Moshe went up to the Heavens, the angels said to Hashem: "What is one who was born by a woman doing among us?" Hashem answered: "He has come to accept the Torah."

Ein Ayah: Angels are full of spiritual life, of purity, and proper intentions for their actions, which they do quickly and accurately. They were thus shocked to see a creation made out of physical matters, who is the recipient of actions. How could Moshe come from such a lowly place to an equal standing with the holders of important roles in the Heavens?

Indeed Moshe used his brilliantly holy soul to go up to the Heavens and used his spiritual content to make a strong impression on the angels. They wondered how light and darkness could join together. How could a mere recipient – someone born to a woman – stand among those who act regularly and impressively throughout the universe?

From the light of the King of the Universe's face came a lofty answer. Those who specialize in actions and spreading light are not capable of receiving the Torah and being impacted by that which is above and beyond them. The angels are static in their level and thrive spiritually only within their natural place. It is actually special to be open to accept and be motivated from within, as those who are born to women can. They can go well beyond their community and take on the load of great sanctity. Thus, it was appropriate that Moshe came to accept the Torah.

Better to Make Changes in Heaven?

(condensed from Ein Ayah, Shabbat 9:94)

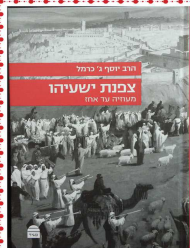
Gemara: [The gemara continues:] The angels said to Hashem: "You want to give to flesh and blood a treasure that has been in hiding since 974 generations before the world was created?!" This is in line with the *p'sukim*, "Who is man that You consider him, and a person that You provide special things for him?" (Tehillim 8:5). "Hashem, our Master, how great Your name is throughout the world, so that you give Your glory to the Heavens" (Tehillim 8:2).

Ein Ayah: According to the general principle of matters throughout both the physical and spiritual worlds, there are two ways for improvements within existence in the world. One is in an organized, gradual manner of development. The other is through surprises, by means of jumps, where a lofty soul changes its form.

When something develops slowly, it is not always clear what existed previously. When the "new light shines," we consider it as if there is a birth and a new existence. It is different when there is a sudden change, which comes with a shock that changes everything in a powerful, rich manner. The lofty content, which had been concealed, becomes clear, as the treasure breaks forth.

The Torah is richer and loftier than anything that has ever been revealed. It burst on the scene suddenly without the world being prepared for it. But Hashem said that there had been enough darkness, and the order of the world was recreated in sanctity with a sense of surprise.

Herein is the question. If such a huge change comes upon the world, it can impact even the world of spiritual beings (i.e., angels), causing them to develop the ability to receive in a manner that they were not able to before [see above]. The angels argued that because the Torah is so great, it must be given to those who can be trusted. As far as their lack of appropriateness (see above), Hashem could "put His glory on the Heavens" to change them. They argued that this is more appropriate for the hidden treasure of Torah.



Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Incomplete Field Work

(based on ruling 77026 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: Prior to the end of permitted field work before *Shemitta* 5775, the defendant (=def) hired (without a written contract) the plaintiff (=pl) to prepare the land for planting a vineyard by: straightening the land for planting, making access roads, and digging ditches. The original time pressure worsened when the regional council held up the work for a few weeks, and not all work was finished. Now (after *Shemitta*) pl complains that he received very little pay for his work. He is willing to do the remaining work, except what has become unfeasible due to the planting that def did, and receive full payment. Def argues that some of the work was not done satisfactorily, and he had to pay others to complete work pl was unwilling to do. Pl explains that he did not yet finish the work out of concern that def would be unwilling to pay him in full. He claims that it is unreasonable for pl to withhold almost all the payment until the work is totally complete and that def should not have proceeded until matters were worked out. [The sides agreed on an expert to provide *beit din* with information on many of the technical factors.]

Ruling: [We will discuss only those elements that involve legal principles.]

We start with the question of withholding pay. In general, payment for a job is done at the end of the job (Shulchan Aruch, Choshen Mishpat 339:6). However, the Rama (CM 78:1) says that when one hires someone to write a *sefer* that is made up of sections, he has to pay after each section is completed. *Acharonim* (see Mishpat Hapo'alim 30:46) say that, in general, if a price is affixed to different elements of a contractor's job, then, in the absence of a contrary agreement, each time he finishes an element, he is to be paid for it. The expert also said that standard practice is that when a (sub)contractor is hired for a large job (like this one), he is paid "according to progress." Therefore, def would have to prove that there was a different agreement to justify withholding pay for those things that were completed.

Pl claims that the fact that def planted certain sections proves that the work there was sufficient. This seems to be supported by the *halacha* that if one uses an object that he bought after realizing there were flaws, he waives his rights to null the sale due to those flaws (Shulchan Aruch, CM 232:3). However, in this case, since there was the pressure of a very specific deadline to plant or to lose an agricultural year, his planting does not prove acceptance.

Do the delays and the time pressure excuse poor work? Usually, if neither the worker nor the employer were responsible for work being cancelled, the worker is not entitled to pay (Bava Matzia 77a). However, in this case, when pl decided to plant even though it made continued work on the area unfeasible, he actively caused the cessation of some of the work. On the other hand, def has a reasonable claim that def's moving of equipment from the area also affected continuation of work. We rule on a compromise on this matter – pl will receive 65% pay of the pay due for this.

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