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HEMDAT YAMIM

Parashat HaShavua

Lech Lecha, 11 Cheshvan 5780

The Renegades of Beit El

Harav Yosef Carmel

When Avraham arrived in the Land that Hashem promised to show him, Avraham had to pick a place to set up his tent (see Rashi on Bereishit 12:8). He chose Beit El, which was also the place in which he would build an altar to Hashem and call out in His Name (ibid.).

In the first stage, this place would serve as the setting for Avraham and Sarah to renew their great project of returning mankind to belief in Hashem. On another level, they would also set the foundations for the nation that would come from them, about which the *pasuk* says: "For he would command his sons and his household after him, so that they would keep to the path of Hashem to do charity and justice" (ibid. 18:19). The capital of the state that this nation would form would be in Yerushalayim (the place of *Akeidat Yitzchak* – Har HaMoriah).

The beginning of our *parasha* stresses the centrality of Beit El in Avraham's mission. "He moved from there to the mountain, to the east of Beit El, and he pitched his tent. Beit El was to the west and the Ay was to the east, and he built an altar to Hashem, and he called out in the name of Hashem" (ibid. 12:8). Later on, the *pasuk* says: "He went on his travels, from the Negev to Beit El, to the place he originally pitched his tent, between Beit El and the Ay, to the place of the altar that he originally made, and Avraham called out in the name of Hashem (ibid. 13:3-4).

Two generations later, before Yaakov Avinu was forced to leave the Land because of fear of his brother, he merited to experience an incredible revelation. He came upon a place where he slept surrounded by rocks and woke up with fearful excitement: "How awesome is this place? This is nothing but the house of G-d and the gateway to the heaven." He called this place Beit El and said, "This place will be the house of G-d" (ibid. 28:11-22).

Chazal dealt with the apparent contradiction – which place is the center of the service of Hashem, Yerushalayim or Beit El? Rashi cites two answers found in Chazal. 1. The ladder in Yaakov's dream stood in Be'er Sheva and reached the heaven above Beit El, and the middle of its incline was over the Beit Hamikdash. 2. Mt. Moriah was uprooted and came to Beit El for Yaakov's dream.

Who did not accept either of Rashi's answers? It was the people of Beit El over generations. They continued to claim, sin, and cause others to sin, with the contention that Beit El was the place that Hashem chose, not Yerushalayim. We find a few examples of this in *Sefer Melachim*. When Yeravam ben Nevat rebelled against the House of David, he chose Beit El to build there an altar for the renewed worship of a calf (Melachim I, 12:32). A prophet was sent to Yeravam to urge him to stop this sin. The people who toiled to ruin the mission of the prophet were the false prophet from Beit El and his family, referred to as "a prophet, who was old, and sat in Beit El" (ibid. 13:11). This elder was apparently one of the leaders of the alternative religious apparatus who spread their false ideas in Beit El, opposing the religious leadership from Judea.

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Ask the Rabbi

by Rav Daniel Mann

Who Should Pay a Ticket?

Question: My friend picked up a *trempest* (hitchhiker) who did not put on his seatbelt. Police pulled the car over and gave a ticket to the driver (not the passenger) for driving with someone not buckled. Should the passenger reimburse my friend?

Answer: This is **not** a ruling about a specific case but a discussion of the general scenario. We start with the question of a halachic requirement to pay.

This is an example of a person causing damage without doing something that is direct damage (*nezek*). It is difficult to consider not buckling direct damage one person does (*adam hamazik*) or to compare it to one of the other Torah-described categories of damage (i.e., damages done by one's animal, fire, and pit, or matters derived from them – see ch. #1 of Bava Kama). There are another two categories of one causing damage to another. One, called *garmi*, can be described as semi-direct damage; we *pasken* that the causer is obligated to pay (Shulchan Aruch, Choshen Mishpat 386:1). The other, *gerama*, is less direct causation. There is no enforceable compensation for *gerama* (Bava Kama 60a), but it is prohibited to cause loss in that way (Bava Batra 22b), and there is often a moral obligation to pay (see *ibid.* 55b). How to determine what is *gerama* and what is *garmi* is one of the most complicated questions in Halacha. Factors that may play a role include: whether he did so purposely or accidentally (see Shach, CM 386:6), especially when the damage came from an external source (see Pitchei Choshen, Nezikin 4:(23)); how likely it is that the action will cause damage (Rosh, Bava Kama 9:13); how immediate was the damage (see Sha'ar Mishpat 386:1).

In this case, many factors favor the passenger if the situation was in a "normal" (although we strongly urge wearing seatbelts) manner. He did not intend to cause damage. The chances of getting caught are small. The damage probably happened well after he got in the car (one can argue that every moment of not putting on the belt is a new affront and view being caught as immediate).

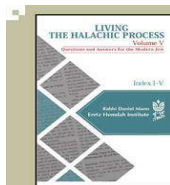
However, there is a stronger reason to exempt the passenger from outright obligation. There are two traffic violations involved here; the policeman could have given two tickets! One (#6706) is by the passenger for not putting on the seatbelt; another (#6705) is by the driver for driving when someone is not buckled in. The "damage" comes based on the "law of the land," which enables authorities to fine those whom they want to deter from dangerous activities that hurt society. Two people did something illegal – the passenger and the driver. The authorities are interested in teaching both a lesson – BUCKLE UP to save lives or pay money. Your friend directly failed in doing what the law demands of drivers – demanding that people put on their belts. If so, the passenger did not cause the damage, as defined by the law. In some ways, it is like someone getting a ticket for tailgating an improperly slow driver. It is hard to claim that the slow driver is legally responsible for the tailgater dealing with the situation in the wrong way. Here too, the driver could have and did not demand to buckle up.

If the driver did make the demand and the passenger deceived him, he purposely and immorally (as a guest in someone else's property) endangered the driver. In such a case, if the police knew what happened, they would presumably have penalized only the passenger. It might still not be certain that this is *garmi*, but many a *dayan* would obligate the passenger, based on his behavior, and the driver could make that demand. Now to the ethics of the matter. We would hope a *trempest's* attitude is as follows. "It is enough that the driver pays the car expenses, stopped for me, and might otherwise be inconvenienced by my presence. I am getting 'a free ride.' I certainly should not be even an indirect cause of any real loss." Therefore, I would urge a passenger to offer to pay. In such a matter of general ethics, if the driver is well off and the passenger is poor, we might applaud if the driver turned down the offer.

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Ein Ayah

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

The Cause of Unfaithfulness

(condensed from Ein Ayah, Shabbat 9:80-81)

Gemara: Ulla said: Disgraceful is a bride who commits adultery from within her wedding canopy. [This is a metaphor for the sin of the Golden Calf, right after the giving of the Torah.] Rav Mari said: Where is this found in a *pasuk*? “While the king was still in his party, the spikenard left its smell [for others - Rashi]” (Shir Hashirim 1:12).

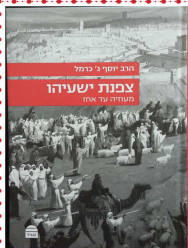
Ein Ayah: The tendency toward idol worship stems from the natural lowliness within a person, which is intermingled with the essence of evil and unsightliness within his physicality. As long as the entire world has not been purified from its spirit of impurity, a venom lying in hiding will remain. Even when the light of holiness and goodness increases, evil is not eradicated. Rather, it goes into a state of sleep, from which it can be awoken even during days that the light of truth and goodness is shining. This is a sense of disgrace for people, testimony to the lacking found in the nature of the human spirit. Indeed, the painful impurities were not totally removed from its foundation, as the readiness to do evil remains intact.

Where does the source of evil, which enables the inclination toward idol worship to sprout forth even after the nation reached great spiritual heights, come from? Should it not have been overcome, considering that it comes from man’s low point, and the nation already experienced such light and their hearts were touched with love and purity by Hashem at Sinai?

The foundation of evil was not found in the essence of the Israelite spirit, for this was already pure and went beyond the general lowliness from which the rest of humanity suffered. However, the advantage that they had was stored deep, in hidden elements of the soul. The great spiritual present that Israel received in recognizing Hashem, needed to be hidden in something that found expression in modesty and in personal contemplation. Then, when it would take hold internally, impacting on all life powers, it could emerge to the surface and be seen by all in the actions that the people would carry out.

However, the danger is that there is a strong desire to have the internal spirituality appear immediately in life by connecting the divine content to palpable actions and outward symbols. This desire to be able to publicize the spirituality at the wrong time can prevent the purity and awaken the spiritual filth connected to the venom of the desire for idolatry to raise up its ugly head. This is the secret of the sin of the Golden Calf. It stemmed from the haste of the desire of the masses to publicize its spirituality that stemmed from the light of the revelation at Sinai.

When the “king is still in his party,” even hidden love suffices to fill the soul with excitement. There is no need to spread perfume to all the directions. When the approach was distorted to the point that there was a feeling that the perfume had to be given out, and to publicize that which was hidden within the spirit, then the troubles began. The public element of it united the deterioration that everybody suffered and prevented the recognition of the divine to orchestrate over the nation’s spiritual life and purify the whole world with its clear light.



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

Who Should Chip in How Much for a Joint Wall?

(based on ruling 77085 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) built his home adjacent to the property of Family Y and, with their blessing, spent 42,000 shekels on a wall on their boundary. In the meantime, Family Y died, their inheritors sold the property to the defendant (=def), and now def has built a home on it. Pl demands that def pay for half the expense of the wall. Def, who at one point agreed to pay, now says that either Family Y already paid pl, or it was their responsibility to do so, not def's. The inheritors refuse to come to *beit din* to adjudicate or tell what they claim happened. Def also brought estimates for such a wall for much less money.

Ruling: Because the Family Y inheritors refused to join adjudication, we are unable to consider giving them responsibility to pay. According to part of the *beit din* panel, def's agreement to pay is considered a binding admission, and it relates to the wall as built, not a cheaper one that could have been built. However, it seems more likely that any admission was general, and not to a specific sum. It also seems that he did not obligate himself at a certain time of payment, and therefore it should be at the time that he benefitted from it, which was when def built his home and would have had to build a wall.

According to another *dayan*, if we can view def's agreement to pay as a new obligation, it is only binding in a formal manner, in front of witnesses or with a document (Shulchan Aruch, Choshen Mishpat 40:1). If we view it as an admission about the past, the question is whether we will accept his claim that he did so only as an initial gesture to begin on good relations with his new neighbors. The K'tzot Hachoshen (80:1) cites a *machloket Acharonim* whether such an excuse (known as an *amatla*), beyond the two excuses recognized by the *gemara*, can work to undo an admission which gives another person monetary rights (for religious matters, it does work). Here there is an additional reason to say the admission was based on a mistake, as def now points out that it is possible that Family Y already paid. Therefore, we need to see if def has an obligation, as the present neighbor, based on the merits of the claim.

The obligation to take part in building the wall begins only when the wall becomes a need of the neighbor as well, whether based on Halacha or based on the law and prevailing *minhag*. Thus, Family Y could not have been forced to pay before they started their own building, an event that did not take place. Since one is assumed to not pay before the time he is required to (Bava Batra 5a), Family Y is presumed to have not paid. Since the nature of the obligation in taking part in a separating wall depends on property ownership and is not personal, def would become obligated upon buying the plot, and therefore they must pay.

Since it would cost more money than it is worthwhile to pay an appraiser for the cost of a simple wall, we accept the higher of the two estimates of the experts that def produced. Def must pay pl half of that amount.

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