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HEMDAT YAMIM

Parashat HaShavua

Vayigash, 7 Tevet 5780

Service in the Israeli Army and Lineage – part I

Harav Yosef Carmel

The valor of Yaakov's son Yehuda is strongly stressed in the *midrashim* on the beginning of our *parasha*, when he confronted Yosef. We have just finished remembering the exploits of Yehuda the son of Matityahu the Hasmonean. Between these periods, we have biblical accounts of the great warriors who served under King David.

Questions having to do with service in the IDF come up all the time. We will mention that our mentor, Harav Shaul Yisraeli z.t.l., determined that only those who did their duty by serving in the IDF can be accepted as fellows at Eretz Hemdah. Let us take a look this time not at who must serve but who is fit to serve. Must one be of unblemished Jewish heritage? We will investigate the matter in *Nach* and the writings of *Chazal*, *Rishonim*, and *Acharonim*.

The Books of Shmuel and Divrei Hayamim give attention to the great warriors of David's army. We find Achimelech the Chitite serving as a counterpart to David's nephew and general, Avishai ben Tzruya (Shmuel I, 26:6), while Shaul was still alive. So even at that early stage, David had a Chitite among his trusted men. It is possible that Achimelech was an Israelite who lived in the Land of Chet. But it is difficult to make that claim here considering how far the Land of Chet (southern Turkey) is from Judea, where David was operating. It is true that there were Chitites in Chevron at the time of Avraham, but *Chazal* do not raise such an explanation in regard to Achimelech.

Another famous "Chitite" in David's army was Uriya (Batsheva's husband), who fought against the Amonim (Shmuel II, 11-12). He is listed as a prominent officer (Divrei Hayamim I, 11:41). In the latter source, we learn also of Tzelek the Amoni. One can ask the same questions about them. Another prominent officer was Itai of Gat. Gat was the city of Achish, a Plishti king who was a patron of David during part of the time of David's fleeing Shaul. Achish was a great admirer of David, referring to him as "you are good in my eyes like an angel of G-d" (Shmuel I, 29:9). When David was fleeing Avshalom, Itai came leading 600 men of Gat who "came with his leg" (Shmuel II, 15:18-19). David asked him why he felt a need to come, as he was a foreigner who was in exile (*ibid.* 19). The term "came with his leg" is a reference to the fact that he left Gat in the past to join David's army (see Radak *ad loc.*). So we have evidence that 600 soldiers of Plishti origin joined David at some point during his Kingdom.

Next week we will continue to develop this point, including factoring in the possibility of conversion. In the meantime, we pray for the welfare of the present day soldiers of IDF.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

Kedushat Beit Kneset of a Rented Building

Question: Clients of mine want to rent out a building that has served for a family business to a religious group, who will use part of it as a *shul*. They are concerned that if things do not work out, they will get back control of the building with some of it having the restrictions of a *shul*, which would restrict their use of it. Is this a problem, and if so what can be done to obviate the problem?

Answer: [The laws of removing kedusha from a *shul* are very complicated, and therefore we ask our readers not to extrapolate too freely.] The Shulchan Aruch (Orach Chayim 154:2) rules that a structure that is used as a *shul* but is not owned by the congregation but is just rented to it does not have the *halachot* of a *beit kneset*.

This important source does not totally remove the question. First, the *Bi'ur Halacha* (ad loc.) cites those who limit the scope of this rule for the following reason. The Shulchan Aruch is based (as is evident from the Beit Yosef, OC 154) on Mahari ibn Chaviv who says that certain normal prohibitions surrounding a *beit kneset* do not apply to the *shuls* in Turkey of his time. He explains that because the authorities could take them away at any time, anything that was done there was temporary and the halachic status is therefore missing. The Mahari ibn Chaviv's does not require the *shul* to be the highest building in town and allows living above the *shul* as long as one does "clean things" there. He describes the situation as one of total insecurity as far as where Jews could live, so that the situation was very temporary. Some *Acharonim* claim, says the *Bi'ur Halacha*, that if a congregation has a reliable mid-term or long-term lease, then the laws of a *beit kneset* do exist. Also, even according to the Mahari ibn Chaviv, one is not allowed to use it for "dirty things."

Yet, there are significant reasons to say that your client would not have to worry about these reservations about the leniency of rental. First, it is quite clear from the Shulchan Aruch's language that he learned the Mahari ibn Chaviv broadly. Secondly, the Mahari ibn Chaviv and the early *Acharonim* who question or limit his ruling (see Mor U'ktzi'a 154:1; Maharit II, Yoreh Deah 4) are referring to the status during the time that it is still being rented and used as a *shul*. Some (see Mor U'ktzi'a *ibid.*) invoke the idea, as reason for *chumra*, that during the time it is rented, it is as if it is owned by the renter. However, regarding many *halachot*, if a renter does something to property while it is his, including sanctifying it for *Beit Hamikdash* use, once the rental is over that status ceases to be in effect (see Tosafot, Arachin 21a). Indeed, the Maharit (II, Yoreh Deah 4) says that the fact that it is a rental is enough to have the *kedusha* cease when the *shul* is no longer used, even though when it is in use it is to be treated with the rules of a *shul*.

However, these indications do not remove all liability according to all opinions. The Maharsham (III:206) says that even though the end of the rental period removes the main status of *beit kneset*, it still remains forbidden to use the *beit kneset* section for disgraceful uses. The Maharit (*ibid.*) seems to treat the end of the rental as equivalent to one who made a condition that the *shul* should not become holy. Not only does the condition work only after it is no longer used (Shulchan Aruch, OC 151:11), but it also does not make it permitted to use for disgraceful matters (*ibid.*). On the other hand, one might argue for more leniency because the original purpose of the building was not for a *shul* (see Rama, OC 151:12).

In summary, if the rental fell through before the building was actually used as a *shul*, there is no problem (Shulchan Aruch, OC 153:8). Once it will be properly used as a *shul*, upon receiving it back, they could use it for most commercial purposes, but at least some authorities would demand that it not be for degrading matters. If your clients were then to sell it to someone else, almost all limitations would fall off (see *ibid.* 9).

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.



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Ein Ayah

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

[We continue with more arguments of Moshe that the angels are not fit to receive the Torah.]

Human Parenthood – Raising Coarse Physicality into Spiritual Light

(condensed from Ein Ayah, Shabbat 9:102)

Gemara: “What else is written in [the Torah]?” “Respect your father and your mother” (Shemot 20:11). “Do you have a father and a mother?”

Ein Ayah: This family connection [of parents and children] represents purification, when the spiritual and physical realms overlap with the creation of life and the chain of generations. Matters of ideals join together with natural tendencies. Matters of the lowly earth and the lofty heavens form one unit. On top of all of this, there is an imprint of the grandeur of life of a unity that is representative of Hashem’s own greatness. [Ed. note - The last sentence was shortened because I did not know how to translate it responsibly.]

This entire moral phenomenon can only be realized in such a complete way within the human family. The relationship of parents to their children and children to their parents, in the purest form, in which the finest spiritual form is connected to its physical expressions, in a way that makes the foundation of life [i.e., procreation], with its palpable coarseness, more gentle. This becomes even more holy with the existence of a commandment to honor a father and a mother. It is only within the human family that such a divine moral imperative can find expression. The relationships involved are, on the one hand, separated from the related deep physicality and, on the other hand, are not applicable to the Heavenly creatures who are full of intellectuality and know only of a life of purity. The Torah, which is designed to turn darkness into light and that which is related to death into fine life, filled with grandeur, can only be given to people, not to angels who do not have parents.

The Importance of Having Evil Inclinations to Tame

(condensed from Ein Ayah, Shabbat 9:103)

Gemara: What else is written in [the Torah]?” “Do not murder. Do not commit adultery. Do not steal.” (Shemot 20:12). “Is there jealousy or an evil inclination among you?”

Ein Ayah: There are two types of impacts of the deeply evil. There is a directly negative power, which is a result of jealousy, which destroys things around it. There is also a “constructive” power, which builds and renews bad buildings and polluted creations. The latter is actually connected to the foundation of the greatness of creation and the strength of existence, as it demonstrates its strength to the lowest and darkest depths. When these powers find resistance from the wisdom of the Torah and are held back from their wild running forth, they turn into wonderful powers. They are able to connect the depths and darkness of evil to the loftiness of good.

Light and goodness along with the source of life are blessed by their contact with both the upper and lower “pipes.” Jealousy is indeed as powerful as death, and it is responsible for murder and thievery. Illicit sexual urges, which pollute the soul with great intensity, can, when properly controlled, be powers that connect to the greatness of the universe. The divine light gives life to the depths and uncovers the light that is concealed among the darkness. This can only be accomplished when the light of the divine Torah is given to people who experience jealousy and an evil inclination. They can then bring the fortunate life of controlling those evil things to the creatures of the Heaven (i.e., angels).



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

Questionable Responsibility for Another's Property

(based on ruling 76037 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) sublet the apartment he had rented long-term to the defendants (=def) in April 2013. Their sublet contract mentioned taking responsibility for items that pl left there and that def should inform pl a month before they move out. In August 2014, def moved and arranged with pl that furniture would be taken to their new apartment. In June 2015, def moved again, after having lost contact with pl and being unable to find his contact information. Def moved pl's belongings to storage and informed pl only a month later. Pl claimed that much of the property had been damaged and that he had to pay for taking things from storage and is suing def 18,000 shekels for negligence. Def claim that little damage was due to their negligence and that most of the items were in disrepair when they entered the apartment. Also, they claim to have taken responsibility for only some of the items left behind, and they estimate the total starting value of those items at approximately 3,000 shekels. Def countersues 1,200 shekels for the expenses of paying for storage and moving costs to the storage location.

Ruling: One of the major rules of monetary law is that one who wants to extract money has to bring proof for their claim. In this case, the language of the contract does not conclusively indicate for how many items def accepted responsibility. There is also no proof that def was responsible for the damage that did occur or that they did not choose a reasonable solution of storage. [It is clear that def had every interest to try to contact pl before moving, and] it is hard to discount their claim that their failure was based on factors beyond their control. Since the amount of actual damage is apparently small and pl received 2,500 shekels of compensation for damages from a third party, we do not find it necessary to give pl more money than that by means of compromise.

On the other hand, we will factor in the lack of proof in the other direction as well. If def did everything the best way they could have, they deserve reimbursement for spending 1,200 shekels to store pl's items. However, since it is not clear if they did so and how much the extent of their obligation to watch pl's property was, they will not be able to receive that money back from pl based on doubt.

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