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Founder and President

HEMDAT YAMIM

PARASHAT HASHAVUAH

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Yosef Returns Home

“Moshe took the bones of Yosef with him, because Yosef had emphatically made the Sons of Israel swear: ‘Hashem will certainly redeem you, and you shall take up my bones with you from here’” (Shemot 13:19). There are several questions one can ask about this *pasuk*. Why did Moshe, specifically, have to take Yosef’s remains? Why does it mention that he took specifically Yosef’s bones, as (assuming the other brothers were also buried in Egypt- Rashi), the brothers’ should have been taken as well? Why does it stress that he took the bones because Yosef made them swear, if a request should have been enough?

It is very possible that one question answers the other. The Netziv assumes that the other brothers were exhumed and taken with them, but that was done by each tribe for its forebear. Only Yosef was taken by Moshe himself. The Seforno explains that since Bnei Yisrael had sworn to Yosef, it was the present leader, Moshe, who had to ensure that the national obligation via oath was fulfilled.

Rav Hirsch suggests that Yosef is singled out because he was a model of belief that Hashem would redeem His nation as promised, as opposed to many in Bnei Yisrael who later on doubted that Hashem would bring victory to the nation. One can argue with the rigorousness of the comparison’s logic. Yosef said only that at some point, redemption would take place. He did not say how long it would take or how many martyrs would be lost before it happened. Bnei Yisrael, on the other hand, were nervous that they might be killed in battle for the Land, whereas the promise might be kept later.

In any case, it is not clear why Yosef needed to make the family/nation swear. Was it so important to him that the nation’s leader would take him out, and not his great grandchildren? It is possible that Yosef was concerned how he would be viewed in Jewish history. He was the one who orchestrated the move to Egypt. In the beginning, it looked like a move that really paid off, as they went from famine to riches and fame. However, by the time of his death, the transition to helplessness and even slavery could be seen by the likes of Yosef. So, the dream of leading his brothers, for their benefit, was turning into a national disaster. The uncle who spent his entire adult life in Egypt had taken them from their homeland to his homeland for the benefit of his dream and their nightmare.

Yosef told the young generation that the stay in Egypt was temporary and part of a process of *geula* that had to come. This was the reason he had brought them down to Egypt. In fact, he was not only sure of their eventual liberation and return to their homeland but wanted to be (posthumously) at the helm, as they left Egypt in shambles. He would be buried where, to a great extent, it all began, in Shechem (see Chizkuni). Indeed, Jewish leaders do not purposely want to remain buried in exile in order to glorify the past stay in that exile. Those stays, despite the occasional golden eras, repeatedly begin and/or end with oppression and heartbreak.

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Ask the Rabbi

Question: May I set up a dishwasher on a timer, so that I will load it on Friday night with the night's dishes and it will go on overnight? Can I do the same thing in the afternoon so that by the time Shabbat is over, the afternoon's dishes will have been done?

Answer: At first glance, there would not seem to be fundamental problems with operating the machine on a timer, as the same activation of the electric device and the heating of the water will occur regardless of if you fill the racks with dishes. As for the removal of the grime from the plates by using hot water (which occurs only because you put the plates in), that is not considered *borer* (removing impurities) or *bishul* (cooking). The reasons this is true are beyond our present scope. Some say that the soap is being cooked and should be put in before Shabbat (Techumin XI, pp. 137-154).

However, a safety device usually changes everything. In order that hot water should not come out of the dishwasher, the system is designed so that the machine works only when the door is locked until the end of the cycle. Obviously, the door is open when you load the dishwasher on Shabbat, and then you must lock it in order that the timer will be able to activate the machine. Closing the door thus causes the prohibition of Shabbat to occur at a later point when the timer will activate the dishwasher. Such a delayed reaction is only gerama, which is not a full violation of Shabbat, and is permitted in certain special situations that warrant a low-level violation of Shabbat (see Shabbat 120b and Rama, Orach Chayim 334:22). However, in most cases, it is forbidden to cause such a delayed reaction. For example, we do not allow one to press the buttons of an air conditioner to make it go on when a timer activates the system.

There is a technical solution, albeit a problematic one, that one can arrange with an electrician's help. You can bypass the aforementioned safety device (The Zomet Institute provides this service). Then when you lock the door, it will make no difference regarding the dishwasher's operation. Unless one can ensure that this will not cause dangerous situations (such as opening the door during operation), we would say this is forbidden because "danger is more severe than prohibitions." However, we cannot preclude the possibility that someone can create safeguards.

Regarding using the dishwasher a second time, when the dishes will not be reused, there is an additional problem. It is forbidden to prepare on Shabbat for after Shabbat (*hachana*), even if the preparation does not include a prohibited action. Filling the racks with dishes need not be preparation, as many people find it a good place to temporarily store dirty dishes. However, refilling detergent is clearly done to facilitate cleaning the dishes, and if they will be used only after Shabbat, it is *hachana*.

A final issue, which may or may not cause it to be forbidden to have the dishwasher go on, is called *avsha milta*. The Rama (Orach Chayim 252:5, as opposed to the Shulchan Aruch, ad loc.) forbids operating from before Shabbat a mechanism that is forbidden to operate on Shabbat if it makes noise. This problem certainly exists if the system went on by timer during Shabbat. It is permitted only if it is common for people to set up the mechanism in advance and thus there is no reason to suspect that one desecrated Shabbat in its regard (ibid, regarding a chiming clock). This could be a problem for a dishwasher. Rav Moshe Feinstein (Igrot Moshe, OC IV, 70) says that the forbidden level of noise is such that it is expected to be heard in the next room, which is borderline for a dishwasher. While Rav O. Yosef (Yechaveh Da'at III, 18) and Rav N. Rabinowitz (Si'ach Nachum OC 15) say that *avsha milta* applies to dishwashers, regarding relatively quiet models, this issue would not be a problem.

In short, while there may be a way to use dishwashers on a timer on Shabbat, a combination of technical and halachic problems makes it not simple in practice.

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Ein Ayah

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

How to Appraise One's Spiritual Status

(based on Berachot 3:33)

Gemara: [When one is a mourner before the funeral of his relative, while others are praying, he, who is not allowed to pray, should say:] "Master of the worlds, I have sinned a lot before You, and You did not exact payment from me but one thousandth [of the punishment I deserve]. Shall it be your will that You will close the gaps in our fences and those of Your nation, the House of Israel, with mercy." Abayei said: One should not say this, for Reish Lakish ... said: "One should never open his mouth to the Satan."

Ein Ayah: Hashem's leadership of the world brings every creation to the most lofty *shleimut* (completeness) that it can reach based on its level. However, regarding human beings, when a person makes choices about his personal affairs, he is able to have these matters bring him to a lofty *shleimut*. His *shleimut* is a function of the improvement of his actions to the fullest extent possible and especially in the area of following Hashem's path. It is, therefore, imperative that he view Hashem's ways in his heart and his mind as being the epitome of straightness and justice, so that he can straighten himself out and follow that path as well. If one views Hashem's leadership as being one that does not care about iniquity and that someone can receive kindness and goodness in return for breaking laws, then the person's moral framework will be ruined. This is because he will lose his path and distance himself from the source from which he could draw the flow of *shleimut*.

It is, therefore, worthwhile that one view himself as one who is deserving of Hashem's mercy on him. Although he has done multiple sins, the pathway of repentance is rightfully open before him. In general, he should see Hashem's willingness to open the doors for those who return as all based on straightness and great justice. In this manner, if the way of dealing with him is based on kindness, he will be able to contemplate and see the goodness of Hashem, and he will learn to go in the paths of justice.

In contrast, it is dangerous for one to entrench in himself the conviction that, according to the true rules of justice, he deserves a great punishment, yet he wants Hashem to, for whatever reason, treat him with great mercy, love, and compassion not according to the ways of justices. If he does so, then he is inculcating himself with the possibility, Heaven forbid, that because of love, the Divine ways of justice have been perverted. This can bring forth a poisonous idea in the area of his morality, which may influence him to not lead his own personal life along the ways of justice, and he may go from bad to worse.

Therefore, if one believes about himself that he should be in the worst situation, then Heaven forbid, he could actually cause himself to be in a bad situation, in order that he should learn from the way Hashem treats him about Hashem's proper system of justice. This might awaken the attribute of justice in himself. This is why one should not open his mouth to the Satan but should consider in his mind and heart that Hashem's treatment of him is a function of Hashem's greatness, the lowliness of man, and the strength of his evil inclination. Doing so, he can conclude that even though the extent to which he left Hashem is objectively horrible, still His attribute of straightness and justice dictates that based on justice, Hashem should forgive and accept those who return from sin and recognize their iniquity. Then he can elevate himself in a path of justice and kindness and connect himself to Hashem and His goodness.

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Laws of Witnesses – part II

(based on Sha'ar Ladin – Halacha Psuka, vol. 34)

Just as testimony through a translator is invalid [*discussed last week*], so too one ostensibly cannot testify by simply writing his testimony and sending it to *beit din*. *Rishonim* were bothered by the question: why then is a *shtar* (document) valid as testimony, if it is actually just written testimony regarding that which is written in the *shtar*. There are several approaches among the *Rishonim*.

The Rambam (Eidut 3:4) says that *shtarot* are valid only rabbinically. [It is important to have a mechanism whereby one can possess evidence he can use in the future.] Other *Rishonim* ask from *gemarot* where it seems evident that *shtarot* work from the Torah (we will not get into a discourse on the matter).

The Rif (Ketubot 7b) and the Ramban (Milchamot, Yevamot 9b) say that the difference between a *shtar* and testimony in writing has to do with the language involved. A *shtar* is written in the “format of a *shtar*,” written testimony is written as the witness’ recollection.

The Ba'al Hama'or (ad loc.) says that the difference is that a *shtar* is written with the *da'at hamitchayev*, the authorization of the person who stands to lose by means of the testimony within. In contrast, standard testimony needs not be authorized by the side it “testifies against.”

There is a fourth approach among the *Rishonim*, which does not fully accept the premise we have been working with. Rabbeinu Tam says that testimony in writing is invalid only when the witness is incapable of testifying orally, e.g., he is mute; a normal person may actually choose to submit his testimony in writing. This is along the lines of Rabbi Zeira’s rule that often when something is fit to be done in the optimal manner, the matter works halachically even without the optimal element being done. According to all opinions, if the witness is in court and presents an affidavit and then testifies orally that he stands behind the statements found in the affidavit, the testimony is acceptable.

However we explain the reason for a *shtar*’s efficacy, it has the following special status. A *shtar* containing signatures (even when the witnesses are unknown and the signatures have not been authenticated) is considered as if witnesses have been cross-examined by the court (Ketubot 18b). Therefore, those who saw the document can testify about what was found in the *shtar*, without it being considered like a witness relaying that which he heard from another witness.

In summary, written reports, notarized statements and the like are not normally admissible as full evidence in *beit din*. However, *beit din* may choose to hear (or read) “invalid testimony,” just that they will not give it the weight that they would give two correctly presented witnesses. *Beit din* will want to see how the other side will react to the accounts. Therefore, there is no reason that a litigant should not prepare written affidavits, as it is likely that the other side will admit that they are truthful, and the matter may save the *beit din* and the litigants time.

Mishpetei Shaul

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Shevat 9-15, Bava Batra 156-162

Summary of the Laws of Shechiv Mera

Rav Ofer Livnat

In the past few weeks we have been learning in the Daf Hayomi the laws of a gift of a Shechiv Mera. We will try to summarize the main Halachot which are derived from what we have learned.

The definition of a Shechiv Mera

A Shechiv Mera is an ill person who has fallen to bed. The Sages instituted that a Shechiv Mera will be able to transfer ownership of gifts that he gives, without the requirement of a kinyan. The reason for this institution is that the Sages were concerned that if the Shechiv Mera will think that his instructions are not binding, then he might suffer such psychological stress that will exacerbate his situation. Therefore, they instituted that he will be able to give presents simply by speaking.

The uniqueness of the present of a Shechiv Mera

There are two main differences between the present of a Shechiv Mera and the present of a healthy person:

1. A kinyan is not required.
2. The present comes into effect only after the Shechiv Mera passes away.

Reneging on a present of a Shechiv Mera

Since the present of a Shechiv Mera comes into effect only after his death, he can renege on the present or give it to someone else. So too, if he recovers from his sickness, the present is automatically cancelled.

When does a gift attain the status of a Shechiv Mera's present

In two situations a gift given by a Shechiv Mera attains this special status of a Shechiv Mera's present:

1. When a Shechiv Mera specifically states that he is giving a Shechiv Mera's present (Rambam Matana 8, 17, Choshen Mishpat 250, 9).
2. When a Shechiv Mera gives away everything he owns.

However, if a Shechiv Mera did not give away everything that he owns, but left something for himself, and he did not state specifically that it is a Shechiv Mera's present, then this present has the status of a healthy person's present, and a kinyan is required. If he made a kinyan in such a case, he cannot renege on it. The reason for this distinction is that, if the Shechiv Mera left a portion for himself, then we assume that he did not intend for this to be a Shechiv Mera's present which comes into effect only after his death, but rather a healthy person's present which is effective immediately.

According to the Rif (70a) and the Rambam (ibid 8, 15), even if the Shechiv Mera retained a small portion for himself, then it is considered a healthy person's present. However, according to the Rosh, this is so only if he left for himself enough to live off of. The Shulchan Aruch (250, 4) rules like the Rif and the Rambam whereas the Remma quotes the Rosh.

A present of a Shechiv Mera with a kinyan

Due to the unique properties of a Shechiv Mera's present, if the Shechiv Mera attempts to give a present for after his death with a kinyan, the present is void, as a kinyan is only effective for presents given while one is alive. However, if the kinyan was done only to strengthen the transaction and not as the means by which the transaction will come into effect, it does not detract and the present is valid.

Therefore, if a Shechiv Mera gives everything he owns, or even a portion, and specifically states that it is a Shechiv Mera's present, there is no need for a kinyan, and it might even detract. However, if he gives only part of his assets then a kinyan is required, as this has the status of a healthy person's present.

Metzave Mechamat Mita (one who gives away because his death is imminent)

If it is clear from someone's words or from the circumstances that he believes that his death is imminent and is therefore giving away his possessions; his present has the status of a Shechiv Mera's present. The main difference between a Shechiv Mera and a Metzave Mechamat Mita is that, for a Metzave Mechamat Mita, even if he gave only a portion of his assets it has the status of a Shechiv Mera's present, as it is clear that he gave only because he believed that his death was imminent.

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