



HEMDAT YAMIM

חֵמְדַּת יָמִיִּים

Parashat Hashavua Shemini, 23 Adar II 5782

Harav Shaul Israeli zt"l
Founder and President

Which Tablet Was Broken After *Cheit Ha'egel*?

Harav Yosef Carmel

One of the *korbanot* that Aharon had to bring on the eighth day of the *Mishkan's* inauguration was an *egel l'chatat* (a calf as a sin offering). Bnei Yisrael had to bring a *se'ir izim* (goat) as a sin offering. The Sifra (Shemini 1:3) attributes Aharon's *chatat* as a further level of atonement for his part in forming the *egel* (Golden Calf). Bnei Yisrael's offering was an atonement for the sin of the ancestors in the sale of Yosef (which they covered up by slaughtering a goat to dip Yosef's coat in its blood).

In the past, we have presented a thesis that the sale of Yosef was the root cause of the Golden Calf and of the execution of the Ten Martyrs, which included Rabbi Akiva. As in contemporary times we seem to always be struggling with national tendencies of *sinat chinam* (baseless hatred). We will now try to look at the matter of the sale of Yosef from a different perspective.

The Yerushalmi (Shekalim 2:3) investigates the idea behind the donation of a half-shekel coin (the full *shekel* coin weighs 20 *gera*), which is presented as an "atonement for the soul" (Shemot 30:15). R. Yehuda says that its significance was as an atonement for the sin of the Golden Calf, which was done in the middle (half) of the day. R. Yehoshua says that since the people violated the Ten Commandments, they should each bring a coin that weighs ten *gera*. Rav Berechia continues on the theme of the significance of weights for atonement. Since Bnei Yisrael sold Rachel's firstborn for 20 silver coins, all Jews have to give the weight of 20 silver coins for their firstborn son.

The first two agree that the half-shekel coin is somehow related to the sin of the Golden Calf. One focuses on the textual hint that relates to the time of day and one focuses on the Ten Commandments, which were violated in the process of the horrendous, sinful episode. Rav Berechia, in that same discussion, connects the coins to the sale of Yosef. There is a final opinion in the Yerushalmi that connects the sale of Yosef with the half-coin. The brothers, who received 20 silver coins, each received two and, says R. Pinchas, Bnei Yisrael would have to give a half-shekel, equal in weight to those silver coins.

Let us present a new idea about the connection between the Golden Calf, the sale of Yosef, and the Ten Commandments. Yosef's brothers sinned in the realm of between man and his fellow man. The Golden Calf was a sin between man and his Maker. The former is presented on one Tablet given to Moshe, and the latter on the other. The half-shekel atonement hints that it is a mistake to try to separate between these elements, as we must remember there are two halves. We need to look for the common denominator and to complete ourselves. We also need, nationally, to realize that we must learn from those who put a stress on social justice, as well as those who stress service of Hashem, in order to have a full picture.

In the hope that we will all learn to treat each other with respect, let us build a more perfect society in the State of Israel, one which is fit for the Divine Presence to dwell amongst us.

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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

Raffle on Shabbat

Question: May one hold a raffle on Shabbat?

Answer: The *mishna* (Shabbat 148b) allows using a lottery on Shabbat to give out food servings to household members, as long as it is not to give the “winners” bigger pieces than the “losers.” The *gemara* (ibid. 149a) permits lotteries only within the household because others are assumed to care about their portion’s size, raising problems of measuring/weighing. The *gemara* continues that regarding different sized pieces, a lottery is forbidden even during the week because of *kubiya* (gambling). Some add Shabbat concerns of *shitrei hedyodot* (mundane documents) and that one might write (Sefer Hachayim [Kluger] 326:6). The Shulchan Aruch (Orach Chayim 322:6) codifies the *gemara*, mentioning the concerns of measuring and gambling.

We will not explain here why we assume that lotteries/raffles are not a problem of gambling (see our column, Vayeishev 5782). We note that the *gemara’s* case is not brought as an example of *mesachek b’kubiya* in Choshen Mishpat. Yet, it is still relevant here, because this *kubiya*-like behavior is considered a form of monetary deal making, which is itself a reason for a Shabbat prohibition (see Maharil, Shabbat 32; Rama, OC 338:5; Mishna Berura 322:22). We also will not deal with the issue of giving presents on Shabbat because of the prohibition of acquisitions (see Mishna Berura 323:1). This is quite solvable (see ibid. 306:33; Living the Halachic Process II, C-17).

Based on the classical sources, it appears that almost all lotteries/raffles are forbidden on Shabbat (as Shemirat Shabbat K’hilchata 16:47 writes). On the other hand, many youth groups, held under religious auspices on Shabbat, regularly raffle off prizes. We try to justify practices of observant Jews, especially well-intentioned ones done by knowledgeable people. We will look for leniency both on the basis of less reason to forbid and based on need for leniency.

Can we claim that the prizes given out are not the type that are measured, thereby removing a major problem? The *poskim* (see Magen Avraham below) assume that the prohibition applies even to things that are not measured (see Avnei Yashfei III:42). Can we argue that youth groups are like families, where people do not make an issue of what they received? That claim is overly optimistic from practical and halachic perspectives. Even within the household, most *Rishonim* only permit a lottery of same-sized portions (see Beit Yosef, OC 322). It may also not apply to cases where the prize provider is giving his own property, in a way that he may do what he wants (Mishna Berura 322:22); this is usually not the case at youth groups.

The Magen Avraham (322:9) permits a lottery to determine who will get an *aliya*. His source is the lotteries held in the *Beit Hamikdash* on Shabbat and/or Yom Kippur. Most say this leniency requires a combination of both the fact that no object is being given out and that it is a matter of *mitzva* (Shvut Yaakov III:24; Kt’zot Hashulchan 146:32; Shevet Halevi IX:78). Some permit non-object lotteries even without a *mitzva* (Be’ur Halacha to 322:6). The Magen Avraham does not allow a lottery just on the basis of *mitzva* (e.g., as one can claim for religious youth groups). Whereas we find allowances for business-like activity for *mitzva* needs in auctioning off *aliyot* with the proceeds going to the *shul* or giving presents for *mitzva* purposes (see Magen Avraham 306:15), that is not the case for raffling off objects.

We are not prepared to declare as clearly forbidden something that is done in religious contexts and many *rabbanim* allow to occur (see also Shevet Halevi ibid. stopping short of outright forbidding it). However, we have failed to find a way to justify it. There are some alternatives. Contemporary *poskim* are known to disagree on whether one may give out raffle tickets on Shabbat and have a drawing after Shabbat (although it is unclear why the tickets are not *muktzeh* if it is forbidden to do the drawing on Shabbat). Raffling off *mitzva* honors would seem fine.

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



Igrot HaRe'aya - Letters of Rav Kook

The Power of the Scholars of Eretz Yisrael – part I

Date and Place: 5668 (1907-8), Yafo

Recipient: The organization “Beit Va’ad Lachachamim,” dedicated to the advancement of Torah study in Yerushalayim. They apparently asked Rav Kook for an article on a specific halachic matter, which he did not have time to prepare (he related to the matter briefly). However, he focused the letter on his envisioned goals and encouragement for such a group.

Body: I want to point something out to you. Although I do not yet know the essence of your organization and the standing of its members, I must inform you that if in our days you are working on binding together Torah scholars in the Holy City, you should try to strive for greatness.

Ours is a generation with strong aspirations. If those with empty aspirations of destruction and emptiness raise themselves to the highest peaks, how high must the heart of one who seeks Hashem strive for as he approaches sanctity?! The minimum one should strive for is to sanctify the Name of Hashem, the name of Israel, and the name of Yerushalayim. It is very desirable to show the whole world the preeminence and greatness of the Torah of *Eretz Yisrael*. Unfortunately, often that which is deep is low-lying (i.e., not noticed). The proper thing is for the Torah of *Eretz Yisrael* to take its rightful place – on a high pedestal, for all of the Jewish people and all the nations to see what Hashem has created in the Land. This is the time to seek out Hashem, and the need to do so raises us to high levels. [*There are a few lines missing from the letter at this point.*]

There is a tremendous difference between the way the Torah is experienced in *Eretz Yisrael* and the way it is in *chutz la’aretz* (the Diaspora). In *Eretz Yisrael*, the flow of Divine Spirit breaks forth ready to attach itself to every scholar who seeks to learn Torah for noble reasons, all the more so on an assemblage of Torah scholars. This broad Divine Spirit adorns the details and expands the scope of the *halachot*, and all of this spiritual movement is from Above to below.

The Diaspora is totally different. There, one does not have access to a general Divine Spirit. He cannot “breathe it in” in impure air or on impure ground. Rather, every detail within the Torah raises a certain spiritual spark and a glimpse of light, which allow one to draw closer to the spirit of the Living G-d who dwells upon His nation in the Land of Life.

The Zohar in Ruth comments on the words *al hageula v'al hatemurah* (Ruth 4:7) that *geula* (liberation) refers to the Talmud Yerushalmi and *temura* (exchange) refers to the Talmud Bavli (with the former being more laudatory than the latter). This information is enlightening in several elements: the nature of the scholarship, its sections, and the complete manner of service of Hashem that is appropriate for the choicest Torah scholars, who should strive to advance themselves in the place that contains the “light of the world.” In *Eretz Yisrael*, we can give greater credence to the content of the logic promoted, the laws taught, the creative ideas raised, and the deductive reasoning provided.

The *gemara* (Megilla 29a) predicts that in the bright future, the synagogues and study halls from the Diaspora will be relocated to *Eretz Yisrael*. We are capable of drawing the dew of light that exists in the air of the Desired Land in a manner that everything flows. This will make the spirits of every individual delicate and sacred, to the point that the Talmud Bavli and Talmud Yerushalmi will unite, and the two together will give seven-fold more light. We should strive for this and not consider the aspiration too haughty. After all, a small (three jurists) rabbinical court in *Eretz Yisrael* is more respected than a great court of an expanded size (twenty three) in the Diaspora (Yerushalmi, Nedarim 6:8).

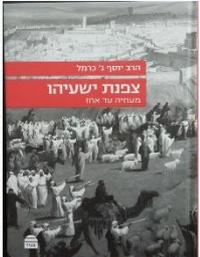
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Arye Yitzchak ben Geula Miriam

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Together with all cholei Yisrael



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

Financial Security for a Partner/Worker?

(based on ruling 72092 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) wanted to start a business with the significant funds at her disposal. She enlisted the plaintiff (=pl), a divorcee whom she had dated briefly, to help her. Def first paid pl's consulting firm for his time. Later, pl quit his job to work with/for def. This gave pl greater work flexibility so he could manage child custody, and he received a minority stake in the LLC he opened for her (registered in Delaware). Pl started working for def on Apr. 1, 2012, and they seemed to be in the midst of finalizing an "employment agreement," which had not yet been signed, when def informed pl, on June 10 that she would no longer pursue his proposed course of action and that their "partnership" was over. Pl is suing for: \$20,000 for work before Apr. 1; \$29,110 for salary from Apr. 1-June 10 (based on a \$150,000 yearly salary); \$18,500 for expenses; \$150,000 for severance pay; \$7,900 in worker's benefits. Def responds that she never hired pl; he was a partner in a business venture that never saw profits. The term "employment" that she did not oppose in the proposed contract was just to convince custody court that def had financial stability. She denies that he worked hard for her and demands the return of \$52,100 she gave him as a loan (until profits would be seen). (*Much of our information comes from extensive emailing between the sides.*)

Ruling: Was pl a salaried worker?: Def explained the collaboration's rationale as pl having extensive business knowledge and her having available funds. Considering that pl was concerned about financial stability and gave up a stable job, it is difficult to believe def's claim that he was to receive no payment and had received only a loan. It is also noteworthy that their financial cooperation began with def paying pl's employer for his consultation. Furthermore, pl had expressed a lack of confidence in def's business acumen and as a junior partner, could not himself make any business decisions, including whether to progress with the business. One could possibly still argue that the combination of more flexible work conditions and the chance of significant profit lured him to a partnership even without any pay of security.

However, the contract drafts, which went back and forth between the two sides, are instructive even if they are not signed. In the absence of other documentation, they convey the basic idea behind the parties' arrangements. Furthermore, on April 9, def emailed pl saying that she agreed to the terms of the contract "in principle," pending emendations by a lawyer.

The draft contract speaks of a \$150,000 yearly salary and workers' benefits for pl from the LLC and assigns def as guarantor of payment should the company fail. Regarding the status of guarantor, def redlined that she was willing to be a guarantor of payment only during the Primary Employment Period, which was three years. Def presented no evidence that the term "employment agreement" was meant only to convince a custody court.

Therefore, pl is to be paid as an employee of the company even though it closed without producing profits.

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