



HEMDAT YAMIM

Parashat Hashavua

Tetzaveh, 11 Adar 5783

Harav Shaul Israeli zt"l
Founder and President

Parashat Mishpatim and the Basic Law of a Person's Dignity and Freedom – part III

Harav Yosef Carmel

[We have seen in the last weeks how the Jewish judicial system is inseparable from the giving of the Torah at Sinai and that we can learn about the critical importance of freedom from the limits on slavery.]

We can learn from the laws of servants about other elements of financial *halacha*:

One of the undisputed rules of employer-employee relationships is that a worker is allowed to quit even in the middle of the day (Bava Kama 116b). The reason for this *halacha* is that a worker must remain a free man, and if he cannot quit, he is like a slave. There must be a limit to the employer's power. (Do not be concerned, the Torah protects the rights of employers as well, although we cannot go into that now.)

When a man marries a woman, he obligates himself to take care of the needs of his wife, including, of course, the food and clothes she needs. (The fact that so many women in our days have accepted upon themselves to support their husbands while they are learning Torah proves that they are righteous and brave, and they deserve the greatest appreciation.) The *Rishonim* disagree about the limits of this obligation. If the husband is unable to raise the funds needed as an independent, is he required to be employed by another? The opinion that he does not have to is because his obligation, while being personal, should not force him to be subservient to someone else. Tosafot (Ketubot 63a) tries to learn from the language of the *ketuba*, where the *chatan* commits to "work," and deflects the proof that maybe it is referring to working a field as an independent. The commentary of the authors of Tosafot (to Shemot 18:12) added that according to the opinion they need not be employed, forcing employment could be a violation of "They are My servants' – and not servants to servants."

Allow us one more introduction. The Rabbis have always spoken out against physical connections with girls and young women, even around the institution of marriage. We will demonstrate it with the help of a special decision which was arrived at unanimously in 5710 (1950) by the Chief Rabbis and the members of the Council of the Chief Rabbinate and accepted by all the rabbis of Israel. It became strictly forbidden to marry girls before they are old enough. The Knesset then legislated this as law. This too is an example of preserving a person's freedom and dignity.

We will start looking at the matter of a female servant, about whom it says, "Should a man sell his daughter as a servant, she will not leave as male slaves leave" (Shemot 21:7). What is the connection between the beginning and end of the *pasuk*? This is a way of impressing upon us that if such an unfortunate occurrence happens, the priority is to end the situation. She is not to be put in the same situation as a male slave. We will discuss more lessons from these *halachot* in the coming weeks and put things in perspective. In the meantime, let us try to remember to preserve the dignity of every man and woman to the degree we can.

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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

Do All Who Ask Really Get *Matanot La'evyonim*?

Question: What is the operative result of the concept of *kol haposhet yad notnim lo* (= *kpynl* – whoever extends his hand to receive is given)?

Answer: There is little discussion in the *poskim* on *kpynl* but two sources in *Chazal* touch on it. The Tosefta (Megilla 1:5, cited in Bava Metzia 78b), in discussing that money earmarked for Purim should be used for it, says that we are not *medakdek* (exact) in the matter; it does not explain what that means practically. The Yerushalmi (Megilla 1:4) says we are not *medakdek* on the *mitzvot* (Ritva, Bava Metzia ibid. – money) of Purim. It adds, “but rather *kol haposhet yad notnim lo*.” The Shulchan Aruch (Orach Chayim 694:3) codifies these words in the *siman* that discusses *matanot la'evyonim* (= *mtlevy*).

Rashi (Bava Metzia 78b) says that the case discussed there is a *gabbai tzedaka* who collected money to be used by the city's poor for *seudat Purim*. If the Yerushalmi and Shulchan Aruch also refer to that, it is unclear if *kpynl* is a *halacha* of *mtlevy*. Specifically, the sources imply that the public collection was in addition to people's personal practice of *mtlevy*. The fund was a form of public *tzedaka*, which we find for example regarding making sure the poor have wine for the *sefer* (Pesachim 99b) or *ma'ot chitim*. Accordingly, the *gabbai* of these funds is instructed to give to whoever requests it.

What need is there for a special collection for the Purim *seuda* of the poor if that is the main purpose of *mtlevy* (see Mishna Berura 694:2); wouldn't all the townspeople's *mtlevy* suffice for one meal for them? There are a few possibilities. 1) According to many, a mere *peruta* suffices for *mtlevy* (see *ibid.*), so that the poor might not have received from *mtlevy* enough for a nice meal; 2) The poor person has the right for a fancy meal that even average *mtlevy* will not cover (Bava Metzia 78b may imply this; see Ramban ad loc.); 3) For various reasons, some *evyonim* will not receive, so the *gabbai* ensures all have enough.

Some understand *kpynl* as relating to *mtlevy*. The Ramban (*ibid.*) says that in light of *kpynl*, there is a *minhag* (mentioned by the Shulchan Aruch *ibid.*) to give on Purim even to non-Jews. The Beit Yosef (OC 694) cites objectors, since *mtlevy* is supposed to go to Jews (all agree that *tzedaka* money may go to non-Jews – see Gittin 61a). This (from Shulchan Aruch's author) implies that *kpynl* can be relied on to fulfill *mtlevy*. The Ritva (Bava Metzia *ibid.*) explains that we need not be exact and ensure that the intended recipients of *mtlevy* (the poor) receive because the spirit of the day is to funnel happiness into giving, with one's intention to include the poor, but that anyone who claims to fit suffices. (There is significant *machloket* on who is included in the *intended evyon*). According to this approach, *kpynl* is a leniency – one does not have to be certain the recipients are as needy as designed (Mikraei Kodesh (Harari) 11:3). Dirshu (594:16) claims there is a *machloket* between Rav Elyashiv (stringent) and Rav Chaim Kanievsky whether this is true. There is also an approach that willingness to embarrass oneself and request **defines** one as an *evyon* (see Moadim U'zmanim VI:106).

Some view *kpynl* as a stringency – one may not refuse to give Purim provisions to any poor person who asks for it (see Kol Meiheical VI, p. 328). But what if one already fulfilled the allotment of two *evyonim*? Possibly, while at that point it is only recommended to look for more poor recipients (Mishna Berura 694:3), it could be obligatory upon request. Alternatively, it is not *mtlevy* but a *mitzva* of *tzedaka*. It is never simple to refuse to give *tzedaka* (Devarim 15:7), but presumably this stringency means that even in cases one does not have to give (as much) (see Shulchan Aruch, Yoreh Deah 249:1; *ibid.* 251:10), one should do so on Purim (the degree is unclear).

To summarize, *kpynl* is either: a leniency that one may give *mtlevy* to anyone who claims to qualify, instructions for Purim to *gabbaei tzedaka* or individual *tzedaka* givers, or an extension of the minimum *matanot la'evyonim* obligation.

“Behind the Scenes” Zoom shiur

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

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Igrot HaRe'aya - Letters of Rav Kook

How to Counter the Secular Trend of the New Yishuv – #144

Date and Place: 13 Sivan 5668 (1908), Yafo

Recipient: Mr. Yehoshua Shachnovitz, Editor of "Israelite" in Frankfurt, a follower of the teachings of Rav Shimshon Raphael Hirsch.

Body: We need now to expend great effort immediately so that the stream of life will increase in *Eretz Yisrael*, which will make everyone who loves the nation and the Land happy. At the same time, broken foundations and damaging matters are gathering in the Holy Land. The only remedy is to strengthen the hands of the community of believers regarding all practical matters of settling the Land and raising the stature of the Torah and Jewish knowledge. This should be done in a way that crowns the emerging life in *Eretz Yisrael* with a crown of sanctity and grandeur, which rest upon the feelings of reliable sanctity.

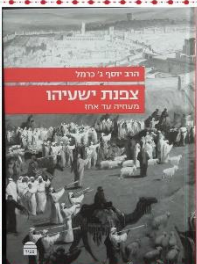
[Rav Kook shared his vision of the yeshiva and schools he was working on founding in Yafo (discussed in several other letters).]

If we truly succeed with this foundation, to raise the stature of *Klal Yisrael*, in *Eretz Yisrael* and the whole world, [we will see important improvements]. The [nation's] good parts are being ruined now because of the lack of broad life skills among the devotees of Torah and Hashem's righteous statutes. This causes a tendency to cling to the destroyers of holy things. [If we broaden ourselves,] they will join us to work with great strength and skill for the true soul of the nation, which is deeply connected to belief in Hashem and the laws of the Torah of truth. The sight of the bright light of enhancing Jewish settlement in the Land in truth will make the shadows disappear; those who sow impurity will cover their head in great embarrassment.

I tell you proudly that for quite some time, since I evaluated my approach, I have known clearly that the hope of the settlement of *Eretz Yisrael* and for liberating the stature of Israel by means of Zion depends on this critical point. That is, we must gather proper forces to be involved in the spiritual and physical building of *Eretz Yisrael*. This can be done specifically based on the foundation of "culture" (a movement that religious parties staunchly opposed because it gave inroads to secularism), which are progressing rapidly in *Eretz Yisrael* and the world. Everyone for whom true fear of Heaven burns in his heart must heed the imperative to help Hashem and His nation; do not delay! We must not let people trample the "young plants" sprouting on holy soil.

We turn to dear brothers, believers from the German Jewish community, who follow the footsteps of the great thinker, the lofty prince of G-d, Rav Shimshon Raphael Hirsch, zt"l, who bravely saved the remnant of the Western European Jewry by teaching to use all available weapons of a full life to give reliable Judaism a strong basis. We need to do the same thing in today's *Eretz Yisrael*, using the same spirit in different and changing conditions. If we will not seize the moment when the Jewish community of *Eretz Yisrael* is forming, and Jews dedicated to Torah will be physically and spiritually weak, without "weapons," then the dominant people will be those well-armed with lack of dedication to Hashem and the gentiles' approach, without real mention of that which is holy in Israel. These people cover their destruction with bits and pieces of forged nationalism, nuggets of Jewish history, and a love of the language. This is cloaking national life with an exterior of Judaism and an interior that is totally not Jewish, ready to turn into a destructive monster and hatred of the Jewish People and the Land of Israel, as we have learned by experience. If the impure hand will prevail, the tragedy is indescribable.

However, I have trust in Hashem that our legs will not collapse. All who fear the word of G-d and desire the salvation of His nation and Land will flock to our flag. We will succeed in building in the *New Yishuv* a special place, which will give it life based on pure belief and great joy. Hashem will be with us as we rebuild the ruins of generations. Respected editor, be in the forefront of our helpers.



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

Was There a Sale to Renege on? – part I

(based on ruling 81138 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl), a real estate investor, negotiated with the defendant (=def) about apartments to be built in a building under Tama 38 (strengthening and expansion of buildings). They agreed (on some level) that pl would buy three apartments for 3 million NIS. The two then signed a handwritten document titled “Summary of Loan + Purchase Agreement of Apartments.” Later, they agreed that pl would buy a fourth apartment for 600,000 NIS. Under the guidance of a lawyer (=lyr), who discussed the legal challenges, they reached an agreement of principles. Later pl signed an agreement to lend 1.5 million NIS each to a company that def owns and to a company which def owns in partnership with another person (=prtn). Lyr testified that the reason the payment was presented as a loan, with interest and guarantees, rather than a purchase, was due to tax issues. Eventually it was supposed to have led to purchase contracts and erasure of the interest. The sides progressed close to a final agreement and payment. However, after some disagreements, and a couple of months later, def returned the “loan money” with an additional sum for interest, as written in the original agreement. Pl claims that the money given in relation to the loan agreement was purchase money. Pl brought several proofs from documents that indicate that there was really a sale, not a loan, and that their agreement is no less than a *zichron devarim* (memorandum of understanding). Pl wants to go through with the purchase of the four apartments. If that cannot be done, he demands a fine of 10% as written in the agreement of principles. Def argues that there were only advanced negotiations about the purchase, and the loan was just one stage in the process. He raised different indications (including that the agreement of principles is unsigned) that the sale had not been finalized. Def also claims that prtn approved only the loan agreement. Prtn did not agree for *beit din* to adjudicate.

Ruling: *Beit din* only has the authority to decide in regard to def, not prtn.

Beit din posits, based on various proofs that were presented, notably the testimony of def's lawyer, that the loan was a façade for the purchase of the properties. Even if the first agreement is not written as a valid contract of sale, it demonstrates the parties' full decision to make such a deal. Therefore, the money paid is seen as money of purchase. Def admitted that his partner was kept informed about the stages of the transactions.

In the first agreement, the property's details, the price, and the terms of payment are all mentioned. On the other hand, the names of the buyer and seller are not mentioned and a language of sale or obligation to sell are not written. Therefore, it is not a halachic sale contract (Shulchan Aruch, Choshen Mishpat 40:1), and it is likely not binding according to the law of the land either. The statement in the contract that it is not final until the lawyer writes an agreement also disqualifies it (see Taz. Even Haezer 50:12).

We will continue next time with the resulting conclusions.

Comments or questions regarding articles can be sent to: info@erezhemdah.org

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Ori Leah bat Chaya Temima

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Yerachmiel ben Zlotta Rivka

Neta bat Malka
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