



HEMDAT YAMIM

חֶמְדָּה יָמִימִים

Parashat Hashavua

Teruma, Adar 1, 5785

Harav Shaul Israeli zt"l
Founder and President

Gold, Silver, Precious Stones – Closeness to Hashem (part I)

Harav Yosef Carmel

"This is the contribution you shall take from them – gold, silver, and copper, blue and red wool ... *shoham* stones ..." (Shemot 25:3-7). The precious materials that open our *parasha* served for the building of the *Mishkan* and its vessels.

Historically, *Am Yisrael* have tried to build beautiful "mini-Temples" – *shuls*, which have served our nation, especially after the destructions of the first and second *Batei Mikdash*. They based this practice on the *pasuk* "*Zeh Keili v'anveihu*" (this is my G-d, and I shall adorn Him) (Shemot 15:2). *Chazal* learned from here that "A person is required to have pleasing *tzitzit*, a pleasing *mezuzah* ..., to write a pleasing *sefer Torah* ... make pleasing *mitzvot* before Him, as Rabbi Yishmael said" (Sofrim 3:17). Yet, we find an alternative derivation – "Abba Shaul said: Resemble Him – just as He is compassionate and merciful, so should you be compassionate and merciful" (ibid.). What is behind these varied opinions?

Rabbi Yishmael saw the precious materials as an obligation and a fulfillment to adorn *mitzvot*. In contrast, Abba Shaul saw the spiritual "adornment," by perfecting one's personal characteristics (being compassionate ...) and clinging to the spiritual elements of service of Hashem, as a Jew's primary mission in life.

"There is gold and a multitude of pearls, but the lips of knowledge are the precious vessel" (Mishlei 20:15). A *midrash* applies the *pasuk* to Moshe's sadness that he had not contributed to the project of the *Mishkan* ("there is gold") and Hashem's reassurance that the wisdom Moshe spoke to the people ("lips of knowledge") were more precious (Vayikra Rabba, Vayikra 1:6). Moshe brought the nation the ultimate wisdom, the Ten Commandments and the rest of the Torah, which taught all the principles of law and justice. This is much more precious than the gold and precious stones others gave. This is in line with Abba Shaul's stress of the spiritual elements of adorning our relationship with Hashem.

The continuation of the *midrash* provides us with a memorable saying: "If you have acquired wisdom (*da'at*), what are you missing? If you are missing wisdom, what have you acquired?" *Da'at* is the most valuable commodity, and one should dedicate his whole life to acquiring it. What exactly is *da'at*? In looking for the meaning of a word in *Tanach*, we should look at the first place its root appears. Regarding the root *da'oh*, it is Adam "knowing his wife Chava" (Bereishit 4:1).

A man and woman who establish a home together have the potential to turn it into a dwelling place for the Divine Presence (see Sota 17a). Their physical connection must be an expression of a deep, lofty, spiritual connection. Similarly, while Bnei Yisrael were commanded to build a physical *Mishkan*, the Torah promises that it would lead to, "I will dwell among them" (Shemot 25:8), i.e., in the *Mishkan* and within every family. This gives context to Shir Hashirim, which compares the connection between Hashem and Bnei Yisrael to romantic feelings between a man and woman. Just like the physical contributions to the *Mishkan* did not suffice, neither do the physical elements in the building of a family.

Our emphasis on building and preserving strong connections between spouses and within the nation are preconditions to defeating our enemies and reestablishing a *Beit Hamikdash* in our times.

Hemdat Yamim is dedicated to the memory of Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah:

Rav Shlomo Merzel z"l Iyar 10, 5771	Rav Yisrael Rozen z"l Cheshvan 13, 5778	Mr. Moshe Wasserzug z"l Tishrei 20, 5781	Rav Reuven & Chaya Leah Aberman z"l Tishrei 9, 5776 / Tishrei 20, 5782	Prof. Yisrael Aharoni z"l Kislev 14, 5773
R' Yaakov ben Abraham & Aisha and Chana bat Yaish & Simcha Sebbag z"l	R' Yitzchak Zev & Naomi Tarshansky z"l Adar 28, 5781/ Adar II 14, 5784	Mr. Shmuel & Rivka Brandman z"l Tevet 16 5783/ Iyar 8, 5781	R' Meir ben Yechezkel Shraga Brachfeld z"l & Mrs. Sara Brachfeld z"l Tevet 16, 5780	
Rabbi Dr. Jerry Hochbaum z"l Adar II 17, 5782	Rav Asher & Susan Wasserteil z"l Kislev 9 / Elul 5780	R' Abraham & Gitta Klein z"l Iyar 18 / Av 4	R' Benzion Grossman z"l Tamuz 23, 5777	
R' Eliyahu Carmel z"l Rav Carmel's father Iyar 8, 5776	Mr. Shmuel & Esther Shemesh z"l Sivan 17 / Av 20	Mrs. Leah Meyer z"l Nisan 27, 5782	Mrs. Julia Koschitzky z"l Adar II 18, 5782	Rav Moshe Zvi (Milton) Polin z"l Tammuz 19, 5778
Mr. Zelig & Mrs. Sara Wengrowsky z"l Tevet 25 5782 / Tamuz 10 5774			Nina Moinester , z"l, Nechama Osna bat Yitzhak Aharon & Doba z"l Av 30, 5781	

Hemdat Yamim is endowed by Les z"l & Ethel Sutker of Chicago, Illinois,
in loving memory of **Max and Mary Sutker & Louis and Lillian Klein** z"l

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



Eretz Hemdah
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruria St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
amutah number 580120780

American Friends
of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4265359

www.erezhemdah.org info@erezhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

Ask the Rabbi

by Rav Daniel Mann

Indirect Responsibility for Theft

Question: [Two people with a disagreement asked us the *halacha* in the following case, hoping to resolve the matter without litigation.] Reuven hired a painter (=pnt) for his apartment while he was away. After the work was done, Shimon, his neighbor, was broken into, and both suspect that pnt either did the robbery or tipped off the thieves where Shimon kept his valuables. If this indeed happened and Reuven was unaware that pnt was a criminal and Shimon saw pnt and did not complain, must Reuven compensate Shimon?

Answer: There is no construct through which to obligate Reuven. We will examine those that are close and see how they fall short.

Responsibility for a worker: When a worker damages a neighbor in the process of doing a job, the basic *halacha* is that the worker alone is obligated, except possibly if he is paid on the basis of time (see Rama, Choshen Mishpat 306:2; Pitchei Choshen, Sechirut 7:25). Common practice is for the employer to take responsibility, and this practice may be binding (see Eretz Hemdah ruling 79062; Dinei Avoda (Sadan) p. 434). Even so, this is only when the worker in the midst of work on the employer's behalf, certainly not when he steals, all the more so if it is after the work is done. Even if a slave damages, his master is not obligated, all the more so, for a simple worker (Bava Kama 87a).

Creating a theft danger: There is a *machloket* whether one who knocked down the door of someone's stable, enabling an animal to escape, is obligated to pay for the loss (Shulchan Aruch, CM 396:4). The Yam Shel Shlomo (Bava Kama 6:3) explains that the reason to obligate is that opening the door is a **direct action** to undo that which is keeping the animal in. This does not apply to just improving the chances for someone from without to succeed at stealing.

A neighbor's obligation to remove danger (*nizkei sh'cheinim*): The Ramah (Bava Batra 1:18) obligates someone who did not fence off his property, thereby allowing robbers to come in and steal from his neighbor, whereas the Rosh (Bava Batra 2:17) exempts him. The Ramah compares this to the case in which Levi owns a wall separating his field from that of Yehuda, and Yehuda informs Levi that that the wall fell down so that their different crops will become *kilayim*. In that case, if Levi does not act, he must pay for the lost crops (Bava Kama 100a-b). The Rosh counters that the obligation is only when the mechanism that creates the problem begins immediately, which is not the case with robbers. The Rama (Choshen Mishpat 155:44) cites both opinions without a clear ruling. However, this cannot obligate Reuven, because even the Ramah requires Shimon to warn him, which he did not do.

Comparison to *moser (garmi)*: The *gemara* (Bava Kama 116b-117b, codified in Shulchan Aruch, Choshen Mishpat 388:2) has a construct called *moser*, which obligates Levi to pay for causing Yehuda's things to be stolen by criminals. The classic case is when Levi gives (without being severely coerced) criminals information about Yehuda's property, which encourages and/or aids their ability to steal his property. The *gemara* raises the question whether this obligation is a normal application of the laws of *garmi* (semi-direct causation of damage) or a special penalty. The more accepted opinion is that it is a normal application (see Maggid Mishneh, Chovel U'mazik 8:1).

While our case has similarity, the following are crucial differences that are important in the laws of *garmi* (whose parameters are very complex and elusive). Reuven did not realize that his hiring of pnt would bring about a theft (see Shach, CM 386:6). It was not necessarily likely that the hiring would cause the theft (it is unlikely that every neighbor of a place that pnt worked at is robbed). There is no "act of damaging" comparable to the *moser's* informing the criminal. Therefore, we cannot use *moser* as a model for obligation without a source, of which we are not aware.

Therefore, we do not see any grounds to halachically obligate Reuven (in some cases, voluntary payment might be laudable).

"Behind the Scenes" Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann's weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at info@erezhemdah.org to sign up (free) or for more information on joining the group.

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

► [SEND NOW!](#)



Igrot HaRe'aya - Letters of Rav Kook

“Rulings” on Philosophical Matters? – #302

Date and Place: 25 Iyar 5670 (1910), Yafo

Recipient and Background: Chaim Michel Michlin, an activist/administrator in the building of *Eretz Yisrael* and its institutions, especially in Yerushalayim. This piece refers to a halachic discussion before broaching the important general topic below.

Body: ... The Rambam does not rule [according to his philosophical explanation in *Moreh Nevuchim*] as practical *halacha*. There are other instances in which the reason he gives for a *mitzva* does not fit the corresponding *halacha* (e.g., regarding “an eye for an eye,” and one who says “His mercy extends to a bird’s nest”). The Rambam posits that in philosophical matters, there is no concept of a formal ruling to follow one opinion; therefore, anyone can take a side in the matter. In contrast, there is a prohibition against straying from the accepted Halacha, [so one must conform to what has been accepted]. This is also the opinion of Chovot Halevavot in his introduction, that the prohibition against arguing on official Rabbinical rulings is only on practical matters, such as blood and blood, law and law (see *Devarim* 17:8). This follows the Talmud Bavli (*Sanhedrin* 88), which explains that Torah portion regarding practical matters. The Yerushalmi (*Sanhedrin* 10:3) relates “a matter” to *aggadic* matters, i.e., philosophy, so that the prohibition of rejecting Rabbinical rulings also applies to them.

This is the basis for the disagreement among Gaonic scholars, Rav Shrira and Rav Hai, on one side, Rav Shmuel ben Chofni and Rav Sa’adia on the other. Both sides posit words of the living G-d, and disagree along the lines of the Talmud of the West and of the East. The Rambam is like Rav Sa’adia. It is logical that although one cannot argue on a practical matter against a Talmudic conclusion, one may decide on a matter of contemplation according to an opinion that makes more sense to him, if that opinion is based on Torah rules and a Rabbinic opinion, as he explained regarding the reasoning behind *mitzvot* in general.

Restoration of *Sanhedrin* – #303

Date and Place: 28 Iyar 5670 (1910), Yafo

Recipient and Background: Rav Aharon Mendel Cohen (Baharan), who left *Eretz Yisrael* to become chief rabbi of the Ashkenazim of Cairo. One of his books urges the restoration of the *Sanhedrin*.

Body: In response to your letter, I must tell you that I do not believe the time is right to make a gathering for the sole purpose of restoring authentic rabbinical ordination. People will not be responsive to this, and critics from various camps will circle in on us, and they might be correct. This generation is tremendously small, intellectually, and lowly in comparison to previous generations, with but a few exceptions. Nothing will awaken more shock and ridicule than to try to initiate something that was done and then rejected (in the 16th Century), which is much worse than something that never came to fruition.

We should just assemble a large rabbinic convention in the Holy Land, specifically in Yerushalayim, and give it the status of a “congress.” In other words, it should come faithfully every 1-3 years. It will focus on all matters of the nation that can be discussed by holy men, who truly love Hashem and His nation. If such a gathering will decide to look toward the ultimate salvation by beginning preparations for removing the impediments to *semicha* and develop the matter with special writings on the matter, it is possible that along with other things they will accomplish, this would be a major one. In any case, it will not be the first or last matter at the gathering.

If you accept my suggestion, [we should use] your experience with such events, such as your convention in Cracow (1903), which became well known at the time and could have had greater results had it not been interrupted. I will lend my small hand for whatever you want me to do, if it is likely to be spiritually rewarding.

We daven for a complete and speedy *refuah* for:

Itamar Chaim ben Tzipora

Nir Rephael ben Rachel Bracha
 Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
 Tal Shaul ben Yaffa

Neta bat Malka
 Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

How Far Does a Lien Go?

(based on ruling 83097 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The three plaintiffs (=p1, p2, p3) independently lent similar amounts of money (cumulatively, 1,455,000 NIS) to the defendant (=def) to enable him to buy property. Other people did similarly, but only for p/s did def put a lien on the property to ensure payment. The development of the property fared poorly, and def was unable to pay all of the investors. Def went through the process of a “creditor settlement” (an alternative to bankruptcy) with other investors, according to which the property would be sold and, after payment to p/s due to their liens, the rest would be distributed among the other creditors. The property was sold for 1,580,000 NIS, and after paying p/s the 1,455,000 NIS, the rest was put in escrow. P/s demand to receive the rest of the money because they are still owed for the interest on their loans, for which a *heter iska* was written. While p1’s contract states that the lien is for the interest as well, this is not explicit in the loan documents of p2 and p3. There is also a dispute as to whether the *heter iska* can be used to justify interest in a case like this in which the investment in which the loan money was put clearly lost money.

Ruling: While the main clause on the liens of p2 and p3 do not mention the interest, the clause on the timing of exercising the lien refers to “the loan and/or the interest.” Therefore, p/s all have rights to the lien for their interest.

The question is whether they have rights to interest at all when there were no profits. According to the terms of the *heter iska*, while half of the funds given were a loan and half were an investment, in theory it would not even be necessary to pay all of the principal when the investment lost money. However, according to the terms of the *heter iska*, two witnesses must testify that money was lost. Regarding the denial of profits, the “borrower” needs to take a formal oath (which, as a rule, is not administered in our times). While the court-appointed trustee confirmed that there was loss on all of the properties that def bought in the relevant time period, it is unclear if the trustee’s findings are equivalent to witnesses of fact, because it is possible to deceive a trustee.

More importantly, many *heter iskas*, including the one used here, relate the money lent to any profitable interest of the borrower at the time. Therefore, even if the main investment for which the people had in mind was not profitable, we must consider the possibility that there were gains in other of def’s holdings. Therefore, the *d’mei hitpashrut* (amount set to approximate the profits made) are still a valid standard assumption in the face of inability to fully determine how much is due. Furthermore, there are opinions that debts can be updated according to the inflation rate, even without a *heter iska*. Based on compromise, *beit din* gave p/s rights to 35% of the inflation rate from the time the debt was due. This comes to, cumulatively, 103,016 NIS (most but not all of the money in escrow).

Comments or questions regarding articles can be sent to:

info@erezhemdah.org

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.