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HEMDAT YAMIM

חֵמְדָּה יָמִימִים

Parashat Hashavua

Pinchas, Tamuz 19, 5786

The Blessing of Children, Specifically for Menashe – part I

Harav Yosef Carmel

The countings in the “Book of Numbers” and their discrepancies have long engaged our rabbis. On one hand, the final tallies in *Bamidbar* and *Pinchas* are nearly identical. On the other hand, we find dramatic shifts within specific tribes, particularly Menashe.

In *Parashat Bamidbar*, Menashe numbers **32,200**. Yet in *Parashat Pinchas*, they jump all the way to **52,700**. The Ba'al HaTurim notes that this is the fulfillment of what the Sons of Yosef claimed to Yehoshua when complaining about insufficient land: “I am a great people, as Hashem has blessed me to **koh** (this point)” (Yehoshua 17:14). The letters of *koh* having a numerical value of 20 and 5, which can join to make up the exact difference between Menashe’s two counts – **20,500**. The Tur’s source is Rashi on the *pasuk* in Yehoshua.

This Rashi is anchored in the *midrash* (Lekach Tov) on Yaakov Avinu’s *beracha*, “*Ben porat Yosef... alei ayin*” (Bereishis 49:22). The *midrash* expounds that this means that they will multiply (*poreh*) like a flowing stream. Yehoshua told them to hide in the forests to avoid an *ayin hara*, but they responded that the seed of Yosef is immune to *ayin hara* (“*alei ayin*”).

We can look further at Rashi (Yehoshua 17:1) regarding Machir ben Menashe being a “man of war” who received the Gilad. With these brief words, Rashi addresses a glaring historical question: why did half of Menashe receive a portion east of the Jordan if they never requested it, and why weren’t they subject to the conditions imposed on the tribes of Gad and Reuven?

Rashi answers that Machir, a formidable warrior and grandson of Yosef, had already conquered portions of the Gilad early on. Rashi is following the historical timeline of Rabbi Yosef ben Chalafta (Seder Olam Rabba, 9), which states that Machir (as well as Yair) was born during Yaakov’s lifetime and survived past Moshe’s death.

This approach is mirrored by a student of Rasag, who writes that Machir’s maternal grandfather was the original patriarch of Gilad, and Yair subsequently seized it. Because they held this land since the days of Yosef’s rule over Egypt, Moshe (see Devarim 3:15) and Yehoshua (see Yehoshua 17:1) granted them their ancestral historical holdings. The accounts in the *Chumash* regarding Machir, Yair, and Novach actually depict past history.

However, with all due reverence, this approach leaves a lingering question. If the surprising population growth was made possible by the *beracha* of Yosef, why do we not find the same growth in the Tribe of Ephrayim? Next week we will humbly suggest an answer to handle all the questions.

We see again *Chazal*’s principle: “The words of Torah are ‘poor’ in one place, but are ‘rich’ in another” (Otzar Midrashim 32). It is like a merchant ship bringing food from afar (see Mishlei 31:14). One must comprehensively review all the sources to receive a complete picture.

Let us take this as a profound lesson for our daily lives: never rely on the information around us as a one-dimensional reality. Instead, a multi-dimensional perspective provides a higher resolution and more truthful picture.

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Ask the Rabbi

by Rav Daniel Mann

Coordinating *Ma'aser* with Small Donations

Question: I have a *ma'aser kesafim* account from which I write checks and do bank transfers. I also give small amounts of money to poor people who collect in *shul*. Can/should I deduct these donations from my *ma'aser* "ledger" or give it from "my own" money?

Answer: There are two approaches to the halachic logic of *ma'aser kesafim*. Minchat Asher (Devarim 22) discusses whether *ma'aser kesafim* is an extension of *ma'asrot* on agricultural produce, or a recommended way of fulfilling one's *tzedaka* obligations. The latter seems to be the mainstream approach (see Rambam, Matnot Anyim 7:5; Shulchan Aruch, Yoreh Deah 249:1).

There are also two main benefits from the *mitzva* of *tzedaka*: 1. Making funds available to the needy; 2. Involving the giver in an **act** of generosity. At times, there is tension between the optimization of these gains. For example, because of #2, it is better to give small amounts of *tzedaka* many times (Rambam to Avot 3:15), but this can be practically inefficient for organizations (see our attempt at a balanced approach in Living the Halachic Process II, F-3). We do not want to take a stand on the question of efficiency in giving small contributions to individual collectors who already traveled to your *shul* (their major overhead), and the impact of the difficulty of vetting them. It is, though, both spiritually regrettable and halachically questionable to turn down a poor person without giving him a small donation (see Shulchan Aruch, YD 247:1; Rama, YD 249:4). Your system is therefore understandable, balanced and common.

The short answer to your question is that you may deduct what you give in *shul* from your *ma'aser* ledger. *Tzedaka* is *tzedaka*, whether it is to an organization or to an individual. Where there is a *machloket* is whether the *tzedaka* you give when you have an empty *ma'aser* account and obligation can later be deducted from future *ma'aser kesafim* (see Ahavat Chesed II:18:2), and even there we are lenient (*Tzedaka U'mishpat* 5:11). But it is clear that if you have a *ma'aser "pushka"* at home and are approached by a collector on the street, you can give him "pocket money," and then reimburse yourself from the *pushka*. In the same vein, you may write down the contributions and take out money from the *tzedaka* account or give less next time you replenish your account.

The question is whether you should want to. There is a kabbalistic approach that it is better to give 10% than more than that (*Shiyarei Knesset Hagedola*, Tur YD 249:1). However, we clearly hold that giving more is laudable (see Shulchan Aruch, YD 249:1). It therefore makes a lot of sense to use the bank account for the 10% and give as you determine appropriate beyond that (if you can afford it). This works well in countering a "problem" with the *ma'aser kesafim* system – it "only" requires discipline to calculate and take off the money. However, the actual donations do not include generosity – one gives to Reuven not from his own pocket but by depleting available funds earmarked for the community of the needy. This compromises gain #2 above. If for certain contributions you make you do not seek reimbursement from the *ma'aser* ledger, those actions (which can be many in certain *shuls*) is a better fulfillment of the Rambam's multiple small contributions idea.

This is not to criticize the pure *ma'aser* system, which in most cases, probably has caused its followers to give more than they otherwise would have (we cannot prove this contention). It is true that indications are that the regular use of such an accounting was not prevalent in Talmudic times (see *Tosafot*, Ta'anit 9a; Bava Kama 56b; I cannot explain further in this forum). However, there was an analogous system that was prevalent in Talmudic times – an enforced appraisal by the local *tzedaka* committee (see Bava Batra 8b), after which people were not expected to give additional *tzedaka* (see *ibid.* 43a). Apparently, while that system limited flexing the generosity muscles, it helped keep the poor of many communities alive and reasonably taken care of.

"Behind the Scenes" Zoom shiur

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Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

I Will Bring You Back Up – part I

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 371 (address at a symposium for communal leaders at the Ramban Shul, 5768)

This past Elul was the 700th anniversary of our master, the Ramban's (Nachmanides) arrival at Jerusalem's gateways to cherish her soil, cry over her desolation, and reawaken the effort to rebuild her, as the Ramban said:

"I came to the destroyed city; it is desolate, without its children, and I appropriately mourned: 'Zion became a wilderness, Jerusalem a desolation' (Yeshayahu 64:9). When I was near the city, opposite its gateway, I ripped my clothes over her. And when I came opposite the great and holy House, we called out with great wailing: 'Our father, the merciful father, Israel is neither an orphan nor a widower, for Your mercy is upon them in every place and at every moment.'"

Subsequently, he established the first *shul* in Jerusalem in which both Sephardim and Ashkenazim prayed, and boldly urged to return and claim the Land we inherited from our forefathers.

He left his home and his family in Spain and moved to *Eretz Yisrael* not only due to his churning heart and emotional yearnings. It is also due to a binding halachic obligation, which he established as an unmovable "stake in the ground." He expresses this idea in his comments on the Rambam's Book of *Mitzvot* (omitted positive *mitzva* #4):

"... we were commanded to possess the Land that Hashem gave our fathers, Avraham, Yitzchak, and Yaakov, and not leave it in the hands of any nation but us or to desolation ... It is a positive commandment for all generations, obligating everyone, even in the time of exile."

With these words he built the halachic foundation, and his actions provided a personal example. From that point, the Jewish settlement of *Eretz Yisrael* progressively grew and broadened from generation to generation and era to era. The longings for Zion "took on flesh and skin," and there has been a real push to fulfill this *mitzva* with one's fullest dedication of self and resources. Driven by his direct strength and its enduring ripple effects, pious and dynamic idealists were drawn to *Eretz Yisrael*. Permanent Jewish population centers were established and maintained in four areas of the Holy Land – Yerushalayim, Tzfat, Teveria, and Chevron. They inspired the pre-Herzl religious Zionist movement, which led to the developments of the hundred years leading to the establishment of the State of Israel and the wondrous phenomenon of standing by the gates and expanded boundaries of the Six Day War.

Now that we have merited to join together in this place, with representatives of *batei kneset* and religious activists from all the corners of the globe, we can express our feelings with these words: "Our feet were standing in your gateways, Jerusalem" (Tehillim 122:2). It is the House of Hashem, the gateway to Heaven, Mt. Moriah, from which Torah and wisdom emerge; it is the "mountain that Hashem desired to inhabit" (see Tehillim 68:17) and built there the House of His resting.

Let us raise the memory of the father of the Jewish settlement of *Eretz Yisrael*, our master and teacher, the Ramban zt"l and firmly accept to follow his path.

This obligation to possess the Land, which the Ramban posited devolves on each person, as a positive commandment for all generations, takes on special significance in relation to communal leaders, including lay leadership of synagogues and study halls throughout the world.

Let us analyze the section from the *parasha* we just read. Hashem said to our patriarch Yaakov: "Do not fear going down to Egypt ... I will go with you to Egypt and will bring you up, and Yosef will place his hands over your eyes" (Bereishit 46:3-4). Israel did not enter exile alone, as the Divine Presence accompanied them into each place of exile (Megilla 29a). The *gemara* continues with the question of where one can find the Divine Presence outside *Eretz Yisrael*. It mentions two specific *batei kneset* in Bavel. Rashi (ad loc.) explains that Yechanya built them with the earth and stones he brought into the exile, based on the *pasuk*, "For His servants wanted her stones and desired her earth" (Tehillim 102:15).

We continue next time.

We daven for a complete and speedy refuah for:

Itamar Chaim ben Tzippora
Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Neta bat Malka

Avraham ben Gitel
Tal Shaul ben Yaffa
Meira bat Esther

Together with all *cholei Yisrael*

P'ninat Mishpat

Regulation of Land Rights in a Settlement Extension – part IV

(based on ruling 84019 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) used to live in an unrecognized settlement extension (=SE), left SE in 2013, and returned in 2016, against the will of the settlement committee (=def), with the help of pressure from the regional council (=rc). Def instructed pl as to the boundaries of their lot, but pl expanded them and ignored warnings to desist. In 2023, def started preparing neighboring lots for new units, including areas to which pl had asserted control, and destroyed some of pl's infrastructure. [This installment's issue:] Pl claims that rc agreed to their land plans without presenting limitations and is only now caving in due to pressure from strong forces within def.

Ruling: Pl claims that rc never sent maps limiting homes to a half a dunam. Beit din rejects this claim. Rc has a file for pl's property, with much detailed documentation, including the maps in question. This file was not opened by itself. The indications that pl were aware of what was planned for them is corroborated by rc's engineer's (=rce) testimony. While there were some difficulties with rce's testimony, it makes clear the basic fact that there was a discussion between rc and pl at the relevant times.

While rc lacks authority to allocate land without permission from those who control it, since it is part of rc's responsibility to prepare not yet recognized settlements for normalization, that includes preventing anarchy in land allocation that prevents such normalization. As mentioned in the past, pl used rc's influence to receive their lot in the first place.

Rc presented a clear stance to beit din that they were against anyone having a lot larger than 700 square meters. Pl claim that this is a change in their longstanding policy in regard to pl, and is based on political pressure. Beit din sees no change in rc's policy, which was well known and finds expression in rc's file on pl.

Rc claims that the area south of pl's property was set aside as a public open space, and pl claim that it was agreed that they would have special rights to usage there. There was a meeting at which it was agreed that a rock retaining wall at the area's boundary with pl's property would be built by def, and be paid for by pl. Pl claim that at a meeting they were promised that anything above the rock formation would be for their full use, and rc's representative to that meeting refused to come and testify what transpired. Pl claims that this proves that they are correct and the representative is intimidated by def. Beit din rejects that claim. One needs strong grounds to establish that one who refuses to testify does so because of a litigant's intimidation (Shulchan Aruch, Choshen Mishpat 92:6). In this case, the representative is a powerful person who should not feel intimidated by def. Although rc had suggested a compromise regarding this area, this is not binding, as it just represents what rc could accept from a planning perspective. Regarding a public area, the people of the public (def) need to accept it. Joint usage of the area would have required cooperation between def and pl, which we see is untenable, due to the enmity between them.

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