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PARASHAT HASHAVUAH

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Leadership Through Self-effacement

Harav Shaul Yisraeli - from Siach Shaul, pg. 318-319

A powerful mix of positive and negative emotions rushed over Bnei Yisrael on the eighth day of the inauguration of the *Mishkan*.

Moshe assured the people that this was the day when Hashem would appear to them with His glory (Vayikra 9:4), as the culmination and indeed the *raison d'être* of the construction of the *Mishkan* (Shemot 25:8). The hopeful wait was not easy, as the construction process was followed by seven days when Moshe did the right service, while the *shechina* (Divine Presence) did not yet appear. Moshe explained to them that for the *shechina* to come, his brother, Aharon, had to assume the role of *kohen* (Rashi to Vayikra 9:23).

The humble Aharon hesitantly took up his post and did as he was commanded. After bringing the *korbanot*, he uttered a blessing, which *Chazal* tell us was the following: "Let it be His will to dwell the *shechina* in the work of your hands." In other words, Aharon was saying: "It is not my doing, but the work of your hands. The *Mishkan* will be the Divine dwelling place to the extent that you prepared a proper place for Him with the proper intentions – not to show off or to have a lovely edifice. It was crucial that you did everything 'as Hashem commanded Moshe.'" This is representative of the general need to nullify one's desire before Hashem's and to understand that man is not capable of grasping everything that Hashem knows or does. Some things man must accept without questions but must lower his head in humble submission.

Indeed this worked, and the *shechina* came down to the *Mishkan* to the excited but awestruck nation. However, amidst the elation, a bitter pill had to be swallowed. In contrast to the idea of submission to the Divine Will, Aharon's sons, Nadav and Avihu, had decided to take their troughs and bring forward a "foreign fire." This was the opposite of what was needed. Instead of a service of self-nullification, they decided on a path of self-expression. Instead of waiting for the fire to come from above, they brought their own fire, and indeed a fire came down to consume them.

Aharon's turn came to practice what he preached and to accept fully Hashem's decree without qualms. He was to continue his service without even showing the signs of mourning, as this was what was required of someone with his level of dedication. After Aharon succeeded in continuing in powerful silence (ibid. 3), he merited that Hashem spoke to him directly to teach him the laws he needed for his continued service.

This power of self-effacement and ignoring one's self-interest when involved in serving Hashem is something that found expression in later leaders. The regular *haftara* of Shemini tells how David danced before the *aron* in a wild manner that could have embarrassed him (and should have, according to his wife, Michal) (Shmuel II 6:14). It is the willingness to give up oneself for Hashem that is the secret recipe to earning the privilege of leadership in Israel for the time and for posterity.

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by Rav Daniel Mann

Question: We have a *minyan* of exactly ten men during the week, and everyone is committed to coming every day. Recently a *tzaddik* came to town, and three people went to *daven* with him, leaving us without a *minyan*. There are many *shuls* in town, but we are trying to keep our *shul* going and hope it will grow. Was it right for our members to leave us without a *minyan*?

Answer: While a major part of the concept of *makom kavu'ah* is to be consistent about *davening* in one's normal *minyan* (see Shulchan Aruch, Orach Chayim 90:19), one may certainly normally decide for himself when he is justified to *daven* elsewhere. Yet, there is precedent for one's counterparts to prevent him from leaving them without a *minyan*.

Firstly, after stressing the importance of *davening* with a *minyan*, the *gemara* (Berachot 8a) says that one who does not *daven* with the community is a bad neighbor. Partially based on this source, the Rivash (518, accepted by the Rama, OC 54:22) says that when there is a problem putting together a *minyan*, the community can fine those who do not regularly take part in the *minyan*. The Mishna Berura (54:73) cites the Eliya Rabba who says that even those who learn and *daven* in a *beit midrash* (which is better for their learning and normally for their *davening*) should come to the local *shul* to make sure they have a *minyan*. The Peulat Tzaddik (Salah, I, 178) goes as far as to say that even if the local *beit kneset* does not have a *sefer Torah*, if the majority of the *minyan* does not plan to go to the next town, one should stay to keep the *minyan* going.

What if there are other *shuls* in town? The Aruch Hashulchan (54:26) says that in that case, people do not need to go out of their way to insure the viability of a *minyan* at a specific *shul*. However, Rav Moshe Feinstein (Igrot Moshe, OC III, 16) says that the *minyan* at all *shuls* is worthy of preservation. His main source is from the aforementioned Eliya Rabba, instructing "learners" from the *beit midrash* to come to the *shul*. Since even learners should normally *daven* with a *minyan* (see Rama, OC 90:18), it must be talking about a case where there is a *minyan* in the *beit midrash* and still they are to leave their place to make sure that the town's *shul* has a *minyan*. Since there is a preference for one to *daven* in his own *beit midrash* over a local *shul* (Shulchan Aruch, OC 90:18), we also see that keeping an existing *minyan* justifies giving up a religious preference, which is extremely instructive for our case.

Contemporary *poskim* agree with Rav Feinstein's approach. Shevet Halevi (X, 9) told *yeshiva* students in a town that did not have a stable *minyan* in the local *shul* to go to ensure their *minyan* (and considered it educational). Rav Shternbach (Teshuvot V'hanhagot II, 62) speaks of one who wants to *daven* in a slow *minyan* in the city instead of the fast *minyan* in the suburb where he lives, and told him to stay.

The extent to which one should go to preserve an existing *shul* when there are others may be related to the halacha that one does not knock down an existing *shul* until a new one is in place (Shulchan Aruch, OC 152:1). The Taz (152:1) says that this does not apply if there is another proper *shul* in town with room for the displaced, whereas the Magen Avraham (152:5) says that even when there is another *shul* in town one cannot take a *shul* out of use without a ready replacement.

All of the aforementioned *poskim* discuss cases where without the *minyan* continuing, there will be people who will not find or agree to take part in an alternative *minyan*. If, in your case, everyone or almost everyone has little problem *davening* elsewhere for the day, it is not reasonable to "hold people hostage" and never allow them to miss once even for a good reason. It is reasonable to ask them to look for someone to replace them (a parallel to the Shulchan Aruch's mention of hiring a replacement).

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The Need for a Beracha on Good Smells

(condensed from Ein Ayah, Berachot 6:39)

Gemara: Rav Zutra bar Tuvia said in the name of Rav: From where do you know that one makes blessings on good smells? It is from the *pasuk*, "All of the soul shall praise Hashem, may Hashem be praised" (Tehillim 150:6). What is it that the soul has benefit from and the body does not? It is from a good smell.

Ein Ayah: The reason the *gemara* has to find a source for the *beracha* on smell is that there is logic to say that the reason for *berachot* is to prevent one who is involved in animalistic enjoyment from sinking into animalistic lowliness. In that regard, the function of the *beracha* would be to remind him to attach to the physical benefit a spiritual benefit of recognizing Hashem's role in creating with kindness all of mankind's enjoyments.

If it were the case that the *beracha* was to prevent negative influences, then it would be necessary only for lower-level enjoyments such as eating and drinking. In contrast, delicate enjoyments such as smell, which by nature elevate the spirit and its strengths, would not require a *beracha*. That is why the *gemara* refers to smell as something from which the soul benefits and the body does not. In other words, it does not bring one to animalistic behavior. Yet the *pasuk* that refers to benefit of the soul says that this experience should also be the impetus to praise Hashem. The reason is that the purpose of a *beracha* is not merely to protect from negative but for the positive of elevating one to recognize his Maker. When one makes a *beracha* on a good smell, where there is no fear of the negative, he strengthens the realization that the *beracha* exists so that we should gain the positive.

The Loss of a Tzaddik

(condensed from Ein Ayah, Berachot 6:43)

Gemara: When Rav died, his disciples escorted him to burial. When they came back, they said: "Let us go and eat bread by the Dank River." When they were about to eat, they wondered whether each one should make his own *beracha* because they were sitting but not reclining, or whether the fact that they discussed eating together is equivalent to reclining and one could exempt the others from making the *berachot*. They did not know the answer. Rav Ada bar Ahava got up and moved the rip in the garment (from the mourning for Rav) to the back and made another rip, saying: "Rav has died, and we don't even know the laws of *berachot* on food." Finally, a sage came, contrasted a *Mishna* and a *baraita*, and concluded that discussing eating together is equivalent to reclining.

Ein Ayah: The loss to the world upon the death of a *tzaddik* is two-fold, like his importance to the world during his life. One element is the lofty *segula* (roughly, the special spiritual conduciveness). Namely, when a holy person is in the world, it certainly brings on *shleimut* to those who are both near to and far from the *tzaddik*. The second element is from the more direct benefit that people extracted from his Torah knowledge and his righteousness.

The first element is broader and deeper and is thus the focus of one's thoughts during the ripping of the clothes. However, when the halachic issue arose and they did not have a solution, Rav's disciples felt more strongly their personal loss of a teacher to whom to turn, and Rav Ada decided to do something in recognition of this feeling. They turned the clothes around to indicate that this second element now eclipsed, in their cognizant thought, the first, general element.

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The Ability to Collect Interest and Fines Levied by Secular Court

(condensed from Shurat Hadin, vol. VII, pp. 59-71)

Case: The defendant (=def) worked for an organization (=pl) and, after being terminated, sued for back pay and severance pay in the (secular) labor court and won the amount due along with interest payments and large fines for withholding pay. Subsequently, def went to *hotza'ah lapo'al* (=holp - the special semi-court that administers the payment of court-recognized debts) to extract the money, a process that is accompanied by ever-growing penalty and expense payments, including the selling at unfairly low prices of the debtor's assets. Pl sued def in *beit din* to have def stop the process and disallow the extra payments. Def responds that since pl cooperated with the process, they cannot, after losing, decide to take the matter to *beit din*.

Ruling: It is true that the Maharsham (I, 89) says that if a defendant willingly took part in adjudication at a secular court and lost, he cannot later sue in *beit din* to overturn the ruling. However, pl denies that they went to that court willingly but claims that they were forced to defend themselves when they were summoned there. Indeed someone who does not appear before the courts is judged anyway, often in a manner that is damaging. The Maharsham is clear that the reason the defendant in his case was prevented from going to *beit din* was that he did all sorts of extra actions that showed that he was fully interested in adjudication there. In our case, it was primarily def who had the obligation to summon pl to *beit din*, and there was little excuse for her not to have done so.

Even if we were to view pl as willingly taking part in the secular judicial process, that is only true in regard to the base claim. However, the great majority of the payment that is pending now is from the interest and fines and the fees of holp, which was certainly not accepted by pl. (Holp can be used even to enforce *beit din* rulings, just that when interest, fines, and fees are exorbitant, the matter is halachically problematic.) The aforementioned Maharsham says that even if the defendant, in his case, could not go to a retrial at *beit din*, charges that are clearly against halacha, such as interest and paying for the plaintiff's time, may not be collected.

Def said that she cannot freeze the proceedings at holp because she made a deal with her lawyer that she would receive the principal won from her lawsuit, whereas the lawyer would be paid from the extra amounts levied. Thus, it is not her money to relinquish. Besides such an agreement being too strange to readily believe, a lawyer does not have his own rights in court but represents his client. If the client wants to cease the proceedings, she has every right to do so. If the lawyer wants to sue def for breach of contract, that matter is between the two of them, and does not need to concern *beit din* or pl. If it is a problem for def, it is a result of an unwise agreement in regard to money that was never coming to her.

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