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HEMDAT YAMIM

PARASHAT HASHAVUA

Vayakhel Pekudei, 23 Adar 5775

A Craftsman Is Not Just a Worker

Harav Yosef Carmel

In the beginning of our first *parasha*, the Torah repeats the instruction that Moshe should turn to Betzalel ben Uri from the Tribe of Yehuda and Aholiav ben Achisamach from the Tribe of Dan. They were entrusted with some of the most intricate tasks of craftsmanship, involving work with precious metals, stone, wood, and a variety of fine fabrics for the vessels and edifice of the *Mishkan* and the garments of the *kohen gadol* (Shemot 35:30-35).

Concerning King Shlomo's building of the *Beit Hamikdash*, we find a few parallels. Shlomo himself was from the Tribe of Yehuda. His partner, who provided much technical help in the fields of craftsmanship, hailed (to an extent, at least, as we will see) from the Tribe of Dan. Actually, Shlomo had communicated about the upcoming project of constructing the *Beit Hamikdash* with Churam (elsewhere called Chiram), the King of Tzor (Tyre), who was a friend of David. King Churam sent Shlomo an expert craftsman, a resident of Tzor, who was also called Churam, who he introduced as the son of a woman from Dan and of a man from Tzor (Divrei Hayamim II, 2:10-13).

One who looks at the parallel sections of the respective job descriptions in Shemot and Divrei Hayamim (which is onerous in this forum) will see the similarities between the texts. However, we will highlight a difference between the two projects that seems to have had a practical impact on the building of the *Beit Hamikdash*.

Moshe received direct and specific instructions from Hashem for the building of the *Mishkan*, and the Torah stresses that everything was to be done precisely as Hashem showed him (Shemot 25:9). *Chazal* taught that Hashem showed Moshe "images of fire" for each of the vessels that were to be created (Menachot 29a). The idea of bringing Betzalel and Aholiav onto the staff was also explicitly mandated by Hashem. In contrast, the choice of the craftsman Chiram was initiated by the non-Jewish king, Chiram.

Even though the former was halachically Jewish, as his mother was Jewish, it is hard to ignore that apparently his father was non-Jewish and his name was that of gentile Tzorite. It is very likely that Chiram learned his architectural profession in the academies of Tzor and thus he was culturally and artistically influenced by that society of idol worship. Later on, in the periods of the kings of Israel, the Tzorite influence entered Israel, culminating in the Tzorite princesses who married kings of Judea and Israel. These influences wreaked spiritual havoc on the Jewish people, which eventually led to a destruction of the *Beit Hamikdash* itself.

Art and aesthetics of the physical world have a lot to add in uplifting people's spirits. On the other hand, we should remember that they are always liable to cause spiritual deterioration and draw people to materialism. The *Mishkan* built by Moshe with the help of the G-d-fearing Betzalel and Aholiav, was a symbol for generations of how artistic work in the physical world can become part of the spiritual world. May we merit to learn from this positive example.

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by Rav Daniel Mann

Methods of Receiving Pay for Work on Shabbat

Question: I work at a local *shul's* youth department on Shabbat. They occasionally have activities during the week (e.g., Purim, Sukkot, Tu B'Shvat). Some of my co-workers believe that one of the intentions for these activities is to solve the problem of paying us for work on Shabbat (*s'char Shabbat*). I am skeptical for two reasons. First, would that work, considering that there are several months when we get paid without any such activities. Secondly, aren't there better solutions than that?

Answer: *S'char Shabbat* (pay for permitted services one provided on Shabbat) is indeed forbidden Rabbinically like other commercial activity, lest one come to write (Shulchan Aruch, Orach Chayim 306:4).

The most common way to allow receiving money for work that was done on Shabbat is through *havla'ah*. That means having the Shabbat-related money "swallowed up" by combining it with weekday pay, as pay for a period of work that includes Shabbat (*ibid.*). You apparently assume that the applicability of *havla'ah* depends on the payment period. In other words, each payment has to include pay for work not related to Shabbat or *Yom Tov*. Therefore, you would forbid a paycheck for a payment period (month) in which there is no weekday work.

However, *poskim* point out that "*havla'ah* units" are determined not by the interval of payment but by the period of employment. The period of employment is the time during which there is a commitment to continue the employer-employee relationship, without the ability to back out under normal circumstance. This has ramifications for leniency and for stringency, respectively. If the employee is owed for work on Shabbat and the employer is not obligated to continue the employment during a period that includes weekdays, the work on Shabbat is viewed independently and it is forbidden to receive pay. One common application is a babysitter, who usually gets hired for each job on its own (*Shemirat Shabbat K'hilchata* 28:58; *Orchot Shabbat* 22:94). Your situation is in all likelihood an example of the lenient ramification. A *shul* usually hires youth workers for "a year" (often, Sept.-June), which is the relevant time unit even if the payments are made in monthly installments. If that is the case, then since the year includes work on Tu B'Shevat and Purim, the pay is permitted.

Indeed, there is often another, related leniency – another application of *havla'ah*. Some suggest (including Aruch Hashulchan, OC 306:12) that the preparations *chazanim* do during the week justifies their receiving pay for their work on Shabbat and Yom Tov due to *havla'ah*. For this to constitute *havla'ah*, it does not suffice for the preparation to be theoretical work, but obligatory work that is time-consuming enough to warrant pay (*Orchot Shabbat* 22:90 – he (*ibid.* (149)) doubts whether *chazanim* are considered to receive any pay for their preparations.) Similarly, there is often an assumption that youth workers, beyond their frontal work with the children on Shabbat and Yom Tov, have necessary preparatory work that is slated for weekday. This can include buying prizes or food, setting or cleaning up, or preparing props. The *shul* can ensure from the outset that there are serious weekday preparations by requiring the leaders to come to a training session or meeting or to call the children and/or parents with whom they will be working. As mentioned above, one such serious practice during the employment period suffices.

The matter of *chazanim* introduces a final potential justification for receiving pay. There are two opinions in the Shulchan Aruch (OC 306:5) whether the prohibition on *s'char Shabbat* applies to *mitzva* activities. While the Shulchan Aruch seems to lean toward stringency, the Mishna Berura (306:22) acknowledges that the more prevalent *minhag* is to be lenient on the matter. Contemporary *poskim* leave the matter open (*Shemirat Shabbat K'hilchata* 28:66). Whether or not a synagogue's youth groups are considered a *mitzva* depends on the content of the activities.



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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Diligent Kohanim

(condensed from Ein Ayah, Shabbat 1:88)

Gemara: [The mishna says that in the area of the Beit Hamikdash in which the kohanim warmed themselves, it was permitted to put wood on the fire until closer to Shabbat than it is in one's home. The reason this is permitted is that] kohanim are diligent.

Ein Ayah: One whose emotions increase to the point that his intellect becomes confused is liable to not remember clearly enough what his restrictions are according to the divinely ordained Torah laws. A person who is susceptible to such a problem must be very careful at the time of his increased emotion that he not violate Torah law, which would "breach gaps into the fences of the world."

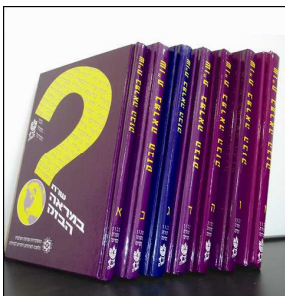
The situation could even exist whereby his power of imagination might tell him, in his emotional state, that he is in the midst of activity for purposes of love of Hashem and His glory, [and therefore he should not be unduly restricted]. However, this is a warped approach. It is a foundation of the Torah that the intellect must always be in the superior position and always push one in the direction that it sees as fit based on the Torah and on wisdom.

Kohanim are people who are able to combine these elements properly. They are expected to move away from cold intellectual service of Hashem and embrace emotional elements of their service in the *Beit Hamikdash*. They energize the powers that could otherwise cool off due to the effect of an abundance of calculations and knowledge on the powers of the body. It is problematic when emotion, which is also a power of the body, is not sufficiently involved. The proper situation is that emotion is involved and the intellect is supervising, making sure that everything is operating to the appropriate degree, which is set according to a certain system and calculation. Even then, the intellect must be present and ensure that there is no longer a need for some type of restraint to prevent even a small infraction against the precepts of the Torah.

The above is a good lesson for all those who feel a need to increase the emotional element of their service of Hashem and thus broaden their spiritual attainments. Their path should be arranged, from the outset, on the path of Torah, which is the loftiest wisdom and contains the proper measuring tools for all of man's actions. With that in hand, people will succeed in ensuring that the extra elements of emotionalism will remain a blessing. It is not only the *kohanim*, sons of Aharon, who knew how to be diligent and careful. It can and should be the legacy of the entire "kingdom of *kohanim*" (Bnei Yisrael - see Shemot 19:6), whose members shall lead their lives according to the intellect. This is appropriate for a kingdom, which needs to follow wise guidelines in an exact manner, and a "holy nation" (ibid.), which is elevated with intellectual riches and feelings of sanctity, which is the "fire of holiness" (see Devarim 33:2).

With this, we have completed our study of Ein Ayah on the first perek of Shabbat.

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P'ninat Mishpat

Charging an Orphan He Raised

(based on Shut Rabbi Akiva Eiger I:147)

Case: Reuven supported a young orphan for an extended period of time without stipulations. Recently he seized funds from the orphan, which he claims for payment of past expenses. Can Reuven keep the funds?

Ruling: Most *poskim* rule that, generally, after feeding another for a period without stipulation, one can demand payment from the recipient. For example, the Ran (Ketubot 107a) cites the Rashba that that which one who supports a married woman cannot demand her to repay him is only when he stated he was supporting her on her husband's behalf. The Maggid Mishneh explains that even the Ran argues only because she has a husband to support her and so she need not pay anyone who takes his place. However, if Shimon feeds Levi, under normal circumstances, Shimon can demand repayment (see Mishneh Lamelech, Ishut 3:8). The Maharit (Even Haezer 43) is one of the few who argues and considers the support a present.

However, one who supports an orphan has less ability to make back claims. The Rif is cited as saying that unless one stipulated he was only loaning support for the orphan, he cannot demand payment repayment, and the Beit Yosef (Yoreh Deah 253) cites Rabbeinu Yerucham similarly. This appears to be the case even when the orphan inherited property that could have been used for his support.

Although one can read the Rashba as arguing with the Rif, the fact that the Shulchan Aruch (Choshen Mishpat 290:25; YD 253) cites the ruling of each indicates that he viewed the opinions as compatible. The likely reconciliation is that when someone takes care of all of the orphan's needs, he has a status of an *aputropos*, who has the right to reimbursement. But in the case of partial support, we accept the Rif's ruling that the supporter cannot demand compensation. This determination is clear enough to allow *bein din* to remove the seized payment from Reuven.

The Beit Yosef (CM 128) says that the Rif does not apply if the orphan is a minor because, in that case, the fact that the supporter did not inform the orphan of his expectations is not telling. However, since the Rif explicitly discussed a case of minors, the Beit Yosef must be referring to very young children. We have to assume that even a very young child can become obligated as one who received support as a loan, even though he is not legally liable enough to become obligated to repay a regular loan. In our case, the orphan was old enough to become obligated.

The Beit Yosef's distinction is difficult, as even if it is not possible to inform small children of one's future claims, he can inform *beit din*. Rather, the logic of exempting an orphan is the assumption that one gave the money as a *mitzva* to support orphans.

In our case, even though some of the support was given when the orphan was very young, Reuven continued to support him without comment when he was older. Just as the Beit Yosef agrees that the orphan is exempt at the older age, we can also see that his intention was the same earlier. This is even more obvious if Reuven is a relative. The exception would be if we know of the seizure of the funds only based on his admission. Then we might be able to say that since Reuven could have denied the seizure, he is believed (based on *migo*) that he provided the support with an intention to demand repayment.



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