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# HEMDAT YAMIM

## Parashat HaShavua

Chayei Sarah, 4 Cheshvan 5776

### Kohanim and Power

Harav Yosef Carmel

Our matriarch Sarah's name (literally and roughly, female officer) hints that she was far more than an excellent wife and mother; she was a leader in her own right. The other name attributed to her, Yiska (see Bereishit 11:29 with Rashi), may also be connected to the word *nesicha* (princess). However, this week we want to focus on a different type of position of power, as seen in the *haftara*.

While we are familiar with the title *kohen*, we might not be aware of its implication of authority. Indeed, the *pasuk* that says that "the sons of David were *kohanim*" (Shmuel II:8:18) refers to positions of power, as they were not descendants of Aharon.

Actually, the *kohanim* in the *Beit Hamikdash* had authority, all the more so the *Kohen Gadol*, who was in charge of a huge operation in the Temple. While this included great spiritual responsibility, it also included control over a tremendous budget, which, incidentally, was independent of the king's control and had a built-in system for raising funds. The *Kohen Gadol* was also in charge of a limited judicial system, known as *beit din shel kohanim* (see *mishna*, Ketubot 1:5). This system led at times to severe corruption, such as at the time of the sons of Eili or of the bribe-paying candidates for the job in the time of the Second Temple. In the *haftara* we are witness to a power struggle of a different kind between two prominent *kohanim*.

Toward the end of David's reign, it was clear to most citizens that his successor would be the oldest son of David's wife Chagit – Adoniya. Nevertheless, Bat Sheva held David to his promise that her son Shlomo would ascend to the crown. Two *Kohanim Gedolim* who shared the post arose on the two sides of this dispute. Tzadok, who represented the house of Aharon's son Elazar, stood behind Shlomo, whereas Evyatar, who represented the house of Itamar, threw his support behind Adoniya. At the end of the process, Evyatar and his family were banished to their village of Anatot and removed from prominence (Melachim I:2:26), and Tzadok became the sole leader of the tribe.

Why was Tzadok's involvement in the dispute deemed proper while Evyatar's was not? What is wrong with supporting Adoniya? We can use the opportunity of looking at the *p'sukim* to learn more generally when it is right for religious leaders to get involved in political debate. Adoniya is described as approaching Evyatar, who agreed to support him (ibid. 7). Adoniya should have acted with humility and waited for David to decide, after consultation with the prophet, who would succeed him. Evyatar's involvement in this improper political maneuvering is an example of an improper attempt to decide the matter of the kingdom and perhaps also an attempt to insure his position of power under the new regime. Tzadok, in contrast, did not take a stand but brought the matter to David to decide, only after which did he add his blessing to the decision.

The prophets, while also holy people like the *kohanim*, do have a role that makes it appropriate to get involved in political matters. After all, their job is not to determine halachic policy for the generations but to educate the people as to what to do in the present, which can include "political" steps.

We take the opportunity to urge rabbis, the scholars of Torah, to distance themselves from the political arena. Even in our times, the confusion between the religious realm and the political one has caused much damage.

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## Ask the Rabbi

by Rav Daniel Mann

### Inheritance without *Ma'aser Kesafim*

**Question:** My parents are planning their will and want to divide the estate evenly between my brother and me. They are bothered by my practice of giving *ma'aser kesafim*, as they want their children, not charity (to whom they will also leave money), to receive their inheritance. If I cannot figure out a way to avoid *ma'aser*, they will give the entire estate to my brother. Is it there a permitted way for me to obviate the obligation of *ma'aser*, or should I stand on principle even in the face of losing a lot of money?

**Answer:** We praise not only your willingness to forgo inheritance if halachically required but also for not trying to trick your parents in this regard.

There are times when parents' gifts are *ma'aser* exempt. Rav M. Feinstein (Igrot Moshe, Yoreh Deah 112) says that when parents promise money to a child for his basic needs, the parents have the right to have the son not give *ma'aser* on it, as it, in effect, forces the parents to give more to cover those needs. Teshuvot V'hanhagot (III:282) says that if that son gives *ma'aser* against his parents' conditions, it is considered stealing.


However, this logic does not apply in your case. Your parents are not giving you money for a specific purpose that will not be met if you give *ma'aser* but object to your use of what will be your money after their death (not before 120 years). This is like a parent who commands his child to not fulfill a *mitzva*, which is an illegitimate request (Bava Metzia 32a).

If your parents are serious about withholding all your inheritance over this matter and it is a large amount of money, then you can be exempted from *ma'aser*, as the Rama (Orach Chayim 656:1) rules that one does not have to spend an exorbitant amount of money on a *mitzva*. Of course, *tzedaka* (*ma'aser* falls under its rubric – see Rambam, Matanot Aniyim 7:5) is expensive by its nature, but here we are talking about a large loss beyond natural *tzedaka* costs.

In general, there are three opinions as to whether the practice of *ma'aser kesafim* is a *mitzva* from the Torah (Tosafot, Taanit 9a), a Rabbinic obligation (Maharil 54), or a proper practice to accept upon oneself (Shut Chatam Sofer, YD 231). We believe that the third opinion is the strongest and thus if you use the above exemption, it is good to do *hatarat nedarim* on the practice of *ma'aser kesafim* in regard to this inheritance.

However, it is better (for your sake and probably for your parents') to obviate the *mitzva* rather than refrain due to loss from a *mitzva* in which you are fundamentally obligated. Therefore, try to take your parents up on their offer to leave you an inheritance in a way that you are exempt from *ma'aser*. According to most opinions, one who receives objects or property is not required to give *ma'aser* based on its value unless and until he sells them (see Tzedaka U'mishpat 5:(25); Hilchot Ma'aser Kesafim (Bronstein) 3:6). According to many opinions, money received that is bindingly earmarked for a certain expense is exempt (ibid. 11). Thus, their will can create a trust fund for certain purposes (e.g., children's weddings, education) or you can receive real estate, as opposed to cash.

There are strong indications that *ma'aser kesafim* is not a separate *mitzva* but a set of rules within *tzedaka*. Your parents are presumably not against your giving *tzedaka* but annoyed by the level and the automatic nature of giving *ma'aser*. However you solve the issue with your parents, it does not mean that in the long term, you will not be a less generous person. If inheritance and hopefully other sources and merits enhance your ability to give, you at some point might end up giving a similar amount of *tzedaka* as if you followed you the rules of *ma'aser kesafim* formalistically on the inheritance. (One may give more than 10% when he wants or not rely on leniencies that he used to.) We do not condone calculating the amount to add to make up for following your parents' conditions, as this would be dishonest to them. But if it happens through natural dynamics over time, this is fine.



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# Ein Ayah

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

Chayei Sarah

## How and When to Be Happy

(condensed from Ein Ayah, Shabbat 2:98)

**Gemara:** "I praised the happiness" (Kohelet 8:15) refers to *simcha* (happiness) related to *mitzva*, and "What is happiness there for?" (ibid. 2:2) refers to *simcha* that is not related to *mitzva*.

**Ein Ayah:** There are two opposite mistakes that are made regarding how to properly deal with a person's natural inclinations. A person is born with an untamed nature, which has to be developed. However, this should not be done by trying to totally negate his nature, for this will not succeed. Rather, he should use wisdom to determine the purposes of his characteristics and integrate them in a manner that serves the purposes for which they were created. Therefore, it is a mistake to despise a characteristic and try to eradicate it.

On the other hand, it is also a mistake to accept one's characteristics and build a lifestyle around them as they are. This is an approach of evil that leads to death. Rather, one should avoid the lowly path that can lead from the characteristics and use them to carry out intellectual/spiritual goals, along the lines of divine and moral norms.

Happiness is a normal characteristic of healthy people. However, such happiness, when unbridled, can be connected to matters so lowly and absurd as to melt in the face of the intellect. The happiness that is connected to sensual desires will not really satisfy a person and will lead to disappointment when he discovers their emptiness.

However, these observations should not bring people to reject the gift of happiness. Rather, we should take this healthy tool and fill it with truthful applications. We should internalize the idea that happiness was made for these proper goals, not to try to satisfy one's wild fantasies. Thus, the *gemara* advises to apply Kohelet's questioning of the value of happiness to happiness that is not related to *mitzvot*, where over-exuberance is childish and spiritually damaging. What is positive is *simcha* of *mitzva*, which includes happiness about having grasped truth about Hashem and His Torah, the joy of having performed acts of goodness and kindness, and performing all of the obligations of the Torah and the intellect, in action and in thought with happiness. When one does so, he will uncover the great potential of his characteristic of happiness and establish it according to its essential nature.

This is what the *pasuk* means by "praising the happiness," referring to the specific and natural happiness that applies to a person in the depth of his spirit, after he has elevated himself with wisdom, piety, and ethics. Indeed, *simcha* of *mitzva*, i.e., happiness connected to honest intellect, is praiseworthy. In contrast, when happiness remains in its low level, it will not last over time, as life and intellect will "slap it in the face" and say, "What is happiness there for?" Childish reveling is based on falseness and nothingness. It only appears, from a distance, to be real happiness, but it is revealed by investigation to be false. Rather, happiness exists in order to be connected to *mitzvot*. "I will rejoice in Hashem; I will have joy in the G-d of my salvation" (Chabakuk 3:18). About the type of happiness that celebrates intellectual attainment and following the proper lifestyle and mode of behavior, it is said, "The heart of those who seek Hashem will be happy" (Tehillim 105:3).

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(based on Shut Chatam Sofer, Choshen Mishpat 147)

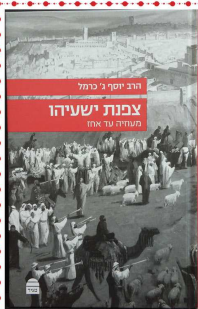
**Case:** A poor man died, leaving a widow, a son and a daughter, for whom the community raised weekly support. Then the widow died. The *gabbai tzedaka* set up a fund for the son to use for a business when he becomes ready and for the daughter's future dowry. The son grew up and received his money but died soon thereafter. His sister inherited the money, giving her a total of 600 gold coins, but she too died before she got married. The donors want their donations back, whereas the rabbi wants to use the money for community projects for the benefit of all.

**Ruling:** It is surprising that there is no mention of the daughter's closest living relative's claim. Apparently, there is no known relative, in which case the money is used for communal needs (Rosh, cited by Tur, Choshen Mishpat 283).

The Beit Yosef (CM 253) cites the Rashba that if one gave money for a poor girl's dowry and she died, her inheritors keep the money. This is because once a poor person receives money, it is his, and he can even use it for uses that the donor did not intend. The Rama (CM 253:16) brings dissenters based on the following *sugya* (Bava Kama 110a-b). If someone stole money from a convert with no inheritors and swore falsely about it and then the convert died, he gets atonement by returning the money to *kohanim* and bringing a *korban*. If the thief paid the *kohanim* and died before bringing the *korban*, the money is not returned to his inheritors because the payment brought an element of atonement even without the *korban*. This implies that if the money given did not have its intended impact, the money would return to his inheritors. The Hagahot Maimoniot (Gezeila 8) learns from this that if one raised money for his daughter's wedding and she did not get married, the donors can ask for the money back, as their intentions were not fulfilled. Similarly, the Mordechai (Ketubot 177) discusses one who promised to pay for a woman's marriage, and then she died. He cites Rav Chaim Kohen as exempting the donor to pay and the Raavya as obligating him to give the money to the woman's inheritors. The above *gemara* seems to contradict the Raavya.

However, I believe that there is no *machloket* but different situations. The Rashba is right that once the poor person receives money, the *mitzva* has been fulfilled and there is neither a need to return the donation with his death nor a prohibition for the recipient to use the money for something else. The Hagahot Maimoniot discusses a case where the father collected money for his daughter's dowry but she did not receive it, in which case if she will not be getting married, the money is returned. The Mordechai is talking about a case in which the money has not been given yet, and the *machloket* is whether or not the fact that it has been earmarked is as if it was given.

Applying these distinctions to our case, the money which already reached the orphan son became his and after it went to his sister and she died, it goes to her inheritors (or the community if they cannot be found). One can deliberate about money raised directly for the daughter and is in the hands of guardians, whether it is considered like money in the father's hands, which is returned. However, it is more logical that the guardians are considered an extension of her, in which case, the money does not return to the donors.



### Tzofnat Yeshayahu- Rabbi Yosef Carmel

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