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HEMDAT YAMIM

Parashat HaShavua

Shemini, 26 Nisan 5777

Who was the Father of Nadav and Aviah?

Harav Yosef Carmel

In *Parshat Shemini*, Aharon is commanded to bring as a sacrifice “a young calf as a sin offering” (Vayikra 9:2). Rashi explains that Hashem thereby informed Aharon that this was his atonement for the Golden Calf. Similarly, *Chazal* said that the red heifer was to atone for the Golden Calf (Midrash, Bamidbar Chukat 19:2).

The sin of the Golden Calf is one of the most serious sins *Am Yisrael* ever transgressed. How, then, could Yeravam ben Nevat commit the same sin again, placing golden calves in Beit El and in Dan (Melachim I, 12:28-29), and how could the people agree to it? Also, why did he call his two sons Nadav and Aviah (see Melachim I, 14:1,20), similar to Aharon's sons?

The Abarbanel has an enlightening explanation, clarifying the actions of Yeravam, who received kingship over the Ten Tribes via prophecy. At the beginning of Yeravam's rule, the *pasuk* describes him as wearing a “new cloak” (ibid.: 11:30). *Chazal* explained that “his Torah had no “stains,” similar to a new cloak” (Sanhedrin 102a).

The *navi* does not state that Yeravam built an altar in front of the calves, nor did they bow or bring sacrifices to them, as happened in the desert. Yeravam did not ever intend to create idols to worship as did the generation of the desert. Rather, Yeravam saw that Shlomo made two pillars at the entrance to the Beit Hamikdash as a memorial for his father and himself, who built the Temple. Therefore, Yeravam also made some type of memorial to his kingship. Since he was a descendant of Yosef, he decided to place one calf in dedication of his family in Beit El, where his kingship began. It was made of gold to symbolize the eternity of his kingship, as well as his honor and greatness. He showed that the sign of the King of Yehuda was made of copper while the sign of the King of Israel was made of gold, in the form of the strongest animal – the ox. He placed this in Bet El at the entrance to the altars, just as Shlomo placed the pillars at the entrance to the Beit Hamikdash. Since *Eretz Yisrael* was vast he placed another calf in Dan, at the border of the Land, in order that his kingship would be commemorated even there. Also, he made two calves representing the two sons of Yosef – Ephraim and Menashe. By this, Yeravam was trying to give testimony that the birthright was actually given to Yosef, hence the kingship should go to him and not the tribe of Yehuda.

Let us summarize the Abarbanel's opinion. Yeravam did not repeat the sin of the Golden Calf. His calves were meant to be a symbol of the kingship of Yosef, placed at the entrance to the kingdom from both sides. They also symbolized that Yosef was rewarded the kingship and not Yehuda. By doing this, Yeravam was directly trying to seize the leadership from the successors of Shlomo, who built the Beit Hamikdash in Yerushalayim with the two pillars – Yachin and Boaz.

Unfortunately many people did not understand this and turned the calves into idol worship and hence re-enacted the sin of the Golden Calf. Perhaps there was a similar sequence of events with *Aharon Hakohen*.

Let us pray that we be able to rectify the sin of the Golden Calf and merit to serve Hashem with pure thoughts and actions.

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



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Ask the Rabbi

by Rav Daniel Mann

Doing Kaddish After Lacking Full Participation

Question: Can the final *Kaddish D'Rabbanan* at the end of *tefilla* be said when there is a *minyan* only when counting people who are not reciting *Pitum Haketoret* (e.g., busy taking off their *tefillin*)? Also, is it proper for one to say *Kaddish D'Rabbanan* or *Kaddish Yatom* along with others in *shul* when they did not participate in the learning session or *tefilla* after which the *Kaddish* is being said?

Answer: A relatively close case to those you ask about is what is called *poress al Shema*. This is when people who do not have a *minyan* for all of *davening* want to join with others, including those who finished *davening*, to enable them to take part in *Kaddish* (relating to *P'sukei D'zimra*) and *Barchu*. The Shulchan Aruch (Orach Chayim 69:1) says that while it is good if there are six who have yet to take part in these *devarim sheb'kedusha*, it can even be done for one such person. Furthermore, if need be, even one who already took part in a *minyan* can lead the recitation.

Similarly, the Taz (55:3) infers from several sources that in order to say *Kaddish*, which relates to a previous text(s) that was recited, it suffices for the *minyan* to be assembled at the time *Kaddish* is recited, even if they were not there for the matters to which the *Kaddish* relates. The Magen Avraham, regarding the *Kaddish* after learning Torah (69:4) and after *Ashrei* at *Mincha* (234:1), says that the *minyan* must already have been present for the recitations that precede the *Kaddish*. The Pri Megadim (MZ 55:3) says that the Magen Avraham agrees to the Taz's leniency regarding the *Kaddish* following *P'sukei D'zimra* because *P'sukei D'zimra/Kaddish* is a requirement. In other words, in cases like *poress al Shema*, where there is a real need for these things to be said, the *minyan* enables the recitation of *Kaddish* whenever it becomes possible. In contrast, regarding less critical recitations, we say that the need for *Kaddish* is created only by a *minyan* present at the previous activity.

Even where the Magen Avraham applies, he only requires the ten to be present during learning to justify *Kaddish* afterward, but does not require all to participate in the learning (ibid. 69:4). In this regard, the Aruch Hashulchan (OC 55:9) is even more stringent, saying that since *Kaddish* after learning is optional, the ten people must have learned together.

The best way to avoid *machloket* in such cases is for the learners to include the *minyan* in a classic *Kaddish*-trigger statement, such as the famous statement of Rav Chananya ben Akashya. Similarly, at the end of *P'sukei D'zimra*, the *chazan* can read out loud three *p'sukim* for the whole *minyan* to hear (see Mishna Berura 55:2). Regarding *Pitum Haketoret* at the end of *davening*, if there are not ten *davening*, it is worthwhile for the *chazan* to say "*Talmidei chachamim...*" or the last three *p'sukim* out loud. If this is difficult, one can rely on the majority opinion (see also Mishna Berura 54:9) that you do not need even a majority of the *minyan* to be learning before *Kaddish D'Rabbanan*. Furthermore, the Aruch Hashulchan probably agrees that presence of ten is enough for *Pitum Haketoret* because it is a set part of *tefilla* for those who recite it and/or because having one *Kaddish D'Rabbanan* at *Shacharit* is important (see Living the Halachic Process vol. I, A-6).

Regarding someone not involved in that which the *Kaddish* is related to reciting it, we saw that this is possible regarding *poress al Shema*. The Mishna Berura (54:9) assumes that this is true also for *Kaddish* after learning, and there is no reason to think that this would not apply to the *Kaddish* after *Aleinu* or *Shir Shel Yom*. The Chelkat Yaakov (OC 20) says it is always permitted to just join others who are anyway saying *Kaddish*, as it is no worse than answering *Amen* to a *beracha* one knows has just been completed. Rav Moshe Feinstein (Igrot Moshe, YD IV, 61.8) says that it is permitted as long as the matter that *Kaddish* is going on is part of the *tefilla* or part of a learning session that is done as part of a *tzibbur*.



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Ein Ayah

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

A Leader's Dilemma – Amongst the People or Beyond them?

Ein Ayah, Shabbat 4:12

Gemara: Rav Nachman said to his servant Daru: "Insulate for me a cold dish and bring water that was heated by a non-Jew." Rav Eliezer heard of this and became upset. Rav Yosef asked: why did Rav Eliezer get upset? Surely Rav Nachman has acted in accordance with great authorities – one halacha is in accordance with Rav, and the other is in accordance with Shmuel. For Rav Yehuda said in the name of Shmuel that it is permitted to insulate cold food, and Rav said that anything that can be eaten in its raw state is not included in the prohibition of *bishul akum*. Rav Eliezer felt that an important person should act differently.

Ein Ayah: The actions of a great person impact the generation. They can be divided into two categories, and sometimes there is tension between these categories that is difficult to reconcile. For what is positive in one category acts in an adverse manner in the other.

The first category is in regards to practical actions. It is fitting for the nation to know the sage among them, perceive his honor and lofty soul, and aspire to be like him as much as possible. They should perceive the greatness within themselves, sensing the godliness within them that is uplifted when seeing a grand sight. This sage will give life to the Torah, for all his actions and mannerisms are carefully weighed, and it is worthy for all to follow in his ways. By following him, they will attain happiness and instill the true way of life within them.

For this reason, it is fitting for the sage to live his life in a way that is close to the level of the people, in order that the people understand that all his actions need to be and can be performed by everyone. For if the sage lives his life in the eyes of the people with great acts of piety, the masses will not be able to learn from his actions, as they will see it as beyond their level. For this reason, many of the great sages of Israel were lenient on a practical level where there was room for leniency, even though their souls yearned for a deep love that finds expression in the expansion of Torah and its *mitzvot*. Nevertheless they curb this desire in order that the nation will know that their actions and the way they live their lives are the complete Torah that applies to everyone.

The above is true in regard to the practical perspective. However, there is also a more emotional aspect of how the nation views their sages, with a splendor that is attributed to the Torah and its value, as well as the *mitzvot* and their value to the nation. It is valuable for the nation to see its sages as they intrinsically are – masters of the heart and wisdom in their broadest and clearest form, with knowledge of life in its fullest meaning. This imbues the people with a deep sense of honor for the Torah and allows them to be inspired by it. In this regard, it is clear to all that these high levels are not shared equally by all, as there is a definite difference between the simple people and the great ones.

Therefore, even if people realize that they are many levels lower than their sages, the people will still be imbued with a sense of honor and holiness, which will enable them to strengthen their bonds to Torah, with love and faith. For this goal, it is fitting and obligatory for the sage to act with great piety and measure every action according to his stature. "An important person should act differently."

[The complicated end of the piece explains why a person's greatness would find expression in stringency particularly in the matters of Shabbat and separation from other nations.]

We daven for a complete and speedy refuah for

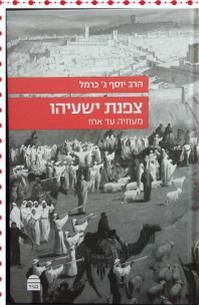
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Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Withheld Payment During Financial Crisis

(based on ruling 74014 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) worked for a *yeshiva* (=def) for a monthly wage of 3,500 shekels plus an 800 shekel travel allowance. When one of def's main rabbis died, def entered difficult financial times, and salaries were not paid in full. Def decided to cut all salaries by 500 shekels, to which pl agreed, and later def and pl decided that he would not continue working there. While those who continue teaching are receiving some payments, pl received no back pay once he left the job. Pl is demanding 33,371 shekels in back pay, 8,500 shekels for severance pay, and 41,871 as penalty for late payment. Def agrees in principle to the first two payments, but is not sure how they will be able to make the payments in practice.

Ruling: It is a very serious obligation to pay on time (Shulchan Aruch, Choshen Mishpat 339:10), and therefore def is to make the payment of late salary immediately. Regarding the laws of workmen, one of the greatest principles is that one follows the customs prevalent in society (Shulchan Aruch, CM 331:2). In Israel, there is both a law and a common practice of severance pay. By law, this is one month's pay for every year of service (base salary, not including travel allowance). When the salary changes over time, it goes by the salary at the end of the period of employment. Therefore, the severance payment is set at 5,625 shekels.

Regarding payment for withholding salary, some want to claim that the law that requires it is binding based on *dina d'malchuta* or the enactments of society, or that that the agreement between the employer and employee is based on the assumption of such extra payments. However, it is difficult to base the obligation on these sources, because the law leaves the extent of any such payment to the jurist's better judgment. The logic of the payment is: 1. Payment for inflation and for interest on holding someone's money is normal. 2. It is a penalty for one who illegally shirks his obligation. However, regarding #1, it is not permitted to legislate a forbidden interest payment (*ribbit*). Regarding #2, we do not have evidence that def acted in an unethical or irresponsible manner, considering the circumstances.

Rishonim dispute whether extra payment for withholding pay is *ribbit*. The Chatam Sofer (Shut V:144) says that since the point of *ribbit* is to allow the borrower to live reasonably, when the one taking the extra payment is a worker, whose receiving of salary is a basic need, *ribbit* does not apply. Similarly, Rav S.Z. Auerbach said that the payment is not for the value of the money over time but for the iniquity of withholding due worker's salary. Rav Y. Ariel says that when litigants authorize *beit din* to rule based on law or compromise and *beit din* obligates for late payment, the ruling is not subject to the full laws of *ribbit* because the sides did not agree to it. Again, though, in this case, we saw no evidence requiring punishment of def with penalty payment since, according to all indications, simply did not have the money to pay.

Therefore, def must pay pl 38,996 shekels. Due to the dynamics of the case, *beit din* gave a couple options for payment plans.

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