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HEMDAT YAMIM

המדת ימים

Parashat HaShavua

Toldot, 29 Cheshvan 5778 The Hand Holding the Akev

Harav Shaul Yisraeli – based on Siach Shaul, p. 80-81

The *midrash* (Bereishit Rabba 63:2) says on the *pasuk*, "So said Hashem to the house of Yaakov, who redeemed Avraham" (Yeshaya 29:22) that Avraham was saved from the furnace into which he was thrown in the merit of Yaakov. What makes Yaakov so great?

Yaakov's lot was the most tragic of the forefathers. We do not mean in that he suffered torment, but in the fact that his characteristics are most negatively distorted. In truth, Eisav was the one who knew to hunt (Bereishit 25:27), which means to mislead (Rashi, ad loc.) and was the creator of doubletalk, and Yaakov was an unblemished man who did not know how to mislead (ibid.; ibid.). However, in regard to the explicit actions that they took, it appears as if it is Yaakov who is the hypocrite. Eisav seems to have received whatever he needed in life without difficulty, whereas Yaakov had to get what he needed/wanted indirectly and through deception. The one who hated deceit was portrayed as circumspect, as Eisav claims that Yaakov's very name indicates (Bereishit 27:36). Eisav was not willing to admit that Yaakov's name meant something else, that he held Eisav's ankle (*akev*, which can mean heel or trickery), indicating that it was Eisav who improperly had claimed the firstborn status.

It takes a serious amount of proper self-confidence in order to overcome fundamental characteristics. It is much easier to fight when you know what you are fighting for. When Avraham was thrown into the furnace, he knew that he was thereby doing an act of sanctification of Hashem's name. It is greater, though, for Yaakov to buy a firstborn status that Eisav did not deserve even though he knew that it would cause him to be besmirched as unethical and antisocial. One needs a self-confidence of "He raised his heart in the ways of Hashem" (Divrei Hayamim II, 17:6), which reduces to nothingness the empty showiness and hypocrisy of someone like Eisav, in order to prevent catastrophe.

"If Your Torah had not been my delight, I would have then been lost in my despair" (Tehillim 119:92). We should not lose our self-control and the realization of our high status in our world (see Bereishit Rabba 63:7). We possess the true foundations of justice, whereas Eisav is haughty about his strong kingdom, which is one of domination and hypocrisy that covers up for its murders and abominations. Eisav's nation may try to show itself as pretty and pleasant, and claim that our set of ethics are his. He may ask his father: "How do we take tithes on salt?" (see Rashi, Bereishit 25:27). At the end (not yet – Zohar, Ki Tisa), the truth will emerge, and the kingdom of the world of truth will be founded. It is a kingdom of the "hand that holds Eisav's heel" and smashes all dishonesty.

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Eretz Hemdah
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
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Ask the Rabbi

by Rav Daniel Mann

Reliability Regarding *Kashrut*

Question: Does “one witness is believed in matters of *issurin* (what is religiously forbidden/permitted, including, *kashrut*)” apply even if the witness has a personal interest, such as a store or restaurant? Does it apply to a woman? Must the person be a *yareh shamayim*? How is a *mashgiach* better than the owner if the business pays him?

Answer: [This is a general, not detailed, answer.] When full testimony is required, i.e., for monetary matters, punishments of *beit din*, and matters of “family status,” two witnesses are required (see Gittin 2b), and they must not have a direct interest in the matter (Rambam Eidut 9:1). Formal testimony is not needed for matters of *issurin*, which is the reason that one witness suffices (Chulin 10b).

When one person is enough, a *nogeiah b'eidut*, one who is affected by the “testimony” can be used. One example is that a butcher is believed to say that all the steps needed to make meat kosher were done (Rambam, Maachalot Assurot 8:7). We do not suspect him of lying to make money by selling non-kosher food to kosher consumers. The person does need to be under the presumption of reliability on religious matters, which requires him to, first and foremost, be personally observant (*ibid.*). As a rule, one who eats kosher will not feed non-kosher food to others. Some mainly religious people have serious flaws in their observance of certain areas of Halacha. Then, one might be believed regarding certain areas of Halacha and not others. The rule is that one who violates “light” *aveirot* does not automatically lose credibility regarding “heavy” ones; some of the complicated details are found in Shulchan Aruch, Yoreh Deah 119.

Fundamentally, there is no distinction between the reliability of men and women regarding *issurin* (see practical distinctions in Rama, Yoreh Deah 127:3). In fact, one source that people can rely on others regarding *issurin* is from the Torah's description of a woman's counting the days to end her *nidda* status, regarding which her husband is to trust her (Tosafot, Gittin 2b). Rashi (*ad loc.*) says that the source is the correct assumption that one can trust the kosher status of food prepared by others, and this applies to both men and to women.

Where did the idea of requiring *hashgachot* come from? The Rosh (Chulin 1:24) says that in his time the broad *minhag* was not to trust butchers for all of the checking needed but to appoint experts. Mahari Halevi (17) points out that it is not out of fear of purposeful deceit but that some elements may be too complicated for certain butchers who might not admit it.

In some communities, a proprietor who is known to be trustworthy is not required to obtain a formal *hashgacha*. However, most communities require some level of rabbinic supervision (the supervision is often looser when the proprietor is known to be trustworthy). Having a *mashgiach* is “healthy” for the following reasons. 1. Since, as above, even honest people make mistakes, it is worthwhile for someone with training to supervise. He should catch as many mistakes as possible and know how to deal with them after the fact. The *mashgiach* also has easier access to *kashrut* experts when needed. 2. One who is new in or passing through town and does not know who is and is not trustworthy can be guided by the certification of known rabbis or organizations. 3. Every once in a while, someone who was assumed to be trustworthy turns out to not be; while Halacha does not demand us to suspect this, extra prudence on matters affecting the public can be positive.

Regarding *mashgichim* being paid by the people they are supervising, #1 and #2 above are not issues. Regarding #3, the guarantees are indeed lower if the proprietor can pressure the *mashgiach* financially to not be sufficiently vigilant. However, halachically, the *hashgacha* is still valid. As we have seen, we do not expect trustworthy people to lie about *kashrut* even if they have a financial interest. However, many organized *kashrut* organizations pay the *mashgiach* themselves to reduce the chance of abuse of the system.



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Ein Ayah

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

Lashon Hara and the Davidic Dynasty

(condensed from Ein Ayah, Shabbat 5:66)

Gemara: Rav said: David accepted *lashon hara*. [The *gemara* then surveys the *p'sukim* about David originally seeking out Yonatan's son Mefiboshet with the help of Shaul's servant Tziva and drawing him close. Later, David believed Tziva when he claimed that during Avshalom's revolt, Mefiboshet was awaiting David's overthrow. As a result, David gave half of Mefiboshet's property to Tziva.]

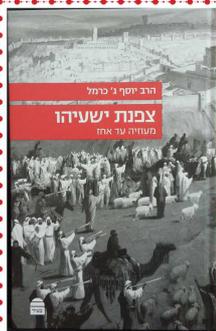
Ein Ayah: In addition to the obvious destructive elements of *lashon hara*, when it causes separation between brethren or when an innocent person is subjugated by it, it impacts the spirit and causes hatred within society. People get used to seeing a situation and viewing it according to the most negative possibilities. They thus see the world as a much more negative place than it is.

When the king develops such an outlook, it can take away from his ability to act with kindness and with appropriate justice, which are among the important tasks of a king. After all, he is supposed to imitate Hashem, Who is dedicated to love and kindness.

It is not surprising that at the time of great pressure, when David was fleeing from his own son, his outlook of love and trust turned somewhat toward suspicion and enmity. This was part of the punishment coming to David. In the beginning of David's interactions with Mefiboshet, when Tziva tried to dampen David's goodwill, it is not by chance that Tziva said that Mefiboshet was in Lo Davar (can be translated – there was a matter of interest to him). This was to hint that Mefiboshet was there for the purpose of involvement in politics. Since there was at least logic to consider the dangers, David decided to take him away from Lo Davar. When it was afterward decided to allow Mefiboshet to eat at David's table like one of his sons, it shows that he must have proven himself fully beyond suspicion. Therefore, the *gemara* is surprised by the fact that, years later, David accepted Tziva's false report of Mefiboshet's lack of faithfulness.

We must look at the development of the positive characteristics of David's kingdom, which turned him into the great singer of pleasant songs and the lofty sacred spirit. It was actually necessary for the completeness of the kingdom that all the powers of the human spirit be present in the great "storehouse" that was the spirit of the king. Even negative powers must be included. Accepting *lashon hara* is the root of all bad powers. This is the readiness to be negatively impacted by a negative comment by an evil person and the tendency to look at the world with an eye that notices that which is bad in the world. This attribute is destructive until it is refined, when it can be purified and sweetened so that it can be used properly by those in command.

The Davidic dynasty is broad and inclusive to the extent that, as creation must contain every tendency for negativity as well as for positive, so must these be present in David. Only after everything settles into place, will the goodness be stably in control. Then, the discerning eye will notice that bitter outlooks are turned into good ones, and they will see that which is good in the world and the light of love and kindness in the loftiest manner. It is like the moon, which has its limitations expanded and fills in its crevices (see Tehillim 89:38). It is appropriate that at the time that we mention the attributes of the moon (in Kiddush Levana) we also say, "David, King of Israel, lives and is intact."



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

Disputed Commitment to Sell

(based on ruling 75058 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) rented a run-down apartment inherited by several brothers (=def; brother N lived closest and was most involved with pl). In return for doing extensive repairs/renovation, pl received 7,000 shekels, an exemption from rent for 6 months and an arguably lower than standard rent during a five-year contract. During the rental, pl continued to make renovations (which he claims cost him 250,000 shekels; all agree he continued after doing the renovations for which he received the aforementioned financial considerations). Pl claims that N and other brothers assured him he would be able to stay in the apartment for low rent and/or buy the apartment at a discount price. After the contract expired, def want to sell the apartment for 1,000,000 shekels, and if pl does not want to pay that price, he should vacate it so that they can sell it.

Ruling: While pl claims he was promised that he could buy the apartment, and this is largely confirmed by def, it is not binding. A promise to sell is binding only if a *kinyan* is made to finalize the statement (Rambam, Mechira 1:1). Even according to the Israeli law that sales agreements can be forged orally, real estate is an exception to that rule. Furthermore, there is no indication that a certain price, a certain discount, or an exact mechanism for determining it was agreed upon for the sale. There is no halacha that if one improved another's object, he gets to buy it at the price it was worth before his improvements.

On the other hand, pl is ostensibly deserving of full compensation for the improvements, even beyond covering his outlays. First, an apartment is a thing for which owners are happy to have improvements, if done properly (Shulchan Aruch, Choshen Mishpat 375:5). Secondly, in this case, def were all aware of the renovations, and no one protested. Some were even involved in helping, which turns the situation into one of "going into the field with permission." Def presented a handwritten letter apparently signed by pl that def can sell the apartment without compensating pl for his work. Pl says it is forged and wants it sent to an expert in confirming signatures. Some of def said that pl did sign it but he did so without reading it, while in the middle of working. We do not think it needs to be sent to an expert because it is anyway not binding, as follows. It is true that one who signed a document cannot generally excuse himself with the claim that he did not read its content (Shulchan Aruch, CM 61:13). That is for a combination of two reasons: 1. We do not believe that he did not read it. 2. If he signed it without reading it, then he submitted himself to the consequences of being bound by what is written there. In this case, some of the brothers admit that they saw that he did not read the document, due to various circumstances. *Poskim* also posit that while one might open-endedly obligate himself to normal logical elements of the document, it makes no sense that pl would obligate himself to relinquish rights to any form of compensation for expensive renovations. Therefore, *beit din* will bring an assessor to determine how much one would pay someone to do renovations such as pl did in the apartment.

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Lillian bat Fortune

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Yehoshafat Yecheskel ben Milka

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