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HEMDAT YAMIM

Parashat HaShavua

Vayikra, 30 Adar 5778

The Ability to Give Up – part I

Harav Yosef Carmel

The new *sefer* begins: "He called to Moshe, and Hashem spoke to him from the Tent of Meeting, saying" (Vayikra 1:1). This opening to Vayikra, which *Chazal* called, The Torah of the *Kohanim*, highlights once again the greatness of the spirit of Aharon HaKohen, Moshe's older brother. One would think that since the main topic of the *sefer* is the commandments relating to the *Mishkan* and the service performed in it, about which Aharon was in charge, that the matter would be addressed to Aharon. However, it was actually told to Moshe! Yet, we find no hint in the Torah that Aharon had any jealousy toward his younger brother due to the latter's greater prominence. To the contrary, when Aharon found out that he would be accompanying Moshe in a junior role, Hashem reports: "He will go out to greet you, will see you, and will be happy in his heart" (Shemot 4:14).

Unfortunately, we have seen examples of quite the opposite. We will now analyze one of the lesser known examples. David's son Amnon's rape of his half-sister Tamar was one of the worst events that happened in David's household. Amnon was the firstborn of David's first wife and thus was the heir apparent. The one who helped Amnon plan the crime and pushed him to commit it was Amnon's cousin, Yonadav, the son of David's brother, Shama.

The *navi* refers to Yonadav as a "very smart man" (Shmuel II, 13:3). *Chazal* inform us, though, that the following *pasuk* applies to him: "Do not befriend a wicked person." While he was very smart, he was smart for wickedness. Given that, he would have been better off to be a simple person (Avot D'Rabbi Natan 2:16). Rashi, the Radak, and the Ralbag expand on this idea of Yonadav using his wisdom to create the most destructive ideas.

What caused Yonadav to act in this way? Here is a suggestion – it was connected to the resentment of his father. Shama was the youngest of Yishai's "three older sons." When Yishai presented his sons, one by one, as candidates to be king, three were mentioned by name (Shmuel I, 16:3-10). In the listing of Yishai's sons in Divrei Hayamim (I, 2:13), Shama is once again the last one mentioned by name.

Shama and his two older brothers, Eliav, and Avinadav, were those who represented the family in fighting the Plishtim at the time of Goliath. When David came to visit them and expressed his being disturbed by the soldiers' unwillingness to accept the challenge of Goliath, who was cursing the G-d of Israel, Eliav reacted with offense and spurned David (Shmuel I, 17:12-29). It is very likely that Eliav's displeasure with David's strong stance was a reaction to the disgrace that occurred in their father's house, when Shmuel passed over them and anointed David as the future king. How could it be, they felt, that those who fight in the army of Shaul and for the honor of Hashem will be overshadowed by their little brother, whose job was to tend to the sheep? This was the difference between Aharon and them. They were not willing to see their little brother surpass them in prominence.

We will continue to develop this point next week.

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Ask the Rabbi

by Rav Daniel Mann

Use of a *Heter Iska* when Lending Money to One's Company

Question: I am a general partner (having special authority and responsibility) in an LLC (Limited Liability Company) with only Jewish partners. In order to facilitate a real estate purchase, some of us lent money to the company (we have the authority to do so at market rate interest or invest for equity) without a *heter iska*. Does one need a *heter iska* to lend money to an LLC, and if yes, can we do one now?

Answer: Rav Moshe Feinstein (Igrot Moshe, Yoreh Deah II, 63) posits that the prohibition on *ribbit* applies only when there is a full-fledged borrower, one who has a personal obligation to pay, beyond having a lien on his assets. In an LLC (as well as a corporation), no individual has a personal obligation to pay; only an amorphous financial entity has to pay, with its assets seized if necessary. While a Jewish-owned LLC may not take interest from Jews, he rules that Jews can take interest from the company.

Not all *poskim* accept Rav Moshe's logical but novel leniency, but many agree on the level of Torah law, and it is seen as a legitimate opinion one can choose to rely upon it (see Torat Ribbit 17:52-54; Laws of Ribbis, p. 105). It is generally recommended (see *ibid.*) to use a *heter iska* when lending money to a Jewish-owned corporation (Israeli banks have *heter iskas*). This makes the return on the money given linked to an investment (in which the money is not guaranteed but, fundamentally, based on the recipient's success).

Yet, you face challenges in implementing a *heter iska*. First, the fact that you did not have one at the time of the loan was a problem; your money is now a loan, not an investment, so the return you seek is *ribbit*. You can redo the process and turn the money into an *iska* investment. The best thing is for the money to be returned and then given again with a *heter iska* (Laws of Ribbis, p. 404). The partner-lenders and the company can also do a *kinyan sudar* to transfer assets to the lenders in lieu of payment and then give them back to the company as an *iska* (*ibid.*; Torat Ribbit 16:28-29; Brit Yehuda 40:23).

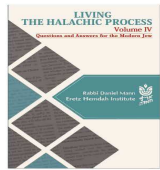
The second problem is that it does not fix things retroactively. Therefore, you cannot take interest due before this process, which might be a lot of money. Some *poskim* allow raising the rate of return in the *heter iska*, which is somewhat flexible (Netivot Shalom, Kuntrus Heter Iska 25), but only when it is not clear that it is to make up for relinquishing past *ribbit*. In your case, you are supposed to receive only an accepted interest rate, so it does not seem feasible, on practical and halachic grounds, to raise the rate.

Finally, the full provisions of the *heter iska* likely do not work for you. In an *iska*, one cannot promise the investor a given return, which must be a product of profits. The reason the projected return is usually given is that to pay less, the *iska* recipient must corroborate lack of gains by oath and losses with witnesses. Otherwise, we assume profits. Many *poskim* (see Torat Ribbit 27:11) rule that this cannot be done when the investor is a partner in the business because when the investor knows there were not enough profits, he cannot demand proof of what he knows. Therefore, receiving the expected returns when they are not justified is *ribbit*. Some are lenient on the matter (*ibid.* (24)), but the stringency is logical. You could make the *heter iska* and use it for cases where there are profits. Realize that you would have to accept the risk of losses that you would know about. How would the *heter iska* help at all? The value would be in cases when there are apparent profits but it is hard to quantify them, so the *heter iska* sets clear return assumptions.

In summary, it is legitimate to rely on Rav Feinstein and not worry about anything. If you want to do a *heter iska*, it can be done, but if you want to use it even for cases where there were not gains, it is questionable whether it helps and will probably not allow profits on the past. You may want to just end the loan and, from this point and in the future, take the equity approach.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.



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Failure to Attract Positive Attention

(condensed from Ein Ayah, Shabbat 6:37)

Gemara: [The *gemara* continues to expound upon the *p'sukim* (Yeshaya 3:16-17) that complain about the Jewish girls who acted in a provocative manner and mention the punishment they thereby bring upon themselves.] "Hashem will be *mesape'ach* the heads of the Daughters of Zion." Rabbi Yossi bar Chanina said: This teaches that leprosy broke out on them, as the root *sepach* overlaps with that of one of the types of leprosy (see Vayikra 14:14).

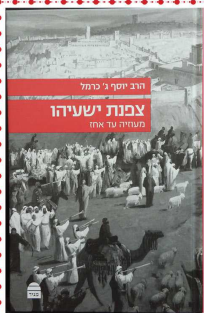
Ein Ayah: When a woman focuses on the horrible moral phenomenon of putting her focus on attracting others with illusions of what she is not, she becomes hollow and an empty vessel. Specifically because she is guilty of this internal deterioration, she becomes guilty of intentional haughtiness and desire for self-aggrandizement.

When a person tries to attribute to himself distinctions that are untrue, he will internally realize the effort's futility because he is subconsciously aware that he is actually lowly. He may have an exaggerated need to show love to himself, but his internal recognition of his shallowness will disturb his heart even though it will not be expressed clearly.

In any case, the outcome of this complex phenomenon will start to have a negative impact immediately. The person wants to complete that which is lacking specifically by means of making his external side fancy, so that others will show him respect. Somehow, he does not consider that this will not complete that which is innately and internally lacking. Such a foolish thought will never succeed; rather, it will destroy the foundations of general society and the individual's well-being.

This is what happened to the Daughters of Zion, whom tragedy hit as a result of their internal moral fall. The seal of their general deterioration found expression in a horrible way to the extent that they totally lost their self-value. Rather, their entire interest was to find favor in the eyes of others, even if it was to a foreign nation, as long as it made them feel that it filled the emptiness of their degraded spirits.

The infliction affected their heads, the part of the body that housed all of their strange thoughts, and they actually received the exact opposite of what they sought. Their heads were afflicted with leprosy, which is a growth that is secondary to the body and does not have its own essence. Rather, what it does is to make that part of the body despised by others that look at him. Such an affliction tortures the soul and makes the groundless haughtiness disappear. Then a person is forced to look inwardly to find any positive meaning. That is actually the opening of hope for recovery from the pointless lightheadedness that existed previously. Then the person can realize that his hope is not in shallow attraction that others have toward him or her but from the depths of the spirit. The benefit that comes from the depths of the spirit when the divine light shines upon him will be the beginning and the purpose of the recovery.



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

Payment for a Teacher's Increased and Decreased Work

(based on ruling 70054 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) teaches and does some administrative work at the X Yeshiva (=def), which was undergoing hard times. The new *rosh yeshiva* (=RY) asked pl to increase his administrative and recruiting work over the summer. There is no written record of a promise of increased pay, but RY confirms it and def denies they agreed. Def paid 7,000 + shekels as "a compromise"; pl demands 4000 shekels * 4 months, as promised. The next year, def cut back 3 hours from pl's regular administrative duties. Pl claims that this was without due process and demands a return of that pay. Def says that there is no tenure on hours beyond a full-time job, which pl still enjoys. Def counterclaims that in reviewing pl's records, they discovered that he was significantly overpaid compared to the Education Department's pay scale. Def wants to subtract this amount from any award *beit din* may rule in pl's favor. Pl claims late fees for the withheld parts of the salary due to him, as prescribed by the Law to Protect Wages.

Ruling: First, we point out that as a rule, a *yeshiva* administration is bound by the monetary commitments its *rosh yeshiva* makes to workers. If the *rosh yeshiva's* decision is overruled, it ceases its efficacy as of that time, regarding matters that are not too late to stop. Workers cannot be held hostages by disagreements between a *rosh yeshiva* and the *yeshiva* board.

Def's claim that they knew that pl was expanding his involvement but did not approve an increase in pay, is strange. There is no reason to expect a worker to significantly increase his workload for free, unless he explicitly volunteers. If it was unclear to def how much RY had promised pl, they should have asked.

Def was obligated to pay approximately 9,000 shekels more than they had paid, and they refused to do so for years. Since the Torah is very firm against withholding a worker's wages, we choose to penalize def for this, as the law prescribes, a sum of 2,500 shekels.

Regarding the reduction of 3 hours of administrative pay, it is true that def can reduce the workload if the employee remains a full-time worker. However, regarding the first year that the reduction was in force, def informed pl too late (education workers must be told of any changes by the May preceding the incoming school year). The step is more egregious in regard to administrative work of the type pl had, as pl's position apparently required doing the same basic job for less pay. Nevertheless regarding the second year in dispute, since pl knew in advance what work he would be doing and his salary after the reduction and he continued to do it, he cannot demand more money than what he was told he would get.

Regarding return of extra money, it is halachically difficult to say that one paid too much by mistake (see Shulchan Aruch and Rama, Choshen Mishpat 126:13). This is especially the case when def, like other schools, is in the practice of paying workers whose employment is important to them, more than the Education Department sets down. The payment also went on for a long time. Thus, we assume that the amount pl received was decided by def to compensate pl appropriately, not a mistake.

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