

## *This week.....*

- **This Land is My Land? - A Glimpse from the Parasha**
- **How Much Does One Need to Eat From the *Lechem Mishneh*? - Ask the Rabbi**
- **David Hamelech's Dedication - from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l**
- **The Obligation of One Who Has Work Done by a Worker From a Temporary Employment Agency – part III - from the world of Jewish Jurisprudence**

## **This Land is My Land?**

Before his death, Moshe was told to set up the apparatus to divide up the Land, as Bnei Yisrael prepared to enter and capture *Eretz Yisrael*. He appointed the overall leaders for the project, Yehoshua and Elazar, the nation's incoming political and spiritual leaders, respectively, along with ten leaders of tribes who were to receive their portions west of the Jordan. The root for receiving land is *nachol* (roughly, "take possession"). Regarding Yehoshua and Elazar, the Torah says "*yinchala lachem et ha'aretz*" (they will take possession of the Land for you) (Bamidbar 34:17), using the verb form of *kal*, which is usually used for one who receives land for himself (see Siftei Chachamim and Da'at Mikra). Regarding the heads of the tribes, it uses the same form of *linchol et ha'aretz* (in the infinitive instead of future) (ibid.:18). In the summation after the list, it says "*lenachel et Bnei Yisrael*" (to have Bnei Yisrael take possession) (ibid.:29). Here the Torah uses the form of *pi'el*, indicating that they gave possession directly to the people. What does the change teach about the process?

There are two possible extreme ways to perceive the leaders' role in dividing up the Land. One is judicial. Every person has an equal right to land in the Land. Respected people from throughout the nation supervise to ensure that they are not cheated. Another possibility is that individuals do not have absolute rights. Rather, the nation has resources, which it can distribute in any logical manner that is decided legislatively. The powers may consider not only what is fair from the recipients' perspective but what makes sense for the nation's welfare.

The Torah strikes a conceptual balance between the extremes. Yehoshua and Elazar received the Land as if it was their own, not for personal advancement but for the nation's best interests. Moshe had already agreed to change plans and give two and a half tribes land earlier in the periphery because their request was logical. The new leaders, while led by a Divine lottery, could consider the needs of the nation and the Land. The secondary "land-dividers" were not to be impartial judges, but leaders who represented their tribes' interests. Finally, the Torah continued, that they had a function of giving possession of the Land to the people. Indeed everyone had rights to receive a fair portion, and the leaders ensured it.

This dichotomy surfaces at the end of the *parasha* and *sefer*. Tzlufchad's daughters upheld their father's individual right to a portion. Their tribe argued that they collectively should not lose. A solution that met the needs of each was found.

In closing, as a member of the Nation of the Land of Israel, one has rights to a portion of it. However, he should know that not only can he ask what his country (geographically and socially) can do for him, he should ask himself how he can use his portion to further his country.

**Eretz Hemdah** is the premier institution for training young rabbis to take the Israeli Rabbinat's rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.

**Question:** Does one have to eat a *k'zayit* (size of an olive; assumed to be 1 fl. oz.) from the *lechem mishneh* (two loaves of bread for Shabbat)? What happens if the *lechem mishneh* is too small for everyone to get a sizable piece or if someone prefers another *challa*?

**Answer:** The Rama (Orach Chayim 167:1), in describing how much of a loaf one should properly cut off after reciting *Hamotzi*, says: "That which one should not pull off more than a *k'beitza* (the size of an egg) is only during the week when one is eating by himself. However, on Shabbat or when one is eating with many people and needs to give from the removed piece a *k'zayit* to everyone, one can pull off as much as he wants." Ostensibly then we assume that everyone should receive a *k'zayit* of the main bread upon which the *beracha* was made. However, let us put the matter in perspective based on the sources and issues.

The *poskim* (see Beit Yosef, OC 167) say that one should not normally cut off a large piece of bread from his loaf because it looks gluttonous (see Berachot 39b). However, the *gemara* (ibid.) says that if one does so specifically on Shabbat, it is fine, as he is seen as one who approaches the *mitzva* to eat on Shabbat enthusiastically. The Rambam (Berachot 7:3) also says that one should not cut off too small a piece because that looks stingy. The Beit Yosef corroborates with a *gemara* that shows the importance of a host giving nice sized pieces to his guests. Thus, one can easily understand the Rama as just dealing with matters of manners with no implication about whether the guests are halachic supposed to eat a *k'zayit* from the main loaf (see Mishna Berura 167:15).

The Magen Avraham (167:7; cited ibid.), though, understands that there may be a *beracha*-related reason to have a *k'zayit*. He points out that the *minhag* is not to be careful on the matter but says it is preferable to have a *k'zayit* (see also Dagul Me'revava, ad loc.). That being said, these sources do not say that even preferably the whole *k'zayit* must come from the loaf upon which the *beracha* was made. In fact, if the guests have bread in front of them, they can use the host's *beracha* and immediately eat from their own bread (Shulchan Aruch ibid.:15).

The question is on Shabbat, when everyone must be connected to the *lechem mishneh* and wait to receive a piece (ibid.). We find that on Shabbat it is best to initially cut off a big enough piece to suffice for the whole meal (ibid. 274:2). However, there does not seem to be a requirement for individuals to eat specifically a *k'zayit* from the *lechem mishneh*. (A person should eat a *k'zayit* of bread for it to be a meal and recite *Birkat Hamazon* and a *k'beitza* to justify the *beracha* on *netilat yadayim*.) However, being connected to the *lechem mishneh* and the *beracha* made on it can be accomplished with eating any quantity (Igrot Moshe, OC V, 16; Teshuvot V'hanhagot II, 171).

Nevertheless, some sources indicate that a piece less than a half of a *k'zayit* is not significant (see Eliya Rabba 174:2) and that one should show respect to the *mitzva*-related bread (see Levush, OC 174:14). Therefore, people would do well to eat a half of a *k'zayit* (without exaggerating the size of *k'zayit* as many of us do on Pesach) from the *lechem mishneh*. However, one who dislikes the *challa* the host used for *lechem mishneh* or has health concerns with it can follow the basic halacha that he can go on to other bread after a small taste from the *lechem mishneh*. Similarly, hosts who make *Hamotzi* on a loaf that may not provide a *k'zayit* or even a half for all (e.g., with large groups or for those who use rolls or *matza* for *lechem mishneh* at *seuda shlishit*) need not feel guilty. One who is careful to provide a *k'zayit* to each guest from the *lechem mishneh* is praiseworthy (see Shemirat Shabbat K'hilchata 55:24 and footnote 15).

**"Living the Halachic Process"** - We proudly announce the publication of our first book in English. "Living the Halachic Process" a selection of answers to questions from our Ask the Rabbi project. A companion CD containing source sheets for the questions is also available. In honor of the book's debut we offer it at the special rate of \$20 (instead of \$25). Contact us at [info@eretzhemdah.org](mailto:info@eretzhemdah.org)

Have a question?..... e-mail us at [info@eretzhemdah.org](mailto:info@eretzhemdah.org)

# Ein Ayah

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

## 1. David Hamelech's Dedication - (based on Berachot 1:15)

**Gemara:** "[A song of] David: guard my soul for I am pious" (Tehillim 86:2)... This is what David was saying before Hashem: 'Master of the Universe, am I not pious, for all kings of east and west sleep until three hours into the morning and I at midnight I shall awake to praise you?'

**Ein Ayah:** One can ask: have we not established that one who works for pay for his friend and, all the more so, if he works for the public, is not allowed to afflict himself, lest he get sick and the work of the public will not get done. This concept is illustrated in the Sifra that says that a worker should not stay up late at night and is found in the *poskim* [see Shulchan Aruch, Choshen Mishpat 337:19]. If so, and since no one fits into the category of one who works for the public more than a king, how could David afflict himself with sleep deprivation to such an extent?

What we must say is that David's love of Hashem was so strong in his heart that because of this love, his service of Hashem was considered to him as rest, and he did not feel any affliction. This is why David stressed that "I am pious" (*chassid*). He meant by that that he served Hashem through love. Kings of other countries slept longer hours so that they could have a clear heart and find comfort so that they could work effectively on behalf of their nation. However, David said that he would wake up at midnight and would nevertheless not feel tiredness as a result when serving the public, and all of this was due to the true love that he had.

## 2. One Who Violates the Words of the Sages - (based on Berachot 1:18)

**Gemara:** Whoever transgresses the words of the Sages is deserving of death. [Note- this is the standard terminology for one who, on a certain level, deserves death, but not only is he not condemnable in a human court but he may not receive Divinely ordained death because of mitigating circumstances or other factors that counterbalance the culpability.]

**Ein Ayah:** The main severity of one who transgresses the words of the Sages is that the Sages used their words to make a protection for the Torah so that the words of Torah will stand. Therefore, one who transgresses the words of the Sages is not violating a specific prohibition by that which he violates a specific directive. Rather by means of not having fear for the Sages' words, he will have no protection, and he will transgress several basic Torah laws. See the words of the Beit Yosef (Orach Chayim 418) who says that when reinforcement [with an exceptionally strict rule] of the words of the Sages applies, it is always considered a matter of taking a critical stand [where the Rabbis have greater authority than usual]. See there the logical explanation of the halachic elements.

In any case, transgressing the words of the Sages is a general sin. [*The word Rav Kook uses here and often is klali, which can mean "general" or "all encompassing," two words that are somewhat synonymous. We used both variations in this translation based on context, but the reader can try to consider for himself which is more appropriate in each specific case.*] Now, there are specific punishments for specific transgressions, but the punishment of being deserving of death is an all encompassing punishment. For all the punishments have to do with life, as they reduce one's pleasure in life or cause pain in life. However, death is a punishment that includes everything. Therefore, because he transgresses the words of the Sages, and in that way he perpetrates an all encompassing sin by causing a breach in the Torah in a general type of way, his punishment is an all encompassing one.

### Responsa B'mareh Habazak, Volumes I, II, III, IV, V and VI:

Answers to questions from Diaspora rabbis. The questions give expression to the unique situation that Jewish communities around the world are presently undergoing. The answers deal with a developing modern world in the way of "deracheha, darchei noam". The books deal with the four sections of the Shulchan Aruch, while aiming to also take into consideration the "fifth section" which makes the Torah a "Torah of life." (Shipping according to the destination) **Special Price:** 6 volumes of Responsa Bemareh Habazak - \$60 (instead of \$86)

# P'ninat Mishpat

## The Obligation of One Who Has Work Done by a Worker From a Temporary Employment Agency – part III (Harav Akiva Kahana)

(based on Halacha Psuka, vol. 44)

[We have been discussing the law that states that one who engages employees through an employment agency is responsible for their workers' rights. We last discussed the Rashba, who said that the obligation of one who told a worker to work for his friend is of a cosigner, which might imply that the friend is the direct employer.]

Even if we do not accept that the Rashba holds that the *mazmin* (the one for whom the work is done) has an obligation as an employer, there are other ways to obligate him to pay the worker. The *gemara* (Bava Metzia 101a) says that if one goes into his friend's field and works it without permission, the worker can demand compensation from the field's owner. This is based on the concept of *mah she'hehenehu* (paying for the benefit he received). This applies in general to work one did on his friend's behalf, even without a formal employer-employee relationship.

Where a middleman is involved, if the *mazmin* has not yet paid him, he has to pay the worker based on the law of *shibuda d'Rabbi Natan*, which is as follows. The *gemara* (Pesachim 31a) says: "Rabbi Natan says: How do you know that if one person [Reuven] is owed money by his friend [Shimon], who is owed money by his friend [Levi] that you take the money from this one [Levi] and give it to this one [Reuven]? For the *pasuk* teaches: 'And you shall give to the one who he is obligated to him.'" Since the *mazmin* owes the middleman (agency) and the middleman owes the worker, a direct obligation is established between the *mazmin* and the worker.

Thus, there are three possible ways to make the *mazmin* obligated for the worker's salary: 1) through the obligation of an employer to an employee (Mateh Halevi's view of the Rashba); 2) because of the benefit he received from the worker; 3) *shibuda D'Rabbi Natan*.

One of the practical ramifications of the different approaches is the question of workers' rights. According to the Mateh Levi's approach that there is an employment relationship that obligates payment of salary, it stands to reason that he is obligated in all workers' rights. If the obligation is based on benefit received, we have to deliberate about a case where the benefit of the work could have been done by someone who does not demand workers' rights. This could happen if one used an employment agency that ignores its obligations to ensure its workers' rights. (We assume that the law that one is not able to relinquish certain rights is halachically binding-see Aharon Feldman's article, "The Halachic Validity of the Law of Minimum Wages" on the Halacha Psuka site). If the payment is based on *shibuda D'Rabbi Natan*, then the obligation is limited to the amount of the *mazmin's* obligation to the middleman.

**Mishpetei Shaul** – Unpublished rulings by our mentor, Maran Hagaon HaRav Shaul Yisraeli zt"l in his capacity as dayan at the Israeli Supreme Rabbinical Court. The book includes halachic discourse with some of our generation's greatest poskim. The special price in honor of the new publication is \$20.

### ***Do you want to sign your contract according to Halacha?***

The Rabbinical Court, "[Mishpat Vehalacha BeYisrael](#)" serves the public in the matter of dispute resolution according to the Halacha in a manner that is accepted by the law of the land.

While drawing up a contract, one can include a provision which assigns the court jurisdiction to serve as an agreed upon arbitrator.

Tel: (02) 538-2710 [beitdin@eretzhemdah.org](mailto:beitdin@eretzhemdah.org) Fax: (02) 537-9626

**Founder and President: Harav Shaul Israeli zt"l Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich**  
**ERETZ HEMDAH 5 Ha-Mem Gimmel St. P.O.B 36236 Jerusalem 91360**  
**Tel: 972-2-537-1485 Fax: 972-2-537-9626**

**Email:** [info@eretzhemdah.org](mailto:info@eretzhemdah.org) **Web:** <http://www.eretzhemdah.org>