

HEMDAT YAMIM

PARASHAT Ki Teitzei

13 ELUL 5768

Hemdat Yamim of this week
is dedicated in memory of
**Yitzchak Eliezer ben Avraham
Mordechai Jacobson**
as well as
**R' Meir ben Yechezkel Shraga
Brachfeld**

o.b.m

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This week.....

- **Honor of the Honorable - A Glimpse from the Parasha**
- **Spending Money on Mitzvot "bein adam l'chavero" - Ask the Rabbi**
- **The Purpose of an Effective Tefilla - from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l**
- **A Father's Rights in His Children's Monetary Assets – part I (Harav Akiva Kahana)- from the world of Jewish Jurisprudence**

Honor of the Honorable Harav Yosef Carmel

After hanging those executed by *beit din*, the Torah requires that the executed be promptly removed and buried (Devarim 21:22-23). The Torah explains: "... for the curse of Hashem is being hung, and you shall not defile the Land..." These *p'sukim* are a source of the obligation to respect our fellow human as one created in Hashem's image. As Rashi explains: "It is a disgrace for the King, for man is made in His image, and Israel are His children. There is a parable of two identical twin brothers. One became king, and one was arrested for robbery and hung. Whoever sees the hung brother thinks the king is being hung."

The Rashbam understands the matter differently. It is the judges (called here and elsewhere "elohim") who are being protected, as the deceased's relatives may curse them for their judgment. He does not see it as having to do with a connection between man and Hashem. The Ibn Ezra says that "the curse of Hashem" refers to the reason that the person was hung, which is either because he cursed Hashem or committed idolatry. Leaving him there too long for people to talk is also an affront to Hashem.

The Ramban relates the matter to human dignity, even of the rightfully executed. However, he stresses that having the hung taken down applies only in *Eretz Yisrael*. The Holy Land should not be defiled by this unsightly matter, "for it is the place where He commanded the blessing, life forever."

At the end of Shmuel, an event that seems to violate human dignity in the Land appears. Hashem commanded David to hand over to the Givonites seven of Shaul's descendants to avenge the atrocity against them in which Shaul was involved. After their execution, Shaul's family was left hanging for months. The Ramban says that, in fact, the Givonites had acted against the practice of a Jewish court. The Ramban says that Hashem didn't forgive Shaul's family right away and gave the sign of forgiveness only after time. This was done to teach the importance of the honor of the convert (the Givonites), which is a very prominent in our hierarchy of values.

Let us return to Rashi's approach, regarding the connection between honor of mankind and of Hashem. The famous Holocaust writer, Elie Weisel, tells a haunting story. After a beastly Nazi hanging ceremony in Auschwitz, one Jew asked another: "Where is G-d?" His friend responded: "He is here, hanging." This answer contains an awesome lesson. Whoever treats people the way the Nazis did, not only loses his human dignity and removes himself from the family of mankind, but also tries to hurt Hashem and, Heaven forbid, remove Him from the world.

Specifically in these times, let us internalize the Torah's lesson that we can help the Divine Presence dwell among us by safeguarding the honor of the Creator, of judges, of mankind, of the Land, and of the convert.

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Question: I read in your book, *Living the Halachic Process*, that one is not obligated to spend his own money to do *mitzvot bein adam l'chavero* (interpersonal). Does it follow that one doesn't have to spend money on *hachnasat orchim* (hosting) or that one can use his *tzedaka* money on it?

Answer: If his guest is poor enough to deserve *tzedaka* funds, then feeding him at one's home is no less a legitimate use of *tzedaka* than giving him money (Ahavat Chesed 3:1).

Hachnasat orchim also applies when one hosts people of means (Sukka 49b). However, that does not mean that anytime one hosts someone, he fulfills (in the fullest manner) the *mitzva* of *hachnasat orchim*. The Terumat Hadeshen (I, 72, accepted as halacha by the Rama, Orach Chayim 333:1) proposes that the *mitzva* of *hachnasat orchim*, whose fulfillment justifies utilizing halachic leniencies, applies to a guest who is away from home and needs a place to stay. As the Beit Yosef (OC 333) says, inviting friends over is not a *mitzva* at all. Let's put the matter in perspective. Maintaining good relations with friends and neighbors is a crucial part of a healthy Jewish lifestyle. For an extreme example, consider that a wife can demand a divorce of a husband who forbids her to lend things to neighbors because he inhibits her ability to interact properly with them (Ketubot 72a). Yet, just as one who gives birthday presents to his family cannot consider that *tzedaka*, so too investing in friendships is a good thing, but not a *mitzva* per se. (One who hosts local people specifically because they are lonely, etc. seems to resemble hosting those from out of town who need a place to stay. Further detail and analysis is beyond our present scope.)

What about a case where the host fulfills the *mitzva* of *hachnasat orchim* but not of *tzedaka*? How should expenses be covered? The *gemara* (Sukka 49b) says that acts of *chesed* apply to a person's body and resources; the Yerushalmi (Peah 1) gives a spending limit of a fifth of one's resources on such *mitzvot*. However, the examples given (Rashi, Meiri Sukka 49b) of using resources are loans of money and objects, where one is repaid. We stick to the thesis in our book that *mitzvot* of *chesed*, including *hachnasat orchim*, do not fundamentally require one to spend money. If a host requested that the guest share in significant expenses, he would have fulfilled the basic *mitzva* of *hachnasat orchim*, albeit not with all the frills (see Encyclopedia Talmudit, vol. IX, p. 130). On the other hand, a Jew is encouraged to provide special food on behalf of a guest (consider the story of Avraham and see Chulin 100a). The money he outlays (and "gets back" only when he is a guest at someone's house) is part of the normal fulfillment of the *mitzva*, and can be seen as such in regards to questions of *tzedaka* (Tzedaka U'mishpat 6:(15)).

Can one, then, claim the money spent in this way as a use of *ma'aser* money (a preferred *tzedaka* fund)? The classic use of *ma'aser* money is on supporting the poor (Rama, Yoreh Deah 249:1). According to some, one cannot use it on other *mitzvot* (simple reading of the Rama). However, distinctions are suggested. The B'er Hagolah (ad loc.) says one may use *ma'aser* money on *mitzvot* in which he is not otherwise required. The Shach (YD 249:3) cites those who say that if there is a *mitzva* (apparently, a voluntary one) that he can perform only if he uses *tzedaka* funds, he may do so. The Chatam Sofer (Shut YD 231) limits the leniencies to one who, before accepting the practice of giving *ma'aser kesafim*, made a provision that he would use the funds for such *mitzvot*.

So, if one goes beyond the standard call of duty in inviting those in need of a place to stay and eat and feels that such uses were within the realm of intentions he had for his practice of *ma'aser*, he may use such funds for hosting expenses. Otherwise, he should follow the lead of Avraham Avinu and cover the costs for the sake of the *mitzva*.

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Ein Ayah

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

1. Stability of the Community (based on Berachot 1:49)

Gemara: How do we know that Hashem is found in *batei kneset*? It is written: "Hashem is set in the congregation of Hashem" (Tehillim 82:1).

Ein Ayah: The power of the masses is very great; therefore, we were warned not to separate ourselves from the community. The masses's collective power is not subject to change once it is set on a good path, as change is a phenomenon of individuals. The collective does not diverge from an existing situation of allegiance to Hashem, as the *pasuk* says: "The spirit that is upon you... will not move from your mouth and your offspring's mouth from now and forever."

Indeed, the existence of Hashem is uniquely unchanging, as the *pasuk* says: "I am Hashem; I have not changed" (Malachi 3:6) It is in a *beit kneset*, where there is an assembly of the collective, that people also have an element of not changing. However, an individual cannot find himself in such a situation. That is why Hillel (Avot 2:4) gives the following two pieces of advice in succession: "Do not separate yourself from the community, and do not believe in yourself until the day you die." The implication of being set [see the *gemara's* citation from Tehillim 82] relates to the continual existence in one state (Moreh Nevuchim).

2. The Advantages of Learning With Others (based on Berachot 1:50)

Gemara: [The *gemara* discusses the existence of the *shechina* (Divine Presence) when people learn, citing the *pasuk*: "Then the fearers of Hashem spoke one to the other, and Hashem listened and heard and wrote a book of remembrance before Him for the fearers of Hashem and those who think of His Name" (Malachi 3:16). It brings varying indications as to whether this requires two people learning together or whether the *shechina* presides for one who learns. The *gemara* answers:] If there are two, their words are recorded in the book of remembrance. If there is one, his words are not recorded in the book of remembrance.

Ein Ayah: There is a difference between involvement in self-perfection and involvement in perfecting one's counterpart. Involvement in Torah study to perfect oneself is judged by fulfillment of what he learns. If the moral teachings can be discerned in him, this is a sign that his study was done with proper intentions, as one who uses Torah to get to the right (i.e., to improve himself). This is what *Chazal* mean by saying that "*Va'asitem otam* (you should do them) is written as *va'asitem aтем* (you should make yourselves)" (Sanhedrin 99b). In other words, a person should form his personality through the words of Torah he studies.

This is true regarding that which one learns for himself, where the main reward is for taking that which his intellect grasps from the potential to the actual. One who learns for his counterpart's sake is different, as he cannot ensure impact on his friend. Therefore, he receives reward from the time of the action of learning. This is what the *gemara* hints at by saying that one's learning by himself is not recorded in the book of remembrance. If he deserves reward, it is because he will be his own book of remembrance; the Torah will be evident in all he does. However, learning done with others is recorded according to the degree that his Torah was fit to impact on his friend. The reward is not conditional on whether the contributing factors can be seen in his study partner's actions. Therefore, the reward of learning with someone else is ensured, even if his friend did not actualize the purpose of the learning, and it is, therefore, recorded in the book of remembrance.

Along these lines, the *gemara* continues to learn from the *pasuk*, "those who think of His Name." One who planned to do a *mitzva* and was prevented from doing so is credited with the *mitzva*. This is the same idea as one who wanted his Torah to impact positively on his friend, whose reward is not conditional on his success.

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P'ninat Mishpat

A Father's Rights in His Children's Monetary Assets – part I (Harav Akiva Kahana)

(based on Halacha Psuka, vol. 41)

According to Israeli law, parents do not have any ownership rights in the monetary assets that their children receive even when they are under the age of 18 and are under their parents' auspices. We will now look at what halacha has to say about the matter from a fundamental perspective, without factoring in the effect of the concepts of the law of the land and local practice. We will have to keep in mind that there are distinctions in halacha in this regard depending on the child's source of receiving the money.

We will start with lost objects that a child found. The *mishna* (Bava Metzia 12a) says: "That which a minor son or daughter finds goes to the father; that which an adult son or daughter finds is theirs." The *gemara* cites a *machloket* among *Amora'im* on how to draw the line between minors and adults in this regard. According to Shmuel, a minor in this regard is one below bar mitzva and an adult is past bar mitzva. Rav Yochanan says that a minor is one who is dependent on his "father's table" for basic support, whereas an adult is one who is financially independent. The halacha is like Rav Yochanan (Shulchan Aruch, Choshen Mishpat 270:2). Therefore, if the average teenager, who is supported by his father, finds something, the object goes to his father. The reason is to avoid antagonism of the father toward a son who takes his father's support, yet does not contribute that which he finds. In theory, the same is true of a 40 year old who is supported by his father. The Maharitatz (233) says that the same is true of one who does not live in his parents' house but relies on them for basic support. The Smak and the Kolbo say, though, that a married son, even if he is supported by his father, does not have to give the father that which he finds. They posit that, by definition, a married child cannot be considered "reliant" on his father.

Tosafot (Ketubot 47a) says that there is a distinction in this regard between a son and a daughter (of more theoretical than practical consequences in our society). A daughter who is under the age of twelve and a half gives her father that which she finds even if he does not support her. The reason is that since he is capable of marrying her off to someone whom she may not be happy with, the concept of avoiding antagonism applies even when he is not supporting her. [Ed. note- one might add that specifically regarding one who, either out of desperate financial straits or out of animosity, is not supporting such a young child could be suspected of preferring other factors to the his daughter's welfare.]

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