



HEMDAT YAMIM

Parashat Hashavua Beshalach, 13 Shevat 5782

Song of Men, Not Angels

Harav Shaul Yisraeli – from Siach Shaul, p. 224-5

Harav Shaul Israeli zt"l
Founder and President

After Bnei Yisrael were saved and the Egyptians were drowned at *Yam Suf*, the angels wanted to sing before Hashem, but Hashem responded: "The work of My hands are drowning in the sea and you are singing before Me?" (Sanhedrin 39b). On the other hand, Bnei Yisrael were allowed to sing and were praised for doing so at that time.

The famous distinction between the angels and Israel was that since Bnei Yisrael were the beneficiaries of the miracle, they were allowed to sing. But this singing had historically powerful impact, as *Shemot Rabba* (23:1) says that it set the throne of Hashem in the world. Therefore, it is difficult to view this event and reaction as something that caused **any** displeasure to Hashem.

There were two opposing and opposite worlds in creation before man was created – the world of spirituality, including the angels, and the world of animalistic physicality, in our world. When Hashem asked for the angels' opinion about creating man, they objected (see *Tehilim* 8:5; *Sanhedrin* 38b). They were troubled by a creation that is a mix between the two worlds.

It was Hashem's kindness to grant His creation some of His likeness (see *Bereishit* 1:26) and enable man to be not only a creation but also a creator (see *Sanhedrin* 65b). This is possible because of man's ability to unite within him these two worlds. Man can also give an advantage to one world over the other, as he can be involved in a battle between the world of material and the world of spirit, a battle that can have cosmic implications.

The more the power of spirituality in man increases, the more it is opposed by an opposing force, as Chazal said: "The greater a person is, the greater his evil inclination is" (*Sukka* 52a). The more he succeeds, the more he is opposed by powers of impurity. However, at the end of the struggle, sanctity can prevail as the victor, as *Ovadia* describes in the battle between Israel and Edom (*Ovadia* 1:21).

The angels are unable to conquer the world of material because they have no point of connection with it. Man can, as occurred when Bnei Yisrael stood at the sea and showed belief in Hashem and travelled straight into it (*Shemot* 14:22). Although the Egyptians followed them into the sea, they did not have the power of self-sacrifice that Israel had. In that way, there was a decisive victory for the power of spirituality in the world. It was for that reason that it was time to sing. It was not a song that applied to angels, but a song of man, who was able to take part in the battle that brought a crucial victory for the side of spirituality that changed the world.

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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

Returning to a *Gemach* Newer Medicines than One Received

Question: I used a local medicine *gemach*, which prefers receiving replacement medicine but also allows giving back with money. The pills they gave me were slightly past expiration (they said it was okay for immediate use). While not wanting to be difficult, isn't it *ribbit* to give back either (new) pills or their monetary value, considering that expired medicine is worth less than normal?

Answer: We will not discuss the pharmaceutical questions this question raises, which are not within our expertise.

Let us expand the question. Is it permitted to receive and return new medicine? The *mishna* (Bava Metzia 75a) forbids (Rabbinically) lending commodities in a way that obligates the borrower to return the same type and amount he received (*se'ah b'se'ah*). This is out of concern that the article's price will increase and the borrower will have to return more value than he received, and it applies even if the article's price remained unchanged.

We will take a cursory look at relevant leniencies (see more in Living the Halachic Process, II-F-5), which can apply in many cases of *gemachs*. One reason for leniency is *yatza hash'a'ar* (Shulchan Aruch, Yoreh Deah 162:3). It permits the loan of a readily available commodity with a stable price.

Another *heter* applies to cases of warm relationships. The *gemara* (Bava Metzia 75a) rules that one may lend loaves of bread to a friend without stipulations. The Rama (YD 162:1; the *Shulchan Aruch* is somewhat stricter) rules like those who explain that small changes in the value of small quantities are not considered purposeful interest. It is difficult to know what he would say about a case like this. On the one hand, we are talking about kind people who run *gemachs* and their *chesed* "clients," but on the other hand, *gemachs* often have clear **rules**.

Both of these *heterim* are problematic when the borrower returns a clearly larger quantity than he borrowed (*Torat Ribbit* 7:(7); *Brit Yehuda* 17:(6).), and a clearly more valuable version of the same commodity is equivalent. It is hard to know what to say about this case. On the one hand, many people would not be willing to accept expired medicine. On the other hand, it is unclear that it has a lower price, as people who would buy it anyway, might be willing at the regular price. Furthermore, the service one gets along with the product affects its price (*Pitchei Choshen*, Ona'ah 10:(1)). If a business would sell under the conditions of a *gemach* (e.g., late at night, Shabbat), they likely could sell old medicine for at least the regular price.

The fact that you are not required to return with money may be helpful. The Shulchan Aruch (YD 162:1) rules that if one lent a commodity but set a price above which the borrower does not have to pay if the price goes up, then he may give back the commodity. Applying this concept to our case is too complicated to do justice in this context, both in regard to halachic complexity and the likelihood that it is impacted by nuances regarding the rules of the *gemach* (see *Chavot Da'at* (161:1), *Netivot Shalom* (p. 193-4) *Divrei Sofrim*, p. 71).

Regarding most *gemachs*, there is a strong leniency to rely upon. Rabbinic *ribbit* is waived when the lender is a charitable entity (Shulchan Aruch, YD 160:18). *Poskim* generally apply this rule broadly to *gemachs* (*Torat Ribbit* 20:26; *The Laws of Ribbis* 19:5; *Brit Yehuda* 17:(45) distinguishes between different types of *gemachs*). This likely applies to your case, whose potential violations are Rabbinic – *se'ah b'se'ah* and/or voluntary *ribbit*. This explains how many *gemachs* can encourage (not, require) donations from borrowers (*Torat Ribbit* 20:27).

Finally, many *pasken* that a borrower does not violate Rabbinic *ribbit* other than for causing the lender to sin (Rama, YD 160:1). Therefore, if a lender has what to rely upon, the borrower does not have to worry (see *Netivot Shalom*, p. 83). Considering all the above and the likelihood that what the *gemach* did was standard and that many *gemachs* have halachic guidance, you may follow their instructions.

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



Igrot HaRe'aya - Letters of Rav Kook

Course of Study in Contemporary Times - #89 – part III

Date and Place: 21 Menachem Av 5664 (1904), Rechovot

Recipient: R. Dr. Moshe Zeidel. He was a close disciple of Rav Kook, from their time in Boisk. Dr. Zeidel was a philologist and philosopher, who asked Rav Kook many philosophical questions.

Body: [Last time, Rav Kook wrote about the importance of talented students studying well on a basic level the classic works of mussar. Only then can one investigate these matters in depth, which requires a pure heart more than an academic approach. It must be done in a way that is also good for the future. We continue from that point and begin seeing an approach to the Torah's view of slavery.]

When investigating matters of ethics/philosophy, one must take very measured steps. If, for example, one will breach the boundaries of the attribute of mercy even slightly and briefly but more than is healthy for the very distant future, it can sometimes cause greater damage than the greatest revealed impropriety. We can, then, conclude the following. Although we must not undo the feelings of rectitude and its practical applications in the present, in line with the images these feelings conjure up, we should still not take them too far.

We need to look at life on two scales: how it is and how it should be. Absolute rectitude is always connected to the way life should be. However, temporary rectitude is more connected to the practical world in the present. The loftiness of Torah and G-dliness must by necessity be a precious instrument that is designed to align the world with the situation it is supposed to be in. It is critical for you to be aware that these two elements are connected like the changing views of the horizon that one sees on a long walk.

Realize that the laws of slavery, like all Hashem's straight paths, which the righteous follow and the sinners stumble on, did not intrinsically bring about any stumbling block to the world. The institution of slavery is a natural one within humanity (i.e., when left unsupervised, man creates it), and legally supervised slavery does not extend beyond natural slavery. To the contrary, its rules in the Torah come to fix certain problems, which tend to exist in natural slavery.

The existence of different social classes – rich and poor, strong and weak, is indisputable. Those who have acquired a lot of property and use legal means to hire poor workers treat them like slaves to a great extent from a natural perspective. For examples, coal miners are hired willfully, but in practice, they are like slaves to their employers. Certainly, some people who have a lowly social status and are at the whims of evil people who manipulate the legal system, would be better off being slaves who were bought for money. For example, now we need moral statements to worry about the lives of workers from a financial and social perspective. A rich person with an insensitive heart mocks the rules of justice and ethics. In the case of the mine owner, he would prefer digging a tunnel that lacks light and air, even if it shortens the lives of and debilitates tens of thousands of people. He prefers that to spending extra money to provide a proper tunnel. If a mine collapses and buries its workers, it is of little concern to him because he can find new workers.

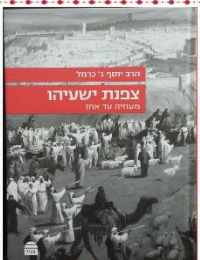
If these jobs were done not by workers but by his legal slaves, he would have incentive to protect their lives, as they are his financial resources, and the poor workers would actually be better off. Therefore, our holy Torah charts out a path to elevate a person's heart and bring him closer to the ways of the Master of the Universe. As long as social factors dictate that the institution of slavery will exist, the Torah will fulfill the role of "I have created an evil inclination, I have created the Torah as a remedy" (Kiddushin 30b).

We daven for a complete and speedy refuah for:

Nir Rephael ben Rachel Bracha
Yisrael ben Rivka

Rivka Reena bat Gruna Natna
Arye Yitzchak ben Geula Miriam
 Together with all *cholei* Yisrael

Neta bat Malka
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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

A Commercial Rental for a Closed Business – part III

(based on ruling 80047 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def), a money changing business, rented a unit from the plaintiff (=pl) on 1.2.17 for 2,900 NIS a month for 5 years, with exit points every six months, with three months notification. In Dec. 2019, def closed the business and stopped paying rent. Pl demands rent until the next exit point (30.6.20) along with *arnona*: 20,300 + 2,025 NIS, and that def leave the unit painted. Def responds that he stopped paying rent because pl did not provide a receipt valid for purposes of VAT, as required by their contract. For the 101,500 NIS of rent he paid, def lost 14,747 NIS of VAT exemptions, which pl should pay or should be subtracted from any rent due. Also, the contract allowed to bring a renter in his place, and another money changer had agreed to pay 5,500 NIS to buy def's furniture, take def's place (for which def had paid the previous tenant 20,000 NIS), and rent the unit, but pl scared him off. Pl responds that the rental was legally recognized, and he reported payments to the tax authority at year's end; he does not need to give a receipt. Pl said that he allowed the potential tenant, but only after def would pay the rent due.

Ruling: We have dealt with all of the original points of the claims and counter-claims, primarily siding with pl. Now we will look at the impact of the pandemic.

During 32 days of the time that the business was closed and def was to pay rent, the government-imposed closure prevented such businesses from operating. In general, when use of a rental property becomes impossible due to a *makat medina* (society-wide plague), the renter is exempt from paying (Rama, Choshen Mishpat 312:17). While this ostensibly indicates that def is exempt for paying for the 32 days, one of the *dayanim* argued that since def's decision to not use the unit preceded the closures, def is not entitled to an exemption. The *gemara* (Bava Metzia 106a) discusses a case of one who rented a field and the area's vegetation was ruined by infestation, which generally is reason to reduce the rent. The *gemara* says that if the renter did not plant that season, he cannot gain an exemption because the field owner can say that we treat it as if there was a chance that had he planted, he would have been the exception to the rule. Furthermore, def was not fully affected by a *makat medina* because he could have used the unit for a different purpose. Also, according to the Maharam Tikin, we do not exempt a renter for a *makat medina* when the structure is standing and there is an external reason that affects the renter and precludes him from using it.

However, the majority ruled to give a 50% reduction on these days because of a *machloket* on the matter. The Rama (Shut 50) posits that if someone improperly reneged on a deal and then a situation arose to prevent its implementation, we say that he became obligated to pay when reneging and does not benefit from the exemption based on the new situation. The Sha'ar Mishpat (333:1) reasons that just because one backed out does not obligate him for a time he would anyway be exempt for. This is especially true of rental, where every day creates a new obligation to pay. The Erech Shay (333:1) argues that the Rama was not referring to a *makat medina* and might agree in this case. Furthermore, here, def had not removed his furnishings and could have used the unit so that the closure was of significance to him. Therefore a partial exemption is appropriate.

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