



Parashat Hashavua

Shemini, 27 Adar II 5784

Harav Shaul Israeli zt"l
Founder and President

Parashat Shemini as a Bridge between Topics

Harav Shaul Yisraeli – from Siach Shaul p. 220-1

Parashat Shemini incorporates many different elements. It starts with the completion of the establishment of the *Mishkan*, with the sacrifices on the eighth day of the inauguration. It moves on to forbidden foods, which sets the stage for the upcoming *parshiyot* of Tazria and Metzora, which deal with spiritual maladies of a person. Acharei Mot goes back to discussing *korbanot* but then pivots to matters of illicit relations. Kedoshim presents many *mitzvot* that apply to all of Israel, whereas Emor goes back to discussing matters that affect only *kohanim*. Behar and Bechukotai contain matters that apply to all.

Chazal call *Sefer Vayikra*, “*Torat Kohanim*” (the Laws of the Priests), but it is not a book that deals only with that tribe, but one that deals with the laws of the Nation of Priests. That is the reason there is an intermingling of topics between those that deal with more direct service of Hashem and those that regulate the religious and proper social life of the individual. Just as there are rules for what can and cannot be brought as a *korban*, so too there are rules of what one can and cannot eat. The idea is that a person’s table is like an altar (see Yechezkel 41:22). The food is, so to speak, elevated before it can be integrated into this body. The animal and vegetable become part of the human. The “dirt from the ground” becomes “a living soul” (see Bereishit 2:7) and the “image of G-d.” Therefore, it is critically important what a person eats, as the food must be incorporated into the image of G-d. It must not have anything that is difficult to “digest spiritually” and cause a pollution of the spirit (see Yoma 39a).

One thus needs to have a spiritual diet. He must also be careful not to eat like a glutton. A person must not be “enslaved to his intestines.” The *halachot* of *kashrut* must preserve him as a human, and prevent him from become animalistic. It is the animal that must be raised closer to the level of man, not vice versa.

One “impure source” said: “It is not important what one puts into his mouth. Rather, what is important is that which comes out of his mouth.” This is a bad statement because the one who coined it did not realize that what one puts into his mouth affects that which comes out of it. Our nation’s special diet raises us to a level of sanctification (see Vayikra 11:44), which is what made us chosen and special among the nations.

Part of the deterioration in our days stems from the fact that many are not careful with what they eat. We therefore should have been surprised if there were no deterioration. This is one step in our spiritual development. Another is the way we act – whether it is in line with that which is written: “You shall be holy.”

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Ask the Rabbi

by Rav Daniel Mann

Moral Culpability for Unintentional Actions on Shabbat

Question: My coordination, balance, and eyesight have deteriorated. Despite my best efforts, not infrequently on Shabbat I bump into and move *muktzeh* items in my small apartment. Are my accidental movements of *muktzeh* violations of Shabbat? If they are, I wonder about the following sad scene. A person who passionately kept Shabbat all his life suffers a fatal heart attack on Shabbat and, in the process, falls and breaks something. Was his last action a desecration of Shabbat?

Answer: We wish you good and improved health and suggest contemplating happier things. Regarding these questions, *halacha* is totally “on your side” for several reasons. We take the opportunity to investigate various categories of unintentional “violations” in general terms.

Even if one purposely moves a *muktzeh* object with parts of the body people do not usually use to move things (i.e., everything but the hands), most say that the standard (Rabbinic) prohibitions of *muktzeh*, such as moving something to protect it, do not apply (Shulchan Aruch, Orach Chayim 311:8; Mishna Berura 311:30). Although some are stringent if one directly moves *muktzeh* with any part of the body, especially for no good reason (see Chazon Ish, OC 47:12; Dirshu 311:33), all agree there is no problem if one incidentally moves it as he walks (Chazon Ish *ibid.*).

Let us now imagine one accidentally banging into something that activates a Shabbat violation. Did he mistakenly violate Shabbat? The most severe category of unintentional Shabbat violation is *shogeg* – one intends to, for example, light a candle, just that he forgot it was Shabbat or that lighting a candle is forbidden on Shabbat. This person requires the atonement of a *korban chatot* (sometimes multiple *korbanot* – see Rambam, Shegagot 7:2-4).

A significantly lower level of blame exists regarding cases of *mitasek* – a person who did not intend to do the forbidden action/result. This comes in different forms. A) He did not mean to do the action that ended up; B) He intended to do the action to an object in a manner that would have been permitted. *Mitasek* is exempt from a *korban* in various prohibitions, except those involving physical enjoyment (Kritot 19b). There is an additional level of exemption for Shabbat (*melecheth machashevet* – one planned to do the *melacha*, but it came out differently than planned (Rambam, Shabbat 1:9)).

Rabbi Akiva Eiger (Shut 1:8) posits that there is a qualitative difference between the exemption of *mitasek* for Shabbat as opposed to other non-enjoyment prohibitions. Regarding the latter, there is a violation, just that it is insufficient to obligate a *korban*. One ramification is that if one is aware that his friend is about to violate one of these *aveirot* as a *mitasek*, he must act to stop the violation. However, a *mitasek* **does not violate** Shabbat and a friend does not have to stop him (at least from the fundamental, Torah-level perspective). The Oneg Yom Tov (20) assumes that even a *mitasek* of Shabbat is considered violating Shabbat and needs to be told to stop. Some level of regret also explains the *halacha* that one should check his pockets before Shabbat to make sure he does not have *muktzeh* and/or will not carry in a place that does not have an *eiruv* (Shabbat 12a).

The above, though, is likely when one has some idea of what he is doing, even if not all the details. After all, if one is planning to do permitted *action A* and knows that unintended *forbidden result B* might possibly occur, he may do *action A* because of “*davar she’eino mitkaven*.” It cannot be that after acting with permission, if it came out that *result B* occurred, that he needs to have regrets for what he did, given that the rabbis knew it was likely and still permitted it (see He’arot of Rav Elyashiv, Ketubot 5b). Since we would definitely let a wobbly person walk in a crowded room, we will not say he violated Shabbat by banging into something.

In the sad case of the heart attack, it is not even considered that he did an action. When someone falls down, it is gravity that is acting **upon him** (see Tosafot, Sanhedrin 74b).

“Behind the Scenes” Zoom shiur

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



Igrot HaRe'aya - Letters of Rav Kook

Stamping Out a Challenge to a *Moshava* Rabbi – #206

Date and Place: 18 Sivan 5669, Yafo

Recipient: The council of Ekron (one of the earliest *moshavot*, now known as Mazkeret Batya).

Body: I have heard a rumor, that a young man came to the *moshava* and disgraced the honorable rabbi, my dear friend, the great and honorable, Rav Yaakov Yosef [Dzimitrovsky] *shlita*, by rendering an official ruling without the rabbi's permission. I also heard that there are people who are supporting him and calling him "the rabbi."

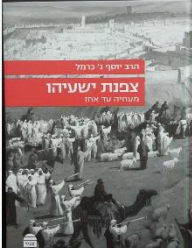
I am therefore hereby making the following clear pronouncement to the honorable and beloved members of the council and all of the members of the *moshava*. You must warn this young man in a very stern manner, that he should immediately leave the *moshava*, so that he not be an ongoing source of any conflict and degradation of the honor of the rabbi of the community (the term used is *mara d'atra*, which means, literally, the authority of the place).

If, Heaven forbid, he does not heed this warning, it is the obligation of all to protect the honor of the rabbi in whatever way they can and not give opportunity for acts of such *chutzpa* to be done in the Holy Land. These actions can harm the peace of the dear and quiet *moshavot*, which we pray Hashem will help strengthen. I hope that all of the people who, without realizing the problem, gave support to this young man, will also listen to my words, with the fear of G-d that is in their hearts, and immediately extricate themselves from connection to him. Heaven forbid, they must not ask this young man any more questions that require rulings. It is forbidden to follow his rulings, even if he rules stringently on that which the rabbi of the *moshava* ruled leniently.

I hope that this young man will on his own accord realize what he has done, and that he will repent a full repentance and appease the honorable rabbi. Then, when he leaves the *moshava*, he can still have a connection to it, when he will embark on a good path and not be among those who "kick" [at authority], Heaven forbid.

If the young man will not listen and will not leave the *moshava* immediately after receiving the warning, within two days, it shall be strictly forbidden for anyone in the *moshava* to host him in his home or give him any form of support. This would be strengthening the standing of those who violate commandments and promote conflict. Those who listen shall be blessed with all good things.

I am hereby signing with great love and with the blessing of peace for the nation of Hashem and its Land, as one who speaks out for the honor of the holy Torah and the holy Land.



**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

Veto Power of Special Stockholders – part I

(based on ruling 82120 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: Reuven owns a company (both =*pl*) that holds the majority of special shares in the defendant company (= *def*) and sits on *def*'s board of directors (= *bod*). The body of special shares holders (= *A-1*) has veto power over major changes at *def*, as detailed in *def*'s charter. *Def* owns 100% of a subsidiary (= *sbsd*), which has signed a huge contract with a government agency to provide infrastructure for an area. *Pl* opposes the deal and wants it paused (leaving time to get the job done if applicable) at least until it can be determined if *sbsd* can finance the project without *def* providing the banks collateral. If *sbsd* cannot manage without *def*, then *pl* can veto the deal through *A-1*. *Def* claims that breaking the contract with the government would be damaging both directly (500,000 NIS deposit) and indirectly (possible fines, loss of reputation, etc.), so that there is insufficient justification to freeze the project.

Ruling: The first element of *beit din*'s decision is the question whether *A-1* has veto power over *sbsd*'s major changes.

Sbsd started as a partnership between *def* and another company. In 2018, when *def* bought the remaining stake in *sbsd*, a new charter was written for *sbsd*, which does not mention whether *A-1*, through their stakes in *def*, has veto power in *sbsd*. *Pl* claims that considering that *def* owns *sbsd* totally and its decisions are taken exactly like *def*'s are, *A-1*'s standing should be the same.

Beit din accepts the approach to follow the modern legal standing of corporations, according to which, companies that are incorporated separately are independent companies. Although there is a legal concept that when a corporation is a false facade, we can view it according to the true realities, that is true regarding steps taken in bad faith. In this case, *pl* is not claiming that *sbsd* was founded to help *def* act in bad faith.

The intentions of the sides to a written agreement are crucial to its interpretation (Shulchan Aruch, Choshen Mishpat 61:16). However, when the sides disagree as to what the intentions were, as here, we follow the document's language (ibid. 15). In this case, the lack of mention of *A-1* implies that they do not have veto power over *sbsd* beyond their regular rights as partners in the parent company. This understanding is strengthened by the fact that when *A-1* agreed to *def* buying the remainder of *sbsd*, about which they clearly had veto power, they did not ensure their special rights in *sbsd* by means of stipulation in the new charter.

According to two *dayanim*, it can be clearly determined that *pl* does not have veto rights in *sbsd*'s internal decisions. According to one *dayan*, the matter cannot be determined conclusively, but since *sbsd* has freedom to make their own decisions until proven otherwise, *pl* has not proven his right to restrain them.

Next time we look at whether pl has special rights because of the move's impact on def.

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