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HEMDAT YAMIM

הֵמְדַת יָמִימִים

PARASHAT HASHAVUAH

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Two for the Road

(based on Siach Shaul, Harav Shaul Yisraeli, 1944)

Yaakov had two introductions to life before arriving at Lavan's home: 14 years studying in the *yeshiva* of Shem and Ever and the dream of the ladder. These two "foods for the road" enabled him to eventually return home in peace and prosperity.

Although Yaakov was already promised the blessings of material success, he did not want to rely on his preparedness for the task. There is such a thing as "riches reserved for a person for his detriment" (Kohelet 5:12). He was dedicated to the idea that he would receive all of the blessings when he was on the level of a *talmid chacham*. In between his necessary physical pursuits, he would make sure that he would be able to "pick up a *sefer*" and appreciate that which he was learning. If he was just on the level to "sit idly in *shul*," for what did he need all the work and blessings?

Yaakov wanted more than what was minimally acceptable. He enrolled in a *yeshiva* and engulfed himself in the intricacies of "Abayei and Rava." While he was blessed with the blessings of "the dew of the heavens and the fats of the land and a plentitude of grain and grapes" (Bereishit 27:28), he interpreted it like the *midrash* (Bereishit Rabba 66:3): "Dew of the heavens" refers to Scripture, "the fats of the land" refers to Mishna, "grain" refers to Talmud, and "grapes" refers to homiletic statements. Indeed one requires literal dew, but only as a way to provide a basis for one to be able to immerse himself in study.

When Yaakov arrived in Charan and began working for Lavan, he was able to say he was consumed with heat and cold and was not deterred (Bereishit 31:40). This is because he was busy in thought reviewing his study and did not feel the elements. This is the power of Torah and of sitting in *yeshiva* for 14 years.

However, this did not suffice for the extended stay with Lavan, where Yaakov was forced to stand up to his deceptive uncle. His many years in *yeshiva* had to last for his many years of bad influence. He was rightfully concerned that this could impact him negatively, which is why he beseeched Hashem to return him in peace (free from sin- Rashi, Bereishit 28:21) to his father's home. If he would not be able to stay pure in his ethics, then even the Torah he learned would just end up being a poison (see Taanit 7a).

This is where the dream played a pivotal role. It took him from the regular world to a world of lofty aspirations and visions. Angels sang; Hashem stood above him, as if he were serving as a vehicle for Hashem's Presence (Bereishit 82:6). Yaakov felt the mission of sanctifying Hashem's Name in Lavan's home in full force. Whatever practical things he had to do in Lavan's home were secondary, as he remained focused on the Divine Light. Whatever he needed to do was just to give a natural outlet for the blessings to take hold.

[*In poetic terms and with complicated illusions, Rav Yisraeli, speaking in the midst of World War II, compared Yaakov's experiences to the preparations Bnei Yisrael undertook to sustain themselves during difficult times of exile.*]

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Question: If a Jew owns a restaurant that is run by non-Jews (the Jewish owner walks in only occasionally) and is in a non-Jewish area, must he affix *mezuzot* to its doorposts?

Answer: At first glance, he should affix *mezuzot*, as the major component of the obligation of *mezuzah* is ownership (see Chulin 135b). It is true that if one Jew rents out a home to another Jew, it is the tenant who is obligated in *mezuzah* (Bava Metzia 101b). However, that might be because a renter has a semi-ownership that is most pertinent to the obligation of *mezuzah* (see Aruch Hashulchan, Yoreh Deah 286:3). Also, according to many opinions, that halacha is only rabbinic because the renter benefits from the *mezuzah*'s protection or because he looks like the owner (see Tosafot, Menachot 44a; Shut R. Akiva Eiger I, 66).

Yet, there are possible grounds to exempt our Jewish owner. There is strong basis to say that the landlord is exempt when he rents out because inhabitation of the place is a necessary component of an obligation in *mezuzah* (Ritva, Bav Metzia 101b). In our case, the Jewish owner does not frequent the restaurant in such a manner. This claim seems to be the subject of a *machloket*. The Aruch Hashulchan (YD 286:4) says that even an area of one's home that is frequented only by non-Jewish workers needs a *mezuzah* because they function there on behalf of the Jewish owners. Rav M. Feinstein (Igrot Moshe, YD II, 141, explaining Rashi) extends this logic. He says that a landlord would have been obligated in *mezuzah* because he rents it out for his own profit and certainly if he keeps his furnishings there and is exempt only because he lacks full access. Our owner, then, would be obligated.

This matter is related to that of a hospital. Many *poskim* exempt a Jewish patient who will stay in one hospital room for a long time from *mezuzah* in his room because he has no legal connection to the room. Shevet Halevi II, YD 156 (among others) says that in Israeli hospitals, the Jewish owners need to affix *mezuzot* even though they do not live in the rooms because the usage is an extension of their ownership. However, he also mentions that numerous Jewish staff members come in and out of these rooms. It is not clear what he would say about a Jewish-owned hospital occupied predominantly by non-Jews, which is parallel to your case. Pitchei Mezuzot (286:123) demonstrates that there is a *machloket* whether or not it is important who comes and goes.

Part of the relevance of the actual users of the place finds expression in the Rashba (Chulin 135b), who says that the Torah requires a *mezuzah* in a building owned jointly with a non-Jew because the Jew needs the *mezuzah*'s protection. According to this understanding of the *mitzva*, if the owner rarely frequents the place and thus does not need particular protection there, he would be exempt. On the other hand, we find that one is obligated in *mezuzah* in a storage room for wine or oil (Shulchan Aruch, YD 286:1), presumably even if he goes there infrequently. (One might claim that this is in a case where it is an extension of his home.)

It is unclear whether *mezuzot* are required in commercial settings, even if a Jew works long hours there (see Living the Halachic Process, vol. I, G-3). The standard *p'sak* is to affix one without a *beracha* out of doubt. This doubt provides another reason for exemption in our case.

Finally, safety is another factor for leniency. Although a renter may not remove the *mezuzah* he affixed upon vacating a house, he should remove it if the next renter is a non-Jew (Bava Metzia 102a) because of concern the latter might mistreat it. Some talk of a similar concern of non-Jewish reaction regarding jointly owned property (Shach, YD 286:6). This could conceivably be an issue in our case even if a Jew is the only business owner.

Combining indications, there are enough reasons for leniency not to affix a *mezuzah* to the building of a Jewish owned business that is not mainly frequented by Jews, and this seems to be the *minhag*. It would be laudable to affix *mezuzot* without a *beracha* if there is not a high chance of their being disgraced.

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The Value of Divine Revenge

(condensed from Ein Ayah, Berachot 5: 97, 98)

Gemara: [The previous gemara had said that wisdom and the Beit Hamikdash are special because they appear in Tanach in between two Names of Hashem.] If that is so, then *nekama* (revenge) is great because it is found in between two Names of Hashem, as the *pasuk* says: “A G-d of revenges is Hashem, the G-d of revenges appeared” (Tehillim 94:1). He answered: Yes, in its matter, it is indeed great, as Ulla said: What are these two revenges for? One is for good, and one is for bad: for good, as it says: “He appeared from Mount Paran” (Devarim 33:2); for bad, as it says: “A G-d of revenges is Hashem, the G-d of revenges appeared” (ibid.).

Ein Ayah: It is appropriate to call something a great attribute when it is something that has a positive purpose and is intrinsically a matter of *shleimut* (completeness). However, something which is intrinsically negative, just that it can be used for a proper purpose, should not be identified as great. The *gemara* asked based on the assumption that revenge is intrinsically bad, just that it is needed to destroy the evil so that the world can be improved by allowing righteous people to be free of the evil of others. Under such circumstances, asked the *gemara*, why would revenge be found in between two Names of Hashem?

The *gemara* answers that there actually is an intrinsic value to the revenge meted out against wicked people because this is an application of leading the world in a straightforward manner that is appropriate for G-d. In that way, revenge is great in two ways, as it has the intrinsic element of Divine justice and it also paves the way for the righteous to thrive as the wicked are destroyed.

This double element is what the *gemara* referred to as revenge for good and revenge for bad. The good one is for the betterment of the righteous, as the *pasuk* cited, “He appeared from Mount Paran” (Devarim 33:2), is explained by *Chazal* in reference to the idea of taking the money of the evil and giving it to Israel (Bava Kama 38a). The other *pasuk* cited deals with revenge from the perspective of Divine justice. Because of these two elements, it is appropriate to have revenge appear between two Names of Hashem.

Undivided Goodness

(condensed from Ein Ayah, Berachot 5:99)

Gemara: One who says: “On a bird’s nest does Your mercy reach,” “On good shall Your Name be mentioned,” or “We thank; we thank” is to be silenced.

Ein Ayah: Praise of Hashem should rightfully be attached to unity and the collective and not to something partial because Hashem is everything and there is nothing apart from Him. That which is correct for the totality of the world is truly straight and is a matter of *shleimut*. In talking about *shleimut* in the broadest sense, it is wrong to distinguish between good and bad because on that level all is good.

For this reason, we silence one who says that Hashem’s mercy reaches specifically a bird’s nest because that implies that Hashem’s mercy reaches certain elements of creation which elicit pity as we see it from a human perspective. However, that is based on a narrow outlook, which is opposed to unity. So too is it wrong to mention Hashem’s Name only in regard to that which we view as good, because all of His actions are part of one grand plan. We also must not say “We thank” twice, as if there are different elements to thank, because there is but one source of light and goodness, as the *pasuk* (Tehillim 36:10) says: “For within You is the source of life; in Your light we will see light.”

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Forcing a Neighbor to Allow an Appliance Delivery Through His House

(based on an article by Rav M. Farbshtein, Shurat Hadin, vol. II, pp. 323-333)

Reuven awaited a refrigerator delivery, which could only be done through Shimon's balcony. Shimon objected, without providing a good reason, unless Reuven pays him. Can Shimon be forced to do the favor for free?

The *gemara* (Bava Batra 12b) discusses cases where brothers divide fields they inherited and one of them owns a field adjacent to an inheritance field. Rabba says that we apply the rule of *kofin al middat S'dom* (we force people to [avoid adopting] the approach of Sodom). Rav Yosef explains why, in each case, the other brothers can justify preferring that same field. The Rambam *paskens* that we accommodate the brother in a case where the objectors have no good reason not to.

Although one who benefits from his friend's property without the latter losing does not have to pay (Bava Kama 20b), Tosafot (ad loc.) says that even those who say *kofin*, agree that the owner can object in advance to the use of his property. The Nimukei Yosef (ad loc.) explains that *kofin* does not allow one to use someone else's property, just to allow one to use his own property in a way that needs another's permission but where it does not hurt him.

The Mordechai makes a different distinction. If the usage is something that one can charge rent for, even if this person does not plan to do so, he can object, but otherwise he cannot. The logic seems to be that if one had the ability to make money off the property and still decided to keep it unused, how can we force him to let someone use it for free?

The Noda B'Yehuda (II, CM 23) says one can distinguish between the two questions above. Even if one rules *kofin* to divide fields in the most logical way, we might not say it to force one to allow someone to use his property when he objects for any reason.

The Rambam (Sh'cheinim 8:4) allows one to lean a small ladder against a wall one shares with his neighbor from the other side, whereas the Tur (CM 153) says the neighbor can refuse. The Tur similarly disallows driving a *ziz* (small beam) into a neighbor's wall. While the Tur is consistent, it is strange that the Rama is strict regarding the *ziz* but not regarding the ladder. The S'ma says that the issue with the *ziz* is that it might cause damage, and the disagreement is actually whether this is true, but this is a difficult explanation.

Rav Shimon Shkopp (Bava Kama 19:3) offers a fundamental distinction. A reason not to force a landowner to allow use is that this is a form of taking away his *ba'alut* (status as owner). This applies when the owner protests, whereas in many cases, if he is not present it would be fine to allow use when there will be no loss because it does not contradict *ba'alut*. Also, certain usages are by their nature not an infringement upon ownership (e.g., a plane flying well above head).

In our case, since a one-time usage of Shimon's property is neither something that one rents out nor is it a usurping of any type of *ba'alut*, Shimon must allow Reuven to use his property to bring in the refrigerator for free.

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