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המדת ימים

PARASHAT HASHAVUA

Bamidbar, 24 Iyar 5774

Yerushalayim Was Not Apportioned to an Individual Tribe

Harav Yosef Carmel

Let us take another look at the importance of the organization of the encampment in the desert – according to tribes with a flag for each – and connect it to the national days of remembrance of this period, especially the upcoming Yom Yerushalayim.

As alluded to, the encampment was based on a tribal division, according to the twelve tribes of Israel, with each tribe having a position and its own leader (listed in Bamidbar 1:4-15). The subsequently described census of the nation was also broken up on the basis of tribes. In the encampment, each direction had three tribes encamped in proximity to each other, with the Encampment of the Divine Presence in the middle. (To a great degree, these groupings were preserved in *Eretz Yisrael*, as surrounding the Tribe of Binyamin, where the *Beit Hamikdash* was established, there were on four different sides, the tribe-leaders of the four directions from the desert: Reuven, Yehuda, Ephrayim, and Dan.)

King David tried to unify the Nation of Israel around his capital, Yerushalayim, “the city that was not apportioned to any individual tribe” (Yoma 12a). While unifying the nation, he was careful not to undo the tribal distinctions. When he organized his kingdom (see *Divrei Hayamim I*, starting with *perek* 23), he appointed *negidim*, leaders of subgroups. These were actually tribe heads, as each one was from a specific tribe and for that tribe (see *ibid.* 27:16-22).

If we contrast this division of the leadership with the one that Shlomo did at his time (see *Melachim I*, 4:7-15), we will see that Shlomo took the approach of trying to erase tribal distinctions. He called his leaders *nitzavim* (representatives of the king), and he broke them up not by tribe but by geographical regions (which did not always coincide exactly with the tribal boundaries). Many of the *nitzavim* were from Shlomo’s family as opposed to being local representatives. This infringement on the rights of the individual tribes did not work and was involved in the division of the kingdom that took place during the reign of Rechavam, Shlomo’s son. This in turn impacted on the status of Yerushalayim as the center of the country. Rechavam did not even attempt to “mend the tear” in Yerushalayim but rather in Shechem, and in any case he did not succeed.

We see that David’s approach, of keeping the tribal distinctions, but unifying them in Yerushalayim, the city that was not apportioned to any tribe, was the right approach. In the upcoming week, when we celebrate the unification of Yerushalayim, the city that unifies the people, let us remember the special spiritual power of the Holy City.

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by Rav Daniel Mann

Doing Work After Shabbat for Someone for Whom it Is Shabbat

Question: My friend called me on Friday and asked me to do an internet check-in for him on my *Motzaei Shabbat* in Israel (his Shabbat afternoon) for him before his Saturday night flight in the US. Is it permitted for me to do so?

Answer: We have permitted Israelis to make a stock order to be carried out on Friday afternoon in NY (Shabbat in Israel). We will review and see if this case is the same.

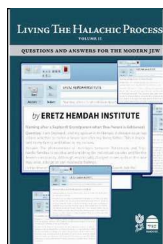
The *gemara* (Shabbat 151a) says that Reuven may ask Simon to watch Reuven's fruit that are out of Reuven's *techum Shabbat* but within Shimon's. The Rashba (accepted by the Shulchan Aruch, Orach Chayim 263:17) extrapolates from this that if Reuven accepted Shabbat early, he may ask Shimon, who did not yet accept it, to do work on his behalf. Why don't we say that the action relates to the one who requested through *shelichut* (agency), as we do to forbid the work done by a non-Jew on behalf of a Jew on Shabbat (see Rashi, Shabbat 153a)?

Three answers appear in the *poskim*: 1) The prohibition to ask others was not instituted when one has or had (in the past) a way to not be forbidden to do the work himself (Beit Yosef, ad loc.; Magen Avraham 263:30). In the above cases, Reuven could have not accepted Shabbat and could have gone to the fruit via "*burgenin*." 2) One accepts Shabbat only regarding prohibitions he performs himself (Levush 263:17; see Shulchan Aruch Harav, K"A 253:8). 3) Reuven may request of Shimon something that is not a *melacha* in regard to Shimon (Taz 263:3; Levushei S'rad 307:12).

In our case, the Beit Yosef and the Levush would seem to forbid the matter, as the work is being done during Reuven's actual Shabbat, and ostensibly he has and had no way of doing the action at that time in a permitted way. In some ways our case is more lenient in that the request was made before Shabbat. However, while that is helpful in regard to the issue of not involving oneself in matters that are forbidden on Shabbat (Rashi, Avoda Zara 15a), regarding the aforementioned element of *shelichut* there seems to be a problem. According to the Taz, there should be no problem, as the important thing is that you were asked to do work on *Motzaei Shabbat*. Among the reasons we were lenient in the case of the stock orders was that the Taz's approach is the strongest and most accepted (see Mishna Berura 263:64; Minchat Shlomo I, 19; Ta'arich Yisrael 8). We also noted, as a few *poskim* did, that if we rule stringently, when the owner of a kosher bakery in NY visits Israel, his bakery must be closed 7 hours before Shabbat in NY.

However, my halachic intuition tells me this case is worse. In the permitted cases, the work was *intrinsically* permitted even for Reuven, just that he was in an "artificial situation" that precluded his specific involvement (i.e., out of *techum*, early Shabbat). In our case, a person in America wants *melacha* that he would normally do himself done involving activities in America specifically during Shabbat. Modern technology allows him to find someone to do the work from a "halachic time warp" from a place where Shabbat is out. Is it clear that the Taz and Rashba would extend their leniency to that which is, from the requester's perspective, an intrinsic violation of Shabbat? Would we allow someone to have Jews in different places in the world run his life or his business by remote control from various continents? This would seem to violate the Rambam's (Shabbat 6:1) logic for the prohibition of *amira l'nochri*: one who treats Shabbat lightly enough to have work done by a non-Jew may come to do those things himself. While important *talmidei chachamim* found "sympathy" for my logic of stringency, it is difficult to forbid such a thing without a source. Our Rosh Kollel, Rav Carmel, acknowledged the problem of having someone "out of Shabbat" remotely operate household items during the requester's Shabbat, but reasons that the "ethereal" world of Internet follows the place of the person who enters it (*marit ayin* does not apply there).

In the final analysis, you may fulfill your friend's request.



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Ein Ayah

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

Connecting the Different Elements of Society

(condensed from Ein Ayah, Bikurim 34)

Mishna: All the craftsmen in Yerushalayim would stand before [those bringing the *bikurim* (first fruit)] and greet them with *Shalom*.

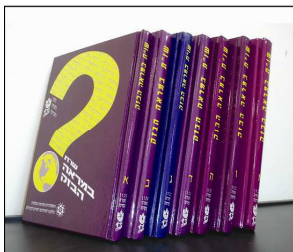
Ein Ayah: Human life in general can be broken up into natural living and industrial living. When a nation is in a lowly moral state and its members are interested only in financial profits, then the various social groupings grow very distant one from the other. The village-dwelling farmers, who are connected to the simple natural life, will be disrespected by the craftsmen, who learned to live according to the values of high culture and became separated from nature. Along with lack of respect comes a cooling off of affection and a lack of attention for the other group. This reaction comes only when there is a lack of holy, strong connection in the hearts of the individual to the higher goals of the nation, which actually require that there be different people and different groups involved in different activities.

Simple natural life is missing for one who already acquired great aspirations based on his talents, knowledge, and diligence. However, the goal of the crafts with their accompanying knowledge cannot remain in the corrupt form in which a craftsman is distant from nature which bore man and in which he can find a refreshing life of pleasure. Rather, he is to be elevated to the point at which his connection to nature will not be devoid of wisdom and feeling but built on a deep, integrated understanding. This is what the *gemara* (Yevamot 63a) meant when saying that craftsmen will in the future “stand on the ground.”

Let us now consider the meeting between the farmers, who toil to provide the necessary materials from the earth, including the *bikurim* they consecrate, along with others on the mountain and in the house of Hashem, and between other sectors of society and the leaders (see Ein Ayah, Bikurim 33). This is a meeting between the *chomer* (i.e., farmers who provide raw materials) and the *tzura* (the form; i.e., the leaders) of the nation. The two try to connect to each other with a heart full of emotions of sanctity. This connection is accomplished through the craftsmen who stand between them, those who combine intellect and physical work in their jobs and can thus relate to both extremes of the societal groupings. The craftsmen are involved in providing, with their work, the physical needs of the spiritual leadership and are able to help the simple people connected to nature absorb the sanctity provided by the national leadership.

The craftsmen must fulfill their role carefully. If they lack purity of thought, they may look down upon the farmers, who are beneath them on the cultural/societal ladder. However, when they are of pure heart, they will have great respect for the purity and straightness of a natural lifestyle and realize that the purpose of crafts and industry is not to become entrenched in the tumult of external life but to ensure the sufficient supply of provisions for the nation's physical and spiritual life. This enables people to enjoy in comfort and, with a happy heart, complete natural lives in quiet and love.

That is why the craftsmen stand before the farmers in respect of their simple lives. They inquire about their welfare to show they want to enrich the farmers' lives, not by removing them from their lifestyle but by improving the nation as a whole by having each sector see the value of the other, distant sector. The distance between the groups is then specifically supposed to increase the love and respect, as only these realizations enable the nation to serve Hashem “with one shoulder” (see Tzefania 3:9). It is appropriate that these lessons should be carried out by the craftsmen of Yerushalayim, the capital city with its beautiful halls, which represents the difference from the simple, tranquil life of the farmer. In many ways, it is difficult to live in a city and the people who do so should be blessed (see Ketubot 110b and Nechemia 11:2).



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Present to Minor Daughter

(based around Shut Maharit, Choshen Mishpat 21)

Reuven died, leaving a widow (Sarah) and her children and a daughter (Dina) from a previous wife (Leah). Dina presented an old document stating that Reuven, at the request of his late wife Leah, was giving a present to Dina of certain property, to take effect immediately, but that the actual control of the property would be transferred only when she was getting married, and only if Reuven did not otherwise arrange a proper dowry for her. Sarah claims that the present was invalid because, among other reasons, Dina had been too young at the time to take part in a transaction.

The *mishna* (Bava Batra 156b) says that it is possible for others to acquire something on behalf (*zachin*) of a *katan* (minor). The Rashbam explains that since the *katan* is not capable of doing a *kinyan* himself, they made a *takana* that others can do so on his behalf. The implication is that if the *katan* was old enough to make his own *kinyan*, others would not be able to make a *kinyan* on his behalf.

The Rambam (Mechira 29:11) says that when a *katan* pays money for a field and makes a *kinyan* on it, he acquires it. The Maggid Mishneh says that the source is the fact that the leaders at the time of the division of *Eretz Yisrael* acquired land on behalf of the children (Kiddushin 42a). This is a puzzling connection because the Rambam is talking about a child who does the transaction himself, when he has some understanding, and the precedent is talking about an adult doing the transaction on the *katan's* behalf even when he is an infant. Apparently the idea is that the reason the transaction worked for the *katan* is that there was involvement of the adult seller, which is equivalent to an adult doing *zachin* for the child, and that which the Rambam/ Maggid Mishneh were learning was that this works even to acquire land. The Rambam holds, as opposed to the Rashbam above, that *zachin* works even on the level of Torah law.

While he raises complications regarding the different opinions of the *Tannaim* as to whether there is *zachin* for both an adult and a child, the Hagahot Oshri says that is common practice to be "*koneh*" on behalf of a *katan*, and that is a reference to a *kinyan sudar* (transfer using a utensil such as a handkerchief).

In our case, the document states that the witnesses did a *kinyan sudar* on behalf of Dina. The term "*v'kanina*" indicates that they did it in the form of *zachin*. The Ba'al Ha'itur posits that this works even if the *kli* used did not belong to the person who was receiving the object, as is clear from Tosafot (Kiddushin 26b) in regards to doing a *kinyan* on behalf of one who is not present. The *gemara* (51a) says that the one requirement is that the recipient must be "in the world" (i.e., already born), indicating that even an infant who was just born would acquire by others' actions. Tosafot (Gittin 65a) says that an older child can make certain *kinyanim*, but not *sudar*, again implying that when others do the *kinyan* for him, it works even through *sudar*.

Therefore, Sarah cannot disqualify the present that Reuven gave his daughter Dina in his lifetime based on Dina's age at the time of the transaction.



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