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# HEMDAT YAMIM

## Parashat HaShavua

Toldot, 2 Kislev 5776

### Better Late ... Period!

Harav Shaul Yisraeli – based on Siach Shaul, p. 81-82

The Talmud begins with a discussion of night (regarding *Kri'at Shema*). Creation started at night (Bereishit 1:5). Night precedes day. There are two philosophies in this matter: the Jewish and the non-Jewish. Whatever includes more complexity requires more preparatory time. Whoever is preparing for a more important position must work longer for it.

We find, in terms of different periods, that the world we live in is like the night (Pesachim 2b), in which we prepare for the world to come, which is like the day. "It is for us to do [the *mitzvo*] today and receive their reward tomorrow (in the next world)" (Eiruvim 22a).

Eisav and Yaakov symbolize the different approaches. Eisav came out first, he was born developed, and he continued to develop quickly. He married early and raised families into political/military units quickly. In contrast, Yaakov did everything – raising family, creating a base of livelihood, returning home – slowly. This contrast is of particular interest considering that the directions of Yaakov's and Eisav's nations are inversely proportional – when one falls, the other one rises (Pesachim 42b).

Bnei Yisrael do not want to "harvest its fruit in this world." Even the material success that we are apt to receive for our good deeds is not an ends of its own but a means to continue doing *mitzvot* so that we can merit the world to come (Rambam, Teshuva 9:1). Eisav is the opposite. He grabs the fruit immediately. He is developed early; he wants to enjoy quickly; and the results follow suit. When one harvests the fruit in his youth, his old age consists of times that are of no interest. An old Torah scholar is different, as his mind becomes more settled as he ages (Kinim 3:6). That is why one who knows how to put the night first will merit having the day shine brightly, whereas one who puts the day first receives a never-ending night.

"Avraham was old" (Bereishit 24:1). *Chazal* (Bereishit Rabba 65) tell us that Avraham innovated old-age. In contrast, there is a Yiddish saying about the negative element of Terach's old-age. This is because all of Terach's vitality was in his youth, when he had physical strength, and this is representative of the non-Jewish approach. We believe in improving in old-age, as Avraham taught.

The *midrash* (Bereishit Rabba 63:9) tells of the Roman official who asked a Jew: "Who will seize the kingdom after us." The Jew answered: "[Yaakov's] hand was holding [Eisav's] ankle." The official responded: "See the old things from a new old man." Everyone knows about the rise and fall of nations, but this idea came not from a youngster but from a "new old man." We are an old nation that does not lose its vitality in "old age." While this surprised the Roman, it is an old secret of our people. Our national trials and tribulations are a preparation for the future – for the time of *Mashiach*, and we should value the State of Israel as being a step in that direction. This world is like night ... but there is light in the night as well. The light of the Torah may look small to us, in comparison with the sun, or historically in comparison to the success of certain nations, but the success is being stored up and the moon will eventually be restored to its greatness. When do we say *Kriat Shema* at night? The answer is: when we purify ourselves (see Berachot 2a). It is, for example, when a person comes home from work in the field and does not eat and sleep and spend time with his family first but makes sure to leave time to *daven* and learn Torah. While it seems too great a sacrifice, this is the way to make sure that one is spiritually ready for the next day's work so that it will not swallow him up.

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# Ask the Rabbi

by Rav Daniel Mann

## Taking *Ribbit* from a Non-Jew in Israel

**Question:** I understand that the reason it is permitted to take *ribbit* (usury) from a non-Jew is that we live among them and cannot avoid business with them. Can one who lives in Israel rely on logic that does not apply here?

**Answer:** The *mishna* (Bava Metzia 70b) says it is permitted to lend money to a non-Jew with interest, yet the *gemara* indicates that it is Rabbinically forbidden. The *gemara* suggests two distinctions: 1) It is permitted to lend only to ensure a basic livelihood (*k'dei chayav*); 2) The prohibition is to discourage business relationships that could cause a Jew to learn his counterpart's ways, and it is therefore permitted for a *talmid chacham*, who is not susceptible to such relationships. According to a second version in the *gemara*, there is no prohibition to lend to a non-Jew.

Tosafot (ad loc.) is troubled by the fact that usury taken by Jews from non-Jews was common in their times, and presented three possible answers: 1) On this matter, which is no more than Rabbinic, we accept the *gemara's* lenient version that there is no prohibition. 2) Due to great difficulty in making a living, we generally consider usury as *k'dei chayav*. 3) Since we anyway have to do business with non-Jews, permissibility to take interest does not change the equation on interactions. You based your question, that it should be forbidden to lend with interest in Israel, on the assumption that the third explanation is correct, which is reasonable, considering that the Rambam (Malveh 5:2) and the Tur (Yoreh Deah 159) use it. Indeed, Netivot Shalom (159:16) cites Klala D'ribbita, who suggests that it could be forbidden to lend under such circumstances. Standard practice is certainly not that way (see also Torat Ribbit 1:35), and we do feel it is important to justify it. (On an individual basis, we have no problem with the Chochmat Adam's (130:6) praise of those who are stringent. However, making such a ruling for others is very different.)

First, we must note that this prohibition is highly unusual in that the *gemara* says that it does not apply to all people (i.e., *talmid chacham*) and that it is waived in the face of financial need. This could be a sign of focus on practical considerations, which would strengthen your question. But it is more likely a sign of great leniency and perhaps that it is not a full-fledged prohibition. It is then not difficult to rely on the opinions that there is no prohibition or that it is still considered *k'dei chayav*.

It is probably more correct to put this in the context of how practical halacha works. We are familiar with the concept that once *Chazal*, or often even post-Talmudic *minhag*, have forbidden something, we rarely say that things have changed and the prohibition no longer applies. A less common but still important phenomenon is that when the rabbis of a period decide, for certain reasons, to be lenient regarding a certain (usually, Rabbinic) prohibition, we do not easily reinstate the prohibition even when the leniency's reasons have diminished. It seems that "halachic inertia" requires clear indication of strong reason to change back to old practice, even from leniency to stringency. Even in the times of the *Rishonim*, it seems that this prohibition was broadly ignored, even in cases where the reasons for leniency were not so strong.

In our times, there are still practical reasons to apply the leniency in Israel. First, in a global market, it is common and hard to avoid non-Jews in many fields, for Israelis to have customer bases that include many non-Jews. Furthermore, the contemporary broad reliance on *heter iska* all but eliminates the "problem" of *issur ribbit* in the business world. Therefore, it is unlikely that a person would be encouraged to significantly increase his business interaction with non-Jews to avoid the prohibition of *ribbit*. Also, business is often done these days with little to no personal interaction between the sides.

Thus, it is justified to assume that the broad permission that developed to lend with interest to non-Jews remains intact even in Israel.



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# Ein Ayah

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

## Torah Study Must Start with Hard Work

(condensed from Ein Ayah, Shabbat 2:101)

**Gemara:** Is it so [that Hashem should be approached with a feeling of *simcha*]? Doesn't Rav Gidal say in the name of Rav: "Any *talmid chacham* who sits before his master and his lips are not dripping with a bitterness [of fear] will be burnt, as the *pasuk* (Shir Hashirim 5:13) says: "His lips are [like] *shoshanim* (roses), dripping with "passing" *mor* (a perfume). Do not read it as *mor* but as *mar* (bitter). Do not read it as *shoshanim* but as *sheshonim* (who are studying Torah)"?

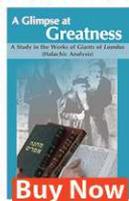
**Ein Ayah:** Hashem created man in a way that he is fit to seek wisdom, and being happy and at ease when studying Torah is fundamentally appropriate. However, man is no longer in his pure state because of his sins and the sins of his parents, resulting in the desire for knowledge being replaced by desires of lowly external matters. Therefore, when one begins to study Torah, he usually has to overcome obstacles stemming from his coarse nature instead of being able to experience joy alone.

It is fine to have to toil, for which man is born (Iyov 5:7). Once we have sanctified ourselves sufficiently in the ways of Torah, we return to the original natural state at which Torah study is pleasant. It is a mistake to try to make all levels of learning, including for beginners, fun. It is not through fun that a wild spirit turns into a scholar, but it is the Torah that one learns with hard work that does this (see Yalkut Shimoni, Kohelet 2). It is nice to learn Torah in a state of happiness, but one should not make it a priority, as it has only an external connection to wisdom, and it can come at a later stage. If one sees it as something to seek at an early stage, then it trains him to avoid the type of toil and search for truth that should characterize earlier stages. The divine gift of deriving joy from Torah study is reserved for those who have put in the work and familiarized themselves with the sweet light of truth.

Heat is a very useful force in the world, but it is destructive for he who tries to use it at the wrong time and manner. Similarly, a beginner student who still needs his teacher to expose him to the truth of Torah must have a measure of bitterness on his lips, for if he is looking just for pleasantness, then he will be burnt from the process. The idea of burning is appropriate from the perspective of approaching the "fire of Torah" in an inappropriate way. This will cause him to lose the possible intellectual/spiritual development that could have brought him true joy if he had acquired it at the right time.

A rose is the most beautiful of flowers. It excites the external sense of vision. The grandeur of wisdom and enjoyment that it can bring are pleasant. However, it is not external beauty that is important but the acquisition of internal good, such as grasping truth, which is represented by *mor* (a perfume), which impacts a person's soul. The student who is beginning must know to concentrate on the internal and the depth of Torah and be ready to give up much comfort for that purpose. This is "*mar over*" (passing bitterness). If one tastes the bitterness, it will be passing, and he will merit that the wisdom will cause him great pleasantness and joy. This is on condition that he does not view the words of Torah as songs (see Sanhedrin 101a) and does not demand that they be entertaining from the beginning in a childish manner. Through toil and hard work in the beginning one arrives at great light and an area surrounded by rosebushes. Even in the beginning, it is only the lips, i.e., the external part that experiences the bitterness, which one should accept with love. Internally, the soul benefits immediately from the efforts to acquire wisdom, as the *pasuk* says: "It is good for me for I have afflicted myself to learn Your statutes" (Tehillim 119:71).

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# P'ninat Mishpat

## Bribery in Rabbinic Election

(based on Shut Chatam Sofer, Choshen Mishpat 160)

**Case:** The members of a certain community agreed on four candidates for the position of rabbi. Whoever's name would be taken out of the ballot box was to be the subject of a vote to see if a majority supported him. The first two candidates whose name arose failed to receive a majority. The third candidate received a majority. Rumors circulated that bribes were given to oppose the first candidates and support the third. A letter, from a member of the community to his brother who lives in the city from which the winning rabbi came, was seized. It contained a demand for payment to a group of people from members of the elected rabbi's hometown based on previous promises of payment. The members of the community were at odds over what to do and enlisted the Chatam Sofer to guide them.

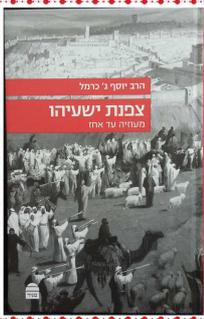
**Ruling:** We must distinguish between cases in which there are two kosher witnesses (not from the people of the community, their relatives or relatives of the rabbi) that bribes were given and other cases. If there are kosher witnesses, the election results are void. Even though one votes for whom he desires and it is not a matter of identifying truth, votes must be cast based on sincere intentions (see Rama, Choshen Mishpat 163:1). As the Torah tells us, bribes blind one's judgment.

Not only is the selection of the third candidate void, but so are the rejections of the first two candidates, which could have been due to the bribes. Even if only a minority of people were bribed and there was a majority for the third candidate without tainted votes, one can still attribute some of the votes on his behalf to the fact that the first two candidates had been eliminated. Even if a *dayan* who received pay to serve is invalid only Rabbinically, one who was bribed is certainly invalid based on Torah law, and one who is invalid to serve as a *dayan* due to sins may not serve in a communal post.

If there are witnesses that the rabbi was involved in the scheme, he cannot serve as rabbi, even if he was otherwise fit, until it is proved that he has fully repented. However, if suspicions were substantiated only regarding associates of his, the rabbi maintains his presumption of innocence, and since he was chosen by consensus to be a candidate, he remains one. Thus, they should redo the election.

Those who received bribes are not permitted to take part in another election process until they can demonstrate they have repented, and they must swear that they will never act similarly again. In any case, they may not take part in these elections, after they already expressed an opinion in an invalid manner, which affects their opinion. Even if the disqualified form a majority, the elections will be handled by the remainder, as the consensus already approved the candidates, and in any case, there is no choice.

If there are no witnesses to anything, the rabbi should not lose his position without evidence. If someone admitted to receiving a bribe, he must return the money to its source, but he is not believed that he did this act of evil or that the rabbi is disqualified. The letter that was intercepted is not proof of wrongdoing on behalf of the rabbi [Ed. note- *it is not clear to me if this is because it could have been planted by opponents of the rabbi.*] On the other hand, a *cherem* can be made on anyone who knows of wrongdoing and does not reveal it. I have not written the source of each detail because many of them are simple.



### Tzofnat Yeshayahu- Rabbi Yosef Carmel

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