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HEMDAT YAMIM

Parashat HaShavua

Vayakhel, 25 Adar I 5776

He and They Did

Rav Daniel Mann

Parashat Vayakhel tells in a very repetitive, detailed manner that that which was commanded to be made and constructed in *Parashat Teruma* and some of *Parashat Tetzaveh* was done correctly. The people who were commanded to do the work are referred to almost entirely by pronouns. The commands, presumably addressed to Moshe, use primarily the word "v'asita" (second person singular). In several places, it says "v'asu" (third person plural). That presumably implies that when Moshe was not to do something, it was to be done by a group of other people.

In the meantime, the Torah introduces two people (Betzael and Ohaliav) as well as a group of divinely inspired wise craftsmen (see Shemot 31:1-6). In our *parasha*, Moshe seems to be removed from the list of doers, and women were added to the list in regard to work with hides/fabrics (ibid. 35:25-29). In the description of the work, again it predominately uses pronouns instead of names, and the great majority of times the *pasuk* says "vaya'as" (third person singular), with a smattering of *vaya'asu* (third person plural).

The *pasuk* that stands out, after 31 *p'sukim* describing work done by the nameless, is "Betzael made the ark" (ibid. 37:1). Why Betzael is spelled out specifically here is the subject of a *machloket* between early commentators. Ibn Ezra (ad loc.) says that from this point on (the ark being the first of the vessels listed one after the other), the work, regarding all the vessels, was all done by Betzael himself. Only in the previous section (the production of the structure of the *Mishkan*) were other people involved.

The Ramban (Shemot 36:8) says that Betzael personally made only the ark. He explains that while, from the perspective of craftsmanship, the ark was one of the simpler vessels, it was the most spiritually profound one, which needed the special spiritual touch that Betzael alone possessed. (It is interesting that under such circumstances, Moshe himself would not have built it.) According to both the Ibn Ezra and the Ramban, in many of the instances in which the Torah says "he made," it is not talking about Betzael specifically, but one of the anonymous wise craftsmen. "They made" is certainly referring to any group of anonymous people.

In any case, there must be a reason that there is a great deal of inconsistency, with no apparent pattern, on whether to use the singular or the plural in describing the construction of the *Mishkan*. The simple and, I would argue, the correct explanation is that the tension between the individual and the collective is very much at the heart of the construction of the *Mishkan*. On the one hand, all had to be done "as Hashem commanded Moshe," without room for individual expression. On the other hand, in a matter so holy, even the same identical act of construction can be affected significantly by the sanctity and the mindset of the person who performs it (see Ketubot 5a). The craftsmen were thus at once acting as anonymous members of the nation and as unique, special individuals.

This tension between conformity and individuality is a part of all of our lives, in going about both our religious and our national obligations. May we be successful in finding the right balance.

Refuah Sheleymah to Orit bat Miriam

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Ask the Rabbi

by Rav Daniel Mann

Filling in a Copy of the *Ketuba* Late

Question: A mistake was made in filling out my *ketuba* and the identical copy for the certifying *beit din*. We had a spare *ketuba* but not an additional one to use as a copy. Now, several days after my wedding, can I ask the witnesses to sign a copy with the same information, including the date of the wedding? (The *mesader kiddushin* and witnesses are *talmidei chachamim* but not *poskim*, and they encouraged me to ask this *shayla*.)

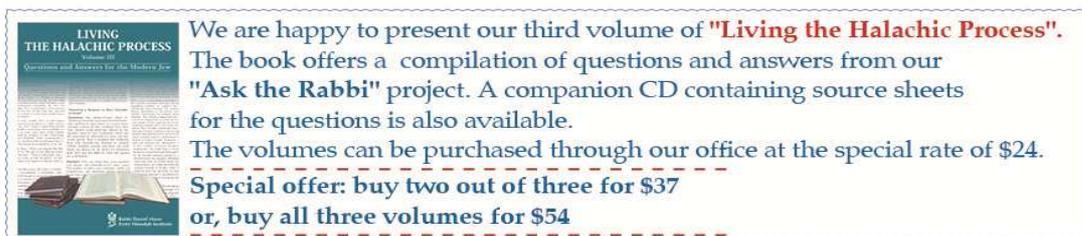
Answer: It is best, if feasible, to ask the *beit din* in charge of authorizing your marriage how they want it handled. However, we can understand why the parties involved apparently want to avoid that headache, and we will inform you of the halachic issues on your preferred plan. Your description hints that you did not use the Israeli *Rabbanut*, as the *ketuba* copy they provide is a special form which is different from a regular *ketuba*, including that it says it is a copy, which has advantages.

The *ketuba* must be a valid financial document. If the first *ketuba* was invalid (not every mistake invalidates), it was necessary to write a new one as soon as possible, although it could be done after going into the *yichud* room (see *Living the Halachic Process*, vol. III, H-2). The copy of the *ketuba* is a contemporary idea and not a halachic obligation. It primarily serves to keep information on the wedding and *ketuba* in the State of Israel apparatus, which can prove valuable in several ways. There is a *machloket* among *poskim* whether a woman who lost her *ketuba* can secure payment based on this copy (see our Ask the Rabbi column, Balak 5774). This in turn impacts on the question of whether a couple can continue living together in the fullest sense when the couple's *ketuba* is lost or disqualified and the *Rabbanut* has a valid copy, prior to arranging a replacement *ketuba* (see *ibid.*).

Can one predate a standard *ketuba* so that it can serve as a duplicate for the *ketuba*? One of the things that disqualify a document is if it is predated (Shvi'it 10:5). This is because of the laws of liens, which enable extracting payment from one who bought real estate from one who owed money. One could misuse a predated document to seize property from someone who bought land before the obligation found in the document, in which case the lien did not take effect on it. Therefore, a predated *ketuba* is invalid. If we accept the view that the copy cannot be used for payment but just provides information, then it might not be viewed as a financial document that must not be predated.

According to the opinions that the *ketuba* copy can be used for payment, it is generally forbidden to predate it even if the *chatan* requests it. This is because a debtor cannot authorize a predated document, as it can potentially harm others (i.e., those who bought real estate from him). Witnesses who signed a document which got lost may not write an identical replacement because their authority ended with the writing of the first document (Shulchan Aruch, Choshen Mishpat 41:1; S'ma ad loc. 4; Shach ad loc. 3). Even with the debtor's reauthorization, they can only write it with the date of the reauthorization (Shach *ibid.*).

However, if the witnesses did not carry out their job validly, they can sign a new valid document (*ibid.* 4) with the date when the document was to have been properly signed. The Shulchan Aruch (CM 39:3) discusses the case of one who becomes obligated to his friend with a *kinyan* (as a *chatan* does) in front of witnesses. He says that the witnesses can write the subsequent document with the date of the *kinyan* even if they delayed doing so for a long time. In our case, while the witnesses signed a new valid *ketuba*, they did not finish their job with that since their *kinyan* on the terms of the *ketuba* was designed to result in a *ketuba* copy as well. Therefore, they can finish their job by writing the copy with the date of the time of the *kinyan*/wedding. Rav Zalman Nechemia Goldberg *shlita* agreed with this analysis and recommended that you explicitly ask the witnesses to sign the copy, which you can easily do.



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Ein Ayah

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

Backing Up Emotions with Fear of Hashem

(condensed from Ein Ayah, Shabbat 2:159)

Gemara: Reish Lakish said: What is referred to by the *pasuk* (Yeshaya 33:6): “And it shall be the belief of your times, the power, the salvations of, the wisdom of, and the knowledge”? “The belief of” refers to the Order of Zeraim (agricultural laws); “your times” refers to the Order of Mo’ed (the holidays); “the power” refers to the Order of Women (family law); “the salvations of” refers to the Order of Nezikin (monetary law); “the wisdom of” refers to the Order of Kodashim (laws of the Temple); “and the knowledge” refers to the Order of Taharot (laws of purity). Even so, “fear of Hashem is its storehouse” (ibid.)

Ein Ayah: All of the pleasant things that are of value in a person’s life, especially in bringing him to the ways of Torah, can be attractive to a person when he reaches this desired purity of his heart and spirit. As lofty as that state is, when his Torah becomes one with his flesh and blood and he becomes a symbol of honor and “his heart and flesh will sing praise to the living G-d” (based on Tehillim 84:3), there is still danger.

If he is drawn in by that which is truly pleasant in the world, such as sanctity, purity, and uprightness, based on his feelings and instinct, his connection to these things is limited and subject to change. After all, every man has falsehood in him (see Tehillim 116:11). The greatest ideas are only as great to a person as his own level at a given time. They are just a sign that there are great ideas that emerge from the light of truth shining on the pure spirit that is sanctified from its impurity and follows the divine with simple truth and great wisdom. It is not wise to trust a human’s small heart to make it the storehouse for such great things.

Not only do man’s perceptions change, but even the loftiest perceptions he is capable of are not authentic. Therefore, the greatest and safest approach is that man’s perception should be put in line with the absolute divine perception – with the divine knowledge and dominion that transcends all boundaries and human thoughts.

This is the foundation of fear of Hashem, which also emerges from love of Him. Love is built on the elements of the divine that we can observe and appreciate, although it extends from that point to boundless loftiness. Fear of Hashem is based on the recognition that one must negate that which is improper. This is related to the foundation of truth that is responsible for the value of every desirable thing, whether practical or philosophical, which is at the depth and height of godliness and the power of the infinite. This is a storehouse of life, and all that is stored there is unchanging.

The changes in a person’s feelings can help him picture different concepts of goodness and sanctity in a way that extends beyond normal bounds. Therefore, even after one has uncovered broad truths through the study of Torah as described by the *pasuk* that the *gemara* analyzes, it is not his internal feelings and perceptions that are critical. Rather, the storehouse is fear of Hashem. It is the fear that comes with the recognition that goodness and truth lie together with the source of goodness and truth. It is only along with a fear of purity that one can approach the great acquisitions that are stored in the treasure houses. These last eternally, and their great power influences all the good that they are supposed to eternally supply the individual and the collective.

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P'ninat Mishpat

Delay in Return of Rented Horse Due to Predictable Flooding

(based on Shut Noda B'Yehuda II, Choshen Mishpat 56)

Case: Reuven rented a horse from Shimon for a set rate to ride to a certain town around 60 miles away and shortly thereafter return. Reuven returned only after three weeks instead of the normal seven days because riverside roads were flooded with rainwater in a few places. Shimon claims that Reuven should pay three times the agreed upon rental rate since de facto he rented the horse for three times more than what had been planned. Although the agreement had been per trip, since Reuven knew the roads and the possibility of flooding and said nothing, while Shimon did not know this route, Reuven should be responsible for the delay. Reuven responded that while he knew the roads could be flooded, he thought that since in the place they were it had not rained, there would be no flooding.

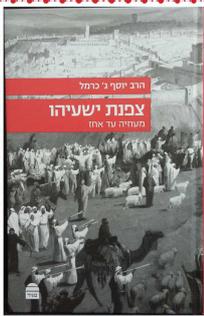
Ruling: The querying rabbi cited the Shulchan Aruch (Choshen Mishpat 310:3), which talks about such a case. Where the rental was for a trip, but the trip took a day longer than expected in a manner that the renter should have known and the lessor should not, he says that the renter has to pay for the extra day. However, the rabbi asked on this from the halacha that there is no *shevet* by animals, including rental animals (ibid. 307:6). *Shevet* is payment made by a person who damages another person and causes him to have to "sit" at home, as opposed to being able to go to work. In other words, since the agreement was per the whole route, it should not call for extra payment, which should be due only when damage is caused by the delay. Since this type of damage is not payable halachically, the rental fee should not be raised.

This question came up when I was young and was teaching Choshen Mishpat to my students. I would answer that the Shulchan Aruch was talking about paying for an extra day, during which the renter used the animal, and the extra payment is for that extra day of usage. In our case, due to the flooding, there were days that Reuven was unable to use the horse at all, and any payment that might exist would have to be just for causing the animal to not be returned to Shimon. That is a case of *shevet* of an animal, which, we have seen, is not to be paid.

However, now I see things differently. If Reuven took the animal in the framework of rental, then any extension of this period draws payment as continued rental, without having to obligate as *shevet*, which is within the realm of damages. If one locks up another person's animal so that the owner cannot use it, he is exempt from paying, as that would be *shevet* (Shach, 307:5), but in the framework of rental, he is obligated to pay for the delay. Although there is no payment for *shevet* even in the framework of rental (Shulchan Aruch, CM 307:6), that is when the animal is returned and is not immediately fit to continue working due to the renter. However, when the renter caused the rental period to go beyond schedule, the lessor can demand payment.

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