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Founder and President

HEMDAT YAMIM

Parashat HaShavua

Pekudei, 2 Adar II 5776

Do Your Part

Harav Shaul Yisraeli – based on Siach Shaul, p. 306-307

“The *Mishkan* was erected” (Shemot 40:17). What do we learn from the use of passive voice? “Moshe said before Hashem: ‘How will I have the power to erect it?’ Hashem answered: ‘You only have to place your hand there, and it will turn out that it is erected by itself’” (Rashi 39:33).

A lot of work and difficulties are required to establish something of sanctity. There are many things that work against it, and it is not always clear that it will be possible to bring it to fruition. However, it is our obligation to act to accomplish such goals “as Hashem commanded Moshe,” and that it is how it worked in regard to erecting the *Mishkan*.

Most people are not able to perform and understand things precisely and “put borders” around the matter. *Chazal* are called “the men of the borders” (Sota 9:15) because they are able of handling that task. If we ask, “Who erected the *Mishkan*?” and one answers that it was Moshe Rabbeinu, the answer is both correct and incorrect at the same time. The same is true if one answered that it was Hashem. If not for Moshe’s action, the *Mishkan* would not have stood, but Moshe, with his own strength, did not have the ability to do it. In fact, Moshe’s action brought a display of special Divine Assistance. Upon this backdrop, Moshe blessed the people: “May it be His will that the Divine Presence dwell within that which your hands made” (Rashi, Shemot 39:43).

In a case like this, people can make a mistake. We observe that blessing comes according to the actions one takes. We see that those who do not act, do not receive. Thus, it is natural to conclude that everything depends on man. This is indeed the approach of those within our society who have thrown off their obligations to Hashem and belief in Him. To the other extreme, much of the camp of believers declare, “If Hashem will not build a house, its builders toiled for nothing” (Tehillim 127:1). Once it is Hashem who provides, they reason, does it make a difference if man toils a lot or a little?

At the end of days, “the men of the borders will travel from city to city and will not find mercy” (Sota *ibid.*). On both sides of the debate we see extremism. The Charedi camp sees us as unfit. The irreligious look at us as religious extremists. Our job is to constantly strengthen ourselves with a realization that the truth is somewhere in the middle.

We look around and see that the great majority of the Jewish inhabitants of *Eretz Yisrael* and especially its leadership are irreligious and are very far from our lifestyle. We may ask ourselves: “Are we capable of “building a *Mishkan* in this holy land of our forefathers”? The answer is that we have to do what we can do, and Hashem will make sure that “the *Mishkan*” is erected. What is special about our actions is that they are inspired by “as Hashem commanded.” This is the border and this is the sign of our being correct. Whatever building we can do in a permitted manner is a *mitzva*; whatever is forbidden will anyway not help.

Refuah Sheleymah to Orit bat Miriam

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Ask the Rabbi

by Rav Daniel Mann

Halachic Status of Bitcoin

[Bitcoin, often called a cryptocurrency, has money-like functions without any coins or bills. Rather, it is a unit to exchange value used by probably millions of people internationally. When one transfers bitcoins as pay for a commodity or service, the seller informs the network of the transaction, and a bitcoin address is created with the information including the code (key) that the buyer will need to control the bitcoins. Within minutes, the network ledger (called the block chain) updates the new status of ownership of the bitcoins. One of bitcoin's advantages is that it enables quick, inexpensive transfer of "money" between people worldwide. (There are now over 450 million transaction "addresses," with some people owning multiple addresses). The system is self-regulated by the community of users. It is viewed in widely different ways within the financial world, governments, and legal systems.]


Question: I have been learning about bitcoin. Is it considered like money or a *shtar* (document) for a variety of halachic issues, e.g., marrying a woman, buying property?

Answer: We will not express a view about the value or danger (there are claims of links to money laundering and other criminal activity, dangerous volatility, ...) but will look at a few areas in halacha in which determining bitcoin's status would be significant.

Kiddushin can be accomplished by a groom giving a bride anything of value, whether a currency, a commodity (Kiddushin 2a), or theoretically even a service (see the complication discussed in Kiddushin 63a and Shulchan Aruch, Even Haezer 28:15). If a groom transfers to the bride rights to a debt a third party owes to him, even if done by speech without handing her a *shtar*, it can still work (Shulchan Aruch *ibid.* 13). The important thing is that he provides value, as long it is done positively, as opposed to something such as forgiving payment of a debt (*ibid.* 10). Even in the latter case, if one says he is marrying her with the benefit she receives by forgiving the debt, it is valid (*ibid.*). Therefore, with the right wording, a bitcoin transfer from groom to bride can work (it is a good question at what point in the electronic process the *kiddushin* would take effect).

It is unclear what you mean by *shtar*. A *shtar* for *kiddushin* or for land sale states that it is coming to effectuate that matter. Bitcoin is obviously not that. It is also unlike a *shtar* of debt with Shimon owing Reuven and Reuven using that *shtar* as payment to Levi. Bitcoin is not an individual's promise of payment, nor is it legal tender or a bank note, in which a country or a financial institution stands behind the note. Rather, it is an unusual commodity. It is not a physical object that one can use, but one wants to possess it because others are willing to pay for it (a monetary use, in place of legal currency, which is also reminiscent of a pyramid scheme). Many commodities, e.g., oil, gold, have both functions.

Halacha distinguishes between currency (*tiv'a*) and commodities (*peiri*). One contemporary application relates to the *kinyan* of *chalifin* (appr., barter), which applies to commodities and not money (see Bava Metzia 44a-45a). Another is in terms of a Rabbinic form of *ribbit* (usury) called *se'ah b'se'ah*. That is, that it may be (depending on complicated parameters) forbidden to lend a certain amount of a commodity, demanding that it be replaced by the same amount of that type of commodity. This is because loans are defined in terms of currency. If one borrows 5 lbs. of apples costing \$10, he is to return \$10 in some form (including apples), and not 5 lbs. of apples, if the price has changed. If one borrows \$100 of cash, he is to return \$100, even if the dollar's value has gone up or down. In these regards, bitcoin is a commodity, not a currency. The clearest reason is that bitcoin is not presently universally accepted as payment (Bava Metzia *ibid.*). Even a national currency has that status only in a country in which it is widely accepted among people. Bitcoin is not yet close to achieving that.



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Ein Ayah

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

Forcing the Liberated Soul to Deal with the Bitter Truth

(condensed from Ein Ayah, Shabbat 2:160)

Gemara: At the moment that they make a man enter his judgment [after his death], they ask him ...

Ein Ayah: The extent to which one feels pain, whether physical or spiritual, such as fear, embarrassment, anguish, etc. depends on the degree to which matters are out of their proper norm, in the physical and/or the spiritual realm. One's nervous system is prepared to be at ease when things are interwoven properly, but when things are out of place, there is pain commensurate to the deviation.

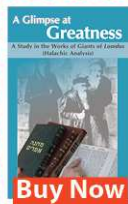
"Hashem made man straight" (Kohelet 7:29), and the spirit is prepared to receive feelings that fit its nature, such as security, honor, and happiness, as it does when things are in order. When matters are out of order, the soul experiences poison and bitterness, darkness and despair, as the suffering soul perceives it.

It is possible for a person to stray so far from a proper lifestyle that he no longer feels the pleasantness of following the divine ways of justice and uprightness. He also can stop feeling the pain that should result when one strays from the ways of justness. However, this forgetting of normalcy is not eternal. When the spirit is freed from the limitations of the body, which can lower the spirit to the lowest physical levels, it returns to its natural vigor and sensitivity and realizes that it is law and justice that form its natural order.

Man goes to his ultimate trial to be tried by himself, so to speak, as he becomes pained by the spiritual deficiencies and the abrogation of the Torah that he now uncovers. The spirit realizes with regret what it should have done and contrasts it with the evil of what he actually did. He finds that his level differs from the essence of the soul and from the whole of existence, which is all related to Hashem. It realizes the great potential that he, as a living person, possessed for wisdom, kindness, and justice and how he could have enveloped himself in justice and goodness had he properly followed the way of Torah and *mitzvot*. About this moment of realization we say that "man entered his ultimate trial."

A person who strayed significantly from the proper path to the point that he forgot his natural potential would rather stay in the dark about his potential than to have it held up before him. After all, the meeting with the truth causes great pain. That is the reason that divine powers have to force him to take part in his trial. However, Hashem, who is Master of All Souls, does not want man's soul to be lowered forever, as it will eventually rebound from its lowliness and come back to positively encounter Hashem's countenance. The spirit will return to the divine light after experiencing the bitterness of encountering the truth of its shortcomings. Thus, man will be brought into the trial according to his lofty level as a spirit without a body, not as a spirit sullied by the body. This is as *Chazal* tell us: "Against your will you are destined to come in judgment before the King of Kings, the Holy One Blessed Be He" (Avot, end of ch. 6).

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P'ninat Mishpat

Women's Testimony on Seeing a Stolen Object

(based on Shut Noda B'Yehuda II, Choshen Mishpat 58)

Case: It was known in the city that Reuven had a theft in his house. A few days later, two young women said that they saw the stolen object in Shimon's house, but Shimon denies it.

Ruling: There is a *machloket* among the *dayanim* hearing the case if these women's testimony can be accepted. One cites the Rama (Choshen Mishpat 35:14), based on the Terumat Hadeshen (353) that there is a special enactment that women's testimony can sometimes be accepted. Other *dayanim* say that the cases are not similar, as the Terumat Hadeshen is discussing testimony about a woman's seat in a *shul's* women's section and testimony about which clothes a woman wore while her husband was alive. These are topics about which only women are likely to know.

None of the *dayanim's* opinions were presented accurately. The Terumat Hadeshen refers to the Rambam who raises the possibility that a woman should be believed when her testimony relates to settings where women are more commonplace than men. This position is rejected, but only in matters such as damages, in which we are concerned that one will look to induce unfit witnesses to testify. That same logic should apply to not allowing such witnesses about claims that his counterpart stole from him. One should not suggest that our case is different, in that there is knowledge of apparent theft, albeit without knowledge of who did it. Such partial knowledge exists when someone's property was damaged, and still the *mishna* (Bava Kamma 14b) says a woman may not testify about that.

In fact, the *dayan* should not have cited the Terumat Hadeshen, as he is discussing the halacha based on Talmudic law. What is pertinent is the Rama (*ibid.*) based on the Maharik (179), who accepts the testimony of a woman, a relative, or a minor about such things as the disgrace of a respected person. This ruling is a special enactment, not Talmudic law.

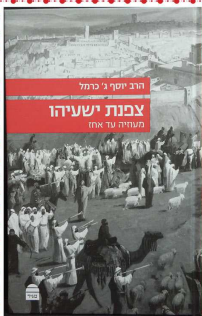
On the other hand, the *dayanim* who reject the testimony because it differs from the Terumat Hadeshen's case are also not understood, as the Rama includes cases such as seeing a person being disgraced, which is a situation where men and women are equally likely to be present. Rather there are two concepts. In a place where only women are expected to know, we trust them, just as we rely on a midwife to say which twin was born first (Kiddushin 73b). The matter about disgrace is a later enactment relating to uncommon events which occur suddenly without a way to clarify what happened without the women's testimony. In that case, the Rama (*ibid.*) limited the acceptance of the testimony to cases where the plaintiff makes a definite claim. This factor is missing here, as Reuven knows only that he was robbed, but not that Shimon was involved.

Our case is different from that of the Rama for another reason. The enactment was for cases where something happened suddenly, so that fit witnesses could not be brought. This could apply to a theft as well. However, regarding seeing Shimon's possession of the stolen object, the women could have called fit witnesses to confirm the matter. Thus in a case like ours there is no special enactment to enable accepting the women's testimony.

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