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HEMDAT YAMIM

Parashat HaShavua

Acharei Mot Kedoshim, 6 Iyar 5778

On the Centrality of Yerushalayim and on Vegetarianism

Harav Yosef Carmel

In this week's Torah reading, we learn of a prohibition to slaughter an animal and not bring it as a sacrifice (Vayikra 17:1-7). In *Parashat Eikev*, the Torah allows one who is at a significant distance from the *Mikdash* to slaughter an animal and eat it locally (Devarim 12:21).

Great *Tannaim* disputed the answer to the questions of what prohibition the earlier *p'sukim* are discussing and how the two sets of *p'sukim* interact. The *mishna* in Chulin (15b) states that "we always slaughter," and the *gemara* (ibid. 16b-17a) tries to figure out the context of this statement. Rabba says that the author of this statement is Rabbi Yishmael, who said that during the period in the desert, it had been forbidden to slaughter an animal and eat it unless it was brought as a *korban*. Only when they entered *Eretz Yisrael* did this become permitted. Therefore, the *mishna* stressed that now it is always permitted.

Rav Yosef says that the change in procedure was regarding the practice of *nechira*, killing an animal not in the manner of halachic *shechita*. This had been permitted in the desert and was forbidden when they entered *Eretz Yisrael*. There had been some reason for conjecture that it would become permitted in a period of exile, and therefore the *mishna* states that it is always necessary to perform *shechita*.

According to Rabbi Yishmael, there was never a possibility to eat meat without *shechita*, and in the desert only in the process of bringing a *korban*, which is a demanding process, was it possible to eat meat. The reason (as explained by Rashi) it became permitted to eat without that exacting process was that it would have been too much to expect from people around the country (and in the diaspora) to be able to eat meat only after coming all the way to Yerushalayim. Certainly those who are inspired by the ideas of vegetarianism see themselves preferring Rabbi Yishmael's approach.

According to Rabbi Akiva, *shechita* was originally necessary only in the context of a *korban*. The *p'sukim* in Vayikra deal with the prohibition of doing *korban*-like activities outside the *Mikdash*, and the *pasuk* in Devarim introduces the laws of *shechita* as applying to preparation for the eating of all meat. The Rambam (Shechita 4:17) accepts Rabbi Akiva's approach, whereas the Ramban prefers Rabbi Yishmael's approach.

Rabbi Yishmael and Rabbi Akiva both agree that it is forbidden to bring a sacrifice outside the *Mishkan/Mikdash*. Unfortunately, despite this prohibition, during the course of centuries, many Jews did bring sacrifices throughout *Eretz Yisrael* on personal altars. In the future, we will discuss why it was so difficult to fight this practice, which was practiced even during the periods of righteous kings.

Let us pray that in our generation, the centrality of Yerushalayim will be strengthened in Israel specifically and throughout the Jewish world.

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Ask the Rabbi

by Rav Daniel Mann

Receiving Video of Personal Event on Shabbat

Question: At my son's recent Shabbat bar mitzva, a non-Jew who is close to him came to *shul*. It turns out he videoed some of the proceedings on his phone (if I had noticed, I would have asked him not to) and offered to send it to me, which, of course, would be nice. May I accept the offer?

Answer: Mazal tov!! This thought-provoking question touches on important points.

A Jew is not allowed to receive benefit from the *melacha* a non-Jew did on a Jew's behalf on Shabbat (Shabbat 122a). If he did it on behalf of himself or other non-Jews, a Jew may benefit (ibid.). When benefit is forbidden, the prohibition lasts *bichdei sheya'asu* – until the time that the result would have been available if the work had been done after Shabbat ended (Beitza 24b). In your case, *bichdei sheya'asu* is forever, as if the non-Jew had not videoed on Shabbat, the moments of interest would have never been available. In this context and many others, the content of the electronic recording is equivalent to an "object" from which one could be forbidden to benefit in whatever form it is now found.

So our first question is: for whose benefit did this non-Jewish guest take the video? There are four possibilities: 1. He did it for himself, due to his feelings about your son, and only afterward thought of sharing it with you. 2. He did it for your family, possibly knowing you are unable to video yourselves. 3. He did it with both himself and you in mind. 4. As is now common, people video interesting things with no clear intent about what they will do with it. If #1 or #4 is the case, there is no prohibition to benefit. If #2, it is forbidden. If #3, a discussion is required.

A *baraita* (Shabbat 122a) states that if a non-Jew did work on behalf of a group of people, then if the majority is Jewish, Jews may not benefit from it, and if the majority is non-Jewish, benefit is permitted. If there is an even number of Jews and non-Jews, it is forbidden. Why is it forbidden in a tie? Rashi (ad loc.) says that it is considered a doubt for whom it is considered done, and we decide stringently in the case of this doubt. Another approach (see Mishna Berura 276:16) is that in the case of a tie, we consider him to have acted on behalf of both, and when one does it for both, it is forbidden. Indeed the Rama (OC 515:6) says that when we know something was done for both Jews and non-Jews, it is forbidden even if the majority was non-Jewish.

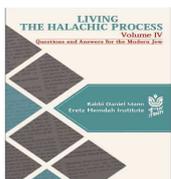
Thus, if we really knew that it was for both of you, it would seem to be forbidden (see Bi'ur Halacha to 276:2). On the other hand, when the non-Jew who does the *melacha* benefits himself, we assume that he mainly has in mind for himself (Shulchan Aruch, OC 276:2; see Shabbat 122b). Yet, the Magen Avraham says that if we know that he had in mind both for himself and others, it is forbidden. Not all agree with the Magen Avraham (the Mishna Berura 276:17 basically agrees; see Bi'ur Halacha ad loc.; see discussion in Orchot Shabbat 23:(97)).

In theory, if you know or can ask the guest in a manner of *meisiach l'fi tumo* (he does not know his answer is of halachic importance to you) and you got the "right" answer, it could be permitted according to straight halacha to accept the video. However, we think that it would be a bad precedent to do so. As you intuited, had you known the guest was filming, you should have nicely informed him that it is inappropriate to do so in a *shul* or even at a private Jewish Shabbat activity. If people start seeing that involving non-Jews in their Shabbat events may bring "benefits," a trend can develop. This can lead to not-in-the-spirit-of-Shabbat situations and to halachic abuses. For example, hinting to a non-Jew to film or addressing the camera is forbidden (analysis is beyond our scope), and few know these *halachot* well. We contend that in general we do not want our Shabbat moments on video. (In a *shul*, we anyway need the rabbi's blessing.) Therefore, we urge to keep the precious Shabbat bar mitzva moments captured as they always have been - in the participants' minds and hearts.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.

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Ein Ayah

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

The Continuation of Contrast

(condensed from Ein Ayah, Shabbat 6:46)

Gemara: [Last time we saw the opinion that the sword will not be considered of value in the times of Mashiach because there will not even be a potential for conflict.] This opinion argues on Shmuel who said: There is no difference between our times and the times of *Mashiach* except for the subjugation of Israel by the kingdoms, as the *pasuk* says: "For the destitute will not cease to exist in the midst of the land" (Devarim 15:11).

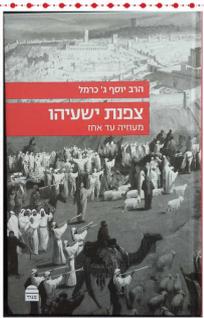
Ein Ayah: It is worthwhile to look at the world not with an individualistic outlook but with a broad, communal perspective. Then we can perceive all of life as one interconnected entity that has many connected parts. The ebb and flow of life passes between them specifically because of the force of contrast that exists between each part of the whole.

The power of the communal is when it picks out from among the myriad differences the unifying element, which makes all of the lives of people in the world one unit. This turns all the contrasts into positive things and extracts from them the power of life. In this way, we will never find completeness when something is standing separately on its own in a way that negates contrast. Breaking the force of contrast diminishes the foundation of life itself.

Now let us look at the difference between the era in which the world is desolate and evil rules and the era in which there is light and goodness. The goodness will come when the power of contrast will exist in potential – to invigorate the foundation of life – and will not come into practice in a way that it will bring destruction. The ability to attack without justice will cease, and the subjugation of Israel from the abuses of the nations will be stopped. All of the advantages that Israel is fit to receive based on their lot in the world will come to them in their entirety. This includes receiving control of its Land, its kingdom, and all of its liberty. This covers both the realm of all of its physical and of its spiritual acquisitions. Israel will be free to influence themselves and the world and their honor will "fly as a flag" in the appropriate manner. All of this will happen [according to this opinion] while, by necessity, the force of contrast will still exist in potential form.

The state of poverty must exist in the world to a degree that allows people to connect to each other through compassion and love. However, it is best that the situation shall not be so dire that the people will not be capable of helping those in need. That is the reason that "the destitute will not cease to exist in the midst of the land." Israel and, indeed, the world will, in the future, not experience a situation of unusual poverty, which is to be viewed as a punishment, but just enough that one will be able to be compassionate and give to another. Therefore, poverty will be felt more in potential than in practice.

Similarly all the contrasts between nations, which allow for different specialties in mundane matters and matters of the spirit, will also exist. Therefore, there will still be weapons serving as adornments, to bolster the possibility of safe contrast, so that it not be out of control. Nations and kingdoms will exist, but there will not be subjugation. There will not be an imposition of pain, and stress due to leaving the confines of morality will not exist. The world will be renewed for the better, even as the basic foundation of the world will remain the same. It as Shmuel states: "There is no difference between our times and the times of *Mashiach* except for the subjugation of Israel by the kingdoms."



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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Place of Jurisdiction

(based on ruling 77027 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=p), a resident of Israel, and the defendant (=def), a resident of the US, jointly established a company in 2008 and registered it in Israel in 2009, with each of them holding shares. Def became the CEO in 2009. There is a financial dispute between the sides, with the following claims. Pl claims that def illegally diluted the company's stocks and misled pl into investing hundreds of thousands of dollars, and pl wants compensation for that. Pl is also suing for pay for the work he did for the company. Pl sued def in our *beit din*, whereas def demands that adjudication be held in a *beit din* in the US. Pl argues that most of the company's workers are in Israel, as is its legal headquarters. Def argues that as an internet company, there is no headquarters and a significant number of workers work in the US, including def himself, so that the adjudication should be there.

Ruling: The general rule is that when the plaintiff and the defendant are from different locations, adjudication is held in the defendant's location (Rama, Choshen Mishpat 12:1). Many *poskim* (including the Rashba II,344 and Maharshdam Choshen Mishpat 103) say that when the work upon which the dispute is focused was in a certain place, the defendant cannot refuse to adjudicate there. In this case, though, most of the interaction between the sides took place when each one was located in separate countries.

Rav Yisraeli (Mishpetei Shaul 42) explains the Rashba based on the assumption that the defendant will have to, in any case, come to the plaintiff's place due to his resources there, in which case he has no excuse not to adjudicate there. However, in this case, def's holdings in Israel are small compared to the scope of the adjudication, and so this is not a reason to hold the adjudication in Israel.

The Maharshdam focuses more on the adjudication being in the place that the sides decided to conduct their business. In this case, in contrast, def did not come to Israel to do the negotiations. *Acharonim* dispute (see opinions of Rav Eliyahu and Rav Yisraeli in Mishpetei Shaul 40) what happens if the dealings happened in the plaintiff's place, but were held by representatives of the defendant. However, here in any case, def said that he himself signed the papers in the US. Furthermore, it is accepted to apply the Maharshdam only to cases in which both sides' residence was in the same place and the defendant moved out later.

Although Rav Yisraeli (ibid. 42) said that the *batei din* in Israel have a status of *makom hava'ad* (a judicial center), to which cases should be brought when possible, that is only in regard to matters in which the Rabbanut *batei din* have special jurisdiction. It does not apply to cases where adjudication will be based on arbitration law. While pl cites an opinion that the reason to adjudicate in the defendant's place is for the concerns of the plaintiff to be able to receive payment, that opinion is not accepted. We note that in this case, should there be payment, it would be taken from def's resources in the US. Therefore, adjudication should take place at a *beit din* in the US.

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