

This week.....

- **Don't Underestimate the Religious Establishment- A Glimpse from the Parasha**
- **Is it Better to Daven Without a Minyan or to Start Working Before Davening?- Ask the Rabbi**
- **National Jealousy, The Significance of a Name - from the Writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l**
- **Payment for Indirect Damage When the Plaintiff Could Have Demanded More - P'ninat Mishpat**

Don't Underestimate the Religious Establishment

Harav Yosef Carmel

Last year we wrote about Yosef's attempt to turn Egypt into a monotheistic nation. Let us try to learn from what apparently went wrong.

Yosef was successful in centralizing control over the country, obtaining all of the land and moving people to the cities during the food crisis. There was one exception. He was unable to acquire the pagan priests' lands because Paroh provided for them (Bereishit 47:26). Apparently this "religious establishment" in Egypt prevented Yosef from changing the populace's beliefs. These people, fueled by their own and their followers' beliefs in a perceived truth, were steadfast despite the beliefs' negative directions. We can learn from this phenomenon in regard to our nation.

One of the biggest riddles in Jewish history is how Avshalom was able to garner support against his father, David, perhaps the most successful, loved, and revered king we have known. There are no major areas where David was lacking, including the judicial system, where "he performed justice and righteousness for all his nation" (Shmuel II, 8:15). Avshalom's plan to improve the judicial system should have been one that any child would have seen through: "Who will place me a judge in the land, so that everyone who has a quarrel will come to me and I will justify him" (Shmuel II, 15:4). What sense does that make, as both sides of a quarrel cannot win?

The *navi* stresses another area in which Avshalom stood out: bringing sacrifices. He asked his father special permission to bring sacrifices in Chevron. In that context it also points out that the people were strongly behind him (ibid.: 7-12). What is the connection between these things?

Let us make the following suggestion. Jerusalem was chosen as the place to build the *Beit Hamikdash*. He knew that when it would begin operating, it would be eternally forbidden to sacrifice elsewhere. Therefore, even during his lifetime, he withheld governmental support for the *bamot* (local altars) throughout the country and forbade the royal family from taking part in such enterprises. He did this to help prepare the nation for central sacrificial service of Hashem. Opposition to this movement came from two sources. First, the local religious functionaries of the *bamot*, which were still permitted, did not like the idea of losing their status and occupation. Also, the local populace regretted the idea of losing the opportunity for an easy manner to draw close to Hashem. In fact, for hundreds of years the kings were unable to rid the countryside of *bamot*. While David resisted people who protested the matter, Avshalom told them that he would always support them in this struggle. This garnered Avshalom great initial support.

We pray that we will be able to increase sanctity in the nation so that the religious establishment will focus people's energies in the correct direction.

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.

www.erezhemdah.org

This edition of Hemdat Yamim is dedicated to the memory of **Shirley,**

Sara Rivka bat Yaakov Tzvi

HaCohen z"l

as well as

R' Meir ben Yechezkel Shraga

Brachfeld

o.b.m

Hemdat Yamim is endowed by

Les & Ethel Sutker of Chicago, Illinois

in loving memory of

Max and Mary Sutker

and **Louis and Lillian Klein, z"l.**

Question: Is it better to *daven* without a *minyan* before work or do some work first and *daven* with a *minyan* later (at a halachically acceptable time)?

Answer: Work is one of the things that one should not do before *davening* once *alot hashachar* (some 72 minutes before sunrise) has come (Berachot 14a; Shulchan Aruch, Orach Chayim 89:3). Work, in this regard, is not limited to the place one goes to earn money but includes a wide variety of household tasks of even moderate time duration. The logic is that when one gets up in the morning, addressing his Maker should be the first concern. Therefore, there are significant similarities in logic and halachic parameters between this restriction and those of not traveling, eating, or greeting people before *davening* (Berachot *ibid.* and 10b; various places in OC 89).

Generally, if the activity one is involved in is *mitzva*-related and cannot wait until after *tefilla*, it is permitted because it is not considered an affront to Hashem (Mishna Berura 89:36). In such cases, one should first recite Kri'at Shema, which is a *mitzva* from the Torah, (and probably *Birkot Hashachar*- see below and *Ishei Yisrael* 13:(61)) before doing the work (Mishna Berura 250:1). Sometimes steps still need to be taken to reduce the concern that one may get carried away and miss *davening* on time altogether (see Shulchan Aruch, *ibid.*:6 regarding learning).

The obvious first reaction to your question is that it is better to *daven with a minyan before working*. However, in cases of significant need, the pre-*davening* restrictions can be waved. One of the classic examples is going on the road before *davening* when the caravan will not wait until after one *davens* (see Mishna Berura 89:20). One should consider whether such a trip is justified (but such distinctions as between a potential loss of money and an opportunity to gain money (see Mishna Berura 90:29) are beyond our present scope). The *Ishei Yisrael* (13:(47)) says that under similar circumstances of need one could also do work before *davening*. These circumstances are certainly grounds for missing a *minyan* (see Mishna Berura, *ibid.*).

Assuming that the fact is that you will not be able to both *daven* with a *minyan* and before starting work, the question is which factor should take precedence. There do not appear to be many sources on the matter but the consensus is that it is better to *daven* before work than to start working in order to get a *minyan* later (*Ishei Yisrael* 12:13 and *Riv'vot Ephrayim* I, 66 in the name of Rav Hadaya). The ruling is readily understandable. It is forbidden to work before *davening*. In contrast, it is not forbidden to *daven* without a *minyan*. Rather, *davening* with a *minyan* is an important element of *tefilla*, which also makes it more effective (Berachot 8a- see *Living the Halachic Process* A-5). Since a serious inconvenience is grounds to miss a *minyan* (see Shulchan Aruch, OC 90:16 and Mishna Berura 90:52), avoiding a prohibition is also grounds.

However, the case for always *davening* first alone is not iron-clad. Firstly, the Rama (OC 89:3) cites and does not totally reject the opinion that after saying *Birkot Hashachar* one may do work. Although we would not normally condone this, when it enables one to *daven* with a *minyan*, it is not unreasonable. Secondly, you might have to *daven* so early that *Shemoneh Esrei* will be before sunrise, which is permitted only under pressing circumstances (Shulchan Aruch, OC 89:8). If the *minyan* alternative would also have the benefit of being at or after sunrise, this might tip the scale. Finally, if *davening* with a *minyan* enhances your *tefilla*, practically or even psychologically (see Mishna Berura 89:39), this too is a major factor. Therefore, we suggest that you discuss the different considerations and options with a rabbi who knows you and your situation well.

["Living the Halachic Process"](#) - We proudly announce the publication of our first book in English. *"Living the Halachic Process"* a selection of answers to questions from our Ask the Rabbi project. A companion CD containing source sheets for the questions is also available. In honor of the book's debut we offer it at the special rate of \$20 (instead of \$25). Contact us at info@eretzhemdah.org

Have a question?..... e-mail us at info@eretzhemdah.org

Ein Ayah

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

National Jealousy

(based on Ein Ayah, Berachot 1:79)

Gemara: [Regarding the name,] Reuven, Leah said: “See the difference between my son and the son of my father-in-law. My father-in-law’s son, even though he knowingly sold his status of firstborn, what does it say about him? ‘Eisav hated Yaakov.’ In contrast, my son, even though Yosef took his status of firstborn, still he was not jealous of him.”

Ein Ayah: Reuven is the firstborn of Israel; therefore, he is representative of all of Israel. Israel’s attribute in relation to the other nations parallels Reuven’s relation to his brothers. Thus, Israel taught the world the good trait of forgiving and doing good to those who cause one anguish.

In this way we see the difference between Israel and the nations of the world, who are jealous of Israel because of its advantage over them. The main advantage is only in the realm of the spirit, which mainly comes from the good choice to act in a straight manner. Therefore, those [who choose differently] are the ones who sell their own status of firstborn. Why are they steeped in desires? That is why they are not elevating themselves in degrees of intellectualism, while Israel succeeds when it sets out on the path of wisdom. Despite this fact, “Eisav hated Yaakov.”

In contrast, they pursue us, forcibly take our firstborn status, and have pushed us out of the desired Land and plastered us with false libels. Nevertheless, are eyes are looking forward that Hashem should open up the eyes of all inhabitants of the world to follow the path of Hashem, to know Him and to serve Him. Our eyes do not at all wait for revenge. We end off our prayers: “... that all the evil of the land shall turn to You, all of those who inhabit the universe should recognize and know that to You does every knee bow...”

The Significance of a Name

(based on Ein Ayah, Berachot 1:80)

Gemara: How do we know that a name affects matters? R. Elazar says: “It is as the *pasuk* says, ‘Go see the doings of Hashem, who places *shamot* (destruction) in the land’ (Tehillim 46:9). Do not read it as *shamot* but as *sheimot* (names).”

Ein Ayah: The scholars of the truth have taught us that there is no such thing as complete coincidence. This is particularly true in regard to man, his intellect, and his speech. Therefore, things will not occur by coincidence, and the general harmony [of Divine providence] encompasses the past, the present, and the future. Therefore, even though a name is basically given to a person by chance, that chance is not free but is suited to the future. On rare occasions, specifically in regard to impactful people from whom emanate broadly based outcomes, the matter will be very noticeable. Regarding more private individuals, the matter is not as noticeable.

The way the Rabbis learned it out from “who places *shamot*” is marvelous, for one can always attribute deterioration and destruction to chance, which you cannot do for improvements and building. However, when we see that there is not utter destruction, for actually the most fearful turns of events sprout forth the biggest positive outcomes, then we know from the outset that the doings of Hashem include the *shamot*. Similarly, when the name is well-suited to the distant events of the future, we should realize that there was an invisible connecting factor that made the name fit that which it will demonstrate in the future. In that way, the imprint of the name and that which it demonstrates will be a help to bring the hidden powers to fruition at the appointed time.

Responsa B'mareh Habazak, Volumes I, II, III, IV, V and VI:

Answers to questions from Diaspora rabbis. The questions give expression to the unique situation that Jewish communities around the world are presently undergoing. The answers deal with a developing modern world in the way of “*deracheha, darchei noam*”. The books deal with the four sections of the Shulchan Aruch, while aiming to also take into consideration the “fifth section” which makes the Torah a “Torah of life.” (Shipping according to the destination) **Special Price:** 6 volumes of Responsa Bemareh Habazak - \$75 (instead of \$90)

P'ninat Mishpat

Payment for Indirect Damage When the Plaintiff Could Have Demanded More

(from Halacha Psuka, vol. 50- a condensation of a psak by the Ma'aleh Adumim Beit Din)

Case: *Def* admitted responsibility for “totaling” *pl*'s car. *Pl*'s insurance company paid the car's full value, but, according to their agreement, *pl* must continue paying the premium on the no longer existent car until the end of the year. *Pl* demands that *def* reimburse him that premium until year's end. *Def* says that he does not have to pay for damage to the car since *pl* has been reimbursed and not for the premium because this is indirect damage.

Ruling: The Maharsham (IV, 7) deals with one who burns down another's insured house. He says that at the time of the damage, the damager became obligated to pay and that the homeowner's external agreement with an insurance company is not a reason to exempt the defendant from paying. It is not the damager's business whether the homeowner will keep his payment or return it to the insurance company. The Ohr Sameiach (Sechirut 7) and *beit din* agree with this logic. Thus, *pl* could have demanded the full price of the car, which he did not. *Beit din* does not order greater payments than a plaintiff requested (Rama, Choshen Mishpat 17:12) because we interpret the lack of claim as *machila* (relinquishing of rights) on the additional money.

Is the outlay for the premium too indirect (*grama*) to demand? It is not *dina d'garmi* (which one has to pay) because the Rosh says that this is only when the damage occurs immediately and was an expected outcome of the action. In this case, neither condition is met because *pl* pays the premium later and not everyone has this type of policy. Nevertheless, one can obligate payment for two reasons. First, *def* benefited from the insurance policy, in which case, he should pay the indirect expenses that are related to it. The Minchat Yitzchak (II, 88) employed this logic to obligate payment for an increase in premium of the damaged party after he was *mochel* the damage payment because of the insurance coverage. (*Beit din* inferred this position from the Rosh.) Even those who argue with the aforementioned Maharsham would agree that one should reduce the added expense from the insurance in considering whether the policy actually covered all of the expenses. If not, one can make a claim on the direct damage. Also, *beit din* can obligate one who causes *grama* damage as a penalty when it is a common case (see opinions of Shach (386:3) and S'ma (386:8)). Since car accidents with insured cars are common and the public has an interest to discourage negligence, it is appropriate to be stringent.

Even if *def* is not obligated for the premium, *def* stills owes the amount that *pl* is claiming due to the direct damage. Because of the indirect damage, *pl* is unwilling to be *mochel* the entire amount. If one wants to consider there to have been *machila*, it is a mistaken and thus invalid one. Therefore, *def* is obligated to pay.

Do you want to sign your contract according to Halacha?

The Rabbinical Court, "[Mishpat Vehalacha BeYisrael](#)" serves the public in the matter of dispute resolution according to the Halacha in a manner that is accepted by the law of the land.

While drawing up a contract, one can include a provision which assigns the court jurisdiction to serve as an agreed upon arbitrator.

Tel: (02) 538-2710 beitdin@eretzhemdah.org Fax: (02) 537-9626

Founder and President: Harav Shaul Israeli zt"l Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
ERETZ HEMDAH 5 Ha-Mem Gimmel St. P.O.B 36236 Jerusalem 91360

Tel: 972-2-537-1485 Fax: 972-2-537-9626

Email: info@eretzhemdah.org **Web:** <http://www.eretzhemdah.org>