



Harav Shaul Israeli zt"l
Founder and President

The Song from the Depths of the Soul

Harav Shaul Yisraeli – from Shirat Hageula, pp. 28-29

The *midrash* (Shemot Rabba 23) comments that Bnei Yisrael merited to sing a song of praise and salvation because of belief, connecting between "The nation believed" (Shemot 4:31), said before the Exodus, and "they believed in Hashem" (ibid. 14:31), said between the splitting of the sea and the song.

One sings when the ideal becomes reality, uniting the internal and external, the subconscious and conscious. When a person's life does not fit his character, he cannot be in a state of *simcha*. We see disquiet and contradictions in his actions and dissatisfaction with his life. He does not have a "song of life." When a person lives "his life" and expresses his essence with his actions, he reaches the level of song.

The essence of Judaism is to be connected to Hashem, the Eternal. If a Jew does not give expression to his soul's yearning for connection to the source of his life, he is incomplete. Living among non-Jews or secularism can cause people to forget their Jewish essence. They do not live as themselves, which leads to a lack of confidence and satisfaction; a thick layer of infection covers his internal heart. He disguises himself from himself and cannot be truly happy.

During the exile in Egypt, Bnei Yisrael lived as idol worshippers among idol worshippers (Shir Hashirim Rabba 2). This covered over the Jewish soul in a manner that made it difficult to see the difference between an Egyptian and a Jewish soul. Moshe was concerned that the people would not believe in the liberation (Shemot 4:1). However, Hashem responded that they would (ibid. 3:18) because they are believers the sons of believers, and their internal side would burst forward, even if not always does it appear so.

However, the bursting forward can be fleeting. Bnei Yisrael reverted to the familiar things that attracted them to Egyptian life, not only reminiscing about food, but going as far as to say, "Leave us to serve the Egyptians" (ibid. 14:12). However, when Bnei Yisrael got to exercise their dedication to and trust in Hashem by entering the raging sea, reality caught up with the dormant internal spiritual yearnings. As the dream was realized and the soul appreciated salvation at the sea, they experienced "Then they sang ..." (ibid. 15:1). They sang in the merit of believing.

This was a "new song," of a type that had never been sung before. Its main essence was not of physical survival, but of redemption of the spirit, of life that received its true content. "They thanked and coronated and said" (from daily prayers). Bnei Yisrael reached the point of being able to point (even children) and say, "This is my G-d, and I will adorn Him" (ibid. 2). This is the Being that we dreamed about, strived to recognize, and were enthralled with before we even knew Him.

Reaching this level, though, did not prevent the deterioration that happened by the time Bnei Yisrael arrived at Sinai. Throughout our history, external forms of idols sowed confusion that made us forget, splinter our religious identities, and eventually experience destruction and exile.

The midrash (op. cit.) teaches that the people said "This is our G-d" only once. In the Days to Come, we will call out to Hashem twice (Yeshayahu 25:9), which will make a great difference.

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Eretz Hemdah
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626
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Ask the Rabbi

by Rav Daniel Mann

Not Taking Vacation Time on *Chol Hamo'ed*

Question: I usually take off from work for *Chol Hamo'ed*, but this year, since I will not have any vacation hours left, I will probably have to work. (My employer is not Jewish, and my job is not *mitzva* related.) Since I get paid hourly, may I get paid for the work I will have to do?

Answer: The two major categories of situations in which doing *melacha* is permitted are: 1. When the purpose of the work is appropriate for *Chol Hamo'ed*, e.g., it enhances the *chag*, it is for a *mitzva* or communal needs. 2. *Davar ha'aved* – i.e., if the work will not be done on *Chol Hamo'ed*, a loss will be incurred. While *davar ha'aved* permits even to perform “expert work” (Mishna Berura 545:35), it is forbidden to purposely set up the situation whereby the work will be needed specifically on *Chol Hamo'ed* (Shulchan Aruch, OC 538:1). While the classic cases are of loss to possessions (see *ibid.* 537-8), *poskim* posit that defying an employer’s work policy in a way that will likely result in firing or disciplinary steps is also *davar ha'aved* (see *Shemirat Shabbat K'hilchata* 67:11), which seems to be your case.

All things being equal, it is proper to arrange matters so that one’s yearly vacation time includes [as much of] *Chol Hamo'ed* [as possible]. Halacha is aware that in practical life, often “all things are **not** equal,” including in regards to choosing vacations (see *Zichron Shlomo*, ruling #18 of Rav Moshe Feinstein; *Shemirat Shabbat K'hilchata* 67:14). To deal with the many “moving pieces” in such matters, it is best to discuss borderline cases with one’s personal *rav*. We will focus on what you asked: assuming you may work because of *davar ha'aved*, can you receive payment for it, or is the payment gain rather than preventing loss?

The primary problem with working on *Chol Hamo'ed* is any *melacha* you must do, but you are correct that being paid complicates matters. The *gemara* (Mo'ed Katan 12a) says that the workers in the Exilarch’s house were allowed to benefit from their work on *Chol Hamo'ed* because it was not in the form of classical pay. The Rosh (Mo'ed Katan 2:9) infers from this that it is forbidden to pay the worker even when his actions are permitted on *Chol Hamo'ed* because the pay makes it “like mundane matters.”

The problem of receiving reward differs from the parallel issue on Shabbat and *Yom Tov*, which is even when the person is inactive. Here it is a problem only if the pay relates to activity with a problematic element, with the pay tipping the scale towards stringency (see *Noda B'yehuda* II, OC 104; *Chut Shani*, OC 542:1). Some sources focus their requirements on the Jewish employer who employs a Jew, (see language of the Shulchan Aruch, OC 542:1 and *Be'ur Halacha* ad loc.). While one might think that there would not be a problem if the employer is not Jewish, there are indications that there is a problem from the worker’s perspective (see discussions in *Chol Hamo'ed K'hilchata*, p. 307, *Shemirat Shabbat K'hilchata* 66:(164)).

If your work is not based on *melacha* or tiresome work, payment may be permitted (*Noda B'yehuda* *ibid.*). Also, the Rama (OC 542:1) rules that when one’s work needs to be done because of the employer’s *davar ha'aved*, the worker can charge for it; the *Be'ur Halacha* (ad loc.) allows relying on this only when there is no good alternative. Arguably, since you are working due to *davar ha'aved*, you too can get paid for it. This seems the assumption of several *poskim* discussing allowing employees to work to avoid being fired, who do not raise the caveat of not being paid for it. While perhaps they refer to workers who are paid a flat amount, not by the hour, this distinction is unproven conjecture.

In any case, since you have a set job, it is permitted to receive the pay because it is *b'havla'ah* (“swallowed up” by inclusion with other earning – see Shulchan Aruch, OC 306:4), even if you are paid per hour (*Shemirat Shabbat K'hilchata* 28:65). According to most *poskim* (*ibid.* 66:40; *Moadim U'zmanim* IV:301, against *Chut Shani*, OC 242:21), this works also for *Chol Hamo'ed*.

In the final analysis, you may get paid.

“Behind the Scenes” Zoom shiur

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Igrot HaRe'aya - Letters of Rav Kook

Refuting Criticism by the Ridbaz – #311 – part IV

Date and Place: 19 Sivan 5670 (1910), Yafo

Recipient and Background: Rav Yaakov David Wilovsky (Ridbaz), a leading rabbi who moved to *Eretz Yisrael* and was known for being, among other things, a strong opponent of leniencies on *Shemitta*. We have already seen three installments of why Rav Kook not only thought that the leniency of selling the land to obviate many of the laws of *Shemitta* was the correct approach under the circumstances but “fought” to make this seen as a fully legitimate ruling.

Body: After all I have written, I am hereby repeating, a second and a third time, that my entire desire and goal is only to cause people to look favorably on those Jews [who are being lenient]. This is especially true regarding the holy nation who are living in the courtyards of Hashem, on the holy mountain, which His right hand has acquired, that no one should cast aspersions on them, with the claim that they are overall evil and sinners.

On the other hand, I do not intend, Heaven forbid, to weaken the resolve of those who are upholding this great, holy *mitzva* (*Shemitta*), which after all the leniencies and creative ideas to justify them, has imbued in the *mitzva* the great light of liberation, salvation, and redemption for Hashem's nation. My eyes always look forward to the joy and salvation Hashem will bring, when he founds the Jewish community of the Holy Land on a stable and strong basis and sends blessing and a flow of goodness. In this way, it will be possible to keep *Shemitta* properly with love without destroying or severely harming the community, but rather with blessing and quiet serenity.

I believe and hope that just as we view favorably [those who are being lenient] on earth, so too will the angels who serve as “defense attorneys,” who explain the good elements of a person's actions, show how the Heavenly court should view them favorably. It is a great obligation of the Torah scholars and the righteous people of the generation to pray on behalf of the holy offspring who are compelled to follow this leniency, so that no damage or disease afflict them. This is in line with the prayer (Berachot 29a), “Whenever there is a difficult episode, may their needs be before you.” It is especially appropriate [to pray for them] considering that they are doing a practice based on a rabbinical ruling, and there is no phenomenon of separating oneself [from the community of observant Jews] to sin. Even if, Heaven forbid, our ruling is incorrect, “Hashem is great, and He will not be disgusted” (ibid. 8a).

I have relied on divine mercy that the more work is done to justify the actions of the lenient, along the lines of the Torah, (and we attach the prayers of the multitude on behalf of Hashem's flock, which has returned to the fields where it grazed), so too the blessing will increase. This will turn the affliction to indulgence (a play on words in Hebrew), and the iniquity to great abundance of good (also a play on words) on Hashem's nation and estate. This is because one cannot even estimate the great power of the righteous and the Torah scholars when they come to find virtue for Israel. About them, the *pasuk* says, “You did decree with your speech, and it will be established, and on your paths there will be an aura of light” (Iyov 22:28).

We daven for a complete and speedy refuah for:

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Together with all cholei Yisrael

P'ninat Mishpat

Unsuccessful Transfer of Yeshiva – part IV

(based on ruling 82138 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def), a non-profit run by the *rosh yeshiva* (=rydf) had run a yeshiva for years and did not want to continue due to financial and educational difficulties. They negotiated with the plaintiff (=pl), another educational non-profit, to have them take over the yeshiva at its location and pay rent to def. A written agreement was signed in June 2022. After starting to enter the educational sphere and preparing, physically and educationally, at the end of the 5782 “academic year,” pl informed the students’ parents soon before the 5783 academic year that pl would close the yeshiva. [We will present elements of the dispute in installments.] Pl cites examples of def’s breach of contract, claiming they prevented pl from continuing to operate the yeshiva. These include that: def did not tell pl they would have to pay rent also to a *shul* and a small school who share the building; def withheld donors’ names; def spoke against pl to students. Pl demands to be paid for the outlays they made on behalf of the yeshiva, especially in staff salaries during the summer of 5782.

Ruling: What caused pl to close the yeshiva: Based on documents and testimonies, it is clear that the main reason for pl’s decision was not primarily the alleged breaches of contract but the educational difficulties. If not for the educational problems, in regard to which there are not strong claims, pl would apparently have continued and dealt separately with the financial disagreements. Since, in order to obligate payment based on reliance on another’s assurance, it is necessary to connect between the actions of the one to be obligated and the damage, we cannot obligate on these grounds

Payments to pl for improving the yeshiva: Testimony indicated that while the yeshiva’s survival was questionable, pl made improvements that made it more viable, and perhaps def should pay for those improvements. However, it is clear that rydf had lost so much money in trying to keep the yeshiva operating, that he was not willing to invest more, even if pl made improvements. This makes it like the Talmudic case of a field not made for planting (see Shulchan Aruch, Choshen Mishpat 375:1). There would then have to be clear benefit from the actions, which appears lacking. Additionally, the Rashba (Shut VI, 111) says that if the recipient of benefit says explicitly that he will not pay for what someone claims to do on his behalf (as def wrote in the agreement), he is exempt from paying for benefit. The Pitchei Teshuva (CM 264:3) does cite the Pri Tevua as saying that when there is clear benefit, warning that one will not pay does not exempt. However, the Pitchei Choshen (Sechirut 8:(64)) says that the Pri Tevua may be talking about a case where he wants the benefit and just does not want to pay or when he requested that the matter be done for free and did not categorically refuse to pay. Therefore, def does not have to pay pl for his efforts on behalf of the yeshiva.

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