

HALOCHOSCOPE

Continuation from last issue:

May one attend a 'holiday' or 'new year's' party, hosted by his or place of employment? What if they offer to provide special kosher food for the Jew? What if the absence will be taken as a negative attitude to the employer or employee body? This might cause anti-semitism or monetary loss.

In last issue:

- A) Jews' participation in non-Jews' parties
- B) Participation in 'holiday' festivities

In this issue:

- C) *Aiva*, consideration for antisemitism
 - D) *Parnasah*, livelihood
- C) *Aiva*, consideration of Antisemitism

Literally translated, *aivah* means enmity. In *halachic* terms it refers to strife between two parties. *Tikun olam*, institutions for the good of society or to prevent laxities in *halacha*, and *darkei shalom*, institutions to promote harmony and common decency, are related to and sometimes overlap with *mishum aivah* institutions. The basis for these institutions is the *mitzvah* to avoid disputes, and the verses, *'The ways of Torah as peaceful and pleasant' '[Hashem] is good to all beings and His mercy extends to all of His works.'*

These reasons are used to prevent fights over a lost item found by a child, due to jealousy. They are invoked to avoid a dispute based on honor, when distributing the order of *aliyos* in *shul*. They protect financial interests of neighbors. They are also invoked frequently to avoid angering gentiles, who might not understand or agree with Jewish laws and practices. The conditions for employing *aivah* as a dispensation include that it be done infrequently. It may not involve direct violation of something intended to create a distance. The predicted *aivah* must be quite obvious. To defuse a possible *aivah* one must find a diplomatic solution, but not override a prohibition. If there is any plausible excuse acceptable to the gentile party, one may not rely on *aivah*. This includes using a religious practice that the gentile is familiar with, that would not arouse *aivah*. One would say "I'm sorry, you know I can't do that due to religious reasons." This applies even if the true reason is different, but one that could arouse *aivah*.

Some of the restrictions on interaction with gentiles are relaxed when they could lead to undue hardship for Jews. The principle behind this is *sakanta*, danger. If the restriction is Rabbinical in nature, the Rabbis did not intend to cause antisemitism. In truly dangerous cases, even Scriptural violations are permitted. Situations where the gentile is in a position to cause harm to the Jew, or to others, call for this consideration.

Aivah permits accepting a gift from a gentile on his holiday, if the Jew interacts with this gentile the rest of the year. If a gentile insists on buying something from a Jew close

to his holiday, the Talmud debates whether *aivah* plays a role. One view forbids it but permits benefit after the fact. Another even allows it before the fact when the gentile is well acquainted with the Jew, but not on the holiday. A third view allows it on the holiday. One who enters a gentile town and finds them celebrating may join in to flatter them. One may not go or greet a gentile on his holiday. If he meets a gentile, one may greet them softly, due to *darkei shalom*. [See Avoda Zara 2a, 6b, 26a, 64b-65a, Gitin Perek 4-5, esp. 62a, Yerushalmi A.Z. 1:1, Etc., Poskim. Tur Sh. Ar. Y.D. 148:5 9 12, 154:2, commentaries. Teshuvos Chasam Sofer C.M. 94.]

The poskim debate whether *aivah* would permit participation in a gentile's family event, depending on the reason for the ban. *Aivah* and *darkei shalom* might be invoked in cases where there is a debate. One might rely on a lenient view. Where *aivah* is invoked to permit an activity, the Jew may still not violate the portions that apply to him personally. [See Avoda Zara 6b 7b 26a etc., Poskim. Tur Sh. Ar. Y.D. 148:5 152:1 154:2 158:1, commentaries. Igros Moshe C.M. IV:77, etc.]

D) Parnasah, livelihood

There is a popular notion that for *parnasah* one may obtain a special dispensation or exemption from Torah laws. This is not true, but also not without some merit. No Scriptural or Rabbinical prohibition may be violated with the excuse that one's livelihood depends on his violation. One must spend up to a fifth of his money to fulfill a positive *mitzvah*, and all of his money to avoid violating a negative *mitzvah*. Clearly, an excuse based on loss of money alone has little bearing on its permissibility. [See Brochos 61b, Kesubos 50a. Sh. Ar. 656:1, Rema. Chavos Yair 66. Tzitz Eliezer VI:40:19.]

However, there are many precedents for money to be taken into consideration.

First, there is debate on whether earning a livelihood is a *mitzvah*, and if so, whether it is Scriptural or Rabbinical. The Talmud records a debate on whether one is obliged to teach his son a trade. This is both linked to a verse and explained logically. If he does not practice a trade he might resort to stealing. Furthermore, one must teach him a clean and easy trade. This excludes trades that could involve forbidden activities or temptations. A second view does not oblige one to teach his son any trade other than Torah. By omitting any ruling in accordance with the former view, the poskim seem to favor the latter.

The Talmud also discusses the obligation one has to learn a trade himself. This, too, is linked to verses, some of which seem to indicate a Scriptural obligation. This *mitzvah* is also omitted by the major poskim. One of the sources lists learning a trade together with a number of other ethical *mitzvos*. These are listed, and are deemed Rabbinical *mitzvos*, at least by *Rambam*. The verse is evidently considered an *asmachta*, Rabbinical link to a Scriptural reference. The omission of this *mitzvah* implies that it is not considered obligatory. Indeed, *Rambam* rules that if one wishes to dedicate his life to Torah he need not occupy himself in a livelihood at all. Hashem will provide for him as He did for the Levitical tribe. Those who would consider learning a trade an obligation, based on this reference, would have to consider it Rabbinical.

Other sources indicate a *mitzvah* of some sort to practice a trade. However, these may be explained as sources to permit working in situations that might otherwise seem to be forbidden. For example, one may not work on the day he offers an offering. Since the Jewish people offer a communal offering each day, morning and afternoon, we should be

forbidden to work every day. The Yerushalmi cites a source to dispense with this possibility. This need not be taken to mean that it is a *mitzvah* to work, but that on regular days it is expected that people work, so it must be permitted. [See Kidushin 29a 30a 82a, Baba Kama 100a, Baba Metziah 30b, Yerushalmi Peiah 1:5, Kidushin 1:7, commentaries, Poskim. Rambam Aivel 14:1. Michtav Lechizkiyahu (Sdei Chemed X) Psachim 50a.]

In summary, some sources indicate a Scriptural or Rabbinical *mitzvah* to earn a livelihood, to learn how to do so, or to teach one's son how to do so, while others do not consider it so. One preoccupied in his livelihood is exempt from some *mitzvos*, unless he is compensated. This dispensation, known as *chisaron kis*, is only used in cases where the Talmud specifies it. It applies to certain *mitzvos* that are done as a service to others, such as chasing his lost animal and returning it to him. [See Baba Metziah 30b-31b.]

The Talmud sometimes invokes the concept of *hefsed merubah*, a major loss. If the Rabbis felt the need to impose a stringency over and above the literal law, they did not impose it where it would lead to *hefsed merubah*. The Talmud also raises the possibility of *sha'as hadechak*, a pressing situation. In such situations, under certain conditions, the Talmud permits ruling leniently based on a minority view. Generally, minority views are outvoted. However, if the matter is Rabbinical in nature, had the two views been equal the lenient side would be followed. Therefore, one may invoke this view in *sha'as hadechak*. Accordingly, the poskim rule the same way if there is a *hefsed merubeh*, which is a type of *sha'as hadechak*. While the Rabbinical matter might have been decided by the poskim in favor of a majority, due to the *hefsed merubeh*, leniency would be allowed. Two explanations are offered for this. The Rabbis did not intend their institutions to cause loss of money, certainly not on a large scale. And the Talmud states that the Torah has pity on the money of the Jews. The guidelines of *hefsed merubeh* and *sha'as hadechak* are generally left to the Rav ruling on the case. Some situations stand out as constant *sha'as hadechak*, such as entertaining prominent guests or right before *shabbos*. In certain cases, the Talmud would even relax a law based on *hefsed muat* or *pseida*, a small loss. [See e.g. Shabbos 154b, Psachim 15a-b 20b, Beitza 35b-36a, Chulin 49b, Nidah 9b, Yerushalmi Terumos 8:4, Psachim 1:8. etc. Poskim. Rema C.M. 25:5, Shach & Y.D. 242, end. Pischei teshuva 31:2.]

Work is forbidden Rabbinically during *Chol Hamoed*, *Shvi'is*, the seventh year of the *halachic* agricultural cycle and the seven days of mourning. Under certain circumstances, *davar ha'avaid*, a situation in which there will be an irretrievable loss, is relied on to permit work. These situations are specific and would not apply in our case.

There is much debate on whether there is a distinction to be made between loss and prevention of gain. [See Sdei Chemed Klalim Hay 69, Pe'as Hasadeh, Hay, 2.]

It is Scripturally permitted to loan money for interest to a gentile. However, the Rabbis forbade it. They were concerned that the Jews would learn from the behavior of their business acquaintances. The Talmud relaxes this additional prohibition *kedai chayav*, to support one's basic living needs. While it is not clear how the Talmud concludes in its ruling, the poskim rely on this nowadays. This is also one basis for permitting commercial activity with gentiles at times when it would otherwise be forbidden due to their religious holidays. [See Baba Metziah 70b-71a, Poskim. Avoda Zara 2a, Tosafos. Tur, Sh. Ar. Y.D. 169:1, commentaries.]

Generally, it is forbidden to place oneself in danger. If one is prepared to take the risk for his livelihood, he is permitted. This is based on the language of a verse. Thus, one may work up a tree. One may also work as a trapper or hunter, or a professional sportsman. The existence of the occupation shows that the risk is not unreasonable, though it involves the *mitzvah* of *shmiras hanefesh*. For one's livelihood it is permitted. [See Baba Metzia 111b-112a, Noda Biyehuda II:Y.D.:10. Igros Moshe C.M. I:104.]

There is a general prohibition against dealing in forbidden foods. Under certain circumstances, one may be a party to such dealings, in part due to livelihood considerations. In extreme circumstances, depriving one's livelihood leads to starvation, such as in the middle of a desert. In such situations, the poskim consider it life-threatening and it is permitted. Based on this, in countries where economic warfare is practiced against Jews with intent to impoverish them, some such restrictions are lifted. [See Avoda Zara 2a 6b, Poskim. Tur Sh. Ar. Y.D. 148:1, O.C. Magen Avraham 248:15, commentaries.]

Practices that attain the status of communal *minhag*, or are followed due to *mussar*, ethical training, or preventive measures against real violations, are sometimes suspended to maintain one's livelihood. One is not obliged to give up more than a fifth of his wealth to fulfill a positive *mitzvah*. One's *parnasah* is more than a fifth of his wealth. A *minhag* is generally no more than a positive *mitzvah*, and often less than it. Therefore, in such pressing situations one could relax the *minhag*. However, some practices become a Scriptural *mitzvah*, and possibly a negative one. For example, *chukos hagoy*, forbidding practices that are decidedly gentile, sometimes depends on what the Jews adopt as their *minhag* as opposed to the *minhag* of the gentile population. In such circumstances this would have to be taken into consideration as well. [See Igros Moshe C.M. I:93, O.C. IV:2.]

Our case involves a party. Presumably, the majority of participants are gentile, given the 'seasonal' nature of the event. Given the timing, it would seem to be secular rather than religious. If no intoxicating drinks are served, and no fancy food is served either, one could make a case for leniency. Those who permit non-intoxicating social drinking even in a party, but advise caution and discretion, might disregard it in consideration of the livelihood and antisemitism factors involved.

On the Parsha ... *Zevulun's brocha is mentioned first, both here and in Vezos Haberacha. If not for Zevulun's parnasah, Yisachar would not have been able to devote himself to Torah. Therefore, Yisachar's Torah is in the merit of Zevulun.* The commentaries point out that theirs was a legal partnership. Each was entitled to half of the other's work. Yisachar was given half the profits of Zevulun. Zevulun shared the merit of the Torah study of Yisachar. Perhaps we may add, assuming there is a *mitzvah* to earn a livelihood, one who devote himself to Torah will lose this *mitzvah*. By forming a legal partnership, Zevulun also gave Yisachar the merit of this *mitzvah*.

Further discussion: May a Jewish employer host a party for gentile employees? Does the annual fixed timing involve *chukos hagoy*? What if the employer does not attend himself?



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