



Parashat Emor 5772 - #231

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Short & Sweet

Text Message Responsa of Ha-Rav Shlomo Aviner Shlit"a

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On the Parashah... Cohanim in Ma'arat Ha-Machpelah in Hevron

Question: Is it permissible for a Cohain to enter Ma'arat Ha-Machpelah?

Answer: There is a halachic dispute about whether or not the graves of the righteous are impure. If the graves of the righteous are not impure, then it would be permissible for Cohanim to enter Ma'arat Ha-Machpelah, Kever Rachel, the grave of Rabbi Shimon bar Yochai, et al. While some do permit this, most authorities rule that the graves of the righteous are impure and it is therefore forbidden for Cohanim to enter. It is not permissible however, to give lashes to someone who does enter, since there are those who permit it. Some authorities also explain that Ma'arat Ha-Machpelah is built so that the lower structure, where the graves are located, is covered and detached from the building. Much has been written about this issue. I do not know much about this, though, since I am a Cohain and have never been inside Ma'arat Ha-Machpelah. Maran Ha-Rav Kook did not visit the graves of the righteous in general since he was a Cohain (Le-Sheloshah Be-Elul vol. 1, p. 76) and accordingly did not enter Ma'arat Ha-Machpelah. I am not more righteous than Maran Ha-Rav Kook, so I also do not enter.

The same question applies to Kever Rachel. Even according to the opinion that the graves of the righteous are impure, some say that the building was made in a way to make it permissible for Cohanim to enter. Ha-Rav Mordechai Eliyahu relates that he once told our Rabbi, Ha-Rav Tzvi Yehudah, that it is written in the book "Kuntres Yechi'eli" that it is permissible for Cohanim to enter Kever Rachel. Our Rabbi asked him: what do people say there? He answered: they read the verses about our mother Rachel. Our Rabbi travelled there, but only went as far as the door. When he returned, Ha-Rav Eliyahu asked him: why didn't you enter? He answered: My father did not enter, therefore I did not enter" (Parashah Sheet "Kol Tzofa'ich #279. See also Sichot Ha-Rav Tzvi Yehudah - Eretz Yisrael p. 142 note 1 that after the Six-Day War, the students of our Rabbi organized a trip to the liberated areas in the Shomron. One of the places they visited was Kever Yosef. The students entered, but our Rabbi remained outside, because he was a Cohain). Again, Maran Ha-Rav Kook did not enter Ma'arat Ha-Machpelah, so I do not.

[M. Tzion – note: We can also mention that in the book "Ke-Chitzim Be-Yad Giborim" (vol. 3, p. 108), Ha-Rav Avichai Ronski, the former Chief Rabbi of Tzahal, was asked: is it permissible for a soldier who is a Cohain to enter Ma'arat Ha-Machpelah for a tour, in order to learn about the place in the event that there is a terrorist attack there and his unit needs to take action? Ha-Rav Ronski answers that it is permissible for three reasons: 1. It is obvious and clear that the security apparatus which would be sent on such a mission must train for it properly. 2. In general, it is not clear that the graves of our forefathers are directly located under the floor of the prayer halls, and even if they are located there, it is possible that the impurity does not break out and spread upward since there may be hollow spaces larger than a "tefach" (handbreath – 7.6 cm-9.6 cm) which separate the floor from the graves. 3. There are Rishonim (Rabbis of the Middle Ages) who ruled that the graves of the righteous

do not cause impurity, and Ha-Rav Mordechai Eliyahu permits Cohanim to enter Ma'arat Ha-Machpelah and Kever Rachel. Even though the majority of authorities prohibit entering, it is possible to add this lenient opinion to the other reasons that permit it. Ha-Rav Aviner writes in his comments to this book that it is important to know that the first reason is the main one, and the second and third reasons are only additional minority positions which can be added to permit it. And we must point this out so that people do not learn that there is an all-encompassing *heter* to enter.]

Question: If Cohanim enter one of the Kivrei Tzadikim, such as Ma'arat Ha-Machpelah or Kever Rachel, and they recite Birkat Cohanim, should one recite Amen since there are a minority of authorities who allow Cohanim to enter, or should one refrain from reciting Amen since it is a Mitzvah which is performed through a transgression?

Answer: Yes, one should recite Amen, since they have on whom to rely to enter. In a case where there is a dispute as to whether to recite a blessing, and one relies on the permissive opinion, he does not perform a transgression. But, those who follow the authorities who rule that one should not recite a blessing, should not recite Amen, since it is an Amen in vain. The dispute here, however, is not regarding whether one should recite the blessing, but rather if one should enter. But after he enters, he should recite the Birkat Cohanim, and one should respond Amen.

Q: If a Cohain receives the first Aliyah of the Torah reading in one of the Kivrei Tzadikim, should one respond Amen?

A: Yes. Same as above.

Rav Aviner on...

Tax Evasion

[Be-Ahavah U-Be-Emunah – Acharei-Kedoshim 5772 – translated by R. Blumberg]

Question: What should I do if my employer evades taxes? Am I allowed to work for him? Likewise, am I allowed to buy in a store that evades taxes?

Answer: Tax evasion is theft. There is no difference between stealing from an individual and stealing from the public. The public pays taxes in exchange for various governmental services, and tax evaders receive, through theft, services for which they did not pay. Now then, if you are a partner in evading taxes, as for example, when someone sells products without giving a receipt in return, then not only your employer is evading taxes, but now you, yourself, are evading taxes, i.e., you are stealing. Therefore, you are obligated to tell your employer that you cannot be partner to that theft, even if this means he will dismiss you from your work.

A person is not allowed to do a sin, even if his livelihood depends on it. One is not required to fulfill a mitzvah if he has no money, as when he has no money to purchase Tefillin.

Such is not the case regarding a sin. One is forbidden to do a sin even if he will thereby lose a lot of money (Shulchan Aruch, Orach Chaim 656). Sometimes, our Sages permitted violating a Rabbinic prohibition in the case of great potential loss, but that was only in extraordinary situations, and anyway, here we are not talking about a Rabbinic prohibition, but about the Torah prohibition against theft. Therefore, if a person is being obligated to be a partner to theft, he must vacate that workplace.

True, if he not partner to the sin, but he knows about it, then he is like any person who knows about tax evasion. Does the law require that he report it? One has a duty to report only a criminal act, such as murder, assault or theft (!). But is there is duty to report it according to Jewish law? Yes, there is, as part of “returning a lost object” (Shemot 23:4).

Money stolen from the public has to be returned. It can be viewed in terms of “Do not profit by the blood of your fellow” (Vayikra 19:16).

Rambam explains that this negative precept is not just violated when A wants to steal directly from B, but also when A wants to cause B to lose his money. Therefore, if someone has critical information he is obligated to testify, first of all as part of the laws of testimony, but, adds Rambam, also as part of “Do not profit by the blood of your fellow.”

It thus follows that according to Jewish law, whoever knows about tax evasion, whether by his own employer, or by anyone else, he is obligated to report it, in order to save those being stolen from.

Yet this is a complicated law, for by such means we become involved in the laws of Lashon Hara, forbidden gossip, and Rav Yisrael Meir Ha-Cohain explains in his work, “Chafetz Chaim” that in order to be allowed to report something bad about someone, certain conditions must be met: something beneficial must result from it, the person speaking the Lashon Hara must have that benefit in mind, it must be impossible to achieve that benefit otherwise, etc. It is a complicated issue. Obviously, we are not talking about someone who works for the Tax Authorities and must ascertain whether the law is being followed. He is certainly doing a great mitzvah. As far as a regular person goes, however, this is a complex topic, for the fear is that an atmosphere will take hold in which everyone will begin reporting on everyone else. It’s a complex topic, both for the citizen, and for the worker.

Yet we needn’t forbid a worker to work for an employer who does something illegal, if that worker, himself, is not involved, just as we needn’t forbid his working for someone who violates the Sabbath, when the worker has no connection to that. After all, it isn’t easy to find work. As for buying from a store that evades taxes, or receiving the work or services of a person who evades taxes, there are three situations:

1. The customer is not obligated, whether according to secular law or Jewish law, to check whether the worker keeps proper books or to demand a receipt from him. It’s good to demand one, but there is no obligation.

2. If he becomes aware, however, that the seller or the worker evades taxes, he’s not allowed to buy from him. Otherwise he’s considered to be buying from a thief, which renders one, to a certain extent, a partner in thievery. After all, if the thief finds no one to sell to, he will stop stealing. As our Sages said, “It’s not the mouse that steals, but the hole.” If the mouse has no hole in which to hide its food, it won’t steal.

3. If the seller offers a discount if the customer pays in cash and doesn’t demand a receipt, then the customer is not just assisting the thief, but is himself a thief. Both are thieves, partners in theft, splitting the theft between them.

By the way, a little story. A person invented something that brought him income, and others stole the idea and earned money at his expense. I suggested to him to ask Rabbis to write that it is forbidden to steal his idea from him, and he responded, “I’ve got a lot of experience with this. People listen to rabbis on the laws of Kashrut, but not on the laws of theft. They steal copyrights and they steal taxes.”

Very sad.

Let us be strong and courageous.

Stories of Rabbenu –

Our Rabbi, Ha-Rav Tzvi Yehudah Ha-Cohain Kook

Participating in a Seudat Mitzvah

Our Rabbi related this Dvar Torah many times: The Gemara in Sanhedrin (71a) says that a Ben Sorer U-Moreh (Rebellious Son - see Devarim 21:18-21 who is killed on account of where his current transgressions will lead. Among others things, he eats meats and drinks wine like a glutton.) who eats as part of a group fulfilling a Mitzvah is exempt from the law of

Ben Sorer U-Moreh. Rashi (ibid. 71b) brings two examples of such a group: eating a sacrifice in the Temple and eating the Korban Pesach.

But a difficulty can be raised on Rashi's comment: the Korban Pesach is eaten roasted, and a Ben Sorer U-Morer – whether he eats as part of a group fulfilling a Mitzvah or not – only receives capital punishment if he eats raw meat. How then could Rashi bring an example of the Korban Pesach which is never eaten raw?

Our Rabbi explains that the Ben Sorer U-Moreh in this case was not eating from the roasted Korban Pesach, from his own raw meat, while sitting with a group who was eating the roasted Korban Pesach. Even this slight participation with a group fulfilling a Mitzvah exempts him from capital punishment, even though he was eating raw meat.

Our Rabbi would mention this Dvar Torah when he arrived late to a Brit Milah or had to leave a Simchah early, but was at least able to make it for part of the meal. He would use this idea to emphasize the great value in participating in a Seudat Mitzvah, even if only for a short time (Be-Shipulei Ha-Gelimah of Ha-Rav Yair Oriel, pp. 84-85).

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