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"Taking Responsibility for Torah"

ZEVULUN AND YISOKHAR: THE LAWSUIT

By Rabbi Aryeh Klapper

Imagine a Torah essay that upends a popular belief, exposes a possibly new kind of AI hallucination, raises concern about possible financial fraud, and most exciting of all – corrects crucial typos that led to radical misunderstandings of a responsum by Rav Moshe Feinstein! Now imagine all that in about 1500 words! I couldn't get it anywhere near that short. But here is a 1500 word first installment of a series that has all those ambitions.

We'll start with the popular belief. "Everyone knows" that Yisokhar and Zevulun formed a partnership, in which Zevulun traded half of his worldly profits for half of the reward Yisokhar received for his study of Torah. Rashi on this week's parshah (49:13) is a standard source:

שהיה זבולון עוסק בפרגמטיא,
וממציאים מזון לשבט יששכר, והם עוסקים בתורה,

Zevulun was engaged in commerce,
and they would produce food for the tribe of Yisokhar, who were
engaged in Torah.

However, Rashi does not describe the arrangement as a quid pro quo = material support in exchange for the reward of studying Torah. Rashi might mean just that Zevulun received a separate reward for his support of Torah.

Rashi's source, Bamidbar Rabbah 13:17, provided more support for the popular understanding.

שלולי זבולן - לא היה יששכר יכול לעסוק בתורה
שהוא היה מאכילו ונותן לתוך פיו . . .
זבולון ויששכר

שניהם היו נוטלין שכר תורה ביחד
ושניהם היו מתפרנסין ביחד
Because without Zevulun – Yisokhar would have been unable to
engage in Torah,

Because he would feed him, putting the food into his mouth . . .
Yisokhar and Zevulun

The two of them would take the reward for Torah together
and they would support themselves together.

However, even if we understand "took the reward of Torah together" as implying a split of Yisokhar's reward, this midrash does not say that the brothers/tribes formalized their arrangement, nor does it specify the percentages that each took of what the other brought to the table. It describes a fraternal rather than a legal or contractual relationship.

Formalized versions of this kind of arrangement have actually been the subject of great ambivalence from Chazal's day to our own, because it cheapens Divine reward to say that it can be exchanged for any amount of this-worldly goods. We solve this partially by condemning anyone who sells reward they've already earned; with regard to future reward, the arrangement can be conceptualized as accepting an investment rather than a sale, because the scholar will now gain more reward than otherwise, and likely gain overall.

Framing the arrangement as an investment has a second advantage. It is demeaning to the scholar to be an object of charity, and furthermore, Zevuluns might be tempted to direct their charitable funds to those unable to support themselves, rather than to those who engage in Torah instead of supporting themselves.

However, the investment model also has costs. Making Zevulun's reward depend on a quid pro quo creates risk for the investor – what if they choose the wrong Yisokhar? Offering Yisokhar the prospect of matching Zevulun's standard of living, which he has no way of sustaining independently, makes him (and generally his wife and children) dependent on one individual – what if Zevulun becomes impoverished, or dies, or reneges? What if the parties disagree as to whether they are meeting their obligations?

The standard way to manage these sorts of risks is to write up a formal contract. However, perhaps because of the theological discomfort discussed above, Yisokhar-Zevulun relationships generally avoided or resisted extensive halakhicization until February 14, 1982, when Rav Moshe Feinstein responded to a list of halakhic questions sent by Rabbi Simcha Soloveitchik, along with follow-up questions he received from Rabbi Shlomo Blumenkrantz.

Rav Moshe's responsum is printed as 4YD:37 in a posthumous volume of Igros Moshe. Our interest is in Section 14. (The translation below is mine; I've provided the Hebrew for the last section. The words in a smaller font were added by the editors of that volume of Igros Moshe where they thought clarification was necessary.)

That which your honor (= R. Blumenkrantz) asked in your first
section,

that if I reply to Rav Soloveitchik that a Yisokhar-Zevulun relationship becomes binding only if the parties made a condition (=an explicit quid pro quo) with each other, then must that condition be made via *shtar* (= in writing), or is an oral agreement sufficient?

Writing is certainly not necessary,

and there is also no need for (the oral agreement to be made in) the presence of witnesses, because written contracts and witnesses serve only to prevent lying,

but here, where the whole condition is related to mitzvah-reward, a matter to which only the Holy Blessed One can be a contracting party, because only He gives reward,

which means that in terms of what Yisokhar gives – there is no need for a written contract of witnesses, and therefore Zevulun, since he wishes to acquire that reward (and cannot secure it via *shtar*), commits fully (via oral agreement).

Anyway, if a formal *kinyan* (= act of acquisition, such as the transfer of a *shtar*) were necessary, (it would be impossible), because it would apply to things that don't yet exist (and halakhah does not regard things that don't yet exist as subject to *kinyan*) . . .
ולכן פשוט שאין צריך בזה קניין ושטר.

אבל פשוט שאם ישכר ירצה דווקא בשטר ועדים חתומין –
כדי שיוכל לתבוע בדינא את זבולון על הזמן שלא שמענו ממנו שחזר
בו –

משום שלא סמכה דעתו עליו בלא שטר ועדים שלא יוכל לתבועו בב"ד,
ואף שהוא רק שטר לברותא, מ"מ אם נעשה בלא שטר - כיוון שלא סמכה
דעתיה דישכר עליו בלא שטר ועדים – אין להחשיב זה אף לא לדברים
להחשיבו מחוסר אמנה . . .

Therefore, it is obvious that no *kinyan* or *shtar* is needed for this. However, it is obvious that if Yisokhar wishes to insist on a *shtar* signed by witnesses

so that he can sue Yisokhar for (any money owed) for any time that Yisokhar had not paid without providing notice of termination, because he doesn't rely on him in the absence of a *shtar* and witnesses and having no ability to sue him in *beit din*,

and even though this is just a *shtar LBRThA*, nonetheless, if it was done without a *shtar* – since Yisokhar did not rely on him without a *shtar* and witnesses – one should not consider this even as an oral agreement so as to consider Yisokhar a “breacher of trust” (if he does not pay) . . .

My translation indicates that the *shtar* is effective in making Yisokhar a “breacher of trust” if he fails to pay while the arrangement is in effect. However, I had trouble making sense of the phrase “since Yisokhar did not rely on him without a *shtar* and witnesses”, how especially since the editors' note described the case as “done without a *shtar*”.

I also had no idea what a “*shtar LBRThA*” was. Attributing this to ignorance, I searched for the phrase on Bar Ilan, and then for just *LBRTha* alone, and discovered that this was the only instance in the database. So I Googled it and received this summary from Gemini:

Shtar Le'bruta (Shtar Le'bruta) is a Talmudic/Halakhic term referring to a legal document that serves as a proof or support for an oral agreement or a promise, especially in contexts like supporting a son-in-law or a student, where a formal, legally binding deed (like a loan document) isn't strictly necessary, but a written record helps establish the commitment in court (Beit Din), ensuring the recipient's reliance is justified.

The definition seemed a perfect fit for the context, and there were footnotes to Rabbi Dovid Lichtenstein's “Halacha Headlines” and Rabbi Zvi Ryzman's “Olamot”.

Unfortunately, it turned out that those footnotes were simply citations of the Hebrew teshuvah. Gemini did a marvelous job of coming up with a context-appropriate translation of a hapex legomenon (= word that appears only once), but I still had no independent evidence of the phrase's meaning.

Or that the phrase existed. Google also asked me if I instead meant *shtar ChBRTha*, substituting a chet for the initial lamed. That *shtar*, Gemini informed me (in Hebrew), was written among friends as an expression of mutual trust. That also seemed a possible fit for my context. Perhaps Google was correct, and there was a typo in *Igros Moshe*?

Unfortunately, *shtar ChBRTha* is not a hapex – it simply doesn't exist. It's not clear to me whether Gemini invented the definition by literally translating *chavruta*, or whether it did so on the assumption that this was in fact the correct text of *Igros Mosheh*.

So I had gotten nowhere. Searching now on Otzar, I found that Rabbi Efraim Sternbuch, in his 1998 *Sefer Yisoschor uYisokhar Volume 1 (Hebrew)* had been puzzled by the same paragraph. (Aside: From one teshuvah to VOLUME 1! Halakhicization proceeded at an extraordinarily rapid pace). Here is what he wrote:

ובסיום דבריו נראה בפשטות דבא לחדש דע"י שטר מגרע
דבלא שטר היה כאן עכ"פ ענין של מחוסר אמנה
אבל כיששכר דורש שטר - אם כן, אין הוא מאמין לזבולון, ואם כן, אין כאן
מצד זבולון מחוסרי אמנה.
והלשון לא ברור כ"כ

וגם נשתנה מעט ע"י המעתיקים וקשה לעמוד על כוונתו בביורור . . .

At the end of his words, it seems obvious that he comes to make the creative point that Yisokhar loses by insisting on the *shtar*, because without a *shtar* there would have been at least an issue of breach of trust,

but when Yisokhar demands a *shtar* - if so he doesn't trust Yisokhar, and if so, there is no breach of trust from Yisokhar's side.

But the language is not so clear, and also has been slightly changed by the *ma'atim*/copyists, so it is hard to understand his intent with certainty . . .

Rabbi Sternbuch's understanding is almost the diametric opposite of mine. I said that the *shtar* is necessary to create the issue of breach of trust; he says that the *shtar* eliminates the issue of breach of trust.

Honestly, Rabbi Sternbuch's understanding seems nonsensical to me, and he himself calls it “creative” on the part of Rav Mosheh, which is not always a compliment. But his comment about “changes on the part of the copyists” made me wonder – what changes was he referring to? And looking more closely, I realized that his text was not *shtar LBRTha*, but rather לברורא = *shtar LBRRa*. Where did that come from, and was it a real phrase?

Please send in suggestions, comments, questions, and research! Please stay tuned for the next installment!

Shabbat shalom!