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FLIGHT RISK:

Max Pressure at Boeing

Adapted from a shiur by Rav Daniel Dombroff

IS BOEING LIABLE FOR THE DOOMED 737 MAX?

The world's largest aircraft manufacturer was in crisis.

The 737, Boeing's workhorse aircraft, had been selling briskly since 1967. The company was working on a fourth-generation model, the 737 Max, which would increase fuel efficiency and range while reducing noise.

Meanwhile, across the Atlantic, Airbus was deep into the development of its own next-generation narrow-body aircraft, the A320neo, an impressive offering that would compete directly with the 737 Max and was rapidly amassing orders. And Airbus was nearly a year ahead.

Boeing executives were stunned to learn in 2011 that American Airlines, a Boeing loyalist that hadn't bought a new plane from Airbus since the 1980s, was planning to order hundreds of A320neos.

Airlines resist new plane designs that require expensive pilot training, preferring derivative concepts that keep familiar systems in place. And the FAA streamlines approval of such planes. But the Max's new engines tended to cause the plane's nose to rise under certain conditions, which necessitated the creation of a software program called MCAS to automatically fight this tilt—which could cause a stall—by pushing the nose down.

Feeling pressured to stop the AA defection and stanch the sales hemorrhage, Boeing sped up the release of the Max by six months. And company executives downplayed, to airlines and the FAA, the need for pilot training on the workings of the MCAS system and

how to deal with a malfunction. Boeing even induced Southwest, an airline that flies 700 737s and nothing else, to buy the Max by making the unprecedented promise of a million dollars per plane if any new pilot training in a flight simulator would be required.

Lion Air Flight 610 crashed last October with no survivors, as did Ethiopian Airlines Flight 302 in March. Both flew the 737 Max. A malfunctioning of the MCAS system, coupled with the pilots' lack of knowledge about how to override the system, is suspected in both cases. The U.S. government has taken the step, very rare in an airliner crash, of opening a criminal probe of the manufacturer.

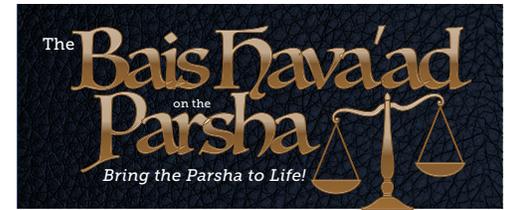
(The above account is distilled from media reports based on insider interviews.)

These tragedies give rise to Halachic questions of liability.

INDIRECT FLIGHTS

Halacha distinguishes between damage inflicted directly and indirectly. While being a *mazik* is forbidden (Bava Basra 22b), and that prohibition extends even to *grama* (indirect causation), Bais Din only has authority to exact payment if the *hezek* was direct. But the perpetrator of *grama* damage is *chayav b'dinei shamayim* (Bava Kama 60a); i.e., he must pay his victim, and will be held to account by Heaven should he fail to do so. But this Heavenly liability only obtains where the *grama* damage was intentional, and no one is accusing Boeing of that. However, the Rambam (*Hil. Chovel Umazik* 6:3) rules that a person is liable for damage to goods outside the victim's property only if the damage was intentional, and R' Isser Zalman Meltzer (Even Ha'azel, *ibid.*) proves that there, gross negligence is equivalent to intent. It's possible that the same can be said of *grama*, and gross negligence would suffice to establish

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An Overview of a Shiur by Rav Moshe Zev Granek on Parshas Metzora

Must a Metzora become Tahor Immediately?

זאת תהיה תורת המצורע והובא אל הכהן (ויקרא יד:א)

Why does the *pasuk* say he is brought to the *kohen* if he may not enter the *machaneh*?

Ramban interpreting *Toras Kohanim* – It means he must make himself *tahor* as soon as possible.

Binyan Tzion (*Chadashos* 127) interpreting *Toras Kohanim* -- There is no *chiyuv* to wait like there is for a *zav* (who waits *shiva nekiyim*).

Are there other sources that a *metzora* must become *tahor* immediately?

Gemara (*Chullin* 141a) – *Hava Amina* that mitzva of *taharas metzora* would override the mitzva of *shiluach hakein* and one may take a mother bird and chicks if no other birds are available.

Kehilos Yaakov (*Yoma* 21) – This proves that

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GENERAL HALACHA

RAMIFICATIONS OF A BROKEN KINYAN:

Reneging on an Agreement Part III

By: Rabbi Yosef Greenwald



THE OFFENSE OF THE MI SHEPARA

The *Baalei Mussar* discuss a related point which is both timeless and actually, very timely. One who is *mevatel* the *kinyan kesef*, the *loshon* of Chazal is, “*Mi shepara, m’anshei dor hamabul v’anshei dor haflaga, hu yifreh*”

The *Baalei Mussar* point out that Chazal group together *Mi Shepara* with *Anshei Dor Hamabul* and *Dor Haflaga*. In terms of the *aveiros* themselves, it would seem that one who breaks a contract has no *shaychus* to the *aveiros* of the *Dor Hamabul* and *Dor Haflaga*.

Chazal describe the final *aveirah* of the *Dor Hamabul*. “*Lo nechtam gzar dinam shel Dor Hamabul, ela al gezet.*” Stealing is *bein adam l’chaveiro*.

Meanwhile, the *Dor Haflaga* were excellent in *Bein Adam L’chaveiro*. The reason why they weren’t completely destroyed, was because there was *achdus beineihem*. Their *aveira* was *kfira* that they wanted to fight against the *Ribbono Shel Olam*. This is an *aveiro Bein Adam L’mokom*.

These two *doros* are compared to the *aveira* of the *Mi shepara*, which is *bein odom l’chaveiro*, in that he broke his contract. Why do Chazal lump together these two *doros* in defining the *klala* of *mi shepara* including *Dor Haflaga* which is *Bein Adam L’mokom*?

I believe that the answer lies in understanding the phraseology of Chazal in a Gemara in *Maseches Shabbos*.

The Gemara says that when a person goes in front of the Heavenly Court *l’achar meio v’esrim*, he is asked four questions:

First, *nasata v’nosossa bemuna?* Were you honest in your business dealings?

Second, *kavata itim l’Torah?* Did you daily set aside set times for learning Torah?

Then, *asakta b’pirya v’rivya?* Were you busy getting married and bringing children into the world?

And finally, *tzipisa lyeshua?* Did you hope and look forward to the Final Redemption?

The Gemara in *Maseches Sanhedrin* 7A, says that *techilas dino shel odom* is *b’dinei Torah*. *Tosafos* ask a question, “What is the first test that the person is put to when he receives his *din*? Is it on learning Torah as stated in *Sanhedrin*, or is it on honesty in business as stated in *Shabbos*?”

In responding, the Maharsha says a very fundamental insight, namely, that a person who merits to be *shivti b’veis Hashem*, to spend his life *b’koselei beis medrash*, in the *daled amos shel halacha*, the first and foremost judgment on him, is how did he use his time for learning? The first *tayne* on him is *t’chilas dino shel odom b’iskei Torah*.

However, the Gemara in *Shabbos* is referring to a person whose *tafkid* in life is in the *shuk hachaim*, in the business world. His *ikur nisayon* is his level of integrity and trustworthiness. His first *din* is how he keeps his word, and his level of trustworthiness in dealings with his fellow man. For the businessman, *kavata itim l’Torah* is only the second part of his *mishpat*. The first part of his *mishpat* is *nossossa v’nosossa b’emunah*.

We see from here that Chazal define a person who is honest in business as *nosossa v’nosossa b’emunah*.

A person who is strong in his *emunah* and his *bitachon*, strengthens his relationship with *Hakodosh Boruch Hu*. The *ikkur* of a person’s relationship with *Hakodosh Boruch Hu* lies in his level of *emunah* and *bitachon*.

For a person who is *b’veis Hashem*, who spends his life *b’kvius itim l’Torah*, who spends his life *b’daled amos shel halacha*, his *ikkur* relationship with the *Ribbono Shel Olam* is defined in terms of the strength of his commitment to *limud Hatorah*. This includes his *omek* in *limud haTorah*, his not wasting time from *Limud haTorah*, his depth of insight of *Limud Hatorah*, his *hiskashrus* in *divrei Torah*, and his *kabbolos ol Torah*.

A person who goes out into the business world, the *ikkur* depth of his relationship with the *Ribbono Shel Olam* is defined in terms of the strength of his commitment to honesty, the depth of his integrity, in how much he honors his word. The *ikkur* definition of a businessman who has a relationship with *Hashem*

is this understanding that every word is *kodshei k’doshim*, and he has to respect that word.

With this understanding, we can comprehend the similarity between the *dor hamabul* and the *dor haflaga*, as compared to the *mi shepara*. In each of these generations, the *aveira* was a break in the relationship with *Hakodosh Boruch Hu*. Whether it was the *gezel* of the *dor hamabul* or the tower of the *dor haflaga*, they both had the same goal, to be independent of *Hakodosh Boruch Hu*, to fight with the *Ribbono Shel Olam*, so to speak. This is the singular *aveira* of trying to destroy that *keshet* that they have with *Hakodosh Boruch hu*.

In comparing these *doros* to the *mi shepara*, Chazal define him as a person lacking in his connection with the *Ribbono Shel Olam*. He uses the world of *asakim* as a means towards his own end, instead of a means of developing a *keshet* with the *Ribbono Shel Olam*.

THE CONNECTION BETWEEN ECONOMICS AND EMUNAH

R’ Elchonon, in the *Kovetz Mamurim*, wrote a *maamar* in the early 1930’s, trying to understand the root of the Great Depression which had overtaken the whole of western society. In the past, when there was an economic problem, it usually had a natural reason, such as a war or a plague. But during the 1930’s there seemed to be no natural reason for the whole world to be suffering from starvation and unemployment.

R’ Elchonon explained that the Great Depression was a *middah kneged middah*. When people do not develop their *emunah*, and the depth of their *keshet* with the *Ribbono shel Olam*, then *middah kneged middah*, there is a weakening of the economic situation.

The entire business world functions on developing trust between people. Most of business relies on relationships, and how much they are willing to trust and do business with each other. If we don’t work on developing a stronger commitment to the *Ribbono Shel Olam*, and living with a *keshet* to *Hakodosh Boruch Hu*, then there is a weakening in the economy.

R’ Elchonon explains that when people become *m’chuzak* because of *tzaros*, and they develop their *keshet* with the *Ribbono Shel Olam*, then the *Ribbono shel Olam* will strengthen the *keshet* that exists between people, which is the basis for economic prosperity.

May the Ribbono Shel Olam help us, and we should be *mechazek*, and be *mischazek*, that we should be *omed* on all *nisyonos*, and we should strengthen our *keshet* with the *Ribbono shel Olam*, and the *keshet* between all *Yidden* should be strengthened, and we should be *zoche* to all the *yeshuos*.

MATTERS OF INTEREST

AVISSAR FAMILY RIBBIS AWARENESS INITIATIVE:

SENDING A PACKAGE OVERSEAS

It is customary to give “shaliach mitzvah money” as a shmirah (protection) to someone who is traveling, in order that they give it to tzedakah upon arrival at their destination.

May the giver request favors from the traveler, such as also taking a package with him overseas?

This seldom involves a ribbis issue, since the money is not given as a loan, rather as a *pi-kadon*. Furthermore, it may possibly be considered the property of the intended *tzedakah* organization.

An issue may arise if the traveler used the money with the intention to pay it back upon arrival at their destination, as sometime is the



case. This would then be considered a loan, and asking for favors might involve ribbis.

Upon further investigation there does not seem to be any issue with this either, since the lender rarely has intention to collect the loan, something which would remove any potential ribbis problem (see *Rema, Yorah Deah* 177:1). A large amount of money which the lender would collect if lost en route may present a problem.

In cases where a traveler is entrusted with an envelope of cash to give someone, and the giver allows use of the money until paid to

the intended recipient, it would be considered a loan and the borrower performing additional favors would be subject to the conditions discussed at the beginning of this chapter (see “Usual and Unusual Favors”).

YOU DAILY LIVING

Weekly Questions

LAWS RELATED TO BRACHOS



We learned previously that if one eats an entire meal of an item that is considered pas haba'ah b'kisin, the brachos recited would be Hamotzi and Birkas Hamazon. Is the amount of pas haba'ah b'kisin that would mandate Hamotzi the same for everyone?

No. To require the *bracha* of *Hamotzi* one must eat an amount, “*she'acheirim kov'im alav*” that other people normally eat for a

main meal (*Shulchan Aruch* O.C. 168:6). The *Biur Halacha* (ibid) writes that “other people” refers to people of similar physical properties. Rav Belsky, zt”l explains that this refers to people of the same age and build. While an adult might need to eat two or three slices of pizza in order to say *Hamotzi*, a child might only need to eat one slice if that is a typical main-meal for a child that age.

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- דף ק"מא *Chasing What Matters: Running After Mitzvos & More*
- דף ק"מב *Siyum: Jumping to Conclusions*

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an obligation in the eyes of Heaven.

However, the Halacha follows R' Meir (Bava Kama 100a) that one is liable for something called *garmi*, and according to most *Rishonim*, *garmi* is different from *grama*. How the line between the two is drawn is the subject of significant debate among the *Rishonim* and lies beyond the scope of this article.

With two crashes among many thousands of flights in the brief operational history of the 737 Max, the likelihood of a crash on each flight is small, but Boeing created real risk at the outset, so this might qualify as *garmi*.

BYE BUY

Because the plane was sold with the understanding that less training was needed than was the case, the airlines and aircraft lessors that bought it might be able to claim this was a *mekach ta'us*—a mistaken purchase—and should be invalidated.

Additionally, because Boeing misled the airlines into thinking the plane was safe to fly, it indirectly caused the crashes. This is at least *grama*, but it could be *garmi*. (See Bava Kama 99b.)

The airlines that experienced crashes have suffered harmful reputational damage. In this there is no question of *garmi*; this is a *grama*.

MURDER

There is a case in the Gemara (Chulin 16a; see also Sanhedrin 77a) of a person who releases a stream of water that causes a man to drown. Unless the victim is killed by the initial burst of water, says the Gemara, this is considered an indirect act and the perpetrator is not liable for murder. It is unclear, however, whether killing by *garmi* could be deemed murder.

BAGGAGE CLAIM

Boeing has no business relationship with airline passengers, who are Boeing's customer's customers (or, in the case of a leased plane, its customer's customer's customers). But an airline is a *shomer sachar*, a paid custodian, of its passengers' checked bags, and the airlines can argue that Boeing misled them into thinking that the bags would be well protected on its planes. Again, this is at least *grama*, but it could be *garmi*.

May Hashem bring us to all our destinations *I'chaim ul'simcha ul'shalom*.

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metzora must become *tahor* immediately.

Dvar Avraham –

It only proves that *shalom bayis* of *metzora* (who hasn't been with his wife) is *doche shiluach hakein*, but not *mitzva* of *taharas metzora* alone.

Gemara (Yevamos 5b) – *Metzora* must shave all of his hair including the *pe'os*, showing *aseh doche lo taaseh*.

Chazon Ish/Gra – the *aseh* is *taharas metzora*.

EVENTS & HAPPENINGS AT THE BAIS HAVAAD



This past Thursday, the Bais HaVaad presented for a select group of businessmen, 'When Chametz Means Business', a symposium on corporate chametz issues, presented by Rabbi Yosef Kushner, shlit" a, Posek at Bais HaVaad Halacha Center, and author of 'Commerce and Issurei Hana'ah'. Business owners face chametz challenges that are different from those of consumers and the Bais HaVaad is at the forefront of educating and servicing them.

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