

The Law of Invalidating Shtarot

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One of the most moving prayers in the liturgy of Yomim Noraim presents a dramatic description of the Kedushah and awe of the Yemei HaDin. We are told how the deeds of every living being are scrutinized by the Heavenly Court.

The book of records is opened. And it reads by itself. And the signature of every man is in it.

Liturgy for the Yamim Noraim

ותפתח את ספר הזכרונות. ומאליו יקרא. והותם יד
כל אדם בו.
תפילת ימים נוראים

This is based on the statement of Rabbi Akiva in the Mishnah in Pirkei Avot.

All is given against a pledge, and the net is cast over all living; the shop stands open and the shopkeeper gives credit and the ledger is open and the hand writes.

Avot 3:16

הכל נתון בערבון ומצודה פרוסה על כל החיים
החנות פתוחה והחנוני מקיף והפנקס פתוח והיד
כותבת
אבות ג:טז

The great sage stresses the point that the deeds of man do not pass unnoticed; that the Ribono Shel Olam takes careful cognizance of them. They are recorded in the ledger, and the recording is done by each living being himself. And on Yom-HaDin, that book is opened, and it recounts the things that one has done or failed to do. VeChotam Yad Kol Adam Bo. The signature of everyone's hand is attached to it.

Thus we see that Chazal looked upon the ledger as a legal document, undersigned by the individual. If one sinned or committed a crime, he cannot deny it, for his personal signature is there to attest to the truth of the statement.

Let me say a few words about the law of Kiyum Shtarot, of authenticating legal documents. The halacha requires that the signatures on a document be authenticated either by the witnesses themselves or by others. The witnesses appear before a Bet Din, and are asked to identify and confirm their signatures.

The same is done on Yom HaDin. The Bet Din Shel Ma'ala is bound by the same halachic rules as the Bet Din Shel Mata. It requires the authentication of the ledger which is the legal instrument that enumerates the deeds and misdeeds of each individual.

Consider for a moment the moving scene! A person is ushered before the Heavenly Tribunal and is shown paragraphs written in his own hand. He reads the record of his activities throughout the year - the sins he had committed and the failures in his life. What defense can he present on that day which is described by the paytan as Nora VeAyom, as fearful and awful? What words can he use at that moment when even the angels are hushed into silence and frightened to death? For we read וּמִלֵּאכִים יִהְיוּן וְחֵיל וְרַעְדָה יֵאָחֶזֶן וַיֹּאמְרוּ הֲנֵה יוֹם הַדִּין! He certainly cannot say that this is not his handwriting, that the writing is a fraud! He would simply be laughed out of court!

Perhaps one can find an answer to this dilemma in another Mishnah.

If witnesses say "this is, indeed, our handwriting, but we signed it under duress, or we were minors, or we were legally disqualified to act as witnesses, they are believed. [The document is declared invalid.]

Ketubot 18b

העדים שאמרו: כתב ידינו הוא זה,
אבל אנוסים היינו, קטנים היינו,
פסולי עדות היינו - הרי אלו נאמנים;
כתובות דף יח:

The Mishnah rules that when the witnesses admit that this is, indeed our handwriting, there is no denying that it is written by us, but we did not sign the document of our own free will, but were forced to do it by coercion and threat; or at the time of the signing we were minors, and our signatures are therefore worthless; or at the time of the affixing of our signatures to the document we were legally unfit to be witnesses, these qualifying statements are admitted by the Bet Din and the document is ruled invalid, null and void.

The ruling of this Mishna can be applied to the dilemma of the grueling indictment that is presented to us on the Yom HaDin. Our first claim is Anusim Hayinu. "True," we admit, "this is our handwriting." We cannot deny that it correctly records our failings. But we did not violate the laws of the Torah willfully and deliberately. We did it because of external and internal forces that caused us to sin. The force of habit is one kind of internal force. It is difficult to break a habit. Then there is the force of environment. Life is a difficult climb. A Jew who climbs the financial and social ladder in his quest for success often slacks off in his dedication to Torah study and the meticulous observance of Halacha. There are also the internal forces such as desire and jealousy. At the very beginning of history it brought disastrous results to our ancestors. The argument was "for the Tree is good to eat, and desirous for the eyes". The hedonistic drive is sometimes too much for us to withstand.

Another claim is ketanim hayinu, we were minors. Man sins because of childishness and immaturity, He is petty and infantile, and fails to realize the seriousness of life. He does not understand the long-term effects of sin; that avara goreret avara, that every sin has a destructive effect on one's personality and a detrimental influence on the character and happiness of family

and friends. Old and young dread lest they be looked upon by their peers as different. In their desire to impress others, they conform to the low standards of their milieu.

The third claim is pesulim hayinu, and we're not qualified to be witnesses. Rashi says that by pesulim it is meant that they were mesachekim bekubia – professional gamblers. Man is by nature a gambler, and frequently takes chances he should not take. The temptation to take risks is overpowering. If one would only consider the possibilities coolly and objectively, if one would take into consideration the odds that are against it, the dangers that lurk in every corner and make one's gamble a long shot, he would not stake his sense of honesty, decency and reputation on such a wild chance.

These are only some of man's defenses on the yom din. Man pleads Ribono Shel Olam, You are the Yodea Machshavot, the One Who Knows thoughts, and a bochen klayot v'lev, a tester of man's true nature, and you know full well that my sins were not the result of a well organized plan to defy Your teachings and to violate Your commandments. I was forced against my will! Many times I acted like a child, and other times I took chances like a professional gambler. The document is correct, but it should not be validated because I acted irresponsibly and will not do it again. According to the mishnah in Ketubot, such explanations are acceptable before the Bet Din shel mata. Have the bet din shel ma'ala do the same for me today.

But the mishnah establishes a condition to this ruling.

If the handwriting of the witnesses appears on other documents, then their pleas of Anusim, Ketanim and Pesulim are rejected, and the document is validated.

Ketubot 18b

ואם ... היה כתב ידם יוצא
ממקום אחר - אינן נאמנין.
כתובות דף יח:

Similarly, if after the Yomim Noraiim we go back to the old ways, repeating the same sins, falling prey to the same urges, we cannot expect any leniency from the Heavenly Court. When we are habitual signers of legal documents that condemn us, our claims are not heeded and the bet din shel ma'ala will refuse to invalidate the document. The ledger will speak for itself, u-me'elav yikaray,

In the Avinu Malkeinu, the most fervent prayer during the Aseret Ymei Teshuva, one of the stanzas reads שטרי חובותינו כל שטרי הרבים כל שטרי חובותינו, "Our Father, our King, erase in Thy Abundant Mercy all the records of our sins." The acceptance of this plea depends largely on our resolve to mend our ways - on our acceptance of future responsibility. This can be achieved by refraining from recording in our own handwriting dreadful documents that are indictments on sins of fraud, deceit and rebellion against the Ribbono Shel Olam and His Holy Torah.

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