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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 Batra* 22b), and that prohibition extends even to *Gerama* (indirect causation), *Bet Din* only has authority to exact payment if the damage was direct. But the perpetrator of *Gerama* damage is *Hayav B'Dine 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 *Gerama* damage was intentional, and no one is accusing Boeing of that. However, the *Rambam* (*Hil. Hovel U'Mazik* 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'Azul*, *ibid.*) proves that there, gross negligence is equivalent to intent. It's possible that the same can be said of *Gerama*, and gross negligence would suffice to

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Parasha & Halacha Shiur Summary by Rabbi Yehoshua Sova

Your Best Clothes: Clothing for K'vod Shabbat

The *Midrash Rabba* in *Rut* says that Hashem has mercy over someone who must be afflicted with *Tzara'at*, and therefore the *Tzara'at* first appears on the house, then on the clothing, and finally on his own body. We see the importance of clothing, which stand between a person and affliction, as the *Gemara* refers to clothes as *Mechabduta* – that which respects a person. Similarly, if the *Kohen* in the *Bet HaMikdash* would not wear all of the required clothing his service would be invalid.

Hacham Ovadia was asked in *Yehave Da'at* (1:23) whether one is required to buy a special pair of shoes for *Shabbat*. He discusses whether shoes are considered an article of clothing and must therefore be special for *Shabbat* like one's clothes. One of the proofs he cites is the *Yerushalmi* that states that as respect to one's parents one must clothe them and give them shoes. This would imply that they are different items. It may be, however, that the *Berayta* is just detailing the various acts of *Kibbud Av Va'Em*, as we find in various places. The *Ben Ish Hai* proves from *Birkot HaShahar* in which there is a separate *Beracha* for clothing and for shoes, but concludes that perhaps the *Beracha* of *Malbish Arumim* is a special *Beracha* that one is not completely naked.

In another *Teshuva* (*Yehave Da'at*, 3:67) Hacham Ovadia was asked whether one can sell immodest clothing at his store.

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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

As we discussed in the previous segments, when one reneges on a *Kinyan Kesef* (backing out after the money was given, before taking the item into one's possession), he is subjected to the following curse: "*Mi shepara, m'anshe dor hamabul um'anshei dor hapalaga, hu yifra etc.*" He (Hashem), who avenged the generation of the *mabul* and the generation of the *palaga* will avenge etc.

The *Mussar* masters point out that *Hachamim* grouped together in the *Mi ShePara* the *Anshe Dor HaMabul* and the *Anshe Dor HaPalaga*, although, in terms of the *averot* themselves, it would seem that one who breaks a contract has no relation to the sins of the *Dor HaMabul* and *Dor HaPalaga*.

Hachamim describe the final *averah* of the *Dor HaMabul* as *gezel* - stealing - which is an offense between a man and his friend, *Ben Adam La'Havero*.

Meanwhile, the *Dor HaPalaga* excelled in *Ben Adam La'Havero*. In fact, the reason why they weren't completely annihilated was because they were united. Their *avera* was heresy as they wanted to fight against *Ribbono Shel Olam*. This is an *avera Ben Adam La'Makom*.

Still, these two generations are compared to the *avera* of one who reneges on a business deal, which is *Ben Adam La'Havero*, in that he

broke his contract. Why do *Hachamim* lump together these two generations in having the curse of *Mi ShePara* include the *Dor HaPalaga* which is *Ben Adam La'Makom*?

I believe that the answer lies in understanding the phraseology of *Hachamim* in a *Gemara* in *Masechet Shabbat*.

The *Gemara* says that when a person goes in front of the Heavenly Court after 120, he is asked four questions:

First, *Nasata V'Natata B'Emuna?* Were you honest in your business dealings?

Second, *Kavata Itim La'Torah?* Did you daily set aside set times for learning Torah?

Then, *Asakta B'Firya U'Rviya?* Did you engage in bringing children into the world?

And finally, *Tzipita L'Yeshua?* Did you hope and look forward to the Final Redemption? The *Gemara* in *Sanhedrin 7A*, says that *tehilat dino shel adam eino ela b'dine Torah* - a person is judged on matters of Torah study first. *Tosafot* ask, what then is the first question that the person is asked in *Shamayim?* Is it about learning Torah as stated in *Sanhedrin*, or about honesty in business as is stated in *Shabbat*? In responding, the *Maharsha* establishes a fundamental insight, that a person who merits to be *shivti b'vet Hashem* - to spend his life within the walls of the *Bet Midrash* - will be asked first about how well he spent his time studying Torah.

However, the *Gemara* in *Shabbat* is referring to a person who was engaged in earning a livelihood in the workplace. In the business world, one's main test is his level of integrity and trustworthiness. Thus, he is judged first on how he keeps his word, and his level of trustworthiness in dealings with his fellow man. For the businessman, *kavata itim la'Torah* - setting aside time to study - is only the second part of his *Mishpat*, after questioning the integrity of his dealings.

We see from here that *Hachamim* define a person who is honest in business as a *nasata v'natata b'emuna*, dealing with *Emunah*. A person who is strong in his *Emunah* and his *Bitachon*, strengthens his relationship

with *HaKadosh Baruch Hu*. The person's relationship with *HaKadosh Baruch Hu* lies in his level of *Emunah* and *Bitachon*.

With this understanding, we can comprehend the similarity between the *Dor HaMabul* and the *Dor HaPalaga*, as compared to the *Mi ShePara*. In each of these generations, the *avera* was a break in the relationship with *Hakadosh Baruch Hu*. Whether it was the *gezel* of the *Dor HaMabul* or the tower of the *Dor HaPalaga*, they both had the same goal: to be "independent" of *Hakadosh Baruch Hu*. This is the singular *avera* of trying to destroy that *keshet* that they have with *Hakadosh Baruch Hu*.

In comparing these generation to one who reneges on his word, *Hachamim* define him as a person lacking in his connection with the *Ribbono Shel Olam*. He uses the world of business 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

Rav Elhanan Wasserman, in the *Kovetz Ma'amarim*, wrote a *ma'amar* 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.

Rav Wasserman explained that the Great Depression was a *middah k'neged middah*. When people do not develop their *Emunah* and the depth of their *keshet* with the *Ribbono shel Olam*, then there is a corresponding 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 *Hakadosh Baruch Hu*, then there is a weakening in the economy. May Hashem strengthen us to be able to withstand our *nisyonot* and deal in good faith and may we merit great prosperity, *Amen!*

MATTERS OF INTEREST

SENDING A PACKAGE OVERSEAS

It is customary to give “Shaliah 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 *Ribbit* issue, since the money is not given as a loan, rather as a *Pikadon* (deposit). 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 *Ribbit*.

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 *Ribbit* problem (see *Rema, Yore 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”).

HALACHOT OF DAILY LIVING

Topics From The Gerald & Karin Feldhamer Ou Kosher Halacha Yomis

Laws related to Berachot



We learned previously that if one eats an entire meal of an item that is considered *Pat HaBa'ah B'Kisnin*, the *Berachot* recited would be *HaMotzi* and *Birkat HaMazon*. Is the amount of *Pat HaBa'ah B'Kisnin* that would mandate *HaMotzi* the same for everyone?

No. To require the *Beracha* of *HaMotzi* one must eat an amount - “*she'aherim kov'im alav*” that other people normally eat for a main meal (*Shulhan Aruch* O.H. 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. This may mean that a man or woman, adult or child, will have different levels of what would require them to recite *HaMotzi*. *L'Maase*, since this is a contested matter, it is best to eat the amount of 3-4 *kabeitzim* (around 5-6 ounces).

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דף ק"ו *Are Ownership and Partnership Mutually Exclusive*

דף ק"ז *Kedushah and Nachalah in Eretz Yisroel*

דף ק"ח *The Halachos of Shiluach HaKen*

דף ק"ט *Shiluach HaKen on Shabbos & More*

דף ק"מ *Taking the Mother Bird*

דף ק"מא *Chasing What Matters: Running After Mitzvos & More*

דף ק"מב *Siyum: Jumping to Conclusions*

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establish 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 *Gerama*. 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 *Mekah Ta'ut*—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 *Gerama*, 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 a *Gerama*.

MURDER

There is a case in the *Gemara* (*Hullin* 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 *Gerama*, but it could be *Garmi*.

May Hashem bring us to all our destinations *L'Hayim Ul'Simcha Ul'Shalom*.

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After explaining the severity of dressing immodestly, Hacham Ovadia

says that it is still permissible, since these clothing are available elsewhere, and the one's who dress immodestly have become accustomed to doing so (*mumar l'davar echad*), and that the clothing can technically be worn in a permitted fashion (with other clothing over them).

EVENTS & HAPPENINGS AT THE BAIS HAVAAD



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

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