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PARASHAT HASHAVUAH

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Overcoming the “Spy Syndrome”

Harav Yosef Carmel

The connection between *Parashat Shelach* and its *haftara* is clear. Each discusses the sending of spies to *Eretz Yisrael* before the anticipated fulfillment of the *mitzva* (or the promise) of “You shall possess the Land and you shall settle it, for to you I gave the Land to possess it” (Bamidbar 33:53).

The sin of the spies at the time of Moshe dragged along with it the need to send spies again at the time when Yehoshua entered the Land. This was the same Yehoshua, who together with his friend Kalev, had survived the debacle of the spies of Moshe, staying free of the sin of the others and the subsequent curse to die without entering the Land. At first glance the lessons of the failed mission, where the spies scared the people into not believing in Hashem’s ability to have them conquer the Land, were learned. Under Yehoshua’s tutelage, the people were willing to fight and did conquer the Land promised to their forefathers. In our generations, also, we merited to return to the Land, conquer stronger nations, and take control of the Land, from the Suez Canal until Mt. Hermon.

The question of settlement of all parts of our Land these days has been the subject of lively and sometimes cantankerous discussion amongst different segments of the nation. Some of us lack the patience that it takes to complete the historical process in all its elements. There are those of us who, perhaps unwittingly, actually paraphrase the words of the original spies: “We cannot go up against the nation, for it is stronger than we are” (Bamidbar 13:31).

Let us take a look at the situation in this regard at the time of Yehoshua. As we go through *Sefer Yehoshua* we see victory after victory, as our forefathers captured 31 mini-kingdoms from the north to the south (ch. 6-12). It looks like the complete Land of Israel was in our hands. However, we find later that Hashem summarized the matter to Yehoshua as follows: “You have grown old, and the Land remains with a lot to be possessed. This is the part of the Land that remains ...” (Yehoshua 13). The list is a significant one. Later on in the *sefer*, it says that they were unable to conquer parts of the Land (18:12). Yehoshua was then critical of the people, telling them that they did not show the necessary resolve to gain control over certain areas (ibid. 18:2-3).

Despite the excellent leadership of Yehoshua, the fact that they were in a time of prophecy, and all the Divine help that they received, that generation proved that “the Land of Israel is acquired through painful work.” The important job is one that takes generations. In our days, as well, it certainly appears that patience is one of the traits that we need to use when we try to evaluate our situation in regard to taking control over the Land. This is one of the lessons we learn from dealing with the sin of the spies who showed contempt for *Eretz Hemdah* (the Desired Land).

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**Be Our
Partner!**

by Rav Daniel Mann

Question: In our *shul*, we ask the *kohanim* to leave *shul* when we have multiple *chiyuvim* (those who need *aliyot*). Now, we have an elderly *kohen* who finds it taxing to leave *shul*. Since he does not mind giving the *aliya* to a *Yisrael*, may we do so even if he stays in *shul*?

Answer: The *gemara* (Gittin 59b) presents possible sources for the idea that a *kohen* is to be honored by going first in matters of honor, such as *aliyot*. It continues that according to the basic rules of honoring a *kohen*, he could waive the rights to the first *aliya*, but we do not allow this out of concern that there will be quarreling about when the *kohen* should do so.

When, if at all, is it legitimate to obviate the *mitzva* to honor the *kohanim* with the first *aliya*? The Maharik (9) upheld a *minhag* to sell the first *aliya* on *Parashat Bereishit* to the highest bidder, *kohen* or not, which showed excitement for the Torah and raised money for lighting costs. He said that a *kohen* could not protest and supported the step of asking the authorities to keep one who did out of *shul*. While *Acharonim* do not argue with the Maharik, several limit the extent to which we expect a *kohen* to relinquish his rights. The Shivat Tziyon (6) and Chatam Sofer (OC 24) objected to efforts to introduce regular bidding for *aliyot* at the expense of the *kohen's aliya*. On the other hand, the Chatam Sofer (ibid. 25) supported the idea of a *minhag* to allow a *chiyuv* to receive the first *aliya* when there were multiple *chiyuvim*. He just said that the *kohanim* should be convinced to accept the idea, and then once the *minhag* took hold, no *kohen* could protest in the future. Contemporary *poskim* (see Igrot Moshe, OC II, 34 and Yabia Omer VI, OC 23) concur.

Let us now deal with your *minhag* of asking the *kohanim* to leave (and return as the opening *beracha* is being made). One basic idea is that if the *kohanim* are not there, we are not shunning them by giving the *aliya* to a *Yisrael*. Another factor is to avoid *pegama* (the appearance that we passed over the *kohen* because he is somehow unfit to serve as a *kohen*). Indeed, a *kohen* should leave *shul* before *laining* begins when he is unable to receive an *aliya* because he is in a sensitive part of his *davening* or because it is a fast day and he is not fasting (Shulchan Aruch, Orach Chayim 566:6; Rama, OC 135:5).

The final issue, though, is whether you are allowed to give a *Yisrael* the *kohen's aliya* when a *kohen* stays in *shul*, therefore raising the problem of the rabbinic injunction to avoid fighting and the matter of *pegama*. The Magen Avraham (135:7) infers from the Maharik's ruling to have the *kohen* removed from *shul* that under no circumstances may one call up a *Yisrael* when there is a *kohen* present. However, the Beit Yosef (OC 135) says that when it is acceptable to give the *aliya* to a non-*kohen*, there is no issue of overlooking the *kohen* or reasons to cast aspersions on him, and the *kohen* may stay in *shul*. Although the Pri Chadash (135:3) and others agree with the Beit Yosef, it is worthwhile where possible to try to conform to the common practice of having the *kohanim* leave (see Yabia Omer, ibid.).

There is another strong reason for leniency. The *gemara* says that on Monday and Thursday a *kohen* may allow a *Yisrael* to get the first *aliya*, because there are small groups for those *tefillot* and less chance of fighting, and there is no mention that he needs to leave. Tosafot and others say that the reason for this distinction no longer applies, and this is accepted. However, *poskim* point out that such a post-Talmudic innovation is binding only when its reasoning applies, which is often not the case (see Igrot Moshe, ibid.).

With so many indications for leniency, you may allow a *Yisrael* to get the first *aliya* during the week even if an elderly *kohen* does not want to walk out. On Shabbat, there is less reason (as above) and less need for leniency, with the possibility of *hosafot*, and rarely would it be proper to skip the *kohen*. It is proper when calling up the *Yisrael* to note that there is a *kohen* in *shul* (Yabia Omer, ibid.). We suggest saying "[the name] *Yisrael birshut hakohen*."

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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

The Arrangement of the Various Factors to Bring a Dream to Fruition

(condensed from Ein Ayah, Berachot 9:56)

Gemara: "... I dreamed a dream ... if they are good, strengthen them like Yosef's dreams ..."

Ein Ayah: The portending element of a dream comes from the connection between the spirit and the general situation of matters in the world, as well as the connection between the future and the present. In general, regarding events that are to come about in the future, all the basic conditions are present for them to transpire. Especially factors that bring about events that relate to man are connected to *olam hamachshava* (the world of thought) and are based on the desires of the spirit of the people who cause the events to happen. The spirits, their feelings, the images they see, and the spiritual factors that cause them to act, together with the natural matters that help them occur, are always prepared in the world. However, in order for the foreseen hope or goal to come to fruition, there is a need for the incorporation of many factors for it to come about.

The above is the background behind the prayer mentioned in this *gemara*. If the dream portends something good, then it is likely that the main causes that will bring it to fruition are in place, specifically in regard to the spiritual factors that come from the *olam hamachshava*. However, it is often necessary to connect these spiritual factors to actions and events in the physical world. The prayer relates to Yosef's dreams as an example. There were many special things that had to happen before Yosef was able to emerge as a leader, over Egypt and within his family, as his dreams predicted.

Many of the elements that were missing related to spiritual factors related to the emotional sides of other people. For example, the hatred of Yosef's brothers was a matter of their feelings, as the attraction to Yosef by his master's wife was her personal matter. Subsequent factors were the fact that Potiphar trusted his wife and became as angry as he did. The story continues with the contribution of Paroh's anger at his servants and the emotional state of the butler and the baker until they had their dreams. Finally, Paroh's emotional state on his birthday, his emotional state leading up to his dreams, and the relationships that the butler had with Yosef and Paroh after he got out of jail played a role in the unfolding of events. All of these events were spiritual matters, which all needed natural events to take place to give them their context. For example, the matter that caused Paroh to get angry at his servants was a natural event that transpired [but was brought about by Hashem's Providence], as was the removal of Yosef from the pit in Canaan and his sale. The strengthening that Hashem is asked to provide refers to these natural events, as the more spiritual matters are usually in existence in advance, especially in the world of the spirits, where there is a hidden relationship between various things and people. It is the seemingly chance events that flow with the passing of time that need to be put in line with the goal that Hashem prepared to carry out His will.

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Transparency in Window Making – part I

(condensed from Hemdat Mishpat, rulings of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) were planning to move into a home they were building, and reached an agreement with the defendant (=def) to provide special windows by a certain date. Pl paid tens of thousands of shekels, half of the order, as a down payment. Def came two months before the critical date and took measurements, yet much of the order was not ready on time. Def blames pl for not giving all the details necessary, especially the color of the internal shades. Pl responds that def never told him that such information was holding up the order. As the time to leave their old home and enter the new one approached, def agreed to provide temporary windows but only if pl paid an additional quarter of the order, considering that half the work was already completed. Pl refused, because according to their agreement, the balance was due only upon installment of the finished product, and hired someone else to make temporary windows. The two sides are interested that the work should be completed, but there are outstanding financial disputes.

Ruling: [This time we will discuss whether def must compensate pl for the expense of the temporary windows, which they felt compelled to install.]

First it is necessary to determine who is responsible for the fact that the windows were not ready on time. Considering that def had all the basic information for the production of the windows and was aware of pl's pressing time constraints, it was his obligation to let pl know if some minor matter was holding up the production. His failure to make the deadline, after receiving half the payment and his unwillingness to provide temporary windows to enable basic living conditions without further charge, was a breach of contract.

Does the breach of contract justify deducting the expense of temporary windows from the balance? The *mishna* (Bava Metzia 75b) says that if a worker's refusal to do his job will cause damage to the hirer, he can hire someone on the account of the worker or trick the worker into working. While def did not refuse to come, his negligence, which threatened preventing pl from moving in, is equivalent, due to the expense of extending their existing rental and due to personal considerations.

The *gemara* (ibid. 78a) limits the hirer's right to hire someone else to the "value of the worker's wages." Rashi says that this means only to withhold money from partial work that the worker already did. The Rosh (accepted by the Shulchan Aruch- see S'ma 333:25) says he can hire someone new to work up to the amount promised to the original worker, even if it means that the worker will pay out of pocket. Therefore, pl could hire someone to install temporary windows up to the value of their contract (minus the cost of supplies). On the other hand, pl was not allowed to be wasteful in ordering temporary windows (see S'ma 333:26; Shach, CM 333:35). *Beit din* accepted only partially pl's claim that given the rush to install the windows and not knowing how much time they would remain, they could order relatively high quality windows. Using an expert to estimate costs, *beit din* awarded pl a significant but not total deduction from the balance for the temporary windows.

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