

HEMDAT YAMIM

PARASHAT KORACH

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dedicated to the memory of
**R' Meir ben Yechezkel Shraga
Brachfeld**

o.b.m

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A Special Breed of Leader

Harav Yosef Carmel

Our *parasha* and *haftara* deal with leaders who are great role models: Moshe, Aharon, and Shmuel. The psalmist praises them as a threesome: "Moshe and Aharon with his priests and Shmuel with those who call out in His Name; they call out to Hashem, and He answers them" (Tehillim 99:6). Let's focus on the *siyata dishmaya* (Divine Assistance) they received when calling out to Hashem, something that made them unique leaders.

The *gemara* (Makkot 23b) says that *ruach hakodesh* (Divine Spirit) appeared in three courts: that of Shem, Shmuel, and Shlomo. Tamar's claim that she was pregnant from Yehuda, when she could have had other partners, was supported by a Heavenly voice. When Shmuel challenged all to attest to misappropriations he might have committed, such a voice said "I am a witness that you did no wrong." When Shlomo proved psychologically who the live baby's mother was, it was Divinely corroborated.

All three stories involve *siyata dishmaya* in national leadership. From Yehuda and Tamar came the dynasty of King David, our eternal leaders. Shmuel carried out Yaakov's prophecy that the leadership comes from the tribe of Yehuda. Shlomo's judgment cemented his hold on the throne, enabling the Davidic dynasty to be the first to establish a second generation of accepted leadership. How does one achieve that goal?

The *midrash* (Tanchuma, Korach 1) relates to Korach a *pasuk* in Mishlei (18:19) that talks of one who rebelled from *kiryat oz* and lost his honor. The Sefat Emet explains what *kiryat oz* is. He says that it is Bnei Yisrael's wholeness and broadness in accepting the Torah. The Torah is called *oz* (strength), as it says, "Hashem, shall give *oz* to his nation; Hashem shall bless His nation with *shalom*" (Tehillim 29:11). He continues that, in general, in this world, there is a lack of completeness, and it is necessary to have *siyata dishmaya*. Let us explain what the Sefat Emet meant.

Korach saw himself as the height of completeness, and thus rebelled against Moshe, who championed the belief that one can reach completeness only through the Torah. When Korach said, "For the entire nation is holy," he showed a lack of understanding that a group of people is always lacking without *siyata dishmaya*. Moshe's combination of strong leadership and humility provided the proper lesson for generations. One always needs *siyata dishmaya*, although one cannot be assured how it will appear.

Let us conclude, along the lines of the Sefat Emet, that *shleimut*, related to *shalom*, can come only when the Torah takes into consideration the spiritual needs of the nation as a whole. Sometimes, public needs justify stringent rulings and sometimes lenient ones. However, only when these needs are addressed does one use the Torah of *shleimut* and the leadership merits *siyata dishmaya* - in the community's merit.

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Question: If I eat half a *k'zayit* of a food that gets a *Me'ein Shalosh* (the long *beracha acharona* that summarizes *Birkat Hamazon*; it is often called *Al Hamichya*, for one of its possible openings) and half a *k'zayit* of a food that gets *Borei Nefashot*, what *beracha acharona* do I make, if any?

Answer: We will focus on only a few of this question's permutations. We first assume that the foods are eaten separately (e.g., a piece of cake and a piece of apple), not in a combined manner.

The general rule is that one cannot fulfill the obligation of *Me'ein Shalosh* by reciting *Borei Nefashot* or vice versa, even *b'dieved* (Mishna Berura 208:62). (An exception is that if one is reciting *Al Ha'etz* on fruit of the seven species, this exempts him from *Borei Nefashot* on fruit of trees that are not of the seven species-Shulchan Aruch, Orach Chayim 208:13). Therefore, when one is not sure whether he should recite *Me'ein Shalosh* or *Borei Nefashot*, he is in a bind because if he guesses wrong, he will be making an inappropriate *beracha* (see Rama, Orach Chayim 208:18 and Mishna Berura 208:80). We do not say that *Borei Nefashot* is a generic *beracha* (as its text may imply) that works *b'dieved* for any food as we do regarding *Shehakol* (Magen Avraham 208:26). Some *Acharonim* (Igrot Moshe, Orach Chayim I, 74; Kaf Hachayim 202:79) argue at least partially and say that if it will be impossible (for halachic or technical reasons) to recite *Me'ein Shalosh*, then saying *Borei Nefashot* is not a *beracha levatala* and is better than saying nothing.

Nevertheless, the Magen Avraham (210:1) says that if one ate half a *k'zayit* of *Me'ein Shalosh* food and half a *k'zayit* of a *Borei Nefashot* food, he says *Borei Nefashot*. The Machatzit Hashekel explains that *Borei Nefashot* applies on a basic level to all foods. If a food has a higher level of importance, so that it receives a *Me'ein Shalosh*, *Borei Nefashot* becomes the wrong *beracha*, and one is not *yotzei* with it. However, if there are not grounds for *Me'ein Shalosh* (i.e., he had less than a *k'zayit* of that type of food) then the basic applicability of *Borei Nefashot* connects it to another food to warrant a joint *Borei Nefashot*. The Sha'ar Hatziyun (210:2) adds another justification for the Magen Avraham's ruling. That is that some *Rishonim* say that just as one must make a *beracha before* eating any amount of food, so must one recite the simple *beracha* of *Borei Nefashot* after eating any amount of any food where a higher *beracha acharona* is not recited.

To recite *Borei Nefashot* on less than a *shiur* (the amount of food that requires a *beracha*) of two foods that combine to reach the *shiur*, the foods must have the same *shiur*. Thus, half a *k'zayit* of a solid and half a *revi'it* of a liquid do not require *Borei Nefashot* (Magen Avraham 210:1).

Regarding the *beracha rishona* on foods that combine different ingredients (regarding *beracha*) in one food, as long as there is a significant amount of flour from the major grains, one makes *Mezonot*. Regarding *beracha acharona*, one needs to have a *k'zayit* of the major grains not including other grains (Shulchan Aruch, OC 208:9). The question is, though, if the flour is joined by only supplementary foods such as sugar and spices. Some say one would make *Al Hamichya* only if there is a *k'zayit* of flour; others say that a *k'zayit* of cake is sufficient. (The Mishna Berura 208:48 takes the latter opinion, but some argue. Further discussion is beyond our present scope.)

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Two Ways to Deal With the Bad

(based on Ein Ayah, Berachot I, 172)

Gemara: [At the time of *Mashiach* we will mention the exodus from Egypt but less prominently than we will discuss the end of enslavement to the kingdoms.] Similarly, when the Torah says: “Your name will no longer be called Yaakov, but rather your name will be Yisrael” (Bereishit 35:10), this does not mean that the name Yaakov will be uprooted, but that Yisrael will be the main name and Yaakov will be secondary to it.

Ein Ayah: The individual and the world are similar in the way they must act to achieve *shleimut* (completeness). A person has good and bad powers. If the bad powers will be totally prevented from finding expression, many good things will be missing because they require the strength and persistence that the bad powers provide. However, if they find expression without any inhibiting factors, they will pass all boundaries and bring the world to a very corrupted state. The Torah hints at this in the story of Yaakov and Eisav. Eisav, who possessed coarse powers, actually was born first. Yaakov did not prevent his birth, but his hand grasped Eisav’s heel, representing that Yaakov would not allow Eisav to go as he liked without boundaries.

When the bad powers become actualized, it is not enough that the good powers will set boundaries for them. Rather, the main thing is for the bad to have to follow the dictates of the good, with the latter enjoying dominion. That happens when one has *shleimut*, with all the accompanying grandeur. This idea of dominion is the content of the name, Yisrael, which Yaakov received later, as the *pasuk* explains, “For you have shown dominion among angels and men” (Bereishit 32:28).

Even when good will be busy organizing the actions of the bad powers, some type of muzzle and leash need to remain so that the border will not be breached and allow bad’s existence to become too strong. If it will be too strong, it will cease to follow the directives of the good powers. This is why Yaakov must exist, although secondary to Yisrael.

In matters of the world as well, it is impossible for the world to reach its full potential of grandeur without strengthening even the physical powers. This includes the lowest powers that are brought by those who lack the wisdom to hold on to good and strive for true *shleimut*. The power of Israel, who publicized knowledge of Hashem and His ways, which are charity, justice, and kindness in the world, places a muzzle. This prevents bad from continuously strengthening itself, which would negate man’s noble spirit.

When Yisrael is in exile, it acts in a hidden manner that at least tames the waves of evil destruction of morality and the strengthening of evil. However, when Hashem will make His nation prominent in the world, they will also give direction and order to the physical world that was given to the nations of the world and teach them how to use these elements for good and justice. Therefore, “many nations will go to the mountain of Hashem and to the house of the G-d of Yaakov” (based on Yeshaya 2:3) to ask them to “teach His paths so that they will go in His ways” (ibid.). However, even in the time of world *shleimut*, when things will, for the most part, be properly arranged, it will still be necessary to prevent the bad powers of physicality from removing morality and breaking the staff of justice. This is how Chazal interpret the *pasuk* referring to the times of *Mashiach*: “The youngster will die at the age of 100, and the sinner will be cursed at the age of 100” (Yeshaya 65:20), which is talking about the nations of the world (Sanhedrin 91b). About Israel it says: “Death will be swallowed up forever and Hashem will wipe tears from all faces” (Yeshaya 25:8).

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A Proposed Sale That Did Not End With a Signed Agreement

(based on Halacha Psuka, vol. 59- a condensation of a *p'sak* of Beit Din Gazit of Mizrach Binyamin)

Case: The plaintiff (=p) rented a house from the defendant (=def). Later the two negotiated p's purchase of the house. Pl claims that they agreed on terms; he admits that no contract or letter of intent was signed. Subsequently, def decided not to sell the house and raised the rent after the rental period ended. Pl wants the sale upheld and, if not, that def pay for damages, as he lost the chance to buy other homes that have since gone up in price. Def denies there was ever a firm agreement on such a sale. Also, pl was supposed to have vacated the premises at the end of the rental period, and thus, based on a clause in the rental agreement, pl is to pay \$50 a day for not vacating the house.

Ruling: Pl did not prove that def firmly agreed to sell the house to him. Indications are that they never got out of the negotiations phase. Even if pl would prove his claim, it would not bind def. The Shulchan Aruch (Choshen Mishpat 189:1) rules that a sale is not finalized by oral agreement even if a firm price is set. However, we must consider if an oral agreement has any force. The Rashba implies that one can obligate himself to perform a sale at a future point. However, the Shulchan Aruch (CM 60:6) says that this requires some act of *kinyan*. A *kinyan* is not needed if there were witnesses to the obligation (ibid., CM 40:1). In our case, there were no witnesses.

There is a concept that one who agrees to a sale but makes no *kinyan* still has a moral obligation to go through with the deal. As the Shulchan Aruch (CM 204:7) rules, the Rabbis are not pleased with such a person. The Raanach (I, 118) says that *beit din* may pronounce such a person as a sinner. There is a *machloket Rishonim* regarding one who backs out of a non-binding agreement due to a rise in prices, and the Rama (ibid.:11) cites both opinions. Although he leans toward the strict ruling, the Shach, Gra (ad loc.), Chatam Sofer, and Shevet Halevi allow him to change his mind.

Damages to pl due to his reliance on the proposed sale are not subject to compensation (Netivot Hamishpat 333:3). The Divrei Malkiel (V, 128) says that he would have to pay only for actual losses, not lost opportunities.

The penalty clause for not vacating the house is an *asmachta* (an obligation one never expected to have to pay). Although there are systems to make one pay even for an *asmachta*, those techniques were not employed. Although our policy is to usually recognize obligations that are accepted by society due to the law of the land. However, even if this clause is binding in secular court, in a case like this where the property was not vacated because the matter was being adjudicated in *beit din*, payment is inappropriate. Pl did not agree to pay under such circumstances.

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Baba Metziah 50-56

Calculation of Ona'ah

This week in the Daf Hayomi, the Gemara deals primarily with the prohibition of ona'ah. Ona'ah is a prohibition against buying or selling an object not at its market price. The Gemara (61a) understands ona'ah to be a form of theft. The reason for this is that a sale is considered a deal in which the buyer gives the seller the value of the object he is selling. Thus, if the buyer receives a price higher than the market price of the object, he is stealing from the buyer the difference, because he didn't give the buyer an object of matching value. Likewise, if the buyer paid less than the price of object, he is stealing that part of the value of the object for which he did not pay.

What happens if an object was not sold at its market price? The conclusion of the Gemara (50b) is as follows: If the difference between the market price of the object and the sale price is less than a sixth, then the sale stands, since people forgive a small difference. If the difference is exactly a sixth, then the sale stands, but the difference must be refunded or paid. If the difference is more than a sixth, then the sale is cancelled.

How is a sixth calculated? The Gemara (49b) quotes an argument regarding this between Rav and Shmuel. According to Rav, a sixth is calculated as a sixth of the market price of the object. For example, if the market price is \$60, then a sixth is \$10. If it was sold at \$70, then the seller has to return \$10 to the buyer, and if it was sold at \$50 the buyer has to pay another \$10 to the seller. If it was sold for more than \$50 or less than \$70 the sale stands as is. If it was sold at less than \$50 or more than \$70, the sale is cancelled.

Shmuel agrees with the calculation of Rav, but adds that there is another form of calculation. According to his opinion, one can calculate a sixth also as a sixth of the sale price. Thus, if an object was sold for \$60 and its market price was \$50, this too is considered a difference of a sixth and the seller must return \$10 to the buyer. Likewise, if an object was sold for \$60, and its market price was \$70, this is also considered a difference of a sixth, and the buyer must pay an additional \$10 to the seller. The Halacha is ruled in accordance with the opinion of Shmuel (Choshen Mishpat 227, 2).

The problem with the opinion of Shmuel is in a case where, according to both calculations, there isn't exactly a sixth, and the two calculations give contradicting results. For example, if an object whose market price is \$60 is sold for \$51, the difference is \$9. If we calculate a sixth as a sixth of the market price ($60/6=10$), then the difference is less than a sixth, meaning the sale should stand as is. However, if we calculate a sixth as a sixth of the price it was sold at ($51/6=8.5$), then the difference is more than a sixth meaning the sale should be cancelled.

There are two opinions as to how to resolve this problem. According to the Magid Mishne (Mechira 12, 3), the entire range between the two calculations of a sixth is considered as a difference of a sixth, in which case the sale stands but the difference must be paid. Thus, in our example, even though the difference is not exactly a sixth according to either calculation, since it falls in between the two calculations, it is considered a difference of a sixth, and the buyer will have to pay an additional \$9 to the seller.

According to the Mordechai (Baba Metziah 304, and this appears to be the opinion of the Rambam Mechira 12, 3), the primary calculation is a sixth of the market price, and we only calculate based on the sale price in a case where the difference would be exactly a sixth, according to that calculation. In all other cases, the calculation is done as a sixth of the market price of the object. Thus, in our example, since the difference (\$9) is less than a sixth of the market price of the object (\$10), the sale stands as is. The Ramma (ibid, 4) rules in accordance with the Mordechai.

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