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# HEMDAT YAMIM

## Parashat HaShavua

Vayishlach, 16 Kislev 5776

### About Unity, Earthquakes, Prayer, and Miracles

Harav Yosef Carmel

After leaving Lavan's house, Yaakov and family passed through Gilad, Sukkot and, on the other side of the Jordan, camped near Shechem. 600 years later, David led his troops, as described in Tehillim 60, in the opposite direction, from Shechem in the west, through Sukkot and Gilad to the east (ibid. 9). This *mizmor* is introduced with the heading as relating to the very successful battle against Aram, which is also discussed in Shmuel II, 10.

With the help of which mechanisms or circumstances were Bnei Yisrael so successful in this battle? How do we reconcile the great success with the description in Tehillim, which includes several *p'sukim* depicting impending doom? Let us look at a few of the *p'sukim*: "Hashem, You have abandoned us, hit us, and been angry at us; hold back Your anger. You have made the land quake and cracked it. Fix its fractures for it has fallen ... Indeed, You Hashem have abandoned us, and You have not gone out with our armies" (Tehillim 60:3-4, 12).

On the other hand, there are *p'sukim* of prayer and thanksgiving. "You have given those who fear You a *nes* (banner, miracle?) to wave ... In order to rescue Your dear ones, may Your right hand save and answer me. Give us assistance from the enemy, and the salvation done by people is nothing. With Hashem shall we make successful battle, and He will destroy our enemies (ibid. 6-7, 13-14).

Let us suggest an explanation to the background of the events to which David responded. The Aramians/Syrians of the time threatened the future of the Israelite Kingdom. This tested not just the Jew's military strength but also their social fabric, specifically the extent to which the tribes that descended from Rachel and from Leah could work together in support of King David. The *p'sukim* mention areas that David passed through on the way to Aram (presently, the southern Golan Heights). Shechem was the capital of the Shomron and belonged to the sons of Yosef, and they sent troops along with David. He continued to Sukkot and then to Gilad, where members of Menashe joined, along with Gad, Reuven, Binyamin, and Yehuda, who lived in the area. There was a rare moment of great unity.

As this army was climbing the Golan Heights, a strong earthquake hit the region (thus, we are understanding *pasuk* 4 literally), with all its frightful noise and fracturing of the land. At first there was a fear that this was a sign of Hashem's anger at the Israelite army and war effort, and this explains the *p'sukim* of despair and abandonment. They used the opportunity to pray to Hashem for His good will.

In fact, the earthquake caused panic among the encampment of Aram, whose forces were dependent on horses-drawn carriages. The horses were the first to sense the earthquake and began to react hysterically. The fissures that the earthquake caused made it difficult for the carriages to move around. Upon realizing their sudden advantage, David's foot-soldiers attacked the enemy, many of whom began to flee. This was the miracle David referred to in the aforementioned *mizmor*.

Let us join together in unity and peace at this time. In this merit, may Hashem hear our prayers and smite our enemies.

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## Ask the Rabbi

by Rav Daniel Mann

### Beracha Acharona on Fruit of Non-Jews in Israel

**Question:** If I eat *nochri* (field in Israel owned by a non-Jew) fruit that gets an “*Al Haetz*”, do I end the *beracha* with “... *al hapeirot*” or “...*al peiroteha*”?

**Answer:** While this sounds like a *Shemitta* (whose *halachot* continue regarding fruit) question, it applies every year. It also applies to orchards sold through *heter mechira*.

We start with the main sources on the change of wording of the *beracha*. The *gemara* (Berachot 44a) cites both versions of the *beracha* and first says that in *chutz la'aretz* one says “*peiroteha*” (on its [the Land's] fruit) and in Israel, “*hapeirot*” (the fruit – more generic). The *gemara* asks that it does not make sense that those who don't eat *Eretz Yisrael's* fruit are the ones who mention the connection of the fruit to the Land (“for the Land and its fruit”). The *gemara* concludes that it is the opposite – specifically in *Eretz Yisrael* one says *peiroteha*. Fruit that grew in the Land is worthy of more prominent mention (see Rabbeinu Yona, 32a of Rif's pages to Berachot).

The Beit Yosef (Orach Chayim 208) cites a *machloket* between Rabbeinu Yona and the Rashba whether one says *hapeirot* or *peiroteha* on fruit grown in Israel but eaten in *chutz la'aretz*. The Rashba (accepted by the Shulchan Aruch, OC 208:10) infers from the above *gemara* that that which one does not say *peiroteha* in *chutz la'aretz* is only when one is eating the fruit of *chutz la'aretz*. There is a minority opinion (Admat Kodesh 1:3, rejected by Mishna Berura 208:52) that the deciding factor is whether the fruit is obligated in *terumot* and *ma'asrot*, which can sometimes apply to fruit grown in *chutz la'aretz* or in a non-Jew's field (see Shulchan Aruch, Yoreh Deah 331:4, 12). However, the more accepted explanation is that *peiroteha* is only for the fruit grown in *Eretz Yisrael*. It is indeed a good question whether to view a non-Jew's field in *Eretz Yisrael* as part of the Land in this regard.

There is a major *machloket*, raised most prominently in Gittin (47a), whether a non-Jew's acquisition of land in *Eretz Yisrael* uproots the laws that apply to *Eretz Yisrael*. The halachic conclusion is not fully clear (see Rambam, Terumot 1:10). There are *macholokot* in different applications, including the one between Rav Yosef Karo (Avkat Rochel 24) and the Mabit (I:11) whether the fruit that grows under a non-Jew's ownership has *Shemitta* status. The former's opinion, that *Shemitta* status is removed, is the more accepted one (see Shabbat Ha'aretz (R. Kook), Mavo 15). One could then claim that such fruit is uprooted from *Eretz Yisrael* status regarding our question as well.

However, I have been unable to find a hint in classical texts or rulings in more recent sources that indicate a distinction within *Eretz Yisrael* between the fruit of Jewish-owned fields and non-Jewish fields. There are some opinions (see discussions in Birkei Yosef, OC 208:11 and Kaf Hachayim, OC 208:59) that on fruit from sections of *Eretz Yisrael* that lost *kedushat ha'aretz* with the Babylonian exile and were not restored to *kedushat ha'aretz* in the Second Temple, we do not say *peiroteha*. Not all agree. After all, these areas are still *Eretz Yisrael* regarding many spiritual matters (see Shabbat Ha'aretz *ibid.*). Hashem gave them to us, we will return, and, according to most, we still presently have a *mitzva* to live there (see Encyclopedia Talmudit, Yeshivat Eretz Yisrael, ftnt. 28-29). Our question is about areas with the *kedusha* from the time of the Second Temple, but an individual field was bought by a non-Jew. Such land, even according to those who say it loses some status, is fully part of *Eretz Yisrael* and its status is restored when a Jew buys it back (Rambam, *ibid.*). If the important part in our context is the practical use of the fruit, fruit that grows in either *heter mechira* fields or non-Jewish owned fields is regularly consumed by the community of Israeli Jews. Therefore, even though in cases of doubt it is better to say *hapeirot* (Mishna Berura 208:54), the common practice to say *peiroteha* on fruit even from non-Jewish fields is logical.



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# Ein Ayah

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

## The Place of Humor in the Study of Torah

(condensed from Ein Ayah, Shabbat 2:103)

**Gemara:** [We have been discussing Rabba's practice of saying something humorous before starting a Torah lecture.]

**Ein Ayah:** To understand the place of humor one has to picture the pleasure that accompanies intellectual attainment in terms of the pleasure one gets when fulfilling other physical needs. The pleasure does not replace the purpose of the actions, but it is a related outcome that contributes to a person's likelihood of following the path of healthy natural life.

One can have enjoyment in the intellectual realm even when contemplating intellectual ideas that have not passed the test of truth and practical value, even though goal-oriented intellectualism requires those qualifications. We can say, metaphorically, that there is room in the realm of wisdom for attractive flowers that are not for reproductive purposes. Their (referring to various forms of humor) value is in making one's heart happy with their crispness and pleasant style.

Because these ideas are not of real intellectual value, they can be harmful if used by one who does not understand their place but sees them as "nourishment" for the intellect, when they are actually only pleasant aesthetics. If one knows humor's time and place, he will take them for what they are and not try to expand upon them. He will use them as generating a little bit of happiness and serving as an indicator of the greater happiness one will have if he is able to perceive real intellectual truths. It is easier to enjoy things into which he does not need to delve deeply to reach their goal.

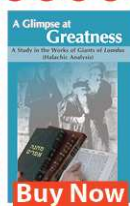
This general phenomenon can also be found in the extreme examples of the *pilpul* system of learning [which is not always realistically based on Torah truths] that has been employed in recent generations and apparently since much earlier periods of history. These serve as "flowers" and "spices" to present a "resting place" in the sources for the "aesthetic side" of Torah intellect. This is parallel to the embellishment of logical content by employing along with it various artistic, literary, and poetic tools. The Rabbis viewed that just as flowers are appropriate for fruit trees, so too aesthetic flourishes are fitting for the wisdom of Torah, even of Torah giants who are pillars of our nation. That is why the Rabbis say (Eiruvim 13b) that one is not accepted into Sanhedrin unless he can explain in 150 ways why a *sheretz* (an impure animal) is pure (i.e., he has great intellectual ingenuity, which is of value even if the ingenuity produces false conclusions – as long as he realizes they are false).

As time passes and happiness has been lost due to our moral flaws, many are unable to understand the importance of using intellectual aesthetics. Unfortunately, they do not recognize the point of using images unless they can fit into scientifically accurate measures that justify their use in practical rulings. There are also people who are guilty of the opposite problem. Instead of using tools such as humor to a limited degree, e.g., as introducing a lecture with them to make the heart happy, they view this type of thought process as the essence of the learning process. In such a case, they are missing the heart of true learning, and the external tool which now serves nothing of value turns out to contribute nothing.

Rabba kept things in perspective and taught us that the humor should be limited to an introductory role, followed by a very serious atmosphere for the learning itself. This distinguishes between that which is pleasant and that which is of intrinsic value. The supporting role that humor plays is fitting for a nation whose Torah, which includes all that is desirable, is its life and purpose. We are able to appreciate delving into the understanding of the depths of Hashem's sweet Torah and also enjoy its "flowers." "Those who are planted in the house of Hashem will flower in the courtyards of our G-d" (Tehillim 92:14).

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# P'ninat Mishpat

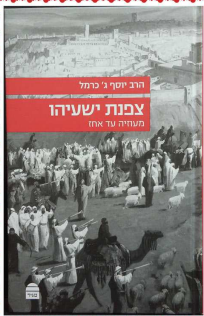
## Passively Taking from Another's Franchise

(based on Shut Chatam Sofer, Choshen Mishpat 175)

**Case:** Reuven bought a franchise from the *sar* (the ruling local nobleman) to sell alcoholic beverages, on condition that the *sar* would forbid his constituents from buying from anyone else, which he did. Shimon bought a franchise from a neighboring *sar*. Non-Jewish villagers from Reuven's region have approached Shimon about buying from him, which hurts Reuven's investment/livelihood. May Shimon sell to them?

**Ruling:** If Shimon would go out of his way to attract Reuven's customers with special deals, all the opinions in Bava Metzia 60a would agree that this would be forbidden. However, if he is passive, it does not appear to be encroaching on Reuven's *ma'arufia* (special business standing with a non-Jew) (see S'ma 387:10). There is a distinction in that there the one whose livelihood is affected is not losing money but is just not getting as much profit as he could, whereas here Reuven spent a great sum of money in buying the franchise. However, that distinction is not a factor in the *gemara* (Bava Batra 54b) that serves as the source for those who say that one is allowed to deal with the non-Jew with whom his friend has a *ma'arufia*. Even those who do uphold the exclusive rights of the Jew with the *ma'arufia* should agree in this case, where Shimon did not act to encroach upon Reuven.

However, there is a different reason to forbid Shimon to sell to Reuven's customers, and that is *dina d'malchuta dina* (the law of the land is binding). Reuven's *sar* forbade upon his constituents to buy beverages from anyone other than Reuven, and this is something he has authority to do. Thus, anyone who does not respect the franchisee's rights is stealing from the one who the *sar* authorized. In such a case, the non-Jewish villagers who approach Shimon are stealing in a way that arguably makes them guilty of a capital offense according to Noahide laws. (There is what to consider because the "theft" is in lack of payment, not stealing an object). Therefore, Shimon is causing these villagers to do a *sin*, and it is forbidden to cause others to sin even if they are not Jewish if they are violating it only through his participation (see Avoda Zara 6a). Therefore, Shimon is obligated to protest the villagers' interest to buy from him, not participate with their improper attempt to buy from him.



### Tzofnat Yeshayahu- Rabbi Yosef Carmel

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