

# HEMDAT YAMIM

PARASHAT **Bo**

5 Shevet 5768

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This edition of Hemdat Yamim is dedicated in loving memory of **R' Meir ben Yechezkel Shraga Brachfeld**

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## On Ratings and Public Relations

*HaRav Yosef Carmel*

Public stature is one measure of a person. One who amasses and maintains over time a following of devotees apparently has something to offer. Public recognition even has halachic significance in certain realms. It is apparently not possible to bestow kingship on one whom the nation does not accept. According to the Rambam and Rashbam, the rule that the law of the land is the law is predicated on public acceptance. Even a judge seems to need the public to accept him as a "known person in the tribe."

On the other hand, popularity is not always reliable. A community can look for a leader who is society's lowest common denominator, in which case they may spiral downward morally. A leader who always consults the polls before acting is not a leader but one who is led. He will be unable to elevate the nation, and there will almost always be a leadership crisis.

On the eve of the Exodus from Egypt, the Torah relates to Moshe's stature. "Hashem placed the grace of the nation in the eyes of Egypt; also the man Moshe was very great in the Land of Egypt, in the eyes of Pharaoh's servants and in the eyes of the nation" (Shemot 11:3).

Ibn Ezra posits that the issue discussed is only the status of the Jews and their leader in the eyes of the Egyptians. Their positive impression explains the matter at hand, that the Egyptians lent them expensive wares. Moshe's status was noteworthy, as some Egyptians gave to Jews because of Moshe's stature. The Ramban rejects the Ibn Ezra's approach on linguistic grounds. He interprets that the Egyptians respected and miraculously did not harbor ill feelings toward the Israelites despite the plagues. However, he says that the final words, "in the eyes of the nation," refer to the Israelites' outlook on Moshe. The reason this was noteworthy (at the stage that Moshe was riding a wave of success) is that it stresses that Moshe was consistent in his approach, acting as needed both at times that it made him popular and unpopular. The *pasuk* teaches us that his consistency paid off, as it showed the people that he was a trustworthy leader and prophet.

We conclude with the Meshech Chochma's idea on this *pasuk*, which assumes, like the Ibn Ezra, that the *pasuk* focuses on the Egyptians' outlook. One can impress a nation by impressing the intelligentsia with one's consistency and reliability and allow that to trickle down over time to the nation. The other way is to obtain popularity by using public relations "spins" to reach the masses and the powerful at once. The former method is the longer but truer method. With this in mind, the *pasuk* stresses the order of events, that Moshe first became respected among the servants of Pharaoh, among whom he represented Hashem's word and only later did it spread to the general Egyptian populace.

May we pray for this type of leader!

## Ask the Rabbi

**Question:** I saw the following story on the news. During renovations on a home that had been owned by several people over the years, a contractor found a package with \$182,000 stashed between the walls. The contractor took the money, but the homeowner complained that since the money was found in his house, it should be his. What would the halacha be in such a case?

**Answer:** For simplicity's sake we will deal with this as a theoretical case occurring in Israel and avoid factors that might arise elsewhere due to local considerations.

The *gemara* (Bava Metzia 26a) discusses one who finds an object in an ancient wall, where there are signs that it has been there since before the Israelites conquered Israel. It says that the finder (even if it is not the owner of the property) can keep the object. Tosafot (ad loc.) asks why the property (*chatzer*) did not acquire the lost object on behalf of its owner even without his knowledge of the object's presence (see Bava Metzia 10b). Tosafot answers that one's *chatzer* can acquire things only when it is expected that the owner will eventually find them.

In our case, it could very well have been that the owner would never have found the object and, therefore, the money remained unowned (presumably; see discussion below), allowing the contractor to acquire it upon finding it. This basic idea is accepted as halacha in the Shulchan Aruch (Choshen Mishpat 260:1) but there are two possible explanations. The S'ma (ad loc.:2) says that a *chatzer* acquires only objects of *hefker* (ownerless status) but not lost objects even when their owner gives up hope of recovering them. The Netivot Hamishpat (ad loc.:3) says that it all depends on whether the owner was expected to find it some day, as Tosafot says. Either way, the contractor would be correct in our case. (The fact that the contractor was working for the homeowner at the time he found the package does not change the halacha- see Shulchan Aruch, CM 270:3.)

However, there is another factor that, in a society without special laws of lost objects, was not considered. Even if we assume that the owner of the money cannot be discovered, does that mean that the finder can keep it? When the person stashed the money, he apparently planned to take it at some time. We lack sufficient grounds to conclude that he decided to never retrieve the money. It is likely that something happened that either made him forget the money was there or that he died without taking the opportunity to inform someone where he put the money. Since (virtually) everyone has some sort of inheritor, even if the owner died, there would seem to be a new owner who may not even know that he inherited money and thereby cannot have *yeiush* (give up hope). Since that which allows a finder to take an object (even one without signs) is the presumption of *yeiush* (giving up hope), the finder would have to hold on to it and entertain the remote possibility that someone will come and prove his ownership (see Rama, CM 260:10).

We have to see why in the *gemara's* case, the finder could take the old lost object. There is an opinion that it has to do with the fact that it was left over from the nations that were conquered long ago, making it not applicable to a regular case. However, the accepted assumption is like the following Netivot (260:1). The idea is that in the situation where one loses something in a manner that it is unlikely to ever be retrieved, his lack of control prevents inheritance from occurring and it becomes *hefker* (see also Netivot 256:1 and Pitchei Choshen, Aveida 3:5 and 7:(10)). Therefore if we can ascertain that the money has been hidden long enough for us to presume that its owner died, the contractor could keep the money. If not, the matter would raise new, complicated questions that are beyond the scope of this theoretical discussion.

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## The Approaches of Chasidut, Hitnagdut, and the Mussar Movement – part VI

(from Perakim B'Machshevet Yisrael, pp. 515-531)

### Mussar – part I

The negation by the *Hitnagdut* of the Chasidic approach does stress arguably dry conformity to detail of external actions and certainly stresses Torah learning. This was the characteristic approach of the Volozhiner Yeshiva and its satellites. This dragged along a limiting of the contemplation on the philosophical elements of the Torah, which sometimes brought on “small thinking” and terribly dry actions. Not always did Torah study serve as a guard against poor personal attributes, and it was at times studied as “a crown with which to make oneself great.” The part of the mind that was left unused was sometimes filled with foreign ideas of enlightenment, which started to affect the Lithuanian landscape. *Chasidut's* complaints started to be heard among those who saw Torah study as the panacea. Rav Yisrael Salanter described deterioration from the time that Torah and fear dwelled together to the time of their severing. He felt a need to fill the void in the field of Jewish thought. While upholding the foundations found in *Nefesh Hachayim*, he strove to preserve the “moisture” of contemplation to prevent Torah and *mitzvot* from becoming external matters that do not affect a person. This is the background of the formation of the *Mussar* Movement.

Although the *Mussar* Movement, as such, was started by Rav Yisrael Salanter, it is based on ideas that existed well before among those who were not involved in *Chasidut*, in a non-centralized manner. The *mussar* or morality approach is based, to a great extent, on the classic *mussar* work, *Mesilat Yesharim* by Rav Moshe Chayim Luzzato.

The ideology of *mussar* sees each person's purpose as perfecting himself and improving his well-being. The Torah learned with a stress on the fear of Hashem that can be acquired from it is a means toward that goal. *Mesilat Yesharim* starts with the question: “What is a person's obligation in his world?” The world in question is his personal world, not his counterpart's. What does one do so that things will be good for him? This approach does not come to undermine a person's tendency to worry about his personal welfare, which in fact is to move him to act. Rather it shows the person that he has a warped perception of his welfare. One should strive for true enjoyment; it is inconceivable that the highpoint of that which the Creator prepared for us is physical enjoyment during one's fleeting life. Therefore, a person's obligation is to funnel his natural desire for enjoyment to a path that leads to “true pleasure and the greatest indulgence that can be found – to take pleasure from Hashem and enjoy the aura of His Presence.”

The following is the response to the unwise people who want to make life easier and figure that it does not pay to toil since, as long as one is not wicked, he will have a place in the world-to-come and does not need a prime portion. One must realize that this is the false enticement of the evil inclination, as we see that in matters of worldly pursuits, people toil and push themselves to be among the most successful. Why, therefore, should one agree to be among the lowly in regard to the eternal, precious, true place, the world-to-come? In these matters one should not fight the tendency toward jealousy but should funnel the desire to be the best to serve as an impetus for self-improvement.

The purpose of the Torah is to teach a person how to enjoy, and the study of *mussar* comes to decipher the Torah and *mitzvot*. By putting the purpose of the creation and service of Hashem in this light, we see that the service Hashem demands of us is not a demand of an all-powerful ruler who can act as he desires. Rather, it is the leadership of a loving father who puts his hand on his son's shoulder and teaches him how to act.

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# P'ninat Mishpat

## Ending Rental Due to Extenuating Circumstances

(based on Halacha Psuka, vol. 37 – condensation of a *p'sak* of Beit Din Gazit, Tzefat)

**Case:** The plaintiff (=pl) rented an apartment to the defendant (*def*) for a year. After the rental period was completed, *def* stayed on in the apartment and paid on a monthly basis until August, when he left because of Katyusha bombardment of the city. *Pl* is making a claim on the ending of the rental, which he says should have been extended for a full second year, as the first rental period was for a year. *Def* says he was justified in leaving the apartment when he did.

**Ruling:** The Shulchan Aruch (Choshen Mishpat 312:14) rules: "In a place where they have a set "new year" for rentals and Reuven rented a home from Shimon for a year and, after that time, continued on without any further discussion after the year and now Reuven wants to end the rental and Shimon wants to stop him, the law is like Shimon." From a responsum of the Rosh upon which this is based one can see that the reason that the landlord may claim that the rental was extended for another year is the fact that there is a "new year" for rentals. Therefore, in other cases, continuing to occupy the home is just like an unspecified rental, which can be terminated by the renter or the landlord with 30 days' notice. This is the analysis of the Aruch Hashulchan (ad loc. 24) as well. Therefore *def* does not have to pay for rental past September.

Based on what we have seen, it is possible to claim that *def* was not allowed to leave the apartment suddenly (without paying beyond that point) as he should have given 30 days' notice. However, *beit din* determined that that is not correct in this case for two reasons.

Firstly, the reason for the notice is that it allows the other side to find an alternate solution during that time. In this case, since the apartment was in a war zone, *pl* would anyway not have been able to find a renter at that time. Therefore, the lack of notice was not a factor for which *pl* deserves compensation.

Secondly, the Shulchan Aruch (ibid.:11) rules that if the landlord's home collapses, he can require the renter to vacate his home because it is illogical that the homeowner would have to be in the street while a simple renter enjoys his property. However, this is only when the rental period is not set, as when it is set, the renter's rights during that time are more absolute. In other words, in open-period rentals, the requirement of notice is not absolute, when there is a compelling factor, such as the need of the landlord for the apartment. Likewise, since *def* was compelled to leave the apartment without notice, the lack of notice should not bind him to the weak commitment to continue until the time of the notice is complete. Therefore, *def* need not pay beyond the time that he demanded to end the rental agreement.

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