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HEMDAT YAMIM

Parashat HaShavua

Pinchas, 19 Tamuz 5780

Who Are the *Moshlim*?

Harav Yosef Carmel

We have been discussing the land captured by Sichon from *Parashat Chukat*, and the subject will continue through the beginning of *Sefer Devarim*. In general, there is a discussion with some detail into the journeys and travails of Bnei Yisrael on the eastern side of the Jordan River. First we will summarize this sojourn, then we will find the unifying theme.

A. Moshe sent messengers to the King of Edom, asking for permission to traverse his land; the request was adamantly rejected (Bamidbar 20:14-21). Hashem commanded Bnei Yisrael not to start up with Edom, and so they went around their land and arrived at the border of Moav, the Arnon Stream (Devarim 2:1-9).

B. At the border of Moav, Bnei Yisrael were commanded not to fight with Moav (Devarim 2:17-23).

C. Next, Moshe was warned not to start up with Amon either (ibid. 19).

D. Moshe called out to Sichon in peace to allow Bnei Yisrael to pass through their land. Sichon massed his troops, and Moshe leads a successful battle against Sichon and took his land, while staying away from the land of Moav and Amon (Bamidbar 21:21-25).

E. The Torah quotes the Song of "the *Moshlim*," which mentions Moav's loss in battle to Sichon (Bamidbar 21:27-30).

F. Balak tried to hire Bilam to curse Bnei Yisrael (ibid. 22:2-24:25).

G. The daughters of Moav and Midian caused members of Bnei Yisrael to sin in Shittim. Moshe was commanded to take revenge against Midian (ibid. 25:1-9; ibid.16-18).

H. The daughters of Tzlofchad firmly attempted to hold on to the inheritance of land in *Eretz Yisrael* due to their father (ibid. 27:1-11).

I. Moshe sent representatives of each of the tribes to take revenge against the Midianites, including killing Bilam (ibid. 31:1-8).

J. The tribes of Gad and Reuven requested to receive their portion of land in the area of Gilead, on the eastern side of the Jordan (ibid. 32:1-32).

K. Half of the tribe of Menashe also received a portion in the land on the eastern side of the Jordan (ibid. 32:40-42).

As a means of introduction, we will look at the word *moshlim*, who are the people who make declarations about the cities of Sichon and their battles. In Modern Hebrew this can mean rulers, such as governors, and also can refer to writers of metaphors. Certainly these cannot be the full meanings of the word here, because then these people would not need to be highlighted in our holy Torah. We suggest that they were highly spiritual people, with some having divine inspiration and some of them being close to prophecy. One of them was actually a great prophet, who might have even been on the level of prophecy of Moshe Rabbeinu – Bilam the Sorcerer (see Sifrei, Devarim 357:10).

There is another example of a non-Jew who was close to prophecy – Elifaz HaTeimani, one of Iyov's friends (see his introduction to his speech to Iyov – Iyov 4:12-16). To his credit, Elifaz did not claim to have clear prophecy but speaks of his divine encounter of a significant type. We will continue on this theme in future weeks.

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Ask the Rabbi

by Rav Daniel Mann

Pressure to Include Second Storage Room

Question: [Summary after back and forth]: I bought an apartment from Shimon. We came to a basic agreement on terms in early October. It was important to Shimon to finish by month's end; our lawyers were working on loose ends throughout Oct. I was interested in Shimon throwing in his spare storage room in the building, but, for a technical reason, I did not initially raise my request. In the meantime, I was getting cold feet due to the high price and decided that I would buy the apartment only if the room was included at the same price. When I raised it, near the end of Oct., Shimon refused, but when he saw I was serious about backing out, he gave in. We will be closing soon, and Shimon has complained that he gave in only because I put unfair pressure on him. I want to do the right thing. Did I violate *lo tachmod* (coveting a friend's property), and should I therefore forgo the room?

Answer: This is a discussion of general principles, which will help you form a direction for action. We will not make a ruling because: We did not hear the other side, the case and the topic are complex and unclear according to your presentation, and you ask about doing the right thing, which includes subjectivity.

On the one hand, one violates *lo tachmod* when he pressures an owner who does not want to sell an object until he relents (Rambam, Gezeila 1:9). The means of pressuring found in classical sources are not exhaustive, and your actions should qualify.

Still, whether you violated *lo tachmod* depends on what was behind Shimon's refusal to include the storage room. If he values the room enough to not consider selling it, then your actions violated *lo tachmod*. One would have to determine whether at this late point and after the written agreement, you have to give up your rights to the room (see *machlokot* between the Rambam and Ra'avad, Gezeila 1:9, with the help of the Maggid Mishneh and Even Ha'ezer ad loc.) and how relinquishing such rights might affect the sales price. These are all beyond our present scope.

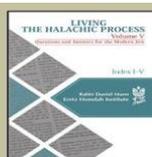
If Shimon's initial refusal to include the storage room was just a matter of finances, (i.e., why should he give it for free?), then your pressure was in effect to lower the price, not to receive something that should have been off limits. Pestering someone who is happy to sell in order to get a good price does not violate *lo tachmod*. This is all the more so regarding a storage room in the building, which is often sold along with the apartment, so that your raising your desire is not pestering.

However, there is another problem to consider. If one gives his word to do a transaction, without making a *kinyan* or money being paid, while there are no steps to enforce the word given, it is considered halachically immoral (*mechusarei amana*) for either side to back out (Shulchan Aruch, Choshen Mishpat 204:7). The Shulchan Aruch (ibid. 7) limits the parallel (and more severe) censure for backing out of a deal after money was paid (*mi shepara*) to cases where the price was already set. The Pitchei Choshen (Kinyanim 1:(4)) posits that *mechusarei amana* is also limited to cases with set prices and adds that it excludes cases in which "even one detail is not agreed upon." You could take that position and argue that you had details that were not worked out, and perhaps you are right. However, this position is strong only if the open details were potential deal-breakers. Also, not hashing out those details promptly when you knew that Shimon was counting on the sale and needed it soon is a moral issue. If you could not back out, then you should not receive benefits (i.e., the room) for threatening to do so.

If the only issue is morality and not legality and Shimon is not suing, the present moral decision is yours. We perceive, based on your account, that the process was not "glatt" for one or more reasons. Therefore we recommend you reach some sort of real compromise so that you go into your house with a clear conscience and on good terms with the seller (both valuable things).

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.

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Ein Ayah

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

Positive Effects of Giving Tzedaka

(condensed from Ein Ayah, Shabbat 12:18)

Gemara: [We continue going through the aleph bet, with suggestions of words and themes that fit these letters in their order. Last time we saw about the importance of tzedaka, and we skipped over a piece that connected that theme to the Name of Hashem.] [We learn from the letters of zayin through lamed:] If you do this (give tzedaka properly), Hashem will feed you, give you charm, do good for you, give you inheritance, and tie onto you a crown for the world to come.

Ein Ayah: The following are the conditions of happiness: one can continue to survive; the existence is pleasant; it will be elevating; it will last for eternity; his existence will be elevated to a higher level than any of the previous conditions capture.

These are the ideas that the gemara highlights for one who gives tzedaka properly. Feeding him is representative of taking care of the needs that allow him to survive. Giving him charm refers to the pleasantness of his existence, as when he has nice additions to his existence, he is able to display charm. Doing good for the person implies that things are better than they needed to be. The matter of inheritance means that there will not be an end to his existence, which is the foundation of eternity. The crown for the world to come is about the highest level of them all.

All of these attainments, which are full of the light of the holy of holies, continuously flow from the light of tzedaka carried out in the ideal and holiest way, as is feasible when a Jew connects himself to the Name of Hashem.

An Opened and a Closed Statement

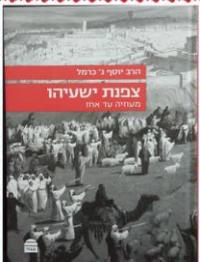
(condensed from Ein Ayah, Shabbat 12:19)

Gemara: An open mem (the regular letter) and the closed mem (the mem at the end of a word) correspond to an open statement and a closed statement.

Ein Ayah: The greatness of Torah is that it includes everything – all concepts – with the sanctity of its unity. All areas of knowledge and wisdom can be divided into the revealed, clear matters and matters that are closed and elusive. However, the clear unity that is captured within every single statement of Torah includes both open and secret characteristics. It has concepts that are comprehensible to all and also deep matters that are the secrets of the world. This is part of the Torah's uniqueness and is hinted at by the two types of mems, as both forms are representations of the same letter. Indeed all elements of the Torah are united, despite their different natures.

[The introduction to Ein Ayah, which we presented 11 years ago, begins with this gemara and expounds on the concept of the open and closed statements. We bring below relevant excerpts from that introduction.]

Closed statements teach practical Torah regarding mitzvot and statutes. Only when these are observed literally can we open the gates of enlightening, expanded ideas of the open statement... Once those who "damage the vineyards" break open the "fences of the world," their spirit will no longer reach the level to appreciate the holy value of the statements of the Torah and the Rabbis, including the open statement, which is wider and deeper than the sea. This is because only one who is sanctified in the holiness of good actions, behavior, and beliefs can elevate his spirit to properly view the value of the words of a Living G-d... The foundations of Jewish belief are included in the closed statement, which comes at the end of a word. The open statement is effective in expanding and glorifying the Torah when it comes in the middle of the word. When ideas are expanded and the view of all of the details of ethics and belief increase, we will be able to strengthen weak hands and fragile hearts and return those who strayed from Torah back to its strength through grace and healthy logic.



Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Receiving Pay for Hours Not Taught

(based on ruling 71037 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=p) is a teacher at a school that is publicly funded (=def). Def told p that he would teach 26 hours a week this year (a standard full-time position, which is what he usually taught, is 24 hours), and p claims to have understood that the extra hours were like any others. Def did not at first succeed in finding a place in the school schedule for the extra hours, and p asked to find them, so that he would not lose the right to have the hours. Otherwise, he would have looked for part-time teaching in other schools, as he did in the past. Def claim that the offer of pay beyond a full-time salary was conditional on government funding for them, which they had hoped would come from a fund called "extra for a personal contract." (When eligible, the teacher gets paid for extra hours that he does not teach, but def demands that recipients put in the extra time.) Because p had decided to take other incentives from the Department of Education, he was no longer eligible for this incentive and could not get paid for the extra hours. There are no written agreements or exchanges between p and def on this matter.

Ruling: If there was a commitment to providing these extra hours, is def bound to it when the situation changed (i.e., loss of eligibility) after the time of the commitment? Regarding a commitment to buy/sell, followed by a change in price, there are two opinions as to whether it is morally permitted to back out (Shulchan Aruch, Choshen Mishpat 204:11). The S'ma (ad loc.) says that the same is true for a commitment to employ.

However, when a worker starts the job, commitments become binding (Shulchan Aruch, CM 333:2). This is either based on the assumption that it is difficult to find a new job or based on obligation. Even if p did not start working the extra hours, all of the employment, with all the stated conditions, form one unit.

Usually, if one is obligated toward a worker, but the worker does not end up needing to work, there is a reduction from the pay because of the benefit of the free time. The Rama (CM 335:1) says that this is not true of a Torah teacher, and two reasons are given: 1. it is a pleasure to teach Torah; 2. teachers do not enjoy time off. While in this case (a general studies teacher), there is a difference between the reasons, we accept both reasons as grounds to give full pay, especially in a case like this in which p was more adamant about the teaching than the money.

The question thus is about what commitment was made. Def argued that p should have understood that the extra hours were dependent on the special fund, but they never said that they told him so. Therefore, we cannot accept that the extra hours could be considered conditional, as conditions need to be stated, not understood. In general, we must criticize def's policy of taking money given to them to pass on to certain teachers and making it conditional on extra work that the Department of Education did not require.

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