



HaRav Shaul Israeli zt"l  
Founder and President

# HEMDAT YAMIM

## Parashat HaShavua

Vayeishev, 26 Kislev 5781

### The Power of the Ox

Harav Shaul Yisraeli – from Si'ach Shaul p. 120-121

Rashi (based on Bereishit Rabba 84:6) expounds upon the *pasuk*, "These are the happenings of Yaakov, Yosef ..." (Bereishit 37:2) that whatever happened to Yaakov happened to Yosef. Nevertheless, there was something new about Yosef that was not expected of a son of the saintly Yaakov. Yosef groomed his eyes and styled his hair (Rashi *ibid.*). It is hard to imagine Yaakov, the unblemished man who sat in tents (Bereishit 25:27), involving himself in such vain beautification. These were new customs unique to Yosef.

These new practices were also connected to the development of quarrels between the brothers. Yosef brought his father negative reports about his brothers (Bereishit 37:2). Warm feelings were missing in the family. It is true that *Chazal* criticized Yosef for these reports and related to them as PARTIAL justification for the actions his brothers took against Yosef, we also find that they recognized the very close emotional connection that existed between Yaakov and Yosef.

There is a very clear contrast between Yaakov and Eisav. Eisav took pride in and took steps to increase his power in the world (Bereishit Rabba 63:7). Yaakov chose paths that avoided Eisav and avoided trouble. He did not react decisively over the actions of Shechem against Dina. He progressed on his journey slowly, to handle his children and flock carefully. In contrast, Eisav attained "desired clothes" (see Bereishit 27:15) and pursued beauty and glory, even if the price of that pursuit was the need to kill people. He paved the path of his "cultural" attainment with hundreds of people trampled and choked.

On the other hand, we cannot deny that Yaakov was missing some of the sharp finishes that Eisav used effectively. It seems that over-hesitancy was a part of Yaakov's makeup. *Chazal*, for example, were not happy that Yaakov bowed down eight times when approaching his brother (Bereishit Rabba 75:11).

This is where Yosef came along. He merged the characteristics of his father and his uncle. He unveiled a new style, interested in his hair and his eyes. But on the other hand, even when he already had a grasp on dominion, he still reminded his brothers that he was connected to the Torah he learned with his father (see Rashi *ibid.* 45:27). When his master's wife offered him all that he could desire, he did not delay a moment and ran away from sin. His good looks and style did not blemish his morality. His externalities did not come at the expense of his internal rectitude. This is the characteristic with which he approached power and which Paroh appreciated.

Centuries later, at the time of the Hasmoneans, when the Greeks stood up against Israel, they attacked with the idea of an ox (which is the symbol of Yosef – see Devarim 33:17). The Greeks said: "Write on the horn of an ox that you do not have a part in the G-d of Israel" (Bereishit Rabba 5:4). Pious Jews gave their lives in sanctification of His Name and in battle. That awoke the power of the ox within Israel. They did not go like sheep to the slaughter, but stood with strength. The negative writing on the ox's horn was replaced with the internal and external characteristic of power from Yosef.

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# Ask the Rabbi

by Rav Daniel Mann

## Pressuring a Store to Take Back Purchase

**Question:** I bought something in a store and wanted to return it. The customer service person was reluctant to take it back, but I was persistent and she eventually agreed to it. Was it permitted for me to handle it as I did, or did I violate *lo tachmod* (I heard in a shiur that you can violate this when pressuring a store to give a refund)?

**Answer:** Our discussion relates to cases in which you do not have a legal right to demand a refund. In such a case, forcibly returning the object is like forcing someone to buy it. Regarding coercion to make a transaction, if someone is coerced to sell something and at the end says “yes,” the sale is final (Shulchan Aruch, Choshen Mishpat 205:1). When he is coerced to buy something, there is a *machloket* whether the purchase is final (Rama ibid. 12 – no; Pitchei Teshuva ad loc. 11 – yes). Even according to the Rama, it is hard to believe that you would try or succeed in coercing the store to take it back. When a civil person is just persistent, even if annoying, it rarely reaches such a level.

However, acting persistently to try to bring about a transaction in which the other side is not interested does raise questions of *lo tachmod* (see Shulchan Aruch, CM 359:10) one of the Ten Commandments. However, in this case, *lo tachmod* (not coveting) does not apply for a simple reason. All of the cases of *lo tachmod* that I managed to find in classical sources (starting from the examples in the *pasuk*) and quite a few contemporary sources referred to desiring to receive an object (or person) that belongs to one’s friend. It becomes forbidden when one wants it so badly that he attempts to get it “by hook or by crook” (see Rambam and Ra’avad Gezeila 1:9 for one discussion of the point of violation). They do not mention trying to sell something by pressuring a buyer.

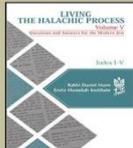
I contacted the *talmid chacham* who gave the shiur you heard. The only source he found was a footnote in the Pitchei Choshen (Geneiva 1:(26)). He admitted that he was not sure *lo tachmod* applied. In fact, Minchat Asher (Devarim 9) argues convincingly that one can only be *chomed* an object that he wants. Wanting to sell something and receive financial compensation is not coveting anything. We point out that desiring money is not forbidden or even negative – we *daven* and have many sources looking positively about acquiring wealth and certainly a basic living.

It also is quite clear that the Pitchei Choshen did not contradict this thesis. He discusses, in close proximity, *lo tachmod* and the similar *chamas*. The difference between the two is that in *lo tachmod* the seller eventually agrees, whereas *chamas* is when the seller never agrees (Bava Kama 62a – it differs from a *ganav* in that he paid for it). The Pitchei Choshen writes that *chamas* (not *lo tachmod*) applies even to one who forces someone to buy from him. While this is difficult on a couple of grounds (beyond our scope), it is more tenable for *chamas* to apply to selling as well, because in the case where there was never agreement, there is no sale, and therefore the “seller” had no right to take the money even after the fact. This is not the same idea of *lo tachmod*, which is over-desiring something that is off limits to you (even if some action is necessary to concretize it – see Rambam ibid.). In your case, you did not desire anything; to the contrary, you wanted to get rid of something that did not interest you and just recover the money you regretted paying.

The *maggid shiur* wrote to me that even if it is not formally *lo tachmod*, it has elements of it regarding the spirit of the law. I agree with this contention partially. It is bad *middot* to pressure people to do something that they do not want and are not required to do. But if one focuses on convincing the proprietor that if he does not agree, he will prefer patronizing a more accommodating store, which he has every right to do, that should not be a problem. If you pressured him obsessively or with improper tactics, that is against the spirit of the law ... but not the spirit of *lo tachmod*.

**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.)

## The Prominence of the Secondary

(based on Ein Ayah, Shabbat 14:9)

**Gemara:** An *etrog*, radish, and egg – if not for their outer peel, they would never leave the intestines.

**Ein Ayah:** There are things in the world that even though they seem secondary to something else and unimportant, they actually have a lot of impact on the main entity to the extent that without them, one would not receive any benefit from the main one. Therefore, we should not be surprised when seemingly external and ancillary matters grab a prominent place in the world. This is even though the main, internal things are the foundation of life in this world. Still had nature not worked on them with the help of the ancillary things, we would never gain from the main entity.

Regarding an *etrog*, radish, and egg, the inside is the main part, as that is where the nutrition comes for man. But they would not be worthwhile to eat if they would never leave the intestines. Therefore, their peels, which eventually allow them to be expelled from the intestines, brings the value that dwells in their midst.

This teaches a general rule for several things in the material world and the spiritual elements of the world – the contribution of minor things is major to lead the way for the main things, as we find for the *etrog*, radish, and egg.

## Preserving the Memory of the Lessons of Charity

(based on Ein Ayah, Shabbat 14:10)

**Gemara:** Rav Dimi said: No one ever drowned in the Dead Sea.

**Ein Ayah:** Sodom was a place of destruction. Its existence in the world was to show that charity is the source of existence and that evil is the source of destruction in the world. The destruction of Sodom came because they were very far from charity, as it says, "The hand of the poor and the destitute they did not support" (Yechezkel 16:49). This comes to teach the world that people should cling to the attribute of being charitable.

The Dead Sea, which is near Sodom, was formed with the help of the destruction of Sodom. That destruction, which taught the world a lot in regard to the need for an approach of charity, was a reason for the world to continue on. This is hinted at by the statement that no one ever drowned in the Dead Sea.



### 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.

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# P'ninat Mishpat

## Who Drove Worse?

(based on ruling 76071 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) maneuvered his car into the oncoming lane near a *beit kneset*. The defendant (=def) backed out of the *beit kneset's* driveway, checking the road was clear only to his left (from where cars normally come). The two made contact, and pl continued driving several more meters, making an elongated deep scratch in pl's car. Originally, pl admitted wrongdoing for having been in the wrong lane, but when an onlooker told him that one who backs out is always responsible, he changed his mind and explained that he had veered out of lane to avoid a poorly parked jeep. Pl claims that he bought the car for 4500 NIS and sold it unfixed for 1000 NIS. He spent 500 shekels on an appraiser who estimated the damage at 3,400 NIS, and he is therefore demanding 3,900 NIS. Def counters that pl was responsible for the collision and aggravated the damage by continuing to drive. He also disputes the appraisal for such an old car.

**Ruling:** The *gemara* (Bava Kama 48a) says that if two people enter an area and collided, if one acted with permission and one acted without permission, the former is exempt and the latter is obligated. If either both entered with permission or both without permission – if they “damage each other” they are obligated to pay, but if they “are damaged by each other,” they are exempt. Rashi says that the latter is referring to indirect damage. The Rambam (Chovel 6:8) distinguishes between whether the damage was done on purpose or by accident. The *Acharonim* dispute like whom the Shulchan Aruch (CM 378:16) rules.

In our days, *poskim* assume that the governmental laws of driving have an impact on the halachic laws of damage payments. Therefore, someone who breaks the law in regard to driving is categorized as one who “went without permission” (see Pitchei Choshen, Nezikin 1:(71)). The Chashukei Chemed (Bava Kama 31a) goes further, saying that if, according to the law, someone is obligated to pay for an accident, this becomes the *halacha* as well. For example, according to the *gemara* if someone stops suddenly and someone else collides from behind, the one who stopped is obligated for damages. However, since the law/society has accepted that the person behind must leave enough space to react and stop, and that if he does not, he has to pay, this becomes binding (see Bava Batra 8b). This is especially true regarding cars where failure to leave space before the car ahead can bring death.

Going through the different driving laws, we find that one should back out into a street only if necessary and only after ascertaining that there are no cars in the vicinity. On the other hand, one may go into the lane of ongoing traffic only if he checks that he has time to get back without danger. So both pl and def violated the law. However, def also violated the law of not giving precedence to the person who was driving straight as opposed to the one turning. Therefore, he is more responsible and must pay. Since much of the damage to pl's car was from his failure to stop immediately, we rule based on compromise that he will receive only 1,000 NIS.

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