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PARASHAT HASHAVUAH

Toldot 4 Kislev 5770

Manners – Please!

Harav Yosef Carmel

When a “tired” Eisav asked Yaakov for food and Yaakov responded that he wanted the rights of the firstborn in return, Eisav said: “Feed me *na* this red, red food” (Bereishit 25:29).

Among the various explanations one could give to some of the episodes involving Eisav, *Chazal* often presented negative ones. For example, the *gemara* (Bava Batra 16b) says that on the day in question, Eisav committed five serious sins. Regarding the red, red food, *Chazal* (ibid.) tell us that the food Yaakov was preparing and Eisav wanted was made of lentils, which was appropriate for mourners, as Avraham had just died, and Yaakov prepared it for Yitzchak. Lentils are special because they “have no mouth” like a mourner, and they are round, like mourning, which “rolls from one person to another in the world.” Why did Eisav stress the redness of the cooked lentil? Also, why did he say *na* (which we usually translate as “please”) when making his request on a day when he had committed major crimes?

One answer can answer both questions. *Na* can mean not only please but also can refer to a food that is not sufficiently cooked. Thus, we are commanded not to eat the *korban Pesach* in a manner of *na* (Shemot 12:9). The etymological explanation for this shared word is apparently that *na* also means right away, as in the famous *pasuk*: “Please (*ana*), Hashem, save now (*na*); please (*ana*), Hashem, give success now (*na*)” (Tehillim 118:25).

Now, let’s return to the lentils. Because they were not fully cooked, they were red, a color that fades during the cooking. Eisav demanded to eat, using the word that is usually used for feeding animals (*haliteini*), and was not willing to wait until the food was cooked. This demonstrates his rashness and lack of good manners.

It is interesting that there are homonyms similar to *na*: *ana* (one spelled with an *aleph* and one with a *heh*), which mean please in related contexts. They come to soften the word *na* which can mean please but can also add a possibly uncomfortable urgency to a request that can make it sound like a demand.

In any case, Eisav appears to us as a bad politician. He is too outspoken and coarse, does not use civil words, and, worst of all, is unwilling to push off his desires. These get him into trouble in the long run. Let us hope that our political leaders will learn from Yaakov rather than his brother, Eisav.

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Ask the Rabbi

Question: I often see people getting *aliyot* who lean on the *bima* during their *aliya*. Isn't that a problem? Shouldn't I tell them to stop?

Answer: The *mishna* (Megilla 21a) says that one may read *Megillat Esther* standing or sitting. The *gemara* (ad loc.) says that, in contrast, Torah reading must be done standing. As support, the *gemara* cites the *pasuk* regarding the transmission of the Torah from Hashem to Moshe: "You [Moshe] stand here with Me" (Devarim 5:27). Just as, symbolically, Hashem was "standing," so too later transmitters of the Torah should do the same. Our questions are: what the nature and severity of this requirement are, whether leaning is considered like standing in this regard, and whom it applies to.

The Tur (Orach Chayim 141) says that if one does not read the Torah standing, he has not fulfilled the *mitzva*, and thus the *leining* has to be repeated. He seems to understand the requirement as a fully derived requirement from the *pasuk*. The Yerushalmi (Megilla 4:1) says that it is an element of honor, related to the idea that the Torah must be transmitted with an air of trepidation, not casualness. The Beit Yosef (OC 141) points out that Rashi views the requirement to stand as only *l'chatchila*, that it is proper to show respect in that way, but in case he does not do so, the reading is still valid. The matter may depend on the situation regarding *Megilla* reading, as Torah reading is more stringent than it. If the *Megilla* should *l'chatchila* be read standing, then Torah, being a step further, is invalid *b'di'eved* if one did not stand. In any case, the Magen Avraham (141:1) rules that one does fulfill *b'di'eved* the *mitzva* without standing, as is evidence from the fact that we allow a king to read seated. The Mishna Berura (141:1) and most recent *poskim* take this lenient view.

Despite our relative leniency on the matter of standing, the Shulchan Aruch (OC 141:1, based on a Yerushalmi, *ibid.*) says that, at least *l'chatchila*, one should stand without leaning on anything. This can be understood in two ways: 1) leaning is not considered standing; 2) since one must show proper regard to the Torah's transmission, standing that is not fully austere, i.e., leaning, is thereby wrong. The Magen Avraham (ad loc.:2) says that both issues are true, but in different cases. If one stands with a partial lean so that if the object one was leaning on were removed he would fall, this is not halachic standing. If he stands in a manner that he would not fall, this is generally considered standing but it is still not standing in awe. Therefore he reasons that the Mordechai's permission for an obese person to lean (Shulchan Aruch, *ibid.*) applies only to partial leaning, as, when his leaning is understandable, it is not a sign of disregard. However, full leaning simply does not fulfill the requirement to stand. The Shaarei Ephrayim (3:11) says that it is also customary to allow some leaning when looking at the top lines of a long *sefer Torah*, which are far away from the readers. He reasons that crouching over in order to see well is not disrespectful to the Torah.

In general, the laws governing Torah reading apply both to the *ba'al korei* and to the *oleh* (the one who receives the *aliya*), and this is no exception (see Shulchan Aruch and Rama, *ibid.*; Sha'arei Ephrayim *ibid.*) The Sha'arei Ephrayim (*ibid.*) and Mishna Berura (141:5) say that even the *gabbai* must stand. (Regarding the congregation, there is a major discussion- see Shulchan Aruch and Rama, OC 146:4).

Like many other halachot in whose regard observance is not 100%, a rabbi should find opportunities to educate his congregants. Regarding partial leaning, which is likely not overly haughty and, according to the majority of opinions, does not affect the congregation's fulfillment of the *mitzva*, one should point out to the *oleh* only if he is confident it will be taken in the right away. If many people lean in the more severe way, it would be more worthwhile for one who can educate effectively to point out to the *olim* in a way that does not embarrass them.

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Ein Ayah

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

Personality Traits that Ruined Important People's Lives

(based on Berachot 2:72)

Gemara: "There should be no breeches" (Tehillim 144:14) – this refers to the idea that our group should not be like Shaul's group, out of whom came Do'eg Ha'adomi (who massacred the *kohanim* of Nov); "and nothing going out" (ibid.) – that our group should not be like David's group, from whom came Achitofel (who plotted unethically in support of Avshalom's rebellion); "and no screaming" (ibid.) – that our group should not be like Elisha's, from whom came Geichazi; "in our streets [*rechovoteinu*- literally wide places]" (ibid.) – that we should not have a son or a student who burns his food (i.e., who acts in a manner that demonstrates his religious lacking) in public.

Ein Ayah: The *mishna* (Avot 4:21) mentions three things that remove a person from the world: jealousy, desire, and pursuit of honor. These are all referred to in this prayer.

Do'eg lost his place in the world due to jealousy, as the *gemara* (Zevachim 54b) says that his actions against the people of Nov were taken out of jealousy. This is similar to the idea found in Tehillim (69:10): "For the jealousy of your house ate me up." Achitofel was motivated to aid the rebellion because he ... thought that he was going to become king (Yerushalmi, Sanhedrin 10:2). Geichazi acted out of desire for silver, gold, clothes, olives, vineyards, as Elisha pointed out (Melachim II, 5:26).

Dangerous Broadening of the Torah

(based on Berachot 2:739)

Gemara: *From the above.*

Ein Ayah: Burning the food is a good metaphor for someone who distorts Torah ideas and turns them into false philosophies. The food is intrinsically good. So too, Hashem's words in the Torah are straight, just that the wanton person turns them into horrible sayings.

How does this happen? The person in question heard how the words of Torah can be expanded [the root *rachav* and be used in "expanding" or "street"] with exegesis and pure ideas. He stumbled by thinking that he could establish thoughts of his heart that are antithetical to Torah concepts. One must pray that a son or an improper student should not use the broadening of Torah ideas to go in the opposite direction from the words of the living G-d.

The Differing Needs of Different Types of Tzaddikim

(based on Berachot 2:74)

Gemara: "Listen to me, the strong of heart, who are far from *tzedaka* (understood here as charity)" (Yeshaya 46:12) – Rav and Shmuel ... one of them said that it refers to those who despite the world being supported by [Hashem's] charity, they are supported by a strong arm (=merit). The other explained that it refers to those in whose merit the whole world is supported, while they are not supported even in their own merit.

Ein Ayah: There are two types of complete people. The foundation of one's *shleimut* is the attempt to make others more complete, while his own *shleimut* is but attached to the goal of completing others. For another type of complete person, his main existence is in order to perfect himself, which is an important goal. Additionally, he will certainly have a tremendous positive impact on others because of the example of his behavior and the sanctity of his actions.

Those whose work of completeness relates directly to others are those who are supported in their own merit, for they are needed for the improvement of the masses. In contrast, those who focus primarily on their own development don't even get fully provided for in their own merit. This is because when a person is looked at individually, without relating to others, he suffices with a very small portion, as the *gemara* tells about Rabbi Chanina, for whom a *kav* of carobs per week was enough for him to subsist.

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P'ninat Mishpat

How to Elect Public Officials – part IV

(based on Eit Ladun – Rav Nir Vargon - Halacha Psuka, vol. 30)

[We have seen that the normal way to decide civic matters is by majority vote, but that this majority may consist only of those who pay the local tax and that the people should be urged to cast their votes with noble intentions. We finish off this topic with the latter factors.]

The Chatam Sofer (Choshen Mishpat 160) infers from the wording of this requirement that if it becomes revealed that part of the constituency was bribed to vote as they did, the vote is null, even if there were only a handful of bribe takers. He reasons that even if they return the bribes, they cannot take part in the elections because they have demonstrated that their motivation on this matter is impure.

The Rama and the Maharam say that only one who pays the community tax is able to take part in their votes. However, the Tzitz Eliezer (III, 29) says that regarding voting for officials, we say that the *minhag* uproots the standard halacha. In a similar vein, the Masot Binyamin (7) says that a vote can be valid even if a significant percentage of the voters are related to a candidate, due to the *minhag*.

Harav Ezra Batzri (Dini Mamot IV, p. 57) raised a different difficulty with some appointments. The Rama (CM 37:26) rules: "The leaders of the community whose job it is to deal with the needs of the community or individuals are like *dayanim*, and it is forbidden to appoint one who is unfit to serve as a judge due to his status as a sinner." Therefore, in regard to Members of Knesset, among whom are some who are not *mitzva* observant, as well as women and non-Jews, who may not serve (for other reasons) as *dayanim*, how can they serve as communal leaders? We must say that their status derives from the law of the land, under which leaders do not have to fulfill any requirements to be valid.

Harav Yosef Goldberg (Tuvei Ha'ir, p. 45) denies that the aforementioned Rama raises problems. He says that just as litigants can accept objectively unfit *dayanim* (Sanhedrin 24a), the public can accept unfit communal appointees (Rav Batzri feels that the two are not comparable in this regard.) Rav Goldberg brings corroboration for his approach from the Shulchan Aruch (CM 33:18) that the public can accept witnesses whose testimony will have a special status and that this works even on behalf of relatives. On this issue, Rav Batzri's claim seems to make more sense. Only on an individual basis may litigants accept unfit *dayanim*; a community cannot permanently accept sinners as *dayanim*. If they could, there would be no value to the rules of who can and cannot serve.

However, there is another reason to allow such leaders. The Ri Migash (114) says that the appointment of a *dayan* who is unfit because of sin can be valid if his appointment is for only a set amount of time. Rav Yisraeli (Amud Hayemini 12) says a similar thing but only in regard to appointments that stem from the law of the land, which he feels is the basis of Israel's leadership in our times.

Thus, we have seen the basis for the authority of public officials, whether based on communal leadership or the law of the land, as long as the elections were free, fair, and based on pure intent.

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Studies in Choshen Mishpat Related to the Daily Daf

Cheshvan 28- Kislev 4, Baba Batra 86-92

A Mistake in Measurement, Weight, or Amount (90a)

Rav Ofer Livnat

This week in the Daf Hayomi the Gemara (90a) states that in a case where the buyer and the seller agreed upon a purchase of a certain measurement, weight, or amount of merchandise, and the merchandise supplied was lacking or in excess even a small amount, we do not consider the difference to be forgiven. This is in distinction to the case where the price agreed upon was different from the real price of the merchandise, in which case the Halacha is that a difference of less than a sixth is considered to be forgiven. However for a difference of measurement, weight, or amount, even a small difference is not considered to be forgiven.

The question is, what happens when such a difference is discovered? The Rashbam (d"h kol davar shebemidah) claims that the sale is void. The Rashbam learns this from a case of a price difference greater than a sixth. Just like when the difference between the price agreed upon and the real price is greater than a sixth, the Halacha states that the sale is void, so too when there is even a small difference in measurement, weight, or amount, the sale is void.

The R"l Migash (d"h kol) disagrees with the Rashbam. He claims that the sale is not void but rather the difference must be given or returned. If the merchandise is lacking then the seller must supply the amount lacking. If there is extra, the buyer must return the excess to the seller. For example, if they agreed upon 100 walnuts for a certain price, and there ended up being only 99 walnuts, the seller must supply another walnut. If there were 101 walnuts then the buyer must return 1 walnut to the seller.

The R"l Migash explains that this case is not similar to that of a price difference. Regarding a price difference, the problem is with the deal agreed upon, since the price agreed upon was not a fair one. However, in our case, the deal itself was fair, and the problem is only in the execution of the deal; as a mistake was made in the supply of the merchandise. Therefore, the sale stands and the mistake must be corrected. The Rambam (Mechira 15, 1-2), Ramban (Baba Batra 103b d"h matnitin), and Rashba (Kidushin 42b umistabra) all agree with the R"l Migash.

However, if we follow the opinion of the R"l Migash, there still remains another question. What happens if the difference cannot be completed? For example, if the merchandise was lacking, and the seller cannot supply the missing amount, then what do we do? The Ramban and the Rashba dispute this question. According to the Ramban, if the missing amount cannot be completed, the sale is void. However, the Rashba claims that even in such a case the sale is not void, and one must pay the value of the missing merchandise.

Summary and Ruling:

The Shulchan Aruch (232, 1) rules like the opinion of the R"l Migash that in a case where a mistake occurred in the measurement, weight, or amount of the supplied merchandise the sale stands and the difference must be completed. In a case where the difference cannot be completed, the Sma (ibid, 2) rules like the opinion of the Ramban that the sale is void.

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