



# HEMDAT YAMIM

חֵמְדָּה יָמִימִים

## Parashat Hashavua

Korach, Sivan 30 5784

Harav Shaul Israeli zt"l  
Founder and President

**We Will Go up!**  
Harav Yosef Carmel

It is not always obvious when various major episodes in *Sefer Bamidbar* occurred. In fact, there is not even a verifiable answer to that riddle.

It is hard to ignore that *Parashat Korach*, with its account of Korach and his supporters' opposition to the leadership under Moshe Rabbeinu, comes right after *Parashat Shelach*, which describes the people broadly accepting the spies' thesis that Bnei Yisrael were incapable of conquering *Eretz Yisrael* from its powerful residents. The Torah also hints in various ways, including the use of conspicuously similar terminology, that the episodes are connected.

One of the major words of the story of the spies is the root *aloh* (going up ... to the Land). The righteous spies said "*aloh na'aleh*" (we shall certainly go up) (Bamidbar 13:30). The next *pasuk* uses the root twice. Surprisingly, Korach said repeatedly that he would not "go up," even though he was referring just to going to meet Moshe (ibid. 16:12-14).

The two *parshiyot* also both use the description of lands as *zavat chalav u'dvash* (flowing with milk and honey). The good spies did that in reference to *Eretz Yisrael* (ibid. 14:8), and Korach (ibid. 16:13-14) used it both in terms of *Eretz Yisrael* and, actually, Egypt.

Finally, both *parshiyot* refer to the nemeses of Moshe as the *eidah* (the assemblage). (See Bamidbar 14:27, 35 regarding the spies, and ibid. 26:9, ibid. 27:3, and Tehillim 106:16 regarding the assemblage of Korach.)

The *midrash* (Yalkut Shimoni, Korach 750) makes this type of connection very directly and poignantly. Datan and Aviram criticized Moshe for taking credit for the great good of taking the people out of Egypt, whereas they highlighted the fertile nature of Egypt and the unwelcoming desolation of the wilderness.

It therefore is likely that after the spies were divinely killed and the whole nation was punished that they would have to stay in the desert for a long time, there remained a nucleus of rabble-rousers, supporters of Korach, who opposed going to *Eretz Yisrael*, for which Moshe was preparing them. When they said, "We will not go up," this included not going up to the Land or going to the section of the encampment around the *Mishkan*, where Moshe spent his time. These people did not believe that, spiritually, the *Mishkan* was the highest point in the encampment (see Midrash Aggada, Bamidbar 16:12). That is why they said "We will not go up" and not "We will not go." They likewise were not willing to accept that *Eretz Yisrael* is [spiritually] the highest place in the world (see Sifrei, Eikev 37).

In these times, when our enemies are trying their hardest to make it difficult for us to live in the Land, we will borrow two declarations from the two discussed *parshiyot*: "The Land is very, very good" (Bamidbar 14:7). Also, "Moshe is truthful and his teachings are true, and Korach and his group speak mistruths" (Midrash Tanchuma, Korach 11). We thank Hashem with great enthusiasm for the great privilege to live in a Jewish state, whose achievements in every facet have been tremendous. Let us do this with unity and willingness to listen to each other, as is needed now.

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**Eretz Hemdah**  
Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich  
2 Bruriva St. corner of Rav Chiya St.  
POB 8178 Jerusalem 91080  
Tel: 972-2-5371485 Fax: 972-2-5379626.  
amutah number 580120780

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# Ask the Rabbi

by Rav Daniel Mann

## Possible *Orla* in Soap

**Question:** I bought an Israeli-produced soap that claims to use fruit extracts for fragrance, without further detail. Does that require a *hechsher* to ensure it does not contain *orla* (fruit in a tree's first three years)?

**Answer:** Your question shows halachic acuity. We will start with a case where the fruit **is** *orla*.

*Orla* is forbidden in benefit (Orla 3:1; Pesachim 24b), and this is likely a full-fledged Torah-level prohibition in *Eretz Yisrael* even in our times, when many land-based prohibitions are Rabbinic (implication of Shulchan Aruch, Yoreh Deah 294:9; Mishneh Lamelech, Maachalot Assurot 10:11 argues). On the other hand, if a usage is abnormal for this species (likely true for fragrance for many fruit), some say it is only Rabbinically forbidden or even permitted (see discussion in Yalkut Yosef, Orla 2:10). Although *orla* applies only to edible fruit (Vayikra 19:23), the soap's being unfit for a dog's consumption (which is important regarding *chametz*) does not help regarding non-eating benefit, if the fruit became forbidden as *orla* when it grew (Yalkut Yosef *ibid.* 19).

The soap's percentage of *orla* fruit can be important. While *bitul* of *orla* requires 200 to 1 of permitted substance (Orla 1:6), that is only for mixtures within the same species, but if fruit is mixed in with something else (e.g., soap), the normal rate of *bitul* of 60 applies (Pri Megadim, intro. to *Hilchot Ta'arovot*). If the fruit's fragrance is clearly discernable (possibly, the main fragrance is chemical, and they put in a tiny amount of fruit as a marketing ploy), we have an interesting question. There is a *machloket* (see *Acharonim* on Rama, YD 102:1) whether there is *bitul* when the mixture's forbidden part is small enough for *bitul*, but it is noticeable due to its color. Arguably, the same *bitul* impediment could apply to the fruit's noticeable fragrance (likely, only Rabbinically – see *Badei Hashulchan* 102:16).

The doubt about whether the fruit used in the soap are *orla* at all provides significant, possible grounds for leniency. *Orla* fruit are almost always a small percentage of the fruit market. The rule is that when there is an actual or virtual "market" of food, where the majority of the sources are kosher, if one encounters food of unknown origin away from the "market" (*parish*), we may assume it is from the permitted majority. If one took the food from the market without noticing whether it was from a permitted or forbidden source (*kavu'a*), we treat the food's status as a *safek* (Ketubot 15a). Since the consumer encounters the fruit in the soap away from its "market" (sections of) orchards throughout the country), the majority chance is that the fruit was not *orla*. (We are describing a case in which the fruit in the package of soap comes from a limited number of trees. If the fruit element in each comes from a huge mixture coming from a wide amount and variety of locations, we must use different tools of analysis, relating to *bitul*. That is beyond our present scope, but likely brings a leniency-leaning outcome.)

However, there is a problem. According to the simple reading of the Shulchan Aruch (YD 110:3), if a Jew took or had the food taken, without taking note of its halachic status, from the origin to the place of the person asking the question, we treat the food as *kavu'a* and thereby as a *safek* whether it is kosher. Just as it was forbidden for the one who took it, so is it for the ones (e.g., stores, consumers) who got it from him. See *Yabia Omer* VI, YD 24 who brings many opinions on whether this stringency is correct regarding fruit at the grocer. His conclusion is that there are enough reasons for doubt (including those we have not mentioned) why a given fruit is not *orla* that we can permit fruit without an *orla hashgacha*. He praises the many who do seek certification, although it is accepted that for the majority of fruit species with a tiny percentage of *orla*, we can assume each fruit is kosher.

Considering all the above, we posit that you may freely use the soap in question without concern about *orla*.

### "Behind the Scenes" Zoom shiur

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



# Igrot HaRe'aya - Letters of Rav Kook

## A Beit Kneset for Chadera – #232

**Date and Place:** 19 Marcheshvan 5670 (1909), Yafo

**Recipient:** The council of Chadera and the residents of the *moshava*.

**Body:** My dear brothers, I received a letter that tells that the matter of house of prayer is very complicated in your dear *moshava* and that this is disgracing the honor of our holy Torah and generally the honor of Heaven and everything that is holy in Israel. Therefore, I am hereby coming to arouse your generous spirit, that you shall grasp all means at your disposal and put an end to this terrible disgrace by setting aside a place for Hashem in some respectable house to be used for prayer every day and especially Shabbat and the holidays.

I have strong hope that in the merit of your doing so, Hashem will bless you in all of your endeavors. All who help in this matter of a great *mitzva* shall be blessed with every good thing and “disease should not approach his tent.” May he see blessing in all his activity on holy soil.

## Helping Shemitta Observers – #235

**Date and Place:** 23 Marcheshvan 5669, Yafo

**Recipient:** Rav Chaim Berlin (son of the Netziv, Rav Kook's *rosh yeshiva* in Volozhin), former Chief Rabbi of Moscow, and, at the time, assistant to Chief Rabbi of Jerusalem, Rav Shmuel Salant.

**Body:** There are some farmers who desire with all their hearts to desist from working the land during the *Shemitta* year, without making any use of the leniency of uprooting the sanctity of the Land as is commonly practiced. However, they will be able to do this only if they will be confident that they will receive help with their livelihood.

There are presently two people in Kostina (now, Be'er Tuvia in the south of Israel), who will need, in order to desist from agricultural work, 120 Napoleon gold coins. If they will be confident about receiving this amount, they will fulfill the [rules of the] Shabbat of the Land to the fullest degree, the way the Torah spells it out. Therefore, I want to make you, esteemed rabbi, aware, so that maybe you can find a financial source, together with other helpers, for this work for the sake of Heaven.

I do not need to write at length about the importance of this matter, certainly not to someone like you (Rav Berlin did not accept the *Heter Mechira*.) I would like to receive a clear response shortly, preferably by telegram, because the time to work the land has come, and they need to know their situation.

In Ekron (presently, Mazkeret Batya), there is one farmer who is not working his land, as Hashem helped him, so that he is able to support himself without working this year, and is not asking support. We can hope that through this minority of people, the sanctity of *Shemitta* will spread in the Holy Land. Therefore, it is worthwhile to be very diligent in this matter. Even though we cannot do this for everyone, just like it is important to look favorably when people are not able to keep *Shemitta*, so too it is necessary to use all our abilities to save as much [of the sanctity of *Shemitta*] as we can.

We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha

Arye Yitzchak ben Geula Miriam

Neta bat Malka

Ori Leah bat Chaya Temima

Tal Shaul ben Yaffa

Meira bat Esther

Together with all *cholei* Yisrael

# P'ninat Mishpat

## Disagreements over Renovations – part II

(based on ruling 82142 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def), owner of an old building, had elaborate architectural plans drawn up to renovate it. The plaintiff (=pl), a contractor, reviewed the plans, and submitted a detailed (pricing per element) estimate for the project of approximately 150,000 NIS plus VAT, which def accepted. After pl mainly finished the work and was paid 110,000 NIS, def raised complaints and discontinued pl's work. Pl demands additional money for almost finishing the job plus additional money for work done that was not included in the estimate. Def refuses to pay for "additional work" that appeared in the architectural plans, which pl used as the basis for his estimate. Def claims that the agreement with pl is void (*mekach ta'ut*) because pl represented himself as qualified to do the work and later admitted that he did not know how to build in that region. Pl claims that def's debt to him (over four years) should be linked to the construction cost index (=CCI).

**Ruling:** [Last time we saw that the price estimate, not the plans, are the binding guide for what pl was obligated to do and def was obligated to pay.]

**Mekach ta'ut** – *Mekach ta'ut* can void agreements, but it must pass a high bar. Also, after a fair amount of work was done, def came to pl's house with a payment and a bottle of wine in appreciation for pl's good work. Pl presented himself as an expert contractor, which def has not refuted. The fact that he made mistakes due to a lack of experience with the location's unique topography and soil does not mean that he could not learn certain things on the job. One *dayan* adds that one cannot claim *mekach ta'ut* based on a blemish that can be fixed without the need to totally discard that which was previously done (see Shulchan Aruch, Choshen Mishpat 232:5), such as the flaws pl was responsible for. Furthermore, even if we were to employ *mekach ta'ut*, there is still a requirement to pay for the great majority of work, which had value, so the question of *mekach ta'ut* is close to academic.

After calculations, *beit din* found that def owes pl 30,233 NIS.

**Linkage of debt:** *Poskim* are against linking debts to the CCI because it is not a true indicator of the value of money, and therefore this violates *ribbit* (usury). This is particularly so here where the delay did not cause pl to encounter more expensive building costs. Regarding linking to the consumer price index (CPI), some base permission to do so on the Yam Shel Shlomo (Bava Kama 9:13), who says that when someone who owed money, inexcusably pushed off the creditor and the currency of the loan changed to a more expensive one, he can be made to pay in the new currency. However, the Shach (CM 74:27) disagrees. In any case, nothing as dramatic as a currency change occurred here. On the other hand, Rav Auerbach (Minchat Shlomo 1:27) says that when one does not pay a loan when he was supposed to (*ribbit* is classically when one returns more money later, based on agreement, not refusal to pay), he needs forgiveness, and increased payment as forgiveness is not *ribbit*. In this case, instead of linking the payment per se, *beit din* obligated def 6,000 NIS for taking years to submit to *beit din*.

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