

Toronto Torah

Beit Midrash Zichron Dov

Parshat Ki Tisa/Parah

22 Adar, 5781/March 6, 2021

Vol. 12 Num. 26 (#487)

This issue of Toronto Torah is dedicated by Ricky and Dianna Zauderer and Family
in memory of our dear mother and grandmother, Erika Zauderer ז"ל ל"ע אסתר בת חיים ז"ל

The Art of Compromise

Rabbi Alex Hecht

Does G-d want us to compromise with each other, reaching a settlement rather than pursue justice? The Talmud (Sanhedrin 6b-7a) records a debate about whether, in a civil dispute, it is ideal for the judges to offer the litigants the option to settle (*pesharah*), or to judge the case according to the strict letter of the law. The argument for each approach is as follows:

- The Torah is a "Torah of truth" (Malachi 2:16); it is our mandate to judge truthfully and impartially according to the laws of the Torah, with the understanding that G-d will ensure ultimate justice. (Devarim 1:17)
- Alternatively, there is great value in pursuing peace, which is frequently achieved through compromise. Indeed, sensitive compromise can achieve greater justice than application of a uniform law.

In practice, the Shulchan Aruch rules that a court should provide litigants with the opportunity to settle at the outset, in order to promote peace between people. (Yoreh Deah 12:1)

Proponents of each perspective point to Aharon: On one hand, Aharon is praised as "a lover of peace and a pursuer of peace" (Avot 1:12); on the other hand, his willingness to compromise led to the construction of the Golden Calf! (Shemot 32:2) Apparently, while compromise is noble in principle, one must exercise caution about when and how to do so; indeed, some of the talmudic sages criticized

Aharon's compromise. (Sanhedrin 6b-7a, as we will see below) In his judgment surrounding the incident of the Golden Calf, why did Aharon feel that it was appropriate to yield to the demands of those who doubted Moshe's return (ibid. 32:1), and why was compromise in this situation deemed inappropriate by our sages?

Rabbi Binyamin bar Yefet defended Aharon's intentions by noting that Aharon wanted to prevent the agitators from committing an even greater sin. The Talmud tells us that the mob had already killed Aharon's nephew, Chur, who had protested their uprising; had Aharon not found a way to compromise, they would have killed him as well. Aharon knew that if he, as a Kohen and prophet, were to be killed, it would serve as an indictment of the nation in the future. [See Eichah 2:20.] In his estimation, making the Golden Calf would be the lesser of two evils, as the people could more easily repent for this sin, than for Aharon's murder. Nevertheless, Rabbi Tanchum bar Chanilai argued that one may not commit or sanction a minor transgression in order to prevent a greater one. Therefore, it is inappropriate to praise Aharon's willingness to compromise in this situation, despite his noble intentions.

Rabbi Naftali Zvi Yehudah Berlin ("Netziv") also viewed Aharon's involvement with the Golden Calf as an effort to reduce harm – specifically, to prevent actual idolatry. (Ha'ameik Davar to Shemot 32:1-5) The Netziv contended that Aharon had not yet heard Shemot 20:20, which prohibits making silver

and gold intermediaries. Consequently, Aharon sought to compromise with the rabble-rousers, and helped them fashion an intermediary through which they could connect with G-d, in order to prevent them from worshipping a foreign deity altogether. Unfortunately, the nuance with which Aharon understood the distinction between serving G-d with a graven image functioning as an intermediary, and worshipping the object as a god, was lost on many of the people, who exclaimed that it actually was, "your G-d, Israel, who brought you up from the land of Egypt." (ibid. 32:4)

These two explanations of Aharon's error may help us understand the art of proper compromise. Both Rabbi Tanchum bar Chanilai and the Netziv contended that Aharon did not understand the position of one of the "litigants" – G-d. According to Rabbi Tanchum bar Chanilai, Aharon did not understand that G-d rejects substituting one party's lesser sin for another party's greater sin. According to the Netziv, Aharon did not understand that the Divine position prohibited creating intermediaries. Both views highlight an important point: Creating peace between parties is admirable, but we cannot impose it based on our perspective on a situation. The necessary first step is to understand the positions of both sides.

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Summary

Our chapter begins with King David issuing two sets of deathbed instructions to his son and successor, King Solomon: Fulfill the Torah, and deal appropriately with Yoav, Barzilai, and Shimi ben Gera. Specifically, Solomon was to kill the general Yoav for his murders of Avner and Amasa (Shemuel II 3 and 20), reward Barzilai's family for his loyalty to King David (ibid. 17, 19), and kill Shimi for his attack on King David (ibid. 16). King David then died, and King Solomon assumed the throne. (2:1-12)

In the previous chapter, King David's son Adoniyahu had attempted to leverage popular support to claim the monarchy before his father died. Now, Adoniyahu attempted a new gambit. He asked King Solomon's mother Batsheva for help in seeking Solomon's permission to wed Avishag, who had taken care of King David in his waning days. Batsheva conveyed the request to Solomon as though it was her own. (13-21)

King Solomon discerned Adoniyahu's plan: living with Avishag would present Adoniyahu as the new king, since only a king may live with the previous king's

concubines. [This despite the fact that King David had never been intimate with Avishag, as noted in Radak to 2:16.] Solomon ordered Benayahu, his father's loyal warrior (see Shemuel II 23), to execute Adoniyahu. Solomon also ordered Evyatar, the kohen gadol who had supported Adoniyahu's initial coup, to retire to his home and stay out of trouble. (22-27)

King Solomon then fulfilled the rest of King David's deathbed instructions. He ordered Benayahu to execute Yoav, despite Yoav's attempt to claim sanctuary in the Mishkan. (28-34) He replaced Evyatar as kohen gadol with Tzaddok, and Yoav as lead general with Benayahu. (35) Finally, Solomon placed Shimi ben Gera under house arrest; when Shimi violated the order, Benayahu executed him. (36-46)

Insight

Why did Adoniyahu think Batsheva would help him, and why did Batsheva convey the clearly duplicitous request to her son?

Malbim (commentary to 2:16) suggests that Adoniyahu justified his request, arguing that the rule restricting a king's concubines was meant to

preserve the status of a successor whose authority came from popular acclaim. The rule would not be necessary under a successor who inherited the throne. To this deception we might add Adoniyahu's powerful sense of entitlement (1:6, reiterated in 2:15); he truly believed he could get away with this.

However, a close read of the previous chapter, in which Batsheva and the prophet Natan defeated Adoniyahu's coup and guaranteed her son the throne, demonstrates that Batsheva was the superior tactician. She did not rebuke David, she did not inveigh against Adoniyahu and she did not demand specific actions; she only told David the news of Adoniyahu's actions, and recalled his oath to put Solomon on the throne. Her careful words won the day; Abarbanel to 1:15 even notes that her strategy was more effective than the approach taken by Natan. Perhaps Batsheva used the same approach here, recognizing that she did not need to oppose Adoniyahu directly; conveying his request to her son quietly accomplished the same end.

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The Israeli Farmer: Tithing Exported Israeli Produce**Rabbi Adam Friedmann**

As a rule, produce grown in Israel requires the removal of *terumot* and *maasrot* (tithes). This tithing can be performed any time after the produce is harvested, though it is permissible to eat produce without tithing until it has been fully processed (*g'mar melachah*). Produce grown outside of Israel does not require tithing. What is the status of food that was harvested and processed in Israel, and then exported? This question has ramifications for both Israeli farmers and consumers abroad.

Regarding *terumah*, the Torah states: "Speak to the Israelite people and say to them: 'When you enter the land to which I am taking you and you eat of the bread of the land, you shall set some aside as a gift to the Lord.'" (Bamidbar 15:18-19 JPS translation)

It seems that it is the "bread of the land" that incurs the obligation to tithe. This would be true regardless of where the food is being eaten. This position is taken up by Rabbi Eliezer in a mishnah. (Challah 2:1) However, these verses also emphasize that the obligation occurs only upon entry into Israel. On this basis, Rabbi Akiva (ibid.) rules that tithing is only required when eating the produce in Israel, and therefore exported produce is exempt from *terumot* and *maasrot*.

The halachah follows Rabbi Akiva's view. However, its application is subject to debate. Rambam (Hilchot Terumot 1:22) writes that Israeli produce that has been taken abroad is exempt from tithes. Rambam's interlocutor, Raavad, disagrees. He argues that this mishnah was only discussing the biblical prohibition. At a rabbinic level, however, all Israeli produce must be tithed.

Furthermore, Raavad contends that the biblical dispensation is only in cases where *g'mar melachah* has not happened before shipping the produce. Otherwise, there is a biblical obligation to tithe; once it was processed, and the biblical requirement to tithe it set in, how could exporting it change this status? Rambam's view on this is unclear. He appears to exempt the produce regardless of whether *g'mar melachah* occurred in Israel, and some authorities take this view of the Rambam's position (e.g. Bach Yoreh Deah 331). However, other commentators (e.g. Mishneh l'Melech ad loc.) assume that Rambam, like Raavad, was only referring to produce which left Israel when it had not yet been processed with *g'mar melachah*.

Rabbi Avraham Yitzchak Kook (Mishpat Kohen 46) suggests a possible leniency regarding this second reading of Rambam. Perhaps if the produce was processed with the intention of exporting it, the prohibition against eating without tithing would not apply. The exported produce would still require tithing at a rabbinic level according to Raavad, but would be exempt according to both readings of Rambam. This would provide grounds for leniency. Rabbi Avraham Yeshayah Karelitz (Chazon Ish, Demai 16:4) rejects this interpretation as groundless, and rules stringently. However, Rabbi Shaul Yisraeli (Chavot Binyamin vol 1:3) provides a basis for it. As a result, according to Rabbis Kook and Yisraeli, Israeli exports should ideally be tithed, but there are grounds for leniency in extenuating circumstances.

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Biography

Rabbi Chaim Scheinberg

Rabbi Baruch Weintraub

Chaim Pinchas Scheinberg was born in Ostrov, Poland, in 1910. His father left to the United States to avoid conscription into the Polish army a few months before Chaim Pinchas was born, and so the child was raised until the age of nine, including the years of the first world war, by his mother.

After the war was over and the family was able to save enough money, they reunited and moved to a small apartment in New York's Lower East Side. Chaim Pinchas learned in the local Jewish day school Rabbi Jacob Joseph School (RJJ), where he was noticed by the head of the school, Rabbi Herman, whose young daughter he later married. At the age of 17, already emerging as a rising Torah scholar, Rabbi Scheinberg entered Rabbi Isaac Elchanan Theological Seminary (RIETS) and learned under Rabbi Moshe Soloveitchik, and together with students who later became famous Torah scholars, such as Rabbi Mordechai Gifter and Rabbi Avigdor Miller. Just two years later, he was already ordained by Rabbi Moshe Soloveitchik, Rabbi Dr. Bernard Revel, and other rabbis of the yeshiva.

After his marriage, Rabbi Scheinberg moved his young family back to Europe, in order to learn at the world-renowned Mir Yeshiva for five years. Concluding his learning there, he returned to the United States, this time to Boston, where he learned under Rabbi Yosef Dov Soloveitchik. After a short while, he was asked to serve as a Mashgiach in Yeshiva Chofetz Chaim in Queens, a position he held for twenty-five years.

In 1961, Rabbi Scheinberg founded his own yeshiva, Torah Ore, in Bensonhurst, New York. Five years later, Rabbi Scheinberg made aliyah, together with his students, to Kiryat Mattersdorf in Jerusalem. When the Six Day War broke out shortly after, Rabbi Scheinberg encouraged his students to stay in Israel. He showed his complete devotion to his students, giving them encouragement and sleeping together with them in the bomb shelter.

Apart from his role as a Rosh Yeshiva, Rabbi Scheinberg became a famous halachic authority. He passed away at the age of 101, on 27 Adar 5772.

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Torah and Translation

Hold On Tight!

Rabbi Chaim P. Scheinberg, *Tochachat Mussar*, pg. 44

Translated by Rabbi Baruch Weintraub

וצריך בן ישיבה לידע שבפרט בשעה כשהוא יוצא מתוך ד' אמות של הלכה - שהוא מקום ישוב הדעת - הוא צריך להתחזק ביותר שלא להפסיד מעלתו. וכמו שמצינו בחז"ל (ברכות לב ב): "תנו רבנן ארבעה צריכין חיזוק ואלו הן: תורה ומעשים טובים מפני? שנאמר (יהושע א ז), רק חזק ואמץ מאד לשמור ולעשות ככל התורה, חזק בתורה, ואמץ במעשים טובים." ע"כ. וברש"י שם פירש ש, צריכים חיזוק, היינו שיתחזק אדם בהן תמיד ככל כוחו.

והנה פסוק זה "רק חזק ואמץ" נאמר ביהושע, שהוא היה מתמיד ושקדן, כמו שהעידה עליו התורה (שמות לג א): "לא ימיש מתוך האהל", שלא מש מתוך האהל של משה רבינו. ואיך יתכן שיהושע היה צריך חיזוק בתורה, עד שממנו אנו לומדים את הענין שצריך חיזוק בתורה?

והביאור בזה הוא דבאמת כאשר היה יהושע בתוך ד' אמות של הלכה לא היה צריך חיזוק, ורק נאמר לו פסוק זה "רק חזק ואמץ" כאשר נעשה מנהיג לכלל ישראל ויצא אל אנשי העולם. ועל זה היה צריך צווי מיוחד להתחזק בתורה ולהתאמץ במעשים טובים.

ותביעה זו עמדה לו אפילו כשיצא למלחמת מצוה, כמו שמצינו בחז"ל (עירובין סג ב) שנתבע יהושע על ביטול תורה במלחמה ומיד לן בעומקה של הלכה כל אותו הלילה. וכך גם בן ישיבה כאשר הוא יוצא מן הישיבה אז צריך את החיזוק יותר.

ומה שכתב רש"י דהחיזוק הוא תמיד, היינו אפילו כאשר הוא חזק עדיין צריך חיזוק, כדי שלא יהיה לו רפיון. ובאמת כאשר כבר יש לו רפיון אז החיזוק לחוד לא יועיל. וכמו דאיתא בירושלמי (ברכות סח א) מהמגילת סתרים "אם תעזבני יום יומיים אעזבך", וקאי על התורה שהרפיון בתורה מרחיק את האדם יותר, ולא יועיל לו חיזוק. ורק בשעה שהוא חזק בעצמו צריך שיהיה לו חיזוק שלא יקבל רפיון.

(Berachot 9:5) from a secret scroll – that the verse "If you will abandon me for one day, I will abandon you for two" relates to the Torah, for laxity in Torah distances the person even more – and then strengthening will not help. Only when one is strong, then he should strengthen himself more, so he will not become lax.

Every yeshiva student should know that especially when he goes outside of the four cubits of [studying] Halachah – which is the place where the mind is settled – he should especially strengthen himself so he will not lose his virtue. As we find from our Sages (Berachot 32b): "Our rabbis taught: four are in need for strengthening, and these are Torah, good deeds, prayer, and civilized life. How do we know this for Torah and good deeds? For it is said (Yehoshua 1:7), 'Just be strong and courageous to keep and act according to all of the Torah,' strong in Torah and courageous in good deeds." Rashi there explains that these are in need for strengthening, meaning that a person should strengthen himself always, with all his might.

Now, this verse: "Just be strong and courageous" is said regarding Yehoshua, who was diligent and persistent in his learning, as the Torah testified (Shemot 33:11): "He did not move from the tent", for he did not leave Moshe Rabbeinu's tent. How can it be that Yehoshua needed strengthening in Torah, such that from him we learn the need for this?

The explanation here is that in truth, when Yehoshua was within the four cubits of [studying] Halachah, he was not in need of encouragement. The verse "just be strong and courageous" was only said when he became the leader of the entire nation and went out to the world. That required a special commandment to strengthen himself in Torah and be courageous in good deeds.

This demand of him stood even when he went out for an obligatory war, as we find in the words of our sages (Eruvin 63b) that Yehoshua was accused of not learning Torah during battle, and so he immediately engaged in Torah study the whole night. Similarly, a yeshiva student needs more strengthening when he leaves the yeshiva.

Rashi's words, that the strengthening should be done continually, mean that even when one is strong, he needs more strengthening, so as to avoid laxity. In truth, when one is already lax, then strengthening alone will not suffice. As is stated in the Talmud Yerushalmi

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With: Rabbi Sammy Bergman, Rabbi Alex Hecht, Netanel Klein, Rabbi Mordechai Torczyner

10:00 AM Wed. Mar. 10: Maimonides: The Rabbi Who Dared to Ask, a 3-part series

Rabbi Sammy Bergman, Week 2: What Can We Know of G-d?

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After minchah at Shaarei Shomayim, R' Sammy Bergman, Groundbreaking 20th Century Responsa

Sunday Mar. 7

9:20 AM Contemporary Halachah: Searching for Chametz, with Netanel Klein

10:00 AM Gemara Shabbat with Rabbi Aaron Greenberg (University)

7:30 PM Gemara Ketuvot with Rabbi Mordechai Torczyner (men) (not this week)

Monday Mar. 8

8:30 PM Gemara Shabbat, Chap. 15, with Rabbi Moshe Yeres

Tuesday Mar. 9

1:30 PM Megilat Ruth, with Rabbi Mordechai Torczyner *Beginning the Book of Ruth!*

7:30 PM Shemuel Ch. 1, with Rabbi Mordechai Torczyner (men)

Wednesday, Mar. 10

6:15 AM Talmud Eruvin, with Rabbi Sammy Bergman

7:30 PM Genesis Journeys, with Rabbi Sammy Bergman (not this week)

7:30 PM Prepare for Pesach!, with Rabbi Alex Hecht

8:15 PM Midrash on the Parshah with Rabbi Chaim Metzger (not this week)

Thursday Mar. 11

8:30 AM Daniel, Rabbi Chaim Metzger (University)

1:30 PM Shemuel Ch. 18, with Rabbi Mordechai Torczyner (women)

8:00 PM Gemara Beitzah, with Rabbi Eitan Aviner (men, advanced)

8:15 PM Gemara Bava Metzia, with Rabbi Sammy Bergman (University women)

Friday Mar. 12

8:30 AM Parshah, Rabbi Sammy Bergman (University)

11:30 AM Shemitah! with Rabbi Sammy Bergman and Rabbi Mordechai Torczyner

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