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HEMDAT YAMIM

PARASHAT HASHAVUA

Shemot, 19 Tevet 5775

Yosef – Connected to *Eretz Yisrael* through the Grapevine

Harav Yosef Carmel

Our *parasha* and indeed *Sefer Shemot* begin with the difficult reality that the new leadership in Egypt did not recognize the accomplishments of Yosef (Shemot 1:8). An interesting question is to what extent Bnei Yisrael of that time were aware of all that Yosef stood for.

Yosef, as a young slave in Egypt, remained proud of his status as an *Ivri* (Hebrew) and as one who was taken from his land and wished to return to it. We will see that not only did Yosef view himself in that light but that Yaakov immortalized that connection for all who study Torah.

Like much of Yaakov's poetic blessings of his sons, there are widely varied understandings of what Yaakov meant when describing Yosef as "*ben porat Yosef, ben porat alei ayin*" (Bereishit 49:22). In our column in Hemdat Yamim (Hebrew, Vayechi 5762), we explained based on Unkelus that the root *paroh* (from which "*porat*" is formed) is a reference to a grapevine. Thus, the *pasuk* refers to Yosef as a grapevine that climbs up a wall and is well-supplied with water from a wellspring.

We also cited the teaching of Professor Yehuda Felix, who said that up until the Muslim conquest of *Eretz Yisrael*, the most common tree in the Land was the grapevine. (Amongst the extensive destruction of that conquest was the uprooting of many vines and their replacement with olive trees.) Therefore, by Yaakov representing Yosef with a grapevine, he was strengthening the image of the connection between Yosef and the Land of Israel. Bnei Yisrael are also often, throughout *Tanach*, compared to a grapevine (Yeshaya 5:1-7; Yirmiya 2:21; Tehillim 80:9). It is not surprising then that the grapes produced in *Eretz Yisrael* are among the finest quality in the world.

We now have a new explanation. By Yaakov comparing Yosef to a grapevine, he was stressing that Yosef should not be viewed as an Egyptian prince, with Egyptian clothes and an Egyptian hairstyle, who served in a high office in Egypt with an Egyptian name (Tzofnat Pa'aneiyach). In his essence, Yosef was still a Hebrew youngster and indeed one who did not forget his homeland and his connection to it. This sent a message to the rest of Yaakov's family – even though they had emigrated to Egypt, they remained Bnei Yisrael, not just the sons of the person called Yisrael, but sons of the Land called Israel. They must remain as those who yearn intensely to return there.

The transition from Bereishit to Shemot is an important one. It is a transition from a description of a period that included moving to *Eretz Yisrael* and living there, to a period of enslavement in Egypt, with the promise of an eventual redemption and return to *Eretz Yisrael*. Bereishit ends with the taste of a strong link, taught by Yaakov and Yosef, to *Eretz Yisrael*. While they were to die in Egypt, they made sure that sooner or later (respectively) they would be brought back to the Land to be buried in the appropriate place.

Let us pray that in our days, as well, Jews throughout the world will remember that it is not possible to separate between two entities that are so closely linked – the Nation of Israel and the Land of Israel.

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by Rav Daniel Mann

Immoral Commercial Practices?

Question: I want to ask about two elements of my business venture. 1. Our products have a large profit margin (often five times their cost to us), but this is in accordance with their market price on the US market. 2. Like many others, we use high-pressure sales tactics in our marketing. Are these ethical/halachic problems?

Answer: We are very pleased that you care and ask about the propriety of business tactics that apparently are earning you significant money. We will discuss some basics, which you can try to apply to your business, and/or you can ask us more specific questions.

1. The *gemara* (Bava Batra 90a; Bava Metzia 40b) states that a salesman should not have a profit margin of more than one sixth above the price at which he received the product. This is surprising considering that the prohibition of *ona'ah* (mispricing) focuses on straying significantly (a sixth) from the market price; profit margin does not arise in that context.

Actually, several classical statements limit the scope of the restriction on profit margin. The *gemara* points out that the said profit margin is applied after one factors in expenses and the intensity of the salesman's labor. The Rambam (Mechira 14:1) limits the restriction to staple foods, as opposed to luxuries (an attempt at itemization is beyond our scope). More fundamentally, he says that the profit margin is not an obligation of the individual but of *beit din* to enforce proper pricing policy. The Ramah (Choshen Mishpat 231), following those lines, says that if *beit din* is unable to enforce their goal price, then an individual proprietor is not restricted to a price level that his competitors are not following. On the other hand, the Aruch Hashulchan (CM 331:20) says that if *beit din* feels that by some merchants conforming, others will be forced to follow suit, they should demand compliance from those who will listen.

2. There is a parallel to high-pressure sales tactics—someone who pressures the owner of an object who does not want to sell it to do so. This practice is actually forbidden by the last of the Ten Commandments – *lo tachmod* (do not covet). The desire to have someone's object, which culminates in pressuring him to sell it, even at a fair price to which he agrees, is forbidden (Shulchan Aruch, Choshen Mishpat 359:9). Some claim that the prohibition applies in the opposite direction – to pressure someone to buy that which he does not want to buy (Pitchei Choshen, Geneva 1:(26), article by prominent business ethicist, Rabbi Dr. Aaron Levine). I find it somewhat difficult to accept that we can make an exact comparison between the cases without classical sources, especially considering that the prohibition begins with the desire for his counterpart's specific possession (e.g., his wife). However, it seems perfectly logical that on, some level, there is an overlap in the impropriety.

There are classical sources that forbid practices that have a strong comparison to high-pressure sales techniques. It is forbidden to trick someone into buying something he otherwise would not want by making it look better than it really is (see examples in Bava Metzia 60a-b; Shulchan Aruch, CM 228:9), apparently even when the product is not overpriced (see Pitchei Choshen, Ona'ah 15:15). Thus, psychological techniques that cause one to buy something that, when left to his own better judgment, he would refuse is forbidden. This should apply to high pressure as well.

The combination of the two factors about which you ask is particularly troubling. One wonders why the forces of supply and demand do not lower the profit margin. One answer is that the prevalence of manipulation artificially raises the price, which is, in many cases, forbidden (see Shulchan Aruch, CM 231:21), and should bother someone of your moral sensitivity. However, if you can sell the items at the standard, albeit high, price without pressure, it is permitted. If you sell at a modestly lower price, you likely will be able to sell enough to make a healthy living without moral/halachic problems.



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Ein Ayah

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

Appreciating Hardships

(condensed from Ein Ayah, Shabbat 1:62)

Gemara: The Rabbis taught: Who wrote Megillat Ta'anit (the list of semi-holidays, celebrating salvations from various hardships)? It was Chanania and his group, who had warm feelings about the hardships.

Ein Ayah: Hashem's Hand is always outstretched to sustain the nation close to Him. Therefore, there are major elements in the world that strengthen our ability to withstand hardships.

One of the things that sustain us is the love within all the members of the nation for Hashem's Torah that is in our midst, for Hashem, and for His nation. This love stems from our physical and spiritual nature, as the sanctity of the spirit is attracted to the divine source from which it emanates and to the light of Hashem, Who formed a covenant with us. Wisdom supports the prospect of love existing between each individual member of the nation, the nation as an inseparable whole, and its Torah.

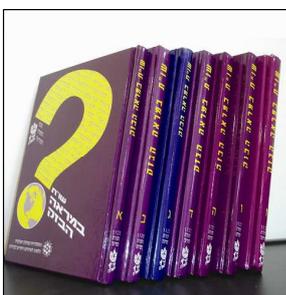
However, the difficult situation of exile destroys much of the goodness that is within the soul, and this threatens to darken the light of this love, which would cause weakness and the separation of individuals from each other. This happens when the individual does not realize how much he has to gain from the sanctity that dwells within the collective. Therefore, in the time of exile, it is important to have additional means to endear the collective on the individuals.

The same phenomenon that protects spiritual powers from destruction and from degeneration is one that providence already uses for individuals to appreciate those close to them. The phenomenon that women give birth with great pain and significant danger increases the natural love that a mother has for her child. This developed love helps give the mother the power to put up with the difficulties of raising the child, for which natural love and ethics would not have sufficed without the endearing power of the pain.

There is a similar phenomenon on a national level. The sanctity of the Torah and of belief in Hashem and the connection between all parts of the nation is worthy of great love. It is appropriate to put up with great difficulty in order to stay connected to these lofty matters. We need something to help us withstand the challenges of exile and not allow the great glory to be dulled or to be disheartened when seeing how other nations lose their status and become assimilated among stronger nations. Every lowly individual has to be able to see his own value and the critical importance of staying connected with the whole even when exile puts great strains upon him. That which gives the strength is actually the hardships that our venerable nation has experienced over its long history. "Many times have I been afflicted since my youth, shall Israel say" (Tehillim 129:1). The hardships we have overcome in order to keep the Torah, cling to a complete faith, and maintain the standing of the Nation of Israel, revive the love within our nation's later generations. They will realize that the priceless value of wonderful sanctity and the crucial Torah allow us to survive to this day and for all eternity. "As the new skies and the new land stand, so will your offspring and your name stand" (see Yeshaya 66:22).

The affection that is awakened within the heart of the generations when they realize how difficult it was to reach this point combines with the great price paid to fulfill and preserve the Torah and increase spiritual vigor and deep-felt belief. That is why the Rabbis wrote Megillat Ta'anit, so that future generations would know the value gained by knowing the hardships. In that way, they showed warm feelings toward those hardships [and the fact that the nation was extricated from them].

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P'ninat Mishpat

Taking Payment from the Estate of the Borrower

(based on Shoel U'meishiv II:IV:52)

Case: Reuven died, leaving a young son and four daughters. Thereafter, the son also died, and the daughters received the inheritance. Shimon came forward with a document signed by Reuven that Shimon had invested money with Reuven as an *iska*, so that half the money was to be returned as a loan and half as money entrusted to Reuven to profit for Shimon (*pikadon*). The document states a time for the return of the money which transpired only after Reuven's death. Levi made a claim of a loan Reuven took from him before witnesses but without a document. What monies can be taken from Reuven's estate, which is in the hands of inheritors, one of whom is a minor?

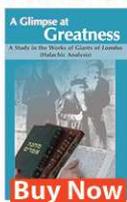
Ruling: One of the cases where it is possible to extract money from a minor inheritor is when the loan was not due when the borrower died, as we can then assume that he did not pay yet. Regarding the *pikadon* part of the *iska*, usually we say that since one can say that something happened to the *pikadon*, he has the right to say that he actually returned it, and therefore *beit din* will make that claim on behalf of the unknowing inheritors. However, since the money was invested in a business that is in the public eye, the father would not have been believed with the claim that something happened to the *pikadon*, and therefore neither he nor his inheritors can use the claim that he had already paid. In such a case, it is possible to extract money even from an inheritor who is a minor.

In this case, the document was not signed by witnesses but by Reuven's alone. Since Reuven's signature is very well known in town, it is considered as if the document was already verified. According to the Radbaz (III:510), if there are both adult and minor inheritors, if the lender can take from the former, he can take from the latter as well, as the adults count as the minor's guardians. Although the Shulchan Aruch does not *pasken* this way, since regarding the recognizable signature of their father it is considered confirmed, it is usable in regard to the minor as well. The fact that the time had not come to pay makes it easier to assume that if Reuven were going to pay early, he would have taken back the document even though it was not signed by witnesses.

Regarding the debts whose document did not give a time for repayment, it is a question to what extent we say that from the fact that Reuven did not ask for the document back, we see it was not paid. While a document without witnesses does not classically prevent the claim of repayment, some say that since in society, a document signed by the obligated is taken seriously, it is telling that Reuven did not demand it back. Especially in a case like this, where there are strong indications that the debts are still outstanding, we should make a compromise even regarding those documents.

What is difficult to factor in here is the idea that the older inheritors are viewed as guardians for the minor. Siblings cannot be guardians in such matters, as we must be cautious of the possibility of trickery, i.e., that he will have the money taken from the young sibling and share it with the alleged creditor. This is all the more so when the older siblings were not appointed as guardians.

In summary, it is possible to extract payment from the adult inheritors from all the documents but not from the portion of the minors.



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