



Harav Shaul Israeli zt"l
Founder and President

Rachel, Leah, and King David – What Happened? – part IV Harav Yosef Carmel

The unity of the people of Israel, as we have been discussing, takes on a special significance when the descendants of Rachel and Leah lead the nation in partnership.

This week's look at the possibility of unity relates to Shimi ben Gera, another relative of Shaul ben Kish, from the descendants of Rachel.

A *pasuk* tells that as David was fleeing from his rebelling son Avshalom, **Shimi ben Gera** came out toward him (Shmuel II, 16:5). Yet, the latter's descendant Mordechai is referred to as "ben Yair ben **Shimi ben Kish**" (Esther 2:5). Who was Shimi's father?

The simple explanation is that genealogical lists do not enumerate every generation. In Shmuel, emphasis is placed on Shimi as a descendant of Gera, Binyamin's son (see Bereishit 46:21). Megillat Esther connects Mordechai to Kish, Shaul's father (see Megilla 12b, 13a).

Chazal had good things to say about Shimi – e.g., his name means that Hashem "listened to his prayer" (ibid.). Also, Rashi (Shmuel II, 16:10) claims that Shimi was the head of the Sanhedrin. This is along the lines of Gittin (59a) that assumes that Shimi surpassed Shlomo in Torah scholarship. In fact, he was apparently Shlomo's teacher (Berachot 8a). *Chazal* also speak very highly of Shimi's wife, claiming that Mordechai and Esther emerged from Shimi because she was a righteous woman who saved two righteous people from execution (Midrash Shmuel, 32:4).

The *navi* also grants Shimi a unique title: "The first of all the House of Yosef" (Shmuel II, 19:21). This accords Shimi a great standing and defines his political status. It indicates that he was the leader of the tribes of Ephraim, Menashe, and Binyamin. This title also resembles that of he who would be the king of what could be called, "The Kingdom of Yosef" – Yerovam ben N'vat, from the Tribe of Ephrayim (see Melachim I, 11:28).

Had we merited that David and Shimi would have joined forces, Shimi had the potential to do what was hoped from Yonatan, Avner, and Michal – open a gateway to a wondrous unity that brings Liberation closer. Tragically, Shimi took the opportunity of the outbreak of Avshalom's rebellion to grievously offend David, throwing stones at him, calling him "man of bloodshed," and celebrating the upper hand that Avshalom appeared to have over David (see Shmuel II, 16:5-8).

David did not forgive Shimi and instructed Shlomo to kill him (Melachim I, 2:9). The *gemara* says that this was a mistake, and it opened up Shlomo to the sin of marrying Paroh's daughter, when his teacher was no longer around (Berachot 8a). The result was severe. "At the time that Shlomo married Paroh's daughter, Gavriel descended and planted a reed in the sea, and a sandbank formed upon it, and upon it was built the great city of Rome" (Shabbat 56b).

Thus, the destructions of the First and Second Temples are seen as the result of the lack of unity between King David and Shimi ben Gera, the foremost leader of the House of Yosef. Once again, we have learned the lesson of the supreme importance of unity.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



Ask the Rabbi

Mishpatim

by Rav Daniel Mann

Witness Complication at a Wedding

Question: I was a witness at a wedding years ago and have been unsure if I did the right thing. After the *chupa*, the *kalla's* father (=kf), a learned but somewhat erratic person, came over and told me that he too had in mind to serve as a witness. I did not know if he was serious and ignored him. Could this have compromised the *kiddushin*, and should I do something now?

Answer: Before explaining, we assure you that you should do nothing now.

A *mishna* (Makkot 5b) derives that if one of the members of a group of witnesses (=eidim) is *pasul* (invalid to serve), so is the testimony of its kosher members. The *gemara* (ibid. 6a) is bothered by the implication that events at which kosher and *pasul* (including relatives) *eidim* are together could not be halachically confirmed. The *gemara* provides a guideline: we ask if the people “came to see or to testify.” In other words, if they came to testify, there would be no testimony. *Kf* was apparently aware of this concept and was suggesting that your testimony, which was needed to effectuate the *kiddushin* (Kiddushin 65b), was *pasul*.

However, it is highly unlikely that this was a problem. *Rishonim* ask that if the presence of relatives *pasuls* kosher witnesses, what do we do at weddings? Tosafot (ad loc.) posits that just seeing an event does not turn an observer into an *eid*, which would happen only if he testified in *beit din*. Since this did not happen in your case, Tosafot would justify your inaction. The Shulchan Aruch (Choshen Mishpat 36:4) cites two opinions, with a preference toward the opinion that argues on Tosafot.

The Rosh (Makkot 1:11) says that even when *pasul eidim* would invalidate the function of kosher witnesses at the point of observation, if the kosher witnesses were **appointed** *eidim*, their status is unaffected by others. (A critical question, subject to *machloket*, is when one of the appointed *eidim* was *pasul*, whether kosher observers at the wedding can effectuate the *kiddushin*. This is beyond our scope – see Otzar Haposkim, Even Haezer 42:31.) Since here too, you and your co-witness were appointed (as is standard), the Rosh would also have you ignore *kf's* provocation.

Another approach in Tosafot (ibid.) is that the *gemara's* asking about the *eidim's* intention refers not to the *pasul eidim* but to the kosher ones. Specifically, we ask the kosher *eidim* whether they intended to join a witness group with the *pasul* ones or to remain separate. Since you did not intend to be *eidim* with *kf*, what he intended is irrelevant.

There is an approach that explains that we are not concerned at weddings because we assume that relatives do not intend to be witnesses (see Shach, CM 36:8). *Kf* seems to say that this wedding was a problematic exception. Apparently, though, even one who relies somewhat on the *pasul* observer's intention also accepts at least one of the previous distinctions (see ibid.), which do help in your case.

It is also not clear that we should trust *kf* that he intended to be an *eid* when there are no indications other than his word (and after all he is *pasul* for this too) that this is the case (see Ramban, Makkot 6a; Shach, CM 36:5). It is also difficult to understand exactly what he was saying about his intention and to put it in halachic perspective – did he actually plan to testify, did he just mean to cause a problem, and would that amorphous idea qualify? Did he have a real reason to disqualify the wedding? If he did, wouldn't he have sat down with the *mesader kiddushin* or the couple and explained himself? It is far more likely that he was trying to be “cute” or trying to get under your skin.

In summary, even if *kf* tried to disqualify the *kiddushin*, he almost definitely did not and could not do so. If it were so easy, any of the many relative guests at anyone's wedding could, and Halacha does not want us to start worrying about that. While *kf* did say something unusual, a passing comment to you is definitely not enough for us to start worrying about it. Now, when the marriage is an established fact, it would be a big mistake to sow doubt about it.

“Behind the Scenes” Zoom shiur

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Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

Returning Torah to its Central Standing – part I

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 312

The following is from an address at a symposium of rabbis of the Hapoel Hamizrachi Movement in the very early stages of the State of Israel.

We need to clarify for ourselves if we have fulfilled our aspiration to change the face of life and prove religious concepts, which became weak under the conditions of the Exile, to be correct. We have achieved at least one goal: getting the nation to dedicate itself to building [our Homeland]. We have left the more ethereal types of professions and fully dedicated ourselves to building and creating. People's being drawn to physical labor and pioneering, which was once thought to be characteristics of those who do not accept Torah, has been [proven to apply to religious people as well.] In the past, employers were suspicious of the religious laborer. We have been able to show the whole world, employees and employers throughout the employment apparatus in which Hapoel Hamizrachi members work, that we deserve their trust.

This trust was evident at the time of elections. The nation has put its trust in us. Parents who are sending their children to the Bnei Akiva schools and to other educational institutions of the Hapoel Hamizrachi movement are in the process of proving their trust in us.

However, [the success] relates to our public image. We need to appraise what is going on "in private." There is another segment of society that appears on the stage of life in the State as a religious sector, and the concern has been raised that the public gives them more trust in regard to religious matters.

When Hapoel Hamizrachi was founded, the stress in its platform was on matters of work [as opposed to religion]. What is the reason for this?

- A. For its constituency, which was religious from the start and its essence, the problems that needed solving first were work-related.
- B. There was an interest in establishing parity with the general population. We built and founded agricultural villages in which Shabbat and religion were observed as they should be. There was no need to decide that this would be the case, as this was self-evident. The unique interest was to prove that work was to be seen as a preference.
- C. Because some of those associated with Torah opposed Zionism and pioneer activity, the trust in great Torah leaders was weakened. Along with this, trust in the Torah itself was also somewhat weakened. Therefore, actual Torah was replaced by the "spirit of Torah," and practical *mitzvot* were replaced by the "interest of the Torah." Matters were not discussed according to passages in the Shulchan Aruch, but according to the "interest of the Torah," so to speak, and the philosophy of the Torah.
- D. Matters of "between man and his fellow man" were taken out of the realm of fulfillment of Torah precepts that are binding according to the way the Shulchan Aruch rules on them, and seen as values for which one should look for other types of sources. For example, May 1 celebrations. The topic is dealt with like an interpersonal matter. Rabbis did not focus on such matters, and did not say that the Shulchan Aruch must decide this. The trust of the Hapoel Hamizrachi member is frayed.
- E. The community is used to religious concepts being misrepresented. This reached the stage that the charter of the agricultural settlement does not have a clause about adjudicating financial disputes before a rabbinical court.

Therefore, it is necessary to employ a change in spiritual concepts internally more than we need to externally.

We continue next time.

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

Nir Rephael ben Rachel Bracha
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Tal Shaul ben Yaffa
Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Agricultural Water Rights – part I

(based on ruling 84122 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) have agricultural fields near a *yishuv*, and there is a limited water supply. In a meeting of most of the field owners (pl was invited but did not attend), they made a schedule of watering times per region. Pl often has his pipes open at times that contradict the schedule, and often, def shuts them after informing pl. Pl rejects the intention and authority of the field owners at the meeting to make or enforce rules on those who do not agree and claims the meeting was just a step to create good will. Pl argues that since his pipes and water are his own, def has no right to close them, as a member of the local council wrote to pl. Pl demands compensation from def for the damage the lack of water caused his crops. Pl also points out that at some point, def ignored the “rules,” so that even if the rules were once binding, def cannot invoke them. Def responds that his use was minor, for a critical need, and with the blessing of the local council.

Ruling: Are the field owners’ decisions binding? The *gemara* (Bava Batra 9a) grants a local commercial group the ability to make binding rules and penalize those who do not follow them. This is accepted as Halacha (Shulchan Aruch, Choshen Mishpat 231:38), and it applies even if it causes poverty to a group member (Pitchei Teshuva ad loc. 4). Although many (see *ibid.* 6) say this is true only if all the members are present at the meeting, the Aruch Hashulchan (CM 231:27) says that if one is invited and does not come, he forfeits his voice.

There is also a *machloket Rishonim* if a majority decides the matter or whether it requires unanimity (see Mordechai, Bava Batra 480). The Rama (CM 2:1) says we follow the opinion that is locally practiced. Rav Yaakov Ariel explains that the opinion that follows the majority is based on the fact a society must be able to come to decisions to navigate between different interests, and the interests of the majority are most important. Based on this approach, the Aruch Hashulchan makes great sense that if someone does not come, the others can decide without him, because otherwise an individual has a practical veto by not coming.

The Even Haezel (Mechira 14:11) reasons that a majority can suffice only when the group is a city, whereas a commercial group requires all to be present. However, we conclude that pl is obligated by the decision of the meeting. First, the Even Haezel is difficult and is apparently contradicted by the Rosh (Bava Batra 1:33), who equates the two categories. Also, the field owners should be considered like members of a city because they form an entire geographical grouping. This is strengthened by the idea that a policy must be devised for a crucial resource such as scarce water. The fact that the local council sent a representative who apprised his colleagues is also a reason to consider the decisions binding. Although the *gemara* (*ibid.*) says that such decisions need the approval of the area’s “important person,” there is no indication that such a man existed in that place.

We will continue next time with other elements of the dispute.

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