

# PSHUTO SHEL MIKRA

From the Teachings of Rav Yehuda Copperman zt"l

## PARSHAT KORACH

### Derachehah Darchei Noam: Part Three

וַיִּקְמוּ... וְאֲנָשִׁים מִבְּנֵי יִשְׂרָאֵל חֲמִשִּׁים וּמְאַתָּים נְשִׂאֵי עֵדָה קְרָאִי מוֹעֵד אֲנָשֵׁי שָׂם.

*And they arose ... with two hundred and fifty men from among B'nei Yisrael, leaders of the assembly, those summoned for meeting, men of renown. (Bamidbar 16:2)*

On previous occasions,<sup>1</sup> we have discussed the principle expressed by Shlomo Hamelech (*Mishlei* 3:17) of “*Derachehah Darchei Noam*” — *The Torah’s ways are ways of pleasantness*. It is most interesting to note that even in our *parsha*, while discussing people who ignited and spread machloket among Am Yisrael, we find this principle employed.

### Publicity and Anonymity

In his *peirush* to the opening *pasuk* of our *parsha*, **Rabbeinu Bachye** (s.v. *vayikach*) writes:

*Among the two hundred and fifty men who joined together with Korach were the twelve Nesi'im who offered korbanot during the inauguration of the Mizbeach,<sup>2</sup> as the Midrash (Tanchuma, siman 2) expounds: “Here it writes (that these men were)*

<sup>1</sup> See *Parshat Noach*, Chapter 3 and *Parshat Tazria*, Chapter 64.

<sup>2</sup> [*Bamidbar Perek 7.*]

“נְשִׂאֵי עֵדָה קְרָאֵי מוֹעֵד — leaders of the assembly, those summoned for meeting,” and earlier in *Bamidbar* (1:16) it writes, “אֵלֶּה קְרוּאֵי הָעֵדָה נְשִׂאֵי מִטּוֹת אֲבוֹתָם — These are the ones summoned by the assembly, the leaders of their fathers’ Tribes.” Even though the Torah did not explicitly mention them by name, nonetheless it provided identifying characteristics through which one can deduce who is being referred to.

This situation may be compared to a case where someone of distinguished lineage stole certain items from the bathhouse, and the owner of the stolen items did not wish to publicize who it was; rather, he preferred to provide identifying signs. They asked him, “Who stole your items?” He responded, “A certain individual from a good family, of tall stature with white teeth, black hair, and fine facial features.” Once he had provided these characteristics, it was understood to whom he was referring. Similarly in our case, although the Torah did not explicitly state that the *Nesi'im* were among these men, from the characteristics it provided you can deduce who they were.

And this is in keeping with the Torah whose “ways are ways of pleasantness,” that it publicized them in connection with a *mitzvah* and merit during the Inauguration of the *Mizbeach*, while here, in connection with calamity, it concealed their identity.

## A Halachah the Torah Left Unwritten

We have seen that the principle of “*Derachehah Darchei Noam*” can influence the way the Torah presents things. As Rabbeinu Bachye explains later on in *Chumash Bamidbar*, this is true not only in the narrative portions of the Torah, but also in the portion dealing with *halachot*. Let us consider an example of this phenomenon from the *halachot* concerning *nachalah* – inheritance.

### Background:

1. In *Bamidbar* 27:5, the Torah states that if a man dies and leaves no sons, his daughters inherit.
2. The following *pasuk* states that if he has neither sons nor daughters, his (paternal) brother inherits.
3. The Gemara (*Bava Batra* 108a) informs us that there is actually a middle stage between the two abovementioned cases, namely, if the deceased had no sons or daughters, his father is actually closer in line to inherit than his brother. Indeed, since it is through the father that the brother inherits at all, it is only if the father is no longer alive that the brother inherits.

The middle stage mentioned in point 3 is known to us through *Torah SheBaal Peh*, but not explicitly stated in the *pasuk*. Why did the *Torah SheBichtav* miss out this middle case?

Rabbeinu Bachye writes (*Bamidbar* 27:9, s.v. *ve'im*):

*Having stated that the son inherits from the father, the converse is also true, that the father inherits from the son. However, the Torah did not wish to mention this law*

*explicitly, for such a situation is one of calamity;<sup>3</sup> and since it is known that anyone who bequeaths also inherits, since the relationship is the same, therefore the pasuk did not mention this halachah.*

Although Rabbeinu Bachye does not explicitly mention the idea behind the Torah's omission of the middle case, it seems quite clear that it is rooted in the principle of "Derachehah Darchei Noam."

## **A Halachah the Torah Could Have Left Unwritten?**

In the abovementioned instance concerning inheritance, the case omitted by the Torah<sup>4</sup> can indeed be inferred from the case that was actually mentioned.<sup>5</sup> However, there are certain situations where the principle of "Darchei Noam" can be expected to be relied upon to teach us a halachah **even when the Torah doesn't say anything.**

The **Gemara** (*Yevamot* 17b) discusses the halachah which states that the mitzvah of *Yibum* applies only when the two brothers, i.e. the one who died and the one who is to perform *Yibum* with his widow, were alive at the same time as one another, at least for some time. If, however, there were no surviving brothers at the time that one brother – the husband – died, and it was only later that a son is born to his (the husband's) father, the mitzvah does not apply. The Gemara identifies the source for this halachah in the words with which the Torah introduces the mitzvah of *Yibum* (*Devarim* 25:1), "כִּי יֵשְׁבוּ אָחִים יַחְדָּו" — *when brothers shall dwell together,*" indicating that there must a time when both brothers were alive together.

*Tosafot* (s.v. *eishet*) in that *sugya* raise a remarkable question:

*If you will ask, let this halachah be derived from the principle of "Derachehah Darchei Noam"?*

*Tosafot* contend that in a situation where there were no other brothers alive at the time of the husband's demise, it is not necessary for the *pasuk* to inform us that there the mitzvah of *Yibum* does not apply. The reason is that in this case, the principle of "Darchei Noam" alone will tell us that, since it is not in keeping with "darchei noam" to prevent the widow from re-marrying based on the possibility that a brother to her husband might be born at some later stage! Indeed, *Tosafot* answer that the *pasuk* was only required for the specific instance where the husband's mother was already pregnant at the time when he died. In this case, waiting to see if a son would be born would not be considered a contravention of "darchei noam," and hence a *pasuk* is required to teach us that the mitzvah of *Yibum* does not apply (even) in that case.

In terms of our discussion, *Tosafot's* question is at least as significant as their answer, for it

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3 As it involves a father being predeceased by his son.

4 [When the son dies before the father.]

5 [When the father dies before the son.]

demonstrates the influence the principle of “*Darchei Noam*” has in the realm of halachah, to the extent that any *pasuk* which informs me of something I could have otherwise deduced based on “*Darchei Noam*” is looked upon as redundant!

## From Torah Learning to Torah Living

As we conclude this discussion, it is in place to reiterate that this principle of “*Derachehah Darchei Noam*” did not originate with Shlomo Hamelech. It was something observed and formulated based on his study of the Torah itself. Moreover, we may say that Shlomo Hamelech came to tell us that in the same way the Torah acts **towards us** with “*darchei noam*,” so too we should see to it that we act in this way **towards each other**!

Thus, for example, the Mishnah (*Bava Batra* 24a) states that someone who plants a tree in his field should ensure that there is sufficient distance between it and his neighbor’s field, so that the roots do not spread out into someone else’s property where they may cause damage. What is the source of this requirement? It is not a direct or immediate act of damage, moreover, the person is merely acting within his own domain! The **Rosh** (*Teshuvot, klal* 108, *siman* 10) states simply that the source is “*Darchei Noam*”; the Torah’s ways are ways of pleasantness, and they require a person to be considerate in situations such as this.

It should come as no surprise, therefore, to find this principle continuing to be used in halachic discussions by the *poskim* throughout the generations, until our times, as befits the *netzach* of Torah!

As a small sample, the reader is referred to the following sources:

1. *Teshuvot HaRosh*, klal 108, *siman* 10.
2. *Teshuvot Radvaz*, section 1, *siman* 413.
3. *Teshuvot HaBach Hachadashot*, *siman* 34.
4. *Teshuvot Binyamin Ze’ev*, *siman* 182, s.v. *be’ir achat*.
5. Rav Elchanan Wasserman (זת”ל *Hy”d*), *Kovetz Shiurim, Bava Batra* 34b, *se’if* 153.
6. *Teshuvot Tzitz Eliezer*, volume 10, *siman* 10, s.v. *u’mah*.
7. *Yabia Omer* (Rav Ovadiah Yosef), volume 1, *Yoreh Deah, siman* 11.