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## MY WORD: WHEN MAY ONE RENEGE ON A COMMITMENT?

Adapted from the writings of Dayan Yitzhak Grossman

VINnews reports:

In a dramatic political development within the Lithuanian Chareidi party of Degel HaTorah, the two most prominent members of the Council of Torah Sages are split over whether the party must maintain its agreements from previous elections.

The issue at hand is the local elections due to take place next month in Israel. The city of Elad is currently headed by Yisrael Porush, who was elected in 2018 and has proven an able mayor. However, an agreement was signed with Shas that their candidate for the Chareidi town would be elected in the current elections. Despite this, Degel HaTorah announced last week that they would be supporting the current mayor, Yisrael Porush, angering Shas leaders, including Aryeh Deri.

Deri spoke last week at a rally for Sephardi candidate Yehuda Butbul, stating that "There was a clear agreement signed with the *gedolim*. Violating this agreement is a dangerous precedent that could have ramifications in the future. It's a chillul Hashem, and I don't want to use harsher words."

In a sharp letter from Rabbi Dov Landau, published Tuesday in Yated Ne'eman, he responded to Deri by stating that "Knowing the needs of Elad for many

years, I have come to the conclusion that the matter of who heads the city does not belong to any party. It is solely a matter of what is best for Judaism and chinuch and maintaining the Torah and its mitzvos.

"Therefore, all of the agreements signed between parties have no value and do not obligate anyone. Those who condition the matter on various communities and parties are doing great harm to the Torah and Judaism."

Despite Rabbi Landau's unequivocal stance, his partner in the Council of Torah Sages, Rabbi Meir Zvi Bergman, disagreed. In a letter written Wednesday, Rabbi Bergman wrote that "It is well known how my father-in-law, Rav Shach, toiled to establish Degel HaTorah and Yated Ne'eman to follow in the ways of Torah and Mussar.

"Therefore it is clear that if Degel HaTorah, at the behest of the *gedolei* Torah, signed agreements which they committed to fulfill, the way of the Torah is to fulfill agreements, as required by the Torah. Those who claim that the Torah and Judaism can best be guarded by a certain representative, even when everyone is Chareidi, and therefore agreements shouldn't be fulfilled,

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### PARSHAS NO'ACH

#### GROUND RULES

Excerpted and adapted from a shiur by  
Rav Moshe Zev Granek

All in whose nostrils was the breath of the spirit of  
life, of everything that was on dry land, died.

Bereishis 7:22

There is a dispute in the Gemara (Zvachim 113a) whether the place on Har Hazeisim where a *temei meis* is about to be purified with the ashes of the *parah adumah* must be searched for buried corpses. The Gemara explains that the lenient view holds that all of Eretz Yisrael is presumed to be pure unless we know otherwise, because the *mabul* that destroyed humanity did not reach Eretz Yisrael, but the strict view maintains that the *mabul* did come to Eretz Yisrael and may have deposited corpses inside Har Hazeisim. When the kohein administers the *mei chatas*, a body buried beneath where he stands would contaminate him via *tum'as ohel* because he is above it.

*Acharonim* are puzzled by this Gemara, given that the halacha follows R' Shimon's view that non-Jewish bodies are not subject to *tum'as ohel* (Yevamos 61a), and they communicate only *tum'as maga* (via direct contact). The Nesivos Hakodesh (on Zvachim, by a *talmid* of the Brisker Rav) answers based on the Gra (Aderes Eliyahu, Chukas) that this is a case of *tum'ah retzutzah* (cramped impurity), where the *tum'ah* is in a space of less than a cubic *tefach*, in which case it can be *metamei* what is directly above it. The Gra holds that *tum'ah retzutzah* is classified as a *tum'as maga* and would apply even to a non-Jewish

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### Host Specificity

**Q** I live in a new community without a permanent shul. We have been davening on Shabbos in the home of one resident for a while. Some participants would prefer to convene in a more centrally located home, but our current host insists we stick with him. May we relocate against his will?

**A** The Shulchan Aruch (O.C. 153:17) says, "When someone hosts a shul in his home for many days, the congregation may not change locations to another house." The reason is that the change may lead to scuttlebutt in the community that the host family was found to be unfit somehow (Mishnah Brurah ibid. 90). This halacha is based on a *takanah* regarding *eiruv*: For an *eiruv* to be effective, an item of shared food must be deposited in one of the homes within its boundaries. The Mishnah (Gittin

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O&A from the  
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these are words with no basis. On the contrary, fulfilling agreements is the way of Judaism and the only way to prevent disputes and chillul Hashem."<sup>1</sup> Rav Bergman's position is easy to understand: it is certainly true that in general, "the way of the Torah is to fulfill agreements." The Gemara records the following discussion on this topic:

Some people gave Rav Kahana money as a down payment on linen. Later, before they took possession of their purchase, linen appreciated in value and Rav Kahana wished to renege on the agreement. He came before Rav for a ruling. Rav said to him: The linen for which you have taken money give to them. But the rest is merely words, and failure to abide by one's words does not constitute a lack of trustworthiness (*mechusar amanah*).

(The Gemara comments:) For it was stated in reference to words (i.e., a verbal commitment): Rav says that renege on such a commitment does not constitute a lack of trustworthiness, while R' Yochanan says it does constitute a lack of trustworthiness.

(The Gemara challenges Rav.) They raised an objection from the following *breisa*: R' Yosi ben R' Yehudah says, what is the purpose of the *pasuk* saying "*hin tzedek*" (a correct *hin*, a measure of volume)? Surely a *hin* was included in the *eipah* mentioned earlier in that *pasuk*. Rather, it comes to tell you that your "yes" must be correct and your "no" must be correct. This indicates that contrary to Rav's assertion, it is forbidden to renege on a verbal commitment.

(The Gemara answers.) Abayei said: That *breisa* means that one should not say one thing with his mouth while meaning another thing in his heart. (When making a verbal commitment, one must be sincere. This is not comparable to Rav's case of someone who was sincere at the time of the commitment and later decided to renege.)<sup>2</sup>

Although the Gemara does not reach a definitive conclusion on the question of whether renege on a verbal commitment that was unaccompanied by an act of acquisition (*dvarim*) does or does not constitute an act of bad faith (*mechusar amanah*), the consensus of halachic authorities is that it does. The Rambam rules:

When a person agrees to a transaction with a verbal commitment alone, it is appropriate for him to keep his word...If either the seller or the purchaser retracts...they are considered to be faithless, and the spirit of the Sages does not derive satisfaction from them.<sup>3</sup>

Although this language of the Rambam is rather mild, other authorities employ much sharper terminology. The Mordechai and R' Elyahu ibn Chaim (the Ra'anach) maintain that renege on a commitment is an actual prohibition.<sup>4</sup> R' Meir (Maharam) of Rotenburg (citing

R' Yitzchok ben Meir, the Rivam) rules that one who reneges on a commitment violates the principle of "The remnant of Yisrael will not commit corruption, they will not speak falsehood, and a deceitful tongue will not be found in their mouth,"<sup>5</sup> and may be called an evildoer (*rasha*).<sup>6</sup> R' Moshe (Maharam) Mintz rules that one who reneges on his commitment should be informed of the above and publicly denounced if he does not accept this rebuke.<sup>7</sup> Halachic authorities debate whether the obligation to abide by one's commitment is *mide'Oreisa* or *mideRabanan*.<sup>8</sup> The Minchas Chinuch goes so far as to imply that the court may compel someone to fulfill a verbal commitment, under its authority to compel the fulfillment of mitzvos. This is despite the fact that such a commitment does not create a binding contract,<sup>9</sup> although most authorities rule that the court is not authorized to engage in actual compulsion, only moral suasion.<sup>10</sup>

Rav Landau's position, in light of the above, is difficult to understand: The ends do not generally justify the means, so even if one believes that the course of action that "is best for Judaism and *chinuch* and maintaining the Torah and its mitzvos" in a particular situation necessitates renege on his agreement, how would that justify engaging in conduct that would normally be considered evil and prohibited? And how does the fact that we are dealing with issues of great religious importance imply that "agreements signed between parties have no value and do not obligate anyone?" Perhaps Rav Landau is arguing that since even an oath to violate a mitzvah is not binding,<sup>11</sup> it follows that a political commitment to do anything other than that which will be deemed to be religiously necessary cannot be binding, but this argument does not seem entirely persuasive. (There is considerable discussion in the halachic literature of whether *mechusar amanah* applies in the event of a change in circumstances subsequent to an initial commitment ("*trei tarei*"),<sup>12</sup> but Rav Landau does not seem to be invoking this dispensation, which is, in any event, disputed.)

Moreover, beyond the moral obligation to keep one's word, there is a possibility that the type of agreement under discussion here constitutes a halachically binding contract. Several decades ago, R' Yehoshua Menachem Mendel Ehrenberg (the Dvar Yehoshua) was asked about a dispute between two religious parties that had entered into an agreement to run a joint list of candidates for election (presumably to the Israeli Knesset). Each party supplied one candidate, with the proviso that if only the first candidate was

Maharshag *cheilek* 1 end of *siman* 87 s.v. *Velahalacha ulema'aseh*.  
5 Tzephaniah 3:13. Cf. Bava Metzia 106b and Rashi *ibid.* 49a s.v. *Mishum hachi rasha*.  
6 Shu"t Maharam b. Baruch (Prague ed.) *siman* 949, cited in Bais Yosef Y.D. *siman* 264, Taz *ibid.* s.k. 7, and Shu"t Maharam Mintz (Lemberg 561) *siman* 101 p. 94a (beginning of the second column) (cited in Mishpat Shalom end of *siman* 204, Mishmeres Shalom os 14, Minchas Pitim C.M. Shiyarei Mincha 204:11, and Shu"t Betzeil Hachochmah *cheilek* 5 *siman* 159 os 2). Cf. Mordechai *ibid.*  
7 Maharam Mintz *ibid.* p. 93b second column.  
8 See Ra'anach *ibid.*; Birkei Yosef O.C. *siman* 156 os 3; Minchas Chinuch end of mitzvah 259; Ha'ameik She'eilah *parshas* Kedoshim beginning of *She'Ylta* 102; Minchas Pitim C.M. 183:4 s.v. *Sham Bahagahah Va'afilu Im Nisratzeis* and 204:11 s.v. *Behagahah Ra'ui La'adam*.  
9 Minchas Chinuch *ibid.*  
10 Maharam and Mordechai *ibid.*; Minchas Pitim *ibid.* *siman* 204.  
11 See Shulchan Aruch Y.D. 239:4.  
12 See the discussion in Bais Yosef C.M. *siman* 204; Hagahos HaRama *ibid.* se'if 11; Shelah, *Maseches* Chulin, Ner Mitzvah, *Inyan Masa Utatan Be'emunah*; Bach *ibid.*; Shach *ibid.* s.k. 8; Melo Hararim (Yalil) os Shin erech *Sechirus Po'alim osios* 2 and 4; Shu"t Chasam Sofer Y.D. *siman* 246 and C.M. *siman* 102 s.v. *Vehinei Hanogeia Le'ikar Hadin*; Shiyarei Mincha *ibid.* (at the end of the paragraph); Aruch Hashulchan *ibid.* se'if 8; Shu"t Sheivet Halevi *cheilek* 4 *siman* 206 s.v. *Aval Mah Sheyesh Letzadeid*.

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59b) says that to maintain shalom, the home selected to house the *eiruv* food is not to be changed.

Even if the congregation has a legitimate reason to relocate, it should not do so, because of the hard feelings that could cause (*ibid.*). But if the reason is pressing enough, the change may be made (Mishnah Brurah *ibid.* 92).

In your case, the relocation is for convenience, so the host may object. But if he acknowledges that his location causes severe inconvenience for a significant number of members, yet he resists the move out of concern for the rumor mill, you may relocate without his consent.

This sensitivity toward the host is warranted only when the question is whether to move to an alternate temporary location. But when the community obtains a permanent facility, the host may not object, because the reason for the change is clear to all and no suspicion will ensue (Mishnah Brurah *ibid.* 93; Aruch Hashulchan *ibid.* 4).

electd, he would serve for two years, at the end of which term he would resign in favor of the second candidate. It indeed occurred that only the first candidate was elected, and after two years had elapsed, the second demanded his turn, as per the agreement, to which the first responded that the agreement was not binding, on a variety of grounds:

1. The agreement had not included a *kinyan* (the formalization of a transaction generally necessary to render it binding).
2. An agreement to resign is a *kinyan dvarim* (a *kinyan* regarding an intangible matter), which is not binding.
3. The agreement concerned something that did not yet exist (*davar shelo ba la'olam*), because it was executed before the candidate had been elected.
4. Since the agreement was contingent upon the second candidate not being elected, it is considered an *asmachta* (a form of conditional agreement that is generally not binding).

Rav Ehrenberg rejects all these arguments.<sup>13</sup> His long and detailed *teshuvah* is unfortunately incomplete, and the details of his analysis are in any event beyond the scope of this article, but his stance and analysis certainly have strong ramifications for the question of whether Degel HaTorah's agreement with Shas is halachically binding.

13 Shu"t Dvar Yehoshua *cheilek* 3 C.M. *siman* 18.



RAV ARYEH FINKEL

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corpse.<sup>1</sup> But the Acharonim do not

answer their question, so they implicitly reject the idea of the Nesivos Hakodesh. Moreover, Sefer Pesach Ha'ohel says the Yeshuos Yaakov (O.C. 163:2) was unsure whether *tum'ah retzutzah* applies to

non-Jewish graves, and the Riaz (Bava Metzia, Kuntres Hara'ayos) says outright that it does not.

1 The Or Sameiach (*Tum'as Meis* 1:3) adduces support for this idea from a Gemara (Chulin 125b).

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